

**ACTS
OF THE
GENERAL ASSEMBLY**



2021 REGULAR SESSION

VOLUME I

VOLUME II

VOLUME III

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2021 REGULAR SESSION

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CHAPTERS 1-8

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ACTS OF THE GENERAL ASSEMBLY

2021 REGULAR SESSION

CHAPTER 1

An Act to facilitate the administration of the COVID-19 vaccine; emergency.

[H 2333]

Approved February 15, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act, "eligible health care provider" means any of the following who, due to their education and training, are authorized to administer drugs: (i) any person licensed by a health regulatory board within the Department of Health Professions whose license is in good standing, or was in good standing within the 20 years immediately prior to lapsing; (ii) any emergency medical services provider licensed or certified by the Department of Health (the Department) whose license or certification is in good standing, or was in good standing within the 20 years immediately prior to lapsing; and (iii) any health professions student enrolled in an accredited program in the Commonwealth who is in good academic standing with such student's school and provided that the school certifies that the student has been properly trained in the administration of vaccines. Eligible health care providers may also be employees of localities, pharmacies, or hospitals. Localities, pharmacies, or hospitals that offer their employees to support vaccination clinics shall (i) verify employee certification or licensure, (ii) document completion of the required training, and (iii) provide a list of qualified and available vaccinators to the Department.

§ 2. During a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia, an eligible health care provider participating in the program established pursuant to § 3 of this act may administer the COVID-19 vaccine to citizens of the Commonwealth, in accordance with this act.

§ 3. The Department shall establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia. Such program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. For the purposes of such program, requirements related to background investigation, training, and orientation for Medical Reserve Corps volunteers shall be waived. To facilitate volunteering, the Department shall place a volunteer link on its website's home page in the same visible location as the other links, such as "GET COVIDWISE," to make the process to volunteer as a health care provider easily accessible.

The Department shall make a list of eligible health care providers who have registered pursuant to this section of the act and complied with requirements for training established by the Department available to each local health department and to hospitals operating community vaccination clinics, and the Department, a local health department, or a hospital operating a community vaccination clinic may request that an eligible health care provider included on such list administer the COVID-19 vaccine at a vaccination clinic operated by or in partnership with the Department, local health department, or hospital. Information included on the list shall not be used for any other purpose and shall not be used after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

§ 4. The Department shall ensure that each site at which COVID-19 vaccinations are provided by eligible health care providers who provide such vaccination in accordance with this act meet the following requirements:

1. A sufficient number of eligible health care providers whose scope of practice includes administration of vaccines shall be available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act to ensure appropriate oversight of administration of vaccines by eligible health care providers whose scope of practice does not include administration of vaccines.

2. A sufficient number of eligible health care providers or other persons who are certified to administer cardiopulmonary resuscitation (CPR) are available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act; however, a valid certification to perform CPR shall not be required to administer COVID-19 in accordance with this act.

3. Any person who administers a COVID-19 vaccination in accordance with this act shall collect data, including data related to the race and ethnicity of the person to whom the vaccine is administered, and the person who administers a COVID-19 vaccination or the entity that operates a community vaccination site in accordance with this act shall report such data to the Virginia Immunization Information System established pursuant to § 32.1-46.01 of the Code of Virginia.

§ 5. *A person who is licensed as a nurse practitioner by the Boards of Medicine and Nursing or licensed as a physician assistant by the Board of Medicine who administers the COVID-19 vaccine pursuant to this act may administer such vaccine without a written or electronic practice agreement.*

A health professions student who administers the COVID-19 vaccine pursuant to this act shall be supervised by any eligible health care provider who holds a license issued by a health regulatory board within the Department of Health Professions, and the supervising health care provider shall not be required to be licensed in the same health profession for which the student is studying.

§ 6. *An eligible health care provider who is a health professions student shall, as part of the registration process established by the Department, provide such information necessary to demonstrate that he is in good academic standing with the accredited program in which he is enrolled and that he has been properly trained in the administration of vaccines as may be required by the Department. Information about a health professions student shall not be disclosed by the institution of higher education at which the health professions student is studying unless the health professions student has consented to such disclosure in accordance with the provisions of the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and § 23.1-405 of the Code of Virginia, as applicable.*

Clinical vaccination experience undertaken by a health professions student pursuant to this act may count toward meeting clinical hour requirements of the educational program in which the student is enrolled, subject to a requirement for written verification of such clinical vaccine experience.

§ 7. *In the absence of gross negligence or willful misconduct, any eligible health care provider or entity overseeing any eligible health care provider who administers the COVID-19 vaccine pursuant to this act shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.*

2. § 1. *That the Department of Health (the Department) shall establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to citizens of the Commonwealth. The Department shall include on its website a link to information regarding such process and an online form that may be used by such entities to register their facilities to serve as sites at which the COVID-19 vaccine may be administered. The Commissioner of Health shall approve such sites in collaboration with local departments of health. In the absence of gross negligence or willful misconduct, any entity that volunteers its facility as a site at which the COVID-19 vaccine may be administered pursuant to this act and at which the COVID-19 vaccine is lawfully administered shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.*

3. § 1. *That a public institution of higher education or a private institution of higher education in the Commonwealth may volunteer to provide assistance to the Department of Health and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. Such assistance may include collecting and organizing data on the administration of the COVID-19 vaccine and locations where the vaccine is being administered and performing other nonclinical staffing responsibilities. In the absence of gross negligence or willful misconduct, any institution or individual affiliated with an institution acting pursuant to this act shall not be liable for any civil or criminal penalties.*

4. § 1. *That localities with fire departments, emergency medical services departments, and volunteer rescue squads may establish and staff vaccine administration clinics for the purpose of administering COVID-19 vaccines. Vaccines shall be administered at such clinics only by EMTs, paramedics, licensed practical nurses, or registered nurses trained in the administration of vaccines and may be provided under the existing operating medical director (OMD) license for such local fire department or emergency medical services department. The Department of Health or hospitals serving the locality are authorized to provide vaccines to locality-created vaccine administration clinics upon the request of the locality, provided that such clinics meet the requirements under this act. In the absence of gross negligence or willful misconduct, any locality and OMD overseeing the administration of or EMT, paramedic, licensed practical nurse, or registered nurse who administers the COVID-19 vaccine pursuant to this act shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.*

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

CHAPTER 2

An Act to facilitate the administration of the COVID-19 vaccine; emergency.

[S 1445]

Approved February 15, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act, "eligible health care provider" means any of the following who, due to their education and training, are authorized to administer drugs: (i) any person licensed by a health regulatory board within the Department of Health Professions whose license is in good standing, or was in good standing within the 20 years immediately prior to lapsing; (ii) any emergency medical services provider licensed or certified by the Department of Health (the Department) whose license or certification is in good standing, or was in good standing within the 20 years immediately prior to lapsing; and (iii) any health professions student enrolled in an accredited program in the Commonwealth who is in good academic standing with such student's school and provided that the school certifies that the student has been properly trained in the administration of vaccines. Eligible health care providers may also be employees of localities, pharmacies, or hospitals. Localities, pharmacies, or hospitals that offer their employees to support vaccination clinics shall (i) verify employee certification or licensure, (ii) document completion of the required training, and (iii) provide a list of qualified and available vaccinators to the Department.

§ 2. During a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia, an eligible health care provider participating in the program established pursuant to § 3 of this act may administer the COVID-19 vaccine to citizens of the Commonwealth, in accordance with this act.

§ 3. The Department shall establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia. Such program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. For the purposes of such program, requirements related to background investigation, training, and orientation for Medical Reserve Corps volunteers shall be waived. To facilitate volunteering, the Department shall place a volunteer link on its website's home page in the same visible location as the other links, such as "GET COVIDWISE," to make the process to volunteer as a health care provider easily accessible.

The Department shall make a list of eligible health care providers who have registered pursuant to this section of the act and complied with requirements for training established by the Department available to each local health department and to hospitals operating community vaccination clinics, and the Department, a local health department, or a hospital operating a community vaccination clinic may request that an eligible health care provider included on such list administer the COVID-19 vaccine at a vaccination clinic operated by or in partnership with the Department, local health department, or hospital. Information included on the list shall not be used for any other purpose and shall not be used after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

§ 4. The Department shall ensure that each site at which COVID-19 vaccinations are provided by eligible health care providers who provide such vaccination in accordance with this act meet the following requirements:

1. A sufficient number of eligible health care providers whose scope of practice includes administration of vaccines shall be available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act to ensure appropriate oversight of administration of vaccines by eligible health care providers whose scope of practice does not include administration of vaccines.

2. A sufficient number of eligible health care providers or other persons who are certified to administer cardiopulmonary resuscitation (CPR) are available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act; however, a valid certification to perform CPR shall not be required to administer COVID-19 in accordance with this act.

3. Any person who administers a COVID-19 vaccination in accordance with this act shall collect data, including data related to the race and ethnicity of the person to whom the vaccine is administered, and the person who administers a COVID-19 vaccination or the entity that operates a community vaccination site in accordance with this act shall report such data to the Virginia Immunization Information System established pursuant to § 32.1-46.01 of the Code of Virginia.

§ 5. A person who is licensed as a nurse practitioner by the Boards of Medicine and Nursing or licensed as a physician assistant by the Board of Medicine who administers the COVID-19 vaccine pursuant to this act may administer such vaccine without a written or electronic practice agreement.

A health professions student who administers the COVID-19 vaccine pursuant to this act shall be supervised by any eligible health care provider who holds a license issued by a health regulatory board within the Department of Health Professions, and the supervising health care provider shall not be required to be licensed in the same health profession for which the student is studying.

§ 6. An eligible health care provider who is a health professions student shall, as part of the registration process established by the Department, provide such information necessary to demonstrate that he is in good academic standing with the accredited program in which he is enrolled and that he has been properly trained in the administration of vaccines as may be required by the Department. Information about a health professions student shall not be disclosed by the institution of higher education at which the health professions student is studying unless the health professions student has consented to such disclosure in accordance with the provisions of the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and § 23.1-405 of the Code of Virginia, as applicable.

Clinical vaccination experience undertaken by a health professions student pursuant to this act may count toward meeting clinical hour requirements of the educational program in which the student is enrolled, subject to a requirement for written verification of such clinical vaccine experience.

§ 7. In the absence of gross negligence or willful misconduct, any eligible health care provider or entity overseeing any eligible health care provider who administers the COVID-19 vaccine pursuant to this act shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.

2. *§ 1. That the Department of Health (the Department) shall establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to citizens of the Commonwealth. The Department shall include on its website a link to information regarding such process and an online form that may be used by such entities to register their facilities to serve as sites at which the COVID-19 vaccine may be administered. The Commissioner of Health shall approve such sites in collaboration with local departments of health. In the absence of gross negligence or willful misconduct, any entity that volunteers its facility as a site at which the COVID-19 vaccine may be administered pursuant to this act and at which the COVID-19 vaccine is lawfully administered shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.*

3. *§ 1. That a public institution of higher education or a private institution of higher education in the Commonwealth may volunteer to provide assistance to the Department of Health and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. Such assistance may include collecting and organizing data on the administration of the COVID-19 vaccine and locations where the vaccine is being administered and performing other nonclinical staffing responsibilities. In the absence of gross negligence or willful misconduct, any institution or individual affiliated with an institution acting pursuant to this act shall not be liable for any civil or criminal penalties.*

4. *§ 1. That localities with fire departments, emergency medical services departments, and volunteer rescue squads may establish and staff vaccine administration clinics for the purpose of administering COVID-19 vaccines. Vaccines shall be administered at such clinics only by EMTs, paramedics, licensed practical nurses, or registered nurses trained in the administration of vaccines and may be provided under the existing operating medical director (OMD) license for such local fire department or emergency medical services department. The Department of Health or hospitals serving the locality are authorized to provide vaccines to locality-created vaccine administration clinics upon the request of the locality, provided that such clinics meet the requirements under this act. In the absence of gross negligence or willful misconduct, any locality and OMD overseeing the administration of or EMT, paramedic, licensed practical nurse, or registered nurse who administers the COVID-19 vaccine pursuant to this act shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.*

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

CHAPTER 3

An Act to amend and reenact § 15.2-4904 of the Code of Virginia, relating to industrial development authorities; size of board in certain towns; quorum.

[H 1743]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4904 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; *the town council of the Town of Kenbridge may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the town council of the Town of Victoria may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council;* the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, *the Industrial Development Authority of the Town of Kenbridge, and the Industrial Development Authority of the Town of Victoria*, three members of the

board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

CHAPTER 4

An Act to amend and reenact § 5, as amended, of Chapter 76 of the Acts of Assembly of 1974, which created the Lynchburg Parking Authority, relating to terms of members.

[H 1768]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 5, as amended, of Chapter 76 of the Acts of Assembly of 1974 is amended and reenacted as follows:

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of seven members selected by the governing body of the organizing municipality who shall serve staggered five-year terms, and the initial terms for each director shall be five years or less to provide for staggered membership. ~~The~~ *However, beginning with appointments made on or after July 1, 2021, the* successor of each member of the Authority shall be appointed for a term of ~~five~~ *three* years ~~but any~~. Any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitutions of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

CHAPTER 5

An Act to amend and reenact § 15.2-5931 of the Code of Virginia, relating to Virginia Beach Sports or Entertainment Project; bond issuance.

[H 1825]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5931 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5931. Bond issues.

A. The City of Virginia Beach may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. As used in this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation, provided that such bonds are issued by the City of Virginia Beach, the City of Virginia Beach Development Authority, or a community development authority formed by the City of Virginia Beach pursuant to the provisions of Article 6 (§ 15.2-5152 et seq.) of Chapter 51 for the purpose of developing the sports and entertainment district.

B. The bonds of any issue shall be payable solely from the property or receipts of the City of Virginia Beach, or other security specifically pledged by the City of Virginia Beach to the payment thereof, including, but not limited to:

1. Taxes, fees, charges, or other revenues;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement;

4. Sales and use tax revenues remitted to the City of Virginia Beach by the State Comptroller pursuant to § 15.2-5933; and

5. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the City of Virginia Beach and may be secured by a trust agreement by and between the City of Virginia Beach and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, ~~not exceeding 20 years from their respective dates of issue not later than June 30 of the fiscal year in which the City of Virginia Beach's entitlement to tax revenues authorized by this chapter expires pursuant to the provisions of subdivision A 2 of § 15.2-5933;~~

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides; and

6. Be sold in the manner and upon the terms determined by the City of Virginia Beach, including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions that shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the City of Virginia Beach or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts, and sinking funds, and the regulation, investment, and disposition thereof;

3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. The refunding or refinancing of outstanding bonds;

6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions that shall constitute a default in the duties of the City of Virginia Beach to bondholders and providing the rights or remedies of such holders in the event of a default, which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

9. Any other matter relating to the bonds that the City of Virginia Beach determines appropriate.

E. No member of the governing body of the City of Virginia Beach nor any person executing the bonds on behalf of the City of Virginia Beach shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The City of Virginia Beach may enter into agreements with agents, banks, insurers, any political subdivision of the Commonwealth, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the City of Virginia Beach of its revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the City of Virginia Beach, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the City of Virginia Beach need be filed or recorded in any public record other than the records of the City of Virginia Beach in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of the Commonwealth or by any applicable resolution or trust agreement.

I. The City of Virginia Beach may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued, *directly or through a debt restructuring*, for the public purposes of realizing savings in the effective costs of debt service, ~~directly or through a debt restructuring~~, for and alleviating impending or actual default, *or either*; and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

CHAPTER 6

An Act to amend and reenact § 15.2-958.3 of the Code of Virginia, relating to financing clean energy and other programs; when owner costs incurred.

[H 1859]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-958.3 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-958.3. Financing clean energy, resiliency, and stormwater management programs.

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy, resiliency, or stormwater management improvements with free and willing property owners of both existing properties and new construction, *provided, however, that such loans may not be used to improve a residential dwelling with fewer than five dwelling units or a residential condominium as defined in § 55.1-2000*. Such an ordinance shall include ~~but not be limited to~~ the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the ~~interest rate and~~ time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum ~~and maximum aggregate~~ dollar amount that may be financed with respect to a property ~~and~~, (ii) if a locality or other public body is originating the ~~loan loans~~, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body, *and (iii) provisions that the loan program may approve a loan application submitted within two years of the locality's issuance of a certificate of occupancy or other evidence that the clean energy, resiliency, or stormwater management improvements comply substantially with the plans and specifications previously approved by the locality and that such loan may refinance or reimburse the property owner for the total costs of such improvements*;

4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as ~~(i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of clauses (i) and (ii); and~~

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall ~~be authorized to~~ place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems, resiliency improvements, or stormwater management improvements are being installed. The locality may bundle or package said

loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans. *The placement of a voluntary special assessment lien shall not require a new assessment on the value of the real property that is being improved under the loan program.*

E. A voluntary special assessment lien on real property ~~other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55.1-2000:~~

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

G. The Department of Mines, Minerals and Energy shall ~~have the authority to~~ serve as a statewide sponsor for a clean energy financing program that meets the requirements of this section. The Department of Mines, Minerals and Energy shall engage a private entity through a competitive selection process to develop and administer the program.

CHAPTER 7

An Act to amend and reenact §§ 3, 4, and 5 of Chapter 643 of the Acts of Assembly of 1964, as amended by Chapter 882 of the Acts of Assembly of 2003, relating to economic development authorities.

[H 1927]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3, 4, and 5 of Chapter 643 of the Acts of Assembly of 1964, as amended by Chapter 882 of the Acts of Assembly of 2003, are amended and reenacted as follows:

§ 3. The Authority shall be governed by a commission composed of seven commissioners, appointed by the governing body of the city. However, in the City of Virginia Beach, the commission may be composed of 11 commissioners, *and in the County of Fairfax, the commission may be composed of nine commissioners.* The commissioners of the Halifax-South Boston Development Authority shall be selected by the joint vote of the board of supervisors of the county of Halifax and the council of the city of South Boston. The commissioners of the Greensville-Emporia Development Authority and the Smyth-Marion Development Authority shall be selected by the joint vote of the governing bodies of the county and town. All powers and duties of the Authority shall be exercised and performed by the commission.

Notwithstanding any other provision of law, the governing body which appoints such commissioners may appoint one of its own members a commissioner.

§ 4. The seven commissioners share appointed initially for terms of one, two, three, and four years, two being appointed for ~~one year one-year terms~~, two for ~~two year two-year terms~~, two for ~~three year three-year terms~~, and one for ~~four year terms a four-year term~~; subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. In Virginia Beach, the four additional commission members shall be appointed initially for terms of one, two, three, and four years with subsequent appointments for terms of four years. *In the County of Fairfax, the two additional members shall be appointed initially for terms of one and two years with subsequent appointments for terms of four years.* Each commissioner shall before entering on his duties take and subscribe the oath prescribed by ~~Section~~ § 49-1 of the Code of Virginia.

§ 5. The commissioners shall elect from their membership a chairman and vice chairman, and from their membership, or not, as they desire, a secretary and a treasurer, or secretary-treasurer. The commissioners may also elect from their membership an assistant secretary who may have the same powers and authority under this act as the secretary. The commission shall meet at least monthly and at such other times as may be required. The commissioners shall receive no salary but shall be reimbursed for necessary travelling and other expenses incurred in the performance of their duties. The commission shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall

keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the governing body of the city and shall be open to public inspection.

Subject to the provisions of § 8 of this act, four members of the commission shall constitute a quorum of the commission for the purposes of conducting its business and exercising its powers and for all other purposes. *In the County of Fairfax, a majority of the members of the commission shall constitute a quorum of the commission for the purposes of conducting its business and exercising its powers and for all other purposes.* No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the powers and perform all the duties of the commission.

Notwithstanding the provisions of § 5 ~~hereof~~ *this section*, the governing bodies of the County of Fairfax and the City of Virginia Beach are authorized to compensate the members of the commission in a sum not to exceed ~~twelve hundred dollars~~ *\$1,200* per year nor ~~twenty-four hundred dollars~~ *\$2,400* per year for the chairman of the commission.

CHAPTER 8

An Act to amend and reenact §§ 15.2-520 and 15.2-2506 of the Code of Virginia, relating to county executive form of government; local budgets.

[H 1949]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-520 and 15.2-2506 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-520. Department of Finance; expenditures and accounts.

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation resolutions. Funds appropriated for *multiyear capital projects and* outstanding grants, however, may be carried over ~~for one year~~ *from year to year* without being reappropriated. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligation charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement, or order.

§ 15.2-2506. Publication and notice; public hearing; adjournment; moneys not to be paid out until appropriated.

A brief synopsis of the budget ~~which~~ *that*, except in the case of the school division budget, shall be for informative and fiscal planning purposes only, shall be published once in a newspaper having general circulation in the locality affected, and notice given of one or more public hearings, at least seven days prior to the date set for hearing, at which any citizen of the locality shall have the right to attend and state his views thereon. Any locality not having a newspaper of general circulation may in lieu of the foregoing notice provide for notice by written or printed handbills, posted at such places as it may direct. The hearing shall be held at least seven days prior to the approval of the budget as prescribed in § 15.2-2503. With respect to the school division budget, which shall include the estimated required local match, such hearing shall be held at least seven days prior to the approval of that budget as prescribed in § 22.1-93. With respect to the budget of a constitutional officer, if the proposed budget reduces funding of such officer at a rate greater than the average rate of reduced funding for other agencies appropriated through such locality's general fund, exclusive of the school division, the locality shall give written notice to such constitutional officer at least 14 days prior to adoption of the budget. If a constitutional officer determines that the proposed budget cuts would impair the performance of his statutory duties, such constitutional officer shall make a written objection to the local governing body within seven days after receipt of the written notice and shall deliver a copy of such objection to the Compensation Board. The local governing body shall consider the written objection of such constitutional officer. The governing body may adjourn such hearing from time to time. The fact of such notice and hearing shall be entered of record in the minute book.

In no event, including school division budgets, shall such preparation, publication, and approval be deemed to be an appropriation. No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly, or monthly appropriation for such contemplated expenditure by the governing body, except *that* funds appropriated in a county having adopted the county executive form of government, *for multiyear capital projects and* outstanding grants may be carried over ~~for one year~~ *from year to year* without being reappropriated.

CERTIFICATION OF THE ACTS OF ASSEMBLY

2021 REGULAR SESSION

I, Suzette P. Denslow, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2021 Regular Session of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Wednesday, January 13, 2021, and adjourned sine die on Monday, February 8, 2021, and the Reconvened Session, pursuant to Section 6 of Article IV of the Constitution of Virginia, convened on Wednesday, March 17, 2021, and adjourned sine die on Wednesday, March 17, 2021.

SUZETTE P. DENSLow
*Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth*

Note: Except as otherwise provided therein, all Acts of the 2021 Regular Session of the General Assembly, including the Reconvened Session, became effective at the first moment of July 1, 2021.

**RESOLUTIONS OF THE GENERAL ASSEMBLY
2021 REGULAR SESSION**

HOUSE JOINT RESOLUTION NO. 512

Commending William Mann, M.D.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, William Mann, M.D., a trusted medical professional who served the Williamsburg community for many years, retired as director of the Olde Towne Medical and Dental Center in 2020; and

WHEREAS, William Mann holds degrees from Amherst College and the Pennsylvania State University College of Medicine, where he specialized in obstetrics and gynecology, as well as gynecologic oncology; and

WHEREAS, over the course of his career, William Mann worked at the Carilion Clinic in Roanoke, Riverside Regional Medical Center in Newport News, and Stony Brook University Hospital in New York; and

WHEREAS, as director of the Olde Towne Medical and Dental Center, William Mann provided exceptional care to residents of James City County, York County, the City of Williamsburg, and the surrounding areas and helped the center earn recognition as one of the top rural primary care practices in the United States; and

WHEREAS, William Mann has imparted his wisdom to aspiring medical professionals at Eastern Virginia Medical School, Bon Secours Mary Immaculate Hospital, Williamsburg Community Hospital, and the Virginia Commonwealth University School of Medicine; and

WHEREAS, William Mann serves the Commonwealth as an appointed member of the Potomac Aquifer Recharge Oversight Committee, using his medical expertise to provide unique insights on the Sustainable Water Initiative for Tomorrow project; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William Mann, M.D., on the occasion of his retirement as director of the Olde Towne Medical and Dental Center in Williamsburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William Mann, M.D., as an expression of the General Assembly's admiration for his commitment to the health and wellness of the members of the Williamsburg community.

HOUSE JOINT RESOLUTION NO. 517

Celebrating the life of Lue Ethel Lapsley Carson.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Lue Ethel Lapsley Carson, a highly admired educator who served young people in Lee County for many years, died on August 28, 2020; and

WHEREAS, a native of Uniontown, Alabama, Lue Carson moved to West Virginia with her family at a young age and graduated from Gary District High School; she subsequently earned a bachelor's degree in education from Bluefield State College; and

WHEREAS, Lue Carson imparted her passion for lifelong learning to countless young people in Lee County as the first African American to teach at Lee County Public Schools after the school system was integrated in 1965; and

WHEREAS, Lue Carson was the first and only librarian at Pennington Elementary School and went on to achieve a certification in library science through her studies at the University of Virginia and Virginia State College; and

WHEREAS, Lue Carson retired from Lee County Public Schools in 1992 after 29 years of exceptional service; she continued to offer her time and leadership to the community as a volunteer with local civic organizations and brightened the days of many friends and neighbors by visiting nursing homes; and

WHEREAS, a woman of deep and abiding faith, Lue Carson was a member of the Clinch River Baptist Association and the Powell River Baptist Association; and

WHEREAS, predeceased by her husband, Samuel, and her son, Samuel, Jr., Lue Carson will be fondly remembered and greatly missed by her daughter, Marie, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lue Ethel Lapsley Carson, a respected former educator and a beloved mother and grandmother who made many contributions to the Lee County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lue Ethel Lapsley Carson as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 518

Celebrating the life of Nathaniel Cridlin.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Nathaniel Cridlin of Jonesville, a highly admired educator and youth athletics coach, died on October 17, 2020; and

WHEREAS, born in Knoxville, Tennessee, Nathaniel "Nat" Cridlin earned a bachelor's degree from Clinch Valley College, now the University of Virginia's College at Wise; and

WHEREAS, Nat Cridlin pursued a career as a teacher in Southwest Virginia and worked for Lee County Public Schools for more than three decades, supporting and inspiring countless young people; and

WHEREAS, outside of the classroom, Nat Cridlin coached the Lee High School golf team to a state championship victory in 1990; and

WHEREAS, Nat Cridlin served the community as the owner and operator of Subway franchise locations in Jonesville and Pennington Gap; and

WHEREAS, Nat Cridlin will be fondly remembered and greatly missed by his wife of 28 years, Tammy; his mother, Gladys; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nathaniel Cridlin, a highly admired member of the Lee County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nathaniel Cridlin as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 519

Celebrating the life of Frederick Barger, Jr.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Frederick Barger, Jr., an active community leader and a hardworking restaurateur who served outstanding meals to generations of local residents of and visitors to Southwest Virginia and Northeast Tennessee, died on October 29, 2020; and

WHEREAS, Frederick "Pal" Barger, Jr., grew up in Kingsport, Tennessee, and graduated from Dobyns-Bennett High School; he subsequently served his country as a member of the United States Air Force, then graduated from East Tennessee State University; and

WHEREAS, Pal Barger began his 70-year career in the food service industry at his parents' business, Skoby's Drive-In barbecue restaurant; and

WHEREAS, Pal Barger opened the first Pal's Sudden Service fast-food restaurant in 1956; the business quickly developed a loyal following and grew from its original location in downtown Kingsport to become a regional powerhouse; and

WHEREAS, Pal's Sudden Service received two Excellence Awards from the Tennessee Center for Performance Excellence and was the first restaurant chain to earn the prestigious Malcolm Baldrige National Quality Award from the United States Department of Commerce; and

WHEREAS, Pal Barger created and operated Sharon's BBQ and the Olde West Dinner Theatre, and after his father's death in 1971, transformed Skoby's Drive-In into an acclaimed dining destination, known for its themed rooms and beloved menu items; and

WHEREAS, Pal Barger helped support his alma mater as a member of the East Tennessee State University Foundation and the university's Roan Scholars Leadership Program Committee; he was named as the institution's Alumnus of the Year in 2001 and received its Lifetime Achievement Award in 2003; and

WHEREAS, Pal Barger donated a building to house an automotive program at Northeast State Community College and was recognized for his contributions to Tennessee's college system with the Chancellor's Award for Excellence from the Tennessee Board of Regents in 2019; and

WHEREAS, Pal Barger played a significant role in the establishment of the MeadowView Conference Resort and Convention Center, donated the region's largest jumbotron scoreboard to Dobyns-Bennett High School, and supported the preservation of an antique carousel in downtown Kingsport; and

WHEREAS, predeceased by his first wife, Carolyn, and his second wife, Sharon, Pal Barger will be fondly remembered and greatly missed by his children, Rick, Christine, and Christy, and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Frederick Barger, Jr., a respected entrepreneur and community leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Frederick Barger, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 520

Celebrating the life of Phillip G. Osborne.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Phillip G. Osborne, a dedicated public servant who made countless contributions to the Dungannon community, died on September 14, 2020; and

WHEREAS, born in Kingsport, Tennessee, Phillip "Phil" G. Osborne was an active leader in his high school community, as well as a talented multisport athlete; he played basketball at what is now the University of Virginia's College at Wise, where he studied business administration; and

WHEREAS, Phil Osborne served his country as a member of the United States Army during the Vietnam War and subsequently pursued a career with the family business, S.I. Osborne and Son Hardware in Dungannon; and

WHEREAS, in addition to serving the community as a trusted local business owner, Phil Osborne volunteered his leadership and expertise as a public servant in many capacities, including town recorder, town council member, and mayor of Dungannon; and

WHEREAS, Phil Osborne worked diligently to ensure the health, wellness, and safety of local residents as a charter member of the Dungannon Volunteer Fire Department and a member of the Clinch River Health Services board of directors; and

WHEREAS, Phil Osborne played a vital role in the establishment of modern water and sewage systems in Dungannon, and as one of the organizers of the nonprofit organization the Dungannon Development Commission, he helped residents achieve secure housing and other necessities; he served the community as a member of the Scott County Telephone Cooperative Board of Directors; and

WHEREAS, Phil Osborne enjoyed fellowship and worship with the community as a member of Dungannon United Methodist Church, serving in many leadership capacities, including as a member of the church's administrative board; and

WHEREAS, Phil Osborne will be fondly remembered and greatly missed by his wife, Margaret, his children, Monica and Luke, and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Phillip G. Osborne, a pillar of the Dungannon community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Phillip G. Osborne as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 521

Commending the Crater Planning District Commission.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the Crater Planning District Commission, a regional planning agency that coordinates a variety of public policy and development issues among 11 localities in the Commonwealth, marked its 50th anniversary in 2020; and

WHEREAS, the Crater Planning District Commission was formed in May 1970, pursuant to the Virginia Area Development Act, with nine member localities: the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg and the Counties of Dinwiddie, Greensville, Prince George, Surry, and Sussex; today, it encompasses 11 localities, having added Chesterfield County in 1985 and Charles City County in 2007; and

WHEREAS, the Crater Planning District Commission's purpose, as stated in its charter, is to "promote the orderly and efficient development of the physical, social, and economic elements of the Planning District by planning, and encouraging and assisting governmental subdivisions to plan, for the future"; and

WHEREAS, the Crater Planning District Commission's regional priorities have centered on economic and small business development, transportation, the environment, support for its military installations, providing local technical support to its member localities, and fostering regional conversation and collaboration; and

WHEREAS, the Crater Planning District Commission takes great pride in its history of accomplishments, while recognizing the importance of looking forward to the challenges of the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Crater Planning District Commission, a regional planning agency coordinating public policy and development issues among 11 localities in the Commonwealth, on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alec Brebner, executive director of the Crater Planning District Commission, as an expression of the General Assembly's heartfelt admiration for the accomplishments and partnerships the organization has built over the past 50 years and the enduring foundation it has created for new achievements and alliances in the future.

HOUSE JOINT RESOLUTION NO. 532

Commending the McLean Volunteer Fire Department.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the McLean Volunteer Fire Department, which has admirably served the community of Fairfax County by aiding in the preservation of citizens' lives and property, celebrates its 100th anniversary in 2021; and

WHEREAS, known as the McLean Community Fire Association in its early years, the McLean Volunteer Fire Department initially operated out of Henry Alonzo Storm's general store and used a farm bell to alert firefighters when there was an emergency; and

WHEREAS, renamed the McLean Volunteer Fire Department (MVFD) and officially incorporated under the laws of the Commonwealth in 1923, the organization was the first to receive a charter of this kind in Fairfax County and was designated "Company 1"; and

WHEREAS, the MVFD acquired its first piece of motorized firefighting equipment in 1923 with the purchase of a gasoline powered, one-ton truck made by the General Motors Corporation; the organization has regularly updated its equipment since, maintaining a fleet of state-of-the-art emergency vehicles to improve the department's firefighting and lifesaving capabilities; and

WHEREAS, in 1924, James H. Beattie, then chief of the MVFD, deeded one sixth of an acre to the organization to serve as the location of its first engine house; the original station was renovated and rebuilt over the years by MVFD staff and now serves as a teen center operated by the McLean Community Center for the benefit of young people in the area; and

WHEREAS, in the 1980s, the MVFD moved into a modern, 18,000-square-foot, four-bay, drive-through station, which provides the organization with first-class training facilities and the space for an engine, ladder tower, heavy rescue squad, and medic unit to remain fully operational 24 hours a day; and

WHEREAS, to support the operations of the MVFD, a Ladies Auxiliary was formed in 1925; the auxiliary provided refreshments to firefighters during emergencies and raised vital funds for the department through bake sales, raffles, and other activities; and

WHEREAS, the MVFD established its rescue squad in 1935 when it converted a 1931 Cadillac sedan into the first ambulance in Fairfax County; by 1959, the rescue squad was responding to more than 400 calls a year and is, today, an essential part of Fairfax County's emergency response team; and

WHEREAS, the MVFD hired its first full-time employee, Samuel Redmond, in 1946, who was joined by John R. Akre and Earl D. Rice in the 1950s, enabling the station to be staffed around the clock, seven days a week; today, there are more than 45 career firefighters who staff the fire station, and their efforts are supplemented and supported by more than 50 volunteer members; and

WHEREAS, in the earliest chapters of MVFD's history, when McLean was still predominately rural, the station served as a hub for the community; this convivial spirit persists through the MVFD's many community outreach activities, including a December holiday parade; and

WHEREAS, with great dedication to ensuring children in the community understand the importance of fire safety, the MVFD has presented tutorials to more than 15,000 young people through its mobile "Fire Safety House" and other activities; and

WHEREAS, by providing exemplary fire, rescue, and emergency medical services and safety education to the McLean community, the MVFD helps make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the McLean Volunteer Fire Department on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kay Hartgrove, president of the McLean Volunteer Fire Department, as an expression of the General Assembly's admiration for the organization's illustrious history and its innumerable contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 533

Celebrating the life of George Markey Keating.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, George Markey Keating, who achieved great success in the publishing industry and was a longtime civic activist in Arlington County, died on June 22, 2020; and

WHEREAS, one of the first graduates of the American Studies Program at Georgetown University, George Keating earned a master's degree in American Studies from the University of Minnesota and embarked on his career in publishing as a manager at bookstores in Washington, D.C., Connecticut, and New York; and

WHEREAS, George Keating became a sales representative for Simon & Schuster in 1978 and rose through the company's ranks to ultimately become the eastern divisional sales manager, championing many acclaimed authors along the way, such as David McCullough, Doris Kearns Goodwin, and Bob Woodward; and

WHEREAS, George Keating culminated his career in publishing as director of sales and marketing at the Naval Institute Press, revitalizing its book publishing division before retiring in 2015; and

WHEREAS, an active and engaged member of his community, George Keating served as a three-term president of the Waverly Hills Civic Association and was a major advocate for various neighborhood improvements before the Arlington County Board and other stakeholders; and

WHEREAS, in response to the historic flooding that afflicted Arlington County in 2018 and 2019, George Keating worked tirelessly to document the extent of the damage and how it impacted residents, mobilized others to advocate for greater public investment to address the problem, and negotiated diplomatically with Arlington County officials to bring necessary improvements to fruition; and

WHEREAS, a member of both the Lee Highway Alliance's Community Advisory Committee and the Plan Lee Highway Community Forum, George Keating played an outsized role in establishing plans to redevelop and beautify the Lee Highway corridor in Arlington, contributing to the community's efforts to combat climate change, strengthen housing and retail properties, and improve walkability in the area; and

WHEREAS, George Keating was a driving force in obtaining the Arlington County Board's approval for the Artis Senior Living project, an assisted-living development that will provide affordable housing options to elderly residents in need of regular care; and

WHEREAS, George Keating will be dearly remembered and lovingly missed by his wife, Ellen; his children, Owen and Brendan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Markey Keating, a beloved civic activist in Arlington County who touched countless lives through his humor, positivity, and dedication to serving others; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Markey Keating as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 534

Celebrating the life of Lilla Dunovant McCutchen Richards.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Lilla Dunovant McCutchen Richards, a former Dranesville District Supervisor and beloved member of the McLean community, died on September 22, 2020; and

WHEREAS, raised in Arlington County, Lilla Richards earned degrees in education and economics from the University of South Carolina before embarking on a career with the Economic Research Service at the United States Department of Agriculture (USDA); and

WHEREAS, as an editor and writer, Lilla Richards helped launch the *Farm Index*, a monthly periodical published by the USDA to showcase studies conducted by the Economic Research Service and examine trends in agriculture and the food economy; and

WHEREAS, Lilla Richards served as Dranesville District Supervisor on the Fairfax County Board of Supervisors from 1987 to 1991, establishing herself as a powerful advocate for strategic land use management, the arts, and many other causes; and

WHEREAS, a founding member of Friends of Pleasant Grove Church, Lilla Richards was instrumental in saving a historic church that has provided spiritual refuge to the McLean community since 1896; and

WHEREAS, a longtime resident of McLean, Lilla Richards gave generously of her time and talents to local civic and service organizations for more than three decades, serving as president of both the McLean Citizens Association and the Fairfax County Federation of Citizens Associations; and

WHEREAS, with great vision and sense of purpose, Lilla Richards was instrumental to the founding of several local civic organizations and initiatives, including the McLean Community Foundation, the McLean Community Center, and the McLean Citizens Foundation; and

WHEREAS, following an appointment by Governor L. Douglas Wilder, Lilla Richards served six years on the board of directors of George Mason University, prioritizing the development of academic programs and leaving a lasting and positive imprint on the university; and

WHEREAS, in recognition of her years of activism and service on behalf of her community, the Greater McLean Chamber of Commerce presented its Mary Kingman Pillar of McLean Award to Lilla Richards in 2016; and

WHEREAS, preceded in death by her former husband, Stanley, Lilla Richards will be fondly remembered and dearly missed by her cousins, Jane, George, Elizabeth, David, Mary, and Tom, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lilla Dunovant McCutchen Richards, an esteemed public servant and community advocate of McLean who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lilla Dunovant McCutchen Richards as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 535

Commending Mark Stripe.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Mark Stripe, a beloved librarian and coach at Yorktown High School in Arlington County, who inspired thousands of young athletes over an illustrious 46-year coaching career, retired in 2020; and

WHEREAS, Mark Stripe excelled in many sports while attending Schuylkill Haven High School in Pennsylvania and was a top cross country and track and field runner at Millersville University; and

WHEREAS, after graduating from Millersville University in 1974, Mark Stripe coached at New Oxford High School in Pennsylvania for 12 years before relocating to Northern Virginia; and

WHEREAS, Mark Stripe was head coach of the girls' cross country team at Bishop Denis J. O'Connell High School in Arlington when they won a Washington Catholic Athletic Conference state championship in 1986; and

WHEREAS, for 33 years, Mark Stripe was a cherished member of the Yorktown High School community, serving most of his tenure as a librarian and as the coach of the boys' and girls' cross country and track and field teams; and

WHEREAS, over the years, Mark Stripe's teams at Yorktown High School won multiple district titles across all three sports; notably, the girls' cross country squad qualified for its regional meet a record 22 seasons in a row; and

WHEREAS, Mark Stripe went to great lengths to inspire his athletes, gamely dyeing his beard school colors and engaging in other antics that promoted a fun and inclusive environment in which young athletes could thrive; and

WHEREAS, as a testament to his abilities as a coach, several of Mark Stripe's students enjoyed successful careers in cross country, track and field, and other sports after high school, including four All-Americans and a member of the National Football League; and

WHEREAS, through tireless dedication to his students and athletes, Mark Stripe motivated countless young people to challenge themselves and succeed, both in and out of the classroom, leaving a legacy that will be admired for years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mark Stripe, treasured librarian and coach of the cross country and track and field teams at Yorktown High School in Arlington County, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Stripe as an expression of the General Assembly's admiration for his impressive career and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 540

Commending Frank Tamberrino.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Frank Tamberrino, who has served his community for many years as president and chief executive officer of the Harrisonburg-Rockingham Chamber of Commerce, retired in December 2020; and

WHEREAS, Frank Tamberrino is an alumnus of Virginia Polytechnic Institute and State University with a bachelor's degree in urban affairs and a master's degree in urban and regional planning; he graduated from the Economic Development Institute at the University of Oklahoma in 1991; and

WHEREAS, before joining the Harrisonburg-Rockingham Chamber of Commerce, Frank Tamberrino led several business development organizations in Florida and, from 2000 to 2009, was the first president and chief executive officer of the Maury Alliance, a public-private partnership supporting the economic growth of Maury County, Tennessee; and

WHEREAS, for more than 11 years, Frank Tamberrino masterfully led the Harrisonburg-Rockingham Chamber of Commerce, helping to ensure a vibrant and thriving business community through education, advocacy, and various networking programs and events; and

WHEREAS, throughout his tenure with the Harrisonburg-Rockingham Chamber of Commerce, Frank Tamberrino worked with various sectors, including tourism, the arts, higher education, technology, and law enforcement, and supported many initiatives, such as economic and workforce development and the revitalization of downtown Harrisonburg; and

WHEREAS, through a variety of social events, training programs, and forums thoughtfully designed to cultivate relationships and encourage collaboration, Frank Tamberrino and the Harrisonburg-Rockingham Chamber of Commerce have furthered the interests of both businesses and the community they serve; and

WHEREAS, Frank Tamberrino's leadership has fostered a successful business community in Harrisonburg and Rockingham, helping to make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Frank Tamberrino, former president and chief executive officer of the Harrisonburg-Rockingham Chamber of Commerce, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Frank Tamberrino as an expression of the General Assembly's admiration for his notable contributions to the Commonwealth and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 544

Commending Peter Clark.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Peter Clark, longtime president of the Northern Virginia Mental Health Foundation, has greatly served communities of the Commonwealth by raising awareness and acceptance of individuals living with mental health conditions and providing vital services to those in need; and

WHEREAS, Peter Clark was elected president of the Northern Virginia Mental Health Foundation (NVMHF), an all-volunteer 501(c)(3) nonprofit organization, in 2003, one month after joining the organization's board, and has since helped thousands of individuals in the Commonwealth on their path to wellness; and

WHEREAS, a talented senior manager with experience implementing large-scale projects, Peter Clark brought a valuable array of skills to his role at NVMHF, and has provided invaluable leadership in the legal, clinical, financial, and fundraising domains of the organization; and

WHEREAS, by offering individuals financial support for critical needs such as medical and dental appointments and copays, security deposits for apartments, and other wellness services, NVMHF has provided a crucial safety net for thousands of people during the tenure of Peter Clark with the organization; and

WHEREAS, Peter Clark has led by building consensus among stakeholders and has established meaningful and productive relationships with agencies, organizations, businesses, and individuals throughout the greater Fairfax County area, amplifying the efforts of NVMHF; and

WHEREAS, Peter Clark has strengthened NVMHF over the years through effective board member recruitment, bringing many inspired voices together to further the organization's mission and help it achieve its objectives; and

WHEREAS, Peter Clark and NVMHF have established cooperative partnerships with area college students and private consultants to enhance the organization's brand and message, cultivate donors, and extend its impact in the community; and

WHEREAS, Peter Clark and NVMHF have sponsored numerous education and advocacy initiatives, including the organization's annual wellness and recovery conference, which for more than a decade has provided a valuable forum for individuals and treatment providers navigating the mental health challenges of the day; and

WHEREAS, by ardently supporting the efforts of NVMHF to safeguard some of the most vulnerable members of his community, Peter Clark has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Peter Clark, president of the Northern Virginia Mental Health Foundation, for his years of unwavering dedication to the health and well-being of citizens of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peter Clark as an expression of the General Assembly's admiration for his meritorious service.

HOUSE JOINT RESOLUTION NO. 547

Commending the Norfolk and Western Railway Section Foreman's House.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the Norfolk and Western Railway Section Foreman's House, one of the oldest structures in Richlands, is a valuable resource for education and tourism in Tazewell County and a model for preservation of similar historical sites throughout the Commonwealth; and

WHEREAS, built in approximately 1890, the Norfolk and Western Railway Section Foreman's House was the home of the section foreman who maintained the integrity of track conditions in the local section of the railway; and

WHEREAS, in May 2011, the Richlands Town Council empowered the Section House Restoration Committee to seek a grant from the Department of Transportation to assist with the restoration of the Norfolk and Western Railway Section Foreman's House, and Norfolk Southern Railway donated the property to the town in the following July; and

WHEREAS, the Norfolk and Western Railway Section Foreman's House received support from the Virginia Commission for the Arts, which provided a grant for a mural depicting local history, and from Southwest Virginia Community College, which funded public restrooms for visitors; and

WHEREAS, in addition, the Richlands Garden Club has made significant contributions to the planning, planting, and upkeep of the grounds around the Norfolk and Western Railway Section Foreman's House; and

WHEREAS, the restored Norfolk and Western Railway Section Foreman's House was dedicated on October 13, 2018; the site is currently listed on both the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, the Norfolk and Western Railway Section Foreman's House is included on the Virginia Coal Heritage Trail, which highlights the critical role the coal industry of Southwest Virginia played in the economic vitality of the Commonwealth and the growth of the nation; and

WHEREAS, the Norfolk and Western Railway Section Foreman's House upholds the theme of its mission and vision statements, "the ties that bind," by continuing to provide opportunities for visitors to establish a personal connection to the region's heritage through historical exhibits and interpretation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Norfolk and Western Railway Section Foreman's House, an important historical landmark in Richlands; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Norfolk and Western Railway Section Foreman's House as an expression of the General Assembly's admiration for the significance of the site and the Richlands community's commitment to preserving the Commonwealth's historical and cultural resources.

HOUSE JOINT RESOLUTION NO. 553

Commending Colonel William Joseph Flanagan, Jr., USA, Ret.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Colonel William Joseph Flanagan, Jr., USA, Ret., has served the Commonwealth and the nation with dedication and distinction for many years; and

WHEREAS, raised in Saratoga Springs, New York, William "Bill" Joseph Flanagan, Jr., was a member of the United States Army Reserve Officers' Training Corps program at Cornell University, and relocated to Virginia for his first duty station at Fort Lee in Prince George County; and

WHEREAS, over the next three decades, Bill Flanagan's military postings took him to France, the United Kingdom, Germany, Vietnam, Thailand, and multiple locations in the United States, including three years at the Pentagon; and

WHEREAS, notably, Bill Flanagan served as the first chief of the Office of the Quartermaster General, the first chief of staff of the Defense Commissary Agency, the chief of staff of the II Corps Support Command, and the commander of Defense Subsistence Region-Europe; and

WHEREAS, during his tenure with the United States Army, Bill Flanagan continued his education by earning a master's degree from the University of Delaware, attending the Army Command and General Staff College and the Army War College, and completing training with Marriott International; and

WHEREAS, among many awards and decorations, Bill Flanagan received the Legion of Merit, the Bronze Star, the Defense Meritorious Service Medal with Oak Leaf Cluster, the Army Commendation Medal with Oak Leaf Cluster, and the Army Achievement Medal; and

WHEREAS, after his honorable military service, Bill Flanagan continued to support his fellow veterans as a longtime member of the Quartermaster Museum Foundation Board, the Virginia War Memorial Foundation, the Association of the United States Army, and the Military Officers Association of America; and

WHEREAS, Bill Flanagan pursued a second career in state government as a legislative aide and chief of staff to the Honorable M. Kirkland Cox for 23 years, earning the admiration of colleagues and constituents for his professionalism and attention to detail in service to the Commonwealth; and

WHEREAS, Bill Flanagan and his wife of more than 57 years, Diane, have proudly raised four children and have been blessed with many grandchildren and great-grandchildren; the couple are experienced world travelers who have visited more than 60 countries; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonel William Joseph Flanagan, Jr., USA, Ret., for his exemplary service to the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel William Joseph Flanagan, Jr., USA, Ret., as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 554

Commending Kent Stigall.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, on January 31, 2020, Kent Stigall retired from the Division of Legislative Services as a geographic information systems specialist after more than 35 years of outstanding service to the Commonwealth and the General Assembly; and

WHEREAS, prior to becoming a state government employee, Kent Stigall worked at the *Richmond Times-Dispatch* from 1982 to 1984; and

WHEREAS, Kent Stigall joined the Division of Legislative Automated Systems as a programmer analyst in September 1984 and served the Commonwealth in that capacity for the next 13 years; and

WHEREAS, on December 25, 1997, Kent Stigall joined the Division of Legislative Services (DLS) and used his technical prowess to support statewide legislative redistricting processes as a geographic information systems specialist; and

WHEREAS, in the course of his duties, Kent Stigall maintained up-to-date records and maps of Virginia's voting precincts and built datasets of precincts' voting history for use in redrawing legislative and congressional districts; and

WHEREAS, Kent Stigall interpreted data from the 2010 United States Census to help staff members and state legislators make informed decisions about the composition of voting precincts for the decennial redistricting process in 2011; and

WHEREAS, Kent Stigall played a critical role in redistricting by hiring, training, and directing staff members to assist with the process; he worked closely with members of the General Assembly to provide research and analysis of districts, as well as training on the use of the redistricting application; and

WHEREAS, Kent Stigall built a robust framework for the redistricting process, ably managing procurement of hardware and software, researching and selecting vendors for equipment and applications, and ensuring that the working platform met the needs of the agency and the members of the General Assembly; and

WHEREAS, Kent Stigall aggregated data and produced reports related to redistricting, including reports on redrawn districts for the Office of the Attorney General to submit to the United States Department of Justice; and

WHEREAS, during his long tenure in state government, Kent Stigall became a source of institutional knowledge and was a trusted mentor and friend to many of his fellow DLS employees; his contributions left the agency well-prepared to effectively manage future decennial redistricting processes; and

WHEREAS, Kent Stigall's personal integrity, commitment to public service, and wealth of professional expertise helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of and visitors to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kent Stigall for more than three decades of meritorious service as a state employee on the occasion of his retirement from the Division of Legislative Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kent Stigall as an expression of the General Assembly's admiration for his wide-ranging expertise and gratitude for his achievements on behalf of the residents of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 565

Celebrating the life of the Honorable Augustus Benton Chafin, Jr.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the Honorable Augustus Benton Chafin, Jr., a passionate advocate for Southwest Virginia and an accomplished state legislator who earned bipartisan admiration for his commitment to the betterment of the Commonwealth as a whole, died on January 1, 2021; and

WHEREAS, a proud native of Russell County, Augustus Benton "Ben" Chafin, Jr., grew up on his family's farm and learned the value of hard work and responsibility at a young age; he worked at a local meat packing plant as a teenager, and he returned home most weekends while attending college to help on the farm; and

WHEREAS, a first-generation college student in his family, Ben Chafin received a bachelor's degree from East Tennessee State University and a law degree from the University of Richmond; and

WHEREAS, Ben Chafin established what is now Chafin Law Firm, P.C., in the 1980s and practiced law throughout Southwest Virginia for more than 30 years; in addition to his work as an attorney, he served on the board of First Bank & Trust Company and held close to his roots in agriculture as the owner and operator of a beef cattle farm; and

WHEREAS, desirous to be of further service to his community and to the Commonwealth, Ben Chafin ran for and was elected to the Virginia House of Delegates in 2013, becoming the first Republican to represent the Fourth District in more than 20 years; and

WHEREAS, Ben Chafin was subsequently elected to the Senate of Virginia during a special election in 2014 and ably served the residents of Southwest Virginia in the 38th District until the time of his passing; and

WHEREAS, Ben Chafin adapted to the unique challenges of representing a district that is geographically larger than some federal congressional districts, encompassing all of the Counties of Bland, Buchanan, Dickenson, Pulaski, Russell, and Tazewell; parts of the Counties of Montgomery, Smyth, and Wise; and the Cities of Norton and Radford; and

WHEREAS, during his tenure as a state lawmaker, Ben Chafin introduced and supported many pieces of important legislation to benefit all Virginians and provided his expertise to the Agriculture, Conservation and Natural Resources; Commerce and Labor; Education and Health; Judiciary; Privileges and Elections; and Rehabilitation and Social Services committees; and

WHEREAS, Ben Chafin was a staunch proponent of public education, responsible economic growth, Second Amendment rights, and access to health care for all Virginians; and

WHEREAS, Ben Chafin consistently supported job creation in his district, helping to establish the InvestSWVA partnership to promote the coalfields region as a future site of renewable energy infrastructure and high-technology business development; and

WHEREAS, Ben Chafin served the residents of Southwest Virginia and the entire Commonwealth with the utmost dedication, integrity, and distinction; and

WHEREAS, outside of his careers, Ben Chafin was an avid outdoorsman, who relished every opportunity to appreciate Southwest Virginia's natural splendor; he volunteered his time and leadership as former president of the Russell County Rotary Club; and he enjoyed fellowship and worship with the congregation of Gracewood Community Church in Lebanon; and

WHEREAS, Ben Chafin will be fondly remembered and greatly missed by his wife of 38 years, Lora; his children, Sophia, Audra, Augustus III, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Augustus Benton Chafin, Jr., a respected statesman and a champion for Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Augustus Benton Chafin, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 570

Commending Jill Harrell.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Jill Harrell, a fourth grade teacher at Gayton Elementary School in Henrico County, received the Sanford Teacher Award from the National University System Institute for Policy Research in 2020; and

WHEREAS, the Sanford Teacher Award is annually bestowed by the National University System Institute for Policy Research to recognize a teacher from each state and the District of Columbia who has demonstrated an exceptional ability to inspire their students and support their development and achievement; and

WHEREAS, by encouraging her students to embrace the challenges they encounter throughout their education, Jill Harrell has taught her students to approach new content with patience, focus, and the confidence that they will succeed; and

WHEREAS, highly attuned to the academic, social, and emotional needs of each child, Jill Harrell establishes close bonds with her students and their families, nurturing a passion for learning that will benefit them throughout their lives; and

WHEREAS, through her holistic approach to learning, Jill Harrell has helped her students develop into thoughtful and considerate young people, contributing greatly to their well-being and success both in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jill Harrell, a fourth grade teacher at Gayton Elementary School, for receiving the Sanford Teacher Award from the National University System Institute for Policy Research in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jill Harrell as an expression of the General Assembly's admiration for her remarkable accomplishment and appreciation for her steadfast dedication to her students.

HOUSE JOINT RESOLUTION NO. 571

Celebrating the life of Alan Zimm.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Alan Zimm, a Holocaust survivor who ultimately made his home in Virginia and served generations of Richmond residents as a tailor, died on April 18, 2020; and

WHEREAS, a native of Kolo, Poland, Alan Zimm witnessed firsthand the invasion of his country by Nazi Germany, returning home one day to find that his family and many fellow Jews had been abducted by the Nazis; and

WHEREAS, Alan Zimm escaped to a relative's house but was subsequently captured and forcibly relocated to the nearby Lodz ghetto, an area of less than two square miles that housed 200,000 people, nearly a quarter of whom would die from starvation, cold, or disease; and

WHEREAS, Alan Zimm was later sent to the Czestochowa ghetto and the Buchenwald, Dora-Mittelbau, and Bergen-Belsen concentration camps, as a slave laborer, enduring years of cruelty and mistreatment until he was liberated on April 15, 1945; and

WHEREAS, after the end of World War II, Alan Zimm reunited with his older brother Sol, his only surviving family member, and lived in Poland and Germany before he was sponsored by a Jewish relief organization to immigrate to the United States with his wife Halina, also a Holocaust survivor; and

WHEREAS, having learned to sew from another brother, Alan Zimm quickly began working as a tailor after he settled in Richmond; he saved money while working for a local haberdasher, then opened his own tailoring business on Meadow Street; and

WHEREAS, in the 1950s, Alan Zimm's Custom Tailor Shop moved to Patterson Avenue, where he served members of the community for the next several decades; and

WHEREAS, Alan Zimm took great pride in his work, and in that his daughter, Ruth, worked closely with him for more than 30 years after she opened her own store next to Alan Zimm's Custom Tailor Shop; and

WHEREAS, over the course of his career, Alan Zimm built strong personal relationships with his clients and was known as much for his commitment to excellence as for his incomparable work ethic; he joked that he had gone into semiretirement when he merely reduced the shop's hours from six days a week to five and a half, and he didn't officially retire until the age of 97; and

WHEREAS, Alan Zimm's quiet dignity and unfailing kindness inspired others to lead lives of hope and humility; he participated in many events memorializing those lost during the Holocaust and frequently volunteered his time to educate young people about the dangers of anti-Semitism and other forms of bigotry; and

WHEREAS, Alan Zimm will be fondly remembered and greatly missed by his wife, Halina; his four children, Solomon, Ruth Ann, Rebecca, and Josh, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alan Zimm, an inspirational member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alan Zimm as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 575

Providing for a Joint Assembly, establishing a schedule for the conduct of business coming before the 2021 Regular Session of the General Assembly of Virginia, and providing for legislative continuity between the 2021 Regular Session of the General Assembly and a special session.

Agreed to by the Senate, January 13, 2021

Agreed to by the House of Delegates, January 13, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the Speaker of the House of Delegates, President pro tempore of the Senate, and President of the Senate shall assemble in the Hall of the House of Delegates on Wednesday,

January 13, 2021, at such time as specified by the Speaker of the House of Delegates, to receive the Governor of Virginia, and such address as he may desire to make, and that the rules for the government of the House of Delegates and the Senate, when convened in joint session for such purpose, shall be as follows:

Rule I. At the hour fixed for the meeting of the Joint Assembly, the President pro tempore of the Senate and the President of the Senate, accompanied by the Clerk of the Senate, shall proceed to the Hall of the House of Delegates and shall be received by the Speaker of the House of Delegates and the Clerk of the House of Delegates standing. An appropriate seat shall be assigned to the President pro tempore of the Senate by the Sergeant at Arms of the House. The Speaker of the House of Delegates shall assign an appropriate seat for the President of the Senate.

Rule II. The Speaker of the House of Delegates shall be President of the Joint Assembly. In case it shall be necessary for the Speaker to vacate the Chair, the President of the Senate shall serve as the presiding officer.

Rule III. The Clerk of the House of Delegates shall be Clerk of the Joint Assembly and shall be assisted by the Clerk of the Senate. The Clerk of the Joint Assembly shall enter the proceedings of the Joint Assembly in the Journal of the House and shall certify a copy of the same to the Clerk of the Senate, who shall enter the same in the Journal of the Senate.

Rule IV. The Sergeant at Arms and Doorkeepers of the House shall act as such for the Joint Assembly.

Rule V. The Rules of the House of Delegates, as far as applicable, shall be the rules of the Joint Assembly.

Rule VI. In calling the roll of the Joint Assembly, the names of the Senators shall be called in alphabetical order, then the names of the Delegates in like order, except that the name of the Speaker of the House of Delegates shall be called last.

Rule VII. If, when the Joint Assembly meets, it shall be ascertained that a majority of each house is not present, the Joint Assembly may take measures to secure the attendance of absentees, or adjourn to a succeeding day, as a majority of those present may determine.

Rule VIII. When the Joint Assembly adjourns, the President pro tempore of the Senate and the President of the Senate, accompanied by the Clerk of the Senate, shall return to their chamber, and the business of the House shall be continued in the same order as at the time of the entrance of the President pro tempore of the Senate, the President of the Senate, and the Clerk of the Senate; and, be it

RESOLVED FURTHER, That notwithstanding any other provision of this resolution and in accordance with the practices of each house, with the exception of commending and memorial joint resolutions, a request to be added as a co-patron shall be received prior to the first vote on the passage of a bill or agreement to a joint resolution or, if the bill or joint resolution is not reported from committee, then prior to the last action on such legislation. A request to be removed as a co-patron shall be received no later than 5:00 p.m., Monday, February 1, 2021; and, be it

RESOLVED FURTHER, That any member offering for introduction a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is introduced; and, be it

RESOLVED FURTHER, That for purposes of the procedural deadlines established herein for the 2021 Regular Session of the General Assembly:

"Budget Bill" means the general appropriation bill introduced in each house that authorizes the biennial expenditure of public revenues for the period from July 1, 2020, through June 30, 2022.

"Legislative day" means the period of time that begins with the call to order by the presiding officer and ends when declared adjourned by the presiding officer. Unless another time is specified, any deadline established in this resolution shall expire at the end of the legislative day.

"Prefiled legislation" means any bill or joint resolution requested from the Division of Legislative Services no later than 5:00 p.m., Monday, November 30, 2020, and prefiled no later than 10:00 a.m., Wednesday, January 13, 2021, or any bill or joint resolution not requested from the Division of Legislative Services and prefiled no later than 10:00 a.m., Wednesday, January 13, 2021.

"Unanimous consent" means the affirmation of all the members present in the house of origin. Any legislation intended to be offered for introduction with unanimous consent or with the written request of the Governor shall not require the consent of the house in order for the member to request the Division of Legislative Services to draft such legislation. The Division of Legislative Services shall return such legislation after the original introduction deadline.

"Virginia Retirement System bill" means any bill that amends, adds, repeals, or modifies any provision of any retirement system established in Title 51.1 of the Code of Virginia; and, be it

RESOLVED FINALLY, That the 2021 Regular Session of the General Assembly shall be governed by the following procedural rules, which establish time limitations for elections and for all legislation prefiled and introduced for or continued to the 2021 Regular Session except:

- (i) House and Senate resolutions;
- (ii) Bills and joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, either of its houses, or any of its committees;
- (iii) Bills and joint resolutions introduced with unanimous consent to exceed the time limitations established in Rules 2, 3, 6, and 9;
- (iv) Joint resolutions confirming appointments subject to the confirmation of the General Assembly;
- (v) Joint commending and memorial resolutions, except for the time limitations established in Rules 8 and 9;
- (vi) Bills and joint resolutions regarding elections held by the General Assembly during the 2021 Regular Session; or
- (vii) Bills and joint resolutions requested in writing by the Governor.

Rule 1. Neither house of the General Assembly shall receive from any committee any bill or joint resolution that was continued on the agenda of such committee and acted upon later than midnight, Thursday, December 3, 2020. For purposes of this rule, a motion to refer a measure to another committee shall be treated as an action by a committee.

Rule 2. No bill or joint resolution creating or continuing a study shall be offered in either house after the adjournment of that house on Wednesday, January 13, 2021.

Rule 3. No Virginia Retirement System bill shall be offered in either house after adjournment of that house on Wednesday, January 13, 2021.

Rule 4. Except for bills and joint resolutions required to be requested earlier, requests for the drafting, redrafting, or correction of any bill or joint resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 15, 2021.

Rule 5. No later than Monday, January 18, 2021, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Tuesday, January 19, 2021, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election or agree to hold it at another specific time. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 6. Except for bills required to be filed earlier, no bill or joint resolution shall be offered in either house after 3:00 p.m., Friday, January 22, 2021.

Rule 7. No later than Friday, January 22, 2021, the Board of Trustees of the Virginia Retirement System shall submit, in accordance with § 30-19.1:7, impact statements for all Virginia Retirement System bills filed by the first day of session. For any Virginia Retirement System bill filed later than the first day of session, the Board of Trustees shall use due diligence in preparing the impact statement in time for review by the standing committees.

Rule 8. Requests for the drafting, redrafting, or correction of any joint commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Saturday, January 30, 2021.

Rule 9. No joint commending or memorial resolution shall be offered in either house after 5:00 p.m., Tuesday, February 2, 2021.

Rule 10. Except for the Budget Bill, beginning Saturday, February 6, 2021, the House of Delegates shall consider only Senate bills, Senate joint resolutions, House bills with Senate amendments, and House joint resolutions with Senate amendments; the Senate shall consider only House bills, House joint resolutions, Senate bills with House amendments, and Senate joint resolutions with House amendments; and each house may consider conference reports and other privileged matters relating thereto to the end that the work of each house may be disposed of by the other.

Rule 11. The committees responsible for the consideration of the Budget Bill in the houses of introduction shall complete their work on such bill no later than midnight, Sunday, February 7, 2021.

Rule 12. This session of the General Assembly shall adjourn sine die no later than midnight on Thursday, February 11, 2021.

Rule 13. Pursuant to Section 6 of Article IV of the Constitution of Virginia, the General Assembly shall reconvene Wednesday, March 17, 2021, for the purpose of considering bills that may have been returned by the Governor with recommendations for their amendment and bills and items of appropriation bills, including the general appropriation act, that may have been returned by the Governor with his objections.

Rule 14. That, notwithstanding any applicable rules of the House of Delegates or Senate, the General Assembly does hereby provide legislative continuity pursuant to Section 7 of Article IV of the Constitution of Virginia. Any bill, joint resolution, or resolution introduced during the 2021 Regular Session may, by motion, be continued to the first 2021 Special Session of the General Assembly convened subsequent to the 2021 Regular Session, for action by any committee or subcommittee of the General Assembly, either house of the General Assembly, or any conference committee.

Rule 15. That members of the General Assembly and credentialed legislative staff attending floor sessions, committees, subcommittees, and any other meetings of the General Assembly in person or meeting in a legislative office in person shall be required to wear a facemask or face shield, and (i) at the discretion of the Speaker of the House of Delegates for Delegates and House credentialed staff and the discretion of the chair of the Senate Committee on Rules for Senators and Senate credentialed staff, have their temperature taken daily when initially entering legislative space; and (ii) at the discretion of the Speaker of the House of Delegates for Delegates and House credentialed staff and the discretion of the chair of the Senate Committee on Rules for Senators and Senate credentialed staff, be tested weekly for Covid-19 by the Virginia Department of Health.

Rule 16. The conduct of the business of any subcommittee of any House committee, any joint subcommittee of House and Senate committees, and any interim study commission created pursuant to a House measure shall be governed by the Rules of the House of Delegates; the conduct of the business of any subcommittee of any Senate committee, any joint subcommittee of Senate and House committees, and any interim study commission created pursuant to a Senate measure shall be governed by the Rules of the Senate. If a House measure and a Senate measure create the same study, the conduct of the business of the study shall be governed by the rules of the house of the chairman of the study, or in the case of co-chairmen, the rules of the house as agreed upon by the co-chairmen.

Rule 17. Interim meetings of any standing committee, joint committee, joint subcommittee, legislative commission, or any other interim study subcommittee or study commission shall be held on such day as called by the chair if electronically, or if in person on Monday, Tuesday, or Wednesday during the first and third full weeks of the month, unless otherwise authorized by the Speaker of the House of Delegates or the Chairman of the Senate Committee on Rules, as may be appropriate for the house in which the chairman serves.

Rule 18. Any staff member assigned to work for, and support the efforts of, any committee of the House or Senate, any subcommittee of any such committee, any joint subcommittee of House and Senate committees, or any interim study commission shall work under the direction of the chairman of such committee, subcommittee, joint subcommittee, or interim study commission.

HOUSE JOINT RESOLUTION NO. 576

Establishing a schedule for the conduct of business for the prefiling period of the 2022 Regular Session of the General Assembly of Virginia.

Agreed to by the House of Delegates, January 13, 2021

Agreed to by the Senate, January 13, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the prefiling period of the 2022 Regular Session of the General Assembly shall be governed by the following rules:

Rule 1. Requests for drafts of any bill or joint resolution to be prefiled shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Monday, November 29, 2021. The Division shall make such drafts available for review no later than midnight, Friday, December 31, 2021.

Rule 2. Requests for the drafting, redrafting, or correction of any bill or joint resolution creating or continuing a study shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 7, 2022, in order to be filed on the first day of the 2022 Regular Session.

Rule 3. Requests for redrafts and corrections of any draft prepared for prefiling shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 7, 2022. The Division shall make such drafts available no later than noon, Tuesday, January 11, 2022.

Rule 4. Bills and joint resolutions offered for prefiling shall be prefiled in either house no later than 10:00 a.m., Wednesday, January 12, 2022. Any member offering for prefiling a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is prefiled.

HOUSE JOINT RESOLUTION NO. 580

Commending the Lake Ridge Occoquan Coles Civic Association.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the Lake Ridge Occoquan Coles Civic Association, a nonprofit, nonpartisan citizen organization proudly representing the communities of Lake Ridge, Occoquan, and Coles, celebrated its 50th anniversary in 2020; and

WHEREAS, in the 1960s, as the Lake Ridge area rapidly developed, the founding members of the Lake Ridge Occoquan Coles Civic Association (LOCCA) began forming an organization that could represent the community and advocate for smart and sustainable growth; and

WHEREAS, LOCCA was officially incorporated on July 6, 1970, as the Lake Ridge Communities Civic Association and initially represented the neighborhoods within the former Occoquan-Dumfries-Woodbridge Triangle Sanitary District, an area covering a significant portion of eastern Prince William County; and

WHEREAS, in the late 1970s, in response to plans to widen Davis Ford Road, now Old Bridge Road and Minnieville Road, LOCCA rewrote its bylaws, renamed the organization the Lake Ridge Occoquan Civic Association, and formed its Planning, Environment, Land-Use, and Transportation Committee, which has since been a forceful advocate for sensible land-use and development decisions in the area; and

WHEREAS, to formally recognize the close connection that developed between Coles and Lake Ridge following the latter's westward development along the Old Bridge Road corridor, the organization was renamed the Lake Ridge Occoquan Coles Civic Association in 1997; and

WHEREAS, LOCCA meets monthly to address a variety of local development issues, providing invaluable feedback to developers overseeing projects in the area and officials responsible for the Prince William County Comprehensive Plan; and

WHEREAS, by enabling citizens to effectively provide input on the planning issues affecting their community, LOCCA has helped make Prince William County a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Lake Ridge Occoquan Coles Civic Association, a nonprofit, nonpartisan citizen organization representing the Lake Ridge, Occoquan, and Coles communities, on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Burrell, chairman of the Lake Ridge Occoquan Coles Civic Association, as an expression of the General Assembly's esteem and admiration for the organization's illustrious history and noteworthy contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 581

Celebrating the life of Karl David Stoltzfus, Sr.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Karl David Stoltzfus, Sr., an esteemed aviator and businessman and a beloved member of the Bridgewater community for many years, died on November 27, 2020; and

WHEREAS, Karl Stoltzfus acquired a love for aviation at an early age from his father, Christian, who started a crop spraying company in the 1930s and was a pioneer in the industry; after high school, Karl Stoltzfus worked at his father's business as a pilot and fabricator, acquiring valuable experience that would serve him throughout his career; and

WHEREAS, in 1967, Karl Stoltzfus and his family moved to the Shenandoah Valley to attend Eastern Mennonite College, where he earned a bachelor's degree in business; to support himself through school, he and his brother, Ken, founded K & K Aircraft, a small airplane parts business and aluminum smelting operation; and

WHEREAS, seven years after founding K & K Aircraft, Karl Stoltzfus purchased the Bridgewater Air Park and expanded the company's operations to provide a variety of mission-specific aviation services and solutions, including pest control, firefighting, and surveillance; known today as Dynamic Aviation, the company now sports a fleet of more than 140 aircraft and has employed hundreds of citizens of the Commonwealth over the past half-century; and

WHEREAS, a consummate aviator who was dedicated to the future of his industry, Karl Stoltzfus lovingly imparted his knowledge and wisdom to several generations of future mechanics and pilots; he was committed to the preservation of aviation history, restoring many legacy aircraft over the years, including the first airplane to serve as Air Force One; and

WHEREAS, guided throughout his life by his deep and abiding faith, Karl Stoltzfus enjoyed worship and fellowship with his community at First Presbyterian Church in Harrisonburg for many years; and

WHEREAS, Karl Stoltzfus will be fondly remembered and dearly missed by his adoring wife of 57 years, Barbara; his children, Karl, Jr., Michelle, and Michael; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Karl David Stoltzfus, Sr., an accomplished aviator and businessman whose compassionate, positive, and selfless nature left a lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Karl David Stoltzfus, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 584

Commending Edwin Eagle.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Edwin Eagle of Staunton received the 2020 Distinguished Service Award from the Virginia Golf Course Superintendents Association for his outstanding contributions to golf course management; and

WHEREAS, Edwin "Ed" Eagle began to cultivate his love of golf at a young age, when his family relocated near Gypsy Hill Golf Club of Staunton; he helped clean and maintain the course, leading to a part-time job that grew into a managerial position and 17 years of employment; and

WHEREAS, while working at Gypsy Hill, Ed Eagle earned a bachelor's degree from Mary Baldwin University and a master's degree from the University of Pittsburgh; he mostly taught himself the golf course management trade, studying in the winter and applying what he learned to the course in the spring and summer; and

WHEREAS, after graduate school, Ed Eagle worked as superintendent of Ingleside Golf Club for 26 years; in the 1990s he joined the Shenandoah Valley Turfgrass Association and served terms as a board member, vice president, and president during his long tenure; and

WHEREAS, Ed Eagle earned a designation as a certified golf course superintendent in 2001 and offered his leadership and expertise to the newly formed Virginia Golf Course Superintendents Association (VGCSA); and

WHEREAS, as a member of the VGCSA board, Ed Eagle completed several significant projects, a best management practices manual, a nutrient management planning program, and a water management plan during a major drought; and

WHEREAS, respected and admired by his peers, Ed Eagle has been a trusted mentor and friend to numerous colleagues and has strengthened the VGCSA and the field of golf course management in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Edwin Eagle on receiving the 2020 Distinguished Service Award from the Virginia Golf Course Superintendents Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Edwin Eagle as an expression of the General Assembly's admiration for his professional achievements.

HOUSE JOINT RESOLUTION NO. 585

Celebrating the life of Harold Reid.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, Harold Reid, a proud native of Staunton and cofounder of the Grammy-winning country and gospel vocal quartet The Statler Brothers died on April 24, 2020; and

WHEREAS, in 1958, Harold Reid and three friends, Lew DeWitt, Phil Balsley, and Joe McDorman, formed the Four Star Quartet, later known as the Kingsmen, and originally focused on gospel music; and

WHEREAS, Harold Reid's younger brother Don subsequently replaced Joe McDorman as the lead singer, and in 1963, after widespread success by another group named the Kingsmen, the quartet was renamed as The Statler Brothers; and

WHEREAS, in 1964, Harold Reid and The Statler Brothers joined Johnny Cash as an opening act and backup vocalists; the partnership lasted for more than eight years and brought the group wide popularity, with one of their best-known hits, "Flowers on the Wall," released during that period; and

WHEREAS, Harold Reid authored or coauthored many of The Statler Brothers' songs, and as the bassist, his deep, stirring vocals anchored many of the group's classic tracks; he further delighted audiences as the frontman for the comedic music group Lester "Roadhog" Moran & the Cadillac Cowboys; and

WHEREAS, after The Statler Brothers' farewell tour in 2002, Harold Reid retired from his music career and settled in his hometown of Staunton, where he established the Happy Birthday America Fourth of July concert, a beloved local tradition; and

WHEREAS, over the course of their career, Harold Reid and The Statler Brothers had multiple top 10 hits on country charts, won three Grammy Awards and three American Music Awards, and were selected as the Vocal Group of the Year nine times by the Country Music Association; and

WHEREAS, among many other awards and accolades, Harold Reid and The Statler Brothers were also inducted into the Country Music Hall of Fame and the Gospel Music Hall of Fame; and

WHEREAS, Harold Reid will be fondly remembered and greatly missed by his beloved wife, Brenda Lee; his children, Kim, Karmen, Kodi, Kasey, and Wil, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Harold Reid, an iconic country music singer and a highly admired member of the Staunton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Harold Reid as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 586

Celebrating the life of the Reverend Alphonso Hamilton.

Agreed to by the House of Delegates, January 18, 2021

Agreed to by the Senate, January 21, 2021

WHEREAS, the Reverend Alphonso Hamilton, a former teacher and athletics coach who became pastor of Staunton First Church of God in Christ, died on October 19, 2020; and

WHEREAS, a native of Shamrock, Florida, Alphonso Hamilton began cultivating his deep and joyful faith at Shamrock Missionary Baptist Church; he later moved to North Carolina with his family and graduated from Pamlico County High School; and

WHEREAS, after serving his country as a member of the United States Army, Alphonso Hamilton earned a bachelor's degree from Shaw University and a master's degree in education from what is now James Madison University; and

WHEREAS, Alphonso Hamilton pursued a long and fulfilling career in education, teaching biology, chemistry, and general science; he led two high school basketball teams to eight district championships and two state championships as head coach and retired as a school administrator in 1989 after 34 years of service; and

WHEREAS, Alphonso Hamilton answered the call to ministry as an assistant pastor of Staunton First Church of God in Christ, serving in that capacity for 26 years until he was installed as pastor in 2014; and

WHEREAS, among many awards and accolades, Alphonso Hamilton was inducted into the Virginia Interscholastic Association Heritage Association Hall of Fame, the Staunton High School Hall of Fame, and the Booker T. Washington High School Hall of Fame; and

WHEREAS, Alphonso Hamilton will be fondly remembered and greatly missed by his wife, Catherine; his children, Carlton, Maurice, and Anthony, and their families; and numerous other family members, friends, congregants, and students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Alphonso Hamilton, a respected religious leader in Staunton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Alphonso Hamilton as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 587

Commending Sim Ewing.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, for more than 25 years, Sim Ewing has supported students, faculty, and staff at the University of Virginia's College at Wise by overseeing dozens of projects to enhance, expand, and beautify the institution's campus; and

WHEREAS, Sim Ewing previously served as town manager of the Town of Wise from 1982 to 1987, then joined the University of Virginia's Weldon Cooper Center for Public Service as director of the Southwest Virginia office; and

WHEREAS, Sim Ewing joined the University of Virginia's College at Wise as an assistant vice chancellor in 1995; over the course of his career, he served as associate vice chancellor, vice chancellor for finance and administration, and vice chancellor and chief operating officer, cultivating an expertise in numerous aspects of campus life and operations; and

WHEREAS, a trusted source of institutional knowledge, Sim Ewing has served under seven chancellors or interim chancellors and has been a mentor to countless fellow employees of the college; and

WHEREAS, during his tenure, Sim Ewing oversaw the construction of a new library, the David J. Pryor Convocation Center, multiple residence halls, the C. Bascom Slep Student Center, Darden Hall, and the Carl Smith Stadium, as well as numerous renovations and additions to existing residence halls and classroom buildings, the chancellor's residence, and athletics facilities; and

WHEREAS, Sim Ewing increased campus safety through multiple lighting projects and completed renovations to comply with Americans with Disabilities Act requirements and make campus more accessible for all students; and

WHEREAS, in addition to outdoor beautification projects like the Rosebud Smiddy Garden plaza and the Gilliam Sculpture Garden and infrastructure improvements to address storm water runoff, Sim Ewing has promoted environmental conservation through a wetlands project and a planned campus lake; and

WHEREAS, Sim Ewing completed projects to enhance the visual appeal and circulation of vehicle and pedestrian traffic at the entrance to campus and to streamline access between new construction and central campus; and

WHEREAS, in addition, Sim Ewing has advocated for the University of Virginia's College at Wise before regional and state bodies and played a vital role in the Commonwealth's capital investment in the college of more than \$225 million since 1995; and

WHEREAS, Sim Ewing established the Director of Economic Development Office at the University of Virginia's College at Wise, which has vastly increased the college's engagement with the Town of Wise, Wise County, and the surrounding region; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sim Ewing for his years of service to the University of Virginia's College at Wise and communities throughout Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sim Ewing as an expression of the General Assembly's admiration for his legacy of professional achievements.

HOUSE JOINT RESOLUTION NO. 588

Celebrating the life of Dave Andrew Weeks, Jr.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Dave Andrew Weeks, Jr., a distinguished law-enforcement officer, honorable veteran, and active and beloved member of the communities of Forest and Lynchburg, died on August 12, 2020; and

WHEREAS, after graduating from Altavista High School in 1958, Dave Weeks pursued a career in law enforcement, earning an associate's degree from Central Virginia Community College, graduating from the Juvenile Officers Institute at

the University of Minnesota, and completing coursework at the University of Louisville and the former Lynchburg College; years later, he graduated from the FBI Academy; and

WHEREAS, Dave Weeks joined the Lynchburg Police Department in 1958 but was drafted into the United States Army shortly thereafter; he served his country with courage and valor in Korea, where he was a member of the military police and attained the rank of E-5 which is a sergeant; and

WHEREAS, after concluding his military service, Dave Weeks resumed his position with the Lynchburg Police Department, working tirelessly to protect and serve his community until he retired from the force in 1992 at the rank of deputy chief; and

WHEREAS, beginning that same year, Dave Weeks supported federal law enforcement as a special deputy with the United States Marshals Service, retiring in 2001 as the lead community service officer in the Lynchburg division; and

WHEREAS, with a profound sense of dedication to his fellow law-enforcement professionals and their mission, Dave Weeks served as president of the Virginia chapter of the Federal Bureau of Investigation's National Academy Associates and was a charter member and chaplain of the Fraternal Order of Police; and

WHEREAS, a natural and gifted leader who cared deeply for his community, Dave Weeks presided over local chapters of Optimist International and Civitan International and was a longstanding chairman of the Lynchburg Municipal Employees Federal Credit Union and a board member of the Beacon Credit Union; and

WHEREAS, Dave Weeks served others through his involvement in myriad fraternal organizations over more than a half-century, including Marshall Lodge No. 39 of the Ancient Free and Accepted Masons, the Lynchburg Shrine Club, and the Roanoke Valley Shrine Club; and

WHEREAS, guided throughout his life by his resolute and abiding faith, Dave Weeks enjoyed worship and fellowship with his community at West Lynchburg Baptist Church for more than 50 years, serving as a deacon and trustee; and

WHEREAS, preceded in death by his loving wife of 52 years, Rebecca, Dave Weeks will be fondly remembered and dearly missed by his children, Debra, Karla, and Karen, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Dave Andrew Weeks, Jr., who made a lasting impression on countless lives in Forest and Lynchburg through his work with the Lynchburg Police Department and various local organizations; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dave Andrew Weeks, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 589

Celebrating the life of the Honorable Mamye E. BaCote.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, the Honorable Mamye E. BaCote, an inspirational educator and a highly admired public servant who represented the residents of Newport News and Hampton in the Virginia House of Delegates for more than a decade, died on December 14, 2020; and

WHEREAS, a native of Halifax County, Mamye BaCote received a bachelor's degree from Virginia Union University and a master's degree from what is now Hampton University; and

WHEREAS, while a student at Virginia Union University in 1960, Mamye BaCote played a significant role in the civil rights movement as a member of the Richmond 34, a group of students and activists who staged a sit-in at the Thalhimers lunch counter in downtown Richmond; and

WHEREAS, Mamye BaCote pursued a career in education with Newport News Public Schools, teaching social studies at Collis P. Huntington High School and Menchville High School, where she became a department head; and

WHEREAS, Mamye BaCote fostered trust among her students and worked tirelessly to help them achieve success in and out of the classroom; she inspired young adults as an adjunct professor of political science at Hampton University; and

WHEREAS, after her retirement as a teacher in 1994, Mamye BaCote was elected to the Newport News City Council and served the city in that capacity from 1996 to 2003; and

WHEREAS, desirous to be of further service to the Commonwealth, Mamye BaCote ran for and was elected to the Virginia House of Delegates in 2003 and represented the residents of the 95th District until January 2016; and

WHEREAS, Mamye BaCote introduced and supported numerous important pieces of legislation to benefit all Virginians and offered her leadership and expertise to several standing committees, including Appropriations; Health, Welfare and Institutions; and Transportation; and

WHEREAS, during her tenure as a state lawmaker, Mamye BaCote focused on education and support for public schools, gun safety measures, and helping to rehabilitate nonviolent drug offenders by funding the Newport News Drug Court; and

WHEREAS, Mamye BaCote worked diligently to cultivate mutual respect across party lines, providing both Democrats and Republicans alike with her wisdom and insights, which helped to build bipartisan consensus on critical issues; and

WHEREAS, Mamye BaCote was well-known among constituents and colleagues for her grace, dignity, and genuine kindness, but her soft-spoken nature belied her tenacity and commitment to the public good; and

WHEREAS, Mamye BaCote served the Commonwealth with the utmost integrity, dedication, and distinction and inspired other members of her community to pursue a life of public service; and

WHEREAS, Mamye BaCote enjoyed fellowship and worship with the congregation of Saint Vincent de Paul Catholic Church and shared her faith with the community through song as a member of the choir; and

WHEREAS, predeceased by her husband, Theodore, and one son, Kyle, Mamye BaCote will be fondly remembered and greatly missed by her sons, Theodore III, Derek, and Marlon, and their families; numerous other family members and friends; and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Mamye E. BaCote, a respected public servant and former member of the Virginia House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Mamye E. BaCote as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 590

Celebrating the life of Stephen Teel Goodwin.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Stephen Teel Goodwin, a member of the Orange County Board of Supervisors who worked diligently to strengthen and enhance the community, died on December 30, 2020; and

WHEREAS, born in Richmond, Teel Goodwin could trace his family lineage in the Commonwealth back to 1640, when James Goodwin, who later represented York County in the House of Burgesses, arrived at Jamestown; and

WHEREAS, Teel Goodwin grew up in Orange, where he attended Grymes Memorial School; he subsequently graduated from Woodberry Forest School and studied at The College of William & Mary before earning a bachelor's degree from Mary Washington College; and

WHEREAS, Teel Goodwin began his career with the family business, Goodwin Brothers Lumber Company, and had risen to the position of manager when the company was sold 13 years later in 1990; and

WHEREAS, Teel Goodwin subsequently joined the sales department of Union Corrugating Company, then became general manager of the plant, where he ultimately retired after 29 years of service; and

WHEREAS, desirous to be of further service, Teel Goodwin ran for and was elected to the Orange County Board of Supervisors in 2008 and served the community in that capacity until the time of his passing; and

WHEREAS, respected by his peers in local government, Teel Goodwin served as chair and vice-chair of the Orange County Board of Supervisors for eight years; during his tenure, he helped create a new public safety center, expand broadband Internet service throughout the county, and work with the Orange Downtown Alliance to support small businesses; and

WHEREAS, Teel Goodwin was a trusted mentor and a devoted friend to many in Orange County, and even during an eight-year battle with colon cancer, he worked to enhance community life and brought joy to others with his luminous sense of humor; and

WHEREAS, Teel Goodwin will be fondly remembered and greatly missed by his wife, Linda; his son, Spencer; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Stephen Teel Goodwin, a consummate public servant in Orange County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stephen Teel Goodwin as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 591

Celebrating the life of Billy Joe Roberts.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Billy Joe Roberts, a dedicated law-enforcement officer who served as longtime sheriff of the City of Hampton, died on December 26, 2020; and

WHEREAS, a native of South Carolina, Billy Joe "B.J." Roberts grew up in Hampton, where he graduated from George P. Phenix High School and earned a bachelor's degree from Hampton University; and

WHEREAS, B.J. Roberts began his law-enforcement career in 1971 as a member of the Newport News Police Department, then subsequently joined the Hampton University Police Department, rising through the ranks over the course of his 19-year career at the institution to become director of police and public safety; and

WHEREAS, in 1992, B.J. Roberts was elected as sheriff of the City of Hampton and ultimately served seven terms; he was respected for his leadership and expertise both locally and nationally, serving as president of the Virginia Sheriffs' Association and as the first African American president of the National Sheriffs' Association; and

WHEREAS, B.J. Roberts had offered his leadership to statewide college campus law-enforcement associations and as chair of the Hampton Roads Regional Jail Authority; and

WHEREAS, B.J. Roberts enjoyed fellowship and worship with the congregation of Queen Street Baptist Church and served the community as a member of several volunteer organizations, including the Hampton branch of the NAACP and the Boys & Girls Clubs of America; and

WHEREAS, among numerous awards and accolades for his work with local youths and his achievements on behalf of the community, B.J. Roberts received the Hampton Citizen of the Year award, the Role Model of the Year award from 100 Black Men of Virginia Peninsula, and the Public Service Award from CHUMS, Inc.; and

WHEREAS, B.J. Roberts will be fondly remembered and greatly missed by his siblings, Annie and Earnest, and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Billy Joe Roberts, a highly admired law-enforcement officer in the City of Hampton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Billy Joe Roberts as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 592

Celebrating the life of Captain Charles F. Noll, Sr., USN, Ret.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Captain Charles F. Noll, Sr., USN, Ret., a distinguished veteran of the United States Navy and a beloved member of the Kiln Creek community, died on October 20, 2020; and

WHEREAS, graduating from the United States Naval Academy with the Class of 1957, Charles "Charlie" F. Noll, Sr., began his military career aboard the USS *Leary*; and

WHEREAS, after completing submarine school, Charlie Noll served on the USS *Atule* (SS-403), USS *Toro* (SS-422), USS *Trigger* (SS-564), and USS *Harder* (SS-568), in various ascending ranks, before ultimately commanding the USS *Darter* (SS-576) in San Diego, California; and

WHEREAS, in recognition of his extraordinary service to his country, Charlie Noll was awarded the United States Navy's Defense Superior Service Medal, the Legion of Merit Medal, three Meritorious Service Medals, the Navy Expeditionary Medal, two National Defense Service Medals, the Armed Forces Expeditionary Medal, and two Vietnam Service Medals; and

WHEREAS, Charlie Noll earned an advanced degree in communications from the Naval Postgraduate School and a master's degree in national security from The George Washington University; after a tour at the Pentagon, he was assigned to Norfolk and subsequently Rota, Spain, where he commanded the naval communications station; and

WHEREAS, Charlie Noll concluded his military career as commanding officer of the Naval Computer and Telecommunications Area Master Station—Atlantic in Norfolk, retiring in 1987; and

WHEREAS, in civilian life, Charlie Noll served as a program manager at Computer Sciences Corporation, overseeing multimillion-dollar contracts with entities such as the supercomputer manufacturer Cray and the National Aeronautics and Space Administration; and

WHEREAS, Charlie Noll gave generously of his time and talents as a member of the Electoral Board for York County and as a volunteer with the Kiln Creek Homeowners Association; he was instrumental in revitalizing the Kiln Creek Golf Club and Resort and held leadership positions in local chapters of the Navy League and Ruritans; and

WHEREAS, Charlie Noll will be lovingly remembered and dearly missed by his wife of 62 years, Sheila; his children, Charles, Jr., Kathryn, Elizabeth, Thomas, and Jeannie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Captain Charles F. Noll, Sr., USN, Ret., an esteemed United States Navy veteran who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Captain Charles F. Noll, Sr., USN, Ret., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 593

Celebrating the life of William Burford Warrick.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, William Burford Warrick of Williamsburg, a highly admired spiritual leader who served the community for more than 30 years, died on June 6, 2020; and

WHEREAS, William "Bill" Burford Warrick grew up in Blakely, Georgia, where he graduated from Early County High School as class valedictorian, and continued his education at Auburn University, becoming a lifelong Francophile while earning a bachelor's degree in French language; and

WHEREAS, while at Auburn University, Bill Warrick joined the local chapter of the nonprofit outreach organization Campus Crusade for Christ, now known as Cru; he subsequently pursued a career with the organization after graduating from Trinity Theological Seminary with a Master of Divinity degree; and

WHEREAS, Bill Warrick met his beloved wife, Lindy, while working for Campus Crusade for Christ in Texas, and the couple were later chosen to start a new chapter of the organization at The College of William & Mary; and

WHEREAS, Bill Warrick joined the Williamsburg Community Chapel and served his fellow Williamsburg residents over the course of three decades in many capacities, including senior pastor; he received the Sixth Man Award for his work with The College of William & Mary basketball team and hosted a popular Friday afternoon Bible study program for students; and

WHEREAS, more recently, Bill Warrick had served as the head of Williamsburg Fellowship, a chapter of Fellowship International, for seven years; and

WHEREAS, Bill Warrick gained a reputation as a trusted mentor and friend whose door was always open, and even during his long struggle against colon cancer, he gave generously of his time to continue to meet with and support members of the congregation in need; and

WHEREAS, Bill Warrick will be fondly remembered and greatly missed by his wife, Lindy; his daughters, Laura, Molly, and Kate, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Burford Warrick, a leader in the Williamsburg community who touched countless lives through his generosity and wise spiritual counsel; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Burford Warrick as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 594

Commending Pierce's Pitt Bar-B-Que.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Pierce's Pitt Bar-B-Que, an award-winning pit-smoked barbecue restaurant, has served the Williamsburg community for 50 years, earning local, statewide, and national acclaim for its iconic fare; and

WHEREAS, Pierce's Pitt Bar-B-Que was established in 1971 by Julius C. "Doc" Pierce and his wife, Verdie, and their son Julius C. Pierce, Jr., continues to steward the family business; and

WHEREAS, Pierce's Pitt Bar-B-Que's unique name was the result of a misspelling by the painter of the first plywood sign over the restaurant's eye-catching orange and yellow cinder block building, and while the original sign eventually came down, the name has endured, becoming well known to locals and visitors alike; and

WHEREAS, when it first opened, Pierce's Pitt Bar-B-Que prepared about 60 pounds of slow-cooked pork per week and sold sandwiches for 85 cents; the restaurant has grown to include six smoking pits with a maximum daily capacity of 6,000 pounds of barbecue; and

WHEREAS, Pierce's Pitt Bar-B-Que uses the highest quality pork Boston butts and sources free-range chicken and vegetables from local farms; as the only open-pit barbecue in Virginia, it uses at least two cords of hickory and white oak each week; and

WHEREAS, in addition to the careful, low-and-slow cooking process, the hallmark of many dishes at Pierce's Pitt Bar-B-Que is its zesty, Tennessee-style sauce, the recipe for which was refined over countless family dinners and remains a closely guarded secret; and

WHEREAS, Pierce's Pitt Bar-B-Que has received numerous awards and accolades over the years, including recognition from the Travel Channel, *Southern Living*, *Coastal Virginia*, *Garden and Gun*, and *National Geographic*; and

WHEREAS, over the years, Pierce's Pitt Bar-B-Que has become ingrained in local mythology, with colorful anecdotes about the restaurant handed down through generations and new memories made by customers every day; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pierce's Pitt Bar-B-Que on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pierce's Pitt Bar-B-Que as an expression of the General Assembly's admiration for the establishment's culinary excellence and legacy contributions to the Williamsburg community.

HOUSE JOINT RESOLUTION NO. 595

Celebrating the life of Charlotte Melton.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Charlotte Melton, a dedicated educator and a vibrant member of the Glen Allen community, died on November 13, 2020; and

WHEREAS, Charlotte Melton grew up in Chesterfield County and graduated from D. Webster David High School; she subsequently earned a bachelor's degree from what is now Virginia State University, where she was a member of Delta Sigma Theta Sorority; and

WHEREAS, Charlotte Melton pursued a career in education, giving students the tools to become lifelong learners and achieve success both in and out of the classroom at public schools in Charlottesville and the Counties of Albemarle, Fluvanna, and Pittsylvania; and

WHEREAS, after a distinguished 39-year career, Charlotte Melton retired from Henrico County Public Schools as the principal of Laburnum Elementary School in 1989; and

WHEREAS, Charlotte Melton worked to protect and promote the heritage of the Commonwealth as a member of the Henrico County Historical Preservation Advisory Committee, and she organized the first African American pavilion in the Heritage Village at the Virginia State Fair; and

WHEREAS, as a longtime volunteer with the Henrico Christmas program, Charlotte Melton helped provide food, clothing, gifts, and other items to local families in need, and she was selected as the Henrico Christmas Mother in 2000; and

WHEREAS, Charlotte Melton enjoyed fellowship and worship with the community at St. Peter Baptist Church, where she served as a member of the senior ministry and the floral and decorating ministry; and

WHEREAS, predeceased by her devoted husband of 60 years, James, Sr., Charlotte Melton will be fondly remembered and greatly missed by her children, Linda and James, Jr., and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charlotte Melton, a dedicated educator and a vibrant community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charlotte Melton as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 597

Commending Virginia's Crossroads.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, in 2004, Virginia's Crossroads established the Civil Rights in Education Heritage Trail®, a self-guided driving tour through dozens of historically significant sites that tells the poignant and inspirational story of the pursuit of civil rights in the Commonwealth's education system; and

WHEREAS, established in 1993, Virginia's Crossroads is the third-largest tourism marketing consortium in Virginia, representing the Counties of Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Dinwiddie, Lunenburg, Mecklenburg, Nottoway, and Prince Edward; the Cities of Petersburg and Emporia; and Virginia State Parks and Appomattox Court House National Historical Park; and

WHEREAS, Virginia has led the United States in many ways, particularly in education; the first free public education system in the country traces its roots to Southside Virginia, and many trailblazing African Americans, Native Americans, and women cultivated their right to an education in the Commonwealth; and

WHEREAS, the original Civil Rights in Education Heritage Trail® was composed of 41 historic sites in 12 localities, and Virginia's Crossroads added 12 additional sites to the trail in September 2020; and

WHEREAS, the sites on the trail include the Russell Grove Presbyterian Church and School and the Mrs. Samantha Jane Neil historical markers in Amelia County; the Winonah Camp/Mozella Price Home, Carver-Price School, and Education in 1800s Rural Virginia historical markers in Appomattox County; the Christanna Campus of Southside Virginia Community College, Oak Grove School, James Solomon Russell-Saint Paul's College, Fort Christanna Historical Site, and Hospital and School of the Good Shepherd historical markers in Brunswick County; the One-Room Schoolhouse, Buckingham Training

School, Stephen J. Ellis Elementary School for African Americans, and Carter G. Woodson Birthplace historical markers in Buckingham County; the Central High School, Charlotte County Library, the John H. Daniel Campus of Southside Virginia Community College, and Salem School historical markers in Charlotte County; the Virginia State University historical marker in Chesterfield County; the Cumberland Educational Advancement Center & Community Center, Rosenwald School at Cartersville, Jackson Davis, and Hamilton High School historical markers in Cumberland County; the Southside Virginia Training Center, Rocky Branch School, Early Education in Dinwiddie County, and Southside High School historical markers in Dinwiddie County; and the Greensville County Training School historical marker in Emporia; and

WHEREAS, the trail includes the Meadville Community Center, L.E. Coleman African-American Museum, Mountain Road School, Mary M. Bethune High School, Washington-Coleman Elementary School, and Mizpah Church historical markers in Halifax County; the People's Community Center, Lunenburg County Training School, and St. Matthew's Lutheran Church and Christian Day School historical markers in Lunenburg County; the Thyne Institute, Boynton Academic and Bible Institute, and St. Mark's Episcopal Church & Carroll-Boyd School historical markers in Mecklenburg County; the Blackstone Female Institute, Mt. Nebo Church, and Ingleside Training Institute historical markers in Nottoway County; the Earliest Known Public High School for African Americans in Virginia, McKenney Library, The Peabody-Williams School, and Bishop Payne Divinity School historical markers in Petersburg; the First Baptist Church, Beulah AME Church, Farmville Female Seminary Association, R.R. Moton High School, Prince Edward County Public Schools, Hampden-Sydney College, The Beneficial Benevolent Society of the Loving Sisters and Brothers of Hampden Sydney, and Prince Edward State Park for Negroes historical markers in Prince Edward County; and

WHEREAS, the Civil Rights in Education Heritage Trail® continues to be instrumental in helping tell the incredible story of the struggle for equity in public education; and

WHEREAS, the Civil Rights in Education Heritage Trail® plays an important role in the economic vitality of the region and the Commonwealth, with trail patrons visiting local businesses along the way; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia's Crossroads for establishing, maintaining, and expanding the Civil Rights in Education Heritage Trail®; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia's Crossroads as an expression of the General Assembly's admiration for the importance and significance of the Civil Rights in Education Heritage Trail®.

HOUSE JOINT RESOLUTION NO. 598

Commending Richmond Raceway.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, in 2021, Richmond Raceway celebrates its 75th anniversary of providing an unparalleled and unique stock car racing experience for both fans and drivers; and

WHEREAS, Richmond Raceway traces its roots to 1946 when a half-mile racetrack was built at the Atlantic Rural Exposition fairgrounds in Henrico County; the first race at the dirt track was held on October 12, 1946; and

WHEREAS, Richmond Raceway hosted its first National Association for Stock Car Auto Racing (NASCAR) Grand National Division race on April 19, 1953, where future NASCAR Hall of Fame-inductee Lee Petty won the race with an average speed of 45.535 miles per hour; since then, the historic track has been home to numerous thrilling NASCAR contests of skill, speed, and technical prowess; and

WHEREAS, today, Richmond Raceway is the oldest active NASCAR Cup Series track on the East Coast and is one of the most important racing venues in the Commonwealth; in its lifetime, Richmond Raceway has undergone numerous name changes and configurations, and the original dirt track is now an asphalt surface; and

WHEREAS, racing fans have flocked to Richmond Raceway for its twice-yearly race weekends since 1959; the track's current configuration, built in 1988, is a three-quarter-mile-long, D-shaped oval, the only such track in NASCAR; lights were added 30 years ago in 1991, allowing Richmond to host popular nighttime races; and

WHEREAS, in 2018, Richmond Raceway partnered with Henrico County and the Commonwealth to complete the redevelopment of the historic infield, now known as the FanGrounds, making it one of the most fan-friendly infields in motorsports; and

WHEREAS, semiannual NASCAR race weekends feature the NASCAR Cup Series and either the NASCAR Xfinity Series or NASCAR Camping World Truck Series, and in 2021, Richmond Raceway welcomes back the NASCAR Whelen Modified Tour for the first time since 2002; and

WHEREAS, Richmond Raceway's events attract thousands of spectators to the Commonwealth year after year, many of whom stay on site or in hotels throughout the greater Richmond region to be part of the excitement, camaraderie, and world-class racing experience; millions of fans have viewed events at Richmond Raceway on national broadcast television; and

WHEREAS, stock car racing enthusiasts eagerly anticipate NASCAR racing at Richmond Raceway since the historic track is one of the most popular racing venues for racing fanatics and competitors, featuring the excitement and challenge of

side-by-side racing; the track configuration allows drivers to reach speeds usually seen at large speedways, resulting in unforgettable experiences for the many devotees of the sport; and

WHEREAS, in addition to NASCAR races, hundreds of trade shows, concerts, and other events at the Richmond Raceway complex provide entertainment experiences for local residents and people from many states, delivering a strong economic impact for the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richmond Raceway on the occasion of its 75th anniversary in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jim France, chair and chief executive officer of NASCAR, Lesa Kennedy, executive vice chair of NASCAR, and Dennis Bickmeier, president of Richmond Raceway, as an expression of the General Assembly's congratulations and admiration for NASCAR's many years of offering world-class stock car racing in the Commonwealth and providing lasting memories for thousands of fans.

HOUSE JOINT RESOLUTION NO. 599

Commending the Virginia Chapter of American Promise and Take Back Our Republic.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, the Virginia Chapter of American Promise and Take Back Our Republic have worked diligently to uphold the ideals of the Virginia Declaration of Rights and protect the free speech and liberty of all Virginians by supporting the passage of a new amendment to the Constitution of the United States; and

WHEREAS, the Virginia Declaration of Rights, adopted 245 years ago, reads, "That all power is vested in, and consequently derived from, the people," and free speech is a right held by natural persons, recognized and protected by the First Amendment to the Constitution of the United States; the Virginia Chapter of American Promise, a cross-partisan advisory council, and Take Back Our Republic, a nonprofit organization with strong Virginia roots, have affirmed that these rights are held only by natural persons, not by corporations, unions, or other artificial entities; and

WHEREAS, the Virginia Chapter of American Promise and Take Back Our Republic have worked to secure these rights for all Virginians and all Americans, regardless of wealth or access to corporate, union, or other treasuries; money is property and not speech, and the United States Congress, state legislatures, and local legislative bodies should have the authority to regulate political contributions and expenditures to ensure power is vested in and derived solely from the people; and

WHEREAS, a series of Supreme Court decisions have struck down longstanding precedents prohibiting corporations and unions from spending unlimited amounts of money to influence the outcome of elections, disproportionately elevating the role of wealthy special interests in elections and diminishing the voices and influence of ordinary Americans, including those in Virginia; these rulings limit the elaboration of state and federal anti-corruption and election spending laws; and

WHEREAS, as the birthplace of the first democratically elected legislative assembly in the Americas, the Commonwealth has a compelling interest in the stewardship of representative self-government, federalism, the integrity of the electoral process, and the political equality of natural persons; and

WHEREAS, spending by Super PACs, wealthy individuals, corporations, unions, and special interests have driven statewide spending on Virginia elections to historic levels, directly threatening the integrity of the election process, diluting the power of individual voters, and distorting public discourse and engagement with public policies; and

WHEREAS, in 2021, the Commonwealth celebrates the 50th anniversary of the revised Virginia Constitution, which in Article 1, Section 3 of the Bill of Rights, states that government is instituted for the common benefit, protection, and security of the people, nation, or community; and

WHEREAS, Article V of the Constitution of the United States empowers and obligates the people and states to use the constitutional amendment process to protect and defend the Constitution and to correct decisions of the Supreme Court of the United States that threaten democracy, republican form of self-government, and political liberties of the United States; and

WHEREAS, the Virginia Chapter of American Promise, Take Back Our Republic, and private citizens of all backgrounds in Virginia have worked to build bipartisan consensus and preserve the Commonwealth's founding principles of free speech and independence by advancing a constitutional amendment authorizing the United States Congress and the states to set reasonable limits on the raising and spending of money by candidates and others to influence elections; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Chapter of American Promise and Take Back Our Republic for their work to uphold the ideals of the Virginia Declaration of Rights and protect the free speech and liberty of all Virginians by supporting the passage of a new amendment to the Constitution of the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Virginia Chapter of American Promise and Take Back Our Republic as an expression of the General Assembly's admiration

for these organizations' commitment to equal rights, free speech, and good representation in government for all Virginians and all Americans.

HOUSE JOINT RESOLUTION NO. 600

Commending Lisa Rode.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Lisa Rode, an accomplished educator at Kings Glen Elementary School in Springfield, was named the Region 4 Teacher of the Year by the Virginia Department of Education in 2020; and

WHEREAS, a sixth-grade teacher at Kings Glen Elementary School since 2007, Lisa Rode was recently distinguished as the Fairfax County Public Schools' 2019 Outstanding Elementary School Teacher; and

WHEREAS, Lisa Rode has set herself apart through her ability to innovatively integrate technology and real-world problem-solving into her curriculum, providing her students with an immersive educational experience that heightens their creativity and enhances their engagement with the material; and

WHEREAS, students in Lisa Rode's classes learn the principles of programming, robotics, and engineering through various activities, including programming robots to demonstrate integer operations, designing rovers to simulate planetary exploration, and participating in Skype meetings with scientists from around the country; and

WHEREAS, through the use of programs such as Scratch Studio, Blockly, and Microsoft MakeCode, Lisa Rode's students develop an advanced understanding of coding languages such as Python while learning to work collaboratively with one another; and

WHEREAS, Lisa Rode has consistently fostered a welcoming and inclusive learning environment, adapting the technologies she employs in her classes as necessary for those with intellectual disabilities; and

WHEREAS, Lisa Rode goes above and beyond the call of duty to ensure that her students succeed; she previously served as a homebound teacher for a student who was unable to attend school for part of the year and regularly hosts "lunch bunches" for students interested in exploring their lessons beyond the classroom; and

WHEREAS, outside of her work at Kings Glen Elementary School, Lisa Rode teaches a free robotics class at the James Lee Community Center, educating upper elementary and middle school students who might otherwise have limited access to cutting-edge science, technology, engineering, and mathematics learning opportunities; and

WHEREAS, Lisa Rode encourages the success of her colleagues by providing professional development courses, both throughout Fairfax County Public Schools and nationwide, that explore the effective integration of technology in the classroom; and

WHEREAS, serving as a co-manager of the Fairfax Falcons Paralympic sports team, Lisa Rode helps numerous children throughout the Washington, D.C., metropolitan area realize their potential and achieve their dreams; and

WHEREAS, by cultivating an educational experience in which young people feel confident to explore their strengths, take risks, and think and collaborate creatively, Lisa Rode has contributed to the success and well-being of her students, both in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lisa Rode, an esteemed educator at Kings Glen Elementary School, for being named the Region 4 Teacher of the Year by the Virginia Department of Education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lisa Rode as an expression of the General Assembly's admiration for her tremendous achievement and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 601

Celebrating the life of Marvin Howard Wagner.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Marvin Howard Wagner, an esteemed attorney who helped shape the drunk driving laws used by jurisdictions across the nation, died on May 23, 2020; and

WHEREAS, growing up during the height of the Great Depression, Marvin Wagner spent his first years in a tenement in Brooklyn, New York; he later became one of the first residents of the historic Williamsburg Houses, a public housing project built under the auspices of President Roosevelt's New Deal; and

WHEREAS, in his youth, Marvin Wagner selflessly took on the responsibility of supporting his mother and sister, working at a grocery store, a printing plant, a pillow factory, and a hotel through his teenager years; and

WHEREAS, in 1946, at the age of 17, Marvin Wagner enlisted with the United States Army, serving his country honorably by supporting its operations at Fort Dix and Governor's Island in New York; and

WHEREAS, with funding from the GI Bill and other scholarships, Marvin Wagner put himself through college, earning degrees from Long Island University and Brooklyn Law School; he would later receive a master's degree in law from Georgetown University; and

WHEREAS, a practicing attorney for over a half-century, Marvin Wagner started his own law firm early in his career but soon took roles in the public sector working for the town of Oyster Bay and Nassau County in New York; and

WHEREAS, while directing the highway safety department for Nassau County, Marvin Wagner became an early proponent of drunk driving laws based on blood alcohol content; his expertise would ultimately lead to a high-level position in the National Highway Traffic Safety Administration, which gave him the opportunity to promote these laws around the country; and

WHEREAS, Marvin Wagner effectively advocated for laws and legal interpretations that would transform the nation's ability to combat drunk driving, including the introduction of blood alcohol content testing, which was adopted by nearly every state legislature during his tenure, the establishment of implied consent laws, and the legalization of roadblocks; and

WHEREAS, shifting his focus to juvenile justice later in his career, Marvin Wagner was twice appointed to the Virginia Commission on Youth by Governors Mark R. Warner and Timothy M. Kaine, helping to oversee the Commonwealth's implementation of youth policies and services; and

WHEREAS, a lifelong supporter of the Democratic Party both in New York and Virginia, Marvin Wagner assisted various party committees over the years and ran a close race for a seat in the Virginia House of Delegates in 1982; and

WHEREAS, Marvin Wagner will be dearly remembered and fondly missed by his loving wife of 66 years, Harriet; his children, Carole, Robert, Janet, and Steven, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Marvin Howard Wagner, an accomplished attorney whose efforts to eliminate drunk driving on America's roadways have saved countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Marvin Howard Wagner as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 602

Commending Tiffany J. Alfred.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Tiffany J. Alfred, a doctor of pharmacy candidate in good standing in the Class of 2021 at the Hampton University School of Pharmacy, received the 2020 Harvey B. Morgan Award for Advancing Health Policy from the Virginia Pharmacists Association Research & Education Foundation's Harvey B. Morgan Institute of Government and Public Service; and

WHEREAS, an active member of the Virginia Pharmacists Association, chair of the Chauncey I. Cooper Chapter of the Student National Pharmaceutical Association, and president of Hampton's chapter of the National Community Pharmacists Association, Tiffany Alfred has long demonstrated a commitment to legislative advocacy for the advancement of public health and patient care; and

WHEREAS, for the past two years, Tiffany Alfred has been integral to Hampton University's participation in Virginia Pharmacy Day legislative activities, preparing advocacy and patient education materials as well as leading teams during legislator office visits; and

WHEREAS, at Hampton University, Tiffany Alfred led voter registration efforts and helped raise awareness for the Deferred Action for Childhood Arrivals movement, inspiring civic engagement throughout her community; and

WHEREAS, Tiffany Alfred organized a diabetes clinic in Virginia Beach and an influenza clinic in Smithfield and has participated in various health fairs in and around Hampton University, encouraging countless individuals to be more mindful and proactive in managing their health and well-being; and

WHEREAS, Tiffany Alfred has upheld the ideals of the pharmacy profession and the Harvey B. Morgan Institute of Government and Public Service with grace and aplomb; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tiffany J. Alfred on the occasion of receiving the 2020 Harvey B. Morgan Award for Advancing Health Policy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tiffany J. Alfred as an expression of the General Assembly's congratulations and best wishes for continued success in her future endeavors in public service and public policy for patient care.

HOUSE JOINT RESOLUTION NO. 603

Commending Christchurch School.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Christchurch School, an esteemed college-preparatory school in Christchurch, celebrates its 100th anniversary in 2021; and

WHEREAS, a private, coeducational boarding and day school serving students in grades nine through 12, Christchurch School is one of the six Episcopal private schools administered by the Church Schools in the Diocese of Virginia, Inc., the educational branch of the Episcopal Diocese of Virginia; and

WHEREAS, at a time when secondary education was not widely available in the United States, Christchurch School aimed to offer an affordable, comprehensive, and faith-based education that would mold students into upstanding citizens and leaders of their communities; the school opened its doors on September 28, 1921, under the leadership of the Reverend F. Ernest Warren; and

WHEREAS, over the past 100 years, Christchurch School has maintained its mission to inspire and guide children as they embrace a sense of confidence, purpose, and identity and develop into compassionate, successful, and engaged citizens of the world; the student body today hails from 15 states and 14 countries, reflecting the diverse and global educational experience the school provides; and

WHEREAS, various organizations have supported the growth and success of Christchurch School since its founding, including The Scott Foundation, which was instrumental to the construction of the school's campus and its historic St. Peter's Chapel; and

WHEREAS, numerous distinguished individuals have graced the halls of Christchurch School over the years, including William Styron and Lewis B. Puller, Jr., both Pulitzer Prize-winning authors, and Dr. William Easterling, '72 Ph.D., member of the Nobel Peace Prize-winning United Nations' Intergovernmental Panel on Climate Change; and

WHEREAS, situated on 125 acres along the Rappahannock River, Christchurch School offers its students an exemplary outdoor classroom to stimulate their curious minds and cultivate their love of nature; and

WHEREAS, due to its waterfront location, Christchurch School is uniquely able to host regional and national sailing regattas and other boat launches, as well as run an on-site oyster operation that, with support from the Urbanna Oyster Festival Foundation, helps mitigate pollution in the Rappahannock River and Chesapeake Bay; and

WHEREAS, Christchurch School encourages its students to maintain active and healthy lifestyles, with an athletic department that boasts a national champion sailing team and state championship teams in football and basketball; and

WHEREAS, through its groundbreaking Learning Skills Program that was established in 1981, Christchurch School has achieved national recognition for its ability to incorporate students with learning differences and other diagnoses into mainstream academic environments; and

WHEREAS, for many years, Christchurch School has been masterfully led by its current head of school, John E. Byers, who is the longest serving head of school at the institution and widely regarded as one of the best leaders in its history; and

WHEREAS, through its extraordinary and unwavering dedication to the development and success of young people over the past century, Christchurch School has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Christchurch School on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John E. Byers, head of school at Christchurch School, as an expression of the General Assembly's admiration for the school's history and its many noteworthy contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 608

Commending Robert Sykes.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, for much of his 50-year career, Robert Sykes has worked to reduce recidivism by enhancing the mental and emotional health of incarcerated individuals as a counselor at multiple correctional facilities; and

WHEREAS, Robert Sykes grew up in Emporia, where he graduated from Edward W. Wyatt High School in 1968; he worked the night shift as a ward aide at Central State Hospital while attending Virginia State University; and

WHEREAS, after graduation, Robert Sykes received a commission as a second lieutenant in the United States Army and pursued a master's degree in education; and

WHEREAS, Robert Sykes began his career in corrections at the Hanover School for Boys and subsequently served at Pinecrest Learning Center, Powhatan Correctional Center, Deerfield Correctional Center, and Brunswick Correctional Center; and

WHEREAS, Robert Sykes served as a teacher with the Rehabilitative School Authority, now the Department of Correctional Education, and became a counselor in 1986; and

WHEREAS, Robert Sykes joined Greensville Correctional Center, where he spent the majority of his career, when it opened in 1989; and

WHEREAS, throughout his career, Robert Sykes was guided by his deep faith to serve others and set an example for colleagues through his kindness, positivity, and work ethic; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Sykes for more than 50 years of service to the Virginia correctional system; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Sykes as an expression of the General Assembly's admiration for his dedication and commitment to the betterment of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 609

Commending Dennis K. Morris.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Dennis K. Morris, longtime executive director of the Crater Planning District Commission and a forceful advocate for communities and businesses in Central Virginia for the past half-century, will retire in 2021; and

WHEREAS, affectionately known by family and friends as "Denny," Dennis Morris graduated from Ohio University with a bachelor's degree in political science in 1966; upon graduation, he enlisted with the United States Army, serving his country with courage and valor in Korea and California; and

WHEREAS, Dennis Morris was hired by the Crater Planning District Commission in 1971, a year after the regional planning agency was founded, to coordinate public policy and development strategies between its nine member localities, including the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg and the Counties of Dinwiddie, Greensville, Prince George, Surry, and Sussex; since this time, the Counties of Chesterfield and Charles City have joined the agency; and

WHEREAS, Dennis Morris earned a master's degree in urban and regional planning from the University of Tennessee in 1973 and was promoted to executive director of the Crater Planning District Commission in 1982, leading the agency for the past 38 years; and

WHEREAS, during Dennis Morris's tenure as executive director of the Crater Planning District Commission, the agency has fostered regional collaboration and provided essential technical support to its member localities, making significant strides in the areas of economic and small business development, transportation, and the environment; and

WHEREAS, under Dennis Morris's leadership, the Crater Planning District Commission has provided unwavering support for the region's military installations, advising and advocating on behalf of stakeholders through several Base Realignment and Closure procedures; and

WHEREAS, Dennis Morris and the Crater Planning District Commission have bolstered small businesses in the region by coordinating loan programs with the federal government and supporting educational initiatives, such as the Longwood College Small Business Development Center and the Commonwealth Center for Advanced Logistics Systems; and

WHEREAS, Dennis Morris guided the Crater Planning District Commission while it ensured the health and well-being of the region's environment through its involvement in various organizations and programs, including the Central Virginia Waste Management Authority, the Appomattox River Corridor Study, and the Chesapeake Bay Phase III Watershed Implementation Plan; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dennis K. Morris, esteemed executive director of the Crater Planning District Commission, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dennis K. Morris as an expression of the General Assembly's profound admiration for his innumerable contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 610

Commending Richard D. Pillow.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Richard D. Pillow, third president of the Virginia Credit Union League, will retire on June 30, 2021, after more than 20 years of service in the position; and

WHEREAS, under the leadership of Richard "Rick" D. Pillow, the Virginia Credit Union League has earned a reputation as an innovative, mission-focused organization that is recognized as the voice of the Commonwealth's nonprofit, member-owned credit unions; and

WHEREAS, as president of the Virginia Credit Union League, Rick Pillow ably served the interests of Virginia-based credit unions and their 14 million member-owners throughout the nation and across the globe; and

WHEREAS, Rick Pillow built a career of great distinction, serving the credit union movement for more than 40 years in various positions with the Virginia Credit Union League, Virginia League Corporate Federal Credit Union, and Martinsville DuPont Employees Credit Union, now ValleyStar Credit Union; and

WHEREAS, during his long career, Rick Pillow helped organize and provide support and counsel to dozens of credit unions across the Commonwealth; he later led the Virginia Credit Union League's efforts to provide education and professional development opportunities to credit union employees at all levels, from front-line service staff members to board members; and

WHEREAS, Rick Pillow has been a passionate and uncompromising advocate for credit unions within the Commonwealth and across the nation, helping champion favorable legislative and regulatory environments at the state and federal levels and helping ensure consumer access to nonprofit credit unions; and

WHEREAS, during the years of Rick Pillow as president, the Virginia Credit Union League established the Credit Union House of Virginia near Capitol Square in downtown Richmond, providing a permanent headquarters for the organization's advocacy work; since opening in 2015, the Credit Union House of Virginia has welcomed and hosted credit union representatives from across the Commonwealth, as well as lawmakers and other elected officials; and

WHEREAS, the service of Rick Pillow to credit unions has extended beyond the Commonwealth, including leadership roles on the boards of the Credit Union National Association; the American Association of Credit Union Leagues; the national Credit Union House in Washington, D.C.; and The Raiffeisen Group (TRGroup), a consortium of seven credit union leagues across the nation delivering products and services to more than 700 credit unions; and

WHEREAS, Rick Pillow led the efforts of the Virginia Credit Union League to support the charitable, educational, and community-focused initiatives spearheaded by credit unions in the Commonwealth, including the formation of a charitable foundation; fundraising for various charitable causes, including \$3.5 million for Children's Miracle Network Hospitals since 2003; and implementation of financial education initiatives that have reached 437,000 students since 2000; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard D. Pillow, third president of the Virginia Credit Union League, on the occasion of his retirement after 40 years of faithful and meritorious service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard D. Pillow as an expression of the General Assembly's admiration for his exemplary career and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 611

Commending Andrew's Grill.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Andrew's Grill, a beloved restaurant in Petersburg that has drawn customers with its incomparable culinary offerings and timeless charm for more than a half-century, closed in 2020; and

WHEREAS, Andrew's Grill was founded in 1967 by Andrew Plakas, who was the nephew of Louis Plakas, owner of the Dixie Restaurant, another treasured Petersburg eatery; and

WHEREAS, two years after its founding, Fotios Melis and his brother, Harry, purchased the restaurant and operated it together until Harry's passing in 2008; the sole owner for the past 12 years, Fotios Melis is closing the restaurant to begin his retirement; and

WHEREAS, Andrew's Grill has long been a family affair, with Fotios and Harry Melis's sister, Nicki Karousos, helping with every aspect of the restaurant for 40 years; and

WHEREAS, Andrew's Grill was supported by many loyal employees over the years; notably, Mary Bland, affectionately known by customers as "Miss Mary," had waited tables at Andrew's Grill since 1970, providing world-class hospitality that was a signature part of the Andrew's Grill experience; and

WHEREAS, famous for its chili dogs and other diner-style delights, Andrew's Grill consistently provided its customers with excellent food and exceptional service, becoming a local Petersburg tradition for residents from all walks of life; and

WHEREAS, located in the same place on West Washington Street for more than 50 years and featuring décor dating to the restaurant's founding, Andrew's Grill offered guests an opportunity to experience a bygone era when classic diners ruled the American restaurant scene; and

WHEREAS, in September 2020, Fotios Melis's nephew Pete Karousos opened Pete's Grill in the former Andrew's Grill location, offering the same classic menu as the former restaurant and ensuring that the legacy of Andrew's Grill will not soon be forgotten; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Andrew's Grill, a cherished restaurant in downtown Petersburg, for providing extraordinary food and service to customers for more than a half-century; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fotios Melis, owner of Andrew's Grill, as an expression of the General Assembly's admiration for his restaurant's place in the history and culture of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 612

Commending Beulah E. Thomas.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, Beulah E. Thomas, a longtime citizen of Petersburg and an active and beloved member of her community, celebrated her 100th birthday in 2020; and

WHEREAS, born in Cumberland County, North Carolina, near Fayetteville, Beulah Thomas grew up on a farm with four brothers and four sisters; and

WHEREAS, shortly after Beulah Thomas was born, her family moved to Dinwiddie County in 1923, where they would continue to make a living as farmers over the next decade; and

WHEREAS, Beulah Thomas relocated again in 1934, settling in Petersburg, where she has lived happily ever since, establishing a loving community of family, friends, and neighbors; and

WHEREAS, Beulah Thomas provided domestic services to several Petersburg families over the years to support herself and her family, earning renown for her extraordinary culinary abilities; and

WHEREAS, baptized at the age of 17, Beulah Thomas has been guided throughout her life by her deep and abiding faith; and

WHEREAS, a member of the St. Christian Methodist Episcopal Church in Petersburg until she was 60 years old, Beulah Thomas has enjoyed worship and fellowship with the community at Third Baptist Church in Petersburg since 2000; and

WHEREAS, through her quiet and committed devotion to living an honorable and godly life, Beulah Thomas embodies the best of what makes the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Beulah E. Thomas, a treasured citizen of Petersburg and an exemplary member of the "Greatest Generation," on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beulah E. Thomas as an expression of the General Assembly's profound admiration for her inspirational contributions to the Commonwealth over the past century.

HOUSE JOINT RESOLUTION NO. 613

Celebrating the life of the Reverend Leroy A. Cherry.

Agreed to by the House of Delegates, January 25, 2021

Agreed to by the Senate, January 28, 2021

WHEREAS, the Reverend Leroy A. Cherry, an esteemed pastor, honorable veteran, and beloved member of the Petersburg community, died on October 5, 2020; and

WHEREAS, a lifelong resident of Petersburg, Leroy Cherry graduated from the historic Peabody High School in 1967; he then served his country and the Commonwealth with courage and valor as a member of the United States Marine Corps for six years and the Virginia Army National Guard for seven; and

WHEREAS, Leroy Cherry graduated from the Samuel Dewitt Proctor School of Theology of Virginia Union University, where he studied in the Evans-Smith Leadership Training Institute; he studied at Virginia Polytechnic Institute and State University, Virginia State University, John Tyler Community College, and Virginia Seminary and College, now Virginia University of Lynchburg; and

WHEREAS, for 29 years, Leroy Cherry supported the nation's Defense Logistics Agency as a hardworking employee at the Defense General Supply Center, where he was distinguished with numerous performance awards; and

WHEREAS, after retiring from the Defense General Supply Center in 1996, Leroy Cherry proudly safeguarded his community as an auxiliary officer with the Petersburg Bureau of Police, later serving as the lead chaplain; and

WHEREAS, dedicated to the spiritual, emotional, and intellectual development of young people, Leroy Cherry served as president of the J.E.B. Stuart Elementary School Parent Teacher Association and received a lifetime membership to the Virginia Parent Teacher Association; he and his wife, Brenda, generously provided foster care to children in need; and

WHEREAS, guided throughout his life by his deep and abiding faith, Leroy Cherry was compelled to provide spiritual guidance to others, giving his initial sermon on January 16, 1983, at the First Baptist Church on Harrison Street in Petersburg; and

WHEREAS, ordained in 1986, Leroy Cherry served as pastor of First Baptist Church in McKenney for 10 years and Good Hope Baptist Church in Blackridge for nine before ultimately settling at Third Baptist Church in Petersburg in 1996, where he would watch his congregation grow mightily over the years; and

WHEREAS, the spiritual mentorship of Leroy Cherry extended beyond the walls of Third Baptist Church and his work as lead chaplain of the Petersburg Bureau of Police; along with being a member of the International Conference of Police Chaplains, he served as a moderator and dean with the Unified Shiloh Baptist Association of Southside Virginia; and

WHEREAS, dedicated to the cultivation of a sound body and mind, Leroy Cherry was an accomplished student of a martial art known as Okinawa Kenpo Karate-Kobudo, obtaining a first degree black belt; and

WHEREAS, Leroy Cherry will be fondly remembered and dearly missed by his loving wife of nearly 53 years, Brenda; his children, Lenora, Joyce, Charles, Rodney, Wayne, Ramon, Michael, Judy, and Jewell, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Leroy A. Cherry, a spiritual leader of the Petersburg community who left a profound and lasting impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Leroy A. Cherry as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 615

Commending the Williamsburg Veterans of Foreign Wars Post 4639.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, in 2020, the Williamsburg Veterans of Foreign Wars Post 4639 celebrated its 75th anniversary of supporting local veterans and their families, promoting patriotism, and serving all members of the Williamsburg community; and

WHEREAS, established on November 16, 1945, the Williamsburg Veterans of Foreign Wars (VFW) Post 4639 is one of the oldest such posts in the region; the charter members of the post, recently returned veterans of World War II, built the facility by hand, and it has been maintained by generations of new members; and

WHEREAS, since its founding, the members of VFW Post 4639 have worked diligently to uphold the organization's mission to advocate for and foster camaraderie among local veterans, as well as support military families and the community as a whole; and

WHEREAS, VFW Post 4639 honors the contributions of the nation's veterans and active duty service members, while working to secure rights and benefits and provide care for family members of service members who have made the ultimate sacrifice; and

WHEREAS, VFW Post 4639 awards an annual Teacher of the Year scholarship to one local educator who has demonstrated a commitment to teaching American ideals and patriotism, as well as three scholarships for local students; and

WHEREAS, VFW Post 4639 provides the Voice of Democracy scholarship to allow high school students the opportunity to explore democratic principles through audio essays, hosts the Patriot's Pen essay contest for middle school students to reflect on American history, and honors exceptional local Scouts with the Scout of the Year scholarship; and

WHEREAS, VFW Post 4639 commemorated its 75th anniversary with a special event on November 14, 2020; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Williamsburg Veterans of Foreign Wars Post 4639 on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary Van Swol, post commander of the Williamsburg Veterans of Foreign Wars Post 4639, as an expression of the General Assembly's admiration for the service the organization to veterans in the Williamsburg community.

HOUSE JOINT RESOLUTION NO. 617

Commending the River Basin Grand Winners of the Clean Water Farm Award.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, the Department of Conservation and Recreation and the Soil and Water Conservation Districts provide farmers throughout the Commonwealth with education, technical assistance, and incentive programs to encourage nutrient reduction and water quality improvement; and

WHEREAS, the General Assembly passed legislation in 1998 to establish the Clean Water Farm Award Program, which is administered by the Department of Conservation and Recreation; and

WHEREAS, the Clean Water Farm Award Program furthers the Commonwealth's water quality goals by recognizing farmers actively engaged in implementing important conservation practices that control nutrients, sediment, and other agricultural nonpoint source pollutants; and

WHEREAS, the Soil and Water Conservation Districts selected local farms across the Commonwealth for recognition in 2020 as winners of the Clean Water Farm Award; and

WHEREAS, farms have been selected to represent the Commonwealth's major river basins and to recognize the exemplary efforts of such farms in implementing best management practices; and

WHEREAS, those winners are:

Ronnie Nuckols, Overhome Farm, Goochland County, for the James River Basin;

Belle-Hampton Farm, Pulaski County, for the New River Basin;

The Cockerill Family, Fort Bacon Farm, Loudoun County, for the Potomac River Basin;

Goodall Family Farm, Madison County, for the Rappahannock River Basin;

Dennis C. Powell, Oak Ridge Farm, Franklin County, for the Roanoke River Basin;

D&M Farms, LLC, Shenandoah County, for the Shenandoah River Basin; and

Elk Creek Farm, Louisa County, for the York River Basin; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend and congratulate the River Basin Grand Winners of the Clean Water Farm Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the River Basin Grand Winners of the Clean Water Farm Award as an expression of the General Assembly's admiration for their commitment to conserving the Commonwealth's natural resources and their outstanding conservation achievements.

HOUSE JOINT RESOLUTION NO. 619

Commending Little Oil Company, Inc.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Little Oil Company, Inc., a third-generation, family-owned-and-operated business in Henrico County, celebrates 100 years of providing quality fuels and services to the Commonwealth in 2021; and

WHEREAS, Charles Malcolm Little, Sr., founded Little Oil Company in Richmond in 1921, selling kerosene to local businesses and residents off the back of a horse-drawn tank-wagon; he continued to run and expand the company, which was incorporated in 1947, until he passed away in 1950; and

WHEREAS, Little Oil Company, Inc., was led by the son of Charles Malcolm Little, Sr., Charles, Jr., from 1950 until 1985, and then by one of the daughters of Charles, Sr., Anne Beverley Little Ward, from 1985 until 1991; and

WHEREAS, Little Oil Company, Inc., was then led by one of the grandsons of Charles Malcolm Little, Sr., Robert "Bob" C. Slovic, from 1991 until 2002, and continues to operate today under the ownership and leadership of another grandson, W. Stratford Ward, Jr.; and

WHEREAS, Little Oil Company, Inc., has diligently provided quality products throughout the years, including brands such as Esso, Phillips 66, Coastal, Chevron, and Texaco, and currently distributes products under the brands of BP, Citgo, Exxon, Mobil, Pure, Valero, and others; and

WHEREAS, Little Oil Company, Inc., operates in multiple states, including the Commonwealth, Maryland, and North Carolina, and its company logo, the "Little Guardian," which was proudly displayed for more than 50 years on bulk storage tanks clearly visible from Interstate 95 just south of Richmond, is widely recognized; and

WHEREAS, Little Oil Company, Inc., has been a strong contributing member of the Virginia Petroleum Convenience and Grocery Association, and its staff members remain dedicated to providing quality motor fuels and top-notch service to customers; and

WHEREAS, today, the staff members of Little Oil Company, Inc., continue to uphold Charles Malcolm Little's values of integrity, respect, quality, and service, providing a consumer experience that is second to none; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Little Oil Company, Inc., on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Little Oil Company, Inc., as an expression of the General Assembly's congratulations and admiration for the company's 100 years of service to the Commonwealth and its citizens.

HOUSE JOINT RESOLUTION NO. 620

Commending Wolf Trap Foundation for the Performing Arts.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Wolf Trap Foundation for the Performing Arts, an independent 501(c)(3) nonprofit organization in Vienna that presents world-class cultural and musical events for the benefit of the Northern Virginia community and beyond, celebrates the 50th anniversary of Filene Center performances in 2021; and

WHEREAS, Catherine Filene Shouse originally donated 100 acres of her Vienna farmland to the United States government, and funds for the construction of a 7,028 seat indoor/outdoor theater, resulting in the creation of Wolf Trap National Park for the Performing Arts, unique as America's only national park with this designation; and

WHEREAS, Wolf Trap Foundation for the Performing Arts was founded by Catherine Filene Shouse to operate in close partnership with the National Park Service to achieve the purpose for which the Park was established: to provide facilities through which patrons would enrich their knowledge of the performing arts and to present educational programs with respect to the performing arts; and

WHEREAS, Wolf Trap Foundation and the National Park Service presented the inaugural performance at the Filene Center at Wolf Trap National Park for the Performing Arts on July 1, 1971; the partnership between the Foundation and the National Park Service has since flourished, highlighted by an ongoing commitment to presenting artists that reflect the diversity of the community, including legends and top artists from every genre—classical, pop, rock, jazz, opera, folk, world music, and dance; and

WHEREAS, Wolf Trap Foundation has demonstrated an ongoing commitment to its mission of creating excellent and innovative performing arts programs for the enrichment, education, and enjoyment of diverse audiences and participants, while expanding the caliber and breadth of its annual programming; and

WHEREAS, since the first performance in 1971, Wolf Trap Foundation has greatly expanded its impact on arts and education beyond the presentation of performances at the Filene Center; and

WHEREAS, in 1971 the Wolf Trap Opera was established, providing thousands of emerging artists with one of the most prestigious training and performance experiences in the nation, while bringing world-class opera performances to audiences at the Filene Center and at The Barns at Wolf Trap; and

WHEREAS, Wolf Trap Foundation is commended for its important role in preserving the tradition of classical music, including its nationally recognized Chamber Music at the Barns and its ongoing commitment to classical and opera programming at the Filene Center; and

WHEREAS, in 1981 the Wolf Trap Institute for Early Learning Through the Arts was founded to enhance teacher excellence and children's learning by integrating the performing arts into early childhood education; and

WHEREAS, Wolf Trap Foundation has continued to lead the arts education and early learning fields by developing and delivering high-quality arts education programs throughout the Commonwealth, across the country, and around the world for people of all ages and diverse backgrounds, serving nearly 100,000 students, educators, parents, and caregivers each year; and

WHEREAS, Wolf Trap Foundation has provided lasting memories for millions of people, which they will treasure over their lifetimes, through unique performing arts experiences and arts education programs; and

WHEREAS, the longstanding partnership between Wolf Trap Foundation and the National Park Service will continue over the long term to ensure that Wolf Trap National Park for the Performing Arts will be protected for future generations; and

WHEREAS, Wolf Trap Foundation is recognized for its many contributions to the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend and congratulate Wolf Trap Foundation for the Performing Arts for the important cultural contributions it has provided to the Commonwealth for the past five decades; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Arvind Manocha, president and chief executive officer of Wolf Trap Foundation for the Performing Arts, George Liffert, superintendent of Wolf Trap National Park for the Performing Arts, and Daniel A. D'Aniello, chairman of the Board of Directors of Wolf Trap Foundation for the Performing Arts as an expression of the General Assembly's appreciation for these contributions and best wishes for a happy 50th anniversary.

HOUSE JOINT RESOLUTION NO. 621

Commending Colonial Behavioral Health.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, created in 1971 by the General Assembly of Virginia, the city councils of Williamsburg and Poquoson, and the boards of supervisors of James City and York Counties, Colonial Behavioral Health has provided a broad array of community-based services to citizens of the upper Peninsula who are affected by mental illness, developmental disabilities, and substance abuse disorders; and

WHEREAS, operating at the local level and held accountable to local government, Colonial Behavioral Health is uniquely qualified to provide rapid, flexible, and accessible services to its consumers and their families; and

WHEREAS, as a member of Region 5, recognized by the Virginia Department of Behavioral Health and Developmental Services, Colonial Behavioral Health has provided essential services to persons in need of both acute and long-term services; and

WHEREAS, programs of Colonial Behavioral Health have directly enhanced and improved the quality of life on the upper Peninsula; and

WHEREAS, by working in partnership with consumers, family members, advocates, and other local service agencies, Colonial Behavioral Health has provided vital support to those citizens who are least able to care for themselves and enable them to become active, contributing members of society; and

WHEREAS, over the past 50 years, many dedicated citizen volunteers have represented the Cities of Williamsburg and Poquoson and the Counties of James City and York as members of the Board of Directors of Colonial Behavioral Health, ensuring that the organization remains deeply engaged with these communities and continues to provide high-quality services; and

WHEREAS, Colonial Behavioral Health has demonstrated its commitment to excellence by establishing a dynamic, innovative, and visionary service delivery system in partnership with consumers and their families; and

WHEREAS, the staff members of Colonial Behavioral Health have worked to create several model programs, including the Greater Williamsburg Child Assessment Center, Connections, People's Place, Intensive In-Home Services, Colonial Area Crisis Intervention Team, and Opportunities Unlimited, which have gained statewide recognition; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonial Behavioral Health for 50 years of exemplary service to the citizens of the upper Peninsula; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Alfred Brassel, Jr., chair of the Board of Directors of Colonial Behavioral Health, as an expression of the General Assembly's admiration for the organization's 50 years of fine work and dedication to the betterment of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 622

Commending the Northern Virginia Association of REALTORS®.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, the Northern Virginia Association of REALTORS®, one of the largest local member organizations of the National Association of REALTORS®, is celebrating its 100th anniversary in 2021; and

WHEREAS, originally known as the Alexandria-Arlington-Fairfax Real Estate Board, the Northern Virginia Association of REALTORS® was founded on July 22, 1921; and

WHEREAS, beginning with just 16 members, the Northern Virginia Association of REALTORS® has grown to include more than 12,000 REALTORS®; the association is the largest of 28 local associations that comprise the Virginia REALTORS®; and

WHEREAS, John G. Graham, a founding member who realized that new forms of transportation such as the electric trolley and the automobile would transform the way Northern Virginians lived and worked, served as the first president of the Northern Virginia Association of REALTORS®; and

WHEREAS, Derrick Swaak, a dedicated REALTOR® with more than 25 years of commercial and residential experience, is serving as the current president, and Ryan McLaughlin is the chief executive officer of the Northern Virginia Association of REALTORS® during the association's centennial year; and

WHEREAS, Tom Stevens, a past president of the Northern Virginia Association of REALTORS®, went on to serve as president of the National Association of REALTORS® in 2006; and

WHEREAS, the Northern Virginia Association of REALTORS® provides exceptional value to its members, drives innovation in the real estate industry, and empowers REALTORS® to impact the industry through advocacy, community engagement, and training and professional resources; and

WHEREAS, the members of the Northern Virginia Association of REALTORS® are major contributors to the state economy, facilitating approximately \$13 billion annually in residential and commercial real estate transactions on behalf of buyers and sellers, as well as property management; and

WHEREAS, the Northern Virginia Association of REALTORS® was a founding member of the Northern Virginia Transportation Alliance, formed in 1987 to advocate for transportation advancements to support the economy and quality of life in Northern Virginia; and

WHEREAS, the Northern Virginia Association of REALTORS® promotes the principles of fair housing for all; and

WHEREAS, the Northern Virginia Association of REALTORS® recognizes that homeownership is key to the American dream and works to make that dream accessible to all; and

WHEREAS, members of the Northern Virginia Association of REALTORS® are held to a high ethical standard and adhere to the REALTOR® Code of Ethics; and

WHEREAS, community outreach is central to the association's mission, and the Northern Virginia Association of REALTORS® is dedicated to providing support to charitable organizations in Northern Virginia; and

WHEREAS, the Northern Virginia Association of REALTORS® will commemorate its centennial year with special programs and events throughout 2021; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northern Virginia Association of REALTORS® on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Derrick Swaak, president of the Northern Virginia Association of REALTORS®, as an expression of the General Assembly's admiration for the association's achievements and contributions to the Northern Virginia community and the real estate profession.

HOUSE JOINT RESOLUTION NO. 623

Celebrating the life of Robert E. Mannion.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Robert E. Mannion, a beloved husband, father, and grandfather and a respected attorney who was well known for his breadth of expertise in national and international banking law, died on December 4, 2020; and

WHEREAS, the child of Irish immigrants, Robert Mannion grew up in Chicago and worked his way through college to achieve his dream to become a lawyer; after earning a bachelor's degree from Georgetown University, he worked in the office of a United States senator while attending night classes at the Columbus School of Law at the Catholic University of America; and

WHEREAS, Robert Mannion began his career with the Federal Reserve and helped the agency fulfill its mission during economic uncertainty in the 1970s, rising through the ranks to become Deputy General Counsel; and

WHEREAS, after 13 years with the Federal Reserve, Robert Mannion joined the firm Arnold & Porter as a partner in 1983 and continued to distinguish himself as a brilliant attorney who was entrusted with complex and difficult cases; and

WHEREAS, respected among his peers nationwide, Robert Mannion was the author or coauthor of many influential books and articles on banking law, and he guided aspiring young attorneys as an adjunct professor at the Catholic University of America; and

WHEREAS, Robert Mannion lived his Catholic faith through his actions and inspired others through his humility and unflinching kindness; he played a role in the establishment of a youth retreat program at St. Paul VI Catholic High School when it was located in the City of Fairfax and offered his leadership and expertise to various local boards and commissions; and

WHEREAS, even with his many professional achievements, Robert Mannion's greatest joy in his life was his family; he cherished every opportunity to support and care for his children and grandchildren, and his home was known as a beacon of warmth and hospitality for countless friends and neighbors; and

WHEREAS, predeceased by two sons, Dennis and Kevin, Robert Mannion will be fondly remembered and greatly missed by his wife of 51 years, Sally; his children, Robert, Jr., and Kerry, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert E. Mannion, a highly admired member of the Northern Virginia community who made many contributions to the Commonwealth and the nation in the areas of financial and banking law; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert E. Mannion as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 624

Celebrating the life of Erik Gutshall.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Erik Gutshall, a successful entrepreneur and former vice chair of the Arlington County Board, died on April 16, 2020; and

WHEREAS, a graduate of James Madison University and The George Washington University, Erik Gutshall had lived in the Lyon Park area of Arlington County since 1995; and

WHEREAS, Erik Gutshall founded and served as president of the residential home improvement and maintenance firm, Clarendon Home Services; and

WHEREAS, Erik Gutshall offered his expertise to the community as chair of the Arlington County Planning Commission, a member of the Arlington County Transportation Commission, and board member of the nonprofit organization Doorways for Women and Families; and

WHEREAS, at the regional and state levels, Erik Gutshall served as vice chair of the Metropolitan Washington Air Quality Committee of the Metropolitan Washington Council of Governments and chair of the Economic Development and Planning Steering Committee of the Virginia Association of Counties; and

WHEREAS, Erik Gutshall was elected to the Arlington County Board in 2017 and worked diligently to build a stronger, more inclusive community and enhance the quality of life in the region; and

WHEREAS, admired as a true gentleman, a good man, and a servant-leader who demonstrated genuine care for his fellow Arlington County residents, Erik Gutshall was a passionate advocate for affordable housing and the creation of sustainable, walkable communities through the use of missing middle housing options; and

WHEREAS, Erik Gutshall enjoyed fellowship and worship with the congregation of Western Presbyterian Church, where he served on the facilities committee, and he generously volunteered his time as a youth soccer coach; and

WHEREAS, Erik Gutshall will be fondly remembered and greatly missed by his wife, Renee; his three children; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Erik Gutshall, a respected entrepreneur and dedicated public servant in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Erik Gutshall as an expression of the General Assembly's respect for his numerous good works and cherished memory.

HOUSE JOINT RESOLUTION NO. 625

Celebrating the life of George H. Banks.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, George H. Banks, an inspirational civic leader in Norfolk, died on December 26, 2020; and

WHEREAS, a lifelong resident of Norfolk, George Banks attended Norfolk Public Schools and Norfolk State University, then served his country as a member of the United States Army; and

WHEREAS, George Banks worked as a civil service employee for 19 years and helped enhance the quality of life in Norfolk by offering his leadership and expertise to many boards and city projects; and

WHEREAS, George Banks worked tirelessly to address housing inequality and urban poverty and was a trusted mentor and friend to countless people in the Norfolk community; he earned the nickname "The Mayor of Berkley" for his commitment to grassroots social and economic programs to revitalize the neighborhood; and

WHEREAS, George Banks provided his insights to the Norfolk branch of the NAACP as a former president of the organization; and

WHEREAS, George Banks enjoyed fellowship and worship with the Berkley community as a life member of St. Mark United Church-Christ; and

WHEREAS, predeceased by a son, Edwin, George Banks will be fondly remembered and greatly missed by his wife, Delores; his daughter, Cheryl, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George H. Banks, who worked to build a safer, stronger community in the Berkley area of Norfolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George H. Banks as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 627

Celebrating the life of Alfred Ernest Moreau.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Alfred Ernest Moreau, a respected attorney who served the nation as a civilian employee of the United States Army, died on April 29, 2020; and

WHEREAS, a native of Kearney, Nebraska, Alfred "Fred" Ernest Moreau graduated from Kearney Catholic High School and began to cultivate his faith at a young age as an active member of St. James Catholic Church; and

WHEREAS, Fred Moreau graduated from what is now the University of Nebraska at Kearney, where he wrote for the college newspaper and was a prominent member of the debate team, traveling to competitions through the Midwest; he subsequently earned a law degree from the University of Notre Dame; and

WHEREAS, Fred Moreau began his career in 1976 with the United States Army Armament Materiel Readiness Command in Rock Island, Illinois, where he worked on a wide range of complex cases, including serving as counsel for teams investigating accidental explosions at ammunition plants; and

WHEREAS, in 1981, Fred Moreau began serving as counsel for the United States Army's Night Vision and Electro-Optics Laboratory at Fort Belvoir, then later accepted a senior civilian attorney position with the United States Army HQ Judge Advocate General's Corps, initially located at the Pentagon, where he remained until his well-earned retirement in 2011; and

WHEREAS, Fred Moreau developed an expertise in contract labor issues and contractor-operated facilities law and served as specialized counsel for high-profile or highly classified United States Army contracts, including the maintenance and management of Arlington National Cemetery records; and

WHEREAS, Fred Moreau served as vice chair of the American Bar Association's Labor Law Committee and was a sought-after presenter for conventions and professional events; he was a frequent instructor at the Judge Advocate General's Legal Center and School in Charlottesville; and

WHEREAS, Fred Moreau was an ardent supporter of Arlington Public Schools, offering his leadership and expertise to the school division's committee for gifted and talented students and many other committees, activities, and events, as well as serving as a coach and fan for his children's activities, including music recitals, marching band performances, soccer, t-ball, karate, and dance activities; and

WHEREAS, Fred Moreau was a kind, inquiring, and adventurous man in all things, an avid sports fan, a patron of the arts and theatre, and an accomplished world traveler who made many return trips to his hometown in Nebraska and his father's hometown in Vermont, along with journeys to countless destinations throughout the United States, Central and South America, Europe, and Asia and the Pacific; and

WHEREAS, Fred Moreau will be fondly remembered and greatly missed by his wife of 37 years, Elaine; his children, Elizabeth, Andrew, and Eileen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alfred Ernest Moreau; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alfred Ernest Moreau as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 628

Election of Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, members of the Judicial Inquiry and Review Commission, members of the State Corporation Commission, and the Auditor of Public Accounts.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, January 26, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed at 3:00 p.m. To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the Third Judicial Circuit, term commencing February 16, 2021.

One judge for the Fourth Judicial Circuit, term commencing February 1, 2021.

One judge for the Tenth Judicial Circuit, term commencing February 1, 2021.

One judge for the Fifteenth Judicial Circuit, term commencing July 1, 2021.

One judge for the Fifteenth Judicial Circuit, term commencing July 1, 2021.

One judge for the Eighteenth Judicial Circuit, term commencing March 1, 2021.

One judge for the Nineteenth Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-first Judicial Circuit, term commencing March 1, 2021.

One judge for the Twenty-second Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-third Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-sixth Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-eighth Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-ninth Judicial Circuit, term commencing February 1, 2021.

One judge for the Thirtieth Judicial Circuit, term commencing April 1, 2021.

One judge for the Thirty-first Judicial Circuit, term commencing July 1, 2021.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the Second Judicial District, term commencing February 1, 2021.

One judge for the Fourth Judicial District, term commencing July 1, 2021.

One judge for the Seventh Judicial District, term commencing July 1, 2021.

One judge for the Seventh Judicial District, term commencing July 1, 2021.
 One judge for the Eighth Judicial District, term commencing May 1, 2021.
 One judge for the Twelfth Judicial District, term commencing April 1, 2021.
 One judge for the Thirteenth Judicial District, term commencing July 1, 2021.
 One judge for the Thirteenth Judicial District, term commencing December 1, 2021.
 One judge for the Thirteenth Judicial District, term commencing February 1, 2021.
 One judge for the Fourteenth Judicial District, term commencing July 1, 2021.
 One judge for the Fourteenth Judicial District, term commencing November 1, 2021.
 One judge for the Nineteenth Judicial District, term commencing July 1, 2021.
 One judge for the Nineteenth Judicial District, term commencing July 1, 2021.
 One judge for the Nineteenth Judicial District, term commencing April 1, 2021.
 One judge for the Nineteenth Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-third Judicial District, term commencing February 1, 2021.
 One judge for the Twenty-fourth Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-sixth Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-seventh Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-seventh Judicial District, term commencing April 1, 2021.
 One judge for the Thirty-first Judicial District, term commencing July 1, 2021.
 To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:
 One judge for the Fourth Judicial District, term commencing September 17, 2021.
 One judge for the Sixth Judicial District, term commencing June 1, 2021.
 One judge for the Fifteenth Judicial District, term commencing July 1, 2021.
 One judge for the Fifteenth Judicial District, term commencing July 1, 2021.
 One judge for the Nineteenth Judicial District, term commencing February 1, 2021.
 One judge for the Twenty-second Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-third Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-third Judicial District, term commencing February 1, 2021.
 One judge for the Twenty-fourth Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-sixth Judicial District, term commencing April 1, 2021.
 One judge for the Twenty-seventh Judicial District, term commencing May 1, 2021.
 One judge for the Twenty-eighth Judicial District, term commencing July 1, 2021.
 One judge for the Twenty-ninth Judicial District, term commencing April 1, 2021.
 One judge for the Twenty-ninth Judicial District, term commencing February 1, 2021.
 To the election of members of the Judicial Inquiry and Review Commission for terms of four years commencing as follows:
 One member, term commencing July 1, 2021.
 One member, term commencing July 1, 2021.
 To the election of members of the State Corporation Commission for terms as follows:
 One member, term commencing February 1, 2021, and ending January 31, 2022.
 One member, term commencing February 1, 2021, and ending January 31, 2026.
 To the election of the Auditor of Public Accounts for a term of four years commencing February 1, 2021.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

HOUSE JOINT RESOLUTION NO. 630

Commending Clenise and Alex White.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, during the COVID-19 pandemic, Clenise and Alex White of Henrico County have produced and distributed thousands of reusable face shields to first responders and other frontline workers throughout the Commonwealth; and

WHEREAS, residents of the Richmond area since 2008, Clenise White runs a home-based tax preparation business and Alex White is a retired federal and state government employee who has authored numerous guidebooks on cameras; the couple has enjoyed working on numerous projects and hobbies together in nearly 40 years of marriage; and

WHEREAS, concerned about the lack of personal protective equipment at the outset of the COVID-19 pandemic, Clenise and Alex White resolved to make a difference in the community by using a 3-D printer to produce plastic face shields; and

WHEREAS, Clenise and Alex White researched different designs for face shields, settling on a design approved by the National Institutes of Health, and ultimately acquired a total of four 3-D printers to keep up with demand; and

WHEREAS, Clenise and Alex White overcame shortages of materials and mastered the intensive process of assembling the face shields, including filing rough edges, gluing foam strips to the visor, and attaching knobs, elastic bands, and buckles, as well as sorting and packaging the finished pieces for delivery; and

WHEREAS, while Clenise and Alex White handled production, Nancy Springman, a parish nurse of St. Mary's Catholic Church, joined the team to manage orders and distribution; between March and August of 2020, they produced and donated approximately 3,000 face shields; and

WHEREAS, Clenise and Alex White's largest client, CrossOver Healthcare Ministry, is a free clinic that has worked with many high-risk patients during the COVID-19 pandemic, making the acquisition of proper protective equipment critical for its volunteer staff; and

WHEREAS, Clenise and Alex White distributed masks to personnel at other hospitals, care centers, and local businesses where close contact is involved, such as barbershops; their masks have been praised for their high-quality construction and comfort; and

WHEREAS, Clenise and Alex White have inspired others in the Henrico County community through their generosity and commitment to excellence; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Clenise and Alex White for their work to produce and distribute reusable personal protective equipment to first responders and frontline workers during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Clenise and Alex White as an expression of the General Assembly's admiration for their achievements in service to the members of the Henrico County community and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 631

Celebrating the life of the Honorable Bernard S. Cohen.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, the Honorable Bernard S. Cohen, a former member of the Virginia House of Delegates who had previously served as co-counsel for the appellants in the historic *Loving v. Virginia* case, in which the Supreme Court of the United States struck down laws banning interracial marriage, died on October 12, 2020; and

WHEREAS, the child of Jewish immigrants from Eastern Europe, Bernard "Bernie" S. Cohen grew up in Brooklyn and graduated from the City College of New York; he subsequently worked for the United States Department of Labor while studying to earn a law degree from Georgetown University; and

WHEREAS, Bernie Cohen was working as a volunteer attorney for the American Civil Liberties Union when he met Richard and Mildred Loving, who had been arrested under Virginia's anti-miscegenation laws and been given a suspended jail sentence on the condition that they leave the Commonwealth and not return for a period of 25 years; and

WHEREAS, during the *Loving v. Virginia* case, Bernie Cohen and co-counsel Philip Hirschkop argued that laws prohibiting interracial marriage violated the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States, and in 1967, the Supreme Court of the United States ruled unanimously in favor of the Lovings; and

WHEREAS, the landmark case was a significant victory for the civil rights movement in the United States, and Bernie Cohen's contributions have been immortalized in numerous books, documentaries, and dramatizations, including the 2016 major motion picture *Loving*; and

WHEREAS, desirous to be of further service to the Commonwealth, Bernie Cohen ran for and was elected to the Virginia House of Delegates in 1979; he represented residents of the 21st District until 1983, when he took office as the delegate for the 46th District, representing parts of Alexandria; and

WHEREAS, during his tenure as a state lawmaker, Bernie Cohen offered his expertise to several standing committees and introduced many important pieces of legislation, including a bill to impose restrictions on indoor smoking and measures to ensure that terminally ill patients would have the right to decline life-prolonging treatments; and

WHEREAS, Bernie Cohen introduced a bill to decriminalize same-sex marriage in the Commonwealth, which was unsuccessful, but the decision in *Loving v. Virginia* was ultimately cited as a precedent in the Supreme Court's decision in another landmark case, *Obergefell v. Hodges* (2015), which guaranteed same-sex couples the right to marry throughout the nation; and

WHEREAS, Bernie Cohen continued to practice law in Alexandria for many years, specializing in environmental and employment cases until his well-earned retirement in 2006; and

WHEREAS, a man of great integrity, Bernie Cohen served the Commonwealth with the utmost dedication and distinction as both an attorney and a state legislator; and

WHEREAS, Bernie Cohen will be fondly remembered and greatly missed by his wife of 61 years, Rae Rose; his children, Bennett and Karen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Bernard S. Cohen, a highly admired attorney and a dedicated public servant who touched the lives of generations of Americans through his contributions to civil rights; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Bernard S. Cohen as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 632

Commending Redella S. Pepper.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Redella S. Pepper, former vice mayor of the City of Alexandria who has admirably served her community for the past 35 years as a member of the Alexandria City Council, will retire in 2021; and

WHEREAS, prior to settling in Alexandria in 1968, Redella "Del" S. Pepper earned a bachelor's degree from Grinnell College, studied at the University of Wisconsin, and worked for five years as a social worker in Chicago, Illinois; and

WHEREAS, Del Pepper was elected in 1985 to the Alexandria City Council, proudly representing the city's West End for 35 years, as well as serving as the city's vice mayor from 1996 to 1997, from 2003 to 2006, and from 2007 to 2009; and

WHEREAS, Del Pepper's tenure on the Alexandria City Council was characterized by her unwavering commitments to protecting the environment, enhancing neighborhood safety, supporting area schools, promoting the arts, and fostering local businesses and the economy; and

WHEREAS, along with advocating for many improvements in the West End, Del Pepper was instrumental to Alexandria's Eco-City Charter in 2008 and helped to oversee the closing of the GenOn Power Plant in 2012; and

WHEREAS, Del Pepper offered invaluable leadership and expertise as co-chair of the Beauregard Street Corridor Task Force, the Alexandria-Arlington Task Force on the Waste-To-Energy Plant, and the Welfare Reform Committee; her involvement extended to Alexandria's Commission on Aging, Commission on Information Technology, and Facilities Naming Committee; and

WHEREAS, Del Pepper was a forceful proponent for effective regional collaboration, formerly serving as president of the Metropolitan Washington Council of Governments Corporation and on the organization's Air Quality Committee and board of directors; she is currently a member of the Northern Virginia Regional Commission, serving as chair of the organization's Regional Resources Committee; and

WHEREAS, an active and engaged member of her community, Del Pepper has given generously of her time and talents to the boards of various local civic organizations, including the YMCA, the T.C. Williams High School Parent Teacher Student Association, the Alexandria Arts Forum, Bienvenidos, and the Retired and Senior Volunteer Program; and

WHEREAS, a champion for greater diversity and inclusivity in her community who has been committed to ensuring Alexandria works for the benefit of all, Del Pepper served as vice president of the Alexandria branch of the NAACP and as board member of the Alexandria Community Services Board, while maintaining affiliations with the Urban League and the League of Women Voters; and

WHEREAS, in recognition of her extraordinary efforts, Del Pepper was the recipient of numerous awards and accolades over the years, including the Jaycees Appreciation Award, the Council of Senior Citizens Organization's Outstanding Women of Alexandria Award, the Alexandria NAACP's Outstanding Service Award, and the Commission for Women's Living Legend Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Redella S. Pepper, former vice mayor and longtime councilwoman for the City of Alexandria, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Redella S. Pepper as an expression of the General Assembly's profound admiration for her exemplary service and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 633

Celebrating the life of Kelly Brice Walters.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Kelly Brice Walters, a husband, father, grandfather, mentor, and teacher who was the walking image of a true community servant, died on December 26, 2020; and

WHEREAS, Kelly Walters began his career at the Blue Ridge Overall factory, where he worked for four years, and the Cromer Furniture Company in Christiansburg, where he worked for three years; he then served as caretaker of the Christiansburg Cemetery Corporation for the next 24 years; and

WHEREAS, Kelly Walters ultimately went to work as an animal control officer in Montgomery County for nearly two decades, retiring as the chief animal control officer for Montgomery County; and

WHEREAS, in 1964, Kelly Walters joined the Christiansburg Life Saving and First Aid Crew, later known as the Christiansburg Rescue Squad, where he served as captain, first and second lieutenant, treasurer, and president of the board of directors; and

WHEREAS, in recognition of his meritorious service, Kelly Walters was named the Christiansburg Rescue Squad's Crewman of the Year on numerous occasions and was elected a life member of the organization; and

WHEREAS, Kelly Walters was certified as an emergency medical technician and further supported the life-saving efforts of the Christiansburg Rescue Squad as an American Red Cross first aid and cardiopulmonary resuscitation instructor; and

WHEREAS, during his years with the Christiansburg Volunteer Rescue Squad, Kelly Walters was instrumental in forming the Floyd County Rescue Squad; later, he helped spearhead the founding of the Riner Volunteer Rescue Squad, where he served as a charter and life member; and

WHEREAS, Kelly Walters was highly involved with the Virginia Association of Volunteer Rescue Squads (VAVRS), twice serving as the District 7 vice president, as president of the organization from 1985 to 1987, and as a member of many of the association's committees; and

WHEREAS, Kelly Walters was a founding and longtime member of the VAVRS Rescue College Committee, which for the past 40 years has overseen the organization's teaching of basic, intermediate, and advanced skills, such as rope rescue, technical rescue, and emergency vehicle operation; and

WHEREAS, to honor his years of dedicated service on behalf of VAVRS, the association's membership elected Kelly Walters a life member in 1979; as an indication of his outsized impact on the emergency medical services community of the Commonwealth, he was elected by his peers to the Virginia Rescue and Life Saving Hall of Fame in September 2003; and

WHEREAS, Kelly Walters was the first full-time paid rescue squad captain employed by the Town of Christiansburg and served in that position for 10 years; prior to his retirement, he responded to over 1,000 calls per year for seven consecutive years, and in two of those years he responded to over 1,300 calls, or an average of four calls per day; and

WHEREAS, Kelly Walters supported his community's emergency preparedness admirably as a member of its Fire and Rescue Task Force and the Christiansburg and Montgomery County Emergency Planning Committee; and

WHEREAS, Kelly Walters enjoyed hunting with his beagles and was a devoted member, officer, and board member of the Christiansburg Hunting Club, where for many years he offered wisdom and advice that was significant to the club's success; and

WHEREAS, on September 12, 2011, Kelly Walters was recognized by the Montgomery County Board of Supervisors for his 47 years of service to the citizens of the county; he received a commending resolution from the General Assembly during the 2016 Regular Session for his service with VAVRS; and

WHEREAS, Kelly Walters was a devoted husband and caregiver to his wife, Virginia; during her illness, he devoted his time, talents, and love to care for her, putting her needs above his until her passing in 2013; and

WHEREAS, Kelly Walters will be profoundly missed by the emergency medical services community in and around Christiansburg, Riner, and Montgomery County, and will be remembered for, among other attributes, his serious demeanor, selfless compassion, and big heart; and

WHEREAS, Kelly Walters was more than a first responder; when members of his family or community needed assistance, he was always willing to lend a hand; he would regularly visit rescue squad members and coworkers who were in their senior years and confined to nursing homes; through his steadfast commitment to serving others, he was like family to many; and

WHEREAS, preceded in death by his loving wife, Virginia, Kelly Walters will be fondly remembered and dearly missed by his daughter, Nancy, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Kelly Brice Walters, a respected leader in Christiansburg and the County of Montgomery, as well as in the wider emergency medical services community of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the daughter of Kelly Brice Walters, Nancy, and the Riner Volunteer Rescue Squad as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 634

Commending Western Fairfax Christian Ministries.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Western Fairfax Christian Ministries has worked diligently to reduce food insecurity and the risk of homelessness for members of the Fairfax County community during the COVID-19 pandemic; and

WHEREAS, established in 1987 by 12 churches in Chantilly and Centreville, Western Fairfax Christian Ministries has grown to provide emergency assistance with rent and utility bills, food assistance through a food pantry, financial and budgeting education, support for students, and spiritual guidance to individuals and families of many faiths and backgrounds in western Fairfax County; and

WHEREAS, during the COVID-19 pandemic, Western Fairfax Christian Ministries has maintained regular hours Monday through Friday and two Saturdays each month to ensure that families continue to receive critical food and financial assistance; and

WHEREAS, Western Fairfax Christian Ministries altered certain services based on recommendations from the Centers for Disease Control and Prevention and the Fairfax County Health Department, including temporarily pre-bagging food from its food pantry and handling many client appointments via telephone; and

WHEREAS, to address the unique challenges of the pandemic, Western Fairfax Christian Ministries launched a food and job security program in June 2020, partnered with Lazy Dog in Chantilly to purchase food for clients while supporting a local business, and worked with Mellow Mushroom to build and distribute Make Your Own Pizza Kits for local children; and

WHEREAS, in fiscal year 2020, Western Fairfax Christian Ministries provided more than 641,000 pounds of food or the equivalent of nearly 268,000 meals and helped keep over 2,000 individuals housed through more than \$358,000 in financial assistance for rent and utilities; and

WHEREAS, Western Fairfax Christian Ministries has succeeded in its vital mission through generous grants and donations from businesses and individuals and through the hard work and support of church partners, local grocery stores, the United Way of the National Capital Area, Fairfax County officials, and countless volunteers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Western Fairfax Christian Ministries for its work to support members of the Fairfax County community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Western Fairfax Christian Ministries as an expression of the General Assembly's admiration for the organization's achievements in service to the residents of Fairfax County.

HOUSE JOINT RESOLUTION NO. 635

Commending Karen Campblin.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Karen Campblin, an esteemed planner who has served many environmental and racial equity advocacy organizations in Northern Virginia for several years, was named the 2020 Sully District Community Champion by Volunteer Fairfax; and

WHEREAS, Karen Campblin received the 2020 Sully District Community Champion honor as part of the annual Fairfax County Volunteer Service Awards presented by Volunteer Fairfax, wherein the Fairfax County Board of Supervisors selects an individual in each district of Fairfax County who embodies a commitment to volunteerism and addressing specific needs in the community; and

WHEREAS, Karen Campblin was selected as the 2020 Sully District Community Champion for her tireless efforts to combat climate change and racial inequity in Northern Virginia and beyond; and

WHEREAS, by educating fellow volunteers and other community members on the legislative process and the actions they can take to effect change, Karen Campblin has increased the impact of her advocacy exponentially; and

WHEREAS, Karen Campblin has helped the government of Fairfax County shape its current policies and planning decisions through her work with its Tree Commission, Land Unit J Study-Task Force, and Joint Environmental Task Force; she is a member of the Fairfax County Federation of Citizens Associations, serving as co-chair of its transportation committee; and

WHEREAS, as co-director of the Green New Deal Virginia, transportation and smart growth co-chair of the Virginia chapter of the Sierra Club, and environmental and climate justice chair of the Virginia State Conference of the NAACP, Karen Campblin has applied her expertise for the benefit of communities throughout the Commonwealth; and

WHEREAS, a member of the American Planning Association since 2008, Karen Campblin is currently the principal planner at the consulting agency ktcPLAN, channeling her commitment to environmental sustainability and racial equity into innovative strategies that enhance community development in the region; and

WHEREAS, by working to ensure that Northern Virginia grows responsibly in a way that protects the environment and empowers all individuals, Karen Campblin has helped make the Commonwealth a wonderful place to live; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Karen Campblin, a respected planner and environmental and racial equity advocate, on the occasion of being named the 2020 Sully District Community Champion; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Campblin as an expression of the General Assembly's profound admiration and respect for her service.

HOUSE JOINT RESOLUTION NO. 636

Commending Aquatech.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Aquatech, a team of students who recently attended Rocky Run Middle School in Chantilly, was the Eighth Grade First-Place National Winner of the eCybermission contest in 2020; and

WHEREAS, the eCybermission contest is an annual competition organized by the Army Educational Outreach Program of the United States Army, in which students in grades six through nine work in teams to find science, technology, engineering, and mathematics solutions to community problems; and

WHEREAS, for the eCybermission contest, the Aquatech team, composed of Saranya Gadwala, Advaith Gajulapally, Remi Ladia, and Anish Paspuleti, aimed to develop a cost-effective device that would encourage users to limit water wastage in the shower; and

WHEREAS, to achieve its objective, Aquatech made a sensor that could measure the quantity of water that had passed through a sink or shower head and integrated it with a mobile application that would track water usage and send notifications to users when they had surpassed preset thresholds; and

WHEREAS, to create its smart water sensor, Aquatech effectively employed devices such as a hydroelectric generator, a hall-effect sensor, a lithium polymer battery and charger, and a Wi-Fi microchip, while masterfully developing a custom computer program and mobile application, demonstrating an understanding of electrical and computer engineering beyond their years; and

WHEREAS, Aquatech received \$5,000 for winning the eCybermission contest, enabling them to expand upon their prototype so it may be used in real-world applications for the benefit of the community; and

WHEREAS, Aquatech's success is the result of the hard work and creativity of its team members; the support and guidance of their parents and mentors, including members of the electrical and computer engineering department at George Mason University and Fairfax Water; and the unwavering support of the entire Rocky Run Middle School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Aquatech for being named eCybermission's 2020 Eighth Grade First-Place National Winner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Saranya Gadwala, Advaith Gajulapally, Remi Ladia, and Anish Paspuleti, members of Aquatech, as an expression of the General Assembly's high esteem and admiration for their accomplishments.

HOUSE JOINT RESOLUTION NO. 637

Commending Chris and Jeanne Mussig.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Chris and Jeanne Mussig received a 2020 Volunteer Service Award in the Family Volunteer category from Volunteer Fairfax and the Fairfax County Board of Supervisors for their achievements on behalf of the community; and

WHEREAS, Chris and Jeanne Mussig, who give generously of their time and talents to several local organizations, were selected from more than 160 nominations across multiple categories to receive the prestigious award; and

WHEREAS, Chris Mussig volunteers with Cornerstones each week to pick up between 300 and 600 pounds of food at Whole Foods Market and deliver it to Hunter Woods Fellowship House for distribution to low-income seniors in 90 local households; and

WHEREAS, Jeanne Mussig works with GrandInvolve to provide vulnerable students with tutoring on math and reading skills, and she coordinates a program for adult mentors to volunteer in Fairfax County's Title I elementary schools; and

WHEREAS, Chris and Jeanne Mussig serve with the Shepherd's Center of Western Fairfax County as volunteer drivers to provide seniors with transportation to medical appointments or the Western Fairfax Christian Ministries Food Pantry; and

WHEREAS, Chris and Jeanne Mussig have inspired others through their generosity, reliability, and genuine care for neighbors in need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Chris and Jeanne Mussig on receiving a Volunteer Service Award from Volunteer Fairfax and the Fairfax County Board of Supervisors in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chris and Jeanne and Mussig as an expression of the General Assembly's admiration for their work to strengthen the Fairfax County community.

HOUSE JOINT RESOLUTION NO. 638

Commending Homework Helpers Organization.

Agreed to by the House of Delegates, February 1, 2021

Agreed to by the Senate, February 4, 2021

WHEREAS, Homework Helpers Organization received a 2020 Volunteer Service Award in the Youth Volunteer Group category from Volunteer Fairfax and the Fairfax County Board of Supervisors for its achievements on behalf of the community; and

WHEREAS, Homework Helpers Organization (H2Org) began as a middle school tutoring club and has grown to include more than 50 volunteer tutors serving fellow students throughout Fairfax County; and

WHEREAS, in 2018, H2Org partnered with the Study Buddy Program of the Fairfax County Department of Family Services to work directly with students at eight Title I elementary schools; and

WHEREAS, the following year, H2Org began working with the Fairfax County Volunteer and Partner Services Program to continue to expand its community engagement; and

WHEREAS, H2Org established the STEAM Pathways program to teach science, technology, engineering, art, and mathematics to children of all ages in small, virtual groups; and

WHEREAS, during the COVID-19 pandemic, H2Org developed daily enrichment packets to help supplement remote learning for local students; and

WHEREAS, the inspirational young leaders in H2Org have given generously of their time and talents to help other students build a strong foundation for their academic future, gaining valuable skills that will help them continue to serve their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Homework Helpers Organization on receiving a Volunteer Service Award from Volunteer Fairfax and the Fairfax County Board of Supervisors in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Homework Helpers Organization as an expression of the General Assembly's admiration for the organization's dedication to serving and supporting young people in Fairfax County.

HOUSE RESOLUTION NO. 220

Celebrating the life of Robert S. Miller III.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Robert S. Miller III, an honorable veteran and respected civil engineer who made a lasting impression on countless lives in the Virginia Beach community, died on December 3, 2020; and

WHEREAS, Robert "Bob" S. Miller III was born and raised in Norfolk, where he attended Maury High School; he later graduated from Virginia Polytechnic Institute and State University in 1967 with a degree in civil engineering; and

WHEREAS, Bob Miller served his country with courage and valor as a lieutenant in the United States Army during the Vietnam War, earning a Bronze Star for his service; and

WHEREAS, Bob Miller was founder and president of Miller-Stephenson and Associates, P.C., a consulting firm that has provided professional services in the areas of environmental science, land planning, surveying, civil and environmental engineering, and landscape architecture to public and private clients in Virginia, North Carolina, and beyond for more than 45 years; and

WHEREAS, dedicated to the success of both young professionals and his industry, Bob Miller gave liberally of his time and talents to support his colleagues' development in their professions and was a member of the National Society of Professional Engineers, for which he served as president from 2006 to 2007; and

WHEREAS, Bob Miller served on the boards of various local organizations, including Virginia Beach Vision, the Neptune Festival of Virginia Beach, and the Town Center Kiwanis Club of Virginia Beach; he served as a member of the Virginia Beach Planning Commission from 1998 to 2005; and

WHEREAS, for several decades, Bob Miller was a coach and president of Special Olympics Virginia, helping countless athletes achieve their dreams and lead healthy, vibrant lives; and

WHEREAS, in recognition of his service to the community, the Virginia Beach Jaycees bestowed its First Citizen Award upon Bob Miller in 2020, the most recent honor in a life distinguished by innumerable accolades and awards; and

WHEREAS, guided throughout life by his deep and abiding faith, Bob Miller enjoyed worship and fellowship with his community at the Calvary Presbyterian Church of Norfolk, where he served as a deacon, elder, and Sunday school teacher; and

WHEREAS, Bob Miller will be fondly remembered and dearly missed by his loving wife of 30 years, Sharon; his children, Michelle, Bobby, Jeremy, Robert, and Amanda, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert S. Miller III, an esteemed veteran and civil engineer whose kind and generous spirit touched many lives in the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert S. Miller III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 221

Commending Rockingham Cooperative.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Rockingham Cooperative, a farmer-owned hardware and agricultural supply store, has served residents of Harrisonburg and Rockingham County for 100 years; and

WHEREAS, Rockingham Cooperative traces its roots to February 23, 1921, when local farmers met and agreed to stop purchasing fertilizer from area suppliers until prices were lowered; and

WHEREAS, Rockingham Cooperative was officially founded later that year and has since provided generations of community members with high-quality products from convenient locations throughout the Shenandoah Valley; and

WHEREAS, in 2015, Rockingham Cooperative merged with Roanoke Cooperative and expanded even further, opening two new locations to serve customers in the Roanoke Valley; and

WHEREAS, Rockingham Cooperative exemplifies the entrepreneurial spirit and commitment to community that has helped the Commonwealth's small businesses grow and thrive; now, therefore, be it

RESOLVED by the House of Delegates, That Rockingham Cooperative hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rockingham Cooperative as an expression of the House of Delegates' admiration for its legacy of service to the agricultural community and all residents of Harrisonburg and Rockingham County.

HOUSE RESOLUTION NO. 222

Commending Staunton Steam Laundry.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Staunton Steam Laundry has proudly supported businesses throughout the Commonwealth by offering world-class laundry services for the past 108 years; and

WHEREAS, Staunton Steam Laundry was founded in 1912, when Robert C. Beam, Sr., and his wife, Mae, purchased New Method Laundry in downtown Staunton, and has been family owned and operated ever since; and

WHEREAS, initially dependent upon horse-drawn carriages for its collections and deliveries, in the mid-1920s Staunton Steam Laundry acquired its first truck to facilitate the delivery of laundry and linens to cadets at a local military academy; and

WHEREAS, Robert Beam, Jr., assumed leadership of Staunton Steam Laundry in 1944 and helped the company continue to expand, doubling its customer base over the next 15 years and generating new revenue opportunities through the introduction of mat rentals; and

WHEREAS, the latest generation of leadership, Tom and Lee Beam, worked in various roles at Staunton Steam Laundry throughout their youth, acquiring experience that prepared them to lead the company with sagacity and vision; and

WHEREAS, today, Staunton Steam Laundry operates out of a 50,000-square-foot facility that employs state-of-the-art computerized systems to efficiently and expeditiously launder immense volumes of table and bed linens, towels, mats, and more; and

WHEREAS, every week, Staunton Steam Laundry's fleet of delivery trucks may be seen traveling throughout the Commonwealth, as the company serves more than 250 customers as far away as Maryland; and

WHEREAS, guided by its motto, "Simply Service," Staunton Steam Laundry has established a loyal and satisfied community customer base through its unflinching attention to detail and consistent drive to create value for its clients, large and small; and

WHEREAS, Staunton Steam Laundry applies many innovative strategies to operate sustainably for the benefit of the environment, such as utilizing heat reclamation in its water cycles; recycling and reusing cardboard, textiles, and other materials; and using biodegradable chemicals; and

WHEREAS, a member of the Independent Textile Rental Association, Staunton Steam Laundry coordinates with other companies to share knowledge and foster growth among small businesses in the textile rental industry; and

WHEREAS, through its unwavering commitment to service and value, Staunton Steam Laundry embodies what makes the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That Staunton Steam Laundry hereby be commended for supporting countless businesses throughout Augusta County and the Commonwealth for the past 108 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lee Beam, president and chief executive of Staunton Steam Laundry, as an expression of the House of Delegates' admiration for the company's myriad meritorious contributions to the Commonwealth.

HOUSE RESOLUTION NO. 223

Commending Lindsey Pantele.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Lindsey Pantele, an English teacher at Glen Allen High School, was named Henrico County Public Schools Teacher of the Year in 2020; and

WHEREAS, a proud alumna of Henrico County Public Schools, including Mills E. Godwin High School, Lindsey Pantele encountered several teachers growing up who inspired her to pursue a career in education; and

WHEREAS, with early ambitions to become a teacher, Lindsey Pantele attended Christopher Newport University, where she earned an undergraduate degree in English and a master's degree in teaching; and

WHEREAS, Lindsey Pantele has been teaching at Glen Allen High School since it was founded in 2010; along with various English courses, she teaches in the school's Center for Education and Human Development, which provides aspiring students with advanced curriculum to help them achieve their educational and career goals; and

WHEREAS, in addition to her English courses, Lindsey Pantele leads Glen Allen High School's yearbook class and organizes its annual "Battle of the Classes" competition, contributing greatly to the sense of community at the school; and

WHEREAS, without the standard announcement ceremony due to the COVID-19 pandemic, Lindsey Pantele was notified of the award at home during a surprise visit by Amy Cashwell, superintendent of Henrico County Public Schools, and Kristi Kinsella, Brookland District representative on the Henrico County School Board; and

WHEREAS, Lindsey Pantele was selected for Henrico County's top teaching honor from among more than 4,000 teachers, receiving \$1,000 from Henrico Federal Credit Union as part of the award; and

WHEREAS, Lindsey Pantele has fostered a positive learning environment that encourages her students to challenge themselves, strive for their dreams, and succeed, both in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, That Lindsey Pantele, an English teacher at Glen Allen High School, hereby be commended for the distinction of being named Henrico County Public Schools Teacher of the Year in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lindsey Pantele as an expression of the House of Delegates' admiration for her remarkable achievement and best wishes for the future.

HOUSE RESOLUTION NO. 224

Commending Erin Franklin.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Erin Franklin, a music teacher at Echo Lake Elementary School in Glen Allen, was named the 2020 Henrico County Public Schools Music Educator of the Year; and

WHEREAS, a member of the Class of 1999 at John Randolph Tucker High School in Henrico County, Erin Franklin brings a personal connection to Henrico County Public Schools and an extraordinary dedication to the school system; and

WHEREAS, Erin Franklin has been teaching at Henrico County Public Schools for the past 16 years, including 11 years at Echo Lake Elementary School, and has been consistently recognized for her superb skills as an educator; and

WHEREAS, receiving National Board Certification for early-middle childhood music education in 2012, Erin Franklin has demonstrated a commitment to academic excellence and regularly employs best practices in her classroom to great effect; and

WHEREAS, prior to her recent recognition from Henrico County Public Schools, Erin Franklin was honored as the 2010 Teacher of the Year at Pinchbeck Elementary School and the 2014 Teacher of the Year at Echo Lake Elementary School; and

WHEREAS, by fostering an energetic and engaging learning environment that challenges her students and elevates their potential, Erin Franklin has contributed greatly to their success both in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, That Erin Franklin, a music teacher at Echo Lake Elementary School, hereby be commended for the distinction of being named the 2020 Henrico County Public Schools Music Educator of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Erin Franklin as an expression of the House of Delegates' admiration for her meritorious achievements and appreciation for her steadfast devotion to her students.

HOUSE RESOLUTION NO. 226

Celebrating the life of Joshua Thomas Thompson.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Joshua Thomas Thompson, a beloved member of the Virginia Beach community whose brave fight against amyotrophic lateral sclerosis inspired many and brought greater awareness to the disease, died on October 29, 2020; and

WHEREAS, affectionately known to family and friends as "JT," Joshua Thompson graduated from First Colonial High School in Virginia Beach and Old Dominion University before working as a marketing director for Gold Key PHR, a leading hospitality management group operating in Virginia Beach and Norfolk; and

WHEREAS, after Joshua Thompson was diagnosed with amyotrophic lateral sclerosis (ALS) in 2007, he and a group of friends founded the Virginia Gentlemen Foundation to raise money for ALS research and other initiatives; through its annual JT Walk, the organization has raised over \$30 million to date; and

WHEREAS, an avid surfer who wanted to ensure that his local beaches could be enjoyed by all, Joshua Thompson spearheaded the creation of JT's Grommet Island Park, a wheelchair-accessible beach park and playground at First Street in Virginia Beach that was the first of its kind in the area; and

WHEREAS, inspired by his experience surviving a congenital heart defect as an infant, Joshua Thompson and the Virginia Gentlemen Foundation raised funds for the "JT Grombulance," a first-class neonatal ambulance serving the Children's Hospital of The King's Daughters in Norfolk; and

WHEREAS, to support wounded veterans, children with disabilities, and their families, Joshua Thompson, the Virginia Gentlemen Foundation, and JT's Walkers, raised over \$17 million to build JT's Camp Grom, a 70-acre, fully accessible adventure camp in Virginia Beach that features an aquatic center, ropes course, and athletic facilities; and

WHEREAS, Joshua Thompson's courageous fight against ALS, which was chronicled in a 2009 feature story on the front page of *The New York Times*, brought greater attention to the disease and those advocating for access to compassionate use medical treatments; and

WHEREAS, in recognition of his many exemplary contributions to the community, Joshua Thompson was named a Triton of Virginia Beach's 37th Neptune Festival royal court in 2010; two years later, the City of Virginia Beach proclaimed October 5, 2012, as Josh Thompson Day to honor Joshua Thompson's many accomplishments and herald the completion of JT's Grommet Island Park; and

WHEREAS, Joshua Thompson will be lovingly remembered and dearly missed by his wife, Joy; his two sons, Wyatt and Jordan; his parents, Kathleen and Bruce; his brother, Christopher; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Joshua Thomas Thompson, a treasured member of the Virginia Beach community who touched countless lives through his courage, determination, and unwavering faith; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joshua Thomas Thompson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 228

Establishing 2021 Regular Session post-prefiling limits on bill introduction.

Agreed to by the House of Delegates, January 13, 2021

RESOLVED by the House of Delegates, That no member of the House of Delegates, without unanimous consent or unless a bill requested in writing by the Governor, may introduce more than two bills during the 2021 Session of the General Assembly after 10:00 a.m. on Wednesday, January 13, 2021, the end of the prefiling period; and, be it

RESOLVED FINALLY, That any member elected to the House of Delegates at a special election held after November 1, 2020, shall have until 3:00 p.m. on Friday, January 22, 2021, to introduce the maximum number of bills allowed to be introduced by each Delegate during the 2021 Session of the General Assembly, notwithstanding any general limit herein on the number of bills that may be introduced by each Delegate after the end of the prefiling period.

HOUSE RESOLUTION NO. 229

Amending and readopting Rule 4 of the Rules of the House of Delegates, pertaining to bill introduction limits during a disaster or other emergency.

Agreed to by the House of Delegates, January 13, 2021

The Speaker will have a general direction of the House Chamber with power, in case of disturbance or disorderly conduct in such part thereof as may be appropriated to spectators, to have the same cleared. Representatives of news media, wishing to report the proceedings of the House, may be admitted by the Speaker, who will assign them to such places in the House Chamber as shall not interfere with the convenience of the members.

In the event of a disaster, natural or otherwise, or other emergency circumstance, the Speaker may convene the House in a location other than the House Chamber, or direct that a session of the House be conducted by electronic communication means. In addition, if a motion to reconvene to a session date and time to be conducted by electronic communication means is adopted by the House, such session of the House shall be conducted by electronic communication means. "Electronic communication means" means the use of technology having electrical, digital, magnetic, wireless, optical, telephonic, electromagnetic, or similar capabilities to transmit or receive information.

During the pendency of such disaster or other emergency circumstance, a session of the House may be conducted by electronic communication means without any requirement that a quorum be physically assembled in a single location.

A member participating in a session of the House conducted by electronic communication means shall be deemed to be in attendance for purposes of the quorum requirements under Article IV, Section 8 of the Constitution of Virginia or any other provision of the Constitution, regardless of where the member is physically located. A member participating in a session of the House conducted by electronic communication means shall be deemed to be present for any voting requirement under the Constitution of Virginia and may vote on any matter taken up by the House, regardless of where the member is physically located. A member participating by electronic communication means shall not be required to open her physical location to the public or the media.

The Clerk, at the direction of the Speaker, shall determine the methods of electronic communication for any session of the House conducted by electronic communication means, provided that such methods are designed to enable each member participating by electronic communication means to participate as the proceedings are occurring.

Sessions of the House conducted by electronic communication means shall be made digitally available to the public.

To protect the public health and safety during such disaster or other emergency circumstance, the Speaker and Clerk may limit access to the physical location from which the Speaker is presiding to members of the General Assembly and such other persons they deem essential for the proceedings.

Notwithstanding Rule 18(e) or any other Rule, during the pendency of such disaster or other emergency circumstance, the chairman of any standing committee, subcommittee, joint subcommittee, interim study committee, or other legislative branch public body may conduct a meeting by electronic communication means under the same conditions and requirements and with the same powers enumerated above, and without any requirement that a quorum be physically assembled in a single location. Any member of such standing committee, subcommittee, joint subcommittee, interim study committee, or other legislative branch public body participating in the meeting by electronic communication means shall be deemed to be in attendance for purposes of any quorum requirement and may vote on any matter taken up at the meeting.

Notwithstanding Rule 37, during the pendency of such disaster or other emergency circumstance, the Speaker may establish a limit on the number of bills that may be introduced by each member during any Regular Session, with such limit not less than five bills.

Whenever a session of the House or any meeting of a standing committee, subcommittee, joint subcommittee, interim study committee, or other legislative branch public body is conducted by electronic communication means, voting viva voce by response to the call of names shall not be required.

HOUSE RESOLUTION NO. 230

Salaries, session expense payments, and contingent and incidental expenses.

Agreed to by the House of Delegates, January 13, 2021

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2021 Regular Session of the General Assembly. Necessary payments to cover daily and compensatory session expense payments paid to legislative assistants and salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or her designee.

HOUSE RESOLUTION NO. 231

Commending Robert Raymond Matthias.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Robert Raymond Matthias has honorably served in many capacities within the City of Virginia Beach since 1976, most notably as assistant to the city manager of Virginia Beach since 1985; and

WHEREAS, Robert "Bob" Raymond Matthias has managed a very successful intergovernmental relations program, overseeing and developing strategies, sharing information, and working to protect and promote the interests of the City of Virginia Beach; and

WHEREAS, as the liaison between members of the Virginia Beach delegation to the General Assembly of Virginia and the city administration, members of the City Council, and various city departments, boards, and commissions, Bob Matthias was the chief point of contact for appointed and elected officials and their staffs to coordinate with and advocate on behalf of the city's priorities and initiatives; and

WHEREAS, Bob Matthias coordinated and collaborated with other organizations, associations, and administration appointees on issues impacting the City of Virginia Beach; and

WHEREAS, Bob Matthias regularly worked with the Hampton Roads Military and Federal Facilities Alliance to promote federal interests in Virginia Beach and the region as well as to facilitate and participate in meetings between the city manager, mayor, and the base commanders of the Joint Expeditionary Base Little Creek-Fort Story, Naval Air Station Oceana/Dam Neck Annex, and Camp Pendleton state military reservation; and

WHEREAS, Bob Matthias worked closely with the Office of the City Attorney to maintain the Base Realignment and Closure (BRAC) Compliance Program and Oceana Land Use Conformity Committee, including efforts to receive funding from the Commonwealth each year totaling more than \$190 million for the successful BRAC program; and

WHEREAS, Bob Matthias met monthly with the Hampton Roads Transportation Planning Organization and its Transportation Technical Advisory Commission, the Hampton Roads Chamber of Commerce, the Military Economic Development Advisory Commission, and the Hampton Roads Planning District Commission to maintain up-to-date information and coordinate resources for the mayor and city council members; and

WHEREAS, Bob Matthias worked with local officials and members of the business community to create the Urban Crescent Initiative and develop a transportation funding strategy for the Urban Crescent communities along the I-64/I-95 Corridor, culminating in successful legislation that provided the most transportation funding since the 1980s; and

WHEREAS, Bob Matthias championed alternative energy, primarily wind development off the coast of Virginia Beach and Hampton Roads, via committee memberships and as a gubernatorial appointee and chair of the Virginia Offshore Wind Development Authority, resulting in the development of the multibillion-dollar Coastal Virginia Offshore Wind Project; now, therefore, be it

RESOLVED by the House of Delegates, That Robert Raymond Matthias, a greatly admired and valued member of the City of Virginia Beach government team, hereby be commended for his years of hard work and dedication to the city; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Raymond Matthias as an expression of the House of Delegates' profound respect and heartfelt admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 232

Celebrating the life of William Franklin Hudgins III.

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, William Franklin Hudgins III, an esteemed business executive and beloved member of the Virginia Beach community, died on December 7, 2020; and

WHEREAS, William Franklin "Frank" Hudgins III was the vice president of manufacturing at Weaver Fertilizer Company in Norfolk, where he retired after serving customers throughout the Commonwealth with passion and dedication for 32 years; and

WHEREAS, Frank Hudgins was a founding director of the Bank of Tidewater, proudly supporting the financial and investment needs of local small businesses and families throughout his 17-year tenure on the bank's board; and

WHEREAS, Frank Hudgins was a past member of Cavalier Golf & Yacht Club, having greatly enjoyed the scenery and time spent on the course; and

WHEREAS, Frank Hudgins was a proud member of the Sertoma Club of Norfolk, dedicating much of his time to helping people through local charities; and

WHEREAS, for the past 42 years, Frank Hudgins has given generously to his community as one of the hosts of the Blue Pete Haven Hunters' Feast, an annual event that has raised more than \$2 million in donations for the Hope Haven Children's Home and Union Mission in Virginia Beach; and

WHEREAS, Frank Hudgins was an avid goose and duck hunter, golfer, and fisherman who loved time spent in the great outdoors; and

WHEREAS, Frank Hudgins will be fondly remembered and dearly missed by his loving wife of 23 years, Brenda; his children, William IV and Robert, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Franklin Hudgins III, whose kind and benevolent spirit touched countless lives in Virginia Beach and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Franklin Hudgins III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 233

Celebrating the life of the Honorable Robert S. Bloxom, Sr.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Robert S. Bloxom, Sr., a consummate public servant who was known for his commitment to the restoration of the Chesapeake Bay, represented the residents of the Eastern Shore as a longtime member of the Virginia House of Delegates and became the first-ever Secretary of Agriculture and Forestry, died on December 13, 2020; and

WHEREAS, Robert "Bob" S. Bloxom, Sr., ran the family business, Bloxom Auto Supply, for many years, serving the members of the Mappsville community and the surrounding region with fairness and integrity; and

WHEREAS, desirous to be of further service, Bob Bloxom ran for and was elected to the Virginia House of Delegates and represented the residents of the 100th District for 13 terms from 1978 through 2003; his son, Robert, Jr., followed in his footsteps as a public servant and was elected to the same seat in 2014; and

WHEREAS, during his tenure as a state legislator, Bob Bloxom introduced or supported legislation to preserve the health of the Commonwealth's waterways, establish the commercial spaceport on Wallops Island, and create a dental program for school children in need; and

WHEREAS, Bob Bloxom supported the creation of Kiptopeke State Park, the Commonwealth's first new state park in two decades, and helped provide state funds for the opening of the Eastern Shore Farmer's Market; and

WHEREAS, Bob Bloxom offered his expertise to the committees on Appropriations; Commerce and Labor; and Agriculture, Chesapeake and Natural Resources; and served as chair of the multistate Chesapeake Bay Commission; and

WHEREAS, admired for his honesty and dedication to his constituents, Bob Bloxom worked to build bipartisan respect and foster a culture of mutual respect between delegates from both parties; and

WHEREAS, in December 2004, Bob Bloxom was appointed by Governor Mark R. Warner to the newly created cabinet position of Secretary of Agriculture and Forestry; he continued to serve in that capacity under Governor Timothy M. Kaine until his well-earned retirement from public life in January 2010; and

WHEREAS, as Secretary of Agriculture and Forestry, Bob Bloxom visited every county in Virginia and promoted the Commonwealth's exports in other countries; he supported farmland preservation efforts and oversaw the completion of a study that estimated the value of the Commonwealth's agricultural industries at \$79 billion; and

WHEREAS, at the local level, Bob Bloxom volunteered his time and leadership to Eastern Shore Community College, Eastern Shore Public Library, the Eastern Shore Chamber of Commerce, and the Chesapeake Bay Bridge-Tunnel Commission, but his greatest joy in life was his family, and he relished every opportunity to support his beloved grandchildren at sporting events and activities; and

WHEREAS, Bob Bloxom will be fondly remembered and greatly missed by his wife, Pat; his children, Lee and Robert, Jr., and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Robert S. Bloxom, Sr., a respected public servant who strengthened the Eastern Shore; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Robert S. Bloxom, Sr., as an expression of the House of Delegates' admiration for his achievements on behalf of all residents of the Commonwealth and respect for his memory.

HOUSE RESOLUTION NO. 234

Celebrating the life of the Honorable Frederick B. Lowe.

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, the Honorable Frederick B. Lowe, a distinguished former chief judge of the Virginia Beach Circuit Court and a highly admired member of the Virginia Beach community, died on December 21, 2020; and

WHEREAS, Frederick "Fred" B. Lowe grew up in the close-knit community of Franklin and was a multisport athlete in high school, playing on the football, basketball, and tennis teams at Franklin High School; he graduated from The College

of William & Mary and received a Juris Doctor Degree from the T.C. Williams School of Law at the University of Richmond; and

WHEREAS, Fred Lowe subsequently served his country as a member of the United States Army Judge Advocate General's Corps, then settled in Virginia Beach to practice law, becoming one of the first attorneys to work in the Virginia Beach Public Defender Office; and

WHEREAS, in 1991, Fred Lowe was appointed as a judge of the Virginia Beach Circuit Court of the 2nd Judicial Circuit of Virginia, having previously served as the court's commissioner of accounts; and

WHEREAS, a servant-leader throughout his life, Fred Lowe was dedicated to strengthening the Virginia Beach community and treated everyone who entered his courtroom with dignity, respect, and empathy; providing equal access to justice for all; and

WHEREAS, Fred Lowe presided over the court with fairness and integrity for 21 years and was selected to serve as chief judge; after his well-earned retirement in 2012, he continued to provide his wisdom and expertise as a substitute judge and mediator; and

WHEREAS, outside of his legal career, Fred Lowe was an avid fisherman and sailor, and he remained a talented athlete who regularly played golf and tennis and traveled the world to ski; and

WHEREAS, a dedicated family man, Fred Lowe relished every opportunity to support his daughters at school events, and his delicious home cooking never failed to impress family and friends; and

WHEREAS, Fred Lowe will be fondly remembered and greatly missed by his loving wife of 54 years, Nancy; his daughters, Molly and Susan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Frederick B. Lowe, a former chief judge of the Virginia Beach Circuit Court and a beloved member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Frederick B. Lowe as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 235

Commending the Monument Terrace "Support Our Troops" rallies.

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, since November 30, 2001, members of the Lynchburg community have gathered every Friday at noon for the Monument Terrace "Support Our Troops" rallies in support of members of the United States Armed Forces serving at home and abroad; and

WHEREAS, Steve Bozeman helped Mari White of the WLNI-FM radio station stage the first Monument Terrace "Support Our Troops" event in response to a rally opposing military action in Afghanistan and to acknowledge the tremendous sacrifices made by service members around the globe; and

WHEREAS, each week, Monument Terrace "Support Our Troops" rally supporters congregate at Monument Terrace in downtown Lynchburg, waving flags, carrying military memorabilia, and wearing red, white, and blue; and

WHEREAS, Monument Terrace "Support Our Troops" rally-goers line Church Street in a display of pride and patriotism to honor the faithful and dutiful service of members of all branches of the military; and

WHEREAS, at the conclusion of each rally, attendees of the Monument Terrace "Support Our Troops" rallies gather around a pair of World War II combat boots with a helmet mounted on a 105 millimeter Howitzer shell and rifle, known as a Soldier's Cross; a United States Navy veteran tolls a silver bell engraved with the word "Liberty," referred to as the "Honor Bell"; and a sergeant major calls attention to salute the flag while the national anthem is sung, followed by a closing prayer from a military chaplain; and

WHEREAS, with attendance averaging between 40 and 100 people each week, the Monument Terrace "Support Our Troops" rallies have included participants who served as members of the military in World War II, the Korean War, the Vietnam War, the Cold War, the Gulf War, and, more recently, conflicts in Afghanistan and Iraq; and

WHEREAS, many attendees of the Monument Terrace "Support Our Troops" rallies come to honor loved ones who are serving abroad, and all participants acknowledge the dangers faced and the sacrifices made by members of the United States Armed Forces; and

WHEREAS, during the Monument Terrace "Support Our Troops" rallies, a sign is displayed with the photos and names of the local soldiers who have died in the line of duty while serving in Afghanistan and Iraq to honor native sons and daughters of Lynchburg and the surrounding counties, and a "Honk if You Support Our Troops" sign is displayed on Church Street for drivers to show their support; and

WHEREAS, during the 19-year history of the Monument Terrace "Support Our Troops" rallies, members of several veterans organizations, including Military Order of Purple Heart, Military Order of World Wars, Vietnam Veterans of America, Marine Corps League, American Legion, Veterans of Foreign Wars, and motorcycle groups have united to offer help to less-fortunate veterans and their families in the Lynchburg area and, as a result, the Lynchburg Area Veterans Council, Inc., was formed as a nonprofit organization in 2015; and

WHEREAS, the Monument Terrace "Support Our Troops" rallies have gained widespread support in the Lynchburg community and serve as a reminder of the commitment and bravery of the veterans and active duty service members; now, therefore, be it

RESOLVED by House of Delegates, That the Monument Terrace "Support Our Troops" rallies hereby be commended for honoring the service and sacrifices of members of the United States Armed Forces; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve Bozeman, organizer of the Monument Terrace "Support Our Troops" rallies, as an expression of the House of Delegates' admiration for the success and longevity of this patriotic display of gratitude to members of the United States Armed Forces.

HOUSE RESOLUTION NO. 236

Celebrating the life of Nell Simpson Malbon.

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Nell Simpson Malbon, who provided aid and comfort to the Virginia Beach community for many years as a member of the social services division of the City of Virginia Beach, died on December 19, 2020; and

WHEREAS, Nell Malbon worked tirelessly for the social services division of the City of Virginia Beach for more than 40 years, helping citizens meet their essential needs in the face of economic and social crises, while protecting children and vulnerable adults from abuse and neglect; and

WHEREAS, Nell Malbon was a skilled and experienced chef who was famous among friends and family for her classic southern recipes, such as chicken salad, chocolate pie, fried chicken, and butter beans; and

WHEREAS, a loving wife, mother, and nana, Nell Malbon enjoyed taking vacations with her daughter and her family whenever possible and was an integral part of their lives; and

WHEREAS, guided throughout her life by her deep and abiding faith, Nell Malbon was an active member at Oak Grove Baptist Church in Virginia Beach, where she took great comfort in worship and fellowship with her community; and

WHEREAS, preceded in death by her husband, Roger, Nell Malbon will be fondly remembered and dearly missed by her daughter, Lori, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Nell Simpson Malbon, an indefatigable civil servant of the City of Virginia Beach who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nell Simpson Malbon as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 238

Confirming a nomination by the Speaker of the House of Delegates to the House Ethics Advisory Panel.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the House confirm the following nomination made by the Speaker of the House of Delegates to the House Ethics Advisory Panel pursuant to § 30-112 of the Code of Virginia:

The Honorable Daun Hester of Norfolk, Virginia 23513, Member, to fill an unexpired term beginning December 1, 2020, and ending June 30, 2024, to succeed the Honorable Paula Miller.

HOUSE RESOLUTION NO. 240

Celebrating the life of Thomas Washington Robinson.

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Thomas Washington Robinson, a highly regarded broadcasting executive who was an active and beloved member of the Gloucester community, died on December 6, 2020; and

WHEREAS, Thomas "Tom" Washington Robinson began his career in broadcasting in 1965, working initially as an announcer, then in marketing, at stations in Suffolk, Norfolk, and Richmond and throughout North Carolina and West Virginia, before ultimately serving as general manager at a station in Hopewell; and

WHEREAS, in 1981, Tom Robinson purchased the former WDDY-AM station in Gloucester, changing its call letters to WXGM-AM in 1988 and adding WXGM-FM, XTRA 99.1 FM in 1991, greatly enhancing the radio offerings available to local residents; and

WHEREAS, as a former president of the Virginia Radio Network and a member of the Virginia Association of Broadcasters, Tom Robinson aided radio stations throughout the Commonwealth in their efforts to provide interesting and informative programming to listeners; and

WHEREAS, devoted to the well-being of Gloucester and its residents, Tom Robinson served with the Gloucester County Chamber of Commerce and was a member of the Gloucester County Planning Commission for 15 years, chairing the organization in 1996; and

WHEREAS, Tom Robinson brought great joy and merriment to his community through his involvement with the Gloucester Daffodil Festival Committee, serving as the parade's grand marshal in 2008 and ensuring year after year that this cherished annual event was a triumphant success; and

WHEREAS, Tom Robinson gave generously of his time to support and care for others, serving as a member of the Gloucester Rotary Club and participating in toy drives for more than two decades; and

WHEREAS, in recognition of his meritorious contributions to the Gloucester community, Tom Robinson was named Gloucester Business Person of the Year in 1999 by the Gloucester County Chamber of Commerce; and

WHEREAS, Tom Robinson will be fondly remembered and dearly missed by his loving wife, Marva; his son, William, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas Washington Robinson, an esteemed broadcasting executive who made a profound and lasting impression upon countless lives in Gloucester; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Washington Robinson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 241

Commending Anne M. Mitchell.

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Anne M. Mitchell, director of the King William County Department of Social Services and a longtime advocate on behalf of children, adults, and families of the Commonwealth, retired on January 1, 2021; and

WHEREAS, over a career spanning nearly a half-century, Anne Mitchell has had an immeasurable impact on countless lives while faithfully serving the Commonwealth and exemplifying the best qualities of a social services professional; and

WHEREAS, a graduate of Radford College, Anne Mitchell's distinguished career began with the City of Richmond Department of Social Services, where she worked from 1971 to 1979 as a family services worker and facilitated a Model Cities program in Church Hill; and

WHEREAS, in the 1980s, Anne Mitchell worked with the King and Queen County Department of Social Services in a foster care prevention program known as The Family Center and as a substitute teacher with King and Queen County Public Schools and King William County Public Schools; and

WHEREAS, in 1989, Anne Mitchell took a joint position as a child protective services worker for the Counties of King William and King and Queen and was promoted to social work supervisor for the Department of Social Services in both counties three years later; and

WHEREAS, shortly after her promotion, Anne Mitchell directed her efforts exclusively to the King William County Department of Social Services, serving as its social work supervisor from 1992 to 2010; and

WHEREAS, in her role as social work supervisor, Anne Mitchell oversaw participation in numerous pilot programs administered by the Virginia Department of Social Services; she supported families by developing and implementing parenting classes and fostered generations of future social workers by actively mentoring students from universities throughout the Commonwealth; and

WHEREAS, Anne Mitchell was appointed director of the King William County Department of Social Services on September 1, 2010; during her tenure, she improved the department's ability to efficiently and effectively serve its clientele through staff training, new technology, and innovative programming; and

WHEREAS, Anne Mitchell excelled at cultivating relationships with local, regional, and state officials; her staff; and the citizens she served; her efforts led to various community organizations and initiatives, including the Upper Middle Peninsula Prisoner Reentry Council, the King William Outreach Program, the King William Fatherhood Initiative, the King William Children First Lions Club, the King William Toys for Tots program, and the King William County Feeding Program; and

WHEREAS, Anne Mitchell frequently testified before subcommittees of the General Assembly, helping to advance legislation that would bolster the efforts of social services departments throughout the Commonwealth, including salary increases for social work professionals and funding to support continued education for foster children; and

WHEREAS, Anne Mitchell served on various professional organizations in support of her work, including the Virginia Alliance of Social Work Practitioners, which she served as president; the Virginia League of Social Services Executives; the Middle Peninsula Northern Neck Community Services Board; and the Quin Rivers Community Action Agency Board of Directors; and

WHEREAS, widely recognized for her social services expertise, Anne Mitchell served on both Governor Timothy M. Kaine's Commission on Sexual Violence and Delegate Keith Hodges' opioid addiction task force for Middle Peninsula Northern Neck; and

WHEREAS, Anne Mitchell has been recognized by various organizations and agencies, including the State Board of Social Services, for her tireless efforts on behalf of the families she serves and her outstanding contributions to the community; now, therefore, be it

RESOLVED by the House of Delegates, That Anne M. Mitchell, director of the King William County Department of Social Services, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Anne M. Mitchell as an expression of the House of Delegates' admiration for her service to the Commonwealth and its citizens.

HOUSE RESOLUTION NO. 242

Celebrating the life of Gabrielle Elizabeth Aldea.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Gabrielle Elizabeth Aldea, an accomplished community activist and health and social justice advocate who was an active and beloved member of the Hampton Roads community, died on December 28, 2020; and

WHEREAS, Gabrielle "Gabby" Elizabeth Aldea was drawn to activism at a young age, inspired by personal challenges to campaign tirelessly in support of others who had been disadvantaged or dispossessed; and

WHEREAS, Gabby Aldea attended or organized countless rallies, marches, fundraising events, city council meetings, and sessions of the General Assembly to bring greater attention to the causes that were important to her; and

WHEREAS, Gabby Aldea was indefatigable in her drive to create a healthier and more just world; over the years, she gave generously of her time and talents to various organizations, including Heroes for Healthcare, Indivisible757, the Center for Popular Democracy, the Virginia Social Action Task Force of Delta Sigma Theta Sorority, Inc., the Asian American Alliance, and Operation Smile; and

WHEREAS, with unwavering faith in the power of her voice, Gabby Aldea invested great energy and passion into several of the major political movements of her day, including Black Lives Matter, Lights for Liberty, Moms Demand Action for Gun Sense in America, and demonstrations in support of the Equal Rights Amendment; and

WHEREAS, a champion of democracy and the responsibilities it entails, Gabby Aldea worked unceasingly to register voters, volunteer at the polls, and campaign in support of policymakers on the local, state, and national level as a canvasser and field organizer; and

WHEREAS, several leaders that Gabby Aldea worked with have released statements honoring her life, including United States Senator Mark R. Warner and Virginia Beach City Councilwoman Sabrina Wooten; and

WHEREAS, beyond her political advocacy, Gabby Aldea was a gifted and prolific writer and a self-taught musician, always seeking new outlets for her brimming creativity and joy; and

WHEREAS, Gabby Aldea will be fondly remembered and dearly missed by her mother, Chrischa; her grandparents, Randy and Marion; her aunt, Olivia; her uncle, Garrett; her cousins, Bruin, Calliope, and Mina; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gabrielle Elizabeth Aldea, an inspirational community activist whose advocacy for civil rights, social justice, and health care left a profound and lasting impression on many lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gabrielle Elizabeth Aldea as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 243

Celebrating the life of George Henry Banks.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, George Henry Banks, an esteemed civic leader, honorable veteran, and beloved member of the Norfolk community, died on December 26, 2020; and

WHEREAS, George Banks graduated from Booker T. Washington High School in Norfolk and was educated at the former Norfolk State College, now Norfolk State University; and

WHEREAS, George Banks was a member of the United States Army, serving his country with courage and valor during the Korean War and for 19 years in the civil service; and

WHEREAS, George Banks, affectionately referred to by many as the "mayor of Berkley," a neighborhood in Norfolk, was a tireless advocate for his community and helped to secure its safety and prosperity throughout his life; and

WHEREAS, as president of the Beacon Light Civic League, George Banks worked with the United States Department of Housing and Urban Development to establish one of the first housing projects to be operated by residents themselves and for their benefit; and

WHEREAS, as manager of the Beacon Light Community Housing Development Organization, George Banks oversaw 128 homes and ensured many families a respectable and affordable place to live; and

WHEREAS, an active and engaged member of his community, George Banks gave generously of his time and talents to various local organizations, including Norfolk Recreation, Parks and Open Space, the Southside Boys and Girls Club, Norfolk Fire and Rescue Station #8 in Berkley, the Horace C. Downing Branch of the Norfolk Public Library, and the Norfolk Branch of the NAACP; and

WHEREAS, guided throughout his life by his deep and abiding faith, George Banks enjoyed worship and fellowship with his community at St. Mark United Church of Christ in Norfolk, where he was a lifetime member and longtime chair of the building fund; and

WHEREAS, preceded in death by his son Edwin, George Banks will be fondly remembered and dearly missed by his loving wife, Delores; his daughter, Cheryl, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of George Henry Banks, a treasured civic leader whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Henry Banks as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 244

Commending Henrico County Public Schools School Nutrition Services.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Henrico County Public Schools School Nutrition Services has successfully continued the essential distribution of meals to Henrico County Public Schools students despite the challenges presented by distance learning and the COVID-19 pandemic; and

WHEREAS, the provision of nutritious school meals has been shown to improve academic performance, increase equitability in learning outcomes, and shape lifelong healthy eating habits; and

WHEREAS, Henrico County Public Schools (HCPS) School Nutrition Services resolved to ensure that no student would face food insecurity at home after the school system transitioned to distance learning at the outset of the COVID-19 pandemic in response to the health risks posed by in-person instruction; and

WHEREAS, HCPS School Nutrition Services reworked its entire service model, creating 129 meal distribution sites at 69 schools and other locations and initiating delivery to 60 bus stop locations; and

WHEREAS, HCPS School Nutrition Services made breakfasts and lunches available to all students daily, with an average of 16,044 meals delivered each day for a total distribution of over 1.75 million meals through the first nine months; and

WHEREAS, at the convening of the 2021 Session of the General Assembly, HCPS School Nutrition Services had maintained meal distribution efforts for 218 days and counting; now, therefore, be it

RESOLVED by the House of Delegates, That Henrico County Public Schools School Nutrition Services hereby be commended for its dedicated and distinguished service to the students at Henrico County Public Schools during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dana Whitney, director of Henrico County Public Schools School Nutrition Services, as an expression of the House of Delegates' admiration for the department's commitment to excellence in nurturing students and providing a foundation for lifelong learning.

HOUSE RESOLUTION NO. 245

Celebrating the life of Robert Waid.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Robert Waid, former mayor of Fincastle and a beloved member of the Botetourt County community, died on July 26, 2020; and

WHEREAS, Robert "Bob" Waid was born in Fincastle and graduated from Fincastle High School and Greenbrier Military School; and

WHEREAS, Bob Waid served his country with courage and valor as a member of the United States Army during the Korean War; and

WHEREAS, after completing his military service, Bob Waid worked tirelessly for Appalachian Power for many years, retiring as a right-of-way agent; and

WHEREAS, an active and engaged member of his community, Bob Waid served as the mayor of Fincastle and was a member of Catawba Lodge #342 of the Ancient Free and Accepted Masons; and

WHEREAS, guided by his deep and abiding faith, Bob Waid enjoyed worship and fellowship with his community at Saint Mark's Episcopal Church in Fincastle throughout his life; and

WHEREAS, Bob Waid will be fondly remembered and dearly missed by his loving wife of 67 years, Meredith; his children, Bobbie, Sally, and Fulton, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Waid, former mayor of Fincastle, whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Waid as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 246

Commending journalists in Virginia.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, journalists at free and independent news outlets in the Commonwealth work diligently to uphold truth and professionalism in their reporting; and

WHEREAS, journalists play a valuable role in documenting local history and keeping residents informed of decisions and events that impact their everyday lives; and

WHEREAS, journalists covering local and state government promote transparency and work to hold elected representatives and officials accountable to their constituents; and

WHEREAS, journalists strengthen the nation's democratic institutions by encouraging civic engagement and building public awareness of the political process; and

WHEREAS, free and independent journalism is all the more important in the digital age, when disinformation campaigns fueled by increased political polarization can spread quickly across the Internet; now, therefore, be it

RESOLVED by the House of Delegates, That journalists in Virginia hereby be commended for their vitally important work to keep the residents of the Commonwealth engaged and informed; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of journalists at free and independent news outlets in the Commonwealth as an expression of the House of Delegates' admiration for the positive impact journalists have on the lives of Virginians and appreciation for their role in strengthening American democracy.

HOUSE RESOLUTION NO. 247

Nominating persons to be elected to circuit court judgeships.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

Brenda C. Spry, Esquire, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing February 16, 2021.

The Honorable Junius P. Fulton, III, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Kimberley S. White, of Halifax, as a judge of the Tenth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Patricia Kelly, of Caroline, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Michael E. Levy, of Stafford, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Lisa Bondareff Kemler, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing March 1, 2021.

The Honorable John M. Tran, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable G. Carter Greer, of Martinsville, as a judge of the Twenty-first Judicial Circuit for a term of eight years commencing March 1, 2021.

The Honorable James J. Reynolds, of Danville, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable David B. Carson, of Roanoke City, as a judge of the Twenty-third Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Bruce D. Albertson, of Rockingham, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Deanis L. Simmons, of Bristol, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Jack S. Hurley, Jr., of Tazewell, as a judge of the Twenty-ninth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Tammy S. McElyea, of Lee, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Carroll A. Weimer, Jr., of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2021.

HOUSE RESOLUTION NO. 248

Nominating persons to be elected to general district court judgeships.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Vivian F. Henderson, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing February 1, 2021.

The Honorable Tasha D. Scott, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Tyneka L. D. Flythe, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable M. Scott Stein, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable Tonya Henderson-Stith, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing May 1, 2021.

The Honorable Pamela Y. O'Berry, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing April 1, 2021.

The Honorable David M. Hicks, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Jacqueline S. McClenney, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing December 1, 2021.

The Honorable Mansi J. Shah, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing February 1, 2021.

The Honorable B. Craig Dunkum, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable John K. Honey, Jr., of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing November 1, 2021.

The Honorable Manuel A. Capsalis, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Michael J. Lindner, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable William J. Minor, Jr., of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Tina L. Snee, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Jacqueline F. Ward Talevi, of Roanoke, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2021.

The Honorable Stephanie S. Maddox, of Amherst, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Amy B. Tisinger, of Shenandoah, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Erin J. DeHart, of Bland, as a judge of the Twenty-seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable Gino W. Williams, of Floyd, as a judge of the Twenty-seventh Judicial District for a term of six years commencing April 1, 2021.

The Honorable Robert P. Coleman, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2021.

HOUSE RESOLUTION NO. 249

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Lyn M. Simmons, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing September 17, 2021.

The Honorable Jacqueline R. Waymack, of Prince George, as a judge of the Sixth Judicial District for a term of six years commencing June 1, 2021.

The Honorable John E. Franklin, of Fredericksburg, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Frank G. Uvanni, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Thomas P. Sotelo, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2021.

The Honorable Timothy W. Allen, of Franklin County, as a judge of the Twenty-second Judicial District for a term of six years commencing July 1, 2021.

The Honorable Hilary D. Griffith, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing July 1, 2021.

The Honorable Melissa W. Friedman, of Roanoke City, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2021.

The Honorable Jeffrey P. Bennett, of Amherst, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Hugh David O'Donnell, of Rockingham, as a judge of the Twenty-sixth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Robert C. Viar, Jr., of Montgomery, as a judge of the Twenty-seventh Judicial District for a term of six years commencing May 1, 2021.

The Honorable Joseph B. Lyle, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Michael J. Bush, of Russell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Martha P. Ketron, of Russell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing February 1, 2021.

HOUSE RESOLUTION NO. 250

Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

~~The Honorable James E. Plowman, of Loudoun, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.~~

Terrie N. Thompson, of Chesapeake, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.

HOUSE RESOLUTION NO. 251

Nominating persons to be elected as members of the State Corporation Commission.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the State Corporation Commission as follows:

The Honorable Angela L. Navarro, of the City of Charlottesville, to succeed Mark C. Christie as a member of the State Corporation Commission for an unexpired term commencing February 1, 2021, and ending January 31, 2022.

The Honorable Jehmal T. Hudson, of the City of Richmond, as a member of the State Corporation Commission for an unexpired term commencing February 1, 2021, and ending January 31, 2026.

HOUSE RESOLUTION NO. 252

Nominating a person to be elected as the Auditor of Public Accounts.

Agreed to by the House of Delegates, January 26, 2021

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as the Auditor of Public Accounts as follows:

Staci A. Henshaw, of Dinwiddie, as the Auditor of Public Accounts for a term of four years commencing February 1, 2021.

HOUSE RESOLUTION NO. 253

Commending Jaden Wang.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Jaden Wang, a hardworking member of Boy Scouts of America Troop 160 in Chantilly, achieved the prestigious rank of Eagle Scout on September 5, 2020; and

WHEREAS, Jaden Wang began his Scouting journey with Cub Scout Pack 1540 in 2011, receiving the Arrow of Light Award before advancing to the Boy Scouts; and

WHEREAS, Jaden Wang earned 24 merit badges, including badges in law and nuclear science, on his path to attaining the rank of Eagle Scout; and

WHEREAS, in for his Eagle Scout project, Jaden Wang worked with the Reston Association to mitigate stream erosion in the Arbor Glen community, installing 10 tons of gabion stones and assisting efforts to remove invasive species; and

WHEREAS, Jaden Wang held numerous leadership positions during his Scouting career, serving as patrol leader, troop historian, and troop instructor; he was elected to the national Order of the Arrow honor society, rising to the level of brotherhood member; and

WHEREAS, Jaden Wang has demonstrated great promise through his performances in debate tournaments and Science Olympiad events; and

WHEREAS, in addition to his service with the Boy Scouts, Jaden Wang has given generously of his time by volunteering at local community centers and with his church's youth worship team; now, therefore, be it

RESOLVED by the House of Delegates, That Jaden Wang hereby be commended on reaching the rank of Eagle Scout with the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jaden Wang as an expression of the House of Delegates' admiration for his accomplishments.

HOUSE RESOLUTION NO. 254

Commending Ryan Tully.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Ryan Tully, a hardworking member of Boy Scouts of America Troop 160 in Chantilly, achieved the prestigious rank of Eagle Scout on March 11, 2020; and

WHEREAS, Ryan Tully began his Scouting journey with Cub Scout Pack 1540 in 2010 and was a member of the first group in the pack to earn the Dr. Charles H. Townes Supernova Award for science, technology, engineering, and mathematics activities; and

WHEREAS, Ryan Tully earned 25 merit badges on his path to attaining the rank of Eagle Scout and received a bronze Palm Award in 2020 for continuing to acquire merit badges after achieving the Boy Scouts' highest rank; and

WHEREAS, Ryan Tully has the notable distinction of being the 200th member of Troop 160 to become an Eagle Scout; for his service project, he built a 61-foot long boardwalk over a muddy trail in Bull Run Regional Park in Centreville; and

WHEREAS, Ryan Tully was elected to the national Order of the Arrow honor society, rising to the level of brotherhood member and serving both as Troop 160's representative in 2017 and as vice chief of ceremonies from 2018 to 2020; he was a patrol leader; and

WHEREAS, an avid waterman, Ryan Tully earned the mile swim patch and a boater safety certificate in 2017 and a scuba diving certificate in 2018; the following year, he achieved the Triple Crown of National High Adventure Award after he had attended the Boy Scouts of America's three high adventure camps in Florida, Minnesota, and New Mexico; and

WHEREAS, Ryan Tully has demonstrated academic excellence, qualifying for the Oakton High School honor roll from 2018 to 2020, and athletic prowess, participating in various sport leagues with the Chantilly Youth Association from a young age; and

WHEREAS, in addition to his service with the Boy Scouts, Ryan Tully has given generously of his time by volunteering with the Capital Area Food Bank, packing and distributing meals to those in need throughout the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Ryan Tully hereby be commended on reaching the rank of Eagle Scout with the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ryan Tully as an expression of the House of Delegates' admiration for his accomplishments.

HOUSE RESOLUTION NO. 255

Commending Shane Rossini.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Shane Rossini, a hardworking member of Boy Scouts of America Troop 160 in Chantilly, achieved the prestigious rank of Eagle Scout on November 22, 2020; and

WHEREAS, Shane Rossini began his Scouting journey with Cub Scout Pack 1540 in 2010, receiving the Arrow of Light Award before advancing to the Boy Scouts; and

WHEREAS, Shane Rossini was a member of the first group in Cub Scout Pack 1540 to earn the Dr. Charles H. Townes Supernova Award for science, technology, engineering, and mathematics activities; and

WHEREAS, Shane Rossini completed the merit badges required for attaining the rank of Eagle Scout; for his service project, he designed and built two helmet and bat racks for the dugouts at the baseball field at Oakton High School in Vienna; and

WHEREAS, an avid outdoorsman, Shane Rossini earned the mile swim patch, boater safety certificate, and hunting safety certificate in 2017 and a scuba diving certificate in 2018; the following year, he achieved the Triple Crown of National High Adventure Award after he had attended the Boy Scouts of America's three high adventure camps in Florida, Minnesota, and New Mexico; and

WHEREAS, Shane Rossini has demonstrated academic excellence, qualifying for the Oakton High School honor roll in 2020, and athletic prowess, receiving the 2019 Offensive Player of the Year Award as a member of the Oakton High School junior varsity football team and a varsity football letter the same year; now, therefore, be it

RESOLVED by the House of Delegates, That Shane Rossini hereby be commended on reaching the rank of Eagle Scout with the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shane Rossini as an expression of the House of Delegates' admiration for his accomplishments.

HOUSE RESOLUTION NO. 256

Commending Denise N. Tynes.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Denise N. Tynes, a hardworking public servant and community leader, has made numerous contributions to the residents of Isle of Wight County and the Town of Smithfield; and

WHEREAS, a graduate of Smithfield High School, Denise Tynes holds degrees from Norfolk State University and Hampton University and formerly worked as a special education teacher with Isle of Wight County Schools; and

WHEREAS, as a member of the Isle of Wight County School Board, Denise Tynes helps ensure that young people in the community can achieve a good education; she previously served on the board from 2011 to 2014 and was reelected to the board in 2019; and

WHEREAS, Denise Tynes served as a member of the Smithfield Town Council for 12 years, offering her expertise to several boards and committees, including the Western Tidewater Community Service Board and Virginia Municipal League Legislative Committee; and

WHEREAS, a compassionate advocate for the less fortunate, Denise Tynes volunteers her time and leadership to support charitable organizations and empower vulnerable members of the community; now, therefore, be it

RESOLVED by the House of Delegates, That Denise N. Tynes hereby be commended for her service as a member of the Isle of Wight County School Board and the Smithfield Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Denise N. Tynes as an expression of the House of Delegates' admiration for her achievements in service to the Isle of Wight County and Smithfield communities.

HOUSE RESOLUTION NO. 257

Celebrating the life of Annie Jane Boothe.

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Annie Jane Boothe, a beloved member of the Chuckatuck community in Southeast Virginia, died on September 28, 2020; and

WHEREAS, one of 17 children, Annie Boothe understood the importance of family and community from a young age, playing an instrumental role in organizing the Wilson-Davis family reunions over many years; and

WHEREAS, an ardent believer in the importance of self-sufficiency and hard work, Annie Boothe enjoyed a successful career that was an inspiration to all who knew her; and

WHEREAS, for several decades, Annie Boothe was a sterling member of the local seafood industry, working at many of the area's most revered establishments; and

WHEREAS, applying her time and talents as a beautician at another stage in her career, Annie Boothe was often sought out by customers for her incomparable abilities with a curling iron; and

WHEREAS, a highly regarded chef, Annie Boothe was known to lovingly prepare food for those in need of a good home-cooked meal without hesitation; and

WHEREAS, guided throughout her life by her deep and abiding faith, Annie Boothe was for more than 70 years a faithful member of Little Bethel Baptist Church in Chuckatuck, where she enjoyed worship and fellowship with her community and served in various leadership positions; and

WHEREAS, preceded in death by her loving husband of 52 years, Randolph, Annie Boothe will be dearly remembered and fondly missed by her children, Joan, Cheryl, Larry, Dale, and Terrance, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Annie Jane Boothe, a cherished member of the Chuckatuck community in Southeast Virginia, who touched countless lives through her goodness and devotion to all; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Annie Jane Boothe as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 258

Commending Daniel D. Edwards.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Daniel D. Edwards, an esteemed public servant who was the longest-serving member in the history of the Virginia Beach City Public School Board, retired on December 31, 2020; and

WHEREAS, prior to his public service, Daniel "Dan" D. Edwards earned a bachelor's degree in education from Northwestern University and a master's degree in business administration from The College of William & Mary; he served his country with courage and valor in the United States Navy; and

WHEREAS, Dan Edwards was elected to serve as the Kempsville District 2 representative on the Virginia Beach City Public School Board in 1998, a position he would continue to serve with distinction for the next 22 years; and

WHEREAS, named chair of the Virginia Beach City Public School Board in 1999, Dan Edwards would ultimately lead the board for 19 years and aid Virginia Beach City Public Schools through a significant period in the agency's history; and

WHEREAS, Dan Edwards's 22-year tenure on the Virginia Beach City Public School Board and 19-year tenure as its chair are both records for service to the City of Virginia Beach; and

WHEREAS, over more than two decades, Dan Edwards has served alongside more than 40 other members and led approximately 500 meetings of the Virginia Beach City Public School Board; and

WHEREAS, among his countless accomplishments on the Virginia Beach City Public School Board, Dan Edwards helped spearhead the establishment of several citywide academic programs while guiding the city's schools toward full accreditation under the Virginia Standards of Learning; and

WHEREAS, several local, state, and federal leaders expressed their gratitude for Dan Edwards's service upon his retirement, including Governor Ralph S. Northam, Mayor of Virginia Beach Bobby Dyer, and United States Representative Elaine Luria; and

WHEREAS, through his steadfast dedication to Virginia Beach City Public Schools, Dan Edwards has helped generations of students strive for success and achieve their dreams; now, therefore, be it

RESOLVED by the House of Delegates, That Daniel D. Edwards, longtime Kempsville District 2 representative on the Virginia Beach City Public School Board, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel D. Edwards as an expression of the House of Delegates' profound admiration for his extraordinary service on behalf of the City of Virginia Beach and the Commonwealth.

HOUSE RESOLUTION NO. 259

Commending the Ryan Bartel Foundation.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Ryan Bartel Foundation, a nonprofit organization in Waterford that strives to prevent youth suicide by empowering young people, families, and community organizations through education, hope, and lifesaving support, has been a vital mental health resource during the COVID-19 pandemic; and

WHEREAS, the Ryan Bartel Foundation was established by Suzie and Ben Bartel after their oldest son, Ryan, died by suicide at the age of 17, with a mission to ensure that other families did not experience a similar tragedy; and

WHEREAS, the Ryan Bartel Foundation facilitates connections between young people and trusted adults and encourages young people to seek help for themselves and others; the organization works to break the stigma surrounding mental health and suicide and create a culture of acceptance; and

WHEREAS, by using evidence-based programs to build resiliency for coping with life challenges and providing community-focused activities, the Ryan Bartel Foundation fosters a sense of purpose, belonging, and hope among participants; and

WHEREAS, the Ryan Bartel Foundation uses a wide range of programs to engage with young people, including We're All Human peer groups, the We're All Human Walk, and the We're All Human Color Run, all named for one of Ryan Bartel's favorite sayings; and

WHEREAS, to address the increase in anxiety, stress, and depression experienced by teenagers during the COVID-19 pandemic, the Ryan Bartel Foundation developed its FORTitude Teen Workshop series in partnership with adolescent psychologist Dr. Cam Caswell and mindfulness educator Ofosu Jones-Quartey; and

WHEREAS, the Ryan Bartel Foundation implemented its FORTitude Teen Workshops through online sessions themed "I am Enough," "I am Powerful," and "I am Valuable," encouraging young people to cultivate mindfulness and a positive sense of self and to practice healthy life skills and habits; and

WHEREAS, the Ryan Bartel Foundation's Acceptance of Others Awards recognize strength of character, acts of kindness, and service to others and has awarded thousands of dollars in scholarships to high school seniors who were nominated by their peers for their good deeds; and

WHEREAS, the Ryan Bartel Foundation has fulfilled its mission through the hard work of its professional staff members and volunteers, the leadership of its board of directors, and many generous donations from individuals, local organizations, and corporate partners; now, therefore, be it

RESOLVED by the House of Delegates, That the Ryan Bartel Foundation hereby be commended for providing vital support to young people and their families both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Ryan Bartel Foundation as an expression of the House of Delegates' admiration for its contributions to young people and families in the Loudoun County community.

HOUSE RESOLUTION NO. 260

Commending James D. Politis.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, James D. Politis, an esteemed businessman and former chairman and member of the Montgomery County Board of Supervisors, has supported the growth of the hemp industry in the Commonwealth for many years; and

WHEREAS, James "Jim" D. Politis is an accomplished businessman with expertise in wholesale distribution, sales, marketing, product branding, and private labeling and whose ventures have included farming, restaurants, and electronics; and

WHEREAS, during his 16-year tenure as the District D representative on the Montgomery County Board of Supervisors, Jim Politis worked tirelessly to bolster the region's small businesses and farmers; and

WHEREAS, an advocate for hemp production since 2006, Jim Politis advised state and federal officials in the lead up to the passage of legislation legalizing the industry in the nation and the Commonwealth in 2014 and 2015, respectively; and

WHEREAS, Jim Politis has facilitated research programs at Virginia Polytechnic Institute and State University (Virginia Tech), Virginia State University, and James Madison University, leading to a greater understanding of how hemp is grown and how it may be best utilized in consumer goods; and

WHEREAS, through his various advocacy efforts, including work with the Virginia Industrial Hemp Coalition, Jim Politis has advanced numerous legal, academic, scientific, and business initiatives in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That James D. Politis, a respected public servant and businessman hereby be commended for his effective advocacy on behalf of hemp producers in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James D. Politis as an expression of the House of Delegates' profound admiration for his service.

HOUSE RESOLUTION NO. 261

Celebrating the life of Stephen Rue Jordan.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Stephen Rue Jordan, an esteemed captain and beloved member of the tour boat industry communities in Portsmouth and Fort Lauderdale, Florida, died on January 16, 2021; and

WHEREAS, Stephen "Steve" Rue Jordan was the owner and operator of the *Carrie B* tour boat and Harbor Tours, Inc., providing innumerable guests and employees with experiences on the water that they will cherish for years to come; and

WHEREAS, Steve Jordan was an active member of the Lauderdale Yacht Club and an endearing fixture in the tour boat industry communities in Portsmouth and Fort Lauderdale, Florida, throughout his career; and

WHEREAS, with his compassionate nature and amiable personality, Steve Jordan had a gift for connecting with people and was welcome company wherever he went; and

WHEREAS, Steve Jordan will be fondly remembered and dearly missed by his son, Trafton, and his family; his brother, David; former wife and close friend, Laura; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Stephen Rue Jordan, a treasured captain in the tour boat communities of Portsmouth and Fort Lauderdale, Florida, whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stephen Rue Jordan as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 262

Commending CrossOver Healthcare Ministry.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, CrossOver Healthcare Ministry has successfully continued providing the highest quality of medical care to its patients despite the strain on health care systems, disruption to clinical protocols, and increased number of individuals needing care during the ongoing COVID-19 pandemic; and

WHEREAS, for 37 years, CrossOver has provided reliable health care services to low-income, uninsured, and medically underserved individuals who otherwise may not have received necessary medical care; and

WHEREAS, 5,859 unique patients were served in nearly 25,000 patient visits during fiscal year 2020, including for primary care, eye and dental care, obstetrics, HIV testing, and COVID-19 rapid testing; and

WHEREAS, the patients served by CrossOver are among those most vulnerable to the coronavirus, over half of whom have chronic health conditions and many already lived with food and housing insecurity before the pandemic; and

WHEREAS, due to the adaptability and perseverance of staff and volunteers who remained committed to their mission of providing healthcare to those in greatest need, CrossOver has continued to provide uninterrupted service without closing its doors for even a single day during the COVID-19 pandemic; and

WHEREAS, CrossOver has provided more than 2,000 COVID-19 tests to patients and other low-income community members through their operation of a community testing site; and

WHEREAS, during the earliest days of the pandemic, staff and volunteers proactively and compassionately called more than 1,300 of their patients at particular risk to provide education, answer questions, and catch early cases, likely preventing many infections; and

WHEREAS, CrossOver created, distributed, and made widely available to their patients and the wider community COVID-19 educational videos in four languages: English, Spanish, Arabic, and Portuguese; now, therefore, be it

RESOLVED by the House of Delegates, That CrossOver Healthcare Ministry, a distinguished health care provider in Henrico County and the City of Richmond, hereby be commended for its dedicated service to underserved residents during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Julie Bilodeau, chief executive officer of CrossOver Healthcare Ministry, and Dr. Georganne Deblois, chair of the CrossOver Board, as an expression of the House of Delegates' admiration for the clinic's commitment to excellence, compassion, and providing high-quality health care.

HOUSE RESOLUTION NO. 263

Commending Dennis Linaburg.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Dennis Linaburg, chief of the Frederick County Fire and Rescue Department, who has long served his community with honor and distinction, retired in 2020; and

WHEREAS, Dennis Linaburg began volunteering with the Frederick County Fire and Rescue Department in 1990, the year after the department formed, and was one of the first six salaried firefighters to be hired by the agency; and

WHEREAS, formerly serving as fire marshal and battalion chief, Dennis Linaburg has served as chief of the Frederick County Fire and Rescue Department since 2011; and

WHEREAS, through his tireless dedication and enthusiasm for the mission of the Frederick County Fire and Rescue Department, Dennis Linaburg helped strengthen recruitment and member retention in recent years despite the economic downturn that followed the Great Recession of 2008; and

WHEREAS, during his tenure as chief, Dennis Linaburg oversaw the development of the Frederick County Fire and Rescue Department, incorporating advanced scheduling techniques, implementing cutting-edge equipment and technology, and improving relationships among career and volunteer staff; and

WHEREAS, after his retirement as chief, Dennis Linaburg plans to continue serving the Frederick County Fire and Rescue Department as a member of the Greenwood Fire and Rescue Company; now, therefore, be it

RESOLVED by the House of Delegates, That Dennis Linaburg, chief of the Frederick County Fire and Rescue Department, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dennis Linaburg as an expression of the House of Delegates' admiration for his contributions to the community.

HOUSE RESOLUTION NO. 264

Commending the Clarke County High School scholastic bowl team.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, in 2020, Clarke County High School scholastic bowl team won its first Virginia High School League state title in school history; and

WHEREAS, the Clarke County High School scholastic bowl team finished the regular season with a perfect 6-0 record and advanced as the top seed in the district competition, where the team added three more wins and claimed the district crown; and

WHEREAS, the Clarke County High School scholastic bowl team suffered its only loss of the season in the regional competition but advanced to the state tournament on the basis of its high overall point total; and

WHEREAS, at the state tournament in Williamsburg, the Clarke County High School scholastic bowl team soundly defeated three opponents to become state champions; and

WHEREAS, Mark Viti, captain of the Clarke County High School scholastic bowl team, received more individual points than any player in Class 1 through Class 6 and received all-state honors for his exceptional performance; and

WHEREAS, the Clarke County High School scholastic bowl team's victorious campaign was a testament to the skill and talents of all the competitors, the leadership of coaches and advisors, and the support of the entire Clarke County High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Clarke County High School scholastic bowl team hereby be commended for its historic victory in the Virginia High School League state championship in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Clarke County High School scholastic bowl team as an expression of the House of Delegates' admiration for their hard work and dedication.

HOUSE RESOLUTION NO. 265

Commending the Virginia Museum of Fine Arts.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, since opening in 1936, the Virginia Museum of Fine Arts has been a state-supported educational institution that fulfills its mandate to enrich the lives of all Virginians by collecting, preserving, interpreting, and encouraging the study of art; and

WHEREAS, the Virginia Museum of Fine Arts (VMFA) traces its roots to 1919 when the Honorable John Barton Payne, a prominent judge, donated a collection of 50 paintings to establish a museum; the VMFA's collection has grown to more than 50,000 works of art from around the globe, representing more than 6,000 years of creativity; and

WHEREAS, the VMFA hosts a wide range of blockbuster exhibitions from prestigious international institutions and organizes original exhibitions that feature art from its own collection and scholarship by museum curators that travel around the world; and

WHEREAS, the VMFA's educational programs include lectures, workshops, classes, programs, symposia, conferences, and events, many of which are provided at no cost to Virginians of all ages; and

WHEREAS, the VMFA further enriches the learning process by offering valuable resources to schools and educators throughout the Commonwealth; and

WHEREAS, the VMFA provides more than 1,400 other institutions with exhibitions, educational resources, and technical support through its Statewide Partnership Program and through VMFA on the Road: An Artmobile for the 21st Century, which travels to every corner of the Commonwealth; and

WHEREAS, the VMFA has dedicated itself to inclusivity by expanding its collection and programming to include a diverse range of art and artists from many cultures; and

WHEREAS, after a transformative expansion in 2010, the VMFA has become a dynamic urban center for the Richmond community and is one of the only museums in the country that is accessible to the public 365 days a year; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Museum of Fine Arts hereby be commended on the occasion of its 85th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Museum of Fine Arts as an expression of the House of Delegates' admiration for the institution's role as the premier art museum of the Commonwealth.

HOUSE RESOLUTION NO. 266

Celebrating the life of Edgar Kyle Baker.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Edgar Kyle Baker, an esteemed draftsman and businessman and beloved member of the Botetourt County community, died on January 15, 2021; and

WHEREAS, born in Christiansburg and living most of his life in Botetourt County, Edgar Baker graduated from the former Danville Technical Institute, now Danville Community College; and

WHEREAS, in the early part of his career, Edgar Baker was an accomplished draftsman at Newport News Shipbuilding and at Hercules, Inc., in Covington; and

WHEREAS, after returning to Botetourt County, Edgar Baker established and operated multiple successful small businesses that contributed valued services to the community over several decades; and

WHEREAS, Edgar Baker gave amply of his time and talents as a volunteer with the local chapter of Big Brothers Big Sisters of America and as a member of corporate boards for the Bank of Botetourt, Friendship Manor, and Rockydale Quarries; and

WHEREAS, in recent years, Edgar Baker took great satisfaction in watching sunsets with family and loved ones at his home on Smith Mountain Lake; and

WHEREAS, guided throughout his life by his deep and abiding faith, Edgar Baker enjoyed worship and fellowship with his community at Daleville Church of the Brethren for many years; and

WHEREAS, preceded in death by his loving wife, Joann, Edgar Baker will be fondly remembered and dearly missed by his devoted sons, Edward, Todd, and Jeff, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edgar Kyle Baker, a cherished member of the Botetourt County community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edgar Kyle Baker as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 267

Celebrating the life of Lonnie Perrin, Sr.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Lonnie Perrin, Sr., an accomplished all-around athlete and former member of the National Football League who served young people in Washington, D.C., for many years, died on January 7, 2021; and

WHEREAS, a native of Norfolk, Lonnie Perrin moved to Washington, D.C., with his family at the age of nine, where he graduated from McKinley Technical High School; he would subsequently accept a full athletic scholarship to the University of Illinois; and

WHEREAS, Lonnie Perrin's athletic achievements earned him numerous honors, including Player of the Year awards from both *The Washington Post* and *Evening Star* in 1970; and

WHEREAS, during his time at the University of Illinois, Lonnie Perrin persuaded the school to donate 100 tickets per game to disadvantaged youth in the Champaign-Urbana community, earning the Man and Boy Award from the Illinois Alliance of Boys and Girls Clubs for his efforts; and

WHEREAS, Lonnie Perrin was drafted into the National Football League (NFL) by the Denver Broncos in 1976, helping the team earn a bid to Super Bowl XII in 1978; he would later play for the Chicago Bears and the former Washington Redskins, now the Washington Football Team; and

WHEREAS, to honor his feats both on the field and in the community, the mayor of Washington, D.C., Walter Washington, proclaimed July 11, 1978, as "Lonnie Perrin Day," presenting him with the keys to the city; and

WHEREAS, after retiring from the NFL in 1982, Lonnie Perrin continued to serve disadvantaged kids as director of recreation and tenant services at Kenilworth-Parkside, and later with local organizations and agencies such as the Children's Rights Council and the D.C. Department of Parks and Recreation; and

WHEREAS, Lonnie Perrin will be dearly remembered and greatly missed by his loving wife of 38 years, Karen; his children, Dawn, LaShawn, Lonni, Lonnie II, Marcus, and India, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Lonnie Perrin, Sr., a respected athlete and a beloved father and grandfather who made many contributions to the Washington, D.C., community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lonnie Perrin, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 268

Celebrating the life of Edwin Francis Little.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Edwin Francis Little, a lifelong resident of Smithfield and a business owner there who was well known for his kindness and generosity, died on December 10, 2020; and

WHEREAS, born in Newport News, Edwin Little grew up in Isle of Wight County, where he graduated from Smithfield High School; and

WHEREAS, Edwin Little attended embalming school in Cincinnati, Ohio, before deciding to serve the Smithfield community as the owner of Little's Flower Shoppe; and

WHEREAS, over the course of his 30-year career, Edwin Little brightened the days of countless community members by creating beautiful floral arrangements for every occasion; his attention to detail and pride in his work were evident in all his pieces, particularly in the arrangements for his annual Christmas open house; and

WHEREAS, Edwin Little worked as a caterer and was well known for his delicious chicken salad and unique personal touches on all his dishes; and

WHEREAS, Edwin Little helped preserve the history and heritage of the region and the Commonwealth on the Board of the 1750 Isle of Wight Courthouse for many years; and

WHEREAS, Edwin Little enjoyed fellowship and worship with the community as a member of Smithfield Baptist Church, where he served as a deacon and a founding member of the Praise Six group, as well as a member of the church choir; and

WHEREAS, Edwin Little's greatest joy in his life was his beloved family, and he will be fondly remembered and greatly missed by his sister, Patricia Little Batten, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edwin Francis Little, a highly admired entrepreneur and servant of the community in Smithfield; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edwin Francis Little as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 269

Commending the Loudoun County Office of Elections and Voter Registration.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Loudoun County Office of Elections and Voter Registration ably responded to the challenges of the COVID-19 pandemic by ensuring smooth and efficient processes for early in-person voting and absentee voting during the 2020 United States presidential election; and

WHEREAS, led by Judy Brown, general registrar, the staff of the Loudoun County Office of Elections and Voter Registration worked diligently to address safety concerns, prepare for record voter turnout, and conduct a free and fair election; and

WHEREAS, in an effort to reduce crowds and wait times on election day, the Loudoun County Office of Elections and Voter Registration and other registrars' offices throughout the Commonwealth offered early in-person voting; and

WHEREAS, the Loudoun County Office of Elections and Voter Registration sent out absentee ballots earlier in the fall and implemented preprocessing to efficiently handle the record-breaking number of ballots; and

WHEREAS, the Loudoun County Office of Elections and Voter Registration effectively prepared to serve significant numbers of voters at polling places throughout the county on election day; and

WHEREAS, at all in-person voting sites, including local precincts and early voting stations at the Loudoun County Office of Elections and Voter Registration, personnel demonstrated a commitment to the safety of poll workers and voters by checking for masks, placing physical distance markers, and sanitizing voting booths between uses; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Office of Elections and Voter Registration hereby be commended for the outstanding performance of its duties during the 2020 United States presidential election; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Office of Elections and Voter Registration as an expression of the House of Delegates' admiration for its achievements in service to the residents of Loudoun County.

HOUSE RESOLUTION NO. 270

Commending the Clarke County Office of Elections.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Clarke County Office of Elections ably responded to the challenges of the COVID-19 pandemic by ensuring smooth and efficient processes for early in-person voting and absentee voting during the 2020 United States presidential election; and

WHEREAS, led by Barbara Bosserman, director of elections and general registrar, the staff of the Clarke County Office of Elections worked diligently to address safety concerns, prepare for record voter turnout, and conduct a free and fair election; and

WHEREAS, in an effort to reduce crowds and wait times on election day, the Clarke County Office of Elections and other registrars' offices throughout the Commonwealth offered early in-person voting; and

WHEREAS, the Clarke County Office of Elections sent out absentee ballots earlier in the fall and implemented preprocessing to efficiently handle the record-breaking number of ballots; and

WHEREAS, the Clarke County Office of Elections effectively prepared to serve significant numbers of voters at polling places throughout the county on election day; and

WHEREAS, at all in-person voting sites, including local precincts and early voting stations at the Clarke County Office of Elections, personnel demonstrated a commitment to the safety of poll workers and voters by checking for masks, placing physical distance markers, and sanitizing voting booths between uses; now, therefore, be it

RESOLVED by the House of Delegates, That the Clarke County Office of Elections hereby be commended for the outstanding performance of its duties during the 2020 United States presidential election; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Clarke County Office of Elections as an expression of the House of Delegates' admiration for its achievements in service to the residents of Clarke County.

HOUSE RESOLUTION NO. 271

Commending the Frederick County Office of Elections and Voter Registration.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Frederick County Office of Elections and Voter Registration ably responded to the challenges of the COVID-19 pandemic by ensuring smooth and efficient processes for early in-person voting and absentee voting during the 2020 United States presidential election; and

WHEREAS, led by Rich Venskoske, director of elections and general registrar, the staff of the Frederick County Office of Elections and Voter Registration worked diligently to address safety concerns, prepare for record voter turnout, and conduct a free and fair election; and

WHEREAS, in an effort to reduce crowds and wait times on election day, the Frederick County Office of Elections and Voter Registration and other registrars' offices throughout the Commonwealth offered early in-person voting; and

WHEREAS, the Frederick County Office of Elections and Voter Registration sent out absentee ballots earlier in the fall and implemented preprocessing to efficiently handle the record-breaking number of ballots; and

WHEREAS, the Frederick County Office of Elections and Voter Registration effectively prepared to serve significant numbers of voters at polling places throughout the county on election day; and

WHEREAS, at all in-person voting sites, including local precincts and early voting stations at the Frederick County Office of Elections and Voter Registration, personnel demonstrated a commitment to the safety of poll workers and voters by checking for masks, placing physical distance markers, and sanitizing voting booths between uses; now, therefore, be it

RESOLVED by the House of Delegates, That the Frederick County Office of Elections and Voter Registration hereby be commended for the outstanding performance of its duties during the 2020 United States presidential election; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Frederick County Office of Elections and Voter Registration as an expression of the House of Delegates' admiration for its achievements in service to the residents of Frederick County.

HOUSE RESOLUTION NO. 272

Celebrating the life of Walter Daniel Goad.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Walter Daniel Goad, a business owner and philanthropist in Lexington, died on January 4, 2021; and

WHEREAS, a native of Rockbridge County, Walter Daniel "W. D." Goad was the son of the late Charlie and Lutie Goad and had a passion for automobiles and racing throughout his life; and

WHEREAS, in 1987, W. D. Goad established Goad's Body Shop in Lexington, where he served the community for many years, earning a reputation for being able to fix any issue on any sized car or truck; and

WHEREAS, over the course of 13 years, W. D. Goad raised hundreds of thousands of dollars to support Rockbridge Area Hospice through the Goad's Classic Cruise In event; and

WHEREAS, a model of humility and commitment to servant leadership, W. D. Goad quietly raised funds for local schools and other important community initiatives, and his legacy lives on through the lives he touched; and

WHEREAS, W. D. Goad will be fondly remembered and greatly missed by his wife of 21 years, Brenda; and his children, J. D. and Amanda, and their families; his stepchildren, Ray and Mandie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Walter Daniel Goad, a respected entrepreneur who made many generous contributions to the Lexington community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Walter Daniel Goad as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 273

Celebrating the life of John Gilbert Stallings, Jr.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John Gilbert Stallings, Jr., a career banking and community leader, died on November 2, 2020, after fighting a rare cancer diagnosis with grace, strength, and perseverance; and

WHEREAS, born in Durham, North Carolina, and raised in Fairfield, Connecticut, John Stallings graduated from Episcopal High School in Alexandria, where he excelled in athletics and as yearbook editor; and

WHEREAS, John Stallings graduated from Vanderbilt University in 1984 with bachelor's degrees in English and business and later earned a master's degree in business administration in 1993 from Washington University; and

WHEREAS, John Stallings had an outstanding banking career in Tennessee with National Commerce Financial, in North Carolina with National Commerce Financial and SunTrust Bank, and in the Commonwealth with SunTrust Bank and Atlantic Union Bank; and

WHEREAS, John Stallings was a prominent community leader throughout his career, serving on and leading numerous nonprofit boards and raising significant funds for worthy causes; and

WHEREAS, John Stallings chaired the Virginia Bankers Association and the Greater Richmond YMCA Annual Fund and served on the boards of Venture Richmond, the Virginia Foundation for Independent Colleges, Collegiate School in Richmond, the Virginia Chamber of Commerce, and the Science Museum of Virginia; and

WHEREAS, dedicated to the health and well-being of young people, John Stallings co-founded a youth lacrosse league in Raleigh, North Carolina, whose players went on to play in high schools throughout North Carolina and Virginia; and

WHEREAS, John Stallings was presented in 2018 with the Humanitarian Award by the Virginia Center for Inclusive Communities, recognizing his commitment "to promote respect and understanding among people of diverse racial, ethnic and religious backgrounds"; and

WHEREAS, John Stallings was honored in 2020 with a Living Legend Award from *Virginia Business Magazine*, a fitting tribute to a person who was such an impactful community leader throughout his life; and

WHEREAS, guided by his deep and abiding faith, John Stallings and his wife, Celeste, were founding members of Holy Trinity Church in Raleigh, North Carolina, and more recently enjoyed worship and fellowship with their community at St. Mary's Episcopal Church in Goochland; and

WHEREAS, John Stallings will be fondly remembered and dearly missed by his loving wife of nearly 30 years, Celeste; his children, Will and Emily; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Gilbert Stallings, Jr., a respected banking and community leader who touched countless lives through his kindness and generosity; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Gilbert Stallings, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 274

Celebrating the life of Samuel Stephen Banner.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Samuel Stephen Banner, a highly admired educator, school administrator, coach, and community leader in Russell County, died on January 1, 2021; and

WHEREAS, born in Radford, Samuel Stephen "Steve" Banner lived most of his life in Castlewood, where he graduated from Castlewood High School; he earned a bachelor's degree from Lincoln Memorial University and a master's degree from the University of Virginia; and

WHEREAS, Steve Banner served young people for 54 years as a teacher, administrator, and coach with Russell County Public Schools; while working as a teacher at his alma mater, he coached the Castlewood High School baseball team to a state championship victory in 1971; and

WHEREAS, Steve Banner subsequently served as principal of Clinch River Elementary School and Castlewood High School and director of alternative education and regional alternative education director for Russell County Public Schools; and

WHEREAS, Steve Banner offered his leadership and expertise to the Virginia Tobacco Indemnification and Community Revitalization Commission, the Russell County Industrial Development Authority, and the Cumberland Plateau Planning District Commission, among other organizations; and

WHEREAS, Steve Banner served as chair of the Russell County Democratic Party for 30 years and represented the community as a delegate at regional and state conventions; and

WHEREAS, Steve Banner will be fondly remembered and greatly missed by his wife, Rita Jo; his children, William and Robin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Samuel Stephen Banner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Samuel Stephen Banner as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 275

Commemorating the life and legacy of Moses Grandy.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Moses Grandy, an entrepreneur, author, and abolitionist, was born enslaved in Camden County, North Carolina, in 1786; and

WHEREAS, Moses Grandy cut timber and operated boats along the Dismal Swamp Canal, a historic landmark and a site on the Chesapeake African American Heritage Trail; and

WHEREAS, Moses Grandy became highly skilled at navigating boats along the canal and was allowed to keep a portion of his earnings for bringing white merchants' goods into Norfolk and Portsmouth; and

WHEREAS, Moses Grandy saved enough money to buy his own freedom but had his savings stolen twice by his masters; his third attempt was successful, and he relocated to Boston to avoid capture and further enslavement; and

WHEREAS, Moses Grandy went on to buy the freedom of his wife and other relatives, and one of his descendants estimated that he had spent approximately \$3,000 to free his family from bondage, the equivalent of tens of thousands of dollars today; and

WHEREAS, Moses Grandy published his autobiography, *Narrative of the Life of Moses Grandy; Late a Slave in the United States of America*, galvanizing other abolitionists through his courage, determination, and intellect and enlightening people of many backgrounds about the evils of slavery; and

WHEREAS, in 2006, a portion of Virginia State Route 165, running west from Dominion Boulevard in Chesapeake toward the Dismal Swamp Canal, was renamed as the Moses Grandy Trail in his honor; and

WHEREAS, generations of Moses Grandy's family have carried on his inspirational legacy, with many of them still residing in southeastern Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Moses Grandy hereby be commemorated on the occasion of the 235th anniversary of his birth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to family members of Moses Grandy as an expression of the House of Delegates' admiration for his contributions to the history and heritage of the Commonwealth.

HOUSE RESOLUTION NO. 276

Commending Phillip Twine.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Phillip Twine, a longtime educator and coach at Oscar Smith Middle School and Oscar Smith High School of Chesapeake, retired in 2020; and

WHEREAS, in 1965, Phillip Twine was among the first nine African American students to enroll at Oscar Smith High School, demonstrating from a young age the qualities of leadership and commitment that would make him a role model for so many in the years to come; and

WHEREAS, a star and co-captain of the Oscar Smith High School football team, Phillip Twine would go on to excel as a running back at Norfolk State University, where he studied to become an educator; and

WHEREAS, beginning his teaching career in Portsmouth, Phillip Twine would shortly thereafter return to his hometown of Chesapeake, where he dedicated 43 years as an educator and coach at Oscar Smith Middle School, touching countless lives along the way; and

WHEREAS, as an assistant high school football coach, Phillip Twine cultivated and inspired some of the region's top youth talent; among his many accomplishments were three state championship titles, two with Oscar Smith High School in 2008 and 2011 and one with Indian River High School in 1995; and

WHEREAS, in recognition of his tireless and uncompromising dedication to his students, the gymnasium at Oscar Smith Middle School was named after Phillip Twine in 2005, preserving his legacy at the school for years to come; and

WHEREAS, in retirement, Phillip Twine plans to assist his son, Andre Twine, who serves as the head football coach at Deep Creek High School of Chesapeake, ensuring future generations of young athletes will benefit from his exceptional wisdom and integrity; and

WHEREAS, through the unwavering support he showed his students, both in and out of the classroom, Phillip Twine has enabled innumerable young people to fulfill their potential and thrive; now, therefore, be it

RESOLVED by the House of Delegates, That Phillip Twine, beloved educator and coach at Oscar Smith Middle School and Oscar Smith High School, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Phillip Twine as an expression of the House of Delegates' admiration for his remarkable career and lasting contributions to the Commonwealth.

HOUSE RESOLUTION NO. 277

Commemorating the 40th anniversary of the Convention on the Elimination of All Forms of Discrimination Against Women.

Agreed to by the House of Delegates, February 3, 2021

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women, an international human rights treaty promoting gender equity, was adopted by the United Nations General Assembly in 1979 and formally instituted in 1981; and

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women (Convention) requires eliminating discrimination against women in all its forms, including in the areas of economic development, health, safety, and education; and

WHEREAS, a number of American cities and states have adopted legislation reflecting the principles underlying the Convention to better inform policy and to empower communities to make the policy changes necessary to lift more women out of poverty and violence; and

WHEREAS, it is the policy of the Commonwealth to eliminate and prevent discrimination in employment, family, leave, public accommodations, credit and financing practices and housing accommodations because of various statuses, including but not limited to race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, genetics, political affiliation, or status as a veteran; and

WHEREAS, the United States Census Bureau indicates a persistent wage gap between men and women and a perpetual difference not only between the wages women are paid compared with those of men, but the wages that women of different races are paid compared with those of their white counterparts; and

WHEREAS, the national median annual pay for a woman who holds a full-time, year-round job is \$47,299, while the median annual pay for a man who holds a full-time, year-round job is \$57,456; this means that, overall, women in the United States are paid 82 cents for every dollar paid to men, amounting to an annual gender wage gap of \$10,157; and

WHEREAS, the wage gap is widest for many women of color; among women who hold full-time, year-round jobs in the United States, African American women are typically paid 63 cents, Native American women are paid 60 cents, and Latinas are paid just 55 cents for every dollar paid to white, non-Hispanic men; and

WHEREAS, white, non-Hispanic women are paid 79 cents and Asian American women 87 cents for every dollar paid to white, non-Hispanic men, and Asian American and Pacific Islander women of some ethnic and national backgrounds fare much worse; and

WHEREAS, women hold 58 percent of all student loan debt and have an average debt that is 9.6 percent higher than their male peers one year after graduation, and, on average, women take an additional two years to pay off student loans; and

WHEREAS, African American women finish their undergraduate education with more debt than all other graduates; and

WHEREAS, women are statistically more educated than men and seek out more graduate-level degrees to be competitive with their male counterparts, yet wages do not increase for women at the same rate; and

WHEREAS, the gender wage gap is widest in the highest-paying fields, with men earning 17 percent to 43 percent more than women, depending on the occupation; this inequality directly contributes to women having less disposable income to pay back loans in the same time frame as male counterparts; and

WHEREAS, the gender wage gap is a measure of just how far the nation and the Commonwealth still must go to ensure that women can participate fully and equally in the economy; and

WHEREAS, these numbers are more than facts and figures; they represent the tangible consequences of sexism and white supremacy in the United States and how the country systematically devalues women, particularly women of color, and their labor; and

WHEREAS, this persistent, pervasive wage gap is driven in part by gender and racial discrimination, workplace harassment, job segregation, and a lack of workplace policies that support family caregiving, which is still most often performed by women; and

WHEREAS, on average, women employed full time in the United States lose a combined total of more than \$956 billion every year due to the wage gap; and

WHEREAS, these lost wages mean women and their families have less money to support themselves, save and invest for the future, and spend on goods and services; women, their families, businesses and the economy all suffer as a result; and

WHEREAS, if the gender wage gap were eliminated, on average, a working woman in the United States could have enough money for, approximately, more than 13 additional months of child care; one additional year of tuition and fees for a four-year public university, or the full cost of tuition and fees for a two-year college; nearly seven additional months of premiums for employer-based health insurance; nearly 65 weeks of food (more than one year's worth); more than six months of mortgage and utilities payments; more than nine additional months of rent; up to more than eight additional years of birth control; or enough money to pay off student loan debt in just under three years; and

WHEREAS, in the United States, mothers are breadwinners in nearly half of families with children under 18, and 34 million households in the United States are headed by women, more than six million of whom support children under 18; and

WHEREAS, 8.2 million United States households, including more than two million with children under 18, have incomes that fall below the poverty level; and

WHEREAS, the wage gap persists regardless of industry, occupation, and education level, and there are numerous causes that contribute to the wage gap, including discrimination and bias; and

WHEREAS, the Commonwealth ranks 25th among states in the wage gap between men and women by state, per dollar; and

WHEREAS, the health of women and girls in the Commonwealth needs to be more closely examined in the areas of maternal and infant mortality and birth rates, health insurance coverage, and the prevalence of health conditions such as heart disease; and

WHEREAS, the Commonwealth's Healthy People 2000 goals included reduction of maternal mortality rates to five per 100,000 live births, and goals for 2010 included a further reduction to 3.3 maternal deaths per 100,000 live births; neither goal was reached; and

WHEREAS, the most recent Healthy People Goal (2020) is 11.4 deaths per 100,000 live births; and

WHEREAS, in Virginia, the maternal mortality rate for African American women is more than twice that of white women; and

WHEREAS, on June 5, 2019, Governor Ralph Northam announced a goal to eliminate racial disparity in the Virginia maternal mortality rate by 2025 and signed legislation that codified the Maternal Mortality Review Team in the Commonwealth; and

WHEREAS, violence against women and pay inequity have much to do with women remaining at the nation's worst poverty levels, cementing inequities and holding women back; and

WHEREAS, the Commonwealth has allocated zero dollars in the state budget for prevention activities dedicated to sexual and domestic violence and human trafficking; and

WHEREAS, the safety of women and girls in the Commonwealth requires attention and review when it comes to the number of women and girls falling victim to sexual exploitation and human trafficking, the number of reported instances of rape and sexual assault, and the amount of money spent assisting domestic and sexual violence victims; and

WHEREAS, between three and five women are killed by an intimate partner every day, and 20 people are physically abused by an intimate partner every minute, totaling 10 million people annually, with women disproportionately affected; and

WHEREAS, 735,000 people are sexually assaulted annually, with women disproportionately affected; and

WHEREAS, 250,000 contacts have been made, disproportionately by women, to human trafficking hotlines since 2007; and

WHEREAS, the prevalence of violence against women rivals that of other diseases, epidemics, and pandemics in the United States and globally, yet not all physicians inquire this of female patients when capturing case history; and

WHEREAS, domestic and sexual violence impacts children, families, communities, and the economy, and data and tracking of domestic and sexual violence cases must improve; and

WHEREAS, more ameliorative action needs to be taken to achieve real, not piecemeal, nationwide change, because if women are not safe, cycles of violence will be perpetuated, and women will be unable to free themselves from poverty and become productive members of society; and

WHEREAS, violence against women costs the United States trillions in direct support and lost jobs and productivity; and

WHEREAS, violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men, preventing the full advancement of women; and

WHEREAS, violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men; and

WHEREAS, some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, and women in situations of armed conflict, are especially vulnerable to violence; and

WHEREAS, violence against women in homes and in society is pervasive and cuts across lines of income, class, and culture and must be matched by urgent and effective steps to eliminate its occurrence; and

WHEREAS, the COVID-19 pandemic has shed light on and exacerbated the many inequities that exist within the Commonwealth and the United States; it has been women, gender minorities, people of color, and other marginalized groups who have borne the brunt of the pandemic's worst impacts; and

WHEREAS, the education, health care, and social care workforce is composed predominantly of women, and the gendered impacts of the pandemic will require thorough examination and mitigation considering already existing inequities; and

WHEREAS, in December 2020, thousands of American job losses were those of women, and largely women in the service industry and women of color; and

WHEREAS, the ongoing dissolution of the child care industry has left many working mothers without options; and

WHEREAS, the pandemic is sidelining hundreds of thousands of women and wiping out the gains they made in the workplace over the past several years, with these devastating circumstances creating a "shecession"; and

WHEREAS, there is a real need and demand to address structural and systemic gender inequality in order to sustainably recover, build back better, challenge the status quo, and make institutional change work for those who have been left behind; and

WHEREAS, there is a dearth of women being honored and memorialized for their contributions to the Commonwealth and society writ large as evidenced by the less than eight percent of memorials named for women and no military bases named for women and only 58 women to 876 men have been awarded the Nobel Prize; and

WHEREAS, in 2020, the Commonwealth elected to remove its sculpture of Confederate General Robert E. Lee from the United States Capitol and replace it with a sculpture of Barbara Rose Johns Powell, a pioneering leader in the American Civil Rights Movement, who at the age of 16 led a student strike for equal education at R.R. Moton High School in Farmville, and which became the only student-initiated case consolidated in the 1954 United States Supreme Court case, *Brown v. Board of Education*; and

WHEREAS, there are now a total of 10 statues out of 100 dedicated to women in the National Statuary Hall Collection, and women artists have sculpted only 16 of the 100 statues in the National Statuary Hall Collection; and

WHEREAS, core education curricula in the United States fail to recognize the contributions women have made in America, as until recently, all stories have been told by men and most have been in favor of and about men, and thus the history books in circulation blatantly leave out numerous women and their contributions to society; and

WHEREAS, analysis by the National Women's History Museum on the standard K-12 curriculum in social studies for all states and territories estimates that only 178 women are mentioned in today's schoolbooks, compared to more than approximately 559 men; of the women named, more than 60 percent were white and 25 percent African American, with even less representation for Hispanic, Native American, and Asian American or Pacific Islander women; and

WHEREAS, studies show that in standard K-12 curricula, the occupations of women mentioned were related to domestic roles 53 percent of the time, while women's rights and suffrage activists fell below half of that number; and

WHEREAS, edits to current history curricula are needed to include women and a full and fair recitation of their participation in the Commonwealth's and the nation's history and should include a review of content, instructional practices, and resources currently used to teach American history in the Commonwealth to help ensure that every graduate enters adult life with a comprehensive understanding of the women's voices and labors that contributed to the heritage of the nation and the Commonwealth; and

WHEREAS, the Commonwealth became the 38th and final requisite state to ratify the Equal Rights Amendment on January 27, 2020 so that women can realize their full equality in the United States Constitution; and

WHEREAS, there is a need to promote diversity and inclusion in legislative proceedings, standing rules, and in all recorded laws, and the Commonwealth has not yet permanently stricken gender-specific language and replaced it with gender-neutral language in the General Assembly; and

WHEREAS, although women and girls have made gains in the struggle for equality in many fields in the Commonwealth and in the United States, much more needs to be accomplished to fully eradicate discrimination based on gender and to achieve full equality; and

WHEREAS, state and local governments have an appropriate and legitimate role in affirming the importance of eliminating all forms of discrimination against women and girls; and

WHEREAS, women and girls who live in the Commonwealth enjoy all the rights, privileges, and remedies that are bestowed on all people in the United States, no matter their race, national origin, gender, or religious belief, and discrimination against women and girls in the Commonwealth will not be tolerated; and

WHEREAS, a future statewide equity assessment could further address these issues through a gender analysis of all state departments, boards, authorities, and commissions, and future designation of a task force via separate resolution to support these actions; now, therefore, be it

RESOLVED by the House of Delegates, That the 40th anniversary of the passage of the Convention on the Elimination of All Forms of Discrimination Against Women hereby be commemorated; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation as an expression of the House of Delegates' admiration for the historical significance of the Convention and the ideals it represents.

HOUSE RESOLUTION NO. 278

Commending Greg Peters.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Greg Peters, an esteemed child advocate and community leader who has supported thousands of families across the Commonwealth as the longtime president and chief executive officer of United Methodist Family Services, will retire in 2021; and

WHEREAS, a graduate of Bridgewater College with a master's degree in social work from Virginia Commonwealth University, Greg Peters is a licensed clinical social worker who has stayed current with best practices throughout his career through continuing studies at the University of North Carolina, Harvard University, The College of William & Mary, and Leadership Metro Richmond; and

WHEREAS, beginning his career as a social worker, Greg Peters was instrumental to the expansion of United Methodist Family Services (UMFS), a Richmond-based nonprofit serving high-risk children and families, into other parts of the Commonwealth; as a result of his visionary leadership, the organization, today, manages 18 programs at nine locations statewide; and

WHEREAS, an early and insightful proponent of treatment foster care, in which foster parents are specially trained to assist children who have experienced trauma, Greg Peters has helped thousands of children find loving, supportive families over the course of his career; and

WHEREAS, named president and chief executive officer of UMFS in 2000, Greg Peters' outsized impact on the community has only grown over the years; as part of UMFS's steady expansion during his tenure, the organization has established Guardian Palace, an affordable housing facility for seniors in Richmond, and incorporated special education services at its Charterhouse School in both Richmond and Edinburg; and

WHEREAS, an expert in family systems, Greg Peters has been appointed to the State Executive Council of the Children's Service Act by five governors of the Commonwealth and was recently named to the Board of Medical Assistance Services by Governor Ralph S. Northam; and

WHEREAS, Greg Peters has enhanced the provision of family services throughout the Commonwealth as board chair of some of its leading child care and human services associations, including the Virginia Association of Licensed Child Placing Agencies, the Virginia Coalition of Private Provider Associations (VCOPPA), and the Virginia Nonprofit Leadership Council; and

WHEREAS, Greg Peters is past board chair of the United Methodist Association (UMA) and various state and national health and human services associations; in recognition of his extraordinary support for countless young people and families, he was past recipient of UMA's Administrator of the Year award and the first private provider to receive VCOPPA's Distinguished Service Award; and

WHEREAS, prior to his retirement, Greg Peters contributed greatly to the newly established master plan for UMFS, ensuring that the organization's ability to serve children and families will flourish exponentially for generations to come; now, therefore, be it

RESOLVED by the House of Delegates, That Greg Peters, president and chief executive officer of United Methodist Family Services, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Greg Peters as an expression of the House of Delegates' profound admiration for his inspirational career and best wishes for a long and fulfilling retirement.

HOUSE RESOLUTION NO. 279

Commending Betsy Brown.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Betsy Brown, an esteemed harness racing driver from Woodstock, won her 500th race as part of the Virginia Harness Horse Association's Matinee Meet at the Shenandoah County Fair on September 2, 2020; and

WHEREAS, Betsy Brown won the race with the horse Believe In Him in the \$2,000 Free For All Trot event, marking the second year in a row that she won with the horse at the Shenandoah County Fair; and

WHEREAS, after jumping out to an early lead, Betsy Brown and Believe In Him fell behind briefly but regained the top position before the halfway mark and held it until the end, finishing with a time of 2:02; and

WHEREAS, Betsy Brown started riding at the age of five and has been racing for more than four decades; she won her first race in 1979 and has enjoyed an illustrious career as both a driver and a trainer ever since; and

WHEREAS, as a driver, Betsy Brown has appeared in 3,869 races and her horses have earned \$1,153,596 in purse money, while as a trainer, her horses have made 5,646 starts and reached the winner's circle 826 times; and

WHEREAS, harness racing is a unique and time-honored tradition at the Shenandoah County Fair that has been a cherished part of the community event for more than a century; with a farm located near the fairgrounds, Betsy Brown has long been a local favorite at the races; and

WHEREAS, Betsy Brown demonstrated extraordinary talent and determination in reaching this remarkable racing milestone and is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Betsy Brown, an accomplished harness racing driver from Woodstock, hereby be commended for winning her 500th race; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Betsy Brown as an expression of the House of Delegates' profound admiration for her noteworthy accomplishments.

HOUSE RESOLUTION NO. 280

Commending CGI Technologies and Solutions, Inc.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, CGI Technologies and Solutions, Inc., opened its first United States onshore information technology services delivery center, commonly referred to as the Southwest Virginia Technology Center of Excellence, in the Town of Lebanon in January 2006, and the center celebrated its 15th anniversary in 2021; and

WHEREAS, with its United States headquarters located in Fairfax County, CGI Technologies and Solutions, Inc., (CGI) is one of the largest independent information technology and business process services firms in the world; and

WHEREAS, CGI's Southwest Virginia Technology Center of Excellence was made possible with the support of the Office of the Governor of Virginia, the Russell County Industrial Development Authority, and the Town of Lebanon, and through partnerships with Virginia universities and community colleges; and

WHEREAS, CGI's Southwest Virginia Technology Center of Excellence now employs more than 375 professionals; and

WHEREAS, CGI selected Lebanon, a town of 3,200 people located in Russell County, for the Southwest Virginia Technology Center of Excellence based on the area's high quality of life, geographic proximity to a large market for information technology services, strong business incentives from the Commonwealth, collaboration with business-friendly state and local governments, and strong partnerships with academic institutions; and

WHEREAS, the location of CGI's Southwest Virginia Technology Center of Excellence allows many local graduates to remain in the area to pursue a career in information technology, and it has allowed many others to return to Southwest Virginia while pursuing a career in technology; and

WHEREAS, CGI's Southwest Virginia Technology Center of Excellence provides world-class information technology systems development, maintenance, and integration services to federal, state, and local government entities, as well as telecommunications, financial services, insurance, retail, and manufacturing firms; and

WHEREAS, CGI's Southwest Virginia Technology Center of Excellence hosts custom-tailored training programs delivered by local educational partners and draws skilled local talent from a feeder system of more than 30 colleges and universities, a strong recruiting network, and regionally sponsored programs; and

WHEREAS, CGI's Southwest Virginia Technology Center of Excellence gives back to the region through the Corporate Social Responsibility program, particularly in the areas of science, technology, engineering, and mathematics education, serving as trusted advisors for local educators, introducing students to information technology early in their educational development, and providing educational supplies for students in disadvantaged situations; and

WHEREAS, through the Southwest Virginia Technology Center of Excellence, CGI has demonstrated that public-private partnerships, when properly structured, can create and sustain well-paying jobs in rural areas of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That CGI Technologies and Solutions, Inc., hereby be commended on the occasion of the 15th anniversary of the opening of the Southwest Virginia Technology Center of Excellence in Lebanon; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the employees of CGI Technologies and Solutions, Inc., as an expression of the House of Delegates' admiration for their diligent work, commitment to the Commonwealth, and contributions to the local economy of Southwest Virginia.

HOUSE RESOLUTION NO. 281

Commending the Commission on Virginia Alcohol Safety Action Program.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, for more than 35 years, the Commission on Virginia Alcohol Safety Action Program has worked diligently to educate the public on the dangers of alcohol addiction and reduce the number of alcohol-related vehicle crashes; and

WHEREAS, the disease of addiction continues to devastate Virginia's communities and remains a public health emergency that continues to pose a significant public health and safety threat to the Commonwealth, costing thousands of lives each year; and

WHEREAS, in addition to opioids and heroin, abuse of other dangerous substances, including alcohol, is on the rise, and the disease of addiction is not exclusive to any one substance; and

WHEREAS, in 1986, the General Assembly established the Commission on Virginia Alcohol Safety Action Program to formulate and maintain standards to be observed by 24 local Alcohol Action Safety Programs (ASAP) throughout the Commonwealth and to allocate funds to programs with budget deficits; and

WHEREAS, the Commission on Virginia Alcohol Safety Action Program is composed of members who offer a broad range of knowledge and experience to effectively administer the ASAP system; and

WHEREAS, the Commission on Virginia Alcohol Safety Action Program has grown tremendously from its original status as a pilot program of the National Highway Traffic Safety Administration and now serves as a national model for other states; and

WHEREAS, alcohol use disorder (AUD) is a chronic brain disorder that is characterized by an impaired ability to stop or control alcohol use despite adverse social, occupational, or health consequences and often goes untreated; the number of individuals affected by alcoholism and AUD during the COVID-19 pandemic has risen significantly, and the dangers of excessive alcohol use should not be ignored; and

WHEREAS, the Centers for Disease Control and Prevention's (CDC) Morbidity and Mortality Weekly Report states that excessive alcohol use caused approximately 93,000 deaths each year from 2011 to 2015, an average of 255 deaths per day; and

WHEREAS, the CDC reports that the annual average for Virginia alcohol-attributable deaths due to excessive alcohol use from 2011 to 2015 for all ages and all causes was 2,011; and

WHEREAS, the Substance Abuse and Mental Health Services Administration reports that AUD was the most common substance use disorder among adults in the United States in 2018, affecting 14.4 million people; and

WHEREAS, alcoholism and AUD affect every community, and alcohol consumption is the third-leading cause of preventable death in the United States; research shows that, in 2018, only four percent of adults in the United States who needed treatment received it; and

WHEREAS, the Virginia ASAP has been dedicated to the improvement of highway safety, and the Commission on Virginia Alcohol Safety Action Program is dedicated to implementing strategies and processes that result in a permanent change in behavior; now, therefore, be it

RESOLVED by the House of Delegates, That the Commission on Virginia Alcohol Safety Action Program hereby be commended for its 35 years of service to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Commission on Virginia Alcohol Safety Action Program as an expression of the House of Delegates' admiration for its life-saving work.

HOUSE RESOLUTION NO. 282

Commending Mona Gunn.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Mona Gunn, an esteemed educator and military advocate, admirably served as the national president of American Gold Star Mothers, Inc., in 2020; and

WHEREAS, Mona Gunn earned a bachelor's degree in early elementary education and teaching from Norfolk State University and a master's degree in education and educational leadership and administration from Old Dominion University; and

WHEREAS, Mona Gunn served as a principal with Norfolk Public Schools for more than seven years, contributing greatly to the success of young people both in and out of the classroom; and

WHEREAS, Mona Gunn lost her son, Cherone, tragically in the attack on the USS *Cole* in 2000 and has since then worked tirelessly as an advocate for veterans of the United States military and their families; and

WHEREAS, Mona Gunn chartered the Hampton Roads chapter of American Gold Star Mothers, Inc., an organization of Gold Star mothers that since 1928 has honored the sacrifice of veteran sons and daughters through various initiatives supporting the military community; and

WHEREAS, from June 2019 to June 2020, Mona Gunn served as the national president of American Gold Star Mothers, Inc., and was notably the first African American to hold the position in the organization's history; and

WHEREAS, Mona Gunn's primary motivation while leading American Gold Star Mothers, Inc., was to bring greater awareness to the meaning of the Gold Star and how the distinction unifies families who have lost a family member in military combat; now, therefore, be it

RESOLVED by the House of Delegates, That Mona Gunn, past national president of American Gold Star Mothers, Inc., hereby be commended for her steadfast dedication to supporting United States military veterans, service members, and their families; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mona Gunn as an expression of the House of Delegates' admiration for her contributions to the community.

HOUSE RESOLUTION NO. 283

Celebrating the life of Yvonne Leonard.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Yvonne Leonard, an active and beloved member of the Virginia Beach community, died on March 28, 2020; and

WHEREAS, born and raised in New York City, Yvonne Leonard was a devoted member of the Virginia Beach Democratic Committee for many years, serving previously as secretary and chair of precincts and as a regular and unifying presence in the Timberlake Precinct; and

WHEREAS, a master gardener, Yvonne Leonard was a passionate member of the Tidewater Daylily Society, a local chapter of the American Hemerocallis Society (AHS), and co-chaired the AHS national convention held in Norfolk in 2017; and

WHEREAS, Yvonne Leonard was an engaged member of her community through the Virginia Beach Alumnae Chapter of Delta Sigma Theta Sorority, Inc., serving on various committees to further the organization's social mission; and

WHEREAS, an avid admirer of the arts, Yvonne Leonard volunteered at the Chrysler Museum of Art and at the Virginia Arts Festival at Attucks Theater, both in Norfolk, and regularly attended events in support of the local arts community; and

WHEREAS, guided throughout her life by her deep and abiding faith, Yvonne Leonard enjoyed worship and fellowship with her community at First Baptist Church in Norfolk, where she was involved in both the cancer survivors' ministry and the political action ministry; and

WHEREAS, Yvonne Leonard will be fondly remembered and dearly missed by her daughter, MacKenzie, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Yvonne Leonard, a cherished member of the Virginia Beach community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Yvonne Leonard as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 284

Commending Katie Hunter.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, in 2020, Katie Hunter of Vienna became the first female member and the youngest member in Scout history to achieve the rank of Eagle Scout in Scouts BSA; and

WHEREAS, hoping to take part in more outdoor activities than were currently offered by her Girl Scout troop, Katie Hunter joined Scouts BSA, the youth program formerly known as Boy Scouts; and

WHEREAS, Katie Hunter followed in the footsteps of her two older brothers as an Eagle Scout by earning 26 merit badges, serving as a senior patrol leader of Girls Troop 987, and completing an Eagle Scout service project in the minimum possible amount of time, 19 months; and

WHEREAS, for her service project, Katie Hunter beautified the campus of Bailey's Elementary School for the Arts and Sciences by leading a team of 50 Scouts and adults to install garden boxes on school grounds; and

WHEREAS, as the youngest and the first female Eagle Scout, Katie Hunter hopes to inspire other girls to join Scouts BSA and benefit from its many opportunities for recreation, leadership development, and community service; now, therefore, be it

RESOLVED by the House of Delegates, That Katie Hunter hereby be commended for making history by achieving the rank of Eagle Scout in Scouts BSA; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Katie Hunter as an expression of the House of Delegates' admiration for her achievements and best wishes.

HOUSE RESOLUTION NO. 285

Commending Chuck Kuhn.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Chuck Kuhn, an active business leader and philanthropist in Loudoun County, was selected by the Loudoun Laurels Foundation as its 2020 Laureate to honor his exceptional community service for the benefit of Loudoun County citizens; and

WHEREAS, Chuck Kuhn has lived or worked in Loudoun County since 1994, where he is well-known for his humanitarian, land preservation, and conservation work; and

WHEREAS, at the age of 16, Chuck Kuhn founded JK Moving Services, which is now one of the largest employers in Loudoun County and the largest independent moving company in North America; and

WHEREAS, in 1997, Chuck Kuhn expanded his operations by founding Capital Relocation Services, providing global relocation services to numerous corporate, government, and international clients; and

WHEREAS, Chuck Kuhn and his companies have received several awards and accolades in recognition of their upstanding business practices and strong commitments to employee professional development, environmental sustainability, safety, and charitable deeds; and

WHEREAS, in addition to the Loudoun Laurels Foundation honor, Chuck Kuhn and JK Moving Services received Community Leadership Awards from the Loudoun County Chamber of Commerce in 2019; and

WHEREAS, through the Commonwealth's conservation easement program, Chuck Kuhn has helped preserve more than 5,000 acres of land in the Counties of Loudoun, Fauquier, and Frederick; and

WHEREAS, Chuck Kuhn established the JK Community Farm to provide fresh, organic produce to Loudoun Hunger Relief and other food pantries; since its founding, more than 50,000 pounds of fresh fruits, vegetables, and meats have been provided to Loudoun County residents; and

WHEREAS, through visionary leadership and tireless dedication to the community, Chuck Kuhn has helped make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Chuck Kuhn, a Loudoun County businessman and philanthropist, hereby be commended for being named the Loudoun Laurels Foundation's 2020 Laureate; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chuck Kuhn as an expression of the House of Delegates' admiration for his notable contributions to the Commonwealth.

HOUSE RESOLUTION NO. 286

Commending Marisol Aquila and Ashley Pacheco-Arroside.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Millbrook High School students Marisol Aquila and Ashley Pacheco-Arroside raised more than \$1,000 to support Henry and William Evans Home for Children by hosting the Winter Waddle Week, a virtual one-mile walk; and

WHEREAS, Marisol Aquila and Ashley Pacheco-Arroside organized the Winter Waddle as an activity for Millbrook High School's chapter of DECA, a national organization that fosters leadership development among marketing students; and

WHEREAS, working with their DECA advisor, Jenny Stover, Marisol Aquila and Ashley Pacheco-Arroside contacted the Henry and William Evans Home for Children, which provides sanctuary to abused and homeless children, and set a fundraising goal of \$300; and

WHEREAS, when the outbreak of the COVID-19 pandemic made it impossible to hold the event as planned, Marisol Aquila and Ashley Pacheco-Arroside reorganized the Winter Waddle as a one-week virtual walk, allowing participants to support the event from their homes or neighborhoods; and

WHEREAS, Marisol Aquila and Ashley Pacheco-Arroside designed and sold Winter Waddle t-shirts, with all proceeds benefiting the Henry and William Evans Home for Children; the students ultimately almost quadrupled their goal by raising \$1,100 between December 19 and December 27, 2020; and

WHEREAS, Marisol Aquila and Ashley Pacheco-Arroside set an excellent example of community leadership for their fellow young people in Winchester, and their contributions to the Henry and William Evans Home for Children have helped the organization continue to carry out its vital mission; now, therefore, be it

RESOLVED by the House of Delegates, That Marisol Aquila and Ashley Pacheco-Arroside hereby be commended for hosting the Winter Waddle Week to raise money for the Henry and William Evans Home for Children in Winchester; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Marisol Aquila and Ashley Pacheco-Arroside as an expression of the House of Delegates' admiration for their work to support young people in need.

HOUSE RESOLUTION NO. 287

Commending Rachel Roberts.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Rachel Roberts, a volunteer leader in the Leesburg community, has raised more than \$100,000 to support the nonprofit organization Loudoun Hunger Relief by selling flowers; and

WHEREAS, known locally as the "Flower Lady," Rachel Roberts is a talented horticulturist who grows flowers in her home garden and sells beautiful arrangements at a roadside stand on Edwards Ferry Road in Leesburg, with all proceeds benefiting Loudoun Hunger Relief; and

WHEREAS, Rachel Roberts asks customers to pay what they can for the arrangements by either leaving money in a donation box or sending a check directly to Loudoun Hunger Relief; and

WHEREAS, since 2012, Rachel Roberts' contributions have accounted for more than \$100,000 in donations to Loudoun Hunger Relief, allowing the organization to provide more than 400,000 meals; and

WHEREAS, through her hard work and generosity, Rachel Roberts has brought joy to customers and helped enhance the quality of life for members of the community in need; now, therefore, be it

RESOLVED by the House of Delegates, That Rachel Roberts hereby be commended for her work to support Loudoun Hunger Relief and alleviate food insecurity in Leesburg and Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rachel Roberts as an expression of the House of Delegates' admiration for her leadership and achievements in service to the community.

HOUSE RESOLUTION NO. 288

Commending Kim Bean.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Kim Bean, head librarian at the Mary Jane and James L. Bowman Library in Frederick County, retired in 2020; and

WHEREAS, Kim Bean's distinguished career as a librarian has spanned more than 40 years and touched several corners of the Commonwealth; and

WHEREAS, beginning her career at the library at the Virginia Polytechnic Institute and State University, Kim Bean later worked at the Amherst County Public Library in the 1980s and was director of the Samuels Public Library in Front Royal for seven years; and

WHEREAS, Kim Bean joined the Handley Regional Library system that serves Winchester, Frederick County, and Clarke County in 1998 as head of the agency's adult services division; and

WHEREAS, Kim Bean was a key member of the team that designed and opened the Mary Jane and James L. Bowman Library, one of three branches within the Handley Regional Library system, in 2001; she has served as operations manager and head librarian at the library since 2014; and

WHEREAS, one of Kim Bean's many responsibilities as a librarian was to select titles for the library system, including works of adult and young adult nonfiction, Spanish-language publications, and DVD releases; and

WHEREAS, Kim Bean has served the reading community of Stephens City and Frederick County with tremendous passion and dedication for many years, helping to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Kim Bean, head librarian at the Mary Jane and James L. Bowman Library, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kim Bean as an expression of the House of Delegates' high esteem and admiration for her notable contributions to the Commonwealth.

HOUSE RESOLUTION NO. 289

Commending the United Way of Northern Shenandoah Valley.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the United Way of Northern Shenandoah Valley, a nonprofit organization that has supported residents of the Counties of Clarke, Frederick, Page, and Shenandoah and the City of Winchester since 1946, has provided vital resources to the community during the COVID-19 pandemic; and

WHEREAS, the United Way of Northern Shenandoah Valley was tasked by Frederick County and the City of Winchester with distributing Coronavirus Aid, Relief, and Economic Security Act (CARES Act) assistance to residents of the respective localities; and

WHEREAS, the \$300,000 from Frederick County and \$400,000 from the City of Winchester made possible through the CARES Act has enabled the United Way of Northern Shenandoah Valley to help local residents unable to make timely bill payments due to the financial impact of the COVID-19 pandemic; and

WHEREAS, the Valley Assistance Network, a nonprofit agency within the United Way of Northern Shenandoah Valley, has handled the responsibility of reviewing applications for CARES Act assistance and issuing payments to those in need; and

WHEREAS, recently established to support local families and individuals who are asset limited, income constrained, and unemployed, the Valley Assistance Network had the infrastructure in place to quickly disburse much-needed funds to applicants; and

WHEREAS, in addition to implementing CARES Act funding on behalf of Frederick County and the City of Winchester, the United Way of Northern Shenandoah Valley is supporting the community through its Connect NSV program, which offers myriad services to those seeking addiction counseling, mental health treatment, financial assistance, jobs, and more; and

WHEREAS, through the extraordinary and tireless efforts of its staff and volunteers, the United Way of Northern Shenandoah Valley and the Valley Assistance Network have helped local residents avoid evictions and utility disconnections and stay financially afloat during these unprecedented times; now, therefore, be it

RESOLVED by the House of Delegates, That the United Way of Northern Shenandoah Valley hereby be commended for its exemplary efforts to serve the communities of Frederick County and the City of Winchester during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jay Rudolph, board chair of the United Way of Northern Shenandoah Valley, as an expression of the House of Delegates' high esteem and admiration for the organization's notable contributions to the Commonwealth.

HOUSE RESOLUTION NO. 290

Celebrating the life of Charles M. Zuckerman.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Charles M. Zuckerman, a patriotic veteran, passionate community leader, and longtime mayor of the City of Winchester, died on December 25, 2020; and

WHEREAS, the child of Russian immigrants, Charles Zuckerman grew up in Winchester, where he graduated from John Handley High School; and

WHEREAS, Charles Zuckerman joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army Air Corps; and

WHEREAS, after his honorable military service, Charles Zuckerman worked at his family's scrap metal business, then opened Charles Zuckerman and Son, a steel and fabricating company, in 1974; and

WHEREAS, Charles Zuckerman served on the Winchester City Council from 1966 to 1980, when he was elected mayor; he served in that capacity for the next eight years, earning a reputation as an open-minded leader who worked to build bipartisan consensus and strengthen the community; and

WHEREAS, throughout his career in local government, Charles Zuckerman was known for his unparalleled dedication to constituent service; after his well-earned retirement in 1989, he continued to support his fellow Winchester residents through charitable organizations such as Big Brothers Big Sisters of America; and

WHEREAS, Charles Zuckerman was a longtime member of the local Lions Club, served on the boards of the Free Medical Clinic and Shenandoah University, and, in addition to working directly with the American Red Cross, was a mega blood donor who donated more than 38 gallons of blood in his lifetime; and

WHEREAS, Charles Zuckerman and his family were instrumental in the establishment of Beth El Congregation in Winchester, and he provided generous ongoing support for renovations of the synagogue over the years; and

WHEREAS, predeceased by his wife of nearly 73 years, Virginia, Charles Zuckerman will be fondly remembered and greatly missed by his six children, Steve, Caz, Phil, Don, Kitty, and Ann, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles M. Zuckerman; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles M. Zuckerman as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 291

Celebrating the life of Jean Smith Brown.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jean Smith Brown, noted preservation advocate, civic leader, and beloved member of the Lincoln community, died on January 15, 2021; and

WHEREAS, Jean Brown enjoyed a distinguished career on Capitol Hill in Washington, D.C., working as a secretary for several congressmen and committees; and

WHEREAS, aiming to preserve the rural character of Loudoun County as it rapidly grew, Jean Brown helped to establish the Goose Creek Historic and Cultural Conservation District, placing 11,000 acres on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, as the owner of a bed and breakfast with ambitions to support and advocate on behalf of small businesses in her area, Jean Brown aided in the founding of the Bed & Breakfast Guild of Loudoun County; and

WHEREAS, as president of the Leesburg Garden Club, as well as through multiple terms on the Garden Club of Virginia's Conservation Committee, Jean Brown contributed greatly to the beauty and grandeur of the Commonwealth; and

WHEREAS, a farmer with a deep appreciation for the agrarian traditions of the Commonwealth, Jean Brown served as a gubernatorial appointee to the Virginia Agricultural Council; and

WHEREAS, Jean Brown was heavily involved with the League of Women Voters, working tirelessly to register young voters; she was known by colleagues to carry voter registration forms with her at all times, ever ready to enroll a prospective voter; and

WHEREAS, ardently committed to protecting the environment, Jean Brown served on the board of the Virginia League of Conservation Voters and was once named Preservationist of the Year by the Loudoun Preservation Society; and

WHEREAS, guided by her steadfast and abiding faith, Jean Brown enjoyed singing in church choirs throughout her life; she was a founding member of the Choral Arts Society of Washington and most recently sang in the choir at St. James' Episcopal Church in Leesburg; and

WHEREAS, preceded in death by her loving husband, William, Jean Brown will be fondly remembered and dearly missed by her daughter, Sara, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jean Smith Brown, a treasured community leader in Loudoun County whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jean Smith Brown as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 292

Celebrating the life of Jim Kopp.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jim Kopp, the owner and operator of a popular drive-in movie theater in Stephens City, died on January 4, 2021; and

WHEREAS, Jim Kopp previously operated a drive-in theater in North Carolina and fulfilled a longtime dream when he took ownership of The Family Drive-In Theatre, one of his personal favorite drive-ins; and

WHEREAS, Jim Kopp worked diligently to preserve the establishment's legacy as a family-friendly source of entertainment and was well known locally for his generosity and commitment to servant leadership; and

WHEREAS, Jim Kopp shared his passion and expertise with fellow members of state and national drive-in theater boards and committees; he appeared in the documentary "Going Attractions: The Definitive Story of the American Drive-In Movie"; and

WHEREAS, The Family Drive-In Theatre was still closed for the winter at the outset of the COVID-19 pandemic, but it went on to play a key role in the community after it reopened in May 2020 as the only operating movie theater in the region; and

WHEREAS, in addition to showing movies, Jim Kopp opened The Family Drive-In Theatre for use by church congregations and other local groups, allowing them to maintain adequate social distancing and meet safely; and

WHEREAS, Jim Kopp will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jim Kopp, a business owner who touched countless lives through his kindness and community spirit; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jim Kopp as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 293

Celebrating the life of Raymond Donald Battocchi.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Raymond Donald Battocchi, a respected attorney and an active member of the Round Hill community, died on November 4, 2020; and

WHEREAS, the child of Italian immigrants, Raymond "Ray" Donald Battocchi was born in Massachusetts and raised in Hartford, Connecticut, where he graduated from Thomas Snell Weaver High School; and

WHEREAS, Ray Battocchi continued his education at Amherst College, where he received a bachelor's degree and earned several awards for excellence in and out of the classroom; after graduation, he was drafted by a semiprofessional football team, but instead began a career as a teacher; and

WHEREAS, Ray Battocchi subsequently pursued a legal degree from the University of Virginia and completed volunteer work for the Lawyers' Committee for Civil Rights Under Law, including as an election observer in Mississippi, and he remained committed to helping people in need with generous pro bono representation throughout his career; and

WHEREAS, Ray Battocchi served the United States Department of Justice with distinction from 1968 to 1977, when he began practicing law with several prominent firms in the Washington, D.C., metropolitan area; and

WHEREAS, among his proudest accomplishments, Ray Battocchi represented former National Football League players in fraud cases, briefed and argued numerous cases before the United States Court of Appeals, and in 1988, prevailed before the Supreme Court of the United States in the case of *Boos v. Barry*, 485 US 312; and

WHEREAS, respected by his peers in the legal profession, Ray Battocchi was honored by Super Lawyers in 2006 and 2007 and served as president of the McLean Bar Association in 2019; and

WHEREAS, Ray Battocchi will be fondly remembered and greatly missed by his wife of 14 years, Minda; his sons, Adam and Brian, and their families; his stepdaughters, Sarah and Sandra, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Raymond Donald Battocchi, a respected attorney and community leader in Round Hill; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Raymond Donald Battocchi as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 294

Celebrating the life of German Reyes.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, German Reyes, an esteemed community activist and beloved member of the CASA community in the Washington, D.C., metropolitan area, died on January 6, 2021; and

WHEREAS, born in El Salvador, German Reyes lived in the Commonwealth before ultimately settling in the Wheaton area of Silver Spring, Maryland, over which time he developed expertise as a drywall finisher and painter; and

WHEREAS, German Reyes began working with CASA, an organization supporting Latino and immigrant communities in the Commonwealth, Maryland, and Pennsylvania, in 2006; and

WHEREAS, starting as a day laborer at the CASA Workforce Wheaton Welcome Center in Maryland, German Reyes would ultimately become the first president of the organization's workers' committee; and

WHEREAS, from 2007 to 2021, German Reyes served as an employment specialist with CASA, fostering a more equitable society by connecting thousands of day laborers with employment and training; and

WHEREAS, German Reyes will be fondly remembered and dearly missed by his loving wife, his children, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of German Reyes, a distinguished member of the CASA community in the Washington, D.C., metropolitan area whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of German Reyes as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 295

Celebrating the life of Gloria Bandy.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Gloria Bandy, née Gloria Wallica Taylor, was born in Browns, Alabama, to the late Leon and Mary Marsh Taylor, Sr.; and

WHEREAS, Gloria Bandy attended Virginia Union University and Virginia Seminary College, graduating with honors with a bachelor's degree in English; and

WHEREAS, Gloria Bandy worked as a public school teacher for the Wise County School District and met her future husband, Virgil Bandy; and

WHEREAS, Gloria Bandy married Virgil in 1958 and went on to have five children, Virgil "Kim," Timothy, Terri Lynn, Keri, and Sheri, whom she loved deeply; and

WHEREAS, Gloria Bandy was a committed and engaged member of the Manassas Park community, serving on local boards, parent-teacher associations, and civic organizations; and

WHEREAS, Gloria Bandy was known to love her time spent with family, making a big deal out of family gatherings that always included good food, games, and singing; and

WHEREAS, Gloria Bandy could be seen across the community cheering on her children at football and soccer games, piano recitals, marching band competitions, parades, Girl Scouts meetings, and wrestling matches; and

WHEREAS, Gloria Bandy was a member for more than 50 years at First Baptist Church in Manassas, where she attended services and held offices, such as church clerk; and

WHEREAS, Gloria Bandy made history as the first African American general registrar in the Northern Virginia region in 1975 and honorably administered elections in the City of Manassas Park for over 20 years; and

WHEREAS, Gloria Bandy touched countless lives in her community through her rich civic involvements; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gloria Bandy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gloria Bandy as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 296

Celebrating the life of Charles Wallace Nuttycombe.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Charles Wallace Nuttycombe, a legendary track and field and football coach who brought numerous championships to Newport News and helped launched the careers of many lauded athletes, died on December 4, 2020; and

WHEREAS, Charles "Charlie" Wallace Nuttycombe's athletic accomplishments began at Thomas Jefferson High School in Richmond, where he was selected "Outstanding Athlete" in his senior class and earned a state championship in the broad jump; he attended Virginia Military Institute on a football scholarship, graduated from Randolph-Macon College, and received a master's degree in history from Old Dominion University; at Randolph-Macon, he lettered in football, track, and basketball, was the 1955 football team captain and three-time track team captain, and earned 13 state champion titles in various events; and

WHEREAS, in 1956, Charlie Nuttycombe began teaching and coaching at Newport News High School; his track teams brought home 14 state championships, and in 1962 he led his football team to an undefeated season; and

WHEREAS, Charlie Nuttycombe moved to Menchville High School in 1970, where he would stay until his retirement in 1990; while he built the school's football and track teams from scratch, his football teams produced a total record of 150-108-18 and five National Football League athletes, and he coached his track teams to a record of 125-3-2 in dual meet competition and 21 state track team championships; and

WHEREAS, Charlie Nuttycombe was widely recognized for his accomplishments, receiving the inaugural United States National High School Track Coach of the Year award in 1975; in 2005, he became one of only four high school coaches inducted into the United States Track and Field and Cross Country Coaches Association Hall of Fame and was joined by his son, Ed, in 2014; he was inducted into the Virginia High School League Hall of Fame, Menchville High School Hall of Fame, Newport News Public School Track and Field Hall of Fame, Lower Virginia Peninsula Hall of Fame, and Randolph-Macon College Athletic Hall of Fame; and

WHEREAS, Charlie Nuttycombe served as a mentor and inspiration for countless other students, regardless of athletic ability, by teaching American History, Geography, and Government and by corresponding with former students long into retirement; and

WHEREAS, Charlie Nuttycombe will be fondly remembered and greatly missed by his wife of 69 years, Elizabeth; their children, Edward, Charles, Jr., Stephen, Pamela, Graham, and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Wallace Nuttycombe, one of the Commonwealth's greatest coaches in football and track and field; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Wallace Nuttycombe as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 297

Commending Girl Scout Troop 2718.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, in December 2020, Girl Scout Troop 2718 of Leesburg created a memorial to honor health care workers and people who have died as a result of the COVID-19 pandemic; and

WHEREAS, working with city officials, Girl Scout Troop 2718 planted a blue atlas cedar tree in Georgetown Park in downtown Leesburg and arranged for a boulder, donated by Luck Stone, to be placed nearby with a memorial plaque; and

WHEREAS, Girl Scout Troop 2718 made plans to continue to care for the tree, which could grow to up to 50 feet in height, and decorate it during the holiday season; and

WHEREAS, the members of Girl Scout Troop 2718, most of whom are students at Loudoun County High School, completed the project as part of the requirements to achieve the Silver Award, the second-highest award in the Girl Scouts of the USA; now, therefore, be it

RESOLVED by the House of Delegates, That Girl Scout Troop 2718 hereby be commended for their work to honor the service and sacrifices of health care workers and celebrate the lives of people who have died during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tara Holt, troop leader of Girl Scout Troop 2718, as an expression of the House of Delegates' admiration for the troop's commitment to community engagement.

HOUSE RESOLUTION NO. 298

Commending A Place To Be.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, A Place To Be, a nonprofit music therapy organization in Middleburg, launched an animated children's show, "The Land of Music," on its YouTube channel to help young people better understand the effects of the COVID-19 pandemic; and

WHEREAS, A Place To Be received a \$10,000 award from the National Endowment for the Arts to support the production, which has educated students while helping them to develop a renewed sense of hope and safety; and

WHEREAS, consisting of six 10-minute to 14-minute episodes, A Place To Be's "The Land of Music" helps children in pre-kindergarten through fifth grade learn how music can help reduce anxiety and bring people together; and

WHEREAS, "The Land of Music" follows J. J., played by Jonathan Jacobsen, who travels with a cartoon character, Maestro Sound, voiced by A Place To Be co-founder Tom Sweitzer, to a world that has recently rediscovered the power of music; and

WHEREAS, featuring hand-painted backgrounds by local artist Penny Hauffe, "The Land of Music" places a special emphasis on how music can help people overcome feelings of fear and isolation; and

WHEREAS, A Place To Be worked with local school districts to develop resources to be paired with the program, including discussion questions for each episode and opportunities for Zoom meetings with the creators, artists, and cast members; now, therefore, be it

RESOLVED by the House of Delegates, That A Place To Be hereby be commended for launching "The Land of Music" YouTube program for children in pre-kindergarten through fifth grade; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to A Place To Be as an expression of the House of Delegates' admiration for the organization's important work to help children better understand and cope with the effects of the COVID-19 pandemic.

HOUSE RESOLUTION NO. 299

Commending Maddy Fuller.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Maddy Fuller, the youngest technician in the emergency department at Winchester Medical Center, has worked diligently to serve the community throughout the COVID-19 pandemic; and

WHEREAS, only 18 years of age, Maddy Fuller missed numerous milestones, including her senior prom and graduation from Clarke County High School, to support the local response to the pandemic; and

WHEREAS, Maddy Fuller had worked part-time at Winchester Medical Center since July 2019 and took on additional hours after schools closed for the remainder of the academic year in March 2020; and

WHEREAS, as a technician, Maddy Fuller helped administer intravenous fluids and facilitate electrocardiograms among other routine tasks like drawing patients' blood, working primarily in the observation unit for short-stay admissions; and

WHEREAS, Maddy Fuller earned the admiration of her colleagues at Winchester Medical Center for her work ethic, compassion, and dedication; and

WHEREAS, Maddy Fuller plans to obtain certification as an emergency medical technician and study nursing at Lord Fairfax Community College; now, therefore, be it

RESOLVED by the House of Delegates, That Maddy Fuller hereby be commended for her work as an emergency department technician during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maddy Fuller as an expression of the House of Delegates' admiration for her courage and commitment to service.

HOUSE RESOLUTION NO. 300

Commending Lisa Robertson.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Lisa Robertson, a dedicated elementary school teacher and reading specialist, was selected as the 2020 Teacher of the Year by Winchester Public Schools; and

WHEREAS, a native of Winchester, Lisa Robertson holds degrees from Shepherd University and Shenandoah University; and

WHEREAS, Lisa Robertson has worked as an educator for more than two decades, including 16 years as a teacher at Virginia Avenue Charlotte DeHart Elementary School, which she attended in her youth; and

WHEREAS, Lisa Robertson has worked as a reading specialist for 10 years of her career, and she played a vital role in the enhancement of English literacy at Virginia Avenue Charlotte DeHart Elementary School during its transition to a dual-language school; and

WHEREAS, Lisa Robertson is a hardworking leader in the school division and has become a trusted mentor and friend to countless fellow educators and administrators throughout Winchester Public Schools; and

WHEREAS, Lisa Robertson has helped countless young people in Winchester build a strong foundation for lifelong learning; now, therefore, be it

RESOLVED by the House of Delegates, That Lisa Robertson hereby be commended on receiving the 2020 Teacher of the Year award from Winchester Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lisa Robertson as an expression of the House of Delegates' admiration for her achievements in service to young people in Winchester.

HOUSE RESOLUTION NO. 301

Commending David McLaughlin and Marshall Wilborn.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Winchester residents David McLaughlin and Marshall Wilborn were inducted into the Bluegrass Hall of Fame as members of the Johnson Mountain Boys in 2020; and

WHEREAS, David McLaughlin was the original fiddle player of the Johnson Mountain Boys when the bluegrass band formed in 1978 and switched to mandolin when he returned to the group in 1981 after a hiatus to attend college; and

WHEREAS, David McLaughlin and the Johnson Mountain Boys recorded six albums and performed in numerous concerts throughout the early 1980s, and Marshall Wilborn brought a new dimension to the group when he joined as a bassist in 1986; and

WHEREAS, while the Johnson Mountain Boys parted ways in 1988, David McLaughlin, Marshall Wilborn, and the other members of the quintet were nominated for a Grammy Award in 1989 after the critical and commercial success of their farewell concert's live album, *At the Old Schoolhouse*; and

WHEREAS, the Johnson Mountain Boys released their 10th and final album, *Blue Diamond*, in 1993 and performed their final concert together in 1996; David McLaughlin and Marshall Wilborn both continue to play with other local musical groups and have offered private lessons to aspiring musicians; and

WHEREAS, due to the COVID-19 pandemic, the International Bluegrass Music Association held a virtual ceremony to honor David McLaughlin, Marshall Wilborn, and their fellow members of the Johnson Mountain Boys during their induction into the Bluegrass Hall of Fame; now, therefore, be it

RESOLVED by the House of Delegates, That David McLaughlin and Marshall Wilborn hereby be commended on their induction into the Bluegrass Hall of Fame with the Johnson Mountain Boys in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to David McLaughlin and Marshall Wilborn as an expression of the House of Delegates' admiration for their contributions to the American musical landscape.

HOUSE RESOLUTION NO. 302

Commending Jane Bauknecht.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jane Bauknecht, longtime executive director of the Adult Care Center of the Northern Shenandoah Valley, retired in 2020; and

WHEREAS, the Adult Care Center of the Northern Shenandoah Valley (ACC) was established in 1993 by a group of local residents with family members who had dementia or other illnesses requiring attentive care, and Jane Bauknecht became executive director shortly after the facility opened in the City of Winchester; and

WHEREAS, ACC was originally located at First Christian Church, then moved to Braddock Street United Methodist Church for 18 years; community support allowed the center to grow an endowment, and in 2012, Jane Bauknecht oversaw the move to a larger facility on Cameron Street in Winchester; and

WHEREAS, ACC is open five days a week and is licensed to care for up to 35 clients with a paid staff of eight, including an activities director and two registered nurses; during Jane Bauknecht's tenure, the center has provided social interaction and access to medical assistance to more than 500 clients; and

WHEREAS, Jane Bauknecht has been essential to the success of ACC, and her compassion, kindness, and dedication have been an inspiration to both her colleagues and members of the community; and

WHEREAS, Jane Bauknecht previously worked at Rose Hill Nursing Home and Clarke County Senior Center, where she learned from experience that clients with dementia and other illnesses required significantly more care than many of their fellow seniors; and

WHEREAS, as executive director of ACC, Jane Bauknecht fostered an atmosphere of trust and safety, ensuring that clients benefited from having a routine and positive social interactions, while giving their families peace of mind; now, therefore, be it

RESOLVED by the House of Delegates, That Jane Bauknecht hereby be commended on the occasion of her retirement as executive director of the Adult Care Center of the Northern Shenandoah Valley; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jane Bauknecht as an expression of the House of Delegates' admiration for her achievements in service to members of the community in need and their families.

HOUSE RESOLUTION NO. 303

Commending Jack Gray.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jack Gray of Ashburn achieved the rank of Eagle Scout, the highest rank in the Boy Scouts of America, in 2020; and

WHEREAS, only a limited number of Scouts meet the standards of excellence necessary to achieve the rank of Eagle Scout; Jack Gray met the requirements of earning 23 merit badges, demonstrating Scout spirit and leadership in his troop, and planning and completing a service project; and

WHEREAS, for his Eagle Scout service project, Jack Gray chose to clean and restore an abandoned cemetery he had previously discovered while hiking in Brambleton Regional Park; and

WHEREAS, Jack Gray contacted officials from NOVA Parks to learn the history of the 4,200-acre plot, known as the Lyons Family Cemetery, which contains headstones dating from the Civil War to World War I representing members of several Loudoun County families; and

WHEREAS, Jack Gray sought expertise from Jim Short, the owner of a gravestone restoration business, and coordinated with fellow members of Boy Scouts of America Troop 51 to complete the project, which took place over the course of 10 months; and

WHEREAS, Jack Gray's project included the restoration of a stone fence and a wrought iron fence, landscaping, the placement of informative signage, and the meticulous identification, cleaning, and restoration of gravestones; and

WHEREAS, Jack Gray set an excellent example for fellow young people in Ashburn and helped protect and preserve the history and heritage of the community; now, therefore, be it

RESOLVED by the House of Delegates, That Jack Gray hereby be commended on attaining the rank of Eagle Scout in the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jack Gray as an expression of the House of Delegates' admiration for his commitment to community service.

HOUSE RESOLUTION NO. 304

Commending the Ampersand Pantry Project.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Ampersand Pantry Project, a nonprofit food pantry in Loudoun County, has provided tens of thousands of free meals to the community since the onset of the COVID-19 pandemic; and

WHEREAS, the Ampersand Pantry Project was founded in February 2020 at 650 Edwards Ferry Road in Leesburg; it was initially intended to serve as a community donation box where people could both pick up and leave food, diapers, hygienic products, and other important staples; and

WHEREAS, shortly after its founding, the economic fallout from the COVID-19 pandemic realigned the organization's mission; the Ampersand Pantry Project has since provided free lunches, pet food, and diapers to those in need, an effort that simultaneously combats hunger and supports local restaurants and other small businesses; and

WHEREAS, operating out of locations on East Market Street, Edwards Ferry Road, and Harrison Street, the Ampersand Pantry Project adheres to social distancing guidelines while serving up to 300 lunches a day, seven days a week; and

WHEREAS, several local restaurants and businesses, including Deli South and Merone's Catering, have offered to provide thousands of meals at reduced rates, enabling the Ampersand Pantry Project to place larger orders and serve more; and

WHEREAS, the Ampersand Pantry Project has already raised hundreds of thousands of dollars and provided more than 66,000 meals and 200,000 diapers, providing an invaluable lifeline to the community during these difficult times; and

WHEREAS, for Christmas in 2020, the Ampersand Pantry Project partnered with the law firms of Burnett & Williams and Dunlap Bennett & Ludwig to solicit, collect, and distribute presents to families in need; as a result of the efforts of more than 100 volunteers, gifts were presented to more than 400 children in the community; and

WHEREAS, by heroically rising to the challenges presented by the COVID-19 pandemic, the volunteers of the Ampersand Pantry Project exemplify what makes the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That the Ampersand Pantry Project, a nonprofit food pantry in Leesburg, hereby be commended for its effort to fight hunger and support businesses and families during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peter Burnett, founder of the Ampersand Pantry Project, as an expression of the House of Delegates' admiration for his organization's remarkable achievements and its selfless service on behalf of citizens of the Commonwealth.

HOUSE RESOLUTION NO. 305

Commending the Winchester Area branch of the NAACP.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Winchester Area branch of the NAACP works to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination; and

WHEREAS, founded in 1909 and headquartered in Baltimore, Maryland, the NAACP is one of the nation's leading civil rights organizations, with more than 500,000 members and countless supporters; and

WHEREAS, the Winchester Area branch of the NAACP, local chapter 7127, represents the City of Winchester and the Counties of Frederick and Clarke and currently has more than 100 members; and

WHEREAS, the Winchester Area branch of the NAACP has worked with the United Way of the Northern Shenandoah Valley to hold community forums on topics related to racial justice, criminal justice reform, and education and health care inequities; and

WHEREAS, the Winchester Area branch of the NAACP supported a thriving democracy in the Commonwealth and the nation by conducting voter registration drives throughout 2020; and

WHEREAS, the Winchester Area branch of the NAACP has been a valued leader as the community navigates the civil unrest of 2020 and looks to build a more peaceful and equitable future; and

WHEREAS, through tireless dedication and visionary leadership, the Winchester Area branch of the NAACP has helped to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the Winchester Area branch of the NAACP hereby be commended for its efforts to advance racial and social equity and justice in the Commonwealth and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Faison, president of the Winchester Area branch of the NAACP, as an expression of the House of Delegates' high esteem and admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 306

Commending the Loudoun County branch of the NAACP.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Loudoun County branch of the NAACP has worked to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination in the community for the past 80 years; and

WHEREAS, the NAACP, founded in 1909 and headquartered in Baltimore, Maryland, is one of the nation's leading civil rights organizations, with more than 500,000 members and countless supporters; and

WHEREAS, founded in 1940 by Marie Medley, the Loudoun County branch of the NAACP has long centered its efforts around the issue of education, with an early accomplishment being the establishment of Frederick Douglass High School in Loudoun County to provide better educational opportunities to African American youth in the area; and

WHEREAS, the Loudoun County branch of the NAACP remains a forceful advocate for racial equity in public education and has inspired many elected officials to support policies to address systemic racism; and

WHEREAS, the Loudoun County branch of the NAACP supported a thriving democracy in the Commonwealth and the nation by conducting a series of marches to encourage voting and civic participation and by protesting voter suppression; and

WHEREAS, organizing rallies for racial justice and criminal justice reform, the Loudoun County branch of the NAACP has been a valued leader as the community navigates the civil unrest of 2020 and looks to build a more peaceful and equitable future; and

WHEREAS, through tireless dedication and visionary leadership, the Loudoun County branch of the NAACP has helped to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County branch of the NAACP hereby be commended for its efforts to advance racial and social equity and justice in the Commonwealth and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County branch of the NAACP as an expression of the House of Delegates' high esteem and admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 307

Commending the Loudoun Medical Reserve Corps.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Loudoun Medical Reserve Corps, an organization of medical and nonmedical volunteers dedicated to protecting the health and well-being of the Loudoun County community, have worked tirelessly to administer vaccinations during the COVID-19 pandemic; and

WHEREAS, the Loudoun Medical Reserve Corps, established under Loudoun County Health and Human Services to prepare the community for a bioterrorism event or epidemic, is shouldering the responsibility for much of Loudoun County's COVID-19 vaccine rollout; and

WHEREAS, with a roll of more than 2,600 volunteers, the Loudoun Medical Reserve Corps has seen its membership surge by 1,000 since the onset of the COVID-19 pandemic, with more than 70 people registering since the vaccine campaign began, a testament to the charitable spirit that guides the organization; and

WHEREAS, from conducting traffic lines to administering the shot, numerous volunteers with the Loudoun Medical Reserve Corps have worked indefatigably to ensure that citizens of Loudoun County are vaccinated safely and efficiently against COVID-19; and

WHEREAS, the Loudoun Medical Reserve Corps has demonstrated a commitment to the community that is an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun Medical Reserve Corps, an organization of medical and nonmedical volunteers supporting the Loudoun County community, hereby be commended for its service during the COVID-19 vaccine rollout; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun Medical Reserve Corps as an expression of the House of Delegates' high esteem and admiration for the organization's service and accomplishments.

HOUSE RESOLUTION NO. 308

Commending the Roots Grow Wings chapter of the Dolly Parton Imagination Library.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Roots Grow Wings chapter of the Dolly Parton Imagination Library, an initiative to support early childhood literacy in Loudoun County, was launched in 2021; and

WHEREAS, for more than two decades, the Dolly Parton Imagination Library Foundation has worked to provide more than 150 million books to young children across the country; and

WHEREAS, in commemoration of Dolly Parton's 75th birthday, a group of teachers and moms in Loudoun County, led by Emerick Elementary School reading specialist Susan Lyons, launched the Roots Grow Wings chapter of the Dolly Parton Imagination Library to expand the organization's efforts in Northern Virginia; and

WHEREAS, the founders of the Roots Grow Wings chapter of the Dolly Parton Imagination Library were inspired by the challenges of the COVID-19 pandemic, when increased time spent at home made the availability of quality reading material for children more urgent; and

WHEREAS, the Dolly Parton Imagination Library requires every chapter to partner with a 501(c)(3) nonprofit to facilitate mailing and accounting, and the Roots Grow Wings chapter of the Dolly Parton Imagination Library was developed in partnership with the Rotary Club of Leesburg; and

WHEREAS, as part of the program, the Roots Grow Wings chapter of the Dolly Parton Imagination Library will send children a new book every month for up to five years, helping countless area youth develop a love for reading that will contribute to their success throughout their lives; and

WHEREAS, starting in Purcellville, Hillsboro, and Middleburg, the Roots Grow Wings chapter of the Dolly Parton Imagination Library will extend its operations throughout Loudoun County as the organization grows; now, therefore, be it

RESOLVED by the House of Delegates, That the Roots Grow Wings chapter of the Dolly Parton Imagination Library hereby be commended on the occasion of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Roots Grow Wings chapter of the Dolly Parton Imagination Library as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 309

Commending the Orange County Hounds.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Orange County Hounds, a distinguished hunting club based in The Plains, generously donated its property through a permanent conservation easement in 2020, which forbids in perpetuity subdivision of the property and residential, commercial, or industrial development of the land; and

WHEREAS, founded in 1900 by sportsmen and women in Orange County, New York, and hunting country in The Plains since 1905, the Orange County Hounds has contributed greatly to the hunting community in the Commonwealth over the past century; and

WHEREAS, by relinquishing the right to subdivide its 71-acre property in Fauquier County, the Orange County Hounds is supporting conservation efforts in the region and helping to ensure the beauty of the Commonwealth for generations to come; and

WHEREAS, the Orange County Hounds joins a distinguished lineage of Fauquier County landowners who have protected more than 100,000 acres of the county from future development through agreements with the Virginia Outdoors Foundation; and

WHEREAS, embracing the strong ties between the equestrian community and land preservation causes, the actions of the Orange County Hounds will help to protect the Commonwealth's natural resources and scenery for the enjoyment of countless citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That the Orange County Hounds, an esteemed hunting club in The Plains, hereby be commended for committing its property to a conservation easement in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Orange County Hounds as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 310

Commending the frontline health care workers at Johnston-Willis Hospital.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the frontline health care workers at Johnston-Willis Hospital, a leading medical institution serving the Greater Richmond and Tri-Cities area, have demonstrated extraordinary medical expertise and compassion while navigating the COVID-19 pandemic; and

WHEREAS, founded in 1909 and part of the HCA Virginia Health System, Johnston-Willis Hospital offers a full range of health care services, with specialties in cancer care and neuroscience; the hospital is the only institution in Central Virginia to offer focused ultrasound treatments for essential tremors, and its Neuroscience and Gamma Knife Center is the first in Richmond; and

WHEREAS, the frontline health care workers at Johnston-Willis Hospital, including physicians, nurses, hospital administrators, and other support staff, work tirelessly every day to ensure the best health outcomes for their patients; and

WHEREAS, through their unwavering commitment to providing the highest level of care to their patients, the frontline health care workers at Johnston-Willis Hospital have earned the hospital numerous institution-wide distinctions; and

WHEREAS, Johnston-Willis Hospital was the first hospital in the United States to receive The Joint Commission Gold Seal Certificate of Distinction for Brain Tumor Care and the first non-academic hospital in the Commonwealth to receive the Comprehensive Stroke Certification by DNV GL Healthcare, the highest certification possible for stroke care; and

WHEREAS, beyond providing exemplary medical care, the frontline health care workers at Johnston-Willis Hospital have displayed remarkable compassion by helping patients' family members connect with their loved ones despite patient visitation restrictions imposed by the COVID-19 pandemic; and

WHEREAS, the frontline health care workers at Johnston-Willis Hospital continue to rise to the challenges presented by the COVID-19 pandemic, inspiring the community and reminding all of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the frontline health care workers of Johnston-Willis Hospital hereby be commended for the excellent care and service they have provided to their patients and their patients' families both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Johnston-Willis Hospital as an expression of the House of Delegates' profound admiration for the meritorious efforts of the hospital's frontline health care workers.

HOUSE RESOLUTION NO. 311

Commending the frontline health care workers at Chippenham Hospital.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the frontline health care workers at Chippenham Hospital, a leading medical institution serving the Greater Richmond and Tri-Cities area, have demonstrated extraordinary medical expertise and compassion while navigating the COVID-19 pandemic; and

WHEREAS, founded in 1972 and part of the HCA Virginia Health System, Chippenham Hospital offers nationally recognized medical services and programs, including dedicated pediatric emergency care, cardiology at Levinson Heart Institute, orthopedics and joint replacement, and behavioral health at Tucker Pavilion; and

WHEREAS, the frontline health care workers at Chippenham Hospital, including physicians, nurses, and other support staff, work tirelessly every day to ensure the best health outcomes for their patients; and

WHEREAS, through their unwavering commitment to providing the highest level of care to their patients, the frontline health care workers at Chippenham Hospital have earned the hospital numerous institution-wide distinctions; and

WHEREAS, Chippenham Hospital was the first hospital in Central Virginia and one of only 106 programs nationwide to earn The Joint Commission's Gold Seal of Approval for Advanced Certification for Total Hip and Total Knee Replacement; the hospital is an American Association of Cardiovascular and Pulmonary Rehabilitation Certified Program and a Certified Primary Stroke Center by DNV GL Healthcare; and

WHEREAS, beyond providing exemplary medical care, the frontline health care workers at Chippenham Hospital have displayed remarkable compassion by helping patients' family members connect with their loved ones despite patient visitation restrictions imposed by the COVID-19 pandemic; and

WHEREAS, the frontline health care workers at Chippenham Hospital continue to rise to the challenges presented by the COVID-19 pandemic, inspiring the community and reminding all of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the frontline health care workers of Chippenham Hospital hereby be commended for the excellent care and service they have provided to their patients and their patients' families both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chippenham Hospital as an expression of the House of Delegates' profound admiration for the meritorious efforts of the hospital's frontline health care workers.

HOUSE RESOLUTION NO. 312

Commending the Virginia National Guard.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, on November 3, 2020, Virginia voters participated in a free and fair election; and

WHEREAS, in accordance with the Constitution of the United States and confirmed by the other states, courts, and the United States Congress, Joseph R. Biden, Jr., and Kamala D. Harris were certified as the winners of that election nationally and in Virginia; and

WHEREAS, on January 6, 2021, an armed insurrection took place at the United States Capitol with the intent of preventing certification of the results and which temporarily disrupted the certification of the election by the United States Congress; and

WHEREAS, the Governor of Virginia mobilized the Virginia National Guard to help secure the Capitol and provide security to support the certification of the election and the subsequent peaceful transition of power; and

WHEREAS, with little notice, the members of the Virginia National Guard responded without hesitation to answer the Governor's and the nation's call to deploy to the nation's capital; and

WHEREAS, the members of the Virginia National Guard conducted themselves honorably in response to the insurrection and continued to stand guard in Washington, D.C., to successfully ensure a peaceful transition of power in line with the Constitution of the United States on January 20, 2021; and

WHEREAS, as citizen soldiers, members of the Virginia National Guard accomplished their mission while being away from their families and their livelihoods; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia National Guard hereby be commended for its honorable service and courageous defense of the nation's ideals; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Major General Timothy Williams, the Adjutant General of Virginia, on behalf of all members of the Virginia National Guard, as an expression of the House of Delegates' admiration for their honorable service to the nation in response to the insurrection on January 6, 2021.

HOUSE RESOLUTION NO. 313

Commending Robert Schnoor.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Robert Schnoor of Springfield received an Outstanding Volunteer Award from the Fairfax County Park Authority in 2020; and

WHEREAS, Robert "Tim" Schnoor received the Outstanding Volunteer Award for his 10 years of service with the adapted aquatics program at Spring Hill RECenter; and

WHEREAS, Tim Schnoor has helped enhance the quality of life of numerous people in the community, primarily helping adults with an acquired disability relearn how to walk, regain strength, or improve their mobility through aquatic exercise; and

WHEREAS, Tim Schnoor has touched countless lives through his patience, positivity, generosity, and dedication to supporting people in need; now, therefore, be it

RESOLVED by the House of Delegates, That Robert Schnoor hereby be commended on receiving a 2020 Outstanding Volunteer Award from the Fairfax County Park Authority; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Schnoor as an expression of the House of Delegates' admiration for his achievements in service to members of the Fairfax County community.

HOUSE RESOLUTION NO. 314

Commending Johnny T. Lopez.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Johnny T. Lopez of Springfield received an Outstanding Volunteer Award from the Fairfax County Park Authority in 2020; and

WHEREAS, Johnny Lopez received the Outstanding Volunteer Award for his two years of service as a front desk associate and Scouting program coordinator at South Run RECenter; and

WHEREAS, Johnny Lopez's dependability and enthusiasm for customer service have helped ensure efficient day-to-day operations at South Run RECenter, and he consistently brightens the days of patrons, staff members, and fellow volunteers; and

WHEREAS, Johnny Lopez has assisted local Eagle Scout candidates with development and planning of their Eagle Scout service projects and provided his insights on the importance of leadership, teamwork, and responsibility; and

WHEREAS, Johnny Lopez oversaw nine multiday Eagle Scout service projects in 2020 and ensured that Scouts worked safely during the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Johnny T. Lopez hereby be commended on receiving a 2020 Outstanding Volunteer Award from the Fairfax County Park Authority; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Johnny T. Lopez as an expression of the House of Delegates' admiration for his achievements in service to members of the Fairfax County community.

HOUSE RESOLUTION NO. 315

Commending Ronald Pickett.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Ronald Pickett of Springfield received an Outstanding Volunteer Award from the Fairfax County Park Authority in 2020; and

WHEREAS, Ronald "Ron" Pickett received the Outstanding Volunteer Award for more than two years of service as a starter at Laurel Hill Golf Club; and

WHEREAS, as a starter, Ron Pickett helps golfers begin play and provides pertinent information each day; he volunteers with other day-to-day tasks, such as cleaning up trash or fixing golf carts; and

WHEREAS, Ron Pickett has offered his insights and expertise to students and staff at Eisman Golf Academy, which is located at Laurel Hill Golf Club; and

WHEREAS, Ron Pickett's work ethic and passion for the game of golf have helped Laurel Hill Golf Club provide an outstanding recreational experience to local residents and visitors; now, therefore, be it

RESOLVED by the House of Delegates, That Ronald Pickett hereby be commended on receiving a 2020 Outstanding Volunteer Award from the Fairfax County Park Authority; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ronald Pickett as an expression of the House of Delegates' admiration for his achievements in service to members of the Fairfax County community.

HOUSE RESOLUTION NO. 316

Commending the Lifetime Learning Institute of Northern Virginia.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, for 25 years, the Lifetime Learning Institute of Northern Virginia has provided educational opportunities to adults age 50 or older in the Northern Virginia community; and

WHEREAS, the Lifetime Learning Institute of Northern Virginia (LLI/NOVA) traces its roots to 1995, when Audrey Markham and Knox Singleton met with the then president of Northern Virginia Community College, Richard J. Ernst, to discuss the creation of a new learning institute specifically for seniors; and

WHEREAS, with assistance from Kay Haverkamp, director of continuing education at the Annandale campus of Northern Virginia Community College, LLI/NOVA held a meeting to establish a steering committee and draft a charter in October 1996; and

WHEREAS, LLI/NOVA offers a wide range of classes and workshops, regional and international travel courses, and a monthly speaker series; the organization facilitates special interest groups formed by members on particular subjects; and

WHEREAS, working in conjunction with the Northern Virginia Community College Educational Foundation, LLI/NOVA gives back to the Annandale campus by recognizing exceptional students through multiple scholarship awards; and

WHEREAS, a member-run, nonprofit organization, LLI/NOVA has succeeded in its mission through the dedication of its executive officers, the guidance of its 15-member board of directors, and the hard work of its staff; and

WHEREAS, during the COVID-19 pandemic, LLI/NOVA has held virtual classes to ensure that its members continue to benefit from the organization's unique programs and stay engaged with the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Lifetime Learning Institute of Northern Virginia hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lifetime Learning Institute of Northern Virginia for its dedication to serving and supporting seniors in Northern Virginia.

HOUSE RESOLUTION NO. 317

Commending Sharon Stark.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Sharon Stark, district director for Virginia's 11th Congressional District, retired in 2021 after 13 years of exceptional, generous service to constituents; and

WHEREAS, Sharon Stark learned the value of hard work and responsibility at a young age; after graduating from college, she began a career as a bank teller and became vice president of operations for a bank by the age of 29; and

WHEREAS, Sharon Stark subsequently worked as vice president of a residential and commercial real estate company, cultivating valuable expertise that would serve her well as a congressional aide; and

WHEREAS, in 2005, Sharon Stark was selected to join Virginia's 11th Congressional District Committee, serving as treasurer for many years, and in 2007, she served as finance chair for a successful state Senate campaign; and

WHEREAS, Sharon Stark joined the office of the Honorable Gerald E. Connolly as district director in 2009 and established an unparalleled reputation for constituent support and community engagement; and

WHEREAS, in the aftermath of the 2008 financial crisis, Sharon Stark drew from her experience in banking and real estate to advise and assist constituents facing financial hardship, including families at risk of losing their homes; and

WHEREAS, Sharon Stark educated thousands of federal employees, retirees, and their families on health benefits through her Open Season event each year, and she helped constituents resolve refunds from the Internal Revenue Service or claim benefits from federal agencies like the Social Security Administration or the Department of Veterans Affairs; since 2011, she and her team helped constituents obtain nearly \$20 million in one-time or retroactive benefits and \$9 million per year in recurring benefits; and

WHEREAS, Sharon Stark hosted countless town halls and roundtables on important, often contentious topics, and participated in numerous fairs, festivals, and other community engagement events; she established an art competition for students in the district to compete for scholarships and played a critical role in constituents achieving acceptance into military academies; and

WHEREAS, during the COVID-19 pandemic, Sharon Stark delayed her retirement to again serve constituents facing hardship, helping more than 1,800 individuals secure small business loans and grants or resolve issues with economic impact payments; now, therefore, be it

RESOLVED by the House of Delegates, That Sharon Stark hereby be commended for her myriad personal and professional achievements on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sharon Stark as an expression of the House of Delegates' admiration for her devoted service to the residents of Virginia's 11th Congressional District.

HOUSE RESOLUTION NO. 318

Commending Hillary Clawson.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Hillary Clawson, a passionate and respected community leader in Mason Neck, retired from her role as president of the Mason Neck Citizens Association in 2020; and

WHEREAS, a 13-year resident of Mason Neck, Hillary Clawson has served as a board member of the Mason Neck Citizens Association for eight years and as the association's president for six; and

WHEREAS, through her service with the Mason Neck Citizens Association, Hillary Clawson has advanced civic improvements, promoted the preservation of the area's historic, archaeological, and environmental resources, and educated the community about the unique opportunities that abound in the region; and

WHEREAS, Hillary Clawson has served the community as a founding member of the Friends of Mason Neck State Park, which she has served as president for three years; and

WHEREAS, Hillary Clawson has furthered the mission of the Friends of Mason Neck State Park by fostering the organization's partnership with park management, growing its membership, and increasing the number and scope of educational programs and events offered; and

WHEREAS, by providing greater support for programs sponsored by Mason Neck State Park, Hillary Clawson has helped the park implement initiatives designed to reach underserved members of the community; and

WHEREAS, Hillary Clawson has contributed to the beauty and sustainability of the Commonwealth as the Mount Vernon District representative on the Fairfax County Environmental Quality Advisory Council; and

WHEREAS, through her various beneficent actions and good deeds, Hillary Clawson has helped make Mason Neck a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Hillary Clawson hereby be commended for her service as president of the Mason Neck Citizens Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hillary Clawson as an expression of the House of Delegates' high esteem and admiration for her achievements and best wishes for her continued success.

HOUSE RESOLUTION NO. 319

Commending Jaime Lizárraga.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jaime Lizárraga was honored on December 9, 2020, with a Congressional Staff Award by the Congressional Hispanic Caucus Institute and its alumni association for his dedication in advancing diversity on Capitol Hill and cultivating opportunities for other emerging Latino leaders; and

WHEREAS, Jaime Lizárraga, who serves as senior advisor to Speaker of the House Nancy Pelosi, is the most senior Democratic Latino staffer in the United States House of Representatives; his work focuses on immigration, financial services, housing, and small business policy, and he serves as liaison to the Congressional Hispanic Caucus; and

WHEREAS, in his 30-year career, Jaime Lizárraga has worked on the House Financial Services Committee, in the Treasury Department, and at the Securities and Exchange Commission, advising leaders on legislative strategy and policy and earning him a place on a list of "The Most Influential Latino Staffers on Capitol Hill" by the *Huffington Post* in 2013; and

WHEREAS, the son of immigrant farmworkers from Mexico, Jaime Lizárraga was raised in San Diego and now lives in Virginia with his wife and five children; and

WHEREAS, since 2015, the Congressional Hispanic Caucus Institute Alumni Association has given its Congressional Staff Awards to recognize congressional staff members who, like Jaime Lizárraga, have demonstrated their commitment to promoting diversity on Capitol Hill; now, therefore, be it

RESOLVED by the House of Delegates, That Jaime Lizárraga hereby be commended for receiving a Congressional Staff Award in 2020 from the Congressional Hispanic Caucus Institute and fostering the next generation of political leaders; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jaime Lizárraga as an expression of the House of Delegates' admiration for his many achievements.

HOUSE RESOLUTION NO. 320

Commending refugee communities in Virginia.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, around the world, 79.5 million displaced people have been forced from their homes, more than any time in recorded history, including 29.5 million refugees; and

WHEREAS, refugees are people who have fled their country because they have a well-founded fear of persecution due to their race, religion, nationality, political opinion, or membership in a particular social group; and

WHEREAS, resettlement provides safe haven in a third country when refugees cannot return home and cannot rebuild their lives in the country where they first fled due to lack of access to safety, shelter, health care, education, or protection; and

WHEREAS, resettlement to the United States is available only for those who demonstrate the greatest and most immediate need for protection and takes place only after eligible refugees undergo a rigorous selection, security vetting, and medical screening process; and

WHEREAS, the Trump administration dismantled the refugee resettlement program in the United States, reducing the number of admitted refugees by more than 80 percent, thereby abdicating United States leadership in this area, prolonging family separation, and undermining the nation's foreign policy, humanitarian, and global security objectives; and

WHEREAS, refugees contribute to their new homes by starting businesses, paying taxes, sharing their cultural traditions, and becoming involved in community life; reports have found that refugees contribute more than they consume in state-funded services such as schooling and health care; and

WHEREAS, Virginia is home to a diverse population of refugees and immigrants who have enhanced the economic vitality and cultural richness of the Commonwealth by integrating into their communities and contributing more than \$2.5 billion in spending power as of 2016; and

WHEREAS, during the COVID-19 pandemic, 8,700 refugees have served as frontline workers in Virginia's health care industry as health aids, nurses, physicians, and surgeons; and

WHEREAS, organizations responsible for resettling refugees in Virginia, as well as numerous other community organizations and religious institutions, have declared their support for resettling refugees in the Commonwealth; and

WHEREAS, Virginia has been an example of a hospitable and welcoming place to all newcomers, where the contributions of all are celebrated and valued, and residents of the Commonwealth aspire to live up to the highest ideals of acceptance and equality by treating newcomers with decency and respect, building a vibrant community for all; and

WHEREAS, in addition to the benefits refugees provide to the Commonwealth, the United States Refugee Admissions Program and a robust asylum system are critical tools for global leadership; now, therefore, be it

RESOLVED by the House of Delegates, That refugee communities in Virginia hereby be commended for their many contributions to the beauty and richness of Virginia's diversity and for their work to make the Commonwealth a place where all are welcome, accepted, and appreciated; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Department of Social Services' Office of New Americans, on behalf of refugee communities in Virginia, as an expression of the House of Delegates' admiration for the importance of these communities to the Commonwealth.

HOUSE RESOLUTION NO. 321

Commending Elizabeth Lewis.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Elizabeth Lewis, a veteran of World War II and a respected member of her community, celebrated her 100th birthday on December 13, 2020; and

WHEREAS, Elizabeth Lewis was born in Fairmont, West Virginia, in 1920 and was a firsthand witness to many significant events in the 20th century, including the attack on Pearl Harbor on December 7, 1941, which inspired her and her brothers to serve the nation; and

WHEREAS, Elizabeth Lewis enlisted in the United States Army while her two brothers enlisted in the United States Navy and United States Army Air Corps; and

WHEREAS, Elizabeth Lewis was studying to become a nurse prior to the United States' formal declaration of war; 22 years of age at the time of her enlistment, she completed extensive training and rose to the rank of first lieutenant; and

WHEREAS, Elizabeth Lewis joined the United States Army Nurse Corps as a surgical nurse in 1943 and was assigned to the unarmed hospital ship USAHS *Emily H. M. Weder*, named after the first Army nurse killed in action during World War II; and

WHEREAS, Elizabeth Lewis's hospital ship had a capacity of 1,000 patients with a staff of 120 nurses and doctors, a chaplain, and 300 enlisted service members; and

WHEREAS, Elizabeth Lewis departed from New York to Sicily, treating wounded who arrived on barges until the ship reached capacity and returned to the United States; and

WHEREAS, Elizabeth Lewis was stationed in North Africa and Italy and was later sent to the Pacific theater, where she endured harsh conditions and treated service members wounded in New Guinea and the Philippines until the end of the war; and

WHEREAS, Elizabeth Lewis saved the lives of countless American service members, caring for hundreds of soldiers over the course of her multiple deployments during the war; and

WHEREAS, Elizabeth Lewis served the country faithfully and received an honorable discharge in 1946; and

WHEREAS, Elizabeth Lewis continued her nursing career long after the war, and the experience she gained under pressure during her deployments prepared her well for the challenges she faced as a civilian health care professional; and

WHEREAS, Elizabeth Lewis has continued to be a voice for veterans and their families while honoring and sharing the stories of her fellow members of "the Greatest Generation"; she participates in honor flights, which transport military veterans to Washington, D.C., to visit war memorials at no charge; and

WHEREAS, Elizabeth Lewis reflected on her own service and the sacrifices of her fellow service members at the 100th Anniversary Veterans Day ceremony in 2019 at the World War II Memorial in Washington, D.C.; and

WHEREAS, Elizabeth Lewis spoke on behalf of the National Museum of Americans in Wartime's Voices of Freedom Project, which is planned to be built in Dale City; and

WHEREAS, Elizabeth Lewis's courage, patriotism, humility, and grace are an inspiration to current and future generations of Americans; now, therefore, be it

RESOLVED by the House of Delegates, That Elizabeth Lewis hereby be commended for her exceptional and selfless record of military service to the nation as a surgical nurse in World War II as well as her continued involvement in her local community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth Lewis as an expression of the House of Delegates' admiration for her service to the Commonwealth and the nation.

HOUSE RESOLUTION NO. 322

Commending Why Incorporated.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Why Incorporated is a nonprofit organization founded in 2017 by Chrissy Fauls, a resident of Manassas, to help the local community come together to help children tackle difficult life issues; and

WHEREAS, Why Incorporated confronts important community issues affecting children such as bullying, drugs, gang awareness, human trafficking, Internet safety, and mental health, among many other topics; and

WHEREAS, Why Incorporated has partnered with local nonprofits, police departments, and federal agencies in order to engage and educate the greater Prince William County community on the importance of trauma-informed care; and

WHEREAS, Why Incorporated focuses on the importance of empathy, kindness, and unity in order to make the world a place of understanding; and

WHEREAS, Why Incorporated is dedicated to decreasing the number of adverse childhood experiences that put children at risk of mental and physical health issues throughout their lives; and

WHEREAS, Why Incorporated focuses on the long-term social impacts of these issues and works to dismantle sources of violence at their roots; and

WHEREAS, Why Incorporated participated in the Little Black Dress Project of 2018 to raise over \$15,000 to support the fight against human trafficking; and

WHEREAS, Why Incorporated hosts virtual events each month to educate the local community on issues that are often stigmatized in a safe environment; and

WHEREAS, Why Incorporated has stepped up for the local community during the COVID-19 pandemic by distributing free food each week to people who are facing food insecurity and economic hardship in the greater Manassas area; now, therefore, be it

RESOLVED by the House of Delegates, That Why Incorporated hereby be commended for its leadership, advocacy, and service to the local community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chrissy Fauls, founder of Why Incorporated, as an expression of the House of Delegates' admiration for the organization's contributions to the community.

HOUSE RESOLUTION NO. 323

Commending the Prince William County Public Schools' Food and Nutrition Services staff.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Prince William County Public Schools' Food and Nutrition Services staff, consisting of 800 hardworking nutrition team members, has been dedicated to providing nutritious meals for thousands of students, no matter what challenges may arise; and

WHEREAS, more than 11.5 million meals have been served by the Food and Nutrition Services staff of Prince William County Public Schools (PWCS) since the start of the 2020–2021 school year and more than 12.5 million meals have been served since the onset of the COVID-19 pandemic in March 2020; and

WHEREAS, the PWCS Food and Nutrition Services staff has provided meals to students across 37 schools, implementing organized school meal distributions in all weather conditions so that students and families may enjoy a hot meal at home; and

WHEREAS, the staff and leadership team within PWCS Food and Nutrition Services has been dedicated to service and outreach, promoting the distribution of school meal and grocery kits to students through various forms of social media and other platforms so that children and parents may feel both welcomed and invited to receive a school meal; and

WHEREAS, the PWCS Food and Nutrition Services staff has been truly committed to the well-being of students in the face of the unprecedented challenges of the COVID-19 pandemic and has consistently provided meals and emotional support to students who would otherwise be in distress due to food insecurity; and

WHEREAS, the PWCS Food and Nutrition Services staff has acted heroically, dedicating hours to planning, organizing, and executing food distributions that used 70 tons of fresh produce, 65,000 gallons of milk, and 125 tons of additional ingredients in order to ensure that no student goes without a nutritious lunch; and

WHEREAS, the PWCS Food and Nutrition Services staff has expanded school meals provided to students into curbside pick-up family grocery kits, which include whole grains, proteins, vegetables, fruit, and milk, to serve as a weekly grocery supplement for children and families that may be struggling with food insecurity; and

WHEREAS, the PWCS Food and Nutrition Services team has upheld the PWCS nutrition standards by committing to provide wholesome, high-quality, and nutritious meals and food items in an efficient, friendly manner and at prices customers can afford; and

WHEREAS, by putting the needs of students first, the PWCS Food and Nutrition Services staff has nurtured young lives, one nutritious meal at a time, both before and throughout the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That the Prince William County Public Schools' Food and Nutrition Services staff hereby be commended for its meritorious service to the children and families of Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Adam Russo, director of Prince William County Public Schools' Food and Nutrition Services, and the employees of Prince William County Public Schools' Food and Nutrition Services as an expression of the House of Delegates' celebration of their commitment to feeding students and fighting food insecurity.

HOUSE RESOLUTION NO. 324

Commending José Andrés.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, José Andrés, internationally renowned chef and the founder of the global nonprofit World Central Kitchen, has provided, in collaboration with partners across Hampton Roads, nearly 1,500 meals per day to those in the Virginia Peninsula experiencing food insecurity during the COVID-19 pandemic; and

WHEREAS, José Andrés and World Central Kitchen launched the #ChefsforAmerica campaign, which partnered with Newport News Public Schools (NNPS) in late April 2020 to help provide healthy, nutritious to-go meals to NNPS students experiencing food insecurity; and

WHEREAS, World Central Kitchen, along with local partners across Newport News and Hampton Roads, including NNPS, acclaimed musician Pharrell Williams, local restaurants, and various businesses, has worked diligently to provide meals to those who have been adversely affected by COVID-19; and

WHEREAS, in addition to these efforts, World Central Kitchen aided local restaurants in an initiative to deliver meals to those waiting to vote, poll workers, and those in communities near polling sites; now, therefore, be it

RESOLVED by the House of Delegates, That José Andrés, world-renowned chef and the founder of World Central Kitchen, hereby be commended for his efforts to help those experiencing food insecurity in Newport News and across Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to José Andrés as an expression of the House of Delegates' admiration for his work in helping our neighbors across the region during these difficult times.

HOUSE RESOLUTION NO. 325

Celebrating the life of Martha Carter Watkins.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Martha Carter Watkins, a highly admired leader who served many people in Appomattox County, died on July 24, 2020; and

WHEREAS, a native of Appomattox, Martha Watkins graduated from Carver-Price High School in 1962, holding class office in several of its organizations; and

WHEREAS, Martha Watkins retired from the United States Department of Agriculture after 30 years of dedicated service; she was remembered for her warming smile and attitude for helping her clients; and

WHEREAS, Martha Watkins was a loyal and dedicated member of the Jordan Baptist Church in Appomattox, where she served as the decorating church coordinator and as a member of the Trustee Ministry, Sanctuary Choir, Usher Ministry, and the former Gospel Harmonettes; and

WHEREAS, Martha Watkins was one of the founders of the Carver-Price Alumni Association, Inc., and the Carver-Price Legacy Museum, Inc.; she held the office as chaplain but always found time and energy to do things to enhance the association and museum; she was a member of Relay For Life, the Appomattox County Democratic Committee, the Neighborhood Missionary Club, and the Home Extension Club (Henny Penny); she organized The Country Socialites, where she enjoyed going to Broadway shows, going on cruises, and having cookouts and Christmas dinners for the seniors each year, just to mention a few; and

WHEREAS, her parents, James E. Carter, Sr., and Annie Bell Carter, and her grandson, Zachary Ashton Watkins, preceded her in death; she left to cherish her memories her husband of 54 years, Harry; her daughter, Lawane W. Garland; her son, Damand Monte Watkins; two grandchildren, Journey and Jerrett Garland; and other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Martha Carter Watkins; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Martha Carter Watkins as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 326

Celebrating the life of Stewart Evan Robinson.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Stewart Evan Robinson, a highly admired leader who served the residents of Appomattox County and the City of Lynchburg, died on January 21, 2016; and

WHEREAS, a native of Appomattox, Stewart Robinson graduated from Carver-Price High School in 1967; he attended Virginia State University, Central Virginia Community College, and ECPI University; and

WHEREAS, Stewart Robinson was the first person of color hired in the administration offices of the City of Lynchburg in 1971; and

WHEREAS, Stewart Robinson was employed for over 30 years by the City of Lynchburg Information Technology Department as a systems analyst and computer program supervisor; and

WHEREAS, one of the founders of the Carver-Price Alumni Association, Inc., and the Carver-Price Legacy Museum, Inc., Stewart Robinson was involved in many projects as treasurer; and

WHEREAS, Stewart Robinson joined Promise Land Baptist Church at an early age and later joined Mt. Shiloh Baptist Church; he remained a faithful member of the congregation, serving as a deacon, an usher, and a member of the Men's Ministry and the Budget Committee; and

WHEREAS, Stewart Robinson was a Master Mason of Long Mountain Lodge No. 204 of the Most Worshipful Prince Hall Grand Lodge of Virginia Free and Accepted Masons, Inc.; and

WHEREAS, preceded in death by his parents, Evan and Eloise Robinson, Stewart Robinson will be fondly remembered and greatly missed by his wife of 45 years, Rowena Ferguson Robinson; three daughters, Lequetta Hayes, QMHP/QIDP, Dr. Kristy Lee Robinson, and Judge Karen Robinson; and many other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Stewart Evan Robinson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stewart Evan Robinson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 327

Celebrating the life of Herbert Evan Fleshman, Sr.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Herbert Evan Fleshman, Sr., a highly admired leader who served many people in Appomattox County and Lynchburg, died on March 11, 2010; and

WHEREAS, a native of Appomattox, Evan Fleshman graduated from Carver-Price High School in 1951, holding class office in several of its organizations; and

WHEREAS, upon graduation, Evan Fleshman enlisted in the United States Navy and served his country with honor and dignity for 20 years; after returning home, he worked at what is now RR Donnelley for 16 years and at J. Crew for 10 years; and

WHEREAS, Evan Fleshman was one of the founders of Carver-Price Alumni Association, Inc., and the Carver-Price Legacy Museum, Inc., becoming involved in many such projects as treasurer; and

WHEREAS, Evan Fleshman was a devoted member of the Mt. Shiloh Baptist Church, serving in many capacities, including as president of the Men's Ministry, president of the Usher Ministry, church treasurer, and chairman of the Trustee Ministry; and

WHEREAS, Evan Fleshman was a member of the NAACP, chaplain of Veterans of Foreign Wars Post 9855, and a member of the American Legion Post 104 in Appomattox County; and

WHEREAS, preceded in death by his loving wife of over 50 years, Mary, and his daughter, Florence having died since his death, Evan Fleshman will be fondly remembered and dearly missed by his children, Herbert, Jr., Raymond, Herma, and Bernice, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Herbert Evan Fleshman, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Herbert Evan Fleshman, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 328

Celebrating the life of Elizabeth McCoy Jones.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Elizabeth McCoy Jones, a highly admired leader who served many people in Appomattox County and Baltimore, Maryland, died on March 8, 2013; and

WHEREAS, a native of Appomattox, Elizabeth "Liz" McCoy Jones graduated from Carver-Price High School in 1944, having held office in several class organizations; and

WHEREAS, upon graduation, Liz Jones left Appomattox and moved to Baltimore, where she continued her studies at Cortez Peters Business School, the University of Maryland-Harbor Campus, and Northern Community College; she studied at Honeywell and the Government Training Center-M Street and Tomlyn Circle in Washington, D.C.; and

WHEREAS, Liz Jones worked at the Edgewood Ammunition Facility for five years; she then worked at Johns Hopkins Hospital as a dictaphone translator for one year before opening her own restaurant, E&J Restaurant, on Hartford Road in Baltimore; in 1959, she started her career with the United States Social Security Administration as a data entry clerk and retired as a supervisor data technician in 1986; and

WHEREAS, Liz Jones was a devoted member of the Mount Airy Baptist Church in Gladstone; upon moving to Baltimore, she continued her spiritual growth at the Southern Baptist Church, serving as trip planner for the pastor and members of the church; after returning to Virginia in 1996, she renewed her worship and fellowship at Mount Airy, where she organized the Pastor's Aid Ministry and participated wherever needed; and

WHEREAS, Liz Jones served as Chairman of the Board of Directors for the Carver-Price Alumni Association, Inc., and was a member of the Lynchburg Christian Women; Chapter 181 Order of Elks in Lynchburg; Eastern Star, Androgyny; National Association of Retired Federal Employees; Cherokee Indian Tribe; and Family and Community Education of Amherst County; and

WHEREAS, Liz Jones enjoyed bowling and traveling around the world, though she never went to Antarctica; in one memorable trip in 1994, she took a bath in the Dead Sea; and

WHEREAS, the memory of Liz Jones is cherished by her devoted nephew, Edward McCoy, Jr., and great-nephew, Reid McCoy, both of whom she considered her children; her sister-in-law, Ora McCoy, whom she treated like a sister; and many other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Elizabeth McCoy Jones, a highly admired leader in Appomattox County and Baltimore, Maryland; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elizabeth McCoy Jones as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 329

Celebrating the life of John Willie Scott.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John Willie Scott, a highly admired leader who served many people in Appomattox County and Lynchburg, died on May 20, 2016; and

WHEREAS, a native of Appomattox, John Willie Scott graduated from Carver-Price High School in 1954, where he held leadership positions in several student organizations; and

WHEREAS, John Willie Scott proudly served his country as a veteran of the United States Army and was a dedicated freemason; and

WHEREAS, John Willie Scott was a dedicated and loyal worker at Lynchburg Foundry Company for 39 years until it closed; and

WHEREAS, during that time, John Willie Scott was an avid farmer, which was his true passion; when asked about his day, his reply would be that he'd had a good day on the farm, even when he'd been working at the foundry; and

WHEREAS, John Willie Scott was a faithful member of Mount Zion Baptist Church in Red House, where he served as a deacon, treasurer, a member of the choir, and in any other capacity that required his attention; he was well-known as a mover and shaker with no half-stepping in his endeavors; and

WHEREAS, John Willie Scott was one of the founders of Carver-Price Alumni Association, Inc., and the Carver-Price Legacy Museum, Inc.; he held the office of treasurer and always found extra time and energy to do more things to support the association and museum; and

WHEREAS, predeceased by his parents, Johnny and Hannah Scott, John Willie Scott left to cherish his memory his wife of 52 years, Carrie E. Scott; two daughters, Chandra Scott Lewis and the late Carla Scott, who died in 2019; granddaughter, Cydney; and a host of other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Willie Scott; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Willie Scott as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 330

Celebrating the life of Paul Douglas Harvey, DDS.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Paul Douglas Harvey, DDS, a respected oral health care provider and public servant in Appomattox, died on October 19, 2020; and

WHEREAS, a native of Staunton, Paul Harvey graduated from Hampden-Sydney College and earned a doctor of dental surgery degree from the Medical College of Virginia; and

WHEREAS, Paul Harvey opened a dental office in Midlothian, where he served the community for many years until relocating his practice to Appomattox in 2000; and

WHEREAS, Paul Harvey generously volunteered his services to the Bland Ministry Center Dental Clinic in Bland County to provide free oral health care to people in need; and

WHEREAS, desirous to be of further service to the community, Paul Harvey ran for and was elected as mayor of Appomattox and served his fellow residents in that capacity for 12 years from July 1, 2008 to June 30, 2020, then continued to serve as a member of the Appomattox Town Council from July 1, 2020 until his death on October 19, 2020; and

WHEREAS, Paul Harvey will be fondly remembered and greatly missed by his wife of 14 years, Greer; his daughters, Kelly and Katie, and their families; his stepdaughter, Tiffany, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Paul Douglas Harvey, DDS; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Paul Douglas Harvey, DDS, as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 331

Celebrating the life of Pamela Sprouse Palmore.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Pamela Sprouse Palmore of Buckingham, a passionate advocate for housing security in Richmond and throughout the Commonwealth and a beloved mother and grandmother, died on December 20, 2020; and

WHEREAS, a native of Buckingham County, Pamela "Pam" Sprouse Palmore spent most of her life in Buckingham and was affectionately known to family and friends as "Pam from Buckingham"; and

WHEREAS, Pam Palmore was a founding member of project:HOMES in Richmond and served with the organization for 22 years; she was the Director of Energy Conservation Programs and was a mentor to countless fellow employees and worked to build a culture of compassion while focusing on productivity; and

WHEREAS, a respected, award-winning expert in home weatherization, Pam Palmore helped project:HOMES provide extensive, high-quality weatherization and repair services and greatly expand its service area; and

WHEREAS, in 2019, Pam Palmore joined the Department of Housing and Community Development, first as a livable home tax credit assistant, then as a member of the weatherization assistance team, with which she was already well acquainted through her previous work with project:HOMES; and

WHEREAS, Pam Palmore's professional knowledge and dedication were unparalleled in her field; she treated every home as if it belonged to a family member or friend, demonstrating the utmost care and integrity in every project and touching countless lives through her empathy, positivity, and reassuring smile; and

WHEREAS, Pam Palmore served as a member of the Association of Energy Conservation Professionals Board of Directors for many years; and

WHEREAS, Pam Palmore's greatest joy in life was her beloved family, but her generosity and kindness extended to anyone she met; she relished every opportunity to help people in need and was a brave, outspoken advocate for others even while facing her own health challenges in later life; and

WHEREAS, Pam Palmore will be fondly remembered and greatly missed by her daughters, Christy and Sandy, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Pamela Sprouse Palmore; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Pamela Sprouse Palmore as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 332

Celebrating the life of the Honorable Jerry M. Wood.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Jerry M. Wood, a trusted pharmacist who touched countless lives throughout his career and a respected public servant who was elected to the Warrenton Town Council and the Virginia House of Delegates, died on January 8, 2021; and

WHEREAS, a native of Roanoke, Jerry Wood attended Andrew Lewis High School in Salem and subsequently graduated from what is now the Virginia Commonwealth University (VCU) School of Pharmacy; he served his country for eight years as a member of the United States Navy Reserve; and

WHEREAS, Jerry Wood worked at pharmacies in Fredericksburg and Culpeper, then joined the staff of Rhodes Drug Store in Warrenton in 1968; and

WHEREAS, Jerry Wood established Fauquier Pharmacy in Warrenton in 1972 and served the community from its Main Street location for 20 years, earning a reputation for his commitment to customer service and his devotion to serving young people in the community; and

WHEREAS, Jerry Wood sold Fauquier Pharmacy to Rite Aid in 1992 and continued to work as a family pharmacist for the company until his retirement in 2005; and

WHEREAS, desirous to be of further service to the Commonwealth, Jerry Wood ran for and was elected to the Virginia House of Delegates in 1991 and served the residents of the 31st District with dedication and integrity for one term; and

WHEREAS, during his time as a state lawmaker, Jerry Wood helped establish a Fauquier County campus of Lord Fairfax Community College and supported the development of pari-mutuel horse racing in the Commonwealth; and

WHEREAS, Jerry Wood continued his career in public service as a member of the Warrenton Town Council from 2014 to 2020 and represented the Warrenton community as a member of the Rappahannock-Rapidan Regional Commission; and

WHEREAS, Jerry Wood offered his wisdom and expertise to the Virginia Board of Pharmacy and the Virginia Board of Health Professions, and he volunteered his time and leadership with the local American Legion post, Rotary club, and Optimist club and several other civic organizations; and

WHEREAS, among many awards and accolades for his personal and professional achievements, Jerry Wood received a Pharmacy Alumni Award from VCU in 2013; and

WHEREAS, guided by his deep and abiding faith throughout his life, Jerry Wood enjoyed fellowship and worship with the congregation of St. James' Episcopal Church; and

WHEREAS, Jerry Wood will be fondly remembered and greatly missed by his wife of 29 years, Coleen; his children, Gregory, Christian, Julie, Laura, Brandon, and Ashley, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Jerry M. Wood, a highly admired medical professional and public servant in Warrenton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Jerry M. Wood as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 333

Celebrating the life of George Conoly Phillips.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, George Conoly Phillips, a longtime automobile dealer, leader of the business community in Hampton Roads, and beloved husband, father, grandfather, and friend, died on April 22, 2020; and

WHEREAS, born in Daytona Beach, Florida, in 1931, Conoly Phillips spent most of his life in Hampton Roads, graduating from Maury High School in Norfolk and earning a master's degree in business from Old Dominion University; and

WHEREAS, a loyal patriot, Conoly Phillips served his country as a member of the United States Air Force; and

WHEREAS, Conoly Phillips, whose career in the automobile industry spanned more than 40 years, was the owner, president and later chair of Conoly Phillips Lincoln Mercury in Virginia Beach; and

WHEREAS, Conoly Phillips was recipient of *Time* magazine's Dealer of the Year award in 1995, a four-time winner of The President's Award, Ford Motor Company's highest dealer award, and consistently listed in Lincoln 100, a list of the top 100 Lincoln dealers in the country; and

WHEREAS, Conoly Phillips was a former president of the Tidewater Automobile Dealers Association and was a former vice president and legislative chair of the Virginia Automobile Dealers Association; and

WHEREAS, an active and dedicated member of his community, Conoly Phillips supported a wide array of professional groups and charitable causes for many years; and

WHEREAS, with a keen interest in supporting young people, Conoly Phillips chaired several task forces that focused on youth issues, including the Mayor's Task Force on Drugs, the Norfolk Task Force on Juvenile Incarceration and Foster Care, and the Youth Forum Task Force, and he was a co-founder and president of the Proclaim Evangelistic Association that operated a halfway house for drug-addicted youths in the 1970s; and

WHEREAS, driven by his faith, Conoly Phillips was an elder at First Presbyterian Church in Norfolk, where he taught Sunday school for 22 years and sang in the choir; and

WHEREAS, Conoly Phillips demonstrated his faith through his service to his community, including as co-founder and chair of the South Hampton Roads Leadership Prayer Breakfast, president of the Union Mission and Hope Haven Children's Homes, and assistant to the chair of the Tidewater Billy Graham Crusade in 1974; and

WHEREAS, Conoly Phillips was a member and former chair of the board of Regent University; and

WHEREAS, Conoly Phillips ran for and was elected as a member of the Norfolk City Council, first as a city-wide member and then as the representative for Ward 1, and he served in that capacity for 20 years; and

WHEREAS, during his tenure on the Norfolk City Council, Conoly Phillips served as chair of the Finance and Infrastructure Committee and represented the City of Norfolk on the Southeastern Public Service Authority, on which he served as the authority's chair; and

WHEREAS, Conoly Phillips served both his customers and the community with a generous spirit and was an example to other dealers in the region and around the Commonwealth; and

WHEREAS, Conoly Phillips will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of George Conoly Phillips, a respected business leader and an active member of the Hampton Roads community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Conoly Phillips as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 334

Commending Rebecca Carter.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Rebecca Carter, a dedicated public servant, has ably served the residents of Buckingham County as a local government official for more than three decades; and

WHEREAS, Rebecca Carter studied business management and marketing at Dabney S. Lancaster Community College and began working with Buckingham County on September 15, 1986; and

WHEREAS, Rebecca Carter served as interim county administrator and was promoted to county administrator in 1995; over the course of her 34-year career, she helped keep the county financially sound while maintaining low tax rates; and

WHEREAS, Rebecca Carter has offered her leadership and expertise to numerous local boards and committees and is certified by the Virginia Emergency Management Association; and

WHEREAS, Rebecca Carter has worked diligently to enhance the quality of life of all residents of Buckingham County, demonstrating the utmost professionalism, integrity, and dedication; now, therefore, be it

RESOLVED by the House of Delegates, That Rebecca Carter hereby be commended for more than 34 years of service to the residents of Buckingham County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rebecca Carter as an expression of the House of Delegates' admiration for her professional achievements on behalf of the Buckingham County community.

HOUSE RESOLUTION NO. 335

Commending the Honorable J. Samuel Johnston, Jr.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable J. Samuel Johnston, Jr., served Campbell County with great distinction as a judge of Campbell County General District Court and the Campbell County Circuit Court from 1977 until his retirement on June 1, 2008; and

WHEREAS, Samuel Johnston received a bachelor's degree from the University of Alabama and a law degree from the University of Virginia School of Law; and

WHEREAS, after practicing law for five years, Samuel Johnston was appointed a judge of the Campbell County General District Court at the age of 30, making him the youngest judge in the Commonwealth; and

WHEREAS, in 1981, Samuel Johnston became a judge of the Campbell County Circuit Court and was again the youngest such judge in the Commonwealth; he presided over hundreds of trials that impacted thousands of lives and was known for his thoughtfulness, fairness, and commitment to justice; and

WHEREAS, during his tenure on the Campbell County Circuit Court, Samuel Johnston advocated for a new courthouse to not only protect victims and witnesses in criminal cases, but to have the proper facilities to conduct fair and audible hearings and trials, and the new courthouse was dedicated on June 20, 1991; and

WHEREAS, after his well-earned retirement, Samuel Johnston remained active in the legal community as a substitute judge for the 24th Judicial Circuit of Virginia, participating in a statewide mediation group and speaking at numerous events and conferences; and

WHEREAS, Samuel Johnston served as an inspiration to other judges and attorneys and authored a book entitled *Why Judges Wear Robes*, a humorous account of life in the courtroom; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable J. Samuel Johnston, Jr., hereby be commended for his service to Campbell County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable J. Samuel Johnston, Jr., as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 336

Celebrating the life of Joseph Charles LaRocco.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Joseph Charles LaRocco, a beloved husband, father, grandfather, and brother and a highly admired educator and coach who made many contributions to the Roanoke Valley community, died on January 17, 2021; and

WHEREAS, a Salem native, Joseph Charles "Joe" LaRocco graduated from Andrew Lewis High School in 1972 and Roanoke College in 1976; he was a key figure in local and state athletics for nearly 50 years as an athlete, a coach, and a meet official; and

WHEREAS, Joe LaRocco served as a coach at Bassett High School and Cave Spring High School, and he earned six coach of the year awards over the course of 31 seasons as the head of boys' and girls' outdoor track and field, indoor track, or cross country programs; and

WHEREAS, Cave Spring High School's David Garlow won the Virginia High School League (VHSL) Group AAA cross country individual state championship under Joe LaRocco's leadership in 1980; and

WHEREAS, Joe LaRocco served as a USA Track and Field or VHSL official for many years; he officiated 33 consecutive Old Dominion Athletic Conference championship meets and 25 consecutive VHSL meets; and

WHEREAS, Joe LaRocco was an active member of a local running group in his community, the Star City Striders; and

WHEREAS, after his well-earned retirement from coaching in 2013, Joe LaRocco continued to serve young people in the Roanoke Valley as a member of the local Eagle Board of Review for the Boy Scouts of America; and

WHEREAS, Joe LaRocco was inducted into the Roanoke College Athletic Hall of Fame in 1993, holding seven school records in track and field or cross country at that time; and

WHEREAS, Joe LaRocco will be fondly remembered and greatly missed by his wife of 42 years, Terry; his daughters and their husbands, Jackie and John Downs and Cathy LaRocco and Jeff Black; his granddaughter, Brigid Downs; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Joseph Charles LaRocco, a cherished husband, father, grandfather, and brother and a dedicated teacher, coach, and community leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Charles LaRocco as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 337

Celebrating the life of John R.F. Lewis.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John R.F. Lewis, an esteemed food activist, accomplished farmer, and beloved member of the Roanoke community, died on January 25, 2021; and

WHEREAS, John Lewis grew up in Roanoke and lived in Richmond for 14 years, where he attended Virginia Commonwealth University and founded the nonprofit Renew Richmond to support urban agriculture projects and address the issue of food insecurity in the community; and

WHEREAS, from 2016 to 2019, John Lewis took over as executive director of Apple Ridge Farm, a nonprofit summer camp in Floyd County, following the retirement of its founder, his father, Peter; and

WHEREAS, John Lewis built on the long legacy of Apple Ridge Farm by providing urban, at-risk children in Roanoke with enriching educational and cultural experiences in the great outdoors; and

WHEREAS, under John Lewis's visionary leadership, Apple Ridge Farm expanded its operations to include an urban farming initiative called "The Well," in which vacant lots in northwest Roanoke were utilized to grow food; and

WHEREAS, John Lewis's "The Well" initiative not only created educational opportunities for neighborhood youth to learn how to grow and cook food, but generated a bounty of fresh produce for the community; and

WHEREAS, dedicated to the unity of mind, body, and spirit, John Lewis established Infinite Way Circle, a holistic health initiative formed to instruct others in the ancient arts of Baguazhang, Daoyin, and Qigong; and

WHEREAS, John Lewis's commitment to eliminating food insecurity in his community included recent collaborations with Healthy Roanoke Valley, the United Way of Roanoke Valley, and Feeding Southwest Virginia, as well as myriad food-related projects at Garden Song Eco Café in Roanoke; and

WHEREAS, John Lewis will be fondly remembered and dearly missed by his sons, Elijah and Anais; his mother, Harriet; his father and stepmother, Peter and Carla; his former wife and best friend, Precious; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John R.F. Lewis, a respected community activist and advocate in Roanoke whose unwavering kindness, generosity, and optimism touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John R.F. Lewis as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 338

Commending David P. Goodfriend, M.D.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, David P. Goodfriend, M.D., director of the Loudoun County Health Department, received a Regional Impact Award for his work to keep the community safe and informed during the COVID-19 pandemic; and

WHEREAS, David Goodfriend was one of 10 health officials in the region to receive the award, which is presented by the Metropolitan Washington Council of Governments; and

WHEREAS, as a member of the Metropolitan Washington Council of Governments Health Officials Committee, David Goodfriend helped develop sound regional strategies and clear guidance for members of the public; and

WHEREAS, David Goodfriend and the other members of the committee provided real-time data to local elected officials and developed a health equity brief on racial and ethnic disparities in coronavirus cases and related deaths; now, therefore, be it

RESOLVED by the House of Delegates, That David P. Goodfriend, M.D., hereby be commended on receiving a Regional Impact Award for his outstanding leadership during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David P. Goodfriend, M.D., as an expression of the House of Delegates' admiration for service to the residents of Loudoun County.

HOUSE RESOLUTION NO. 339*Commending Ishan Saha.*

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Ishan Saha, a student at Rock Ridge High School in Ashburn, was selected by the National Association for Music Education to participate in the All-National Honor Ensembles; and

WHEREAS, Ishan Saha has trained under the direction of Jordan Markwood and was selected to participate in the mixed choir category All-National Honor Ensembles; and

WHEREAS, Ishan Saha was the first singer in Rock Ridge High School history to receive this honor, and he was one of only 22 students from the Commonwealth and one of only five from Loudoun County selected to participate in the prestigious event; and

WHEREAS, Ishan Saha's ensemble performance was conducted virtually in January 2021; the event featured workshops with renowned clinicians, a college fair, and mock auditions for several music programs; now, therefore, be it

RESOLVED by the House of Delegates, That Ishan Saha hereby be commended on his selection as a member of the National Association for Music Education All-National Honor Ensembles; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ishan Saha as an expression of the House of Delegates' admiration for his accomplishments and best wishes for the future.

HOUSE RESOLUTION NO. 340*Commending Tracy Herbstritt.*

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Tracy Herbstritt, an outstanding educator in Loudoun County, was selected as a Tech4Learning Innovative Educator in 2020; and

WHEREAS, Tracy Herbstritt is a kindergarten teaching assistant at Creighton's Corner Elementary School in Brambleton and works diligently to keep students actively engaged in the learning process and to foster their creativity; and

WHEREAS, Tracy Herbstritt was one of less than 70 educators from throughout the United States and Canada to receive the prestigious award, which recognizes teachers, trainers, aides, administrators, and community organizations that have enriched the learning process through Tech4Learning software and resources; now, therefore, be it

RESOLVED by the House of Delegates, That Tracy Herbstritt hereby be commended on receiving the Tech4Learning Innovative Educator award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tracy Herbstritt as an expression of the House of Delegates' admiration for her exceptional contributions to young people as an educator in Loudoun County.

HOUSE RESOLUTION NO. 341*Commending Women Giving Back.*

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Women Giving Back, which provides high-quality clothing and accessories to transitionally homeless women and children at no charge, has gone above and beyond to continue supporting the community during the COVID-19 pandemic; and

WHEREAS, founded in 2007 by a group of sales and marketing professionals in the Sterling area, Women Giving Back has supplied hundreds of thousands of donated items to tens of thousands of women and children; and

WHEREAS, Women Giving Back has helped women and children build the confidence they need to achieve success in school and in the workplace through its storefront, where women from more than 100 shelters and support programs are able to shop for themselves and their families free of charge; and

WHEREAS, during the COVID-19 pandemic, Women Giving Back has helped ensure safety and social distancing by preparing and delivering bags of clothing to clients' homes as well as making deliveries of other essentials such as diapers, toiletries, and food; and

WHEREAS, Women Giving Back established an online wish list for supporters to purchase and send donated items directly to the store, rather than dropping them off in person; and

WHEREAS, the effects of the COVID-19 pandemic have made the mission of Women Giving Back all the more vital, and the organization has continued to enrich the lives of local women and children through the hard work of its loyal volunteers and generous donations from throughout the community; now, therefore, be it

RESOLVED by the House of Delegates, That Women Giving Back hereby be commended for its work during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Women Giving Back as an expression of the House of Delegates' admiration for the organization's commitment to supporting and empowering women and children in need.

HOUSE RESOLUTION NO. 342

Commending Regina Benson.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Regina Benson, a United States Army nurse, veteran of World War II, and member of the Greatest Generation, has inspired Americans with her admirable service for generations; and

WHEREAS, Regina Benson reported for active duty on September 20, 1944, and, after just weeks of basic training, deployed as a second lieutenant with the 36th Evacuation Hospital to serve in Okinawa and throughout Japan; and

WHEREAS, Regina Benson traveled to Japan on the USS *Repose*, which battled through a frightening typhoon with record-breaking winds of 150 knots to reach its destination of Okinawa; and

WHEREAS, in Japan, Regina Benson helped set up hospitals and care for wounded soldiers and civilians, including victims of the first atomic bomb attack on Hiroshima; and

WHEREAS, previously an operating nurse before joining the United States Army, Regina Benson specialized in facilitating the work of doctors and surgeons during medical, surgical, and orthopedic operations; and

WHEREAS, Regina Benson was honorably discharged from the United States Army on April 30, 1946, concluding a remarkable tour of duty and demonstrating courage and perseverance that saved countless lives; and

WHEREAS, in recognition of her meritorious service and valor during World War II, Regina Benson received numerous distinguished decorations, including the American Campaign Medal, the Asiatic–Pacific Campaign Medal, and the World War II Victory Medal; and

WHEREAS, Regina Benson has received the Joint Service Achievement Medal, the Department of Defense Medal of Distinguished Public Service, and the Honor Award from the Armed Services YMCA's Angels of the Battlefield Awards; now, therefore, be it

RESOLVED by the House of Delegates, That Regina Benson, a veteran of the United States Army and World War II, hereby be commended for her inspirational service on behalf of the country and its citizens; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Regina Benson as an expression of the House of Delegates' heartfelt admiration and respect for her extraordinary heroism.

HOUSE RESOLUTION NO. 343

Commending Arlene Randall.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Arlene Randall, the longtime principal of Cooper Middle School in McLean who has served Fairfax County Public Schools with passion and distinction for many years, retired on February 28, 2020; and

WHEREAS, after teaching for several years in the late 1980s and early 1990s, Arlene Randall embarked upon an illustrious career as an education administrator, serving initially as assistant principal of Longfellow Middle School in McLean from 1993 to 1997; and

WHEREAS, Arlene Randall transferred in 1997 to Cooper Middle School in McLean, where she served the remainder of her career, taking over leadership of the school as its principal more than 20 years ago; and

WHEREAS, Arlene Randall's teaching philosophy emphasized connectedness and caring for one's community, ensuring that all of her students were engaged in valuable social-emotional learning alongside their standard curriculum; and

WHEREAS, Arlene Randall has held education leadership roles beyond Cooper Middle School, supporting several professional organizations, including the Middle School Principals Association, which she served as president from 2007 to 2008; and

WHEREAS, in recognition of her accomplishments as an education administrator, Arlene Randall received an honorary life membership to the Virginia PTA, and under her leadership, Cooper Middle School was the recipient of the Governor's Award for Educational Excellence in 2017, 2018, and 2019; and

WHEREAS, over the past three decades with Fairfax County Public Schools, Arlene Randall has inspired her students and staff to succeed both in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, That Arlene Randall hereby be commended on the occasion of her retirement as principal of Cooper Middle School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arlene Randall as an expression of the House of Delegates' admiration for her service on behalf of Fairfax County and the Commonwealth and best wishes for the future.

HOUSE RESOLUTION NO. 344

Celebrating the life of Gene Corrigan.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Gene Corrigan, an iconic leader in the world of college athletics, died in January 2020; and

WHEREAS, Gene Corrigan, a native of Baltimore, graduated from Loyola High School and served his country as a member of the United States Army; and

WHEREAS, Gene Corrigan continued his education at Duke University, then subsequently began a long career with the University of Virginia as a lacrosse and soccer coach, then went on to serve as the university's director of athletics from 1971 to 1981; and

WHEREAS, Gene Corrigan subsequently worked as director of athletics at the University of Notre Dame until 1987, when he became commissioner of the Atlantic Coast Conference; and

WHEREAS, Gene Corrigan provided his visionary leadership to the Atlantic Coast Conference as commissioner until 1996 and, in addition, served as president of the National Collegiate Athletic Association from 1995 to 1997; and

WHEREAS, Gene Corrigan's contributions to college athletics throughout the country cannot be overstated, and his legacy lives on through the countless colleagues and student-athletes to whom he was a wise and trusted mentor; and

WHEREAS, Gene Corrigan received many awards and accolades for his personal and professional achievements, including the prestigious Gold Medal from the National Football Foundation and the Alumnus of the Year award from Duke University, both in 1996; and

WHEREAS, Gene Corrigan was inducted into the National Lacrosse Hall of Fame in 1993, the Virginia Sports Hall of Fame in 2007, and the North Carolina Sports Hall of Fame in 2019; and

WHEREAS, Gene Corrigan will be fondly remembered and greatly missed by his beloved wife, Lena; his children, Louise, Kathy, David, Kevin, Brian, Tim, and Boo, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gene Corrigan; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gene Corrigan as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 345

Celebrating the life of Rodney S. Thomas.

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Rodney S. Thomas, a business owner and public servant who made many contributions to the Albemarle County community, died on August 31, 2020; and

WHEREAS, born in Charlottesville, Rodney Thomas graduated from Lane High School and subsequently served his country as a member of the United States Army; and

WHEREAS, Rodney Thomas began his career in the newspaper business as press room supervisor and circulation manager for the *Daily Progress*; he then worked as president of the printing company Charlottesville Press from 1979 to 2017; and

WHEREAS, desirous to be of further service to his community, Rodney Thomas ran for and was elected to the Albemarle County Board of Supervisors and represented the Rio District from 2010 to 2013; and

WHEREAS, Rodney Thomas represented Albemarle County on the Charlottesville-Albemarle Metropolitan Planning Organization and as a member of a working group for the Charlottesville-Albemarle Regional Transit Authority; and

WHEREAS, Rodney Thomas served on the regional board of directors of the Sorensen Institute for Political Leadership at the University of Virginia, of which he was a 1999 graduate; and

WHEREAS, Rodney Thomas offered his leadership to local Boys and Girls Clubs and the local YMCA; he helped keep the community safe as a former board member of Crime Stoppers and was a past president of the Charlottesville Host Lions Club; and

WHEREAS, Rodney Thomas will be fondly remembered and greatly missed by his wife, Nancy; his children, Ashley and Rod, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Rodney S. Thomas, a respected former member of the Albemarle County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Rodney S. Thomas as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 346*Commending Jenna Alexander.*

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jenna Alexander, vice president of advocacy for the Virginia Parent Teacher Association, will receive the Shirley Igo Advocate of the Year Award at the 2021 National Parent Teacher Association Virtual Legislative Conference on March 10, 2021; and

WHEREAS, the National Parent Teacher Association (PTA) annually bestows the Shirley Igo Advocate of the Year Award to an individual PTA member who has advanced the organization's federal public policy agenda; and

WHEREAS, as vice president of advocacy for the Virginia PTA, Jenna Alexander assembled a committee that incorporated representatives from every active district in the Commonwealth; and

WHEREAS, during the COVID-19 pandemic, Jenna Alexander deployed the Virginia PTA's advocacy committee to develop a webinar series, a social media toolkit, email and social media campaigns, and a virtual rally to urge state and federal lawmakers to restore education funding; and

WHEREAS, Jenna Alexander leads with great compassion and determination, working hard to ensure that every voice is heard and valued and that every child has an opportunity to succeed; and

WHEREAS, through her tireless efforts and steadfast dedication, Jenna Alexander has helped make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Jenna Alexander, vice president of advocacy for the Virginia Parent Teacher Association, hereby be commended for receiving the National Parent Teacher Association's 2021 Shirley Igo Advocate of the Year Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jenna Alexander as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and best wishes for the future.

HOUSE RESOLUTION NO. 347*Commending Nicole Rivera, D.D.S.*

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Nicole Rivera, D.D.S., an accomplished dentist and the owner of Aldie Dental Care in Loudoun County, has created a scholarship for aspiring ballet dancers at the Virginia Ballet Company and School in Fairfax County; and

WHEREAS, Nicole Rivera, who has trained as a ballerina since the age of seven, created the annual, one-year scholarship to the Virginia Ballet Company and School to impart the valuable life lessons she learned growing up to young people in her community; and

WHEREAS, with an emphasis not only on physical conditioning but on developing one's focus and work ethic, the Virginia Ballet Company and School scholarship sponsored by Nicole Rivera will foster the success of an untold number of area youths; and

WHEREAS, Nicole Rivera intends to select a new recipient for the scholarship each year and to continue supporting the ballet community of the Commonwealth through her relationship with the Virginia Ballet Company and School into the foreseeable future; and

WHEREAS, Nicole Rivera has admirably served the global community as a volunteer dentist on mission trips to Guatemala, Nicaragua, Saint Vincent, the Dominican Republic, and elsewhere; and

WHEREAS, by creating opportunities for young people to develop their talents and achieve their dreams, Nicole Rivera has helped to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Nicole Rivera, D.D.S., esteemed dentist and owner of Aldie Dental Care, hereby be commended for establishing a scholarship to the Virginia Ballet Company and School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nicole Rivera, D.D.S., as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 273*Celebrating the life of Bruce Winston Edwards.*

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Bruce Winston Edwards, a husband, father, teacher and mentor, passed away peacefully from his family and friends on August 22, 2020; and

WHEREAS, Bruce Edwards graduated from Norview High School and from Old Dominion University, earning an MPA, with plans to become a teacher; and

WHEREAS, when his father suffered his first heart attack in 1967, Bruce Edwards, wanting to learn how to protect his family, joined the Ocean Park Volunteer Fire and Rescue Unit and rose to the rank of Assistant Fire and Rescue Chief; his life's work and passion for pre-hospital care had just begun; and

WHEREAS, in 1978, Bruce Edwards was elected as a Life Member of Ocean Park Volunteer Rescue Squad, remaining an active member and paramedic while also becoming involved with the Virginia Association of Volunteer Rescue Squads (VAVRS); he represented Ocean Park before VAVRS for 35 years and served as the by-laws chair for 18 years, being an expert on Robert's Rules of Order, then was elected to Life Membership in the VAVRS in 2009; and

WHEREAS, Bruce Edwards was appointed in 1973 as the Executive Director of the Emergency Coronary Care Program in Virginia Beach that generated the first Advance Life Support (ALS) technicians in the Commonwealth of Virginia; from 1975 to 1984, he was responsible for the pre-hospital patient care and training for the City and in 1984 was promoted to the office of the Chief of Emergency Medical Services (EMS) in the City of Virginia Beach, where he served until his retirement in 2016, becoming Chief Emeritus after having served the City for 42 years; and

WHEREAS, Bruce Edwards was appointed to the Virginia Department of Health EMS subcommittee on ALS from 1973 to 1993, creating and refining the Virginia ALS Training Guidelines and the Operational regulations; and

WHEREAS, Bruce Edwards was best known for building EMS and the rescue squads in the City of Virginia Beach to department status and positioning the organization to become what it is today; as operations and the call volume grew, he could be seen working a shift as the paramedic more than once each month, in addition to his many other responsibilities; and

WHEREAS, Bruce Edwards served 12 years as a member of the Governor's EMS Advisory Board, as a member of the EMS Disaster Response Committee, Chair of the State Medevac Committee, and Chair of the EMS Communications Committee; he also served as a member of the Tidewater EMS Regional EMS Council Board of Directors from 1976 to 2016 and received the Governor's Award for Excellence in EMS in 2017; and

WHEREAS, in 2009, Bruce Edwards was appointed to the Virginia Board of Health, serving two terms on the board and serving as chair from 2011 to 2017, using his level demeanor and determined personality to address contentious issues that came before the board during his tenure; and

WHEREAS, Bruce Edwards was appointed to the Virginia Volunteer Firefighters and Rescue Squad Workers Service Award Pension Fund, representing VAVRS, and served from 2017 to 2020; and

WHEREAS, shortly after his passing, the City of Virginia Beach City Council renamed the EMS Training Center as The Bruce W. Edwards Virginia Beach Emergency Medical Services Headquarters and Training Center in his honor; and

WHEREAS, according to his son in an interview, Bruce Edwards was the protector of the volunteer EMS system during his time as the organization's leader in the City of Virginia Beach; and

WHEREAS, Bruce Edwards will be fondly remembered and greatly missed by his beloved wife, Jean; his son, Donald James Edwards; his son-in-law Michael John Mailand; his five grandchildren, his brothers and sisters-in-law; and numerous nieces and nephews; he was predeceased by his daughter Patricia Marie Edwards Mailand; and

WHEREAS, Bruce Edwards will also be missed, remembered, and live on in stories told by his numerous EMS coworkers and friends, including those he served with through more than 42 years, students he taught, patients he treated, and those in the law-enforcement and fire service community, all of whom made up his second family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Bruce Winston Edwards, a respected leader in the City of Virginia Beach community and in the EMS community in the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bruce Winston Edwards as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 277

Commending Marymount University.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Marymount University, an esteemed institution of higher education in Arlington that was the first Catholic college established in Virginia, celebrates its 70th anniversary in 2020; and

WHEREAS, founded as Marymount Junior College in 1950 by the Religious of the Sacred Heart of Mary, Marymount University has since grown from a two-year women's college to a coeducational, doctoral degree-granting university; and

WHEREAS, Marymount University prepares the leaders of tomorrow by providing its students a holistic education that emphasizes intellectual curiosity, service to others, and a globally oriented perspective; and

WHEREAS, Marymount University currently offers 31 bachelor's programs, 17 master's programs, six doctoral programs, and a variety of certificate and licensure options, serving approximately 3,400 students while maintaining an impressive student-to-faculty ratio of 12 to one and an average class size of 15 students; and

WHEREAS, with students hailing from 45 states, Washington, D.C., U.S. territories, and 78 countries, and a student population that is 20 percent Latinx, 15 percent Black and African American, and seven percent Asian and Asian American, Marymount University is proudly regarded as one of the most diverse universities in the region; and

WHEREAS, Marymount University pairs its liberal arts curriculum with hands-on learning opportunities such as internships, clinical work, student-teaching placements, and research projects to give students experience and professional connections that will be invaluable when starting their careers; and

WHEREAS, in recent years, Marymount University has grown beyond its 21-acre main campus to new campuses at the Ballston Center and the 4040 Center, both in Arlington, which provide students and faculty with a state-of-the-art learning environment; and

WHEREAS, through its commitments to educational excellence, spiritual growth, and community stewardship, Marymount University has helped countless young people find success and purpose in their careers and lives; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Marymount University, a distinguished institution of higher education in Arlington, on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Irma Becerra, president of Marymount University, as an expression of the General Assembly's admiration for the university's history and important contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 278

Commending the Honorable Bruce D. White.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Honorable Bruce D. White, chief judge of the Fairfax Circuit Court of the 19th Judicial Circuit of Virginia, has ably served the residents of Northern Virginia and the Commonwealth as an attorney and a judge for more than five decades; and

WHEREAS, Bruce White holds degrees from The George Washington University and the Cecil C. Humphreys School of Law at the University of Memphis, and he served his country as an officer in the United States Navy Reserve Judge Advocate General's Corps; and

WHEREAS, Bruce White practiced civil law for three decades, litigating more than 200 jury cases in Northern Virginia and throughout the Commonwealth over the course of his distinguished career; and

WHEREAS, for 13 years, Bruce White offered his expertise to the 19th Judicial District of Virginia as a substitute judge for the Fairfax County General District Court and the Fairfax County Juvenile and Domestic Relations District Court; and

WHEREAS, in 2008, Bruce White was appointed as a judge of the Fairfax Circuit Court and presided over the court with great fairness, wisdom, and integrity; beginning in 2015, he was selected to serve as chief judge for three consecutive terms; and

WHEREAS, Bruce White is an emeritus member of the George Mason American Inn of Court and a sought-after lecturer for legal programs throughout the Commonwealth; he has participated in the Fairfax County Model Judiciary Program for more than two decades, including 10 years as chief judge of the program; and

WHEREAS, Bruce White has served as a mentor to recently appointed circuit court judges and has inspired many young attorneys as a longtime adjunct professor at George Mason University's Antonin Scalia Law School and a faculty member of the Virginia State Bar's Harry L. Carrico Professionalism Course; and

WHEREAS, a man of great integrity, Bruce White served the Commonwealth with the utmost dedication and distinction, and after his well-earned retirement, he plans to continue serving as a recall judge and a mediator; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Bruce D. White on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Bruce D. White as an expression of the General Assembly's admiration for his decades of service to the Commonwealth.

SENATE JOINT RESOLUTION NO. 279

Commending the Honorable Steven Selwyn Smith.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, on May 1, 2021, the Honorable Steven Selwyn Smith, a former chief judge of both the Prince William General District Court and the Prince William Circuit Court, will retire as a judge after 12 years on the bench; and

WHEREAS, Steven S. Smith was raised on a farm in Manassas by his parents, the Honorable H. Selwyn Smith and Virginia Busk Smith, with his three siblings, Victor A. Smith, Alison Smith Dixon, and Carolyn Smith Jacobs, whom he dearly loves; and

WHEREAS, Steven S. Smith attended public schools in Prince William County, graduating in 1971, then received his bachelor's degree from the University of Virginia in 1975 and earned his law degree from the T.C. Williams School of Law at the University of Richmond in 1979; and

WHEREAS, Steven S. Smith practiced law in Manassas for 30 years and worked for many community organizations, including the Prince William Area Free Clinic, Historic Manassas, Inc., and the Prince William Medical Center, before being elected to two terms with the Manassas City Council; and

WHEREAS, Steven S. Smith was appointed to the Prince William General District Court of the 31st Judicial District of Virginia on May 1, 2009, and served the members of the community with integrity, dedication, and distinction; and

WHEREAS, Steven S. Smith was then appointed to the Prince William Circuit Court of the 31st Judicial Circuit of Virginia on July 1, 2015, and presided over the court with empathy, fairness, and wisdom; and

WHEREAS, after his well-earned retirement, Steven S. Smith plans to spend more time with his dear wife, Jane, their three grown children, Oliver, Austin, and Mason Smith, and other family and friends at his river property in Erica, Virginia; in Taos, New Mexico; or in West Palm Beach, Florida; he will also continue to serve the Commonwealth as a substitute judge; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Steven Selwyn Smith on the occasion of his retirement as a judge of the Prince William Circuit Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Steven Selwyn Smith as an expression of the General Assembly's admiration for his outstanding service to Prince William County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 280

Commending the Honorable Kimberly J. Daniel.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Honorable Kimberly J. Daniel retired as a judge of the Fairfax County Juvenile and Domestic Relations District Court on December 31, 2020; and

WHEREAS, a lifelong Fairfax County resident, Kimberly Daniel grew up in Falls Church and holds degrees from the University of Iowa and what is now George Mason University's Antonin Scalia Law School; and

WHEREAS, Kimberly Daniel practiced law with her late father, Sidney, in the firm Daniel and Daniel from 1981 to 1998, then as a solo practitioner until 2001; she concentrated her practice mostly in litigation, as well as all aspects of juvenile law; and

WHEREAS, Kimberly Daniel provided mentorship and support to young people as part of the team that established the Court Appointed Special Advocate (CASA) program in Fairfax County, and she served as one of the county's first CASA trainers; and

WHEREAS, Kimberly Daniel also represented individuals with mental illnesses as a special justice for the civil commitment process from 1994 to 2001; she worked with stakeholders to evaluate and streamline civil commitments and created a practice program at the Antonin Scalia Law School for students to represent petitioners free of charge; and

WHEREAS, in 2001, Kimberly Daniel was appointed as a judge of the Fairfax County Juvenile and Domestic Relations District Court of the 19th Judicial District of Virginia; in 2006, she founded the Fairfax County Drug Court and served as its presiding judge for five years; and

WHEREAS, Kimberly Daniel presided over the court with great fairness and wisdom and was elected by her peers as chief judge from 2008 to 2010, during which time she oversaw the relocation to the current courthouse; and

WHEREAS, Kimberly Daniel also served as a backup judge for the Veterans Treatment Court and was an active member of the Diversion First Program for offenders in need of mental health or substance abuse treatment; and

WHEREAS, throughout her career, Kimberly Daniel offered her leadership and expertise to local, state, and national peer organizations, and she authored numerous articles on a wide variety of legal topics; and

WHEREAS, Kimberly Daniel earned many awards and accolades for her professional achievements, including recognition for her pro bono work and her outstanding service as a guardian ad litem; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Kimberly J. Daniel on the occasion of her retirement as a judge of the Fairfax County Juvenile and Domestic Relations District Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Kimberly J. Daniel as an expression of the General Assembly's admiration for her years of service to Fairfax County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 281

Commending the Honorable Janine M. Saxe.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Honorable Janine M. Saxe will retire as a judge of the Fairfax County Juvenile and Domestic Relations District Court on February 1, 2021; and

WHEREAS, Janine Saxe holds degrees from Carnegie Mellon University, the University of Louisville, and the Georgetown University Law Center; and

WHEREAS, Janine Saxe practiced law in Fairfax County for 24 years, concentrating in family and juvenile law, as well as civil and criminal litigation; she offered her expertise to numerous professional organizations and served as president of the Fairfax Bar Association and the Fairfax Law Foundation; and

WHEREAS, in 2007, Janine Saxe was appointed as a judge of the Fairfax County Juvenile and Domestic Relations District Court of the 19th Judicial District of Virginia and has served with great fairness and wisdom for more than 13 years, including a term as chief judge; and

WHEREAS, during her tenure on the Fairfax County Juvenile and Domestic Relations District Court, Janine Saxe has served as a member of the court's Permanency Planning Forum and as a lead judge of the court's Best Practice Court Team; and

WHEREAS, Janine Saxe served the Supreme Court of Virginia as chair of the Pandemic Flu Preparedness Commission's Operations and Case Management Committee and a member of the Weighted Caseload Study Advisory Committee and the District Court Forms Advisory Committee; and

WHEREAS, Janine Saxe has mentored many aspiring attorneys as an adjunct professor at Marymount University and received the institution's 2019 Outstanding Adjunct Faculty Award; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Janine M. Saxe on the occasion of her retirement as a judge of the Fairfax County Juvenile and Domestic Relations District Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Janine M. Saxe as an expression of the General Assembly's admiration for her service to Fairfax County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 282

Commending the Crater Planning District Commission.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Crater Planning District Commission, a regional planning agency that coordinates a variety of public policy and development issues among 11 localities in the Commonwealth, marked its 50th anniversary in 2020; and

WHEREAS, the Crater Planning District Commission was formed in May 1970, pursuant to the Virginia Area Development Act, with nine member localities: the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg and the Counties of Dinwiddie, Greensville, Prince George, Surry, and Sussex; today, it encompasses 11 localities, having added Chesterfield County in 1985 and Charles City County in 2007; and

WHEREAS, the Crater Planning District Commission's purpose, as stated in its charter, is to "promote the orderly and efficient development of the physical, social, and economic elements of the Planning District by planning, and encouraging and assisting governmental subdivisions to plan, for the future"; and

WHEREAS, the Crater Planning District Commission's regional priorities have centered on economic and small business development, transportation, the environment, support for its military installations, providing local technical support to its member localities, and fostering regional conversation and collaboration; and

WHEREAS, the Crater Planning District Commission takes great pride in its history of accomplishments, while recognizing the importance of looking forward to the challenges of the future; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Crater Planning District Commission, a regional planning agency coordinating public policy and development issues among 11 localities in the Commonwealth, on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Alec Brebner, executive director of the Crater Planning District Commission, as an expression of the General Assembly's heartfelt admiration for the accomplishments and partnerships the organization has built over the past 50 years and the enduring foundation it has created for new achievements and alliances in the future.

SENATE JOINT RESOLUTION NO. 283

Celebrating the life of Marisa L. Fleck.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, Marisa L. Fleck, who warmed the hearts of countless Northern Virginia families through her trademark hospitality and commitment to serving delicious, authentic Italian food as a longtime co-owner of Via Veneto restaurant in Alexandria, died on May 21, 2020; and

WHEREAS, Marisa Fleck moved to the Commonwealth from Marotta, Italy, and followed in the footsteps of her mother, Gilda Marchetti, as a chef and restaurateur; and

WHEREAS, Marisa Fleck and her sister, Giuliana Austin, established Via Veneto in 1984, and two of their daughters, Kathy and Lilli, have helped maintain the restaurant's decades-long traditions of excellence; and

WHEREAS, Marisa Fleck helped the staff of Via Veneto prepare timeless family recipes for scratch-made pastas, entrees, and desserts and build a welcoming atmosphere where guests could feel like "friends of the family"; and

WHEREAS, in addition to her skill as a cook and hostess whose get-togethers and backyard barbecues were cherished by family and friends, Marisa Fleck was also a talented singer and an accomplished seamstress; and

WHEREAS, Marisa Fleck will be fondly remembered and greatly missed by her daughters, Susie and Kathy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Marisa L. Fleck, co-owner of Via Veneto restaurant and a beloved member of the Northern Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marisa L. Fleck as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 284

Celebrating the life of the Honorable Augustus Benton Chafin, Jr.

Agreed to by the Senate, January 13, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Honorable Augustus Benton Chafin, Jr., a passionate advocate for Southwest Virginia and an accomplished state legislator who earned bipartisan admiration for his commitment to the betterment of the Commonwealth as a whole, died on January 1, 2021; and

WHEREAS, a proud native of Russell County, Benton "Ben" Chafin grew up on his family's farm and learned the value of hard work and responsibility at a young age; he worked at a local meat packing plant as a teenager, and he returned home most weekends while attending college to help on the farm; and

WHEREAS, a first-generation college student in his family, Ben Chafin received a bachelor's degree from East Tennessee State University and a legal degree from the University of Richmond; and

WHEREAS, Ben Chafin established what is now Chafin Law Firm, P.C., in the 1980s and practiced law throughout Southwest Virginia for more than 30 years; in addition to his work as an attorney, he served on the board of First Bank & Trust Company and held close to his roots in agriculture as the owner and operator of a beef cattle farm; and

WHEREAS, desirous to be of further service to his community and to the Commonwealth, Ben Chafin ran for and was elected to the Virginia House of Delegates in 2013, becoming the first Republican to represent the Fourth District in more than 20 years; and

WHEREAS, Ben Chafin was subsequently elected to the Senate of Virginia during a special election in 2014 and ably served the residents of Southwest Virginia in the 38th District until the time of his passing; and

WHEREAS, Ben Chafin adapted to the unique challenges of representing a district that is geographically larger than some federal congressional districts, encompassing all of the Counties of Bland, Buchanan, Dickenson, Pulaski, Russell, and Tazewell; parts of the Counties of Montgomery, Smyth, and Wise; and the Cities of Norton and Radford; and

WHEREAS, during his tenure as a state lawmaker, Ben Chafin introduced and supported many pieces of important legislation to benefit all Virginians and provided his expertise to the Agriculture, Conservation and Natural Resources, Commerce and Labor, Education and Health, Judiciary, Privileges and Elections, and Rehabilitation and Social Services committees; and

WHEREAS, Ben Chafin was a staunch proponent of public education, responsible economic growth, Second Amendment rights, and access to health care for all Virginians; and

WHEREAS, Ben Chafin consistently supported job creation in his district, helping to establish the InvestSWVA partnership to promote the coalfields region as a future site of renewable energy infrastructure and high-technology business development; and

WHEREAS, Ben Chafin served the residents of Southwest Virginia and the entire Commonwealth with the utmost dedication, integrity, and distinction; and

WHEREAS, outside of his careers, Ben Chafin was an avid outdoorsman, who relished every opportunity to appreciate Southwest Virginia's natural splendor; he volunteered his time and leadership as former president of the Russell County Rotary Club, and he enjoyed fellowship and worship with the congregation of Gracewood Community Church in Lebanon; and

WHEREAS, Ben Chafin will be fondly remembered and greatly missed by his wife of 38 years, Lora; his children, Sophia, Audra, Augustus III, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Augustus Benton Chafin, Jr., a respected statesman and a champion for Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Augustus Benton Chafin, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 287

Celebrating the life of the Honorable Bernard S. Cohen.

Agreed to by the Senate, January 14, 2021

Agreed to by the House of Delegates, January 18, 2021

WHEREAS, the Honorable Bernard S. Cohen, a former member of the House of Delegates who had previously served as co-counsel for the appellants in the historic *Loving v. Virginia* case, in which the Supreme Court of the United States struck down laws banning interracial marriage, died on October 12, 2020; and

WHEREAS, the child of Jewish immigrants from Eastern Europe, Bernard "Bernie" Cohen grew up in Brooklyn and graduated from the City College of New York; he subsequently worked for the U.S. Department of Labor while studying to earn a law degree from Georgetown University; and

WHEREAS, Bernie Cohen was working as a volunteer attorney for the American Civil Liberties Union when he met Richard and Mildred Loving, who had been arrested under Virginia's anti-miscegenation laws and been given a suspended jail sentence on the condition that they leave the Commonwealth and not return for a period of 25 years; and

WHEREAS, during the *Loving v. Virginia* case, Bernie Cohen and co-counsel Philip Hirschkop argued that laws prohibiting interracial marriage violated the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States, and in 1967, the Supreme Court of the United States ruled unanimously in favor of the Lovings; and

WHEREAS, the landmark case was a significant victory for the civil rights movement in the United States, and Bernie Cohen's contributions have been immortalized in numerous books, documentaries, and dramatizations, including the 2016 major motion picture *Loving*; and

WHEREAS, desirous to be of further service to the Commonwealth, Bernie Cohen ran for and was elected to the House of Delegates in 1979; he represented residents of Alexandria and Chesapeake in the 21st District until 1983, when he took office as the delegate for the 46th District, representing parts of Alexandria; and

WHEREAS, during his tenure as a state lawmaker, Bernie Cohen offered his expertise to several standing committees and introduced many important pieces of legislation, including a bill to impose restrictions on indoor smoking and measures to ensure that terminally ill patients would have the right to decline life-prolonging treatments; and

WHEREAS, Bernie Cohen also introduced a bill to decriminalize same-sex marriage in the Commonwealth, which was unsuccessful, but the decision in *Loving v. Virginia* was ultimately cited as a precedent in the Supreme Court's decision in another landmark case, *Obergefell v. Hodges* (2015), which guaranteed same-sex couples the right to marry throughout the nation; and

WHEREAS, Bernie Cohen continued to practice law in Alexandria for many years, specializing in environmental and employment cases until his well-earned retirement in 2006; and

WHEREAS, a man of great integrity, Bernie Cohen served the Commonwealth with the utmost dedication and distinction as both an attorney and a state legislator; and

WHEREAS, Bernie Cohen will be fondly remembered and greatly missed by his wife of 61 years, Rae Rose; his children, Bennett and Karen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Bernard S. Cohen, a highly admired attorney and a dedicated public servant who touched the lives of generations of Americans through his contributions to civil rights; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Bernard S. Cohen as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 295*Commending Spotsylvania County.*

Agreed to by the Senate, January 21, 2021
 Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Spotsylvania County, which has made many contributions to the history of the Commonwealth and the nation, will celebrate the 300th anniversary of its founding from 2020 to 2022; and

WHEREAS, Spotsylvania County was established by an act of the General Assembly on November 2, 1720, and was created from parts of Essex, King and Queen, and King William Counties; the county was named for Alexander Spotswood, a former lieutenant governor of Virginia; and

WHEREAS, bordered by the Rappahannock and North Anna Rivers, Spotsylvania County has long functioned as a focal point for commerce and trade both nationally and internationally; the county serves as a natural land gateway between the Coastal Plain and Piedmont regions, facilitating access to both the Shenandoah Valley and the Atlantic Ocean, as well as travel between the state and national capitals in Richmond and Washington, D.C.; and

WHEREAS, after its formation, Spotsylvania County boasted the first fully equipped iron furnace in the colonies, and an ironworks was the county's first industry; and

WHEREAS, Spotsylvania County independently formed one of the first militia organizations in the Commonwealth in 1775; citizens from Spotsylvania provided support for the duration of the American Revolution, and the Marquis de Lafayette's army was joined by the Spotsylvania County Militia near Ely's Ford on the way to victory at Yorktown in 1780; and

WHEREAS, in 1806, gold was discovered at Whitehall Mine near Shady Grove Church, setting off a gold rush and mining industry in Spotsylvania County that thrived until they were overtaken by the California gold rush in 1846; and

WHEREAS, known as the "Crossroads of the Civil War," Spotsylvania County was the site of numerous battles, including Spotsylvania Court House, Chancellorsville, Wilderness, and Fredericksburg, accounting for more than 108,000 casualties; and

WHEREAS, many prominent Virginians have been born in Spotsylvania County, including Robert Brooke, the 10th governor of Virginia, and Matthew Fontaine Maury, who is considered the father of modern oceanography and naval meteorology; and

WHEREAS, Spotsylvania County has also been home to Benjamin Brown, one of the original "Buffalo Soldiers," and a recipient of the Congressional Medal of Honor for his service during the American Indian Wars, noted scholar John J. Wright, and civil rights leader James L. Farmer, Jr., who received the Presidential Medal of Freedom in 1998; and

WHEREAS, Robert Stanard became the first Spotsylvania County citizen to serve as leader of the Virginia House of Delegates when he was elected as the 16th Speaker of the House in 1816; Oscar Minor Crutchfield, another Spotsylvanian, was subsequently elected as the 26th Speaker of the House in 1852; and

WHEREAS, Spotsylvania County is home to multiple sites listed on the National Register of Historic Places, including Andrews Tavern, Fairview, Fredericksburg & Spotsylvania Battlefields Memorial National Military Park, Kenmore, La Vista, La Vue, Lansdowne, Massaponax Baptist Church, Oakley, Prospect Hill, Rapidan Dam Canal of the Rappahannock Navigation, St. Julien, Spotsylvania Court House Historic District, Stirling, Sylvania Plant Historic District, Tubal Furnace Archeological Site, and Walnut Grove; and

WHEREAS, Spotsylvania County has gained modern notoriety as the birthplace of Chick-fil-A's eponymous special sauce, which was invented in 1980 at a franchise store owned by Hugh Fleming in what is now Spotsylvania Town Centre; and

WHEREAS, Spotsylvania County has long strived to provide its young people with educational and recreational opportunities and has endeavored to promote the growth of businesses and industries within the county and the Commonwealth; and

WHEREAS, the Spotsylvania County Board of Supervisors will celebrate Spotsylvania County Founders' Day on May 1, 2021, to honor the county's rich local history and the momentous occasion of the county's tercentennial; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Spotsylvania County on the occasion of the 300th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Spotsylvania County Board of Supervisors as an expression of the General Assembly's respect and admiration for Spotsylvania County's history and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 296*Commending Barry M. Barnard.*

Agreed to by the Senate, January 21, 2021
 Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Barry M. Barnard, who worked valorously to protect and serve citizens of the Commonwealth as police chief of the Prince William County Police Department, retired on July 1, 2020; and

WHEREAS, Barry Barnard earned a bachelor's degree in criminology from Florida State University and a master's degree in public administration from George Mason University; and

WHEREAS, Barry Barnard was a graduate of programs at the Federal Bureau of Investigation's National Academy, the University of Virginia's Senior Executive Institute, the University of Richmond's Professional Executive Leadership School, and the Police Executive Research Forum's Senior Management Institute for Police; and

WHEREAS, a dedicated member of the Prince William County Police Department since 1976, Barry Barnard began his law-enforcement career as a patrol officer and rose through the ranks over his illustrious 44-year career with the force; and

WHEREAS, Barry Barnard was assistant chief of police for nearly a decade, commanding both administrative and operations divisions, before he was promoted to deputy chief of police in 2009; and

WHEREAS, Barry Barnard served twice as acting chief of police during his tenure as deputy chief of police before fully assuming leadership of the Prince William County Police Department on June 28, 2016; and

WHEREAS, as a member of the Virginia Association of Chiefs of Police, the International Association of Chiefs of Police, and the Police Executive Research Forum, Barry Barnard has worked tirelessly to promote collaboration across law-enforcement agencies and uphold the highest standards for the police profession; and

WHEREAS, by enforcing the laws of Prince William County with honor and integrity for nearly a half-century, Barry Barnard has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Barry M. Barnard, police chief of the Prince William County Police Department, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Barry M. Barnard as an expression of the General Assembly's admiration for his remarkable career and innumerable contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 298

Confirming appointments by the Governor of certain persons communicated to the General Assembly June 1, 2020.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly June 1, 2020.

ADMINISTRATION

Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion

Ethan Brown of **King William County**, Virginia, Member, appointed May 1, 2020, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to succeed Brownie Beahm Ritenour.

Lauranett L. Lee of **Chesterfield**, Virginia, Member, appointed May 1, 2020, for an unexpired term beginning April 1, 2018, and ending March 31, 2023, to succeed Will Paulsen.

AGRICULTURE AND FORESTRY

Virginia Corn Board

Virginia Pitman Barnes of **Kilmarnock**, Virginia, Member, appointed May 9, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

David W. Coleman of **Amelia**, Virginia, Member, appointed May 9, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Lloyd Hayden Eicher of **Tappahannock**, Virginia, Member, appointed May 9, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Wallick Harding of **Jetersville**, Virginia, Member, appointed May 9, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Virginia Soybean Board

Raymond Keating of **Chesapeake**, Virginia, Member, appointed April 24, 2020, for a term of three years beginning October 1, 2019, and ending September 30, 2022, to succeed himself.

Linda V. Smith of **West Point**, Virginia, Member, appointed April 24, 2020, for a term of three years beginning October 1, 2019, and ending September 30, 2022, to succeed herself.

Tom Taliaferro of **Windsor**, Virginia, Member, appointed May 9, 2020, for a term of three years beginning October 1, 2019, and ending September 30, 2022, to succeed himself.

AUTHORITIES

Richmond Eye and Ear Hospital Authority

Robert A. Crouse of **Midlothian**, Virginia, Member, appointed April 10, 2020, for a term of six years beginning January 1, 2018, and ending December 31, 2023, to succeed himself.

Frank J. Franzak of **Chesterfield**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed James G. Ferguson.

Alan Lombardo of **Midlothian**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Greta Peters.

Anne Howell McElroy of **Richmond**, Virginia, Member, appointed April 10, 2020, for a term of six years beginning January 1, 2018, and ending December 31, 2023, to succeed herself.

Andrew J. Michael of **Goochland**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Sally Bagley.

Paul T. Miller, Jr. of **Manakin-Sabot**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Stephen Busch.

Wayne T. Shaia of **Henrico**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Jean Oakey.

Walter F. Spence of **Henrico**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Raymond Spence.

Joanne Wiley of **Richmond**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning January 1, 2018, and ending December 31, 2023, to succeed Cheryl Jarvis.

Virginia Port Authority Board of Commissioners

Eva Hardy of **Richmond**, Virginia, Member, appointed May 9, 2020, to serve an unexpired term beginning December 21, 2019, and ending June 30, 2021, to succeed Kim Scheeler.

Joni Ivey of **Newport News**, Virginia, Member, appointed May 8, 2020, to serve an unexpired term beginning October 18, 2019, and ending June 30, 2022, to succeed Alan Diamonstein.

Virginia Public Building Authority

Suzanne S. Long of **Richmond**, Virginia, Member, appointed May 9, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

COMMERCE AND TRADE

Board for Professional and Occupational Regulation

Kim Cummings of **Fredericksburg**, Virginia, Member, appointed April 17, 2020, to serve an unexpired term beginning January 18, 2020, and ending June 30, 2022, to succeed Shelly A. Simonds.

Safety and Health Codes Board

Michael Luce of **Virginia Beach**, Virginia, Member, appointed April 17, 2020, to serve an unexpired term beginning August 23, 2019, and ending June 30, 2022, to succeed David Martinez.

Charles Stiff of **Mechanicsville**, Virginia, Member, appointed April 17, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Virginia Board for Asbestos, Lead, and Home Inspectors

Paul D. Thomas of **Norfolk**, Virginia, Member, appointed May 1, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Joseph Terrell France.

Virginia Racing Commission

Marsha K. Hudgins of **Suffolk**, Virginia, Member, appointed May 9, 2020, to serve an unexpired term beginning January 1, 2019, and ending December 31, 2023, to succeed Isaac Clinton Miller.

Stephanie B. Nixon of **Ashland**, Virginia, Member, appointed May 9, 2020, for a term of five years beginning January 1, 2020, and ending December 31, 2024, to succeed herself.

EDUCATION

The Library Board

Laura Blevins of **Abingdon**, Virginia, Member, appointed April 10, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Mark D. Skiles.

Maya Castillo of **Fairfax County**, Virginia, Member, appointed April 10, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Kristin Ann Cabral.

Leonard Tengco of **Vienna**, Virginia, Member, appointed April 10, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Jon Bowerbank.

New College Institute Board of Directors

Treney Tweedy of **Lynchburg**, Virginia, Member, appointed May 29, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

HEALTH AND HUMAN RESOURCES

Behavioral Health and Developmental Services Board

Kendall L. Lee of **Kenbridge**, Virginia, Member, appointed May 1, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed John Bruggeman.

Board of Medical Assistance Services

Ira Greg Peters of **Manakin-Sabot**, Virginia, Member, appointed April 24, 2020, for a term of four years beginning March 8, 2020, and ending March 7, 2024, to succeed Karen S. Rheuban.

Bryant Cameron Webb of **Charlottesville**, Virginia, Member, appointed April 24, 2020, for a term of four years beginning March 8, 2020, and ending March 7, 2024, to succeed himself.

Commonwealth Health Research Board

Robert Downs of **Richmond**, Virginia, Member, appointed April 2, 2020, for a term of five years beginning April 2, 2020, and ending April 1, 2025, to succeed himself.

Public Guardian and Conservator Advisory Board

Kathy Harkey of **Doswell**, Virginia, Member, appointed April 24, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed Robert C. T. Reed.

Monica Karavanic of **Danville**, Virginia, Member, appointed April 3, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Latroyal Roxburgh of **Richmond**, Virginia, Member, appointed April 3, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Cristen Zedd of **Hanover**, Virginia, Member, appointed April 3, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed Alisa Holiday Moore.

State Child Fatality Review Team

Megan L. Clark of **Farmville**, Virginia, Member, appointed April 24, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed Stephanie N. Morales.

INDEPENDENT

Chesapeake Bay Bridge and Tunnel Commission

Karen James of **Portsmouth**, Virginia, Member, appointed May 15, 2020, for a term of four years beginning May 15, 2020, and ending May 14, 2024, to succeed herself.

Jeffrey A. Rowland of **Chesapeake**, Virginia, Member, appointed May 15, 2020, for a term of four years beginning May 15, 2020, and ending May 14, 2024, to succeed himself.

Task Force to Assist in Identification of the History of Formerly Enslaved African Americans in Virginia

Audrey P. Davis of **Washington, District of Columbia**, Member, appointed May 29, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Paula Gentius of **Midlothian**, Virginia, Member, appointed May 29, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Corey D. B. Walker of **Richmond**, Virginia, Member, appointed May 29, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed himself.

LEGISLATIVE

Brown v. Board of Education Scholarship Awards Committee

Joan Cobbs of **Farmville**, Virginia, Member, appointed April 24, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Marcella V. Luck of **Henrico**, Virginia, Member, appointed April 24, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed himself.

Karen Eley Sanders of **Blacksburg**, Virginia, Member, appointed April 24, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Joy Speakes of **Cullen**, Virginia, Member, appointed May 15, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

PUBLIC SAFETY AND HOMELAND SECURITY

Advisory Committee on Juvenile Justice and Prevention

Morgan L. Faulkner of **King William**, Virginia, Member, appointed April 10, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to fill a new seat.

TRANSPORTATION

Virginia Air and Space Center

Stephen Cobb of **Richmond**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Patrick DeConcini.

Miranda P. Subramanyam of **Ashburn**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Dave Leichtman.

Edwin Ward of **Hampton**, Virginia, Member, appointed April 10, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Alan Archer.

SENATE JOINT RESOLUTION NO. 299

Confirming appointments by the Governor of certain persons communicated to the General Assembly August 1, 2020.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly August 1, 2020.

AGENCY HEADS

Curtis Brown of **North Chesterfield**, Virginia, State Coordinator, Virginia Department of Emergency Management, to serve at the pleasure of the Governor beginning June 9, 2020, to succeed Jeffrey Stern.

Michael Westfall of **Richmond**, Virginia, State Inspector General, appointed June 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

ADMINISTRATION**Art and Architectural Review Board**

Rebecca Deeds of **Charlottesville**, Virginia, Member, appointed July 10, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

AGRICULTURE AND FORESTRY**Board of Forestry**

James R. Coleman of **Culpeper**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Donald Carl Bright.

Michael Harold of **Harrisonburg**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Joel Lee Cathey.

William F. Osl, Jr., of **Columbia**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Anne M. Beals.

Cattle Industry Board

W. David Coleman of **Amelia**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Matthew Hill of **Scott County**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

H. Richard Lloyd of **Louisa County**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Andy Smith of **Rosedale**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

William A. Tucker of **Amherst**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Marine Products Board

Hannah Kellum of **Farnham**, Virginia, Member, appointed June 26, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Michael Schwarz of **Norfolk**, Virginia, Member, appointed June 26, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Milk Commission

Brian Linney of **Leesburg**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Peanut Board

John Crumpler of **Suffolk**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

J. Andrew Darden of **Carrsville**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Small Grains Board

Ellen Matthews Davis of **West Point**, Virginia, Member, appointed June 5, 2020, for a term of three years beginning September 1, 2019, and ending August 31, 2022, to succeed herself.

James H. Hundley III of **Champlain**, Virginia, Member, appointed June 5, 2020, for a term of three years beginning September 1, 2019, and ending August 31, 2022, to succeed himself.

Michael B. Mayes of **Petersburg**, Virginia, Member, appointed June 5, 2020, for a term of three years beginning September 1, 2019, and ending August 31, 2022, to succeed himself.

AUTHORITIES**Fort Monroe Authority Board of Trustees**

Edward L. Ayers of **Richmond**, Virginia, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Brian K. Jackson of **Richmond**, Virginia, Member, appointed July 3, 2020, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

T. Destry Jarvis of **Baltimore, Maryland**, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

James P. Moran of **Alexandria**, Virginia, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Benita Thompson-Byas of **Great Falls**, Virginia, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Colin Campbell.

Hampton Roads Sanitation District Commission

Stephen C. Rodriguez of **Chesapeake**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning June 8, 2020, and ending June 7, 2024, to succeed himself.

Molly Joseph Ward of **Hampton**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning June 8, 2020, and ending June 7, 2024, to succeed herself.

Southwest Virginia Energy Research and Development Authority

Kristen Westover of **Dryden**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Virginia Solar Energy Development and Energy Storage Authority

Colleen Lueken of **Arlington**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

COMMERCE AND TRADE

Auctioneers Board

Douglas B. Sinclair of **Midlothian**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Andrew W. Smith of **Beaverdam**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board for Barbers and Cosmetology

Bo Machayo of **Leesburg**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Josie R. Mace.

Matthew D. Roberts of **Richmond**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Sandra Smith of **Richmond**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Anne R. McCaffrey.

Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals

Donald Riggelman of **Winchester**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board of Accountancy

Jay Bernas of **Virginia Beach**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Matthew Paul Boshier.

Wendy Pace Lewis of **Mechanicsville**, Virginia, Member, appointed June 19, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Stephanie Saunders.

Laurie Warwick of **Ashburn**, Virginia, Member, appointed June 19, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Board of Coal Mining Examiners

Phillip W. Hale of **North Tazewell**, Virginia, Member, appointed June 12, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Center for Rural Virginia

Elizabeth Povar of **Henrico**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Greg W. White.

Coal Surface Mining Reclamation Fund Advisory Board

Gerald D. Collins of **Wise**, Virginia, Member, appointed July 31, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed himself.

Commonwealth of Virginia Innovation Partnership Authority Board of Directors

Monique Adams of **Virginia Beach**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Barbara D. Boyan of **Henrico**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Richard Hall of **Martinsville**, Virginia, Member, appointed July 31, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Chiedo John of **Dayton**, Virginia, Member, appointed July 31, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Kurt John of **Fairfax Station**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Paula Sorrell of **Arlington**, Virginia, Member, appointed July 31, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Virginia Economic Development Partnership Authority Board of Directors

Carrie Hileman Chenery of **Staunton**, Virginia, Member, appointed July 10, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Marianne M. Radcliff of **Richmond**, Virginia, Member, appointed July 10, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Heather W. Engel.

Virginia Economic Development Partnership Committee on Business Development and Marketing

Amy N. Parkhurst of **Virginia Beach**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Jane C. Ferrera.

Leonard L. Sledge of **Hampton**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Virginia Gas and Oil Board

Bill Harris of **Big Stone Gap**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Bruce A. Prather of **Abingdon**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Donald Ratliff of **Big Stone Gap**, Virginia, Member, appointed June 26, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia Manufactured Housing Board

Stephan Geiser of **Stafford**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning April 1, 2020, and ending March 31, 2024, to succeed Cindy Tomlin.

Keith Hicks of **Richmond**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning April 1, 2020, and ending March 31, 2024, to succeed himself.

Sean D. Hicks of **Richmond**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning April 1, 2020, and ending March 31, 2024, to succeed himself.

Jim Trepinski of **Boones Mill**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning April 1, 2020, and ending March 31, 2024, to succeed himself.

COMPACTS

Breaks Interstate Park Commission

Wanda M. Beery of **Grundy**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning February 24, 2020, and ending February 23, 2024, to succeed Larry D. Yates.

Local Government Advisory Committee to the Chesapeake Bay Executive Council

Amy Dubois of **Mathews**, Virginia, Member, appointed July 31, 2020, to serve at the pleasure of the Governor, to succeed Ruby Brabo.

DESIGNATED

Poet Laureate of Virginia

Luisa Igloria of **Norfolk**, Virginia, Poet Laureate, appointed July 17, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Henry Hart.

EDUCATION

Board of Trustees of the Frontier Culture Museum of Virginia

Paul Vames of **Staunton**, Virginia, Member, appointed July 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Christopher Newport University Board of Visitors

Regina P. Brayboy of **Suffolk**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Kellye Walker.

Terri M. McKnight of **Fairfax Station**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Lindsey Carney Smith of **Newport News**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

The College of William and Mary Board of Visitors

S. Douglas Bunch of **Washington, District of Columbia**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Cynthia E. Hudson of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Warren Buck.

Anne Leigh Kerr of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John E. Littel of **Virginia Beach**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Brian Woolfolk of **Fort Washington, Maryland**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

George Mason University Board of Visitors

James W. Hazel of **Charlottesville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Wendy Marquez of **Penhook**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Jon M. Peterson of **Fairfax Station**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Lisa M. Zuccari.

Bob Witeck of **Arlington**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

James Madison University Board of Visitors

Chris Falcon of **Annandale**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Michael M. Thomas.

Maribeth Herod of **Henrico**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John C. Lynch of **Norfolk**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Michael Brent Battle.

Lara Major of **Purcellville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John C. Rothenberger of **Great Falls**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Longwood University Board of Visitors

Katharine Bond of **Mechanicsville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Steven P. Gould of **Danville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Polly Raible of **Midlothian**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Norfolk State University Board of Visitors

BK Fulton of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Devon M. Henry of **Glen Allen**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Old Dominion University Board of Visitors

Bruce Bradley of **Virginia Beach**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Larry R. Hill of **Virginia Beach**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Toykea Jones of **Hanover, Maryland**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Kay A. Kemper of **Norfolk**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Radford University Board of Visitors

Robert A. Archer of **Salem**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jay A. Brown of **Glen Allen**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Rachel D. Fowlkes of **Abingdon**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Debra K. McMahon of **Charlottesville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Georgia Anne Snyder-Falkinham of **Blacksburg**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

State Board for Community Colleges

Dana Beckton of **Chesapeake**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Walter A. Stosch.

Brenda D. Calderon of **Alexandria**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Joseph Smiddy.

Darius A. Johnson of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Robin Sullenberger.

Ashby Kilgore of **Newport News**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Susan T. Gooden.

State Council of Higher Education for Virginia

Ken Ampy of **Midlothian**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Alexandra Arriaga of **Arlington**, Virginia, Member, appointed June 5, 2020, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2022, to succeed Bill Murray.

Thaddeus B. Holloman of **Newport News**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Thomas G. Slater, Jr., of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

University of Mary Washington Board of Visitors

Sharon Bulova of **Fairfax**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Edward B. Hontz of **Stafford**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Charles S. Reed, Jr., of **Sterling**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Deirdre Powell White.

University of Virginia and Affiliated Schools Board of Visitors

Mark T. Bowles of **Goochland**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Elizabeth Matheny Cranwell of **Roanoke**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Thomas Anthony DePasquale of **Washington, District of Columbia**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Babur Bari Lateef, of **Manassas**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

James B. Murray, Jr., of **Keene**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia Commonwealth University Board of Visitors

H. Benson Dendy, III, of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Carmen Lomellin of **Arlington**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed John A. Luke.

Keith T. Parker of **Atlanta, Georgia**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Tonya A. Parris-Wilkins of **Wytheville**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Robert D. Holsworth.

Virginia Military Institute Board of Visitors

Charles E. Dominy of **Oakton**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Lester Johnson, Jr., of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Carl A. Strock.

Scot W. Marsh of **Winchester**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Grover C. Outland, III, of **Arnold, Maryland**, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed George Collins.

Virginia Polytechnic Institute and State University Board of Visitors

Carrie Chenery of **Staunton**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Dennis H. Treacy.

Greta J. Harris of **Richmond**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Chris Petersen of **McLean**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jeffrey Veatch of **Alexandria**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia State University Board of Visitors

Pamela Currey of **New Kent**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Christine M. Darden of **Hampton**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Jennifer Lynn Hunter.

Shavonne Gordon of **Richmond**, Virginia, Member, appointed June 5, 2020, to serve an unexpired term beginning January 1, 2020, and ending June 30, 2020, to succeed Paul D. Koonce.

Shavonne Gordon of **Richmond**, Virginia, Member, appointed June 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Bill Murray of **Henrico**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Daryl Dance.

James J.L. Stegmaier of **Chesterfield**, Virginia, Member, appointed June 5, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

HEALTH AND HUMAN RESOURCES**Board of Audiology and Speech-Language Pathology**

Bradley Kesser of **Charlottesville**, Virginia, Member, appointed July 10, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board of Counseling

Bev-Freda Jackson of **Arlington**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Board of Optometry

Fred E. Goldberg of **Fairfax**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Clifford Roffis of **Richmond**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board of Pharmacy

Sarah Melton of **Bristol**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Cynthia Warriner.

R. Dale St. Clair, Jr., of **Goochland**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Rebecca Thornbury.

Board of Veterinary Medicine

Tregel Cockburn of **Sterling**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Steve Karras of **Roanoke**, Virginia, Member, appointed July 17, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

INDEPENDENT**Virginia College Savings Plan Board**

Dante D. Jackson of **North Chesterfield**, Virginia, Member, appointed July 10, 2020, to serve an unexpired term beginning January 9, 2020, and ending June 30, 2021, to succeed Martha M. Mugler.

Virginia Retirement System Board of Trustees

Michael P. Disharoon of **Virginia Beach**, Virginia, Member, appointed July 17, 2020, for a term of five years beginning March 1, 2020, and ending February 28, 2025, to succeed Diana F. Cantor.

Susan T. Gooden of **Richmond**, Virginia, Member, appointed July 17, 2020, to serve an unexpired term beginning March 1, 2019, and ending February 28, 2024, to succeed William Leighty.

O'Kelly E. McWilliams III of **Oakton**, Virginia, Chair, appointed February 21, 2020, for a term of two years beginning March 1, 2020, and ending February 28, 2022, to succeed Mitchell L. Nason.

JUDICIAL**Virginia Indigent Defense Commission**

Nicholas M. Braswell of **Richmond**, Virginia, Member, appointed July 3, 2020, to serve an unexpired term beginning April 21, 2020, and ending June 30, 2022, to succeed Adeola Ogunkeyede.

LEGISLATIVE**Commission on Youth**

Avi D. Hopkins of **Midlothian**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Avohom B. Carpenter.

Chris Rehak of **Radford**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Small Business Commission

Quan Boatman of **Fredericksburg**, Virginia, Member, appointed June 26, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Jayanth Challa of **Vienna**, Virginia, Member, appointed June 26, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed Albert S. Diradour.

Kunal Kumar of **Norfolk**, Virginia, Member, appointed July 10, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed himself.

Matthew R. Nusbaum of **Norfolk**, Virginia, Member, appointed July 10, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Zakaria S. Al-Barzinji.

Vickie R. Williams-Cullins of **Hampton**, Virginia, Member, appointed July 10, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Jorge Yinat of **Williamsburg**, Virginia, Member, appointed June 26, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed Leopoldo J. Martinez.

NATURAL RESOURCES**Cave Board**

Robert Kenneth Denton, Jr., of **Winchester**, Virginia, Member, appointed June 12, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

David Alan Ek of **Catlett**, Virginia, Member, appointed June 12, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Richard Allan Lambert of **Monterey**, Virginia, Member, appointed June 12, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Commission for Historical Statues in the United States Capitol

Edward L. Ayers of **Charlottesville**, Virginia, Member, appointed June 19, 2020, to serve at the pleasure of the Governor, to fill a new seat.

Colita N. Fairfax of **Hampton**, Virginia, Member, appointed June 19, 2020, to serve at the pleasure of the Governor, to fill a new seat.

PUBLIC SAFETY AND HOMELAND SECURITY

State Board of Local and Regional Jails

Vernie W. Francis, Jr., of **Courtland**, Virginia, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Joanne Peña of **Chesterfield**, Virginia, Member, appointed July 3, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed William T. Dean.

Virginia State Crime Commission

Larry D. Boone of **Norfolk**, Virginia, Member, appointed June 12, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Arthur Townsend.

Lori Hanky Haas of **Richmond**, Virginia, Member, appointed June 12, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed John Venuti.

Larry D. Terry, II, of **Charlottesville**, Virginia, Member, appointed June 12, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Mansi Shah.

SENATE JOINT RESOLUTION NO. 300

Confirming appointments by the Governor of certain persons communicated to the General Assembly October 1, 2020.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly October 1, 2020.

ADMINISTRATION

Virginia Geographic Information Network Advisory Board

Clyde E. Cristman of **Manquin**, Virginia, Member, appointed September 11, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed himself.

Margaret Montgomery of **Prince William**, Virginia, Member, appointed September 11, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Andy Wells of **Baskerville**, Virginia, Member, appointed September 11, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

AGRICULTURE AND FORESTRY

Aquaculture Advisory Board

Travis Croxton of **Mechanicsville**, Virginia, Member, appointed August 14, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Anthony Marchetti.

Heather Lusk of **Quinby**, Virginia, Member, appointed August 14, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Board of Agriculture and Consumer Services

Charles T. Church of **Norfolk**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Kevin J. Kordek.

Neil A. Houff of **Mount Crawford**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Charitable Gaming Board

Clay Dawson of **Roanoke**, Virginia, Member, appointed July 2, 2020, to serve an unexpired term beginning November 20, 2019, and ending June 30, 2021, to succeed Robert Sussan.

Virginia Spirits Board

Jeff Bloem of **Charlottesville**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Joshua Chandler of **Bland**, Virginia, Member, appointed September 4, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

David Cuttino of **Richmond**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Scott Harris of **Purcellville**, Virginia, Member, appointed September 4, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Bill Karlson of **Haymarket**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Kara King of **Newport News**, Virginia, Member, appointed September 4, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Gareth H. Moore of **Charlottesville**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Brian Prewitt of **Fredericksburg**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

AUTHORITIES

Central Virginia Transportation Authority

Carlos M. Brown of **Richmond**, Virginia, Member, appointed August 26, 2020, for a coincident term beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Virginia Passenger Rail Authority

Sharon Bulova of **Fairfax County**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Deborah H. Butler of **Norfolk**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Victor O. Cardwell of **Salem**, Virginia, Member, appointed September 18, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Patricia Doersch of **Falls Church**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Jay Fiset of **Arlington**, Virginia, Member, appointed September 18, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Roderick D. Hall of **Woodbridge**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Charles Moorman of **Charlottesville**, Virginia, Member, appointed September 18, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Cynthia Moses-Nedd of **Woodbridge**, Virginia, Member, appointed September 18, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Paul F. Nichols of **Woodbridge**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Hossein Sadid of **Richmond**, Virginia, Member, appointed September 18, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Jim Spore of **Virginia Beach**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Mariia Zimmerman of **Richmond**, Virginia, Member, appointed September 18, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

COMMERCE AND TRADE

Apprenticeship Council

Laura Duckworth of **Crozet**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning June 21, 2019, and ending June 20, 2022, to succeed herself.

Steve S. Martin of **Riner**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning June 21, 2020, and ending June 20, 2023, to succeed Darold S. Kemp.

Michael L. Mays of **Vinton**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning June 21, 2019, and ending June 20, 2022, to succeed himself.

Latitia McCane of **Suffolk**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning June 21, 2020, and ending June 20, 2023, to succeed herself.

Ken Nicely of **Roanoke**, Virginia, Member, appointed September 11, 2020, to serve an unexpired term beginning June 21, 2019, and ending June 20, 2022, to succeed Robert B. Benson.

Jameo Pollock of **Henrico**, Virginia, Member, appointed September 11, 2020, to serve an unexpired term beginning June 21, 2019, and ending June 20, 2022, to succeed Edwin L. Armistead.

Gerald W. Simpson of **Hanover**, Virginia, Member, appointed September 11, 2020, to serve an unexpired term beginning June 21, 2019, and ending June 20, 2022, to succeed Terry R. Kelly.

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

Caroline Alexander of **Alexandria**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Tim Colley of **Blacksburg**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Robert A. Boynton.

Vinay Nair of **Alexandria**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board for Professional and Occupational Regulation

Laurence Benenson of **Alexandria**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Nil Eguz of **McLean**, Virginia, Member, appointed July 31, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Ana M. Mitchell.

Board of Housing and Community Development

Claudia Cotton of **Suffolk**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Jeffrey Sadler.

Richard W. Gregory of **Richmond**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Sylvia M. Hallock of **Crozet**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Earl B. Reynolds.

Mark Jackson of **Blacksburg**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Steven Michael Semones.

Monique Johnson of **Richmond**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Helen Hardiman.

Cemetery Board

James A. Meadows of **Manakin-Sabot**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Caroline Seibold Smyth of **Richmond**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Randolph Tucker Minter.

Common Interest Community Board

Maureen A. Baker of **Huddleston**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Lori Overholt of **Virginia Beach**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Fair Housing Board

Colin Arnold of **Roanoke**, Virginia, Member, appointed September 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed John Howard Crouse.

Candice Bennett of **Lorton**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

Alyia S. P. Gaskins of **Alexandria**, Virginia, Member, appointed September 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Valerie Roth.

Sherman Gillums of **Gainesville**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Real Estate Board

Maggie Davis of **Arlington**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Catina Jones of **Henrico**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Stephen Albert Hoover.

David Perry of **Portsmouth**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Lynn G. Grimsley.

Nan Piland of **Williamsburg**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Elizabeth C. Gatewood.

Virginia Economic Development Partnership Committee on International Trade

James Xu of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia Growth and Opportunity Board

James Dyke of **Reston**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Lucia Anna Trigiani of **Alexandria**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John O. Wynne of **Virginia Beach**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia-Israel Advisory Board

Michael A. Gillette of **Lynchburg**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Sophie R. Hoffman of **Fairfax Station**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Virginia Resources Authority Board of Directors

Mary B. Bunting of **Hampton**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Cecil R. Harris, Jr., of **Rockville**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Bill Kittrell of **Crozet**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Reginald E. Gordon.

Charlette T. Woolridge of **Lawrenceville**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Jennifer Michelle Bowles.

Virginia Small Business Financing Authority Board of Directors

Linh Hoang of **Fairfax**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

William J. Smith of **Wytheville**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

COMMONWEALTH

Latino Advisory Board

Joshua DeSilva of **Norfolk**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Vivian Y. Sanchez-Jones.

Juan P. Espinoza of **Blacksburg**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Melody Gonzales of **Arlington**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

C. Alexander Guzman of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Diana Patterson of **Winchester**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Eugene Chigna.

Lyons Sanchezconcha of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed J. Michael Martinez de Andino.

Eduardo Zelaya of **Arlington**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Jorge Yinat.

Virginia African American Advisory Board

Robert N. Barnette of **Mechanicsville**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Hope F. Cupit of **Forest**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Toria Edmonds-Howell of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Yvette Gooden Robinson.

Ingrid Granberry Grant of **North Chesterfield**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Eduardo L. Lopez of **Mechanicsville**, Virginia, Member, appointed August 28, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to fill a new seat.

Precious Rasheeda Muhammad of **Suffolk**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Virginia-Asian Advisory Board

Tae Aderman of **Reston**, Virginia, Member, appointed August 28, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Laura Beldin of **Staunton**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Komal Mohindra.

Y. Paul Chhabra of **Suffolk**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Nina Ha of **Christiansburg**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Eric C. Lin.

Razi Hashmi of **Arlington**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Bobby Ly of **Fairfax**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Sunny Shah of **Roanoke**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Da Lin Sheth of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Atiqua Hashem.

Pient Y. Tran of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Virginia Council on Women

Heather E. Caputo of **Midlothian**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Carol Gibbons.

Lashawn Farmer of **Danville**, Virginia, Member, appointed August 28, 2020, to serve an unexpired term beginning June 20, 2020, and ending June 30, 2022, to succeed Olga A. Boucher.

Courtney Hill of **Arlington**, Virginia, Member, appointed August 28, 2020, to serve an unexpired term beginning August 19, 2020, and ending June 30, 2021, to succeed Jill R. Gaitens.

Alencia Johnson of **Orange**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Devin Pugh-Thomas.

Ashley Reynolds Marshall of **Montvale**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Aesha Mehta of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Marisol Morales-Diaz of **Newport News**, Virginia, Member, appointed August 28, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Kara Moran of **Virginia Beach**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Katherine N. Tyson.

Kelley W. Powell of **Midlothian**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Tara Rountree of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Amy E. Bridge.

Brigitta S. Toruño of **Ashburn**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Caryn Foster Durham.

EDUCATION

Board of Trustees of the Science Museum of Virginia

John F. Benton of **Arlington**, Virginia, Member, appointed September 18, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed Sunita Gupta.

David Mills of **Richmond**, Virginia, Member, appointed September 4, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed himself.

Cristina Dominguez Ramirez of **Richmond**, Virginia, Member, appointed September 4, 2020, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

Board of Visitors for Gunston Hall

Edmund Graber of **Fairfax**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning October 1, 2020, and ending September 30, 2021, to succeed himself.

Eileen Cassidy Rivera of **Alexandria**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning October 1, 2020, and ending September 30, 2021, to succeed herself.

Tim Sargeant of **Fairfax**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning October 1, 2020, and ending September 30, 2021, to succeed himself.

Eastern Virginia Medical School Board of Visitors

Paul D. Fraim of **Norfolk**, Virginia, Member, appointed September 18, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Old Dominion University Board of Visitors

Paul Murry Pitts of **Charlottesville**, Virginia, Member, appointed August 14, 2020, to serve an unexpired term beginning June 17, 2020, and ending July 30, 2022, to succeed Pamela Kirk.

HEALTH AND HUMAN RESOURCES

Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing

Karen A. Engelhardt of **Prince William**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Kathi Mestayer.

Timothy Patterson of **Moseley**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Susanne Wilbur of **Charlottesville**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Advisory Board of Occupational Therapy

Karen L. Lebo of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Kathryn Skibek of **Woodbridge**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Advisory Board on Art Therapy

Brenda Bonuccelli of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Gretchen Graves of **Henrico**, Virginia, Member, appointed August 28, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Anne Mills of **Alexandria**, Virginia, Member, appointed August 28, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Leila Saadeh of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Holly Zajur of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Advisory Board on Massage Therapy

Dawn Hogue of **Virginia Beach**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Maria Mercedes Olivieri of **Burke**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Kristina Page.

Advisory Board on Polysomnographic Technology

Hannah Tyler of **Chesterfield**, Virginia, Member, appointed September 4, 2020, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Debra Akers.

Advisory Board on Surgical Assisting

Thomas Gochenour of **Palmyra**, Virginia, Member, appointed August 21, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Srikanth Mahavadi of **Mechanicsville**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Nicole M. Meredith of **Prince George**, Virginia, Member, appointed August 21, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Deborah Redmond of **Virginia Beach**, Virginia, Member, appointed August 21, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Jessica Wilhelm of **Virginia Beach**, Virginia, Member, appointed August 21, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Alzheimer's Disease and Related Disorders Commission

Travonia Brown-Hughes of **Suffolk**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Sharon Davis.

Karen Garner of **Richmond**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

G. Richard Jackson of **Williamsburg**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Lana Sargent of **Ashland**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Margie Campbell Shaver of **Williamsburg**, Virginia, Member, appointed September 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Valerie Hopson-Bell.

Behavioral Health and Developmental Services Board

Rebecca Graser of **Warsaw**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Elizabeth Hilscher of **Richmond**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Christopher Olivo of **Yorktown**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Paula Mitchell.

Board for the Blind and Vision Impaired

Bonnie Atwood of **Richmond**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Ken Jessup of **Virginia Beach**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Board of Dentistry

Patricia Bonwell of **Montpelier**, Virginia, Member, appointed August 14, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Nathaniel C. Bryant of **Chesapeake**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Sultan Chaudhry of **Falls Church**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed James Watkins.

Margaret Lemaster of **Chesapeake**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Tammy Ridout.

Augustus A. Petticolas, Jr., of **Lynchburg**, Virginia, Member, appointed August 14, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to succeed himself.

Board of Directors of the Assistive Technology Loan Fund Authority

Douglas Bierly of **Henrico**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

LaMont Henry of **Virginia Beach**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Dean Bonney.

Marques Jones of **Henrico**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Kristoffer A. Peterson of **Mechanicsville**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Brian Taylor.

Board of Funeral Directors and Embalmers

Mia Mimms of **Midlothian**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Joseph Michael Williams of **Mechanicsville**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Connie Steele.

Board of Medicine

David F. Archer of **Norfolk**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Manjit Dhillon of **Chester**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jacob W. Miller, Jr., of **Virginia Beach**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Milly Rambhia of **Falls Church**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed David Giammittorio.

Karen A. Ransone of **Cobbs Creek**, Virginia, Member, appointed September 18, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Amanda Barner Welch of **Dumfries**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Syed Ali.

Khalique Zahir of **McLean**, Virginia, Member, appointed September 18, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Kevin O'Connor.

Board of Nursing

Yvette L. Dorsey of **Richmond**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Ann Tucker Gleason of **Zion Crossroads**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Meenakshi Shah of **Roanoke**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Commonwealth Council on Aging

Carla V. Hesselstine of **Virginia Beach**, Virginia, Member, appointed September 4, 2020, to fill an unexpired term beginning January 23, 2020, and ending June 30, 2022, to succeed Shewling Moy.

Diana Paguaga of **Woodbridge**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Erica Wood of **Arlington**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Commonwealth Neurotrauma Initiative Advisory Board

David X. Cifu of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Raighne C. Delaney of **Alexandria**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Henrietta Lacks Commission

Mattie M. Cowan of **South Boston**, Virginia, Member, appointed September 25, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Adele Newson-Horst of **Baltimore, Maryland**, Member, appointed September 25, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Jeri Lacks Whye of **Reisterstown, Maryland**, Member, appointed September 25, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

State Board of Health

Holly S. Puritz of **Norfolk**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Stacey Swartz of **Alexandria**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Mary Margaret Whipple of **Arlington**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

State Emergency Medical Services Advisory Board

Rebecca Branch-Griffin of **Chester**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Julia Marsden.

Dreama Chandler of **Rural Retreat**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

R. Jason Ferguson of **Amherst**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Patrick McLaughlin of **Midlothian**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Samuel Bartle.

Benjamin Nicholson of **Richmond**, Virginia, Member, appointed September 4, 2020, to serve an unexpired term beginning June 23, 2020, and ending June 30, 2021, to succeed Sudha Jayaraman.

Jeremiah O'Shea of **Chesterfield**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Valerie Quick of **Albemarle County**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Matthew Rickman of **Roanoke**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Jason Ferguson.

Lisa Simba of **Fort Washington, Maryland**, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Jethro Piland.

Torie Smith of **Dinwiddie**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Christopher Parker.

INDEPENDENT

Virginia Birth-Related Neurological Injury Compensation Program Board of Directors

Kevin V. Logan of **Midlothian**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Dawn McCoy of **Chesterfield**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Jonathan Petty of **Richmond**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Rhonda L. Russell of **Hampton**, Virginia, Member, appointed September 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Virginia Commonwealth University Health System Authority Board of Directors

Clyde T. Clark, Jr., of **Chesapeake**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed George Emerson.

Alice A. Tolbert Coombs of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Arline Bohannon.

Timothy A. McDermott of **Ashland**, Virginia, Member, appointed August 28, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Virginia Health Benefit Exchange Advisory Committee

Chiquita Brooks-LaSure of **McLean**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Elizabeth Cunningham of **Halifax**, Virginia, Member, appointed September 4, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Ikeita Cantú Hinojosa of **McLean**, Virginia, Member, appointed September 4, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Starla Kiser of **Clintwood**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Jane Norwood Kusiak of **Richmond**, Virginia, Member, appointed September 4, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board

Ken Brown of **Goochland**, Virginia, Member, appointed September 11, 2020, for a term of six years beginning July 1, 2020, and ending June 30, 2026, to succeed himself.

Steve Grayson of **Madison**, Virginia, Member, appointed September 11, 2020, for a term of six years beginning July 1, 2020, and ending June 30, 2026, to succeed himself.

LEGISLATIVE

Capitol Square Preservation Council

Nadia Volchansky of **Arlington**, Virginia, Member, appointed September 18, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Annie Kasper.

Virginia Housing Commission

Helen Hardiman of **Richmond**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Lawrence Hamilton Pearson.

J. Forest Hayes of **Waterford**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Laura D. Lafayette of **Glen Allen**, Virginia, Member, appointed August 28, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

NATURAL RESOURCES

Board of Historic Resources

Colita Nichols Fairfax of **Hampton**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

W. Tucker Lemon of **Roanoke**, Virginia, Member, appointed September 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Nosuk Pak Kim.

State Air Pollution Control Board

Hope E. Cupit of **Forest**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Ignacia S. Moreno.

Lornel G. Tompkins of **Midlothian**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed William H. Ferguson.

State Water Control Board

Ryan C. Seiger of **Springfield**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Robert H. Wayland.

Virginia Marine Resources Commission

Heather Lusk of **Quinby**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

James Minor of **Richmond**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia Soil and Water Conservation Board

Jay C. Ford of **Belle Haven**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Cynthia C. Smith.

Pamela Mason of **Yorktown**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Arthur Gray Coyner.

Virginia Waste Management Board

EJ Scott of **Manassas**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Steven Yob of **Glen Allen**, Virginia, Member, appointed August 14, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

PUBLIC SAFETY AND HOMELAND SECURITY

Criminal Justice Services Board

Bennie L. Evans, Jr., of **Alexandria**, Virginia, Member, appointed September 4, 2020, to serve an unexpired term beginning May 2, 2020, and ending July 30, 2021, to succeed James Cervera.

Paul Taylor of **Richmond**, Virginia, Member, appointed September 4, 2020, to serve an unexpired term beginning April 17, 2020, and ending July 30, 2022, to succeed Tonya Chapman.

TECHNOLOGY

Broadband Advisory Council

Steven Sandy of **Vinton**, Virginia, Member, appointed September 25, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2021, to succeed Rosemary A. Wilson.

Richard Schollmann of **Glen Allen**, Virginia, Member, appointed August 7, 2020, to serve an unexpired term beginning June 1, 2020, and ending June 30, 2021, to succeed Duront A. Walton.

TRANSPORTATION

Transportation District Commission of Hampton Roads

August Bullock of **Newport News**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Robert Coleman.

Kirk T. Houston, Sr., of **Norfolk**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Michael Keith Parnell.

Amelia Ross-Hammond of **Virginia Beach**, Virginia, Member, appointed August 7, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

VETERANS AND DEFENSE AFFAIRS**Joint Leadership Council of Veterans Service Organizations**

Monti G. Zimmerman of Manassas, Virginia, Member, appointed September 4, 2020, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2021, to succeed Frank G. Wickersham.

SENATE JOINT RESOLUTION NO. 301

Confirming appointments by the Governor of certain persons communicated to the General Assembly April 1, 2020.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly April 1, 2020.

AGENCY HEADS

Tonya Chapman of Richmond, Virginia 23225, Chair, Virginia Parole Board, to serve at the pleasure of the Governor beginning April 16, 2020, to succeed Adrienne Bennett.

John Maxwell of Richmond, Virginia 23219, Commissioner, Virginia Department of Veterans Services, to serve at the pleasure of the Governor beginning February 25, 2020, to succeed John L. Newby.

AGRICULTURE AND FORESTRY**Charitable Gaming Board**

James Lewis of Alexandria, Virginia 22304, Member, appointed March 20, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Ryant L. Washington of Palmyra, Virginia 22963, Member, appointed March 20, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Daniel S. Minton.

AUTHORITIES**Virginia College Building Authority**

Tiffany M. Boyle of Newport News, Virginia 23608, Member, appointed February 21, 2020, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed McLain T. O'Ferrall.

Virginia Online Network Authority

Susan Patrick of Richmond, Virginia 23221, Member, appointed March 6, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Andrew L. Ko.

Virginia Recreational Facilities Authority Board of Directors

David Hurt of Hardy, Virginia 24101, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed himself.

Virginia Tourism Authority Board of Directors

Jean Ann Bolling of Mechanicsville, Virginia 23116, Member, appointed February 28, 2020, for a term of six years beginning July 1, 2019, and ending June 30, 2025, to succeed herself.

Meredith Lusk of Cape Charles, Virginia 23310, Member, appointed February 28, 2020, for a term of six years beginning July 1, 2019, and ending June 30, 2025, to succeed Eleanor Mills Wehner.

Susan Payne of Charlottesville, Virginia 22902, Member, appointed February 28, 2020, for a term of six years beginning July 1, 2019, and ending June 30, 2025, to succeed herself.

Justin G. Reid of Farmville, Virginia 23901, Member, appointed February 28, 2020, for a term of six years beginning July 1, 2019, and ending June 30, 2025, to succeed Eric McKay.

COMMERCE AND TRADE**Auctioneers Board**

Angela Smith-Mackey of Fredericksburg, Virginia 22406, Member, appointed February 28, 2020, to serve an unexpired term beginning July 18, 2019, and ending June 30, 2021, to succeed Ashla C. Hill Roseboro.

Real Estate Appraiser Board

Fred E. Levine of Glen Allen, Virginia 23059, Member, appointed March 6, 2020, to serve an unexpired term beginning April 3, 2018, and ending April 2, 2022, to succeed Fay B. Silverman.

Real Estate Board

Marzia Nawroz Abbasi of Vienna, Virginia 22182, Member, appointed March 15, 2020, to serve an unexpired term beginning February 4, 2020, and ending June 30, 2021, to succeed Lee Odems.

Virginia Economic Development Partnership Committee on Business Development and Marketing

Christina M. Winn of Arlington, Virginia 22207, Member, appointed February 28, 2020, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

EDUCATION**Board of Regents of Gunston Hall**

Margo Caylor of **Tucson, Arizona** 85710, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed herself.

Katherine McCracken Davis of **Louisville, Kentucky** 40207, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed herself.

Annie Gray Dixon of **Edenton, North Carolina** 27932, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Frances Wood Loughlin.

Elizabeth C. Hoopes Field of **North Hampton, New Hampshire** 03862, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Sara S. Hill.

Nancy Lindley of **Long Lake, Minnesota** 55356, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Harriet Van Kennen Osborn.

Diana Madsen of **Westfield, New Jersey** 07090, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Nancy Kauffel.

Anne R. McAteer of **San Francisco, California** 94123, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed herself.

Anne Pendleton Cox Monfore of **Tuscaloosa, Alabama** 35406, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Jane Barganier.

Margaret Boyd Schutrumpf of **West Boothbay, Maine** 04575, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Winafrid Avery Jenkins.

Katherine Shutkin of **Bedford, Massachusetts** 53217, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed herself.

Toody Sullivan of **Birmingham, Alabama** 35213, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Virginia S. Snider.

Sue Tempero of **Indianapolis, Indiana** 46226, Member, appointed February 7, 2020, for an unexpired term beginning October 26, 2017, and ending October 25, 2022, to succeed Anne Ehrich Riley.

Bonnie W. Ward of **Bellevue, Washington** 98005, Member, appointed February 7, 2020, for a term of five years beginning October 26, 2019, and ending October 25, 2024, to succeed Elizabeth Knox Peters.

Board of Trustees of the Virginia Museum of Fine Arts

Martha M. Glasser of **Virginia Beach, Virginia** 23451, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed herself.

Kenneth Johnson of **Richmond, Virginia** 23221, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed himself.

Michele Petersen of **McLean, Virginia** 22101, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed herself.

Hubert Phipps of **Middleburg, Virginia** 20118, Member, appointed February 28, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Ivan Jecklin.

Pamela Reynolds of **Richmond, Virginia** 23226, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed herself.

Ashlin T. Wilbanks of **Norfolk, Virginia** 23505, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Martin J. Barrington.

Michel Zajur of **Midlothian, Virginia** 23113, Member, appointed February 21, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Tyler Bishop.

Institute for Advanced Learning and Research

Petrina A. Carter of **Danville, Virginia** 24541, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Old Dominion University Board of Visitors

Armistead D. Williams, Jr., of **Norfolk, Virginia** 23505, Member, appointed February 28, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Donna S. Fischer.

State Historical Records Advisory Board

Amanda Lloyd of **Norfolk, Virginia** 23517, Member, appointed February 21, 2020, for a term of three years beginning November 1, 2019, and ending October 31, 2022, to succeed herself.

HEALTH AND HUMAN RESOURCES**Advisory Board for Polysomnographic Technology**

Ronnie Hayes of **Richmond, Virginia** 23228, Member, appointed February 21, 2020, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Anna Rodriguez.

Advisory Board on Service and Volunteerism

Lisette P. Carbajal of **Richmond, Virginia** 23222, Member, appointed February 7, 2020, to serve an unexpired term beginning November 18, 2018, and ending June 30, 2020, to succeed Amy Nisenson.

Jenné Nurse of **Richmond, Virginia** 23223, Member, appointed March 13, 2020, to serve an unexpired term beginning March 11, 2020, and ending June 30, 2021, to succeed Leah Walker.

Board of Medicine

Ryan P. Williams of **Suffolk**, Virginia 23435, Member, appointed February 21, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed Svinder Singh Toor.

Maternal Mortality Review Team

Bryan K. Boyd II of **Bristol**, Virginia 24202, Member, appointed February 28, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to fill a new seat.

James Brown of **Charlottesville**, Virginia 22902, Member, appointed February 28, 2020, for a term of one year beginning July 1, 2019, and ending June 30, 2020, to fill a new seat.

Daphne Cunningham of **Hampton**, Virginia 23669, Member, appointed March 13, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to fill a new seat.

Lisa Linthicum of **Rustburg**, Virginia 24588, Member, appointed March 13, 2020, for a term of one year beginning July 1, 2019, and ending June 30, 2020, to fill a new seat.

Colette McEachin of **Richmond**, Virginia 23227, Member, appointed March 13, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to fill a new seat.

Tammi L. McKinley of **Norfolk**, Virginia 23503, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to fill a new seat.

Sharon L. Sheffield of **Franklin**, Virginia 23851, Member, appointed February 28, 2020, for a term of one year beginning July 1, 2019, and ending June 30, 2020, to fill a new seat.

State Child Fatality Review Team

Kimberly Ayers of **Wytheville**, Virginia 24368, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Lisa M. Beitz of **Chesterfield**, Virginia 23112, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Michael Blumberg of **Richmond**, Virginia 23238, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Robin L. Foster of **Richmond**, Virginia 23229, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Regina Milteer of **Fairfax County**, Virginia 22039, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed herself.

Scott F. Wilkes of **Staunton**, Virginia 24401, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed himself.

Ryan Zuidema of **Lynchburg**, Virginia 24504, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed Steve F. Dempsey.

Statewide Independent Living Council

Judy Jackson of **Stuarts Draft**, Virginia 24477, appointed February 21, 2020, to serve an unexpired term beginning February 3, 2019, and ending September 30, 2021, to succeed Jane Ward-Solomon.

Substance Abuse Services Council

Marla H. Newby of **Chesapeake**, Virginia 23323, Member, appointed February 28, 2020, for a term of three years beginning July 1, 2019, and ending June 30, 2022, to succeed Susan C. Morrow.

Virginia Interagency Coordinating Council

Ghazala Hashmi of **Midlothian**, Virginia 23113, Member, appointed March 13, 2020, to serve an unexpired term beginning January 9, 2020, and ending June 30, 2021, to succeed Debra Rodman.

INDEPENDENT**Virginia Retirement System Board of Trustees**

William A. Garrett of **Winchester**, Virginia 22601, Member, appointed February 21, 2020, to serve an unexpired term beginning March 1, 2018, and ending February 28, 2023, to succeed Mitchell L. Nason.

NATURAL RESOURCES**Virginia Museum of Natural History Board of Trustees**

Siri Russell of **Charlottesville**, Virginia 22903, Member, appointed March 6, 2020, for a term of five years beginning July 1, 2019, and ending June 30, 2024, to succeed Christine Stover Baggerly.

PUBLIC SAFETY AND HOMELAND SECURITY**Scientific Advisory Committee**

Kristin Schelling of **Lansing, Michigan** 48917, Member, appointed March 13, 2020, to serve an unexpired term beginning June 1, 2017, and ending July 30, 2021, to succeed Carl Sobieralski.

Virginia Fire Services Board

R. Scott Garber of **Staunton**, Virginia 24401, Member, appointed January 10, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to fill a new seat.

TECHNOLOGY**9-1-1 Services Board**

Thomas A. Bradshaw of **Hanover**, Virginia 23059, Member, appointed February 7, 2020, to serve an unexpired term beginning December 18, 2019, and ending June 30, 2023, to succeed Lehw Wilson Miller.

Broadband Advisory Council

Michael Jeffrey Culp of **Charlottesville**, Virginia 22901, Member, appointed March 27, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to fill a new seat.

SENATE JOINT RESOLUTION NO. 302

Confirming appointments by the Governor of certain persons communicated to the General Assembly December 1, 2020.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly December 1, 2020.

AGRICULTURE AND FORESTRY**Horse Industry Board**

Janie Shrader of **Gordonsville**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning June 20, 2020, and ending June 19, 2023, to succeed herself.

Virginia Spirits Board

Matthew Harris of **Hartfield**, Virginia, Member, appointed November 20, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

AUTHORITIES**Northern Virginia Transportation Authority**

Mary Hughes Hynes of **Arlington**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Jim Kolb of **Fairfax County**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia Coalfield Economic Development Authority

Margaret A. Asbury of **Bluefield**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Esther W. Bolling of **Wise**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Becky Coleman of **Gate City**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Mark T. Leonard of **Norton**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Larry R. Mosley of **Jonesville**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Virginia College Building Authority

Jerrell D. Saunders of **Midlothian**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Shaheed Mahomed.

Virginia Public School Authority Board of Commissioners

Michael Nguyen of **Midlothian**, Virginia, Member, appointed November 20, 2020, for a term of six years beginning July 1, 2020, and ending June 30, 2026, to succeed Jay Singh Bhandari.

Cardell Patillo, Jr., of **Portsmouth**, Virginia, Member, appointed November 20, 2020, for a term of six years beginning July 1, 2020, and ending June 30, 2026, to succeed himself.

COMMERCE AND TRADE**Board for Waste Management Facility Operators**

Sathish Anabathula of **Charlottesville**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Ellen Clark Thacker of **Yorktown**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

Board of Coal Mining Examiners

Michael Stiltner of **Grundy**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Douglas E. Deel.

Fair Housing Board

Amanda Pohl of **North Chesterfield**, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Stephen A. Northup.

Real Estate Appraiser Board

Todd Canterbury of **Paris**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning April 3, 2020, and ending April 2, 2024, to succeed Rex E. McCarty.

Jason Inge of **Norfolk**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning April 3, 2020, and ending April 2, 2024, to succeed Janel Emma Hofler.

Heather Placer of **Midlothian**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning April 3, 2020, and ending April 2, 2024, to succeed Chris King.

Rickey Stuchell of **Spotsylvania**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning April 3, 2020, and ending April 2, 2024, to succeed himself.

Tobacco Region Revitalization Commission

Coley Drinkwater of **Blackstone**, Virginia, Member, appointed November 20, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Robert Johnson Mills.

Richard T. Hite, Jr., of **Kenbridge**, Virginia, Member, appointed November 20, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Robert H. Spiers.

Jordan Miles, III, of **Buckingham**, Virginia, Member, appointed November 20, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Gayle Barts.

Virginia Economic Development Partnership Committee on Business Development and Marketing

Beth Doughty of **Roanoke**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Virginia Housing Development Authority Commissioners

Nathalia Daguano Artus of **Richmond**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed David E. Ramos.

Thomas A. Gibson of **Alexandria**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Carlos Larrazabal of **Fairfax**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Clarissa McAdoo Cannon.

Virginia Small Business Financing Authority Board of Directors

Susana Marino of **Springfield**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Monique Stewart Johnson.

COMPACTS

Interstate Compact on Educational Opportunity for Military Children

Barry C. Brown of **Virginia Beach**, Virginia, Member, appointed October 9, 2020, to serve at the pleasure of the Governor, to succeed Dorothy McAuliffe.

Martha Jallim-Hall of **Chesapeake**, Virginia, Member, appointed October 9, 2020, to serve at the pleasure of the Governor, to fill a new seat.

Charles W. Rock of **Norfolk**, Virginia, Member, appointed October 9, 2020, to serve at the pleasure of the Governor, to succeed Joey Frantzen.

Trish Duffy Schnabel of **Centreville**, Virginia, Member, appointed October 9, 2020, to serve at the pleasure of the Governor, to fill a new seat.

Metropolitan Washington Airports Authority

Katherine K. Hanley of **Reston**, Virginia, Member, appointed November 6, 2020, for a term of six years beginning November 24, 2020, and ending November 23, 2026, to succeed herself.

David G. Speck of **Alexandria**, Virginia, Member, appointed November 6, 2020, for a term of six years beginning November 24, 2020, and ending November 23, 2026, to succeed himself.

Washington Metrorail Safety Commission Interstate Compact

Robert C. Lauby of **Falls Church**, Virginia, Alternate Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Michael Rush.

Michael Rush of **Reston**, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning September 26, 2020, and ending June 30, 2023, to succeed Mark Rosenker.

EDUCATION

American Revolution 250 Commission

Stephen Adkins of **Charles City**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Edward H. Baine of **Chesterfield**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Leslie Greene Bowman of **Charlottesville**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Gretchen Bulova of **Fairfax**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Spencer R. Crew of **Reston**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

H. Benson Dendy, III, of **Richmond**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Cliff Fleet of **Williamsburg**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Sue H. Gerdelman of **Williamsburg**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Kym A. Hall of **Williamsburg**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Anne Richardson of **Indian Neck**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Jacquelyn E. Stone of **Richmond**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

Karin Wulf of **Williamsburg**, Virginia, Member, appointed October 9, 2020, for a term of seven years beginning July 1, 2020, and ending July 1, 2027, to fill a new seat.

**Board of Trustees of the A.L. Philpott Manufacturing Extension Partnership
(dba Genedge Alliance)**

Jeff Jaycox of **Virginia Beach**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Shannon L. Kennedy of **Gloucester**, Virginia, Member, appointed October 9, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed John T. Dever.

James S. McEwan of **Alexandria**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

John Mead of **Penhook**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jacqueline Gill Powell of **Danville**, Virginia, Member, appointed October 9, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Board of Trustees of the Science Museum of Virginia

JoAnne Carter of **Arlington**, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning September 1, 2020, and ending June 30, 2022, to succeed Melissa D. Neff.

Jamestown-Yorktown Foundation Board of Trustees

Anedra Wiseman Bourne of **Richmond**, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Daun Sessoms Hester of **Norfolk**, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Connie Kincheloe of **Culpeper**, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Judy Wason.

Diane Leopold of **Midlothian**, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning January 1, 2020, and ending June 30, 2022, to succeed Paul Koonce.

Virginia Military Institute Board of Visitors

Edward Sean Lanier of **Alexandria**, Virginia, Member, appointed November 13, 2020, to serve an unexpired term beginning October 30, 2020, and ending June 30, 2022, to succeed Thomas Gottwald.

HEALTH AND HUMAN RESOURCES

Advisory Board on Behavior Analysis

Jerita J. Dubash of **Blacksburg**, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Asha Patton Smith.

Stephan Hoprich, Jr., of **Salem**, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Amanda Kusterer.

Advisory Board on Genetic Counseling

Tahnee Causey of **Henrico**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Heather Creswick.

Lydia K. Higgs of **Roanoke**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed John Quillin.

Martha Thomas of **Charlottesville**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Matthew Thomas.

Advisory Board on Midwifery

Erin K. Hammer of **Newport News**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Mayanne Zielinski.

Advisory Board on Music Therapy

Anna McChesney of **Midlothian**, Virginia, Member, appointed October 2, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Anthony Meadows of **Arlington**, Virginia, Member, appointed October 2, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

L. Rae Stone of The Plains, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Gary L. Verhagen of Annandale, Virginia, Member, appointed October 2, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Michelle Westfall of Spotsylvania, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Advisory Board on Service and Volunteerism

Jessica Bowser of Alexandria, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Lisette P. Carbajal of Richmond, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Zachary Leonsis of Washington, D.C., Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Priscilla Mart'nez of Loudoun, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Terry Frye.

Bryan Pearce-Gonzales of Winchester, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed John Chapman.

Clifford Yee of Fairfax, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Steven Valdez.

Autism Advisory Council

Dilshad D. Ali of Richmond, Virginia, Member, appointed October 9, 2020, to serve for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

Polly J. Panitz of Arlington, Virginia, Member, appointed October 9, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Krishna Madiraju.

Behavioral Health and Developmental Services Board

Emily Paige Cash of Pulaski, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning September 16, 2020, and ending June 30, 2022, to succeed Djuna Osborne.

Board of Dentistry

J. Michael Martinez de Andino of Henrico, Virginia, Member, appointed October 9, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Carol Russek.

Board of Health Professions

Carmina Teresa V. Bautista of Suffolk, Virginia, Member, appointed November 6, 2020, for a term of four years, beginning July 1, 2020, and ending June 30, 2024, to succeed Maribel Ramos.

Sandra J. Catchings of Staunton, Virginia, Member, appointed November 6, 2020, for a term of four years, beginning July 1, 2020, and ending June 30, 2024, to succeed James Watkins.

Brenda Stokes of Lynchburg, Virginia, Member, appointed November 6, 2020, for a term of four years, beginning July 1, 2020, and ending June 30, 2024, to succeed Kevin O'Connor.

Board of Medical Assistance Services

Elizabeth Coulter of Woodbridge, Virginia, Member, appointed October 30, 2020, to serve an unexpired term beginning January 31, 2020, and ending March 7, 2021, to succeed Vilma Seymour.

Ashley Gray of Fairfax, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning March 8, 2020, and ending March 7, 2024, to succeed Rebecca Gwilt.

Board of Pharmacy

Bernard L. Henderson, Jr., of Suffolk, Virginia, Member, appointed November 6, 2020, to serve an unexpired term beginning September 30, 2020, and ending June 30, 2022, to succeed Melvin Boone.

Board of Psychology

J.D. Ball of Virginia Beach, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Aliya Chapman of Blacksburg, Virginia, Member, appointed November 13, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to succeed Rebecca Vauter.

Peter L. Sheras of Charlottesville, Virginia, Member, appointed November 13, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed himself.

Stephanie Valentine of Chesterfield, Virginia, Member, appointed November 13, 2020, to serve an unexpired term beginning February 1, 2020, and ending June 30, 2022, to succeed Andrea Bailey.

Board of Social Services

MaryAnn Boyd of Haymarket, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John G. Kines, Jr., of Prince George, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jennifer Slack of Charlottesville, Virginia, Member, appointed October 23, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Veronica Washington.

Family and Children's Trust Fund Board of Trustees

Tavares Floyd of **Alexandria**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Frank Blechman.

Tiffany Garner of **Manassas**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Yasmine Taeb.

Linda Gilliam of **Richmond**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Dominique N. Marsalek of **Manassas**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Liliana Hernandez.

Season R. Roberts of **Virginia Beach**, Virginia, Member, appointed November 13, 2020, to serve an unexpired term beginning October 15, 2020, and ending June 30, 2022, to succeed Sandra Kovacs.

Linda D. Wilkinson of **Hanover**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Lawrence Bolling.

Office of New Americans Advisory Board

Hassan Ahmad of **Sterling**, Virginia, Member, appointed October 16, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Kate Ayers of **Richmond**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Rammy G. Barbari of **Falls Church**, Virginia, Member, appointed October 16, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Amar Bhattarai of **Roanoke**, Virginia, Member, appointed October 16, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Hannah Borja of **Richmond**, Virginia, Member, appointed October 16, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Fern Hauck of **Earlysville**, Virginia, Member, appointed October 16, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Michael Hoefler of **Alexandria**, Virginia, Member, appointed October 16, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Susannah Lepley of **Rockingham County**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Eric Lin of **Chesterfield**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Dora Muhammad of **Triangle**, Virginia, Member, appointed October 16, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

El Hadji Djibril Niang of **Chesterfield**, Virginia, Member, appointed October 16, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Ahoo Salem of **Roanoke**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Juan Santacoloma of **North Chesterfield**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Amelia Casta-eda Smith of **Glen Allen**, Virginia, Member, appointed October 16, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Eva P. Stitt of **Hampton**, Virginia, Member, appointed October 16, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Milton Vickerman of **Albemarle County**, Virginia, Member, appointed October 16, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

So Young Yoon of **Manassas Park**, Virginia, Member, appointed October 16, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

State Child Fatality Review Team

Kaandra Wilson of **Alexandria**, Virginia, Member, appointed October 2, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Elizabeth-Ryan Rodzinka.

State Executive Council for Children's Services

Michelle Johnson of **Charles City County**, Virginia, Member, appointed October 23, 2020, to serve an unexpired term beginning January 8, 2020, and ending June 30, 2021, to succeed Robert Quicke.

Frank Somerville of **Culpeper**, Virginia, Member, appointed October 23, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

State Rehabilitation Council

Billie J. Cook of **Hampton**, Virginia, Member, appointed October 30, 2020, for a term of three years, beginning October 1, 2020, and ending September 30, 2023, to succeed Deloris Johnson.

Daniel Irwin of **Mechanicsville**, Virginia, Member, appointed October 30, 2020, for a term of three years, beginning October 1, 2020, and ending September 30, 2023, to succeed himself.

Angie Leonard of **Blue Ridge**, Virginia, Member, appointed October 30, 2020, for a term of three years, beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Dan Lufkin of **Smithfield**, Virginia, Member, appointed October 30, 2020, for a term of three years, beginning October 1, 2020, and ending September 30, 2023, to succeed himself.

Jennifer Witteborg of **Culpeper**, Virginia, Member, appointed October 30, 2020, for a term of three years, beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Statewide Independent Living Council

Daniel Aranda of **Alexandria**, Virginia, Member, appointed November 6, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Keith Kessler.

Arthuretta Holmes-Martin of **Woodbridge**, Virginia, Member, appointed November 6, 2020, to serve an unexpired term beginning October 1, 2019, and ending September 30, 2022, to succeed Raymond Kenney.

Vasantha K. Rayman of **Annandale**, Virginia, Member, appointed November 6, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Gary Talley of **Petersburg**, Virginia, Member, appointed November 6, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Christopher Grandle.

Substance Abuse Services Council

Madeline M. Berry of **Midlothian**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Peter Breslin of **Richmond**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Mary McMasters.

Robert P. Mosier of **Warrenton**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Brian Hieatt.

Sandy O'Dell of **Lee County**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Marjorie C Yates of **Richmond**, Virginia, Member, appointed October 9, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed herself.

Virginia Board for People with Disabilities

Phil Caldwell of **Fairfax County**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Frank Carrillo of **Crewe**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Ethel Gainer.

Sarah Kranz-Ciment of **Henrico**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Dennis Lites, Jr., of **Suffolk**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Summer Sage.

Olivia Price of **Covington**, Virginia, Member, appointed November 6, 2020, to serve an unexpired term beginning December 12, 2019, and ending June 30, 2021, to succeed Christopher Nace.

Cindy Rudy of **Williamsburg**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Ed Turner of **Virginia Beach**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Mary McAdam.

Niki L. Zimmerman of **Fairfax County**, Virginia, Member, appointed November 6, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Jamie Snead.

Virginia Health Workforce Development Authority Board of Directors

Alan Dow of **Henrico**, Virginia, Member, appointed November 20, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2021, to succeed Ralph Clark.

Debbie Johnston of **Richmond**, Virginia, Member, appointed November 20, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Elayne Kornblatt Phillips of **Charlottesville**, Virginia, Member, appointed November 20, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed herself.

Lori Rutherford of **Roanoke**, Virginia, Member, appointed November 20, 2020, for a term of two years beginning July 1, 2019, and ending June 30, 2021, to succeed herself.

Woodi Sprinkel of **Ashland**, Virginia, Member, appointed November 20, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2021, to succeed Christopher Bailey.

Thelma Watson of **Petersburg**, Virginia, Member, appointed November 20, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Pam Murphy.

Evelyn V. Whitehead of **Sutherland**, Virginia, Member, appointed November 20, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to succeed Jay White.

**INDEPENDENT
Virginia Lottery Board**

Vonda Collins of **Henrico**, Virginia, Member, appointed October 16, 2020, for a term of four years beginning July 1, 2020, and ending January 14, 2024, to fill a new seat.

Orrin Gallop of **Hampton**, Virginia, Member, appointed October 16, 2020, for a term of five years beginning July 1, 2020, and ending January 14, 2025, to fill a new seat.

Cynthia Lawrence of **Roanoke**, Virginia, Member, appointed October 16, 2020, for a term of five years beginning January 15, 2020, and ending January 14, 2025, to succeed herself.

Kimberley L. Martin of **Hanover**, Virginia, Member, appointed October 16, 2020, to serve an unexpired term beginning January 15, 2019, and ending January 14, 2024, to succeed Robert Howard.

LEGISLATIVE

Commissioners for the Promotion of Uniformity of Legislation

Thomas A. Edmonds of **Henrico**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning October 1, 2020, and ending September 30, 2024, to succeed himself.

David H. Hallock, Jr., of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning October 1, 2020, and ending September 30, 2024, to succeed Mary Devine.

Christopher Nolen of **Henrico**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning October 1, 2020, and ending September 30, 2024, to succeed himself.

Virginia Freedom of Information Advisory Council

Cullen D. Seltzer of **Richmond**, Virginia, Member, appointed October 2, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

NATURAL RESOURCES

Board of Conservation and Recreation

Danielle Rose Heisler of **Midlothian**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Vivek R. Shinde Patil of **Arlington**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Camilla Simon of **Henrico**, Virginia, Member, appointed November 13, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed William B. Wingo.

Virginia Council on Environmental Justice

Andres Alvarez of **Williamsburg**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Nikki Bass of **Washington, D.C.**, Member, appointed October 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Tom Benevento of **Harrisonburg**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Theresa L. Burriss of **Bristol**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Karen T. Campblin of **Fairfax**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Duron Chavis of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Kendyl Crawford of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Taysha DeVaughan of **Coeburn**, Virginia, Member, appointed October 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Mike Ellerbrock of **Blacksburg**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Aliya Farooq of **Chester**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Faith B. Harris of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Phil Hernandez of **Norfolk**, Virginia, Member, appointed October 30, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Ronald Howell, Jr., of **Spring Grove**, Virginia, Member, appointed October 30, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Jamie R. Hurd of **Hampton**, Virginia, Member, appointed October 30, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Lisa Cropper Johnson of **Accomack**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Otis Jones of **Chesterfield**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Kathryn MacCormick of **King William**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Janet Phoenix of **Herndon**, Virginia, Member, appointed October 30, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to fill a new seat.

Clarence Tong of **Alexandria**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Harrison Wallace of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of two years beginning July 1, 2020, and ending June 30, 2022, to fill a new seat.

Virginia Outdoors Foundation Board of Trustees

Viola O. Baskerville of **Richmond**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Eleanor Weston Brown of **Hampton**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

PUBLIC SAFETY AND HOMELAND SECURITY

Advisory Committee on Sexual and Domestic Violence

Ashley Reynolds Marshall of **Lynchburg**, Virginia, Member, appointed October 30, 2020, to serve an unexpired term beginning January 1, 2020, and ending June 30, 2023, to succeed Warren Rodgers.

TRANSPORTATION

Commonwealth Transportation Board

Mary Hughes Hynes of **Arlington**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Mark Merrill of **Winchester**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Frank Whitworth.

Greg Yates of **Culpeper**, Virginia, Member, appointed November 20, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Motor Vehicle Dealer Board

Daniel Banister of **Chesapeake**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Michael W. Bor of **Richmond**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

David P. Duncan of **Blacksburg**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

Dennis M. Ellmer of **Virginia Beach**, Virginia, Member, appointed October 30, 2020, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Clayton Huber.

Steve Farmer of **Altavista**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

Robert S. Fisher of **Manassas**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Christopher Maher of **Clear Brook**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

Mark E. Riblett of **Midlothian**, Virginia, Member, appointed October 30, 2020, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Matthew McQueen.

Maurice D. Slaughter of **Portsmouth**, Virginia, Member, appointed October 30, 2020, for a term of four years, beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Andrew Wiley of **Staunton**, Virginia, Member, appointed October 30, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Joe Tate.

SENATE JOINT RESOLUTION NO. 303

Confirming appointments by the Governor of certain persons communicated to the General Assembly January 1, 2021.

Agreed to by the Senate, January 25, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly January 1, 2021.

AGENCY HEAD

Grindly Johnson of **Richmond**, Virginia, Secretary of Administration, to serve at the pleasure of the Governor beginning January 10, 2021, to succeed Keyanna Conner.

AGRICULTURE AND FORESTRY**Corn Board**

G. Henry Goodrich of **Wakefield**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Edward Phillip Hickman, III, of **Horntown**, Virginia, Member, appointed December 31, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Wesley S. Marshall of **Weyers Cave**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed himself.

Cotton Board

Joseph Barlow, III, of **Smithfield**, Virginia, Member, appointed December 31, 2020, for a term of three years beginning September 26, 2020, and ending September 25, 2023, to succeed Jon Lynn Black.

M. Lewis Everett, III, of **Capron**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning September 26, 2019, and ending September 25, 2022, to succeed himself.

Clifford S. Fox, Sr., of **Capron**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning September 26, 2020, and ending September 25, 2023, to succeed himself.

Christopher T. Parker of **Wakefield**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning September 26, 2020, and ending September 25, 2023, to succeed himself.

COMPACTS**Compact for Education: Education Commission of the States**

Fran Bradford of **Richmond**, Virginia, Member, appointed December 18, 2020, to serve at the pleasure of the Governor, to succeed Kristen Amundson.

John B. Gordon, III, of **Suffolk**, Virginia, Member, appointed December 18, 2020, to serve at the pleasure of the Governor, to succeed Joan Wodiska.

Southern Regional Education Board

Keesha Jackson-Muir of **Fort Washington, Maryland**, Member, appointed December 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Leanna Blevins.

Dietra Y. Trent of **Chesterfield**, Virginia, Member, appointed December 11, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Edd Houck.

EDUCATION**Southwest Virginia Higher Education Center Board of Trustees**

Steve Ahn of **Damascus**, Virginia, Member, appointed December 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Hannah Ingram of **Abingdon**, Virginia, Member, appointed December 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

Lennie Gail Mitcham of **Abingdon**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Cheryl Carrico.

HEALTH AND HUMAN RESOURCES**Board of Social Work**

Canek Aguirre of **Alexandria**, Virginia, Member, appointed December 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Gloria Polk Manns of **Roanoke**, Virginia, Member, appointed December 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

Teresa B. Reynolds of **Cumberland County**, Virginia, Member, appointed December 4, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Joseph Walsh.

Child Support Guidelines Review Panel

Daniel L. Gray of **Fairfax**, Virginia, Member, appointed December 4, 2020, to serve at the pleasure of the Governor, to succeed Lawrence Diehl.

Office of New Americans Advisory Board

Jennifer Crewalk of **Reston**, Virginia, Member, appointed October 16, 2020, for a term of one year beginning July 1, 2020, and ending June 30, 2021, to fill a new seat.

Public Guardian and Conservator Advisory Board

Betty A. Dougherty of **Quinton**, Virginia, Member, appointed December 11, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Lisa Linthicum.

Susan A. Elmore of **Colonial Heights**, Virginia, Member, appointed December 11, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2022, to succeed Elizabeth Wildhack.

Lindsay Pickral of **Midlothian**, Virginia, Member, appointed December 11, 2020, for a term of three years beginning July 1, 2020, and ending June 30, 2023, to succeed Paul Izzo.

Ming C. Truong of **Virginia Beach**, Virginia, Member, appointed December 11, 2020, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed Cathy Thompson.

Erica Wood of **Arlington**, Virginia, Member, appointed December 11, 2020, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2022, to succeed Veronica Williams.

State Rehabilitation Council for the Blind and Vision Impaired

Alexa Bowe of **Newport News**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Jenny McKenzie.

Annette Hyde of **Madison**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Jeanne Armentrout.

Prem Jadhvani of **Leesburg**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning October 1, 2019, and ending September 30, 2022, to succeed Julie Akers.

Edna E. Johnson of **Alexandria**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Jill Nerby.

Liang Liao of **Roanoke**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Megan O'Toole.

Ricardo Lizama of **Arlington**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Gina Koke.

Marianne Moore of **Chesterfield**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Wanda Council.

Chanthen Nene of **Manassas**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Ken Jessup.

Milford J. Stern of **Roanoke**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Justin Graves.

Virginia Interagency Coordinating Council

Tabatha Carroll of **Chesapeake**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Catherine C. Childers of **Blacksburg**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Penni Crist of **Waynesboro**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Wyvonnice V. Harsley of **Lorton**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Kristen Heinan of **Charlottesville**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Kristen Jamison.

Elizabeth "Lissy" John of **Falls Church**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Jennifer MacRae of **Hinton**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Jean Odachowski of **Martinsville**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Courtney Pugh of **Salem**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Jaylene Trueblood of **Chesapeake**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

Lynn Wolfe of **Williamsburg**, Virginia, Member, appointed December 18, 2020, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed herself.

LEGISLATIVE

Virginia Coal and Energy Commission

Barbara F. Altizer of **Lebanon**, Virginia, Member, appointed December 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

Joshua Ball of **Abingdon**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed James Martin.

Felix Tapawan Garcia of **Richmond**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Rhonnie Smith.

Harrison T. Godfrey of **Reston**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed John Matney.

Cale Jaffe of **Charlottesville**, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Ken Hutcheson.

Donald Ratliff of **Big Stone Gap**, Virginia, Member, appointed December 18, 2020, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Charles A. Stacy of Tazewell, Virginia, Member, appointed December 18, 2020, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Rick B. Hendrix.

NATURAL RESOURCES

Board of Historic Resources

Trip Pollard of Midlothian, Virginia, Member, appointed December 4, 2020, to serve an unexpired term beginning February 5, 2020, and ending June 30, 2021, to succeed Erin B. Ashwell.

PUBLIC SAFETY AND HOMELAND SECURITY

Scientific Advisory Committee

Marc A. LeBeau of Fairfax, Virginia, Member, appointed December 31, 2020, to serve an unexpired term beginning August 1, 2020, and ending June 30, 2022, to succeed Barry Levine.

SENATE JOINT RESOLUTION NO. 304

Celebrating the life of the Honorable Mamye E. BaCote.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, the Honorable Mamye E. BaCote, an inspirational educator and a highly admired public servant who represented the residents of Newport News and Hampton in the House of Delegates for more than a decade, died on December 14, 2020; and

WHEREAS, a native of Halifax County, Mamye BaCote received a bachelor's degree from Virginia Union University and a master's degree from what is now Hampton University; and

WHEREAS, while a student at Virginia Union University in 1960, Mamye BaCote played a significant role in the civil rights movement as a member of the Richmond 34, a group of students and activists who staged a sit-in at the Thalhimers lunch counter in downtown Richmond; and

WHEREAS, Mamye BaCote pursued a career in education with Newport News Public Schools, teaching social studies at Collis P. Huntington High School and Menchville High School, where she also became a department head; and

WHEREAS, Mamye BaCote fostered trust among her students and worked tirelessly to help them achieve success in and out of the classroom; she also inspired young adults as an adjunct professor of political science at Hampton University; and

WHEREAS, after her retirement as a teacher in 1994, Mamye BaCote was elected to the Newport News City Council and served the city in that capacity from 1996 to 2003; and

WHEREAS, desirous to be of further service to the Commonwealth, Mamye BaCote ran for and was elected to the House of Delegates in 2003 and represented the residents of the 95th District until January 2016; and

WHEREAS, Mamye BaCote introduced and supported numerous important pieces of legislation to benefit all Virginians and offered her leadership and expertise to several standing committees, including Appropriations; Health, Welfare and Institutions; and Transportation; and

WHEREAS, during her tenure as a state lawmaker, Mamye BaCote focused on education and support for public schools, gun safety measures, and helping to rehabilitate nonviolent drug offenders by funding the Newport News Drug Court; and

WHEREAS, Mamye BaCote worked diligently to cultivate mutual respect across party lines, providing both Democrats and Republicans alike with her wisdom and insights, which helped to build bipartisan consensus on critical issues; and

WHEREAS, Mamye BaCote was well-known among constituents and colleagues for her grace, dignity, and genuine kindness, but her soft-spoken nature belied her tenacity and commitment to the public good; and

WHEREAS, Mamye BaCote served the Commonwealth with the utmost integrity, dedication, and distinction and inspired other members of her community to pursue a life of public service; and

WHEREAS, Mamye BaCote enjoyed fellowship and worship with the congregation of Saint Vincent de Paul Catholic Church and shared her faith with the community through song as a member of the choir; and

WHEREAS, predeceased by her husband, Theodore, and one son, Kyle, Mamye BaCote will be fondly remembered and greatly missed by her sons, Theodore III, Derek, and Marlon, and their families; numerous other family members and friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Mamye E. BaCote, a respected public servant and former member of the House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Mamye E. BaCote as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 305

Celebrating the life of Billy Joe Roberts.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Billy Joe Roberts, a dedicated law-enforcement officer who served as longtime sheriff of the City of Hampton, died on December 26, 2020; and

WHEREAS, a native of South Carolina, Billy Joe "B.J." Roberts grew up in Hampton, where he graduated from George P. Phenix High School and earned a bachelor's degree from Hampton University; and

WHEREAS, B.J. Roberts began his law-enforcement career in 1971 as a member of the Newport News Police Department, then subsequently joined the Hampton University Police Department, rising through the ranks over the course of his 19-year career at the institution to become director of police and public safety; and

WHEREAS, in 1992, B.J. Roberts was elected as sheriff of the City of Hampton and ultimately served seven terms; he was respected for his leadership and expertise both locally and nationally, serving as president of the Virginia Sheriffs' Association and as the first African American president of the National Sheriffs' Association; and

WHEREAS, B.J. Roberts had also offered his leadership to statewide college campus law-enforcement associations and as chair of the Hampton Roads Regional Jail Authority; and

WHEREAS, B.J. Roberts enjoyed fellowship and worship with the congregation of Queen Street Baptist Church and served the community as a member of several volunteer organizations, including the Hampton branch of the NAACP and the Boys & Girls Clubs of America; and

WHEREAS, among numerous awards and accolades for his work with local youths and his achievements on behalf of the community, B.J. Roberts received the Hampton Citizen of the Year award, the Role Model of the Year award from 100 Black Men of Virginia Peninsula, and the Public Service Award from CHUMS, Inc.; and

WHEREAS, B.J. Roberts will be fondly remembered and greatly missed by his siblings, Annie and Earnest, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Billy Joe Roberts, a highly admired law-enforcement officer in the City of Hampton; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Billy Joe Roberts as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 306

Commending Moneta Elementary School.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Moneta Elementary School of Bedford County Public Schools, which serves the community by creating a fun and enriching learning environment in which young people may challenge themselves and thrive, celebrates its 50th anniversary in 2020; and

WHEREAS, Moneta Elementary School started in 1963 after the consolidation of area high schools; the school was formally established seven years later following the completion of a 12-unit, one-story building that had capacity for up to 300 students; and

WHEREAS, Moneta Elementary School initially served grades one through seven and added a kindergarten program in 1973; the upper grades were gradually transferred after the opening of the Staunton River Annex in 1979 and its transition to Staunton River Middle School in 1989, and the school today serves students in pre-kindergarten through fifth grade; and

WHEREAS, Moneta Elementary School added a gymnasium and playground in 1992 to promote the health and fitness of its students; eight years later, a pavilion and additional playground equipment were built with support from the Moneta Lions Club and the Bedford County Parks and Recreation Department; and

WHEREAS, since 1989, Moneta Elementary School has offered a preschool Head Start program with support from the Lynchburg Community Action Group, Inc., and federal funds; in 2004, Moneta Elementary School also began providing a preschool program for four-year-olds that was made possible through the Virginia Department of Education's Virginia Preschool Initiative; and

WHEREAS, the teachers of Moneta Elementary School, many of whom have served at the school for more than two decades or are alumni of the school themselves, work tirelessly every day to encourage their students to succeed both in and out of the classroom; and

WHEREAS, staff and students at Moneta Elementary School have risen to the challenges of the COVID-19 pandemic, embracing social distancing and other public health strategies to ensure the safety and well-being of the entire community; and

WHEREAS, with its motto "50 Years and Counting," students and staff at Moneta Elementary School are celebrating the historic anniversary with numerous events and activities, including spirit days and a "Moneta Through the Years" slideshow that is published on the school's webpage; and

WHEREAS, the 50th anniversary of Moneta Elementary School provides students, staff, alumni, and residents of Moneta with the opportunity to reflect on the important role the school has played in fostering the area's close and vibrant community; and

WHEREAS, by greatly contributing to the educational, social, personal, and professional development of countless individuals, Moneta Elementary School has helped make the County of Bedford a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Moneta Elementary School on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kevin Spaulding, principal of Moneta Elementary School, as an expression of the General Assembly's high esteem for the school's history and innumerable contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 307

Commending Pete's Pizza.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Pete's Pizza, one of the oldest Greek and Italian restaurants in Culpeper, has served delicious meals and helped build a strong sense of community in the area for 45 years; and

WHEREAS, Pete's Pizza was founded by Pete and Eleni Katrakilis, who immigrated to the United States from Lemnos, Greece; the couple settled in Georgetown, where Pete worked at the restaurant Ikaros and learned to make authentic New York–Style pizza; and

WHEREAS, in 1975, Pete Katrakilis was driving to Charlottesville hoping to open a pizzeria near the University of Virginia when he stopped for gas in Culpeper; after noticing a shopping center that was under construction and realizing that there were few pizza options in the area, he changed his plans, and Pete's Pizza opened in Culpeper Town Square the following year; and

WHEREAS, while Pete's Pizza offers made-to-order pasta dishes, gyros, barbecue, and specialty sandwiches, the heart of the menu is its hand-tossed, brick oven pizza that has delighted generations of Culpeper residents; and

WHEREAS, over the years, Pete's Pizza also became a beloved community gathering place with many loyal regular customers, some of whom even enjoy lunch or dinner at the restaurant multiple times a week; and

WHEREAS, Pete and Eleni Katrakilis have imparted their work ethic and commitment to excellence to their children, Steven and Georgia, who have been involved with the family business since they were young; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Pete's Pizza, a Culpeper institution, on the occasion of its 45th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Pete's Pizza as an expression of the General Assembly's admiration for the restaurant's years of contributions to the Culpeper community.

SENATE JOINT RESOLUTION NO. 311

Celebrating the life of Robert Edward Mann.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Robert Edward Mann, a retired educator who touched countless lives throughout Hampton as a volunteer and a respected community leader, died on December 24, 2020; and

WHEREAS, Robert Mann grew up in the Phoebus area of Hampton and graduated from George P. Phenix High School; and

WHEREAS, Robert Mann served his country as a member of the United States Army for six years, then continued his education at what is now Hampton University, where he majored in mathematics and played football; and

WHEREAS, Robert Mann pursued a fulfilling career as a mathematics teacher and assistant football coach in Hampton City Schools and Newport News Public Schools, giving countless students the tools to achieve success in and out of the classroom; and

WHEREAS, after his retirement as a teacher, Robert Mann continued to serve young people through a tutoring program and taught adult education classes through Hampton City Schools; he also worked as a senior account agent for the Allstate Corporation; and

WHEREAS, Robert Mann was active in the community as a member and former president of the Beau Brummell Civic and Social Club, and he was a longtime member of the Hampton University Boosters and the George P. Phenix High School Alumni Association; and

WHEREAS, Robert Mann enjoyed fellowship and worship with the Phoebus community at Zion Baptist Church, offering his wise leadership to the congregation as a trustee; he also sang in the senior choir and taught in the church's tutoring program; and

WHEREAS, Robert Mann will be fondly remembered and greatly missed by his wife of 34 years, Betty Jean, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Robert Edward Mann; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert Edward Mann as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 312

Commending O. R. Singleton, Jr.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, O. R. Singleton, Jr., a respected veteran of the Korean War and a talented engineer, has served and supported the Richmond community for more than 60 years; and

WHEREAS, O. R. "Duke" Singleton grew up in Washington, D.C., where he attended Saint Albans School, then matriculated at the University of Virginia and joined the United States Marine Corps Reserve while studying engineering; and

WHEREAS, Duke Singleton's reserve unit was activated during the Korean War, and he deployed to the Korean Peninsula as a member of D Company, 2nd Battalion, 7th Marine Regiment, 1st Marine Division; and

WHEREAS, Duke Singleton earned a Purple Heart and a Presidential Unit Citation for his actions during the Battle of Chosin Reservoir, a short but brutal campaign fought in severe winter weather and subzero temperatures; and

WHEREAS, after his honorable military service, Duke Singleton returned to the Commonwealth to graduate from the University of Virginia and then pursued a career with Reynolds Metals Company in Richmond; and

WHEREAS, Duke Singleton worked primarily in the research laboratory of Reynolds Metals Company and received several awards and patents for his work on the extrusion of aluminum alloy and brazing technology; and

WHEREAS, Duke Singleton retired from Reynolds Metals Company after 30 years and then established his own firm and gained a contract with NASA Langley Research Center; and

WHEREAS, shortly after arriving in Richmond, Duke Singleton met and married his beloved wife, the late Marianna Foster Cabell; the couple proudly raised two sons, Cabell and Alec, and one daughter, Mary, who also predeceased him; and

WHEREAS, Duke Singleton has enjoyed fellowship and worship with the congregations of Saint Stephen's Episcopal Church and St. James's Episcopal Church, and he has taken an active role in the Stonewall Court Neighborhood Association; and

WHEREAS, a resident of Stonewall Court for 62 years, Duke Singleton has watched numerous families come and go in the neighborhood, becoming known to generations of fellow residents as a wise elder who can fix anything and is always ready with a joke or a sage insight; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend O. R. Singleton, Jr., for his legacy of service to the United States, the Commonwealth, and his fellow Richmond residents; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to O. R. Singleton, Jr., as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 313

Commending Virginia's Crossroads.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, in 2004, Virginia's Crossroads established the Civil Rights in Education Heritage Trail®, a self-guided driving tour through dozens of historically significant sites that tells the poignant and inspirational story of the pursuit of civil rights in the Commonwealth's education system; and

WHEREAS, established in 1993, Virginia's Crossroads is the third-largest tourism marketing consortium in Virginia, representing the Counties of Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Dinwiddie, Lunenburg, Mecklenburg, Nottoway, and Prince Edward; the Cities of Petersburg and Emporia; and Virginia State Parks and Appomattox Court House National Historical Park; and

WHEREAS, Virginia has led the United States in many ways, particularly in education; the first free public education system in the country traces its roots to Southside Virginia, and many trailblazing African Americans, Native Americans, and women cultivated their right to an education in the Commonwealth; and

WHEREAS, the original Civil Rights in Education Heritage Trail® was composed of 41 historic sites in 12 localities, and Virginia's Crossroads added 12 additional sites to the trail in September 2020; and

WHEREAS, the sites on the trail include the Russell Grove Presbyterian Church and School and the Mrs. Samantha Jane Neil historical markers in Amelia County; the Winonah Camp/Mozella Price Home, Carver-Price School, and Education in 1800's Rural Virginia historical markers in Appomattox County; the Christanna Campus of Southside Virginia Community College, Oak Grove School, James Solomon Russell-Saint Paul's College, Fort Christanna Historical Site, and Hospital and School of the Good Shepherd historical markers in Brunswick County; the One-Room Schoolhouse, Buckingham Training School, Stephen J. Ellis Elementary School for African Americans, and Carter G. Woodson Birthplace historical markers in Buckingham County; the Central High School, Charlotte County Library, the John H. Daniel Campus of Southside Virginia Community College, and Salem School historical markers in Charlotte County; the Virginia State University historical marker in Chesterfield County; the Cumberland Educational Advancement Center & Community Center, Rosenwald School at Cartersville, Jackson Davis, and Hamilton High School historical markers in Cumberland County; the Southside Virginia Training Center, Rocky Branch School, Early Education in Dinwiddie County, and Southside High School historical markers in Dinwiddie County; and the Greensville County Training School historical marker in Emporia; and

WHEREAS, the trail also includes the Meadville Community Center, L.E. Coleman African-American Museum, Mountain Road School, Mary M. Bethune High School, Washington-Coleman Elementary School, and Mizpah Church historical markers in Halifax County; the People's Community Center, Lunenburg County Training School, and St. Matthew's Lutheran Church and Christian Day School historical markers in Lunenburg County; the Thyne Institute, Boydton Academic and Bible Institute, and St. Mark's Episcopal Church & Carroll-Boyd School historical markers in Mecklenburg County; the Blackstone Female Institute, Mt. Nebo Church, and Ingleside Training Institute historical markers in Nottoway County; the Earliest Known Public High School for African Americans in Virginia, McKenney Library, The Peabody-Williams School, and Bishop Payne Divinity School historical markers in Petersburg; the First Baptist Church, Beulah AME Church, Farmville Female Seminary Association, R. R. Moton High School, Prince Edward County Public Schools, Hampden-Sydney College, The Beneficial Benevolent Society of the Loving Sisters and Brothers of Hampden Sydney, and Prince Edward State Park for Negroes historical markers in Prince Edward County; and

WHEREAS, the Civil Rights in Education Heritage Trail® continues to be instrumental in helping tell the incredible story of the struggle for equity in public education; and

WHEREAS, the Civil Rights in Education Heritage Trail® plays an important role in the economic vitality of the region and the Commonwealth, with trail patrons also visiting local businesses along the way; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Virginia's Crossroads for establishing, maintaining, and expanding the Civil Rights in Education Heritage Trail®; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia's Crossroads as an expression of the General Assembly's admiration for the importance and significance of the Civil Rights in Education Heritage Trail®.

SENATE JOINT RESOLUTION NO. 314

Commending the Virginia Chapter of American Promise and Take Back Our Republic.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, the Virginia Chapter of American Promise and Take Back Our Republic have worked diligently to uphold the ideals of the Virginia Declaration of Rights and protect the free speech and liberty of all Virginians by supporting the passage of a new amendment to the Constitution of the United States; and

WHEREAS, the Virginia Declaration of Rights, adopted 245 years ago, reads, "That all power is vested in, and consequently derived from, the people," and free speech is a right held by natural persons, recognized and protected by the First Amendment to the Constitution of the United States; the Virginia Chapter of American Promise, a cross-partisan advisory council, and Take Back Our Republic, a nonprofit organization with strong Virginia roots, have affirmed that these rights are held only by natural persons, not by corporations, unions, or other artificial entities; and

WHEREAS, the Virginia Chapter of American Promise and Take Back Our Republic have worked to secure these rights for all Virginians and all Americans, regardless of wealth or access to corporate, union, or other treasuries; money is property and not speech, and the United States Congress, state legislatures, and local legislative bodies should have the authority to regulate political contributions and expenditures to ensure power is vested in and derived solely from the people; and

WHEREAS, a series of Supreme Court decisions have struck down longstanding precedents prohibiting corporations and unions from spending unlimited amounts of money to influence the outcome of elections, disproportionately elevating the

role of wealthy special interests in elections and diminishing the voices and influence of ordinary Americans, including those in Virginia; these rulings also limit the elaboration of state and federal anti-corruption and election spending laws; and

WHEREAS, as the birthplace of the first democratically elected legislative assembly in the Americas, the Commonwealth has a compelling interest in the stewardship of representative self-government, federalism, the integrity of the electoral process, and the political equality of natural persons; and

WHEREAS, spending by Super PACs, wealthy individuals, corporations, unions, and special interests have driven statewide spending on Virginia elections to historic levels, directly threatening the integrity of the election process, diluting the power of individual voters, and distorting public discourse and engagement with public policies; and

WHEREAS, in 2021, the Commonwealth celebrates the 50th anniversary of the revised Virginia Constitution, which in Article 1, Section 3 of the Bill of Rights, states that government is instituted for the common benefit, protection, and security of the people, nation, or community; and

WHEREAS, Article V of the Constitution of the United States empowers and obligates the people and states to use the constitutional amendment process to protect and defend the Constitution and to correct decisions of the Supreme Court of the United States that threaten the democracy, republican form of self-government, and political liberties of the United States; and

WHEREAS, the Virginia Chapter of American Promise, Take Back Our Republic, and private citizens of all backgrounds in Virginia have worked to build bipartisan consensus and preserve the Commonwealth's founding principles of free speech and independence by advancing a constitutional amendment authorizing the United States Congress and the states to set reasonable limits on the raising and spending of money by candidates and others to influence elections; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Chapter of American Promise and Take Back Our Republic for their work to uphold the ideals of the Virginia Declaration of Rights and protect the free speech and liberty of all Virginians by supporting the passage of a new amendment to the Constitution of the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the Virginia Chapter of American Promise and Take Back Our Republic as an expression of the General Assembly's admiration for these organizations' commitment to equal rights, free speech, and good representation in government for all Virginians and all Americans.

SENATE JOINT RESOLUTION NO. 315

Celebrating the life of Theodore Carter DeLaney, Jr.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Theodore Carter DeLaney, Jr., an esteemed professor of history at Washington and Lee University, who was the first African American department chair in the university's history and a pillar of its community, died on December 18, 2020; and

WHEREAS, born in Lexington, Theodore "Ted" DeLaney was a graduate of the historic Lylburn Downing School; in his early years, he explored various occupations and for several months was a postulant at a Catholic monastery of the Franciscan Friars of the Atonement in New York; and

WHEREAS, upon returning to his hometown in the early 1960s, Ted DeLaney joined the staff of Washington and Lee University, serving initially as a custodian and later as a laboratory technician; and

WHEREAS, Ted DeLaney began enrolling in courses at Washington and Lee University in 1979 and was a full-time student within four years; by 1985, at the age of 42, he had graduated cum laude with a bachelor's degree in history; and

WHEREAS, after a brief foray as a teacher at the Asheville School in North Carolina, Ted DeLaney returned to his academic pursuits, earning a doctoral degree in history from The College of William and Mary in 1995; and

WHEREAS, that same year, more than three decades after he was first employed by Washington and Lee University, Ted DeLaney returned to his alma mater as a full-time faculty member in its department of history; he would later receive tenure and a promotion to associate professor in 2001 and achieve full professor status before his retirement in 2019; and

WHEREAS, known across campus for his courses on colonial North America, slavery in the Western Hemisphere, African American history, the civil rights movement, and gay and lesbian history, Ted DeLaney helped students and colleagues alike reach a greater understanding of how certain groups had been historically disadvantaged and dispossessed; and

WHEREAS, through his scholarship, Ted DeLaney explored obscure histories of African Americans in the Commonwealth, including a study of John Chavis and an oral history project that documented the role western Virginians played in the desegregation of schools in the years immediately following the U.S. Supreme Court's landmark ruling in the case of *Brown v. Board of Education*; and

WHEREAS, Ted DeLaney's notable accomplishments at Washington and Lee University include co-founding the Africana Studies Program in 2005, which he directed from 2005 to 2007 and from 2013 to 2017, and chairing the history department from 2007 to 2013, which made him the first African American department head in the university's history; and

WHEREAS, Ted DeLaney sat on more than a dozen committees at Washington and Lee University, including the Working Group on the History of African Americans at W&L and the Commission on Institutional History and Community, and will be remembered for his efforts to promote inclusivity and diversity at the school; and

WHEREAS, committed to advancing the study of the history of the Commonwealth and the South, Ted DeLaney served as president of the St. George Tucker Society, was a member of the Southern Historical Association, and sat on the board of trustees of the Stonewall Jackson House and the board of directors of the Virginia Foundation; and

WHEREAS, Ted DeLaney was an active and engaged member of his community, serving as the first president of Yellow Brick Road Early Learning Center, president of the Waddell Elementary School Parent-Teacher Association, secretary of the Lexington City Board of Elections, and treasurer of the Rockbridge Regional Library Board; and

WHEREAS, Ted DeLaney's contributions to his community were recognized by many awards and accolades, including inductions into Omicron Delta Kappa and Phi Beta Kappa, an invitation to deliver the 2018 Fall Convocation address at Washington and Lee University, honorary degrees from Saint Paul's College and Washington and Lee University, and the Lexington/Rockbridge chapter of the NAACP's 2018 Community Service Award; and

WHEREAS, Ted DeLaney's legacy at Washington and Lee University has been enshrined through a postdoctoral fellowship, a lecture series in Africana Studies, and a scholarship in the humanities and interdisciplinary studies that have been established in his honor; and

WHEREAS, guided throughout his life by his deep and abiding faith, Ted DeLaney enjoyed worship and fellowship with his community at St. Patrick Catholic Church in Lexington for many years; he also served the Diocesan Church in Richmond in the 1970s and 1980s in various capacities, including chairing its Social Ministry Commission and serving as both a charter member of the Office of Black Catholics and as a member of the diocesan pastoral council; and

WHEREAS, Ted DeLaney will be fondly remembered and dearly missed by his loving wife, Patricia; his son, Damien, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Theodore Carter DeLaney, Jr., a distinguished professor of history at Washington and Lee University whose wisdom and compassion left a profound and lasting impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Theodore Carter DeLaney, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 316

Celebrating the lives of Walter Lowrie Martin III and Edith Luke Martin.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Walter Lowrie Martin III, a hardworking dairy farmer, and Edith Luke Martin, a highly admired former teacher, both active members of the Rockbridge County community, died on November 8, 2020, and September 7, 2020, respectively; and

WHEREAS, at a young age, Walter "Bud" Martin developed a passion for agriculture that endured throughout his entire life; and

WHEREAS, a longtime member of the Brownsburg Ruritan Club, Bud Martin held several leadership roles in the organization over the years and was the pit master for the club's chicken barbecues, earning accolades in the community for his delicious homemade sauce; and

WHEREAS, Bud Martin was a talented storyteller who relished opportunities to share his lifetime of wisdom with others; he strove to be a role model for young people in the community and brightened the days of friends and neighbors through his sense of humor and ever-present smile; and

WHEREAS, born in Rocky Mount, Edith Martin graduated from what is now James Madison University and pursued a long and fulfilling career in education; and

WHEREAS, Edith Martin taught at several public schools in Rockbridge County, including Andrew Lewis High School and Rockbridge High School, and gave countless students the tools to achieve success in higher education and careers and become good citizens of the Commonwealth; and

WHEREAS, Edith Martin volunteered her time and leadership with the North Rockbridge Woman's Club and various education-focused nonprofit organizations; and

WHEREAS, Edith Martin was deeply devoted to her family and retired as a teacher in 1980 to help care for her first grandchild; she cherished every opportunity to impart her lifetime of wisdom to her children, grandchildren, and great-grandchildren; and

WHEREAS, Bud and Edith Martin enjoyed fellowship and worship with the community at New Providence Presbyterian Church, where he served as a deacon, an elder, a member of the cemetery committee, and a member of the choir, and where she was a loyal member of the Night Circle group; and

WHEREAS, Bud and Edith Martin will be fondly remembered and greatly missed by their children, Mary Lynn, Judy, and James, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Walter Lowrie Martin III and Edith Luke Martin; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Walter Lowrie Martin III and Edith Luke Martin as an expression of the General Assembly's respect for their memory.

SENATE JOINT RESOLUTION NO. 318

Celebrating the life of Stephen Teel Goodwin.

Agreed to by the Senate, January 21, 2021

Agreed to by the House of Delegates, January 25, 2021

WHEREAS, Stephen Teel Goodwin, a member of the Orange County Board of Supervisors who worked diligently to strengthen and enhance the community, died on December 30, 2020; and

WHEREAS, born in Richmond, Teel Goodwin could trace his family lineage in the Commonwealth back to 1640, when James Goodwin, who later represented York County in the House of Burgesses, arrived at Jamestown; and

WHEREAS, Teel Goodwin grew up in Orange, where he attended Grymes Memorial School; he subsequently graduated from Woodberry Forest School and studied at The College of William and Mary before earning a bachelor's degree from Mary Washington College; and

WHEREAS, Teel Goodwin began his career with the family business, Goodwin Brothers Lumber Company, and had risen to the position of manager when the company was sold 13 years later in 1990; and

WHEREAS, Teel Goodwin subsequently joined the sales department of Union Corrugating Company, then became general manager of the plant, where he ultimately retired after 29 years of service; and

WHEREAS, desirous to be of further service, Teel Goodwin ran for and was elected to the Orange County Board of Supervisors in 2008 and served the community in that capacity until the time of his passing; and

WHEREAS, respected by his peers in local government, Teel Goodwin served as chair and vice-chair of the Orange County Board of Supervisors for eight years; during his tenure, he helped create a new public safety center, expand broadband Internet service throughout the county, and work with the Orange Downtown Alliance to support small businesses; and

WHEREAS, Teel Goodwin was a trusted mentor and a devoted friend to many in Orange County, and even during an eight-year battle with colon cancer, he worked to enhance community life and brought joy to others with his luminous sense of humor; and

WHEREAS, Teel Goodwin will be fondly remembered and greatly missed by his wife, Linda; his son, Spencer; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Stephen Teel Goodwin, a consummate public servant in Orange County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Stephen Teel Goodwin as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 319

Celebrating the life of Michael Stephen Horwatt.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Michael Stephen Horwatt, a respected attorney and civic leader in Fairfax County, died on August 14, 2020; and

WHEREAS, Michael Horwatt grew up in McLean and became interested in politics at a young age after his father was targeted by the House Un-American Activities Committee, and he was a strong proponent of racial justice, having personally experienced anti-Semitism as the only Jew in his high school; and

WHEREAS, as a student at Grinnell College, Michael Horwatt traveled to Washington, D.C., as the leader of the Grinnell 14 to protest against atmospheric nuclear testing; the group's success inspired students at dozens of other colleges and universities to participate in similar movements; and

WHEREAS, after receiving a bachelor's degree from Grinnell College, Michael Horwatt earned a law degree from the University of Virginia and pursued a career as a trial attorney; he served as an assistant attorney for the Commonwealth from 1968 to 1970, then opened Reston's first hometown law firm, Horwatt and Kenny; and

WHEREAS, beginning in 1977, Michael Horwatt served on three committees to study the relocation of Fairfax County government buildings, working diligently to build consensus on what were then highly charged and divisive issues; during that time, he also served as a substitute judge for the Fairfax County General District Court for six years; and

WHEREAS, Michael Horwatt worked for the firms Odin, Feldman, & Pittleman and Dickstein, Shapiro & Morin; he subsequently became a managing partner of Buchanan Ingersoll, then finished his career as a solo practitioner; and

WHEREAS, throughout his career, Michael Horwatt practiced antitrust, First Amendment, and land use and zoning, civil rights, and criminal defense law; he played a significant role in the development of Internet law in the Commonwealth through his work on the Virginia Electronic Signatures Act and the Uniform Computer Information Transactions Act; and

WHEREAS, Michael Horwatt also cultivated expertise in economic development at the U.S. Department of Commerce and served as vice chair of the Fairfax County Economic Development Authority; and

WHEREAS, among many awards and accolades, Michael Horwatt received the 1981 Citizen of the Year award from the Fairfax County Chamber of Commerce and the 1983 Citation of Merit from *The Washington Post* and the Fairfax County Federation of Citizens Associations; and

WHEREAS, Michael Horwatt enjoyed fellowship and worship as a member of the Northern Virginia Hebrew Congregation; and

WHEREAS, Michael Horwatt will be fondly remembered and greatly missed by his daughters, Karin and Elizabeth, and their families; his former wife, Sally; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Michael Stephen Horwatt; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael Stephen Horwatt as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 320

Celebrating the life of Dr. John E. Thomasson.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Dr. John E. Thomasson, an esteemed mortician who made history as the first African American elected to public office in Louisa County, died on July 22, 2020; and

WHEREAS, John Thomasson founded Thomasson Funeral Service in Louisa County in 1951 and lovingly supported his community by caring for its mortuary and funeral needs for more than 53 years; and

WHEREAS, John Thomasson became the first African American elected official to serve Louisa County when he won a seat on the Louisa County Board of Supervisors in 1979; after losing his seat in 1981, he would be re-elected in 1985 and ultimately serve a total of six years on the board as the Patrick Henry District representative; and

WHEREAS, during his tenure on the Louisa County Board of Supervisors, John Thomasson helped the county achieve fiscal stability, plan for responsible growth, and develop and implement crucial infrastructure projects; he also gave generously of his time and talents by serving on various committees, boards, and organizations; and

WHEREAS, John Thomasson will be remembered as a leader who built consensus through his kind and compassionate nature and with his unique insights and approaches to Louisa County's most complex challenges; and

WHEREAS, John Thomasson was dedicated to the academic development and well-being of young people and was a generous supporter of Louisa County High School and Saint Paul's College; and

WHEREAS, both the Virginia Morticians' Association and Saint Paul's College have bestowed John E. Thomasson Scholarships upon an untold number of students, helping many pursue their academic dreams; and

WHEREAS, to recognize John Thomasson's achievements and many contributions to the Saint Paul's College community, the school established the John E. Thomasson Student Center in his honor; and

WHEREAS, on August 17, 2020, the Louisa County Board of Supervisors voted unanimously in favor of a resolution recognizing John Thomasson's service and his contributions to the Louisa County community; and

WHEREAS, John Thomasson will be fondly remembered and dearly missed by his wife, Christine; his daughter, Lynne; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Dr. John E. Thomasson, a respected mortician and community leader who had a profound and lasting impact on innumerable lives in Louisa County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dr. John E. Thomasson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 321

Commending Wolf Trap Foundation for the Performing Arts.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Wolf Trap Foundation for the Performing Arts, an independent 501(c)(3) nonprofit organization in Vienna that presents world-class cultural and musical events for the benefit of the Northern Virginia community and beyond, celebrates the 50th anniversary of Filene Center performances in 2021; and

WHEREAS, Catherine Filene Shouse originally donated 100 acres of her Vienna farmland to the United States government, and funds for the construction of a 7,028 seat indoor/outdoor theater, resulting in the creation of Wolf Trap National Park for the Performing Arts, unique as America's only national park with this designation; and

WHEREAS, Wolf Trap Foundation for the Performing Arts was founded by Catherine Filene Shouse to operate in close partnership with the National Park Service to achieve the purpose for which the Park was established: to provide facilities through which patrons would enrich their knowledge of the performing arts and to present educational programs with respect to the performing arts; and

WHEREAS, Wolf Trap Foundation and the National Park Service presented the inaugural performance at the Filene Center at Wolf Trap National Park for the Performing Arts on July 1, 1971; the partnership between the Foundation and the National Park Service has since flourished, highlighted by an ongoing commitment to presenting artists that reflect the diversity of the community, including legends and top artists from every genre—classical, pop, rock, jazz, opera, folk, world music, and dance; and

WHEREAS, Wolf Trap Foundation has demonstrated an ongoing commitment to its mission of creating excellent and innovative performing arts programs for the enrichment, education, and enjoyment of diverse audiences and participants, while expanding the caliber and breadth of its annual programming; and

WHEREAS, since the first performance in 1971, Wolf Trap Foundation has greatly expanded its impact on arts and education beyond the presentation of performances at the Filene Center; and

WHEREAS, in 1971 the Wolf Trap Opera was established, providing thousands of emerging artists with one of the most prestigious training and performance experiences in the nation, while bringing world-class opera performances to audiences at the Filene Center and at The Barns at Wolf Trap; and

WHEREAS, Wolf Trap Foundation is commended for its important role in preserving the tradition of classical music, including its nationally recognized Chamber Music at the Barns and its ongoing commitment to classical and opera programming at the Filene Center; and

WHEREAS, in 1981 the Wolf Trap Institute for Early Learning Through the Arts was founded to enhance teacher excellence and children's learning by integrating the performing arts into early childhood education; and

WHEREAS, Wolf Trap Foundation has continued to lead the arts education and early learning fields by developing and delivering high-quality arts education programs throughout the Commonwealth, across the country, and around the world for people of all ages and diverse backgrounds, serving nearly 100,000 students, educators, parents, and caregivers each year; and

WHEREAS, Wolf Trap has provided lasting memories for millions of people, which they will treasure over their lifetimes, through unique performing arts experiences and arts education programs; and

WHEREAS, the longstanding partnership between Wolf Trap Foundation and the National Park Service will continue over the long term to ensure that Wolf Trap National Park for the Performing Arts will be protected for future generations; and

WHEREAS, Wolf Trap Foundation is recognized for its many contributions to the Commonwealth and the nation; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend and congratulate Wolf Trap Foundation for the Performing Arts for the important cultural contributions it has provided to the Commonwealth for the past five decades; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Arvind Manocha, president and chief executive officer of Wolf Trap Foundation for the Performing Arts, George Liffert, superintendent of Wolf Trap National Park for the Performing Arts, and Daniel A. D'Aniello, chairman of the Board of Directors of Wolf Trap Foundation for the Performing Arts as an expression of the General Assembly's appreciation for these contributions and best wishes for a happy 50th anniversary.

SENATE JOINT RESOLUTION NO. 324

Celebrating the life of Edward S. Garcia.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Edward S. Garcia, a devoted husband, father, and grandfather and a successful entrepreneur, developer, and philanthropist who worked diligently to enhance the quality of life for all residents of Hampton Roads, died on May 30, 2019; and

WHEREAS, a child of the Great Depression, Edward "Eddie" Garcia developed strong family ties, an unwavering commitment to the importance of community, and a tireless work ethic at a young age; and

WHEREAS, Eddie Garcia dropped out of school after sixth grade to support his family by selling newspapers on street corners in Norfolk and scraping oil off the floor of a local motor shop, where he learned the foundations of his eventual trade as a master electrician; and

WHEREAS, Eddie Garcia subsequently worked in heavy construction at area military bases until he joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Navy; and

WHEREAS, after advanced training as an electrician, Eddie Garcia served in the Pacific theater of the war, then joined the United States Marine Corps Reserve upon returning home to the Commonwealth; and

WHEREAS, possessed of an entrepreneurial spirit, Eddie Garcia founded two companies, ES Garcia Electric to focus on larger, union-based contracts and Volta Electric for smaller jobs; through determination and vision, he grew his businesses from one service truck to a fleet of 17 trucks with employees completing electrical work at government and commercial facilities; and

WHEREAS, Eddie Garcia earned a reputation for transparency, efficiency, and innovative solutions to problems and many prominent government contracts, including work at Naval Station Norfolk, Naval Air Station Oceana, the docking facilities for the first nuclear-powered submarine, and the construction of Kennedy Space Center in Florida; and

WHEREAS, Eddie Garcia expanded his business acumen to include real estate sales and development, and his work on numerous buildings, plazas, and landmarks in Virginia Beach helped shape the future of the city; he also developed multiple office buildings, restaurants, and marinas in Florida, and was appointed to the North Carolina State Business Advisory Council in recognition of his work there, as well; and

WHEREAS, in addition to his other business ventures, Eddie Garcia oversaw operation of the 15,000-acre Garcia Family Farm and was developing plans to open a mining company; and

WHEREAS, Eddie Garcia volunteered his time and leadership to countless boards and committees, and he was appointed to the Commonwealth Transportation Board and served as a commissioner of the Chesapeake Bay Bridge and Tunnel Commission; he contributed funds, entrepreneurial counsel, and wise guidance to a wide range of charitable groups and civic organizations throughout Hampton Roads; and

WHEREAS, the founding director of Citizens for Clean Energy, Eddie Garcia promoted the importance of energy efficiency and invested in alternative energy sources, including solar power; and

WHEREAS, among many awards and accolades, Eddie Garcia received the 1997 Good Scout Award from the Tidewater Council of the Boy Scouts of America in recognition of his personal and professional contributions to the community; and

WHEREAS, Eddie Garcia treated everyone, from well-known elected leaders and business executives to strangers in need, with the same level of care and respect, becoming a trusted advisor, mentor, and friend to countless individuals; and

WHEREAS, Eddie Garcia's greatest joy in life was his family, and he is fondly remembered and greatly missed by his beloved wife, Sandra; his children, Edward, Jr., Carmen, Ricky, Ramona, Angela, Rosa, and Ana, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Edward S. Garcia, a pillar of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward S. Garcia as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 325

Commending Harold J. Roesch II.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Harold J. Roesch II, a dedicated advocate for our military, veterans, and their families for more than 40 years, was elected commander-in-chief of the Veterans of Foreign Wars of the United States in 2020; and

WHEREAS, Harold Roesch is the first Virginian to be elected as commander-in-chief of the Veterans of Foreign Wars of the United States since the organization was founded in 1899; and

WHEREAS, beginning his military service in 1982, Harold Roesch served 20 years in the United States Air Force, rising to the rank of master sergeant; and

WHEREAS, Harold Roesch deployed six times, including a tour for Operation Desert Shield and Operation Desert Storm, and served on the development team for the F-35 Lightning II stealth multirole fighter; and

WHEREAS, while deployed to Saudi Arabia in 1996 and working by day on the flight line, Harold Roesch volunteered at night to support the Federal Bureau of Investigation's search for evidence at the Khobar Towers site after terrorists killed 19 U.S. Air Force personnel with a truck bomb; and

WHEREAS, Harold Roesch joined the Veterans of Foreign Wars of the United States in 1991 and has served in leadership positions at all levels of the organization, earning the trust and confidence of his fellow veterans; and

WHEREAS, upon his election as the 2008-2009 commander for the Veterans of Foreign Wars Department of Virginia, Harold Roesch appointed the first female veterans advocate and created the first female veterans advisory committee in the history of the organization, inspiring the national headquarters of the Veterans of Foreign Wars of the United States to do the same; and

WHEREAS, while serving as a national officer for the Veterans of Foreign Wars of the United States, Harold Roesch visited Vietnam to learn about and personally assist the efforts to recover missing United States military personnel; and

WHEREAS, upon his election as the 2020-2021 commander-in-chief of the Veterans of Foreign Wars of the United States, Harold Roesch adopted a theme of "20/20 Vision for Veterans," presenting a heightened focus on promoting equality and inclusivity in the military and appointing younger and more diverse veterans to leadership positions; and

WHEREAS, as a Gold Legacy Life member of Veterans of Foreign Wars Post 3219 in Phoebus, Harold Roesch continues to mentor and inspire veterans to serve in their communities and to advocate for the military, veterans, and their families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Harold J. Roesch II, commander-in-chief of the Veterans of Foreign Wars of the United States and a leader in the veterans community, on the occasion of his election as commander-in-chief; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Harold J. Roesch II as an expression of the General Assembly's profound respect and wholehearted admiration for his contributions to veterans, the Veterans of Foreign Wars of the United States, and the Commonwealth.

SENATE JOINT RESOLUTION NO. 326

Celebrating the life of David Anthony Rice.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, David Anthony Rice, a native of the Commonwealth who is regarded as one of the most influential bluegrass guitarists of the past half-century and a prime exemplar of the progressive "newgrass" genre, died on December 25, 2020; and

WHEREAS, born in Danville, David "Tony" Rice was raised in Los Angeles, California, where he learned to play the mandolin and guitar alongside his family of musicians; and

WHEREAS, Tony Rice made his debut at the age of nine, performing "Under Your Spell Again" on the *Town Hall Party* radio show; for several years after, he performed with his brothers at folk clubs throughout California; and

WHEREAS, moving back to the East Coast as a teenager, Tony Rice joined J.D. Crowe & the New South, one of the country's leading bluegrass groups, in 1971; their eponymous album, released in 1975 and featuring Tony Rice on guitar and lead vocals, is often celebrated as a groundbreaking album in the history of the genre; and

WHEREAS, following his success with J.D. Crowe & the New South, Tony Rice returned to California to further develop as a musician, collaborating with the pioneering mandolinist David Grisman and studying chord theory under jazz master John Carlini; and

WHEREAS, alongside other players, such as Ricky Skaggs, Sam Bush, and Béla Fleck, Tony Rice blended bluegrass, jazz, and folk idioms to develop an innovative style known as "newgrass" or "new acoustic music," which over the past half-century has gained legions of fans for its inventive approach to the traditional bluegrass repertoire; and

WHEREAS, Tony Rice enjoyed further success with his own group, the Tony Rice Unit, as well as several other ensembles over the years, including the Bluegrass Album Band; he also produced several well-received solo albums and collaborated with such musical luminaries as Norman Blake, Jerry Garcia, Emmylou Harris, and Peter Rowan; and

WHEREAS, hailing from a family of musicians, Tony Rice formed The Rice Brothers in the 1980s with brothers Larry, Ron, and Wyatt, producing multiple critically-acclaimed albums with the group; and

WHEREAS, best known for his virtuosic solos, Tony Rice was also an accomplished composer, rhythm player, and vocalist, who was admired for his warm and distinctive baritone voice until muscle tension dysphonia led him to stop singing in the 1990s; and

WHEREAS, Tony Rice received many awards and accolades throughout his career, including a Grammy Award with the New South in 1983 for Best Country Instrumental Performance and an induction into the International Bluegrass Hall of Fame in 2013; and

WHEREAS, preceded in death by his brother Larry, Tony Rice will be fondly remembered and dearly missed by his loving wife, Pamela; his daughter, India; his brothers, Wyatt and Ron; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of David Anthony Rice, an esteemed musician who was a sterling example of the Commonwealth's contributions to America's guitar and bluegrass traditions; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of David Anthony Rice as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 327

Confirming appointments by the Governor of certain persons communicated to the General Assembly January 24, 2021.

Agreed to by the Senate, February 1, 2021

Agreed to by the House of Delegates, February 4, 2021

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly January 24, 2021.

COMMERCE AND TRADE

Board for Waste Management Facility Operators

Jason Mitchell of **Hampton**, Virginia, Member, appointed January 22, 2021, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Joseph Levine.

State Building Code Technical Review Board

David V. Hutchins of **Galax**, Virginia, Member, appointed January 22, 2021, to serve at the pleasure of the Governor, to succeed Erby G. Middleton.

COMPACT

Citizens Advisory Committee to the Chesapeake Bay Executive Council

Donna Harris-Aikens of **Manassas**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning January 1, 2021, and ending December 31, 2024, to succeed Kendall Elaine Tyree.

Esi Langston of **Norfolk**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning January 1, 2021, and ending December 31, 2024, to succeed William Collins Dickinson.

Dana Wiggins of **Richmond**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning January 1, 2021, and ending December 31, 2024, to succeed Dale Allan Gardner.

EDUCATION

Board of Trustees of the Virginia Museum of Fine Arts

Jim Cheng of **Charlottesville**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed William A. Royall.

Cindy Conner of **Alexandria**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

Matthew W. Cooper of **Richmond**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed Karen Cogar Abramson.

Betty Neal Crutcher of **Richmond**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

Kenneth M. Dye of **Henrico**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed himself.

Janet Thiele Geldzahler of **Richmond**, Virginia, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

Sara O'Keefe of **Washington, District of Columbia**, Member, appointed January 15, 2021, for a term of five years beginning July 1, 2020, and ending June 30, 2025, to succeed herself.

HEALTH AND HUMAN RESOURCES

Advisory Board on Acupuncture

Luke Robinson of **Blacksburg**, Virginia, Member, appointed January 22, 2021, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Cheanny Ung.

Virginia Interagency Coordinating Council

Jennifer Reese of **Sterling**, Virginia, Member, appointed January 15, 2021, for a term of three years beginning October 1, 2020, and ending September 30, 2023, to succeed Katie Webb.

VETERANS AND DEFENSE AFFAIRS

Board of Veterans Services

Michael Dick of **Earlsville**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

Jenny Dye of **Blacksburg**, Virginia, Member, appointed January 22, 2021, to serve an unexpired term beginning February 7, 2020, and ending June 30, 2022, to succeed Susan Bates Hippen.

Mario A. Flores of **Fairfax**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to fill a new seat.

Tammi R. Lambert of **Woodbridge**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed herself.

John Lesinski of **Washington**, Virginia, Member, appointed January 22, 2021, for a term of four years beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

SENATE JOINT RESOLUTION NO. 328

Celebrating the life of Roger Hamilton Brown.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Roger Hamilton Brown, an esteemed historian and professor at American University and a beloved member of the Reston community, died on March 19, 2020; and

WHEREAS, a graduate of Phillips Exeter Academy, Roger Brown earned a bachelor's degree and a doctoral degree from Harvard University in 1953 and 1960, respectively, before embarking upon a distinguished career in academia; and

WHEREAS, after teaching at Dartmouth College from 1960 to 1963, Roger Brown settled at American University in 1965, where he would teach courses on early American history for the next 33 years; and

WHEREAS, Roger Brown was an integral member of the American University community, serving as chair of its Department of History and founding the organization Friends of the American University Library to support the institution; and

WHEREAS, Roger Brown fostered his students' success through impassioned lectures and thoughtful mentorship; he also personally funded a graduate dissertation fellowship that provided scholars financial support through a crucial phase in their academic development; and

WHEREAS, Roger Brown's studies exploring the origins of the United States, best exemplified by his publications *The Struggle for the Indian Stream Territory*, *Republic in Peril: 1812*, and *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution*, were meaningful contributions to the discourse; and

WHEREAS, guided throughout his life by his deep and abiding faith, Roger Brown enjoyed worship and fellowship with his community at St. Anne's Episcopal Church in Reston for many years; and

WHEREAS, preceded in death by his stepson, Chris, Roger Brown will be fondly remembered and dearly missed by his loving wife, Nancy; his children, Matthew and Jennifer, and their families; his stepchildren, Martha and Sarah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Roger Hamilton Brown, a respected historian and professor at American University whose kindness and generosity brightened countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roger Hamilton Brown as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 329

Celebrating the life of Joseph Richard Stowers.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Joseph Richard Stowers, an esteemed transportation planning expert and an active and beloved member of the Reston community, died on December 19, 2020; and

WHEREAS, born in San Francisco, California, Joseph "Joe" Stowers earned a bachelor's degree in civil engineering at Santa Clara University before relocating to the Washington, D.C., area to work for the U.S. Bureau of Public Roads, which later became the Department of Transportation; and

WHEREAS, after earning a doctoral degree in transportation and urban planning at Northwestern University, Joe Stowers served as president of Sydec, a transportation planning and consulting firm that helped states and localities across the nation implement highway projects; and

WHEREAS, one of the first residents of Reston, Joe Stowers was a passionate and inspirational advocate for his community, serving as both chair and co-chair of the Reston Planning and Zoning Committee for more than 15 years; and

WHEREAS, an accomplished athlete, Joe Stowers completed 10 marathons throughout his life, including the Boston Marathon, and 22 triathlons in Reston; he was also an early and highly involved member of the Reston Runners running club; and

WHEREAS, Joe Stowers contributed greatly to the development of Reston's infrastructure in recent years, serving on the Reston Association's Pedestrian and Bicycle Advisory Committee during the planning phase for the Washington Metropolitan Area Transit Authority's Silver Line and designing trail signage that appears prominently in the area; and

WHEREAS, guided throughout his life by his deep and abiding faith, Joe Stowers was a founding member of the Reston Catholic Community, later the Saint Thomas à Becket Catholic Church, and enjoyed worship and fellowship with the NOVA Catholic Community for many years; and

WHEREAS, Joe Stowers will be fondly remembered and dearly missed by his loving wife of nearly 60 years, Marcia; his children, Michelle, John, Jennifer, and Paula, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Joseph Richard Stowers, a respected transportation consultant and local leader who had a profound and lasting impact on countless lives in the Reston community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joseph Richard Stowers as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 330

Celebrating the life of Robert Emmett Mannion, Sr.

Agreed to by the Senate, January 28, 2021

Agreed to by the House of Delegates, February 1, 2021

WHEREAS, Robert Emmett Mannion, Sr., an esteemed attorney who was an active and beloved member of the Northern Virginia community, died on December 4, 2020; and

WHEREAS, a graduate of Mount Carmel High School in Chicago, Robert "Bob" Mannion earned a bachelor's degree from Georgetown University and a juris doctor degree from Catholic University; and

WHEREAS, to support himself through college and law school, Bob Mannion worked on Capitol Hill in the offices of Senators Hubert Humphrey and Walter F. Mondale, acquiring invaluable experience that would guide him on the path to success; and

WHEREAS, Bob Mannion began his distinguished legal career with a 13-year tenure at the Federal Reserve, where he helped the institution navigate the economic downturn of the 1970s and rose to the position of deputy general counsel; and

WHEREAS, Bob Mannion went into private practice in 1983, joining the law firm of Arnold & Porter as a lateral partner; over his 27 years with the firm, he earned a reputation not only for his expertise in national and international banking laws and regulations and his ability to handle the most difficult and complex cases, but for his warm and respectful demeanor toward fellow partners, associates, and staff; and

WHEREAS, with great passion for the effective and responsible practice of law, Bob Mannion authored several influential books and journal articles on banking law and guided generations of future attorneys as an adjunct professor at Catholic University; and

WHEREAS, Bob Mannion lived his Catholic faith through his actions and inspired others through his humility and unfailing kindness; he played a role in the establishment of a youth retreat program at St. Paul VI Catholic High School when it was located in the City of Fairfax and offered his leadership and expertise to various local boards and commissions; and

WHEREAS, Bob Mannion gave generously of his time and talents to his community; he offered his legal expertise pro bono as a guardian ad litem, served on various professional boards and commissions, and was highly involved with his local homeowners' association; and

WHEREAS, preceded in death by his sons, Dennis and Kevin, and daughter, Colleen, Bob Mannion will be fondly remembered and dearly missed by his loving wife of 51 years, Sally; his children, Robert, Jr., and Kerry, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Robert Emmett Mannion, Sr., an accomplished attorney who touched countless lives through his kindness, optimism, and unwavering faith; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert Emmett Mannion, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 332

Commending the Honorable Mark C. Christie.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Mark C. Christie, an esteemed and respected commissioner of the Virginia State Corporation Commission, served in that capacity for almost 17 years; and

WHEREAS, Mark Christie was elected to the Virginia State Corporation Commission by the General Assembly in 2004 and was reelected in 2010 and 2016; he adapted to the unique challenges of working for the commission, which is a separate department of state government with delegated administrative, legislative, and judicial powers; and

WHEREAS, Mark Christie was appointed by the President of the United States and confirmed by the United States Senate to be a member of the Federal Energy Regulatory Commission; and

WHEREAS, Mark Christie has had a long and distinguished career, serving the Commonwealth for more than 25 years; and

WHEREAS, prior to joining the Virginia State Corporation Commission, Mark Christie served as a counselor and advisor to Governor George F. Allen from 1994 to 1998; and

WHEREAS, Mark Christie served as counsel to William J. Howell, Speaker of the House of Delegates from 2000 to 2004; and

WHEREAS, Mark Christie was a member of the Virginia Board of Education from 1997 to 2003 and served as board president in 2002 and 2003; and

WHEREAS, Mark Christie was a member of the Virginia Criminal Sentencing Commission from 1996 to 2001; and

WHEREAS, Mark Christie has taught regulatory and constitutional law and policy as an adjunct professor at both the University of Virginia School of Law and Virginia Commonwealth University; and

WHEREAS, Mark Christie received his undergraduate degrees in history and English from Wake Forest University in 1975 and received a law degree from Georgetown University in 1981; and

WHEREAS, Mark Christie worked as an attorney in private practice from 1989 to 1993 and again from 1998 to 1999; and

WHEREAS, Mark Christie was an officer in the United States Marine Corps and served honorably until 1989, when he retired with the rank of major; and

WHEREAS, Mark Christie's vast experience, his profound wisdom, his unquestioned integrity, and his diligent adherence to the application of Virginia law have served the interests of the citizens of the Commonwealth well; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Mark C. Christie for his judicial acumen and his long and exemplary career in public service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Mark C. Christie as an expression of the General Assembly's admiration for his outstanding service with the Virginia State Corporation Commission and best wishes for his continued career in energy industry regulation.

SENATE JOINT RESOLUTION NO. 333

Celebrating the life of Frederick Cameron.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Frederick Cameron, who served the residents of Fairfax County with valor and distinction as a sergeant with the Fairfax County Sheriff's Office, died in the line of duty on January 12, 2021; and

WHEREAS, affectionately known by family, friends, and colleagues as "Butch," Frederick Cameron was a 16-year veteran of the Fairfax County Sheriff's Office, supporting the department's mission to safeguard the county's adult detention center and courthouse; and

WHEREAS, beginning in 2016, Frederick Cameron worked in the agency's facilities services section and was charged with maintaining the cleanliness of the Fairfax County Adult Detention Center, a challenging task that he approached with a strong and resolute sense of duty; and

WHEREAS, since the onset of the COVID-19 pandemic, Frederick Cameron had helped lead the team responsible for sanitizing and sterilizing the high-use and infected areas of the Fairfax County Adult Detention Center, helping to ensure the safety and well-being of his fellow officers and inmates; and

WHEREAS, as a result of his professionalism, attentiveness, and work ethic, Frederick Cameron received two special assignments during his career with the Fairfax County Sheriff's Office; and

WHEREAS, on special assignment with the Fairfax County Department of Code Compliance for three years, Frederick Cameron helped enforce the county's zoning and building code laws while ensuring the safety of inspectors and facilitating communication with residents; and

WHEREAS, due to his expertise in program management, Frederick Cameron was on assignment as the lead facilitator for the Fairfax County Sheriff's Office's security upgrade and capital renewal project since 2016; and

WHEREAS, in recognition of his heroic efforts to rescue motorists trapped in a fiery wreck along Interstate 66 in 2010, Frederick Cameron was honored by the Fairfax County Chamber of Commerce; and

WHEREAS, Frederick Cameron served admirably as a board member for the Virginia Division of Law Enforcement United (LEU), honoring the sacrifice of law-enforcement officers who had died in the line of duty and offering support to their families; and

WHEREAS, along with bolstering initiatives like the Officer Down Memorial Page, Concerns of Police Survivors, and Spirit of Blue, Frederick Cameron regularly provided security and traffic control during the LEU's annual Road to Hope Memorial Bicycle Ride from Chesapeake to Washington, D.C.; and

WHEREAS, Frederick Cameron will be fondly remembered and dearly missed by his wife, Michelle; his children, Chuckie and Adrianna; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Frederick Cameron, a sergeant with the Fairfax County Sheriff's Office who bravely dedicated himself to protecting and serving the citizens of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frederick Cameron as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 334

Commending Major Wayne R. Lee, USA, Ret.

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Major Wayne R. Lee, USA, Ret., served the Commonwealth and the nation as a member of the United States Navy and the United States Army for 24 years; and

WHEREAS, a native of Richmond, Wayne Lee enlisted in the United States Navy in 1987 and served aboard the USS *Ponce*, with two deployments to the Mediterranean Sea, where he participated in Operation Sharp Edge to rescue United States citizens from Liberia and where he was serving at the outset of Operation Desert Storm; and

WHEREAS, Wayne Lee continued to serve in the United States Navy Reserve while he attended the University of Virginia, worked in the private sector, and inspired young people as a middle school teacher in Petersburg; in 2003, he deployed to Kuwait to help offload ships in support of Operation Iraqi Freedom; and

WHEREAS, Wayne Lee subsequently attended United States Army Officer Candidate School and was commissioned as a second lieutenant in the Quartermaster Corps in 2005; he was assigned to Fort Stewart, Georgia, as a platoon leader and company executive officer of the 135th Quartermaster Company, 87th Combat Sustainment Support Battalion, 3rd Sustainment Bridge; and

WHEREAS, Wayne Lee then served as a logistics advisor to members of the Iraqi Police in Baghdad, Iraq, becoming well versed in the Arabic language and local culture; and

WHEREAS, Wayne Lee became the commanding officer of Echo Company, 703rd Bridge Support Battalion, and deployed to Iraq multiple times in support of Operation Iraqi Freedom and Operation New Dawn over the course of 29 months; and

WHEREAS, Wayne Lee mentored fellow officers at the Army Logistics University at Fort Lee and was an instructor for the Combined Logistics Captains Career Course; he transferred to the Combined Arms Support Command (CASCOM), also at Fort Lee, and served as a planning team leader for bulk petroleum and water logistics during combat operations; and

WHEREAS, Wayne Lee's leadership at CASCOM spurred the development of important strategies to mitigate petroleum and water shortfalls and extend the operational reach of units in combat; and

WHEREAS, Wayne Lee had most recently served a one-year tour in combat in Afghanistan as the executive officer and support operations officer for Area Support Group-Afghanistan, handling base life support and general sustainment for nine combat outposts throughout the country; and

WHEREAS, among many awards and decorations, Wayne Lee has received two Bronze Star Medals, two Army Commendation Medals, four Army Achievement Medals, the Navy Achievement Medal, the Joint Service Commendation Medal, the Joint Service Achievement Medal, and the Combat Action Badge; and

WHEREAS, after his well-earned retirement, Wayne Lee plans to continue living in the Richmond area with his beloved family and seek new opportunities to serve the community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Major Wayne R. Lee, USA, Ret., on the occasion of his retirement from the military; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Major Wayne R. Lee, USA, Ret., as an expression of the General Assembly's admiration for his decades of service to the Commonwealth and the United States.

SENATE JOINT RESOLUTION NO. 335

Celebrating the life of Roy L. Pearson.

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Roy L. Pearson, esteemed professor and economist, devoted public servant, and beloved member of the Williamsburg community, died on August 16, 2020; and

WHEREAS, born in Hong Kong, Roy Pearson moved with his family to Farmville and subsequently earned a bachelor's degree in commerce and a doctoral degree in economics from the University of Virginia; and

WHEREAS, Roy Pearson taught at the University of Arkansas and Centenary College of Louisiana before joining the faculty of The College of William and Mary School of Business in 1971; he would later become the school's chancellor professor of business in 1987 and attain emeritus status in 2005 upon his retirement; and

WHEREAS, Roy Pearson was a renowned expert in economic forecasting, supporting the intellectual development of countless students while publishing in many of the world's leading journals on the subject; and

WHEREAS, with great dedication to his craft, Roy Pearson served on the Board of Directors of the International Institute of Forecasters, was vice president of the National Business and Economics Society, and contributed as associate editor to *Foresight: The International Journal of Applied Forecasting*; and

WHEREAS, Roy Pearson was director of the Bureau of Business Research at The College of William and Mary from 1984 to 1998 and served on the Commonwealth's Joint Advisory Board of Economists for many years; and

WHEREAS, Roy Pearson helped advance the study of economics as president of the Association for University Business and Economic Research, an organization composed of more than 100 research bureaus in the United States and Canada, and as president of the Virginia Association of Economists, which named him a Distinguished Fellow in 1998; and

WHEREAS, Roy Pearson was a master scuba diver and traveled the world enjoying many diving spots and capturing their beauty with underwater photography; and

WHEREAS, Roy Pearson will be fondly remembered and dearly missed by his loving wife of 60 years, Louise; his daughter, Cynthia, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Roy L. Pearson, a cherished professor and economist whose extraordinary dedication to the Commonwealth touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roy L. Pearson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 336

Commending Frank Shatz.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Frank Shatz, longtime columnist at *The Virginia Gazette* and a heroic Holocaust survivor, has inspired countless citizens of the Commonwealth with stories from his remarkable life; and

WHEREAS, a teenager living in Czechoslovakia at the outset of World War II and the Holocaust, Frank Shatz was imprisoned in a slave labor camp in Romania before bravely escaping to Budapest, Hungary, where he was part of the underground anti-Nazi movement; and

WHEREAS, after the liberation of Europe, Frank Shatz worked as a foreign correspondent in Prague, covering Eastern European politics for newspapers in Hungary; and

WHEREAS, taking refuge in the United States in 1958, Frank Shatz and his wife, Jaroslava, would live for several years in Lake Placid, New York, before settling in Williamsburg, where they have lived for the past four decades; and

WHEREAS, for 38 years, Frank Shatz has served as an international affairs columnist for *The Virginia Gazette* in Williamsburg, drawing a loyal audience that is appreciative of his astute insights and compelling prose; in 2012, he also published *Reports from a Distant Place*, a compilation of selected columns and anecdotes from his life; and

WHEREAS, Frank Shatz has served as a lecturer at The College of William and Mary for many years, offering students and faculty of history an indispensable first-person account of the Holocaust and post-war period; and

WHEREAS, in 2018, Frank Shatz reconnected with Erika Fabian, a family member who had been unjustly imprisoned in Bratislava, Slovakia, during the Cold War and who was only released upon his courageous intercession, which led to a heartwarming reunion that was chronicled by multiple newspapers, including *The Washington Post*; and

WHEREAS, Frank Shatz has recently given public talks about his life experiences at The College of William and Mary, leaving all attendees with a greater understanding of both World War II and the Holocaust and the philosophies that have helped him remain positive in spite of the traumas he has endured throughout his life; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Frank Shatz, a distinguished columnist and heroic Holocaust survivor whose stories and wisdom have touched innumerable lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Frank Shatz as an expression of the General Assembly's profound admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 337

Celebrating the life of Mary Esterine Hundley Moyler.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Mary Esterine Hundley Moyler, a deeply respected community leader in Williamsburg who served the community as an election official for two decades, died on September 20, 2020; and

WHEREAS, born in Magruder, a small town originally founded by freed slaves after the Civil War, located within what is now Camp Peary, Esterine Moyler lived most of her life in the Highland Park neighborhood of Williamsburg; and

WHEREAS, Esterine Moyler graduated from Bruton Heights School, where she was a cheerleader and member of the choir, and she took classes at The College of William and Mary, where she was employed as a postal worker for 34 years; and

WHEREAS, when The College of William and Mary admitted its first Black students in the 1950s, Esterine Moyler was a trusted mentor who helped them build confidence to succeed in and out of the classroom; and

WHEREAS, Esterine Moyler helped outstanding students enroll in summer enrichment programs, and she hosted gatherings in her home for young people to meet with speakers ranging from celebrities to government officials; and

WHEREAS, in the 1970s, Esterine Moyler became the first Black woman to run for a seat on the Williamsburg City Council, inspiring countless fellow members of the community to follow her example and pursue a career in public service; and

WHEREAS, Esterine Moyler served on many civic boards and committees, notably offering her insights and expertise to the Williamsburg Social Services Advisory Board for more than 25 years; she was also a life member of the local branch of the NAACP and president of the Highland Park Civic Organization for over 20 years; and

WHEREAS, Esterine Moyler was best known in the community as "the sticker lady," who handed out "I Voted" stickers at polling places during nearly every election for 20 years; she was a passionate advocate for voting rights, and worked diligently to ensure that neighbors, friends, and all local residents were registered to vote; and

WHEREAS, Esterine Moyler enjoyed fellowship and worship with the congregation of Mount Ararat Baptist Church as a loyal member for more than 50 years and later joined Saint John Baptist Church in Williamsburg; and

WHEREAS, predeceased by her husband, Walter, and one son, Walter, Jr., Esterine Moyler is fondly remembered and greatly missed by her son, Cyrus, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Mary Esterine Hundley Moyler; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary Esterine Hundley Moyler as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 338

Celebrating the life of Jane Carey Gardner.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jane Carey Gardner, an esteemed television journalist, longtime anchor at WTKR in Norfolk, and beloved member of the Hampton Roads community, died on July 11, 2020; and

WHEREAS, a Richmond native and graduate of the University of Maryland in College Park, Jane Gardner began her illustrious journalism career in 1974 at WSLs-TV in Roanoke; and

WHEREAS, after several years at WTVR-TV in Richmond, Jane Gardner became the first female anchor at WVEC in Norfolk in 1978, later transferring to WTKR, where she would serve as anchor and medical reporter for nearly two decades and become a cherished fixture in the lives of Hampton Roads residents; and

WHEREAS, Jane Gardner reported on both domestic and international stories of great importance, including the presidential nominating conventions of 1988, the AIDS crisis, and an Operation Smile program in the Philippines and Kenya, and she also hosted a popular hour-long news and talk show on WTKR; and

WHEREAS, the first full-time broadcast medical reporter in the Hampton Roads area, Jane Gardner parlayed her expertise into a subsequent career at Eastern Virginia Medical School, which she served as director of public affairs from 1998 to 2003; and

WHEREAS, an active and engaged member of her community, Jane Gardner gave generously of her time and talents to various organizations, including the former Virginia Region of the National Conference of Christians and Jews, now the Virginia Center for Inclusive Communities; the Girl Scouts of the United States of America; and the d'Art Center in Norfolk; and

WHEREAS, Jane Gardner was honored for her contributions to broadcast journalism with state and national awards throughout her career and a 2018 induction into the Virginia Communications Hall of Fame at the Virginia Commonwealth University Richard T. Robertson School of Media and Culture; and

WHEREAS, Jane Gardner, who would have celebrated her 70th birthday in September 2021, bravely allowed the *Virginian-Pilot* to chronicle her recent fight with ovarian cancer, promoting greater understanding of the disease and fostering a sense of solidarity among other cancer patients and their families; and

WHEREAS, preceded in death by her parents, Pauline and Samuel, Jane Gardner will be fondly remembered and dearly missed by her loving husband of 47 years, Gary; her brothers, Neill and Sidney, and their families; her dear friend Beth Zeidman; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Jane Carey Gardner, a treasured television news anchor of Hampton Roads whose unwavering kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jane Carey Gardner as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 339

Celebrating the life of Edward A. Chappell, Jr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Edward A. Chappell, Jr., a renowned architectural historian who oversaw the restoration and preservation of Colonial Williamsburg over the better part of the last half-century, died on July 25, 2020; and

WHEREAS, born in Farmville, Edward "Ed" Chappell attended Ferrum College and The College of William and Mary before ultimately earning a graduate degree from the University of Virginia's School of Architecture; and

WHEREAS, Ed Chappell began his career with the Virginia Historic Landmarks Commission and the Virginia Department of Historic Resources, surveying hundreds of historic and archaeological sites across the Commonwealth; and

WHEREAS, in 1980, Ed Chappell was hired to lead the Architectural Research Department at the Colonial Williamsburg Foundation, where for the next 36 years he would be an influential force in shaping what is often considered the largest open-air museum in the world; and

WHEREAS, as the Shirley and Richard Roberts Director of Architectural and Archaeological Research, Ed Chappell led a team of historians in their efforts to tell the story of Williamsburg in a more broad and inclusive way; and

WHEREAS, these efforts led Ed Chappell and his team to restore several historic buildings within the colonial village, offering visitors a more encompassing understanding of what life was like for early Americans; and

WHEREAS, Ed Chappell is also credited with successfully advocating for the establishment of additional greenspace around Colonial Williamsburg's Historic Area, enhancing the beauty and historical faithfulness of the site; and

WHEREAS, frequently appearing in academic journals, Ed Chappell was celebrated as one of the leading vernacular architecture scholars in North America; over the years, he lent his expertise generously to other historical sites and foundations, including Monticello and Mount Vernon; and

WHEREAS, Ed Chappell generously extended his expertise to The College of William and Mary and hundreds of architectural restoration projects throughout the greater Williamsburg area; as a member of the City of Williamsburg Architectural Review Board and its Building Code Board of Appeals, he helped guide the city's planning efforts for many years; and

WHEREAS, in recognition of his decades of service on behalf of his alma mater, The College of William and Mary bestowed the Prentis Award, its highest stewardship honor, upon Ed Chappell in 2013; and

WHEREAS, Ed Chappell will be dearly remembered and fondly missed by his loving wife, Susan, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Edward A. Chappell, Jr., an esteemed architectural historian who devoted his career to Williamsburg and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward A. Chappell, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 340

Commending Edwin C. Roessler, Jr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Edwin C. Roessler, Jr., will retire as chief of the Fairfax County Police Department in February 2021, after three decades of service to the community; and

WHEREAS, Edwin Roessler joined the Fairfax County Police Department in 1989 and rose through the ranks, holding numerous assignments, before becoming interim chief in early 2013; he was officially appointed as chief in July of that year; and

WHEREAS, Edwin Roessler prioritized mental health within the department and worked to address wellness throughout the community, forming the Chief's Diversity Council and the Communities of Trust Committee to increase public support and build mutual respect between officers and community leaders; and

WHEREAS, Edwin Roessler guided the department through a review of use-of-force, de-escalation, and crisis intervention policies; he also implemented a body-worn camera program and established a civilian review panel and an independent police auditor; and

WHEREAS, throughout his career, Edwin Roessler built strong relationships with law-enforcement officers around the world through national and international professional organizations, and he helped the Fairfax County Police Department to achieve and maintain state and national accreditation; and

WHEREAS, a visionary leader, Edwin Roessler reorganized several investigative bureaus to address cybercrime trends and take advantage of technology to better serve the community; he also partnered with other agencies to open a new station suited for the unique challenges of serving rapidly urbanizing areas; and

WHEREAS, through his dedication to increasing transparency and community trust, Edwin Roessler strove to make the Fairfax County Police Department a model for the next generation of policing in the Commonwealth and the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Edwin C. Roessler, Jr., on the occasion of his retirement as chief of the Fairfax County Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Edwin C. Roessler, Jr., as an expression of the General Assembly's admiration for his achievements on behalf of the Fairfax County community.

SENATE JOINT RESOLUTION NO. 341

Commending Carl Hershner.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Carl Hershner, founding director of the Center for Coastal Resources Management at the Virginia Institute of Marine Science, retired in 2020; and

WHEREAS, with a bachelor's degree in biology from Bucknell University, Carl Hershner matriculated in the graduate program at the Virginia Institute of Marine Science (VIMS), earning his doctoral degree in 1977; and

WHEREAS, in 1978, Carl Hershner accepted a position with VIMS to develop technical guidance in support of the implementation of Virginia's Tidal Wetlands Act, embarking on a distinguished career as both an academic and a policy advisor; and

WHEREAS, as part of his work with VIMS and through service on committees at every level of government, Carl Hershner cultivated more effective environmental laws and regulations and healthier marine habitats by advising policymakers, citizens, and industry leaders on issues affecting the coastal areas and waterways of the Commonwealth; and

WHEREAS, Carl Hershner's advisory endeavors led to the founding of the Center for Coastal Resources Management at VIMS, an organization that fosters world-class expertise and cutting-edge technology to support the Commonwealth's efforts to protect its coastlines and water resources; and

WHEREAS, Carl Hershner advanced the study of wetlands ecology and resource management throughout his career, authoring or coauthoring more than 30 peer-reviewed research articles, implementing more than 200 public and private research grants, and conducting more than 190 scholarly presentations; and

WHEREAS, over the past four decades, Carl Hershner mentored 45 students seeking master's and doctoral degrees at VIMS, involving many of them in his advisory work; today, they are a testament to his legacy, as many have gone on to become leaders in the fields of marine science and environmental advocacy; and

WHEREAS, in addition to his service through VIMS, Carl Hershner has given generously of his time and talents through his involvement with various committees and initiatives, including the Virginia Chesapeake Bay TMDL Advisory Panel, which he often chaired; and

WHEREAS, in recognition of Carl Hershner's innumerable achievements at VIMS over the past half-century, the institute recently named the Carl Hershner Teaching Marsh, a unique outdoor classroom built for studying native wetland habitats, in his honor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Carl Hershner, founding director of the Center for Coastal Resources Management at the Virginia Institute of Marine Science, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Carl Hershner as an expression of the General Assembly's heartfelt admiration for his dedication and service to the Commonwealth and best wishes for a long and fulfilling retirement.

SENATE JOINT RESOLUTION NO. 342

Celebrating the life of Wendell Harding Butler.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Wendell Harding Butler, an esteemed dentist, honorable veteran, and distinguished public official who served as vice mayor of Roanoke and made history as the first African American chairman of the Roanoke City School Board, died on November 5, 2020; and

WHEREAS, raised in Texas, Wendell Butler graduated high school at the age of 15 and briefly attended Prairie View College before setting his sights on dental school; denied the opportunity to attend the University of Texas due to the school's segregationist policies, he ultimately received a full scholarship to Howard University; and

WHEREAS, after completing his studies, Wendell Butler interned at Freedmen's Hospital in Washington, D.C., from 1949 to 1950 and was an oral surgery instructor at Howard University from 1950 to 1951; and

WHEREAS, Wendell Butler served his country with honor and valor as a member of the United States Air Force from 1951 to 1953, rising to the rank of captain; and

WHEREAS, following his military service, Wendell Butler returned to Roanoke and opened a dental practice that he would operate for the next 35 years, providing exceptional care to innumerable patients as he became a cherished fixture in their lives; and

WHEREAS, during the civil rights movement of the 1960s, Wendell Butler took great interest in public service; he would be appointed to the Roanoke Redevelopment and Housing Authority's Board of Commissioners in 1968 and then the Roanoke City School Board two years later; and

WHEREAS, dedicated to the success and well-being of young people in his community, Wendell Butler was a member of the Roanoke City School Board for 10 years, making history in 1976 as the first African American to serve as the board's chairman; and

WHEREAS, following his tenure on the Roanoke City School Board, Wendell Butler served on the Roanoke City Council from 1980 to 1984, including a term as vice mayor of Roanoke from 1980 to 1982; an admired and effective leader, he was later appointed twice to fill vacancies on the council, first in 1996 and then in 2000; and

WHEREAS, Wendell Butler was sought by state and local leaders for his wisdom and counsel; during the terms of Governors Chuck Robb and L. Douglas Wilder, he served on various statewide boards, including the Southern Regional Education Board and the State Water Control Board, and in the early 1990s he led a task force that studied the at-large election system in Roanoke; and

WHEREAS, Wendell Butler left an indelible mark on the Roanoke community; along with chairing the board of commissioners of the Roanoke Redevelopment and Housing Authority, he was a member of the boards of Blue Ridge Public Television and the local chapters of the United Way and the YMCA; and

WHEREAS, guided throughout his life by his deep and abiding faith, Wendell Butler enjoyed worship and fellowship with his community at First Baptist Church in Gainsboro for 67 years, serving as a trustee and Sunday school teacher; and

WHEREAS, preceded in death by his loving wife of 71 years, Susie, Wendell Butler will be fondly remembered and dearly missed by his children, Wanda, Karen, Carol, and Susan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Wendell Harding Butler, a revered public servant whose unwavering optimism and sense of purpose had a profound and lasting impact on the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wendell Harding Butler as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 343

Celebrating the life of Charles Wallace Nuttycombe, Sr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Charles Wallace Nuttycombe, Sr., an esteemed high school track and field and football coach and a beloved member of the Newport News community, died on December 4, 2020; and

WHEREAS, born in Charlottesville, Charles Nuttycombe graduated in 1950 from Thomas Jefferson High School in Richmond, where he excelled in football and track and field and won a state championship title in the broad jump; and

WHEREAS, after briefly attending the Virginia Military Institute on a football scholarship, Charles Nuttycombe transferred to Randolph-Macon College, where he captained both the football and track and field teams, lettered in basketball, and notched 13 state championship titles in various events for the school; he later went on to earn a master's degree in history from Old Dominion University; and

WHEREAS, graduating from Randolph-Macon College in 1956, Charles Nuttycombe embarked upon a storied high school coaching career that spanned nearly 35 years and included numerous championship titles and accolades; and

WHEREAS, over his 14-year tenure as the head coach of the Newport News High School track and field team, Charles Nuttycombe led his student-athletes to seven Virginia High School League (VHSL) indoor state championships and seven VHSL outdoor state championships; he also coached the Newport News High School football team beginning in 1961, achieving an undefeated season the following year; and

WHEREAS, from 1970 until his retirement in 1990, Charles Nuttycombe was head coach of the football and track and field teams at Menchville High School in Newport News, building both programs from the ground up into perennial winners; and

WHEREAS, Charles Nuttycombe's records for the Menchville High School football and track and field teams were 150-108-18 and 125-3-2, respectively, while his career with the school was highlighted by 21 VHSL track and field state championship appearances and the noteworthy distinction of coaching state champions in nearly every indoor and outdoor event; and

WHEREAS, with seasoned optimism and an unwavering commitment to the dreams and ambitions of his student-athletes, Charles Nuttycombe helped innumerable young people in Newport News achieve success, both in their athletic endeavors and throughout their lives; and

WHEREAS, Charles Nuttycombe's career was distinguished by many local, state, and national honors, including the U.S. Track and Field and Cross Country Coaches Association's inaugural National High School Track Coach of the Year Award in 1975; and

WHEREAS, as a testament to his legacy, Charles Nuttycombe has been inducted into various halls of fame across the Commonwealth, as well as the U.S. Track and Field and Cross Country Coaches Association Coaches Hall of Fame; and

WHEREAS, Charles Nuttycombe will be fondly remembered and dearly missed by his loving wife of 69 years, Elizabeth; his children, Edward, Charles, Jr., Stephen, Pamela, Graham, and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Charles Wallace Nuttycombe, Sr., a longtime coach with Newport News Public Schools whose kindness, wisdom, and compassion had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charles Wallace Nuttycombe, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 344

Commending Raymond O. Anderson.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Raymond O. Anderson, longtime supervisor at the Virginia State Corporation Commission's Bureau of Insurance, retired in 2020; and

WHEREAS, Raymond Anderson began his career with the Bureau of Insurance after graduating from the University of Richmond in 1984; and

WHEREAS, working in the life and health section of the Bureau of Insurance's Agent Regulation & Administration Division, Raymond Anderson would assume the role of section supervisor in 2002; and

WHEREAS, Raymond Anderson embodied the ideals of the Bureau of Insurance by taking pride in his work, exercising good judgment and common sense in administering the insurance laws, and treating everyone with courtesy and respect; and

WHEREAS, through his uncompromising loyalty to his colleagues and tireless commitment to his work, Raymond Anderson leaves a legacy at the Bureau of Insurance that will not soon be forgotten; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Raymond O. Anderson, esteemed supervisor at the Virginia State Corporation Commission's Bureau of Insurance, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Raymond O. Anderson as an expression of the General Assembly's admiration for his inspirational dedication to the Commonwealth.

SENATE JOINT RESOLUTION NO. 345

Celebrating the life of Sigmund Edward Davidson.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Sigmund Edward Davidson, a respected veteran and successful business owner who made many contributions to the Roanoke community, died on March 8, 2020; and

WHEREAS, a native of Roanoke, Sigmund "Sig" Davidson was studying business at the Wharton School of the University of Pennsylvania when Pearl Harbor was attacked in 1941; and

WHEREAS, Sig Davidson enlisted in the United States Army, but returned home to complete his schooling at Roanoke College and help with the family business, Davidsons Clothing, a men's clothier founded by his father in 1910; and

WHEREAS, after graduation, Sig Davidson deployed to the European theater of World War II as a mortar gunner; he became a squad leader after rising to the rank of sergeant and received a Purple Heart and a Bronze Star for his meritorious actions in combat; and

WHEREAS, after his honorable military service, Sig Davidson began to expand Davidsons Clothing, ensuring that the store was well-poised to benefit from the post-war economic boom, and took an active leadership role in the local business community as a member of regional and state professional associations; and

WHEREAS, Sig Davidson volunteered his time as a steadfast leader and charismatic fundraiser to support a wide range of civic and social organizations in the region, and he used his position as a highly admired community leader to support desegregation efforts; and

WHEREAS, among many awards and accolades, Sig Davidson received the 1989 Governor's Award for Volunteering Excellence, the 1993 Retailer of the Year award from the Virginia Retail Merchants Association, the 1995 Outstanding Volunteer Fund Raiser Award from the National Society of Fund Raising Executives, and an honorary doctorate from Roanoke College; and

WHEREAS, Sig Davidson was a trusted mentor and friend who offered his wise counsel and savvy insights to countless individuals, touching many lives throughout the Roanoke community and beyond; and

WHEREAS, predeceased by his beloved wife of 63 years, Harriet, Sig Davidson will be fondly remembered and greatly missed by his children, Bonnie, Larry, and Steve, and their families; and many other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Sigmund Edward Davidson, a pillar of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sigmund Edward Davidson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 346

Commending John T. Wells.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John T. Wells, esteemed dean and director of The College of William and Mary's Virginia Institute of Marine Science, will retire on June 30, 2021; and

WHEREAS, John Wells took the helm at the Virginia Institute of Marine Science (VIMS) in 2004, bringing 25 years of experience as a marine geologist that included faculty positions at the University of North Carolina Chapel Hill and Louisiana State University and a 15-year tenure as editor of *Marine Geology*; and

WHEREAS, as dean and director of VIMS, John Wells has been the driving force behind one of the nation's leading marine research facilities and education centers, overseeing more than 400 faculty, staff, and students across three campuses and an annual operating budget of \$52 million; and

WHEREAS, with its mission to advance research, educate students and citizens, and provide advisory service to policymakers and the public, John Wells has helped make VIMS an integral member of the Commonwealth's efforts to ensure the health and longevity of its marine resources; and

WHEREAS, under John Wells' leadership, VIMS has vastly enhanced its research efforts through the construction of new laboratories and campus facilities, including the launch of its state-of-the-art flagship vessel, the *Virginia*, which provides scientists with an unparalleled ability to study the Commonwealth's coastal areas and waterways; and

WHEREAS, John Wells has placed great emphasis on education during his tenure at VIMS, securing 37 privately funded fellowships to attract top graduate students to The College of William and Mary and establishing a new master's program to prepare the next generation of marine science leaders; and

WHEREAS, in tandem with The College of William and Mary's *For the Bold* fundraising campaign, John Wells raised over \$26 million on behalf of VIMS, enabling the institution to remain at the forefront of marine science for years to come; and

WHEREAS, recognizing the need for greater representation in the marine science community, John Wells established a diversity and inclusion committee at VIMS, supporting greater involvement of minority groups and providing a sterling model for other institutions to follow; and

WHEREAS, with a mandate for VIMS to study the Commonwealth's marine resources and advise its policymakers, John Wells has been central to several major state-level decisions and developments over the past two decades that protected Virginia's waterways and supported its various coastal industries; and

WHEREAS, fusing his gifts for research and policy, John Wells was key to the establishment of the Commonwealth Center for Recurrent Flooding Resiliency, a partnership between VIMS, The College of William and Mary, and Old Dominion University that employs academic research to address the threat of sea level rise and recurrent flooding; and

WHEREAS, through his dedicated and visionary leadership at VIMS, John Wells has ensured the health and sustainability of the Commonwealth's marine resources, as well as the communities that depend on them, for years to come; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend John T. Wells, dean and director of The College of William and Mary's Virginia Institute of Marine Science, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John T. Wells as an expression of the General Assembly's admiration for his meritorious career and best wishes for the future.

SENATE JOINT RESOLUTION NO. 347

Commending Angeline Godwin.

Agreed to by the Senate, February 4, 2021
Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Angeline Godwin has served and supported the students, faculty, and staff of Patrick Henry Community College as president of the institution for nearly nine years; and

WHEREAS, a native of Mississippi, Angeline Godwin worked in the private sector before becoming president of Patrick Henry Community College in July 2012; and

WHEREAS, under Angeline Godwin's leadership, Patrick Henry Community College has adapted to numerous challenges and experienced significant growth, including the addition of new facilities, programs, and opportunities for students; and

WHEREAS, Angeline Godwin led Patrick Henry Community College to pursue competitive regional and national grants that resulted in the creation of the college's IDEA Academy, Verizon Innovative Learning Camp, and Harvest Foundation Student Excellence in Education program; and

WHEREAS, Angeline Godwin greatly expanded Patrick Henry Community College's athletics department, which now serves more than 1,200 student-athletes, including many talented young men and women from other countries; and

WHEREAS, Angeline Godwin has worked with local businesses and organizations in Martinsville to promote workforce development programs and enhance the economic vitality of the region, while providing students with entrepreneurial guidance and opportunities for leadership training; and

WHEREAS, during Angeline Godwin's tenure, Patrick Henry Community College received numerous national awards, including the 2014 Workforce Development Award from the Community Colleges of Appalachia and the 2015 Leah Meyer Austin Award from Achieving the Dream; and

WHEREAS, in 2020, Angeline Godwin also helped Patrick Henry Community College become the first institution in the country selected as an NC3 Festo Center of Excellence in the Advanced Manufacturing Industry 4.0 sector; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Angeline Godwin for her exceptional service to Patrick Henry Community College and the Martinsville community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Angeline Godwin as an expression of the General Assembly's admiration for her professional achievements, contributions to the field of higher education, and community leadership.

SENATE JOINT RESOLUTION NO. 348

Celebrating the life of Michael Wayne Woods.

Agreed to by the Senate, February 4, 2021
Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Michael Wayne Woods, a distinguished lobbyist, honorable veteran, and beloved member of the Commonwealth's political community, died on November 18, 2020; and

WHEREAS, Michael "Mike" Woods enlisted with the United States Army and served his country with courage and valor as a member of the 82nd Airborne Division; and

WHEREAS, Mike Woods was civically engaged throughout his career and supported many local, state, and federal political campaigns, including President George W. Bush's successful bid for the White House in 2000; and

WHEREAS, from 1999 to 2005, Mike Woods served many political roles, including deputy political director of the Republican Party of Virginia; political director for Morgan Griffith, majority leader in the House of Delegates; and field director for the "Foundation 2002" bond referendum campaign; and

WHEREAS, admired for his extraordinary political acumen, Mike Woods moved into the lobbying world, working with then-named Shuford, Rubin and Gibney and finally joining the law firm formerly known as Mays and Valentine, now Troutman Pepper Strategies, in 2004, building a reputation as one of the most well-known and well-liked members of the Virginia lobbying community; and

WHEREAS, Mike Woods's passion for all things political was rivaled only by his love of baseball, especially his cherished Cincinnati Reds; and

WHEREAS, Mike Woods will be fondly remembered for his quick wit, legendary storytelling, and unyielding loyalty and deeply missed by his family and friends, especially his beloved daughter, Caitlin; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Michael Wayne Woods, an esteemed lobbyist, honorable veteran, and self-described political hack whose limitless passion for the Commonwealth had an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael Wayne Woods as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 349

Celebrating the life of William Henry Edwards, Sr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, William Henry Edwards, Sr., an honorable veteran, esteemed businessman, and beloved member of the Colonial Beach and Montross communities, died on December 2, 2020; and

WHEREAS, William "Willie" Edwards served his country with courage and valor as a member of the United States Marine Corps during World War II; after training at Parris Island and Camp Lejeune and graduating as a gunnery sergeant, he proudly served in the Marshall Islands, Guam, and Japan as part of the Second Marine Division; and

WHEREAS, after the war, Willie Edwards was stationed at Quantico, where he rose to the rank of captain and completed advanced, battalion-level staff officer training; later, he returned to his hometown of Montross following graduation from the University of North Carolina at Chapel Hill; and

WHEREAS, with his military experience in logistics, Willie Edwards established the flatbed trucking company Northern Neck Transfer, Inc., with the aim to efficiently and expeditiously transport building and agricultural products in the Mid-Atlantic region; the company has continued to grow and thrive over the years and now serves customers throughout the United States and Canada; and

WHEREAS, an active and engaged member of his community, Willie Edwards was always glad to offer a helping hand to his friends and neighbors; in an extraordinary display of heart and determination, he single-handedly plowed the roads of Montross during the historic blizzard of 1967; and

WHEREAS, a compassionate steward of the community who was dedicated to fostering the success and well-being of young people, Willie Edwards served on the Westmoreland County School Board in the 1970s; and

WHEREAS, guided throughout his life by his deep and abiding faith, Willie Edwards enjoyed worship and fellowship with his community at St. James Episcopal Church in Montross, where he was a member of the vestry, and at St. Paul's Episcopal Church in King George County; and

WHEREAS, in recognition of his distinguished and honorable years of service with the United States Marine Corps, Willie Edwards was laid to rest at Quantico National Cemetery with military honors; and

WHEREAS, Willie Edwards will be fondly remembered and dearly missed by his loving wife of 70 years, Jean; his children, Lester, Susan, and William, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William Henry Edwards, Sr., a venerable veteran and businessman who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William Henry Edwards, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 350

Commending Robert Pinkard, Jr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Robert Pinkard, Jr., of Stafford County retired from the Virginia State Police on August 31, 2020, after four decades of service to the Commonwealth; and

WHEREAS, Robert "Bob" Pinkard joined the Virginia State Police as a trainee on July 1, 1981, and graduated from the 71st Basic School of the Virginia State Police Training Academy in 1982; and

WHEREAS, Bob Pinkard served at Division 7 Arlington for five years, then transferred to Division 7 Fairfax in 1987; and WHEREAS, upon his promotion to sergeant, Bob Pinkard moved to Division 2 Fredericksburg in 1990, where he continued to rise through the ranks, becoming a first sergeant in 2002; and

WHEREAS, in 2006, Bob Pinkard became the assistant special agent in charge of the Bureau of Criminal Investigation, General Investigation Section at the Culpeper office; and

WHEREAS, Bob Pinkard transferred to Division 2 Stafford County in 2014 and was promoted to senior trooper later that year; he subsequently achieved the rank of master trooper in 2016; and

WHEREAS, throughout his career, Bob Pinkard served with numerous specialty units, including the bomb squad and the critical incident stress management team and as an agency chaplain and a firearms instructor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Robert Pinkard, Jr., a dedicated law-enforcement officer in Stafford County, on the occasion of his retirement from the Virginia State Police; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert Pinkard, Jr., as an expression of the General Assembly's admiration for his decades of work to serve and protect communities throughout the Commonwealth.

SENATE JOINT RESOLUTION NO. 351

Celebrating the life of Sally G. Lamb.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Sally G. Lamb, an esteemed equestrian, instructor, and horse industry advocate who was a beloved member of the Gordonsville community, died on December 22, 2020; and

WHEREAS, a member of the Culpeper County High School Class of 1963, Sally Lamb studied English and biology at Virginia Polytechnic Institute and State University, graduating in 1967; and

WHEREAS, alongside her husband, David, Sally Lamb founded Oakland Heights Farm in Gordonsville in 1979 with the aim to preserve and celebrate the horseback-riding traditions of the Commonwealth; and

WHEREAS, with deep devotion to horsemanship, Sally Lamb's work touched nearly every aspect of the craft; among her many activities, she hosted horse shows, rodeos, fox hunts, and trail rides; managed the training, boarding, and breeding of horses; and participated in local parades, county fairs, and statewide celebrations; and

WHEREAS, over the years, Sally Lamb trained countless riders of all ages in the art of equestrianism, helping to ensure that this cherished aspect of Virginia's history and character will persist for many generations to come; and

WHEREAS, dedicated to promoting inclusivity in the equine community, Sally Lamb founded the Four Horseshoes Youth Foundation in 2004, providing many underprivileged young people with the opportunity to enjoy the sport of horseback riding; and

WHEREAS, Sally Lamb served as president of the Virginia Horse Council, where she was also a longtime representative of Region III, which encompasses the Counties of Albemarle, Culpeper, Greene, Louisa, Madison, Orange, Page, Rappahannock, and Shenandoah; and

WHEREAS, through her work with the Virginia Horse Council and by hosting an annual trail ride for legislators, Sally Lamb advocated on behalf of the Commonwealth's horse industry before the General Assembly, encouraging the legislative body to act in ways that would support agritourism and the Commonwealth's equine community; and

WHEREAS, an avid foxhunter nearly all her life, Sally Lamb was a prominent and influential figure in the Commonwealth's foxhunting community and elevated the sport as a member of the Bull Run Hunt Club board of directors and the Keswick Hunt Club board of governors; and

WHEREAS, through the various activities and events she organized, Sally Lamb raised significant funds for several charities, including the Wounded Warrior Project, St. Jude Children's Research Hospital, and the Juvenile Diabetes Research Foundation; and

WHEREAS, in recognition of their longstanding support and meritorious efforts, the Virginia Horse Council named David and Sally Lamb the Virginia Horseman and Horsewoman of the Year in 2015; and

WHEREAS, Sally Lamb will be fondly remembered and dearly missed by her loving husband, David; her son, Matt; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Sally G. Lamb, a distinguished equestrian who had a profound and lasting impact on innumerable lives in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sally G. Lamb as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 352

Celebrating the life of John B. Davis.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John B. Davis, esteemed and longtime clerk of the Augusta County Circuit Court and beloved member of the Fishersville community, died on January 28, 2021; and

WHEREAS, a graduate of Wilson Memorial High School in Fishersville with bachelor's and master's degrees from James Madison University, John Davis served Augusta County Public Schools for 11 years as a teacher, guidance counselor, and administrator, contributing greatly to the success of his students both in and out of the classroom; and

WHEREAS, elected the clerk of the Augusta County Circuit Court in 1983, John Davis ably served his community for 31 years by overseeing a host of legal services and procedures, including the filing and processing of wills; the administration of civil, divorce, and criminal cases; the maintenance of historic records; and the issuing of marriage licenses and gun permits; and

WHEREAS, starting as clerk at a time when the Augusta County Circuit Court operated entirely on paper, John Davis was instrumental in the courthouse's transition to a fully digital operation over the past three decades; and

WHEREAS, John Davis's tenure as clerk of the Augusta County Circuit Court was characterized by his extraordinary ability to connect with people from all walks of life and his commitment to supporting colleagues in Augusta County and beyond; and

WHEREAS, John Davis embraced his role as a public servant and delighted in opportunities to help citizens of Augusta County better understand the legal system, exuding a passion for his work that was inspirational to many; and

WHEREAS, John Davis was a member of the Augusta County Historical Society for more than three decades and served the organization in various leadership roles; his work both with the Augusta County Circuit Court and the Augusta County Historical Society led to the careful preservation of irreplaceable courthouse records from past centuries and the mentorship of many aspiring genealogists; and

WHEREAS, John Davis served on the Augusta Health Board of Directors and on several of the organization's committees for more than 23 years, a period marked by significant growth, an expansion of services, and award-winning care; and

WHEREAS, John Davis will be fondly remembered and dearly missed by his loving wife, Patrice; his two sons, Andrew and Joseph, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John B. Davis, distinguished clerk of the Augusta County Circuit Court, whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John B. Davis as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 353

Celebrating the life of William Mantz.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, William Mantz, an entrepreneur and a longtime volunteer firefighter in Shenandoah County, died on March 4, 2020; and

WHEREAS, a native of Woodstock, William "Bill" Mantz left school after eighth grade to begin a career as a heavy equipment operator; he worked on numerous excavation jobs, then established his own business, Fort Valley Excavation, in 1992; and

WHEREAS, Bill Mantz safeguarded the lives and property of local residents as a life member of the Fort Valley Volunteer Fire Department; he was also an honorary member of the Fort Valley Fire Department Ladies Auxiliary and played an active role in fundraising efforts and community events; and

WHEREAS, Bill Mantz worked diligently to enhance the quality of life of all his fellow residents, setting a fine example of servant leadership through his dependability and incomparable work ethic; and

WHEREAS, outside of his career and community service, Bill Mantz enjoyed landscaping, gardening, and spending time on his farm, and he was an accomplished traveler who had proudly visited all 48 contiguous U.S. states; and

WHEREAS, Bill Mantz enjoyed fellowship and worship with the congregation of Faith Lutheran Church, where he sang in the adult choir; and

WHEREAS, Bill Mantz will be fondly remembered and greatly missed by his devoted wife of 35 years, Jennifer; his children, Tracey, Jake, Dawn, Summer, Jamey, Ashle, and Seth, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William Mantz, a respected member of the Shenandoah County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William Mantz as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 354

Celebrating the life of Karl David Stoltzfus, Sr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Karl David Stoltzfus, Sr., an esteemed aviator and businessman and a beloved member of the Bridgewater community for many years, died on November 27, 2020; and

WHEREAS, Karl Stoltzfus acquired a love for aviation at an early age from his father, Christian, who started a crop spraying company in the 1930s and was a pioneer in the industry; after high school, Karl Stoltzfus worked at his father's business as a pilot and fabricator, acquiring valuable experience that would serve him throughout his career; and

WHEREAS, in 1967, Karl Stoltzfus and his family moved to the Shenandoah Valley to attend Eastern Mennonite College, where he earned a bachelor's degree in business; to support himself through school, he and his brother, Ken, founded K & K Aircraft, a small airplane parts business and aluminum smelting operation; and

WHEREAS, seven years after founding K & K Aircraft, Karl Stoltzfus purchased the Bridgewater Air Park and expanded the company's operations to provide a variety of mission-specific aviation services and solutions, including pest control, firefighting, and surveillance; known today as Dynamic Aviation, the company now sports a fleet of more than 140 aircraft and has employed hundreds of citizens of the Commonwealth over the past half-century; and

WHEREAS, a consummate aviator who was dedicated to the future of his industry, Karl Stoltzfus lovingly imparted his knowledge and wisdom to several generations of future mechanics and pilots; he was also committed to the preservation of aviation history, restoring many legacy aircraft over the years, including the first airplane to serve as Air Force One; and

WHEREAS, guided throughout his life by his deep and abiding faith, Karl Stoltzfus enjoyed worship and fellowship with his community at First Presbyterian Church in Harrisonburg for many years; and

WHEREAS, Karl Stoltzfus will be fondly remembered and dearly missed by his adoring wife of 57 years, Barbara; his children, Karl, Jr., Michelle, and Michael; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Karl David Stoltzfus, Sr., an accomplished aviator and businessman whose compassionate, positive, and selfless nature left a lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Karl David Stoltzfus, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 355

Celebrating the life of Joseph Brisco Dellinger.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Joseph Brisco Dellinger, a respected community leader in the Shenandoah Valley, died on September 16, 2020; and

WHEREAS, a native of Shenandoah County, Brisco Dellinger graduated from Broadway High School and served his country as a member of the United States Army during the Korean War; and

WHEREAS, for many years, Brisco Dellinger served the residents of Rockingham County as commissioner of the revenue; and

WHEREAS, Brisco Dellinger also volunteered his time and leadership with the Chimney Rock Veterans of Foreign Wars Post 9660 and the Broadway Timberville Ruritan Club; and

WHEREAS, Brisco Dellinger enjoyed fellowship and worship with the Broadway community at Linville Creek Church of the Brethren, where he served as a deacon; and

WHEREAS, Brisco Dellinger will be fondly remembered and greatly missed by his wife of 64 years, Janet; his children, Joseph and Elizabeth, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Joseph Brisco Dellinger; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joseph Brisco Dellinger as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 356

Celebrating the life of Lowell Robert Barb.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Lowell Robert Barb, a respected resident of Broadway who served as the commissioner of the revenue for Rockingham County for many years, died on October 30, 2020; and

WHEREAS, a native of Harrisonburg, Lowell Barb graduated from Blue Ridge Community College and pursued a 31-year career as an assessor in several counties throughout the Commonwealth; and

WHEREAS, desirous to be of further service, Lowell Barb ran for and was elected as commissioner of the revenue in 2008 and served the residents of Rockingham County in that capacity for 12 years; and

WHEREAS, a trusted public servant, Lowell Barb served Rockingham County with dedication and integrity; he ran for re-election three times with no opposition and had begun serving his fourth term in 2019; and

WHEREAS, Lowell Barb enjoyed fellowship and worship with the community as a member of Cornerstone Church of Broadway, and he was a sponsor of Cornerstone Christian School, of which his children and grandchildren were students; and

WHEREAS, Lowell Barb's greatest joy in life was his beloved family, and he will be fondly remembered and greatly missed by his wife of 40 years, Victoria; his sons, Jeremy and Joshua, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lowell Robert Barb; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lowell Robert Barb as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 357

Commending the Patrick Henry School of Science and Arts.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Patrick Henry School of Science and Arts, an elementary school in Richmond that was the first charter school in the City of Richmond and the fourth charter school in the Commonwealth, celebrated its 10th anniversary in 2020; and

WHEREAS, in 2007, parents and citizens in the Woodland Heights neighborhood of Richmond formed the Richmond Partnership for Neighborhood Schools, an endeavor that would lead to the chartering of the Patrick Henry School of Science and Arts by the Richmond School Board a year later; and

WHEREAS, the Patrick Henry School of Science and Arts' inaugural class of 149 students matriculated at the Woodland Heights Baptist Church Education Center in Richmond on August 11, 2010; and

WHEREAS, since moving to a permanent location in 2012, the Patrick Henry School of Science and Arts has continued to grow, with a current enrollment of approximately 350 pupils representing all nine districts of Richmond; and

WHEREAS, the Patrick Henry School of Science and Arts teaches language arts, mathematics, science, social studies, and history while emphasizing project-based learning to help students engage with the material; and

WHEREAS, with a focus on environmental learning, classes at the Patrick Henry School of Science and Arts often extend into the gardens around the school and into Forest Hill Park, offering students a chance to interact with nature and apply their lessons in the real world; and

WHEREAS, the accomplishments of the Patrick Henry School of Science and Arts are the result of the hard work and dedication of the teachers and staff, the enthusiasm and determination of the students, and the support of the many families and neighbors that compose the Patrick Henry School of Science and Arts community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Patrick Henry School of Science and Arts on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Patrick Henry School of Science and Arts as an expression of the General Assembly's admiration for the school's achievements.

SENATE JOINT RESOLUTION NO. 358

Commending Ryan Janaske.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Ryan Janaske, an accomplished student at Trailside Middle School in Ashburn, was named a Prudential Spirit of Community Award state honoree for the Commonwealth in 2020; and

WHEREAS, inspired by a school supply drive at her mother's work, Ryan Janaske established the organization Kids Helping Kids to expand her charitable efforts in the community; and

WHEREAS, Ryan Janaske with Kids Helping Kids has annually provided about 100 backpacks full of school supplies to children in need, helping them to succeed both in and out of the classroom; and

WHEREAS, every summer, Ryan Janaske oversees the Kids Helping Kids' process from beginning to end, soliciting donations from the community, acquiring backpacks and various school supplies, and preparing and delivering the backpacks to principals of area schools; and

WHEREAS, in addition to her recognition as a Prudential Spirit of Community Award state honoree for the Commonwealth, Ryan Janaske has also earned the distinguished President's Volunteer Service Award; and

WHEREAS, by tirelessly working in support of the well-being of her peers, Ryan Janaske embodies a commitment to her community that is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ryan Janaske, dedicated student at Trailside Middle School, for being named a Prudential Spirit of Community Award state honoree for the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ryan Janaske as an expression of the General Assembly's high esteem and admiration for her exemplary service to the Commonwealth.

SENATE JOINT RESOLUTION NO. 359

Commending The Lady Chamberlains.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, The Lady Chamberlains, a female and gender-nonconforming teenage theater troupe in Loudoun County, has enlivened the community with several noteworthy productions of Shakespeare in recent years; and

WHEREAS, The Lady Chamberlains theater troupe is entirely student-led, with its members shouldering sole responsibility of directing, performing, and marketing the troupe's productions; and

WHEREAS, The Lady Chamberlains has thus far produced six plays by Shakespeare, including *As You Like It*, *Hamlet*, and *The Tempest*, bringing new verve and insight to the English canon's most celebrated author; and

WHEREAS, the mission of The Lady Chamberlains is to help women succeed onstage, backstage, and offstage, and the troupe empowers its members by providing them an opportunity to perform in roles they might not otherwise have a chance to play; and

WHEREAS, extending its mission into the community, The Lady Chamberlains generously donates all proceeds from its shows to the Loudoun Abused Women's Shelter and has raised more than \$10,000 to date; and

WHEREAS, by fostering the dreams and aspirations of its members while raising funds for organizations vital to the community, The Lady Chamberlains embodies the best of what makes the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend The Lady Chamberlains, a female and gender-nonconforming teenage theater troupe in Loudoun County, for its meritorious contributions to the cultural life of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Natalie Lewis, president of The Lady Chamberlains, as an expression of the General Assembly's high esteem and admiration for the troupe's achievements.

SENATE JOINT RESOLUTION NO. 360

Celebrating the life of Jean Smith Brown.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jean Smith Brown, noted preservation advocate, civic leader, and beloved member of the Lincoln community, died on January 15, 2021; and

WHEREAS, Jean Brown enjoyed a distinguished career on Capitol Hill in Washington, D.C., working as a secretary for several congressmen and committees; and

WHEREAS, aiming to preserve the rural character of Loudoun County as it rapidly grew, Jean Brown helped to establish the Goose Creek Historic and Cultural Conservation District, placing 11,000 acres on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, as the owner of a bed and breakfast with ambitions to support and advocate on behalf of small businesses in her area, Jean Brown aided in the founding of the Bed & Breakfast Guild of Loudoun County; and

WHEREAS, as president of the Leesburg Garden Club, as well as through multiple terms on the Garden Club of Virginia's Conservation Committee, Jean Brown contributed greatly to the beauty and grandeur of the Commonwealth; and

WHEREAS, a farmer with a deep appreciation for the agrarian traditions of the Commonwealth, Jean Brown served as a gubernatorial appointee to the Virginia Agricultural Council; and

WHEREAS, Jean Brown was heavily involved with the League of Women Voters, working tirelessly to register young voters; she was known by colleagues to carry voter registration forms with her at all times, ever ready to enroll a prospective voter; and

WHEREAS, ardently committed to protecting the environment, Jean Brown served on the board of the Virginia League of Conservation Voters and was once named Preservationist of the Year by the Loudoun Preservation Society; and

WHEREAS, guided by her steadfast and abiding faith, Jean Brown enjoyed singing in church choirs throughout her life; she was a founding member of the Choral Arts Society of Washington and most recently sang in the choir at St. James' Episcopal Church in Leesburg; and

WHEREAS, preceded in death by her loving husband, William, Jean Brown will be fondly remembered and dearly missed by her daughter, Sara, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Jean Smith Brown, a treasured community leader in Loudoun County whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jean Smith Brown as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 361

Commending the Warrior Retreat at Bull Run.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Warrior Retreat at Bull Run, the flagship program of Willing Warriors, supports the health and rehabilitation of wounded, ill, injured, and disabled service members across the country; and

WHEREAS, inspired by earlier "taste-of-home" events at Walter Reed National Military Medical Center, members of the Park Valley Church in Haymarket, incorporated later as Willing Warriors, envisioned a retreat that would provide an emotional and spiritual lift to wounded veterans undergoing difficult, time-intensive recoveries; and

WHEREAS, the Warrior Retreat at Bull Run gives service members and their families an opportunity to take a break from the hospital environment and rejuvenate in a relaxing, home-like setting; and

WHEREAS, located on 37 acres in the scenic foothills of the historic Bull Run Mountains of Northern Virginia, the Warrior Retreat at Bull Run furnishes idyllic surroundings in which service members and their families may unwind and reflect; and

WHEREAS, recognizing the importance of a healthy mind and spirit to one's recuperation, the Warrior Retreat at Bull Run is an invaluable resource for service members undergoing the long and arduous healing process; and

WHEREAS, the respite offered at the Warrior Retreat at Bull Run is intended to revitalize wounded service members and their families, giving them the energy and motivation they need to push through the recovery process; and

WHEREAS, programs at the Warrior Retreat at Bull Run emphasize emotional and spiritual growth, with more than 60 mindfulness exercises and other activities employed to help participants reduce stress and cultivate a positive outlook on life; and

WHEREAS, the tireless and accommodating efforts of volunteers and staff at the Warrior Retreat at Bull Run have helped countless service members and their family members cope with the challenges of recovery and thrive; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Warrior Retreat at Bull Run for the generous and thoughtful support it provides recovering service members and their families; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Willing Warriors, parent organization of the Warrior Retreat at Bull Run, as an expression of the General Assembly's admiration for the organization's contributions to the lives of veterans and their families.

SENATE JOINT RESOLUTION NO. 362

Commending Akshath Mahajan and Maneesh Vallurupalli.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Akshath Mahajan and Maneesh Vallurupalli, students in Loudoun County Public Schools, have taken extraordinary efforts to support their community during the COVID-19 pandemic; and

WHEREAS, in 2020, Akshath Mahajan and Maneesh Vallurupalli founded Project Support Initiative, an organization dedicated to assisting elderly and immunocompromised members of the community by helping them buy groceries and other essential items; and

WHEREAS, taking the Project Support Initiative mission beyond Loudoun County, Akshath Mahajan and Maneesh Vallurupalli have helped students in the United States and abroad establish more than 20 additional national and international chapters; and

WHEREAS, with a coalition of more than 300 volunteers, Project Support Initiative has delivered more than \$250,000 worth of groceries to more than 3,500 people nationwide to date; and

WHEREAS, addressing challenges of the COVID-19 pandemic through their work with Project Support Initiative, Akshath Mahajan and Maneesh Vallurupalli have demonstrated a commitment to their community that is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Akshath Mahajan and Maneesh Vallurupalli, students in Loudoun County Public Schools, for their meritorious efforts to help members of their community in need during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Akshath Mahajan and Maneesh Vallurupalli as an expression of the General Assembly's profound admiration for their achievements.

SENATE JOINT RESOLUTION NO. 363

Commending Steven R. Cover.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Steven R. Cover, chief of the Virginia Beach Fire Department, has served as deputy city manager for public safety of Virginia Beach for four years; and

WHEREAS, a lifelong resident of Virginia Beach, Steven "Steve" Cover began his long career in public safety at the age of 16 as a volunteer firefighter with the Virginia Beach Fire Department in 1977; and

WHEREAS, Steve Cover was hired by the department as a career firefighter in 1980 and held positions in numerous fire stations throughout Virginia Beach; he was subsequently promoted to battalion chief of technical services in 1997, district chief in 2002, and deputy chief of operations in 2006; and

WHEREAS, in November 2007, Steve Cover became the first fire chief in the history of the Virginia Beach Fire Department to have held every lower rank in the organization; under his leadership, the department has increased staffing, opened four new fire stations, and achieved reaccreditation two times; and

WHEREAS, Steve Cover has been an active member of numerous peer organizations, including the International Association of Fire Chiefs and the Metropolitan Fire Chiefs section of the National Fire Protection Association; he is a past chair of the Hampton Roads Fire Chiefs Association and past president and current vice president of the Virginia Fire Chiefs Association; and

WHEREAS, outside of Virginia Beach, Steve Cover has offered his expertise to the Federal Emergency Management Agency National Urban Search and Rescue Response System, serving as a representative for the East Coast regional task force and the sponsoring agency chief of Virginia Task Force 2; and

WHEREAS, Steve Cover has also served as the Virginia Beach emergency management coordinator, providing exceptional leadership during crisis situations ranging from hurricanes and snowstorms to a unique incident in 2012 when a United States Navy jet crashed into an apartment complex; and

WHEREAS, in 2016, Steve Cover was selected as deputy city manager in charge of public safety for Virginia Beach and has used his wealth of experience to enhance the city's emergency response services; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Steven R. Cover for his service as deputy city manager for public safety of Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Steven R. Cover as an expression of the General Assembly's admiration for his contributions to the Virginia Beach community.

SENATE JOINT RESOLUTION NO. 364

Celebrating the life of Stephen Johnson.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Stephen Johnson, a passionate advocate for people with disabilities who worked to enhance care and support services throughout the Commonwealth, died on April 13, 2020; and

WHEREAS, after he was paralyzed from a fall in 1967, Stephen "Steve" Johnson worked to overcome his circumstances and complete his education, earning bachelor's and master's degrees from Old Dominion University; and

WHEREAS, Steve Johnson served as a peer counselor for people with disabilities, then became executive director of Endependence Center, Inc., for 27 years; he helped countless individuals develop independent living skills or career skills, as well as build confidence to continue engaging with their communities; and

WHEREAS, Steve Johnson offered his leadership and expertise to many local, state, and national boards and commissions on disability support, and he was champion for the passage of the Virginians with Disabilities Act and the Americans with Disabilities Act; and

WHEREAS, Steve Johnson's influence led directly to projects increasing accessibility to many public buildings and areas in Virginia Beach; he also led a pilot project to establish consumer-directed personal assistance services, which are now used by more than 25,000 Virginians with disabilities; and

WHEREAS, Steve Johnson helped establish and expand independent living centers across Hampton Roads and was an active leader and mentor in the Virginia Association of Centers for Independent Living; and

WHEREAS, Stephen Johnson will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Stephen Johnson, a dedicated community leader who touched countless lives through his advocacy, vision, and generosity; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Stephen Johnson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 365

Commending LoudounGo.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, LoudounGo, a distribution hub for local farm wineries, farm breweries, farmers, food vendors, and retail business owners in Loudoun County and throughout the Commonwealth, debuted at ChefScape in the Village at Leesburg in 2020; and

WHEREAS, LoudounGo is a company that enables consumers to purchase items from local farmers and food vendors outside of the traditional farmers market model by coordinating purchases between vendors and consumers; and

WHEREAS, Luke Baldwin and Jack Clark, founders of LoudounGo, partnered with Chariots for Hire owner Courtney West to realize their vision for an online and physical marketplace that would connect consumers with local farmers and food vendors; and

WHEREAS, ChefScape, a commercial shared kitchen and food business incubator in Leesburg, has provided an ideal location for LoudounGo to develop its concept and thrive; and

WHEREAS, LoudounGo delivers orders within a 100-mile radius of its operations, making it more convenient and feasible for consumers to buy the bulk of their groceries from local farmers; and

WHEREAS, in addition to farms and food vendors, LoudounGo also enables customers to purchase products from the Commonwealth's exceptional wineries, breweries, and distilleries, contributing greatly to this burgeoning industry; and

WHEREAS, LoudounGo's impact in the community goes beyond its retail operations, as it has partnered with JK Community Farm in Round Hill to make it easier for its farmers and food vendors to distribute surplus produce and products to food pantries in the region; and

WHEREAS, LoudounGo offers a unique and compelling service to customers, while also driving business toward numerous local vendors and companies, exemplifying the innovative and collaborative spirit that is at the core of the Commonwealth's communities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend LoudounGo, a local food distribution hub, for its ambitions to help Virginians eat well and thrive; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Luke Baldwin, founder of LoudounGo, as an expression of the General Assembly's admiration for the company's contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 366

Commending Kelly Lazzara.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Kelly Lazzara, superintendent of schools for the Catholic Diocese of Richmond, has admirably served her students and their families by working to make in-person instruction possible during the COVID-19 pandemic; and

WHEREAS, as superintendent of schools for the Catholic Diocese of Richmond, Kelly Lazzara oversees 23 Diocesan and six private Catholic schools attended by more than 8,400 students across the Central, Southwest, and Tidewater regions of the Commonwealth; and

WHEREAS, prior to serving as superintendent of schools for the Catholic Diocese of Richmond, Kelly Lazzara was an elementary school principal at Star of the Sea Catholic School in Virginia Beach and associate superintendent of school operations with the Catholic Diocese of Richmond, giving her valuable on-the-ground experience leading to her promotion; and

WHEREAS, at the outset of the COVID-19 pandemic in March 2020, Kelly Lazzara directed schools under the Catholic Diocese of Richmond to transition to virtual instruction in the interests of the health and safety of faculty, students, and administrators; and

WHEREAS, over the summer of 2020, Kelly Lazzara formed a Reopening Our Schools Committee to formulate a plan for getting children back into the classroom for the 2020-2021 school year; and

WHEREAS, by implementing procedures and policies such as daily health screenings, temperature checks, requirements that students and adults wear face coverings at all times, and the regular cleaning of school buildings, Kelly Lazzara and the Catholic Diocese of Richmond were able to safely bring faculty, students, and staff back into the classroom in the fall of 2020; and

WHEREAS, through hard work and a tireless commitment to the intellectual, emotional, and spiritual development of their students, Kelly Lazzara and her staff have contributed greatly to the success of thousands of children both in and out of the classroom; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Kelly Lazzara, superintendent of schools for the Catholic Diocese of Richmond, for successfully introducing in-person instruction during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kelly Lazzara as an expression of the General Assembly's profound admiration for her contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 367

Commending the Virginia Beach Pandemic Relief Partnership.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Virginia Beach Pandemic Relief Partnership, a collaboration of the United Way of South Hampton Roads, the Foodbank of Southeastern Virginia and the Eastern Shore, the Hampton Roads Workforce Council, and Local Initiatives Support Corporation Hampton Roads, has provided vital information and services to the community during the COVID-19 pandemic; and

WHEREAS, operating with support from the City of Virginia Beach, organizations in the Virginia Beach Pandemic Relief Partnership address different needs across the region to create a more streamlined response to challenges of the COVID-19 pandemic; and

WHEREAS, the United Way of South Hampton Roads is providing various forms of financial assistance, while the Foodbank of Southeastern Virginia and the Eastern Shore is addressing food insecurity among vulnerable populations; and

WHEREAS, concurrently, the Hampton Roads Workforce Council is bolstering workforce development through education and job training for displaced workers, while Local Initiatives Support Corporation (LISC) Hampton Roads is providing \$10,000 grants to small businesses, with a particular emphasis on small, women-owned, and minority-owned businesses; and

WHEREAS, this multi-pronged approach was made possible by the Virginia Beach City Council, which approved an initial \$8 million to fund the Virginia Beach Pandemic Relief Partnership and its efforts to buoy residents and businesses adversely affected by the COVID-19 pandemic; and

WHEREAS, in November 2020, the Virginia Beach Pandemic Relief Partnership launched VBrelief.org to facilitate the provision of resources and assistance to the community; and

WHEREAS, through its collective and integrated strategy, the Virginia Beach Pandemic Relief Partnership has unified the region's response to the COVID-19 pandemic, contributing greatly to the safety and well-being of the Virginia Beach community during this historic public health crisis; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Beach Pandemic Relief Partnership, a consortium of aid organizations in Virginia Beach, for working tirelessly to serve the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Beach Pandemic Relief Partnership as an expression of the General Assembly's profound admiration for the partnership's contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 368*Celebrating the life of John Chatburn Stevens.*

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, John Chatburn Stevens, honorable veteran, accomplished dental technician, and beloved member of the Tidewater community, died on November 6, 2020; and

WHEREAS, John Stevens served his country with courage and valor as a member of the United States Navy during World War II and the Korean War, attaining the rank of pharmacist's mate third class; and

WHEREAS, after completing his military service, John Stevens worked tirelessly as a dental technician at several labs in the Tidewater region of the Commonwealth for about a half-century; and

WHEREAS, John Stevens was an avid outdoorsman and sports enthusiast who enjoyed hunting, fishing, and cheering on local college football teams and the former Washington Redskins, now the Washington Football Team; and

WHEREAS, guided throughout his life by his deep and abiding faith, John Stevens was a founding member of Carrow Baptist Church in Virginia Beach, where he enjoyed worship and fellowship with his community for many years and served as a deacon and trustee; and

WHEREAS, John Stevens will be fondly remembered and dearly missed by his loving wife of 70 years, Jane; his children, Patricia and Bruce, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John Chatburn Stevens, an honorable veteran and cherished member of the Tidewater community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Chatburn Stevens as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 369*Celebrating the life of C. Opal B. Abernathy.*

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, C. Opal B. Abernathy, an esteemed employee of Newport News Shipbuilding and beloved member of the Peninsula community, died on January 8, 2021; and

WHEREAS, a native of Gloucester County, Opal Abernathy worked tirelessly for 20 years in support of the United States Navy as an employee with Newport News Shipbuilding, Department 053, from which she retired in 1993; and

WHEREAS, Opal Abernathy enjoyed a close community of family, friends, and neighbors, and took great joy in sharing meals, playing games, and visiting the Outer Banks with others; and

WHEREAS, preceded in death by her loving husband of 44 years, Leslie, Opal Abernathy will be fondly remembered and dearly missed by her children, Wanda, Colleen, Dale, and Kenneth, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of C. Opal B. Abernathy, a cherished member of the Peninsula community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of C. Opal B. Abernathy as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 370*Commending Senior Services of Southeastern Virginia.*

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, during the COVID-19 pandemic, Senior Services of Southeastern Virginia worked diligently to maintain its commitment to providing high-quality services and support to senior adults in South Hampton Roads; and

WHEREAS, established in 1968, Senior Services of Southeastern Virginia has enriched the lives of seniors in the Counties of Isle of Wight and Southampton and the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach for more than 50 years; and

WHEREAS, in 2020, Senior Services of Southeastern Virginia adapted to the unique challenges of providing senior care during the COVID-19 pandemic; and

WHEREAS, during the pandemic, more than 350 volunteers from Senior Services of Southeastern Virginia helped deliver food, medications, and other necessities to allow seniors to stay safely in their homes; and

WHEREAS, Senior Services of Southeastern Virginia oversaw the delivery of over 90,000 meals and 10,000 pounds of household supplies, as well as hundreds of health and activity kits; and

WHEREAS, Senior Services of Southeastern Virginia also established a telephone check-in program to keep seniors from feeling isolated, making thousands of calls over the course of the year; and

WHEREAS, Senior Services of Southeastern Virginia plans to continue expanding its virtual capabilities and maintaining high levels of volunteer engagement to ensure that the needs of local seniors continue to be met; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Senior Services of Southeastern Virginia for its outstanding work during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Senior Services of Southeastern Virginia as an expression of the General Assembly's admiration for its critical mission.

SENATE JOINT RESOLUTION NO. 371

Commending Michael S. Rolband.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Michael S. Rolband, an esteemed environmental engineer and advocate who has helped guide sustainable development in the Commonwealth for three decades, retires in 2021; and

WHEREAS, Michael "Mike" Rolband prepared for his career as an environmental engineer and development expert at Cornell University, where he received a bachelor's degree in civil and environmental engineering in 1980, a master's degree in civil engineering in 1981, and a master's degree in business administration in 1982; and

WHEREAS, Mike Rolband founded Wetland Studies and Solutions, Inc. (WSSI) in 1991 to help private and public entities navigate local, state, and national environmental regulations by applying informed and innovative engineering strategies; and

WHEREAS, starting as a one-man firm, WSSI would ultimately carry a staff of more than 210 employees to implement thousands of projects across Northern Virginia; acquired by The Davey Tree Expert Company in 2014, the company continued to be guided by Mike Rolband as it expanded throughout the Commonwealth and into Maryland, North Carolina, and Florida; and

WHEREAS, under Mike Rolband's visionary leadership, WSSI established the first mitigation bank in the Commonwealth in 1994, an enterprise in which the environmental impact of a development project is compensated by greater preservation and restoration efforts in neighboring areas, diminishing the net loss across the wider environment; and

WHEREAS, throughout his career, Mike Rolband has offered policymakers valued perspectives that have helped to shape legislation regulating stormwater management, mitigation banking, and wetlands and stream preservation; and

WHEREAS, instrumental to the development of pivotal wetlands legislation that was signed into law during the 2000 Session of the General Assembly, Mike Rolband has long been a key figure on technical advisory committees steering the Commonwealth's policies and regulations relating to wetlands, streams, and mitigation banking; and

WHEREAS, through his service on numerous boards, committees, and work groups, Mike Rolband has promoted responsible, ecologically conscious development and the preservation of the Commonwealth's wetlands and streams; and

WHEREAS, understanding the importance of applied research to the future of mitigation banking and other preservation strategies, Mike Rolband established the Wetland Research Initiative (WRI) in 2007, providing millions of dollars in grants to scholars and graduate students to probe questions vital to the success of the industry; he has since amplified these efforts with the establishment of the Stream Restoration Initiative (SRI) and the Resource Protection Group, Inc., which oversees WRI and SRI; and

WHEREAS, since 2017, Mike Rolband has served as a professor at Cornell University, sharing invaluable experience and expertise with future civil engineers tasked with protecting the nation's wetlands and streams; and

WHEREAS, through myriad affiliations in professional organizations and by regularly publishing and presenting lectures to stakeholders and other concerned bodies, Mike Rolband has established himself as a leader of the preservation and development communities, both in the Commonwealth and beyond; and

WHEREAS, numerous awards and accolades from the Commonwealth, Fairfax County, and Reston, as well as several prominent organizations such as the American Council of Engineering Companies and the Northern Virginia Building Industry Association, serve as testament to Mike Rolband's remarkable career; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Michael S. Rolband, an accomplished environmental engineer and advocate and founder of Wetland Studies and Solutions, Inc., on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael S. Rolband as an expression of the General Assembly's profound admiration for his extraordinary service to the Commonwealth and best wishes for a long and fulfilling retirement.

SENATE JOINT RESOLUTION NO. 373

Commending Hero Homes, Inc.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Hero Homes, Inc., founded by Jason Brownell and Matthew Lowers, has coordinated the construction of numerous homes to be donated to disabled veterans and their families; and

WHEREAS, in 2015, Jason Brownell, a land developer and custom home builder, was asked to build a home in Lovettsville for a United States Marine who had been wounded in combat; and

WHEREAS, Jason Brownell subsequently established the nonprofit organization Hero Homes, Inc., to honor the service and sacrifices of local veterans by providing the dignity of independent living in a safe, supportive community; and

WHEREAS, Hero Homes, Inc., worked with other veteran support groups to identify deserving veterans in the region; the organization offers fully donated homes, as well as options for veterans to purchase a subsidized home or purchase a home outright; and

WHEREAS, Hero Homes, Inc., has helped many veterans gain the confidence to rejoin society as productive members of their communities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Hero Homes, Inc., for its work to build and donate homes to disabled veterans in Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jason Brownell, cofounder of Hero Homes, Inc., as an expression of the General Assembly's admiration for his generous service to disabled veterans of the United States Armed Forces.

SENATE JOINT RESOLUTION NO. 374

Commending Panorama Latino TV Show.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, *Panorama Latino TV Show*, a long-running Spanish-language television program serving the Hispanic community of Prince William County, celebrated its 20th anniversary in 2020; and

WHEREAS, following a tragic house fire in Dale City in 1997, Comcast Cable and Stephanie Williams, creator and executive producer of *Panorama Latino TV Show*, set out to present a program that would convey lifesaving information to the local Hispanic community; and

WHEREAS, *Panorama Latino TV Show* airs in Prince William County every Friday night at 8:30 p.m. on Comcast Cable channel 2, as well as on YouTube and other platforms; and

WHEREAS, *Panorama Latino TV Show* conducts its programming in Spanish to increase the likelihood that the vital information it provides will be disseminated effectively in the community; and

WHEREAS, many distinguished guests have graced the set of *Panorama Latino TV Show* over the years, including former chief of the Prince William County Police Department Barry Barnard; former chief of the Prince William County Department of Fire and Rescue Kevin McGee; and superintendent of Prince William County Public Schools, Dr. Steve Walts; and

WHEREAS, *Panorama Latino TV Show*, which has also hosted Senator Tim Kaine and Ann Wheeler, chair of the Prince William County Board of Supervisors, has served as an important platform for local, state, and national leaders to broadcast their messages to the Hispanic community of Prince William County; and

WHEREAS, during the COVID-19 pandemic, appearances on *Panorama Latino TV Show* by Dr. Karla Lacayo from Novant Health and Dr. Ramfis Márquez from the Greater Prince William Health Center have helped to guide viewers through this historic public health crisis; and

WHEREAS, with regular segments on culture and youth issues, *Panorama Latino TV Show* enriches its viewers' awareness of current events and understanding of topical issues; and

WHEREAS, by serving as a reliable conduit of information relating to public safety, health, and emergency procedures for the Hispanic community of Prince William County, *Panorama Latino TV Show* has helped to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend *Panorama Latino TV Show* on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephanie Williams, creator and executive producer of *Panorama Latino TV Show*, as an expression of the General Assembly's heartfelt admiration for the program's contributions to the community.

SENATE JOINT RESOLUTION NO. 375

Celebrating the life of Elaine Dolores Walker.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Elaine Dolores Walker, longtime mayor of Lovettsville and a beloved member of the Greater Loudoun County community, died on June 1, 2020; and

WHEREAS, a member of the Loudoun County High School Class of 1956, Elaine Walker worked as a secretary with Loudoun County Public Schools for 15 years, first at Loudoun Valley High School and later at Blue Ridge Middle School; and

WHEREAS, Elaine Walker served on the Lovettsville Town Council for a decade before being elected mayor in 1990; as a testament to her constituents' confidence in her leadership, she was reelected 10 times, ultimately serving as mayor for 22 years; and

WHEREAS, Elaine Walker's tenure as mayor of Lovettsville was characterized by her ability to foster good relationships in the community and inspire her colleagues to work tirelessly for the benefit of the town; and

WHEREAS, a founding member of the Coalition of Loudoun Towns, a consortium of the seven mayors in Loudoun County formed in the early 1990s, Elaine Walker helped foster greater collaboration and cooperation across the region; and

WHEREAS, an active and engaged member of her community, Elaine Walker served in the auxiliary of the Lovettsville Fire and Rescue Company for decades while also supporting various other local civic organizations; and

WHEREAS, Elaine Walker was the recipient of many awards and distinctions to honor her service to the community, including the 2005 *Loudoun Times-Mirror* Citizen of the Year award; and

WHEREAS, preceded in death by her loving husband of 58 years, Cliff, Elaine Walker will be fondly remembered and dearly missed by her daughters, Debbie, Linda, and Carol, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Elaine Dolores Walker, former mayor of Lovettsville, whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elaine Dolores Walker as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 376

Commending Loudoun Shops Black.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Loudoun Shops Black has helped Loudoun County residents connect with and support Black-owned businesses through opt-in resources; and

WHEREAS, Loudoun Shops Black encourages members of the community to support at least one Black-owned business each week; and

WHEREAS, Loudoun Shops Black offers resources for supporters to find businesses related to arts and entertainment, dining, crafts and gifts, home goods, hair and beauty products, and fashion, as well as providers of consulting and financial services, education and counseling, real estate services, health and fitness coaching, and event planning; and

WHEREAS, the increased opportunities for community engagement made possible by Loudoun Shops Black have also helped businesses grappling with the effects of the COVID-19 pandemic; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Loudoun Shops Black for its work to promote and support Black-owned businesses in Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Loudoun Shops Black as an expression of the General Assembly's admiration for the organization's achievements in service to the community.

SENATE JOINT RESOLUTION NO. 377

Celebrating the life of Officer Brian David Sicknick.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Officer Brian David Sicknick of Springfield, a patriotic veteran and a courageous member of the United States Capitol Police, died on January 7, 2021, from injuries sustained in the line of duty; and

WHEREAS, Brian Sicknick grew up in South River, New Jersey, and attended East Brunswick Vocational Technical High School; after graduation, he joined the New Jersey Air National Guard, serving with the 108th Security Forces Squadron, 108th Wing at Joint Base McGuire-Dix-Lakehurst; and

WHEREAS, Brian Sicknick deployed to Saudi Arabia in support of Operation Southern Watch in 1999 and Kyrgyzstan in support of Operation Enduring Freedom in 2003; and

WHEREAS, after his honorable military service, Brian Sicknick worked in New Jersey before relocating to the Commonwealth to fulfill his longtime dream to become a law-enforcement officer, joining the United States Capitol Police in July 2008; and

WHEREAS, while serving with the United States Capitol Police, Brian Sicknick earned a bachelor's degree in criminal justice from the University of Phoenix; he had served as a member of the department's mountain bike unit and first responder unit; and

WHEREAS, Brian Sicknick served the United States with the utmost dedication and integrity, and he earned the admiration of elected officials and Capitol personnel for his kindness, courteousness, and positivity; and

WHEREAS, on January 6, 2021, Brian Sicknick sustained fatal injuries while defending the United States Capitol from rioters who breached multiple doors and windows and entered the building in an attempt to disrupt the ceremonial counting of the Electoral College votes for the 2020 United States presidential election; and

WHEREAS, Brian Sicknick will be fondly remembered and greatly missed by his parents, Charles and Gladys; his brothers, Ken and Craig; his girlfriend of 11 years, Sandra; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Officer Brian David Sicknick, a highly respected and heroic member of the United States Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Officer Brian David Sicknick as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 378

Celebrating the life of the Honorable Robert Lathan Calhoun.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Robert Lathan Calhoun, esteemed attorney, member of the Senate of Virginia from 1988 to 1996, and beloved member of the Alexandria community, died on August 6, 2020; and

WHEREAS, Robert "Bob" Calhoun was born in Illinois into a family that valued political engagement; he was inspired throughout his life by his grandmother, who was active in state issues, and followed in his father's footsteps by attending Yale Law School; and

WHEREAS, Bob Calhoun practiced law with various firms and in 1973 made his first foray into politics; naturally shy, but with an aptitude for public speaking, he lost his first race to Jim Thomson, majority leader in the House of Delegates, but he would be undeterred in his pursuit of public office; and

WHEREAS, Bob Calhoun's intelligence, practicality, and passion soon won him a seat on the Alexandria City Council in 1976; despite being the lone Republican on the council at the time, he would become vice mayor only three years later and help more Republicans win seats to the council; and

WHEREAS, during his time on the Alexandria City Council, Bob Calhoun promoted the development of the Torpedo Factory Art Center, now a cornerstone of Alexandria, facilitated the creation of the Covanta Waste to Energy Plan, and was involved in a preliminary study of the DASH bus system; and

WHEREAS, from the Alexandria City Council, Bob Calhoun went on to serve in the Senate of Virginia, where he was known for both his sharp wit and his willingness to work with colleagues from across the aisle, representing the 30th District from 1988 to 1996; and

WHEREAS, keen on transportation issues, one of Bob Calhoun's many accomplishments was his co-sponsorship of the Public-Private Transportation Act of 1995, which supported development of the Washington Metropolitan Area Transit Authority's Silver Line to Dulles International Airport; and

WHEREAS, an avid reader with a passion for the arts and the outdoors, Bob Calhoun charmed innumerable friends and colleagues with the wisdom and experience he had acquired over the years; and

WHEREAS, Bob Calhoun's involvement in the community built on his interests and extended beyond politics; he co-chaired the fundraising campaign to found the Rachel M. Schlesinger Concert Hall and Arts Center, home of the Alexandria Symphony Orchestra, and assisted in establishing the Scholarship Fund of Alexandria; and

WHEREAS, Bob Calhoun reminded all to think critically and take an active role in bringing about the world we want to see, encouraging everyone to get involved, strive for goals, and remain active in the community; and

WHEREAS, guided throughout his life by his deep and abiding faith, Bob Calhoun enjoyed worship and fellowship with his community at Westminster Presbyterian Church in Alexandria, where he was a member for many years and popular speaker in the church's congregational life programs; and

WHEREAS, Bob Calhoun will be fondly remembered and dearly missed by his loving wife, Sandra; his children, Andrew, Rob, and Gordon, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Robert Lathan Calhoun, former member of the Senate of Virginia, whose unwavering dedication to his community and the Commonwealth touched many lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Robert Lathan Calhoun as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 379

Commending Tom Hirst and Magaly Galdo-Hirst.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Tom Hirst and Magaly Galdo-Hirst, philanthropic supporters of Alexandria and its many nonprofit organizations, have long inspired involvement and volunteerism in their community; and

WHEREAS, a native of Fairfax County, Tom Hirst grew up on a family farm and studied at Princeton University and Harvard University before founding his real estate business, the Mason Hirst Company; and

WHEREAS, born in Bolivia, Magaly Galdo-Hirst moved to the Mount Vernon area after attending university in Washington, D.C., pursuing a career in health care equity with the Pan American Health Organization, the American regional office of the World Health Organization; and

WHEREAS, in 2007, Tom Hirst started the Mason Hirst Foundation and began to dedicate his time and efforts to helping as many nonprofit organizations as possible in Alexandria and beyond; and

WHEREAS, in 2010, Magaly Galdo-Hirst joined the board of ACT for Alexandria, a community foundation that strives to increase charitable investment and community engagement in Alexandria; and

WHEREAS, Tom Hirst and Magaly Galdo-Hirst's commitment to nonprofit success in the region included visiting various facilities, studying the strategies, needs, and accomplishments of organizations, and acquainting themselves with the people these organizations serve; and

WHEREAS, in 2011, Tom Hirst and Magaly Galdo-Hirst expanded their impact by offering matching grants through the Mason Hirst Foundation during ACT for Alexandria's Spring2ACTION event, a 24-hour fundraiser held annually for the benefit of Alexandria nonprofits; and

WHEREAS, through these matching grants and the generosity of other individuals and organizations, Tom Hirst and Magaly Galdo-Hirst have helped raise \$1,975,000 for Alexandria's charitable organizations over nine years; and

WHEREAS, honorees of Living Legends of Alexandria and recipients of the Champion of Children Award from the Center for Alexandria's Children, Tom Hirst and Magaly Galdo-Hirst continue to work humbly through their foundation to inspire action in support of the causes that matter most; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Tom Hirst and Magaly Galdo-Hirst, longtime philanthropic supporters and community leaders, for their support of many nonprofit organizations in Alexandria; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tom Hirst and Magaly Galdo-Hirst as an expression of the General Assembly's admiration for their commitment to charitable giving and for inspiring others to engage as they can with their community.

SENATE JOINT RESOLUTION NO. 380

Celebrating the life of the Honorable Jerry M. Wood.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Jerry M. Wood, a trusted pharmacist who touched countless lives throughout his career and a respected public servant who was elected to the Warrenton Town Council and the House of Delegates, died on January 8, 2021; and

WHEREAS, a native of Roanoke, Jerry Wood attended Andrew Lewis High School in Salem and subsequently graduated from what is now the Virginia Commonwealth University (VCU) School of Pharmacy; he also served his country for eight years as a member of the United States Navy Reserve; and

WHEREAS, Jerry Wood worked at pharmacies in Fredericksburg and Culpeper, then joined the staff of Rhodes Drug Store in Warrenton in 1968; and

WHEREAS, Jerry Wood established Fauquier Pharmacy in Warrenton in 1972 and served the community from its Main Street location for 20 years, earning a reputation for his commitment to customer service and his devotion to serving young people in the community; and

WHEREAS, Jerry Wood sold Fauquier Pharmacy to Rite Aid in 1992 and continued to work as a family pharmacist for the company until his retirement in 2005; and

WHEREAS, desirous to be of further service to the Commonwealth, Jerry Wood ran for and was elected to the House of Delegates in 1991 and served the residents of the 31st District with dedication and integrity for one term; and

WHEREAS, during his time as a state lawmaker, Jerry Wood helped established a Fauquier County campus of Lord Fairfax Community College and supported the development of pari-mutuel horse racing in the Commonwealth; and

WHEREAS, Jerry Wood continued his career in public service as a member of the Warrenton Town Council from 2014 to 2020 and represented the Warrenton community as a member of the Rappahannock-Rapidan Regional Commission; and

WHEREAS, Jerry Wood offered his wisdom and expertise to the Virginia Board of Pharmacy and the Virginia Board of Health Professions, and he volunteered his time and leadership with the local American Legion post, Rotary club, and Optimist club and several other civic organizations; and

WHEREAS, among many awards and accolades for his personal and professional achievements, Jerry Wood received a Pharmacy Alumni Award from VCU in 2013; and

WHEREAS, guided by his deep and abiding faith throughout his life, Jerry Wood enjoyed fellowship and worship with the congregation of St. James' Episcopal Church; and

WHEREAS, Jerry Wood will be fondly remembered and greatly missed by his wife of 29 years, Coleen; his children, Gregory, Christian, Julie, Laura, Brandon, and Ashley, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Jerry M. Wood, a highly admired medical professional and public servant in Warrenton; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Jerry M. Wood as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 381

Commending the Loudoun County branch of the NAACP.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Loudoun County branch of the NAACP has worked to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination in the community for the past 80 years; and

WHEREAS, the NAACP, founded in 1909 and headquartered in Baltimore, Maryland, is one of the nation's leading civil rights organizations, with more than 500,000 members and countless supporters; and

WHEREAS, founded in 1940 by Marie Medley, the Loudoun County branch of the NAACP has long centered its efforts around the issue of education, with an early accomplishment being the establishment of Frederick Douglass High School in Loudoun County to provide better educational opportunities to African American youth in the area; and

WHEREAS, the Loudoun County branch of the NAACP remains a forceful advocate for racial equity in public education and has inspired many elected officials to support policies to address systemic racism; and

WHEREAS, the Loudoun County branch of the NAACP supported a thriving democracy in the Commonwealth and the nation by conducting a series of marches to encourage voting and civic participation and by protesting voter suppression; and

WHEREAS, organizing rallies for racial justice and criminal justice reform, the Loudoun County branch of the NAACP has been a valued leader as the community navigates the civil unrest of 2020 and looks to build a more peaceful and equitable future; and

WHEREAS, through tireless dedication and visionary leadership, the Loudoun County branch of the NAACP has helped to make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Loudoun County branch of the NAACP for its efforts to advance racial and social equity and justice in the Commonwealth and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Loudoun County branch of the NAACP as an expression of the General Assembly's high esteem and admiration for the organization's contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 382

Commending Joshua Thiel.

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Joshua Thiel, an esteemed public servant and businessman, concluded his service on the Leesburg Town Council in 2020; and

WHEREAS, Joshua "Josh" Thiel attended Loudoun County Public Schools throughout his childhood and graduated from Heritage High School; he then attended Saint Francis University, where he was a second team All-American placekicker and where he earned a bachelor's degree in marketing and communications; and

WHEREAS, Josh Thiel parlayed his experience playing college football into the establishment of his company, JT Kicking and Training, which helps high school and college athletes elevate their performance so that they can compete at the highest echelons of their sport; and

WHEREAS, inspired to run for public office out of a desire to give back to the town that raised him, Josh Thiel was elected to the Leesburg Town Council in February 2018 during a special election to fill the seat vacated by Councilmember Kenneth Reid; and

WHEREAS, elected to the Leesburg Town Council at the age of 27, Josh Thiel brought fresh perspectives to the governing body and was a forceful advocate for revising the locality's noise ordinance and expanding regulations for food trucks in the interest of revitalizing downtown Leesburg; and

WHEREAS, through hard work and a tireless commitment to the community, Josh Thiel has helped make Leesburg a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Joshua Thiel, a respected businessman and public servant, as he concludes his term on the Leesburg Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Joshua Thiel as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 383

Commending the Reverend Deborah Dodson Parsons.

Agreed to by the Senate, February 4, 2021
 Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Reverend Deborah Dodson Parsons has ably served the congregation of Leesburg Presbyterian Church as pastor for more than a decade; and

WHEREAS, Deborah Parsons grew up in Lubbock, Texas, and was the youngest of three daughters of the late Max and Orlena Dodson; she began to cultivate her deep faith at a young age as a member of Westminster Presbyterian Church; and

WHEREAS, after graduating from Austin College in Texas and Vanderbilt University Divinity School in Tennessee, Deborah Parsons served as a religious studies instructor and college chaplain at Mary Baldwin College in Staunton, and she became the first woman to be ordained by Shenandoah Presbytery; and

WHEREAS, Deborah Parsons and her husband, David, later returned to Texas, where she became associate pastor of the University Presbyterian Church in Austin; and

WHEREAS, while raising her daughters, Molly and Libby, Deborah Parsons served in a variety of part-time ministry positions, including director of a Presbyterian resource center, director of campus ministry at St. Philip's College, and parish associate for pastoral care and community life at University Presbyterian Church in San Antonio; and

WHEREAS, as Deborah Parsons' children grew older, she returned to full-time work as an interim pastor for several congregations in and around San Antonio; and

WHEREAS, in 2008, Deborah Parsons was called to serve as pastor of Leesburg Presbyterian Church, and the church has thrived and grown significantly during her tenure; and

WHEREAS, over the course of more than 12 years, Deborah Parsons has welcomed nearly 300 new members into the church, has officiated more than 70 baptisms as well as dozens of weddings and memorial services, and has provided loving pastoral care and comfort to countless people during times of illness and grief; and

WHEREAS, Deborah Parsons has been an active participant and leader in Presbyterian and interfaith clergy networks in Leesburg, Loudoun County, Northern Virginia, and the region served by National Capital Presbytery; and

WHEREAS, Deborah Parsons has organized several mission trips to Cuba, where she forged a supportive relationship between Leesburg Presbyterian Church and a Presbyterian congregation in Guanabacoa; and

WHEREAS, a strong advocate for social justice, Deborah Parsons has helped organize events in support of immigrants and refugees and in opposition to racism; she has spearheaded many initiatives to provide food, clothing, and other assistance to local families and individuals in need; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Reverend Deborah Dodson Parsons for her service as pastor of Leesburg Presbyterian Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Deborah Dodson Parsons as an expression of the General Assembly's admiration for her years of spiritual leadership and contributions to the Leesburg community.

SENATE JOINT RESOLUTION NO. 384

Commending the Loudoun Medical Reserve Corps.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Loudoun Medical Reserve Corps, an organization of medical and nonmedical volunteers dedicated to protecting the health and well-being of the Loudoun County community, have worked tirelessly to administer vaccinations during the COVID-19 pandemic; and

WHEREAS, the Loudoun Medical Reserve Corps, established under Loudoun County Health and Human Services to prepare the community for a bioterrorism event or epidemic, is shouldering the responsibility for much of Loudoun County's COVID-19 vaccine rollout; and

WHEREAS, with a roll of more than 2,600 volunteers, the Loudoun Medical Reserve Corps has seen its membership surge by 1,000 since the onset of the COVID-19 pandemic, with more than 70 people registering since the vaccine campaign began, a testament to the charitable spirit that guides the organization; and

WHEREAS, from conducting traffic lines to administering the shot, numerous volunteers with the Loudoun Medical Reserve Corps have worked indefatigably to ensure that citizens of Loudoun County are vaccinated safely and efficiently against COVID-19; and

WHEREAS, the Loudoun Medical Reserve Corps has demonstrated a commitment to the community that is an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Loudoun Medical Reserve Corps, an organization of medical and nonmedical volunteers supporting the Loudoun County community, for its service during the COVID-19 vaccine rollout; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Loudoun Medical Reserve Corps as an expression of the General Assembly's high esteem and admiration for the organization's service and accomplishments.

SENATE JOINT RESOLUTION NO. 385

Commending Kirk Kincannon.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Kirk Kincannon, executive director of the Fairfax County Park Authority who has served citizens of Northern Virginia for more than 30 years, retired in 2021; and

WHEREAS, Kirk Kincannon earned a degree in recreation, leisure services, and physical education from Virginia Wesleyan University in 1980 and also studied at Virginia Polytechnic Institute and State University and the University of North Carolina; and

WHEREAS, Kirk Kincannon has dedicated more than 30 years of his four decades in public service to localities in Northern Virginia, working his way from recreation coordinator in Herndon in 1981 to park specialist in Fairfax County in 1985 and to director of Alexandria Parks and Recreation in 2004, among other positions; and

WHEREAS, after a brief five-year stint away from the Commonwealth as director of Parks and Recreation in Boulder, Colorado, Kirk Kincannon returned to Fairfax County in 2014 to lead the Fairfax County Park Authority (FCPA); and

WHEREAS, as executive director, Kirk Kincannon turned the FCPA into an award-winning public agency, setting a course for the future by establishing a new agency-wide master plan, implementing equity policies to make sure Fairfax County parks are accessible to all, and winning the agency's fourth National Gold Medal Award from the National Recreation and Park Association; and

WHEREAS, a fellow at the American Academy for Park and Recreation Administration (AAPRA) and the Urban Land Institute, Kirk Kincannon served on several boards and commissions supporting public recreation, chairing the Virginia Recreation and Park Society Board of Directors and serving on the Urban Directors Committee of AAPRA; and

WHEREAS, among many successes, Kirk Kincannon spearheaded the passage of park bonds in 2016 and 2020, and he helped to raise more than \$1 million every year for the Park Foundation, securing a strong financial future for Fairfax County's recreational spaces; and

WHEREAS, Kirk Kincannon also worked to expand Fairfax County residents' access to green spaces, adding 24,000 acres of new park land during his tenure and expanding overall park spaces by more than 10 percent; and

WHEREAS, by leading the FCPA with the utmost passion and professionalism, Kirk Kincannon has helped make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Kirk Kincannon, executive director of the Fairfax County Park Authority, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kirk Kincannon as an expression of the General Assembly's high esteem and admiration for his contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

SENATE JOINT RESOLUTION NO. 386

Celebrating the life of Sara Lu P. Snyder.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Sara Lu P. Snyder, the first executive director of the Alleghany Highlands Arts Council and an active and beloved member of the Covington community, died on January 5, 2021; and

WHEREAS, born in Richmond and raised in Covington, Sara Lu Snyder graduated from Covington High School in 1955 and subsequently earned a bachelor's degree from Agnes Scott College and a master's degree in speech pathology from the University of Virginia; and

WHEREAS, Sara Lu Snyder joined the board of the Alleghany Highlands Arts Council in 1965 and later served as the organization's first executive director in the 1970s and as its president from 1978 to 1988; and

WHEREAS, as a leader of the Alleghany Highlands Arts Council, Sara Lu Snyder played an instrumental role in attracting world-renowned performers and artists to the region and implementing effective arts education programs in area schools; and

WHEREAS, Sara Lu Snyder's efforts to foster the arts in her community extended beyond her work with the Alleghany Highlands Arts Council; she also served on the board of directors of the Garth Newel Music Center and was a founder of Virginia Arts Presenters; and

WHEREAS, valued for her erudite judgment and refined taste, Sara Lu Snyder served the Commonwealth through appointments to various grant panels administered by the Virginia Commission for the Arts; and

WHEREAS, in recognition of her contributions to the cultivation of the arts in her community, Sara Lu Snyder received the Alleghany Highlands Arts Council's Arts Legacy Award and the Dabney S. Lancaster Community College's Medallion of Merit Award and was named an Outstanding Alumna of Covington High School; and

WHEREAS, guided throughout her life by her deep and abiding faith, Sara Lu Snyder enjoyed worship and fellowship with her community at First Presbyterian Church of Covington for many years; a talented organist in her own right, she also graciously served as a substitute organist at several churches in the area; and

WHEREAS, Sara Lu Snyder will be fondly remembered and dearly missed by her loving husband of 58 years, James; her sons, Meade and Lee, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Sara Lu P. Snyder, an esteemed civic and community leader of the Alleghany Highlands region; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sara Lu P. Snyder as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 387

Commending Ron Campbell.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Ron Campbell, an esteemed education administrator and community advocate, served admirably on the Leesburg Town Council from 2016 to 2020; and

WHEREAS, Ron Campbell was born and raised in the Bronx, New York, and his educational pursuits led to a bachelor's degree in American Studies from Heidelberg University; a master's degree in counseling, human services, and guidance from Montclair State University; and doctoral coursework on human sexuality at the University of Pennsylvania; and

WHEREAS, Ron Campbell's illustrious 27-year career in higher education administration included a posting as associate vice president of student development and athletics at the University of Minnesota; and

WHEREAS, in 2000, Ron Campbell established College Business Concepts, LLC, a business development consulting company, and from 2012 to 2015 he served as the chief executive officer of the National Association of College and University Auxiliary Services; and

WHEREAS, elected to the Leesburg Town Council in 2016, Ron Campbell served the governing body for four years, where he was a noted advocate for education, health care, and other initiatives; and

WHEREAS, prior to his election to the Leesburg Town Council, Ron Campbell's service to the community also included terms on the Leesburg Technology and Communications Commission and the Leesburg Environmental Commission; and

WHEREAS, currently a member of the Loudoun County Community Criminal Justice Board and first vice president of the Loudoun County branch of the NAACP, Ron Campbell's previous service includes work with two Commonwealth task forces on sexual violence spearheaded by Lieutenant Governor Don Beyer; and

WHEREAS, Ron Campbell recently established the advocacy group Citizens for a Better Leesburg, ensuring that he will continue to have an outsized impact on his community for years to come; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ron Campbell, a respected executive, administrator, and public servant, as he concludes his term on the Leesburg Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ron Campbell as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 388

Commending William McKenna.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, William McKenna, an accomplished information technology professional and esteemed public servant, concluded his service on the Herndon Town Council in 2020; and

WHEREAS, William "Bill" McKenna earned a bachelor's degree in political science from West Virginia Wesleyan College and has more than 20 years of experience in the financial and information technology sectors; and

WHEREAS, a resident of Herndon since 2012, Bill McKenna served on the Herndon Town Council from 2017 to 2020, chairing the Herndon Youth Advisory Council and serving on the Virginia Municipal League's General Laws Policy Committee on behalf of the governing body; and

WHEREAS, an active and engaged member of the community, Bill McKenna is a volunteer for and supporter of Herndon Community Television and is highly involved in the Herndon Chamber of Commerce and the Herndon Rotary Club; and

WHEREAS, Bill McKenna also serves on the board of directors for the Herndon Village Network and was appointed by the Fairfax County Board of Supervisors to represent the Dranesville District for the Citizen's Corps Council of Fairfax County; and

WHEREAS, Bill McKenna's tireless commitment to the community also includes extensive volunteer work with the Salvation Army, children's hospitals in Washington, D.C., and Morgantown, West Virginia, and the Massey Cancer Center at Virginia Commonwealth University; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend William McKenna, respected public servant, as he concludes his term on the Herndon Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William McKenna as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 389

Commending Kojo Nnamdi.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Kojo Nnamdi, an esteemed radio host whose program, *The Kojo Nnamdi Show*, has informed and entertained listeners for years, will retire in 2021; and

WHEREAS, born Rex Orville Montague Paul in Guyana, Kojo Nnamdi, who is referred to simply as "Kojo" by colleagues and avid listeners, cultivated an interest in politics during his childhood, when visitors to his parents' home, sandwiched between a winery and a rum shop, gathered to debate politics; and

WHEREAS, in 1967, Kojo Nnamdi moved to Montreal to attend McGill University, where he became interested in the Black Power Movement; he moved to Washington, D.C., two years later and began to explore opportunities in journalism; and

WHEREAS, Kojo Nnamdi served as a news editor and then news director at Howard University's WHUR-FM starting in 1973, and from 1985 to 2011, he hosted the university's public affairs television program, *Evening Exchange*; and

WHEREAS, in 1998, Kojo Nnamdi became the full-time host of *Public Interest*, a two-hour show on Washington, D.C., and Northern Virginia's public radio station WAMU, which in 2002 was renamed *The Kojo Nnamdi Show*; and

WHEREAS, focusing his show locally, Kojo Nnamdi sought to bridge the gap between the region's African American and white audiences, fostering greater understanding of how the complexities of race impact the region; and

WHEREAS, with segments such as "Kojo for Kids" and "Kojo in Your Community," as well as interviews with local leaders such as Governor Ralph Northam and Alexandria Public Schools superintendents, Kojo Nnamdi helps unite the community around meaningful discourse; and

WHEREAS, Kojo Nnamdi's "Friday Politics Hour" with cohost Tom Sherwood has for years hosted guests across the political spectrum in the Commonwealth, including Governors, mayors, and members of the General Assembly and United States Congress, making government more accessible to the citizens it serves; and

WHEREAS, after 23 years delivering news, context, and insight to the Washington, D.C., metropolitan region, *The Kojo Nnamdi Show* will air its final episode on April 1, 2021; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Kojo Nnamdi, distinguished host of WAMU's *The Kojo Nnamdi Show*, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kojo Nnamdi as an expression of the General Assembly's heartfelt admiration for his cultural and intellectual contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 390

Commending Jennifer K. Baker.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Jennifer K. Baker served three consecutive terms from 2014 to 2020 as a member of the Herndon Town Council and as vice mayor of the Town of Herndon from 2014 to 2018; and

WHEREAS, throughout her terms on the Herndon Town Council and as vice mayor, Jennifer Baker gave generously of her time, knowledge, and abilities to serve the town and its citizens; and

WHEREAS, Jennifer Baker served on the Herndon Town Council's investment and auditing advisory committee and as chair of the interview subcommittee and the pedestrian and bicycle advisory committee; and

WHEREAS, Jennifer Baker served on several committees with the Virginia Municipal League, including as the chair of the community and economic development committee and in the town section of the 2019 legislative committee; and

WHEREAS, serving as an informal international ambassador for Herndon, Jennifer Baker met with the mayor of Runnymede, England, at the 800th anniversary of the sealing of the Magna Carta in 2015, and she later joined the Herndon High School band in representing the United States at the 75th anniversary of D-Day in Normandy, France, in 2019; and

WHEREAS, Jennifer Baker played an instrumental role in numerous town projects and improvements, including the 2030 Comprehensive Plan and the Downtown Master Plan, the Herndon Metrorail Station area planning projects, and the purchase of privately owned land to facilitate the Downtown Redevelopment Project; and

WHEREAS, a dedicated member of the Herndon community, Jennifer Baker volunteered with Arts Herndon, the Optimist Club of Herndon, the Herndon Historical Society, Friday Night Live, NextStop Theater, and the Holiday Homes Tour of Herndon committee, which she served as chair; and

WHEREAS, through her dedicated service to Herndon and its citizens, Jennifer Baker helped make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jennifer K. Baker, a distinguished public servant, upon the conclusion of her service on the Herndon Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jennifer K. Baker as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 391

Celebrating the life of Lester Zidel.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Lester Zidel, a beloved public servant in Herndon who advocated on behalf of his community and the arts for many years, died on October 9, 2020; and

WHEREAS, born in Reading, California, and educated in Malden, Massachusetts, Lester "Les" Zidel earned a bachelor's degree in political science from the University of Wisconsin, where he was active in local politics and student government; and

WHEREAS, from 1986 to 1995, Les Zidel was a driven and innovative leader on Herndon's Planning Commission and guided the town through an important stage in its development; as author of the town's "Think Village" concept, he helped shape the local village streets policy and cultivated a more beautiful and neighborly Herndon; and

WHEREAS, Les Zidel was a member of the executive committee of the Herndon Festival and oversaw the event's growth and development into a four-day community gathering that consistently earns praise from residents and is recognized throughout the Commonwealth as one of the marquee events of the year; and

WHEREAS, Les Zidel's efforts on behalf of the Herndon Festival were duly recognized by a Herndon Town Council proclamation in 2016, one of many official honors received by Les Zidel over his lifetime; and

WHEREAS, in 1988, Les Zidel founded the Elden Street Players, a volunteer-run playhouse that brought award-winning productions to the community for 25 years; today, the theatre has expanded into a professional production house known as NextStop Theatre Company and continues to be a major force in the cultural life of Herndon; and

WHEREAS, Les Zidel was a co-founder of the Herndon Foundation for the Cultural Arts, an organization that recently merged with Arts Herndon to create ArtSpace, a permanent gallery and performance space that has become a cherished cultural destination in Herndon; and

WHEREAS, in recognition of his meritorious efforts on behalf of the community, Les Zidel was honored as the Rotary Club of Herndon's Rotarian of the Year in 1987, the Herndon Chamber of Commerce's Business Citizen of the Year in 1992, and the Town of Herndon's Distinguished Volunteer in 2010; and

WHEREAS, Les Zidel will be dearly remembered and fondly missed by his brother, Howard, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lester Zidel, a treasured public servant and arts advocate in Herndon who touched countless lives through his wise and compassionate leadership; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lester Zidel as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 392

Commending Darnell Dozier.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Darnell Dozier, the record-breaking coach of the Princess Anne High School girls' basketball team, was inducted into the Virginia Sports Hall of Fame in 2020; and

WHEREAS, a native of Suffolk, Darnell Dozier served his country as a member of the United States Army for 13 years and began his athletics career as an assistant basketball coach in New Jersey; and

WHEREAS, Darnell Dozier returned to the Commonwealth as an assistant coach at Princess Anne High School, then became head coach of the girls' basketball team in 1995; and

WHEREAS, during his distinguished career, Darnell Dozier has turned the Princess Anne Cavaliers into a perennial powerhouse, recording 10 state championship wins in 13 appearances, as well as 11 regional titles and 22 district titles; and

WHEREAS, Darnell Dozier earned his milestone 600th career victory in 2018 and currently holds the record for the fourth-highest number of wins in Virginia High School League history; and

WHEREAS, Darnell Dozier has drawn upon his experience in the military to inspire and motivate his student-athletes, and his teams have been known for their excellent physical conditioning and high-powered defensive play; and

WHEREAS, Darnell Dozier also works diligently to help his athletes grow as community leaders and to be as successful in the classroom as they are on the basketball court; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Darnell Dozier on the occasion of his induction into the Virginia Sports Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Darnell Dozier as an expression of the General Assembly's admiration for his outstanding achievements.

SENATE JOINT RESOLUTION NO. 393

Celebrating the life of the Honorable Robert S. Bloxom, Sr.

Agreed to by the Senate, February 5, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Robert S. Bloxom, Sr., a consummate public servant who was known for his commitment to the restoration of the Chesapeake Bay, represented the residents of the Eastern Shore as a longtime member of the House of Delegates and became Virginia's first Secretary of Agriculture and Forestry, died on December 13, 2020; and

WHEREAS, Robert "Bob" Bloxom ran the family business, Bloxom Auto Supply, for many years, serving the members of the Mappsville community and the Eastern Shore with fairness and integrity; and

WHEREAS, desirous to be of further service, Bob Bloxom ran for and was elected to the House of Delegates and represented the residents of the 100th District for 13 terms from 1978 through 2003; and

WHEREAS, during his tenure as a state legislator, Bob Bloxom introduced or supported legislation to preserve the health of the Commonwealth's waterways, establish the commercial spaceport on Wallops Island, and create a dental program for school children in need; and

WHEREAS, Bob Bloxom supported the creation of Kiptopeke State Park, the Commonwealth's first new state park in two decades, and helped provide state funds for the opening of the Eastern Shore Farmer's Market; and

WHEREAS, Bob Bloxom offered his expertise to the committees on Appropriations, Commerce and Labor, and Agriculture, Chesapeake and Natural Resources and served as chair of the multistate Chesapeake Bay Commission; and

WHEREAS, admired for his honesty and dedication to his constituents, Bob Bloxom worked to build bipartisan respect and foster a culture of mutual respect between delegates from both parties; and

WHEREAS, in December 2004, Bob Bloxom was appointed by Governor Mark Warner to the newly created cabinet position of Secretary of Agriculture and Forestry; he continued to serve in that capacity under Governor Tim Kaine until his well-earned retirement from public life in January 2010; and

WHEREAS, as Secretary of Agriculture and Forestry, Bob Bloxom visited every county in Virginia and promoted the Commonwealth's exports in other countries; he also supported farmland preservation efforts and oversaw the completion of a study that estimated the value of the Commonwealth's agricultural industries at \$79 billion; and

WHEREAS, at the local level, Bob Bloxom volunteered his time and leadership to Eastern Shore Community College, Eastern Shore Public Library, the Eastern Shore Chamber of Commerce, and the Chesapeake Bay Bridge-Tunnel Commission, but his greatest joy in life was his family, and he relished every opportunity to support his beloved grandchildren at sporting events and activities; and

WHEREAS, Bob Bloxom will be fondly remembered and greatly missed by his wife, Pat; his children Lee and Robert, Jr., and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Robert S. Bloxom, Sr., a respected public servant who strengthened the Eastern Shore; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Robert S. Bloxom, Sr., as an expression of the General Assembly's admiration for his achievements on behalf of all residents of the Commonwealth and respect for his memory.

SENATE JOINT RESOLUTION NO. 394

Celebrating the life of Carla Yvette Savage-Wells.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Carla Yvette Savage-Wells of Virginia Beach, a devoted educator who touched the lives of countless young people, died on October 25, 2020; and

WHEREAS, born in Nassawadox, Carla Savage-Wells attended Accomack County Public Schools and graduated from Onancock High School; she continued her education, earning her bachelor's degree in speech communication at Old Dominion University, and worked in Hampton Roads and Richmond as a fitness instructor, a car salesperson, and an insurance agent; and

WHEREAS, after settling on the Eastern Shore, Carla Savage-Wells followed in her mother's footsteps and became an educator, joining the faculty of Nandua High School in 1996; she helped countless students build confidence and develop the tools to achieve success in and out of the classroom through her guidance and mentorship; and

WHEREAS, as coach of the Nandua High School forensics team, Carla Savage-Wells oversaw 10 regional championship victories and a state championship victory; she was inducted into the Nandua Athletic/Academic Hall of Fame for her outstanding achievements; and

WHEREAS, after 22 years at Nandua High School, Carla Savage-Wells transferred to Kempsville Middle School in Virginia Beach, where she continued to serve and inspire young people; and

WHEREAS, a passionate community activist, Carla Savage-Wells assisted with fundraising efforts for the Eastern Shore Public Library Foundation, the Mary N. Smith Cultural Enrichment Center, Old Dominion University's Desegregation of Virginia Education project, and many other organizations; and

WHEREAS, Carla Savage-Wells was also a regular performer in productions at North Street Playhouse in Onancock; and

WHEREAS, Carla Savage-Wells enjoyed fellowship and worship with the community as a member of Macedonia African Methodist Episcopal Church, where she held several leadership roles, including choir director; and

WHEREAS, Carla Savage-Wells will be fondly remembered and greatly missed by her loving husband of 25 years, Norm; her daughter, Sheridan; her stepdaughters, Keturah and Natyia; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Carla Yvette Savage-Wells; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carla Yvette Savage-Wells as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 396

Commending Rebecca Simpson Carter.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Rebecca Simpson Carter, a dedicated public servant, has ably served the residents of Buckingham County as a local government official for more than three decades; and

WHEREAS, Rebecca Carter studied business management and marketing at Dabney S. Lancaster Community College and began working with Buckingham County on September 15, 1986; and

WHEREAS, Rebecca Carter served as interim county administrator and was promoted to county administrator in 1995; over the course of her 34-year career, she helped keep the county financially sound while maintaining low tax rates; and

WHEREAS, Rebecca Carter has offered her leadership and expertise to numerous local boards and committees and is certified by the Virginia Emergency Management Association; and

WHEREAS, Rebecca Carter has worked diligently to enhance the quality of life of all residents of Buckingham County, demonstrating the utmost professionalism, integrity, and dedication; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Rebecca Simpson Carter for more than 34 years of service to the residents of Buckingham County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rebecca Simpson Carter as an expression of the General Assembly's admiration for her professional achievements on behalf of the Buckingham County community.

SENATE JOINT RESOLUTION NO. 397

Celebrating the life of Pamela Sprouse Palmore.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, Pamela Sprouse Palmore of Buckingham, a passionate advocate for housing security in Richmond and throughout the Commonwealth and a beloved mother and grandmother, died on December 20, 2020; and

WHEREAS, a native of Buckingham County, Pamela "Pam" Palmore spent most of her life in Buckingham and was affectionately known to family and friends as "Pam from Buckingham"; and

WHEREAS, Pam Palmore was a founding member of project:HOMES in Richmond and served with the organization for 22 years; she was the Director of Energy Conservation Programs and was a mentor to countless fellow employees and worked to build a culture of compassion while focusing on productivity; and

WHEREAS, a respected, award-winning expert in home weatherization, Pam Palmore helped project:HOMES provide extensive, high-quality weatherization and repair services and greatly expand its service area; and

WHEREAS, in 2019, Pam Palmore joined the Department of Housing and Community Development, first as a livable home tax credit assistant, then as a member of the weatherization assistance team, with which she was already well acquainted through her previous work with project:HOMES; and

WHEREAS, Pam Palmore's professional knowledge and dedication were unparalleled in her field; she treated every home as if it belonged to a family member or friend, demonstrating the utmost care and integrity in every project and touching countless lives through her empathy, positivity, and reassuring smile; and

WHEREAS, Pam Palmore also served as a member of the Association of Energy Conservation Professionals Board of Directors for many years; and

WHEREAS, Pam Palmore's greatest joy in life was her beloved family, but her generosity and kindness extended to anyone she met; she relished every opportunity to help people in need and was a brave, outspoken advocate for others even while facing her own health challenges in later life; and

WHEREAS, Pam Palmore will be fondly remembered and greatly missed by her daughters, Christy and Sandy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Pamela Sprouse Palmore; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Pamela Sprouse Palmore as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 398

Commending the Honorable Clyde H. Perdue, Jr.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 8, 2021

WHEREAS, the Honorable Clyde H. Perdue, Jr., retired as a judge of the Franklin County Circuit Court on January 8, 2021; and

WHEREAS, Clyde Perdue holds bachelor's and master's degrees from Virginia Polytechnic Institute and State University and is a 1984 graduate of the Campbell University School of Law; and

WHEREAS, Clyde Perdue served the Rocky Mount community as an attorney with the firm Raine and Perdue, PLC, for 30 years; and

WHEREAS, Clyde Perdue was appointed as a judge of the Franklin County Circuit Court of the 22nd Judicial Circuit of Virginia on January 1, 2015, and presided over the court with great fairness and wisdom for more than five years; and

WHEREAS, Clyde Perdue served Franklin County and the Commonwealth with the utmost dedication, integrity, and distinction; and

WHEREAS, after his well-earned retirement, Clyde Perdue plans to spend more time with his beloved family and seek new opportunities to serve the community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Clyde H. Perdue, Jr., on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Clyde H. Perdue, Jr., as an expression of the General Assembly's admiration for his service to the Franklin County community and the Commonwealth.

SENATE RESOLUTION NO. 84

Celebrating the life of William C. Washington.

Agreed to by the Senate, January 14, 2021

WHEREAS, William C. Washington, an honorable veteran, esteemed educator, and beloved member of the community of Emporia, died on October 8, 2020; and

WHEREAS, affectionately known by family and friends as "Doc," William Washington was raised in Emporia and graduated from the Greensville County Training School in 1944; and

WHEREAS, William Washington valiantly served in the United States Army from 1944 to 1946, bravely fulfilling tours of duty in Europe, Korea, and the Philippines during World War II; and

WHEREAS, after concluding his military service, William Washington earned a bachelor's degree in industrial education from Saint Paul's Polytechnic Institute, now Saint Paul's College, and began teaching at the former Edward W. Wyatt High School, known today as Nelson County High School; and

WHEREAS, over an illustrious, 45-year career in education, William Washington also held posts at James Solomon Russell High School and Brunswick High School, both in Lawrenceville, teaching courses in mechanical drawing, industrial arts, physical education, and English; and

WHEREAS, in recognition of his ability to inspire children to succeed both in and out of the classroom, William Washington received teacher of the year honors at James Solomon Russell High School and was placed on the Brunswick County School Board's "Community Wall of Honor"; and

WHEREAS, a longtime coach of various sports who was dedicated to the health and well-being of young people, William Washington later became a Virginia High School League basketball official and was appointed commissioner of the Southside Basketball Officials Association; and

WHEREAS, William Washington volunteered with the Boy Scouts of America for nearly a half-century, serving as the scoutmaster of Cub Scout Pack 465 and Boy Scout Troop 465 and as his district's commissioner and chairman; and

WHEREAS, for his tireless efforts with the Boy Scouts of America, William Washington was presented the Silver Beaver Award by the National Court of Honor of the Boy Scouts of America, one of the organization's most prestigious awards; and

WHEREAS, William Washington gave generously of his time and talents to lead civic organizations in his community, including Optimist International, which he served as local chapter president, and Southside Senior Citizens, Inc., which he served as president; and

WHEREAS, various local organizations are indebted to William Washington for his years of dedication and service, including St. Paul's Community Development Corporation; Brunswick Crime Solvers, Inc.; the Brunswick Mayfield Recreation Center Board of Directors; the Brunswick Retired Teachers Association; St. Jude Children's Research Hospital; and the National Youth Sports Program; and

WHEREAS, guided throughout his life by his deep and abiding faith, William Washington enjoyed worship and fellowship with his community at St. James' Episcopal Church in Emporia, where he served as a lay leader, junior and senior warden, and member of the vestry; and

WHEREAS, William Washington will be dearly remembered and fondly missed by his loving wife of 69 years, Eula; his children, Yvonne and Coleen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of William C. Washington, a veteran and educator from Emporia who made a profound and lasting impact upon countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William C. Washington as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 85

Celebrating the life of Jeffrey Peter Powell, M.D.

Agreed to by the Senate, January 21, 2021

WHEREAS, Jeffrey Peter Powell, M.D., an honorable veteran, distinguished physician, and beloved member of the Chesapeake community, died on November 15, 2020; and

WHEREAS, Jeffrey Powell graduated from McQuaid Jesuit High School in Rochester, New York, before receiving a bachelor's degree in biology from Canisius College; he then earned doctoral degrees in both dental surgery and medicine from The State University of New York at Buffalo; and

WHEREAS, a lieutenant commander in the United States Navy from 1979 to 1984, Jeffrey Powell was appointed chairman of the department of otolaryngology and head and neck surgery at the Naval Medical Center in Camp Lejeune, North Carolina; and

WHEREAS, after concluding his military career, Jeffrey Powell settled in Chesapeake and founded Chesapeake Ear, Nose & Throat Associates, now known as Eastern Virginia Ear, Nose and Throat Specialists, where he cared for untold citizens of the Commonwealth before retiring in September 2020; and

WHEREAS, dedicated to the advancement of the medical industry, Jeffrey Powell served on the board of directors of the Chesapeake Hospital Authority and on various pharmaceutical committees, earning myriad honors and awards for his service over the years; and

WHEREAS, a clinical associate professor of otolaryngology at Eastern Virginia Medical School and an assistant professor of otolaryngology at the Medical College of Virginia, Jeffrey Powell contributed to the growth and development of generations of future doctors while authoring several noteworthy publications; and

WHEREAS, Jeffrey Powell supported law-enforcement in his community by assisting the sheriff's departments in Chesapeake and Northampton County, North Carolina, and the Chesapeake Police Department; he was an instructor as well as medical director of both the Chesapeake Police Department's special weapons and tactics team and the Virginia Beach Police Department's special operations helicopter division; and

WHEREAS, guided throughout life by his deep and abiding faith, Jeffrey Powell enjoyed worship and fellowship with his community at St. Benedict's Catholic Church in Chesapeake, which he helped found more than 30 years ago; and

WHEREAS, Jeffrey Powell will be fondly remembered and dearly missed by his loving wife of 22 years, Terrie; his children, Kimberly, Maureen, Jackie, Molly, and Chris, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jeffrey Peter Powell, M.D., who in his capacity as a veteran, physician, and law-enforcement professional contributed meaningfully to the health, well-being, and safety of citizens of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jeffrey Peter Powell, M.D., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 86

Celebrating the life of Dora McGlone Harris.

Agreed to by the Senate, January 14, 2021

WHEREAS, Dora McGlone Harris, an esteemed educator who touched countless lives in the Portsmouth community, died on December 5, 2020; and

WHEREAS, born and raised in Portsmouth, Dora Harris was an avid student throughout her life, earning a bachelor's degree in sociology from Virginia Union University, a bachelor's degree in elementary education from Virginia State University, a master's degree in elementary education from Hampton University, and a master's degree in administration from Old Dominion University; and

WHEREAS, Dora Harris bookended her impressive 25-year career as an educator with Portsmouth City Public Schools, teaching in Bad Nauheim, Germany, and at Fort Riley, Kansas, Fort Leavenworth, Kansas, and West Virginia University before ultimately retiring as principal of Westhaven Elementary School in 1991; and

WHEREAS, an active and engaged member of her community, Dora Harris was involved with several civic organizations over the years, including Delta Sigma Theta Sorority, Inc., the Portsmouth chapter of Links, Inc., Pinochle Bugs, Inc., Jack and Jill, Inc., and the Holidays Social Club; in 1999, she successfully coordinated a 100-pint blood drive on behalf of Third Baptist Church and the American Red Cross; and

WHEREAS, Dora Harris was dedicated to the growth and development of young people both as an educator and as a chairperson for the Eureka Club, Inc., Debutante Cotillion, contributing greatly to the well-being and success of many future leaders; and

WHEREAS, as a counselor for patients diagnosed with cancer, Dora Harris helped untold individuals and their families cope with the challenges of the disease and remain positive through their treatment; and

WHEREAS, guided throughout her life by her deep and abiding faith, Dora Harris enjoyed worship and fellowship with her community at various churches over the years and since 2003 was a devoted member of Grove Church in Portsmouth, where she gave generously of her time in various leadership positions; and

WHEREAS, Dora Harris will be fondly remembered and dearly missed by her loving husband of 65 years, Warren; her children, Warren, Derryl, and David, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Dora McGlone Harris, a noteworthy educator and beloved member of the Portsmouth community who had a profound and lasting impact on innumerable lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dora McGlone Harris as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 87

Celebrating the life of Ruth Ann Whitby Greene.

Agreed to by the Senate, January 14, 2021

WHEREAS, Ruth Ann Whitby Greene, an esteemed educator and beloved member of the Northern Neck community, died on August 13, 2020; and

WHEREAS, after graduating from the University of South Dakota in 1992 with a master's degree in management information systems, Ruth Greene joined the faculty at Rappahannock Community College (RCC) in 1996, where over the next 24 years she would guide countless students on their path to success; and

WHEREAS, starting as an adjunct instructor in the RCC Workforce Adult Basic Education Program, Ruth Greene later served as a professor of business and information technology for more than two decades while holding leadership positions with various RCC and Virginia Community College System (VCCS) programs, committees, and initiatives; and

WHEREAS, as head of the business management program at RCC, Ruth Greene championed the adoption of open educational resources and low-cost textbooks, easing the financial burden for students and making the school more accessible to all; and

WHEREAS, a passionate proponent for the implementation of technology in education, Ruth Greene sponsored three tech summits for VCCS faculty at RCC from 2008 to 2011 and spearheaded RCC's adoption of many technological innovations, such as interactive video and electronic course software; and

WHEREAS, in recognition of her efforts to incorporate technology into the classroom, Ruth Greene was a three-time winner of a Technology in Education Award at the VCCS New Horizons Conference, which she also chaired in 2014; and

WHEREAS, deeply committed to the well-being and professional growth of her colleagues, Ruth Greene regularly provided teaching presentations to RCC instructors, mentored new faculty, and chaired the VCCS Mid-Central Regional Center for Teaching Excellence from 2010 to 2013; and

WHEREAS, Ruth Greene gave generously of her time and talents as a volunteer with the Northern Neck Ladies Seminar and at the Northern Neck Regional Jail; in recognition of her tireless efforts, she was the first recipient of the Northern Neck Regional Jail's Ruth Greene Award for Service, which was established in her honor in 2017; and

WHEREAS, Ruth Greene will be lovingly remembered and dearly missed by her husband, Michael, Sr.; her children, Michael II, Matthew, and Rebekah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Ruth Ann Whitby Greene, a distinguished educator who transformed innumerable lives through her unwavering faith and dedication; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ruth Ann Whitby Greene as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 88

Celebrating the life of Robert Gene LeRosen.

Agreed to by the Senate, January 14, 2021

WHEREAS, Robert Gene LeRosen, an honorable veteran, esteemed educator, and beloved member of the Glen Allen community, died on August 8, 2020; and

WHEREAS, a native of Miami, Florida, Robert "Bob" LeRosen proudly served his country with great courage and valor as a member of the United States Army; and

WHEREAS, after receiving a bachelor's degree from Berry College, Bob LeRosen earned a master's degree and doctoral degree from American University and embarked upon a 40-year career in higher education; and

WHEREAS, as a professor of business at Northern Virginia Community College, Bob LeRosen passionately fostered the intellectual curiosity and ambitions of innumerable young people over the years, contributing greatly to their success both in and out of the classroom; and

WHEREAS, Bob LeRosen was the consummate family man, who enjoyed hiking and camping with his children, spending time with his beloved wife, Genene, and building sandcastles with his grandchildren; and

WHEREAS, highly intelligent and well-read, Bob LeRosen was admired by colleagues and friends for his ability to clearly and articulately express his views, while always remaining open to the perspectives of others; and

WHEREAS, Bob LeRosen will be lovingly remembered and dearly missed by his wife, Genene; his children, Scott, John, Robin, Rachel, Lauren, Jessie, and Calla, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Robert Gene LeRosen, a veteran and educator whose friendly and kind nature led him to have a profound and lasting impact upon countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert Gene LeRosen as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 89

Commending Tressie McMillan Cottom.

Agreed to by the Senate, January 14, 2021

WHEREAS, Tressie McMillan Cottom, an esteemed professor at the University of North Carolina at Chapel Hill and a former member of the faculty at Virginia Commonwealth University, received the prestigious MacArthur Fellowship in 2020; and

WHEREAS, the MacArthur Foundation bestowed the MacArthur Fellowship, colloquially known as the "genius grant," upon Tressie McMillan Cottom for "shaping discourse on highly topical issues at the confluence of race, gender, education, and digital technology for broad audiences"; and

WHEREAS, after earning a doctorate in sociology from Emory University's Laney Graduate School in 2015, Tressie McMillan Cottom taught at Virginia Commonwealth University, where she developed the school's Race, Place, and Space Initiative, a community of scholars and artists that advanced the study of race and racism in society through a lecture series and "unConference" events; and

WHEREAS, in 2016, Tressie McMillan Cottom adapted her doctoral thesis into her first book, *Lower Ed: The Troubling Rise of For-Profit Colleges in the New Economy*, providing a vital study of how societal inequalities fueled the growth of for-profit colleges and shaped the higher education landscape in the 21st century; and

WHEREAS, in her 2019 collection of essays, a National Book Award finalist entitled *THICK: And Other Essays*, Tressie McMillan Cottom applies ethnographic research methods and draws from the Black feminist intellectual tradition to provide penetrating insights into the lives of Black women in America today; and

WHEREAS, Tressie McMillan Cottom is currently a member of the faculty at the University of North Carolina at Chapel Hill, where she serves as an associate professor in the School of Information and Library Science and as a senior research fellow at the Center for Information, Technology and Public Life; she is also a faculty affiliate at the Harvard University Berkman Klein Center for Internet and Society; and

WHEREAS, as an author, professor, and co-host of the podcast *Hear to Slay*, as well as through news columns, television appearances, congressional testimonies, and a Twitter following of more than 150,000, Tressie McMillan Cottom has brought greater awareness to the myriad social problems impacting our world, while demonstrating how academics and intellectuals may effectively contribute to the public discourse; now, therefore, be it

RESOLVED by the Senate of Virginia, That Tressie McMillan Cottom, a distinguished professor at the University of North Carolina at Chapel Hill and a leading intellectual in the study of race, gender, education, and digital technology, hereby be commended for receiving a 2020 MacArthur Fellowship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tressie McMillan Cottom as an expression of the Senate of Virginia's heartfelt admiration for her inspiring and meritorious accomplishments.

SENATE RESOLUTION NO. 90

2021 Senate operating resolution.

Agreed to by the Senate, January 13, 2021

RESOLVED by the Senate of Virginia, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate, to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Committee on Rules during the 2021 Session. Necessary payments to cover salaries of temporary employees, per diem for legislative assistants who establish a temporary residence, and certain employees designated by the Clerk and reported to the Chair of the Senate Committee on Rules, as well as other contingent and incidental expenses, will be certified by the Clerk of the Senate or her designee.

SENATE RESOLUTION NO. 91

Expressing the censure of the Senate.

Agreed to by the Senate, January 27, 2021

WHEREAS, Senator Amanda F. Chase, a member of the Senate of Virginia since 2016, has exhibited conduct unbecoming of a Senator during her terms in office by displaying a disregard for civility in discourse with colleagues, making false and misleading statements both in committee and on the Senate floor, and displaying a disregard for the significance of her duty to the citizens of the Commonwealth as an elected representative in the Senate of Virginia; and

WHEREAS, Senator Amanda F. Chase's pattern of unacceptable conduct has been publicly displayed in a series of incendiary incidents during her tenure, including the following:

1. On March 22, 2019, Senator Chase berated a Capitol Police officer on duty when the Senator was not given access to a restricted parking area in front of the Capitol, reportedly stating, "Do you know who I am? . . . I'm Senator Chase . . . Don't you see it on my license plate? . . . But I guess you don't care." The report of the incident indicates that Senator Chase addressed the officer profanely and made offensive remarks regarding the Clerk of the Senate. Following the incident, Senator Chase suggested that the officer's actions, which were in the normal course of duty, had been racially motivated in reaction to the Senator's "white privilege"; and

2. Senator Chase used her social media page to recklessly identify the names and office contact information of colleagues, Democratic and Republican, whose legislation and votes she disagreed with. Expressing outrage, and in an attempt to intimidate fellow legislators over policy differences, Senator Chase urged her social media followers to voice their dissent directly, resulting in several legislators and aides receiving threats; and

3. In discussing on social media her personal choice to carry a weapon, Senator Chase blamed victims of sexual assault for not fending off their attackers, making the damaging and indefensible claim that "It's those who are naive and unprepared that end [up] raped"; and

4. After another Senator announced her candidacy for Governor of Virginia, Senator Chase decried "identity politics" in the gubernatorial race and suggested that, because her fellow Senator is vice-chair of the Virginia Legislative Black Caucus, she is "not for all Virginians"; and

5. During the COVID-19 pandemic, Senator Chase undermined the seriousness of the pandemic by stating, "I don't do COVID"; and

6. Following the 2020 presidential election, Senator Chase implicated both major political parties in baseless claims of a "stolen" election, asserting, "Make no mistake. We are at war. The Democratic Party hijacked our 2020 Presidential Election and [has] committed treason. Where the hell are the Republicans?"; and

7. Senator Chase claimed that "The Virginia Democratic Party is racist to its core," after Democratic officials asked a white local registrar to step down over issues relating to management of the 2020 election; and

8. In the aftermath of the unfortunate events and riots at the United States Capitol on January 6, 2021, Senator Chase voiced support for those who participated in storming the United States Capitol, calling them "[p]atriots who love their country" and propagating unfounded claims regarding the nature of the events, the identities of those who took part, and the validity of the presidential election. When given the opportunity to specifically denounce and repudiate those individuals at the January 6 riot who (i) were proponents of white supremacy; (ii) wore T-shirts and other attire emblazoned with anti-Semitic messaging; and (iii) breached the United States Capitol grounds barricades, broke into the Capitol when the United States Congress was in session, and disturbed and defaced the Capitol, Senator Chase declined to do so. The destruction and violence at the United States Capitol was the first occasion that the defenses of the United States Capitol have been breached since the War of 1812; led to multiple deaths, including that of a United States Capitol Police officer; injured numerous others; desecrated the United States Capitol; resulted in property destruction; threatened the lives and

safety of those who are entrusted with carrying out the will of the American people; and required an emergency response from 200 Virginia State Troopers and 1,300 members of the Virginia National Guard, who were put in harm's way to quell the violence and restore order; and

WHEREAS, Article IV, Section 7 of the Constitution of Virginia provides that each house of the General Assembly may "punish [its members] for disorderly behavior"; and

WHEREAS, Rules 18 (h) and 53 (b) of the Senate provide that the Senate may, by a majority vote, censure one of its members and place the member last in seniority; and

WHEREAS, the inflammatory statements and actions of Senator Amanda F. Chase during her tenure in the Senate of Virginia have created and aggravated tensions, misled constituents and citizens, and obstructed the Senate's business in service of the Commonwealth, and such behavior constitutes a failure to uphold her oath of office, misuse of office, and conduct unbecoming of a Senator and, collectively, has caused a material effect upon the conduct of her office; now, therefore, be it

RESOLVED by the Senate, That the Senate of Virginia does censure Senator Amanda F. Chase and place Senator Amanda F. Chase last in seniority for failure to uphold her oath of office, misuse of office, and conduct unbecoming of a Senator.

SENATE RESOLUTION NO. 92

Celebrating the life of Luther Hilton Foster.

Agreed to by the Senate, January 21, 2021

WHEREAS, Luther Hilton Foster, a respected teacher, counselor, and school administrator, who was a champion for African American students in the Commonwealth in the early 20th century, died on July 6, 1949; and

WHEREAS, a native of Clover, Luther Foster was born in 1888 and attended public schools in Halifax County; he subsequently graduated from Saint Paul's Polytechnic Institute, now Saint Paul's College, in Lawrenceville and the University of Chicago School of Commerce and Business Administration; and

WHEREAS, Luther Foster began his career in education as a public school teacher, then worked as a bookkeeper at Saint Paul's Polytechnic Institute for several years, before becoming the treasurer and business manager of Virginia Normal and Industrial Institute, now Virginia State University, in 1913; and

WHEREAS, in 1943, Luther Foster was selected as the fourth president of Virginia Normal and Industrial Institute, having previously served as acting president, and served in that capacity until his death; and

WHEREAS, Luther Foster was the founder or member of several organizations designed to help African American students achieve a good education and become successful leaders in their professions and communities; and

WHEREAS, Luther Foster offered his expertise to the Boy Scouts of America as an advisor, was a member of the Ancient Free and Accepted Masons, and enjoyed fellowship and worship with the Episcopal Church; and

WHEREAS, Luther Foster also served as a member of the executive board of the Protestant Episcopal Diocese of Southern Virginia and a trustee and board member of Bishop Payne Divinity School; and

WHEREAS, in 1950, Nottoway County Public Schools named Luther H. Foster High School in Luther Foster's honor; the student activities building at Virginia State University also bears his name; and

WHEREAS, among numerous awards and accolades, Luther Foster received honorary degrees from Morris Brown College at Atlanta University and Virginia Union University; and

WHEREAS, Luther Foster married Daisy Octavia Poole of Surry County in 1913, and the couple had three children, Luther, Jr., Virginia, and Mary; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Luther Hilton Foster, a highly admired educator who fought to ensure equity in education for African Americans; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Luther Hilton Foster as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 93

Nominating a person to be elected as the Auditor of Public Accounts.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as the Auditor of Public Accounts as follows:

Staci A. Henshaw, of Dinwiddie, as the Auditor of Public Accounts for a term of four years commencing February 1, 2021.

SENATE RESOLUTION NO. 94

Celebrating the life of Madison Boyd, Jr.

Agreed to by the Senate, January 28, 2021

WHEREAS, Madison Boyd, Jr., an esteemed general contractor, a devoted spiritual mentor to young people, and a beloved member of the Lancaster County community, died on April 12, 2020; and

WHEREAS, for many years, Madison Boyd lived and worked in the Washington, D.C. metropolitan area, where he was initially employed by Bionetics Research Laboratories in the early 1960s through the early 1970s; and

WHEREAS, after leaving Bionetics Research Laboratories, Madison Boyd founded a heating and air conditioning business, which he would later expand into a general contracting company; through his company, he served countless customers in the Washington, D.C., metropolitan area with honesty and integrity for nearly a half-century; and

WHEREAS, relocating to Lancaster County in 2005, Madison Boyd demonstrated a strong commitment to the betterment of his community through various actions and deeds; he served as a math tutor for area youth, led Bible studies, volunteered with the Boys & Girls Clubs of the Northern Neck, actively supported his local chapter of the NAACP, and coached in a church softball league; and

WHEREAS, with firm determination to address the problem of recidivism impacting his community, Madison Boyd founded the 2nd Chances Ministry in 2012, offering spiritual guidance and other encouragement to young men and women who had run afoul of the law and were looking to get their lives back on the right path; and

WHEREAS, Madison Boyd recently established the 2nd Chances Ministry as an official ministry of the Northern Neck Baptist Association, Inc., leaving a legacy that will continue to meaningfully improve the lives of young people for years to come; and

WHEREAS, an experienced waterman and avid fisherman, Madison Boyd was a dedicated member of the Tidewater Oyster Gardeners Association, contributing greatly to the organization's conservation and education initiatives; and

WHEREAS, guided throughout his life by his deep and abiding faith, Madison Boyd enjoyed worship and fellowship with his community at several churches over the years, including Beulah Baptist Church and Hartswell Baptist Church, both in Lancaster County, and First Baptist Church of Merrifield in Falls Church, where he served as a trustee; and

WHEREAS, preceded in death by his first wife, Delois, and his second wife, Vernell, Madison Boyd will be fondly remembered and dearly missed by his children, Rosa, Barbara, Marenita, Anne, Joyce, Joy, Barney, Noland, Bruce, and Anthony, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Madison Boyd, Jr., a treasured member of the Lancaster County community whose kindness and devotion left a profound and lasting impression on innumerable lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Madison Boyd, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 95

Supporting the establishment of a commemorative commission to honor Booker T. Washington with a statue in the Old Senate Chamber.

Agreed to by the Senate, February 4, 2021

WHEREAS, educator, orator, and activist Booker T. Washington's life and legacy is deeply tied to his roots in Virginia; and

WHEREAS, born into slavery in Franklin County, Booker T. Washington spent his childhood in Virginia until, after emancipation, he moved with his family to West Virginia, where, at age nine, he began working in salt furnaces and coal mines; during this time, he learned to read and write; and

WHEREAS, determined to continue his education, Booker T. Washington returned to Virginia and enrolled in Hampton Normal and Agricultural Institute, now Hampton University; he excelled as a student and after graduating returned to teach at Hampton Institute; and

WHEREAS, his time at Hampton Institute guided Booker T. Washington in founding Tuskegee Normal and Industrial Institute in Alabama in 1881; at the time of its establishment, Tuskegee Institute's first class held only 30 students, but in less than a decade the school expanded its enrollment to more than 1,000 students; and

WHEREAS, Booker T. Washington worked tirelessly to bridge racial divides, to make education available to all, and to advance civil rights; and

WHEREAS, in closing his autobiography, *Up from Slavery*, Booker T. Washington describes returning to Virginia at the invitation of African American citizens of Richmond to speak to an integrated audience that included the members of the Senate and the House of Delegates, who voted to attend as a body, a testament to his life's work toward racial reconciliation; and

WHEREAS, in recognition of his legacy and contributions to the Commonwealth, it is fitting that Booker T. Washington be honored with a statue in the Old Senate Chamber; now, therefore, be it

RESOLVED, That the Senate of Virginia support the establishment of a commemorative commission to honor Booker T. Washington with a statue in the Old Senate Chamber; and, be it

RESOLVED FURTHER, That the Chairman of the Senate Committee on Rules be requested to establish a commemorative commission (the Commission) that shall consist of the Chairman of the Senate Committee on Rules, who shall serve as chairman thereof, the Clerk of the Senate, and four other Senate members to be appointed by the Chairman of the Senate Committee on Rules.

The Commission shall study and recommend to the Senate of Virginia an appropriate statue in the Old Senate Chamber to commemorate the life, achievements, and legacy of Booker T. Washington. The Capitol Square Preservation Council shall review the Commission's recommendation prior to the recommendation being made to the Senate. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

Until completion of the Commission's work or the erection of the statue, whichever occurs later, the Commission shall report annually by December 1 the status of its work, including any findings and recommendations, to the Senate of Virginia, beginning on December 1, 2021. The report shall be posted on the General Assembly's website.

SENATE RESOLUTION NO. 96

Commending Elizabeth Stamoulis Via-Gossman.

Agreed to by the Senate, January 28, 2021

WHEREAS, Elizabeth Stamoulis Via-Gossman, assistant city manager of the City of Manassas, who has ably guided the planning decisions of localities throughout the Commonwealth for more than 30 years, was named to the College of Fellows of the American Institute of Certified Planners in 2020; and

WHEREAS, Elizabeth Via-Gossman received a bachelor's degree in historic preservation from the University of Mary Washington in 1985 and a master's degree in urban and regional planning from The George Washington University in 1992; and

WHEREAS, Elizabeth Via-Gossman contributed to innovative and inclusive community planning in the Counties of Henrico and Prince William and the City of Hampton, but has spent the majority of her career with the City of Manassas, serving the locality as its director of community development from 1990 to 2020 and as its assistant city manager thereafter; and

WHEREAS, over Elizabeth Via-Gossman's tenure, Manassas has transformed into a significant arts and entertainment destination in the Washington, D.C. metropolitan area, with her strategic plans encouraging a proliferation of downtown restaurants and venues that draw visitors from near and far; and

WHEREAS, Elizabeth Via-Gossman has championed transit-oriented design, including the implementation of a commuter rail to Washington, D.C. that has improved residents' commutes and added residential value to the community of Manassas; and

WHEREAS, the Manassas Neighborhood Services Program that Elizabeth Via-Gossman spearheaded from 2006 to 2017 was recognized for its innovation in 2011 with a President's Award from the Virginia Municipal League; and

WHEREAS, dedicated to cultivating excellence in her industry, Elizabeth Via-Gossman is a past president of the Virginia chapter of the American Planning Association and has been a member of the American Institute of Certified Planners since 1993; and

WHEREAS, with great sagacity and vision for fostering a vibrant and thriving community, Elizabeth Via-Gossman has helped make Manassas a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate of Virginia, That Elizabeth Stamoulis Via-Gossman, assistant city manager of the City of Manassas, hereby be commended on the occasion of being inducted to the College of Fellows of the American Institute of Certified Planners; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Elizabeth Stamoulis Via-Gossman as an expression of the Senate of Virginia's profound admiration for her contributions to Manassas and the Commonwealth.

SENATE RESOLUTION NO. 97

Celebrating the life of Gloria Mae Benton Walker.

Agreed to by the Senate, January 28, 2021

WHEREAS, Gloria Mae Benton Walker, an active and beloved member of the Portsmouth community who was cherished by many for her boundless wisdom and compassion, died on January 3, 2021; and

WHEREAS, born in Chesapeake and raised in Portsmouth, Gloria Walker graduated from I.C. Norcom High School in 1945; and

WHEREAS, Gloria Walker worked hard in several industries throughout her career, including sales, transportation, and child care, and was notably one of the first female bus drivers for Norfolk Naval Shipyard, where she was a member of the Officer's Club and retired in 1989; and

WHEREAS, Gloria Walker was known throughout her community for her gracious and compassionate nature, providing many students with financial support over the years and offering groceries to those in need without hesitation; and

WHEREAS, Gloria Walker was an accomplished musician who brightened several church and local musical groups with her superb alto voice and charmed innumerable nursing home residents with her talented piano work; and

WHEREAS, an active and engaged member of her community, Gloria Walker was highly involved in myriad organizations, including the Order of Calanthe, the Order of the Eastern Star, the Brighton/Prentis Park Civic League, and the NAACP; and

WHEREAS, guided throughout her life by her deep and abiding faith, Gloria Walker enjoyed worship and fellowship with her community at Third Baptist Church in Portsmouth, where she served in various leadership positions and supported several ministries; and

WHEREAS, preceded in death by her sons Elton and Raymond, Gloria Walker will be fondly remembered and dearly missed by her loving husband of 74 years, Willie, Sr.; her children, Willie, Jr., Evelyn, Ernest, Kenneth, Yvette, and David; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Gloria Mae Benton Walker, a treasured member of the Portsmouth community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Gloria Mae Benton Walker as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 98

Celebrating the life of Mary Holley.

Agreed to by the Senate, January 28, 2021

WHEREAS, Mary Holley, an esteemed educator, civil rights advocate, and beloved member of the Portsmouth community, died on December 31, 2020; and

WHEREAS, born and raised in New Jersey, Mary Holley studied at Virginia Union University, where she supported many of her peers as a dormitory house mother; and

WHEREAS, Mary Holley was an accomplished educator who supported the intellectual and emotional development of innumerable children, contributing greatly to their success both in and out of the classroom; and

WHEREAS, Mary Holley and her husband, the Honorable James W. Holley III, the former mayor of Portsmouth, were frontline proponents of the civil rights movement, advancing many initiatives to promote inclusivity over their lifetimes; notably, they hosted the Reverend Martin Luther King, Jr., at their home during his visits to Portsmouth in 1961 and 1963; and

WHEREAS, preceded in death by her husband, James, Mary Holley will be fondly remembered and dearly missed by her children, Omar, James IV, Cheryl, and Robin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Mary Holley, a cherished member of the Portsmouth community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary Holley as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 99

Nominating persons to be elected to circuit court judgeships.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

Brenda C. Spry, Esquire, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing February 16, 2021.

The Honorable Junius P. Fulton, III, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Kimberley S. White, of Halifax, as a judge of the Tenth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Patricia Kelly, of Caroline, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Michael E. Levy, of Stafford, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Lisa Bondareff Kemler, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing March 1, 2021.

The Honorable John M. Tran, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable G. Carter Greer, of Martinsville, as a judge of the Twenty-first Judicial Circuit for a term of eight years commencing March 1, 2021.

The Honorable James J. Reynolds, of Danville, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable David B. Carson, of Roanoke City, as a judge of the Twenty-third Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Bruce D. Albertson, of Rockingham, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Deanis L. Simmons, of Bristol, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Jack S. Hurley, Jr., of Tazewell, as a judge of the Twenty-ninth Judicial Circuit for a term of eight years commencing February 1, 2021.

The Honorable Tammy S. McElyea, of Lee, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Carroll A. Weimer, Jr., of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2021.

SENATE RESOLUTION NO. 100

Nominating persons to be elected to general district court judgeships.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Vivian F. Henderson, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing February 1, 2021.

The Honorable Tasha D. Scott, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Tyneka L. D. Flythe, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable M. Scott Stein, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable Tonya Henderson-Stith, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing May 1, 2021.

The Honorable David M. Hicks, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Jacqueline S. McClenney, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing December 1, 2021.

The Honorable Mansi J. Shah, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing February 1, 2021.

The Honorable B. Craig Dunkum, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable John K. Honey, Jr., of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing November 1, 2021.

The Honorable Manuel A. Capsalis, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Michael J. Lindner, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable William J. Minor, Jr., of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Tina L. Snee, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Jacqueline F. Ward Talevi, of Roanoke, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2021.

The Honorable Stephanie S. Maddox, of Amherst, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Amy B. Tisinger, of Shenandoah, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Erin J. DeHart, of Bland, as a judge of the Twenty-seventh Judicial District for a term of six years commencing July 1, 2021.

The Honorable Gino W. Williams, of Floyd, as a judge of the Twenty-seventh Judicial District for a term of six years commencing April 1, 2021.

The Honorable Robert P. Coleman, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2021.

SENATE RESOLUTION NO. 101

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Lyn M. Simmons, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing September 17, 2021.

The Honorable Jacqueline R. Waymack, of Prince George, as a judge of the Sixth Judicial District for a term of six years commencing June 1, 2021.

The Honorable John E. Franklin, of Fredericksburg, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Frank G. Uvanni, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Thomas P. Sotelo, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2021.

The Honorable Timothy W. Allen, of Franklin County, as a judge of the Twenty-second Judicial District for a term of six years commencing July 1, 2021.

The Honorable Hilary D. Griffith, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing July 1, 2021.

The Honorable Melissa W. Friedman, of Roanoke City, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2021.

The Honorable Jeffrey P. Bennett, of Amherst, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Hugh David O'Donnell, of Rockingham, as a judge of the Twenty-sixth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Robert C. Viar, Jr., of Montgomery, as a judge of the Twenty-seventh Judicial District for a term of six years commencing May 1, 2021.

The Honorable Joseph B. Lyle, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2021.

The Honorable Michael J. Bush, of Russell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing April 1, 2021.

The Honorable Martha P. Ketron, of Russell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing February 1, 2021.

SENATE RESOLUTION NO. 102

Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

Terrie N. Thompson, of Chesapeake, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.

SENATE RESOLUTION NO. 103

Nominating persons to be elected as members of the State Corporation Commission.

Agreed to by the Senate, January 26, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected as members of the State Corporation Commission as follows:

The Honorable Angela L. Navarro, of the City of Charlottesville, to succeed Mark C. Christie as a member of the State Corporation Commission for an unexpired term commencing February 1, 2021, and ending January 31, 2022.

The Honorable Jehmal T. Hudson, of the City of Richmond, as a member of the State Corporation Commission for an unexpired term commencing February 1, 2021, and ending January 31, 2026.

SENATE RESOLUTION NO. 104

Celebrating the life of the Honorable Leslie D. Campbell, Jr.

Agreed to by the Senate, February 4, 2021

WHEREAS, Leslie D. Campbell, Jr., a respected attorney and public servant who represented the residents of the 29th District in the Senate of Virginia for three terms, died on December 26, 2020; and

WHEREAS, a proud, lifelong resident of Hanover County, Leslie "Les" Campbell learned the value of hard work and responsibility at a young age, helping to tend to his family's farm and care for his siblings; and

WHEREAS, Les Campbell joined many of the other young men of his generation in service to the nation as a member of the United States Navy during World War II; after his honorable military service, he graduated from Randolph-Macon College and the T.C. Williams School of Law at the University of Richmond; and

WHEREAS, Les Campbell went on to serve the community as an attorney for more than 50 years and provided his expertise as a substitute judge of the 15th Judicial Circuit of Virginia; he was elected as Hanover County's attorney for the Commonwealth in 1955 and served in that capacity until 1963; and

WHEREAS, desirous to be of further service, Les Campbell ran for and was elected to the Senate of Virginia and ably represented the residents of the 29th District with the utmost integrity and dedication from 1964 to 1976; and

WHEREAS, during his tenure as a state lawmaker, Les Campbell introduced and supported many important pieces of legislation to benefit all Virginians and offered his leadership and insights to the Transportation Committee and the Finance Committee; he also helped young people engage with state government as chair of the YMCA Model General Assembly program; and

WHEREAS, Les Campbell served on the boards of directors of Hanover National Bank and First Virginia Bank and was a member of local Kiwanis and Ruritan clubs, as well as many other civic and service organizations; he also served on a committee to revitalize the Camptown Races held on Meadow Farm near Doswell; and

WHEREAS, Les Campbell was a talented athlete throughout his life; he played football at Randolph-Macon College and for a semi-professional team in Richmond, and he also took up tennis, sailing, and catamaran racing, winning a national catamaran championship in 1969; and

WHEREAS, Les Campbell was proud of his Scottish heritage and built his home "Lochland" overlooking Campbell Lake; he hosted community ice skating parties and was an avid gardener who imparted his love of horticulture to his children; and

WHEREAS, Les Campbell will be fondly remembered and greatly missed by his children, Sally, Mary Scott, Dee, and Jenny, and their families; his former wife, Eleanor; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Leslie D. Campbell, Jr., a highly admired attorney and public servant who made many contributions to Hanover County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Leslie D. Campbell, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 105

Commending the Virginia Piedmont Heritage Area Association.

Agreed to by the Senate, February 4, 2021

WHEREAS, in 1995, an area encompassing all or part of five counties in the northern Virginia Piedmont and the lower Shenandoah Valley was designated as the John Singleton Mosby Heritage Area in recognition of the area's role during the Civil War as a staging area for the 43rd Battalion, Virginia Cavalry, also known as Mosby's Raiders; and

WHEREAS, the John Singleton Mosby Heritage Area Association was created to preserve the beautiful natural landscape of the area and interpret historical sites and events throughout the area; and

WHEREAS, as part of the 25th anniversary celebration of the creation of the John Singleton Mosby Heritage Area, the John Singleton Mosby Heritage Area Association changed its name to the Virginia Piedmont Heritage Area Association to better reflect the organization's mission to promote not only Civil War history, but also the broader heritage of the region; and

WHEREAS, the Virginia Piedmont Heritage Area Association strives to cultivate a deeper understanding of the region's past, from Native American settlements through the 21st century, and to promote the area's unique cultural and natural resources; and

WHEREAS, the Virginia Piedmont Heritage Area Association offers adult education classes to stimulate thought-provoking, constructive discourse on numerous topics and provide scholarly context of local history; and

WHEREAS, the Virginia Piedmont Heritage Area Association has also partnered with other local organizations to develop the Piedmont Crossroads project, a comprehensive study of the region's past 500 years; and

WHEREAS, through the leadership of its 18-member board of directors and three full-time staff members, the Virginia Piedmont Heritage Area Association has allowed countless Virginians to benefit from the many historic, cultural, educational, and natural resources in the area; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Piedmont Heritage Area, formerly the John Singleton Mosby Heritage Area, be commended on the adoption of its new name; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jennifer Moore, president of the Virginia Piedmont Heritage Area Association, as an expression of the Senate of Virginia's admiration for the association's work to preserve the history and heritage of the Commonwealth.

SENATE RESOLUTION NO. 106

Celebrating the life of Avicia Beatrice Hooper Thorpe.

Agreed to by the Senate, February 4, 2021

WHEREAS, Avicia Beatrice Hooper Thorpe, an esteemed educator and beloved member of the Danville community who at the time of her passing was the oldest living citizen of the Commonwealth, died on December 24, 2020; and

WHEREAS, Avicia Thorpe was born in Schoolfield in 1908, more than four decades before the mill village would be annexed by the City of Danville; and

WHEREAS, despite being barred from the all-white school in her neighborhood, Avicia Thorpe persisted in getting an education, walking every day to a one-room schoolhouse that was located several miles away from her home; and

WHEREAS, ultimately completing her secondary education at Holbrook Presbyterian School in Danville, where she was valedictorian, Avicia Thorpe then graduated as salutatorian from Bluefield State College with a degree in social sciences; and

WHEREAS, Avicia Thorpe began her distinguished career in education at Westmoreland High School in Danville, teaching English there from 1933 to 1936; she then joined the faculty at the newly established John M. Langston High School in Danville in 1936, where she worked until her retirement in 1966; and

WHEREAS, teaching in a Black school during the Jim Crow era, Avicia Thorpe triumphed against adversity to ensure that her students would succeed both in and out of the classroom; and

WHEREAS, Avicia Thorpe founded a journalism program at John M. Langston High School and the school's newspaper, *The Langstonian*, which earned honors from the Columbia Scholastic Press Association; and

WHEREAS, Avicia Thorpe acquired a life membership in the NAACP during the civil rights movement of the 1960s, which provided funds to pay legal costs and attorney fees for activists involved in local demonstrations; she remained active in the organization and at the time of her passing was one of its oldest and longest-serving members; and

WHEREAS, Avicia Thorpe has received numerous awards and accolades in her lifetime, including a Teacher of the Year award from John M. Langston High School and the 1982 NAACP Citizen of the Year award; she also became the first diamond member of Alpha Phi Omega with 75 years of service; and

WHEREAS, guided throughout her life by her deep and abiding faith, Avicia Thorpe enjoyed worship and fellowship with the community at Trinity Baptist Church in Danville, where she helped lead the congregation alongside her husband, the Reverend C.M. Thorpe, for many years; and

WHEREAS, preceded in death by her loving husband, C.M., Avicia Thorpe will be fondly remembered and dearly missed by her great-niece, Adele, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Avicia Beatrice Hooper Thorpe, an accomplished educator and supercentenarian of Danville whose unwavering kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Avicia Beatrice Hooper Thorpe as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 107

Celebrating the life of Elizabeth Bateman Stone.

Agreed to by the Senate, February 4, 2021

WHEREAS, Elizabeth Bateman Stone, longtime general registrar of Henry County and one of the longest-serving registrars in the history of the Commonwealth, died on November 11, 2020; and

WHEREAS, Elizabeth "Liz" Bateman Stone joined the Henry County Registrar's Office in 1975 as deputy registrar and was appointed general registrar four years later; and

WHEREAS, Liz Stone proudly served the citizens of Henry County for 45 years, working tirelessly to manage the county's voter registration and to ensure the proper administration of its elections; and

WHEREAS, Liz Stone was a model public servant whose upstanding honor and integrity brought great distinction to the Henry County Registrar's Office; and

WHEREAS, throughout her illustrious tenure with the Henry County Registrar's Office, Liz Stone oversaw 12 elections for President of the United States, 11 elections for Governor of the Commonwealth, and hundreds of state and local elections; and

WHEREAS, working in conjunction with Henry County Public Schools, Liz Stone helped register high school seniors and teach them the importance of their civic duty; and

WHEREAS, as a testament to her unyielding commitment to her responsibilities as general registrar, Liz Stone heroically managed to close the polls at 7:00 p.m. on election day in 2020 despite being gravely ill; and

WHEREAS, preceded in death by her loving husband, Clifton, and her daughter, Deloris Ann, Liz Stone will be fondly remembered and dearly missed by her son, E.C., and his family; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Elizabeth Bateman Stone, general registrar of Henry County, whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elizabeth Bateman Stone as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 108

Celebrating the life of Bryan Wayne Galentine.

Agreed to by the Senate, February 4, 2021

WHEREAS, Bryan Wayne Galentine, an accomplished singer-songwriter and tireless advocate for amyotrophic lateral sclerosis patients and their families, died on October 22, 2020; and

WHEREAS, affectionately known by family, friends, and fans as "Bryan Wayne" or "BWayne," Bryan Galentine wrote the hit song "What If She's an Angel" recorded by Tommy Shane Steiner, which reached number 2 on the *Billboard* Hot Country Singles and Tracks chart in May 2002, and several other works for artists such as Big & Rich, Chris Cagle, Clay Walker, Rodney Carrington, Jason Blaine, and more; and

WHEREAS, Bryan Galentine cemented his legacy in the Nashville scene with his debut solo album, *While You Wait*, released in November 2018, which will endear him to fans new and old for years to come; and

WHEREAS, diagnosed with amyotrophic lateral sclerosis (ALS) in 2017, Bryan Galentine became a forceful advocate for ALS awareness and promoted greater understanding of the illness, commonly known as Lou Gehrig's disease, through various initiatives; and

WHEREAS, as cofounder of LG4Day, Bryan Galentine led a grassroots movement to encourage Major League Baseball to adopt an annual Lou Gehrig Day to honor the former star and bring attention to ALS; and

WHEREAS, in November 2020, it was confirmed that Major League Baseball will hold its first annual Lou Gehrig Day on June 2, 2021, an event that will serve as a lasting testament to Bryan Galentine's contributions to the cause; and

WHEREAS, Bryan Galentine also furthered ALS awareness by serving as an advisory board member with I AM ALS, a national advocacy organization, and through inspirational media outreach like his "Find the Good Stuff" Facebook page; and

WHEREAS, Bryan Galentine will be fondly remembered and dearly missed by his loving wife, Staci; his children, Grayson and Bennett; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Bryan Wayne Galentine, a respected singer-songwriter and health advocate whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bryan Wayne Galentine as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 109

Commending telehealth care providers in Virginia.

Agreed to by the Senate, February 4, 2021

WHEREAS, telehealth care providers in Virginia have helped meet the need for expanded health care resources during the COVID-19 pandemic; and

WHEREAS, telehealth includes the use of videoconferencing, the Internet, store-and-forward imaging, and other telecommunications technologies to support virtual patient health care; and

WHEREAS, telehealth care providers offer the remote delivery of clinical services via telecommunications technology, allowing patients to engage with health care providers while avoiding the in-person contact that may put them at risk of coronavirus transmission; and

WHEREAS, health care providers use telehealth as a way to safely provide care to their patients in appropriate situations, including routine wellness visits, medication consultation, dermatology, eye exams, nutrition counseling, and mental health counseling; and

WHEREAS, telehealth and remote care services have proven critical to the management of the COVID-19 pandemic, while also ensuring uninterrupted care for 100 million Americans with chronic or preexisting conditions; and

WHEREAS, by substituting the use of telemedicine for traditional in-person treatments, providers were able to conserve personal protective equipment for frontline practitioners during a time of limited supplies and increased need; and

WHEREAS, according to the Centers for Disease Control and Prevention, the 154 percent increase in telehealth visits during the last week of March 2020, compared with the same period in 2019, demonstrated early that telehealth would be an important tool during the pandemic; and

WHEREAS, organizations like the Mid-Atlantic Telehealth Resource Center and Virginia Telehealth Network experienced an 800 percent increase in requests for technical assistance services in late March 2020 and have seen large ongoing increases in such requests as compared to previous years; and

WHEREAS, telehealth services are proven to be evidence-based treatment alternatives to hospital admission, which can alleviate hospital bed capacity issues; and

WHEREAS, a recent survey from UVA Health that included more than 1,900 patients between April and June of 2020 found that 83.4 percent would consider more telehealth visits, especially during the COVID-19 pandemic, if they were offered; and

WHEREAS, the American Medical Association reports between 60 and 90 percent of physicians in the United States are now using some sort of telehealth service as a result of the COVID-19 pandemic; and

WHEREAS, providers across the Commonwealth have made significant investments in their capabilities to offer patients more telehealth treatment options, and both federal and state agencies have prioritized investments into broadband Internet service to expand the reach of telehealth to health care deserts; and

WHEREAS, the Commonwealth continues to address regulatory and reimbursement issues that are limiting providers from treating more patients in need of care; and

WHEREAS, according to the National Institutes of Health, telehealth is proven to increase access to, quality of, and satisfaction of care, while lowering the cost to deliver it; now, therefore, be it

RESOLVED by the Senate of Virginia, That telehealth care providers in Virginia hereby be commended for helping to ensure access to affordable, accessible health care for every Virginian no matter where they live, how much they earn, and what their medical condition may be; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of telehealth care providers in Virginia as an expression of the Senate of Virginia's admiration for their visionary use of technology to increase the health and wellness of all Virginians, especially during the COVID-19 pandemic.

SENATE RESOLUTION NO. 110

Celebrating the life of Thomas Henry Francis.

Agreed to by the Senate, February 4, 2021

WHEREAS, Thomas Henry Francis, an honorable veteran, devoted family man, retired transportation supervisor, and beloved member of the Chesterfield County community, died on January 11, 2021; and

WHEREAS, Thomas Francis was born in New York City on September 11, 1943, the son of William Bedford Francis and Flossie Carson; he was raised in Chesterfield County, where he attended Midlothian Elementary School and graduated from Carver High School, during the period of segregation; and

WHEREAS, Thomas Francis was a first-generation college student, earning a bachelor's degree in business studies at Virginia Union University; and

WHEREAS, as a student, Thomas Francis was active in the civil rights movement, participating in sit-ins and demonstrations, including the March on Washington for Jobs and Freedom in 1963, where he watched the Reverend Dr. Martin Luther King, Jr., deliver his "I Have a Dream" speech on the steps of the Lincoln Memorial; and

WHEREAS, Thomas Francis proudly served his country as a mechanic in the United States Air Force during the Cold War; and

WHEREAS, Thomas Francis was employed as a transportation supervisor, first at Brown & Williamson in Petersburg until its closure in 2004, then at Coors Brewing in Elkton, and finally at Swift Transportation until his retirement; and

WHEREAS, Thomas Francis became a tireless force within the Chesterfield County Democratic Committee, serving in many leadership roles, including as chair, and unfailingly attending meetings, recruiting new members, volunteering to organize and set up fundraising events, and supporting the Committee's agenda; and

WHEREAS, Thomas Francis served the Democratic Party of Virginia as treasurer of the Democratic Black Caucus for over a decade, a member of the 7th Congressional District Committee, and an alternate elector for President Barack Obama in 2012; and

WHEREAS, Thomas Francis worked on many political campaigns, including the Honorable Henry L. Marsh's successful bids for mayor of Richmond and state senator for the 16th District and the Honorable Tim Kaine's campaigns for Governor and the United States Senate, as well as many other state and local candidates; and

WHEREAS, Thomas Francis had most recently served as campaign chair and chief strategist for his beloved daughter-in-law, Quanda Francis, president of Sykes Capital Management, to support her campaign for mayor of New York City; and

WHEREAS, known as "the Sign Guy," Thomas Francis was a powerhouse for grassroots organizing, participating in voter registration drives, providing rides to the polls, helping to recruit and train poll workers, setting up and manning a booth at the Chesterfield County Fair, and, most recognizably, building big signs on the back of his truck to promote candidates running for office in Chesterfield County; and

WHEREAS, Thomas Francis's utter dismay at the tragic death of Brendon Mackey, killed by celebratory gunfire at a Fourth of July celebration in Sunday Park in Chesterfield County, drove him to advocate for Brendon's Law, which took effect on July 1, 2014, to prevent such tragedies; and

WHEREAS, Thomas Francis was a devout man of faith, serving in leadership positions with the African Methodist Episcopal conference for Central Virginia and the Mid-Atlantic regions and as a member of the Board of Stewards of Hood Temple AME Church, where he worshipped and sang in the famous Hood Temple Male Chorus, which had performed for President Barack Obama at the White House; and

WHEREAS, Thomas Francis was a devoted family man, husband to Edna Francis; father to Tyrone and Todd Francis, whose accomplishments made him so proud; and loving grandfather to five bright and talented grandchildren, Sierra, Isaiah, Madison, Kennedy, and Christian Francis, who meant the world to him and whose many successes in sports, academics, and service to the community were his pride and joy; and doting great-grandfather to his first great-grandchild and namesake, Chase Henry Francis; and

WHEREAS, Thomas Francis will be remembered for his huge laugh, his infectious sense of humor, his passion for politics and campaigning, his phone calls to check in and offer advice, his next big idea (and there always was one), and his work ethic, loving kindness, and generosity of spirit; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas Henry Francis, a veteran and beloved member of the Chesterfield County community who made a profound impact upon countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Henry Francis as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 111

Celebrating the life of Pauline Allen Mitchell.

Agreed to by the Senate, February 4, 2021

WHEREAS, Pauline Allen Mitchell, esteemed communications director for Chesterfield County, tireless community activist, and beloved member of the Powhatan community, died on September 24, 2020; and

WHEREAS, after attending Virginia Intermont College, where she was president of the Student Government Association, Pauline Mitchell later completed her degree in mass communications at Virginia Commonwealth University (VCU) while raising six young children, launching an illustrious career in communications and public relations; and

WHEREAS, various organizations benefited from Pauline Mitchell's talents and vision over the years, including WCVE-TV, the Virginia Department of Behavioral Health and Developmental Services, Lucy Corr, Ashton Mitchell and Associates, Mary Baldwin College, and Chesterfield County, which she served both as director of news and information and as director of special projects; and

WHEREAS, Pauline Mitchell invested great time and energy toward the betterment of her community; as a charter member of the Henricus Foundation, which she served variously as secretary, treasurer, vice chair, and chair over the years, her concept and execution were instrumental to the establishment of Henricus Historical Park in Chesterfield County; and

WHEREAS, Pauline Mitchell's volunteer service graced many other local organizations and nonprofits, including the Mid-Lothian Mines & Rail Roads Foundation, the James River Task Force, Virginia Civil War Trails, the Greater Richmond Tourism Association, and the Powhatan Civil War Round Table; and

WHEREAS, past president of both the Westwood Junior Women's Club and the Tri Club Women's Club, Pauline Mitchell was also a charter member of both the Salisbury Country Club and the Federal Hill Club in the Counties of Chesterfield and Powhatan, respectively; and

WHEREAS, Pauline Mitchell's remarkable career accomplishments earned her a bevy of awards and accolades, including honors from Virginia Press Women and the National Federation of Press Women and an induction into the VCU Richard T. Robertson School of Media and Culture's Virginia Communications Hall of Fame in 1998; and

WHEREAS, guided throughout her life by her faith, Pauline Mitchell enjoyed worship and fellowship with her community at St. Luke's Episcopal Church in Powhatan for more than 50 years; and

WHEREAS, preceded in death by her loving husband, Ashton, Jr., and her sons Ashton III and Timothy, Pauline Mitchell will be fondly remembered and dearly missed by her children, Paul, Mary, Susan, and Anne, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Pauline Allen Mitchell, an accomplished communications director and leader who always acted with grace and aplomb, touching countless lives in the community and especially those she mentored; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Pauline Allen Mitchell as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 112

Celebrating the life of the Reverend Dr. Willie Woodson.

Agreed to by the Senate, February 4, 2021

WHEREAS, the Reverend Dr. Willie Woodson, a spiritual leader and community activist who touched countless lives throughout the Richmond region, died on December 4, 2020; and

WHEREAS, a native of Richmond, Willie Woodson graduated from Armstrong High School and served his country as a member of the United States Air Force; he returned to Richmond in 1971 to care for his siblings after their mother's death and worked at the nearby Defense General Supply Center; and

WHEREAS, Willie Woodson continued his education with a bachelor's degree and a master of divinity degree from Virginia Union University, as well as a master's degree from what is now Union Presbyterian Seminary and a doctorate from Union Theological Seminary; and

WHEREAS, Willie Woodson answered the call to ministry at First United Presbyterian Church and led the congregation for 27 years, increasing community engagement, establishing a summer camp, and building additional support for church youth groups; and

WHEREAS, Willie Woodson subsequently became the pastor of Trinity Ghanaian Presbyterian Church; he was an active leader in the Presbytery of the James, including as moderator of the organization's Black Caucus; and

WHEREAS, Willie Woodson was a prolific author and a passionate educator who served as an adjunct instructor for a University of Lynchburg satellite program in Petersburg; he also volunteered to mentor students at Henderson Middle School and offered his expertise to the Richmond Public Schools strategic planning group; and

WHEREAS, for more than a decade, Willie Woodson celebrated the legacy of the Reverend Dr. Martin Luther King, Jr., and the civil rights movement as the executive director of the annual Living the Dream program; and

WHEREAS, Willie Woodson further strengthened the Richmond community as executive director of the nonprofit organization Citizens Against Crime and as a member of the Richmond Commission of Architectural Review, Boaz & Ruth, the Richmond Crusade for Voters, and the local NAACP; and

WHEREAS, Willie Woodson will be fondly remembered and greatly missed by his daughter, Beverly, and her family; his sisters, Jane and Felicia, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Reverend Dr. Willie Woodson, a faith and community leader in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Dr. Willie Woodson as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 113

Commending the Robert Russa Moton Museum.

Agreed to by the Senate, February 4, 2021

WHEREAS, in 2021, the Robert Russa Moton Museum, the only museum in the Commonwealth dedicated solely to the civil rights movement, celebrates the 20th anniversary of its establishment and the 70th anniversary of the R. R. Moton High School student strike; and

WHEREAS, frustrated by overcrowding and inferior facilities at R. R. Moton High School, Barbara Johns, then a 16-year-old junior at the school, met with several classmates and planned a student strike to protest the unacceptable conditions on April 23, 1951; and

WHEREAS, Barbara Johns and her fellow students also sought legal counsel from the NAACP, which agreed to provide assistance as long as the lawsuit would challenge the segregated school system; the ensuing case of *Davis v. County School Board of Prince Edward County* reached the Supreme Court of the United States along with four other similar cases and formed the basis of the landmark *Brown v. Board of Education* ruling; and

WHEREAS, *Davis v. County School Board of Prince Edward County* was the only school integration case initiated by a student strike, making Barbara Johns and her fellow students pioneers in the peaceful protests that became a hallmark of the civil rights movement; and

WHEREAS, in 1959, the Prince Edward County Board of Supervisors voted to defund and close schools rather than comply with integration orders, and beginning in 1963, former students organized nonviolent demonstrations in Farmville; and

WHEREAS, the student protests led to the establishment of the Prince Edward Free Schools, which students attended until the Supreme Court of the United States ruled in the case of *Griffin v. County School Board of Prince Edward County* that public schools must reopen; and

WHEREAS, in 1996, the Martha E. Forrester Council of Women in Farmville raised funds to purchase the historic R. R. Moton High School and saved the building from demolition; two years later, the building was designated as a National Historic Landmark, and in 2001, it opened to the public as a museum; and

WHEREAS, the Robert Russa Moton Museum features the original auditorium where Barbara Johns and her fellow students launched the strike, as well as other artifacts and memorabilia; and

WHEREAS, in 2013, the Robert Russa Moton Museum completed a significant renovation and developed a permanent exhibit, "The Moton School Story: Children of Courage," which tells the stories of both the walk-out generation of students who organized the strike in 1951 and the lock-out generation of students who went without schooling for five years, both in the brave pursuit of justice and equality; and

WHEREAS, the Robert Russa Moton Museum works with K-12 students from all over the country to teach civil rights history, and the museum serves as part of the Civil Rights in Education Heritage Trail; and

WHEREAS, the Robert Russa Moton Museum began a joint affiliation with Longwood University to preserve the museum's site and educational mission in perpetuity, building on the mission of both institutions to advance the cause of civil rights in education, help to serve as responsible stewards of the community, and ensure continued opportunity and progress for all; and

WHEREAS, the Robert Russa Moton Museum preserves and constructively interprets the history of civil rights in education, specifically as it relates to Prince Edward County and the leading role its citizens played in the transition from segregation toward integration in the United States; and

WHEREAS, the Robert Russa Moton Museum strives to promote dialogue and advance positions that ensure empowerment for all within a democratic society; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Robert Russa Moton Museum hereby be commended on the occasion of the 20th anniversary of its opening and the 70th anniversary of the R. R. Moton High School student strike; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Robert Russa Moton Museum as an expression of the Senate of Virginia's admiration for its service to the Commonwealth and unique role in the history of the civil rights movement.

SENATE RESOLUTION NO. 114

Commending Gilfield Baptist Church.

Agreed to by the Senate, February 4, 2021

WHEREAS, for more than 136 years, Gilfield Baptist Church has provided spiritual leadership, generous community outreach, and opportunities for joyful worship in the Baptist tradition to residents of Charles City; and

WHEREAS, Gilfield Baptist Church offers weekly worship services, as well as Bible study classes and other ministries; and

WHEREAS, Gilfield Baptist Church has benefited from the wise leadership of numerous pastors over the years and is currently led by the Reverend Michael L. Jones, Sr.; and

WHEREAS, over the course of its long history, Gilfield Baptist Church has cultivated strong community bonds and helped its members grow in faith; and

WHEREAS, Gilfield Baptist Church commemorated its 136th anniversary on September 27, 2020, with a special event featuring guest speakers and opportunities for congregants to participate virtually from the safety of their homes; now, therefore, be it

RESOLVED by the Senate of Virginia, That Gilfield Baptist Church hereby be commended on the occasion of its 136th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Gilfield Baptist Church as an expression of the Senate of Virginia's admiration for the church's legacy of contributions to the community.

SENATE RESOLUTION NO. 115

Celebrating the life of James Perry Wark.

Agreed to by the Senate, February 4, 2021

WHEREAS, James Perry Wark, an esteemed educator, accomplished musician, advocate for the hearing and vision impaired, and beloved member of the Richmond community, died on February 7, 2020; and

WHEREAS, a graduate of Minnechaug Regional High School in Wilbraham, Massachusetts, and the University of Hartford, James "Jim" Wark worked briefly in Augusta, Georgia, before settling in Richmond, where he would enjoy a growing community of friends, colleagues, and bandmates for the rest of his life; and

WHEREAS, a gifted communicator, Jim Wark worked in the advertising departments at both *Style Weekly* and the *Richmond Times-Dispatch* and later served as the publisher of *Style Weekly*; and

WHEREAS, inspired to contribute to the success of young people in his community, Jim Wark embarked upon a second career as an educator in his later years, earning a teaching degree from Mary Baldwin College and working as an elementary school teacher for Richmond Public Schools for five years; and

WHEREAS, Jim Wark's impact in the community was felt through his extensive work with Partnership for Families, a nonprofit organization supporting parents and children in the Richmond area, and Virginia Voice, a nonprofit organization broadcasting news and other informative programming for the benefit of individuals with vision impairment in the Commonwealth, for which he served as chief executive officer; and

WHEREAS, a passionate music lover, Jim Wark served on the Board of Directors of WRIR, Richmond Independent Radio, and was an influential volunteer with the Virginia Performing Arts Center Foundation and the Richmond Folk Festival; and

WHEREAS, a noteworthy musician in his own right, Jim Wark graced the stage with many of Richmond's cherished ensembles over the years, including the Janet Martin Band, Chrome Daddy Disco, Uncle Drew and the Powwhite Boys, Ron Moody and the Centaurs, Billy Ray Hatley and the Showdogs, Billy and the Buttons, the Super Sugar Beats, and the Taters, with whom he collaborated to present the area's popular Rock and Roll Jubilee; and

WHEREAS, Jim Wark will be fondly remembered and dearly missed by his loving wife, Mary; his children, Tom and Marella, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James Perry Wark, a treasured member of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Perry Wark as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 116

Celebrating the life of Rhea K. Hale.

Agreed to by the Senate, February 4, 2021

WHEREAS, Rhea K. Hale, an esteemed environmental sustainability advocate and professional, and a beloved member of the Richmond community, died on April 27, 2020; and

WHEREAS, Rhea Hale was born in Binghamton, New York, and graduated from Boston College and Duke University's Nicholas School of the Environment; and

WHEREAS, Rhea Hale devoted her career to protecting the environment and promoting sustainability, including work for IBM's Engineering Center for Environmentally Conscious Products, the U.S. Environmental Protection Agency, the American Forest and Paper Association, and WestRock; and

WHEREAS, Rhea Hale had a singular talent for seeing possibilities and having the persistence to bring them to life, the results of which have led to new possibilities in sustainable materials; and

WHEREAS, Rhea Hale is remembered by her friends and colleagues not only as a passionate and determined advocate for bettering our planet, but also as a kind, thoughtful, caring, and unfailing friend; and

WHEREAS, Rhea Hale brought a similar passion to the restoration of her 1835 home, Farmer's Rest, and the cultivation of a small vineyard on the property, where she spent many enjoyable hours working to produce Mourvèdre grapes for Stinson Vineyards in Crozet; and

WHEREAS, Rhea Hale will be deeply missed by her family, her friends, her colleagues, and all of those whom she touched during her life; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Rhea K. Hale, an accomplished environmental advocate and professional, and a cherished member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Rhea K. Hale as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 117

Commending Richmond Heritage Federal Credit Union.

Agreed to by the Senate, February 4, 2021

WHEREAS, for 85 years, Richmond Heritage Federal Credit Union has worked diligently to meet the financial needs of the Richmond community; and

WHEREAS, originally known as the Richmond Teachers Federal Credit Union, Richmond Heritage Federal Credit Union was established in 1936 with 10 founding members, all of whom were Virginia Union University graduates and Richmond Public Schools employees; and

WHEREAS, founded during the Great Depression, Richmond Teachers Federal Credit Union provided critical economic resources and access to capital to local teachers and Virginia Union University professors; and

WHEREAS, the charter of Richmond Teachers Federal Credit Union was subsequently expanded to include employees of Richmond Community Hospital and people living, working, and worshipping in the Blackwell, Swansboro, and Manchester communities; and

WHEREAS, in 1992, the credit union moved from Jackson Ward to its current location in Richmond's Manchester area and changed its name to the Richmond Heritage Federal Credit Union; and

WHEREAS, over the past 85 years, Richmond Heritage Federal Credit Union has grown to become a multi-million-dollar credit union, owned and operated by its over 2,100 members who continue to support the founder's legacy and mission; it is currently led by its fourth president and chief executive officer, Randy Neal Cooper; and

WHEREAS, as a voluntary, nonprofit, cooperative association of individuals, Richmond Heritage Federal Credit Union is highly responsive to the needs of its members and strives to provide efficient and effective financial services and expertise; and

WHEREAS, Richmond Heritage Federal Credit Union currently holds the distinction of being the oldest black financial institution in the Commonwealth, as well as having the most members of any such institution; now, therefore, be it

RESOLVED by the Senate of Virginia, That Richmond Heritage Federal Credit Union hereby be commended on the occasion of its 85th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Antione M. Green, chair of Richmond Heritage Federal Credit Union, as an expression of the Senate of Virginia's admiration for the institution's service to educators and the Richmond community.

SENATE RESOLUTION NO. 118

Commending Richmond Raceway.

Agreed to by the Senate, February 4, 2021

WHEREAS, in 2021, Richmond Raceway celebrates its 75th anniversary of providing an unparalleled and unique stock car racing experience for both fans and drivers; and

WHEREAS, Richmond Raceway traces its roots to 1946 when a half-mile racetrack was built at the Atlantic Rural Exposition fairgrounds in Henrico County; the first race at the dirt track was held on October 12, 1946; and

WHEREAS, Richmond Raceway hosted its first National Association for Stock Car Auto Racing (NASCAR) Grand National Division race on April 19, 1953, where future NASCAR Hall of Fame-inductee Lee Petty won the race with an average speed of 45.535 miles per hour; since then, the historic track has been home to numerous thrilling NASCAR contests of skill, speed, and technical prowess; and

WHEREAS, today, Richmond Raceway is the oldest active NASCAR Cup Series track on the East Coast and is one of the most important racing venues in the Commonwealth; in its lifetime, Richmond Raceway has undergone numerous name changes and configurations, and the original dirt track is now an asphalt surface; and

WHEREAS, racing fans have flocked to Richmond Raceway for its twice-yearly race weekends since 1959; the track's current configuration, built in 1988, is a three-quarter-mile-long, D-shaped oval, the only such track in NASCAR; lights were added 30 years ago in 1991, allowing Richmond to host popular nighttime races; and

WHEREAS, in 2018, Richmond Raceway partnered with Henrico County and the Commonwealth to complete the redevelopment of the historic infield, now known as the FanGrounds, making it one of the most fan-friendly infields in motorsports; and

WHEREAS, semiannual NASCAR race weekends feature the NASCAR Cup Series and either the NASCAR Xfinity Series or NASCAR Camping World Truck Series, and in 2021, Richmond Raceway welcomes back the NASCAR Whelen Modified Tour for the first time since 2002; and

WHEREAS, Richmond Raceway's events attract thousands of spectators to the Commonwealth year after year, many of whom stay on site or in hotels throughout the greater Richmond region to be part of the excitement, camaraderie, and world-class racing experience; millions more fans have viewed events at Richmond Raceway on national broadcast television; and

WHEREAS, stock car racing enthusiasts eagerly anticipate NASCAR racing at Richmond Raceway since the historic track is one of the most popular racing venues for racing fanatics and competitors, featuring the excitement and challenge of side-by-side racing; the track configuration allows drivers to reach speeds usually seen at large speedways, resulting in unforgettable experiences for the many devotees of the sport; and

WHEREAS, in addition to NASCAR races, hundreds of trade shows, concerts, and other events, the Richmond Raceway complex provides entertainment experiences for local residents and people from many states, delivering a strong economic impact for the Commonwealth; now, therefore, be it

RESOLVED by the Senate of Virginia, That Richmond Raceway hereby be commended on the occasion of its 75th anniversary in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jim France, chair and chief executive officer of NASCAR, Lesa Kennedy, executive vice chair of NASCAR, and Dennis Bickmeier, president of Richmond Raceway, as an expression of the Senate of Virginia's congratulations and admiration for its many years of offering world-class stock car racing in the Commonwealth and providing lasting memories for thousands of fans.

SENATE RESOLUTION NO. 119

Commending the Reverend Doug Barber.

Agreed to by the Senate, February 4, 2021

WHEREAS, the Reverend Doug Barber, beloved senior pastor at Westover Baptist Church in Danville, retired in December 2020; and

WHEREAS, raised in Danville, Doug Barber graduated from George Washington High School in 1962 and Danville Community College in 1964 before earning a bachelor's degree in business management from Georgia State University; and

WHEREAS, working briefly in Atlanta, Georgia and Greensboro, South Carolina, Doug Barber would heed the call to enter the ministry at the age of 24 and subsequently earn a master's degree in divinity from the former Temple Baptist Theological Seminary; and

WHEREAS, Doug Barber served as pastor in Gainesville, Georgia, in the 1980s before ultimately returning to Danville in 1991, just prior to the merger of Southall Baptist Church and Lynn Haven Baptist Church that created Westover Baptist Church, where he has preached ever since; and

WHEREAS, throughout his career, Doug Barber has presented more than 10,000 sermons and officiated at more than 1,000 funerals and 300 weddings, providing the community with uplifting spiritual leadership; and

WHEREAS, as pastor of Westover Baptist Church, Doug Barber also helps administer Westover Christian Academy, contributing greatly to the intellectual, emotional, and spiritual development of thousands of young people over the years; and

WHEREAS, Doug Barber's decades of faithful service are an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Doug Barber, senior pastor at Westover Baptist Church in Danville, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Doug Barber as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 120

Commending James Smith.

Agreed to by the Senate, February 4, 2021

WHEREAS, James Smith retired as superintendent of Richmond County Public Schools on January 29, 2021, after nearly 35 years of service to young people as an educator and school administrator; and

WHEREAS, James "Greg" Smith holds a bachelor's degree from James Madison University, a master's degree from Virginia Polytechnic Institute and State University, and a doctoral degree from Shenandoah University, and he began his career in education as a teacher with Stafford County Public Schools in 1985; and

WHEREAS, Greg Smith joined Louisa County Public Schools in 1989 as vocational director of Louisa County High School; he subsequently became assistant principal of the school, then served as principal from 1993 to 1996; and

WHEREAS, Greg Smith next worked for Shenandoah County Public Schools, first as principal of Central High School from 1996 to 2000, then as director of secondary education and campus supervisor until 2007, when he became superintendent of Carroll County Public Schools; and

WHEREAS, during his tenure with Carroll County Public Schools, Greg Smith oversaw the development of accountability standards that helped the school division receive accreditation four times, oversaw school renovations and enhancements to classroom technology, and implemented strategies to improve student attendance through partnerships with local entities; and

WHEREAS, in addition, Greg Smith cooperated with multiple school districts to establish the Blue Ridge Crossroads Governor's Academy for Technical Education, and under his leadership Fancy Gap Elementary School and Oakland Elementary School received National Blue Ribbon School Awards; and

WHEREAS, Greg Smith ultimately joined Richmond County Public Schools as superintendent on July 1, 2012, and ably served the school division for eight years; and

WHEREAS, Greg Smith has also inspired young men and women as an adjunct professor at George Mason University and Shenandoah University; he also worked with Radford University to implement leadership development programs for aspiring school administrators; and

WHEREAS, among his many other achievements, Greg Smith helped develop Virginia Virtual Academy, the first virtual public school in the Commonwealth; and

WHEREAS, outside of his career, Greg Smith volunteered with or supported Rotary International, Relay for Life, the Special Olympics, and many charitable events and activities; now, therefore, be it

RESOLVED by the Senate of Virginia, That James Smith hereby be commended on the occasion of his retirement as superintendent of Richmond County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to James Smith as an expression of the Senate of Virginia's admiration for his achievements in service to young people throughout the Commonwealth.

SENATE RESOLUTION NO. 121

Commending the Reverend Dr. Barbara L. Cain.

Agreed to by the Senate, February 4, 2021

WHEREAS, the Reverend Dr. Barbara L. Cain, founder and pastor of Abiding Faith Baptist Church in Kilmarnock, will conclude her term as the Moderator of the Northern Neck Baptist Association in 2021; and

WHEREAS, growing up in Northumberland County, Barbara Cain was a devoted member of Mount Olive Baptist Church in Wicomico Church, where she would later earn her ministerial license in 1997 prior to being ordained at Shiloh Baptist Church three years later; and

WHEREAS, Barbara Cain's educational pursuits earned her both a bachelor's degree and a master's degree in education from Virginia State University, a master's degree in divinity from Virginia Union University, and a doctoral degree in education from Southern Baptist Theological Seminary; and

WHEREAS, Barbara Cain taught for many years with Northumberland County Public Schools and Richmond County Public Schools and later served as a guidance counselor with Westmoreland County Public Schools, contributing to the success of numerous children; and

WHEREAS, during the 2018 annual session of the Northern Neck Baptist Association, Barbara Cain was voted to serve as Moderator, making history as the first female moderator in the organization's history; and

WHEREAS, prior to her selection as Moderator, Barbara Cain supported the Northern Neck Baptist Association in various leadership capacities, including service as education secretary and as chair of the scholarship committee; and

WHEREAS, Barbara Cain has ably led the Northern Neck Baptist Association throughout the COVID-19 pandemic and the civil unrest of 2020, helping countless members navigate the challenges the community faces; and

WHEREAS, Barbara Cain helped the Northern Neck Baptist Association grow during her tenure through new committees on land acquisition and social justice; collaborations with fellow Baptist associations leading to grants for new member churches; and receipt of the organization's first-ever grant, which will fund a tutorial advocacy program; and

WHEREAS, Barbara Cain's service as a spiritual mentor in the Northern Neck also includes terms as president of both the Northumberland County Ministerial Association and the Lancaster County Ministerial Association; and

WHEREAS, after concluding her term with the Northern Neck Baptist Association, Barbara Cain intends to enjoy spending more time with her children, Donald, Jr., and Tiffany, and their families; and to go salt water fishing as often as she can; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Dr. Barbara L. Cain, founder and pastor of Abiding Faith Baptist Church, hereby be commended for her service as Moderator of the Northern Neck Baptist Association on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Dr. Barbara L. Cain as an expression of the Senate of Virginia's high esteem and admiration for her inspirational contributions to the Commonwealth.

SUMMARY OF 2021 REGULAR SESSION LEGISLATION

TOTAL INTRODUCED LEGISLATION 1555

 House Bills 604

 Senate Bills 379

 House Joint Resolutions 277

 Senate Joint Resolutions 129

 House Resolutions 128

 Senate Resolutions 38

TOTAL LEGISLATION PASSED AND/OR AGREED TO 341

 House Bills 7

 Senate Bills 1

 House Joint Resolutions 67

 Senate Joint Resolutions 104

 House Resolutions 124

 Senate Resolutions 38

TOTAL BILLS ENACTED INTO LAW 8

 House Bills 7

 Senate Bills 1

 House Joint Resolutions 0

 Senate Joint Resolutions 0

TOTAL CHAPTERS 8

BILLS VETOED BY GOVERNOR 0

 House Bills 0

 Senate Bills 0

HOUSE AND SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

HOUSE			SENATE		
HB	Chapter	Page	SB	Chapter	Page
1743	3	4	1445	2 E	2
1768	4	6			
1825	5	6			
1859	6	8			
1927	7	9			
1949	8	10			
2333	1 E	1			

Note: E signifies emergency status

**THE SENATE
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
33	Boysko, Jennifer B. (D)	Counties of Fairfax (part) and Loudoun (part)
38	Chafin, A. Benton, Jr. (R)†	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, Bill (R)	City of Virginia Beach (part)
12	Dunnivant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
10	Hashmi, Ghazala F. (D)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
7	Kiggans, Jen A. (R)	Cities of Norfolk (part) and Virginia Beach (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greenville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)
37	Marsden, David W. (D)	County of Fairfax (part)

**THE SENATE
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
16	Morrissey, Joseph D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
40	Pillion, Todd E. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville

**THE SENATE
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester

†Died January 1, 2021

**THE HOUSE OF DELEGATES
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
68	Adams, Dawn M. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
63	Aird, Lashrecse D. (D)	Counties of Chesterfield (part) and Dinwiddie; City of Petersburg
85	Askew, Alex Q. (D)	City of Virginia Beach (part)
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
20	Avoli, G. John (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
51	Ayala, Hala S. (D)	County of Prince William (part)
74	Bagby, Lamont (D)	County of Henrico (part)
96	Batten, Amanda E. (R)	Counties of James City (part) and York (part)
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)	City of Richmond (part)
64	Brewer, Emily M. (R)	Counties of Isle of Wight, Prince George (part), and Surry; City of Suffolk (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
24	Campbell, Ronnie R. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
69	Carr, Betsy B. (D)	City of Richmond (part)
50	Carter, Lee J. (D)	County of Prince William (part); City of Manassas
28	Cole, Joshua G. (D)	County of Stafford (part); City of Fredericksburg (part)
88	Cole, Mark L. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
21	Convirs-Fowler, Kelly K. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
66	Cox, M. Kirkland (R)	County of Chesterfield (part); City of Colonial Heights

**THE HOUSE OF DELEGATES
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
62	Coyner, Carrie E. (R)	Counties of Chesterfield (part) and Prince George (part); City of Hopewell (part)
84	Davis, Glenn R., Jr. (R)	City of Virginia Beach (part)
67	Delaney, Karrie K. (D)	Counties of Fairfax (part) and Loudoun (part)
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
10	Gooditis, Gwendolyn W. (D)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
83	Guy, Nancy D. (D)	Cities of Norfolk (part) and Virginia Beach (part)
31	Guzman, Elizabeth R. (D)	Counties of Fauquier (part) and Prince William (part)
77	Hayes, C.E., Jr. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
40	Helmer, Daniel I. (D)	Counties of Fairfax (part) and Prince William (part)
79	Heretick, Stephen E. (D)	Cities of Chesapeake (part), Norfolk (part), and Portsmouth (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
47	Hope, Patrick A. (D)	County of Arlington (part)
57	Hudson, Sally L. (D)	County of Albemarle (part); City of Charlottesville
12	Hurst, Chris L. (D)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford
76	Jenkins, Clinton L. (D)	Cities of Chesapeake (part) and Suffolk (part)
89	Jones, Jerrauld C. (D)	City of Norfolk (part)
35	Keam, Mark L. (D)	County of Fairfax (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton

**THE HOUSE OF DELEGATES
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
45	Levine, Mark H. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
56	McGuire, John J., III (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
8	McNamara, Joseph P. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
70	McQuinn, Delores L. (D)	Counties of Charles City, Chesterfield (part), and Henrico (part); City of Richmond (part)
82	Miyares, Jason S. (R)	City of Virginia Beach (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
91	Mugler, Martha M. (D)	County of York (part); Cities of Hampton (part) and Poquoson
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
2	Mundon King, Candi (D)	Counties of Prince William (part) and Stafford (part)
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
9	Poindexter, Charles D. (R)	Counties of Franklin (part), Henry (part), and Patrick
95	Price, Marcia S. (D)	City of Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
32	Reid, David A. (D)	County of Loudoun (part)

**THE HOUSE OF DELEGATES
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
13	Roem, Danica A. (D)	County of Prince William (part); City of Manassas Park
25	Runion, Chris (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
7	Rush, L. Nick (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
86	Samirah, Ibraheem S. (D)	Counties of Fairfax (part) and Loudoun (part)
80	Scott, Don L., Jr. (D)	City of Portsmouth (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
94	Simonds, Shelly A. (D)	City of Newport News (part)
87	Subramanyam, Suhas (D)	Counties of Loudoun (part) and Prince William (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
52	Torian, Luke E. (D)	County of Prince William (part)
42	Tran, Kathy KL (D)	County of Fairfax (part)
75	Tyler, Roslyn C. (D)	Counties of Brunswick, Greensville, Lunenburg (part), Southampton, and Sussex; Cities of Emporia and Franklin
72	VanValkenburg, Schuyler T. (D)	County of Henrico (part)
23	Walker, Wendell S. (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
4	Wampler, William C., III (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
29	Wiley, William D. (R)	Counties of Frederick (part) and Warren (part); City of Winchester
73	Willett, Rodney T. (D)	County of Henrico (part)
90	Williams Graves, Angelia (D)	Cities of Norfolk (part) and Virginia Beach (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg

**THE HOUSE OF DELEGATES
2021 REGULAR SESSION**

District Number	Name	County and/or City Represented
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
97	Wyatt, Scott A. (R)	Counties of Hanover (part), King William (part), and New Kent

**SENATORS AND DELEGATES BY COUNTIES
2021 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Accomack.....	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Albemarle.....	R. Creigh Deeds (D)..... Bryce E. Reeves (R)	Robert B. Bell (R) C. Matthew Fariss (R) Sally L. Hudson (D) Chris Runion (R)
Alleghany.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Amelia.....	Amanda F. Chase (R)	Thomas C. Wright, Jr. (R)
Amherst.....	Mark J. Peake (R).....	Ronnie R. Campbell (R) Wendell S. Walker (R)
Appomattox.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Arlington.....	Adam P. Ebbin (D)..... Barbara A. Favola (D) Janet D. Howell (D)	Patrick A. Hope (D) Mark H. Levine (D) Alfonso H. Lopez (D) Richard C. Sullivan, Jr. (D)
Augusta.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R) Ronnie R. Campbell (R) Chris Runion (R)
Bath.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Bedford.....	Stephen D. Newman (R)	Terry L. Austin (R) Kathy J. Byron (R) Wendell S. Walker (R)
Bland.....	A. Benton Chafin, Jr. (R)†.....	James W. Morefield (R)
Botetourt.....	Stephen D. Newman (R)	Terry L. Austin (R) Christopher T. Head (R)
Brunswick.....	L. Louise Lucas (D)	Roslyn C. Tyler (D)
	Frank M. Ruff, Jr. (R)	
Buchanan.....	A. Benton Chafin, Jr. (R)†.....	James W. Morefield (R)
Buckingham.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Campbell.....	Stephen D. Newman (R)	Kathy J. Byron (R) James E. Edmunds II (R) C. Matthew Fariss (R)
	Frank M. Ruff, Jr. (R)	
Caroline.....	Ryan T. McDougale (R).....	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R) Margaret B. Ransone (R)
Carroll.....	William M. Stanley, Jr. (R).....	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
Charles City.....	Jennifer L. McClellan (D).....	Delores L. McQuinn (D)
Charlotte.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds II (R)
Chesterfield.....	Amanda F. Chase (R)..... Ghazala F. Hashmi (D) Joseph D. Morrissey (D)	Dawn M. Adams (D) Lashrecse D. Aird (D) M. Kirkland Cox (R) Carrie E. Coyner (R) Delores L. McQuinn (D) Roxann L. Robinson (R) R. Lee Ware (R)
Clarke.....	Jill Holtzman Vogel (R).....	Gwendolyn W. Gooditis (D) David A. LaRock (R)
Craig.....	Stephen D. Newman (R)	Joseph P. McNamara (R)
Culpeper.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R) Michael J. Webert (R)
	Bryce E. Reeves (R) Jill Holtzman Vogel (R)	
Cumberland.....	Mark J. Peake (R).....	Thomas C. Wright, Jr. (R)
Dickenson.....	A. Benton Chafin, Jr. (R)†.....	William C. Wampler III (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Dinwiddie.....	Joseph D. Morrissey (D) Frank M. Ruff, Jr. (R)	Lashreese D. Aird (D)
Essex	Ryan T. McDougle (R).....	M. Keith Hodges (R)
Fairfax	George L. Barker (D)	David L. Bulova (D)
	Jennifer B. Boysko (D)	Karrie K. Delaney (D)
	Adam P. Ebbin (D)	Eileen Filler-Corn (D)
	Barbara A. Favola (D)	Daniel I. Helmer (D)
	Janet D. Howell (D)	Mark L. Keam (D)
	David W. Marsden (D)	Kaye Kory (D)
	J. Chapman Petersen (D)	Paul E. Krizek (D)
	Richard L. Saslaw (D)	Mark H. Levine (D)
	Scott A. Surovell (D)	Alfonso H. Lopez (D)
		Kathleen J. Murphy (D)
		Kenneth R. Plum (D)
		Ibraheem S. Samirah (D)
		Mark D. Sickles (D)
		Marcus B. Simon (D)
		Richard C. Sullivan, Jr. (D)
		Kathy KL Tran (D)
		Vivian E. Watts (D)
Fauquier.....	Jill Holtzman Vogel (R).....	Mark L. Cole (R)
		Elizabeth R. Guzman (D)
		Michael J. Webert (R)
Floyd	David R. Suetterlein (R).....	L. Nick Rush (R)
Fluvanna	Mark J. Peake (R).....	Robert B. Bell (R)
		R. Lee Ware (R)
Franklin	William M. Stanley, Jr. (R).....	Kathy J. Byron (R)
	David R. Suetterlein (R)	Charles D. Poindexter (R)
Frederick	Jill Holtzman Vogel (R).....	Gwendolyn W. Gooditis (D)
		David A. LaRock (R)
		William D. Wiley (D)
Giles	John S. Edwards (D).....	Chris L. Hurst (D)
Gloucester	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
Goochland	Mark J. Peake (R).....	John J. McGuire III (R)
		R. Lee Ware (R)
Grayson	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Greene	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
Greensville	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Halifax.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds II (R)
	William M. Stanley, Jr. (R)	
Hanover.....	Siobhan S. Dunnavant (R).....	Hyland F. Fowler, Jr. (R)
	Jennifer L. McClellan (D)	Scott A. Wyatt (R)
	Ryan T. McDougle (R)	
Henrico.....	Siobhan S. Dunnavant (R).....	Dawn M. Adams (D)
	Jennifer L. McClellan (D)	Lamont Bagby (D)
		John J. McGuire III (R)
		Delores L. McQuinn (D)
		Schuyler T. VanValkenburg (D)
		Rodney T. Willett (D)
Henry.....	William M. Stanley, Jr. (R).....	Leslie R. Adams (R)
		Daniel W. Marshall III (R)
		Charles D. Poindexter (R)
Highland.....	R. Creigh Deeds (D).....	G. John Avoli (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Isle of Wight.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D) Thomas K. Norment, Jr. (R)	Emily M. Brewer (R)
James City.....	T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Amanda E. Batten (R) Michael P. Mullin (D)
King and Queen	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
King George.....	Ryan T. McDougle (R)..... Richard H. Stuart (R)	Margaret B. Ransone (R)
King William.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R) Scott A. Wyatt (R)
Lancaster	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Lee.....	Todd E. Pillion (R)	Terry G. Kilgore (R)
Loudoun	John J. Bell (D)	Karrie K. Delaney (D)
	Jennifer B. Boysko (D) Barbara A. Favola (D) Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D) David A. LaRock (R) Kathleen J. Murphy (D) David A. Reid (D) Ibraheem S. Samirah (D) Sahas Subramanyam (D)
Louisa.....	Mark J. Peake (R)..... Bryce E. Reeves (R)	John J. McGuire III (R)
Lunenburg	Frank M. Ruff, Jr. (R).....	Roslyn C. Tyler (D) Thomas C. Wright, Jr. (R)
Madison.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
Mathews.....	Lynwood W. Lewis, Jr. (D)	M. Keith Hodges (R)
Mecklenburg	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Middlesex.....	Ryan T. McDougle (R).....	M. Keith Hodges (R)
Montgomery.....	A. Benton Chafin, Jr. (R)†..... John S. Edwards (D) David R. Suetterlein (R)	Chris L. Hurst (D) Joseph P. McNamara (R) L. Nick Rush (R)
Nelson	R. Creigh Deeds (D).....	G. John Avoli (R) C. Matthew Fariss (R)
New Kent	Thomas K. Norment, Jr. (R).....	Scott A. Wyatt (R)
Northampton	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Northumberland	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Nottoway.....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Orange.....	Bryce E. Reeves (R).....	Nicholas J. Freitas (R)
Page.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Patrick	William M. Stanley, Jr. (R).....	Charles D. Poindexter (R)
Pittsylvania.....	Frank M. Ruff, Jr. (R)..... William M. Stanley, Jr. (R)	Leslie R. Adams (R) Daniel W. Marshall III (R)
Powhatan.....	Ghazala F. Hashmi (D).....	R. Lee Ware (R)
Prince Edward.....	Mark J. Peake (R).....	James E. Edmunds II (R)
Prince George.....	Joseph D. Morrissey (D)	Emily M. Brewer (R)
	Frank M. Ruff, Jr. (R)	Carrie E. Coyner (R)
Prince William.....	George L. Barker (D)	Hala S. Ayala (D)
	John J. Bell (D) Jeremy S. McPike (D) Richard H. Stuart (R) Scott A. Surovell (D)	Lee J. Carter (D) Elizabeth R. Guzman (D) Daniel I. Helmer (D) Candi Mundon King (D) Danica A. Roem (D) Sahas Subramanyam (D) Luke E. Torian (D)

**SENATORS AND DELEGATES BY COUNTIES
2021 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Pulaski.....	A. Benton Chafin, Jr. (R)†.....	Chris L. Hurst (D) L. Nick Rush (R)
Rappahannock.....	Mark D. Obenshain (R).....	Michael J. Webert (R)
Richmond.....	Ryan T. McDougale (R).....	Margaret B. Ransone (R)
Roanoke.....	John S. Edwards (D)..... Stephen D. Newman (R) David R. Suetterlein (R)	Christopher T. Head (R) Joseph P. McNamara (R)
Rockbridge.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Rockingham.....	Emmett W. Hanger, Jr. (R)..... Mark D. Obenshain (R)	Robert B. Bell (R) C. Todd Gilbert (R) Chris Runion (R) Tony O. Wilt (R)
Russell.....	A. Benton Chafin, Jr. (R)†.....	James W. Morefield (R) William C. Wampler III (R)
Scott.....	Todd E. Pillion (R).....	Terry G. Kilgore (R)
Shenandoah.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Smyth.....	A. Benton Chafin, Jr. (R)†..... Todd E. Pillion (R)	Jeffrey L. Campbell (R) Israel D. O'Quinn (R)
Southampton.....	John A. Cosgrove, Jr. (R)..... L. Louise Lucas (D)	Roslyn C. Tyler (D)
Spotsylvania.....	Ryan T. McDougale (R)..... Bryce E. Reeves (R) Richard H. Stuart (R)	Mark L. Cole (R) Hyland F. Fowler, Jr. (R) John J. McGuire III (R) Robert D. Orrock, Sr. (R)
Stafford.....	Richard H. Stuart (R)..... Scott A. Surovell (D) Jill Holtzman Vogel (R)	Joshua G. Cole (D) Mark L. Cole (R) Candi Mundon King (D)
Surry.....	L. Louise Lucas (D)..... Thomas K. Norment, Jr. (R)	Emily M. Brewer (R)
Sussex.....	L. Louise Lucas (D).....	Roslyn C. Tyler (D)
Tazewell.....	A. Benton Chafin, Jr. (R)†.....	James W. Morefield (R)
Warren.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R) Michael J. Webert (R) William D. Wiley (R)
Washington.....	Todd E. Pillion (R).....	Israel D. O'Quinn (R) William C. Wampler III (R)
Westmoreland.....	Ryan T. McDougale (R)..... Richard H. Stuart (R)	Margaret B. Ransone (R)
Wise.....	A. Benton Chafin, Jr. (R)†..... Todd E. Pillion (R)	Terry G. Kilgore (R) William C. Wampler III (R)
Wythe.....	Todd E. Pillion (R)..... David R. Suetterlein (R)	Jeffrey L. Campbell (R)
York.....	Mamie E. Locke (D)..... T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Amanda E. Batten (R) Martha M. Mugler (D) Michael P. Mullin (D)

†Died January 1, 2021

**SENATORS AND DELEGATES BY CITIES
2021 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Alexandria.....	George L. Barker (D) Adam P. Ebbin (D) Richard L. Saslaw (D)	Charniele L. Herring (D) Mark H. Levine (D)
Bristol.....	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Buena Vista	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Charlottesville	R. Creigh Deeds (D).....	Sally L. Hudson (D)
Chesapeake.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D) Lionell Spruill, Sr. (D)	Kelly K. Convirs-Fowler (D) C. E. Hayes, Jr. (D) Stephen E. Heretick (D) Clinton L. Jenkins (D) Barry D. Knight (R) James A. Leftwich, Jr. (R)
Colonial Heights	Amanda F. Chase (R)	M. Kirkland Cox (R)
Covington.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Danville.....	Frank M. Ruff, Jr. (R)..... William M. Stanley, Jr. (R)	Daniel W. Marshall III (R)
Emporia.....	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fairfax	J. Chapman Petersen (D).....	David L. Bulova (D)
Falls Church.....	Richard L. Saslaw (D).....	Marcus D. Simon (D)
Franklin	John A. Cosgrove, Jr. (R) L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fredericksburg	Bryce E. Reeves (R).....	Joshua G. Cole (D) Mark L. Cole (R)
Galax	William M. Stanley, Jr. (R).....	Israel D. O'Quinn (R)
Hampton.....	Mamie E. Locke (D) T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Martha M. Mugler (D) Jeion A. Ward (D)
Harrisonburg	Mark D. Obenshain (R).....	Tony O. Wilt (R)
Hopewell	Joseph D. Morrissey (D)	Carrie E. Coyner (R)
Lexington	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Lynchburg	Stephen D. Newman (R) Mark J. Peake (R)	Kathy J. Byron (R) Wendell S. Walker (R)
Manassas	Jeremy S. McPike (D).....	Lee J. Carter (D)
Manassas Park.....	Jeremy S. McPike (D).....	Danica A. Roem (D)
Martinsville	William M. Stanley, Jr. (R).....	Leslie R. Adams (R)
Newport News.....	Mamie E. Locke (D) T. Montgomery Mason (D)	Michael P. Mullin (D) Marcia S. Price (D) Shelly A. Simonds (D)
Norfolk.....	Jen A. Kiggans (R)	Robert S. Bloxom, Jr. (R)
	Lynwood W. Lewis, Jr. (D) Lionell Spruill, Sr. (D)	Nancy D. Guy (D) Stephen E. Heretick (D) Jerrauld C. Jones (D) Angelia Williams Graves (D)
Norton	A. Benton Chafin, Jr. (R)†	Terry G. Kilgore (R)
Petersburg.....	Joseph D. Morrissey (D)	Lashrecse D. Aird (D)
Poquoson.....	Thomas K. Norment, Jr. (R).....	Martha M. Mugler (D)
Portsmouth	John A. Cosgrove, Jr. (R) Mamie E. Locke (D) L. Louise Lucas (D)	Stephen E. Heretick (D) Don L. Scott, Jr. (D)
Radford.....	A. Benton Chafin, Jr. (R)†	Chris L. Hurst (D)
Richmond.....	Ghazala F. Hashmi (D)..... Jennifer L. McClellan (D) Joseph D. Morrissey (D)	Dawn M. Adams (D) Jeffrey M. Bourne (D) Betsy B. Carr (D) Delores L. McQuinn (D)

**SENATORS AND DELEGATES BY CITIES
2021 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Roanoke.....	John S. Edwards (D).....	Christopher T. Head (R) Sam Rasoul (D)
Salem.....	David R. Suetterlein (R).....	Joseph P. McNamara (R)
Staunton	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Suffolk.....	John A. Cosgrove, Jr. (R)	Emily M. Brewer (R)
	L. Louise Lucas (D)	Clinton L. Jenkins (D)
	T. Montgomery Mason (D)	
	Thomas K. Norment, Jr. (R)	
Virginia Beach.....	John A. Cosgrove, Jr. (R)	Alex Q. Askew (D)
	Bill DeSteph (R)	Robert S. Bloxom, Jr. (R)
	Jen A. Kiggans (R)	Kelly K. Convors-Fowler (D)
	Lynwood W. Lewis, Jr. (D)	Glenn R. Davis, Jr. (R)
		Nancy D. Guy (D)
		C. E. Hayes, Jr. (D)
		Barry D. Knight (R)
		Jason S. Miyares (R)
		Angelia Williams Graves (D)
Waynesboro.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Williamsburg.....	T. Montgomery Mason (D)	Michael P. Mullin (D)
Winchester.....	Jill Holtzman Vogel (R).....	William D. Wiley (R)

†Died January 1, 2021

COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2010 (December 21, 2010)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack	449	33,164	Pittsylvania	969	63,506
Albemarle	721	98,970	Powhatan	260	28,046
Alleghany.....	445	16,250	Prince Edward	350	23,368
Amelia	355	12,690	Prince George	265	35,725
Amherst	474	32,353	Prince William	336	402,002
Appomattox	334	14,973	Pulaski	320	34,872
Arlington.....	26	207,627	Rappahannock	266	7,371
Augusta.....	967	73,750	Richmond	191	9,254
Bath.....	529	4,731	Roanoke	251	92,376
Bedford.....	753	68,676	Rockbridge	598	22,307
Bland.....	358	6,824	Rockingham	849	76,314
Botetourt	541	33,148	Russell	474	28,897
Brunswick.....	566	17,434	Scott	536	23,177
Buchanan	503	24,098	Shenandoah	509	41,993
Buckingham.....	580	17,146	Smyth	451	32,208
Campbell.....	504	54,842	Southampton	599	18,570
Caroline	528	28,545	Spotsylvania	401	122,397
Carroll.....	475	30,042	Stafford	269	128,961
Charles City	183	7,256	Surry	279	7,058
Charlotte	475	12,586	Sussex	490	12,087
Chesterfield.....	423	316,236	Tazewell	519	45,078
Clarke.....	176	14,034	Warren	213	37,575
Craig	330	5,190	Washington	561	54,876
Culpeper.....	379	46,689	Westmoreland	229	17,454
Cumberland	297	10,052	Wise	403	41,452
Dickenson	331	15,903	Wythe	462	29,235
Dinwiddie	504	28,001	York	105	65,464
Essex.....	257	11,151			
Fairfax.....	391	1,081,726	CITIES		
Fauquier	647	65,203	Alexandria	15	139,966
Floyd.....	380	15,279	Bedford*	7	6,222
Fluvanna	286	25,691	Bristol	13	17,835
Franklin.....	690	56,159	Buena Vista	7	6,650
Frederick.....	414	78,305	Charlottesville	10	43,475
Giles.....	356	17,286	Chesapeake	341	222,209
Gloucester.....	218	36,858	Colonial Heights	8	17,411
Goochland.....	282	21,717	Covington	5	5,161
Grayson.....	442	15,533	Danville	43	43,055
Greene.....	156	18,403	Emporia	7	5,927
Greensville.....	295	12,243	Fairfax	6	22,565
Halifax	818	36,241	Falls Church	2	12,332
Hanover	469	99,863	Franklin	8	8,582
Henrico	234	306,935	Fredericksburg	10	24,281
Henry	382	54,151	Galax	8	7,042
Highland	415	2,321	Hampton	51	137,436
Isle of Wight	316	35,270	Harrisonburg	17	48,914
James City.....	142	67,009	Hopewell	10	22,591
King and Queen	315	6,945	Lexington	2	7,042
King George	180	23,584	Lynchburg	49	75,568
King William	274	15,935	Manassas	10	37,821
Lancaster.....	133	11,391	Manassas Park	3	14,273
Lee	436	25,587	Martinsville	11	13,821
Loudoun.....	516	312,311	Newport News	69	180,719
Louisa	496	33,153	Norfolk	54	242,803
Lunenburg.....	432	12,914	Norton	7	3,958
Madison.....	321	13,308	Petersburg	23	32,420
Mathews.....	86	8,978	Poquoson	15	12,150
Mecklenburg.....	625	32,727	Portsmouth	34	95,535
Middlesex	130	10,959	Radford	10	16,408
Montgomery	387	94,392	Richmond	60	204,214
Nelson.....	471	15,020	Roanoke	43	97,032
New Kent.....	210	18,429	Salem	14	24,802
Northampton.....	212	12,389	Staunton	20	23,746
Northumberland.....	191	12,330	Suffolk	400	84,585
Nottoway	314	15,853	Virginia Beach	249	437,994
Orange	341	33,481	Waynesboro	15	21,006
Page	311	24,042	Williamsburg	9	14,068
Patrick.....	483	18,490	Winchester	9	26,203

Population of Virginia, 2010 Census, 8,001,024.

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

COUNTIES AND CITIES--RANKED BY POPULATION

United States Census of 2010 (December 21, 2010)

Population	County	Population	County	Population	County
2,321	Highland	17,286	Giles	36,241	Halifax
4,731	Bath	17,434	Brunswick	36,858	Gloucester
5,190	Craig	17,454	Westmoreland	37,575	Warren
6,824	Bland	18,403	Greene	41,452	Wise
6,945	King and Queen	18,429	New Kent	41,993	Shenandoah
7,058	Surry	18,490	Patrick	45,078	Tazewell
7,256	Charles City	18,570	Southampton	46,689	Culpeper
7,373	Rappahannock	21,717	Goochland	54,151	Henry
8,978	Mathews	22,307	Rockbridge	54,842	Campbell
9,254	Richmond	23,177	Scott	54,876	Washington
10,052	Cumberland	23,368	Prince Edward	56,159	Franklin
10,959	Middlesex	23,584	King George	63,506	Pittsylvania
11,151	Essex	24,042	Page	65,203	Fauquier
11,391	Lancaster	24,098	Buchanan	65,464	York
12,087	Sussex	25,587	Lee	67,009	James City
12,243	Greensville	25,691	Fluvanna	68,676	Bedford
12,330	Northumberland	28,001	Dinwiddie	73,750	Augusta
12,389	Northampton	28,046	Powhatan	76,314	Rockingham
12,586	Charlotte	28,545	Caroline	78,305	Frederick
12,690	Amelia	28,897	Russell	92,376	Roanoke
12,914	Lunenburg	29,235	Wythe	94,392	Montgomery
13,308	Madison	30,042	Carroll	98,970	Albemarle
14,034	Clarke	32,208	Smyth	99,863	Hanover
14,973	Appomattox	32,353	Amherst	122,397	Spotsylvania
15,020	Nelson	32,727	Mecklenburg	128,961	Stafford
15,279	Floyd	33,148	Botetourt	207,627	Arlington
15,533	Grayson	33,153	Louisa	306,935	Henrico
15,853	Nottoway	33,164	Accomack	312,311	Loudoun
15,903	Dickenson	33,481	Orange	316,236	Chesterfield
15,935	King William	34,872	Pulaski	402,002	Prince William
16,250	Alleghany	35,270	Isle of Wight	1,081,726	Fairfax
17,146	Buckingham	35,725	Prince George		

Population	Cities	Population	Cities	Population	Cities
3,958	Norton	16,408	Radford	43,475	Charlottesville
5,927	Emporia	17,411	Colonial Heights	48,914	Harrisonburg
5,961	Covington	17,835	Bristol	75,568	Lynchburg
6,222	Bedford*	21,006	Waynesboro	84,585	Suffolk
6,650	Buena Vista	22,565	Fairfax	95,535	Portsmouth
7,042	Galax	22,591	Hopewell	97,032	Roanoke
7,042	Lexington	23,746	Staunton	137,436	Hampton
8,582	Franklin	24,286	Fredericksburg	139,966	Alexandria
12,150	Poquoson	24,802	Salem	180,719	Newport News
12,332	Falls Church	26,203	Winchester	204,214	Richmond
13,821	Martinsville	32,420	Petersburg	222,209	Chesapeake
14,068	Williamsburg	37,821	Manassas	242,803	Norfolk
14,273	Manassas Park	43,055	Danville	437,994	Virginia Beach

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

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COMMONWEALTH OF VIRGINIA

2021 SPECIAL SESSION I

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ACTS OF THE GENERAL ASSEMBLY

2021 SPECIAL SESSION I

CHAPTER 1

An Act to amend and reenact § 54.1-2957 of the Code of Virginia, relating to nurse practitioners; practice without a practice agreement.

[H 1737]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2957 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. As used in this section:

"Clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least ~~five~~ *two* years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least ~~five~~ *two* years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

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

CHAPTER 2

An Act related to apprenticeship training programs; report.

[H 1849]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Virginia Board of Workforce Development (the Board), the Department of Labor and Industry (DOLI), and the Department of General Services (DGS) shall review the availability of registered apprenticeship programs in the Commonwealth, and evaluate the capacity to build a program that would require contractors engaged in construction contracts with public bodies to participate in apprenticeship training programs for each trade or classification of employees engaged in the construction contract. Additionally, the Board, DOLI, and DGS shall evaluate whether a requirement to limit public procurements to bidders with registered apprenticeship programs would assist the construction industry in meeting its workforce needs. In reviewing these issues, the Board, DOLI, and DGS may consider and evaluate additional workforce models to help the construction industry develop and meet its workforce needs.*

§ 2. *In carrying out its responsibilities pursuant to § 1, the Board, DOLI, and DGS may convene a stakeholder advisory group. Such group shall include, at a minimum, representatives from the following: the Virginia State Building and Construction Trades Council, the Alliance for Construction Excellence, and the Joint Apprenticeship Training Council. The*

advisory group shall also include representatives of career and technical educators, the labor workforce, and small state contractors.

§ 3. The Board, DOLI, and DGS shall complete its review and complete any advisory group meetings by September 1, 2021, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than December 1, 2021.

CHAPTER 3

An Act to amend and reenact § 37.2-403 of the Code of Virginia, relating to brain injury; definition.

[H 1873]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-403 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-403. Definitions.

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

"Brain injury" is *means* any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. "Brain injury" does not include hereditary, congenital, or degenerative brain disorders, or injuries induced by birth trauma.

"Conditional license" means a license issued in accordance with the requirements of § 37.2-415 to a provider for a new service for a period of time sufficient to allow the provider to demonstrate compliance with regulations of the Board governing licensure of providers.

"Full license" means a license issued in accordance with the requirements of § 37.2-404 to a provider who demonstrates full compliance with the regulations of the Board governing licensure of providers.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, developmental disabilities, or substance abuse or (ii) residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to § 54.1-3501, 54.1-3601, or 54.1-3701.

"Provisional license" means a license issued to a provider previously issued a full license that has demonstrated a temporary inability to maintain compliance with licensing or human rights regulations or that has failed to comply with a previous corrective action plan, and that allows the provider to continue operating for a limited time while addressing the inability or failure to comply with regulations.

"Service or services" means:

1. Planned individualized interventions intended to reduce or ameliorate mental illness, developmental disabilities, or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to persons with mental illness, developmental disabilities, or substance abuse. Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment, and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house, in-home services, crisis stabilization, and other residential services; and

2. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided in residential services for persons with brain injury.

CHAPTER 4

An Act to amend and reenact § 2.2-1201 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1212, relating to the Department of Human Resource Management; duties of the Department; annual safety and disaster awareness training.

[H 1891]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1201 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1212 as follows:

§ 2.2-1201. Duties of Department; Director.

A. The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend necessary amendments thereto.
2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend necessary amendments thereto.
3. Design and maintain a personnel information system that shall support the operational needs of the Department and of state agencies, and that shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.
4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.
5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.
6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.
7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.
8. Establish and administer a comprehensive and integrated program of employee training and management development.
9. In coordination with the Governor or his designee, develop an online training module addressing diversity and cultural competency that shall be available for use by all employees and agencies of the Commonwealth. Such training module shall include (i) information related to race, ethnicity, disabilities, gender, religion, and other protected classes under state law; (ii) strategies to create an inclusive and equitable culture; (iii) strategies to ensure equity and inclusion in state employee recruitment and hiring; and (iv) strategies to ensure that state employees provide equitable, competent, and welcoming services to all persons.
10. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.
11. Establish and administer a program to ensure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.
12. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than 10 days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.
13. Adopt and implement a centralized program to provide awards to employees who propose procedures or ideas that are adopted and that will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect. The centralized program shall be designed to (i) protect the identity of the individual making the proposal while it is being evaluated for implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state employees, and (iii) include a reevaluation process that individuals making proposals may access if their proposals are rejected by the evaluating agency. The reevaluation process must include individuals from the private sector. State employees who make a suggestion or proposal under this section shall receive initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or proposal shall occur within 60 days of initial receipt.
14. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the Internet. At a minimum, the Department's acceptable use policy shall contain provisions that (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to ensure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department shall have no authority with respect to the state grievance procedures.
- 14a. Develop state personnel policies, with the approval of the Governor, that permit any full-time state employee who is also a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard to carry forward from year to year the total of his accrued annual leave time without regard to the regulation or policy

of his agency regarding the maximum number of hours allowed to be carried forward at the end of a calendar year. Any amount over the usual amount allowed to be carried forward shall be reserved for use only as leave taken pursuant to active military service as provided by § 2.2-2903.1. Such leave and its use shall be in addition to leave provided under § 44-93. Any leave carried forward for the purposes described remaining upon termination of employment with the Commonwealth or any department, institution or agency thereof that has not been used in accordance with § 2.2-2903.1 shall not be paid or credited in any way to the employee.

14b. Develop state personnel policies that provide break time for nursing mothers to express breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an employee to express breast milk for her nursing child after the child's birth each time such employee has need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and that may be used by an employee to express breast milk. Such break time shall, if possible, run concurrently with any break time already provided to the employee. An agency shall not be required to compensate an employee receiving reasonable break time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with regard to break time provided for nursing mothers to express breast milk, means a break time that complies with the guidance for employers in assessing the frequency and timing of breaks to express breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75 Federal Register 80073 (December 21, 2010).

15. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year period.

16. Submit a report to the members of the General Assembly on or before September 30 of each year showing (i) the total number of full-time and part-time employees, (ii) contract temporary employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and involuntarily terminated their employment with each department, agency or institution in the previous fiscal year.

17. Administer the workers' compensation insurance plan for state employees in accordance with § 2.2-2821.

18. Work jointly with the Department of General Services and the Virginia Information Technologies Agency to develop expedited processes for the procurement of staff augmentation to supplement salaried and wage employees of state agencies. Such processes shall be consistent with the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract administration duties and responsibilities for any resulting statewide augmentation contracts.

19. *In coordination with the Secretary of Health and Human Resources or his designee, develop an online training module addressing safety and disaster awareness, which shall be incorporated into existing mandatory training.*

B. The Director may convene such ad hoc working groups as the Director deems appropriate to address issues regarding the state workforce.

§ 2.2-1212. Required online safety and disaster awareness training.

All state employees shall annually complete an online safety and disaster awareness training module that includes information on public health safety provided by the Department pursuant to subdivision A 19 of § 2.2-1201. Each state agency shall maintain records showing that each employee has completed the training required by this section and the date on which such training was completed.

2. That the Department of Human Resource Management shall develop and make available the online training module addressing safety and disaster awareness that includes information on public health safety required by § 2.2-1201 of the Code of Virginia, as amended by this act, by January 1, 2022, for use by all employees and agencies of the Commonwealth.

3. That any person employed with the Commonwealth on January 1, 2022, shall complete the training required by § 2.2-1212 of the Code of Virginia, as created by this act, no later than April 1, 2022.

CHAPTER 5

An Act to amend and reenact §§ 8.01-581.16, 54.1-2400.6, and 54.1-2909 of the Code of Virginia, relating to programs to address career fatigue and wellness in certain health care providers; civil immunity.

[H 1913]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-581.16, 54.1-2400.6, and 54.1-2909 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-581.16. Civil immunity for members of or consultants to certain boards or committees.

A. Every member of, or health care professional consultant to, any committee, board, group, commission or other entity shall be immune from civil liability for any act, decision, omission, or utterance done or made in performance of his duties while serving as a member of or consultant to such committee, board, group, commission or other entity that functions primarily to review, evaluate, or make recommendations on (i) the duration of patient stays in health care facilities; (ii) the professional services furnished with respect to the medical, dental, psychological, podiatric, chiropractic,

veterinary, or optometric necessity for such services; (iii) the purpose of promoting the most efficient use or monitoring the quality of care of available health care facilities and services, or of emergency medical services agencies and services; (iv) the adequacy or quality of professional services; (v) the competency and qualifications for professional staff privileges; (vi) the reasonableness or appropriateness of charges made by or on behalf of health care facilities; (vii) patient safety, including entering into contracts with patient safety organizations, provided that such committee, board, group, commission, or other entity has been established pursuant to federal or state law or regulation, the requirements of a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb), or guidelines approved or adopted by a statewide or local association representing health care providers licensed in the Commonwealth pursuant to clause (iii) (f) of subsection B of § 8.01-581.17, or established and duly constituted by one or more public or licensed private hospitals, health systems, community services boards, or behavioral health authorities, or with a governmental agency, and provided further that such act, decision, omission, or utterance is not done or made in bad faith or with malicious intent.

B. Every member of, or health care professional consultant to, any committee, board, group, commission, or other entity that functions primarily to review, evaluate, or make recommendations on a professional program to address issues related to career fatigue and wellness in health care professionals licensed to ~~practice medicine or osteopathic medicine or licensed as a physician assistant, registered, or certified by the Boards of Medicine, Nursing, or Pharmacy, or in students enrolled in a school of medicine, osteopathic medicine, nursing, or pharmacy located in the Commonwealth,~~ that is established or contracted for by a statewide association, that is exempt under 26 U.S.C. § 501(c)(6) of the Internal Revenue Code, and that primarily represents health care professionals licensed to practice medicine or osteopathic medicine in multiple specialties shall be immune from civil liability for any act, decision, omission, or utterance done or made in performance of his duties while serving as a member of or consultant to such committee, board, group, commission, or other entity. No active participant in a professional program described in this subsection shall be employed or engaged by such professional program or have a financial ownership interest in such professional program.

§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions against and certain disorders of health professionals; immunity from liability; failure to report.

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth shall report within 30 days, except as provided in subdivision 1, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

1. Any information of which he may become aware in his official capacity indicating a reasonable belief that such a health professional is in need of treatment or has been voluntarily admitted as a patient, either at his institution or any other health care institution, for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients. If such health care professional has been involuntarily admitted as a patient, either in his own institution or any other health care institution, for treatment of substance abuse or a psychiatric illness, the report required by this section shall be made within five days of the date on which the chief executive officer, chief of staff, director, or administrator learns of the health care professional's involuntary admission.

2. Any information of which he may become aware in his official capacity indicating a reasonable belief, after review and, if necessary, an investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, that a health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or administrator determines that such reasonable belief exists.

3. Any disciplinary proceeding begun by the institution, organization, facility, or provider as a result of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of the initiation of a disciplinary proceeding.

4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while under investigation, including but not limited to denial or termination of employment, denial or termination of privileges or restriction of privileges that results from conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of any disciplinary action.

5. The voluntary resignation from the staff of the health care institution, home health or hospice organization, assisted living facility, or provider, or voluntary restriction or expiration of privileges at the institution, organization, facility, or provider, of any health professional while such health professional is under investigation or is the subject of disciplinary proceedings taken or begun by the institution, organization, facility, or provider or a committee thereof for any reason related to possible intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, medical incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, shall give the name, address, and date of birth of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of individuals from whom the hospital or health care institution, organization, facility, or provider sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.

This section shall not be construed to require the hospital, health care institution, home health or hospice organization, assisted living facility, or provider to submit any proceedings, minutes, records, or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar (i) any report required by this section or (ii) any requested medical records that are necessary to investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall be obligated to report any matter to the Department or the Office if the person or entity has actual notice that the same matter has already been reported to the Department or the Office. *No person or entity shall be obligated to report a health care provider who is participating in a professional program as described in subsection B of § 8.01-581.16 unless there is a reasonable belief that the participant is not competent to continue to practice or is a danger to himself or to the health and welfare of his patients or the public.*

B. The State Health Commissioner, Commissioner of Social Services, and Commissioner of Behavioral Health and Developmental Services shall report to the Department any information of which their agencies may become aware in the course of their duties that a health professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and regulations. However, the State Health Commissioner shall not be required to report information reported to the Director of the Office of Licensure and Certification pursuant to this section to the Department of Health Professions.

C. Any person making a report by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

D. Medical records or information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

E. Any person who fails to make a report to the Department as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of Health, Commissioner of Social Services, or Commissioner of Behavioral Health and Developmental Services, as appropriate. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.

§ 54.1-2909. Further reporting requirements; civil penalty; disciplinary action.

A. The following matters shall be reported within 30 days of their occurrence to the Board:

1. Any disciplinary action taken against a person licensed under this chapter in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation;
2. Any malpractice judgment against a person licensed under this chapter;
3. Any settlement of a malpractice claim against a person licensed under this chapter; and
4. Any evidence that indicates a reasonable belief that a person licensed under this chapter is or may be professionally incompetent; has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients; has or may have engaged in unprofessional conduct; or may be mentally or physically unable to engage safely in the practice of his profession.

B. The following persons and entities are subject to the reporting requirements set forth in this section:

1. Any person licensed under this chapter who is the subject of a disciplinary action, a settlement, a judgment, or evidence for which reporting is required pursuant to this section;

2. Any other person licensed under this chapter, except as provided by a contract agreement with the Health Practitioners' Monitoring Program;

3. All health care institutions licensed by the Commonwealth;

4. The malpractice insurance carrier of any person who is the subject of a judgment or settlement; and

5. Any health maintenance organization licensed by the Commonwealth.

C. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the matter has already been reported to the Board. The reporting requirements set forth in this section shall be met if these matters are reported to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101 et seq., and notice that such report has been submitted is provided to the Board.

D. No person or entity shall be obligated to report information regarding a health care provider licensed to practice medicine or osteopathic medicine or licensed as a physician assistant or registered by the Board who is a participant in a professional program, pursuant to subsection B of § 8.01-581.16, to address issues related to career fatigue and wellness that is organized or contracted for by a statewide association exempt under 26 U.S.C. § 501(c)(6) of the Internal Revenue Code and that primarily represents health care professionals licensed to practice medicine or osteopathic medicine in multiple specialties to the Board unless the person or entity has determined that there is reasonable probability that the participant is not competent to continue in practice or is a danger to himself or to the health and welfare of his patients or the public.

E. Any report required by this section shall be in writing directed to the Board, shall give the name and address of the person who is the subject of the report, and shall describe the circumstances surrounding the matter required to be reported. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17.

F. Any person making a report required by this section, providing information pursuant to an investigation, or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability or criminal prosecution resulting therefrom unless such person acted in bad faith or with malicious intent.

G. The clerk of any circuit court or any district court in the Commonwealth shall report to the Board the conviction of any person known by such clerk to be licensed under this chapter of any (i) misdemeanor involving a controlled substance, marijuana, or substance abuse or involving an act of moral turpitude or (ii) felony.

H. Any person who fails to make a report to the Board as required by this section shall be subject to a civil penalty not to exceed \$5,000. The Director shall report the assessment of such civil penalty to the Commissioner of the Department of Health or the Commissioner of Insurance at the State Corporation Commission. Any person assessed a civil penalty pursuant to this section shall not receive a license, registration, or certification or renewal of such unless such penalty has been paid.

I. Disciplinary action against any person licensed, registered, or certified under this chapter shall be based upon the underlying conduct of the person and not upon the report of a settlement or judgment submitted under this section.

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

CHAPTER 6

An Act to amend and reenact § 24.2-606 of the Code of Virginia, relating to elections; preservation of order at the polls; powers of officers of election.

[S 1111]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-606 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-606. Preservation of order at elections.

The officers of election, with the consent of the chief law-enforcement officer for the county or city, may designate a law-enforcement officer who shall attend at the polling place and preserve order inside and outside the polling place. ~~If no law-enforcement officer is in attendance, the officers of election may appoint, in writing, one or more persons specially, who shall have all the powers of a law-enforcement officer in the polling place and within the prohibited area prescribed by § 24.2-604.~~

CHAPTER 7

An Act to amend and reenact §§ 2.2-3711, 58.1-4100, 58.1-4109, 58.1-4110, 58.1-4114, 58.1-4122, 58.1-4124, and 58.1-4125 of the Code of Virginia, relating to casino gaming; technical amendments.

[H 1812]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, 58.1-4100, 58.1-4109, 58.1-4110, 58.1-4114, 58.1-4122, 58.1-4124, and 58.1-4125 of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the

terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

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

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

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

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and

fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a

local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 58.1-4100. Definitions.

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

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

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

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

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

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

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

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

"Director" means the Director of the Virginia Lottery.

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

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

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

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

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

"Individual" means a natural person.

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

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

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

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

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

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

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

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

"Sports betting" means ~~placing wagers on sporting events as such activity is regulated by the Board~~ *the same as such term is defined in § 58.1-4030.*

"Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment licensed pursuant to this chapter that is designated for sports betting.

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

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4109. Submission of preferred casino gaming operator by eligible host city; application for operator's license; penalty.

A. If a majority of those voting in a referendum held pursuant to § 58.1-4123 vote in the affirmative, the eligible host city shall certify its preferred casino gaming operator and submit such certification to the Department within 30 days.

B. Any preferred casino gaming operator desiring to operate a casino gaming establishment shall file with the Department an application for an operator's license. Such application shall be filed at the place prescribed by the

Department and shall be in such form and contain such information as prescribed by the Department, including but not limited to the following:

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

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

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

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

5. Such information relating to the financial responsibility of the applicant, *including the applicant's financing plan for the casino gaming establishment*, and the applicant's ability to perform under its license as the Department considers appropriate;

6. If any of the facilities necessary for the conduct of gaming operations are to be leased, the terms of such lease;

7. Evidence of compliance by the applicant with the economic development and land use plans and design review criteria of the local governing body of the city in which the casino gaming establishment is proposed to be located, including certification that the project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

8. Such information necessary to enable the Department to review the application based upon the best financial interests of the Commonwealth; ~~and~~

9. *Such information necessary to enable the Department to authorize on-premises mobile casino gaming pursuant to Article 11 (§ 58.1-4131 et seq.);*

10. *Submission of the following: (i) a minority investment plan disclosing any equity interest owned by a minority individual or minority-owned business or the applicant's efforts to seek equity investment from minority individuals or minority-owned businesses and (ii) a plan for the participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the casino gaming establishment. As used in the subdivision, "minority individual" and "minority-owned business" mean the same as those terms are defined in § 2.2-1604; and*

11. Any other information that the Department in its discretion considers appropriate.

C. A nonrefundable application fee of \$50,000 shall be paid for each principal at the time of filing to defray the costs associated with the background investigation conducted for the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this chapter and allocating such costs to the applicants for licensure at the time of filing.

D. Any license application from an Indian tribe as described in subsection D of § 58.1-4107 shall certify that the material terms of the relevant development agreements between the Indian tribe and any development partner have been determined in the opinion of the Office of General Counsel of the National Indian Gaming Commission after review not to deprive the Indian tribe of the sole proprietor interest in the gaming operations for purposes of federal Indian gaming law.

E. Any application filed hereunder shall be verified by the oath or affirmation of the applicant. Any person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

F. The licensed operator shall be the person primarily responsible for the gaming operations under its license and compliance of such operations with the provisions of this chapter.

G. *The Department may use or rely on any application, supporting documentation, or information submitted pursuant to § 58.1-4032, in reviewing and verifying an application submitted pursuant to this chapter.*

§ 58.1-4110. Issuance of operator's license to preferred casino gaming operator; standards for licensure; temporary casino gaming allowed under certain conditions.

A. If a preferred casino gaming operator, as certified by the applicable eligible host city, submits an application that meets the standards for licensure set forth in this article, the Board shall issue an operator's license to such preferred casino gaming operator. The Board shall not consider an application from any applicant that has not been certified as a preferred casino gaming operator by an eligible host city.

B. The Board may issue an operator's license to an applicant only if it finds that:

1. The applicant submits a plan for addressing responsible gaming issues, including the goals of the plan, procedures, and deadlines for implementation of the plan;

2. The casino gaming establishment the applicant proposes to use on a permanent basis is or will be appropriate for gaming operations consistent with the purposes of this chapter;

3. The city where the casino gaming establishment will be located certifies that the proposed project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

4. Any required local infrastructure or site improvements, including necessary sewerage, water, drainage facilities, or traffic flow, are to be paid exclusively by the applicant without state or local financial assistance;

5. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable and have been subscribed and will be paid for only in cash or property to the exclusion of past services;

6. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the Virginia courts, and all nonresident principals have designated the Director as their agent for receipt of process;

7. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and require the resignation of, any person who is or becomes disqualified under subsection C;

8. The applicant meets any other criteria established by this chapter and the Board's regulations for the granting of an operator's license;

9. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts of the Commonwealth; and

10. The applicant has not previously been denied a license pursuant to subsection C.

C. The Board shall deny a license to an applicant if it finds that for any reason the issuance of a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of the applicant:

1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations in this or any other state or has been convicted of a felony;

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

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

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

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

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

D. The Board shall make a determination regarding whether to issue the operator's license within 12 months of the receipt of a completed application.

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

F. *If, at the time of application, the applicant has not satisfied the capital investment requirement of at least \$300 million pursuant to subsection B of § 58.1-4108 but otherwise meets the standards for licensure set forth in this article, the Department shall issue the operator's license, which, prior to satisfying the capital investment requirement, may not be used to conduct gaming other than temporary casino gaming pursuant to subsection G.*

G. The Department may authorize casino gaming to occur on a temporary basis for a period of one year under the following conditions:

1. The request to authorize casino gaming is made by a preferred casino gaming operator that has been issued a license pursuant to consistent with this section.

2. The preferred casino gaming operator has submitted as a part of its application for licensure a construction schedule for a casino gaming establishment that has been approved by the eligible host city and the Department.

3. The temporary casino gaming is to be conducted at the same site referenced in the referendum held pursuant to § 58.1-4123.

4. The preferred casino gaming operator has secured suppliers and employees holding the appropriate permits required by this chapter and sufficient for the routine operation of the site where the temporary casino gaming is authorized.

5. A performance bond is posted in an amount acceptable to the Board.

G. H. No portion of any facility developed with the assistance of any grants or loans provided by a redevelopment and housing authority created pursuant to § 36-4 shall be used as a casino gaming establishment.

The Department may renew the authorization to conduct temporary casino gaming for an additional year if it determines that the preferred casino gaming operator has made a good faith effort to comply with the approved construction schedule.

I. An operator issued a license under this chapter shall not be precluded from operating a sports betting facility for individuals to participate in sports betting activities in a casino gaming establishment, which may include in-person sports betting where the bettor places a bet directly with an employee of the casino or the sports betting permit holder, or through a kiosk or device.

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

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

exceed \$5,000 *per year of licensure*. *The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of supplier's permits.*

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 58.1-4122. Conduct of casino gaming.

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

1. Minimum and maximum wagers on games shall be set by Department regulations.

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

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

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

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

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

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

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

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

B. Casino gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased from a licensed casino gaming operator. Such tokens, chips, or electronic cards may be used only for the purpose of (i) making wagers on games or (ii) making a donation to a charitable entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, provided that the donated tokens, chips, or electronic cards are redeemed by the same charitable entity accepting the donation. *The provisions of this subsection shall not apply to sports betting in a sports betting facility, which may be conducted using cash.*

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

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

1. On the first \$200 million of adjusted gross receipts of an operator *each calendar year*, a rate of 18 percent.

2. On the adjusted gross receipts of an operator that exceed \$200 million but do not exceed \$400 million *each calendar year*, a rate of 23 percent.

3. On the adjusted gross receipts of an operator that exceed \$400 million *each calendar year*, a rate of 30 percent.

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

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

D. *The tax imposed under this section shall not apply to the receipts of a licensed operator from sports betting, whether such receipts were generated from a sports betting facility or sports betting platform; instead, such receipts shall be taxable under § 58.1-4037.*

§ 58.1-4125. Gaming Proceeds Fund.

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

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

1. The following amounts shall be appropriated to the city in which they were collected:

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

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

c. An amount equal to an eight percent tax on the adjusted gross receipts that exceed \$400 million.

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

3. Eight-tenths of one percent of the Fund shall be appropriated to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

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

5. Any remaining revenues not appropriated pursuant to subdivisions B 1 through B 4 shall remain in the Fund until appropriated by the General Assembly for programs established to address public school construction, renovations, or upgrades.

C. *As provided in the general appropriation act, funds appropriated pursuant to subdivision B 1 shall be distributed to cities on a quarterly basis.*

CHAPTER 8

An Act to amend and reenact § 34-29 of the Code of Virginia, relating to garnishment of wages; protected portion of disposable earnings.

[H 1814]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 34-29 of the Code of Virginia is amended and reenacted as follows:

§ 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~ *that* is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five percent of his disposable earnings for that week; or

(2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by § 206 (a) (1) of Title 29 of the United States Code U.S.C. § 206(a)(1) or the Virginia minimum hourly wage prescribed by § 40.1-28.10, whichever is greater, in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal *or Virginia* minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of:

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, ~~which that~~ is established by state law, ~~which~~ affords substantial due process, and ~~which~~ is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The maximum part of the aggregate disposable earnings of an individual for any workweek ~~which that~~ is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, 50 percent of such individual's disposable earnings for that week.

The 50 percent specified in subdivision ~~(b1)~~ (2) shall be 55 percent and the 60 percent specified in subdivision ~~(b1)~~ (1) shall be 65 percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period ~~which that~~ is more than 12 weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section:

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge, or mortgage of the wages or salary of an individual ~~which that~~ is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings ~~which that~~ are subject to garnishment.

CHAPTER 9

An Act to amend and reenact §§ 55.1-1800, 55.1-1815, 55.1-1816, 55.1-1832, 55.1-1900, 55.1-1935, 55.1-1949, 55.1-1952, and 55.1-1953 of the Code of Virginia, relating to the Property Owners' Association Act; the Condominium Act; use of electronic means for meetings and voting.

[H 1816]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1800, 55.1-1815, 55.1-1816, 55.1-1832, 55.1-1900, 55.1-1935, 55.1-1949, 55.1-1952, and 55.1-1953 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1800. Definitions.

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

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. *A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods.* Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

§ 55.1-1815. Access to association records; association meetings; notice.

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55.1-1816;
8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

F. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot. In lieu of sending such notice by United States mail, notice may instead be (i) hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member, or (ii) sent to the member by electronic mail, provided that the member has elected to receive such notice by electronic mail and, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. Except as provided in subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

H. Unless expressly prohibited by the governing documents, a member may vote at a meeting of the association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the board of directors has adopted guidelines for such voting by electronic means. Members voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.

§ 55.1-1816. Meetings of the board of directors.

A. All meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the association's board of directors or any subcommittee or other committee of the board of directors conducting the meeting.

Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of an association's board of directors or subcommittee or other committee of the board of directors for a meeting shall be made available for inspection by the membership of the association at the same

time such documents are furnished to the members of the board of directors or any subcommittee or committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of directors or subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being recorded.

~~If a meeting is conducted by telephone conference or video conference or similar electronic means, at least two members of the board of directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the board of directors participating in the meeting who is not physically present.~~

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation of this chapter.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a designated period of time during a *each* meeting to allow members an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the board of directors may limit the comments of members to the topics listed on the meeting agenda.

§ 55.1-1832. Use of technology.

A. ~~Unless expressly prohibited by the declaration expressly provides otherwise,~~ (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any declaration or bylaw provision or any provision of this chapter may be accomplished using electronic means.

B. The association, the lot owners, and those entitled to occupy a lot may perform any obligation or exercise any right under any declaration or bylaw provision or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any declaration or bylaw provision or any provision of this chapter.

D. Voting on, consent to, and approval of any matter under any declaration or bylaw provision or any provision of this chapter may be accomplished by electronic means, provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. *If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.*

E. Subject to other provisions of law, no action required or permitted by any declaration or bylaw provision or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the ~~executive~~ board of directors.

F. *Any meeting of the association, the board of directors, or any committee may be held entirely or partially by electronic means, provided that the board of directors has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The board of directors shall determine whether any such meeting may be held entirely or partially by electronic means.*

G. If any person does not have the capability or desire to conduct business using electronic means, the association shall make *available a reasonable accommodation alternative*, at its expense, for such person to conduct business with the association without use of such electronic means.

~~G. H.~~ This section shall not apply to any notice related to an enforcement action by the association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

§ 55.1-1900. Definitions.

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

"Capital components" means those items, whether or not a part of the common elements, for which the unit owners' association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Condominium" means real property, and any incidents to or interests in such real property, lawfully subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" means, collectively, the declaration, bylaws, and plats and plans recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification recorded with a condominium instrument shall be deemed an integral part of that condominium instrument. Once recorded, any amendment or certification of any condominium instrument shall be deemed an integral part of the affected condominium instrument if such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit.

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium.

"Conversion condominium" means a condominium containing structures that before the recording of the declaration were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a portion of the common elements within which additional units or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium that a declarant may convert into one or more units or common elements, including limited common elements, in accordance with the provisions of the declaration and this chapter.

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of its interest in a condominium unit not previously disposed of, including an institutional lender that may not have succeeded to or accepted any special declarant rights pursuant to § 55.1-1947; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), "declarant" does not include an institutional lender that acquires title by foreclosure or deed in lieu of foreclosure unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55.1-1947. "Declarant" does not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but does not include the transfer or release of security for a debt.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. *A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods.* Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act has the meaning set forth in that section.

"Executive board" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the unit owners' association.

"Expandable condominium" means a condominium to which additional land may be added in accordance with the provisions of the declaration and this chapter.

"Future common expenses" means common expenses for which assessments are not yet due and payable.

"Identifying number" means one or more letters or numbers that identify only one unit in the condominium.

"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be identified with reference to established datum.

"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold interests due to expire naturally at the same time. A condominium including leased land, or an interest in such land, within which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

"Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

"Nonbinding reservation agreement" means an agreement between the declarant and a prospective purchaser that is in no way binding on the prospective purchaser and that may be canceled without penalty at the sole discretion of the prospective purchaser.

"Offer" means any inducement, solicitation, or attempt to encourage any person to acquire any legal or equitable interest in a condominium unit, except as security for a debt. Nothing that expressly states that the condominium has not been registered with the Common Interest Community Board and that no unit in the condominium can or will be offered for sale until such time as the condominium has been so registered shall be considered an "offer."

"Officer" means any member of the executive board or official of the unit owners' association.

"Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value may be considered substantially identical within the meaning of §§ 55.1-1917 and 55.1-1918.

"Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

"Purchaser" means any person, other than a declarant, that acquires by means of a voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options, of less than 20 years or (ii) as security for a debt.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the plat and plans and rounded to the nearest whole number. Certain spaces within the units, including attic, basement, or garage space, may be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium and so long as that basis is described in the declaration.

"Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group of persons that becomes a declarant, to (i) expand an expandable condominium; (ii) contract a contractable condominium; (iii) convert convertible land or convertible space or both; (iv) appoint or remove any officers of the unit owners' association or the executive board pursuant to subsection A of § 55.1-1943; (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer, or the executive board; or (vi) maintain sales offices, management offices, model units, and signs pursuant to § 55.1-1929.

"Unit" means a portion of the condominium designed and intended for individual ownership and use. For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection D of § 55.1-1925.

"Unit owner" means one or more persons that own a condominium unit or, in the case of a leasehold condominium, whose leasehold interest in the condominium extends for the entire balance of the unexpired term. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person holding an interest in a condominium unit solely as security for a debt.

§ 55.1-1935. Use of technology.

A. Unless *expressly prohibited* by the condominium instruments ~~expressly provide otherwise~~, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of this chapter may be accomplished using electronic means.

B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any obligation or exercise any right under any condominium instrument or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any condominium instrument or any provision of this chapter.

D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of this chapter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. *If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.*

E. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

F. *Any meeting of the unit owners' association, the executive board, or any committee may be held entirely or partially by electronic means, provided that the executive board has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The executive board shall determine whether any such meeting may be held entirely or partially by electronic means.*

G. If any person does not have the capability or desire to conduct business using electronic means, the unit owners' association shall make *available* a reasonable ~~accommodation~~ *alternative*, at its expense, for such person to conduct business with the unit owners' association without use of such electronic means.

G. H. This section shall not apply to any notice related to an enforcement action by the unit owners' association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

§ 55.1-1949. Meetings of unit owners' association and executive board.

A. 1. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners' association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units, unless the unit owner has provided to such officer or his agent an address other than the address of the unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the person of the unit owner.

3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may, ~~to the extent that the condominium instruments or the condominium's rules and regulations expressly provide,~~ send notice by electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his agent certifies in writing that notice was sent ~~and, if such electronic mail was returned as undeliverable, notice was subsequently sent by United States mail.~~

B. 1. Except as otherwise provided in the condominium instruments, the provisions of this subsection shall apply to executive board meetings at which business of the unit owners' association is transacted or discussed. All meetings of the unit owners' association or the executive board, including any subcommittee or other committee of such association or board, shall be open to all unit owners of record. The executive board shall not use work sessions or other informal gatherings of the executive board to circumvent the open meeting requirements of this section. ~~The unit owners' association may, to the extent that the condominium instruments or adopted rules expressly provide, send notice by electronic means if consented to by the officer to whom the notice is given.~~ Minutes of the meetings of the executive board shall be recorded and shall be available as provided in § 55.1-1945.

2. Notice of the time, date, and place of each meeting of the executive board or of any subcommittee or other committee of the executive board, and of each meeting of a subcommittee or other committee of the unit owners' association, shall be published where it is reasonably calculated to be available to a majority of the unit owners.

A unit owner may make a request to be notified on a continual basis of any such meetings, which request shall be made at least once a year in writing and include the unit owners' name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any unit owner requesting notice (i) by first-class mail or email in the case of meetings of the executive board or (ii) by email in the case of meetings of any subcommittee or other committee of the executive board or of a subcommittee or other committee of the unit owners' association.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the (i) executive board or any subcommittee or other committee of such board or (ii) subcommittee or other committee of the unit owners' association conducting the meeting.

3. Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of the executive board or subcommittee or other committee of the executive board for a meeting shall be made available for inspection by the membership of the unit owners' association at the same time such documents are furnished to the members of the executive board.

4. Any unit owner may record any portion of a meeting required to be open. The executive board or subcommittee or other committee of the executive board conducting the meeting may adopt rules (i) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (ii) requiring the unit owner recording the meeting to provide notice that the meeting is being recorded.

~~If a meeting of the executive board is conducted by telephone conference or video conference or similar electronic means, at least two board members shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any board member participating in the meeting who is not physically present.~~

5. Voting by secret or written ballot in an open meeting is a violation of this chapter except for the election of officers.

C. The executive board or any subcommittee or other committee of the executive board may convene in executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts, probable or pending litigation, and matters involving violations of the condominium instruments or rules and regulations promulgated pursuant to such condominium instruments for which a unit owner, his family members, tenants, guests, or other invitees are responsible; or discuss and consider the personal liability of unit owners to the unit owners' association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The executive board shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the executive board or subcommittee or other committee of the executive board, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other

action, which shall have its substance reasonably identified in the open meeting. The requirements of this section do not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the executive board, the executive board shall provide a designated period of time during a *each* meeting to allow unit owners an opportunity to comment on any matter relating to the unit owners' association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the executive board may limit the comments of unit owners to the topics listed on the meeting agenda.

§ 55.1-1952. Meetings of unit owners' association and executive board; quorums.

A. Unless the condominium instruments otherwise provide or as specified in subsection G H of § 55.1-1953, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than one-third of the votes are present at the beginning of such meeting. The bylaws may provide for a larger percentage, or for a smaller percentage not less than 10 percent.

B. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the executive board if persons entitled to cast one-half of the votes in that body are present at the beginning of such meeting.

C. On petition of the unit owners' association or any unit owner entitled to vote, the circuit court of the county or city in which the condominium or the greater part of such condominium is located may order an annual meeting of the unit owners' association be held for the purpose of the election of members of the executive board, provided that:

1. No annual meeting as required by § 55.1-1949 has been held due to the failure to obtain a quorum of unit owners as specified in the condominium instruments; and

2. The unit owners' association has made good faith attempts to convene a duly called annual meeting of the unit owners' association in three successive years, which attempts have proven unsuccessful due to the failure to obtain a quorum.

The court may set the quorum for the meeting and enter other orders necessary to convene the meeting.

A unit owner filing a petition under this subsection shall provide a copy of the petition to the executive board at least 10 business days prior to filing.

§ 55.1-1953. Meetings of unit owners' association and executive board; voting by unit owners; proxies.

A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55.1-1920 a number of votes in the unit owners' association proportionate to the undivided interest in the common elements appertaining to each such unit.

B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. If more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. For purposes of this subsection, "person" is deemed to include any natural person having authority to execute deeds on behalf of any person, excluding natural persons, that is, either alone or in conjunction with another person, a unit owner.

D. The votes appertaining to any unit may be cast pursuant to a proxy duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such unit owners. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium instruments, any proxy is void if it is not dated, or if it purports to be revocable without the required notice. Any proxy shall be void if not signed by or on behalf of the unit owner. If the unit owner is more than one person, any such unit owner may object to the proxy at or prior to the meeting, whereupon the proxy shall be deemed revoked. Any proxy shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. ~~To the extent the condominium instruments or the condominium's rules and regulations expressly so provide, a vote or proxy may be submitted by electronic means, provided that any such electronic means shall either set forth or be submitted with information from which it can be determined that the electronic means was authorized by the unit owner or the unit owner's proxy.~~

E. *Unless expressly prohibited by the condominium instruments, a unit owner may vote at a meeting of the unit owners' association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the executive board has adopted guidelines for such voting by electronic means. Unit owners voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.*

F. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

F. G. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same proportions as the votes cast by unit owners other than the unit owners' association.

G. H. Except to the extent that the condominium instruments provide otherwise, the voting interest allocated to the unit or member that has been suspended by the unit owners' association or the executive board pursuant to the condominium instruments shall not be counted in the total number of voting interests used to determine the quorum for any meeting or vote under the condominium instruments.

CHAPTER 10

An Act to amend and reenact § 55.1-703 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; required disclosures for buyer to beware; mold.

[H 1824]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-703 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, or any conveyances of mineral rights, as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, *a mold assessment conducted by a business that follows the guidelines provided by the U.S. Environmental Protection Agency*, and a residential building energy analysis, as defined in § 54.1-1144, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any wastewater system, including the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater system, located on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of

any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

9. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or for the Virginia Department of Conservation and Recreation's Flood Risk Information System, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

10. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant to such contract;

12. The owner makes no representations with respect to whether the property is located on or near deposits of marine clays (marumscos soils), and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including consulting public resources regarding local soil conditions and having the soil and structural conditions of the property analyzed by a qualified professional;

13. The owner makes no representations with respect to whether the property is located in a locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

14. The owner makes no representations with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free," in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

15. The owner makes no representations with respect to the existence of defective drywall on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether there is defective drywall on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. For purposes of this subdivision, "defective drywall" means the same as that term is defined in § 36-156.1; and

16. The owner makes no representation with respect to the condition or regulatory status of any impounding structure or dam on the property or under the ownership of the common interest community that the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of required maintenance and operation, or other relevant information pertaining to the impounding structure or dam, including contacting the Department of Conservation and Recreation or a licensed professional engineer.

C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

CHAPTER 11

An Act to amend and reenact § 2.2-2282 of the Code of Virginia, relating to the Virginia Small Business Financing Authority; Board of Directors; membership; small business lending experience.

[H 1830]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2282 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-2282. Board of directors; membership; terms, compensation and expenses; chairman, vice-chairman, secretary and treasurer; quorum; staff.

A. The Board shall consist of the State Treasurer or his designee, the Director of the Department of Small Business and Supplier Diversity, and nine members who are not employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and, who shall have such small business experience as he deems necessary or desirable *and at least five of whom shall have experience in small business lending*. The appointment of members of the Board by the Governor shall be subject to confirmation by the General Assembly. All members of the Board shall be residents of the Commonwealth and shall have full voting privileges. Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

B. The Governor shall appoint one member as chairman for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. Five members of the Board shall constitute a quorum for the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The Board shall elect a secretary and a treasurer, or a secretary-treasurer, who need not be members of the Board and who shall continue to hold such office until their respective successors are elected. The Department of Small Business and Supplier Diversity of the Commonwealth shall serve as staff to the Authority.

2. That the provisions of this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made on and after July 1, 2021, shall be made in accordance with this act.

CHAPTER 12

An Act to amend and reenact §§ 2.2-3902, 2.2-3905, and 51.5-41 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3905.1, relating to the Virginia Human Rights Act; discrimination on the basis of disability.

[H 1848]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3902, 2.2-3905, and 51.5-41 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3905.1 as follows:

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, *disability*, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Division of Human Rights of the Department of Law (the Division) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction

over the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Employee" means an individual employed by an employer.

"Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, status as a veteran, sex, sexual orientation, gender identity, marital status, *disability*, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful ~~employment~~ *discriminatory* practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, *disability*, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, *disability*, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful ~~employment~~ *discriminatory* practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful ~~employment~~ *discriminatory* practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin;

5. For an employer to provide reasonable accommodations related to *disability*, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, *disability*, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 2.2-3905.1. Reasonable accommodations for persons with disabilities; unlawful discriminatory practice; notice of rights.

A. As used in this section:

"Employer" means any person, or agent of such person, employing more than five employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

"Person with a disability" means the term as defined in § 51.5-40.1.

"Physical impairment" means the term as defined in § 51.5-40.1.

"Mental impairment" means the term as defined in § 51.5-40.1.

"Otherwise qualified person with a disability" means the term as defined in subsection A of § 51.5-41.

B. It shall be an unlawful discriminatory practice for an employer to:

1. Refuse to make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer. In determining whether an accommodation would constitute an undue hardship upon the employer, the following shall be considered:

a. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's workforce;

b. Size of the facility where employment occurs;

c. The nature and cost of the accommodations needed, taking into account alternative sources of funding or technical assistance included under § 51.5-173;

d. The possibility that the same accommodations may be used by other prospective employees; and

e. Safety and health considerations of the person with a disability, other employees, and the public.

2. Take adverse action against an employee who requests or uses a reasonable accommodation pursuant to this section.

3. Deny employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation for a person with a disability.

4. Require an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

5. Fail to engage in a timely, good faith interactive process with an employee who has requested an accommodation pursuant to this section to determine if the requested accommodation is reasonable and, if such accommodation is determined not to be reasonable, discuss alternative accommodations that may be provided.

C. An employer shall post in a conspicuous location and include in any employee handbook information concerning an employee's rights to reasonable accommodation for disabilities. Such information shall also be directly provided to (i) new employees upon commencement of their employment and (ii) any employee within 10 days of such employee's providing notice to the employer that such employee has a disability.

§ 51.5-41. Discrimination against otherwise qualified persons with disabilities by employers prohibited.

A. No employer shall discriminate in employment or promotion practices against an otherwise qualified person with a disability solely because of such disability. For the purposes of this section, an "otherwise qualified person with a disability" means a person qualified to perform the ~~duties of a particular job or position and whose disability is unrelated to the person's ability to perform such duties or position or is unrelated to the person's qualifications for employment or promotion essential functions of a job with or without reasonable accommodations.~~

B. It is the policy of the Commonwealth that persons with disabilities shall be employed in the state service, the service of the political subdivisions of the Commonwealth, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as other persons unless it is shown that the particular disability prevents the performance of the work involved.

C. An employer shall make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue burden on the employer. For the purposes of this section, "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease, or defect that has been successfully asserted by an individual as a defense to any criminal charge.

1. In determining whether an accommodation would constitute an undue burden upon the employer, the following shall be considered:

a. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's work force;

b. Size of the facility where employment occurs;

c. The nature and cost of the accommodations needed, taking into account alternate sources of funding or technical assistance included under § 51.5-173;

d. The possibility that the same accommodations may be used by other prospective employees;

e. Safety and health considerations of the person with a disability, other employees, and the public.

2. ~~Notwithstanding the foregoing, any accommodation that would exceed \$500 in cost shall be rebuttably presumed to impose an undue burden upon any employer with fewer than 50 employees.~~

~~3. The employer has the right to choose among equally effective accommodations.~~

3. Nothing in this section shall require accommodations when the authority to make such accommodations is precluded under the terms of a lease or otherwise prohibited by statute, ordinance, or other regulation.

4. Building modifications made for the purposes of such reasonable accommodation may be made without requiring the remainder of the existing building to comply with the requirements of the Uniform Statewide Building Code.

D. Nothing in this section shall prohibit an employer from refusing to hire or promote, from disciplining, transferring, or discharging or taking any other personnel action pertaining to an applicant or an employee who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this section shall subject an employer to any legal liability resulting from the refusal to employ or promote or from the discharge, transfer, discipline of, or the taking of any other personnel action pertaining to a person with a disability who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner that would not endanger his health or safety or the health or safety of others.

E. Nothing in this section shall be construed as altering the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

F. This section shall not apply to employers covered by the federal Rehabilitation Act of 1973.

~~G. No employer who has hired any person because of the requirements of this section shall be liable for any alleged negligence in such hiring.~~

2. That the Division of Human Rights of the Department of Law shall develop and publish the notice required by subsection C of § 2.2-3905.1 of the Code of Virginia, as created by this act, within 120 days of the effective date of this act.

CHAPTER 13

An Act to amend and reenact § 55.1-319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-318.1, relating to deeds of trust; amendment to loan document; statement of interest rate of a refinanced mortgage.

[H 1882]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55.1-318.1 as follows:

§ 55.1-318.1. Effect of amendment to loan document on deed of trust.

A deed of trust that has been recorded and that states that it secures indebtedness or other obligations under a loan document and that it also secures indebtedness or other obligations under such loan document as it may be amended, modified, supplemented, or restated shall secure such loan document as amended, modified, supplemented, or restated from time to time, without the necessity of recording an amendment to such deed of trust and without regard to whether any such amendment, modification, supplement, or restatement may otherwise constitute a novation of the indebtedness or other obligations under the loan document, and shall have the same priority as the priority of the original deed of trust recorded. The foregoing provision shall not apply to any amendment, modification, supplement, or restatement of such loan document if (i) the deed of trust securing such loan document conveys an interest in residential real estate containing not more than one dwelling unit or (ii) such amendment, modification, supplement, or restatement of such loan document (a) increases the aggregate amount of the principal of the indebtedness secured by the original deed of trust, (b) changes or substitutes the noteholder, lender, or agent of any lender named in the original loan document, or (c) extends the maturity date of the indebtedness or obligation secured if such maturity date was set forth in the original deed of trust, and the effect of any such amendment, modification, supplement, or restatement shall be governed by the law that would otherwise apply without regard to this section. For the purposes of this section, "loan document" includes a note, loan agreement, credit agreement, or other document evidencing a loan or other indebtedness.

§ 55.1-319. Priority of residential refinance mortgage over subordinate mortgage.

A. As used in this section:

"Prior mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a financing.

"Refinance mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a refinancing.

"Refinancing" means the replacement of a loan secured by a prior mortgage with a new loan secured by a refinance mortgage and the payment in full of the debt owed under the original loan secured by the prior mortgage.

"Subordinate mortgage" means a mortgage or deed of trust securing an original principal amount not exceeding \$150,000, encumbering or conveying an interest in residential real estate containing not more than one dwelling unit that is subordinate in priority (i) under subdivision A 1 of § 55.1-407 or (ii) as a result of a previous refinancing.

B. Upon the refinancing of a prior mortgage, a subordinate mortgage shall retain the same subordinate position with respect to a refinance mortgage as the subordinate mortgage had with the prior mortgage, provided that:

1. Such refinance mortgage states on the first page thereof in bold and capitalized letters: "THIS IS A REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK _____, PAGE _____, IN THE ORIGINAL PRINCIPAL AMOUNT OF _____, AND WITH THE OUTSTANDING PRINCIPAL BALANCE WHICH IS _____ WHICH HAD AN INTEREST RATE OF ____% PER ANNUM.";

2. The principal amount secured by such refinance mortgage does not exceed the outstanding principal balance secured by the prior mortgage plus \$5,000; and

3. The interest rate is ~~stated in~~ of the refinance mortgage at the time it is recorded ~~and~~ does not exceed the interest rate ~~set forth in~~ of the prior mortgage. *The interest rate of the prior mortgage shall be stated on the first page of the refinance mortgage.*

C. The priorities among two or more subordinate mortgages shall be governed by subdivision A 1 of § 55.1-407.

D. The provisions of subsection B shall not apply to a subordinate mortgage securing a promissory note payable to any locality or any agency, authority, or political subdivision of the Commonwealth if such subordinate mortgage is financed pursuant to an affordable dwelling unit ordinance adopted pursuant to § 15.2-2304 or 15.2-2305, or pursuant to any program authorized by federal or state law or local ordinance or resolution, for (i) low-income and moderate-income persons or households or (ii) improvements to residential potable water supplies and sanitary sewage disposal systems made to address an existing or potential public health hazard, and which mortgage, if recorded on or after July 1, 2003, states on the first page thereof in bold or capitalized letters: "THIS (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) SHALL NOT, WITHOUT THE CONSENT OF THE SECURED PARTY HEREUNDER, BE SUBORDINATED UPON THE REFINANCING OF ANY PRIOR MORTGAGE."

CHAPTER 14

An Act to amend and reenact §§ 18.2-340.19 and 18.2-340.28 of the Code of Virginia, relating to the Charitable Gaming Board; regulations; electronic pull tabs.

[H 1943]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.19 and 18.2-340.28 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations that:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. In the case of the conduct of Texas Hold'em poker tournaments, the regulations shall provide that the predetermined percentage of gross receipts may be used for expenses related to compensating operators contracted by the qualified organization to administer such events. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Board finds appropriate to and consistent with the purpose of charitable gaming.

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation or conduct of charitable gaming may be required in order for the Board to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the Board or Department in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. *Such regulations shall not prohibit the use of multiple video monitors or touchscreens on an electronic pull tab device.*

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo; (ii) permit members who participate in the management, operation or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of 18 years may play bingo, provided such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. Board-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo, network bingo, pull tabs, or seal cards as a part of such bingo game and, if a permit is required pursuant to § 18.2-340.25, such games shall be played only at such times designated in the permit for regular bingo games.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

D. The use of electronic pull tab devices utilizing multiple video monitors or touchscreens shall be limited to one player at a time.

CHAPTER 15

An Act to amend and reenact § 58.1-4110 of the Code of Virginia, relating to casino gaming; requirements for issuance of operator's license; human trafficking training.

[H 1944]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-4110 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-4110. Issuance of operator's license to preferred casino gaming operator; standards for licensure; temporary casino gaming allowed under certain conditions.

A. If a preferred casino gaming operator, as certified by the applicable eligible host city, submits an application that meets the standards for licensure set forth in this article, the Board shall issue an operator's license to such preferred casino gaming operator. The Board shall not consider an application from any applicant that has not been certified as a preferred casino gaming operator by an eligible host city.

B. The Board may issue an operator's license to an applicant only if it finds that:

1. The applicant submits a plan for addressing responsible gaming issues, including the goals of the plan, procedures, and deadlines for implementation of the plan;

2. *The applicant has established a policy requiring all license and permit holders who interact directly with the public in the casino gaming establishment to complete a training course acceptable to the Department in how to recognize and report suspected human trafficking;*

3. The casino gaming establishment the applicant proposes to use on a permanent basis is or will be appropriate for gaming operations consistent with the purposes of this chapter;

3. 4. The city where the casino gaming establishment will be located certifies that the proposed project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

4. 5. Any required local infrastructure or site improvements, including necessary sewerage, water, drainage facilities, or traffic flow, are to be paid exclusively by the applicant without state or local financial assistance;

5. 6. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable and have been subscribed and will be paid for only in cash or property to the exclusion of past services;

6. 7. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the Virginia courts, and all nonresident principals have designated the Director as their agent for receipt of process;

7. 8. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and require the resignation of, any person who is or becomes disqualified under subsection C;

8. 9. The applicant meets any other criteria established by this chapter and the Board's regulations for the granting of an operator's license;

9. 10. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts of the Commonwealth; and

10. 11. The applicant has not previously been denied a license pursuant to subsection C.

C. The Board shall deny a license to an applicant if it finds that for any reason the issuance of a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of the applicant:

1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations in this or any other state or has been convicted of a felony;

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

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

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

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

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

D. The Board shall make a determination regarding whether to issue the operator's license within 12 months of the receipt of a completed application.

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

F. The Department may authorize casino gaming to occur on a temporary basis for a period of one year under the following conditions:

1. The request to authorize casino gaming is made by a preferred casino gaming operator that has been issued a license pursuant to this section.

2. The preferred casino gaming operator has submitted as a part of its application for licensure a construction schedule for a casino gaming establishment that has been approved by the eligible host city and the Department.

3. The temporary casino gaming is to be conducted at the same site referenced in the referendum held pursuant to § 58.1-4123.

4. The preferred casino gaming operator has secured suppliers and employees holding the appropriate permits required by this chapter and sufficient for the routine operation of the site where the temporary casino gaming is authorized.

5. A performance bond is posted in an amount acceptable to the Board.

G. No portion of any facility developed with the assistance of any grants or loans provided by a redevelopment and housing authority created pursuant to § 36-4 shall be used as a casino gaming establishment.

The Department may renew the authorization to conduct temporary casino gaming for an additional year if it determines that the preferred casino gaming operator has made a good faith effort to comply with the approved construction schedule.

CHAPTER 16

An Act to amend and reenact § 2.2-2240.3 of the Code of Virginia, relating to the Virginia Jobs Investment Program and Fund; minimum wage requirements.

[H 1967]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2240.3 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2240.3. Definitions; Virginia Jobs Investment Program and Fund; composition; general qualifications.

A. As used in this section and §§ 2.2-2240.4, 2.2-2240.5, and 2.2-2240.6, unless the context requires a different meaning:

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be capitalized by the company and that establishes or

increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both.

"Full-time employee" means a natural person employed for indefinite duration in a position requiring a minimum of either (i) 35 hours of the employee's time per week for the entire normal year, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary employees shall not qualify as new full-time employees under the Program.

"Fund" means the Virginia Jobs Investment Program Fund created in this section.

"Program" means the Virginia Jobs Investment Program created in this section.

B. There is hereby created the Virginia Jobs Investment Program to support private sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new business operations in Virginia. The Program shall support existing businesses and economic development prospects by offering funding to offset recruiting and training and retraining costs incurred by companies that are either creating new jobs or implementing technological upgrades and by providing assistance with workforce-related challenges and organizational development workshops.

C. The Program shall consist of the following component programs:

1. The Virginia New Jobs Program;
2. The Workforce Retraining Program; and
3. The Small Business New Jobs and Retraining Programs.

D. To be eligible for assistance under any of the component programs of the Program, a company shall:

1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which would include businesses or functions that directly or indirectly derive more than 50 percent of their revenues from out-of-state sources, as determined by the Authority;

2. Pay a minimum entry-level wage rate per hour of at least ~~1.35~~ *1.2* times the federal minimum wage *or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), whichever is higher.* In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance;

3. Meet such additional criteria as may be set forth by the Authority.

E. There is hereby established in the state treasury a special nonreverting fund to be known as the Virginia Jobs Investment Program Fund (the Fund). The Fund shall consist of any moneys appropriated thereto by the General Assembly from time to time and designated for the Fund. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this article in ensuing fiscal years. Moneys in the Fund shall be used solely for grants to eligible businesses as permitted by the Program. The total amount of funds provided to eligible businesses under the Program for any year, shall not exceed the amount appropriated by the General Assembly to the Fund for such year, plus any carryover from previous years. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the President and Chief Executive Officer or his designee. The Fund shall be administered by the President and Chief Executive Officer.

CHAPTER 17

An Act to amend and reenact § 36-96.3:2 of the Code of Virginia, relating to the Virginia Fair Housing Law; reasonable accommodations; disability-related requests for parking.

[H 1971]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 36-96.3:2 of the Code of Virginia is amended and reenacted as follows:

§ 36-96.3:2. Reasonable accommodations; interactive process.

A. When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.

B. *When a person receives a request for accessible parking to accommodate a disability, the person receiving the request shall treat such request as a request for reasonable accommodation as provided by this chapter.*

C. When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good-faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively

meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

C. D. A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

CHAPTER 18

An Act to revert certain property upon which the Chamberlin Hotel at Fort Monroe is located to the Commonwealth and to repeal § 1 of Chapter 809 of the Acts of Assembly of 1998, as amended by Chapter 713 of the Acts of Assembly of 2004.

[H 2009]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the property upon which a hotel known as the Chamberlin Hotel at Fort Monroe, Virginia, is located and that is leased to an operator for use as a senior living facility with an assisted living component shall revert to the Commonwealth subject to such lease or with such lease being assigned or otherwise conveyed to the Commonwealth by the United States.*

2. That § 1 of Chapter 809 of the Acts of Assembly of 1998, as amended by Chapter 713 of the Acts of Assembly of 2004, is repealed.

CHAPTER 19

An Act to amend and reenact § 22.1-98 of the Code of Virginia, relating to public schools; severe weather conditions and other emergency situations; unscheduled remote learning days.

[H 1790]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-98 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.

A. For the purposes of this section:

~~1.~~ "Declared state of emergency" means the declaration of an emergency before or after an event, by the Governor or by officials in a locality, that requires the closure of any or all schools within a school division.

~~2.~~ "Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including natural and man-made disasters, energy shortages, or power failures.

B. Except as provided in this section:

1. The length of every school's term in every school division shall be at least 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, ~~as defined in this section,~~ result in the closing of a school or the schools in a school division *or in an unscheduled remote learning day for a school or the schools in a school division*, the amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if *one of the following schedule methods of make-up days, make-up hours, or unscheduled remote learning days, as appropriate in the circumstances,* is followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five or fewer days, the school or the schools in the school division shall make up all missed days by adding teaching days to the school calendar or extending the length of the school day;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for six days or more, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in excess of the first five by adding teaching days to the school calendar or extending the length of the school day; or

3. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days to meet the minimum 990 teaching hour requirement; or

4. *When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services that are consistent with guidelines established by the Department of Education to ensure the equitable provision of such services. No school division shall claim more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension.*

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency or severe weather conditions or other emergency situations. If the local school board desires a waiver, it shall submit a request to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of this requirement. If the waiver is denied, the school division shall make up the missed instructional time in accordance with this section.

If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

F. Notwithstanding the provisions of this section, the Board of Education shall waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor pursuant to § 44-146.17 for up to five teaching days. If the local school board desires such a waiver, it shall notify the Board of Education and provide evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted. After receiving such notification, the Board shall grant the waiver and there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

G. If the professional personnel of any such school division actually render service for less than the contracted period for such school year and their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced.

H. In developing the school calendar as provided for in § 22.1-79.1, each local school board shall establish such calendars and teaching contracts in accordance with applicable regulations of the Board of Education to include contingencies for making up teaching days and teaching hours missed for emergency situations described in this section. Historical data shall be used to determine the needs of the locality including scheduled holidays and breaks and work days.

I. The Board of Education may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

J. With the exception of the Basic School Aid Fund as provided for above, the Commonwealth shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

K. As part of the annual report required by § 22.1-81, the division superintendent and local school board chairman shall certify the total number of teaching days and teaching hours each year.

CHAPTER 20

An Act to amend and reenact § 22.1-32 of the Code of Virginia, relating to Brunswick County school board; appointed school board salaries.

[H 1798]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-32 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-32. Salary of members.**

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter.

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack — \$3,000.00;
Alleghany — \$1,500.00;
Amherst — \$2,200.00;
Brunswick — \$1,800.00;
Cumberland — \$3,600.00;
Essex — \$1,800.00;
Greensville — \$1,800.00;
Hanover — \$8,000.00;
Isle of Wight — \$4,000.00;
Northampton — \$3,000.00;
Prince Edward — \$2,400.00;
Richmond — \$5,000.00;
Southampton — \$5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville — \$3,000.00;
Covington — \$1,500.00;
Danville — \$600.00;
Emporia — \$240.00;
Fries — \$240.00;
Hopewell — \$3,600.00;
Lexington — \$600.00;
Lynchburg — \$2,400.00;
Manassas Park — \$3,000.00;
Martinsville — \$2,400.00;
Poquoson — \$3,000.00;
Roanoke — \$4,200.00;
Salem — \$4,800.00;
South Boston — \$600.00;
Winchester — \$4,500.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding \$2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1

of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall be become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

CHAPTER 21

An Act to amend and reenact § 22.1-9 of the Code of Virginia, relating to the Board of Education; membership; geographic representation.

[H 1827]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-9 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-9. Appointment, terms, and vacancies.

The Board of Education shall consist of nine members appointed by the Governor, at least two of whom shall represent business and industry in the private sector in the Commonwealth *and of the nine members at least five shall reside in different superintendent's regions in the Commonwealth.* Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of 30 days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed to more than two consecutive four-year terms.

2. That the provisions of this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made on and after July 1, 2021, shall be made in accordance with this act.

CHAPTER 22

An Act to require the Department of Education to perform a comprehensive review of computer science standards, courses, and course pathways in public schools; report.

[H 1885]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Department of Education shall perform a comprehensive review of the ongoing implementation of mandatory computer science standards in elementary schools and middle schools and the alignment of middle school and high school computer science courses and course pathways. Such review shall include recommendations for implementation processes at the local level, profiles of implementation processes that have been successful for school divisions, a description of opportunities for enhanced collaboration with relevant computer science stakeholders to expand computer science education opportunities for all students in the Commonwealth and for relevant professional development for teachers, and examining methods of data collection annually from local school divisions pertaining to computer science implementation. The Department of Education shall prepare a report on its comprehensive review and shall provide such report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, the Secretary of Education, and the Superintendent of Public Instruction no later than November 1, 2021.*

CHAPTER 23

An Act to amend and reenact §§ 22.1-253.13:5 and 22.1-298.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-298.7, relating to teachers and other licensed school board employees; cultural competency.

[H 1904]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:5 and 22.1-298.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-298.7 as follows:

§ 22.1-253.13:5. Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. *Evaluations shall include an evaluation of cultural competency.*

C. The Board of Education shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board of Education regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) technology applications to implement the Standards of Learning; and (g) effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; ~~and~~

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. *Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency; and*

10. *Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board.*

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

§ 22.1-298.7. Teachers and other licensed school board employees; cultural competency training.

Each school board shall adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years.

2. That no later than December 31, 2021, the Board of Education shall issue guidance that establishes minimum standards for the cultural competency training required pursuant to § 22.1-298.7 of the Code of Virginia, as created by this act.

3. That each school board employee who is required to complete a cultural competency training pursuant to § 22.1-298.7 of the Code of Virginia, as created by this act, shall complete at least one such training no later than the beginning of the 2022–2023 school year.

CHAPTER 24

An Act to amend and reenact §§ 22.1-253.13:5 and 22.1-298.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-298.7, relating to teachers and other licensed school board employees; cultural competency.

[S 1196]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:5 and 22.1-298.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-298.7 as follows:

§ 22.1-253.13:5. Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. *Evaluations shall include an evaluation of cultural competency.*

C. The Board of Education shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate

annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board of Education regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) technology applications to implement the Standards of Learning; and (g) effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency

of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; and

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. *Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency; and*

10. *Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board.*

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

§ 22.1-298.7. Teachers and other licensed school board employees; cultural competency training.

Each school board shall adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years.

2. That no later than December 31, 2021, the Board of Education shall issue guidance that establishes minimum standards for the cultural competency training required pursuant to § 22.1-298.7 of the Code of Virginia, as created by this act.

3. That each school board employee who is required to complete a cultural competency training pursuant to § 22.1-298.7 of the Code of Virginia, as created by this act, shall complete at least one such training no later than the beginning of the 2022–2023 school year.

CHAPTER 25

An Act to amend and reenact § 22.1-200.03 of the Code of Virginia, relating to economic education and financial literacy required in middle and high school grades; employment arrangements.

[H 1905]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-200.03 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-200.03. Economics education and financial literacy required in middle and high school grades; Board of Education to establish objectives for economic education and financial literacy; banking-at-school programs.

A. Instruction in the principles of the American economic system shall be required in the public middle and high schools of the Commonwealth to promote economics education and financial literacy of students and to further the development of knowledge, skills, and attitudes needed for responsible citizenship in a constitutional democracy.

B. The Board of Education shall develop and approve objectives for economics education and financial literacy at the middle and high school levels, that shall be required of all students, and shall provide for the systematic infusion of economic principles in the relevant Standards of Learning, and in career and technical education programs. The objectives shall include personal living and finances; personal and business money management skills; opening an account in a financial institution and judging the quality of a financial institution's services; balancing a checkbook; completing a loan application; *the implications of and differences between various employment arrangements with regard to benefits, protections, and long-term financial sustainability*; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt management; managing retail and credit card debt; evaluating the economic value of postsecondary studies, including the net cost of attendance, potential student loan debt, and potential earnings; state and federal tax computation; local tax assessments; computation of interest rates by various mechanisms; understanding simple contracts; and learning how to contest an incorrect bill.

C. To facilitate the objectives of economics education and financial literacy through practical experiences, the Department shall confer with the State Corporation Commission's Bureau of Financial Institutions, and financial and relevant professional organizations in the development of guidelines for such literacy objectives. The guidelines shall include (i) rules and policies governing the establishment, operation, and dissolution of school banks and school credit unions; (ii) written agreements between partnering public schools and financial institutions, including the disposition of funds donated or other financial contributions provided by the partnering financial institution; and (iii) such other matters as the Department may deem appropriate.

D. The Board shall not be required to evaluate student achievement concerning economics education and financial literacy objectives in the Standards of Learning assessments required by § 22.1-253.13:3.

E. For the purposes of this section:

"*at-risk* and disadvantaged students" means students having socioeconomic or cultural risk factors that research indicates may negatively influence academic achievement or may hinder an individual in reaching his life goals.

"*Employment arrangements*" means full-time employment, part-time employment, independent contract work, gig work, piece work, contingent work, day labor work, freelance work, and 1099 work.

For the purposes of this section, "~~financial~~ *Financial institution*" means a bank, savings and loan association, savings bank, or credit union authorized to conduct business in the Commonwealth.

For the purposes of this section, "~~high~~ *High school*" includes grades nine through 12.

For the purposes of this section, "~~middle~~ *Middle school*" includes grades six through eight.

CHAPTER 26

An Act to amend and reenact § 22.1-137.2 of the Code of Virginia, relating to public schools; lock-down drills; annual requirement.

[H 1998]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-137.2 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-137.2. Lock-down drills.

A. In every public school there shall be a lock-down drill at least ~~twice~~ *once* during the first 20 school days of each school session, in order that students and teachers may be thoroughly practiced in such drills. Every public school shall hold at least one additional lock-down drill after the first 60 days of the school session. Every public school shall provide the parents of enrolled students with at least 24 hours' notice before the school conducts any lock-down drill, provided, however, that nothing in this section shall be construed to require such notice to include the exact date and time of the lock-down drill.

B. Pre-kindergarten and kindergarten students shall be exempt from mandatory participation in lock-down drills during the first 60 days of the school session. Local school boards shall develop policies to implement such exemption. Notwithstanding the foregoing provisions of this subsection, each pre-kindergarten and kindergarten student shall participate in each lock-down drill after the first 60 days of each school session.

CHAPTER 27

An Act to amend and reenact § 44-146.19 of the Code of Virginia, relating to Emergency Services and Disaster Law; local and interjurisdictional emergency operations plans.

[H 2085]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 44-146.19 of the Code of Virginia is amended and reenacted as follows:

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response, and recovery. Each political subdivision shall maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency management with consent of council;

2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall appoint a coordinator of emergency management with the consent of the governing body;

3. A coordinator of emergency management shall be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;

4. In the case of the Towns of Chincoteague and West Point and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall appoint a coordinator of emergency services with consent of council;

5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a director of emergency management, with the consent of the governing body, who shall appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate, or regulate the use, sale, production, and distribution of food, fuel, clothing, and other commodities, materials, goods, services, and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. The director of each local organization for emergency management may, in collaboration with (i) other public and private agencies within the Commonwealth or (ii) other states or localities within other states, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Except where a mutual aid arrangement for reciprocal assistance exists between localities, no locality shall prohibit another locality from providing emergency medical services across local boundaries solely on the basis of financial considerations.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command, and a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies. *Such plan shall also contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable communities*

are met during emergencies. Every four years, each local and interjurisdictional agency shall conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the localities encompassed by the agency. Each political subdivision having a nuclear power station or other nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

F. All political subdivisions shall provide (i) an annually updated emergency management assessment and (ii) data related to emergency sheltering capabilities, including emergency shelter locations, evacuation zones, capacity by person, medical needs capacity, current wind rating, standards compliance, backup power, and lead agency for staffing, to the State Coordinator of Emergency Management on or before May 1 of each year.

G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster. The governing body of the locality, in consultation with its local emergency management organization, shall amend its local emergency operations plan that may include rules for the operation of its alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or other personal notification systems, amateur radio operators, or any combination thereof.

H. Localities that have established an agency of emergency management shall have authority to require the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities, adult day care centers, and child day care centers that are located within the locality.

CHAPTER 28

An Act to amend and reenact § 22.1-205 of the Code of Virginia, relating to student driver education program; parent/student component exemption.

[H 2119]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-205 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or other document issued by the Department of Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) distracted driving; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board. *However, in any school division in which the parent/student driver education component is required, no student who is (1) at least 18 years of age, (2) an emancipated minor, or (3) an unaccompanied minor who is not in the physical custody of his parent or guardian shall be required to participate in such component.*

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student driver education component *who are not otherwise exempted from participation in the parent/student driver education component pursuant to the provisions of subdivision 1*, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

CHAPTER 29

An Act to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to arrest and prosecution when experiencing or reporting overdoses.

[H 1821]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-251.03 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to § 18.2-250, possession of marijuana pursuant to § 18.2-250.1, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an

overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention *or rendering emergency care or assistance*.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, ~~or~~ to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, *or to a person who renders emergency care or assistance to an individual experiencing an overdose while another person seeks or obtains emergency medical attention* during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

CHAPTER 30

An Act to amend and reenact §§ 16.1-256 and 16.1-260 of the Code of Virginia, relating to juvenile intake and petition; appeal to a magistrate on a finding of no probable cause.

[H 1878]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-256 and 16.1-260 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-256. Limitations as to issuance of warrants for juveniles; detention orders.

No warrant of arrest shall be issued for any juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer *to refuse to authorize a petition based solely upon a finding that no probable cause exists; or*

2. Upon a finding of probable cause to believe that the child is in need of services or is a delinquent, when (i) the court is not open and (ii) the judge and the intake officer of the juvenile and domestic relations district court are not reasonably available. For purposes of this section, the phrase "not reasonably available" means that neither the judge nor the intake officer of the juvenile and domestic relations district court could be reached after the appearance by the juvenile before a magistrate or that neither could arrive within one hour after he was contacted.

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the juvenile court.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The

facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer

the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, *when such refusal is based solely upon a finding that no probable cause exists*, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. *The application for a warrant to the magistrate shall be filed within 10 days of the issuance of the written notification. The written notification shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy of the written notification upon application to the magistrate.* If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. *If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a magistrate for a warrant.*

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, or a violation of § 18.2-250.1, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or

16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

CHAPTER 31

An Act to amend and reenact § 18.2-308.2:2, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to sale and transfer of firearms; criminal history record information checks.

[H 2128]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.2:2, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department

of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's ~~third~~ *third fifth* business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's ~~third~~ *third fifth* business day" shall not include December 25.

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law.

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

F. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

I. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of \$5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms

dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;

h. A person who holds a valid Virginia permit to carry a concealed handgun;

i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or

j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not

be available by the end of the dealer's ~~third~~ *fifth* business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's ~~third~~ *fifth* business day" does not include December 25.

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law.

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section, shall be guilty of a Class 2 misdemeanor.

F. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided by the Department of State Police pursuant to this section.

H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade, or transfer of firearms.

J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of \$5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs, or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate, or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;
- f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;
- g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;
- h. A person who holds a valid Virginia permit to carry a concealed handgun;
- i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or
- j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 32

An Act to amend and reenact the second enactment of Chapter 574 of the Acts of Assembly of 2017, relating to produce safety; sunset.

[S 1194]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

- 1. That the second enactment of Chapter 574 of the Acts of Assembly of 2017 is amended and reenacted as follows:**
 - 2. That Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act, shall expire upon the effective date of the repeal of 21 C.F.R. Part 112 or on July 1, 2022, whichever occurs sooner.**

CHAPTER 33

An Act to amend and reenact § 2.2-3708.2 of the Code of Virginia, relating to the Virginia Freedom of Information Act; electronic meetings.

[H 1931]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

- 1. That § 2.2-3708.2 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-3708.2. Meetings held through electronic communication means.

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

a. Such member is unable to attend the meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance or (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance; or

b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision b is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to (i) a temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subdivision shall:

a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

b. Make arrangements for public access to such meeting; and

c. Otherwise comply with the provisions of this section.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to subdivisions A 1 and 2 and subsection B shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § 2.2-3707.01, state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

a. The total number of meetings held that year in which there was participation through electronic communication means;

b. The dates and purposes of each such meeting;

c. A copy of the agenda for each such meeting;

d. The primary or central meeting location of each such meeting;

- e. The types of electronic communication means by which each meeting was held;
 - f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;
 - g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
 - h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;
 - i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
 - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
 - k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.
- E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

CHAPTER 34

An Act to amend and reenact § 19.2-56 of the Code of Virginia, relating to execution of search warrants; emergency.

[S 1475]

Approved March 1, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-56, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 19.2-56. (Effective March 1, 2021) To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

A. The judge, magistrate, or other official authorized to issue criminal warrants, shall issue a search warrant *only* if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff, sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official, or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or

videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant. A search warrant *for any place of abode* authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide audible notice of his authority and purpose reasonably ~~expected~~ *designed* to be heard by *the* occupants of such place to be searched prior to the execution of such search warrant.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall ~~read and~~ give a copy of the search warrant *and affidavit* to the person to be searched or the owner of the place to be searched or, if the owner is not present, to any occupant of the place to be searched. If the place to be searched is unoccupied, the executing law-enforcement officer shall leave a copy of the search warrant ~~suitably~~ *and affidavit in a conspicuous place within or* affixed to the place to be searched.

Search warrants authorized under this section *for the search of any place of abode* shall be executed *by initial entry of the abode* only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown ~~or~~ *by particularized facts in an affidavit or* (ii) ~~the search warrant is for the withdrawal of blood prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously. A search warrant for the withdrawal of blood may be executed at any time of day.~~

A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, *unless circumstances require the issuance of the warrant after 5 p.m., pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge.* Such reasonable efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

Any evidence obtained from a search warrant *executed* in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

C. For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

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

CHAPTER 35

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-581, relating to Consumer Data Protection Act.

[H 2307]

Approved March 2, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-581, as follows:

CHAPTER 52.

CONSUMER DATA PROTECTION ACT.

§ 59.1-571. Definitions.

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

"Affiliate" means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, "control" or "controlled" means (i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company; (ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or (iii) the power to exercise controlling influence over the management of a company.

"Authenticate" means verifying through reasonable means that the consumer, entitled to exercise his consumer rights in § 59.1-573, is the same consumer exercising such consumer rights with respect to the personal data at issue.

"Biometric data" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. "Biometric data" does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

"Business associate" means the same meaning as the term established by HIPAA.

"Child" means any natural person younger than 13 years of age.

"Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to process personal data relating to the consumer. Consent may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action.

"Consumer" means a natural person who is a resident of the Commonwealth acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.

"Controller" means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.

"Covered entity" means the same as the term is established by HIPAA.

"Decisions that produce legal or similarly significant effects concerning a consumer" means a decision made by the controller that results in the provision or denial by the controller of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

"De-identified data" means data that cannot reasonably be linked to an identified or identifiable natural person, or a device linked to such person. A controller that possesses "de-identified data" shall comply with the requirements of subsection A of § 59.1-577.

"Fund" means the Consumer Privacy Fund established pursuant to § 59.1-581.

"Health record" means the same as that term is defined in § 32.1-127.1:03.

"Health care provider" means the same as that term is defined in § 32.1-276.3.

"HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.).

"Identified or identifiable natural person" means a person who can be readily identified, directly or indirectly.

"Institution of higher education" means a public institution and private institution of higher education, as those terms are defined in § 23.1-100.

"Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of the Internal Revenue Code, and any subsidiaries and affiliates of entities organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

"Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include de-identified data or publicly available information.

"Precise geolocation data" means information derived from technology, including but not limited to global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a natural person with precision and accuracy within a radius of 1,750 feet. "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

"Process" or "processing" means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

"Processor" means a natural or legal entity that processes personal data on behalf of a controller.

"Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

"Protected health information" means the same as the term is established by HIPAA.

"Pseudonymous data" means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

"Publicly available information" means information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

"Sale of personal data" means the exchange of personal data for monetary consideration by the controller to a third party. "Sale of personal data" does not include:

1. The disclosure of personal data to a processor that processes the personal data on behalf of the controller;
2. The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;
3. The disclosure or transfer of personal data to an affiliate of the controller;
4. The disclosure of information that the consumer (i) intentionally made available to the general public via a channel of mass media and (ii) did not restrict to a specific audience; or
5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

"Sensitive data" means a category of personal data that includes:

1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status;
2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;
3. The personal data collected from a known child; or
4. Precise geolocation data.

"State agency" means the same as that term is defined in § 2.2-307.

"Targeted advertising" means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. "Targeted advertising" does not include:

1. Advertisements based on activities within a controller's own websites or online applications;
2. Advertisements based on the context of a consumer's current search query, visit to a website, or online application;
3. Advertisements directed to a consumer in response to the consumer's request for information or feedback; or
4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or frequency.

"Third party" means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

§ 59.1-572. Scope; exemptions.

A. This chapter applies to persons that conduct business in the Commonwealth or produce products or services that are targeted to residents of the Commonwealth and that (i) during a calendar year, control or process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000 consumers and derive over 50 percent of gross revenue from the sale of personal data.

B. This chapter shall not apply to any (i) body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth; (ii) financial institution or data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.); (iii) covered entity or business associate governed by the privacy, security, and breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and the Health Information Technology for Economic and Clinical Health Act (P.L. 111-5); (iv) nonprofit organization; or (v) institution of higher education.

C. The following information and data is exempt from this chapter:

1. Protected health information under HIPAA;
2. Health records for purposes of Title 32.1;

3. Patient identifying information for purposes of 42 U.S.C. § 290dd-2;

4. Identifiable private information for purposes of the federal policy for the protection of human subjects under 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by The International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; the protection of human subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research conducted in accordance with the requirements set forth in this chapter, or other research conducted in accordance with applicable law;

5. Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986 (42 U.S.C. § 11101 et seq.);

6. Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act (42 U.S.C. § 299b-21 et seq.);

7. Information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA;

8. Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as information exempt under this subsection that is maintained by a covered entity or business associate as defined by HIPAA or a program or a qualified service organization as defined by 42 U.S.C. § 290dd-2;

9. Information used only for public health activities and purposes as authorized by HIPAA;

10. The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.);

11. Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 et seq.);

12. Personal data regulated by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g et seq.);

13. Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act (12 U.S.C. § 2001 et seq.); and

14. Data processed or maintained (i) in the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role; (ii) as the emergency contact information of an individual under this chapter used for emergency contact purposes; or (iii) that is necessary to retain to administer benefits for another individual relating to the individual under clause (i) and used for the purposes of administering those benefits.

D. Controllers and processors that comply with the verifiable parental consent requirements of the Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.) shall be deemed compliant with any obligation to obtain parental consent under this chapter.

§ 59.1-573. Personal data rights; consumers.

A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing personal data belonging to the known child. A controller shall comply with an authenticated consumer request to exercise the right:

1. To confirm whether or not a controller is processing the consumer's personal data and to access such personal data;

2. To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

3. To delete personal data provided by or obtained about the consumer;

4. To obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means; and

5. To opt out of the processing of the personal data for purposes of (i) targeted advertising, (ii) the sale of personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer.

B. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to subsection A as follows:

1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in § 59.1-573 A. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the controller informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

2. If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision pursuant to subsection C.

3. Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

4. If a controller is unable to authenticate the request using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action under subsection A and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

C. A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to subdivision B 2. The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to subsection A. Within 60 days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

§ 59.1-574. Data controller responsibilities; transparency.

A. A controller shall:

1. Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer;

2. Except as otherwise provided in this chapter, not process personal data for purposes that are neither reasonably necessary to nor compatible with the disclosed purposes for which such personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

3. Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue;

4. Not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this subdivision shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to § 59.1-573 or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program; and

5. Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.).

B. Any provision of a contract or agreement of any kind that purports to waive or limit in any way consumer rights pursuant to § 59.1-573 shall be deemed contrary to public policy and shall be void and unenforceable.

C. Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

1. The categories of personal data processed by the controller;

2. The purpose for processing personal data;

3. How consumers may exercise their consumer rights pursuant § 59.1-573, including how a consumer may appeal a controller's decision with regard to the consumer's request;

4. The categories of personal data that the controller shares with third parties, if any; and

5. The categories of third parties, if any, with whom the controller shares personal data.

D. If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

E. A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to § 59.1-573 but may require a consumer to use an existing account.

§ 59.1-575. Responsibility according to role; controller and processor.

A. A processor shall adhere to the instructions of a controller and shall assist the controller in meeting its obligations under this chapter. Such assistance shall include:

1. Taking into account the nature of processing and the information available to the processor, by appropriate technical and organizational measures, insofar as this is reasonably practicable, to fulfill the controller's obligation to respond to consumer rights requests pursuant to § 59.1-573.

2. Taking into account the nature of processing and the information available to the processor, by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of security of the system of the processor pursuant to § 18.2-186.6 in order to meet the controller's obligations.

3. Providing necessary information to enable the controller to conduct and document data protection assessments pursuant to § 59.1-576.

B. A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract shall be binding and clearly set forth instructions for processing data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties. The contract shall also include requirements that the processor shall:

1. Ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data;

2. At the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

3. Upon the reasonable request of the controller, make available to the controller all information in its possession necessary to demonstrate the processor's compliance with the obligations in this chapter;

4. Allow, and cooperate with, reasonable assessments by the controller or the controller's designated assessor; alternatively, the processor may arrange for a qualified and independent assessor to conduct an assessment of the processor's policies and technical and organizational measures in support of the obligations under this chapter using an appropriate and accepted control standard or framework and assessment procedure for such assessments. The processor shall provide a report of such assessment to the controller upon request; and

5. Engage any subcontractor pursuant to a written contract in accordance with subsection C that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

C. Nothing in this section shall be construed to relieve a controller or a processor from the liabilities imposed on it by virtue of its role in the processing relationship as defined by this chapter.

D. Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

§ 59.1-576. Data protection assessments.

A. A controller shall conduct and document a data protection assessment of each of the following processing activities involving personal data:

1. The processing of personal data for purposes of targeted advertising;

2. The sale of personal data;

3. The processing of personal data for purposes of profiling, where such profiling presents a reasonably foreseeable risk of (i) unfair or deceptive treatment of, or unlawful disparate impact on, consumers; (ii) financial, physical, or reputational injury to consumers; (iii) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where such intrusion would be offensive to a reasonable person; or (iv) other substantial injury to consumers;

4. The processing of sensitive data; and

5. Any processing activities involving personal data that present a heightened risk of harm to consumers.

B. Data protection assessments conducted pursuant to subsection A shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with such processing, as mitigated by safeguards that can be employed by the controller to reduce such risks. The use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed, shall be factored into this assessment by the controller.

C. The Attorney General may request, pursuant to a civil investigative demand, that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General, and the controller shall make the data protection assessment available to the Attorney General. The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in § 59.1-574. Data protection assessments shall be confidential and exempt from public inspection and copying under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The disclosure of a data protection assessment pursuant to a request from the Attorney General shall not constitute a waiver of attorney-client privilege or work product protection with respect to the assessment and any information contained in the assessment.

D. A single data protection assessment may address a comparable set of processing operations that include similar activities.

E. Data protection assessments conducted by a controller for the purpose of compliance with other laws or regulations may comply under this section if the assessments have a reasonably comparable scope and effect.

F. Data protection assessment requirements shall apply to processing activities created or generated after January 1, 2023, and are not retroactive.

§ 59.1-577. Processing de-identified data; exemptions.

A. The controller in possession of de-identified data shall:

- 1. Take reasonable measures to ensure that the data cannot be associated with a natural person;*
- 2. Publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and*
- 3. Contractually obligate any recipients of the de-identified data to comply with all provisions of this chapter.*

B. Nothing in this chapter shall be construed to (i) require a controller or processor to re-identify de-identified data or pseudonymous data or (ii) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

C. Nothing in this chapter shall be construed to require a controller or processor to comply with an authenticated consumer rights request, pursuant to § 59.1-573, if all of the following are true:

- 1. The controller is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;*
- 2. The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and*
- 3. The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.*

D. The consumer rights contained in subdivisions A 1 through 4 of § 59.1-573 and § 59.1-574 shall not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing such information.

E. A controller that discloses pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 59.1-578. Limitations.

A. Nothing in this chapter shall be construed to restrict a controller's or processor's ability to:

- 1. Comply with federal, state, or local laws, rules, or regulations;*
- 2. Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;*
- 3. Cooperate with law-enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations;*
- 4. Investigate, establish, exercise, prepare for, or defend legal claims;*
- 5. Provide a product or service specifically requested by a consumer, perform a contract to which the consumer is a party, including fulfilling the terms of a written warranty, or take steps at the request of the consumer prior to entering into a contract;*
- 6. Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis;*
- 7. Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;*

8. Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, or similar independent oversight entities that determine: (i) if the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller; (ii) the expected benefits of the research outweigh the privacy risks; and (iii) if the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification; or

9. Assist another controller, processor, or third party with any of the obligations under this subsection.

B. The obligations imposed on controllers or processors under this chapter shall not restrict a controller's or processor's ability to collect, use, or retain data to:

- 1. Conduct internal research to develop, improve, or repair products, services, or technology;*
- 2. Effectuate a product recall;*
- 3. Identify and repair technical errors that impair existing or intended functionality; or*
- 4. Perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.*

C. The obligations imposed on controllers or processors under this chapter shall not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under the laws of the Commonwealth. Nothing in this chapter shall be construed to prevent a controller or processor from providing personal data concerning a

consumer to a person covered by an evidentiary privilege under the laws of the Commonwealth as part of a privileged communication.

D. A controller or processor that discloses personal data to a third-party controller or processor, in compliance with the requirements of this chapter, is not in violation of this chapter if the third-party controller or processor that receives and processes such personal data is in violation of this chapter, provided that, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this chapter is likewise not in violation of this chapter for the transgressions of the controller or processor from which it receives such personal data.

E. Nothing in this chapter shall be construed as an obligation imposed on controllers and processors that adversely affects the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution, or applies to the processing of personal data by a person in the course of a purely personal or household activity.

F. Personal data processed by a controller pursuant to this section shall not be processed for any purpose other than those expressly listed in this section unless otherwise allowed by this chapter. Personal data processed by a controller pursuant to this section may be processed to the extent that such processing is:

1. Reasonably necessary and proportionate to the purposes listed in this section; and

2. Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. Personal data collected, used, or retained pursuant to subsection B shall, where applicable, take into account the nature and purpose or purposes of such collection, use, or retention. Such data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to such collection, use, or retention of personal data.

G. If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in subsection F.

H. Processing personal data for the purposes expressly identified in subdivisions A 1 through 9 shall not solely make an entity a controller with respect to such processing.

§ 59.1-579. Investigative authority.

Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued under this section.

§ 59.1-580. Enforcement; civil penalty; expenses.

A. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.

B. Prior to initiating any action under this chapter, the Attorney General shall provide a controller or processor 30 days' written notice identifying the specific provisions of this chapter the Attorney General alleges have been or are being violated. If within the 30-day period, the controller or processor cures the noticed violation and provides the Attorney General an express written statement that the alleged violations have been cured and that no further violations shall occur, no action shall be initiated against the controller or processor.

C. If a controller or processor continues to violate this chapter following the cure period in subsection B or breaches an express written statement provided to the Attorney General under that subsection, the Attorney General may initiate an action in the name of the Commonwealth and may seek an injunction to restrain any violations of this chapter and civil penalties of up to \$7,500 for each violation under this chapter.

D. The Attorney General may recover reasonable expenses incurred in investigating and preparing the case, including attorney fees, in any action initiated under this chapter.

E. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or under any other law.

§ 59.1-581. Consumer Privacy Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Consumer Privacy Fund. The Fund shall be established on the books of the Comptroller. All civil penalties, expenses, and attorney fees collected pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to support the work of the Office of the Attorney General to enforce the provisions of this chapter, subject to appropriation.

2. The Chairman of the Joint Commission on Technology and Science shall create a work group composed of the Secretary of Commerce and Trade, the Secretary of Administration, the Attorney General, the Chairman of the Senate Committee on Transportation, representatives of businesses who control or process personal data of at least 100,000 persons, and consumer rights advocates. The work group shall review the provisions of this act and issues related to its implementation. The Chairman of the Joint Commission on Technology and Science shall submit the work group's findings, best practices, and recommendations regarding the implementation of this act to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on Communications, Technology and Innovation no later than November 1, 2021.

3. That any reference to federal law or statute in this act shall be deemed to include any accompanying rules or regulations or exemptions thereto. Further, this enactment is declaratory of existing law.

4. That the provisions of the first and third enactments of this act shall become effective on January 1, 2023.

CHAPTER 36

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-581, relating to Consumer Data Protection Act.

[S 1392]

Approved March 2, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-581, as follows:

CHAPTER 52.

CONSUMER DATA PROTECTION ACT.

§ 59.1-571. Definitions.

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

"Affiliate" means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, "control" or "controlled" means (i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company; (ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or (iii) the power to exercise controlling influence over the management of a company.

"Authenticate" means verifying through reasonable means that the consumer, entitled to exercise his consumer rights in § 59.1-573, is the same consumer exercising such consumer rights with respect to the personal data at issue.

"Biometric data" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. "Biometric data" does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

"Business associate" means the same meaning as the term established by HIPAA.

"Child" means any natural person younger than 13 years of age.

"Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to process personal data relating to the consumer. Consent may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action.

"Consumer" means a natural person who is a resident of the Commonwealth acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.

"Controller" means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.

"Covered entity" means the same as the term is established by HIPAA.

"Decisions that produce legal or similarly significant effects concerning a consumer" means a decision made by the controller that results in the provision or denial by the controller of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

"De-identified data" means data that cannot reasonably be linked to an identified or identifiable natural person, or a device linked to such person. A controller that possesses "de-identified data" shall comply with the requirements of subsection A of § 59.1-577.

"Fund" means the Consumer Privacy Fund established pursuant to § 59.1-581.

"Health record" means the same as that term is defined in § 32.1-127.1:03.

"Health care provider" means the same as that term is defined in § 32.1-276.3.

"HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.).

"Identified or identifiable natural person" means a person who can be readily identified, directly or indirectly.

"Institution of higher education" means a public institution and private institution of higher education, as those terms are defined in § 23.1-100.

"Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of the Internal Revenue Code, and any subsidiaries and affiliates of entities organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

"Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include de-identified data or publicly available information.

"Precise geolocation data" means information derived from technology, including but not limited to global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a

natural person with precision and accuracy within a radius of 1,750 feet. "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

"Process" or "processing" means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

"Processor" means a natural or legal entity that processes personal data on behalf of a controller.

"Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

"Protected health information" means the same as the term is established by HIPAA.

"Pseudonymous data" means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

"Publicly available information" means information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

"Sale of personal data" means the exchange of personal data for monetary consideration by the controller to a third party. "Sale of personal data" does not include:

1. The disclosure of personal data to a processor that processes the personal data on behalf of the controller;
2. The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;
3. The disclosure or transfer of personal data to an affiliate of the controller;
4. The disclosure of information that the consumer (i) intentionally made available to the general public via a channel of mass media and (ii) did not restrict to a specific audience; or
5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

"Sensitive data" means a category of personal data that includes:

1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status;
2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;
3. The personal data collected from a known child; or
4. Precise geolocation data.

"State agency" means the same as that term is defined in § 2.2-307.

"Targeted advertising" means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. "Targeted advertising" does not include:

1. Advertisements based on activities within a controller's own websites or online applications;
2. Advertisements based on the context of a consumer's current search query, visit to a website, or online application;
3. Advertisements directed to a consumer in response to the consumer's request for information or feedback; or
4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or frequency.

"Third party" means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

§ 59.1-572. Scope; exemptions.

A. This chapter applies to persons that conduct business in the Commonwealth or produce products or services that are targeted to residents of the Commonwealth and that (i) during a calendar year, control or process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000 consumers and derive over 50 percent of gross revenue from the sale of personal data.

B. This chapter shall not apply to any (i) body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth; (ii) financial institution or data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.); (iii) covered entity or business associate governed by the privacy, security, and breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and the Health Information Technology for Economic and Clinical Health Act (P.L. 111-5); (iv) nonprofit organization; or (v) institution of higher education.

C. The following information and data is exempt from this chapter:

1. Protected health information under HIPAA;
2. Health records for purposes of Title 32.1;
3. Patient identifying information for purposes of 42 U.S.C. § 290dd-2;

4. Identifiable private information for purposes of the federal policy for the protection of human subjects under 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by The International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; the protection of human subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research conducted in accordance with the requirements set forth in this chapter, or other research conducted in accordance with applicable law;

5. Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986 (42 U.S.C. § 11101 et seq.);

6. Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act (42 U.S.C. § 299b-21 et seq.);

7. Information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA;

8. Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as information exempt under this subsection that is maintained by a covered entity or business associate as defined by HIPAA or a program or a qualified service organization as defined by 42 U.S.C. § 290dd-2;

9. Information used only for public health activities and purposes as authorized by HIPAA;

10. The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.);

11. Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 et seq.);

12. Personal data regulated by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g et seq.);

13. Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act (12 U.S.C. § 2001 et seq.); and

14. Data processed or maintained (i) in the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role; (ii) as the emergency contact information of an individual under this chapter used for emergency contact purposes; or (iii) that is necessary to retain to administer benefits for another individual relating to the individual under clause (i) and used for the purposes of administering those benefits.

D. Controllers and processors that comply with the verifiable parental consent requirements of the Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.) shall be deemed compliant with any obligation to obtain parental consent under this chapter.

§ 59.1-573. Personal data rights; consumers.

A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing personal data belonging to the known child. A controller shall comply with an authenticated consumer request to exercise the right:

1. To confirm whether or not a controller is processing the consumer's personal data and to access such personal data;

2. To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

3. To delete personal data provided by or obtained about the consumer;

4. To obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means; and

5. To opt out of the processing of the personal data for purposes of (i) targeted advertising, (ii) the sale of personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer.

B. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to subsection A as follows:

1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in § 59.1-573 A. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the controller informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

2. If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision pursuant to subsection C.

3. Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may

charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

4. If a controller is unable to authenticate the request using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action under subsection A and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

C. A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to subdivision B 2. The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to subsection A. Within 60 days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

§ 59.1-574. Data controller responsibilities; transparency.

A. A controller shall:

1. Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer;

2. Except as otherwise provided in this chapter, not process personal data for purposes that are neither reasonably necessary to nor compatible with the disclosed purposes for which such personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

3. Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue;

4. Not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this subdivision shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to § 59.1-573 or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program; and

5. Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.).

B. Any provision of a contract or agreement of any kind that purports to waive or limit in any way consumer rights pursuant to § 59.1-573 shall be deemed contrary to public policy and shall be void and unenforceable.

C. Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

1. The categories of personal data processed by the controller;

2. The purpose for processing personal data;

3. How consumers may exercise their consumer rights pursuant § 59.1-573, including how a consumer may appeal a controller's decision with regard to the consumer's request;

4. The categories of personal data that the controller shares with third parties, if any; and

5. The categories of third parties, if any, with whom the controller shares personal data.

D. If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

E. A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to § 59.1-573 but may require a consumer to use an existing account.

§ 59.1-575. Responsibility according to role; controller and processor.

A. A processor shall adhere to the instructions of a controller and shall assist the controller in meeting its obligations under this chapter. Such assistance shall include:

1. Taking into account the nature of processing and the information available to the processor, by appropriate technical and organizational measures, insofar as this is reasonably practicable, to fulfill the controller's obligation to respond to consumer rights requests pursuant to § 59.1-573.

2. Taking into account the nature of processing and the information available to the processor, by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of security of the system of the processor pursuant to § 18.2-186.6 in order to meet the controller's obligations.

3. Providing necessary information to enable the controller to conduct and document data protection assessments pursuant to § 59.1-576.

B. A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract shall be binding and clearly set forth instructions for processing data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties. The contract shall also include requirements that the processor shall:

1. Ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data;

2. At the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

3. Upon the reasonable request of the controller, make available to the controller all information in its possession necessary to demonstrate the processor's compliance with the obligations in this chapter;

4. Allow, and cooperate with, reasonable assessments by the controller or the controller's designated assessor; alternatively, the processor may arrange for a qualified and independent assessor to conduct an assessment of the processor's policies and technical and organizational measures in support of the obligations under this chapter using an appropriate and accepted control standard or framework and assessment procedure for such assessments. The processor shall provide a report of such assessment to the controller upon request; and

5. Engage any subcontractor pursuant to a written contract in accordance with subsection C that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

C. Nothing in this section shall be construed to relieve a controller or a processor from the liabilities imposed on it by virtue of its role in the processing relationship as defined by this chapter.

D. Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

§ 59.1-576. Data protection assessments.

A. A controller shall conduct and document a data protection assessment of each of the following processing activities involving personal data:

1. The processing of personal data for purposes of targeted advertising;

2. The sale of personal data;

3. The processing of personal data for purposes of profiling, where such profiling presents a reasonably foreseeable risk of (i) unfair or deceptive treatment of, or unlawful disparate impact on, consumers; (ii) financial, physical, or reputational injury to consumers; (iii) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where such intrusion would be offensive to a reasonable person; or (iv) other substantial injury to consumers;

4. The processing of sensitive data; and

5. Any processing activities involving personal data that present a heightened risk of harm to consumers.

B. Data protection assessments conducted pursuant to subsection A shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with such processing, as mitigated by safeguards that can be employed by the controller to reduce such risks. The use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed, shall be factored into this assessment by the controller.

C. The Attorney General may request, pursuant to a civil investigative demand, that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General, and the controller shall make the data protection assessment available to the Attorney General. The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in § 59.1-574. Data protection assessments shall be confidential and exempt from public inspection and copying under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The disclosure of a data protection assessment pursuant to a request from the Attorney General shall not constitute a waiver of attorney-client privilege or work product protection with respect to the assessment and any information contained in the assessment.

D. A single data protection assessment may address a comparable set of processing operations that include similar activities.

E. Data protection assessments conducted by a controller for the purpose of compliance with other laws or regulations may comply under this section if the assessments have a reasonably comparable scope and effect.

F. Data protection assessment requirements shall apply to processing activities created or generated after January 1, 2023, and are not retroactive.

§ 59.1-577. Processing de-identified data; exemptions.

A. The controller in possession of de-identified data shall:

1. Take reasonable measures to ensure that the data cannot be associated with a natural person;
2. Publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and
3. Contractually obligate any recipients of the de-identified data to comply with all provisions of this chapter.

B. Nothing in this chapter shall be construed to (i) require a controller or processor to re-identify de-identified data or pseudonymous data or (ii) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

C. Nothing in this chapter shall be construed to require a controller or processor to comply with an authenticated consumer rights request, pursuant to § 59.1-573, if all of the following are true:

1. The controller is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;
2. The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and
3. The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.

D. The consumer rights contained in subdivisions A 1 through 4 of § 59.1-573 and § 59.1-574 shall not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing such information.

E. A controller that discloses pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 59.1-578. Limitations.

A. Nothing in this chapter shall be construed to restrict a controller's or processor's ability to:

1. Comply with federal, state, or local laws, rules, or regulations;
2. Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;
3. Cooperate with law-enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations;
4. Investigate, establish, exercise, prepare for, or defend legal claims;
5. Provide a product or service specifically requested by a consumer; perform a contract to which the consumer is a party, including fulfilling the terms of a written warranty, or take steps at the request of the consumer prior to entering into a contract;
6. Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis;
7. Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;
8. Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, or similar independent oversight entities that determine: (i) if the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller; (ii) the expected benefits of the research outweigh the privacy risks; and (iii) if the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification; or
9. Assist another controller, processor, or third party with any of the obligations under this subsection.

B. The obligations imposed on controllers or processors under this chapter shall not restrict a controller's or processor's ability to collect, use, or retain data to:

1. Conduct internal research to develop, improve, or repair products, services, or technology;
2. Effectuate a product recall;
3. Identify and repair technical errors that impair existing or intended functionality; or
4. Perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

C. The obligations imposed on controllers or processors under this chapter shall not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under the laws of the Commonwealth. Nothing in this chapter shall be construed to prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the Commonwealth as part of a privileged communication.

D. A controller or processor that discloses personal data to a third-party controller or processor, in compliance with the requirements of this chapter, is not in violation of this chapter if the third-party controller or processor that receives and processes such personal data is in violation of this chapter, provided that, at the time of disclosing the personal data, the

disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this chapter is likewise not in violation of this chapter for the transgressions of the controller or processor from which it receives such personal data.

E. Nothing in this chapter shall be construed as an obligation imposed on controllers and processors that adversely affects the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution, or applies to the processing of personal data by a person in the course of a purely personal or household activity.

F. Personal data processed by a controller pursuant to this section shall not be processed for any purpose other than those expressly listed in this section unless otherwise allowed by this chapter. Personal data processed by a controller pursuant to this section may be processed to the extent that such processing is:

1. Reasonably necessary and proportionate to the purposes listed in this section; and

2. Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. Personal data collected, used, or retained pursuant to subsection B shall, where applicable, take into account the nature and purpose or purposes of such collection, use, or retention. Such data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to such collection, use, or retention of personal data.

G. If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in subsection F.

H. Processing personal data for the purposes expressly identified in subdivisions A 1 through 9 shall not solely make an entity a controller with respect to such processing.

§ 59.1-579. Investigative authority.

Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued under this section.

§ 59.1-580. Enforcement; civil penalty; expenses.

A. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.

B. Prior to initiating any action under this chapter, the Attorney General shall provide a controller or processor 30 days' written notice identifying the specific provisions of this chapter the Attorney General alleges have been or are being violated. If within the 30-day period, the controller or processor cures the noticed violation and provides the Attorney General an express written statement that the alleged violations have been cured and that no further violations shall occur, no action shall be initiated against the controller or processor.

C. If a controller or processor continues to violate this chapter following the cure period in subsection B or breaches an express written statement provided to the Attorney General under that subsection, the Attorney General may initiate an action in the name of the Commonwealth and may seek an injunction to restrain any violations of this chapter and civil penalties of up to \$7,500 for each violation under this chapter.

D. The Attorney General may recover reasonable expenses incurred in investigating and preparing the case, including attorney fees, in any action initiated under this chapter.

E. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or under any other law.

§ 59.1-581. Consumer Privacy Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Consumer Privacy Fund. The Fund shall be established on the books of the Comptroller. All civil penalties, expenses, and attorney fees collected pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to support the work of the Office of the Attorney General to enforce the provisions of this chapter, subject to appropriation.

2. The Chairman of the Joint Commission on Technology and Science shall create a work group composed of the Secretary of Commerce and Trade, the Secretary of Administration, the Attorney General, the Chairman of the Senate Committee on Transportation, representatives of businesses who control or process personal data of at least 100,000 persons, and consumer rights advocates. The work group shall review the provisions of this act and issues related to its implementation. The Chairman of the Joint Commission on Technology and Science shall submit the work group's findings, best practices, and recommendations regarding the implementation of this act to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on Communications, Technology and Innovation no later than November 1, 2021.

3. That any reference to federal law or statute in this act shall be deemed to include any accompanying rules or regulations or exemptions thereto. Further, this enactment is declaratory of existing law.

4. That the provisions of the first and third enactments of this act shall become effective on January 1, 2023.

CHAPTER 37

An Act to amend and reenact §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992, relating to the issuance of Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, subject to the provisions of Article X, Sections 9 (a) and 9 (c) of the Constitution of Virginia; emergency.

[H 2179]

Approved March 8, 2021

Whereas, the General Assembly has enacted the Commonwealth of Virginia Article X, Section 9 (c) Refunding Bond Act of 1992 (Chapters 265 and 408 of the Acts of Assembly of 1992), authorizing the Treasury Board, by and with the consent of the Governor, to issue and sell refunding bonds of the Commonwealth, subject to the provisions and limitations set forth in such acts; and

Whereas, the General Assembly now wishes to provide on a temporary basis for the suspension of certain provisions in such acts; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992 are amended and reenacted as follows:

§ 2. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, subject to the provisions of Sections 9 (a) and 9 (c) of Article X of the Constitution of Virginia, at one time or from time to time, refunding bonds of the Commonwealth, to be designated "Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, Series," to refund any or all of the Commonwealth's then outstanding bonds issued pursuant to Article X, Section 9 (c) of the Constitution of Virginia, whether issued prior to or after the passage of this act, (the "Bonds"). The aggregate principal amount of such refunding bonds shall not exceed the *amount required to redeem or otherwise provide for the payment of the unpaid principal of and the interest on and any redemption premium payable on the Bonds to be refunded to their date of redemption or payment, plus amounts needed to fund capitalized or funded interest on the refunding bonds, and pay all expenses incurred in the issuance of such costs and other financing expenses of the refunding bonds.* Such refunding bonds may be issued whether or not the Bonds to be refunded are then subject to redemption, ~~provided that no such refunding bonds shall be issued unless such refunding bonds bear interest at an effective interest cost which is lower than the effective interest cost of the Bonds to be refunded, and the aggregate principal of and interest on the refunding bonds to their maturities shall be less than the aggregate principal of and interest that would have been paid or accrued on the Bonds to be refunded from the date of the refunding bonds until the original maturities of the Bonds to be refunded.~~

§ 4. The refunding bonds shall be dated, shall bear interest at such rate or rates, ~~shall mature at such time or times not later than the latest maturity date of the Bonds to be refunded,~~ and may be made redeemable before their maturity or maturities at such price or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor. The principal of, premium, if any, and the interest on the refunding bonds shall be payable in lawful money of the United States of America. The Treasury Board shall determine the form of the refunding bonds, and shall fix the denomination or denominations of the refunding bonds and the place or places of payment of principal, premium, if any, and interest, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. The refunding bonds may bear interest at such rate or rates subject to inclusion in gross income for federal income tax purposes as may be determined by the Treasury Board by and with the consent of the Governor.

The refunding bonds may be issued in registered form as the Treasury Board may determine. If the refunding bonds are issued in registered form, the Treasury Board may appoint such registrars, transfer agents, or other authenticating trustees as it deems appropriate to maintain a record of the persons entitled to the refunding bonds and the interest due thereon. Refunding bonds issued in registered form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of, premium, if any, and interest on the refunding bonds. The refunding bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

The Treasury Board may sell the refunding bonds in such manner, at public or private sale, and for such price as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. The refunding bonds may be sold at par or at a premium or discount, ~~provided that the aggregate discount shall not exceed two percent of the par amount of the refunding bonds.~~

The Treasury Board shall be authorized to supplement the refunding bond proceeds from excess moneys in any debt service, sinking or comparable trust fund established pursuant to previous issues of higher educational institutions bonds so long as such excess fund moneys are not otherwise restricted by law or by express contract with the holders of such prior bonds. These supplemental amounts shall be applied in the same manner as set forth in § 3 hereof for the application of the proceeds from the sale of such refunding bonds.

2. That, notwithstanding any maturity limitations set forth in previously enacted acts of assembly authorizing the issuance of debt pursuant to Article X, Section 9 (c) of the Constitution of Virginia, any such refunding bond may mature at such time or times not exceeding 35 years from the date or dates of the Bonds to be refunded.

3. That the provisions of this act shall expire on June 30, 2023.

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

CHAPTER 38

An Act to amend and reenact §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992, relating to the issuance of Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, subject to the provisions of Article X, Sections 9 (a) and 9 (c) of the Constitution of Virginia; emergency.

[S 1134]

Approved March 8, 2021

Whereas, the General Assembly has enacted the Commonwealth of Virginia Article X, Section 9 (c) Refunding Bond Act of 1992 (Chapters 265 and 408 of the Acts of Assembly of 1992), authorizing the Treasury Board, by and with the consent of the Governor, to issue and sell refunding bonds of the Commonwealth, subject to the provisions and limitations set forth in such acts; and

Whereas, the General Assembly now wishes to provide on a temporary basis for the suspension of certain provisions in such acts; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992 are amended and reenacted as follows:

§ 2. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, subject to the provisions of Sections 9 (a) and 9 (c) of Article X of the Constitution of Virginia, at one time or from time to time, refunding bonds of the Commonwealth, to be designated "Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, Series", to refund any or all of the Commonwealth's then outstanding bonds issued pursuant to Article X, Section 9 (c) of the Constitution of Virginia, whether issued prior to or after the passage of this act, (the "Bonds"). The aggregate principal amount of such refunding bonds shall not exceed the *amount required to redeem or otherwise provide for the payment of the unpaid principal of and the interest on and any redemption premium payable on the Bonds to be refunded to their date of redemption or payment, plus amounts needed to fund capitalized or funded interest on the refunding bonds, and pay all expenses incurred in the issuance of such costs and other financing expenses of the refunding bonds.* Such refunding bonds may be issued whether or not the Bonds to be refunded are then subject to redemption; ~~provided that no such refunding bonds shall be issued unless such refunding bonds bear interest at an effective interest cost which is lower than the effective interest cost of the Bonds to be refunded, and the aggregate principal of and interest on the refunding bonds to their maturities shall be less than the aggregate principal of and interest that would have been paid or accrued on the Bonds to be refunded from the date of the refunding bonds until the original maturities of the Bonds to be refunded.~~

§ 4. The refunding bonds shall be dated, shall bear interest at such rate or rates, ~~shall mature at such time or times not later than the latest maturity date of the Bonds to be refunded,~~ and may be made redeemable before their maturity or maturities at such price or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor. The principal of, premium, if any, and the interest on the refunding bonds shall be payable in lawful money of the United States of America. The Treasury Board shall determine the form of the refunding bonds, and shall fix the denomination or denominations of the refunding bonds and the place or places of payment of principal, premium, if any, and interest, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. The refunding bonds may bear interest at such rate or rates subject to inclusion in gross income for federal income tax purposes as may be determined by the Treasury Board by and with the consent of the Governor.

The refunding bonds may be issued in registered form as the Treasury Board may determine. If the refunding bonds are issued in registered form, the Treasury Board may appoint such registrars, transfer agents, or other authenticating trustees as it deems appropriate to maintain a record of the persons entitled to the refunding bonds and the interest due thereon. Refunding bonds issued in registered form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of, premium, if any, and interest on the refunding bonds. The refunding bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

The Treasury Board may sell the refunding bonds in such manner, at public or private sale, and for such price as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. The refunding bonds may be sold at par or at a premium or discount, ~~provided that the aggregate discount shall not exceed two percent of the par amount of the refunding bonds.~~

The Treasury Board shall be authorized to supplement the refunding bond proceeds from excess moneys in any debt service, sinking or comparable trust fund established pursuant to previous issues of higher educational institutions bonds so long as such excess fund moneys are not otherwise restricted by law or by express contract with the holders of such prior bonds. These supplemental amounts shall be applied in the same manner as set forth in § 3 hereof for the application of the proceeds from the sale of such refunding bonds.

2. That, notwithstanding any maturity limitations set forth in previously enacted acts of assembly authorizing the issuance of debt pursuant to Article X, Section 9 (c) of the Constitution of Virginia, any such refunding bond may mature at such time or times not exceeding 35 years from the date or dates of the Bonds to be refunded.

3. That the provisions of this act shall expire on June 30, 2023.

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

CHAPTER 39

An Act to amend and reenact §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia, relating to tax credit; agricultural best management practices.

[H 1763]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-339.3. Agricultural best management practices tax credit.**

A. 1. *As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint source pollution management. A detailed list of the standards and criteria for agricultural best management practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.*

2. For all taxable years beginning on and after January 1, 1998, *but before January 1, 2025*, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a *refundable* credit against the tax imposed by § 58.1-320 ~~of~~ *in* an amount equaling 25 percent of the first \$70,000 \$100,000 expended for agricultural best management practices by the individual.

~~As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint source pollution management. Eligible practices shall include, but are not limited to, the following:~~

- ~~1. Livestock waste and poultry waste management;~~
- ~~2. Soil erosion control;~~
- ~~3. Nutrient and sediment filtration and detention;~~
- ~~4. Nutrient management; and~~
- ~~5. Pest management and pesticide handling.~~

~~A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.~~

3. *For all taxable years beginning on and after January 1, 2021, but before January 1, 2025*, any individual who is engaged in agricultural production for market, or who has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD shall be allowed a *refundable* credit against the tax imposed by § 58.1-320 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the individual on the acreage included in the resource management plan.

B. 1. Any *eligible* practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. *To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.*

C. 1. The *aggregate* amount of such credit *claimed under subdivisions A 2 and 3* shall not exceed \$17,500 \$75,000 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices. *A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.*

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation)

shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

§ 58.1-439.5. Agricultural best management practices tax credit.

A. For all taxable years beginning on and after January 1, 1998, any corporation engaged in agricultural production for market who has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling twenty-five percent of the first \$70,000 expended for agricultural best management practices by the corporation. *1.* As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which *that* will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, ~~nonpoint source pollution~~ *nonpoint source pollution* management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for *agricultural best management* practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, 2025, any corporation engaged in agricultural production for market that has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a refundable credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the corporation.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, 2025, any corporation that is engaged in agricultural production for market, or that has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD, shall be allowed a refundable credit against the tax imposed by § 58.1-400 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the corporation on the acreage included in the resource management plan.

B. 1. Any eligible practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C. 1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed \$17,500 \$75,000 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices. A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the taxpayer applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a partnership or electing small business corporation (S Corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S Corporation.

2. That the provisions of the first enactment of this act shall apply only to taxable years beginning on and after January 1, 2021, and shall not modify any other provisions for prior taxable years.

3. That the total combined amount of credits available pursuant to §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia, as amended by this act, for fiscal years beginning on and after January 1, 2021, shall not exceed an aggregate of \$2 million annually.

CHAPTER 40

An Act to amend and reenact §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia, relating to tax credit; agricultural best management practices.

[S 1162]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-339.3. Agricultural best management practices tax credit.

A. 1. *As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint source pollution management. A detailed list of the standards and criteria for agricultural best management practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.*

2. For all taxable years beginning on and after January 1, 1998, *but before January 1, 2025*, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a *refundable* credit against the tax imposed by § 58.1-320 ~~of~~ in an amount equaling 25 percent of the first \$70,000 ~~\$100,000~~ expended for agricultural best management practices by the individual.

As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.

3. *For all taxable years beginning on and after January 1, 2021, but before January 1, 2025*, any individual who is engaged in agricultural production for market, or who has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD shall be allowed a *refundable* credit against the tax imposed by § 58.1-320 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the individual on the acreage included in the resource management plan.

B. 1. Any *eligible* practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. *To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.*

C. 1. The *aggregate* amount of such credit *claimed under subdivisions A 2 and 3* shall not exceed \$17,500 ~~\$75,000~~ or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for

costs related to the same eligible practices. *A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.*

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

§ 58.1-439.5. Agricultural best management practices tax credit.

A. For all taxable years beginning on and after January 1, 1998, any corporation engaged in agricultural production for market who has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling ~~twenty-five percent of the first \$70,000 expended for agricultural best management practices by the corporation.~~ 1. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) ~~which that~~ will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, ~~nonpoint source pollution nonpoint source~~ pollution management. ~~Eligible practices shall include, but are not limited to, the following:~~

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for *agricultural best management* practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, 2025, any corporation engaged in agricultural production for market that has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a refundable credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the corporation.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, 2025, any corporation that is engaged in agricultural production for market, or that has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a resource management plan approved by the local SWCD, shall be allowed a refundable credit against the tax imposed by § 58.1-400 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the corporation on the acreage included in the resource management plan.

B. 1. Any *eligible* practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C. 1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed ~~\$17,500~~ \$75,000 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for

costs related to the same eligible practices. *A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.*

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the taxpayer applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a partnership or electing small business corporation (S Corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S Corporation.

2. That the provisions of the first enactment of this act shall apply only to taxable years beginning on and after January 1, 2021, and shall not modify any other provisions for prior taxable years.

3. That the total combined amount of credits available pursuant to §§ 58.1-339.3 and 58.1-439.5 of the Code of Virginia, as amended by this act, for fiscal years beginning on and after January 1, 2021, shall not exceed an aggregate of \$2 million annually.

CHAPTER 41

An Act to amend and reenact § 56-599 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1, relating to public disclosure of electric generating facility closures; integrated resource plans.

[H 1834]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-599 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1 as follows:

§ 45.1-394.1. Public disclosure of certain electric generating facility closures.

A. The provisions of this section shall apply to any electric generating facility that:

1. Has a nameplate generating capacity of 80 megawatts or more;

2. Is located in the Commonwealth;

3. Emits carbon dioxide as a byproduct of combusting fuel, whether or not certificated by the State Corporation Commission pursuant to subsection D of § 56-580; and

4. Is subject to, and not exempt from, regulations adopted pursuant to subsection E of § 10.1-1308 or § 10.1-1330.

B. Within 30 days of the owner of an electric generating facility making public the decision to close such facility, or within 30 days of the owner of an electric generating facility making a filing with the U.S. Securities and Exchange Commission regarding a material impact to the cost, operations, or financial condition of the owner, which material impact is a direct precursor to the closure of the electric generating facility, the owner shall send a written notice of the impending closure to:

1. The governing body of the locality where the facility is located;

2. The governing body of any locality adjoining the locality where the facility is located;

3. Any town council located within a county described in subdivision 1;

4. Any planning district commission of any locality described in subdivision 1 or 2;

5. The State Corporation Commission Division of Public Utility Regulation;

6. The Department and the Division;

7. The Department of Housing and Community Development;

8. PJM Interconnection, LLC;

9. The Virginia Employment Commission;

10. The Department of Environmental Quality; and

11. The Virginia Council on Environmental Justice.

C. The notice required by subsection B shall include, at a minimum, (i) the anticipated closure date of the facility; (ii) references to any website maintained by the owner containing closure information; (iii) a list of permits obtained from a local government, the State Air Pollution Control Board, the State Water Control Board, or the Department of Environmental Quality, including the permit number and date of issuance; (iv) anticipated future use of the facility site, if known; (v) workforce transition assistance information; and (vi) decommissioning information. If the owner of the facility is a registrant with the U.S. Securities and Exchange Commission, any filings mentioning the impending closure shall also be included with the notice.

D. In the six months following receipt of the notice required by subsection B, the governing body of the locality where the facility is located shall conduct at least three public hearings, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the governing body and the public.

E. In the six months following receipt of the notice required by subsection B, the planning district commission of the locality where the facility is located shall conduct at least one public hearing, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the planning district commission and the public.

F. The Division shall maintain a public website listing the facilities subject to this section and their anticipated closure dates, if such dates are reasonably known by virtue of the laws of the Commonwealth or a public record or filing with an agency of the Commonwealth, including the State Corporation Commission, and a link shall be provided to the facilities' environmental protection or remediation obligations included in permits obtained from the Department, State Air Pollution Control Board, State Water Control Board, Department of Environmental Quality, or local governing body. At least every 12 months, the State Corporation Commission shall transmit to the Division any information that it reasonably believes would necessitate updates to the anticipated closure dates or other information contained on the Division's website.

G. As providing advance notice to affected communities of an impending closure of a facility under this section is a matter of vital importance for public policy, this section shall be liberally construed. The obligations imposed on agencies of the Commonwealth under this section are to be construed in favor of public disclosure of the information required by subsection F.

H. Notwithstanding the provisions of subsection A, the provisions of this section shall not apply to any electric generating facility that has a nameplate generating capacity of 90 megawatts or less and that filed a deactivation notice with PJM Interconnection, LLC, prior to September 1, 2019.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1, in each year immediately preceding the year the utility is subject to a triennial review filing. A copy of each integrated resource plan shall be provided to the Chairmen of the House and Senate Committees on Commerce and Labor and to the Chairman of the Commission on Electric Utility Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;
6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;
7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;
8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;
9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;
10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;
11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and
12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Mines, Minerals and Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.1-394.1 shall comply with the public disclosure requirements therein.

D. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

CHAPTER 42

An Act to amend and reenact § 56-599 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1, relating to public disclosure of electric generating facility closures; integrated resource plans.

[S 1247]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-599 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1 as follows:

§ 45.1-394.1. Public disclosure of certain electric generating facility closures.

A. The provisions of this section shall apply to any electric generating facility that:

- 1. Has a nameplate generating capacity of 80 megawatts or more;*
- 2. Is located in the Commonwealth;*
- 3. Emits carbon dioxide as a byproduct of combusting fuel, whether or not certificated by the State Corporation Commission pursuant to subsection D of § 56-580; and*
- 4. Is subject to, and not exempt from, regulations adopted pursuant to subsection E of § 10.1-1308 or § 10.1-1330.*

B. Within 30 days of an owner of an electric generating facility making public the decision to close such facility, or within 30 days of the owner of an electric generating facility making a filing with the U.S. Securities and Exchange Commission regarding a material impact to the cost, operations, or financial condition of the owner, which material impact is a direct precursor to the closure of the electric generating facility, the owner shall send a written notice of the impending closure to:

- 1. The governing body of the locality where the facility is located;*
- 2. The governing body of any locality adjoining the locality where the facility is located;*
- 3. Any town council located within a county described in subdivision 1;*
- 4. Any planning district commission of any locality described in subdivision 1 or 2;*
- 5. The State Corporation Commission Division of Public Utility Regulation;*
- 6. The Department and the Division;*
- 7. The Department of Housing and Community Development;*
- 8. PJM Interconnection, LLC;*
- 9. The Virginia Employment Commission;*
- 10. The Department of Environmental Quality; and*
- 11. The Virginia Council on Environmental Justice.*

C. The notice required by subsection B shall include, at a minimum, (i) the anticipated closure date of the facility; (ii) references to any website maintained by the owner containing closure information; (iii) a list of permits obtained from a local government, the State Air Pollution Control Board, the State Water Control Board, or the Department of Environmental Quality, including the permit number and date of issuance; (iv) anticipated future use of the facility site, if known; (v) workforce transition assistance information; and (vi) decommissioning information. If the owner of the facility is a registrant with the U.S. Securities and Exchange Commission, any filings mentioning the impending closure shall also be included with the notice.

D. In the six months following receipt of the notice required by subsection B, the governing body of the locality where the facility is located shall conduct at least three public hearings, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the governing body and the public.

E. In the six months following receipt of the notice required by subsection B, the planning district commission of the locality where the facility is located shall conduct at least one public hearing, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the planning district commission and the public.

F. The Division shall maintain a public website listing the facilities subject to this section and their anticipated closure dates, if such dates are reasonably known by virtue of the laws of the Commonwealth or a public record or filing with an agency of the Commonwealth, including the State Corporation Commission, and a link shall be provided to the facilities' environmental protection or remediation obligations included in permits obtained from the Department, State Air Pollution Control Board, State Water Control Board, Department of Environmental Quality, or local governing body. At least every 12 months, the State Corporation Commission shall transmit to the Division any information that it reasonably believes would necessitate updates to the anticipated closure dates or other information contained on the Division's website.

G. As providing advance notice to affected communities of an impending closure of a facility under this section is a matter of vital importance for public policy, this section shall be liberally construed. The obligations imposed on agencies of the Commonwealth under this section are to be construed in favor of public disclosure of the information required by subsection F.

H. Notwithstanding the provisions of subsection A, the provisions of this section shall not apply to any electric generating facility that has a nameplate generating capacity of 90 megawatts or less and that filed a deactivation notice with PJM Interconnection, LLC, prior to September 1, 2019.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1, in each year immediately preceding the year the utility is subject to a triennial review filing. A copy of each integrated resource plan shall be provided to the Chairmen of the House and Senate Committees on Commerce and Labor and to the Chairman of the Commission on Electric Utility Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;
6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;
7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;
8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;
9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;
10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;
11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and
12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Mines, Minerals and Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.1-394.1 shall comply with the public disclosure requirements therein.

D. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

CHAPTER 43

An Act to amend and reenact § 10.1-502 of the Code of Virginia, relating to Soil and Water Conservation Board membership.

[H 1837]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-502 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-502. Soil and Water Conservation Board; composition.

The Virginia Soil and Water Conservation Board is continued and shall perform the functions conferred upon it in this chapter. The Board shall consist of nine ~~voting~~ *nonlegislative citizen members and one ex officio member with nonvoting privileges*. The Director of the Department of Conservation and Recreation, or his designee, shall be a nonvoting ex officio member of the Board. Three ~~at-large~~ *nonlegislative citizen members* of the Board shall be appointed by the Governor. ~~After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. At as at-large~~

members, of whom at least two members shall be appointed by the Governor as at-large members and shall have a demonstrated interest in natural resource conservation with a background or knowledge in dam safety, soil conservation, or water quality protection. Additionally, four nonlegislative citizen members shall be farmers at the time of their appointment and two nonlegislative citizen members shall be farmers or district directors. Each of the six nonlegislative members who is a farmer or district director shall be a resident of a different one of the six geographic areas represented in the Virginia Association of Soil and Water Conservation Districts and shall be appointed by the Governor from a list of two qualified nominees for each vacancy jointly submitted by the Board and the Board of Directors of the Virginia Association of Soil and Water Conservation Districts; in consultation with the Virginia Farm Bureau Federation and the Virginia Agribusiness Council, and the Virginia Soil and Water Conservation Board, each. Nonlegislative citizen members shall be appointed for a term of four years. All appointed members shall not serve more than two consecutive full terms. Appointments to fill vacancies shall be made in the same manner as the original appointments, except that such appointments shall be for the unexpired terms only. The Board may invite the Virginia State Conservationist, Natural Resources Conservation Service, to serve as an advisory nonvoting member. The Board shall keep a record of its official actions, shall and adopt a seal and may perform acts, hold public hearings, and promulgate adopt regulations necessary for the execution of its functions under this chapter.

CHAPTER 44

An Act to amend and reenact § 10.1-502 of the Code of Virginia, relating to Soil and Water Conservation Board; membership.

[S 1161]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-502 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-502. Soil and Water Conservation Board; composition.

The Virginia Soil and Water Conservation Board is continued and shall perform the functions conferred upon it in this chapter. The Board shall consist of nine ~~voting nonlegislative citizen members and one ex officio member with nonvoting privileges~~. The Director of the Department of Conservation and Recreation, or his designee, shall be a nonvoting ex officio member of the Board. Three ~~at-large nonlegislative citizen members~~ of the Board shall be appointed by the Governor. ~~After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. At as at-large members, of whom at least two members shall be appointed by the Governor as at-large members and shall have a demonstrated interest in natural resource conservation with a background or knowledge in dam safety, soil conservation, or water quality protection. Additionally, four nonlegislative citizen members shall be farmers at the time of their appointment and two nonlegislative citizen members shall be farmers or district directors. Each of the six nonlegislative members who is a farmer or district director shall be a resident of a different one of the six geographic areas represented in the Virginia Association of Soil and Water Conservation Districts and shall be appointed by the Governor from a list of two qualified nominees for each vacancy jointly submitted by the Board and the Board of Directors of the Virginia Association of Soil and Water Conservation Districts; in consultation with the Virginia Farm Bureau Federation and the Virginia Agribusiness Council, and the Virginia Soil and Water Conservation Board, each. Nonlegislative citizen members shall be appointed for a term of four years. All appointed members shall not serve more than two consecutive full terms. Appointments to fill vacancies shall be made in the same manner as the original appointments, except that such appointments shall be for the unexpired terms only. The Board may invite the Virginia State Conservationist, Natural Resources Conservation Service, to serve as an advisory nonvoting member. The Board shall keep a record of its official actions, shall and adopt a seal and may perform acts, hold public hearings, and promulgate adopt regulations necessary for the execution of its functions under this chapter.~~

CHAPTER 45

An Act to amend and reenact § 5.1-5 of the Code of Virginia, relating to aircraft registration; unmanned aircraft.

[H 1851]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 5.1-5 of the Code of Virginia is amended and reenacted as follows:

§ 5.1-5. Registration of aircraft.

A. Every resident of the Commonwealth owning a civil aircraft, every nonresident owning a civil aircraft based in the Commonwealth for more than 90 days during any calendar year, and every owner of an aerial application aircraft operating within the Commonwealth or of a civil aircraft operated in the Commonwealth as a for-hire intrastate air carrier shall register such aircraft with the Department before such aircraft is operated in the Commonwealth. *Any owner of an unmanned aircraft as defined in § 19.2-60.1 shall not be required to register such aircraft.*

B. The Department shall provide for the issuance, expiration, suspension, and revocation of aircraft registration in accordance with regulations promulgated by the Board. Such aircraft registration or registration requirement shall be considered the licensure or licensure requirement for purposes of the tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1. The Department shall furnish any necessary forms pursuant to the issuance of such registration and may assess a fee for such issuance not in excess of \$5 annually. The Department may, in lieu of issuing aircraft registration required by subsection A, issue commercial aircraft registration to air carriers and commercial dealers and issue to noncommercial dealers noncommercial dealer fleet registration, to cover all aircraft owned by such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer. The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet registrations issued and a fee not in excess of \$100 annually for any such commercial fleet registrations issued. The fee for a commercial single aircraft registration shall not be in excess of \$10 annually.

C. Notwithstanding the provisions of subsection A, no aircraft shall be required to be registered if the aircraft is brought into the Commonwealth solely for major maintenance or major repair. An aircraft owner shall provide proof that the aircraft is based at an airport in another state, shown by evidence of a hangar or tie-down lease for a minimum of 12 months prior to the aircraft being brought into the Commonwealth, and proof of the work being performed in the Commonwealth, shown by presentation of invoices that describe such work.

CHAPTER 46

An Act to amend and reenact § 5.1-5 of the Code of Virginia, relating to aircraft registration; unmanned aircraft.

[S 1098]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 5.1-5 of the Code of Virginia is amended and reenacted as follows:

§ 5.1-5. Registration of aircraft.

A. Every resident of the Commonwealth owning a civil aircraft, every nonresident owning a civil aircraft based in the Commonwealth for more than 90 days during any calendar year, and every owner of an aerial application aircraft operating within the Commonwealth or of a civil aircraft operated in the Commonwealth as a for-hire intrastate air carrier shall register such aircraft with the Department before such aircraft is operated in the Commonwealth. *Any owner of an unmanned aircraft as defined in § 19.2-60.1 shall not be required to register such aircraft.*

B. The Department shall provide for the issuance, expiration, suspension, and revocation of aircraft registration in accordance with regulations promulgated by the Board. Such aircraft registration or registration requirement shall be considered the licensure or licensure requirement for purposes of the tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1. The Department shall furnish any necessary forms pursuant to the issuance of such registration and may assess a fee for such issuance not in excess of \$5 annually. The Department may, in lieu of issuing aircraft registration required by subsection A, issue commercial aircraft registration to air carriers and commercial dealers and issue to noncommercial dealers noncommercial dealer fleet registration, to cover all aircraft owned by such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer. The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet registrations issued and a fee not in excess of \$100 annually for any such commercial fleet registrations issued. The fee for a commercial single aircraft registration shall not be in excess of \$10 annually.

C. Notwithstanding the provisions of subsection A, no aircraft shall be required to be registered if the aircraft is brought into the Commonwealth solely for major maintenance or major repair. An aircraft owner shall provide proof that the aircraft is based at an airport in another state, shown by evidence of a hangar or tie-down lease for a minimum of 12 months prior to the aircraft being brought into the Commonwealth, and proof of the work being performed in the Commonwealth, shown by presentation of invoices that describe such work.

CHAPTER 47

An Act to amend and reenact §§ 58.1-439.12:08 and 58.1-439.12:11 of the Code of Virginia, relating to research and development tax credits.

[H 1916]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.12:08 and 58.1-439.12:11 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.12:08. Research and development expenses tax credit.

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

"Virginia base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code, as amended, that is attributable to Virginia, determined by (i) substituting "Virginia qualified research and development expense" for "qualified

research expense"; (ii) substituting "Virginia qualified research" for "qualified research"; and (iii) instead of "fixed base percentage," using:

1. The percentage that the Virginia qualified research and development expense for the three taxable years immediately preceding the current taxable year in which the expense is incurred is of the taxpayer's total gross receipts for such years; or

2. The percentage that the Virginia qualified research and development expense for the applicable number of taxable years immediately preceding the current taxable year in which the expense is incurred is of the taxpayer's total gross receipts for such years, for the taxpayer that has fewer than three but at least one prior taxable year.

"Virginia gross receipts" means the same as "gross receipts" as defined in § 58.1-3700.1.

"Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue Code, as amended, that is conducted in the Commonwealth.

"Virginia qualified research and development expenses" means qualified research expenses, as defined in § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

B. 1. For taxable years beginning on or after January 1, 2011, but before January 1, 2025 2021, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to (i) 15 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified research was conducted in conjunction with a public or private institution of higher education in the Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

2. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal to (i) 15 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified research was conducted in conjunction with a public or private institution of higher education in the Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

C. 1. Effective for taxable years beginning on or after January 1, 2016, at the election of the taxpayer, the credit otherwise allowed under this section shall be computed under this subsection and shall equal 10 percent of the difference of (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

2. The aggregate amount of credits allowed to each taxpayer under this subsection shall not exceed \$45,000 for the taxable year, except that the aggregate amount of credits allowed to each taxpayer shall not exceed \$60,000 for the taxable year if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth.

D. The aggregate amount of credits available under this section for each fiscal year of the Commonwealth shall be as follows:

1. For taxable years beginning on and after January 1, 2014, but before January 1, 2016, the total amount of credits granted for each of fiscal years 2015 and 2016 shall not exceed \$6 million.

2. For taxable years beginning on and after January 1, 2016, but before January 1, 2021, the total amount of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2017 shall not exceed \$7 million.

3. For taxable years beginning on and after January 1, 2021, the total amount of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2022 shall not exceed \$7.77 million.

E. A taxpayer meeting the requirements of this section shall be eligible to receive a tax credit as provided herein. The Department shall develop and publish guidelines for applications and such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). Applications must be received by the Department no later than September 1 of the calendar year following the close of the taxable year in which the expenses were paid or incurred. In the event that approved applications for the tax credits allowed under this section exceed the amount of credits specified in subsection D for the taxable year, the Department shall apportion the credits by dividing the amount of credits specified in subsection D by the total amount of tax credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive. In the event that the total amount of approved tax credits under this section for all applications for any taxable year is less than the maximum amount of credits for the year as specified in subsection D, the Department shall allocate credits up to the maximum amount as specified in subsection D, on a pro rata basis, to taxpayers who are already approved for the tax credit for the taxable year, in the following amounts:

1. If the taxpayer computed the credit pursuant to subsection B, in an amount equal to 15 percent of the second \$300,000 in qualified research expenses during the taxable year or 20 percent of the second \$300,000 in qualified research expenses if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth; or

2. If the taxpayer computed the credit under subdivision C 1, in an amount equal to the excess of the limitation set forth in subdivision C 2, up to an additional \$45,000 per taxpayer, or \$60,000 per taxpayer if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth.

F. If the amount of the credit allowed exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability shall be refunded to the taxpayer, subject to the limitations set forth in the guidelines developed by the Department.

G. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under the Code of Virginia.

H. Effective for taxable years beginning on or after January 1, 2016, no taxpayer with Virginia qualified research and development expenses in excess of \$5 million for the taxable year shall claim both the credit allowed pursuant to this section and the credit allowed under § 58.1-439.12:11 for such year.

I. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders, unless the partnership, limited liability company, or electing small business corporation (S corporation) elects for such credits not to be so allocated but to be received and claimed at the entity level by the partnership, limited liability company, or electing small business corporation (S corporation) pursuant to guidelines that shall be issued by the Department for purposes of such election.

J. The Department shall adopt guidelines to prescribe standards for determining when research and development is considered conducted in the Commonwealth for purposes of allowing the credit under this section. In adopting guidelines, the Department may consider (i) the location where the research and development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the research and development; (iii) the location where supplies used in the research and development are consumed; and (iv) any other factors that the Department deems to be relevant.

K. The Tax Commissioner's annual report to the Governor on revenue collections by tax source shall include (i) the total number of applicants approved for tax credits pursuant to this section for the applicable tax year and (ii) the total amount of such tax credits approved for the applicable tax year.

L. The Department shall require taxpayers applying for the credit to provide information including (i) the number of full-time employees employed by the taxpayer in the Commonwealth during the taxable year for which the credit is sought; (ii) the taxpayer's sector or sectors according to the 2012 edition of the North American Industry Classification System (NAICS) as published by the United States Census Bureau; (iii) a brief description of the area, discipline, or field of Virginia qualified research performed by the taxpayer; (iv) the total gross receipts or anticipated total gross receipts of the taxpayer for the taxable year for which the credit is sought; and (v) whether the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university. The Department shall aggregate and summarize the information collected and make it available to the Governor and any member of the General Assembly upon request, regardless of the number of taxpayers applying for the credit.

M. No tax credit shall be allowed pursuant to this section if the otherwise qualified research and development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

§ 58.1-439.12:11. Major research and development expenses tax credit.

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

"Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue Code, as amended, that is conducted in the Commonwealth.

"Virginia qualified research and development expenses" means qualified research expenses, as defined in § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

B. 1. For taxable years beginning on or after January 1, 2016, but before January 1, ~~2025~~ 2021, a taxpayer with Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

2. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, a taxpayer with Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal to 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not

pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

C. 1. For taxable years beginning before January 1, 2021, the aggregate amount of credits granted for each fiscal year of the Commonwealth pursuant to this section shall not exceed \$20 million.

2. For taxable years beginning on and after January 1, 2021, the aggregate amount of credits granted for each fiscal year of the Commonwealth pursuant to this section shall not exceed \$24 million.

D. In the event that approved applications for the tax credits allowed under this section exceed the limit described in subsection C for any taxable year, the Department shall apportion the credits by dividing such limit by the total amount of tax credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive.

E. The amount of the credit claimed for the taxable year shall not exceed 75 percent of the total amount of tax imposed by this chapter upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the taxpayer in the next 10 succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

F. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under the Code of Virginia.

G. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders.

H. The Department shall develop and publish guidelines under this section including guidelines for applying for the tax credit. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). Applications for the tax credit must be received by the Department no later than September 1 of the calendar year following the close of the taxable year in which the expenses were paid or incurred.

The Department shall also adopt guidelines to prescribe standards for determining when research and development is considered conducted in the Commonwealth for purposes of allowing the credit under this section. In adopting guidelines, the Department may consider (i) the location where the research and development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the research and development; (iii) the location where supplies used in the research and development are consumed; and (iv) any other factors that the Department deems to be relevant.

I. No tax credit shall be allowed pursuant to this section, if the otherwise qualified research and development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

CHAPTER 48

An Act to amend and reenact §§ 58.1-439.12:08 and 58.1-439.12:11 of the Code of Virginia, relating to research and development tax credits.

[S 1112]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.12:08 and 58.1-439.12:11 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.12:08. Research and development expenses tax credit.

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

"Virginia base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code, as amended, that is attributable to Virginia, determined by (i) substituting "Virginia qualified research and development expense" for "qualified research expense"; (ii) substituting "Virginia qualified research" for "qualified research"; and (iii) instead of "fixed base percentage," using:

1. The percentage that the Virginia qualified research and development expense for the three taxable years immediately preceding the current taxable year in which the expense is incurred is of the taxpayer's total gross receipts for such years; or

2. The percentage that the Virginia qualified research and development expense for the applicable number of taxable years immediately preceding the current taxable year in which the expense is incurred is of the taxpayer's total gross receipts for such years, for the taxpayer that has fewer than three but at least one prior taxable year.

"Virginia gross receipts" means the same as "gross receipts" as defined in § 58.1-3700.1.

"Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue Code, as amended, that is conducted in the Commonwealth.

"Virginia qualified research and development expenses" means qualified research expenses, as defined in § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

B. 1. For taxable years beginning on or after January 1, 2011, but before January 1, ~~2025~~ 2021, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to (i) 15 percent of the first

\$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified research was conducted in conjunction with a public or private institution of higher education in the Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

2. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal to (i) 15 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified research was conducted in conjunction with a public or private institution of higher education in the Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

C. 1. Effective for taxable years beginning on or after January 1, 2016, at the election of the taxpayer, the credit otherwise allowed under this section shall be computed under this subsection and shall equal 10 percent of the difference of (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

2. The aggregate amount of credits allowed to each taxpayer under this subsection shall not exceed \$45,000 for the taxable year, except that the aggregate amount of credits allowed to each taxpayer shall not exceed \$60,000 for the taxable year if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth.

D. The aggregate amount of credits available under this section for each fiscal year of the Commonwealth shall be as follows:

1. For taxable years beginning on and after January 1, 2014, but before January 1, 2016, the total amount of credits granted for each of fiscal years 2015 and 2016 shall not exceed \$6 million.

2. For taxable years beginning on and after January 1, 2016, but before January 1, 2021, the total amount of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2017 shall not exceed \$7 million.

3. For taxable years beginning on and after January 1, 2021, the total amount of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2022 shall not exceed \$7.77 million.

E. A taxpayer meeting the requirements of this section shall be eligible to receive a tax credit as provided herein. The Department shall develop and publish guidelines for applications and such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). Applications must be received by the Department no later than September 1 of the calendar year following the close of the taxable year in which the expenses were paid or incurred. In the event that approved applications for the tax credits allowed under this section exceed the amount of credits specified in subsection D for the taxable year, the Department shall apportion the credits by dividing the amount of credits specified in subsection D by the total amount of tax credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive. In the event that the total amount of approved tax credits under this section for all applications for any taxable year is less than the maximum amount of credits for the year as specified in subsection D, the Department shall allocate credits up to the maximum amount as specified in subsection D, on a pro rata basis, to taxpayers who are already approved for the tax credit for the taxable year, in the following amounts:

1. If the taxpayer computed the credit pursuant to subsection B, in an amount equal to 15 percent of the second \$300,000 in qualified research expenses during the taxable year or 20 percent of the second \$300,000 in qualified research expenses if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth; or

2. If the taxpayer computed the credit under subdivision C 1, in an amount equal to the excess of the limitation set forth in subdivision C 2, up to an additional \$45,000 per taxpayer, or \$60,000 per taxpayer if the Virginia qualified research was conducted in conjunction with a public institution of higher education in the Commonwealth or a private institution of higher education in the Commonwealth.

F. If the amount of the credit allowed exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability shall be refunded to the taxpayer, subject to the limitations set forth in the guidelines developed by the Department.

G. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under the Code of Virginia.

H. Effective for taxable years beginning on or after January 1, 2016, no taxpayer with Virginia qualified research and development expenses in excess of \$5 million for the taxable year shall claim both the credit allowed pursuant to this section and the credit allowed under § 58.1-439.12:11 for such year.

I. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership

interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders, unless the partnership, limited liability company, or electing small business corporation (S corporation) elects for such credits not to be so allocated but to be received and claimed at the entity level by the partnership, limited liability company, or electing small business corporation (S corporation) pursuant to guidelines that shall be issued by the Department for purposes of such election.

J. The Department shall adopt guidelines to prescribe standards for determining when research and development is considered conducted in the Commonwealth for purposes of allowing the credit under this section. In adopting guidelines, the Department may consider (i) the location where the research and development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the research and development; (iii) the location where supplies used in the research and development are consumed; and (iv) any other factors that the Department deems to be relevant.

K. The Tax Commissioner's annual report to the Governor on revenue collections by tax source shall include (i) the total number of applicants approved for tax credits pursuant to this section for the applicable tax year and (ii) the total amount of such tax credits approved for the applicable tax year.

L. The Department shall require taxpayers applying for the credit to provide information including (i) the number of full-time employees employed by the taxpayer in the Commonwealth during the taxable year for which the credit is sought; (ii) the taxpayer's sector or sectors according to the 2012 edition of the North American Industry Classification System (NAICS) as published by the United States Census Bureau; (iii) a brief description of the area, discipline, or field of Virginia qualified research performed by the taxpayer; (iv) the total gross receipts or anticipated total gross receipts of the taxpayer for the taxable year for which the credit is sought; and (v) whether the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university. The Department shall aggregate and summarize the information collected and make it available to the Governor and any member of the General Assembly upon request, regardless of the number of taxpayers applying for the credit.

M. No tax credit shall be allowed pursuant to this section if the otherwise qualified research and development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

§ 58.1-439.12:11. Major research and development expenses tax credit.

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

"Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue Code, as amended, that is conducted in the Commonwealth.

"Virginia qualified research and development expenses" means qualified research expenses, as defined in § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

B. 1. For taxable years beginning on or after January 1, 2016, but before January 1, ~~2025~~ 2021, a taxpayer with Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

2. *For taxable years beginning on or after January 1, 2021, but before January 1, 2025, a taxpayer with Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal to 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.*

C. 1. For taxable years beginning before January 1, 2021, the aggregate amount of credits granted for each fiscal year of the Commonwealth pursuant to this section shall not exceed \$20 million.

2. For taxable years beginning on and after January 1, 2021, the aggregate amount of credits granted for each fiscal year of the Commonwealth pursuant to this section shall not exceed \$24 million.

D. In the event that approved applications for the tax credits allowed under this section exceed the limit described in subsection C for any taxable year, the Department shall apportion the credits by dividing such limit by the total amount of tax credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive.

E. The amount of the credit claimed for the taxable year shall not exceed 75 percent of the total amount of tax imposed by this chapter upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the taxpayer in the next 10 succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

F. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under the Code of Virginia.

G. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders.

H. The Department shall develop and publish guidelines under this section including guidelines for applying for the tax credit. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). Applications for the tax credit must be received by the Department no later than September 1 of the calendar year following the close of the taxable year in which the expenses were paid or incurred.

The Department shall also adopt guidelines to prescribe standards for determining when research and development is considered conducted in the Commonwealth for purposes of allowing the credit under this section. In adopting guidelines, the Department may consider (i) the location where the research and development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the research and development; (iii) the location where supplies used in the research and development are consumed; and (iv) any other factors that the Department deems to be relevant.

I. No tax credit shall be allowed pursuant to this section, if the otherwise qualified research and development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

CHAPTER 49

An Act to amend and reenact §§ 58.1-2600, 58.1-2628, 58.1-2636, and 58.1-3660, relating to tax exemptions for energy storage systems.

[H 2006]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2600, 58.1-2628, 58.1-2636, and 58.1-3660 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2600. Definitions.

A. As used in this chapter:

"Certificated motor vehicle carrier" means a common carrier by motor vehicle, as defined in § 46.2-2000, operating over regular routes under a certificate of public convenience and necessity issued by the Commission or issued on or after July 1, 1995, by the Department of Motor Vehicles. A transit company or bus company that is owned or operated directly or indirectly by a political subdivision of this Commonwealth shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, nor shall such transit company or bus company thereby be subject to the imposition of local property levies. A common carrier of property by motor vehicle shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, but shall be subject to the imposition of local property taxes.

"Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Commission" means the State Corporation Commission which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency responsible for the assessment of the real and personal property of all public service corporations, except those public service corporations for which the Department of Taxation is so designated, upon which the Commonwealth levies a license tax measured by the gross receipts of such corporations. The State Corporation Commission shall also assess the property of each telephone or telegraph company, every public service corporation in the Commonwealth in the business of furnishing heat, light and power by means of electricity, and each electric supplier, as provided by this chapter.

"Department" means the Department of Taxation which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency to assess the real and personal property of railroads and pipeline transmission companies as defined herein.

"Electric supplier" means any person owning or operating facilities for the generation, *storage*, transmission or distribution of electricity for sales, except any person owning or operating facilities with a designed generation *or storage* capacity of ~~twenty-five~~ 25 megawatts or less.

"Energy storage system" means the same as that term is defined in § 58.1-3660.

"Estimated tax" means the amount of tax which a taxpayer estimates as being imposed by Article 2 (§ 58.1-2620 et seq.) of this chapter for the tax year as measured by the gross receipts received in the taxable year.

"Freight car company" includes every car trust, mercantile or other company or person not domiciled in this Commonwealth owning stock cars, furniture cars, fruit cars, tank cars or other similar cars. Such term shall not include a company operating a line as a railroad.

"Gross receipts" means the total of all revenue derived in the Commonwealth, including but not limited to income from the provision or performance of a service or the performance of incidental operations not necessarily associated with the particular service performed, without deductions for expenses or other adjustments. Such term shall not, however, include interest, dividends, investment income or receipts from the sale of real property or other assets except inventory of goods held for sale or resale.

"Pipeline distribution company" means a corporation, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or by-products thereof to a purchaser for purposes of furnishing heat or light.

"Pipeline transmission company" means a corporation authorized to transmit natural gas, manufactured gas or crude petroleum and the products or by-products thereof in the public service by means of a pipeline or pipelines from one point to another when such gas or petroleum is not for sale to an ultimate consumer for purposes of furnishing heat or light.

"Storage" means the storage of energy by an energy storage system.

"Tax Commissioner" means the chief executive officer of the Department of Taxation or his designee.

"Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of the same calendar year, such year also being the tax assessment year or the year in which the tax levied under this chapter shall be paid.

"Taxable year" means the calendar year preceding the tax year, upon which the gross receipts are computed as a basis for the payment of the tax levied pursuant to this chapter.

"Telegraph company" means a corporation or person operating the apparatus necessary to communicate by telegraph.

"Telephone company" means a person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing telephone service; or a person authorized by the Federal Communications Commission to provide commercial mobile service as defined in § 332(d) (1) of the Communications Act of 1934, as amended, where such service includes cellular mobile radio communications services or broadband personal communications services; or a person holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing domestic telephone service and belonging to an affiliated group including a person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing telephone service. The term "affiliated group" has the meaning given in § 58.1-3700.1.

B. For purposes of this chapter the terms "license tax" and "franchise tax" shall be synonymous.

§ 58.1-2628. Annual report.

A. Each telegraph company and telephone company shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, owned, operated or used by it, except leased automobiles, leased trucks or leased real estate, as of January 1 preceding, showing particularly the county, city, town or magisterial district wherein such property is located.

The report shall also show the total gross receipts for the 12 months ending December 31 next preceding and the interstate revenue, if any, attributable to the Commonwealth. Such revenue shall include all interstate revenue from business originating and terminating within the Commonwealth and a proportion of interstate revenue from all interstate business passing through, into or out of the Commonwealth.

B. Every corporation doing in the Commonwealth the business of furnishing water, heat, light and power, whether by means of gas or steam, except (i) pipeline transmission companies taxed pursuant to § 58.1-2627.1 or (ii) an electric supplier as defined in § 58.1-400.2, shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, belonging to it as of January 1 preceding, showing particularly, as to property owned by it, the county, city, town or magisterial district wherein such property is located. The report shall also show the total gross receipts for the 12 months ending December 31 next preceding.

C. Every corporation in the Commonwealth in the business of furnishing heat, light and power by means of electricity shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, belonging to such corporation, leased by such corporation for a term greater than one year, or operated by such corporation as of the preceding January 1, showing particularly the county, city, town or magisterial district in which such property is located, unless reported to the Commission by another corporation or electric supplier in the Commonwealth in the business of furnishing heat, light and power by means of electricity. Real and tangible personal property of every description in the Commonwealth leased by such corporation for a term greater than one year or operated by such corporation shall mean only those assets directly associated with production facilities and shall not mean real estate or vehicles. The report shall also show the total gross receipts less sales to federal, state and local governments for their own use. Electric suppliers organized as cooperatives shall report annually their gross receipts received from nonmembers.

D. Every electric supplier as defined in § 58.1-2600 shall report annually, on April 15, to the Commission all real and tangible personal property owned by such electric supplier, leased by such electric supplier for a term greater than one year, or operated by such electric supplier in the Commonwealth and used directly for the generation, *storage*, transmission, or distribution of electricity for sale as of the preceding January 1, showing particularly the county, city, town, or magisterial district in which such property is located, unless reported to the Commission by another corporation or electric supplier in the Commonwealth in the business of furnishing heat, light, and power by means of electricity. Real and tangible personal

property of every description in the Commonwealth leased by such electric supplier for a term greater than one year or operated by such electric supplier shall mean only those assets directly associated with production facilities and shall not mean real estate or vehicles. The report shall also show the total gross receipts less sales to federal, state, and local governments for their own use. Electric suppliers organized as cooperatives shall report annually their gross receipts received from nonmembers.

E. Every pipeline transmission company shall report annually, on April 15, to the Department all of its real and tangible personal property of every description as of the beginning of January 1 preceding, showing particularly in what city, town or county and magisterial district therein the property is located.

F. The report required by subsections A through E shall be completed on forms prepared and furnished by the Commission. The Commission shall include on such forms such information as the Commission deems necessary for the proper administration of this chapter.

G. The report required by this section shall be certified by the oath of the president or other designated official of the corporation or person.

§ 58.1-2636. Revenue share for solar energy projects and energy storage systems.

A. 1. Any locality may by ordinance assess a revenue share of (i) up to \$1,400 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the facility based on submissions by the facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project, or (ii) up to \$1,400 per megawatt, as measured in alternating current (AC) storage capacity, on any energy storage system.

2. Except as prohibited by subdivision 3, the maximum amount of the revenue share that may be imposed shall be increased on July 1, 2026, and every five years thereafter by 10 percent.

3. The provisions of subdivision 2 shall not apply to solar photovoltaic projects or energy storage systems for which an application has been filed with the locality, as defined by subsection D of § 58.1-3660, and such application has been approved by the locality prior to January 1, 2021. The provisions of subdivision 2 shall apply to all such projects and systems for which an application is approved by the locality on or after January 1, 2021.

B. For purposes of this section, "solar photovoltaic (electric energy) project" shall not include any project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended; (ii) 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; or (iii) five megawatts or less.

§ 58.1-3660. Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, except that in the case of equipment, facilities, devices, or other property intended for use by any political subdivision in conjunction with the operation of its water, wastewater, stormwater, or solid waste management facilities or systems, including property that may be financed pursuant to Chapter 22 (§ 62.1-224 et seq.) of Title 62.1, the state certifying authority having jurisdiction with respect to such property shall, upon the request of the political subdivision, make such certification prospectively for property to be constructed, reconstructed, erected, or acquired for such purposes. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. *Such property shall also include energy storage systems, whether or not such property has been certified to the Department of Taxation by a state certifying authority.* All such property as described in this definition shall not include the land on which such equipment or facilities are located.

"Energy storage system" means equipment, facilities, or devices that are capable of absorbing energy, storing it for a period of time, and redelivering that energy after it has been stored.

"State certifying authority" means the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for solar energy projects, *energy storage systems*, and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste

facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018, for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019.

D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization, shall be 80 percent of the assessed value when an application has been filed with the locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.

E. For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.

F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, the amount of the exemption shall be as follows: 80 percent of the assessed value in the first five years in service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.

G. Notwithstanding any provision to the contrary, the exemption for energy storage systems provided under this section (i) shall apply only to projects greater than five megawatts and less than 150 megawatts, as measured in alternating current (AC) storage capacity, and (ii) shall be in the following amounts: 80 percent of the assessed value in the first five years of service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.

H. The exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall be as set out in subsection G when an application has been filed with the locality prior to July 1, 2030. For the purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.

CHAPTER 50

An Act to amend and reenact §§ 58.1-2600, 58.1-2628, 58.1-2636, and 58.1-3660, relating to tax exemptions for energy storage systems.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2600, 58.1-2628, 58.1-2636, and 58.1-3660 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2600. Definitions.

A. As used in this chapter:

"Certificated motor vehicle carrier" means a common carrier by motor vehicle, as defined in § 46.2-2000, operating over regular routes under a certificate of public convenience and necessity issued by the Commission or issued on or after July 1, 1995, by the Department of Motor Vehicles. A transit company or bus company that is owned or operated directly or indirectly by a political subdivision of this Commonwealth shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, nor shall such transit company or bus company thereby be subject to the imposition of local property levies. A common carrier of property by motor vehicle shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, but shall be subject to the imposition of local property taxes.

"Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Commission" means the State Corporation Commission which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency responsible for the assessment of the real and personal property of all public service corporations, except those public service corporations for which the Department of Taxation is so designated, upon which the Commonwealth levies a license tax measured by the gross receipts of such corporations. The State Corporation Commission shall also assess the property of each telephone or telegraph company, every public service corporation in the Commonwealth in the business of furnishing heat, light and power by means of electricity, and each electric supplier, as provided by this chapter.

"Department" means the Department of Taxation which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency to assess the real and personal property of railroads and pipeline transmission companies as defined herein.

"Electric supplier" means any person owning or operating facilities for the generation, *storage*, transmission or distribution of electricity for sales, except any person owning or operating facilities with a designed generation *or storage* capacity of ~~twenty-five~~ 25 megawatts or less.

"Energy storage system" means the same as that term is defined in § 58.1-3660.

"Estimated tax" means the amount of tax which a taxpayer estimates as being imposed by Article 2 (§ 58.1-2620 et seq.) of this chapter for the tax year as measured by the gross receipts received in the taxable year.

"Freight car company" includes every car trust, mercantile or other company or person not domiciled in this Commonwealth owning stock cars, furniture cars, fruit cars, tank cars or other similar cars. Such term shall not include a company operating a line as a railroad.

"Gross receipts" means the total of all revenue derived in the Commonwealth, including but not limited to income from the provision or performance of a service or the performance of incidental operations not necessarily associated with the particular service performed, without deductions for expenses or other adjustments. Such term shall not, however, include interest, dividends, investment income or receipts from the sale of real property or other assets except inventory of goods held for sale or resale.

"Pipeline distribution company" means a corporation, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or by-products thereof to a purchaser for purposes of furnishing heat or light.

"Pipeline transmission company" means a corporation authorized to transmit natural gas, manufactured gas or crude petroleum and the products or by-products thereof in the public service by means of a pipeline or pipelines from one point to another when such gas or petroleum is not for sale to an ultimate consumer for purposes of furnishing heat or light.

"Storage" means the storage of energy by an energy storage system.

"Tax Commissioner" means the chief executive officer of the Department of Taxation or his designee.

"Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of the same calendar year, such year also being the tax assessment year or the year in which the tax levied under this chapter shall be paid.

"Taxable year" means the calendar year preceding the tax year, upon which the gross receipts are computed as a basis for the payment of the tax levied pursuant to this chapter.

"Telegraph company" means a corporation or person operating the apparatus necessary to communicate by telegraph.

"Telephone company" means a person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing telephone service; or a person authorized by the Federal Communications Act of 1934, as amended, where such service includes cellular mobile radio communications services or broadband personal communications services; or a person holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing domestic telephone service and belonging to an affiliated group including a person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing telephone service. The term "affiliated group" has the meaning given in § 58.1-3700.1.

B. For purposes of this chapter the terms "license tax" and "franchise tax" shall be synonymous.

§ 58.1-2628. Annual report.

A. Each telegraph company and telephone company shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, owned, operated or used by it, except leased automobiles, leased trucks or leased real estate, as of January 1 preceding, showing particularly the county, city, town or magisterial district wherein such property is located.

The report shall also show the total gross receipts for the 12 months ending December 31 next preceding and the interstate revenue, if any, attributable to the Commonwealth. Such revenue shall include all interstate revenue from business originating and terminating within the Commonwealth and a proportion of interstate revenue from all interstate business passing through, into or out of the Commonwealth.

B. Every corporation doing in the Commonwealth the business of furnishing water, heat, light and power, whether by means of gas or steam, except (i) pipeline transmission companies taxed pursuant to § 58.1-2627.1 or (ii) an electric supplier as defined in § 58.1-400.2, shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, belonging to it as of January 1 preceding, showing particularly, as to property owned by it, the county, city, town or magisterial district wherein such property is located. The report shall also show the total gross receipts for the 12 months ending December 31 next preceding.

C. Every corporation in the Commonwealth in the business of furnishing heat, light and power by means of electricity shall report annually, on April 15, to the Commission all real and tangible personal property of every description in the Commonwealth, belonging to such corporation, leased by such corporation for a term greater than one year, or operated by such corporation as of the preceding January 1, showing particularly the county, city, town or magisterial district in which such property is located, unless reported to the Commission by another corporation or electric supplier in the Commonwealth in the business of furnishing heat, light and power by means of electricity. Real and tangible personal property of every description in the Commonwealth leased by such corporation for a term greater than one year or operated by such corporation shall mean only those assets directly associated with production facilities and shall not mean real estate or vehicles. The report shall also show the total gross receipts less sales to federal, state and local governments for their own use. Electric suppliers organized as cooperatives shall report annually their gross receipts received from nonmembers.

D. Every electric supplier as defined in § 58.1-2600 shall report annually, on April 15, to the Commission all real and tangible personal property owned by such electric supplier, leased by such electric supplier for a term greater than one year, or operated by such electric supplier in the Commonwealth and used directly for the generation, *storage*, transmission, or distribution of electricity for sale as of the preceding January 1, showing particularly the county, city, town, or magisterial district in which such property is located, unless reported to the Commission by another corporation or electric supplier in the Commonwealth in the business of furnishing heat, light, and power by means of electricity. Real and tangible personal property of every description in the Commonwealth leased by such electric supplier for a term greater than one year or operated by such electric supplier shall mean only those assets directly associated with production facilities and shall not mean real estate or vehicles. The report shall also show the total gross receipts less sales to federal, state, and local governments for their own use. Electric suppliers organized as cooperatives shall report annually their gross receipts received from nonmembers.

E. Every pipeline transmission company shall report annually, on April 15, to the Department all of its real and tangible personal property of every description as of the beginning of January 1 preceding, showing particularly in what city, town or county and magisterial district therein the property is located.

F. The report required by subsections A through E shall be completed on forms prepared and furnished by the Commission. The Commission shall include on such forms such information as the Commission deems necessary for the proper administration of this chapter.

G. The report required by this section shall be certified by the oath of the president or other designated official of the corporation or person.

§ 58.1-2636. Revenue share for solar energy projects and energy storage systems.

A. 1. Any locality may by ordinance assess a revenue share of (i) up to \$1,400 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the facility based on submissions by the facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project, or (ii) up to \$1,400 per megawatt, as measured in alternating current (AC) storage capacity, on any energy storage system.

2. Except as prohibited by subdivision 3, the maximum amount of the revenue share that may be imposed shall be increased on July 1, 2026, and every five years thereafter by 10 percent.

3. The provisions of subdivision 2 shall not apply to solar photovoltaic projects or energy storage systems for which an application has been filed with the locality, as defined by subsection D of § 58.1-3660, and such application has been approved by the locality prior to January 1, 2021. The provisions of subdivision 2 shall apply to all such projects and systems for which an application is approved by the locality on or after January 1, 2021.

B. For purposes of this section, "solar photovoltaic (electric energy) project" shall not include any project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended; (ii) 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; or (iii) five megawatts or less.

§ 58.1-3660. Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, except that in the case of equipment, facilities, devices, or other property intended for use by any political subdivision in conjunction with the operation of its water, wastewater, stormwater, or solid waste management facilities or systems, including property that may be financed pursuant to Chapter 22 (§ 62.1-224 et seq.) of Title 62.1, the state certifying authority having jurisdiction with respect to such property shall, upon the request of the political subdivision, make such certification prospectively for property to be constructed, reconstructed, erected, or acquired for such purposes. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. *Such property shall also include energy storage systems, whether or not such property has been certified to the Department of Taxation by a state certifying authority.* All such property as described in this definition shall not include the land on which such equipment or facilities are located.

"Energy storage system" means equipment, facilities, or devices that are capable of absorbing energy, storing it for a period of time, and redelivering that energy after it has been stored.

"State certifying authority" means the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for solar energy projects, *energy storage systems*, and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018, for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019.

D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization, shall be 80 percent of the assessed value when an application has been filed with the locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.

E. For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.

F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, the amount of the exemption shall be as follows: 80 percent of the assessed value in the first five years in service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.

G. *Notwithstanding any provision to the contrary, the exemption for energy storage systems provided under this section (i) shall apply only to projects greater than five megawatts and less than 150 megawatts, as measured in alternating current (AC) storage capacity, and (ii) shall be in the following amounts: 80 percent of the assessed value in the first five years of service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.*

H. *The exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for energy storage systems greater than five megawatts, as measured in alternating current (AC) storage capacity, shall be as set out in subsection G when an application has been filed with the locality prior to July 1, 2030. For the purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.*

CHAPTER 51

An Act to amend and reenact §§ 33.2-214.2 and 33.2-353 of the Code of Virginia, relating to transportation projects; resiliency.

[H 2071]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-214.2 and 33.2-353 of the Code of Virginia are amended and reenacted as follows:

§ 33.2-214.2. Transparency in the development of the Six-Year Improvement Program, statewide prioritization process, and state of good repair program.

A. The Board shall develop the Six-Year Improvement Program pursuant to § 33.2-214 in a transparent manner that provides to the public, elected officials, and other stakeholders the opportunity to engage and comment in a meaningful manner prior to the adoption of such program.

B. No later than 150 days prior to a vote to include projects or strategies evaluated pursuant to § 33.2-214.1 in the Six-Year Improvement Program, the Office of Intermodal Planning and Investment shall make public, in an accessible format, (i) a recommended list of projects and strategies for inclusion in the Six-Year Improvement Program based on the results of such evaluation; (ii) the results of the screening of candidate projects and strategies, including whether such projects are located on a primary evacuation route; ~~and~~ (iii) *whether a project has been designed to be or the project sponsor has committed that the design will be resilient*; and (iv) the results of the evaluation of candidate projects and strategies, including the weighting of factors and the criteria used to determine the value of each factor.

C. The Department shall make public a recommended list of projects eligible for funds under the state of good repair program pursuant to § 33.2-369 from the listing of prioritized pavement and bridge needs published in the Commissioner's annual report pursuant to § 33.2-232 at least 150 days prior to the adoption of a Six-Year Improvement Program that includes new projects with funding from such program.

D. The Board may modify the recommended list of projects in subsection B or C through formal action.

§ 33.2-353. Commonwealth Transportation Board to develop and update Statewide Transportation Plan.

A. The Board shall, with the assistance of the Office of Intermodal Planning and Investment, conduct a comprehensive review of statewide transportation needs in a Statewide Transportation Plan setting forth assessment of capacity needs for all corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1. The assessment shall consider all modes of transportation. Such corridors shall be planned to include multimodal transportation improvements, and the plan shall consider corridor location in planning for any major transportation infrastructure, including environmental impacts and the comprehensive land use plan of the locality in which the corridor is planned. In the designation of such corridors, the Board shall not be constrained by local, district, regional, or modal plans.

The Statewide Transportation Plan shall be updated as needed but no less than once every four years. The plan shall promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, *resiliency*, and transportation safety.

B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that cover at least a 20-year planning horizon, in accordance with federal transportation planning requirements. The plan shall include quantifiable measures and achievable goals relating to, but not limited to, congestion reduction and safety, transit and high-occupancy vehicle facility use, job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality, movement of freight by rail, and per capita vehicle miles traveled. The Board shall consider such goals in evaluating and selecting transportation improvement projects for inclusion in the Six-Year Improvement Program pursuant to § 33.2-214.

C. The plan shall incorporate the measures and goals of the approved long-range plans developed by the applicable regional organizations. Each such plan shall be summarized in a public document and made available to the general public upon presentation to the Governor and General Assembly.

D. It is the intent of the General Assembly that this plan assess transportation needs and assign priorities to projects on a statewide basis, avoiding the production of a plan that is an aggregation of local, district, regional, or modal plans.

2. That the Commissioner of Highways shall ensure resiliency is incorporated into the design standards for new construction projects.

CHAPTER 52

An Act to amend and reenact §§ 33.2-214.2 and 33.2-353 of the Code of Virginia, relating to transportation projects; resiliency.

[S 1350]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-214.2 and 33.2-353 of the Code of Virginia are amended and reenacted as follows:

§ 33.2-214.2. Transparency in the development of the Six-Year Improvement Program, statewide prioritization process, and state of good repair program.

A. The Board shall develop the Six-Year Improvement Program pursuant to § 33.2-214 in a transparent manner that provides to the public, elected officials, and other stakeholders the opportunity to engage and comment in a meaningful manner prior to the adoption of such program.

B. No later than 150 days prior to a vote to include projects or strategies evaluated pursuant to § 33.2-214.1 in the Six-Year Improvement Program, the Office of Intermodal Planning and Investment shall make public, in an accessible format, (i) a recommended list of projects and strategies for inclusion in the Six-Year Improvement Program based on the results of such evaluation; (ii) the results of the screening of candidate projects and strategies, including whether such projects are located on a primary evacuation route; ~~and~~ (iii) *whether a project has been designed to be or the project sponsor has committed that the design will be resilient*; and (iv) the results of the evaluation of candidate projects and strategies, including the weighting of factors and the criteria used to determine the value of each factor.

C. The Department shall make public a recommended list of projects eligible for funds under the state of good repair program pursuant to § 33.2-369 from the listing of prioritized pavement and bridge needs published in the Commissioner's annual report pursuant to § 33.2-232 at least 150 days prior to the adoption of a Six-Year Improvement Program that includes new projects with funding from such program.

D. The Board may modify the recommended list of projects in subsection B or C through formal action.

§ 33.2-353. Commonwealth Transportation Board to develop and update Statewide Transportation Plan.

A. The Board shall, with the assistance of the Office of Intermodal Planning and Investment, conduct a comprehensive review of statewide transportation needs in a Statewide Transportation Plan setting forth assessment of capacity needs for all corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1. The assessment shall consider all modes of transportation. Such corridors shall be planned to include multimodal transportation improvements, and the plan shall consider corridor location in planning for any major transportation infrastructure, including environmental impacts and the comprehensive land use plan of the locality in which the corridor is planned. In the designation of such corridors, the Board shall not be constrained by local, district, regional, or modal plans.

The Statewide Transportation Plan shall be updated as needed but no less than once every four years. The plan shall promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, *resiliency*, and transportation safety.

B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that cover at least a 20-year planning horizon, in accordance with federal transportation planning requirements. The plan shall include quantifiable measures and achievable goals relating to, but not limited to, congestion reduction and safety, transit and high-occupancy vehicle facility use, job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality, movement of freight by rail, and per capita vehicle miles traveled. The Board shall consider such goals in evaluating and selecting transportation improvement projects for inclusion in the Six-Year Improvement Program pursuant to § 33.2-214.

C. The plan shall incorporate the measures and goals of the approved long-range plans developed by the applicable regional organizations. Each such plan shall be summarized in a public document and made available to the general public upon presentation to the Governor and General Assembly.

D. It is the intent of the General Assembly that this plan assess transportation needs and assign priorities to projects on a statewide basis, avoiding the production of a plan that is an aggregation of local, district, regional, or modal plans.

2. That the Commissioner of Highways shall ensure resiliency is incorporated into the design standards for new construction projects.

CHAPTER 53

An Act to amend and reenact §§ 51.1-124.3, 51.1-157, 51.1-168, 51.1-301, and 51.1-308 of the Code of Virginia, relating to Virginia Retirement System; technical amendments.

[H 2181]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-157, 51.1-168, 51.1-301, and 51.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-124.3. Definitions.

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

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 months. However, for any member who (i) is not a person who becomes a member on or after July 1, 2010, and (ii) as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service. A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this definition.

If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"Medical Board" means the boards composed of physicians or other health care professionals as provided by this chapter.

"Member" means any person included in the membership of the Retirement System.

"Membership service" means service as an employee rendered while a contributing member of the Retirement System except as provided in this chapter.

"Normal retirement date" means a member's sixty-fifth birthday. However, for any (i) person who becomes a member on or after July 1, 2010, or (ii) member who does not have at least 60 months of creditable service as of January 1, 2013, under this chapter his normal retirement date shall be the date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

"Person who becomes a member on or after July 1, 2010," means a person who is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after July 1, 2010, in a covered position. Subsequent separation from such position and subsequent employment in a covered position shall not alter the status of a person who becomes a member on or after July 1, 2010.

"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or unit of the Commonwealth, or any commission, public authority, or body corporate created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the commission, public authority, or body corporate.

~~"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.~~

"Prior service" means service rendered prior to becoming a member of the Retirement System.

"Purchase of service contract" means a contract entered into by the member and the Retirement System for the purchase of service credit by the member as provided in § 51.1-142.2.

"Retirement allowance" means the retirement payments to which a member is entitled.

"Retirement plan administered by the Virginia Retirement System" means a retirement plan established under this title administered by the Virginia Retirement System, or by an agency that has been delegated administrative responsibility by the Virginia Retirement System, but such term shall exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.).

"Retirement System" means the Virginia Retirement System.

"Service" means service as an employee.

~~"Social security disability benefit" means, with respect to any member, the social security disability benefits to which the member is entitled pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement.~~

"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include any faculty member, but not including adjunct faculty, of a public institution of higher education (a) who is compensated on a salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half of a full time equivalent position) engaged in the performance of teaching, administrative, or research duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any member of the Virginia Law Officers' Retirement System.

"Teacher" means any person who is regularly employed full time on a salaried basis as a professional or clerical employee of a county, city, or other local public school board.

§ 51.1-157. Disability retirement allowance.

A. Allowance payable on retirement. — Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance during his lifetime and continued disability equal to 1.70 percent of his average final compensation multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Notwithstanding the foregoing, for a member who (a) is a person who becomes a member on or after July 1, 2010, or (b) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal 1.65 percent of his average final compensation multiplied by the smaller of (1) twice the amount of his creditable service or (2) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

B. Workers' compensation guarantee. — If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. — Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to the member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. — Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

E. Determination of retirement allowance. — For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

§ 51.1-168. Limits on creditable compensation; maximum benefits; mandatory payment of allowance.

A. Notwithstanding any other provision of law, creditable compensation used for computing any benefit or employee contribution under or to the Retirement System shall not exceed \$200,000 (as adjusted in \$5,000 increments from time to time by the adjustment factor described in I.R.C. § 415 (d) on the basis of a base period of the calendar quarter beginning July 1, 2001). In determining average final compensation for periods beginning on or after July 1, 2001, the limit on creditable compensation applied to compensation attributable to periods prior to July 1, 2001, shall be \$200,000. Notwithstanding the foregoing, compensation for any employee who became a member of the Retirement System (i) prior to the ninetieth day after the opening date of the 1996 Session of the General Assembly, on whose behalf employee or employer contributions are made into the Retirement System, and for whom annual compensation is used for computing any benefit, shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under I.R.C. § 401 (a)(17) as amended in 1993 and as contained in § 13212 (d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P. L. 103-66).

B. Notwithstanding any other provision of law, the annual benefit under the Retirement System of a member and any related death or other benefit shall, if necessary, be reduced to the extent required by § 415 (b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code. Any adjustment pursuant to § 415 (d) of the Internal Revenue Code shall apply to all members including those who have died, retired, or otherwise terminated service with a nonforfeitable right to a retirement allowance before the effective date of such adjustment. If an employee participating in the Retirement System is also a participant in another defined benefit plan sponsored or maintained by an employer participating in the Retirement System and subject to the limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test required by § 415 (b) of the Internal Revenue Code to all such plans, to the extent required by § 415 of the Internal Revenue Code. Whenever a reduction in annual benefits is required to meet the annual benefit limit required by § 415 (b) of the Internal Revenue Code, the annual benefits under such employer's other plan or plans will be reduced before benefits under the Retirement System.

C. Any vendor for a defined benefit plan sponsored or maintained by an employer that participates in the Retirement System shall (i) request and maintain the records needed, (ii) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (iii) advise the employer of any annual benefit that exceeds the applicable limitation. If there is no vendor for these services, the employer shall

(a) request and maintain the records needed, (b) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (c) reduce any annual benefit that exceeds the applicable limitation.

D. On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of (i) April 1 of the calendar year following the calendar year that the member attains ~~seventy and one-half years of age~~ *the required age as provided in the Internal Revenue Code of 1986, as amended*, or (ii) April 1 of the calendar year following the calendar year in which the member terminates employment. If the member fails, following reasonable notification, to elect a form of payment by such required beginning date, the retirement allowance shall be paid as a single life annuity and the spousal acknowledgement otherwise required by § 51.1-165.1 shall not be required. Notwithstanding any other provisions of law, § 401(a)(9) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans are incorporated by reference.

§ 51.1-301. Definitions.

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

"Appointing authority" means the General Assembly or the Governor.

"Creditable service" means prior service plus membership service, as further defined in and modified by § 51.1-303, for which credit is allowable under this chapter.

"Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976.

"Normal retirement date" means a member's sixty-fifth birthday.

"Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic relations courts, the Virginia Retirement System.

"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

"Social security disability benefit" means, with respect to any member, the social security disability benefits to which the member is entitled pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement.

§ 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement. — Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. However, for a member appointed or elected to an original term commencing on or after January 1, 2013, the applicable percentage shall be 1.65 percent, and for a member participating in the hybrid retirement program described in § 51.1-169, the applicable percentage shall be one percent. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

In no case shall the annual retirement allowance exceed 78 percent of the average final compensation of the member.

B. Workers' compensation guarantee. — If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall, subject to the provisions of subsection D, equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A ~~of this section~~ or under the provisions of this subsection.

C. General disability retirement guarantee. — The disability retirement allowance payable to a member who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least an amount equal to the disability retirement allowance to which he would have been entitled under the provisions of the previous system.

D. Determination of retirement allowance. — For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

E. Reduction of allowance. — Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to such member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of

the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

F. Special retirement allowance guarantee. — Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

CHAPTER 54

An Act to amend and reenact §§ 51.1-124.3, 51.1-157, 51.1-168, 51.1-301, and 51.1-308 of the Code of Virginia, relating to Virginia Retirement System; technical amendments.

[S 1251]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-157, 51.1-168, 51.1-301, and 51.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-124.3. Definitions.

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

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 months. However, for any member who (i) is not a person who becomes a member on or after July 1, 2010, and (ii) as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service. A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this definition.

If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"Medical Board" means the boards composed of physicians or other health care professionals as provided by this chapter.

"Member" means any person included in the membership of the Retirement System.

"Membership service" means service as an employee rendered while a contributing member of the Retirement System except as provided in this chapter.

"Normal retirement date" means a member's sixty-fifth birthday. However, for any (i) person who becomes a member on or after July 1, 2010, or (ii) member who does not have at least 60 months of creditable service as of January 1, 2013, under this chapter his normal retirement date shall be the date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

"Person who becomes a member on or after July 1, 2010," means a person who is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after July 1, 2010, in a covered position. Subsequent separation from such position and subsequent employment in a covered position shall not alter the status of a person who becomes a member on or after July 1, 2010.

"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or unit of the Commonwealth, or any commission, public authority, or body corporate created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the commission, public authority, or body corporate.

~~"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.~~

"Prior service" means service rendered prior to becoming a member of the Retirement System.

"Purchase of service contract" means a contract entered into by the member and the Retirement System for the purchase of service credit by the member as provided in § 51.1-142.2.

"Retirement allowance" means the retirement payments to which a member is entitled.

"Retirement plan administered by the Virginia Retirement System" means a retirement plan established under this title administered by the Virginia Retirement System, or by an agency that has been delegated administrative responsibility by the Virginia Retirement System, but such term shall exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.).

"Retirement System" means the Virginia Retirement System.

"Service" means service as an employee.

~~"Social security disability benefit" means, with respect to any member, the social security disability benefits to which the member is entitled pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement.~~

"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include any faculty member, but not including adjunct faculty, of a public institution of higher education (a) who is compensated on a salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half of a full time equivalent position) engaged in the performance of teaching, administrative, or research duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any member of the Virginia Law Officers' Retirement System.

"Teacher" means any person who is regularly employed full time on a salaried basis as a professional or clerical employee of a county, city, or other local public school board.

§ 51.1-157. Disability retirement allowance.

A. Allowance payable on retirement. — Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance during his lifetime and continued disability equal to 1.70 percent of his average final compensation multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Notwithstanding the foregoing, for a member who (a) is a person who becomes a member on or after July 1, 2010, or

(b) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal 1.65 percent of his average final compensation multiplied by the smaller of (1) twice the amount of his creditable service or (2) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

B. Workers' compensation guarantee. — If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. — Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. — Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

E. Determination of retirement allowance. — For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

§ 51.1-168. Limits on creditable compensation; maximum benefits; mandatory payment of allowance.

A. Notwithstanding any other provision of law, creditable compensation used for computing any benefit or employee contribution under or to the Retirement System shall not exceed \$200,000 (as adjusted in \$5,000 increments from time to time by the adjustment factor described in I.R.C. § 415 (d) on the basis of a base period of the calendar quarter beginning July 1, 2001). In determining average final compensation for periods beginning on or after July 1, 2001, the limit on creditable compensation applied to compensation attributable to periods prior to July 1, 2001, shall be \$200,000. Notwithstanding the foregoing, compensation for any employee who became a member of the Retirement System (i) prior to the ninetieth day after the opening date of the 1996 Session of the General Assembly, on whose behalf employee or employer contributions are made into the Retirement System, and for whom annual compensation is used for computing any benefit, shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under I.R.C. § 401 (a)(17) as amended in 1993 and as contained in § 13212 (d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P. L. 103-66).

B. Notwithstanding any other provision of law, the annual benefit under the Retirement System of a member and any related death or other benefit shall, if necessary, be reduced to the extent required by § 415 (b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code. Any adjustment pursuant to § 415 (d) of the Internal Revenue Code shall apply to all members including those who have died, retired, or otherwise terminated service with a nonforfeitable right to a retirement allowance before the effective date of such adjustment. If an employee participating in the Retirement System is also a participant in another defined benefit plan sponsored or maintained by an employer participating in the Retirement System and subject to the limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test required by § 415 (b) of the Internal Revenue Code to all such plans, to the extent required by § 415 of the Internal Revenue Code. Whenever a reduction in annual benefits is required to meet the annual benefit limit required by § 415 (b) of the Internal Revenue Code, the annual benefits under such employer's other plan or plans will be reduced before benefits under the Retirement System.

C. Any vendor for a defined benefit plan sponsored or maintained by an employer that participates in the Retirement System shall (i) request and maintain the records needed, (ii) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (iii) advise the employer of any annual benefit that exceeds the applicable limitation. If there is no vendor for these services, the employer shall (a) request and maintain the records needed, (b) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (c) reduce any annual benefit that exceeds the applicable limitation.

D. On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of (i) April 1 of the calendar year following the calendar year that the member attains ~~seventy and one-half years of age~~ *the required age as provided in the Internal Revenue Code of 1986, as amended*, or (ii) April 1 of the calendar year following the calendar year in which the member terminates employment. If the member fails, following reasonable notification, to elect a form of payment by such required beginning date, the retirement allowance shall be paid as a single life annuity and the spousal acknowledgement otherwise required by § 51.1-165.1 shall not be required. Notwithstanding any other provisions of law, § 401(a)(9) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans are incorporated by reference.

§ 51.1-301. Definitions.

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

"Appointing authority" means the General Assembly or the Governor.

"Creditable service" means prior service plus membership service, as further defined in and modified by § 51.1-303, for which credit is allowable under this chapter.

"Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976.

"Normal retirement date" means a member's sixty-fifth birthday.

"Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic relations courts, the Virginia Retirement System.

~~"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.~~

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

~~"Social security disability benefit" means, with respect to any member, the social security disability benefits to which the member is entitled pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement.~~

§ 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement. — Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. However, for a member appointed or elected to an original term commencing on or after January 1, 2013, the applicable percentage shall be 1.65 percent, and for a member participating in the hybrid retirement program described in § 51.1-169, the applicable percentage shall be one percent. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

In no case shall the annual retirement allowance exceed 78 percent of the average final compensation of the member.

B. Workers' compensation guarantee. — If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall, subject to the provisions of subsection D, equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A ~~of this section~~ or under the provisions of this subsection.

C. General disability retirement guarantee. — The disability retirement allowance payable to a member who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least an amount equal to the disability retirement allowance to which he would have been entitled under the provisions of the previous system.

D. Determination of retirement allowance. — For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

E. Reduction of allowance. — Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to such member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

F. Special retirement allowance guarantee. — Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for ~~primary~~ social security *disability* benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for ~~primary~~ social security *disability* benefits *or has attained his normal retirement age* under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

CHAPTER 55

An Act to amend the Code of Virginia by adding a section numbered 58.1-609.14, relating to sales tax; exemption for personal protective equipment; emergency.

[H 2185]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-609.14 as follows:

§ 58.1-609.14. Personal protective equipment exemption.

A. As used in this section:

"Business" means a person doing business in Virginia, including a self-employed individual.

"COVID-19 Emergency Temporary Standard" means the Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, promulgated by the Department of Labor and Industry and in effect at 16VAC25-220, or any permanent regulation intended to succeed such regulation.

"COVID-19 safety protocol" means safety protocols that comply with the COVID-19 Emergency Temporary Standard and that meet the following criteria:

- 1. Reasonably prevent the spread of COVID-19;*
- 2. Comply with all applicable federal, state, and local laws;*
- 3. Are consistent with best practices for infection prevention and workplace hygiene;*
- 4. Promote remote work to the fullest extent possible, including increasing the number of telework-eligible employees; and*
- 5. Implement enhanced cleaning, screening, testing, and contact tracing procedures and any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.*

"Other than business use" means, with respect to a purchased item or service, that (i) the business uses the purchased item or service more than 50 percent of the time for nonbusiness purposes or (ii) the business transfers a purchased item to a person other than the business or transfers the use of a purchased service to a person other than the business.

"Personal protective equipment" means only the following:

- 1. Disinfecting products approved for use against SARS-CoV-2 and COVID-19;*
- 2. Coveralls, full body suits, gowns, and vests;*
- 3. Engineering controls such as substitution, isolation, ventilation, and equipment modification to reduce exposure to SARS-CoV-2 and COVID-19 disease-related workplace hazards and job tasks; engineering controls also include UVC sanitation equipment, indoor air quality equipment such as ionization, HEPA filtration, and physical barriers;*
- 4. Face coverings, face shields, and filtering facepiece respirators;*
- 5. Gloves;*
- 6. Hand sanitizer;*
- 7. Hand-washing facilities;*
- 8. HVAC, testing, and physical modifications to comply with the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (ASHRAE 2019a, 2019b);*
- 9. Medical and nonmedical masks;*

10. Physical barriers and electronic sensors or systems designed to maintain or monitor physical distancing of employees from other employees, other persons, and the general public, including acrylic sneeze guards, permanent or temporary walls, electronic employee monitors, and proximity sensors in employee badges;

11. Respiratory protection equipment;

12. Safety glasses;

13. Signs related to COVID-19;

14. Temperature-checking devices and monitors; and

15. Testing and related equipment related to COVID-19.

"Qualifying business" means a business that has in place a COVID-19 safety protocol.

B. The tax imposed by this chapter, or pursuant to any authority granted thereunder, shall not apply to personal protective equipment purchased by a qualifying business or to training related to COVID-19 purchased by a qualifying business. To use the exemption, a qualifying business shall, pursuant to the provisions of § 58.1-623, verify to the seller that the sale is tax exempt. No exemption shall be allowed under this section for a purchase by a qualifying business for other than business use.

C. 1. If the Department receives information that a business has made a tax-exempt purchase under this section and used the purchase for other than business use, the Department shall notify the business. The business shall remit the tax due on the purchase to the Department, plus a penalty of 10 percent of the tax due, plus interest at the rate prescribed by § 58.1-15 accruing from the date of purchase.

2. If the Department receives information that a business is not following its COVID-19 safety protocol, the Department shall notify the business that its qualification for the exemption provided by this section is revoked. Effective as of the date that the Department sends the notification, such business shall not claim any exemption under this section.

D. The Department shall issue guidelines clarifying what equipment and training are tax exempt under this section.

2. That the Department of Taxation shall issue the guidelines required by this act on or before 30 days after the effective date of this act.

3. That no refund or retroactive exemption shall be issued or may be claimed under the provisions of this act for any purchase made before the effective date of this act.

4. That the sales tax exemption provided under § 58.1-609.14 of the Code of Virginia, as created by this act, shall expire on the first day following the expiration of the last executive order issued by the Governor related to the COVID-19 pandemic and the termination of the COVID-19 Emergency Temporary Standard and any permanent COVID-19 regulations adopted by the Virginia Safety and Health Codes Board.

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

CHAPTER 56

An Act to amend the Code of Virginia by adding a section numbered 58.1-609.14, relating to sales tax; exemption for personal protective equipment; emergency.

[S 1403]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-609.14 as follows:

§ 58.1-609.14. Personal protective equipment exemption.

A. As used in this section:

"Business" means a person doing business in Virginia, including a self-employed individual.

"COVID-19 Emergency Temporary Standard" means the Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, promulgated by the Department of Labor and Industry and in effect at 16VAC25-220, or any permanent regulation intended to succeed such regulation.

"COVID-19 safety protocol" means safety protocols that comply with the COVID-19 Emergency Temporary Standard and that meet the following criteria:

1. Reasonably prevent the spread of COVID-19;

2. Comply with all applicable federal, state, and local laws;

3. Are consistent with best practices for infection prevention and workplace hygiene;

4. Promote remote work to the fullest extent possible, including increasing the number of telework-eligible employees; and

5. Implement enhanced cleaning, screening, testing, and contact tracing procedures and any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.

"Other than business use" means, with respect to a purchased item or service, that (i) the business uses the purchased item or service more than 50 percent of the time for nonbusiness purposes or (ii) the business transfers a purchased item to a person other than the business or transfers the use of a purchased service to a person other than the business.

"Personal protective equipment" means only the following:

1. Disinfecting products approved for use against SARS-CoV-2 and COVID-19;
2. Coveralls, full body suits, gowns, and vests;
3. Engineering controls such as substitution, isolation, ventilation, and equipment modification to reduce exposure to SARS-CoV-2 and COVID-19 disease-related workplace hazards and job tasks; engineering controls also include UVC sanitation equipment, indoor air quality equipment such as ionization, HEPA filtration, and physical barriers;
4. Face coverings, face shields, and filtering facepiece respirators;
5. Gloves;
6. Hand sanitizer;
7. Hand-washing facilities;
8. HVAC, testing, and physical modifications to comply with the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (ASHRAE 2019a, 2019b);
9. Medical and nonmedical masks;
10. Physical barriers and electronic sensors or systems designed to maintain or monitor physical distancing of employees from other employees, other persons, and the general public, including acrylic sneeze guards, permanent or temporary walls, electronic employee monitors, and proximity sensors in employee badges;
11. Respiratory protection equipment;
12. Safety glasses;
13. Signs related to COVID-19;
14. Temperature-checking devices and monitors; and
15. Testing and related equipment related to COVID-19.

"Qualifying business" means a business that has in place a COVID-19 safety protocol.

B. The tax imposed by this chapter, or pursuant to any authority granted thereunder, shall not apply to personal protective equipment purchased by a qualifying business or to training related to COVID-19 purchased by a qualifying business. To use the exemption, a qualifying business shall, pursuant to the provisions of § 58.1-623, verify to the seller that the sale is tax exempt. No exemption shall be allowed under this section for a purchase by a qualifying business for other than business use.

C. 1. If the Department receives information that a business has made a tax-exempt purchase under this section and used the purchase for other than business use, the Department shall notify the business. The business shall remit the tax due on the purchase to the Department, plus a penalty of 10 percent of the tax due, plus interest at the rate prescribed by § 58.1-15 accruing from the date of purchase.

2. If the Department receives information that a business is not following its COVID-19 safety protocol, the Department shall notify the business that its qualification for the exemption provided by this section is revoked. Effective as of the date that the Department sends the notification, such business shall not claim any exemption under this section.

D. The Department shall issue guidelines clarifying what equipment and training are tax exempt under this section.

2. That the Department of Taxation shall issue the guidelines required by this act on or before 30 days after the effective date of this act.
3. That no refund or retroactive exemption shall be issued or may be claimed under the provisions of this act for any purchase made before the effective date of this act.
4. That the sales tax exemption provided under § 58.1-609.14 of the Code of Virginia, as created by this act, shall expire on the first day following the expiration of the last executive order issued by the Governor related to the COVID-19 pandemic and the termination of the COVID-19 Emergency Temporary Standard and any permanent COVID-19 regulations adopted by the Virginia Safety and Health Codes Board.
5. That an emergency exists and this act is in force from its passage.

CHAPTER 57

An Act to amend and reenact §§ 15.2-2288.8 and 15.2-2316.6 through 15.2-2316.9 of the Code of Virginia, relating to solar projects and energy storage projects; siting agreements throughout the Commonwealth.

[H 2201]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2288.8 and 15.2-2316.6 through 15.2-2316.9 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.

A. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for any solar photovoltaic (electric energy) project or energy storage project. For the purposes of this section, "energy storage project" means energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

B. The governing body of such locality may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.

C. Once a condition is granted pursuant to subsection B, such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Article 7.3.

Siting of Solar Energy Facilities Projects and Energy Storage Projects.

§ 15.2-2316.6. Definitions.

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

"Energy storage facilities" means the energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

"Energy storage project" means the energy storage facilities within the project site.

"Host locality" means any locality within the jurisdictional boundaries of which construction of a commercial solar facility project or an energy storage project is proposed.

"Opportunity zone" means a census tract in an area of the host locality meeting the eligibility requirements for designation as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Solar facility facilities" means a commercial solar photovoltaic (electric energy) generation or storage facility, or any portion thereof facilities. "Solar facility facilities" does not include any solar project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended, or (ii) five megawatts or less.

"Solar project" means the solar facilities, subject to this chapter, that are within the project site.

B. This article applies only to a solar facility located in an opportunity zone.

§ 15.2-2316.7. Negotiations; siting agreement.

A. Any applicant for a solar facility project or an energy storage project shall give to the host locality written notice of the applicant's intent to locate a solar facility in an opportunity zone in such locality and request a meeting. Such applicant shall meet, discuss, and negotiate a siting agreement with such locality.

B. The siting agreement may include terms and conditions, including (i) mitigation of any impacts of such solar facility project or energy storage project; (ii) financial compensation to the host locality to address capital needs set out in the (a) capital improvement plan adopted by the host locality, (b) current fiscal budget of the host locality, or (c) fiscal fund balance policy adopted by the host locality; or (iii) assistance by the applicant in the deployment of broadband, as defined in § 56-585.1:9, in such locality.

§ 15.2-2316.8. Powers of host localities.

A. The governing body of a host locality shall have the power to:

1. Hire and pay consultants and other experts on behalf of the host locality in matters pertaining to the siting of a solar facility project or energy storage project;

2. Meet, discuss, and negotiate a siting agreement with an applicant; and

3. Enter into a siting agreement with an applicant that is binding upon the governing body of the host locality and enforceable against it and future governing bodies of the host locality in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties' option.

B. If the parties to the siting agreement agree upon the terms and conditions of a siting agreement, the host locality shall schedule a public hearing, pursuant to subdivision A of § 15.2-2204, for the purpose of consideration of such siting agreement. If a majority of a quorum of the members of the governing body present at such public hearing approve of such siting agreement, the siting agreement shall be executed by the signatures of (i) the chief executive officer of the host locality and (ii) the applicant or the applicant's authorized agent. The siting agreement shall continue in effect until it is amended, revoked, or suspended.

§ 15.2-2316.9. Effect of executed siting agreement; land use approval.

A. Nothing in this article shall be construed to exempt an applicant from any other applicable requirements to obtain approvals and permits under federal, state, or local ordinances and regulations. An applicant may file for appropriate land use approvals for the solar facility project or energy storage project, as applicable, under the regulations and ordinances of the host locality at or after the time the applicant submits its notice of intent to site a solar facility project or energy storage project as set forth in subdivision A of § 15.2-2316.7.

B. Nothing in this article shall affect the authority of the host locality to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.

C. Approval of a siting agreement by the local governing body in accordance with subdivision B of § 15.2-2316.8 shall deem the solar facility project or energy storage project to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.

D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use approvals for a solar facility project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.

2. That the provisions of this act shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021.

3. That the provisions of this act shall not become effective with respect to energy storage projects unless the General Assembly approves legislation that authorizes localities to adopt an ordinance for taxation of energy storage projects such as solar projects with a local option for machinery and tools tax or solar revenue share.

CHAPTER 58

An Act to amend and reenact §§ 15.2-2288.8 and 15.2-2316.6 through 15.2-2316.9 of the Code of Virginia, relating to solar projects and energy storage projects; siting agreements throughout the Commonwealth.

[S 1207]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2288.8 and 15.2-2316.6 through 15.2-2316.9 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.

A. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for any solar photovoltaic (electric energy) project or energy storage project. For the purposes of this section, "energy storage project" means energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

B. The governing body of such locality may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.

C. Once a condition is granted pursuant to subsection B, such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Article 7.3.

Siting of Solar Energy Facilities Projects and Energy Storage Projects.

§ 15.2-2316.6. Definitions.

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

"Energy storage facilities" means the energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

"Energy storage project" means the energy storage facilities within the project site.

"Host locality" means any locality within the jurisdictional boundaries of which construction of a commercial solar facility project or an energy storage project is proposed.

"Opportunity zone" means a census tract in an area of the host locality meeting the eligibility requirements for designation as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Solar facility facilities" means a commercial solar photovoltaic (electric energy) generation or storage facility, or any portion thereof facilities. "Solar facility facilities" does not include any solar project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended, or (ii) five megawatts or less.

"Solar project" means the solar facilities, subject to this chapter, that are within the project site.

B. This article applies only to a solar facility located in an opportunity zone.

§ 15.2-2316.7. Negotiations; siting agreement.

A. Any applicant for a solar facility project or an energy storage project shall give to the host locality written notice of the applicant's intent to locate a solar facility in an opportunity zone in such locality and request a meeting. Such applicant shall meet, discuss, and negotiate a siting agreement with such locality.

B. The siting agreement may include terms and conditions, including (i) mitigation of any impacts of such solar facility project or energy storage project; (ii) financial compensation to the host locality to address capital needs set out in the (a) capital improvement plan adopted by the host locality, (b) current fiscal budget of the host locality, or (c) fiscal fund balance policy adopted by the host locality; or (iii) assistance by the applicant in the deployment of broadband, as defined in § 56-585.1:9, in such locality.

§ 15.2-2316.8. Powers of host localities.

A. The governing body of a host locality shall have the power to:

1. Hire and pay consultants and other experts on behalf of the host locality in matters pertaining to the siting of a solar facility project or energy storage project;

2. Meet, discuss, and negotiate a siting agreement with an applicant; and

3. Enter into a siting agreement with an applicant that is binding upon the governing body of the host locality and enforceable against it and future governing bodies of the host locality in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties' option.

B. If the parties to the siting agreement agree upon the terms and conditions of a siting agreement, the host locality shall schedule a public hearing, pursuant to subdivision A of § 15.2-2204, for the purpose of consideration of such siting agreement. If a majority of a quorum of the members of the governing body present at such public hearing approve of such siting agreement, the siting agreement shall be executed by the signatures of (i) the chief executive officer of the host locality and (ii) the applicant or the applicant's authorized agent. The siting agreement shall continue in effect until it is amended, revoked, or suspended.

§ 15.2-2316.9. Effect of executed siting agreement; land use approval.

A. Nothing in this article shall be construed to exempt an applicant from any other applicable requirements to obtain approvals and permits under federal, state, or local ordinances and regulations. An applicant may file for appropriate land use approvals for the solar ~~facility project or energy storage project~~, as applicable, under the regulations and ordinances of the host locality at or after the time the applicant submits its notice of intent to site a solar ~~facility project or energy storage project~~ as set forth in subdivision A of § 15.2-2316.7.

B. Nothing in this article shall affect the authority of the host locality to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.

C. Approval of a siting agreement by the local governing body in accordance with subdivision B of § 15.2-2316.8 shall deem the solar ~~facility project or energy storage project~~ to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.

D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use approvals for a solar ~~facility project or energy storage project~~, but shall not be the sole reason for a denial of such land use approvals.

2. That the provisions of this act shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021.

3. That the provisions of this act shall not become effective with respect to energy storage projects unless the General Assembly approves legislation that authorizes localities to adopt an ordinance for taxation of energy storage projects such as solar projects with a local option for machinery and tools tax or solar revenue share.

CHAPTER 59

An Act to amend and reenact §§ 10.1-2300 and 10.1-2306 of the Code of Virginia, relating to state archaeological sites; battlefields.

[H 2311]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2300 and 10.1-2306 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2300. Definitions.

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

"Battlefield preservation organization" means a private nonprofit organization whose primary purpose is the preservation of one or more historical battlefields, including a battlefield property as defined in § 10.1-2200.

"Field investigation" means the study of the traces of human culture at any site by means of surveying, sampling, excavating, or removing surface or subsurface material, or going on a site with that intent.

"Field supervisor" means a person who is physically present at least 70 percent of the time during a field investigation, exploration, or recovery operation involving the removal, destruction, or disturbance of any object of antiquity and who directly oversees such field investigation, exploration, or recovery operation.

"Object of antiquity" means any relic, artifact, remain, including human skeletal remains, specimen, or other archaeological article that may be found on, in, or below the surface of the earth ~~which~~ that has historic, scientific, archaeological, or educational value.

"Person" means any natural individual, partnership, association, corporation, or other legal entity.

"Site" means a geographical area on dry land that contains any evidence of human activity ~~which~~ that is or may be the source of important historic, scientific, archaeological, or educational data or objects.

"State archaeological site" means an area designated by the Department in which it is reasonable to expect to find objects of antiquity.

"State archaeological zone" means an interrelated grouping of state archaeological sites.

"State archaeologist" means the individual designated pursuant to § 10.1-2301.

"State-controlled land" means any land owned by the Commonwealth or under the primary administrative jurisdiction of any state agency. "State agency" shall not mean any ~~county, city or town~~, locality or any board or authority organized under state law to perform local or regional functions. Such "State-controlled land" includes ~~but is not limited to~~ state parks, state wildlife areas, state recreation areas, highway rights-of-way, and state-owned easements.

§ 10.1-2306. Violations; penalty.

A. It shall be is unlawful to intentionally deface, damage, destroy, displace, disturb, or remove any object of antiquity on any designated state archaeological site or, state-controlled land, or land owned by a battlefield preservation organization or on which such organization holds an easement.

Any person who violates B. A violation of this section shall be guilty of is a Class 1 misdemeanor.

CHAPTER 60

An Act to amend and reenact §§ 25.1-203 and 33.2-1011 of the Code of Virginia, relating to entry onto land for inspection.

[S 1260]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 25.1-203 and 33.2-1011 of the Code of Virginia are amended and reenacted as follows:

§ 25.1-203. Authority of certain condemnors to inspect property; reimbursement for damages; notice prior to entry.

A. In connection with any project wherein the power of eminent domain may be exercised, any locality or any petitioner exercising the procedure set forth in Chapter 3 (§ 25.1-300 et seq.), acting through its duly authorized officers, agents or employees, may enter upon any property without the written permission of its owner if (i) the petitioner has requested the owner's permission to inspect the property as provided in subsection B; (ii) the owner's written permission is not received prior to the date entry is proposed; and (iii) the petitioner has given the owner notice of intent to enter as provided in subsection C.

B. 1. A request for permission to inspect shall (i) be on the petitioner's official letterhead and signed by an authorized officer, agent, or employee of such entity; (ii) be sent to the owner by certified mail, return receipt requested, delivered by guaranteed overnight courier, or otherwise delivered to the owner in person with proof of delivery; and (iii) (iii) be made not less than 15 30 days prior to the first date of the proposed inspection; and (iv) notify the owner that if permission is withheld, the petitioner shall be permitted to enter the property on the date of the proposed inspection. A mere citation of this section number of the Code of Virginia shall not satisfy the requirements of clause (iv). A request for permission to inspect shall be deemed to be made on the date of mailing, if mailed, or otherwise on the date of delivery.

2. A request for permission to inspect shall include (i) the specific date or dates such inspection is proposed to be made; (ii) the name of the entity entering the property; (iii) the number of persons for whom permission is sought; (iv) the purpose for which entry is made; and (v) the testing, appraisals, or examinations to be performed and other actions to be taken.

3. If a request for permission is provided in accordance with subdivision 1, a petitioner may enter the property sooner than the 30 days indicated in the request only if the owner provides permission, in writing, to enter on an earlier date.

C. If the owner's written permission is not received within 15 days of the request for permission, then the petitioner shall provide notice of intent to enter. Notice of intent to enter shall be sent to the owner by certified mail and be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business; (ii) delivered by guaranteed overnight courier; or (iii) otherwise delivered to the owner in person with evidence of receipt. The notice of intent to enter shall include a copy of the request for permission to inspect and shall be made not less than 15 days prior to the date of intended entry. The notice of intent to enter shall include (a) the specific date or dates of such intended entry; (b) the name of the entity entering the property; (c) the number of persons intending to enter the property; (d) the purpose for which entry is made; and (e) the testing, appraisals, or examinations to be performed and other actions to be taken, which in no way shall exceed those set forth in the request for permission pursuant to subdivision B 2. Notice of intent to enter shall be deemed made on the earlier of (1) the date of mailing, if mailed, or (2) on the date of delivery or posting. Any individuals entering the property shall carry identification and shall present such identification upon request of the landowner or his authorized representative.

D. Any entry authorized by this section (i) shall be for the purpose of making surveys, tests, appraisals or examinations thereof in order to determine the suitability of such property for the project, and (ii) shall not be deemed a trespass.

E. D. The petitioner shall make reimbursement for any actual damages resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable (i) attorney fees, (ii) court costs, and (iii) fees for up to three experts or as many experts as are called by the petitioner, whichever is greater, who testified at trial if the court finds that the petitioner damaged the owner's property. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available at law or equity.

E. E. The requirements of this section shall not apply to the practice of land surveying, as defined in § 54.1-400, when such surveying is not involved in any eminent domain or any proposed eminent domain matter.

§ 33.2-1011. Right to enter on land to ascertain its suitability for highway and other transportation purposes; damage resulting from such entry.

A. The Commissioner of Highways, through his duly authorized officers, agents, or employees, may enter upon any land in the Commonwealth for the purposes of making examination and survey thereof, including photographing; testing, including soil borings or testing for contamination; making appraisals; and taking such actions as may be necessary or

desirable to determine its suitability for highway and other transportation purposes or for any other purpose incidental thereto. Such officers, agents, or servants shall exercise care to protect any improvements, growing crops, or timber in making such examination or survey. Such officers, agents, or servants may enter upon any property without the written permission of its owners if (i) the Commissioner has requested the owner's permission to inspect the property as provided in subsection B; (ii) the owner's written permission is not received prior to the date entry is proposed; and (iii) the Commissioner has given the owner notice of intent to enter as provided in subsection C.

B. 1. A request for permission to inspect shall (i) be on the Commissioner's official letterhead and signed by an authorized officer, agent, or employee of the Commissioner; (ii) be sent to the owner by certified mail, return receipt requested, delivered by guaranteed overnight courier, or otherwise delivered to the owner in person with proof of delivery and (iii); (iii) be made not less than 15 30 days prior to the first date of the proposed inspection; (iv) notify the owner that if permission is withheld, the Commissioner or his duly authorized officers, agents, or employees shall be permitted to enter the property on the date of the proposed inspection. A mere citation of this section number of the Code of Virginia shall not satisfy the requirements of clause (iv). A request for permission to inspect shall be deemed to be made on the date of mailing, if mailed, or otherwise on the date of delivery.

2. A request for permission to inspect shall include (i) the specific date or dates such inspection is proposed to be made; (ii) the name of the entity entering the property; (iii) the number of persons for whom permission is sought; (iv) the purpose for which entry is made; and (v) the testing, appraisals, or examinations to be performed and other actions to be taken.

3. If a request for permission is provided in accordance with subdivision 1, the Commissioner or his duly authorized officer, agent, or employee may enter the property sooner than the 30 days indicated in the request only if the owner provides permission, in writing, to enter on an earlier date.

C. If the owner's written permission is not received within 15 days of the request for permission, then the Commissioner shall provide notice of intent to enter. Notice of intent to enter shall be sent to the owner by certified mail and be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business; (ii) delivered by guaranteed overnight courier; or (iii) otherwise delivered to the owner in person with evidence of receipt. The notice of intent to enter shall include a copy of the request for permission to inspect and shall be made not less than 15 days prior to the date of intended entry. The notice of intent to enter shall include (a) the specific date or dates of such intended entry; (b) the name of the entity entering the property; (c) the number of persons intending to enter the property; (d) the purpose for which entry is made; and (e) the testing, appraisals, or examinations to be performed and other actions to be taken, which in no way shall exceed those set forth in the request for permission pursuant to subdivision B 2. Notice of intent to enter shall be deemed made on the earlier of (1) the date of mailing, if mailed, or (2) the date of delivery or posting. Any individuals entering the property shall carry identification and shall present such identification upon request of the landowner or his authorized representative.

D. Any entry authorized by this section (i) shall be for the purpose of making surveys, tests, appraisals, or examinations thereof in order to determine the suitability of such property for the project and (ii) shall not be deemed a trespass.

E. D. The Commissioner shall make reimbursement for any actual damages resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable (i) attorney fees, (ii) court costs, and (iii) fees for up to three experts or as many experts as are called by the condemnor, whichever is greater, who testified at trial if the court finds that the Commissioner damaged the owner's property. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available at law or equity.

F. E. The requirements of this section shall not apply to the practice of land surveying, as defined in § 54.1-400, when such surveying is not involved in any eminent domain or any proposed eminent domain matter.

CHAPTER 61

An Act to amend and reenact § 58.1-3830 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 38 of Title 58.1 a section numbered 58.1-3832.1, relating to local cigarette taxes; regional cigarette tax boards.

[S 1326]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3830 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 38 of Title 58.1 a section numbered 58.1-3832.1 as follows:

§ 58.1-3830. Local cigarette taxes authorized; use of dual die or stamp to evidence payment.

A. Any county, city, or town locality is authorized to levy taxes upon the sale or use of cigarettes. The governing body of any county, city, or town locality that levies a cigarette tax and permits the use of meter impressions or stamps to evidence its payment may authorize an officer of the county, city, or town local or joint enforcement authority to enter into an arrangement with the Department of Taxation under which a tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the county, city, or town local tax, and the state tax, and the Department is hereby

authorized to enter into such an arrangement. The procedure under such an arrangement shall be such as may be agreed upon by and between the authorized ~~county, city, town~~ local or joint enforcement authority officer and the Department.

B. Any county cigarette tax imposed shall not apply within the limits of any town located in such county where such town now, or hereafter, imposes a town cigarette tax. However, if the governing body of any such town shall provide that a county cigarette tax, as well as the town cigarette tax, shall apply within the limits of such town, then such cigarette tax may be imposed by the county within such town.

C. The maximum tax rate imposed by a locality on cigarettes pursuant to the provisions of this section shall be as follows:

1. If such locality is (i) a city or town that, on January 1, 2020, had in effect a rate not exceeding two cents (\$0.02) per cigarette sold or (ii) a county, then the maximum rate shall be two cents (\$0.02) per cigarette sold.

2. If such locality is a city or town that, on January 1, 2020, had in effect a rate exceeding two cents (\$0.02) per cigarette sold, then the maximum rate shall be the rate in effect on January 1, 2020.

§ 58.1-3832.1. Regional cigarette tax boards.

A. As used in this section:

"Member locality" means a locality that elects to become a member of a regional cigarette tax board and have its local cigarette tax administered by the board.

"Region" means the group of localities for which the regional cigarette tax board administers local cigarette taxes.

"Regional cigarette tax board" means a board established by a group of at least six member localities pursuant to their powers under this article, Chapter 13 (§ 15.2-1300 et seq.) of Title 15.2, and the Regional Cooperation Act (§ 15.2-4200 et seq.), with the purpose of administering local cigarette taxes on a regional basis subject to the provisions of this section.

B. A regional cigarette tax board shall have the following duties:

1. Providing for the use of a uniform meter impression or stamp as evidence of payment of any local cigarette tax within the region.

2. Entering into an arrangement, on behalf of or in cooperation with its member localities, with the Department pursuant to the provisions of subsection A of § 58.1-3830, for the use of a dual die or stamp as evidence of payment of any applicable local and state tax.

3. Providing a single point of contact for a stamping agent authorized under this article or Chapter 10 (§ 58.1-1000) to remit local cigarette taxes due to any member locality.

4. Providing a discount to a stamping agent as compensation for accounting for the tax due under this article. The discount shall be in the amount of two percent of the tax otherwise due.

5. Distributing any local cigarette taxes collected by the board to the appropriate member locality.

6. Enforcing all local cigarette tax ordinances within the region.

7. Promoting uniformity of cigarette tax ordinances among its member localities.

8. To the extent possible, encouraging uniformity of cigarette tax rates among its member localities.

9. Accomplishing any other purpose that helps promote the uniform administration of local cigarette taxes throughout the region.

2. That the Northern Virginia Cigarette Tax Board shall be considered a regional cigarette tax board for purposes of this act.

3. That it is the policy of the Commonwealth that, where practical, local cigarette stamping and tax collection is encouraged to be accomplished through regional cigarette tax boards modeled on the Northern Virginia Cigarette Tax Board. Recognizing that the current system of stamping and tax collection is antiquated and places a burden on wholesalers and distributors, the Department of Taxation shall establish a task force to develop methods for modernizing the system and shall provide assistance as appropriate to localities seeking new regional cigarette tax boards. The task force shall include local government representatives, local commissioners of the revenue, cigarette wholesalers and distributors, and representatives of the Northern Virginia Cigarette Tax Board. The task force shall submit its recommendations to the Virginia General Assembly by November 1, 2021.

CHAPTER 62

An Act to amend and reenact § 58.1-3842 of the Code of Virginia, relating to combined transient occupancy and food and beverage tax; technical amendments.

[S 1438]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3842 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3842. Combined transient occupancy and food and beverage tax.

A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to levy a tax on occupancy in a bed and breakfast establishment on which the county is authorized to levy a transient occupancy tax under § 58.1-3819 and on food and beverages sold for human consumption within such establishment on which the county is authorized to levy a food and beverage tax under § 58.1-3833, when the charges for the occupancy of the room or space and

for the sale of food and beverages are assessed in the aggregate and not separately stated. ~~Such~~ *The combined tax rate shall not exceed four percent of the total amount charged for the occupancy of the room or space occupied and for the food and beverages the sum of the rates authorized and enacted by ordinance pursuant to the provisions of §§ 58.1-3819 and 58.1-3833.* Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body. All taxes collected under the authority of this article shall be deemed to be held in trust for the county imposing the tax.

B. If a bed and breakfast establishment separately states charges for the occupancy of the room or space and for the sale of food and beverages, a transient occupancy tax levied under § 58.1-3819 and a food and beverage tax levied under § 58.1-3833 shall apply to such separately stated charges, as applicable.

C. Any tax imposed pursuant to this article shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town meals tax or a town transient occupancy tax on the same subject. If the governing body of any town within a county, however, provides that a county tax authorized by this article shall apply within the limits of such town, then such tax may be imposed within such towns.

D. ~~This tax shall be levied only if a food and beverage tax has been approved in a referendum within the county as provided by subsection A of § 58.1-3833. No county in which the levy of a food and beverage tax has been approved in a referendum pursuant to subsection A of § 58.1-3833 shall be required to submit an amendment to its meals tax ordinance or a further question to the voters in a referendum prior to adopting an ordinance adopting or amending the tax authorized by this article.~~

E. Nothing herein contained shall affect any authority heretofore granted to any county to levy a food and beverage tax or a transient occupancy tax.

CHAPTER 63

An Act to amend and reenact § 15.2-2159 of the Code of Virginia, relating to fees for disposal of solid waste; Buckingham County.

[S 1447]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2159 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2159. Fee for solid waste disposal by counties.

A. Accomack, Augusta, *Buckingham*, Floyd, Highland, Pittsylvania, Russell, and Wise Counties may by ordinance, and after a public hearing, levy a fee for the disposal of solid waste not to exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving the landfill and for such reserves as may be necessary for capping and closing such landfill in the future. *Buckingham*, Russell and Southampton Counties may by ordinance, and after a public hearing, levy a fee for the management of solid waste not to exceed the actual cost incurred by the county in removing and disposing of solid waste. Such fee as collected shall be deposited in a special account to be expended only for the purposes for which it was levied. Except in Floyd, Pittsylvania, Russell, Southampton, and Wise Counties, such fee shall not be used to purchase or subsidize the purchase of equipment used for the collection of solid waste. In Augusta, Highland, Pittsylvania, and Southampton Counties, such fee (i) may only be levied upon persons whose residential solid waste is disposed of at a county landfill or county solid waste collection or disposal facility and (ii) shall not be levied upon persons whose residential waste is not disposed of in such landfill or facility if such nondisposal is documented by the collector or generator of such waste as required by ordinance of such county. Documentation provided by a collector of such waste pursuant to clause (ii) shall not be disclosed by the county to any other person.

B. Any fee imposed by subsection A when combined with any other fee or charge for disposal of waste shall not exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving its landfill and for such reserves as may be necessary for capping and closing such landfill in the future or, in the case of Southampton County, such fee shall not exceed the costs and fees expended by the county in removing and disposing of solid waste.

C. Any county which imposes the fee allowed under subsection A may enter into a contractual agreement with any water or heat, light, and power company or other corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 except Appalachian Power Company and any cooperative formed under or subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 of Title 56 for the collection of such fee. The agreement may include a commission for such service in the form of a deduction from the fee remitted. The commission shall be provided for by ordinance, which shall set the rate not to exceed five percent of the amount of fees due and collected.

D. Accomack, *Buckingham*, Highland, Pittsylvania, Russell, Southampton, and Wise Counties have the following authority regarding collection of said fee:

1. To prorate said fee depending upon the period a resident or business is located in said county during the year of fee levy;

2. To levy penalty for late payment of fee as set forth in § 58.1-3916 of the Code of Virginia;

3. To levy interest on unpaid fees as set forth in § 58.1-3916 of the Code of Virginia;

4. To credit the fee first against the most delinquent use fee account owing;
 5. To require payment of the fee prior to approval of an application for rezoning, special exception, variance or other land use permit; and
 6. To provide discounts to the standard fee rates for older persons, as defined in § 51.5-135, and disabled persons based on ability to pay.
- E. Pittsylvania and Southampton Counties may by ordinance provide an exemption from the fee for the disposal of solid waste to any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability in accordance with the standards set forth in § 58.1-3219.5.

CHAPTER 64

An Act to amend and reenact § 37.2-304 of the Code of Virginia, relating to Commissioner of Behavioral Health and Developmental Services; reports to designated protection and advocacy system.

[H 1808]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-304 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-304. Duties of Commissioner.

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

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities ~~and, within 15 working days of such critical incident or death;~~ (ii) ~~serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death~~ *serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.*
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.
9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.
10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least

one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

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

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

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

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

CHAPTER 65

An Act to amend and reenact § 37.2-304 of the Code of Virginia, relating to Commissioner of Behavioral Health and Developmental Services; reports to designated protection and advocacy system.

[S 1154]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-304 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-304. Duties of Commissioner.

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

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities ~~and, within 15 working days of such critical incident or death;~~ (ii) ~~serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death~~ *serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.*
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

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

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

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

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

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

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

CHAPTER 66

An Act to amend and reenact § 38.2-3407.15:2 of the Code of Virginia, relating to health insurance; authorization of drug prescribed for the treatment of a mental disorder.

[H 2008]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.15:2 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.

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

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours, including weekend hours, of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored, upon the carrier's receipt from the prescriber or his designee of a record demonstrating the previous carrier's prior authorization approval or any written or electronic evidence of the previous carrier's coverage of such drug, at least for the initial 30 days of a member's prescription drug benefit coverage under a new health plan, subject to the provisions of the new carrier's evidence of coverage;

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request;

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes;

9. Require a carrier to honor a prior authorization issued by the carrier for a drug, other than an opioid, regardless of changes in dosages of such drug, provided such drug is prescribed consistent with ~~FDA labeled~~ *U.S. Food and Drug Administration-labeled* dosages;

10. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless if the covered person changes plans with the same carrier and the drug is a covered benefit with the current health plan;

11. Require a carrier, when requiring a prescriber to provide supplemental information that is in the covered individual's health record or electronic health record, to identify the specific information required; ~~and~~

12. Require that no prior authorization be required for at least one drug prescribed for substance abuse medication-assisted treatment, provided that (i) the drug is a covered benefit, (ii) the prescription does not exceed the ~~FDA labeled~~ *FDA-labeled* dosages, and (iii) the drug is prescribed consistent with the regulations of the Board of Medicine;

13. *Require that when any carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization shall be required by the carrier, provided that (i) the drug is a covered benefit; (ii) the prescription does not exceed the FDA-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. Nothing in this subdivision shall prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription for the drug is issued; and*

14. *Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued, provided that the drug and prescription are consistent with the applicable provisions of subdivision 13.*

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after January 1, 2016.

E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE);

2. ~~The state employee health insurance plan established pursuant to § 2.2-2818;~~

3. ~~2. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages;~~

4. ~~3. Any dental services plan or optometric services plan as defined in § 38.2-4501; or~~

5. ~~4. Any health maintenance organization that (i) contracts with one multispecialty group of physicians who are employed by and are shareholders of the multispecialty group, which multispecialty group of physicians may also contract with health care providers in the community; (ii) provides and arranges for the provision of physician services by such multispecialty group physicians or by such contracted health care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic health records, and health information exchange platforms.~~

CHAPTER 67

An Act to amend and reenact § 38.2-3407.15:2 of the Code of Virginia, relating to health insurance; authorization of drug prescribed for the treatment of a mental disorder.

[S 1269]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.15:2 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.

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

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours, including weekend hours, of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored, upon the carrier's receipt from the prescriber or his designee of a record demonstrating the previous carrier's prior authorization approval or any written or electronic evidence of the previous carrier's coverage of such drug, at least for the initial 30 days of a member's prescription drug benefit coverage under a new health plan, subject to the provisions of the new carrier's evidence of coverage;

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request;

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes;

9. Require a carrier to honor a prior authorization issued by the carrier for a drug, other than an opioid, regardless of changes in dosages of such drug, provided such drug is prescribed consistent with ~~FDA labeled~~ *U.S. Food and Drug Administration-labeled* dosages;

10. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless if the covered person changes plans with the same carrier and the drug is a covered benefit with the current health plan;

11. Require a carrier, when requiring a prescriber to provide supplemental information that is in the covered individual's health record or electronic health record, to identify the specific information required; ~~and~~

12. Require that no prior authorization be required for at least one drug prescribed for substance abuse medication-assisted treatment, provided that (i) the drug is a covered benefit, (ii) the prescription does not exceed the ~~FDA labeled~~ *FDA-labeled* dosages, and (iii) the drug is prescribed consistent with the regulations of the Board of Medicine;

13. *Require that when any carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization shall be required by the carrier, provided that (i) the drug is a covered benefit; (ii) the prescription does not exceed the FDA-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. Nothing in this subdivision shall prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription for the drug is issued; and*

14. *Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued, provided that the drug and prescription are consistent with the applicable provisions of subdivision 13.*

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after January 1, 2016.

E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE);

2. The state employee health insurance plan established pursuant to § 2.2-2818;

3. 2. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages;

4. 3. Any dental services plan or optometric services plan as defined in § 38.2-4501; or

5. 4. Any health maintenance organization that (i) contracts with one multispecialty group of physicians who are employed by and are shareholders of the multispecialty group, which multispecialty group of physicians may also contract with health care providers in the community; (ii) provides and arranges for the provision of physician services by such multispecialty group physicians or by such contracted health care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic health records, and health information exchange platforms.

CHAPTER 68

An Act to authorize the Commonwealth to lease a portion of property previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute and to amend and reenact §§ 1 and 2 of Chapter 678 of the Acts of Assembly of 2019.

[H 2098]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to lease to Smyth County for a term of three years, upon such other terms and conditions as may be agreed to by the parties, including, without limitation, Smyth County's responsibility for building or infrastructure refurbishments and operational expenses, a parcel of land that is a portion of Tax Map Parcel 211-130-1, containing a building at 281 Bagley Circle known as the Rehabilitation Building, previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute. The conveyance shall be made without consideration and in as-is condition.*

§ 2. *The conveyance shall be made in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

2. That §§ 1 and 2 of Chapter 678 of the Acts of Assembly of 2019 are amended and reenacted as follows:

§ 1. The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to the Mount Rogers Community Services Board, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 7.095 acres (a portion of Tax Map Parcel ~~221-130-1~~ 211-130-1) in the northeast corner of the campus, previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute. The conveyance shall be made without consideration.

§ 2. The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to Smyth County, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 3.76 acres (a portion of Tax Map Parcel ~~221-130-1~~ 211-130-1), containing a building and supporting parking currently leased to Smyth County. The terms of such conveyance shall include the provision of heating to the building by the Commonwealth for no more than two years at the current market price for such services. The conveyance shall be made without consideration.

CHAPTER 69

An Act to authorize the Commonwealth to lease a portion of property previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute and to amend and reenact §§ 1 and 2 of Chapter 678 of the Acts of Assembly of 2019.

[S 1429]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to lease to Smyth County for a term of three years, upon such other terms and conditions as may be agreed to by the parties, including, without limitation, Smyth County's responsibility for building or infrastructure refurbishments and operational expenses, a parcel of land that is a portion of Tax Map Parcel 211-130-1, containing a building at 281 Bagley Circle known as the Rehabilitation Building, previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute. The conveyance shall be made without consideration and in as-is condition.*

§ 2. *The conveyance shall be made in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

2. That §§ 1 and 2 of Chapter 678 of the Acts of Assembly of 2019 are amended and reenacted as follows:

§ 1. The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to the Mount Rogers Community Services Board, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 7.095 acres (a portion of Tax Map Parcel ~~221-130-4~~ 211-130-1) in the northeast corner of the campus, previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute. The conveyance shall be made without consideration.

§ 2. The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to Smyth County, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 3.76 acres (a portion of Tax Map Parcel ~~221-130-4~~ 211-130-1), containing a building and supporting parking currently leased to Smyth County. The terms of such conveyance shall include the provision of heating to the building by the Commonwealth for no more than two years at the current market price for such services. The conveyance shall be made without consideration.

CHAPTER 70

An Act to amend and reenact §§ 2.2-5211 and 2.2-5212 of the Code of Virginia, relating to Children's Services Act; special education programs.

[H 2117]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-5211 and 2.2-5212 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-5211. State pool of funds for community policy and management teams.

A. There is established a state pool of funds to be allocated to community policy and management teams in accordance with the appropriation act and appropriate state regulations. These funds, as made available by the General Assembly, shall be expended for public or private nonresidential or residential services for troubled youths and families. *However, funds for private special education services shall only be expended on private educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. Effective July 1, 2022, funds for private special education services shall only be expended on private educational programs that the Office of Children's Services certifies as having reported their tuition rates on a standard reporting template developed by the Office. The Office of Children's Services shall consult with private special education services providers in developing the standard reporting template for tuition rates.*

The purposes of this system of funding are to:

1. Place authority for making program and funding decisions at the community level;
2. Consolidate categorical agency funding and institute community responsibility for the provision of services;
3. Provide greater flexibility in the use of funds to purchase services based on the strengths and needs of children, youths, and families; and
4. Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children and youth according to differing required local match rates for funding streams.

B. The state pool shall consist of funds that serve the target populations identified in subdivisions 1 through ~~5~~ of ~~this subsection~~ ~~6~~ in the purchase of residential and nonresidential services for children and youth. References to funding sources and current placement authority for the targeted populations of children and youth are for the purpose of accounting for the funds in the pool. It is not intended that children and youth be categorized by individual funding streams in order to access services. The target population shall be the following:

1. Children and youth placed for purposes of special education in approved private school educational programs, previously funded by the Department of Education through private tuition assistance;
2. Children and youth with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education day schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities, previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;
3. Children and youth for whom foster care services, as defined by § 63.2-905, are being provided;
4. Children and youth placed by a juvenile and domestic relations district court, in accordance with the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of § 16.1-284.1; ~~and~~
5. Children and youth committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with § 66-14; *and*
6. *Children and youth previously placed pursuant to subdivision 1 in approved private school educational programs for at least six months who will receive transitional services in a public school setting. State pool funds shall be allocated for no longer than 12 months for transitional services. Local agencies may contract with a private school education program provider to provide transition services in the public school.*

C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) provide special education services and foster care services for children and youth identified in subdivisions B 1, B 2, and B 3, and 6 and (ii) meet relevant federal mandates for the provision of these services. The community policy and management team shall anticipate to the best of its ability the number of children and youth for whom such services will be required and reserve funds from its state pool allocation to meet these needs. Nothing in this section prohibits local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.

D. When a community services board established pursuant to § 37.2-501, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred a child and family to a family assessment and planning team and that team has recommended the proper level of treatment and services needed by that child and family and has determined the child's eligibility for funding for services through the state pool of funds, then the community services board, the local school division, local social services agency, court service unit, or Department of Juvenile Justice has met its fiscal responsibility for that child for the services funded through the pool. However, the community services board, the local school division, local social services agency, court service unit, or Department of Juvenile Justice shall continue to be responsible for providing services identified in individual family service plans that are within the agency's scope of responsibility and that are funded separately from the state pool.

Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for funding from the state pool and is properly defined as a school-aged child with disabilities pursuant to § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a group home in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate educational program for such individual, the financial and legal responsibility for the individual's special education services and IEP shall remain, in compliance with the provisions of federal law, Article 2 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for special education services. The financial and legal responsibility for such special education services shall remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate services with the individual.

E. In any matter properly before a court for which state pool funds are to be accessed, the court shall, prior to final disposition, and pursuant to §§ 2.2-5209 and 2.2-5212, refer the matter to the community policy and management team for assessment by a local family assessment and planning team authorized by policies of the community policy and management team for assessment to determine the recommended level of treatment and services needed by the child and family. The family assessment and planning team making the assessment shall make a report of the case or forward a copy of the individual family services plan to the court within 30 days of the court's written referral to the community policy and management team. The court shall consider the recommendations of the family assessment and planning team and the community policy and management team. If, prior to a final disposition by the court, the court is requested to consider a level of service not identified or recommended in the report submitted by the family assessment and planning team, the court shall request the community policy and management team to submit a second report characterizing comparable levels of service to the requested level of service. Notwithstanding the provisions of this subsection, the court may make any disposition as is authorized or required by law. Services ordered pursuant to a disposition rendered by the court pursuant to this section shall qualify for funding as appropriated under this section.

F. As used in this section, "transitional services" includes services delivered in a public school setting directly to students with significant disabilities or intensive support needs to facilitate their transition back to public school after having been served in a private special education day school or residential facility for at least six months. "Transitional services" includes one-on-one aides, speech therapy, occupational therapy, behavioral health services, counseling, applied behavior analysis, specially designed instruction delivered directly to the student, or other services needed to facilitate such transition that are delivered directly to the student in their public school over the 12-month period as identified in the child's individualized education program.

§ 2.2-5212. Eligibility for state pool of funds.

A. In order to be eligible for funding for services through the state pool of funds, a youth, or family with a child, shall meet one or more of the criteria specified in subdivisions 1 through 4 and shall be determined through the use of a uniform assessment instrument and process and by policies of the community policy and management team to have access to these funds.

1. The child or youth has emotional or behavior problems that:
 - a. Have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted;
 - b. Are significantly disabling and are present in several community settings, such as at home, in school, or with peers; and
 - c. Require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.
2. The child or youth has emotional or behavior problems, or both, and currently is in, or is at imminent risk of entering, purchased residential care. In addition, the child or youth requires services or resources that are beyond normal

agency services or routine collaborative processes across agencies, and requires coordinated services by at least two agencies.

3. The child or youth requires placement for purposes of special education in approved private school educational programs *or for transitional services as set forth in subdivision B 6 of § 2.2-5211.*

4. The child or youth requires foster care services as defined in § 63.2-905.

B. For purposes of determining eligibility for the state pool of funds, "child" or "youth" means (i) a person younger than 18 years of age or (ii) any individual through 21 years of age who is otherwise eligible for mandated services of the participating state agencies including special education and foster care services.

2. That the Secretary of Education and the Secretary of Health and Human Resources or their designees, in conjunction with the Office of Children's Services and the Department of Education, shall establish a work group (the Work Group) with appropriate stakeholders to develop a detailed plan to (i) direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education, (ii) provide recommendations on the use of Children's Services Act funds to pay for services delivered directly to students with disabilities in public school to enable those who are at risk of out-of-school placements to remain in a public school setting, and (iii) provide recommendations on the most effective use of Children's Services Act funds to transition students from out-of-school placements to public school. Work Group stakeholders shall include representatives of (a) the Department of Education and the Office of Children's Services; (b) three private special education day school service providers, including at least one director of a private special education day school; (c) local school districts, including at least one local special education director; (d) local governments, including at least one Children's Services Act Coordinator; (e) licensed behavioral analyst service providers and other evidence-based behavioral services providers; (f) organizations engaged in advocacy for students with disabilities, including at least one for the autism spectrum community; (g) the House Committee on Appropriations and the Senate Committee on Finance and Appropriations; and (h) other stakeholders deemed necessary by the Secretaries of Education and Health and Human Resources. The Work Group shall also include one parent of a child with an individualized education program currently enrolled in a private special education day program and one parent of child with an individualized education program currently enrolled in a public special education program. Both legislative members of the State Executive Council for Children's Services shall be invited to participate in the Work Group. The Work Group's plan shall include details on how the Virginia Department of Education should administer the transferred funding so that it (1) is prioritized for students with the most severe disabilities who are at risk of being placed in an out-of-school placement or who are in an out-of-school placement and (2) is equally accessible to all school divisions. The Work Group's plan shall also provide recommendations for minimizing the fiscal impact of the new funding policy on localities and consider the local fiscal impacts of using current Children's Services Act match rates versus the Local Composite Index. The Work Group's plan shall also offer a review and analysis of different models of delivering special education and private special education day school services, including a review of specialty regional schools, in-school delivery of services by private special education program providers, and in-school delivery of services by the school division. The Work Group shall (A) collect data from Virginia schools that have delivered special education services to students with severe disabilities within the public school setting as well as from Virginia school divisions that have used Children's Services Act funds to pay for transition services, (B) use the data to identify the types of services and supports that have allowed children with severe disabilities to be successful in the public school setting and avoid an out-of-school placement, and (C) provide recommendations for the types of direct services and supports that should be provided to students in the public school setting using Children's Services Act funds. The Work Group shall also consider whether the transitional services, as defined in § 2.2-5211 of the Code of Virginia, as amended by this act, are appropriate direct services to be covered; determine whether the criteria for students to qualify for such funding are appropriate; and make recommendations for modifying the definition or criteria, if necessary. The Work Group shall specifically evaluate whether or not Children's Services Act funding should be expanded to include ongoing support for students with disabilities following the 12-month transition period. The Work Group may solicit proposals from local school divisions for programs that would identify the resources, services, and supports required by each student in the local school divisions who is educated in a private special education day school and how redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, could allow some students to transition from the private school setting to the public school setting. The Work Group may recommend any proposal determined to be feasible for consideration by the General Assembly. The Work Group's preliminary findings shall be submitted to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2021; and a final plan and recommendations shall be submitted by November 1, 2022, which shall include draft legislation and amendments to the general appropriation act that would allow the General Assembly to accomplish the plan's recommendations.

CHAPTER 71

An Act to amend and reenact §§ 2.2-5211 and 2.2-5212 of the Code of Virginia, relating to Children's Services Act; special education programs.

[S 1313]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-5211 and 2.2-5212 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-5211. State pool of funds for community policy and management teams.**

A. There is established a state pool of funds to be allocated to community policy and management teams in accordance with the appropriation act and appropriate state regulations. These funds, as made available by the General Assembly, shall be expended for public or private nonresidential or residential services for troubled youths and families. *However, funds for private special education services shall only be expended on private educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. Effective July 1, 2022, funds for private special education services shall only be expended on private educational programs that the Office of Children's Services certifies as having reported their tuition rates on a standard reporting template developed by the Office. The Office of Children's Services shall consult with private special education services providers in developing the standard reporting template for tuition rates.*

The purposes of this system of funding are to:

1. Place authority for making program and funding decisions at the community level;
2. Consolidate categorical agency funding and institute community responsibility for the provision of services;
3. Provide greater flexibility in the use of funds to purchase services based on the strengths and needs of children, youths, and families; and
4. Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children and youth according to differing required local match rates for funding streams.

B. The state pool shall consist of funds that serve the target populations identified in subdivisions 1 through 5 of this subsection 6 in the purchase of residential and nonresidential services for children and youth. References to funding sources and current placement authority for the targeted populations of children and youth are for the purpose of accounting for the funds in the pool. It is not intended that children and youth be categorized by individual funding streams in order to access services. The target population shall be the following:

1. Children and youth placed for purposes of special education in approved private school educational programs, previously funded by the Department of Education through private tuition assistance;
2. Children and youth with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education day schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities, previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;
3. Children and youth for whom foster care services, as defined by § 63.2-905, are being provided;
4. Children and youth placed by a juvenile and domestic relations district court, in accordance with the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of § 16.1-284.1; and
5. Children and youth committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with § 66-14; and
6. *Children and youth previously placed pursuant to subdivision 1 in approved private school educational programs for at least six months who will receive transitional services in a public school setting. State pool funds shall be allocated for no longer than 12 months for transitional services. Local agencies may contract with a private school education program provider to provide transition services in the public school.*

C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) provide special education services and foster care services for children and youth identified in subdivisions B 1, B 2, and B 3, and 6 and (ii) meet relevant federal mandates for the provision of these services. The community policy and management team shall anticipate to the best of its ability the number of children and youth for whom such services will be required and reserve funds from its state pool allocation to meet these needs. Nothing in this section prohibits local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.

D. When a community services board established pursuant to § 37.2-501, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred a child and family to a family assessment and planning team and that team has recommended the proper level of treatment and services needed by that child and family and has determined the child's eligibility for funding for services through the state pool of funds, then the community services board, the local school division, local social services agency, court service unit, or Department of Juvenile Justice has met its fiscal responsibility for that child for the services funded through the pool. However, the community services

board, the local school division, local social services agency, court service unit, or Department of Juvenile Justice shall continue to be responsible for providing services identified in individual family service plans that are within the agency's scope of responsibility and that are funded separately from the state pool.

Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for funding from the state pool and is properly defined as a school-aged child with disabilities pursuant to § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a group home in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate educational program for such individual, the financial and legal responsibility for the individual's special education services and IEP shall remain, in compliance with the provisions of federal law, Article 2 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for special education services. The financial and legal responsibility for such special education services shall remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate services with the individual.

E. In any matter properly before a court for which state pool funds are to be accessed, the court shall, prior to final disposition, and pursuant to §§ 2.2-5209 and 2.2-5212, refer the matter to the community policy and management team for assessment by a local family assessment and planning team authorized by policies of the community policy and management team for assessment to determine the recommended level of treatment and services needed by the child and family. The family assessment and planning team making the assessment shall make a report of the case or forward a copy of the individual family services plan to the court within 30 days of the court's written referral to the community policy and management team. The court shall consider the recommendations of the family assessment and planning team and the community policy and management team. If, prior to a final disposition by the court, the court is requested to consider a level of service not identified or recommended in the report submitted by the family assessment and planning team, the court shall request the community policy and management team to submit a second report characterizing comparable levels of service to the requested level of service. Notwithstanding the provisions of this subsection, the court may make any disposition as is authorized or required by law. Services ordered pursuant to a disposition rendered by the court pursuant to this section shall qualify for funding as appropriated under this section.

F. As used in this section, "transitional services" includes services delivered in a public school setting directly to students with significant disabilities or intensive support needs to facilitate their transition back to public school after having been served in a private special education day school or residential facility for at least six months. "Transitional services" includes one-on-one aides, speech therapy, occupational therapy, behavioral health services, counseling, applied behavior analysis, specially designed instruction delivered directly to the student, or other services needed to facilitate such transition that are delivered directly to the student in their public school over the 12-month period as identified in the child's individualized education program.

§ 2.2-5212. Eligibility for state pool of funds.

A. In order to be eligible for funding for services through the state pool of funds, a youth, or family with a child, shall meet one or more of the criteria specified in subdivisions 1 through 4 and shall be determined through the use of a uniform assessment instrument and process and by policies of the community policy and management team to have access to these funds.

1. The child or youth has emotional or behavior problems that:

- a. Have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted;
- b. Are significantly disabling and are present in several community settings, such as at home, in school, or with peers; and
- c. Require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.

2. The child or youth has emotional or behavior problems, or both, and currently is in, or is at imminent risk of entering, purchased residential care. In addition, the child or youth requires services or resources that are beyond normal agency services or routine collaborative processes across agencies, and requires coordinated services by at least two agencies.

3. The child or youth requires placement for purposes of special education in approved private school educational programs or for transitional services as set forth in subdivision B 6 of § 2.2-5211.

4. The child or youth requires foster care services as defined in § 63.2-905.

B. For purposes of determining eligibility for the state pool of funds, "child" or "youth" means (i) a person younger than 18 years of age or (ii) any individual through 21 years of age who is otherwise eligible for mandated services of the participating state agencies including special education and foster care services.

2. That the Secretary of Education and the Secretary of Health and Human Resources or their designees, in conjunction with the Office of Children's Services and the Department of Education, shall establish a work group (the Work Group) with appropriate stakeholders to develop a detailed plan to (i) direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education, (ii) provide recommendations on the use of Children's Services Act funds to pay for services delivered directly to students with disabilities in public school to enable those who are at risk of out-of-school placements to remain in a public school setting, and (iii) provide

recommendations on the most effective use of Children's Services Act funds to transition students from out-of-school placements to public school. Work Group stakeholders shall include representatives of (a) the Department of Education and the Office of Children's Services; (b) three private special education day school service providers, including at least one director of a private special education day school; (c) local school districts, including at least one local special education director; (d) local governments, including at least one Children's Services Act Coordinator; (e) licensed behavioral analyst service providers and other evidence-based behavioral services providers; (f) organizations engaged in advocacy for students with disabilities, including at least one for the autism spectrum community; (g) the House Committee on Appropriations and the Senate Committee on Finance and Appropriations; and (h) other stakeholders deemed necessary by the Secretaries of Education and Health and Human Resources. The Work Group shall also include one parent of a child with an individualized education program currently enrolled in a private special education day program and one parent of child with an individualized education program currently enrolled in a public special education program. Both legislative members of the State Executive Council for Children's Services shall be invited to participate in the Work Group. The Work Group's plan shall include details on how the Virginia Department of Education should administer the transferred funding so that it (1) is prioritized for students with the most severe disabilities who are at risk of being placed in an out-of-school placement or who are in an out-of-school placement and (2) is equally accessible to all school divisions. The Work Group's plan shall also provide recommendations for minimizing the fiscal impact of the new funding policy on localities and consider the local fiscal impacts of using current Children's Services Act match rates versus the Local Composite Index. The Work Group's plan shall also offer a review and analysis of different models of delivering special education and private special education day school services, including a review of specialty regional schools, in-school delivery of services by private special education program providers, and in-school delivery of services by the school division. The Work Group shall (A) collect data from Virginia schools that have delivered special education services to students with severe disabilities within the public school setting as well as from Virginia school divisions that have used Children's Services Act funds to pay for transition services, (B) use the data to identify the types of services and supports that have allowed children with severe disabilities to be successful in the public school setting and avoid an out-of-school placement, and (C) provide recommendations for the types of direct services and supports that should be provided to students in the public school setting using Children's Services Act funds. The Work Group shall also consider whether the transitional services, as defined in § 2.2-5211 of the Code of Virginia, as amended by this act, are appropriate direct services to be covered; determine whether the criteria for students to qualify for such funding are appropriate; and make recommendations for modifying the definition or criteria, if necessary. The Work Group shall specifically evaluate whether or not Children's Services Act funding should be expanded to include ongoing support for students with disabilities following the 12-month transition period. The Work Group may solicit proposals from local school divisions for programs that would identify the resources, services, and supports required by each student in the local school divisions who is educated in a private special education day school and how redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, could allow some students to transition from the private school setting to the public school setting. The Work Group may recommend any proposal determined to be feasible for consideration by the General Assembly. The Work Group's preliminary findings shall be submitted to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2021; and a final plan and recommendations shall be submitted by November 1, 2022, which shall include draft legislation and amendments to the general appropriation act that would allow the General Assembly to accomplish the plan's recommendations.

CHAPTER 72

An Act to amend and reenact § 38.2-3407.15 of the Code of Virginia, relating to health insurance; carrier business practices; provider contracts.

[S 1289]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.15 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.15. Ethics and fairness in carrier business practices.

A. As used in this section:

"Carrier," "enrollee," and "provider" shall have the meanings set forth in § 38.2-3407.10; however, a "carrier" shall also include any person required to be licensed under this title which offers or operates a managed care health insurance plan subject to Chapter 58 (§ 38.2-5800 et seq.) or which provides or arranges for the provision of health care services, health plans, networks or provider panels which are subject to regulation as the business of insurance under this title.

"Claim" means any bill, claim, or proof of loss made by or on behalf of an enrollee or a provider to a carrier (or its intermediary, administrator or representative) with which the provider has a provider contract for payment for health care services under any health plan; however, a "claim" shall not include a request for payment of a capitation or a withhold.

"Clean claim" means a claim (i) that has no material defect or impropriety (including any lack of any reasonably required substantiation documentation) which substantially prevents timely payment from being made on the claim or (ii) with respect to which a carrier has failed timely to notify the person submitting the claim of any such defect or impropriety in accordance with this section.

"Health care services" means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability.

"Health plan" means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident and sickness insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy, contract or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of persons receiving covered health care services, which is subject to state regulation and which is required to be offered, arranged or issued in the Commonwealth by a carrier licensed under this title. Health plan does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE); or (ii) accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages.

"Provider contract" means any contract between a provider and a carrier (or a carrier's network, provider panel, intermediary or representative) relating to the provision of health care services.

"Retroactive denial of a previously paid claim" or "retroactive denial of payment" means any attempt by a carrier retroactively to collect payments already made to a provider with respect to a claim by reducing other payments currently owed to the provider, by withholding or setting off against future payments, or in any other manner reducing or affecting the future claim payments to the provider.

B. Subject to subsection H I, every provider contract entered into by a carrier shall contain specific provisions which shall require the carrier to adhere to and comply with the following minimum fair business standards in the processing and payment of claims for health care services:

1. A carrier shall pay any claim within 40 days of receipt of the claim except where the obligation of the carrier to pay a claim is not reasonably clear due to the existence of a reasonable basis supported by specific information available for review by the person submitting the claim that:

a. The claim is determined by the carrier not to be a clean claim due to a good faith determination or dispute regarding (i) the manner in which the claim form was completed or submitted, (ii) the eligibility of a person for coverage, (iii) the responsibility of another carrier for all or part of the claim, (iv) the amount of the claim or the amount currently due under the claim, (v) the benefits covered, or (vi) the manner in which services were accessed or provided; or

b. The claim was submitted fraudulently.

Each carrier shall maintain a written or electronic record of the date of receipt of a claim. The person submitting the claim shall be entitled to inspect such record on request and to rely on that record or on any other admissible evidence as proof of the fact of receipt of the claim, including without limitation electronic or facsimile confirmation of receipt of a claim.

2. A carrier shall, within 30 days after receipt of a claim, request electronically or in writing from the person submitting the claim the information and documentation that the carrier reasonably believes will be required to process and pay the claim or to determine if the claim is a clean claim. Upon receipt of the additional information requested under this subsection necessary to make the original claim a clean claim, a carrier shall make the payment of the claim in compliance with this section. No carrier may refuse to pay a claim for health care services rendered pursuant to a provider contract which are covered benefits if the carrier fails timely to notify or attempt to notify the person submitting the claim of the matters identified above unless such failure was caused in material part by the person submitting the claims; however, nothing herein shall preclude such a carrier from imposing a retroactive denial of payment of such a claim if permitted by the provider contract unless such retroactive denial of payment of the claim would violate subdivision 7. Nothing in this subsection shall require a carrier to pay a claim which is not a clean claim.

3. Any interest owing or accruing on a claim under § 38.2-3407.1 or 38.2-4306.1, under any provider contract or under any other applicable law, shall, if not sooner paid or required to be paid, be paid, without necessity of demand, at the time the claim is paid or within 60 days thereafter.

4. a. Every carrier shall establish and implement reasonable policies to permit any provider with which there is a provider contract (i) to confirm in advance during normal business hours by free telephone or electronic means if available whether the health care services to be provided are medically necessary and a covered benefit and (ii) to determine the carrier's requirements applicable to the provider (or to the type of health care services which the provider has contracted to deliver under the provider contract) for (a) pre-certification or authorization of coverage decisions, (b) retroactive reconsideration of a certification or authorization of coverage decision or retroactive denial of a previously paid claim, (c) provider-specific payment and reimbursement methodology, coding levels and methodology, downcoding, and bundling of claims, and (d) other provider-specific, applicable claims processing and payment matters necessary to meet the terms and conditions of the provider contract, including determining whether a claim is a clean claim. If a carrier routinely, as a matter of policy, bundles or downcodes claims submitted by a provider, the carrier shall clearly disclose that practice in each provider contract. Further, such carrier shall either (1) disclose in its provider contracts or on its website the specific bundling and downcoding policies that the carrier reasonably expects to be applied to the provider or provider's services on

a routine basis as a matter of policy or (2) disclose in each provider contract a telephone or facsimile number or e-mail address that a provider can use to request the specific bundling and downcoding policies that the carrier reasonably expects to be applied to that provider or provider's services on a routine basis as a matter of policy. If such request is made by or on behalf of a provider, a carrier shall provide the requesting provider with such policies within 10 business days following the date the request is received.

b. Every carrier shall make available to such providers within 10 business days of receipt of a request, copies of or reasonable electronic access to all such policies which are applicable to the particular provider or to particular health care services identified by the provider. In the event the provision of the entire policy would violate any applicable copyright law, the carrier may instead comply with this subsection by timely delivering to the provider a clear explanation of the policy as it applies to the provider and to any health care services identified by the provider.

5. Every carrier shall pay a claim if the carrier has previously authorized the health care service or has advised the provider or enrollee in advance of the provision of health care services that the health care services are medically necessary and a covered benefit, unless:

a. The documentation for the claim provided by the person submitting the claim clearly fails to support the claim as originally authorized;

b. The carrier's refusal is because (i) another payor is responsible for the payment, (ii) the provider has already been paid for the health care services identified on the claim, (iii) the claim was submitted fraudulently or the authorization was based in whole or material part on erroneous information provided to the carrier by the provider, enrollee, or other person not related to the carrier, or (iv) the person receiving the health care services was not eligible to receive them on the date of service and the carrier did not know, and with the exercise of reasonable care could not have known, of the person's eligibility status; or

c. During the post-service claims process, it is determined that the claim was submitted fraudulently.

6. In the case of an invasive or surgical procedure, if the carrier has previously authorized a health care service as medically necessary and during the procedure the health care provider discovers clinical evidence prompting the provider to perform a less or more extensive or complicated procedure than was previously authorized, then the carrier shall pay the claim, provided that the additional procedures were (i) not investigative in nature, but medically necessary as a covered service under the covered person's benefit plan; (ii) appropriately coded consistent with the procedure actually performed; and (iii) compliant with a carrier's post-service claims process, including required timing for submission to carrier.

7. No carrier ~~may~~ shall impose any retroactive denial of a previously paid claim unless the carrier has provided the reason for the retroactive denial and (i) the original claim was submitted fraudulently, (ii) the original claim payment was incorrect because the provider was already paid for the health care services identified on the claim or the health care services identified on the claim were not delivered by the provider, or (iii) the time which has elapsed since the date of the payment of the original challenged claim does not exceed the lesser of (a) 12 months or (b) the number of days within which the carrier requires under its provider contract that a claim be submitted by the provider following the date on which a health care service is provided. Effective July 1, 2000, a carrier shall notify a provider at least 30 days in advance of any retroactive denial of a claim.

8. Notwithstanding subdivision 7, with respect to provider contracts entered into, amended, extended, or renewed on or after July 1, 2004, no carrier shall impose any retroactive denial of payment or in any other way seek recovery or refund of a previously paid claim unless the carrier specifies in writing the specific claim or claims for which the retroactive denial is to be imposed or the recovery or refund is sought. The written communication shall also contain an explanation of why the claim is being retroactively adjusted.

9. No provider contract ~~may~~ shall fail to include or attach at the time it is presented to the provider for execution (i) the fee schedule, reimbursement policy, or statement as to the manner in which claims will be calculated and paid ~~which that~~ is applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider on a routine basis and (ii) all material addenda, schedules, and exhibits thereto and any policies (including those referred to in subdivision 4) applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider under the provider contract.

10. No amendment to any provider contract or to any addenda, schedule, exhibit or policy thereto (or new addenda, schedule, exhibit, or policy) applicable to the provider (or to the range of health care services reasonably expected to be delivered by that type of provider) shall be effective as to the provider, unless the provider has been provided with the applicable portion of the proposed amendment (or of the proposed new addenda, schedule, exhibit, or policy) at least 60 calendar days before the effective date and the provider has failed to notify the carrier within 30 calendar days of receipt of the documentation of the provider's intention to terminate the provider contract at the earliest date thereafter permitted under the provider contract.

11. In the event that the carrier's provision of a policy required to be provided under subdivision 9 or 10 would violate any applicable copyright law, the carrier may instead comply with this section by providing a clear, written explanation of the policy as it applies to the provider.

12. All carriers shall establish, in writing, their claims payment dispute mechanism and shall make this information available to providers.

13. *Every carrier shall include in its provider contracts a provision that prohibits a provider from discriminating against any enrollee solely due to the enrollee's status as a litigant in pending litigation or a potential litigant due to being*

involved in a motor vehicle accident. Nothing in this subdivision shall require a health care provider to treat an enrollee who has threatened to make or has made a professional liability claim against the provider or the provider's employer, agents, or employees or has threatened to file or has filed a complaint with a regulatory agency or board against the provider or the provider's employer, agents, or employees.

C. If the Commission has cause to believe that any provider has engaged in a pattern of potential violations of subdivision B 13, with no corrective action, the Commission may submit information to the Board of Medicine or the Commissioner of Health for action. Prior to such submission, the Commission may provide the provider with an opportunity to cure the alleged violations or provide an explanation as to why the actions in questions were not violations. If any provider has engaged in a pattern of potential violations of subdivision B 13, with no corrective action, the Board of Medicine or the Commissioner of Health may levy a fine or cost recovery upon the provider and take other action as permitted under its authority. Upon completion of its review of any potential violation submitted by the Commission or initiated directly by an enrollee, the Board of Medicine or the Commissioner of Health shall notify the Commission of the results of the review, including where the violation was substantiated, and any enforcement action taken as a result of a finding of a substantiated violation.

D. Without limiting the foregoing, in the processing of any payment of claims for health care services rendered by providers under provider contracts and in performing under its provider contracts, every carrier subject to regulation by this title shall adhere to and comply with the minimum fair business standards required under subsection B, and the Commission shall have the jurisdiction to determine if a carrier has violated the standards set forth in subsection B by failing to include the requisite provisions in its provider contracts and shall have jurisdiction to determine if the carrier has failed to implement the minimum fair business standards set out in subdivisions B 1 and 2 in the performance of its provider contracts.

D. E. No carrier shall be in violation of this section if its failure to comply with this section is caused in material part by the person submitting the claim or if the carrier's compliance is rendered impossible due to matters beyond the carrier's reasonable control (such as an act of God, insurrection, strike, fire, or power outages) which are not caused in material part by the carrier.

E. F. Any provider who suffers loss as the result of a carrier's violation of this section or a carrier's breach of any provider contract provision required by this section shall be entitled to initiate an action to recover actual damages. If the trier of fact finds that the violation or breach resulted from a carrier's gross negligence and willful conduct, it may increase damages to an amount not exceeding three times the actual damages sustained. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such provider also may be awarded reasonable ~~attorney's~~ attorney fees and court costs. Each claim for payment which is paid or processed in violation of this section or with respect to which a violation of this section exists shall constitute a separate violation. The Commission shall not be deemed to be a "trier of fact" for purposes of this subsection.

F. G. No carrier (or its network, provider panel or intermediary) shall terminate or fail to renew the employment or other contractual relationship with a provider, or any provider contract, or otherwise penalize any provider, for invoking any of the provider's rights under this section or under the provider contract.

G. H. This section shall apply only to carriers subject to regulation under this title.

H. I. This section shall apply with respect to provider contracts entered into, amended, extended or renewed on or after July 1, 1999.

I. J. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this section.

J. K. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

CHAPTER 73

An Act to amend and reenact § 54.1-3446 of the Code of Virginia, relating to Drug Control Act; Schedule I.

[S 1464]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3446 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);
 Acetyl fentanyl (other name: desmethyl fentanyl);
 Acetylmethadol;
 Allyprodine;
 Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl
 acetate, or LAAM);
 Alphameprodine;
 Alphamethadol;
 Benzethidine;
 Betacetylmethadol;
 Betameprodine;
 Betamethadol;
 Betaprodine;
 Clonitazene;
 Dextromoramide;
 Diampromide;
 Diethylthiambutene;
 Difenoxin;
 Dimenoxadol;
 Dimepheptanol;
 Dimethylthiambutene;
 Dioxaphetylbutyrate;
 Dipipanone;
 Ethylmethylthiambutene;
 Etonitazene;
 Etoxidine;
 Furethidine;
 Hydroxypethidine;
 Ketobemidone;
 Levomoramide;
 Levophenacetylmorphan;
 Morpheridine;
 MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
 N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
 N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
 N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
 N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
 N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
 N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
 N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:
 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
 N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other names: 2-fluorofentanyl,
 ortho-fluorofentanyl);
 N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: 3-fluorofentanyl);
 N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name:
 beta-hydroxy-3-methylfentanyl);
 N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
 N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluoroisobutyryl
 fentanyl);
 N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: para-fluorobutyrylfentanyl);
 N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl);
N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
N-phenyl-N-[1-(2-phenylmethyl)-4-piperidyl]-2-furancarboxamide (other name: *N*-benzyl Furanyl norfentanyl);
N-phenyl-N-(4-piperidyl)-propanamide (other name: Norfentanyl);
 Noracymethadol;
 Norlevorphanol;
 Normethadone;
 Norpipanone;
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-furancarboxamide (other name: Furanyl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-propenamide (other name: Acryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
 Phenadoxone;
 Phenampromide;
 Phenomorphan;
 Phenoperidine;
 Piritramide;
 Proheptazine;
 Properidine;
 Propiram;
 Racemoramide;
 Tilidine;
 Trimeperidine;

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
 N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanyl);
 N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
 N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
 N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
 N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy

U-47700 or 3,4-MDO-U-47700);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
 N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
 N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
 N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;
 Acetyldihydrocodeine;
 Benzylmorphine;
 Codeine methylbromide;
 Codeine-N-Oxide;
 Cyrenorphine;
 Desomorphine;
 Dihydromorphine;
 Drotebanol;
 Etorphine;
 Heroin;
 Hydromorphanol;
 Methyl-desorphine;
 Methyl-dihydromorphine;
 Morphine methylbromide;
 Morphine methylsulfonate;
 Morphine-N-Oxide;
 Myrophine;
 Nicocodeine;
 Nicomorphine;
 Normorphine;
 Pholcodine;
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; or (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypropylvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: names: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
 Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
 3-fluoromethcathinone (other name: 3-FMC);
 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
 4-Methylethcathinone (other name: 4-MEC);
 4-Ethylmethcathinone (other name: 4-EMC);
 N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
 Beta-keto-methylbenzodioxolylpentanamine (other name: names: Pentylone, bk-MBDP);
 Alpha-methylamino-butyrophenone (other name: Buphedrone);
 Alpha-methylamino-valerophenone (other name: Pentedrone);
 3,4-Dimethylmethcathinone (other name: 3,4-DMMC);
 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine
 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe,
 2C-I-NBOMe);
 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
 4-Fluoromethamphetamine (other name: 4-FMA);
 4-Fluoroamphetamine (other name: 4-FA);
 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
 (2-aminopropyl)benzofuran (other name: APB);
 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe,
 25C-NBOMe, 25C);
 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe,
 25B-NBOMe, 25B);
 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
 Benocyclidine (other names: BCP, BTCP);
 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
 4-bromomethcathinone (other name: 4-BMC);
 4-chloromethcathinone (other name: 4-CMC);
 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
 Alpha-Pyrrolidinoheptiophenone (other name: alpha-PHP);
 Alpha-Pyrrolidinoheptiophenone (other name: PV8);
 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
 Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
 4-Chloroethcathinone (other name: 4-CEC);
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
 (2-Methylaminopropyl)benzofuran (other name: MAPB);
 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);
 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);

- 4-methyl-alpha-ethylaminopentiophenone;
 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
 N-ethyl-1,2-diphenylethylamine (other name: Ephedrine);
 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
 3,4-methylenedioxy-N-tert-butylcathinone;
 Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
 1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
 4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
 4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
 3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
 5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other name: Eutylone, bk-EBDB);
 1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
 N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
 1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
 1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
 2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
 (2-ethylaminopropyl)benzofuran (other name: EAPB);
 4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
 2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
 4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
 2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanophenone);
 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
 N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
 N-heptyl-3,4-dimethoxyamphetamine (other names: N-heptyl-3,4-DMA);
 N-hexyl-3,4-dimethoxyamphetamine (other names: N-hexyl-3,4-DMA).
4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
- Clonazolam;
 - Etizolam;
 - Flualprazolam;
 - Flubromazepam;
 - Flubromazolam;
 - Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate;
 - 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
 - Mecloqualone;
 - Methaqualone.
5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
- 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
 - Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline);
- 4,5-dihydro-5-phenyl-2-oxazolamine);
- Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
 - Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
 - Ethylamphetamine;
 - Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylamine;

Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)-propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);

4-chloro-N,N-dimethylcathinone;

3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210); (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);
 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
 (8-quinoliny)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
 (8-quinoliny)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
 (8-quinoliny)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:
 AB-CHMINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
 5-fluoro-AB-PINACA);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names:
 ADB-CHMINACA, MAB-CHMINACA);
 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate
Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name:
 ADB-FUBINACA);
 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate
Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate
Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB,
 5-Fluoro-MDMB-PINACA);
 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA,
 FUB-AMB);
 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);
 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
 N-(adamantany)l-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
 5-fluoro-ADB-PINACA);
 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano
 CUMYL-BUTINACA);
 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 5-Fluoro-MDMB-PICA);
 Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate
Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);
 Methyl 2-[1-(4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
 4-fluoro-MDMB-BUTINACA);
 1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro CUMYL-PICA);
 Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-4en-PINACA);
 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names:
 MMB-FUBICA, AMB-FUBICA);

Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022, MMB-4en-PICA);

Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);

Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-fluoro-MPP-PICA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyldiazole-3-carboxamide (other name: ADB-BUTINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AB-PINACA).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 74

An Act to amend and reenact § 22.1-205 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-205.1, relating to student driver safety.

[H 1918]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-205 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-205.1 as follows:

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or other document issued by the Department of Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) *the dangers of* distracted driving *and speeding*; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board.

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student component, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and

regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

§ 22.1-205.1. High school student parking passes; valid driver's license required.

Each public high school shall require any student who applies to obtain a pass to park a vehicle on school property to provide evidence that the student possesses a valid driver's license or driver privilege card. The Department shall develop, and each public high school shall utilize, a standard application form for students to use to obtain a pass to park a vehicle on school property.

2. That the Board of Education shall emphasize the dangers of distracted driving and speeding in its Curriculum and Administrative Guide for Driver Education.

CHAPTER 75

An Act to amend and reenact § 22.1-205 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-205.1, relating to student driver safety.

[S 1169]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-205 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-205.1 as follows:

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or other document issued by the Department of Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) *the dangers of distracted driving and speeding*; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board.

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student component, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and

(iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

§ 22.1-205.1. High school student parking passes; valid driver's license required.

Each public high school shall require any student who applies to obtain a pass to park a vehicle on school property to provide evidence that the student possesses a valid driver's license or driver privilege card. The Department shall develop, and each public high school shall utilize, a standard application form for students to use to obtain a pass to park a vehicle on school property.

2. That the Board of Education shall emphasize the dangers of distracted driving and speeding in its Curriculum and Administrative Guide for Driver Education.

CHAPTER 76

An Act providing a management agreement between the Commonwealth and George Mason University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

[H 1986]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That the following shall hereafter be known as the 2021 Management Agreement Between the Commonwealth of Virginia and George Mason University:

*MANAGEMENT AGREEMENT
BY AND BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY*

This MANAGEMENT AGREEMENT, executed this 15th day of November, 2020, by and between the Commonwealth of Virginia (hereafter, the Commonwealth) and George Mason University (hereafter, the University) provides as follows:

RECITALS

WHEREAS, the University has satisfied the conditions precedent set forth in §§ 23.1-1004 and 23.1-1005 of the Code of Virginia to become a public institution of higher education of the Commonwealth governed by Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia ("Article 4" and the "Act", respectively), as evidenced by:

1. Board of Visitors Approval. The minutes of a meeting of the board of visitors of the University held on December 12, 2019, indicate that an absolute two-thirds or more of the members voted to approve the resolution required by subdivision B 2 of § 23.1-1004 of the Act;

2. Written Application to the Governor. The University has submitted to the Governor a written application, dated January 8, 2020, with copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance and Appropriations, and the Senate Committee on Education and Health, expressing the sense of its board of visitors that the University is qualified to be, and should be, governed by Article 4 of the Act, and substantiating that the University has fulfilled the requirements of subdivision B 3 of § 23.1-1004 of the Act; and

3. Finding by the Governor. In accordance with § 23.1-1005 of the Act, the Governor has found that the University has fulfilled the requirements of § 23.1-1004 of the Act, and therefore has authorized Cabinet Secretaries to enter into this management agreement on behalf of the Commonwealth with the University; and

WHEREAS, the University is therefore authorized to enter into this management agreement as provided in subsection B of § 23.1-1004 and Article 4 of the Act.

AGREEMENT

NOW, THEREFORE, in accordance with the provisions of the Act, and in consideration of the foregoing premises, the Commonwealth and the University do now agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means this agreement between the Commonwealth of Virginia and the University as required by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered employee" means any person who is employed by the University on either a salaried or wage basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by and in accordance with the provisions of Article 4 of the Act.

"Enabling statutes" means those chapters, other than Chapter 10 of Title 23.1 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual public institutions of higher education of the Commonwealth.

"Parties" means the parties to this management agreement, the Commonwealth of Virginia and the University.

"Public institution of higher education" means associate-degree-granting and baccalaureate public institutions of higher education, as those terms are defined in § 23.1-100 of the Code of Virginia.

"University" means George Mason University.

ARTICLE 2. SCOPE OF MANAGEMENT AGREEMENT.

SECTION 2.1. Enhanced Authority Granted and Accompanying Accountability.

Article 4 of the Act provides that, upon the execution of, and as of the effective date for, this management agreement, the University shall become a covered institution entitled to be granted by the Commonwealth and to exercise the powers and authority provided in Article 4 of the Act that are expressly contained in this management agreement. In general, subject to its management agreement with the Commonwealth, status as a covered institution governed by Article 4 of the Act and this management agreement is intended to replace (i) the post-General Assembly authorization prior-approval system of reviews, approvals, policies, and procedures carried out and implemented by a variety of central state agencies with (ii) a post-audit system of reviews and accountability under which a covered institution is fully responsible and fully accountable for managing itself pursuant to Article 4 of the Act and its management agreement with the Commonwealth.

SECTION 2.1.1. Assessments and Accountability. The University and its implementation of the enhanced authority granted by Article 4 of the Act and this management agreement, and the board of visitors policies attached hereto as Exhibits A through F, shall be subject to the reviews, assessments, and audits (i) set forth in the Act that are to be conducted by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia; (ii) as may be conducted periodically by the Secretaries of Finance, Administration, Education, or by some combination of these three Secretaries; or (iii) as otherwise may be required by law other than the Act.

SECTION 2.1.2. Express Grant of Powers and Authority. Subject to the specific conditions and limitations contained in § 23.1-1008 (Operational Authority Generally), §§ 23.1-1016, 23.1-1017, and 23.1-1019 (Capital Projects; Procurement; Property, Grants, and Loans), and §§ 23.1-1020 through 23.1-1026 (Human Resources) of Article 4 of the Act, the Commonwealth and the University agree that the Commonwealth has granted to the University by this management

agreement all the powers and authority contained in certain policies adopted by the board of visitors of the University attached hereto as Exhibits A through F and governing (i) the undertaking and implementation of capital projects, and other acquisition and disposition of property (Exhibit A); (ii) the leasing of property, including capital leases (Exhibit B); (iii) information technology (Exhibit C); (iv) the procurement of goods, services, including certain professional services, insurance, and construction (Exhibit D); (v) human resources (Exhibit E); and (vi) its system of financial management (Exhibit F), including, as provided in subsection B of § 23.1-1012 of the Act, the sole authority to establish tuition, fees, room, board, and other charges consistent with sum sufficient appropriation authority for nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. Subject to the specific conditions and limitations contained in §§ 23.1-1008 through 23.1-1011 of the Act, in this management agreement, and in one or more of the board of visitors policies attached hereto as Exhibits A through F, the Commonwealth and the University agree that the Commonwealth has expressly granted to the University all the powers and authority permitted by the Act.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this management agreement and the policies adopted by it and attached as Exhibits A through F. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate the duties and responsibilities set forth in this management agreement to its officers, committees, and subcommittees, and, as set forth in the policies adopted by the board and attached hereto as Exhibits A through F, to a person or persons within the University.

SECTION 2.1.3. Reimbursement by the University of Certain Costs. By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any health or other group insurance or risk management program made available to the University through any agency, body corporate, political subdivision, authority, or other entity of the Commonwealth, and in which the University is then participating, to enable the Commonwealth's actuaries to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from such health or other group insurance or risk management program, the University shall, pursuant to subdivision B 5 of § 23.1-1004 of the Act, reimburse the Commonwealth for all such additional costs attributable to such withdrawal as determined by the Commonwealth's actuaries.

SECTION 2.1.4. Potential Impact on Virginia College Savings Plan. As required by subdivision B 6 of § 23.1-1004 of the Act, the University has given consideration to potential future impacts of tuition increases on the Virginia College Savings Plan, Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 of the Code of Virginia, and has discussed those potential impacts with the Executive Director and staff of that Plan and with parties in the Administration who participated in the development of this management agreement. The Executive Director of the Plan has provided to the University and the Commonwealth the Plan's assumptions underlying the contract pricing of the program.

SECTION 2.1.5. Justification for Deviations from the Virginia Public Procurement Act. Pursuant to § 23.1-1017 of the Act and subject to the provisions of this management agreement, the University may be exempt from the provisions of the Virginia Public Procurement Act (VPPA), Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. Any procurement policies or rules that deviate from the VPPA must be uniform across all institutions governed by Article 4 of the Act, and the board of visitors shall adopt and comply with procurement policies that are based upon competitive principles and seek competition to the maximum practical degree. The Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials and the Rules Governing Procurement of Goods, Services, Insurance, and Construction (the Procurement Rules) attached to such policy as Attachment 1 constitute the policies and uniform deviations from the VPPA required by subsections A and B of § 23.1-1017 of the Act.

Subsection E of § 23.1-1017 of the Act requires that the University identify the public, educational, and operational interests served by any procurement rule or rules that deviate from those in the VPPA. The adopted board of visitors' policy on procurement and the Procurement Rules provide the University with the autonomy to administer its procurement process while fully adhering to the principle that competition should be sought to the maximum extent feasible. This autonomy will better position the University to support the requirements of its growing teaching, research, and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable the University to be more efficient and effective in meeting the Commonwealth's goals for institutions of higher education. In some instances, costs will be reduced. Taken collectively, the University's procurement policies and rules that differ from those required by the VPPA will enhance procurement "best practices" as they currently are being observed within the higher education community nationally. Further, these changes will provide efficiencies to both the University and public sector suppliers.

SECTION 2.1.6. Quantification of Cost Savings. Subsection D of § 23.1-1012 of the Act requires that a covered institution include in its management agreement with the Commonwealth the quantification of cost savings realized as a result of the additional operational flexibility provided pursuant to Article 4 of the Act. Since this initial management agreement with the Commonwealth has not yet been implemented by the University, the parties agree that the University is not in a position to quantify any such cost savings at this time, although the University expects that there will be cost savings resulting from the additional authority granted to the University pursuant to Article 4 of the Act and that such cost savings will be part of the determinations made during the reviews, assessments, and audits to be conducted pursuant to Article 4 of

the Act by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, and as otherwise described in Section 2.1.1 above.

SECTION 2.1.7. Participation in State Programs. *The Commonwealth intends that the University shall continue to fully participate in, and receive funding support from, the many and varied programs established now or in the future by the Commonwealth to provide support for Virginia's public institutions of higher education and for Virginians attending such institutions, including but not limited to the state capital outlay and bond financing initiatives undertaken from time to time by the Commonwealth; the Higher Education Equipment Trust Fund established pursuant to Chapter 12 (§ 23.1-1200 et seq.) of Title 23.1 of the Code of Virginia; the Maintenance Reserve Fund as provided in the general appropriation act; the Eminent Scholars program as provided in the general appropriation act; the Commonwealth's various student financial assistance programs; and other statewide programs or initiatives that exist, or may be established, in support of the Commonwealth's higher education institutions, programs, or activities.*

SECTION 2.1.8. Implied Authority. *Pursuant to subsection C of § 23.1-1006 of the Act, the only implied authority granted to the University by this management agreement is that implied authority that is actually necessary to carry out the expressed grant of financial or operational authority contained in this agreement or in the policies adopted by the University's board of visitors and attached hereto as Exhibits A through F.*

SECTION 2.1.9. Exercise of Authority. *The University and the Commonwealth acknowledge and agree that the execution of this management agreement constitutes the conclusion of a process that, as of the effective date of this Agreement, confers upon the University the enhanced authority and operating flexibility described in this article above, all of which is in furtherance of the purposes of Article 4 of the Act. Therefore, without any further conditions or requirements, the University shall, on and after the effective date of this management agreement, be authorized to exercise the authority conferred upon it by this management agreement, the policies adopted by its board of visitors attached hereto as Exhibits A through F, and by §§ 23.1-1008 through 23.1-1011 of the Act, except to the extent that the powers and authority contained therein have been limited by this management agreement or the board of visitors policies attached hereto as Exhibits A through F.*

The University and the Commonwealth also acknowledge and agree that, pursuant to subsection L of § 23.1-1006 of the Act and consistent with the terms of this management agreement, the board of visitors of the University shall assume full responsibility for management of the University, subject to the requirements and conditions set forth in Article 4 of the Act, the general requirements for this management agreement as provided in § 23.1-1002 of the Act, and this management agreement. The board of visitors shall be fully accountable for (i) the management of the University as provided in the Act, (ii) meeting the requirements of §§ 23.1-206 and 23.1-306 of the Code of Virginia, and (iii) meeting such other provisions as are set forth in this management agreement.

SECTION 2.2. State Goals.

SECTION 2.2.1. Furthering State Goals. *As required for all public institutions of higher education of the Commonwealth by subsection A of § 23.1-1002 of the Act, prior to August 1, 2005, the board of visitors of the University adopted the resolution setting forth its commitment to the Governor and the General Assembly to meet the state goals specified in subsection A of § 23.1-1002 of the Act.*

SECTION 2.2.2. Student Enrollment, Tuition, and Financial Aid. *As required by § 23.1-306 of the Code of Virginia, the University, along with all other public institutions of higher education of the Commonwealth, has developed and submitted to the State Council of Higher Education for Virginia (SCHEV) by October 1, 2019, an institution-specific six-year plan addressing the University's academic, financial, and enrollment plans for the six-year period of fiscal years 2020-2022 through 2024-2026. Subsection A of § 23.1-306 of the Code of Virginia requires the University to update this six-year plan by July 1 of each odd-numbered year and amend or affirm biennially in each even-numbered year. Subdivision B 3 of § 23.1-1006 of the Act requires that a management agreement address, among other issues, such matters as the University's undergraduate Virginia student enrollment, its financial aid requirements and capabilities, and its tuition policy for undergraduate Virginia students. These matters are addressed in this section and in the University's six-year plan submitted to SCHEV, and the parties therefore agree that the University's six-year plan and the description in this section meet the requirement of subdivision B 3 of § 23.1-1006 of the Act.*

Subsection C of § 23.1-1012 of the Act requires the board of visitors of the University to include in this management agreement the University's commitment to provide need-based grant aid for middle-income and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. The University's commitment in this regard is clear. The University is committed to increasing the economic and social diversity of the student body at the University. The University is committed to assuring access to qualified and admitted Virginia students.

The University's primary recruiting market is among the most diverse in the commonwealth. As a result, the University draws a large number of talented in-state students from a lower income stratum—students who are challenged to cover their educational costs. Many begin their postsecondary education at Northern Virginia Community College and choose to live at home while attending college. A large number of these students work at off-campus jobs for considerably more than the recommended 10 hours per week, some enroll only part time, and many are less likely to use loans to pay for their education.

In the Fall of 2019, 28.9 percent of the University's undergraduate population were Pell-eligible students. The University's Pell-eligible students graduate at a similar pace to the overall student body—66.9 percent six-year graduation rate for Pell-eligible students compared to 70.6 percent overall.

The University's goal is to reduce unmet financial need for undergraduate students by providing more grant funding. To move forward in accomplishing its goals, over the period of the six-year plan, the University is committed to seeking, from all sources—state-appropriated scholarship funds and federal, institutional, and private support—to continue its commitment to providing additional financial aid through grants and loans to those Virginians with need. In addition, as tuition and fees increase over the period of the six-year plan, the University will readjust the level of financial aid funding so that insufficiency of family resources will not be a barrier to attending, and graduating from, the University.

The Commonwealth and the University agree that this commitment meets the requirements of subsection C of § 23.1-1012 of the Act.

SECTION 2.3. Other Law.

As provided in subsection C of § 23.1-1006 of the Act, the University shall be governed and administered in the manner provided not only in this management agreement, but also as provided in the general appropriation act then in effect and the University's enabling statutes.

SECTION 2.4. The General Appropriation Act.

The Commonwealth and the University agree that, pursuant to the current terms of the Act and the terms of § 4-11.00 of the 2004-2006 Appropriation Act, if there is a conflict between the provisions of the general appropriation act and the provisions of Article 4 of the Act, or this management agreement, or the board of visitors policies attached to this management agreement as Exhibits A through F, the provisions of the general appropriation act shall control, and shall continue to control unless provided otherwise by law.

SECTION 2.4.1. The University's Enabling Statutes. *As provided in subsection E of § 23.1-1006 of the Act, in the event of a conflict between any provision of Article 4 of this Act and the University's enabling statutes, the enabling statutes shall control.*

SECTION 2.4.2. Title 2.2 of the Code of Virginia. *As provided in subsection D of § 23.1-1006 of the Act, except as specifically made inapplicable under Article 4 of the Act and the express terms of this management agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be applicable to the University as provided by the express terms of this management agreement. As further provided in subsection E of § 23.1-1006 of the Act, in the event of conflict between any provision of Title 2.2 and any provision of Article 4 of the Act as expressed in this management agreement, the provisions of this management agreement shall control.*

SECTION 2.4.3. Educational Policies of the Commonwealth. *As provided in subsection J of § 23.1-1006 of the Act, for purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), §§ 23.1-800, 23.1-801, 23.1-901, and 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subsection B of § 23.1-1303 of Title 23.1 the Code of Virginia, each covered institution shall remain a public institution of higher education following its conversion to a covered institution governed by Article 4 of the Act and shall retain the authority granted and any obligations required by such provisions.*

In addition, the University shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 2 (§ 23.1-200 et seq.), Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), Chapter 6, Article 2 (§ 23.1-612 et seq.), Chapter 6, Article 3 (§ 23.1-617 et seq.), Chapter 6, Article 5 (§ 23.1-628 et seq.), Chapter 6, Article 6 (§ 23.1-636 et seq.), § 23.1-619, Chapter 6, Article 7 (§ 23.1-639 et seq.), and Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 the Code of Virginia, unless and until provided otherwise by law other than the Act.

SECTION 2.4.4. Public Access to Information. *The University shall continue to be subject to § 2.2-4342 of the Code of Virginia and to the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, but, in all cases, may conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2 of the Code of Virginia.*

SECTION 2.4.5. Conflicts of Interests. *As provided in subsection F of § 23.1-1006 of the Act, the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the board of visitors of the University and to its covered employees.*

SECTION 2.4.6. Other Provisions of the Code of Virginia. *Other than as specified in this article above, any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, are not affected by this management agreement or the board policies attached hereto as Exhibits A through F.*

ARTICLE 3. AMENDMENTS TO, AND RIGHT AND POWER TO VOID OR REVOKE, MANAGEMENT AGREEMENT.

SECTION 3.1. Amendments.

Any change to or deviation from this management agreement or the board of visitors policies attached hereto as Exhibits A through F shall be reported to the Secretaries of Finance, Administration, and Education and to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations and shall be posted on the University's website. The change or deviation shall become effective unless one of the above persons notifies the

University in writing within 60 days that the change or deviation is substantial and material. Any substantial and material change or deviation shall require the execution by the parties of an amendment to this management agreement or a new management agreement and may lead to the Governor declaring this management agreement to be void pursuant to subdivision E of § 23.1-1007 of the Act.

SECTION 3.2. Right and Power to Void, Revoke, or Reinstate Management Agreement.

SECTION 3.2.1. Governor. Pursuant to subdivision E of § 23.1-1007, if the Governor makes a written determination that the University is not in substantial compliance with the terms of this management agreement or with the requirements of the Act in general, (i) the Governor shall provide a copy of that written determination to the rector of the board of visitors of the University and to the members of the General Assembly and (ii) the University shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of this management agreement and with the requirements of the Act, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If, after a reasonable period of time after the corrective action plan has been implemented by the University, the Governor determines that the institution is not yet in substantial compliance with this management agreement or the requirements of the Act, the Governor may void this management agreement. Upon the Governor voiding this management agreement, the University shall no longer be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 4 of the Act unless and until the University has entered into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the voided management agreement is reinstated by the General Assembly.

SECTION 3.2.2. General Assembly. As provided in subsection E of § 23.1-1007 of the Act, the General Assembly may reinstate a management agreement declared void by the Governor. Pursuant to subsection F of § 23.1-1007 of the Act, the University's status as a covered institution governed by Article 4 of the Act may be revoked by an act of the General Assembly if the University fails to meet the requirements of Article 4 of the Act or the management agreement.

ARTICLE 4. GENERAL PROVISIONS.

SECTION 4.1. No Third-Party Beneficiary Status.

Nothing in this Agreement, express or implied, shall be construed as conferring any third-party beneficiary status on any person or entity.

SECTION 4.2. Sovereign Immunity.

Pursuant to subsections G and H of § 23.1-1006 of the Act, the University and the members of its board of visitors, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the University were not governed by the Act, provided that the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia, and its limitations on recoveries shall remain applicable with respect to the University.

SECTION 4.3. Term of Agreement.

The management agreement negotiated by the University shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

WHEREFORE, the foregoing management agreement has been executed as of this 15th day of November, 2020, and shall become effective on the effective date of the legislation enacted into law providing for the terms of such Agreement.

EXHIBIT A
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
CAPITAL PROJECTS
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING CAPITAL PROJECTS

I. PREAMBLE.

Pursuant to Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), upon becoming a covered institution, a public institution of higher education in Virginia may be delegated the authority to establish its own system for undertaking the implementation of its capital projects. In general, status as a covered institution is designed to replace the post-authorization system of reviews, approvals, policies, and procedures carried out by a variety of central state agencies, and also the traditional pre-authorization approval process for projects funded entirely with nongeneral funds and without any proceeds from state tax-supported debt. Consistent with its current practice, the University's system for carrying out its capital outlay process as a covered institution is to be governed by policies adopted by the board of visitors. The following provisions of this policy, together with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the

board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment I to that Policy, constitute the adopted board of visitors policies regarding the University's capital projects, whether funded by a general fund appropriation of the General Assembly, state tax-supported debt, or funding from other sources.

This policy is intended to encompass and implement the expanded authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Capital professional services" means professional engineering, architecture, land surveying, and landscape architecture services related to capital projects.

"Capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction, improvements or renovations, and capital leases.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Major capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction of 5,000 square feet or greater or costing \$3 million or more, improvements or renovations of \$3 million or more, and capital leases.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 18, 2019, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy applies to the planning and budget development for capital projects, capital project authorization, and the implementation of capital projects, whether funded by a general fund appropriation of the General Assembly, proceeds from state tax-supported debt, or funding from other sources.

This policy provides guidance for (i) the process for developing one or more capital project programs for the University, (ii) authorization of new capital projects, (iii) procurement of capital professional services and construction services, (iv) design reviews and code approvals for capital projects, (v) environmental impact requirements, (vi) building demolitions, (vii) building and land acquisitions, (viii) building and land dispositions, (ix) project management systems, and (x) reporting requirements.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. CAPITAL PROGRAM.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt a system for developing one or more capital project programs that defines or define the capital needs of the University for a given period of time consistent with the University's published Master Plan. This process may or may not mirror the Commonwealth's requirements for capital plans. The board of visitors shall approve the program for major capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall follow the Commonwealth's requirements for capital plans. The board may approve amendments to the program for major capital projects annually or more often if circumstances warrant.

It shall be University policy that each capital project program shall meet the University's mission and institutional objectives and be appropriately authorized by the University. Moreover, it shall be University policy that each capital project shall be of a size and scope to provide for the defined program needs, designed in accordance with all applicable

building codes and handicapped accessibility standards as well as the University's design guidelines and standards, and costed to reflect current costs and escalated to the mid-point of anticipated construction.

VI. AUTHORIZATION OF CAPITAL PROJECTS.

The board of visitors shall authorize the initiation of each major capital project by approving its size, scope, budget, and funding. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt procedures for approving the size, scope, budget, and funding of all other capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall require both the board of visitors' approval and those pre-appropriation approvals of the Commonwealth's governmental agencies then applicable, and shall follow the Commonwealth's process for capital budget requests.

It shall be the policy of the University that the implementation of capital projects shall be carried out so that the capital project as completed is the capital project approved by the board for major capital projects and according to the procedures adopted by the President of the University, acting through the Senior Vice President for Administration or designee, for all other capital projects. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure strict adherence to this requirement.

Accordingly, the budget, size, and scope of a capital project shall not be materially changed beyond the plans and justifications that were the basis for the capital project's approval, either before or during construction, unless approved in advance as described in this section above. Minor changes shall be permissible if they are determined by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, to be justified.

Major capital projects may be submitted for the board of visitors' authorization at any time but must include a statement of urgency if not part of the approved major capital project program.

VII. PROCUREMENT OF CAPITAL PROFESSIONAL SERVICES AND CONSTRUCTION SERVICES.

It shall be the policy of the University that procurements shall result in the purchase of high-quality services and construction at reasonable prices and shall be consistent with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and with the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to such policy. Specifically, the University is committed to:

1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;
2. Conducting all procurements in a fair and impartial manner and avoiding any impropriety or the appearance of any impropriety prohibited by state law or University policy;
3. Making procurement rules clear in advance of any competition;
4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;
5. Including in contracts of more than \$10,000 the contractor's agreement not to discriminate against employees or applicants because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law except where there is a bona fide occupational qualification reasonably necessary to the contractor's normal operations; and
6. Providing for a nondiscriminatory procurement process, and including appropriate and lawful provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to develop implementing procedures for the procurement of capital professional services and construction services at the University. The procedures shall implement this policy and provide for:

- a. A system of competitive negotiation for capital professional services, including a procedure for expedited procurement of capital professional services under \$80,000, pursuant to subdivisions 1, 2, and 3 a of the defined term "competitive negotiation" in § 4 of the Rules Governing Procurement of Goods, Services, Insurance, and Construction;
- b. A prequalification procedure for contractors or products;
- c. A procedure for special construction contracting methods, including but not limited to design-build and construction management contracts; and
- d. A prompt payment procedure.

The University also may enter into cooperative arrangements with other private or public health or educational institutions, health care provider alliances, purchasing organizations, or state agencies where, in the judgment of the University, the purposes of this policy will be furthered.

VIII. DESIGN REVIEWS AND CODE APPROVALS.

The board of visitors shall review the design of all major capital projects and shall provide final major capital project authorization based on the size, scope, and cost estimate provided with the design. Unless stipulated by the board of visitors at the design review, no further design reviews shall be required. For all capital projects other than major capital projects, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt procedures for design review and project authorization based on the size, scope, and cost estimate provided with the

design. It shall be University policy that all capital projects shall be designed and constructed in accordance with applicable Virginia Uniform Statewide Building Code (VUSBC) standards and the applicable accessibility code.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall designate a building official responsible for building code compliance at the University, by either (i) hiring an individual to be the University building official or (ii) continuing to use the services of the Department of General Services, Division of Engineering and Buildings (DGS-DEB), to perform the building official function. If option (i) is selected, the individual hired as the University building official shall be a full-time employee of the University who has no other assigned duties or responsibilities at the institution and who is not employed by any firm or business providing facility services to the University, is a registered professional architect or engineer, and is certified by the Department of Housing and Community Development to perform this building official function. The University building official shall issue building permits for each capital project required by the VUSBC to have a building permit, shall determine the suitability for occupancy of, and shall issue certifications for building occupancy for, all capital projects requiring such certification. Prior to issuing any such certification, this individual shall ensure that the VUSBC and accessibility requirements are met for that capital project and that such capital project has been inspected by the State Fire Marshal or designee as required. When serving as the University building official, such individual shall organizationally report directly and exclusively to the board of visitors. If the University hires its own University building official, it shall fulfill the code review requirement by maintaining a review unit of licensed professional architects or engineers supported by resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 of the Code of Virginia for such purpose and who shall review plans, specifications, and documents for compliance with building codes and standards and perform required inspections of work in progress and the completed capital project. No individual licensed professional architect or engineer hired under the University personnel system as a member of the review unit or contracted with to perform these functions shall also perform other building code-related design, construction, facilities-related project management, or facilities management functions for the University on the same capital project. If option (i) is selected, DGS-DEB will be afforded an opportunity to review and comment on the University's building code official program prior to the University performing building code official responsibilities.

IX. ENVIRONMENTAL IMPACT REPORTS.

It shall be the policy of the University to assess the environmental, historic preservation, and conservation impacts of all capital projects and to minimize and otherwise mitigate all adverse impacts to the extent practicable. The University shall develop a procedure for the preparation and approval of environmental impact reports for capital projects, in accordance with state environmental, historic preservation, and conservation requirements generally applicable to capital projects otherwise meeting the definition of major capital projects but with a cost of \$500,000 or more as set forth in § 10.1-1188 of the Code of Virginia.

X. BUILDING DEMOLITIONS.

It shall be the policy of the University to consider the environmental and historical aspects of any proposed demolitions. The University shall develop a procedure for the preparation and review of demolition requests, including any necessary reviews by the Department of Historic Resources and the Art and Architectural Review Board in accordance with state historic preservation requirements generally applicable to capital projects in the Commonwealth. Further, for any property that was acquired or constructed with funding from a general fund appropriation of the General Assembly or from proceeds from state tax-supported debt, general laws applicable to state-owned property shall apply.

XI. BUILDING OR LAND ACQUISITIONS.

It is the policy of the University that capital projects involving building or land acquisition shall be subjected to thorough inquiry and due diligence prior to closing on the acquisition of such real property. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that the project management system implemented pursuant to Section XIII of this policy provides for a review and analysis of all pertinent matters relating to the acquisition of buildings and land as any prudent purchaser would perform to the end that any building or land acquired by the University shall be suitable for its intended purpose, that the acquisition can be made without substantial risk of liability to the University, and that the cost of the real property to be acquired, together with any contemplated development thereof, shall be such that compliance with the provisions of Section VI of this policy is achieved. In addition, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that, where feasible and appropriate to do so, the following specific policies pertaining to the acquisition of buildings or land for capital projects are carried out.

A. Environmental and Land Use Considerations.

It is the policy of the University to reasonably cooperate with each locality affected by the acquisition. Such cooperation shall include but not be limited to furnishing any information that the locality may reasonably request and reviewing any requests by the locality with regard to any such acquisition. The University shall consider the zoning and comprehensive plan designation by the locality of the building or land and surrounding parcels, as well as any designation by state or federal agencies of historically or archeologically significant areas on the land. Nothing herein shall be construed as requiring the University to comply with local zoning laws and ordinances.

B. Infrastructure and Site Condition.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that, in the case of capital projects involving the acquisition of buildings or land, the project management

systems implemented under Section XIII of this policy provide for a review of the following matters prior to acquisition of the building or land: that any land can be developed for its intended purpose without extraordinary cost; that an environmental engineer has been engaged by the University to provide an assessment of any environmental conditions on the land; that there is adequate vehicular ingress and egress to serve the contemplated use of the building or land; that utilities and other services to the land are adequate or can reasonably be provided or have been provided in the case of building acquisitions; and that the condition and grade of the soils have been examined to determine if any conditions exist that would require extraordinary site work.

C. Title and Survey.

A survey shall be prepared for any real property acquired, and an examination of title to the real property shall be conducted by a licensed attorney or, in the alternative, a commitment for title insurance shall be procured from a title insurance company authorized to do business in the Commonwealth. Based upon the survey and title examination or report, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall conclude, prior to acquisition of the real property, that title thereto will be conveyed to the University in fee simple, free and clear of all liens, encumbrances, covenants, restrictions, easements, or other matters that may have a significant adverse effect upon the University's ability to own, occupy, convey, or develop the real property.

D. Appraisal.

An appraisal shall be conducted of the real property to be acquired to determine its fair market value and the consistency of the fair market value with the price agreed upon by the University.

XII. BUILDING OR LAND DISPOSITIONS.

The board of visitors shall approve the disposition of any building or land. Disposition of land or buildings, the acquisition or construction of which was funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt, shall require both the board of visitors' approval and other approvals in accordance with general law applicable to state-owned property and with the University's enabling statutes.

XIII. PROJECT MANAGEMENT SYSTEMS.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall implement one or more systems for the management of capital projects for the University. The systems may include the delegation of project management authority to appropriate University officials, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate.

The project management systems for capital projects shall be designed to ensure that such projects comply with the provisions of this policy and other board of visitors' policies applicable to closely related subjects such as the selection of architects or policies applicable to University buildings and grounds.

The project management systems may include one or more reporting systems applicable to capital projects whereby University officials responsible for the management of such projects provide appropriate and timely reports to the President of the University on the status of such projects during construction.

XIV. REPORTING REQUIREMENTS.

In addition to complying with any internal reporting systems contained in the University's project management systems, as described in Section XIII above, the University shall comply with state reporting requirements for those major capital projects funded entirely or in part by a general fund appropriation of the General Assembly or state tax-supported debt. Additionally, if any capital project constructs improvements on land, or renovates property, that originally was acquired or constructed in whole or in part with a general fund appropriation for that purpose or proceeds from state tax-supported debt, and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, and if the cost of such improvements or renovations is reasonably expected to exceed \$3 million, the decision to undertake such improvements or renovations shall be communicated as required by subdivision D 3 of § 23.1-1016 of the Act. As a matter of routine, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall report to the Department of General Services on the status of such capital projects at the initiation of the project, prior to the commencement of construction, and at the time of acceptance of any such capital project.

EXHIBIT B
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING LEASES OF REAL PROPERTY
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING LEASES OF REAL PROPERTY

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that, upon becoming a covered institution, the University may have the authority to establish its own system for the leasing of real property. The University's system for implementing this authority is governed by policies adopted by the board of visitors. The following provisions of this policy constitute the adopted board of visitors' policies regarding leases of real property entered into by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, as defined in § 23.1-1000 of the Act, are not affected by this policy.

II. DEFINITIONS.

The following words and terms, when used in this policy, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Covered institution" means a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by Article 4 of the Act.

"Expense lease" means an operating lease of real property under the control of another entity to the University.

"Income lease" means an operating lease of real property under the control of the University to another entity.

"Lease" means any type of lease involving real property.

"Operating lease" means any lease involving real property, or improvements thereon, that is not a capital lease.

III. SCOPE OF POLICY.

This policy provides guidance for the implementation of all University leases.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. REQUIREMENTS FOR LEASES.

A. Factors to Be Considered When Entering into Leases.

All leases shall be for a purpose consistent with the mission of the University. The decision to enter into a lease shall be further based upon cost, demonstrated need, compliance with this policy, consideration of all costs of occupancy, and a determination that the use of the property to be leased is necessary and is efficiently planned. Leases shall also conform to the space planning procedures that may be adopted by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, to ensure that the plan for the space to be leased is consistent with the purpose for which the space is intended.

B. Competition to Be Sought to Maximum Practicable Degree.

Competition shall be sought to the maximum practicable degree for all leases. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to ensure that leases are procured through competition to the maximum degree practicable and to determine when, under guidelines that may be developed and adopted by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, it is impractical to procure leases through competition.

C. Approval of Form of Lease Required.

The form of leases entered into by the University shall be approved by the University's legal counsel.

D. Execution of Leases.

All leases entered into by the University shall be executed only by those University officers or persons authorized by the President of the University or as may subsequently be authorized by the board of visitors, and subject to any such limits or conditions as may be prescribed in the delegation of authority. Subject to the University's Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University, no other University approval shall be required for leases or leasing, nor state approval required except in the case of leases of real property as may be governed by general state law in accordance with §§ 23.1-1016 and 23.1-1028 of the Act.

E. Capital Leases.

The board of visitors shall authorize the initiation of capital leases pursuant to the authorization process included in the Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University.

F. Compliance with Applicable Law.

All leases of real property by the University shall be consistent with any requirements of law that are contained in the Act or are otherwise applicable.

G. Certification of Occupancy.

All real property covered by an expense lease or leased by the University under a capital lease shall be certified for occupancy by the appropriate public body or building official.

EXHIBIT C
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
INFORMATION TECHNOLOGY
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING INFORMATION TECHNOLOGY

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides in § 23.1-1018, inter alia, that public institutions of higher education in the Commonwealth of Virginia that have entered into a management agreement with the Commonwealth "may be exempt from the provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if the governing board of such covered institution adopts and the covered institution complies with" policies that govern the exempted provisions. This policy shall become effective upon the effective date of a management agreement between the Commonwealth and the University authorized in accord with the Act and which incorporates this policy. The board of visitors of the University is authorized to adopt this policy pursuant to § 23.1-1018 of the Act.

II. DEFINITIONS.

As used in this policy, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Information technology" or "IT" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Major information technology project" or "major IT project" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Policy" means this Information Technology Policy adopted by the board of visitors.

"State Chief Information Officer" or "State CIO" means the Chief Information Officer of the Commonwealth of Virginia. These terms shall include, where appropriate and/or required by law, the Virginia Information Technologies Agency.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy is intended to cover and implement the authority that the University will exercise under Article 4 of the Act. This policy is not intended to affect any other powers and authorities granted to the University pursuant to the general appropriation act and the Code of Virginia, including other provisions of the Act or the University's enabling statutes, as that term is defined in § 23.1-1000 of the Act.

This policy shall govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University. Upon the effective date of this management agreement between the Commonwealth and the University, therefore, the University shall be exempt from the provisions of the Code of Virginia governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that otherwise would govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University, provided, however, that the University still shall be subject to those provisions

governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that are applicable to public institutions of higher education of the Commonwealth and that do not govern information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits within, by, or on behalf of the University.

The procurement of information technology and telecommunications goods and services, including automated data processing hardware and software, shall be governed by the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials (Exhibit D) approved by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction that are incorporated in and attached to such policy.

IV. GENERAL PROVISIONS.

A. Board of Visitors Accountability and Delegation of Authority.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

B. Strategic Planning.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for overall IT strategic planning at the University, which shall be linked to and in support of the University's overall strategic plan.

At least 45 days prior to the beginning of each fiscal year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available the University's IT strategic plan covering the next fiscal year to the State CIO for his review and comment with regard to the consistency of the University's plan with the intent of the currently published overall six-year IT strategic plan for the Commonwealth developed by the State CIO pursuant to subdivision A 3 of § 2.2-2007.1 of the Code of Virginia, and into which the University's plan is to be incorporated.

C. Expenditure Reporting and Budgeting.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall approve and be responsible for overall IT budgeting and investments at the University. The University's IT budget and investments shall be linked to and in support of the University's IT strategic plan, and shall be consistent with general University policies, the board-approved annual operating budget, and other board approvals for certain procurements.

By October 1 of each year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available to the State CIO a report on the previous fiscal year's IT expenditures.

The University shall be specifically exempt from:

- 1. Subdivision B 3 of § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to review by the State CIO of IT budget requests;*
- 2. The Virginia Technology Infrastructure Fund, Article 3 (§ 2.2-2022 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and*
- 3. Any other substantially similar provision of the Code of Virginia governing IT expenditure reporting and budgeting, as it currently exists and from time to time may be amended.*

D. Project Management.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the project management policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project management as defined by leading IT consulting firms, leading software development firms, or a nationally recognized project management association, appropriately tailored to the specific circumstances of the University. Copies of the board's policies, standards, and guidelines shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall oversee the management of all University IT projects. IT projects may include, but are not limited to, upgrades to network infrastructure, provision of technology to support research, database development, implementation of new applications, and development of IT services for students, faculty, and staff. Day-to-day management of projects shall be the responsibility of appointed project directors and shall be in accordance with the project management policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

On a quarterly basis, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall report to the State CIO on the budget, schedule, and overall status of the University's major IT projects. This requirement shall not apply to research projects, research initiatives, or instructional programs.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for decisions to substantially alter a project's scope, budget, or schedule after initial approval.

The University shall be specifically exempt from:

1. *Section 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to additional duties of the State CIO relating to information technology planning and budgeting;*
2. *Division of Project Management, Article 2 (§ 2.2-2016 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and*
3. *Any other substantially similar provision of the Code of Virginia governing IT project management, as it currently exists or from time to time may be amended.*

The State CIO shall continue to have the authority regarding project suspension and termination as provided in subsection B of § 2.2-2016.1 of the Code of Virginia and shall continue to provide the University with reasonable notice of, and a reasonable opportunity to correct, any identified problems before a project is terminated.

E. Infrastructure, Architecture, Ongoing Operations, and Security.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines related to IT infrastructure, architecture, ongoing operations, and security developed by the Commonwealth or those of nationally recognized associations, appropriately tailored to the specific circumstances of the University. Copies of the policies shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for implementing such policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

For purposes of implementing this policy, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall appoint an existing University employee to serve as a liaison between the University and the State CIO.

F. Audits.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project auditing as defined by leading IT experts, including consulting firms, or a nationally recognized project auditing association, appropriately tailored to the specific circumstances of the University, which provide for independent validation and verification of the University's major IT projects. Copies of the policies, standards, and guidelines, as amended and revised from time to time, shall be made available to the State CIO.

Audits of IT strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, and security shall also be the responsibility of the University's internal audit department and the Auditor of Public Accounts.

EXHIBIT D
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
THE PROCUREMENT OF GOODS, SERVICES,
INSURANCE, AND CONSTRUCTION AND
THE DISPOSITION OF SURPLUS MATERIALS
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING
THE PROCUREMENT OF GOODS, SERVICES,
INSURANCE, AND CONSTRUCTION AND
THE DISPOSITION OF SURPLUS MATERIALS

I. PREAMBLE.

A. Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that the University, upon becoming a covered institution, shall be authorized to establish its own system for the procurement of goods, services, insurance, and construction and for the independent disposition of surplus materials by public or private transaction.

The Act provides that a covered institution shall comply with policies adopted by its board of visitors for the procurement of goods, services, insurance, and construction and the disposition of surplus materials. The provisions of this policy, together with the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I, constitute the adopted board of visitors' policies required by the Act regarding procurement of goods, services, insurance, and construction and the disposition of surplus materials by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, the general appropriation act, and the University's enabling statutes are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the management agreement.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Rules" means the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment 1.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies. "Services" includes both professional services, which include the practice of accounting, actuarial services, law, dentistry, medicine, optometry, and pharmacy, and nonprofessional services, which include any service not specifically identified as professional services.

"Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, that are determined to be surplus by the University.

"University" means George Mason University.

III. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

IV. GENERAL PROVISIONS.

A. Adoption of This Policy and Continued Applicability of Other Board of Visitors Procurement Policies.

The University has had decentralization and pilot program autonomy in many procurement functions and activities since the 1994 Appropriation Act. The Act extends and reinforces the autonomy previously granted to the University in Item 330 E of the 1994 Appropriation Act. This policy therefore is adopted by the board of visitors to enable the University to develop a procurement system, as well as a surplus materials disposition system. Any University electronic procurement system shall integrate or interface with the Commonwealth's electronic procurement system.

This policy shall be effective on the effective date. The policies and procedures adopted by the President of the University to implement this policy shall continue to be subject to any other policies adopted by the board of visitors affecting procurements at the University, including policies regarding the nature and amounts of procurements that may be undertaken without the approval of the board of visitors or the President of the University.

B. Scope and Purpose of University Procurement Policies.

This policy shall apply to procurements of goods, services, insurance, and construction. It shall be the policy of the University that procurements conducted by the University result in the purchase of high quality goods and services at reasonable prices, and that the University be free, to the maximum extent permitted by law and this policy, from constraining policies that hinder the ability of the University to do business in a competitive environment. This policy, together with the rules, shall apply to all procurements undertaken by the University, regardless of the source of funds.

C. Collaboration, Communication, and Cooperation with the Commonwealth.

The University is committed to developing, maintaining, and sustaining collaboration, communication, and cooperation with the Commonwealth regarding the matters addressed in this policy, particularly with the Secretary of Administration, the Department of General Services, and the Virginia Information Technologies Agency. Identifying business objectives and goals common to both the University and the Commonwealth and the mechanisms by which such objectives and goals may be jointly pursued and achieved are among the desired outcomes of such collaboration, communication, and cooperation.

D. Commitment to Statewide Contracts, Electronic Procurement, and SWAM Participation and Use.

The University is committed to maximizing its internal operational efficiencies, economies of scale among institutions of higher education, and the leveraged buying power of the Commonwealth as a whole.

Consistent with this commitment, the University:

- 1. May purchase from and participate in all statewide contracts for goods and services, including information technology goods and services, except that the University shall purchase from and participate in contracts for communications services and telecommunications facilities entered into by the Virginia Information Technologies Agency pursuant to § 2.2-2011 of the Code of Virginia unless an exception is provided in the general appropriation act or by other law, and provided that orders not placed through statewide contracts shall be processed directly or by integration or interface through the Commonwealth's electronic procurement system;*
- 2. Shall use directly or by integration or interface the Commonwealth's electronic procurement system; and*
- 3. Shall adopt a small, woman-owned, and minority-owned (SWAM) business program that is consistent with the Commonwealth's SWAM program.*

E. Implementation.

To effect its implementation under the Act, and if the University remains in continued substantial compliance with the terms and conditions of this management agreement with the Commonwealth pursuant to the requirements of the Act, the University's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia, except § 2.2-4342 and §§ 2.2-4367 through 2.2-4377 of such chapter; the oversight of the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia; the state agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials in §§ 2.2-1124 and 2.2-1125 of the Code of Virginia; the requirement to purchase from the Department for the Blind and Vision Impaired pursuant to § 2.2-1117 of the Code of Virginia; and any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including but not limited to Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the review and the oversight by the Division of Engineering and Buildings of the Virginia Department of General Services of contracts for the construction of University capital projects and construction-related professional services as set forth in § 2.2-1132 of such article.

V. UNIVERSITY PROCUREMENT POLICIES.

A. General Competitive Principles.

In connection with University procurements and the processes leading to award of contracts for goods, services, insurance, and construction, the University is committed to:

- 1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;*
- 2. Conducting all procurements in an open, fair, and impartial manner and avoiding any impropriety or the appearance of any impropriety;*
- 3. Making procurement rules clear in advance of any competition;*
- 4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;*
- 5. Ensuring that specifications for purchases are fairly drawn so as not to favor unduly a particular vendor; and*
- 6. Providing for the free exchange of information between the University, vendors, firms, or contractors concerning the goods or services sought and offered while preserving the confidentiality of proprietary information.*

B. Access to Records.

Procurement records shall be available to citizens or to interested persons, firms, or corporations in accordance with the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, except those records exempt from disclosure pursuant to subdivisions 7 and 12 of § 2.2-3705.1, subdivision 4 of § 2.2-3705.4, or other applicable exemptions of the Virginia Freedom of Information Act, and § 2.2-4342 of the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia.

C. Cooperative Procurements and Alliances.

In circumstances where the University determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the University that meet its business goals and objectives, the University is authorized to participate in cooperative procurements with other public or private organizations or entities, including other educational institutions, public-private partnerships, public bodies, charitable organizations, health care provider alliances, and purchasing organizations, so long as the resulting contracts are procured competitively pursuant to subsections A through J of § 5 of the rules and the purposes of this policy are furthered. In the event the University engages in a cooperative contract with a private organization or public-private partnership and the contract was not competitively procured pursuant to subsections A through J of § 5 of the rules, use of the contract by other state agencies, institutions, and public bodies shall be prohibited. Notwithstanding all of the provisions of this subsection above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable

fees. By October 1 of each year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available to the Secretary of Administration, the Joint Legislative Audit and Review Commission, and the Auditor of Public Accounts a list of all cooperative contracts and alliances entered into or used during the prior fiscal year.

D. Training; Ethics in Contracting.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall take all necessary and reasonable steps to assure (i) that all University officials responsible for and engaged in procurements authorized by the Act and this policy are knowledgeable regarding the requirements of the Act, this policy, and the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia; (ii) that only officials authorized by this policy and any procedures adopted by the President of the University to implement this policy are responsible for and engaged in such procurements; and (iii) that compliance with the Act and this policy are achieved.

The University shall maintain an ongoing program to provide professional development opportunities to its buying staff and to provide methods training to internal staff who are engaged in placing decentralized small purchase transactions.

E. Ethics and University Procurements.

In implementing the authority conferred by this policy, the personnel administering any procurement shall adhere to the following provisions of the Code of Virginia: the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, and the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia.

VI. UNIVERSITY SURPLUS MATERIALS POLICY AND PROCEDURES.

The policy and procedures for disposal for surplus materials shall provide for the sale, environmentally appropriate disposal, or recycling of surplus materials by the University and the retention of the resulting proceeds by the University.

VII. ADOPTION AND EFFECTIVE DATES OF RULES AND IMPLEMENTING POLICIES AND PROCEDURES.

A. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt one or more comprehensive sets of specific procurement policies and procedures for the University that, in addition to the rules, implement applicable provisions of law and this policy. The University procurements shall be carried out in accordance with this policy, the rules, and any implementing policies and procedures adopted by the University. The implementing policies and procedures adopted by the University (i) shall include the delegation of procurement authority by the board to appropriate University officials who shall oversee University procurements of goods, services, insurance, and construction, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate, and (ii) shall remain consistent with the competitive principles set forth in Section V of this policy.

B. Any implementing policies and procedures adopted pursuant to subsection A and the rules shall become effective on the effective date and, as of such date, shall be applicable to all procurements undertaken by the University on behalf of the University for goods, services, insurance, and construction. This policy, the rules, and any implementing policies and procedures adopted by the University shall not affect existing contracts already in effect.

C. The rules and the University implementing policies and procedures for all University procurements of goods, services, insurance, and construction and the disposition of surplus property shall be substantially consistent with the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors in their form as of the effective date and as amended or changed in the future, and with the University procedures specific to the acquisition of goods and services. The rules and the University implementing policies and procedures shall implement a system of competitive negotiation, and competitive sealed bidding when appropriate, for goods, services, including professional services, as defined in the rules, insurance, and construction.

VIII. REQUIREMENTS FOR RULES AND IMPLEMENTING POLICIES AND PROCEDURES.

A. Protests, Appeals, and Debarment.

The rules and the University implementing policies and procedures for procurements other than capital outlay shall include a process or processes for an administrative appeal by vendors, firms, or contractors. Protests and appeals may challenge determinations of vendor, firm, or contractor non-responsibility or ineligibility, or the award of contracts, provided that such protests and appeals are filed within the timeframes specified by the rules. Remedies available shall be limited to reversal of the action challenged or, where a contract already being performed is declared void, compensation for the cost of performance up to the time of such declaration. The rules and the University implementing policies and procedures also may establish the basis and process for debarment of any vendor, firm, or contractor.

B. Prompt Payment of Contractors and Subcontractors.

The rules and the University implementing policies and procedures shall include provisions related to prompt payment of outstanding invoices, which shall include payment of interest on properly presented invoices outstanding more than seven days beyond the payment date, at a rate no higher than the lowest prime rate charged by any commercial bank as published in the Wall Street Journal. The payment date shall be the later of 30 days from the date of the receipt of goods or invoice, or the date established by the contract. All contracts also shall require prompt payment of subcontractors by the general contractor, upon receipt of payment by the University.

C. Types of Procurements.

The rules and the University implementing policies and procedures shall implement a system of competitive negotiation for professional services, as defined in the rules, and shall implement purchasing procedures developed to maximize competition given the size and duration of the contract and the needs of the University. Such policies and procedures may include special provisions for procurements, such as emergency procurements, sole source procurements, brand name procurements, small purchases, procurements in which only one qualified vendor responds, and others.

D. Approval and Public Notice of Procurements.

The rules and the University implementing policies and procedures shall provide for approval of solicitation documents by an authorized individual and for reasonable public notice of procurements, given the size and nature of the need and the applicability of any exemption in the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

E. Administration of Contracts.

The rules and the University implementing policies and procedures shall contain provisions related to the administration of contracts, including contract claims, modifications, extensions, and assignments.

F. Nondiscrimination.

The rules and the University implementing policies and procedures shall provide for a nondiscriminatory procurement process that prohibits discrimination because of the race, religion, color, sex, or national origin of the bidder or offeror in the solicitation and award of contracts and shall include appropriate provisions to effectuate fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers.

ATTACHMENT 1

*Rules Governing Procurement of Goods, Services, Insurance, and Construction
by a Public Institution of Higher Education of the Commonwealth of Virginia
Governed by Article 4 of the*

*Restructured Higher Education Financial and Administrative Operations Act,
Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

In accordance with the provisions of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and in particular § 23.1-1017 of the Act, the governing body of a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth pursuant to Article 4 of the Act has adopted the following rules to govern the procurement of goods, services, insurance, and construction by the Institution:

§ 1. Purpose. -

The purpose of these rules is to enunciate the public policies pertaining to procurement of goods, services, insurance, and construction by the Institution from nongovernmental sources, to include governmental procurement that may or may not result in monetary consideration for either party. These rules shall apply whether the consideration is monetary or nonmonetary and regardless of whether the Institution, the contractor, or some third party is providing the consideration.

§ 2. Scope of procurement authority. -

Subject to these rules, and the Institution's continued substantial compliance with the terms and conditions of its management agreement with the Commonwealth pursuant to the requirements—particularly Article 4—of the Act, the Institution shall have and shall be authorized to have and exercise all of the authority relating to procurement of goods, services, insurance, and construction, including but not limited to capital outlay-related procurement and information technology-related procurement, that Institutions are authorized to exercise pursuant to Article 4 of the Act.

§ 3. Competition is the priority. -

To the end that the Institution shall obtain high-quality goods and services at reasonable cost, that all procurement procedures be conducted in an open, fair, and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to the Institution's business, and that no offeror be arbitrarily or capriciously excluded, it is the intent of the governing body of the Institution that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered. The Institution may consider best-value concepts when procuring goods and nonprofessional services but not construction or professional services. Professional services will be procured using a qualification-based selection process. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

§ 4. Definitions. -

As used in these rules:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the

voting securities of the entity. For the purposes of this definition, "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value" means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the Institution's needs, as predetermined in the solicitation.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" means a method of contractor selection that includes the following elements:

1. Issuance of a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.

2. Public notice of the request for proposal at least 10 days prior to the date set for receipt of proposals by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice also shall be published on the Department of General Services' central electronic procurement website and may be published on other appropriate websites. In addition, proposals may be solicited directly from potential contractors.

3. a. Procurement of professional services. The procurement of professional services for capital projects shall be conducted using a qualification-based selection process. The Institution shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Institution may discuss nonbinding estimates of total project costs, including, but not limited to, lifecycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the Institution shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Institution can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Institution determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by the Institution for multiple projects, provided (i) the projects require similar experience and expertise and (ii) the nature of the projects is clearly identified in the request for proposal. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall be as set in the request for proposal, and (c) the project fee of any single project shall not exceed the term limit as set in the request for proposal. Any unused amounts from any contract term may be carried forward. Competitive negotiations for such contracts may result in awards to more than one offeror provided the request for proposal stated the potential for a multivendor award.

Multiphase professional services contracts satisfactory and advantageous to the Institution for environmental, location, design, and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Institution shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such Institution require awarding the contract.

b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the Institution shall select the offeror that, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the request for proposal, awards may be made to more than one offeror. Should the Institution determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, that includes the following elements:

1. Issuance of a written invitation to bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the Institution has provided for prequalification of bidders, the invitation to bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the invitation to bid at least 10 days prior to the date set for receipt of bids by publication on the Department of General Services' central electronic procurement website. Public notice also may be published in a newspaper of general circulation or on other appropriate websites, or both. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

3. Public opening and announcement of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, lifecycle costing, value analysis, and any other criteria, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, that are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the invitation to bid, awards may be made to more than one bidder.

"Construction" means building, altering, repairing, improving, or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading, or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner. "Construction management contract" may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" or "Institution" means, on and after the effective date of the initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Design-build contract" means a contract between the Institution and another party in which the party contracting with the Institution agrees to both design and build the structure, roadway, or other item specified in the contract.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, that does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of "professional services" and includes small construction projects valued not over \$1 million, provided that subdivision 3 a of the definition of "competitive negotiation" in this section shall still apply to professional services for such small construction projects.

"Potential bidder or offeror" for the purposes of §§ 50 and 54 of these rules, means a person who, at the time the Institution negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

"Public body" means any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in these rules.

"Public contract" means an agreement between the Institution and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation to bid.

"Rules" means these Rules Governing Procurement of Goods, Services, Insurance, and Construction adopted by the governing body of the covered institution.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and

responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.

"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

§ 5. Methods of procurement. -

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation. Qualification-based selection shall be used for design services.

C. Goods, services, or insurance may be procured by competitive negotiation.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the Institution and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Institution on a fixed price design-build basis or construction management basis under § 7;

2. By the Institution for the construction, alteration, repair, renovation, or demolition of buildings; or

3. By the Institution for the construction of highways and any draining, dredging, excavation, grading, or similar work upon real property.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The Institution shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first. Public notice shall also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and may be published on other appropriate websites.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Institution shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and other appropriate websites.

G. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

H. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

I. Upon a determination made in advance by the Institution and set forth in writing that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination.

J. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning.

§ 6. Cooperative procurement. -

A. In circumstances where the Institution determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the Institution that meet its business goals and objectives, the Institution is authorized to participate in, sponsor, conduct, or administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies, public or private health or educational institutions, other public or private organizations or entities, including public-private partnerships, charitable organizations, health care provider alliances, or purchasing organizations or entities, or with public agencies or institutions or group purchasing organizations of the several states, territories of the United States, or the District of

Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. The Institution may purchase from any authority, department, agency, institution, city, county, town, or other political subdivision of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in these rules and the administrative policies and procedures established to implement these rules shall be permitted. Notwithstanding all of the provisions of this section above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

B. In circumstances where statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to meet the Institution's business goals and objectives, and as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. The Institution may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the United States government; and

2. The Institution may purchase telecommunications and information technology goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government.

§ 7. Design-build or construction management contracts authorized. -

A. Notwithstanding any other provisions of law, the Institution may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this section.

B. Procurement of construction by the design-build or construction management method shall be a two-step competitive negotiation process. In the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other relevant information that the Commonwealth may obtain, no more than five offerors deemed most suitable for the project shall be selected by the Commonwealth and requested to submit proposals.

§ 8. Modification of the contract. -

A. A contract awarded by the Institution may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25 percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the President of the Institution or designee. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

B. The Institution may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

C. Nothing in this section shall prevent the Institution from placing greater restrictions on contract modifications.

§ 9. Discrimination prohibited; participation of small, women-owned, and minority-owned business. -

A. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, the Institution shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

B. The Institution shall establish programs consistent with this section to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. The programs established shall be in writing and shall include cooperation with the Department of Minority Business Enterprise, the U.S. Small Business Administration, and other public or private agencies. The Institution shall submit annual progress reports on minority business procurement to the Department of Minority Business Enterprise.

C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is by law authorized and encouraged to require the Institution to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless it has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

§ 10. Employment discrimination by contractor prohibited; required contract provisions. -

The Institution shall include in every contract of more than \$10,000 the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of subdivisions 1 a, b, and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

§ 11. Drug-free workplace to be maintained by contractor; required contract provisions. -

The Institution shall include in every contract over \$10,000 the following provisions:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with these rules, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the contract.

§ 12. Use of brand names. -

Unless otherwise provided in the invitation to bid, the name of a certain brand, make, or manufacturer shall not restrict bidders to the specific brand, make, or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the Institution in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

§ 13. Comments concerning specifications. -

The Institution shall establish procedures whereby comments concerning specifications or other provisions in invitations to bid or requests for proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.

§ 14. Prequalification generally; prequalification for construction. -

A. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

B. Any prequalification of prospective contractors for construction by the Institution shall be pursuant to a prequalification process for construction projects adopted by the Institution. The process shall be consistent with the provisions of this section.

The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 34 of these rules.

In all instances in which the Institution requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the Institution shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

A decision by the Institution denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in § 54 of these rules.

C. The Institution may deny prequalification to any contractor only if the Institution finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the Institution shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director, or owner thereof has had judgments entered against him within the past 10 years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the Institution without good cause. If the Institution has not contracted with a contractor in any prior construction contracts, the Institution may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The Institution may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia, (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Code of Virginia, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director, or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state, or agency of the federal government; and

7. The contractor failed to provide to the Institution in a timely manner any information requested by the Institution relevant to subdivisions 1 through 6 of this subsection.

§ 15. Negotiation with lowest responsible bidder. -

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the Institution may negotiate with the apparent low bidder to obtain a contract price within available funds. However, the negotiation may be undertaken only under conditions and procedures described in writing and approved by the Institution prior to issuance of the invitation to bid and summarized therein.

§ 16. Cancellation, rejection of bids; waiver of informalities. -

A. An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The Institution shall not cancel or reject an invitation to bid, a request for proposal, or any other solicitation, bid, or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

B. The Institution may waive informalities in bids.

§ 17. Exclusion of insurance bids prohibited. -

Notwithstanding any other provision of law, no insurer licensed to transact the business of insurance in the Commonwealth or approved to issue surplus lines insurance in the Commonwealth shall be excluded from presenting an insurance bid proposal to the Institution in response to a request for proposal or an invitation to bid. Nothing in this section shall preclude the Institution from debarring a prospective insurer pursuant to § 18 of these rules.

§ 18. Debarment. -

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance, or construction, for specified periods of time. Any debarment procedure shall be established in writing by the Institution. Any debarment procedure may provide for debarment on the basis of a contractor's unsatisfactory performance for the Institution.

§ 19. Purchase programs for recycled goods; Institution responsibilities. -

A. The Institution may implement a purchase program for recycled goods and may coordinate its efforts so as to achieve the goals and objectives set forth in §§ 10.1-1425.6, 10.1-1425.7, and 10.1-1425.8 of the Code of Virginia and §§ 20 and 22 of these rules.

B. The Department of Environmental Quality, with advice from the Virginia Recycling Markets Development Council, shall advise the Institution concerning the designation of recycled goods.

§ 20. Preference for Virginia products with recycled content and for Virginia firms. -

A. In the case of a tie bid, preference shall be given to goods produced in Virginia or goods, services, or construction provided by Virginia persons, firms, or corporations; otherwise the tie shall be decided by lot.

B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed by the Institution to the lowest responsive and responsible bidder who is a resident of Virginia.

C. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

§ 21. Preference for Virginia coal used in the Institution. -

In determining the award of any contract for coal to be purchased for use in the Institution with state funds, the Institution shall procure using competitive sealed bidding and shall award to the lowest responsive and responsible bidder

offering coal mined in Virginia so long as its bid price is not more than four percent greater than the bid price of the low responsive and responsible bidder offering coal mined elsewhere.

§ 22. Preference for recycled paper and paper products used by the Institution. -

A. In determining the award of any contract for paper and paper products to be purchased for use by the Institution, it shall competitively procure recycled paper and paper products of a quality suitable for the purpose intended, so long as the price is not more than 10 percent greater than the price of the low responsive and responsible bidder or offeror offering a product that does not qualify under subsection B.

B. For purposes of this section, recycled paper and paper products means any paper or paper products meeting the U.S. Environmental Protection Agency-recommended content standards as defined in 40 C.F.R. Part 247.

§ 23. Withdrawal of bid due to error. -

A. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, which was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

One of the following procedures for withdrawal of a bid shall be selected by the Institution and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice or (ii) the bidder shall submit to the Institution or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, the work papers, documents, and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection F of § 34 of these rules. The bids shall be opened one day following the time fixed by the Institution for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the Institution until the two-hour period has elapsed. The mistake shall be proved only from the original work papers, documents, and materials delivered as required herein.

B. The Institution may establish procedures for the withdrawal of bids for other than construction contracts.

C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

F. If the Institution denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

§ 24. Contract Pricing Arrangements. -

A. Public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited by these rules.

B. Except in case of emergency affecting the public health, safety, or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost.

C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.

§ 25. Workers' compensation requirements for construction contractors and subcontractors. -

A. No contractor shall perform any work on a construction project of the Institution unless he (i) has obtained, and continues to maintain for the duration of the work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia and (ii) provides prior to the award of contract, on a form furnished by the Institution, evidence of such coverage.

B. The Department of General Services shall provide the workers' compensation coverage form to the Institution. Failure of the Institution to provide the form prior to the award of contract shall waive the requirements of clause (ii) of subsection A.

C. No subcontractor shall perform any work on a construction project of the Institution unless he has obtained, and continues to maintain for the duration of such work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia.

§ 26. Retainage on construction contracts. -

A. In any contract issued by the Institution for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

B. Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.

§ 27. Public construction contract provisions barring damages for unreasonable delays declared void. -

A. Any provision contained in any public construction contract of the Institution that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the Institution, its agents, or employees and due to causes within their control, shall be void and unenforceable as against public policy.

B. Subsection A shall not be construed to render void any provision of a public construction contract awarded by the Institution that:

1. Allows the recovery of that portion of delay costs caused by the acts or omissions of the contractor or its subcontractors, agents, or employees;

2. Requires notice of any delay by the party claiming the delay;

3. Provides for liquidated damages for delay; or

4. Provides for arbitration or any other procedure designed to settle contract disputes.

C. A contractor making a claim against the Institution for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract of the Institution shall be liable to the Institution and shall pay it for a percentage of all costs incurred by the Institution in investigating, analyzing, negotiating, litigating, and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.

D. If the Institution denies a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract for the Institution, it shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the Institution shall be equal to the percentage of the contractor's total delay claim for which the Institution's denial is determined through litigation or arbitration to have been made in bad faith.

§ 28. Bid bonds. -

A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$1 million shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid or (ii) the face amount of the bid bond.

C. Nothing in this section shall preclude the Institution from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$1 million.

§ 29. Performance and payment bonds. -

A. Upon the award by the Institution of any (i) public construction contract exceeding \$1 million awarded to any prime contractor or (ii) public construction contract exceeding \$1 million awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property owned by the Institution, the contractor shall furnish to the Institution the following bonds:

1. Except for transportation-related projects, a performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract. For transportation-related projects, such bond shall be in a form and amount satisfactory to the Institution.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

For the purposes of this subsection, "labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

C. The bonds shall be payable to the Commonwealth of Virginia, naming also the Institution.

D. Each of the bonds shall be filed with the Institution or a designated office or official thereof.

E. Nothing in this section shall preclude the Institution from requiring payment or performance bonds for construction contracts below \$1 million.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

§ 30. Alternative forms of security. -

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Institution's general counsel or his equivalent, a bidder may furnish to the Institution a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Institution equivalent to a corporate surety's bond.

§ 31. Bonds on other than construction contracts. -

The Institution may require bid, payment, or performance bonds for contracts for goods or services if provided in the invitation to bid or request for proposal.

§ 32. Action on performance bond. -

No action against the surety on a performance bond shall be brought by the Institution unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action.

§ 33. Actions on payment bonds; waiver of right to sue. -

A. Subject to the provisions of subsection B, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material. The obligee named in the bond need not be named a party to the action.

B. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

C. Any action on a payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 34. Public inspection of certain records. -

A. Except as provided in this section, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm, or corporation, in accordance with the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

B. Cost estimates relating to a proposed procurement transaction prepared by or for the Institution shall not be open to public inspection.

C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Institution decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

D. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Institution decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

E. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

F. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 14 of these rules shall not be subject to the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia; however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

§ 35. Exemption for certain transactions. -

A. The provisions of these rules shall not apply to:

1. The selection of services related to the management and investment of the Institution's endowment funds, endowment income, or gifts. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

2. The purchase of items for resale at retail bookstores and similar retail outlets operated by the Institution. However, such purchase procedures shall provide for competition where practicable.

3. Procurement of any construction or planning and design services for construction by the Institution when (i) the planning, design, or construction is \$50,000 or less or (ii) the Institution is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether or not those federal procedures are in conformance with the provisions of these rules.

4. The purchase of goods and services by the Institution when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 9 of these rules.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of these rules, the Institution may comply with such federal requirements, notwithstanding the provisions of these rules, only upon the written determination of the President of the Institution or designee that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of these rules in conflict with the conditions of the grant or contract.

§ 36. Permitted contracts with certain religious organizations; purpose; limitations. -

A. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, authorizes public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. The Institution, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. The Institution shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that it does not discriminate against faith-based organizations.

E. A faith-based organization contracting with the Institution (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the Institution. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

F. Consistent with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. § 2000e-1 et seq., to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the Institution shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The Institution shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization a notice in boldface type that states: "Neither the Institution's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different

provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 37. Exemptions from competition for certain transactions. -

The Institution may enter into contracts without competition, as that term is described in subsections A through J of § 5 of these rules, for:

1. The purchase of goods or services that are produced or performed by or related to:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired;

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped;

c. Private educational institutions; or

d. Other public educational institutions.

2. Speakers and performing artists;

3. Memberships and association dues;

4. Sponsored research grant sub-awards and contract sub-awards, not to include the purchase of goods or services by the Institution;

5. Group travel in foreign countries;

6. Conference facilities and services;

7. Participation in intercollegiate athletic tournaments and events, including team travel and lodging, registration, and tournament fees;

8. Royalties; or

9. The purchase of legal services, provided that the Office of the Attorney General has been consulted, or expert witnesses or other services associated with litigation or regulatory proceedings.

§ 38. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations. -

The Institution may enter into contracts for insurance or electric utility service without competitive sealed bidding or competitive negotiation if purchased through an association of which the Institution is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the Institution has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

§ 39. Definitions. -

As used in §§ 39 through 46 of these rules, unless the context requires a different meaning:

"Contractor" means the entity that has a direct contract with the Institution.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services or (ii) if such date has not been established by contract, (a) 30 days after receipt of a proper invoice by the Institution or its agent or (b) 30 days after receipt of the goods or services by the Institution.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 40. Exemptions. -

The provisions of §§ 39 through 46 of these rules shall not apply to the late payment provisions contained in any public utility tariffs prescribed by the State Corporation Commission.

§ 41. Retainage to remain valid. -

Notwithstanding the provisions of §§ 39 through 46 of these rules, the provisions of § 26 of these rules relating to retainage shall remain valid.

§ 42. Prompt payment of bills by the Institution. -

A. The Institution shall promptly pay for the completely delivered goods or services by the required payment date.

Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

B. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.

§ 43. Defect or impropriety in the invoice or goods and/or services received. -

In instances where there is a defect or impropriety in an invoice or in the goods or services received, the Institution shall notify the supplier of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.

§ 44. Date of postmark deemed to be date payment is made. -

In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these rules.

§ 45. *Payment clauses to be included in contracts. -*

Any contract awarded by the Institution shall include:

1. *A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the Institution for work performed by the subcontractor under that contract:*
 - a. *Pay the subcontractor for the proportionate share of the total payment received from the Institution attributable to the work performed by the subcontractor under that contract; or*
 - b. *Notify the Institution and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.*
2. *A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.*
3. *An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the Institution for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 1.*
4. *An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of 1 percent per month."*

Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor:

A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Institution. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

§ 46. *Interest penalty; exceptions. -*

A. *Interest shall accrue, at the rate determined pursuant to subsection B, on all amounts owed by the Institution to a vendor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.*

B. *The rate of interest charged the Institution pursuant to subsection A shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled The Wall Street Journal. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.*

C. *Notwithstanding subsection A, no interest penalty shall be charged when payment is delayed because of disagreement between the Institution and a vendor regarding the quantity, quality, or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.*

D. *This section shall not apply to § 26 of these rules pertaining to retainage on construction contracts, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a contractor from receiving interest on such funds under an approved escrow agreement.*

E. *Notwithstanding subsection A, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection B on amounts withheld that remain unpaid after seven days following the payment date.*

§ 47. *Ineligibility. -*

A. *Any bidder, offeror, or contractor refused permission to participate, or disqualified from participation, in public contracts to be issued by the Institution shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the Institution shall (i) notify the bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.*

Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of disqualification or ineligibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received such rebuttal information.

If the evaluation reveals that the bidder, offeror, or contractor should be allowed permission to participate in the public contract, the Institution shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the Institution shall so notify the bidder, offeror, or contractor. The notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia or applicable state law or regulations, the sole relief shall be restoration of eligibility.

§ 48. Appeal of denial of withdrawal of bid. -

A. A decision denying withdrawal of bid under the provisions of § 23 of these rules shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of § 23 of these rules, prior to appealing, shall deliver to the Institution a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, the sole relief shall be withdrawal of the bid.

§ 49. Determination of nonresponsibility. -

A. Following public opening and announcement of bids received on an invitation to bid, the Institution shall evaluate the bids in accordance with element 4 of the definition of "Competitive sealed bidding" in § 4 of these rules. At the same time, the Institution shall determine whether the apparent low bidder is responsible. If the Institution so determines, then it may proceed with an award in accordance with element 5 of the definition of "competitive sealed bidding" in § 4 of these rules. If the Institution determines that the apparent low bidder is not responsible, it shall proceed as follows:

1. Prior to the issuance of a written determination of nonresponsibility, the Institution shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

2. Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of responsibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received the rebuttal information. At the same time, the Institution shall notify, with return receipt requested, the bidder in writing of its determination.

3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

B. If, upon appeal pursuant to § 54 or 55 of these rules, it is determined that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or directed award as provided in subsection A of § 54 of these rules, or both.

If it is determined that the decision of the Institution was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and an award of the contract has been made, the relief shall be as set forth in subsection B of § 54 of these rules.

C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under the provisions of § 50 of these rules.

D. Nothing contained in this section shall be construed to require the Institution, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

§ 50. Protest of award or decision to award. -

A. Any bidder or offeror who desires to protest the award or decision to award a contract shall submit the protest in writing to the Institution, or an official designated by the Institution, no later than 10 days after the award or the announcement of the decision to award, whichever occurs first.

Public notice of the award or the announcement of the decision to award shall be given by the Institution in the manner prescribed in the terms or conditions of the invitation to bid or request for proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit the protest in the same manner no later than 10 days after posting or publication of the notice of such contract as provided in § 5 of these rules. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection under § 34 of these rules, then the time within which the protest shall be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror under § 34 of these rules, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Institution or designated official shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless

the bidder or offeror appeals within 10 days of receipt of the written decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules. Nothing in this subsection shall be construed to permit a bidder to challenge the validity of the terms or conditions of the invitation to bid or request for proposal. The use of Alternative Dispute Resolution (ADR) shall constitute an administrative appeal procedure meeting the standards of § 55 of these rules.

B. If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Institution shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided.

Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Institution may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Where the Institution, an official designated by it, or an appeals board determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of these rules, the Institution, designated official, or appeals board may enjoin the award of the contract to a particular bidder.

§ 51. Effect of appeal upon contract. -

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with these rules shall not be affected by the fact that a protest or appeal has been filed.

§ 52. Stay of award during protest. -

An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest as provided in § 50 of these rules, or the filing of a timely legal action as provided in § 54 of these rules, no further action to award the contract shall be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

§ 53. Contractual disputes. -

A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Penalty of claims shall not delay payment of amounts agreed due in the final payment.

B. The Institution shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be contained in the contract or may be specifically incorporated into the contract by reference and made available to the contractor, shall establish a time limit for a final decision in writing by the Institution. If the Institution has established administrative procedures meeting the standards of § 55 of these rules, such procedures shall be contained in the contract or specifically incorporated in the contract by reference and made available to the contractor. The Institution may require the submission of contractual claims pursuant to any contract to Alternative Dispute Resolution (ADR) as an administrative procedure.

C. A contractor may not invoke administrative procedures meeting the standards of § 55 of these rules, if available, or institute legal action as provided in § 54 of these rules, prior to receipt of the Institution's decision on the claim, unless the Institution fails to render such decision within the time specified in the contract.

D. The decision of the Institution shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the Institution by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

§ 54. Legal actions. -

A. A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not (i) an honest exercise of discretion, but rather was arbitrary or capricious; (ii) in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the invitation to bid; or (iii) in the case of denial of prequalification, based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. In the event the apparent low bidder, having been previously determined by the Institution to be not responsible in accordance with § 4 of these rules, is found by the court to be a responsible bidder, the court may direct the Institution to award the contract to such bidder in accordance with the requirements of this section and the invitation to bid.

B. A bidder denied withdrawal of a bid under § 23 of these rules may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid.

C. A bidder, offeror, or contractor, or a potential bidder, or offeror on a contract negotiated on a sole source or emergency basis in the manner provided in § 5 of these rules, whose protest of an award or decision to award under § 50 of these rules is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a

contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not (i) an honest exercise of discretion, but rather is arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms and conditions of the invitation to bid or request for proposal.

D. If injunctive relief is granted, the court, upon request of the Institution, shall require the posting of reasonable security to protect the Institution.

E. A contractor may bring an action involving a contract dispute with the Institution in the appropriate circuit court. Notwithstanding any other provision of law, the Comptroller shall not be named as a defendant in any action brought pursuant to these rules or § 33.2-1103 of the Code of Virginia, except for disputes involving contracts of the Office of the Comptroller or the Department of Accounts.

F. A bidder, offeror, or contractor need not utilize administrative procedures meeting the standards of § 55 of these rules, if available, but if those procedures are invoked by the bidder, offeror, or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the Institution agrees otherwise.

G. Nothing herein shall be construed to prevent the Institution from instituting legal action against a contractor.

§ 55. Administrative appeals procedure. -

A. The Institution may establish an administrative procedure for hearing (i) protests of a decision to award or an award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of nonresponsibility, (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these. Such administrative procedure may include the use of Alternative Dispute Resolution (ADR) or shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and conclusive and shall not be set aside unless the same are (a) fraudulent, arbitrary, or capricious; (b) so grossly erroneous as to imply bad faith; or (c) in the case of denial of prequalification, the findings were not based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. The Institution may seek advice and input from the Alternative Dispute Resolution Council in establishing an ADR procedure.

B. Any party to the administrative procedure, including the Institution, shall be entitled to institute judicial review if such action is brought within 30 days of receipt of the written decision.

§ 56. Alternative dispute resolution. -

The Institution may enter into agreements to submit disputes arising from contracts entered into pursuant to these rules to arbitration and utilize mediation and other alternative dispute resolution procedures. However, such procedures shall be nonbinding and subject to § 2.2-514 of the Code of Virginia, as applicable.

§ 57. Ethics in public contracting. -

The Institution and its governing body, officers, and employees shall be governed by the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia.

EXHIBIT E
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
HUMAN RESOURCES FOR
PARTICIPATING COVERED EMPLOYEES
AND OTHER UNIVERSITY EMPLOYEES
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY IN VIRGINIA
POLICY GOVERNING
HUMAN RESOURCES FOR
PARTICIPATING COVERED EMPLOYEES
AND OTHER UNIVERSITY EMPLOYEES

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes a process for the restructuring of institutions of higher education of the Commonwealth of Virginia and provides that upon becoming a covered institution, the University shall have responsibility and accountability for human resources management for all University employees, defined in the Act as

"covered employees," who pursuant to subsection A of § 23.1-1020 of the Act shall continue to be "state employee[s]". Specifically, the Act provides that, as of the effective date of its initial management agreement with the Commonwealth, all classified employees shall continue to be covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and shall be subject to the policies and procedures prescribed by the Virginia Department of Human Resource Management, provided that they may subsequently elect to become participating covered employees. All participating covered employees shall: (i) be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia; (ii) remain subject to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, provided they were subject to the state grievance procedure prior to that effective date; (iii) participate in a compensation plan that is subject to the review and approval of the board of visitors; and (iv) be hired pursuant to procedures that are based on merit and fitness and may, subject to certain specified conditions, continue to participate in either state-sponsored or University-sponsored benefit plans as described by the management agreement.

The provisions of this policy are adopted by the board of visitors to implement the governing law and constitute the human resources policies to be included in any human resources system adopted by the University for its employees.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Classified employees" means employees who are covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and the policies and procedures established by the Virginia Department of Human Resource Management and who are not participating covered employees.

"Covered employee" or "University employee" means any person who is employed by the University on either a salaried or nonsalaried (wage) basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Employee" means covered employee unless the context clearly indicates otherwise.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Governing law" means the Act and the University's enabling statutes.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Participating covered employee" means (i) all salaried nonfaculty University employees who were employed as of the day prior to the effective date and who elect pursuant to § 23.1-1022 of the Act to participate in and be governed by such human resources program or programs, plans, policies, and procedures established by the University; (ii) all salaried nonfaculty University employees who are employed by the University on or after the effective date; (iii) all nonsalaried nonfaculty University employees without regard to when they were hired; and (iv) all faculty University employees without regard to when they were hired.

"Systems" means collectively the University human resources system that is in effect from time to time.

"University" means George Mason University.

"University human resources system" means the human resources system for University employees as provided for in this policy.

III. SCOPE AND PURPOSE OF UNIVERSITY HUMAN RESOURCES POLICIES.

The University has had human resources system autonomy through decentralization for its employees for some time. For example, general faculty at the University are expressly exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia. The University has had decentralization in most human resources functions and activities since the late 1980s and early 1990s, including, but not limited to, the running of payrolls and the administration of hiring, classification, and promotion practices of administrative/professional, research, and instructional faculty.

The Act extends and reinforces the human resources autonomy previously granted to the University. This policy therefore is adopted by the board of visitors to enable the University to develop, adopt, and have in place by or after the effective date of its initial management agreement with the Commonwealth a human resources system or systems for all University employees. On the effective date, and until changed by the University or unless otherwise specified in this policy, the systems for University employees shall be the same systems applicable to those employees in effect immediately prior to the effective date.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full

and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. UNIVERSITY HUMAN RESOURCES SYSTEMS.

A. Adoption and Implementation of University Human Resources Systems.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is hereby authorized to adopt and implement human resources systems for employees of the University that are consistent with the governing law, other applicable provisions of law, these University human resources policies for University employees, and any other human resources policies adopted by the Department of Human Resource Management or the board of visitors for University personnel, unless University employees are exempted from those other human resources policies by law or policy. The University human resources systems shall include a delegation of personnel authority to appropriate University officials responsible for overseeing and implementing the University human resources systems, including a grant of authority to such officials to engage in further delegation of authority as the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate.

The University commits to regularly engage employees in appropriate discussions and to receive employee input as the new University human resources systems are developed. The University will regularly communicate the details of new proposals to all employees who are eligible to participate in the University human resources system through written communication, open meetings, and website postings as appropriate, so that employees will have full information that will help them evaluate the merits of the new human resources system compared to the then-current state human resources system.

Effective on the effective date of its initial management agreement with the Commonwealth, and until amended as described in this subsection, the University's human resources systems shall consist of the following:

1. The current "George Mason University Faculty Handbook," as it is posted on the Provost's website, <https://provost.gmu.edu/administration/policy>, and periodically amended;
2. The current human resources system for classified employees in the University as posted on the Virginia Department of Human Resource Management website at <http://www.dhrm.virginia.gov/hrpolicies>; and
3. The human resources system for participating covered employees, that shall include nonsalaried (wage) employees, as posted on the University's human resources website, <https://www.hr.gmu.edu/>.

All the systems described in this subsection above, except the system described in subdivision 2, may be amended by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, consistent with these human resources policies. The system described in subdivision 2 may be amended only by the Commonwealth.

B. Training in and Compliance with Applicable Provisions of Law and Board of Visitors Human Resources Policies.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall take all necessary and reasonable steps to assure (i) that the University officials who develop, implement, and administer the University human resources systems authorized by governing law and these human resources policies are knowledgeable regarding the requirements of the governing law, other applicable provisions of law, these University human resources policies, and other applicable board of visitors' human resources policies affecting University employees and (ii) that compliance with such laws and human resources policies is achieved.

VI. HUMAN RESOURCES POLICIES.

The University human resources systems adopted by the University pursuant to governing law and this policy, as set forth in Section V above, shall embody the following human resources policies and principles:

A. Election by University Salaried Nonfaculty Employees.

Upon the adoption by the University of a University human resources system, each salaried nonfaculty University employee who was in the employment of the University as of the day prior to the effective date of its initial management agreement with the Commonwealth shall be permitted to elect to participate in and be governed by either (i) the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and administered by the Department of Human Resource Management or (ii) the University human resources system, as appropriate. A salaried nonfaculty University employee who elects to continue to be governed by the state human resources program described in this subsection above shall continue to be governed by all state human resources and benefit plans, programs, policies, and procedures that apply to and govern state employees. A salaried nonfaculty University employee who elects to participate in and be governed by the University human resources system, by that election, shall be deemed to have elected to be eligible to participate in and to be governed by the University human resources system, authorized alternative insurance, and severance plans, programs, policies, and procedures that are or may be adopted by the University as part of that University human resources system.

The University shall provide each of its salaried nonfaculty University employees who were in the employment of the University as of the day prior to the effective date of the University's initial management agreement with the Commonwealth at least 90 days after the date on which the University's human resources system becomes effective for that University employee's classification of employees to make the election required by the prior paragraph. If such a salaried nonfaculty University employee does not make an election by the end of that specified election period, that University employee shall

be deemed not to have elected to participate in the University human resources system. If such a salaried nonfaculty University employee elects to participate in the University human resources system, that election shall be irrevocable. At least every two years, the University shall offer to salaried nonfaculty University employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, an opportunity to elect to participate in the University human resources system, provided that, each time prior to offering such opportunity to such salaried nonfaculty University employees, and at least once every two years after the effective date of the University human resources system, the University shall make available to each of its salaried nonfaculty University employees a comparison of its human resources system for that classification of salaried nonfaculty University employee with the state human resources program for comparable state employees, including but not limited to a comparability assessment of compensation and benefits.

A copy of the human resources program comparison shall be provided to the Department of Human Resource Management.

B. Classification and Compensation.

1. *General.* The systems shall include classification and compensation plans that are fair and reasonable and are based on the availability of University financial resources. The plans adopted by the University for participating covered employees shall be independent of, and need not be based on, the classification and compensation plans of the Commonwealth, do not require the approval of any state agency or officer, and shall be subject to the review and approval by the board of visitors as set forth in subdivision 3. The University shall provide information on its classification and compensation plans to all University employees. The plans applicable to participating covered employees may or may not include changes in classification or compensation announced by the Commonwealth, depending on such factors as the availability of necessary financial resources to fund any such changes and subject to the review and approval by the board of visitors of any major changes in the University's compensation plans.

2. *Classification Plan.* The systems shall include one or more classification plans for University employees that classify positions according to job responsibilities and qualifications. On the effective date and until changed by the University, the classification plans shall be the same plans that are in effect for each group of employees immediately prior to the effective date.

3. *Compensation Plan.* The systems shall include one or more compensation plans for each University employee classification or group. On the effective date and until changed by the Department of Human Resource Management, the compensation plan for classified employees in the University shall be the compensation plan in effect immediately prior to the effective date, known as the Commonwealth's Classified Compensation Plan. On the effective date and until changed by the University, the compensation plan or plans for all participating covered employees shall be the compensation plan or plans in effect immediately prior to the effective date. The University may adopt one or more compensation plans for participating covered employees that are non-graded plan(s) based on internal and external market data and other relevant factors to be determined annually. Any major change in compensation plans for participating covered employees shall be reviewed and approved by the board of visitors before that change becomes effective. Any change recommended in the compensation plans may take into account the prevailing rates in the labor market for the jobs in question or for similar positions, the relative value of jobs, the competency and skills of the individual employee, internal equity, and the availability of necessary financial resources to fund the proposed change. The compensation payable to University employees shall be authorized and approved only by designated University officers delegated such authority by the University, and shall be consistent with the approved compensation plan for the relevant position or classification. Further approval by any other state agency, governmental body, or officer is not required for setting, adjusting, or approving the compensation payable to individual participating covered employees.

4. *Wages.* The systems shall include policies and procedures for the authorization, computation, and payment of wages, where appropriate, for such premium pays as overtime, shift differential, on call, and call back, and for the payment of hourly employees.

5. *Payment of Compensation.* The systems shall include policies and procedures for paying compensation to employees, including the establishment of one or more payday schedules.

6. *Work Schedule and Workweek.* The systems shall include policies and procedures for the establishment of, and modifications to, work schedules and workweeks for all University employees, including alternative work schedules and sites and telecommuting policies and procedures.

7. *Other Classification and Compensation Policies and Procedures.* The systems may include any other reasonable classification and compensation policies and procedures the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate.

C. Benefits.

The systems shall provide fringe benefits to all benefits-eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance. The benefits provided shall include a basic plan of benefits for each benefits-eligible employee, and may include an optional benefits plan for benefits-eligible employees, including additional insurance coverage, long-term care, tax deferred annuities, flexible reimbursement accounts, employee assistance programs, employee intramural and recreational passes, and other wellness programs. As provided in subsections B and C § 23.1-1025 of the Act, the University may require participating covered employees to pay all or a portion of the cost of group life, disability, and accidental death and dismemberment insurance, which may be

collected through a payroll deduction program. Participating covered employees shall not be required to present evidence of insurability for basic group life insurance coverage. The board of visitors may elect to provide benefits through Virginia Retirement System group insurance programs under the terms of and to the extent allowed by § 23.1-1025 of the Act or any other provision of law.

Notwithstanding the provisions of this subsection above, pursuant to subsection A of § 23.1-1020 of the Act, and unless and until that section is amended, the state retirement system, state health insurance program, and state workers' compensation coverage program as they may be amended from time to time, shall continue to apply to and govern all eligible University employees. If, however, the University has been or is permitted by law other than the Act to establish an alternative retirement plan or plans, such retirement plan or plans shall apply to and govern the University employees included in such plan or plans.

The systems may provide different benefits plans for reasonably different groups or classifications of employees, and may provide benefits to part-time employees. On the effective date and until changed by the appropriate governing authority, the benefits plans provided by the University to classified employees and participating covered employees shall be the benefits plans provided to that group or classification as of the date immediately prior to that effective date. On or after the effective date, alternative University group life, accidental death and dismemberment, and short-term and long-term disability plans may be provided to eligible participating covered employees, or at the election of the board of visitors and subject to the execution of participation agreements as provided in subsections B and C of § 23.1-1025 of the Act, they may be provided by the appropriate state programs, but no contributions to the state programs by the University shall be required for participating covered employees who do not participate in the programs. Subject to the provisions of the Act, any new plans, programs, and material changes permitted under current law in University employee benefit plans, other than classified employee benefit plans, shall be approved by the board of visitors, including the authority to increase the cash match contribution rate up to the limit permitted by the Code of Virginia based on available resources and the authority to implement cafeteria-style benefits for University employees other than classified employees.

Insurance and all proceeds therefrom provided pursuant to § 23.1-1025 of the Act shall be exempt from legal process and may be subject to voluntary assignment as provided in subsection A of § 23.1-1025 of the Act.

D. Employee Relations.

1. *General.* The systems shall contain provisions that protect the rights and privileges of University employees consistent with sound management principles and fair employment practice law.

2. *Employee Safety and Health.* The systems shall contain provisions that promote workplace safety compliance with applicable law and regulations.

3. *Employee Work Environment.* The systems shall promote a work environment that is conducive to the performance of job duties and free from intimidation or coercion in violation of state or federal law, including sexual harassment or other discrimination.

4. *Employee Recognition.* The systems may provide for the use of leave awards and bonuses specific to policies and procedures for awarding, honoring, or otherwise recognizing University employees, including but not limited to those who have performed particularly meritorious service for the University, have been employed by the University for specified periods of time, or have retired from the University after lengthy service.

5. *Counseling Services.* The systems shall provide counseling services through the Commonwealth's Employee Assistance Program or a University Employee Assistance Program to any eligible University employee experiencing job-related difficulties and seeking counseling for those difficulties, and shall establish the circumstances under which the time necessary to participate in such counseling may be granted.

6. *Unemployment Compensation.* The systems shall ensure that University employees receive the full unemployment compensation benefits to which they are legally entitled and that the University's liability is limited to legitimate claims for such benefits.

7. *Workers' Compensation.* The systems shall ensure that University employees have workers' compensation benefits to which they are legally entitled pursuant to the State Employees Workers' Compensation Program administered by the Department of Human Resource Management.

8. *Performance Planning and Evaluation.* The systems shall include one or more performance planning and evaluation processes for University employees that (i) establish and communicate the University's performance expectations, (ii) help develop productive working relationships, (iii) allow employees to present their views concerning their performance, (iv) identify areas for training or professional development, (v) establish the process by which evaluations shall be conducted, (vi) clarify how superlative or inadequate performance shall be addressed, and (vii) ensure that all University employees are provided relevant information on the evaluation process. The systems may include separate performance and evaluation processes for reasonably distinguishable groups of University employees. On the effective date, the existing merit-based performance management system for faculty shall continue, until amended by the University. On or after that effective date, University nonfaculty salaried participating covered employees may be subject to a variable merit-based performance management system.

9. *Standards of Conduct and Performance.* In order to protect the well-being and rights of all employees and to ensure safe, efficient University operations and compliance with the law, the systems shall establish rules of personal conduct and standards of acceptable work performance for University salaried nonfaculty employees and policies for corrective discipline. In general, the policies for corrective discipline shall serve to (i) establish a uniform and objective process for

correcting or disciplining unacceptable conduct or work performance, (ii) distinguish between less serious and more serious actions of misconduct and provide corrective action accordingly, and (iii) limit corrective action to employee conduct occurring only when employees are at work or are otherwise representing the University in an official or work-related capacity, unless otherwise specifically provided by the policies of the systems or other applicable law. The systems may provide for a probationary period for new and re-employed University salaried nonfaculty employees, during which period the policies for corrective discipline shall not be applicable and the employee may not use the grievance procedure set forth in subdivision 10. The systems may include separate rules of personal conduct and standards of acceptable work performance and policies for corrective discipline for reasonably distinguishable groups of University employees.

10. *Grievance Procedure.* As provided in the governing law, employees shall be encouraged to resolve employment-related problems and complaints informally and shall be permitted to discuss their concerns freely and without fear of retaliation with immediate supervisors and management. In the event that such problems cannot be resolved informally, all salaried nonfaculty University employees, regardless of their date of hire, shall have access, as provided in subsection A of § 23.1-1020 and in § 23.1-1023 of the Act, to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, to the extent it was applicable to their classification of employees prior to the effective date. On the effective date and until changed by the University, the faculty grievance procedures in effect immediately prior to the effective date shall continue.

11. *Discrimination Complaints.* If a classified employee believes discrimination has occurred, the classified employee may file a complaint with the Department of Human Resource Management Office of Equal Employment and Dispute Resolution. All covered employees and applicants for employment after the effective date of the University's initial management agreement with the Commonwealth shall file a complaint with the appropriate University office or with the appropriate federal agencies.

12. *Layoff Policy.* The systems shall include one or more layoff policies for salaried University employees who lose their jobs for reasons other than their job performance or conduct, such as a reduction in force or reorganization at the University. These University layoff policies shall govern such issues as (i) whether there is a need to effect a layoff; (ii) actions to be taken prior to a layoff; (iii) notice to employees affected by a layoff; (iv) placement options within the University or its respective major divisions and within other parts of the University; (v) the preferential employment rights, if any, of various University employees; (vi) the effect of layoff on leave and service; and (vii) the policy for recalling employees. In accordance with the terms of the Act, University employees who (a) were employed prior to the effective date of the University's initial management agreement with the Commonwealth; (b) would otherwise be eligible for severance benefits under the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia; (c) were covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, prior to that effective date; and (d) are separated because of a reduction in force shall have the same preferential hiring rights with state agencies and other executive branch institutions as classified employees have under § 2.2-3201 of the Code of Virginia. Conversely, the University shall recognize the hiring preference conferred by § 2.2-3201 of the Code of Virginia on state employees who were hired by a state agency or executive branch institution before the effective date of the University's initial management agreement with the Commonwealth and who were separated after that date by that state agency or executive branch institution because of a reduction in workforce. If the University has adopted a classification system pursuant to § 23.1-1021 of the Act that differs from the classification system administered by the Department of Human Resource Management, the University shall classify the separated employee according to its classification system and shall place the separated employee appropriately. The University may include separate policies for reasonably distinguishable groups of University employees. On or after the effective date of the University's initial management agreement with the Commonwealth, all employees from other state agencies and executive branch institutions who are placed by the University under the provisions of the State Layoff Policy shall be participating covered employees.

13. *Severance Benefits.* In accordance with the terms of the Act, the University shall adopt severance policies for salaried participating covered employees who are involuntarily separated for reasons unrelated to performance or conduct. The terms and conditions of such policies shall be determined by the board of visitors. Classified employees who otherwise would be eligible and were employed prior to the effective date of the University's initial management agreement with the Commonwealth shall be covered by the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia. The University and the Board of the Virginia Retirement System may negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating covered employees who participate in the Virginia Retirement System. An employee's becoming, on the effective date, a covered employee shall not constitute a severance or reduction in force to which severance policies or policies pursuant to the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, would apply.

14. *Use of Alcohol and Other Drugs.* The systems shall include policies and procedures that (i) establish and maintain a work environment at the University that is free from the adverse effect of alcohol and other drugs; (ii) are consistent with the federal Drug-Free Workplace Act of 1988, 41 U.S.C. § 81, and with the George Mason University Alcohol and Other Drugs Policy; (iii) describe the range of authorized disciplinary action, including termination where appropriate, for violations of such policies and procedures and the process to be followed in taking such disciplinary action; (iv) provide University employees access to assistance and treatment for problems involving alcohol and other drugs; (v) provide for the circumstances under which employees are required to report certain violations of the policies and procedures to their

supervisor and the University is required to report those violations to a federal contracting or granting agency; (vi) describe the circumstances under which personnel records of actions taken under the University's alcohol and other drugs policy shall not be kept confidential; and (vii) provide notice to University employees of the scope and content of the University alcohol and other drugs policy. As part of this alcohol and other drugs policy, and in compliance with the federal Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143, the systems may provide for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up alcohol and other drug testing for University positions that are particularly safety sensitive, such as those requiring a commercial driver's license.

15. *Background Checks.* The systems shall include a process for conducting background checks that may include but is not limited to reference checks, educational/professional credentialing checks, and conviction and driver's records checks on applicants for full-time or part-time positions at the University, and for addressing situations where employees do not disclose a conviction on their applications or otherwise falsify their applications with regard to information concerning their educational/professional credentials and/or prior convictions.

16. *Other Employee Relations Policies and Procedures.* The systems shall include any other reasonable employee relations policies or procedures that the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate, that may include, but are not limited to, policies or procedures relating to orientation programs for new or re-employed University employees, an employee suggestion program, the responsibility of University employees for property placed in their charge, work breaks, inclement weather and emergencies, and employment outside the University.

E. Leave and Release Time.

The systems shall include policies and procedures regarding leave for eligible employees. The systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses. The systems may provide for release time for such matters as the donation of blood, participation in an employee assistance program, and other appropriate employment-related matters. On or after the effective date of its initial management agreement with the Commonwealth, and until a new program is adopted by the appropriate authority, the University shall continue to provide leave and release time to participating covered employees in accordance with the leave and release time policies and procedures applicable to each classification of employees prior to that effective date. On or after that effective date, the University may provide an alternative leave and release time system for salaried nonfaculty participating covered employees.

F. Equal Employment Opportunity, Nondiscrimination, Employment, and Separation.

1. *Equal Employment Opportunity and Nondiscrimination.* The systems shall contain policies and procedures to ensure that all aspects of human resources management, including the employment of University employees, meet all requirements of federal and state law and of the relevant policies of the board of visitors with regard to equal employment opportunity and nondiscrimination.

2. *Employment.* The systems shall include policies and procedures for the recruitment, selection, and hiring of University employees that are based on merit and fitness, including where appropriate a requirement for job posting, interviews, pre-employment testing, pre-employment drug testing, reference checks, and conviction record checks. On and after the effective date, the University shall post all salaried nonfaculty position vacancies through the University's job posting system, the Commonwealth's job posting system, and other external media as appropriate. The systems shall establish designated veterans' re-employment rights in accordance with applicable law.

In order to encourage employees to attain the highest-level positions for which they are qualified, and to compensate employees for accepting positions of increased value and responsibility, the systems shall include policies and procedures governing the promotion of employees, including the effect of promotion on an employee's compensation.

On or after the effective date of the University's initial management agreement with the Commonwealth, all employees hired from other state agencies shall be participating covered employees. University classified employees who change jobs within the University through a competitive employment process—i.e., promotion or transfer—shall have the choice of remaining a classified employee or becoming a participating covered employee. If a classified employee elects to become a participating covered employee, that decision shall be irrevocable.

3. *Notice of Separation.* The systems shall include policies and procedures requiring reasonable notice, where appropriate, of a decision either by the employee or by the University to separate the employee from the University in accordance with policies governing performance, conduct, or layoff.

G. Information Systems.

The University shall provide an electronic file transfer of information on all salaried University employees and shall continue to provide the employee position reports to meet the human resources reporting requirements specified by law or by request of the Governor or the General Assembly, unless the University is specifically exempted from those requirements. The University shall conduct assessments to demonstrate its accountability for human resources practices that comply with laws and regulations. The Department of Human Resource Management and the University have entered into a Memorandum of Understanding, attached hereto as Attachment 2, that may be amended from time to time by agreement of the parties, regarding the specific data and reporting requirements. The University shall be accountable for ensuring the timeliness and integrity of the data transmitted to the Department of Human Resource Management.

VII. CONTINUED APPLICABILITY OF OTHER PROVISIONS OF THE CODE OF VIRGINIA AND OTHER BOARD OF VISITORS POLICIES AFFECTING UNIVERSITY PERSONNEL.

On and after the effective date, University employees shall be subject to the terms and conditions of the Act and the management agreement between the Commonwealth and the University. Classified employees shall continue to be subject to the human resources policies and exceptions to those policies adopted or approved by the Department of Human Resource Management.

In addition, all University employees also shall remain subject to any other human resources policies adopted by the board of visitors applicable to University personnel unless University employees or a subset thereof are specifically exempted from those other human resources policies either by those other policies or by this policy.

ATTACHMENT 2

Memorandum of Understanding
Between George Mason University and the
Department of Human Resource Management Regarding
the Reporting of Human Resources Management Data

This Memorandum of Understanding (MOU), which may be amended from time to time by the agreement of all parties, is an attachment to the Policy Governing Human Resources for participating covered employees and other University employees pursuant to the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and is hereby entered into between the University and the Department of Human Resource Management (DHRM).

This document outlines the provisions for information management pertaining to human resources data, consistent with the objectives to enable DHRM to meet the Commonwealth's reporting requirements, to ensure compliance with relevant federal and state laws and regulations, and to do so through efficient and cost-effective methods.

1. In lieu of data entry into the state's Human Capital Management (HCM) system, data will be transmitted to the HCM system as follows:

a. The University will provide a flat file of designated personnel data. For classified employees, the data provided will match DHRM's data values for the designated fields. For salaried participating covered employees, the data provided will include the University's data values for the designated fields. The University will provide a data dictionary to DHRM. The file of designated data will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

b. The University will provide a second flat file of salaried personnel actions for classified employees and salaried participating covered employees, such as promotions, separations, and salary adjustments. The file of relevant personnel actions and designated data to be provided for each action will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

2. DHRM will accept the federal Affirmative Action Plan (AAP), including the adverse impact analyses of employment and compensation actions that are part of the AAP, as demonstration of the University's compliance with relevant federal and state employment laws and regulations.

3. Other reports to be provided by the University include the following:

a. Monthly employment position report.

b. Annual report on salaried, wage, and contract employees.

The undersigned hereby agree to the provisions contained in the MOU.

APPROVALS:

George Mason University:

By:Date.....

Carol Dillon Kissal, Senior Vice President for Administration and Finance, Department of Human Resource Management:

By:Date.....

EXHIBIT F
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
FINANCIAL OPERATIONS AND MANAGEMENT
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes by law a process for granting additional authority to institutions of

higher education for financial operations and management, subject to the adoption of policies by their governing boards and the approval of management agreements to be negotiated with the Commonwealth.

The following provisions of this policy constitute the adopted board of visitors' policies regarding the University's financial operations and management.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on or after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 18, 2019, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy applies to the University's responsibility for management, investment, and stewardship of all its financial resources, including but not limited to general, nongeneral, and private funds. This responsibility includes maintaining an independent uniform system of accounting, financial reporting, and internal controls adequate to protect and account for the University's financial resources, as well as allowing for recording of required information into Cardinal.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized by the board to maintain existing policies and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with generally accepted accounting principles; (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources; (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation; and (iv) ensure compliance with the requirements of the general appropriation act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion in the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping systems of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President of the University, acting through the Senior Vice President for Administration and Finance or designee, and the board of visitors to enable them to provide adequate oversight of the financial operations of the University. The University shall provide to state agencies including, but not limited to, the Department of Accounts, the Department of Planning and Budget, the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the State Council of Higher Education for Virginia and to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations special reports as may be requested from time to time.

VI. FINANCIAL MANAGEMENT POLICIES.

The University has operated for many years at Level II under the Act and at Level 2.5 under § 4-9.02 of Chapter 780 of the Acts of Assembly of 2016. Accordingly, the University currently operates a system of independent financial management policies guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures, such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall have the authority to create and implement any and all new financial management policies necessary to maintain the University's current financial management system for the continued effective protection and management of all University financial resources.

Upon the effective date of its initial management agreement with the Commonwealth, the University shall continue to follow its current independent financial management policies, as well as any new policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

VII. FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

Pursuant to subsection C of § 23.1-206 of the Code of Virginia, the State Council of Higher Education for Virginia (SCHEV) annually shall assess and certify to the Governor and the General Assembly the degree to which each public institution of higher education of the Commonwealth has met the financial and administrative management and education-related performance benchmarks called for by that subsection and approved as part of the general appropriation act then in effect for the state goals and objectives set forth in subdivisions A 1 through 12 of § 23.1-1002 of the Act. Each public institution of higher education of the Commonwealth that (i) has been certified during the fiscal year by SCHEV as having met such institutional performance benchmarks and (ii) meets the conditions prescribed in subsection A of § 23.1-1002 of the Act, shall receive certain financial incentives, including interest on the tuition and fees and other nongeneral fund education and general revenues deposited into the State Treasury by the public institution of higher education. In order to be certified, the University must meet all measures adopted prior to the effective date of this management agreement pursuant to subdivision A 3 of § 23.1-1003 of the Act.

The Commonwealth shall retain all funds related to general fund appropriations but shall pay these funds to the University as specified in Section IX of this policy. The University is authorized to deposit tuition, educational and general fees, research and sponsored program funds, auxiliary enterprise funds, and all other nongeneral fund revenues weekly in the State Treasury pursuant to the state process in place at the time of such deposit. The University shall be given any interest earned on auxiliary balances on a monthly basis.

The University also shall have sum sufficient appropriation authority for all nongeneral funds as approved by the Governor and the General Assembly in the Commonwealth's biennial appropriations process and shall report to the Department of Planning and Budget (i) its estimate of the nongeneral fund revenues for the sum sufficient appropriation to be included in the biennial Budget Bill for each of the two years in the next biennium by November 1 of each odd-numbered year and (ii) the estimate to be included in the Budget Bill for the first and second year of the then-current biennium by November 1 of each even-numbered year.

The board of visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle-income and lower-income undergraduate Virginians. Except as provided otherwise in the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the general appropriation act related to nongeneral funds. In addition, unless prohibited by the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be entitled to retain nongeneral fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates rather than reverting such savings back to the Commonwealth.

For the receipt of general and nongeneral funds, the University shall conform to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended.

VIII. ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all accounts receivable management and collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, such that the University shall take all appropriate and cost-effective actions to aggressively collect accounts receivable in a timely manner.

These actions shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General,

private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's debt setoff collection programs and procedures, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

IX. DISBURSEMENT MANAGEMENT.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The University will continue to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, as it has pursuant to its Level 2.5 authority under § 4-9.02 of Chapter 780 of the Acts of Assembly of 2016.

The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University's disbursement policies shall continue to be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. Upon the effective date, the University shall continue to follow its current disbursement policies, as well as any new disbursement policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new disbursement policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

X. DEBT MANAGEMENT.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all debt management policies as part of a system for the management of University financial resources.

Pursuant to subsection C of § 23.1-1015 of the Act, the University shall have the authority to issue bonds, notes, or other obligations that do not constitute state tax-supported debt, as determined by the Treasury Board, and that are consistent with debt capacity and management policies and guidelines established by its board of visitors, without obtaining the consent of any legislative body, elected official, commission, board, bureau, or agency of the Commonwealth or of any political subdivision, and without any proceedings or conditions other than those specifically required by Article 4 of the Act, provided, however, that the University shall notify the State Treasurer of its intention to issue bonds pursuant to this policy at the time it adopts the bond issuance planning schedule for those bonds. Any new or revised debt capacity and management policy shall be submitted to the State Treasurer for review and comment prior to its adoption by the University.

The University recognizes that there are numerous types of financing structures and funding sources available, each with specific benefits, risks, and costs. All potential funding sources shall be reviewed by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, within the context of the overall portfolio to ensure that any financial product or structure is consistent with the University's objectives. Regardless of the financing structure(s) utilized, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall obtain sufficient documentation to gain a full understanding of the transaction, including (i) the identification of potential risks and benefits and (ii) an analysis of the impact on University creditworthiness and debt capacity. All such debt or financial products issued pursuant to the provisions of §§ 23.1-1014 and 23.1-1015 of the Act shall be authorized by resolution of the board of visitors, providing that they do not constitute state tax-supported debt.

The University currently has established guidelines relating to the total permissible amount of outstanding debt by monitoring University-wide ratios that measure debt compared to University balance sheet resources and annual debt service burden. These measures are monitored and reviewed regularly in light of the University's current strategic initiatives and expected debt requirements. The board of visitors shall periodically review and approve the University's debt capacity and debt management guidelines. The University shall submit any change in the current guidelines to the Treasury of Virginia for review and comment prior to their adoption.

XI. INVESTMENT POLICY.

It is the policy of the University to invest public funds in a manner that will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all statutes governing the investment of public funds. Investments shall be made with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This policy conforms with the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.

Endowment investments, if any, shall be invested and managed in accordance with the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

The University is charged with the responsibility of reporting to the board of visitors on an annual basis.

XII. INSURANCE AND RISK MANAGEMENT.

By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any insurance or risk management program made available to the University through the Commonwealth's Division of Risk Management and in which the University is then participating to enable the Commonwealth to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If, upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from the insurance or risk management program, the University shall reimburse the Commonwealth for all such additional costs attributable to such withdrawal, as determined by the Commonwealth's actuaries. Such payment shall be made in a manner agreeable to both the University and the Commonwealth.

2. That notwithstanding the provisions of subsections A and B of § 23.1-1007 of the Code of Virginia, the management agreement negotiated by George Mason University (the University) shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

CHAPTER 77

An Act providing a management agreement between the Commonwealth and George Mason University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

[S 1204]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That the following shall hereafter be known as the 2021 Management Agreement Between the Commonwealth of Virginia and George Mason University:

*MANAGEMENT AGREEMENT
BY AND BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY*

This MANAGEMENT AGREEMENT, executed this 15th day of November, 2020, by and between the Commonwealth of Virginia (hereafter, the Commonwealth) and George Mason University (hereafter, the University) provides as follows:

RECITALS

WHEREAS, the University has satisfied the conditions precedent set forth in §§ 23.1-1004 and 23.1-1005 of the Code of Virginia to become a public institution of higher education of the Commonwealth governed by Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia ("Article 4" and the "Act", respectively), as evidenced by:

1. Board of Visitors Approval. The minutes of a meeting of the board of visitors of the University held on December 12, 2019, indicate that an absolute two-thirds or more of the members voted to approve the resolution required by subdivision B 2 of § 23.1-1004 of the Act;

2. Written Application to the Governor. The University has submitted to the Governor a written application, dated January 8, 2020, with copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance and Appropriations, and the Senate Committee on Education and Health, expressing the sense of its board of visitors that the University is qualified to be, and should be, governed by Article 4 of the Act, and substantiating that the University has fulfilled the requirements of subdivision B 3 of § 23.1-1004 of the Act; and

3. Finding by the Governor. In accordance with § 23.1-1005 of the Act, the Governor has found that the University has fulfilled the requirements of § 23.1-1004 of the Act, and therefore has authorized Cabinet Secretaries to enter into this management agreement on behalf of the Commonwealth with the University; and

WHEREAS, the University is therefore authorized to enter into this management agreement as provided in subsection B of § 23.1-1004 and Article 4 of the Act.

AGREEMENT

NOW, THEREFORE, in accordance with the provisions of the Act, and in consideration of the foregoing premises, the Commonwealth and the University do now agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means this agreement between the Commonwealth of Virginia and the University as required by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered employee" means any person who is employed by the University on either a salaried or wage basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by and in accordance with the provisions of Article 4 of the Act.

"Enabling statutes" means those chapters, other than Chapter 10 of Title 23.1 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual public institutions of higher education of the Commonwealth.

"Parties" means the parties to this management agreement, the Commonwealth of Virginia and the University.

"Public institution of higher education" means associate-degree-granting and baccalaureate public institutions of higher education, as those terms are defined in § 23.1-100 of the Code of Virginia.

"University" means George Mason University.

*ARTICLE 2. SCOPE OF MANAGEMENT AGREEMENT.**SECTION 2.1. Enhanced Authority Granted and Accompanying Accountability.*

Article 4 of the Act provides that, upon the execution of, and as of the effective date for, this management agreement, the University shall become a covered institution entitled to be granted by the Commonwealth and to exercise the powers and authority provided in Article 4 of the Act that are expressly contained in this management agreement. In general, subject to its management agreement with the Commonwealth, status as a covered institution governed by Article 4 of the Act and this management agreement is intended to replace (i) the post-General Assembly authorization prior-approval system of reviews, approvals, policies, and procedures carried out and implemented by a variety of central state agencies with (ii) a post-audit system of reviews and accountability under which a covered institution is fully responsible and fully accountable for managing itself pursuant to Article 4 of the Act and its management agreement with the Commonwealth.

SECTION 2.1.1. Assessments and Accountability. The University and its implementation of the enhanced authority granted by Article 4 of the Act and this management agreement, and the board of visitors policies attached hereto as Exhibits A through F, shall be subject to the reviews, assessments, and audits (i) set forth in the Act that are to be conducted by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia; (ii) as may be conducted periodically by the Secretaries of Finance, Administration, Education, or by some combination of these three Secretaries; or (iii) as otherwise may be required by law other than the Act.

SECTION 2.1.2. Express Grant of Powers and Authority. Subject to the specific conditions and limitations contained in § 23.1-1008 (Operational Authority Generally), §§ 23.1-1016, 23.1-1017, and 23.1-1019 (Capital Projects; Procurement; Property, Grants, and Loans), and §§ 23.1-1020 through 23.1-1026 (Human Resources) of Article 4 of the Act, the Commonwealth and the University agree that the Commonwealth has granted to the University by this management agreement all the powers and authority contained in certain policies adopted by the board of visitors of the University attached hereto as Exhibits A through F and governing (i) the undertaking and implementation of capital projects, and other acquisition and disposition of property (Exhibit A); (ii) the leasing of property, including capital leases (Exhibit B); (iii) information technology (Exhibit C); (iv) the procurement of goods, services, including certain professional services, insurance, and construction (Exhibit D); (v) human resources (Exhibit E); and (vi) its system of financial management (Exhibit F), including, as provided in subsection B of § 23.1-1012 of the Act, the sole authority to establish tuition, fees, room, board, and other charges consistent with sum sufficient appropriation authority for nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. Subject to the specific conditions and limitations contained in §§ 23.1-1008 through 23.1-1011 of the Act, in this management agreement, and in one or more of the board of visitors policies attached hereto as Exhibits A through F, the Commonwealth and the University agree that the Commonwealth has expressly granted to the University all the powers and authority permitted by the Act.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this management agreement and the policies adopted by it and attached as Exhibits A through F. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate the duties and responsibilities set forth in this management agreement to its officers, committees, and subcommittees, and, as set forth in the policies adopted by the board and attached hereto as Exhibits A through F, to a person or persons within the University.

SECTION 2.1.3. Reimbursement by the University of Certain Costs. By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any health or other group insurance or risk management program made available to the University through any agency, body corporate, political subdivision, authority, or other entity of the Commonwealth, and in which the University is then participating, to enable the Commonwealth's actuaries to complete an adverse selection analysis of any such decision and to determine the

additional costs to the Commonwealth that would result from any such withdrawal. If upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from such health or other group insurance or risk management program, the University shall, pursuant to subdivision B 5 of § 23.1-1004 of the Act, reimburse the Commonwealth for all such additional costs attributable to such withdrawal as determined by the Commonwealth's actuaries.

SECTION 2.1.4. Potential Impact on Virginia College Savings Plan. As required by subdivision B 6 of § 23.1-1004 of the Act, the University has given consideration to potential future impacts of tuition increases on the Virginia College Savings Plan, Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 of the Code of Virginia, and has discussed those potential impacts with the Executive Director and staff of that Plan and with parties in the Administration who participated in the development of this management agreement. The Executive Director of the Plan has provided to the University and the Commonwealth the Plan's assumptions underlying the contract pricing of the program.

SECTION 2.1.5. Justification for Deviations from the Virginia Public Procurement Act. Pursuant to § 23.1-1017 of the Act and subject to the provisions of this management agreement, the University may be exempt from the provisions of the Virginia Public Procurement Act (VPPA), Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. Any procurement policies or rules that deviate from the VPPA must be uniform across all institutions governed by Article 4 of the Act, and the board of visitors shall adopt and comply with procurement policies that are based upon competitive principles and seek competition to the maximum practical degree. The Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials and the Rules Governing Procurement of Goods, Services, Insurance, and Construction (the Procurement Rules) attached to such policy as Attachment 1 constitute the policies and uniform deviations from the VPPA required by subsections A and B of § 23.1-1017 of the Act.

Subsection E of § 23.1-1017 of the Act requires that the University identify the public, educational, and operational interests served by any procurement rule or rules that deviate from those in the VPPA. The adopted board of visitors' policy on procurement and the Procurement Rules provide the University with the autonomy to administer its procurement process while fully adhering to the principle that competition should be sought to the maximum extent feasible. This autonomy will better position the University to support the requirements of its growing teaching, research, and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable the University to be more efficient and effective in meeting the Commonwealth's goals for institutions of higher education. In some instances, costs will be reduced. Taken collectively, the University's procurement policies and rules that differ from those required by the VPPA will enhance procurement "best practices" as they currently are being observed within the higher education community nationally. Further, these changes will provide efficiencies to both the University and public sector suppliers.

SECTION 2.1.6. Quantification of Cost Savings. Subsection D of § 23.1-1012 of the Act requires that a covered institution include in its management agreement with the Commonwealth the quantification of cost savings realized as a result of the additional operational flexibility provided pursuant to Article 4 of the Act. Since this initial management agreement with the Commonwealth has not yet been implemented by the University, the parties agree that the University is not in a position to quantify any such cost savings at this time, although the University expects that there will be cost savings resulting from the additional authority granted to the University pursuant to Article 4 of the Act and that such cost savings will be part of the determinations made during the reviews, assessments, and audits to be conducted pursuant to Article 4 of the Act by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, and as otherwise described in Section 2.1.1 above.

SECTION 2.1.7. Participation in State Programs. The Commonwealth intends that the University shall continue to fully participate in, and receive funding support from, the many and varied programs established now or in the future by the Commonwealth to provide support for Virginia's public institutions of higher education and for Virginians attending such institutions, including but not limited to the state capital outlay and bond financing initiatives undertaken from time to time by the Commonwealth; the Higher Education Equipment Trust Fund established pursuant to Chapter 12 (§ 23.1-1200 et seq.) of Title 23.1 of the Code of Virginia; the Maintenance Reserve Fund as provided in the general appropriation act; the Eminent Scholars program as provided in the general appropriation act; the Commonwealth's various student financial assistance programs; and other statewide programs or initiatives that exist, or may be established, in support of the Commonwealth's higher education institutions, programs, or activities.

SECTION 2.1.8. Implied Authority. Pursuant to subsection C of § 23.1-1006 of the Act, the only implied authority granted to the University by this management agreement is that implied authority that is actually necessary to carry out the expressed grant of financial or operational authority contained in this agreement or in the policies adopted by the University's board of visitors and attached hereto as Exhibits A through F.

SECTION 2.1.9. Exercise of Authority. The University and the Commonwealth acknowledge and agree that the execution of this management agreement constitutes the conclusion of a process that, as of the effective date of this Agreement, confers upon the University the enhanced authority and operating flexibility described in this article above, all of which is in furtherance of the purposes of Article 4 of the Act. Therefore, without any further conditions or requirements, the University shall, on and after the effective date of this management agreement, be authorized to exercise the authority conferred upon it by this management agreement, the policies adopted by its board of visitors attached hereto as Exhibits A through F, and by §§ 23.1-1008 through 23.1-1011 of the Act, except to the extent that the powers and authority contained therein have been limited by this management agreement or the board of visitors policies attached hereto as Exhibits A through F.

The University and the Commonwealth also acknowledge and agree that, pursuant to subsection L of § 23.1-1006 of the Act and consistent with the terms of this management agreement, the board of visitors of the University shall assume full responsibility for management of the University, subject to the requirements and conditions set forth in Article 4 of the Act, the general requirements for this management agreement as provided in § 23.1-1002 of the Act, and this management agreement. The board of visitors shall be fully accountable for (i) the management of the University as provided in the Act, (ii) meeting the requirements of §§ 23.1-206 and 23.1-306 of the Code of Virginia, and (iii) meeting such other provisions as are set forth in this management agreement.

SECTION 2.2. State Goals.

SECTION 2.2.1. Furthering State Goals. As required for all public institutions of higher education of the Commonwealth by subsection A of § 23.1-1002 of the Act, prior to August 1, 2005, the board of visitors of the University adopted the resolution setting forth its commitment to the Governor and the General Assembly to meet the state goals specified in subsection A of § 23.1-1002 of the Act.

SECTION 2.2.2. Student Enrollment, Tuition, and Financial Aid. As required by § 23.1-306 of the Code of Virginia, the University, along with all other public institutions of higher education of the Commonwealth, has developed and submitted to the State Council of Higher Education for Virginia (SCHEV) by October 1, 2019, an institution-specific six-year plan addressing the University's academic, financial, and enrollment plans for the six-year period of fiscal years 2020-2022 through 2024-2026. Subsection A of § 23.1-306 of the Code of Virginia requires the University to update this six-year plan by July 1 of each odd-numbered year and amend or affirm biennially in each even-numbered year. Subdivision B 3 of § 23.1-1006 of the Act requires that a management agreement address, among other issues, such matters as the University's undergraduate Virginia student enrollment, its financial aid requirements and capabilities, and its tuition policy for undergraduate Virginia students. These matters are addressed in this section and in the University's six-year plan submitted to SCHEV, and the parties therefore agree that the University's six-year plan and the description in this section meet the requirement of subdivision B 3 of § 23.1-1006 of the Act.

Subsection C of § 23.1-1012 of the Act requires the board of visitors of the University to include in this management agreement the University's commitment to provide need-based grant aid for middle-income and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. The University's commitment in this regard is clear. The University is committed to increasing the economic and social diversity of the student body at the University. The University is committed to assuring access to qualified and admitted Virginia students.

The University's primary recruiting market is among the most diverse in the commonwealth. As a result, the University draws a large number of talented in-state students from a lower income stratum—students who are challenged to cover their educational costs. Many begin their postsecondary education at Northern Virginia Community College and choose to live at home while attending college. A large number of these students work at off-campus jobs for considerably more than the recommended 10 hours per week, some enroll only part time, and many are less likely to use loans to pay for their education.

In the Fall of 2019, 28.9 percent of the University's undergraduate population were Pell-eligible students. The University's Pell-eligible students graduate at a similar pace to the overall student body—66.9 percent six-year graduation rate for Pell-eligible students compared to 70.6 percent overall.

The University's goal is to reduce unmet financial need for undergraduate students by providing more grant funding. To move forward in accomplishing its goals, over the period of the six-year plan, the University is committed to seeking, from all sources—state-appropriated scholarship funds and federal, institutional, and private support—to continue its commitment to providing additional financial aid through grants and loans to those Virginians with need. In addition, as tuition and fees increase over the period of the six-year plan, the University will readjust the level of financial aid funding so that insufficiency of family resources will not be a barrier to attending, and graduating from, the University.

The Commonwealth and the University agree that this commitment meets the requirements of subsection C of § 23.1-1012 of the Act.

SECTION 2.3. Other Law.

As provided in subsection C of § 23.1-1006 of the Act, the University shall be governed and administered in the manner provided not only in this management agreement, but also as provided in the general appropriation act then in effect and the University's enabling statutes.

SECTION 2.4. The General Appropriation Act.

The Commonwealth and the University agree that, pursuant to the current terms of the Act and the terms of § 4-11.00 of the 2004-2006 Appropriation Act, if there is a conflict between the provisions of the general appropriation act and the provisions of Article 4 of the Act, or this management agreement, or the board of visitors policies attached to this management agreement as Exhibits A through F, the provisions of the general appropriation act shall control, and shall continue to control unless provided otherwise by law.

SECTION 2.4.1. The University's Enabling Statutes. As provided in subsection E of § 23.1-1006 of the Act, in the event of a conflict between any provision of Article 4 of this Act and the University's enabling statutes, the enabling statutes shall control.

SECTION 2.4.2. Title 2.2 of the Code of Virginia. As provided in subsection D of § 23.1-1006 of the Act, except as specifically made inapplicable under Article 4 of the Act and the express terms of this management agreement, the

provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be applicable to the University as provided by the express terms of this management agreement. As further provided in subsection E of § 23.1-1006 of the Act, in the event of conflict between any provision of Title 2.2 and any provision of Article 4 of the Act as expressed in this management agreement, the provisions of this management agreement shall control.

SECTION 2.4.3. Educational Policies of the Commonwealth. As provided in subsection J of § 23.1-1006 of the Act, for purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), §§ 23.1-800, 23.1-801, 23.1-901, and 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subsection B of § 23.1-1303 of Title 23.1 the Code of Virginia, each covered institution shall remain a public institution of higher education following its conversion to a covered institution governed by Article 4 of the Act and shall retain the authority granted and any obligations required by such provisions.

In addition, the University shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 2 (§ 23.1-200 et seq.), Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), Chapter 6, Article 2 (§ 23.1-612 et seq.), Chapter 6, Article 3 (§ 23.1-617 et seq.), Chapter 6, Article 5 (§ 23.1-628 et seq.), Chapter 6, Article 6 (§ 23.1-636 et seq.), § 23.1-619, Chapter 6, Article 7 (§ 23.1-639 et seq.), and Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 the Code of Virginia, unless and until provided otherwise by law other than the Act.

SECTION 2.4.4. Public Access to Information. The University shall continue to be subject to § 2.2-4342 of the Code of Virginia and to the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, but, in all cases, may conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2 of the Code of Virginia.

SECTION 2.4.5. Conflicts of Interests. As provided in subsection F of § 23.1-1006 of the Act, the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the board of visitors of the University and to its covered employees.

SECTION 2.4.6. Other Provisions of the Code of Virginia. Other than as specified in this article above, any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, are not affected by this management agreement or the board policies attached hereto as Exhibits A through F.

ARTICLE 3. AMENDMENTS TO, AND RIGHT AND POWER TO VOID OR REVOKE, MANAGEMENT AGREEMENT.

SECTION 3.1. Amendments.

Any change to or deviation from this management agreement or the board of visitors policies attached hereto as Exhibits A through F shall be reported to the Secretaries of Finance, Administration, and Education and to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations and shall be posted on the University's website. The change or deviation shall become effective unless one of the above persons notifies the University in writing within 60 days that the change or deviation is substantial and material. Any substantial and material change or deviation shall require the execution by the parties of an amendment to this management agreement or a new management agreement and may lead to the Governor declaring this management agreement to be void pursuant to subdivision E of § 23.1-1007 of the Act.

SECTION 3.2. Right and Power to Void, Revoke, or Reinstate Management Agreement.

SECTION 3.2.1. Governor. Pursuant to subdivision E of § 23.1-1007, if the Governor makes a written determination that the University is not in substantial compliance with the terms of this management agreement or with the requirements of the Act in general, (i) the Governor shall provide a copy of that written determination to the rector of the board of visitors of the University and to the members of the General Assembly and (ii) the University shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of this management agreement and with the requirements of the Act, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If, after a reasonable period of time after the corrective action plan has been implemented by the University, the Governor determines that the institution is not yet in substantial compliance with this management agreement or the requirements of the Act, the Governor may void this management agreement. Upon the Governor voiding this management agreement, the University shall no longer be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 4 of the Act unless and until the University has entered into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the voided management agreement is reinstated by the General Assembly.

SECTION 3.2.2. General Assembly. As provided in subsection E of § 23.1-1007 of the Act, the General Assembly may reinstate a management agreement declared void by the Governor. Pursuant to subsection F of § 23.1-1007 of the Act, the University's status as a covered institution governed by Article 4 of the Act may be revoked by an act of the General Assembly if the University fails to meet the requirements of Article 4 of the Act or the management agreement.

ARTICLE 4. GENERAL PROVISIONS.

SECTION 4.1. No Third-Party Beneficiary Status.

Nothing in this Agreement, express or implied, shall be construed as conferring any third-party beneficiary status on any person or entity.

SECTION 4.2. Sovereign Immunity.

Pursuant to subsections G and H of § 23.1-1006 of the Act, the University and the members of its board of visitors, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the University were not governed by the Act, provided that the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia, and its limitations on recoveries shall remain applicable with respect to the University.

SECTION 4.3. Term of Agreement.

The management agreement negotiated by the University shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

WHEREFORE, the foregoing management agreement has been executed as of this 15th day of November, 2020, and shall become effective on the effective date of the legislation enacted into law providing for the terms of such Agreement.

EXHIBIT A
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
CAPITAL PROJECTS
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING CAPITAL PROJECTS

I. PREAMBLE.

Pursuant to Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), upon becoming a covered institution, a public institution of higher education in Virginia may be delegated the authority to establish its own system for undertaking the implementation of its capital projects. In general, status as a covered institution is designed to replace the post-authorization system of reviews, approvals, policies, and procedures carried out by a variety of central state agencies, and also the traditional pre-authorization approval process for projects funded entirely with nongeneral funds and without any proceeds from state tax-supported debt. Consistent with its current practice, the University's system for carrying out its capital outlay process as a covered institution is to be governed by policies adopted by the board of visitors. The following provisions of this policy, together with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment I to that Policy, constitute the adopted board of visitors policies regarding the University's capital projects, whether funded by a general fund appropriation of the General Assembly, state tax-supported debt, or funding from other sources.

This policy is intended to encompass and implement the expanded authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Capital professional services" means professional engineering, architecture, land surveying, and landscape architecture services related to capital projects.

"Capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction, improvements or renovations, and capital leases.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Major capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction of 5,000 square feet or greater or costing \$3 million or more, improvements or renovations of \$3 million or more, and capital leases.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 18, 2019, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy applies to the planning and budget development for capital projects, capital project authorization, and the implementation of capital projects, whether funded by a general fund appropriation of the General Assembly, proceeds from state tax-supported debt, or funding from other sources.

This policy provides guidance for (i) the process for developing one or more capital project programs for the University, (ii) authorization of new capital projects, (iii) procurement of capital professional services and construction services, (iv) design reviews and code approvals for capital projects, (v) environmental impact requirements, (vi) building demolitions, (vii) building and land acquisitions, (viii) building and land dispositions, (ix) project management systems, and (x) reporting requirements.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. CAPITAL PROGRAM.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt a system for developing one or more capital project programs that defines or define the capital needs of the University for a given period of time consistent with the University's published Master Plan. This process may or may not mirror the Commonwealth's requirements for capital plans. The board of visitors shall approve the program for major capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall follow the Commonwealth's requirements for capital plans. The board may approve amendments to the program for major capital projects annually or more often if circumstances warrant.

It shall be University policy that each capital project program shall meet the University's mission and institutional objectives and be appropriately authorized by the University. Moreover, it shall be University policy that each capital project shall be of a size and scope to provide for the defined program needs, designed in accordance with all applicable building codes and handicapped accessibility standards as well as the University's design guidelines and standards, and costed to reflect current costs and escalated to the mid-point of anticipated construction.

VI. AUTHORIZATION OF CAPITAL PROJECTS.

The board of visitors shall authorize the initiation of each major capital project by approving its size, scope, budget, and funding. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt procedures for approving the size, scope, budget, and funding of all other capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall require both the board of visitors' approval and those pre-appropriation approvals of the Commonwealth's governmental agencies then applicable, and shall follow the Commonwealth's process for capital budget requests.

It shall be the policy of the University that the implementation of capital projects shall be carried out so that the capital project as completed is the capital project approved by the board for major capital projects and according to the procedures adopted by the President of the University, acting through the Senior Vice President for Administration or designee, for all other capital projects. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure strict adherence to this requirement.

Accordingly, the budget, size, and scope of a capital project shall not be materially changed beyond the plans and justifications that were the basis for the capital project's approval, either before or during construction, unless approved in advance as described in this section above. Minor changes shall be permissible if they are determined by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, to be justified.

Major capital projects may be submitted for the board of visitors' authorization at any time but must include a statement of urgency if not part of the approved major capital project program.

VII. PROCUREMENT OF CAPITAL PROFESSIONAL SERVICES AND CONSTRUCTION SERVICES.

It shall be the policy of the University that procurements shall result in the purchase of high-quality services and construction at reasonable prices and shall be consistent with the Policy Governing the Procurement of Goods, Services,

Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and with the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to such policy. Specifically, the University is committed to:

- 1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;*
- 2. Conducting all procurements in a fair and impartial manner and avoiding any impropriety or the appearance of any impropriety prohibited by state law or University policy;*
- 3. Making procurement rules clear in advance of any competition;*
- 4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;*
- 5. Including in contracts of more than \$10,000 the contractor's agreement not to discriminate against employees or applicants because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law except where there is a bona fide occupational qualification reasonably necessary to the contractor's normal operations; and*
- 6. Providing for a nondiscriminatory procurement process, and including appropriate and lawful provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.*

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to develop implementing procedures for the procurement of capital professional services and construction services at the University. The procedures shall implement this policy and provide for:

- a. A system of competitive negotiation for capital professional services, including a procedure for expedited procurement of capital professional services under \$80,000, pursuant to subdivisions 1, 2, and 3 a of the defined term "competitive negotiation" in § 4 of the Rules Governing Procurement of Goods, Services, Insurance, and Construction;*
- b. A prequalification procedure for contractors or products;*
- c. A procedure for special construction contracting methods, including but not limited to design-build and construction management contracts; and*
- d. A prompt payment procedure.*

The University also may enter into cooperative arrangements with other private or public health or educational institutions, health care provider alliances, purchasing organizations, or state agencies where, in the judgment of the University, the purposes of this policy will be furthered.

VIII. DESIGN REVIEWS AND CODE APPROVALS.

The board of visitors shall review the design of all major capital projects and shall provide final major capital project authorization based on the size, scope, and cost estimate provided with the design. Unless stipulated by the board of visitors at the design review, no further design reviews shall be required. For all capital projects other than major capital projects, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt procedures for design review and project authorization based on the size, scope, and cost estimate provided with the design. It shall be University policy that all capital projects shall be designed and constructed in accordance with applicable Virginia Uniform Statewide Building Code (VUSBC) standards and the applicable accessibility code.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall designate a building official responsible for building code compliance at the University, by either (i) hiring an individual to be the University building official or (ii) continuing to use the services of the Department of General Services, Division of Engineering and Buildings (DGS-DEB), to perform the building official function. If option (i) is selected, the individual hired as the University building official shall be a full-time employee of the University who has no other assigned duties or responsibilities at the institution and who is not employed by any firm or business providing facility services to the University, is a registered professional architect or engineer, and is certified by the Department of Housing and Community Development to perform this building official function. The University building official shall issue building permits for each capital project required by the VUSBC to have a building permit, shall determine the suitability for occupancy of, and shall issue certifications for building occupancy for, all capital projects requiring such certification. Prior to issuing any such certification, this individual shall ensure that the VUSBC and accessibility requirements are met for that capital project and that such capital project has been inspected by the State Fire Marshal or designee as required. When serving as the University building official, such individual shall organizationally report directly and exclusively to the board of visitors. If the University hires its own University building official, it shall fulfill the code review requirement by maintaining a review unit of licensed professional architects or engineers supported by resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 of the Code of Virginia for such purpose and who shall review plans, specifications, and documents for compliance with building codes and standards and perform required inspections of work in progress and the completed capital project. No individual licensed professional architect or engineer hired under the University personnel system as a member of the review unit or contracted with to perform these functions shall also perform other building code-related design, construction, facilities-related project management, or facilities management functions for the University on the same capital project. If option (i) is selected, DGS-DEB will be afforded an opportunity to review and comment on the University's building code official program prior to the University performing building code official responsibilities.

IX. ENVIRONMENTAL IMPACT REPORTS.

It shall be the policy of the University to assess the environmental, historic preservation, and conservation impacts of all capital projects and to minimize and otherwise mitigate all adverse impacts to the extent practicable. The University shall develop a procedure for the preparation and approval of environmental impact reports for capital projects, in accordance with state environmental, historic preservation, and conservation requirements generally applicable to capital projects otherwise meeting the definition of major capital projects but with a cost of \$500,000 or more as set forth in § 10.1-1188 of the Code of Virginia.

X. BUILDING DEMOLITIONS.

It shall be the policy of the University to consider the environmental and historical aspects of any proposed demolitions. The University shall develop a procedure for the preparation and review of demolition requests, including any necessary reviews by the Department of Historic Resources and the Art and Architectural Review Board in accordance with state historic preservation requirements generally applicable to capital projects in the Commonwealth. Further, for any property that was acquired or constructed with funding from a general fund appropriation of the General Assembly or from proceeds from state tax-supported debt, general laws applicable to state-owned property shall apply.

XI. BUILDING OR LAND ACQUISITIONS.

It is the policy of the University that capital projects involving building or land acquisition shall be subjected to thorough inquiry and due diligence prior to closing on the acquisition of such real property. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that the project management system implemented pursuant to Section XIII of this policy provides for a review and analysis of all pertinent matters relating to the acquisition of buildings and land as any prudent purchaser would perform to the end that any building or land acquired by the University shall be suitable for its intended purpose, that the acquisition can be made without substantial risk of liability to the University, and that the cost of the real property to be acquired, together with any contemplated development thereof, shall be such that compliance with the provisions of Section VI of this policy is achieved. In addition, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that, where feasible and appropriate to do so, the following specific policies pertaining to the acquisition of buildings or land for capital projects are carried out.

A. Environmental and Land Use Considerations.

It is the policy of the University to reasonably cooperate with each locality affected by the acquisition. Such cooperation shall include but not be limited to furnishing any information that the locality may reasonably request and reviewing any requests by the locality with regard to any such acquisition. The University shall consider the zoning and comprehensive plan designation by the locality of the building or land and surrounding parcels, as well as any designation by state or federal agencies of historically or archeologically significant areas on the land. Nothing herein shall be construed as requiring the University to comply with local zoning laws and ordinances.

B. Infrastructure and Site Condition.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall ensure that, in the case of capital projects involving the acquisition of buildings or land, the project management systems implemented under Section XIII of this policy provide for a review of the following matters prior to acquisition of the building or land: that any land can be developed for its intended purpose without extraordinary cost; that an environmental engineer has been engaged by the University to provide an assessment of any environmental conditions on the land; that there is adequate vehicular ingress and egress to serve the contemplated use of the building or land; that utilities and other services to the land are adequate or can reasonably be provided or have been provided in the case of building acquisitions; and that the condition and grade of the soils have been examined to determine if any conditions exist that would require extraordinary site work.

C. Title and Survey.

A survey shall be prepared for any real property acquired, and an examination of title to the real property shall be conducted by a licensed attorney or, in the alternative, a commitment for title insurance shall be procured from a title insurance company authorized to do business in the Commonwealth. Based upon the survey and title examination or report, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall conclude, prior to acquisition of the real property, that title thereto will be conveyed to the University in fee simple, free and clear of all liens, encumbrances, covenants, restrictions, easements, or other matters that may have a significant adverse effect upon the University's ability to own, occupy, convey, or develop the real property.

D. Appraisal.

An appraisal shall be conducted of the real property to be acquired to determine its fair market value and the consistency of the fair market value with the price agreed upon by the University.

XII. BUILDING OR LAND DISPOSITIONS.

The board of visitors shall approve the disposition of any building or land. Disposition of land or buildings, the acquisition or construction of which was funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt, shall require both the board of visitors' approval and other approvals in accordance with general law applicable to state-owned property and with the University's enabling statutes.

XIII. PROJECT MANAGEMENT SYSTEMS.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall implement one or more systems for the management of capital projects for the University. The systems may include the delegation of project management authority to appropriate University officials, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate.

The project management systems for capital projects shall be designed to ensure that such projects comply with the provisions of this policy and other board of visitors' policies applicable to closely related subjects such as the selection of architects or policies applicable to University buildings and grounds.

The project management systems may include one or more reporting systems applicable to capital projects whereby University officials responsible for the management of such projects provide appropriate and timely reports to the President of the University on the status of such projects during construction.

XIV. REPORTING REQUIREMENTS.

In addition to complying with any internal reporting systems contained in the University's project management systems, as described in Section XIII above, the University shall comply with state reporting requirements for those major capital projects funded entirely or in part by a general fund appropriation of the General Assembly or state tax-supported debt. Additionally, if any capital project constructs improvements on land, or renovates property, that originally was acquired or constructed in whole or in part with a general fund appropriation for that purpose or proceeds from state tax-supported debt, and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, and if the cost of such improvements or renovations is reasonably expected to exceed \$3 million, the decision to undertake such improvements or renovations shall be communicated as required by subdivision D 3 of § 23.1-1016 of the Act. As a matter of routine, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall report to the Department of General Services on the status of such capital projects at the initiation of the project, prior to the commencement of construction, and at the time of acceptance of any such capital project.

EXHIBIT B
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING LEASES OF REAL PROPERTY
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING LEASES OF REAL PROPERTY

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that, upon becoming a covered institution, the University may have the authority to establish its own system for the leasing of real property. The University's system for implementing this authority is governed by policies adopted by the board of visitors. The following provisions of this policy constitute the adopted board of visitors' policies regarding leases of real property entered into by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, as defined in § 23.1-1000 of the Act, are not affected by this policy.

II. DEFINITIONS.

The following words and terms, when used in this policy, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Covered institution" means a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by Article 4 of the Act.

"Expense lease" means an operating lease of real property under the control of another entity to the University.

"Income lease" means an operating lease of real property under the control of the University to another entity.

"Lease" means any type of lease involving real property.

"Operating lease" means any lease involving real property, or improvements thereon, that is not a capital lease.

III. SCOPE OF POLICY.

This policy provides guidance for the implementation of all University leases.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. REQUIREMENTS FOR LEASES.

A. Factors to Be Considered When Entering into Leases.

All leases shall be for a purpose consistent with the mission of the University. The decision to enter into a lease shall be further based upon cost, demonstrated need, compliance with this policy, consideration of all costs of occupancy, and a determination that the use of the property to be leased is necessary and is efficiently planned. Leases shall also conform to the space planning procedures that may be adopted by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, to ensure that the plan for the space to be leased is consistent with the purpose for which the space is intended.

B. Competition to Be Sought to Maximum Practicable Degree.

Competition shall be sought to the maximum practicable degree for all leases. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to ensure that leases are procured through competition to the maximum degree practicable and to determine when, under guidelines that may be developed and adopted by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, it is impractical to procure leases through competition.

C. Approval of Form of Lease Required.

The form of leases entered into by the University shall be approved by the University's legal counsel.

D. Execution of Leases.

All leases entered into by the University shall be executed only by those University officers or persons authorized by the President of the University or as may subsequently be authorized by the board of visitors, and subject to any such limits or conditions as may be prescribed in the delegation of authority. Subject to the University's Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University, no other University approval shall be required for leases or leasing, nor state approval required except in the case of leases of real property as may be governed by general state law in accordance with §§ 23.1-1016 and 23.1-1028 of the Act.

E. Capital Leases.

The board of visitors shall authorize the initiation of capital leases pursuant to the authorization process included in the Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University.

F. Compliance with Applicable Law.

All leases of real property by the University shall be consistent with any requirements of law that are contained in the Act or are otherwise applicable.

G. Certification of Occupancy.

All real property covered by an expense lease or leased by the University under a capital lease shall be certified for occupancy by the appropriate public body or building official.

**EXHIBIT C
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
INFORMATION TECHNOLOGY
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING INFORMATION TECHNOLOGY**

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides in § 23.1-1018, inter alia, that public institutions of higher education in the Commonwealth of Virginia that have entered into a management agreement with the Commonwealth "may be exempt

from the provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if the governing board of such covered institution adopts and the covered institution complies with" policies that govern the exempted provisions. This policy shall become effective upon the effective date of a management agreement between the Commonwealth and the University authorized in accord with the Act and which incorporates this policy. The board of visitors of the University is authorized to adopt this policy pursuant to § 23.1-1018 of the Act.

II. DEFINITIONS.

As used in this policy, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Information technology" or "IT" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Major information technology project" or "major IT project" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Policy" means this Information Technology Policy adopted by the board of visitors.

"State Chief Information Officer" or "State CIO" means the Chief Information Officer of the Commonwealth of Virginia. These terms shall include, where appropriate and/or required by law, the Virginia Information Technologies Agency.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy is intended to cover and implement the authority that the University will exercise under Article 4 of the Act. This policy is not intended to affect any other powers and authorities granted to the University pursuant to the general appropriation act and the Code of Virginia, including other provisions of the Act or the University's enabling statutes, as that term is defined in § 23.1-1000 of the Act.

This policy shall govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University. Upon the effective date of this management agreement between the Commonwealth and the University, therefore, the University shall be exempt from the provisions of the Code of Virginia governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that otherwise would govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University, provided, however, that the University still shall be subject to those provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that are applicable to public institutions of higher education of the Commonwealth and that do not govern information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits within, by, or on behalf of the University.

The procurement of information technology and telecommunications goods and services, including automated data processing hardware and software, shall be governed by the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials (Exhibit D) approved by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction that are incorporated in and attached to such policy.

IV. GENERAL PROVISIONS.

A. Board of Visitors Accountability and Delegation of Authority.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

B. Strategic Planning.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for overall IT strategic planning at the University, which shall be linked to and in support of the University's overall strategic plan.

At least 45 days prior to the beginning of each fiscal year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available the University's IT strategic plan covering the next fiscal year to the State CIO for his review and comment with regard to the consistency of the University's plan with

the intent of the currently published overall six-year IT strategic plan for the Commonwealth developed by the State CIO pursuant to subdivision A 3 of § 2.2-2007.1 of the Code of Virginia, and into which the University's plan is to be incorporated.

C. Expenditure Reporting and Budgeting.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall approve and be responsible for overall IT budgeting and investments at the University. The University's IT budget and investments shall be linked to and in support of the University's IT strategic plan, and shall be consistent with general University policies, the board-approved annual operating budget, and other board approvals for certain procurements.

By October 1 of each year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available to the State CIO a report on the previous fiscal year's IT expenditures.

The University shall be specifically exempt from:

1. Subdivision B 3 of § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to review by the State CIO of IT budget requests;

2. The Virginia Technology Infrastructure Fund, Article 3 (§ 2.2-2022 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and

3. Any other substantially similar provision of the Code of Virginia governing IT expenditure reporting and budgeting, as it currently exists and from time to time may be amended.

D. Project Management.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the project management policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project management as defined by leading IT consulting firms, leading software development firms, or a nationally recognized project management association, appropriately tailored to the specific circumstances of the University. Copies of the board's policies, standards, and guidelines shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall oversee the management of all University IT projects. IT projects may include, but are not limited to, upgrades to network infrastructure, provision of technology to support research, database development, implementation of new applications, and development of IT services for students, faculty, and staff. Day-to-day management of projects shall be the responsibility of appointed project directors and shall be in accordance with the project management policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

On a quarterly basis, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall report to the State CIO on the budget, schedule, and overall status of the University's major IT projects. This requirement shall not apply to research projects, research initiatives, or instructional programs.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for decisions to substantially alter a project's scope, budget, or schedule after initial approval.

The University shall be specifically exempt from:

1. Section 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to additional duties of the State CIO relating to information technology planning and budgeting;

2. Division of Project Management, Article 2 (§ 2.2-2016 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and

3. Any other substantially similar provision of the Code of Virginia governing IT project management, as it currently exists or from time to time may be amended.

The State CIO shall continue to have the authority regarding project suspension and termination as provided in subsection B of § 2.2-2016.1 of the Code of Virginia and shall continue to provide the University with reasonable notice of, and a reasonable opportunity to correct, any identified problems before a project is terminated.

E. Infrastructure, Architecture, Ongoing Operations, and Security.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines related to IT infrastructure, architecture, ongoing operations, and security developed by the Commonwealth or those of nationally recognized associations, appropriately tailored to the specific circumstances of the University. Copies of the policies shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall be responsible for implementing such policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

For purposes of implementing this policy, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall appoint an existing University employee to serve as a liaison between the University and the State CIO.

F. Audits.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project auditing as defined by leading IT experts, including consulting firms, or a nationally recognized project auditing association, appropriately tailored to the specific circumstances of the University, which provide for independent validation and verification of the University's major IT

projects. Copies of the policies, standards, and guidelines, as amended and revised from time to time, shall be made available to the State CIO.

Audits of IT strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, and security shall also be the responsibility of the University's internal audit department and the Auditor of Public Accounts.

EXHIBIT D
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
THE PROCUREMENT OF GOODS, SERVICES,
INSURANCE, AND CONSTRUCTION AND
THE DISPOSITION OF SURPLUS MATERIALS
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING
THE PROCUREMENT OF GOODS, SERVICES,
INSURANCE, AND CONSTRUCTION AND
THE DISPOSITION OF SURPLUS MATERIALS

I. PREAMBLE.

A. Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that the University, upon becoming a covered institution, shall be authorized to establish its own system for the procurement of goods, services, insurance, and construction and for the independent disposition of surplus materials by public or private transaction.

The Act provides that a covered institution shall comply with policies adopted by its board of visitors for the procurement of goods, services, insurance, and construction and the disposition of surplus materials. The provisions of this policy, together with the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I, constitute the adopted board of visitors' policies required by the Act regarding procurement of goods, services, insurance, and construction and the disposition of surplus materials by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, the general appropriation act, and the University's enabling statutes are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the management agreement.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Rules" means the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies. "Services" includes both professional services, which include the practice of accounting, actuarial services, law, dentistry, medicine, optometry, and pharmacy, and nonprofessional services, which include any service not specifically identified as professional services.

"Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, that are determined to be surplus by the University.

"University" means George Mason University.

III. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

IV. GENERAL PROVISIONS.

A. Adoption of This Policy and Continued Applicability of Other Board of Visitors Procurement Policies.

The University has had decentralization and pilot program autonomy in many procurement functions and activities since the 1994 Appropriation Act. The Act extends and reinforces the autonomy previously granted to the University in Item 330 E of the 1994 Appropriation Act. This policy therefore is adopted by the board of visitors to enable the University to develop a procurement system, as well as a surplus materials disposition system. Any University electronic procurement system shall integrate or interface with the Commonwealth's electronic procurement system.

This policy shall be effective on the effective date. The policies and procedures adopted by the President of the University to implement this policy shall continue to be subject to any other policies adopted by the board of visitors affecting procurements at the University, including policies regarding the nature and amounts of procurements that may be undertaken without the approval of the board of visitors or the President of the University.

B. Scope and Purpose of University Procurement Policies.

This policy shall apply to procurements of goods, services, insurance, and construction. It shall be the policy of the University that procurements conducted by the University result in the purchase of high quality goods and services at reasonable prices, and that the University be free, to the maximum extent permitted by law and this policy, from constraining policies that hinder the ability of the University to do business in a competitive environment. This policy, together with the rules, shall apply to all procurements undertaken by the University, regardless of the source of funds.

C. Collaboration, Communication, and Cooperation with the Commonwealth.

The University is committed to developing, maintaining, and sustaining collaboration, communication, and cooperation with the Commonwealth regarding the matters addressed in this policy, particularly with the Secretary of Administration, the Department of General Services, and the Virginia Information Technologies Agency. Identifying business objectives and goals common to both the University and the Commonwealth and the mechanisms by which such objectives and goals may be jointly pursued and achieved are among the desired outcomes of such collaboration, communication, and cooperation.

D. Commitment to Statewide Contracts, Electronic Procurement, and SWAM Participation and Use.

The University is committed to maximizing its internal operational efficiencies, economies of scale among institutions of higher education, and the leveraged buying power of the Commonwealth as a whole.

Consistent with this commitment, the University:

1. May purchase from and participate in all statewide contracts for goods and services, including information technology goods and services, except that the University shall purchase from and participate in contracts for communications services and telecommunications facilities entered into by the Virginia Information Technologies Agency pursuant to § 2.2-2011 of the Code of Virginia unless an exception is provided in the general appropriation act or by other law, and provided that orders not placed through statewide contracts shall be processed directly or by integration or interface through the Commonwealth's electronic procurement system;

2. Shall use directly or by integration or interface the Commonwealth's electronic procurement system; and

3. Shall adopt a small, woman-owned, and minority-owned (SWAM) business program that is consistent with the Commonwealth's SWAM program.

E. Implementation.

To effect its implementation under the Act, and if the University remains in continued substantial compliance with the terms and conditions of this management agreement with the Commonwealth pursuant to the requirements of the Act, the University's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia, except § 2.2-4342 and §§ 2.2-4367 through 2.2-4377 of such chapter; the oversight of the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia; the state agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials in §§ 2.2-1124 and 2.2-1125 of the Code of Virginia; the requirement to purchase from the Department for the Blind and Vision Impaired pursuant to § 2.2-1117 of the Code of Virginia; and any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including but not limited to Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the review and the oversight by the Division of Engineering and Buildings of the Virginia Department of General Services of contracts for the construction of University capital projects and construction-related professional services as set forth in § 2.2-1132 of such article.

*V. UNIVERSITY PROCUREMENT POLICIES.**A. General Competitive Principles.*

In connection with University procurements and the processes leading to award of contracts for goods, services, insurance, and construction, the University is committed to:

- 1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;*
- 2. Conducting all procurements in an open, fair, and impartial manner and avoiding any impropriety or the appearance of any impropriety;*
- 3. Making procurement rules clear in advance of any competition;*
- 4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;*
- 5. Ensuring that specifications for purchases are fairly drawn so as not to favor unduly a particular vendor; and*
- 6. Providing for the free exchange of information between the University, vendors, firms, or contractors concerning the goods or services sought and offered while preserving the confidentiality of proprietary information.*

B. Access to Records.

Procurement records shall be available to citizens or to interested persons, firms, or corporations in accordance with the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, except those records exempt from disclosure pursuant to subdivisions 7 and 12 of § 2.2-3705.1, subdivision 4 of § 2.2-3705.4, or other applicable exemptions of the Virginia Freedom of Information Act, and § 2.2-4342 of the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia.

C. Cooperative Procurements and Alliances.

In circumstances where the University determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the University that meet its business goals and objectives, the University is authorized to participate in cooperative procurements with other public or private organizations or entities, including other educational institutions, public-private partnerships, public bodies, charitable organizations, health care provider alliances, and purchasing organizations, so long as the resulting contracts are procured competitively pursuant to subsections A through J of § 5 of the rules and the purposes of this policy are furthered. In the event the University engages in a cooperative contract with a private organization or public-private partnership and the contract was not competitively procured pursuant to subsections A through J of § 5 of the rules, use of the contract by other state agencies, institutions, and public bodies shall be prohibited. Notwithstanding all of the provisions of this subsection above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. By October 1 of each year, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall make available to the Secretary of Administration, the Joint Legislative Audit and Review Commission, and the Auditor of Public Accounts a list of all cooperative contracts and alliances entered into or used during the prior fiscal year.

D. Training; Ethics in Contracting.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall take all necessary and reasonable steps to assure (i) that all University officials responsible for and engaged in procurements authorized by the Act and this policy are knowledgeable regarding the requirements of the Act, this policy, and the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia; (ii) that only officials authorized by this policy and any procedures adopted by the President of the University to implement this policy are responsible for and engaged in such procurements; and (iii) that compliance with the Act and this policy are achieved.

The University shall maintain an ongoing program to provide professional development opportunities to its buying staff and to provide methods training to internal staff who are engaged in placing decentralized small purchase transactions.

E. Ethics and University Procurements.

In implementing the authority conferred by this policy, the personnel administering any procurement shall adhere to the following provisions of the Code of Virginia: the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, and the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia.

VI. UNIVERSITY SURPLUS MATERIALS POLICY AND PROCEDURES.

The policy and procedures for disposal for surplus materials shall provide for the sale, environmentally appropriate disposal, or recycling of surplus materials by the University and the retention of the resulting proceeds by the University.

VII. ADOPTION AND EFFECTIVE DATES OF RULES AND IMPLEMENTING POLICIES AND PROCEDURES.

A. The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall adopt one or more comprehensive sets of specific procurement policies and procedures for the University that, in addition to the rules, implement applicable provisions of law and this policy. The University procurements shall be

carried out in accordance with this policy, the rules, and any implementing policies and procedures adopted by the University. The implementing policies and procedures adopted by the University (i) shall include the delegation of procurement authority by the board to appropriate University officials who shall oversee University procurements of goods, services, insurance, and construction, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate, and (ii) shall remain consistent with the competitive principles set forth in Section V of this policy.

B. Any implementing policies and procedures adopted pursuant to subsection A and the rules shall become effective on the effective date and, as of such date, shall be applicable to all procurements undertaken by the University on behalf of the University for goods, services, insurance, and construction. This policy, the rules, and any implementing policies and procedures adopted by the University shall not affect existing contracts already in effect.

C. The rules and the University implementing policies and procedures for all University procurements of goods, services, insurance, and construction and the disposition of surplus property shall be substantially consistent with the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors in their form as of the effective date and as amended or changed in the future, and with the University procedures specific to the acquisition of goods and services. The rules and the University implementing policies and procedures shall implement a system of competitive negotiation, and competitive sealed bidding when appropriate, for goods, services, including professional services, as defined in the rules, insurance, and construction.

VIII. REQUIREMENTS FOR RULES AND IMPLEMENTING POLICIES AND PROCEDURES.

A. Protests, Appeals, and Debarment.

The rules and the University implementing policies and procedures for procurements other than capital outlay shall include a process or processes for an administrative appeal by vendors, firms, or contractors. Protests and appeals may challenge determinations of vendor, firm, or contractor non-responsibility or ineligibility, or the award of contracts, provided that such protests and appeals are filed within the timeframes specified by the rules. Remedies available shall be limited to reversal of the action challenged or, where a contract already being performed is declared void, compensation for the cost of performance up to the time of such declaration. The rules and the University implementing policies and procedures also may establish the basis and process for debarment of any vendor, firm, or contractor.

B. Prompt Payment of Contractors and Subcontractors.

The rules and the University implementing policies and procedures shall include provisions related to prompt payment of outstanding invoices, which shall include payment of interest on properly presented invoices outstanding more than seven days beyond the payment date, at a rate no higher than the lowest prime rate charged by any commercial bank as published in the Wall Street Journal. The payment date shall be the later of 30 days from the date of the receipt of goods or invoice, or the date established by the contract. All contracts also shall require prompt payment of subcontractors by the general contractor, upon receipt of payment by the University.

C. Types of Procurements.

The rules and the University implementing policies and procedures shall implement a system of competitive negotiation for professional services, as defined in the rules, and shall implement purchasing procedures developed to maximize competition given the size and duration of the contract and the needs of the University. Such policies and procedures may include special provisions for procurements, such as emergency procurements, sole source procurements, brand name procurements, small purchases, procurements in which only one qualified vendor responds, and others.

D. Approval and Public Notice of Procurements.

The rules and the University implementing policies and procedures shall provide for approval of solicitation documents by an authorized individual and for reasonable public notice of procurements, given the size and nature of the need and the applicability of any exemption in the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

E. Administration of Contracts.

The rules and the University implementing policies and procedures shall contain provisions related to the administration of contracts, including contract claims, modifications, extensions, and assignments.

F. Nondiscrimination.

The rules and the University implementing policies and procedures shall provide for a nondiscriminatory procurement process that prohibits discrimination because of the race, religion, color, sex, or national origin of the bidder or offeror in the solicitation and award of contracts and shall include appropriate provisions to effectuate fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers.

ATTACHMENT I

*Rules Governing Procurement of Goods, Services, Insurance, and Construction
by a Public Institution of Higher Education of the Commonwealth of Virginia
Governed by Article 4 of the
Restructured Higher Education Financial and Administrative Operations Act,
Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

In accordance with the provisions of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and in particular § 23.1-1017 of the Act, the

governing body of a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth pursuant to Article 4 of the Act has adopted the following rules to govern the procurement of goods, services, insurance, and construction by the Institution:

§ 1. Purpose. -

The purpose of these rules is to enunciate the public policies pertaining to procurement of goods, services, insurance, and construction by the Institution from nongovernmental sources, to include governmental procurement that may or may not result in monetary consideration for either party. These rules shall apply whether the consideration is monetary or nonmonetary and regardless of whether the Institution, the contractor, or some third party is providing the consideration.

§ 2. Scope of procurement authority. -

Subject to these rules, and the Institution's continued substantial compliance with the terms and conditions of its management agreement with the Commonwealth pursuant to the requirements—particularly Article 4—of the Act, the Institution shall have and shall be authorized to have and exercise all of the authority relating to procurement of goods, services, insurance, and construction, including but not limited to capital outlay-related procurement and information technology-related procurement, that Institutions are authorized to exercise pursuant to Article 4 of the Act.

§ 3. Competition is the priority. -

To the end that the Institution shall obtain high-quality goods and services at reasonable cost, that all procurement procedures be conducted in an open, fair, and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to the Institution's business, and that no offeror be arbitrarily or capriciously excluded, it is the intent of the governing body of the Institution that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered. The Institution may consider best-value concepts when procuring goods and nonprofessional services but not construction or professional services. Professional services will be procured using a qualification-based selection process. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

§ 4. Definitions. -

As used in these rules:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition, "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value" means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the Institution's needs, as predetermined in the solicitation.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" means a method of contractor selection that includes the following elements:

1. Issuance of a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.

2. Public notice of the request for proposal at least 10 days prior to the date set for receipt of proposals by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice also shall be published on the Department of General Services' central electronic procurement website and may be published on other appropriate websites. In addition, proposals may be solicited directly from potential contractors.

3. a. Procurement of professional services. The procurement of professional services for capital projects shall be conducted using a qualification-based selection process. The Institution shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Institution may discuss nonbinding estimates of total project costs, including, but not limited to, lifecycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the request for proposal and all

information developed in the selection process to this point, the Institution shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Institution can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Institution determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by the Institution for multiple projects, provided (i) the projects require similar experience and expertise and (ii) the nature of the projects is clearly identified in the request for proposal. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall be as set in the request for proposal, and (c) the project fee of any single project shall not exceed the term limit as set in the request for proposal. Any unused amounts from any contract term may be carried forward. Competitive negotiations for such contracts may result in awards to more than one offeror provided the request for proposal stated the potential for a multivendor award.

Multiphase professional services contracts satisfactory and advantageous to the Institution for environmental, location, design, and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Institution shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such Institution require awarding the contract.

b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the Institution shall select the offeror that, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the request for proposal, awards may be made to more than one offeror. Should the Institution determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, that includes the following elements:

1. Issuance of a written invitation to bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the Institution has provided for prequalification of bidders, the invitation to bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the invitation to bid at least 10 days prior to the date set for receipt of bids by publication on the Department of General Services' central electronic procurement website. Public notice also may be published in a newspaper of general circulation or on other appropriate websites, or both. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

3. Public opening and announcement of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, lifecycle costing, value analysis, and any other criteria, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, that are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the invitation to bid, awards may be made to more than one bidder.

"Construction" means building, altering, repairing, improving, or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading, or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner. "Construction management contract" may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" or "Institution" means, on and after the effective date of the initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Design-build contract" means a contract between the Institution and another party in which the party contracting with the Institution agrees to both design and build the structure, roadway, or other item specified in the contract.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, that does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of "professional services" and includes small construction projects valued not over \$1 million, provided that subdivision 3 a of the definition of "competitive negotiation" in this section shall still apply to professional services for such small construction projects.

"Potential bidder or offeror" for the purposes of §§ 50 and 54 of these rules, means a person who, at the time the Institution negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

"Public body" means any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in these rules.

"Public contract" means an agreement between the Institution and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation to bid.

"Rules" means these Rules Governing Procurement of Goods, Services, Insurance, and Construction adopted by the governing body of the covered institution.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.

"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

§ 5. Methods of procurement. -

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation. Qualification-based selection shall be used for design services.

C. Goods, services, or insurance may be procured by competitive negotiation.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the Institution and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Institution on a fixed price design-build basis or construction management basis under § 7;

2. By the Institution for the construction, alteration, repair, renovation, or demolition of buildings; or

3. By the Institution for the construction of highways and any draining, dredging, excavation, grading, or similar work upon real property.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The Institution shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which

may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first. Public notice shall also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and may be published on other appropriate websites.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Institution shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and other appropriate websites.

G. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

H. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

I. Upon a determination made in advance by the Institution and set forth in writing that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination.

J. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning.

§ 6. Cooperative procurement. -

A. In circumstances where the Institution determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the Institution that meet its business goals and objectives, the Institution is authorized to participate in, sponsor, conduct, or administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies, public or private health or educational institutions, other public or private organizations or entities, including public-private partnerships, charitable organizations, health care provider alliances, or purchasing organizations or entities, or with public agencies or institutions or group purchasing organizations of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. The Institution may purchase from any authority, department, agency, institution, city, county, town, or other political subdivision of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in these rules and the administrative policies and procedures established to implement these rules shall be permitted. Notwithstanding all of the provisions of this section above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

B. In circumstances where statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to meet the Institution's business goals and objectives, and as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. The Institution may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the United States government; and

2. The Institution may purchase telecommunications and information technology goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government.

§ 7. Design-build or construction management contracts authorized. -

A. Notwithstanding any other provisions of law, the Institution may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this section.

B. Procurement of construction by the design-build or construction management method shall be a two-step competitive negotiation process. In the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other relevant information that the Commonwealth may obtain, no more than five offerors deemed most suitable for the project shall be selected by the Commonwealth and requested to submit proposals.

§ 8. Modification of the contract. -

A. A contract awarded by the Institution may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25 percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the President of the Institution or designee. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

B. The Institution may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

C. Nothing in this section shall prevent the Institution from placing greater restrictions on contract modifications.

§ 9. Discrimination prohibited; participation of small, women-owned, and minority-owned business. -

A. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, the Institution shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

B. The Institution shall establish programs consistent with this section to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. The programs established shall be in writing and shall include cooperation with the Department of Minority Business Enterprise, the U.S. Small Business Administration, and other public or private agencies. The Institution shall submit annual progress reports on minority business procurement to the Department of Minority Business Enterprise.

C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is by law authorized and encouraged to require the Institution to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless it has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

§ 10. Employment discrimination by contractor prohibited; required contract provisions. -

The Institution shall include in every contract of more than \$10,000 the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of subdivisions 1 a, b, and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

§ 11. Drug-free workplace to be maintained by contractor; required contract provisions. -

The Institution shall include in every contract over \$10,000 the following provisions:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with these rules, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the contract.

§ 12. Use of brand names. -

Unless otherwise provided in the invitation to bid, the name of a certain brand, make, or manufacturer shall not restrict bidders to the specific brand, make, or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the Institution in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

§ 13. Comments concerning specifications. -

The Institution shall establish procedures whereby comments concerning specifications or other provisions in invitations to bid or requests for proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.

§ 14. Prequalification generally; prequalification for construction. -

A. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

B. Any prequalification of prospective contractors for construction by the Institution shall be pursuant to a prequalification process for construction projects adopted by the Institution. The process shall be consistent with the provisions of this section.

The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 34 of these rules.

In all instances in which the Institution requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the Institution shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

A decision by the Institution denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in § 54 of these rules.

C. The Institution may deny prequalification to any contractor only if the Institution finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the Institution shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director, or owner thereof has had judgments entered against him within the past 10 years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the Institution without good cause. If the Institution has not contracted with a contractor in any prior construction contracts, the Institution may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The Institution may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia, (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Code of Virginia, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director, or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state, or agency of the federal government; and

7. The contractor failed to provide to the Institution in a timely manner any information requested by the Institution relevant to subdivisions 1 through 6 of this subsection.

§ 15. Negotiation with lowest responsible bidder. -

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the Institution may negotiate with the apparent low bidder to obtain a contract price within available funds. However, the negotiation may be undertaken only under conditions and procedures described in writing and approved by the Institution prior to issuance of the invitation to bid and summarized therein.

§ 16. Cancellation, rejection of bids; waiver of informalities. -

A. An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The Institution shall not cancel or reject an invitation to bid, a request for proposal, or any other solicitation, bid, or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

B. The Institution may waive informalities in bids.

§ 17. Exclusion of insurance bids prohibited. -

Notwithstanding any other provision of law, no insurer licensed to transact the business of insurance in the Commonwealth or approved to issue surplus lines insurance in the Commonwealth shall be excluded from presenting an insurance bid proposal to the Institution in response to a request for proposal or an invitation to bid. Nothing in this section shall preclude the Institution from debarring a prospective insurer pursuant to § 18 of these rules.

§ 18. Debarment. -

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance, or construction, for specified periods of time. Any debarment procedure shall be established in writing by the Institution. Any debarment procedure may provide for debarment on the basis of a contractor's unsatisfactory performance for the Institution.

§ 19. Purchase programs for recycled goods; Institution responsibilities. -

A. The Institution may implement a purchase program for recycled goods and may coordinate its efforts so as to achieve the goals and objectives set forth in §§ 10.1-1425.6, 10.1-1425.7, and 10.1-1425.8 of the Code of Virginia and §§ 20 and 22 of these rules.

B. The Department of Environmental Quality, with advice from the Virginia Recycling Markets Development Council, shall advise the Institution concerning the designation of recycled goods.

§ 20. Preference for Virginia products with recycled content and for Virginia firms. -

A. In the case of a tie bid, preference shall be given to goods produced in Virginia or goods, services, or construction provided by Virginia persons, firms, or corporations; otherwise the tie shall be decided by lot.

B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed by the Institution to the lowest responsive and responsible bidder who is a resident of Virginia.

C. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

§ 21. Preference for Virginia coal used in the Institution. -

In determining the award of any contract for coal to be purchased for use in the Institution with state funds, the Institution shall procure using competitive sealed bidding and shall award to the lowest responsive and responsible bidder offering coal mined in Virginia so long as its bid price is not more than four percent greater than the bid price of the low responsive and responsible bidder offering coal mined elsewhere.

§ 22. Preference for recycled paper and paper products used by the Institution. -

A. In determining the award of any contract for paper and paper products to be purchased for use by the Institution, it shall competitively procure recycled paper and paper products of a quality suitable for the purpose intended, so long as the price is not more than 10 percent greater than the price of the low responsive and responsible bidder or offeror offering a product that does not qualify under subsection B.

B. For purposes of this section, recycled paper and paper products means any paper or paper products meeting the U.S. Environmental Protection Agency-recommended content standards as defined in 40 C.F.R. Part 247.

§ 23. Withdrawal of bid due to error. -

A. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, which was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

One of the following procedures for withdrawal of a bid shall be selected by the Institution and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice or (ii) the bidder shall submit to the Institution or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, the work

papers, documents, and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection F of § 34 of these rules. The bids shall be opened one day following the time fixed by the Institution for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the Institution until the two-hour period has elapsed. The mistake shall be proved only from the original work papers, documents, and materials delivered as required herein.

B. The Institution may establish procedures for the withdrawal of bids for other than construction contracts.

C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

F. If the Institution denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

§ 24. Contract Pricing Arrangements. -

A. Public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited by these rules.

B. Except in case of emergency affecting the public health, safety, or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost.

C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.

§ 25. Workers' compensation requirements for construction contractors and subcontractors. -

A. No contractor shall perform any work on a construction project of the Institution unless he (i) has obtained, and continues to maintain for the duration of the work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia and (ii) provides prior to the award of contract, on a form furnished by the Institution, evidence of such coverage.

B. The Department of General Services shall provide the workers' compensation coverage form to the Institution. Failure of the Institution to provide the form prior to the award of contract shall waive the requirements of clause (ii) of subsection A.

C. No subcontractor shall perform any work on a construction project of the Institution unless he has obtained, and continues to maintain for the duration of such work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia.

§ 26. Retainage on construction contracts. -

A. In any contract issued by the Institution for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

B. Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.

§ 27. Public construction contract provisions barring damages for unreasonable delays declared void. -

A. Any provision contained in any public construction contract of the Institution that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the Institution, its agents, or employees and due to causes within their control, shall be void and unenforceable as against public policy.

B. Subsection A shall not be construed to render void any provision of a public construction contract awarded by the Institution that:

1. Allows the recovery of that portion of delay costs caused by the acts or omissions of the contractor or its subcontractors, agents, or employees;

2. Requires notice of any delay by the party claiming the delay;

3. Provides for liquidated damages for delay; or

4. Provides for arbitration or any other procedure designed to settle contract disputes.

C. A contractor making a claim against the Institution for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract of the Institution shall be liable to the Institution and shall pay it for a percentage of all costs incurred by the Institution in investigating, analyzing, negotiating, litigating, and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.

D. If the Institution denies a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract for the Institution, it shall be liable to and shall pay such

contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the Institution shall be equal to the percentage of the contractor's total delay claim for which the Institution's denial is determined through litigation or arbitration to have been made in bad faith.

§ 28. Bid bonds. -

A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$1 million shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid or (ii) the face amount of the bid bond.

C. Nothing in this section shall preclude the Institution from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$1 million.

§ 29. Performance and payment bonds. -

A. Upon the award by the Institution of any (i) public construction contract exceeding \$1 million awarded to any prime contractor or (ii) public construction contract exceeding \$1 million awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property owned by the Institution, the contractor shall furnish to the Institution the following bonds:

1. Except for transportation-related projects, a performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract. For transportation-related projects, such bond shall be in a form and amount satisfactory to the Institution.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

For the purposes of this subsection, "labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

C. The bonds shall be payable to the Commonwealth of Virginia, naming also the Institution.

D. Each of the bonds shall be filed with the Institution or a designated office or official thereof.

E. Nothing in this section shall preclude the Institution from requiring payment or performance bonds for construction contracts below \$1 million.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

§ 30. Alternative forms of security. -

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Institution's general counsel or his equivalent, a bidder may furnish to the Institution a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Institution equivalent to a corporate surety's bond.

§ 31. Bonds on other than construction contracts. -

The Institution may require bid, payment, or performance bonds for contracts for goods or services if provided in the invitation to bid or request for proposal.

§ 32. Action on performance bond. -

No action against the surety on a performance bond shall be brought by the Institution unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action.

§ 33. Actions on payment bonds; waiver of right to sue. -

A. Subject to the provisions of subsection B, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material. The obligee named in the bond need not be named a party to the action.

B. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and

the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

C. Any action on a payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 34. Public inspection of certain records. -

A. Except as provided in this section, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm, or corporation, in accordance with the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

B. Cost estimates relating to a proposed procurement transaction prepared by or for the Institution shall not be open to public inspection.

C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Institution decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

D. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Institution decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

E. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

F. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 14 of these rules shall not be subject to the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia; however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

§ 35. Exemption for certain transactions. -

A. The provisions of these rules shall not apply to:

1. The selection of services related to the management and investment of the Institution's endowment funds, endowment income, or gifts. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

2. The purchase of items for resale at retail bookstores and similar retail outlets operated by the Institution. However, such purchase procedures shall provide for competition where practicable.

3. Procurement of any construction or planning and design services for construction by the Institution when (i) the planning, design, or construction is \$50,000 or less or (ii) the Institution is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether or not those federal procedures are in conformance with the provisions of these rules.

4. The purchase of goods and services by the Institution when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 9 of these rules.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of these rules, the Institution may comply with such federal requirements, notwithstanding the provisions of these rules, only upon the written determination of the President of the Institution or designee that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of these rules in conflict with the conditions of the grant or contract.

§ 36. Permitted contracts with certain religious organizations; purpose; limitations. -

A. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, authorizes public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. The Institution, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose

conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. The Institution shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that it does not discriminate against faith-based organizations.

E. A faith-based organization contracting with the Institution (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the Institution. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

F. Consistent with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. § 2000e-1 et seq., to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the Institution shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The Institution shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization a notice in boldface type that states: "Neither the Institution's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 37. Exemptions from competition for certain transactions. -

The Institution may enter into contracts without competition, as that term is described in subsections A through J of § 5 of these rules, for:

1. The purchase of goods or services that are produced or performed by or related to:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired;

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped;

c. Private educational institutions; or

d. Other public educational institutions.

2. Speakers and performing artists;

3. Memberships and association dues;

4. Sponsored research grant sub-awards and contract sub-awards, not to include the purchase of goods or services by the Institution;

5. Group travel in foreign countries;

6. Conference facilities and services;

7. Participation in intercollegiate athletic tournaments and events, including team travel and lodging, registration, and tournament fees;

8. Royalties; or

9. The purchase of legal services, provided that the Office of the Attorney General has been consulted, or expert witnesses or other services associated with litigation or regulatory proceedings.

§ 38. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations. -

The Institution may enter into contracts for insurance or electric utility service without competitive sealed bidding or competitive negotiation if purchased through an association of which the Institution is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the Institution has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

§ 39. Definitions. -

As used in §§ 39 through 46 of these rules, unless the context requires a different meaning:

"Contractor" means the entity that has a direct contract with the Institution.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services or (ii) if such date has not been established by contract, (a) 30 days after receipt of a proper invoice by the Institution or its agent or (b) 30 days after receipt of the goods or services by the Institution.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 40. Exemptions. -

The provisions of §§ 39 through 46 of these rules shall not apply to the late payment provisions contained in any public utility tariffs prescribed by the State Corporation Commission.

§ 41. Retainage to remain valid. -

Notwithstanding the provisions of §§ 39 through 46 of these rules, the provisions of § 26 of these rules relating to retainage shall remain valid.

§ 42. Prompt payment of bills by the Institution. -

A. The Institution shall promptly pay for the completely delivered goods or services by the required payment date.

Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

B. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.

§ 43. Defect or impropriety in the invoice or goods and/or services received. -

In instances where there is a defect or impropriety in an invoice or in the goods or services received, the Institution shall notify the supplier of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.

§ 44. Date of postmark deemed to be date payment is made. -

In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these rules.

§ 45. Payment clauses to be included in contracts. -

Any contract awarded by the Institution shall include:

1. A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the Institution for work performed by the subcontractor under that contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the Institution attributable to the work performed by the subcontractor under that contract; or

b. Notify the Institution and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

2. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

3. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the Institution for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 1.

4. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of 1 percent per month."

Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor:

A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Institution. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

§ 46. Interest penalty; exceptions. -

A. Interest shall accrue, at the rate determined pursuant to subsection B, on all amounts owed by the Institution to a vendor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.

B. The rate of interest charged the Institution pursuant to subsection A shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled *The Wall Street Journal*. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.

C. Notwithstanding subsection A, no interest penalty shall be charged when payment is delayed because of disagreement between the Institution and a vendor regarding the quantity, quality, or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.

D. This section shall not apply to § 26 of these rules pertaining to retainage on construction contracts, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a contractor from receiving interest on such funds under an approved escrow agreement.

E. Notwithstanding subsection A, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection B on amounts withheld that remain unpaid after seven days following the payment date.

§ 47. Ineligibility. -

A. Any bidder, offeror, or contractor refused permission to participate, or disqualified from participation, in public contracts to be issued by the Institution shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the Institution shall (i) notify the bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of disqualification or ineligibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received such rebuttal information.

If the evaluation reveals that the bidder, offeror, or contractor should be allowed permission to participate in the public contract, the Institution shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the Institution shall so notify the bidder, offeror, or contractor. The notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia or applicable state law or regulations, the sole relief shall be restoration of eligibility.

§ 48. Appeal of denial of withdrawal of bid. -

A. A decision denying withdrawal of bid under the provisions of § 23 of these rules shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of § 23 of these rules, prior to appealing, shall deliver to the Institution a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, the sole relief shall be withdrawal of the bid.

§ 49. Determination of nonresponsibility. -

A. Following public opening and announcement of bids received on an invitation to bid, the Institution shall evaluate the bids in accordance with element 4 of the definition of "Competitive sealed bidding" in § 4 of these rules. At the same time, the Institution shall determine whether the apparent low bidder is responsible. If the Institution so determines, then it may proceed with an award in accordance with element 5 of the definition of "competitive sealed bidding" in § 4 of these rules. If the Institution determines that the apparent low bidder is not responsible, it shall proceed as follows:

1. Prior to the issuance of a written determination of nonresponsibility, the Institution shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

2. Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of responsibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received the rebuttal information. At the same time, the Institution shall notify, with return receipt requested, the bidder in writing of its determination.

3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

B. If, upon appeal pursuant to § 54 or 55 of these rules, it is determined that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or directed award as provided in subsection A of § 54 of these rules, or both.

If it is determined that the decision of the Institution was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and an award of the contract has been made, the relief shall be as set forth in subsection B of § 54 of these rules.

C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under the provisions of § 50 of these rules.

D. Nothing contained in this section shall be construed to require the Institution, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

§ 50. Protest of award or decision to award. -

A. Any bidder or offeror who desires to protest the award or decision to award a contract shall submit the protest in writing to the Institution, or an official designated by the Institution, no later than 10 days after the award or the announcement of the decision to award, whichever occurs first.

Public notice of the award or the announcement of the decision to award shall be given by the Institution in the manner prescribed in the terms or conditions of the invitation to bid or request for proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit the protest in the same manner no later than 10 days after posting or publication of the notice of such contract as provided in § 5 of these rules. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection under § 34 of these rules, then the time within which the protest shall be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror under § 34 of these rules, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Institution or designated official shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within 10 days of receipt of the written decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules. Nothing in this subsection shall be construed to permit a bidder to challenge the validity of the terms or conditions of the invitation to bid or request for proposal. The use of Alternative Dispute Resolution (ADR) shall constitute an administrative appeal procedure meeting the standards of § 55 of these rules.

B. If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Institution shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided.

Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Institution may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Where the Institution, an official designated by it, or an appeals board determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of these rules, the Institution, designated official, or appeals board may enjoin the award of the contract to a particular bidder.

§ 51. Effect of appeal upon contract. -

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with these rules shall not be affected by the fact that a protest or appeal has been filed.

§ 52. Stay of award during protest. -

An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest as provided in § 50 of these rules, or the filing of a timely legal action as provided in § 54 of these rules, no further action to award the contract shall be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

§ 53. Contractual disputes. -

A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

B. The Institution shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be contained in the contract or may be specifically incorporated into the contract by reference and made available to the contractor, shall establish a time limit for a final decision in writing by the Institution. If the Institution has established administrative procedures meeting the standards of § 55 of these rules, such procedures shall be contained in the contract or specifically incorporated in the contract by reference and made available to the contractor. The Institution may require the submission of contractual claims pursuant to any contract to Alternative Dispute Resolution (ADR) as an administrative procedure.

C. A contractor may not invoke administrative procedures meeting the standards of § 55 of these rules, if available, or institute legal action as provided in § 54 of these rules, prior to receipt of the Institution's decision on the claim, unless the Institution fails to render such decision within the time specified in the contract.

D. The decision of the Institution shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the Institution by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

§ 54. Legal actions. -

A. A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not (i) an honest exercise of discretion, but rather was arbitrary or capricious; (ii) in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the invitation to bid; or (iii) in the case of denial of prequalification, based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. In the event the apparent low bidder, having been previously determined by the Institution to be not responsible in accordance with § 4 of these rules, is found by the court to be a responsible bidder, the court may direct the Institution to award the contract to such bidder in accordance with the requirements of this section and the invitation to bid.

B. A bidder denied withdrawal of a bid under § 23 of these rules may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid.

C. A bidder, offeror, or contractor, or a potential bidder, or offeror on a contract negotiated on a sole source or emergency basis in the manner provided in § 5 of these rules, whose protest of an award or decision to award under § 50 of these rules is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not (i) an honest exercise of discretion, but rather is arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms and conditions of the invitation to bid or request for proposal.

D. If injunctive relief is granted, the court, upon request of the Institution, shall require the posting of reasonable security to protect the Institution.

E. A contractor may bring an action involving a contract dispute with the Institution in the appropriate circuit court. Notwithstanding any other provision of law, the Comptroller shall not be named as a defendant in any action brought pursuant to these rules or § 33.2-1103 of the Code of Virginia, except for disputes involving contracts of the Office of the Comptroller or the Department of Accounts.

F. A bidder, offeror, or contractor need not utilize administrative procedures meeting the standards of § 55 of these rules, if available, but if those procedures are invoked by the bidder, offeror, or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the Institution agrees otherwise.

G. Nothing herein shall be construed to prevent the Institution from instituting legal action against a contractor.

§ 55. Administrative appeals procedure. -

A. The Institution may establish an administrative procedure for hearing (i) protests of a decision to award or an award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of nonresponsibility, (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these. Such administrative procedure may include the use of Alternative Dispute Resolution (ADR) or shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and conclusive and shall not be set aside unless the same are (a) fraudulent, arbitrary, or capricious; (b) so grossly erroneous as to imply bad faith; or (c) in the case of denial of prequalification, the findings were not based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. The Institution may seek advice and input from the Alternative Dispute Resolution Council in establishing an ADR procedure.

B. Any party to the administrative procedure, including the Institution, shall be entitled to institute judicial review if such action is brought within 30 days of receipt of the written decision.

§ 56. Alternative dispute resolution. -

The Institution may enter into agreements to submit disputes arising from contracts entered into pursuant to these rules to arbitration and utilize mediation and other alternative dispute resolution procedures. However, such procedures shall be nonbinding and subject to § 2.2-514 of the Code of Virginia, as applicable.

§ 57. *Ethics in public contracting. -*

The Institution and its governing body, officers, and employees shall be governed by the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia.

EXHIBIT E
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
HUMAN RESOURCES FOR
PARTICIPATING COVERED EMPLOYEES
AND OTHER UNIVERSITY EMPLOYEES
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY IN VIRGINIA
POLICY GOVERNING
HUMAN RESOURCES FOR
PARTICIPATING COVERED EMPLOYEES
AND OTHER UNIVERSITY EMPLOYEES

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes a process for the restructuring of institutions of higher education of the Commonwealth of Virginia and provides that upon becoming a covered institution, the University shall have responsibility and accountability for human resources management for all University employees, defined in the Act as "covered employees," who pursuant to subsection A of § 23.1-1020 of the Act shall continue to be "state employee[s]". Specifically, the Act provides that, as of the effective date of its initial management agreement with the Commonwealth, all classified employees shall continue to be covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and shall be subject to the policies and procedures prescribed by the Virginia Department of Human Resource Management, provided that they may subsequently elect to become participating covered employees. All participating covered employees shall: (i) be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia; (ii) remain subject to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, provided they were subject to the state grievance procedure prior to that effective date; (iii) participate in a compensation plan that is subject to the review and approval of the board of visitors; and (iv) be hired pursuant to procedures that are based on merit and fitness and may, subject to certain specified conditions, continue to participate in either state-sponsored or University-sponsored benefit plans as described by the management agreement.

The provisions of this policy are adopted by the board of visitors to implement the governing law and constitute the human resources policies to be included in any human resources system adopted by the University for its employees.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Classified employees" means employees who are covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and the policies and procedures established by the Virginia Department of Human Resource Management and who are not participating covered employees.

"Covered employee" or "University employee" means any person who is employed by the University on either a salaried or nonsalaried (wage) basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Employee" means covered employee unless the context clearly indicates otherwise.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Governing law" means the Act and the University's enabling statutes.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Participating covered employee" means (i) all salaried nonfaculty University employees who were employed as of the day prior to the effective date and who elect pursuant to § 23.1-1022 of the Act to participate in and be governed by such human resources program or programs, plans, policies, and procedures established by the University; (ii) all salaried nonfaculty University employees who are employed by the University on or after the effective date; (iii) all nonsalaried nonfaculty University employees without regard to when they were hired; and (iv) all faculty University employees without regard to when they were hired.

"Systems" means collectively the University human resources system that is in effect from time to time.

"University" means George Mason University.

"University human resources system" means the human resources system for University employees as provided for in this policy.

III. SCOPE AND PURPOSE OF UNIVERSITY HUMAN RESOURCES POLICIES.

The University has had human resources system autonomy through decentralization for its employees for some time. For example, general faculty at the University are expressly exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia. The University has had decentralization in most human resources functions and activities since the late 1980s and early 1990s, including, but not limited to, the running of payrolls and the administration of hiring, classification, and promotion practices of administrative/professional, research, and instructional faculty.

The Act extends and reinforces the human resources autonomy previously granted to the University. This policy therefore is adopted by the board of visitors to enable the University to develop, adopt, and have in place by or after the effective date of its initial management agreement with the Commonwealth a human resources system or systems for all University employees. On the effective date, and until changed by the University or unless otherwise specified in this policy, the systems for University employees shall be the same systems applicable to those employees in effect immediately prior to the effective date.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. UNIVERSITY HUMAN RESOURCES SYSTEMS.

A. Adoption and Implementation of University Human Resources Systems.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is hereby authorized to adopt and implement human resources systems for employees of the University that are consistent with the governing law, other applicable provisions of law, these University human resources policies for University employees, and any other human resources policies adopted by the Department of Human Resource Management or the board of visitors for University personnel, unless University employees are exempted from those other human resources policies by law or policy. The University human resources systems shall include a delegation of personnel authority to appropriate University officials responsible for overseeing and implementing the University human resources systems, including a grant of authority to such officials to engage in further delegation of authority as the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate.

The University commits to regularly engage employees in appropriate discussions and to receive employee input as the new University human resources systems are developed. The University will regularly communicate the details of new proposals to all employees who are eligible to participate in the University human resources system through written communication, open meetings, and website postings as appropriate, so that employees will have full information that will help them evaluate the merits of the new human resources system compared to the then-current state human resources system.

Effective on the effective date of its initial management agreement with the Commonwealth, and until amended as described in this subsection, the University's human resources systems shall consist of the following:

1. The current "George Mason University Faculty Handbook," as it is posted on the Provost's website, <https://provost.gmu.edu/administration/policy>, and periodically amended;
2. The current human resources system for classified employees in the University as posted on the Virginia Department of Human Resource Management website at <http://www.dhrm.virginia.gov/hrpolicies>; and

3. *The human resources system for participating covered employees, that shall include nonsalaried (wage) employees, as posted on the University's human resources website, <https://www.hr.gmu.edu/>.*

All the systems described in this subsection above, except the system described in subdivision 2, may be amended by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, consistent with these human resources policies. The system described in subdivision 2 may be amended only by the Commonwealth.

B. Training in and Compliance with Applicable Provisions of Law and Board of Visitors Human Resources Policies.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall take all necessary and reasonable steps to assure (i) that the University officials who develop, implement, and administer the University human resources systems authorized by governing law and these human resources policies are knowledgeable regarding the requirements of the governing law, other applicable provisions of law, these University human resources policies, and other applicable board of visitors' human resources policies affecting University employees and (ii) that compliance with such laws and human resources policies is achieved.

VI. HUMAN RESOURCES POLICIES.

The University human resources systems adopted by the University pursuant to governing law and this policy, as set forth in Section V above, shall embody the following human resources policies and principles:

A. Election by University Salaried Nonfaculty Employees.

Upon the adoption by the University of a University human resources system, each salaried nonfaculty University employee who was in the employment of the University as of the day prior to the effective date of its initial management agreement with the Commonwealth shall be permitted to elect to participate in and be governed by either (i) the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and administered by the Department of Human Resource Management or (ii) the University human resources system, as appropriate. A salaried nonfaculty University employee who elects to continue to be governed by the state human resources program described in this subsection above shall continue to be governed by all state human resources and benefit plans, programs, policies, and procedures that apply to and govern state employees. A salaried nonfaculty University employee who elects to participate in and be governed by the University human resources system, by that election, shall be deemed to have elected to be eligible to participate in and to be governed by the University human resources system, authorized alternative insurance, and severance plans, programs, policies, and procedures that are or may be adopted by the University as part of that University human resources system.

The University shall provide each of its salaried nonfaculty University employees who were in the employment of the University as of the day prior to the effective date of the University's initial management agreement with the Commonwealth at least 90 days after the date on which the University's human resources system becomes effective for that University employee's classification of employees to make the election required by the prior paragraph. If such a salaried nonfaculty University employee does not make an election by the end of that specified election period, that University employee shall be deemed not to have elected to participate in the University human resources system. If such a salaried nonfaculty University employee elects to participate in the University human resources system, that election shall be irrevocable. At least every two years, the University shall offer to salaried nonfaculty University employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, an opportunity to elect to participate in the University human resources system, provided that, each time prior to offering such opportunity to such salaried nonfaculty University employees, and at least once every two years after the effective date of the University human resources system, the University shall make available to each of its salaried nonfaculty University employees a comparison of its human resources system for that classification of salaried nonfaculty University employee with the state human resources program for comparable state employees, including but not limited to a comparability assessment of compensation and benefits.

A copy of the human resources program comparison shall be provided to the Department of Human Resource Management.

B. Classification and Compensation.

1. General. The systems shall include classification and compensation plans that are fair and reasonable and are based on the availability of University financial resources. The plans adopted by the University for participating covered employees shall be independent of, and need not be based on, the classification and compensation plans of the Commonwealth, do not require the approval of any state agency or officer, and shall be subject to the review and approval by the board of visitors as set forth in subdivision 3. The University shall provide information on its classification and compensation plans to all University employees. The plans applicable to participating covered employees may or may not include changes in classification or compensation announced by the Commonwealth, depending on such factors as the availability of necessary financial resources to fund any such changes and subject to the review and approval by the board of visitors of any major changes in the University's compensation plans.

2. Classification Plan. The systems shall include one or more classification plans for University employees that classify positions according to job responsibilities and qualifications. On the effective date and until changed by the University, the classification plans shall be the same plans that are in effect for each group of employees immediately prior to the effective date.

3. *Compensation Plan.* The systems shall include one or more compensation plans for each University employee classification or group. On the effective date and until changed by the Department of Human Resource Management, the compensation plan for classified employees in the University shall be the compensation plan in effect immediately prior to the effective date, known as the Commonwealth's Classified Compensation Plan. On the effective date and until changed by the University, the compensation plan or plans for all participating covered employees shall be the compensation plan or plans in effect immediately prior to the effective date. The University may adopt one or more compensation plans for participating covered employees that are non-graded plan(s) based on internal and external market data and other relevant factors to be determined annually. Any major change in compensation plans for participating covered employees shall be reviewed and approved by the board of visitors before that change becomes effective. Any change recommended in the compensation plans may take into account the prevailing rates in the labor market for the jobs in question or for similar positions, the relative value of jobs, the competency and skills of the individual employee, internal equity, and the availability of necessary financial resources to fund the proposed change. The compensation payable to University employees shall be authorized and approved only by designated University officers delegated such authority by the University, and shall be consistent with the approved compensation plan for the relevant position or classification. Further approval by any other state agency, governmental body, or officer is not required for setting, adjusting, or approving the compensation payable to individual participating covered employees.

4. *Wages.* The systems shall include policies and procedures for the authorization, computation, and payment of wages, where appropriate, for such premium pays as overtime, shift differential, on call, and call back, and for the payment of hourly employees.

5. *Payment of Compensation.* The systems shall include policies and procedures for paying compensation to employees, including the establishment of one or more payday schedules.

6. *Work Schedule and Workweek.* The systems shall include policies and procedures for the establishment of, and modifications to, work schedules and workweeks for all University employees, including alternative work schedules and sites and telecommuting policies and procedures.

7. *Other Classification and Compensation Policies and Procedures.* The systems may include any other reasonable classification and compensation policies and procedures the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate.

C. Benefits.

The systems shall provide fringe benefits to all benefits-eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance. The benefits provided shall include a basic plan of benefits for each benefits-eligible employee, and may include an optional benefits plan for benefits-eligible employees, including additional insurance coverage, long-term care, tax deferred annuities, flexible reimbursement accounts, employee assistance programs, employee intramural and recreational passes, and other wellness programs. As provided in subsections B and C § 23.1-1025 of the Act, the University may require participating covered employees to pay all or a portion of the cost of group life, disability, and accidental death and dismemberment insurance, which may be collected through a payroll deduction program. Participating covered employees shall not be required to present evidence of insurability for basic group life insurance coverage. The board of visitors may elect to provide benefits through Virginia Retirement System group insurance programs under the terms of and to the extent allowed by § 23.1-1025 of the Act or any other provision of law.

Notwithstanding the provisions of this subsection above, pursuant to subsection A of § 23.1-1020 of the Act, and unless and until that section is amended, the state retirement system, state health insurance program, and state workers' compensation coverage program as they may be amended from time to time, shall continue to apply to and govern all eligible University employees. If, however, the University has been or is permitted by law other than the Act to establish an alternative retirement plan or plans, such retirement plan or plans shall apply to and govern the University employees included in such plan or plans.

The systems may provide different benefits plans for reasonably different groups or classifications of employees, and may provide benefits to part-time employees. On the effective date and until changed by the appropriate governing authority, the benefits plans provided by the University to classified employees and participating covered employees shall be the benefits plans provided to that group or classification as of the date immediately prior to that effective date. On or after the effective date, alternative University group life, accidental death and dismemberment, and short-term and long-term disability plans may be provided to eligible participating covered employees, or at the election of the board of visitors and subject to the execution of participation agreements as provided in subsections B and C of § 23.1-1025 of the Act, they may be provided by the appropriate state programs, but no contributions to the state programs by the University shall be required for participating covered employees who do not participate in the programs. Subject to the provisions of the Act, any new plans, programs, and material changes permitted under current law in University employee benefit plans, other than classified employee benefit plans, shall be approved by the board of visitors, including the authority to increase the cash match contribution rate up to the limit permitted by the Code of Virginia based on available resources and the authority to implement cafeteria-style benefits for University employees other than classified employees.

Insurance and all proceeds therefrom provided pursuant to § 23.1-1025 of the Act shall be exempt from legal process and may be subject to voluntary assignment as provided in subsection A of § 23.1-1025 of the Act.

D. Employee Relations.

1. *General.* The systems shall contain provisions that protect the rights and privileges of University employees consistent with sound management principles and fair employment practice law.

2. *Employee Safety and Health.* The systems shall contain provisions that promote workplace safety compliance with applicable law and regulations.

3. *Employee Work Environment.* The systems shall promote a work environment that is conducive to the performance of job duties and free from intimidation or coercion in violation of state or federal law, including sexual harassment or other discrimination.

4. *Employee Recognition.* The systems may provide for the use of leave awards and bonuses specific to policies and procedures for awarding, honoring, or otherwise recognizing University employees, including but not limited to those who have performed particularly meritorious service for the University, have been employed by the University for specified periods of time, or have retired from the University after lengthy service.

5. *Counseling Services.* The systems shall provide counseling services through the Commonwealth's Employee Assistance Program or a University Employee Assistance Program to any eligible University employee experiencing job-related difficulties and seeking counseling for those difficulties, and shall establish the circumstances under which the time necessary to participate in such counseling may be granted.

6. *Unemployment Compensation.* The systems shall ensure that University employees receive the full unemployment compensation benefits to which they are legally entitled and that the University's liability is limited to legitimate claims for such benefits.

7. *Workers' Compensation.* The systems shall ensure that University employees have workers' compensation benefits to which they are legally entitled pursuant to the State Employees Workers' Compensation Program administered by the Department of Human Resource Management.

8. *Performance Planning and Evaluation.* The systems shall include one or more performance planning and evaluation processes for University employees that (i) establish and communicate the University's performance expectations, (ii) help develop productive working relationships, (iii) allow employees to present their views concerning their performance, (iv) identify areas for training or professional development, (v) establish the process by which evaluations shall be conducted, (vi) clarify how superlative or inadequate performance shall be addressed, and (vii) ensure that all University employees are provided relevant information on the evaluation process. The systems may include separate performance and evaluation processes for reasonably distinguishable groups of University employees. On the effective date, the existing merit-based performance management system for faculty shall continue, until amended by the University. On or after that effective date, University nonfaculty salaried participating covered employees may be subject to a variable merit-based performance management system.

9. *Standards of Conduct and Performance.* In order to protect the well-being and rights of all employees and to ensure safe, efficient University operations and compliance with the law, the systems shall establish rules of personal conduct and standards of acceptable work performance for University salaried nonfaculty employees and policies for corrective discipline. In general, the policies for corrective discipline shall serve to (i) establish a uniform and objective process for correcting or disciplining unacceptable conduct or work performance, (ii) distinguish between less serious and more serious actions of misconduct and provide corrective action accordingly, and (iii) limit corrective action to employee conduct occurring only when employees are at work or are otherwise representing the University in an official or work-related capacity, unless otherwise specifically provided by the policies of the systems or other applicable law. The systems may provide for a probationary period for new and re-employed University salaried nonfaculty employees, during which period the policies for corrective discipline shall not be applicable and the employee may not use the grievance procedure set forth in subdivision 10. The systems may include separate rules of personal conduct and standards of acceptable work performance and policies for corrective discipline for reasonably distinguishable groups of University employees.

10. *Grievance Procedure.* As provided in the governing law, employees shall be encouraged to resolve employment-related problems and complaints informally and shall be permitted to discuss their concerns freely and without fear of retaliation with immediate supervisors and management. In the event that such problems cannot be resolved informally, all salaried nonfaculty University employees, regardless of their date of hire, shall have access, as provided in subsection A of § 23.1-1020 and in § 23.1-1023 of the Act, to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, to the extent it was applicable to their classification of employees prior to the effective date. On the effective date and until changed by the University, the faculty grievance procedures in effect immediately prior to the effective date shall continue.

11. *Discrimination Complaints.* If a classified employee believes discrimination has occurred, the classified employee may file a complaint with the Department of Human Resource Management Office of Equal Employment and Dispute Resolution. All covered employees and applicants for employment after the effective date of the University's initial management agreement with the Commonwealth shall file a complaint with the appropriate University office or with the appropriate federal agencies.

12. *Layoff Policy.* The systems shall include one or more layoff policies for salaried University employees who lose their jobs for reasons other than their job performance or conduct, such as a reduction in force or reorganization at the University. These University layoff policies shall govern such issues as (i) whether there is a need to effect a layoff; (ii) actions to be taken prior to a layoff; (iii) notice to employees affected by a layoff; (iv) placement options within the

University or its respective major divisions and within other parts of the University; (v) the preferential employment rights, if any, of various University employees; (vi) the effect of layoff on leave and service; and (vii) the policy for recalling employees. In accordance with the terms of the Act, University employees who (a) were employed prior to the effective date of the University's initial management agreement with the Commonwealth; (b) would otherwise be eligible for severance benefits under the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia; (c) were covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, prior to that effective date; and (d) are separated because of a reduction in force shall have the same preferential hiring rights with state agencies and other executive branch institutions as classified employees have under § 2.2-3201 of the Code of Virginia. Conversely, the University shall recognize the hiring preference conferred by § 2.2-3201 of the Code of Virginia on state employees who were hired by a state agency or executive branch institution before the effective date of the University's initial management agreement with the Commonwealth and who were separated after that date by that state agency or executive branch institution because of a reduction in workforce. If the University has adopted a classification system pursuant to § 23.1-1021 of the Act that differs from the classification system administered by the Department of Human Resource Management, the University shall classify the separated employee according to its classification system and shall place the separated employee appropriately. The University may include separate policies for reasonably distinguishable groups of University employees. On or after the effective date of the University's initial management agreement with the Commonwealth, all employees from other state agencies and executive branch institutions who are placed by the University under the provisions of the State Layoff Policy shall be participating covered employees.

13. *Severance Benefits.* In accordance with the terms of the Act, the University shall adopt severance policies for salaried participating covered employees who are involuntarily separated for reasons unrelated to performance or conduct. The terms and conditions of such policies shall be determined by the board of visitors. Classified employees who otherwise would be eligible and were employed prior to the effective date of the University's initial management agreement with the Commonwealth shall be covered by the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia. The University and the Board of the Virginia Retirement System may negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating covered employees who participate in the Virginia Retirement System. An employee's becoming, on the effective date, a covered employee shall not constitute a severance or reduction in force to which severance policies or policies pursuant to the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, would apply.

14. *Use of Alcohol and Other Drugs.* The systems shall include policies and procedures that (i) establish and maintain a work environment at the University that is free from the adverse effect of alcohol and other drugs; (ii) are consistent with the federal Drug-Free Workplace Act of 1988, 41 U.S.C. § 81, and with the George Mason University Alcohol and Other Drugs Policy; (iii) describe the range of authorized disciplinary action, including termination where appropriate, for violations of such policies and procedures and the process to be followed in taking such disciplinary action; (iv) provide University employees access to assistance and treatment for problems involving alcohol and other drugs; (v) provide for the circumstances under which employees are required to report certain violations of the policies and procedures to their supervisor and the University is required to report those violations to a federal contracting or granting agency; (vi) describe the circumstances under which personnel records of actions taken under the University's alcohol and other drugs policy shall not be kept confidential; and (vii) provide notice to University employees of the scope and content of the University alcohol and other drugs policy. As part of this alcohol and other drugs policy, and in compliance with the federal Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143, the systems may provide for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up alcohol and other drug testing for University positions that are particularly safety sensitive, such as those requiring a commercial driver's license.

15. *Background Checks.* The systems shall include a process for conducting background checks that may include but is not limited to reference checks, educational/professional credentialing checks, and conviction and driver's records checks on applicants for full-time or part-time positions at the University, and for addressing situations where employees do not disclose a conviction on their applications or otherwise falsify their applications with regard to information concerning their educational/professional credentials and/or prior convictions.

16. *Other Employee Relations Policies and Procedures.* The systems shall include any other reasonable employee relations policies or procedures that the President of the University, acting through the Senior Vice President for Administration and Finance or designee, deems appropriate, that may include, but are not limited to, policies or procedures relating to orientation programs for new or re-employed University employees, an employee suggestion program, the responsibility of University employees for property placed in their charge, work breaks, inclement weather and emergencies, and employment outside the University.

E. Leave and Release Time.

The systems shall include policies and procedures regarding leave for eligible employees. The systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses. The systems may provide for release time for such matters as the donation of blood, participation in an employee assistance program, and other appropriate employment-related matters. On or after the effective date of its initial management agreement with the Commonwealth, and until a new program is adopted by the appropriate authority, the University shall continue to provide leave and release time to participating covered employees in accordance with the leave and release time policies and procedures applicable

to each classification of employees prior to that effective date. On or after that effective date, the University may provide an alternative leave and release time system for salaried nonfaculty participating covered employees.

F. Equal Employment Opportunity, Nondiscrimination, Employment, and Separation.

1. *Equal Employment Opportunity and Nondiscrimination.* The systems shall contain policies and procedures to ensure that all aspects of human resources management, including the employment of University employees, meet all requirements of federal and state law and of the relevant policies of the board of visitors with regard to equal employment opportunity and nondiscrimination.

2. *Employment.* The systems shall include policies and procedures for the recruitment, selection, and hiring of University employees that are based on merit and fitness, including where appropriate a requirement for job posting, interviews, pre-employment testing, pre-employment drug testing, reference checks, and conviction record checks. On and after the effective date, the University shall post all salaried nonfaculty position vacancies through the University's job posting system, the Commonwealth's job posting system, and other external media as appropriate. The systems shall establish designated veterans' re-employment rights in accordance with applicable law.

In order to encourage employees to attain the highest-level positions for which they are qualified, and to compensate employees for accepting positions of increased value and responsibility, the systems shall include policies and procedures governing the promotion of employees, including the effect of promotion on an employee's compensation.

On or after the effective date of the University's initial management agreement with the Commonwealth, all employees hired from other state agencies shall be participating covered employees. University classified employees who change jobs within the University through a competitive employment process—i.e., promotion or transfer—shall have the choice of remaining a classified employee or becoming a participating covered employee. If a classified employee elects to become a participating covered employee, that decision shall be irrevocable.

3. *Notice of Separation.* The systems shall include policies and procedures requiring reasonable notice, where appropriate, of a decision either by the employee or by the University to separate the employee from the University in accordance with policies governing performance, conduct, or layoff.

G. Information Systems.

The University shall provide an electronic file transfer of information on all salaried University employees and shall continue to provide the employee position reports to meet the human resources reporting requirements specified by law or by request of the Governor or the General Assembly, unless the University is specifically exempted from those requirements. The University shall conduct assessments to demonstrate its accountability for human resources practices that comply with laws and regulations. The Department of Human Resource Management and the University have entered into a Memorandum of Understanding, attached hereto as Attachment 2, that may be amended from time to time by agreement of the parties, regarding the specific data and reporting requirements. The University shall be accountable for ensuring the timeliness and integrity of the data transmitted to the Department of Human Resource Management.

VII. CONTINUED APPLICABILITY OF OTHER PROVISIONS OF THE CODE OF VIRGINIA AND OTHER BOARD OF VISITORS POLICIES AFFECTING UNIVERSITY PERSONNEL.

On and after the effective date, University employees shall be subject to the terms and conditions of the Act and the management agreement between the Commonwealth and the University. Classified employees shall continue to be subject to the human resources policies and exceptions to those policies adopted or approved by the Department of Human Resource Management.

In addition, all University employees also shall remain subject to any other human resources policies adopted by the board of visitors applicable to University personnel unless University employees or a subset thereof are specifically exempted from those other human resources policies either by those other policies or by this policy.

ATTACHMENT 2

*Memorandum of Understanding
Between George Mason University and the
Department of Human Resource Management Regarding
the Reporting of Human Resources Management Data*

This Memorandum of Understanding (MOU), which may be amended from time to time by the agreement of all parties, is an attachment to the Policy Governing Human Resources for participating covered employees and other University employees pursuant to the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and is hereby entered into between the University and the Department of Human Resource Management (DHRM).

This document outlines the provisions for information management pertaining to human resources data, consistent with the objectives to enable DHRM to meet the Commonwealth's reporting requirements, to ensure compliance with relevant federal and state laws and regulations, and to do so through efficient and cost-effective methods.

1. In lieu of data entry into the state's Human Capital Management (HCM) system, data will be transmitted to the HCM system as follows:

a. The University will provide a flat file of designated personnel data. For classified employees, the data provided will match DHRM's data values for the designated fields. For salaried participating covered employees, the data provided will include the University's data values for the designated fields. The University will provide a data dictionary to DHRM. The

file of designated data will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

b. The University will provide a second flat file of salaried personnel actions for classified employees and salaried participating covered employees, such as promotions, separations, and salary adjustments. The file of relevant personnel actions and designated data to be provided for each action will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

2. DHRM will accept the federal Affirmative Action Plan (AAP), including the adverse impact analyses of employment and compensation actions that are part of the AAP, as demonstration of the University's compliance with relevant federal and state employment laws and regulations.

3. Other reports to be provided by the University include the following:

- a. Monthly employment position report.
- b. Annual report on salaried, wage, and contract employees.

The undersigned hereby agree to the provisions contained in the MOU.

APPROVALS:

George Mason University:

By:Date.....

Carol Dillon Kissal, Senior Vice President for Administration and Finance, Department of Human Resource Management:

By:Date.....

EXHIBIT F
MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
GEORGE MASON UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT
POLICY GOVERNING
FINANCIAL OPERATIONS AND MANAGEMENT
THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes by law a process for granting additional authority to institutions of higher education for financial operations and management, subject to the adoption of policies by their governing boards and the approval of management agreements to be negotiated with the Commonwealth.

The following provisions of this policy constitute the adopted board of visitors' policies regarding the University's financial operations and management.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on or after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 18, 2019, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means George Mason University.

III. SCOPE OF POLICY.

This policy applies to the University's responsibility for management, investment, and stewardship of all its financial resources, including but not limited to general, nongeneral, and private funds. This responsibility includes maintaining an independent uniform system of accounting, financial reporting, and internal controls adequate to protect and account for the University's financial resources, as well as allowing for recording of required information into Cardinal.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized by the board to maintain existing policies and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with generally accepted accounting principles; (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources; (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation; and (iv) ensure compliance with the requirements of the general appropriation act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion in the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping systems of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President of the University, acting through the Senior Vice President for Administration and Finance or designee, and the board of visitors to enable them to provide adequate oversight of the financial operations of the University. The University shall provide to state agencies including, but not limited to, the Department of Accounts, the Department of Planning and Budget, the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the State Council of Higher Education for Virginia and to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations special reports as may be requested from time to time.

VI. FINANCIAL MANAGEMENT POLICIES.

The University has operated for many years at Level II under the Act and at Level 2.5 under § 4-9.02 of Chapter 780 of the Acts of Assembly of 2016. Accordingly, the University currently operates a system of independent financial management policies guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures, such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall have the authority to create and implement any and all new financial management policies necessary to maintain the University's current financial management system for the continued effective protection and management of all University financial resources.

Upon the effective date of its initial management agreement with the Commonwealth, the University shall continue to follow its current independent financial management policies, as well as any new policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

VII. FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

Pursuant to subsection C of § 23.1-206 of the Code of Virginia, the State Council of Higher Education for Virginia (SCHEV) annually shall assess and certify to the Governor and the General Assembly the degree to which each public institution of higher education of the Commonwealth has met the financial and administrative management and education-related performance benchmarks called for by that subsection and approved as part of the general appropriation act then in effect for the state goals and objectives set forth in subdivisions A l through 12 of § 23.1-1002 of the Act. Each public institution of higher education of the Commonwealth that (i) has been certified during the fiscal year by SCHEV as having met such institutional performance benchmarks and (ii) meets the conditions prescribed in subsection A of § 23.1-1002 of the Act, shall receive certain financial incentives, including interest on the tuition and fees and other nongeneral fund education and general revenues deposited into the State Treasury by the public institution of higher

education. In order to be certified, the University must meet all measures adopted prior to the effective date of this management agreement pursuant to subdivision A 3 of § 23.1-1003 of the Act.

The Commonwealth shall retain all funds related to general fund appropriations but shall pay these funds to the University as specified in Section IX of this policy. The University is authorized to deposit tuition, educational and general fees, research and sponsored program funds, auxiliary enterprise funds, and all other nongeneral fund revenues weekly in the State Treasury pursuant to the state process in place at the time of such deposit. The University shall be given any interest earned on auxiliary balances on a monthly basis.

The University also shall have sum sufficient appropriation authority for all nongeneral funds as approved by the Governor and the General Assembly in the Commonwealth's biennial appropriations process and shall report to the Department of Planning and Budget (i) its estimate of the nongeneral fund revenues for the sum sufficient appropriation to be included in the biennial Budget Bill for each of the two years in the next biennium by November 1 of each odd-numbered year and (ii) the estimate to be included in the Budget Bill for the first and second year of the then-current biennium by November 1 of each even-numbered year.

The board of visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle-income and lower-income undergraduate Virginians. Except as provided otherwise in the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the general appropriation act related to nongeneral funds. In addition, unless prohibited by the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be entitled to retain nongeneral fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates rather than reverting such savings back to the Commonwealth.

For the receipt of general and nongeneral funds, the University shall conform to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended.

VIII. ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all accounts receivable management and collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, such that the University shall take all appropriate and cost-effective actions to aggressively collect accounts receivable in a timely manner.

These actions shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's debt setoff collection programs and procedures, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

IX. DISBURSEMENT MANAGEMENT.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, is authorized to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The University will continue to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, as it has pursuant to its Level 2.5 authority under § 4-9.02 of Chapter 780 of the Acts of Assembly of 2016.

The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The

University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University's disbursement policies shall continue to be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. Upon the effective date, the University shall continue to follow its current disbursement policies, as well as any new disbursement policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new disbursement policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

X. DEBT MANAGEMENT.

The President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall continue to be authorized to create and implement any and all debt management policies as part of a system for the management of University financial resources.

Pursuant to subsection C of § 23.1-1015 of the Act, the University shall have the authority to issue bonds, notes, or other obligations that do not constitute state tax-supported debt, as determined by the Treasury Board, and that are consistent with debt capacity and management policies and guidelines established by its board of visitors, without obtaining the consent of any legislative body, elected official, commission, board, bureau, or agency of the Commonwealth or of any political subdivision, and without any proceedings or conditions other than those specifically required by Article 4 of the Act, provided, however, that the University shall notify the State Treasurer of its intention to issue bonds pursuant to this policy at the time it adopts the bond issuance planning schedule for those bonds. Any new or revised debt capacity and management policy shall be submitted to the State Treasurer for review and comment prior to its adoption by the University.

The University recognizes that there are numerous types of financing structures and funding sources available, each with specific benefits, risks, and costs. All potential funding sources shall be reviewed by the President of the University, acting through the Senior Vice President for Administration and Finance or designee, within the context of the overall portfolio to ensure that any financial product or structure is consistent with the University's objectives. Regardless of the financing structure(s) utilized, the President of the University, acting through the Senior Vice President for Administration and Finance or designee, shall obtain sufficient documentation to gain a full understanding of the transaction, including (i) the identification of potential risks and benefits and (ii) an analysis of the impact on University creditworthiness and debt capacity. All such debt or financial products issued pursuant to the provisions of §§ 23.1-1014 and 23.1-1015 of the Act shall be authorized by resolution of the board of visitors, providing that they do not constitute state tax-supported debt.

The University currently has established guidelines relating to the total permissible amount of outstanding debt by monitoring University-wide ratios that measure debt compared to University balance sheet resources and annual debt service burden. These measures are monitored and reviewed regularly in light of the University's current strategic initiatives and expected debt requirements. The board of visitors shall periodically review and approve the University's debt capacity and debt management guidelines. The University shall submit any change in the current guidelines to the Treasury of Virginia for review and comment prior to their adoption.

XI. INVESTMENT POLICY.

It is the policy of the University to invest public funds in a manner that will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all statutes governing the investment of public funds. Investments shall be made with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This policy conforms with the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.

Endowment investments, if any, shall be invested and managed in accordance with the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

The University is charged with the responsibility of reporting to the board of visitors on an annual basis.

XII. INSURANCE AND RISK MANAGEMENT.

By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any insurance or risk management program made available to the University through the Commonwealth's Division of Risk Management and in which the University is then participating to enable the Commonwealth to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If, upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from the insurance or risk management program, the University shall reimburse the Commonwealth for all such additional costs attributable to such withdrawal, as determined by the Commonwealth's actuaries. Such payment shall be made in a manner agreeable to both the University and the Commonwealth.

2. That notwithstanding the provisions of subsections A and B of § 23.1-1007 of the Code of Virginia, the management agreement negotiated by George Mason University (the University) shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

CHAPTER 78

An Act to amend and reenact §§ 17.1-223, 47.1-2, 47.1-16, and 55.1-606 of the Code of Virginia, relating to electronic notary; remote notarization; emergency.

[H 2064]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-223, 47.1-2, 47.1-16, and 55.1-606 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-223. Duty of clerk to record writings, etc., and make index.

A. Every writing authorized by law to be recorded, with all certificates, plats, schedules or other papers thereto annexed or thereon endorsed, upon payment of fees for the same and the tax thereon, if any, shall, when admitted to record, be recorded by or under the direction of the clerk on such media as are prescribed by § 17.1-239. However, unless a cover sheet is submitted with the writing in accordance with § 17.1-227.1, the clerk has the authority to reject any writing for recordation unless (i) as to any individual who is a party to such writing, the surname only of such individual is underscored or written entirely in capital letters in the first clause of the writing that identifies the names of the parties; (ii) each page of the writing is numbered consecutively; (iii) in the case of a writing described in § 58.1-801 or 58.1-807, the amount of the consideration and the actual value of the property conveyed is stated on the first page of the writing; (iv) the laws of the United States or the Commonwealth under which any exemption from recordation taxes is claimed is clearly stated on the face of the writing; and (v) the name of each party to such writing under whose name the writing is to be indexed as grantor, grantee, or both is listed in the first clause of the writing that identifies the names of the parties and identified therein as grantor, grantee, or both, as applicable. Such writing, once recorded, may be returned to any party to such writing who is identified therein as a grantee unless otherwise indicated clearly on the face of the writing, or any cover sheet, including an appropriate current address to which such writing shall be returned.

B. The attorney or party who prepares the writing for recordation shall ensure that the writing satisfies the requirements of subsection A and that (i) the social security number is removed from the writing prior to the instrument being submitted for recordation, (ii) a deed conveying residential property containing not more than four residential dwelling units states on the first page of the document the name of the title insurance underwriter insuring such instrument or a statement that the existence of title insurance is unknown to the preparer, and (iii) a deed conveying residential property containing not more than four residential dwelling units states on the first page of the document that it was prepared by the owner of the real property or by an attorney licensed to practice law in the Commonwealth where such statement by an attorney shall include the name and Virginia State Bar number of the attorney who prepared the deed, provided, however, that clause (iii) shall not apply to deeds of trust or to deeds in which a public service company, railroad, or cable system operator is either a grantor or grantee, and it shall be sufficient for the purposes of clause (iii) that deeds prepared under the supervision of the Office of the Attorney General of Virginia so state without the name of an attorney or bar number.

C. If the clerk has an eRecording System as defined in § 55.1-661, the clerk shall follow the provisions of this section, and the Uniform Real Property Electronic Recording Act (§ 55.1-661 et seq.), for recordation of documents. If the clerk does not have an eRecording System, the clerk shall record a legible paper copy of an electronic document, provided that such copy (i) otherwise meets the requirements of this section for recordation and (ii) is certified to be a true and correct copy of the electronic original by the attorney, settlement agent, or other party who submits the document for recordation. If a clerk's eRecording System is not operational at any time, or the eRecording System does not accept the type of electronic document being submitted, such clerk shall use the process for recording a legible paper copy of an electronic copy as set out herein. An affidavit under this section may be made in the following form, or to the same effect:

Affidavit of Submitter

The undersigned affiant, being first duly sworn, deposes and states as follows, prepared pursuant to § 17.1-223 of the Code of Virginia, that the attached electronic document is a true and correct copy of the electronic original.

(Name of submitter) _____

(Signature of submitter) _____

(Address of submitter) _____

(Telephone of submitter) _____

(Email of submitter) _____

The foregoing affidavit was acknowledged before me this _____ day of _____, 20____, by Notary public: _____

My commission expires: _____.

Notary Registration Number: _____.

D. A writing that appears on its face to have been properly notarized in accordance with the Virginia Notary Act (§ 47.1-1 et seq.) shall be presumed to have been notarized properly and may shall be recorded by the clerk, if such document otherwise meets the requirements of this section for recordation.

D. E. If the writing is accepted for recordation in the deed books, it shall be deemed to be validly recorded for all purposes. Such books shall be indexed by the clerk as provided by § 17.1-249 and carefully preserved. Upon admitting any such writing or other paper to record, the clerk shall endorse thereon the day and time of day of such recordation. More than

one book may be used contemporaneously under the direction of the clerk for the recordation of the writings mentioned in this section whenever it may be necessary to use more than one book for the proper conduct of the business of the clerk's office.

§ 47.1-2. Definitions.

As used in this title, unless the context demands a different meaning:

"Acknowledgment" means a notarial act in which an individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii) indicates to the notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

"Affirmation" means a notarial act, or part thereof, that is legally equivalent to an oath and in which an individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii) makes a vow of truthfulness or fidelity on penalty of perjury.

"Commissioned notary public" means that the applicant has completed and submitted the registration forms along with the appropriate fee to the Secretary of the Commonwealth and the Secretary of the Commonwealth has determined that the applicant meets the qualifications to be a notary public and issues a notary commission and forwards same to the clerk of the circuit court, pursuant to this chapter.

"Copy certification" means a notarial act in which a notary (i) is presented with a document that is not a public record; (ii) copies or supervises the copying of the document using a photographic or electronic copying process; (iii) compares the document to the copy; and (iv) determines that the copy is accurate and complete.

"Credential analysis" means a process or service that independently affirms the veracity of a government-issued identity credential by reviewing public or proprietary data sources and meets the standards of the Secretary of the Commonwealth.

"Credible witness" means an honest, reliable, and impartial person who personally knows an individual appearing before a notary and takes an oath or affirmation from the notary to confirm that individual's identity.

"Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including a record as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.).

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

"Electronic document" means information that is created, generated, sent, communicated, received, or stored by electronic means.

"Electronic notarial act" or "electronic notarization" means an official act by a notary under § 47.1-12 or as otherwise authorized by law that involves electronic documents.

"Electronic notarial certificate" means the portion of a notarized electronic document that is completed by the notary public, bears the notary public's signature, title, commission expiration date, and other required information concerning the date and place of the electronic notarization, and states the facts attested to or certified by the notary public in a particular notarization. *The "electronic notarial certificate" shall indicate whether the notarization was done in person or by remote online notarization.*

"Electronic notary public" or "electronic notary" means a notary public who has been commissioned by the Secretary of the Commonwealth with the capability of performing electronic notarial acts under § 47.1-7.

"Electronic notary seal" or "electronic seal" means information within a notarized electronic document that confirms the notary's name, jurisdiction, and commission expiration date and generally corresponds to data in notary seals used on paper documents.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.

"Identity proofing" means a process or service that independently verifies an individual's identity in accordance with § 2.2-436.

"Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or 47.1-13 or as otherwise authorized by law.

"Notarial certificate" or "certificate" means the part of, or attachment to, a notarized document that is completed by the notary public, bears the notary public's signature, title, commission expiration date, notary registration number, and other required information concerning the date and place of the notarization and states the facts attested to or certified by the notary public in a particular notarization.

"Notary public" or "notary" means any person commissioned to perform official acts under the title, and includes an electronic notary except where expressly provided otherwise.

"Oath" shall include "affirmation."

"Official misconduct" means any violation of this title by a notary, whether committed knowingly, willfully, recklessly or negligently.

"Personal knowledge of identity" or "personally knows" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

"Principal" means (i) a person whose signature is notarized or (ii) a person, other than a credible witness, taking an oath or affirmation from the notary.

"Record of notarial acts" means a device for creating and preserving a chronological record of notarizations performed by a notary.

"Remote online notarization" means an electronic notarization under this chapter where the signer is not in the physical presence of the notary.

"Satisfactory evidence of identity" means identification of an individual based on (i) examination of one or more of the following unexpired documents bearing a photographic image of the individual's face and signature: a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual or of two credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in clause (i). In the case of an individual who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the State Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or exempt from licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United States Passport Card, expired foreign passport, or expired state issued driver's license or state issued identification card may also be used for identification of such individual, provided that the expiration of such document occurred within five years of the date of use for identification purposes pursuant to this title. In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio conference technology, in accordance with the standards for electronic video and audio communications set out in subdivisions B 1, B 2, and B 3 of § 19.2-3.1, that permits the notary to communicate with and identify the principal at the time of the notarial act, provided that such identification is confirmed by (a) personal knowledge, (b) *an oath or affirmation of a credible witness, or (c) at least two of the following: (1) credential analysis of an unexpired government-issued identification bearing a photograph of the principal's face and signature, (2) identity proofing by an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority, or (3) another identity proofing method authorized in guidance documents, regulations, or standards adopted pursuant to § 2.2-436, or (4) a valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification card that is designed, issued, and managed in accordance with the specifications published by the National Institute of Standards and Technology in Federal Information Processing Standards Publication 201-1, "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements thereto or revisions thereof, including the specifications published by the Federal Chief Information Officers Council in "Personal Identity Verification Interoperability for Non-Federal Issuers."*

"Seal" means a device for affixing on a paper document an image containing the notary's name and other information related to the notary's commission.

"Secretary" means the Secretary of the Commonwealth.

"State" includes any state, territory, or possession of the United States.

"Verification of fact" means a notarial act in which a notary reviews public or vital records to (i) ascertain or confirm facts regarding a person's identity, identifying attributes, or authorization to access a building, database, document, network, or physical site or (ii) validate an identity credential on which satisfactory evidence of identity may be based.

§ 47.1-16. Notarizations to show date of act, official signature and seal, etc.

A. Every notarization shall include the date upon which the notarial act was performed, and the county or city and state in which it was performed. *Every electronic notarial certificate shall include the county or city within the Commonwealth where the electronic notary public was physically located at the time of the notarial act. The electronic notarial certificate shall indicate whether the notarization was done in person or by remote online notarization.*

B. A notarial act shall be evidenced by a notarial certificate or electronic notarial certificate signed by a notary in a manner that attributes such signature to the notary public identified on the commission.

C. Upon every writing ~~which~~ *that* is the subject of a notarial act, the notary shall, after his certificate, state the date of the expiration of his commission in substantially the following form:

"My commission expires the ____ day of _____, _____"

Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal, or, to an electronic document, the notary shall attach an official electronic seal.

D. The notary shall attach the official electronic signature and *electronic* seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident.

E. *An electronic* notary's electronic signature and *electronic* seal shall conform to the standards for electronic notarization developed in accordance with § 47.1-6.1.

§ 55.1-606. Standards for writings to be docketed or recorded.

Except as provided in Article 4.1 (§ 17.1-258.2 et seq.) of Title 17.1 *and for electronically signed or electronically notarized documents described in § 17.1-223*, all writings that are to be recorded or docketed in the clerk's office of courts of record shall be an original or first generation printed form, or legible copy thereof, pen and ink, or typed ribbon copy, and shall meet the standards for instruments as adopted under §§ 17.1-227 and 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.).

If a writing that does not conform to the requirements of this section or the standards for instruments adopted under § 17.1-227 and under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.) is accepted for recordation, it shall be deemed validly recorded and the clerk shall have no liability for accepting such a writing that does not meet the enumerated criteria in all the particulars.

The clerk of the circuit court of any jurisdiction shall be immune from suit arising from any acts or omissions relating to recordation of paper copies of electronically notarized documents pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

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

CHAPTER 79

An Act to amend and reenact §§ 2.02, 5.021, and 6.02, § 12.01, as amended, and § 15.03 of Chapter 227, as amended, of the Acts of Assembly of 1954, which provided a charter for the City of Covington, and to amend and reenact § 22.1-32 of the Code of Virginia, relating to consolidated school board of Alleghany County and the City of Covington; school board salaries.

[H 2091]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.02, 5.021, and 6.02, § 12.01, as amended, and § 15.03 of Chapter 227, as amended, of the Acts of Assembly of 1954 are amended and reenacted as follows:

§ 2.02. Financial powers.

In addition to the powers granted by other sections of this charter the city shall have power:

(a) To raise annually by taxes and assessments in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient, provided that such taxes and assessments are not prohibited by the laws of the Commonwealth. In addition to, but not as a limitation upon, this general grant of power the city shall, when not prohibited by the laws of the Commonwealth, have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; to establish, impose, and enforce water and sewerage rates and rates and charges for garbage and refuse collection and disposal, or other services, products or conveniences, operated, rendered or furnished by the city; to require licenses, prohibit the conduct of any business or profession without such a license, require taxes to be paid on such licenses in respect of all businesses and professions which cannot in the opinion of the council, be reached by the ad valorem system; and to require licenses of owners of vehicles of all kinds for the privilege of using the streets, alleys and other public places in the city, require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the city without such license.

(b) To borrow money for the purposes and in the manner provided by Chapter 5 of this charter.

(c) To make appropriations, subject to the limitations imposed by this charter, for the support of the city government and any other purposes authorized by this charter and not prohibited by the laws of the Commonwealth.

(d) To appropriate, without being bound by other provisions of this charter, not more than one hundred thousand dollars in any one fiscal year for the purpose of meeting a public emergency threatening the lives, health or property of the inhabitants of the city, provided that any such appropriation shall require at least four affirmative votes in the council and that the ordinance making such appropriation shall contain a clear statement of the nature and extent of the emergency.

(e) To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the city government.

(f) To provide, or aid in the support of, public libraries and public schools.

(g) To grant financial aid to military units organized in the city in accordance with the laws of the Commonwealth, and to charitable or benevolent institutions and corporations, including those established for scientific, literary or musical purposes or the encouragement of agriculture and the mechanical arts, whose functions further the public purposes of the city.

(h) To establish a system of pensions for injured, retired or superannuated city officers and employees, members of the police and fire departments, teachers and other employees of the *former city school board, the consolidated school board of Alleghany County and the City of Covington, or both*, judges, clerks, deputy clerks, bailiffs and other employees of the municipal courts, and to establish a fund or funds for the payment of such pensions by making appropriations out of the treasury of the city, by levying a special tax for the benefit of such fund or funds, by requiring contributions payable from time to time from such officers or employees, or by any combination of these methods or by any other method not prohibited by law, provided that the total annual payments into such fund or funds shall be sufficient on sound actuarial

principles to provide for the pensions to be paid therefrom, and provided further that the benefits accrued or accruing to any person under such system shall not be subject to execution, levy, attachment, garnishment or any other process whatsoever nor shall any assignment of such benefits be enforceable in any court.

(i) To provide for the control and management of the fiscal affairs of the city, and prescribe and require the adoption and keeping of such books, records, accounts and systems of accounting by the departments, boards, commissions, courts or other agencies of the city government provided for by this charter or otherwise by law as may be necessary to give full and true account of the affairs, resources and revenues of the city and the handling, use and disposal thereof.

§ 5.021. Collection, custody and disbursement of local funds by director of finance.

The council may, notwithstanding any other provision of this charter, by ordinance provide that the director of finance and not the city treasurer shall collect, have custody of and disburse all local taxes, revenues and funds which belong to the city and the *consolidated* school board or to which they or either of them are entitled. In event such an ordinance is adopted, the director of finance shall have all the rights, powers and authority conferred upon, and shall be subject to all the duties and liabilities imposed upon the city treasurer by the general laws of the Commonwealth and this charter with respect to local taxes, revenues and funds.

§ 6.02. City attorney.

The head of the department of law shall be the city attorney who shall be appointed by the council. He shall be an attorney at law licensed to practice under the laws of the Commonwealth. The city attorney shall be the chief legal advisor of the council, the city manager and of all departments, boards, commissions, and agencies of the city, ~~including the school board~~, in all matters affecting the interests of the city. He shall represent the city in all civil proceedings. It shall be his duty to perform all services incident to his position as may be required by the laws of the Commonwealth, this charter, or by ordinance. He shall have general management and control of the department.

Chapter 12. Department of Education *Consolidated School Division*.

§ 12.01. School board and superintendent of schools *Contracts regarding the consolidated school division*.

The department of education shall consist of the city school board, the division superintendent of schools, and the officers and employees thereof. Except as otherwise provided in this charter, the city school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law.

The school board of the city of Covington shall consist of five trustees, who shall be residents and qualified voters of the city, and shall be appointed by a majority vote of all the members of the council. The three school trustees of the city in office at the present time shall continue in office for the terms for which they were appointed. The first appointments hereunder for the two additional school trustees provided for herein shall be made one for the term beginning on the date of appointment and continuing until July 1, 1958, and the other shall be for a term beginning on the date of appointment and continuing until July 1, 1959. After the expiration of the terms of the present three members and the terms of the two additional members herein provided for all five appointments, except appointments to fill an unexpired term, shall be for the term of three years. Appointment to fill a vacancy occurring otherwise than by expiration of term of office shall be for the remainder of the unexpired term. Any vacancy occurring in said school board by expiration of term of office or other reason shall be filled by a majority vote of all members of the council.

The division superintendent of schools shall be appointed and serve for a term of office as prescribed by general law. The person holding office as division superintendent of schools of Alleghany County and the City of Covington at the time this charter takes effect shall continue as division superintendent of schools of Alleghany County and for the City of Covington and serve for the remainder of the term he would have served, unless said division of Alleghany County and the City of Covington be terminated by the State Board of Education before the expiration of his present term. After the expiration of said present term or the termination of said division by the State Board of Education, whichever shall occur first, the division superintendent of schools for the City of Covington shall be appointed as prescribed by general law.

The City of Covington may, at the option of the council, enter into contractual relationships with the governing body of Alleghany County, the school board for the consolidated school division, or both, for the purposes of effectuating the consolidation of the school divisions or otherwise regarding the operations of the consolidated school division, on such terms and for such periods as the council may determine to be in the public interest, where such contractual relations are not specifically prohibited by the Constitution and general laws of the Commonwealth. Nothing in this section shall be construed to limit the city's authority to enter into contractual relationships consistent with § 15.03 of this charter.

§ 15.03. Contractual relationships.

The ~~city~~ City of Covington ~~or the school board thereof~~ may, at the option of the council, ~~or school board~~ enter into contractual relationships with the Commonwealth and/or its departments, bureaus, boards and agencies, neighboring political subdivisions, and private agencies for the performance of any part of or all of the functions, or purposes of the city, ~~or school board~~, on such terms and for such periods as the council ~~or school board~~ may determine to be in the public interest, where such contractual relations are not specifically prohibited by the Constitution and general laws of the Commonwealth.

2. That § 22.1-32 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-32. Salary of members.

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter.

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack — \$3,000.00;
Alleghany — \$1,500.00;
Amherst — \$2,200.00;
Brunswick — \$1,800.00;
Cumberland — \$3,600.00;
Essex — \$1,800.00;
Greensville — \$1,800.00;
Hanover — \$8,000.00;
Isle of Wight — \$4,000.00;
Northampton — \$3,000.00;
Prince Edward — \$2,400.00;
Richmond — \$5,000.00;
Southampton — \$5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville — \$3,000.00;
Covington — \$1,500.00;
Danville — \$600.00;
Emporia — \$240.00;
Fries — \$240.00;
Hopewell — \$3,600.00;
Lexington — \$600.00;
Lynchburg — \$2,400.00;
Manassas Park — \$3,000.00;
Martinsville — \$2,400.00;
Poquoson — \$3,000.00;
Roanoke — \$4,200.00;
Salem — \$4,800.00;
South Boston — \$600.00;
Winchester — \$4,500.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding \$2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1 of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

G. The members of the consolidated school board representing Alleghany County and the City of Covington shall be paid an annual salary not to exceed \$1,500.

3. That nothing in this act shall be construed to impair any contract entered into between the governing bodies or school boards of Alleghany County and the City of Covington prior to the consolidation of the Alleghany County and City of Covington school divisions.

4. That this act shall become effective on July 1, 2022, provided that the consolidation of the Alleghany County and City of Covington school divisions is approved by the Board of Education prior to that date.

CHAPTER 80

An Act to amend and reenact §§ 2.02, 5.021, and 6.02, § 12.01, as amended, and § 15.03 of Chapter 227, as amended, of the Acts of Assembly of 1954, which provided a charter for the City of Covington, and to amend and reenact § 22.1-32 of the Code of Virginia, relating to consolidated school board of Alleghany County and the City of Covington; school board salaries.

[S 1267]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.02, 5.021, and 6.02, § 12.01, as amended, and § 15.03 of Chapter 227, as amended, of the Acts of Assembly of 1954 are amended and reenacted as follows:

§ 2.02. Financial powers.

In addition to the powers granted by other sections of this charter the city shall have power:

(a) To raise annually by taxes and assessments in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient, provided that such taxes and assessments are not prohibited by the laws of the Commonwealth. In addition to, but not as a limitation upon, this general grant of power the city shall, when not prohibited by the laws of the Commonwealth, have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; to establish, impose, and enforce water and sewerage rates and rates and charges for garbage and refuse collection and disposal, or other services, products or conveniences, operated, rendered or furnished by the city; to require licenses, prohibit the conduct of any business or profession without such a license, require taxes to be paid on such licenses in respect of all businesses and professions which cannot in the opinion of the council, be reached by the ad valorem system; and to require licenses of owners of vehicles of all kinds for the privilege of using the streets, alleys and other public places in the city, require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the city without such license.

(b) To borrow money for the purposes and in the manner provided by Chapter 5 of this charter.

(c) To make appropriations, subject to the limitations imposed by this charter, for the support of the city government and any other purposes authorized by this charter and not prohibited by the laws of the Commonwealth.

(d) To appropriate, without being bound by other provisions of this charter, not more than one hundred thousand dollars in any one fiscal year for the purpose of meeting a public emergency threatening the lives, health or property of the inhabitants of the city, provided that any such appropriation shall require at least four affirmative votes in the council and that the ordinance making such appropriation shall contain a clear statement of the nature and extent of the emergency.

(e) To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the city government.

(f) To provide, or aid in the support of, public libraries and public schools.

(g) To grant financial aid to military units organized in the city in accordance with the laws of the Commonwealth, and to charitable or benevolent institutions and corporations, including those established for scientific, literary or musical purposes or the encouragement of agriculture and the mechanical arts, whose functions further the public purposes of the city.

(h) To establish a system of pensions for injured, retired or superannuated city officers and employees, members of the police and fire departments, teachers and other employees of the *former city school board, the consolidated school board of Alleghany County and the City of Covington, or both*, judges, clerks, deputy clerks, bailiffs and other employees of the municipal courts, and to establish a fund or funds for the payment of such pensions by making appropriations out of the treasury of the city, by levying a special tax for the benefit of such fund or funds, by requiring contributions payable from time to time from such officers or employees, or by any combination of these methods or by any other method not prohibited by law, provided that the total annual payments into such fund or funds shall be sufficient on sound actuarial principles to provide for the pensions to be paid therefrom, and provided further that the benefits accrued or accruing to any person under such system shall not be subject to execution, levy, attachment, garnishment or any other process whatsoever nor shall any assignment of such benefits be enforceable in any court.

(i) To provide for the control and management of the fiscal affairs of the city, and prescribe and require the adoption and keeping of such books, records, accounts and systems of accounting by the departments, boards, commissions, courts or other agencies of the city government provided for by this charter or otherwise by law as may be necessary to give full and true accounts of the affairs, resources and revenues of the city and the handling, use and disposal thereof.

§ 5.021. Collection, custody and disbursement of local funds by director of finance.

The council may, notwithstanding any other provision of this charter, by ordinance provide that the director of finance and not the city treasurer shall collect, have custody of and disburse all local taxes, revenues and funds which belong to the city and the *consolidated* school board or to which they or either of them are entitled. In event such an ordinance is adopted, the director of finance shall have all the rights, powers and authority conferred upon, and shall be subject to all the duties and liabilities imposed upon the city treasurer by the general laws of the Commonwealth and this charter with respect to local taxes, revenues and funds.

§ 6.02. City attorney.

The head of the department of law shall be the city attorney who shall be appointed by the council. He shall be an attorney at law licensed to practice under the laws of the Commonwealth. The city attorney shall be the chief legal advisor of the council, the city manager and of all departments, boards, commissions, and agencies of the city, ~~including the school board~~, in all matters affecting the interests of the city. He shall represent the city in all civil proceedings. It shall be his duty to perform all services incident to his position as may be required by the laws of the Commonwealth, this charter, or by ordinance. He shall have general management and control of the department.

Chapter 12. ~~Department of Education~~ *Consolidated School Division.*

§ 12.01. ~~School board and superintendent of schools~~ *Contracts regarding the consolidated school division.*

The department of education shall consist of the city school board, the division superintendent of schools, and the officers and employees thereof. Except as otherwise provided in this charter, the city school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law.

The school board of the city of Covington shall consist of five trustees, who shall be residents and qualified voters of the city, and shall be appointed by a majority vote of all the members of the council. The three school trustees of the city in office at the present time shall continue in office for the terms for which they were appointed. The first appointments hereunder for the two additional school trustees provided for herein shall be made one for the term beginning on the date of appointment and continuing until July 1, 1958, and the other shall be for a term beginning on the date of appointment and continuing until July 1, 1959. After the expiration of the terms of the present three members and the terms of the two additional members herein provided for all five appointments, except appointments to fill an unexpired term, shall be for the term of three years. Appointment to fill a vacancy occurring otherwise than by expiration of term of office shall be for the remainder of the unexpired term. Any vacancy occurring in said school board by expiration of term of office or other reason shall be filled by a majority vote of all members of the council.

The division superintendent of schools shall be appointed and serve for a term of office as prescribed by general law. The person holding office as division superintendent of schools of Alleghany County and the City of Covington at the time this charter takes effect shall continue as division superintendent of schools of Alleghany County and for the City of Covington and serve for the remainder of the term he would have served, unless said division of Alleghany County and the City of Covington be terminated by the State Board of Education before the expiration of his present term. After the expiration of said present term or the termination of said division by the State Board of Education, whichever shall occur first, the division superintendent of schools for the City of Covington shall be appointed as prescribed by general law.

The City of Covington may, at the option of the council, enter into contractual relationships with the governing body of Alleghany County, the school board for the consolidated school division, or both, for the purposes of effectuating the consolidation of the school divisions or otherwise regarding the operations of the consolidated school division, on such terms and for such periods as the council may determine to be in the public interest, where such contractual relations are not specifically prohibited by the Constitution and general laws of the Commonwealth. Nothing in this section shall be construed to limit the city's authority to enter into contractual relationships consistent with § 15.03 of this charter.

§ 15.03. Contractual relationships.

The city ~~City of Covington or the school board thereof~~ may, at the option of the council, ~~or school board~~ enter into contractual relationships with the Commonwealth and/or its departments, bureaus, boards and agencies, neighboring political subdivisions, and private agencies for the performance of any part of or all of the functions, or purposes of the city, ~~or school board~~, on such terms and for such periods as the council ~~or school board~~ may determine to be in the public interest, where such contractual relations are not specifically prohibited by the Constitution and general laws of the Commonwealth.

2. That § 22.1-32 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-32. Salary of members.

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter.

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack — \$3,000.00;
 Alleghany — \$1,500.00;
 Amherst — \$2,200.00;
 Brunswick — \$1,800.00;
 Cumberland — \$3,600.00;
 Essex — \$1,800.00;

Greensville — \$1,800.00;
Hanover — \$8,000.00;
Isle of Wight — \$4,000.00;
Northampton — \$3,000.00;
Prince Edward — \$2,400.00;
Richmond — \$5,000.00;
Southampton — \$5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville — \$3,000.00;
Covington — \$1,500.00;
Danville — \$600.00;
Emporia — \$240.00;
Fries — \$240.00;
Hopewell — \$3,600.00;
Lexington — \$600.00;
Lynchburg — \$2,400.00;
Manassas Park — \$3,000.00;
Martinsville — \$2,400.00;
Poquoson — \$3,000.00;
Roanoke — \$4,200.00;
Salem — \$4,800.00;
South Boston — \$600.00;
Winchester — \$4,500.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding \$2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1 of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

G. The members of the consolidated school board representing Alleghany County and the City of Covington shall be paid an annual salary not to exceed \$1,500.

3. That nothing in this act shall be construed to impair any contract entered into between the governing bodies or school boards of Alleghany County and the City of Covington prior to the consolidation of the Alleghany County and City of Covington school divisions.

4. That this act shall become effective on July 1, 2022, provided that the consolidation of the Alleghany County and City of Covington school divisions is approved by the Board of Education prior to that date.

CHAPTER 81

An Act to amend and reenact § 22.1-32 of the Code of Virginia, relating to Brunswick County school board; appointed school board salaries.

[S 1175]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-32 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-32. Salary of members.**

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter.

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack — \$3,000.00;
 Alleghany — \$1,500.00;
 Amherst — \$2,200.00;
 Brunswick — \$1,800.00;
 Cumberland — \$3,600.00;
 Essex — \$1,800.00;
 Greensville — \$1,800.00;
 Hanover — \$8,000.00;
 Isle of Wight — \$4,000.00;
 Northampton — \$3,000.00;
 Prince Edward — \$2,400.00;
 Richmond — \$5,000.00;
 Southampton — \$5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville — \$3,000.00;
 Covington — \$1,500.00;
 Danville — \$600.00;
 Emporia — \$240.00;
 Fries — \$240.00;
 Hopewell — \$3,600.00;
 Lexington — \$600.00;
 Lynchburg — \$2,400.00;
 Manassas Park — \$3,000.00;
 Martinsville — \$2,400.00;
 Poquoson — \$3,000.00;
 Roanoke — \$4,200.00;
 Salem — \$4,800.00;
 South Boston — \$600.00;
 Winchester — \$4,500.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding \$2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1

of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall be become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

CHAPTER 82

An Act to amend and reenact §§ 4.1-230, as it shall become effective, and 4.1-233.1 of the Code of Virginia and to amend and reenact the third, fifth, and eighth enactments of Chapter 1113 of the Acts of Assembly of 2020 and the third, fifth, and eighth enactments of Chapter 1114 of the Acts of Assembly of 2020, relating to alcoholic beverage control; license fee reform; delay; emergency.

[H 1845]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-230, as it shall become effective, and 4.1-233.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any

fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on ~~July January 1, 2021~~ 2022. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-233.1. (Effective July 1, 2021) Fees on local licenses.

A. In addition to the state license taxes, the annual local license taxes that may be collected shall not exceed the following sums:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than ~~10,000~~ 500 barrels manufactured during such year, \$1,000;

c. Winery license, \$50; and

d. Farm winery license, \$50.

2. Wholesale licenses. For each:

a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

b. Wholesale wine license, \$50.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, \$200;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$500;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$650; and

(5) With a seating capacity at tables for more than 1,000 persons, \$800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, \$350;

c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the premises of the casino gaming establishment;

d. Mixed beverage caterer's license, \$500;

e. Mixed beverage limited caterer's license, \$100;

f. Annual mixed beverage motor sports facility license, \$300;

g. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, \$100;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or

(3) With a seating capacity at tables for more than 150 persons, \$400;

h. Annual mixed beverage performing arts facility license, \$300;

i. Bed and breakfast license, \$40;

j. Museum license, \$10;

k. Motor car sporting event facility license, \$10;

l. Commercial lifestyle center license, \$60; and

m. Annual mixed beverage special events license, \$300.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:
 - a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;
 - b. Hospitals, \$10;
 - c. Rural grocery stores, \$37.50; and
 - d. Historic cinema houses, \$20.
 5. Retail licenses — off-premises wine and beer. For each:
 - a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;
 - b. Gourmet brewing shop license, \$150; and
 - c. Confectionery license, \$20.
 6. Retail licenses — banquet, special event, and tasting licenses. For each:
 - a. Per-day event licenses. For each:
 - (1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;
 - (2) Mixed beverage special events license, \$10 for each day of each event;
 - (3) Mixed beverage club events license, \$10 for each day of each event; and
 - (4) Tasting license, \$10.
 - b. Annual licenses. For each:
 - (1) Annual banquet license, \$15;
 - (2) Local special events license, \$60;
 - (3) Annual mixed beverage banquet license, \$75;
 - (4) Equine sporting event license, \$10; and
 - (5) Annual arts venue event license, \$10.
 7. Retail licenses — marketplace. For each marketplace license, \$200.
 8. Retail licenses — shipper, bottler, and related licenses. For each:
 - a. Wine and beer shipper's license, \$10; and
 - b. Bottler license, \$500.
- B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
- C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.
- D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.
- E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.
- 2. That the third, fifth, and eighth enactments of Chapter 1113 of the Acts of Assembly of 2020 are amended and reenacted as follows:**
- 3. That the provisions of the first, second, and fourth enactments of this act shall become effective on ~~July January 1, 2021~~ 2022, except for the provisions of the first enactment that amend the definition of low alcohol beverage cooler set forth in § 4.1-100 of the Code of Virginia, as amended by this act, which shall become effective July 1, 2020.**
- 5. That any person who (i) is licensed pursuant to subdivision A 9, 11, 12, 14, 18, or 19 of § 4.1-206 of the Code of Virginia, as it was in effect prior to July 1, 2020, and (ii) wishes to maintain licensure after ~~June 30 December 31, 2021~~, shall apply for a marketplace license on or before ~~January~~ July 1, 2021.**
- 8. That on or after July 1, 2020, the Board of Directors of the Virginia Alcoholic Beverage Control Authority may issue mixed beverage carrier licenses to persons operating a common carrier of passengers by bus, which shall**

authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier. The state license fee for any such license granted prior to ~~July January 1, 2021~~ 2022, shall be \$190. Such license shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license. For the purposes of this enactment, "bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 of the Code of Virginia to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in Title 4.1 of the Code of Virginia or Board regulation.

3. That the third, fifth, and eighth enactments of Chapter 1114 of the Acts of Assembly of 2020 are amended and reenacted as follows:

3. That the provisions of the first, second, and fourth enactments of this act shall become effective on ~~July January 1, 2021~~ 2022, except for the provisions of the first enactment that amend the definition of low alcohol beverage cooler set forth in § 4.1-100 of the Code of Virginia, as amended by this act, which shall become effective July 1, 2020.

5. That any person who (i) is licensed pursuant to subdivision A 9, 11, 12, 14, 18, or 19 of § 4.1-206 of the Code of Virginia, as it was in effect prior to July 1, 2020, and (ii) wishes to maintain licensure after ~~June 30 December 31, 2021~~, shall apply for a marketplace license on or before ~~January July 1, 2021~~.

8. That on or after July 1, 2020, the Board of Directors of the Virginia Alcoholic Beverage Control Authority may issue mixed beverage carrier licenses to persons operating a common carrier of passengers by bus, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier. The state license fee for any such license granted prior to ~~July January 1, 2021~~ 2022, shall be \$190. Such license shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license. For the purposes of this enactment, "bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 of the Code of Virginia to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in Title 4.1 of the Code of Virginia or Board regulation.

4. That any person licensed to sell wine or beer for on-premises consumption may sell such wine or beer to persons to whom alcoholic beverages may be lawfully sold for off-premises consumption until January 1, 2022, provided that such wine or beer is sold in a (i) container upon which the original seal or closure has not been broken; (ii) growler made of glass, ceramic, metal, or other material approved by the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board); or (iii) reusable, resealable container approved by the Board. Such on-premises licensee, as well as persons licensed to sell wine or beer for off-premises consumption, may deliver wine or beer that it is authorized to sell to consumers within the Commonwealth without obtaining a delivery permit until January 1, 2022, subject to the following conditions: (a) deliveries shall be performed by (1) the licensee, (2) an agent, officer, director, shareholder, or employee of the licensee, or (3) an independent contractor of the licensee, provided that only one individual takes possession of the wine or beer during the course of the delivery and the licensee has entered into a written agreement with the independent contractor establishing that the licensee is vicariously liable for any administrative violations of this enactment or § 4.1-304 of the Code of Virginia committed by the independent contractor relating to any deliveries made on behalf of the licensee; (b) deliveries may be made without obtaining the recipient's signature, provided that the person making the delivery records the recipient's full name and the method used to verify that the recipient is 21 years of age or older; (c) the delivery shall be refused when the recipient appears to be younger than 21 years of age and refuses to present valid identification; (d) the licensee shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer that states "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY" and includes the licensee number; and (e) no more than four cases of wine or beer may be delivered to any person at one time unless the licensee provides notice to the Board at least one business day prior to the delivery, which notice shall include the name and address of the intended recipient.

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

CHAPTER 83

An Act to amend and reenact § 18.2-60 of the Code of Virginia, relating to communicating threats of death or bodily injury to a person with intent to intimidate; penalty.

[H 2194]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-60 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-60. Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.

A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 5 felony.

2. Any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

3. *Any person 18 years of age or older who communicates a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large; (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation; or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation is guilty of a Class 5 felony. Any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor.*

B. Any person who orally makes a threat to kill or to do bodily injury to (i) any employee of any elementary, middle, or secondary school, while on a school bus, on school property, or at a school-sponsored activity or (ii) any health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital as defined in § 18.2-57 or in an emergency room on the premises of any clinic or other facility rendering emergency medical care, unless the person is on the premises of the hospital or emergency room of the clinic or other facility rendering emergency medical care as a result of an emergency custody order pursuant to § 37.2-808, involuntary temporary detention order pursuant to § 37.2-809, involuntary hospitalization order pursuant to § 37.2-817, or emergency custody order of a conditionally released acquittee pursuant to § 19.2-182.9, is guilty of a Class 1 misdemeanor.

C. A prosecution pursuant to this section may be either in the county, city, or town in which the communication was made or received or in the City of Richmond if venue cannot otherwise be established and the person threatened is one of the following officials or employees of the Commonwealth and such official or employee was threatened while engaged in the performance of his public duties or because of his position with the Commonwealth: the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 84

An Act to amend and reenact § 18.2-60 of the Code of Virginia, relating to communicating threats of death or bodily injury to a person with intent to intimidate; penalty.

[S 1113]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-60 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-60. Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.

A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 5 felony.

2. Any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

3. *Any person 18 years of age or older who communicates a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large; (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation; or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation is guilty of a Class 5 felony. Any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor.*

B. Any person who orally makes a threat to kill or to do bodily injury to (i) any employee of any elementary, middle, or secondary school, while on a school bus, on school property, or at a school-sponsored activity or (ii) any health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital as defined in § 18.2-57 or in an emergency room on the premises of any clinic or other facility rendering emergency medical care, unless the person is on the premises of the hospital or emergency room of the clinic or other facility rendering emergency medical care as a result of an emergency custody order pursuant to § 37.2-808, involuntary temporary detention order pursuant to § 37.2-809, involuntary hospitalization order pursuant to § 37.2-817, or emergency custody order of a conditionally released acquttee pursuant to § 19.2-182.9, is guilty of a Class 1 misdemeanor.

C. A prosecution pursuant to this section may be either in the county, city, or town in which the communication was made or received or in the City of Richmond if venue cannot otherwise be established and the person threatened is one of the following officials or employees of the Commonwealth and such official or employee was threatened while engaged in the performance of his public duties or because of his position with the Commonwealth: the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 85

An Act relating to concealed handgun permits; demonstration of competence; emergency.

[H 2310]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Any applicant who completed an online course to demonstrate competence with a handgun as required in subsection B of § 18.2-308.02 of the Code of Virginia for the purposes of applying for a concealed handgun permit and contacted the circuit court clerk's office prior to January 1, 2021, but was prohibited from appearing in person at a circuit court clerk's office because of restrictions due to COVID-19 shall be eligible to apply for a concealed handgun permit through April 30, 2021.*

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

CHAPTER 86

An Act to amend and reenact § 19.2-3.1 of the Code of Virginia, relating to personal appearance by two-way electronic video and audio communication; entry of plea or nolle prosequi or dismissal; revocation proceedings.

[S 1242]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-3.1 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-3.1. Personal appearance by two-way electronic video and audio communication; standards.**

A. Where an appearance is required or permitted before a magistrate, intake officer or, prior to trial, before a judge, the appearance may be by (i) personal appearance before the magistrate, intake officer, or judge or (ii) use of two-way electronic video and audio communication. *With the consent of the court and all parties, an appearance in a court may be made by two-way electronic video and audio communication for the purpose of (a) entry of a plea of guilty or nolo contendere and the related sentencing of the defendant charged with a misdemeanor or felony, (b) entry of a nolle prosequi or dismissal, or (c) a revocation proceeding pursuant to § 19.2-306.*

If two-way electronic video and audio communication is used, a magistrate, intake officer, or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person. If two-way electronic video and audio communication is available for use by a district court for the conduct of a hearing to determine bail or to determine representation by counsel, the court shall use such communication in any such proceeding that would otherwise require the transportation of a person from outside the jurisdiction of the court in order to appear in person before the court. Any documents transmitted between the magistrate, intake officer, or judge and the person appearing before the magistrate, intake officer, or judge may be transmitted by electronically transmitted facsimile process or other electronic method. The facsimile or other electronically generated document may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

B. No two-way electronic video and audio communication system used for an appearance shall meet the following standards:

1. The persons communicating must simultaneously see and speak to one another;
2. The signal transmission must be live, real time;
3. The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating; and
4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

C. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.

CHAPTER 87

An Act to amend and reenact § 20-25 of the Code of Virginia, relating to persons who may celebrate rites of marriage; members of the General Assembly.

[S 1142]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 20-25 of the Code of Virginia is amended and reenacted as follows:****§ 20-25. Persons other than ministers who may perform rites.**

Upon petition filed with the clerk and payment of applicable clerk's fees, any circuit court judge may issue an order authorizing one or more persons resident in the circuit in which the judge sits to celebrate the rites of marriage in the Commonwealth. Any person so authorized shall, before acting, enter into bond in the penalty of \$500, with or without surety, as the court may direct. Any order made under this section may be rescinded at any time. No oath shall be required of a person authorized to celebrate the rites of marriage, nor shall such person be considered an officer of the Commonwealth by virtue of such authorization.

Any judge or justice of a court of record, any judge of a district court, any retired judge or justice of the Commonwealth, and any active, senior, or retired federal judge or justice who is a resident of the Commonwealth, and any current (i) member of the General Assembly, (ii) Governor of Virginia, (iii) Lieutenant Governor of Virginia, and (iv) Attorney General of Virginia may celebrate the rites of marriage anywhere in the Commonwealth without the necessity of bond or order of authorization.

CHAPTER 88

An Act to amend and reenact § 8.01-417 of the Code of Virginia, relating to personal injury claim; disclosure of insurance policy limits.

[S 1241]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-417 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-417. Copies of written statements or transcriptions of verbal statements by injured person to be delivered to him; copies of subpoenaed documents to be provided to other party; disclosure of insurance policy limits.

A. Any person who takes from a person who has sustained a personal injury a signed written statement or voice recording of any statement relative to such injury shall deliver to such injured person a copy of such written statement forthwith or a verified typed transcription of such recording within 30 days from the date such statement was given or recording made, when and if the statement or recording is transcribed or in all cases when requested by the injured person or his attorney.

B. Unless otherwise ordered for good cause shown, when one party to a civil proceeding subpoenas documents, the subpoenaing party, upon receipt of the subpoenaed documents, shall, if requested in writing, provide true and full copies of the same to any other party or to the attorney for any other party, provided the other party or attorney for the other party pays the reasonable cost of copying or reproducing the subpoenaed documents. This provision does not apply where the subpoenaed documents are returnable to and maintained by the clerk of court in which the action is pending.

C. After he gives written notice that he represents an injured person, an attorney, or an individual injured in a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for personal injuries sustained as a result of a motor vehicle accident, request in writing that the insurer disclose (i) the limits of liability of any motor vehicle liability or any personal injury liability insurance policy that may be applicable to the claim and (ii) the physical address, if known, of the alleged tortfeasor who is insured by the insurer, if not previously reported to the requesting party. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor if it has been reported to the requesting party, a copy of the accident report, if any, and the claim number, if available. The insurer shall provide the alleged tortfeasor's physical address within 30 days of the receipt of the request. When requesting the limits of liability, the requesting party shall also submit to the insurer the injured person's medical records, medical bills, and wage-loss documentation, if applicable, pertaining to the claimed injury. If (a) the total of the medical bills and wage losses submitted equals or exceeds \$12,500 or (b) regardless of the amount of losses, the alleged tortfeasor was ~~convicted of~~ *charged with* an offense under § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, or 46.2-341.24 and the injured person's injuries arose from the same incident that resulted in such ~~conviction~~ *charge*, the insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time of the accident of all such policies, regardless of whether the insurer contests the applicability of the policy to the injured person's claim, and the insured's address. Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

D. After he gives written notice that he represents the personal representative of the estate of a decedent who died as a result of a motor vehicle accident, an attorney, or the personal representative of the estate of the decedent who died as a result of a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for wrongful death as a result of a motor vehicle accident, request in writing that the insurer disclose (i) the limits of liability of any motor vehicle liability insurance policy or any personal injury liability insurance policy that may be applicable to the claim and (ii) the physical address, if known, of the alleged tortfeasor who is insured by the insurer, if not previously reported to the requesting party. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor if it has been reported to the requesting party, a copy of the accident report, if any, and the claim number, if available. The insurer shall provide the alleged tortfeasor's physical address within 30 days of the receipt of the request. When requesting the limits of liability, the requesting party shall submit to the insurer the death certificate of the decedent; the certificate of qualification of the personal representative of the decedent's estate; the names and relationships of the statutory beneficiaries of the decedent; medical bills, if any, supporting a claim for damages under subdivision 3 of § 8.01-52; and, if at the time the request is made a claim for damages under clause (i) of subdivision 2 of § 8.01-52 is anticipated, a description of the source, amount, and payment history of the claimed income loss for each beneficiary. The insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time of the accident of all such policies, regardless of whether the insurer contests the applicability of the policy to the personal representative's claim, and the insured's address. Disclosure of the policy limits under this section shall not constitute an admission that the alleged death or other damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

E. For purposes of subsections C and D, if the alleged tortfeasor has insurance coverage from a self-insured locality for a motor vehicle accident, as described in this section, and the locality is authorized by the alleged tortfeasor to accept service of process on behalf of the alleged tortfeasor and agrees to do so, the locality, in its discretion and instead of disclosing the alleged tortfeasor's home address, may disclose the insured's work address and the name and address of the person who shall accept service of process on behalf of the alleged tortfeasor. If the locality makes such a disclosure, the locality shall not be required to disclose the alleged tortfeasor's home address.

F. As used in subsections C and D, "insurer" does not include the insurance agency or the insurance agent representing the alleged tortfeasor as the authorized representative or agent with respect to the alleged tortfeasor's motor vehicle insurance policy.

CHAPTER 89

An Act to amend and reenact §§ 15.2-961 and 15.2-961.1 of the Code of Virginia, relating to replacement and conservation of trees during development.

[H 2042]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 15.2-961 and 15.2-961.1 of the Code of Virginia are amended and reenacted as follows:****§ 15.2-961. Replacement of trees during development process in certain localities.**

A. Any locality with a population density of at least 75 persons per square mile or any locality within the Chesapeake Bay watershed may adopt an ordinance providing for the planting and replacement of trees during the development process pursuant to the provisions of this section. Population density shall be based upon the latest population estimates of the Cooper Center for Public Service of the University of Virginia.

B. ~~The~~ *Except as set forth in subsection J, the* ordinance shall require that the site plan for any subdivision or development include the planting or replacement of trees on the site to the extent that, at 20 years, minimum tree canopies or covers will be provided in areas to be designated in the ordinance, as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;
2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than 10 but less than 20 units per acre; and
4. Twenty percent tree canopy for a residential site zoned 10 units or less per acre.

However, the City of Williamsburg may require at 10 years the minimum tree canopies or covers set out above.

C. The ordinance shall require that the site plan for any subdivision or development include, at 20 years, that a minimum 10 percent tree canopy will be provided on the site of any cemetery as defined in § 54.1-2310, notwithstanding any other provision of this section. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements of this subsection.

D. The ordinance shall provide for reasonable provisions for reducing the tree canopy requirements or granting tree cover credit in consideration of the preservation of existing tree cover or for preservation of trees of outstanding age, size or physical characteristics.

E. The ordinance shall provide for reasonable exceptions to or deviations from these requirements to allow for the reasonable development of farm land or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or otherwise when the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the ordinance may provide for a tree canopy bank *or fund* whereby a portion of a development's tree canopy requirement may be met from off-site planting or replacement of trees, *as provided in § 15.2-961.1*, at the direction of the locality. The following shall be exempt from the requirements of any tree replacement or planting ordinance promulgated under this section: dedicated school sites, playing fields and other nonwooded recreation areas, and other facilities and uses of a similar nature.

F. The ordinance may designate tree species that cannot be planted to meet minimum tree canopy requirements due to tendencies of such species to (i) negatively impact native plant communities, (ii) cause damage to nearby structures and infrastructure, or (iii) possess inherent physiological traits that cause such trees to structurally fail. All trees to be planted shall meet the specifications of the AmericanHort. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

G. Existing trees which are to be preserved may be included to meet all or part of the canopy requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet standards of desirability and life-year expectancy which the locality may establish.

H. For purposes of this section:

"Tree canopy" or "tree cover" includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 10 or 20 years maturity. Planted canopy at 10 or 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.

I. Penalties for violations of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

J. ~~In no event shall any~~ *A* local tree replacement or planting ordinance adopted pursuant to this section *may* exceed the requirements set forth herein (i) *to generate pollution reduction credits through installation of an approved Urban Tree Canopy Expansion best management practice (BMP) or other approved BMP for compliance with the locality's municipal separate storm sewer system (MS4) Permit;* (ii) *in any development project located in a Chesapeake Bay Preservation Area to address recurrent flooding;* (iii) *in any development project located in an area that prior to the passage of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., was redlined or graded "D" by the federal Home Owners' Loan*

Corporation; and (iv) to ensure conformity with the comprehensive plan adopted by the locality pursuant to §§ 15.2-2223 through 15.2-2226.

K. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section prior to July 1, 1990, which imposes standards for tree replacement or planting during the development process.

L. Nothing in this section shall invalidate any local ordinance adopted by the City of Williamsburg that imposes standards for 10-year-minimum tree cover replacement or planting during the development process.

M. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section after July 1, 1990, which imposes standards for 20-year-minimum tree cover replacement or planting during the development process.

§ 15.2-961.1. Conservation of trees during land development process.

A. For purposes of this section, "tree canopy" or "tree cover" includes all areas of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height, and the extent of planted tree canopy at 20-years maturity.

B. Any locality within Planning District 8 that meets the population density criteria of subsection A of § 15.2-961 and is classified as an eight-hour nonattainment area for ozone under the federal Clean Air Act and Amendments of 1990, in effect as of July 1, 2008, may adopt an ordinance providing for the conservation of trees during the land development process pursuant to the provisions of this section. In no event shall any local tree conservation ordinance adopted pursuant to this section also impose the tree replacement provisions of § 15.2-961.

C. The ordinance shall require that the site plan for any subdivision or development provide for the preservation or replacement of trees on the development site such that the minimum tree canopy or tree cover percentage 20 years after development is projected to be as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;
2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;
4. Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per acre;
5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; and
6. Thirty percent tree canopy for a residential site zoned two or fewer units per acre.

In meeting these percentages, (i) the ordinance shall first emphasize the preservation of existing tree canopy where that canopy meets local standards for health and structural condition, and where it is feasible to do so within the framework of design standards and densities allowed by the local zoning and other development ordinances; and (ii) second, where it is not feasible in whole or in part for any of the justifications listed in subsection E to preserve existing canopy in the required percentages listed above, the ordinance shall provide for the planting of new trees to meet the required percentages.

D. Except as provided in subsection E, the percentage of the site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the requirements identified in subsection C that shall be provided through tree preservation. This portion of the canopy requirements shall be identified as the "tree preservation target" and shall be included in site plan calculations or narratives demonstrating how the overall requirements of subsection C have been met.

E. The ordinance shall provide deviations, in whole or in part, from the tree preservation target defined in subsection D under the following conditions:

1. Meeting the preservation target would prevent the development of uses and densities otherwise allowed by the locality's zoning or development ordinance.
2. The predevelopment condition of vegetation does not meet the locality's standards for health and structural condition.
3. Construction activities could be reasonably expected to impact existing trees to the extent that they would not likely survive in a healthy and structurally sound manner. This includes activities that would cause direct physical damage to the trees, including root systems, or cause environmental changes that could result in or predispose the trees to structural and health problems.

If, in the opinion of the developer, the project cannot meet the tree preservation target due to the conditions described in subdivision 1, 2, or 3, the developer may request a deviation from the preservation requirement in subsection D. In the request for deviation, the developer shall provide a letter to the locality that provides justification for the deviation, describes how the deviation is the minimum necessary to afford relief, and describes how the requirements of subsection C will be met through tree planting or a tree canopy bank or fund established by the locality. Proposed deviations shall be reviewed by the locality's urban forester, arborist, or equivalent in consultation with the locality's land development or licensed professional civil engineering review staff. The locality may propose an alternative site design based upon adopted land development practices and sound vegetation management practices that take into account the relationship between the cost of conservation and the benefits of the trees to be preserved as described in ANSI A300 (Part 5) — 2005 Management: Tree, Shrub, and Other Woody Plant Maintenance — Standard Practices, Management of Trees and Shrubs During Site Planning, Site Development, and Construction, Annex A, A-1.5, Cost Benefits Analysis (or the latest version of this standard). The developer shall consider the alternative and redesign the plan accordingly, or elect to satisfy the unmet portion of the preservation threshold through on-site tree planting or through the off-site planting mechanisms identified in subsection G, so long as the developer provides the locality with an explanation of why the alternative design recommendations were rejected. Letters of explanation from the developer shall be prepared and certified by a licensed professional engineer as defined in § 54.1-400. If arboricultural issues are part of explanation then the letter shall be signed

by a Certified Arborist who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status or by a Registered Consulting Arborist as designated by the American Society of Consulting Arborists. If arboricultural issues are the sole subject of the letter of explanation then certification by a licensed professional engineer shall not be required.

F. The ordinance shall provide for deviations of the overall canopy requirements set forth in subsection C to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.

G. The ordinance shall provide for the establishment of a tree canopy bank or fund whereby any portion of the tree canopy requirement that cannot be met on-site may be met through off-site tree preservation or tree planting efforts. Such provisions may be offered where it can be demonstrated that application of the requirements of subsection C would cause irresolvable conflicts with other local site development requirements, standards, or comprehensive planning goals, where sites or portions of sites lack sufficient space for future tree growth, where planting spaces will not provide adequate space for healthy root development, where trees will cause unavoidable conflicts with underground or overhead utilities, or where it can be demonstrated that trees are likely to cause damage to public infrastructure. The ordinance may utilize any of the following off-site canopy establishment mechanisms:

1. A tree canopy bank may be established in order for the locality to facilitate off-site tree preservation, tree planting, stream bank, and riparian restoration projects. Banking efforts shall provide tree canopy that is preserved in perpetuity through conservation easements, deed restrictions, or similar protective mechanisms acceptable to the locality. Projects used in off-site banking will meet the same ordinance standards established for on-site tree canopy; however, the locality may also require the submission of five-year management plans and funds to ensure the execution of maintenance and management obligations identified in those plans. ~~Any~~ *If a locality is located within a nonattainment area, any* such bank shall occur within the same nonattainment area in which the locality approving the tree banking is situated.

2. A tree canopy fund may be established to act as a fiscal mechanism to collect, manage, and disburse fees collected from developers that cannot provide full canopy requirements on-site. The locality may use this fund directly to plant trees on public property, or the locality may elect to disburse this fund to community-based organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code with tree planting or community beautification missions for tree planting programs that benefit the community at large. For purposes of establishing consistent and predictable fees, the ordinance shall establish cost units that are based on average costs to establish 20-year canopy areas using two-inch caliper nursery stock trees. Any funds collected by localities for these purposes shall be spent *or disbursed as set forth herein* within a five-year period established by the collection date, ~~or the locality shall return such funds to the original contributor, or legal successor.~~

H. The following uses shall be exempt from the requirements of any ordinance promulgated under this section: bona fide silvicultural activity as defined by § 10.1-1181.1 and the areas of sites included in lakes, ponds, and the normal water elevation area of stormwater retention facilities. The ordinance shall modify the canopy requirements of dedicated school sites, playing fields, and other nonwooded active recreation areas by allowing these and other facilities and uses of a similar nature to provide 10 percent tree canopy 20 years after development.

I. 1. In recognition of the added benefits of tree preservation, the ordinance shall provide for an additional tree canopy credit of up to one and one-quarter times the canopy area at the time of plan submission for individual trees or the coalesced canopy of forested areas preserved from the predevelopment tree canopy.

2. The following additional credits may be provided in the ordinance in connection with tree preservation:

a. The ordinance may provide canopy credits of up to one and one-half times the actual canopy area for the preservation of forest communities that achieve environmental, ecological, and wildlife conservation objectives set by the locality. The ordinance may establish minimal area, dimensional and viability standards as prerequisites for the application of credits. Forest communities shall be identified using the nomenclature of either the federal National Vegetation Classification System (FGDC-STD-005, or latest version) or the Natural Communities of Virginia Classification of Ecological Community Groups, Second Approximation (Version 2.2, or latest version).

b. The ordinance may provide canopy credits of up to three times the actual canopy area of trees that are officially designated for preservation in conjunction with local tree conservation ordinances based on the authority granted by § 10.1-1127.1.

J. The following additional credits shall be provided in the ordinance in connection with tree planting:

1. The ordinance shall provide canopy credits of one and one-half the area normally projected for trees planted to absorb or intercept air pollutants, tree species that produce lower levels of reactive volatile organic compounds, or trees that act to reduce air pollution or greenhouse gas emissions by conserving the energy used to cool and heat buildings.

2. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for trees planted for water quality-related reforestation or afforestation projects, and for trees planted in low-impact development and bioretention water quality facilities. The low-impact development practices and designs shall conform to local standards in order for these supplemental credits to apply.

3. The ordinance shall provide canopy credits of one and one-half the area normally projected for native tree species planted to provide food, nesting, habitat, and migration opportunities for wildlife. These canopy credits may also apply to

cultivars of native species if the locality determines that such a cultivar is capable of providing the same type and extent of wildlife benefit as the species it is derived from.

4. The ordinance shall provide canopy credits of one and one-half the area normally projected for use of native tree species that are propagated from seed or tissue collected within the mid-Atlantic region.

5. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for the use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and the development of cavities, show high levels of resistance to disease or insect infestations, or exhibit high survival rates in harsh urban environments.

K. Tree preservation areas and individual trees may not receive more than one application of additional canopy credits provided in subsection I. Individual trees planted to meet these requirements may not receive more than two categories of additional canopy credits provided in subsection J. Canopy credits will only be given to trees with trunks that are fully located on the development site, or in the case of tree banking projects only to trees with trunks located fully within easements or other areas protected by deed restrictions listed in subsection G.

L. All trees planted for tree cover credits shall meet the specifications of the American Association of Nurserymen *AmericanHort* and shall be planted in accordance with the publication entitled "Tree and Shrub Planting Guidelines," published by the Virginia Cooperative Extension.

M. In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to limit the use of species that cause negative impacts to native plant communities, cause damage to nearby structures, or possess inherent physiological traits that prone trees to structural failure, the ordinance may designate species that cannot be used to meet tree canopy requirements or designate species that will only receive partial 20-year tree canopy credits.

N. The locality may allow the use of tree seedlings for meeting tree canopy requirements in large open spaces, low-density residential settings, or in low-impact development reforestation/afforestation projects. In these cases, the ordinance shall allow the ground surface area of seedling planting areas to equate to a 20-year canopy credit area. Tree seedling plantings will be comprised of native species and will be planted in densities that equate to 400 seedlings per acre, or in densities specified by low-impact development designs approved by the locality. The locality may set standards for seedling mortality rates and replacement procedures if unacceptable rates of mortality occur. The locality may elect to allow native woody shrubs or native woody seed mix to substitute for tree species as long as these treatments do not exceed 33 percent of the overall seedling planting area. The number of a single species may not exceed 10 percent of the overall number of trees or shrubs planted to meet the provisions of this subsection.

O. The following process shall be used to demonstrate achievement of the required percentage of tree canopy listed in subsection C:

1. The site plan shall graphically delineate the edges of predevelopment tree canopy, the proposed limits of disturbance on grading or erosion and sedimentation control plans, and the location of tree protective fencing or other tree protective devices allowed in the Virginia Erosion and Sediment Control Handbook.

2. Site plans proposing modification to tree canopy requirements or claiming supplemental tree canopy credits will require a text narrative.

3. The site plan shall include the 20-year tree canopy calculations on a worksheet provided by the locality.

4. Site plans requiring tree planting shall provide a planting schedule that provides botanical and common names of trees, the number of trees being planted, the total of tree canopy area given to each species, variety or cultivars planted, total of tree canopy area that will be provided by all trees, planting sizes, and associated planting specifications. The site plan will also provide a landscape plan that delineates where the trees shall be planted.

P. The ordinance shall provide a list of commercially available tree species, varieties, and cultivars that are capable of thriving in the locality's climate and ranges of planting environments. The ordinance will also provide a 20-year tree canopy area credit for each tree. The amount of tree canopy area credited to individual tree species, varieties, and cultivars 20 years after they are planted shall be based on references published or endorsed by Virginia academic institutions such as the Virginia Polytechnic Institute and State University and accepted by urban foresters, arborists, and horticulturalists as being accurate for the growing conditions and climate of the locality.

Q. The ordinance shall establish standards of health and structural condition of existing trees and associated plant communities to be preserved. The ordinance may also identify standards for removal of trees or portions of trees that are dead, dying, or hazardous due to construction impacts. Such removal standards may allow for the retention of trunk snags where the locality determines that these may provide habitat or other wildlife benefits and do not represent a hazardous condition. In the event that existing tree canopy proposed to be preserved for tree canopy credits dies or must be removed because it represents a hazard, the locality may require the developer to remove the tree, or a portion of the tree and to replace the missing canopy area by the planting of nursery stock trees, or if a viable alternative, by tree seedlings. Existing trees that have been granted credits will be replaced with canopy area determined using the same supplemental credit multipliers as originally granted for that canopy area.

R. Penalties for violation of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

S. ~~In no event shall any~~ A local tree conservation ordinance adopted pursuant to this section *may* exceed the requirements set forth herein; ~~however, any~~ (i) *in any development project located in a Chesapeake Bay Preservation Area to address recurrent flooding;* (ii) *in any development project located in an area that prior to the passage of the federal Fair*

Housing Act of 1968, 42 U.S.C. § 3601 et seq., was redlined or graded "D" by the federal Home Owners' Loan Corporation; and (iii) to ensure conformity with the locality's comprehensive plan duly adopted pursuant to §§ 15.2-2223 through 15.2-2226. Any local ordinance adopted pursuant to the provisions of § 15.2-961 prior to July 1, 1990, may adopt the tree conservation provisions of this section based on 10-year minimum tree canopy requirements.

T. Nothing in this section shall invalidate any local ordinance adopted pursuant to § 15.2-961.

- 2. That the Secretary of Natural Resources and Secretary of Agriculture and Forestry (the Secretaries) shall convene a stakeholder work group (the Work Group) for the purpose of developing and providing recommendations to state and local governments related to policies that encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and encourage the planting of trees. The Work Group shall also examine the Commonwealth's existing enabling statutes and their use related to the preservation, planting, and replacement of trees during the land development process, including §§ 15.2-961 and 15.2-961.1 of the Code of Virginia and the amendments to such sections provided in the first enactment of this act, and recommend amendments to those statutes or the adoption of new Code sections that would enhance the preservation, planting, and replacement of trees during the land development process and increase incentives for the preservation, planting, and replacement of trees during the land development process. The Work Group shall be composed of representatives of the residential and commercial development industries, representatives of agricultural and forestry industries, professional environmental technical experts, representatives of environmental and conservation organizations, representatives of local governments, solar developers, and other affected parties so that the various stakeholders are represented in the Work Group. No later than October 1, 2021, the Secretaries shall provide a report containing the Work Group's detailed findings, recommendations, and draft legislation to encourage the conservation of tree cover and mature trees, and the planting of trees, to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Counties, Cities and Towns, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Local Government.**
- 3. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly.**

CHAPTER 90

An Act to amend and reenact §§ 15.2-961 and 15.2-961.1 of the Code of Virginia, relating to replacement and conservation of trees during development.

[S 1393]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 15.2-961 and 15.2-961.1 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-961. Replacement of trees during development process in certain localities.

A. Any locality with a population density of at least 75 persons per square mile or any locality within the Chesapeake Bay watershed may adopt an ordinance providing for the planting and replacement of trees during the development process pursuant to the provisions of this section. Population density shall be based upon the latest population estimates of the Cooper Center for Public Service of the University of Virginia.

B. *The Except as set forth in subsection J, the ordinance shall require that the site plan for any subdivision or development include the planting or replacement of trees on the site to the extent that, at 20 years, minimum tree canopies or covers will be provided in areas to be designated in the ordinance, as follows:*

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;
2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than 10 but less than 20 units per acre; and
4. Twenty percent tree canopy for a residential site zoned 10 units or less per acre.

However, the City of Williamsburg may require at 10 years the minimum tree canopies or covers set out above.

C. The ordinance shall require that the site plan for any subdivision or development include, at 20 years, that a minimum 10 percent tree canopy will be provided on the site of any cemetery as defined in § 54.1-2310, notwithstanding any other provision of this section. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements of this subsection.

D. The ordinance shall provide for reasonable provisions for reducing the tree canopy requirements or granting tree cover credit in consideration of the preservation of existing tree cover or for preservation of trees of outstanding age, size or physical characteristics.

E. The ordinance shall provide for reasonable exceptions to or deviations from these requirements to allow for the reasonable development of farm land or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or otherwise when the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the ordinance may provide for a tree canopy bank *or fund* whereby a portion of a development's tree canopy requirement may be met from off-site planting or replacement of trees, *as provided in § 15.2-961.1*, at the direction of the locality. The following shall be exempt from the requirements of any tree replacement

or planting ordinance promulgated under this section: dedicated school sites, playing fields and other nonwooded recreation areas, and other facilities and uses of a similar nature.

F. The ordinance may designate tree species that cannot be planted to meet minimum tree canopy requirements due to tendencies of such species to (i) negatively impact native plant communities, (ii) cause damage to nearby structures and infrastructure, or (iii) possess inherent physiological traits that cause such trees to structurally fail. All trees to be planted shall meet the specifications of the AmericanHort. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

G. Existing trees which are to be preserved may be included to meet all or part of the canopy requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet standards of desirability and life-year expectancy which the locality may establish.

H. For purposes of this section:

"Tree canopy" or "tree cover" includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 10 or 20 years maturity. Planted canopy at 10 or 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.

I. Penalties for violations of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

J. ~~In no event shall any~~ A local tree replacement or planting ordinance adopted pursuant to this section *may* exceed the requirements set forth herein (i) *to generate pollution reduction credits through installation of an approved Urban Tree Canopy Expansion best management practice (BMP) or other approved BMP for compliance with the locality's municipal separate storm sewer system (MS4) Permit;* (ii) *in any development project located in a Chesapeake Bay Preservation Area to address recurrent flooding;* (iii) *in any development project located in an area that prior to the passage of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., was redlined or graded "D" by the federal Home Owners' Loan Corporation; and* (iv) *to ensure conformity with the comprehensive plan adopted by the locality pursuant to §§ 15.2-2223 through 15.2-2226.*

K. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section prior to July 1, 1990, which imposes standards for tree replacement or planting during the development process.

L. Nothing in this section shall invalidate any local ordinance adopted by the City of Williamsburg that imposes standards for 10-year-minimum tree cover replacement or planting during the development process.

M. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section after July 1, 1990, which imposes standards for 20-year-minimum tree cover replacement or planting during the development process.

§ 15.2-961.1. Conservation of trees during land development process.

A. For purposes of this section, "tree canopy" or "tree cover" includes all areas of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height, and the extent of planted tree canopy at 20-years maturity.

B. ~~Any locality within Planning District 8 that meets the population density criteria of subsection A of § 15.2-961 and is classified as an eight-hour nonattainment area for ozone under the federal Clean Air Act and Amendments of 1990, in effect as of July 1, 2008,~~ may adopt an ordinance providing for the conservation of trees during the land development process pursuant to the provisions of this section. In no event shall any local tree conservation ordinance adopted pursuant to this section also impose the tree replacement provisions of § 15.2-961.

C. The ordinance shall require that the site plan for any subdivision or development provide for the preservation or replacement of trees on the development site such that the minimum tree canopy or tree cover percentage 20 years after development is projected to be as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;
2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;
4. Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per acre;
5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; and
6. Thirty percent tree canopy for a residential site zoned two or fewer units per acre.

In meeting these percentages, (i) the ordinance shall first emphasize the preservation of existing tree canopy where that canopy meets local standards for health and structural condition, and where it is feasible to do so within the framework of design standards and densities allowed by the local zoning and other development ordinances; and (ii) second, where it is not feasible in whole or in part for any of the justifications listed in subsection E to preserve existing canopy in the required percentages listed above, the ordinance shall provide for the planting of new trees to meet the required percentages.

D. Except as provided in subsection E, the percentage of the site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the requirements identified in subsection C that shall be provided through tree preservation. This portion of the canopy requirements shall be identified as the "tree preservation target" and shall be included in site plan calculations or narratives demonstrating how the overall requirements of subsection C have been met.

E. The ordinance shall provide deviations, in whole or in part, from the tree preservation target defined in subsection D under the following conditions:

1. Meeting the preservation target would prevent the development of uses and densities otherwise allowed by the locality's zoning or development ordinance.

2. The predevelopment condition of vegetation does not meet the locality's standards for health and structural condition.

3. Construction activities could be reasonably expected to impact existing trees to the extent that they would not likely survive in a healthy and structurally sound manner. This includes activities that would cause direct physical damage to the trees, including root systems, or cause environmental changes that could result in or predispose the trees to structural and health problems.

If, in the opinion of the developer, the project cannot meet the tree preservation target due to the conditions described in subdivision 1, 2, or 3, the developer may request a deviation from the preservation requirement in subsection D. In the request for deviation, the developer shall provide a letter to the locality that provides justification for the deviation, describes how the deviation is the minimum necessary to afford relief, and describes how the requirements of subsection C will be met through tree planting or a tree canopy bank or fund established by the locality. Proposed deviations shall be reviewed by the locality's urban forester, arborist, or equivalent in consultation with the locality's land development or licensed professional civil engineering review staff. The locality may propose an alternative site design based upon adopted land development practices and sound vegetation management practices that take into account the relationship between the cost of conservation and the benefits of the trees to be preserved as described in ANSI A300 (Part 5) — 2005 Management: Tree, Shrub, and Other Woody Plant Maintenance — Standard Practices, Management of Trees and Shrubs During Site Planning, Site Development, and Construction, Annex A, A-1.5, Cost Benefits Analysis (or the latest version of this standard). The developer shall consider the alternative and redesign the plan accordingly, or elect to satisfy the unmet portion of the preservation threshold through on-site tree planting or through the off-site planting mechanisms identified in subsection G, so long as the developer provides the locality with an explanation of why the alternative design recommendations were rejected. Letters of explanation from the developer shall be prepared and certified by a licensed professional engineer as defined in § 54.1-400. If arboricultural issues are part of explanation then the letter shall be signed by a Certified Arborist who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status or by a Registered Consulting Arborist as designated by the American Society of Consulting Arborists. If arboricultural issues are the sole subject of the letter of explanation then certification by a licensed professional engineer shall not be required.

F. The ordinance shall provide for deviations of the overall canopy requirements set forth in subsection C to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.

G. The ordinance shall provide for the establishment of a tree canopy bank or fund whereby any portion of the tree canopy requirement that cannot be met on-site may be met through off-site tree preservation or tree planting efforts. Such provisions may be offered where it can be demonstrated that application of the requirements of subsection C would cause irresolvable conflicts with other local site development requirements, standards, or comprehensive planning goals, where sites or portions of sites lack sufficient space for future tree growth, where planting spaces will not provide adequate space for healthy root development, where trees will cause unavoidable conflicts with underground or overhead utilities, or where it can be demonstrated that trees are likely to cause damage to public infrastructure. The ordinance may utilize any of the following off-site canopy establishment mechanisms:

1. A tree canopy bank may be established in order for the locality to facilitate off-site tree preservation, tree planting, stream bank, and riparian restoration projects. Banking efforts shall provide tree canopy that is preserved in perpetuity through conservation easements, deed restrictions, or similar protective mechanisms acceptable to the locality. Projects used in off-site banking will meet the same ordinance standards established for on-site tree canopy; however, the locality may also require the submission of five-year management plans and funds to ensure the execution of maintenance and management obligations identified in those plans. ~~Any~~ *If a locality is located within a nonattainment area, any* such bank shall occur within the same nonattainment area in which the locality approving the tree banking is situated.

2. A tree canopy fund may be established to act as a fiscal mechanism to collect, manage, and disburse fees collected from developers that cannot provide full canopy requirements on-site. The locality may use this fund directly to plant trees on public property, or the locality may elect to disburse this fund to community-based organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code with tree planting or community beautification missions for tree planting programs that benefit the community at large. For purposes of establishing consistent and predictable fees, the ordinance shall establish cost units that are based on average costs to establish 20-year canopy areas using two-inch caliper nursery stock trees. Any funds collected by localities for these purposes shall be spent *or disbursed as set forth herein* within a five-year period established by the collection date, ~~or the locality shall return such funds to the original contributor, or legal successor.~~

H. The following uses shall be exempt from the requirements of any ordinance promulgated under this section: bona fide silvicultural activity as defined by § 10.1-1181.1 and the areas of sites included in lakes, ponds, and the normal water elevation area of stormwater retention facilities. The ordinance shall modify the canopy requirements of dedicated school

sites, playing fields, and other nonwooded active recreation areas by allowing these and other facilities and uses of a similar nature to provide 10 percent tree canopy 20 years after development.

I. 1. In recognition of the added benefits of tree preservation, the ordinance shall provide for an additional tree canopy credit of up to one and one-quarter times the canopy area at the time of plan submission for individual trees or the coalesced canopy of forested areas preserved from the predevelopment tree canopy.

2. The following additional credits may be provided in the ordinance in connection with tree preservation:

a. The ordinance may provide canopy credits of up to one and one-half times the actual canopy area for the preservation of forest communities that achieve environmental, ecological, and wildlife conservation objectives set by the locality. The ordinance may establish minimal area, dimensional and viability standards as prerequisites for the application of credits. Forest communities shall be identified using the nomenclature of either the federal National Vegetation Classification System (FGDC-STD-005, or latest version) or the Natural Communities of Virginia Classification of Ecological Community Groups, Second Approximation (Version 2.2, or latest version).

b. The ordinance may provide canopy credits of up to three times the actual canopy area of trees that are officially designated for preservation in conjunction with local tree conservation ordinances based on the authority granted by § 10.1-1127.1.

J. The following additional credits shall be provided in the ordinance in connection with tree planting:

1. The ordinance shall provide canopy credits of one and one-half the area normally projected for trees planted to absorb or intercept air pollutants, tree species that produce lower levels of reactive volatile organic compounds, or trees that act to reduce air pollution or greenhouse gas emissions by conserving the energy used to cool and heat buildings.

2. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for trees planted for water quality-related reforestation or afforestation projects, and for trees planted in low-impact development and bioretention water quality facilities. The low-impact development practices and designs shall conform to local standards in order for these supplemental credits to apply.

3. The ordinance shall provide canopy credits of one and one-half the area normally projected for native tree species planted to provide food, nesting, habitat, and migration opportunities for wildlife. These canopy credits may also apply to cultivars of native species if the locality determines that such a cultivar is capable of providing the same type and extent of wildlife benefit as the species it is derived from.

4. The ordinance shall provide canopy credits of one and one-half the area normally projected for use of native tree species that are propagated from seed or tissue collected within the mid-Atlantic region.

5. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for the use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and the development of cavities, show high levels of resistance to disease or insect infestations, or exhibit high survival rates in harsh urban environments.

K. Tree preservation areas and individual trees may not receive more than one application of additional canopy credits provided in subsection I. Individual trees planted to meet these requirements may not receive more than two categories of additional canopy credits provided in subsection J. Canopy credits will only be given to trees with trunks that are fully located on the development site, or in the case of tree banking projects only to trees with trunks located fully within easements or other areas protected by deed restrictions listed in subsection G.

L. All trees planted for tree cover credits shall meet the specifications of the American Association of Nurserymen *AmericanHort* and shall be planted in accordance with the publication entitled "Tree and Shrub Planting Guidelines," published by the Virginia Cooperative Extension.

M. In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to limit the use of species that cause negative impacts to native plant communities, cause damage to nearby structures, or possess inherent physiological traits that prone trees to structural failure, the ordinance may designate species that cannot be used to meet tree canopy requirements or designate species that will only receive partial 20-year tree canopy credits.

N. The locality may allow the use of tree seedlings for meeting tree canopy requirements in large open spaces, low-density residential settings, or in low-impact development reforestation/afforestation projects. In these cases, the ordinance shall allow the ground surface area of seedling planting areas to equate to a 20-year canopy credit area. Tree seedling plantings will be comprised of native species and will be planted in densities that equate to 400 seedlings per acre, or in densities specified by low-impact development designs approved by the locality. The locality may set standards for seedling mortality rates and replacement procedures if unacceptable rates of mortality occur. The locality may elect to allow native woody shrubs or native woody seed mix to substitute for tree species as long as these treatments do not exceed 33 percent of the overall seedling planting area. The number of a single species may not exceed 10 percent of the overall number of trees or shrubs planted to meet the provisions of this subsection.

O. The following process shall be used to demonstrate achievement of the required percentage of tree canopy listed in subsection C:

1. The site plan shall graphically delineate the edges of predevelopment tree canopy, the proposed limits of disturbance on grading or erosion and sedimentation control plans, and the location of tree protective fencing or other tree protective devices allowed in the Virginia Erosion and Sediment Control Handbook.

2. Site plans proposing modification to tree canopy requirements or claiming supplemental tree canopy credits will require a text narrative.

3. The site plan shall include the 20-year tree canopy calculations on a worksheet provided by the locality.

4. Site plans requiring tree planting shall provide a planting schedule that provides botanical and common names of trees, the number of trees being planted, the total of tree canopy area given to each species, variety or cultivars planted, total of tree canopy area that will be provided by all trees, planting sizes, and associated planting specifications. The site plan will also provide a landscape plan that delineates where the trees shall be planted.

P. The ordinance shall provide a list of commercially available tree species, varieties, and cultivars that are capable of thriving in the locality's climate and ranges of planting environments. The ordinance will also provide a 20-year tree canopy area credit for each tree. The amount of tree canopy area credited to individual tree species, varieties, and cultivars 20 years after they are planted shall be based on references published or endorsed by Virginia academic institutions such as the Virginia Polytechnic Institute and State University and accepted by urban foresters, arborists, and horticulturalists as being accurate for the growing conditions and climate of the locality.

Q. The ordinance shall establish standards of health and structural condition of existing trees and associated plant communities to be preserved. The ordinance may also identify standards for removal of trees or portions of trees that are dead, dying, or hazardous due to construction impacts. Such removal standards may allow for the retention of trunk snags where the locality determines that these may provide habitat or other wildlife benefits and do not represent a hazardous condition. In the event that existing tree canopy proposed to be preserved for tree canopy credits dies or must be removed because it represents a hazard, the locality may require the developer to remove the tree, or a portion of the tree and to replace the missing canopy area by the planting of nursery stock trees, or if a viable alternative, by tree seedlings. Existing trees that have been granted credits will be replaced with canopy area determined using the same supplemental credit multipliers as originally granted for that canopy area.

R. Penalties for violation of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

S. ~~In no event shall any~~ A local tree conservation ordinance adopted pursuant to this section *may* exceed the requirements set forth herein; ~~however, any~~ (i) *in any development project located in a Chesapeake Bay Preservation Area to address recurrent flooding;* (ii) *in any development project located in an area that prior to the passage of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., was redlined or graded "D" by the federal Home Owners' Loan Corporation; and* (iii) *to ensure conformity with the locality's comprehensive plan duly adopted pursuant to §§ 15.2-2223 through 15.2-2226.* Any local ordinance adopted pursuant to the provisions of § 15.2-961 prior to July 1, 1990, may adopt the tree conservation provisions of this section based on 10-year minimum tree canopy requirements.

T. Nothing in this section shall invalidate any local ordinance adopted pursuant to § 15.2-961.

2. That the Secretary of Natural Resources and Secretary of Agriculture and Forestry (the Secretaries) shall convene a stakeholder work group (the Work Group) for the purpose of developing and providing recommendations to state and local governments related to policies that encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and encourage the planting of trees. The Work Group shall also examine the Commonwealth's existing enabling statutes and their use related to the preservation, planting, and replacement of trees during the land development process, including §§ 15.2-961 and 15.2-961.1 and the amendments to such sections provided in the first enactment of this act, and recommend amendments to those statutes or the adoption of new Code sections that would enhance the preservation, planting, and replacement of trees during the land development process and increase incentives for the preservation, planting, and replacement of trees during the land development process. The Work Group shall be composed of representatives of the residential and commercial development industries, representatives of agricultural and forestry industries, professional environmental technical experts, representatives of environmental and conservation organizations, representatives of local governments, solar developers, and other affected parties so that the various stakeholders are represented in the Work Group. No later than October 1, 2021, the Secretaries shall provide a report containing the Work Group's detailed findings, recommendations, and draft legislation to encourage the conservation of tree cover and mature trees, and the planting of trees, to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Counties, Cities and Towns, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Local Government.

3. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly.

CHAPTER 91

An Act to amend and reenact §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2223.5, relating to housing protections; foreclosures; manufactured housing.

[H 2175]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2223.5 as follows:

§ 8.01-463. Enforcement of lien when judgment does not exceed \$25,000.

If the amount of the judgment does not exceed ~~twenty dollars~~ \$25,000, exclusive of interest and costs, no bill to enforce the lien, *pursuant to § 8.01-462*, thereof shall be entertained, ~~unless it appear that thirty days before the institution of the suit, the judgment debtor or his personal representative, and the owner of the real estate on which the judgment is a lien, or, in case of a nonresident, his agent or attorney, if he had one in this Commonwealth, had notice that the suit would be instituted, if the judgment was not paid within that time if the real estate is the judgment debtor's primary residence.~~

§ 15.2-2223.5. Comprehensive plan shall address manufactured housing.

During an amendment of a locality's comprehensive plan after July 1, 2021, the locality shall incorporate into its comprehensive plan strategies to promote manufactured housing as a source of affordable housing. Such strategies may include (i) the preservation of existing manufactured housing communities, (ii) the creation of new manufactured home communities, and (iii) the creation of new manufactured home subdivisions.

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by

such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 55.1-320. How deed of trust construed; duties, rights, etc., of parties.

Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be construed according to its terms to the extent not in conflict with the requirements of law. Unless the deed of trust provides otherwise, it shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations in like manner as if the same were expressly provided for by such deed of trust:

1. The deed shall be construed as given to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation.

2. The grantor shall be deemed to covenant that he will pay all taxes, levies, assessments, and charges upon the property, including the fees and charges of such agents or attorneys as the trustee may deem advisable to employ at any time for the purpose of the trust, so long as any obligation upon the grantor under the deed of trust remains undischarged.

3. The grantor shall be deemed to covenant that he will keep the improvements on the property in tenable condition, whether such improvements were on the property when the deed of trust was given or were placed there at a later time.

4. The grantor shall be deemed to covenant that no waste shall be committed or suffered upon the property.

5. The grantor shall be deemed to covenant that in the event of his failure to meet any obligations imposed upon him, then the trustee or any beneficiary may, at his option, satisfy such obligations. The money so advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be otherwise recoverable from the grantor as a debt. In addition, to the extent not otherwise covered, the grantor shall be deemed to covenant that amount advanced or incurred by the trustee or any beneficiary under a deed of trust (i) with respect to an obligation secured by a lien or encumbrance prior to the lien of the deed of trust or (ii) for the protection of the lien secured by the deed of trust, together with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, to be paid next after expenses of executing the trust.

6. A covenant to pay interest shall be deemed a covenant to pay interest on the principal balance as such rate may vary or be modified from time to time by the parties under the original instruments or agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust shall be on an equal

priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust.

Any covenant, otherwise authorized by law, that the lender shall be entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, shall be on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties.

7. In the event of default in the payment of the debt secured, or any part thereof, at maturity, or in the payment of interest when due, or of the breach of any of the covenants entered into or imposed upon the grantor, then at the request of any beneficiary the trustee shall forthwith declare all the debts and obligations secured by the deed of trust at once due and payable and may take possession of the property and proceed to sell the same at auction at the premises or in the front of the circuit court building or at such other place in the county or city in which the property or the greater part thereof lies, or in the corporate limits of any city surrounded by or contiguous to such county, or in the case of annexed land, in the county of which the land was formerly a part, as the trustee may select upon such terms and conditions as the trustee may deem best.

8. If the sale is upon credit terms, the deferred purchase money shall bear interest from the day of sale and shall be secured by a deed of trust upon the property contemporaneous with the trustee's deed to the purchaser.

9. The party secured by the deed of trust, or the holders of greater than 50 percent of the monetary obligations secured thereby, shall have the right and power to appoint one or more substitute trustees for any reason and, regardless of whether such right and power is expressly granted in such deed of trust, by executing and acknowledging an instrument designating and appointing a substitute. When the instrument of appointment has been executed, the substitute trustee named therein shall be vested with all the powers, rights, authority, and duties vested in the trustee in the original deed of trust. The instrument of appointment shall be recorded in the office of the clerk in which the original deed of trust is recorded prior to or at the time of recordation of any instrument in which a power, right, authority, or duty conferred by the original deed of trust is exercised.

10. *In the case of a deed of trust conveying owner-occupied residential real estate, the trustee of such deed of trust shall not sell the property secured by the deed of trust without receiving an affidavit signed by the party that provided the notice required by § 55.1-321 confirming the notice was sent to the owner; with a copy of such notice attached to the affidavit. Prior to commencing a foreclosure sale with respect to such real estate, the trustee shall provide copies of such affidavit and notice, with any personal financial information redacted, to each potential bidder.*

§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.

A. In addition to the advertisement required by § 55.1-322, the trustee or the party secured shall give written notice of the time, date, and place of any proposed sale in execution of a deed of trust, and such notice shall include either (i) the instrument number or deed book and page numbers of the instrument of appointment filed pursuant to § 55.1-320, or (ii) a copy of the executed and notarized appointment of substitute trustee by personal delivery or by mail to (a) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the party secured; (b) any subordinate lienholder who holds a note against the property secured by a deed of trust recorded at least 75 days, *in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust*, prior to the proposed sale and whose address is recorded with the deed of trust; (c) any assignee of such a note secured by a deed of trust, provided that the assignment and address of assignee are likewise recorded at least 75 days, *in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust*, prior to the proposed sale; (d) any condominium unit owners' association that has filed a lien pursuant to § 55.1-1966; (e) any property owners' association that has filed a lien pursuant to § 55.1-1833; and (f) any proprietary lessees' association that has filed a lien pursuant to § 55.1-2148. Written notice shall be given pursuant to clauses (d), (e), and (f) only if the lien is recorded at least 75 days, *in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust*, prior to the proposed sale. If the secured party has received notification that the owner of the property to be sold is deceased, the notice required by clause (a) shall be given to (1) the last known address of such owner as such address appears in the records of the party secured; (2) any personal representative of the deceased's estate whose appointment is recorded among the records of the circuit court where the property is located, at the address of the personal representative that appears in such records; and (3) any heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court where the property is located, at the addresses of the heirs that appear in such records. Mailing of a copy of the advertisement or a notice containing the same information to the owner by certified or registered mail no less than 60 days prior to such sale, *in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust*, and to lienholders, the property owners' association or proprietary lessees' association, their assigns, and the condominium unit owners' association, at the address noted in the memorandum of lien, by ordinary mail no less than 60 days prior to such sale, *in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust*, shall be a sufficient compliance with the requirement of notice. The written notice of proposed sale when given as provided in this subsection shall be deemed an effective exercise of any right of acceleration contained in such deed of trust or otherwise possessed by the party secured relative to the indebtedness secured. The inadvertent failure to give notice as required by this subsection shall not impose liability on either the trustee or the secured party. *The foreclosure sale cannot go forward unless the trustee has proof that the notice has been sent.*

B. If a note or other evidence of indebtedness secured by a deed of trust is lost or for any reason cannot be produced and the beneficiary submits to the trustee an affidavit to that effect, the trustee may nonetheless proceed to sale, provided that the beneficiary has given written notice to the person required to pay the instrument that the instrument is unavailable and a request for sale will be made of the trustee upon expiration of *60 days from the date of mailing of the notice, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days from the date of mailing of the notice, in the case of all other deeds of trust.* The notice shall be sent by certified mail, return receipt requested, to the last known address of the person required to pay the instrument as reflected in the records of the beneficiary and shall include the name and mailing address of the trustee. The notice shall further advise the person required to pay the instrument that if he believes he may be subject to a claim by a person other than the beneficiary to enforce the instrument, he may petition the circuit court of the county or city where the property or some part thereof lies for an order requiring the beneficiary to provide adequate protection against any such claim. If deemed appropriate by the court, the court may condition the sale on a finding that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means. If the trustee proceeds to sale, the fact that the instrument is lost or cannot be produced shall not affect the authority of the trustee to sell or the validity of the sale.

C. When the written notice of proposed sale is given as provided in this section, there is a rebuttable presumption that the lienholder has complied with any requirement to provide notice of default contained in a deed of trust. Failure to comply with the requirements of notice contained in this section shall not affect the validity of the sale, and a purchaser for value at such sale shall be under no duty to ascertain whether such notice was validly given.

D. In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice is required to be given pursuant to this section.

E. In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subdivisions A and B shall include the website address of the U.S. Housing and Urban Development's (HUD) Office of Housing Counseling with a listing of HUD-certified housing counseling agencies, the website address and telephone number of the statewide legal aid center, and the following language, or language that is substantially similar, in at least 12-point type: "This is NOT a notice to vacate the premises. You should consider contacting an attorney or your local legal aid or housing counseling agency."

F. In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subsections A and B shall include the date of the last payment received and the amount received; the total amount of principal, interest, costs, and fees due in arrears; and the remaining total principal balance due on the instrument.

§ 55.1-1303. Landlord's obligations.

The landlord shall:

1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks;

2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a fit and habitable condition, including maintaining in a clean and safe condition all facilities and common areas provided by the landlord for use by the tenants of two or more manufactured home lots;

3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord;

4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when door-to-door garbage and waste pickup is available within the manufactured home park for the collection and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and arrange for the removal of the garbage and other waste; ~~and~~

5. Provide reasonable access to electric, water, and sewage disposal connections for each manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned disruption in service; *and*

6. *Provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.*

2. That the Department of Housing and Community Development shall convene a stakeholder group consisting of landlords, property managers, and tenants, as well as attorneys knowledgeable in the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq. of the Code of Virginia) and other applicable provisions of the Code of Virginia for the purposes of providing input into (i) the development of the form to be developed by the Director of the Department of Housing and Community Development for posting on its website pursuant to § 36-139 of the Code of Virginia, as amended by this act, acknowledging that a tenant has received from the landlord the statement of tenant rights and responsibilities and (ii) any updates to the statement of tenant rights and responsibilities.

3. That the provisions of subsection E of § 55.1-321 of the Code of Virginia, as amended by this act, shall become effective on October 1, 2021.

CHAPTER 92

An Act to amend and reenact §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2223.5, relating to housing protections; foreclosures; manufactured housing.

[S 1327]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2223.5 as follows:

§ 8.01-463. Enforcement of lien when judgment does not exceed \$25,000.

If the amount of the judgment does not exceed twenty dollars \$25,000, exclusive of interest and costs, no bill to enforce the lien, *pursuant to § 8.01-462*, thereof shall be entertained, ~~unless it appear that thirty days before the institution of the suit, the judgment debtor or his personal representative, and the owner of the real estate on which the judgment is a lien, or, in case of a nonresident, his agent or attorney, if he had one in this Commonwealth, had notice that the suit would be instituted, if the judgment was not paid within that time if the real estate is the judgment debtor's primary residence.~~

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1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 55.1-320. How deed of trust construed; duties, rights, etc., of parties.

Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be construed according to its terms to the extent not in conflict with the requirements of law. Unless the deed of trust provides otherwise, it shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations in like manner as if the same were expressly provided for by such deed of trust:

1. The deed shall be construed as given to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation.

2. The grantor shall be deemed to covenant that he will pay all taxes, levies, assessments, and charges upon the property, including the fees and charges of such agents or attorneys as the trustee may deem advisable to employ at any time for the purpose of the trust, so long as any obligation upon the grantor under the deed of trust remains undischarged.

3. The grantor shall be deemed to covenant that he will keep the improvements on the property in tenantable condition, whether such improvements were on the property when the deed of trust was given or were placed there at a later time.

4. The grantor shall be deemed to covenant that no waste shall be committed or suffered upon the property.

5. The grantor shall be deemed to covenant that in the event of his failure to meet any obligations imposed upon him, then the trustee or any beneficiary may, at his option, satisfy such obligations. The money so advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be otherwise recoverable from the grantor as a debt. In addition, to the extent not otherwise covered, the grantor shall be deemed to covenant that amount advanced or incurred by the trustee or any beneficiary under a deed of trust (i) with respect to an obligation secured by a lien or encumbrance prior to the lien of the deed of trust or (ii) for the protection of the lien secured by the deed of trust, together with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, to be paid next after expenses of executing the trust.

6. A covenant to pay interest shall be deemed a covenant to pay interest on the principal balance as such rate may vary or be modified from time to time by the parties under the original instruments or agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust shall be on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust.

Any covenant, otherwise authorized by law, that the lender shall be entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, shall be on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties.

7. In the event of default in the payment of the debt secured, or any part thereof, at maturity, or in the payment of interest when due, or of the breach of any of the covenants entered into or imposed upon the grantor, then at the request of any beneficiary the trustee shall forthwith declare all the debts and obligations secured by the deed of trust at once due and payable and may take possession of the property and proceed to sell the same at auction at the premises or in the front of the circuit court building or at such other place in the county or city in which the property or the greater part thereof lies, or in the corporate limits of any city surrounded by or contiguous to such county, or in the case of annexed land, in the county of which the land was formerly a part, as the trustee may select upon such terms and conditions as the trustee may deem best.

8. If the sale is upon credit terms, the deferred purchase money shall bear interest from the day of sale and shall be secured by a deed of trust upon the property contemporaneous with the trustee's deed to the purchaser.

9. The party secured by the deed of trust, or the holders of greater than 50 percent of the monetary obligations secured thereby, shall have the right and power to appoint one or more substitute trustees for any reason and, regardless of whether such right and power is expressly granted in such deed of trust, by executing and acknowledging an instrument designating and appointing a substitute. When the instrument of appointment has been executed, the substitute trustee named therein shall be vested with all the powers, rights, authority, and duties vested in the trustee in the original deed of trust. The instrument of appointment shall be recorded in the office of the clerk in which the original deed of trust is recorded prior to or at the time of recordation of any instrument in which a power, right, authority, or duty conferred by the original deed of trust is exercised.

10. In the case of a deed of trust conveying owner-occupied residential real estate, the trustee of such deed of trust shall not sell the property secured by the deed of trust without receiving an affidavit signed by the party that provided the notice required by § 55.1-321 confirming the notice was sent to the owner, with a copy of such notice attached to the affidavit. Prior to commencing a foreclosure sale with respect to such real estate, the trustee shall provide copies of such affidavit and notice, with any personal financial information redacted, to each potential bidder.

§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.

A. In addition to the advertisement required by § 55.1-322, the trustee or the party secured shall give written notice of the time, date, and place of any proposed sale in execution of a deed of trust, and such notice shall include either (i) the instrument number or deed book and page numbers of the instrument of appointment filed pursuant to § 55.1-320, or (ii) a copy of the executed and notarized appointment of substitute trustee by personal delivery or by mail to (a) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the party secured; (b) any subordinate lienholder who holds a note against the property secured by a deed of trust recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale and whose address is recorded with the deed of trust; (c) any assignee of such a note secured by a deed of trust, provided that the assignment and address of assignee are likewise recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale; (d) any condominium unit owners' association that has filed a lien pursuant to § 55.1-1966; (e) any property owners' association that has filed a lien pursuant to § 55.1-1833; and (f) any proprietary lessees' association that has filed a lien pursuant to § 55.1-2148. Written notice shall be given pursuant to clauses (d), (e), and (f) only if the lien is recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale. If the secured party has received notification that the owner of the property to be sold is deceased, the notice required by clause (a) shall be given to (1) the last known address of such owner as such address appears in the records of the party secured; (2) any personal representative of the deceased's estate whose appointment is recorded among the records of the circuit court where the property is located, at the address of the personal representative that appears in such records; and (3) any heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court where the property is located, at the addresses of the heirs that appear in such records.

Mailing of a copy of the advertisement or a notice containing the same information to the owner by certified or registered mail no less than *60 days prior to such sale, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust*, and to lienholders, the property owners' association or proprietary lessees' association, their assigns, and the condominium unit owners' association, at the address noted in the memorandum of lien, by ordinary mail no less than *60 days prior to such sale, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust*, shall be a sufficient compliance with the requirement of notice. The written notice of proposed sale when given as provided in this subsection shall be deemed an effective exercise of any right of acceleration contained in such deed of trust or otherwise possessed by the party secured relative to the indebtedness secured. The inadvertent failure to give notice as required by this subsection shall not impose liability on either the trustee or the secured party. *The foreclosure sale cannot go forward unless the trustee has proof that the notice has been sent.*

B. If a note or other evidence of indebtedness secured by a deed of trust is lost or for any reason cannot be produced and the beneficiary submits to the trustee an affidavit to that effect, the trustee may nonetheless proceed to sale, provided that the beneficiary has given written notice to the person required to pay the instrument that the instrument is unavailable and a request for sale will be made of the trustee upon expiration of *60 days from the date of mailing of the notice, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days from the date of mailing of the notice, in the case of all other deeds of trust*. The notice shall be sent by certified mail, return receipt requested, to the last known address of the person required to pay the instrument as reflected in the records of the beneficiary and shall include the name and mailing address of the trustee. The notice shall further advise the person required to pay the instrument that if he believes he may be subject to a claim by a person other than the beneficiary to enforce the instrument, he may petition the circuit court of the county or city where the property or some part thereof lies for an order requiring the beneficiary to provide adequate protection against any such claim. If deemed appropriate by the court, the court may condition the sale on a finding that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means. If the trustee proceeds to sale, the fact that the instrument is lost or cannot be produced shall not affect the authority of the trustee to sell or the validity of the sale.

C. When the written notice of proposed sale is given as provided in this section, there is a rebuttable presumption that the lienholder has complied with any requirement to provide notice of default contained in a deed of trust. Failure to comply with the requirements of notice contained in this section shall not affect the validity of the sale, and a purchaser for value at such sale shall be under no duty to ascertain whether such notice was validly given.

D. In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice is required to be given pursuant to this section.

E. *In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subdivisions A and B shall include the website address of the U.S. Housing and Urban Development's (HUD) Office of Housing Counseling with a listing of HUD-certified housing counseling agencies, the website address and telephone number of the statewide legal aid center, and the following language, or language that is substantially similar, in at least 12-point type: "This is NOT a notice to vacate the premises. You should consider contacting an attorney or your local legal aid or housing counseling agency."*

F. *In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subsections A and B shall include the date of the last payment received and the amount received; the total amount of principal, interest, costs, and fees due in arrears; and the remaining total principal balance due on the instrument.*

§ 55.1-1303. Landlord's obligations.

The landlord shall:

1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks;

2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a fit and habitable condition, including maintaining in a clean and safe condition all facilities and common areas provided by the landlord for use by the tenants of two or more manufactured home lots;

3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord;

4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when door-to-door garbage and waste pickup is available within the manufactured home park for the collection and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and arrange for the removal of the garbage and other waste; ~~and~~

5. Provide reasonable access to electric, water, and sewage disposal connections for each manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned disruption in service.; *and*

6. *Provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an*

action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

2. That the Department of Housing and Community Development shall convene a stakeholder group consisting of landlords, property managers, and tenants, as well as attorneys knowledgeable in the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq. of the Code of Virginia) and other applicable provisions of the Code of Virginia for the purposes of providing input into (i) the development of the form to be developed by the Director of the Department of Housing and Community Development for posting on its website pursuant to § 36-139 of the Code of Virginia, as amended by this act, acknowledging that a tenant has received from the landlord the statement of tenant rights and responsibilities and (ii) any updates to the statement of tenant rights and responsibilities.

3. That the provisions of subsection E of § 55.1-321 of the Code of Virginia, as amended by this act, shall become effective on October 1, 2021.

CHAPTER 93

An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund–supported resources and to repeal Chapter 1134 of the Acts of Assembly of 2020.

[H 2177]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2021. These projects do not include projects that were previously funded and authorized to proceed to construction.

Agency Code/Agency	Priority	Project Name	Cost Category
156—Department of State Police	1	Upgrade Statewide Agencies Radio System (STARS) Network	\$10,000,001 to \$25,000,000
	2	Replace Training Academy at Department Headquarters	\$25,000,001 to \$50,000,000
	3	Construct Division 6 Headquarters	\$0 to \$10,000,000
	4	Construct Area 5 Office in Fredericksburg	\$0 to \$10,000,000
	5	Construct Area 11 Office in Manassas	\$0 to \$10,000,000
194—Department of General Services	1	Construct New Supreme Court Building	Above \$100,000,000
	2	Construct New State Office Building and Parking Deck	Above \$100,000,000
199— Department of Conservation and Recreation	1	Renovate Cabins	\$10,000,001 to \$25,000,000
	2	Construct Revenue-Generating Facilities	\$10,000,001 to \$25,000,000
	3	Construct New Cabins	\$10,000,001 to \$25,000,000
	4	State Parks Infrastructure	\$10,000,001 to \$25,000,000
203—Wilson Workforce and Rehabilitation Center	1	Renovate Watson Theater and Activities Building, Phase 3	\$10,000,001 to \$25,000,000
204—The College of William and Mary in Virginia	1	Construct Integrated Science Center, Phase IV	\$50,000,001 to \$75,000,000
208—Virginia Polytechnic Institute and State University	1	Construct Undergraduate Lab Building	\$75,000,001 to \$100,000,000
	2	Replace Randolph Hall	Above \$100,000,000
211—Virginia Military Institute	1	Construct Center for Leadership and Ethics, Phase 2	\$50,000,001 to \$75,000,000

	2	<i>Renovate and Expand Engineering and Laboratory Facilities</i>	\$50,000,001 to \$75,000,000
213—Norfolk State University	1	<i>Renovate/Replace Fine Arts Building</i>	\$75,000,001 to \$100,000,000
214—Longwood University	1	<i>Replace Wygal Hall</i>	\$50,000,001 to \$75,000,000
215—University of Mary Washington	1	<i>Construct Fine and Performing Arts Center</i>	\$50,000,001 to \$75,000,000
216—James Madison University	1	<i>Renovate and Expand Carrier Library</i>	\$75,000,001 to \$100,000,000
218—Virginia School for the Deaf and the Blind	1	<i>Renovate Main Hall and Repair Chapel</i>	\$25,000,001 to \$50,000,000
221—Old Dominion University	1	<i>Construct New Biology Building</i>	Above \$100,000,000
229 - Virginia Cooperative Extension and Agricultural Experiment Station	1	<i>Improve Agriculture and Research Extension Centers</i>	\$10,000,0001 to \$25,000,000
234—Cooperative Extension and Agricultural Research Services	1	<i>Renovate Summerseat for Urban Agriculture Center</i>	\$0 to \$10,000,000
236—Virginia Commonwealth University	1	<i>Construct Arts and Innovation Academic Building</i>	Above \$100,000,000
	2	<i>Construct Interdisciplinary Classroom and Laboratory Building</i>	Above \$100,000,000
239—Frontier Culture Museum	1	<i>Construct Crossing Gallery</i>	\$25,000,001 to \$50,000,000
242—Christopher Newport University	1	<i>Construct Integrated Science Center, Phase III</i>	\$50,000,001 to \$75,000,000
247—George Mason University	1	<i>Construct Academic VIII - STEM Prince William Campus</i>	Above \$100,000,000
	2	<i>Renovate Space to Accommodate Virtual Online Campus</i>	\$10,000,001 to \$25,000,000
	3	<i>Construct and Renovate Advanced Computational Infrastructure and Hybrid Learning Labs</i>	\$10,000,001 to \$25,000,000
260—Virginia Community College System	1	<i>Renovate Learning Resource Center, Virginia Highlands</i>	\$10,000,001 to \$25,000,000
	2	<i>Renovate Paul D. Camp Franklin Campus</i>	\$25,000,001 to \$50,000,000
	3	<i>Construct Advanced Career Technical Education (CTE) and Workforce Center in Norfolk</i>	Above \$100,000,000
268—Virginia Institute of Marine Science	1	<i>Construct New Fisheries Science Building</i>	\$25,000,001 to \$50,000,000
301—Department of Agriculture and Consumer Services	1	<i>Expand Warrenton and Lynchburg Regional Laboratory</i>	\$0 to \$10,000,000
417—Gunston Hall	1	<i>Construct Archaeology and Maintenance Facilities</i>	\$0 to \$10,000,000
720—Department of Behavioral Health and Developmental Services	1	<i>Renovate Food Services Statewide</i>	\$25,000,001 to \$50,000,000
	2	<i>Renovate Eastern State Hospital, Phase IV</i>	\$25,000,001 to \$50,000,000

799—Department of Corrections	1	Replace Powhatan Infirmary	\$25,000,001 to \$50,000,000
	2	Expand Deerfield Correctional Center	\$25,000,001 to \$50,000,000
942—Virginia Museum of Natural History	1	Construct Satellite Facility in Waynesboro	\$10,000,001 to \$25,000,000
949—Central Capital	1	Workforce Development Projects	\$25,000,001 to \$50,000,000

2. That Chapter 1134 of the Acts of Assembly of 2020 is repealed.

CHAPTER 94

An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund–supported resources and to repeal Chapter 1134 of the Acts of Assembly of 2020.

[S 1155]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2021. These projects do not include projects that were previously funded and authorized to proceed to construction.*

<i>Agency Code/Agency</i>	<i>Priority</i>	<i>Project Name</i>	<i>Cost Category</i>
156—Department of State Police	1	Upgrade Statewide Agencies Radio System (STARS) Network	\$10,000,001 to \$25,000,000
	2	Replace Training Academy at Department Headquarters	\$25,000,001 to \$50,000,000
	3	Construct Division 6 Headquarters	\$0 to \$10,000,000
	4	Construct Area 5 Office in Fredericksburg	\$0 to \$10,000,000
	5	Construct Area 11 Office in Manassas	\$0 to \$10,000,000
194—Department of General Services	1	Construct New Supreme Court Building	Above \$100,000,000
	2	Construct New State Office Building and Parking Deck	Above \$100,000,000
199—Department of Conservation and Recreation	1	Renovate Cabins	\$10,000,001 to \$25,000,000
	2	Construct Revenue-Generating Facilities	\$10,000,001 to \$25,000,000
	3	Construct New Cabins	\$10,000,001 to \$25,000,000
	4	State Parks Infrastructure	\$10,000,001 to \$25,000,000
203—Wilson Workforce and Rehabilitation Center	1	Renovate Watson Theater and Activities Building, Phase 3	\$10,000,001 to \$25,000,000
204—The College of William and Mary in Virginia	1	Construct Integrated Science Center, Phase IV	\$50,000,001 to \$75,000,000
208—Virginia Polytechnic Institute and State University	1	Construct Undergraduate Lab Building	\$75,000,001 to \$100,000,000
	2	Replace Randolph Hall	Above \$100,000,000
211—Virginia Military Institute	1	Construct Center for Leadership and Ethics, Phase 2	\$50,000,001 to \$75,000,000

	2	<i>Renovate and Expand Engineering and Laboratory Facilities</i>	\$50,000,001 to \$75,000,000
213—Norfolk State University	1	<i>Renovate/Replace Fine Arts Building</i>	\$75,000,001 to \$100,000,000
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216—James Madison University	1	<i>Renovate and Expand Carrier Library</i>	\$75,000,001 to \$100,000,000
218—Virginia School for the Deaf and the Blind	1	<i>Renovate Main Hall and Repair Chapel</i>	\$25,000,001 to \$50,000,000
221—Old Dominion University	1	<i>Construct New Biology Building</i>	Above \$100,000,000
229—Virginia Cooperative Extension and Agricultural Experiment Station	1	<i>Improve Agriculture and Research Extension Centers</i>	\$10,000,0001 to \$25,000,000
234—Cooperative Extension and Agricultural Research Services	1	<i>Renovate Summerseat for Urban Agriculture Center</i>	\$0 to \$10,000,000
236—Virginia Commonwealth University	1	<i>Construct Arts and Innovation Academic Building</i>	Above \$100,000,000
	2	<i>Construct Interdisciplinary Classroom and Laboratory Building</i>	Above \$100,000,000
239—Frontier Culture Museum	1	<i>Construct Crossing Gallery</i>	\$25,000,001 to \$50,000,000
242—Christopher Newport University	1	<i>Construct Integrated Science Center, Phase III</i>	\$50,000,001 to \$75,000,000
247—George Mason University	1	<i>Construct Academic VIII - STEM Prince William Campus</i>	Above \$100,000,000
	2	<i>Renovate Space to Accommodate Virtual Online Campus</i>	\$10,000,001 to \$25,000,000
	3	<i>Construct and Renovate Advanced Computational Infrastructure and Hybrid Learning Labs</i>	\$10,000,001 to \$25,000,000
260—Virginia Community College System	1	<i>Renovate Learning Resource Center, Virginia Highlands</i>	\$10,000,001 to \$25,000,000
	2	<i>Renovate Paul D. Camp Franklin Campus</i>	\$25,000,001 to \$50,000,000
	3	<i>Construct Advanced Career Technical Education (CTE) and Workforce Center in Norfolk</i>	Above \$100,000,000
268—Virginia Institute of Marine Science	1	<i>Construct New Fisheries Science Building</i>	\$25,000,001 to \$50,000,000
301—Department of Agriculture and Consumer Services	1	<i>Expand Warrenton and Lynchburg Regional Laboratory</i>	\$0 to \$10,000,000
417—Gunston Hall	1	<i>Construct Archaeology and Maintenance Facilities</i>	\$0 to \$10,000,000
720—Department of Behavioral Health and Developmental Services	1	<i>Renovate Food Services Statewide</i>	\$25,000,001 to \$50,000,000
	2	<i>Renovate Eastern State Hospital, Phase IV</i>	\$25,000,001 to \$50,000,000

799—Department of Corrections	1	Replace Powhatan Infirmary	\$25,000,001 to \$50,000,000
	2	Expand Deerfield Correctional Center	\$25,000,001 to \$50,000,000
942—Virginia Museum of Natural History	1	Construct Satellite Facility in Waynesboro	\$10,000,001 to \$25,000,000
949—Central Capital	1	Workforce Development Projects	\$25,000,001 to \$50,000,000

2. That Chapter 1134 of the Acts of Assembly of 2020 is repealed.

CHAPTER 95

An Act to authorize the issuance of bonds, in an amount up to \$34,136,000 plus financing costs, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, for paying costs of acquiring, constructing and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit and taxing power of the Commonwealth for the payment of such bonds; to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof; emergency.

[H 2178]

Approved March 12, 2021

Whereas, Article X, Section 9 (c), Constitution of Virginia, provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher learning of the Commonwealth.

Whereas, in accordance with Article X, Section 9 (c), Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c), Constitution of Virginia; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. Title. *This act shall be known and may be cited as the "Commonwealth of Virginia Higher Educational Institutions Bond Act of 2021."*

§ 2. Authorization of bonds and BANs. *The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series" in an aggregate principal amount not exceeding \$34,136,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:*

Institution	Project Title	Project Code	Amount
Virginia Polytechnic Institute and State University	Innovation Campus Academic Building—Parking Supplement	18412	\$27,136,000
Virginia Polytechnic Institute and State University	New Upper Quad Residence Hall	18459	\$7,000,000
Total			\$34,136,000

§ 3. Application of proceeds. *The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be*

disbursed by the State Treasurer for paying costs of the acquisition, construction, renovation, enlargement, improvement, and equipping of the authorized capital projects, including financing costs. The proceeds of (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds, and (c) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. *Details, sale of bonds and BANs.* Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time, and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series"

§ 5. *Execution of bonds and BANs.* Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. *Sources for payment of expenses.* All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2 hereof or from any other available funds as the Treasury Board shall determine.

§ 7. *Revenues.* The institution of higher learning named above is hereby authorized (i) to fix, revise, charge and collect rates, fees and charges for or in connection with the use, occupancy and services of each capital project mentioned above or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. *Investments and contracts.* A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be

appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs. The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax. The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs. The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c), Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance. Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b), as the case may be, of the Constitution of Virginia.

§ 13. Severability. The provisions of this act or the application thereof to any person or circumstance which are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

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

CHAPTER 96

An Act to authorize the issuance of bonds, in an amount up to \$34,136,000 plus financing costs, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, for paying costs of acquiring, constructing and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit and taxing power of the Commonwealth for the payment of such bonds; to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof; emergency.

[S 1145]

Approved March 12, 2021

Whereas, Article X, Section 9 (c), Constitution of Virginia, provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher learning of the Commonwealth.

Whereas, in accordance with Article X, Section 9 (c), Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c), Constitution of Virginia; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. Title. This act shall be known and may be cited as the "Commonwealth of Virginia Higher Educational Institutions Bond Act of 2021."

§ 2. Authorization of bonds and BANs. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series" in an aggregate principal amount not exceeding \$34,136,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
Virginia Polytechnic Institute and State University	Innovation Campus Academic Building—Parking Supplement	18412	\$27,136,000
Virginia Polytechnic Institute and State University	New Upper Quad Residence Hall	18459	\$7,000,000
Total			\$34,136,000

§ 3. Application of proceeds. The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the acquisition, construction, renovation, enlargement, improvement, and equipping of the authorized capital projects, including financing costs. The proceeds of (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds, and (c) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs. Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time, and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series"

§ 5. Execution of bonds and BANs. Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. Sources for payment of expenses. All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2 hereof or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues. The institution of higher learning named above is hereby authorized (i) to fix, revise, charge and collect rates, fees and charges for or in connection with the use, occupancy and services of each capital project mentioned above or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and contracts. A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs. The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax. The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs. The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c), Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance. Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b), as the case may be, of the Constitution of Virginia.

§ 13. Severability. The provisions of this act or the application thereof to any person or circumstance which are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

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

CHAPTER 97

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 6 of Title 10.1 a section numbered 10.1-613.6, relating to dams; negotiated settlement agreements.

[S 1280]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 6 of Title 10.1 a section numbered 10.1-613.6 as follows:

§ 10.1-613.6. Negotiated settlement agreements.

With the consent of any owner of an impounding structure who has allegedly violated or failed, neglected, or refused to obey any regulation or order of the Board, any condition of a permit, or any provision of this chapter, the Board may enter into a negotiated settlement agreement with such owner, so long as the impounding structure or dam is not subject to the provisions of § 10.1-609, to correct deficiencies at the structure according to the schedule of implementation appended to the negotiated settlement agreement and for the payment of civil charges for past alleged violations in specific sums not to exceed the limit specified in § 10.1-613.2. Such civil charges shall be suspended upon compliance with the terms and conditions of the negotiated settlement agreement as determined by the Director. Such civil charges shall be instead of any appropriate civil penalty that could be imposed under § 10.1-613.2 and shall be paid into the Dam Safety, Flood Prevention and Protection Assistance Fund established by Article 1.2 (§ 10.1-603.16 et seq.).

CHAPTER 98

An Act to amend the Code of Virginia by adding a section numbered 10.1-1307.04, relating to greenhouse gas emissions inventory.

[S 1282]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1307.04 as follows:

§ 10.1-1307.04. Greenhouse gas emissions inventory.

A. The Department shall conduct a comprehensive statewide baseline and projection inventory of all greenhouse gas (GHG) emissions and shall update such inventory every four years. The Board may adopt regulations necessary to collect from all source sectors data needed to conduct, update, and maintain such inventory.

B. The Board shall include the inventory in the report required pursuant to subsection H of § 10.1-1307, beginning with the report issued prior to October 1, 2022, and every four years thereafter. The Department shall publish such inventory on its website, showing changes in GHG emissions relative to an estimated GHG emissions baseline case for calendar year 2010.

C. Any information, except emissions data, that is reported to or otherwise obtained by the Department pursuant to this section and that contains or might reveal proprietary information shall be confidential and shall be exempt from the mandatory disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Each owner shall notify the Director or his representative of the existence of proprietary information if he desires the protection provided pursuant to this subsection.

CHAPTER 99

An Act to amend and reenact §§ 10.1-1018.1 and 10.1-1021 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:1, relating to ConserveVirginia program; established.

[S 1290]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1018.1 and 10.1-1021 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:1 as follows:

§ 10.1-104.6:1. ConserveVirginia program established.

A. The Department shall develop a program for the creation, maintenance, operation, and regular updating of a data-driven Geographical Information Systems model to prioritize potential conservation areas across the Commonwealth that would provide quantifiable benefits to the citizens of Virginia. Such program shall be known as ConserveVirginia. The

model shall synthesize multiple mapped data inputs, divided into categories, each representing a different overarching conservation value, including (i) agriculture and forestry, (ii) natural habitat and ecosystem diversity, (iii) floodplains and flooding resilience, (iv) cultural and historic preservation, (v) scenic preservation, (vi) protected landscapes resilience, and (vii) water quality improvement.

B. The Department shall consult regularly with the Chief Resilience Officer, the Special Assistant for Coastal Adaptation and Protection, the Department of Forestry, the Department of Agriculture and Consumer Services, the Department of Historic Resources, the Department of Wildlife Resources, the Department of Environmental Quality, the Marine Resources Commission, and any other state or federal agency or private organization deemed appropriate to provide data or information to update methodologies, map layers, and emerging conservation priorities.

C. The Department shall review and revise the methodology used to develop and prioritize each conservation value identified in subsection A. The Department shall conduct such review and revision process no less than once every two years, and such process shall include public hearings and solicitation of public comment. The Department shall continue to develop ways to incorporate and encourage environmental justice, as defined in § 2.2-234, into all existing and future conservation values. The Department shall not utilize any methodology or conservation value to limit a landowner's decision on implementing any aspect of an approved forest management plan or any appropriate best management practice to achieve water quality improvements.

D. The Department shall provide access to the ConserveVirginia model to the public and all state and federal agencies that benefit by using ConserveVirginia to determine conservation priorities.

E. The Department shall incorporate ConserveVirginia into acquisition or grant decisions when appropriate.

F. The Department shall utilize information provided by the Department of Agriculture and Consumer Services and the Department of Forestry when creating the Agriculture and Forestry map layers of ConserveVirginia. Such information shall include, as appropriate, new data sources that better reflect the economic viability of working farms and forests. The Department of Agriculture and Consumer Services and the Department of Forestry shall engage agriculture and forestry stakeholders to improve and refine the ConserveVirginia model to accurately reflect the conservation value of agricultural and forestal land in the Commonwealth. Such information shall inform whether the ConserveVirginia conservation values related to agriculture and forestry have been achieved.

§ 10.1-1018.1. Reporting.

The chairman of the Board shall submit to the Governor and the General Assembly, including the Chairmen of the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Finance, and the Senate Committee on Agriculture, Conservation and Natural Resources, and to the Director of the Department of Planning and Budget an executive summary and report of the interim activity and work of the Board on or before December 15 of each even-numbered year. The document shall report on the status of the Foundation and its Fund, including, but not limited to, (i) implementation of its strategic plan; (ii) land conservation targeting tools developed for the Foundation; (iii) (ii) descriptions of projects that received funding; (iv) (iii) a description of the geographic distribution of land protected as provided in § 10.1-1021.1; (v) (iv) expenditures from, interest earned by, and financial obligations of the Fund; and (vi) (v) progress made toward recognized state and regional land conservation goals, including what percentage of properties conserved were identified by ConserveVirginia, pursuant to § 10.1-104.6:1, and whether the identified conservation values were protected. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. ~~Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish Establish criteria for the expenditure of such unrestricted moneys. The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include received by the Fund. In making grants for the expenditure of such unrestricted moneys, the Board of Trustees shall consider the following criteria, not all of which need to be met in order for a grant to be awarded:~~

- (1) The ecological, outdoor recreational, historic, agricultural, and forestal value of the property;
- (2) An assessment of market values;
- (3) Consistency with local comprehensive plans;
- (4) Geographical balance of properties and interests in properties to be purchased;
- (5) Availability of public and private matching funds to assist in the purchase;
- (6) Imminent danger of loss of natural, outdoor, recreational, or historic attributes of a significant portion of the land;
- (7) Economic value to the locality and region attributable to the purchase; ~~and~~
- (8) Advisory opinions from local governments, state agencies, or others; ~~and~~
- (9) ~~Whether the property has been identified by ConserveVirginia and whether the proposal seeks to preserve the conservation values identified by ConserveVirginia;~~

~~conservation values identified by ConserveVirginia;~~

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) *Conserve Virginia*, (ii) Virginia Outdoors Plan, ~~(ii)~~ (iii) Virginia Natural Heritage Plan, ~~(iii)~~ (iv) Virginia Institute of Marine Science Inventory, ~~(iv)~~ (v) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and ~~(v)~~ (vi) Virginia Board of Historic Resources Inventory. In addition, the Board shall consider any information submitted by the Department of Agriculture and Consumer Services on farmland preservation priorities and any information submitted by the Department of Forestry on forest land initiatives and inventories; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of § 10.1-1022.

3. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

4. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of § 10.1-1020.

5. To sell, exchange or otherwise dispose of or invest as it deems proper the moneys, securities, or other real or personal property or any interest therein given or bequeathed to it, unless such action is restricted by the terms of a gift or bequest. However, the provisions of § 10.1-1704 shall apply to any diversion from open-space use of any land given or bequeathed to the Foundation.

6. To conduct fund-raising events as deemed appropriate by the Board of Trustees.

7. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.

CHAPTER 100

An Act to amend and reenact §§ 62.1-44.15:22 and 62.1-262 of the Code of Virginia, relating to Virginia Water Protection Permit; efficient water use.

[S 1291]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:22 and 62.1-262 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:22. Water withdrawals and preservation of instream flow.

A. 1. Conditions contained in a Virginia Water Protection Permit may include ~~but are not limited to~~ the volume of water ~~which~~ that may be withdrawn as a part of the permitted activity and conditions necessary to protect beneficial uses. Domestic and other existing beneficial uses shall be considered the highest priority uses.

2. Every application for a Virginia Water Protection Permit for a surface water withdrawal shall include a (i) water auditing plan and (ii) leak detection and repair plan. Both such plans shall comply with requirements established by the Board in regulations. The Board shall approve every water auditing plan and leak detection and repair plan that complies with such regulatory requirements. Once approved by the Board, such water auditing plan and leak detection and repair plan shall be incorporated by reference as a condition in the Virginia Water Protection Permit. The Board shall not issue a Virginia Water Protection Permit for a surface water withdrawal without an approved water auditing plan and an approved leak detection and repair plan.

B. Notwithstanding any other provision of law, no Virginia Water Protection Permit shall be required for any water withdrawal in existence on July 1, 1989; however, a permit shall be required if a new § 401 certification is required to increase a withdrawal. No Virginia Water Protection Permit shall be required for any water withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal received a § 401 certification before January 1, 1989, with respect to installation of any necessary withdrawal structures to make such withdrawal; however, a permit shall be required before any such withdrawal is increased beyond the amount authorized by the certification.

C. The Board may issue an Emergency Virginia Water Protection Permit for a new or increased withdrawal when it finds that because of drought there is an insufficient public drinking water supply that may result in a substantial threat to human health or public safety. Such a permit may be issued to authorize the proposed activity only after conservation measures mandated by local or state authorities have failed to protect public health and safety and notification of the agencies designated in subsection C of § 62.1-44.15:20 ~~C~~ and only for the amount of water necessary to protect public health and safety. ~~These~~ Such agencies shall have five days to provide comments or written recommendations on the issuance of the permit. Notwithstanding the provisions of subsection B of § 62.1-44.15:20 ~~B~~, no public comment shall be required prior to issuance of the emergency permit. Not later than 14 days after the issuance of the emergency permit, the permit holder shall apply for a Virginia Water Protection Permit authorized under ~~the~~ other provisions of this section. The application for ~~the~~ such Virginia Water Protection Permit shall be subject to public comment for a period established by the

Board. Any Emergency Virginia Water Protection Permit issued under this section shall be valid until the Board approves or denies the subsequent request for a Virginia Water Protection Permit or for a period of one year, whichever occurs sooner. The fee for the emergency permit shall be 50 percent of the fee charged for a comparable Virginia Water Protection Permit.

§ 62.1-262. Permits for other ground water withdrawals.

Any application for a ground water withdrawal permit, except as provided in §§ § 62.1-260 ~~and~~ or 62.1-261 ~~and~~ or subsection H of § 62.1-266, shall include a water conservation and management plan approved by the Board. A *Such* water conservation and management plan shall include: (i) *the* use of water-saving plumbing and processes including, where appropriate, use of water-saving fixtures in new and renovated plumbing as provided under the Uniform Statewide Building Code; (ii) a water-loss reduction program; (iii) a water-use education program; ~~and~~ (iv) *a water auditing plan that complies with requirements established by the Board in regulations;* (v) *a leak detection and repair plan that complies with requirements established by the Board in regulations;* and (vi) mandatory reductions during water-shortage emergencies, including, where appropriate, ordinances prohibiting waste of water generally and providing for mandatory water-use restrictions, with penalties, during water-shortage emergencies. The Board shall approve ~~all~~ *any* water conservation ~~plans in compliance~~ *plan that complies* with clauses (i) through ~~(iv)~~ (vi). *Once approved by the Board, such water conservation and management plan shall be incorporated by reference as a condition in the ground water withdrawal permit. The Board shall not issue a ground water withdrawal permit, except as provided in § 62.1-260 or 62.1-261 or subsection H of § 62.1-266, without an approved water conservation and management plan.*

2. That the State Water Control Board (the Board) shall adopt regulations to implement the provisions of this act.

3. That the provisions of the first enactment of this act shall become effective 30 days after the adoption by the State Water Control Board of the regulations required by the second enactment of this act.

CHAPTER 101

An Act to amend and reenact § 38.2-3451 of the Code of Virginia, relating to health insurance; essential health benefits; abortion coverage.

[H 1896]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3451 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3451. Essential health benefits.

A. Notwithstanding any provision of law to the contrary, any person offering or providing a health benefit plan providing individual or small group health insurance coverage, including (i) catastrophic health insurance policies, and policies that pay on a cost-incurred basis; (ii) association health plans; and (iii) plans provided by a multiple-employer welfare arrangement, shall provide that such coverage includes essential health benefits. Nothing in this section shall require a health benefit plan providing large group health insurance coverage to provide coverage for essential health benefits in a manner that exceeds the requirements of the PPACA as of January 1, 2019. The essential health benefits package may also include associated cost-sharing requirements or limitations. ~~No qualified health insurance plan that is sold or offered for sale through an exchange established or operating in the Commonwealth shall provide coverage for abortions, regardless of whether such coverage is provided through the plan or is offered as a separate optional rider thereto, provided that such limitation shall not apply to an abortion performed (a) when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or (b) when the pregnancy is the result of an alleged act of rape or incest.~~

B. The provisions of subsection A requiring minimum essential pediatric oral health benefits shall be deemed to be satisfied for health benefit plans made available in the small group market or individual market in the Commonwealth outside an exchange, as defined in § 38.2-3455, issued for policy or plan years beginning on or after January 1, 2015, that do not include the minimum essential pediatric oral health benefits if the health carrier has obtained reasonable assurance that such pediatric oral health benefits are provided to the purchaser of the health benefit plan. The health carrier shall be deemed to have obtained reasonable assurance that such pediatric oral health benefits are provided to the purchaser of the health benefit plan if:

1. At least one qualified dental plan, as defined in § 38.2-3455, (i) offers the minimum essential pediatric oral health benefits and (ii) is available for purchase by the small group or individual purchaser; and

2. The health carrier prominently discloses, in a form approved by the Commission, at the time that it offers the health benefit plan that the plan does not provide the minimum essential pediatric oral health benefits.

CHAPTER 102

An Act to amend and reenact § 38.2-3451 of the Code of Virginia, relating to health insurance; essential health benefits; abortion coverage.

[S 1276]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3451 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3451. Essential health benefits.

A. Notwithstanding any provision of law to the contrary, any person offering or providing a health benefit plan providing individual or small group health insurance coverage, including (i) catastrophic health insurance policies, and policies that pay on a cost-incurred basis; (ii) association health plans; and (iii) plans provided by a multiple-employer welfare arrangement, shall provide that such coverage includes essential health benefits. Nothing in this section shall require a health benefit plan providing large group health insurance coverage to provide coverage for essential health benefits in a manner that exceeds the requirements of the PPACA as of January 1, 2019. The essential health benefits package may also include associated cost-sharing requirements or limitations. ~~No qualified health insurance plan that is sold or offered for sale through an exchange established or operating in the Commonwealth shall provide coverage for abortions, regardless of whether such coverage is provided through the plan or is offered as a separate optional rider thereto, provided that such limitation shall not apply to an abortion performed (a) when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or (b) when the pregnancy is the result of an alleged act of rape or incest.~~

B. The provisions of subsection A requiring minimum essential pediatric oral health benefits shall be deemed to be satisfied for health benefit plans made available in the small group market or individual market in the Commonwealth outside an exchange, as defined in § 38.2-3455, issued for policy or plan years beginning on or after January 1, 2015, that do not include the minimum essential pediatric oral health benefits if the health carrier has obtained reasonable assurance that such pediatric oral health benefits are provided to the purchaser of the health benefit plan. The health carrier shall be deemed to have obtained reasonable assurance that such pediatric oral health benefits are provided to the purchaser of the health benefit plan if:

1. At least one qualified dental plan, as defined in § 38.2-3455, (i) offers the minimum essential pediatric oral health benefits and (ii) is available for purchase by the small group or individual purchaser; and

2. The health carrier prominently discloses, in a form approved by the Commission, at the time that it offers the health benefit plan that the plan does not provide the minimum essential pediatric oral health benefits.

CHAPTER 103

An Act to amend and reenact § 15.2-1400 of the Code of Virginia, relating to time of certain local elections.

[S 1157]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1400 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1400. Governing bodies.

A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term, and other details of the election shall be as specified by law, general or special. Qualification for office is provided in *Article 4* (§ 15.2-1522 et seq.) of *Chapter 15*.

B. The governing body of every locality shall be composed of not fewer than three nor more than ~~eleven~~ 11 members.

C. Chairmen, mayors, supervisors, and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.

D. A governing body may punish or fine a member of the governing body for disorderly behavior.

E. *Notwithstanding the provisions of §§ 24.2-222 and 24.2-222.1, any city or town charter, or any other provision of law, general or special, beginning with any election held after January 1, 2022, elections for mayor, members of a local governing body, or members of an elected school board shall be held at the time of the November general election for terms to commence January 1.*

2. That any city or town currently providing for the election of its mayor, governing body, or school board at a May election shall, by ordinance, provide for the transition of such elections to the November general election date. No term of a mayor, a member of council, or a member of a school board shall be shortened in implementing the change to the November election date. Mayors and members of a council or school board who were elected at a May general election and whose terms are to expire as of June 30 shall continue in office until their successors have been elected at the November general election and have been qualified to serve.

CHAPTER 104

An Act to amend and reenact § 22.1-254 of the Code of Virginia, relating to the Department of Education; guidelines on excused student absences; civic engagement.

[H 1940]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-254 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.**

A. As used in this subsection, "attend" includes participation in educational programs and courses at a site remote from the school with the permission of the school and in conformity with applicable requirements.

Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by causing a child to attend an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by causing the child to attend any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board of Education but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board of Education, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board.

D. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; or

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

1. Career guidance counseling;
2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board of Education or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;
3. Mandatory enrollment in a program to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment;
4. Successful completion of the course in economics and personal finance required to earn a Board of Education-approved high school diploma;
5. Counseling on the economic impact of failing to complete high school; and
6. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

G. Whenever a court orders any pupil into an alternative education program, including a program preparing students for a high school equivalency examination approved by the Board of Education, offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

H. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

- I. The provisions of this article shall not apply to:
 1. Children suffering from contagious or infectious diseases while suffering from such diseases;
 2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;
 3. Children under 10 years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;
 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and
 5. Children excused pursuant to subsections B and D.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

J. Subject to guidelines established by the Department of Education, any student who is absent from school due to his mental or behavioral health shall be granted an excused absence.

K. *Subject to guidelines established by the Department of Education, each school board (i) shall permit one school day-long excused absence per school year for any middle school or high school student in the local school division who is absent from school to engage in a civic event and (ii) may permit additional excused absences for such students who are absent for such purpose. Local school boards may require that the student provide advance notice of the intended absence and require that the student provide documentation of participation in a civic event.*

CHAPTER 105

An Act to amend and reenact § 22.1-254 of the Code of Virginia, relating to the Department of Education; guidelines on excused student absences; civic engagement.

[S 1439]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-254 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

A. As used in this subsection, "attend" includes participation in educational programs and courses at a site remote from the school with the permission of the school and in conformity with applicable requirements.

Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by causing a child to attend an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by causing the child to attend any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board of Education but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board of Education, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board.

D. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; or

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

1. Career guidance counseling;

2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board of Education or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;

3. Mandatory enrollment in a program to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment;

4. Successful completion of the course in economics and personal finance required to earn a Board of Education-approved high school diploma;

5. Counseling on the economic impact of failing to complete high school; and

6. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

G. Whenever a court orders any pupil into an alternative education program, including a program preparing students for a high school equivalency examination approved by the Board of Education, offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

H. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

I. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;

2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;

3. Children under 10 years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;

4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and

5. Children excused pursuant to subsections B and D.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of ~~this subsection~~ shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

J. Subject to guidelines established by the Department of Education, any student who is absent from school due to his mental or behavioral health shall be granted an excused absence.

K. *Subject to guidelines established by the Department of Education, each school board (i) shall permit one school day-long excused absence per school year for any middle school or high school student in the local school division who is absent from school to engage in a civic event and (ii) may permit additional excused absences for such students who are absent for such purpose. Local school boards may require that the student provide advance notice of the intended absence and require that the student provide documentation of participation in a civic event.*

CHAPTER 106

An Act to amend and reenact § 22.1-79.7 of the Code of Virginia, relating to school board policies; school meal debt; enforcement.

[H 2013]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-79.7 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-79.7. School meal policies; donations.

A. Each local school board shall adopt policies that:

1. Prohibit school board employees from requiring a student who cannot pay for a meal at school or who owes a school meal debt to throw away or discard a meal after it has been served to him, do chores or other work to pay for such meals, or wear a wristband or hand stamp; ~~and~~

2. Require school board employees to direct any communication relating to a school meal debt to the student's parent. Such policy may permit such communication to be made by a letter addressed to the parent to be sent home with the student; *and*

3. *Prohibit the school board from filing a lawsuit against a student or the student's parent because the student cannot pay for a meal at school or owes a school meal debt.*

B. Any school board may solicit and receive any donation or other funds for the purpose of eliminating or offsetting any school meal debt at any time and shall use any such funds solely for such purpose.

CHAPTER 107

An Act to amend and reenact § 23.1-506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-505.1, relating to the State Council of Higher Education for Virginia; eligibility for in-state tuition.

[H 2123]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-506 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered § 23.1-505.1 as follows:

§ 23.1-505.1. Eligibility for in-state tuition and state financial assistance programs.

Notwithstanding § 23.1-502 or any other provision of law to the contrary, any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law,

Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education or private institution of higher education in the Commonwealth, is eligible for in-state tuition regardless of citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J) (including only students or trainees), or 1101(a)(15)(M) are not eligible. All such students shall be afforded the same educational benefits, including access to financial assistance programs administered by the Council, the State Board, or a public institution of higher education, as any other individual who is eligible for in-state tuition pursuant to § 23.1-502. Information obtained in the implementation of this section shall only be used or disclosed to individuals other than the student for purposes of determining such educational benefits.

Any non-Virginia student granted in-state tuition pursuant to this section shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

§ 23.1-506. Eligibility for in-state tuition; exception; certain out-of-state and high school students.

A. Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students are eligible for in-state tuition charges regardless of domicile:

1. Any non-Virginia student who resides outside the Commonwealth and has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as the student is employed full time in the Commonwealth and the student pays Virginia income taxes on all taxable income earned in the Commonwealth.

2. Any non-Virginia student who resides outside the Commonwealth and is claimed as a dependent for federal and Virginia income tax purposes if the nonresident parent claiming the student as a dependent has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in the Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student as a dependent for Virginia and federal income tax purposes.

3. Any active duty member, activated guard or reserve member, or guard or reserve member mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.

4. Any veteran who resides in the Commonwealth.

5. Any surviving spouse who resides in the Commonwealth.

6. Following completion of active duty service, any non-Virginia student who established domicile before being called to active duty in the National Guard of another state if during such active duty he maintained at least one of the following in the Commonwealth: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support.

7. Any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member.

8. Any child of an active duty member or veteran who claims Virginia as his home state and filed Virginia tax returns for at least 10 years during active duty service.

9. Any individual who (i) was admitted to the United States as a refugee under 8 U.S.C. § 1157 within the previous two calendar years or (ii) received a Special Immigrant Visa that has been granted a status under P.L. 110-181 § 1244, P.L. 109-163 § 1059, or P.L. 111-8 § 602 within the previous two calendar years and, upon entering the United States, resided in the Commonwealth and continues to reside in the Commonwealth as a refugee or pursuant to such Special Immigrant Visa.

10. Any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education in the Commonwealth. Students who meet these criteria shall be eligible for in-state tuition regardless of their citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J) (including only students or trainees), or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall only be used or disclosed to individuals other than the student for purposes of determining in-state tuition eligibility.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the governing board of any public institution of higher education may charge in-state tuition to the following students regardless of domicile:

1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions for Virginia students and (ii) is domiciled in such other state;

2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program approved by the institution of higher education during the same period in which a Virginia student from such institution is attending such foreign institution as an exchange student; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a comprehensive community college for which he may, upon successful completion, receive high school and college credit pursuant to a dual enrollment agreement between the high school or magnet school and the comprehensive community college.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a comprehensive community college who resides in another state within a 30-mile radius of a public institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges at the institutions of higher education in any state that is contiguous to the Commonwealth and that has similar reciprocal provisions for Virginia students.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

2. That the provisions of this act shall become effective on August 1, 2022.

3. That the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, shall promulgate regulations to implement the provisions of this act.

CHAPTER 108

An Act to amend and reenact § 23.1-506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-505.1, relating to the State Council of Higher Education for Virginia; eligibility for in-state tuition.

[S 1387]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-506 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered § 23.1-505.1 as follows:

§ 23.1-505.1. Eligibility for in-state tuition and state financial assistance programs.

Notwithstanding § 23.1-502 or any other provision of law to the contrary, any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education or private institution of higher education in the Commonwealth, is eligible for in-state tuition regardless of citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J) (including only students or trainees), or 1101(a)(15)(M) are not eligible. All such students shall be afforded the same educational benefits, including access to financial assistance programs administered by the Council, the State Board, or a public institution of higher education, as any other individual who is eligible for in-state tuition pursuant to § 23.1-502. Information obtained in the implementation of this section shall only be used or disclosed to individuals other than the student for purposes of determining such educational benefits.

Any non-Virginia student granted in-state tuition pursuant to this section shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

§ 23.1-506. Eligibility for in-state tuition; exception; certain out-of-state and high school students.

A. Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students are eligible for in-state tuition charges regardless of domicile:

1. Any non-Virginia student who resides outside the Commonwealth and has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as the student is employed full time in the Commonwealth and the student pays Virginia income taxes on all taxable income earned in the Commonwealth.

2. Any non-Virginia student who resides outside the Commonwealth and is claimed as a dependent for federal and Virginia income tax purposes if the nonresident parent claiming the student as a dependent has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in

the Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student as a dependent for Virginia and federal income tax purposes.

3. Any active duty member, activated guard or reserve member, or guard or reserve member mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.

4. Any veteran who resides in the Commonwealth.

5. Any surviving spouse who resides in the Commonwealth.

6. Following completion of active duty service, any non-Virginia student who established domicile before being called to active duty in the National Guard of another state if during such active duty he maintained at least one of the following in the Commonwealth: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support.

7. Any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member.

8. Any child of an active duty member or veteran who claims Virginia as his home state and filed Virginia tax returns for at least 10 years during active duty service.

9. Any individual who (i) was admitted to the United States as a refugee under 8 U.S.C. § 1157 within the previous two calendar years or (ii) received a Special Immigrant Visa that has been granted a status under P.L. 110-181 § 1244, P.L. 109-163 § 1059, or P.L. 111-8 § 602 within the previous two calendar years and, upon entering the United States, resided in the Commonwealth and continues to reside in the Commonwealth as a refugee or pursuant to such Special Immigrant Visa.

10. Any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education in the Commonwealth. Students who meet these criteria shall be eligible for in-state tuition regardless of their citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J)(including only students or trainees), or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall only be used or disclosed to individuals other than the student for purposes of determining in-state tuition eligibility.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the governing board of any public institution of higher education may charge in-state tuition to the following students regardless of domicile:

1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions for Virginia students and (ii) is domiciled in such other state;

2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program approved by the institution of higher education during the same period in which a Virginia student from such institution is attending such foreign institution as an exchange student; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a comprehensive community college for which he may, upon successful completion, receive high school and college credit pursuant to a dual enrollment agreement between the high school or magnet school and the comprehensive community college.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a comprehensive community college who resides in another state within a 30-mile radius of a public institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges at the institutions of higher education in any state that is contiguous to the Commonwealth and that has similar reciprocal provisions for Virginia students.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

2. That the provisions of this act shall become effective on August 1, 2022.

3. That the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, shall promulgate regulations to implement the provisions of this act.

CHAPTER 109

An Act to require the Board of Education to amend a certain regulation relating to special education.

[H 2314]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Board of Education shall amend its Regulations Governing Special Education Programs for Children with Disabilities in Virginia at 8VAC20-81-170 B 2 a and e to remove the word "component" following the word "evaluation."*

CHAPTER 110

An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 18.2-251.1:3, 54.1-3401, and 54.1-3446 of the Code of Virginia, relating to industrial hemp; emergency.

[H 2078]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-4112, 3.2-4113, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 18.2-251.1:3, 54.1-3401, and 54.1-3446 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-4112. Definitions.

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

"Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"Deal" means to buy temporarily possess industrial hemp grown in compliance with state or federal law and to sell such industrial hemp to a person who that (i) processes industrial hemp in compliance with state or federal law or has not been processed and (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law was not grown and will not be processed by the person temporarily possessing it.

"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for personal use or a retail establishment that sells or offers for sale in Virginia a hemp product.

"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"Federally licensed hemp producer" means a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Hemp product" means any finished a product that is otherwise lawful and, including any raw materials from industrial hemp that are used for or added to a food or beverage product, that contains industrial hemp, including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption and has completed all stages of processing needed for the product.

"Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower or a federally licensed hemp producer is growing or intends to grow industrial hemp.

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or, his agent, or a federally licensed hemp producer to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No federally licensed hemp producer or grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or issued a summons or judgment under § 18.2-250.1 for the possession, or growing, dealing, or processing of industrial hemp or any *Cannabis sativa* with a tetrahydrocannabinol concentration that does not exceed the total delta-9 tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. 990.6(b)(3). No dealer or his agent or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment under § 18.2-250.1 for the possession, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7

of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or issued a summons or judgment under § 18.2-250.1 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 \$250 for any application for registration or renewal of registration allowed under this chapter. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. *The Commissioner shall adopt regulations establishing a fee structure for registration. With the exception of § 2.2-4031, no provision of the Administrative Process Act (§ 2.2-4000 et seq.) or public participation guideline adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this subsection. However, prior to adopting any regulation pursuant to this subsection, the Commissioner shall review the recommendation of an advisory panel that shall consider the economic impact of any proposed fee amount on the Commonwealth's industrial hemp industry. The advisory panel shall, at a minimum, include (i) an agribusiness representative or organization, (ii) a farming representative or organization, and (iii) a hemp industry representative or organization. Prior to adopting any regulation pursuant to this subsection, the Commissioner shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice shall contain (a) a summary of the proposed regulation; (b) the text of the proposed regulation; and (c) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice of submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process of regulations pursuant to this subsection. The Commissioner shall consider and keep on file all public comments received for any regulation adopted pursuant to this subsection.*

C. *The Commissioner may establish an application period for a registration or renewal of registration allowed under this chapter.*

D. ~~The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, dealerships, and process sites each registration issued by the Commissioner under this chapter and each license submitted to the Commissioner by a federally licensed hemp producer.~~

~~C. E. The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this chapter and each license submitted to the Commissioner by a federally licensed hemp producer to the chief law-enforcement officer of the county or city where industrial hemp will be grown, dealt, or processed.~~

~~D. F. The Commissioner shall be responsible for monitoring~~ *may monitor* the industrial hemp grown, dealt, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random *sampling and* testing of the industrial hemp; *in accordance with any criteria established by the Commissioner and* at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

~~E. G. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.~~

~~F. H. Notwithstanding the provisions of subsection E G, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:~~

~~1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.~~

~~2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.~~

~~G. I. The Commissioner shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.~~

H. J. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

I. K. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this chapter.

§ 3.2-4115. Issuance of registrations; exemption.

A. The Commissioner shall establish a registration program to allow a person to grow, deal in, or process industrial hemp in the Commonwealth.

B. Any person seeking to grow, deal in, or process industrial hemp in the Commonwealth shall apply to the Commissioner for a registration on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;
2. The legal description and geographic data sufficient for locating (i) the land on which the applicant intends to grow industrial hemp, (ii) the site at which the applicant intends to deal in industrial hemp, or (iii) the site at which the applicant intends to process industrial hemp. A registration shall authorize industrial hemp growth, dealing in, or processing only at the location specified in the registration;
3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a registration under this section shall not be eligible to be registered;
4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a registration is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown, dealt in, or processed to conduct physical inspections of the industrial hemp and to ensure compliance with the requirements of this chapter. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction;
5. Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown, dealt in, or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this chapter;
6. A statement of the approximate square footage or acreage of the location he intends to use as a production field, dealership, or process site;
7. Any other information required by the Commissioner; and
8. The payment of a nonrefundable application fee, in an amount set by the Commissioner not to exceed \$50.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a registration renewal fee, in an amount set by the Commissioner not to exceed \$50.

D. All records, data, and information filed in support of a registration application submitted pursuant to this section and all information on a hemp producer license issued by the U.S. Department of Agriculture submitted to the Commissioner pursuant to this section shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. Notwithstanding the provisions of subsection B, no federally licensed hemp producer shall be required to apply to the Commissioner for a registration to grow industrial hemp in the Commonwealth. Each federally licensed hemp producer shall submit to the Commissioner a copy of his hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

§ 3.2-4116. Registration conditions.

A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state or federal laws regulating the growing, dealing in, or processing of industrial hemp;
2. Retain all industrial hemp growing, dealing, or processing records for at least three years;
3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field or dealership or process site exists;
4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and
5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

§ 3.2-4118. Forfeiture of industrial hemp grower, dealer, or processor registration; violations.

A. The Commissioner shall deny the application, or suspend or revoke the registration, of any person who, with a culpable mental state greater than negligence, violates any provision of this chapter. The Commissioner shall provide

reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any person in connection with the denial, suspension, or revocation of a registration.

B. If a registration is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower, dealer, or processor may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. A person issued a registration pursuant to subsection A of § 3.2-4115 who negligently (i) fails to provide a description and geographic data sufficient for locating his production field, dealership, or process site; (ii) grows, deals in, or processes *Cannabis sativa* with a tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a *Cannabis sativa* product shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E. *The Commissioner shall not deem a grower negligent if such grower makes reasonable efforts to grow industrial hemp and grows Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total delta-9 tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. 990.6(b)(3).*

D. A person who grows, deals in, or processes industrial hemp and who negligently fails to register pursuant to subsection A of § 3.2-4115 shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.

E. A corrective action plan established by the Commissioner in response to a negligent violation of a provision of this chapter shall identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of this chapter.

F. No person who negligently violates the provisions of this chapter three times in a five-year period shall be eligible to grow, deal in, or process industrial hemp for a period of five years beginning on the date of the third violation.

§ 3.2-4119. Eligibility to receive tobacco settlement funds.

Industrial hemp growers, dealers, or processors registered under this chapter *or federally licensed hemp producers* may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V, and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) *industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; or (iii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories; Department of Agriculture and Consumer Services employees.

A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial hemp samples from a permitted pharmaceutical processor, a ~~licensed~~ *registered* industrial hemp grower, a ~~federally licensed hemp producer~~, or a ~~licensed~~ *registered* industrial hemp processor for the purpose of performing required testing shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, 18.2-250.1, or 18.2-255 for the possession or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

B. *No employee of the Department of Agriculture and Consumer Services shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment under § 18.2-250.1 for the possession or distribution of industrial hemp when possession of industrial hemp is necessary in the performance of his duties.*

§ 54.1-3401. Definitions.

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of

his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) *industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990, or (iii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and

required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);
- 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);
- 2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);
- 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);
- 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);
- Acetyl fentanyl (other name: desmethyl fentanyl);
- Acetylmethadol;
- Allyprodine;
- Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- Alphameprodine;
- Alphamethadol;
- Benzethidine;
- Betacetylmethadol;
- Betameprodine;
- Betamethadol;
- Betaprodine;
- Clonitazene;
- Dextromoramide;
- Diampromide;
- Diethylthiambutene;
- Difenoxin;
- Dimenoxadol;
- Dimepheptanol;
- Dimethylthiambutene;
- Dioxaphetylbutyrate;
- Dipipanone;
- Ethylmethylthiambutene;
- Etonitazene;
- Etoxidine;
- Furethidine;
- Hydroxypethidine;
- Ketobemidone;
- Levomoramide;
- Levophenacetyl morphan;
- Morpheridine;
- MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
- N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuran fentanyl);
- N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
- N-[1-[1-methyl-2-phenylethyl]-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
- N-[[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
- N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);

N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:
 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
 N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl,
 ortho-fluorofentanyl);
 N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
 N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name:
 beta-hydroxy-3-methylfentanyl);
 N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
 N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl
 fentanyl);
 N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);
 N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
 Noracymethadol;
 Norlevorphanol;
 Normethadone;
 Norpipanone;
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
 Phenadoxone;
 Phenampromide;
 Phenomorphan;
 Phenoperidine;
 Piritramide;
 Proheptazine;
 Propерidine;
 Propiram;
 Racemoramide;
 Tilidine;
 Trimeperidine;
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
 N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
 N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
 N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
 N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
 N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy
 U-47700 or 3,4-MDO-U-47700);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
 N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
 N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
 N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).
 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted,
 whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
 Acetorphine;
 Acetyldihydrocodeine;
 Benzylmorphine;
 Codeine methylbromide;
 Codeine-N-Oxide;
 Cyprenorphine;
 Desomorphine;
 Dihydromorphine;
 Drotebanol;

Etorphine;
 Heroin;
 Hydromorphenol;
 Methyldesorphine;
 Methyl dihydromorphine;
 Morphine methylbromide;
 Morphine methylsulfonate;
 Morphine-N-Oxide;
 Myrophine;
 Nicocodeine;
 Nicomorphine;
 Normorphine;
 Pholcodine;
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; or (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration; or (v) *industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990;*

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

- 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);
- Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
- Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);
- 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 3,4-methylenedioxypropylvalerone (other name: MDPV);
- 4-methylmethcathinone (other names: mephedrone, 4-MMC);
- 3,4-methylenedioxypropylmethcathinone (other name: methylone);
- Naphthylpyrovalerone (other name: naphyrone);
- 4-fluoromethcathinone (other name: flephedrone, 4-FMC);
- 4-methoxymethcathinone (other names: methedrone; bk-PMMA);
- Ethcathinone (other name: N-ethylcathinone);
- 3,4-methylenedioxyethcathinone (other name: ethylone);
- Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
- N,N-dimethylcathinone (other name: metamfepramone);
- Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
- 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
- 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
- Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
- 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
- 3-fluoromethcathinone (other name: 3-FMC);
- 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
- 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
- 4-Methylethcathinone (other name: 4-MEC);
- 4-Ethylmethcathinone (other name: 4-EMC);
- N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
- Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);
- Alpha-methylamino-butyrophenone (other name: Buphedrone);
- Alpha-methylamino-valerophenone (other name: Pentedrone);
- 3,4-Dimethylmethcathinone (other name: 3,4-DMMC);
- 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
- 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);
- Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
- 4-Fluoromethamphetamine (other name: 4-FMA);
- 4-Fluoroamphetamine (other name: 4-FA);
- 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
- 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
- 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
- 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
- 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
- 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
- 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
- (2-aminopropyl)benzofuran (other name: APB);
- (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
- 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);
- 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);
- Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
- Benocyclidine (other names: BCP, BTCP);
- Alpha-pyrrolidinobutyrophenone (other name: alpha-PBP);
- 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
- 4-bromomethcathinone (other name: 4-BMC);
- 4-chloromethcathinone (other name: 4-CMC);
- 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
- Alpha-Pyrrolidinoheptiophenone (other name: alpha-PHP);
- Alpha-Pyrrolidinoheptiophenone (other name: PV8);

- 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
 Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
 4-Chloroethcathinone (other name: 4-CEC);
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
 (2-Methylaminopropyl)benzofuran (other name: MAPB);
 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);
 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
 4-methyl-alpha-ethylaminopentiophenone;
 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
 N-ethyl-1,2-diphenylethylamine (other name: Ephedidine);
 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
 3,4-methylenedioxy-N-tert-butylcathinone;
 Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
 1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
 4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
 4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
 3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
 5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other name: Eutylone, bk-EBDB);
 1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
 N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA).
4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
- Clonazolam;
 - Etizolam;
 - Flualprazolam;
 - Flubromazepam;
 - Flubromazolam;
 - Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate;
 - 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
 - Mecloqualone;
 - Methaqualone.
5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
- 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

Ethylamphetamine;

Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylamine;

Methcathinone (some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)-propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);

4-chloro-N,N-dimethylcathinone;

3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
 Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);
 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);
 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
 (8-quinoliny)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
 (8-quinoliny)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
 (8-quinoliny)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
 Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole — 3-carboxamide (other name: ADB-FUBINACA);
 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);
 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);
 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
 N-(adamantany)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AKB48);
 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);
 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA);
 Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-Fluoro-MDMB-PICA);
 Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);
 Methyl 2-[1-(4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTINACA).

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

CHAPTER 111

An Act to amend and reenact § 2.2-3802 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 19.2 a section numbered 19.2-134.1, relating to pretrial data collection.

[H 2110]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3802 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 9 of Title 19.2 a section numbered 19.2-134.1 as follows:

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, *the Virginia Criminal Sentencing Commission*, and the Virginia Alcoholic Beverage Control Authority;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
 - a. The Department of State Police;
 - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - c. Police departments of cities, counties, and towns;
 - d. Sheriff's departments of counties and cities;
 - e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 - f. The Division of Capitol Police.
8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);
13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;
14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;
15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 19.2-134.1. Collection and reporting of data related to adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment.

A. The Virginia Criminal Sentencing Commission shall, on an annual basis, collect statewide and locality-level data related to all adults charged with any criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth. The Virginia Criminal Sentencing Commission may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Virginia Criminal Sentencing Commission. The Virginia Criminal Sentencing Commission shall use the data only for research, evaluation, or statistical purposes and shall ensure the confidentiality and security of the data.

B. The Virginia Criminal Sentencing Commission shall collect data as necessary to report on the following:

1. Information about the individual charged, including sex, race, year of birth, and residential zip code;

2. The type of charging document, including summons, warrant, direct indictment, or any other charging document;

3. Information related to the offense or offenses with which the individual was charged, including (i) the date on which the individual was charged; (ii) the total number of charges; (iii) the Code section or county, city, or town ordinance under which the charge was issued; (iv) whether the charge was a felony, misdemeanor, or other type of offense; and (v) the classification of each such felony, misdemeanor, or other type of offense;

4. Whether, at the time the individual was charged, that individual was a named defendant in any pending criminal proceeding in the Commonwealth;

5. Whether, at the time the individual was charged, that individual was under the supervision of the Department of Corrections, any local community-based probation agency, or any pretrial services agency;

6. Whether, at the time the individual was charged, that individual's criminal history record included any charges or convictions for failure to appear within the Commonwealth, and if so, the date of such charge or conviction;

7. Whether, at the time the individual was charged, that individual's criminal history record included any conviction for any criminal offense committed within the Commonwealth, and if so, the offense for which that individual was convicted and the date of such conviction;

8. Whether, at the time the individual was charged, that individual's criminal history record included any convictions for which the individual was ordered to serve an active term of incarceration;

9. Information related to the individual's detention status at the time of the charge and any changes to the individual's detention status prior to the final disposition of the charge, including whether that individual was released on a summons, denied bail, or admitted to bail, and if admitted to bail, the date of release from custody;

10. For those individuals who were detained at the time of the charge, information related to the conditions of bail and the bond initially ordered on the charge, including (i) whether bail was denied, (ii) whether the bond was secured or unsecured, and (iii) all monetary amounts set on the bond;

11. For those individuals admitted to bail prior to the final disposition of the charge, whenever available, information related to the conditions of bail and the bond at the time that individual was admitted to bail, including (i) whether the bond was secured or unsecured, (ii) all monetary amounts set on the bond, (iii) whether that individual was ordered to be supervised by a pretrial services agency, and (iv) whether that individual utilized the services of a bail bondsman;

12. Whether the individual was charged with failure to appear in the Commonwealth prior to the final disposition of the charge, and if so, the date on which the failure to appear was alleged to have occurred and whether the individual was convicted of the charge of failure to appear;

13. Whether the individual was charged with any other criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth prior to the final disposition of the charge, and if so, the offense for which the individual was charged, the date of the offense, the date of arrest, and whether the individual was convicted of the offense;

14. Information related to the final disposition of the charge, including (i) the date of final disposition; (ii) whether the charge resulted in a conviction, dismissal, entry of a nolle prosequi, finding of not guilty, or other disposition; (iii) whether the individual was sentenced to a term of incarceration for such charge, and if so, the length of such term of incarceration and the length of time that the individual was incarcerated for such charge; (iv) whether the individual was placed under the supervision of the Department of Corrections; and (v) when available, whether the individual was placed under the supervision of any local community-based probation agency for such charge;

15. Whether the individual was represented by a public defender or court-appointed attorney on the charge at the time of the final disposition of the case; and

16. Any other data deemed relevant and reliable by the Virginia Criminal Sentencing Commission.

C. The Virginia Criminal Sentencing Commission shall submit an annual report on the statewide and locality-level data collected pursuant to this section on or before December 1 to the General Assembly, the Governor, and the Office of

the Executive Secretary of the Supreme Court of Virginia. Such report may include recommendations related to the collection of data.

D. The Virginia Criminal Sentencing Commission shall annually make the statewide and locality-level data collected pursuant to this section publicly available on a website established and maintained by the Virginia Criminal Sentencing Commission on or before December 1. The data shall be made available as (i) an electronic dataset, excluding any personal and case identifying information, that may be downloaded by members of the public and (ii) an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user. The Virginia Criminal Sentencing Commission shall not be required to provide electronic data in a format not regularly used by the agency. Data containing any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be made publicly available.

E. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to provide data to the Virginia Criminal Sentencing Commission if the requested data is not regularly maintained by such entity or if such data is prohibited from such disclosure under any other law or under the Virginia Rules of Professional Conduct.

2. That the Virginia Criminal Sentencing Commission shall not be required to submit an annual report or make statewide or locality-level data publicly available as required by subsections C and D of § 19.2-134.1, as created by this act, prior to December 1, 2022.

3. That the Virginia State Crime Commission shall provide the Virginia Criminal Sentencing Commission with the final dataset of all adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment in October 2017 and that the Virginia Criminal Sentencing Commission shall make such statewide and locality-level data publicly available as an electronic dataset, excluding any personal and case identifying information, by October 1, 2021, and on an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user by December 1, 2022. The Virginia Criminal Sentencing Commission shall not be required to provide electronic data in a format not regularly used by the agency. Data from this dataset containing any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) and shall not be made publicly available.

CHAPTER 112

An Act to amend and reenact § 2.2-3802 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 19.2 a section numbered 19.2-134.1, relating to pretrial data collection.

[S 1391]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3802 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 9 of Title 19.2 a section numbered 19.2-134.1 as follows:

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic Beverage Control Authority;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
 - a. The Department of State Police;
 - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - c. Police departments of cities, counties, and towns;

- d. Sheriff's departments of counties and cities;
- e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- f. The Division of Capitol Police.
- 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
- 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
- 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
- 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
- 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);
- 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;
- 14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;
- 15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and
- 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 19.2-134.1. Collection and reporting of data related to adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment.

A. The Virginia Criminal Sentencing Commission shall, on an annual basis, collect statewide and locality-level data related to all adults charged with any criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth. The Virginia Criminal Sentencing Commission may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Virginia Criminal Sentencing Commission. The Virginia Criminal Sentencing Commission shall use the data only for research, evaluation, or statistical purposes and shall ensure the confidentiality and security of the data.

B. The Virginia Criminal Sentencing Commission shall collect data as necessary to report on the following:

- 1. Information about the individual charged, including sex, race, year of birth, and residential zip code;*
- 2. The type of charging document, including summons, warrant, direct indictment, or any other charging document;*
- 3. Information related to the offense or offenses with which the individual was charged, including (i) the date on which the individual was charged; (ii) the total number of charges; (iii) the Code section or county, city, or town ordinance under which the charge was issued; (iv) whether the charge was a felony, misdemeanor, or other type of offense; and (v) the classification of each such felony, misdemeanor, or other type of offense;*
- 4. Whether, at the time the individual was charged, that individual was a named defendant in any pending criminal proceeding in the Commonwealth;*
- 5. Whether, at the time the individual was charged, that individual was under the supervision of the Department of Corrections, any local community-based probation agency, or any pretrial services agency;*
- 6. Whether, at the time the individual was charged, that individual's criminal history record included any charges or convictions for failure to appear within the Commonwealth, and if so, the date of such charge or conviction;*
- 7. Whether, at the time the individual was charged, that individual's criminal history record included any conviction for any criminal offense committed within the Commonwealth, and if so, the offense for which that individual was convicted and the date of such conviction;*
- 8. Whether, at the time the individual was charged, that individual's criminal history record included any convictions for which the individual was ordered to serve an active term of incarceration;*

9. Information related to the individual's detention status at the time of the charge and any changes to the individual's detention status prior to the final disposition of the charge, including whether that individual was released on a summons, denied bail, or admitted to bail, and if admitted to bail, the date of release from custody;

10. For those individuals who were detained at the time of the charge, information related to the conditions of bail and the bond initially ordered on the charge, including (i) whether bail was denied, (ii) whether the bond was secured or unsecured, and (iii) all monetary amounts set on the bond;

11. For those individuals admitted to bail prior to the final disposition of the charge, whenever available, information related to the conditions of bail and the bond at the time that individual was admitted to bail, including (i) whether the bond was secured or unsecured, (ii) all monetary amounts set on the bond, (iii) whether that individual was ordered to be supervised by a pretrial services agency, and (iv) whether that individual utilized the services of a bail bondsman;

12. Whether the individual was charged with failure to appear in the Commonwealth prior to the final disposition of the charge, and if so, the date on which the failure to appear was alleged to have occurred and whether the individual was convicted of the charge of failure to appear;

13. Whether the individual was charged with any other criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth prior to the final disposition of the charge, and if so, the offense for which the individual was charged, the date of the offense, the date of arrest, and whether the individual was convicted of the offense;

14. Information related to the final disposition of the charge, including (i) the date of final disposition; (ii) whether the charge resulted in a conviction, dismissal, entry of a nolle prosequi, finding of not guilty, or other disposition; (iii) whether the individual was sentenced to a term of incarceration for such charge, and if so, the length of such term of incarceration and the length of time that the individual was incarcerated for such charge; (iv) whether the individual was placed under the supervision of the Department of Corrections; and (v) when available, whether the individual was placed under the supervision of any local community-based probation agency for such charge;

15. Whether the individual was represented by a public defender or court-appointed attorney on the charge at the time of the final disposition of the case; and

16. Any other data deemed relevant and reliable by the Virginia Criminal Sentencing Commission.

C. The Virginia Criminal Sentencing Commission shall submit an annual report on the statewide and locality-level data collected pursuant to this section on or before December 1 to the General Assembly, the Governor, and the Office of the Executive Secretary of the Supreme Court of Virginia. Such report may include recommendations related to the collection of data.

D. The Virginia Criminal Sentencing Commission shall annually make the statewide and locality-level data collected pursuant to this section publicly available on a website established and maintained by the Virginia Criminal Sentencing Commission on or before December 1. The data shall be made available as (i) an electronic dataset, excluding any personal and case identifying information, that may be downloaded by members of the public and (ii) an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user. The Virginia Criminal Sentencing Commission shall not be required to provide electronic data in a format not regularly used by the agency. Data containing any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be made publicly available.

E. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to provide data to the Virginia Criminal Sentencing Commission if the requested data is not regularly maintained by such entity or if such data is prohibited from such disclosure under any other law or under the Virginia Rules of Professional Conduct.

2. That the Virginia Criminal Sentencing Commission shall not be required to submit an annual report or make statewide or locality-level data publicly available as required by subsections C and D of § 19.2-134.1, as created by this act, prior to December 1, 2022.

3. That the Virginia State Crime Commission shall provide the Virginia Criminal Sentencing Commission with the final dataset of all adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment in October 2017 and that the Virginia Criminal Sentencing Commission shall make such statewide and locality-level data publicly available as an electronic dataset, excluding any personal and case identifying information, by October 1, 2021, and on an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user by December 1, 2022. The Virginia Criminal Sentencing Commission shall not be required to provide electronic data in a format not regularly used by the agency. Data from this dataset containing any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) and shall not be made publicly available.

CHAPTER 113

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, relating to Humane Cosmetics Act; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, as follows:

*CHAPTER 52.
HUMANE COSMETICS ACT.*

§ 59.1-571. Definitions.

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

"Cosmetic" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, without limitation, personal hygiene products such as deodorant, shampoo, or conditioner.

"Cosmetic animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate. Merely reviewing, assessing, or retaining evidence from a cosmetic animal test shall not constitute developing or manufacturing using cosmetic animal testing for purposes of this chapter.

"Cosmetics manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of 21 C.F.R. § 701.12.

"Ingredient" has the meaning ascribed to it in 21 C.F.R. § 700.3(e).

§ 59.1-572. Prohibited conduct.

A. Except as provided in subsection B, no cosmetics manufacturer shall:

- 1. Conduct or contract for cosmetic animal testing that occurs in the Commonwealth on or after January 1, 2022;*
- 2. Manufacture or import for profit into the Commonwealth any cosmetic or ingredient thereof, if the cosmetics manufacturer knew or reasonably should have known that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022; or*
- 3. Beginning July 1, 2022, sell or offer for sale within the Commonwealth any cosmetic, if the cosmetics manufacturer knows or reasonably should know that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022.*

B. The prohibitions in subsection A shall not apply to cosmetic animal testing or a cosmetic for which cosmetic animal testing was conducted, if the cosmetic animal testing was conducted:

- 1. To comply with a requirement of a federal or state regulatory agency and (i) the tested ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function; (ii) a specific human health problem related to the cosmetic or ingredient is substantiated that justifies the need to conduct the cosmetic animal testing, and such testing is supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetic or ingredient; and (iii) there does not exist a method of testing other than cosmetic animal testing that is accepted for the relevant purpose by the federal or state regulatory agency;*
- 2. To comply with a requirement of a regulatory agency of a foreign jurisdiction, so long as no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within Virginia by the cosmetics manufacturer;*
- 3. On any cosmetic or cosmetic ingredient subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.); or*
- 4. Pursuant to a requirement of a federal, state, or foreign regulatory agency for a purpose unrelated to cosmetics, provided that either no evidence derived from such testing was relied upon to substantiate the safety of the cosmetic or there is (i) documented evidence of a noncosmetic intent of the test and (ii) a history of use of the ingredient outside of cosmetics for at least 12 months prior to such reliance.*

§ 59.1-573. Civil penalties.

Any person who violates any provision of this chapter is subject to a civil penalty of \$5,000 and an additional \$1,000 for each day the violation continues. Such penalty shall be collected by the Attorney General and the proceeds shall be deposited into the Literary Fund.

§ 59.1-574. Local regulation prohibited unless identical.

No locality may establish or continue any regulation relating to cosmetic animal testing that is not identical to the provisions set forth in this chapter:

CHAPTER 114

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, relating to Humane Cosmetics Act; civil penalties.

[S 1379]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, as follows:

CHAPTER 52.
HUMANE COSMETICS ACT.

§ 59.1-571. Definitions.

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

"Cosmetic" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, without limitation, personal hygiene products such as deodorant, shampoo, or conditioner.

"Cosmetic animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate. Merely reviewing, assessing, or retaining evidence from a cosmetic animal test shall not constitute developing or manufacturing using cosmetic animal testing for purposes of this chapter.

"Cosmetics manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of 21 C.F.R. § 701.12.

"Ingredient" has the meaning ascribed to it in 21 C.F.R. § 700.3(e).

§ 59.1-572. Prohibited conduct.

A. Except as provided in subsection B, no cosmetics manufacturer shall:

1. Conduct or contract for cosmetic animal testing that occurs in the Commonwealth on or after January 1, 2022;
2. Manufacture or import for profit into the Commonwealth any cosmetic or ingredient thereof, if the cosmetics manufacturer knew or reasonably should have known that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022; or
3. Beginning July 1, 2022, sell or offer for sale within the Commonwealth any cosmetic, if the cosmetics manufacturer knows or reasonably should know that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022.

B. The prohibitions in subsection A shall not apply to cosmetic animal testing or a cosmetic for which cosmetic animal testing was conducted, if the cosmetic animal testing was conducted:

1. To comply with a requirement of a federal or state regulatory agency and (i) the tested ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function; (ii) a specific human health problem related to the cosmetic or ingredient is substantiated that justifies the need to conduct the cosmetic animal testing, and such testing is supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetic or ingredient; and (iii) there does not exist a method of testing other than cosmetic animal testing that is accepted for the relevant purpose by the federal or state regulatory agency;
2. To comply with a requirement of a regulatory agency of a foreign jurisdiction, so long as no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within Virginia by the cosmetics manufacturer;
3. On any cosmetic or cosmetic ingredient subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.); or
4. Pursuant to a requirement of a federal, state, or foreign regulatory agency for a purpose unrelated to cosmetics, provided that either no evidence derived from such testing was relied upon to substantiate the safety of the cosmetic or there is (i) documented evidence of a noncosmetic intent of the test and (ii) a history of use of the ingredient outside of cosmetics for at least 12 months prior to such reliance.

§ 59.1-573. Civil penalties.

Any person who violates any provision of this chapter is subject to a civil penalty of \$5,000 and an additional \$1,000 for each day the violation continues. Such penalty shall be collected by the Attorney General and the proceeds shall be deposited into the Literary Fund.

§ 59.1-574. Local regulation prohibited unless identical.

No locality may establish or continue any regulation relating to cosmetic animal testing that is not identical to the provisions set forth in this chapter.

CHAPTER 115

An Act to amend and reenact §§ 16.1-248.1, 16.1-249, 16.1-278.7, and 16.1-278.8 of the Code of Virginia, relating to juveniles; eligibility for commitment to the Department of Juvenile Justice; eligibility for predispositional confinement in a secure facility.

[S 1456]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-248.1, 16.1-249, 16.1-278.7, and 16.1-278.8 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-248.1. Criteria for detention or shelter care.

A. A juvenile taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of

such juvenile's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, at any time prior to an order of final disposition, a juvenile may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the juvenile committed the act alleged, and that at least one of the following conditions is met:

1. The juvenile is alleged to have (a) violated the terms of his probation or parole when the charge for which he was placed on probation or parole would have been a felony or Class 1 misdemeanor if committed by an adult; (b) committed an act that would be a felony or Class 1 misdemeanor if committed by an adult; or (c) violated any of the provisions of § 18.2-308.7, and there is clear and convincing evidence that:

a. Considering the seriousness of the current offense or offenses and other pending charges, the seriousness of prior adjudicated offenses, the legal status of the juvenile and any aggravating and mitigating circumstances, the liberty of the juvenile, constitutes a clear and substantial threat to the person or property of others;

b. The liberty of the juvenile would present a clear and substantial threat of serious harm to such juvenile's life or health; or

c. The juvenile has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding 12 months.

2. The juvenile has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The juvenile is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such juvenile may be detained for a period not to exceed that provided for in § 16.1-323 while arrangements are made to return the juvenile to the lawful custody of a parent, guardian or other authority in another state.

4. The juvenile has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the juvenile has committed a delinquent act or that the child is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than 72 hours from the time he was taken into custody. If the 72-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

5. The juvenile failed to adhere to the conditions imposed upon him by the court, intake officer or magistrate following his release upon a Class 1 misdemeanor charge or a felony charge.

However, no juvenile younger than 11 years of age shall be placed in secure detention unless such juvenile is alleged to have committed one or more of the delinquent acts enumerated in subsection B or C of § 16.1-269.1.

When a juvenile is placed in secure detention, the detention order shall state the offense for which the juvenile is being detained, and, to the extent practicable, other pending and previous charges.

B. Any juvenile not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a juvenile may be placed in shelter care if:

1. The juvenile is eligible for placement in a secure facility;

2. The juvenile has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release;

3. The juvenile's parent, guardian or other person able to provide supervision cannot be reached within a reasonable time;

4. The juvenile does not consent to return home;

5. Neither the juvenile's parent or guardian nor any other person able to provide proper supervision can arrive to assume custody within a reasonable time; or

6. The juvenile's parent or guardian refuses to permit the juvenile to return home and no relative or other person willing and able to provide proper supervision and care can be located within a reasonable time.

C. When a juvenile is detained in a secure facility, the juvenile's probation officer may review such placement for the purpose of seeking a less restrictive alternative to confinement in that secure facility.

D. The criteria for continuing the juvenile in detention or shelter care as set forth in this section shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition. Such criteria shall be supported by clear and convincing evidence in support of the decision not to release the juvenile.

E. Nothing in this section shall be construed to deprive the court of its power to punish a juvenile summarily for contempt for acts set forth in § 18.2-456, other than acts of disobedience of the court's dispositional order which are committed outside the presence of the court.

F. A detention order may be issued pursuant to subdivision A 2 of subsection A by the committing court or by the court in the jurisdiction from which the juvenile fled or where he was taken into custody.

G. The court is authorized to detain a juvenile based upon the criteria set forth in subsection A at any time after a delinquency petition has been filed, both prior to adjudication and after adjudication pending final disposition subject to the time limitations set forth in § 16.1-277.1.

H. If the intake officer or magistrate releases the juvenile, either on bail or recognizance or under such conditions as may be imposed, no motion to revoke bail, or change such conditions may be made unless (i) the juvenile has violated a term or condition of his release, or is convicted of or taken into custody for an additional offense, or (ii) the attorney for the Commonwealth presents evidence that incorrect or incomplete information regarding the factors in subsection A was relied upon by the intake officer or magistrate establishing the initial terms of release. If the juvenile court releases the juvenile, either on bail or recognizance or under such conditions as may be imposed, over the objection of the attorney for the Commonwealth, the attorney for the Commonwealth may appeal such decision to the circuit court. The order of the juvenile court releasing the juvenile shall remain in effect until the circuit court, Court of Appeals or Supreme Court rules otherwise.

§ 16.1-249. Places of confinement for juveniles.

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;
2. A facility operated by a licensed child welfare agency;
3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;
4. Any other suitable place designated by the court and approved by the Department;

5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established by any county, city or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile Justice for the holding and detention of juveniles.

A juvenile younger than 11 years of age who is alleged to have committed one or more of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 and who is ordered to remain in detention or shelter care pursuant to § 16.1-248.1 pending a court hearing may only be detained in a place described in subdivision 1, 2, or 4, but under no circumstances shall such juvenile be detained pursuant to this section in a secure detention facility.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F or G.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of 18 years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of subsection A of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1-269.1, the juvenile, if in confinement, shall be placed in a juvenile secure facility, unless the court determines that the juvenile is a threat to the security or safety of the other juveniles detained or the staff of the facility, in which case the court may transfer the juvenile to a jail or other facility for the detention of adults, provided that the facility is approved by the State Board of Local and Regional Jails for the detention of juveniles.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the child is 14 years of age or older, a jail or other facility for the detention of adults, provided that (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the facility is approved by the State Board of Local and Regional Jails for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is 14 years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses (i), (ii) and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If a juvenile 14 years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period not to exceed six hours prior to a court hearing and six hours after the court hearing in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided that (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.), (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Local and Regional Jails for the detention of juveniles. The State Board of Local and Regional Jails is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours, provided that the juvenile is entirely separate and removed from detained adults, or (ii) in a nonsecure area, provided that constant supervision is provided.

H. If a judge, intake officer or magistrate orders the predispositional detention of persons 18 years of age or older, such detention shall be in an adult facility; however, if the predispositional detention is ordered for a violation of the terms and

conditions of release from a juvenile correctional center, the judge, intake officer or magistrate may order such detention be in a juvenile facility.

I. The Departments of Corrections, Juvenile Justice and Criminal Justice Services shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

§ 16.1-278.7. Commitment to Department of Juvenile Justice.

Only a juvenile who is (i) adjudicated as a delinquent of an act enumerated in subsection B or C of § 16.1-269.1 and is 11 years of age or older or (ii) 14 years of age or older may be committed to the Department of Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to subdivision A 14 or A 17 of § 16.1-278.8, at the time a court commits a child to the Department of Juvenile Justice the court shall order an investigation pursuant to § 16.1-273 to be completed within 15 days. No juvenile court or circuit court shall order the commitment of any child jointly to the Department of Juvenile Justice and to a local board of social services or transfer the custody of a child jointly to a court service unit of a juvenile court and to a local board of social services. Any person sentenced and committed to an active term of incarceration in the Department of Corrections who is, at the time of such sentencing, in the custody of the Department of Juvenile Justice, upon pronouncement of sentence, shall be immediately transferred to the Department of Corrections.

§ 16.1-278.8. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;
3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;
4. Defer disposition for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;
- 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § 66-13 provided bed space is available for confinement and the juvenile (i) has been found delinquent for an offense that would be a Class 1 misdemeanor or felony if committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department, and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;
5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;
6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;
7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;
- 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition authorized by this section. The court shall review such placements at 30-day intervals;
8. Impose a fine not to exceed \$500 upon such juvenile;
9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor

vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order that identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties that are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-269.1 or (ii) he is 14 years of age or older and the current offense is (i) (a) an offense that would be a felony if committed by an adult, (ii) (b) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense that would be a felony if committed by an adult, or (iii) (c) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or scheme;

15. Impose the penalty authorized by § 16.1-284;

16. Impose the penalty authorized by § 16.1-284.1;

17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

18. Impose the penalty authorized by § 16.1-278.9; or

19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under such conditions as the court prescribes.

CHAPTER 116

An Act to amend and reenact § 58.1-3965 of the Code of Virginia, relating to sale of land for delinquent taxes.

[H 2165]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3965 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of redemption.

A. When any taxes on any real estate in a locality are delinquent on December 31 following the second anniversary of the date on which such taxes have become due, or, in the case of real property upon which is situated (i) any structure that has been condemned by the local building official pursuant to applicable law or ordinance; (ii) any nuisance as that term is defined in § 15.2-900; (iii) any derelict building as that term is defined in § 15.2-907.1; or (iv) any property that has been declared to be blighted as that term is defined in § 36-49.1:1, the first anniversary of the date on which such taxes have become due, such real estate may be sold for the purpose of collecting all delinquent taxes on such property.

However, in a qualifying locality, as defined in § 58.1-3221.6, whenever (a) taxes on any real estate in the locality are delinquent upon the expiration of six months following the date on which such taxes became due and (b) the locality has incurred abatement costs which remain unpaid upon the expiration of six months following the date on which the abatement costs were first incurred, real estate meeting the conditions described in clause (i), (ii), (iii), or (iv) may be sold for the purpose of collecting all delinquent taxes and abatement costs on such property. For the purposes of this section, "abatement costs" means costs incurred by a locality that result from the conditions described in clause (i), (ii), (iii), or (iv).

Upon a finding by the court, on real estate with an assessed value of \$100,000 or less in any locality, that (a) any taxes on such real estate are delinquent on December 31 following the first anniversary of the date on which such taxes have become due or (b) there is a lien on such real estate pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains unpaid on December 31 following the first anniversary of the date on which such lien was recorded, the property shall be deemed subject to sale by public auction pursuant to proper notice under this subsection.

The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice to (1) the last known address of the property owner as such owner and address appear in the records of the treasurer, (2) the property address if the property address is different from the owner's address and if the real estate is listed with the post office by a numbered and named street address and (3) the last known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such notice shall advise the taxpayer that the taxpayer may request the treasurer to enter into a payment agreement to permit the payment of the delinquent taxes, interest, and penalties over a period not to exceed 36 60 months in accordance with the provisions of subsection C. Such officer shall also cause to be published at least once a list of real estate which will be offered for sale under the provisions of this article in a newspaper of general circulation in the locality, at least 30 days prior to the date on which judicial proceedings under the provisions of this article are to be commenced.

The pro rata cost of such publication shall become a part of the tax and together with all other costs, including reasonable attorneys' fees set by the court and the costs of any title examination conducted in order to comply with the notice requirements imposed by this section, shall be collected if payment is made by the owner in redemption of the real property described therein whether or not court proceedings have been initiated. A notice substantially in the following form shall be sufficient:

Notice

Judicial Sale of Real Property

On _____ (date) _____ proceedings will be commenced under the authority of § 58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:

(description of properties)

B. The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, reasonable attorneys' fees, interest and costs thereon, including the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable attorneys' fees, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to this article (i) upon entering into an

agreement with the owner of the real property for the payment of all delinquent amounts in installments over a period ~~which~~ *that* is reasonable under the circumstances, but *that* in no event shall exceed ~~36~~ 60 months, or (ii) upon written notice by an individual, not a party to the action, asserting ownership rights in the property that is the subject of the action arising by virtue of testate or intestate succession, to the treasurer or other officer responsible for collecting taxes. The treasurer or other officer responsible for collecting taxes shall promptly advise the court of such claim and seek leave to add the individual asserting the claim as a party to the action. If the court determines that the individual asserting the claim possesses an ownership interest in the property that is the subject of the action, such individual may, within 30 days of the court's finding, enter into an agreement with the treasurer or other official responsible for collecting taxes for the payment of all delinquent amounts in installments over a period that is reasonable under the circumstances, but that in no event shall exceed 60 months. Any ~~such~~ agreement under this subsection shall provide for the payment of current tax obligations as they come due, which payments shall be credited to current tax obligations notwithstanding the provisions of § 58.1-3913 and shall be secured by the lien of the locality pursuant to § 58.1-3340.

D. During the pendency of any installment agreement permitted under subsection C, any proceeding for a sale previously commenced shall not abate, but shall be continued on the docket of the court in which such action is pending. It shall be the duty of the treasurer or other officer responsible for collecting taxes to promptly notify the clerk of such court when obligations arising under such an installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the action to be stricken from the docket.

E. In the event the owner of the property or other responsible person defaults upon obligations arising under an installment agreement permitted by subsection C, or during the term of any installment agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the signatories of such agreement irrespective of the amount remaining due. Any action for the sale previously commenced pursuant to this article may proceed without any requirement that the notice or advertisement required by subsection A, which had previously been made with respect to such property, be repeated. No owner of property which has been the subject of a defaulted installment agreement shall be eligible to enter into a second installment agreement with respect to the same property within three years of such default.

F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813, who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in the same manner as such taxes are assessed and collected.

G. During the pendency of the action, the circuit court in which the action is pending may, on its own motion or on the motion of any party, refer the parties to a dispute resolution proceeding pursuant to the provisions of Chapter 20.2 (§ 8.01-576.4 et seq.) of Title 8.01.

H. In any case in which real estate subject to delinquent taxes is situated in two or more jurisdictions, a suit to sell the entirety of the real estate pursuant to this article may be brought in a single jurisdiction provided that (i) taxes are delinquent in all jurisdictions for periods not less than the minimum applicable periods set forth in subsection A and (ii) the treasurer of each jurisdiction within which the property is situated consents to the suit.

The suit shall identify the taxes, penalties, interest, and other charges due in each jurisdiction. The publications and notices required pursuant to this section shall identify each of the jurisdictions in which the property is situated. Upon sale of the property, the order confirming the sale shall provide for the payment of taxes, penalties, interest, and other charges to each jurisdiction, and copies of the order confirming the sale and the deed conveying the property to the purchaser shall be recorded among the land records of the clerk's office of the circuit court for each jurisdiction within which the property that is the subject of the suit is situated. *No final order confirming sale shall be entered sooner than 90 days following the provision of notice to parties in accordance with subsection A or, if later, 90 days following the receipt of notice by the treasurer or other official responsible for collecting taxes from an individual, not previously made a party to the action, in accordance with clause (ii) of subsection C.*

CHAPTER 117

An Act to amend and reenact §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; emergency.

[H 1935]

Approved March 15, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

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

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, 2019 2020, except for:

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

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

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

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

5. For taxable years beginning on and after January 1, 2019, ~~the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code; and~~

6. ~~The provisions of § 103 of Division Q of the federal Further Consolidated Appropriations Act, 2020, P.L. 116-94 (2019), related to the reduction in the medical expense deduction floor For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;~~

7. ~~The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;~~

8. ~~The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;~~

9. ~~The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and~~

10. ~~The provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.~~

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

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

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

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

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

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

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

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

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

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

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

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

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

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

employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

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

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

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

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.*

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

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

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

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

17. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.*

§ 58.1-402. Virginia taxable income.

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

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

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

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

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

3. [Repealed.]

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

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

6. [Repealed.]

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

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

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

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

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

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax

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

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

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

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

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

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

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

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

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

(4) One of the following applies:

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

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

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

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

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

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

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

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

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

d. For purposes of subdivision B 9:

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

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

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

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

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

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

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

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

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

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

(4) Any Qualified Foreign Entity.

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

d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. [Repealed.]

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

11. [Repealed.]

12, 13. [Expired.]

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

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

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

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

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

19, 20. [Repealed.]

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

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

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

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

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

b. As used in this subdivision 25:

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

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

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

b. As used in this subdivision 26:

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

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

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

27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

28. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

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

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

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

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

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

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

H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there shall be deducted to the extent not otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

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

CHAPTER 118

An Act to amend and reenact §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; emergency.

[S 1146]

Approved March 15, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

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

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, 2019 2020, except for:

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

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

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

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in

taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, ~~the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code; and~~

6. ~~The provisions of § 103 of Division Q of the federal Further Consolidated Appropriations Act, 2020, P.L. 116-94 (2019), related to the reduction in the medical expense deduction floor~~ For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. The provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

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

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

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

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

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

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

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

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

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

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

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

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

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

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

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

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

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

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

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.*

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

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

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

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

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

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

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

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

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

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

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

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

recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

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

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

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

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

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

17. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.*

§ 58.1-402. Virginia taxable income.

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

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

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

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

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

3. [Repealed.]

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

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

6. [Repealed.]

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

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

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

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

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

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

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

the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

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

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

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

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

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

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

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

(4) One of the following applies:

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

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

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

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

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

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

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

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

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

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

d. For purposes of subdivision B 9:

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

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

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

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

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

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

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

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

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

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

(4) Any Qualified Foreign Entity.

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

d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. [Repealed.]

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

11. [Repealed.]

12, 13. [Expired.]

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

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

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

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

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

19, 20. [Repealed.]

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

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

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

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

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

b. As used in this subdivision 25:

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

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

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

b. As used in this subdivision 26:

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

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

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

27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

28. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.*

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

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

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

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

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

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

H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there shall be deducted to the extent not otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

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

CHAPTER 119

An Act to amend and reenact § 3.1 of Chapters 398 and 520 of the Acts of Assembly of 2009, which provided a charter for the Town of Nassawadox, relating to town elections.

[H 1749]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 3.1 of Chapters 398 and 520 of the Acts of Assembly of 2009 is amended and reenacted as follows:

§ 3.1. Election, qualification, and term of office of ~~councilmen~~ *council members* and mayor.

(a) The town of Nassawadox shall be governed by a town council composed of six ~~councilmen~~ *council members* and a mayor, all of whom shall be qualified voters of the town to be elected from the town at large.

(b) The mayor and ~~councilmen~~ *council members* in office at the time of the passage of this act *a scheduled election shall continue in office until their successors are elected and qualified. An election for mayor and councilmen shall be held on the first Tuesday in May, in 2010, and on the first Tuesday in May of every even-numbered year thereafter. The council members and mayor so elected shall take office on the first day of the following July, and shall each serve until their successors are elected and have qualified. The election for mayor and council members shall take place on the Tuesday following the first Monday in November every even-numbered year. The mayor and council members shall serve two-year terms. The terms of office for those so elected shall commence on January 1 immediately following said election.*

(c) No mayor or *council member* of ~~council~~ shall be an employee of the town, and upon the qualification of any such person for such position, his employment with the town shall cease.

CHAPTER 120

An Act to amend and reenact § 3.2-1905 of the Code of Virginia, relating to the excise tax on peanuts.

[H 1751]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-1905 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-1905. Levy of excise tax.

Beginning July 1, 2010, and ending July 1, ~~2024~~ *2026*, an excise tax shall be levied at a rate of ~~\$0.30~~ *\$0.25* per 100 pounds on all peanuts grown in and sold in the Commonwealth for processing. Peanuts shall not be subject to the tax after the tax has been paid once.

CHAPTER 121

An Act to amend and reenact § 3.2-1905 of the Code of Virginia, relating to the excise tax on peanuts.

[S 1411]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 3.2-1905 of the Code of Virginia is amended and reenacted as follows:****§ 3.2-1905. Levy of excise tax.**

Beginning July 1, 2010, and ending July 1, ~~2021~~ 2026, an excise tax shall be levied at a rate of ~~\$0.30~~ \$0.25 per 100 pounds on all peanuts grown in and sold in the Commonwealth for processing. Peanuts shall not be subject to the tax after the tax has been paid once.

CHAPTER 122

An Act to amend and reenact §§ 3.1, as amended, 3.2, 3.7, as amended, and 5.1 of Chapter 669 of the Acts of Assembly of 1972, which provided a charter for the Town of Crewe in Nottoway County, and to repeal Chapter 6 (§§ 6.1 through 6.4) of Chapter 669 of the Acts of Assembly of 1972, relating to town council; elections and powers.

[H 1764]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 3.1, as amended, 3.2, 3.7, as amended, and 5.1 of Chapter 669 of the Acts of Assembly of 1972 are amended and reenacted as follows:****§ 3.1. Election, qualification and term of office of councilmen and mayor.**

(a) The Town of Crewe shall be governed by a town council composed of seven councilmen and a mayor, all of whom shall be qualified voters of the town, to be elected from the town at large.

(b) The mayor and councilmen in office at the time of the passage of this act shall continue in office until the expiration of the terms for which they were elected. An election for mayor and councilmen shall be held on the first Tuesday in May, 1972 and every two years thereafter. ~~The mayor and councilmen elected on the first Tuesday in May, 1972 shall enter upon their duties on the first day of September, 1972 and shall serve until the first day of July, 1974. The mayor and councilmen elected on the first Tuesday in May, 1974 and thereafter, shall enter upon their duties on the first day of July next succeeding his or their election, and shall each serve for a term of two years~~

(c) *Beginning with the regular municipal election to be held on the first Tuesday in May 2022, the terms of the mayor and town council shall be governed as follows:*

1. The mayor shall be elected to serve a term of four years expiring June 30, 2026, and the term of office of the mayor shall be every four years thereafter.

2. The four members of the town council who are elected with the highest number of votes shall serve a term of four years, each expiring June 30, 2026, and the term of office of four members of the town council shall be every four years thereafter.

3. The three members of the town council who are elected with the fewest number of votes shall serve a term of two years, each expiring June 30, 2024, and the term of office of three members of the town council shall be every four years thereafter.

4. The terms of office shall commence on July 1 following the election. The mayor and members of the town council shall serve until their successors are elected and qualified.

§ 3.2. Vacancies on council.

Vacancies on the town council shall be filled ~~for the unexpired portion of the term by a majority vote of the members of the council; such vacancies to be filled by qualified voters of the town pursuant to the Code of Virginia.~~

§ 3.7. Meetings of council.

The town council shall fix the time of their stated meetings, and they shall meet at least once a month. A journal shall be kept of its official proceedings and its meetings shall be open to the public. Four members of the town council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the mayor or by any ~~three~~ two or more members of the council, provided that the mayor and all council members are duly notified in writing a reasonable period of time prior to such meeting, and no business shall be transacted at a special meeting thereof, except that for which it shall be called. If all members are present, this provision may be waived by a majority vote of the council.

§ 5.1. Appointments.

The town council shall appoint a town clerk, a ~~chief of police, a town sergeant,~~ a town attorney and such other officers as they deem necessary. *The town manager shall have the authority to appoint, suspend, or terminate the chief of police with the consent of the town council by majority vote.* Each officer appointed under this section shall be directly responsible

to the town council and mayor. Such officers shall perform such duties as are required by general law, as well as such additional duties not inconsistent with general law as this charter or the council may prescribe.

2. That Chapter 6 (§§ 6.1 through 6.4) of Chapter 669 of the Acts of Assembly of 1972 is repealed.

CHAPTER 123

An Act to amend and reenact §§ 3.1, as amended, 3.2, 3.7, as amended, and 5.1 of Chapter 669 of the Acts of Assembly of 1972, which provided a charter for the Town of Crewe in Nottoway County, and to repeal Chapter 6 (§§ 6.1 through 6.4) of Chapter 669 of the Acts of Assembly of 1972, relating to town council; elections and powers.

[S 1216]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1, as amended, 3.2, 3.7, as amended, and 5.1 of Chapter 669 of the Acts of Assembly of 1972 are amended and reenacted as follows:

§ 3.1. Election, qualification and term of office of councilmen and mayor.

(a) The Town of Crewe shall be governed by a town council composed of seven councilmen and a mayor, all of whom shall be qualified voters of the town, to be elected from the town at large.

(b) The mayor and councilmen in office at the time of the passage of this act shall continue in office until the expiration of the terms for which they were elected. An election for mayor and councilmen shall be held on the first Tuesday in May, 1972 and every two years thereafter. ~~The mayor and councilmen elected on the first Tuesday in May, 1972 shall enter upon their duties on the first day of September, 1972 and shall serve until the first day of July, 1974. The mayor and councilmen elected on the first Tuesday in May, 1974 and thereafter, shall enter upon their duties on the first day of July next succeeding his or their election, and shall each serve for a term of two years~~

(c) *Beginning with the regular municipal election to be held on the first Tuesday in May 2022, the terms of the mayor and town council shall be governed as follows:*

1. The mayor shall be elected to serve a term of four years expiring June 30, 2026, and the term of office of the mayor shall be every four years thereafter.

2. The four members of the town council who are elected with the highest number of votes shall serve a term of four years, each expiring June 30, 2026, and the term of office of four members of the town council shall be every four years thereafter.

3. The three members of the town council who are elected with the fewest number of votes shall serve a term of two years, each expiring June 30, 2024, and the term of office of three members of the town council shall be every four years thereafter.

4. The terms of office shall commence on July 1 following the election. The mayor and members of the town council shall serve until their successors are elected and qualified.

§ 3.2. Vacancies on council.

Vacancies on the town council shall be filled ~~for the unexpired portion of the term by a majority vote of the members of the council; such vacancies to be filled by qualified voters of the town pursuant to the Code of Virginia.~~

§ 3.7. Meetings of council.

The town council shall fix the time of their stated meetings, and they shall meet at least once a month. A journal shall be kept of its official proceedings and its meetings shall be open to the public. Four members of the town council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the mayor or by any ~~three~~ *two or more* members of the council; provided that the mayor and all council members are duly notified in writing a reasonable period of time prior to such meeting, and no business shall be transacted at a special meeting thereof, except that for which it shall be called. If all members are present, this provision may be waived by a majority vote of the council.

§ 5.1. Appointments.

The town council shall appoint a town clerk, a ~~chief of police, a town sergeant,~~ a town attorney and such other officers as they deem necessary. *The town manager shall have the authority to appoint, suspend, or terminate the chief of police with the consent of the town council by majority vote.* Each officer appointed under this section shall be directly responsible to the town council and mayor. Such officers shall perform such duties as are required by general law, as well as such additional duties not inconsistent with general law as this charter or the council may prescribe.

2. That Chapter 6 (§§ 6.1 through 6.4) of Chapter 669 of the Acts of Assembly of 1972 is repealed.

CHAPTER 124

An Act to amend and reenact § 17.1-276 of the Code of Virginia, relating to the State Corporation Commission; exemption from fees for remote access to local land records.

[H 1775]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-276 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-276. Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as defined in § 17.1-295.

The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, and the Department of Rail and Public Transportation, *and the State Corporation Commission* shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, and the Department of Rail and Public Transportation, *and the State Corporation Commission* from paying any access or subscription fee.

B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency. Any such agreement between a state agency or employee thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.

C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

D. Nothing herein shall be construed to require the use by the general public of the secure remote access to land records made available by the clerk, and such records may continue to be accessed in person in the clerk's office.

CHAPTER 125

An Act to amend and reenact § 15.2-901 of the Code of Virginia, relating to removal of clutter from property.

[H 1778]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-901 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-901. Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter, *clutter, except on land zoned for or in active farming operation*, and other substances ~~which~~ *that* might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter, *clutter, except on land zoned for or in active farming operation*, and other like substances ~~which~~ *that* might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected; *For purposes of this section, "clutter" includes mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.*

2. Trash, garbage, refuse, litter, *clutter*, except on land zoned for or in active farming operation, and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial, or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

CHAPTER 126

An Act to provide a new charter for the Town of Glasgow in Rockbridge County and to repeal Chapter 486, as amended, of the Acts of Assembly of 1892, which provided a charter for the Town of Glasgow.

[H 1783]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1.

*CHARTER
FOR THE
TOWN OF GLASGOW.
Article 1.
Incorporation and Boundaries.*

§ 1.1. Incorporation.

All of the territory in Rockbridge County contained within the following limits, namely:

Beginning at the confluence of North and James rivers, thence up the north bank of James river at low-water mark to a point opposite the extension of the western line of Thirteenth street; thence with the western line of said street to its intersection with the northern line of Rockbridge road; thence with the northern line of Rockbridge road to its intersection with the eastern line of the fifty acres reservation of Mistress E. G. Johns; thence with said line of Mistress Johns' fifty acres tract to its intersection with the northern boundary line of the right of way of the Norfolk and Western railway; thence with said line of said railway to its intersection with the western line of Blue Ridge road; thence with said line of Blue Ridge road to its intersection with the northern line of Shawnee street; thence with the northern line of Shawnee street extended to its intersection with North river at low-water mark; thence along the west bank of North river at low-water mark to the beginning (which boundaries and those parts of North and James rivers and said streets, places and roads are laid off and described in the plat or map of the subdivision of the lands of the Rockbridge company into lots, recorded in the clerk's office of the county court of Rockbridge county, in deed-book number fifty-eight, at pages one and two), as enlarged and modified by the metes and bounds described in a certain order of annexation signed November 16, 1959, and of record in the Circuit Court of the County of Rockbridge, shall constitute the town of Glasgow, and the forty-fourth and forty-sixth chapters of the Code of Virginia, edition of 1887, as far as consistent with this act, shall be applicable to said town; and the council of said town may from time to time enlarge the boundaries of said town in accordance with general law.

Article 2.

Powers.

§ 2.1. General grant of powers.

The town shall have and may exercise all powers that are now or may hereafter be conferred upon or delegated to cities and towns under the Constitution and general laws of the Commonwealth of Virginia. It is intended that the town shall possess all powers that, under the Constitution, it would be competent for this charter to enumerate specifically, and no enumeration of particular powers shall be held to be exclusive but in addition to this general grant.

§ 2.2. Construction.

The powers that are now or may hereafter be conferred upon or delegated to the town under the Constitution and general laws of the Commonwealth and this charter shall be construed liberally when such powers are exercised by the town.

§ 2.3. Adoption of certain sections of the Code of Virginia.

The powers set forth in Chapter 11 (§ 15.2-1100 et seq.) and Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 of the Code of Virginia (1950), and any acts amendatory thereof or supplemental thereto, are hereby conferred on and vested in the town.

§ 2.4. Acquisition of property; eminent domain.

The town is hereby empowered to acquire by condemnation, gift, lease, purchase, or bequest property, real or personal, or any interest or estate therein, either within or without its corporate limits, in accordance with general law, for any of its proper purposes, and may sell, lease, manage, and control such property as its interests require, and in such manner as the council deems expedient.

The town shall also have all powers of eminent domain that are now or may be granted to a municipal corporation under the laws of the Commonwealth.

Article 3.

The Council.

§ 3.1. Definitions.

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

"Employee" means any person employed by the town other than an official.

"Officer" includes council members and persons appointed by and responsible to the council, such as the town clerk, the town manager, the town attorney, and the town treasurer.

"Official" means an administrative department head.

§ 3.2. General powers and duties of the council.

The government of the town shall be vested in the council, which shall have the power to enact and enforce ordinances and resolutions to carry into effect all powers granted by this charter and by law. The council shall be responsible for the determination of all matters of policy for the town and for ensuring the implementation thereof by the town manager and town administration.

§ 3.3. Composition and qualifications.

The council shall be composed of a mayor, who shall be elected from the town at large, and six council members to be elected from the town at large. The mayor shall be a member of the council. The council members shall be qualified voters of the town.

§ 3.4. Election and term of office.

The government of the said town shall be vested in a mayor and a council of six members besides the mayor (who shall serve as an ex officio member of the council and preside at all meetings thereof) who shall be residents of said town and shall be elected in accordance with the provisions of general law for terms of two years by those qualified to vote for members of the General Assembly and who shall have been residents within the boundaries of the corporation for three months next preceding the election, and by no other person. The council may by ordinance establish a system of staggered

terms for election of council members. The mayor and council members shall remain in office until their successors are elected and qualified in their stead, but no longer.

§ 3.5. Voters of the town.

The voters of the town shall be the actual residents of the town who are qualified to vote for members of the General Assembly.

§ 3.6. Compensation; expenses.

The council may determine the annual salary of its members by ordinance or resolution.

§ 3.7. Mayor and vice-mayor.

The mayor shall preside at meetings of the council and shall be recognized as head of the town government for all ceremonial purposes, for purposes of military law, and for the service of civil processes but shall have no administrative or judicial duties. The mayor shall not have the authority to veto any action of the council. The mayor shall give no vote in the council except in case of a tie, when he shall give the casting vote.

At the first meeting of the council in January of each even-numbered year, the council shall elect from its members a vice-mayor who shall serve for a term of two years. The vice-mayor shall act as mayor during the absence or disability of the mayor.

§ 3.8. Absence or disability of mayor and vice-mayor.

If both the mayor and vice-mayor are absent or unable to act, the council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or vice-mayor is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time. Whenever it is necessary to elect an acting mayor pursuant to this section, in the absence of both the mayor and vice-mayor, the town clerk or acting town clerk shall call the meeting of the council to order and shall preside during the meeting until the council elects an acting mayor. This shall not be construed to vest in the town clerk any of the powers and duties of the mayor, except as expressly stated in this section.

§ 3.9. Prohibitions.

Except as otherwise authorized by law, a member of the council shall not be eligible as such member during his tenure of office, or for one year thereafter, to receive any compensated town employment. If appointed by the council to a board or commission, a member of the council may be compensated as a member of the board or commission.

Neither the council nor any of its members shall in any manner dictate the appointment or removal of any town administrative official or employee whom the town manager or any of his subordinates are empowered to appoint or prevent the town manager from exercising his own judgment in the appointment of officials or employees in the town's administrative service.

Except for the purpose of discussions, inquiries, and official investigations, the council and its members shall deal with and communicate with the town's administrative service, officials, and employees who are subject to the direction and supervision of the town manager solely through the town manager, and neither the council nor its members shall give orders to any such official or employee, either publicly or privately.

§ 3.10. Vacancies.

The office of a council member shall become vacant upon his death, resignation, or removal from office in a manner authorized by law. Vacancies in the office of the council or mayor position shall be filled in accordance with general law.

§ 3.11. Town clerk and town treasurer.

The council shall appoint a town clerk who shall serve at the pleasure of the council. The town clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings, keep all papers, documents, and records pertaining to the town, keep and attest the town seal, and perform such duties as are assigned to the town clerk by this charter or by the council.

The council shall appoint a town treasurer who shall serve at the pleasure of the council and shall perform such duties as are assigned to the treasurer by the council. The town clerk and the town treasurer may, at the council's option, be the same person.

§ 3.12. Independent audit.

The council shall provide for an independent annual audit of all the town accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers.

§ 3.13. Procedure.

The council shall meet regularly at least once in every month, at such times and places as the council may prescribe by ordinance. Special meetings may be held on the call of the mayor or of any two members upon no less than twenty-four hours' notice to each member, except in cases of an emergency when the time limit may be waived. No business shall be transacted by the council in such special meeting that has not been stated in the notice unless all members of the council are present and give their unanimous consent to the consideration of such business.

No vote shall be reconsidered or rescinded at any special meeting unless at such special meeting there are present as large a number of members as were present when such vote was taken.

The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. The council may elect to install electronic equipment in its Council Chambers so as to provide for an electronic roll call and voting. Each member shall cast either an aye vote or a nay vote, except in those situations in which a member must abstain from voting due to a conflict of interest. Four members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of four or more members of the council.

§ 3.14. *Town attorney.*

An attorney shall be appointed by and serve at the pleasure of the council as town attorney. Such attorney shall be qualified to practice law in the Commonwealth of Virginia. The town attorney shall serve as chief legal advisor to the council and to the town administration. The town attorney does not need to be a resident of the town at the time of his appointment or while in office.

§ 3.15. *Committees, boards, and commissions.*

The council may create committees, boards, and commissions to be composed of such numbers of citizens, or persons, as the council may deem expedient and as authorized by law. The council shall appoint the members, prescribe the compensation, if any, and assign the powers and duties of such committees, boards, and commissions consistent with the general law.

All members of committees, boards, and commissions appointed by the town council may be removed by the council unless otherwise provided by the general law.

The mayor shall serve as an ex officio member of each committee but shall not have voting powers on committees unless granted by the council.

§ 3.16. *Appointment of one person to more than one office.*

The town council may appoint the same person to more than one appointive office, subject to the limitations of Article VII, Section 6 of the Constitution of Virginia.

Article 4.

The Town Manager.

§ 4.1. *Appointment, qualifications, and compensation.*

The town council may appoint a town manager to serve as the chief administrative officer of the town, fix his salary, and delegate to him such administrative duties, powers, and responsibilities as it believes to be in the best interest of the town. During his tenure of office, the town manager shall reside within the County of Rockbridge, but he may reside outside of the town while in office only with the prior approval of the council. The town manager shall serve at the pleasure of the town council.

§ 4.2. *Powers and duties of the town manager.*

The town manager shall be responsible to the council for the proper management and administration of all town affairs placed in his charge by or under this charter. The town manager shall have the following powers and duties. The town manager shall:

1. Appoint and, when deemed necessary for the good of the service, suspend or remove any town employee or appointive administrative official provided for, by, or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The town manager may authorize any administrative official who is subject to the town manager's direction and supervision to exercise these powers with respect to subordinates in that official's department, office, or agency.

2. Direct and supervise the administration of all departments, offices, and agencies of the town, except as otherwise provided by this charter or by other law.

3. Attend all council meetings and shall have the right to take part in discussion but may not vote.

4. See that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officials subject to the town manager's direction and supervision, are faithfully executed.

5. Prepare and submit the annual budget and capital program to the council and shall be responsible for the execution of the budget.

6. Examine regularly the books and papers of every official and department of the town and report to the council the condition in which he finds them.

7. Make such other reports as the council may require concerning the operations of town departments, offices, and agencies subject to the town manager's direction and supervision.

8. Keep the council fully advised as to the financial condition and future needs of the town and make such recommendations to the council concerning the affairs of the town as the town manager deems desirable.

9. Perform such other duties as are specified in this charter or may be prescribed by the council.

§ 4.3. *Temporary transfer of personnel between departments and removal of personnel.*

The town manager shall have the power, whenever the interests of the town require, to assign employees of any department, bureau, office, or agency under his supervision to the temporary performance of duties in another department, bureau, office, or agency.

§ 4.4. *Relations with boards, commissions, and agencies.*

The town manager shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commissions, or agencies created by this charter or by ordinance and any other board or commission the

town council may designate. Nothing herein shall prevent the council from appointing the town manager as a voting member of any board, commission, or agency for which he otherwise would be eligible for membership.

§ 4.5. Acting town manager.

The town council may designate a person to act as acting town manager in case of the absence, incapacity, death, or resignation of the town manager; until his return to duty or the appointment of his successor.

§ 4.6. Removal.

The council may remove the town manager at any time at the pleasure of the council. The action of the council in suspending or removing the town manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for any such suspension or removal in the council.

Article 5.

Administrative Departments.

§ 5.1. Creation of departments.

The council may establish all departments, offices, and agencies it determines are necessary for the proper administration of the town with such powers and duties and subject to those regulations it deems proper, consistent with the provisions of this charter and the Constitution and general laws of the Commonwealth.

§ 5.2. Direction by town manager.

All departments, offices, and agencies except as otherwise provided by this charter or by general law shall be under the direction of the town manager and shall be administered by an official appointed by and subject to the direction and supervision of the town manager.

Article 6.

Financial Procedures.

§ 6.1. Fiscal year.

The fiscal year of the town shall begin on the first day of July and end on the last day of June.

§ 6.2. Submission of budget and budget message.

On or before the first day of May of each year, the town manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

§ 6.3. Budget message.

The town manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall explain the proposed financial policies of the town for the ensuing fiscal year; describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's debt position, and include such other material as the town manager deems desirable.

§ 6.4. Budget.

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the town manager deems desirable or the council may require. In organizing the budget, the town manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. The budget shall begin with a clear, general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levies, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual income and expenditures of the preceding fiscal year. The budget shall indicate in separate sections:

1. Proposed expenditures for current operations during the ensuing fiscal year; detailed by offices, departments, and agencies in terms of their respective work programs, and the method of financing such expenditures;
2. Proposed capital expenditures during the ensuing fiscal year; detailed by offices, departments, and agencies when practicable, and the proposed method of financing each such capital expenditure; and
3. Anticipated net income or net loss for the ensuing fiscal year of each utility owned or operated by the town and the proposed method of its disposition; the town manager shall include in the budget subsidiary budgets for each such utility giving detailed income and expenditure information and proposed utility rates.

The total of proposed expenditures shall not exceed the total of estimated available funds.

§ 6.5. Council action on budget.

Pursuant to the provisions of general law, the council shall publish a brief synopsis of the budget in one or more newspapers having general circulation in the town and the time and place of a public hearing on the budget.

After the public hearing, the council may adopt the budget with or without any amendment to increase, decrease, or change expenditures, revenues, programs, tax levies, or any other amendment that the council deems necessary. In amending the budget, the council may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to any amount greater than the total of estimated available funds.

The council shall, by ordinance or resolution, adopt the budget before the first day of the fiscal year for which it is adopted, and said ordinance or resolution shall appropriate the amounts specified in the budget as expenditures from the funds indicated in the budget.

§ 6.6. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the town.

§ 6.7. Amendments after adoption.

The council may amend the budget during the fiscal year pursuant to the provisions of general law by the adoption of an ordinance or resolution.

To meet a public emergency affecting life, health, property, or the public peace, the council may make emergency appropriations. Such appropriations may be made by ordinance or resolution. To the extent that there are no available unappropriated funds to meet such appropriations, the council may, with the adoption of such ordinances or resolutions, authorize the issuance of emergency notes, which may be renewed from time to time, all as may be authorized by the Constitution and general law, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

If at any time during the fiscal year it appears probable to the town manager that the funds available will be insufficient to meet the amount appropriated, then the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance or resolution reduce one or more appropriations.

§ 6.8. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered by the town manager. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

§ 6.9. Debts and bonds.

The town council shall be empowered to borrow such sum or sums of money as may be necessary or convenient, subject to such limitations that are now or may be imposed by the Constitution and the laws of the Commonwealth of Virginia. The town council shall be empowered to issue revenue bonds as may be necessary or convenient in the manner prescribed by law.

*Article 7.
General Provisions.*

§ 7.1. Charter amendment.

Amendments to this charter may be made only in accordance with the procedure specified in the general laws of the Commonwealth.

§ 7.2. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any provision to any person or circumstances is held invalid, the application of the charter and its provisions to other persons shall not be affected thereby.

§ 7.3. Oaths of office and official bonds.

All elected officers of the town shall take the oath of office and execute such bonds as may be required by general law, by this charter, or by ordinance or resolution of the town council and file duplicate certificates with the town clerk and the Clerk of the Circuit Court of Rockbridge County before entering upon the discharge of their duties. If the requirements of this section have not been complied with by any officer within thirty days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant unless general law otherwise provides, in which event general law shall prevail.

§ 7.4. Books, records, et cetera.

All books, records, and documents used by any elected or appointed town officer, official, or employee in his office or pertaining to his duties shall be deemed to be the property of the town. Any person designated by this charter, the general laws of the Commonwealth, or the Glasgow Town Code as responsible for the keeping of such books, records, and documents shall, within ten days after the end of his term of office, or within ten days after the date of his resignation or removal from office, deliver to the town clerk all such books, records, documents, and town property. Upon the end of any such person's term of office, or upon the resignation or removal from office of any such person, the town clerk shall provide all such persons written notice of the requirements of this provision of this charter. Any person failing to deliver such books, records, documents, and property shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined no less than one hundred dollars and not more than five hundred dollars, or imprisoned not exceeding six months, or both, at the direction of the court or jury before whom the case is tried.

§ 7.5. Disclosure of interest.

The town council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with the general law.

*Article 8.
Transitional Provisions.*

§ 8.1. Ordinances.

All ordinances, resolutions, orders, and regulations of the town not inconsistent with this charter shall remain in full force and effect until amended or repealed by the town council. Ordinances, resolutions, orders, and regulations that are in force when this charter becomes effective and that are inconsistent with this charter are repealed.

§ 8.2. Continuity of terms of officers.

The officers of the town who were in office immediately prior to the effective date of this charter shall remain in office until the expiration of their several terms, or until their successors have been duly elected and qualified.

§ 8.3. Citation of act.

This act may for all purposes be referred to or cited as the charter for the Town of Glasgow, Virginia, of the year 2021.

2. That Chapter 486, as amended, of the Acts of Assembly of 1892 is repealed.

CHAPTER 127

An Act to amend and reenact § 30-140 of the Code of Virginia, relating to Auditor of Public Accounts; audits of certain political subdivisions.

[H 1789]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 30-140 of the Code of Virginia is amended and reenacted as follows:

§ 30-140. Certain political subdivisions to file report of audit; period in which report kept as public record; when audit not required; sworn statement of exempted entities; publication of summary of financial condition; repeal of conflicting provisions.

A. Each authority, commission, district, or other political subdivision the members of whose governing body are not elected by popular vote shall annually, within ~~three~~ *five* months after the end of its fiscal year, have an audit performed covering its financial transactions for such fiscal year according to the specifications of the Auditor of Public Accounts and file with the Auditor of Public Accounts a copy of the report, unless exempted in accordance with subsection B.

Each authority, commission, district, or other political subdivision the members of whose governing body are not elected by popular vote and which is reported in the Commonwealth's Comprehensive Annual Financial Report as determined by the State Comptroller and the Auditor of Public Accounts shall annually, within three months after the end of its fiscal year, have an audit performed covering its financial transactions for such fiscal year according to the specifications of the Auditor of Public Accounts and file with the Auditor of Public Accounts a copy of the report, unless exempted in accordance with subsection B.

The Auditor of Public Accounts shall receive such reports *required by this subsection* and keep the same as public records for a period of ~~ten~~ *10* years from their receipt.

B. No audit, however, shall be required for any fiscal year during which such entity's financial transactions did not exceed the sum of \$25,000.

As used in this section, "financial transactions" shall not include financial transactions involving notes, bonds, or other evidences of indebtedness of such entity the proceeds of which are held or advanced by a corporate trustee or other financial institution and not received or disbursed directly by such entity.

In the event an audit is not required, the entity shall file a statement under oath certifying that the transactions did not exceed such sum and, as to all transactions involving notes, bonds, or other evidences of indebtedness ~~which~~ *that* are exempted, the statement shall be accompanied by an affidavit from the trustee or financial institution certifying that it has performed the duties required under the agreement governing such transactions. Notwithstanding the foregoing, the Auditor of Public Accounts may require an audit if he deems it to be necessary to determine the propriety of the entity's financial transactions.

In the case of a water and sewer authority required by a governing body to have an audit conducted as specified in § 15.2-5145, the authority shall file the certified audit with the Auditor of Public Accounts.

At the time the report required by this section is filed with the Auditor of Public Accounts every such authority, commission, district, or other political subdivision, except those exempted from the audit report requirement, shall publish, in a newspaper of general circulation in the county, city, or town wherein the authority, commission, district, or other political subdivision is located, a summary statement reflecting the financial condition of the authority, commission, district, or other political subdivision, which shall include a reference to where the detailed statement may be found.

Any provision of law, general or special, which by its terms requires an audit that is not required by this section shall be repealed to the extent of any conflict.

CHAPTER 128

An Act to amend and reenact § 46.2-746.5 of the Code of Virginia, relating to special license plates; Virginia National Guard retirees.

[H 1796]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-746.5 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-746.5. Special license plates for National Guard retirees; fees.

On receipt of an application and written evidence that the applicant is a retired member of the National Guard, the Commissioner shall issue special license plates to National Guard retirees.

~~The No fee shall be charged for license plates issued under the provisions of this section to retired members of the Virginia National Guard shall be the fee prescribed in § 46.2-694, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, the fee for the issuance of license plates shall be the same as for those issued under § 46.2-726.~~

The fee for non-Virginia National Guard retirees shall be ~~ten dollars~~ \$10 per year plus the prescribed cost for state license plates, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, such license plates shall be subject to an additional charge of ~~ten dollars~~ \$10 per year for the reserved numbers or letters.

CHAPTER 129

An Act to amend and reenact § 46.2-223 of the Code of Virginia, relating to the Commissioner of the Department of Motor Vehicles; powers and duties.

[H 1828]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-223 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-223. Additional powers and duties of Commissioner.**

The Commissioner shall have the following powers and duties related to transportation safety:

1. To evaluate safety measures currently in use by all transport operators in all modes which operate in or through the Commonwealth, with particular attention to the safety of equipment and appliances and methods and procedures of operation;

2. To engage in training and educational activities aimed at enhancing the safe transport of passengers and property in and through the Commonwealth;

3. To cooperate with all relevant entities of the federal government, including, but not limited to, the Department of Transportation, the Federal Railway Administration, the Federal Aviation Administration, the Coast Guard, and the Independent Transportation Safety Board in matters concerning transportation safety;

4. To initiate, conduct, and issue special studies on matters pertaining to transportation safety;

5. To evaluate transportation safety efforts, practices, and procedures of the agencies or other entities of the government of the Commonwealth and make recommendations to the Secretary of Transportation, the Governor, and the General Assembly on ways to increase transportation safety consciousness or improve safety practices;

6. To assist entities of state government and political subdivisions of the Commonwealth in enhancing their efforts to ensure safe transportation, including the dissemination of relevant materials and the rendering of technical or other advice;

7. To collect, tabulate, correlate, analyze, evaluate, and review the data gathered by various entities of the state government in regard to transportation operations, management, and accidents, especially the information gathered by the Department of Motor Vehicles, the Department of State Police, and the State Corporation Commission;

8. To develop, implement, and review, in conjunction with relevant state and federal entities, a comprehensive highway safety program for the Commonwealth, and to inform the public about it;

9. To assist towns, counties and other political subdivisions of the Commonwealth in the development, implementation, and review of local highway safety programs as part of the state program;

10. To review the activities, role, and contribution of various state entities to the Commonwealth's highway safety program and to report annually and in writing to the Governor and General Assembly on the status, progress, and prospects of highway safety in the Commonwealth;

11. To recommend to the Secretary of Transportation, the Governor, and the General Assembly any corrective measures, policies, procedures, plans, and programs which are needed to make the movement of passengers and property on the highways of the Commonwealth as safe as practicable;

12. To design, implement, administer, and review special programs or projects needed to promote highway safety in the Commonwealth;

13. To integrate highway safety activities into the framework of transportation safety in general; ~~and~~

14. To administer the Traffic Safety Fund established pursuant to § 46.2-749.2:10 and to accept grants, gifts, bequests, and other moneys contributed to, deposited in, or designated for deposit in the Fund; ~~and~~

15. *Notwithstanding any other provision of this title, for the duration of a declared state of emergency as defined in § 44-146.16 and for up to 90 days after the declaration of a state of emergency has been rescinded or expires, (i) to extend the validity or delay the cancellation of driver's licenses, special identification cards, and vehicle registrations; (ii) to extend the time frame during which a driver improvement clinic or payment plan may be completed; (iii) to extend the maximum number of days of residency permitted before a new resident must be licensed in Virginia pursuant to § 46.2-308 to operate a motor vehicle in the Commonwealth; and (iv) to extend the time frame during which a new resident may*

operate a motor vehicle in the Commonwealth that has been duly registered in another jurisdiction before registering the vehicle in the Commonwealth.

CHAPTER 130

An Act to direct the Department of Transportation to convene a working group to determine model policies for crosswalk design; report.

[H 1841]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Commissioner of Highways or his designee shall convene a working group with relevant stakeholders, including the Virginia Association of Counties and the Virginia Municipal League, to determine whether there should be model policies for crosswalk design and installation in the Commonwealth and, if so, establish recommendations for such model policies. Any such policies shall promote statewide uniformity, maximize pedestrian safety, and consider the needs of people with disabilities that impair sight or mobility. The working group shall monitor and provide input to the U.S. Department of Transportation and the Federal Highway Administration as updates to crosswalk designs in the Manual on Uniform Traffic Control Devices for Streets and Highways are considered. The working group shall submit to the Governor and the General Assembly a report on its findings and recommendations by November 1, 2021.*

CHAPTER 131

An Act to amend and reenact §§ 55.1-1819 and 55.1-1959 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55.1-1819.1 and 55.1-1960.1, relating to the Property Owners' Association Act; the Condominium Act; rulemaking authority of property owners' associations and unit owners' associations; smoking.

[H 1842]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1819 and 55.1-1959 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55.1-1819.1 and 55.1-1960.1 as follows:

§ 55.1-1819. Adoption and enforcement of rules.

A. Except as otherwise provided in this chapter, the board of directors shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed throughout the development. ~~A majority of votes cast, in person or by proxy, at~~ *At a special meeting of the association convened in accordance with the provisions of the association's bylaws and called for that purpose shall, a majority of votes cast at such meeting may* repeal or amend any rule or regulation adopted by the board of directors. Rules and regulations may be enforced by any method normally available to the owner of private property in Virginia, including application for injunctive relief or actual damages, during which the court ~~may~~ *shall* award to the prevailing party court costs and reasonable attorney fees.

B. The board of directors shall also have the power, to the extent the declaration or rules and regulations duly adopted pursuant to such declaration expressly so provide, to (i) suspend a member's right to use facilities or services, including utility services, provided directly through the association for nonpayment of assessments that are more than 60 days past due, to the extent that access to the lot through the common areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant, and (ii) assess charges against any member for any violation of the declaration or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

C. Before any action authorized in this section is taken, the member shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the member at the address required for notices of meetings pursuant to § 55.1-1815. If the violation remains uncorrected, the member shall be given an opportunity to be heard and to be represented by counsel before the board of directors or other tribunal specified in the documents.

Notice of a hearing, including the actions that may be taken by the association in accordance with this section, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association at least 14 days prior to the hearing. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association.

D. The amount of any charges so assessed shall not be limited to the expense or damage to the association caused by the violation, but shall not exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature, and shall be treated as an assessment against the member's lot for the purposes of § 55.1-1833. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days.

E. The board of directors may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief arising from any violation of the declaration or duly adopted rules and regulations.

F. After the date an action is filed in the general district or circuit court by (i) the association, by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the lot owner challenging any such charges, no additional charges shall accrue. If the court rules in favor of the association, the association shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the lot owner prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order the lot owner to abate or remedy the violation.

G. In any action filed in general district court pursuant to this section, the court may enter default judgment against the lot owner on the association's sworn affidavit.

§ 55.1-1819.1. Limitation of smoking in development.

Except to the extent that the declaration provides otherwise, the board of directors may establish reasonable rules that restrict smoking in the development, including rules that prohibit smoking in the common areas. For developments that include attached private dwelling units, such rules may prohibit smoking within such dwelling units. Rules adopted pursuant to this section may be enforced in accordance with § 55.1-1819.

§ 55.1-1959. Suspension of services for failure to pay assessments; corrective action; assessment of charges for violations; notice; hearing; adoption and enforcement of rules and regulations.

A. *Except as otherwise provided in this chapter, the executive board shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common elements and with respect to such other areas of responsibility assigned to the unit owners' association by the condominium instruments, except where expressly reserved by the condominium instruments to the unit owners. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed to the unit owners. At a special meeting of the unit owners' association convened in accordance with the provisions of the condominium instruments, a majority of the votes cast at such meeting may repeal or amend any rule or regulation adopted by the executive board. Rules and regulations may be enforced by any method authorized by this chapter.*

B. The unit owners' association shall have the power, to the extent the condominium instruments or the condominium's rules and regulations expressly provide, to (i) suspend a unit owner's right to use facilities or services, including utility services, provided directly through the unit owners' association for nonpayment of assessments that are more than 60 days past due, to the extent that access to the unit through the common elements is not precluded and provided that such suspension does not endanger the health, safety, or property of any unit owner, tenant, or occupant and (ii) assess charges against any unit owner for any violation of the condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests, or other invitees are responsible.

~~B. C.~~ Before any action authorized in this section is taken, the unit owner shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the unit owner at the address required for notices of meetings pursuant to § 55.1-1949. If the violation remains uncorrected, the unit owner shall be given an opportunity to be heard and to be represented by counsel before the executive board or such other tribunal as the condominium instruments or its adopted rules and regulations specify.

Notice of such hearing, including the actions that may be taken by the unit owners' association in accordance with this section, shall, at least 14 days in advance, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such unit owner at the address required for notices of meetings pursuant to § 55.1-1949. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to such unit owner at the address required for notices of meetings pursuant to § 55.1-1949.

~~C. D.~~ The amount of any charges assessed shall not exceed \$50 for a single offense, or \$10 per diem for any offense of a continuing nature, and shall be treated as an assessment against such unit owner's condominium unit for the purpose of § 55.1-1966. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days.

~~D. E.~~ The unit owners' association may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief, arising from any violation of the condominium instruments or the condominium's adopted rules and regulations.

~~E. F.~~ After the date an action is filed in the general district or circuit court by (i) the unit owners' association, by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the unit owner challenging any such charges, no additional charges shall accrue.

If the court rules in favor of the unit owners' association, it shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the unit owner prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order the unit owner to abate or remedy the violation.

In any action filed in general district court pursuant to this section, the court may enter default judgment against the unit owner on the sworn affidavit of the unit owners' association.

~~F. G.~~ This section shall not be construed to prohibit the grant by the condominium instruments of other powers and responsibilities to the unit owners' association or its executive board.

§ 55.1-1960.1. Limitation of smoking in condominium.

Except to the extent that the condominium instruments provide otherwise, the executive board may establish reasonable rules that restrict smoking in the condominium, including rules that prohibit smoking in the common elements and within units. Rules adopted pursuant to this section may be enforced in accordance with § 55.1-1959.

CHAPTER 132

An Act to amend and reenact § 46.2-334.01, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to license restrictions for minors; use of handheld personal communications devices.

[H 1846]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-334.01, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 46.2-334.01. (Effective until March 1, 2021) Licenses issued to persons less than 18 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.~~

D. The provisional driver's license restrictions in subsections B₇ and C₇ and ~~C1~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B₇ or C₇ or ~~C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B₇ or C₇ or ~~C1~~, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B₇ or C₇ or ~~C1~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

§ 46.2-334.01. (Effective March 1, 2021) Licenses issued to persons less than 18 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from

a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.~~

D. The provisional driver's license restrictions in subsections B₇ and C₇ and ~~C1~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B₇ or C₇ or ~~C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B₇ or C₇ or ~~C1~~, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B₇ or C₇ or ~~C1~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

CHAPTER 133

An Act to amend and reenact § 46.2-1129.2 of the Code of Virginia, relating to motor vehicle weight limits; vehicles powered primarily by electric battery power or fueled primarily by natural gas.

[H 1850]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1129.2 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1129.2. Further extension of weight limits for vehicles fueled by natural gas or powered by means of electric battery power.

A. On any highway other than an interstate highway, any motor vehicle that is fueled, wholly or partially, by natural gas or powered primarily by means of electric battery power shall be allowed up to an additional 2,000 pounds total in gross, single axle, tandem axle, or bridge formula weight limits, *provided that such weight is on the power unit.*

To be eligible for this exception, the operator of the vehicle must be able to demonstrate that the vehicle is a natural gas vehicle, a bi-fuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle, *or a vehicle that is powered primarily by means of electric battery power.*

B. On an interstate highway, any motor vehicle that is fueled primarily by natural gas or powered primarily by means of electric battery power may exceed the weight limits provided in § 46.2-1127 ~~by an amount equal to the difference between (i) the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and (ii) the weight of a comparable diesel fuel tank and fueling system~~ *by up to an additional 2,000 pounds, provided that such weight is on the power unit.* However, the gross weight of such vehicle shall not exceed 82,000 pounds.

CHAPTER 134

An Act to amend and reenact §§ 1 and 4 of the charter of the Town of Appomattox, which was granted by order of the Circuit Court of the County of Appomattox on June 2, 1925, and as amended by Chapter 43 of the Acts of Assembly of 1980, relating to election and appointment of officers; time of election.

[H 1858]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 1 and 4 of the charter of the Town of Appomattox, which was granted by order of the Circuit Court of the County of Appomattox on June 2, 1925, and as amended by Chapter 43 of the Acts of Assembly of 1980, are amended and reenacted as follows:

§ 1. Election and appointment of officers, etc.

There shall be elected by the qualified voters of said town, every two years on the first Tuesday in May of every even-numbered year, one elector thereof who shall be denominated the mayor, and six electors, who shall be denominated the councilmen of said town. The mayor and six councilmen shall constitute the council of said town. The town council ~~may appoint a treasurer, commissioner of the revenue~~ and shall have the authority to *appoint or* employ a town clerk, *a treasurer, a commissioner of revenue*, a town manager, ~~and the same person may serve in one or more of such capacities, and whenever deemed wise a health or sanitary officer, and such other officers as it may deem wise and necessary appropriate~~ for the proper conduct of the government of said *the town*, and ~~appoint committees and boards, and prescribe and fix their duties, and shall have power to fix the salary and compensation of said treasurer, town clerk, town manager and such other officers, necessary, but such compensation shall be fixed by said council before the officer chosen shall assume the duties of his office. The same person may serve in one or more of such capacities. The town council shall have the power to fix the salaries and compensation of said employees and appointees as necessary, but such compensation shall be fixed by said council before the individual chosen shall assume the duties of office. The town council may also appoint committees and boards and prescribe and fix their duties.~~

§ 4. Terms of office - vacancy and how filled.

The mayor and members of council ~~shall enter upon the duties of their office on the first day of July, next succeeding their election, and shall continue in the office until their terms have expired, and their successors shall have been elected and qualified in office on July 1, 2021, shall continue in office until the expiration of the terms for which they were elected or until their successors are elected and qualified. At the next election of members to the town council held on the first Tuesday in May 2022, the three council candidates receiving the greatest number of votes shall be elected for three-and-one-half year terms, and the three council candidates receiving the next greatest number of votes and the mayor shall be elected for one-and-one-half year terms. Thereafter, the council members shall be elected for terms of four years, and the mayor shall be elected for a term of two years, or until their successors are elected and qualified. An election shall be held on the Tuesday following the first Monday in November 2023 for the three council seats first expiring and for the mayor, and on the Tuesday following the first Monday in November 2025 for the three council seats next expiring. Elections thereafter shall be held every two years on the Tuesday following the first Monday in November. The term of each person elected under this section at a November election shall begin on January 1 next following the election.~~ In case of a vacancy in the office of mayor, or councilmen, elected by the electors of said town, caused by death, resignation or otherwise, such vacancy shall be filled by a majority vote of the town council from the electors of the town for the unexpired term.

CHAPTER 135

An Act to amend and reenact §§ 1 and 4 of the charter of the Town of Appomattox, which was granted by order of the Circuit Court of the County of Appomattox on June 2, 1925, and as amended by Chapter 43 of the Acts of Assembly of 1980, relating to election and appointment of officers; time of election.

[S 1152]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 1 and 4 of the charter of the Town of Appomattox, which was granted by order of the Circuit Court of the County of Appomattox on June 2, 1925, and as amended by Chapter 43 of the Acts of Assembly of 1980, are amended and reenacted as follows:

§ 1. Election and appointment of officers, etc.

There shall be elected by the qualified voters of said town, every two years on the first Tuesday in May of every even-numbered year, one elector thereof who shall be denominated the mayor, and six electors, who shall be denominated the councilmen of said town. The mayor and six councilmen shall constitute the council of said town. The town council ~~may appoint a treasurer, commissioner of the revenue~~ and shall have the authority to *appoint or* employ a town clerk, *a treasurer, a commissioner of revenue*, a town manager, ~~and the same person may serve in one or more of such capacities, and whenever deemed wise a health or sanitary officer, and such other officers as it may deem wise and necessary appropriate~~ for the proper conduct of the government of said *the town*, and ~~appoint committees and boards, and prescribe and fix their duties, and shall have power to fix the salary and compensation of said treasurer, town clerk, town manager and such other officers, necessary, but such compensation shall be fixed by said council before the officer chosen shall assume the duties of his office. The same person may serve in one or more of such capacities. The town council shall have the power to fix the salaries and compensation of said employees and appointees as necessary, but such compensation shall be fixed by said council before the individual chosen shall assume the duties of office. The town council may also appoint committees and boards and prescribe and fix their duties.~~

§ 4. Terms of office - vacancy and how filled.

The mayor and members of council shall enter upon the duties of their office on the first day of July, next succeeding their election, and shall continue in the office until their terms have expired, and their successors shall have been elected and qualified in office on July 1, 2021, shall continue in office until the expiration of the terms for which they were elected or until their successors are elected and qualified. At the next election of members to the town council held on the first Tuesday in May 2022, the three council candidates receiving the greatest number of votes shall be elected for three-and-one-half year terms, and the three council candidates receiving the next greatest number of votes and the mayor shall be elected for one-and-one-half year terms. Thereafter, the council members shall be elected for terms of four years, and the mayor shall be elected for a term of two years, or until their successors are elected and qualified. An election shall be held on the Tuesday following the first Monday in November 2023 for the three council seats first expiring and for the mayor, and on the Tuesday following the first Monday in November 2025 for the three council seats next expiring. Elections thereafter shall be held every two years on the Tuesday following the first Monday in November. The term of each person elected under this section at a November election shall begin on January 1 next following the election. In case of a vacancy in the office of mayor, or councilmen, elected by the electors of said town, caused by death, resignation or otherwise, such vacancy shall be filled by a majority vote of the town council from the electors of the town for the unexpired term.

CHAPTER 136

An Act to amend and reenact §§ 46.2-341.18, 46.2-382, and 46.2-1702 of the Code of Virginia, relating to commercial driver's licenses.

[H 1868]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.18, 46.2-382, and 46.2-1702 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-341.18. Disqualification for certain offenses.

A. Except as otherwise provided in this section and in § 46.2-341.18:01, the Commissioner shall disqualify for a period of one year any person whose record, as maintained by the Department of Motor Vehicles, shows that he has been convicted of any of the following offenses, if such offense was committed while operating a commercial motor vehicle:

1. A violation of any provision of § 46.2-341.21 or a violation of any federal law or the law of another jurisdiction substantially similar to § 46.2-341.21;
2. A violation of any provision of § 46.2-341.24 or a violation of any federal law or the law of another state substantially similar to § 46.2-341.24;
3. A violation of any provision of § 18.2-51.4 or 18.2-266 or a violation of a local ordinance paralleling or substantially similar to § 18.2-51.4 or 18.2-266, or a violation of any federal, state or local law or ordinance substantially similar to § 18.2-51.4 or 18.2-266;
4. Refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath in accordance with §§ 18.2-268.1 through 18.2-268.12 or this article, or the comparable laws of any other state or jurisdiction;
5. Failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident; or
6. Commission of any crime punishable as a felony in the commission of which a motor vehicle is used, other than a felony described in § 46.2-341.19.

B. The Commissioner shall disqualify any such person for a period of three years if any offense listed in subsection A of this section was committed while driving a commercial motor vehicle used in the transportation of hazardous materials required to be placarded under federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F).

C. Beginning September 30, 2005, the Commissioner shall disqualify for a period of one year any person whose record, as maintained by the Department, shows that he has been convicted of any of the following offenses committed while operating a noncommercial motor vehicle, provided that the person was, at the time of the offense, the holder of a commercial driver's license, and provided further that the offense was committed on or after September 30, 2005:

1. A violation of any provision of § 18.2-51.4, 18.2-266, or a violation of a local ordinance paralleling or substantially similar to § 18.2-51.4 or 18.2-266, or a violation of any federal, state, or local law or ordinance, or law of any other jurisdiction, substantially similar to § 18.2-51.4 or 18.2-266;
2. Refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath in accordance with §§ 18.2-268.1 through 18.2-268.12, or the comparable laws of any other state or jurisdiction;
3. Failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident; or
4. Commission of any crime punishable as a felony in the commission of which a motor vehicle is used.

D. The Commissioner shall disqualify for life any person whose record, as maintained by the Department, shows that he has been convicted of two or more violations of any of the offenses listed in subsection A or C of this section, if each offense arose from a separate incident, except that if all of the offenses are for violation of an out-of-service order, the disqualification shall be for five years. If two or more such disqualification offenses arise from the same incident, the

disqualification periods imposed pursuant to subsection A, B, or C of ~~this section~~ shall run consecutively and not concurrently.

E. The Commissioner shall disqualify for a period of five years a person who is convicted of voluntary or involuntary manslaughter, where the death occurred as a direct result of the operation of a commercial motor vehicle.

F. *The Commissioner shall disqualify for life a person who is convicted of a felony involving an act or practice of severe forms of trafficking in persons as defined in 22 U.S.C. § 7102(11) while driving a commercial motor vehicle, including any local, state, or federal law substantially similar to or fitting the definition of severe forms of trafficking in persons.*

G. The Department may issue, if permitted by federal law, regulations establishing guidelines, including conditions, under which a disqualification for life under subsection D may be reduced to a period of not less than 10 years.

§ 46.2-382. Courts to keep full records of certain cases.

A. Every ~~general~~ district court or circuit court or the clerk thereof shall keep a full record of every case in which:

1. A person is charged with (i) a violation of any law of the Commonwealth pertaining to the operator or operation of a motor vehicle or commercial motor vehicle *as defined in § 46.2-341.4*; (ii) a violation of any ordinance of any county, city, or town pertaining to the operator or operation of any motor vehicles, except parking regulations; (iii) any theft of a motor vehicle or unauthorized use thereof or theft of any part attached to it; (iv) a violation of § 18.2-36.2, subsection B of § 29.1-738, or § 29.1-738.02, 29.1-738.2, or 29.1-738.4; or (v) a violation or offense involving the use of a motor vehicle or commercial motor vehicle by a person holding a commercial learner's permit or commercial driver's license in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance;

2. A person is charged with manslaughter or any other felony in the commission of which a motor vehicle was used; or

3. There is rendered a judgment for damages, the rendering and nonpayment of which under the terms of this title require the Commissioner to suspend the driver's license and registration in the name of the judgment debtor.

B. The Department and every district court or circuit court or the clerk thereof (i) shall not reduce, dismiss, defer, or otherwise conceal the conviction of any person charged with any offense committed while operating a commercial motor vehicle as defined in § 46.2-341.4 or any holder of a commercial driver's license or a commercial driver's permit charged with any offense committed while operating a noncommercial motor vehicle and (ii) shall comply with all federal laws and regulations regarding such convictions, including 49 C.F.R. § 384.226.

§ 46.2-1702. Certification of driver education courses by Commissioner.

Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a driver education course satisfying the requirements of § 46.2-334 any course which is offered by any driver training school licensed under the provisions of this chapter if he finds that the course is of comparable content and quality to that offered in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that the instructors of any driver training school meet the certification requirements of teachers in the Commonwealth's public schools.

Any comprehensive community college within the Virginia Community College System shall have the authority to offer the courses required by the Virginia Board of Education to become a certified driver education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and curriculum required by the Department of Education, enabling individuals who complete those courses to then teach driver's education in Virginia driver education training schools upon official certification by the Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content, and other information regarding the courses required to become certified driver education instructors in Virginia to any comprehensive community college within the Virginia Community College System. The content of each course must be accurate and rigorous and must meet the requirements for the Department of Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of Education's standards of learning.

Except for schools in the Commonwealth's public school system and providers of correspondence courses approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer computer-based driver education courses, including the parent/student driver education component of the driver education curriculum as established in § 22.1-205. The content and quality of such computer-based driver education courses shall be comparable to that of courses offered in the Commonwealth's public schools. The Commissioner may establish minimum standards for testing students who have enrolled in computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii) verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log containing the name and title of the licensed instructor monitoring the test, the test date, the name of the student taking the test, and the student's time-in and time-out of the test site. Computer-based driver education providers shall not issue a certificate of completion to a student prior to receiving proof of completion of the additional minimum 90-minute parent/student driver education component pursuant to § 22.1-205.

Any driver training school licensed under the provisions of this chapter shall be authorized to provide the 90-minute parent/student driver education component of the driver education curriculum pursuant to § 22.1-205. Only public schools and those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer the parent/student driver education component of the driver education curriculum through a virtual,

computer-based program. Completion of such education component shall satisfy the requirement for the additional 90-minute parent/student driver education component so long as there is participation of the student's parent or guardian and the content provided is comparable to that which is offered in the Commonwealth's public schools and emphasizes (a) parental responsibilities regarding juvenile driver behavior, (b) juvenile driving restrictions pursuant to this Code, and (c) the dangers of driving while intoxicated and underage consumption of alcohol.

The Commissioner shall have authority to approve any driver education course offered by any Class A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as otherwise established by the Department. Class A licensees shall not be permitted to administer knowledge or behind-the-wheel examinations unless authorized pursuant to § 46.2-326.1. Driver education courses offered by any Class B licensee shall be based on the driver education curriculum currently approved by the Department of Education and the Department.

The Commissioner may accept, in lieu of requirements established by the Department of Education for instructor qualification, (1) 20 years' service with the Virginia Department of State Police by a law-enforcement officer who retired or resigned while in good standing from such Department or (2)(i) 20 years' service as a traffic enforcement officer with patrol experience with any local police department by a law-enforcement officer who has been certified by the Virginia Department of Criminal Justice Services pursuant to § 15.2-1706, (ii) who retired or resigned while in good standing from such department, and (iii) who has been certified to teach driver training by the Virginia Department of Criminal Justice Services.

CHAPTER 137

An Act to amend and reenact § 46.2-602 of the Code of Virginia, relating to titling and registration of foreign market vehicles.

[H 1887]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-602 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-602. Titling and registration of foreign market vehicles.

A. The Department shall not issue a permanent certificate of title or registration for a foreign market vehicle until the applicant submits proof that the vehicle complies with federal safety requirements.

B. The Department shall accept as proof that a foreign market vehicle complies with federal safety requirements documents from either the United States Department of Transportation or the United States Customs Service stating that the vehicle conforms or has been brought into conformity with federal safety requirements.

C. The certificate of title of any foreign market vehicle titled under this section shall contain an appropriate notation that the owner has submitted proof that it complies with federal safety requirements.

D. Any foreign market vehicle previously titled in the Commonwealth shall be titled and registered without further proof of compliance with federal safety requirements. If, however, proof of compliance is not submitted to the Department, the certificate of title shall contain an appropriate notation that the owner of the foreign market vehicle has not submitted proof that the vehicle complies with federal safety requirements.

E. No foreign market vehicle manufactured ~~prior to 1968~~ *25 or more years ago* shall be subject to this section.

F. Notwithstanding the provisions of subsection A of ~~this section~~, the Department shall issue a nonnegotiable title for a foreign market vehicle on submission of a complete application for a title including all necessary documents of ownership. A negotiable title will be issued on proof of compliance as provided in subsection A of ~~this section~~ *or for foreign market vehicles manufactured 25 or more years ago*. The Department shall show on the face of any title issued under this section any negotiable security interests in the motor vehicle as provided in §§ 46.2-636 through 46.2-643.

G. The Department shall not transfer the title to a foreign market vehicle if ownership of the vehicle is evidenced by a nonnegotiable title, unless the nonnegotiable title owner is deceased. If the nonnegotiable title owner is deceased, a new, nonnegotiable title may be issued to the legatee or distributee in accordance with §§ 46.2-633 and 46.2-634.

H. A nonnegotiable title may be issued for the purpose of recording a lien. A negotiable certificate of title shall be issued on proof of compliance with all regulations prescribed in this section.

I. Notwithstanding other provisions of this section, the Department shall issue, on application, a temporary, nonrenewable 180-day registration to a foreign market vehicle upon:

1. Proof that the vehicle has been brought into compliance with all federal safety requirements and that the applicant is merely waiting for documentary releases from the Federal Department of Transportation;

2. Proof of satisfactory passage of a Virginia safety inspection; and

3. Submission of a complete application for a title, including all necessary documents of ownership.

J. The Department shall withhold delivery of the certificate of title during the 180-day period of conditional registration and shall not issue the permanent title until the requirements of subsection A of this section have been met.

K. Upon application, the Department shall issue a temporary one-trip permit for the purpose of transporting a foreign market vehicle from the port of entry to the applicant's home or to a conversion facility. The one-trip permit shall be issued in accordance with § 46.2-651.

CHAPTER 138

An Act to amend and reenact § 38.2-317 of the Code of Virginia, relating to approval of property and casualty insurance policy forms and endorsements.

[H 1892]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-317 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-317. Delivery and use of certain policies and endorsements.**

A. No insurance policy or endorsement of the kind to which Chapter 19 (§ 38.2-1900 et seq.) of this title applies shall be delivered or issued for delivery in ~~this~~ *the* Commonwealth unless the policy form or endorsement is filed with the Commission at least ~~thirty days~~ prior to its effective date. The provisions of this section shall not apply to statutory fire insurance policies, standard automobile policy forms and endorsements, workers' compensation and employers' liability insurance as defined in § 38.2-119, surety insurance as defined in § 38.2-121, or insurance of large commercial risks as defined in § 38.2-1903.1.

B. The Commission may disapprove or withdraw approval of the policy form or endorsement to which the section applies if the policy form or endorsement:

1. Is in violation of any provision of this title;
2. Contains provisions that are contrary to the public policy of this Commonwealth;
3. Contains or incorporates by reference, even where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions that deceptively affect the risk purported to be assumed in the general coverage of the policy;
4. Has any title, heading, or other indication of its provisions that is misleading;
5. Contains provisions that are so unclear or deceptively worded that they encourage misrepresentation; or
6. Provides coverage of such a limited nature that it is contrary to the public interest of ~~this~~ *the* Commonwealth.

C. *No policy form or endorsement specified in subsection A shall be delivered, issued for delivery, or used in the Commonwealth unless the policy form or endorsement has been approved in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.* Within ~~thirty~~ *30* days after the filing of any policy form or endorsement requiring approval pursuant to this section, the Commission shall notify the insurer or rate service organization filing the policy form or endorsement of its approval or disapproval, and in the event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional ~~thirty~~ *30* days the period within which it shall approve or disapprove the policy form or endorsement. Any policy form or endorsement received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the ~~thirty~~ *30* days if the period is not extended, or at the expiration of the extended period, if any; however, no policy form or endorsement shall be deemed approved under the provisions of this section unless written notice of the intent to use the policy form or endorsement has been filed with the Commission.

D. If the Commission proposes to withdraw approval previously given or deemed given to the policy form or endorsement to which this section applies, it shall notify the insurer in writing at least ninety days prior to the proposed effective date of withdrawal giving its reasons for withdrawal.

E. The policy and endorsement forms referred to in subsection A of this section in use on October 1, 1976, may continue to be used, subject to disapproval by the Commission.

F. The Commission may by rule exempt any person, class of persons, or market segment from any or all of the provisions of this section. In promulgating an exemption, the Commission may consider the nature of the coverage, the person or persons to be insured or covered, the competence of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

G. The policy and endorsement forms referred to in subsection A of this section shall be open to public inspection. Copies may be obtained by any person on request and upon payment of a reasonable charge for the copies.

H. Any insurer whose rate service organization files on behalf of such insurer shall notify the Commission prior to the effective date of any filing if the insurer is not going to accept the filing made on its behalf.

I. Notwithstanding anything to the contrary in subsection A, the provisions of this section shall apply to policies and endorsements of credit involuntary unemployment insurance, as defined in § 38.2-122.1, and to policies and endorsements of credit property insurance, as defined in § 38.2-122.2, delivered or issued for delivery in this Commonwealth, and to certificates of credit involuntary unemployment insurance and credit property insurance delivered or issued for delivery in this Commonwealth where the group policy is delivered in another state.

CHAPTER 139

An Act to amend and reenact § 46.2-325 of the Code of Virginia, relating to online Virginia Driver's Manual course; training school.

[H 1901]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-325 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles. The motor vehicle to be used by the applicant for the behind-the-wheel examination shall meet the safety and equipment requirements specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant to § 46.2-1157. An autocycle shall not be used by the applicant for a behind-the-wheel examination.

Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § 46.2-335 while operating a motor vehicle.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the behind-the-wheel examination for a driver's license administered by the Department shall wait two days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education or, for (i) persons at least 18 years old or (ii) persons less than 18 years old who have previously completed the classroom component of driver instruction, a course of instruction based on the Virginia Driver's Manual, which may be conducted in a classroom or online, offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. ~~Any driver training school authorized to provide the Virginia Driver's Manual course online shall be a computer-based driver education provider as defined in § 46.2-1700.~~ Providers of the Virginia Driver's Manual course online shall ensure that the certificate of completion is issued to the same person who took the course in a manner prescribed by the Department. All persons required to complete the in-vehicle component of driver instruction or the classroom component of driver instruction pursuant to this section shall be required after successful completion of the necessary courses to have the applicable examination administered by the Department.

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.

CHAPTER 140

An Act to amend and reenact § 56-585.5 of the Code of Virginia, relating to electric utilities; Renewable Energy Certificates; contracts with accelerated renewable energy buyers; exemption from certain costs.

[H 1907]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Mines, Minerals and Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.

3. By December 31, 2045, each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

4. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or (iv) biomass-fired facilities

operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2019; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, or falling water electric generating resources in operation, or proposed for operation, in the Commonwealth or physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%
2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%

2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating

capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods

and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of REC's necessary to comply with RPS Program requirements exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring REC's for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of Mines, Minerals and Energy. In administering this account, the Department of Mines, Minerals and Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of REC's associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of

§ 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and tried up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015, *including any contract with a utility for such generation resources that does not allocate to or recover from any other customer of the utility the cost of such resources*. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis, ~~however, an~~. *An accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of that date in proportion to the customer's total electric energy consumption, on an annual basis*. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

CHAPTER 141

An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 18, consisting of a section numbered 67-1800, relating to Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program; handbook.

[H 1925]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 18, consisting of a section numbered 67-1800, as follows:

CHAPTER 18.

VIRGINIA BROWNFIELD AND COAL MINE RENEWABLE ENERGY GRANT FUND AND PROGRAM.

§ 67-1800. Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program.

A. For the purposes of this section:

"Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

"Department" means the Department of Mines, Minerals and Energy.

"Fund" means the Virginia Brownfield and Coal Mine Renewable Energy Grant Fund.

"Previously coal mined lands" means lands, associated waters, and surrounding watersheds where coal extraction, beneficiation, or processing has occurred.

"Program" means Virginia Brownfield and Coal Mine Renewable Energy Grant Program.

"Project" means all or any part of the following activities necessary or desirable for the restoration and redevelopment of a brownfield site or previously coal mined lands for renewable energy purposes: (i) environmental or cultural resource site assessments; (ii) the monitoring, remediation, cleanup, or containment of property to remove hazardous substances, hazardous wastes, solid wastes, or petroleum; (iii) the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Landmarks Register; (iv) the demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for economic development; (v) the development of a remediation and reuse plan; and (vi) the development or operation of such site for renewable energy generation or storage.

"Renewable energy" means energy derived from sunlight, wind, and geothermal power.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Brownfield and Coal Mine Renewable Energy Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Virginia Brownfield and Coal Mine Renewable Energy Grant Program established pursuant to subsection C or (ii) implementing and administering the Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program. Moneys used for implementing and administering the Fund and Program shall be limited to 10 percent of the amount available in the Fund each year. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

C. The Virginia Brownfield and Coal Mine Renewable Energy Grant Program is hereby established for the purpose of awarding grants on a competitive basis from such funds as may be available from the Fund to renewable energy projects located on brownfields or previously coal mined lands. The Program shall be administered by the Department. In administering the Program, the Department shall consult with the Department of Environmental Quality and establish and publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Department and grant recipients relating to the development of renewable energy projects on brownfields or previously coal mined lands. The criteria for grant recipients shall include requirements for project developers to hire local residents. The Department shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant.

D. Grants shall be awarded in an amount of \$500 per kilowatt of nameplate capacity from renewable energy sources that are located on previously coal mined lands and \$100 per kilowatt of nameplate capacity from renewable energy sources that are located on brownfields. No more than \$10 million shall be awarded to any single previously coal mined lands project and no more than \$5 million shall be awarded to any single brownfield project that is not located on previously coal mined lands. If a project is eligible to receive a grant as a previously coal mined lands project, it shall not be eligible to receive a grant as a brownfields project, and vice versa.

No more than \$35 million per year shall be allocated by the Program. Of this amount, \$20 million shall be reserved for projects sited on previously coal mined lands. However, if less than \$20 million is distributed to previously coal mined lands projects in a given year, any remaining funds may be reallocated to brownfield projects.

E. The Department shall, in consultation with the Department of Environmental Quality, localities, interest groups, private businesses, and other stakeholders, develop an online handbook for renewable energy and energy storage development on brownfields and previously coal mined lands. The online handbook shall include a discussion of coal mining permit types and reclamation requirements, permitting requirements for development on brownfields and previously coal mined lands, and policy recommendations for encouraging renewable energy development on brownfields and coal mines. The handbook shall be completed no later than July 1, 2022, and shall be updated as needed at the discretion of the Department.

F. Notwithstanding any provision to the contrary, in no event shall any allocation of funds be made to the Fund or the Program unless federal funds are available to cover the entire cost of such allocation.

G. The Department shall submit an annual report to the General Assembly regarding administration of the Fund and Program for the preceding fiscal year. The report shall include the number of grants awarded, the number of acres reclaimed or revitalized, the amount of nameplate capacity constructed, the number of jobs created, and the general economic impact of the Fund and Program. The report shall be furnished to the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor no later than November 1 of each year. However, no annual report shall be required if the Fund and Program do not receive funding.

CHAPTER 142

An Act to amend and reenact § 33.2-3703 of the Code of Virginia, relating to Central Virginia Transportation Authority; membership.

[H 1926]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-3703 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-3703. Composition of Authority.

The Authority shall consist of ~~16~~ 17 members as follows:

1. The chief elected officer, or his designee, of the governing body of each of the counties embraced by the Authority;
2. The chief elected officer, or his designee, of the City of Richmond and the Town of Ashland;
3. One member of the House of Delegates who resides in a county or city embraced by the Authority, appointed by the Speaker of the House, and one member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules;
4. A member of the Commonwealth Transportation Board who resides in a locality embraced by the Authority and is appointed by the Governor; and

5. The following ~~four~~ five persons serving ex officio as nonvoting members of the Authority: the Director of the Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; the Executive Director of the Virginia Port Authority, or his designee; the Chief Executive Officer of the Greater Richmond Transit Company (GRTC); and the Chief Executive Officer of the Richmond Metropolitan Transportation Authority.

All members of the Authority shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointment. If a member of the Authority who represents a locality as provided in subdivision 1 or 2 is unable to attend a meeting of the Authority, he may designate another current elected official of such governing body to attend such meeting of the Authority. Such designation shall be for the purposes of one meeting and shall be submitted in writing or electronically to the Chairman of the Authority at least 48 hours prior to the affected meeting.

The Authority shall elect a chairman and vice-chairman from among its voting membership.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority, and the cost of such audit shall be borne by the Authority.

CHAPTER 143

An Act to amend and reenact § 6.2-1317 of the Code of Virginia and to repeal § 6.2-1318 of the Code of Virginia, relating to State Corporation Commission; supervisory merger or transfer of assets of financially unstable credit union.

[H 1964]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 6.2-1317 of the Code of Virginia is amended and reenacted as follows:

§ 6.2-1317. Supervisory merger or transfer of assets of insolvent or financially unstable credit union.

A. If the Commission finds that (i) a state credit union is insolvent, ~~that an emergency exists, or financially unstable~~ and that (ii) its merger into another credit union is desirable for the protection of its members, and if the board of directors of both credit unions approves a plan of merging the insolvent ~~such~~ state credit union into another state credit union or a federal credit union, compliance with § 13.1-895 shall be dispensed with as to both credit unions and the approval of the

Commission of such plan of merger shall be the equivalent of approval by more than two-thirds of the members of both credit unions for all purposes of Article 11 (§ 13.1-893.1 et seq.) and Article 12 (§ 13.1-899 et seq.) of Chapter 10 of Title 13.1.

B. If the Commission finds that (i) a state credit union is insolvent, ~~that or financially unstable~~ and (ii) the acquisition of its assets by another state credit union or a federal credit union is in the best interests of its members, ~~and that an emergency exists~~, it may, with the consent of the board of directors of both credit unions as to the terms and conditions of such transfer, including the assumption of all or certain liabilities, enter an order transferring some or all of the assets of such ~~insolvent~~ state credit union to such other state or federal credit union and ~~no~~ compliance with the provisions of §§ 13.1-899 and 13.1-900 shall *not* be required.

C. In the case either of such a merger or of such a sale of assets, the Commission shall ~~provide~~ *require* that prompt notice of its findings of insolvency *or financial instability* and of the merger or sale of assets be sent to the members of record of the insolvent *or financially unstable* state credit union for the purpose of providing such members an opportunity to challenge the finding that the state credit union is insolvent *or financially unstable*. The relevant books and records of such ~~insolvent~~ credit union shall be preserved and be made available to such members for a period of 30 days after such notice is sent. The Commission's finding of insolvency *or financial instability* shall become final if a hearing before the Commission is not requested by any such member within such 30-day period.

D. If, after such hearing provided in subsection C, the Commission finds that the state credit union ~~was is~~ solvent *and financially stable*, it shall rescind its order entered pursuant to subsection A or subsection B and the merger or transfer of assets shall be rescinded. After such hearing, however, if the Commission finds that the state credit union ~~was is~~ insolvent *or financially unstable*, its order shall be final.

E. Notwithstanding the provisions of subsection B of § 6.2-1327, or any other provisions of this chapter, the Commission may order a merger pursuant to subsection A or a sale of assets pursuant to subsection B. The continuing credit union, upon approval of the Commission, shall amend its bylaws to incorporate the specified common bond of interest of the insolvent *or financially unstable* credit union.

F. The Commission may authorize a financial institution whose deposits are insured by a federal agency to purchase any of the assets of or assume any of the liabilities of a credit union that is insolvent or ~~in danger of insolvency~~ *financially unstable*, provided that prior to exercising this authority the Commission shall use every reasonable effort to effect a merger or consolidation with or purchase and assumption by another credit union and shall have been advised by the insuring organization that it cannot effect a merger, consolidation, or other disposition of the insolvent *or financially unstable* credit union acceptable to the Commission.

2. That § 6.2-1318 of the Code of Virginia is repealed.

CHAPTER 144

An Act to approve a construction plan for a replica of the Bob White Covered Bridge in Patrick County.

[H 2024]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Department of Transportation shall work with the governing body of Patrick County and community groups interested in constructing a replica of the Bob White Covered Bridge for tourism purposes to approve a construction plan for a replica of the Bob White Covered Bridge open for pedestrian, non-motor vehicle traffic, provided that the replica bridge is designed in accordance with the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Load and Resistance Factor Design (LRFD) Guide Specifications for the Design of Pedestrian Bridges and constructed in accordance with the most recent edition of the AASHTO LRFD Bridge Construction Specifications.*

CHAPTER 145

An Act to amend and reenact §§ 46.2-742.1, 46.2-742.2, 46.2-745.1, and 46.2-745.2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-725.3, 46.2-745.4, and 46.2-745.5, relating to special license plates; military decorations.

[H 2069]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-742.1, 46.2-742.2, 46.2-745.1, and 46.2-745.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-725.3, 46.2-745.4, and 46.2-745.5 as follows:

§ 46.2-725.3. Special license plates for recipients of certain military decorations.

A. No special license plate for recipients of a military decoration shall be considered by the General Assembly unless and until the person or entity seeking the authorization of such special plate has demonstrated to the satisfaction of the

General Assembly the order of precedence of such military decoration as determined by the federal Department of Defense or other relevant federal agency.

B. Any special license plate for recipients of a military decoration falling below the Medal of Honor and above the Purple Heart in order of precedence shall be authorized for issuance by the Department with a \$10 one-time fee in addition to the prescribed cost of state license plates. Any special license plate for recipients of a military decoration falling below the Purple Heart in the order of precedence shall be authorized for issuance by the Department with a \$10 annual special license plate fee in addition to the prescribed cost of state license plates. Special license plates for recipients of the Purple Heart shall be issued as provided in § 46.2-742. The Department is authorized to issue an additional plate reflecting the "V" for Valor for any plate currently issued by the Department reflecting a military decoration that the federal Department of Defense or other relevant federal agency has determined is eligible for the "V" for Valor Device. The Department shall charge only the prescribed cost of state license plates for any plate design reflecting the "V" for Valor Device.

C. Notwithstanding § 46.2-725, special license plates for the recipients of a military decoration are exempt from subdivisions B 1 and 2 of § 46.2-725. Unremarried surviving spouses of individuals eligible to receive such special license plates are also authorized to receive such special license plates.

§ 46.2-742.1. Special license plates for persons awarded the Bronze Star, Bronze Star with a "V" for valor, or the Silver Star; fee.

On receipt of an application and written evidence that the applicant has been awarded a Bronze Star, Bronze Star with a "V" for valor, or Silver Star Medal, the Commissioner shall issue to the applicant special license plates.

For each set of license plates issued under this section, *other than those that reflect the Bronze Star*, the Commissioner shall charge the prescribed cost of state license plates. For *Bronze Star license plates*, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

The provisions of subdivisions B 1 and 2 of ~~subsection B~~ of § 46.2-725 shall not apply to license plates issued under this section.

The design of license plates issued under this section to persons who have been awarded multiple decorations shall reflect the number of such decorations.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-742.2. Special license plates for persons awarded the Navy Cross, the Distinguished Service Cross, the Air Force Cross, the Distinguished Flying Cross, or the Distinguished Flying Cross with a "V" for Valor.

On receipt of an application and written evidence that the applicant has been awarded the Navy Cross, the Distinguished Service Cross, the Air Force Cross, ~~or the Distinguished Flying Cross~~, *or the Distinguished Flying Cross with a "V" for Valor*, the Commissioner shall issue to the applicant special license plates.

The provisions of subdivisions B 1 and 2 of ~~subsection B~~ of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

The design of license plates issued under this section to persons who have been awarded multiple decorations shall reflect the number of such decorations.

For each set of license plates issued under this section, *other than those that reflect the Distinguished Flying Cross*, the Commissioner shall charge the prescribed cost of state license plates. For *Distinguished Flying Cross license plates*, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

§ 46.2-745.1. Special license plates for persons awarded the Navy and Marine Corps Medal, the Airman's Medal, the Army Soldier's Medal, or the Coast Guard Medal.

On receipt of an application and written confirmation from one of the armed services of the United States that the applicant has been awarded the Navy and Marine Corps Medal, *the Airman's Medal, the Army Soldier's Medal, or the Coast Guard Medal*, the Commissioner shall issue special license plates to such persons. ~~No fee shall be charged for the issuance of these license plates under this section to any one motor vehicle owned and used personally by any applicant. For each additional set of license plates issued to an applicant under this section, the Commissioner shall charge the prescribed fee for state license plates.~~ For each set of license plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-745.2. Special license plates for persons awarded the Armed Forces Expeditionary Medal.

On receipt of an application and written confirmation from one of the armed services that the applicant has been awarded the Armed Forces Expeditionary Medal, the Commissioner shall issue special license plates to such persons ~~and to unremarried surviving spouses of such persons.~~

For each set of plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a ~~one-time~~ *an annual* fee of \$10 at the time the plates are issued.

It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-745.4. Special license plates for persons awarded the Distinguished Service Medal, the Navy Distinguished Service Medal, the Marine Corps Distinguished Service Medal, or the Air Force Distinguished Service Medal.

On receipt of an application and written confirmation from one of the armed services that the applicant has been awarded the Distinguished Service Medal, the Navy Distinguished Service Medal, the Marine Corps Distinguished Service Medal, or the Air Force Distinguished Service Medal, the Commissioner shall issue special license plates to such persons.

For each set of plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-745.5. Special license plates for persons awarded the Defense Distinguished Service Medal or the Defense Superior Service Medal.

On receipt of an application and written confirmation from one of the armed services that the applicant has been awarded the Defense Distinguished Service Medal or the Defense Superior Service Medal, the Commissioner shall issue special license plates to such persons.

For each set of plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

2. That all license plates issued pursuant to § 46.2-745.1 or 46.2-745.2 of the Code of Virginia prior to July 1, 2021, shall remain valid until their expiration and shall be renewed under the provisions of § 46.2-745.1 or 46.2-745.2 of the Code of Virginia as they existed prior to July 1, 2021.

CHAPTER 146

An Act to amend the second enactment of Chapter 525 of the Acts of Assembly of 2020, relating to GO Virginia Grants; matching funds; sunset.

[H 2101]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 525 of the Acts of Assembly of 2020 is amended as follows:

2. That the provisions of this act shall expire on July 1, ~~2021~~ 2022.

CHAPTER 147

An Act to amend the Code of Virginia by adding a section numbered 2.2-2312.1, relating to the Virginia Small Business Financing Authority; risk-based review of outstanding loans; report.

[H 2170]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-2312.1 as follows:

§ 2.2-2312.1. Risk-based review of outstanding loans; report.

The Authority shall conduct a risk-based review of all outstanding loans at least annually and report the results of such review to the Board.

CHAPTER 148

An Act to amend and reenact § 2.2-2312 of the Code of Virginia, relating to the Virginia Small Business Financing Authority; annual report; utilization or award of loan and grant program funds.

[H 2171]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2312 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2312. Annual report; audit.**

The Authority shall, within 120 days of the close of each fiscal year, submit an annual report of its activities for the preceding fiscal year to the Governor and the ~~chairmen~~ Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. Each report shall set forth, for the preceding fiscal year, a complete operating and financial statement for the Authority and any loan fund or loan guarantee fund the Authority administers or manages. *The report shall also include information regarding the percentage of loan and grant program funds that were utilized or awarded by the Authority during such year.* The Auditor of Public Accounts or his legally authorized representatives shall audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages as determined necessary by the Auditor of Public Accounts.

CHAPTER 149

An Act to amend and reenact § 2.2-1606 of the Code of Virginia, relating to the Department of Small Business and Supplier Diversity; certification of small, women-owned, and minority-owned businesses; right to appeal denial of initial certification.

[H 2172]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-1606 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-1606. Powers of Director.**

As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

1. With the participation of other state departments and agencies, develop comprehensive plans and specific program goals for small, women-owned, and minority-owned business programs; establish regular performance monitoring and reporting systems to assure that goals of state agencies and institutions are being achieved; and evaluate the impact of federal and state support in achieving objectives.

2. Employ the necessary personnel or subcontract, according to his discretion, with localities to supplement the functions of business development organizations.

3. Assure the coordinated review of all proposed state training and technical assistance activities in direct support of small, women-owned, and minority-owned business programs to ensure consistency with program goals and to avoid duplication.

4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this chapter.

5. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of small, women-owned, and minority-owned business programs or who could contribute to their development for the purpose of proposing, evaluating, or coordinating governmental and private activities in furtherance of the objectives of this chapter.

6. Provide the managerial and organizational framework through which joint undertakings with state departments or agencies or private organizations can be planned and implemented.

7. Recommend appropriate legislative or executive actions.

8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations, which regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such certification programs shall allow applications for certification to be submitted by electronic means as authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women-owned, or minority-owned businesses and employment services organizations or that provide a preference for small, women-owned, or minority-owned businesses and employment services organizations based in that state that is not available to Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of small, women-owned, and minority-owned businesses and employment services organizations; (ii) provide a process for evaluating existing local, state, and private sector certification programs that meet the minimum requirements; and (iii) mandate certification without any additional paperwork of any small, women-owned, or minority-owned business that has obtained (a) certification under any federal certification program or (b) certification

under any other certification program that is determined to meet the minimum requirements established in the regulations, and of any employment services organization that has been approved by the Department for Aging and Rehabilitative Services. All employment services organization certifications shall remain in effect until the Department is notified by the Department for Aging and Rehabilitative Services that such organization is no longer approved. The regulations shall also require as a prerequisite for approval that any out-of-state business applying for certification in Virginia as a small, women-owned, or minority-owned business have the equivalent certification in the business's state of origin. An out-of-state business located in a state that does not have a small, women-owned, or minority-owned business certification program shall be exempt from the requirements of this provision. *The regulations shall establish a process for businesses that are denied initial certification as a small, women-owned, or minority-owned business to appeal such denial on the basis that the Department made a mistake in denying the business's application for certification.*

9. Establish an interdepartmental board in accordance with § 2.2-1608 to supply the Director with information useful in promoting minority business activity.

CHAPTER 150

An Act to direct study topics for the Commonwealth Center for Recurrent Flooding Resiliency.

[H 2187]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Commonwealth Center for Recurrent Flooding Resiliency, as established by Chapter 440 of the Acts of Assembly of 2016, shall evaluate the development of a Flood Resiliency Clearinghouse Program (the Clearinghouse) for coordinating flood mitigation solutions.*

§ 2. *The Commonwealth Center for Recurrent Flooding Resiliency shall work with the Department of Conservation and Recreation to evaluate solutions that (i) manage both water quality and flooding and (ii) emphasize nature-based solutions, including currently approved and not-yet-approved stormwater best management practices.*

§ 3. *The Commonwealth Center for Recurrent Flooding Resiliency shall by November 1, 2021, report the results of its findings to the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources and the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources.*

CHAPTER 151

An Act to amend and reenact § 54.1-1141 of the Code of Virginia, relating to professions and occupations; Board for Contractors; exemption from licensure as an elevator mechanic or accessibility mechanic.

[H 2202]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-1141 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-1141. Certification required; exemption.

A. No person shall engage in, or offer to engage in, work as an elevator mechanic or accessibility mechanic in the Commonwealth unless he has been certified under the provisions of this article. *Individuals shall not be subject to certification as an elevator mechanic or accessibility mechanic when working under the direct and immediate supervision of an elevator mechanic or certified accessibility mechanic who is certified in the specialty for which work is being performed.* Individuals certified as elevator mechanics or accessibility mechanics shall not be required to hold any other professional or occupational license or certification; however, nothing in this subsection shall prohibit an individual from holding more than one professional or occupational license or certification.

B. Any individual desiring to be certified as an elevator mechanic or accessibility mechanic shall file a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain, at a minimum, the applicant's name, place of employment, business address, and information on the knowledge, skills, abilities and education or training of the applicant.

C. Accessibility mechanics desiring to work on limited use/limited application elevators, as defined by the Uniform Statewide Building Code, shall obtain a limited use/limited application endorsement on their certification.

D. Nothing in this article shall be construed to prevent a person who is not certified as an elevator mechanic or accessibility mechanic from performing maintenance that is not related to the operating integrity of an elevator, escalator, or related conveyance.

CHAPTER 152

An Act to amend and reenact §§ 2.2-2809, 5.1-1.3, 10.1-2006, 21-163, 30-131, 33.2-205, 36-111, 42.1-16, 44-21, 46.2-202, 52-3, 53.1-11, 54.1-305, 58.1-201, and 60.2-109 of the Code of Virginia, relating to Department of the Treasury and State Treasurer; bonds.

[H 2223]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2809, 5.1-1.3, 10.1-2006, 21-163, 30-131, 33.2-205, 36-111, 42.1-16, 44-21, 46.2-202, 52-3, 53.1-11, 54.1-305, 58.1-201, and 60.2-109 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2809. Bonds of certain officers required; condition.

Certain officers designated by the Governor shall each give bond with sufficient surety to the Commonwealth *be bonded in accordance with § 2.2-1840*. The bond shall be conditioned upon the faithful discharge of the duties of his office in such penalty as fixed by the Governor.

The form of bond shall be prescribed by the Attorney General and when given by such officer shall bear the certification of the Attorney General and the approval of the Governor.

If the bond required of such officer is not given or not deemed to be proper within thirty days after his appointment, the appointment of such officer shall be deemed void and his office shall be deemed vacant.

Whenever in the opinion of the Governor it is necessary for the protection of the public interest, that a new bond or a bond in addition to the one already given by such officer, it shall be given within a reasonable time as prescribed by the Governor after the officer has been notified of the requirement. If the officer fails or refuses to give the new or additional bond required, his office shall be deemed vacant.

§ 5.1-1.3. Oath and bond of Director; salary.

The Director, before entering upon the discharge of his duties, shall take an oath that he will faithfully and impartially discharge and perform all the duties of his office, and he shall give bond in such penalty as may be fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the funds available for the maintenance and operation of his office *be bonded in accordance with § 2.2-1840*. The Director shall receive such salary as may be appropriated for the purpose.

§ 10.1-2006. Bonds of members.

Each member of the Board shall give bond, with corporate surety, in such penalty as is fixed by the Governor *be bonded in accordance with § 2.2-1840*, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Museum.

§ 21-163. Oath and bond of members of commission.

Each member of the commission shall, before entering upon the discharge of his duties under this chapter, take and subscribe the oath of office required by Article II, Section 7 of the Constitution of Virginia, and give bond payable to the Commonwealth in form approved by the Attorney General, in such penalty as shall be fixed from time to time by the Governor, with some surety or guaranty company duly authorized to do business in Virginia and approved by the Governor, as security, *shall be bonded in accordance with § 2.2-1840*, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be paid by the commission and the bonds shall be filed with and preserved by the Comptroller.

§ 30-131. Official bonds.

The penalty of the bond of the Auditor of Public Accounts shall be fixed by the Governor, which shall not be less than \$5,000. Such of the *and the* employees in the office of the Auditor of Public Accounts as, in the opinion of the Governor, shall be bonded, and the penalties of such bonds, respectively, shall be fixed by the Auditor of Public Accounts, subject to the approval of the Governor. The premiums on such bonds shall be paid out of the state treasury *in accordance with § 2.2-1840, conditioned upon the faithful discharge of their duties*.

§ 33.2-205. Oaths and bonds of members.

Each member of the Board shall, before entering upon the discharge of his duties, take an oath that he will faithfully and honestly execute the duties of the office during his term, and each shall give a bond in such penalty as may be fixed by the Governor *be bonded in accordance with § 2.2-1840*, conditioned upon the faithful discharge of the *his* duties of his office and the full and proper accounting for all public funds and property coming into his possession or under his control. The premium on such bonds shall be paid out of the state treasury out of the annual appropriation for the Board.

§ 36-111. Oath and bonds.

Before entering upon the discharge of his duties, each member of the Review Board shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein; and shall give bond with corporate surety in such penalty as may be fixed by the Governor *be bonded in accordance with § 2.2-1840*, conditioned upon the faithful discharge of his duties. The premiums on such bonds shall be paid for as other expenses of the Department are paid.

§ 42.1-16. Bond of Librarian of Virginia.

The Librarian of Virginia shall give bond to the Commonwealth in the sum of \$2,000, with sureties approved by the State Treasurer, subject to the approval of the Governor, *be bonded in accordance with § 2.2-1840* for the faithful discharge

of his duties and the delivery over to his successor of all the property of the Commonwealth in his possession, which bond shall be recorded by the Secretary of the Commonwealth and deposited with the Comptroller.

§ 44-21. Bonds of Adjutant General and fiscal clerks.

The Adjutant General and his fiscal clerks shall each give bond, with sufficient sureties, to be approved by the Governor, as provided by law for other state officers *be bonded in accordance with § 2.2-1840.*

§ 46.2-202. Oath and bond; salary.

The Commissioner, before entering on the discharge of his duties, shall take an oath that he will faithfully and impartially discharge all the duties of his office, and he shall ~~and he shall give bond in such penalty as may be fixed by the Governor, conditioned on the faithful discharge of his duties. The premium on the bond shall be paid out of the funds available for the maintenance and operation of his office~~ *be bonded in accordance with § 2.2-1840.* The Commissioner shall receive the salary appropriated for the purpose.

§ 52-3. Oath, bond, and salary of Superintendent.

The Superintendent of State Police, before entering upon the discharge of his duties, shall take an oath that he will faithfully and impartially discharge and perform all the duties of his office, and shall ~~give bond in such penalty as may be fixed by the Governor, conditioned upon the faithful discharge of his duties, the premium on such bond to be paid out of the funds available for the maintenance and operation of his office~~ *be bonded in accordance with § 2.2-1840.* The Superintendent shall receive such salary as may be appropriated for the purpose.

§ 53.1-11. Bond of Director.

The Director shall give bond with corporate surety in such penalty as may be fixed by the Governor *be bonded in accordance with § 2.2-1840,* conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid for as other expenses of the Department are paid.

§ 54.1-305. Bond of Director.

Before entering upon the discharge of his duties, the ~~The~~ Director shall give bond payable to the Commonwealth of Virginia conditioned upon the faithful discharge of his duties in a form approved by the Attorney General, in such penalty as shall be fixed by the Governor, with a surety or guaranty company authorized to do business in this Commonwealth. The premium required for the bond shall be paid out of the administrative fund appropriated to the Department, and the bond shall be filed with and preserved by the Comptroller *be bonded in accordance with § 2.2-1840.*

§ 58.1-201. Oath and bond.

Before entering upon the discharge of his duties, the Tax Commissioner shall take an oath that he will faithfully and honestly execute the duties of the office during his continuance therein, and he shall give bond in such amount as may be fixed by the Governor *be bonded in accordance with § 2.2-1840,* conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the moneys appropriated to the Department.

§ 60.2-109. Bond of Commissioner.

The Commissioner shall, before entering upon the discharge of his duties, give bond payable to the Commonwealth, in a form approved by the Attorney General, in such penalty as shall be fixed by the Governor, with some surety or guaranty company duly authorized to do business in this Commonwealth. The bond shall be approved by the Governor as security ~~and be bonded in accordance with § 2.2-1840,~~ conditioned upon the faithful discharge of his duties. The premium of such bond shall be paid by the Commission, and the bond shall be filed with and preserved by the Comptroller.

CHAPTER 153

An Act to amend and reenact § 46.2-744 of the Code of Virginia, relating to special license plates; member of the Virginia National Guard.

[H 2261]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-744 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-744. Special license plates for members of National Guard; fees.

On receipt of an application and written confirmation that the applicant is a member of the National Guard, the Commissioner shall issue to the applicant special license plates.

The fee for license plates issued under this section to members of the National Guard units shall be one-half the fee prescribed in § 46.2-694 ~~No fee shall be charged for license plates issued under this section to a member of the Virginia National Guard for any one motor vehicle owned and used personally by the applicant,~~ unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, the fee for the issuance of license plates shall be the same as for those issued under § 46.2-726. *For each additional set of license plates issued to an applicant under this section, the Commissioner shall charge the prescribed fee for state license plates.*

The fee for members of non-Virginia National Guard units shall be ten dollars per year plus the prescribed cost for state license plates, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, such license plates shall be subject to an additional charge of ten dollars per year for the reserved numbers or letters.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

2. That any person issued multiple sets of special license plates pursuant to § 46.2-744 of the Code of Virginia prior to July 1, 2021, may, at his discretion, continue to use such plates, provided that the renewal of such plates shall be in accordance with the provisions of § 46.2-744 of the Code of Virginia prior to the effective date of this act.

CHAPTER 154

An Act to direct the Commissioner of the Department of Motor Vehicles to reinstate certain driving privileges suspended prior to July 1, 2019.

[H 2284]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege to drive a motor vehicle that was suspended prior to July 1, 2019, solely pursuant to former Article 18 (§ 46.2-944.1 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia, as it was in effect at the time of the suspension, and shall waive all fees relating to reinstating such person's privilege to drive. Nothing in this act shall require the Commissioner of the Department of Motor Vehicles to reinstate a person's privilege to drive if such privilege has been otherwise lawfully suspended or revoked, or if such person is otherwise ineligible for a driver's license.*

CHAPTER 155

An Act to amend and reenact §§ 15.2-520 and 15.2-2506 of the Code of Virginia, relating to county executive form of government; local budgets.

[S 1120]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-520 and 15.2-2506 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-520. Department of Finance; expenditures and accounts.

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation resolutions. Funds appropriated for *multiyear capital projects and* outstanding grants, however, may be carried over ~~for one year~~ *from year to year* without being reappropriated. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligation charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement, or order.

§ 15.2-2506. Publication and notice; public hearing; adjournment; moneys not to be paid out until appropriated.

A brief synopsis of the budget ~~which~~ *that*, except in the case of the school division budget, shall be for informative and fiscal planning purposes only, shall be published once in a newspaper having general circulation in the locality affected, and notice given of one or more public hearings, at least seven days prior to the date set for hearing, at which any citizen of the locality shall have the right to attend and state his views thereon. Any locality not having a newspaper of general circulation may in lieu of the foregoing notice provide for notice by written or printed handbills, posted at such places as it may direct. The hearing shall be held at least seven days prior to the approval of the budget as prescribed in § 15.2-2503. With respect to the school division budget, which shall include the estimated required local match, such hearing shall be held at least seven days prior to the approval of that budget as prescribed in § 22.1-93. With respect to the budget of a constitutional officer, if the proposed budget reduces funding of such officer at a rate greater than the average rate of reduced funding for other agencies appropriated through such locality's general fund, exclusive of the school division, the locality shall give written notice to such constitutional officer at least 14 days prior to adoption of the budget. If a constitutional officer determines that the proposed budget cuts would impair the performance of his statutory duties, such constitutional officer shall make a written objection to the local governing body within seven days after receipt of the written notice and shall deliver a copy of such objection to the Compensation Board. The local governing body shall consider the written objection of such constitutional officer. The governing body may adjourn such hearing from time to time. The fact of such notice and hearing shall be entered of record in the minute book.

In no event, including school division budgets, shall such preparation, publication, and approval be deemed to be an appropriation. No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly, or monthly appropriation for such contemplated expenditure by the governing body, except *that* funds appropriated in a county having adopted the county executive form of government, ~~for multiyear capital projects and~~ *outstanding grants may be carried over for one year from year to year* without being reappropriated.

CHAPTER 156

An Act to amend the Code of Virginia by adding in Article 5 of Chapter 36 of Title 58.1 a section numbered 58.1-3668, relating to personal property tax exemption; motor vehicle of a disabled veteran.

[S 1130]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 36 of Title 58.1 a section numbered 58.1-3668 as follows:

§ 58.1-3668. Motor vehicle of a disabled veteran.

A. As used in this section, "motor vehicle" means only a passenger car or a pickup or panel truck, as those terms are defined in § 46.2-100, that is registered for personal use.

B. Pursuant to subdivision (a) (8) of Article X, Section 6 of the Constitution of Virginia, one motor vehicle owned and used primarily by or for a veteran of the Armed Forces of the United States or the Virginia National Guard who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law with a 100 percent service-connected, permanent, and total disability shall be exempt from taxation. Any such motor vehicle owned by a married person may qualify if either spouse is a veteran who is rated as 100 percent disabled. Any locality may establish procedures for a veteran to apply for the exemption and may enact any ordinance necessary for administration of the exemption.

C. This exemption shall be applicable beginning on the date the motor vehicle is acquired or January 1, 2021, whichever is later, and shall not be applicable for any period of time prior to January 1, 2021. The exemption shall expire on the date of the disabled veteran's death and shall not be available for his surviving spouse.

D. The provisions of § 58.1-3980 shall apply to the exemption granted pursuant to this section.

CHAPTER 157

An Act to amend and reenact §§ 54.1-2900, 54.1-2901, 54.1-2957, 54.1-2957.01, and 54.1-3000 of the Code of Virginia and to repeal § 54.1-3018.1 of the Code of Virginia, relating to clinical nurse specialist; licensure by the Boards of Medicine and Nursing.

[H 1747]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-2901, 54.1-2957, 54.1-2957.01, and 54.1-3000 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advance practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and

care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the

results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and

communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01 or, any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed nurse practitioner, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministrations to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary authorization by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks; or

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4,

may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. As used in this section:

"~~Clinical~~, *clinical* experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist, or *clinical nurse specialist* or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. *A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J.* A nurse practitioner who is a certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent

consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or, certified registered nurse anesthetist, or *clinical nurse specialist*, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician. Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician or shall clearly state the name of the patient care team physician who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician and information regarding how to contact the patient care team physician.

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time to more than six nurse practitioners.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or *clinical nurse specialist* and holding a license for prescriptive authority may prescribe (i) Schedules II through V controlled substances in accordance with any prescriptive authority included in a practice agreement with a licensed physician pursuant to subsection H or J of § 54.1-2957 and (ii) Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

§ 54.1-3000. Definitions.

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

"Advanced practice registered nurse" means a registered nurse who has completed an advanced graduate-level education program in a specialty category of nursing and has passed a national certifying examination for that specialty.

"Board" means the Board of Nursing.

"Certified nurse aide" means a person who meets the qualifications specified in this article and who is currently certified by the Board.

"Clinical nurse specialist" means an advanced practice registered nurse who meets the requirements set forth in § 54.1-3018.1 and who is currently registered by the Board. Such a person shall be recognized as being able to provide advanced services according to the specialized training received from a program satisfactory to the Board, but shall not be entitled to perform any act that is not within the scope of practice of professional nursing.

"Massage therapist" means a person who meets the qualifications specified in this chapter and who is currently licensed by the Board.

"Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The term "massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, midwifery, chiropractic, physical therapy, occupational therapy, acupuncture, athletic training, or podiatry is required by law or any service described in subdivision A 18 of § 54.1-3001.

"Massage therapy" shall not include manipulation of the spine or joints.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice practical nursing as defined in this section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the

supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

2. That § 54.1-3018.1 of the Code of Virginia is repealed.

3. That the Boards of Medicine and Nursing shall jointly issue a license to practice as a nurse practitioner without prescriptive authority in the category of clinical nurse specialist to an applicant who is an advance practice registered nurse who has completed an advanced graduate-level education program in the specialty category of clinical nurse specialist and who is registered by the Board of Nursing as a clinical nurse specialist on July 1, 2021. A clinical nurse specialist may be granted prescriptive authority upon submission of satisfactory evidence of qualification as set forth in regulations of the Boards of Medicine and Nursing.

CHAPTER 158

An Act to amend and reenact § 38.2-4310 of the Code of Virginia, relating to health maintenance organizations; insolvency.
[H 1807]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4310 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-4310. Protection against insolvency.

A. Each health maintenance organization shall deposit and maintain acceptable securities with the State Treasurer in amounts prescribed by § 38.2-4310.1. The deposit shall be held as a special fund in trust, as a guarantee that the obligations to the enrollees who are residents of this Commonwealth will be performed. The securities shall be deposited pursuant to a system of book-entry evidencing ownership interests of the securities with transfers of ownership interests effected on the records of a depository and its participants pursuant to rules and procedures established by the depository. Upon a determination of insolvency or action by the Commission pursuant to § 38.2-4317 *Chapter 15* (§ 38.2-1500 *et seq.*), the deposit shall be an asset subject to the provisions of *Chapter 15* and shall be used to protect the interests of the health maintenance organization's enrollees and to assure continuation of covered services to enrollees. If a health maintenance organization is placed in receivership, the deposit shall be an asset subject to the provisions of *Chapter 15* (§ 38.2-1500 *et seq.*) of this title 17 (§ 38.2-1700 *et seq.*).

B. The Commission may require that each health maintenance organization have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits. In considering such a plan, the Commission may require:

1. Insurance satisfactory in form and content to the Commission to cover the expenses to be paid for continued benefits after an insolvency;
2. Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health maintenance organization's insolvency for which premium payment has been made and until the enrollees' discharge from inpatient facilities;
3. Acceptable letters of credit; or
4. Any other arrangements to assure that benefits are continued as specified above.

CHAPTER 159

An Act to amend and reenact § 24.2-416 of the Code of Virginia, relating to voter registration; failure of online voter registration system; deadline extension.

[H 1810]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-416 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-416. Closing registration records before elections.

A. In any county, city, or town in which an election is being held, the registration records shall be closed for the purpose of registering voters on the election day and during the period in advance of the election as provided in this section. The registration records shall be closed during the twenty-eight days before a primary or general election. Beginning January 1, 2010, the registration records shall be closed during the 21 days before a primary or general election. If the registration records have not been closed previously for a primary or general election, they shall be closed during the six days before a special election called by the Governor, Speaker of the House of Delegates, or President pro tempore of the

Senate, or pursuant to rule or resolution of either house of the General Assembly and during the ~~thirteen~~ 13 days before any other special election.

B. In the event that a failure of the Virginia online voter registration system occurs prior to the close of registration records pursuant to this section, the Governor shall have the authority to order the online voter registration system to be available for registration activities after the date for closing the registration records for a period of time equal to the amount of time during which the online voter registration system was unavailable for registration activities, rounded up to the nearest whole day, plus an additional day to allow for voter education efforts. During this period, persons shall be permitted to register in person and mail voter registration applications shall be accepted.

CHAPTER 160

An Act to amend and reenact §§ 63.2-608 and 63.2-801 of the Code of Virginia, relating to SNAP benefits program.

[H 1820]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-608 and 63.2-801 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-608. Virginia Initiative for Education and Work (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Education and Work (VIEW) to reduce long-term dependence on welfare, emphasize personal responsibility, and enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills, and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other allowable TANF work activity as defined by federal law and enter into an agreement of personal responsibility.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following work activities within 90 days after the approval of TANF assistance:

1. Unsubsidized private-sector employment;
2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section that shall be known as the Full Employment Program (FEP). FEP replaces TANF with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for TANF may participate in FEP unless exempted by this chapter. FEP shall assign participants to subsidized wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF received prior to the work placement.

c. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304(a)(5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

d. FEP employers shall:

- (i) Endeavor to make FEP placements positive learning and training experiences;
- (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;
- (iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;
- (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;
- (v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;
- (vi) Provide workers' compensation coverage for participants;

(vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and

(viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates FEP rules.

e. As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, sexual orientation, gender identity, national origin, religion, age, or disability;

3. Part-time or temporary employment;

4. Community work experience, as follows:

a. The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements that serve a useful public purpose as provided in § 482(f) of the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public function. VIEW participants shall not displace regular workers.

b. The number of hours per week for participants shall be determined by combining the total dollar amount of TANF and ~~food stamps~~ *SNAP benefits* and dividing by the minimum wage with a maximum of a work week of 32 hours, of which up to 12 hours of employment-related education and training may substitute for work experience employment; or

5. *Educational activities that lead to a post-secondary credential, such as a degree or industry-recognized credential, certification, or license from an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia; or*

6. Any other allowable TANF work activity as defined by federal law.

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may place the participant in a program preparing individuals for a high school equivalency examination approved by the Board of Education, a career and technical education program targeted at skills required for particular employment opportunities, or an apprenticeship program developed by the local department in accordance with requirements established by the Department. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six months during the prior two years, or (iv) who are in a treatment program for a substance abuse problem or are receiving services through a family violence treatment program. The VIEW participant may continue in a high school equivalency examination preparation program, career and technical education program, or apprenticeship program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

F. Participants may be reevaluated after a period determined by the local department and reassigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training or education to further his employability.

G. Local departments shall be authorized to sanction parents up to the full amount of the TANF grant for noncompliance, unless good cause exists.

H. VIEW participants shall not be assigned to projects that require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Any injury to a VIEW participant arising out of and in the course of community work experience shall be covered by the participant's existing Medicaid coverage. If a community work experience participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

A community work experience participant who becomes incapacitated for 30 days or more shall be eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants.

§ 63.2-801. SNAP benefits program.

A. The Board is authorized, in accordance with the federal Food Stamp Act, to implement a ~~food stamp~~ *SNAP benefits* program in which each political subdivision in the Commonwealth shall participate. Such program shall include participation in the Restaurant Meals Program and shall be administered in conformity with the Board regulations.

B. *To the extent authorized by federal law and regulations, the Board shall (i) establish broad-based categorical eligibility for SNAP benefits in accordance with 7 C.F.R. § 273.2(j)(2), (ii) set the gross income eligibility standard for SNAP benefits at 200 percent of the federal poverty guidelines, and (iii) not impose an asset limit for eligibility for SNAP benefits.*

C. *The Board shall increase opportunities for self-sufficiency through postsecondary education by allowing SNAP benefits program participants, to the greatest extent allowed by federal law and regulations, to satisfy applicable employment and training requirements through enrollment in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia. The Board shall (i) identify postsecondary education opportunities in the Commonwealth that meet the definition of*

"employment and training program" as set forth in 7 C.F.R. § 271.2 and the definition of "career and technical education" as set forth in 20 U.S.C. § 2302; (ii) average a SNAP benefits program participant's classroom and study hours on a monthly basis to determine whether the SNAP benefits program participant has met applicable education hour requirements; (iii) deem a SNAP benefits program participant who is approved for a federal or state work study position but who has not yet been placed in a work study position to have satisfied applicable employment and training requirements, as permitted under federal law; (iv) create a standardized form and process for SNAP benefits program participants to verify compliance with education requirements; (v) allow accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia to apply for SNAP ET third party reimbursement designation through the established procurement process; and (vi) establish and make available to SNAP benefits program participants materials that provide clear guidance regarding satisfaction of employment and training requirements through postsecondary education.

CHAPTER 161

An Act to amend and reenact §§ 38.2-4319 and 38.2-4509 of the Code of Virginia, relating to health insurance; credentialing; health care providers.

[H 1829]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4319 and 38.2-4509 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-4319. Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.20, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

§ 38.2-4509. Application of certain laws.

A. No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Articles 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, *38.2-3407.10:1*, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3407.17:1, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall apply to the operation of a plan.

B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to either an optometric or dental services plan.

D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014. No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if the total interest is less than \$5.

CHAPTER 162

An Act to amend and reenact §§ 38.2-6505, 58.1-3, and 58.1-341.1 of the Code of Virginia, relating to facilitated enrollment program.

[H 1884]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-6505, 58.1-3, and 58.1-341.1 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-6505. Duties of Exchange.

The Exchange shall:

1. Implement procedures for the certification, recertification, and decertification of qualified health plans and qualified dental plans consistent with guidelines developed by the Secretary under § 1311(c) of the Federal Act and § 38.2-6506;

2. Provide for enrollment periods under § 1311(c)(6) of the Federal Act;

3. Provide for the operation of a toll-free telephone hotline to respond to requests for assistance;

4. Utilize a website on which enrollees and prospective enrollees of qualified health plans and qualified dental plans may obtain standardized comparative information. Information on qualified health plans shall include, at a minimum, (i) premium and cost-sharing information; (ii) the summary of benefits and coverage offered; (iii) identification of a qualified health plan as a bronze-level, silver-level, gold-level, or platinum-level plan as defined by § 1302(d) of the Federal Act or a catastrophic plan as defined by § 1302(e) of the Federal Act; (iv) the results of enrollee satisfaction surveys, described in § 1311(c)(4) of the Federal Act; (v) quality ratings assigned pursuant to § 1311(c)(3) of the Federal Act; (vi) medical loss ratio information as reported to the Secretary in accordance with 45 C.F.R. Part 158; (vii) transparency of coverage measures reported to the Exchange during certification processes; and (viii) the provider directory made available to the Exchange. The website shall be accessible to persons with disabilities, shall provide meaningful access for persons with limited English proficiency, and shall contain the information described in clauses (i) through (viii) without diversion to a website of a carrier;

5. Assign a rating to each qualified health plan offered through the Exchange in accordance with the criteria developed by the Secretary under § 1311(c)(3) of the Federal Act;

6. Determine each qualified health plan's level of coverage in accordance with regulations issued by the Secretary under § 1302(d)(2)(A) of the Federal Act;

7. Use a standardized format for presenting health benefit options in the Exchange, including the use of the uniform outline of coverage as established under § 2715 of the PHSA, 42 U.S.C. § 300gg-15;

8. Inform individuals, in accordance with § 1413 of the Federal Act, of eligibility requirements for (i) the State Medicaid Program; (ii) the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act, including FAMIS, as amended from time to time; or (iii) any applicable state or local public health subsidy program, and

enroll an individual in such program if it is determined, through screening of the application, that such individual is eligible for any such program;

9. Make available by electronic means through the website described in subdivision 4 a calculator to determine the actual cost of coverage after application of any premium assistance tax credit under 26 U.S.C. § 36B and any cost-sharing reduction under § 1402 of the Federal Act;

10. Establish an American Health Benefit Exchange through which qualified individuals may enroll in any qualified health plan or qualified dental plan offered through the American Health Benefit Exchange for which they are eligible and establish a SHOP exchange through which qualified employers may make their eligible employees eligible for one or more qualified health plans or qualified dental plans offered through the SHOP exchange or specify a level of coverage so that any of their eligible employees may enroll in any qualified health plan or qualified dental plan offered through the SHOP exchange at the specified level of coverage;

11. Subject to § 1411 of the Federal Act, grant a certification attesting that, for purposes of the individual responsibility penalty under § 5000A of the Internal Revenue Code of 1986, an individual is exempt from the individual responsibility requirement or from the penalty imposed by that section because there is no affordable qualified health plan available through the Exchange, or the individual's employer, covering the individual or the individual meets the requirements for any other such exemption from the individual responsibility requirement or penalty;

12. Transfer to the U.S. Secretary of the Treasury the following:

a. A list of the individuals who are issued a certification under subdivision 11, including the name and taxpayer identification number of each individual;

b. The name and taxpayer identification number of each individual who was an employee of an employer but who was determined to be eligible for the premium assistance tax credit under 26 U.S.C. § 36B because (i) the employer did not provide minimum essential coverage or (ii) the employer provided minimum essential coverage but a determination under 26 U.S.C. § 36B(c)(2)(C) found that either the coverage was unaffordable for the employee or did not provide the required minimum actuarial value; and

c. The name and taxpayer identification number of (i) each individual who notifies the Exchange under 42 U.S.C. § 18081 that the individual has changed employers and (ii) each individual who ceases coverage under a qualified health plan and the effective date of the cessation;

13. Provide to each employer the name of each of the employer's employees described in subdivision 12 b who ceases coverage under a qualified health plan during a plan year and the effective date of the cessation;

14. Perform duties required of the Exchange by the Secretary or the U.S. Secretary of the Treasury related to determining eligibility for premium assistance tax credits, reduced cost-sharing, or individual responsibility requirement exemptions;

15. Certify entities qualified to serve as Navigators in accordance with § 1311(i) of the Federal Act and § 38.2-6513;

16. Consult with stakeholders relevant to carrying out the activities required under this chapter, including:

a. Health care consumers who are enrollees in qualified health plans and qualified dental plans;

b. Individuals and entities with experience in facilitating enrollment in qualified health plans and qualified dental plans;

c. Advocates for enrolling hard-to-reach populations, which include individuals with mental health or substance use disorders;

d. Representatives of small businesses and self-employed individuals;

e. The Department of Medical Assistance Services;

f. Federally recognized tribes, as defined in the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. § 479a), that are located within the Exchange's geographic area;

g. Public health experts;

h. Health care providers;

i. Large employers;

j. Health carriers; and

k. Insurance agents;

17. Meet the following financial integrity requirements:

a. Keep an accurate accounting of all activities, receipts, and expenditures and annually submit to the Secretary, the Governor, and the Commission a report concerning such accountings;

b. Fully cooperate with any investigation conducted by the Secretary pursuant to the Secretary's authority under the Federal Act and allow the Secretary, in coordination with the Inspector General of the U.S. Department of Health and Human Services, to:

(1) Investigate the affairs of the Exchange;

(2) Examine the properties and records of the Exchange; and

(3) Require periodic reports in relation to the activities undertaken by the Exchange; and

c. Not use any funds in carrying out its activities under this chapter that are intended for the administrative and operational expenses of the Exchange for staff retreats, promotional giveaways, excessive executive compensation, or promotion of federal or state legislative and regulatory modifications;

18. In collaboration with the Department of Medical Assistance Services, coordinate the operations of the Exchange with the operations of the state plan for medical assistance to determine initial and ongoing eligibility for those programs in a streamlined fashion; and

19. *Identify systems, policies, and practices to achieve the requirements of subdivisions 8 and 18 and in doing so, consult with stakeholders, including the Department of Taxation, the Department of Medical Assistance Services, the Department of Social Services, consumer groups, insurers, health care providers, navigators or other consumer assisters, insurance brokers or agents, and other relevant stakeholders selected by the Exchange; and*

20. Take any other actions necessary and appropriate to ensure that the Exchange complies with the requirements of the Federal Act.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have

failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, *email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1*, number and type of personal exemptions, tax-filing status, ~~and~~ adjusted gross income, *and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1*, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; ~~and~~ (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; *and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan.* The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the

administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

§ 58.1-341.1. Returns of individuals; required information.

A. For all taxable years beginning on and after January 1, 1995, the Department of Taxation shall include in any packet of instructions and forms for individual income tax returns an application to register to vote by mail and appropriate instructions for the completion and mailing of the application to register to vote. The form of the application shall be prescribed and the instructions shall be provided by the State Board of Elections.

B. 1. For all taxable years beginning on and after January 1, 2021, the Department of Taxation shall include on the appropriate individual income tax return forms *the following*:

a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual (i) is an uninsured individual at the time the return is filed and (ii) voluntarily consents to the Department of Taxation providing the individual's tax information, as provided in clause (xxii) of subsection C of § 58.1-3, to the Department of Medical Assistance Services for purposes of affirming that the individual, the individual's spouse, or any dependent of the individual meets the income eligibility for medical assistance. Such information shall not be used to determine an individual is ineligible for medical assistance; and

b. Space for an individual to voluntarily include a preferred method for the Department of Medical Assistance Services to contact the individual for purposes of an eligibility determination.

2. For taxable years beginning on and after January 1, 2022, the Department of Taxation shall include on the appropriate individual income tax return forms *the following*:

a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual voluntarily consents to the Department of Taxation providing the individual's tax information to the Department of Social Services and the Department of Medical Assistance Services as provided in clause (xxii) of subsection C of § 58.1-3; and

b. Space for an individual to voluntarily include the following information: date of birth; email address; dependent's name and date of birth, and preferred method for the Department of Social Services and the Department of Medical Assistance Services to contact the individual for purposes of an eligibility determination.

3. For taxable years beginning on and after January 1, 2023, the Department of Taxation shall include on the appropriate individual income tax return forms *the following*:

a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual voluntarily consents to the Department of Taxation providing the individual's tax information to the Virginia Health Benefit Exchange pursuant to clause (xxiv) of subsection C of § 58.1-3; and

b. Space for an individual to voluntarily include a preferred method for the Virginia Health Benefit Exchange to contact the individual for purposes of an eligibility determination.

4. Information obtained pursuant to this subsection shall not be used to determine an individual is ineligible for medical assistance.

2. That for taxable years beginning on and after January 1, 2021, upon entering into a written agreement, the Department of Taxation shall provide to the Department of Medical Assistance Services the following information authorized for disclosure pursuant to clause (xxii) of subsection C of § 58.1-3 of the Code of Virginia, as amended by this act: the name, address, social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance.

3. That for taxable years beginning on and after January 1, 2022, upon entering into a written agreement, the Department of Taxation shall provide to the Department of Medical Assistance Services and the Department of Social Services all information authorized for disclosure pursuant to clause (xxii) of subsection C of § 58.1-3 of the Code of Virginia, as amended by this act.

4. That all information authorized for disclosure pursuant to clause (xxiv) of subsection C of § 58.1-3 of the Code of Virginia, as amended by this act, shall be provided to the Virginia Health Benefit Exchange beginning with the first taxable year after completion of the establishment of the American Health Benefit Exchange or as soon thereafter as practicable as determined by the Virginia Health Benefit Exchange.

CHAPTER 163

An Act to amend and reenact §§ 24.2-638, 24.2-646.1, and 24.2-649 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-649.1, relating to assistance for certain voters; curbside voting.

[H 1921]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-638, 24.2-646.1, and 24.2-649 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-649.1 as follows:

§ 24.2-638. Voting equipment to be in plain view; officers and others not permitted to see actual voting; unlocking counter compartment of equipment, etc.

During the election, the exterior of the voting equipment and every part of the polling place shall be in plain view of the officers of election.

No voting or counting machines shall be removed from the plain view of the officers of election or from the polling place at any time during the election and through the determination of the vote as provided in § 24.2-657. However, an electronic voting machine that is so constructed as to be easily portable may be taken outside the polling place pursuant to subsection A of § 24.2-649 and to assist a voter age 65 or older or physically disabled so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties or, in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer; (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to § 24.2-649; and (iii) there remain sufficient officers of election in the polling place to meet legal requirements, *except as provided in subsection D of § 24.2-649.1*. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, the names of the voters who used the machine while it was removed provided that secrecy of the ballot is maintained in accordance with guidance from the State Board, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results. If a polling place fails to record the information required in the previous sentence, or it is later proven that the information recorded was intentionally falsified, the local electoral board or general registrar shall dismiss at a minimum the chief officer or the assistant chief officer, or both, as appropriate, and shall dismiss any other officer of election who is shown to have caused the failure to record the required information intentionally or by gross negligence or to have intentionally falsified the information. The dismissed officers shall not be allowed thereafter to serve as an officer or other election official anywhere in the Commonwealth. In the case of an emergency that makes a polling place unusable or inaccessible, voting or counting machines may be removed to an alternative polling place pursuant to the provisions of subsection D of § 24.2-310.

The equipment shall be placed at least four feet from any table where an officer of election is working or seated. The officers of election shall not themselves be, or permit any other person to be, in any position or near any position that will permit them to observe how a voter votes or has voted.

One of the officers shall inspect the face of the voting machine after each voter has cast his vote and verify that the ballots on the face of the machine are in their proper places and that the machine has not been damaged. During an election, the door or other covering of the counter compartment of the voting or counting machine shall not be unlocked or open or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the officers of election and attached to the statement of results. No person shall be permitted in or about the polling place except the voting equipment custodian, vendor, or contractor technicians and other persons authorized by this title.

§ 24.2-646.1. Permitted use of paper ballots.

The official paper ballot shall be used by a voter to cast his vote only in one of the following circumstances:

1. The official paper ballot is the only ballot in use in the precinct.
2. The official paper ballot is used by voters voting outside of the polling place pursuant to § 24.2-649 § 24.2-649.1.
3. The voter is casting a provisional ballot.
4. The voter is provided an official paper ballot or copy thereof pursuant to § 24.2-642 when voting equipment is inoperable or otherwise unavailable.
5. The official absentee paper ballot voted in accordance with (§ 24.2-700 et seq.).
6. The voter is provided an official paper ballot for a presidential election pursuant to § 24.2-402 or for federal elections pursuant to § 24.2-453.

§ 24.2-649. Assistance for certain voters inside the polling place; penalties.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the printed ballot in the officer's presence but in a secret manner and, obscuring his vote, return the ballot to the officer. The officer shall

immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board.

Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting machine may be used in lieu of a printed ballot only so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. If a printed ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646 or in the ballot scanner machine in accordance with the instructions of the State Board.

C. B. If the voter requires assistance in a language other than English and has not designated a person to assist him, an officer of election, before he assists as interpreter, shall inquire of the representatives authorized to be present pursuant to § 24.2-604.4 whether they have a volunteer available who can interpret for the voter. One representative interpreter for each party or candidate, insofar as available, shall be permitted to observe the officer of election communicate with the voter. The voter may designate one of the volunteer party or candidate interpreters to provide assistance. A person so designated by the voter shall meet all the requirements of this section for a person providing assistance.

D. C. A person who willfully violates subsection B A or C B is guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee voters shall be applicable in such cases.

E. D. In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance pursuant to this section that such machine is available for him to use to vote in privacy without assistance and the officers of election shall instruct the voter on the use of the voting machine. Nothing in this section shall be construed to require a voter to use the machine unassisted.

§ 24.2-649.1. Assistance for certain voters outside of the polling place.

A. Any voter with a disability or who is age 65 or older shall be entitled to vote outside of the polling place in accordance with the provisions of this section. However, during a declared state of emergency related to a communicable disease of public health threat, any voter, regardless of age or disability, shall be entitled to vote outside of the polling place in accordance with the provisions of this section. For purposes of this section, a disability shall include a permanent physical disability, a temporary physical disability, or an injury.

B. The area designated for voting outside of the polling place shall be within 150 feet of the entrance to the polling place. This area shall be clearly marked, and instructions on how to notify an officer of election of the voter's request to vote outside of the polling place shall be prominently displayed. The Department shall prescribe the form and content of such instructions, but in no case shall the voter be required to enter the polling place to provide such notice.

C. A voter eligible pursuant to subsection A shall be handed a printed ballot by an officer of election. He shall mark the ballot in the officer's presence but in a secret manner and, obscuring his vote, shall return the ballot to the officer. The officer shall immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board.

D. Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for voting outside of the polling place, so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to § 24.2-649.

After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place, and shall record (a) the machine number, (b) the time that the machine was removed and the time that it was returned, (c) the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and (d) the name or names of the officer or officers who accompanied the machine on the statement of results. The names of the voters who used the machine while it was removed shall also be recorded provided that secrecy of the ballot is maintained in accordance with guidance from the State Board. If a polling place fails to record the information required in clause (a), (b), (c), or (d), or it is later proven that the information recorded was intentionally falsified, the local electoral board or general registrar shall dismiss at a minimum the chief officer or the assistant chief officer, or both, as appropriate, and shall dismiss any other officer of election who is shown to have caused the failure to record the required information intentionally or by gross negligence or to have intentionally falsified the information. The dismissed officers shall not be allowed thereafter to serve as an officer or other election official anywhere in the Commonwealth.

CHAPTER 164

An Act to require the Office of the Chief Medical Examiner to convene a work group to develop a plan for the establishment of a Fetal and Infant Mortality Review Team; report.

[H 1950]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Office of the Chief Medical Examiner of the Department of Health shall convene a work group to develop a plan for establishing a Fetal and Infant Mortality Review Team (the Team) to (i) examine medical, social, and other related information regarding fetal and infant deaths in the Commonwealth to facilitate broad quantitative analyses as well as in-depth qualitative reviews of fetal and infant deaths in the Commonwealth to identify and investigate correlating factors that influence fetal and infant mortality; (ii) develop policy and programmatic recommendations to address the circumstances that may negatively impact fetal and infant health and improve services, systems of care, and resources for women, infants, and families; and (iii) work with communities and partners to implement such policy and programmatic recommendations and create actionable processes of change. Such plan may include:*

1. Methods for collecting information about fetal and infant deaths in the Commonwealth, including the collection of information about fetal deaths occurring after 20 weeks' gestation and deaths of children under the age of 12 months as feasible, for broad statistical analysis;

2. Criteria for the selection of deaths for investigation and review;

3. Criteria for the selection of deaths for which additional voluntary investigation and qualitative review beyond that to which every death selected for review is subject. Such additional investigation and qualitative review may include interviews with biological or adoptive parents, stepparents, or legal guardians of the fetus or infant, members of the family of the fetus or infant, and other persons with information about the fetus or infant; reviews of circumstances and factors surrounding the fetal or infant death; and other investigative research;

4. Procedures necessary for maintaining necessary confidentiality and security with regard to reviews undertaken by the Team;

5. A five-year plan for initiation and operation of the Team, which may include (i) identification of necessary staff and equipment, (ii) identification of annual goals for the Team, (iii) provisions for coordination among stakeholders, (iv) identification of sources of funding available to support and sustain the Team, and (v) a proposed annual budget for each year; and

6. Any recommendations for further study, legislative actions, or implementation of the Team.

The work group shall be composed of the Chief Medical Examiner, the Director of the Office of Family Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of the Department of Social Services, and the Director of the Department of Criminal Justice Services or their designees, and (a) the Presidents of the Virginia Hospital and Healthcare Association, the Virginia Chapter of the American College of Obstetrics and Gynecology, the Virginia Chapter of the American Association of Pediatrics, and the Virginia Affiliate of the American College of Nurse-Midwives, or their designees; (b) the Director of the Virginia Neonatal Perinatal Collaborative or his designee; (c) representatives of community stakeholders such as doulas, local nonprofit organizations, mental health treatment providers, and other community stakeholders; (d) representatives of medical professionals with experience in fetal, infant, or maternal health; and (e) staff and members of such state agencies as may be appropriate.

The work group shall report its findings and provide the plan to the Chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and the Senate Committees on Finance and Appropriations and Education and Health by December 1, 2021.

CHAPTER 165

An Act to amend the Code of Virginia by adding a section numbered 22.1-138.2, by adding in Article 8 of Chapter 14.1 of Title 22.1 a section numbered 22.1-289.058, and by adding a section numbered 63.2-1705.2, relating to public schools, child day programs, and certain other programs; carbon monoxide detectors required.

[H 1823]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-138.2, by adding in Article 8 of Chapter 14.1 of Title 22.1 a section numbered 22.1-289.058, and by adding a section numbered 63.2-1705.2 as follows:

§ 22.1-138.2. *Certain public school buildings; carbon monoxide detectors.*

Each public school building that was built before 2015 and that houses any classroom for students shall be equipped with at least one carbon monoxide detector.

§ 22.1-289.058. *Child day programs and certain other programs; carbon monoxide detectors.*

Each building that was built before 2015 and that houses a child day program that is licensed pursuant to this chapter or any program described in subdivision A 4, B 1, or B 5 of § 22.1-289.030 that serves preschool-age children shall be equipped with at least one carbon monoxide detector.

§ 63.2-1705.2. *Child day programs and certain other programs; carbon monoxide detectors.*

Each building that was built before 2015 and that houses a child day program that is licensed pursuant to this chapter or any program described in subdivision A 4, B 1, or B 5 of § 63.2-1715 that serves preschool-age children shall be equipped with at least one carbon monoxide detector.

2. That the provisions of § 63.2-1705.2 of the Code of Virginia, as created by this act, (i) shall not become effective unless the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia, except for § 22.1-289.04 of the Code of Virginia, become effective on a date subsequent to July 1, 2021, and (ii) shall expire upon the effective date of such provisions of Chapter 14.1 of Title 22.1 of the Code of Virginia.

CHAPTER 166

An Act to amend and reenact § 22.1-57.3:1.1 of the Code of Virginia, relating to Loudoun County school board; staggered terms.

[H 1838]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-57.3:1.1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-57.3:1.1. *Loudoun County school board; staggered terms.*

Notwithstanding § 22.1-57.3:1 and the second enactment of Chapter 744 of the Acts of Assembly of 1994, the school board of Loudoun County shall be elected as provided in § 22.1-57.3, except that upon a majority vote of its members the terms of school board members may be staggered as provided in this section. At the November 2011 general election immediately preceding the end of the board's term, the at-large member and the members from four districts, and upon the board's prior vote for staggered terms, the members from four of the nine districts, inclusive of the at-large district, to be determined by lot by the electoral board of the county prior to its meeting immediately preceding the deadline for candidate filing, shall be elected for four-year terms, and the remaining districts' successful candidates shall be elected for two-year terms.

Thereafter, all members shall be elected for four-year terms, and the school board elections shall be conducted biennially for staggered terms.

CHAPTER 167

An Act to amend and reenact § 22.1-253.13:1 of the Code of Virginia, relating to certain students in kindergarten through grade 3; reading intervention services.

[H 1865]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade three shall be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, *systematic* phonics, fluency, vocabulary development, and text comprehension.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department of Education shall make available and maintain a website, either separately or through an existing website utilized by the Department of Education, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board of Education shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board of Education shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. No teacher who is in compliance with subdivision D 3 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

The Board shall establish content standards and curriculum guidelines for courses in career investigation in elementary school, middle school, and high school. Each school board shall (i) require each middle school student to take at least one

course in career investigation or (ii) select an alternate means of delivering the career investigation course to each middle school student, provided that such alternative is equivalent in content and rigor and provides the foundation for such students to develop their academic and career plans. Any school board may require (a) such courses in career investigation at the high school level as it deems appropriate, subject to Board approval as required in subsection A of § 22.1-253.13:4, and (b) such courses in career investigation at the elementary school level as it deems appropriate. The Board shall develop and disseminate to each school board career investigation resource materials that are designed to ensure that students have the ability to further explore interest in career and technical education opportunities in middle and high school. In developing such resource materials, the Board shall consult with representatives of career and technical education, industry, skilled trade associations, chambers of commerce or similar organizations, and contractor organizations.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board of Education. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board of Education shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.
2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.
3. Career and technical education programs incorporated into the K through 12 curricula that include:
 - a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;
 - b. Career exploration opportunities in the middle school grades;
 - c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career

guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local comprehensive community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law;

d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204.1 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center; and

e. As part of each student's academic and career plan, a list of (i) the top 100 professions in the Commonwealth by median pay and the education, training, and skills required for each such profession and (ii) the top 10 degree programs at institutions of higher education in the Commonwealth by median pay of program graduates. The Department of Education shall annually compile such lists and provide them to each local school board.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a comprehensive community college in the Commonwealth specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies from a comprehensive community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes; career and technical education programs, including internships, externships, apprenticeships, credentialing programs, certification programs, licensure programs, and other work-based learning experiences; the International Baccalaureate Program and Academic Year Governor's School Programs; the qualifications for enrolling in such classes, programs, and experiences; and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a comprehensive community college in the Commonwealth to enable students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs, which programs may include dual language programs whereby such students receive instruction in English and in a second language.

13. Early identification, diagnosis, and assistance for students with reading and mathematics problems and provision of instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

Local school divisions shall provide reading intervention services to students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. *Such reading intervention services shall be evidence-based, including services that are grounded in the science of reading, and include (i) the components of effective reading instruction and (ii) explicit, systematic, sequential, and cumulative instruction, to include phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension as appropriate based on the student's demonstrated reading deficiencies. The parent of each student who receives such reading intervention services shall be notified before the services begin in accordance with the provisions of § 22.1-215.2, and the progress of each such student shall be monitored throughout the provision of services.* Each student who receives ~~early intervention~~ *such reading intervention services will* be assessed again at the end of that school year. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade three to grade four. ~~Reading~~ *Such reading intervention services may include be administered through the use of: special reading teachers specialists; trained aides; volunteer tutors trained volunteers* under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the

teacher provides direct instruction to the students who need extra assistance; and extended instructional time in the school day or school year for these students. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or early intervention reading may be used to meet the requirements of this subdivision.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

As used in this subdivision:

"Science of reading" means the study of the relationship between cognitive science and educational outcomes.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department of Education a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary course credit, credential, certification, or license attainment, hereinafter referred to as College and Career Access Pathways Partnerships (Partnerships), with comprehensive community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such Partnerships shall (i) specify the options for students to take courses as part of the career and technical education curriculum that lead to course credit or an industry-recognized credential, certification, or license concurrent with a high school diploma; (ii) specify the credit, credentials, certifications, or licenses available for such courses; and (iii) specify available options for students to participate in pre-apprenticeship and apprenticeship programs at comprehensive community colleges concurrent with the pursuit of a high school diploma and receive college credit and high school credit for successful completion of any such program.

CHAPTER 168

An Act to amend and reenact § 2.2-602 of the Code of Virginia, relating to duties of agencies and their appointing authorities; diversity, equity, and inclusion strategic plans.

[H 1993]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-602 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-602. Duties of agencies and their appointing authorities; establishment of personnel standards; diversity, equity, and inclusion strategic plans.

A. The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies methods of administration relating to the establishment and maintenance of personnel

standards on a merit basis that are approved by the Governor for the proper and efficient enforcement of the Virginia Personnel Act (§ 2.2-2900 et seq.). But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.

Appointing authorities may assign to the personnel officers or to other officers and employees of their agencies such personnel duties as they see fit.

Agencies shall establish and maintain rosters of their employees that shall set forth, as to each employee, the class title, pay, and status and such other data as they may deem desirable to produce significant facts pertaining to personnel administration.

Agencies shall establish and maintain such promotion and employment lists, rated according to merit and fitness, as they deem desirable. Agencies may make use of the employment list kept by the Department of Human Resource Management in lieu of keeping employment lists for their agencies.

Agencies shall supply the Governor with any information he deems necessary for the performance of his duties in connection with the administration of Virginia Personnel Act (§ 2.2-2900 et seq.).

B. The heads of state agencies shall establish and maintain a comprehensive diversity, equity, and inclusion strategic plan in coordination with the Governor's Director of Diversity, Equity, and Inclusion.

The plan shall integrate the diversity, equity, and inclusion goals into the agency's mission, operations, programs, and infrastructure to enhance equitable opportunities for the populations served by the agency and to foster an increasingly diverse, equitable, and inclusive workplace environment.

The plan shall include best practices that (i) proactively address potential barriers to equal employment opportunities pursuant to federal and state equal employment opportunity laws; (ii) foster pay equity pursuant to federal and state equal pay laws; (iii) promote diversity and equity in hiring, promotion, retention, succession planning, and agency leadership opportunities; and (iv) promote employee engagement and inclusivity in the workplace.

Each agency shall establish an infrastructure to effectively support ongoing progress and accountability in achieving diversity, equity, and inclusion goals in coordination with the Governor's Director of Diversity, Equity, and Inclusion.

Each agency shall submit an annual report to the Governor assessing the impact of the strategic plan on the populations served by the agency and on the agency's workforce and budget.

CHAPTER 169

An Act to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, relating to establishment of the Virginia LGBTQ+ Advisory Board.

[H 2130]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, as follows:

Article 29.

Virginia LGBTQ+ Advisory Board.

§ 2.2-2499.1. Virginia LGBTQ+ Advisory Board; membership; terms; quorum; meetings.

A. The Virginia LGBTQ+ Advisory Board (the Board) is established as an advisory board in the executive branch of state government.

B. The Board shall have a total membership of 26 members that shall consist of 21 nonlegislative citizen members and five ex officio members. Nonlegislative citizen members shall be appointed as follows: 21 members, at least 15 of whom shall identify as LGBTQ+, to be appointed by the Governor, subject to confirmation by the General Assembly. The Secretaries of the Commonwealth, Commerce and Trade, Education, Health and Human Resources, and Public Safety and Homeland Security, or their designees, shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

C. Ex officio members of the Board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

§ 2.2-2499.2. Compensation; expenses.

Members shall receive no compensation for their services, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

§ 2.2-2499.3. Powers and duties of the Board; report.

The Board shall have the power and duty to:

1. *Advise the Governor regarding the development of economic, professional, cultural, educational, and governmental links between the Commonwealth and the LGBTQ+ community in Virginia.*
2. *Undertake studies, sponsor symposiums, conduct research, and prepare factual reports in order to gather information to formulate and present recommendations to the Governor relating to issues of concern and importance to the LGBTQ+ community in the Commonwealth.*
3. *Advise the Governor as needed regarding any statutory, regulatory, or other issues of importance to the LGBTQ+ community in the Commonwealth.*
4. *Apply for, accept, and expend gifts, grants, or donations from public, quasi-public, or private sources, including any matching funds as may be designated in an appropriation act, to enable it to better carry out its objectives.*
5. *Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.*

§ 2.2-2499.4. Staffing.

The Office of the Governor shall provide staff support to the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

2. That the initial appointments of nonlegislative citizen members to the Virginia LGBTQ+ Advisory Board shall be staggered as follows: five members for a term of one year, five members for a term of two years, five members for a term of three years, and six members for a term of four years.

CHAPTER 170

An Act to require the Board of Education to amend the regulatory definition of traumatic brain injury.

[H 2182]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Board of Education shall amend the definition of "traumatic brain injury" in 8VAC20-81-10 to read as follows: "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force or by other medical conditions, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (34 CFR 300.8(c)(12)).*

CHAPTER 171

An Act to amend and reenact § 63.2-1911, as it is currently effective, of the Code of Virginia and to temporarily expand the Child Care Subsidy Program to provide financial assistance for child care to families in need during the public health emergency; emergency.

[H 2206]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. **That § 63.2-1911, as it is currently effective, of the Code of Virginia is amended and reenacted as follows:**
 - § 63.2-1911. (Effective until July 1, 2021) **Duty of local departments to enforce support; referral to Department.**

Whenever a local department approves an application for public assistance on behalf of a child or children and it appears to the satisfaction of the local department that the child has been abandoned by the noncustodial parent or that the person who has a responsibility for the care, support, or maintenance of such child has failed or neglected to give proper care or support to such child, the local department shall refer the matter to the Division within the Department responsible for the enforcement of support. *The foregoing provisions of this section shall not apply to applications for the Child Care Subsidy Program.*
 2. § 1. *That, because the COVID-19 pandemic has created the need to temporarily expand the Child Care Subsidy Program (the Program) authorized pursuant to 22VAC40-665 to serve more families, including those families of individuals searching for employment during the period of economic recovery, such program shall be amended to provide that:*
 1. *A family shall be eligible for assistance through the Program if (i) the family's income does not exceed 85 percent of the state median income, (ii) the family includes at least one child who is five years of age or younger and has not yet started kindergarten, and (iii) the family meets all other income and eligibility requirements of the Program. A family described in this subdivision shall be eligible for assistance for each child in the family who is under the age of 13; and*

2. *Job search activities shall be considered eligible activities for the purposes of the Program in order to maximize access to child care assistance of income-eligible families during the COVID-19 pandemic.*

§ 2. *That a family determined to be eligible for assistance through the Child Care Subsidy Program pursuant to § 1 of this act shall be eligible to receive assistance for a period of 12 months or until the family's household income exceeds 85 percent of the state median income, whichever occurs sooner.*

§ 3. *That the changes to the Program described in § 1 of this act shall be administered by the Department of Social Services in partnership with the Department of Education.*

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

4. That the Department of Social Services shall update its child target rate for the Child Care Subsidy Program based on the expanded eligibility criteria established pursuant to the first and second enactments of this act and shall not exceed its revised child target rate for fiscal year 2022.

5. That the provisions of the first and second enactments of this act shall be applicable for assistance through the Child Care Subsidy Program for applications received prior to August 1, 2021.

CHAPTER 172

An Act to amend and reenact § 22.1-323 of the Code of Virginia, relating to licensed private schools for students with disabilities; accreditation.

[H 2238]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-323 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-323. Licenses generally.

A. No person shall open, operate, or conduct any school for students with disabilities in ~~this~~ *the* Commonwealth without a license to operate such school issued by the Board of ~~Education~~. A license shall be issued for a school if it is in compliance with the regulations of the Board issued pursuant to this chapter, any fee for such license has been paid, and its facilities are approved by the Board after an inspection by the Department. No such license shall be transferable. The license shall be prominently displayed on the premises of the school in a place open for inspection by any interested person during the hours of operation.

B. *Notwithstanding the provisions of § 22.1-19, the Board shall require, pursuant to regulation, any private school for students with disabilities that is licensed by the Board, as a condition for renewal of its initial license to operate, to obtain accreditation from an accrediting agency recognized by the Virginia Council for Private Education within three years of the issuance of its initial triennial license by the Board.*

C. Any license issued to a residential school for students with disabilities, except a provisional or conditional license issued pursuant to § 22.1-323.1, may, upon written notification to the school, expire on a date subsequent to its stated expiration date and determined at the discretion of the Board, but in no case later than three years from the effective date. Licenses issued to residential schools for students with disabilities which are effective on or after July 1, 1992, may be issued for periods of up to three successive years. Licenses may be issued to private day special education schools for periods of up to three successive years.

~~C. D.~~ The Superintendent or his authorized agents may make unannounced inspections of each school for students with disabilities each year.

2. That notwithstanding the provisions of the first enactment of this act, any private school for students with disabilities that is licensed to operate by the Board of Education as of July 1, 2021, shall obtain accreditation from an accrediting agency recognized by the Virginia Council for Private Education no later than July 1, 2024.

CHAPTER 173

An Act to require the Department of Education and Board of Education to take certain actions relating to special education and related services for students with disabilities.

[H 2316]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. In order to (i) address variation in rates of determinations of student eligibility for special education and related services both across local school divisions in the Commonwealth and based on specific student disabilities, (ii) promote consistency in such eligibility determinations, and (iii) ensure equal access to special education and related services across local school divisions, the Department of Education shall (a) update its special education eligibility worksheets as necessary, including clarifying any ambiguity or vagueness in eligibility criteria, and (b) provide to each local school division the appropriate level of guidance on eligibility determinations for special education and related services.

§ 2. In order to (i) promote and improve the quality of individualized education programs (IEPs) for students with disabilities across the Commonwealth and (ii) ensure that each IEP contains key and required elements such as the student's academic or functional needs and goals, the Board of Education shall amend its Regulations Governing the Review and Approval of Education Programs in Virginia (8VAC20-543-10 et seq.) to ensure that each education preparation program graduate in a K-12 general education endorsement area demonstrates proficiency in understanding the role of general education teachers on the IEP team.

CHAPTER 174

An Act to amend and reenact § 15.2-4116 of the Code of Virginia, relating to library aid; former regional library system.

[H 2323]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4116 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4116. Library aid continued.

In any transition under the provisions of this chapter, if a regional library system existed between a former city and the county surrounding it, or if the former city continues to operate an independent library, the Commonwealth shall continue state aid to the former regional library system or independent library the same as if no transition had occurred. *The provisions of this section shall apply to all former regional library systems regardless of when a former city reverted to town status.*

CHAPTER 175

An Act to amend and reenact § 33.2-802 of the Code of Virginia, relating to disposing of litter; penalty.

[H 1801]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-802 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-802. Dumping trash; penalty.

A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal as defined in § 3.2-6500 for the purpose of disposal, or other unsightly matter on (i) public property, including a public highway, right-of-way, or property adjacent to such highway or right-of-way, or on (ii) private property without the written consent of the owner or his agent.

B. ~~When any~~ If a person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of § 46.2-936 in making an arrest.

~~When~~ If a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting or disposing of the matter. However, such presumption shall be rebuttable by competent evidence.

C. Any person convicted of a violation of this section is guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than ~~\$250~~ \$500 or more than \$2,500, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities.

D. The governing ~~bodies~~ body of ~~localities~~ any locality may adopt ordinances not in conflict with the provisions of this section and may repeal or amend such ordinances.

E. The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

CHAPTER 176

An Act to amend and reenact § 19.2-303 of the Code of Virginia, relating to suspension or modification of sentence; transfer to the Department of Corrections.

[H 1806]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-303 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections (*the Department*) ~~but has not actually been transferred to a receiving unit of the Department~~, the court ~~which that~~ heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, *or within 60 days of such transfer*, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

CHAPTER 177

An Act to amend and reenact §§ 9.1-153 and 9.1-156 of the Code of Virginia, relating to court-appointed special advocates; information sharing.

[H 1866]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-153 and 9.1-156 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-153. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training.

A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

1. Investigating the case to which he is assigned to provide independent factual information to the court.
2. Submitting to the court of a written report of his investigation in compliance with the provisions of § 16.1-274. The report may, upon request of the court, include recommendations as to the child's welfare.
3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.
4. Assisting ~~any appointed~~ *the guardian ad litem appointed* to represent the child in providing effective representation of the child's needs and best interests.
5. Reporting a suspected abused or neglected child pursuant to § 63.2-1509.

B. The advocate is not a party to the case to which he is assigned and shall not call witnesses or examine witnesses. The advocate shall not, with respect to the case to which he is assigned, provide legal counsel or advice to any person, appear as counsel in court or in proceedings which are part of the judicial process, or engage in the unauthorized practice of law. The advocate may testify if called as a witness.

C. The program director shall assign an advocate to a child when requested to do so by the judge of the juvenile and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his association with each case to which he is assigned until relieved of his duties by the court or by the program director. *The program director may assign an advocate to attend and participate in family partnership meetings as defined by the Department of Social Services and in meetings of family assessment and planning teams established pursuant to § 2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, individualized education program teams established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, and multidisciplinary teams established pursuant to §§ 63.2-1503 and 63.2-1505.*

D. The Department shall adopt regulations governing the qualifications of advocates who for purposes of administering this subsection shall be deemed to be criminal justice employees. The regulations shall require that an advocate be at least twenty-one years of age and that the program director shall obtain with the approval of the court (i) a copy of his criminal history record or certification that no conviction data are maintained on him and (ii) a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him or certification that no such record is maintained on him. Advocates selected prior to the adoption of regulations governing qualifications shall meet the minimum requirements set forth in this article.

E. An advocate shall have no associations which create a conflict of interests or the appearance of such a conflict with his duties as an advocate. No advocate shall be assigned to a case of a child whose family has a professional or personal relationship with the advocate. Questions concerning conflicts of interests shall be determined in accordance with regulations adopted by the Department.

F. No applicant shall be assigned as an advocate until successful completion of a program of training required by regulations. The Department shall set standards for both basic and ongoing training.

§ 9.1-156. Inspection and copying of records by advocate; confidentiality of records.

A. Upon presentation by the advocate of the order of his appointment and upon specific court order, any state or local agency, department, authority, or institution, and any hospital, school, physician, or other health or mental health care provider shall permit the advocate to inspect and copy, without the consent of the child or his parents, any records relating to the child involved in the case. Upon the advocate presenting to the mental health provider the order of the advocate's appointment and, upon specific court order, in lieu of the advocate inspecting and copying any related records of the child involved, the mental health care provider shall be available within seventy-two hours to conduct for the advocate a review and an interpretation of the child's treatment records which are specifically related to the investigation.

B. An advocate shall not disclose the contents of any document or record to which he becomes privy, which is otherwise confidential pursuant to the provisions of this Code, except (i) upon order of a court of competent jurisdiction or (ii) *if the advocate has been assigned pursuant to subsection C of § 9.1-153 to attend and participate in family partnership meetings as defined by the Department of Social Services or in meetings of family assessment and planning teams established pursuant to § 2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, individualized education program teams established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, or multidisciplinary teams established pursuant to §§ 63.2-1503 and 63.2-1505, the advocate may verbally disclose any information contained in such document or record related to the child to which he is assigned at such meetings, provided that such information shall not be disclosed further.*

CHAPTER 178

An Act to amend and reenact § 19.2-368.10 of the Code of Virginia, relating to compensating victims of crime; reporting requirement; sexual abuse.

[H 1867]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-368.10 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-368.10. When awards to be made; reporting crime and cooperation with law enforcement.

No award shall be made unless the Commission finds that:

1. A crime was committed;
2. Such crime directly resulted in an individual becoming a victim as defined in § 19.2-368.2, on whose behalf a claim is filed; and
3. Police records show that such crime was promptly reported to the proper authorities. In no case may an award be made where the police records show that such report was made more than 120 hours after the occurrence of such crime, unless the Commission, for good cause shown, finds the delay to have been justified. The provisions of this subdivision shall not apply to claims of sexual abuse that occurred while the victim was a minor.

The Commission, upon finding that any claimant or award recipient has not fully cooperated with all law-enforcement agencies, may deny, reduce or withdraw any award, as the case may be.

CHAPTER 179

An Act to amend and reenact § 53.1-68 of the Code of Virginia, relating to behavioral health assessments in local correctional facilities.

[H 1874]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-68 of the Code of Virginia is amended and reenacted as follows:**§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections, behavioral health services inspections, and personnel.**

A. The Board shall establish minimum standards for the construction, equipment, administration, and operation of local correctional facilities, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards. The Board or its agents shall conduct at least one unannounced inspection of each local facility annually. However, in those years in which a certification audit of a facility is performed and the facility is in compliance with all the standards, the Board may elect to suspend the unannounced inspection based upon that certification audit and the history of compliance of the facility with the standards promulgated in accordance with this section, except in any year in which there is a change in the administration of a local or regional jail. The Board shall also establish minimum standards for the construction, equipment, and operation of lock-ups, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards.

B. Standards concerning sanitation in local correctional facilities and procedures for enforcing these standards shall be promulgated by the Board with the advice and guidance of the State Health Commissioner. The Board, in conjunction with the Board of Health, shall establish a procedure for the conduct of at least one unannounced annual health inspection by the State Health Commissioner or his agents of each local correctional facility. The Board and the State Health Commissioner may authorize such other announced or unannounced inspections as they consider appropriate.

C. The Board shall establish minimum standards for behavioral health services in local correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and the State Inspector General.

Such standards shall include:

1. Requirements for behavioral health services provided in jails, including requirements for (i) behavioral health screening and assessment of individuals committed to local correctional facilities; (ii) *referral of individuals committed to local correctional facilities for whom a behavioral health screening indicates reason to believe the person may have mental illness to a behavioral health service provider for a behavioral health assessment*; and (iii) the provision of behavioral health services in local correctional facilities, as well as regulations directing the sharing of medical and mental health information and records in accordance with § 53.1-133.03. *Requirements related to behavioral health screenings and assessments shall include a requirement that in cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk for suicide, (a) staff of the local correctional facility shall consult with the behavioral health service provider to implement immediate interventions and shall provide ongoing monitoring to ensure the safety of the individual and (b) the behavioral health assessment shall be completed within 72 hours of completion of the behavioral health screening, except that if the 72-hour period ends on a day that is a Saturday, Sunday, or legal holiday, the assessment shall be completed by the close of business on the next day that is not a Saturday, Sunday, or legal holiday*;

2. Requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from the local correctional facility, which shall include (i) creation of a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1, and (ii) coordination of services and care with community providers, community supervision agencies, and, as appropriate, the individual's family in accordance with the discharge plan until such time as the individual has begun to receive services in accordance with the discharge plan or for a period of 30 days following release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to the full continuum of care for the individual upon release from the local correctional facility and shall

include provisions for (a) linking the individual for whom the discharge plan has been prepared to the community services board in the jurisdiction in which he will reside following release and to other supports and services necessary to meet his service needs and (b) communication of information regarding the individual's treatment needs and exchange of treatment records among service providers;

3. A requirement for at least one unannounced annual inspection of each local correctional facility by the Board or its agents to determine compliance with the standards for behavioral health services established pursuant to this subsection and such other announced or unannounced inspections as the Board may deem necessary to ensure compliance with the standards for behavioral health services established pursuant to this subsection; and

4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by and payment by such sheriff or superintendent to a community services board that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

D. The Department of Criminal Justice Services, in accordance with § 9.1-102, shall establish minimum training standards for persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120 and for persons employed as jail officers or custodial officers under the provisions of this title. The sheriff shall establish minimum performance standards and management practices to govern the employees for whom the sheriff is responsible.

E. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

2. That Board of Local and Regional Jails shall review the behavioral health screening and assessment process for individuals committed to local correctional facilities to (i) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of completion of the behavioral health screening and (ii) develop recommendations for addressing those barriers to ensure that all behavioral health assessments are completed within 72 hours of completion of the behavioral health screening in local correctional facilities. The Board shall report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021.

CHAPTER 180

An Act to amend and reenact § 59.1-441.2 of the Code of Virginia, relating to legal service plans; seller registration.

[H 1877]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-441.2 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-441.2. Registration; fees.

A. ~~It shall be~~ *is* unlawful for any legal services plan seller to offer, advertise, or execute, or cause to be executed by the subscriber, any subscription contract in the Commonwealth unless the legal services plan seller at the time of the offer, advertisement, sale, or execution of a subscription contract has been properly registered with the Commissioner *or the legal services plan seller has submitted the registration information and fee required by this section to the legal services organization for which the seller will offer subscription contracts.* The registration shall (i) disclose the address, ownership, and affiliation with the legal services organization and such other information as the Commissioner may require consistent with the purposes of this chapter, (ii) be renewed annually on July 1, and (iii) be accompanied by the appropriate registration fee of \$50 per each annual registration. Further, the registration shall be accompanied by a late fee of \$25 if the registration renewal is neither postmarked nor received on or before July 1. A legal services plan seller's initial or renewal registration may be accomplished either by the legal services plan seller or on behalf of such seller by the legal services organization for which the seller offers subscription contracts, and the Commissioner shall accept any registration information or fee required to be submitted pursuant to this chapter that is submitted to the Commissioner ~~on a monthly basis by the organization on behalf of such a legal services plan seller.~~ *A legal services organization shall submit the registration information and fees received pursuant to this section to the Commissioner, in a form and manner prescribed by the Commissioner, no later than 30 days after the information and fees are received by the organization.*

B. Any legal services plan seller *or legal services organization* that ~~sells a subscription contract prior to registering pursuant to this section~~ *violates the provisions of subsection A* shall pay a late filing fee of \$100 for each 30-day period the registration is late. This fee shall be in addition to all other penalties allowed by law.

C. A registration shall be amended within 21 days if there is a change in the information included in the registration. *If the legal services plan seller has submitted such changes to the legal services organization for which the seller will offer subscription contracts, the legal services organization shall submit the amended registration, in the form and manner prescribed by the Commissioner, no later than 30 days after such information is received by the organization.*

D. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.

E. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.

F. All insurance agent licenses issued by the State Corporation Commission including authority to sell legal services plan subscription contracts shall continue in effect for a period of 90 days following the effective date of this chapter, during which time those holding such authority from the State Corporation Commission shall apply for registration with the Department. At the end of the 90-day period, no insurance agent license shall include the authority to sell legal services plan subscription contracts.

CHAPTER 181

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to certain employees of the Department of Juvenile Justice; naloxone or other opioid antagonist.

[H 1894]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-3408. Professional use by practitioners.

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

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

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (1) epinephrine may possess and administer epinephrine and (2) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed

pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

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

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

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

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

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

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

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

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

O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

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

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as

correctional officers as defined in § 53.1-1, *employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers*, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 182

An Act to amend and reenact §§ 4.1-206.3, as it shall become effective, and 4.1-209, as it is currently effective, of the Code of Virginia, relating to alcoholic beverage control; privileges of banquet licensees.

[H 1973]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206.3, as it shall become effective, and 4.1-209, as it is currently effective, of the Code of Virginia are amended and reenacted as follows:

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of

ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar

disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold ~~and~~, (ii) shall be limited to no more than one such fundraiser per year; *and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth.* Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more

than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce

glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-209. (Effective until July 1, 2021) Wine and beer licenses; advertising.

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers or in single original metal cans, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space;

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served; and

j. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold ~~and~~; (ii) shall be limited to no more than one such fundraiser per year; and (iii) *if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth.* Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the

athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may deliver such wine or beer in closed containers for off-premises consumption to such person's vehicle if located in a designated parking area of the retailer's premises where such person has electronically ordered wine or beer in advance of the delivery or (ii) if the licensee holds a delivery permit issued pursuant to § 4.1-212.1, to such other locations as may be permitted by Board regulation.

D. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

CHAPTER 183

An Act to amend the Code of Virginia by adding a section numbered 30-19.1:13, relating to racial and ethnic impact statements for criminal justice legislation.

[H 1990]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 30-19.1:13 as follows:

§ 30-19.1:13. Racial and ethnic impact statements for criminal justice legislation.

A. As used in this section:

"Disparities" means the difference in criminal justice outcomes for a racial or ethnic subgroup compared to their share of the state population.

"Racial and ethnic impact statement" means a statement created using available data to outline the potential impact of a criminal justice bill on racial and ethnic disparities within the Commonwealth.

B. At the request of the Chair of the House Committee for Courts of Justice or the Chair of the Senate Committee on the Judiciary, the Joint Legislative Audit and Review Commission shall review and prepare a racial and ethnic impact statement for a proposed criminal justice bill.

C. The Joint Legislative Audit and Review Commission shall forward copies of the racial and ethnic impact statement prepared pursuant to subsection B to the patron of the bill and the Chair of the House Committee for Courts of Justice or the Chair of the Senate Committee on the Judiciary, as appropriate.

D. No more than three racial and ethnic impact statements may be requested by the Chair of the House Committee for Courts of Justice and no more than three racial and ethnic impact statements may be requested by the Chair of the Senate Committee on the Judiciary for completion during a single regular session of the General Assembly.

E. Upon the request of the Joint Legislative Audit and Review Commission, the Office of the Executive Secretary of the Supreme Court, Virginia State Police, Virginia Criminal Sentencing Commission, Department of Corrections, and all other state agencies shall expeditiously provide necessary data and assistance for the preparation of racial and ethnic impact statements.

CHAPTER 184

An Act to amend and reenact §§ 16.1-253 and 16.1-253.2 of the Code of Virginia, relating to violations of protective orders; preliminary child protective order.

[H 2012]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253 and 16.1-253.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-253. Preliminary protective order.

A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order, after a hearing, if necessary to protect a child's life, health, safety or normal development pending the final determination of any matter before the court. The order may require a child's parents, guardian, legal custodian, other person standing in loco parentis or other family or household member of the child to observe reasonable conditions of behavior for a specified length of time. These conditions shall include any one or more of the following:

1. To abstain from offensive conduct against the child, a family or household member of the child or any person to whom custody of the child is awarded;

2. To cooperate in the provision of reasonable services or programs designed to protect the child's life, health or normal development;

3. To allow persons named by the court to come into the child's home at reasonable times designated by the court to visit the child or inspect the fitness of the home and to determine the physical or emotional health of the child;

4. To allow visitation with the child by persons entitled thereto, as determined by the court;

5. To refrain from acts of commission or omission which tend to endanger the child's life, health or normal development;

6. To refrain from such contact with the child or family or household members of the child, as the court may deem appropriate, including removal of such person from the residence of the child. However, prior to the issuance by the court of an order removing such person from the residence of the child, the petitioner must prove by a preponderance of the evidence that such person's probable future conduct would constitute a danger to the life or health of such child, and that there are no less drastic alternatives which could reasonably and adequately protect the child's life or health pending a final determination on the petition; or

7. To grant the person on whose behalf the order is issued the possession of any companion animal as defined in § 3.2-6500 if such person meets the definition of owner in § 3.2-6500.

B. A preliminary protective order may be issued ex parte upon motion of any person or the court's own motion in any matter before the court, or upon petition. The motion or petition shall be supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irreparable injury to the child's life or health. If an ex parte order is issued without an affidavit being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

C. Prior to the hearing required by this section, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian, or other person standing in loco parentis of the child, to any other family or household member of the child to whom the protective order may be directed and to the child if he or she is 12 years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child, his or her parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this section the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary protective order hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing shall be held and an order may be entered, although a party to the hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

Any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

G. If at the preliminary protective order hearing held pursuant to this section the court makes a finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of the preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate

information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be held within 60 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

H. Nothing in this section enables the court to remove a child from the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis, except as provided in § 16.1-278.2, and no order hereunder shall be entered against a person over whom the court does not have jurisdiction.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. Violation of any order issued pursuant to this section shall *constitute be punishable as* contempt of court. *However, if the violation involves an act or acts of commission or omission that endanger the child's life, health, or normal development or result in bodily injury to the child, it shall be punishable as a Class 1 misdemeanor.*

K. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of the preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

L. No fee shall be charged for filing or serving any petition or order pursuant to this section.

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

A. In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to ~~§ 16.1-253~~, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act

or threat of violence is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § 46.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103 is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date of conviction.

E. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued or in any county or city where any act constituting the violation of the protective order occurred.

CHAPTER 185

An Act to amend and reenact §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311, relating to Local Food and Farming Infrastructure Grant Program.

[H 2068]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311 as follows:

§ 3.2-303. Definitions.

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

"Agricultural products" means crops, livestock, and livestock products, including field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, aquaculture, commercially harvested wild fish, commercially harvested wild shellfish, and furs.

"Agriculture and forestry processing/value-added facilities" means any for-profit or nonprofit business that creates value-added agricultural or forestal products.

"Food hub" means a business or organization that actively manages the aggregation, distribution, and marketing of food products primarily from local and regional producers to strengthen such producers' ability to satisfy wholesale, retail, and institutional demand.

"Forestal products" means saw timber, pulpwood, posts, firewood, Christmas trees, and other tree and wood products for sale or for farm use.

"Fund" means the Governor's Agriculture and Forestry Industries Development Fund established pursuant to § 3.2-304.

"Local Grant Program" means the Local Food and Farming Infrastructure Grant Program established pursuant to § 3.2-311.

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Planning Grant Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this chapter.

"Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Value-added agricultural or forestal products" means any agricultural or forestal product that (i) has undergone a change in physical state; (ii) was produced in a manner that enhances the value of the agricultural commodity or product; (iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural or forestal product; (iv) is a source of renewable energy; or (v) is aggregated and marketed as a locally produced agricultural or forestal product.

§ 3.2-304. Governor's Agriculture and Forestry Industries Development Fund established; purpose; use of funds.

A. There is hereby created in the state treasury a nonreverting fund to be known as the Governor's Agriculture and Forestry Industries Development Fund (the Fund) to be used by the Governor to attract new and expanding agriculture and forestry ~~processing/value-added~~ *processing or value-added* facilities using Virginia-grown products. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance as funds are awarded in accordance with this chapter.

B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) number of jobs expected to be created, (ii) anticipated amount of private capital investment, (iii) additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created, (iv) anticipated amount of Virginia-grown agricultural and forestal products used by the project, (v) projected impact on agricultural and forestal producers, (vi) a return on investment analysis to determine the appropriate size of any grant or loan, and (vii) an analysis of the impact on competing businesses already located in the area.

C. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

D. Funds may be used for grants to political subdivisions through the Agriculture and Forestry Industries Development Planning Grant Program pursuant to § 3.2-310.

E. Moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Agriculture and Forestry shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any exception to such policy.

F. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 3.2-310. Agriculture and Forestry Industries Development Planning Grant Program.

A. The Governor may award grants from the Fund for the Agriculture and Forestry Industries Development Planning Grant Program to encourage efforts by political subdivisions to support agriculture and forestry.

B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants to political subdivisions.

C. The Secretary of Agriculture and Forestry shall develop guidelines for the *Planning Grant* Program and administer the Program on behalf of the Governor. Such guidelines shall (i) include a requirement that any political subdivision applying for a grant provide matching funds and (ii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines may (a) allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (b) accept a reduced match requirement for an economically distressed locality applying for an award.

§ 3.2-311. Local Food and Farming Infrastructure Grant Program.

A. *The Governor may award grants from the Fund for the Local Food and Farming Infrastructure Grant Program to encourage efforts by political subdivisions to support agriculture and forestry.*

B. *Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants of no more than \$25,000 per grant to political subdivisions to support community infrastructure development projects that support local food production and sustainable agriculture.*

C. *The Secretary of Agriculture and Forestry shall develop guidelines for the Local Grant Program and administer the Local Grant Program on behalf of the Governor. Such guidelines shall (i) include a requirement that any political subdivision applying for a grant provide matching funds, (ii) require that grants be awarded on a competitive basis, and*

(iii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines shall favor projects that establish or maintain (a) farmers markets pursuant to Chapter 35 (§ 3.2-3500 et seq.); (b) food hubs; or (c) processing facilities that are primarily locally owned, including commercial kitchens, packaging and labeling facilities, animal slaughtering facilities, or other facilities, and that are primarily utilized for the processing of meats, dairy products, produce, or other products. Such guidelines shall favor projects that create infrastructure in proximity to small-scale agricultural producers.

D. The guidelines developed pursuant to subsection C may (i) allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (ii) accept a reduced match requirement for an economically distressed locality applying for an award.

CHAPTER 186

An Act to amend and reenact §§ 4.1-230, as it is currently effective and as it shall become effective, and 15.2-907 of the Code of Virginia, relating to alcoholic beverage control; license application; locality input; corrective action.

[H 2131]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-230, as it is currently effective and as it shall become effective, and 15.2-907 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any

fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$65 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal

history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 15.2-907. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use or other criminal activity.

A. As used in this section:

"Affidavit" means the affidavit sworn to under oath prepared by a locality in accordance with subdivision B 1 a.

"Commercial sex acts" means any specific activities that would constitute a criminal act under Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401.

"Corrective action" means (i) taking specific actions with respect to the buildings or structures on property that are reasonably expected to abate criminal blight on such real property, including the removal, repair, or securing of any building, wall, or other structure, or (ii) changing specific policies, practices, and procedures of the real property owner that are reasonably expected to abate criminal blight on real property. A local law-enforcement official shall prepare an affidavit on behalf of the locality that states specific actions to be taken on the part of the property owner that the locality determines are necessary to abate the identified criminal blight on such real property and that do not impose an undue financial burden on the owner.

"Criminal blight" means a condition existing on real property that endangers the public health or safety of residents of a locality and is caused by (i) the regular presence on the property of persons *in possession or* under the influence of controlled substances; (ii) the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances; (iii) the regular use of the property for the purpose of engaging in commercial sex acts; or (iv) ~~repeated acts of the malicious discharge of a firearm within any building or dwelling~~ that would constitute a criminal act under Article 4 (§ 18.2-279 et seq.) of Chapter 7 of Title 18.2 or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

"Law-enforcement official" means an official designated to enforce criminal laws within a locality, or an agent of such law-enforcement official. The law-enforcement official shall coordinate with the building or fire code official of the locality as otherwise provided under applicable laws and regulations.

"Owner" means the record owner of real property.

"Property" means real property.

B. Any locality may, by ordinance, provide that:

1. The locality may require the owner of real property to undertake corrective action, or the locality may undertake corrective action, with respect to such property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) criminal blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the criminal blight; and (iii) the criminal blight constitutes a present threat to the public's health, safety, or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by (i) certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight delivery by a commercial service or the United States Postal Service, to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (a) the owner has up to 30 days from the date thereof to undertake corrective action to abate the criminal blight described in such affidavit and (b) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the criminal blight described in such affidavit. If the owner notifies the locality in writing within the 30-day period that additional time to complete the corrective action is needed, the locality shall allow such owner an extension for an additional 30-day period to take such corrective action.

c. If no corrective action is undertaken during such 30-day period, or during the extension if such extension is granted by the locality, the locality shall send by certified mail, return receipt requested, an additional notice to the owner of the property, at the address stated in subdivision b, stating (i) the date on which the locality may commence corrective action to abate the criminal blight on the property or (ii) the date on which the locality may commence legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property, which date shall be no earlier than 15 days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek judicial relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

4. A criminal blight proceeding pursuant to this section shall be a civil proceeding in a court of competent jurisdiction in the Commonwealth.

C. If the owner of real property takes timely corrective action pursuant to the provisions of a local ordinance, the locality shall deem the criminal blight abated, shall close the proceeding without any charge or cost to the owner, and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the criminal blight recurs.

D. Nothing in this section shall be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Chapter 22 (§ 15.2-2200 et seq.) or under a local ordinance. If an owner in good faith takes corrective action, and despite having taken such action, the specific criminal blight identified in the affidavit of the locality persists, such owner shall be deemed in compliance with this section. Further, if a tenant in a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal blight on such property and the owner in good faith initiates legal action and pursues the same by requesting a final order by a court of competent jurisdiction, as otherwise authorized by this Code, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner shall be deemed in compliance with this section.

CHAPTER 187

An Act to amend and reenact §§ 16.1-123.1, 16.1-241, and 17.1-513 of the Code of Virginia, relating to jurisdiction over criminal cases; certification or appeal of charges.

[H 2150]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-123.1, 16.1-241, and 17.1-513 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-123.1. Criminal and traffic jurisdiction of general district courts.

1. Each general district court shall have, within the county, including the towns within such county, or city for which it is established, exclusive original jurisdiction for the trial of:

a. All offenses against the ordinances, laws and bylaws of such county, including the towns within such county, or city or of any service district within such county or city, except a city ordinance enacted pursuant to §§ 18.2-372 through 18.2-391.1. All offenses against the ordinances of a service district shall be prosecuted in the name of such service district;

b. All other misdemeanors and traffic infractions arising in such county, including the towns in such county, or city.

2. Each general district court which is established within a city shall also have:

a. Concurrent jurisdiction with the circuit court of such city for all violations of state revenue and election laws; and
b. Exclusive original jurisdiction, except as otherwise provided by general law or the city charter, within the area extending for one mile beyond the corporate limits thereof, for the trial of all offenses against the ordinances, laws and bylaws of the city.

3. If a city lying within a county has no general district court provided by city charter or under general law, then the general district court of the county within which such city lies shall have the same jurisdiction in such city as a general district court established for a city would have.

4. Each general district court shall have such other jurisdiction, exclusive or concurrent, as may be conferred on such court by general law or by provisions of the charter of the city for which the court was established.

5. Notwithstanding the provisions of subsection C of § 19.2-244, any county general district court authorized by § 16.1-69.35:01 to be established in a city shall have exclusive original jurisdiction for the trial of all misdemeanors committed within or upon the general district court courtroom.

6. Upon certification by the general district court of any felony charge and ancillary misdemeanor charge or when an appeal of a conviction of an offense in general district court is noted, jurisdiction as to such charges shall vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has been withdrawn in the general district court within 10 days pursuant to § 16.1-133.

7. Nothing herein shall affect the jurisdiction conferred on the juvenile and domestic relations district court by Chapter 11 (§ 16.1-226 et seq.).

§ 16.1-241. Jurisdiction; consent for abortion.

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

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

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

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

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

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

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

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

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

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

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

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

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

A1. Making specific findings of fact required by state or federal law to enable a child to apply for or receive a state or federal benefit.

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

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

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

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

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

1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R. [Repealed.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For purposes of this subsection:

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

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

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

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

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

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

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

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

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

Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of services and support for persons who meet the eligibility criteria for the Fostering Futures program set forth in § 63.2-919.

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

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

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

Upon certification by the juvenile and domestic relations district court of any felony charge and ancillary misdemeanor charge committed by an adult or when an appeal of a conviction or adjudication of delinquency of an offense in the juvenile and domestic relations district court is noted, jurisdiction as to such charges shall vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has been withdrawn in the juvenile and domestic relations district court within 10 days pursuant to § 16.1-133.

§ 17.1-513. Jurisdiction of circuit courts.

The circuit courts shall have jurisdiction of proceedings by quo warranto or information in the nature of quo warranto and to issue writs of mandamus, prohibition and certiorari to all inferior tribunals created or existing under the laws of the Commonwealth, and to issue writs of mandamus in all matters of proceedings arising from or pertaining to the action of the boards of supervisors or other governing bodies of the several counties for which such courts are respectively held or in other cases in which it may be necessary to prevent the failure of justice and in which mandamus may issue according to the principles of common law. They shall have appellate jurisdiction in all cases, civil and criminal, in which an appeal may, as provided by law, be taken from the judgment or proceedings of any inferior tribunal.

They shall have original and general jurisdiction of all civil cases, except cases upon claims to recover personal property or money not of greater value than \$100, exclusive of interest, and except such cases as are assigned to some other tribunal; also in all cases for the recovery of fees in excess of \$100; penalties or cases involving the right to levy and collect toll or taxes or the validity of an ordinance or bylaw of any corporation; and also, of all cases, civil or criminal, in which an appeal may be had to the Supreme Court.

They shall have jurisdiction to hear motions filed for the purpose of modifying, dissolving, or extending a protective order pursuant to § 16.1-279.1 or 19.2-152.10 if the circuit court issued such order, unless the circuit court remanded the matter to the jurisdiction of the juvenile and domestic relations district court in accordance with § 16.1-297. They shall also have original jurisdiction of all indictments for felonies and of presentments, informations and indictments for misdemeanors.

Upon certification by the district court of any felony charge and ancillary misdemeanor charge or when an appeal of a conviction of an offense in district court is noted, jurisdiction as to such charges shall vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has been withdrawn in the district court within 10 days pursuant to § 16.1-133.

They shall also have jurisdiction for bail hearings pursuant to §§ 19.2-327.2:1 and 19.2-327.10:1.

They shall have appellate jurisdiction of all cases, civil and criminal, in which an appeal, writ of error or supersedeas may, as provided by law, be taken to or allowed by such courts, or the judges thereof, from or to the judgment or proceedings of any inferior tribunal. They shall also have jurisdiction of all other matters, civil and criminal, made cognizable therein by law and when a motion to recover money is allowed in such tribunals, they may hear and determine the same, although it is to recover less than \$100.

While a matter is pending in a circuit court, upon motion of the plaintiff seeking to decrease the amount of the claim to within the exclusive or concurrent jurisdiction of the general district court as described in subdivision 1 of § 16.1-77, the circuit court shall order transfer of the matter to the general district court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial.

The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

CHAPTER 188

An Act to amend and reenact §§ 8.01-42.4, 9.1-116.5, 9.1-902, 16.1-69.48:6, 16.1-69.55, 17.1-275.13, 17.1-805, 18.2-46.1, 18.2-346, 18.2-346.1, 18.2-350, 18.2-357.1, 18.2-513, 19.2-10.2, 19.2-215.1, 19.2-268.3, 19.2-386.16, 19.2-386.35, 19.2-392.02, as it is currently effective and as it shall become effective, 32.1-58, 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-346.01, relating to prostitution; solicitation.

[H 2169]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-42.4, 9.1-116.5, 9.1-902, 16.1-69.48:6, 16.1-69.55, 17.1-275.13, 17.1-805, 18.2-46.1, 18.2-346, 18.2-346.1, 18.2-350, 18.2-357.1, 18.2-513, 19.2-10.2, 19.2-215.1, 19.2-268.3, 19.2-386.16, 19.2-386.35, 19.2-392.02, as it is currently effective and as it shall become effective, 32.1-58, 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-346.01 as follows:

§ 8.01-42.4. Civil action for trafficking in persons.

A. Any person injured by reason of (i) a violation of clause (iii), (iv), or (v) of § 18.2-48; (ii) a violation of § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368; or (iii) a felony violation of § ~~18.2-346~~ 18.2-346.01 may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.

B. No action shall be commenced under this section more than seven years after the later of the date on which such person (i) was no longer subject to the conduct prohibited by clause (iii), (iv), or (v) of § 18.2-48 or § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368 or under a felony violation of § ~~18.2-346~~ 18.2-346.01 or (ii) attained 18 years of age.

§ 9.1-116.5. Sex Trafficking Response Coordinator; duties; report.

A. There is established within the Department a Sex Trafficking Response Coordinator (the Coordinator). The Coordinator shall:

1. Create a statewide plan for local and state agencies to identify and respond to victims of sex trafficking;
2. Coordinate the development of standards and guidelines for treatment programs for victims of sex trafficking;
3. Maintain a list of programs that provide treatment or specialized services to victims of sex trafficking and make such list available to law-enforcement agencies, attorneys for the Commonwealth, crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions;
4. Oversee the development of a curriculum to be completed by persons convicted of solicitation of prostitution under ~~subsection B of § 18.2-346~~ § 18.2-346.01; and
5. Promote strategies for the education, training, and awareness of sex trafficking and for the reduction of demand for commercial sex.

B. The Coordinator may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. The Coordinator may also consult and exchange information with local government agencies and interested stakeholders.

C. The Coordinator shall report annually on or before October 1 to the Governor and the General Assembly. The report shall include a summary of activities for the year and any recommendations to address sex trafficking within the Commonwealth. The Department shall ensure that such report is available to the public.

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Murder" means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

"Offense for which registration is required" includes:

1. Any Tier I, Tier II, or Tier III offense;
2. Murder;
3. Any offense similar to a Tier I, Tier II, or Tier III offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof; and

4. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

"Tier I offense" means (i) any homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident, or (ii) any violation of, attempted violation of, or conspiracy to violate:

1. § 18.2-63 unless registration is required pursuant to subdivision 1 of the definition of Tier III offense; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent to commit rape; *any former felony violation of § 18.2-346*; any felony violation of § 18.2-346 18.2-346.01; any violation of subdivision (4) of § 18.2-355; any violation of subsection C of § 18.2-357.1; subsection B of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was in effect on June 30, 2007; subsection B of § 18.2-374.3; or a third or subsequent conviction of § 18.2-67.4, § 18.2-67.4:2, subsection C of § 18.2-67.5, § 18.2-386.1, or, if the offense was committed on or after July 1, 2020, § 18.2-386.2.

If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

3. § 18.2-370.6.

4. If the offense was committed on or after July 1, 2016, and where the perpetrator is 18 years of age or older and the victim is under the age of 13, any violation of § 18.2-51.2.

5. If the offense was committed on or after July 1, 2016, any violation of § 18.2-356 punishable as a Class 3 felony or any violation of § 18.2-357 punishable as a Class 3 felony.

6. If the offense was committed on or after July 1, 2019, any felony violation of § 18.2-348 or 18.2-349.

"Tier II offense" means any violation of, attempted violation of, or conspiracy to violate § 18.2-64.1, subsection C of § 18.2-374.1:1, or subsection C, D, or E of § 18.2-374.3.

"Tier III offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3, former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, § 18.2-370.1, or § 18.2-374.1;

2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361, § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed a Tier III offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a Tier III offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

B. "Tier I offense" as defined in this section, "Tier II offense" as defined in this section, "Tier III offense" as defined in this section, and "murder" as defined in this section includes any similar offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof.

C. 1. Any offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof that is similar to (i) any Tier I, II, or III offense or (ii) murder as defined in this section shall require registration and reregistration in accordance with this chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section, unless such offense requires more stringent registration and reregistration obligations under the laws of the jurisdiction where the offender was convicted. In instances where more stringent registration and reregistration obligations are required under the laws of the jurisdiction where the offender was convicted, the offender shall register and reregister as required by this chapter in a manner most similar with the registration obligations imposed under the laws of the jurisdiction where the offender was convicted.

2. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted shall require registration and reregistration in accordance with this chapter in the manner most similar with the registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted unless such offense is similar to (i) any Tier I, II, or III offense or (ii) murder as defined in

this section and the registration and reregistration obligations imposed by the similar offense listed or defined in this section are more stringent than those registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted. In instances where the similar offense listed or defined in this section imposes more stringent registration and reregistration obligations, the offender shall register and reregister as required by this chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section.

D. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat, or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

E. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

§ 16.1-69.48:6. Fees for offenses related to sex trafficking.

The court shall order any person convicted of a misdemeanor violation of ~~subsection B of § 18.2-346~~ § 18.2-346.01 or of § 18.2-348 or 18.2-349 to pay a \$100 fee, which shall be deposited into the Virginia Prevention of Sex Trafficking Fund to be used in accordance with § 9.1-116.4.

§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-346.01, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases that are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision 1;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court that are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. In civil actions that result in a judgment, all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such

docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Title 16.1, 20, or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, *18.2-346.01*, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years;

5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents pertaining thereto shall be transferred to circuit court;

6. All dockets in juvenile cases shall be governed by the provisions of subsection F of § 16.1-306.

D. At the direction of the chief judge of a district court, the clerk of that court may cause any or all papers or documents pertaining to civil and criminal cases that have been ended to be destroyed if such records, papers, or documents will no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using the same. The provisions of this subsection shall not apply to the documents for misdemeanor cases under §§ 16.1-253.2, 18.2-57.2, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, *18.2-346.01*, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, which shall be retained as provided in subsection A.

§ 17.1-275.13. Additional fee for offenses related to sex trafficking.

In addition to the fees provided for by §§ 17.1-275.1, 17.1-275.2, 17.1-275.7, 17.1-275.10, and 17.1-275.12, any person convicted of a misdemeanor violation of ~~subsection B of § 18.2-346~~ § *18.2-346.01* or of § 18.2-348 or 18.2-349 shall be ordered to pay a \$100 fee, and any person convicted of a violation of clause (ii), (iii), or (iv) of § 18.2-48, or of § 18.2-368, or any felony violation of the laws pertaining to commercial sex trafficking or prostitution offenses pursuant to Article 3 (§ 18.2-346 et seq.) of Chapter 8, with the exception of § 18.2-361, shall be ordered to pay a \$500 fee. All fees collected pursuant to this section shall be deposited into the Virginia Prevention of Sex Trafficking Fund to be used in accordance with § 9.1-116.4.

§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.

A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms of their conviction offense and prior criminal history, released from incarceration during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median time served for the middle two quartiles and subject to the following additional enhancements:

1. The midpoint of the initial recommended sentencing range for first degree murder, second degree murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual battery shall be further increased by (i) 125 percent in cases in which the defendant has no previous conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of 40 years or more, except that the recommended sentence for a defendant convicted of first degree murder who has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be imprisonment for life;

2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more;

3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance, shall be increased

by (i) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more; and

4. The midpoint of the initial recommended sentencing range for felony offenses not specified in subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years and by 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more.

B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, or the United States or its territories.

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40 or 18.2-41; any violation of clause (c) (i) or (ii) of subsection B of § 18.2-46.3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of § 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90, 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of subsection C of § 18.2-308.1 or § 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; *any former felony violation of § 18.2-346*; any felony violation of § ~~18.2-346~~ *18.2-346.01*, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; any conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, ~~18.2-346~~ *18.2-346.01*, 18.2-348, or 18.2-349; (iv) a felony violation of § 18.2-248 or of 18.2-248.1 or a conspiracy to commit a felony violation of § 18.2-248 or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-346. Prostitution; commercial sexual conduct; penalties.

A. Any person who, for money or its equivalent, (i) commits any act in violation of § 18.2-361; performs cunnilingus, fellatio, or anilingus upon or by another person; engages in sexual intercourse or anal intercourse; touches the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allows another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify or (ii) offers to commit any act in violation of § 18.2-361;

perform cunnilingus, fellatio, or anilingus upon or by another person; engage in sexual intercourse or anal intercourse; touch the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allow another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

§ 18.2-346.01. Prostitution; solicitation; commercial exploitation of a minor; penalties.

Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts enumerated in § 18.2-346 and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

§ 18.2-346.1. Testing of convicted prostitutes and injection drug users for infection with human immunodeficiency viruses and hepatitis C; limited disclosure.

A. As soon as practicable following conviction of any person for violation of § 18.2-346, 18.2-346.01, or 18.2-361, or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required to submit to testing for infection with human immunodeficiency viruses and hepatitis C. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C, and (iii) the transmission and prevention of infection with human immunodeficiency viruses and hepatitis C.

B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. The results of such test shall be confidential as provided in § 32.1-36.1 and shall be disclosed to the person who is the subject of the test and to the Department of Health as required by § 32.1-36. The Department shall conduct surveillance and investigation in accordance with the requirements of § 32.1-39.

C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may share protected health information relating to such positive test with relevant sheriffs' offices, the state police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters, paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals to seek appropriate testing and treatment, and (ii) as may be needed to prevent and control disease and is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals and the public.

The disclosed protected health information shall be held confidential; no person to whom such information is disclosed shall redisclose or otherwise reveal the protected health information without first obtaining the specific authorization from the individual who was the subject of the test for such redisclosure.

Such protected health information shall only be used to protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, as such regulations may be amended.

D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution or drug use.

The cost of the tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.

§ 18.2-350. Confinement of convicted prostitutes and persons violating §§ 18.2-347 through 18.2-349.

In any case in which a person is convicted of a violation of subsection A of § 18.2-346 or of a misdemeanor violation of § 18.2-347, 18.2-348, or 18.2-349 and where a city or county farm or hospital is available for the confinement of persons so convicted, confinement may be in such farm or hospital, in the discretion of the court or judge.

§ 18.2-357.1. Commercial sex trafficking; penalties.

A. Any person who, with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of a person from prostitution or unlawful sexual intercourse in violation of subsection A of § 18.2-346, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § 18.2-346 is guilty of a Class 5 felony.

B. Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony.

C. Any adult who violates subsection A with a person under 18 years of age is guilty of a Class 3 felony.

D. Each violation of this section constitutes a separate and distinct felony.

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

§ 19.2-10.2. Administrative subpoena issued for record from provider of electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service that is transacting or has transacted any business in the Commonwealth shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications as required by § 19.2-70.3, to an attorney for the Commonwealth or the Attorney General pursuant to an administrative subpoena issued under this section.

1. In order to obtain such records or other information, the attorney for the Commonwealth or the Attorney General shall certify on the face of the subpoena that there is reason to believe that the records or other information being sought are relevant to a legitimate law-enforcement investigation concerning violations of §§ 18.2-47, 18.2-48, 18.2-49, 18.2-346, 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-374.1, and 18.2-374.1:1, former § 18.2-374.1:2, and § 18.2-374.3.

2. Upon written certification by the attorney for the Commonwealth or the Attorney General that there is a reason to believe that the victim is under the age of 18 and that notification or disclosure of the existence of the subpoena will endanger the life or physical safety of an individual, or lead to flight from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses, or otherwise seriously jeopardize an investigation, the subpoena shall include a provision ordering the service provider not to notify or disclose the existence of the subpoena to another person, other than an attorney to obtain legal advice, for a period of 30 days after the date on which the service provider responds to the subpoena.

3. On a motion made promptly by the electronic communication service or remote computing service provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.

B. All records or other information received by an attorney for the Commonwealth or the Attorney General pursuant to an administrative subpoena issued under this section shall be used only for a reasonable length of time not to exceed 30 days and only for a legitimate law-enforcement purpose. Upon completion of the investigation, the records or other information held by the attorney for the Commonwealth or the Attorney General shall be destroyed if no prosecution is initiated. The existence of such a subpoena shall be disclosed upon motion of an accused.

C. No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of an administrative subpoena issued under this section.

D. Records or other information pertaining to a subscriber to or customer of such service means name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including start date, and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service.

E. Nothing in this section shall require the disclosure of information in violation of any federal law.

§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.

The functions of a multi-jurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

a. Title 10.1 for which punishment as a felony is authorized;

b. § 13.1-520;

c. §§ 18.2-47 and 18.2-48;

d. §§ 18.2-111 and 18.2-112;

e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;

g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;

h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;

- i. § 18.2-434, when violations occur before a multi-jurisdiction grand jury;
 - j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;
 - k. § 18.2-460 for which punishment as a felony is authorized;
 - l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;
 - m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;
 - n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;
 - o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;
 - p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 - q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;
 - r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;
 - s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;
 - t. § 18.2-178 where the violation involves insurance fraud;
 - u. § ~~18.2-346~~ *18.2-346.01*, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1;
 - v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;
 - w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;
 - x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
 - y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;
 - z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
 - aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;
 - ab. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;
 - ac. § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1;
 - ad. Subsection A or B of § 18.2-57 where the victim was selected because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin;
 - ae. § 18.2-121 for which punishment as a felony is authorized;
 - af. Article 5 (§ 18.2-420 et seq.) of Chapter 9 of Title 18.2; and
 - ag. Any other provision of law when such condition is discovered in the course of an investigation that a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation, or conspiracy to violate the laws enumerated in this section.
2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when appropriate, to the Attorney General.
3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.
4. The provisions of this section shall not abrogate the authority of an attorney for the Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

§ 19.2-268.3. Admissibility of statements by children in certain cases.

A. As used in this section, "offense against children" means a violation or an attempt to violate § 18.2-31, 18.2-32, or 18.2-35, subsection A of § 18.2-47, § 18.2-48, 18.2-51, 18.2-51.2, 18.2-51.6, 18.2-52, 18.2-54.1, 18.2-54.2, 18.2-61, 18.2-67.1, 18.2-67.2, or 18.2-67.3, ~~subsection B of § 18.2-346~~ *§ 18.2-346.01* if punishable as a felony, § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, subsection B of § 18.2-361, subsection B of § 18.2-366, § 18.2-370, 18.2-370.1, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, or 18.2-374.4, § 18.2-386.1 if punishable as a felony, or § 40.1-103.

B. An out-of-court statement made by a child who is under 13 years of age at the time of trial or hearing who is the alleged victim of an offense against children describing any act directed against the child relating to such alleged offense shall not be excluded as hearsay under Rule 2:802 of the Rules of Supreme Court of Virginia if both of the following apply:

1. The court finds, in a hearing conducted prior to a trial, that the time, content, and totality of circumstances surrounding the statement provide sufficient indicia of reliability so as to render it inherently trustworthy. In determining such trustworthiness, the court may consider, among other things, the following factors:

- a. The child's personal knowledge of the event;
- b. The age, maturity, and mental state of the child;
- c. The credibility of the person testifying about the statement;
- d. Any apparent motive the child may have to falsify or distort the event, including bias or coercion;
- e. Whether the child was suffering pain or distress when making the statement; and
- f. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act; and

2. The child:

- a. Testifies; or

b. Is declared by the court to be unavailable as a witness; when the child has been declared unavailable, such statement may be admitted pursuant to this section only if there is corroborative evidence of the act relating to an alleged offense against children.

C. At least 14 days prior to the commencement of the proceeding in which a statement will be offered as evidence, the party intending to offer the statement shall notify the opposing party, in writing, of the intent to offer the statement and shall provide or make available copies of the statement to be introduced.

D. This section shall not be construed to limit the admission of any statement offered under any other hearsay exception or applicable rule of evidence.

§ 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.

A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of § 18.2-346, *18.2-346.01*, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356 or 18.2-357 or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is \$1,000 or more, or any stolen property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of § 18.2-47 or a felony violation of (i) Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2 or (ii) § 18.2-357 where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

C. Forfeiture of such vehicle shall be enforced as is provided in Chapter 22.1 (§ 19.2-386.1 et seq.).

§ 19.2-386.35. Seizure of property used in connection with certain offenses.

All money, equipment, motor vehicles, and other personal and real property of any kind or character together with any interest or profits derived from the investment of such proceeds or other property that (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection B of § 18.2-47, § 18.2-48 ~~or~~, 18.2-59, ~~subsection B of § 18.2-346, or § 18.2-346.01~~, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 40.1-29, 40.1-100.2, or 40.1-103; (ii) is traceable to the proceeds of some form of activity that violates subsection B of § 18.2-47, § 18.2-48 ~~or~~, 18.2-59, ~~subsection B of § 18.2-346, or § 18.2-346.01~~, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103; or (iii) was used to or intended to be used to promote some form of activity that violates subsection B of § 18.2-47, § 18.2-48 ~~or~~, 18.2-59, ~~subsection B of § 18.2-346, or § 18.2-346.01~~, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103 is subject to lawful seizure by a law-enforcement officer and subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.).

Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years.

All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this section.

§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § ~~18.2-346~~ *18.2-346.01*, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony

violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § ~~18.2-346~~ 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 32.1-58. Persons convicted of certain crimes to be examined, tested and treated.

Each person convicted of a violation of § 18.2-346, *18.2-346.01*, or § 18.2-361 shall be examined and tested for venereal disease and treated if necessary.

§ 37.2-314. Background check required.

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or adult mental health treatment program a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~, 18.2-346, *or 18.2-346.01*; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. The Department and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsection C to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories.

To be eligible for such screening, the applicant shall have completed all prison or jail terms; shall not be under probation or parole supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and court costs for any prior convictions; and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the Department or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to pay the cost.

E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the state facility or Department shall not be disseminated except as provided in this section.

F. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on them.

G. The Board may adopt regulations to comply with the provisions of this section. Copies of any information received by the state facility or Department pursuant to this section shall be available to the Department and to the applicable state facility but shall not be disseminated further, except as permitted by state or federal law. The cost of obtaining the criminal history record and the central registry information shall be borne by the applicant, unless the Department or state facility decides to pay the cost.

§ 37.2-416. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the

five years prior to entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~ 18.2-346, *or 18.2-346.01*; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or

J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

§ 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~, 18.2-346, *or* 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental

illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

CHAPTER 189

An Act to amend and reenact §§ 52-34.13, 52-34.14, and 52-34.15 of the Code of Virginia, relating to the Virginia Missing Person with Autism Alert Program.

[H 2216]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 52-34.13, 52-34.14, and 52-34.15 of the Code of Virginia are amended and reenacted as follows:

§ 52-34.13. Definitions.

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

"Media" means print, radio, television, and Internet-based communication systems or other methods of communicating information to the public.

"Missing ~~child~~ *person with autism*" means a ~~child~~ *any person* (i) whose whereabouts are unknown; (ii) who has been diagnosed with autism spectrum disorder as defined in § 38.2-3418.17; (iii) ~~who is 17 years of age or younger or is currently enrolled in a secondary school in the Commonwealth, regardless of age;~~ and (iv) ~~(iii)~~ *whose disappearance poses a credible threat as determined by law enforcement to the safety and health of the ~~child~~ person and under such other circumstances as deemed appropriate by the Virginia State Police.*

"Missing ~~child~~ *Person with autism alert* *Autism Alert*" means the notice of a missing ~~child~~ *person with autism* provided to the public by the media or other methods under a Missing ~~Child~~ *Person with Autism Alert Agreement.*

"Missing ~~Child~~ *Person with Autism Alert Agreement*" means a voluntary agreement between law-enforcement officials and members of the media whereby a ~~child~~ *person with autism* will be declared missing, and the public will be notified by media outlets, and includes all other incidental conditions of the partnership as found appropriate by the Virginia State Police.

"Virginia Missing ~~Child~~ *Person with Autism Alert Program*" or "Program" means the procedures and Missing ~~Child~~ *Person with Autism Alert Agreements* to aid in the identification and location of a missing ~~child~~ *person with autism.*

§ 52-34.14. Establishment of the Virginia Missing Person with Autism Alert Program.

The Virginia State Police shall develop policies for the establishment of uniform standards for the creation of Virginia Missing *Child Person* with Autism Alert Programs throughout the Commonwealth. The Virginia State Police shall (i) inform local law-enforcement officials of the policies and procedures to be used for the Missing *Child Person* with Autism Alert Programs; (ii) assist in determining the geographic scope of a particular Missing *Child Person* with Autism Alert; and (iii) establish procedures and standards by which a local law-enforcement agency shall verify that a *child person* with autism is missing and shall report such information to the Virginia State Police.

The establishment of a Missing *Child Person* with Autism Alert Program by a local law-enforcement agency and the media is voluntary, and nothing in this chapter shall be construed to be a mandate that local officials or the media establish or participate in a Missing *Child Person* with Autism Alert Program.

§ 52-34.15. Activation of Virginia Missing Person with Autism Alert Program upon incident of a missing person with autism.

A. Upon receipt of a notice of a missing *child person* with autism from a law-enforcement agency, the Virginia State Police shall confirm the accuracy of the information and provide assistance in the activation of the Missing *Child Person* with Autism Alert Program as the investigation dictates.

B. Missing *Child Person* with Autism Alerts may be local, regional, or statewide. The initial decision to make a local Missing *Child Person* with Autism Alert shall be at the discretion of the local law-enforcement official. Prior to making a local Missing *Child Person* with Autism Alert, the local law-enforcement official shall confer with the Virginia State Police and provide information regarding the missing *child person* with autism to the Virginia State Police. The decision to make a regional or statewide Missing *Child Person* with Autism Alert shall be at the discretion of the Virginia State Police.

C. The Missing *Child Person* with Autism Alert shall include such information as the law-enforcement agency deems appropriate that will assist in the safe recovery of the missing *child person* with autism.

D. The Missing *Child Person* with Autism Alert shall be canceled under the terms of the Missing *Child Person* with Autism Alert Agreement. Any local law-enforcement agency that locates a missing *child person* with autism who is the subject of an alert shall notify the Virginia State Police immediately that the missing *child person* with autism has been located.

CHAPTER 190

An Act to amend and reenact §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia, relating to orders of restitution; enforcement.

[H 2233]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-305.1. Restitution for property damage or loss; community service.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405,

18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution payments in an automated financial management system operated and maintained by the Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim's name and contact information, including the victim's home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim's contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.

F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant's release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.

2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant's release from incarceration, on which the defendant's compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.

3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel

any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.

4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant's compliance with the restitution order.

5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant's release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.

6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.

7. At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. The probation officer for the defendant shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation officer shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record prior to his release from supervision.

8. At every hearing conducted pursuant to subdivision 2 where the attorney for the Commonwealth participated in the prosecution and the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. If the attorney for the Commonwealth participated in the prosecution of the offense, the attorney for the Commonwealth shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the attorney for the Commonwealth shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record.

G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims. When depositing such restitution to the Fund, the clerk shall report the victim's last known contact information, including the victim's home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each victim appearing from the clerk's report to be entitled to restitution. The victim's contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.

J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth

the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.*

§ 19.2-305.2. Amount of restitution; enforcement.

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution ~~may~~ shall be docketed, *in the name of the Commonwealth, or a locality if applicable, on behalf of the victim*, as provided in § 8.01-446 when so ordered by the court ~~or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action, unless the victim named in the order of restitution requests in writing that the order be docketed in the name of the victim. An order of restitution docketed in the name of the victim shall be enforced by the victim as a civil judgment. The clerk shall record and disburse restitution payments as provided in subsection D of § 19.2-305.1 and subsection A of § 19.2-354 in accordance with orders of restitution or judgments for restitution docketed in the name of the Commonwealth or a locality. At any time before a judgment for restitution docketed in the name of the Commonwealth or a locality is satisfied, the court shall, at the written request of the victim, order the circuit court clerk to execute and docket an assignment of the judgment to the victim. The circuit court clerk shall remove from its automated financial system the amount of unpaid restitution upon docketing the assignment. If a judge of a district court orders the circuit court clerk to execute and docket an assignment of the judgment to the victim, the district court clerk shall remove from its automated financial system the amount of unpaid restitution upon sending the order to the circuit court clerk. If the victim requests that the order of restitution be docketed in the name of the victim or that a judgment for restitution previously docketed in the name of the Commonwealth or a locality be assigned to the victim, the victim shall provide to the court an address where the defendant can mail payment for the amount due and such address shall not be confidential. When a judgment for restitution previously docketed in the name of the Commonwealth or a locality is ordered to be assigned to the victim, the court shall provide notice of such order to the defendant at the defendant's last known address and shall include the mailing address provided by the victim. Enforcement by a victim of any order of restitution docketed as provided in § 8.01-446 is not subject to any statute of limitations. Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.~~

§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:

1. A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and

2. A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court

with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

D. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor, the General Assembly, the Chairmen of the House and Senate Committees for Courts of Justice, and the Virginia State Crime Commission on the total of restitution assessed, collected, and unpaid for each circuit and district court and the total of restitution collected and deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1 by each circuit and district court.

E. The provisions of this section shall not apply to any orders of restitution docketed in the name of the victim or when it is ordered that an assignment of the judgment for restitution to the victim be docketed.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture, or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.* Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his

participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;
3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons sentenced to local correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work (i) before or after imprisonment or (ii) in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

CHAPTER 191

An Act to amend and reenact §§ 9.1-175 and 18.2-254.3 of the Code of Virginia, relating to behavioral health docket; transfer of supervision.

[H 2236]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-175 and 18.2-254.3 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-175. Board to prescribe standards; biennial plan.

The Board shall approve standards as prescribed by the Department for the development, implementation, operation, and evaluation of local community-based probation services and facilities authorized by this article, *which shall include standards for the transfer of supervision between local community-based probation agencies*. Any city, county, or combination thereof which establishes and provides local community-based probation services pursuant to this article shall submit a biennial criminal justice plan to the Department for review and approval.

§ 18.2-254.3. Behavioral Health Docket Act.

A. This section shall be known and may be cited as the "Behavioral Health Docket Act."

B. The General Assembly recognizes the critical need to promote public safety and reduce recidivism by addressing co-occurring behavioral health issues, such as mental illness and substance abuse, related to persons in the criminal justice system. It is the intention of the General Assembly to enhance public safety by facilitating the creation of behavioral health dockets to accomplish this purpose.

C. The goals of behavioral health dockets shall include (i) reducing recidivism; (ii) increasing personal, familial, and societal accountability among offenders through ongoing judicial intervention; (iii) addressing mental illness and substance abuse that contribute to criminal behavior and recidivism; and (iv) promoting effective planning and use of resources within the criminal justice system and community agencies. Behavioral health dockets promote outcomes that will benefit not only the offender but society as well.

D. Behavioral health dockets are specialized criminal court dockets within the existing structure of Virginia's court system that enable the judiciary to manage its workload more efficiently. Under the leadership and regular interaction of presiding judges, and through voluntary offender participation, behavioral health dockets shall address offenders with mental health conditions and drug addictions that contribute to criminal behavior. Behavioral health dockets shall employ

evidence-based practices to diagnose behavioral health illness and provide treatment, enhance public safety, reduce recidivism, ensure offender accountability, and promote offender rehabilitation in the community. Local officials shall complete a planning process recognized by the state behavioral health docket advisory committee before establishing a behavioral health docket program.

E. Administrative oversight of implementation of the Behavioral Health Docket Act shall be conducted by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing oversight of the distribution of funds for behavioral health dockets; (ii) providing technical assistance to behavioral health dockets; (iii) providing training to judges who preside over behavioral health dockets; (iv) providing training to the providers of administrative, case management, and treatment services to behavioral health dockets; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of behavioral health dockets in the Commonwealth.

F. A state behavioral health docket advisory committee shall be established in the judicial branch. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia, who shall appoint a vice-chair to act in his absence. The membership of the committee shall include a behavioral health circuit court judge, a behavioral health general district court judge, a behavioral health juvenile and domestic relations district court judge, the Executive Secretary of the Supreme Court or his designee, the Governor or his designee, and a representative from each of the following entities: the Commonwealth's Attorneys' Services Council, the Virginia Court Clerks' Association, the Virginia Indigent Defense Commission, the Department of Behavioral Health and Developmental Services, the Virginia Organization of Consumers Asserting Leadership, a community services board or behavioral health authority, and a local community-based probation and pretrial services agency.

G. Each jurisdiction or combination of jurisdictions that intend to establish a behavioral health docket or continue the operation of an existing behavioral health docket shall establish a local behavioral health docket advisory committee. Jurisdictions that establish separate adult and juvenile behavioral health dockets may establish an advisory committee for each such docket. Each local behavioral health docket advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the behavioral health dockets that serve the jurisdiction or combination of jurisdictions. Advisory committee membership may include, but shall not be limited to, the following persons or their designees: (i) the behavioral health docket judge; (ii) the attorney for the Commonwealth or, where applicable, the city or county attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the behavioral health docket is located; (v) a representative of the Virginia Department of Corrections or the Department of Juvenile Justice, or both, from the local office that serves the jurisdiction or combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of Behavioral Health and Developmental Services or a representative of local treatment providers, or both; (ix) a representative of the local community services board or behavioral health authority; (x) the behavioral health docket administrator; (xi) a public health official; (xii) the county administrator or city manager; (xiii) a certified peer recovery specialist; and (xiv) any other persons selected by the local behavioral health docket advisory committee.

H. Each local behavioral health docket advisory committee shall establish criteria for the eligibility and participation of offenders who have been determined to have problems with drug addiction, mental illness, or related issues. The committee shall ensure the use of a comprehensive, valid, and reliable screening instrument to assess whether the individual is a candidate for a behavioral health docket. Once an individual is identified as a candidate appropriate for a behavioral health court docket, a full diagnosis and treatment plan shall be prepared by qualified professionals.

Subject to the provisions of this section, neither the establishment of a behavioral health docket nor anything in this section shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising therein that he deems advisable to prosecute, except to the extent that the participating attorney for the Commonwealth agrees to do so.

I. Each local behavioral health docket advisory committee shall establish policies and procedures for the operation of the docket to attain the following goals: (i) effective integration of appropriate treatment services with criminal justice system case processing; (ii) enhanced public safety through intensive offender supervision and treatment; (iii) prompt identification and placement of eligible participants; (iv) efficient access to a continuum of related treatment and rehabilitation services; (v) verified participant abstinence through frequent alcohol and other drug testing and mental health status assessments, where applicable; (vi) prompt response to participants' noncompliance with program requirements through a coordinated strategy; (vii) ongoing judicial interaction with each behavioral health docket participant; (viii) ongoing monitoring and evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary education and training in support of program effectiveness and efficiency; and (x) ongoing collaboration among behavioral health dockets, public agencies, and community-based organizations to enhance program effectiveness and efficiency.

J. If there is cause for concern that a defendant was experiencing a crisis related to a mental health or substance abuse disorder then his case will be referred, if such referral is appropriate, to a behavioral health docket to determine eligibility for participation. Participation by an offender in a behavioral health docket shall be voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with the concurrence of the court. *If an offender determined to be eligible to participate in a behavioral health docket resides in a locality other than that in which the behavioral health docket is located, or such offender desires to move to a locality other than that in which the*

behavioral health docket is located, and the court determines it is practicable and appropriate, the supervision of such offender may be transferred to a supervising agency in the new locality. If the receiving agency accepts the transfer, it shall confirm in writing that it can and will comply with all of the conditions of supervision of the behavioral health docket, including the frequency of in-person and other contact with the offender and updates from the offender's treatment providers. If the receiving agency cannot comply with the conditions of supervision, the agency shall deny the transfer in writing and the sending agency shall notify the court. Where supervision is transferred, the sending agency shall be responsible for providing reports on an offender's conduct, treatment, and compliance with the conditions of supervision to the court.

K. An offender may be required to contribute to the cost of the treatment he receives while participating in a behavioral health docket pursuant to guidelines developed by the local behavioral health docket advisory committee.

L. Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender or be construed as requiring a local behavioral health docket advisory committee to accept for participation every offender.

M. The Office of the Executive Secretary shall, with the assistance of the state behavioral health docket advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all behavioral health dockets. The Executive Secretary shall submit an annual report of these evaluations to the General Assembly by December 1 of each year. The annual report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Each local behavioral health docket advisory committee shall submit evaluative reports, as provided by the Behavioral/Mental Health Docket Advisory Committee, to the Office of the Executive Secretary as requested.

CHAPTER 192

An Act to repeal § 18.2-104 of the Code of Virginia, relating to punishment for conviction of second or subsequent misdemeanor larceny.

[H 2290]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-104 of the Code of Virginia is repealed.

CHAPTER 193

An Act to amend and reenact §§ 9.1-116.2 and 9.1-116.3 of the Code of Virginia, relating to the Advisory Committee on Sexual and Domestic Violence; membership; duties.

[H 2317]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-116.2 and 9.1-116.3 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-116.2. Advisory Committee on Sexual and Domestic Violence; membership; terms; compensation and expenses; duties.

A. The Advisory Committee on Sexual and Domestic Violence (the Advisory Committee) is established as an advisory committee in the executive branch of state government. The Advisory Committee shall have the responsibility for advising and assisting the Board, the Department, all agencies, departments, boards, and institutions of the Commonwealth, and units of local government, or combinations thereof, on matters related to the prevention and reduction of sexual and domestic violence in the Commonwealth, and to promote the efficient administration of grant funds to state and local programs that work in these areas.

The Advisory Committee shall have a total of ~~15~~ *19* members consisting of the following, or their designees: the Commissioner of Social Services; the Director of the Department of Criminal Justice Services; the Commissioner of Health; the Director of the Department of Housing and Community Development; the Executive Director of the Virginia sexual and domestic violence coalition; *the Executive Director of the Virginia Victim Assistance Network*; one member of the Senate to be appointed by the Senate Committee on Rules; one member of the House of Delegates to be appointed by the Speaker of the House; the Chairman of the Virginia State Crime Commission; and the Attorney General. The membership shall also consist of ~~six~~ *nine* nonlegislative citizen members appointed by the Governor, one of whom shall be a representative of a crime victims' organization or a victim of sexual or domestic violence, ~~one of whom shall be a member of the board of the Virginia Victim Assistance Network~~, and ~~four~~ *eight* of whom shall be ~~directors~~ *representatives* of local sexual and domestic violence programs, ~~of whom one shall be a director of a program that concentrates solely on domestic violence, one shall be a director of a program that concentrates solely on sexual violence, and two shall be directors of programs that work in both sexual and domestic violence.~~ The appointments of the ~~four~~ *directors* ~~nonlegislative citizen members~~ shall ~~include racial and ethnic diversity and shall~~ be representative of regional and geographic locations of the Commonwealth.

Legislative members and the agency directors shall serve terms coincident with their terms of office. All other members shall be citizens of the Commonwealth and shall serve a term of four years. However, no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment.

The Advisory Committee shall elect its chairman and vice-chairman from among its members.

B. No member of the Advisory Committee appointed by the Governor shall be eligible to serve for more than two consecutive full terms. A term of three or more years within a four-year period shall be deemed a full term. Any vacancy on the Advisory Committee shall be filled in the same manner as the original appointment, but for the unexpired term.

C. A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Advisory Committee.

D. The Advisory Committee may adopt bylaws for its operation.

E. Members of the Advisory Committee shall not receive compensation, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825. Funding for the costs of the expenses shall be provided from federal *or state* funds received for such purposes by the Department.

F. The Advisory Committee shall have the following duties and responsibilities:

1. Provide guidance on appropriate standards for the accreditation of sexual and domestic violence programs; *Promote appropriate and effective responses, services, and prevention for sexual assault and domestic violence across the Commonwealth; and*

2. Review statewide plans, conduct studies, and make recommendations on needs and priorities for the development and improvement of local services to victims of sexual and domestic violence in the Commonwealth;

3. Advise on all matters related to federal funds received by the Commonwealth for crime prevention and crime victim assistance related to sexual and domestic violence and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits of these federal programs;

4. Promote coordination among state agencies and local service providers to improve the Commonwealth's identification of and response to sexual and domestic violence, including the effective implementation of trauma-informed services, evidence-based homicide reduction strategies, and evidence-based prevention strategies;

5. Develop a comprehensive plan for data collection on sexual and domestic violence;

6. Review statewide reports and conduct studies to identify service demands and gaps and make funding recommendations that ensure adequate funding and improve the administration of both state and federal funds to local sexual and domestic violence programs; and

7. Make recommendations on improving efficiencies in the administration of grants of both state and federal funds to local sexual and domestic violence programs *Promote strong communication, coordination, and strategy at state, regional, and local levels.*

G. The Department shall provide staff support to the Advisory Committee. Upon request, each administrative entity or collegial body within the executive branch of the state government shall cooperate with the Advisory Committee as it carries out its responsibilities.

§ 9.1-116.3. Virginia Sexual and Domestic Violence Program Professional Standards Committee.

A. The Virginia Sexual and Domestic Violence Program Professional Standards Committee (the Committee) shall establish voluntary accreditation standards and ~~procedures~~ *measures* by which local sexual and domestic violence programs can be systematically measured and evaluated with a peer-reviewed process. The Committee may adopt bylaws for its operation, membership terms, fees, and other items as necessary. Fees for accreditation shall be used to support any administrative costs of the Department. Upon request of the Committee, the Department and the Virginia sexual and domestic violence coalition may provide accreditation assistance and training and resource material that will assist the local programs in obtaining or retaining accreditation. *The Department shall provide staff support to the Committee.*

The Committee shall consist of the following: ~~six directors of local sexual and domestic violence programs appointed by the Advisory Committee on Sexual and Domestic Violence, six directors of local sexual and domestic violence programs appointed by the Virginia sexual and domestic violence coalition, one nonvoting member appointed by the Department, and one nonvoting member appointed by the Virginia sexual and domestic violence coalition.~~ The appointments made by the Advisory Committee on Sexual and Domestic Violence and the Virginia sexual and domestic violence coalition shall both adhere to the following requirements: appointments shall be representative of regional and geographic locations and types of local sexual and domestic violence programs and shall include a director of a program concentrating solely on sexual violence, a director of a program concentrating solely on domestic violence, and four directors of programs concentrating on both sexual and domestic violence. A chairman and vice-chairman, who shall be voting members, shall be elected annually, and each position shall alternate between a director who is appointed by the Advisory Committee and a director who is appointed by the coalition; if the chairman is a director appointed by the Advisory Committee, the vice-chairman shall be a person appointed by the coalition, and vice versa *one nonvoting member representing the Department of Criminal Justice Services; one nonvoting member appointed by and representative of the Department of Social Services; one nonvoting member appointed by and representative of the Virginia sexual and domestic violence coalition; and 12 nonlegislative citizen members appointed by the Governor, who shall be leadership staff of local sexual and domestic violence programs. The nonlegislative citizen members appointed by the Governor shall serve for terms of four years,*

provided that no voting member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Members appointed by the Governor shall not be eligible to serve for more than two consecutive terms. The appointment of members shall take into consideration racial and ethnic diversity and shall be representative of regional and geographic locations of the Commonwealth.

The Committee shall elect a chairman and vice-chairman from among its members.

B. A majority of the voting members of the Committee shall constitute a quorum.

C. Members of the Committee shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825.

D. The Committee shall have the following duties and responsibilities:

1. Establish voluntary accreditation standards and measures by which local and domestic violence programs can be systematically evaluated with a peer-reviewed process;

2. Review and vote on accreditation status recommendations for applicant programs;

3. Establish a subcommittee as needed to address appeals from applicant programs; and

4. Periodically evaluate and revise accreditation standards and measures.

E. The Department shall have the following duties and responsibilities:

1. Establish accreditation procedures by which local sexual and domestic violence programs can be systematically evaluated with a peer-reviewed process;

2. Assist local programs in obtaining or retaining accreditation;

3. Review and evaluate applications for accreditation; and

4. Determine accreditation status recommendations for applicant programs and present such recommendations to the Committee.

CHAPTER 194

An Act to amend and reenact §§ 20-99 and 20-106 of the Code of Virginia, relating to no-fault divorces; corroboration requirement.

[H 1911]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-99 and 20-106 of the Code of Virginia are amended and reenacted as follows:

§ 20-99. How such suits instituted and conducted; costs.

Such suit shall be instituted and conducted as other suits in equity, except as otherwise provided in this section:

1. ~~No~~ Except for a divorce granted on the grounds set forth in subdivision A (9) of § 20-91, no divorce, annulment, or affirmation of a marriage shall be granted on the uncorroborated testimony of the parties or either of them.

2. Whether the defendant answers or not, the cause shall be heard independently of the admissions of either party in the pleadings or otherwise.

3. Process or notice in such proceedings shall be served in the Commonwealth by any of the methods prescribed in § 8.01-296 by any person authorized to serve process under § 8.01-293. Service may be made on a nonresident by any of the methods prescribed in § 8.01-296 by any person authorized to serve process under § 8.01-320.

4. In cases where such suits have been commenced and an appearance has been made on behalf of the defendant by counsel, then notices to take depositions and of hearings, motions, and other proceedings except contempt proceedings, may be served by delivering or mailing a copy to counsel for opposing party, the foot of such notices bearing either acceptance of service or a certificate of counsel in compliance with the Rules of Supreme Court of Virginia. "Counsel for opposing party" shall include a pro se party who (i) has entered a general appearance in person or by filing a pleading or endorsing an order of withdrawal of that party's counsel or (ii) has signed a pleading in the case or who has notified the other parties and the clerk that he appears in the case.

5. In cases where such suits have been commenced, the defendant has been served pursuant to the provisions of subdivision 1 of § 8.01-296, and the defendant has failed to file an answer to the suit or otherwise appear within the time allowed by law, no further notice to take depositions or conduct an ore tenus hearing is required to be served on the defendant and the court may enter any order or final decree without further notice to the defendant.

6. Costs may be awarded to either party as equity and justice may require.

§ 20-106. Testimony may be required to be given orally; evidence by affidavit.

A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be given orally in open court, and if either party desires it, such testimony and the rulings of the court on the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence was given before him and such rulings made. When so certified the same shall stand on the same footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall be given or heard unless and until after such notice to the adverse party as is required by law to be given of the taking of depositions, or when there has been no service of process within the Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be introduced. However, a party may proceed to take evidence in support of a divorce by deposition or affidavit without leave of court only in support of a divorce on the grounds set forth in

subdivision A (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law.

B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the grounds for divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by affidavit without leave of court or the consent in writing of the guardian ad litem for the incarcerated party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The affidavit shall:

1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including that the parties are over the age of 18 and not suffering from any condition that renders either party legally incompetent;
2. Verify whether either party is incarcerated;
3. Verify the military status of the opposing party and advise whether the opposing party has filed an answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.);
4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
5. Affirm that the parties have lived separate and apart, continuously, without interruption and without cohabitation, and with the intent to remain separate and apart permanently, for the statutory period required by subdivision A (9) of § 20-91;
6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91; *and*
7. State whether there were children born or adopted of the marriage and affirm that neither party is known to be pregnant from the marriage; *and*
8. Be accompanied by the affidavit of at least one corroborating witness, which shall:
 - a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him legally incompetent;
 - b. Verify whether either party is incarcerated;
 - c. Give factual support to the grounds for divorce stated in the complaint or counterclaim;
 - d. Verify that at least one of the parties to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
 - e. Verify whether there were children born or adopted of the marriage and verify that neither party is known to be pregnant from the marriage; *and*
 - f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of separation alleged in the complaint or counterclaim and that it has been either party's intention since that date to remain separate and apart permanently.

C. If a party moves for a divorce pursuant to § 20-121.02, ~~any~~ *an* affidavit may be submitted in support of the grounds for divorce set forth in subdivision A (9) of § 20-91.

D. A verified complaint shall not be deemed an affidavit for purposes of this section.

E. Either party may submit the ~~depositions~~ *deposition* or ~~affidavits~~ *affidavit* required by this section in support of the grounds for divorce requested by either party pursuant to the terms of this section.

F. In contemplation of or in a suit for a no-fault divorce under subdivision A (9) of § 20-91, the plaintiff or his attorney may take and file, as applicable, the complaint, the ~~affidavits~~ *affidavit* or ~~depositions~~ *deposition*, any other associated documents, and the proposed decree contemporaneously, and a divorce may be granted solely on those documents where the defendant has waived service and, where applicable, notice.

CHAPTER 195

An Act to amend and reenact § 8.01-249 of the Code of Virginia, relating to accrual of cause of action; diagnosis of latent injury.

[H 2139]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-249 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-249. When cause of action shall be deemed to accrue in certain personal actions.

The cause of action in the actions herein listed shall be deemed to accrue as follows:

1. In actions for fraud or mistake, in actions for violations of the Consumer Protection Act (§ 59.1-196 et seq.) based upon any misrepresentation, deception, or fraud, and in actions for rescission of contract for undue influence, when such fraud, mistake, misrepresentation, deception, or undue influence is discovered or by the exercise of due diligence reasonably should have been discovered;

2. In actions or other proceedings for money on deposit with a bank or any person or corporation doing a banking business, when a request in writing be made therefor by check, order, or otherwise;

3. In actions for malicious prosecution or abuse of process, when the relevant criminal or civil action is terminated;

4. In actions for injury to the person resulting from exposure to asbestos or products containing asbestos, when a diagnosis of asbestosis, interstitial fibrosis, mesothelioma, or other disabling asbestos-related injury or disease is first communicated to the person or his agent by a physician. However, no such action may be brought more than two years after the death of such person. The diagnosis of a nonmalignant asbestos-related injury or disease shall not accrue an action based upon the subsequent diagnosis of a malignant asbestos-related injury or disease, and such subsequent diagnosis shall constitute a separate injury that shall accrue an action when such diagnosis is first communicated to the person or his agent by a physician;

4a. In actions for injury to the person resulting from the exposure to a substance or a combination of substances or the use of a product, when such injury is latent, other than (i) those asbestos-related injuries specified in subdivision 4 and (ii) claims against health care providers as defined in § 8.01-581.1, when the person knew or should have known of the injury and its causal connection to an injury-causing substance or product. However, no such action may be brought more than two years after the death of such person. For purposes of this subdivision, "latent" refers to injuries that remain dormant or do not develop and, therefore, are undiagnosable during the period of limitations set forth in subsection A of § 8.01-243;

5. In actions for contribution or for indemnification, when the contributee or the indemnitee has paid or discharged the obligation. A third-party claim permitted by subsection A of § 8.01-281 and the Rules of Court may be asserted before such cause of action is deemed to accrue hereunder;

6. In actions for injury to the person, whatever the theory of recovery, resulting from sexual abuse occurring during the infancy or incapacity of the person, upon the later of the removal of the disability of infancy or incapacity as provided in § 8.01-229 or when the fact of the injury and its causal connection to the sexual abuse is first communicated to the person by a licensed physician, psychologist, or clinical psychologist. As used in this subdivision, "sexual abuse" means sexual abuse as defined in subdivision 6 of § 18.2-67.10 and acts constituting rape, sodomy, object sexual penetration or sexual battery as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

7. In products liability actions against parties other than health care providers as defined in § 8.01-581.1 for injury to the person resulting from or arising as a result of the implantation of any prosthetic device for breast augmentation or reconstruction, when the fact of the injury and its causal connection to the implantation is first communicated to the person by a physician;

8. In actions on an open account, from the later of the last payment or last charge for goods or services rendered on the account;

9. In products liability actions against parties other than health care providers as defined in § 8.01-581.1 for injury to the person resulting from or arising as a result of the implantation of any medical device, when the person knew or should have known of the injury and its causal connection to the device.

CHAPTER 196

An Act to amend and reenact §§ 2.2-520, as it is currently effective and as it shall become effective, 2.2-522, 2.2-523, 2.2-3902, 2.2-3907, 2.2-3909, and 15.2-1604 of the Code of Virginia, relating to the Division of Human Rights; renamed as Office of Civil Rights.

[H 2147]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-520, as it is currently effective and as it shall become effective, 2.2-522, 2.2-523, 2.2-3902, 2.2-3907, 2.2-3909, and 15.2-1604 of the Code of Virginia are amended and reenacted as follows:

Article 4.

~~Division Office of Human~~ *Civil Rights.*

§ 2.2-520. (Effective until March 1, 2021) Office of Civil Rights created; duties.

A. It is the policy of the Commonwealth of Virginia to provide for equal opportunities throughout the Commonwealth to all its citizens, regardless of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, disability, familial status, marital status, or status as a veteran and, to that end, to prohibit discriminatory practices with respect to employment, places of public accommodation, including educational institutions, and real estate transactions by any person or group of persons, including state and local law-enforcement agencies, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth be protected and ensured.

~~There~~ *B. To carry out this policy, there is created in the Department of Law a Division an Office of Human Civil Rights (the Division Office) to assist in the prevention of and relief from alleged unlawful discriminatory practices. The Office exists to investigate and bring actions to combat discrimination based on the protected classes listed in subsection A.*

~~B. C.~~ *The powers and duties of the Division Office shall be to:*

1. Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.), and make findings and recommendations upon complaints alleging unlawful discriminatory practices pursuant to the Virginia Human Rights Act (§ 2.2-3900 et seq.);

2. Adopt, promulgate, amend, and rescind regulations consistent with this article and the provisions of the Virginia Human Rights Act (§ 2.2-3900 et seq.) pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.). However, the ~~Division~~ Office shall not have the authority to adopt regulations on a substantive matter when another state agency is authorized to adopt such regulations;

3. Inquire into incidents that may constitute unlawful acts of discrimination or unfounded charges of unlawful discrimination under state or federal law and take such action within the ~~Division's~~ Office's authority designed to prevent such acts;

4. Seek through appropriate enforcement authorities, prevention of or relief from an alleged unlawful discriminatory practice;

5. Appoint and compensate qualified hearing officers from the list of hearing officers maintained by the Executive Secretary of the Supreme Court of Virginia;

6. Promote creation of local commissions to aid in effectuating the policies of this article and to enter into cooperative worksharing or other agreements with federal agencies or local commissions, including the deferral of complaints of discrimination to federal agencies or local commissions;

7. Make studies and appoint advisory councils to effectuate the purposes and policies of the article and to make the results thereof available to the public;

8. Accept public grants or private gifts, bequests, or other payments, as appropriate; and

9. Furnish technical assistance upon request of persons subject to this article to further comply with the article or an order issued thereunder.

§ 2.2-520. (Effective March 1, 2021) Office of Civil Rights created; duties.

A. It is the policy of the Commonwealth of Virginia to provide for equal opportunities throughout the Commonwealth to all its citizens, regardless of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, disability, familial status, marital status, or status as a veteran and, to that end, to prohibit discriminatory practices with respect to employment, places of public accommodation, including educational institutions, and real estate transactions by any person or group of persons, including state and local law-enforcement agencies, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth be protected and ensured.

~~There~~ *B. To carry out this policy, there is created in the Department of Law a ~~Division~~ an Office of Human Civil Rights (the ~~Division~~ Office) to assist in the prevention of and relief from alleged unlawful discriminatory practices. The Office exists to investigate and bring actions to combat discrimination based on the protected classes listed in subsection A.*

B. C. The powers and duties of the ~~Division~~ Office shall be to:

1. Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.), and make findings and recommendations upon complaints alleging unlawful discriminatory practices, including complaints alleging a pattern and practice of unlawful discriminatory practices, pursuant to the Virginia Human Rights Act (§ 2.2-3900 et seq.);

2. Adopt, promulgate, amend, and rescind regulations consistent with this article and the provisions of the Virginia Human Rights Act (§ 2.2-3900 et seq.) pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.). However, the ~~Division~~ Office shall not have the authority to adopt regulations on a substantive matter when another state agency is authorized to adopt such regulations;

3. Inquire into incidents that may constitute unlawful acts of discrimination or unfounded charges of unlawful discrimination under state or federal law and take such action within the ~~Division's~~ Office's authority designed to prevent such acts;

4. Seek through appropriate enforcement authorities, prevention of or relief from an alleged unlawful discriminatory practice;

5. Appoint and compensate qualified hearing officers from the list of hearing officers maintained by the Executive Secretary of the Supreme Court of Virginia;

6. Promote creation of local commissions to aid in effectuating the policies of this article and to enter into cooperative worksharing or other agreements with federal agencies or local commissions, including the deferral of complaints of discrimination to federal agencies or local commissions;

7. Make studies and appoint advisory councils to effectuate the purposes and policies of the article and to make the results thereof available to the public;

8. Accept public grants or private gifts, bequests, or other payments, as appropriate;

9. Receive complaints, seek to conciliate, and inquire into incidents that may constitute an unlawful pattern or practice of conduct by law-enforcement officers that deprives persons of rights, privileges, or immunities secured or protected by the laws of the United States and the Commonwealth and take such action within the ~~Division's~~ Office's authority, including requesting the Attorney General to issue a civil investigative demand pursuant to subsection D of § 2.2-511.1, designed to prevent such conduct; and

10. Furnish technical assistance upon request of persons subject to this article to further comply with the article or an order issued thereunder.

§ 2.2-522. Filing with the Office deemed filing with other state agencies.

Filing of a written complaint with the *Division Office of Human Rights* shall be deemed filing with any state agency for the purpose of complying with any time limitation on the filing of a complaint, provided the time limit for filing with the other agency has not expired. The time limit for filing with other agencies shall be tolled while the *Division Office* is either investigating the complaint or making a decision to refer it. Complaints under this article shall be filed with the *Division Office* within 180 days of the alleged discriminatory event.

§ 2.2-523. Confidentiality of information; penalty.

A. The *Division Office* shall not make public, prior to a public hearing pursuant to § 2.2-520, investigative notes and other correspondence and information furnished to the *Division Office* in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice.

B. Nothing in this section, however, shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law, or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety, and welfare of the population at large.

Complaints filed with the *Division Office of Human Civil Rights* of the Department of Law (the *Division Office*) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The *Division Office* may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the *Division Office* shall have no further jurisdiction over the complaint. The *Division Office* shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

§ 2.2-3907. Procedures for a charge of unlawful discrimination; notice; investigation; report; conciliation; notice of the right to file a civil action; temporary relief.

A. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the *Division Office of Human Civil Rights* of the Department of Law (the *Division Office*). The *Division Office* itself or the Attorney General may in a like manner file such a complaint. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.

B. Upon perfection of a complaint filed pursuant to subsection A, the *Division Office* shall timely serve a charge on the respondent and provide all parties with a notice informing the parties of the complainant's rights, including the right to commence a civil action, and the dates within which the complainant may exercise such rights. In the notice, the *Division Office* shall notify the complainant that the charge of unlawful discrimination will be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the appropriate general district or circuit court.

C. The complainant and respondent may agree to voluntarily submit the charge to mediation without waiving any rights that are otherwise available to either party pursuant to this chapter and without incurring any obligation to accept the result of the mediation process. Nothing occurring in mediation shall be disclosed by the *Division Office* or admissible in evidence in any subsequent proceeding unless the complainant and the respondent agree in writing that such disclosure be made.

D. Once a charge has been issued, the *Division Office* shall conduct an investigation sufficient to determine whether there is reasonable cause to believe the alleged discrimination occurred. Such charge shall be the subject of a report made by the *Division Office*. The report shall be a confidential document subject to review by the Attorney General, authorized *Division Office* employees, and the parties. The review shall state whether there is reasonable cause to believe the alleged unlawful discrimination has been committed.

E. If the report on a charge of discrimination concludes that there is no reasonable cause to believe the alleged unlawful discrimination has been committed, the charge shall be dismissed and the complainant shall be given notice of his right to commence a civil action.

F. If the report on a charge of discrimination concludes that there is reasonable cause to believe the alleged unlawful discrimination has been committed, the complainant and respondent shall be notified of such determination and the *Division Office* shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as

conference, conciliation, and persuasion. When the *Division Office* determines that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, the *Division Office* shall issue a notice that the case has been closed and the complainant shall be given notice of his right to commence a civil action.

G. At any time after a notice of charge of discrimination is issued, the *Division Office* or complainant may petition the appropriate court for temporary relief, pending final determination of the proceedings under this section, including an order or judgment restraining the respondent from doing or causing any act that would render ineffectual an order that a court may enter with respect to the complainant. Whether it is brought by the *Division Office* or by the complainant, the petition shall contain a certification by the *Division Office* that the particular matter presents exceptional circumstances in which irreparable injury will result from unlawful discrimination in the absence of temporary relief.

H. Upon receipt of a written request from the complainant, the *Division Office* shall promptly issue a notice of the right to file a civil action to the complainant after (i) 180 days have passed from the date the complaint was filed or (ii) the *Division Office* determines that it will be unable to complete its investigation within 180 days from the date the complaint was filed.

§ 2.2-3909. Causes of action for failure to provide reasonable accommodation for known limitations related to pregnancy, childbirth, or related medical conditions.

A. As used in this section:

"Employer" means any person, or agent of such person, employing five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

"Lactation" means lactation as defined in § 2.2-3905.

"Reasonable accommodation" includes more frequent or longer bathroom breaks, breaks to express breast milk, access to a private location other than a bathroom for the expression of breast milk, acquisition or modification of equipment or access to or modification of employee seating, a temporary transfer to a less strenuous or hazardous position, assistance with manual labor, job restructuring, a modified work schedule, light duty assignments, and leave to recover from childbirth.

"Related medical conditions" includes lactation.

B. No employer shall:

1. Refuse to make reasonable accommodation to the known limitations of a person related to pregnancy, childbirth, or related medical conditions, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer.

a. In determining whether an accommodation would constitute an undue hardship on the employer, the following shall be considered:

(1) Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's workforce;

(2) The size of the facility where employment occurs; and

(3) The nature and cost of the accommodations needed.

b. The fact that the employer provides or would be required to provide a similar accommodation to other classes of employees shall create a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.

2. Take adverse action against an employee who requests or uses a reasonable accommodation pursuant to this section. As used in this subdivision, "adverse action" includes failure to reinstate any such employee to her previous position or an equivalent position with equivalent pay, seniority, and other benefits when her need for a reasonable accommodation ceases.

3. Deny employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the known limitations of such applicant or employee related to pregnancy, childbirth, or related medical conditions.

4. Require an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of such employee.

C. Each employer shall engage in a timely, good faith interactive process with an employee who has requested an accommodation pursuant to this section to determine if the requested accommodation is reasonable and, if such accommodation is determined not to be reasonable, discuss alternative accommodations that may be provided.

D. An employer shall post in a conspicuous location and include in any employee handbook information concerning an employee's rights to reasonable accommodation for known limitations related to pregnancy, childbirth, or related medical conditions. Such information shall also be directly provided to (i) new employees upon commencement of their employment and (ii) any employee within 10 days of such employee's providing notice to the employer that she is pregnant.

E. An employee or applicant who has been denied any of the rights afforded under subsection B may bring an action in a general district or circuit court having jurisdiction over the employer that allegedly denied such rights. Any such action shall be brought within two years from the date of the unlawful denial of rights, or, if the employee or applicant has filed a complaint with the *Division Office of Human Civil Rights* of the Department of Law or a local human rights or human relations agency or commission within two years of the unlawful denial of rights, such action shall be brought within 90 days from the date that the *Division Office* or a local human rights or human relations agency or commission has rendered a final disposition on the complaint.

If the court or jury finds that an unlawful denial of rights afforded under subsection B has occurred, the court or jury may award to the plaintiff, as the prevailing party, compensatory damages, back pay, and other equitable relief. The court may also award reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice, or order such affirmative action as may be appropriate.

F. The provisions of this section regarding the provision of reasonable accommodation for known limitations related to pregnancy, childbirth, and related medical conditions shall not be construed to affect any other provision of law relating to discrimination on the basis of sex or pregnancy.

§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by certain officers; civil penalty.

A. It shall be an unlawful employment practice for a constitutional officer:

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or status as a veteran; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or status as a veteran.

B. Nothing in this section shall be construed to make it an unlawful employment practice for a constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular office. The provisions of this section shall not apply to policy-making positions, confidential or personal staff positions, or undercover positions.

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the ~~Division Office~~ *Office of Human Civil Rights* of the Department of Law. The ~~Division Office~~ shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed \$2,000.

CHAPTER 197

An Act to direct the Department of General Services to remove the statue of Harry F. Byrd, Sr., from Capitol Square.

[H 2208]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of General Services (the Department) shall remove the statue of former Virginia Governor and U.S. Senator Harry F. Byrd, Sr., from Capitol Square. The Department shall provide for transportation and storage of the statue in the Department's facilities until such time as the General Assembly determines and directs the statue's final disposition.*

CHAPTER 198

An Act to require that farmers market food and beverage sales be considered essential during a declared state of emergency.

[H 2302]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That if the Governor, during a disaster for which a state of emergency has been declared, orders the closure of all public access to certain businesses but considers grocery stores and other retailers that sell food and beverage products to be essential and therefore allows such stores to remain open during normal business hours, farmers markets shall be treated the same as such grocery stores and other retailers that sell food and beverage products.*

CHAPTER 199

An Act to amend and reenact §§ 8.01-195.4, 16.1-77, and 16.1-107 of the Code of Virginia, relating to general district courts; jurisdictional limits; appeal bond.

[S 1108]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-195.4, 16.1-77, and 16.1-107 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-195.4. Jurisdiction of claims under this article; right to jury trial; service on Commonwealth or locality; amending amount of claim.

The general district courts shall have exclusive original jurisdiction to hear, determine, and render judgment on any claim against the Commonwealth or any transportation district cognizable under this article when the amount of the claim does not exceed \$4,500, exclusive of interest and any attorneys' attorney fees. Jurisdiction shall be concurrent with the circuit courts when the amount of the claim exceeds \$4,500 but does not exceed ~~\$25,000~~ \$50,000, exclusive of interest and such attorneys' attorney fees. Jurisdiction of claims when the amount exceeds ~~\$25,000~~ \$50,000 shall be limited to the circuit courts of the Commonwealth. The parties to any such action in the circuit courts shall be entitled to a trial by jury.

While a matter is pending in a general district court or a circuit court, upon motion of the plaintiff seeking to increase or decrease the amount of the claim, the court shall order transfer of the matter to the general district court or circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Where such a matter is pending, if the plaintiff is seeking to increase or decrease the amount of the claim to an amount wherein the general district court and the circuit court would have concurrent jurisdiction, the court shall transfer the matter to either the general district court or the circuit court, as directed by the plaintiff, provided that such court otherwise has jurisdiction over the matter. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

In all actions against the Commonwealth commenced pursuant to this article, the Commonwealth shall be a proper party defendant, and service of process shall be made on the Attorney General. The notice of claim shall be filed pursuant to § 8.01-195.6 on the Director of the Division of Risk Management or the Attorney General. In all such actions against a transportation district, the district shall be a proper party and service of process and notices shall be made on the chairman of the commission of the transportation district.

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of (i) any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, ~~or for any injury to the person that would be recoverable by action at law or suit in equity~~, when the amount of such claim does not exceed \$4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees, and (ii) any action for injury to person, regardless of theory, and any action for wrongful death as provided for in Article 5 (§ 8.01-50 et seq.) of Chapter 3 of Title 8.01 when the amount of such claim does not exceed \$4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$50,000, exclusive of interest and any attorney fees. However, ~~this \$25,000~~ the jurisdictional limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of

the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners' Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et seq.).

(9) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

For purposes of this section, the territory served by a county general district court expressly authorized by statute to be established in a city includes the general district court courtroom.

§ 16.1-107. Requirements for appeal.

A. No appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, or in an amount sufficient to satisfy the judgment of the court in which it was rendered. Either such amount shall include the award of attorney fees, if any. Such bond shall be posted within 30 days from the date of judgment, except for an appeal from the judgment of a general district court on an unlawful detainer pursuant to § 8.01-129. However, no appeal bond shall be required of a plaintiff in a civil case where the defendant has not asserted a counterclaim, the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict, or an insane person, or the interest of a county, city, town or transportation district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2. ~~No appeal bond shall be required of a defendant with indemnity coverage through a policy of liability insurance sufficient to satisfy the judgment if the defendant's insurer provides a written irrevocable confirmation of coverage in the amount of the judgment. If defendant's insurer does not provide a written irrevocable confirmation of coverage in the amount of the judgment then an appeal bond will be required. In a case where a defendant with indemnity coverage through a policy of liability insurance appeals, the bond required by this section shall not exceed the amount of the judgment that is covered by a policy of indemnity coverage.~~

B. In all civil cases, except trespass, ejectment, unlawful detainer against a former owner based upon a foreclosure against that owner, or any action involving the recovering rents, no indigent person shall be required to post an appeal bond. In cases of unlawful detainer against a former owner based upon a foreclosure against that owner, a person who has been determined to be indigent pursuant to the guidelines set forth in § 19.2-159 shall post an appeal bond within 30 days from the date of judgment.

C. In cases of unlawful detainer for a residential dwelling unit, notwithstanding the provisions of § 8.01-129, an appeal bond shall be posted by the defendant with payment into the general district court in the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due, as contracted for in the rental agreement, and as amended on the unlawful detainer by the court. If such amount is not so paid, any such appeal shall not be perfected as a matter of law. Upon perfection of an appeal, the defendant shall pay the rental amount as contracted for in the rental agreement to the plaintiff on or before the fifth day of each month. If any such rental payment is not so paid, upon written motion of the plaintiff with a copy of such written motion mailed by regular mail to the tenant, the judge of the circuit court shall, without

hearing, enter judgment for the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of that date, subtracting any payments made by such tenant as reflected in the court accounts and on a written affidavit submitted by the plaintiff, plaintiff's managing agent, or plaintiff's attorney with a copy of such affidavit mailed by regular mail to the tenant, and an order of possession without further hearings or proceedings in such court. Any funds held in a court account shall be released to the plaintiff without further hearing or proceeding of the court unless the defendant has filed a motion to retain some or all of such funds and the court, after a hearing, enters an order finding that the defendant is likely to succeed on the merits of a counterclaim alleging money damages against the plaintiff, in which case funds shall be held by order of such court.

D. If such bond is furnished by or on behalf of any party against whom judgment has been rendered for money or property or both, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against such party on appeal, and for the payment of all costs and damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and damages as may be awarded against him on the appeal.

E. In addition to the foregoing, any party applying for appeal shall, within 30 days from the date of the judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, including all fees for service of process of the notice of appeal in the circuit court pursuant to § 16.1-112.

CHAPTER 200

An Act to amend and reenact §§ 54.1-2900, 54.1-3005, 54.1-3303, and 54.1-3408 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2957.04, relating to licensed certified midwives; licensure; practice.

[H 1953]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-3005, 54.1-3303, and 54.1-3408 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2957.04 as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care

during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by

the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified midwife by the American Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § 54.1-2957.03.

G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) nurse practitioner, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, pursuant to § 54.1-119 for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. (Effective until July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

19. (Effective July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 22.1-289.02 and regulated by the Board of Education in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957 and the licensure of licensed certified midwives pursuant to § 54.1-2957.04.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2907.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is

authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (1) epinephrine may possess and administer epinephrine and (2) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been

prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

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

O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

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

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

2. That the Department of Health Professions (the Department) shall convene a work group to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

CHAPTER 201

An Act to amend and reenact §§ 54.1-2900, 54.1-3005, 54.1-3303, and 54.1-3408 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2957.04, relating to licensed certified midwives; licensure; practice.

[S 1320]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-3005, 54.1-3303, and 54.1-3408 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2957.04 as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care

during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by

the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified midwife by the American Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § 54.1-2957.03.

G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) nurse practitioner, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;
2. To approve programs that meet the requirements of this chapter and of the Board;
3. To provide consultation service for educational programs as requested;
4. To provide for periodic surveys of educational programs;
5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;
6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;
7. To keep a record of all its proceedings;
8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;
10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, pursuant to § 54.1-119 for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. (Effective until July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

19. (Effective July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 22.1-289.02 and regulated by the Board of Education in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957 and the licensure of licensed certified midwives pursuant to § 54.1-2957.04.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, ~~or~~ by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2907.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is

authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (1) epinephrine may possess and administer epinephrine and (2) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been

prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

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

O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

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

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

2. That the Department of Health Professions (the Department) shall convene a work group to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

CHAPTER 202

An Act to amend and reenact § 63.2-1244 of the Code of Virginia, relating to adult adoption; investigation and report.

[H 1957]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1244 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1244. Investigation and report at discretion of circuit court; exception.

For adoptions under this article, an investigation and report shall not be made unless the circuit court in its discretion so requires. However, if a petition is filed for the adoption of any person eighteen years of age or older under clause (iv) of § 63.2-1243, the circuit court shall require an investigation and report to be made. If an investigation is required, the circuit court shall forward a copy of the petition and all exhibits to the local director and the provisions of § 63.2-1208 shall apply.

CHAPTER 203

An Act to amend the Code of Virginia by adding in Article 5 of Chapter 1 of Title 32.1 a section numbered 32.1-34.3, relating to cooperative local health budget; report.

[H 1963]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 1 of Title 32.1 a section numbered 32.1-34.3 as follows:

§ 32.1-34.3. Funding local health departments; cooperative local health budget; report.

A. As used in this section:

"Cooperative local health budget" means the total amount of state funds, local matching funds, and estimated self-generated local service revenues allocated to support a local department of health.

"Estimated self-generated local service revenues" means the amount of funds projected to be received by a local department of health from fees charged to individuals or third-party payment sources for services and permits.

"Local matching funds" means the amount of funds that a county or city shall be required to contribute to the cooperative local health budget for the local health department that serves that county or city.

"Revenue generation capacity factor" means the result of a formula that (i) determines a county's or city's revenue capacity relative to the state revenue capacity, (ii) determines a county's or city's median household income relative to the statewide median household income, and (iii) adjusts the amount determined in clause (i) by the amount determined in clause (ii).

B. Funding for local health departments shall consist of such state funds as may be allocated for the operation of the local health department together with local matching funds and estimated self-generated local service revenues, the total amount of which shall constitute the collective local health budget available to a local department of health.

C. The amount of local matching funds a county or city shall be required to contribute to the cooperative local health budget shall be determined by the Department on the basis of the county's or city's revenue generation capacity factor. However, in no case shall the amount of local matching funds required be greater than 45 percent or less than 18 percent of the total amount of the cooperative local health budget for the local health department that serves the county or city, after deducting estimated self-generated local service revenues.

D. The Department shall biennially review the local matching fund amount for each county and city in the Commonwealth and determine whether such amount should be revised as a result of changes to the county's or city's revenue generation capacity factor. The Department shall report the results of such review and any recommendations for changes to a county's or city's local matching fund amount to the Governor and the General Assembly.

CHAPTER 204

An Act to amend and reenact § 24.2-701.1 of the Code of Virginia, relating to absentee voting; early in person; availability on Sundays.

[H 1968]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-701.1 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-701.1. Absentee voting in person.

A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. In the case of a special election, excluding for federal offices, if time is insufficient between the issuance of the writ calling for the special election and the date of the special election, absentee voting in person shall be available as soon as possible after the issuance of the writ.

Any registered voter offering to vote absentee in person shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § 24.2-706.

Except as provided in subsection F, a registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. A voter who does not show one of the forms of identification specified in this subsection or does not sign this statement shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar or a voter satellite office established pursuant to § 24.2-701.2. For purposes of this chapter, such office offices shall be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections. *The electoral board or general registrar may provide for absentee voting in person in such offices on Sundays.* Any applicant who is in line to cast his ballot when the office of the general registrar or voter satellite office closes shall be permitted to cast his absentee ballot that day.

C. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.

D. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary. However, such requirement shall not apply when (i) voting systems that are being used pursuant to subsection C are located in the office of the general registrar or voter satellite office and (ii) the general registrar or an assistant registrar is present.

E. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

F. This subsection shall apply in the case of any individual who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a federal election in the state. At such election, such individual shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B of § 24.2-643 and subsection A of § 24.2-653 shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

CHAPTER 205

An Act to amend and reenact §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia, relating to Board of Pharmacy; pharmaceutical processors; processing and dispensing cannabis oil.

[H 1988]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine ~~consistent with federal requirements for the prescribing of Schedule II through V controlled substances~~, *provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology.*

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature *or authentic electronic signature* of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 ~~for dispensing or distributing the issuance of a certification for the use of cannabis oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B.~~ Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board *and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients.* The Board shall, ~~in consultation with the Board of Medicine, set a not limit on the number of patients to whom a practitioner may issue a written certification.~~ *The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.*

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board. *No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification.*

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of cannabis oil by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis oil on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis oil to the patient or resident as necessary.

~~H. I.~~ The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

~~H. J.~~ Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, *or their agents*, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ 54.1-3442.5. Definitions.

As used in this article:

"Cannabis oil" ~~has the same meaning as specified in § 54.1-3408.3.~~

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis oil produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" has the same meaning as specified in § 54.1-3408.3.

"Designated caregiver facility" has the same meaning as defined in § 54.1-3408.3.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, produces cannabis oil, and dispenses cannabis oil to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"Registered agent" has the same meaning as specified in § 54.1-3408.3.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical ~~processor~~ *processor's dispensing area* or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) ~~quarterly~~ *quarterly routine inspections no more frequently than once annually*; (viii) processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil products between pharmaceutical processors ~~and~~, between a pharmaceutical processor and a cannabis dispensing facility, *and between cannabis dispensing facilities*; (xi) an allowance for the sale of devices for administration of dispensed products *and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M*; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; ~~and~~ (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil; *and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to*

practitioners who issue written certifications and registered patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis oil; (b) ~~a maximum number of marijuana plants a pharmaceutical processor may possess at any one time;~~ (c) the secure disposal of ~~plant remains;~~ *agricultural waste*, and (d) ~~(c)~~ a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical processor shall make a sample available from each homogenized batch of product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch is required to achieve a representative sample for analysis. *The pharmaceutical processor may remediate cannabis oil that fails any quality testing standard. Following remediation, all remediated cannabis oil shall be subject to laboratory testing and approved upon satisfaction of testing standards applied to cannabis oil generally. Stability testing shall not be required for any cannabis oil product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of packaging.*

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical ~~processor~~ *processor's dispensing area* or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. ~~A pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-charge~~ *The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.*

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require *the material owners* of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the ~~applicant~~ *applicant's material owners*. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. *A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.*

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in ~~horticulture~~ *a field related to the cultivation of plants* or a certification recognized by the Board or who has at least two years of experience cultivating plants and, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) *to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.*

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of ~~(i)~~ a felony under the laws of the Commonwealth or another jurisdiction ~~or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction within the last five years~~ shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical ~~processor~~ *processor's dispensing area* and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time *in the pharmaceutical processor's dispensing area or cannabis dispensing facility.*

M. Any person who proposes to use an automated process or procedure during the production of cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. M. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before oil from industrial hemp may be acquired.

N. *With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.*

§ 54.1-3442.7. Dispensing cannabis oil; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis oil only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia as made evident to the Board, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3; (ii) such patient's registered agent; or (iii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia as made evident to the Board and is registered with the Board pursuant to § 54.1-3408.3. *A companion may accompany a registered patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis oil pursuant to each written certification, the a pharmacist or pharmacy technician at the location of employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, registered agent, parent, or legal guardian. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis oil pursuant to each written certification, the pharmacist, pharmacy technician, an employee or delivery agent shall view the current written certification; a current photo identification of the patient, registered agent, parent, or legal guardian; and the current board registration issued to the patient, registered agent, parent, or legal guardian. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply.*

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board or cannabis oil that has been formulated with oil from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Courts of Justice Health, Welfare and Institutions and the Senate Committee on the Judiciary Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board, including the number of practitioners, patients, registered agents, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § 54.1-3408.3.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis oil on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis oil on site is within such range. A pharmaceutical processor producing cannabis oil shall establish a stability testing schedule of cannabis oil.

2. That the Board of Pharmacy (the Board) shall promulgate regulations implementing the provisions of this act. The Board's initial adoption of regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The Board shall complete work on such regulations in order that they will be implemented no later than September 1, 2021.

3. That in promulgating the regulations implementing the provisions of this act, the Board of Pharmacy shall amend 18VAC-110-60-220 and may include reasonable restrictions on the advertising, logos, signage, and display of cannabis oil products and the appearance of pharmaceutical processors and cannabis dispensing facilities, provided

that such restrictions do not prohibit (i) the reasonable promotion of their business and operations or (ii) nonpublic communications. Restrictions may include (a) prohibiting false or misleading statements, (b) prohibiting incorporating unsupported health claims, (c) prohibiting advertisements that target children and the use of statements and illustrations designed or likely to appeal to children, (d) prohibiting online advertising intended to target or otherwise appeal to children, (e) restricting the proximity of advertising to schools, and (f) restricting the posting of advertisements on public property, including public transit vehicles and facilities.

CHAPTER 206

An Act to amend and reenact §§ 16.1-260 and 63.2-1903 of the Code of Virginia, relating to child support; health care coverage.

[H 2002]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-260 and 63.2-1903 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement. *If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner information on the possible availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of Medical Assistance Services.*

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions

of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, or a violation of § 18.2-250.1, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 63.2-1903. Authority to issue certain orders; civil penalty.

A. In the absence of a court order, the Department shall have the authority to issue orders directing the payment of child and child and spousal support and, if available at reasonable cost as defined in § 63.2-1900, to require a provision for health care coverage, including Department-sponsored health care coverage, or cash medical support, or both, for dependent children of the parents, which shall include the requirements specified for employers pursuant to subdivision B 5 of

§ 20-79.3. The Department shall have the authority to make available Department-sponsored health care coverage for children receiving child support services from the Department. If ~~health care coverage is unavailable at a reasonable cost, as defined in § 63.2-1900, or inaccessible to either parent,~~ *it appears that the gross income of the custodial parent of the dependent child is equal to or less than 200 percent of the federal poverty level promulgated by the U.S. Department of Health and Human Services from time to time,* the Department shall refer the dependent ~~children child~~ *child* to the Family Access to Medical Insurance Security plan pursuant to § 32.1-351. However, prior to referring the dependent ~~children child~~ *child* to the Family Access to Medical Insurance Security plan, the Department shall confirm that neither parent has access to health care coverage at a reasonable cost for the dependent ~~children child~~ *child*. If a child is enrolled in Department-sponsored health care coverage, the Department shall collect the cost of the coverage pursuant to subsection E of § 20-108.2.

In ordering the payment of child support, the Department shall set such support at the amount resulting from computation pursuant to the guideline set out in § 20-108.2, subject to the provisions of § 63.2-1918.

B. When a payee no longer has physical custody of a child, the Department shall have the authority to redirect child support payments to a custodial parent who has physical custody of the child when an assignment of rights has been made to the Department or an application for services has been made by such custodial parent with the Division of Child Support Enforcement.

C. The Department shall have the authority, upon notice from the Department of Medical Assistance Services, to use any existing enforcement mechanisms provided by this chapter to collect the wages, salary, or other employment income or to withhold amounts from state tax refunds of any obligor who has not used payments received from a third party to reimburse, as appropriate, either the other parent of such child or the provider of such services, to the extent necessary to reimburse the Department of Medical Assistance Services.

D. The Department may order the obligor and payee to notify each other or the Department upon request of current gross income as defined in § 20-108.2 and any other pertinent information that may affect child support amounts. For good cause shown, the Department may order that such information be provided to the Department and made available to the parties for inspection in lieu of the parties' providing such information directly to each other. The Department shall record the social security number of each party or control number issued to a party by the Department of Motor Vehicles pursuant to § 46.2-342 in the Department's file of the case.

E. The Department shall develop procedures governing the method and timing of periodic review and adjustment of child support orders established or enforced or both pursuant to Title IV-D of the Social Security Act, as amended. If there is an assignment under Title IV-A of the Social Security Act or at the request of either parent subject to the order, the Department shall initiate a review of such order every three years without requiring proof or showing of a change in circumstances and shall initiate appropriate action to adjust such order in accordance with the provisions of § 20-108.2 and subject to the provisions of § 63.2-1918.

F. In order to provide essential information for whatever establishment or enforcement actions are necessary for the collection of child support, the Commissioner, the Director of the Division of Child Support Enforcement, and district managers of Division of Child Support Enforcement offices shall have the right to (i) subpoena financial records of, or other information relating to, the noncustodial parent and obligee from any person, firm, corporation, association, or political subdivision or department of the Commonwealth and (ii) summons the noncustodial parent and obligee to appear in the Division's offices. The Commissioner, Director, and district managers may also subpoena copies of state and federal income tax returns. The district managers shall be trained in the correct use of the subpoena process prior to exercising subpoena authority. A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to respond to a subpoena issued pursuant to this subsection.

G. In the absence of a court order, the Department may establish an administrative support order on an out-of-state obligor pursuant to subdivision A 8 or 9 of § 8.01-328.1 or § 20-88.35. The Department may also take action to enforce an administrative or court order on an out-of-state obligor. Service of such actions shall be in accordance with the provisions of § 8.01-296, 8.01-327 or 8.01-329 or by certified mail, return receipt requested, or electronic means in accordance with § 63.2-1917.

H. If a support order has been issued in another state but the obligor, the obligee, and the child now live in the Commonwealth, the Department may (i) enforce the order without registration, using all enforcement remedies available under this chapter, and (ii) register the order in the appropriate tribunal of the Commonwealth for enforcement or modification.

CHAPTER 207

An Act to amend and reenact §§ 63.2-1603, 63.2-1606, and 63.2-1609 of the Code of Virginia, relating to emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty.

[H 2018]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 63.2-1603, 63.2-1606, and 63.2-1609 of the Code of Virginia are amended and reenacted as follows:
§ 63.2-1603. Protection of adults; definitions.**

As used in this article:

"Act of violence, force, or threat" means the same as that term is defined in § 19.2-152.7:1.

"Adult" means any person 60 years of age or older, or any person 18 years of age or older who is incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services.

"Emergency" means (i) that an adult is living in conditions that present a clear and substantial risk of death or immediate and serious physical harm to himself or others or (ii) that an adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation.

"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.

"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

"Incapacitated person" means any adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.

§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected financial exploitation and provide supporting information and records to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section:

"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult, as defined in § 63.2-1603, for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.

"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false is guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision is a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

L. Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business days after the date upon which such transaction or disbursement was initially requested based on a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon refusing to execute a transaction, delaying a transaction, or refusing to disburse funds, the financial institution shall report such refusal or delay within five business days to the local department or the adult protective services hotline. Upon request, and to the extent permitted by state and federal law, financial institution staff making a report to the local department of social services may

report any information or records relevant to the report or investigation. Absent gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or criminal liability for refusing to execute a transaction, delaying a transaction, or refusing to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be contingent upon whether financial institution staff has reported suspected financial exploitation of the adult pursuant to subsection C.

§ 63.2-1609. Emergency order for adult protective services.

A. Upon petition by the local department to the circuit court, the court may issue an order authorizing the provision of adult protective services on an emergency basis to an adult after finding on the record, based on a preponderance of the evidence, that:

1. The adult is incapacitated;
2. An emergency exists;
3. The adult lacks the capacity to consent to receive adult protective services; and
4. The proposed order is substantially supported by the findings of the local department that has investigated the case, or if not so supported, there are compelling reasons for ordering services.

B. In issuing an emergency order, the court shall adhere to the following limitations:

1. Only such adult protective services as are necessary to improve or correct the conditions creating the emergency shall be ordered, and the court shall designate the approved services in its order. In ordering adult protective services the court shall consider the right of a person to rely on nonmedical remedial treatment in accordance with a recognized religious method of healing in lieu of medical care.

2. The court shall specifically find in the emergency order whether hospitalization or a change of residence is necessary. Approval of the hospitalization or change of residence shall be stated in the order. No adult may be committed to a mental health facility under this section.

3. Adult protective services may be provided through an appropriate court order only for a period of 15 days. The original order may be renewed once for a five-day period upon a showing to the court that continuation of the original order is necessary to remove the emergency.

4. In its order the court shall appoint the petitioner or another interested person, as temporary guardian of the adult with responsibility for the adult's welfare and authority to give consent for the adult for the approved adult protective services until the expiration of the order.

5. When applicable, the court shall appoint the petitioner or another interested person as temporary conservator of the adult with responsibility and authority limited to managing the adult's estate and financial affairs related to the approved adult protective services until the expiration of the order.

6. The issuance of an emergency order and the appointment of a temporary guardian or temporary conservator shall not deprive the adult of any rights except to the extent provided for in the order or appointment.

7. The court shall set the bond of the temporary guardian and the bond and surety, if any, of the temporary conservator.

8. *Upon a finding that the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, the court may include in its order one or more of the following conditions to be imposed on the alleged perpetrator: (i) prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. Any person who violates a condition imposed pursuant to this subdivision is guilty of a Class 1 misdemeanor.*

C. The petition for an emergency order shall set forth the name, address, and interest of the petitioner; the name, age, and address of the adult in need of adult protective services; the nature of the emergency, *including the nature of any acts of violence, force, or threat or financial exploitation; the date and location of any acts of violence, force, or threat or financial exploitation*; the nature of the adult's incapacity, if determinable; the proposed adult protective services; the petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in subdivisions A 1 through A 4; and facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts.

D. Written notice of the time, date, and place for the hearing shall be given to the adult, to his spouse, or if none, to his nearest known next of kin, *and to the alleged perpetrator if the petition alleges the adult has been subjected to an act of violence, force, or threat or financial exploitation*, and a copy of the petition shall be attached. Such notice shall be given at least 24 hours prior to the hearing for emergency intervention. The court may waive the 24-hour notice requirement upon showing that (i) immediate and reasonably foreseeable physical harm to the adult or others will result from the 24-hour delay; and (ii) reasonable attempts have been made to notify the adult, his spouse, or if none, his nearest known next of kin, *and the alleged perpetrator if the petition alleges the adult has been subjected to an act of violence, force, or threat or financial exploitation*.

E. Upon receipt of a petition for an emergency order for adult protective services, the court shall hold a hearing. The adult who is the subject of the petition shall have the right to be present and be represented by counsel at the hearing. If it is

determined that the adult is indigent, or, in the determination of the judge, lacks capacity to waive the right to counsel, the court shall locate and appoint a guardian ad litem. If the adult is indigent, the cost of the proceeding shall be borne by the Commonwealth. If the adult is not indigent, the court may order that the cost of the proceeding shall be borne by such adult. This hearing shall be held no earlier than 24 hours and no later than 72 hours after the notice required in subsection D has been given, unless such notice has been waived by the court.

F. The adult, the temporary guardian, temporary conservator, or any interested person may petition the court to have the emergency order set aside or modified at any time there is evidence that a substantial change in the circumstances of the adult for whom the emergency services were ordered has occurred.

G. Where adult protective services are rendered on the basis of an emergency order, the temporary guardian or temporary conservator shall submit to the court a report describing the circumstances thereof including the name, place, date, and nature of the services provided. This report shall become part of the court record. Such report shall be confidential and open only to such persons as may be directed by the court.

H. If the person continues to need adult protective services after the renewal order provided in subdivision B 3 has expired, the temporary guardian, temporary conservator, or local department shall immediately petition the court to appoint a guardian and, if applicable, a conservator pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2.

I. If the court finds the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation and enters an order containing any of the conditions permitted pursuant to subdivision B 8, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the perpetrator's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and, upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described in this subsection. If the order is later set aside or modified, a copy of such order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders and, upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described in this subsection, and the order shall be served forthwith and due return made to the court.

CHAPTER 208

An Act to amend and reenact §§ 63.2-1603, 63.2-1606, and 63.2-1609 of the Code of Virginia, relating to emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty.

[S 1297]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1603, 63.2-1606, and 63.2-1609 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1603. Protection of adults; definitions.

As used in this article:

"Act of violence, force, or threat" means the same as that term is defined in § 19.2-152.7:1.

"Adult" means any person 60 years of age or older, or any person 18 years of age or older who is incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services.

"Emergency" means (i) that an adult is living in conditions that present a clear and substantial risk of death or immediate and serious physical harm to himself or others or (ii) that an adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation.

"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit,

benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.

"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

"Incapacitated person" means any adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.

§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected financial exploitation and provide supporting information and records to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section:

"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult, as defined in § 63.2-1603, for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.

"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false is guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision is a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

L. Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business days after the date upon which such transaction or disbursement was initially requested based on a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon refusing to execute a transaction, delaying a transaction, or refusing to disburse funds, the financial institution shall report such refusal or delay within five business days to the local department or the adult protective services hotline. Upon request, and to the extent permitted by state and federal law, financial institution staff making a report to the local department of social services may report any information or records relevant to the report or investigation. Absent gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or criminal liability for refusing to execute a transaction, delaying a transaction, or refusing to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be contingent upon whether financial institution staff has reported suspected financial exploitation of the adult pursuant to subsection C.

§ 63.2-1609. Emergency order for adult protective services.

A. Upon petition by the local department to the circuit court, the court may issue an order authorizing the provision of adult protective services on an emergency basis to an adult after finding on the record, based on a preponderance of the evidence, that:

1. The adult is incapacitated;
2. An emergency exists;
3. The adult lacks the capacity to consent to receive adult protective services; and

4. The proposed order is substantially supported by the findings of the local department that has investigated the case, or if not so supported, there are compelling reasons for ordering services.

B. In issuing an emergency order, the court shall adhere to the following limitations:

1. Only such adult protective services as are necessary to improve or correct the conditions creating the emergency shall be ordered, and the court shall designate the approved services in its order. In ordering adult protective services the court shall consider the right of a person to rely on nonmedical remedial treatment in accordance with a recognized religious method of healing in lieu of medical care.

2. The court shall specifically find in the emergency order whether hospitalization or a change of residence is necessary. Approval of the hospitalization or change of residence shall be stated in the order. No adult may be committed to a mental health facility under this section.

3. Adult protective services may be provided through an appropriate court order only for a period of 15 days. The original order may be renewed once for a five-day period upon a showing to the court that continuation of the original order is necessary to remove the emergency.

4. In its order the court shall appoint the petitioner or another interested person, as temporary guardian of the adult with responsibility for the adult's welfare and authority to give consent for the adult for the approved adult protective services until the expiration of the order.

5. When applicable, the court shall appoint the petitioner or another interested person as temporary conservator of the adult with responsibility and authority limited to managing the adult's estate and financial affairs related to the approved adult protective services until the expiration of the order.

6. The issuance of an emergency order and the appointment of a temporary guardian or temporary conservator shall not deprive the adult of any rights except to the extent provided for in the order or appointment.

7. The court shall set the bond of the temporary guardian and the bond and surety, if any, of the temporary conservator.

8. *Upon a finding that the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, the court may include in its order one or more of the following conditions to be imposed on the alleged perpetrator: (i) prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. Any person who violates a condition imposed pursuant to this subdivision is guilty of a Class 1 misdemeanor.*

C. The petition for an emergency order shall set forth the name, address, and interest of the petitioner; the name, age, and address of the adult in need of adult protective services; the nature of the emergency, *including the nature of any acts of violence, force, or threat or financial exploitation; the date and location of any acts of violence, force, or threat or financial exploitation;* the nature of the adult's incapacity, if determinable; the proposed adult protective services; the petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in subdivisions A 1 through A 4; and facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts.

D. Written notice of the time, date, and place for the hearing shall be given to the adult, to his spouse, or if none, to his nearest known next of kin, *and to the alleged perpetrator if the petition alleges the adult has been subjected to an act of violence, force, or threat or financial exploitation,* and a copy of the petition shall be attached. Such notice shall be given at least 24 hours prior to the hearing for emergency intervention. The court may waive the 24-hour notice requirement upon showing that (i) immediate and reasonably foreseeable physical harm to the adult or others will result from the 24-hour delay; and (ii) reasonable attempts have been made to notify the adult, his spouse, or if none, his nearest known next of kin, *and the alleged perpetrator if the petition alleges the adult has been subjected to an act of violence, force, or threat or financial exploitation.*

E. Upon receipt of a petition for an emergency order for adult protective services, the court shall hold a hearing. The adult who is the subject of the petition shall have the right to be present and be represented by counsel at the hearing. If it is determined that the adult is indigent, or, in the determination of the judge, lacks capacity to waive the right to counsel, the court shall locate and appoint a guardian ad litem. If the adult is indigent, the cost of the proceeding shall be borne by the Commonwealth. If the adult is not indigent, the court may order that the cost of the proceeding shall be borne by such adult. This hearing shall be held no earlier than 24 hours *and no later than 72 hours* after the notice required in subsection D has been given, unless such notice has been waived by the court.

F. The adult, the temporary guardian, temporary conservator, or any interested person may petition the court to have the emergency order set aside or modified at any time there is evidence that a substantial change in the circumstances of the adult for whom the emergency services were ordered has occurred.

G. Where adult protective services are rendered on the basis of an emergency order, the temporary guardian or temporary conservator shall submit to the court a report describing the circumstances thereof including the name, place, date, and nature of the services provided. This report shall become part of the court record. Such report shall be confidential and open only to such persons as may be directed by the court.

H. If the person continues to need adult protective services after the renewal order provided in subdivision B 3 has expired, the temporary guardian, temporary conservator, or local department shall immediately petition the court to appoint a guardian and, if applicable, a conservator pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2.

I. *If the court finds the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation and enters an order containing any of the conditions permitted pursuant to subdivision B 8, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the perpetrator's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and, upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court.*

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described in this subsection. If the order is later set aside or modified, a copy of such order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders and, upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described in this subsection, and the order shall be served forthwith and due return made to the court.

CHAPTER 209

An Act to amend and reenact § 63.2-608 of the Code of Virginia, relating to Virginia Initiative for Education and Work; Full Employment Program.

[H 2035]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-608 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-608. Virginia Initiative for Education and Work (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Education and Work (VIEW) to reduce long-term dependence on welfare, emphasize personal responsibility, and enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills, and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other allowable TANF work activity as defined by federal law and enter into an agreement of personal responsibility.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following work activities within 90 days after the approval of TANF assistance:

1. Unsubsidized private-sector employment;
2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section that shall be known as the Full Employment Program (FEP). ~~FEP replaces TANF with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for TANF may participate in FEP unless exempted by this chapter. FEP shall assign participants to subsidized wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.~~

b. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. ~~At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF received prior to the work placement~~

Wages earned by a FEP employee during the period for which his employer receives a subsidy pursuant to subdivision c shall be disregarded in the calculation of TANF benefits.

c. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. *Pursuant to Board regulations, participating employers shall receive a subsidy of up to \$1,000 per month for each FEP employee for a period not to exceed six months.* Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304(a)(5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

d. FEP employers shall:

- (i) Endeavor to make FEP placements positive learning and training experiences;
- (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;
- (iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;
- (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;
- (v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;
- (vi) Provide workers' compensation coverage for participants;
- (vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and
- (viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates FEP rules.

e. As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, sexual orientation, gender identity, national origin, religion, age, or disability;

3. Part-time or temporary employment;

4. Community work experience, as follows:

a. The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements that serve a useful public purpose as provided in § 482(f) of the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public function. VIEW participants shall not displace regular workers.

b. The number of hours per week for participants shall be determined by combining the total dollar amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work week of 32 hours, of which up to 12 hours of employment-related education and training may substitute for work experience employment; or

5. Any other allowable TANF work activity as defined by federal law.

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may place the participant in a program preparing individuals for a high school equivalency examination approved by the Board of Education, a career and technical education program targeted at skills required for particular employment opportunities, or an apprenticeship program developed by the local department in accordance with requirements established by the Department. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six months during the prior two years, or (iv) who are in a treatment program for a substance abuse problem or are receiving services through a family violence treatment program. The VIEW participant may continue in a high school equivalency examination preparation program, career and technical education program, or apprenticeship program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

F. Participants may be reevaluated after a period determined by the local department and reassigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training or education to further his employability.

G. Local departments shall be authorized to sanction parents up to the full amount of the TANF grant for noncompliance, unless good cause exists.

H. VIEW participants shall not be assigned to projects that require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Any injury to a VIEW participant arising out of and in the course of community work experience shall be covered by the participant's existing Medicaid coverage. If a community work experience participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

A community work experience participant who becomes incapacitated for 30 days or more shall be eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants.

CHAPTER 210

An Act to amend and reenact §§ 54.1-2902, 54.1-2950.1, 54.1-2951.1, 54.1-2951.2, 54.1-2952, 54.1-2952.1, 54.1-2953, and 54.1-2972 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2951.4, relating to practice as a physician assistant.

[H 2039]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2902, 54.1-2950.1, 54.1-2951.1, 54.1-2951.2, 54.1-2952, 54.1-2952.1, 54.1-2953, and 54.1-2972 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2951.4 as follows:

§ 54.1-2902. Unlawful to practice without license.

It shall be ~~is~~ unlawful for any person to practice medicine, osteopathic medicine, chiropractic, *or* podiatry, or as a ~~physician's or podiatrist's~~ *physician* assistant in the Commonwealth without a valid unrevoked license issued by the Board of Medicine.

§ 54.1-2950.1. Advisory Board on Physician Assistants; membership; qualifications.

The Advisory Board on Physician Assistants shall consist of five members to be appointed by the Governor as follows: three members shall be licensed physician assistants who have practiced their professions in Virginia for not less than three years prior to their appointments; one shall be a physician who ~~supervises~~ *collaborates* with at least one physician assistant; and one shall be a citizen member appointed from the Commonwealth ~~at-large at large~~. ~~Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments~~ *Appointments* shall be for four-year terms. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant; licensure by endorsement.

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;
2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and
3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. The Board may issue a license by endorsement to an applicant for licensure as a physician assistant if the applicant (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

C. Every physician assistant shall practice as part of a patient care team and shall ~~enter into~~ *provide care in accordance with* a written or electronic practice agreement with ~~at least one or more patient care team physician physicians or patient care team podiatrist podiatrists~~.

A practice agreement shall include acts pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for collaboration and consultation among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by a patient care team physician or patient care team podiatrist who is part of the patient care team at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by ~~a~~ *the* patient care team physician or patient care team podiatrist who is part of the patient care team.

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request. The practice agreement may be maintained in writing or electronically, and may be a part of credentialing documents, practice protocols, or procedures.

§ 54.1-2951.2. Issuance of a license.

The Board shall issue a license to the physician assistant to practice as ~~part of a patient care team~~ in accordance with § 54.1-2951.1.

§ 54.1-2951.4. Exception to physician assistant license requirement; physician assistant student.

The provisions of § 54.1-2902 shall not be construed as prohibiting a physician assistant student who is enrolled in a physician assistant education program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor agency from engaging in acts that constitute practice as a physician assistant.

§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.

A. A patient care team physician or patient care team podiatrist licensed under this chapter may serve on a patient care team with physician assistants and shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.

Service as part of a patient care team by a patient care team physician or patient care team podiatrist shall not, by the existence of such service alone, establish or create vicarious liability for the actions or inactions of other team members.

B. Physician assistants may practice medicine to the extent and in the manner authorized by the Board. A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team shall identify the relevant physician assistant's scope of practice and an evaluation process for the physician assistant's performance.

C. Physician assistants appointed as medical examiners pursuant to § 32.1-282 shall only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282.

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees that are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be performed in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice agreement ~~between the physician assistant and the patient care team physician or patient care team podiatrist~~ and may include health care services that are educational, diagnostic, therapeutic, or preventive, including establishing a diagnosis, providing treatment, and performing procedures. Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, in accordance with the practice agreement, including tasks performed, relating to the provision of medical care in an emergency department.

~~The patient care team physician who collaborates and consults with a physician assistant shall retain exclusive control of and responsibility for the physician assistant.~~ The A patient care team physician or the on-duty emergency department physician shall be available at all times for collaboration and consultation with both the physician assistant and the emergency department physician. No person shall have responsibility for any physician assistant who is not employed by the person or the person's business entity.

E. No physician assistant shall perform any acts beyond those set forth in the practice agreement or authorized as part of the patient care team. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient ~~has signed the practice agreement~~ *is available for collaboration or consultation*, pursuant to regulations of the Board, ~~to act as a physician on a patient care team for that physician assistant.~~ Every licensee, professional corporation or partnership of licensees, hospital, or commercial enterprise that employs a physician assistant shall be fully responsible for the acts of the physician assistant in the care and treatment of human beings.

F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working in the field of radiology as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.

§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician assistants.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.), ~~and as provided that the physician assistant has entered into and is, at the time of writing a prescription, a party to in a practice agreement with a licensed patient care team physician or patient care team podiatrist that provides for collaboration and consultation regarding the prescriptive practices of the physician assistant.~~ Such practice agreements shall include a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the patient care team physician or patient care team podiatrist.

B. It shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement and the requirements in this section.

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency, which may include continuing education, testing, and any other requirement and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the

use of new pharmaceuticals, and appropriate communication with patients, and (ii) a requirement that the physician assistant disclose to his patients his name, address, and telephone number and that he is a physician assistant. If a patient or his representative requests to speak with the patient care team physician or patient care team podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

§ 54.1-2953. Renewal, revocation, suspension, and refusal.

The Board may revoke, suspend, or refuse to renew a license to practice as a physician assistant for any of the following:

1. Any action by a physician assistant constituting unprofessional conduct pursuant to § 54.1-2915;
2. Practice by a physician assistant other than as part of a patient care team, including practice without entering into a practice agreement with at least one *or more* patient care team ~~physician physicians~~ or patient care team ~~podiatrist podiatrists~~;
3. Failure of the physician assistant to practice in accordance with the requirements of his practice agreement;
4. Negligence or incompetence on the part of the physician assistant or other member of the patient care team ~~under his supervision~~;
5. Violation of or cooperation in the violation of any provision of this chapter or the regulations of the Board; or
6. Failure to comply with any regulation of the Board required for licensure of a physician assistant.

§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances.

A. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in the Commonwealth, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition that directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed to practice medicine in the Commonwealth and board-eligible or board-certified in the field of neurology, neurosurgery, or critical care medicine, when based on the ordinary standards of medical practice, there is irreversible cessation of all functions of the entire brain, including the brain stem, and, in the opinion of such physician, based on the ordinary standards of medical practice and considering the irreversible cessation of all functions of the entire brain, including the brain stem, and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such functions, and, in such event, death shall be deemed to have occurred at the time when all such functions have ceased.

B. A registered nurse or a physician assistant ~~who practices under the supervision of a physician~~ may pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician assistant works at (a) a home care organization as defined in § 32.1-162.7, (b) a hospice as defined in § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2; (ii) the nurse or physician assistant is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs; (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to § 54.1-2987.1 for the patient who has died. The nurse or physician assistant shall inform the patient's attending and consulting physicians of ~~his~~ *the patient's* death as soon as practicable.

The nurse or physician assistant shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by the Office of the Chief Medical Examiner, the nurse or physician assistant shall notify the Office of the Chief Medical Examiner of the death and the body shall not be released to the funeral director.

This subsection shall not authorize a nurse or physician assistant to determine the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician, except as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to carry out the functions of this subsection.

This subsection shall not relieve any registered nurse or physician assistant from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

C. The alternative definitions of death provided in subdivisions A 1 and A 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

CHAPTER 211

An Act to amend and reenact § 32.1-46.01 of the Code of Virginia, relating to Virginia Immunization Information System; health care entities; required participation.

[H 2061]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-46.01 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-46.01. Virginia Immunization Information System.**

A. The Board of Health shall establish the Virginia Immunization Information System (VIIS), a statewide immunization registry that consolidates patient immunization histories from birth to death into a complete, accurate, and definitive record that may be made available to participating health care providers throughout Virginia, to the extent funds are appropriated by the General Assembly or otherwise made available. The purposes of VIIS shall be to (i) protect the public health of all citizens of the Commonwealth, (ii) prevent ~~under-~~ *under-immunization* and over-immunization of children, (iii) ensure up-to-date recommendations for immunization scheduling to health care providers and the Board, (iv) generate parental reminder and recall notices and manufacturer recalls, (v) develop immunization coverage reports, (vi) identify areas of under-immunized population, and (vii) provide, in the event of a public health emergency, a mechanism for tracking the distribution and administration of immunizations, immune globulins, or other preventive medications or emergency treatments. *Any health care provider, as defined in § 32.1-127.1:03, in the Commonwealth that administers immunizations shall report such patient immunization information to VIIS pursuant to this section.*

B. The Board of Health shall promulgate regulations to implement the VIIS that shall address:

1. Registration of ~~voluntary~~ participants, including, but not limited to, a list of those health care entities that are authorized *and required* to participate and any forms and agreements necessary for compliance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services;

2. Procedures for confirming, continuing, and terminating participation and disciplining any participant for unauthorized use or disclosure of any VIIS data;

3. Procedures, timelines, and formats for reporting of immunizations by participants;

4. Procedures to provide for a secure system of data entry that may include encrypted online data entry or secure delivery of data files;

5. Procedures for incorporating the data reported on children's immunizations pursuant to subsection E of § 32.1-46;

6. The patient identifying data to be reported, including, but not limited to, the patient's name, date of birth, gender, telephone number, home address, birth place, and mother's maiden name;

7. The patient immunization information to be reported, including, but not necessarily limited to, the type of immunization administered (specified by current procedural terminology (CPT) code or Health Level 7 (HL7) code); date of administration; identity of administering person; lot number; and if present, any contraindications, or religious or medical exemptions;

8. Mechanisms for entering into data-sharing agreements with other state and regional immunization registries for the exchange, on a periodic nonemergency basis and in the event of a public health emergency, of patient immunization information, after receiving, in writing, satisfactory assurances for the preservation of confidentiality, a clear description of the data requested, specific details on the intended use of the data, and the identities of the persons with whom the data will be shared;

9. Procedures for the use of vital statistics data, including, but not necessarily limited to, the linking of birth certificates and death certificates;

10. Procedures for requesting immunization records that are in compliance with the requirements for disclosing health records set forth in § 32.1-127.1:03; such procedures shall address the approved uses for the requested data, to whom the data may be disclosed, and information on the provisions for disclosure of health records pursuant to § 32.1-127.1:03;

11. Procedures for releasing aggregate data, from which personal identifying data has been removed or redacted, to qualified persons for purposes of research, statistical analysis, and reporting; and

12. Procedures for the Commissioner of Health to access and release, as necessary, the data contained in VIIS in the event of an epidemic or an outbreak of any vaccine-preventable disease or the potential epidemic or epidemic of any disease of public health importance, public health significance, or public health threat for which a treatment or vaccine exists.

The Board's regulations shall also include any necessary definitions for the operation of VIIS; however, "health care entity," "health care plan," and "health care provider" shall be as defined in subsection B of § 32.1-127.1:03.

C. The establishment and implementation of VIIS is hereby declared to be a necessary public health activity to ensure the integrity of the health care system in Virginia and to prevent serious harm and serious threats to the health and safety of individuals and the public. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the secure system established for VIIS without obtaining consent or authorization for such disclosure. Such protected health information shall be used exclusively for the purposes established in this section.

D. The Board and Commissioner of Health, any employees of the health department, any ~~voluntary~~ participant, and any person authorized to report or disclose immunization data hereunder shall be immune from civil liability in connection therewith unless such person acted with gross negligence or malicious intent.

E. This section shall not diminish the responsibility of any physician or other person to maintain accurate patient immunization data or the responsibility of any parent, guardian, or person standing in loco parentis to cause a child to be immunized in accordance with the provisions of § 32.1-46. Further, this section shall not be construed to require the immunization of any person who objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, or any person for whom administration of immunizing agents would be detrimental to his health.

F. The Commissioner may authorize linkages between VIIS and other secure electronic databases that contain health records reported to the Department of Health, subject to all state and federal privacy laws and regulations. These health records may include newborn screening results reported pursuant to § 32.1-65, newborn hearing screening results reported pursuant to § 32.1-64.1, and blood-lead level screening results reported pursuant to § 32.1-46.1. Health care providers authorized to use VIIS may view the health records of individuals to whom the providers are providing health care services.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 212

An Act to direct the Department of Social Services to establish a work group to develop a plan for a three-year pilot Produce Rx Program.

[H 2065]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of Social Services, in cooperation with the Department of Medical Assistance Services, shall convene a work group that shall include representatives of the Virginia Academy of Nutrition and Dietetics, the American Heart Association, the Virginia Farmers Market Association, the Virginia Chapter of the American Academy of Pediatrics, the Virginia Association of Free and Charitable Clinics, Medicaid managed care plans, the Virginia Association of Health Plans, and the Medical Society of Virginia to develop a plan for a three-year pilot Produce Rx Program (the Program) to incentivize consumption of qualifying fruits and vegetables by eligible individuals for whom increased consumption of fruits and vegetables is recommended by a qualified care provider. Such plan shall include (i) eligibility criteria for participation in the Program, including criteria for eligible individuals and qualified care providers; (ii) a process for enrolling eligible individuals in the Program; (iii) a process for the issuance by qualified care providers to eligible individuals of Program vouchers that may be redeemed for the purchase of qualifying fruits and vegetables; (iv) reporting requirements for qualified care providers who issue Program vouchers; and (v) a description of the role of the Department of Social Services and the Department of Medical Assistance Services and local government agencies in administering and overseeing the implementation of the Program. In developing such plan, the work group shall develop a detailed estimate of the cost of implementing the Program as a three-year pilot program, including state and local administrative costs, and identify sources of funding for such Program. The Department of Social Services shall report its activities and the elements of the plan to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by October 1, 2021.*

CHAPTER 213

An Act to amend and reenact § 37.2-500 of the Code of Virginia, relating to community services boards; contracts with private providers.

[H 2070]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-500 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-500. Purpose; community services board; services to be provided.

A. The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, developmental, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every county or city shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.). Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established

by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.

B. The core of services provided by community services boards within the cities and counties that they serve shall include:

1. Emergency services;
2. Same-day mental health screening services;
3. Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and
4. Subject to the availability of funds appropriated for them, case management services.

C. Subject to the availability of funds appropriated for them, the core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, developmental disabilities, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

D. In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

E. *A community services board may enter into contracts with private providers to ensure the delivery of services pursuant to this article.*

CHAPTER 214

An Act to amend and reenact §§ 54.1-3300 and 54.1-3303.1 of the Code of Virginia, relating to pharmacists; initiation of treatment; certain drugs and devices.

[H 2079]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3300 and 54.1-3303.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3300. Definitions.

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

"Board" means the Board of Pharmacy.

"Collaborative agreement" means a voluntary, written, or electronic arrangement between one pharmacist and his designated alternate pharmacists involved directly in patient care at a single physical location where patients receive services and (i) any person licensed to practice medicine, osteopathy, or podiatry together with any person licensed, registered, or certified by a health regulatory board of the Department of Health Professions who provides health care services to patients of such person licensed to practice medicine, osteopathy, or podiatry; (ii) a physician's office as defined in § 32.1-276.3, provided that such collaborative agreement is signed by each physician participating in the collaborative agreement; (iii) any licensed physician assistant working under the supervision of a person licensed to practice medicine, osteopathy, or podiatry; or (iv) any licensed nurse practitioner working in accordance with the provisions of § 54.1-2957, involved directly in patient care which authorizes cooperative procedures with respect to patients of such practitioners. Collaborative procedures shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations, for the purpose of improving patient outcomes. A collaborative agreement is not required for the management of patients of an inpatient facility.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.

"Pharmacist" means a person holding a license issued by the Board to practice pharmacy.

"Pharmacy" means every establishment or institution in which drugs, medicines, or medicinal chemicals are dispensed or offered for sale, or a sign is displayed bearing the word or words "pharmacist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "medicine store," "drug sundries," "prescriptions filled," or any similar words intended to indicate that the practice of pharmacy is being conducted.

"Pharmacy intern" means a student currently enrolled in or a graduate of an approved school of pharmacy who is registered with the Board for the purpose of gaining the practical experience required to apply for licensure as a pharmacist.

"Pharmacy technician" means a person registered with the Board to assist a pharmacist under the pharmacist's supervision.

"Pharmacy technician trainee" means a person registered with the Board for the purpose of performing duties restricted to a pharmacy technician as part of a pharmacy technician training program in accordance with the provisions of subsection G of § 54.1-3321.

"Practice of pharmacy" means the personal health service that is concerned with the art and science of selecting, procuring, recommending, administering, preparing, compounding, packaging, and dispensing of drugs, medicines, and devices used in the diagnosis, treatment, or prevention of disease, whether compounded or dispensed on a prescription or otherwise legally dispensed or distributed, and shall include (i) the proper and safe storage and distribution of drugs; (ii) the maintenance of proper records; (iii) the responsibility of providing information concerning drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease; (iv) the management of patient care under the terms of a collaborative agreement as defined in this section; and (v) the initiating of treatment with or dispensing or administering of certain drugs, *devices, or controlled paraphernalia* in accordance with the provisions of § 54.1-3303.1.

"Supervision" means the direction and control by a pharmacist of the activities of a pharmacy intern or a pharmacy technician whereby the supervising pharmacist is physically present in the pharmacy or in the facility in which the pharmacy is located when the intern or technician is performing duties restricted to a pharmacy intern or technician, respectively, and is available for immediate oral communication.

Other terms used in the context of this chapter shall be defined as provided in Chapter 34 (§ 54.1-3400 et seq.) unless the context requires a different meaning.

§ 54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.

A. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs and devices, *controlled paraphernalia, and other supplies and equipment* to persons 18 years of age or older in accordance with a statewide protocol developed by the Board in collaboration with the Board of Medicine and the Department of Health and set forth in regulations of the Board:

1. Naloxone or other opioid antagonist, including such controlled paraphernalia, as defined in § 54.1-3466, as may be necessary to administer such naloxone or other opioid antagonist;

2. Epinephrine;

3. Injectable or self-administered hormonal contraceptives, provided the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use;

4. Prenatal vitamins for which a prescription is required;

5. Dietary fluoride supplements, in accordance with recommendations of the American Dental Association for prescribing of such supplements for persons whose drinking water has a fluoride content below the concentration recommended by the U.S. Department of Health and Human Services; and

6. ~~Medications~~ *Drugs as defined in § 54.1-3401, devices as defined in § 54.1-3401, controlled paraphernalia as defined in § 54.1-3466, and other supplies and equipment available over-the-counter*, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, *device, controlled paraphernalia, or other supplies or equipment*;

7. *Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention or that have a current emergency use authorization from the U.S. Food and Drug Administration*;

8. *Tuberculin purified protein derivative for tuberculosis testing*; and

9. *Controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention*.

B. A pharmacist who initiates treatment with or dispenses or administers a drug or device pursuant to this section shall notify the patient's primary health care provider that the pharmacist has initiated treatment with such drug or device or that such drug or device has been dispensed or administered to the patient, provided that the patient consents to such notification. If the patient does not have a primary health care provider, the pharmacist shall counsel the patient regarding the benefits of establishing a relationship with a primary health care provider and, upon request, provide information regarding primary health care providers, including federally qualified health centers, free clinics, or local health departments serving the area in which the patient is located. If the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care, including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap smears.

C. *A pharmacist who administers a vaccination pursuant to subdivision A 7 shall report such administration to the Virginia Immunization Information System in accordance with the requirements of § 32.1-46.01.*

2. That the Board of Pharmacy, in collaboration with the Board of Medicine and the Department of Health, shall establish protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment available over-the-counter by pharmacists in accordance with § 54.1-3303.1 of the Code of Virginia, as amended by this act, by November 1, 2021. The Board of Pharmacy shall convene a work group composed of an equal number of representatives of the Boards of Pharmacy and Medicine to recommend protocols to the Board of Pharmacy for review and implementation. No pharmacist shall initiate treatment with or dispense or administer such drug, device, controlled paraphernalia, or supply or equipment until such protocols have been adopted. Such protocols shall address training and continuing education for pharmacists regarding the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment pursuant to § 54.1-3303.1 of the Code of Virginia, as amended by this act.

3. That the Board of Pharmacy, in collaboration with the Board of Medicine, shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment. Such regulation shall include authorization for a pharmacist to initiate treatment with or dispense or administer drugs, devices, controlled paraphernalia, and supplies and equipment described in § 54.1-3303.1 of the Code of Virginia, as amended by this act, in accordance with protocols adopted by the Board of Pharmacy. The Board of Pharmacy shall convene a work group composed of an equal number of representatives of the Boards of Pharmacy and Medicine to develop recommendations and propose language for inclusion in such regulations.

4. That the Board of Pharmacy shall convene a work group composed of an equal number of representatives of the Boards of Pharmacy and Medicine as well as representatives of the Board of Medicine, the Department of Health, schools of medicine and pharmacy located in the Commonwealth, and such other stakeholders as the Board of Pharmacy may deem appropriate to provide recommendations regarding the development of protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment by pharmacists to persons 18 years of age or older, including (i) controlled substances, devices, controlled paraphernalia, and supplies and equipment for the treatment of diseases or conditions for which clinical decision-making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988, including influenza virus, urinary tract infection, and group A Streptococcus bacteria, and (ii) drugs approved by the U.S. Food and Drug Administration for tobacco cessation therapy, including nicotine replacement therapy. The work group shall focus its work on developing protocols that can improve access to these treatments while maintaining patient safety and report its recommendations to the Governor and the Chairmen of the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Education and Health by November 1, 2021.

CHAPTER 215

An Act to establish the Task Force on Maternal Health Data and Quality Measures; report.

[H 2111]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the State Health Commissioner shall establish the Task Force on Maternal Health Data and Quality Measures (the Task Force) for the purpose of evaluating maternal health data collection processes to guide policies in the Commonwealth to improve maternal care, quality, and outcomes for all birthing people in the Commonwealth. The Task Force shall consist of three members of the Senate to be appointed by the Senate Committee on Rules and five members of the House of Delegates to be appointed by the Speaker of the House of Delegates, the Director of the Department of Medical Assistance Services or his designee, the Director of the Office of Health Equity or his designee, the Director of the Virginia Neonatal Perinatal Collaborative or his designee, the Chief Executive Officer of Virginia Health Information or his designee, and such other persons as the State Health Commissioner deems appropriate, including: (i) two individuals who are licensed obstetricians or gynecologists practicing in the Commonwealth; (ii) two individuals who are licensed nurse practitioners or registered nurses who work in the area of maternal health in the Commonwealth; (iii) two experts in postpartum care and depression in the Commonwealth, ensuring regional representation; (iv) at least one individual who is an expert in maternal health data collection processes; (v) four representatives from organizations or groups in the Commonwealth that specialize in serving vulnerable populations and improving equity and outcomes in maternal health; (vi) individuals who are licensed in neonatal and premature infant care and nutrition; (vii) a representative in maternal health from each of the health care payers in the Commonwealth; (viii) health care experts who serve underserved and minority populations in the Commonwealth; (ix) two members of the Virginia Hospital and Healthcare Association; (x) the Program Manager for the Maternal Mortality Review Team; (xi) two individuals who are certified nurse midwives and one certified midwife and one certified professional midwife; and (xii) any other stakeholders as may be appropriate. The Task Force shall:*

1. Monitor progress and evaluate all data from state-level stakeholders, including third-party payers, and all available electronic claims data to examine quality of care with regard to race, ethnicity, and other demographic and clinical outcome data;

2. Monitor progress and evaluate all data from existing state-level sources mandated for maternal care, including new Healthcare Effectiveness Data and Information Set (HEDIS) measure updates to Prenatal and Postpartum Care and Postpartum Depression;

3. Examine the barriers preventing the collection and reporting of timely maternal health data from all stakeholders, including payers;

4. Examine current maternal health benefit requirements and determine the need for additional benefits to protect the health of birthing people;

5. Evaluate the impact of Social Determinants of Health (SDoH) screening on pregnant women and its impact on outcomes data;

6. Collect and analyze data one year after delivery; and

7. *Develop recommendations for standard quality metrics on maternal care.*

All agencies of the Commonwealth shall provide assistance to the Task Force upon request. The Task Force shall report its findings and conclusions to the Governor and General Assembly by December 1 of each year regarding its activities and shall conclude its work by December 1, 2023.

CHAPTER 216

An Act to amend the Code of Virginia by adding a section numbered 32.1-42.2, relating to declaration of emergency; priority for personal protective equipment and immunization; funeral service licensees and funeral service establishment employees; emergency.

[H 2116]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-42.2 as follows:

§ 32.1-42.2. Declared emergency; priority for personal protective equipment and immunization; funeral service licensees and funeral service establishment employees.

In any case in which the Board or the Commissioner has made an emergency order or regulation to meet an emergency, not provided for by general regulations, for the purpose of suppressing nuisances dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health, funeral service licensees and any person employed by a funeral service establishment shall be included in any group afforded priority with regard to (i) access to personal protective equipment and (ii) administration of any vaccination against such communicable disease of public health threat during such emergency.

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

CHAPTER 217

An Act to amend and reenact § 24.2-404 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 4 of Title 24.2 a section numbered 24.2-403.1, relating to voter registration; preregistration of persons 16 years of age or older.

[H 2125]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-404 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 4 of Title 24.2 a section numbered 24.2-403.1 as follows:

§ 24.2-403.1. Preregistration of persons 16 years of age or older.

Any person who is otherwise qualified and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, may preregister to vote. This preregistration shall not entitle a person 16 years of age or older to vote in any election except as provided in § 24.2-403.

§ 24.2-404. Duties of Department of Elections.

A. The Department of Elections shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia voter registration system, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Department shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth. *Such system shall automatically register a person who has preregistered pursuant to § 24.2-403.1 upon that person becoming eligible for registration under § 24.2-403 or reaching 18 years of age, whichever comes first.*

2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar voter confirmation documents for newly registered voters, *including voters who were automatically registered pursuant to subdivision 1*, and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Department. The Department shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the Department shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the Department shall provide a regional or statewide list of registered voters to the general registrar of the locality. The Department shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Department.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The Department may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.

10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction, and to determine eligibility of individuals to vote in Virginia.

11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the Department by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The Department shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia voter registration system by any appropriate means including, but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et seq.) shall not apply to records about individuals maintained in this system.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration system are United States citizens. Upon approval of the application, the Department shall enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the SAVE Program.

F. The Department shall report annually by October 1 for the preceding 12 months ending August 31 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the Virginia voter registration system and the results of those activities. The Department's report shall be governed by the provisions of § 2.2-608 and shall encompass activities undertaken pursuant to subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4, 24.2-408, 24.2-409, 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain the methodology used in gathering and analyzing the data. The Commissioner of Elections shall certify that the data included in the report is accurate and reliable.

2. That the provisions of this act shall become effective on October 1, 2022.

CHAPTER 218

An Act to amend and reenact § 2.2-2901.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1212, relating to Department of Human Resource Management; alternative application for employment for persons with a disability; report.

[H 2140]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2901.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1212 as follows:

§ 2.2-1212. Alternative application for employment for persons with a disability; report.

A. The Department shall develop an alternative application process for the employment of persons with a disability as defined in § 51.5-40.1. Such alternative application process shall be noncompetitive in nature and may be used for the employment of a person with a disability on a permanent or temporary basis. The Department shall include an option for state agencies to convert a position filled through the noncompetitive process created by this subsection into a position that is filled through a competitive process.

B. The Department shall include in the annual report required under subsection H of § 2.2-203.2:3 information on the status of the alternative application process for persons with a disability, including the total number of persons with a disability who (i) sought state employment through the alternative state application process, (ii) are currently employed through the alternative state application process, and (iii) had their employment in a position filled through the noncompetitive process created by subsection A converted into a position that is filled through a competitive process.

§ 2.2-2901.1. Employment discrimination prohibited.

A. For the purposes of this section, "age" means being an individual who is at least 40 years of age.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of (a) sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (b) disability when using the alternative application process provided for in § 2.2-1212 or (ii) providing preference in employment to veterans.

2. The Department of Human Resource Management, in consultation with the Department for Aging and Rehabilitative Services, shall convene a group of stakeholders to establish the parameters of the alternative application process for the employment of persons with a disability authorized under § 2.2-1212 of the Code of Virginia, as created by this act.

3. That the Department of Human Resource Management shall develop and disseminate a policy to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 219

An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to hospitals, nursing homes, and certified nursing facilities; regulations; patient access to intelligent personal assistant.

[H 2154]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or

imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900

et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that

the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for treatment of individuals experiencing a substance use-related emergency to include the completion of appropriate assessments or screenings to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for patients that are discharged directly from the emergency department for the recommendation of follow-up care following discharge for any identified substance use disorder, depression, or mental health disorder, as appropriate, which may include instructions for distribution of naloxone, referrals to peer recovery specialists and community-based providers of behavioral health services, or referrals for pharmacotherapy for treatment of drug or alcohol dependence or mental health diagnoses; and

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision; and

29. *Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants."*

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

CHAPTER 220

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.08, relating to medical care facilities; persons with disabilities; designated support persons.

[H 2162]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.08 as follows:

§ 32.1-137.08. Medical care facilities; persons with disabilities; designated support persons.

A. As used in this section:

"Activity of daily living" means a personal care task such as bathing, dressing, toileting, transferring, and eating or feeding.

"Admission" means (i) with regard to a medical care facility that is a hospital or hospice facility, accepting a person for (a) bed occupancy and care that is anticipated to span at least two midnights or (b) observation and (ii) with regard to a medical care facility that is an outpatient surgical hospital, accepting a person for care, irrespective of anticipated length of care.

"Care provider" means any person or entity responsible for the care of a person with a disability prior to admission of the person with a disability to a medical facility.

"Designated support person" means a person who is 18 years of age or older; knowledgeable about the needs of a person with a disability; and designated, orally or in writing, by the person with a disability or his guardian, authorized representative, or care provider to provide support and assistance necessary due to the specifics of the person's disability to the person with a disability at any time during which health care services are provided.

"Medical care facility" means a hospital licensed pursuant to this article that provides inpatient care, other than a hospital that is certified as a long-term acute care hospital or specialty rehabilitation hospital; an outpatient surgical hospital licensed or certified pursuant to this article; a hospice facility licensed pursuant to Article 7 (§ 32.1-162.1 et seq.); and any institution exempt from licensure pursuant to clause (vi) of § 32.1-124.

"Person with a disability" means a person who, prior to admission to a medical care facility, had a physical, sensory, mental, or emotional impairment that substantially limits one or more activities of daily living or has a record of such impairment.

"Support and assistance necessary due to the specifics of the person's disability" means support and assistance, including assistance with activities of daily living, communication, decision-making, and other supports, that is (i) necessary due to the absence, loss, diminution, or impairment of a physical, sensory, behavioral, cognitive, or emotional function of the person due to the specifics of his disability; (ii) provided by a designated support person; (iii) ongoing; and (iv) necessary for the care of, and to afford meaningful access to health care for, the person with a disability.

B. Every medical care facility shall allow a person with a disability who requires support and assistance necessary due to the specifics of the person's disability to be accompanied by a designated support person who will provide support and assistance necessary due to the specifics of the person's disability to the person with a disability during an admission. In any case in which the duration of the admission lasts more than 24 hours, the person with a disability may designate more than one designated support person. However, no medical care facility shall be required to allow more than one designated support person to be present with a person with a disability at any time.

C. A designated support person is not a visitor and shall not be subject to any restrictions on visitation adopted by a medical care facility. However, such designated support person may be required to comply with all reasonable requirements of the medical care facility adopted to protect the health and safety of the person with a disability; the designated support person; the staff and other patients of, or visitors to, the medical care facility; and the public. A medical care facility may restrict a designated support person's access to specified areas of and movement on the premises of the medical care facility when such restrictions are determined by the medical care facility to be reasonably necessary to protect the health and safety of the person with a disability; the designated support person; the staff and other patients of, or visitors to, the medical care facility; and the public.

D. A medical care facility may request that a person with a disability provide documentation indicating that he is a person with a disability and, if the person fails, refuses, or is unable to provide such documentation, perform an objective assessment of the person to determine whether he is a person with a disability; however, the failure of a hospital to perform such objective assessment shall not constitute grounds for prohibiting a designated support person from accompanying a person with a disability for the purpose of providing support and assistance necessary due to the specifics of the person's disability.

E. Every medical care facility shall (i) establish protocols to inform patients, at the time of admission, of the right of a person with a disability who requires support and assistance necessary due to the specifics of the person's disability to be accompanied by a designated support person for the purpose of providing support and assistance necessary due to the specifics of the person's disability and (ii) develop and make available to a patient, the patient's guardian, the patient's authorized representative, or the person's care provider upon request of the patient, guardian, authorized representative, or

care provider written information regarding the right of a person with a disability who requires support and assistance necessary due to the specifics of the person's disability to be accompanied by a designated support person and policies related thereto. Every medical care facility shall also make such written information available to the public on its website.

F. The Department shall develop and make available on its website information for the public regarding (i) the right of a person with a disability who requires support and assistance necessary due to the specifics of the person's disability to be accompanied by a designated support person who will provide support and assistance necessary due to the specifics of the person's disability to the person with a disability during an admission and (ii) the requirements of this section.

G. Nothing in this section shall alter the obligation of a medical care facility to provide patients with effective communication support or other required services, regardless of the presence of a designated support person or other reasonable accommodation, consistent with applicable federal or state law or regulations.

H. Nothing in this section shall be interpreted to (i) prevent a medical care facility from complying, or interfere with the ability of a medical care facility to comply, with or cause a medical care facility to violate any federal or state law or regulation, (ii) deem a designated support person to be acting under the direction or control of the medical care facility or as an agent of the medical care facility, or (iii) require any medical care facility to allow a designated support person to perform any action or provide any support or assistance necessary due to the specifics of the person's disability when the medical care facility reasonably determines that the performance of such action or provision of such support or assistance necessary due to the specifics of the person's disability would be medically or therapeutically contraindicated or would pose a threat to the health and safety of the person with a disability; the designated support person; or the staff or other patients of, or visitors to, the medical care facility.

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

3. That the Board of Health shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 221

An Act to amend and reenact §§ 37.2-817, 37.2-817.1, 37.2-817.2, and 37.2-817.4 of the Code of Virginia and to repeal § 37.2-817.3 of the Code of Virginia, relating to involuntary admission.

[H 2166]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-817, 37.2-817.1, 37.2-817.2, and 37.2-817.4 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-817. Involuntary admission and mandatory outpatient treatment orders.

A. The district court judge or special justice shall render a decision on the petition for involuntary admission after the appointed examiner has presented the report required by § 37.2-815, and after the community services board that serves the county or city where the person resides or, if impractical, where the person is located has presented a preadmission screening report with recommendations for that person's placement, care, and treatment pursuant to § 37.2-816. These reports, if not contested, may constitute sufficient evidence upon which the district court judge or special justice may base his decision. The examiner, if not physically present at the hearing, and the treating physician at the facility of temporary detention shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.

B. Any employee or designee of the local community services board, as defined in § 37.2-809, representing the community services board that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. Where a hearing is held outside of the service area of the community services board that prepared the preadmission screening report, and it is not practicable for a representative of the community services board that prepared the preadmission screening report to attend or participate in the hearing, arrangements shall be made by the community services board that prepared the preadmission screening report for an employee or designee of the community services board serving the area in which the hearing is held to attend or participate on behalf of the community services board that prepared the preadmission screening report. The employee or designee of the local community services board, as defined in § 37.2-809, representing the community services board that prepared the preadmission screening report or attending or participating on behalf of the community services board that prepared the preadmission screening report shall not be excluded from the hearing pursuant to an order of sequestration of witnesses. The community services board that prepared the preadmission screening report shall remain responsible for the person subject to the hearing and, prior to the hearing, shall send the preadmission screening report through certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means with documented acknowledgment of receipt to the community services board attending the hearing. Where a community services board attends the hearing on behalf of the community services board that prepared the preadmission screening report, the attending community services board shall inform the community services board that prepared the preadmission screening report of the disposition of the matter upon the conclusion of the hearing. In addition, the attending community services board shall transmit the disposition through

certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means *with documented acknowledgment of receipt*.

At least 12 hours prior to the hearing, the court shall provide to the community services board that prepared the preadmission screening report the time and location of the hearing. If the representative of the community services board that prepared the preadmission screening report will be present by telephonic means, the court shall provide the telephone number to the community services board. *If a representative of a community services board will be attending the hearing on behalf of the community services board that prepared the preadmission screening report, the community services board that prepared the preadmission screening report shall promptly communicate the time and location of the hearing and, if the representative of the community services board attending on behalf of the community services board that prepared the preadmission screening report will be present by telephonic means, the telephone number to the attending community services board.*

C. After observing the person and considering (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have been admitted, including whether the person recently has been found unrestorably incompetent to stand trial after a hearing held pursuant to subsection E of § 19.2-169.1, if the judge or special justice finds by clear and convincing evidence that (a) the person has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment, pursuant to subsection D, that would offer an opportunity for the improvement of the person's condition have been investigated and determined to be inappropriate, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to a facility for a period of treatment not to exceed 30 days from the date of the court order. Such involuntary admission shall be to a facility designated by the community services board that serves the county or city in which the person was examined as provided in § 37.2-816. If the community services board does not designate a facility at the commitment hearing, the person shall be involuntarily admitted to a facility designated by the Commissioner. Upon the expiration of an order for involuntary admission, the person shall be released unless (A) he is involuntarily admitted by further petition and order of a court, which shall be for a period not to exceed 180 days from the date of the subsequent court order, ~~or such person (B) he makes application for treatment on a voluntary basis as provided for in § 37.2-805, or (C) he is ordered to mandatory outpatient treatment pursuant to subsection D following a period of inpatient treatment. Upon motion of~~ *At any time prior to the discharge of a person who has been involuntarily admitted pursuant to this subsection, the person, the person's treating physician, a family member or personal representative of the person, or the community services board serving the county or city where the facility is located, the county or city where the person resides, or the county or city where the person receives will receive treatment, following discharge may file a motion with the court for a hearing shall be held prior to the release date of any involuntarily admitted person to determine whether such person should be ordered to mandatory outpatient treatment pursuant to subsection D following a period of inpatient treatment pursuant to subsection C1 or D upon his release discharge if such person, on at least two previous occasions within 36 months preceding the date of the hearing, has been (A) (I) involuntarily admitted pursuant to this section or (B) (II) the subject of a temporary detention order and voluntarily admitted himself in accordance with subsection B of § 37.2-814, except that such 36-month period shall not include any time during which the person was receiving inpatient psychiatric treatment or was incarcerated, as established by evidence admitted at the hearing.* A district court judge or special justice shall hold the hearing within 72 hours after receiving the motion for a hearing to determine whether the person should be ordered to mandatory outpatient treatment ~~order following a period of involuntary inpatient treatment~~; however, if the 72-hour period expires on a Saturday, Sunday, or legal holiday, the hearing shall be held by the close of business on the next day that is not a Saturday, Sunday, or legal holiday. *The district court judge or special justice may enter an order for a period of mandatory outpatient treatment following a period of involuntary inpatient treatment upon finding that the person meets the criteria set forth in subsection C1.*

C1. In ~~the an~~ order for involuntary admission pursuant to subsection C, the judge or special justice may ~~authorize the treating physician to also order that, upon discharge from inpatient treatment, the person to adhere to a comprehensive mandatory outpatient treatment under a discharge plan developed pursuant to subsection C2 plan,~~ if the judge or special justice further finds by clear and convincing evidence that (i) the person has a history of lack of ~~compliance with adherence to~~ treatment for mental illness that *has, at least twice within the past 36 months has, resulted in the person being subject to an order for involuntary admission pursuant to subsection C or being subject to a temporary detention order and then voluntarily admitting himself in accordance with subsection B of § 37.2-814, except that such 36-month period shall not include any time during which the person was receiving inpatient psychiatric treatment or was incarcerated, as established by evidence admitted at the hearing;* (ii) in view of the person's treatment history and current behavior, the person is in need of mandatory outpatient treatment following inpatient treatment in order to prevent a relapse or deterioration that would be likely to result in the person meeting the criteria for involuntary inpatient treatment; (iii) ~~as a result of mental illness, the person is unlikely to voluntarily participate in outpatient treatment unless the court enters an order authorizing discharge has the ability to adhere to the comprehensive mandatory outpatient treatment following inpatient treatment plan;~~ and (iv) the

person is likely to benefit from mandatory outpatient treatment. The duration of *the period of inpatient treatment shall be determined by the court and the maximum period of inpatient treatment shall not exceed 30 days. The duration of mandatory outpatient treatment shall be determined by the court based on recommendations of the community services board, but and the maximum period of mandatory outpatient treatment shall not exceed 90 180 days; in prescribing the terms of the order, including its length, the judge or special justice shall consider the impact on the person's opportunities and obligations, including education and employment. The period of mandatory outpatient treatment shall begin upon discharge of the person from involuntary inpatient treatment, either upon expiration of the 30-day period or pursuant to § 37.2-837 or 37.2-838. The treating physician and facility staff shall develop the comprehensive mandatory outpatient treatment plan in conjunction with the community services board and the person. The comprehensive mandatory outpatient treatment plan shall include all of the components described in, and shall be filed with the court and incorporated into, the order for mandatory outpatient treatment following a period of involuntary inpatient treatment in accordance with subsection G. The community services board where the person resides upon discharge shall monitor the person's progress and adherence to the comprehensive mandatory outpatient treatment plan. Upon expiration of the order for mandatory outpatient treatment following a period of involuntary inpatient treatment, the person shall be released unless the order is continued in accordance with § 37.2-817.4.*

C2. Prior to discharging the person to mandatory outpatient treatment under a discharge plan as authorized pursuant to subsection C1, the treating physician shall determine, based upon his professional judgment, that (i) the person (a) in view of the person's treatment history and current behavior, no longer needs inpatient hospitalization, (b) requires mandatory outpatient treatment at the time of discharge to prevent relapse or deterioration of his condition that would likely result in his meeting the criteria for involuntary inpatient treatment, and (c) has agreed to abide by his discharge plan and has the ability to do so; and (ii) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person. Prior to discharging a person to mandatory outpatient treatment under a discharge plan who has not executed an advance directive, the treating physician or his designee shall give to the person a written explanation of the procedures for executing an advance directive in accordance with the Health Care Decisions Act (§ 54.1-2981 et seq.) and an advance directive form, which may be the form set forth in § 54.1-2984. In no event shall the treating physician discharge a person to mandatory outpatient treatment under a discharge plan as authorized pursuant to subsection C1 if the person meets the criteria for involuntary commitment set forth in subsection C. The discharge plan developed by the treating physician and facility staff in conjunction with the community services board and the person shall serve as and shall contain all the components of the comprehensive mandatory outpatient treatment plan set forth in subsection G, and no initial mandatory outpatient treatment plan set forth in subsection F shall be required. The discharge plan shall be submitted to the court for approval and, upon approval by the court, shall be filed and incorporated into the order entered pursuant to subsection C1. The discharge plan shall be provided to the person by the community services board at the time of the person's discharge from the inpatient facility. The community services board where the person resides upon discharge shall monitor the person's compliance with the discharge plan and report any material noncompliance to the court in accordance with § 37.2-817.1.

D. After observing the person and considering (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate, *as reflected in the initial outpatient treatment plan prepared in accordance with subsection F*; (c) the person has agreed to abide by his treatment plan and has the ability to do so *adhere to the mandatory outpatient treatment plan*; and (d) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be determined to be appropriate unless the services are actually available in the community. *The duration of mandatory outpatient treatment shall be determined by the court based on recommendations of the community services board but shall not exceed 180 days; in prescribing the terms of the order, including its length, the judge or special justice shall consider the impact on the person's opportunities and obligations, including education and employment. Upon expiration of an order for mandatory outpatient treatment, the person shall be released from the requirements of the order unless the order is continued in accordance with § 37.2-817.4.*

E. Mandatory outpatient treatment may include day treatment in a hospital, night treatment in a hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet the needs of the person. Mandatory outpatient treatment shall not include the use of restraints or physical force of any kind in the provision of the medication. The community services board that serves the county or city in which the person resides shall recommend a specific course of treatment and programs for the provision of mandatory outpatient treatment. *The duration of mandatory outpatient treatment shall be determined by the*

court based on recommendations of the community services board, but shall not exceed 90 days. Upon expiration of an order for mandatory outpatient treatment, the person shall be released from the requirements of the order unless the order is continued in accordance with § 37.2-817.4.

F. Any order for mandatory outpatient treatment entered pursuant to subsection D shall include an initial mandatory outpatient treatment plan developed by the community services board that completed the preadmission screening report. The plan shall, at a minimum, (i) identify the specific services to be provided, (ii) identify the provider who has agreed to provide each service, (iii) describe the arrangements made for the initial in-person appointment or contact with each service provider, and (iv) include any other relevant information that may be available regarding the mandatory outpatient treatment ordered. The order shall require the community services board to monitor the implementation of the mandatory outpatient treatment plan and ~~report any material noncompliance to the court~~ *the person's progress and adherence to the initial mandatory outpatient treatment plan.*

G. ~~No~~ *Prior to discharging a person to mandatory outpatient treatment in accordance with an order for mandatory outpatient treatment following a period of involuntary inpatient treatment entered pursuant to subsection C1 or no later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for mandatory outpatient treatment has been entered pursuant to subsection D, the community services board where the person resides that is responsible for monitoring compliance with the order* *the person's progress and adherence to the comprehensive mandatory outpatient treatment plan shall file a comprehensive mandatory outpatient treatment plan. The comprehensive mandatory outpatient treatment plan shall (i) identify the specific type, amount, duration, and frequency of each service to be provided to the person;* (ii) identify the provider that has agreed to provide each service included in the plan; (iii) certify that the services are the most appropriate and least restrictive treatment available for the person; (iv) certify that each provider has complied and continues to comply with applicable provisions of the Department's licensing regulations; (v) be developed with the fullest possible involvement and participation of the person and his family, with the person's consent, and reflect his preferences to the greatest extent possible to support his recovery and self-determination, *including incorporating any preexisting crisis plan or advance directive of the person;* (vi) specify the particular conditions ~~with~~ *to* which the person shall be required to ~~comply, and~~ *adhere;* and (vii) describe (a) how the community services board shall monitor the person's ~~compliance with progress and adherence to the plan and~~ *compliance with the plan* (b) *any conditions, including scheduled meetings or continued adherence to medication, necessary for mandatory outpatient treatment to be appropriate for the person.* The community services board shall submit the comprehensive mandatory outpatient treatment plan to the court for approval. Upon approval by the court, the comprehensive mandatory outpatient treatment plan shall be filed with the court and incorporated into the order of mandatory outpatient treatment *entered pursuant to subsection C1 or D, as appropriate.* ~~Any subsequent substantive modifications to the plan shall be filed with the court for review and attached to any order for mandatory outpatient treatment. A copy of the comprehensive mandatory outpatient treatment plan shall be provided to the person by the community services board upon approval of the comprehensive mandatory outpatient treatment plan by the court.~~

H. If the community services board responsible for developing ~~the~~ *a* comprehensive mandatory outpatient treatment plan *pursuant to subsection C1 or D* determines that the services necessary for the treatment of the person's mental illness are not available or cannot be provided to the person in accordance with the order for mandatory outpatient treatment, it shall ~~notify~~ *petition* the court ~~within five business days of the entry of the order for rescission of the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment in accordance with the provisions of § 37.2-817.2. Within two business days of receiving such notice, the judge or special justice, after notice to the person, the person's attorney, and the community services board responsible for developing the comprehensive mandatory outpatient treatment plan shall hold a hearing pursuant to § 37.2-817.2.~~

I. Upon entry of any order for mandatory outpatient treatment *following a period of involuntary inpatient treatment pursuant to subsection C1 or mandatory outpatient treatment* entered pursuant to subsection D, the clerk of the court shall provide a copy of the order to the person who is the subject of the order, to his attorney, and to the community services board required to monitor ~~compliance with the person's progress and adherence to the comprehensive mandatory outpatient treatment plan.~~ The community services board shall acknowledge receipt of the order to the clerk of the court on a form established by the Office of the Executive Secretary of the Supreme Court and provided by the court for this purpose within five business days.

J. The court may transfer jurisdiction of the case to the district court where the person resides at any time after the entry of the mandatory outpatient treatment order. The community services board responsible for monitoring ~~compliance with the person's progress and adherence to the comprehensive mandatory outpatient treatment plan or discharge plan~~ shall remain responsible for monitoring the person's ~~compliance with progress and adherence to the plan~~ until the community services board serving the locality to which jurisdiction of the case has been transferred acknowledges the transfer and receipt of the order to the clerk of the court on a form established by the Office of the Executive Secretary of the Supreme Court and provided by the court for this purpose. The community services board serving the locality to which jurisdiction of the case has been transferred shall acknowledge the transfer and receipt of the order within five business days.

K. Any order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

§ 37.2-817.1. Monitoring mandatory outpatient treatment.

A. As used in this section, "material nonadherence" means deviation from a comprehensive mandatory outpatient treatment plan by a person who is subject to an order for mandatory outpatient treatment following a period of involuntary inpatient treatment pursuant to subsection C1 of § 37.2-817 or an order for mandatory outpatient treatment pursuant to subsection D of § 37.2-817 that it is likely to lead to the person's relapse or deterioration and for which the person cannot provide a reasonable explanation.

B. The community services board where the person resides shall monitor the person's compliance with progress and adherence to the comprehensive mandatory outpatient treatment plan or discharge plan ordered by the court pursuant to prepared in accordance with § 37.2-817. Monitoring compliance Such monitoring shall include (i) contacting or making documented efforts to contact the person regarding the comprehensive mandatory outpatient treatment plan and any support necessary for the person to adhere to the comprehensive mandatory outpatient treatment plan, (ii) contacting the service providers to determine if the person is complying with adhering to the comprehensive mandatory outpatient treatment order or order authorizing discharge to mandatory outpatient treatment following inpatient treatment plan and (iii) notifying the court of the person's material noncompliance with the mandatory outpatient treatment order, in the event of material nonadherence, if the person fails or refuses to cooperate with efforts of the community services board or providers of services identified in the comprehensive mandatory outpatient treatment plan to address the factors leading to the person's material nonadherence, petitioning for a review hearing pursuant to § 37.2-817.2. Providers of services Service providers identified in the comprehensive mandatory outpatient treatment plan shall report any material noncompliance nonadherence and any material changes in the person's condition to the community services board. Any finding of material nonadherence shall be based upon a totality of the circumstances.

B. If the community services board determines that the person materially failed to comply with the order, it shall petition the court for a review of the mandatory outpatient treatment order or order authorizing discharge to mandatory outpatient treatment following inpatient treatment as provided in § 37.2-817.2. The community services board shall petition the court for a review of the mandatory outpatient treatment order or order authorizing discharge to mandatory outpatient treatment following inpatient treatment within three days of making that determination, or within 24 hours if the person is being detained under a temporary detention order, and shall recommend an appropriate disposition. Copies of the petition shall be sent to the person and the person's attorney.

C. The community services board responsible for monitoring the person's progress and adherence to the comprehensive mandatory outpatient treatment plan shall report monthly, in writing, to the court regarding the person's and the community services board's compliance with the provisions of the comprehensive mandatory outpatient treatment plan. If the community services board determines that the deterioration of the condition or behavior of a person is not materially complying with the who is subject to an order for mandatory outpatient treatment following a period of involuntary inpatient treatment pursuant to subsection C1 of § 37.2-817 or a mandatory outpatient treatment order or order authorizing discharge to mandatory outpatient treatment following inpatient treatment or for any other reason, and pursuant to subsection D of § 37.2-817 is such that there is a substantial likelihood that, as a result of the person's mental illness that, the person will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, it shall immediately request that the magistrate issue an emergency custody order pursuant to § 37.2-808 or a temporary detention order pursuant to § 37.2-809. Entry of an emergency custody order, temporary detention order, or involuntary inpatient treatment order shall suspend but not rescind an existing order for mandatory outpatient treatment following a period of involuntary inpatient treatment pursuant to subsection C1 of § 37.2-817 or a mandatory outpatient treatment order pursuant to subsection D of § 37.2-817.

§ 37.2-817.2. Court review of mandatory outpatient treatment plan.

A. The district court judge or special justice shall hold a hearing within five days after receiving the petition for review of the comprehensive mandatory outpatient treatment plan or discharge plan; however, if the fifth day is a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the hearing shall be held by the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If the person is being detained under a temporary detention order, the hearing shall be scheduled within the same time frame provided for a commitment hearing under § 37.2-814. The clerk shall provide notice of the hearing to the person, the community services board, all treatment providers listed in the comprehensive mandatory outpatient treatment order or discharge plan, and the original petitioner for the person's involuntary treatment. If the person is not represented by counsel, the court shall appoint an attorney to represent the person in this hearing and any subsequent hearings hearing under §§ 37.2-817.3 and this section or § 37.2-817.4, giving consideration to appointing the attorney who represented the person at the proceeding that resulted in the issuance of the mandatory outpatient treatment order or order authorizing discharge to for mandatory outpatient treatment following a period of involuntary inpatient treatment. The same judge or special justice that presided over the hearing resulting in the mandatory outpatient treatment order or order authorizing discharge to for mandatory outpatient treatment following a period of involuntary inpatient treatment need not preside at the noncompliance nonadherence hearing or any subsequent hearings. The community services board shall offer to arrange the person's transportation to the hearing if the person is not detained and has no other source of transportation.

Any of the following may petition the court for a hearing pursuant to this subsection: (i) the person who is subject to the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment; (ii) the community services board responsible for monitoring the person's progress and adherence to

the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment; (iii) a treatment provider designated in the comprehensive mandatory outpatient treatment plan; (iv) the person who originally filed the petition that resulted in the entry of the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment; (v) any health care agent designated in the advance directive of the person who is the subject of the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment; or (vi) if the person who is the subject of the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment has been determined to be incapable of making an informed decision, the person's guardian or other person authorized to make health care decisions for the person pursuant to § 54.1-2986.

A petition filed pursuant to this subsection may request that the court do any of the following:

1. Enforce a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment and require the person who is the subject of the order to adhere to the comprehensive mandatory outpatient treatment plan, in the case of material nonadherence, as defined in § 37.2-817.1;

2. Modify a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment or a comprehensive mandatory outpatient treatment plan due to a change in circumstances, including changes in the condition, behavior, living arrangement, or access to services of the person who is the subject to the order; or

3. Rescind a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment.

A person who is the subject of a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment shall not (i) file a petition for rescission of a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment unless at least 30 days have elapsed from the date on which the order was entered or (ii) file a petition for rescission of a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment more than one time during any 90-day period.

B. If requested by the person, the community services board, a treatment provider listed in the comprehensive mandatory outpatient treatment plan or discharge plan, or the original petitioner for the person's involuntary treatment in a petition filed pursuant to subsection A or on the court's own motion, the court shall may appoint an examiner in accordance with § 37.2-815 who shall personally examine the person on or before the date of the review, as directed by the court, and certify to the court whether or not he has probable cause to believe that the person meets the criteria for involuntary inpatient admission or mandatory outpatient treatment as specified in subsections C, subsection C1, C2, and or D of § 37.2-817, as may be applicable. The examination shall include all applicable requirements of § 37.2-815. The certification of the examiner may be admitted into evidence without the appearance of the examiner at the hearing if not objected to by the person or his attorney. If the person is not detained in an incarcerated or receiving treatment in an inpatient facility, the community services board shall arrange for the person to be examined at a convenient location and time. The community services board shall offer to arrange for the person's transportation to the examination, if the person has no other source of transportation and resides within the service area or an adjacent service area of the community services board. If the person refuses or fails to appear, the community services board shall notify the court, or a magistrate if the court is not available, and the court or magistrate shall issue a mandatory examination order and *capias* directing the primary law-enforcement agency in the jurisdiction where the person resides to transport the person to the examination. The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period exceed eight hours.

C. If the person fails to appear for the hearing, the court shall may, after consideration of any evidence from the person, from the community services board, or from any treatment provider identified in the mandatory outpatient treatment plan or discharge plan regarding why the person failed to appear at the hearing, either (i) dismiss the petition, (ii) issue an emergency custody order pursuant to § 37.2-808, or (iii) reschedule the hearing pursuant to subsection A, (ii) issue an emergency custody order pursuant to § 37.2-808, or (iii) issue a temporary detention order pursuant to § 37.2-809 and issue a subpoena for the person's appearance at the hearing and enter an order for mandatory examination, to be conducted prior to the hearing and in accordance with subsection B.

D. After hearing the evidence regarding the person's material noncompliance with the mandatory outpatient treatment order or order authorizing discharge to mandatory outpatient treatment following inpatient treatment and the person's current condition, and any other relevant information referenced in subsection C of § 37.2-817 observing the person and considering (i) the recommendations of any treating or examining physician or psychologist licensed to practice in the Commonwealth, if available; (ii) the person's adherence to the comprehensive mandatory outpatient treatment plan; (iii) any past mental health treatment of the person; (iv) any examiner's certification; (v) any health records available; (vi) any report from the community services board; and (vii) any other relevant evidence that may have been admitted at the hearing, the judge or special justice shall make one of the following dispositions:

1. Upon finding by clear and convincing evidence that the person meets the criteria for involuntary admission and treatment specified in subsection C of § 37.2-817, the judge or special justice shall order the person's involuntary admission to a facility designated by the community services board for a period of treatment not to exceed 30 days;

2. Upon ~~In~~ a hearing on any petition seeking enforcement of a mandatory outpatient treatment order, upon finding that the person continues to meet the criteria for mandatory outpatient treatment specified in subsection C1, C2, or D of § 37.2-817, and that a continued period of *continuing* mandatory outpatient treatment appears is warranted, the judge or special justice shall renew the order for mandatory outpatient treatment, making any necessary the court shall direct the person to fully comply with the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment and may make any modifications to such order or the comprehensive mandatory outpatient treatment plan that are acceptable to the community services board or treatment provider responsible for the person's treatment. In determining the appropriateness of the outpatient treatment specified in such order and the comprehensive mandatory outpatient treatment plan, the court may consider the person's material noncompliance with nonadherence to the ~~previous~~ existing mandatory treatment order; ~~or~~.

2. In a hearing on any petition seeking modification of a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment, upon a finding that (i) one or more modifications of the order would benefit the person and help prevent relapse or deterioration of the person's condition, (ii) the community services board and the treatment provider responsible for the person's treatment are able to provide services consistent with such modification, and (iii) the person is able to adhere to the modified comprehensive mandatory outpatient treatment plan, the court may order such modification of the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment or the comprehensive mandatory outpatient treatment plan as the court finds appropriate.

3. Upon finding that neither of the above dispositions is appropriate, the judge or special justice shall rescind the order for mandatory outpatient treatment or order authorizing discharge to mandatory outpatient treatment following inpatient treatment. In a hearing on any petition filed to enforce, modify, or rescind a mandatory outpatient treatment order, upon finding that mandatory outpatient treatment is no longer appropriate, the court may rescind the order.

Upon entry of an order for involuntary inpatient admission, transportation shall be provided in accordance with § 37.2-829.

E. The judge or special justice may schedule periodic status hearings for the purpose of obtaining information regarding the person's progress while the mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment remains in effect. The clerk shall provide notice of the hearing to the person who is the subject of the order and the community services board responsible for monitoring the person's condition and adherence to the plan. The person shall have the right to be represented by counsel at the hearing, and if the person does not have counsel the court shall appoint an attorney to represent the person. However, status hearings may be held without counsel present by mutual consent of the parties. The community services board shall offer to arrange the person's transportation to the hearing if the person is not detained and has no other source of transportation. During a status hearing, the treatment plan may be amended upon mutual agreement of the parties. Contested matters shall not be decided during a status hearing, nor shall any decision regarding enforcement, rescission, or renewal of the order be entered.

§ 37.2-817.4. Continuation of mandatory outpatient treatment order.

A. At any time within 30 days prior to the expiration of a mandatory outpatient treatment order or order authorizing discharge to for mandatory outpatient treatment following a period of involuntary inpatient treatment, the community services board that is required to monitor the person's compliance with the order, the treating physician, or other responsible person any person or entity that may file a petition for review of a mandatory outpatient treatment order or order for mandatory outpatient treatment following a period of involuntary inpatient treatment pursuant to subsection A of § 37.2-817.2 may petition the court to continue the order for a period not to exceed 180 days.

B. If the person who is the subject of the order and the monitoring community services board, if it did not initiate the petition, join the petition, the court shall grant the petition and enter an appropriate order without further hearing. If either the person or the monitoring community services board does not join the petition, the court shall schedule a hearing and provide notice of the hearing in accordance with subsection A of § 37.2-817.2.

C. Upon receipt of the a contested petition for continuation, the court shall appoint an examiner who shall personally examine the person pursuant to subsection B of § 37.2-815 37.2-817.2. The community services board required to monitor the person's compliance with adherence to the mandatory outpatient treatment order or order authorizing discharge to for mandatory outpatient treatment following a period of involuntary inpatient treatment shall provide a preadmission screening report as required in § 37.2-816 addressing whether the person continues to meet the criteria for being subject to a mandatory outpatient treatment order pursuant to subsection D of § 37.2-817 or order for mandatory outpatient treatment following a period of involuntary inpatient treatment pursuant to subsection C1 of § 37.2-817, as may be appropriate.

D. If, after observing the person, reviewing the preadmission screening report of the community services board provided pursuant to subsection C and considering the appointed examiner's certification and any other relevant evidence, including any relevant evidence referenced in subsection D of § 37.2-817, the court shall make one of the dispositions specified in subsection D of § 37.2-817.2. If the court finds that a continued period of mandatory outpatient treatment is warranted submitted at the hearing, the court finds that the person continues to meet the criteria for mandatory outpatient treatment pursuant to subsection C1 or D of § 37.2-817, it may continue the order for a period not to exceed 180 days; in prescribing the terms of the order, including its length, the judge or special justice shall consider the impact on the person's

opportunities and obligations, including education and employment. Any order of mandatory outpatient treatment that is in effect at the time a petition for continuation of the order is filed shall remain in effect until the disposition of the hearing.

2. That § 37.2-817.3 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on July 1, 2022.

CHAPTER 222

An Act to amend and reenact §§ 20-60.3 and 63.2-1916 of the Code of Virginia, relating to domestic relations; contents of support orders; unemployment benefits.

[H 2192]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-60.3 and 63.2-1916 of the Code of Virginia are amended and reenacted as follows:

§ 20-60.3. Contents of support orders.

All orders directing the payment of spousal support where there are minor children whom the parties have a mutual duty to support and all orders directing the payment of child support, including those orders confirming separation agreements, entered on or after October 1, 1985, whether they are original orders or modifications of existing orders, shall contain the following:

1. Notice that support payments may be withheld as they become due pursuant to § 20-79.1 or § 20-79.2, from income as defined in § 63.2-1900, without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to § 20-79.1;

2. Notice that support payments may be withheld pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2;

3. The name, date of birth, and last four digits of the social security number of each child to whom a duty of support is then owed by the parent;

4. If known, the name, date of birth, and last four digits of the social security number of each parent of the child and, unless otherwise ordered, each parent's residential and, if different, mailing address, residential and employer telephone number, and number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, and the name and address of each parent's employer; however, when a protective order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be included in the order;

5. Notice that, pursuant to § 20-124.2, support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever occurs first, and that the court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support;

6. On and after July 1, 1994, notice that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth to a parent as provided in § 63.2-1937 upon a delinquency for a period of 90 days or more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

7. The monthly amount of support and the effective date of the order. In proceedings on initial petitions, the effective date shall be the date of filing of the petition; in modification proceedings, the effective date may be the date of notice to the responding party. The first monthly payment shall be due on the first day of the month following the hearing date and on the first day of each month thereafter. In addition, an amount shall be assessed for any full and partial months between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation;

8. a. An order for health care coverage, including the health insurance policy information, for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in § 63.2-1900, or a written statement that health care coverage is not available at a reasonable cost as defined in such section, and a statement as to whether there is an order for health care coverage for a spouse or former spouse; and

b. A statement as to whether cash medical support, as defined in § 63.2-1900, is to be paid by or reimbursed to a party pursuant to subsections D and G of § 20-108.2, and if such expenses are ordered, then the provisions governing how such payment is to be made;

9. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages;

10. If child support payments are ordered to be paid through the Department of Social Services or directly to the obligee, and unless the court for good cause shown orders otherwise, the parties shall give each other and the court and, when payments are to be made through the Department, the Department of Social Services at least 30 days' written notice, in advance, of any change of address and any change of telephone number within 30 days after the change;

11. If child support payments are ordered to be paid through the Department of Social Services, a provision requiring an obligor to keep the Department of Social Services informed of the name, address and telephone number of his current employer, or if payments are ordered to be paid directly to the obligee, a provision requiring an obligor to keep the court informed, of (i) the name, address, and telephone number of his current employer; (ii) any change to his employment status; and (iii) if he has filed a claim for or is receiving benefits under the provisions of Title 60.2. The provision shall further specify that any such change in employment status or filing of a claim shall be communicated to the Department of Social Services or the court in writing within 30 days of such change or filing;

12. If child support payments are ordered to be paid through the Department of Social Services, a provision requiring the party obligated to provide health care coverage to keep the Department of Social Services informed of any changes in the availability of the health care coverage for the minor child or children, or if payments are ordered to be paid directly to the obligee, a provision requiring the party obligated to provide health care coverage to keep the other party informed of any changes in the availability of the health care coverage for the minor child or children;

13. The separate amounts due to each person under the order, unless the court specifically orders a unitary award of child and spousal support due or the order affirms a separation agreement containing provision for such unitary award;

14. Notice that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law. The order shall also provide, pursuant to § 20-78.2, for interest on the arrearage at the judgment rate as established by § 6.2-302 unless the obligee, in a writing submitted to the court, waives the collection of interest;

15. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and in accordance with §§ 20-108.2 and 63.2-1921, initiate a review of the amount of support ordered by any court;

16. A statement that if any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid; and

17. Notice that, in cases enforced by the Department of Social Services, the Department of Motor Vehicles may suspend or refuse to renew the driver's license, or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 authorizing the operation of a motor vehicle upon the highways, of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings.

The provisions of this section shall not apply to divorce decrees where there are no minor children whom the parties have a mutual duty to support.

§ 63.2-1916. Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a noncustodial parent whose support debt has accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such obligation may be created by a court order for support of a child or child and spouse or decree of divorce ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for the support of any dependent child or children and their custodial parent. The administrative support order shall also provide that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first. The Commissioner shall initiate proceedings by issuing notice containing the administrative support order which shall become effective unless timely contested. The notice shall be served upon the debtor (a) in accordance with the provisions of § 8.01-296, 8.01-327 or 8.01-329 or (b) by certified mail, return receipt requested, or by electronic means, or the debtor may accept service by signing a formal waiver. A copy of the notice shall be provided to the obligee. The notice shall include the following:

1. A statement of the support debt or obligation accrued or accruing and the basis and authority under which the assessment of the debt or obligation was made. The initial administrative support order shall be effective on the date of service and the first monthly payment shall be due on the first of the month following the date of service and the first of each month thereafter. A modified administrative support order shall be effective the date that notice of the review is served on the nonrequesting party, and the first monthly payment shall be due on the first day of the month following the date of such service and on the first day of each month thereafter. In addition, an amount shall be assessed for the partial month between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation. All

payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages, if any;

2. A statement of the name, date of birth, and last four digits of the social security number of the child or children for whom support is being sought;

3. A statement that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first;

4. A demand for immediate payment of the support debt or obligation or, in the alternative, a demand that the debtor file an answer with the Commissioner within 10 days of the date of service of the notice stating his defenses to liability;

5. If known, the full name, date of birth, and last four digits of the social security number of each parent of the child; however, when a protective order has been issued or the Department otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, only the name of the party at risk shall be included in the order;

6. A statement that if no answer is made on or before 10 days from the date of service of the notice, the administrative support order shall be final and enforceable, and the support debt shall be assessed and determined subject to computation, and is subject to collection action;

7. A statement that the debtor may be subject to mandatory withholding of income, the interception of state or federal tax refunds, interception of payments due to the debtor from the Commonwealth, notification of arrearage information to consumer reporting agencies, passport denial or suspension, or incarceration and that the debtor's property will be subject to lien and foreclosure, distraint, seizure and sale, an order to withhold and deliver, or withholding of income;

8. A statement that the parents shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage shall be required for the parents' dependent children if available at reasonable cost as defined in § 63.2-1900, or pursuant to subsection A of § 63.2-1903. If a child is enrolled in Department-sponsored health care coverage, the Department shall collect the cost of the coverage pursuant to subsection E of § 20-108.2;

9. A statement of each party's right to appeal and the procedures applicable to appeals from the decision of the Commissioner;

10. A statement that the obligor's income shall be immediately withheld to comply with this order unless the obligee, or the Department, if the obligee is receiving public assistance, and obligor agree to an alternative arrangement;

11. A statement that any determination of a support obligation under this section creates a judgment by operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

12. A statement that each party shall give the Department written notice of any change in his address, including email address, or phone number, including cell phone number, within 30 days;

13. A statement that each party shall keep the Department informed of (i) the name, telephone number, and address of his current employer; (ii) any change to his employment status; and (iii) if he has filed a claim for or is receiving benefits under the provisions of Title 60.2. The statement shall further specify that any such change in employment status or filing of a claim shall be communicated to the Department in writing within 30 days of such change or filing;

14. A statement that if any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid;

15. A statement that a petition may be filed for suspension of any license, certificate, registration, or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth to a parent as provided in § 63.2-1937 upon a delinquency for a period of 90 days or more or in amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

16. A statement that the Department of Motor Vehicles may suspend or refuse to renew the driving privileges of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings; and

17. A statement that on and after July 1, 1994, the Department of Social Services, as provided in § 63.2-1921 and in accordance with § 20-108.2, may initiate a review of the amount of support ordered by any court.

If no answer is received by the Commissioner within 10 days of the date of service or acceptance, the administrative support order shall be effective as provided in the notice. The Commissioner may initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20. The debtor and the obligee have 10 days from the date of receipt of the notice to file an answer with the Commissioner to exercise the right to an administrative hearing.

Any changes in the amount of the administrative order must be made pursuant to this section. In no event shall an administrative hearing alter or amend the amount or terms of any court order for support or decree of divorce ordering support. No administrative support order may be retroactively modified, but may be modified from the date that notice of the review has been served on the nonrequesting party. Notice of each review shall be served on the nonrequesting party (1) in accordance with the provisions of § 8.01-296, 8.01-327, or 8.01-329, (2) by certified mail, return receipt requested, (3) by electronic means, or (4) by the nonrequesting party executing a waiver. The existence of an administrative order shall not preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and domestic relations district court or a circuit court.

CHAPTER 223

An Act to require the Department of Medical Assistance Services to establish a work group to study options for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities.

[H 2197]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Department of Medical Assistance Services shall establish a work group composed of individuals with developmental disabilities, families of individuals with developmental disabilities, representatives of advocacy organizations, and other appropriate stakeholders to study and develop recommendations for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities by promoting access to assistive technology and environmental modifications. The Department shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2021.*

CHAPTER 224

An Act to require the Department of Medical Assistance Services to establish a work group to study options for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities.

[S 1472]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Department of Medical Assistance Services shall establish a work group composed of individuals with developmental disabilities, families of individuals with developmental disabilities, representatives of advocacy organizations, and other appropriate stakeholders to study and develop recommendations for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities by promoting access to assistive technology and environmental modifications. The Department shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2021.*

CHAPTER 225

An Act to amend and reenact §§ 15.2-1400, 22.1-29, 24.2-218, 24.2-222, and 24.2-223 of the Code of Virginia, relating to local elections for governing bodies; elections for school boards; qualification of voters.

[H 2198]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1400, 22.1-29, 24.2-218, 24.2-222, and 24.2-223 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1400. Governing bodies.

A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term, and other details of the election shall be as specified by law, general or special. Qualification for office is provided in Article 4 (§ 15.2-1522 et seq.) of Chapter 15.

B. The governing body of every locality shall be composed of not fewer than three nor more than eleven members.

C. Chairmen, mayors, supervisors, and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.

D. A governing body may punish or fine a member of the governing body for disorderly behavior.

E. *Notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the governing body, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.*

§ 22.1-29. Qualifications of members.

Each person appointed or elected to a school board shall, at the time of his appointment or election, be a qualified voter and a bona fide resident of the district from which he is selected if appointment or election is by district or of the school division if appointment or election is at large; and if he shall cease to be a resident of such district or school division, his position on the school board shall be deemed vacant. *Notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the school board, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.*

§ 24.2-218. Election and term of county supervisors.

A. The qualified voters of each county election district shall elect one or more supervisors at the general election in November 1995, and every four years thereafter for terms of four years, except as provided in § 24.2-219 or as provided by law for those counties having the optional form of government under the provisions of Article 2 (§ 15.2-702 et seq.) of Chapter 7 of Title 15.2.

B. *Notwithstanding any other provision of law, general or special, in a county that imposes district-based or ward-based residency requirements for members of the board of supervisors, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the county at large.*

§ 24.2-222. Election and terms of mayor and council for cities and towns.

A. The qualified voters of each city and town shall elect a mayor, if so provided by charter, and a council for the terms provided by charter. *Notwithstanding any other provision of law, general or special, in a city or town that imposes district-based or ward-based residency requirements for members of the city or town council, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.*

B. Except as provided in § 24.2-222.1, and notwithstanding any other provision of law, general or special: (i) any election of mayor or councilmen of a city or town whose charter provides for such elections at two-year or four-year intervals shall take place at the May general election of an even-numbered year and (ii) any election of mayor or councilmen of a city or town whose charter provides for such elections at one-year or three-year intervals shall take place at the general election in May of the years designated by charter. The persons so elected shall enter upon the duties of their offices on July 1 succeeding their election and remain in office until their successors have qualified.

§ 24.2-223. Election and term of school board members.

In any county, city or town wherein members of the school board are elected, pursuant to Article 7 (§ 22.1-57.1 et seq.) of Chapter 5 of Title 22.1, elections shall be held to coincide with the election of members of the governing body at the regular general election in November or the regular general election in May, as the case may be. Elected school board members shall serve terms ~~which~~ *that* are the same as those of the governing body, to commence on January 1 following their election or July 1 following their election, as the case may be.

Notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the school board, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 226

An Act to amend and reenact § 2.2-2649 of the Code of Virginia, relating to Children's Services Act; effective monitoring and implementation.

[H 2212]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2649 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2649. Office of Children's Services established; powers and duties.

A. The Office of Children's Services is hereby established to serve as the administrative entity of the Council and to ensure that the decisions of the council are implemented. The director shall be hired by and subject to the direction and supervision of the Council pursuant to § 2.2-2648.

B. The director of the Office of Children's Services shall:

1. Develop and recommend to the state executive council programs and fiscal policies that promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;

2. Develop and recommend to the Council state interagency policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;

3. Develop and provide for the consistent oversight for program administration and compliance with state policies and procedures;

4. Provide for training and technical assistance to localities in the provision of efficient and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families;

5. Serve as liaison to the participating state agencies that administratively support the Office and that provide other necessary services;

6. Provide an informal review and negotiation process pursuant to subdivision D 19 of § 2.2-2648;

7. Implement, in collaboration with participating state agencies, policies, guidelines and procedures adopted by the State Executive Council;

8. Consult regularly with the Virginia Municipal League, the Virginia Coalition of Private Provider Associations, and the Virginia Association of Counties about implementation and operation of the Children's Services Act (§ 2.2-5200 et seq.);

9. Hire appropriate staff as approved by the Council;

10. Identify, disseminate, and provide annual training for CSA staff and other interested parties on best practices and evidence-based practices related to the Children's Services Act Program;
11. Perform such other duties as may be assigned by the State Executive Council;
12. Develop and implement uniform data collection standards and collect data, utilizing a secure electronic database for CSA-funded services, in accordance with subdivision D 16 of § 2.2-2648;
13. Develop and implement a uniform set of performance measures for the Children's Services Act program in accordance with subdivision D 17 of § 2.2-2648;
14. Develop, implement, and distribute management reports in accordance with subdivision D 18 of § 2.2-2648;
15. Report to the Council all expenditures associated with serving children who receive pool-funded services. The report shall include expenditures for (i) all services purchased with pool funding; (ii) treatment, foster care case management, community-based mental health services, and residential care funded by Medicaid; and (iii) child-specific payments made through the Title IV-E program;
16. Report to the Council on the nature and cost of all services provided to the population of at-risk and troubled children identified by the State Executive Council as within the scope of the CSA program;
17. Develop and distribute model job descriptions for the position of Children's Services Act Coordinator and provide technical assistance to localities and their coordinators to help them to guide localities in prioritizing coordinator's responsibilities toward activities to maximize program effectiveness and minimize spending; ~~and~~
18. Develop and distribute guidelines, approved by the State Executive Council, regarding the development and use of multidisciplinary teams, in order to encourage utilization of multidisciplinary teams in service planning and to reduce Family Assessment and Planning Team caseloads to allow Family Assessment and Planning Teams to devote additional time to more complex and potentially costly cases; *and*
19. *Provide for the effective implementation of the Children's Services Act (§ 2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the Council.*

C. The director of the Office of Children's Services, in order to provide support and assistance to the Children's Policy and Management Teams (CPMTs) and Family Assessment and Planning Teams (FAPTs) established pursuant to the Children's Services Act (§ 2.2-5200 et seq.), shall:

1. Develop and maintain a web-based statewide automated database, with support from the Department of Information Technology or its successor agency, of the authorized vendors of the Children's Services Act (CSA) services to include verification of a vendor's licensure status, a listing of each discrete CSA service offered by the vendor, and the discrete CSA service's rate determined in accordance with § 2.2-5214; and
2. Develop, in consultation with the Department of General Services, CPMTs, and vendors, a standardized purchase of services contract, which in addition to general contract provisions when utilizing state pool funds will enable localities to specify the discrete service or services they are purchasing for the specified client, the required reporting of the client's service data, including types and numbers of disabilities, mental health and intellectual disability diagnoses, or delinquent behaviors for which the purchased services are intended to address, the expected outcomes resulting from these services and the performance timeframes mutually agreed to when the services are purchased.

CHAPTER 227

An Act to amend and reenact §§ 18.2-250.1, 54.1-2519, 54.1-2521, 54.1-2903, 54.1-3408.3, and 54.1-3442.5 through 54.1-3442.8 of the Code of Virginia, relating to pharmaceutical processors; cannabis products.

[H 2218]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-250.1, 54.1-2519, 54.1-2521, 54.1-2903, 54.1-3408.3, and 54.1-3442.5 through 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange. However, if a violation of this section occurs while an individual is operating a commercial motor vehicle as defined in § 46.2-341.4, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis *or products* as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such *cannabis product* pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease.

§ 54.1-2519. Definitions.

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or, under the practitioner's direction, his authorized agent or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Bureau" means the Virginia Department of State Police, Bureau of Criminal Investigation, Drug Diversion Unit.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of this title.

"Covered substance" means all controlled substances included in Schedules II, III, and IV; controlled substances included in Schedule V for which a prescription is required; naloxone; and all drugs of concern that are required to be reported to the Prescription Monitoring Program, pursuant to this chapter. "Covered substance" also includes cannabis *or products* dispensed by a pharmaceutical processor in Virginia.

"Department" means the Virginia Department of Health Professions.

"Director" means the Director of the Virginia Department of Health Professions.

"Dispense" means to deliver a controlled substance to an ultimate user, research subject, or owner of an animal patient by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a person or entity that (i) is authorized by law to dispense a covered substance or to maintain a stock of covered substances for the purpose of dispensing, and (ii) dispenses the covered substance to a citizen of the Commonwealth regardless of the location of the dispenser, or who dispenses such covered substance from a location in Virginia regardless of the location of the recipient.

"Drug of concern" means any drug or substance, including any controlled substance or other drug or substance, where there has been or there is the potential for abuse and that has been identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

"Prescriber" means a practitioner licensed in the Commonwealth who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance or a practitioner licensed in another state to so issue a prescription for a covered substance.

"Recipient" means a person who receives a covered substance from a dispenser and includes the owner of an animal patient.

"Relevant health regulatory board" means any such board that licenses persons or entities with the authority to prescribe or dispense covered substances, including the Board of Dentistry, the Board of Medicine, the Board of Veterinary Medicine, and the Board of Pharmacy.

§ 54.1-2521. Reporting requirements.

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.
2. The recipient's date of birth.
3. The covered substance that was dispensed to the recipient.
4. The quantity of the covered substance that was dispensed.
5. The date of the dispensing.
6. The prescriber's identifier number and, in cases in which the covered substance is a cannabis oil product, the expiration date of the written certification.
7. The dispenser's identifier number.
8. The method of payment for the prescription.
9. Any other non-clinical information that is designated by the Director as necessary for the implementation of this chapter in accordance with the Department's regulations.
10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabis oil products, as defined in § 54.1-3408.3.

§ 54.1-3408.3. Certification for use of cannabis products for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with federal requirements for the prescribing of

Schedule II through V controlled substances. *If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.*

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabis ~~oil~~ *products* for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis ~~oil~~ *products* pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ 54.1-3442.5. Definitions.

As used in this article:

"~~Cannabis oil~~" has "*Botanical cannabis, "cannabis oil," "cannabis product," and "usable cannabis"* have the same meaning *meanings* as specified in § 54.1-3408.3.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis ~~oil~~ *products* produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, *botanical cannabis, and usable cannabis*, produces cannabis ~~oil~~ *products*, and dispenses cannabis ~~oil~~ *products* to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"Registered agent" has the same meaning as specified in § 54.1-3408.3.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing

facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, *including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist*, and packaging; (vii) quarterly inspections; (viii) processes for safely and securely dispensing and delivering in person cannabis ~~oil products~~ to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, ~~which shall for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol~~; (x) a process for the wholesale distribution of and the transfer of *usable cannabis, botanical cannabis, cannabis oil, and cannabis* products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices for administration of dispensed *cannabis* products; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing *cannabis oil products*; (b) ~~a maximum number of marijuana plants a pharmaceutical processor may possess at any one time~~; (c) ~~(b)~~ the secure disposal of plant remains; and (d) ~~(c)~~ a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing *any cannabis oil products*, a pharmaceutical processor shall make a sample available from each ~~homogenized~~ batch of *cannabis* product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of *cannabis oil* is required to achieve a representative *cannabis oil* sample for analysis. *A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. If a sample from a batch of botanical cannabis fails testing requirements, the processor may remediate the batch and submit a sample for retesting. If the batch fails retesting, it shall be considered usable cannabis and may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Any batch processed into cannabis oil shall comply with all applicable testing standards.*

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate to protect the cannabis from diversion at all times.

G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of *cannabis oil products* that ~~has~~ *have* been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of

Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time.

M. Any person who proposes to use an automated process or procedure during the production of cannabis ~~oil~~ *products* that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be ~~on-site~~ *on site* may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before oil from industrial hemp may be acquired.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis ~~oil~~ *products* only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia as made evident to the Board, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3; (ii) such patient's registered agent; or (iii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia as made evident to the Board and is registered with the Board pursuant to § 54.1-3408.3. Prior to the initial dispensing of each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall make and maintain for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, registered agent, parent, or legal guardian. Prior to any subsequent dispensing of each written certification, the pharmacist, pharmacy technician, or delivery agent shall view the current written certification; a current photo identification of the patient, registered agent, parent, or legal guardian; and the current board registration issued to the patient, registered agent, parent, or legal guardian. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply *of a cannabis product* for any patient during any 90-day period; *however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed.* The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. *In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.*

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis ~~oil~~ *that has been cultivated and products* produced on the premises of a pharmaceutical processor permitted by the Board or cannabis oil that has been formulated with oil from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board, including the number of practitioners, patients, registered agents, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § 54.1-3408.3.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis ~~oil~~ *product* on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis ~~oil~~ *product* on site is within such range. A pharmaceutical processor producing cannabis ~~oil~~ *products* shall establish a stability testing schedule of cannabis ~~oil~~ *products*.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-250.1 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis ~~oil~~ *products*, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis ~~oil~~ *products* in accordance with the provisions of this article and Board

regulations or (ii) possessed, manufactured, or distributed such cannabis *or products that are consistent with generally accepted cannabis industry standards* in accordance with the provisions of this article and Board regulations.

2. That the Board of Pharmacy shall establish testing standards for botanical cannabis and botanical cannabis products consistent with generally accepted cannabis industry standards.

3. That the Board of Pharmacy shall promulgate regulations implementing the provisions of this act including its enactment clauses. The Board's adoption of regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The Board shall complete work on such regulations in order that they will be implemented no later than September 1, 2021.

4. That the Board of Pharmacy may assess and collect botanical cannabis regulatory fees from each pharmaceutical processor in an amount sufficient to implement the first, second, and third enactments of this act.

5. That the Board of Pharmacy's acquisition of a commercially available cannabis-specific software product to implement the provisions of this act is exempt from the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).

CHAPTER 228

An Act to amend and reenact §§ 18.2-250.1, 54.1-2519, 54.1-2521, 54.1-2903, 54.1-3408.3, and 54.1-3442.5 through 54.1-3442.8 of the Code of Virginia, relating to pharmaceutical processors; cannabis products.

[S 1333]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-250.1, 54.1-2519, 54.1-2521, 54.1-2903, 54.1-3408.3, and 54.1-3442.5 through 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange. However, if a violation of this section occurs while an individual is operating a commercial motor vehicle as defined in § 46.2-341.4, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis *or products* as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such *or cannabis product* pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease.

§ 54.1-2519. Definitions.

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or, under the practitioner's direction, his authorized agent or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Bureau" means the Virginia Department of State Police, Bureau of Criminal Investigation, Drug Diversion Unit.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of this title.

"Covered substance" means all controlled substances included in Schedules II, III, and IV; controlled substances included in Schedule V for which a prescription is required; naloxone; and all drugs of concern that are required to be reported to the Prescription Monitoring Program, pursuant to this chapter. "Covered substance" also includes cannabis *products* dispensed by a pharmaceutical processor in Virginia.

"Department" means the Virginia Department of Health Professions.

"Director" means the Director of the Virginia Department of Health Professions.

"Dispense" means to deliver a controlled substance to an ultimate user, research subject, or owner of an animal patient by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a person or entity that (i) is authorized by law to dispense a covered substance or to maintain a stock of covered substances for the purpose of dispensing, and (ii) dispenses the covered substance to a citizen of the Commonwealth regardless of the location of the dispenser, or who dispenses such covered substance from a location in Virginia regardless of the location of the recipient.

"Drug of concern" means any drug or substance, including any controlled substance or other drug or substance, where there has been or there is the potential for abuse and that has been identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

"Prescriber" means a practitioner licensed in the Commonwealth who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance or a practitioner licensed in another state to so issue a prescription for a covered substance.

"Recipient" means a person who receives a covered substance from a dispenser and includes the owner of an animal patient.

"Relevant health regulatory board" means any such board that licenses persons or entities with the authority to prescribe or dispense covered substances, including the Board of Dentistry, the Board of Medicine, the Board of Veterinary Medicine, and the Board of Pharmacy.

§ 54.1-2521. Reporting requirements.

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.
2. The recipient's date of birth.
3. The covered substance that was dispensed to the recipient.
4. The quantity of the covered substance that was dispensed.
5. The date of the dispensing.
6. The prescriber's identifier number and, in cases in which the covered substance is a cannabis *product*, the expiration date of the written certification.
7. The dispenser's identifier number.
8. The method of payment for the prescription.
9. Any other non-clinical information that is designated by the Director as necessary for the implementation of this chapter in accordance with the Department's regulations.
10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabis oil products, as defined in § 54.1-3408.3.

§ 54.1-3408.3. Certification for use of cannabis products for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with federal requirements for the prescribing of Schedule II through V controlled substances. *If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.*

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabis oil products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis oil products

pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ 54.1-3442.5. Definitions.

As used in this article:

"Cannabis oil" has "*Botanical cannabis*," "*cannabis oil*," "*cannabis product*," and "*usable cannabis*" have the same meaning meanings as specified in § 54.1-3408.3.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis oil products produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, *botanical cannabis*, and *usable cannabis*, produces cannabis oil products, and dispenses cannabis oil products to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"Registered agent" has the same meaning as specified in § 54.1-3408.3.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) quarterly inspections; (viii) processes for safely and securely dispensing and delivering in person cannabis oil products to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, which shall for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices for administration of dispensed cannabis products; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis oil products; (b) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant remains; and (d) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis oil products, a pharmaceutical processor shall make a sample available from each homogenized batch of cannabis product for testing by an independent

laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of *cannabis oil* is required to achieve a representative *cannabis oil* sample for analysis. *A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. If a sample from a batch of botanical cannabis fails testing requirements, the processor may remediate the batch and submit a sample for retesting. If the batch fails retesting, it shall be considered usable cannabis and may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Any batch processed into cannabis oil shall comply with all applicable testing standards.*

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate to protect the cannabis from diversion at all times.

G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis ~~oil~~ *products* that ~~has~~ *have* been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time.

M. Any person who proposes to use an automated process or procedure during the production of cannabis ~~oil~~ *products* that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be ~~on-site~~ *on site* may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before oil from industrial hemp may be acquired.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis ~~oil~~ *products* only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia as made evident to the Board, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3; (ii) such patient's registered agent; or (iii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal

guardian who is a Virginia resident or temporarily resides in Virginia as made evident to the Board and is registered with the Board pursuant to § 54.1-3408.3. Prior to the initial dispensing of each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall make and maintain for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, registered agent, parent, or legal guardian. Prior to any subsequent dispensing of each written certification, the pharmacist, pharmacy technician, or delivery agent shall view the current written certification; a current photo identification of the patient, registered agent, parent, or legal guardian; and the current board registration issued to the patient, registered agent, parent, or legal guardian. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply of *a cannabis product* for any patient during any 90-day period; *however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed.* The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. *In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.*

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis oil that has been cultivated and products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis oil that has been formulated with oil from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board, including the number of practitioners, patients, registered agents, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § 54.1-3408.3.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis oil product on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis oil product on site is within such range. A pharmaceutical processor producing cannabis oil products shall establish a stability testing schedule of cannabis oil products.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-250.1 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil products in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this article and Board regulations.

2. That the Board of Pharmacy shall establish testing standards for botanical cannabis and botanical cannabis products consistent with generally accepted cannabis industry standards.

3. That the Board of Pharmacy shall promulgate regulations implementing the provisions of this act including its enactment clauses. The Board's adoption of regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The Board shall complete work on such regulations in order that they will be implemented no later than September 1, 2021.

4. That the Board of Pharmacy may assess and collect botanical cannabis regulatory fees from each pharmaceutical processor in an amount sufficient to implement the first, second, and third enactments of this act.

5. That the Board of Pharmacy's acquisition of a commercially available cannabis-specific software product to implement the provisions of this act is exempt from the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).

CHAPTER 229

An Act to amend and reenact §§ 38.2-3407.7, 38.2-4209.1, and 38.2-4312.1 of the Code of Virginia, relating to pharmacies; freedom of choice.

[H 2219]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3407.7, 38.2-4209.1, and 38.2-4312.1 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3407.7. Pharmacies; freedom of choice.

A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer *or its pharmacy benefits manager, as defined in § 38.2-3465*, proposing to issue either preferred provider policies or contracts or exclusive provider policies or contracts shall prohibit any person receiving pharmacy benefits, *including specialty pharmacy benefits*, furnished thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes any pharmacy that is a nonpreferred or nonparticipating provider and that has previously notified the insurer on its own behalf or through an intermediary, by facsimile or otherwise, of its agreement to accept reimbursement for its services at rates applicable to pharmacies that are preferred or participating providers, including any copayment consistently imposed by the insurer, as payment in full. Each insurer *or its pharmacy benefits manager* shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonpreferred or nonparticipating provider ~~which~~ *that* has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonpreferred or nonparticipating provider in excess of the copayment and the insurer's reimbursement applicable to all of its preferred or participating pharmacy providers. If a pharmacy has provided notice pursuant to this subsection through an intermediary, the insurer or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require an insurer or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit an insurer or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.

B. No such insurer *or its pharmacy benefits manager* shall impose upon any person receiving pharmaceutical benefits furnished under any such policy or contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred or nonparticipating providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred or nonparticipating providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred or nonparticipating provider and that has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on preferred or participating providers.

D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by an insurer *or its pharmacy benefits manager*, within 30 days of the pharmacy's receipt of the request, execute and deliver to the insurer *or its pharmacy benefits manager* the direct service agreement or preferred or participating provider agreement that the insurer requires all of its preferred or participating providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that insurer *or its pharmacy benefits manager* unless and until the pharmacy executes and delivers the agreement. *No pharmacy shall be precluded from obtaining a direct service agreement or participating provider agreement for retail and specialty pharmacy if the pharmacy meets the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or a participating provider agreement shall be acted upon by an insurer or its pharmacy benefits manager within 60 days of receipt of the pharmacy's request or any subsequent submission of supplemental information if requested by the insurer or its pharmacy benefits manager.*

E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

F. Nothing in this section shall limit the authority of an insurer proposing to issue preferred provider policies or contracts or exclusive provider policies or contracts to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

§ 38.2-4209.1. Pharmacies; freedom of choice.

A. Notwithstanding any provision of § 38.2-4209, no corporation providing preferred provider subscription contracts *or its pharmacy benefits manager, as defined in § 38.2-3465*, shall prohibit any person receiving pharmaceutical benefits, *including specialty pharmacy benefits*, thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes pharmacies that are nonpreferred providers and that have previously notified the corporation *or its pharmacy benefits manager*, by facsimile or otherwise, of their agreement to accept reimbursement for their services at rates applicable to pharmacies that are preferred providers, including any copayment consistently imposed by the corporation, as payment in full. Each corporation *or its pharmacy benefits manager* shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure payment verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonpreferred provider ~~which~~ *that* has submitted a reimbursement agreement be responsible for

amounts that may be charged by the nonpreferred provider in excess of the copayment and the corporation's reimbursement applicable to all of its preferred pharmacy providers.

B. No such corporation *or its pharmacy benefits manager* shall impose upon any person receiving pharmaceutical benefits furnished under any such contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred provider and that has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on preferred providers.

D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by a corporation *or its pharmacy benefits manager*, within 30 days of the pharmacy's receipt of the request, execute and deliver to the corporation *or its pharmacy benefits manager* the direct service agreement or preferred provider agreement that the corporation requires all of its preferred providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that corporation *or its pharmacy benefits manager* unless and until the pharmacy executes and delivers the agreement. *No pharmacy shall be precluded from obtaining a direct service agreement or participating provider agreement for any retail and specialty pharmacy if the pharmacy meets the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or a participating provider agreement shall be acted upon by a corporation or its pharmacy benefits manager within 60 days of receipt of the pharmacy's request or any subsequent submission of supplemental information if requested by the corporation or its pharmacy benefits manager.*

E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

F. Nothing in this section shall limit the authority of a corporation issuing preferred provider policies or contracts to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

§ 38.2-4312.1. Pharmacies; freedom of choice.

A. Notwithstanding any other provision in this chapter, no health maintenance organization providing health care plans, *or its pharmacy benefits manager, as defined in § 38.2-3465*, shall prohibit any person receiving pharmaceutical benefits, *including specialty pharmacy benefits*, thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes any pharmacy that is not a participating provider under any such health care plan and that has previously notified the health maintenance organization *or its pharmacy benefits manager* on its own behalf or through an intermediary, by facsimile or otherwise, of its agreement to accept reimbursement for its services at rates applicable to pharmacies that are participating providers, including any copayment consistently imposed by the plan, as payment in full. Each health maintenance organization *or its pharmacy benefits manager* shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonparticipating provider ~~which~~ *that* has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonparticipating provider in excess of the copayment and the health maintenance organization's reimbursement applicable to all of its participating pharmacy providers. If a pharmacy has provided notice pursuant to this subsection through an intermediary, the health maintenance organization or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require a health maintenance organization or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit a health maintenance organization or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.

B. No such health maintenance organization *or its pharmacy benefits manager* shall impose upon any person receiving pharmaceutical benefits furnished under any such health care plan:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are not participating providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are not participating providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonparticipating provider and that has complied with subsection E or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on participating providers.

D. The provisions of this section are not applicable to any pharmaceutical benefit covered by a health care plan when those benefits are obtained from a pharmacy wholly owned and operated by, or exclusively operated for, the health maintenance organization providing the health care plan.

E. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by a health maintenance organization *or its pharmacy benefits manager*, within 30 days of the pharmacy's receipt of the request, execute and deliver to the health maintenance organization *or its pharmacy benefits manager*, the direct service agreement or participating provider agreement that the health maintenance organization *or its pharmacy benefits manager* requires all of its participating providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that health maintenance organization *or its pharmacy benefits manager* unless and until the pharmacy executes and delivers the agreement. *No pharmacy shall be precluded from obtaining a direct service agreement or participating provider agreement for retail and specialty pharmacy if the pharmacy meets the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or a participating provider agreement shall be acted upon by a health maintenance organization or its pharmacy benefits manager within 60 days of receipt of the pharmacy's request or any subsequent submission of supplemental information if requested by the health maintenance organization or its pharmacy benefits manager.*

F. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

G. Nothing in this section shall limit the authority of a health maintenance organization providing health care plans to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

CHAPTER 230

An Act to amend and reenact § 54.1-2956.12 of the Code of Virginia, relating to surgical technologist; certification; use of title.

[H 2220]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2956.12 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2956.12. Registered surgical technologist; use of title; registration.

A. No person shall *hold himself out to be a surgical technologist or use or assume the title "registered surgical technologist" of "surgical technologist" or "certified surgical technologist," or use the designation "C.S.T." or "S.T." or any variation thereof,* unless such person ~~is registered with~~ *is certified by* the Board.

B. The Board shall ~~register~~ *certify* as a ~~registered~~ surgical technologist any applicant who presents satisfactory evidence that he (i) *has successfully completed an accredited surgical technologist training program and* holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor, (ii) *has successfully completed a training program for surgical technologist training program technology* during the person's service as a member of any branch of the armed forces of the United States, or (iii) has practiced as a surgical technologist at any time in the six months prior to July 1, 2014 ~~2021~~, provided he registers with the Board by December 31, 2016 ~~2021~~.

CHAPTER 231

An Act to amend and reenact § 2.2-2001.4 of the Code of Virginia, relating to the military medical personnel program.

[H 2222]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2001.4 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2001.4. Military medical personnel; program.

A. For the purposes of this section, "military medical personnel" means an individual who has recently served as a medic in the United States Army, medical technician in the United States Air Force, or corpsman in the United States Navy or the United States Coast Guard and who was discharged or released from such service under conditions other than dishonorable.

B. The Department, in collaboration with the Department of Health Professions, shall establish a program in which military medical personnel may practice and perform certain delegated acts that constitute the practice of medicine or nursing in accordance with subsection B of § 54.1-2901 or subsection B of § 54.1-3001. Such activities shall reflect the

level of training and experience of the military medical personnel. The supervising physician or podiatrist shall retain responsibility for the care of the patient.

C. Any licensed physician or podiatrist, a professional corporation or partnership of any licensee, ~~any~~ hospital, ~~or any~~ commercial enterprise having medical facilities for its employees that are supervised by one or more physicians or podiatrists, ~~or facility that offers medical services to the public and that is supervised by one or more physicians or podiatrists~~ may participate in such program.

D. The Department shall establish general requirements for ~~participating~~ military medical personnel, licensees, and employers *participating in the military medical personnel program established pursuant to subsection B.*

E. The Department shall assist veterans and other service members who are preparing for discharge or release and who have recently served in health care-related specialties but who do not meet the definition of "military medical personnel" in finding employment in the health care sector.

CHAPTER 232

An Act to amend and reenact §§ 64.2-2000, 64.2-2003, and 64.2-2007 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.3, relating to supported decision-making agreements. Report.

[H 2230]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2000, 64.2-2003, and 64.2-2007 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.3 as follows:

§ 37.2-314.3. Powers and duties of the Department related to supported decision-making agreements; report.

A. As used in this section:

"Principal" means an adult with an intellectual or developmental disability who seeks to enter or has entered into a supported decision-making agreement with a supporter.

"Supported decision-making agreement" means an agreement between a principal and a supporter that sets out the specific terms of support to be provided by the supporter, including (i) helping the principal monitor and manage his medical, financial, and other affairs; (ii) assisting the principal in accessing, obtaining, and understanding information relevant to decisions regarding his affairs; (iii) assisting the principal in understanding information, options, responsibilities, and consequences of decisions; and (iv) ascertaining the wishes and decisions of the principal regarding his affairs, assisting in communicating such wishes and decisions to other persons, and advocating to ensure the wishes and decisions of the principal are implemented.

"Supporter" means a person who has entered into a supported decision-making agreement with a principal.

B. The Department shall develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement. Such program shall include (i) specific training opportunities for individuals with intellectual and developmental disabilities and who seek to enter into supported decision-making agreements, individuals interested in serving as supporters pursuant to supported decision-making agreements, family members of principals and individuals with intellectual and developmental disabilities who seek to enter into supported decision-making agreements, and members of the medical, legal, and financial professions and other individuals who provide services to individuals with intellectual and developmental disabilities who may enter into supported decision-making agreements and (ii) development of model supported decision-making agreements for individuals who seek to enter into supported decision-making agreements. Such program shall also include development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements.

C. The Department shall collect data regarding the utilization of supported decision-making agreements in the Commonwealth to guide the development of policies and programs to enhance the use of supported decision-making agreements and shall report such information together with recommendations to enhance the utilization of supported decision-making agreements annually to the Governor and the General Assembly by November 1.

§ 64.2-2000. Definitions.

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

"Advance directive" shall have the same meaning as provided in § 54.1-2982.

"Annual report" means the report required to be filed by a guardian pursuant to § 64.2-2020.

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator." "Conservator" includes (i) a local or regional program designated by the Department for Aging and Rehabilitative Services as a public conservator pursuant to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5 or

(ii) any local or regional tax-exempt charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code to provide conservatorial services to incapacitated persons. Such tax-exempt charitable organization shall not be a provider of direct services to the incapacitated person. If a tax-exempt charitable organization has been designated by the Department for Aging and Rehabilitative Services as a public conservator, it may also serve as a conservator for other individuals.

"Estate" includes both real and personal property.

"Facility" means a state or licensed hospital, training center, psychiatric hospital, or other type of residential or outpatient mental health or mental retardation facility. When modified by the word "state," "facility" means a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, including the buildings and land associated with it.

"Guardian" means a person appointed by the court who has the powers and duties set out in § 64.2-2019, or § 63.2-1609 if applicable, and who is responsible for the personal affairs of an incapacitated person, including responsibility for making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of involuntary admission, residence. Where the context plainly indicates, the term includes a "limited guardian" or a "temporary guardian." The term includes (i) a local or regional program designated by the Department for Aging and Rehabilitative Services as a public guardian pursuant to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5 or (ii) any local or regional tax-exempt charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code to provide guardian services to incapacitated persons. Such tax-exempt charitable organization shall not be a provider of direct services to the incapacitated person. If a tax-exempt charitable organization has been designated by the Department for Aging and Rehabilitative Services as a public guardian, it may also serve as a guardian for other individuals.

"Guardian ad litem" means an attorney appointed by the court to represent the interests of the respondent and whose duties include evaluation of the petition for guardianship or conservatorship and filing a report with the court pursuant to § 64.2-2003.

"Incapacitated person" means an adult who has been found by a court to be incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to (i) meet the essential requirements for his health, care, safety, or therapeutic needs without the assistance or protection of a guardian or (ii) manage property or financial affairs or provide for his support or for the support of his legal dependents without the assistance or protection of a conservator. A finding that the individual displays poor judgment alone shall not be considered sufficient evidence that the individual is an incapacitated person within the meaning of this definition. A finding that a person is incapacitated shall be construed as a finding that the person is "mentally incompetent" as that term is used in Article II, Section 1 of the Constitution of Virginia and Title 24.2 unless the court order entered pursuant to this chapter specifically provides otherwise.

"Individualized education plan" or "IEP" means a plan or program developed annually to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives specialized instruction and related services as provided by 20 U.S.C. § 1414.

"Individual receiving services" or "individual" means a current direct recipient of public or private mental health, developmental, or substance abuse treatment, rehabilitation, or habilitation services and includes the terms "consumer," "patient," "resident," "recipient," or "client."

"Limited conservator" means a person appointed by the court who has only those responsibilities for managing the estate and financial affairs of an incapacitated person as specified in the order of appointment.

"Limited guardian" means a person appointed by the court who has only those responsibilities for the personal affairs of an incapacitated person as specified in the order of appointment.

"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.

"Petition" means the document filed with a circuit court to initiate a proceeding to appoint a guardian or conservator.

"Power of attorney" has the same meaning ascribed to it in § 64.2-1600.

"Property" includes both real and personal property.

"Respondent" means an allegedly incapacitated person for whom a petition for guardianship or conservatorship has been filed.

"Supported decision-making agreement" has the same meaning ascribed to it in § 37.2-314.3.

"Temporary conservator" means a person appointed by a court for a limited duration of time as specified in the order of appointment.

"Temporary guardian" means a person appointed by a court for a limited duration of time as specified in the order of appointment.

"Transition plan" means the plan that is required as part of the IEP used to help students and families prepare for the future after the student reaches the age of majority.

§ 64.2-2003. Appointment of guardian ad litem.

A. On the filing of every petition for guardianship or conservatorship, the court shall appoint a guardian ad litem to represent the interests of the respondent. The guardian ad litem shall be paid a fee that is fixed by the court to be paid by the petitioner or taxed as costs, as the court directs.

B. Duties of the guardian ad litem include (i) personally visiting the respondent; (ii) advising the respondent of rights pursuant to §§ 64.2-2006 and 64.2-2007 and certifying to the court that the respondent has been so advised; (iii) recommending that legal counsel be appointed for the respondent, pursuant to § 64.2-2006, if the guardian ad litem believes that counsel for the respondent is necessary; (iv) investigating the petition and evidence, requesting additional evaluation if necessary, considering whether a less restrictive alternative to guardianship or conservatorship is available, including the use of an advance directive, *supported decision-making agreement*, or durable power of attorney, and filing a report pursuant to subsection C; and (v) personally appearing at all court proceedings and conferences. If the respondent is between 17 and a half and 21 years of age and has an Individualized Education Plan (IEP) and transition plan, the guardian ad litem shall review such IEP and transition plan and include the results of his review in the report required by clause (iv).

C. In the report required by clause (iv) of subsection B, the guardian ad litem shall address the following major areas of concern: (i) whether the court has jurisdiction; (ii) whether a guardian or conservator is needed based on evaluations and reviews conducted pursuant to subsection B; (iii) the extent of the duties and powers of the guardian or conservator; (iv) the propriety and suitability of the person selected as guardian or conservator after consideration of the person's geographic location, familial or other relationship with the respondent, ability to carry out the powers and duties of the office, commitment to promoting the respondent's welfare, any potential conflicts of interests, wishes of the respondent, and recommendations of relatives; (v) a recommendation as to the amount of surety on the conservator's bond, if any; and (vi) consideration of proper residential placement of the respondent.

D. A health care provider and local school division shall disclose or make available to the guardian ad litem, upon request, any information, records, and reports concerning the respondent that the guardian ad litem determines necessary to perform his duties under this section.

§ 64.2-2007. Hearing on petition to appoint.

A. The respondent is entitled to a jury trial upon request, and may compel the attendance of witnesses, present evidence on his own behalf, and confront and cross-examine witnesses.

B. The court or the jury, if a jury is requested, shall hear the petition for the appointment of a guardian or conservator. The hearing may be held at such convenient place as the court directs, including the place where the respondent is located. The hearing shall be conducted within 120 days from the filing of the petition unless the court postpones it for cause. The proposed guardian or conservator shall attend the hearing except for good cause shown and, where appropriate, shall provide the court with a recommendation as to living arrangements and a treatment plan for the respondent. The respondent is entitled to be present at the hearing and all other stages of the proceedings. The respondent shall be present if he so requests or if his presence is requested by the guardian ad litem. Whether or not present, the respondent shall be regarded as having denied the allegations in the petition.

C. In determining the need for a guardian or a conservator and the powers and duties of any guardian or conservator, if needed, consideration shall be given to the following factors: (i) the limitations of the respondent; (ii) the development of the respondent's maximum self-reliance and independence; (iii) the availability of less restrictive alternatives, including advance directives, *supported decision-making agreements*, and durable powers of attorney; (iv) the extent to which it is necessary to protect the respondent from neglect, exploitation, or abuse; (v) the actions needed to be taken by the guardian or conservator; (vi) the suitability of the proposed guardian or conservator; and (vii) the best interests of the respondent.

D. If, after considering the evidence presented at the hearing, the court or jury determines on the basis of clear and convincing evidence that the respondent is incapacitated and in need of a guardian or conservator, the court shall appoint a suitable person, who may be the spouse of the respondent, to be the guardian or the conservator or both, giving due deference to the wishes of the respondent. If a guardian or conservator is appointed, the court shall inform him of his duties and powers pursuant to Article 2 (§ 64.2-2019 et seq.) and shall further inform the guardian or conservator that, to the extent feasible, the respondent should be encouraged to participate in decisions, act on his own behalf, and develop or maintain the capacity to manage his personal affairs if he retains any decision-making rights. Except for good cause shown, including a determination by the court that there is no acceptable alternative available to serve, the court shall not appoint as guardian or conservator for the respondent an attorney who has been engaged by the petitioner to represent the petitioner within three calendar years of the appointment. Such prohibition also applies to all other attorneys and employees of the law firm with which such attorney is associated. The court shall require the proposed guardian or conservator to certify at the time of appointment that he has disclosed to the court any such representation of the petitioner or association with a law firm that represented the petitioner within the three calendar years preceding the appointment. Compensation paid by a petitioner to an attorney or law firm for serving as a guardian or conservator shall not constitute representation of the petitioner by such attorney or law firm. In the case of a petitioner that is a medical care facility as defined in § 32.1-102.1, the court may, for good cause shown, order that the reasonable costs for the guardian or conservator be paid by the petitioner during the time the respondent is under the care of such medical care facility.

The court in its order shall make specific findings of fact and conclusions of law in support of each provision of any orders entered. The order of appointment shall be made in a form that complies with the requirements set out in § 64.2-2009.

CHAPTER 233

An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to State Board of Health; hospitals; emergency treatment for substance use-related emergencies; services.

[H 2300]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-127. Regulations.**

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services

board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits

on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for *the treatment and discharge of individuals experiencing a substance use-related emergency to, which shall include the completion of appropriate assessments or screenings provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for patients that are discharged directly from the emergency department for the recommendation of and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include instructions for distribution, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for*

referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or referrals for to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses; and

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

2. That the Department of Health Professions shall, together with the Department of Health, convene a work group to develop recommendations for best practices for the treatment and discharging of patients in emergency departments experiencing opioid-related emergencies, including overdose, which shall include recommendations for best practices related to (i) performing substance use assessments and screenings for patients experiencing opioid-related overdose and other high-risk patients; (ii) prescribing and dispensing naloxone or other opioid antagonists used for overdose reversal; (iii) connecting patients treated for opioid-related emergencies, including overdose, and their families with community substance abuse resources, including existing harm reduction programs and other treatment providers; and (iv) identifying barriers to and developing solutions to increase the availability and dispensing of naloxone or other opioid antagonist used for overdose reversal at hospitals and community pharmacies and by other community organizations. The work group shall include representatives of the Virginia Hospital and Healthcare Association, the Virginia College of Emergency Physicians, the Medical Society of Virginia, the Virginia Society of Health-System Pharmacists, the Virginia Harm Reduction Coalition, the Virginia Pharmacists Association, and such other stakeholders as the Department of Health Professions shall deem appropriate.

3. That hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonist used for overdose reversal.

CHAPTER 234

An Act to amend and reenact § 57-20 of the Code of Virginia, relating to religious and charitable matters; quantity of land certain associations may hold.

[H 2308]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 57-20 of the Code of Virginia is amended and reenacted as follows:

§ 57-20. Quantity of land benevolent and other associations may hold.

Except as otherwise provided in this section, the trustee for the use of any benevolent or other association referred to in § 57-19 shall not hereafter take or hold, at one time, any land exceeding five acres; and the trustees of two or more bodies or societies may hold jointly, land not exceeding five acres; provided that the local governing body of any county or city may by ordinance authorize such trustee or trustees to take and hold in such county or city not exceeding ~~ten~~ 10 acres of land at any one time. However, a school league may, in addition to the five acres held by such trustees, hold not exceeding ~~ten~~

10 acres as a home for the principal of the school for which the league is named. All such holdings heretofore acquired are validated; except holdings ~~which~~ *that* are in litigation prior to or on July 1, 1964.

Any lodge of the Benevolent and Protective Order of Elks or other groups organized for rural community civic purposes or improvement of farm life or operations of like purposes and not for profit may hold not exceeding ~~thirty-five~~ 35 acres of land. All such holdings heretofore acquired are validated; except holdings ~~which~~ *that* are in litigation on or before July 1, 2002.

Any association or post of the Veterans of Foreign Wars, American Legion, Spanish War Veterans, Disabled American Veterans, or any similar association of veterans of the ~~armed forces~~ *Armed Forces* of the United States chartered by an act of Congress may hold not exceeding ~~seventy-five~~ 200 acres of land. Notwithstanding any other provision of law conveyances of land made prior to June 29, 1948, to any such post or association of veterans is validated provided the same is not in excess of ~~seventy-five~~ 75 acres. *Notwithstanding the provisions of § 58.1-3607, for real property owned by an association or post of the Veterans of Foreign Wars, American Legion, Spanish War Veterans, Disabled American Veterans, or any similar association of veterans of the Armed Forces of the United States chartered by an act of Congress, that portion of real property owned by such association or post in excess of 75 acres shall be subject to the provisions of § 58.1-3651 and shall not be exempt from taxation unless an ordinance to that effect is adopted by the local governing body.*

CHAPTER 235

An Act to amend and reenact § 24.2-707 of the Code of Virginia, relating to absentee voting; witness signature not required during declared state of emergency related to a communicable disease of public health threat.

[S 1097]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-707 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-707. How ballots marked and returned by mail.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. *A voter's failure to have a witness sign the absentee ballot return envelope for any election held during a declared state of emergency related to a communicable disease of public health threat shall not be considered a material omission and shall not render his ballot void.*

For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

2. That the Department of Elections shall convene a work group to consider and evaluate alternatives to the witness signature requirement for election officials to use to verify that an absentee ballot has been cast by the voter identified as having requested and received the absentee ballot. The work group shall include such persons determined by the Department of Elections as necessary or appropriate. The work group shall organize no later than July 31, 2021, and shall complete its work no later than October 31, 2021. If recommending any specific policies or legislative proposals, the work group, through the Commissioner of Elections, shall communicate such recommendations to the Chairmen of the House and Senate Committees on Privileges and Elections by November 15, 2021.

CHAPTER 236

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-331.04, relating to Department of Medical Assistance Services; personal care aides; orientation program.

[S 1102]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-331.04 as follows:

§ 32.1-331.04. Personal care aides; orientation program.

A. The Department of Medical Assistance Services shall establish an orientation program for all personal care aides who provide self-directed services through the Medicaid program. The program shall have the following requirements:

1. Attendance shall be limited to personal care aides, consumers who utilize the services of personal care aides, home care workers' employers of record, and worker advocacy organizations that represent personal care aides;

2. Orientations shall be held in-person or online at least quarterly, and personal care aides shall be invited and encouraged to attend at least one such orientation per calendar year; and

3. The orientation curriculum shall include content addressing operational procedures and recordkeeping, including pay and benefits; available assistance and resources; roles and responsibilities in self-direction; diversity and equity training; transparency and fraud; and worker rights and responsibilities.

B. The Department of Medical Assistance Services may, in its discretion, contract with another state agency to provide the orientation described in this section.

CHAPTER 237

An Act to amend and reenact §§ 32.1-269 and 32.1-272 of the Code of Virginia, relating to birth certificates; amendments.

[S 1121]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-269 and 32.1-272 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-269. Amending vital records; change of name; acknowledgment of paternity.

A. A vital record registered under this chapter, with the exception of a death certificate, may be amended only in accordance with this section and such regulations as may be adopted by the Board to protect the integrity and accuracy of such vital records. Such regulations shall specify the minimum evidence required for a change in any such vital record.

B. Except in the case of an amendment provided for in subsection D, a vital record that is amended under this section shall be marked "amended" and the date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the vital record. The Board shall prescribe by regulation the conditions under which omissions or errors on certificates, including designation of sex, may be corrected within one year after the date of the event without the certificate being marked amended. In a case of hermaphroditism or pseudo-hermaphroditism, the certificate of birth may be corrected at any time without being considered as amended upon presentation to the State Registrar of such medical evidence as the Board may require by regulation.

C. Every request for an amendment to a birth certificate shall be reviewed to determine whether the requested amendment can be made administratively in accordance with regulations of the Board or if a judicial order is required for such amendment. The Department shall make information about the process by which amendments to a birth certificate may be requested and reviewed pursuant to this subsection available to the public on its website. Such information shall include a standard form for requests for amendments to a birth certificate.

D. Upon receipt of a certified copy of a court order changing the name of a person as listed in a vital record and upon request of such person or his parent, guardian, or legal representative or the registrant, the State Registrar shall amend such vital records to reflect the new name.

~~D.~~ E. Upon written request of both parents and receipt of a sworn acknowledgment of paternity executed subsequent to the birth and signed by both parents of a child born out of wedlock, the State Registrar shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Upon request of the parents, the surname of the child shall be changed on the certificate to that of the father.

~~E.~~ F. When an applicant does not submit the minimum documentation required by regulation to amend a vital record ~~or when~~, the State Registrar finds reason to question the validity or sufficiency of the evidence, ~~or the requested amendment requires a judicial order~~; the vital record shall not be amended and the State Registrar shall so ~~advise~~ notify the applicant in writing. Such notification shall also include notice to the applicant regarding his right to petition the court for an order in accordance with subsection G. ~~An~~

G. Any person aggrieved ~~applicant~~ by the decision of the State Registrar to deny a request to amend a vital record may petition the circuit court of the county or city in which he resides or the Circuit Court of the City of Richmond, Division I, for an order compelling the State Registrar to amend the vital record; an aggrieved applicant who was born in Virginia, but is currently residing out of State, may petition any circuit court in the Commonwealth for such an order. The State Registrar or his authorized representative may appear and testify in such proceeding.

§ 32.1-272. Certified copies of vital records; other copies.

A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar or a district health department shall, upon receipt of a written request, issue a certified copy of any vital record in the custody of the State Registrar or of a part thereof.

The Commissioner of the Department of Motor Vehicles shall be authorized to issue a certified copy of a birth, death, marriage, or divorce vital record, or a part thereof, in the custody of the State Registrar.

Such vital records in the State Registrar's custody may be in the form of originals, photoprocessed reproductions or data filed by electronic means.

Each copy issued shall show the date of registration. Any copy issued from a record marked "delayed" or "amended," except a record amended pursuant to subsection F of this section or subsection D E of § 32.1-269, shall be similarly marked and show the effective date.

Certified copies may be issued by county and city registrars only while the original record is in their possession, except that at the option of the county or city registrar true and complete copies of death certificates may be retained and certified copies of such records may be issued by the county or city registrar.

B. A certified copy of a vital record or any part thereof issued in accordance with subsection A shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts therein stated, provided that the evidentiary value of a vital record filed more than one year after the event or a vital record which has been amended shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

C. The federal agency responsible for national vital statistics may be furnished such copies or other data from the system of vital records as it may require for national statistics if such federal agency shares in the cost of collecting, processing and transmitting such data. Such data may be used for research and medical investigations of public health importance. No other use of such data shall be made by the federal agency unless authorized by the State Registrar.

D. Other federal, state and local, public or private agencies or persons in the conduct of their official duties may, upon request and payment of a reasonable fee, be furnished copies or other data from the system of vital records for statistical or administrative purposes upon such terms or conditions as may be prescribed by the Board. Such copies or other data shall not be used for purposes other than those for which they were requested unless so authorized by the State Registrar.

In promulgating regulations relating to the terms or conditions for public or private agencies or persons obtaining copies of death certificates in the conduct of their official duties, the Board shall include within its definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of his bar number and evidence of need to obtain such copy; and (ii) any funeral director or funeral service licensee licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence to so practice and evidence of being in charge of final disposition of the registrant's dead human remains or cremains or evidence of need to obtain such copy.

E. No person shall prepare or issue any certificate which purports to be an original or certified copy of a vital record except as authorized in this chapter or regulations adopted hereunder.

F. Certified copies of birth records filed before July 1, 1960, containing statements of racial designation on the reverse thereof shall be issued without such statement as a part of the certification; nor for this purpose solely shall such certification be marked "amended."

Any American Indian or Native American whose certified copy of a birth record filed before July 1, 1960, contains a racial designation that is incorrect may obtain, without paying a fee, one certified copy of his birth record from which such incorrect racial designation has been removed. Such certification shall not be marked "amended" solely for this reason.

G. With the increased fees to be charged for vital records and the additional deposits to the Vital Statistics Automation Fund, the Board of Health shall establish, within the district health departments, a statewide system for decentralizing certification of vital records, when such records are prepared or issued from data in the custody of the State Registrar and the Board of Health. Such system shall include the Department of Motor Vehicles pursuant to the authorization in subsection A.

CHAPTER 238

An Act to amend and reenact § 32.1-122.6:04 of the Code of Virginia, relating to Nurse Loan Repayment Program; certified nurse aide.

[S 1147]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-122.6:04 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-122.6:04. Nurse Loan Repayment Program.

A. With such funds as are appropriated for this purpose, the Board shall establish a tuition loan repayment program for ~~persons~~ licensed as practical nurses ~~or, licensed registered nurses, or certified nurse aides~~ who meet criteria determined by the Board. The Commissioner shall act as the fiscal agent for the Board in administration of these funds. Prior to awarding any funds, the Board shall require the recipient to agree to perform a period of nursing service in this Commonwealth.

B. The Board shall promulgate regulations for the implementation and administration of the Nurse Loan Repayment Program. Applications for participation in the program shall be accepted from graduates of nursing education programs that prepare them for examination for licensure as a practical nurse or registered ~~nurse, nurse or certification as a certified nurse aide~~, but preference shall be given to graduates of nursing education programs located in the Commonwealth.

C. Any loan repayment amounts repaid by recipients who fail to honor the obligation to perform a period of nursing service in the Commonwealth required by this section, and any interest thereon, shall be used only for the purposes of this section and shall not revert to the general fund.

CHAPTER 239

An Act to amend and reenact §§ 24.2-311, 24.2-503, 24.2-507, 24.2-510, 24.2-515, and 24.2-515.1 of the Code of Virginia, relating to elections; date of June primary election.

[S 1148]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-311, 24.2-503, 24.2-507, 24.2-510, 24.2-515, and 24.2-515.1 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-311. Effective date of decennial redistricting measures; elections following decennial redistricting.

A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting. However, (i) if the decennial redistricting of congressional districts has not been enacted and approved for implementation pursuant to § 5 of the United States Voting Rights Act of 1965 before January 1 of the year of the election for statewide office, the previously enacted congressional districts shall remain in effect for the purpose of meeting the petition signature requirements set out in §§ 24.2-506, 24.2-521, 24.2-543, and 24.2-545 and (ii) any reference on a petition to the usual primary date of the ~~second~~ *third* Tuesday in June shall not be cause to invalidate the petition even though the date of the primary may be altered by law.

B. Ordinances adopted by local governing bodies to accomplish the decennial redistricting of districts for county, city, and town governing bodies required by Article VII, Section 5 of the Constitution of Virginia shall take effect immediately. Members of county, city, and town governing bodies in office on the effective date of a decennial redistricting measure shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the decennial redistricting.

C. If a vacancy in any such office occurs after the effective date of a decennial redistricting measure and a special election is required by law to fill the vacancy, the vacancy shall be filled from the district in the decennial redistricting measure which most closely approximates the district in which the vacancy occurred.

D. If a decennial redistricting measure adopted by a local governing body adds one or more districts and also increases the size of the governing body, an election for the additional governing body member or members to represent the additional district or districts for the full or partial term provided by law shall be held at the next November general election in any county or in any city or town that regularly elects its governing body in November pursuant to § 24.2-222.1, or at the next May general election in any other city or town, which occurs at least 120 days after the effective date of the redistricting measure.

E. In the event of a conflict between the provisions of a decennial redistricting measure and the provisions of the charter of any locality, the provisions of the redistricting measure shall be deemed to override the charter provisions to the extent required to give effect to the redistricting plan.

§ 24.2-503. Deadlines for filing required statements; extensions.

The written statements of qualification and economic interests shall be filed by (i) primary candidates not later than the filing deadline for the primary, (ii) all other candidates for city and town offices to be filled at a May general election by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the ~~second~~ *third* Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ten days from the date of the mailing of the notice of the extension.

§ 24.2-507. Deadlines for filing declarations and petitions of candidacy.

For any office, declarations of candidacy and the petitions therefor shall be filed according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least 81 days before the election or (ii) if the special election is being held at the second November election after the vacancy occurred, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or

5. For a special election held at a time other than a general election, (i) at least 60 days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than 60 days after the issuance of the writ or order.

§ 24.2-510. Deadlines for parties to nominate by methods other than primary.

For any office, nominations by political parties by methods other than a primary shall be made and completed in the manner prescribed by law according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least 81 days before the election or (ii) if the special election is held at the second November election after the vacancy occurred, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or
5. For a special election held at a time other than a general election, (i) at least 60 days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than 60 days after the issuance of the writ or order.

In the case of all general elections a party shall nominate its candidate for any office by a nonprimary method only within the 47 days immediately preceding the primary date established for nominating candidates for the office in question. This limitation shall have no effect, however, on nominations for special elections or pursuant to § 24.2-539.

§ 24.2-515. Presidential election year primaries.

Primaries for the nomination of candidates for offices to be voted on at the general election date in November shall be held on the ~~second~~ *third* Tuesday in June next preceding such election, except that beginning with the year 2012 and in presidential election years thereafter, primaries to choose among presidential candidates may be held as provided in Article 7 (§ 24.2-544 et seq.). Primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held on the first Tuesday in March next preceding such election.

§ 24.2-515.1. Schedule for primaries in the year 2001 and each tenth year thereafter.

Primaries for the nomination of candidates for the offices listed in Section 4 of Article VII of the Constitution of Virginia to be voted on at the general election in November 2001 and each tenth year thereafter shall be held on the ~~second~~ *third* Tuesday in June next preceding such election notwithstanding any special primary schedule enacted for any other office.

CHAPTER 240

An Act to repeal § 54.1-2957.21 of the Code of Virginia, relating to genetic counseling; conscience clause.

[S 1178]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2957.21 of the Code of Virginia is repealed.

CHAPTER 241

An Act to amend and reenact §§ 16.1-349, 16.1-350, 16.1-351, 16.1-352, and 16.1-353 of the Code of Virginia, relating to standby guardianship; triggering event.

[S 1184]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-349, 16.1-350, 16.1-351, 16.1-352, and 16.1-353 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-349. Definitions.

"Attending physician" means the physician who has primary responsibility for the treatment and care of a qualified parent.

"Designation" means a writing which (i) is voluntarily executed in conformance with the requirements of § 16.1-351 and signed by a parent and (ii) names a person to act as standby guardian.

"Determination of debilitation" means a written determination made by an attending physician that a qualified parent is chronically and substantially unable to care for a minor child as a result of a debilitating illness, disease or injury. Such a determination shall include the physician's medical opinion to a reasonable degree of medical certainty, regarding the nature, cause, extent and probable duration of the parent's debilitating condition.

"Determination of incompetence" means a written determination made by the attending physician that to a reasonable degree of medical certainty a qualified parent is chronically and substantially unable to understand the nature and consequences of decisions concerning the care of a minor child as a result of a mental or organic impairment and is consequently unable to care for the child. Such a determination shall include the physician's medical opinion, to a

reasonable degree of medical certainty, regarding the nature, cause, extent and probable duration of the parent's incompetence.

"Parent" means a genetic or adoptive parent or parent determined in accordance with the standards set forth in § 20-49.1 or § 20-158, and includes a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

"Qualified parent" means a parent who has (i) been diagnosed, as evidenced in writing, by a licensed physician to be afflicted with a progressive or chronic condition caused by injury, disease or illness from which, to a reasonable degree of medical probability, the patient cannot recover or (ii) *reason to anticipate possible detention, incarceration, or deportation connected to an immigration action*.

"Standby guardian" means a person who, in accordance with this article, is designated in writing or approved by the court to temporarily assume the duties of guardian of the person or guardian of the property, or both, of a minor child on behalf of or in conjunction with a qualified parent upon the occurrence of a triggering event. The term shall be so construed as to enable the parent to plan for the future care of a child, without terminating parental or legal rights, and to give the standby guardian the authority to act in a manner consistent with the known wishes of a qualified parent regarding the care, custody and support of the minor child.

"Triggering event" means the event upon the occurrence of which the standby guardian may be authorized to act. The triggering event shall be specified in the court order or written designation and shall be the earlier of a determination of incompetence or the death of the qualified parent. However, in the case of a standby guardian judicially approved pursuant to § 16.1-350, the triggering event may also be specified as the qualified parent's written consent to the commencement of the standby guardian's authority. In the case of a standby guardian designated pursuant to § 16.1-351 or 16.1-352, the triggering event may also be specified as (i) a determination of debilitation of the qualified parent ~~and~~ *or evidence of the detention, incarceration, or deportation of the qualified parent connected to an immigration action* or (ii) that parent's written consent to the commencement of the designated standby guardian's authority.

§ 16.1-350. Petition for court approval of standby guardian.

A. Upon petition of any person, the juvenile court of the jurisdiction in which a child resides may approve a person as standby guardian for a child of a qualified parent upon the occurrence of a specified triggering event. If requested in the petition, the court may also approve an alternate standby guardian identified by the petitioner, to act in the event that at any time after approval pursuant to this section the standby guardian is unable or unwilling to assume the responsibilities of the standby guardianship.

B. The petition shall state:

1. The name and address of the petitioner and his relationship to the child and the name and address of the child's qualified parent, and the name and address of any other parent of the child whose identity and whereabouts are known to the petitioner or can reasonably be ascertained;

2. The name, address and birthdate of the child;

3. The nature of the proposed triggering event, including when a qualified parent's consent would be effective in those cases where such consent is chosen as the triggering event;

4. Whether a determination of incompetence or debilitation has been made and, if so, when and by whom;

5. Whether there is a significant risk that the qualified parent will imminently become physically or mentally incapable of caring for the child or die as the result of a progressive chronic condition or illness, *or be detained, incarcerated, or deported in connection with an immigration action*; however, a petitioner shall not be required to submit ~~medical~~ documentation of a parent's medical *or immigration* status with the petition;

6. The name and address of the person proposed as standby guardian and any alternate and whether the petition requests that such person be given authority as a guardian of the person or guardian of the property of the minor, or both;

7. A statement of any known reasons as to why the child's other parent is not assuming or should not assume the responsibilities of a standby guardian;

8. Whether there is any prior judicial history regarding custody of the child or any pending litigation regarding custody of the child; and

9. The name and address of the attending physician.

C. Upon the filing of a petition, notice of the filing shall promptly be given to each parent of the child whose identity and whereabouts are known to the petitioner. The court shall direct the issuance of summonses to the child, if the child is ~~twelve~~ 12 or more years of age and the proposed standby guardian and alternate, if any, and such other persons as appear to the court to be proper or necessary parties to the proceedings including the child's parents, guardian, legal custodian or other person standing in loco parentis, if the identity and whereabouts of such persons are known. Service of the summons shall be made pursuant to § 16.1-264.

An order approving the standby guardian shall not be entered without a hearing if there is another known parent, stepparents, adult siblings, or other adult related to the child by blood, marriage, or adoption who requests a hearing within ~~ten~~ 10 days of the date that notice of the filing was sent or if there is other litigation pending regarding custody of the child.

Prior to any hearing on the petition, the court may appoint a discreet and competent attorney at law as guardian ad litem to represent the child pursuant to § 16.1-266.1. In the case of a petition filed by anyone other than a parent of the child, the court shall appoint a guardian ad litem. The qualified parent shall not be required to appear in court if the parent is medically unable to appear, except upon motion for good cause shown.

§ 16.1-351. Court order approving standby guardianship; authority; when effective.

Upon consideration of the factors set out in § 20-124.3 and finding that (i) the child's parent is a qualified parent and (ii) appointment of a standby guardian is in the best interest of the child, the court shall appoint a proper and suitable person as standby guardian and, if requested, a proper and suitable person as alternate standby guardian. However, when a petition is filed by a person other than a parent having custody of the child, the standby guardian shall be appointed only with the consent of the qualified parent unless the court finds that such consent cannot be given for medical reasons.

The order shall specify the triggering event and shall provide that the authority of the standby guardian is effective (i) (a) upon receipt by the standby guardian of (1) a determination of incompetence ~~of the parent~~, (2) a certificate of death ~~of the parent~~, (3) evidence of the detention, incarceration, or deportation of the parent connected to an immigration action, or (4) the earlier of ~~either clause (1), (2), or (3)~~ or (ii) (b) if so requested in the petition, upon receipt by the standby guardian of a written consent of the qualified parent and filing of the consent with the court. The written consent shall be executed after the entry of the court order and signed by the qualified parent, or by another in his presence and on his behalf.

As soon as practicable after entry of the order, a copy shall be served on the standby guardian.

A standby guardian shall have the powers and duties of a guardian of the person and a guardian of the property of a minor, unless otherwise specified in the order.

The standby guardian shall file with the court, as soon as practicable but in no event later than ~~thirty~~ 30 days following a parent's death, determination of incompetence ~~or~~, consent, ~~or~~ detention, incarceration, or deportation connected to an immigration action, a copy of the certificate of death, determination of incompetence ~~or~~, consent, ~~or~~ evidence of such detention, incarceration, or deportation of the qualified parent upon which his authority is based. Failure to file within the time specified shall be grounds for the court to rescind the authority of the standby guardian sua sponte or upon petition of any person but all acts undertaken by the standby guardian on behalf of and in the interests of the child shall be valid and enforceable.

§ 16.1-352. Written designation of a standby guardian by a parent; commencement of authority; court approval required.

A. A parent may execute a written designation of a standby guardian at any time. The written designation shall state:

1. The name, address and birthdate of the child affected;
2. The triggering event; and
3. The name and address of the person designated as standby guardian or alternate.

The written designation shall be signed by the parent. Another adult may sign the written designation on behalf of the parent if the parent is physically unable to do so, provided the designation is signed at the express request of the parent and in the presence of the parent. The designated standby guardian or alternate may not sign on behalf of the parent. The signed designation shall be delivered to the standby guardian and any alternate named as soon as practicable.

B. Following such delivery of the designation, the authority of a standby guardian to act for a qualified parent shall commence upon the occurrence of the specified triggering event and receipt by him of (i) a determination of incompetence; (ii) a certificate of death of the parent, ~~or~~; (iii) evidence of the detention, incarceration, or deportation of the parent connected to an immigration action; or (iv) a determination of debilitation and the qualified parent's written consent to such commencement, signed by the parent or another on his behalf and at his direction as provided in subsection A for the designation.

C. A standby guardian under a designation shall have the authority of a guardian of the person and a guardian of the property of the child, unless otherwise specified in the designation.

D. A designated standby guardian or alternate shall file a petition for approval as standby guardian. The petition shall be filed as soon as practicable after the occurrence of the triggering event but in no event later than ~~thirty~~ 30 days after the date of the commencement of his authority. The authority of the standby guardian shall cease upon his failure to so file, but shall recommence upon such filing. The petition shall be accompanied by a copy of the designation and any determinations of incapacity or debilitation or a certificate of death.

The provisions of subsection C of § 16.1-350 ~~C~~ shall apply to a petition filed pursuant to this section. The court shall enter an order approving the designated guardian as standby guardian upon finding that:

1. The person was duly designated as standby guardian pursuant to this section and the designation has not been revoked;
2. A determination of incompetence was made; a determination of debilitation was made and the parent consented to commencement of the standby ~~guardians~~ guardian's authority; ~~or~~ the parent has died as evidenced by a death certificate; ~~or~~ the parent has been detained, incarcerated, or deported in connection with an immigration action;
3. The best interests of the child will be served by approval of the standby guardian; and
4. If the petition is by an alternate, that the designated standby guardian is unwilling or unable to serve.

§ 16.1-353. Further proceedings to determine permanent guardianship, custody.

A. If the triggering event was death of the qualified parent, within ~~ninety~~ 90 days following the occurrence of the triggering event or, if later, commencement of the standby guardian's authority, the standby guardian shall (i) petition for appointment of a guardian for the child as otherwise provided by law or (ii) initiate other proceedings to determine custody of the child pursuant to Chapter 6.1 (§ 20-124.1 et seq.) of Title 20, or both.

B. In all other cases a standby guardian shall promptly after occurrence of the triggering event initiate such proceedings to determine permanent custody, absent objection by the qualified parent.

The petition shall be accompanied by:

1. The court order approving or written designation of a standby guardian; and
2. The attending physician's written determination of incompetence or debilitation or a verification of death; or evidence of the parent's detention, incarceration, or deportation in connection with an immigration action.

CHAPTER 242

An Act to amend the Code of Virginia by adding a section numbered 54.1-2956.7:1, relating to Occupational Therapy Interjurisdictional Licensure Compact.

[S 1189]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2956.7:1 as follows:

§ 54.1-2956.7:1. Occupational Therapy Interjurisdictional Licensure Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Occupational Therapy Interjurisdictional Licensure Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

OCCUPATIONAL THERAPY INTERJURISDICTIONAL LICENSURE COMPACT.

Article I. Purpose.

The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multi-state occupational therapy practice;
4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states;
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
7. Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

Article II. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

"Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

"Alternative program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board.

"Compact" means the Occupational Therapy Interjurisdictional Licensure Compact.

"Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

"Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

"Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

"Data system" means a repository of information about licensees, including but not limited to license status, investigative information, compact privileges, and adverse actions.

"Encumbered license" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the National Practitioners Data Bank (NPDB).

"Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

"Home state" means the member state that is the licensee's primary state of residence.

"Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

"Investigative information" means information, records, and/or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

"Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

"Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

"Member state" means a state that has enacted the Compact.

"Occupational therapist" means an individual who is licensed by a state to practice occupational therapy.

"Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy.

"Occupational therapy," "occupational therapy practice," and the "practice of occupational therapy" mean the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations.

"Occupational Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

"Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.

"Primary state of residence" means the state (also known as the home state) in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by: driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by Commission rules.

"Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

"Rule" means a regulation promulgated by the Commission that has the force of law.

"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.

"Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state.

"Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, and/or consultation.

Article III. State Participation in the Compact.

A. To participate in the Compact, a member state shall:

- 1. License occupational therapists and occupational therapy assistants;*
- 2. Participate fully in the Commission's data system, including but not limited to using the Commission's unique identifier as defined in rules of the Commission;*
- 3. Have a mechanism in place for receiving and investigating complaints about licensees;*
- 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;*
- 5. Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

 - a. A member state shall, within a time frame established by the Commission, require a criminal background check for a licensee seeking/applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.*
 - b. Communication between a member state, the Commission and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under P.L. 92-544.**
- 6. Comply with the rules of the Commission;*
- 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and*
- 8. Have continuing competence/education requirements as a condition for license renewal.*

B. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

C. Member states may charge a fee for granting a compact privilege.

D. A member state shall provide for the state's delegate to attend all Occupational Therapy Compact Commission meetings.

E. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the compact privilege in any other member state.

F. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

Article IV. Compact Privilege.

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

- 1. Hold a license in the home state;*
- 2. Have a valid United States social security number or national practitioner identification number;*
- 3. Have no encumbrance on any state license;*
- 4. Be eligible for a compact privilege in any member state in accordance with subsections D, F, G, and H;*
- 5. Have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and two years have elapsed from the date of such completion;*
- 6. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);*
- 7. Pay any applicable fees, including any state fee, for the compact privilege;*
- 8. Complete a criminal background check in accordance with subdivision A 5 of Article III. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check;*
- 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and*
- 10. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.*

B. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection A to maintain the compact privilege in the remote state.

C. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. Occupational therapy assistants practicing in a remote state shall be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

E. A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

F. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

- 1. The home state license is no longer encumbered; and*
- 2. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with subdivision 1.*

G. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection A to obtain a compact privilege in any remote state.

H. If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

- 1. The specific period of time for which the compact privilege was removed has ended;*
- 2. All fines have been paid and all conditions have been met;*
- 3. Two years have elapsed from the date of completing requirements for subdivisions 1 and 2; and*
- 4. The compact privileges are reinstated by the Commission, and the compact data system is updated to reflect reinstatement.*

I. If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges shall be restored through the compact data system.

J. Once the requirements of subsection H have been met, the licensee must meet the requirements in subsection A to obtain a compact privilege in a remote state.

Article V. Obtaining a New Home State License by Virtue of Compact Privilege.

A. An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

B. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

1. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in Article IV via the data system, without need for primary source verification except for:

a. An FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with P.L. 92-544;

b. Other criminal background check as required by the new home state; and

c. Submission of any requisite jurisprudence requirements of the new home state.

3. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in Article IV, the new home state shall apply its requirements for issuing a new single-state license.

5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

C. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

D. Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state license.

E. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

Article VI. Active Duty Military Personnel or their Spouses.

Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state or through the process described in Article V.

Article VII. Adverse Actions.

A. A home state shall have exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

B. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

C. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

D. The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the OT Compact Commission data system. The occupational therapy compact commission data system administrator shall promptly notify the new home state of any adverse actions.

E. A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

F. A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

G. Joint investigations.

1. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

H. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

I. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

J. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Article VIII. Establishment of the Occupational Therapy Compact Commission.

A. The Compact member states hereby create and establish a joint public agency known as the Occupational Therapy Compact Commission:

1. The Commission is an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting, and meetings.

1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.

2. The delegate shall be either:

a. A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

b. An administrator of the licensing board.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

7. The Commission shall establish by rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an executive committee; and

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of occupational therapy licensure and practice.

D. The executive committee.

The executive committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The executive committee shall be composed of nine members:

- a. Seven voting members who are elected by the Commission from the current membership of the Commission;*
- b. One ex-officio, nonvoting member from a recognized national occupational therapy professional association; and*
- c. One ex officio, nonvoting member from a recognized national occupational therapy certification organization.*

2. The ex officio members will be selected by their respective organizations.

3. The Commission may remove any member of the executive committee as provided in bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Perform other duties as provided in rules or bylaws.

E. Meetings of the Commission.

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article X.

2. The Commission or the executive committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or executive committee or other committees of the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified immunity, defense, and indemnification.

1. *The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the grossly negligent, intentional or willful or wanton misconduct of that person.*

2. *The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.*

3. *The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.*

Article IX. Data System.

A. *The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.*

B. *A member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the Commission, including:*

1. *Identifying information;*

2. *Licensure data;*

3. *Adverse actions against a license or compact privilege;*

4. *Non-confidential information related to alternative program participation;*

5. *Any denial of application for licensure, and the reason(s) for such denial;*

6. *Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission; and*

7. *Current significant investigative information.*

C. *Current significant investigative information and other investigative information pertaining to a Licensee in any member state will only be available to other member states.*

D. *The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.*

E. *Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.*

F. *Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.*

Article X. Rulemaking.

A. *The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.*

B. *The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.*

C. *If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.*

D. *Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.*

E. *Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:*

1. *On the website of the Commission or other publicly accessible platform; and*

2. *On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.*

F. *The notice of proposed rulemaking shall include:*

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least 25 persons;
2. A state or federal governmental subdivision or agency; or
3. An association or organization having at least 25 members.

I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this article.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Article XI. Oversight, Dispute Resolution, and Enforcement.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, technical assistance, and termination.

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

C. Dispute resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

Article XII. Date of Implementation of the Interstate Commission for Occupational Therapy Practice and Associated Rules, Withdrawal, and Amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Article XIII. Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Article XIV. Binding Effect of Compact and Other Laws.

A. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

B. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

C. Any laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

E. All agreements between the Commission and the member states are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 243

An Act to amend and reenact §§ 8.01-581.16, 54.1-2400.6, and 54.1-2909 of the Code of Virginia, relating to programs to address career fatigue and wellness in certain health care providers; civil immunity.

[S 1205]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-581.16, 54.1-2400.6, and 54.1-2909 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-581.16. Civil immunity for members of or consultants to certain boards or committees.

A. Every member of, or health care professional consultant to, any committee, board, group, commission or other entity shall be immune from civil liability for any act, decision, omission, or utterance done or made in performance of his duties while serving as a member of or consultant to such committee, board, group, commission or other entity that functions primarily to review, evaluate, or make recommendations on (i) the duration of patient stays in health care facilities; (ii) the professional services furnished with respect to the medical, dental, psychological, podiatric, chiropractic, veterinary, or optometric necessity for such services; (iii) the purpose of promoting the most efficient use or monitoring the quality of care of available health care facilities and services, or of emergency medical services agencies and services; (iv) the adequacy or quality of professional services; (v) the competency and qualifications for professional staff privileges; (vi) the reasonableness or appropriateness of charges made by or on behalf of health care facilities; (vii) patient safety, including entering into contracts with patient safety organizations, provided that such committee, board, group, commission, or other entity has been established pursuant to federal or state law or regulation, the requirements of a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb), or guidelines approved or adopted by a statewide or local association representing health care providers licensed in the Commonwealth pursuant to clause (iii) (f) of subsection B of § 8.01-581.17, or established and duly constituted by one or more public or licensed private hospitals, health systems, community services boards, or behavioral health authorities, or with a governmental agency, and provided further that such act, decision, omission, or utterance is not done or made in bad faith or with malicious intent.

B. Every member of, or health care professional consultant to, any committee, board, group, commission, or other entity that functions primarily to review, evaluate, or make recommendations on a professional program to address issues related to career fatigue and wellness in health care professionals licensed to practice medicine or osteopathic medicine or licensed as a physician assistant, registered, or certified by the Boards of Medicine, Nursing, or Pharmacy, or in students enrolled in a school of medicine, osteopathic medicine, nursing, or pharmacy located in the Commonwealth, that is established or contracted for by a statewide association, that is exempt under 26 U.S.C. § 501(c)(6) of the Internal Revenue Code, and that primarily represents health care professionals licensed to practice medicine or osteopathic medicine in multiple specialties shall be immune from civil liability for any act, decision, omission, or utterance done or made in performance of his duties while serving as a member of or consultant to such committee, board, group, commission, or other entity. No active participant in a professional program described in this subsection shall be employed or engaged by such professional program or have a financial ownership interest in such professional program.

§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions against and certain disorders of health professionals; immunity from liability; failure to report.

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth shall report within 30 days, except as provided in subdivision 1, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

1. Any information of which he may become aware in his official capacity indicating a reasonable belief that such a health professional is in need of treatment or has been voluntarily admitted as a patient, either at his institution or any other health care institution, for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients. If such health care professional has been involuntarily admitted as a patient, either in his own institution or any other health care institution, for treatment of substance abuse or a psychiatric illness, the report required by this section shall be made within five days of the date on which the chief executive officer, chief of staff, director, or administrator learns of the health care professional's involuntary admission.

2. Any information of which he may become aware in his official capacity indicating a reasonable belief, after review and, if necessary, an investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, that a health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or administrator determines that such reasonable belief exists.

3. Any disciplinary proceeding begun by the institution, organization, facility, or provider as a result of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of the initiation of a disciplinary proceeding.

4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while under investigation, including but not limited to denial or termination of employment, denial or termination of privileges or restriction of privileges that results from conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of any disciplinary action.

5. The voluntary resignation from the staff of the health care institution, home health or hospice organization, assisted living facility, or provider, or voluntary restriction or expiration of privileges at the institution, organization, facility, or provider, of any health professional while such health professional is under investigation or is the subject of disciplinary proceedings taken or begun by the institution, organization, facility, or provider or a committee thereof for any reason related to possible intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, medical incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, shall give the name, address, and date of birth of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of individuals from whom the hospital or health care institution, organization, facility, or provider sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.

This section shall not be construed to require the hospital, health care institution, home health or hospice organization, assisted living facility, or provider to submit any proceedings, minutes, records, or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar (i) any report required by this section or (ii) any requested medical records that are necessary to investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall be obligated to report any matter to the Department or the Office if the person or entity has actual notice that the same matter has already been reported to the Department or the Office. *No person or entity shall be obligated to report a health care provider who is participating in a professional program as described in subsection B of § 8.01-581.16 unless there is a reasonable belief that the participant is not competent to continue to practice or is a danger to himself or to the health and welfare of his patients or the public.*

B. The State Health Commissioner, Commissioner of Social Services, and Commissioner of Behavioral Health and Developmental Services shall report to the Department any information of which their agencies may become aware in the course of their duties that a health professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and regulations. However, the State Health Commissioner shall not be required to report information reported to the Director of the Office of Licensure and Certification pursuant to this section to the Department of Health Professions.

C. Any person making a report by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

D. Medical records or information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

E. Any person who fails to make a report to the Department as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of Health, Commissioner of Social Services, or Commissioner of Behavioral Health and Developmental Services, as appropriate. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.

§ 54.1-2909. Further reporting requirements; civil penalty; disciplinary action.

A. The following matters shall be reported within 30 days of their occurrence to the Board:

1. Any disciplinary action taken against a person licensed under this chapter in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation;
2. Any malpractice judgment against a person licensed under this chapter;
3. Any settlement of a malpractice claim against a person licensed under this chapter; and
4. Any evidence that indicates a reasonable belief that a person licensed under this chapter is or may be professionally incompetent; has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients; has or may have engaged in unprofessional conduct; or may be mentally or physically unable to engage safely in the practice of his profession.

B. The following persons and entities are subject to the reporting requirements set forth in this section:

1. Any person licensed under this chapter who is the subject of a disciplinary action, a settlement, a judgment, or evidence for which reporting is required pursuant to this section;
2. Any other person licensed under this chapter, except as provided by a contract agreement with the Health Practitioners' Monitoring Program;
3. All health care institutions licensed by the Commonwealth;
4. The malpractice insurance carrier of any person who is the subject of a judgment or settlement; and
5. Any health maintenance organization licensed by the Commonwealth.

C. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the matter has already been reported to the Board. The reporting requirements set forth in this section shall be met if these matters are reported to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101 et seq., and notice that such report has been submitted is provided to the Board.

D. No person or entity shall be obligated to report information regarding a health care provider licensed to practice medicine or osteopathic medicine or licensed as a physician assistant or registered by the Board who is a participant in a professional program, pursuant to subsection B of § 8.01-581.16, to address issues related to career fatigue and wellness that is organized or contracted for by a statewide association exempt under 26 U.S.C. § 501(c)(6) of the Internal Revenue Code and that primarily represents health care professionals licensed to practice medicine or osteopathic medicine in multiple specialties to the Board unless the person or entity has determined that there is reasonable probability that the participant is not competent to continue in practice or is a danger to himself or to the health and welfare of his patients or the public.

E. Any report required by this section shall be in writing directed to the Board, shall give the name and address of the person who is the subject of the report, and shall describe the circumstances surrounding the matter required to be reported. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17.

F. Any person making a report required by this section, providing information pursuant to an investigation, or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability or criminal prosecution resulting therefrom unless such person acted in bad faith or with malicious intent.

G. The clerk of any circuit court or any district court in the Commonwealth shall report to the Board the conviction of any person known by such clerk to be licensed under this chapter of any (i) misdemeanor involving a controlled substance, marijuana, or substance abuse or involving an act of moral turpitude or (ii) felony.

H. Any person who fails to make a report to the Board as required by this section shall be subject to a civil penalty not to exceed \$5,000. The Director shall report the assessment of such civil penalty to the Commissioner of the Department of Health or the Commissioner of Insurance at the State Corporation Commission. Any person assessed a civil penalty pursuant to this section shall not receive a license, registration, or certification or renewal of such unless such penalty has been paid.

I. Disciplinary action against any person licensed, registered, or certified under this chapter shall be based upon the underlying conduct of the person and not upon the report of a settlement or judgment submitted under this section.

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

CHAPTER 244

An Act to repeal § 37.2-827 of the Code of Virginia, relating to state hospitals; admission of certain aliens.

[S 1220]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-827 of the Code of Virginia is repealed.

CHAPTER 245

An Act to amend and reenact §§ 32.1-325 and 32.1-351 of the Code of Virginia, relating to state plan for medical assistance and Family Access to Medical Insurance Security plan; payment of medical assistance; 12-month supply of hormonal contraceptives.

[S 1227]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325 and 32.1-351 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have

been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); and

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the

Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 32.1-351. Family Access to Medical Insurance Security Plan established.

A. The Department of Medical Assistance Services shall amend the Virginia Children's Medical Security Insurance Plan to be renamed the Family Access to Medical Insurance Security (FAMIS) Plan. The Department of Medical Assistance Services shall provide coverage under the Family Access to Medical Insurance Security Plan for individuals under the age of 19 when such individuals (i) have family incomes at or below 200 percent of the federal poverty level or were enrolled on the date of federal approval of Virginia's FAMIS Plan in the Children's Medical Security Insurance Plan (CMSIP); such individuals shall continue to be enrolled in FAMIS for so long as they continue to meet the eligibility requirements of CMSIP; (ii) are not eligible for medical assistance services pursuant to Title XIX of the Social Security Act, as amended; (iii) are not covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Service Act (42 U.S.C. § 300gg-91 (a) and (b)(1)); and (iv) meet both the requirements of Title XXI of the Social Security Act, as amended, and the Family Access to Medical Insurance Security Plan. Eligible children, residing in Virginia, whose family income does not exceed 200 percent of the federal poverty level during the enrollment period shall receive 12 continuous months of coverage as permitted by Title XXI of the Social Security Act.

B. The Department of Medical Assistance Services shall also provide coverage for children and pregnant women who meet the criteria set forth in clauses (i) through (iv) of subsection A during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3).

C. Family Access to Medical Insurance Security Plan participants shall participate in cost-sharing to the extent allowed under Title XXI of the Social Security Act, as amended, and as set forth in the Virginia Plan for Title XXI of the Social Security Act. The annual aggregate cost-sharing for all eligible children in a family above 150 percent of the federal poverty level shall not exceed five percent of the family's gross income or as allowed by federal law and regulations. The annual aggregate cost-sharing for all eligible children in a family at or below 150 percent of the federal poverty level shall not exceed 2.5 percent of the family's gross income. The nominal copayments for all eligible children in a family shall not be less than those in effect on January 1, 2003. Cost-sharing shall not be required for well-child and preventive services including age-appropriate child immunizations.

D. The Family Access to Medical Insurance Security Plan shall provide comprehensive health care benefits to program participants, including well-child and preventive services, to the extent required to comply with federal requirements of Title XXI of the Social Security Act. These benefits shall include comprehensive medical, dental, vision, mental health, and substance abuse services, and physical therapy, occupational therapy, speech-language pathology, and skilled nursing services for special education students. *The medical services required to be provided herein shall include dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time, in accordance with subdivision A 27 of § 32.1-325.* The mental health services required herein shall include intensive in-home services, case management services, day treatment, and 24-hour emergency response. The services shall be provided in the same manner and with the same coverage and service limitations as they are provided to children under the State Plan for Medical Assistance Services.

E. The Virginia Plan for Title XXI of the Social Security Act shall include a provision that participants in the Family Access to Medical Insurance Security Plan who have access to employer-sponsored health insurance coverage, as defined in § 32.1-351.1, may, but shall not be required to, enroll in an employer's health plan, and the Department of Medical Assistance Services or its designee shall make premium payments to such employer's plan on behalf of eligible participants if the Department of Medical Assistance Services or its designee determines that such enrollment is cost-effective, as defined in § 32.1-351.1.

F. The Family Access to Medical Insurance Security Plan shall ensure that coverage under this program does not substitute for private health insurance coverage.

G. The health care benefits provided under the Family Access to Medical Insurance Security Plan shall be through existing Department of Medical Assistance Services' contracts with health maintenance organizations and other providers, or through new contracts with health maintenance organizations, health insurance plans, other similarly licensed entities, or other entities as deemed appropriate by the Department of Medical Assistance Services, or through employer-sponsored health insurance. All eligible individuals, insofar as feasible, shall be enrolled in health maintenance organizations.

H. The Department of Medical Assistance Services may establish a centralized processing site for the administration of the program to include responding to inquiries, distributing applications and program information, and receiving and processing applications. The Family Access to Medical Insurance Security Plan shall include a provision allowing a child's application to be filed by a parent, legal guardian, authorized representative or any other adult caretaker relative with whom the child lives. The Department of Medical Assistance Services may contract with third-party administrators to provide any additional administrative services. Duties of the third-party administrators may include, but shall not be limited to, enrollment, outreach, eligibility determination, data collection, premium payment and collection, financial oversight and reporting, and such other services necessary for the administration of the Family Access to Medical Insurance Security Plan. Any centralized processing site shall determine a child's eligibility for either Title XIX or Title XXI and shall enroll eligible children in Title XIX or Title XXI. A single application form shall be used to determine eligibility for Title XIX or Title XXI of the Social Security Act, as amended, and outreach, enrollment, re-enrollment and services delivery shall be coordinated with the FAMIS Plus program pursuant to § 32.1-325. In the event that an application is denied, the applicant shall be notified of any services available in his locality that can be accessed by contacting the local department of social services.

I. The Virginia Plan for Title XXI of the Social Security Act, as amended, shall include a provision that, in addition to any centralized processing site, local social services agencies shall provide and accept applications for the Family Access to Medical Insurance Security Plan and shall assist families in the completion of applications. Contracting health plans, providers, and others may also provide applications for the Family Access to Medical Insurance Security Plan and may assist families in completion of the applications.

J. The Department of Medical Assistance Services shall develop and submit to the federal Secretary of Health and Human Services an amended Title XXI plan for the Family Access to Medical Insurance Security Plan and may revise such plan as may be necessary. Such plan and any subsequent revisions shall comply with the requirements of federal law, this chapter, and any conditions set forth in the appropriation act. In addition, the plan shall provide for coordinated implementation of publicity, enrollment, and service delivery with existing local programs throughout the Commonwealth that provide health care services, educational services, and case management services to children. In developing and revising the plan, the Department of Medical Assistance Services shall advise and consult with the Joint Commission on Health Care.

K. Funding for the Family Access to Medical Insurance Security Plan shall be provided through state and federal appropriations and shall include appropriations of any funds that may be generated through the Virginia Family Access to Medical Insurance Security Plan Trust Fund.

L. The Board of Medical Assistance Services, or the Director, as the case may be, shall adopt, promulgate, and enforce such regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) as may be necessary for the implementation and administration of the Family Access to Medical Insurance Security Plan.

M. Children enrolled in the Virginia Plan for Title XXI of the Social Security Act prior to implementation of these amendments shall continue their eligibility under the Family Access to Medical Insurance Security Plan and shall be given reasonable notice of any changes in their benefit packages. Continuing eligibility in the Family Access to Medical Insurance Security Plan for children enrolled in the Virginia Plan for Title XXI of the Social Security Act prior to implementation of these amendments shall be determined in accordance with their regularly scheduled review dates or pursuant to changes in income status. Families may select among the options available pursuant to subsections D and F of this section.

N. The provisions of Chapter 9 (§ 32.1-310 et seq.) of this title relating to the regulation of medical assistance shall apply, mutatis mutandis, to the Family Access to Medical Insurance Security Plan.

O. In addition, in any case in which any provision set forth in Title 38.2 excludes, exempts or does not apply to the Virginia plan for medical assistance services established pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), such exclusion, exemption or carve out of application to Title XIX of the Social Security Act (Medicaid) shall be deemed to subsume and thus to include the Family Access to Medical Insurance Security (FAMIS) Plan, established pursuant to Title XXI of the Social Security Act, upon approval of FAMIS by the federal Centers for Medicare & Medicaid Services as Virginia's State Children's Health Insurance Program.

CHAPTER 246

An Act to amend and reenact § 24.2-706 of the Code of Virginia, relating to absentee voting; third-party absentee ballot assembly and distribution.

[S 1239]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-706 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

C. If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Date _____

Signature of witness _____ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

D. The general registrar may contract with a third party for the printing, assembly, and mailing of the items set forth in subsection C. The general registrar shall provide to the contractor in a timely manner the names, addresses, precincts, and ballot styles of voters requesting an absentee ballot by mail. The vendor shall provide to the general registrar a report of the voters to whom the absentee ballot materials have been sent.

C. E. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions B C 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

D. F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions B C 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

E. G. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

2. That the State Board of Elections shall promulgate regulations to implement the provisions of this act to be effective within 60 days of its enactment. Such regulations shall include processes that ensure secure and timely delivery of voter information to contractors and reports of mailed absentee ballots from contractors.

CHAPTER 247

An Act to amend and reenact § 2.2-2001.2 of the Code of Virginia, relating to Department of Veterans Services; initiatives to reduce unemployment among veterans; comprehensive transition program.

[S 1279]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2001.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2001.2. Initiatives to reduce unemployment among veterans; comprehensive transition program.

A. The Department shall develop a comprehensive program to reduce unemployment among veterans by assisting businesses to attract, hire, train, and retain veterans. Such program shall promote strategies for connecting employers to qualified veterans and include (i) a workforce assessment and training program for participating employers and (ii) a certification process for participating employers with the objective of setting measurable goals for hiring and retaining veterans.

B. All agencies in the executive branch of state government and all public institutions of higher education shall, to the maximum extent possible, be certified in accordance with this section. Such agencies and institutions may request a certification waiver from the Governor if they can demonstrate that (i) the certification is in conflict with the organization's operating directives or (ii) they have in place an alternative program that meets the requirements of this section.

C. The Department shall take steps to promote awareness among veterans of the acceptance by the regulatory boards within the Department of Professional and Occupational Regulation, the Department of Health Professions, or any board named in Title 54.1 pursuant to § 54.1-118 of the military training, education, or experience of a service member honorably discharged from active military service in the Armed Forces of the United States, to the extent that such training, education, or experience is substantially equivalent to the requirements established by law and regulations of the respective board for the issuance of any license, permit, certificate, or other document, however styled or denominated, required for the practice of any business, profession, or occupation in the Commonwealth.

D. The Department shall develop a comprehensive program to assist military service members, veterans, and their spouses in making a successful transition from military to civilian life in Virginia. The program shall promote strategies and services for connecting transitioning service members, veterans, and spouses to local, regional, state, and federal employment resources in Virginia, including (i) skills and workforce assessments and (ii) internship and apprenticeship programs. Such program shall prioritize assistance to military service members, veterans, and their spouses who (a) have not sought services under any program authorized under the federal Wagner-Peyser Act, 29 U.S.C. § 49 et seq., and available through the Virginia Employment Commission and (b) are not eligible for job counseling, training, and placement services for veterans and spouses under 38 U.S.C. § 4101 et seq.

CHAPTER 248

An Act to amend and reenact §§ 37.2-311.1, as it shall become effective, 56-484.12, 56-484.17, and 56-484.17:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 37.2-311.2 through 37.2-311.6, relating to crisis call centers; Crisis Call Center Fund established.

[S 1302]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-311.1, as it shall become effective, 56-484.12, 56-484.17, and 56-484.17:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 37.2-311.2 through 37.2-311.6 as follows:

§ 37.2-311.1. (Effective March 1, 2021) Comprehensive crisis system; Marcus alert system; powers and duties of the Department related to comprehensive mental health, substance abuse, and developmental disability crisis services.

A. As used in this section *and §§ 37.2-311.2 through 37.2-311.6*, unless the context requires a different meaning:

"Community care team" means a team of mental health service providers, and may include registered peer recovery specialists and law-enforcement officers as a team, with the mental health service providers leading such team, to help stabilize individuals in crisis situations. Law enforcement may provide backup support as needed to a community care team in accordance with the protocols and best practices developed pursuant to § 9.1-193. In addition to serving as a co-response unit, community care teams may, at the discretion of the employing locality, engage in community mental health awareness and services.

"Comprehensive crisis system" means the continuum of care established by the Department of Behavioral Health and Developmental Services pursuant to this section.

"Crisis call center" means a call center that provides crisis intervention that meets ~~National Suicide Prevention Lifeline~~ *NSPL* standards for risk assessment and engagement *and the requirements of § 37.2-311.2*.

"Crisis stabilization center" means a facility providing short-term (under 24 hours) observation and crisis stabilization services to all referrals in a home-like, nonhospital environment.

"Fund" means the Crisis Call Center Fund established under § 37.2-311.4.

"Historically economically disadvantaged community" means the same as that term is defined in § 56-576.

"Mental health awareness response and community understanding services alert system" or "Marcus alert system" means a set of protocols to (i) initiate a behavioral health response to a behavioral health crisis, including for individuals experiencing a behavioral health crisis secondary to mental illness, substance abuse, developmental disabilities, or any combination thereof; (ii) divert such individuals to the behavioral health or developmental services system whenever feasible; and (iii) facilitate a specialized response in accordance with § 9.1-193 when diversion is not feasible.

"Mobile crisis response" means the provision of professional, same-day intervention for children or adults who are experiencing crises and whose behaviors are consistent with mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof. "Mobile crisis response" may be provided by a community care team or a mobile crisis team, and a locality may establish either or both types of teams to best meet its needs.

"Mobile crisis team" means a team of one or more qualified or licensed mental health professionals and may include a registered peer recovery specialist or a family support partner. A law-enforcement officer shall not be a member of a mobile crisis team, but law enforcement may provide backup support as needed to a mobile crisis team in accordance with the protocols and best practices developed pursuant to § 9.1-193.

"NSPL" or "National Suicide Prevention Lifeline" means the national suicide prevention and mental health crisis hotline established by the federal government in accordance with 42 U.S.C. § 290bb-36c to provide a national network of crisis centers linked by a toll-free number to route callers in suicidal crisis or emotional distress to the closest certified local crisis center.

"NSPL Administrator" means the entity designated by the federal government to administer the NSPL.

"Registered peer recovery specialist" means the same as such term is defined in § 54.1-3500.

"SAMHSA" or "Substance Abuse and Mental Health Services Administration" means the agency within the U.S. Department of Health and Human Services that leads federal behavioral health efforts.

B. The Department shall have the following duties and responsibilities for the provision of crisis services and support for individuals with mental illness, substance abuse, developmental or intellectual disabilities, or brain injury who are experiencing a crisis related to mental health, substance abuse, or behavioral support needs:

1. The Department shall develop a comprehensive crisis system, with such funds as may be appropriated for such purpose, based on national best practice models and composed of a crisis call center, community care and mobile crisis teams, crisis stabilization centers, and the Marcus alert system. *In addition to all requirements under this section, the crisis call center shall meet the requirements of § 37.2-311.2.*

2. By July 1, 2021, the Department, in collaboration with the Department of Criminal Justice Services and law-enforcement, mental health, behavioral health, developmental services, emergency management, brain injury, and racial equity stakeholders, shall develop a written plan for the development of a Marcus alert system. Such plan shall (i) inventory past and current crisis intervention teams established pursuant to Article 13 (§ 9.1-187 et seq.) of Chapter 1 of Title 9.1 throughout the Commonwealth that have received state funding; (ii) inventory the existence, status, and experiences of community services board mobile crisis teams and crisis stabilization units; (iii) identify any other existing cooperative relationships between community services boards and law-enforcement agencies; (iv) review the prevalence of crisis situations involving mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof; (v) identify state and local funding of emergency and crisis services; (vi) include protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis or community care team dispatch; (vii) include protocols for local law-enforcement agencies to enter into memorandums of agreement with mobile crisis response providers regarding requests for law-enforcement backup during a mobile crisis or community care team response; (viii) develop minimum standards, best practices, and a system for the review and approval of protocols for law-enforcement participation in the Marcus alert system set forth in § 9.1-193; (ix) assign specific responsibilities, duties, and authorities among responsible state and local entities; and (x) assess the effectiveness of a locality's or area's plan for community involvement, including engaging with and providing services to historically economically disadvantaged communities, training, and therapeutic response alternatives.

C. 1. No later than December 1, 2021, the Department shall establish five Marcus alert programs and community care or mobile crisis teams, one located in each of the five Department regions.

2. No later than July 1, 2023, the Department shall establish five additional Marcus alert system programs and community care or mobile crisis teams, one located in each of the five Department regions. Community services boards or behavioral health authorities that serve the largest populations in each region, excluding those community services boards or behavioral health authorities already selected under subdivision 1, shall be selected for programs under this subdivision.

3. The Department shall establish additional Marcus alert systems and community care teams in geographical areas served by a community services board or behavioral health authority by July 1, 2024; July 1, 2025; and July 1, 2026. No later than July 1, 2026, all community services board and behavioral health authority geographical areas shall have established a Marcus alert system that uses a community care or mobile crisis team.

4. *All community care teams and mobile crisis teams established under this section shall meet the standards set forth in § 37.2-311.3.*

D. The Department shall assess and report on the impact and effectiveness of the comprehensive crisis system in meeting its goals. The assessment shall include the number of calls to the crisis call center, number of mobile crisis responses, number of crisis responses that involved law-enforcement backup, and overall function of the comprehensive crisis system. A portion of the report, focused on the function of the Marcus alert system and local protocols for law-enforcement participation in the Marcus alert system, shall be written in collaboration with the Department of Criminal Justice Services and shall include the number and description of approved local programs and how the programs interface comprehensive crisis system and mobile crisis response; the number of crisis incidents and injuries to any parties involved; a description of successes and problems encountered; and an analysis of the overall operation of any local protocols or programs, including any disparities in response and outcomes by race and ethnicity of individuals experiencing a behavioral health crisis and recommendations for improvement of the programs. The report shall also include a specific plan to phase in a Marcus alert system and mobile crisis response in each remaining geographical area served by a community services board or behavioral health authority as required in subdivision C 3. The Department, in collaboration with the Department of Criminal Justice Services, shall (i) submit a report by November 15, 2021, to the Joint Commission on Health Care outlining progress toward the assessment of these factors and any assessment items that are available for the reporting period and (ii) submit a comprehensive annual report to the Joint Commission on Health Care by November 15 of each subsequent year.

§ 37.2-311.2. Powers and duties of crisis call center.

A. *The crisis call center established by the Department pursuant to § 37.2-311.1 shall provide crisis intervention services and crisis care coordination to individuals accessing the NSPL from any jurisdiction in the Commonwealth 24 hours a day, seven days a week.*

B. *In administering the crisis call center, the Department shall:*

- 1. Apply for participation in and enter into an agreement with the NSPL Administrator for participation within the NSPL;*
- 2. Meet NSPL requirements and best practices guidelines for operational and clinical standards;*

3. Report, provide data, and participate in evaluations and related quality improvement activities as required by the NSPL Administrator;
4. Use technology, including chat and text, that is interoperable across crisis and emergency response systems used throughout the Commonwealth and that is consistent with any standards promulgated by the NSPL Administrator;
5. Deploy crisis and outgoing services, including mobile crisis teams and community care teams;
6. Coordinate access to the comprehensive crisis system or other local resources as appropriate and according to guidelines and best practices established by the NSPL Administrator;
7. Actively collaborate with local community service boards to coordinate linkages for persons contacting the NSPL with ongoing care needs;
8. Establish formal agreements with local community services boards as it deems appropriate;
9. Coordinate access to the comprehensive crisis system for individuals accessing the NSPL through appropriate information sharing regarding availability of services;
10. Work with the NSPL Administrator and VCL networks to establish consistency of public messaging about services provided by the NSPL;
11. Meet any requirements set forth by the NSPL Administrator for serving high-risk and specialized populations as identified by SAMHSA, including any policies and training requirements for providing linguistically and cultural competent care and, if appropriate, transferring such callers to an appropriate specialized center or subnetwork within or external to the NSPL network;
12. Provide follow-up services to individuals who access the NSPL consistent with guidance and policies established by the NSPL;
13. Report any information required by the U.S. Federal Communications Commission, including information regarding the collection and expenditure by the Commonwealth of state and federal funds for the purposes of administering the call center, and regarding the use of the NSPL through the crisis call center;
14. Establish any work group or task force as necessary to administer the provisions of this section and §§ 37.2-311.1 and 37.2-311.3; and
15. Comply with any applicable requirements, including associated deadlines, of the National Suicide Hotline Designation Act of 2020, P.L. 116-172.

§ 37.2-311.3. Standards for community care teams and mobile crisis teams.

The Department shall ensure that mobile crisis teams and community care teams:

1. Are designed in partnership with community members, including people with lived experience utilizing crisis services;
2. Are staffed by personnel who reflect the demographics of the community served;
3. To the extent permitted by law, collect customer service data from individuals served, including demographic information and any information recommended by SAMHSA; and
4. Collaborate with local law-enforcement agencies in use of the crisis call center.

§ 37.2-311.4. Crisis Call Center Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Crisis Call Center Fund. The Fund shall be established on the books of the Comptroller. All revenues accruing to the Fund pursuant to § 37.2-311.5, all funds appropriated to the Fund, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of establishing and administering the crisis call center pursuant to the provisions of §§ 37.2-311.1, 37.2-311.2, and 37.2-311.3. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 37.2-311.5. Collection of 988 charges.

A. 1. Each dealer, as defined in § 56-484.17:1, shall collect a prepaid wireless 988 charge of \$0.08 from the end user, as defined in § 56-484.17:1, with respect to each retail transaction, as defined in § 56-484.17:1, occurring in the Commonwealth. A dealer may combine the tax imposed by this subdivision and the prepaid wireless E-911 charge imposed by subsection B of § 56-484.17:1 into a combined charge collected on a retail transaction and remitted to the Department of Taxation. If the dealer elects to combine the charges, the combined charge shall be identified as "911/988 Charge" on the invoice, receipt, or other similar document that is provided to the end user by the dealer or otherwise disclosed by the dealer to the end user. If a dealer collects a combined charge, the dealer shall report to the Department of Taxation, pursuant to forms and procedures prescribed by the Tax Commissioner, the respective amounts that are attributable to the prepaid wireless 988 charge imposed under this subdivision and the prepaid wireless E-911 charge imposed by subsection B of § 56-484.17:1.

2. Each CMRS provider, as defined in § 56-484.12, and each reseller of CMRS, as defined in § 56-484.12, shall collect a monthly postpaid wireless 988 charge of \$0.12 from each of its customers whose place of primary use, as defined in § 56-484.12, is within the Commonwealth. The charge shall be billed with respect to customers of postpaid CMRS, as defined in § 56-484.12, by each CMRS provider and reseller of CMRS on each CMRS device capable of two-way interactive voice communication. A CMRS provider or reseller of CMRS may combine the tax imposed by this subdivision and the

monthly wireless E-911 surcharge imposed by subsection B of § 56-484.17 into a combined charge to be collected from the customer. If a CMRS provider or reseller of CMRS elects to combine the charges, the combined charge shall be identified to the customer as the "911/988 Charge" through regular periodic billing. If a CMRS provider or reseller of CMRS collects a combined charge, such CMRS provider or reseller of CMRS shall report to the Department of Taxation, pursuant to forms and procedures prescribed by the Tax Commissioner, the respective amounts that are attributable to the monthly postpaid wireless 988 charge imposed under this subdivision and the monthly wireless E-911 surcharge imposed by subsection B of § 56-484.17.

B. The charges imposed under this section shall be collected by the Department of Taxation and shall be subject to the provisions of Article 7 (§ 56-484.12 et seq.) of Chapter 15 of Title 56, mutatis mutandis, except that all revenues from the prepaid wireless 988 charge imposed under subdivision A 1 and from the monthly postpaid wireless 988 charge imposed under subdivision A 2 shall accrue to the Fund and shall be used for the purposes identified in § 37.2-311.4.

§ 37.2-311.6. Liability for emergency calls to the National Suicide Prevention Lifeline.

A. Any originating service provider, as defined in § 56-484.12, and its employees and agents shall not be liable to any person for damages incurred as a result of any act or omission by it, except gross negligence or intentional, willful, or wanton misconduct, in connection with an emergency call, as defined in § 56-484.19, to the NSPL or the crisis call center.

B. Any originating service provider, as defined in § 56-484.12 and its employees and agents shall not be liable to any person for damages incurred as a result of any release of information not in the public record to the NSPL, to the crisis call center, to any employee or agent of the NSPL or the crisis call center, or to emergency responders, as defined in § 56-484.19, if such release of information occurred in connection with an emergency call, as defined in § 56-484.19 to the NSPL or the crisis call center.

§ 56-484.12. Definitions.

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

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the 9-1-1 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth.

"Division" means the Division of Public Safety Communications created in § 44-146.18:5.

"Emergency services IP network" or "ESInet" means a shared public safety agency-managed Internet protocol (IP) network that (i) is used for emergency services communications, (ii) provides an IP transport infrastructure that is capable of carrying voice and data and that supports next generation 9-1-1 service core functions such as routing and location validation of emergency service requests, and (iii) is engineered, managed, and intended to support emergency public safety communications and 9-1-1 service.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"ESInet point of interconnection" means the demarcation point at which the NG9-1-1 Service Provider receives and assumes responsibility for 9-1-1 call traffic from originating service providers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Next generation 9-1-1 service" or "NG9-1-1" means a service that (i) consists of coordinated intrastate 9-1-1 IP networks serving residents of the Commonwealth with the routing of emergency service requests, by voice or data, across public safety ESInets; (ii) automatically directs 9-1-1 emergency telephone calls and other emergency service requests in data formats to the appropriate PSAPs by routing using geographical information system data; (iii) provides for ANI and ALI features; and (iv) interconnects with enhanced 9-1-1 service.

"9-1-1 service" includes E-911 and NG9-1-1.

"Originating service provider" means the local exchange carrier, VoIP provider, or CMRS provider that serves the end user over which a 9-1-1 call, 9-8-8 call, call to the crisis call center, as defined in § 37.2-311.1, or call to the NSPL, as defined in § 37.2-311.1, is made.

"Place of primary use" has the meaning as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"Postpaid CMRS" means CMRS that is not prepaid CMRS, as defined in § 56-484.17:1.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process 9-1-1 calls or (ii) that intends to receive and process 9-1-1 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

"VoIP service" means interconnected voice over Internet protocol service as defined in the Code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

"Wireless E-911 Fund" means a ~~dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, all prepaid wireless E-911 charges collected pursuant to § 56-484.17:1, and any additional funds otherwise allocated or donated to the Wireless E-911 Fund~~ *the fund created pursuant to § 56-484.17.*

"Wireless E-911 surcharge" means a ~~monthly~~ fee of \$0.75 billed with respect to postpaid CMRS customers by each CMRS provider and CMRS reseller on each CMRS device capable of two-way interactive voice communication.

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

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 44-146.18:5, moneys in the Fund shall be used for the purposes stated in subsections C and D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the State Coordinator of Emergency Management.

B. Each CMRS provider and each CMRS reseller shall collect a *monthly* wireless E-911 surcharge of \$0.82 from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

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

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

D. The remaining 40 percent of the Fund shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; ~~however, priority shall be given.~~ *The Board shall give the highest priority to grants that support the regional or multijurisdictional deployment and sustainment of NG9-1-1, and it shall give secondary priority to grants that support the deployment and sustainment of (i) NG9-1-1 in a single jurisdiction and (ii) in-building repeaters that improve public safety radio coverage within buildings with impaired radio coverage.* If requested by an originating service provider, the Board shall execute a contract to reimburse that originating service provider for its costs incurred to deliver 9-1-1 calls to the ESInet points of interconnection. The Board shall ensure that cost is minimized while still achieving necessary 9-1-1 service and ESInet objectives. The Board may retain some or all of this uncommitted funding for an identified 9-1-1 funding need or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then-current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then-current fiscal year.

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

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

§ 56-484.17:1. Collection of prepaid wireless E-911 charge at point of sale; rate established.

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

"Dealer" means a person who sells prepaid CMRS to an end user.

"Department" means the Department of Taxation.

"End user" means a person who purchases prepaid CMRS in a retail transaction.

"Prepaid CMRS" means CMRS that allows a caller to dial 911 to access the 911 system, which CMRS service is required to be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Prepaid wireless E-911 charge" means the charge that is required to be collected by a dealer from an end user in the amount established under subsection B.

"Retail transaction" means the purchase of prepaid CMRS from a dealer for any purpose other than resale. If more than one item or article of prepaid CMRS is purchased by an end user, then each item or article purchased shall be deemed to be a separate retail transaction.

B. The prepaid wireless E-911 charge:

1. Shall be ~~\$0.50~~ \$0.55 per retail transaction.

2. Shall be collected by the dealer from the end user with respect to each retail transaction occurring in the Commonwealth. The amount of the prepaid wireless E-911 charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the end user by the dealer or otherwise disclosed by the dealer to the end user. For purposes of this subdivision, a retail transaction that is effected in person by an end user at a business location of the dealer shall be treated as occurring in the Commonwealth if that business location is in the Commonwealth, and any other retail transaction shall be treated as occurring in the Commonwealth if treated as occurring in the Commonwealth for purposes of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

3. Is the liability of the end user and not of the dealer or of any CMRS provider, except that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users as provided in subsection E, including all prepaid wireless E-911 charges that the dealer is deemed to have collected in cases in which the charge has not been separately stated on an invoice, receipt, or other similar document provided to the end user by the dealer.

C. The amount of the prepaid wireless E-911 charge that is collected by a dealer from an end user shall not be included in the base for measuring any fee, tax, surcharge, or other charge that is imposed by the Commonwealth, any political subdivision of the Commonwealth, or any intergovernmental agency.

D. Except as otherwise expressly provided herein, the charge imposed pursuant to this section shall be collected by the Tax Commissioner and shall be implemented, enforced, and collected in the same manner as retail sales and use taxes are implemented, enforced, and collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). However, as provided in subdivision B 3, the prepaid wireless E-911 charge shall be the liability of the end user and not of the dealer or of any CMRS provider, except that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users. A dealer shall be permitted to deduct and retain five percent of prepaid wireless E-911 charges that are collected by the dealer from end users if such charges were not delinquent at the time of remittance to the Department. Nothing herein shall be construed or interpreted as limiting or restricting the discount provided under § 58.1-622 with regard to prepaid CMRS that is taxable under the Virginia Retail Sales and Use Tax Act.

The Department, after subtracting its direct costs of administration, shall deposit all remitted prepaid wireless E-911 charges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Wireless E-911 Fund for use by the Board in accordance with the purposes permitted by this article.

E. The Department shall develop and publish guidelines implementing the provisions of this section and shall update the guidelines as deemed necessary by the Tax Commissioner. The Tax Commissioner shall notify every dealer holding a certificate of registration under § 58.1-613 when the guidelines and any updates are published. The development and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

Among other items, the guidelines shall include provisions exempting small dealers, as defined solely by the Department, from the otherwise mandatory requirement under this section to disclose the prepaid wireless E-911 charge to the end user. The guidelines shall define a "small dealer" based, in part or in whole, upon the extent to which the dealer sells prepaid CMRS.

F. The provisions of this section shall apply to retail transactions occurring on or after January 1, 2011.

CHAPTER 249

An Act to amend and reenact § 37.2-505 of the Code of Virginia, relating to community services boards; discharge planning.

[S 1304]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-505 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-505. Coordination of services for preadmission screening and discharge planning.

A. The community services board shall fulfill the following responsibilities:

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services

board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. In the case of inmates incarcerated in a regional jail, each community services board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding between the community services board and any other community services boards that serve the regional jail to ensure that such memorandum sets forth the roles and responsibilities of each community services board in the preadmission screening process, provides for communication and information sharing protocols between the community services boards, and provides for due consideration, including financial consideration, should there be disproportionate obligations on one of the community services boards.

3. Provide, in consultation with the appropriate state hospital or training center, discharge planning for any individual who, prior to admission, resided in a city or county served by the community services board or who chooses to reside after discharge in a city or county served by the board and who is to be released from a state hospital or training center pursuant to § 37.2-837. Upon initiation of discharge planning, the community services board that serves the city or county where the individual resided prior to admission shall inform the individual that he may choose to return to the county or city in which he resided prior to admission or to any other county or city in the Commonwealth. If the individual is unable to make informed decisions regarding his care, the community services board shall so inform his authorized representative, who may choose the county or city in which the individual shall reside upon discharge. In either case and to the extent permitted by federal law, for individuals who choose to return to the county or city in which they resided prior to admission, the community services board shall make every reasonable effort to place the individuals in such county or city. The community services board serving the county or city in which he will reside following discharge shall be responsible for arranging transportation for the individual upon request following the discharge protocols developed by the Department.

The discharge plan shall be completed prior to the individual's discharge. The plan shall be prepared with the involvement and participation of the individual receiving services or his representative and must reflect the individual's preferences to the greatest extent possible. The plan shall include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services.

No individual shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify an individual as ready for discharge and the community services board that is responsible for the individual's care disagrees, the community services board shall document in the treatment plan within ~~30 days~~ *72 hours* of the individual's identification any reasons for not accepting the individual for discharge. If the state hospital or training center disagrees with the community services board and the board refuses to develop a discharge plan to accept the individual back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the individual is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the individual is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the individual and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider, another community services board, or a behavioral health authority to deliver the services specified in the discharge plan and withhold allocated funds applicable to that individual's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

4. Provide information, if available, to all hospitals licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 about alcohol and substance abuse services available to minors.

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

2. That the Commissioner of Behavioral Health and Developmental Services shall establish a work group with representatives of the Virginia Association of Community Services Boards to (i) review the current process for discharging patients from state mental health hospitals, including the current assigned responsibilities of state hospital staff and community services board staff, as well as the barriers to timely discharge for patients clinically ready to discharge, and (ii) develop potential options to expedite the discharge process for individuals who can be safely discharged back into the community. The work group shall develop a plan that includes recommendations for expediting the discharge process and shall identify the necessary funding to ensure that individuals receive essential

services upon discharge and that discharges are timely. The work group shall report its findings and conclusions and its plan to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by September 1, 2021.

CHAPTER 250

An Act to amend and reenact §§ 32.1-325 and 32.1-326.3 of the Code of Virginia, relating to Department of Medical Assistance Services; school-based health services; telemedicine.

[S 1307]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325 and 32.1-326.3 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, *regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;*

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position

statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); and

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 32.1-326.3. Special education health services; memorandum of agreement between the Department of Education and the Department of Medical Assistance Services.

A. The Department of Medical Assistance Services, in cooperation with the Department of Education, shall, consistent with the biennium budget cycle, examine and revise, as necessary, the regulations relating to the funding and components of special education services.

Any revisions shall be designed to maximize access to health care for poor children who are eligible for medical assistance services ~~and are disabled and have been identified as eligible for special education~~, and to assist school divisions in the funding of medically necessary related services by making use of every possible, cost-effective means, Medicaid reimbursement or other program administered by the Department of Medical Assistance Services, including, but not limited to, the State Children's Health Insurance Plan pursuant to Title XXI of the United States Social Security Act, as approved by the federal Health Care Financing Administration at the time. Any revisions shall be based on the flexibility allowed to the states and be focused on avoiding large costs for acute or medical care and increasing children's access to health care, and shall include, but need not be limited to:

1. Rates for services which shall clearly identify that only the federal share shall be reimbursed for the special education health services and shall demonstrate that local governments are funding the state match for the special education health services provided by school divisions.

2. The benefits and drawbacks of allowing school divisions to provide services as Medicaid providers to disabled students.

3. The appropriate credentials of the providers of care, in compliance with federal requirements and with the approval of the Health Care Financing Administration, for special education health services; e.g., licensure by the Board of Education and licensure by the appropriate health regulatory board within the Department of Health Professions.

4. Delivery of medically necessary related services for ~~special education~~ students who are eligible for medical assistance services.

The services shall be limited to those services which are ~~required by the student's Individualized Education Plan (IEP)~~, shall be covered under the then-current state plan for medical assistance services, and may be provided, consistent with federal law and as approved by the Health Care Financing Administration, by a school division participating as a ~~special education~~ health services provider. Such services shall include, but need not be limited to, speech therapy, including such services when delivered by school speech-language pathologists licensed by the Board of Audiology and Speech-Language Pathology or those individuals who are directly supervised, at least twenty-five percent of the time, by such licensed speech-language pathologists; physical therapy; occupational therapy; psychiatric and psychological evaluations and therapy, including such services when delivered by school psychologists-limited licensed by the Board of Psychology; transportation between the student's home, the school or other site where health-related services are to be provided on those days when the student is scheduled to receive such services at the school or such other site; and skilled nursing services, such as health assessments, screening activities, nursing appraisals, nursing assessments, nursing procedures, medication assessment, medication monitoring, and medication administration.

5. The role of the Medallion, Medallion II, Options or other managed care programs in regard to the special education health services and coordination with school divisions regarding any required referrals.

B. Any funds necessary to support revisions to the special education health services shall be included in the budget estimates for the departments, as appropriate.

C. The Director of the Department of Medical Assistance Services or his designee and the Superintendent of Public Instruction or his designee shall develop and execute a memorandum of agreement relating to special education health services. This memorandum of agreement shall be revised on a periodic basis; however, the agreement shall, at a minimum, be revised and executed within six months of the inauguration of a new governor in order to maintain policy integrity.

D. The agreement shall include, but need not be limited to, (i) requirements for regular and consistent communications and consultations between the two departments and with school division personnel and officials and school board representatives; (ii) a specific and concise description and history of the federal Individuals with Disabilities Education Act (IDEA), a summary of school division responsibilities pursuant to the Individuals with Disabilities Education Act, and a summary of any corresponding state law which influences the scope of these responsibilities; (iii) a specific and concise summary of the then-current Department of Medical Assistance Services regulations regarding the special education health services; (iv) assignment of the specific responsibilities of the two state departments for the operation of special education health services; (v) a schedule of issues to be resolved through the regular and consistent communications process, including, but not limited to, ways to integrate and coordinate care between the Department of Medical Assistance Services' managed care providers and special education health services providers; (vi) a process for the evaluation of the services which may be delivered by school divisions participating as special education health services providers pursuant to Medicaid; (vii) a plan and schedule to reduce the administrative and paperwork burden of Medicaid participation on school divisions in Virginia; and (viii) a mechanism for informing primary care providers and other case management providers of those school divisions that are participating as Medicaid providers and for identifying such school divisions as Medicaid providers that are available to receive referrals to provide special education health services.

E. The Board of Medical Assistance Services shall cooperate with the Board of Education in developing a form to be included with the Individualized Education Plan (IEP) that shall be accepted by the Department of Medical Assistance Services as the plan of care (POC) and in collecting the data necessary to establish separate and specific Medicaid rates for the IEP meetings and other services delivered by school divisions to students.

The POC form shall (i) be consistent with the plan of care required by the Department of Medical Assistance Services of other Medicaid providers, (ii) allow for written updates, (iii) be used by all school divisions participating as Medicaid providers of special education health services, (iv) document the student's progress, and (v) be integrated and coordinated with the Department of Medical Assistance Services' managed care providers.

F. The Department of Medical Assistance Services shall consult with the Department of Education in preparing a consent form which (i) is separate from the IEP, (ii) includes a statement noting that such form is not part of the student's IEP, (iii) includes a release to authorize billing of school-based health services delivered to the relevant student by the school division, and (iv) shall be used by all school divisions participating in Medicaid reimbursement. This consent form shall be made available to the parents upon conclusion of the IEP meeting. The release shall allow for billing of school-based health services by Virginia school divisions to the Virginia Medicaid program and other programs operated by the Department of Medical Assistance Services.

G. The Department of Medical Assistance Services and the Department of Education shall also develop a cost-effective, efficient, and appropriate process to allow school divisions access to eligibility data for students for whom consent has been obtained.

H. The Board of Medical Assistance Services shall, when in compliance with federal law and regulation and approved by the Health Care Financing Administration, also (i) include, in its regulations which provide for reimbursement of school divisions participating in Medicaid as special education health services providers, a provision for reimbursement of mental health services delivered by licensed school psychologists-limited and a provision for reimbursement for services rendered to Medicaid-eligible students of speech-language pathology services delivered by school speech-language pathologists or those individuals who are directly supervised, at least twenty-five percent of the time, by such licensed speech-language pathologists; (ii) revise the limitations, established pursuant to relevant regulations and Virginia's state plan for medical assistance services, on services delivered by school divisions participating in Medicaid as special education health services providers, in effect on January 1, 1999, for physical therapy, occupational therapy, and speech, hearing, and language disorders when such services are rendered to children who are eligible for special education services and have IEPs requiring such services; (iii) cooperate with the Board of Education in developing a form to be included with the IEP that shall be accepted by the Department of Medical Assistance Services as the plan of care when signed by a physician or, when under such physician's supervision, his designee; (iv) cooperate with the Board of Education in collecting the data necessary to establish separate and specific rates for the IEP services delivered by school divisions to students with disabilities who are eligible for special education and for medical assistance services; and (v) analyze the data necessary for such rates and establish new rates for reimbursement of IEP meetings based on such data.

I. Services delivered by school divisions as participating providers in the Medicaid program or any other program operated by the Department of Medical Assistance Services shall not include any family planning, pregnancy or abortion services.

2. That the Department of Medical Assistance Services shall provide technical assistance to the Department of Education and local school divisions to facilitate their understanding of and compliance with federal ordering, referring, and prescribing (ORP) provider screening and enrollment requirements.

CHAPTER 251

An Act to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035, as it shall become effective, 22.1-289.039, as it shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia, relating to child care providers; background check portability; subsidy pilot program; report.

[S 1316]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035, as it shall become effective, 22.1-289.039, as it shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 63.2-1720.1 or § 63.2-1724;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a

shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, *except as otherwise provided in subdivision A 12.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;*

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

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

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

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

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;
18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;
19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;
22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;
26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;
29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;
30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;
32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;
33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);
34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency,

temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

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

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

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

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

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

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

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

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

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

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and*

47. Other entities as otherwise provided by law.

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

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

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

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination

of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

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

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

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

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

§ 22.1-289.035. (Effective July 1, 2021) Licensed child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02;

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

4. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee, and the Department or its designee shall report to the child day center or family day home whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution

before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Superintendent's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) *except as provided in subsection J.*

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child day center, family day home, family day system, or child day program described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child day center, family day home, family day system, or child day program shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child day center, family day home, family day system, or child day program, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

§ 22.1-289.039. (Effective July 1, 2021) Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 22.1-289.031 shall require all applicants for employment, employees, applicants to serve as volunteers, and volunteers and any other person who is expected to be alone with one or more children enrolled in the child day center to obtain a background check in accordance with § 22.1-289.035. A child day center that is exempt from licensure pursuant to § 22.1-289.031 shall refuse employment or service to any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Further dissemination of the information provided to the facility is prohibited, *except as otherwise provided in subsection J of § 22.1-289.035.*

§ 63.2-1720.1. (Repealed effective July 1, 2021) Licensed child day centers and licensed family day homes; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02;

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

4. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The individual's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individual. Upon receipt of the individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) *except as provided in subsection J*.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child welfare agency described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child welfare agency shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

§ 63.2-1724. (Repealed effective July 1, 2021) Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require all applicants for employment, employees, applicants to serve as volunteers, and volunteers and any other person who is expected to be alone with one or

more children enrolled in the child day center to obtain a background check in accordance with § 63.2-1720.1. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Further dissemination of the information provided to the facility is prohibited, *except as otherwise provided in subsection J of § 63.2-1720.1.*

2. That the provisions of §§ 19.2-389, as it is currently effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia, as amended by this act, (i) shall not become effective unless the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia, except for § 22.1-289.04 of the Code of Virginia, become effective on a date subsequent to July 1, 2021, and (ii) shall expire upon the effective date of such provisions of Chapter 14.1 of Title 22.1 of the Code of Virginia.

3. That the provisions of §§ 19.2-389, as it shall become effective, 22.1-289.035, as it shall become effective, and 22.1-289.039, as it shall become effective, of the Code of Virginia, as amended by this act, shall become effective on January 1, 2022.

4. That the Department of Education (the Department) shall establish a two-year pilot program for the purpose of stabilizing and improving the quality of services provided in the Commonwealth's child care industry. To the extent permitted under federal law and regulations, the pilot program shall provide a fixed sum of funds to certain child care providers that have entered into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant and that have agreed to meet higher standards of quality and care, as determined by the Department. The fixed amount of funds disbursed to a participating child care provider shall be determined based on (i) the number of children that the provider contracts with the Department to provide care for, subject to any attendance requirements established by the Department; (ii) the Department's estimated comprehensive costs of providing high-quality, full-time child care services; and (iii) funds necessary to provide equitable compensation to child care staff. In determining which child care providers shall be permitted to participate in the pilot program, the Department shall prioritize providers that are located in areas of the Commonwealth that have the greatest need for child care services and serve families that are underserved and have the greatest need for child care services. The Department shall require all child care providers that participate in the pilot program to report to the Department (a) de-identified data regarding wages paid to employees of the provider and associated retention rates, (b) information that can be used to assess the financial stability of providers both before and during participation in the pilot program, and (c) any other information necessary to evaluate the effectiveness of the pilot program. The Department shall report to the Governor and the General Assembly no later than December 1 of each year of the pilot program. Such report shall include (1) the number of child care providers selected to participate in the pilot program; (2) the criteria for selection and other statistical information about child care providers selected to participate in the pilot program; (3) the locations of participating child care providers; (4) information regarding wages paid to employees of participating child care providers and associated retention rates; (5) information that can be used to assess the financial stability of participating child care providers both before and during participation in the pilot program; (6) child outcome analysis and evaluation; (7) actual expenditures for the pilot program; (8) the projected cost of and potential revenue sources for expanding the pilot program to all child care providers that have entered into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant; and (9) any other information deemed necessary by the Department to evaluate the effectiveness of the pilot program.

5. That the Department of Education (the Department) shall, in collaboration with the School Readiness Committee, identify and analyze financing strategies that can be used to support the systemic costs of high-quality child care services, ensure equitable compensation for child care staff, and better prepare children for kindergarten. The Department shall also analyze the effectiveness of using a cost-of-quality modeling system for the child care subsidy program. The Department shall report its findings to the Governor and the General Assembly no later than December 1, 2021.

CHAPTER 252

An Act to amend and reenact § 63.2-1241 of the Code of Virginia, relating to confirmatory adoption.

[S 1321]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1241 of the Code of Virginia is amended and reenacted as follows:

Article 4.

Stepparent and Confirmatory Adoption.

§ 63.2-1241. Adoption of child by spouse of birth or adoptive parent or other person with legitimate interest.

A. In cases in which the spouse of a birth parent or parent by adoption *or a person with a legitimate interest* who is not the birth parent of a child wishes to adopt the child, the birth parent *or parent by adoption* and *his such parent's spouse or other person with a legitimate interest* may file a petition for adoption in the circuit court of the county or city where the birth parent *or parent by adoption* and *his such parent's spouse or other person with a legitimate interest* reside or the county or city where the child resides. The petition shall be the joint petition of the birth parent *or parent by adoption* and *his such parent's spouse or other person with a legitimate interest*, but the birth parent *or parent by adoption* shall unite in the petition for the purpose of indicating consent to the prayer thereof only. The petition shall also state whether the petitioners seek to change the name of the child.

B. The court may order the proposed adoption and change of name without referring the matter to the local director if (i) the birth parent or parent by adoption, other than the birth parent or parent by adoption joining in the petition for adoption, is deceased; (ii) the birth parent or parent by adoption, other than the birth parent or parent by adoption joining in the petition for adoption, consents to the adoption in writing and under oath; (iii) the acknowledged, adjudicated, presumed, or putative father denies paternity of the child; (iv) the birth mother swears under oath and in writing that the identity of the father is not reasonably ascertainable; (v) the child is the result of surrogacy and the birth parent, other than the birth parent joining in the petition, consents to the adoption in writing; (vi) the parent by adoption joining in the petition was not married at the time the child was adopted; or (vii) the child is 14 years of age or older and has lived in the home of the person desiring to adopt the child for at least five years. However, if the court in its discretion determines that there should be an investigation before a final order of adoption is entered, the court shall refer the matter to the local director for an investigation and report to be completed within such time as the circuit court designates. If an investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-1208 shall apply.

C. If an acknowledged, adjudicated, presumed, or putative birth parent or parent by adoption of a child refuses to consent to the adoption of a child by the spouse of the other birth parent or parent by adoption of the child *or other person with a legitimate interest*, the court shall determine whether consent to the adoption is withheld contrary to the best interests of the child. If the court determines that consent to the adoption is withheld contrary to the best interests of the child, the court may order the adoption and change of name without referring the matter to the local director. However, if the court in its discretion determines that there should be an investigation before a final order of adoption is entered, the circuit court shall refer the matter to the local director for an investigation and report to be completed within such time as the circuit court designates. The order of reference may include a requirement that the local director investigate factors relevant to determining whether consent of a birth parent is withheld contrary to the best interests of the child, including factors set forth in § 63.2-1205. If an investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-1208 shall apply.

D. In any case involving adoption of a child by a stepparent *or other person with a legitimate interest* pursuant to this section, the court may waive appointment of a guardian ad litem for the child.

E. *For the purposes of this section, "person with a legitimate interest" means the same as that term is defined in § 20-124.1.*

CHAPTER 253

An Act to amend and reenact § 20-124.2 of the Code of Virginia, relating to visitation; petition of grandparent.

[S 1325]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 20-124.2 of the Code of Virginia is amended and reenacted as follows:

§ 20-124.2. Court-ordered custody and visitation arrangements.

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no presumption in favor of any form of custody. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest.

B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

B2. *In any case or proceeding in which a grandparent has petitioned the court for visitation with a minor grandchild, and a natural or adoptive parent of the minor grandchild is deceased or incapacitated, the grandparent who is related to such deceased or incapacitated parent shall be permitted to introduce evidence of such parent's consent to visitation with the grandparent, in accordance with the rules of evidence. If the parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent visitation is in the best interest of the minor grandchild. For the purposes of this subsection, "incapacitated parent" has the same meaning ascribed to the term "incapacitated person" in § 64.2-2000.*

C. The court may order that support be paid for any child of the parties. Upon request of either party, the court may order that such support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700. The court shall also order that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that either party or both parties provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

F. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the child up from school is entered pursuant to this section or § 20-103, the court shall order a party to such case or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled within three business days of such party's receipt of such custody or visitation order.

If a custody determination affects the school enrollment of the child subject to such custody order and prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such custody order to the school at which the child will be enrolled within three business days of such party's receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of such custody or visitation order to the new school at which the child is subsequently enrolled within three business days of such enrollment.

If the court determines that a party is unable to deliver the custody or visitation order to the school, such party shall provide the court with the name of the principal and address of the school, and the court shall cause the order to be mailed by first class mail to such school principal.

Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of such custody or visitation order.

CHAPTER 254

An Act to amend and reenact §§ 16.1-228, 16.1-282.1, 63.2-100, as it is currently effective and as it shall become effective, 63.2-905, 63.2-906, and 63.2-1305 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 63.2 a section numbered 63.2-1306, relating to State-Funded Kinship Guardianship Assistance program.

[S 1328]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-282.1, 63.2-100, as it is currently effective and as it shall become effective, 63.2-905, 63.2-906, and 63.2-1305 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 63.2 a section numbered 63.2-1306 as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) *is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.*

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-282.1. Permanency planning hearing for children in foster care.

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is age 16 or over and the plan for the child is not independent living. The board or child welfare agency shall file a petition for a permanency planning hearing 30 days prior to the date of the permanency planning hearing scheduled by the court. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family or to fictive kin for the purpose of establishing eligibility for the *Federal-Funded Kinship Guardianship Assistance program* pursuant to § 63.2-1305 or the *State-Funded Kinship Guardianship Assistance program pursuant to § 63.2-1306*, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or 16.1-283; (iv) place a child who is 16 years of age or older in permanent foster care pursuant to § 63.2-908; (v) if the child has been admitted to the United States as a refugee or asylee and has attained the age of 16 years or older and the plan is independent living, direct the board or agency to provide the child with services to transition from foster care; or (vi) place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with the provisions of subsection A2. If the child has been in the custody of a local board or child welfare agency for 15 of the most recent 22 months and no petition for termination of parental rights has been filed with the court, the local board or child welfare agency shall state in its petition for a permanency planning hearing (a) the reasons, pursuant to subdivision A 1, 2, or 3 of § 63.2-910.2, why a petition for termination of parental rights has not been filed and (b) the reasonable efforts made regarding reunification or transfer of custody to a relative and the timeline of such efforts. In cases in which a foster care plan approved prior to July 1, 2011, includes independent living as the goal for a child who is not admitted to the United States as an asylee or refugee, the petition shall direct the board or agency to provide the child with services to transition from foster care.

For approval of an interim plan, the petition for a permanency planning hearing shall seek to continue custody with the board or agency, or continue placement with the board through a parental agreement; or transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within 30 days. The permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection G of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family or to fictive kin for the purpose of establishing eligibility for the *Federal-Funded Kinship Guardianship Assistance program* pursuant to § 63.2-1305 or the *State-Funded Kinship Guardianship Assistance program pursuant to § 63.2-1306* in accordance with the provisions of clause (ii) of subsection A. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with clause (vi) of subsection A:

1. The board or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the

nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

2. Before approving alternative (vi) of subsection A as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A is the permanent plan, the court shall schedule a hearing to be held within six months to review the child's placement in another planned permanent living arrangement in accordance with subdivision A2 4. All parties present at the hearing at which clause (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board or child welfare agency. The board or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision A2 1. The petition for foster care review shall be filed no later than 30 days prior to the hearing scheduled in accordance with subdivision A2 3. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within 30 days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within 30 days. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection G of § 16.1-282 shall apply to proceedings under this section.

A3. The following requirements shall apply to the selection and approval of permanent foster care pursuant to clause (iv) of subsection A:

1. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members.

2. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A:

1. The board or child welfare agency shall petition for approval of an interim plan only if the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for approval of an interim plan, such plan may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at this time. The foster care plan shall describe the child's placement, including the in-state and out-of-state placement options and whether the child's placement is in state or out of state. If the child's placement is out of state, the foster care plan shall provide the reason why the out-of-state placement is appropriate and in the best interests of the child.

2. Before approving an interim plan for the child, the court shall find:

a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing. The court shall consider the in-state and out-of-state placement options, and if the child has been placed out of state, determine whether the out-of-state placement is appropriate and in the best interests of the child.

3. Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv), or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.

C. In each permanency planning hearing and in any hearing regarding the transition of the child from foster care to independent living, the court shall consult with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan for the child, unless the court finds that such consultation is not in the best interests of the child.

D. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.

E. At the conclusion of the permanency planning hearing held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with the child's prior family, if returning home is the permanent goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board or agency, if the goal is other than returning the child home.

In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

§ 63.2-100. (Effective until July 1, 2021) Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that

provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and

self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-100. (Effective July 1, 2021) Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside

elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and

providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least

16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six

months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-905. Foster care services.

Foster care services are the provision of a full range of casework, treatment, and community services, including but not limited to independent living services, for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in § 16.1-228 and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board or the public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board or licensed child placing agency, or (iv) is living with a relative participating in the *Federal-Funded Kinship Guardianship Assistance Program* set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the *State-Funded Kinship Guardianship Assistance Program* set forth in § 63.2-1306. Foster care services also include the provision and restoration of independent living services to a person who is over the age of 18 years but who has not yet reached the age of 21 years, in accordance with § 63.2-905.1.

§ 63.2-906. Foster care plans; permissible plan goals; court review of foster children.

A. Each child who is committed or entrusted to the care of a local board or to a licensed child-placing agency or who is placed through an agreement between a local board and the parent, parents or guardians, where legal custody remains with the parent, parents or guardians, shall have a foster care plan prepared by the local department, the child welfare agency, or the family assessment and planning team established pursuant to § 2.2-5207, as specified in § 16.1-281. The representatives of such local department, child welfare agency, or team shall (i) involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the child welfare agency placed the child and (ii) for any child for whom reunification remains the goal, meet and consult with the child's parent(s) or other person standing in loco parentis, provided that the parent(s) or other person has been located and parental rights have not been terminated, no less than once every two months and at all critical decision-making points throughout the child's foster care case. If

reunification is not the goal for the child, the local board, child welfare agency, or team shall provide information to the child's parents regarding the parents' option to voluntarily terminate parental rights, unless a parent's parental rights have been terminated. The representatives of such department, child welfare agency, or team shall involve the child in the development of the plan, if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department, child welfare agency, or team shall include in the plan a full description of the reasons therefor in accordance with § 16.1-281.

A. A court may place a child in the care and custody of (a) a public agency in accordance with § 16.1-251 or 16.1-252, and (b) a public or licensed private child-placing agency in accordance with § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. Children may be placed by voluntary relinquishment in the care and custody of a public or private agency in accordance with § 16.1-277.01 or §§ 16.1-277.02 and 16.1-278.3. Children may be placed through an agreement where legal custody remains with the parent, parents or guardians in accordance with §§ 63.2-900 and 63.2-903, or § 2.2-5208.

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;
2. Transfer custody of the child to a relative other than his prior family or to fictive kin for the purpose of establishing eligibility for the *Federal-Funded Kinship Guardianship Assistance* program pursuant to § 63.2-1305 or the *State-Funded Kinship Guardianship Assistance* program pursuant to § 63.2-1306;
3. Finalize an adoption of the child;
4. Place a child who is 16 years of age or older in permanent foster care;
5. Transition to independent living if, and only if, the child is admitted to the United States as a refugee or asylee; or
6. Place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with subsection A2 of § 16.1-282.1.

C. Each child in foster care shall be subject to the permanency planning and review procedures established in §§ 16.1-281, 16.1-282, and 16.1-282.1.

§ 63.2-1305. Federal-Funded Kinship Guardianship Assistance program.

A. The *Federal-Funded Kinship Guardianship Assistance* program is established to facilitate placements with relatives and ensure permanency for children for whom adoption or being returned home are not appropriate permanency options. Kinship guardianship assistance payments may include Title IV-E maintenance payments, state-funded maintenance payments, ~~state special services payments~~, and nonrecurring expense payments made pursuant to this section.

B. A child is eligible for kinship guardianship assistance under the program if:

1. The child has been removed from his home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child;
2. The child was eligible for foster care maintenance payments under 42 U.S.C. § 672 or under state law while residing for at least six consecutive months in the home of the prospective kinship guardian;
3. Being returned home or adopted is not an appropriate permanency option for the child;
4. The child demonstrates a strong attachment to the prospective kinship guardian, and the prospective kinship guardian has a strong commitment to caring permanently for the child; and
5. The child has been consulted regarding the kinship guardianship if the child is 14 years of age or older.

C. If a child does not meet the eligibility criteria set forth in subsection B but has a sibling who meets such criteria, the child may be placed in the same kinship guardianship with his eligible sibling, in accordance with 42 U.S.C. § 671(a)(31), if the local department and kinship guardian agree that such placement is appropriate. In such cases, kinship guardianship assistance may be paid on behalf of each sibling so placed.

D. In order to receive payments under 42 U.S.C. § 674(a)(5) or pursuant to the Children's Services Act (§ 2.2-5200 et seq.), the local department and the prospective kinship guardian of a child who meets the requirements of subsection B shall enter into a written kinship guardianship assistance agreement negotiated by the Department and containing terms providing for the following:

1. The amount of each kinship guardianship assistance payment, the manner in which such payments will be provided, and the manner in which such payments may be adjusted periodically, in consultation with the kinship guardian, on the basis of the circumstances of the kinship guardian and the needs of the child;
2. The additional services or assistance, if any, for which the child and kinship guardian will be eligible under the agreement;
3. The procedure by which the kinship guardian may apply for additional services as needed;
4. Subject to 42 U.S.C. § 673(d)(1)(D), assurance that the local department shall pay the total cost of nonrecurring expenses associated with obtaining kinship guardianship of the child, to the extent that the total cost does not exceed \$2,000; and
5. Assurance that the agreement shall remain in effect without regard to the state of residency of the kinship guardian.

E. A kinship guardianship assistance payment on behalf of a child pursuant to this section shall not exceed the foster care maintenance payment that would have been paid on behalf of the child had the child remained in a foster family home.

F. The Board shall promulgate regulations for the *Federal-Funded Kinship Guardianship Assistance* program that are necessary to comply with Title IV-E requirements, including those set forth in 42 U.S.C. § 673. The regulations may set

forth qualifications for kinship guardians, the conditions under which a kinship guardianship may be established, the requirements for the development and amendment of a kinship guardianship assistance agreement, and the manner of payments on behalf of siblings placed in the same household.

G. For purposes of this section, "relative" means an adult who is (i) related to the child by blood, marriage, or adoption or (ii) fictive kin of the child.

§ 63.2-1306. State-Funded Kinship Guardianship Assistance program.

A. *The State-Funded Kinship Guardianship Assistance program is established to facilitate placements with relatives and ensure permanency for children in foster care. Kinship guardianship assistance payments may include state-funded maintenance payments made pursuant to this section.*

B. *A child is eligible for kinship guardianship assistance under the program if:*

1. *The child has been removed from his home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child;*

2. *The child has been in the custody of the local department for at least 90 days;*

3. *The child demonstrates a strong attachment to the prospective kinship guardian, and the prospective kinship guardian has a strong commitment to caring permanently for the child;*

4. *The child has been consulted regarding the kinship guardianship if the child is 14 years of age or older;*

5. *The requirements for a transfer of custody of the child to the prospective kinship guardian for the purpose of establishing eligibility for the State-Funded Kinship Guardianship Assistance program set forth in subsection A1 of § 16.1-282.1 have been met; and*

6. *The child is not eligible for the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305.*

C. *If a child does not meet the eligibility criteria set forth in subsection B but has a sibling who meets such criteria, the child may be placed in the same kinship guardianship with his eligible sibling if the local department and kinship guardian agree that such placement is appropriate. In such cases, kinship guardianship assistance may be paid on behalf of each sibling so placed.*

D. *A prospective kinship guardian is eligible for kinship guardianship assistance under the program if he:*

1. *Completes the relative foster home approval process; or*

2. *Qualifies for a waiver from one or more components of such process pursuant to Board regulations, completes a background check and has not been convicted of any barrier crime as outlined in 42 U.S.C. § 671(a)(20), and completes a home study in accordance with § 63.2-904.*

E. *In order to receive payments pursuant to the Children's Services Act (§ 2.2-5200 et seq.), the local department and the prospective kinship guardian of a child who meets the requirements of subsection B shall enter into a written kinship guardianship assistance agreement with the Department and containing terms providing for the following:*

1. *The amount of each kinship guardianship assistance payment, the manner in which such payments will be provided, and the manner in which such payments may be adjusted periodically, in consultation with the kinship guardian, on the basis of the circumstances of the kinship guardian and the needs of the child; and*

2. *Assurance that the agreement shall remain in effect without regard to the state of residency of the kinship guardian.*

F. For purposes of this section, "relative" means an adult who is (i) related to the child by blood, marriage, or adoption or (ii) fictive kin of the child.

2. The Board of Social Services (the Board) shall promulgate regulations to implement the provisions of this act. Such regulations shall include conditions for establishing a kinship guardianship, requirements for the development and amendment of a kinship guardianship assistance agreement, and circumstances that qualify a prospective kinship guardian for exemption from the relative foster home approval process. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

CHAPTER 255

An Act to amend and reenact § 24.2-704 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-103.2, relating to absentee voting; accessibility for voters with a visual impairment or print disability.

[S 1331]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-704 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-103.2 as follows:

§ 24.2-103.2. Duties of the Department of Elections related to accessible absentee voting.

The Department shall make available to all localities a tool to allow a voter with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. The Department shall develop instructions regarding the use and availability of such tool, including instructions on making the tool available to voters and counting ballots voted with such tool.

§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.

A. The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or write.

B. *On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall send by mail to him a ballot return envelope and accessible instructions provided by the Department for using such tool and returning the marked ballot. The general registrar shall cause the outer envelope containing the ballot return envelope and accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to the voter. For the purpose of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile sticker.*

An absentee voter using such tool shall return the marked absentee ballot in accordance with the instructions provided by the Department.

No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's signature or address is anywhere on the ballot return envelope.

C. On receipt of an application from an applicant marked to indicate that he will require assistance due to any other disability, or if an applicant offered the ballot marking tool pursuant to subsection B declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

CHAPTER 256

An Act to amend and reenact § 2.2-2543 of the Code of Virginia, relating to Henrietta Lacks Commission; sunset.

[S 1414]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2543 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2543. (Expires July 1, 2021) Sunset.**

This article shall expire on July 1, ~~2021~~ 2026.

CHAPTER 257

An Act to amend and reenact § 37.2-403 of the Code of Virginia, relating to brain injury; definition.

[S 1421]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 37.2-403 of the Code of Virginia is amended and reenacted as follows:****§ 37.2-403. Definitions.**

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

"Brain injury" is *means* any injury to the brain that occurs after birth, ~~but before age 65~~, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. "Brain injury" does not include hereditary, congenital, or degenerative brain disorders, or injuries induced by birth trauma.

"Conditional license" means a license issued in accordance with the requirements of § 37.2-415 to a provider for a new service for a period of time sufficient to allow the provider to demonstrate compliance with regulations of the Board governing licensure of providers.

"Full license" means a license issued in accordance with the requirements of § 37.2-404 to a provider who demonstrates full compliance with the regulations of the Board governing licensure of providers.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, developmental disabilities, or substance abuse or (ii) residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health

regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to § 54.1-3501, 54.1-3601, or 54.1-3701.

"Provisional license" means a license issued to a provider previously issued a full license that has demonstrated a temporary inability to maintain compliance with licensing or human rights regulations or that has failed to comply with a previous corrective action plan, and that allows the provider to continue operating for a limited time while addressing the inability or failure to comply with regulations.

"Service or services" means:

1. Planned individualized interventions intended to reduce or ameliorate mental illness, developmental disabilities, or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to persons with mental illness, developmental disabilities, or substance abuse. Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment, and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house, in-home services, crisis stabilization, and other residential services; and

2. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided in residential services for persons with brain injury.

CHAPTER 258

An Act to amend and reenact §§ 2.2-436 and 2.2-437 of the Code of Virginia, relating to Secretary of Commerce and Trade; Identity Management Standards Advisory Council.

[S 1458]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-436 and 2.2-437 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-436. Approval of electronic identity standards.

A. The Secretary of ~~Administration~~ *Commerce and Trade*, in consultation with the Secretary of ~~Transportation~~ *Administration*, shall review and approve or disapprove, upon the recommendation of the Identity Management Standards Advisory Council pursuant to § 2.2-437, guidance documents that adopt (i) nationally recognized technical and data standards regarding the verification and authentication of identity in digital and online transactions; (ii) the minimum specifications and standards that should be included in an identity trust framework, as defined in § 59.1-550, so as to warrant liability protection pursuant to the Electronic Identity Management Act (§ 59.1-550 et seq.); and (iii) any other related data standards or specifications concerning reliance by third parties on identity credentials, as defined in § 59.1-550.

B. Final guidance documents approved pursuant to subsection A shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice. The Secretary of ~~Administration~~ *Commerce and Trade* shall send a copy of the final guidance documents to the Joint Commission on Administrative Rules established pursuant to § 30-73.1 at least 90 days prior to the effective date of such guidance documents. The Secretary of ~~Administration~~ *Commerce and Trade* shall also annually file a list of available guidance documents developed pursuant to this chapter pursuant to § 2.2-4103.1 of the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and shall send a copy of such list to the Joint Commission on Administrative Rules.

§ 2.2-437. Identity Management Standards Advisory Council.

A. The Identity Management Standards Advisory Council (the Advisory Council) is established to advise the Secretary of ~~Administration~~ *Commerce and Trade* on the adoption of identity management standards and the creation of guidance documents pursuant to § 2.2-436.

B. The Advisory Council shall consist of seven members, to be appointed by and serve at the pleasure of the Governor, with expertise in electronic identity management and information technology. Members shall include a ~~representative of the Department of Motor Vehicles~~, a representative of the *Commonwealth of Virginia Innovation Partnership Authority* ~~Virginia Information Technologies Agency~~, and five representatives of the business community with appropriate experience and expertise, and one *representative of Virginia consumers*. In addition to the seven appointed members, *the Commissioner of the Department of Motor Vehicles, or his designee, and the Chief Information Officer of the Commonwealth, or his designee, may also serve as an ex officio member members with voting privileges on* of the Advisory Council. ~~Beginning July 1, 2019, appointments shall be staggered as follows: one member for a term of one year, two members for a term of two years, two members for a term of three years, and two members for a term of four years.~~ After the initial staggering of terms, members shall be appointed for terms of four years. Members may be reappointed.

The Advisory Council shall designate one of its members as chairman.

Members shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825.

Staff to the Advisory Council shall be provided by the Office of the Secretary of ~~Administration~~ *Commerce and Trade*.

C. Proposed guidance documents and general opportunity for oral or written submittals as to those guidance documents shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a

general notice following the processes and procedures set forth in subsection B of § 2.2-4031 of the Virginia Administrative Process Act (§ 2.2-4000 et seq.). The Advisory Council shall allow at least 30 days for the submission of written comments following the posting and publication and shall hold at least one meeting dedicated to the receipt of oral comment no less than 15 days after the posting and publication. The Advisory Council shall also develop methods for the identification and notification of interested parties and specific means of seeking input from interested persons and groups. The Advisory Council shall send a copy of such notices, comments, and other background material relative to the development of the recommended guidance documents to the Joint Commission on Administrative Rules.

CHAPTER 259

An Act to amend and reenact § 30-343 of the Code of Virginia, relating to the Health Insurance Reform Commission; mandated health insurance benefit or provider.

[S 1473]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 30-343 of the Code of Virginia is amended and reenacted as follows:

§ 30-343. Standing committees to request Commission assessment.

A. Whenever a legislative measure containing a mandated health insurance benefit or provider is proposed that is not identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the ~~Chairman~~ *Chair* of the House *Committee on Labor and Commerce* or Senate Committee on Commerce and Labor having jurisdiction over the proposal shall (i) request that the Commission assess the proposal and (ii) send a copy of such request to the Bureau of Insurance of the State Corporation Commission (the Bureau). The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's assessment shall be forwarded to the Chairman of the standing committee that requested the assessment. *For the purposes of this section, "mandated health insurance benefit or provider" has the same meaning as "state-mandated health benefit" provided in § 38.2-3406.1.*

B. Upon receipt of a copy of such a request, the Bureau shall prepare an analysis of the extent to which the proposed mandate is currently available under qualified health plans in the Commonwealth and advise the Commission as to whether, on the basis of that analysis, the applicable agency has determined or would likely determine, in accordance with applicable federal rules, that the proposed mandate exceeds the scope of the essential health benefits. The Bureau's analysis shall be advisory only and not binding upon the Commission, the Bureau, the State Corporation Commission, or any other parties. As used in this section, "applicable agency" means the governmental agency that in accordance with applicable federal rules is responsible for identifying state-mandated benefits that are in addition to the essential health benefits. If the applicable federal rules require an agency of the Commonwealth to identify the state-mandated benefits that are in addition to the essential health benefits but do not identify a specific agency that is responsible for making such identification, the Bureau shall be the applicable agency.

C. Upon request of the Commission, the Bureau and the Joint Legislative Audit and Review Commission shall jointly assess the social and financial impact and the medical efficacy of the proposed mandate, which assessment shall include an estimate of the effects of enactment of the proposed mandate on the costs of health coverage in the Commonwealth, including any estimated additional costs that the Commonwealth may be responsible for pursuant to § 1311(d)(3)(B) of the Patient Protection and Affordable Care Act should the proposed mandate ultimately be determined by the applicable agency to be a benefit that exceeds the scope of the essential health benefits. Upon completion of the assessment by the Bureau and the Joint Legislative Audit and Review Commission, the Commission may make a recommendation regarding its support of or opposition to the enactment of the proposed mandate. The Commission's recommendation may address whether the proposed mandate should be provided under health care plans offered through a health benefit exchange or outside a health benefit exchange.

The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's study shall be forwarded to the Governor and the General Assembly.

D. Whenever a legislative measure containing a mandated health insurance benefit or provider is identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the standing committee may request the Commission to study the measure as provided in subsection A.

CHAPTER 260

An Act to amend and reenact § 33.2-234 of the Code of Virginia, relating to highway construction by state or local employees; limit.

[H 1813]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 33.2-234 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-234. Construction by state or local employees.**

A. Irrespective of the provisions of § 33.2-235, in cases of emergency or on any project reasonably estimated to cost not more than ~~\$600,000~~ \$700,000, the Commissioner of Highways may build or maintain any of the highways in the systems of state highways by state employees or local employees as he may designate.

B. Notwithstanding the provisions of subsection A, the Commissioner of Highways may enter into a written agreement with a locality for the building and maintenance of any of the highways in the systems of state highways by local employees provided that (i) the locality has obtained a cost estimate for the work of not more than \$1 million and (ii) the locality has issued an invitation for bid and has received fewer than two bids from private entities to build or maintain such highways.

CHAPTER 261

An Act to amend the Code of Virginia by adding a section numbered 15.2-719.1, relating to naming U.S. Route 29; county manager plan of government.

[H 1854]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 15.2-719.1 as follows:****§ 15.2-719.1. Naming U.S. Route 29.**

Notwithstanding the provisions of § 15.2-2019 or 33.2-213, the board may by ordinance name any section of U.S. Route 29 located within the boundaries of the locality. The Department of Transportation shall place and maintain appropriate signs indicating the name of such highway, and the costs of producing, placing, and maintaining these signs shall be paid by the locality.

CHAPTER 262

An Act to amend and reenact §§ 10.1-1414 and 10.1-1422.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1424.3, relating to expanded polystyrene food service containers; prohibition; civil penalty.

[H 1902]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 10.1-1414 and 10.1-1422.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1424.3 as follows:****§ 10.1-1414. Definitions.**

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

"Advisory Board" means the Litter Control and Recycling Fund Advisory Board.

"Beneficial use" means a use that is of benefit as a substitute for natural or commercial products and does not contribute to adverse effects on health or the environment. Beneficial use products are produced by facilities that include beneficiation facilities and recycling centers.

"Beneficiation facility" means a facility that uses methods including sorting by color, removal of contaminants, crushing, grinding, screening, grading, and monitoring of size and quality to produce clean, crushed glass cullet that satisfies the specifications of the end user of the cullet, including a manufacturer of glass containers or fiberglass.

"Disposable package" or "container" means all packages or containers intended or used to contain solids, liquids or materials and so designated.

"Expanded polystyrene food service container" means a rigid single-use container made primarily of expanded polystyrene and used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. "Expanded polystyrene food service container" includes plates, cups, bowls, trays, and hinged containers but does not include packaging for unprepared foods or packaging, including a cooler, used in the shipment of food.

"Food vendor" means an establishment that provides prepared food for public consumption on or off its premises and includes a store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, or catering truck or vehicle; any other person who provides prepared food; and any individual, organization, group, or state or local government entity that regularly provides food as a part of its services.

"Fund" means the Litter Control and Recycling Fund.

"Litter" means all waste material disposable packages or containers but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing.

"Litter bag" means a bag, sack, or durable material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag.

"Litter receptacle" means containers acceptable to the Department for the depositing of litter.

"Person" means any natural person, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.

"Prepared food" means a food or beverage prepared for consumption on or off a food vendor's premises, using any cooking or food preparation technique. "Prepared food" does not include raw or uncooked meat, fish, or eggs provided without further food preparation.

"Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product which may or may not be similar to the original product.

"Recycling center" means a facility that (i) accepts recyclable materials that have already been separated at the source from municipal solid waste generated by either residential or commercial producers; (ii) processes source segregated recyclable materials, including mixed-paper fiber materials, metal and plastic postconsumer containers, and glass containers; and (iii) processes and sells recyclable materials according to end-user specifications. "Recycling center" does not include a facility for construction and demolition debris processing, sorting of municipal solid waste, incineration, sorting or processing of industrial waste, composting, or used tire processing.

"Sold within the Commonwealth" or "sales of the business within the Commonwealth" means all sales of retailers engaged in business within the Commonwealth and in the case of manufacturers and wholesalers, sales of products for use and consumption within the Commonwealth.

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Watercraft" means any boat, ship, vessel, barge, or other floating craft.

§ 10.1-1422.01. Litter Control and Recycling Fund established; use of moneys; purpose of Fund.

A. All moneys collected from the civil penalties imposed pursuant to § 10.1-1424.3, from the taxes imposed under §§ 58.1-1700 through 58.1-1710, and by the taxes increased by Chapter 616 of the 1977 Acts of Assembly, shall be paid into the treasury and credited to a special nonreverting fund known as the Litter Control and Recycling Fund, which is hereby established. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Director is authorized to release money from the Fund on warrants issued by the Comptroller after receiving and considering the recommendations of the Advisory Board for the purposes enumerated in subsection B of this section.

B. Moneys from the Fund shall be expended, according to the allocation formula established in subsection C of this section, for the following purposes:

1. Local litter prevention and recycling grants to localities that meet the criteria established in § 10.1-1422.04; and
2. Payment to (i) the Department to process the grants authorized by this article and (ii) the actual administrative costs of the Advisory Board. The Director shall assign one person in the Department to serve as a contact for persons interested in the Fund; and
3. The operation of public information campaigns to discourage the sale and use of expanded polystyrene products and to promote alternatives to expanded polystyrene.

C. All moneys deposited into the Fund shall be expended pursuant to the following allocation formula:

1. ~~Ninety-five~~ *Ninety* percent for grants made to localities pursuant to subdivision B 1 of this section; and
2. Up to a maximum of ~~5%~~ *five percent* for the actual administrative expenditures authorized pursuant to subdivision B 2 of this section; and
3. *Up to a maximum of five percent for the operation of public information campaigns pursuant to subdivision B 3.*

§ 10.1-1424.3. Expanded polystyrene food service containers prohibited; civil penalty.

A. *Beginning July 1, 2023, no food vendor that is a restaurant or similar retail food establishment and is part of a chain with 20 or more locations offering for sale substantially the same menu items and doing business under the same name, regardless of the form of ownership of such locations, shall dispense prepared food to a customer in an expanded polystyrene food service container.*

Beginning July 1, 2025, no food vendor of any type shall dispense prepared food to a customer in an expanded polystyrene food service container.

B. *Any food vendor may request from the locality in which it is located an exemption from the provisions of subsection A. The locality may grant the exemption if the food vendor demonstrates to the satisfaction of the locality that compliance with subsection A would impose an undue economic hardship on the food vendor. For the purposes of this subsection, "undue economic hardship" means a situation in which (i) a food vendor has no reasonable alternative to the expanded polystyrene food service containers in use by that food vendor and (ii) compliance with subsection A would cause significant economic hardship to that food vendor. A locality may so exempt a food vendor for a period of not more than one year from the date of the exemption. A food vendor granted such an exemption may reapply to the locality before the expiration of the exemption, and the locality may grant an additional exemption from the provisions of subsection A not to*

exceed one year for each such reapplication if the food vendor demonstrates a continuing undue economic hardship at the time of reapplication to the satisfaction of the locality.

C. Any person who violates any provision of this section, upon such finding by an appropriate circuit court, shall be assessed a civil penalty of not more than \$50 for each day of such violation. Any civil penalties assessed pursuant to this section in a civil action brought by the Attorney General in the name of the Commonwealth shall be paid into the state treasury and deposited by the State Treasurer into the Litter Control and Recycling Fund. Any civil penalty assessed pursuant to this section in a civil action brought by a locality shall be paid into the treasury of the locality, except where the violator of this section is the locality or its agent, in which case the civil penalty shall be paid into the state treasury and deposited by the State Treasurer into the Fund.

D. The Department shall post to its website information on how to comply with this section and how to file a complaint for a violation of this section.

CHAPTER 263

An Act to amend and reenact § 10.1-1307 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1307.04, relating to the State Air Pollution Control Board; low-emissions and zero-emissions vehicle standards.

[H 1965]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1307 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1307.04 as follows:

§ 10.1-1307. Further powers and duties of Board.

A. The Board shall have the power to control and regulate its internal affairs; initiate and supervise research programs to determine the causes, effects, and hazards of air pollution; initiate and supervise statewide programs of air pollution control education; cooperate with and receive money from the federal government or any county or municipal government, and receive money from any other source, whether public or private; develop a comprehensive program for the study, abatement, and control of all sources of air pollution in the Commonwealth; and advise, consult, and cooperate with agencies of the United States and all agencies of the Commonwealth, political subdivisions, private industries, and any other affected groups in furtherance of the purposes of this chapter.

B. The Board may adopt by regulation emissions standards controlling the release into the atmosphere of air pollutants from motor vehicles, only as provided in § 10.1-1307.04 and Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2.

C. After any regulation has been adopted by the Board pursuant to § 10.1-1308, it may in its discretion grant local variances therefrom, if it finds after an investigation and hearing that local conditions warrant. If local variances are permitted, the Board shall issue an order to this effect. Such order shall be subject to revocation or amendment at any time if the Board after a hearing determines that the amendment or revocation is warranted. Variances and amendments to variances shall be adopted only after a public hearing has been conducted pursuant to the public advertisement of the subject, date, time, and place of the hearing at least 30 days prior to the scheduled hearing. The hearing shall be conducted to give the public an opportunity to comment on the variance.

D. After the Board has adopted the regulations provided for in § 10.1-1308, it shall have the power to: (i) initiate and receive complaints as to air pollution; (ii) hold or cause to be held hearings and enter orders diminishing or abating the causes of air pollution and orders to enforce its regulations pursuant to § 10.1-1309; and (iii) institute legal proceedings, including suits for injunctions for the enforcement of its orders, regulations, and the abatement and control of air pollution and for the enforcement of penalties.

E. The Board in making regulations and in approving variances, control programs, or permits, and the courts in granting injunctive relief under the provisions of this chapter, shall consider facts and circumstances relevant to the reasonableness of the activity involved and the regulations proposed to control it, including:

1. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened to be caused;

2. The social and economic value of the activity involved;

3. The suitability of the activity to the area in which it is located; and

4. The scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

F. The Board may designate one of its members, the Director, or a staff assistant to conduct the hearings provided for in this chapter. A record of the hearing shall be made and furnished to the Board for its use in arriving at its decision.

G. The Board shall not:

1. Adopt any regulation limiting emissions from wood heaters; or

2. Enforce against a manufacturer, distributor, or consumer any federal regulation limiting emissions from wood heaters adopted after May 1, 2014.

H. The Board shall submit an annual report to the Governor and General Assembly on or before October 1 of each year on matters relating to the Commonwealth's air pollution control policies and on the status of the Commonwealth's air quality.

§ 10.1-1307.04. Low-emissions and zero-emissions vehicle standards.

A. As used in this section:

"LEV" means low-emission vehicle.

"ZEV" means zero-emission vehicle.

B. The Board may adopt by regulation and enforce any model year standards relating to the control of emissions from new motor vehicles or new motor vehicle engines, including LEV and ZEV standards pursuant to § 177 of the federal Clean Air Act (42 U.S.C. § 7507). The Board shall promulgate final regulations for an Advanced Clean Cars Program that includes (i) an LEV program for criteria pollutants and greenhouse gas emissions and (ii) a ZEV program only for motor vehicles with a gross vehicle weight of 14,000 pounds or less. Such programs shall be applicable to motor vehicles beginning with the 2025 model year, or to the first model year for which adoption of such standards is practicable. The Board shall periodically amend any regulations adopted pursuant to this section to ensure continued consistency of such standards with the Clean Air Act.

2. That the regulations required to be adopted by the State Air Pollution Control Board pursuant to § 10.1-1307.04 of the Code of Virginia, as created by this act, shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Such regulations shall become effective upon filing with the Virginia Registrar of Regulations.

3. That the regulations required to be adopted by the State Air Pollution Control Board pursuant to § 10.1-1307.04 of the Code of Virginia, as created by this act, shall not become effective prior to January 1, 2024.

4. That the State Corporation Commission may exclude energy jurisdictional retail sales related to zero-emission vehicles and hybrid electric vehicles from energy jurisdictional retail sales calculated pursuant to § 56-596.2 of the Code of Virginia.

5. That the regulations required to be adopted by the State Air Pollution Control Board (Board) pursuant to § 10.1-1307.04 of the Code of Virginia, as created by this act, shall allow any motor vehicle manufacturer to establish a Virginia-specific zero-emission vehicle (ZEV) credit account in the ZEV Credit System and to make a one-time deposit into its account a number of proportional credits equal to its 2025 model year starting California credit balance multiplied by the ratio of the average number of passenger cars and light-duty trucks that a manufacturer produced and delivered for sale in Virginia to the average number of passenger cars and light-duty trucks the manufacturer produced and delivered for sale in California during the time period selected by the manufacturer for calculation of its ZEV requirement for the first effective model year. The deposit shall be made only after all credit obligations for model year 2024 and earlier have been satisfied. While manufacturers may trade or sell these proportional credits to any other manufacturer, these credits may be used to meet up to 18 percent of its ZEV program credit requirements in any model year, unless and until the required regulations are superseded by regulations updating the Advanced Clean Car Program. The Board shall not award or provide any vehicle manufacturer with any other form of ZEV program credits or credit balance prior to the effective date or at the beginning of the compliance period of the regulations required by § 10.1-1307.04 of the Code of Virginia, as created by this act. As part of any update to the required regulations to ensure compliance of the ZEV program with the federal Clean Air Act (42 U.S.C. § 7401 et. seq.), the Board shall adjust, if necessary, restrictions on the use of the proportional credits remaining in manufacturers' Virginia accounts in order to ensure that the percentage of ZEVs required to be delivered for sale under Virginia's ZEV program is approximately equivalent to, but does not exceed, the percentage required under California's ZEV program, taking into account only existing ZEV credit banks, any changes in restrictions on their use, and the effects of new regulatory requirements on the amount and timing of ZEVs required to be delivered for sale.

CHAPTER 264

An Act to amend and reenact §§ 32.1-122.7 and 32.1-122.7:1 of the Code of Virginia, relating to Virginia Health Workforce Development Authority; mission; membership.

[H 1976]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-122.7 and 32.1-122.7:1 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-122.7. Virginia Health Workforce Development Authority; purpose.

A. There is hereby created as a public body corporate and as a political subdivision of the Commonwealth the Virginia Health Workforce Development Authority (*the Authority*), with such public and corporate powers as are set forth in § 32.1-122.7:2. The Authority is hereby constituted as a public instrumentality, exercising public and essential governmental functions with the power and purpose to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth and such other persons who might be served by the Authority. The

Authority is ~~being~~ established to move the Commonwealth forward in achieving its vision of ensuring a quality health workforce for all Virginians.

B. The mission of the Authority is to facilitate the development of a statewide health professions pipeline that identifies, educates, recruits, and retains a diverse, appropriately geographically distributed, and culturally competent quality workforce. The mission of the Authority is accomplished by: (i) providing the statewide infrastructure required for health workforce needs assessment and planning that maintains engagement by health professions training programs in decision making and program implementation; (ii) serving as the advisory board and setting priorities for the Virginia Area Health Education Centers Program; (iii) coordinating with and serving as a resource to relevant state, regional, and local entities, including the Department of Health Professions Workforce Data Center, the Joint Legislative Audit and Review Commission, the Joint Commission on Health Care, the Southwest Virginia Health Authority, or any similar regional health authority that may be developed; (iv) informing state and local policy development as it pertains to health care delivery, training, and education; (v) identifying and promoting evidence-based strategies for health workforce pipeline development and interdisciplinary health care service models, particularly those affecting rural and other underserved areas; (vi) supporting communities in their health workforce recruitment and retention efforts and developing partnerships and promoting models of participatory engagement with business and community-based and social organizations to foster integration of health care training and education; (vii) advocating for programs that will result in reducing the debt load of newly trained health professionals; (viii) identifying high priority target areas within each region of the Commonwealth and working toward health workforce development initiatives that improve health measurably in those areas; ~~and~~ (ix) fostering or creating innovative health workforce development models that provide both health and economic benefits to the regions they serve; (x) *developing strategies to increase diversity in the health workforce by examining demographic data on race and ethnicity in training programs and health professional licensure*; (xi) *identifying ways to leverage technology to increase access to health workforce training and health care delivery*; and (xii) *developing a centralized health care careers roadmap in partnership with the Department of Health Professions that includes information on both licensed and unlicensed professions and that is disseminated to the Commonwealth's health care workforce stakeholders to raise awareness about available career pathways*.

§ 32.1-122.7:1. Board of Directors of the Virginia Health Workforce Development Authority.

The Virginia Health Workforce Development Authority shall be governed by a Board of Directors. The Board of Directors shall ~~consist~~ have a total membership of ~~13~~ 15 members ~~to be that shall consist of three legislative members, nine nonlegislative citizen members, and three ex officio members.~~ Members shall be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; ~~seven~~ and ~~nine~~ nonlegislative citizen members, three of whom shall be representatives of health professional educational or training programs, ~~three~~ five of whom shall be health professionals or employers or representatives of health professionals, and one of whom shall be a representative of community health, to be appointed by the Governor; ~~and the~~ The Commissioner of Health or his designee, the Chancellor of the Virginia Community College System or his designee, and the Director of the Department of Health Professions or his designee, ~~who~~ shall serve as ex officio members with voting privileges. Members appointed by the Governor shall be citizens of the Commonwealth.

Legislative members and ~~state government officials~~ ex officio members shall serve terms coincident with their terms of office. All appointments of nonlegislative citizen members shall be for two-year terms following the initial staggering of terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and citizen members may be reappointed; however, no citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's term limit. Vacancies shall be filled in the same manner as the original appointments.

The Board of Directors shall elect a chairman and vice-chairman annually from among its legislative members. A majority of the members of the Board of Directors shall constitute a quorum.

The Board of Directors shall report biennially on the activities and recommendations of the Authority to the Secretary of Health and Human Resources, the Secretary of Education, the Secretary of Commerce and Trade, the Chief Workforce Development Advisor, the State Board of Health, the State Council of Higher Education for Virginia, the Joint Commission on Health Care, the Governor, and the General Assembly. In any reporting period where state general funds are appropriated to the Authority, the report shall include a detailed summary of how state general funds were expended.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts, or his legally authorized representative, shall examine the accounts of the Authority as determined necessary by the Auditor of Public Accounts. The cost of such audit shall be borne by the Authority.

CHAPTER 265

An Act to amend and reenact §§ 62.1-44.15:23 and 62.1-44.15:23.1 of the Code of Virginia, relating to wetland and stream mitigation banks; proximity of impacted site.

[H 1983]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:23 and 62.1-44.15:23.1 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:23. Wetland and stream mitigation banks.

A. For purposes of this section:

"Physiographic province" means one of the five physiographic provinces of Virginia designated as the Appalachian Plateaus, Blue Ridge, Coastal Plain, Piedmont, and Ridge and Valley physiographic provinces as identified on Figure 2 in the Overview of the Physiography and Vegetation of Virginia prepared by the Department of Conservation and Recreation, Division of Natural Heritage and dated February 2016. The Department of Environmental Quality may adjust the boundaries of a physiographic province to reflect site-specific boundaries based on relative elevation, relief, geomorphology, and lithology provided by the bank sponsor.

"Primary service area" means the fourth order subbasin in which the bank is located, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, and any adjacent fourth order subbasin within the same river watershed.

"River watershed" means the Potomac River Basin; Shenandoah River Basin; James River Basin; Rappahannock River Basin; Roanoke and Yadkin Rivers Basin; Chowan River Basin, including the Dismal Swamp and Albemarle Sound; Tennessee River Basin/Big Sandy River Basin Complex; Chesapeake Bay and its Small Coastal Basins; Atlantic Ocean; York River Basin; and New River Basin.

"Secondary service area" means the area outside the primary service area but within the same physiographic province in which the bank is located and any adjacent physiographic province within the same river watershed.

"Tree canopy" includes all of the area of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height.

B. When a Virginia Water Protection Permit is conditioned upon compensatory mitigation for adverse impacts to wetlands or streams, the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetland or stream mitigation bank in the Commonwealth, or in Maryland on property wholly surrounded by and located in the Potomac River if the mitigation banking instrument provides that the Board shall have the right to enter and inspect the property and that the mitigation bank instrument and the contract for the purchase or use of such credits may be enforced in the courts of the Commonwealth, including any banks owned by the permit applicant, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks as long as (i) the bank is in the same fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or by the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, as the impacted site, or in an adjacent subbasin within the same river watershed as the impacted site, is located in the bank's primary or secondary service area as provided in subsection C or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f) of this subsection; (ii) the bank is ecologically preferable to practicable onsite and offsite individual mitigation options as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the bank impacted site is not located in the same subbasin or adjacent subbasin within the same river watershed as the impacted site bank's primary or secondary service area, the purchase or use of credits shall not be allowed unless the applicant demonstrates to the satisfaction of the Department of Environmental Quality that (a) the impacts will occur as a result of a Virginia Department of Transportation linear project or as the result of a locality project for a locality whose jurisdiction encompasses multiple river watersheds; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins, as close as possible to the impacted site. For the purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin/Big Sandy River Basin Complex, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and the New River Basin.

C. For impacts to a site for which no credits are available to purchase (i) in the primary service area of any mitigation provider or (ii) at a price below 200 percent of the current price of credits applicable to that site from a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions, a permit applicant may be permitted to purchase or use credits from the secondary service area of a mitigation provider to satisfy all or any part of such applicant's mitigation requirements. For purposes of this subsection, the permit applicant shall provide a determination of credit availability and credit price no later than the time such applicant submits to the Department (a) its proof of credit acquisition or (b) a later change to such proof.

If a permit applicant purchases or uses credits from a secondary service area, the permit applicant shall:

1. Acquire three times the credits it would have had to acquire from a bank in the primary service area for wetland impacts and two times the number of credits it would have had to acquire in the primary service area for stream impacts;

2. When submitting proof of acquisition of credits for a subdivision or development, provide to the Department a plan that the permit applicant will implement that is certified by a licensed professional engineer, surveyor, or landscape architect for the planting, preservation, or replacement of trees on the development site such that the minimum tree canopy percentage 20 years after development is projected to be as follows:

- a. Ten percent tree canopy for a site zoned for business, commercial, or industrial use;
- b. Ten percent tree canopy for a residential site zoned for 20 or more units per acre;
- c. Fifteen percent tree canopy for a residential site zoned for more than eight but fewer than 20 units per acre;
- d. Twenty percent tree canopy for a residential site zoned for more than four but not more than eight units per acre;
- e. Twenty-five percent tree canopy for a residential site zoned for more than two but not more than four units per acre; and
- f. Thirty percent tree canopy for a residential site zoned for two or fewer units per acre.

For a mixed-use development, the tree canopy percentage required pursuant to this subdivision shall be that which is applicable to the predominant use.

The tree canopy requirements established under this subsection shall not supersede any additional requirements imposed by a locality pursuant to § 15.2-961 or 15.2-961.1.

~~B. D.~~ The Department of Environmental Quality is authorized to serve as a signatory to agreements governing the operation of mitigation banks. The Commonwealth, and its officials, agencies, and employees shall not be liable for any action taken under any agreement developed pursuant to such authority.

~~C. E.~~ State agencies and localities are authorized to purchase credits from mitigation banks.

~~D. F.~~ A locality may establish, operate and sponsor wetland or stream single-user mitigation banks within the Commonwealth that have been approved and are operated in accordance with the requirements of subsection ~~A B~~, provided that such single-user banks may only be considered for compensatory mitigation for the sponsoring locality's municipal, joint municipal or governmental projects. For the purposes of this subsection, the term "sponsoring locality's municipal, joint municipal or governmental projects" means projects for which the locality is the named permittee, and for which there shall be no third-party leasing, sale, granting, transfer, or use of the projects or credits. Localities may enter into agreements with private third parties to facilitate the creation of privately sponsored wetland and stream mitigation banks having service areas developed through the procedures of subsection ~~A B~~.

§ 62.1-44.15:23.1. Wetland and Stream Replacement Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Wetland and Stream Replacement Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All contributions to the Board pursuant to clause (iii) of subsection B of § 62.1-44.15:21 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered and utilized by the Department of Environmental Quality. The Fund may be used as an additional mechanism for compensatory mitigation for impacts to aquatic resources (i) that result from activities authorized under (a) Section 404 and 401 of the Clean Water Act (33 U.S.C. § 1251 et seq.), (b) the Virginia Water Protection Permit Regulation (9VAC25-210 et seq.), or (c) Section 10 of the Rivers and Harbors Act (33 U.S.C. § 403); (ii) that result from unauthorized activities in waters of the United States or state waters; and (iii) in other cases, as the appropriate regulatory agencies deem acceptable. Moneys in the Fund shall be used for the purpose of purchasing mitigation bank credits in compliance with the provisions of subsection ~~A B~~ of § 62.1-44.15:23 as soon as practicable if qualifying credits are available. If such credits are not available within three years of the collection of moneys for a specific impact, then funds shall be utilized either (1) to purchase credits from a Board-approved fund that have met the success criteria, if qualifying credits are available, (2) for the planning, construction, monitoring, and preservation of wetland and stream mitigation projects and preservation, enhancement, or restoration of upland buffers adjacent to wetlands or other state waters when used in conjunction with creation or restoration of wetlands and streams, or (3) for other water quality improvement projects as deemed acceptable by the Department of Environmental Quality. Such projects developed under clause (2) shall be developed in accordance with guidelines, responsibilities, and standards established by the Department of Environmental Quality for use, operation, and maintenance consistent with 33 CFR Part 332, governing compensatory mitigation for activities authorized by U.S. Army Corps of Engineer permits. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Environmental Quality. The Department may charge a reasonable fee to administer the Fund.

CHAPTER 266

An Act to amend and reenact § 56-594.2 of the Code of Virginia, relating to small agricultural generators; definition.

[H 1994]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 56-594.2 of the Code of Virginia is amended and reenacted as follows:****§ 56-594.2. Small agricultural generators.**

A. As used in this section:

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity:
 - a. Of not more than 1.5 megawatts; and
 - b. That does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;
2. Uses as its total source of fuel renewable energy;
3. Is located on the customer's premises and is interconnected with its utility through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution but not transmission facilities;
5. Is designed so that the electricity generated by the facility is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594;
2. Operates a small agricultural generating facility as part of (i) an agricultural business or (ii) any business granted a manufacturer license pursuant to subdivisions 1 through 6 of § 4.1-206.1;
3. May be served by multiple meters that are located at separate but contiguous sites;
4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150 percent of the customer's expected annual energy consumption, but not for billing or retail service purposes, provided that the same utility serves all of its meters;
5. Uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and
6. Issues a certification under oath as to the amount of land being used for renewable generation.

"Utility" includes supplier or distributor, as applicable.

B. A small agricultural generator electing to interconnect pursuant to this section shall:

1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its small agricultural generating facility, which power purchase agreement obligates the utility to purchase all the electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-approved avoided cost tariff for energy and capacity;
2. Have the rights described in subsection E of § 56-594 pertaining to an eligible agricultural customer-generator as to the renewable energy certificates or other environmental attributes generated by the renewable energy generating facility;
3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; and
4. Pay to its utility any necessary additional expenses as required by this section.

C. Utilities:

1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the output of the small agricultural generator;
2. Shall recover the cost for its distribution facilities to the generating meter either through a proportional cost-sharing agreement with the small agricultural generator or through metering the total capacity and energy placed on the distribution system by the small agricultural generator;
3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator:
 - a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and rate adjustment clause, through the utility's RPS rate adjustment clause; or
 - b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the utility's fuel adjustment clause or through the utility's cost of purchased power;
4. May conduct settlement transactions for purchased power in dollars on the small agricultural generator's electric bill or through other means of settlement, in the utility's sole discretion;
5. Shall bill the small agricultural generator eligible costs for small generator interconnection studies required pursuant to the appropriate small generator interconnection process described in subdivision B 3; and
6. Shall bill its expenses, at cost, for any additional engineering studies that a small agricultural generator is required to pay prior to interconnection.

2. That after August 1, 2021, but before January 1, 2022, the State Corporation Commission (the Commission) shall initiate a rulemaking proceeding to promulgate any changes to its regulations necessary to implement the provisions of this act. The Commission shall complete such rulemaking proceeding within 12 months of its initiation. In conducting such a proceeding, the Commission may require that notice be provided to current small agricultural generators, if any, and may publish a notice in the Virginia Register of Regulations, but no other public notice is required. An opportunity to request a hearing shall be afforded, but if no request is made, a hearing shall not be required. In the rulemaking proceeding, the electric utilities affected by this act shall be required to submit compliance filings, but no other individual proceedings shall be required or conducted.

CHAPTER 267

An Act to amend and reenact §§ 36-96.3 and 36-96.17 of the Code of Virginia, relating to the Virginia Fair Housing Law; unlawful discriminatory housing practices.

[H 2046]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 36-96.3 and 36-96.17 of the Code of Virginia are amended and reenacted as follows:****§ 36-96.3. Unlawful discriminatory housing practices.**

A. It shall be an unlawful discriminatory housing practice for any person to:

1. Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or status as a veteran;

2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or status as a veteran;

3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship, including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

4. Represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

5. Deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings or discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability;

6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability;

8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with the buyer or renter; or

9. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented, or made available; or (iii) any person associated with that buyer or renter.

B. For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

1. The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are

reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision, the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

C. *It shall be an unlawful discriminatory housing practice for any political jurisdiction or its employees or appointed commissions to discriminate in the application of local land use ordinances or guidelines, or in the permitting of housing developments, (i) on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability; (ii) because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals as defined in § 15.2-983. It shall not be a violation of this chapter if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing.*

D. Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of subdivision B 3.

D. E. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this chapter.

§ 36-96.17. Civil action by Attorney General; matters involving the legality of any local zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.

A. If the Board determines, after consultation with the Office of the Attorney General, that an alleged discriminatory housing practice involves (i) the legality of any local zoning or land use ordinance or (ii) activity proscribed in subsection C of § 36-96.3, instead of issuing a charge, the Board shall immediately refer the matter to the Attorney General for civil action in the appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of ~~eighteen~~ 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

B. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter, or that any group of persons has been denied any of the rights granted by this chapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in the appropriate circuit court for appropriate relief.

C. In the event of a breach of a conciliation agreement by a respondent, the Board may authorize a civil action by the Attorney General. The Attorney General may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of ~~ninety~~ 90 days after the referral of such alleged breach.

D. The Attorney General, on behalf of the Board, or other party at whose request a subpoena is issued, under this chapter, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.

E. In a civil action under subsections A, B, and C, the court may:

1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter.

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation; and (ii) in an amount not exceeding \$100,000 for any subsequent violation.

3. Award the prevailing party reasonable ~~attorney's~~ attorney fees and costs. The Commonwealth shall be liable for such fees and costs to the extent provided by the Code of Virginia.

The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.

F. Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection A, B, or C ~~which~~ that involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 36-96.18.

CHAPTER 268

An Act to direct the State Corporation Commission to recommend policy proposals to accelerate transportation electrification in the Commonwealth; report.

[H 2282]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *It is the policy of the Commonwealth that transportation electrification will reduce dependence on petroleum, improve air quality and public health, reduce vehicle fueling costs, and reduce emissions of greenhouse gases from the transportation sector. To achieve these goals, among other steps, it is necessary to ensure there is adequate electric vehicle charging infrastructure deployed throughout the Commonwealth. It is further the policy of the Commonwealth to promote, to the greatest extent possible, private competition and investment in transportation electrification and to enable public utilities and the public sector to complement such private investment where most effective.*

Therefore, the State Corporation Commission (Commission) shall submit a report to the General Assembly, no later than May 1, 2022, recommending policy proposals that could govern public electric utility programs to accelerate widespread transportation electrification in the Commonwealth. To guide policy proposal development, the Commission shall utilize a public process, in which the Commission, the Department of Environmental Quality, the Department of Mines, Minerals and Energy, the Department of Transportation, and appropriate stakeholders shall participate. The Commission shall identify and retain a third-party facilitator with expertise in transportation electrification to facilitate such public process.

In developing its policy recommendations, the Commission shall evaluate, among other things:

1. *Areas where utility or other public investment may best complement private efforts to effectively deploy charging infrastructure, with particular focus on low-income, minority, and rural communities;*

2. *How smart growth policies can complement and enhance the Commonwealth's transportation electrification goals; and*

3. *How utility programs, investments, or incentives to customers or third parties to facilitate the deployment of charging infrastructure and related upgrades can support or enhance (i) statewide transportation electrification, including electrification of public transit; (ii) the electrification of medium-duty and heavy-duty vehicles, school buses, vehicles at ports and airports, personal vehicles, and vehicle fleets; (iii) increased access to electric transportation and improved air quality in low-income and medium-income communities; (iv) achievement of the energy storage targets established in subsection E of § 56-585.5 of the Code of Virginia; (v) improvements to the distribution grid or to specific sites necessary to accommodate charging infrastructure; and (vi) customer education and outreach programs that increase awareness of such programs and the benefits of transportation electrification.*

The report shall also address whether and how transportation electrification can, under current law:

a. *Reduce total ratepayer rates and costs;*

b. *Assist in grid management and more efficient use of the grid, in a manner that does not increase peak demand, through time-of-use rates, managed charging programs, vehicle-to-grid programs, or other alternative rate designs;*

c. *Utilize increased generation from renewable energy resources; and*

d. *Reduce fueling costs for vehicles.*

To the extent that the Commission and stakeholders conclude that transportation electrification cannot currently deliver these benefits, then the report shall include recommendations on how public policy can change in order to do so.

§ 2. *Beginning July 1, 2021, any approved costs of any investor-owned electric utility associated with investment in transportation electrification, other than those costs approved prior to July 1, 2021, shall be recovered only through the utility's rates for generation and distribution, shall not be recovered through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 of the Code of Virginia, and shall not be eligible for a customer credit reinvestment offset pursuant to subdivision A 8 d of § 56-585.1 of the Code of Virginia. To the extent that the provisions of this act are inconsistent with the provisions of § 56-585.1 of the Code of Virginia, the provisions of this act shall control.*

CHAPTER 269

An Act to amend and reenact § 46.2-1063 of the Code of Virginia and to repeal §§ 46.2-746.6, 46.2-746.9, 46.2-746.12, 46.2-747, 46.2-748, 46.2-749.10, and 46.2-749.69:1 of the Code of Virginia and to repeal § 1 of Chapter 776 of the Acts of Assembly of 2010, relating to special license plates; removal.

[S 1136]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. **That § 46.2-1063 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-1063. Alteration of suspension system; bumper height limits; raising body above frame rail.

No person shall drive on a public highway any motor vehicle registered as a passenger motor vehicle if it has been modified by alteration of its altitude from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, are not within the range of fourteen inches to twenty-two inches above the ground. ~~Notwithstanding the foregoing provisions of this section, the range of bumper heights for motor vehicles bearing street rod license plates issued pursuant to § 46.2-747 shall be nine to twenty-two inches.~~

No vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system of a motor vehicle shall be disconnected to defeat the safe operation of its suspension system.

However, nothing contained in this section shall prevent the installation of heavy duty equipment, including shock absorbers and overload springs. Nothing contained in this section shall prohibit the driving on a public highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

No person shall drive on a public highway any motor vehicle registered as a truck if it has been modified by alteration of its altitude from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front bumper height of trucks whose gross vehicle weight ratings are 4,500 pounds or less shall be no less than 14 inches and no more than 28 inches, and their rear bumper height shall be no less than 14 inches and no more than 28 inches. The front bumper height of trucks whose gross vehicle weight ratings are 4,501 pounds to 7,500 pounds shall be no less than 14 inches and no more than 29 inches, and their rear bumper height shall be no less than 14 inches and no more than 30 inches. The front bumper height of trucks whose gross vehicle weight ratings are 7,501 pounds to 15,000 pounds shall be no less than 14 inches and no more than 30 inches, and their rear bumper height shall be no less than 14 inches and no more than 31 inches. Bumper height limitations contained in this section shall not apply to trucks with gross vehicle weight ratings in excess of 15,000 pounds. For the purpose of this section, "truck" includes pickup and panel trucks, and "gross vehicle weight ratings" means manufacturer's gross vehicle weight ratings established for that vehicle as indicated by a number, plate, sticker, decal, or other device affixed to the vehicle by its manufacturer.

In the absence of bumpers, and in cases where bumper heights have been lowered, height measurements under the foregoing provisions of this section shall be made to the bottom of the frame rail. However, if bumper heights have been raised, height measurements under the foregoing provisions of this section shall be made to the bottom of the main horizontal bumper bar.

No vehicle shall be operated on a public highway if it has been modified by any means so as to raise its body more than three inches, in addition to any manufacturer's spacers and bushings, above the vehicle's frame rail or manufacturer's attachment points on the frame rail.

This section shall not apply to specially designed or modified motor vehicles when driven off the public highways in races and similar events. Such motor vehicles may be lawfully towed on the highways of the Commonwealth.

2. That §§ 46.2-746.6, 46.2-746.9, 46.2-746.12, 46.2-747, 46.2-748, 46.2-749.10, and 46.2-749.69:1 of the Code of Virginia are repealed and that § 1 of Chapter 776 of the Acts of Assembly of 2010 is repealed.

3. That notwithstanding any other provision of the law, the range of bumper heights for any street rod bearing a street rod license plate issued pursuant to § 46.2-747 of the Code of Virginia, as it was in effect on June 30, 2021, shall be nine to 22 inches. For purposes of this enactment, "street rod" means a modernized passenger motor vehicle either manufactured prior to 1949 or designed or manufactured to resemble a vehicle manufactured prior to 1949.

4. That all active registrations issued prior to July 1, 2021, pursuant to § 1 of Chapter 776 of the Acts of Assembly of 2010 shall remain valid and may be renewed pursuant to the provisions of this act. Nothing herein shall be construed to be a reauthorization of such special license plates. The annual fee for renewal shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Community Nutrition Fund, established within the Department of Accounts. These funds shall be paid annually to the Virginia Department of Health, Division of Community Nutrition. In addition, all revenue previously collected under § 1 of Chapter 776 of the Acts of Assembly of 2010 that remains unshared shall be dispensed to the Virginia Department of Health, Division of Community Nutrition. The remainder of each annual fee for renewal shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by the Commissioner into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.

CHAPTER 270

An Act to extend certain wetlands permits through 2021.

[S 1143]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. That any permit renewal required pursuant to § 28.2-1205 or 28.2-1306 of the Code of Virginia for a permit that was set to expire between March 1, 2020, and July 1, 2021, shall retroactively be considered valid and effective until January 1, 2022.

CHAPTER 271

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.17, consisting of a section numbered 59.1-284.38, relating to creation of the Technology Development Grant Fund.

[S 1156]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.17, consisting of a section numbered 59.1-284.38, as follows:

CHAPTER 22.17.

TECHNOLOGY DEVELOPMENT GRANT FUND.

§ 59.1-284.38. Technology Development Grant Fund.

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

"Capital investment" means an expenditure by or on behalf of a qualified company on or after January 1, 2020, in real property, tangible personal property, or both, at a facility located in an eligible county that is properly chargeable to a capital account or would be so chargeable with a proper election. The purchase or lease of machinery and tools, furniture, fixtures, and business personal property, including under an operating lease, and expected building expansion and up-fit by or on behalf of the qualified company shall qualify as capital investment.

"Eligible county" means Fairfax County.

"Facility" means the building, group of buildings, or corporate campus, including any related machinery and tools, furniture, fixtures, and business personal property, located in an eligible county, that is owned, leased, licensed, occupied, or otherwise operated by a qualified company for use in the administration, management, and operation of its business, including software development and technology research and development.

"Fund" means the Technology Development Grant Fund.

"Grants" means grants from the Fund awarded to a qualified company in an aggregate amount not to exceed \$22.5 million.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2020, among a qualified company, the Commonwealth, and VEDP that sets forth the requirements for capital investment and the creation of new full-time jobs for the qualified company to be eligible for grants from the Fund.

"New full-time job" means a job position, in which the employee of the qualified company works at the facility, for which the standard fringe benefits are provided by the company and for which the average annual wage is at least \$112,215. Each such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the qualified company's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, unless the position in the existing location is backfilled, and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new full-time jobs. The Commonwealth may gauge compliance with the new full-time jobs requirement for a qualified company by reference to the new payroll generated by the qualified company, as indicated in the memorandum of understanding.

"Qualified company" means a technology company, including its affiliates, that between January 1, 2020, and June 30, 2025, is expected to (i) make a capital investment at a facility of at least \$64 million and (ii) create at least 1,500 new full-time jobs at the facility related to, or supportive of, its business.

"Secretary" means the Secretary of Commerce and Trade.

"VEDP" means the Virginia Economic Development Partnership Authority.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Technology Development Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to pay grants pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grants each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2021, and ending with the Commonwealth's fiscal year starting on July 1, 2026, unless such timeframe is extended in accordance with the memorandum of understanding. Grants shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding for the number of new full-time jobs created and maintained and the amount of capital investment made. The first grant installment of \$5,625,000 shall not be awarded until the qualified company has made a capital investment of at least \$19,260,000 and has created at least 500 new full-time jobs.

D. The aggregate amount of grants payable under this section shall not exceed \$22.5 million, and grants are expected to be paid in four annual installments of \$5,625,000 each, calculated in accordance with the memorandum of understanding as follows:

1. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2021;
2. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2022;
3. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2023; and
4. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2024.

E. A qualified company applying for a grant installment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and maintained in the calendar year that

immediately precedes the beginning of the fiscal year in which the grant installment is to be paid; (ii) the aggregate number of existing jobs maintained in certain other facilities operated by the qualified company in the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid; and (iii) the aggregate amount of the capital investment made through the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 of each year, reflecting performance through the prior December 31. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment set forth in subsection D. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the amount of grants to which the qualified company is entitled for payment. Such grants shall be paid by the State Treasurer on warrant of the Comptroller in the Commonwealth's fiscal year following submission of such application. The Comptroller shall not draw any warrants for payment of grants pursuant to this chapter without a specific appropriation for the same.

G. As a condition of receipt of the grants, a qualified company shall make available to the Secretary for inspection, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for receipt of grants as set forth in this chapter and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary.

CHAPTER 272

An Act to amend and reenact §§ 58.1-334, 58.1-337, 58.1-432, and 58.1-436 of the Code of Virginia, relating to tax credits of agricultural equipment.

[S 1163]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-334, 58.1-337, 58.1-432, and 58.1-436 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-334. Tax credit for purchase of conservation tillage equipment.

A. ~~Any~~ For taxable years beginning before January 1, 2021, any individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment designed to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-337. Tax credit for purchase of conservation tillage and precision agriculture equipment.

A. 1. For taxable years beginning on or after January 1, 2021, but before January 1, 2026, any individual engaged in agricultural production for market who has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with § 10.1-104.2 by the required tax return filing date of the individual shall be allowed a refundable credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may be attached to equipment already owned by the taxpayer.

2. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;

- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

~~Any~~ B. 1. For taxable years beginning before January 1, 2021, any individual engaged in agricultural production for market who has in place a nutrient management plan approved by the local Soil and Water Conservation District soil and water conservation district by the required tax return filing date of the individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling ~~twenty-five~~ 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- ~~1.~~ a. Sprayers for pesticides and liquid fertilizers;
- ~~2.~~ b. Pneumatic fertilizer applicators;
- ~~3.~~ c. Monitors, computer regulators, and ~~height adjustable~~ height-adjustable booms for sprayers and liquid fertilizer applicators;
- 4. d. Manure applicators;
- ~~5.~~ e. Tramline adapters; and
- ~~6.~~ f. Starter fertilizer banding attachments for planters.

~~B.~~ 2. The amount of such credit under subdivision 1 shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

~~C.~~ 3. For purposes of this ~~section~~ subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-432. Tax credit for purchase of conservation tillage equipment.

~~A. Any~~ For taxable years beginning before January 1, 2021, any corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section, the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment used to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds such tax liability may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-436. Tax credit for purchase of conservation tillage and precision agricultural application equipment.

A. 1. For taxable years beginning on or after January 1, 2021, but before January 1, 2026, any corporation engaged in agricultural production for market which has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with § 10.1-104.2 by the required tax return filing date of the corporation shall be allowed a refundable credit against the tax imposed by § 58.1-400 in an amount equaling 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may be attached to equipment already owned by the taxpayer.

2. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the taxpayer applies for the refund.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection by a partnership or S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

~~Any~~ B. 1. For taxable years beginning before January 1, 2021, any corporation engaged in agricultural production for market which has in place a nutrient management plan approved by the local Soil and Water Conservation District soil and water conservation district by the required tax return filing date of the corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling ~~twenty-five~~ 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

- ~~1.~~ a. Sprayers for pesticides and liquid fertilizers;
- ~~2.~~ b. Pneumatic fertilizer applicators;
- ~~3.~~ c. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
- ~~4.~~ d. Manure applicators;
- ~~5.~~ e. Tramline adapters; and
- ~~6.~~ f. Starter fertilizer banding attachments for planters.

~~B.~~ 2. The amount of such credit under subdivision 1 shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively.

~~C.~~ 3. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

2. That the provisions of this act shall become effective only for taxable years beginning on and after January 1, 2021.

CHAPTER 273

An Act to amend and reenact §§ 46.2-419, 46.2-472, and 46.2-2057 of the Code of Virginia, relating to motor vehicle liability insurance coverage limits.

[S 1182]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

**1. That §§ 46.2-419, 46.2-472, and 46.2-2057 of the Code of Virginia are amended and reenacted as follows:
§ 46.2-419. When judgment satisfied.**

A. ~~Every~~ For all policies effective on or after January 1, 2022, but prior to January 1, 2025, every judgment for damages in any motor vehicle accident referred to in this chapter shall, for the purpose of this chapter, be satisfied:

1. When paid in full or when ~~\$25,000~~ \$30,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

2. When, subject to the limit of ~~\$25,000~~ \$30,000 because of bodily injury to or death of one person, the judgment has been paid in full or when the sum of ~~\$50,000~~ \$60,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident;

3. When the judgment has been paid in full or when \$20,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident; or

4. When the judgment has been discharged in bankruptcy.

B. For all policies effective on or after January 1, 2025, every judgment for damages in any motor vehicle accident referred to in this chapter shall, for the purposes of this chapter, be satisfied:

1. When paid in full or when \$50,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

2. When, subject to the limit of \$50,000 because of bodily injury to or death of one person, the judgment has been paid in full or when the sum of \$100,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident;

3. When the judgment has been paid in full or when \$25,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident; or

4. When the judgment has been discharged in bankruptcy.

C. Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amount provided in this section.

§ 46.2-472. Coverage of owner's policy.

Every A. For all policies effective on or after January 1, 2022, but prior to January 1, 2025, every motor vehicle owner's policy shall:

1. Designate by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted.

2. Insure as insured the person named and any other person using or responsible for the use of the motor vehicle or motor vehicles with the permission of the named insured.

3. Insure the insured or other person against loss from any liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property caused by accident and arising out of the ownership, use, or operation of such motor vehicle or motor vehicles within the Commonwealth, any other state in the United States, or Canada, subject to a limit exclusive of interest and costs, with respect to each motor vehicle, of ~~\$25,000~~ \$30,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of ~~\$50,000~~ \$60,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident.

B. For all policies effective on or after January 1, 2025, every motor vehicle owner's policy shall:

1. Designate, by explicit description or appropriate reference, all motor vehicles with respect to which coverage is intended to be granted.

2. Insure as insured the person named and any other person using or responsible for the use of the motor vehicle or vehicles with the permission of the named insured.

3. Insure the insured or other person against loss from any liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property caused by an accident and arising out of the ownership, use, or operation of such motor vehicle or vehicles within the Commonwealth, any other state in the United States, or Canada, subject to a limit exclusive of interest and costs, with respect to each motor vehicle, of \$50,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$100,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$25,000 because of injury to or destruction of property of others in any one accident.

§ 46.2-2057. Taxicab insurance required.

A. Each operator of a motor vehicle performing a bona fide taxicab service shall file insurance as required under this article unless evidence can be shown to the Department that the operator is a self-insurer under an ordinance of the city or county where the home office of the operator is located or pursuant to § 46.2-368.

B. Any self-insurance protection subject to this section shall provide for protection against the uninsured or underinsured motorist to the extent required by § 38.2-2206. Notwithstanding § 38.2-2206 or any other provision of this title, protection against the uninsured or underinsured motorist shall be subject to a limit exclusive of interest and costs, with respect to each motor vehicle, of \$25,000 because of bodily injury to or death of one person in any one accident; subject to the limit for one person, a limit of \$50,000 because of bodily injury or death of two or more persons in any one accident; and a limit of \$20,000 because of injury to or destruction of property of others in any one accident. Nothing herein shall preclude any self-insurer operator from purchasing or providing uninsured or underinsured motorist insurance coverage in an amount greater than required in this subsection. Such protection against uninsured and underinsured motorists shall be secondary coverage to any other valid and collectible insurance providing the same protection that is available to any person otherwise entitled to assert a claim to such protection by virtue of this section.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 274

An Act to amend the Code of Virginia by adding in Chapter 10.1 of Title 10.1 a section numbered 10.1-1016.1 and by adding in Chapter 17 of Title 10.1 a section numbered 10.1-1705.1, relating to conservation easements; construction.

[S 1199]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 10.1 of Title 10.1 a section numbered 10.1-1016.1 and by adding in Chapter 17 of Title 10.1 a section numbered 10.1-1705.1 as follows:

§ 10.1-1016.1. Construction.

Notwithstanding any provision of law to the contrary, an easement held pursuant to this chapter shall be construed in favor of achieving the conservation purposes for which it was created.

§ 10.1-1705.1. Construction.

Notwithstanding any provision of law to the contrary, an easement held pursuant to this chapter shall be construed in favor of achieving the conservation purposes for which it was created.

CHAPTER 275

An Act to direct the Department of Environmental Quality to convene working groups to revise permit fee schedules.

[S 1210]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Director of the Department of Environmental Quality (the Director), or his designee, shall convene a working group for the purpose of developing an annual fee schedule for nonhazardous solid waste management facilities to replace the current annual fee schedule set forth in § 10.1-1402.1:1 of the Code of Virginia. The working group shall include representatives of (i) private sector companies that own or operate nonhazardous waste solid waste management facilities, (ii) local governments that own or operate nonhazardous solid waste management facilities, (iii) public service authorities and waste management authorities, (iv) an environmental organization, and (v) any other parties that the Director determines would assist the group in its deliberations. The Director, or his designee, shall preside over the group and shall make Department of Environmental Quality (the Department) staff available as necessary to assist and support the group in its deliberations. The working group shall convene no later than August 1, 2021, and shall meet as necessary thereafter. The Department shall submit to the Governor and the General Assembly by December 1, 2021, a summary of the working group's discussions and recommendations for a schedule of annual fees to replace the schedule in § 10.1-1402.1:1 of the Code of Virginia that shall, at a minimum, be sufficient to reflect the direct costs of permitting, compliance, inspection, monitoring, training, and enforcement as set forth in the Department's budget for the nonhazardous solid waste management program when aggregated and combined with the permit fees assessed and collected pursuant to § 10.1-1402.1 of the Code of Virginia.*

§ 2. *The Director of the Department of Environmental Quality (the Director), or his designee, shall convene a working group for the purpose of developing a schedule of annual maintenance fees for water withdrawal permits including (i) Virginia Water Protection Individual-minimum instream flow permits, (ii) Virginia Water Protection Individual-reservoir permits, (iii) Ground Water Withdrawal permits, and (iv) Surface Water Withdrawal permits. The working group shall include representatives of (a) ground water withdrawal permittees, including at least one representative each from the municipal, commercial, and industrial sectors; (b) Virginia Water Protection surface water withdrawal permittees, including at least one representative each from the municipal, commercial, and power generation sectors; (c) environmental organizations; (d) agricultural organizations; and (e) any others whom the Director determines would assist the group in its deliberations. The working group shall convene no later than August 1, 2021, and shall meet as necessary thereafter. The Department of Environmental Quality shall submit to the Governor and the General Assembly by December 1, 2021, a summary of the working group's discussions and recommendations for a schedule of annual maintenance fees that shall, at a minimum, be sufficient to reflect no less than 40 percent of the direct costs required for the development, administration, compliance, and enforcement of such permits.*

CHAPTER 276

An Act to amend and reenact § 46.2-749.7 of the Code of Virginia, relating to special license plates for supporters of Ducks Unlimited; fees.

[S 1229]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-749.7 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-749.7. Special license plates for supporters of Ducks Unlimited.

A. On receipt of an application therefor, the Commissioner shall issue special license plates to supporters of Ducks Unlimited.

B. *The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Ducks Unlimited Wetlands Protection Program Fund, established within the Department of Accounts. These funds shall be paid annually to Ducks Unlimited, Inc., and used to support its wetlands and waterfowl habitat protection programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

2. That all license plates issued pursuant to § 46.2-749.7 of the Code of Virginia prior to July 1, 2021, shall remain valid until their expiration, but shall thereafter be renewed as provided in this act.

CHAPTER 277

An Act to amend and reenact §§ 62.1-44.15:37.1 and 62.1-44.15:58.1 of the Code of Virginia, relating to natural gas pipelines; stop work instructions.

[S 1265]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:37.1 and 62.1-44.15:58.1 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:37.1. Inspections; land-disturbing activities of natural gas pipelines; stop work instructions.

A. The Department is authorized to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications pursuant to § 62.1-44.15:31 as such land-disturbing activities relate to construction of any natural gas transmission pipeline *equal to or greater than 36 24 inches inside diameter* to determine (i) compliance with such annual standards and specifications, (ii) compliance with any site-specific plans, and (iii) if there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities, *including instances where (a) there has been a violation of any water quality standard adopted pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), (b) sediment has been deposited in significant amounts in areas where those deposits are not contained by best management practices, (c) there are repeated instances of adverse impacts or likely adverse impacts within a 30-day period, or (d) there have been widespread and repeated instances of adverse impacts or likely impacts.* When the Department determines that there has been a substantial adverse impact to water quality or that an imminent and substantial adverse impact to water quality is likely to occur as a result of such land-disturbing activities, the Department may issue a stop work instruction, without advance notice or hearing, requiring that all or part of such land-disturbing activities on the part of the site that caused the substantial adverse impacts to water quality or are likely to cause imminent and substantial adverse impacts to water quality be stopped until corrective measures specified in the stop work instruction have been completed and approved by the Department. *Where substantial adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis, the Department may issue a stop work instruction for every work area in Virginia until the Department determines that any systemic cause that contributed to such occurrences has been corrected.*

Such stop work instruction shall become effective upon service on the company by email or other technology agreed to in writing by the Department and the company, by mailing with confirmation of delivery to the address specified in the annual standards and specifications, if available, or by delivery at the site to a person previously identified to the Department by the company. Upon request by the company, the Director or his designee shall review such stop work instruction within 48 hours of issuance.

B. Within 10 business days of issuance of a stop work instruction, the Department shall promptly provide to such company an opportunity for an informal fact-finding proceeding concerning the stop work instruction and any review by the Director or his designee. Reasonable notice as to the time and place of the informal fact-finding proceeding shall be provided to such company. Within 10 business days of the informal fact-finding proceeding, the Department shall affirm, modify, amend, or cancel such stop work instruction. Upon written documentation from the company of the completion and approval by the Department in writing of the corrective measures specified in the stop work instruction, the instruction shall be immediately lifted.

C. The company may appeal such stop work instruction or preliminary decision rendered by the Director or his designee to the circuit court of the jurisdiction wherein the land-disturbing activities subject to the stop work instruction occurred, or to another appropriate court, in accordance with the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). Any person violating or failing, neglecting, or refusing to obey a stop work instruction issued by the Department may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was

alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Nothing in this section shall prevent the Board or the Department from taking any other action authorized by this chapter.

§ 62.1-44.15:58.1. Inspections; land-disturbing activities of natural gas pipelines; stop work instructions.

A. The Department is authorized to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications pursuant to § 62.1-44.15:55 as such land-disturbing activities relate to construction of any natural gas transmission pipeline *equal to or greater than 36 24 inches inside diameter* to determine (i) compliance with such annual standards and specifications, (ii) compliance with any site-specific plans, and (iii) if there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities, *including instances where (a) there has been a violation of any water quality standard adopted pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), (b) sediment has been deposited in significant amounts in areas where those deposits are not contained by best management practices, (c) there are repeated instances of adverse impacts or likely adverse impacts within a 30-day period, or (d) there have been widespread and repeated instances of adverse impacts or likely impacts.* When the Department determines that there has been a substantial adverse impact to water quality or that an imminent and substantial adverse impact to water quality is likely to occur as a result of such land-disturbing activities, the Department may issue a stop work instruction, without advance notice or hearing, requiring that all or part of such land-disturbing activities on the part of the site that caused the substantial adverse impacts to water quality or are likely to cause imminent and substantial adverse impacts to water quality be stopped until corrective measures specified in the stop work instruction have been completed and approved by the Department. *Where substantial adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis, the Department may issue a stop work instruction for every work area in Virginia until the Department determines that any systemic cause that contributed to such occurrences has been corrected.*

Such stop work instruction shall become effective upon service on the company by email or other technology agreed to in writing by the Department and the company, by mailing with confirmation of delivery to the address specified in the annual standards and specifications, if available, or by delivery at the site to a person previously identified to the Department by the company. Upon request by the company, the Director or his designee shall review such stop work instruction within 48 hours of issuance.

B. Within 10 business days of issuance of a stop work instruction, the Department shall promptly provide to such company an opportunity for an informal fact-finding proceeding concerning the stop work instruction and any review by the Director or his designee. Reasonable notice as to the time and place of the informal fact-finding proceeding shall be provided to such company. Within 10 business days of the informal fact-finding proceeding, the Department shall affirm, modify, amend, or cancel such stop work instruction. Upon written documentation from the company of the completion and approval by the Department in writing of the corrective measures specified in the stop work instruction, the instruction shall be immediately lifted.

C. The company may appeal such stop work instruction or preliminary decision rendered by the Director or his designee to the circuit court of the jurisdiction wherein the land-disturbing activities subject to the stop work instruction occurred, or to another appropriate court, in accordance with the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). Any person violating or failing, neglecting, or refusing to obey a stop work instruction issued by the Department may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Nothing in this section shall prevent the Board or the Department from taking any other action authorized by this chapter.

CHAPTER 278

An Act to amend and reenact § 25.1-306 of the Code of Virginia, relating to eminent domain; notice of intent to file certificate.

[S 1270]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-306 of the Code of Virginia is amended and reenacted as follows:

§ 25.1-306. Notice of intent to file certificate.

The authorized condemnor shall, between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter, give notice to the owner or tenant, if known, of the freehold by certified or registered mail that such certificate will be filed or recorded with respect to such person's property. *Such notice shall contain the following language, as appropriate: (i) "Between 30 and 45 days from the date of this notice, a certificate of take will be recorded in the land records of the circuit court" or (ii) "Between 30 and 45 days from the date of this notice, a certificate of deposit will be recorded in the land records of the circuit court." Such notice shall also state that upon recordation of the certificate, the defeasible title to the property shall transfer to the condemnor and that the owner has the right to petition the court for distribution of the funds represented by the certificate, subject to any preexisting liens or other encumbrances upon the*

property. Additionally, within four business days of the filing or recording of a certificate, the authorized condemnor shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.

CHAPTER 279

An Act to amend the Code of Virginia by adding a section numbered 18.2-271.5, relating to restricted permits to operate a motor vehicle; ignition interlock systems.

[S 1336]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-271.5 as follows:

§ 18.2-271.5. Restricted permits to operate a motor vehicle; ignition interlock systems.

Notwithstanding any other provision of law, in any criminal case for any violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 where a defendant's license to operate a motor vehicle, engine, or train in the Commonwealth is subject to revocation or suspension and the court orders a defendant, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth, the court may, in its discretion and for good cause shown, issue the defendant a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 where the only restriction of such restricted license that the court shall impose is to prohibit the defendant from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of not less than six consecutive months without alcohol-related violations of the interlock requirements.

In no event shall a defendant be permitted to enter any such alcohol safety action program that is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to § 18.2-271.2.

No restricted license issued pursuant to this section shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

The provisions of subsections E and F of § 18.2-271.1 shall apply to this section mutatis mutandis, except as herein provided.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 280

An Act to amend and reenact § 29.1-311 of the Code of Virginia, relating to trout fishing in stocked waters.

[S 1402]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-311 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-311. Trip fishing license for residents and nonresidents; trout stocked waters.

A. Residents and nonresidents of the Commonwealth may obtain trip fishing licenses to fish in the freshwater creeks, bays, inlets, and streams of the Commonwealth, or in any of the impounded waters of the Commonwealth during the open season for game fish. These licenses shall be in lieu of the regular season state or county fishing license required under subsection A of § 29.1-310. The duration for which trip fishing licenses shall be valid shall be established by the Board. The fee for the trip fishing license shall be established by the Board and may be revised pursuant to § 29.1-103.

B. Residents and nonresidents of the Commonwealth may obtain a special combined sportfishing trip license to fish in all inland waters and tidal waters of the Commonwealth during the open season. This license shall be in lieu of the trip fishing license specified in subsection A and the saltwater recreational license required by § 28.2-302.1. The cost of the license shall be \$10 for residents and \$15 for nonresidents. The license shall be valid for five successive days as specified on the face of the license. Of the funds collected under this subsection, (i) \$5 per license sold shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund as established in § 28.2-302.3 and (ii) \$5 per resident license sold and \$10 per nonresident license sold shall be paid into the state treasury to the credit of the Game Protection Fund as established in § 29.1-101.

C. Possession of a trip fishing license by a nonresident shall not entitle him to fish in designated waters stocked with trout by the Department or other public body unless he also possesses the trout license required under subsection B of § 29.1-310 or has obtained the special lifetime trout fishing license pursuant to § 29.1-302.4.

D. Possession of a trip fishing license by a resident shall not entitle him to fish in designated waters stocked with trout by the Department or other public body. Residents and nonresidents shall only be entitled to fish in such designated waters stocked with trout by the Department or other public body only if they possess (i) a regular season state or county fishing license or a trip fishing license valid for at least five days and (ii) a trout license, as required by pursuant to § 29.1-310, or a special lifetime trout fishing license pursuant to § 29.1-302.4.

E. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

CHAPTER 281

An Act to amend and reenact §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-204, as it is currently effective and as it shall become effective, 4.1-206.1, as it shall become effective, 4.1-206.3, as it shall become effective, 4.1-207, 4.1-210, 4.1-212.1, as it is currently effective and as it shall become effective, and 4.1-221 of the Code of Virginia, relating to alcoholic beverage control; sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption.

[H 1879]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-204, as it is currently effective and as it shall become effective, 4.1-206.1, as it shall become effective, 4.1-206.3, as it shall become effective, 4.1-207, 4.1-210, 4.1-212.1, as it is currently effective and as it shall become effective, and 4.1-221 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority

of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per

day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-204. (Effective until July 1, 2021) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. — Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Delivery permittees. — Every holder of a delivery permit issued pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the brands of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, and (iv) the names, addresses, and signatures of the purchasers to whom the wine and beer is delivered. Such purchaser signatures may be in an electronic format. Permittees shall remit such records on a monthly basis for any month during which the permittee makes a delivery

for which the permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection *D G* of § 4.1-212.1.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine shipper licensee and beer shipper licensee and (ii) every delivery permittee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

§ 4.1-204. (Effective July 1, 2021) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the brands of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, and (iv) the names, addresses, and signatures of the purchasers to whom the wine and beer is delivered. Such purchaser signatures may be in an electronic format. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection *E H* of § 4.1-212.1.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises *or off-premises* consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for *on-premises* consumption in dining areas and other designated areas of such restaurant *or off-premises consumption*. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for *on-premises* consumption in such designated areas, bedrooms, and other private rooms *or off-premises consumption* and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises *or off-premises* consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages ~~for on-premises consumption~~, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, *for off-premises consumption or for on-premises consumption* in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings

or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for *on-premises* consumption in dining areas of the restaurant or *off-premises consumption*. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the

premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the

United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle,

Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the premises described in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that such wine is manufactured on the licensed premises.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises *or off-premises* consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

§ 4.1-210. (Repealed effective July 1, 2021) Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for *on-premises* consumption in dining areas and other designated areas of such restaurant *or off-premises consumption*. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for *on-premises* consumption in such designated areas, bedrooms and other private rooms *or off-premises consumption* and (b) sell spirits packaged in original closed containers purchased from the Board for *on-premises* consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and *on-premises* consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (a) sell and serve mixed beverages for *on-premises or off-premises* consumption and (b) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for *on-premises* consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather

conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (1) sell alcoholic beverages ~~for on-premises consumption~~, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, *for off-premises consumption or for on-premises consumption* in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (2) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering

the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for *on-premises* consumption in dining areas of the restaurant *or off-premises consumption*. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

18. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant, culinary lodging resort, or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

19. Annual mixed beverage performing arts facility license to persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

20. Annual mixed beverage performing arts facility license to persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, or 20 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

§ 4.1-212.1. (Effective until July 1, 2021) Permits; delivery of wine and beer; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal consumption.

B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal consumption.

C. *Any person located within the Commonwealth who is authorized to sell mixed beverages at retail for off-premises consumption may apply for a delivery permit that shall authorize the delivery of any mixed beverages it is authorized to sell, in closed containers, to consumers within the Commonwealth for personal consumption.*

D. *Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may, subject to the distiller's agency agreement with the Authority, deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages that the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations.*

E. All ~~such~~ deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. All ~~such~~ *Such* deliveries of ~~beer, wine, or farm wine~~ shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the permittee or (ii) an independent contractor of the permittee, provided that (a) the permittee has entered into a written agreement with the independent contractor establishing that the permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of ~~beer, wine, or farm wine~~ *alcoholic beverages* made on behalf of the permittee and (b) only one individual takes possession of the ~~beer, wine, or farm wine~~ *alcoholic beverages* during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Department in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require ~~(i)~~ *(1)* the recipient to demonstrate, upon delivery, that he is at least 21 years of age and ~~(ii)~~ *(2)* the recipient to sign an electronic or paper form or other ~~acknowledgement~~ *acknowledgment* of receipt as approved by the Board.

~~D. F.~~ *In addition to other applicable requirements set forth in this section, the following provisions shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages pursuant to this section:*

1. Notwithstanding any provision of law to the contrary, mixed beverages may be delivered to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation;

2. Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or before 6:00 a.m.;

3. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-premises consumption or deliver more than four mixed beverages at any one time;

4. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a maximum combined volume of 16 ounces;

5. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one meal with every two mixed beverages sold for off-premises consumption or delivered; and

6. Mixed beverages sold for off-premises consumption or delivered shall be in single original metal cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or similar closure.

The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial license application.

G. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer, or mixed beverages by a permittee shall constitute a sale in Virginia. The permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

§ 4.1-212.1. (Effective July 1, 2021) Delivery of wine and beer; kegs; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal off-premises consumption.

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal off-premises consumption.

D. *Any person licensed to sell mixed beverages at retail for off-premises consumption in the Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.*

E. *Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.*

F. ~~All such~~ deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. ~~All such~~ Such deliveries of beer, wine, or farm wine shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered into a written agreement with the independent contractor establishing that the licensee or permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine alcoholic beverages made on behalf of the licensee or permittee and (b) only one individual takes possession of the beer, wine, or farm wine alcoholic beverages during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (1) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (2) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

~~E.~~ G. *In addition to other applicable requirements set forth in this section, the following provisions shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages pursuant to this section:*

1. *Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or before 6:00 a.m.;*
2. *No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-premises consumption or deliver more than four mixed beverages at any one time;*
3. *All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a maximum combined volume of 16 ounces;*
4. *Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one meal with every two mixed beverages sold for off-premises consumption or delivered; and*
5. *Mixed beverages sold for off-premises consumption or delivered shall be in single original metal cans or in glass, paper, plastic, or similar disposable containers that include a secured lid, cap, or similar closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or similar closure.*

The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of § 4.1-227, (ii) shall not be subject to appeal,

and (iii) shall become effective upon personal service of the notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial license application.

H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia. The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

F. I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be affixed to kegs, and displays a registration number and such other information as may be prescribed by the Board.

§ 4.1-221. Limitation on mixed beverage licensees; exceptions.

A. Unless excepted by subsection B, all alcoholic beverages sold as mixed beverages shall be purchased from the Board.

B. Mixed beverage carrier licensees may obtain from other lawful sources alcoholic beverages to be sold as mixed beverages on trains, boats or airplanes of the licensees provided there is paid to the Board in lieu of the taxes otherwise directly imposed under this chapter and any markup otherwise charged by the Board, a tax of ten cents for each of the average number of drinks of mixed beverages determined by the Board as having been consumed within the geographical confines of the Commonwealth on such trains, boats or airplanes. Such tax shall be calculated on the basis of the proportionate number of revenue passenger miles traveled within the Commonwealth by such a licensee in relation to the total quantity of all alcoholic beverages obtained either inside or outside the Commonwealth by the licensee for consumption on trains, boats or airplanes of the licensee. Such tax shall be paid to the Board on a quarterly basis.

C. The entire contents of a closed container of distilled spirits shall not be served to an individual for on-premises consumption or for off-premises consumption pursuant to § 4.1-212.1 except as may be provided by Board regulation.

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

3. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall convene a work group to study the sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption. In conducting the study, the work group shall analyze the implementation of the provisions of this act that authorize the sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption, determine whether such provisions should be implemented permanently, and identify any further statutory or regulatory modifications that should be made in the event that such provisions are made permanent. The Authority shall report its findings and recommendations to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2021.

CHAPTER 282

An Act to amend and reenact §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-204, as it is currently effective and as it shall become effective, 4.1-206.1, as it shall become effective, 4.1-206.3, as it shall become effective, 4.1-207, 4.1-210, 4.1-212.1, as it is currently effective and as it shall become effective, and 4.1-221 of the Code of Virginia, relating to alcoholic beverage control; sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption.

[S 1299]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-204, as it is currently effective and as it shall become effective, 4.1-206.1, as it shall become effective, 4.1-206.3, as it shall become effective, 4.1-207, 4.1-210, 4.1-212.1, as it is currently effective and as it shall become effective, and 4.1-221 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores.

The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises *or off-premises* consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured

within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be

submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises *or off-premises* consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-204. (Effective until July 1, 2021) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such

account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. — Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Delivery permittees. — Every holder of a delivery permit issued pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the brands of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, and (iv) the names, addresses, and signatures of the purchasers to whom the wine and beer is delivered. Such purchaser signatures may be in an electronic format. Permittees shall remit such records on a monthly basis for any month during which the permittee makes a delivery for which the permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection D G of § 4.1-212.1.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine shipper licensee and beer shipper licensee and (ii) every delivery permittee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

§ 4.1-204. (Effective July 1, 2021) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products

were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the brands of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, and (iv) the names, addresses, and signatures of the purchasers to whom the wine and beer is delivered. Such purchaser signatures may be in an electronic format. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection E H of § 4.1-212.1.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale

for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises *or off-premises* consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for *on-premises* consumption in dining areas and other designated areas of such restaurant *or off-premises consumption*. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for *on-premises* consumption in such designated areas, bedrooms, and other private rooms *or off-premises consumption* and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises *or off-premises* consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount

to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages ~~for on-premises consumption~~, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, *for off-premises consumption or for on-premises consumption* in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for *on-premises* consumption in dining areas of the restaurant *or off-premises consumption*. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on

the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public

thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee,

farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply

during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the premises described in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that such wine is manufactured on the licensed premises.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises or off-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

§ 4.1-210. (Repealed effective July 1, 2021) Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public

thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for *on-premises* consumption in such designated areas, bedrooms and other private rooms or *off-premises consumption* and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (a) sell and serve mixed beverages for on-premises or *off-premises* consumption and (b) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (1) sell alcoholic beverages for ~~on-premises consumption~~, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, *for off-premises consumption or for on-premises consumption* in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (2) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in

transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for *on-premises* consumption in dining areas of the restaurant or *off-premises consumption*. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in

excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

18. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant, culinary lodging resort, or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

19. Annual mixed beverage performing arts facility license to persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

20. Annual mixed beverage performing arts facility license to persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, or 20 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

§ 4.1-212.1. (Effective until July 1, 2021) Permits; delivery of wine and beer; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal consumption.

B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal consumption.

C. *Any person located within the Commonwealth who is authorized to sell mixed beverages at retail for off-premises consumption may apply for a delivery permit that shall authorize the delivery of any mixed beverages it is authorized to sell, in closed containers, to consumers within the Commonwealth for personal consumption.*

D. *Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may, subject to the distiller's agency agreement with the Authority, deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages that the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations.*

E. All ~~such~~ deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. ~~All such~~ *Such* deliveries of beer, wine, or farm wine shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the permittee or (ii) an independent contractor of the permittee, provided that (a) the permittee has entered into a written agreement with the independent contractor establishing that the permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine *alcoholic beverages* made on behalf of the permittee and (b) only one individual takes possession of the beer, wine, or farm wine *alcoholic beverages* during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Department in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that

require (i) (1) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (ii) (2) the recipient to sign an electronic or paper form or other ~~acknowledgement~~ *acknowledgment* of receipt as approved by the Board.

~~D. F.~~ *In addition to other applicable requirements set forth in this section, the following provisions shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages pursuant to this section:*

1. Notwithstanding any provision of law to the contrary, mixed beverages may be delivered to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation;

2. Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or before 6:00 a.m.;

3. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-premises consumption or deliver more than four mixed beverages at any one time;

4. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a maximum combined volume of 16 ounces;

5. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one meal with every two mixed beverages sold for off-premises consumption or delivered; and

6. Mixed beverages sold for off-premises consumption or delivered shall be in single original metal cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or similar closure.

The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial license application.

G. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine ~~or~~, beer, or mixed beverages by a permittee shall constitute a sale in Virginia. The permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

§ 4.1-212.1. (Effective July 1, 2021) Delivery of wine and beer; kegs; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal off-premises consumption.

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal off-premises consumption.

D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

F. All ~~such~~ deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. ~~All such~~ *Such* deliveries of ~~beer, wine, or farm wine~~ shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered into a written agreement with the independent contractor establishing that the licensee or permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of ~~beer, wine, or farm wine~~ *alcoholic beverages* made on behalf of the licensee or permittee and (b) only one individual takes possession of

the beer, wine, or farm wine alcoholic beverages during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (1) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (2) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

E. G. In addition to other applicable requirements set forth in this section, the following provisions shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages pursuant to this section:

- 1. Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or before 6:00 a.m.;*
- 2. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-premises consumption or deliver more than four mixed beverages at any one time;*
- 3. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a maximum combined volume of 16 ounces;*
- 4. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one meal with every two mixed beverages sold for off-premises consumption or delivered; and*
- 5. Mixed beverages sold for off-premises consumption or delivered shall be in single original metal cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or similar closure.*

The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial license application.

H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia. The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

E. I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be affixed to kegs, and displays a registration number and such other information as may be prescribed by the Board.

§ 4.1-221. Limitation on mixed beverage licensees; exceptions.

A. Unless excepted by subsection B, all alcoholic beverages sold as mixed beverages shall be purchased from the Board.

B. Mixed beverage carrier licensees may obtain from other lawful sources alcoholic beverages to be sold as mixed beverages on trains, boats or airplanes of the licensees provided there is paid to the Board in lieu of the taxes otherwise directly imposed under this chapter and any markup otherwise charged by the Board, a tax of ten cents for each of the average number of drinks of mixed beverages determined by the Board as having been consumed within the geographical confines of the Commonwealth on such trains, boats or airplanes. Such tax shall be calculated on the basis of the proportionate number of revenue passenger miles traveled within the Commonwealth by such a licensee in relation to the total quantity of all alcoholic beverages obtained either inside or outside the Commonwealth by the licensee for consumption on trains, boats or airplanes of the licensee. Such tax shall be paid to the Board on a quarterly basis.

C. The entire contents of a closed container of distilled spirits shall not be served to an individual for on-premises consumption or for off-premises consumption pursuant to § 4.1-212.1 except as may be provided by Board regulation.

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

3. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall convene a work group to study the sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption. In conducting the study, the work group shall analyze the implementation of the provisions of this act that authorize the sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption, determine whether such provisions should be implemented permanently, and identify any further statutory or regulatory modifications that should be made in the event that such provisions are made permanent. The Authority shall report its findings and recommendations to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2021.

CHAPTER 283

An Act to amend and reenact §§ 16.1-263, 16.1-286, and 16.1-290 of the Code of Virginia, relating to child support payments; juvenile in custody of or committed to the Department of Juvenile Justice.

[H 1912]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 16.1-263, 16.1-286, and 16.1-290 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-263. Summonses.**

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the juvenile, if the juvenile is twelve or more years of age, and another to at least one parent, guardian, legal custodian, or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings.

After a petition has been filed against an adult pursuant to subsection C or D of § 16.1-259, the court shall direct the issuance of a summons against the adult.

The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not a parent of the juvenile in question, a parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

Any such summons shall be deemed a mandate of the court, and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment for contempt. Upon the failure of any person to appear as ordered in the summons, the court shall immediately issue an order for such person to show cause why he should not be held in contempt.

The parent, guardian, legal custodian, or other person standing in loco parentis shall not be summoned to appear or be punished for failure to appear in cases of adults who are brought before the court pursuant to subsection C or D of § 16.1-259 unless such person is summoned as a witness.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, at least one parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for support and treatment of the juvenile pursuant to § 16.1-290. Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date, and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing a parent or parents, guardian, or other custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

D. A party, other than the juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that (i) the identity of a parent or guardian is not reasonably ascertainable or (ii) in cases in which it is alleged that a juvenile has committed a delinquent act, crime, status offense, or traffic infraction or is in need of services or supervision, the location, or in the case of a parent or guardian located outside of the Commonwealth the location or mailing address, of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. In cases referred to in clause (ii), an affidavit of a law-enforcement officer or juvenile probation officer that the location of a parent or guardian is not reasonably ascertainable shall be sufficient evidence of this fact, provided that there is no other evidence before the court which would refute the affidavit.

§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.

A. When the court determines that the behavior of a child within its jurisdiction is such that it cannot be dealt with in the child's own locality or with the resources of his locality, the judge shall refer the child to the locality's family assessment and planning team for assessment and a recommendation for services. Based on this recommendation, the court may take custody and place the child, pursuant to the provisions of subdivision 5 of § 16.1-278.4 or subdivision A 13 b of § 16.1-278.8, in a private or locally operated public facility, or nonresidential program with funding in accordance with the Children's Services Act (§ 2.2-5200 et seq.). No child shall be placed outside the Commonwealth by a court without first complying with the appropriate provisions of Chapter 11 (§ 63.2-1100 et seq.) of Title 63.2 or with regulations of the State Board of Social Services relating to resident children placed out of the Commonwealth.

The Board shall establish a per diem allowance to cover the cost of such placements. This allowance may be drawn from funds allocated through the state pool of funds to the community policy and management team of the locality where the child resides as such residence is determined by the court. ~~The cost, however, shall not exceed that amount which would be incurred if the services required by the child were provided in a juvenile facility operated by the Department of Juvenile Justice. However, when the court determines after an investigation and a hearing that the child's parent or other person legally obligated to provide support is financially able to contribute to support of the child, the court may order that the~~

parent or other legally obligated person pay, pursuant to § 16.1-290. If the parent or other obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt. Alternatively, the court, after reasonable notice to the obligor, may enter an order adjudicating that the obligor is delinquent and such order shall have the effect of a civil judgment when duly docketed in the manner prescribed for the docketing of other judgments for money provided.

B. The court service unit of the locality which made the placement shall be responsible for monitoring and supervising all children placed pursuant to this section. The court shall receive and review, at least semiannually, recommendations concerning the continued care of each child in such placements.

§ 16.1-290. Support of committed juvenile; support from estate of juvenile.

A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents or (ii) a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and 20-108.2, or the Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, shall order the parents to pay support to the Department of Social Services. If the parents fail or refuse to pay such support, the court may proceed against them for contempt, or the order may be filed and shall have the effect of a civil judgment. *The provisions of this subsection shall not apply to a juvenile who is placed in temporary custody of the Department pursuant to subdivision A 4a of § 16.1-278.8 or committed to the Department pursuant to subdivision A 14 or A 17 of § 16.1-278.8.*

B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance so long as there may be funds for that purpose.

C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and 63.2-1910.

D. Whenever a juvenile is placed in temporary custody of the Department pursuant to subdivision A 4a of § 16.1-278.8 or committed to the Department pursuant to subdivision A 14 or A 17 of § 16.1-278.8, the Department shall apply for child support with the Department of Social Services. The parents shall be responsible for child support, pursuant to §§ 20-108.1 and 20-108.2, from the date the Department receives the juvenile. The Department shall notify in writing the parents of their responsibilities to pay child support from the date the Department receives the juvenile.

2. That any child support order entered pursuant to the provisions of former subsection D of § 16.1-290 of the Code of Virginia in effect prior to the enactment of this act is terminated, provided, however, that the provisions of this enactment clause do not modify, reduce, or forgive any arrearages or liens accumulated or established under any order in effect through June 30, 2021.

CHAPTER 284

An Act to amend and reenact §§ 16.1-285.1 and 16.1-285.2 of the Code of Virginia, relating to juveniles; release and review hearing for serious offender; plea agreement.

[H 1991]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-285.1 and 16.1-285.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-285.1. Commitment of serious offenders.

A. In the case of a juvenile fourteen years of age or older who has been found guilty of an offense which would be a felony if committed by an adult, and either (i) the juvenile is on parole for an offense which would be a felony if committed by an adult, (ii) the juvenile was committed to the state for an offense which would be a felony if committed by an adult within the immediately preceding twelve months, (iii) the felony offense is punishable by a term of confinement of greater than twenty years if the felony was committed by an adult, or (iv) the juvenile has been previously adjudicated delinquent for an offense which if committed by an adult would be a felony punishable by a term of confinement of twenty years or more, and the circuit court, or the juvenile or family court, as the case may be, finds that commitment under this section is necessary to meet the rehabilitative needs of the juvenile and would serve the best interests of the community, then the court may order the juvenile committed to the Department of Juvenile Justice for placement in a juvenile correctional center for the period of time prescribed pursuant to this section.

Alternatively, in order to determine if a juvenile, transferred from a juvenile and domestic relations district court to a circuit court pursuant to § 16.1-269.1, appropriately qualifies for commitment pursuant to this section, notwithstanding the inapplicability of the qualification criteria set forth in clauses (i) through (iv), the circuit court may consider the commitment criteria set forth in subdivisions 1, 2, and 3 of subsection B as well as other components of the juvenile's life history and, if upon such consideration in the opinion of the court the needs of the juvenile and the interests of the community would clearly best be served by commitment hereunder, may so commit the juvenile.

B. Prior to committing any juvenile pursuant to this section, the court shall consider:

1. The juvenile's age;

2. The seriousness and number of the present offenses, including (i) whether the offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the offense was against persons or property, with greater weight being given to offenses against persons, especially if death or injury resulted; (iii) whether the offense involved the

use of a firearm or other dangerous weapon by brandishing, displaying, threatening with or otherwise employing such weapon; and (iv) the nature of the juvenile's participation in the alleged offense;

3. The record and previous history of the juvenile in this or any other jurisdiction, including (i) the number and nature of previous contacts with courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the offense is part of a repetitive pattern of similar adjudicated offenses; and

4. The Department's estimated length of stay.

Such commitment order must be supported by a determination that the interests of the juvenile and community require that the juvenile be placed under legal restraint or discipline and that the juvenile is not a proper person to receive treatment or rehabilitation through other juvenile programs or facilities.

C. In ordering commitment pursuant to this section, the court shall specify a period of commitment not to exceed seven years or the juvenile's twenty-first birthday, whichever shall occur first. The court may also order a period of determinate or indeterminate parole supervision to follow the commitment but the total period of commitment and parole supervision shall not exceed seven years or the juvenile's twenty-first birthday, whichever occurs first.

D. Upon receipt of a juvenile committed under the provisions of this section, the Department shall evaluate the juvenile for the purpose of considering placement of the juvenile in an appropriate juvenile correctional center for the time prescribed by the committing court. Such a placement decision shall be made based on the availability of treatment programs at the facility; the level of security at the facility; the offense for which the juvenile has been committed; and the welfare, age and gender of the juvenile.

E. The court which commits the juvenile to the Department under this section shall have continuing jurisdiction over the juvenile throughout his commitment. The continuing jurisdiction of the court shall not prevent the Department from removing the juvenile from a juvenile correctional center without prior court approval for the sole purposes of routine or emergency medical treatment, routine educational services, or family emergencies.

F. Any juvenile committed under the provisions of this section shall not be released at a time earlier than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The Department may petition the committing court, *notwithstanding the terms of any plea agreement or commitment order*, for a hearing as provided for in § 16.1-285.2 for an earlier release of the juvenile when good cause exists for an earlier release. In addition, *notwithstanding the terms of any plea agreement or commitment order*, the Department shall petition the committing court for a determination as to the continued commitment of each juvenile sentenced under this section at least sixty days prior to the second anniversary of the juvenile's date of commitment and sixty days prior to each annual anniversary thereafter.

§ 16.1-285.2. Release and review hearing for serious offender.

A. Upon receipt of a petition of the Department of Juvenile Justice for a hearing concerning a juvenile committed under § 16.1-285.1, the court shall schedule a hearing within thirty days and shall appoint counsel for the juvenile pursuant to § 16.1-266. The court shall provide a copy of the petition, the progress report required by this section, and notice of the time and place of the hearing to (i) the juvenile, (ii) the juvenile's parent, legal guardian, or person standing in loco parentis, (iii) the juvenile's guardian ad litem, if any, (iv) the juvenile's legal counsel, and (v) the attorney for the Commonwealth who prosecuted the juvenile during the delinquency proceeding. The attorney for the Commonwealth shall provide notice of the time and place of the hearing by first-class mail to the last known address of any victim of the offense for which the juvenile was committed if such victim has submitted a written request for notification to the attorney for the Commonwealth.

B. The petition shall be filed in the committing court and shall be accompanied by a progress report from the Department. This report shall describe (i) the facility and living arrangement provided for the juvenile by the Department, (ii) the services and treatment programs afforded the juvenile, (iii) the juvenile's progress toward treatment goals and objectives, which shall include a summary of his educational progress, (iv) the juvenile's potential for danger to either himself or the community, and (v) a comprehensive aftercare plan for the juvenile.

B1. The appearance of the juvenile before the court may be by (i) personal appearance before the judge, or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

C. At the hearing the court shall consider the progress report. The court may also consider additional evidence from (i) probation officers, the juvenile correctional center, treatment professionals, and the court service unit; (ii) the juvenile, his legal counsel, parent, guardian or family member; or (iii) other sources the court deems relevant. The hearing and all records relating thereto shall be governed by the confidentiality provisions of Article 12 (§ 16.1-299 et seq.) of this chapter.

D. At the conclusion of the hearing *and notwithstanding the terms of any plea agreement or commitment order*, the court shall order (i) continued commitment of the juvenile to the Department for completion of the original determinate period of commitment or such lesser time as the court may order or (ii) release of the juvenile under such terms and conditions as the court may prescribe. In making a determination under this section, the court shall consider (i) the

experiences and character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile was found to have committed, (iii) the manner in which the offenses were committed, (iv) the protection of the community, (v) the recommendations of the Department, and (vi) any other factors the court deems relevant. The order of the court shall be final and not subject to appeal.

E. In the case of a juvenile convicted as an adult and committed as a serious offender under subdivision A 1 of § 16.1-272, at the conclusion of the review hearing *and notwithstanding the terms of any plea agreement or commitment order*, the circuit court shall order (i) the juvenile to begin serving any adult sentence in whole or in part that may include any remaining part of the original determinate period of commitment, or (ii) the suspension of the unserved portion of the adult sentence in whole or in part based upon the juvenile's successful completion of the commitment as a serious offender, or (iii) the continued commitment of the juvenile to the Department for completion of the original determinate period of commitment or such lesser time as the court may order, or (iv) the release of the juvenile under such terms and conditions as the court may prescribe.

CHAPTER 285

An Act to amend the Code of Virginia by adding a section numbered 9.1-207.2, relating to Department of Fire Programs; prohibition on the use of certain oriented strand board in fire training activities.

[H 2029]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 9.1-207.2 as follows:

§ 9.1-207.2. Prohibition on use of certain oriented strand board.

A. As used in this section:

"Acquired structure" means a building or structure acquired by local government from a property owner for the purpose of conducting live fire training evolutions.

"Class A fuel materials" includes wood, straw, and paper products.

"Fire training activities" includes the utilization of live fire training structures designed for conducting live fire training evolutions on a repetitive basis. "Fire training activities" does not include the utilization of acquired structures for conducting live fire training evolutions.

"Local government" includes any locality, fire district, regional fire protection authority, or other special purpose district that provides firefighting services.

"Oriented strand board" means a multilayered board made from strands of wood, together with a binder, by the application of heat and pressure, with the strands in the external layer primarily oriented along the panel's strength axis in accordance with US Product Standard 2-18, Performance Standard for Wood Structured Panels. For purposes of this section only, "oriented strand board" means a wood structural panel intended as a covering material for roofs, subfloors, and walls when fastened to supports.

B. No person, local government, or agency of the Commonwealth shall burn Class A fuel materials that contain oriented strand board during live fire training activities.

C. No provision of this section shall restrict the manufacture, sale, use, or distribution of Class A fuel materials that contain oriented strand board for purposes outside of fire training activities.

CHAPTER 286

An Act to amend and reenact § 16.1-241 of the Code of Virginia, relating to special immigrant juvenile status; jurisdiction.

[S 1181]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-241 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-241. Jurisdiction; consent for abortion.

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

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

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

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

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

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

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

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

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

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

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

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

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

A1. Making specific findings of fact required by state or federal law to enable a child to apply for or receive a state or federal benefit. *For the purposes of this subsection only, when the court has obtained jurisdiction over the case of any child, the court may continue to exercise its jurisdiction until such person reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile, as defined by 8 U.S.C. § 1101(a)(27)(J).*

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

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

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

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

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

1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R. [Repealed.]

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

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

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

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

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

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

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether

notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (a) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful and (b) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

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

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

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

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

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

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

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

For purposes of this subsection:

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

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

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

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

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

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

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

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

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

Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of services and support for persons who meet the eligibility criteria for the Fostering Futures program set forth in § 63.2-919.

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

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

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

CHAPTER 287

An Act to amend and reenact § 53.1-136 of the Code of Virginia, relating to parole and conditional release; notice and certification.

[S 1397]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-136 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review;
2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;
3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;
- b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;
- c. ~~Notify by certified mail at least 21 business days prior to release on the Department of Corrections of its decision to grant discretionary parole of any or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for medical reasons, where death is imminent, the attorney for the Commonwealth may be notified (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent.~~ Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;
- d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;
4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;
5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;
6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;
7. Publish monthly a statement regarding the action taken by the Board on the parole of prisoners. The statement shall list the name of each prisoner considered for parole and indicate whether parole was granted or denied, as well as the basis for denial of parole as described in subdivision 3 a; and
8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to such inmate.

CHAPTER 288

An Act to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; operation of government stores; sale of low alcohol beverage coolers.

[S 1428]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of ~~alcoholic beverages, other than beer and spirits,~~ wine ~~not~~ produced by farm wineries, low alcohol beverage coolers *produced by licensed distillers*, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same

licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, ~~other than beer and spirits~~, wine ~~not~~ produced by farm wineries, low alcohol beverage coolers *produced by licensed distillers*, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements

established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and spirits, wine not produced by farm wineries, low alcohol beverage coolers *produced by licensed distillers*, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 289

An Act to amend the Code of Virginia by adding a section numbered 18.2-474.2, relating to bribery in correctional facilities; penalty.

[S 1461]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-474.2 as follows:

§ 18.2-474.2. Bribery in correctional facilities; penalty.

A. Any person who receives any pecuniary benefit or other consideration to act in violation of § 18.2-474 or 18.2-474.1 is guilty of bribery, punishable as a Class 4 felony.

B. Any law-enforcement officer as defined in § 9.1-101, jail officer as defined in § 53.1-1, or correctional officer as defined in § 53.1-1 who violates this section shall be decertified in accordance with § 15.2-1707, if applicable, and shall be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 290

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 60.2 a section numbered 60.2-121.1, relating to Virginia Employment Commission; communications with parties; report.

[H 2036]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 60.2 a section numbered 60.2-121.1 as follows:

§ 60.2-121.1. Communications with parties.

In any action commenced under this title, the Commission may, if the party elects, send notices and other communications to such party through email or other electronic means. The Commission shall allow any party to change its election regarding receiving communications through electronic means. If an electronic notice is not successfully transmitted through electronic means, the Commission shall send a new notice by first-class mail to the party's alternative address on record.

2. That the Virginia Employment Commission (Commission) shall report to the Commission on Unemployment Compensation and the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor (i) the number of unemployment insurance claimants who elect to receive their communications by email or other electronic means pursuant to § 60.2-121.1 of the Code of Virginia, as created by this act, and (ii) how such use of electronic communications impacts the Commission's operations no later than December 31, 2022.

CHAPTER 291

An Act to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 26, consisting of sections numbered 22.1-364 through 22.1-368, relating to Virginia STEM Education Advisory Board; established; report.

[H 2058]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 26, consisting of sections numbered 22.1-364 through 22.1-368, as follows:

CHAPTER 26

VIRGINIA SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION ADVISORY BOARD.

§ 22.1-364. The Virginia STEM Education Advisory Board; purpose.

The Virginia Science, Technology, Engineering, and Mathematics (STEM) Education Advisory Board (the Board) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board is to advise the Governor, Cabinet members, and the General Assembly on strategies to align STEM education efforts and report STEM education challenges, goals, and successes across the Commonwealth.

§ 22.1-365. Membership; terms; quorum; meetings.

A. The Board shall have a total membership of 16 members that shall consist of 10 nonlegislative citizen members and six ex officio members. Nonlegislative citizen members to be appointed by the Governor shall represent or have STEM experience with the public and private sector, industry partners, environmental organizations, and both formal and informal STEM educational organizations. The Director of the Science Museum of Virginia, the Superintendent of Public Instruction, and the Director of the State Council of Higher Education for Virginia, or their designees, shall serve ex officio with full voting privileges. The Secretary of Education; the Director of Diversity, Equity, and Inclusion for the Commonwealth; and the Chief Workforce Development Officer for the Commonwealth, or their designees, shall serve ex officio without voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

B. Ex officio members of the Board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

§ 22.1-366. Compensation; expenses.

Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of the Secretary of Education.

§ 22.1-367. Powers and duties of the Board; acceptance of gifts and grants.

A. The Virginia STEM Education Advisory Board shall have the following powers and duties:

1. Create a unified vision regarding STEM education initiatives, language, and measures of success to promote a culture of collaboration for STEM programming in the Commonwealth.

2. Develop the infrastructure for creating STEM Regional Hubs and naming STEM Champions in communities across the Commonwealth to facilitate partnerships between organizations across regions and populations that will lead to increased cross-sector opportunities.

3. Advance and disseminate STEM curricular and professional development resources for formal and informal education.

4. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

B. The Board may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

§ 22.1-368. Staffing; cooperation from other state agencies.

The Virginia STEM Coordinator at the Science Museum of Virginia shall serve as staff to the Board. All agencies of the Commonwealth shall assist the Board upon request.

2. That the initial appointments of nonlegislative citizen members shall be staggered as follows: two members for a term of one year; two members for a term of two years; three members for a term of three years; and three members for a term of four years.

CHAPTER 292

An Act to amend the Code of Virginia by adding a section numbered 22.1-207.4:2, relating to certain school boards; student meals; participation in the Afterschool Meal Program.

[H 2135]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-207.4:2 as follows:

§ 22.1-207.4:2. Participation in the Afterschool Meal Program.

A. As used in this section:

"At-risk afterschool care center" includes locations that offer educational or enrichment activities to children or teenagers, including schools, community centers, and libraries, approved by the Department to operate the Program.

"Program" means the Afterschool Meal Program administered by the U.S. Department of Agriculture Food and Nutrition Service (FNS) Child and Adult Care Food Program (CACFP).

B. Each school board that governs a local school division that contains any public elementary or secondary school that has a student population that qualifies for free and reduced-price meals at a minimum percentage of 50 percent in the prior school year and simultaneously offers educational or enrichment activities and is consequently eligible to participate in the Program shall apply to the Department to participate in the Program for each such school to subsequently and simultaneously serve federally reimbursable meals and offer an afterschool education or enrichment program, pursuant to FNS guidelines and state health and safety standards. The Department shall administer the Program on behalf of the U.S. Department of Agriculture and shall conduct the processes for application to the Program, approval for participation in the Program, and monitoring of schools participating in the Program.

C. Nothing in this section shall be construed to prohibit any school in the local school division from applying to the Department to participate in the Program if that school offers afterschool programs that:

- 1. Provide organized and regularly scheduled afterschool activities for children after school or on the weekends, holidays, or breaks during the regular school year;*
- 2. Include educational or enrichment activities such as arts and crafts, computer lessons, or homework assistance; and*
- 3. Are located in an area that meets eligibility requirements for participation in the Program, pursuant to FNS guidelines.*

D. Nothing in this section shall be construed to prohibit any school in the local school division from partnering with agencies or organizations that participate in the Program, which partnership may include sponsoring at-risk afterschool care centers that operate at the school or at a location outside of the school and that already participate in the Program, to satisfy the requirements set forth in subsection B.

E. Any school may contact the Department for assistance in determining if a school or an afterschool program meets the requirements for eligibility to participate in the Program.

F. The Superintendent of Public Instruction shall issue a waiver to the requirement set forth in subsection B in the sole circumstance that an evaluation of a school or group of schools that is eligible to participate in the Program determines that participation in the program is not financially viable to such school or group of schools. The Department shall develop a process and criteria for considering such waivers, including a process and criteria for conducting such Program evaluations.

2. That the provisions of this act shall become effective on July 1, 2022.

CHAPTER 293

An Act to amend and reenact § 22.1-98 of the Code of Virginia, relating to public schools; severe weather conditions and other emergency situations; unscheduled remote learning days.

[S 1132]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-98 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.

A. For the purposes of this section:

1. "Declared state of emergency" means the declaration of an emergency before or after an event, by the Governor or by officials in a locality, that requires the closure of any or all schools within a school division.

2. "Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including natural and man-made disasters, energy shortages, or power failures.

B. Except as provided in this section:

1. The length of every school's term in every school division shall be at least 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, ~~as defined in this section~~, result in the closing of a school or the schools in a school division *or in an unscheduled remote learning day for a school or the schools in a school division*, the amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if *one of the following schedule methods of make-up days, make-up hours, or unscheduled remote learning days, as appropriate in the circumstances*, is followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five or fewer days, the school or the schools in the school division shall make up all missed days by adding teaching days to the school calendar or extending the length of the school day;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for six days or more, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in excess of the first five by adding teaching days to the school calendar or extending the length of the school day; ~~or~~

3. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days to meet the minimum 990 teaching hour requirement; *or*

4. *When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services that are consistent with guidelines established by the Department of Education to ensure the equitable provision of such services. No school division shall claim more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension.*

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency or severe weather conditions or other emergency situations. If the local school board desires a waiver, it shall submit a request to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of this requirement. If the waiver is denied, the school division shall make up the missed instructional time in accordance with this section.

If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

F. Notwithstanding the provisions of this section, the Board of Education shall waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor pursuant to § 44-146.17 for up to five teaching days. If the local school board desires such a waiver, it shall notify the Board of Education and provide evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted. After receiving such notification, the Board shall grant the waiver and there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

G. If the professional personnel of any such school division actually render service for less than the contracted period for such school year and their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced.

H. In developing the school calendar as provided for in § 22.1-79.1, each local school board shall establish such calendars and teaching contracts in accordance with applicable regulations of the Board of Education to include contingencies for making up teaching days and teaching hours missed for emergency situations described in this section. Historical data shall be used to determine the needs of the locality including scheduled holidays and breaks and work days.

I. The Board of Education may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

J. With the exception of the Basic School Aid Fund as provided for above, the Commonwealth shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

K. As part of the annual report required by § 22.1-81, the division superintendent and local school board chairman shall certify the total number of teaching days and teaching hours each year.

CHAPTER 294

An Act to direct the Board of Education to include advanced directive education in its curriculum framework for the Health Standards of Learning for high school students.

[S 1190]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Board of Education shall include advanced directive education in its curriculum framework for the Health Standards of Learning for high school students.*

CHAPTER 295

An Act to amend and reenact § 15.2-1413 of the Code of Virginia, relating to continuity of government.

[S 1208]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. **That § 15.2-1413 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-1413. Governing bodies of localities may provide for continuity of government in case of enemy attack, etc.

Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster. Such ordinance shall be limited in its effect to a period not exceeding ~~six~~ 12 months after any such attack or disaster and shall provide for a method for the resumption of normal governmental authority by the end of the ~~six-month~~ 12-month period.

CHAPTER 296

An Act to amend and reenact § 54.1-3926 of the Code of Virginia, relating to applicants for Virginia Bar examination; evidence required.

[S 1234]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. **That § 54.1-3926 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-3926. Preliminary proof of education required of applicant.

Before an applicant will be permitted to take any examination under this article, the applicant shall furnish to the Board satisfactory evidence that he has:

1. Completed all degree requirements from a law school approved by the American Bar Association or the Board; ~~or~~
2. Received a bachelor's degree from an accredited baccalaureate institution of higher education and studied law for three years, consisting of not less than 18 hours per week for at least 40 weeks per year in the office of an attorney practicing in ~~this~~ *the* Commonwealth, whose full time is devoted to the practice of law; ~~or~~
3. Studied law for at least three years partly in a law school approved by the American Bar Association or the Board and partly, for not less than 18 hours per week for at least 40 weeks per year, in the office of an attorney practicing in ~~this~~ *the* Commonwealth whose full time is devoted to the practice of law; ~~or~~
4. Received a bachelor's degree from an accredited baccalaureate institution of higher education and studied law for three years, consisting of not less than 18 hours per week for at least 40 weeks per year, with a retired circuit court judge

who served the Commonwealth as a circuit court judge for a minimum of 10 years and who at the time of commencement of the three-year study period was retired for not more than five years; or

5. *Completed all degree requirements from a law school not approved by the American Bar Association, including a foreign law school, obtained an LL.M. from a law school approved by the American Bar Association, and been admitted to practice law before the court of last resort in any state or territory of the United States or the District of Columbia.*

The attorney in whose office or the judge with whom the applicant intends to study shall be approved by the Board, which shall prescribe reasonable conditions as to the course of study.

CHAPTER 297

An Act to amend and reenact § 38.2-200 of the Code of Virginia, relating to State Corporation Commission; issuance or renewal of insurance licenses or registrations during an emergency.

[S 1255]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-200 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-200. General powers of the Commission relative to insurance.

A. The Commission is charged with the execution of all laws relating to insurance and insurers. All companies, domestic, foreign, and alien, transacting or licensed to transact the business of insurance in this Commonwealth are subject to inspection, supervision and regulation by the Commission.

B. All licenses granting the authority to transact the business of insurance in this Commonwealth shall be granted and issued by the Commission under its seal. The licenses shall be in addition to the certificates of authority required of foreign corporations under §§ 13.1-757 and 13.1-919.

C. *During an emergency, public health or otherwise, which the Commission, in its discretion, determines may inhibit the Commission's ability to issue or renew licenses and registrations under this title, or which may hinder licensees' ability to meet licensure requirements, the Commission may temporarily suspend, authorize extensions of time, or waive requirements for issuance or renewal of a license or registration under this title. The Commission may (i) issue temporary licenses and registrations, (ii) suspend examination requirements, or (iii) take other necessary measures to ensure that licensees and registrants under this title can continue to transact the business of insurance in the Commonwealth during the emergency.*

When temporarily suspending, authorizing extensions of time, or waiving requirements for issuance or renewal of a license or registration pursuant to this subsection, the Commission shall issue an order specifying:

1. *The nature and basis of the emergency;*
2. *Each line of insurance business to which the order applies, if applicable;*
3. *The requirements for temporary licensure or registration and other relief, if applicable;*
4. *The requirements for issuance or renewal of licenses or registrations that the Commission is suspending, authorizing extensions of time for, or waiving; and*
5. *The duration of the order; not to exceed 120 days unless renewed by the Commission.*

CHAPTER 298

An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exclusion for proprietary records and trade secrets; carbon sequestration agreements.

[S 1343]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a

public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of

any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

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

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

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

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

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

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

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

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

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

CHAPTER 299

An Act to amend and reenact §§ 51.5-134 and 51.5-135 of the Code of Virginia, relating to aging services; economic and social need.

[H 1805]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-134 and 51.5-135 of the Code of Virginia are amended and reenacted as follows:

§ 51.5-134. Definitions.

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

"Access services" means care coordination; care transitions; communication, referral, information, and assistance; options counseling; transportation; and assisted transportation.

"Aging services" means access services, Care Coordination for Elderly Virginians, caregiver services, client services, disease prevention and health promotion services, in-home services, legal assistance, nutrition services, and elder abuse prevention services that are supported with federal and state funds.

"Caregiver services" means counseling services, including individual counseling, support groups, and caregiver training; respite services, including institutional respite and direct respite services; and supplemental services.

"Client services" means emergency services, employment services pursuant to Title III of the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, health education and screening, long-term care coordinating activities, medication management, money management, public information and education, socialization and recreation, and volunteer programs.

"Economic need" means the need resulting from an income level at or below the poverty line.

"In-home services" means adult day care, checking, chore, homemaker, personal care, and residential repair and renovation services.

"Long-term care" means any service, care, or item, including a disease prevention and health promotion service, an in-home service, and a case management service that is (i) intended to assist individuals in coping with, and to the extent practicable in compensating for, a functional impairment in carrying out activities of daily living; (ii) furnished at home, in a community care setting, or in a long-term care facility; and (iii) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

"Long-term care ombudsman program" means the program established in Article 13 (§ 51.5-182 et seq.).

"Nutrition services" means congregate and home-delivered nutrition services.

"Social need" means the need caused by noneconomic factors, including (i) physical and mental disabilities, which include developmental disabilities and human immunodeficiency virus; (ii) language barriers; and (iii) cultural, social, or geographic isolation, including that which is related to a history of discrimination for factors such as racial or ethnic status, gender identity, gender expression, or sexual orientation that can affect an individual's ability to perform normal daily tasks or threatens such individual's capacity to live independently.

§ 51.5-135. Powers and duties of Department with respect to aging persons; area agencies on aging.

A. The Department shall provide aging services to improve the quality of life for and meet the needs of older persons in the Commonwealth and shall act as a focal point among state agencies for research, policy analysis, long-range planning, and education on aging issues. *In providing aging services, the Department shall use available resources to provide services to older persons with the greatest economic needs and those with the greatest social needs.* The Department shall also serve as the lead agency in coordinating the work of state agencies on meeting the needs of an aging society. The Department's policies and programs shall be designed to enable older persons to be as independent and self-sufficient as possible. The Department shall promote local participation in programs for older persons, evaluate and monitor aging services, and provide information to the general public. In furtherance of this mission, the Department shall have, without limitation, the following duties to:

1. Study the economic, *social*, and physical condition of the residents in the Commonwealth whose age qualifies them for coverage under the Older Americans Act, 42 U.S.C. § 3001 et seq., or any law amendatory or supplemental thereto, and the employment, medical, educational, recreational, and housing facilities available to them, with the view of determining the needs and problems of such persons;

2. Determine the services and facilities, private and governmental and state and local, provided for and available to older persons and recommend to the appropriate persons such coordination of and changes in such services and facilities as will make them of greater benefit to older persons and more responsive to their needs;

3. Act as the designated state unit on aging for the purposes of carrying out the requirements under P.L. 89-73 or any law amendatory or supplemental thereto, and as the sole agency for administering or supervising the administration of such plans as may be adopted in accordance with the provisions of such laws. The Department may prepare, submit, and carry out state plans and shall be the agency primarily responsible for coordinating state programs and activities related to the purposes of, or undertaken under, such plans or laws;

4. Apply, with the approval of the Governor, for and expend such grants, gifts, or bequests from any source that becomes available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith;

5. Hold hearings and conduct investigations necessary to pass upon applications for approval of a project under the plans and laws set out in subdivision 3, and shall make reports to the U.S. Secretary of Health and Human Services as may be required;

6. Designate area agencies on aging pursuant to P.L. 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to adopt regulations for the composition and operation of such area agencies on aging, each of which shall be designated as the lead agency in each respective area for the No Wrong Door system of aging and disability resource centers;

7. Provide staff support to the Commonwealth Council on Aging;

8. Assist state, local, and nonprofit agencies, including, but not limited to, area agencies on aging, in identifying grant and public-private partnership opportunities for improving services to older Virginians;

9. Provide or contract for the administration of the state long-term care ombudsman program. Such program or contract shall provide a minimum staffing ratio of one ombudsman to every 2,000 long-term care beds, subject to sufficient appropriations by the General Assembly. The Department may also contract with such entities for the administration of elder rights programs as authorized under P.L. 89-73, such as insurance counseling and assistance, and the creation of an elder information/elder rights center;

10. Serve as the focal point for the rights of older persons and their families by establishing, maintaining, and publicizing (i) a toll-free number and (ii) a means of electronic access to provide resource and referral information and other assistance and advice as may be requested; and

11. Develop and maintain a four-year plan for aging services in the Commonwealth, pursuant to § 51.5-136.

B. The governing body of any county, city, or town may appropriate funds for support of area agencies on aging designated pursuant to subdivision A 6.

C. All agencies of the Commonwealth shall assist the Department in effectuating its functions in accordance with its designation as the single state agency as required in subdivision A 3.

CHAPTER 300

An Act to amend and reenact §§ 51.5-134 and 51.5-135 of the Code of Virginia, relating to aging services; economic and social need.

[S 1366]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-134 and 51.5-135 of the Code of Virginia are amended and reenacted as follows:

§ 51.5-134. Definitions.

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

"Access services" means care coordination; care transitions; communication, referral, information, and assistance; options counseling; transportation; and assisted transportation.

"Aging services" means access services, Care Coordination for Elderly Virginians, caregiver services, client services, disease prevention and health promotion services, in-home services, legal assistance, nutrition services, and elder abuse prevention services that are supported with federal and state funds.

"Caregiver services" means counseling services, including individual counseling, support groups, and caregiver training; respite services, including institutional respite and direct respite services; and supplemental services.

"Client services" means emergency services, employment services pursuant to Title III of the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, health education and screening, long-term care coordinating activities, medication management, money management, public information and education, socialization and recreation, and volunteer programs.

"Economic need" means the need resulting from an income level at or below the poverty line.

"In-home services" means adult day care, checking, chore, homemaker, personal care, and residential repair and renovation services.

"Long-term care" means any service, care, or item, including a disease prevention and health promotion service, an in-home service, and a case management service that is (i) intended to assist individuals in coping with, and to the extent practicable in compensating for, a functional impairment in carrying out activities of daily living; (ii) furnished at home, in a community care setting, or in a long-term care facility; and (iii) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

"Long-term care ombudsman program" means the program established in Article 13 (§ 51.5-182 et seq.).

"Nutrition services" means congregate and home-delivered nutrition services.

"Social need" means the need caused by noneconomic factors, including (i) physical and mental disabilities, which include developmental disabilities and human immunodeficiency virus; (ii) language barriers; and (iii) cultural, social, or geographic isolation, including that which is related to a history of discrimination for factors such as racial or ethnic status, gender identity, gender expression, or sexual orientation that can affect an individual's ability to perform normal daily tasks or threatens such individual's capacity to live independently.

§ 51.5-135. Powers and duties of Department with respect to aging persons; area agencies on aging.

A. The Department shall provide aging services to improve the quality of life for and meet the needs of older persons in the Commonwealth and shall act as a focal point among state agencies for research, policy analysis, long-range planning, and education on aging issues. *In providing aging services, the Department shall use available resources to provide services to older persons with the greatest economic needs and those with the greatest social needs.* The Department shall also serve as the lead agency in coordinating the work of state agencies on meeting the needs of an aging society. The Department's policies and programs shall be designed to enable older persons to be as independent and self-sufficient as possible. The Department shall promote local participation in programs for older persons, evaluate and monitor aging services, and provide information to the general public. In furtherance of this mission, the Department shall have, without limitation, the following duties to:

1. Study the economic, *social*, and physical condition of the residents in the Commonwealth whose age qualifies them for coverage under the Older Americans Act, 42 U.S.C. § 3001 et seq., or any law amendatory or supplemental thereto, and the employment, medical, educational, recreational, and housing facilities available to them, with the view of determining the needs and problems of such persons;

2. Determine the services and facilities, private and governmental and state and local, provided for and available to older persons and recommend to the appropriate persons such coordination of and changes in such services and facilities as will make them of greater benefit to older persons and more responsive to their needs;

3. Act as the designated state unit on aging for the purposes of carrying out the requirements under P.L. 89-73 or any law amendatory or supplemental thereto, and as the sole agency for administering or supervising the administration of such plans as may be adopted in accordance with the provisions of such laws. The Department may prepare, submit, and carry out state plans and shall be the agency primarily responsible for coordinating state programs and activities related to the purposes of, or undertaken under, such plans or laws;

4. Apply, with the approval of the Governor, for and expend such grants, gifts, or bequests from any source that becomes available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith;

5. Hold hearings and conduct investigations necessary to pass upon applications for approval of a project under the plans and laws set out in subdivision 3, and shall make reports to the U.S. Secretary of Health and Human Services as may be required;

6. Designate area agencies on aging pursuant to P.L. 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to adopt regulations for the composition and operation of such area agencies on aging, each of which shall be designated as the lead agency in each respective area for the No Wrong Door system of aging and disability resource centers;

7. Provide staff support to the Commonwealth Council on Aging;

8. Assist state, local, and nonprofit agencies, including, but not limited to, area agencies on aging, in identifying grant and public-private partnership opportunities for improving services to older Virginians;

9. Provide or contract for the administration of the state long-term care ombudsman program. Such program or contract shall provide a minimum staffing ratio of one ombudsman to every 2,000 long-term care beds, subject to sufficient appropriations by the General Assembly. The Department may also contract with such entities for the administration of elder rights programs as authorized under P.L. 89-73, such as insurance counseling and assistance, and the creation of an elder information/elder rights center;

10. Serve as the focal point for the rights of older persons and their families by establishing, maintaining, and publicizing (i) a toll-free number and (ii) a means of electronic access to provide resource and referral information and other assistance and advice as may be requested; and

11. Develop and maintain a four-year plan for aging services in the Commonwealth, pursuant to § 51.5-136.

B. The governing body of any county, city, or town may appropriate funds for support of area agencies on aging designated pursuant to subdivision A 6.

C. All agencies of the Commonwealth shall assist the Department in effectuating its functions in accordance with its designation as the single state agency as required in subdivision A 3.

CHAPTER 301

An Act to amend and reenact §§ 32.1-325, 38.2-3418.16, and 54.1-3303 of the Code of Virginia, relating to telemedicine.

[H 1987]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325, 38.2-3418.16, and 54.1-3303 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives

pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); ~~and~~

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; *and*

27. *A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic health condition who have had two or more hospitalizations or emergency department visits related to such chronic health condition in the previous 12 months. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload.*

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 38.2-3418.16. Coverage for telemedicine services.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.

B. As used in this section:

"Originating site" means the location where the patient is located at the time services are provided by a health care provider through telemedicine services.

"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting with other health care providers regarding a patient's diagnosis or treatment, regardless of the originating site and whether the patient is accompanied by a health care provider at the time such services are provided. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire. *Nothing in this section shall preclude coverage for a service that is not a telemedicine service, including services delivered through real-time audio-only telephone.*

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact. No insurer, corporation, or health maintenance organization shall require a provider to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services.

F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.

G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2021, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

I. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under federal governmental plans.

J. The coverage required by this section shall include the use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services to the full extent that these services are available.

K. Prescribing of controlled substances via telemedicine shall comply with the requirements of § 54.1-3303 and all applicable federal law.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, ~~provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the~~

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient via telemedicine if such prescribing is in compliance with federal requirements for the practice of telemedicine and, in the case of the prescribing of such a Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine, the prescriber maintains a practice at a physical location in the Commonwealth or is able to make appropriate referral of patients to a licensed practitioner located in the Commonwealth in order to ensure an in-person examination of the patient when required by the standard of care.

~~For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship for the purpose of prescribing Schedule II through VI controlled substances by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis; (h) the establishment of a bona fide practitioner-patient relationship via telemedicine is consistent with the standard of care, and the standard of care does not require an in-person examination for the purpose of diagnosis; and (i) the establishment of a bona fide practitioner patient relationship via telemedicine is consistent with federal law and regulations and any waiver thereof. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.~~

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

2. That the Department of Medical Assistance Services shall adopt regulations for reimbursement for telemedicine services delivered through audio-only telephone, which shall include regulations for (i) services that may be delivered via audio-only telephone, (ii) reimbursement rates for services delivered via audio-only telephone, and (iii) such other regulations as the Department of Medical Assistance Services may deem necessary.

3. That the Department of Medical Assistance Services shall promulgate and adopt uniform regulations for remote patient monitoring for all Medicaid managed care organizations to implement and follow.

CHAPTER 302

An Act to amend and reenact §§ 32.1-325, 38.2-3418.16, and 54.1-3303 of the Code of Virginia, relating to telemedicine.

[S 1338]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325, 38.2-3418.16, and 54.1-3303 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); and

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

27. *A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic health condition who have had two or more hospitalizations or emergency department visits related to such chronic health condition in the previous 12 months. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload.*

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social

services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 38.2-3418.16. Coverage for telemedicine services.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.

B. As used in this section:

"Originating site" means the location where the patient is located at the time services are provided by a health care provider through telemedicine services.

"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting with other health care providers regarding a patient's diagnosis or treatment, regardless of the originating site and whether the patient is accompanied by a health care provider at the time such services are provided. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire. *Nothing in this section shall preclude coverage for a service that is not a telemedicine service, including services delivered through real-time audio-only telephone.*

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact. No insurer, corporation, or health maintenance organization shall require a provider to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services.

F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.

G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2021, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

I. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under federal governmental plans.

J. The coverage required by this section shall include the use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services to the full extent that these services are available.

K. Prescribing of controlled substances via telemedicine shall comply with the requirements of § 54.1-3303 and all applicable federal law.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, ~~provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the~~

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient via telemedicine if such prescribing is in compliance with federal requirements for the practice of telemedicine and, in the case of the prescribing of such a Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine, the prescriber maintains a practice at a physical location in the Commonwealth or is able to make appropriate referral of patients to a licensed practitioner located in the Commonwealth in order to ensure an in-person examination of the patient when required by the standard of care.

~~For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a A prescriber may establish a bona fide practitioner-patient relationship for the purpose of prescribing Schedule II through VI controlled substances by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed~~

in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. ~~Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis; (h) the establishment of a bona fide practitioner-patient relationship via telemedicine is consistent with the standard of care, and the standard of care does not require an in-person examination for the purpose of diagnosis; and (i) the establishment of a bona fide practitioner patient relationship via telemedicine is consistent with federal law and regulations and any waiver thereof.~~ Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the

Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

2. That the Department of Medical Assistance Services shall adopt regulations for reimbursement for telemedicine services delivered through audio-only telephone, which shall include regulations for (i) services that may be delivered via audio-only telephone, (ii) reimbursement rates for services delivered via audio-only telephone, and (iii) such other regulations as the Department of Medical Assistance Services may deem necessary.

3. That the Department of Medical Assistance Services shall promulgate and adopt uniform regulations for remote patient monitoring for all Medicaid managed care organizations to implement and follow.

CHAPTER 303

An Act to amend the Code of Virginia by adding in Chapter 2 of Title 32.1 an article numbered 19, consisting of sections numbered 32.1-73.14 through 32.1-73.17, relating to Rare Disease Council; Rare Disease Council Fund; report.

[H 1995]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 32.1 an article numbered 19, consisting of sections numbered 32.1-73.14 through 32.1-73.17, as follows:

Article 19.

Rare Disease Council.

§ 32.1-73.14. Rare Disease Council; purpose.

There is hereby created in the executive branch of state government the Rare Disease Council (the Council) for the purpose of (i) advising the Governor and the General Assembly on the needs of individuals with rare diseases in the Commonwealth; (ii) identifying challenges that such individuals face, including delays in obtaining a diagnosis or the receipt of a misdiagnosis, shortages of medical specialists who can provide treatment, and lack of access to therapies and medication used to treat rare diseases; (iii) funding research related to rare diseases and the development of new treatments for rare diseases; and (iv) funding for supports for persons with rare diseases in the Commonwealth.

§ 32.1-73.15. Powers and duties of the Council.

The Council shall have the power and duty to:

1. Within the first year, hold public hearings and make inquiries of and solicit comments from the public to assist the Council in understanding the scope of rare diseases in the Commonwealth and the impact of rare diseases on individuals in the Commonwealth.

2. Conduct research and consult with experts to develop policy recommendations related to:

a. Improving access to health care and other services for individuals with rare diseases, including access to health insurance, specialists, health care services, and other necessary services for individuals with rare diseases;

b. The impact of health insurance coverage, cost sharing, tiers, or other utilization management procedures on access to health care and other necessary services; and

c. The impact of providing coverage under the state program for medical assistance services for approved health care services and medications for rare diseases.

3. Publish a list of existing publicly accessible resources on research, diagnosis, treatment, and education relating to rare diseases on the Council's webpage.

4. Submit annually by October 1 a report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The annual report shall (i) describe the activities and recommendations of the Council and (ii) describe the status of funding available to the Council, including information regarding any grants applied for and received by the Council.

5. Apply for, accept, and expend gifts, grants, and donations from public or private sources to enable the Council to better carry out its objectives.

§ 32.1-73.16. Membership; terms; quorum; meetings; staffing.

A. The Council shall have a total membership of 21 members that shall consist of 18 nonlegislative citizen members and three ex officio members. The Governor shall appoint a chairman and vice-chairman who shall be residents of the Commonwealth and shall not be employed by any federal or state government. Nonlegislative citizen members shall be appointed by the Governor and shall include, in addition to the chairman and the vice-chairman, one representative from an academic research institution in the Commonwealth that receives any grant funding for rare disease research; one geneticist licensed and currently practicing in the Commonwealth; one registered nurse or advanced practice registered nurse licensed and currently practicing in the Commonwealth, with experience in treating rare diseases; two physicians with expertise in rare diseases who are licensed and currently practicing medicine in the Commonwealth; one hospital administrator, or his designee, from a hospital in the Commonwealth that provides care to persons diagnosed with rare diseases; two persons who are 18 years of age or older who have been diagnosed with a rare disease; two caregivers of persons with a rare disease; two representatives of rare disease patient organizations operating in the Commonwealth; one licensed pharmacist with experience with drugs used to treat rare diseases; one representative from the biopharmaceutical industry; one representative from health plan companies; and one member from the scientific community who is engaged in rare disease research, which may include a medical researcher with experience conducting research on rare diseases. The Commissioner of Health, the Director of the Department of Medical Assistance Services, and the Superintendent of Public Instruction, or their designees, shall serve ex officio with nonvoting privileges. Ex officio members of the Council shall serve terms coincident with their terms of office.

Nonlegislative citizen members of the Council shall be citizens of the Commonwealth. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of three years.

Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

B. The Council shall meet quarterly and the chairman and vice-chairman shall establish a meeting schedule on an annual basis. A majority of the members shall constitute a quorum.

C. Members of the Council shall serve without compensation or reimbursement.

D. The Department of Health shall provide staff support to the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

§ 32.1-73.17. Rare Disease Council Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Rare Disease Council Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, grants, donations, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of (i) funding research related to rare diseases and the development of new treatments for rare diseases and supports for persons with rare diseases in the Commonwealth and (ii) supporting the work of the Council. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner of Health.

2. That the first meeting of the Rare Disease Council shall occur within 90 days of its effective date, July 1, 2021.

3. That the initial appointments of nonlegislative citizen members of the Rare Disease Council shall be staggered as follows: (i) two persons who are 18 or older who have been diagnosed with a rare disease, two caregivers of persons with a rare disease, and two representatives of rare disease patient organizations operating in the Commonwealth shall be appointed for a term of one year; (ii) one licensed pharmacist, one registered nurse or advanced practice registered nurse licensed and currently practicing medicine in the Commonwealth, and the chairman and vice-chairman appointed by the Governor shall be appointed for a term of two years; (iii) one hospital administrator, or his designee, one representative from the biopharmaceutical industry, and one representative from health plan companies shall be appointed for a term of three years; and (iv) one representative from an academic research institution in the Commonwealth that receives any grant funding for rare disease research, one geneticist licensed and currently practicing in the Commonwealth, two physicians with expertise in rare diseases who are licensed and

currently practicing medicine in the Commonwealth, and one member from the scientific community who is engaged in rare disease research shall be appointed for a term of four years.

CHAPTER 304

An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 32.1 a section numbered 32.1-23.3, by adding a section numbered 38.2-3407.15:6, by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.22, by adding in Article 3 of Chapter 34 of Title 54.1 a section numbered 54.1-3436.1, and by adding in Article 4 of Chapter 34 of Title 54.1 a section numbered 54.1-3442.02, relating to prescription drug price transparency.

[H 2007]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 32.1 a section numbered 32.1-23.3, by adding a section numbered 38.2-3407.15:6, by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.22, by adding in Article 3 of Chapter 34 of Title 54.1 a section numbered 54.1-3436.1, and by adding in Article 4 of Chapter 34 of Title 54.1 a section numbered 54.1-3442.02 as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002

(§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

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

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

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

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

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

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

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

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

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i) (a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

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

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

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

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

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

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

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

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

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. *Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.*

§ 32.1-23.3. Prescription drug price transparency; civil penalty.

A. As used in this section, "nonprofit data services organization" means the nonprofit organization with which the Commissioner has negotiated and entered into a contract or agreement for the compilation, storage, analysis, and evaluation of data submitted by health care providers pursuant to § 32.1-276.4.

B. The Department shall negotiate and enter into a contract or agreement with a nonprofit data services organization to annually collect, compile, and make available on its website publicly available information about prescription drug prices submitted by health carriers and pharmacy benefits managers pursuant to § 38.2-3407.15:6, wholesale distributors pursuant to § 54.1-3436.1, and manufacturers pursuant to § 54.1-3442.02. Such data and information shall be made available in aggregate in a form and manner that does not disclose or tend to disclose proprietary or confidential information of any health carrier, pharmacy benefits manager, wholesale distributor, or manufacturer.

C. A health carrier, pharmacy benefits manager, wholesale distributor, or manufacturer that fails to report information required to be reported pursuant to this section or § 38.2-3407.15:6, 54.1-3436.1, or 54.1-3442.02, respectively, shall be subject to a civil penalty not to exceed \$2,500 per day from the date on which such reporting is required, to be collected by the Commissioner and deposited into the Literary Fund. However, the Commissioner may reduce or waive a civil penalty imposed pursuant to this section if he determines that the violation was reasonable or resulting from good cause.

D. The Department shall adopt regulations to implement the provisions of this section, which shall include (i) provisions related to the specification of prescription drugs for the purpose of data collection and procedures for

auditing information provided by health carriers, pharmacy benefits managers, wholesale distributors, and manufacturers and (ii) a schedule of civil penalties for failure to report information required pursuant to this section or § 38.2-3407.15:6, 54.1-3436.1, or 54.1-3442.02, which shall be based on the level of severity of the violation.

E. All information submitted by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02 shall be confidential and exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except to the extent that such information is included in an aggregated form in the report required pursuant to this section.

§ 38.2-3407.15:6. Prescription drug price transparency.

A. As used in this section:

"Carrier" has the same meaning as set forth in § 38.2-3407.10.

"Health benefit plan" has the same meaning as set forth in § 38.2-3438.

"Manufacturer" has the same meaning as set forth in § 54.1-3401.

"Nonprofit data services organization" has the same meaning as set forth in § 32.1-23.3.

"Pharmacy benefits management" has the same meaning as set forth in § 38.2-3407.15:4.

"Pharmacy benefits manager" has the same meaning as set forth in § 38.2-3407.15:4.

B. Every carrier offering a health benefit plan shall report annually by April 1 to the nonprofit data services organization with which the Department of Health has entered into a contract or agreement pursuant to § 32.1-23.3 the following information on spending on prescription drugs in total, before enrollee cost sharing, for each health benefit plan offered by the carrier in the Commonwealth:

1. For covered outpatient prescription drugs that were prescribed to enrollees during the calendar year, the names of (i) the 25 most frequently prescribed outpatient prescription drugs, (ii) the names of the 25 outpatient prescription drugs covered at the greatest cost, calculated using the total annual spending by such health benefit plan for each outpatient prescription drug covered by the health benefit plan; and (iii) the 25 outpatient prescription drugs that experienced the greatest year-over-year increase in cost, calculated using the total annual spending by such health benefit plan for each outpatient prescription drug covered by the health benefit plan;

2. The percent increase in annual net spending for prescription drugs after accounting for aggregated rebates, discounts, or other reductions in price;

3. The percent increase in premiums that were attributable to each health care service, including prescription drugs;

4. The percentage of specialty drugs with utilization management requirements; and

5. The premium reductions that were attributable to specialty drug utilization management.

C. A report submitted by a carrier pursuant to this section shall not disclose the identity of a specific health benefit plan or the price charged for a specific prescription drug or class of prescription drugs.

D. Every carrier offering a health benefit plan shall require each pharmacy benefits manager with which it enters into a contract for pharmacy benefits management to report annually by April 1 to the nonprofit data services organization with which the Department has entered into a contract or agreement pursuant to § 32.1-23.2 the following information for each drug specified by the Department of Health:

1. The aggregate amount of rebates received by the pharmacy benefits manager;

2. The aggregate amount of rebates distributed to the relevant health benefit plan; and

3. The aggregate amount of rebates passed on to enrollees of each health benefit plan at the point of sale that reduced the enrollees' applicable deductible, copayment, coinsurance, or other cost-sharing amount.

E. A report submitted by a pharmacy benefits manager pursuant to subsection D shall not disclose the identity of a specific health benefit plan or covered person, the price charged for a specific prescription drug or class of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug or class of prescription drugs.

§ 38.2-3407.22. Option for rebates to enrollees; protected information.

A. As used in this section:

"Carrier" has the same meaning as set forth in § 38.2-3407.10; however, "carrier" also includes any person required to be licensed pursuant to this title that offers or operates a managed care health insurance plan subject to the requirements of Chapter 58 (§ 38.2-5800 et seq.) or that provides or arranges for the provision of health care services, health plans, networks, or provider panels that are subject to regulation as the business of insurance. "Carrier" also includes any health insurance issuer that offers health insurance coverage, as defined in § 38.2-3431.

"Enrollee" means any person entitled to health care services from a carrier.

"Health care services" means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

"Health plan" means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident or sickness insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy, contract, or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of persons receiving covered health care services, that is subject to state regulation and that is required to be offered, arranged, or issued in the Commonwealth by a carrier licensed under this title. "Health plan" includes a state or local government employer plan. "Health plan" does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq.

(federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE) or (ii) accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare Supplement, or workers' compensation coverages.

"Pharmacy benefits manager" has the same meaning as set forth in § 38.2-3407.15:4.

"Rebate" means (i) negotiated price concessions, including base price concessions and reasonable estimates of any price protection rebates and performance-based price concessions, that may accrue directly or indirectly to a carrier, health plan, or pharmacy benefits manager during the coverage year from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug and (ii) reasonable estimates of any negotiated price concessions, fees, or other administrative costs that are passed through, or are reasonably anticipated to be passed through, to the carrier, health plan, or pharmacy benefits manager and serve to reduce the liability of a carrier, health plan, or pharmacy benefits manager for a prescription drug.

B. When contracting with a carrier or health plan to administer pharmacy benefits, a pharmacy benefits manager shall offer the carrier or health plan the option of extending point-of-sale rebates to enrollees of the plan.

C. The provisions of this section shall only apply to a carrier, health plan, or pharmacy benefits manager to the extent permissible under applicable law.

D. In complying with the provisions of this section, a carrier, health plan, pharmacy benefits manager, or its respective agents shall not publish or otherwise reveal information regarding the actual amount of rebates a carrier, health plan, or pharmacy benefits manager receives on a product-specific, manufacturer-specific, or pharmacy-specific basis. Such information shall be protected as a trade secret and shall not be public record or disclosed, directly or indirectly. A carrier, health plan, or pharmacy benefits manager shall require any vendor or third party with which the carrier, health plan, or pharmacy benefits manager contracts for health care or administrative services on behalf of the carrier, health plan, or pharmacy benefits manager that may receive or have access to rebate information to comply with the provisions of this subsection related to protection of information regarding the amount of rebates a carrier, health plan, or pharmacy benefits manager receives on a product-specific, manufacturer-specific, or pharmacy-specific basis.

E. The Commission may, pursuant to the provisions of § 38.2-223, adopt such rules and regulations as may be necessary to implement and enforce the provisions of this section.

§ 54.1-3436.1. Prescription drug price transparency.

A. As used in this section:

"Brand-name drug" means a prescription drug approved under 21 U.S.C. § 355(b) or 42 U.S.C. § 262.

"Generic drug" means a prescription drug approved under 21 U.S.C. § 355(j).

"Nonprofit data services organization" has the same meaning as set forth in § 32.1-23.3.

"Pharmacy benefits manager" has the same meaning as set forth in § 38.2-3407.15:4.

"Wholesale acquisition cost" has the same meaning as set forth in 42 U.S.C. § 1395w-3a(c)(6)(B).

B. To ensure data that is useful, relevant, and not duplicative, the Department of Health may request wholesale distributors to report to the nonprofit organization with which the Department of Health has entered into a contract or agreement pursuant to § 32.1-23.3 the following information on the 25 costliest drugs in the Commonwealth upon a determination by the Department of Health that data received from health carriers, pharmacy benefits managers, and manufacturers is insufficient:

1. The wholesale acquisition cost that the wholesale distributor has negotiated directly with the manufacturer in the last calendar year; related to the 25 costliest drugs dispensed in the Commonwealth;

2. The wholesale acquisition cost that the wholesale distributor has negotiated directly with the manufacturer in the current calendar year for the 25 costliest drugs dispensed in the Commonwealth;

3. Aggregate total rebates, discounts, and price concessions negotiated directly with the manufacturer for the 25 costliest drugs dispensed in the Commonwealth in the last calendar year, for business in the Commonwealth, in total; and

4. Aggregate total discounts, dispensing fees, and other fees negotiated in the last calendar year with pharmacies, for the 25 costliest drugs dispensed in the Commonwealth, in total.

C. A report submitted by a wholesale distributor pursuant to subsection B shall not disclose the identity of a specific wholesale distributor, the price charged for a specific prescription drug or class of prescription drugs, or the amount of any price concession, rebate, or fee provided for a specific prescription drug or class of prescription drugs.

§ 54.1-3442.02. Prescription drug price transparency.

A. As used in this section:

"Biosimilar" means a drug that is produced or distributed pursuant to a biologics license application approved under 42 U.S.C. § 262(k)(3).

"Brand-name drug" means a prescription drug approved under 21 U.S.C. § 355(b) or 42 U.S.C. § 262.

"Generic drug" means a prescription drug approved under 21 U.S.C. § 355(j) or 42 U.S.C. 262(k).

"New prescription drug" means a drug or biological product receiving initial approval under an original new drug application pursuant to 21 U.S.C. § 355(b) or under a biologics license application under 42 U.S.C. § 262.

"Nonprofit data services organization" has the same meaning as set forth in § 32.1-23.3.

"Pharmacy benefits manager" has the same meaning as set forth in § 38.2-3407.15:4.

"Wholesale acquisition cost" has the same meaning as set forth in 42 U.S.C. § 1395w-3a(c)(6)(B).

B. Every manufacturer shall report annually by April 1 to the nonprofit organization with which the Department of Health has entered into a contract or agreement pursuant to § 32.1-23.3, for each (i) brand-name drug and biologic other

than a biosimilar with a wholesale acquisition cost of \$100 or more for a 30-day supply or a single course of treatment and any increase of 15 percent or more in the wholesale acquisition cost of such brand-name drug or biologic over the preceding calendar year; (ii) biosimilar with an initial wholesale acquisition cost that is not at least 15 percent less than the wholesale acquisition cost of the referenced brand biologic at the time the biosimilar is launched; and (iii) generic drug with a price increase that results in an increase in the wholesale acquisition cost of such generic drug that is equal to 200 percent or more during the preceding 12-month period, when the wholesale acquisition cost of such generic drug is equal to or greater than \$100, annually adjusted by the Consumer Price Index for All Urban Consumers, for a 30-day supply, with such increase defined as the difference between the wholesale acquisition cost of the generic drug after such increase and the average wholesale acquisition cost of such generic drug during the previous 12 months, the following information:

1. The name of the prescription drug;
 2. Whether the drug is a brand name or generic;
 3. The effective date of the change in wholesale acquisition cost;
 4. Aggregate, company-level research and development costs for the most recent year for which final audit data is available;
 5. The name of each of the manufacturer's new prescription drugs approved by the U.S. Food and Drug Administration within the previous three calendar years;
 6. The name of each of the manufacturer's prescription drugs that, within the previous three calendar years, became subject to generic competition and for which there is a therapeutically equivalent generic version; and
 7. A concise statement regarding the factor or factors that caused the increase in wholesale acquisition cost.
- C. A manufacturer's obligations pursuant to this section shall be fully satisfied by the submission to the nonprofit data services organization with which the Department of Health has entered into a contract pursuant to § 32.1-23.3 of information and data that a manufacturer includes in the manufacturer's annual consolidation report on Securities and Exchange Commission Form 10-K or any other public disclosure.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2022.

3. That the Department of Health shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 305

An Act to amend and reenact §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, relating to local departments of social services; investigations and family assessments; disclosure of child's location.

[H 2191]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1505 and 63.2-1506 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1505. Investigations by local departments.

- A. An investigation requires the collection of information necessary to determine:
1. The immediate safety needs of the child;
 2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
 3. Risk of future harm to the child;
 4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
 5. Whether abuse or neglect has occurred;
 6. If abuse or neglect has occurred, who abused or neglected the child; and
 7. A finding of either founded or unfounded based on the facts collected during the investigation.
- B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:
1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
 2. Complete a report and enter it into the statewide automation system maintained by the Department;
 3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;
 4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;
 5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If

through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; ~~and~~

7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay; *and*

8. *Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the investigation has not been completed and a report has not been transmitted pursuant to subdivision 5; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.*

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and shall obtain and consider results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board shall determine whether the individual has resided in another state within at least the preceding five years and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

E. Any individual who is the subject of a child abuse or neglect investigation conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.

§ 63.2-1506. Family assessments by local departments.

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;

4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and

5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment;

3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

4. Complete the family assessment within 60 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment;

5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

6. Petition the court for services deemed necessary;

7. Make no disposition of founded or unfounded reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and

8. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required; and

9. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the family assessment has not been completed and a report has not been transmitted pursuant to subdivision 4; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.

D. Any individual who is the subject of a family assessment conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.

CHAPTER 306

An Act to amend and reenact § 2.2-212 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-507.3, by adding in Chapter 22 of Title 2.2 an article numbered 12, consisting of sections numbered

2.2-2365 through 2.2-2376, and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.40, relating to establishing an Opioid Abatement Authority.

[H 2322]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-212 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-507.3, by adding in Chapter 22 of Title 2.2 an article numbered 12, consisting of sections numbered 2.2-2365 through 2.2-2376, and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.40 as follows:

§ 2.2-212. Position established; agencies for which responsible; additional powers.

A. The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, Department for the Blind and Vision Impaired, Department of Health Professions, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of Social Services, Department of Medical Assistance Services, Virginia Department for the Deaf and Hard-of-Hearing, the Office of Children's Services, and the Assistive Technology Loan Fund Authority, and the Opioid Abatement Authority. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

B. As requested by the Secretary and to the extent authorized by federal law, the agencies of the Secretariat shall share data, records, and information about applicants for and recipients of services from the agencies of the Secretariat, including individually identifiable health information for the purposes of (i) streamlining administrative processes and reducing administrative burdens on the agencies, (ii) reducing paperwork and administrative burdens on the applicants and recipients, and (iii) improving access to and quality of services provided by the agencies.

C. Unless the Governor expressly reserves such power to himself, the Secretary shall (i) serve as the lead Secretary for the coordination and implementation of the long-term care policies of the Commonwealth and for the blueprint for livable communities 2025 throughout the Commonwealth, working with the Secretaries of Transportation, Commerce and Trade, and Education, and the Commissioner of Insurance, to facilitate interagency service development and implementation, communication, and cooperation; (ii) serve as the lead Secretary for the Children's Services Act, working with the Secretary of Education and the Secretary of Public Safety and Homeland Security to facilitate interagency service development and implementation, communication, and cooperation; and (iii) coordinate the disease prevention activities of agencies in the Secretariat to ensure efficient, effective delivery of health related services and financing.

§ 2.2-507.3. Cooperation with the Opioid Abatement Authority.

A. As deemed necessary to comply with or effectuate the terms of a settlement, judgment, verdict, or other court order relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids and in accordance with an agreement between the Attorney General and participating localities, as defined in § 2.2-2365, the Attorney General shall designate funds from such settlements, judgments, verdicts, or other court orders for deposit in the Opioid Abatement Fund (the Fund) established pursuant to § 2.2-2374. The Attorney General shall cooperate with and assist the Opioid Abatement Authority in its administration of the Fund.

B. If the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, include a local apportionment formula dividing any part of a settlement, judgment, or verdict among participating localities, or if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, as defined in § 2.2-2365, authorize participating localities to agree upon a local apportionment formula dividing any part of a settlement, judgment, or verdict, any such locality may submit the agreed-upon local apportionment formula to the Attorney General.

Article 12.

Opioid Abatement Authority.

§ 2.2-2365. Definitions.

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

"Authority" means the Opioid Abatement Authority.

"Board" means the board of directors of the Authority.

"Community services board region" means a region as determined by the Department of Behavioral Health and Developmental Services for purposes of administering Chapter 5 (§ 37.2-500 et seq.) of Title 37.2.

"Fund" means the Opioid Abatement Fund.

"Historically economically disadvantaged community" means the same as such term is defined in § 56-576.

"Local apportionment formula" means any formula submitted to the Attorney General by participating localities pursuant to the provisions of subsection B of § 2.2-507.3.

"Participating locality" means any county or independent city that agrees to be bound by the terms of a settlement agreement entered into by the Attorney General relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and that releases its own such claims.

"Regional effort" means any effort involving a partnership of at least two participating localities within a community services board region.

§ 2.2-2366. Opioid Abatement Authority established.

The Opioid Abatement Authority is established as an independent body. The purpose of the Authority is to abate and remediate the opioid epidemic in the Commonwealth through financial support from the Fund, in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 2.2-2367. Board of directors; members.

A. The Authority shall be governed by a board of directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a participating locality, to be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority serving an urban or suburban region containing participating localities and one representative of a community services board or behavioral health authority serving a rural region containing participating localities, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a participating locality, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing county or city attorney of a participating locality, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

The member appointed pursuant to clause (i) shall serve *ex officio*, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor. If the term of the office to which a member appointed pursuant to clause (iii) or (v) was elected expires prior to the expiration of his term as a member of the board, the Governor may authorize such member to complete the remainder of his term as a member or may appoint a new member who satisfies the criteria of clause (iii) or (v), as applicable, to complete the remainder of the term.

B. 1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

2. *Ex officio* members shall serve terms coincident with their terms of office.

C. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board.

D. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.

E. The Board shall meet annually or more frequently at the call of the chairman.

§ 2.2-2368. Duties of the Authority.

The Authority shall:

1. Establish specific criteria and procedures for awards from the Fund;
2. Establish requirements for the submission of funding requests;
3. Evaluate funding requests in accordance with the criteria established by the Authority and the provisions of this article;
4. Make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of mandatory minimum percentages of funds to be awarded from the Commonwealth to each participating locality;
5. Evaluate the implementation and results of all efforts receiving support from the Authority; and
6. Administer the Fund in accordance with the provisions of this article.

§ 2.2-2369. Powers of the Authority.

In order to carry out its purposes, the Authority may:

1. Make grants and disbursements from the Fund that support efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids or otherwise abate or remediate the opioid epidemic;
2. Pay expenditures from the Fund that are necessary to carry out the purposes of this article;
3. Contract for the services of consultants to assist in the evaluation of the efforts funded by the Authority;
4. Contract for other professional services to assist the Authority in the performance of its duties and responsibilities;
5. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other assistance from federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of this article;
6. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the Authority or otherwise in furtherance of the purposes of this article;
7. Perform any lawful acts necessary or appropriate to carry out the purposes of the Authority; and
8. Employ such staff as is necessary to perform the Authority's duties. The Authority may determine the duties of such staff and fix the salaries and compensation of such staff, which shall be paid from the Fund. Staff of the Authority shall be

treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. Staff of the Authority shall not be subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

§ 2.2-2370. Conditions and restrictions on financial assistance.

A. The Authority shall provide financial support only for efforts that satisfy the following conditions:

1. The efforts shall be designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:

a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;

e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;

f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;

g. Support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;

h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;

i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and

j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services;

2. The efforts shall be conducted or managed by any agency of the Commonwealth or participating locality;

3. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;

4. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and

5. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.

B. The Authority shall give priority to applications for financial support for efforts that:

1. Collaborate with an existing program or organization that has an established record of success treating, preventing, or reducing opioid use disorder or the misuse of opioids;

2. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate, relative to population;

3. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community; or

4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.

§ 2.2-2371. Cooperation with other agencies.

All agencies of the Commonwealth shall cooperate with the Authority and, upon request, assist the Authority in the performance of its duties and responsibilities.

§ 2.2-2372. Form and audit of accounts and records.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B. The accounts and records of the Authority are subject to an annual audit by the Auditor of Public Accounts or his legal representative.

§ 2.2-2373. Annual report.

The Authority shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The executive summary shall include information regarding efforts supported by the Authority and expenditures from the Fund.

§ 2.2-2374. Opioid Abatement Fund.

A. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund, referred to in this section as "the Fund," to be administered by the Authority. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be authorized by majority vote of the Board.

B. Moneys in the Fund shall be used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes determined by the Authority in accordance with this article and in consultation with the Office of the Attorney General. The Authority shall develop guidelines, procedures, and criteria for the application for and award of grants or loans in consultation with the Office of the Attorney General. Such guidelines, procedures, and criteria shall comply with the terms of any applicable settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities.

C. The Authority shall fund all staffing and administrative costs from the Fund. Its expenditures for staffing and administration shall be limited to those that are reasonable for carrying out the purposes of this article.

D. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:

1. Fifteen percent shall be restricted for use by state agencies;

2. Fifteen percent shall be restricted for use by participating localities, provided that if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, require this portion to be distributed according to a local apportionment formula, this portion shall be distributed in accordance with such formula;

3. Thirty-five percent shall be restricted for use for regional efforts; and

4. Thirty-five percent shall be unrestricted. Unrestricted funds may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by participating localities, or for regional efforts in addition to the amounts set forth in subdivisions 1, 2, and 3, provided that the Authority shall ensure that such funds are used to accomplish the purposes of this article or invested under subsection F.

E. In distributing money from the Fund under subsection D, the Authority shall balance immediate and anticipated needs with projected receipts of funds to best accomplish the purposes for which the Authority is established.

F. The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.40. The State Treasurer is not liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

§ 2.2-2375. Exemption from taxes or assessments.

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

§ 2.2-2376. Exemption of Authority from personnel and procurement procedures.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

§ 51.1-124.40. Investment of assets of the Opioid Abatement Fund.

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage any assets of the Opioid Abatement Fund (the Fund) designated by the Opioid Abatement Authority for investment, reinvestment, or management by the Board. The Board shall maintain a separate accounting for the assets of the Fund. The Opioid Abatement Authority shall request a distribution of funds from the Board no more frequently than annually, and the Opioid Abatement Authority shall designate funds for investment by the Board no more frequently than annually.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32 through 51.1-124.35 shall apply to the Board's activities with respect to funds in the Fund.

E. The Board may assess the Opioid Abatement Authority a reasonable administrative fee for its services.

2. That the initial appointments of nonlegislative citizen members to the board of directors of the Opioid Abatement Authority shall be staggered as follows: (i) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of one year, (ii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of two years, (iii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of three years, and (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of four years. For purposes of this enactment, "nonlegislative citizen member" means any member identified in clauses (iii) through (viii) of § 2.2-2367 of the Code of Virginia, as created by this act. Any nonlegislative citizen member appointed to an initial term of less than four years shall be eligible to serve two additional full four-year terms.

CHAPTER 307

An Act to amend and reenact § 2.2-212 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-507.3, by adding in Chapter 22 of Title 2.2 an article numbered 12, consisting of sections numbered 2.2-2365 through 2.2-2376, and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.40, relating to establishing an Opioid Abatement Authority.

[S 1469]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-212 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-507.3, by adding in Chapter 22 of Title 2.2 an article numbered 12, consisting of sections numbered 2.2-2365 through 2.2-2376, and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.40 as follows:

§ 2.2-212. Position established; agencies for which responsible; additional powers.

A. The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, Department for the Blind and Vision Impaired, Department of Health Professions, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of Social Services, Department of Medical Assistance Services, Virginia Department for the Deaf and Hard-of-Hearing, the Office of Children's Services, and the Assistive Technology Loan Fund Authority, and the Opioid Abatement Authority. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

B. As requested by the Secretary and to the extent authorized by federal law, the agencies of the Secretariat shall share data, records, and information about applicants for and recipients of services from the agencies of the Secretariat, including individually identifiable health information for the purposes of (i) streamlining administrative processes and reducing administrative burdens on the agencies, (ii) reducing paperwork and administrative burdens on the applicants and recipients, and (iii) improving access to and quality of services provided by the agencies.

C. Unless the Governor expressly reserves such power to himself, the Secretary shall (i) serve as the lead Secretary for the coordination and implementation of the long-term care policies of the Commonwealth and for the blueprint for livable communities 2025 throughout the Commonwealth, working with the Secretaries of Transportation, Commerce and Trade, and Education, and the Commissioner of Insurance, to facilitate interagency service development and implementation, communication, and cooperation; (ii) serve as the lead Secretary for the Children's Services Act, working with the Secretary of Education and the Secretary of Public Safety and Homeland Security to facilitate interagency service development and implementation, communication, and cooperation; and (iii) coordinate the disease prevention activities of agencies in the Secretariat to ensure efficient, effective delivery of health related services and financing.

§ 2.2-507.3. Cooperation with the Opioid Abatement Authority.

A. As deemed necessary to comply with or effectuate the terms of a settlement, judgment, verdict, or other court order relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids and in accordance with an agreement between the Attorney General and participating localities, as defined in § 2.2-2365, the Attorney General shall designate funds from such settlements, judgments, verdicts, or other court orders for deposit in the Opioid Abatement Fund (the Fund) established pursuant to § 2.2-2374. The Attorney General shall cooperate with and assist the Opioid Abatement Authority in its administration of the Fund.

B. If the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, include a local apportionment formula dividing any part of a settlement, judgment, or verdict among participating localities, or if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, as defined in § 2.2-2365,

authorize participating localities to agree upon a local apportionment formula dividing any part of a settlement, judgment, or verdict, any such locality may submit the agreed-upon local apportionment formula to the Attorney General.

Article 12.

Opioid Abatement Authority.

§ 2.2-2365. Definitions.

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

"Authority" means the Opioid Abatement Authority.

"Board" means the board of directors of the Authority.

"Community services board region" means a region as determined by the Department of Behavioral Health and Developmental Services for purposes of administering Chapter 5 (§ 37.2-500 et seq.) of Title 37.2.

"Fund" means the Opioid Abatement Fund.

"Historically economically disadvantaged community" means the same as such term is defined in § 56-576.

"Local apportionment formula" means any formula submitted to the Attorney General by participating localities pursuant to the provisions of subsection B of § 2.2-507.3.

"Participating locality" means any county or independent city that agrees to be bound by the terms of a settlement agreement entered into by the Attorney General relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and that releases its own such claims.

"Regional effort" means any effort involving a partnership of at least two participating localities within a community services board region.

§ 2.2-2366. Opioid Abatement Authority established.

The Opioid Abatement Authority is established as an independent body. The purpose of the Authority is to abate and remediate the opioid epidemic in the Commonwealth through financial support from the Fund, in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 2.2-2367. Board of directors; members.

A. The Authority shall be governed by a board of directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a participating locality, to be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority serving an urban or suburban region containing participating localities and one representative of a community services board or behavioral health authority serving a rural region containing participating localities, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a participating locality, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing county or city attorney of a participating locality, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

The member appointed pursuant to clause (i) shall serve *ex officio*, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor. If the term of the office to which a member appointed pursuant to clause (iii) or (v) was elected expires prior to the expiration of his term as a member of the board, the Governor may authorize such member to complete the remainder of his term as a member or may appoint a new member who satisfies the criteria of clause (iii) or (v), as applicable, to complete the remainder of the term.

B. 1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

2. *Ex officio* members shall serve terms coincident with their terms of office.

C. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board.

D. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.

E. The Board shall meet annually or more frequently at the call of the chairman.

§ 2.2-2368. Duties of the Authority.

The Authority shall:

1. Establish specific criteria and procedures for awards from the Fund;
2. Establish requirements for the submission of funding requests;
3. Evaluate funding requests in accordance with the criteria established by the Authority and the provisions of this article;

4. Make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of mandatory minimum percentages of funds to be awarded from the Commonwealth to each participating locality;

5. Evaluate the implementation and results of all efforts receiving support from the Authority; and

6. Administer the Fund in accordance with the provisions of this article.

§ 2.2-2369. Powers of the Authority.

In order to carry out its purposes, the Authority may:

1. Make grants and disbursements from the Fund that support efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids or otherwise abate or remediate the opioid epidemic;

2. Pay expenditures from the Fund that are necessary to carry out the purposes of this article;

3. Contract for the services of consultants to assist in the evaluation of the efforts funded by the Authority;

4. Contract for other professional services to assist the Authority in the performance of its duties and responsibilities;

5. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other assistance from federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of this article;

6. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the Authority or otherwise in furtherance of the purposes of this article;

7. Perform any lawful acts necessary or appropriate to carry out the purposes of the Authority; and

8. Employ such staff as is necessary to perform the Authority's duties. The Authority may determine the duties of such staff and fix the salaries and compensation of such staff, which shall be paid from the Fund. Staff of the Authority shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. Staff of the Authority shall not be subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

§ 2.2-2370. Conditions and restrictions on financial assistance.

A. The Authority shall provide financial support only for efforts that satisfy the following conditions:

1. The efforts shall be designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:

a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;

e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;

f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;

g. Support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;

h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;

i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and

j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services;

2. The efforts shall be conducted or managed by any agency of the Commonwealth or participating locality;

3. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;

4. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and

5. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.

B. The Authority shall give priority to applications for financial support for efforts that:

1. Collaborate with an existing program or organization that has an established record of success treating, preventing, or reducing opioid use disorder or the misuse of opioids;

2. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate, relative to population;

3. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community; or

4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.

§ 2.2-2371. Cooperation with other agencies.

All agencies of the Commonwealth shall cooperate with the Authority and, upon request, assist the Authority in the performance of its duties and responsibilities.

§ 2.2-2372. Form and audit of accounts and records.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B. The accounts and records of the Authority are subject to an annual audit by the Auditor of Public Accounts or his legal representative.

§ 2.2-2373. Annual report.

The Authority shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The executive summary shall include information regarding efforts supported by the Authority and expenditures from the Fund.

§ 2.2-2374. Opioid Abatement Fund.

A. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund, referred to in this section as "the Fund," to be administered by the Authority. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be authorized by majority vote of the Board.

B. Moneys in the Fund shall be used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes determined by the Authority in accordance with this article and in consultation with the Office of the Attorney General. The Authority shall develop guidelines, procedures, and criteria for the application for and award of grants or loans in consultation with the Office of the Attorney General. Such guidelines, procedures, and criteria shall comply with the terms of any applicable settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities.

C. The Authority shall fund all staffing and administrative costs from the Fund. Its expenditures for staffing and administration shall be limited to those that are reasonable for carrying out the purposes of this article.

D. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:

1. Fifteen percent shall be restricted for use by state agencies;

2. Fifteen percent shall be restricted for use by participating localities, provided that if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, require this portion to be distributed according to a local apportionment formula, this portion shall be distributed in accordance with such formula;

3. Thirty-five percent shall be restricted for use for regional efforts; and

4. Thirty-five percent shall be unrestricted. Unrestricted funds may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by participating localities, or for regional efforts in addition to the amounts set forth in subdivisions 1, 2, and 3, provided that the Authority shall ensure that such funds are used to accomplish the purposes of this article or invested under subsection F.

E. In distributing money from the Fund under subsection D, the Authority shall balance immediate and anticipated needs with projected receipts of funds to best accomplish the purposes for which the Authority is established.

F. The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.40. The State Treasurer is not liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

§ 2.2-2375. Exemption from taxes or assessments.

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal

property used in the operations of the Authority, and shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

§ 2.2-2376. Exemption of Authority from personnel and procurement procedures.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

§ 51.1-124.40. Investment of assets of the Opioid Abatement Fund.

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage any assets of the Opioid Abatement Fund (the Fund) designated by the Opioid Abatement Authority for investment, reinvestment, or management by the Board. The Board shall maintain a separate accounting for the assets of the Fund. The Opioid Abatement Authority shall request a distribution of funds from the Board no more frequently than annually, and the Opioid Abatement Authority shall designate funds for investment by the Board no more frequently than annually.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32 through 51.1-124.35 shall apply to the Board's activities with respect to funds in the Fund.

E. The Board may assess the Opioid Abatement Authority a reasonable administrative fee for its services.

2. That the initial appointments of nonlegislative citizen members to the board of directors of the Opioid Abatement Authority shall be staggered as follows: (i) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of one year, (ii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of two years, (iii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of three years, and (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of four years. For purposes of this enactment, "nonlegislative citizen member" means any member identified in clauses (iii) through (viii) of § 2.2-2367 of the Code of Virginia, as created by this act. Any nonlegislative citizen member appointed to an initial term of less than four years shall be eligible to serve two additional full four-year terms.

CHAPTER 308

An Act to amend and reenact §§ 56-576 and 56-585.6 of the Code of Virginia, relating to electric utilities; Percentage of Income Payment Program.

[H 2330]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-576 and 56-585.6 of the Code of Virginia are amended and reenacted as follows:

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

(Expires December 31, 2023) "Business park" means a land development containing a minimum of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is developed and constructed by an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in order to promote business

development and that is located in an area of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Community in which a majority of the population are people of color" means a U.S. Census tract where more than 50 percent of the population comprises individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but does not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Curtailment" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid security, customer service, or energy efficiency and conservation, including advanced metering infrastructure; intelligent grid devices for real time system and asset information; automated control systems for electric distribution circuits and substations; communications networks for service meters; intelligent grid devices and other distribution equipment; distribution system hardening projects for circuits, other than the conversion of overhead tap lines to underground service, and substations designed to reduce service outages or service restoration times; physical security measures at key distribution substations; cyber security measures; energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED street light conversions; and new customer information platforms designed to provide improved customer access, greater service options, and expanded access to energy usage information.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Historically economically disadvantaged community" means (i) a community in which a majority of the population are people of color or (ii) a low-income geographic area.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

"Low-income geographic area" means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Low-income utility customer" means any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"New underground facilities" means facilities to provide underground distribution service. "New underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted devices, connections at customer meters, and transition terminations from existing overhead distribution sources.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household participating in any of the following public assistance programs: the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Special Supplemental Nutrition Program for Women, Infants and Children, Virginia Low Income Home Energy Assistance Program, federal Low Income Home Energy Assistance Program, state plan for medical assistance, Medicaid, Housing Choice Voucher Program, or Family Access to Medical Insurance Security Plan whose income does not exceed 150 percent of the federal poverty level.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, non-agricultural, or non-silvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Mines, Minerals and Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an industrial or commercial process.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. "Renewable

energy" also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility.

"Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

"Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

"Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

"Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

"Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed in that program year, as well as savings still being achieved by measures and programs implemented in prior years, or (ii) savings attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

"Waste heat to power" means a system that generates electricity through the recovery of a qualified waste heat resource.

§ 56-585.6. Universal service fee; Percentage of Income Payment Program and Fund.

A. The Commission shall, after notice and opportunity for hearing, initiate a proceeding to establish the rates, terms, and conditions of a non-bypassable universal service fee to fund the Percentage of Income Payment Program (PIPP). Such universal service fee shall be allocated to retail electric customers of a Phase I and Phase II Utility on the basis of the amount of kilowatt-hours used and be established at such level to adequately address the PIPP's objectives to (i) reduce the energy burden of eligible participants by limiting electric bill payments directly to no more than six percent of the eligible participant's annual household income if the household's heating source is anything other than electricity, and to no more than 10 percent of an eligible participant's annual household income on electricity costs if the household's *primary* heating source is electricity, ~~and~~; (ii) reduce the amount of electricity used by the eligible participant's household through participation in weatherization or energy efficiency programs and energy conservation education programs; *and (iii) reduce the amount of energy, regardless of primary heating source, used by the eligible participant's household through participation in weatherization or energy efficiency programs and energy conservation education programs. The annual total cost of any programs implemented pursuant to clauses (i), (ii), and (iii) shall not exceed costs, including administrative costs, in the aggregate of (a) \$25 million for any Phase I Utility or (b) \$100 million for any Phase II Utility in any rate year in which such program costs are incurred.*

B. The Commission shall determine the reasonable administrative costs for the investor-owned utility to collect the universal service fee and remit such funds to the Percentage of Income Payment Fund *established in subsection E*, and any

other administrative costs the investor-owned utility may incur in complying with the PIPP, and shall determine the proper recovery mechanism for such costs. A Phase I and Phase II Utility shall not be eligible to earn a rate of return on any equity or costs incurred to comply with the program requirements or implementation. *The Commission shall initiate proceedings to provide for an annual true-up of the universal service fee within 60 days of the commencement of the PIPP and on an annual or semiannual basis thereafter. As part of any annual true-up case, each Phase I and Phase II Utility shall report to the Commission any data or forecasting required by the Commission regarding the participation by PIPP participants in utility energy reduction programs.*

C. The Department of Social Services (the Department), in consultation with, as it deems necessary, the Department of Housing and Community Development, shall adopt rules or establish guidelines for the adoption, implementation, and general administration of the PIPP and the Percentage of Income Payment Fund established in subsection E, consistent with this section. Such rules or guidelines shall include exemptions for terms of program participation or energy use reduction as the Department deems appropriate. The PIPP shall commence no later than one year after the Department publishes such rules or guidelines. Each Phase I and Phase II Utility shall cooperate with the requests of the Department in the implementation and administration of the PIPP. The Commission shall promulgate any rules necessary to ensure that (i) funds collected from each utility's universal service fee are directed to the Percentage of Income Payment Fund and (ii) utilities receive adequate compensation from the Fund, on a timely basis, for all reasonable costs of the PIPP, including costs associated with bill payment credits for eligible customers.

D. In carrying out the PIPP's objective of electricity usage reductions, PIPP-eligible customers may, to the extent reasonably possible, utilize existing energy efficiency or related programs approved by the Commission for a Phase I and Phase II Utility and existing and available federal, state, local, or nonprofit programs. The Department may review the needs of PIPP-eligible customers and whether gaps remain in serving such customers that are not already served by existing and available federal, state, local, or nonprofit programs to meet the energy reduction obligations of this section. The Department shall report the results of such analysis and review to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor no later than November 1, 2022.

E. There is hereby created in the state treasury a special nonreverting fund to be known as the Percentage of Income Payment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds collected from each Phase I and Phase II Utility's universal service fee shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of implementation and administration of the PIPP, including any associated start-up costs. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner of the Department of Social Services or by order of the Commission in conjunction with a true-up proceeding.

2. That the State Corporation Commission shall issue an order providing for a non-bypassable universal service fee to be collected from customers of a Phase I or Phase II Utility, as those terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, in accordance with § 56-585.6 of the Code of Virginia, as amended by this act, as soon as practicable following the effective date of this act.

3. That the Department of Social Services is authorized to access funds in the Percentage of Income Payment Fund, established in § 56-585.6 of the Code of Virginia, as amended by this act, for the purposes outlined in subsection E of § 56-585.6 of the Code of Virginia, as amended by this act, as soon as such funds become available.

4. That in the event the Percentage of Income Payment Program (PIPP), established pursuant to § 56-585.6 of the Code of Virginia, as amended by this act, commences prior to July 1, 2023, for a Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, the Department of Social Services (the Department) shall develop a memorandum of understanding, in a manner mutually agreeable to the Department and to the Phase II Utility, to render payment on behalf of each PIPP-eligible customer to the Phase II Utility until July 1, 2023, in accordance with the terms of such memorandum of understanding.

CHAPTER 309

An Act to amend the Code of Virginia by adding a section numbered 2.2-2002.2, relating to Department of Veterans Services; Military Spouse Liaison; position created.

[S 1150]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-2002.2 as follows:

§ 2.2-2002.2. Military Spouse Liaison; position created; duties; report.

A. There is created in the Department of Veterans Services the position of Military Spouse Liaison to conduct outreach and advocate on behalf of military spouses in the Commonwealth.

B. The Military Spouse Liaison shall:

1. Provide assistance and information to military spouses seeking professional licenses and credentials or other employment in the Commonwealth;
 2. Coordinate research on issues facing military spouses and create informational materials to assist military spouses and their families;
 3. Examine barriers and provide recommendations to assist military spouses in accessing high-quality child care and developing resources in coordination with military installations and the Department of Education to increase access to high-quality child care for military families;
 4. Develop, in coordination with the Virginia Employment Commission and employers, a common form for military spouses to complete, highlighting specific skills, education, and training to help military spouses quickly find meaningful employment in relevant economic sectors; and
 5. Perform any other duties or responsibilities assigned by the Commissioner.
- C. The Military Spouse Liaison shall submit an annual report, including any legislative recommendations, through the Commissioner to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on or before December 1 of each year and other reports to the Commissioner as required by the Commissioner.

CHAPTER 310

An Act to amend and reenact § 16.1-228 of the Code of Virginia, relating to definition of abused or neglected child.

[S 1168]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-228 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. *Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;*
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any *act of sexual exploitation or any sexual act* upon a child in violation of the law;
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;
6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or
7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to

§ 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual

assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known

biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

CHAPTER 311

An Act to amend and reenact § 16.1-356 of the Code of Virginia, relating to juveniles; competency evaluation; receipt of court order.

[S 1248]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-356 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-356. Raising question of competency to stand trial; evaluation and determination of competency.

A. If, at any time after the attorney for the juvenile has been retained or appointed pursuant to a delinquency proceeding and before the end of trial, the court finds, sua sponte or upon hearing evidence or representations of counsel for the juvenile or the attorney for the Commonwealth, that there is probable cause to believe that the juvenile lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist, clinical psychologist, licensed professional counselor, licensed clinical social worker, or licensed marriage and family therapist, who is qualified by training and experience in the forensic evaluation of juveniles.

The Commissioner of Behavioral Health and Developmental Services shall approve the training and qualifications for individuals authorized to conduct juvenile competency evaluations and provide restoration services to juveniles pursuant to this article. The Commissioner shall also provide all juvenile courts with a list of guidelines for the court to use in the determination of qualifying individuals as experts in matters relating to juvenile competency and restoration.

B. The evaluation shall be performed on an outpatient basis at a community services board or behavioral health authority, juvenile detention home, or juvenile justice facility unless the court specifically finds that (i) the results of the outpatient competency evaluation indicate that hospitalization of the juvenile for evaluation of competency is necessary or (ii) the juvenile is currently hospitalized in a psychiatric hospital. If one of these findings is made, the court, under authority of this subsection, may order the juvenile sent to a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for the evaluation of juveniles against whom a delinquency petition has been filed.

C. The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) a copy of the warrant or petition,; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the juvenile, and the judge ordering the evaluation; and (iii) information about the alleged offense. The court shall require the attorney for the juvenile to provide to the evaluator only the psychiatric records and other information that is deemed relevant to the evaluation of competency. The moving party shall provide the evaluator a summary of the reasons for the evaluation request. All information required

by this subsection shall be provided to the evaluator within 96 hours of the issuance of the court order requiring the evaluation and when applicable, shall be submitted prior to admission to the facility providing the inpatient evaluation. If the 96-hour period expires on a Saturday, Sunday, or other legal holiday, the 96 hours shall be extended to the next day which is not a Saturday, Sunday, or legal holiday. *The appointed evaluator or the director of the community services board, behavioral health authority, or hospital shall acknowledge receipt of the court order to the clerk of the court on a form developed by the Office of the Executive Secretary of the Supreme Court of Virginia as soon as practicable but no later than the close of business on the next business day following receipt of the court order. If the appointed evaluator or the director of the community services board, behavioral health authority, hospital, or private evaluator is unable to conduct the evaluation, he shall inform the court on the acknowledgement form.*

D. If the juvenile is hospitalized under the provisions of subsection B, the juvenile shall be hospitalized for such time as the director of the hospital deems necessary to perform an adequate evaluation of the juvenile's competency, but not to exceed 10 days from the date of admission to the hospital. All evaluations shall be completed and the report filed with the court within 14 days of receipt by the evaluator of all information required under subsection C.

E. Upon completion of the evaluation, the evaluator shall promptly and in no event exceeding 14 days after receipt of all required information submit the report in writing to the court and the attorneys of record concerning (i) the juvenile's capacity to understand the proceedings against him; (ii) his ability to assist his attorney; and (iii) his need for services in the event he is found incompetent, including a description of the suggested necessary services and least restrictive setting to assist the juvenile in restoration to competency. No statements of the juvenile relating to the alleged offense shall be included in the report.

F. After receiving the report described in subsection E, the court shall promptly determine whether the juvenile is competent to stand trial for adjudication or disposition. A hearing on the juvenile's competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the juvenile or when required under § 16.1-357 B. If a hearing is held, the party alleging that the juvenile is incompetent shall bear the burden of proving by a preponderance of the evidence the juvenile's incompetency. The juvenile shall have the right to notice of the hearing and the right to personally participate in and introduce evidence at the hearing.

If the juvenile is otherwise able to understand the charges against him and assist in his defense, a finding of incompetency shall not be made based solely on any or all of the following: (i) the juvenile's age or developmental factors, (ii) the juvenile's claim to be unable to remember the time period surrounding the alleged offense, or (iii) the fact that the juvenile is under the influence of medication.

CHAPTER 312

An Act to amend the Code of Virginia by adding a section numbered 19.2-169.3:1, relating to disposition of the unrestorably incompetent defendant; capital murder charge; inpatient custody of the Commissioner of the Department of Behavioral Health and Developmental Services.

[S 1272]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-169.3:1 as follows:

§ 19.2-169.3:1. Disposition of the unrestorably incompetent defendant; capital murder charge; inpatient custody of the Commissioner.

A. When a defendant charged with capital murder has been determined to be unrestorably incompetent, pursuant to subsections D and F of § 19.2-169.3, the court may commit such defendant to the inpatient custody of the Commissioner of the Department of Behavioral Health and Developmental Services under this section, provided that such defendant has remained unrestorably incompetent for a period of five years.

B. After a capital murder defendant has been committed to the inpatient custody of the Commissioner of the Department of Behavioral Health and Developmental Services under subsection A, the Commissioner may make interfacility transfers and treatment and management decisions regarding such defendant after obtaining prior approval of or review by the committing court.

C. The Commissioner of the Department of Behavioral Health and Developmental Services shall notify the committing court, the attorney for the Commonwealth in the committing jurisdiction, and the defendant's counsel in writing of recommended changes in a defendant's course of treatment that will involve authorization for the defendant to leave the grounds of the hospital in which he is confined. Upon receipt of such notice, the court shall hold a hearing to determine whether the recommendation of the Commissioner is authorized by the court.

D. The Commissioner of the Department of Behavioral Health and Developmental Services may delegate any of the duties and powers imposed on or granted to him by this section to an administrative board composed of persons with demonstrated expertise in such matters. The Department of Behavioral Health and Developmental Services shall assist the board in its administrative and technical duties. Members of the board shall exercise their powers and duties without compensation and shall be immune from personal liability while acting within the scope of their duties except for intentional misconduct.

E. Copies of all orders and notices issued pursuant to this chapter shall be sent to the Commissioner of the Department of Behavioral Health and Developmental Services.

F. Nothing in this section shall alter the requirement that hearings be held pursuant to subsection F of § 19.2-169.3.

CHAPTER 313

An Act to amend the Code of Virginia by adding in Title 30 a chapter numbered 63, consisting of sections numbered 30-401 through 30-408, relating to the Behavioral Health Commission created.

[S 1273]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 63, consisting of sections numbered 30-401 through 30-408, as follows:

CHAPTER 63.

BEHAVIORAL HEALTH COMMISSION.

§ 30-401. Definitions.

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

"Behavioral health" means the full range of mental health and substance abuse services.

"Behavioral health service system" means those public and private providers, including state and local government agencies and entities, engaged in the development, delivery, coordination, monitoring, oversight, and financing of behavioral health services in the Commonwealth.

"Commission" means the Behavioral Health Commission.

§ 30-402. Behavioral Health Commission; purpose.

The Behavioral Health Commission is established in the legislative branch of state government for the purpose of studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of and ensure access to the full continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth. In carrying out its purpose, the Commission shall provide ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, and delivery and payment structures and implementation of new services and initiatives in the Commonwealth and development of recommendations for improving such programs, services, structures, and implementation.

The Commission may coordinate with other agencies and entities of the Commonwealth with regard to development and proposal of recommendations related to behavioral health services and the behavioral health service system.

§ 30-403. Membership; terms; vacancies; chairman and vice-chairman; quorum; meetings; voting on recommendations.

The Commission shall consist of 12 legislative members, who shall be appointed as follows: five members of the Senate, at least one of whom shall be a member of the Senate Committee on Education and Health, at least one of whom shall be a member of the Senate Committee on Rehabilitation and Social Services, and at least two of whom shall be members of the Senate Committee on Finance and Appropriations, to be appointed by the Committee on Rules and seven members of the House of Delegates, at least two of whom shall be members of the House Committee on Appropriations and at least two of whom shall be members of the House Committee on Health, Welfare and Institutions, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates.

Members of the Commission shall serve terms coincident with their terms of office. Members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired term. Vacancies shall be filled in the same manner as the original appointment.

The Commission shall elect a chairman and a vice-chairman from among its membership.

A majority of the members of the Commission shall constitute a quorum. Meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members of the Commission so request.

No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-404. Compensation; expenses.

Members of the Commission shall receive such compensation as provided in § 30-19.12. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.

§ 30-405. Powers and duties of the Commission; report.

The Commission shall have the following powers and duties:

1. To collect and analyze information and data necessary to accomplish the purpose set forth in § 30-402;
2. To monitor and evaluate the jurisdiction, powers and duties, operations, management, and interrelationships of any department, division, board, bureau, commission, authority, or other agency with direct responsibility for the delivery, coordination, management, or financing of behavioral health services in the Commonwealth and develop recommendations for the improvement thereof;
3. To monitor and evaluate the design, implementation, and operation of new behavioral health initiatives in the Commonwealth and develop recommendations for the improvement thereof;
4. To examine matters related to the delivery of behavioral health services in other states and to consult and exchange information with officers and agencies of other states with respect to behavioral health service issues of mutual concern;
5. To maintain offices and hold meetings and functions at any place in the Commonwealth that it deems necessary;
6. To invite other interested parties to sit with the Commission and participate in its deliberations;
7. To appoint any work group or special task force from among its members to study and make recommendations on specific matters before the Commission; and
8. To report its recommendations to the General Assembly and the Governor annually and to make such interim reports as it deems advisable or as may be required by the General Assembly and the Governor.

§ 30-406. Staffing.

The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary and shall determine the duties and fix the salaries or compensation of such executive director and other persons, within the amounts appropriated for such purpose. The Commission may also employ experts who have knowledge of the issues before it.

§ 30-407. Chairman's executive summary.

The chairman of the Commission shall submit to the General Assembly and the Governor an annual executive summary of the interim activities and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 30-408. Cooperation of other state agencies and political subdivisions.

The Commission may request and shall, upon such request, receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party, or from any political subdivision of the Commonwealth, cooperation and assistance in the performance of its duties.

2. That, for its first year of existence, if the Behavioral Health Commission (the Commission), as created by this act, is not funded by a separate appropriation in the appropriation act, the Commission may be funded from the operating budgets of the Clerk of the Senate and the Clerk of the House of Delegates upon the approval of the Joint Rules Committee. If the Commission is not funded by a separate appropriation in the appropriation act for any year thereafter, this chapter shall expire on July 1 of the fiscal year in which the Commission fails to receive such funding.

CHAPTER 314

An Act to amend and reenact § 2.2-203.2:4 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 25 of Title 2.2 an article numbered 13, consisting of sections numbered 2.2-2558 through 2.2-2564, relating to data governance; Office of Data Governance and Analytics; Chief Data Officer; Virginia Data Commission; report.

[S 1365]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-203.2:4 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 25 of Title 2.2 an article numbered 13, consisting of sections numbered 2.2-2558 through 2.2-2564 as follows:

§ 2.2-203.2:4. Office of Data Governance and Analytics; Chief Data Officer; creation; report.

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

"Board" means the Executive Data Board.

"CDO" means the Chief Data Officer of the Commonwealth.

"Commonwealth Data Trust" means a secure, multi-stakeholder data exchange and analytics platform with common rules for data security, privacy, and confidentiality. The Commonwealth Data Trust shall include data from state, regional, and local governments, from public institutions of higher education, and from any other sources deemed necessary and appropriate.

"Council" means the Data Governance Council.

"Group" means the Data Stewards Group.

"Office" means the Office of Data Governance and Analytics.

"Open data" means data that is collected by an agency that is not prohibited from being made available to the public by applicable laws or regulations or other restrictions, requirements, or rights associated with such data.

B. There is created in the Office of the Secretary of Administration the ~~position~~ *Office of Chief Data Officer of the Commonwealth Governance and Analytics* to ~~coordinate~~ *foster* and oversee the effective sharing of data among state, regional, and local public entities and public institutions of higher education and to, implement effective data governance strategies to maintain data integrity and security, and promote access to ~~open~~ *Commonwealth* data. *The purpose of the Office shall be to (i) improve compliance with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.); (ii) increase access to and sharing of Commonwealth data, including open data, between state, regional and local public entities and public institutions of higher education across all levels of government; (iii) Increase the use of data and data analytics to improve the efficiency and efficacy of government services and improve stakeholder outcomes; and (iv) establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and outcome-based performance management.*

C. *The Office shall have the following powers and duties:*

1. *To support the collection, dissemination, analysis, and proper use of data by state agencies and public entities as defined in the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.);*

2. *To facilitate and guide data-sharing efforts between state, regional, and local public entities and public institutions of higher education;*

3. *To develop innovative data analysis and intelligence methodologies and best practices to promote data-driven policy making, decision making, research, and analysis;*

4. *To manage and administer the Commonwealth Data Trust;*

5. *To assist the Chief Data Officer and the Chief Information Officer of the Commonwealth in the development of a comprehensive six-year Commonwealth strategic plan for information technology;*

6. *In cooperation with the Chief Information Officer of the Commonwealth, to provide technical assistance to state agencies, local governments, and regional entities to establish and promote data sharing and analytics projects including data storage, data security, privacy, compliance with federal law, the de-identification of data for research purposes, and the appropriate access to and presentation of open data and datasets to the public;*

7. *To develop measures and targets related to the performance of the Commonwealth's data governance, sharing, analytics, and intelligence program;*

8. *To undertake, identify, coordinate, and oversee studies linking government services to stakeholder outcomes;*

9. *To implement a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;*

10. *To provide staff and operational support to the Virginia Data Commission, Executive Data Board, Data Governance Council, and Data Stewards Group;*

11. *To apply for and accept grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Office shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;*

12. *To solicit, receive, and consider proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;*

13. *To enter into public-private partnerships and agreements with public institutions of higher education in the Commonwealth to conduct data sharing and analytics projects;*

14. *To solicit and accept funds, goods, and in-kind services that are part of any accepted project proposal;*

15. *To establish ad hoc committees or project teams to investigate related technology or technical issues and provide results and recommendations for Office action; and*

16. *To establish such bureaus, sections, or units as the Office deems appropriate to carry out its goals and responsibilities.*

~~C.~~ D. *There is created in the Office of the Secretary of Administration the position of Chief Data Officer of the Commonwealth to oversee the operation of the Office. The CDO shall exercise and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor and the Secretary of Administration. The CDO shall not be considered the custodian of any public records in or derived from the Commonwealth Data Trust. The Chief Data Officer CDO shall:*

1. *Establish business rules, guidelines, and best practices for the use of data, including open data, in the Commonwealth. Such rules, guidelines, and best practices shall address, at a minimum, (i) the sharing of data between state, regional, and local public entities and public institutions of higher education, and, when appropriate, private entities; (ii) data storage; (iii) data security; (iv) privacy; (v) compliance with federal law; (vi) the de-identification of data for research purposes; and (vii) the appropriate access to and presentation of open data and datasets to the public;*

2. *Assist state, regional, and local public entities, public institutions of higher education, and employees thereof, with the application of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et. seq.) and understanding the applicability of federal laws governing privacy and access to data to the data sharing practices of the Commonwealth;*

3. *Assist the Chief Information Officer of the Commonwealth with matters related to the creation, storage, and dissemination of data upon request;*

4. Encourage and coordinate efforts of state, regional, and local public entities and public institutions of higher education to access and share data, including open data, across all levels of government in an effort to improve the efficiency and efficacy of services, improve outcomes, and promote data-driven policy making, decision making, research, and analysis; ~~and~~

5. Oversee the implementation of a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;

6. *Enter into contracts for the purpose of carrying out the provisions of this section;*

7. *Rent office space and procure equipment, goods, and services necessary to carry out the provisions of this section; and*

8. *Report on the activities of the Office, the Commonwealth Data Trust, and the Virginia Data Commission established pursuant to Article 13 (§ 2.2-2558 et seq.) of Chapter 25 annually by December 1 to the Governor and the General Assembly.*

E. The Commonwealth Data Trust shall be governed by a multi-level governance structure as follows:

1. *The Executive Data Board shall consist of the directors or chief executives, or their designees, of executive branch agencies engaged in data sharing and analytics projects with the Commonwealth Data Trust. The CDO shall chair the Board. Members of the Board shall (i) translate the Commonwealth's data-driven policy goals and objectives into performance targets at their respective agencies; (ii) allocate appropriate resources at their respective agencies to support data governance, sharing, and analytics initiatives; and (iii) provide any reports to the Office regarding their respective agencies' data analytics work and implementation of recommendations.*

2. *The Data Governance Council shall consist of employees of the agencies represented on the Board, selected by the Board members from their respective agencies. The CDO, or his designee, shall chair the Council. The Council shall (i) liaise between state agency operations and the CDO; (ii) advise the CDO on data technology, policy, and governance structure; (iii) administer data governance policies, standards, and best practices, as set by the Board; (iv) oversee data sharing and analytics projects; (v) review open data assets prior to publication; (vi) provide to the Board any reports on the Council's recommendations and work as required by the Board; (vii) develop necessary privacy and ethical standards and policies for Commonwealth Data Trust resources; (viii) monitor the sharing of Commonwealth Data Trust member-contributed data resources; (ix) review and approve new Commonwealth Data Trust-managed data resources; and (x) conduct any other business the CDO deems necessary for Commonwealth Data Trust governance.*

3. *The Data Stewards Group shall consist of employees from executive branch agencies with technical experience in data management or data analytics. Executive branch agencies shall be encouraged to designate at least one agency data steward to serve on the Group and may designate multiple data stewards as appropriate based upon organizational or data system responsibilities. The Group shall (i) provide the Board and Council with technical subject matter expertise in support of data policies, standards, and best practices; (ii) implement data sharing and analytics projects promoting data accessibility, sharing, and reuse, thereby reducing redundancy across the Commonwealth; (iii) coordinate and resolve technical stewardship issues for standardized data; (iv) ensure data quality processes and standards are implemented consistently by agencies in the Commonwealth; (v) provide communication and education to data users on the appropriate use, sharing, and protection of the Commonwealth's data assets; (vi) promote the collection and sharing of metadata by registering data assets in the Virginia Data Catalog; (vii) liaise with agency project managers and information technology investment staff to ensure adherence to Commonwealth data standards and data sharing requirements; and (viii) support informed, data-driven decision making through compliance with Commonwealth data policies, standards, and best practices.*

F. In carrying out the provisions of this section, the Office shall coordinate and collaborate with, to the fullest extent authorized by federal law and notwithstanding any state law to the contrary, all agencies set forth in subsection A of § 2.2-212 and subsection A of § 2.2-221; any other state, regional, and local public bodies, including community services boards; local law-enforcement agencies; any health and human services-related entity of a political subdivision that receives state funds; public institutions of higher education; and, when appropriate, private entities.

G. The Office shall be considered an agent of any state agency in the executive branch of government that shares information or data with the office, and shall be an authorized recipient of information under any statutory or administrative law governing the information or data. Interagency data shared pursuant to this section shall not constitute a disclosure or release of information or data under any statutory or administrative law governing the information or data.

Article 13.

Virginia Data Advisory Commission.

§ 2.2-2558. Virginia Data Advisory Commission; purpose.

The Virginia Data Advisory Commission (the Commission) is established as an advisory commission in the executive branch of state government. The Commission shall advise the Office of Data Governance and Analytics (the Office), established pursuant to § 2.2-203.2:4, on issues related to data sharing, including open data, data analytics, and data governance. The Commission shall (i) set, plan, and prioritize data sharing performance goals for the Commonwealth, (ii) review agency accomplishments, and (iii) recommend solutions that will establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and outcome-based performance management.

§ 2.2-2559. Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall have a total membership of 27 members that shall consist of six legislative members, seven nonlegislative citizen members, and 14 ex officio members. Members shall be appointed as follows: three members of the Senate, to be appointed by the Senate Committee on Rules; three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and seven nonlegislative citizen members to be appointed by the Governor. The Executive Secretary of the Supreme Court of Virginia, the Chief Workforce Advisor to the Governor, the Chief Data Officer of the Commonwealth, the Secretary of Administration, the Secretary of Health and Human Resources, the Secretary of Public Safety and Homeland Security, the Secretary of Finance, the Secretary of the Commonwealth, the Secretary of Agriculture and Forestry, the Secretary of Natural Resources, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Veterans and Defense Affairs, and the Secretary of Transportation, or their designees, shall serve ex officio with voting privileges. Nonlegislative citizen members appointed by the Governor shall represent the seven geographic areas of the Commonwealth. Of the nonlegislative citizen members, at least one shall represent a baccalaureate public institution of higher education in the Commonwealth, at least one shall be an elected official representing a local government in the Commonwealth, and at least one shall represent a private business with expertise and experience in the establishment, operation, and maintenance of a data intelligence platform.

B. Each nonlegislative citizen member may designate a representative of his organization as an alternate. Each alternate may attend meetings in place of the appointed member and shall be counted as a member of the Commission for purposes of establishing a quorum. Nonlegislative citizen members of the Commission, and their alternates, shall be citizens of the Commonwealth.

C. Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. No Senate member shall serve more than two consecutive four-year terms, no House member shall serve more than four consecutive two-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Commission shall elect a chairman and vice-chairman from among its membership.

E. Any members of the Commission who represent private businesses that provide data-related products and services, and such private businesses that the members represent are precluded from contracting to provide goods or services to the Office of Data Governance and Analytics.

§ 2.2-2560. Quorum; meetings.

A majority of the members shall constitute a quorum. The Commission shall meet at least biennially or at the call of the chairman or the Chief Data Officer.

§ 2.2-2561. Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of Data Governance and Analytics.

§ 2.2-2562. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Promote and facilitate, subject to all applicable federal and state laws, rules, and regulations, the secure and appropriate sharing and use of data assets in the Commonwealth in support of data-driven policy making, research, analysis, study, and economic development;
2. Maximize the value and utility of Commonwealth data-related investments and assets;
3. Promote increased data sharing between state agencies and localities that provides tangible operational improvements in assisting state agencies and localities to fulfill their missions in a more coordinated, cost-efficient manner;
4. Leverage government data, using appropriate security and privacy standards, to support evidence-based policy making that addresses high-priority public policy issues;
5. Provide for public access to certain data assets, where lawful and appropriate, to enhance research, innovation, and insight; and
6. Make any other recommendations deemed necessary related to performance goals and objectives to require engagement from organizations across the Commonwealth.

§ 2.2-2563. Staffing.

The Chief Data Officer of the Commonwealth, or his designee, shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

§ 2.2-2564. Sunset.

This article shall expire on July 1, 2024.

2. That the initial appointments of nonlegislative citizen members by the Governor shall be staggered as follows: three members for a term of two years, two members for a term of three years, and two members for a term of four years.
3. That the provisions of this act amending § 2.2-203.2:4 of the Code of Virginia shall expire on July 1, 2023.

4. That the Virginia Data Advisory Commission (the Commission) established by this act shall, in addition to any other powers and duties, review and evaluate the structure and organization of the Office of Data Governance and Analytics (the Office). Such review and evaluation shall include (i) a review of the long-term funding of the Office and the development of recommendations, if necessary, for a financing or fee structure for services provided by the Office and (ii) the development of recommendations for the permanent structure for such Office including a recommendation as to the appropriate place for the Office within the executive branch of government. The Commission shall report its findings and recommendations to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than November 1, 2022.

CHAPTER 315

An Act to repeal § 30-170 of the Code of Virginia, relating to the Joint Commission on Health Care; sunset.

[S 1408]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 30-170 of the Code of Virginia is repealed.

CHAPTER 316

An Act to amend and reenact § 19.2-169.1 of the Code of Virginia, relating to unrestorably incompetent defendant; competency report.

[S 1431]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-169.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-169.1. Raising question of competency to stand trial or plead; evaluation and determination of competency.

A. Raising competency issue; appointment of evaluators. — If, at any time after the attorney for the defendant has been retained or appointed and before the end of trial, the court finds, upon hearing evidence or representations of counsel for the defendant or the attorney for the Commonwealth, that there is probable cause to believe that the defendant, whether a juvenile transferred pursuant to § 16.1-269.1 or adult, lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist or clinical psychologist who (i) has performed forensic evaluations; (ii) has successfully completed forensic evaluation training recognized by the Commissioner of Behavioral Health and Developmental Services; (iii) has demonstrated to the Commissioner competence to perform forensic evaluations; and (iv) is included on a list of approved evaluators maintained by the Commissioner.

B. Location of evaluation. — The evaluation shall be performed on an outpatient basis at a mental health facility or in jail unless an outpatient evaluation has been conducted and the outpatient evaluator opines that a hospital-based evaluation is needed to reliably reach an opinion or unless the defendant is in the custody of the Commissioner of Behavioral Health and Developmental Services pursuant to § 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, 19.2-182.9, or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2.

C. Provision of information to evaluators. — The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) a copy of the warrant or indictment; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the defendant, and the judge ordering the evaluation; (iii) information about the alleged crime; and (iv) a summary of the reasons for the evaluation request. The court shall require the attorney for the defendant to provide any available psychiatric records and other information that is deemed relevant. The court shall require that information be provided to the evaluator within 96 hours of the issuance of the court order pursuant to this section.

D. The competency report. — Upon completion of the evaluation, the evaluators shall promptly submit a report in writing to the court and the attorneys of record concerning (i) the defendant's capacity to understand the proceedings against him; (ii) his ability to assist his attorney; and (iii) his need for treatment in the event he is found incompetent but restorable, or incompetent for the foreseeable future. If a need for restoration treatment is identified pursuant to clause (iii), the report shall state whether inpatient or outpatient treatment (community-based or jail-based) is recommended. Outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority. In cases where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition, and where prior medical or educational records are available to support the diagnosis, *or if the defendant was previously determined to be unrestorably incompetent in the past two years*, the report may recommend that the court find the defendant unrestorably incompetent to stand trial and the court may proceed with the disposition of the case in accordance with § 19.2-169.3. No statements of the defendant relating to the time period of the

alleged offense shall be included in the report. The evaluator shall also send a redacted copy of the report removing references to the defendant's name, date of birth, case number, and court of jurisdiction to the Commissioner of Behavioral Health and Developmental Services for the purpose of peer review to establish and maintain the list of approved evaluators described in subsection A.

E. The competency determination. — After receiving the report described in subsection D, the court shall promptly determine whether the defendant is competent to stand trial. A hearing on the defendant's competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the defendant, or unless the court has reasonable cause to believe the defendant will be hospitalized under § 19.2-169.2. If a hearing is held, the party alleging that the defendant is incompetent shall bear the burden of proving by a preponderance of the evidence the defendant's incompetency. The defendant shall have the right to notice of the hearing, the right to counsel at the hearing and the right to personally participate in and introduce evidence at the hearing.

The fact that the defendant claims to be unable to remember the time period surrounding the alleged offense shall not, by itself, bar a finding of competency if the defendant otherwise understands the charges against him and can assist in his defense. Nor shall the fact that the defendant is under the influence of medication bar a finding of competency if the defendant is able to understand the charges against him and assist in his defense while medicated.

CHAPTER 317

An Act to amend the Code of Virginia by adding in Chapter 10.1 of Title 10.1 a section numbered 10.1-1016.1 and by adding in Chapter 17 of Title 10.1 a section numbered 10.1-1705.1, relating to conservation easements; construction.

[H 1760]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 10.1 of Title 10.1 a section numbered 10.1-1016.1 and by adding in Chapter 17 of Title 10.1 a section numbered 10.1-1705.1 as follows:

§ 10.1-1016.1. Construction.

Notwithstanding any provision of law to the contrary, an easement held pursuant to this chapter shall be construed in favor of achieving the conservation purposes for which it was created.

§ 10.1-1705.1. Construction.

Notwithstanding any provision of law to the contrary, an easement held pursuant to this chapter shall be construed in favor of achieving the conservation purposes for which it was created.

CHAPTER 318

An Act to amend and reenact § 46.2-1300, as it is effective and as it shall become effective, of the Code of Virginia, relating to local government authority; reduction of speed limits.

[H 1903]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1300, as it is effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1300. (Effective until March 1, 2021) Powers of local authorities generally; erection of signs and markers; maximum penalties.

A. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the provisions of this title to regulate the operation of vehicles on the highways in such counties, cities, and towns. They may also repeal, amend, or modify such ordinances and may erect appropriate signs or markers on the highway showing the general regulations applicable to the operation of vehicles on such highways. The governing body of any county, city, or town may by ordinance, or may by ordinance authorize its chief administrative officer to:

1. Increase or decrease the speed limit within its boundaries, provided such increase or decrease in speed shall be based upon an engineering and traffic investigation by such county, city or town and provided such speed area or zone is clearly indicated by markers or signs;

2. Authorize the city or town manager or such officer thereof as it may designate, to reduce for a temporary period not to exceed sixty days, without such engineering and traffic investigation, the speed limit on any portion of any highway of the city or town on which work is being done or where the highway is under construction or repair;

3. Require vehicles to come to a full stop or yield the right-of-way at a street intersection if one or more of the intersecting streets has been designated as a part of the primary state highway system in a town which has a population of less than 3,500;

4. Reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, on any highway within its boundaries that is located in a business district or residence district, provided that such reduced speed limit is indicated by lawfully placed signs.

B. No such ordinance shall be violated if at the time of the alleged violation the sign or marker placed in conformity with this section is missing, substantially defaced, or obscured so that an ordinarily observant person under the same circumstances would not be aware of the existence of the ordinance.

C. No governing body of a county, city, or town may provide penalties for violating a provision of an ordinance adopted pursuant to this section which is greater than the penalty imposed for a similar offense under the provisions of this title.

D. No county whose roads are under the jurisdiction of the Department of Transportation shall designate, in terms of distance from a school, the placement of flashing warning lights unless the authority to do so has been expressly delegated to such county by the Department of Transportation, in its discretion.

§ 46.2-1300. (Effective March 1, 2021) Powers of local authorities generally; erection of signs and markers; maximum penalties.

A. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the provisions of this title to regulate the operation of vehicles on the highways in such counties, cities, and towns. They may also repeal, amend, or modify such ordinances and may erect appropriate signs or markers on the highway showing the general regulations applicable to the operation of vehicles on such highways. The governing body of any county, city, or town may by ordinance, or may by ordinance authorize its chief administrative officer to:

1. Increase or decrease the speed limit within its boundaries, provided such increase or decrease in speed shall be based upon an engineering and traffic investigation by such county, city or town and provided such speed area or zone is clearly indicated by markers or signs;

2. Authorize the city or town manager or such officer thereof as it may designate, to reduce for a temporary period not to exceed sixty days, without such engineering and traffic investigation, the speed limit on any portion of any highway of the city or town on which work is being done or where the highway is under construction or repair;

3. Require vehicles to come to a full stop or yield the right-of-way at a street intersection if one or more of the intersecting streets has been designated as a part of the primary state highway system in a town which has a population of less than 3,500;

4. Reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, on any highway within its boundaries that is located in a business district or residence district, provided that such reduced speed limit is indicated by lawfully placed signs.

B. No such ordinance shall be violated if at the time of the alleged violation the sign or marker placed in conformity with this section is missing, substantially defaced, or obscured so that an ordinarily observant person under the same circumstances would not be aware of the existence of the ordinance.

C. No governing body of a county, city, or town may (i) provide penalties for violating a provision of an ordinance adopted pursuant to this section which is greater than the penalty imposed for a similar offense under the provisions of this title or (ii) provide that a violation of a provision of an ordinance adopted pursuant to this section is cause for a stop or arrest of a driver when such a stop or arrest is prohibited for a similar offense under the provisions of this title.

D. No county whose roads are under the jurisdiction of the Department of Transportation shall designate, in terms of distance from a school, the placement of flashing warning lights unless the authority to do so has been expressly delegated to such county by the Department of Transportation, in its discretion.

E. No law-enforcement officer shall stop a motor vehicle for a violation of a local ordinance relating to the ownership or maintenance of a motor vehicle unless such violation is a jailable offense. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

CHAPTER 319

An Act to amend and reenact § 46.2-345 of the Code of Virginia, relating to special identification cards; application by guardian.

[H 1961]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-345 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or, the parent of any such person who is under the age of 18, or the legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person, provided that:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address. Applicants shall be permitted to choose between "male," "female," or "non-binary" when designating the applicant's sex on the application form;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card without a photograph.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than eight years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. Any special identification card issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license shall be surrendered upon application for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

K. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register, reregister, or verify his registration information pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State

Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

L. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § 46.2-342 or that the applicant is blind or vision impaired.

CHAPTER 320

An Act to amend and reenact § 7, as amended, of Chapter 343 of the Acts of Assembly of 1928, which provided a charter for the City of Lynchburg, relating to salaries.

[H 2180]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 7, as amended, of Chapter 343 of the Acts of Assembly of 1928 is amended and reenacted as follows:

§ 7. ~~Present members of council shall be paid their current salary until July 1, 1976, thereafter the salary of each member of council shall be \$2,400 per annum, except that member who shall be elected mayor, whose salary shall be \$3,600 per annum, and except that member who shall be elected vice-mayor, whose salary shall be \$3,000 per annum, payable out of the treasury of the city of Lynchburg in monthly installments; provided, however, that the council may, from time to time, by five-sevenths vote of all members elected to council, change the salaries of each member of the council, and the members who shall be elected mayor and vice-mayor respectively, to such sums per annum as it may see fit, but not to exceed the sum of \$2,400 per annum for each member of the council and \$3,600 per annum for the mayor and \$3,000 per annum for the vice-mayor. The salary of members of council shall be determined in accordance with general law.~~

CHAPTER 321

An Act to amend and reenact § 15.2-4904 of the Code of Virginia, relating to economic development authorities; size of board in Powhatan County; quorum.

[H 2287]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4904 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as

agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; *the board of supervisors of Powhatan County may appoint five members to serve on the board of the authority*; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, *and the Economic Development Authority of Powhatan County*, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

CHAPTER 322

An Act to amend and reenact § 55.1-703 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-708.2, relating to property; required disclosures for buyer to exercise due diligence; flood risk report.

[H 2320]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-703 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55.1-708.2 as follows:

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, or any conveyances of mineral rights, as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, and a residential building energy analysis, as defined in § 54.1-1144, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any wastewater system, including the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater system, located on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

9. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or ~~for the Virginia Flood Risk Information website operated by the Virginia Department of Conservation and Recreation's Flood Risk Information System Recreation~~, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. *A flood risk information form, pursuant to the provisions of subsection D, that provides additional information on flood risk and flood insurance is available for download by the Real Estate Board on its website;*

10. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant to such contract;

12. The owner makes no representations with respect to whether the property is located on or near deposits of marine clays (marumscos soils), and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including consulting public resources regarding local soil conditions and having the soil and structural conditions of the property analyzed by a qualified professional;

13. The owner makes no representations with respect to whether the property is located in a locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

14. The owner makes no representations with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free," in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

15. The owner makes no representations with respect to the existence of defective drywall on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether there is defective drywall on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. For purposes of this subdivision, "defective drywall" means the same as that term is defined in § 36-156.1; and

16. The owner makes no representation with respect to the condition or regulatory status of any impounding structure or dam on the property or under the ownership of the common interest community that the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of required maintenance and operation, or other relevant information pertaining to the impounding structure or dam, including contacting the Department of Conservation and Recreation or a licensed professional engineer.

C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

D. *The Real Estate Board shall make available on its website a flood risk information form. Such form shall be substantially as follows:*

Flood Risk Information Form

The purpose of this information form is to provide property owners and potential property owners with information regarding flood risk. This information form does not determine whether a property owner will be required to purchase a flood insurance policy. That determination is made by the lender providing a loan for the property at the lender's discretion.

Mortgage lenders are mandated under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 to require the purchase of flood insurance by property owners who acquire loans from federally regulated, supervised, or insured financial institutions for the acquisition or improvement of land, facilities, or structures located within or to be located within a Special Flood Hazard Area. A Special Flood Hazard Area (SFHA) is a high-risk area defined as any land that would be inundated by a flood, also known as a base flood, having a one percent chance of occurring in a given year. The lender reviews the current National Flood Insurance Program (NFIP) maps for the community in which the property is located to determine its location relative to the published SFHA and completes the Standard Flood Hazard Determination Form (SFHDF), created by the Federal Emergency Management Agency (FEMA). If the lender determines that the structure is indeed located within a SFHA and the community is participating in the NFIP, the borrower is then notified that flood insurance will be required as a condition of receiving the loan. A similar review and notification are completed whenever a loan is sold on the secondary loan market or when the lender completes a routine review of its mortgage portfolio.

Properties that are not located in a SFHA can still flood. Flood damage is not generally covered by a standard home insurance policy. It is prudent to consider purchasing flood insurance even when flood insurance is not required by a lender. Properties not located in a SFHA may be eligible for a low-cost preferred risk flood insurance policy. Property owners and buyers are encouraged to consult with their insurance agent about flood insurance.

What is a flood? A flood is a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from (i) overflow of inland or tidal waters, (ii) unusual and rapid accumulation or runoff of surface waters from any source, (iii) mudflow, or (iv) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.

FEMA is required to update Flood Maps every five years. Flood zones for this property may change due to periodic map updates. To determine what flood zone or zones a property is located in a buyer can visit the website for FEMA's National Flood Insurance Program or the Virginia Department of Conservation and Recreation's Flood Risk Information System website.

§ 55.1-708.2. Required disclosures pertaining to repetitive loss.

The owner of residential real property located in the Commonwealth who has actual knowledge that the dwelling unit is a repetitive risk loss structure shall disclose such fact to the purchaser. For purposes of this section, "repetitive risk loss" means that two or more claims of more than \$1,000 were paid by the National Flood Insurance Program within any rolling 10-year period, since 1978. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 323

An Act to amend and reenact § 55.1-703 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-708.2, relating to property; required disclosures for buyer to exercise due diligence; flood risk report.

[S 1389]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-703 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55.1-708.2 as follows:

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, or any conveyances of mineral rights, as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, and a residential building energy analysis, as defined in § 54.1-1144, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance

with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any wastewater system, including the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater system, located on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

9. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or ~~for the Virginia Flood Risk Information website operated by the Virginia Department of Conservation and Recreation's Flood Risk Information System Recreation~~, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. *A flood risk information form, pursuant to the provisions of subsection D, that provides additional information on flood risk and flood insurance is available for download by the Real Estate Board on its website;*

10. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant to such contract;

12. The owner makes no representations with respect to whether the property is located on or near deposits of marine clays (marumscos soils), and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including consulting public resources regarding local soil conditions and having the soil and structural conditions of the property analyzed by a qualified professional;

13. The owner makes no representations with respect to whether the property is located in a locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

14. The owner makes no representations with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free," in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

15. The owner makes no representations with respect to the existence of defective drywall on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether there is defective drywall on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract,

but in any event prior to settlement pursuant to such contract. For purposes of this subdivision, "defective drywall" means the same as that term is defined in § 36-156.1; and

16. The owner makes no representation with respect to the condition or regulatory status of any impounding structure or dam on the property or under the ownership of the common interest community that the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of required maintenance and operation, or other relevant information pertaining to the impounding structure or dam, including contacting the Department of Conservation and Recreation or a licensed professional engineer.

C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

D. *The Real Estate Board shall make available on its website a flood risk information form. Such form shall be substantially as follows:*

Flood Risk Information Form

The purpose of this information form is to provide property owners and potential property owners with information regarding flood risk. This information form does not determine whether a property owner will be required to purchase a flood insurance policy. That determination is made by the lender providing a loan for the property at the lender's discretion.

Mortgage lenders are mandated under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 to require the purchase of flood insurance by property owners who acquire loans from federally regulated, supervised, or insured financial institutions for the acquisition or improvement of land, facilities, or structures located within or to be located within a Special Flood Hazard Area. A Special Flood Hazard Area (SFHA) is a high-risk area defined as any land that would be inundated by a flood, also known as a base flood, having a one percent chance of occurring in a given year. The lender reviews the current National Flood Insurance Program (NFIP) maps for the community in which the property is located to determine its location relative to the published SFHA and completes the Standard Flood Hazard Determination Form (SFHDF), created by the Federal Emergency Management Agency (FEMA). If the lender determines that the structure is indeed located within a SFHA and the community is participating in the NFIP, the borrower is then notified that flood insurance will be required as a condition of receiving the loan. A similar review and notification are completed whenever a loan is sold on the secondary loan market or when the lender completes a routine review of its mortgage portfolio.

Properties that are not located in a SFHA can still flood. Flood damage is not generally covered by a standard home insurance policy. It is prudent to consider purchasing flood insurance even when flood insurance is not required by a lender. Properties not located in a SFHA may be eligible for a low-cost preferred risk flood insurance policy. Property owners and buyers are encouraged to consult with their insurance agent about flood insurance.

What is a flood? A flood is a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from (i) overflow of inland or tidal waters, (ii) unusual and rapid accumulation or runoff of surface waters from any source, (iii) mudflow, or (iv) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.

FEMA is required to update Flood Maps every five years. Flood zones for this property may change due to periodic map updates. To determine what flood zone or zones a property is located in a buyer can visit the website for FEMA's National Flood Insurance Program or the Virginia Department of Conservation and Recreation's Flood Risk Information System website.

§ 55.1-708.2. Required disclosures pertaining to repetitive loss.

The owner of residential real property located in the Commonwealth who has actual knowledge that the dwelling unit is a repetitive risk loss structure shall disclose such fact to the purchaser. For purposes of this section, "repetitive risk loss" means that two or more claims of more than \$1,000 were paid by the National Flood Insurance Program within any rolling 10-year period, since 1978. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 324

An Act to amend and reenact § 55.1-1004 of the Code of Virginia, relating to property; duties of real estate settlement agents.

[S 1110]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1004 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1004. Duties of settlement agents.

A. A settlement agent shall exercise reasonable care and comply with all applicable requirements of this chapter and its licensing authority regarding licensing, financial responsibility, errors and omissions or malpractice insurance policies, fidelity bonds, employee dishonesty insurance policies, audits, escrow account analyses, and record retention.

B. A settlement agent who is not (i) a person described in subdivision A 5 of § 55.1-1003 or (ii) a title insurance company as defined in § 38.2-4601 shall maintain the following to the satisfaction of the appropriate licensing authority:

1. An errors and omissions or malpractice insurance policy providing a minimum of \$250,000 in coverage;
2. A blanket fidelity bond or employee dishonesty insurance policy covering persons employed by the settlement agent providing a minimum of \$100,000 in coverage. When the settlement agent has no employees except the owners, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty requirement; and
3. A surety bond of not less than \$200,000.

Notwithstanding the provisions of § 55.1-1016, the Commission may share information collected from a settlement agent or agency under subdivisions 1 and 3 with any party to the real estate transaction in connection with the actions of such agent or agency arising out of a settlement.

C. A settlement agent, other than an attorney or a title insurance company if such company's financial statements are audited annually by an independent certified public accountant, shall, at its expense, have an audit of its escrow accounts conducted by an independent certified public accountant at least once each consecutive 12-month period. The appropriate licensing authority shall require the settlement agent to provide a copy of its audit report to the licensing authority no later than 60 days after the date on which the audit is completed. A settlement agent that is a licensed title insurance agent under Title 38.2 shall also provide a copy of the audit report to each title insurance company that it represents. In lieu of such annual audit, a settlement agent that is licensed as a title insurance agent under Title 38.2 shall allow each title insurance company for which it has an appointment to conduct an analysis of its escrow accounts in accordance with regulations adopted by the Commission or guidelines issued by the Bureau of Insurance of the Commission, as appropriate, at least once each consecutive 12-month period, and each title insurance company conducting such analysis shall submit a copy of its analysis report to the appropriate licensing authority no later than 60 days after the date on which the analysis is completed. With the consent of the title insurance agent, a title insurance company may share the results of its analysis with other title insurance companies that will accept the same in lieu of conducting a separate analysis. A title insurance company shall retain a copy of the analysis or audit report, as applicable, for each title insurance agent it has appointed and such reports and other records of the insurance company's activities as a settlement agent shall be made available to the appropriate licensing authority when examinations are conducted pursuant to provisions in Title 38.2.

CHAPTER 325

An Act to amend and reenact § 15.2-5102.1 of the Code of Virginia, relating to the Hampton Roads area refuse collection authority; financial planning.

[S 1141]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5102.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5102.1. (Contingent expiration date) Hampton Roads area refuse collection and disposal system authority.

Any authority, or any subsidiary thereof, organized pursuant to § 15.2-5102 to operate a refuse collection and disposal system that has among its members the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, Suffolk, and Franklin, and the Counties of Isle of Wight, and Southampton, and Suffolk, shall, notwithstanding any other law to the contrary, comply with the following requirements:

1. Each locality that is a member of the authority shall be entitled to nominate individuals to fill one position on the Board of Directors (the Board) by submitting a list of three potential directors, each of whom shall possess general business knowledge and shall not be an elected official, to the Governor. The Governor shall then select and appoint one director from each of the lists of nominees prepared by the member localities. In addition, each member locality shall be authorized to directly appoint, upon a majority vote of the governing body of the member locality, one ex officio member of the Board who shall be an employee of the member locality. The members of the Board shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. No member shall serve for more than two consecutive four-year terms, except that (i) any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms and (ii) a member directly appointed by the governing body of a member locality shall not be subject to a term limit.

2. The authority shall develop and maintain an overall strategic financial plan that shall cover a period of at least five years forward from the year in which it is submitted and approved by the Board. *The plan shall include at a minimum a five-year projection of revenues and expenses, a five-year capital improvement and equipment replacement schedule, and the proposed funding for the plan.* The plan shall be reviewed annually to determine whether amendments are needed. Any such amendments shall be submitted to the board of directors for approval.

3. The authority's core purpose shall be defined as "management of the safe and environmentally sound disposal of regional waste." The authority shall devote its time and effort to activities associated with its core purpose. A vote of a majority of the Board shall be required prior to undertaking any activities not associated with the authority's core purpose.

4. The authority shall develop and maintain a strategic operating plan identifying all elements of its core business units and core purpose, how each business and administrative unit will support the overall strategic plan, and how the authority will achieve its stated mission and core purpose. The strategic operating plan shall be subject to review and approval of the Board on an annual basis.

5. The authority shall consider outsourcing any or all functions that may result in reduced costs to the authority, and the authority shall annually issue *issuing* requests for proposals that potentially reduce the costs of any of its programs. In addition, the authority shall ~~accept and review~~, *in accordance with the authority's procurement policies, consider any proposals the authority receives* under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) that potentially reduce the costs of any of the authority's programs.

6. The authority shall evaluate its landfill capacity annually, taking into consideration and projecting future changes in the quantity of waste disposed of in its landfill, or landfills reasonably situated or contractually obligated to accept its waste.

7. The authority shall keep records of its costs, revenue, debts, and capital expenses by fiscal year for each program. ~~The authority shall also keep and records of costs for each individual capital project. The authority shall not dispose of or destroy such records except pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).~~

8. ~~The~~ *If the authority incurs long-term debt or issues new debt, the authority shall maintain a detailed financing plan that shall include a plan for the retirement of all debt and a plan for the funding of all planned capital projects. The plan for the funding of all planned capital projects shall specify the amount of debt the authority will issue in furtherance of the projects and the debt repayment plan for any new debt created by the capital projects, including the revenue source that will be used to repay the debt. The detailed financing plan shall be updated and approved annually by the Board and reviewed and certified annually by the authority with the advice and assistance of an external certified public accountant or other qualified financial consultant and approved annually by the Board.*

9. Prior to issuance of new debt, the ~~Board~~ *authority shall, with the advice and assistance of an external certified public accountant or other qualified financial consultant, perform a due diligence investigation of the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt. Such analysis shall be certified by an external certified public accountant, reviewed by the Board, and approved by a vote of a minimum of 75 percent of the Board. The issuance of new debt shall require a vote of a minimum of 75 percent of the Board of Directors of the authority. The authority shall not issue long-term bond indebtedness to fund operational expenses. The provisions of this subdivision shall not apply to the issuance of new debt issued for the purpose of refunding or refinancing debt incurred by the authority prior to September 30, 2009.*

10. In the interest of open and transparent government, the authority shall adhere strictly to the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.).

11. The executive director of the authority shall not be permitted to execute or commit the authority to any contract, memorandum of agreement or memorandum of understanding without an informed vote of approval by the Board. This subdivision shall not apply in the case of (i) ~~contracts for the purchase of goods and services for an aggregate sum of less than \$30,000, which are subject to the Virginia Procurement Act (Va. Code § 2.2-4300 et seq.) but exempted from competitive negotiation or competitive sealed bidding by a duly adopted policy of the Board involving matters with a value of less than \$100,000 that are consistent with the Board-approved annual budget and, if applicable, the authority's approved procurement policy~~ and (ii) sole source and emergency procurements made pursuant to subsections E and F of § 2.2-4303.

CHAPTER 326

An Act to amend and reenact §§ 67-102, 67-201, and 67-202 of the Code of Virginia, relating to transportation electrification; Virginia Energy Plan.

[S 1223]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-102, 67-201, and 67-202 of the Code of Virginia are amended and reenacted as follows:

§ 67-102. Commonwealth Energy Policy.

A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth to:

1. Support research and development of, and promote the use of, renewable energy sources;
2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to support the demands of economic growth;
3. Promote cost-effective conservation of energy and fuel supplies;
4. Ensure the adequate supply of natural gas necessary to ensure the reliability of the electricity supply and the needs of businesses during the transition to renewable energy.
5. Promote the generation of electricity through technologies that do not contribute to greenhouse gases and global warming;
6. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;

7. Support efforts to reduce the demand for imported petroleum by developing alternative technologies, including but not limited to *electrified transport* and the production of synthetic and hydrogen-based fuels, ~~and as well as~~ the infrastructure, *policy, and regulations* required for the widespread ~~implementation~~ *adoption* of such technologies;

8. Ensure that development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on economically disadvantaged or minority communities;

9. Establish greenhouse gas emissions reduction standards across all sectors of Virginia's economy that target net-zero emissions carbon by 2045;

10. Enact mandatory clean energy standards and overall strategies for reaching net-zero carbon in the electric power sector by 2040;

11. Equitably incorporate requirements for technical, policy, and economic analyses and assessments that recognize the unique attributes of different energy resources and delivery systems to identify pathways to net-zero carbon that maximize Virginia's energy reliability and resilience, economic development, and jobs;

12. Minimize the negative impacts of climate change and the energy transition on economically disadvantaged or minority communities and prioritize investment in these areas; and

13. Support the distributed generation of renewable electricity by:

a. Encouraging private sector investments in distributed renewable energy;

b. Increasing the security of the electricity grid by supporting distributed renewable energy projects with the potential to supply electric energy to critical facilities during a widespread power outage; and

c. Augmenting the exercise of private property rights by landowners desiring to generate their own energy from renewable energy sources on their lands.

B. The elements of the policy set forth in subsection A shall be referred to collectively in this title as the Commonwealth Energy Policy.

C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where appropriate, shall act in a manner consistent therewith.

D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues, and shall not be construed to amend, repeal, or override any contrary provision of applicable law. The failure or refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner consistent with the Commonwealth Energy Policy, or to take any other action whatsoever, shall not create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

§ 67-201. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, the Clean Energy Advisory Board, solar, wind, ~~and~~ energy efficiency, *and transportation electrification* sectors, and a stakeholder group that shall include representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations and natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan (the Plan) that identifies actions over a 10-year period consistent with the goal of the Commonwealth Energy Policy set forth in § 67-102 to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § 67-101, that will implement the Commonwealth Energy Policy set forth in § 67-102.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of non-greenhouse-gas-generating energy resources, such as nuclear power, used in the Commonwealth;

2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how distributed energy resources and regional generation, transmission, and distribution resources affect the Commonwealth;

3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources, including an assessment of state and local impediments to expanded use of distributed resources and recommendations to reduce or eliminate these impediments;

4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;

5. An analysis of the efficient use of energy resources and conservation initiatives;

6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets;

7. An analysis of siting of energy resource development, refining or transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities;

8. With regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411 (d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii) the effect on energy markets and reliability; and (iii) the commercial availability of technology required to comply with such regulations;

9. An inventory of greenhouse gas emissions using a method determined by the Department of Environmental Quality for the four years prior to the issuance of the Plan; and

10. *Data regarding the number and type of electric and hybrid electric vehicles currently registered in the Commonwealth; projections of future electric vehicle sales across all vehicle classes, taking into consideration the impact of current and potential statewide policies; and analysis of the impact that the growth of electrified transit on the Commonwealth's electric system;*

11. *An analysis of the Commonwealth's current electric vehicle charging infrastructure and all future infrastructure needed to support the 2045 net-zero carbon target in the transportation sector, including chargers, make-ready electrical equipment, and supporting hardware and software needed to support the electrification of all vehicle categories used on and off roads and highways, including light-duty, medium-duty, and heavy-duty vehicles and electric bicycles, as well as that needed to electrify ground transportation at all ports and airports, with particular attention to the needs of historically economically disadvantaged communities as defined in § 56-576 and any state or local impediments to deployment; and*

12. Recommendations, based on the analyses completed under subdivisions 1 through 9 *11*, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Energy Policy.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize state geographic information systems, to the extent deemed practicable, to assess how recommendations in the Plan may affect pristine natural areas and other significant onshore natural resources. Effective October 1, 2024, interim updates on the Plan shall also contain projections for greenhouse gas emissions that would result from implementation of the Plan's recommendations.

D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a system for ascribing numerical scores to parcels of real property based on the extent to which the parcels are suitable for the siting of a wind energy facility or solar energy facility. For wind energy facilities, the scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to electric power transmission systems, potential impacts to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. For solar energy facilities, the scoring system shall address the parcel's proximity to electric power transmission lines, potential impacts of such a facility to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy facility to be measured against the hypothetical score of an ideal location for such a facility.

E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.

§ 67-202. Schedule.

A. The Division shall complete the Plan by July 1, 2007.

B. Prior to completion of the Plan and updates thereof, the Division shall present drafts to, and consult with, the Coal and Energy Commission and the Commission on Electric Utility Regulation.

C. The Plan shall be updated by the Division and submitted as provided in § 67-203 by July 1, 2010, October 1, 2014, and every fourth October 1 thereafter. In addition, the Division shall provide interim updates on the Plan by October 1 of the third year of each administration. Updated reports shall *specify any progress attained toward each proposed action of the Plan, as well as reassess goals for energy conservation based on progress to date in meeting the goals in the previous plan and lessons learned from attempts to meet such goals.*

D. Beginning with the Plan update in 2014, the Division shall include a section to set forth energy policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d). In this section of the Plan, the Division shall address policy options for establishing separate standards of performance pursuant to § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired electric generating units to promote the Plan's overall goal of fuel diversity as follows:

1. The Plan shall address policy options for establishing the standards of performance for existing coal-fired electric generating units, including but not limited to the following factors:

a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c) the energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired electric generating units that are subject to the standard of performance;

b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably undertaken at each coal-fired electric generating unit; and

c. Increased efficiencies and other measures that can be implemented at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other fuels, co-firing other fuels with coal, or limiting the utilization of the unit.

2. The Plan shall also address policy options for establishing the standards of performance for existing gas-fired electric generating units, including but not limited to the following factors:

a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric generating units, instead of to coal-fired electric generating units; and

b. Increased efficiencies and other measures that can be reasonably implemented at the unit to reduce carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels or limiting the utilization of the unit.

3. The Plan shall examine policy options for state regulatory action to adopt less stringent standards or longer compliance schedules than those provided for in applicable federal rules or guidelines based on analysis of the following:

a. Consumer impacts, including any disproportionate impacts of energy price increases on lower-income populations;

b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic process design;

c. Physical difficulties with or impossibility of implementing emission reduction measures;

d. The absolute cost of applying the performance standard to the unit;

e. The expected remaining useful life of the unit;

f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to comply with the performance standard; and

g. Any other factors specific to the unit that make application of a less stringent standard or longer compliance schedule more reasonable.

4. The Plan shall identify options, to the maximum extent permissible, for any federally required regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units, regulatory mechanisms that provide flexibility in complying with such standards, including the averaging of emissions, emissions trading, or other alternative implementation measures that are determined to further the interests of the Commonwealth and its citizens.

CHAPTER 327

An Act to amend and reenact §§ 56-46.1, 56-585.1, 56-598, 56-601, 62.1-199, 67-103, 67-104, and 67-201 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 67-101.1; and to repeal §§ 67-101 and 67-102 of the Code of Virginia, relating to the Commonwealth Energy Policy.

[S 1284]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-46.1, 56-585.1, 56-598, 56-601, 62.1-199, 67-103, 67-104, and 67-201 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 67-101.1 as follows:

§ 56-46.1. Commission to consider environmental, economic and improvements in service reliability factors in approving construction of electrical utility facilities; approval required for construction of certain electrical transmission lines; notice and hearings.

A. Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of any environmental permit or approval. In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth *Clean Energy Policy* set forth in §§ ~~67-101 and 67-102~~ § 67-101.1, and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i) publication in a newspaper or newspapers of general circulation in the counties and municipalities through which the line is proposed to be

built, (ii) written notice to the governing body of each such county and municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property within the route of the proposed line, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of the county or municipality, approve such line. Such notices shall include a written description of the proposed route the line is to follow, as well as a map or sketch of the route including a digital geographic information system (GIS) map provided by the public utility showing the location of the proposed route. The Commission shall make GIS maps provided under this subsection available to the public on the Commission's website. Such notices shall be in addition to the advance notice to the chief administrative officer of the county or municipality required pursuant to § 15.2-2202.

As a condition to approval the Commission shall determine that the line is needed and that the corridor or route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned. To assist the Commission in this determination, as part of the application for Commission approval of the line, the applicant shall summarize its efforts to avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned. In making the determinations about need, corridor or route, and method of installation, the Commission shall verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the new line and its proposed method of installation. If the local comprehensive plan of an affected county or municipality designates corridors or routes for electric transmission lines and the line is proposed to be constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of the company. Additionally, the Commission shall consider, upon the request of the governing body of any county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits likely to result from requiring the underground placement of the line and (b) any potential impediments to timely construction of the line.

C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be designated by the Commission. In any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.

If, prior to such approval, written requests therefor are received from the governing body of any county or municipality through which the line is proposed to be built or from 20 or more interested parties, the Commission shall hold at least one hearing in the area that would be affected by construction of the line, for the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made available for public inspection at a convenient location in the area for a reasonable time before such local hearing.

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

"Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

"Interested parties" shall include the governing bodies of any counties or municipalities through which the line is proposed to be built, and persons residing or owning property in each such county or municipality.

"Public utility" means a public utility as defined in § 56-265.1.

"Qualifying facilities" means a cogeneration or small power production facility which meets the criteria of 18 C.F.R. Part 292.

"Reasonably accommodate requests to wheel or transmit power" means:

1. That the applicant will make available to new electric generation facilities constructed after January 9, 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility sources, provided that the obligation of the applicant will extend only to those requests for wheeling service made within the 12 months following certification by the State Corporation Commission of the transmission line and with effective dates for commencement of such service within the 12 months following completion of the transmission line; and

2. That the wheeling service offered by the applicant, pursuant to subdivision D 1, will reasonably further the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by submitting to the Commission, with its application for approval of the line, the cost methodologies, terms, conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling service.

E. In the event that, at any time after the giving of the notice required in subsection B, it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full

extent necessary to give affected localities and interested parties in the newly affected areas the same protection afforded to affected localities and interested parties affected by the route described in the original notice.

F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line.

G. The Commission shall enter into a memorandum of agreement with the Department of Environmental Quality regarding the coordination of their reviews of the environmental impact of electric generating plants and associated facilities.

H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from the Commission for any electric generating facility, electric transmission line, natural or manufactured gas transmission line as defined in 49 Code of Federal Regulations § 192.3, or natural or manufactured gas storage facility (hereafter, an energy facility) and (ii) an environmental permit for the energy facility that is subject to issuance by any agency or board within the Secretariat of Natural Resources, may request a pre-application planning and review process. In any such request to the Commission or the Secretariat of Natural Resources, the applicant shall identify the proposed energy facility for which it requests the pre-application planning and review process. The Commission, the Department of Environmental Quality, the Marine Resources Commission, the Department of Wildlife Resources, the Department of Historic Resources, the Department of Conservation and Recreation, and other appropriate agencies of the Commonwealth shall participate in the pre-application planning and review process. Participation in such process shall not limit the authority otherwise provided by law to the Commission or other agencies or boards of the Commonwealth. The Commission and other participating agencies of the Commonwealth may invite federal and local governmental entities charged by law with responsibility for issuing permits or approvals to participate in the pre-application planning and review process. Through the pre-application planning and review process, the applicant, the Commission, and other agencies and boards shall identify the potential impacts and approvals that may be required and shall develop a plan that will provide for an efficient and coordinated review of the proposed energy facility. The plan shall include (a) a list of the permits or other approvals likely to be required based on the information available, (b) a specific plan and preliminary schedule for the different reviews, (c) a plan for coordinating those reviews and the related public comment process, and (d) designation of points of contact, either within each agency or for the Commonwealth as a whole, to facilitate this coordination. The plan shall be made readily available to the public and shall be maintained on a dedicated website to provide current information on the status of each component of the plan and each approval process including opportunities for public comment.

I. The provisions of this section shall not apply to the construction and operation of a small renewable energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for which the Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1.

J. Approval under this section shall not be required for any transmission line for which a certificate of public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates.

Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month

period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general

service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of

overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a

capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of \$20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this

subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution

services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring

test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the

utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended

12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth *Clean Energy Policy* set forth in §§ ~~67-101~~ and ~~67-102~~ § 67-101.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-598. Contents of integrated resource plans.

An IRP should:

1. Integrate, over the planning period, the electric utility's forecast of demand for electric generation supply with recommended plans to meet that forecasted demand and assure adequate and sufficient reliability of service, including:
 - a. Generating electricity from generation facilities that it currently operates or intends to construct or purchase;
 - b. Purchasing electricity from affiliates and third parties;
 - c. Reducing load growth and peak demand growth through cost-effective demand reduction programs; and
 - d. Utilizing energy storage facilities to help meet forecasted demand and assure adequate and sufficient reliability of service;
2. Identify a portfolio of electric generation supply resources, including purchased and self-generated electric power, that:
 - a. Consistent with § 56-585.1, is most likely to provide the electric generation supply needed to meet the forecasted demand, net of any reductions from demand side programs, so that the utility will continue to provide reliable service at reasonable prices over the long term; and
 - b. Will consider low cost energy/capacity available from short-term or spot market transactions, consistent with a reasonable assessment of risk with respect to both price and generation supply availability over the term of the plan;
3. Reflect a diversity of electric generation supply and cost-effective demand reduction contracts and services so as to reduce the risks associated with an over-reliance on any particular fuel or type of generation demand and supply resources and be consistent with the Commonwealth's energy policies as set forth in § 67-102 67-101.1; and
4. Include such additional information as the Commission requests pertaining to how the electric utility intends to meet its obligation to provide electric generation service for use by its retail customers over the planning period.

§ 56-601. Natural gas conservation and ratemaking efficiency.

A. Consistent with the objectives pertaining to *the* energy issues set forth in § 67-101 and the policy elements stated in § 67-102 67-101.1, it is in the public interest to authorize and encourage the adoption of natural gas conservation and ratemaking efficiency plans that promote the wise use of natural gas and natural gas infrastructure through the development of alternative rate designs and other mechanisms that more closely align the interests of natural gas utilities, their customers, and the Commonwealth generally, and improve the efficiency of ratemaking to more closely reflect the dynamic nature of the natural gas market, the economy, and public policy regarding conservation and energy efficiency. Such alternative rate designs and other mechanisms should, where feasible:

1. Provide utilities with better tools to work with customers to decrease the average customer's annual average weather-normalized consumption of natural gas;
2. Provide reasonable assurance of a utility's ability to recover costs of serving the public, including its cost-effective investments in conservation and energy efficiency as well as infrastructure needed to provide or maintain reliable service to the public;
3. Reward utilities for meeting or exceeding conservation and energy efficiency goals that may be established pursuant to the Virginia Energy Plan (§ 67-100 et seq.);
4. Provide customers with long-term, meaningful opportunities to more efficiently consume natural gas and mitigate their expenditures for the natural gas commodity, while ensuring that the rate design methodology used to set a utility's revenue recovery is not inconsistent with such conservation and energy efficiency goals;
5. Recognize the economic and environmental benefits of efficient use of natural gas; and
6. Preserve or enhance the utility bill savings that customers receive when they reduce their natural gas use.

B. Natural gas utilities are authorized pursuant to this chapter to file natural gas conservation and ratemaking efficiency plans that implement alternative natural gas utility rate designs and other mechanisms, in addition to or in conjunction with the cost of service methodology set forth in § 56-235.2 and performance-based regulation plans authorized by § 56-235.6, that:

1. Replace existing utility rate designs or other mechanisms that promote inefficient use of natural gas with rate designs or other mechanisms that ensure a utility's recovery of its authorized revenues is independent of the amount of customers' natural gas consumption;
2. Provide incentives for natural gas utilities to promote conservation and energy efficiency by granting recovery of the costs associated with cost-effective conservation and energy efficiency programs; and
3. Reward utilities that meet or exceed conservation and energy efficiency goals on a weather-normalized, annualized average customer basis through the implementation of cost-effective conservation and energy efficiency programs.

C. This chapter shall be construed liberally to accomplish these purposes.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the

accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. The term also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § 36-156.1.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government for the payment of money.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility, including a facility for receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities; related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 11-34.2 and other energy objectives as defined in § ~~67-101~~ 67-101.1. The term also means any heavy rail transportation facilities operated by a transportation district created under the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the

State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the building of a recovered gas energy facility; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

§ 67-101.1. Commonwealth Clean Energy Policy.

A. The Commonwealth recognizes that effectively addressing climate change and enhancing resilience will advance the health, welfare, and safety of the residents of the Commonwealth. The Commonwealth further recognizes that addressing climate change requires reducing greenhouse gas emissions across the Commonwealth's economy sufficient to reach net-zero emission by 2045 in all sectors, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors. To achieve these objectives, it shall be the policy of the Commonwealth to:

- 1. Develop energy resources necessary to produce 30 percent of Virginia's electricity from renewable energy sources by 2030 and 100 percent of Virginia's electricity from carbon-free sources by 2040;*
- 2. Enable widespread integration of distributed energy resources, including energy storage and rooftop solar, into the grid to achieve decarbonization and to enhance resilience;*
- 3. Support the distributed generation of renewable electricity by:*
 - a. Encouraging private sector investments in distributed renewable energy;*
 - b. Increasing the security of the electricity grid by supporting distributed renewable energy projects and energy storage with the potential to supply electric energy to critical facilities during a widespread power outage; and*
 - c. Enhancing the ability of private property owners to generate their own renewable energy for their own personal use from renewable energy sources on their property;*
- 4. Lead by example in state government by supporting the carbon-free energy resources required to fully decarbonize the electric power supply of the Commonwealth, including deploying 30 percent renewables by 2030, realizing 100 percent carbon-free electric power by 2040, and achieving net zero emissions by 2045;*
- 5. Maximize energy efficiency programs as defined in § 56-576, to the extent determined to be in the public interest, that are the lowest-cost energy option to reduce greenhouse gas emissions, in order to produce electricity cost savings and to create jobs and economic opportunity from the energy efficiency sector;*
- 6. Support net-zero emission targets by promoting zero-emission vehicles and infrastructure, decreasing the carbon intensity of the transportation sector, encouraging alternative transportation options, and increasing the efficiency of motor vehicles operating on Virginia's roads;*
- 7. Support electric distribution grid transformation projects as defined in § 56-576;*
- 8. Promote building and construction practices that reduce emissions associated with built environment, including energy efficiency targets, new building standards, and transit-oriented and other sustainable development practices; and*
- 9. Ensure that energy development projects avoid, minimize, and, if necessary, mitigate damage to the Commonwealth's natural and cultural resources.*

B. The Commonwealth recognizes the need to promote environmental justice and ensure that it is carried out throughout the Commonwealth, as provided in § 2.2-235, and the need to address and prevent energy inequities in historically economically disadvantaged communities, as defined in § 56-576. To achieve these objectives, it shall be the policy of the Commonwealth to:

- 1. Recognize the disproportionate and inequitable impacts of climate change on historically economically disadvantaged communities and prioritize solutions and investment in these communities to maximize the benefits of clean energy and minimize the burdens of climate change;*
- 2. Ensure the fair treatment and meaningful involvement, as those terms are defined in § 2.2-234, of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of energy laws, regulations, and policies; and*

3. Increase access to clean energy and the benefits from clean energy to historically economically disadvantaged communities.

C. As Virginia transforms its energy economy, the Commonwealth must continue to prioritize economic competitiveness and workforce development in an equitable manner. To achieve this objective, it shall be the policy of the Commonwealth to:

1. Equitably incorporate requirements for technical, policy, and economic analyses and assessments that recognize the unique attributes of different energy resources and delivery systems to identify pathways to net-zero carbon that maximize Virginia's energy reliability and resilience, economic development, and jobs;

2. Require that pathways to net-zero greenhouse gas emissions be determined on the basis of technical, policy, and economic analysis to maximize their effectiveness, optimize Virginia's economic development, support industrial employment, and create quality jobs while minimizing adverse impacts on public health, affected communities, and the environment;

3. Ensure an adequate energy supply and a Virginia-based energy production capacity, while also optimizing intrastate and interstate use of energy supply and delivery to maximize energy availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's economy;

4. Increase wind energy development and grow the Commonwealth's role as a wind industry hub for offshore wind generation projects in state and federal waters off the United States coast;

5. Ensure the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy;

6. Ensure reliable energy availability in the event of a disruption occurring to a portion of the Commonwealth's energy matrix and to address the needs of businesses during the transition to clean energy;

7. Minimize the Commonwealth's long-term exposure to volatility and increases in world energy prices by expanding the use of innovative clean energy technology within the Commonwealth;

8. Create training opportunities and green career pathways for local workers and workers in historically economically disadvantaged communities in onshore and offshore wind, solar energy, electrification, energy efficiency, clean transportation, and other emerging clean energy industries;

9. Support the repurposing and development of clean energy resources on previously developed project sites as defined in § 56-576;

10. Ensure that decision making is transparent and includes opportunities for full participation by the public;

11. Explore approaches to maximizing and leveraging the capacity of lands and waters in the Commonwealth to store energy; and

12. Increase the Commonwealth's reliance on and production of sustainably produced biofuels made from traditional agricultural crops and other feedstocks, such as winter cover crops, warm season grasses, fast-growing trees, algae, or other suitable feedstocks grown in the Commonwealth, that will (i) create jobs and income, (ii) produce clean-burning fuels that will help to improve air quality, and (iii) provide the new markets for Virginia's silvicultural and agricultural products needed to preserve farm employment, conserve farmland and forestland, and increase implementation of silvicultural and agricultural best management practices to protect water quality.

D. The elements of the policy set forth in subsections A, B, and C shall be referred to collectively in this title as the Commonwealth Clean Energy Policy.

E. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Clean Energy Policy and, where appropriate, shall act in a manner consistent therewith.

F. The Commonwealth Clean Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues and shall not be construed to amend, repeal, or override any contrary provision of applicable law. Nothing in this section shall preclude reliable access to electricity and natural gas during the transition to renewable energy. The failure or refusal of any person to recognize the elements of the Commonwealth Clean Energy Policy, to act in a manner consistent with the Commonwealth Clean Energy Policy, or to take any other action whatsoever shall not create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

§ 67-103. Role of local governments in achieving objectives of the Commonwealth Clean Energy Policy.

In the development of any local ordinance addressing the siting of renewable energy facilities that generate electricity from wind or solar resources, the ordinance shall:

1. Be consistent with the provisions of the Commonwealth Clean Energy Policy pursuant to subsection E of § 67-102 67-101.1;

2. Provide reasonable criteria to be addressed in the siting of any renewable energy facility that generates electricity from wind and solar resources. The criteria shall provide for the protection of the locality in a manner consistent with the goals of the Commonwealth to promote the generation of energy from wind and solar resources; and

3. Include provisions establishing reasonable requirements upon the siting of any such renewable energy facility, including provisions limiting noise, requiring buffer areas and setbacks, and addressing generation facility decommissioning.

Any measures required by the ordinance shall be consistent with the locality's existing ordinances.

§ 67-104. Nuclear energy; considered a clean energy source.

For the purposes of the Commonwealth *Clean Energy Policy* as set out in § ~~67-402~~ *67-101.1*, in any clean energy initiative or carbon-free energy initiative undertaken, overseen, regulated, or permitted by the Department, nuclear energy shall be considered to be a clean energy source.

§ 67-201. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, the Clean Energy Advisory Board, solar, wind, and energy efficiency sectors, and a stakeholder group that shall include representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations and natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan (the Plan) that identifies actions over a 10-year period consistent with the goal of the Commonwealth *Clean Energy Policy* set forth in § ~~67-402~~ *67-101.1* to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § ~~67-401~~ *67-101.1*, that will implement the Commonwealth *Clean Energy Policy* set forth in § ~~67-402~~ *67-101.1*.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of non-greenhouse-gas-generating energy resources, such as nuclear power, used in the Commonwealth;

2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how distributed energy resources and regional generation, transmission, and distribution resources affect the Commonwealth;

3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources, including an assessment of state and local impediments to expanded use of distributed resources and recommendations to reduce or eliminate these impediments;

4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;

5. An analysis of the efficient use of energy resources and conservation initiatives;

6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets;

7. An analysis of siting of energy resource development, refining or transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities;

8. With regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411 (d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii) the effect on energy markets and reliability; and (iii) the commercial availability of technology required to comply with such regulations;

9. An inventory of greenhouse gas emissions using a method determined by the Department of Environmental Quality for the four years prior to the issuance of the Plan; and

10. Recommendations, based on the analyses completed under subdivisions 1 through 9, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth *Clean Energy Policy*.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize state geographic information systems, to the extent deemed practicable, to assess how recommendations in the Plan may affect pristine natural areas and other significant onshore natural resources. Effective October 1, 2024, interim updates on the Plan shall also contain projections for greenhouse gas emissions that would result from implementation of the Plan's recommendations.

D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a system for ascribing numerical scores to parcels of real property based on the extent to which the parcels are suitable for the siting of a wind energy facility or solar energy facility. For wind energy facilities, the scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to electric power transmission systems, potential impacts to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. For solar energy facilities, the scoring system shall address the parcel's proximity to electric power transmission lines, potential impacts of such a facility to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy facility to be measured against the hypothetical score of an ideal location for such a facility.

E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.

2. That §§ 67-101 and 67-102 of the Code of Virginia are repealed.

CHAPTER 328

An Act to amend and reenact §§ 56-585.1:11 and 56-585.5 of the Code of Virginia, relating to electric utilities; procurement.

[S 1295]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 56-585.1:11 and 56-585.5 of the Code of Virginia are amended and reenacted as follows:****§ 56-585.1:11. Development of offshore wind capacity.**

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, 2034, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's share of the facility.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation.

2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline pursuant to this section.

3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the costs of such facilities, including electrical transmission or distribution facilities associated therewith for interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers, provided that no more than

10 percent of the offshore wind facility's capacity is allocated to qualifying large general service customers. A Phase II Utility shall petition the Commission for approval of a special contract with any advanced clean energy buyer, or any special rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the projected commercial operation date of the facility, and all customer enrollments associated with such special contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract or rate may include provisions for leveled rates of service over the duration of the customer's contracted agreement with the utility, and the Commission shall determine that such special contract or rate is designed to hold nonparticipating customers harmless over its term in connection with any petition for approval by the utility. The utility may petition for approval of such special contracts or rates in connection with any petition for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within nine months from the date of filing.

D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; ~~and~~ (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged communities; and (v) *procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.*

E. Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation. A utility may give appropriate consideration to suppliers and developers that have demonstrated successful experience in offshore wind.

F. Any project shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction assessment activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Mines, Minerals and Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.

3. By December 31, 2045, each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

4. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2019; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, or falling water electric generating resources in operation, or proposed for operation, in the Commonwealth or physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%

2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%
2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%
2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating

capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of Mines, Minerals and Energy. In administering this account, the Department of Mines, Minerals and Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a competitive procurement process, procure equipment from a Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from

constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and tried up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis, however, an accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities by the utility pursuant to subsections D and E. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract

with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

CHAPTER 329

An Act to amend and reenact § 18.2-325, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-331.1, relating to illegal gambling; skills games; civil penalty; enforcement by localities and Attorney General.

[S 1465]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-331.1 as follows:

§ 18.2-325. (Effective until July 1, 2021) Definitions.

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

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

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

3. "Gambling device" includes:

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

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

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

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

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

§ 18.2-325. (Effective July 1, 2021) Definitions.

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of

value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

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

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

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

3. "Gambling device" includes:

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

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

c. Skill games.

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

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

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

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

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

§ 18.2-331.1. Operation of gambling devices at unregulated locations; civil penalty.

A. In addition to any other penalty provided by law, any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000 for each gambling device located in such unregulated location.

B. The Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and to request an attachment against all such devices and any moneys within such devices pursuant to Chapter 20 (§ 8.01-533 et seq.) of Title 8.01, and to recover the civil penalty of up to \$25,000 per device.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth, or the attorney for the locality may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and attorney fees.

D. Any civil penalties assessed under this section in an action in equity brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties assessed under this section in an action in equity brought in the name of a locality shall be paid into the general fund of the locality.

CHAPTER 330

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, relating to Dairy Producer Margin Coverage Premium Assistance Program; report.

[H 1750]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, as follows:

CHAPTER 33.1.

DAIRY PRODUCER MARGIN COVERAGE PREMIUM ASSISTANCE PROGRAM.

§ 3.2-3304. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"DCR" means the Department of Conservation and Recreation.

"Farm Act" means the federal Agriculture Improvement Act of 2018, P.L. 115-334.

"Federal coverage program" means the federal margin coverage program for dairy producers as contained in the Farm Act.

"Program" means the Dairy Producer Margin Coverage Premium Assistance Program created pursuant to this chapter.

§ 3.2-3305. Dairy Producer Margin Coverage Premium Assistance Program.

A. The Commissioner shall establish and administer the Dairy Producer Margin Coverage Premium Assistance Program to assist dairy producers that participate in the federal coverage program.

B. Any dairy producer in the Commonwealth that participates in the federal coverage program at the first tier coverage level and (i) has a resource management plan and has been certified as having implemented such plan by, or is in the process of having such plan reviewed by, DCR or a local soil and water conservation district or (ii) has a nutrient management plan that has been approved by, or is currently being reviewed by, DCR shall be eligible to apply to participate in the Program. An eligible dairy producer shall apply to the Department by February 1 of each year to participate.

C. Any participating dairy producer that has paid an annual federal premium payment at the tier I level in accordance with the Farm Act and provides proof of such payment to the Department shall have the amount of such premium reimbursed by the Department. Such reimbursement shall be provided on a first-come, first-served basis and shall be subject to availability of funds expressly appropriated for the purposes set forth in this chapter.

§ 3.2-3306. Report.

The Commissioner shall submit an annual report no later than December 1 of each year to the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources assessing the effectiveness of the Program in preserving and assisting with the continued operation of dairy producers in the Commonwealth.

§ 3.2-3307. Expiration of chapter.

The provisions of this chapter shall expire on July 1, 2023.

CHAPTER 331

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, relating to Dairy Producer Margin Coverage Premium Assistance Program; report.

[S 1193]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, as follows:

CHAPTER 33.1.

DAIRY PRODUCER MARGIN COVERAGE PREMIUM ASSISTANCE PROGRAM.

§ 3.2-3304. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"DCR" means the Department of Conservation and Recreation.

"Farm Act" means the federal Agriculture Improvement Act of 2018, P.L. 115-334.

"Federal coverage program" means the federal margin coverage program for dairy producers as contained in the Farm Act.

"Program" means the Dairy Producer Margin Coverage Premium Assistance Program created pursuant to this chapter.

§ 3.2-3305. Dairy Producer Margin Coverage Premium Assistance Program.

A. The Commissioner shall establish and administer the Dairy Producer Margin Coverage Premium Assistance Program to assist dairy producers that participate in the federal coverage program.

B. Any dairy producer in the Commonwealth that participates in the federal coverage program at the first tier coverage level and (i) has a resource management plan and has been certified as having implemented such plan by, or is in the process of having such plan reviewed by, DCR or a local soil and water conservation district or (ii) has a nutrient management plan that has been approved by, or is currently being reviewed by, DCR shall be eligible to apply to participate in the Program. An eligible dairy producer shall apply to the Department by February 1 of each year to participate.

C. Any participating dairy producer that has paid an annual federal premium payment at the tier I level in accordance with the Farm Act and provides proof of such payment to the Department shall have the amount of such premium

reimbursed by the Department. Such reimbursement shall be provided on a first-come, first-served basis and shall be subject to availability of funds expressly appropriated for the purposes set forth in this chapter.

§ 3.2-3306. Report.

The Commissioner shall submit an annual report no later than December 1 of each year to the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources assessing the effectiveness of the Program in preserving and assisting with the continued operation of dairy producers in the Commonwealth.

§ 3.2-3307. Expiration of chapter.

The provisions of this chapter shall expire on July 1, 2023.

CHAPTER 332

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, relating to the Virginia Agriculture Food Assistance Program and Fund; established.

[H 2203]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, as follows:

CHAPTER 47.1.

VIRGINIA AGRICULTURE FOOD ASSISTANCE PROGRAM.

§ 3.2-4780. Definitions.

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

"Charitable food assistance organization" means an organization operating in Virginia that provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons in Virginia.

"Fund" means the Virginia Agriculture Food Assistance Fund.

"VAFA Program" means the Virginia Agriculture Food Assistance Program.

§ 3.2-4781. Virginia Agriculture Food Assistance Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Agriculture Food Assistance Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-4782. Authority of Commissioner.

A. The Commissioner shall establish the Virginia Agriculture Food Assistance Program (VAFA Program) for Virginia farmers and food producers to donate, sell, or otherwise provide agriculture products to charitable food assistance organizations.

B. The Commissioner may contract with charitable food assistance organizations operating in Virginia or regional charitable food assistance organizations to carry out the provisions of this chapter.

C. The Commissioner shall provide grants from the Fund to charitable food assistance organizations to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated, sold, or otherwise provided to such charitable food assistance organizations.

D. The Commissioner may develop guidelines and adopt regulations to carry out the provisions of this chapter. Such regulations shall prohibit any charitable food assistance organization that contracts with or receives a grant from the Commissioner from attributing more than 10 percent of the total grant or contract amount to administrative costs.

§ 3.2-4783. Virginia Agriculture Food Assistance Program.

The VAFA Program shall:

1. Provide grants from the Fund to charitable food assistance organizations to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated to such charitable food assistance organizations; and

2. Distribute agriculture products to needy persons in Virginia in accordance with the food distribution guidelines for each charitable food assistance organization.

CHAPTER 333

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, relating to the Virginia Agriculture Food Assistance Program and Fund; established.

[S 1188]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, as follows:

CHAPTER 47.1.

VIRGINIA AGRICULTURE FOOD ASSISTANCE PROGRAM.

§ 3.2-4780. Definitions.

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

"Charitable food assistance organization" means an organization operating in Virginia that provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons in Virginia.

"Fund" means the Virginia Agriculture Food Assistance Fund.

"VAFA Program" means the Virginia Agriculture Food Assistance Program.

§ 3.2-4781. Virginia Agriculture Food Assistance Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Agriculture Food Assistance Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-4782. Authority of Commissioner.

A. The Commissioner shall establish the Virginia Agriculture Food Assistance Program (VAFA Program) for Virginia farmers and food producers to donate, sell, or otherwise provide agriculture products to charitable food assistance organizations.

B. The Commissioner may contract with charitable food assistance organizations operating in Virginia or regional charitable food assistance organizations to carry out the provisions of this chapter.

C. The Commissioner shall provide grants from the Fund to charitable food assistance organizations to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated, sold, or otherwise provided to such charitable food assistance organizations.

D. The Commissioner may develop guidelines and adopt regulations to carry out the provisions of this chapter. Such regulations shall prohibit any charitable food assistance organization that contracts with or receives a grant from the Commissioner from attributing more than 10 percent of the total grant or contract amount to administrative costs.

§ 3.2-4783. Virginia Agriculture Food Assistance Program.

The VAFA Program shall:

1. Provide grants from the Fund to charitable food assistance organizations to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated to such charitable food assistance organizations; and

2. Distribute agriculture products to needy persons in Virginia in accordance with the food distribution guidelines for each charitable food assistance organization.

CHAPTER 334

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1, relating to victims of sex trafficking; affirmative defense to prosecution for certain offenses.

[H 2234]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 8 of Title 18.2 a section numbered 18.2-361.1 as follows:

§ 18.2-361.1. Victims of sex trafficking; affirmative defense.

A. For the purposes of this section:

"Qualifying offense" means a charge for a violation of subsection A of § 18.2-346 or § 18.2-347.

"Victim of sex trafficking" means any person charged with a qualifying offense in the Commonwealth who committed such offense as a direct result of being solicited, invited, recruited, encouraged, forced, intimidated, or deceived by another to engage in acts of prostitution or unlawful sexual intercourse for money or its equivalent, as described in subsection A of § 18.2-346, regardless of whether any other person has been charged or convicted of an offense related to the sex trafficking of such person.

B. It is an affirmative defense to prosecution of a qualifying offense if at the time of the offense leading to such charge, such person was a victim of sex trafficking and (i) was coerced to engage in the offense through the use of force or intimidation or (ii) such offense was committed at the direction of another person other than the individual with whom the person engaged in the acts of prostitution or unlawful sexual intercourse for such money or its equivalent.

CHAPTER 335

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.7, relating to law-enforcement agencies; body-worn camera systems.

[S 1119]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.7 as follows:

§ 9.1-116.7. Body-Worn Camera System Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Body-Worn Camera System Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of assisting state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems as defined in § 15.2-1723.1. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines to make funds available to state or local law-enforcement agencies for the purpose of assisting state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems as defined in § 15.2-1723.1.

2. That the provisions of this act shall expire on July 1, 2023.

CHAPTER 336

An Act to amend and reenact § 18.2-271.1 of the Code of Virginia, relating to restricted licenses; payment of fines and costs.

[S 1262]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-271.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. The period of time during which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system, (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, or (iii) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon request of such person and as a condition of a restricted license, require such person to use a remote alcohol monitoring device in accordance with the provisions of subsection E of § 18.2-270.1, as it shall become effective on July 1, 2021. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor

vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment. However, (a) any such person who is eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1, as it shall become effective on July 1, 2021, who has a functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund. *Any person who is otherwise eligible to receive a restricted license issued in accordance with this subsection or as otherwise provided by law shall not be required to pay in full his fines and costs, as defined in § 19.2-354.1, before being issued such restricted license.*

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in

accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

CHAPTER 337

An Act to amend and reenact §§ 19.2-120 and 19.2-124 of the Code of Virginia and to repeal § 19.2-120.1 of the Code of Virginia, relating to admission to bail; rebuttable presumptions against bail.

[S 1266]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-120 and 19.2-124 of the Code of Virginia are amended and reenacted as follows: § 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or

2. His liberty will constitute an unreasonable danger to himself, *family or household members as defined in § 16.1-228*, or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;

2. An offense for which the maximum sentence is life imprisonment or death;

3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;

4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;

5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;

7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer

finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;

8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;

9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;

12. A violation of subsection B of § 18.2-57.2;

13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;

14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or

15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

E. The judicial officer shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release. *In making a determination under subsection A, the judicial officer shall consider all relevant information, including (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the commission of the offense; (iii) the weight of the evidence; (iv) the history of the accused or juvenile, including his family ties or involvement in employment, education, or medical, mental health, or substance abuse treatment; (v) his length of residence in, or other ties to, the community; (vi) his record of convictions; (vii) his appearance at court proceedings or flight to avoid prosecution or convictions for failure to appear at court proceedings; and (viii) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, victim, or family or household member as defined in § 16.1-228.*

F. C. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

G. D. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-124. Appeal from bail, bond, or recognizance order.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.

If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.

Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

The bail decision of the higher court on such appeal, unless the higher court orders otherwise, shall be remanded to the court in which the case is pending for enforcement and modification. The court in which the case is pending shall not

modify the bail decision of the higher court, except upon a change in the circumstances subsequent to the decision of the higher court.

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. ~~In a matter not governed by subsection B or C of § 19.2-120 or § 19.2-120.1, the~~ *The* court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. ~~When a district court grants bail over the presumption against bail in a matter that is governed by subsection B or C of § 19.2-120 or § 19.2-120.1, and upon notice by the Commonwealth of its appeal of the court's decision, the court shall stay execution of such order for so long as reasonably practical for the Commonwealth to obtain an expedited hearing before the circuit court, but in no event more than five days, unless the defendant requests a hearing date outside the five-day limit.~~

No such stay under this subsection may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

2. That § 19.2-120.1 of the Code of Virginia is repealed.

CHAPTER 338

An Act to amend and reenact §§ 46.2-936 and 46.2-940 of the Code of Virginia, relating to promises to appear after the issuance of a summons.

[S 1329]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-936 and 46.2-940 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-936. Arrest for misdemeanor; release on summons; right to demand hearing immediately or within 24 hours; issuance of warrant on request of officer for violations of §§ 46.2-301 and 46.2-302; violations.

Whenever any person is detained by or in the custody of an arresting officer, including an arrest on a warrant, for a violation of any provision of this title punishable as a misdemeanor, the arresting officer shall, except as otherwise provided in § 46.2-940, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Such time shall be at least five days after such arrest unless the person arrested demands an earlier hearing. Such person shall, if he so desires, have a right to an immediate hearing, or a hearing within ~~twenty-four~~ 24 hours at a convenient hour, before a court having jurisdiction under this title within the county, city, or town wherein such offense was committed. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

Notwithstanding the foregoing provisions of this section, if prior general approval has been granted by order of the general district court for the use of this section in cases involving violations of §§ 46.2-301 and 46.2-302, the arresting officer may take the person before the appropriate judicial officer of the county or city in which the violation occurred and make oath as to the offense and request issuance of a warrant. If a warrant is issued, the judicial officer shall proceed in accordance with the provisions of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2.

Notwithstanding any other provision of this section, in cases involving a violation of § 46.2-341.24 or § 46.2-341.31, the arresting officer shall take the person before a magistrate as provided in §§ 46.2-341.26:2 and 46.2-341.26:3. The magistrate may issue either a summons or a warrant as he shall deem proper.

~~Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction who shall proceed according to the provisions of § 46.2-940. If any person refuses to give such written promise to appear under the provisions of this section, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody.~~

Any person who willfully violates his written promise to appear or fails to appear, ~~given at the time and place specified in such summons or notice issued in accordance with this section,~~ shall be treated in accordance with the provisions of § 46.2-938.

Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a law-enforcement officer for other misconduct in office.

§ 46.2-940. When arresting officer shall take person before issuing authority.

If any person is: (i) believed by the arresting officer to have committed a felony; or (ii) believed by the arresting officer to be likely to disregard a summons issued under § 46.2-936; ~~or (iii) refuses to give a written promise to appear under the provisions of § 46.2-936,~~ the arresting officer shall promptly take him before a magistrate or other issuing authority having jurisdiction and proceed in accordance with the provisions of § 19.2-82. The magistrate or other authority may issue either a summons or warrant as he shall determine proper.

CHAPTER 339

An Act to amend and reenact §§ 3.2-6511.1 and 3.2-6511.2 of the Code of Virginia, relating to pet shops, dealers, and dog breeders; employees convicted of animal abuse; penalty.

[S 1412]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 3.2-6511.1 and 3.2-6511.2 of the Code of Virginia are amended and reenacted as follows:****§ 3.2-6511.1. Pet shops; procurement of dogs; penalty.**

A. A pet shop shall sell or offer for adoption a dog procured only from a humane society; a private or public animal shelter as those terms are defined in § 3.2-6500; or a person who has not received from the U.S. Department of Agriculture, pursuant to enforcement of the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder, (i) a citation for a direct or critical violation or citations for three or more indirect or noncritical violations for at least two years prior to the procurement of the dog or (ii) two consecutive citations for no access to the facility prior to the procurement of the dog and who has not knowingly obtained the dog directly or indirectly from a person with such citations.

B. It shall be *is* unlawful for any dealer or commercial dog breeder who is not licensed or exempted from licensure by the U.S. Department of Agriculture pursuant to the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder to sell any dog to a pet shop.

C. A pet shop shall retain records verifying compliance with this section for a minimum of two years after the disposition of any dog.

D. *No person shall serve as an owner, director, officer, manager, operator, member of staff, or animal caregiver of a pet shop if such person has been convicted of a violation of § 3.2-6570.*

E. *Prior to selling or giving for adoption any dog, a pet shop shall obtain a signed statement from the purchaser or adopter specifying that such person has never been convicted of a violation of § 3.2-6570.*

F. Any person violating any provision of subsections A, B, C, or E of this section is guilty of a Class 1 misdemeanor for each dog sold or offered for sale. *Any person violating any provision of subsection D of this section is guilty of a Class 1 misdemeanor.*

§ 3.2-6511.2. Dealers; importation and sale of dogs; penalty.

A. No dealer or commercial dog breeder shall import for sale, sell, or offer for sale any dog bred by a person who has received from the U.S. Department of Agriculture, pursuant to enforcement of the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder, (i) a citation for a direct or critical violation or citations for three or more indirect or noncritical violations for at least two years prior to the procurement of the dog or (ii) two consecutive citations for no access to the facility prior to the procurement of the dog.

B. *No person shall serve as an owner, director, officer, manager, operator, member of staff, or animal caregiver for a dealer or commercial dog breeder if such person has been convicted of a violation of § 3.2-6570.*

C. Any person violating any provision of this section is guilty of a Class 1 misdemeanor for each dog imported, sold, or offered for sale.

CHAPTER 340

An Act to amend and reenact § 3.2-6591 of the Code of Virginia and to amend the Code of Virginia by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.1, relating to animal testing facilities; adoption of dogs and cats; civil penalty.

[S 1417]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 3.2-6591 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.1 as follows:****§ 3.2-6591. Definitions.**

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

"Alternative test method" means a test method that (i) provides information of equivalent or better scientific quality and relevance than animal test methods, (ii) has been identified by a validation body and adopted by the relevant federal agency or program within an agency responsible for regulating the specific product or activity for which the test is being conducted, and (iii) does not use animals, or, when there is no test method available that does not use animals, uses the fewest animals possible and reduces the level of suffering or stress, to the greatest extent possible, of an animal used for testing. "Alternative test method" includes computational toxicology and bioinformatics, high-throughput screening methods, testing of categories of chemical substances, tiered testing methods, ~~in vitro~~ *in vitro* studies, and systems biology and new or revised methods.

"Animal" means any live vertebrate nonhuman animal.

"Animal test method" means a process or procedure that uses animals to obtain information on the characteristics of a chemical or agent or the biological effect of exposure to a chemical or agent under specified conditions.

"Animal testing facility" means any facility, including a private entity, state agency, or institution of higher education, that confines and uses dogs or cats for research, education, testing, or other scientific or medical purposes.

"Contract testing facility" means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products on behalf of another entity.

"Manufacturer" means any partnership, corporation, association, or other legal entity that produces chemicals, ingredients, product formulations, or products.

"Validation body" means an organization that seeks to facilitate development, validation, and regulatory acceptance of new and revised regulatory test methods that reduce, refine, or replace the use of animals in testing, such as the Interagency Coordinating Committee on the Validation of Alternative Methods or other similar organizations.

§ 3.2-6593.1. Animal testing facilities; adoption of dogs and cats.

Any animal testing facility that no longer has need for a dog or cat in its possession that does not pose a health or safety risk to the public or welfare of the animal shall (i) offer for release such dog or cat to a releasing agency for eventual adoption or for adoption through a private placement or (ii) in the case of a testing facility operated by an agency or institution of higher education, develop its own adoption program, provided that such program maintains records that comply with § 3.2-6557. Such animal testing facility shall keep such offer for release open for a reasonable length of time, up to three weeks, prior to euthanizing such dog or cat. An animal testing facility may enter into an agreement with a releasing agency for the implementation of the provisions of this section. An animal testing facility shall not be liable for any harm caused by or any defect suffered by any dog or cat adopted pursuant to this section.

CHAPTER 341

An Act to amend and reenact § 19.2-163.04 of the Code of Virginia, relating to public defender offices; County of Chesterfield.

[S 1442]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163.04 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-163.04. Public defender offices.

Public defender offices are established in:

- a. The City of Virginia Beach;
- b. The City of Petersburg;
- c. The Cities of Buena Vista, Lexington, Staunton, and Waynesboro and the Counties of Augusta and Rockbridge;
- d. The City of Roanoke;
- e. The City of Portsmouth;
- f. The City of Richmond;
- g. The Counties of Clarke, Frederick, Page, Shenandoah, and Warren, and the City of Winchester;
- h. The City and County of Fairfax;
- i. The City of Alexandria;
- j. The City of Radford and the Counties of Bland, Pulaski, and Wythe;
- k. The Counties of Fauquier, Loudoun, and Rappahannock;
- l. The City of Suffolk;
- m. The City of Franklin and the Counties of Isle of Wight and Southampton;
- n. The County of Bedford;
- o. The City of Danville;
- p. The Counties of Halifax, Lunenburg, and Mecklenburg;
- q. The City of Fredericksburg and the Counties of King George, Stafford, and Spotsylvania;
- r. The City of Lynchburg;
- s. The City of Martinsville and the Counties of Henry and Patrick;
- t. The City of Charlottesville and the County of Albemarle;
- u. The City of Norfolk;
- v. The County of Arlington and the City of Falls Church;
- w. The City of Newport News;
- x. The City of Chesapeake;
- y. The City of Hampton; and
- z. The Cities of Manassas and Manassas Park and the County of Prince William; and
- aa. *The County of Chesterfield.*

CHAPTER 342

An Act to amend and reenact § 54.1-3916 of the Code of Virginia and to repeal § 54.1-3915.1 of the Code of Virginia, relating to lawyers; client accounts.

[H 1853]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-3916 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-3916. Legal aid societies.**

A. The Virginia State Bar through its governing body is authorized to promulgate rules and regulations governing the function and operation of legal aid societies to further the objective of providing legal assistance to persons requiring such assistance but unable to pay for it. To the extent that interest is paid by a financial institution on client funds deposited by attorneys or law firms in pooled ~~interest bearing~~ *interest-bearing* accounts ~~established and maintained under circumstances which do not conflict with § 54.1-3915.1~~, any interest earned on such accounts shall be paid by the financial institution periodically, but at least quarterly, to the Legal Services Corporation of Virginia.

B. The rules and regulations adopted under subsection A may be enforced by the Virginia State Bar, or by the Attorney General if so authorized by the Virginia State Bar.

C. It shall be a Class 1 misdemeanor for any person, firm, corporation, or other organization to render legal services as a legal aid society, or for any attorney to render legal services at the instance or request of any such person, firm, corporation, or organization unless the person, firm, corporation, or organization complies with the rules and regulations adopted under subsection A ~~hereof~~. In addition to the criminal penalty, an injunction shall lie to prevent any violation of this section or rule or regulation adopted hereunder.

2. That § 54.1-3915.1 of the Code of Virginia is repealed.

3. That any rule promulgated by the Supreme Court of Virginia requiring attorney participation in the Interest on Lawyers Trust Accounts (IOLTA) program clearly state that an attorney or law firm has no responsibility to remit interest earned to the IOLTA program. All interest earned on IOLTA accounts shall be remitted directly to the IOLTA program by the banks holding such accounts. Any attorney or law firm participating in the IOLTA program shall bear no ethical or accounting responsibility for remittance of IOLTA interest to the IOLTA program and shall not be subject to any disciplinary action for same.

CHAPTER 343

An Act to amend and reenact § 24.2-947.11 of the Code of Virginia, relating to campaign finance; special report for large pre-legislative session contributions; contributions in aggregate.

[S 1444]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 24.2-947.11 of the Code of Virginia is amended and reenacted as follows:****§ 24.2-947.11. Special report required of certain large pre-legislative session contributions.**

A. Any ~~single contribution of \$1,000 or more~~ *candidate* for a statewide office or the General Assembly *shall, not later than January 15, file a report with the State Board of any single contribution in excess of \$1,000, or any combination of contributions with an aggregate value in excess of \$1,000 from a single person, that is knowingly received or reported by the candidate or his treasurer on behalf of his candidacy during the period beginning January 1 and ending on the day immediately before the first day of a regular session of the General Assembly. This report shall be reported filed as provided in § 24.2-947.5, and the report shall be received by the State Board not later than January 15.*

B. Any contribution reported pursuant to subsection A shall ~~also not be required to be reported on the first any subsequent~~ report required by this article following the date of the contribution.

CHAPTER 344

An Act to amend and reenact §§ 2.2-3705.7, 8.01-195.10, 8.01-654, 17.1-310, 17.1-406, 18.2-8, 18.2-10, 18.2-18, 18.2-19, 18.2-22, 18.2-25, 18.2-26, 18.2-30, 18.2-31, 18.2-32, 18.2-251.01, 19.2-11.01, 19.2-71, 19.2-76.1, 19.2-100, 19.2-102, 19.2-120, 19.2-152.2, 19.2-157, 19.2-159, 19.2-163, 19.2-163.01, 19.2-163.4:1, 19.2-169.3, 19.2-175, 19.2-217.1, 19.2-247, 19.2-270.4:1, 19.2-295.3, as it is currently effective and as it shall become effective, 19.2-299, 19.2-299.1, 19.2-311, 19.2-319, 19.2-321.2, 19.2-327.1, 19.2-327.3, 19.2-327.11, 19.2-389.1, 19.2-389.3, 19.2-400, 53.1-204, 53.1-229, and 54.1-3307 of the Code of Virginia and to repeal §§ 8.01-654.1, 8.01-654.2, 17.1-313, and 18.2-17, Article 4.1 (§§ 19.2-163.7 and 19.2-163.8) of Chapter 10 of Title 19.2, Article 4.1 (§§ 19.2-264.2 through 19.2-264.5)

of Chapter 15 of Title 19.2, § 53.1-230, and Chapter 13 (§§ 53.1-232 through 53.1-236) of Title 53.1 of the Code of Virginia, relating to abolition of the death penalty.

[H 2263]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 8.01-195.10, 8.01-654, 17.1-310, 17.1-406, 18.2-8, 18.2-10, 18.2-18, 18.2-19, 18.2-22, 18.2-25, 18.2-26, 18.2-30, 18.2-31, 18.2-32, 18.2-251.01, 19.2-11.01, 19.2-71, 19.2-76.1, 19.2-100, 19.2-102, 19.2-120, 19.2-152.2, 19.2-157, 19.2-159, 19.2-163, 19.2-163.01, 19.2-163.4:1, 19.2-169.3, 19.2-175, 19.2-217.1, 19.2-247, 19.2-270.4:1, 19.2-295.3, as it is currently effective and as it shall become effective, 19.2-299, 19.2-299.1, 19.2-311, 19.2-319, 19.2-321.2, 19.2-327.1, 19.2-327.3, 19.2-327.11, 19.2-389.1, 19.2-389.3, 19.2-400, 53.1-204, 53.1-229, and 54.1-3307 of the Code of Virginia are amended and reenacted as follows:

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local

government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social

Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by *former* § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.

A. The purpose of this article is to provide directions and guidelines for the compensation of persons who have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration is governed by Article IV, Section 14 of the Constitution of Virginia, which prohibits the General Assembly from granting relief in cases in which the courts or other tribunals may have jurisdiction and any individual seeking payment of state funds for wrongful incarceration shall be deemed to have waived all other claims. The payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. This article shall not provide an entitlement to compensation for persons wrongfully incarcerated or require the General Assembly to appropriate funds for the payment of such compensation. No estate of or personal representative for a decedent shall be entitled to seek a claim for compensation for wrongful incarceration.

B. As used in this article:

"Incarceration" or "incarcerated" means confinement in a local or regional correctional facility, juvenile correctional center, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

"Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for which (i) the conviction has been vacated pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) or 19.3 (§ 19.2-327.10 et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for the commission of a crime that he did not commit; (ii) the

person incarcerated ~~must~~ shall have entered a final plea of not guilty, or, regardless of the plea, any person sentenced to death, ~~or the person incarcerated was~~ convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life; and (iii) the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated.

§ 8.01-654. When and where petition filed; what petition to contain.

A. 1. A petition for a writ of habeas corpus ad subjiciendum may be filed in the Supreme Court or any circuit court showing by affidavits or other evidence that the petitioner is detained without lawful authority.

2. A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence, ~~except as provided in § 8.01-654.1 for cases in which a death sentence has been imposed,~~ shall be filed within two years from the date of final judgment in the trial court or within one year from either final disposition of the direct appeal in state court or the time for filing such appeal has expired, whichever is later.

B. 1. With respect to any such petition filed by a petitioner whose detention originated under criminal process, and subject to the provisions of ~~subsection C of this section~~ and of § 17.1-310, only the circuit court that entered the original judgment or order resulting in the detention complained of in the petition shall have authority to issue writs of habeas corpus. If a district court entered the original judgment or order resulting in the detention complained of in the petition, only the circuit court for the city or county wherein the district court sits shall have authority to issue writs of habeas corpus. Hearings on such petition, where granted in the circuit court, may be held at any circuit court within the same circuit as the circuit court in which the petition was filed, as designated by the judge thereof.

2. Such petition shall contain all allegations the facts of which are known to petitioner at the time of filing and such petition shall enumerate all previous applications and their disposition. No writ shall be granted on the basis of any allegation the facts of which petitioner had knowledge at the time of filing any previous petition. The provisions of this section shall not apply to a petitioner's first petition for a writ of habeas corpus when the sole allegation of such petition is that the petitioner was deprived of the right to pursue an appeal from a final judgment of conviction or probation revocation, except that such petition shall contain all facts pertinent to the denial of appeal that are known to the petitioner at the time of the filing, and such petition shall certify that the petitioner has filed no prior habeas corpus petitions attacking the conviction or probation revocation.

3. Such petition may allege detention without lawful authority through challenge to a conviction, although the sentence imposed for such conviction is suspended or is to be served subsequently to the sentence currently being served by petitioner.

4. In the event the allegations of illegality of the petitioner's detention can be fully determined on the basis of recorded matters, the court may make its determination whether such writ should issue on the basis of the record.

5. The court shall give findings of fact and conclusions of law following a determination on the record or after hearing, to be made a part of the record and transcribed.

6. If petitioner alleges as a ground for illegality of his detention the inadequacy of counsel, he shall be deemed to waive his privilege with respect to communications between such counsel and himself to the extent necessary to permit a full and fair hearing for the alleged ground.

C. 1. With respect to any such petition filed by a petitioner held under the sentence of death, and subject to the provisions of this subsection, the Supreme Court shall have exclusive jurisdiction to consider and award writs of habeas corpus. The circuit court which entered the judgment order setting the sentence of death shall have authority to conduct an evidentiary hearing on such a petition only if directed to do so by order of the Supreme Court.

2. Hearings conducted in a circuit court pursuant to an order issued under the provisions of subdivision 1 of this subsection shall be limited in subject matter to the issues enumerated in the order.

3. The circuit court shall conduct such a hearing within 90 days after the order of the Supreme Court has been received and shall report its findings of fact and recommend conclusions of law to the Supreme Court within 60 days after the conclusion of the hearing. Any objection to the report of the circuit court must be filed in the Supreme Court within 30 days after the report is filed.

§ 17.1-310. Habeas corpus, appeals, writs of error and supersedeas.

The Supreme Court shall also have jurisdiction to award writs of habeas corpus and of such appeals, writs of error and supersedeas as may be legally docketed in or transferred to the Court. ~~In accordance with § 8.01-654, the Court shall have exclusive jurisdiction to award writs of habeas corpus upon petitions filed by prisoners held under the sentence of death.~~

§ 17.1-406. Petitions for appeal; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may present a petition for appeal to the Court of Appeals from (i) any final conviction in a circuit court of a traffic infraction or a crime, ~~except where a sentence of death has been imposed,~~ (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iv) any final order for declaratory or injunctive relief under § 57-2.02. The Commonwealth or any county, city or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court ~~from a conviction in which a sentence of death is imposed,~~ from a final decision, judgment, or order of a circuit court involving a petition for a writ of habeas corpus; from any final finding, decision, order, or judgment of the State Corporation Commission; and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 18.2-8. Felonies, misdemeanors and traffic infractions defined.

Offenses are either felonies or misdemeanors. Such offenses as are punishable with death or confinement in a state correctional facility are felonies; all other offenses are misdemeanors. Traffic infractions are violations of public order as defined in § 46.2-100 and not deemed to be criminal in nature.

§ 18.2-10. Punishment for conviction of felony; penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, ~~death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be a person with intellectual disability pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be a person with intellectual disability pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. Any person who was 18 years of age or older at the time of the offense and who is sentenced to imprisonment for life upon conviction of a Class 1 felony shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02.~~

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), ~~or in Class 1 felonies for which a sentence of death is imposed,~~ the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of incarceration of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

§ 18.2-18. How principals in second degree and accessories before the fact punished.

In the case of every felony, every principal in the second degree and every accessory before the fact may be indicted, tried, convicted and punished in all respects as if a principal in the first degree; provided, however, that except in the case of a killing for hire under the provisions of subdivision A 2 of § 18.2-31 or a killing pursuant to the direction or order of one who is engaged in a continuing criminal enterprise under the provisions of subdivision A 10 of § 18.2-31 or a killing pursuant to the direction or order of one who is engaged in the commission of or attempted commission of an act of terrorism under the provisions of subdivision A 13 of § 18.2-31, an accessory before the fact or principal in the second degree to a ~~capital~~ *an aggravated* murder shall be indicted, tried, convicted and punished as though the offense were murder in the first degree.

§ 18.2-19. How accessories after the fact punished; certain exceptions.

Every accessory after the fact is guilty of (i) a Class 6 felony in the case of a homicide offense that is punishable by ~~death~~ or as a Class 1 or Class 2 felony or (ii) a Class 1 misdemeanor in the case of any other felony. However, no person in the relation of spouse, parent or grandparent, child or grandchild, or sibling, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, aids or assists a principal felon or accessory before the fact to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

§ 18.2-22. Conspiracy to commit felony.

(a) If any person shall conspire, confederate or combine with another, either within or ~~without this~~ *outside the* Commonwealth, to commit a felony within ~~this~~ *the* Commonwealth, or if he shall so conspire, confederate or combine with

another within ~~this~~ *the* Commonwealth to commit a felony either within or ~~without this~~ *outside the* Commonwealth, he shall be guilty of a felony ~~which that~~ shall be punishable as follows:

(1) Every person who so conspires to commit an offense ~~which that~~ is punishable by death ~~shall be as a Class 1 felony~~ is guilty of a Class 3 felony;

(2) Every person who so conspires to commit an offense ~~which that~~ is a ~~noncapital~~ *any other* felony ~~shall be~~ is guilty of a Class 5 felony; and

(3) Every person who so conspires to commit an offense the maximum punishment for which is confinement in a state correctional facility for a period of less than five years shall be confined in a state correctional facility for a period of one year, or, in the discretion of the jury or the court trying the case without a jury, may be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, either or both.

(b) However, in no event shall the punishment for a conspiracy to commit an offense exceed the maximum punishment for the commission of the offense itself.

(c) Jurisdiction for the trial of any person accused of a conspiracy under this section shall be in the county or city wherein any part of such conspiracy is planned or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

(d) The penalty provisions of this section shall not apply to any person who conspires to commit any offense defined in the Drug Control Act (§ 54.1-3400 et seq.) or of Article 1 (§ 18.2-247 et seq.) of Chapter 7. The penalty for any such violation shall be as provided in § 18.2-256.

§ 18.2-25. Attempts to commit Class 1 felony offenses; how punished.

If any person attempts to commit an offense ~~which that~~ is punishable with death ~~as a Class 1 felony~~, he shall be is guilty of a Class 2 felony.

§ 18.2-26. Attempts to commit felonies other than Class 1 felony offenses; how punished.

~~Every~~ *Except as provided in § 18.2-25*, every person who attempts to commit an offense ~~which that~~ is a ~~noncapital~~ felony shall be punished as follows:

(1) If the felony attempted is punishable by a maximum punishment of life imprisonment or a term of years in excess of twenty years, an attempt thereat shall be punishable as a Class 4 felony.

(2) If the felony attempted is punishable by a maximum punishment of twenty years' imprisonment, an attempt thereat shall be punishable as a Class 5 felony.

(3) If the felony attempted is punishable by a maximum punishment of less than twenty years' imprisonment, an attempt thereat shall be punishable as a Class 6 felony.

§ 18.2-30. Murder and manslaughter declared felonies.

Any person who commits ~~capital~~ *aggravated* murder, murder of the first degree, murder of the second degree, voluntary manslaughter, or involuntary manslaughter, ~~shall be~~ is guilty of a felony.

§ 18.2-31. Aggravated murder defined; punishment.

A. The following offenses shall constitute ~~capital~~ *aggravated* murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;

10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;

11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;

12. The willful, deliberate, and premeditated killing of a person under the age of 14 by a person age 21 or older;

13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;

14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a judge of the Court of Appeals, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; and

15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case.

B. For a violation of subdivision A 6 where the offender was 18 years of age or older at the time of the offense, the punishment shall be no less than a mandatory minimum term of confinement for life.

C. If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

§ 18.2-32. First and second degree murder defined; punishment.

Murder, other than ~~capital~~ *aggravated* murder, by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, rape, forcible sodomy, inanimate or animate object sexual penetration, robbery, burglary or abduction, except as provided in § 18.2-31, is murder of the first degree, punishable as a Class 2 felony.

All murder other than ~~capital~~ *aggravated* murder and murder in the first degree is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five nor more than forty years.

§ 18.2-251.01. Substance abuse screening and assessment for felony convictions.

A. When a person is convicted of a felony, ~~not except a capital offense~~ *Class 1 felony*, committed on or after January 1, 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a substance abuse or dependence problem, an assessment by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Corrections or by an agency employee under the supervision of such counselor. If the person is determined to have a substance abuse problem, the court shall require him to enter treatment and/or education program or services, if available, which, in the opinion of the court, is best suited to the needs of the person. The program or services may be located in the judicial district in which the conviction was had or in any other judicial district as the court may provide. The treatment and/or education program or services shall be licensed by the Department of Behavioral Health and Developmental Services or shall be a similar program or services which are made available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP. The services agency or program may require the person entering such program or services under the provisions of this section to pay a fee for the education and treatment component, or both, based upon the defendant's ability to pay.

B. As a condition of any suspended sentence and probation, the court shall order the person to undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate based upon consideration of the substance abuse assessment.

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, and 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and § 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

§ 19.2-71. Who may issue process of arrest.

A. Process for the arrest of a person charged with a criminal offense may be issued by the judge, or clerk of any circuit court, any general district court, any juvenile and domestic relations district court, or any magistrate as provided for in Chapter 3 (§ 19.2-26 et seq.) of this title. However, no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense.

B. No law-enforcement officer shall seek issuance of process by any judicial officer, for the arrest of a person for ~~the~~ *an* offense of ~~capital~~ *aggravated* murder as defined in § 18.2-31, without prior authorization by the attorney for the Commonwealth. Failure to comply with the provisions of this subsection shall not be (i) a basis upon which a warrant may be quashed or deemed invalid, (ii) deemed error upon which a conviction or sentence may be reversed or vacated, or (iii) a basis upon which a court may prevent or delay execution of sentence.

§ 19.2-76.1. Submission of quarterly reports concerning unexecuted felony and misdemeanor warrants and other criminal process; destruction; dismissal.

It shall be the duty of the chief law-enforcement officer of the police department or sheriff's office, whichever is responsible for such service, in each county, town or city of the Commonwealth to submit quarterly reports to the attorney for the Commonwealth for the county, town or city concerning unexecuted felony and misdemeanor arrest warrants, summonses, capiases or other unexecuted criminal processes as hereinafter provided. The reports shall list those existing felony arrest warrants in his possession that have not been executed within seven years of the date of issuance, those misdemeanor arrest warrants, summonses and capiases and other criminal processes in his possession that have not been executed within three years from the date of issuance, and those unexecuted misdemeanor arrest warrants, summonses and capiases in his possession that were issued for a now deceased person, based on mistaken identity or as a result of any other technical or legal error. The reports shall be submitted in writing no later than the tenth day of April, July, October, and January of each year, together with the unexecuted felony and misdemeanor warrants, or other unexecuted criminal

processes listed therein. Upon receipt of the report and the warrants listed therein, the attorney for the Commonwealth shall petition the circuit court of the county or city for the destruction of such unexecuted felony and misdemeanor warrants, summonses, capias or other unexecuted criminal processes. The attorney for the Commonwealth may petition that certain of the unexecuted warrants, summonses, capias and other unexecuted criminal processes not be destroyed based upon justifiable continuing, active investigation of the cases. The circuit court shall order the destruction of each such unexecuted felony warrant and each unexecuted misdemeanor warrant, summons, capias and other criminal process except (i) any warrant which *that* charges *capital aggravated* murder and (ii) any unexecuted criminal process whose preservation is deemed justifiable by the court. No arrest shall be made under the authority of any warrant or other process which has been ordered destroyed pursuant to this section. Nothing in this section shall be construed to relate to or affect the time within which a prosecution for a felony or a misdemeanor shall be commenced.

Notwithstanding the foregoing, an attorney for the Commonwealth may at any time move for the dismissal and destruction of any unexecuted warrant or summons issued by a magistrate upon presentation of such warrant or summons to the court in which the warrant or summons would otherwise be returnable. The court shall not order the dismissal and destruction of any warrant which *that* charges *capital aggravated* murder and shall not order the dismissal and destruction of an unexecuted criminal process whose preservation is deemed justifiable by the court. Dismissal of such a warrant or summons shall be without prejudice.

As used herein, the term "chief law-enforcement officer" refers to the chiefs of police of cities, counties and towns and sheriffs of cities and counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

§ 19.2-100. Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by ~~death or~~ imprisonment for a term exceeding one year. But when so arrested the accused shall be taken before a judge, magistrate or other officer authorized to issue criminal warrants in ~~this the~~ Commonwealth with all practicable speed and complaint made against him under oath setting forth the ground for the arrest as in ~~the preceding section;~~ § 19.2-99, and thereafter his answer shall be heard as if he had been arrested on a warrant.

§ 19.2-102. In what cases bail allowed; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by ~~death or~~ life imprisonment under the laws of the state in which it was committed, any judge, magistrate or other person authorized by law to admit persons to bail in ~~this the~~ Commonwealth may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned upon his appearance before a judge at a time specified in such bond and upon his surrender for arrest upon the warrant of the Governor of ~~this the~~ Commonwealth.

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or
2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;
2. An offense for which the maximum sentence is life imprisonment ~~or death~~;
3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if
 - (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or
 - (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;
4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;
5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;
6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;
7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;
8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;
9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;
10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or

any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;

12. A violation of subsection B of § 18.2-57.2;

13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;

14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or

15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

E. The judicial officer shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

F. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-152.2. Purpose; establishment of pretrial services and services agencies.

It is the purpose of this article to provide more effective protection of society by establishing pretrial services agencies that will assist judicial officers in discharging their duties pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title. Such agencies are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons age 18 or over or persons under the age of 18 who have been transferred for trial as adults held in custody and charged with an offense, other than an offense punishable by death as a Class 1 felony, who are pending trial or hearing. Any city, county or combination thereof may establish a pretrial services agency and any city, county or combination thereof required to submit a community-based corrections plan pursuant to § 53.1-82.1 shall establish a pretrial services agency.

§ 19.2-157. Duty of court when accused appears without counsel.

Except as may otherwise be provided in §§ 16.1-266 through 16.1-268, whenever a person charged with a criminal offense the penalty for which may be death or confinement in the state correctional facility or jail, including charges for revocation of suspension of imposition or execution of sentence or probation, appears before any court without being represented by counsel, the court shall inform him of his right to counsel. The accused shall be allowed a reasonable opportunity to employ counsel or, if appropriate, the statement of indigence provided for in § 19.2-159 may be executed.

§ 19.2-159. Determination of indigency; guidelines; statement of indigence; appointment of counsel.

A. If the accused shall claim that he is indigent, and the charge against him is a criminal offense which that may be punishable by death or confinement in the state correctional facility or jail, subject to the provisions of § 19.2-160, the court shall determine from oral examination of the accused or other competent evidence whether or not the accused is indigent within the contemplation of law pursuant to the guidelines set forth in this section.

B. In making its finding, the court shall determine whether or not the accused is a current recipient of a state or federally funded public assistance program for the indigent. If the accused is a current recipient of such a program and does not waive his right to counsel or retain counsel on his own behalf, he shall be presumed eligible for the appointment of counsel. This presumption shall be rebuttable where the court finds that a more thorough examination of the financial resources of the defendant is necessary. If the accused shall claim to be indigent and is not presumptively eligible under the provisions of this section, then a thorough examination of the financial resources of the accused shall be made with consideration given to the following:

1. The net income of the accused, which shall include his total salary and wages minus deductions required by law. The court also shall take into account income and amenities from other sources including but not limited to social security funds,

union funds, veteran's benefits, other regular support from an absent family member, public or private employee pensions, dividends, interests, rents, estates, trusts, or gifts.

2. All assets of the accused which are convertible into cash within a reasonable period of time without causing substantial hardship or jeopardizing the ability of the accused to maintain home and employment. Assets shall include all cash on hand as well as in checking and savings accounts, stocks, bonds, certificates of deposit, and tax refunds. All personal property owned by the accused which is readily convertible into cash shall be considered, except property exempt from attachment. Any real estate owned by the accused shall be considered in terms of the amounts which could be raised by a loan on the property. For purposes of eligibility determination, the income, assets, and expenses of the spouse, if any, who is a member of the accused's household, shall be considered, unless the spouse was the victim of the offense or offenses allegedly committed by the accused.

3. Any exceptional expenses of the accused and his family which would, in all probability, prohibit him from being able to secure private counsel. Such items shall include but not be limited to costs for medical care, family support obligations, and child care payments.

The available funds of the accused shall be calculated as the sum of his total income and assets less the exceptional expenses as provided in *the first paragraph of this subdivision 3 above*. If the accused does not waive his right to counsel or retain counsel on his own behalf, counsel shall be appointed for the accused if his available funds are equal to or below 125 percent of the federal poverty income guidelines prescribed for the size of the household of the accused by the federal Department of Health and Human Services. The Supreme Court of Virginia shall be responsible for distributing to all courts the annual updates of the federal poverty income guidelines made by the Department.

If the available funds of the accused exceed 125 percent of the federal poverty income guidelines and the accused fails to employ counsel and does not waive his right to counsel, the court may, in exceptional circumstances, and where the ends of justice so require, appoint an attorney to represent the accused. However, in making such appointments, the court shall state in writing its reasons for so doing. The written statement by the court shall be included in the permanent record of the case.

C. If the court determines that the accused is indigent as contemplated by law pursuant to the guidelines set forth in this section, the court shall provide the accused with a statement which shall contain the following:

"I have been advised this _____ day of _____, 20____, by the (name of court) court of my right to representation by counsel in the trial of the charge pending against me; I certify that I am without means to employ counsel and I hereby request the court to appoint counsel for me."

(signature of accused)

The court shall also require the accused to complete a written financial statement to support the claim of indigency and to permit the court to determine whether or not the accused is indigent within the contemplation of law. The accused shall execute the said statements under oath, and the said court shall appoint competent counsel to represent the accused in the proceeding against him, including an appeal, if any, until relieved or replaced by other counsel.

The executed statements by the accused and the order of appointment of counsel shall be filed with and become a part of the record of such proceeding.

All other instances in which the appointment of counsel is required for an indigent shall be made in accordance with the guidelines prescribed in this section.

D. Except in jurisdictions having a public defender, or unless (i) the public defender is unable to represent the defendant by reason of conflict of interest or (ii) the court finds that appointment of other counsel is necessary to attain the ends of justice, counsel appointed by the court for representation of the accused shall be selected by a fair system of rotation among members of the bar practicing before the court whose names are on the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01. If no attorney who is on the list maintained by the Indigent Defense Commission is reasonably available, the court may appoint as counsel an attorney not on the list who has otherwise demonstrated to the court's satisfaction an appropriate level of training and experience. The court shall provide notice to the Commission of the appointment of the attorney.

§ 19.2-163. Compensation of court-appointed counsel.

Upon submission to the court, for which appointed representation is provided, of a detailed accounting of the time expended for that representation, made within 30 days of the completion of all proceedings in that court, counsel appointed to represent an indigent accused in a criminal case shall be compensated for his services on an hourly basis at a rate set by the Supreme Court of Virginia in a total amount not to exceed the amounts specified in the following schedule:

1. In a district court, a sum not to exceed \$120, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to (i) an additional \$120 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (ii) an amount up to \$650 to defend, in the case of a juvenile, an offense that would be a felony if committed by an adult that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (iii) such other amount as may be provided by law. Such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent through to its conclusion or a charge of violation of probation at any hearing conducted under § 19.2-306; thereafter,

compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges;

2. In a circuit court (i) to defend a *Class 1* felony charge ~~that may be punishable by death~~, an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, a sum not to exceed \$1,235, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$850 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of violation of probation for such offense, a sum not to exceed \$445, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$155 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense, a sum not to exceed \$158. In the event any case is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a felony that ~~may be is punishable by death as a Class 1 felony~~, such counsel shall continue to receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a *lesser* felony ~~that may not be punishable by death~~, prior to final disposition of the case. In the event counsel is appointed to defend an indigent charged with any other felony, such counsel shall receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may request an additional waiver exceeding the amounts provided for in this section. The request for any additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time spent and the justification for the additional amount. The presiding judge shall determine, subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an additional amount is justified in whole or in part, by considering the effort expended and the time reasonably necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge of the circuit court or district court for approval.

If at any time the funds appropriated to pay for waivers under this section become insufficient, the Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers shall be approved.

The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the court to represent an indigent charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the court to defend a felony charge that ~~may be is punishable by death as a Class 1 felony~~.

The circuit or district court shall direct that the foregoing payments shall be paid out by the Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city or town, if the defendant is charged with a violation of a county, city or town ordinance, to the attorney so appointed to defend such person as compensation for such defense.

Counsel representing a defendant charged with a *Class 1* felony, ~~or counsel representing an indigent prisoner under sentence of death in a state habeas corpus proceeding~~, may submit to the court, on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the total charges as are deemed reasonable by the court for which payment has not previously been made or requested exceed \$1,000, the court may direct that payment be made as otherwise provided in this section.

When such directive is entered upon the order book of the court, the Commonwealth, county, city or town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be. In the event that counsel for the defendant requests a waiver of the limitations on compensation, the court shall assess against the defendant an amount equal to the pre-waiver compensation limit specified in this section for each charge for which the defendant was convicted. An abstract of such costs shall be docketed in the judgment docket and execution lien book maintained by such court.

Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment.

For the purposes of this section, the defense of a case may be considered conducted through to its conclusion and an appointed counsel entitled to compensation for his services in the event an indigent accused fails to appear in court subject to a *capias* for his arrest or a show cause summons for his failure to appear and remains a fugitive from justice for one year

following the issuance of the *capias* or the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the number and category of offenses charged involving adult and juvenile offenders in cases in which court-appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports to the Governor, members of the House Appropriations Committee, and members of the Senate Finance Committee on a quarterly basis.

§ 19.2-163.01. Virginia Indigent Defense Commission established; powers and duties.

A. The Virginia Indigent Defense Commission (hereinafter Indigent Defense Commission or Commission) is established. The Commission shall be supervisory and shall have sole responsibility for the powers, duties, operations, and responsibilities set forth in this section.

The Commission shall have the following powers and duties:

1. To publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants pursuant to § 19.2-159.

2. To develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.

3. To maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards and to disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts. In establishing and updating the list, the Commission shall consider all relevant factors, including but not limited to, the attorney's background, experience, and training and the Commission's assessment of whether the attorney is competent to provide quality legal representation.

4. To establish official standards of practice for court-appointed counsel and public defenders to follow in representing their clients, and guidelines for the removal of an attorney from the official list of those qualified to receive court appointments and to notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.

5. To develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility.

6. To periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.

7. To maintain all public defender ~~and regional capital defender~~ offices established by the General Assembly.

8. To hire and employ and, at its pleasure, remove an executive director, counsel, and such other persons as it deems necessary, and to authorize the executive director to appoint, after prior notice to the Commission, a deputy director, and for each of the above offices a public defender ~~or capital defender~~, as the case may be, who shall devote his full time to his duties and not engage in the private practice of law.

9. To authorize the public defender ~~or capital defender~~ to employ such assistants as authorized by the Commission.

10. To authorize the public defender ~~or capital defender~~ to employ such staff, including secretarial and investigative personnel, as may be necessary to carry out the duties imposed upon the public defender office.

11. To authorize the executive director of the Commission, in consultation with the public defender ~~or capital defender~~ to secure such office space as needed, to purchase or rent office equipment, to purchase supplies and to incur such expenses as are necessary to carry out the duties imposed upon him.

12. To approve requests for appropriations and receive and expend moneys appropriated by the General Assembly of Virginia, to receive other moneys as they become available to it and expend the same in order to carry out the duties imposed upon it.

13. To require and ensure that each public defender office collects and maintains caseload data and fields in a case management database on an annual basis.

14. To report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the state of indigent criminal defense in the Commonwealth, including Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed pursuant to § 19.2-159 or subdivision C 2 of § 16.1-266.

B. The Commission shall adopt rules and procedures for the conduct of its business. The Commission may delegate to the executive director or, in the absence of the executive director, the deputy executive director, such powers and duties conferred upon the Commission as it deems appropriate, including powers and duties involving the exercise of discretion. The Commission shall ensure that the executive director complies with all Commission and statutory directives. Such rules and procedures may include the establishment of committees and the delegation of authority to the committees. The Commission shall review and confirm by a vote of the Commission its rules and procedures and any delegation of authority to the executive director at least every three years.

C. The executive director shall, with the approval of the Commission, fix the compensation of each public defender and all other personnel in each public defender office. The executive director shall also exercise and perform such other

powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

§ 19.2-163.4:1. Repayment of representation costs by convicted persons.

In any case in which an attorney from a public defender ~~or capital defender~~ office represents an indigent person charged with an offense and such person is convicted, the sum that would have been allowed a court-appointed attorney as compensation and as reasonable expenses shall be taxed against the person defended as a part of the costs of the prosecution, and, if collected, shall be paid to the Commonwealth or, if payment was made to the Commonwealth by a locality for defense of a local ordinance violation, to the appropriate county, city or town. An abstract of such costs shall be docketed in the judgment lien docket and execution book of the court.

§ 19.2-169.3. Disposition of the unrestorably incompetent defendant; aggravated murder charge; sexually violent offense charge.

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the board, authority, or inpatient facility director's or his designee's opinion, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or (iii) certified pursuant to § 37.2-806. However, if the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future and the defendant has been charged with a sexually violent offense, as defined in § 37.2-900, he shall be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the board, authority, or inpatient facility director or his designee, the director or his designee shall so notify the court and make recommendations concerning disposition of the defendant as described in subsection A. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described in subsection A. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. If any defendant has been charged with a misdemeanor in violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or Article 5 (§ 18.2-119 et seq.) of Chapter 5 of Title 18.2, other than a misdemeanor charge pursuant to § 18.2-130 or Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, and is being treated pursuant to subsection A of § 19.2-169.2, and after 45 days has not been restored to competency, the director of the community service board, behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or certified pursuant to § 37.2-806. Upon receipt of the report, if the court determines that the defendant is still incompetent, the court shall order that the defendant be released, committed, or certified, and may dismiss the charges against the defendant.

D. Unless an incompetent defendant is charged with ~~capital~~ *aggravated* murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

E. If the court orders an unrestorably incompetent defendant to be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of Behavioral Health and Developmental Services to provide the Director of the Department of Corrections with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's community services board, behavioral health authority, or treating inpatient facility or his designee pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Behavioral Health and Developmental Services for secure confinement and treatment until the Commitment Review Committee's and Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a sexually violent predator after conducting a review pursuant to § 37.2-905, the court shall order that the defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or certified pursuant to § 37.2-806.

F. In any case when an incompetent defendant is charged with *capital aggravated* murder and has been determined to be unrestorably incompetent, notwithstanding any other provision of this section, the charge shall not be dismissed and the court having jurisdiction over the *capital aggravated* murder case may order that the defendant receive continued treatment under subsection A of § 19.2-169.2 in a secure facility determined by the Commissioner of the Department of Behavioral Health and Developmental Services where the defendant shall remain until further order of the court, provided that (i) a hearing pursuant to subsection E of § 19.2-169.1 is held at yearly intervals for five years and at biennial intervals thereafter, or at any time that the director of the treating facility or his designee submits a competency report to the court in accordance with subsection D of § 19.2-169.1 that the defendant's competency has been restored, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically appropriate, and (iv) the defendant presents a danger to himself or others. No unrestorably incompetent defendant charged with *capital aggravated* murder shall be released except pursuant to a court order.

G. The attorney for the Commonwealth may bring charges that have been dismissed against the defendant when he is restored to competency.

§ 19.2-175. Compensation of experts.

Each psychiatrist, clinical psychologist or other expert appointed by the court to render professional service pursuant to § 19.2-168.1, 19.2-169.1, 19.2-169.5, 19.2-182.8, 19.2-182.9, ~~19.2-264.3-1, 19.2-264.3-3~~ or 19.2-301, who is not regularly employed by the Commonwealth of Virginia except by the University of Virginia School of Medicine and the ~~Medical College of Virginia Commonwealth University~~ *School of Medicine*, shall receive a reasonable fee for such service. For any psychiatrist, clinical psychologist, or other expert appointed by the court to render such professional services who is regularly employed by the Commonwealth of Virginia, except by the University of Virginia School of Medicine or the ~~Medical College of Virginia Commonwealth University~~ *School of Medicine*, the fee shall be paid only for professional services provided during nonstate hours that have been approved by his employing agency as being beyond the scope of his state employment duties. The fee shall be determined in each instance by the court that appointed the expert, in accordance with guidelines established by the Supreme Court after consultation with the Department of Behavioral Health and Developmental Services. Except in *capital aggravated* murder cases pursuant to § 18.2-31, the fee shall not exceed \$750, but in addition if any such expert is required to appear as a witness in any hearing held pursuant to such sections, he shall receive mileage and a fee of \$100 for each day during which he is required so to serve. An itemized account of expense, duly sworn to, must be presented to the court, and when allowed shall be certified to the Supreme Court for payment out of the state treasury, and be charged against the appropriations made to pay criminal charges. Allowance for the fee and for the per diem authorized shall also be made by order of the court, duly certified to the Supreme Court for payment out of the appropriation to pay criminal charges.

§ 19.2-217.1. Central file of aggravated murder indictments.

Upon the return by a grand jury of an indictment for *capital aggravated* murder and the arrest of the defendant, the clerk of the circuit court in which such indictment is returned shall forthwith file a certified copy of the indictment with the clerk of the Supreme Court of Virginia. All such indictments shall be maintained in a single place by the clerk of the Supreme Court, and shall be available to members of the public upon request. Failure to comply with the provisions of this section shall not be (i) a basis upon which an indictment may be quashed or deemed invalid; (ii) deemed error upon which a conviction may be reversed or a sentence vacated; or (iii) a basis upon which a court may prevent or delay execution of a sentence.

§ 19.2-247. Venue in certain homicide cases.

Where evidence exists that a homicide has been committed either within or without the Commonwealth, under circumstances that make it unknown where such crime was committed, the homicide and any related offenses shall be amenable to prosecution in the courts of the county or city where the body or any part thereof of the victim may be found or, if the victim was removed from the Commonwealth for medical treatment prior to death and died outside the Commonwealth, in the courts of the county or city from which the victim was removed for medical treatment prior to death, as if the offense has been committed in such county or city. In a prosecution for *capital murder* pursuant to subdivision A 8 of § 18.2-31, the offense may be prosecuted in any jurisdiction in the Commonwealth in which any one of the killings may be prosecuted.

§ 19.2-270.4:1. Storage, preservation and retention of human biological evidence in felony cases.

A. Notwithstanding any provision of law or rule of court, upon motion of a person convicted of a felony ~~but not sentenced to death~~ or his attorney of record to the circuit court that entered the judgment for the offense, the court shall order the storage, preservation, and retention of specifically identified human biological evidence or representative samples collected or obtained in the case for a period of up to 15 years from the time of conviction, unless the court determines, in its discretion, that the evidence should be retained for a longer period of time. Upon the filing of such a motion, the defendant may request a hearing for the limited purpose of identifying the human biological evidence or representative samples that are to be stored in accordance with the provisions of this section. Upon the granting of the motion, the court shall order the clerk of the circuit court to transfer all such evidence to the Department of Forensic Science. The Department of Forensic Science shall store, preserve, and retain such evidence. If the evidence is not within the custody of the clerk at the time the order is entered, the court shall order the governmental entity having custody of the evidence to transfer such evidence to the Department of Forensic Science. Upon the entry of an order under this subsection, the court may upon motion or upon good cause shown, with notice to the convicted person, his attorney of record and the attorney for the Commonwealth,

modify the original storage order, as it relates to time of storage of the evidence or samples, for a period of time greater than or less than that specified in the original order.

B. In the case of a person sentenced to death, the court that entered the judgment shall, in all cases, order any human biological evidence or representative samples to be transferred by the governmental entity having custody to the Department of Forensic Science. The Department of Forensic Science shall store, preserve, and retain such evidence until the judgment is executed. If the person sentenced to death has his sentence reduced, then such evidence shall be transferred from the Department to the original investigating law-enforcement agency for storage as provided in this section.

C. Pursuant to standards and guidelines established by the Department of Forensic Science, the order shall state the method of custody, transfer and return of any evidence to insure and protect the Commonwealth's interest in the integrity of the evidence. Pursuant to standards and guidelines established by the Department of Forensic Science, the Department of Forensic Science, local law-enforcement agency or other custodian of the evidence shall take all necessary steps to preserve, store, and retain the evidence and its chain of custody for the period of time specified.

D. C. In any proceeding under this section, the court, upon a finding that the physical evidence is of such a nature, size or quantity that storage, preservation or retention of all of the evidence is impractical, may order the storage of only representative samples of the evidence. The Department of Forensic Science shall take representative samples, cuttings or swabbings and retain them. The remaining evidence shall be handled according to § 19.2-270.4 or as otherwise provided for in the Code.

E. D. An action under this section or the performance of any attorney representing the petitioner under this section shall not form the basis for relief in any habeas corpus or appellate proceeding. Nothing in this section shall create any cause of action for damages against the Commonwealth, or any of its political subdivisions or officers, employees or agents of the Commonwealth or its political subdivisions.

§ 19.2-295.3. (Effective until July 1, 2021) Admission of victim impact testimony.

Whether by trial or upon a plea of guilty, upon a finding that the defendant is guilty of a felony, the court shall permit the victim, as defined in § 19.2-11.01, upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1 or in the case of trial by the court or a guilty plea, the court shall permit the victim to testify before the court prior to the imposition of a sentence. ~~Victim impact testimony in all capital murder cases shall be admitted in accordance with § 19.2-264.4.~~

§ 19.2-295.3. (Effective July 1, 2021) Admission of victim impact testimony.

Whether by trial or upon a plea of guilty, upon a finding that the defendant is guilty of a felony, the court shall permit the victim, as defined in § 19.2-11.01, upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury and when the accused has requested the jury to ascertain punishment as provided in subsection A of § 19.2-295, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1. In all other cases of trial by jury, the case of trial by the court, or the case of a guilty plea, the court shall permit the victim to testify before the court prior to the imposition of the sentence by the presiding judge. ~~Victim impact testimony in all capital murder cases shall be admitted in accordance with § 19.2-264.4.~~

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their

permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense *Class 1 felony*, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

§ 19.2-299.1. When Victim Impact Statement required; contents; uses.

The presentence report prepared pursuant to § 19.2-299 shall, with the consent of the victim, as defined in § 19.2-11.01, in all cases involving offenses other than capital murder, include a Victim Impact Statement. ~~Victim Impact Statements in all cases involving capital murder shall be prepared and submitted in accordance with the provisions of § 19.2-264.5.~~

A Victim Impact Statement shall be kept confidential and shall be sealed upon entry of the sentencing order. If prepared by someone other than the victim, it shall (i) identify the victim, (ii) itemize any economic loss suffered by the victim as a result of the offense, (iii) identify the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, (iv) detail any change in the victim's personal welfare, lifestyle or familial relationships as a result of the offense, (v) identify any request for psychological or medical services initiated by the victim or the victim's family as a result of the offense, and (vi) provide such other information as the court may require related to the impact of the offense upon the victim.

If the court does not order a presentence investigation and report, the attorney for the Commonwealth shall, at the request of the victim, submit a Victim Impact Statement. In any event, a victim shall be advised by the local crime victim and witness assistance program that he may submit in his own words a written Victim Impact Statement prepared by the victim or someone the victim designates in writing.

The Victim Impact Statement may be considered by the court in determining the appropriate sentence. A copy of the statement prepared pursuant to this section shall be made available to the defendant or counsel for the defendant without court order at least five days prior to the sentencing hearing. The statement shall not be admissible in any civil proceeding for damages arising out of the acts upon which the conviction was based. The statement, however, may be utilized by the Virginia Workers' Compensation Commission in its determinations on claims by victims of crimes pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title.

§ 19.2-311. Indeterminate commitment to Department of Corrections in certain cases; duration and character of commitment; concurrence by Department.

A. The judge, after a finding of guilt, when fixing punishment in those cases specifically enumerated in subsection B of this section, may, in his discretion, in lieu of imposing any other penalty provided by law and, with consent of the person convicted, commit such person for a period of four years, which commitment shall be indeterminate in character. In addition, the court shall impose a period of confinement which shall be suspended. Subject to the provisions of subsection C

hereof, such persons shall be committed to the Department of Corrections for confinement in a state facility for youthful offenders established pursuant to § 53.1-63. Such confinement shall be followed by at least one and one-half years of supervisory parole, conditioned on good behavior. The sentence of indeterminate commitment and eligibility for continuous evaluation and parole under § 19.2-313 shall remain in effect but eligibility for use of programs and facilities established pursuant to § 53.1-63 shall lapse if such person (i) exhibits intractable behavior as defined in § 53.1-66 or (ii) is convicted of a second criminal offense which is a felony. A sentence imposed for any second criminal offense shall run consecutively with the indeterminate sentence.

B. The provisions of subsection A of ~~this section~~ shall be applicable to first convictions in which the person convicted:

1. Committed the offense of which convicted before becoming ~~twenty-one~~ 21 years of age;

2. Was convicted of a felony offense other than any of the following: ~~capital aggravated~~ murder, murder in the first degree or murder in the second degree or a violation of §§ § 18.2-61, 18.2-67.1, or 18.2-67.2 or subdivision A 1 of § 18.2-67.3; and

3. Is considered by the judge to be capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.

C. Subsequent to a finding of guilt and prior to fixing punishment, the Department of Corrections shall, concurrently with the evaluation required by § 19.2-316, review all aspects of the case to determine whether (i) such defendant is physically and emotionally suitable for the program, (ii) such indeterminate sentence of commitment is in the best interest of the Commonwealth and of the person convicted, and (iii) facilities are available for the confinement of such person. After the review such person shall be again brought before the court, which shall review the findings of the Department. The court may impose a sentence as authorized in subsection A, or any other penalty provided by law.

D. Upon the defendant's failure to complete the program established pursuant to § 53.1-63 or to comply with the terms and conditions through no fault of his own, the defendant shall be brought before the court for hearing. Notwithstanding the provisions for pronouncement of sentence as set forth in § 19.2-306, the court, after hearing, may pronounce whatever sentence was originally imposed, pronounce a reduced sentence, or impose such other terms and conditions of probation as it deems appropriate.

§ 19.2-319. When execution of sentence to be suspended; bail; appeal from denial.

If a person sentenced by a circuit court to ~~death or~~ confinement in the state correctional facility indicates an intention to apply for a writ of error, the circuit court shall postpone the execution of such sentence for such time as it may deem proper.

In any other criminal case wherein judgment is given by any court to which a writ of error lies, and in any case of judgment for any civil or criminal contempt, from which an appeal may be taken or to which a writ of error lies, the court giving such judgment may postpone the execution thereof for such time and on such terms as it deems proper.

In any case after conviction if the sentence, or the execution thereof, is suspended in accordance with this section, or for any other cause, the court, or the judge thereof, may, and in any case of a misdemeanor shall, set bail in such penalty and for appearance at such time as the nature of the case may require; provided that, if the conviction was for a violent felony as defined in § 19.2-297.1 and the defendant was sentenced to serve a period of incarceration not subject to suspension, then the court shall presume, subject to rebuttal, that no condition or combination of conditions of bail will reasonably assure the appearance of the convicted person or the safety of the public.

In any case in which the court denies bail, the reason for such denial shall be stated on the record of the case. A writ of error from the Court of Appeals shall lie to any such judgment refusing bail or requiring excessive bail, ~~except that in any case where a person has been sentenced to death, a writ of error shall lie from the Supreme Court.~~ Upon review by the Court of Appeals ~~or the Supreme Court~~, if the decision by the trial court to deny bail is overruled, the ~~appellate court~~ Court of Appeals shall either set bail or remand the matter to circuit court for such further action regarding bail as the ~~appellate court~~ Court of Appeals directs.

§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) been dismissed in part because at least one assignment of error contained in the petition for appeal did not adhere to proper form or procedures; or (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon the

Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, ~~nor shall it apply in cases in which a sentence of death has been imposed.~~

§ 19.2-327.1. Motion by a convicted felon or person adjudicated delinquent for scientific analysis of newly discovered or previously untested scientific evidence; procedure.

A. Notwithstanding any other provision of law or rule of court, any person convicted of a felony or any person who was adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may, by motion to the circuit court that entered the original conviction or the adjudication of delinquency, apply for a new scientific investigation of any human biological evidence related to the case that resulted in the felony conviction or adjudication of delinquency if (i) the evidence was not known or available at the time the conviction or adjudication of delinquency became final in the circuit court or the evidence was not previously subjected to testing; (ii) the evidence is subject to a chain of custody sufficient to establish that the evidence has not been altered, tampered with, or substituted in any way; (iii) the testing is materially relevant, noncumulative, and necessary and may prove the actual innocence of the convicted person or the person adjudicated delinquent; (iv) the testing requested involves a scientific method generally accepted within the relevant scientific community; and (v) the person convicted or adjudicated delinquent has not unreasonably delayed the filing of the petition after the evidence or the test for the evidence became available.

B. The petitioner shall assert categorically and with specificity, under oath, the facts to support the items enumerated in subsection A and (i) the crime for which the person was convicted or adjudicated delinquent, (ii) the reason or reasons the evidence was not known or tested by the time the conviction or adjudication of delinquency became final in the circuit court, and (iii) the reason or reasons that the newly discovered or untested evidence may prove the actual innocence of the person convicted or adjudicated delinquent. Such motion shall contain all relevant allegations and facts that are known to the petitioner at the time of filing and shall enumerate and include all previous records, applications, petitions, and appeals and their dispositions.

C. The petitioner shall serve a copy of such motion upon the attorney for the Commonwealth. The Commonwealth shall file its response to the motion within 30 days of the receipt of service. The court shall, no sooner than 30 and no later than 90 days after such motion is filed, hear the motion. ~~Motions made by a petitioner under a sentence of death shall be given priority on the docket.~~

D. The court shall, after a hearing on the motion, set forth its findings specifically as to each of the items enumerated in subsections A and B and either (i) dismiss the motion for failure to comply with the requirements of this section or (ii) dismiss the motion for failure to state a claim upon which relief can be granted or (iii) order that the testing be done.

E. The court shall order the tests to be performed by:

1. A laboratory mutually selected by the Commonwealth and the applicant; or
2. A laboratory selected by the court that ordered the testing if the Commonwealth and the applicant are unable to agree on a laboratory.

If the testing is conducted by the Department of Forensic Science, the court shall prescribe in its order, pursuant to standards and guidelines established by the Department, the method of custody, transfer, and return of evidence submitted for scientific investigation sufficient to insure and protect the Commonwealth's interest in the integrity of the evidence. The results of any such testing shall be furnished simultaneously to the court, the petitioner and his attorney of record and the attorney for the Commonwealth. ~~The Department of Forensic Science shall give testing priority to cases in which a sentence of death has been imposed.~~ The results of any tests performed and any hearings held pursuant to this section shall become a part of the record.

If the testing is not conducted by the Department of Forensic Science, it shall be conducted by a laboratory that is accredited by an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed and follows the appropriate Quality Assurance Standards issued by the Federal Bureau of Investigation.

F. ~~Nothing in this section shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1.~~

G. An action under this section or the performance of any attorney representing the petitioner under this section shall not form the basis for relief in any habeas corpus proceeding or any other appeal. Nothing in this section shall create any

cause of action for damages against the Commonwealth or any of its political subdivisions or any officers, employees or agents of the Commonwealth or its political subdivisions.

H. G. In any petition filed pursuant to this chapter, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10.

§ 19.2-327.3. Contents and form of the petition based on previously unknown or untested human biological evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, the following: (i) the crime for which the petitioner was convicted or the offense for which the petitioner was adjudicated delinquent; (ii) that the petitioner is actually innocent of the crime for which he was convicted or adjudicated delinquent; (iii) an exact description of the human biological evidence and the scientific testing supporting the allegation of innocence; (iv) that the evidence was not previously known or available to the petitioner or his trial attorney of record at the time the conviction or adjudication of delinquency became final in the circuit court, or if known, the reason that the evidence was not subject to the scientific testing set forth in the petition; (v) the date the test results under § 19.2-327.1 became known to the petitioner or any attorney of record; (vi) that the petitioner or his attorney of record has filed the petition within 60 days of obtaining the test results under § 19.2-327.1; (vii) the reason or reasons the evidence will prove that no rational trier of fact would have found proof of guilt or delinquency beyond a reasonable doubt; and (viii) for any conviction or adjudication of delinquency that became final in the circuit court after June 30, 1996, that the evidence was not available for testing under § 9.1-1104. The Supreme Court may issue a stay of execution pending proceedings under the petition. ~~Nothing in this chapter shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1.~~

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing and shall enumerate and include all previous records, applications, petitions, and appeals and their dispositions. A copy of any test results shall be filed with the petition. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court may dismiss the petition or return the petition to the prisoner pending the completion of such form. The petitioner shall be responsible for all statements contained in the petition. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution and conviction of perjury as provided for in § 18.2-434.

C. The Supreme Court shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments has been served on the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General or an acceptance of service signed by these officials, or any combination thereof. The Attorney General shall have 30 days after receipt of the record by the clerk of the Supreme Court in which to file a response to the petition. The response may contain a proffer of any evidence pertaining to the guilt or delinquency or innocence of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The Supreme Court may, when the case has been before a trial or appellate court, inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record.

E. In any petition filed pursuant to this chapter, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10.

§ 19.2-327.11. Contents and form of the petition based on previously unknown or unavailable evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, all of the following: (i) the crime for which the petitioner was convicted or the offense for which the petitioner was adjudicated delinquent; (ii) that the petitioner is actually innocent of the crime for which he was convicted or the offense for which he was adjudicated delinquent; (iii) an exact description of (a) the previously unknown or unavailable evidence supporting the allegation of innocence or (b) the previously untested evidence and the scientific testing supporting the allegation of innocence; (iv)(a) that such evidence was previously unknown or unavailable to the petitioner or his trial attorney of record at the time the conviction or adjudication of delinquency became final in the circuit court or (b) if known, the reason that the evidence was not subject to scientific testing set forth in the petition; (v) the date (a) the previously unknown or unavailable evidence became known or available to the petitioner and the circumstances under which it was discovered or (b) the results of the scientific testing of previously untested evidence became known to the petitioner or any attorney of record; (vi)(a) that the previously unknown or unavailable evidence is such as could not, by the exercise of diligence, have been discovered or obtained before the expiration of 21 days following entry of the final order of conviction or adjudication of delinquency by the circuit court or (b) that the testing procedure was not available at the time the conviction or adjudication of delinquency became final in the circuit court; (vii) that the previously unknown, unavailable, or untested evidence is material and, when considered with all of the other evidence in the current record, will prove that no rational trier of fact would have found proof of guilt or delinquency beyond a reasonable doubt; and (viii) that the previously unknown, unavailable, or untested evidence is not merely cumulative, corroborative, or collateral. ~~Nothing in this chapter shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1 or to delay or stay any other appeals following conviction or adjudication of delinquency, or petitions to any court. Human~~

biological evidence may not be used as the sole basis for seeking relief under this writ but may be used in conjunction with other evidence.

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing; shall be accompanied by all relevant documents, affidavits, and test results; and shall enumerate and include all relevant previous records, applications, petitions, and appeals and their dispositions. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court of Appeals may dismiss the petition or return the petition to the petitioner pending the completion of such form. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

C. In cases brought by counsel for the petitioner, the Court of Appeals shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General, or an acceptance of service signed by these officials, or any combination thereof. In cases brought by petitioners pro se, the Court of Appeals shall not accept the petition unless it is accompanied by a certificate that a copy of the petition and all attachments have been sent, by certified mail, to the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General. If the Court of Appeals does not summarily dismiss the petition, it shall so notify in writing the Attorney General, the attorney for the Commonwealth, and the petitioner. The Attorney General shall have 60 days after receipt of such notice in which to file a response to the petition that may be extended for good cause shown; however, nothing shall prevent the Attorney General from filing an earlier response. The response may contain a proffer of any evidence pertaining to the guilt or delinquency or innocence of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The Court of Appeals may inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record. If, in the judgment of the Court, the petition fails to state a claim, or if the assertions of previously unknown, unavailable, or untested evidence, even if true, would fail to qualify for the granting of relief under this chapter, the Court may dismiss the petition summarily, without any hearing or a response from the Attorney General.

E. In any petition filed pursuant to this chapter that is not summarily dismissed, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) and Article 4 (§ 19.2-163.3 et seq.) of Chapter 10. The Court of Appeals may, in its discretion, appoint counsel prior to deciding whether a petition should be summarily dismissed.

§ 19.2-389.1. Dissemination of juvenile record information.

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § ~~19.2-264.5~~ 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Department of Forensic Science to verify its authority to maintain the juvenile's sample in the DNA data bank pursuant to § 16.1-299.1; (viii) to the Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.); (ix) to the Virginia Criminal Sentencing Commission for research purposes; (x) to members of a threat assessment team established by a school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any juvenile record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team; (xi) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (xii) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xiii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an

ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § ~~19.2-264.5~~ or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-400. Appeal lies to the Court of Appeals; time for filing notice.

An appeal taken pursuant to § 19.2-398, including such an appeal in a ~~capital~~ *an aggravated* murder case, shall lie to the Court of Appeals of Virginia.

No appeal shall be allowed the Commonwealth pursuant to subsection A of § 19.2-398 unless within seven days after entry of the order of the circuit court from which the appeal is taken, and before a jury is impaneled and sworn if there is to be trial by jury or, in cases to be tried without a jury, before the court begins to hear or receive evidence or the first witness is sworn, whichever occurs first, the Commonwealth files a notice of appeal with the clerk of the trial court. If the appeal relates to suppressed evidence, the attorney for the Commonwealth shall certify in the notice of appeal that the appeal is not taken for the purpose of delay and that the evidence is substantial proof of a fact material to the proceeding. All other requirements related to the notice of appeal shall be governed by Part Five A of the Rules of the Supreme Court. Upon the filing of a timely notice of appeal, the order from which the pretrial appeal is taken and further trial proceedings in the circuit court, except for a bail hearing, shall thereby be suspended pending disposition of the appeal.

An appeal by the Commonwealth pursuant to subsection C of § 19.2-398 shall be governed by Part Five A of the Rules of the Supreme Court.

§ 53.1-204. If prisoner commits any other felony, how punished.

If a prisoner in a state, local or community correctional facility or in the custody of an employee thereof commits any felony other than those specified in §§ 18.2-31, 18.2-55 and 53.1-203, which is punishable by confinement in a state correctional facility or by death, such prisoner shall be subject to the same punishment therefor as if he were not a prisoner.

§ 53.1-229. Powers vested in Governor.

In accordance with the provisions of Article V, Section 12 of the Constitution of Virginia, the power to ~~commute capital punishment and to grant pardons or reprieves~~ is vested in the Governor.

§ 54.1-3307. Specific powers and duties of Board.

A. The Board shall regulate the practice of pharmacy and the manufacturing, dispensing, selling, distributing, processing, compounding, or disposal of drugs and devices. The Board shall also control the character and standard of all drugs, cosmetics, and devices within the Commonwealth, investigate all complaints as to the quality and strength of all drugs, cosmetics, and devices, and take such action as may be necessary to prevent the manufacturing, dispensing, selling, distributing, processing, compounding, and disposal of such drugs, cosmetics, and devices that do not conform to the requirements of law.

The Board's regulations shall include criteria for:

1. Maintenance of the quality, quantity, integrity, safety, and efficacy of drugs or devices distributed, dispensed, or administered.
2. Compliance with the prescriber's instructions regarding the drug and its quantity, quality, and directions for use.
3. Controls and safeguards against diversion of drugs or devices.
4. Maintenance of the integrity of, and public confidence in, the profession and improving the delivery of quality pharmaceutical services to the citizens of Virginia.
5. Maintenance of complete records of the nature, quantity, or quality of drugs or substances distributed or dispensed and of all transactions involving controlled substances or drugs or devices so as to provide adequate information to the patient, the practitioner, or the Board.
6. Control of factors contributing to abuse of legitimately obtained drugs, devices, or controlled substances.
7. Promotion of scientific or technical advances in the practice of pharmacy and the manufacture and distribution of controlled drugs, devices, or substances.
8. Impact on costs to the public and within the health care industry through the modification of mandatory practices and procedures not essential to meeting the criteria set out in subdivisions 1 through 7.
9. Such other factors as may be relevant to, and consistent with, the public health and safety and the cost of rendering pharmacy services.

B. The Board may collect and examine specimens of drugs, devices, and cosmetics that are manufactured, distributed, stored, or dispensed in the Commonwealth.

C. The Board shall report annually by December 1 to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions on (i) the number of outsourcing facilities permitted or registered by the Board that have entered into a contract with the Department of Corrections for the compounding of drugs necessary to carry out an execution by lethal injection pursuant to § 53.1-234 and (ii) the name of any such outsourcing facilities that received disciplinary action for a violation of law or regulation related to compounding.

2. That §§ 8.01-654.1, 8.01-654.2, 17.1-313, and 18.2-17, Article 4.1 (§§ 19.2-163.7 and 19.2-163.8) of Chapter 10 of Title 19.2, Article 4.1 (§§ 19.2-264.2 through 19.2-264.5) of Chapter 15 of Title 19.2, § 53.1-230, and Chapter 13 (§§ 53.1-232 through 53.1-236) of Title 53.1 of the Code of Virginia are repealed.

3. That any person under a sentence of death imposed for an offense committed prior to July 1, 2021, but who has not been executed by July 1, 2021, shall have his sentence changed to life imprisonment, and such person who was 18 years of age or older at the time of the offense shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1 of the Code of Virginia, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02 of the Code of Virginia.

4. That notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the effective date of this act for any violation of law.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$77,376 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 345

An Act to amend and reenact §§ 2.2-3705.7, 8.01-195.10, 8.01-654, 17.1-310, 17.1-406, 18.2-8, 18.2-10, 18.2-18, 18.2-19, 18.2-22, 18.2-25, 18.2-26, 18.2-30, 18.2-31, 18.2-32, 18.2-251.01, 19.2-11.01, 19.2-71, 19.2-76.1, 19.2-100, 19.2-102, 19.2-120, 19.2-152.2, 19.2-157, 19.2-159, 19.2-163, 19.2-163.01, 19.2-163.4:1, 19.2-169.3, 19.2-175, 19.2-217.1, 19.2-247, 19.2-270.4:1, 19.2-295.3, as it is currently effective and as it shall become effective, 19.2-299, 19.2-299.1,

19.2-311, 19.2-319, 19.2-321.2, 19.2-327.1, 19.2-327.3, 19.2-327.11, 19.2-389.1, 19.2-389.3, 19.2-400, 53.1-204, 53.1-229, and 54.1-3307 of the Code of Virginia and to repeal §§ 8.01-654.1, 8.01-654.2, 17.1-313, and 18.2-17, Article 4.1 (§§ 19.2-163.7 and 19.2-163.8) of Chapter 10 of Title 19.2, Article 4.1 (§§ 19.2-264.2 through 19.2-264.5) of Chapter 15 of Title 19.2, § 53.1-230, and Chapter 13 (§§ 53.1-232 through 53.1-236) of Title 53.1 of the Code of Virginia, relating to abolition of the death penalty.

[S 1165]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 8.01-195.10, 8.01-654, 17.1-310, 17.1-406, 18.2-8, 18.2-10, 18.2-18, 18.2-19, 18.2-22, 18.2-25, 18.2-26, 18.2-30, 18.2-31, 18.2-32, 18.2-251.01, 19.2-11.01, 19.2-71, 19.2-76.1, 19.2-100, 19.2-102, 19.2-120, 19.2-152.2, 19.2-157, 19.2-159, 19.2-163, 19.2-163.01, 19.2-163.4:1, 19.2-169.3, 19.2-175, 19.2-217.1, 19.2-247, 19.2-270.4:1, 19.2-295.3, as it is currently effective and as it shall become effective, 19.2-299, 19.2-299.1, 19.2-311, 19.2-319, 19.2-321.2, 19.2-327.1, 19.2-327.3, 19.2-327.11, 19.2-389.1, 19.2-389.3, 19.2-400, 53.1-204, 53.1-229, and 54.1-3307 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance

programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by *former* § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.

A. The purpose of this article is to provide directions and guidelines for the compensation of persons who have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration is governed by Article IV, Section 14 of the Constitution of Virginia, which prohibits the General Assembly from granting relief in cases in which the courts or other tribunals may have jurisdiction and any individual seeking payment of state funds for wrongful incarceration shall be deemed to have waived all other claims. The payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. This article shall not provide an entitlement to compensation for persons wrongfully incarcerated or require the General Assembly to appropriate funds for the payment of such compensation. No estate of or personal representative for a decedent shall be entitled to seek a claim for compensation for wrongful incarceration.

B. As used in this article:

"Incarceration" or "incarcerated" means confinement in a local or regional correctional facility, juvenile correctional center, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

"Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for which (i) the conviction has been vacated pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) or 19.3 (§ 19.2-327.10 et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for the commission of a crime that he did not commit; (ii) the person incarcerated ~~must shall~~ have entered a final plea of not guilty, or, regardless of the plea, ~~any person sentenced to death, or the person incarcerated~~ was convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life; and (iii) the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated.

§ 8.01-654. When and where petition filed; what petition to contain.

A. 1. A petition for a writ of habeas corpus ad subjiciendum may be filed in the Supreme Court or any circuit court showing by affidavits or other evidence that the petitioner is detained without lawful authority.

2. A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence, ~~except as provided in § 8.01-654.1 for cases in which a death sentence has been imposed~~, shall be filed within two years from the date of final judgment in the trial court or within one year from either final disposition of the direct appeal in state court or the time for filing such appeal has expired, whichever is later.

B. 1. With respect to any such petition filed by a petitioner whose detention originated under criminal process, and subject to the provisions of ~~subsection C of this section and of § 17.1-310~~, only the circuit court that entered the original judgment or order resulting in the detention complained of in the petition shall have authority to issue writs of habeas corpus. If a district court entered the original judgment or order resulting in the detention complained of in the petition, only the circuit court for the city or county wherein the district court sits shall have authority to issue writs of habeas corpus. Hearings on such petition, where granted in the circuit court, may be held at any circuit court within the same circuit as the circuit court in which the petition was filed, as designated by the judge thereof.

2. Such petition shall contain all allegations the facts of which are known to petitioner at the time of filing and such petition shall enumerate all previous applications and their disposition. No writ shall be granted on the basis of any allegation the facts of which petitioner had knowledge at the time of filing any previous petition. The provisions of this section shall not apply to a petitioner's first petition for a writ of habeas corpus when the sole allegation of such petition is that the petitioner was deprived of the right to pursue an appeal from a final judgment of conviction or probation revocation, except that such petition shall contain all facts pertinent to the denial of appeal that are known to the petitioner at the time of the filing, and such petition shall certify that the petitioner has filed no prior habeas corpus petitions attacking the conviction or probation revocation.

3. Such petition may allege detention without lawful authority through challenge to a conviction, although the sentence imposed for such conviction is suspended or is to be served subsequently to the sentence currently being served by petitioner.

4. In the event the allegations of illegality of the petitioner's detention can be fully determined on the basis of recorded matters, the court may make its determination whether such writ should issue on the basis of the record.

5. The court shall give findings of fact and conclusions of law following a determination on the record or after hearing, to be made a part of the record and transcribed.

6. If petitioner alleges as a ground for illegality of his detention the inadequacy of counsel, he shall be deemed to waive his privilege with respect to communications between such counsel and himself to the extent necessary to permit a full and fair hearing for the alleged ground.

~~C. 1. With respect to any such petition filed by a petitioner held under the sentence of death, and subject to the provisions of this subsection, the Supreme Court shall have exclusive jurisdiction to consider and award writs of habeas corpus. The circuit court which entered the judgment order setting the sentence of death shall have authority to conduct an evidentiary hearing on such a petition only if directed to do so by order of the Supreme Court.~~

~~2. Hearings conducted in a circuit court pursuant to an order issued under the provisions of subdivision 1 of this subsection shall be limited in subject matter to the issues enumerated in the order.~~

~~3. The circuit court shall conduct such a hearing within 90 days after the order of the Supreme Court has been received and shall report its findings of fact and recommend conclusions of law to the Supreme Court within 60 days after the conclusion of the hearing. Any objection to the report of the circuit court must be filed in the Supreme Court within 30 days after the report is filed.~~

§ 17.1-310. Habeas corpus, appeals, writs of error and supersedeas.

The Supreme Court shall also have jurisdiction to award writs of habeas corpus and of such appeals, writs of error and supersedeas as may be legally docketed in or transferred to the Court. ~~In accordance with § 8.01-654, the Court shall have exclusive jurisdiction to award writs of habeas corpus upon petitions filed by prisoners held under the sentence of death.~~

§ 17.1-406. Petitions for appeal; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may present a petition for appeal to the Court of Appeals from (i) any final conviction in a circuit court of a traffic infraction or a crime, ~~except where a sentence of death has been imposed~~, (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iv) any final order for declaratory or injunctive relief under § 57-2.02. The Commonwealth or any county, city or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party

previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court ~~from a conviction in which a sentence of death is imposed,~~ from a final decision, judgment, or order of a circuit court involving a petition for a writ of habeas corpus,; from any final finding, decision, order, or judgment of the State Corporation Commission,; and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 18.2-8. Felonies, misdemeanors and traffic infractions defined.

Offenses are either felonies or misdemeanors. Such offenses as are punishable with ~~death or~~ confinement in a state correctional facility are felonies; all other offenses are misdemeanors. Traffic infractions are violations of public order as defined in § 46.2-100 and not deemed to be criminal in nature.

§ 18.2-10. Punishment for conviction of felony; penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, ~~death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be a person with intellectual disability pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be a person with intellectual disability pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. Any person who was 18 years of age or older at the time of the offense and who is sentenced to imprisonment for life upon conviction of a Class 1 felony shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02.~~

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), ~~or in Class 1 felonies for which a sentence of death is imposed,~~ the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of incarceration of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

§ 18.2-18. How principals in second degree and accessories before the fact punished.

In the case of every felony, every principal in the second degree and every accessory before the fact may be indicted, tried, convicted and punished in all respects as if a principal in the first degree; provided, however, that except in the case of a killing for hire under the provisions of subdivision A 2 of § 18.2-31 or a killing pursuant to the direction or order of one who is engaged in a continuing criminal enterprise under the provisions of subdivision A 10 of § 18.2-31 or a killing pursuant to the direction or order of one who is engaged in the commission of or attempted commission of an act of terrorism under the provisions of subdivision A 13 of § 18.2-31, an accessory before the fact or principal in the second degree to a ~~capital~~ *an aggravated* murder shall be indicted, tried, convicted and punished as though the offense were murder in the first degree.

§ 18.2-19. How accessories after the fact punished; certain exceptions.

Every accessory after the fact is guilty of (i) a Class 6 felony in the case of a homicide offense that is punishable by ~~death or~~ as a Class 1 or Class 2 felony or (ii) a Class 1 misdemeanor in the case of any other felony. However, no person in the relation of spouse, parent or grandparent, child or grandchild, or sibling, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, aids or assists a principal felon or accessory before the fact to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

§ 18.2-22. Conspiracy to commit felony.

(a) If any person shall conspire, confederate or combine with another, either within or ~~without this~~ *outside the* Commonwealth, to commit a felony within ~~this the~~ Commonwealth, or if he shall so conspire, confederate or combine with another within ~~this the~~ Commonwealth to commit a felony either within or ~~without this~~ *outside the* Commonwealth, he shall be guilty of a felony ~~which that~~ shall be punishable as follows:

(1) Every person who so conspires to commit an offense ~~which that~~ is punishable ~~by death shall be as a Class 1 felony~~ is guilty of a Class 3 felony;

(2) Every person who so conspires to commit an offense ~~which that~~ is a ~~noncapital~~ *any other* felony ~~shall be~~ is guilty of a Class 5 felony; and

(3) Every person who so conspires to commit an offense the maximum punishment for which is confinement in a state correctional facility for a period of less than five years shall be confined in a state correctional facility for a period of one year, or, in the discretion of the jury or the court trying the case without a jury, may be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, either or both.

(b) However, in no event shall the punishment for a conspiracy to commit an offense exceed the maximum punishment for the commission of the offense itself.

(c) Jurisdiction for the trial of any person accused of a conspiracy under this section shall be in the county or city wherein any part of such conspiracy is planned or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

(d) The penalty provisions of this section shall not apply to any person who conspires to commit any offense defined in the Drug Control Act (§ 54.1-3400 et seq.) or of Article 1 (§ 18.2-247 et seq.) of Chapter 7. The penalty for any such violation shall be as provided in § 18.2-256.

§ 18.2-25. Attempts to commit Class 1 felony offenses; how punished.

If any person attempts to commit an offense ~~which that~~ is punishable ~~with death as a Class 1 felony~~, he ~~shall be~~ is guilty of a Class 2 felony.

§ 18.2-26. Attempts to commit felonies other than Class 1 felony offenses; how punished.

~~Every~~ *Except as provided in § 18.2-25*, every person who attempts to commit an offense ~~which that~~ is a ~~noncapital~~ felony shall be punished as follows:

(1) If the felony attempted is punishable by a maximum punishment of life imprisonment or a term of years in excess of twenty years, an attempt thereat shall be punishable as a Class 4 felony.

(2) If the felony attempted is punishable by a maximum punishment of twenty years' imprisonment, an attempt thereat shall be punishable as a Class 5 felony.

(3) If the felony attempted is punishable by a maximum punishment of less than twenty years' imprisonment, an attempt thereat shall be punishable as a Class 6 felony.

§ 18.2-30. Murder and manslaughter declared felonies.

Any person who commits ~~capital~~ *aggravated* murder, murder of the first degree, murder of the second degree, voluntary manslaughter, or involuntary manslaughter, ~~shall be~~ is guilty of a felony.

§ 18.2-31. Aggravated murder defined; punishment.

A. The following offenses shall constitute ~~capital~~ *aggravated* murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;

10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;

11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;

12. The willful, deliberate, and premeditated killing of a person under the age of 14 by a person age 21 or older;

13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;

14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a judge of the Court of Appeals, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; and

15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case.

B. For a violation of subdivision A 6 where the offender was 18 years of age or older at the time of the offense, the punishment shall be no less than a mandatory minimum term of confinement for life.

C. If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

§ 18.2-32. First and second degree murder defined; punishment.

Murder, other than ~~capital~~ *aggravated* murder, by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, rape, forcible sodomy, inanimate or animate object sexual penetration, robbery, burglary or abduction, except as provided in § 18.2-31, is murder of the first degree, punishable as a Class 2 felony.

All murder other than ~~capital~~ *aggravated* murder and murder in the first degree is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five nor more than forty years.

§ 18.2-251.01. Substance abuse screening and assessment for felony convictions.

A. When a person is convicted of a felony, ~~not except a capital offense~~ *Class 1 felony*, committed on or after January 1, 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a substance abuse or dependence problem, an assessment by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Corrections or by an agency employee under the supervision of such counselor. If the person is determined to have a substance abuse problem, the court shall require him to enter treatment and/or education program or services, if available, which, in the opinion of the court, is best suited to the needs of the person. The program or services may be located in the judicial district in which the conviction was had or in any other judicial district as the court may provide. The treatment and/or education program or services shall be licensed by the Department of Behavioral Health and Developmental Services or shall be a similar program or services which are made available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP. The services agency or program may require the person entering such program or services under the provisions of this section to pay a fee for the education and treatment component, or both, based upon the defendant's ability to pay.

B. As a condition of any suspended sentence and probation, the court shall order the person to undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate based upon consideration of the substance abuse assessment.

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which

may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, and 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and § 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

§ 19.2-71. Who may issue process of arrest.

A. Process for the arrest of a person charged with a criminal offense may be issued by the judge, or clerk of any circuit court, any general district court, any juvenile and domestic relations district court, or any magistrate as provided for in Chapter 3 (§ 19.2-26 et seq.) of this title. However, no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense.

B. No law-enforcement officer shall seek issuance of process by any judicial officer, for the arrest of a person for ~~the~~ *an* offense of ~~capital~~ *aggravated* murder as defined in § 18.2-31, without prior authorization by the attorney for the Commonwealth. Failure to comply with the provisions of this subsection shall not be (i) a basis upon which a warrant may be quashed or deemed invalid, (ii) deemed error upon which a conviction or sentence may be reversed or vacated, or (iii) a basis upon which a court may prevent or delay execution of sentence.

§ 19.2-76.1. Submission of quarterly reports concerning unexecuted felony and misdemeanor warrants and other criminal process; destruction; dismissal.

It shall be the duty of the chief law-enforcement officer of the police department or sheriff's office, whichever is responsible for such service, in each county, town or city of the Commonwealth to submit quarterly reports to the attorney for the Commonwealth for the county, town or city concerning unexecuted felony and misdemeanor arrest warrants, summonses, capiases or other unexecuted criminal processes as hereinafter provided. The reports shall list those existing felony arrest warrants in his possession that have not been executed within seven years of the date of issuance, those misdemeanor arrest warrants, summonses and capiases and other criminal processes in his possession that have not been executed within three years from the date of issuance, and those unexecuted misdemeanor arrest warrants, summonses and capiases in his possession that were issued for a now deceased person, based on mistaken identity or as a result of any other technical or legal error. The reports shall be submitted in writing no later than the tenth day of April, July, October, and

January of each year, together with the unexecuted felony and misdemeanor warrants, or other unexecuted criminal processes listed therein. Upon receipt of the report and the warrants listed therein, the attorney for the Commonwealth shall petition the circuit court of the county or city for the destruction of such unexecuted felony and misdemeanor warrants, summonses, capias or other unexecuted criminal processes. The attorney for the Commonwealth may petition that certain of the unexecuted warrants, summonses, capias and other unexecuted criminal processes not be destroyed based upon justifiable continuing, active investigation of the cases. The circuit court shall order the destruction of each such unexecuted felony warrant and each unexecuted misdemeanor warrant, summons, capias and other criminal process except (i) any warrant ~~which~~ *that* charges ~~capital~~ *aggravated* murder and (ii) any unexecuted criminal process whose preservation is deemed justifiable by the court. No arrest shall be made under the authority of any warrant or other process which has been ordered destroyed pursuant to this section. Nothing in this section shall be construed to relate to or affect the time within which a prosecution for a felony or a misdemeanor shall be commenced.

Notwithstanding the foregoing, an attorney for the Commonwealth may at any time move for the dismissal and destruction of any unexecuted warrant or summons issued by a magistrate upon presentation of such warrant or summons to the court in which the warrant or summons would otherwise be returnable. The court shall not order the dismissal and destruction of any warrant ~~which~~ *that* charges ~~capital~~ *aggravated* murder and shall not order the dismissal and destruction of an unexecuted criminal process whose preservation is deemed justifiable by the court. Dismissal of such a warrant or summons shall be without prejudice.

As used herein, the term "chief law-enforcement officer" refers to the chiefs of police of cities, counties and towns and sheriffs of cities and counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

§ 19.2-100. Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by ~~death~~ or imprisonment for a term exceeding one year. But when so arrested the accused shall be taken before a judge, magistrate or other officer authorized to issue criminal warrants in ~~this~~ *the* Commonwealth with all practicable speed and complaint made against him under oath setting forth the ground for the arrest as in ~~the preceding section;~~ § 19.2-99, and thereafter his answer shall be heard as if he had been arrested on a warrant.

§ 19.2-102. In what cases bail allowed; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by ~~death~~ or life imprisonment under the laws of the state in which it was committed, any judge, magistrate or other person authorized by law to admit persons to bail in ~~this~~ *the* Commonwealth may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned upon his appearance before a judge at a time specified in such bond and upon his surrender for arrest upon the warrant of the Governor of ~~this~~ *the* Commonwealth.

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or
2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;
2. An offense for which the maximum sentence is life imprisonment ~~or death~~;
3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;
4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;
5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;
6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;
7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;
8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;
9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;

12. A violation of subsection B of § 18.2-57.2;

13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;

14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or

15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

E. The judicial officer shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

F. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-152.2. Purpose; establishment of pretrial services and services agencies.

It is the purpose of this article to provide more effective protection of society by establishing pretrial services agencies that will assist judicial officers in discharging their duties pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title. Such agencies are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons age 18 or over or persons under the age of 18 who have been transferred for trial as adults held in custody and charged with an offense, other than an offense punishable by death as a Class 1 felony, who are pending trial or hearing. Any city, county or combination thereof may establish a pretrial services agency and any city, county or combination thereof required to submit a community-based corrections plan pursuant to § 53.1-82.1 shall establish a pretrial services agency.

§ 19.2-157. Duty of court when accused appears without counsel.

Except as may otherwise be provided in §§ 16.1-266 through 16.1-268, whenever a person charged with a criminal offense the penalty for which may be death or confinement in the state correctional facility or jail, including charges for revocation of suspension of imposition or execution of sentence or probation, appears before any court without being represented by counsel, the court shall inform him of his right to counsel. The accused shall be allowed a reasonable opportunity to employ counsel or, if appropriate, the statement of indigence provided for in § 19.2-159 may be executed.

§ 19.2-159. Determination of indigency; guidelines; statement of indigence; appointment of counsel.

A. If the accused shall claim that he is indigent, and the charge against him is a criminal offense which that may be punishable by death or confinement in the state correctional facility or jail, subject to the provisions of § 19.2-160, the court shall determine from oral examination of the accused or other competent evidence whether or not the accused is indigent within the contemplation of law pursuant to the guidelines set forth in this section.

B. In making its finding, the court shall determine whether or not the accused is a current recipient of a state or federally funded public assistance program for the indigent. If the accused is a current recipient of such a program and does not waive his right to counsel or retain counsel on his own behalf, he shall be presumed eligible for the appointment of counsel. This presumption shall be rebuttable where the court finds that a more thorough examination of the financial resources of the defendant is necessary. If the accused shall claim to be indigent and is not presumptively eligible under the provisions of this section, then a thorough examination of the financial resources of the accused shall be made with consideration given to the following:

1. The net income of the accused, which shall include his total salary and wages minus deductions required by law. The court also shall take into account income and amenities from other sources including but not limited to social security funds, union funds, veteran's benefits, other regular support from an absent family member, public or private employee pensions, dividends, interests, rents, estates, trusts, or gifts.

2. All assets of the accused which are convertible into cash within a reasonable period of time without causing substantial hardship or jeopardizing the ability of the accused to maintain home and employment. Assets shall include all cash on hand as well as in checking and savings accounts, stocks, bonds, certificates of deposit, and tax refunds. All personal property owned by the accused which is readily convertible into cash shall be considered, except property exempt from attachment. Any real estate owned by the accused shall be considered in terms of the amounts which could be raised by a loan on the property. For purposes of eligibility determination, the income, assets, and expenses of the spouse, if any, who is a member of the accused's household, shall be considered, unless the spouse was the victim of the offense or offenses allegedly committed by the accused.

3. Any exceptional expenses of the accused and his family which would, in all probability, prohibit him from being able to secure private counsel. Such items shall include but not be limited to costs for medical care, family support obligations, and child care payments.

The available funds of the accused shall be calculated as the sum of his total income and assets less the exceptional expenses as provided in *the first paragraph of this subdivision 3 above*. If the accused does not waive his right to counsel or retain counsel on his own behalf, counsel shall be appointed for the accused if his available funds are equal to or below 125 percent of the federal poverty income guidelines prescribed for the size of the household of the accused by the federal Department of Health and Human Services. The Supreme Court of Virginia shall be responsible for distributing to all courts the annual updates of the federal poverty income guidelines made by the Department.

If the available funds of the accused exceed 125 percent of the federal poverty income guidelines and the accused fails to employ counsel and does not waive his right to counsel, the court may, in exceptional circumstances, and where the ends of justice so require, appoint an attorney to represent the accused. However, in making such appointments, the court shall state in writing its reasons for so doing. The written statement by the court shall be included in the permanent record of the case.

C. If the court determines that the accused is indigent as contemplated by law pursuant to the guidelines set forth in this section, the court shall provide the accused with a statement which shall contain the following:

"I have been advised this _____ day of _____, 20____, by the (name of court) court of my right to representation by counsel in the trial of the charge pending against me; I certify that I am without means to employ counsel and I hereby request the court to appoint counsel for me."

_____ (signature of accused)

The court shall also require the accused to complete a written financial statement to support the claim of indigency and to permit the court to determine whether or not the accused is indigent within the contemplation of law. The accused shall execute the said statements under oath, and the said court shall appoint competent counsel to represent the accused in the proceeding against him, including an appeal, if any, until relieved or replaced by other counsel.

The executed statements by the accused and the order of appointment of counsel shall be filed with and become a part of the record of such proceeding.

All other instances in which the appointment of counsel is required for an indigent shall be made in accordance with the guidelines prescribed in this section.

D. Except in jurisdictions having a public defender, or unless (i) the public defender is unable to represent the defendant by reason of conflict of interest or (ii) the court finds that appointment of other counsel is necessary to attain the ends of justice, counsel appointed by the court for representation of the accused shall be selected by a fair system of rotation among members of the bar practicing before the court whose names are on the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01. If no attorney who is on the list maintained by the Indigent Defense Commission is reasonably available, the court may appoint as counsel an attorney not on the list who has otherwise demonstrated to the court's satisfaction an appropriate level of training and experience. The court shall provide notice to the Commission of the appointment of the attorney.

§ 19.2-163. Compensation of court-appointed counsel.

Upon submission to the court, for which appointed representation is provided, of a detailed accounting of the time expended for that representation, made within 30 days of the completion of all proceedings in that court, counsel appointed to represent an indigent accused in a criminal case shall be compensated for his services on an hourly basis at a rate set by the Supreme Court of Virginia in a total amount not to exceed the amounts specified in the following schedule:

1. In a district court, a sum not to exceed \$120, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to (i) an additional \$120 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (ii) an amount up to \$650 to defend, in the case of a juvenile, an offense that would be a felony if committed by an adult that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (iii) such other amount as may be provided by law. Such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent

through to its conclusion or a charge of violation of probation at any hearing conducted under § 19.2-306; thereafter, compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges;

2. In a circuit court (i) to defend a *Class 1* felony charge that may be punishable by death, an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, a sum not to exceed \$1,235, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$850 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of violation of probation for such offense, a sum not to exceed \$445, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$155 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense, a sum not to exceed \$158. In the event any case is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a felony that may be is punishable by death as a *Class 1* felony, such counsel shall continue to receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a *lesser* felony that may not be punishable by death, prior to final disposition of the case. In the event counsel is appointed to defend an indigent charged with any other felony, such counsel shall receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may request an additional waiver exceeding the amounts provided for in this section. The request for any additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time spent and the justification for the additional amount. The presiding judge shall determine, subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an additional amount is justified in whole or in part, by considering the effort expended and the time reasonably necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge of the circuit court or district court for approval.

If at any time the funds appropriated to pay for waivers under this section become insufficient, the Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers shall be approved.

The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the court to represent an indigent charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the court to defend a felony charge that may be is punishable by death as a *Class 1* felony.

The circuit or district court shall direct that the foregoing payments shall be paid out by the Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city or town, if the defendant is charged with a violation of a county, city or town ordinance, to the attorney so appointed to defend such person as compensation for such defense.

Counsel representing a defendant charged with a *Class 1* felony, or counsel representing an indigent prisoner under sentence of death in a state habeas corpus proceeding, may submit to the court, on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the total charges as are deemed reasonable by the court for which payment has not previously been made or requested exceed \$1,000, the court may direct that payment be made as otherwise provided in this section.

When such directive is entered upon the order book of the court, the Commonwealth, county, city or town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be. In the event that counsel for the defendant requests a waiver of the limitations on compensation, the court shall assess against the defendant an amount equal to the pre-waiver compensation limit specified in this section for each charge for which the defendant was convicted. An abstract of such costs shall be docketed in the judgment docket and execution lien book maintained by such court.

Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment.

For the purposes of this section, the defense of a case may be considered conducted through to its conclusion and an appointed counsel entitled to compensation for his services in the event an indigent accused fails to appear in court subject

to a *capias* for his arrest or a show cause summons for his failure to appear and remains a fugitive from justice for one year following the issuance of the *capias* or the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the number and category of offenses charged involving adult and juvenile offenders in cases in which court-appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports to the Governor, members of the House Appropriations Committee, and members of the Senate Finance Committee on a quarterly basis.

§ 19.2-163.01. Virginia Indigent Defense Commission established; powers and duties.

A. The Virginia Indigent Defense Commission (hereinafter Indigent Defense Commission or Commission) is established. The Commission shall be supervisory and shall have sole responsibility for the powers, duties, operations, and responsibilities set forth in this section.

The Commission shall have the following powers and duties:

1. To publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants pursuant to § 19.2-159.

2. To develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.

3. To maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards and to disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts. In establishing and updating the list, the Commission shall consider all relevant factors, including but not limited to, the attorney's background, experience, and training and the Commission's assessment of whether the attorney is competent to provide quality legal representation.

4. To establish official standards of practice for court-appointed counsel and public defenders to follow in representing their clients, and guidelines for the removal of an attorney from the official list of those qualified to receive court appointments and to notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.

5. To develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility.

6. To periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.

7. To maintain all public defender and ~~regional capital defender~~ offices established by the General Assembly.

8. To hire and employ and, at its pleasure, remove an executive director, counsel, and such other persons as it deems necessary, and to authorize the executive director to appoint, after prior notice to the Commission, a deputy director, and for each of the above offices a public defender or ~~capital defender~~, as the case may be, who shall devote his full time to his duties and not engage in the private practice of law.

9. To authorize the public defender or ~~capital defender~~ to employ such assistants as authorized by the Commission.

10. To authorize the public defender or ~~capital defender~~ to employ such staff, including secretarial and investigative personnel, as may be necessary to carry out the duties imposed upon the public defender office.

11. To authorize the executive director of the Commission, in consultation with the public defender or ~~capital defender~~ to secure such office space as needed, to purchase or rent office equipment, to purchase supplies and to incur such expenses as are necessary to carry out the duties imposed upon him.

12. To approve requests for appropriations and receive and expend moneys appropriated by the General Assembly of Virginia, to receive other moneys as they become available to it and expend the same in order to carry out the duties imposed upon it.

13. To require and ensure that each public defender office collects and maintains caseload data and fields in a case management database on an annual basis.

14. To report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the state of indigent criminal defense in the Commonwealth, including Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed pursuant to § 19.2-159 or subdivision C 2 of § 16.1-266.

B. The Commission shall adopt rules and procedures for the conduct of its business. The Commission may delegate to the executive director or, in the absence of the executive director, the deputy executive director, such powers and duties conferred upon the Commission as it deems appropriate, including powers and duties involving the exercise of discretion. The Commission shall ensure that the executive director complies with all Commission and statutory directives. Such rules and procedures may include the establishment of committees and the delegation of authority to the committees. The Commission shall review and confirm by a vote of the Commission its rules and procedures and any delegation of authority to the executive director at least every three years.

C. The executive director shall, with the approval of the Commission, fix the compensation of each public defender and all other personnel in each public defender office. The executive director shall also exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

§ 19.2-163.4:1. Repayment of representation costs by convicted persons.

In any case in which an attorney from a public defender or capital defender office represents an indigent person charged with an offense and such person is convicted, the sum that would have been allowed a court-appointed attorney as compensation and as reasonable expenses shall be taxed against the person defended as a part of the costs of the prosecution, and, if collected, shall be paid to the Commonwealth or, if payment was made to the Commonwealth by a locality for defense of a local ordinance violation, to the appropriate county, city or town. An abstract of such costs shall be docketed in the judgment lien docket and execution book of the court.

§ 19.2-169.3. Disposition of the unrestorably incompetent defendant; aggravated murder charge; sexually violent offense charge.

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the board, authority, or inpatient facility director's or his designee's opinion, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or (iii) certified pursuant to § 37.2-806. However, if the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future and the defendant has been charged with a sexually violent offense, as defined in § 37.2-900, he shall be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the board, authority, or inpatient facility director or his designee, the director or his designee shall so notify the court and make recommendations concerning disposition of the defendant as described in subsection A. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described in subsection A. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. If any defendant has been charged with a misdemeanor in violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or Article 5 (§ 18.2-119 et seq.) of Chapter 5 of Title 18.2, other than a misdemeanor charge pursuant to § 18.2-130 or Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, and is being treated pursuant to subsection A of § 19.2-169.2, and after 45 days has not been restored to competency, the director of the community service board, behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or certified pursuant to § 37.2-806. Upon receipt of the report, if the court determines that the defendant is still incompetent, the court shall order that the defendant be released, committed, or certified, and may dismiss the charges against the defendant.

D. Unless an incompetent defendant is charged with *capital aggravated* murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

E. If the court orders an unrestorably incompetent defendant to be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of Behavioral Health and Developmental Services to provide the Director of the Department of Corrections with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's community services board, behavioral health authority, or treating inpatient facility or his designee pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Behavioral Health and Developmental Services for secure confinement and treatment until the Commitment Review Committee's and Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a sexually violent

predator after conducting a review pursuant to § 37.2-905, the court shall order that the defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or certified pursuant to § 37.2-806.

F. In any case when an incompetent defendant is charged with ~~capital~~ *aggravated* murder and has been determined to be unrestorably incompetent, notwithstanding any other provision of this section, the charge shall not be dismissed and the court having jurisdiction over the ~~capital~~ *aggravated* murder case may order that the defendant receive continued treatment under subsection A of § 19.2-169.2 in a secure facility determined by the Commissioner of the Department of Behavioral Health and Developmental Services where the defendant shall remain until further order of the court, provided that (i) a hearing pursuant to subsection E of § 19.2-169.1 is held at yearly intervals for five years and at biennial intervals thereafter, or at any time that the director of the treating facility or his designee submits a competency report to the court in accordance with subsection D of § 19.2-169.1 that the defendant's competency has been restored, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically appropriate, and (iv) the defendant presents a danger to himself or others. No unrestorably incompetent defendant charged with ~~capital~~ *aggravated* murder shall be released except pursuant to a court order.

G. The attorney for the Commonwealth may bring charges that have been dismissed against the defendant when he is restored to competency.

§ 19.2-175. Compensation of experts.

Each psychiatrist, clinical psychologist or other expert appointed by the court to render professional service pursuant to § 19.2-168.1, 19.2-169.1, 19.2-169.5, 19.2-182.8, 19.2-182.9, ~~19.2-264.3:1, 19.2-264.3:3~~ or 19.2-301, who is not regularly employed by the Commonwealth of Virginia except by the University of Virginia School of Medicine and the ~~Medical College of Virginia Commonwealth University School of Medicine~~, shall receive a reasonable fee for such service. For any psychiatrist, clinical psychologist, or other expert appointed by the court to render such professional services who is regularly employed by the Commonwealth of Virginia, except by the University of Virginia School of Medicine or the ~~Medical College of Virginia Commonwealth University School of Medicine~~, the fee shall be paid only for professional services provided during nonstate hours that have been approved by his employing agency as being beyond the scope of his state employment duties. The fee shall be determined in each instance by the court that appointed the expert, in accordance with guidelines established by the Supreme Court after consultation with the Department of Behavioral Health and Developmental Services. Except in ~~capital~~ *aggravated* murder cases *pursuant to § 18.2-31*, the fee shall not exceed \$750, but in addition if any such expert is required to appear as a witness in any hearing held pursuant to such sections, he shall receive mileage and a fee of \$100 for each day during which he is required so to serve. An itemized account of expense, duly sworn to, must be presented to the court, and when allowed shall be certified to the Supreme Court for payment out of the state treasury, and be charged against the appropriations made to pay criminal charges. Allowance for the fee and for the per diem authorized shall also be made by order of the court, duly certified to the Supreme Court for payment out of the appropriation to pay criminal charges.

§ 19.2-217.1. Central file of aggravated murder indictments.

Upon the return by a grand jury of an indictment for ~~capital~~ *aggravated* murder and the arrest of the defendant, the clerk of the circuit court in which such indictment is returned shall forthwith file a certified copy of the indictment with the clerk of the Supreme Court of Virginia. All such indictments shall be maintained in a single place by the clerk of the Supreme Court, and shall be available to members of the public upon request. Failure to comply with the provisions of this section shall not be (i) a basis upon which an indictment may be quashed or deemed invalid; (ii) deemed error upon which a conviction may be reversed or a sentence vacated; or (iii) a basis upon which a court may prevent or delay execution of a sentence.

§ 19.2-247. Venue in certain homicide cases.

Where evidence exists that a homicide has been committed either within or without the Commonwealth, under circumstances that make it unknown where such crime was committed, the homicide and any related offenses shall be amenable to prosecution in the courts of the county or city where the body or any part thereof of the victim may be found or, if the victim was removed from the Commonwealth for medical treatment prior to death and died outside the Commonwealth, in the courts of the county or city from which the victim was removed for medical treatment prior to death, as if the offense has been committed in such county or city. In a prosecution for ~~capital murder~~ pursuant to subdivision A 8 of § 18.2-31, the offense may be prosecuted in any jurisdiction in the Commonwealth in which any one of the killings may be prosecuted.

§ 19.2-270.4:1. Storage, preservation and retention of human biological evidence in felony cases.

A. Notwithstanding any provision of law or rule of court, upon motion of a person convicted of a felony ~~but not sentenced to death~~ or his attorney of record to the circuit court that entered the judgment for the offense, the court shall order the storage, preservation, and retention of specifically identified human biological evidence or representative samples collected or obtained in the case for a period of up to 15 years from the time of conviction, unless the court determines, in its discretion, that the evidence should be retained for a longer period of time. Upon the filing of such a motion, the defendant may request a hearing for the limited purpose of identifying the human biological evidence or representative samples that are to be stored in accordance with the provisions of this section. Upon the granting of the motion, the court shall order the clerk of the circuit court to transfer all such evidence to the Department of Forensic Science. The Department of Forensic Science shall store, preserve, and retain such evidence. If the evidence is not within the custody of the clerk at the time the order is entered, the court shall order the governmental entity having custody of the evidence to transfer such evidence to

the Department of Forensic Science. Upon the entry of an order under this subsection, the court may upon motion or upon good cause shown, with notice to the convicted person, his attorney of record and the attorney for the Commonwealth, modify the original storage order, as it relates to time of storage of the evidence or samples, for a period of time greater than or less than that specified in the original order.

B. ~~In the case of a person sentenced to death, the court that entered the judgment shall, in all cases, order any human biological evidence or representative samples to be transferred by the governmental entity having custody to the Department of Forensic Science. The Department of Forensic Science shall store, preserve, and retain such evidence until the judgment is executed. If the person sentenced to death has his sentence reduced, then such evidence shall be transferred from the Department to the original investigating law-enforcement agency for storage as provided in this section.~~

C. Pursuant to standards and guidelines established by the Department of Forensic Science, the order shall state the method of custody, transfer and return of any evidence to insure and protect the Commonwealth's interest in the integrity of the evidence. Pursuant to standards and guidelines established by the Department of Forensic Science, the Department of Forensic Science, local law-enforcement agency or other custodian of the evidence shall take all necessary steps to preserve, store, and retain the evidence and its chain of custody for the period of time specified.

D. C. In any proceeding under this section, the court, upon a finding that the physical evidence is of such a nature, size or quantity that storage, preservation or retention of all of the evidence is impractical, may order the storage of only representative samples of the evidence. The Department of Forensic Science shall take representative samples, cuttings or swabbings and retain them. The remaining evidence shall be handled according to § 19.2-270.4 or as otherwise provided for in the Code.

E. D. An action under this section or the performance of any attorney representing the petitioner under this section shall not form the basis for relief in any habeas corpus or appellate proceeding. Nothing in this section shall create any cause of action for damages against the Commonwealth, or any of its political subdivisions or officers, employees or agents of the Commonwealth or its political subdivisions.

§ 19.2-295.3. (Effective until July 1, 2021) Admission of victim impact testimony.

Whether by trial or upon a plea of guilty, upon a finding that the defendant is guilty of a felony, the court shall permit the victim, as defined in § 19.2-11.01, upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1 or in the case of trial by the court or a guilty plea, the court shall permit the victim to testify before the court prior to the imposition of a sentence. ~~Victim impact testimony in all capital murder cases shall be admitted in accordance with § 19.2-264.4.~~

§ 19.2-295.3. (Effective July 1, 2021) Admission of victim impact testimony.

Whether by trial or upon a plea of guilty, upon a finding that the defendant is guilty of a felony, the court shall permit the victim, as defined in § 19.2-11.01, upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury and when the accused has requested the jury to ascertain punishment as provided in subsection A of § 19.2-295, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1. In all other cases of trial by jury, the case of trial by the court, or the case of a guilty plea, the court shall permit the victim to testify before the court prior to the imposition of the sentence by the presiding judge. ~~Victim impact testimony in all capital murder cases shall be admitted in accordance with § 19.2-264.4.~~

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all

other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a ~~capital offense~~ *Class 1 felony*, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

§ 19.2-299.1. When Victim Impact Statement required; contents; uses.

The presentence report prepared pursuant to § 19.2-299 shall, with the consent of the victim, as defined in § 19.2-11.01, in all cases involving offenses other than capital murder, include a Victim Impact Statement. ~~Victim Impact Statements in all cases involving capital murder shall be prepared and submitted in accordance with the provisions of § 19.2-264.5.~~

A Victim Impact Statement shall be kept confidential and shall be sealed upon entry of the sentencing order. If prepared by someone other than the victim, it shall (i) identify the victim, (ii) itemize any economic loss suffered by the victim as a result of the offense, (iii) identify the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, (iv) detail any change in the victim's personal welfare, lifestyle or familial relationships as a result of the offense, (v) identify any request for psychological or medical services initiated by the victim or the victim's family as a result of the offense, and (vi) provide such other information as the court may require related to the impact of the offense upon the victim.

If the court does not order a presentence investigation and report, the attorney for the Commonwealth shall, at the request of the victim, submit a Victim Impact Statement. In any event, a victim shall be advised by the local crime victim and witness assistance program that he may submit in his own words a written Victim Impact Statement prepared by the victim or someone the victim designates in writing.

The Victim Impact Statement may be considered by the court in determining the appropriate sentence. A copy of the statement prepared pursuant to this section shall be made available to the defendant or counsel for the defendant without court order at least five days prior to the sentencing hearing. The statement shall not be admissible in any civil proceeding for damages arising out of the acts upon which the conviction was based. The statement, however, may be utilized by the Virginia Workers' Compensation Commission in its determinations on claims by victims of crimes pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title.

§ 19.2-311. Indeterminate commitment to Department of Corrections in certain cases; duration and character of commitment; concurrence by Department.

A. The judge, after a finding of guilt, when fixing punishment in those cases specifically enumerated in subsection B of ~~this section~~, may, in his discretion, in lieu of imposing any other penalty provided by law and, with consent of the person

convicted, commit such person for a period of four years, which commitment shall be indeterminate in character. In addition, the court shall impose a period of confinement which shall be suspended. Subject to the provisions of subsection C hereof, such persons shall be committed to the Department of Corrections for confinement in a state facility for youthful offenders established pursuant to § 53.1-63. Such confinement shall be followed by at least one and one-half years of supervisory parole, conditioned on good behavior. The sentence of indeterminate commitment and eligibility for continuous evaluation and parole under § 19.2-313 shall remain in effect but eligibility for use of programs and facilities established pursuant to § 53.1-63 shall lapse if such person (i) exhibits intractable behavior as defined in § 53.1-66 or (ii) is convicted of a second criminal offense which is a felony. A sentence imposed for any second criminal offense shall run consecutively with the indeterminate sentence.

B. The provisions of subsection A of this section shall be applicable to first convictions in which the person convicted:

1. Committed the offense of which convicted before becoming ~~twenty-one~~ 21 years of age;

2. Was convicted of a felony offense other than any of the following: ~~capital aggravated~~ murder, murder in the first degree or murder in the second degree or a violation of §§ § 18.2-61, 18.2-67.1, or 18.2-67.2 or subdivision A 1 of § 18.2-67.3; and

3. Is considered by the judge to be capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.

C. Subsequent to a finding of guilt and prior to fixing punishment, the Department of Corrections shall, concurrently with the evaluation required by § 19.2-316, review all aspects of the case to determine whether (i) such defendant is physically and emotionally suitable for the program, (ii) such indeterminate sentence of commitment is in the best interest of the Commonwealth and of the person convicted, and (iii) facilities are available for the confinement of such person. After the review such person shall be again brought before the court, which shall review the findings of the Department. The court may impose a sentence as authorized in subsection A, or any other penalty provided by law.

D. Upon the defendant's failure to complete the program established pursuant to § 53.1-63 or to comply with the terms and conditions through no fault of his own, the defendant shall be brought before the court for hearing. Notwithstanding the provisions for pronouncement of sentence as set forth in § 19.2-306, the court, after hearing, may pronounce whatever sentence was originally imposed, pronounce a reduced sentence, or impose such other terms and conditions of probation as it deems appropriate.

§ 19.2-319. When execution of sentence to be suspended; bail; appeal from denial.

If a person sentenced by a circuit court to ~~death or~~ confinement in the state correctional facility indicates an intention to apply for a writ of error, the circuit court shall postpone the execution of such sentence for such time as it may deem proper.

In any other criminal case wherein judgment is given by any court to which a writ of error lies, and in any case of judgment for any civil or criminal contempt, from which an appeal may be taken or to which a writ of error lies, the court giving such judgment may postpone the execution thereof for such time and on such terms as it deems proper.

In any case after conviction if the sentence, or the execution thereof, is suspended in accordance with this section, or for any other cause, the court, or the judge thereof, may, and in any case of a misdemeanor shall, set bail in such penalty and for appearance at such time as the nature of the case may require; provided that, if the conviction was for a violent felony as defined in § 19.2-297.1 and the defendant was sentenced to serve a period of incarceration not subject to suspension, then the court shall presume, subject to rebuttal, that no condition or combination of conditions of bail will reasonably assure the appearance of the convicted person or the safety of the public.

In any case in which the court denies bail, the reason for such denial shall be stated on the record of the case. A writ of error from the Court of Appeals shall lie to any such judgment refusing bail or requiring excessive bail, ~~except that in any case where a person has been sentenced to death, a writ of error shall lie from the Supreme Court.~~ Upon review by the Court of Appeals or the Supreme Court, if the decision by the trial court to deny bail is overruled, the ~~appellate court~~ *Court of Appeals* shall either set bail or remand the matter to circuit court for such further action regarding bail as the ~~appellate court~~ *Court of Appeals* directs.

§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) been dismissed in part because at least one assignment of error contained in the petition for appeal did not adhere to proper form or procedures; or (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is

not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon the Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, ~~nor shall it apply in cases in which a sentence of death has been imposed.~~

§ 19.2-327.1. Motion by a convicted felon or person adjudicated delinquent for scientific analysis of newly discovered or previously untested scientific evidence; procedure.

A. Notwithstanding any other provision of law or rule of court, any person convicted of a felony or any person who was adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may, by motion to the circuit court that entered the original conviction or the adjudication of delinquency, apply for a new scientific investigation of any human biological evidence related to the case that resulted in the felony conviction or adjudication of delinquency if (i) the evidence was not known or available at the time the conviction or adjudication of delinquency became final in the circuit court or the evidence was not previously subjected to testing; (ii) the evidence is subject to a chain of custody sufficient to establish that the evidence has not been altered, tampered with, or substituted in any way; (iii) the testing is materially relevant, noncumulative, and necessary and may prove the actual innocence of the convicted person or the person adjudicated delinquent; (iv) the testing requested involves a scientific method generally accepted within the relevant scientific community; and (v) the person convicted or adjudicated delinquent has not unreasonably delayed the filing of the petition after the evidence or the test for the evidence became available.

B. The petitioner shall assert categorically and with specificity, under oath, the facts to support the items enumerated in subsection A and (i) the crime for which the person was convicted or adjudicated delinquent, (ii) the reason or reasons the evidence was not known or tested by the time the conviction or adjudication of delinquency became final in the circuit court, and (iii) the reason or reasons that the newly discovered or untested evidence may prove the actual innocence of the person convicted or adjudicated delinquent. Such motion shall contain all relevant allegations and facts that are known to the petitioner at the time of filing and shall enumerate and include all previous records, applications, petitions, and appeals and their dispositions.

C. The petitioner shall serve a copy of such motion upon the attorney for the Commonwealth. The Commonwealth shall file its response to the motion within 30 days of the receipt of service. The court shall, no sooner than 30 and no later than 90 days after such motion is filed, hear the motion. ~~Motions made by a petitioner under a sentence of death shall be given priority on the docket.~~

D. The court shall, after a hearing on the motion, set forth its findings specifically as to each of the items enumerated in subsections A and B and either (i) dismiss the motion for failure to comply with the requirements of this section or (ii) dismiss the motion for failure to state a claim upon which relief can be granted or (iii) order that the testing be done.

E. The court shall order the tests to be performed by:

1. A laboratory mutually selected by the Commonwealth and the applicant; or
2. A laboratory selected by the court that ordered the testing if the Commonwealth and the applicant are unable to agree on a laboratory.

If the testing is conducted by the Department of Forensic Science, the court shall prescribe in its order, pursuant to standards and guidelines established by the Department, the method of custody, transfer, and return of evidence submitted for scientific investigation sufficient to insure and protect the Commonwealth's interest in the integrity of the evidence. The results of any such testing shall be furnished simultaneously to the court, the petitioner and his attorney of record and the attorney for the Commonwealth. ~~The Department of Forensic Science shall give testing priority to cases in which a sentence of death has been imposed.~~ The results of any tests performed and any hearings held pursuant to this section shall become a part of the record.

If the testing is not conducted by the Department of Forensic Science, it shall be conducted by a laboratory that is accredited by an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed and follows the appropriate Quality Assurance Standards issued by the Federal Bureau of Investigation.

F. ~~Nothing in this section shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1.~~

G. An action under this section or the performance of any attorney representing the petitioner under this section shall not form the basis for relief in any habeas corpus proceeding or any other appeal. Nothing in this section shall create any cause of action for damages against the Commonwealth or any of its political subdivisions or any officers, employees or agents of the Commonwealth or its political subdivisions.

H. *G.* In any petition filed pursuant to this chapter, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10.

§ 19.2-327.3. Contents and form of the petition based on previously unknown or untested human biological evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, the following: (i) the crime for which the petitioner was convicted or the offense for which the petitioner was adjudicated delinquent; (ii) that the petitioner is actually innocent of the crime for which he was convicted or adjudicated delinquent; (iii) an exact description of the human biological evidence and the scientific testing supporting the allegation of innocence; (iv) that the evidence was not previously known or available to the petitioner or his trial attorney of record at the time the conviction or adjudication of delinquency became final in the circuit court, or if known, the reason that the evidence was not subject to the scientific testing set forth in the petition; (v) the date the test results under § 19.2-327.1 became known to the petitioner or any attorney of record; (vi) that the petitioner or his attorney of record has filed the petition within 60 days of obtaining the test results under § 19.2-327.1; (vii) the reason or reasons the evidence will prove that no rational trier of fact would have found proof of guilt or delinquency beyond a reasonable doubt; and (viii) for any conviction or adjudication of delinquency that became final in the circuit court after June 30, 1996, that the evidence was not available for testing under § 9.1-1104. The Supreme Court may issue a stay of execution pending proceedings under the petition. ~~Nothing in this chapter shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1.~~

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing and shall enumerate and include all previous records, applications, petitions, and appeals and their dispositions. A copy of any test results shall be filed with the petition. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court may dismiss the petition or return the petition to the prisoner pending the completion of such form. The petitioner shall be responsible for all statements contained in the petition. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution and conviction of perjury as provided for in § 18.2-434.

C. The Supreme Court shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments has been served on the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General or an acceptance of service signed by these officials, or any combination thereof. The Attorney General shall have 30 days after receipt of the record by the clerk of the Supreme Court in which to file a response to the petition. The response may contain a proffer of any evidence pertaining to the guilt or delinquency or innocence of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The Supreme Court may, when the case has been before a trial or appellate court, inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record.

E. In any petition filed pursuant to this chapter, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10.

§ 19.2-327.11. Contents and form of the petition based on previously unknown or unavailable evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, all of the following: (i) the crime for which the petitioner was convicted or the offense for which the petitioner was adjudicated delinquent; (ii) that the petitioner is actually innocent of the crime for which he was convicted or the offense for which he was adjudicated delinquent; (iii) an exact description of (a) the previously unknown or unavailable evidence supporting the allegation of innocence or (b) the previously untested evidence and the scientific testing supporting the allegation of innocence; (iv)(a) that such evidence was previously unknown or unavailable to the petitioner or his trial attorney of record at the time the conviction or adjudication of delinquency became final in the circuit court or (b) if known, the reason that the evidence was not subject to scientific testing set forth in the petition; (v) the date (a) the previously unknown or unavailable evidence became known or available to the petitioner and the circumstances under which it was discovered or (b) the results of the scientific testing of previously untested evidence became known to the petitioner or any attorney of record; (vi)(a) that the previously unknown or unavailable evidence is such as could not, by the exercise of diligence, have been discovered or obtained before the expiration of 21 days following entry of the final order of conviction or adjudication of delinquency by the circuit court or (b) that the testing procedure was not available at the time the conviction or adjudication of delinquency became final in the circuit court; (vii) that the previously unknown, unavailable, or untested evidence is material and, when considered with all of the other evidence in the current record, will prove that no rational trier of fact would have found proof of guilt or delinquency beyond a reasonable doubt; and (viii) that the previously unknown, unavailable, or untested evidence is not

merely cumulative, corroborative, or collateral. Nothing in this chapter shall constitute grounds to ~~delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or (iv) of § 53.1-232.1~~ or to delay or stay any other appeals following conviction or adjudication of delinquency, or petitions to any court. Human biological evidence may not be used as the sole basis for seeking relief under this writ but may be used in conjunction with other evidence.

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing; shall be accompanied by all relevant documents, affidavits, and test results; and shall enumerate and include all relevant previous records, applications, petitions, and appeals and their dispositions. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court of Appeals may dismiss the petition or return the petition to the petitioner pending the completion of such form. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

C. In cases brought by counsel for the petitioner, the Court of Appeals shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General, or an acceptance of service signed by these officials, or any combination thereof. In cases brought by petitioners pro se, the Court of Appeals shall not accept the petition unless it is accompanied by a certificate that a copy of the petition and all attachments have been sent, by certified mail, to the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General. If the Court of Appeals does not summarily dismiss the petition, it shall so notify in writing the Attorney General, the attorney for the Commonwealth, and the petitioner. The Attorney General shall have 60 days after receipt of such notice in which to file a response to the petition that may be extended for good cause shown; however, nothing shall prevent the Attorney General from filing an earlier response. The response may contain a proffer of any evidence pertaining to the guilt or delinquency or innocence of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The Court of Appeals may inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record. If, in the judgment of the Court, the petition fails to state a claim, or if the assertions of previously unknown, unavailable, or untested evidence, even if true, would fail to qualify for the granting of relief under this chapter, the Court may dismiss the petition summarily, without any hearing or a response from the Attorney General.

E. In any petition filed pursuant to this chapter that is not summarily dismissed, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) and Article 4 (§ 19.2-163.3 et seq.) of Chapter 10. The Court of Appeals may, in its discretion, appoint counsel prior to deciding whether a petition should be summarily dismissed.

§ 19.2-389.1. Dissemination of juvenile record information.

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Department of Forensic Science to verify its authority to maintain the juvenile's sample in the DNA data bank pursuant to § 16.1-299.1; (viii) to the Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.); (ix) to the Virginia Criminal Sentencing Commission for research purposes; (x) to members of a threat assessment team established by a school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any juvenile record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team; (xi) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (xii) to the State Health

Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xiii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § ~~19.2-264.5~~ or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-400. Appeal lies to the Court of Appeals; time for filing notice.

An appeal taken pursuant to § 19.2-398, including such an appeal in a ~~capital~~ *an aggravated* murder case, shall lie to the Court of Appeals of Virginia.

No appeal shall be allowed the Commonwealth pursuant to subsection A of § 19.2-398 unless within seven days after entry of the order of the circuit court from which the appeal is taken, and before a jury is impaneled and sworn if there is to be trial by jury or, in cases to be tried without a jury, before the court begins to hear or receive evidence or the first witness is sworn, whichever occurs first, the Commonwealth files a notice of appeal with the clerk of the trial court. If the appeal relates to suppressed evidence, the attorney for the Commonwealth shall certify in the notice of appeal that the appeal is not taken for the purpose of delay and that the evidence is substantial proof of a fact material to the proceeding. All other

requirements related to the notice of appeal shall be governed by Part Five A of the Rules of the Supreme Court. Upon the filing of a timely notice of appeal, the order from which the pretrial appeal is taken and further trial proceedings in the circuit court, except for a bail hearing, shall thereby be suspended pending disposition of the appeal.

An appeal by the Commonwealth pursuant to subsection C of § 19.2-398 shall be governed by Part Five A of the Rules of the Supreme Court.

§ 53.1-204. If prisoner commits any other felony, how punished.

If a prisoner in a state, local or community correctional facility or in the custody of an employee thereof commits any felony other than those specified in §§ 18.2-31, 18.2-55 and 53.1-203, which is punishable by confinement in a state correctional facility ~~or by death~~, such prisoner shall be subject to the same punishment therefor as if he were not a prisoner.

§ 53.1-229. Powers vested in Governor.

In accordance with the provisions of Article V, Section 12 of the Constitution of Virginia, the power to ~~commute capital punishment and to grant pardons or reprieves~~ is vested in the Governor.

§ 54.1-3307. Specific powers and duties of Board.

A. The Board shall regulate the practice of pharmacy and the manufacturing, dispensing, selling, distributing, processing, compounding, or disposal of drugs and devices. The Board shall also control the character and standard of all drugs, cosmetics, and devices within the Commonwealth, investigate all complaints as to the quality and strength of all drugs, cosmetics, and devices, and take such action as may be necessary to prevent the manufacturing, dispensing, selling, distributing, processing, compounding, and disposal of such drugs, cosmetics, and devices that do not conform to the requirements of law.

The Board's regulations shall include criteria for:

1. Maintenance of the quality, quantity, integrity, safety, and efficacy of drugs or devices distributed, dispensed, or administered.
2. Compliance with the prescriber's instructions regarding the drug and its quantity, quality, and directions for use.
3. Controls and safeguards against diversion of drugs or devices.
4. Maintenance of the integrity of, and public confidence in, the profession and improving the delivery of quality pharmaceutical services to the citizens of Virginia.
5. Maintenance of complete records of the nature, quantity, or quality of drugs or substances distributed or dispensed and of all transactions involving controlled substances or drugs or devices so as to provide adequate information to the patient, the practitioner, or the Board.
6. Control of factors contributing to abuse of legitimately obtained drugs, devices, or controlled substances.
7. Promotion of scientific or technical advances in the practice of pharmacy and the manufacture and distribution of controlled drugs, devices, or substances.
8. Impact on costs to the public and within the health care industry through the modification of mandatory practices and procedures not essential to meeting the criteria set out in subdivisions 1 through 7.
9. Such other factors as may be relevant to, and consistent with, the public health and safety and the cost of rendering pharmacy services.

B. The Board may collect and examine specimens of drugs, devices, and cosmetics that are manufactured, distributed, stored, or dispensed in the Commonwealth.

C. The Board shall report annually by December 1 to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions on (i) the number of outsourcing facilities permitted or registered by the Board that have entered into a contract with the Department of Corrections for the compounding of drugs necessary to carry out an execution by lethal injection pursuant to § 53.1-234 and (ii) the name of any such outsourcing facilities that received disciplinary action for a violation of law or regulation related to compounding.

2. That §§ 8.01-654.1, 8.01-654.2, 17.1-313, and 18.2-17, Article 4.1 (§§ 19.2-163.7 and 19.2-163.8) of Chapter 10 of Title 19.2, Article 4.1 (§§ 19.2-264.2 through 19.2-264.5) of Chapter 15 of Title 19.2, § 53.1-230, and Chapter 13 (§§ 53.1-232 through 53.1-236) of Title 53.1 of the Code of Virginia are repealed.

3. That any person under a sentence of death imposed for an offense committed prior to July 1, 2021, but who has not been executed by July 1, 2021, shall have his sentence changed to life imprisonment, and such person who was 18 years of age or older at the time of the offense shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1 of the Code of Virginia, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02 of the Code of Virginia.

4. That notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the effective date of this act for any violation of law.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$77,376 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 346

An Act to amend the Code of Virginia by adding in Title 20 a chapter numbered 11, consisting of sections numbered 20-168 through 20-187, relating to the Uniform Collaborative Law Act.

[H 1852]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 20 a chapter numbered 11, consisting of sections numbered 20-168 through 20-187, as follows:

CHAPTER 11.

UNIFORM COLLABORATIVE LAW ACT.

§ 20-168. Definitions.

As used in this chapter, unless the context requires otherwise:

"Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that (i) is made to conduct, participate in, continue, or reconvene a collaborative law process and (ii) occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

"Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

"Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons sign a collaborative law participation agreement and are represented by collaborative lawyers.

"Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

"Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution that is described in a collaborative law participation agreement and that is between family or household members or arises under the family or domestic relations laws of the Commonwealth, including (i) marriage, divorce, dissolution, annulment, and property distribution; (ii) child custody, visitation, and parenting time; (iii) alimony, spousal support, maintenance, and child support; (iv) adoption; (v) parentage; and (vi) negotiation or enforcement of premarital, marital, and separation agreements.

"Family abuse" has the same meaning as set forth in § 16.1-228.

"Family or household member" has the same meaning as set forth in § 16.1-228.

"Law firm" means (i) lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association or (ii) lawyers employed together in (a) a legal services organization or (b) the legal department of another organization.

"Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

"Party" means a person who signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

"Proceeding" means a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and post-hearing motions, conferences, and discovery.

"Prospective party" means a person who discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

"Sign" means, with present intent to authenticate or adopt a record, to (i) execute or adopt a tangible symbol or (ii) attach to or logically associate with the record an electronic symbol, sound, or process.

"Tribunal" means a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity that, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interest in a matter.

§ 20-169. Applicability.

This chapter applies to a collaborative law participation agreement that meets the requirements of § 20-170 and is signed on or after July 1, 2021.

§ 20-170. Collaborative law participation agreement; requirements.

A collaborative law participation agreement shall:

1. Be in a record;

2. Be signed by the parties;

3. State the parties' intention to resolve a collaborative matter through a collaborative law process under this chapter;

4. Describe the nature and scope of the matter;

5. Identify the collaborative lawyer who represents each party in the process; and

6. Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process, which may be contained in a separate writing.

B. Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this chapter.

§ 20-171. Beginning and concluding collaborative law process.

A. A collaborative law process begins when the parties sign a collaborative law participation agreement.

B. A tribunal shall not order a party to participate in a collaborative law process over such party's objection.

C. A collaborative law process is concluded by a:

1. Resolution of a collaborative matter as evidenced by a signed record;

2. Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or

3. Termination of the process.

D. A collaborative law process terminates:

1. When a party gives notice to his collaborative lawyer and to other parties in a record that the process is ended;

2. When a party:

a. Begins a proceeding related to a collaborative matter without the agreement of all parties; or

b. In a pending proceeding related to the matter, (i) initiates a pleading, motion, order to show cause, or request for a conference with the tribunal; (ii) requests that the proceeding be put on the tribunal's active docket; or (iii) takes similar action requiring notice to be sent to the parties; or

3. Except as otherwise provided by subsection G, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

E. A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

F. A party may terminate a collaborative law process with or without cause.

G. Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection E is sent to the parties:

1. The unrepresented party engages a successor collaborative lawyer; and

2. In a signed record:

a. The parties consent to continue the process by reaffirming the collaborative law participation agreement;

b. The collaborative law participation agreement is amended to identify the successor collaborative lawyer; and

c. The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

H. A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part of such matter as evidenced by a signed record, including any orders necessary to effectuate the terms of an agreement reached in the collaborative law process and evidenced in a signed record.

I. A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

§ 20-172. Proceedings pending before tribunal; status report.

A. Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the collaborative law participation agreement after it is signed. Subject to subsection D and §§ 20-173 and 20-174, the filing operates as an application for a stay of the proceeding.

B. In the event that a stay is not granted by the tribunal, the proceeding shall be nonsuited by the parties before the collaborative law process may continue.

C. In the event that a stay of the proceeding is granted by the tribunal, the parties shall promptly file with the tribunal a notice in a record when their collaborative law process concludes. A stay of the proceeding under subsection A is lifted when the notice is filed. The notice shall not specify any reason for termination of the process.

D. A tribunal in which a proceeding is stayed under subsection A may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It shall not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

E. A tribunal shall not consider a communication made in violation of subsection D.

F. A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

§ 20-173. Emergency order.

During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or a party's family or household member.

§ 20-174. Affirmation of agreement by tribunal.

A tribunal may affirm, ratify, and incorporate into a court order any agreement resulting from a collaborative law process.

§ 20-175. Disqualification of collaborative lawyer and lawyers in associated law firm; exception.

A. Except as otherwise provided in subsection C, a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

B. Except as otherwise provided in subsection C and § 20-176, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection A.

C. A collaborative lawyer or another lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

1. To ask a tribunal to affirm, ratify, and incorporate any agreement resulting from the collaborative law process into a court order;

2. To ask a tribunal to enter any order necessary to effectuate the terms of any agreement resulting from the collaborative law process; or

3. To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or a party's family or household member, if a successor lawyer is not immediately available to represent such person.

D. If subdivision C 3 applies, a collaborative lawyer, or another lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or a party's family or household member only until such person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

§ 20-176. Low-income parties; exception from imputed disqualification.

A. The disqualification provisions of § 20-175 apply to a collaborative lawyer representing a party with or without fee.

B. After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer is associated may represent a party without fee in the collaborative matter or a matter related to such collaborative matter if:

1. The party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation;

2. The collaborative law participation agreement so provides for such subsequent representation; and

3. The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm that are reasonably calculated to isolate the collaborative lawyer from such participation.

§ 20-177. Disclosure of information.

Except as otherwise provided by law, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without the requirement of the formal discovery procedures set forth in Part 4 of the Rules of Supreme Court of Virginia. A party shall also promptly update previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

§ 20-178. Standards of professional responsibility and mandatory reporting not affected.

This chapter does not affect the professional responsibility obligations and standards applicable to a lawyer or other licensed professional or the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the laws of the Commonwealth.

§ 20-179. Appropriateness of collaborative law process.

Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

1. Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

2. Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and

3. Advise the prospective party that:

a. After signing a collaborative law participation agreement, if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

b. Participation in a collaborative law process is voluntary, and any party has the right to unilaterally terminate a collaborative law process with or without cause; and

c. The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by subsection C of § 20-175 or by § 20-176.

§ 20-180. History of family abuse.

A. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry into whether there exists a history of family abuse between the prospective parties.

B. Throughout a collaborative law process, a collaborative lawyer shall reasonably and continuously assess whether there exists a history of family abuse between the parties.

C. If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of family abuse with another party or prospective party, the lawyer shall not begin or continue a collaborative law process unless (i) the party or the prospective party requests beginning or continuing the process and (ii) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during the process.

§ 20-181. Confidentiality of collaborative law communication.

A collaborative law communication is confidential to the extent agreed upon by the parties in a signed record or as provided by another law of the Commonwealth.

§ 20-182. Privilege against disclosure of collaborative law communication; admissibility; discovery.

A. Subject to §§ 20-183 and 20-184, a collaborative law communication is privileged under subsection B, is not subject to discovery, and is not admissible in evidence.

B. In a proceeding, the following privileges apply:

1. A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

2. A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

C. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

§ 20-183. Waiver and preclusion of privilege.

A. A privilege under § 20-182 may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by such participant.

B. A person who makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding shall not assert a privilege under § 20-182; such preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

§ 20-184. Limits of privilege.

A. There is no privilege under § 20-182 for a collaborative law communication that is:

1. Available to the public;

2. A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

3. Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

4. In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

B. The privileges under § 20-182 for a collaborative law communication do not apply to the extent that a communication is:

1. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

2. Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the child protective services or adult protective services unit of the local department of social services is a party to or otherwise participates in the process.

C. There is no privilege under § 20-182 if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in (i) a court proceeding involving a felony or misdemeanor or (ii) a proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

D. If a collaborative law communication is subject to an exception under subsection B or C, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

E. Disclosure or admission of evidence excepted from the privilege under subsection B or C does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

F. The privileges under § 20-182 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person who did not receive actual notice of the agreement that all or part of a collaborative law process is not privileged before the communication was made.

§ 20-185. Authority of tribunal in case of noncompliance.

A. If a collaborative law participation agreement fails to meet the requirements of § 20-170, or a lawyer fails to comply with § 20-179 or 20-180, a tribunal may nevertheless find that the parties intended to enter into a collaborative law participation agreement if they (i) signed a record indicating an intention to enter into a collaborative law participation agreement and (ii) reasonably believed they were participating in a collaborative law process.

B. If a tribunal makes the findings specified in subsection A, and the interests of justice require, the tribunal may (i) enforce an agreement evidenced by a record resulting from the collaborative law process in which the parties participated, (ii) apply the disqualification provisions of § 20-175, and (iii) apply a privilege under § 20-182.

§ 20-186. Uniformity of application and construction.

In applying and construing this uniform chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 20-187. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

CHAPTER 347

An Act to amend and reenact § 58.1-3506 of the Code of Virginia, relating to tangible personal property taxes; classification of certain motor vehicles, trailers, and semitrailers.

[H 1774]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3506 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3506. Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;
- b. Boats or watercraft weighing less than five tons, not used solely for business purposes;
2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;
3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;
4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;
5. All other aircraft not included in subdivision 2, 3, or 4 and flight simulators;
6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;
7. Tangible personal property used in a research and development business;
8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment except as exempted under § 58.1-3505, and ditch and other types of diggers;
9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;
10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;
11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;
12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;
13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;
14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;
15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner

of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2029, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property or passengers for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment, except as exempted under § 58.1-3505;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other

assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than \$500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list; and

47. Commercial fishing vessels and property permanently attached to such vessels.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

CHAPTER 348

An Act to direct the Department of Conservation and Recreation to recommend a dedicated funding source for state parks.

[H 1804]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Conservation and Recreation (the Department) shall develop recommendations for one or more dedicated sources of funding for the system of state parks in the Commonwealth. Such funding source shall be relatively stable from year to year. In developing its recommendations, the Department may meet with and seek input from stakeholders. The Department shall submit its recommendations to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations no later than November 1, 2021.*

CHAPTER 349

An Act to amend and reenact §§ 56-539 and 56-542 of the Code of Virginia, relating to Virginia Highway Corporation Act; alteration of certificate of authority; powers and duties of the State Corporation Commission.

[H 1832]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. **That §§ 56-539 and 56-542 of the Code of Virginia are amended and reenacted as follows:**

§ 56-539. Certificate of authority.

A. Any person may apply to the Commission for a certificate of authority to construct or operate a roadway, or to extend or enlarge a roadway for which a certificate has been issued under this chapter. If the Commission determines in writing, after notice and opportunity for a hearing, that the application is complete, that approval of the application is in the public interest, and that the applicant has complied with the provisions of this chapter, it shall approve the application, with or without modification, unless it receives a duly adopted resolution of the governing body of any jurisdiction through which the roadway passes, which requests that the Commission deny the application, in which case the Commission shall do so. If the application is approved the operator shall construct the roadway. Upon completion of construction and the opening of the roadway to the public, the roadway shall be kept at all times open for use by the public and made accessible to the public, upon payment of the toll established by the operator; provided that the roadway may be partially or completely closed, temporarily, with the concurrence of the Department, to protect the public safety or for reasonable construction or maintenance procedures. The certificate of authority may be transferred with the approval of the Commission if the

Commission finds the transfer to be in the public interest after consultation with the Board and notice to the governing body of any jurisdiction through which the roadway passes.

B. When applying to the Commission for a transfer, extension, or amendment of a certificate of authority, the applicant shall provide the Commission with sufficient information to demonstrate the financial fitness of the entity applying to operate the roadway or, in the case of a transfer, the transferee, including:

1. The operating entity's or transferee's balance sheet and income statement for the most recent fiscal year and any published financial information, including the most recent federal Securities and Exchange Commission Forms 10-K and 10-Q. If such information is not available, the applicant shall submit other financial information demonstrating the financial fitness of the proposed operating entity or transferee or any other entity that provides financial resources to the operating entity or transferee.

2. Proof of a minimum bond rating of "BBB-" or higher or an equivalent rating by a major rating agency, or a guarantee with a guarantor possessing a credit rating of "BBB-" or higher from a major rating agency. If such proof is not available, the applicant shall submit similar documentation to what would be submitted to a major credit rating agency to demonstrate the operating entity's or transferee's creditworthiness.

The Commission shall not approve a transfer, extension, or amendment of a certificate of authority unless the Commission receives such information and determines that the proposed operating entity or transferee is financially fit to do so.

§ 56-542. Powers of the Commission.

A. As used in this section:

"CPI" means the Consumer Price Index — U.S. City Averages for All Urban Consumers, All Items (not seasonally adjusted) as reported by the U.S. Department of Labor, Bureau of Labor Statistics; however, if the CPI is modified such that the base year of the CPI changes, the CPI shall be converted in accordance with the conversion factor published by the U.S. Department of Labor, Bureau of Labor Statistics, and if the CPI is discontinued or revised, such other historical index or computation approved by the Commission shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI had not been discontinued or revised.

"Materially discourage use" means to cause a decrease in traffic of three or more percentage points based on either a change in potential toll road users or a change in traffic attributable to the toll rate charged as validated by (i) an investment-grade travel demand model that takes population growth into consideration or (ii) in the case of an investigation into current toll rates, an actual traffic study that takes population growth into consideration.

"Real GDP" means the Annual Real Gross Domestic Product as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

B. The Commission shall have the power to regulate the operator under this title as a public service corporation. The Commission shall also have the power, and be charged with the duties of reviewing and approving or denying the application, of supervising and controlling the operator in the performance of its duties under this chapter and title, and of correcting any abuse in the performance of the operator's public duties.

C. Pursuant to § 56-36, the Commission shall require annually from the operator a verified report describing the nature of its contractual and other relationships with individuals or entities contracting with the operator for the provision of significant financial, construction, or maintenance services. The Commission shall review the report and such other materials as it shall deem necessary for the purpose of determining improper or excessive costs, and shall exclude from the operator's costs any amounts which it finds are improper or excessive. Included in such review shall be consideration of contractual relationships between the operator and individuals or entities that are closely associated or affiliated with the operator to assure that the terms of such contractual relationships are no less favorable or unfavorable to the operator than what it could obtain in an arm's-length transaction.

D. The Commission also shall have the duty and authority to approve or revise the toll rates charged by the operator. Initial rates shall be approved if they appear reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the roadway, and provide the operator no more than a reasonable rate of return as determined by the Commission. Thereafter, the Commission, upon application, complaint or its own initiative, and after investigation, may order substituted for any toll being charged by the operator, a toll which is set at a level which is reasonable to the user in relation to the benefit obtained and which will not materially discourage use of the roadway by the public and which will provide the operator no more than a reasonable return as determined by the Commission. *Any proposed toll rates that fail to meet these criteria as determined by the Commission are contrary to the public interest, and the Commission shall not approve such toll rates.*

Any application to increase toll rates shall include a forward-looking analysis that demonstrates that the proposed toll rates will be reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the roadway, and provide the operator no more than a reasonable return. Such forward-looking analysis shall include reasonable projections of anticipated traffic levels, including the impact of social and economic conditions anticipated during the time period that the proposed toll rates would be in effect. The Department shall review and provide comments upon the analysis to the Commission. Notwithstanding any other provision of law, the Commission shall not approve more than one year of toll rate increases proposed by the operator.

E. If a change in the ownership of the facility or change in control of an operator occurs, whether or not accompanied by the issuance of securities as defined in subsection A of § 56-57 and § 56-65.1, the Commission, in any subsequent

proceeding to set the level of a toll charged by the operator, shall ensure that the price paid in connection with the change in ownership or control, and any costs and other factors attributable to or resulting from the change in ownership or control, if they would contribute to an increase in the level of the toll, are excluded from the Commission's determination of the operator's reasonable return, in order to ensure that a change in ownership or control does not increase the level of the toll above that level that would otherwise have been required under subsection D or subdivision 1 3 if the change in ownership or control had not occurred. As used in this subsection, "control" has the same meaning as provided in § 56-88.1.

F. Pursuant to § 56-36, the Commission shall require an operator to provide copies of annual audited financial statements for the operator, together with a statement of the operator's ownership. The operator shall file such statement within four months from the end of the operator's fiscal year.

G. The proceeds and funding provided to the operator from any future bond indenture or similar credit agreement must be used for the purpose of refinancing existing debt, acquiring, designing, permitting, building, constructing, improving, equipping, modifying, maintaining, reconstructing, restoring, rehabilitating, or renewing the roadway property, and for the purpose of paying reasonable arm's-length fees, development costs, and expenses incurred by the operator or a related individual or entity in executing such financial transaction, unless otherwise authorized by the Commission.

H. The Commission may charge a reasonable annual fee to cover the costs of supervision and controlling the operator in the performance of its duties under this chapter and pursuant to this section.

I. Effective January 1, 2013, through January 1, 2020, and notwithstanding any other provision of law:

1. Upon application of and public notification by the operator, filed not more often than once within any 12-month period, the Commission shall approve to become effective within 45 days any request to increase tolls by a percentage that (i) is equal to the increase in the CPI, as defined in subsection A, from the date the Commission last approved a toll increase, plus one percent, (ii) is equal to the increase in the real GDP, as defined in subsection A, from the date the Commission last approved a toll increase, or (iii) 2.8 percent, whichever is greatest, which increase in the tolls approved by the Commission is hereafter referred to as the "annual percentage increase."

2. The operator additionally may request in an application made pursuant to subdivision 1 1, and the Commission shall further approve, an addition to the toll increase to allow the operator to include, in its tolls, the amount by which its local property taxes paid in the immediately preceding calendar year increased by more than the annual percentage increase above such payments for the previous calendar year.

3. Any request by the operator for an increase in the toll rates by a greater percentage than as provided in subdivision 1 1 shall be considered for approval by the Commission only upon presentation of an independent grade traffic and revenue study and a finding by the Commission that (a) toll rates subject to the preceding paragraph will not be sufficient to permit the operator to maintain the minimum coverage ratio set forth in the rate covenant provisions of its bond indenture or similar credit agreement, (b) such greater proposed tolls are reasonable to the user in relation to the benefit obtained and will not materially discourage use of the roadway by the public, and (c) such greater proposed tolls provide the operator no more than a reasonable rate of return as determined by the Commission; however, the Commission shall not approve an increase in the toll rates pursuant to this subdivision that exceeds the percentage increase necessary to permit the operator to maintain the minimum coverage ratio described in clause (a). Such request by an operator shall not be made as a result of a change in control of the operator or the project roadway. As used herein, a "change in control of the operator" means the sale or transfer of 25 percent or more of the assets of the operator or the acquisition or disposal of 25 percent or more of the outstanding shares of stock of the operator, if it is a corporation, or analogous interest if the operator is another form of entity. Any agreement between the operator and the Department made pursuant to this chapter shall not be construed to alter the duties, obligations, or powers of the Commission set forth in this chapter.

J. Prior to refinancing existing debt, an operator shall petition the Commission for approval to refinance such debt. The Commission may approve such petition only if the operator demonstrates (i) that it has the financial capability to pay off the debt incurred in the refinancing over the term of the bond, loan, or similar instrument; (ii) that the term of the bond, loan, or similar instrument does not extend beyond the expiration of the operator's current certificate of authority; (iii) that such refinancing will not increase toll rates; and (iv) that such refinancing is in the public interest.

CHAPTER 350

An Act to amend and reenact §§ 56-539 and 56-542 of the Code of Virginia, relating to Virginia Highway Corporation Act; alteration of certificate of authority; powers and duties of the State Corporation Commission.

[S 1259]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-539 and 56-542 of the Code of Virginia are amended and reenacted as follows:

§ 56-539. Certificate of authority.

A. Any person may apply to the Commission for a certificate of authority to construct or operate a roadway, or to extend or enlarge a roadway for which a certificate has been issued under this chapter. If the Commission determines in writing, after notice and opportunity for a hearing, that the application is complete, that approval of the application is in the public interest, and that the applicant has complied with the provisions of this chapter, it shall approve the application, with

or without modification, unless it receives a duly adopted resolution of the governing body of any jurisdiction through which the roadway passes, which requests that the Commission deny the application, in which case the Commission shall do so. If the application is approved the operator shall construct the roadway. Upon completion of construction and the opening of the roadway to the public, the roadway shall be kept at all times open for use by the public and made accessible to the public, upon payment of the toll established by the operator; provided that the roadway may be partially or completely closed, temporarily, with the concurrence of the Department, to protect the public safety or for reasonable construction or maintenance procedures. The certificate of authority may be transferred with the approval of the Commission if the Commission finds the transfer to be in the public interest after consultation with the Board and notice to the governing body of any jurisdiction through which the roadway passes.

B. When applying to the Commission for a transfer, extension, or amendment of a certificate of authority, the applicant shall provide the Commission with sufficient information to demonstrate the financial fitness of the entity applying to operate the roadway or, in the case of a transfer, the transferee, including:

1. The operating entity's or transferee's balance sheet and income statement for the most recent fiscal year and any published financial information, including the most recent federal Securities and Exchange Commission Forms 10-K and 10-Q. If such information is not available, the applicant shall submit other financial information demonstrating the financial fitness of the proposed operating entity or transferee or any other entity that provides financial resources to the operating entity or transferee.

2. Proof of a minimum bond rating of "BBB-" or higher or an equivalent rating by a major rating agency, or a guarantee with a guarantor possessing a credit rating of "BBB-" or higher from a major rating agency. If such proof is not available, the applicant shall submit similar documentation to what would be submitted to a major credit rating agency to demonstrate the operating entity's or transferee's creditworthiness.

The Commission shall not approve a transfer, extension, or amendment of a certificate of authority unless the Commission receives such information and determines that the proposed operating entity or transferee is financially fit to do so.

§ 56-542. Powers of the Commission.

A. As used in this section:

"CPI" means the Consumer Price Index — U.S. City Averages for All Urban Consumers, All Items (not seasonally adjusted) as reported by the U.S. Department of Labor, Bureau of Labor Statistics; however, if the CPI is modified such that the base year of the CPI changes, the CPI shall be converted in accordance with the conversion factor published by the U.S. Department of Labor, Bureau of Labor Statistics, and if the CPI is discontinued or revised, such other historical index or computation approved by the Commission shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI had not been discontinued or revised.

"Materially discourage use" means to cause a decrease in traffic of three or more percentage points based on either a change in potential toll road users or a change in traffic attributable to the toll rate charged as validated by (i) an investment-grade travel demand model that takes population growth into consideration or (ii) in the case of an investigation into current toll rates, an actual traffic study that takes population growth into consideration.

"Real GDP" means the Annual Real Gross Domestic Product as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

B. The Commission shall have the power to regulate the operator under this title as a public service corporation. The Commission shall also have the power, and be charged with the duties of reviewing and approving or denying the application, of supervising and controlling the operator in the performance of its duties under this chapter and title, and of correcting any abuse in the performance of the operator's public duties.

C. Pursuant to § 56-36, the Commission shall require annually from the operator a verified report describing the nature of its contractual and other relationships with individuals or entities contracting with the operator for the provision of significant financial, construction, or maintenance services. The Commission shall review the report and such other materials as it shall deem necessary for the purpose of determining improper or excessive costs, and shall exclude from the operator's costs any amounts which it finds are improper or excessive. Included in such review shall be consideration of contractual relationships between the operator and individuals or entities that are closely associated or affiliated with the operator to assure that the terms of such contractual relationships are no less favorable or unfavorable to the operator than what it could obtain in an arm's-length transaction.

D. The Commission also shall have the duty and authority to approve or revise the toll rates charged by the operator. Initial rates shall be approved if they appear reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the roadway, and provide the operator no more than a reasonable rate of return as determined by the Commission. Thereafter, the Commission, upon application, complaint or its own initiative, and after investigation, may order substituted for any toll being charged by the operator, a toll which is set at a level which is reasonable to the user in relation to the benefit obtained and which will not materially discourage use of the roadway by the public and which will provide the operator no more than a reasonable return as determined by the Commission. *Any proposed toll rates that fail to meet these criteria as determined by the Commission are contrary to the public interest, and the Commission shall not approve such toll rates.*

Any application to increase toll rates shall include a forward-looking analysis that demonstrates that the proposed toll rates will be reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the

roadway, and provide the operator no more than a reasonable return. Such forward-looking analysis shall include reasonable projections of anticipated traffic levels, including the impact of social and economic conditions anticipated during the time period that the proposed toll rates would be in effect. The Department shall review and provide comments upon the analysis to the Commission. Notwithstanding any other provision of law, the Commission shall not approve more than one year of toll rate increases proposed by the operator.

E. If a change in the ownership of the facility or change in control of an operator occurs, whether or not accompanied by the issuance of securities as defined in subsection A of § 56-57 and § 56-65.1, the Commission, in any subsequent proceeding to set the level of a toll charged by the operator, shall ensure that the price paid in connection with the change in ownership or control, and any costs and other factors attributable to or resulting from the change in ownership or control, are excluded from the Commission's determination of the operator's reasonable return, in order to ensure that a change in ownership or control does not increase the level of the toll above that level that would otherwise have been required under subsection D or subdivision 13 if the change in ownership or control had not occurred. As used in this subsection, "control" has the same meaning as provided in § 56-88.1.

F. Pursuant to § 56-36, the Commission shall require an operator to provide copies of annual audited financial statements for the operator, together with a statement of the operator's ownership. The operator shall file such statement within four months from the end of the operator's fiscal year.

G. The proceeds and funding provided to the operator from any future bond indenture or similar credit agreement must be used for the purpose of refinancing existing debt, acquiring, designing, permitting, building, constructing, improving, equipping, modifying, maintaining, reconstructing, restoring, rehabilitating, or renewing the roadway property, and for the purpose of paying reasonable arm's-length fees, development costs, and expenses incurred by the operator or a related individual or entity in executing such financial transaction, unless otherwise authorized by the Commission.

H. The Commission may charge a reasonable annual fee to cover the costs of supervision and controlling the operator in the performance of its duties under this chapter and pursuant to this section.

I. Effective January 1, 2013, through January 1, 2020, and notwithstanding any other provision of law:

1. Upon application of and public notification by the operator, filed not more often than once within any 12-month period, the Commission shall approve to become effective within 45 days any request to increase tolls by a percentage that (i) is equal to the increase in the CPI, as defined in subsection A, from the date the Commission last approved a toll increase, plus one percent, (ii) is equal to the increase in the real GDP, as defined in subsection A, from the date the Commission last approved a toll increase, or (iii) 2.8 percent, whichever is greatest, which increase in the tolls approved by the Commission is hereafter referred to as the "annual percentage increase."

2. The operator additionally may request in an application made pursuant to subdivision 1, and the Commission shall further approve, an addition to the toll increase to allow the operator to include, in its tolls, the amount by which its local property taxes paid in the immediately preceding calendar year increased by more than the annual percentage increase above such payments for the previous calendar year.

3. Any request by the operator for an increase in the toll rates by a greater percentage than as provided in subdivision 1 shall be considered for approval by the Commission only upon presentation of an independent grade traffic and revenue study and a finding by the Commission that (a) toll rates subject to the preceding paragraph will not be sufficient to permit the operator to maintain the minimum coverage ratio set forth in the rate covenant provisions of its bond indenture or similar credit agreement, (b) such greater proposed tolls are reasonable to the user in relation to the benefit obtained and will not materially discourage use of the roadway by the public, and (c) such greater proposed tolls provide the operator no more than a reasonable rate of return as determined by the Commission; however, the Commission shall not approve an increase in the toll rates pursuant to this subdivision that exceeds the percentage increase necessary to permit the operator to maintain the minimum coverage ratio described in clause (a). Such request by an operator shall not be made as a result of a change in control of the operator or the project roadway. As used herein, a "change in control of the operator" means the sale or transfer of 25 percent or more of the assets of the operator or the acquisition or disposal of 25 percent or more of the outstanding shares of stock of the operator, if it is a corporation, or analogous interest if the operator is another form of entity. Any agreement between the operator and the Department made pursuant to this chapter shall not be construed to alter the duties, obligations, or powers of the Commission set forth in this chapter.

J. Prior to refinancing existing debt, an operator shall petition the Commission for approval to refinance such debt. The Commission may approve such petition only if the operator demonstrates (i) that it has the financial capability to pay off the debt incurred in the refinancing over the term of the bond, loan, or similar instrument; (ii) that the term of the bond, loan, or similar instrument does not extend beyond the expiration of the operator's current certificate of authority; (iii) that such refinancing will not increase toll rates; and (iv) that such refinancing is in the public interest.

CHAPTER 351

An Act to amend and reenact §§ 58.1-4030, 58.1-4031, 58.1-4032, 58.1-4039, and 58.1-4100 of the Code of Virginia, relating to sports betting; technical amendments.

[H 1847]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4030, 58.1-4031, 58.1-4032, 58.1-4039, and 58.1-4100 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-4030. Definitions.

As used in this article, unless the context requires a different meaning:

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise paid out as winnings to bettors, and the value of all bonuses or promotions provided to patrons as an incentive to place or as a result of their having placed Internet sports betting wagers;
2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to bettors;
3. If the permit holder is a significant infrastructure limited licensee, as defined in § 59.1-365, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 14 of § 59.1-369; and
4. All excise taxes on sports betting paid pursuant to federal law.

"*Amateur sports*" means any sports or athletic event that is not professional sports, college sports, Virginia college sports, or youth sports. "*Amateur sports*" includes domestic, international, and Olympic sports or athletic events. "*Amateur sports*" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and the immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permittee from its sports betting operations.

"Major league sports franchise" means a professional baseball, basketball, football, hockey, or soccer team that is at the highest-level league of play for its respective sport.

"Motor sports facility" means an outdoor motor sports facility that hosts a National Association for Stock Car Auto Racing (NASCAR) national touring race.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Permit holder" means a person to which the Director issues a permit pursuant to §§ 58.1-4032 and 58.1-4033.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns, or other information as may be prescribed by the Board by regulation.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a permit holder or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity. "Principal" includes any individual who is employed in a managerial capacity for a sports betting platform or sports betting facility on behalf of a permit holder.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"Prohibited conduct" means any statement, action, or other communication intended to influence, manipulate, or control a betting outcome of a sports event or of any individual occurrence or performance in a sports event in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party. "Prohibited conduct" does not include statements, actions, or communications made or sanctioned by a sports team or sports governing body.

"Proposition bet" means a bet on an individual action, statistic, occurrence, or non-occurrence to be determined during an athletic event and includes any such action, statistic, occurrence, or non-occurrence that does not directly affect the final outcome of the athletic event to which it relates.

"Sports betting" means placing wagers on professional sports, college sports, *amateur sports*, sporting events, or any other event approved by the Director, and any portion thereof, and includes placing wagers related to the individual performance statistics of athletes in such sports and events. "Sports betting" includes any system or method of wagering approved by the Director, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. "Sports betting" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; participating in any lottery game authorized under Article 1 (§ 58.1-4000 et seq.); wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1; or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of

Title 59.1. "Sports betting" does not include placing a wager on a college sports event in which a Virginia public or private institution of higher education is a participant.

"Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) that is designated for sports betting.

"Sports betting permit" means a permit to operate a sports betting platform or sports betting facility issued pursuant to the provisions of §§ 58.1-4032, 58.1-4033, and 58.1-4034.

"Sports betting platform" means a website, app, or other platform accessible via the Internet or mobile, wireless, or similar communications technology that sports bettors use to participate in sports betting.

"Sports betting program" means the program established by the Board to allow sports betting as described in this article.

"Sports bettor" means a person physically located in Virginia who participates in sports betting.

"Sports event" or "sporting event" means professional sports, college sports, *amateur sports*, and any athletic event, motor race event, electronic sports event, or competitive video game event, or any other event approved by the Director.

"Sports governing body" means an organization, headquartered in the United States, that prescribes rules and enforces codes of conduct with respect to a professional sports or college sports event and the participants therein. "Sports governing body" includes a designee of the sports governing body.

"Stadium" means the physical facility that is the primary location at which a major league sports franchise hosts athletic events and any appurtenant facilities.

"Tier 1 bet" means a bet that is placed using the Internet and that is not a tier 2 bet.

"Tier 2 bet" means a bet that is placed using the Internet and that is placed after the event it concerns has started.

"Virginia college sports" means an athletic event in which at least one participant is a team from a Virginia public or private institution of higher education.

"Youth sports" means an athletic event (i) involving a majority of participants under age 18 or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located. However, if an athletic event meets the definition of college sports or professional sports, such event shall not be considered youth sports regardless of the age of the participants. *An international athletic event organized by the International Olympic Committee shall not be considered to be youth sports, regardless of the age of the participants.*

§ 58.1-4031. Powers and duties of the Director related to sports betting; reporting.

A. The Department shall operate a sports betting program under the direction of the Director, who shall allow applicants to apply for permits to engage in sports betting operations in the Commonwealth. The Board shall regulate such operations. The Department shall not operate a sports betting platform or a sports betting facility.

B. The Director may:

1. Require bond or other surety satisfactory to the Director from permit holders in such amount as provided in the rules and regulations of the Board adopted under this article;

2. Suspend, revoke, or refuse to renew any permit issued pursuant to this article or the rules and regulations adopted under this article; and

3. Enter into contracts for the operation of the sports betting program, and enter into contracts with other states related to sports betting, provided that a contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

C. The Director shall:

1. Certify monthly to the State Comptroller and the Board a full and complete statement of sports betting revenues and expenses for the previous month;

2. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total sports betting revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of sports betting revenues and expenses, to the Governor and the General Assembly, including recommendations for changes in this article as the Director and Board deem prudent; and

3. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this article or the rules and regulations adopted under this article or to rectify undesirable conditions in connection with the administration or operation of the sports betting program.

D. In accordance with sports betting program regulations, the Director shall approve methods for sports bettors to fund sports betting accounts, including automated clearing house payments, credit cards, debit cards, wire transfers, and any other method that the Board determines is appropriate for sports betting.

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of \$50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish

regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating such costs to the applicants for licensure at the time of filing.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;
2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;
3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;
4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;
5. If applicable, any supporting documentation necessary to establish eligibility for substantial and preferred consideration pursuant to the provisions of this section;
6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and
7. Any other information the Director deems necessary.

C. The Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. The Director shall not issue any permit pursuant to this article until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to the provisions of subdivision A 14 of § 58.1-4007.

2. ~~a.~~ The Director shall issue no fewer than four *and no more than 12* permits pursuant to this section; however, if an insufficient number of applicants apply for the Director to satisfy ~~such the~~ minimum, this provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A permit shall not count toward ~~this the~~ minimum *or maximum* if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires, or otherwise becomes not effective.

~~b. The Director shall issue no more than 12 permits pursuant to this section. A permit shall not count toward this maximum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility or (ii) is revoked, expires, or otherwise becomes not effective.~~

3. In issuing permits to operate sports betting platforms *and sports betting facilities*, the Director shall consider the following factors:

- a. The contents of the applicant's application as required by subsection B;
- b. The extent to which the applicant demonstrates past experience, financial viability, compliance with applicable laws and regulations, and success with sports betting operations in other states;
- c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 58.1-4034;
- d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined in § 2.2-1604;
- e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected to generate;
- f. The effect of issuing an additional permit on the amount of gross revenue and associated tax revenue generated by all existing permit holders, considered in the aggregate; and
- g. Any other factor the Director considers relevant.

4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise headquartered in the Commonwealth that remitted personal state income tax withholdings based on taxable wages in the Commonwealth in excess of \$200 million for the 2019 taxable year. Any permit holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033; however, such permit holder shall not receive substantial and preferred consideration of its fourth and subsequent applications for renewal. Any permit granted pursuant to this subdivision shall expire if the permit holder ceases to maintain its headquarters in the Commonwealth.

5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise that plays five or more regular season games per year at a facility in the Commonwealth or that is the operator of a facility in the Commonwealth where a major league sports franchise plays five or more regular season games per year; however, the Director shall give such substantial and preferred consideration only if the applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in the Commonwealth that is in excess of \$10 million over the 90-day period prior to the application date, and (iii) the total number of individuals working at the facility in the Commonwealth where the major league sports franchise plays five or more regular season games is in excess of 100.

6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to operate sports betting platforms *and sports betting facilities*, the Director shall give substantial and preferred consideration to any applicant that (i) has made or intends to make a capital investment of at least ~~\$250~~ \$300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements; (ii) has had its name submitted as a preferred casino gaming operator to the Department by an eligible host

city; and (iii) has been certified by the Department to proceed to a local referendum on whether casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming establishment.

7. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that demonstrates in its application (i) a description of any equity interest owned by minority individuals or minority-owned businesses, (ii) a detailed plan to achieve increased minority equity investment, (iii) a description of all efforts made to seek equity investment from minority individuals or minority-owned businesses, or (iv) a plan detailing efforts made to solicit participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the sports betting platform or to provide assistance to a historically disadvantaged community or historically black colleges and universities located within the Commonwealth. As used in this subdivision, "historically black colleges and universities," "minority individual," and "minority-owned business" mean the same as those terms are defined in § 2.2-1604.

8. In a manner as may be required by Board regulation, any entity that applies pursuant to subdivision D 4, D 5, or D 6, or D 7 may demonstrate compliance with the requirements of an application, the duties of a permit holder, and any other provision of this article through the use of a partner, subcontractor, or other affiliate of the applicant.

E. The Director shall make a determination on an initial application for a sports betting permit within 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

F. The following shall be grounds for denial of a permit or renewal of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 58.1-4034;

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the Director;

5. The applicant or its directors knowingly fail to comply with the provisions of this article or any requirements of the Director;

6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the permit application;

7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

9. The applicant's application is incomplete.

G. The Director shall have the discretion to waive any of the grounds for denial of a permit or renewal of a permit if he determines that denial would limit the number of applicants or permit holders in a manner contrary to the best interests of the Commonwealth.

H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable amount.

I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor.

J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Department issues a permit shall pay a nonrefundable fee of \$250,000 to the Department prior to the issuance of such permit.

§ 58.1-4039. Events on which betting is prohibited; penalty.

A. 1. No person shall place or accept a bet on youth sports.

2. No person shall place or accept a proposition bet on college sports.

3. No person shall place or accept a bet on Virginia college sports.

B. 1. A sports governing body may notify the Department that it desires to restrict, limit, or prohibit sports betting on its sporting events by providing notice in accordance with requirements prescribed by the Director. A sports governing body also may request to restrict the types of bets that may be offered. *Notwithstanding § 58.1-4030, for purposes of this section, "sports governing body" includes any organization that is not headquartered in the United States and that otherwise meets the definition of "sports governing body."*

2. For any request made pursuant to subdivision 1, the requester shall bear the burden of establishing to the satisfaction of the Director that the relevant betting or other activity poses a significant and unreasonable integrity risk. The Director shall seek input from affected permit holders before making a determination on such request.

3. If the Director denies a request made pursuant to subdivision 1, the Director shall give the requester notice and the right to be heard and offer proof in opposition to such determination in accordance with regulations established by the Board. If the Director grants a request, the Board shall promulgate by regulation such restrictions, limitations, or prohibitions as may be requested.

4. A permit holder shall not offer or take any bets in violation of regulations promulgated by the Board pursuant to this subsection.

C. The prohibitions in subdivisions A 1 and A 3 shall be limited to the single game or match in which a youth sports or Virginia college sports team is a participant. The prohibitions shall not be construed to prohibit betting on other games in a tournament or multigame event in which a youth sports or Virginia college sports team participates, so long as such other games do not have a participant that is a youth sports or Virginia college sports team.

D. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to winners.

"Board" means the Virginia Lottery Board established in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under this chapter. "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

"Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.

"Cheat" means to alter the selection criteria that determine the result of a game or the amount or frequency of payment in a game for the purpose of obtaining an advantage for one or more participants in a game over other participants in a game.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Director" means the Director of the Virginia Lottery.

"Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment is authorized to be located.

"Entity" means a person that is not a natural person.

"Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by casino gaming patrons.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

"Person" means an individual, partnership, joint venture, association, limited liability company, stock corporation, or nonstock corporation and includes any person that directly or indirectly controls or is under common control with another person.

"Preferred casino gaming operator" means the proposed casino gaming establishment and operator thereof submitted by an eligible host city to the Board as an applicant for licensure.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity, and any person who manages a gaming operation on behalf of a licensee.

"Professional sports" means ~~an athletic event involving at least two competing individuals who receive compensation, in excess of their expenses, for participating in such event the same as such term is defined in § 58.1-4030.~~

"Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation, stock, or other equity interest creates control of or voice in the management operations of an entity in the manner of a security, then such interest shall be considered a security.

"Sports betting" means ~~placing wagers on sporting events as such activity is regulated by the Board the same as such term is defined in § 58.1-4030.~~

"Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming equipment, devices, or supplies, or provides any management services, to a licensee.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

"Youth sports" means the same as such term is defined in § 58.1-4030.

CHAPTER 352

An Act to amend and reenact §§ 58.1-4030, 58.1-4031, 58.1-4032, 58.1-4039, and 58.1-4100 of the Code of Virginia, relating to sports betting; technical amendments.

[S 1254]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4030, 58.1-4031, 58.1-4032, 58.1-4039, and 58.1-4100 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-4030. Definitions.

As used in this article, unless the context requires a different meaning:

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise paid out as winnings to bettors, and the value of all bonuses or promotions provided to patrons as an incentive to place or as a result of their having placed Internet sports betting wagers;

2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to bettors;

3. If the permit holder is a significant infrastructure limited licensee, as defined in § 59.1-365, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 14 of § 59.1-369; and

4. All excise taxes on sports betting paid pursuant to federal law.

"Amateur sports" means any sports or athletic event that is not professional sports, college sports, Virginia college sports, or youth sports. "Amateur sports" includes domestic, international, and Olympic sports or athletic events. "Amateur sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and the immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permittee from its sports betting operations.

"Major league sports franchise" means a professional baseball, basketball, football, hockey, or soccer team that is at the highest-level league of play for its respective sport.

"Motor sports facility" means an outdoor motor sports facility that hosts a National Association for Stock Car Auto Racing (NASCAR) national touring race.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Permit holder" means a person to which the Director issues a permit pursuant to §§ 58.1-4032 and 58.1-4033.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns, or other information as may be prescribed by the Board by regulation.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a permit holder or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity. "Principal" includes any individual who is employed in a managerial capacity for a sports betting platform or sports betting facility on behalf of a permit holder.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"Prohibited conduct" means any statement, action, or other communication intended to influence, manipulate, or control a betting outcome of a sports event or of any individual occurrence or performance in a sports event in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party. "Prohibited conduct" does not include statements, actions, or communications made or sanctioned by a sports team or sports governing body.

"Proposition bet" means a bet on an individual action, statistic, occurrence, or non-occurrence to be determined during an athletic event and includes any such action, statistic, occurrence, or non-occurrence that does not directly affect the final outcome of the athletic event to which it relates.

"Sports betting" means placing wagers on professional sports, college sports, amateur sports, sporting events, or any other event approved by the Director; and any portion thereof, and includes placing wagers related to the individual

performance statistics of athletes in such sports and events. "Sports betting" includes any system or method of wagering approved by the Director, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. "Sports betting" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; participating in any lottery game authorized under Article 1 (§ 58.1-4000 et seq.); wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1; or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1. "Sports betting" does not include placing a wager on a college sports event in which a Virginia public or private institution of higher education is a participant.

"Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) that is designated for sports betting.

"Sports betting permit" means a permit to operate a sports betting platform or sports betting facility issued pursuant to the provisions of §§ 58.1-4032, 58.1-4033, and 58.1-4034.

"Sports betting platform" means a website, app, or other platform accessible via the Internet or mobile, wireless, or similar communications technology that sports bettors use to participate in sports betting.

"Sports betting program" means the program established by the Board to allow sports betting as described in this article.

"Sports bettor" means a person physically located in Virginia who participates in sports betting.

"Sports event" or "sporting event" means professional sports, college sports, amateur sports, and any athletic event, motor race event, electronic sports event, or competitive video game event, or any other event approved by the Director.

"Sports governing body" means an organization, headquartered in the United States, that prescribes rules and enforces codes of conduct with respect to a professional sports or college sports event and the participants therein. "Sports governing body" includes a designee of the sports governing body.

"Stadium" means the physical facility that is the primary location at which a major league sports franchise hosts athletic events and any appurtenant facilities.

"Tier 1 bet" means a bet that is placed using the Internet and that is not a tier 2 bet.

"Tier 2 bet" means a bet that is placed using the Internet and that is placed after the event it concerns has started.

"Virginia college sports" means an athletic event in which at least one participant is a team from a Virginia public or private institution of higher education.

"Youth sports" means an athletic event (i) involving a majority of participants under age 18 or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located. However, if an athletic event meets the definition of college sports or professional sports, such event shall not be considered youth sports regardless of the age of the participants. *An international athletic event organized by the International Olympic Committee shall not be considered to be youth sports, regardless of the age of the participants.*

§ 58.1-4031. Powers and duties of the Director related to sports betting; reporting.

A. The Department shall operate a sports betting program under the direction of the Director, who shall allow applicants to apply for permits to engage in sports betting operations in the Commonwealth. The Board shall regulate such operations. The Department shall not operate a sports betting platform or a sports betting facility.

B. The Director may:

1. Require bond or other surety satisfactory to the Director from permit holders in such amount as provided in the rules and regulations of the Board adopted under this article;
2. Suspend, revoke, or refuse to renew any permit issued pursuant to this article or the rules and regulations adopted under this article; and
3. Enter into contracts for the operation of the sports betting program, and enter into contracts with other states related to sports betting, provided that a contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

C. The Director shall:

1. Certify monthly to the State Comptroller and the Board a full and complete statement of sports betting revenues and expenses for the previous month;
2. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total sports betting revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of sports betting revenues and expenses, to the Governor and the General Assembly, including recommendations for changes in this article as the Director and Board deem prudent; and
3. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this article or the rules and regulations adopted under this article or to rectify undesirable conditions in connection with the administration or operation of the sports betting program.

D. In accordance with sports betting program regulations, the Director shall approve methods for sports bettors to fund sports betting accounts, including automated clearing house payments, credit cards, debit cards, wire transfers, and any other method that the Board determines is appropriate for sports betting.

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of \$50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating such costs to the applicants for licensure at the time of filing.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. If applicable, any supporting documentation necessary to establish eligibility for substantial and preferred consideration pursuant to the provisions of this section;

6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and

7. Any other information the Director deems necessary.

C. The Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. The Director shall not issue any permit pursuant to this article until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to the provisions of subdivision A 14 of § 58.1-4007.

2. a. The Director shall issue no fewer than four *and no more than 12* permits pursuant to this section; however, if an insufficient number of applicants apply for the Director to satisfy ~~such~~ *the* minimum, this provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A permit shall not count toward ~~this~~ *the* minimum *or maximum* if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires, or otherwise becomes not effective.

b. ~~The Director shall issue no more than 12 permits pursuant to this section. A permit shall not count toward this maximum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility or (ii) is revoked, expires, or otherwise becomes not effective.~~

3. In issuing permits to operate sports betting platforms *and sports betting facilities*, the Director shall consider the following factors:

a. The contents of the applicant's application as required by subsection B;

b. The extent to which the applicant demonstrates past experience, financial viability, compliance with applicable laws and regulations, and success with sports betting operations in other states;

c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 58.1-4034;

d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined in § 2.2-1604;

e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected to generate;

f. The effect of issuing an additional permit on the amount of gross revenue and associated tax revenue generated by all existing permit holders, considered in the aggregate; and

g. Any other factor the Director considers relevant.

4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise headquartered in the Commonwealth that remitted personal state income tax withholdings based on taxable wages in the Commonwealth in excess of \$200 million for the 2019 taxable year. Any permit holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033; however, such permit holder shall not receive substantial and preferred consideration of its fourth and subsequent applications for renewal. Any permit granted pursuant to this subdivision shall expire if the permit holder ceases to maintain its headquarters in the Commonwealth.

5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise that plays five or more regular season games per year at a facility in the Commonwealth or that is the operator of a facility in the Commonwealth where a major league sports franchise plays five or more regular season games per year; however, the Director shall give such substantial and preferred consideration only if the applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in the Commonwealth that is in excess of \$10 million over the 90-day period prior to the application date, and (iii) the total number of individuals working at the facility in the Commonwealth where the major league sports franchise plays five or more regular season games is in excess of 100.

6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to operate sports betting platforms *and sports betting facilities*, the Director shall give substantial and preferred consideration to any applicant that (i) has made or intends to make a capital investment of at least \$250 \$300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements; (ii) has had its name submitted as a preferred casino gaming operator to the Department by an eligible host city; and (iii) has been certified by the Department to proceed to a local referendum on whether casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming establishment.

7. *In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that demonstrates in its application (i) a description of any equity interest owned by minority individuals or minority-owned businesses, (ii) a detailed plan to achieve increased minority equity investment, (iii) a description of all efforts made to seek equity investment from minority individuals or minority-owned businesses, or (iv) a plan detailing efforts made to solicit participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the sports betting platform or to provide assistance to a historically disadvantaged community or historically black colleges and universities located within the Commonwealth. As used in this subdivision, "historically black colleges and universities," "minority individual," and "minority-owned business" mean the same as those terms are defined in § 2.2-1604.*

8. In a manner as may be required by Board regulation, any entity that applies pursuant to subdivision D 4, D 5, ~~or D 6,~~ or D 7 may demonstrate compliance with the requirements of an application, the duties of a permit holder, and any other provision of this article through the use of a partner, subcontractor, or other affiliate of the applicant.

E. The Director shall make a determination on an initial application for a sports betting permit within 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

F. The following shall be grounds for denial of a permit or renewal of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 58.1-4034;

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the Director;

5. The applicant or its directors knowingly fail to comply with the provisions of this article or any requirements of the Director;

6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the permit application;

7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

9. The applicant's application is incomplete.

G. The Director shall have the discretion to waive any of the grounds for denial of a permit or renewal of a permit if he determines that denial would limit the number of applicants or permit holders in a manner contrary to the best interests of the Commonwealth.

H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable amount.

I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor.

J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Department issues a permit shall pay a nonrefundable fee of \$250,000 to the Department prior to the issuance of such permit.

§ 58.1-4039. Events on which betting is prohibited; penalty.

A. 1. No person shall place or accept a bet on youth sports.

2. No person shall place or accept a proposition bet on college sports.

3. No person shall place or accept a bet on Virginia college sports.

B. 1. A sports governing body may notify the Department that it desires to restrict, limit, or prohibit sports betting on its sporting events by providing notice in accordance with requirements prescribed by the Director. A sports governing body also may request to restrict the types of bets that may be offered. *Notwithstanding § 58.1-4030, for purposes of this section, "sports governing body" includes any organization that is not headquartered in the United States and that otherwise meets the definition of "sports governing body."*

2. For any request made pursuant to subdivision 1, the requester shall bear the burden of establishing to the satisfaction of the Director that the relevant betting or other activity poses a significant and unreasonable integrity risk. The Director shall seek input from affected permit holders before making a determination on such request.

3. If the Director denies a request made pursuant to subdivision 1, the Director shall give the requester notice and the right to be heard and offer proof in opposition to such determination in accordance with regulations established by the Board. If the Director grants a request, the Board shall promulgate by regulation such restrictions, limitations, or prohibitions as may be requested.

4. A permit holder shall not offer or take any bets in violation of regulations promulgated by the Board pursuant to this subsection.

C. The prohibitions in subdivisions A 1 and A 3 shall be limited to the single game or match in which a youth sports or Virginia college sports team is a participant. The prohibitions shall not be construed to prohibit betting on other games in a tournament or multigame event in which a youth sports or Virginia college sports team participates, so long as such other games do not have a participant that is a youth sports or Virginia college sports team.

D. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to winners.

"Board" means the Virginia Lottery Board established in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under this chapter. "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

"Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.

"Cheat" means to alter the selection criteria that determine the result of a game or the amount or frequency of payment in a game for the purpose of obtaining an advantage for one or more participants in a game over other participants in a game.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Director" means the Director of the Virginia Lottery.

"Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment is authorized to be located.

"Entity" means a person that is not a natural person.

"Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by casino gaming patrons.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

"Person" means an individual, partnership, joint venture, association, limited liability company, stock corporation, or nonstock corporation and includes any person that directly or indirectly controls or is under common control with another person.

"Preferred casino gaming operator" means the proposed casino gaming establishment and operator thereof submitted by an eligible host city to the Board as an applicant for licensure.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity, and any person who manages a gaming operation on behalf of a licensee.

"Professional sports" means ~~an athletic event involving at least two competing individuals who receive compensation, in excess of their expenses, for participating in such event~~ the same as such term is defined in § 58.1-4030.

"Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation, stock, or other equity interest creates control of or voice in the management operations of an entity in the manner of a security, then such interest shall be considered a security.

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board the same as such term is defined in § 58.1-4030.

"Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming equipment, devices, or supplies, or provides any management services, to a licensee.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

"Youth sports" means the same as such term is defined in § 58.1-4030.

CHAPTER 353

An Act to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3816, relating to creation of the New River Valley Passenger Rail Station Authority.

[H 1893]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3816, as follows:

CHAPTER 38.

NEW RIVER VALLEY PASSENGER RAIL STATION AUTHORITY.

§ 33.2-3800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means a regional passenger rail station authority created pursuant to this chapter.

"Board" means the board of directors of the authority.

"Facility" means any structure, including real estate and improvements, used for operating passenger rail service and complementary activities. "Facility" includes structures that are not owned by the authority or its members but are subject to a cooperative arrangement pursuant to subdivision 13 of § 15.2-6405.

"Governing bodies" means the county boards of supervisors, city and town councils, and boards of visitors of institutions of higher education that are members of the authority.

"Members" means the counties, cities, towns, and institutions of higher education that comprise the authority.

"Region" means Planning District 4.

§ 33.2-3801. Findings; purpose; governmental function.

The General Assembly finds that the creation of a regional passenger rail station authority will enable the members to cost share an economic development asset that is not affordable to individual members. A passenger rail station authority will directly benefit and enhance the economic base of the members by allowing the development, ownership, and operation of a facility on a cooperative basis. The exercise of powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the region and other areas of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity.

§ 33.2-3802. Creation of the authority.

The governing bodies of any three or more members within the region may, by ordinance, create a regional passenger rail station authority. The ordinance adopted by each participating governing body shall (i) set forth the name of the proposed passenger rail station authority, which shall include the words "passenger rail station authority"; (ii) name the members; (iii) contain findings that the economic growth and development of the member and the comfort, convenience, and welfare of its citizens require the development of facilities and that the creation of a regional passenger rail station authority will facilitate development of the needed facilities; and (iv) authorize the execution of an agreement establishing the respective rights and obligations of the members regarding the authority consistent with the provisions of this chapter. In the case of a member institution of higher education, the governing body shall adopt a resolution that includes such information and intent. Such ordinances, or resolutions, shall be filed with the Secretary of the Commonwealth. Upon certification by the Secretary of the Commonwealth that the ordinances and resolutions required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the proposed authority shall be and constitute an authority for all of the purposes of this chapter, to be known and designated by the name stated in the ordinances. Upon the issuance of such certificate, the authority shall be deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter. At any time, subsequent to the creation of an authority under this chapter, the members of the authority may, with the approval of the authority's board, be expanded to include any locality or institution of higher education within the region that was eligible to be an initial member of the authority. The governing body seeking to become a member of the authority shall evidence its intent to become a member by adopting an ordinance proposing to join the authority that conforms, to the extent possible, to the requirements for an ordinance set forth in clauses (i), (iii), and (iv).

§ 33.2-3803. Board of the authority.

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the authority shall be exercised by a board of directors. The governing body of each member shall appoint two representatives to the board. However, if the authority consists of only two members, the governing body of each member may appoint three members. Representatives of member counties, cities, and towns shall be residents of the appointing member. In any instance in which the members are not contributing equal funding to the authority, and upon agreement by each member of the authority, the number of appointments to be made by each may be made based on the percentage of funds contributed by each of the members.

B. Representatives shall serve terms of four years and may be reappointed. The board may elect to provide for staggered terms, in which case some representatives may draw an initial two-year term. Any appointment to fill a vacancy shall be for the unexpired term.

C. Each member may appoint up to two alternate representatives of the board. Alternates shall be selected in the same manner as regular representatives and may serve as an alternate for any board representative appointed by the member. Alternates shall be appointed for terms that coincide with one or more of the regular representatives appointed by the member. If a representative is not present at a meeting of the authority, the alternate shall have all the voting and other rights of the representative not present and shall be counted for purposes of determining a quorum. Alternates are required to take an oath of office and are entitled to reimbursement for expenses in the same manner as regular representatives.

D. Each member of the board before entering upon the discharge of the duties of his office shall take and subscribe to the oath prescribed in § 49-1.

E. Representatives of the board shall serve without compensation but shall be eligible for reimbursement of actual expenses incurred in the performance of their duties from funds available to the authority.

F. A quorum shall exist when a majority of the members of the authority are represented by at least one representative of the board. The affirmative vote of a quorum of the board shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

G. The board shall determine the times and places of its regular meetings, which may be adjourned or continued, without further public notice. Special meetings of the board shall be held when requested by representatives of the board representing two or more members. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. An effort shall be made to provide members reasonable notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all of the representatives of the board are present. Special meetings may be adjourned or continued without further public notice.

H. The board shall annually elect from its membership a chairman. The board may also appoint an executive director and staff to discharge such functions as may be directed by the board. The executive director and staff shall be paid from funds received by the authority.

I. At the close of each fiscal year, the board shall submit to each governing body an annual report of the authority's activities of the preceding year. Such report shall include a complete operating and financial statement covering the operation of the authority during the preceding year.

§ 33.2-3804. Office of authority; title to property.

A. The principal office of the authority shall be within the boundaries of Planning District 4. All records of the authority shall be kept at such office.

B. The title to all property of every kind belonging to the authority shall be titled to the authority and shall be held for the benefit of its members.

§ 33.2-3805. Powers of the authority.

An authority created pursuant to this chapter is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as may be deemed expedient. In addition to the powers set forth elsewhere in this chapter, the authority may:

1. Adopt bylaws and rules and regulations to carry out the provisions of this chapter;
2. Employ, either as regular employees or as independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers, and other professional personnel, personnel, and agents as may be necessary in the judgment of the authority and fix their compensation;
3. Determine the locations of, develop, establish, construct, erect, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary or convenient to accomplish the purposes of the authority;
4. Acquire, own, hold, lease, use, sell, encumber, transfer, or dispose of, in its own name, any real or personal property or interests therein. However, nothing in this subdivision shall be construed to provide the authority with the power of condemnation;
5. Invest and reinvest funds of the authority;
6. Enter into contracts of any kind and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the authority;
7. Expend such funds as may be available to it for the purpose of developing facilities, including but not limited to (i) purchasing real estate; (ii) grading sites; (iii) improving, replacing, and extending water, sewer, natural gas, electrical, and other utility lines; (iv) constructing, rehabilitating, and expanding buildings; (v) constructing parking facilities;

(vi) constructing access roads, streets, and rail lines; (vii) purchasing or leasing machinery and tools; and (viii) making any other improvements deemed necessary by the authority to meet its objectives;

8. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

9. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest; mortgage, pledge, or otherwise encumber the property or funds of the authority; and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

10. Issue bonds under this chapter;

11. Accept funds and property from the Commonwealth, persons, counties, cities, towns, and institutions of higher education, and use the same for any of the purposes for which the authority is created;

12. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;

13. Make loans and grants to, and enter into cooperative arrangements with, any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter, for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the authority that have not been pledged or assigned for the payment of any of the authority's bonds, and enter into such contracts, instruments, and agreements as may be expedient to provide for such loans, and any security therefor. For the purposes of this subdivision, "revenues" includes grants, loans, funds, and property, as set out in subdivisions 11 and 12;

14. Enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300; and

15. Do all things necessary or convenient to carry out the purposes of this chapter.

§ 33.2-3806. Donations to authority; remittance of tax revenue.

Authority members are hereby authorized to lend or donate money or other property to the authority for any of its purposes. The member making the grant or loan may restrict the use of such grants or loans to a specific facility owned by the authority, within or outside the geographical area of the member.

The governing body of the member in which a facility owned by the authority is located may direct, by resolution or ordinance, that all tax revenue collected with respect to the facility shall be remitted to the authority. Such revenues may be used for the payment of debt service on bonds of the authority and other obligations of the authority incurred with respect to such facility. The action of such governing body shall not constitute a pledge of credit or taxing power of such member.

§ 33.2-3807. Revenue sharing agreements.

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of Title 15.2, the members may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by the authority. Such members may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement of interstate cooperation for economic development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the members reaching such an agreement but shall not require any other approval.

§ 33.2-3808. Applicability of land use regulations.

In any locality where planning, zoning, and development regulations may apply, the authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

§ 33.2-3809. Bond issues; contesting validity of bonds.

A. The authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. For purposes of this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the authority, including but not limited to:

1. Taxes, rents, fees, charges, or other revenues payable to the authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the authority and may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding 40 years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the authority designated by the authority, which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions that shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. Setting aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limiting the purpose to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limiting the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. Refunding or refinancing outstanding bonds;

6. Providing a procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions that shall constitute a default in the duties of the authority to bondholders and providing the rights of or remedies for such holders in the event of a default, which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security or insurance for the benefit of the bondholders; and

9. Addressing any other matter relating to the bonds that the authority determines appropriate.

E. No member of the authority, member of the board, or any person executing the bonds on behalf of the authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made. The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether the person has notice. No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the authority need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. The authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. For a period of 30 days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions that are members of the authority and in which the facility or any portion thereof being financed is located a certified copy of the initial resolution of the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, rates, rents, fees, and other charges for the services and facilities furnished by, for the use of, or in connection with, the facility or any portion thereof being financed, the pledge of revenues pledged to payment of the bonds, any provisions that may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for, or done or to be done pursuant to the foregoing. If such contest is not given within the 30-day period, the authority to issue bonds, the validity of any other provision contained in the resolution, trust agreement, indenture, or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds, shall be conclusively presumed to have been legally taken, and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

K. Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all of the laws of the

Commonwealth and to have been sold, executed, and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

§ 33.2-3810. Investment in bonds.

Any financial institution, investment company, insurance company, or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the authority.

§ 33.2-3811. Bonds exempt from taxation.

The authority shall not be required to pay any taxes or assessments of any kind whatsoever, and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by the Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

§ 33.2-3812. Tax revenues of the Commonwealth or any other political subdivisions not pledged.

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds issued by the authority.

§ 33.2-3813. Forms of accounts and records; audit of same.

The accounts and records of the authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the authority shall be subject to audit pursuant to § 30-140, and the costs of such audit services shall be borne by the authority. The authority's fiscal year shall be the same as the Commonwealth's.

§ 33.2-3814. Tort liability.

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance, or nonfeasance by or on the part of the authority, its agents, servants, or employees.

§ 33.2-3815. Dissolution of authority.

A member of the authority may withdraw from the authority only upon dissolution of the authority as set forth herein. Whenever the board determines that the purpose for which the authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the board may adopt resolutions declaring and finding that the authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving such authority may be introduced in the General Assembly. The dissolution of the authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by such authority at the time of such dissolution shall vest in the members that have contributed to the authority in proportion to their respective contributions.

§ 33.2-3816. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

CHAPTER 354

An Act to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3816, relating to creation of the New River Valley Passenger Rail Station Authority.

[S 1212]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3816, as follows:

CHAPTER 38.

NEW RIVER VALLEY PASSENGER RAIL STATION AUTHORITY.

§ 33.2-3800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means a regional passenger rail station authority created pursuant to this chapter.

"Board" means the board of directors of the authority.

"Facility" means any structure, including real estate and improvements, used for operating passenger rail service and complementary activities. "Facility" includes structures that are not owned by the authority or its members but are subject to a cooperative arrangement pursuant to subdivision 13 of § 15.2-6405.

"Governing bodies" means the county boards of supervisors, city and town councils, and boards of visitors of institutions of higher education that are members of the authority.

"Members" means the counties, cities, towns, and institutions of higher education that comprise the authority.

"Region" means Planning District 4.

§ 33.2-3801. Findings; purpose; governmental function.

The General Assembly finds that the creation of a regional passenger rail station authority will enable the members to cost share an economic development asset that is not affordable to individual members. A passenger rail station authority will directly benefit and enhance the economic base of the members by allowing the development, ownership, and operation of a facility on a cooperative basis. The exercise of powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the region and other areas of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity.

§ 33.2-3802. Creation of the authority.

The governing bodies of any three or more members within the region may, by ordinance, create a regional passenger rail station authority. The ordinance adopted by each participating governing body shall (i) set forth the name of the proposed passenger rail station authority, which shall include the words "passenger rail station authority"; (ii) name the members; (iii) contain findings that the economic growth and development of the member and the comfort, convenience, and welfare of its citizens require the development of facilities and that the creation of a regional passenger rail station authority will facilitate development of the needed facilities; and (iv) authorize the execution of an agreement establishing the respective rights and obligations of the members regarding the authority consistent with the provisions of this chapter. In the case of a member institution of higher education, the governing body shall adopt a resolution that includes such information and intent. Such ordinances, or resolutions, shall be filed with the Secretary of the Commonwealth. Upon certification by the Secretary of the Commonwealth that the ordinances and resolutions required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the proposed authority shall be and constitute an authority for all of the purposes of this chapter, to be known and designated by the name stated in the ordinances. Upon the issuance of such certificate, the authority shall be deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter. At any time, subsequent to the creation of an authority under this chapter, the members of the authority may, with the approval of the authority's board, be expanded to include any locality or institution of higher education within the region that was eligible to be an initial member of the authority. The governing body seeking to become a member of the authority shall evidence its intent to become a member by adopting an ordinance proposing to join the authority that conforms, to the extent possible, to the requirements for an ordinance set forth in clauses (i), (iii), and (iv).

§ 33.2-3803. Board of the authority.

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the authority shall be exercised by a board of directors. The governing body of each member shall appoint two representatives to the board. However, if the authority consists of only two members, the governing body of each member may appoint three members. Representatives of member counties, cities, and towns shall be residents of the appointing member. In any instance in which the members are not contributing equal funding to the authority, and upon agreement by each member of the authority, the number of appointments to be made by each may be made based on the percentage of funds contributed by each of the members.

B. Representatives shall serve terms of four years and may be reappointed. The board may elect to provide for staggered terms, in which case some representatives may draw an initial two-year term. Any appointment to fill a vacancy shall be for the unexpired term.

C. Each member may appoint up to two alternate representatives of the board. Alternates shall be selected in the same manner as regular representatives and may serve as an alternate for any board representative appointed by the member. Alternates shall be appointed for terms that coincide with one or more of the regular representatives appointed by the member. If a representative is not present at a meeting of the authority, the alternate shall have all the voting and other rights of the representative not present and shall be counted for purposes of determining a quorum. Alternates are required to take an oath of office and are entitled to reimbursement for expenses in the same manner as regular representatives.

D. Each member of the board before entering upon the discharge of the duties of his office shall take and subscribe to the oath prescribed in § 49-1.

E. Representatives of the board shall serve without compensation but shall be eligible for reimbursement of actual expenses incurred in the performance of their duties from funds available to the authority.

F. A quorum shall exist when a majority of the members of the authority are represented by at least one representative of the board. The affirmative vote of a quorum of the board shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

G. The board shall determine the times and places of its regular meetings, which may be adjourned or continued, without further public notice. Special meetings of the board shall be held when requested by representatives of the board representing two or more members. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. An effort shall be made to provide members reasonable notice of any special meeting. No matter not specified in the notice shall be considered at such special

meeting unless all of the representatives of the board are present. Special meetings may be adjourned or continued without further public notice.

H. The board shall annually elect from its membership a chairman. The board may also appoint an executive director and staff to discharge such functions as may be directed by the board. The executive director and staff shall be paid from funds received by the authority.

I. At the close of each fiscal year, the board shall submit to each governing body an annual report of the authority's activities of the preceding year. Such report shall include a complete operating and financial statement covering the operation of the authority during the preceding year.

§ 33.2-3804. Office of authority; title to property.

A. The principal office of the authority shall be within the boundaries of Planning District 4. All records of the authority shall be kept at such office.

B. The title to all property of every kind belonging to the authority shall be titled to the authority and shall be held for the benefit of its members.

§ 33.2-3805. Powers of the authority.

An authority created pursuant to this chapter is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as may be deemed expedient. In addition to the powers set forth elsewhere in this chapter, the authority may:

1. Adopt bylaws and rules and regulations to carry out the provisions of this chapter;
2. Employ, either as regular employees or as independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers, and other professional personnel, personnel, and agents as may be necessary in the judgment of the authority and fix their compensation;
3. Determine the locations of, develop, establish, construct, erect, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary or convenient to accomplish the purposes of the authority;
4. Acquire, own, hold, lease, use, sell, encumber, transfer, or dispose of, in its own name, any real or personal property or interests therein. However, nothing in this subdivision shall be construed to provide the authority with the power of condemnation;
5. Invest and reinvest funds of the authority;
6. Enter into contracts of any kind and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the authority;
7. Expend such funds as may be available to it for the purpose of developing facilities, including but not limited to (i) purchasing real estate; (ii) grading sites; (iii) improving, replacing, and extending water, sewer, natural gas, electrical, and other utility lines; (iv) constructing, rehabilitating, and expanding buildings; (v) constructing parking facilities; (vi) constructing access roads, streets, and rail lines; (vii) purchasing or leasing machinery and tools; and (viii) making any other improvements deemed necessary by the authority to meet its objectives;
8. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;
9. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest; mortgage, pledge, or otherwise encumber the property or funds of the authority; and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;
10. Issue bonds under this chapter;
11. Accept funds and property from the Commonwealth, persons, counties, cities, towns, and institutions of higher education, and use the same for any of the purposes for which the authority is created;
12. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;
13. Make loans and grants to, and enter into cooperative arrangements with, any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter, for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the authority that have not been pledged or assigned for the payment of any of the authority's bonds, and enter into such contracts, instruments, and agreements as may be expedient to provide for such loans, and any security therefor. For the purposes of this subdivision, "revenues" includes grants, loans, funds, and property, as set out in subdivisions 11 and 12;
14. Enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300; and
15. Do all things necessary or convenient to carry out the purposes of this chapter.

§ 33.2-3806. Donations to authority; remittance of tax revenue.

Authority members are hereby authorized to lend or donate money or other property to the authority for any of its purposes. The member making the grant or loan may restrict the use of such grants or loans to a specific facility owned by the authority, within or outside the geographical area of the member.

The governing body of the member in which a facility owned by the authority is located may direct, by resolution or ordinance, that all tax revenue collected with respect to the facility shall be remitted to the authority. Such revenues may be

used for the payment of debt service on bonds of the authority and other obligations of the authority incurred with respect to such facility. The action of such governing body shall not constitute a pledge of credit or taxing power of such member.

§ 33.2-3807. Revenue sharing agreements.

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of Title 15.2, the members may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by the authority. Such members may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement of interstate cooperation for economic development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the members reaching such an agreement but shall not require any other approval.

§ 33.2-3808. Applicability of land use regulations.

In any locality where planning, zoning, and development regulations may apply, the authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

§ 33.2-3809. Bond issues; contesting validity of bonds.

A. The authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. For purposes of this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the authority, including but not limited to:

1. Taxes, rents, fees, charges, or other revenues payable to the authority;
2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;
3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and
4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the authority and may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding 40 years from their respective dates of issue;
 2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;
 3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;
 4. Be payable in lawful money of the United States at a designated place;
 5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;
 6. Be executed by the manual or facsimile signatures of the officers of the authority designated by the authority, which signatures shall be valid at delivery even for one who has ceased to hold office; and
 7. Be sold in the manner and upon the terms determined by the authority including private (negotiated) sale.
- D. Any resolution or trust agreement may contain provisions that shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;
2. Setting aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;
3. Limiting the purpose to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;
4. Limiting the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;
5. Refunding or refinancing outstanding bonds;
6. Providing a procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;
7. Defining the acts or omissions that shall constitute a default in the duties of the authority to bondholders and providing the rights of or remedies for such holders in the event of a default, which may include provisions restricting individual right of action by bondholders;
8. Providing for guarantees, pledges of property, letters of credit, or other security or insurance for the benefit of the bondholders; and
9. Addressing any other matter relating to the bonds that the authority determines appropriate.

E. No member of the authority, member of the board, or any person executing the bonds on behalf of the authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made. The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether the person has notice. No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the authority need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. The authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. For a period of 30 days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions that are members of the authority and in which the facility or any portion thereof being financed is located a certified copy of the initial resolution of the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, rates, rents, fees, and other charges for the services and facilities furnished by, for the use of, or in connection with, the facility or any portion thereof being financed, the pledge of revenues pledged to payment of the bonds, any provisions that may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for, or done or to be done pursuant to the foregoing. If such contest is not given within the 30-day period, the authority to issue bonds, the validity of any other provision contained in the resolution, trust agreement, indenture, or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds, shall be conclusively presumed to have been legally taken, and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

K. Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all of the laws of the Commonwealth and to have been sold, executed, and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

§ 33.2-3810. Investment in bonds.

Any financial institution, investment company, insurance company, or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the authority.

§ 33.2-3811. Bonds exempt from taxation.

The authority shall not be required to pay any taxes or assessments of any kind whatsoever, and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by the Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

§ 33.2-3812. Tax revenues of the Commonwealth or any other political subdivisions not pledged.

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds issued by the authority.

§ 33.2-3813. Forms of accounts and records; audit of same.

The accounts and records of the authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the authority shall be subject to audit pursuant to § 30-140, and the costs of such audit services shall be borne by the authority. The authority's fiscal year shall be the same as the Commonwealth's.

§ 33.2-3814. Tort liability.

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance, or nonfeasance by or on the part of the authority, its agents, servants, or employees.

§ 33.2-3815. Dissolution of authority.

A member of the authority may withdraw from the authority only upon dissolution of the authority as set forth herein. Whenever the board determines that the purpose for which the authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the authority have been paid or that cash or a

sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the board may adopt resolutions declaring and finding that the authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving such authority may be introduced in the General Assembly. The dissolution of the authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by such authority at the time of such dissolution shall vest in the members that have contributed to the authority in proportion to their respective contributions.

§ 33.2-3816. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

CHAPTER 355

An Act to amend and reenact § 15.2-2308 of the Code of Virginia, relating to board of zoning appeals; appointments.

[H 1898]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2308 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, or in a town with a population of 3,500 or less, either three, five, or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least ~~thirty~~ 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality, except that one may be a member of the local planning commission, ~~and~~ any member may be appointed to serve as an officer of election as defined in § 24.2-101, *and any elected official of an incorporated town may serve on the board of the county in which the member also resides.* A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman ~~twenty-four~~ 24 hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years, except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for

malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least ~~fifteen~~ 15 days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

CHAPTER 356

An Act to amend and reenact § 56-585.1:9 of the Code of Virginia, relating to electric utilities; broadband capacity pilot program.

[H 1923]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:9 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:9. Pilot program for broadband capacity to unserved areas of the Commonwealth.

A. The Commission shall establish pilot programs under which each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1, may submit one or more petitions to provide or make available broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband. Any such petitions that a Phase I Utility submits shall not exceed \$60 million in costs annually. Any such petitions that a Phase II Utility submits shall not exceed \$60 million in costs annually. The provision of such broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section is in the public interest.

B. The incremental costs of providing broadband capacity pursuant to any such pilot program, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, 2020.

C. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, pursuant to a pilot program that the Commissioner approves pursuant to this section, (i) own, manage, or control any broadband capacity equipment and electronics, including any plant, works, system, lines, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provision and extension of such broadband services; (ii) lease indefeasible rights of use in such broadband capacity equipment and electronics to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section; and (iii) provide access points that are outside the utility's energized zone to allow connection between the utility's broadband capacity system and the ~~nongovernmental~~ Internet service provider's system.

D. Each petition to provide broadband capacity pursuant to this section that an investor-owned utility submits to the Commission shall identify the ~~nongovernmental~~ Internet service provider to which the utility shall lease such capacity, together with the area to be served using such capacity. The Commission shall, after notice and opportunity for hearing, initiate proceedings to review each petition submitted. In determining whether an area is unserved by broadband, the Commission shall take into account the impact of any grants or loans made to provide broadband access to the designated area. The Commission's final order regarding any such petition shall be entered by the Commission not more than six months after the date of the filing of such petition. The Commission shall condition any approval of such petition on the requirement that construction shall commence within three years of such approval. If the utility fails to commence construction within such period, the utility may resubmit the petition for Commission approval.

E. An investor-owned utility shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or other easements or real property rights to permit leasing of broadband capacity to ~~nongovernmental~~ Internet service providers. A ~~nongovernmental~~ Internet service provider shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or other easements or real property rights from utility access point to permit the provision of broadband services to end-user customers.

F. As used in this section:

"Broadband" means Internet access at speeds greater than 10 MBps download speed and one MBps upload speed, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline modify such speeds from time to time.

"Unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline increase such percentage from time to time.

G. No investor-owned utility nor any affiliate thereof may offer broadband or Internet service provider services to residential or commercial end-user customers in the Commonwealth pursuant to this section. Nothing in this section shall be construed to prevent an investor-owned utility or an affiliate thereof from providing transport of or capacity for broadband or Internet service as a wholesaler or intermediate vendor, provided that an unaffiliated ~~nongovernmental~~ third party is the provider of broadband or Internet services to the end-user customer.

H. The provision and extension of broadband capacity by an incumbent electric utility to an area of the Commonwealth unserved by broadband pursuant to a pilot program that the Commission approves pursuant to this section, including any business activity related to the construction or leasing of broadband capacity facilities, shall be exempt from any rules and regulations that the Commission has promulgated or may promulgate governing functional separation of generation, retail transmission, and distribution of incumbent electric utilities. Investor-owned electric utilities may for the purposes of this section engage in such coordination between and among their various corporate divisions as necessary for the purposes of providing broadband capacity to an area of the Commonwealth unserved by broadband.

I. The pilot program established pursuant to this section shall continue for the three-year period ending three years following the date the Commission approves the first petition to provide broadband capacity pursuant to this section, unless the Commission extends the pilot program or makes the pilot program permanent. At the termination of the pilot program, a utility shall continue to provide broadband capacity pursuant to leases existing as of the date of such termination.

J. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, lease to any third party ~~that is a wholesaler and that is not a government-owned broadband authority~~, for the purposes of providing broadband connectivity. The leases may, if the parties choose, extend in length beyond the end of the pilot program, notwithstanding any Commission order issued pursuant to subsection I terminating the pilot program. The revenues generated from such leases shall offset (i) the incremental costs of the pilot program recovered through the rate adjustment clause described in subsection B or (ii) the utility's electric cost of service.

CHAPTER 357

An Act to amend and reenact § 56-585.1:9 of the Code of Virginia, relating to pilot program for broadband capacity to unserved areas of the Commonwealth; municipal broadband authorities.

[S 1334]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:9 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:9. Pilot program for broadband capacity to unserved areas of the Commonwealth.

A. The Commission shall establish pilot programs under which each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1, may submit one or more petitions to provide or make available broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband. Any such petitions that a Phase I Utility submits shall not exceed \$60 million in costs annually. Any such petitions that a Phase II Utility submits shall not exceed \$60 million in costs annually. The provision of such broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section is in the public interest.

B. The incremental costs of providing broadband capacity pursuant to any such pilot program, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, 2020.

C. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, pursuant to a pilot program that the Commissioner approves pursuant to this section, (i) own, manage, or control any broadband capacity equipment and electronics, including any plant, works, system, lines, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provision and extension of such broadband services; (ii) lease indefeasible rights of use in such broadband capacity equipment and electronics to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section; and (iii) provide access points that are outside the utility's energized zone to allow connection between the utility's broadband capacity system and the ~~nongovernmental~~ Internet service provider's system.

D. Each petition to provide broadband capacity pursuant to this section that an investor-owned utility submits to the Commission shall identify the ~~nongovernmental~~ Internet service provider to which the utility shall lease such capacity, together with the area to be served using such capacity. The Commission shall, after notice and opportunity for hearing, initiate proceedings to review each petition submitted. In determining whether an area is unserved by broadband, the Commission shall take into account the impact of any grants or loans made to provide broadband access to the designated area. The Commission's final order regarding any such petition shall be entered by the Commission not more than six months after the date of the filing of such petition. The Commission shall condition any approval of such petition on the requirement that construction shall commence within three years of such approval. If the utility fails to commence construction within such period, the utility may resubmit the petition for Commission approval.

E. An investor-owned utility shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or other easements or real property rights to permit leasing of broadband capacity to ~~nongovernmental~~ Internet service providers. A ~~nongovernmental~~ Internet service provider shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or

other easements or real property rights from utility access point to permit the provision of broadband services to end-user customers.

F. As used in this section:

"Broadband" means Internet access at speeds greater than 10 MBps download speed and one MBps upload speed, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline modify such speeds from time to time.

"Unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline increase such percentage from time to time.

G. No investor-owned utility nor any affiliate thereof may offer broadband or Internet service provider services to residential or commercial end-user customers in the Commonwealth pursuant to this section. Nothing in this section shall be construed to prevent an investor-owned utility or an affiliate thereof from providing transport of or capacity for broadband or Internet service as a wholesaler or intermediate vendor, provided that an unaffiliated ~~nongovernmental~~ third party is the provider of broadband or Internet services to the end-user customer.

H. The provision and extension of broadband capacity by an incumbent electric utility to an area of the Commonwealth unserved by broadband pursuant to a pilot program that the Commission approves pursuant to this section, including any business activity related to the construction or leasing of broadband capacity facilities, shall be exempt from any rules and regulations that the Commission has promulgated or may promulgate governing functional separation of generation, retail transmission, and distribution of incumbent electric utilities. Investor-owned electric utilities may for the purposes of this section engage in such coordination between and among their various corporate divisions as necessary for the purposes of providing broadband capacity to an area of the Commonwealth unserved by broadband.

I. The pilot program established pursuant to this section shall continue for the three-year period ending three years following the date the Commission approves the first petition to provide broadband capacity pursuant to this section, unless the Commission extends the pilot program or makes the pilot program permanent. At the termination of the pilot program, a utility shall continue to provide broadband capacity pursuant to leases existing as of the date of such termination.

J. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, lease to any third party ~~that is a wholesaler and that is not a government-owned broadband authority~~, for the purposes of providing broadband connectivity. The leases may, if the parties choose, extend in length beyond the end of the pilot program, notwithstanding any Commission order issued pursuant to subsection I terminating the pilot program. The revenues generated from such leases shall offset (i) the incremental costs of the pilot program recovered through the rate adjustment clause described in subsection B or (ii) the utility's electric cost of service.

CHAPTER 358

An Act to amend and reenact § 46.2-600.1 of the Code of Virginia, relating to vehicle registration; special communication needs indicator.

[H 1960]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-600.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-600.1. Indication of special communication needs.

A. As used in this section, "disability that can impair communication" means a condition with symptoms that can impair the ability of a person with such condition to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems, including autism spectrum disorders as defined in § 38.2-3418.17 and hearing loss.

B. The Department shall include on the application for registration of a motor vehicle an option for the vehicle owner to, if applicable, voluntarily indicate that he *or a person who will regularly occupy his vehicle* has a disability that can impair communication. ~~Any application on which the applicant indicates that he has such a disability shall be accompanied by a certification signed by a licensed physician that such individual has a disability that can impair communication. On any application on which the applicant indicates that a person who will regularly occupy his vehicle has such a disability, the Department may require the applicant to certify that he has the consent of the regular occupant of the vehicle to release information pursuant to subsection D.~~

C. Any vehicle owner with a driver's license indicator authorized pursuant to subsection K of § 46.2-342 or special identification card indicator authorized pursuant to subsection L of § 46.2-345 *or whose vehicle is regularly occupied by an individual with such an indicator* shall be eligible for the registration indicator. Vehicle owners with a driver's license indicator or special identification card indicator *and vehicle owners whose vehicle is regularly occupied by an individual with a driver's license indicator or special identification card indicator* may apply to the Department for a registration indicator in a manner prescribed by the Commissioner.

D. Notwithstanding the provisions of § 46.2-208, the Department shall provide information regarding vehicle registrants who have indicated, pursuant to subsection B or C, that they *or individuals who will regularly occupy their*

vehicles have a disability that can impair communication with employees and agents of criminal justice agencies as defined in § 9.1-101. The Department shall confirm the presence or absence of a registration indicator indicating that the registrant or a person regularly occupying the vehicle of a registrant has a disability that can impair communication, but it shall not provide information about the type of health condition or disability that the registrant or a person regularly occupying the vehicle of a registrant has.

E. Any vehicle owner who has a registration indicator indicating that the registrant or a person regularly occupying the vehicle of a registrant has a disability that can impair communication may have such indicator removed by requesting such removal, in writing, to the Department.

CHAPTER 359

An Act to amend and reenact § 46.2-600.1 of the Code of Virginia, relating to vehicle registration; special communication needs indicator.

[S 1470]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-600.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-600.1. Indication of special communication needs.

A. As used in this section, "disability that can impair communication" means a condition with symptoms that can impair the ability of a person with such condition to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems, including autism spectrum disorders as defined in § 38.2-3418.17 and hearing loss.

B. The Department shall include on the application for registration of a motor vehicle an option for the vehicle owner to, if applicable, voluntarily indicate that he *or a person who will regularly occupy his vehicle* has a disability that can impair communication. Any application on which the applicant indicates that he has such a disability shall be accompanied by a certification signed by a licensed physician that such individual has a disability that can impair communication. On any application on which the applicant indicates that a person who will regularly occupy his vehicle has such a disability, the Department may require the applicant to certify that he has the consent of the regular occupant of the vehicle to release information pursuant to subsection D.

C. Any vehicle owner with a driver's license indicator authorized pursuant to subsection K of § 46.2-342 or special identification card indicator authorized pursuant to subsection L of § 46.2-345 *or whose vehicle is regularly occupied by an individual with such an indicator* shall be eligible for the registration indicator. Vehicle owners with a driver's license indicator or special identification card indicator *and vehicle owners whose vehicle is regularly occupied by an individual with a driver's license indicator or special identification card indicator* may apply to the Department for a registration indicator in a manner prescribed by the Commissioner.

D. Notwithstanding the provisions of § 46.2-208, the Department shall provide information regarding vehicle registrants who have indicated, pursuant to subsection B or C, that they *or individuals who will regularly occupy their vehicles* have a disability that can impair communication with employees and agents of criminal justice agencies as defined in § 9.1-101. The Department shall confirm the presence or absence of a registration indicator indicating that the registrant *or a person regularly occupying the vehicle of a registrant* has a disability that can impair communication, but it shall not provide information about the type of health condition or disability that the registrant *or a person regularly occupying the vehicle of a registrant* has.

E. Any vehicle owner who has a registration indicator indicating that the registrant or a person regularly occupying the vehicle of a registrant has a disability that can impair communication may have such indicator removed by requesting such removal, in writing, to the Department.

CHAPTER 360

An Act to amend and reenact § 62.1-44.19:21 of the Code of Virginia, relating to nutrient credits; use by facility with permit for stormwater discharges.

[H 1982]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.19:21 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.19:21. Nutrient credit use by regulated entities.

A. An MS4 permittee may acquire, use, and transfer nutrient credits for purposes of compliance with any waste load allocations established as effluent limitations in an MS4 permit issued pursuant to § 62.1-44.15:25. Such method of compliance may be approved by the Department following review of a compliance plan submitted by the permittee that includes the use of nutrient credits. The permittee may use such credits for compliance purposes only if (i) the credits, whether annual, term, or perpetual, are generated and applied for purposes of compliance for the same calendar year; (ii) the

credits are acquired no later than a date following the calendar year in which the credits are applied as specified by the Department consistent with the permittee's Virginia Stormwater Management Program (VSMP) permit annual report deadline under such permit; (iii) the credits are generated in the same locality or tributary, except that permittees in the Eastern Coastal Basin may also acquire credits from the Potomac and Rappahannock tributaries; and (iv) the credits either are point source nitrogen or point source phosphorus credits generated by point sources covered by the general permit issued pursuant to § 62.1-44.19:14, or are certified pursuant to § 62.1-44.19:20. An MS4 permittee may enter into an agreement with one or more other MS4 permittees within the same locality or within the same or adjacent eight-digit hydrologic unit code to collectively meet the sum of any waste load allocations in their permits. Such permittees shall submit to the Department for approval a compliance plan to achieve their aggregate permit waste load allocations.

B. ~~Those applicants~~ *An applicant* required to comply with water quality requirements for land-disturbing activities operating under a General VSMP Permit for Discharges of Stormwater from Construction Activities or a Construction Individual Permit may acquire and use perpetual nutrient credits certified and registered on the Virginia Nutrient Credit Registry in accordance with § 62.1-44.15:35.

C. ~~Confined~~ *A confined animal feeding operations operation* issued ~~permits~~ *a permit* pursuant to this chapter may acquire, use, and transfer credits for compliance with any waste load allocations contained in the provisions of a Virginia Pollutant Discharge Elimination System (VPDES) permit. Such method of compliance may be approved by the Department following review of a compliance plan submitted by the permittee that includes the use of nutrient credits.

D. ~~Facilities~~ *A facility* registered under the Industrial Stormwater General Permit issued pursuant to this chapter *or issued a VPDES permit regulating stormwater discharges that requires nitrogen and phosphorus monitoring at the facility* may acquire, use, and transfer credits for compliance with any waste load allocations established as effluent limitations in a VPDES permit. Such method of compliance may be approved by the Department following review of a compliance plan submitted by the permittee that includes the use of nutrient credits.

E. Public notice of each compliance plan submitted for approval pursuant to this section shall be given by the Department.

F. This section shall not be construed to limit or otherwise affect the authority of the Board to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

CHAPTER 361

An Act to amend and reenact § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, and as amended by Chapters 1187, 1188, 1189, 1193, 1194, and 1239 of the Acts of Assembly of 2020, relating to electric utilities; nonjurisdictional customers; third party power purchase agreements.

[H 2034]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, and as amended by Chapters 1187, 1188, 1189, 1193, 1194, and 1239 of the Acts of Assembly of 2020, is amended and reenacted as follows:

§ 1. That the State Corporation Commission (Commission) shall conduct pilot programs under which a person that owns or operates a solar-powered or wind-powered electricity generation facility located on premises owned or leased by an eligible customer-generator, as defined in § 56-594 of the Code of Virginia, shall be permitted to sell the electricity generated from such facility exclusively to such eligible customer-generator under a power purchase agreement used to provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement), subject to the following terms, conditions, and restrictions:

a. Notwithstanding subsection G of § 56-580 of the Code of Virginia or any other provision of law, a pilot program shall be conducted within the certificated service territory of each investor-owned electric utility ("Pilot Utility");

b. *Except as provided in this subdivision, both jurisdictional and nonjurisdictional customers may participate in such pilot programs on a first-come, first-serve basis.* The aggregated capacity of all generation facilities that are subject to such third party power purchase agreements at any time during the pilot program shall not exceed 500 megawatts for Virginia jurisdictional customers and 500 megawatts for Virginia nonjurisdictional customers for an investor-owned utility that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, or 40 megawatts for an investor-owned utility that was not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002. Such limitation on the aggregated capacity of such facilities shall constitute a portion of the existing limit of six percent of each Pilot Utility's adjusted Virginia peak-load forecast for the previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594 of the Code of Virginia. Notwithstanding any provision of this act that incorporates provisions of § 56-594, the seller and the customer shall elect either to (i) enter into their third party power purchase agreement subject to the conditions and provisions of the Pilot

Utility's net energy metering program under § 56-594 or (ii) provide that electricity generated from the generation facilities subject to the third party power purchase agreement will not be net metered under § 56-594, provided that an election not to net meter under § 56-594 shall not exempt the third party power purchase agreement and the parties thereto from the requirements of this act that incorporate provisions of § 56-594;

c. A solar-powered or wind-powered generation facility with a capacity of no less than 50 kilowatts and no more than three megawatts shall be eligible for a third party power purchase agreement under a pilot program; however, if the customer under such agreement is an entity with tax-exempt status in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, then such facility is eligible for the pilot program even if it does not meet the 50 kilowatts minimum size requirement. The maximum generation capacity of three megawatts shall not affect the limits on the capacity of electrical generating capacities of 25 kilowatts for residential customers and three megawatts for nonresidential customers set forth in subsection B of § 56-594 of the Code of Virginia, which limitations shall continue to apply to net energy metering generation facilities regardless of whether they are the subject of a third party power purchase agreement under the pilot program;

d. A generation facility that is the subject of a third party power purchase agreement under the pilot program shall serve only one customer, and a third party power purchase agreement shall not serve multiple customers;

e. The customer under a third party power purchase agreement under the pilot program shall be subject to the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C of § 56-594 of the Code of Virginia, including the requirement that the customer bear the reasonable costs, as determined by the Commission, of the items described in clauses (i), (ii), and (iii) of such subsection;

f. A third party power purchase agreement under the pilot program shall not be valid unless it conforms in all respects to the requirements of the pilot program conducted under the provisions of this act and unless the Commission and the Pilot Utility are provided written notice of the parties' intent to enter into a third party power purchase agreement not less than 30 days prior to the agreement's proposed effective date; and

g. An affiliate of the Pilot Utility shall be permitted to offer and enter into third party power purchase arrangements on the same basis as may any other person that satisfies the requirements of being a seller under a third party power purchase agreement under the pilot program.

CHAPTER 362

An Act to amend and reenact § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, and as amended by Chapters 1187, 1188, 1189, 1193, 1194, and 1239 of the Acts of Assembly of 2020, relating to electric utilities; nonjurisdictional customers; third party power purchase agreements.

[S 1420]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, and as amended by Chapters 1187, 1188, 1189, 1193, 1194, and 1239 of the Acts of Assembly of 2020, is amended and reenacted as follows:

§ 1. That the State Corporation Commission (Commission) shall conduct pilot programs under which a person that owns or operates a solar-powered or wind-powered electricity generation facility located on premises owned or leased by an eligible customer-generator, as defined in § 56-594 of the Code of Virginia, shall be permitted to sell the electricity generated from such facility exclusively to such eligible customer-generator under a power purchase agreement used to provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement), subject to the following terms, conditions, and restrictions:

a. Notwithstanding subsection G of § 56-580 of the Code of Virginia or any other provision of law, a pilot program shall be conducted within the certificated service territory of each investor-owned electric utility ("Pilot Utility");

b. *Except as provided in this subdivision, both jurisdictional and nonjurisdictional customers may participate in such pilot programs on a first-come, first-serve basis.* The aggregated capacity of all generation facilities that are subject to such third party power purchase agreements at any time during the pilot program shall not exceed 500 megawatts for Virginia jurisdictional customers and 500 megawatts for Virginia nonjurisdictional customers for an investor-owned utility that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, or 40 megawatts for an investor-owned utility that was not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002. Such limitation on the aggregated capacity of such facilities shall constitute a portion of the existing limit of six percent of each Pilot Utility's adjusted Virginia peak-load forecast for the previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594 of the Code of Virginia. Notwithstanding any provision of this act that incorporates provisions of § 56-594, the seller and the customer shall elect either to (i) enter into their third party power purchase agreement subject to the conditions and provisions of the Pilot Utility's net energy metering program under § 56-594 or (ii) provide that electricity generated from the generation facilities subject to the third party power purchase agreement will not be net metered under § 56-594, provided that an election not to

net meter under § 56-594 shall not exempt the third party power purchase agreement and the parties thereto from the requirements of this act that incorporate provisions of § 56-594;

c. A solar-powered or wind-powered generation facility with a capacity of no less than 50 kilowatts and no more than three megawatts shall be eligible for a third party power purchase agreement under a pilot program; however, if the customer under such agreement is an entity with tax-exempt status in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, then such facility is eligible for the pilot program even if it does not meet the 50 kilowatts minimum size requirement. The maximum generation capacity of three megawatts shall not affect the limits on the capacity of electrical generating capacities of 25 kilowatts for residential customers and three megawatts for nonresidential customers set forth in subsection B of § 56-594 of the Code of Virginia, which limitations shall continue to apply to net energy metering generation facilities regardless of whether they are the subject of a third party power purchase agreement under the pilot program;

d. A generation facility that is the subject of a third party power purchase agreement under the pilot program shall serve only one customer, and a third party power purchase agreement shall not serve multiple customers;

e. The customer under a third party power purchase agreement under the pilot program shall be subject to the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C of § 56-594 of the Code of Virginia, including the requirement that the customer bear the reasonable costs, as determined by the Commission, of the items described in clauses (i), (ii), and (iii) of such subsection;

f. A third party power purchase agreement under the pilot program shall not be valid unless it conforms in all respects to the requirements of the pilot program conducted under the provisions of this act and unless the Commission and the Pilot Utility are provided written notice of the parties' intent to enter into a third party power purchase agreement not less than 30 days prior to the agreement's proposed effective date; and

g. An affiliate of the Pilot Utility shall be permitted to offer and enter into third party power purchase arrangements on the same basis as may any other person that satisfies the requirements of being a seller under a third party power purchase agreement under the pilot program.

CHAPTER 363

An Act to amend and reenact §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia, relating to Chesapeake Bay Phase III Watershed Improvement Plan; nutrient removal; regulations.

[H 2129]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. As used in this section, "Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the same as that term is defined in § 62.1-44.19:13.

B. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, F or as eligible nonsignificant dischargers as defined in § 10.1-2117. ~~Notwithstanding § 10.1-2128, at such time as~~ ~~When~~ grant disbursements pursuant to this section reach 200 percent of the appropriations provided for in ~~Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works,~~ the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations shall review (i) the future funding needs to meet the purposes of the Water Quality Improvement Act, (ii) the most recent annual needs estimate required by § 10.1-2134.1, and (iii) the appropriate funding mechanism for such needs.

B. C. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E F and eligible nonsignificant dischargers shall be made monthly based on a requisition submitted by the grant recipient in the form requested by the Department. Each requisition shall include written certification that the applicable local share of the cost of nutrient removal technology for that portion of the project covered by such requisition has been incurred or expended. Except as may otherwise be approved by the Department, disbursements shall not exceed 95 percent of the total grant amount until satisfactory completion of the project. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from 50% 50 percent completion of construction to final completion of construction.

~~C. D.~~ The General Assembly ~~shall have~~ *has* the sole authority to determine whether disbursement ~~will~~ *shall* be made pursuant to subdivision ~~B C 1, B 2, or B 3,~~ or a combination thereof, provided that a disbursement shall ~~only~~ be made pursuant to subdivision ~~B C 3~~ *only* upon a certification by the Department of Environmental Quality that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

~~D. E.~~ Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I from time to time in the appropriation act or any amendments thereto.

~~E. F.~~ The disbursement of grants to finance the costs of design and installation of nutrient removal technology, including eligible design and installation costs for implementation of the ENRC Program, at the following 89 listed publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. ~~However, in~~ *The notation "WIP3-N" or "WIP3-P" indicates that a facility is subject to additional requirements for total nitrogen or total phosphorus, respectively, under the ENRC Program. In no case shall any publicly owned treatment works receive a grant of less than 35% 35 percent of the costs of the design and installation of nutrient removal technology.*

FACILITY NAME	OWNER
Shenandoah - Potomac River Basin	
ACSA-Fishersville STP	Augusta County Service Authority
Luray STP	Town of Luray
ACSA-Middle River Regional STP	Augusta County Service Authority
HRRSA-North River WWTF WIP3-P	Harrisonburg-Rockingham Regional Sewer Authority
ACSA-Stuarts Draft STP	Augusta County Service Authority
Waynesboro STP	City of Waynesboro
ACSA-Weyers Cave STP	Augusta County Service Authority
Berryville STP	Town of Berryville
Front Royal STP	Town of Front Royal
Mount Jackson STP	Town of Mount Jackson
New Market STP	Town of New Market
Shenandoah Co.-North Fork Regional WWTP	Shenandoah County
Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
Strasburg STP	Town of Strasburg
Woodstock STP	Town of Woodstock
FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
Purcellville-Basham Simms WWTF	Town of Purcellville
LCSA-Broad Run WRF	Loudoun County Service Authority
Leesburg WPCF	Town of Leesburg
Round Hill WWTP	Town of Round Hill
PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
Arlington Co. WPCF	Arlington County
Fairfax Co. - Noman-Cole Pollution Control Facility	Fairfax County
Stafford Co.-Aquia WWTP	Stafford County
Colonial Beach STP	Town of Colonial Beach

Dahlgren Sanitary District WWTP	King George County Service Authority
Fairview Beach STP	King George County Service Authority
Purkins Corner WWTP	King George County Service Authority
District of Columbia - Blue Plains STP (Virginia portion)	Loudoun County Service Authority and Fairfax County contract for capacity
Rappahannock River Basin	
Culpeper WWTP	Town of Culpeper
Marshall WWTP	Town of Marshall
Mountain Run WWTP	Culpeper County
Orange STP	Town of Orange
Rapidan STP	Rapidan Service Authority
FCW&SA-Remington WWTP	Fauquier County Water and Sewer Authority
Warrenton STP	Town of Warrenton
Wilderness Shores WWTP	Rapidan Service Authority
Spotsylvania Co.-FMC WWTF <i>WIP3-N, WIP3-P</i>	Spotsylvania County
Fredericksburg WWTF	City of Fredericksburg
Stafford Co.-Little Falls Run WWTF	Stafford County
Spotsylvania Co.-Massaponax WWTF <i>WIP3-N, WIP3-P</i>	Spotsylvania County
Montross-Westmoreland WWTP	Westmoreland County
Oakland Park STP	King George County Service Authority
Tappahannock WWTP	Town of Tappahannock
Urbanna WWTP	Hampton Roads Sanitation District
Warsaw STP	Town of Warsaw
Reedville Sanitary District WWTP	Reedville Sanitary District
Kilmarnock WWTP	Town of Kilmarnock
York River Basin	
Caroline Co. Regional STP	Caroline County
Gordonsville STP	Rapidan Service Authority
Ashland WWTP	Hanover County
Doswell WWTP	Hanover County
HRSD-York River STP <i>WIP3-N</i>	Hampton Roads Sanitation District
Parham Landing WWTP	New Kent County
Totopotomoy WWTP	Hanover County
HRSD-West Point STP	Hampton Roads Sanitation District
HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
<i>Spotsylvania Co.-Thornburg STP WIP3-N, WIP3-P</i>	<i>Spotsylvania County</i>
James River Basin	
Buena Vista STP	City of Buena Vista
Clifton Forge STP	Town of Clifton Forge
Covington STP	City of Covington
Lexington-Rockbridge Regional WQCF	Maury Service Authority
Alleghany Co.-Low Moor STP	Alleghany County
Alleghany Co.-Lower Jackson River WWTP	Alleghany County
Amherst-Rutledge Creek WWTP	Town of Amherst
Lynchburg STP	City of Lynchburg
RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority

Crewe WWTP	Town of Crewe
Farmville WWTP	Town of Farmville
Chesterfield Co.-Falling Creek WWTP	Chesterfield County
Henrico Co. WWTP	Henrico County
Hopewell Regional WWTF	City of Hopewell
Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
Richmond WWTP	City of Richmond
South Central Wastewater Authority WWTF <i>WIP3-N, WIP3-P</i>	South Central Wastewater Authority
Chickahominy WWTP	New Kent County
HRSD-Boat Harbor STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-James River STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Williamsburg STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Nansemond STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Army Base STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Virginia Initiative Plant STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Chesapeake/Elizabeth STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
Eastern Shore Basin	
Cape Charles WWTP	Town of Cape Charles
Onancock WWTP	Town of Onancock
Tangier Island WWTP	Town of Tangier

F. G. To the extent that any publicly owned treatment works receives less than the grant specified pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the funding of those projects for which grants have been prorated. Any additional reimbursements to these prorated projects shall not exceed the total reimbursement amount due pursuant to the formula established in subsection E of § 10.1-2131.

G. H. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department of Environmental Quality shall not be required to enter into a grant agreement with a facility designated as a significant discharger or eligible nonsignificant discharger if the Director determines that the use of nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient controls for the facility in question.

§ 62.1-44.19:13. Definitions.

As used in this article, unless the context requires a different meaning:

"Annual mass load of total nitrogen" (expressed in pounds per year) means the daily total nitrogen concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD), multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Annual mass load of total phosphorus" (expressed in pounds per year) means the daily total phosphorus concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD) multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Association" means the Virginia Nutrient Credit Exchange Association authorized by this article.

"Attenuation" means the rate at which nutrients are reduced through natural processes during transport in water.

"Best management practice," "practice," or "BMP" means a structural practice, nonstructural practice, or other management practice used to prevent or reduce nutrient loads associated with stormwater from reaching surface waters or the adverse effects thereof.

"Biological nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of eight milligrams per liter and an annual average total phosphorus effluent concentration of one milligram per liter, or (ii) equivalent reductions in loads of total nitrogen and total phosphorus through the recycle or reuse of wastewater as determined by the Department.

"Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source that is adjusted by the delivery factor for that point source.

"Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point source that is adjusted by the delivery factor for that point source.

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model.

"Department" means the Department of Environmental Quality.

"Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program established pursuant to subsection G of § 62.1-44.19:14.

"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.

"Facility" means a point source discharging or proposing to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries. This term does not include confined animal feeding operations, discharges of stormwater, return flows from irrigated agriculture, or vessels.

"General permit" means the general permit authorized by this article.

"MS4" means a municipal separate storm sewer system.

"Nutrient credit" or "credit" means a nutrient reduction that is certified pursuant to this article and expressed in pounds of phosphorus or nitrogen either (i) delivered to tidal waters when the credit is generated within the Chesapeake Bay Watershed or (ii) as otherwise specified when generated in the Southern Rivers watersheds. "Nutrient credit" does not include point source nitrogen credits or point source phosphorus credits as defined in this section.

"Nutrient credit-generating entity" means an entity that generates nonpoint source nutrient credits.

"Permitted facility" means a facility authorized by the general permit to discharge total nitrogen or total phosphorus. For the sole purpose of generating point source nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the Blue Plains wastewater treatment facility operated by the District of Columbia Water and Sewer Authority.

"Permittee" means a person authorized by the general permit to discharge total nitrogen or total phosphorus.

"Point source nitrogen credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total nitrogen, and (ii) the monitored annual mass load of total nitrogen discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total nitrogen load.

"Point source phosphorus credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total phosphorus, and (ii) the monitored annual mass load of total phosphorus discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total phosphorus load.

"State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter, or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the Department.

"Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the Potomac, Rappahannock, York, and James River Basins, and the Eastern Shore, which encompasses the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

"Waste load allocation" means (i) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus allocated to individual facilities pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus waste load allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

§ 62.1-44.19:14. Watershed general permit for nutrients.

A. ~~By January 1, 2006, or as soon thereafter as possible, the~~ *The* Board shall issue a Watershed General Virginia Pollutant Discharge Elimination System Permit, hereafter referred to as the general permit, authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Except as otherwise provided in this article, the general permit shall control in lieu of technology-based, water quality-based, and best professional judgment, interim or final effluent limitations for total nitrogen and total phosphorus in individual Virginia Pollutant Discharge Elimination System permits for facilities covered by the general permit where the effluent limitations for total nitrogen and total phosphorus in the individual permits are based upon standards, criteria, waste load allocations,

policy, or guidance established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

B. This section shall not be construed to limit or otherwise affect the Board's authority to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in individual permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

C. The general permit shall contain the following:

1. Waste load allocations for total nitrogen and total phosphorus for each permitted facility expressed as annual mass loads, *including reduced waste load allocations where applicable under the ENRC Program*. The allocations for each permitted facility shall reflect the applicable individual water quality-based total nitrogen and total phosphorus waste load allocations. An owner or operator of two or more facilities located in the same tributary may apply for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total phosphorus for multiple facilities reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations established for such facilities individually;

2. A schedule requiring compliance with the combined waste load allocations for each tributary as soon as possible taking into account (i) opportunities to minimize costs to the public or facility owners by phasing in the implementation of multiple projects; (ii) the availability of required services and skilled labor; (iii) the availability of funding from the Virginia Water Quality Improvement Fund as established in § 10.1-2128, the Virginia Water Facilities Revolving Fund as established in § 62.1-225, and other financing mechanisms; (iv) water quality conditions; and (v) other relevant factors. Following receipt of the compliance plans required by subdivision C 3, the Board shall reevaluate the schedule taking into account the information in the compliance plans and the factors in this subdivision, and may modify the schedule as appropriate;

3. A requirement that ~~within nine months after the initial effective date of the general permit~~, the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. *The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program*;

4. Such monitoring and reporting requirements as the Board deems necessary to carry out the provisions of this article;

5. A procedure that requires every owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters, to secure general permit coverage by filing a registration statement with the Department within a specified period after each effective date of the general permit. The procedure shall also require any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal waters to secure general permit coverage by filing a registration statement with the Department at the time he makes application with the Department for a new discharge or expansion that is subject to an offset or technology-based requirement in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a registration statement with the Department prior to commencing the discharge and thereafter within a specified period of time after each effective date of the general permit. The general permit shall provide that any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this subdivision to file a registration statement shall be deemed to be covered under the general permit at the time it is issued, and shall file a registration statement with the Department when required by this section. Owners or operators of facilities that are deemed to be permitted under this section shall have no other obligation under the general permit prior to filing a registration statement and securing coverage under the general permit based upon such registration statement;

6. A procedure for efficiently modifying the lists of facilities covered by the general permit where the modification does not change or otherwise alter any waste load allocation or delivery factor adopted pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or an applicable total maximum daily load. The procedure shall also provide for modifying or incorporating new waste load allocations or delivery factors, including the opportunity for public notice and comment on such modifications or incorporations; and

7. Such other conditions as the Board deems necessary to carry out the provisions of this chapter and Section 402 of the federal Clean Water Act (33 U.S.C. § 1342).

D. 1. The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation (9VAC25-720) either the reallocation of unneeded allocations to other facilities registered under the general permit or the reservation of such allocations for future use.

2. For each decennial review, the Board shall determine whether a permitted facility has:

- a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future; or
 - b. Changed the production processes employed in the facility in such a way as to render impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges.
3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:
- a. Substantial changes in the size or population of a service area;
 - b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;
 - c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;
 - d. Constructed treatment facility capacity;
 - e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;
 - f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;
 - g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and
 - h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.

E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

G. *The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules for compliance.*

1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

<i>PROJECT NAME</i>	<i>DESCRIPTION (COMPLIANCE SCHEDULE)</i>
<i>HRSD-Chesapeake/Elizabeth STP</i>	<i>Consolidate into regional system and close treatment facility (1/1/2023)</i>
<i>HRSD-Boat Harbor WWTP</i>	<i>Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)</i>
<i>HRSD-Nansemond River WWTP</i>	<i>Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>
<i>HRSD-Nassawadox WWTP</i>	<i>Convey to regional system for nutrient removal (1/1/2026)</i>
<i>Spotsylvania Co.-FMC WWTF</i>	<i>Convey to Massaponax WWTF and close treatment facility (1/1/2026)</i>
<i>Spotsylvania Co.-Massaponax WWTF</i>	<i>Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)</i>
<i>Spotsylvania Co.-Thornburg STP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)</i>
<i>HRRSA-North River WWTP</i>	<i>Phosphorus removal tertiary filtration upgrade (1/1/2026)</i>
<i>South Central Wastewater Authority WWTF</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)</i>
<i>HRSD-Williamsburg WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>

<i>HRSD-VIP WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>
<i>HRSD-James River WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)</i>
<i>HRSD-Army Base WWTP</i>	<i>Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026, 2028, and 2032 or, only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

2. Nitrogen waste load allocation reductions – HRSD-York River WWTP:

Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year effective January 1, 2026.

3. James River HRSD SWIFT nutrient upgrades:

Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

<i>FACILITY NAME</i>	<i>TOTAL NITROGEN WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	<i>219,307</i>
<i>HRSD-Boat Harbor STP</i>	<i>304,593</i>
<i>HRSD-James River STP</i>	<i>243,674</i>
<i>HRSD-VIP WWTP</i>	<i>487,348</i>
<i>HRSD-Nansemond STP</i>	<i>365,511</i>
<i>HRSD-Williamsburg STP</i>	<i>274,133</i>

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	<i>27,413</i>
<i>HRSD-Boat Harbor STP</i>	<i>38,074</i>
<i>HRSD-James River STP</i>	<i>30,459</i>
<i>HRSD-VIP WWTP</i>	<i>60,919</i>
<i>HRSD-Nansemond STP</i>	<i>45,689</i>
<i>HRSD-Williamsburg STP</i>	<i>34,267</i>

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2030:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	<i>21,931</i>
<i>HRSD-Boat Harbor STP</i>	<i>30,459</i>
<i>HRSD-James River STP</i>	<i>24,367</i>
<i>HRSD-VIP WWTP</i>	<i>48,735</i>
<i>HRSD-Nansemond STP</i>	<i>36,551</i>
<i>HRSD-Williamsburg STP</i>	<i>27,413</i>

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2032:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	<i>16,448</i>
<i>HRSD-Boat Harbor STP</i>	<i>22,844</i>
<i>HRSD-James River STP</i>	<i>18,276</i>
<i>HRSD-VIP WWTP</i>	<i>36,551</i>
<i>HRSD-Nansemond STP</i>	<i>27,413</i>
<i>HRSD-Williamsburg STP</i>	<i>20,560</i>

Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list December 21, 2015, transfer.

2. That the Enhanced Nutrient Removal Certainty Program as established in subdivisions G 1, 2, and 3 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall be deemed to implement through January 1, 2026, the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan in lieu of the floating waste load allocation concept proposed in Initiative 52 of the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan. However, nothing in this act shall be construed to limit the State Water Control Board's authority to impose (i) additional requirements or modifications to phosphorous waste load allocations necessary to achieve compliance with the numeric chlorophyll-a criteria applicable to the James River; (ii) requirements or modifications to waste load allocations necessary to comply with changes to federal law that become effective after January 1, 2021; or (iii) requirements or modifications to waste load allocations necessary to comply with a court order issued after January 1, 2021.

3. That the State Water Control Board shall modify the Virginia Pollutant Discharge Elimination System (VPDES) permits for the facilities listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, to include any requirements and compliance schedules established in this act.

4. That if the Secretary of Natural Resources (the Secretary) determines on or after July 1, 2026, that the Commonwealth has not achieved, or in the event of increased nutrient loads associated with climate change will not be able to maintain, its nitrogen pollution reduction commitments in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan, the Secretary may develop an additional watershed implementation plan or plans pursuant to § 2.2-218 of the Code of Virginia. Any such plan shall take into consideration the progress made by all point and nonpoint sources toward meeting applicable load and waste load allocations, the best available science and water quality modeling, and any applicable U.S. Environmental Protection Agency guidance for Chesapeake Bay TMDL implementation. In any such plan, the Secretary may include as priority projects upgrades with nutrient removal technology of 4.0 mg/L annual average total nitrogen concentration at municipal wastewater treatment facilities with a design capacity greater than 10.0 MGD discharging to James River Segment JMSTF2 so long as (i) the scheduled date for compliance is January 1, 2036; (ii) notwithstanding the wasteload allocations specified in clause (iii), compliance requires operating the nutrient removal technology to achieve an annual average total nitrogen concentration of less than or equal to 4.0 mg/L or, until such time as the facility is upgraded to achieve such concentration, the option of achieving an equivalent discharged load based on an annual average total nitrogen concentration of 4.0 mg/L and actual annual flow treated, including the use of point source nitrogen credits; and (iii) the facilities have and retain the following total nitrogen waste load allocations: Falling Creek WWTP (182,738 lbs/year), Proctors Creek WWTP (411,151 lbs/year and, in the event that Proctors Creek WWTP is expanded in accordance with 9VAC25-40-70 and Falling Creek WWTP is upgraded to achieve 4.0 mg/L, 493,391 lbs/year), and Henrico County WWTP (1,142,085 lbs/year). If the Secretary opts to include such facilities in the plan, the State Water Control Board shall include the foregoing concentrations limits, waste load allocations, and schedules for compliance in the Water Quality Management Planning Regulation, the Watershed General Virginia Pollutant Discharge Elimination System permit, and individual VPDES permits, as applicable.

CHAPTER 364

An Act to amend and reenact §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia, relating to Chesapeake Bay Phase III Watershed Improvement Plan; nutrient removal; regulations.

[S 1354]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1186.01, 62.1-44.19:13, and 62.1-44.19:14 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. *As used in this section, "Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the same as that term is defined in § 62.1-44.19:13.*

B. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, F or as eligible nonsignificant dischargers as defined in § 10.1-2117. ~~Notwithstanding § 10.1-2128, at such time as~~ *When* grant disbursements pursuant to this section reach 200 percent of the appropriations provided for in Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations shall review (i) the future funding needs to meet the purposes of the Water Quality Improvement Act, (ii) the most recent annual needs estimate required by § 10.1-2134.1, and (iii) the appropriate funding mechanism for such needs.

~~B. C.~~ C. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E F and eligible nonsignificant dischargers shall be made monthly based on a requisition submitted by the grant recipient in the form requested by the Department. Each requisition shall include written certification that the applicable local share of the cost of nutrient removal technology for that portion of the project covered by such requisition has been incurred or expended. Except as may otherwise be approved by the Department, disbursements shall not exceed 95 percent of the total grant amount until satisfactory completion of the project. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from 50% 50 percent completion of construction to final completion of construction.

~~C. D.~~ D. The General Assembly ~~shall have~~ has the sole authority to determine whether disbursement ~~will~~ shall be made pursuant to subdivision B C 1, B 2, or B 3, or a combination thereof, provided that a disbursement shall ~~only~~ be made pursuant to subdivision B C 3 ~~only~~ upon a certification by the Department of Environmental Quality that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

~~D. E.~~ E. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I ~~from time to time in the appropriation act or any amendments thereto.~~

~~E. F.~~ F. The disbursement of grants to finance the costs of design and installation of nutrient removal technology, including eligible design and installation costs for implementation of the ENRC Program, at the following 89 listed publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. ~~However, in~~ The notation "WIP3-N" or "WIP3-P" indicates that a facility is subject to additional requirements for total nitrogen or total phosphorus, respectively, under the ENRC Program. In no case shall any publicly owned treatment works receive a grant of less than 35% 35 percent of the costs of the design and installation of nutrient removal technology.

FACILITY NAME

OWNER

Shenandoah - Potomac River Basin

Augusta County Service Authority

ACSA-Fishersville STP

Town of Luray

Luray STP

ACSA-Middle River Regional STP

Augusta County Service Authority

HRRSA-North River WWTF WIP3-P

Harrisonburg-Rockingham Regional Sewer Authority

ACSA-Stuarts Draft STP

Augusta County Service Authority

Waynesboro STP

City of Waynesboro

ACSA-Weyers Cave STP

Augusta County Service Authority

Berryville STP	Town of Berryville
Front Royal STP	Town of Front Royal
Mount Jackson STP	Town of Mount Jackson
New Market STP	Town of New Market
Shenandoah Co.-North Fork Regional WWTP	Shenandoah County
Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
Strasburg STP	Town of Strasburg
Woodstock STP	Town of Woodstock
FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
Purcellville-Basham Simms WWTF	Town of Purcellville
LCSA-Broad Run WRF	Loudoun County Service Authority
Leesburg WPCF	Town of Leesburg
Round Hill WWTP	Town of Round Hill
PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
Arlington Co. WPCF	Arlington County
Fairfax Co. - Noman-Cole Pollution Control Facility	Fairfax County
Stafford Co.-Aquia WWTP	Stafford County
Colonial Beach STP	Town of Colonial Beach
Dahlgren Sanitary District WWTP	King George County Service Authority
Fairview Beach STP	King George County Service Authority
Purkins Corner WWTP	King George County Service Authority
District of Columbia - Blue Plains STP (Virginia portion)	Loudoun County Service Authority and Fairfax County contract for capacity
Rappahannock River Basin	
Culpeper WWTP	Town of Culpeper
Marshall WWTP	Town of Marshall
Mountain Run WWTP	Culpeper County
Orange STP	Town of Orange
Rapidan STP	Rapidan Service Authority
FCW&SA-Remington WWTP	Fauquier County Water and Sewer Authority
Warrenton STP	Town of Warrenton
Wilderness Shores WWTP	Rapidan Service Authority
Spotsylvania Co.-FMC WWTF <i>WIP3-N, WIP3-P</i>	Spotsylvania County
Fredericksburg WWTF	City of Fredericksburg
Stafford Co.-Little Falls Run WWTF	Stafford County
Spotsylvania Co.-Massaponax WWTF <i>WIP3-N, WIP3-P</i>	Spotsylvania County
Montross-Westmoreland WWTP	Westmoreland County
Oakland Park STP	King George County Service Authority
Tappahannock WWTP	Town of Tappahannock
Urbanna WWTP	Hampton Roads Sanitation District
Warsaw STP	Town of Warsaw
Reedville Sanitary District WWTP	Reedville Sanitary District
Kilmarnock WWTP	Town of Kilmarnock

York River Basin	
Caroline Co. Regional STP	Caroline County
Gordonsville STP	Rapidan Service Authority
Ashland WWTP	Hanover County
Doswell WWTP	Hanover County
HRSD-York River STP <i>WIP3-N</i>	Hampton Roads Sanitation District
Parham Landing WWTP	New Kent County
Totopotomoy WWTP	Hanover County
HRSD-West Point STP	Hampton Roads Sanitation District
HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
<i>Spotsylvania Co.-Thornburg STP WIP3-N, WIP3-P</i>	<i>Spotsylvania County</i>
James River Basin	
Buena Vista STP	City of Buena Vista
Clifton Forge STP	Town of Clifton Forge
Covington STP	City of Covington
Lexington-Rockbridge Regional WQCF	Maury Service Authority
Alleghany Co.-Low Moor STP	Alleghany County
Alleghany Co.-Lower Jackson River WWTP	Alleghany County
Amherst-Rutledge Creek WWTP	Town of Amherst
Lynchburg STP	City of Lynchburg
RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
Crewe WWTP	Town of Crewe
Farmville WWTP	Town of Farmville
Chesterfield Co.-Falling Creek WWTP	Chesterfield County
Henrico Co. WWTP	Henrico County
Hopewell Regional WWTF	City of Hopewell
Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
Richmond WWTP	City of Richmond
South Central Wastewater Authority WWTF <i>WIP3-N, WIP3-P</i>	South Central Wastewater Authority
Chickahominy WWTP	New Kent County
HRSD-Boat Harbor STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-James River STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Williamsburg STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Nansemond STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Army Base STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Virginia Initiative Plant STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
HRSD-Chesapeake/Elizabeth STP <i>WIP3-N, WIP3-P</i>	Hampton Roads Sanitation District
Eastern Shore Basin	
Cape Charles WWTP	Town of Cape Charles
Onancock WWTP	Town of Onancock
Tangier Island WWTP	Town of Tangier

§ 10.1-2131. To the extent that any publicly owned treatment works receives less than the grant specified pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the funding of those projects for which grants have been prorated. Any additional reimbursements to these prorated projects shall not exceed the total reimbursement amount due pursuant to the formula established in subsection E of § 10.1-2131.

G. H. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department of Environmental Quality shall not be required to enter into a grant agreement with a facility designated as a significant discharger or eligible nonsignificant discharger if the Director determines that the use of nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient controls for the facility in question.

§ 62.1-44.19:13. Definitions.

As used in this article, unless the context requires a different meaning:

"Annual mass load of total nitrogen" (expressed in pounds per year) means the daily total nitrogen concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD), multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Annual mass load of total phosphorus" (expressed in pounds per year) means the daily total phosphorus concentration (expressed as mg/L to the nearest 0.01 mg/L) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to the nearest 0.01 MGD) multiplied by 8.34 and rounded to the nearest whole number to convert to pounds per day (lbs/day) units, then totaled for the calendar month to convert to pounds per month (lbs/mo) units, and then totaled for the calendar year to convert to pounds per year (lbs/yr) units.

"Association" means the Virginia Nutrient Credit Exchange Association authorized by this article.

"Attenuation" means the rate at which nutrients are reduced through natural processes during transport in water.

"Best management practice," "practice," or "BMP" means a structural practice, nonstructural practice, or other management practice used to prevent or reduce nutrient loads associated with stormwater from reaching surface waters or the adverse effects thereof.

"Biological nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of eight milligrams per liter and an annual average total phosphorus effluent concentration of one milligram per liter, or (ii) equivalent reductions in loads of total nitrogen and total phosphorus through the recycle or reuse of wastewater as determined by the Department.

"Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source that is adjusted by the delivery factor for that point source.

"Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point source that is adjusted by the delivery factor for that point source.

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model.

"Department" means the Department of Environmental Quality.

"Enhanced Nutrient Removal Certainty Program" or "ENRC Program" means the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program established pursuant to subsection G of § 62.1-44.19:14.

"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.

"Facility" means a point source discharging or proposing to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries. This term does not include confined animal feeding operations, discharges of stormwater, return flows from irrigated agriculture, or vessels.

"General permit" means the general permit authorized by this article.

"MS4" means a municipal separate storm sewer system.

"Nutrient credit" or "credit" means a nutrient reduction that is certified pursuant to this article and expressed in pounds of phosphorus or nitrogen either (i) delivered to tidal waters when the credit is generated within the Chesapeake Bay Watershed or (ii) as otherwise specified when generated in the Southern Rivers watersheds. "Nutrient credit" does not include point source nitrogen credits or point source phosphorus credits as defined in this section.

"Nutrient credit-generating entity" means an entity that generates nonpoint source nutrient credits.

"Permitted facility" means a facility authorized by the general permit to discharge total nitrogen or total phosphorus. For the sole purpose of generating point source nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the Blue Plains wastewater treatment facility operated by the District of Columbia Water and Sewer Authority.

"Permittee" means a person authorized by the general permit to discharge total nitrogen or total phosphorus.

"Point source nitrogen credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total nitrogen, and (ii) the monitored annual mass load of total nitrogen discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total nitrogen load.

"Point source phosphorus credit" means the difference between (i) the waste load allocation for a permitted facility specified as an annual mass load of total phosphorus, and (ii) the monitored annual mass load of total phosphorus discharged by that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total phosphorus load.

"State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter, or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the Department.

"Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the Potomac, Rappahannock, York, and James River Basins, and the Eastern Shore, which encompasses the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

"Waste load allocation" means (i) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus allocated to individual facilities pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus waste load allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

§ 62.1-44.19:14. Watershed general permit for nutrients.

A. ~~By January 1, 2006, or as soon thereafter as possible, the~~ Board shall issue a Watershed General Virginia Pollutant Discharge Elimination System Permit, hereafter referred to as the general permit, authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Except as otherwise provided in this article, the general permit shall control in lieu of technology-based, water quality-based, and best professional judgment, interim or final effluent limitations for total nitrogen and total phosphorus in individual Virginia Pollutant Discharge Elimination System permits for facilities covered by the general permit where the effluent limitations for total nitrogen and total phosphorus in the individual permits are based upon standards, criteria, waste load allocations, policy, or guidance established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

B. This section shall not be construed to limit or otherwise affect the Board's authority to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in individual permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

C. The general permit shall contain the following:

1. Waste load allocations for total nitrogen and total phosphorus for each permitted facility expressed as annual mass loads, *including reduced waste load allocations where applicable under the ENRC Program*. The allocations for each permitted facility shall reflect the applicable individual water quality-based total nitrogen and total phosphorus waste load allocations. An owner or operator of two or more facilities located in the same tributary may apply for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total phosphorus for multiple facilities reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations established for such facilities individually;

2. A schedule requiring compliance with the combined waste load allocations for each tributary as soon as possible taking into account (i) opportunities to minimize costs to the public or facility owners by phasing in the implementation of multiple projects; (ii) the availability of required services and skilled labor; (iii) the availability of funding from the Virginia Water Quality Improvement Fund as established in § 10.1-2128, the Virginia Water Facilities Revolving Fund as established in § 62.1-225, and other financing mechanisms; (iv) water quality conditions; and (v) other relevant factors. Following receipt of the compliance plans required by subdivision C 3, the Board shall reevaluate the schedule taking into account the information in the compliance plans and the factors in this subdivision, and may modify the schedule as appropriate;

3. A requirement that ~~within nine months after the initial effective date of the general permit,~~ the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. *The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program;*

4. Such monitoring and reporting requirements as the Board deems necessary to carry out the provisions of this article;

5. A procedure that requires every owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters, to secure general permit coverage by filing a registration statement with the Department within a specified period after each effective date of the general permit.

The procedure shall also require any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal waters to secure general permit coverage by filing a registration statement with the Department at the time he makes application with the Department for a new discharge or expansion that is subject to an offset or technology-based requirement in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a registration statement with the Department prior to commencing the discharge and thereafter within a specified period of time after each effective date of the general permit. The general permit shall provide that any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this subdivision to file a registration statement shall be deemed to be covered under the general permit at the time it is issued, and shall file a registration statement with the Department when required by this section. Owners or operators of facilities that are deemed to be permitted under this section shall have no other obligation under the general permit prior to filing a registration statement and securing coverage under the general permit based upon such registration statement;

6. A procedure for efficiently modifying the lists of facilities covered by the general permit where the modification does not change or otherwise alter any waste load allocation or delivery factor adopted pursuant to the Water Quality Management Planning Regulation (9VAC25-720) or its successor, or an applicable total maximum daily load. The procedure shall also provide for modifying or incorporating new waste load allocations or delivery factors, including the opportunity for public notice and comment on such modifications or incorporations; and

7. Such other conditions as the Board deems necessary to carry out the provisions of this chapter and Section 402 of the federal Clean Water Act (33 U.S.C. § 1342).

D. 1. The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation (9VAC25-720) either the reallocation of unneeded allocations to other facilities registered under the general permit or the reservation of such allocations for future use.

2. For each decennial review, the Board shall determine whether a permitted facility has:

a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future; or

b. Changed the production processes employed in the facility in such a way as to render impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges.

3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:

a. Substantial changes in the size or population of a service area;

b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;

c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;

d. Constructed treatment facility capacity;

e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;

f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;

g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and

h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.

E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules for compliance.

1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

PROJECT NAME

DESCRIPTION (COMPLIANCE SCHEDULE)

<i>HRSD-Chesapeake/Elizabeth STP</i>	<i>Consolidate into regional system and close treatment facility (1/1/2023)</i>
<i>HRSD-Boat Harbor WWTP</i>	<i>Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)</i>
<i>HRSD-Nansemond River WWTP</i>	<i>Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>
<i>HRSD-Nassawadox WWTP</i>	<i>Convey to regional system for nutrient removal (1/1/2026)</i>
<i>Spotsylvania Co.-FMC WWTF</i>	<i>Convey to Massaponax WWTF and close treatment facility (1/1/2026)</i>
<i>Spotsylvania Co.-Massaponax WWTF</i>	<i>Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)</i>
<i>Spotsylvania Co.-Thornburg STP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)</i>
<i>HRRSA-North River WWTP</i>	<i>Phosphorus removal tertiary filtration upgrade (1/1/2026)</i>
<i>South Central Wastewater Authority WWTF</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)</i>
<i>HRSD-Williamsburg WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>
<i>HRSD-VIP WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>
<i>HRSD-James River WWTP</i>	<i>Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)</i>
<i>HRSD-Army Base WWTP</i>	<i>Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)</i>

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026, 2028, and 2032 or, only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

2. Nitrogen waste load allocation reductions – HRSD-York River WWTP:

Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year effective January 1, 2026.

3. James River HRSD SWIFT nutrient upgrades:

Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

<i>FACILITY NAME</i>	<i>TOTAL NITROGEN WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	<i>219,307</i>
<i>HRSD-Boat Harbor STP</i>	<i>304,593</i>
<i>HRSD-James River STP</i>	<i>243,674</i>
<i>HRSD-VIP WWTP</i>	<i>487,348</i>
<i>HRSD-Nansemond STP</i>	<i>365,511</i>
<i>HRSD-Williamsburg STP</i>	<i>274,133</i>

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
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<i>HRSD-Army Base WWTP</i>	27,413
<i>HRSD-Boat Harbor STP</i>	38,074
<i>HRSD-James River STP</i>	30,459
<i>HRSD-VIP WWTP</i>	60,919
<i>HRSD-Nansemond STP</i>	45,689
<i>HRSD-Williamsburg STP</i>	34,267

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2030:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	21,931
<i>HRSD-Boat Harbor STP</i>	30,459
<i>HRSD-James River STP</i>	24,367
<i>HRSD-VIP WWTP</i>	48,735
<i>HRSD-Nansemond STP</i>	36,551
<i>HRSD-Williamsburg STP</i>	27,413

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2032:

<i>FACILITY NAME</i>	<i>TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)</i>
<i>HRSD-Army Base WWTP</i>	16,448
<i>HRSD-Boat Harbor STP</i>	22,844
<i>HRSD-James River STP</i>	18,276
<i>HRSD-VIP WWTP</i>	36,551
<i>HRSD-Nansemond STP</i>	27,413
<i>HRSD-Williamsburg STP</i>	20,560

Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list December 21, 2015, transfer.

2. That the Enhanced Nutrient Removal Certainty Program as established in subdivisions G 1, 2, and 3 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall be deemed to implement through January 1, 2026, the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan in lieu of the floating waste load allocation concept proposed in Initiative 52 of the Commonwealth's Chesapeake Bay Phase III Watershed Implementation Plan. However, nothing in this act shall be construed to limit the State Water Control Board's authority to impose (i) additional requirements or modifications to phosphorous waste load allocations necessary to achieve compliance with the numeric chlorophyll-a criteria applicable to the James River; (ii) requirements or modifications to waste load allocations necessary to comply with changes to federal law that become effective after January 1, 2021; or (iii) requirements or modifications to waste load allocations necessary to comply with a court order issued after January 1, 2021.

3. That the State Water Control Board shall modify the Virginia Pollutant Discharge Elimination System (VPDES) permits for the facilities listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, to include any requirements and compliance schedules established in this act.

4. That if the Secretary of Natural Resources (the Secretary) determines on or after July 1, 2026, that the Commonwealth has not achieved, or in the event of increased nutrient loads associated with climate change will not be able to maintain, its nitrogen pollution reduction commitments in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan, the Secretary may develop an additional watershed implementation plan or plans pursuant to § 2.2-218 of the Code of Virginia. Any such plan shall take into consideration the progress made by all point and nonpoint sources toward meeting applicable load and waste load allocations, the best available science and water quality modeling, and any applicable U.S. Environmental Protection Agency guidance for Chesapeake Bay TMDL implementation. In any such plan, the Secretary may include as priority projects upgrades with nutrient removal technology of 4.0 mg/L annual average total nitrogen concentration at municipal wastewater treatment facilities with a design capacity greater than 10.0 MGD discharging to James

River Segment JMSTF2 so long as (i) the scheduled date for compliance is January 1, 2036; (ii) notwithstanding the wasteload allocations specified in clause (iii), compliance requires operating the nutrient removal technology to achieve an annual average total nitrogen concentration of less than or equal to 4.0 mg/L or, until such time as the facility is upgraded to achieve such concentration, the option of achieving an equivalent discharged load based on an annual average total nitrogen concentration of 4.0 mg/L and actual annual flow treated, including the use of point source nitrogen credits; and (iii) the facilities have and retain the following total nitrogen waste load allocations: Falling Creek WWTP (182,738 lbs/year), Proctors Creek WWTP (411,151 lbs/year) and, in the event that Proctors Creek WWTP is expanded in accordance with 9VAC25-40-70 and Falling Creek WWTP is upgraded to achieve 4.0 mg/L, 493,391 lbs/year), and Henrico County WWTP (1,142,085 lbs/year). If the Secretary opts to include such facilities in the plan, the State Water Control Board shall include the foregoing concentrations limits, waste load allocations, and schedules for compliance in the Water Quality Management Planning Regulation, the Watershed General Virginia Pollutant Discharge Elimination System permit, and individual VPDES permits, as applicable.

CHAPTER 365

An Act to authorize a quitclaim and release of interest and the conveyance of an easement by the Board of Wildlife Resources in Tazewell County.

[H 2252]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That in accordance with and as evidence of General Assembly approval, the Board of Wildlife Resources (Grantor) is hereby authorized to quitclaim and release any interest it may hold in the unimproved parcel of land containing 13.60 acres, more or less, of land that is located on the watershed of Little Tumbling Creek in the Maiden Spring Magisterial District of Tazewell County, Virginia, to the Valerie H. MacDowell Trust (Grantee), as shown on a plat entitled "Plat of Survey A 134.2 Acre Tract (By Deed) (131.90 By Survey) Tract of the Valerie MacDowell Trust" and dated as revised January 7, 2021, by Cecil Engineering Company, P.C. (the Plat).*

§ 2. *That the quitclaim and release is a result of a boundary line correction of an acquisition by the Grantor pursuant to § 2.2-1149 of the Code of Virginia. The quitclaim and release shall be made without any consideration and upon such other terms the Grantor deems proper, with the approval of the Department of General Services and the Secretary of Administration and in a form approved by the Attorney General. The Grantor is hereby authorized to prepare, execute, and deliver such deed, easement, and other documents as may be necessary or appropriate to accomplish the conveyance.*

§ 3. *That the Grantor is also authorized to convey, upon such terms as the Grantor deems proper, a permanent, nonexclusive easement over the road and bridge leading from Little Tumbling Creek Road, Route 607, through the property of the Grantor identified as the Clinch Mountain Wildlife Management Area to the property of the Grantee in the Maiden Spring Magisterial District of Tazewell County, Virginia, to the Grantee as shown on the Plat. The easement shall run with the land.*

§ 4. *That the purpose of the granting and conveying of the easement from the Grantor to the Grantee is to provide an easement for ingress and egress to the Grantee's property from Little Tumbling Creek Road, Route 607, over a road and bridge that are used by the Grantee but that traverse a portion of the property of the Grantor. In consideration of the conveyance of the easement, the Grantee shall be solely responsible for the maintenance and upkeep of the easement and other consideration deemed proper by the Grantor.*

§ 5. *That the granting and conveying of the easement shall be made upon terms the Grantor deems proper, with the approval of the Department of General Services and the Secretary of Administration and in a form approved by the Attorney General.*

CHAPTER 366

An Act to authorize a quitclaim and release of interest and the conveyance of an easement by the Board of Wildlife Resources in Tazewell County.

[S 1400]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That in accordance with and as evidence of General Assembly approval, the Board of Wildlife Resources (Grantor) is hereby authorized to quitclaim and release any interest it may hold in the unimproved parcel of land containing 13.60 acres, more or less, of land that is located on the watershed of Little Tumbling Creek in the Maiden Spring Magisterial District of Tazewell County, Virginia, to the Valerie H. MacDowell Trust (Grantee), as shown on a plat entitled "Plat of Survey A 134.2 Acre Tract (By Deed) (131.90 By Survey) Tract of the Valerie MacDowell Trust" and dated as revised January 7, 2021, by Cecil Engineering Company, P.C. (the Plat).*

§ 2. That the quitclaim and release is a result of a boundary line correction of an acquisition by the Grantor pursuant to § 2.2-1149 of the Code of Virginia. The quitclaim and release shall be made without any consideration and upon such other terms the Grantor deems proper, with the approval of the Department of General Services and the Secretary of Administration and in a form approved by the Attorney General. The Grantor is hereby authorized to prepare, execute, and deliver such deed, easement, and other documents as may be necessary or appropriate to accomplish the conveyance.

§ 3. That the Grantor is also authorized to convey, upon such terms as the Grantor deems proper, a permanent, nonexclusive easement over the road and bridge leading from Little Tumbling Creek Road, Route 607, through the property of the Grantor identified as the Clinch Mountain Wildlife Management Area to the property of the Grantee in the Maiden Spring Magisterial District of Tazewell County, Virginia, to the Grantee as shown on the Plat. The easement shall run with the land.

§ 4. That the purpose of the granting and conveying of the easement from the Grantor to the Grantee is to provide an easement for ingress and egress to the Grantee's property from Little Tumbling Creek Road, Route 607, over a road and bridge that are used by the Grantee but that traverse a portion of the property of the Grantor. In consideration of the conveyance of the easement, the Grantee shall be solely responsible for the maintenance and upkeep of the easement and other consideration deemed proper by the Grantor.

§ 5. That the granting and conveying of the easement shall be made upon terms the Grantor deems proper, with the approval of the Department of General Services and the Secretary of Administration and in a form approved by the Attorney General.

CHAPTER 367

An Act to amend and reenact § 58.1-609.3 of the Code of Virginia, relating to sales and use tax exemption for data centers.

[H 2273]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. *a.* Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center, *which includes any data center facilities located in the same locality as the data center that are under common ownership or affiliation of the data center operator*; that (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 million; and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to ~~25~~ 10 new jobs if the data center is located in a *distressed* locality ~~that has an unemployment rate for the preceding year of at least 150 percent of the average statewide unemployment rate for such year as determined by the Virginia Economic Development Partnership or is located in an enterprise zone at the time of the execution of a memorandum of understanding with the Virginia Economic Development Partnership Authority. Additionally, the requirement of a \$150 million capital investment shall be reduced to \$70 million for data centers that qualify for the reduced jobs requirement.~~

This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

b. For purposes of this subdivision 18, "distressed locality" means:

1. *From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year; and*

2. *From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.*

c. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such operator shall be required to submit an annual report to the Virginia Economic Development Partnership Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels, capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures developed by the Virginia Economic Development Partnership Authority. The annual report shall be submitted by the data center operator in a format prescribed by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information collected with the Department.

The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall publish a biennial report on the exemption that shall include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and the Virginia Economic Development Partnership Authority deem appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any such information if it is unaggregated or if such report or publication could be used to identify a business or individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic Development Partnership Authority may publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators.

19. (Effective until July 1, 2021) If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 1 or 2 of § 4.1-208, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

19. (Effective July 1, 2021) If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof,

fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

20. If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for processing, manufacturing, or conversion for resale where such materials either are recycled or recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for packaging recycled or recovered material for shipment or resale.

2. That the provisions of this act amending subdivision 18 of § 58.1-609.3 of the Code of Virginia to require data center operators to submit an annual report to the Virginia Economic Development Partnership Authority shall apply to all data center operators that receive the benefit of the exemption created by § 58.1-609.3 of the Code of Virginia, as amended by this act, regardless of when such operators located a new data center in the Commonwealth.

CHAPTER 368

An Act to amend and reenact § 58.1-609.3 of the Code of Virginia, relating to sales and use tax exemption for data centers.

[S 1423]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. *a.* Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center, *which includes any data center facilities located in the same locality as the data center that are under common ownership or affiliation of the data center operator*; that (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 millions; and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated

with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 25 10 new jobs if the data center is located in a *distressed* locality that has an unemployment rate for the preceding year of at least 150 percent of the average statewide unemployment rate for such year as determined by the Virginia Economic Development Partnership or is located in an enterprise zone at the time of the execution of a memorandum of understanding with the Virginia Economic Development Partnership Authority. Additionally, the requirement of a \$150 million capital investment shall be reduced to \$70 million for data centers that qualify for the reduced jobs requirement.

This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

b. For purposes of this subdivision 18, "distressed locality" means:

1. From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year; and

2. From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.

c. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such operator shall be required to submit an annual report to the Virginia Economic Development Partnership Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels, capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures developed by the Virginia Economic Development Partnership Authority. The annual report shall be submitted by the data center operator in a format prescribed by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information collected with the Department.

The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall publish a biennial report on the exemption that shall include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and the Virginia Economic Development Partnership Authority deem appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any such information if it is unaggregated or if such report or publication could be used to identify a business or individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic Development Partnership Authority may publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators.

19. (Effective until July 1, 2021) If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 1 or 2 of § 4.1-208, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

19. (Effective July 1, 2021) If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

20. If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for processing, manufacturing, or conversion for resale where such materials either are recycled or recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for packaging recycled or recovered material for shipment or resale.

2. That the provisions of this act amending subdivision 18 of § 58.1-609.3 of the Code of Virginia to require data center operators to submit an annual report to the Virginia Economic Development Partnership Authority shall apply to all data center operators that receive the benefit of the exemption created by § 58.1-609.3 of the Code of Virginia, as amended by this act, regardless of when such operators located a new data center in the Commonwealth.

CHAPTER 369

An Act to amend and reenact § 56-585.1:9 of the Code of Virginia, relating to provision of broadband services by investor-owned electric utilities.

[H 2304]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:9 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:9. Provision of broadband capacity to unserved areas of the Commonwealth.

A. ~~The Commission shall establish pilot programs under which each~~ Each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1, may submit one or more petitions to provide or make available broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband. ~~Any such petitions that a Phase I Utility submits shall not exceed \$60 million in costs annually. Any such petitions that a Phase II Utility submits shall not exceed \$60 million in costs annually.~~ The provision of such broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section is in the public interest.

B. ~~The incremental costs of providing broadband capacity pursuant to any such pilot program petition, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, 2020 2021, as a non-bypassable charge. Notwithstanding any provision of subdivision A 6 or 7 of § 56-585.1, the utility may file one or more petitions for approval of such a rate adjustment clause, on a stand-alone basis, seeking recovery of the costs of providing broadband capacity at any time on or after July 1, 2021, and the Commission shall issue its final order regarding such petition within six months following the date of filing.~~

C. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, pursuant to a ~~pilot program~~ petition that the Commissioner approves pursuant to this section, (i) own, manage, or control any broadband capacity equipment and electronics, including any plant, works, system, lines, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provision and extension of such broadband services; (ii) lease indefeasible rights of use in such broadband capacity equipment and electronics to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section; and (iii) provide access points that are outside the utility's energized zone to allow connection between the utility's broadband capacity system and the ~~nongovernmental~~ Internet service provider's system.

D. Each petition to provide broadband capacity pursuant to this section that an investor-owned utility submits to the Commission shall identify the ~~nongovernmental~~ Internet service provider to which the utility shall lease such capacity, together with the area to be served using such capacity. The Commission shall, after notice and opportunity for hearing, initiate proceedings to review each petition submitted. ~~In determining whether an area is unserved by broadband, the Commission shall take into account the impact of any grants or loans made to provide broadband access to the designated area. The Commission's final order regarding any such petition shall be entered by the Commission not more than six months after the date of the filing of such petition. The Commission shall condition any approval of such petition on the requirement that construction shall commence within three years of such approval. If the utility fails to commence construction within such period, the utility may resubmit the petition for Commission approval. The Commission shall condition any approval of such petition on the requirement that construction shall commence within 18 months of such approval. If the utility fails to commence construction within such time period, the utility may resubmit the petition for conditional approval. The Commission shall also condition any approval of such petition on the requirement that the utility and its Internet service provider submit annual public reports on construction progress by the utility and delivery of broadband services by the Internet service provider until construction is completed. The Commission's final order regarding any such petition shall be entered by the Commission no more than six months after the date of filing of such petition. An area shall be determined to be unserved by broadband if (i) the Department of Housing and Community Development has certified within the last 18 months that the designated area is unserved; (ii) the Virginia Telecommunication Initiative of the Department of Housing and Community Development has issued a grant or loan to construct a broadband service project within the last 18 months, and the grant or loan recipient is the Internet service provider to which the utility proposes to lease capacity; (iii) the federal government has issued a grant or loan or has provided support to construct a broadband service project in the designated area within the last 18 months, and the grant or loan recipient is the Internet service provider to which the utility proposes to lease capacity; or (iv) the Commission determines the area is unserved on the basis of other competent evidence. The determination of the Department of Housing and Community Development that an area is~~

unserved shall be made following public notice of the proposed finding and an opportunity for third parties to challenge such finding, and such determination shall be presumed sufficient for the Commission to find the area to be unserved. The Commission may determine that an area is unserved on the basis of other competent evidence.

E. An investor-owned utility shall be responsible to ~~obtain for obtaining~~ all necessary rights-of-way or other easements or real property rights to permit leasing of broadband capacity to ~~nongovernmental~~ Internet service providers. ~~An~~ Internet service provider shall be responsible to ~~obtain for obtaining~~ all necessary rights-of-way or other easements or real property rights from utility access point to permit the provision of broadband services to end-user customers.

F. As used in this section:

"Broadband" means Internet access at speeds *equal to or greater than 10 Mbps download speed and one Mbps upload speed*, ~~provided that the adequate speed as determined by the broadband guidelines set out by the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline modify such speeds~~ from time to time.

"Unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline increase such percentage from time to time.

G. No investor-owned utility nor any affiliate thereof may offer broadband or Internet service provider services to residential or commercial end-user customers in the Commonwealth pursuant to this section. Nothing in this section shall be construed to prevent an investor-owned utility or an affiliate thereof from providing transport of or capacity for broadband or Internet service *in the Commonwealth* as a wholesaler or intermediate vendor, provided that an unaffiliated ~~nongovernmental~~ third party is the provider of broadband or Internet services to the end-user customer.

H. The provision and extension of broadband capacity by an incumbent electric utility to an area of the Commonwealth unserved by broadband pursuant to a ~~pilot program~~ *petition* that the Commission approves pursuant to this section, including any business activity related to the construction or leasing of broadband capacity facilities, shall be exempt from any rules and regulations that the Commission has promulgated or may promulgate governing functional separation of generation, retail transmission, and distribution of incumbent electric utilities. Investor-owned electric utilities may for the purposes of this section engage in such coordination between and among their various corporate divisions as necessary for the purposes of providing broadband capacity to an area of the Commonwealth unserved by broadband.

I. The ~~pilot program~~ established pursuant to this section shall continue for the three-year period ending three years following the date the Commission approves the first petition to provide broadband capacity pursuant to this section, unless the Commission extends the pilot program or makes the pilot program permanent. At the termination of the pilot program, a utility shall continue to provide broadband capacity pursuant to leases existing as of the date of such termination.

J. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, lease *broadband-related assets or capacity* to any third party that is a wholesaler and that is not a government-owned broadband authority, for the purposes of providing broadband connectivity. The leases may, if the parties choose, extend in length beyond the end of the pilot program, notwithstanding any Commission order issued pursuant to subsection I terminating the pilot program. The revenues generated from such leases shall offset (i) the incremental costs of the ~~pilot program~~ *petition* recovered through the rate adjustment clause described in subsection B or (ii) the utility's electric cost of service.

2. That any pilot program established by Phase I or Phase II Utility prior to July 1, 2021, under § 56-585.1:9 of the Code of Virginia prior to the enactment of this act may continue, and the utility may maintain such pilot program at its discretion, under the terms originally established. Upon the expiration of such pilot program, the utility may seek to renew or extend such program pursuant to the terms of this act.

CHAPTER 370

An Act to amend and reenact § 56-585.1:9 of the Code of Virginia, relating to provision of broadband services by investor-owned electric utilities.

[S 1413]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:9 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:9. Provision of broadband capacity to unserved areas of the Commonwealth.

A. The Commission shall establish pilot programs under which each *Each* Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1, may submit one or more petitions to provide or make available broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband. ~~Any such petitions that a Phase I Utility submits shall not exceed \$60 million in costs annually. Any such petitions that a Phase II Utility submits shall not exceed \$60 million in costs annually.~~ The provision of such broadband capacity to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section is in the public interest.

B. The ~~incremental~~ costs of providing broadband capacity pursuant to any such ~~pilot program~~ *petition*, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, ~~2020~~ 2021, *as a non-bypassable charge. Notwithstanding any provision of subdivision A 6 or 7 of § 56-585.1, the utility may file one or more petitions for approval of such a rate adjustment clause, on a stand-alone basis, seeking recovery of the costs of providing broadband capacity at any time on or after July 1, 2021, and the Commission shall issue its final order regarding such petition within six months following the date of filing.*

C. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, pursuant to a ~~pilot program~~ *petition* that the Commissioner approves pursuant to this section, (i) own, manage, or control any broadband capacity equipment and electronics, including any plant, works, system, lines, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provision and extension of such broadband services; (ii) lease indefeasible rights of use in such broadband capacity equipment and electronics to ~~nongovernmental~~ Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section; and (iii) provide access points that are outside the utility's energized zone to allow connection between the utility's broadband capacity system and the ~~nongovernmental~~ Internet service provider's system.

D. Each petition to provide broadband capacity pursuant to this section that an investor-owned utility submits to the Commission shall identify the ~~nongovernmental~~ Internet service provider to which the utility shall lease such capacity, together with the area to be served using such capacity. The Commission shall, after notice and opportunity for hearing, initiate proceedings to review each petition submitted. ~~In determining whether an area is unserved by broadband, the Commission shall take into account the impact of any grants or loans made to provide broadband access to the designated area. The Commission's final order regarding any such petition shall be entered by the Commission not more than six months after the date of the filing of such petition. The Commission shall condition any approval of such petition on the requirement that construction shall commence within three years of such approval. If the utility fails to commence construction within such period, the utility may resubmit the petition for Commission approval. The Commission shall condition any approval of such petition on the requirement that construction shall commence within 18 months of such approval. If the utility fails to commence construction within such time period, the utility may resubmit the petition for conditional approval. The Commission shall also condition any approval of such petition on the requirement that the utility and its Internet service provider submit annual public reports on construction progress by the utility and delivery of broadband services by the Internet service provider until construction is completed. The Commission's final order regarding any such petition shall be entered by the Commission no more than six months after the date of filing of such petition. An area shall be determined to be unserved by broadband if (i) the Department of Housing and Community Development has certified within the last 18 months that the designated area is unserved; (ii) the Virginia Telecommunication Initiative of the Department of Housing and Community Development has issued a grant or loan to construct a broadband service project within the last 18 months, and the grant or loan recipient is the Internet service provider to which the utility proposes to lease capacity; (iii) the federal government has issued a grant or loan or has provided support to construct a broadband service project in the designated area within the last 18 months, and the grant or loan recipient is the Internet service provider to which the utility proposes to lease capacity; or (iv) the Commission determines the area is unserved on the basis of other competent evidence. The determination of the Department of Housing and Community Development that an area is unserved shall be made following public notice of the proposed finding and an opportunity for third parties to challenge such finding, and such determination shall be presumed sufficient for the Commission to find the area to be unserved. The Commission may determine that an area is unserved on the basis of other competent evidence.~~

E. An investor-owned utility shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or other easements or real property rights to permit leasing of broadband capacity to ~~nongovernmental~~ Internet service providers. A ~~nongovernmental~~ Internet service provider shall be responsible to ~~obtain~~ *for obtaining* all necessary rights-of-way or other easements or real property rights from utility access point to permit the provision of broadband services to end-user customers.

F. As used in this section:

"Broadband" means Internet access at speeds *equal to or greater than 10 MBps download speed and one MBps upload speed, provided that the adequate speed as determined by the broadband guidelines set out by the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline modify such speeds* from time to time.

"Unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline increase such percentage from time to time.

G. No investor-owned utility nor any affiliate thereof may offer broadband or Internet service provider services to residential or commercial end-user customers in the Commonwealth pursuant to this section. Nothing in this section shall be construed to prevent an investor-owned utility or an affiliate thereof from providing transport of or capacity for broadband or Internet service *in the Commonwealth* as a wholesaler or intermediate vendor, provided that an unaffiliated ~~nongovernmental~~ third party is the provider of broadband or Internet services to the end-user customer.

H. The provision and extension of broadband capacity by an incumbent electric utility to an area of the Commonwealth unserved by broadband pursuant to a ~~pilot program~~ *petition* that the Commission approves pursuant to this section, including any business activity related to the construction or leasing of broadband capacity facilities, shall be exempt from any rules and regulations that the Commission has promulgated or may promulgate governing functional separation of generation, retail transmission, and distribution of incumbent electric utilities. Investor-owned electric utilities may for the purposes of this section engage in such coordination between and among their various corporate divisions as necessary for the purposes of providing broadband capacity to an area of the Commonwealth unserved by broadband.

I. ~~The pilot program established pursuant to this section shall continue for the three-year period ending three years following the date the Commission approves the first petition to provide broadband capacity pursuant to this section, unless the Commission extends the pilot program or makes the pilot program permanent. At the termination of the pilot program, a utility shall continue to provide broadband capacity pursuant to leases existing as of the date of such termination.~~

~~J. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, lease *broadband-related assets or capacity* to any third party that is a wholesaler and that is not a government-owned broadband authority, for the purposes of providing broadband connectivity. The leases may, if the parties choose, extend in length beyond the end of the pilot program, notwithstanding any Commission order issued pursuant to subsection I terminating the pilot program. The revenues generated from such leases shall offset (i) the incremental costs of the pilot program *petition* recovered through the rate adjustment clause described in subsection B or (ii) the utility's electric cost of service.~~

2. That any pilot program established by Phase I or Phase II Utility prior to July 1, 2021, under § 56-585.1:9 of the Code of Virginia prior to the enactment of this act may continue, and the utility may maintain such pilot program at its discretion, under the terms originally established. Upon the expiration of such pilot program, the utility may seek to renew or extend such program pursuant to the terms of this act.

CHAPTER 371

An Act to amend and reenact § 44 and § 133, as amended, of Chapter 34 of the Acts of Assembly of 1918 and to repeal § 61 of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, relating to general updates.

[S 1128]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 44 and § 133, as amended, of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted as follows:

§ 44. Presumptions.

All signatures to any petition mentioned in the preceding section hereof shall be accepted and treated as prima facie genuine. For the purpose of certifying the number of qualified voters whose names are signed to any such petition the clerk of the corporation court of said city shall presume that any person whose name appears thereon is a qualified voter if ~~such person (a) is exempt from the payment of poll taxes as a prerequisite to voting, or (b) appears from the treasurer's list of persons who have paid their poll taxes to have complied with the law as to payment of poll taxes so as to be a qualified voter on the date of his signature~~ under the provisions and within the meaning of § 45 hereof, assuming him to be duly registered.

All such petitions substantially complying with the requirements of this charter and certified by said clerk to bear the required number of signatures of qualified voters shall be accepted and treated as prima facie sufficient. The burden of proving the insufficiency of any such petition in any respect shall be upon the person alleging the same.

§ 133. Qualification of members of the council and other officials.

The members of the council before entering upon the duties of their respective offices shall each take the oaths prescribed by the laws of this State for state officers. Such oaths may be administered by any judge of a court of record commissioned to hold such court within said city, or by any justice of the peace within said city, and the certificate thereof shall be filed with the city clerk and entered upon the record of the council. Every other person elected or appointed to any office under this charter or under any ordinance of the council, except clerks and laborers, shall before entering upon the duties of his office take and subscribe said oaths together with such other oaths as may be required by ordinance, before ~~any such court or justice of the peace of said~~ *the city clerk*, and the certificate of the same shall be ~~filed~~ *kept on file* in the office of said city clerk. The clerk of the corporation court of said city shall notify all persons elected by the people *or appointed* under this charter of their election *or appointment*, and the city clerk shall notify all persons elected by the council of their election. If any person elected *or appointed* to any office in the said city shall for ten days after receiving notice of election fail to take such oaths and give such bonds, with security, as may be required by law or ordinance, he shall be considered as having declined said office and the same shall be deemed vacant, and such vacancy shall be filled according to the provisions of this charter.

2. That § 61 of Chapter 34 of the Acts of Assembly of 1918 is repealed.

CHAPTER 372

An Act to amend and reenact § 5.1-5 of the Code of Virginia, relating to aircraft; registration and licensing.

[S 1144]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 5.1-5 of the Code of Virginia is amended and reenacted as follows:

§ 5.1-5. Registration of aircraft.

A. Every resident of the Commonwealth owning a civil aircraft, every nonresident owning a civil aircraft based in the Commonwealth for more than 90 days during any calendar year, and every owner of an aerial application aircraft operating within the Commonwealth or of a civil aircraft operated in the Commonwealth as a for-hire intrastate air carrier shall register such aircraft with the Department before such aircraft is operated in the Commonwealth.

B. The Department shall provide for the issuance, expiration, suspension, and revocation of aircraft registration in accordance with regulations promulgated by the Board. ~~Such aircraft registration or registration requirement shall be considered the licensure or licensure requirement for~~ For the purposes of the tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1, ~~including any credit granted pursuant to § 58.1-1504 against such tax, such aircraft registration shall be considered the licensure required by such chapter.~~ The Department shall furnish any necessary forms pursuant to the issuance of such registration and may assess a fee for such issuance not in excess of \$5 annually. The Department may, in lieu of issuing aircraft registration required by subsection A, issue commercial aircraft registration to air carriers and commercial dealers and issue to noncommercial dealers noncommercial dealer fleet registration, to cover all aircraft owned by such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer. The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet registrations issued and a fee not in excess of \$100 annually for any such commercial fleet registrations issued. The fee for a commercial single aircraft registration shall not be in excess of \$10 annually.

C. Notwithstanding the provisions of subsection A, no aircraft shall be required to be registered if the aircraft is brought into the Commonwealth solely for major maintenance or major repair. An aircraft owner shall provide proof that the aircraft is based at an airport in another state, shown by evidence of a hangar or tie-down lease for a minimum of 12 months prior to the aircraft being brought into the Commonwealth, and proof of the work being performed in the Commonwealth, shown by presentation of invoices that describe such work.

CHAPTER 373

An Act to amend and reenact §§ 58.1-439.12:06, 58.1-439.12:09, and 58.1-439.12:10 of the Code of Virginia, relating to Port of Virginia tax credits; sunset.

[S 1158]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.12:06, 58.1-439.12:09, and 58.1-439.12:10 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.12:06. International trade facility tax credit.

A. As used in this section, unless the context requires a different meaning:

"Affiliated companies" means two or more companies related to each other so that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) the same interest owns at least 80 percent of the voting power of two or more companies.

"Capital investment" means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year and the cost of machinery, tools, and equipment used in an international trade facility directly related to the movement of cargo. Capital investment includes expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. For purposes of this section, machinery, tools, and equipment shall be deemed to include only that property placed in service by the international trade facility on and after January 1, 2011. Machinery, tools, and equipment excludes property (i) for which a credit under this section was previously granted; (ii) placed in service by the taxpayer, a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or by a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; or (iii) previously in service in the Commonwealth that has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired or § 1014(a) of the Internal Revenue Code, as amended.

"Capital investment" shall not include:

1. The cost of acquiring any real property or building;
2. The cost of furnishings;

3. Any expenditure associated with appraisal, architectural, engineering, or interior design fees;
4. Loan fees, points, or capitalized interest;
5. Legal, accounting, realtor, sales and marketing, or other professional fees;
6. Closing costs, permit fees, user fees, zoning fees, impact fees, and inspection fees;
7. Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities costs incurred during construction;
8. Utility hook-up or access fees;
9. Outbuildings; or
10. The cost of any well or septic system.

"Credit year" means the first taxable year following the taxable year in which the international trade facility commenced or expanded its operations. A separate credit year and a three-year allowance shall exist for each distinct international trade facility of a single taxpayer.

"International trade facility" means a company that:

1. Is engaged in port-related activities, including, but not limited to, warehousing, distribution, freight forwarding and handling, and goods processing;
2. Uses maritime port facilities located in the Commonwealth; and
3. Transports at least five percent more cargo through maritime port facilities in the Commonwealth during the taxable year than was transported by the company through such facilities during the preceding taxable year.

"New, permanent full-time position" means a job of indefinite duration, created by the company after establishing or expanding an international trade facility in the Commonwealth, requiring a minimum of 35 hours of employment per week for each employee for the entire normal year of the company's operations, or a position of indefinite duration that requires a minimum of 35 hours of employment per week for each employee for the portion of the taxable year in which the employee was initially hired for, or transferred to, the international trade facility in the Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in the Commonwealth to the international trade facility, and positions in building and grounds maintenance, security, and other such positions that are ancillary to the principal activities performed by the employees at the international trade facility shall not qualify as new, permanent full-time positions.

"Normal year" means at least 48 weeks in a calendar year.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in an international trade facility in the Commonwealth.

"Qualified trade activities" means the completed exportation or importation of at least (i) one International Organization for Standardization ocean container with a minimum 20-foot length, (ii) 16 tons of noncontainerized cargo, or (iii) one unit of roll-on/roll-off cargo through any publicly or privately owned cargo facility located within the Commonwealth through which cargo is transported. Export cargo must be loaded on a barge or ocean-going vessel and import cargo must be discharged from a barge or ocean-going vessel at such facility.

B. For taxable years beginning on and after January 1, 2011, but before January 1, 2022 2025, a taxpayer satisfying the requirements of this section shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.). The amount of the credit earned pursuant to this section shall be equal to either (i) \$3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or (ii) an amount equal to two percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities. The election of which tax credit amount to claim shall be the responsibility of the taxpayer. Both tax credits shall not be claimed for the same activities that occur in a calendar year. The portion of the \$3,500 credit earned with respect to any qualified full-time employee who works in the Commonwealth for less than 12 full months during the credit year shall be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months such employee worked for the international trade facility in the Commonwealth during the credit year and the denominator of which is 12.

C. The Tax Commissioner shall issue tax credits under this section, and in no case shall the Tax Commissioner issue more than \$1,250,000 in tax credits pursuant to this section in any fiscal year of the Commonwealth. If the amount of tax credits requested under this section for any taxable year exceeds \$1,250,000, such credits shall be allocated proportionately among all qualified taxpayers. The Tax Commissioner shall not issue tax credits under this section subsequent to the Commonwealth's fiscal year ending on June 30, 2022 2025. The taxpayer shall not be allowed to claim any tax credit under this section unless it has applied to the Department for the tax credit and the Department has approved the credit. The Department shall determine the credit amount allowable for the taxable year and shall provide a written certification to the taxpayer, which certification shall report the amount of the tax credit approved by the Department. The taxpayer shall attach the certification to the applicable income tax return.

D. The amount of the credit allowed pursuant to this section shall not exceed 50 percent of the tax imposed for the taxable year. Any remaining credit amount may be carried forward for the next 10 taxable years. In the event a taxpayer who is subject to the limitation imposed pursuant to this subsection is allowed a different tax credit pursuant to another section of the Code, or has a credit carry forward from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit that does not have a carry forward provision, and then any credit carried forward from a preceding taxable year, before using any of the credit allowed pursuant to this section.

E. No credit shall be earned for any employee (i) for whom a credit under this section was previously earned by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; (ii) who was previously employed in the same job function in Virginia by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; (iii) whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or by a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; or (iv) whose job function previously qualified for a credit under this section at a different major business facility, as defined in subsection C of § 58.1-439, on behalf of the taxpayer, by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

G. For purposes of this section, two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees or the amounts of capital investments as the result of the establishment or expansion by the individual companies in order to qualify for the credit allowed herein.

H. Recapture of the credit amount, under the following circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable year in which a credit has been earned pursuant to this section if the number of qualified full-time employees falls below the average number of qualified full-time employees during the taxable year. The tax increase amount shall be determined by (i) recalculating the credit that would have been earned for the original taxable year using the decreased number of qualified full-time employees and (ii) subtracting the recalculated credit amount from the amount previously earned. In the event that the average number of qualified full-time employees employed at an international trade facility falls below the number employed by the taxpayer prior to claiming any credits pursuant to this section in any of the five taxable years succeeding the year in which the credits were earned, all credits earned with respect to the international trade facility shall be recaptured. No credit amount shall be recaptured more than once pursuant to this subsection. Any recapture pursuant to this subsection shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability is increased.

I. Notwithstanding the provisions of § 58.1-3, the Department of Taxation shall annually provide information to the Virginia Port Authority related to tax credits issued pursuant to this section.

J. The Tax Commissioner shall issue guidelines that are necessary and desirable to carry out the provisions of this section, including (i) the computation, carryover, and recapture of the credits provided under this section; (ii) the establishment of criteria for (a) international trade facilities, (b) qualified full-time employees at such facilities, and (c) capital investments; and (iii) the computation, carryover, recapture, and redemption of the credit by affiliated companies. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-439.12:09. Barge and rail usage tax credit.

A. As used in this section:

"International trade facility" means a company that:

1. Is doing business in the Commonwealth and engaged in port-related activities, including but not limited to warehousing, distribution, freight forwarding and handling, and goods processing;
2. Has the sole discretion and authority to move cargo originating or terminating in the Commonwealth;
3. Uses maritime port facilities located in the Commonwealth; and
4. Uses barges and rail systems to move cargo through port facilities in the Commonwealth rather than trucks or other motor vehicles on the Commonwealth's highways.

B. For taxable years beginning on and after January 1, 2011, but before January 1, ~~2022~~ 2025, a company that is an international trade facility shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.); Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26. The amount of the credit shall be \$25 per 20-foot equivalent unit (TEU), 16 tons of noncontainerized cargo, or one unit of roll-on/roll-off cargo moved by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways.

C. The Tax Commissioner shall issue tax credits under this section, and in no case shall the Tax Commissioner issue more than \$500,000 in tax credits pursuant to this section in any fiscal year of the Commonwealth. In addition, the Tax Commissioner shall not issue tax credits under this section subsequent to the Commonwealth's fiscal year ending on June 30, ~~2022~~ 2025. The international trade facility shall not be allowed to claim any tax credit under this section unless it has applied to the Department for the tax credit and the Department has approved the credit. The Department shall determine the credit amount allowable for the year and shall provide a written certification to the international trade facility, which certification shall report the amount of the tax credit approved by the Department. The international trade facility shall attach the certification to the applicable tax return.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

E. Any credit not usable for the taxable year may be carried over for the next five taxable years or until such credit is fully taken, whichever occurs first. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, before using any credit allowed pursuant to this section.

F. Notwithstanding the provisions of § 58.1-3, the Department of Taxation shall annually provide information to the Virginia Port Authority related to tax credits issued pursuant to this section.

G. The Tax Commissioner shall issue guidelines that are necessary and desirable to carry out the provisions of this section, including (i) the computation and carryover of the credits provided under this section and (ii) the establishment of criteria for international trade facilities. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-439.12:10. Virginia port volume increase tax credit.

A. As used in this section, unless the context indicates otherwise:

"Agricultural entity" means a person engaged in growing or producing wheat, grains, fruits, nuts, crops; tobacco, nursery, or floral products; forestry products excluding raw wood fiber or wood fiber processed or manufactured for use as fuel for the generation of electricity; or seafood, meat, dairy, or poultry products.

"Base year port cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually transported by way of a waterborne ship or vehicle through a port facility during the period from (i) January 1, 2010, through December 31, 2010, for manufacturing-related entities or (ii) January 1, 2012, through December 31, 2012, for agricultural entities and mineral and gas entities. Base year port cargo volume must be at least 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo for a taxpayer to be eligible for the credits provided in this section. For a taxpayer that does not ship that amount in the year ending December 31, 2010, or December 31, 2012, as applicable, including a taxpayer who locates in Virginia after such periods, its base cargo volume will be measured by the initial January 1 through December 31 calendar year in which it meets the requirements of 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo. Base year port cargo volume must be recalculated each calendar year after the initial base year.

"Major facility" means a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs in its first calendar year.

"Manufacturing-related entity" means a person engaged in the manufacturing of goods or the distribution of manufactured goods.

"Mineral and gas entity" means a person engaged in severing minerals or gases from the earth.

"Port cargo volume" means the total amount of net tons of noncontainerized cargo, net units of roll-on/roll-off cargo, or containers measured in TEUs of cargo transported by way of a waterborne ship or vehicle through a port facility.

"Port facility" means any publicly or privately owned facility located within the Commonwealth through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside the Commonwealth and which handles cargo owned by third parties in addition to cargo owned by the port facility's owner.

"TEU" or "20-foot equivalent unit" means a volumetric measure based on the size of a container that is 20 feet long by eight feet wide by eight feet, six inches high.

B. 1. For taxable years beginning on and after January 1, 2011, but before January 1, ~~2022~~ 2025, a taxpayer that is an agricultural entity, manufacturing-related entity, or mineral and gas entity that uses port facilities in the Commonwealth and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 in an amount determined by the Virginia Port Authority. The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any taxpayer that qualifies as a major facility.

2. Qualifying taxpayers that increase their port cargo volume by a minimum of five percent in a qualifying calendar year shall receive a \$50 credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, above the base year port cargo volume. A qualifying taxpayer that is a major facility as defined in this section shall receive a \$50 credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, transported through a port facility during the major facility's first calendar year. A qualifying taxpayer may not receive more than \$250,000 for each calendar year except as provided for in subdivision C 2. The maximum amount of credits allowed for all qualifying taxpayers pursuant to this section shall not exceed \$3.2 million for each calendar year. The Virginia Port Authority shall allocate the credits pursuant to the provisions in subdivisions C 1 and C 2.

3. If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

4. The credit may be claimed by the taxpayer as provided in subdivision 1 only if the taxpayer owns the cargo at the time the port facilities are used.

C. 1. For every year in which a taxpayer claims the credit, the taxpayer shall submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The taxpayer shall attach a schedule to the taxpayer's application to the Virginia Port Authority with the following information and any other information requested by the Virginia Port Authority or the Department:

a. A description of how the base year port cargo volume and the increase in port cargo volume were determined;

b. The amount of the base year port cargo volume;

c. The amount of the increase in port cargo volume for the taxable year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo, TEUs of cargo, and units of roll-on/roll-off cargo, as applicable, including information that demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the tax credits pursuant to this section;

d. Any tax credit utilized by the taxpayer in prior years; and

e. The amount of tax credit carried over from prior years.

2. If on March 15 of each year the \$3.2 million amount of credit is not fully allocated among qualifying taxpayers, then those taxpayers who have been allocated a credit for the prior year shall be allowed a pro rata share of the remaining allocated credit up to \$3.2 million. If on March 15 of each year, the cumulative amount of tax credits requested by qualifying taxpayers for the prior year exceeds \$3.2 million, then the \$3.2 million in credits shall be prorated among the qualifying taxpayers who requested the credit.

3. The taxpayer shall claim the credit on its income tax return in a manner prescribed by the Department. The Department may require a copy of the certification form issued by the Virginia Port Authority be attached to the return or otherwise provided. Qualifying taxpayers may also claim the credit pursuant to § 58.1-439.12:09 for the same containers, noncontainerized cargo, or roll-on/roll-off units of cargo for which a credit is claimed under this section provided such taxpayer meets the applicable criteria set forth therein.

D. 1. Any taxpayer holding a credit under this section may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this section shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner. The transferred credits may be retroactively applied from the date such credits were originally issued, and the transferee may file an amended return under this chapter to claim such transferred credit for a prior tax year. However, nothing in this section shall be construed to extend the statute of limitations for filing an amended return under § 58.1-1823 or any other provision of law.

2. No transfer of tax credits pursuant to the provisions of this subsection shall be allowed unless such transfer occurs within one calendar year of the credit holder earning such credit.

3. Only tax credits issued in taxable years beginning on and after January 1, 2018, but before January 1, 2022 2025, shall be transferable pursuant to the provisions of this subsection.

E. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership interests in such business entities.

CHAPTER 374

An Act to amend and reenact §§ 46.2-644.01, 46.2-644.02, 46.2-644.03, 46.2-1200.2, 46.2-1202, 46.2-1202.1, 46.2-1203, 46.2-1209, and 46.2-1212.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 6 of Title 46.2 a section numbered 46.2-644.04 and by adding sections numbered 46.2-1200.3 and 46.2-1202.2, relating to vehicles; liens; abandoned vehicles; removing vehicles involved in accidents.

[S 1160]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-644.01, 46.2-644.02, 46.2-644.03, 46.2-1200.2, 46.2-1202, 46.2-1202.1, 46.2-1203, 46.2-1209, and 46.2-1212.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 6 of Title 46.2 a section numbered 46.2-644.04 and by adding sections numbered 46.2-1200.3 and 46.2-1202.2 as follows:

§ 46.2-644.01. Lien of keeper of vehicles.

A. For purposes of this section, "keeper of vehicles" means a garage keeper; a person keeping any vehicles, including a self-storage facility; and a tow truck driver or towing and recovery operator furnishing services involving the towing and recovery of vehicles.

B. Every keeper of a garage and every person keeping any vehicles shall have a lien upon such vehicles for the amount that may be due him for the towing, storage, recovery, and care thereof, until such amount is paid.

Such lien shall be in addition to any lien under § 46.2-644.02. Any garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall, within 30 days from the date of delivery, have a lien upon such vehicle pursuant to this section, provided that action has not been taken pursuant to such sections for the sale of the vehicle.

B. C. In the case of any vehicle subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money for which the title shows an existing lien, the keeper of the garage vehicles shall have a lien thereon upon the vehicle for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 46.2-644.02 not to exceed \$1,000. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the Department of Motor Vehicles by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of Motor Vehicles within seven business days of taking possession of the vehicle. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the vehicle shall be subject to subsection D; however, the keeper of vehicles shall also be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens. In addition, any tow truck driver or towing and recovery operator shall have a lien for all normal costs incident to any towing and recovery services furnished for the vehicle.

In the case of any vehicle not subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money an existing lien on the title, the keeper of the garage vehicles shall have a lien thereon for his reasonable charges for storage under this section and for alteration and repair, alone or in combination with a lien under § 46.2-644.02 not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.

C. In addition, any person furnishing services involving the towing and recovery of a vehicle shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the vehicle by certified mail, return receipt requested, to all secured parties of record at the Department of Motor Vehicles.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid. The keeper of vehicles, or the authorized agents of such, shall ascertain from the Department whether the certificate of title for the vehicle shows a lien in accordance with the provisions of § 46.2-644.03 within seven business days of taking possession of the vehicle. The owner or lienholder shall have 10 business days from the date of the notice sent by the Department pursuant to § 46.2-644.03 to reclaim the vehicle. The terms for such reclamation shall be the payment of the amount due to the keeper of the vehicles or other amount as agreed by the parties. If the vehicle remains unclaimed, the keeper of the vehicles may enforce the lien under the provisions of § 46.2-644.03 or relinquish the lien under the provisions of § 46.2-644.04.

For purposes of this subsection, the date of possession for a garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall be the date such lien attaches, and the date of possession for a self-storage facility shall be the date on which the facility owner learns that a leased space subject to default contains a motor vehicle.

E. Any lien created under this section shall not extend to any personal property that is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it vehicles to permit the owner if to access the vehicle in order to recover his personal property, provided the owner claims and retrieves the items at least two business days prior to the auction date. The keeper of vehicles may dispose of any unclaimed personal property.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner, or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck, shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

§ 46.2-644.02. Lien of mechanic for repairs.

A. Every mechanic who shall alter or repair any article of personal property vehicle at the request of the owner or authorized person in possession of such property vehicle shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid. Such lien shall be in addition to any lien under § 46.2-644.01.

Every mechanic who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money; the person so in possession having authority to use such property, shall have a lien thereon for his just and reasonable charges therefor to the extent of \$1,000 or, if the property is a motor vehicle and is not subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, an amount not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1. In addition, such mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid. In any action to enforce the lien hereby given all persons having an interest in the property sought to be subjected shall be made parties defendant.

B. No lien under this section shall exceed \$1,000 for any vehicle for which the title shows an existing lien. However, the mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens.

For any vehicle not subject to an existing lien on the title, no lien under this section, alone or in combination with a lien under § 46.2-644.01, shall exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.

C. The mechanic or his authorized agent shall ascertain from the Department whether the certificate of title for the vehicle shows a lien thereon in accordance with the provisions of § 46.2-644.03 within seven business days after the due date of an invoice for the amount due for the alteration or repair. The mechanic may then enforce his lien under the provisions of § 46.2-644.03 after such invoice goes unpaid for 10 days after it is due or relinquish his lien under the provisions of § 46.2-644.04.

D. If the owner of the property vehicle held by the mechanic shall desire to obtain possession thereof, he shall make the mechanic defendant in proceeding in the county or municipal court to recover the property vehicle.

The owner may give a bond payable to the court, in a penalty of the amount equal to the lien claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for the performance of the final judgment of the court on the trial of the proceeding, and with a further condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the mechanic on such property vehicle, or any part thereof, be enforced, judgment may thereupon be entered against the obligors on such bond for the amount due the mechanic and court costs, if assessed against the owner, without further or other proceedings against them thereon. Upon giving of the bond, the property vehicle shall be delivered to the owner.

§ 46.2-644.03. Enforcement of liens acquired under §§ 46.2-644.01 and 46.2-644.02.

A. For the purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public:

"Bailee" means anyone who has one or more liens under § 46.2-644.01 or 46.2-644.02.

"Independent appraisal" means an estimate for the value of a motor vehicle prepared by an individual or business that (i) has all required business licenses and zoning approvals and (ii) is either a licensed appraiser in another state or a business authorized by an insurance company to prepare insurance appraisals. "Independent appraisal" does not include an estimate prepared by an individual or business with a financial interest in the bailee's business.

B. Any person having bailee eligible to enforce a lien under §§ 46.2-644.01 and 46.2-644.02 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession that he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and, if the value of the property vehicle affected by the lien does not exceed \$12,500, may sell such property or so much thereof as may be necessary, vehicle by public auction, for cash, in accordance with the provisions of this section. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder of record, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues vehicle, provided such lienholder or owner contacts the bailee prior to the sale to claim any surplus that may result. If such claim is made by the lienholder or owner within 30 days following the sale, the surplus shall be paid within 30 days of the claim. If no claim to the surplus is made within 30 days of the sale, or if the owner or lienholder cannot be ascertained by the Department, the bailee shall be entitled to keep the surplus.

Before making the sale, the seller shall advertise the time, place, and terms thereof in any of the following places: (i) a public place in the county or city where the property is located; (ii) a website operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) a newspaper of general circulation in the county or city where the property is located, either in print or on its website. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. At that time, the Commissioner shall also determine the value of the property and shall communicate it to the bailee. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed. Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

C. Before any lien may be enforced under this section, the bailee or his authorized agent shall initiate with the Department, in a manner prescribed by the Commissioner, a search for the owner and lienholder of record for the vehicle, the names and addresses of which if found shall be provided to the bailee. Any bailee or authorized agent who initiates more than five such requests within any 12-month period shall enter into an agreement with the Department to initiate requests and receive responses electronically.

The Department shall check (i) its own records, (ii) the records of a nationally recognized crime database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported stolen, the Department shall notify the appropriate law-enforcement agency of that fact. If a vehicle is found to have been titled in another jurisdiction, the Department shall contact that jurisdiction to ascertain the requested

information and provide it to the bailee. At the time of the search, the Department shall also determine the value of the vehicle, using the trade-in value specified in a recognized pricing guide, and, for a vehicle titled in the Commonwealth, whether the records of the Department show that the owner of the vehicle has indicated that he is on active military duty or service. The Department shall include such information in the response to the request for vehicle information.

After responding to the request for vehicle information, the Department shall notify the owner and any lienholder of record of the request by first-class mail to the address provided on the vehicle record held by the Department or by the jurisdiction in which the vehicle is titled. Such notice shall include the name and contact information of the bailee and any terms for reclaiming the vehicle, as well as any additional information the Commissioner determines to be necessary.

No notice by the Department shall be required if no record for the vehicle can be found or, in the case of a vehicle titled in another jurisdiction, the other jurisdiction refuses to release the requested vehicle information to the Department. In either situation, the bailee may continue with lien enforcement under this section. However, if a vehicle record exists in another jurisdiction, the bailee shall assume all liability for proceeding with such enforcement without written notice to the owner and/or lienholder of record.

For every vehicle subject to a record search as provided for in this section, if the record for the vehicle is held by the Department, the Department shall place an administrative hold on the vehicle record until the bailee reports to the Department that the vehicle has been reclaimed or sold pursuant to this section.

D. Any bailee enforcing a lien in accordance with this section shall notify the Department of his intent to sell the vehicle in a manner prescribed by the Commissioner. A \$40 fee shall be paid to the Department at the time of notice. Upon receipt of such notice and fee, the Department shall repeat the vehicle record search prescribed in subsection A for the purpose of confirming the most recent owner and lienholder information for the vehicle.

If the Department confirms owner or lienholder information, either through a search of its own records or those of another jurisdiction, the Department shall notify the owner, at the last known address of record, and any lienholder, at the last known address of record, of the intent to sell the vehicle, by certified mail, return receipt requested, and advise them to reclaim the vehicle and repay the debt owed within 15 days from the date the notice was sent. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received.

Following the notice required in this subsection, if the vehicle remains unclaimed and the debt unpaid, the owner and all persons having security interest shall have waived all right, title, and interest in the vehicle, except to the extent that subsection B requires a surplus to be paid. The bailee shall notify the Department in a manner prescribed by the Commissioner within five business days if the vehicle is reclaimed and the debt paid. Should the bailee fail to notify the Department as required herein, and the Department must remove the administrative hold placed under subsection C at the request of the vehicle owner or lienholder, and upon submission of proof that the debt was paid and the vehicle reclaimed, the Department may impose and collect an administrative fee of \$40 from the bailee for each such removal.

E. At the time the bailee notifies the Department of his intent to sell the motor vehicle, the bailee shall provide the intended date of sale at public auction, including the time, place, and terms of such sale. The intended date shall be at least 21 days after the date of notification. The Department shall post notice on behalf of the bailee for at least 21 days prior to the date of sale, advertising the time, place, and terms of the sale. Such 21-day posting period shall run concurrently with the 15-day reclamation period provided for in subsection D. Notifications and postings shall be in an electronic manner prescribed by the Commissioner and shall include the vehicle identification number and a description of each vehicle to be sold. No other postings or notices advertising the sale shall be required.

Upon notice by the bailee that the vehicle will be sold, the Department shall provide a certification document in a manner prescribed by the Commissioner to the bailee. The bailee shall complete all applicable certification statements on the document and provide it to the buyer of the vehicle, who shall submit the document and an application to the Department in order to obtain a certificate of title for the vehicle. Upon receipt of a completed application and certification document, the Department shall issue a certificate of title to the buyer or a nonrepairable certificate, if requested, free of all prior liens and claims of ownership of others.

F. If the value of the ~~property~~ vehicle is more than \$12,500 but does not exceed \$25,000, the ~~party having the lien~~ bailee, after giving the notice as herein provided is sent by the Department pursuant to subsection C, may apply by petition to any general district court of the county or city wherein the ~~property~~ vehicle is, or, if the value of the ~~property~~ vehicle exceeds \$25,000, to the circuit court of the county or city, for the sale of the ~~property~~ vehicle. No notice sent by the Department pursuant to this section shall substitute for service of process for any court proceeding. If the name of the owner cannot be ascertained, the name "John Doe" shall be substituted in any proceeding pursuant to this section.

If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the ~~property~~ vehicle should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias. No additional notifications or postings by the Department related to the sale shall be required.

If a court has ordered the sale of the vehicle, the bailee shall submit to the Department a copy of the court order in a manner prescribed by the Commissioner. Upon receipt, the Department shall provide a certification document to the bailee. The bailee and sheriff conducting the sale, or his authorized representative, shall complete all applicable certification statements on the document and provide it to the buyer of the vehicle, who shall submit the document and an application to the Department in order to obtain a certificate of title for the vehicle. Upon receipt of a completed application and

certification document, the Department shall issue a certificate of title to the buyer or a nonrepairable certificate, if requested, free of all prior liens and claims of ownership of others.

G. In determining the value of the property as required by this section, the Commissioner shall use a recognized pricing guide and, in using such guide, shall use the trade-in value specified in such guide.

If the owner of the property is a resident of the Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If the owner of the property is a nonresident or if his address is unknown, any notice required by this section may be served by posting a copy thereof in three of any of the following places in any combination: (i) one or more public places in the county or city where the property is located; (ii) one or more websites operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) one or more newspapers of general circulation in the county or city where the property is located, either in print or on their websites. However, the bailee may submit an independent appraisal and supporting documentation to show the accurate value of the vehicle in a manner prescribed by the Commissioner. Upon receipt, the Department shall update the vehicle record to reflect the value established by the independent appraisal and notify the bailee that enforcement under this section may proceed based on the new value.

If the Department is unable to determine a trade-in value for a vehicle, the Commissioner may establish guidelines for acceptable alternate valuation options to include independent appraisals and retail or loan values that may be available in online or printed pricing guides. The bailee may submit documentation pursuant to such guidelines in order to establish the value of the vehicle.

If the property is a motor vehicle H. For a vehicle (i) for which neither the owner nor any other lienholder or secured party can be determined by the Department of Motor Vehicles through a diligent search of its records as required by this section, (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a value of no more than \$3,000 \$4,500 as determined by the provisions of § 8.01-419.1 this section, a person having a lien on such vehicle bailee may, after showing proof that the vehicle has been in his continuous custody for at least 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his application containing the serial or motor number of the vehicle purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that he has complied with said order.

Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that action has not been taken pursuant to such sections for the sale of such motor vehicle.

I. Notwithstanding any provisions to the contrary, any person having a lien under § 46.2-644.01 or 46.2-644.02 a bailee shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.) (the Act) when disposing of a vehicle owned by a member of the military on active duty or service. If the records of the Department show that the owner of the vehicle has indicated to the Department that he is on active military duty or service, such indicator shall be prima facie evidence that the vehicle is subject to the provisions of the Act. However, neither the presence nor absence of such indicator on the vehicle record shall absolve the bailee of his obligation to ascertain the owner's military service status, if any, in accordance with the Act.

J. All fees imposed and collected pursuant to this section shall be paid into the state treasury and set aside as a special, nonreverting fund to be used to meet the expenses of the Department.

K. Residents or businesses of other jurisdictions in possession of vehicles titled in the Commonwealth, or the authorized agents of such residents or businesses, seeking to enforce laws in those jurisdictions that are substantially similar to the enforcement of liens under §§ 46.2-644.01 and 46.2-644.02 may request information for such vehicles from the Department. The Department shall conduct the information search as provided for in subsection C, provide the names and addresses of the owner and lienholder, if any, for each vehicle to the requester, and notify the named owner and lienholder, if any, by first-class mail of the request. Such notification shall not replace any notification requirements imposed by the jurisdiction in which the requester and subject vehicle are located, nor shall the enforcement rules of this section apply to vehicles not located within the Commonwealth. If the Department finds that the vehicle is titled in another jurisdiction, the Department shall identify that jurisdiction to the requester with no further obligation to the requester or vehicle owner. The Department shall collect a \$25 fee for such search.

§ 46.2-644.04. Relinquishment of liens acquired under §§ 46.2-644.01 and 46.2-644.02.

A. For purposes of this section, "bailee" means the same as that term is defined in § 46.2-644.03.

B. A bailee may relinquish a lien acquired under § 46.2-644.01 or 46.2-644.02, provided that (i) the Department has completed a vehicle record search pursuant to subsection C of § 46.2-644.03 and determined that no lien exists on the vehicle record, whether held by the Department or another state, and (ii) the vehicle owner has not reclaimed the vehicle as provided for in § 46.2-644.01 or 46.2-644.02. Such relinquishment shall permit the bailee to transfer possession of the vehicle to an unaffiliated tow truck driver, towing and recovery operator, or keeper of a garage, whose business is located within the same locality as the bailee.

C. Any lien relinquishment hereunder shall be reported to the Department by the bailee on a form and in a manner prescribed by the Commissioner within five business days of the transfer of possession of the vehicle. Such form shall include (i) the make, model, model year, and vehicle identification number of the vehicle; (ii) the name and address of the bailee; (iii) the name and address of the person or entity receiving the vehicle; and (iv) the date of transfer of possession.

Upon receipt of the relinquishment form, the Department shall note such relinquishment on the vehicle record and notify the owner by first-class mail at the last known address of record that the bailee has relinquished the lien and transferred possession of the vehicle. The Department shall collect a \$5 administrative fee for this process from the bailee. Such fee shall be paid into the state treasury and set aside as a special, nonreverting fund to be used to meet the expenses of the Department.

D. Upon taking possession of a vehicle for which a lien has been relinquished pursuant to this section, a towing and recovery operator or keeper of a garage shall have a lien on the vehicle in accordance with § 46.2-644.01 and all enforcement provisions applicable to such lien shall remain in place. No other relinquishment may take place under this section for the same vehicle until the lien created under this subsection is enforced pursuant to this article and the vehicle titled to a new owner.

§ 46.2-1200.2. Vehicles registered to active duty military personnel.

Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

Notwithstanding any provisions of this chapter, any person having a lien disposing of a vehicle under the provisions of this chapter shall ~~comply with~~ determine whether the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.) when disposing of a vehicle owned by a member of the military on active duty or service (the Act) apply to the circumstances of such disposition. The presence on a vehicle record of an indicator that the owner is on active military duty or service shall be an indication that the Act may apply. However, should the person determine that the Act applies, the indicator on the vehicle record shall not satisfy any obligation under the Act to ascertain the owner's military status, nor shall the absence of an indicator suffice to establish that the owner is not on active military duty or service.

§ 46.2-1200.3. Limitation on removal and sale of abandoned vehicles.

No person may remove or sell any abandoned vehicle left on public property or the shoulder of a primary highway unless such person is acting pursuant to an agreement for such removal or sale with a local government entity or law-enforcement agency and has actual possession of the vehicle.

§ 46.2-1202. Search for owner and secured party; notice.

A. Any person in possession of an abandoned motor vehicle shall initiate with the Department, in a manner prescribed by the Commissioner, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the Department, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number. A fee of \$25 \$40 shall be paid to the Department at the time of application. Those fees shall be paid into the state treasury and set aside as a special, nonreverting fund to be used to meet the expenses of the Department. A local government agency with a written agreement with the Department shall be exempt from this fee.

The Department shall check: (i) its own records, (ii) the records of a nationally recognized crime database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported as stolen, the Department shall notify the appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in another jurisdiction, the Department shall notify the applicant of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the Commissioner shall issue certificates of title on proof satisfactory to the Commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section contact that jurisdiction to ascertain the requested information.

B. If the Department confirms owner or lienholder information, either through a search of its own records or those of another jurisdiction, the Department shall notify the owner, at the last known address of record, and lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. Following the notice required in this subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

Whenever a vehicle is shown by the Department's records to be owned by a person who has indicated that he is on active military duty or service, the Department shall notify the requestor of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.).

C. If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty after the Department has contacted the jurisdiction in which the vehicle was last titled, the person in possession of the abandoned motor vehicle shall obtain from the Department in a manner prescribed by the Commissioner, a Vehicle Removal Certificate. The vehicle may be sold or transferred to a licensee

or a scrap metal processor, as defined in § 46.2-1600 may proceed with the sale or disposal of the vehicle in accordance with this chapter. However, if a vehicle record exists in another jurisdiction that has refused to release the information to the Department, the person in possession of the abandoned vehicle shall assume all liability for proceeding with such sale or disposal without written notice to the owner or lienholder of record.

D. The Department shall provide to the person in possession of the abandoned vehicle a receipt indicating that the search requested pursuant to this section has been completed.

E. Residents or businesses of other jurisdictions in possession of vehicles titled in the Commonwealth, or the authorized agents of such residents or businesses, seeking to enforce laws in those jurisdictions that are substantially similar to the provisions of this article or Article 2 (§ 46.2-1209 et seq.) may request information for such vehicles from the Department. The Department shall conduct the information search as provided for in subsection A, provide the names and addresses of the owner and lienholder, if any, for each vehicle to the requester, and notify the named owner and lienholder, if any, by certified mail, return receipt requested, of the request. Such notification shall not replace any notification requirements imposed by the jurisdiction in which the requester and subject vehicle are located, nor shall the enforcement rules of this chapter apply to vehicles not located within the Commonwealth. If the Department finds that the vehicle is titled in another jurisdiction, the Department shall identify that jurisdiction to the requester with no further obligation to the requester or vehicle owner. The Department shall collect a \$25 fee for this search.

§ 46.2-1202.1. Vehicle Removal Certificates.

The person in possession of an abandoned motor vehicle shall obtain from the Department in a manner prescribed by the Commissioner, a Vehicle Removal Certificate at no fee. ~~The~~ If the Department finds no record for the vehicle, the vehicle may then be sold or transferred to a licensee or a scrap metal processor, as defined in § 46.2-1600. Upon such sale or transfer, the completed Vehicle Removal Certificate and receipt produced pursuant to § 46.2-1202 shall be given to the licensee or scrap metal processor.

If the person in possession of an abandoned motor vehicle desires to obtain title to the vehicle, that person shall post notice for at least 21 days of his intent to auction the motor vehicle. Postings of intent shall be in an electronic manner prescribed by the Commissioner who shall also ensure that written notice of intent is provided in public locations throughout the Commonwealth. If the Department confirms a lien, the person proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto.

A purchaser of the motor vehicle may apply for a title upon payment of the applicable fees and taxes, and by supplying the Department with the completed Vehicle Removal Certificate and the transcript from the Department that indicates that the Department has no record of the abandoned motor vehicle.

§ 46.2-1202.2. Notice of intent to auction and sale of vehicle; posting requirements.

If the person in possession of an abandoned vehicle does not intend to sell or transfer the vehicle to a licensee, as defined in § 46.2-1600, or a scrap metal processor and the abandoned vehicle is not reclaimed as provided for in § 46.2-1202, the person in possession of an abandoned vehicle shall post notice for at least 21 days of his intent to auction the vehicle. Postings of intent shall be in an electronic manner prescribed by the Commissioner and shall include the vehicle identification number and a description of each vehicle to be sold.

After the posting period has passed, and notwithstanding the provisions of § 46.2-617, the vehicle may be sold at auction. A purchaser of the vehicle at auction may apply for a title for such vehicle upon payment of the applicable fees and taxes, and by supplying the Department with the completed Vehicle Removal Certificate and the receipt produced pursuant to § 46.2-1202.

If the vehicle does not sell at auction, the person in possession of the abandoned vehicle may apply for a title for such vehicle upon payment of the applicable fees and taxes, and by supplying the Department with the completed Vehicle Removal Certificate, the receipt produced pursuant to § 46.2-1202, and a written statement that the vehicle did not sell at auction.

§ 46.2-1203. Sale of vehicle at public auction by locality; disposition of proceeds.

If an abandoned motor vehicle in the possession of a locality or an authorized agent is not reclaimed as provided for in § 46.2-1202, the locality or its authorized agent shall, notwithstanding the provisions of § 46.2-617, sell it at public auction. For the purposes of this article, the term "public auction," when conducted by any county, city, or town, shall include an Internet sale by auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt from the sale, and shall be entitled to apply to and receive from the Department a certificate of title and registration card for the vehicle upon submission of the sales receipt, the completed Vehicle Removal Certificate, and the receipt produced by the Department pursuant to § 46.2-1202. The sales receipt from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary; however, such demolisher shall provide the Department acceptable documentation indicating that the vehicle has been demolished. From the proceeds of the sale of an abandoned motor vehicle the locality or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving, and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs, if any, incurred pursuant to § 46.2-1202. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interests

may appear, for 60 days, and then be deposited into the treasury of the locality in which the abandoned ~~motor~~ vehicle was abandoned.

§ 46.2-1209. Unattended or immobile vehicles, generally.

A. The provisions of this article shall not apply to any motor vehicle, trailer, semitrailer, or part or combination thereof that weighs less than 75 pounds.

B. No person shall leave any motor vehicle, trailer, semitrailer, or part or combination thereof immobilized or unattended on or adjacent to any roadway if it constitutes a hazard in the use of the highway. No person shall leave any immobilized or unattended motor vehicle, trailer, semitrailer, or part or combination thereof longer than 24 hours on or adjacent to any roadway outside the corporate limits of any city or town, or on an interstate highway or limited access highway, expressway, or parkway inside the corporate limits of any city or town. Any law-enforcement officer or other uniformed employee of the local law-enforcement agency who specifically is authorized to do so by the chief law-enforcement officer or his designee may remove it or have it removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the motor vehicle, trailer, semitrailer, or combination as promptly as possible. Before obtaining possession of the motor vehicle, trailer, semitrailer, or combination, its owner or successor in interest to ownership shall pay to the parties entitled thereto all costs incidental to its removal or storage. In any violation of this section the owner of such motor vehicle, trailer, semitrailer or part or combination of a motor vehicle, trailer, or semitrailer, shall be presumed to be the person committing the violation; however, this presumption shall be rebuttable by competent evidence.

C. When a motor vehicle, trailer, semitrailer, or part or combination of a motor vehicle, trailer, or semitrailer was stolen or illegally used by a person other than the owner of the vehicle at the time of the theft or used without his authorization, express or implied, it shall be forthwith returned to its owner or the owner's successor in interest, other than an insurance company, who shall be relieved of the payment of any costs charged by the towing operator or storage facility for its daily storage, towing, and recovery fees, provided that the owner removes the vehicle within five business days following the owner's receipt of written notice by certified mail, return receipt requested. If the vehicle's owner fails to remove the vehicle within five days of receipt of such notice, the vehicle shall be released to the owner upon payment of the full costs of storage, towing, and recovery fees, and the owner shall then be entitled to seek reimbursement from the state treasury from the appropriation for criminal charges. The owner shall produce a valid motor vehicle registration or other proof of ownership to the employees of the facility wherein the motor vehicle, trailer, semitrailer or part or combination thereof is being stored. In any case in which the identity of the violator cannot be determined, or where it is found by a court that this section was not violated, the costs of daily storage, towing, and recovery fees of the vehicle shall be reimbursed to the towing and recovery operator and paid out of the state treasury from the appropriation for criminal charges. Payment from the treasury shall be made no later than 45 days from the application for such payment. In all cases where an insurance company is the stolen vehicle owner's successor in interest, the motor vehicle, trailer, semitrailer, or part or combination thereof shall be released to the insurance company upon presentation of a valid motor vehicle registration and payment by the insurance company to the towing operator or storage facility for its daily storage, towing, and recovery fees. The insurance company shall be entitled to seek reimbursement for the costs of the daily storage, towing, and recovery fees through the state treasury from the appropriation for criminal charges. If any person convicted of violating this section fails or refuses to pay these costs or if the identity or whereabouts of the owner is unknown and unascertainable after a diligent search has been made or after notice to the owner at his address as indicated by the records of the Department and to the holder of any lien of record with the Department, against the motor vehicle, trailer, semitrailer, or combination, the Commissioner may, after 30 days and after having the value of such motor vehicle, trailer, semitrailer, or combination determined by three disinterested dealers dispose of it by public or private sale. The proceeds from the sale shall be forthwith paid by him into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department in carrying out the duties required by this section and to reimburse the owner of such motor vehicle, trailer, semitrailer, or combination as hereafter provided in this section.

D. If after the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination the ownership of a motor vehicle, trailer, or semitrailer at the time of its removal is established satisfactorily to the Commissioner by the person claiming its ownership, the Commissioner shall pay him so much of the proceeds from the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination as remains after paying the costs of daily storage, towing, and recovery fees, investigation of ownership, appraisal, and sale, *the locality or its authorized agent in possession of the motor vehicle, trailer, semitrailer, or combination thereof shall treat the vehicle as an abandoned vehicle under the provisions of Article 1 (§ 46.2-1200 et seq.).*

§ 46.2-1212.1. Authority to provide for removal and disposition of vehicles and cargoes of vehicles involved in accidents.

A. As a result of a motor vehicle accident or incident, the Department of State Police and/or local law-enforcement agency in conjunction with other public safety agencies may, without the consent of the owner or carrier, remove:

1. A vehicle, cargo, or other personal property that has been (i) damaged or spilled within the right-of-way or any portion of a roadway in the primary state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

2. Cargo or personal property that the Department of Transportation, the Department of Emergency Management, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste, or regulated substance as defined by

the Virginia Waste Management Act (§ 10.1-1400 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1808 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), if the Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Department of Emergency Management or the fire officer in charge.

B. The Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies and other local public safety agencies and their officers, employees, and agents, and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation shall not be held responsible for any damages or claims that may result from *the exercise of or the failure to exercise any authority granted under this section, provided they are acting in good faith reasonably.*

C. The owner and carrier, if any, of the vehicle, cargo, or personal property removed or disposed of under the authority of this section shall reimburse the Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies, and local public safety agencies for all costs incurred in the removal and subsequent disposition of such property.

2. That the provisions of this act amending §§ 46.2-644.01, 46.2-644.02, 46.2-644.03, 46.2-1200.2, 46.2-1202, 46.2-1202.1, 46.2-1203, and 46.2-1209 of the Code of Virginia and amending the Code of Virginia by adding in Article 2 of Chapter 6 of Title 46.2 a section numbered 46.2-644.04 and by adding sections numbered 46.2-1200.3 and 46.2-1202.2 shall become effective January 1, 2022.

CHAPTER 375

An Act to amend and reenact § 10.1-1400 of the Code of Virginia, relating to advanced recycling; definition.

[S 1164]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1400 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, liquid fuels, waxes, lubricants, or other products through processes that include pyrolysis, gasification, depolymerization, reforming, hydrogenation, solvolysis, catalytic cracking, and similar processes. "Advanced recycling" produces recycled products, including monomers, oligomers, plastics, and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels, coatings, waxes, lubricants, and other basic hydrocarbons.

"Advanced recycling facility" means a facility that, using advanced recycling, receives, stores, and converts post-use polymers and recovered feedstocks that it receives. An "advanced recycling facility" shall be subject to all applicable federal and state environmental laws and regulations.

"Applicant" means any and all persons seeking or holding a permit required under this chapter.

"Board" means the Virginia Waste Management Board.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Department" means the Department of Environmental Quality.

"Depolymerization" means a manufacturing process in which post-use polymers are broken into smaller molecules, including monomers and oligomers; raw, intermediate, or final products; plastics and chemical feedstocks; basic and unfinished chemicals; crude oil; naphtha; liquid transportation fuels; waxes; lubricants; coatings; and other products.

"Director" means the Director of the Department of Environmental Quality.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name and business address of all key personnel;
2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;
3. A description of the business experience of all key personnel listed in the disclosure statement;
4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;
5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal, or local

authority, within the past 10 years, ~~which that~~ are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation, or requirement relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within 10 years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) of ~~Title 54.1~~; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth ~~which that~~ have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past 10 years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Equity" includes both legal and equitable interests.

"Federal acts" means any act of Congress providing for waste management and regulations promulgated thereunder.

"Gasification" means a manufacturing process through which recovered feedstocks are heated and converted in an oxygen-deficient atmosphere into a fuel and gas mixture that is then converted to crude oil, diesel fuel, gasoline, home heating oil, ethanol, transportation fuel, other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other valuable raw, intermediate, or final products that are returned to economic utility in the form of raw materials, products, or fuels.

"Hazardous material" means a substance or material in a form or quantity ~~which that~~ may pose an unreasonable risk to health, safety, or property when transported, and which the U.S. Secretary of Transportation of the United States has so designated by regulation or order.

"Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the federal Comprehensive Environmental Response Compensation and Liability Act, P.L. 96-510.

"Hazardous waste" means a solid waste or combination of solid waste ~~which, that~~ because of its quantity, concentration or physical, chemical, or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Hazardous waste generation" means the act or process of producing hazardous waste.

"Household hazardous waste" means any waste material derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas) which, except for the fact that it is derived from a household, would be classified as a hazardous waste, including ~~but not limited to~~, nickel, cadmium, mercuric oxide, manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint solvents; any product containing trichloroethylene, toxic art supplies, used motor oil and unusable gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides, or restricted-use pesticides as defined in § 3.2-3900. All empty household product containers and any household products in legal distribution, storage, or use shall not be considered household hazardous waste.

"Key personnel" means the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but ~~shall does~~ not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the Director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, ~~the term~~ "key personnel" also includes any officer, director, ~~or~~ partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, ~~the term~~ "key personnel" includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Securities Exchange Act of 1934, ~~the term~~ "key personnel" does not include key personnel of such entity. Provided further that ~~the term~~ "key personnel" means the chief executive officer of any agency of the United States or of any agency or political subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with or for one of those governmental entities.

"Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage of such hazardous waste.

"Mixed radioactive waste" means radioactive waste that contains a substance ~~which~~ *that* renders the mixture a hazardous waste.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

"Person" includes an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Post-use polymer" means a plastic polymer that:

1. *Is derived from any industrial, commercial, agricultural, or domestic activity.*
2. *Is processed at an advanced recycling facility or held at such facility prior to processing.*
3. *Is used or intended for use as a feedstock to manufacture crude oil, fuels, feedstocks, blendstocks, raw materials, or other intermediate products or final products, using advanced recycling.*
4. *Is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility at which it is processed.*

5. *Has been sorted from solid waste and other regulated waste but may contain residual amounts of (i) solid wastes, such as organic material, and (ii) incidental contaminants or impurities, such as paper labels or metal rings.*

"Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted to crude oil, diesel fuel, gasoline, home heating oil, ethanol, transportation fuel, other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other valuable raw, intermediate, or final products that are returned to economic utility in the form of raw materials, products, or fuels.

"Radioactive waste" or "nuclear waste" includes:

1. "Low-level radioactive waste" material that:
 - a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section § 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(e)(2)); and
 - b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste; or
2. "High-level radioactive waste," which means:
 - a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
 - b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Recovered feedstock" means one or more of the following materials that has been processed so that it can be used as feedstock in an advanced recycling facility:

1. *Post-use polymers.*
2. *Materials for which the U.S. Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. § 241.3(c) or has otherwise determined are feedstocks and not solid waste.*

"Recovered feedstock" does not include unprocessed municipal solid waste and is not mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

"Recycling residue" means the (i) nonmetallic substances, including ~~but not limited to~~ plastic, rubber, and insulation, ~~which~~ *that* remain after a shredder has separated for purposes of recycling the ferrous and nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste remaining after removal of metals, glass, plastics, and paper ~~which~~ *that* are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

"Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

"Resource recovery" means the recovery of material or energy from solid waste.

"Resource recovery system" means a solid waste management system ~~which~~ *that* provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"Sanitary landfill" means a disposal facility for solid waste so located, designed, and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water, or ground water.

"Sludge" means any solid, semisolid, or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility, or any other ~~waste producing~~ *waste-producing* facility.

"Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations, or community activities, but does not include (i) solid or dissolved material in domestic sewage; (ii) solid or dissolved material in

irrigation return flows or in industrial discharges ~~which~~ *that* are sources subject to a permit from the State Water Control Board; or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; or (iv) *post-use polymers or recovered feedstocks that are (a) processed at an advanced recycling facility or (b) held at or held for the purpose of conversion at such advanced recycling facility prior to conversion.*

"Solid waste management facility" means a site used for planned treating, ~~long term~~ *long-term* storage, or disposing of solid waste. A "solid waste management facility" may consist of several treatment, storage, or disposal units.

"Solvolyis" means *a manufacturing process through which post-use polymers are purified with the aid of solvents, allowing additives and contaminants to be removed. The products of solvolyis are polymers capable of being recycled or reused without first being reverted to a monomer. "Solvolyis" includes hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.*

"Transport" or "transportation" means any movement of property and any packing, loading, or unloading or storage incidental thereto.

"Treatment" means any method, technique, or process, including incineration or neutralization, designed to change the physical, chemical, or biological character or composition of any waste to neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or storage, or reduced in volume.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.

"Waste" means any solid, hazardous, or radioactive waste as defined in this section.

"Waste management" means the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of waste or resource recovery. *"Waste management" does not include pyrolysis, gasification, depolymerization, solvolyis, or any other advanced recycling process if the source materials used in such process are composed of post-use polymers or recovered feedstocks.*

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. *"Yard waste" shall does not include roots or stumps that exceed six inches in diameter.*

CHAPTER 376

An Act to amend and reenact § 18.2-271.1 of the Code of Virginia, relating to driver's license suspensions; restricted licenses; drug offenses.

[S 1213]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-271.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. The period of time during which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system, (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, or (iii) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon request of such person and as a condition of a restricted license, require such person to use a remote alcohol monitoring device in accordance with the provisions of subsection E of § 18.2-270.1, as it shall become effective on July 1, 2021. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, ~~whenever~~ if a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked, *or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1*, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written

verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment. However, (a) any such person who is eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1, as it shall become effective on July 1, 2021, who has a functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city, or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

CHAPTER 377

An Act to repeal § 5.1-178 of the Code of Virginia, relating to the Metropolitan Washington Airports Authority; effective date.

[S 1214]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 5.1-178 of the Code of Virginia is repealed.

CHAPTER 378

An Act to amend and reenact § 33.2-1509 of the Code of Virginia, relating to funds for access roads to economic development sites; criteria for use of funds.

[S 1253]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1509 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1509. Funds for access roads to economic development sites and airports; construction, maintenance, etc., of such roads.

A. Notwithstanding any other provision of law, there shall be appropriated to the Board funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes, or any other state revenue allocated for highway purposes, which shall be used by the Board for the purposes specified in this section, after deducting the costs of administration before any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such establishment or airport already constructed or for which the construction is under firm contract, a locality may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns that receive highway maintenance payments under § 33.2-319 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. *The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines for the use of funds for access roads to an economic development site pursuant to this section. Such guidelines shall require consideration of the number of jobs that will be created by the economic development project, the proposed capital investment by the private sector at the economic development site, and any other relevant criteria related to the economic development project.*

C. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations *on the guidelines developed pursuant to subsection B* and on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

€*.D.* Any access road constructed or improved under this section shall constitute a part of the secondary state highway system or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained, and improved as other roads or highways in such system.

CHAPTER 379

An Act to repeal the second enactment of Chapter 228 of the Acts of Assembly of 2015, relating to repeal of reporting requirement; Department of Motor Vehicles and Supreme Court of Virginia.

[S 1277]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 228 of the Acts of Assembly of 2015 is repealed.

CHAPTER 380

An Act to amend and reenact § 15.2-2114.01 of the Code of Virginia, relating to local stormwater assistance; flood mitigation and protection.

[S 1309]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2114.01 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for *(i) the construction, improvement, or repair of a stormwater management facility or for; (ii) erosion and sediment control; or (iii) flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality. Grants made pursuant to clause (iii) shall, where practicable, prioritize projects that include nature-based practices.*

CHAPTER 381

An Act to amend and reenact §§ 46.2-334.01 and 46.2-335, as they are currently effective and as they shall become effective, of the Code of Virginia, relating to learner's permits; use of personal communication devices.

[S 1335]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-334.01 and 46.2-335, as they are currently effective and as they shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 46.2-334.01. (Effective until March 1, 2021) Licenses issued to persons less than 18 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.~~

D. The provisional driver's license restrictions in subsections B; ~~and C;~~ ~~and C1~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B; ~~or C;~~ ~~or C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B; ~~or C;~~ ~~or C1~~, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B; ~~or C;~~ ~~or C1~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

§ 46.2-334.01. (Effective March 1, 2021) Licenses issued to persons less than 18 years old subject to certain restrictions.

A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12

(§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.~~

D. The provisional driver's license restrictions in subsections B~~7~~, and C~~7~~, and ~~C1~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B~~7~~, or C~~7~~, or ~~C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B~~7~~, or C~~7~~, or ~~C1~~, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B~~7~~, or C~~7~~, or ~~C1~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

§ 46.2-335. (Effective until March 1, 2021) Learner's permits; fees; certification required.

A. The Department, on receiving from any Virginia resident over the age of 15 years and six months an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's satisfactory documentation of meeting the requirements of this chapter and successful completion of the written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i) c alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii) lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an application, payment of the application fee, and successful completion of the examinations, be issued another motorcycle learner's permit valid for 12 months.

Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions ordered by the court.

B. No driver's license shall be issued to any such person who is less than 18 years old unless, while holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall contain the following statement:

"It is illegal for anyone to give false information in connection with obtaining a driver's license. This certification is considered part of the driver's license application, and anyone who certifies to a false statement may be prosecuted. I certify that the statements made and the information submitted by me regarding this certification are true and correct."

Such form shall also include the driver's license or Department of Motor Vehicles-issued identification card number of the person making the certification.

C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old, except when participating in a driver education program approved by the Department of Education or a course offered by a driver training school licensed by the Department. This passenger limitation, however, shall not apply to the members of the driver's family or household as defined in subsection B of § 46.2-334.01.

D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and four o'clock a.m.

~~E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether or not such device is handheld. No citation for a violation of this subsection shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

F. A violation of subsection C, or D, ~~or E~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

~~G. F.~~ The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia residence and, in the case of persons of school age, compliance with the compulsory school attendance law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits issued under this section.

H. G. For persons qualifying for a driver's license through driver education courses approved by the Department of Education or courses offered by driver training schools licensed by the Department, the application for the learner's permit shall be used as the application for the driver's license.

I. H. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits, other than permits issued under § 46.2-328.3, shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It is unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three months old and has successfully completed an approved driver's education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such temporary driver's license shall only be valid until the driver has received his permanent license pursuant to § 46.2-336.

J. I. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

K. J. The following limitations shall apply to operation of motorcycles by all persons holding motorcycle learner's permits:

1. The operator shall wear an approved safety helmet as provided in § 46.2-910.
2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle who is 21 years of age or older.

3. No person other than the operator shall occupy the motorcycle.

L. K. Any violation of this section is punishable as a Class 2 misdemeanor.

§ 46.2-335. (Effective March 1, 2021) Learner's permits; fees; certification required.

A. The Department, on receiving from any Virginia resident over the age of 15 years and six months an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's satisfactory documentation of meeting the requirements of this chapter and successful completion of the written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, or step-sister 18 years of age or older. The accompanying person shall be (i) alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii) lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an application, payment of the application fee, and successful completion of the examinations, be issued another motorcycle learner's permit valid for 12 months.

Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions ordered by the court.

B. No driver's license shall be issued to any such person who is less than 18 years old unless, while holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall contain the following statement:

"It is illegal for anyone to give false information in connection with obtaining a driver's license. This certification is considered part of the driver's license application, and anyone who certifies to a false statement may be prosecuted. I certify that the statements made and the information submitted by me regarding this certification are true and correct."

Such form shall also include the driver's license or Department of Motor Vehicles-issued identification card number of the person making the certification.

C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old, except when participating in a driver education program approved by the Department of Education or a course offered by a driver training school licensed by the Department. This passenger limitation, however, shall not apply to the members of the driver's family or household as defined in subsection B of § 46.2-334.01.

D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and four o'clock a.m.

~~E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether or not such device is handheld. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~

~~F. A violation of subsection C, or D, or E shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.~~

~~G. F. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia residence and, in the case of persons of school age, compliance with the compulsory school attendance law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits issued under this section.~~

~~H. G. For persons qualifying for a driver's license through driver education courses approved by the Department of Education or courses offered by driver training schools licensed by the Department, the application for the learner's permit shall be used as the application for the driver's license.~~

~~I. H. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's permit issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund of the state treasury; fees for issuance of motorcycle learner's permits, other than permits issued under § 46.2-328.3, shall be paid into the state treasury and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It is unlawful for any person, after having received a learner's permit, to drive a motor vehicle without being accompanied by a licensed driver as provided in the foregoing provisions of this section; however, a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that the driver is at least 16 years and three months old and has successfully completed an approved driver's education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such temporary driver's license shall only be valid until the driver has received his permanent license pursuant to § 46.2-336.~~

~~J. I. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).~~

~~K. J. The following limitations shall apply to operation of motorcycles by all persons holding motorcycle learner's permits:~~

- ~~1. The operator shall wear an approved safety helmet as provided in § 46.2-910.~~
 - ~~2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle who is 21 years of age or older.~~
 - ~~3. No person other than the operator shall occupy the motorcycle.~~
- ~~L. K. Any violation of this section is punishable as a Class 2 misdemeanor.~~

CHAPTER 382

An Act to amend and reenact §§ 32.1-164 and 32.1-164.1:01 of the Code of Virginia and to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 21.1, consisting of sections numbered 62.1-223.1, 62.1-223.2, and 62.1-223.3, relating to sewage; Onsite Sewage Indemnification Fund; Wastewater Infrastructure Policy Working Group; regulations; report.

[S 1396]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-164 and 32.1-164.1:01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 21.1, consisting of sections numbered 62.1-223.1, 62.1-223.2, and 62.1-223.3, as follows:

§ 32.1-164. Powers and duties of Board; regulations; fees; onsite soil evaluators; letters in lieu of permits; inspections; civil penalties.

A. The Board shall have supervision and control over the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems and alternative discharging sewage systems, and treatment works as they affect the public health and welfare. The Board shall also have supervision and control over the maintenance, inspection, and reuse of alternative onsite sewage systems as they affect the public health and welfare. In discharging the

responsibility to supervise and control the safe and sanitary treatment and disposal of sewage as they affect the public health and welfare, the Board shall exercise due diligence to protect the quality of both surface water and ground water. Upon the final adoption of a general Virginia Pollutant Discharge Elimination permit by the State Water Control Board, the Board of Health shall assume the responsibility for permitting alternative discharging sewage systems as defined in § 32.1-163. All such permits shall comply with the applicable regulations of the State Water Control Board and be registered with the State Water Control Board.

In the exercise of its duty to supervise and control the treatment and disposal of sewage, the Board shall require and the Department shall conduct regular inspections of alternative discharging sewage systems. The Board shall also establish requirements for maintenance contracts for alternative discharging sewage systems. The Board may require, as a condition for issuing a permit to operate an alternative discharging sewage system, that the applicant present an executed maintenance contract. Such contract shall be maintained for the life of any general Virginia Pollutant Discharge Elimination System permit issued by the State Water Control Board.

B. The regulations of the Board shall govern the collection, conveyance, transportation, treatment and disposal of sewage by onsite sewage systems and alternative discharging sewage systems and the maintenance, inspection, and reuse of alternative onsite sewage systems. Such regulations shall be designed to protect the public health and promote the public welfare and may include, without limitation:

1. A requirement that the owner obtain a permit from the Commissioner prior to the construction, installation, modification or operation of a sewerage system or treatment works except in those instances where a permit is required pursuant to Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1.

2. Criteria for the granting or denial of such permits.

3. Standards for the design, construction, installation, modification and operation of sewerage systems and treatment works for permits issued by the Commissioner.

4. Standards governing disposal of sewage on or in soils.

5. Standards specifying the minimum distance between sewerage systems or treatment works and:

(a) *a.* Public and private wells supplying water for human consumption,

(b) *b.* Lakes and other impounded waters,

(c) *c.* Streams and rivers,

(d) *d.* Shellfish waters,

(e) *e.* Ground waters,

(f) *f.* Areas and places of human habitation,

(g) *g.* Property lines.

6. Standards as to the adequacy of an approved water supply.

7. Standards governing the transportation of sewage.

8. A prohibition against the discharge of untreated sewage onto land or into waters of the Commonwealth.

9. A requirement that such residences, buildings, structures and other places designed for human occupancy as the Board may prescribe be provided with a sewerage system or treatment works.

10. Criteria for determining the demonstrated ability of alternative onsite systems, which are not permitted through the then current sewage handling and disposal regulations, to treat and dispose of sewage as effectively as approved methods.

11. Standards for inspections of and requirements for maintenance contracts for alternative discharging sewage systems.

12. Notwithstanding the provisions of subdivision 1 above and Chapter 3.1 of Title 62.1, a requirement that the owner obtain a permit from the Commissioner prior to the construction, installation, modification, or operation of an alternative discharging sewage system as defined in § 32.1-163.

13. Criteria for granting, denying, and revoking of permits for alternative discharging sewage systems.

14. Procedures for issuing letters recognizing onsite sewage sites in lieu of issuing onsite sewage system permits.

15. Performance requirements for nitrogen discharged from alternative onsite sewage systems that protect public health and ground and surface water quality.

16. Consideration of the impacts of climate change on proposed treatment works based on research and analysis from the Center for Coastal Resources Management at the Virginia Institute of Marine Science at The College of William and Mary in Virginia.

C. A fee of \$75 shall be charged for filing an application for an onsite sewage system or an alternative discharging sewage system permit with the Department. Funds received in payment of such charges shall be transmitted to the Comptroller for deposit. The funds from the fees shall be credited to a special fund to be appropriated by the General Assembly, as it deems necessary, to the Department for the purpose of carrying out the provisions of this title. However, \$10 of each fee shall be credited to the Onsite Sewage Indemnification Fund established pursuant to § 32.1-164.1:01.

The Board, in its regulations, shall establish a procedure for the waiver of fees for persons whose incomes are below the federal poverty guidelines established by the United States Department of Health and Human Services or when the application is for a pit privy or the repair of a failing onsite sewage system. If the Department denies the permit for land on which the applicant seeks to construct his principal place of residence, then such fee shall be refunded to the applicant.

From such funds as are appropriated to the Department from the special fund, the Board shall apportion a share to local or district health departments to be allocated in the same ratios as provided for the operation of such health departments pursuant to § 32.1-31. Such funds shall be transmitted to the local or district health departments on a quarterly basis.

D. In addition to factors related to the Board's responsibilities for the safe and sanitary treatment and disposal of sewage as they affect the public health and welfare, the Board shall, in establishing standards, give due consideration to economic costs of such standards in accordance with the applicable provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Further a fee of \$75 shall be charged for such installation and monitoring inspections of alternative discharging sewage systems as may be required by the Board. The funds received in payment of such fees shall be credited to a special fund to be appropriated by the General Assembly, as it deems necessary, to the Department for the purpose of carrying out the provisions of this section. However, \$10 of each fee shall be credited to the Onsite Sewage Indemnification Fund established pursuant to § 32.1-164.1:01.

The Board, in its regulations, shall establish a procedure for the waiver of fees for persons whose incomes are below the federal poverty guidelines established by the United States Department of Health and Human Services.

F. Any owner who violates any provision of this section or any regulation of the Board of Health or the State Water Control Board relating to alternative discharging sewage systems or who fails to comply with any order of the Board of Health or any special final order of the State Water Control Board shall be subject to the penalties provided in §§ 32.1-27 and 62.1-44.32.

In the event that a county, city, or town, or its agent, is the owner, the county, city, or town, or its agent may initiate a civil action against any user or users of an alternative discharging sewage system to recover that portion of any civil penalty imposed against the owner which directly resulted from violations by the user or users of any applicable federal, state, or local laws, regulations, or ordinances.

G. The Board shall establish and implement procedures for issuance of letters recognizing the appropriateness of onsite sewage site conditions in lieu of issuing onsite sewage system permits. The Board may require that a survey plat be included with an application for such letter. Such letters shall state, in language determined by the Office of the Attorney General and approved by the Board, the appropriateness of the soil for an onsite sewage system; no system design shall be required for issuance of such letter. The letter may be recorded in the land records of the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the onsite sewage system is to be located so as to be a binding notice to the public, including subsequent purchases of the land in question. Upon the sale or transfer of the land which is the subject of any letter, the letter shall be transferred with the title to the property. A permit shall be issued on the basis of such letter unless, from the date of the letter's issuance, there has been a substantial, intervening change in the soil or site conditions where the onsite sewage system is to be located. The Board, Commissioner, and the Department shall accept evaluations from licensed onsite soil evaluators for the issuance of such letters, if they are produced in accordance with the Board's established procedures for issuance of letters. The Department shall issue such letters within 20 working days of the application filing date when evaluations produced by licensed onsite soil evaluators are submitted as supporting documentation. The Department shall not be required to do a field check of the evaluation prior to issuing such a letter or a permit based on such letter; however, the Department may conduct such field analyses as deemed necessary to protect the integrity of the Commonwealth's environment. Applicants for such letters in lieu of onsite sewage system permits shall pay the fee established by the Board for the letters' issuance and, upon application for an onsite sewage system permit, shall pay the permit application fee.

H. The Board shall establish a program for the operation and maintenance of alternative onsite systems. The program shall require:

1. The owner of an alternative onsite sewage system, as defined in § 32.1-163, to have that system operated by a licensed operator, as defined in § 32.1-163, and visited by the operator as specified in the operation permit;

2. The licensed operator to provide a report on the results of the site visit utilizing the web-based system required by this subsection. A fee of \$1 shall be paid by the licensed operator at the time the report is filed. Such fees shall be credited to the Onsite Operation and Maintenance Fund established pursuant to § 32.1-164.8;

3. A statewide web-based reporting system to track the operation, monitoring, and maintenance requirements of each system, including its components. The system shall have the capability for pre-notification of operation, maintenance, or monitoring to the operator or owner. Licensed operators shall be required to enter their reports onto the system. The Department of Health shall utilize the system to provide for compliance monitoring of operation and maintenance requirements throughout the state. The Commissioner shall consider readily available commercial systems currently utilized within the Commonwealth; and

4. Any additional requirements deemed necessary by the Board.

I. The Board shall promulgate regulations governing the requirements for maintaining alternative onsite sewage systems.

J. The Board shall establish a uniform schedule of civil penalties for violations of regulations promulgated pursuant to subsection B that are not remedied within 30 days after service of notice from the Department. Civil penalties collected pursuant to this chapter shall be credited to the Environmental Health Education and Training Fund established pursuant to § 32.1-248.3.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be not more than \$100 for the initial violation and not more than \$150 for each additional violation. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties exceeding a total of \$3,000. Penalties shall not apply to unoccupied structures which do not contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, or dangerous diseases. The Department may pursue other remedies as provided by law; however, designation of a particular violation for a civil penalty pursuant to this section shall be in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, or dangerous diseases.

The Department may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Department prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court with jurisdiction in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the Department shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

This section shall not be interpreted to allow the imposition of civil penalties for activities related to land development.

K. The Department shall establish procedures for requiring a survey plat as part of an application for a permit or letter for any onsite sewage or alternative discharging sewage system, and for granting waivers for such requirements. In all cases, it shall be the landowner's responsibility to ensure that the system is properly located as permitted.

§ 32.1-164.1:01. Onsite Sewage Indemnification Fund.

A. There is hereby created the Onsite Sewage Indemnification ~~fund~~ *Fund*, hereafter referred to as "*the Fund*," whose purpose is to receive moneys generated by a portion of the fees collected by the Department of Health pursuant to subsections C and E of § 32.1-164 and appropriated by the Commonwealth for the purpose of assisting any Virginia real property owner holding a valid permit to operate an onsite sewage system when such system or components thereof fail within three years of construction and such failure results from the negligence of the Department of Health. The ~~fund~~ *Fund* may also be used, in the discretion of the Board, to support the program for training and recognition of licensed onsite soil evaluators *and to provide grants and loans to property owners with income at or below 200 percent of the federal poverty guidelines to repair failing onsite sewage systems or install onsite sewage systems on properties that lack adequate sewage disposal. No expenses shall be paid from the Fund to support the program for training and recognition of onsite soil evaluators, or to provide any grant or loan to repair a failing onsite sewage system or install an onsite sewage system on any property that lacks adequate sewage disposal, in lieu of payment to any owner or owners qualified to receive payment from the Fund pursuant to this chapter.*

B. Ten dollars of each fee collected by the Department of Health pursuant to subsections C and E of § 32.1-164 shall be deposited by the Comptroller to ~~this fund~~ *in the Fund* to be appropriated for the purposes of this section to the Department of Health by the General Assembly as it deems necessary.

C. The owner of an onsite sewage system that has been permitted by the Department of Health may cause, by filing a request for payment from the ~~fund~~ *Fund* within one year from the date the system or components thereof failed, the Commissioner to review the circumstances of the onsite sewage system failure, if the onsite sewage system has failed within three years of construction. Upon the Commissioner's finding that the onsite sewage system was permitted by the Department and (i) the system or components thereof failed within three years of construction; (ii) that specific actions of the Department were negligent and that those actions caused the failure; and (iii) that the owner filed a request for payment from the ~~fund~~ *Fund* within one year from the date the system or components thereof failed, the Commissioner shall, subject to the limitations stated herein, reimburse the owner for the reasonable cost of following the Board's regulations to repair or replace the failed onsite sewage system or components thereof.

D. Prior to receiving payment from the ~~fund~~ *Fund*, the owner shall follow the requirements in the Board's regulations to repair or replace the failed onsite sewage system or components thereof.

E. The total amount an owner may receive in payment from the ~~fund~~ *Fund* shall not exceed \$30,000. Only the costs of the system that failed or the costs of labor and equipment required to repair or replace the failed onsite sewage system or components thereof are reimbursable by the ~~fund~~ *Fund*.

F. If the Commissioner finds that the system was permitted by the Department and has failed within three years of construction and that the failure resulted from faulty construction or other private party error, the Commissioner may assist the owner of the failed system in seeking redress from the system's builder or other private party.

G. Every request for payment from the ~~fund~~ *Fund* shall be forever barred unless the owner has filed a complete application as required by the Department. The request shall be filed with the Commissioner within one year from the date that the onsite sewage system or components thereof first failed. However, if the owner was under a disability at the time the cause of action accrued, the tolling provisions of § 8.01-229 shall apply. The owner shall mail the request for payment from

the ~~fund~~ Fund via the United States Postal Service by certified mail, return receipt requested, addressed to the Commissioner.

In any action contesting the filing of the request for payment from the ~~fund~~ Fund, the burden of proof shall be on the owner to establish mailing and receipt of the notice in conformity with this section. The signed receipt indicating delivery to the Commissioner, when admitted into evidence, shall be prima facie evidence of filing of the request for payment from the ~~fund~~ Fund under this section. The request for payment from the ~~fund~~ Fund shall be deemed to be timely filed if it is sent by certified mail, return receipt requested, and if the official receipt shows that the mailing was within the prescribed time limits.

Notwithstanding any provision of this article, the liability for any payment from the ~~fund~~ Fund shall be conditioned upon the execution by the owner of a release approved by the Attorney General of all claims against the Commonwealth, its political subdivisions, agencies, and instrumentalities and against any officer or employee of the Commonwealth in connection with or arising out of the occurrence complained of.

H. The Commissioner and the Attorney General shall cooperatively develop an actuarially sound program and policy for identifying, evaluating, and processing requests for payment from the ~~fund~~ Fund.

I. If the Commissioner refuses the request for payment from the ~~fund~~ Fund, the owner may appeal the refusal to the State Health Department Sewage Handling and Disposal Appeal Review Board.

The Board may promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) for the administration of the ~~fund~~ Fund consistent with this chapter.

In the event the ~~fund~~ Fund is insufficient to meet requests for payment from the ~~fund~~ Fund, this section and the creation of the ~~fund~~ Fund shall not be construed to provide liability on the part of the Department or any of its personnel where no such liability existed prior to July 1, 1994.

CHAPTER 21.1.

WASTEWATER INFRASTRUCTURE POLICY.

§ 62.1-223.1. State policy as to community and onsite wastewater treatment.

It is the policy of the Commonwealth to prioritize universal access to wastewater treatment that protects public health and the environment and supports local economic growth and stability. To further this policy, the Commonwealth endorses (i) public education about the importance of adequate wastewater treatment; (ii) collaboration among local, state, and federal government entities, including consistent collaboration and coordination of grant requirements and timelines; (iii) the prioritized, focused, and innovative use of state and federal funding to address needs determined pursuant to § 62.1-223.3; (iv) a preference for community-based and regional projects as opposed to cumulative and repetitive site-by-site individual solutions; (v) the use of integrated solutions across sewer and onsite wastewater treatment systems; and (vi) the incorporation of the effects of climate change into wastewater treatment regulatory and funding programs.

§ 62.1-223.2. Wastewater Infrastructure Policy Working Group.

A. *The Wastewater Infrastructure Policy Working Group (the Working Group) is established as an advisory board within the meaning of § 2.2-2100 in the executive branch of state government. The purpose of the Working Group is to continually assess wastewater infrastructure needs in the Commonwealth and develop policy recommendations.*

B. *The Working Group shall have a total membership of four ex officio members. The Director of the Department of Environmental Quality, the State Health Commissioner, the Director of the Department of Housing and Community Development, and the Executive Director of the Virginia Resources Authority, or their designees, shall serve ex officio with voting privileges. Members of the Working Group shall serve terms coincident with their terms of office. A majority of the members shall constitute a quorum.*

C. *The Working Group shall invite participation in its meetings by the Virginia Association of Counties, the Virginia Association of Planning District Commissions, the U.S. Department of Agriculture Rural Development, the Virginia Onsite Wastewater Recycling Association, the Virginia Association of Municipal Wastewater Agencies, the Virginia Rural Water Association, and SERCAP, Inc.*

D. *The Working Group shall have the following powers and duties:*

1. *Assess wastewater infrastructure needs in the Commonwealth and develop policy recommendations.*
2. *Promote public education about the importance of adequate wastewater treatment.*
3. *Encourage collaboration among local, state, and federal government entities, including consistent collaboration and coordination of grant requirements and timelines.*
4. *Endorse community-based and regional projects as opposed to cumulative and repetitive site-by-site individual solutions and integrated solutions across sewer and onsite wastewater treatment systems.*
5. *Support prioritized, focused, and innovative use of state and federal funding to address needs determined pursuant to § 62.1-223.3.*
6. *Prioritize universal access to wastewater treatment that protects public health and the environment and supports local economic growth and stability.*
7. *Support the incorporation of the effects of climate change into wastewater treatment regulatory and funding programs.*
8. *Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The Secretary of Natural Resources shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Working Group no later than the first day of each regular session of the*

General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

E. The Secretaries of Natural Resources, Commerce and Trade, and Health and Human Resources shall provide staff support to the Working Group. The Center for Coastal Resources Management at the Virginia Institute of Marine Science and the Virginia Coastal Policy Center at William and Mary Law School shall advise the Working Group. All agencies of the Commonwealth shall provide assistance to the Working Group upon request.

F. Notwithstanding the provisions of § 30-19.1:9, the provisions of this section shall expire on July 1, 2030.

§ 62.1-223.3. Wastewater infrastructure needs assessment.

The Department of Environmental Quality (the Department), in partnership with the Virginia Department of Health and in consultation with stakeholders, including representatives of the Department of Housing and Community Development, the Virginia Resources Authority, the U.S. Department of Agriculture Rural Development, the Virginia Onsite Wastewater Recycling Association, the Center for Coastal Resources Management at the Virginia Institute of Marine Science, the Virginia Association of Municipal Wastewater Agencies, the Virginia Rural Water Association, SERCAP, Inc., local governments, and conservation organizations, shall determine every four years an estimate of the amount of wastewater infrastructure funding that is (i) necessary to implement the policy of the Commonwealth articulated in § 62.1-223.1 and (ii) not eligible to be covered by grant funding pursuant to the Virginia Water Quality Improvement Act of 1997 (§ 10.1-2117 et seq.). The Department shall report such estimate to the Governor and the General Assembly no later than July 1, 2023, and no later than July 1 every four years thereafter.

2. That the State Board of Health (the Board) shall adopt regulations to implement the requirements of § 32.1-164 of the Code of Virginia, as amended by this act. If requested by the Board, technical assistance during the regulatory development process shall be provided by the Department of Conservation and Recreation and the Department of Environmental Quality.

CHAPTER 383

An Act to amend and reenact §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-3819, as it shall become effective, 58.1-3819.1, 58.1-3823, as it shall become effective, 58.1-3824, 58.1-3825, 58.1-3825.2, 58.1-3825.3, as it shall become effective, 58.1-3826, 58.1-3842, and 58.1-3843 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-2320.2 and 58.1-612.2 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.8, relating to retail sales and transient occupancy taxes on room rentals.

[S 1398]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-3819, as it shall become effective, 58.1-3819.1, 58.1-3823, as it shall become effective, 58.1-3824, 58.1-3825, 58.1-3825.2, 58.1-3825.3, as it shall become effective, 58.1-3826, 58.1-3842, and 58.1-3843 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2320.2 and 58.1-612.2 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.8 as follows:

§ 2.2-2320.2. Tourism promotion grants.

A. As used in this section:

"Promoting tourism" means activities and expenditures designed to increase tourism in Virginia, including (i) advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; (ii) developing strategies to expand tourism; (iii) funding the promotion or marketing operations of a tourism entity; and (iv) funding marketing and operations of special events and festivals designed to attract tourists.

"Tourism entity" means a locality, a destination marketing organization, or a regional attractions marketing agency.

B. For each fiscal year, an amount estimated to be equal to the amount of revenue collected from all state taxes imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, after accounting for all designations and distributions of such revenue under § 58.1-638, on accommodations fees, as defined in § 58.1-602, shall be appropriated to the Authority for the purpose of providing grants to promote tourism pursuant to the provisions of this section. The amount of grants available under the program for a fiscal year shall be limited to the amount appropriated under this subsection.

C. The Authority shall administer a program to provide grants to tourism entities for the purpose of promoting tourism in Virginia. To be eligible for a grant, a tourism entity shall demonstrate that its proposed use of the grant will have a positive and significant impact on tourism in Virginia. Grants shall be subject to the following restrictions:

1. No more than 50 percent of the funds available for a fiscal year shall be distributed for the purposes of promotion or marketing operations of a tourism entity or for special events or grants.

2. Funding for the promotion or marketing operations of a tourism entity, special events, or grants shall require a 50 percent cash or in-kind match from the grant recipient.

3. Recipients located in the same qualifying region, as defined in § 2.2-2484, shall not be awarded more than 20 percent, in the aggregate of all grants awarded within such region, of the total funds available for a fiscal year.

4. A single recipient of funding under this section shall not be awarded more than 15 percent of the total funds available for a fiscal year. This subdivision shall not apply to contracts entered into by the Authority for statewide tourism promotion or marketing.

5. Funds available for disbursement shall not be used for capital projects or for the design, construction, rehabilitation, repair, installation, or purchase of any building, structure, or sign in Virginia.

D. The Authority shall promulgate guidelines and regulations as it deems necessary to implement this section.

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise:

"Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.

"Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

"Accommodations intermediary" means any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

"Accommodations intermediary" does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; or

2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person.

"Accommodations provider" means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined in this section shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program that is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Discount room charge" means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person that has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, "integrated process" does not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected worldwide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. "Manufacturing" also includes the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination of whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" includes, but is not limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, "modular building" does not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person that owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person that purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which it is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided that such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, also includes Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of "person" means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County, Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges for any ~~room or rooms, lodgings, or accommodations~~ furnished to transients for less than 90 continuous days ~~by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration~~; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" does not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Room charge" means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee, before taxes. The room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the Department on the same.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used

articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities that are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, "used directly" refers to the activities specified in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

§ 58.1-603. (Contingent expiration date) Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of 4.3 percent:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.
2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.
3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.
4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.
5. Of the gross sales of any services that are expressly stated as taxable within this chapter.

§ 58.1-603. (Contingent effective date) Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.
2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for ~~rooms, lodgings or~~ accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

§ 58.1-612.2. Tax collectible from accommodations providers and intermediaries.

A. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the total charges for the accommodations, and shall remit the same to the Department and shall be liable for the same.

B. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this chapter as a dealer making a retail sale of an accommodation. The accommodations intermediary shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the room charge. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the Department and shall remit any remaining taxes to the hotel, which shall remit such taxes to the Department. When the accommodations are at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the Department.

C. An accommodations intermediary shall not be liable for retail sales and use taxes remitted to an accommodations provider but that are not then remitted to the Department by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of retail sales and use taxes that relates to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

D. For any retail sale of accommodations facilitated by an accommodations intermediary, nothing herein shall relieve the accommodations provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the accommodations provider that are not collected by the accommodations intermediary.

E. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the total charges charged to the transient by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

§ 58.1-3818.8. Definitions.

As used in this article, unless the context requires a different meaning:

"Accommodations" means any room or space for which tax is imposed on the retail sale of the same pursuant to this article.

"Accommodations fee" means the same as such term is defined in § 58.1-602.

"Accommodations intermediary" means the same as such term is defined in § 58.1-602.

"Accommodations provider" means the same as such term is defined in § 58.1-602.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Discount room charge" means the same as such term is defined in § 58.1-602.

"Retail sale" means a sale to any person for any purpose other than for resale.

"Room charge" means the same as such term is defined in § 58.1-602.

§ 58.1-3819. (Effective May 1, 2021) Transient occupancy tax.

A. 1. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. *The tax shall be imposed on the total price paid by the customer for the use or possession of the room or space occupied in a retail sale.* Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe.

2. Unless otherwise provided in this article, any county that imposes a transient occupancy tax at a rate greater than two percent shall, by ordinance, provide that (i) any excess from a rate over two percent shall be designated and spent solely for such purpose as was authorized under this article prior to January 1, 2020, or (ii) if clause (i) is inapplicable, any excess from a rate over two percent but not exceeding five percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality. Unless otherwise provided in this article, for any county that imposes a transient occupancy tax pursuant to this section or an additional transient occupancy tax pursuant to another provision of this article, any excess over five percent, combining the rates of all taxes imposed pursuant to this article, shall not be restricted in its use and may be spent in the same manner as general revenues. If any locality has enacted an additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of the locality shall be deemed to have complied with the requirement that it consult with local tourism industry organizations, including lodging properties. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. In addition, that portion of any tax imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

D. Any county, city or town that requires local hotel and motel businesses, or any class thereof, to collect, account for and remit to such locality a local tax imposed on the consumer may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof at no less than three percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due was delinquent.

E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or town imposing the tax.

§ 58.1-3819.1. Transient occupancy tax; Roanoke County.

1. Notwithstanding any other provision of law, general or special, and in lieu of any authority to impose a transient occupancy tax in any other provision of law, general or special, Roanoke County may impose a total transient occupancy tax not to exceed seven percent of the ~~amount of the charge for the occupancy of any room or space occupied or for the occupancy of any overnight guest room~~ *total price paid by the customer for the use or possession of any room, space, or overnight guest room occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

2. The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

§ 58.1-3823. (Effective May 1, 2021) Additional transient occupancy tax for certain counties.

A. Hanover County, Chesterfield County and Henrico County may impose:

1. An additional transient occupancy tax not to exceed four percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

2. An additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

3. An additional transient occupancy tax not to exceed one percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area.

B. Any county with the county manager plan of government may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*, provided that the county's governing body approves the construction of a county conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the design, construction, debt payment, and operation of such conference center.

C. (For expiration date, see Acts 2018, c. 850) The Counties of James City and York may impose an additional transient occupancy tax *for the use or possession of any overnight guest room in an amount* not to exceed \$2 per room per night ~~for the occupancy of any overnight guest room~~. The tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. Of the revenues generated by the tax authorized by this subsection, one-half of the revenues generated from each night of occupancy of an overnight guest room shall be deposited into the Historic Triangle Marketing Fund, created pursuant to subdivision E 1 of § 58.1-603.2, and one-half of the revenues shall be retained by the locality in which the tax is imposed.

C. (For effective date, see Acts 2018, c. 850) 1. The Counties of James City and York may impose an additional transient occupancy tax *for the use or possession of any overnight guest room in an amount* not to exceed \$2 per room per night ~~for the occupancy of any overnight guest room~~. The revenues collected from the additional tax shall be designated and expended solely for advertising the Historic Triangle area, which includes all of the City of Williamsburg and the Counties of James City and York, as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

2. The Williamsburg Area Destination Marketing Committee shall consist of the members as provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the County of York shall each designate one of their members to serve as members of the Williamsburg Area Destination Marketing Committee. These three members of the Committee shall have two votes apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

a. Further, one member of the Committee shall be selected by the Board of Directors of the Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

In no case shall more than one person of the same local government, including the governing body of the locality, serve as a member of the Committee at the same time.

If at any time a person who has been selected to the Committee by other than a local governing body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County of James City, or the County of York, or (b) an employee of one of such local governments, the person shall be ineligible to serve as a member of the Committee while a member of the local governing body or an employee of one of such local governments. In such case, the body that selected the person to serve as a member of the Commission shall promptly select another person to serve as a member of the Committee.

3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities granted by this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the fiscal agent for the Williamsburg Area Destination Marketing Committee with specific responsibilities to be defined in a contract between such two entities. The contract shall include provisions to reimburse the Greater Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon expenditures. The Williamsburg Area Destination Marketing Committee shall also contract with the Greater Williamsburg Chamber and Tourism Alliance to provide administrative support services as the entities shall mutually agree.

4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided herein.

For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism destination means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay of at least one night.

D. Bedford County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenues collected from the additional tax shall be designated and spent solely for tourism and travel; marketing of tourism; or initiatives that, as determined after consultation with local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality.

E. Botetourt County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

F. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

G. The authority to impose a tax pursuant to this section shall be in addition to the authority provided by the provisions of § 58.1-3819.

§ 58.1-3824. Additional transient occupancy tax in Fairfax County.

In addition to such transient occupancy taxes as are authorized by this chapter, beginning July 1, 2004, Fairfax County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of charge for the occupancy of any room or space occupied~~; *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*, provided that the board of supervisors of the County appropriates the revenues collected from such tax as follows:

1. No more than 75 percent of such revenues shall be designated for and appropriated to Fairfax County to be spent for tourism promotion in the County after consultation with local tourism industry organizations and in support of the local tourism industry; and

2. The remaining portion of such revenues shall be designated for and appropriated to a nonprofit convention and visitor's bureau located in Fairfax County.

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

For purposes of this section, "tourism promotion" means direct funding designated and spent solely for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality.

§ 58.1-3825. Additional transient occupancy tax in Rockbridge County and the Cities of Lexington and Buena Vista.

In addition to such transient occupancy taxes as are authorized by this chapter, Rockbridge County and the Cities of Lexington and Buena Vista may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The authority to impose such tax is hereby individually granted to the local governing bodies of such county and cities. However, if such tax is adopted, the local governing body of such county or cities adopting the tax shall appropriate the revenues collected therefrom to the Virginia Horse Center Foundation to be used by the Foundation for the sole purpose of making principal and interest payments on a promissory note or notes signed or executed by the Virginia Horse Center Foundation or the Virginia Equine Center Foundation prior to January 1, 2004, with the Rockbridge Industrial Development Authority as the obligee or payee, as part of an agreement for the Authority to issue bonds on behalf of or for improvements at the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or Virginia Equine Center.

For purposes of this section, such note or notes signed or executed prior to January 1, 2004, shall include any notes or other indebtedness incurred to refinance such note or notes, regardless of the date of refinancing, provided that such refinancing shall not include any debt or the payment of any debt for any activity relating to the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or Virginia Equine Center that occurs on or after January 1, 2004.

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. Such tax may no longer be imposed in such county or such cities after final payment of the note or notes described herein.

§ 58.1-3825.2. Additional transient occupancy tax in Bath County.

A. In addition to such transient occupancy tax as is authorized by § 58.1-3819, Bath County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*.

B. The revenues collected from the additional tax shall be designated and spent as follows:

1. One-half of such revenue shall be designated and spent solely for tourism and travel, marketing of tourism, or initiatives that, as determined after consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

2. One-half of such revenue shall be designated and spent solely for the design, operation, construction, improvement, acquisition, and debt service for such expenses on debt incurred after June 30, 2009, of tourism facilities, historic sites, beautification projects, promotion of the arts, regional tourism marketing efforts, capital costs related to travel and transportation including air service, public parks and recreation, and information centers that attract travelers to the locality and generate tourism revenues in the locality.

C. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms.

D. If Bath County requires local hotel and motel businesses, or any class thereof, to collect, account for, and remit the tax imposed pursuant to this section, the County may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof, no

less than three percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due is delinquent.

E. All tax collections pursuant to this section shall be deemed to be held in trust for Bath County.

§ 58.1-3825.3. (Effective May 1, 2021) Additional transient occupancy tax in Arlington County.

In addition to the transient occupancy tax authorized by § 58.1-3819, Arlington County may impose an additional transient occupancy tax not to exceed one-fourth of one percent of the amount of the charge for the occupancy of any room or space occupied total price paid by the customer for the use or possession of any room or space occupied in a retail sale. The revenues collected from the additional tax shall be designated and spent for the purpose of promoting tourism and business travel in the county.

§ 58.1-3826. Scope of transient occupancy tax.

A. The transient occupancy tax imposed pursuant to the authority of this article shall be imposed only for the occupancy use or possession of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

B. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodations, and shall remit the same to the locality and shall be liable for the same.

C. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the locality and shall remit any remaining taxes to the hotel, which shall remit such taxes to the locality. When the accommodations are at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the locality.

D. An accommodations intermediary shall not be liable for taxes under this article remitted to an accommodations provider but that are then not remitted to the locality by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of the taxes under this article that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

E. In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

§ 58.1-3842. Combined transient occupancy and food and beverage tax.

A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to levy a tax on occupancy for the use or possession of any room or space occupied in a bed and breakfast establishment on which the county is authorized to levy a transient occupancy tax under § 58.1-3819 and on food and beverages sold for human consumption within such establishment on which the county is authorized to levy a food and beverage tax under § 58.1-3833, when the charges for the occupancy use or possession of the room or space and for the sale of food and beverages are assessed in the aggregate and not separately stated. Such tax shall not exceed four percent of the total amount charged for the occupancy of the room or space occupied price paid by the customer for the use or possession of the room or space occupied and for the food and beverages. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body. All taxes collected under the authority of this article shall be deemed to be held in trust for the county imposing the tax.

B. If a bed and breakfast establishment separately states charges for the occupancy use or possession of the room or space occupied and for the sale of food and beverages, a transient occupancy tax levied under § 58.1-3819 and a food and beverage tax levied under § 58.1-3833 shall apply to such separately stated charges, as applicable.

C. Any tax imposed pursuant to this article shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town meals tax or a town transient occupancy tax on the same subject. If the governing body of any town within a county, however, provides that a county tax authorized by this article shall apply within the limits of such town, then such tax may be imposed within such towns.

D. This tax shall be levied only if a food and beverage tax has been approved in a referendum within the county as provided by subsection A of § 58.1-3833. No county in which the levy of a food and beverage tax has been approved in a referendum pursuant to subsection A of § 58.1-3833 shall be required to submit an amendment to its meals tax ordinance or a further question to the voters in a referendum prior to adopting an ordinance adopting or amending the tax authorized by this article.

E. Nothing herein contained shall affect any authority heretofore granted to any county to levy a food and beverage tax or a transient occupancy tax.

§ 58.1-3843. Scope of transient occupancy tax.

A. As used in this section:

"Accommodations" means any room or space for which tax is imposed on the retail sale of the same pursuant to this article.

"Accommodations fee" means the same as such term is defined in § 58.1-602.

"Accommodations intermediary" means the same as such term is defined in § 58.1-602.

"Accommodations provider" means the same as such term is defined in § 58.1-602.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Discount room charge" means the same as such term is defined in § 58.1-602.

"Retail sale" means a sale to any person for any purpose other than for resale.

"Room charge" means the same as such term is defined in § 58.1-602.

B. Notwithstanding any other provision of law, general or special, the tax imposed on transient room rentals pursuant to the authority of this article shall be imposed only for the occupancy use or possession of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

C. The scope of the transient occupancy tax imposed pursuant to this article shall be consistent with the scope of the transient occupancy tax imposed under Article 6 (§ 58.1-3818.8 et seq.).

2. That the provisions of the first enactment of this act shall become effective on September 1, 2021, and that the provisions of the third, fourth, and fifth enactments of this act shall become effective in due course.

3. That the Department of Taxation (the Department) shall develop and make publicly available guidelines no later than August 1, 2021, for purposes of developing processes and procedures for implementing the provisions of §§ 58.1-602 and 58.1-603 of the Code of Virginia, as amended by this act, and the provisions of § 58.1-612.2 of the Code of Virginia, as created by this act, relating to the retail sale and taxation of accommodations. The development, issuance, and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

4. That the Department of Taxation shall maintain on its website a current table indicating the rate of the local transient occupancy tax imposed by each county, city, and town in the Commonwealth. Every county, city, and town that imposes a transient occupancy tax shall, no later than seven days after making a change to its rate of taxation, provide written notice of the same to the Tax Commissioner for the purpose of updating the table.

5. That nothing in this act shall be construed to appropriate or transfer any transportation revenues for non-transportation-related purposes pursuant to the twenty-second enactment of Chapter 896 of the Acts of Assembly of 2007, the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013, the fourth enactment of Chapters 837 and 846 of the Acts of Assembly of 2019, the tenth enactment of Chapters 1230 and 1275 of the Acts of Assembly of 2020, the second enactment of Chapter 1235 of the Acts of Assembly of 2020, and the second enactment of Chapters 1241 and 1281 of the Acts of Assembly of 2020.

CHAPTER 384

An Act to amend and reenact §§ 15.2-5500, 15.2-5501, 15.2-5505, 15.2-5506, and 45.1-246 of the Code of Virginia, relating to the Tourism Development Authority; name change.

[S 1399]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5500, 15.2-5501, 15.2-5505, 15.2-5506, and 45.1-246 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 55.

HEART OF APPALACHIA TOURISM DEVELOPMENT AUTHORITY.

§ 15.2-5500. Heart of Appalachia Tourism Authority.

There is hereby established as a political subdivision, a body politic and corporate, the Heart of Appalachia Tourism Development Authority (*the Authority*) for the LENOWISCO and Cumberland Plateau Planning District Commissions. The Authority shall promote, expand, and develop the tourism industries of this coal-producing region as a whole.

§ 15.2-5501. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means any political subdivision, a body politic and corporate, the Heart of Appalachia Tourism Authority created, organized and operated pursuant to the provisions of this chapter, or if such Authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions with respect to which an authority may be organized and in which it is contemplated the Authority will function.

§ 15.2-5505. Establishment of local tourism advisory committees.

Each of the participating localities in the LENOWISCO and Cumberland Plateau Planning District Commissions shall establish a local tourism advisory committee to promote tourism in the participating locality, participate and assist in the planning of the ~~regional Tourism Development~~ Authority, and develop a tourism destination plan for its participating locality.

The Tourism Director, working with the tourism advisory committee chair, shall provide a slate of recommendations to the local governing body, ~~which for positions on its tourism advisory committee. The local governing body shall then~~ appoint five or more appointees representing the travel industry, which includes lodging, restaurants, attractions, outdoor recreation, events ~~or, and~~ parks, or ~~any~~ appoint community leaders ~~with terms. Terms of the appointees shall be determined by the local governing body, and who; such appointees may be reappointed.~~ The Tourism Director shall work with the chairman of the tourism advisory committee to facilitate regular meetings of the tourism advisory committee.

§ 15.2-5506. Responsibilities and duties; local tourism advisory committees.

The local tourism advisory committees established in § 15.2-5505 shall:

1. Promote and assist tourism development in their individual participating localities;
2. Develop and assist in the implementation of a tourism development plan to increase tourism revenue in their respective participating localities;
3. Encourage individuals, *and* businesses and their local ~~government~~ *governments* to invest in tourism development as an integral part of overall economic development; and
4. Assist the ~~regional Tourism Development~~ Authority in planning and implementing a regional tourism development plan.

§ 45.1-246. Civil and criminal penalties.

A. Any permittee who violates any permit condition or any other provision of this chapter or the regulations thereunder may be assessed a civil penalty by the Director, except that if such violation leads to the issuance of a cessation order, the civil penalty shall be assessed. Such penalty shall not exceed \$5,000 for each violation except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty shall not exceed \$70,000 for each violation. Each day of continuing violation may be deemed a separate violation for the purposes of assessing penalties. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular coal surface mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

B. A civil penalty may be assessed by the Director only after the person charged with a violation has been given an opportunity for a public hearing. Where such a public hearing has been held, the Director shall make findings of fact and issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Director shall consolidate such hearings with other proceedings pursuant to the provisions of this chapter. Any hearing under this section shall be a formal adjudicatory hearing in accordance with the Administrative Process Act (Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2). When the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Director after the Director determines that a violation has occurred and the amount of the penalty warranted, and issues an order requiring that the penalty be paid.

C. Upon the issuance of a notice or order charging that a violation described under subsection A of this section has occurred, the Director shall inform the permittee within 30 days of the proposed amount of the penalty. The permittee charged with the penalty shall then have 30 days to pay the proposed penalty in full or if the permittee wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Director for placement in an interest-bearing trust account in the State Treasurer's office. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Director shall within 30 days of that determination remit the appropriate amount to the permittee with accrued interest thereon. Failure to forward the money to the Director within 30 days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

D. If a permittee who is required to pay a civil penalty fails to do so, the Director may transmit a true copy of the final order assessing such penalty to the clerk of the court of any county or city wherein it is ascertained that the permittee owing the penalty has any estate; and the clerk to whom such copy is so sent shall record it, as a judgment is required by law to be recorded, and shall index the same as well in the name of the Commonwealth as of the person owing the penalty, and thereupon there shall be a lien in favor of the Commonwealth on the property of the permittee within such county or city in the amount of the penalty. The Director may collect civil penalties which are owed in the same manner as provided by law in respect to judgment of a court of record. All civil penalties shall be paid into a special fund in the State Treasurer's office to be used by the Director for enhancing conservation and recreational opportunities in the coal-producing counties of the Commonwealth. The Director shall transfer quarterly 50 percent of the fund balance to the Virginia Coalfield Economic Development Authority for the purposes of developing infrastructure and improvements at Breaks Interstate Park and 50 percent of the fund balance to the *Heart of Appalachia* ~~Tourism Development~~ Authority for the purpose of developing conservation and recreational opportunities consistent with the provisions of Chapter 55 (§ 15.2-5500 et seq.) of Title 15.2.

E. Any person who willfully and knowingly (i) conducts coal surface mining or coal exploration operations without first obtaining a permit, or after a permit has lapsed, or after suspension or revocation of a permit; or (ii) violates a condition

of a permit issued pursuant to this chapter; or (iii) disregards, fails or refuses to comply with the regulations or orders promulgated or issued pursuant to the provisions of this chapter, except an order incorporated in a decision under subsection B of this section shall, upon conviction, be punished by a fine of not more than \$10,000, by confinement in jail for not more than 12 months, or both.

F. Whenever a corporate permittee violates a condition of a permit or disregards, fails, or refuses to comply with any order issued under this chapter, except an order incorporated in a decision issued under subsection B of this section, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines and confinement in jail that may be imposed upon a person under subsections A and E of this section.

G. Whoever knowingly makes any false statement, representation or certification, or knowingly fails to make any required statement, representation or certification, in any application, objection, record, report, plan or other document filed or required to be maintained pursuant to this chapter, the regulations promulgated thereunder, or any order or decision issued by the Director under this chapter shall, upon conviction thereof, be punished by a fine of not more than \$10,000, or by confinement in jail for not more than 12 months, or both.

H. Any operator who fails to correct a violation for which a notice or order has been issued within the period permitted for its correction, which period shall not end until the entry of a final order by the Director, in the case of any review proceedings initiated by the operator wherein the Director orders after an expedited hearing the suspension of the abatement requirements of the notice or order after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements, shall be assessed a civil penalty of not less than \$750 for each day during which such failure or violation occurs.

CHAPTER 385

An Act to amend and reenact § 62.1-44.15:29.1 of the Code of Virginia, relating to Stormwater Local Assistance Fund; grant requirements.

[S 1404]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:29.1 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:29.1. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Stormwater Local Assistance Fund.

A. The State Comptroller shall continue in the state treasury the Stormwater Local Assistance Fund (the Fund) established by Chapter 806 of the Acts of Assembly of 2013, which shall be administered by the Department. All civil penalties and civil charges collected by the Board pursuant to §§ 62.1-44.15:25, 62.1-44.15:48, 62.1-44.15:63, and 62.1-44.15:74, subdivision (19) of § 62.1-44.15, and § 62.1-44.19:22 shall be paid into the state treasury and credited to the Fund, together with such other funds as may be made available to the Fund, which shall also receive bond proceeds from bonds authorized by the General Assembly, sums appropriated to it by the General Assembly, and other grants, gifts, and moneys as may be made available to it from any other source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. The purpose of the Fund is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet (i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements, (ii) requirements for local impaired stream TMDLs, (iii) water quality measures of the Chesapeake Bay Watershed Implementation Plan, and (iv) water quality requirements related to the permitting of small municipal separate storm sewer systems. The grants shall be used solely for stormwater capital projects, including (a) new stormwater best management practices, (b) stormwater best management practice retrofitting or maintenance, (c) stream restoration, (d) low-impact development projects, (e) buffer restoration, (f) pond retrofitting, and (g) wetlands restoration. Such grants shall be made in accordance with eligibility determinations made by the Department pursuant to criteria established by the Board. *Grants awarded for projects related to Chesapeake Bay TMDL requirements may take into account total phosphorus reductions or total nitrogen reductions. Grants awarded for eligible projects in localities with high or above average fiscal stress as reported by the Commission on Local Government may account for more than 50 percent of the costs of a project.*

C. Moneys in the Fund shall be used solely for the purpose set forth herein and disbursements from it shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

**ACTS
OF THE
GENERAL ASSEMBLY**



2021 SPECIAL SESSION I

VOLUME I

VOLUME II

VOLUME III

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2021 SPECIAL SESSION I

which met at the State Capitol, Richmond

Convened Wednesday, February 10, 2021

Adjourned sine die Monday, March 1, 2021

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VOLUME II

CHAPTERS 386-552

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CHAPTER 386

An Act to amend and reenact § 2.2-115 of the Code of Virginia, relating to grants from the Commonwealth's Development Opportunity Fund; waiver or reduction of capital investment and local match requirements.

[S 1418]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-115 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-115. Commonwealth's Development Opportunity Fund.**

A. As used in this section, unless the context requires otherwise:

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year.

Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"New teleworking job" means a new job that is held by a Virginia resident, for which the majority of the work is performed remotely, and that pays at least 1.2 times the Virginia minimum wage, as provided by the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

B. There is created the Commonwealth's Development Opportunity Fund (the Fund) to be used by the Governor to attract economic development prospects and secure the expansion of existing industry in the Commonwealth. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations as funds are awarded in accordance with this section.

C. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) job creation, (ii) private capital investment, and (iii) anticipated additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created. Loans shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership and approved by the Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the Fund. The Governor may establish the interest rate to be charged; otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and for every five fiscal years' period thereafter, in general, no less than one-third of the moneys appropriated to the Fund in every such five-year period shall be awarded to counties and cities having an annual average unemployment rate that is greater than the final statewide average unemployment rate for the calendar year that immediately precedes the calendar year of the award. However, if such one-third requirement will not be met because economic development prospects in such counties and cities are unable to fulfill the applicable minimum private investment and new jobs requirements set forth in this section, then any funds remaining in the Fund at the end of the five-year period that would have otherwise been awarded to such counties and cities shall be made available for awards in the next five fiscal years' period.

D. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

It shall be the policy of the Commonwealth that moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality, unless the procedures set forth

in § 30-310 are followed. The Secretary of Commerce and Trade shall enforce this policy and for any exception thereto shall, pursuant to § 30-310, submit such projects to the MEI Project Approval Commission established pursuant to § 30-309.

E. 1. a. Except as provided in this subdivision, no grant or loan shall be awarded from the Fund unless the project involves a minimum private investment of \$5 million and creates at least 50 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. For projects, including but not limited to projects involving emerging technologies, for which the average wage of the new jobs created, excluding fringe benefits, is at least twice the prevailing average wage for that locality or region, the Governor shall have the discretion to require no less than one-half the number of new jobs as set forth for that locality in this subdivision.

b. Notwithstanding the provisions of subdivision a, a grant or loan may be awarded from the Fund if the project involves a minimum private investment of \$100 million and creates at least 25 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage.

2. Notwithstanding the provisions of subdivision 1 a, in localities (i) with an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year or (ii) with a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year, a grant or loan may be awarded from the Fund pursuant to subdivision 1 a if the project involves a minimum private investment of \$2.5 million and creates at least 25 new jobs for which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

3. Notwithstanding the provisions of subdivisions 1 a and 2, in localities (i) with an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) with a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year, a grant or loan may be awarded from the Fund pursuant to such subdivisions if the project involves a minimum private investment of \$1.5 million and creates at least 15 new jobs for which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

4. For projects that are eligible under subdivision 2 or 3, the average wage of the new jobs, excluding fringe benefits, shall be no less than 85 percent of the prevailing average wage. In addition, for projects in such localities, the Governor may award a grant or loan for a project paying less than 85 percent of the prevailing average wage but still providing customary employee benefits, only after the Secretary of Commerce and Trade has made a written finding that the economic circumstances in the area are sufficiently distressed (i.e., high unemployment or underemployment and negative economic forecasts) that assistance to the locality to attract the project is nonetheless justified. However, the minimum private investment and number of new jobs required to be created as set forth in this subsection shall still be a condition of eligibility for an award from the Fund. Such written finding shall promptly be provided to the chairs of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations.

5. *A business beneficiary may count new teleworking jobs toward the minimum number of new jobs required under subdivision 1, 2, or 3, if so permitted in the contract required by subdivision F 2.*

6. *The minimum private investment required under subdivision 1, 2, or 3 may be reduced or waived if at least 75 percent, measured against the minimum number of new jobs required, of jobs created by the business beneficiary are new teleworking jobs, if so permitted in the contract required by subdivision F 2.*

F. 1. The Virginia Economic Development Partnership shall assist the Governor in developing objective guidelines and criteria that shall be used in awarding grants or making loans from the Fund. The guidelines may require that as a condition of receiving any grant or loan incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports that have been provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal. The guidelines may include a requirement for the affected locality or localities to provide matching funds which may be cash or in-kind, at the discretion of the Governor; *however, if the minimum private investment is reduced or waived pursuant to subdivision E 6, the Governor may provide full or partial relief from such matching requirement.* The guidelines and criteria shall include provisions for geographic diversity and a cap on the amount of funds to be provided to any individual project. At the discretion of the Governor, this cap may be waived for qualifying projects of regional or statewide interest. In developing the guidelines and criteria, the Virginia Economic Development Partnership shall use the measure for Fiscal Stress published by the Commission on Local Government of the Department of Housing and Community Development for the locality in which the project is located or will be located as one method of determining the amount of assistance a locality shall receive from the Fund.

2. a. Notwithstanding any provision in this section or in the guidelines, each political subdivision that receives a grant or loan from the Fund shall enter into a contract with the Commonwealth, through the Virginia Economic Development Partnership Authority as its agent, and each business beneficiary of funds from the Fund. A person or entity shall be a business beneficiary of funds from the Fund if grant or loan moneys awarded from the Fund by the Governor are paid to a political subdivision and (i) subsequently distributed by the political subdivision to the person or entity or (ii) used by the political subdivision for the benefit of the person or entity but never distributed to the person or entity.

b. The contract between the political subdivision, the Commonwealth, and the business beneficiary shall provide in detail (i) the fair market value of all funds that the Commonwealth has committed to provide, (ii) the fair market value of all matching funds (or in-kind match) that the political subdivision has agreed to provide, (iii) how funds committed by the Commonwealth (including but not limited to funds from the Fund committed by the Governor) and funds that the political subdivision has agreed to provide are to be spent, (iv) the minimum private investment to be made and the number of new

jobs to be created agreed to by the business beneficiary, (v) the average wage (excluding fringe benefits) agreed to be paid in the new jobs, (vi) the prevailing average wage, and (vii) the formula, means, or processes agreed to be used for measuring compliance with the minimum private investment and new jobs requirements, including consideration of any layoffs instituted by the business beneficiary over the course of the period covered by the contract.

The contract shall state the date by which the agreed upon private investment and new job requirements shall be met by the business beneficiary of funds from the Fund and may provide for the political subdivision and the Commonwealth to grant up to a 15-month extension of such date if deemed appropriate by the political subdivision and the Commonwealth subsequent to the execution of the contract. Any extension of such date granted by the political subdivision shall be in writing and promptly delivered to the business beneficiary, and the political subdivision shall simultaneously provide a copy of the extension to the Virginia Economic Development Partnership.

The contract shall provide that if the private investment and new job contractual requirements are not met by the expiration of the date stipulated in the contract, including any extension granted by the political subdivision and the Commonwealth, the business beneficiary shall be liable to the political subdivision and the Commonwealth for repayment of a portion of the funds provided by the political subdivision under the contract and liable to the Commonwealth for repayment of a portion of the funds provided from the Commonwealth's Development Opportunity Fund. The contract shall include a formula for purposes of determining the portion of such funds to be repaid. The formula shall, in part, be based upon the fair market value of all funds that have been provided by the Commonwealth and the political subdivision and the extent to which the business beneficiary has met the private investment and new job contractual requirements. All such funds repaid to the political subdivision or the Commonwealth that relate to the award from the Commonwealth's Development Opportunity Fund shall promptly be remitted to the State Treasurer. Upon receipt by the State Treasurer of such payment, the Comptroller shall deposit such repaid funds into the Commonwealth's Development Opportunity Fund.

c. The contract shall be amended to reflect changes in the funds committed by the Commonwealth or agreed to be provided by the political subdivision.

d. Notwithstanding any provision in this section or in the guidelines, whenever layoffs instituted by a business beneficiary over the course of the period covered by a contract cause the net total number of the new jobs created to be fewer than the number agreed to, then the business beneficiary shall return the portion of any funds received pursuant to the repayment formula established by the contract.

3. Notwithstanding any provision in this section or in the guidelines, prior to executing any such contract with a business beneficiary, the political subdivision shall provide a copy of the proposed contract to the Attorney General. The Attorney General shall review the proposed contract (i) for enforceability as to its provisions and (ii) to ensure that it is in appropriate legal form. The Attorney General shall provide any written suggestions to the political subdivision within seven days of his receipt of the copy of the contract. The Attorney General's suggestions shall be limited to the enforceability of the contract's provisions and the legal form of the contract.

4. Notwithstanding any provision in this section or in the guidelines, a political subdivision shall not expend, distribute, pledge, use as security, or otherwise use any award from the Fund unless and until such contract as described herein is executed with the business beneficiary.

G. Within the 30 days immediately following each quarter, the Virginia Economic Development Partnership shall provide a report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations which shall include, but is not limited to, the following information regarding grants and loans awarded from the Fund during the immediately preceding six-month period for economic development projects: the name of the company that is the business beneficiary of the grant or loan and the type of business in which it engages; the location (county, city, or town) of the project; the amount of the grant or loan committed from the Fund and the amount of all other funds committed by the Commonwealth from other sources and the purpose for which such grants, loans, or other funds will be used; the amount of all moneys or funds agreed to be provided by political subdivisions and the purposes for which they will be used; the number of new jobs agreed to be created by the business beneficiary; the amount of investment in the project agreed to be made by the business beneficiary; the timetable for the completion of the project and new jobs created; the prevailing average wage; and the average wage (excluding fringe benefits) agreed to be paid in the new jobs.

H. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

I. On a quarterly basis, the Virginia Economic Development Partnership shall notify the Governor, his campaign committee, and his political action committee of awards from the Fund made in the prior quarter. Within 18 months of the date of each award from the Fund, the Governor, his campaign committee, and his political action committee shall submit to the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355 a report listing any contribution, gift, or other item with a value greater than \$100 provided by the business beneficiary of such award to the Governor, his campaign committee, or his political action committee, respectively, during (i) the period in which the business beneficiary's application for such award was pending and (ii) the one-year period immediately after any such award was made.

J. 1. Notwithstanding any provision of this section, the Governor may give grants or loans to any eligible company, as defined in § 58.1-405.1, provided that such company shall be required to distribute at least half of such grant or loan to its

employees in jobs located in a qualified locality, as defined in § 58.1-405.1. If the Governor gives a grant or loan pursuant to this subsection, it shall not be required to meet other provisions in this section, including provisions, restrictions, and procedural requirements related to job creation, investment, local matching funds, or contracts with business beneficiaries.

2. The grant or loan shall not exceed \$2,000 per new job, as defined in § 58.1-405.1; however, the Governor may give a new grant or loan each year to the same eligible company.

3. An eligible company's eligibility for or receipt of a grant or loan pursuant to this subsection shall not prevent it from receiving any other grant or loan for which it may be qualified pursuant to this section.

CHAPTER 387

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 10.1 an article numbered 5, consisting of sections numbered 10.1-1332 and 10.1-1333, by adding in Chapter 1 of Title 33.2 a section numbered 33.2-120, by adding in Article 2 of Chapter 2 of Title 33.2 a section numbered 33.2-221.1, by adding a title numbered 45.2, containing a subtitle numbered I, consisting of chapters numbered 1 through 4, containing sections numbered 45.2-100 through 45.2-402, a subtitle numbered II, consisting of chapters numbered 5 through 10, containing sections numbered 45.2-500 through 45.2-1051, a subtitle numbered III, consisting of chapters numbered 11 through 15, containing sections numbered 45.2-1100 through 45.2-1505, a subtitle numbered IV, consisting of a chapter numbered 16, containing sections numbered 45.2-1600 through 45.2-1649, and a subtitle numbered V, consisting of chapters numbered 17 through 21, containing sections numbered 45.2-1700 through 45.2-2119, by adding sections numbered 55.1-1820.1, 55.1-1951.1, and 55.1-2133.1, and by adding in Title 56 a chapter numbered 29, consisting of sections numbered 56-614 through 56-624, and to repeal Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, relating to administration of the Department of Mines, Minerals and Energy, coal mining, mineral mines, gas and oil, and other sources of energy and energy policy.

[S 1453]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 10.1 an article numbered 5, consisting of sections numbered 10.1-1332 and 10.1-1333, by adding in Chapter 1 of Title 33.2 a section numbered 33.2-120, by adding in Article 2 of Chapter 2 of Title 33.2 a section numbered 33.2-221.1, by adding a title numbered 45.2, containing a subtitle numbered I, consisting of chapters numbered 1 through 4, containing sections numbered 45.2-100 through 45.2-402, a subtitle numbered II, consisting of chapters numbered 5 through 10, containing sections numbered 45.2-500 through 45.2-1051, a subtitle numbered III, consisting of chapters numbered 11 through 15, containing sections numbered 45.2-1100 through 45.2-1505, a subtitle numbered IV, consisting of a chapter numbered 16, containing sections numbered 45.2-1600 through 45.2-1649, and a subtitle numbered V, consisting of chapters numbered 17 through 21, containing sections numbered 45.2-1700 through 45.2-2119, by adding sections numbered 55.1-1820.1, 55.1-1951.1, and 55.1-2133.1, and by adding in Title 56 a chapter numbered 29, consisting of sections numbered 56-614 through 56-624, as follows:

Article 5.

Clean Coal Projects.

§ 10.1-1332. Definitions.

As used in this article, unless the context requires a different meaning:

"Center" means the Virginia Center for Coal and Energy Research.

"Clean coal project" means any project that uses any technology, including a technology applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility that (i) will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products and is not in widespread use or (ii) is otherwise defined as clean coal technology pursuant to 42 U.S.C. § 7651n.

§ 10.1-1333. Permitting process for clean coal projects.

To the extent authorized by federal law, the Board shall implement permit processes that facilitate the construction of clean coal projects in the Commonwealth by, among such other actions as it deems appropriate, giving priority to processing permit applications for clean coal projects.

§ 33.2-120. Efforts to increase CAFE standards.

A. As used in this section, unless the context requires a different meaning, "CAFE standards" means the corporate average fuel economy standards for passenger cars and light trucks manufactured for sale in the United States that have been implemented pursuant to the federal Energy Policy and Conservation Act of 1975 (P.L. 94-163), as amended.

B. It is the policy of the Commonwealth to support federal action that provides for:

1. An increase in the CAFE standards from the current standard by promoting performance-based tax credits for advanced technology, fuel-efficient vehicles to facilitate the introduction and purchase of such vehicles; and

2. Market incentives and education programs to build demand for high-efficiency, cleaner vehicles, including tax incentives for highly efficient vehicles.

§ 33.2-221.1. Use of biodiesel and other alternative fuels in vehicles providing public transportation.

A. As used in this section, unless the context requires a different meaning, "biodiesel fuel" means a renewable, biodegradable, mono-alkyl ester combustible liquid fluid fuel from agricultural plant oils or animal fats that meets the applicable American Society for Testing and Materials (ASTM) Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

B. The Board shall encourage the use of biodiesel fuel and other alternative fuels, to the extent practicable, in buses and other vehicles used to provide public transportation in the Commonwealth.

TITLE 45.2.

MINES, MINERALS, AND ENERGY.

SUBTITLE I.

ADMINISTRATION.

CHAPTER 1.

ADMINISTRATION.

Article 1.

Department of Mines, Minerals and Energy.

§ 45.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Chief" means the Chief of the Division of Mines of the Department of Mines, Minerals and Energy.

"Department" means the Department of Mines, Minerals and Energy.

"Director" means the Director of the Department of Mines, Minerals and Energy.

"State Geologist" means the Commissioner of Mineral Resources and State Geologist appointed pursuant to § 45.2-107.

§ 45.2-101. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this title the Chief, the Director, or the Department is required to send any mail or notice by certified mail and such mail or notice is sent by certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Chief, the Director, or the Department may be sent by regular mail.

§ 45.2-102. Department of Mines, Minerals and Energy; appointment of Director.

The Department of Mines, Minerals and Energy is established in the executive branch within the Secretariat of Commerce and Trade. The Department shall be headed by a Director who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor for a term coincident with the Governor's term.

§ 45.2-103. Powers of Department.

The Department shall have the following powers and duties, any of which, with the approval of the Director, may be exercised by any division of the Department with respect to matters assigned to that division:

1. To employ the personnel required to carry out the purposes of this title;

2. To make and enter into any contract or agreement necessary or incidental to the performance of its duties and the execution of its powers under this title, including reciprocal agreements with responsible officers of other states and contracts with the private sector, the United States, other state agencies, and governmental subdivisions of the Commonwealth;

3. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department may comply with any condition and execute any agreement that is necessary, convenient, or desirable;

4. To adopt regulations necessary or incidental to the performance of its duties or execution of its powers under this title or any other provision of law. Such regulations shall be adopted by the Department, the Chief, or the Director, as appropriate, and in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act; and

5. To do all acts necessary or convenient to carry out the purposes of this title.

§ 45.2-104. Powers and duties of Director.

The Director, under the direction and control of the Governor, shall exercise the powers and perform the duties conferred or imposed upon him by law and shall perform any other duties required of him by the Governor.

§ 45.2-105. Establishment of divisions; division heads.

The following divisions, through which the functions, powers, and duties of the Department may be discharged, are established in the Department: a Division of Mines, a Division of Mined Land Reclamation, a Division of Geology and Mineral Resources, a Division of Gas and Oil, a Division of Mineral Mining, a Division of Energy, and a Division of Offshore Wind. The Director may establish other divisions as he deems necessary. Except as provided in § 45.2-508 with respect to the Chief of the Division of Mines, the Director shall appoint persons to direct the various functions and programs of each division and may delegate to the head of any division any of the powers and duties conferred or imposed by law on the Director.

§ 45.2-106. Department to serve as lead agency for inspections undertaken subsequent to the issuance of a permit.

Following the issuance of any permit under Chapter 10 (§ 45.2-1000 et seq.) or 12 (§ 45.2-1200 et seq.), the Department shall serve as the lead agency for enforcement of the provisions of the permit. Any other agency that has reviewed and approved, or not disapproved, a permit application prior to its approval by the Director shall contact the Director or his designee prior to making any routine inspection. The Director or his designee shall then contact the permittee, if prior contact is to be made, to schedule the inspection and shall accompany any employee of any agency other than the Department during any inspection by such other agency. However, nothing in this section shall apply in the event of a blackwater discharge, a failure of a waste treatment facility, or any situation that in the judgment of the State Water Control Board requires an inspection on an emergency or expedited basis.

Article 2.

Division of Geology and Mineral Resources.

§ 45.2-107. Division of Geology and Mineral Resources; State Geologist.

There is established in the Department a Division of Geology and Mineral Resources. The Director shall appoint a geologist of established reputation as the Commissioner of Mineral Resources and State Geologist to serve as chief executive and head officer of the Division. As used in this article, unless the context requires a different meaning, "Division" means the Division of Geology and Mineral Resources.

§ 45.2-108. General powers and duties of State Geologist.

The State Geologist shall exercise those powers and perform those duties, in relation to mineral resources, geology, and geophysical matters, that are conferred or imposed upon the Director by the provisions of this title, including powers and duties delegated to him by the Director. The State Geologist may also exercise and perform such other powers and duties as are lawfully delegated to him and such powers and duties as are conferred or imposed upon him by law.

§ 45.2-109. Using or revealing proprietary information.

Notwithstanding any provision of law to the contrary, neither the State Geologist nor any employee or agent of the Division shall make use of or reveal any proprietary information or statistic gathered from any source for any purpose other than that of this chapter, except with the express written consent of the source of such information or statistic. The State Geologist shall not reveal such information to the Director or any other employee of the Department who is not employed within the Division.

§ 45.2-110. Powers and duties of the Division.

The Division has the following powers and duties:

1. Examination of the geological formations of the Commonwealth and the resources contained therein, with special reference to both economic products and energy resources, including coal, ore, clay, feldspar, lime, natural gas, oil, cement, sand and gravel, stone, materials suitable for use in building and road construction, mineral water, other mineral substances, and geothermal energy resources.
2. Examination of latent resources and waste minerals to determine the best methods of utilizing them and study of the soils and weathered residuum as related to parent rock.
3. Maintenance of repositories for representative rock and mineral materials from various wells, mines, excavations, and naturally occurring exposures.
4. Maintenance of records and statistics of the mineral industry and geological conditions of the Commonwealth.
5. Performance of chemical and physical tests, including test borings, to acquire subsurface information relative to mineral deposits masked by soils and rock overburden.
6. Examination of the physical features of the Commonwealth with reference to their practical bearing upon the occupation and well-being of the people.
7. Preparation of special geological and economic maps and displays to illustrate the resources of the Commonwealth.
8. Preparation of regular and special reports, with necessary illustrations and maps, that embrace both a general and detailed description of the geology and mineral resources of the Commonwealth.
9. Consideration of such other scientific and economic questions that in the judgment of the Director are deemed of value to the people of the Commonwealth.
10. Arrangement for the investigation and reporting of the geology of the Commonwealth with the Director or the representative of the United States Geological Survey (USGS) in regard to cooperation between the USGS and the Department in topographic and geologic work when deemed necessary and of advantage to the Commonwealth. The Director may accept or reject the work of the USGS.
11. Participation in matters requiring advice and guidance sought by state agencies and institutions concerning geological and mineral resources as related to state lands.
12. Provision of basic research and the development of methods utilized in the determination of characteristics, structure, and origin for geological formations and economic mineral deposits.

§ 45.2-111. Publication of reports.

The Director may direct the publication of the reports of the Division, with proper illustrations and maps, and the reports shall be distributed as the interests of the Commonwealth and of science indicate.

§ 45.2-112. Disposition of materials that have served purpose of the Division.

Materials collected after having served the purpose of the Division shall be distributed to the educational institutions of the Commonwealth in the manner that the Director determines to be of the greatest advantage to the educational interests of the Commonwealth.

§ 45.2-113. Immunity from prosecution for trespass.

No criminal action for trespass shall lie against the State Geologist or any agent or employee of the State Geologist pursuant to any lawful act done in the performance of his duties, including entry upon the lands of any person for the purpose of performing such duties.

CHAPTER 2.

INTERSTATE MINING COMPACT.

§ 45.2-200. Governor authorized to execute Interstate Mining Compact.

The Governor is hereby authorized to execute, on behalf of the Commonwealth, a compact that is in form substantially as provided in § 45.2-201.

§ 45.2-201. Interstate Mining Compact.

INTERSTATE MINING COMPACT.

ARTICLE I

FINDINGS AND PURPOSES

A. The party states find that:

- 1. Mining and the contributions thereof to the economy and well-being of every state are of basic significance.*
- 2. The effects of mining on the availability of land, water, and other resources for other uses present special problems that properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.*
- 3. Measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern.*
- 4. Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.*
- 5. The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles and with due regard for local conditions.*

B. The purposes of this compact are to:

- 1. Advance the protection and restoration of land, water, and other resources affected by mining.*
- 2. Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining.*
- 3. Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states that will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.*
- 4. Assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources.*
- 5. Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.*

ARTICLE II

DEFINITIONS

As used in this compact:

"Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use but shall not include those aspects of deep mining not having significant effect on the surface and shall not include excavation or grading when conducted solely in aid of onsite farming or construction.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

ARTICLE III

STATE PROGRAMS

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

- 1. The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.*
- 2. The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and water.*
- 3. The institution and maintenance of suitable programs of adaptation, restoration, and rehabilitation of mined lands.*

4. *The prevention, abatement, and control of water, air, and soil pollution resulting from mining, present, past, and future.*

ARTICLE IV

POWERS

In addition to any other powers conferred upon the Interstate Mining Commission, established by Article V of this compact, the Commission shall have power to:

1. *Study mining operations, processes, and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes, and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change.*

2. *Study the conservation, adaptation, improvement, and restoration of land and related resources affected by mining.*

3. *Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.*

4. *Gather and disseminate information relating to any of the matters within the purview of this compact.*

5. *Cooperate with the federal government and any public or private entities having interest in any subject coming within the purview of this compact.*

6. *Consult, upon the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact.*

7. *Study and make recommendations with respect to any practice, process, technique, or course of action that may improve the efficiency of mining or the economic yield from mining operations.*

8. *Study and make recommendations relating to the safeguarding of access to resources that are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.*

ARTICLE V

THE COMMISSION

A. *There is hereby created an agency of the party states to be known as the Interstate Mining Commission (the Commission). The Commission shall be composed of one commissioner from each party state who shall be the Governor thereof. Pursuant to the laws of his party state, each Governor shall have the assistance of any advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the Commission. In any instance where a Governor is unable to attend a meeting of the Commission or perform any other function in connection with the business of the Commission, he shall designate an alternate from among the members of the advisory body required by this subsection who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the Commission in such manner as its bylaws may provide.*

B. *The commissioners shall be entitled to one vote each on the Commission. No action of the Commission making a recommendation pursuant to subdivision 3, 7, or 8 of Article IV or requesting, accepting, or disposing of funds, services, or other property pursuant to this subsection, subsection G or H of this article, or Article VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the Commission is cast in favor thereof. All other action shall be by a majority of those present and voting, provided that action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.*

C. *The Commission shall have a seal.*

D. *The Commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Commission shall appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission. The Executive Director, the Treasurer, and such other personnel as the Commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the Commission.*

E. *Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the Executive Director with the approval of the Commission shall appoint, remove, or discharge such personnel as may be necessary for the performance of the Commission's functions and shall fix the duties and compensation of such personnel.*

F. *The Commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance, provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.*

G. *The Commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.*

H. *The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and service, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the Commission pursuant to this subsection or services borrowed pursuant*

to subsection G of this article shall be reported in the annual report of the Commission. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

J. The Commission annually shall make to the Governor, legislature, and advisory body required by subsection A of this article of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been made by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE VI

ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

The Commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations that the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the Commission.

ARTICLE VII

FINANCE

A. The Commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

B. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the Commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning the value of minerals, ores, and other solid matter mined.

C. The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under subsection H of Article V, provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under subsection H of Article V, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII

ENTRY INTO FORCE AND WITHDRAWAL

A. This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX

EFFECT ON OTHER LAWS

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state

participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

CHAPTER 3.

INTERSTATE COMPACT TO CONSERVE OIL AND GAS.

§ 45.2-300. Governor authorized to execute Interstate Compact to Conserve Oil and Gas.

The Governor is hereby authorized and requested to execute, on behalf of the Commonwealth with any other state legally joining therein, a compact that is in form substantially as provided in § 45.2-301.

§ 45.2-301. Interstate Compact to Conserve Oil and Gas.

INTERSTATE COMPACT TO CONSERVE OIL AND GAS.

Article I.

This agreement may become effective within any compacting state at any time as prescribed by that state and shall become effective within those states ratifying it whenever any three of the states of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

Article II.

The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

Article III.

Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted to continue the same in force, to accomplish within reasonable limits the prevention of:

1. The operation of any oil well with an inefficient gas-oil ratio.
 2. The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.
 3. The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.
 4. The creation of unnecessary fire hazards.
 5. The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.
 6. The inefficient, excessive, or improper use of the reservoir energy in producing any well.
- The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

Article IV.

Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order, or regulation promulgated thereunder shall be denied access to commerce and providing for stringent penalties for the waste of either oil or gas.

Article V.

It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or to create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

Article VI.

Each state joining herein shall appoint one representative to a commission hereby constituted and designated as the Interstate Oil Compact Commission (the Commission), the duty of which shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as the Commission deems beneficial, it shall report its findings and recommendations to the several states for adoption or rejection.

The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of the states and to recommend measures for the maximum ultimate recovery of oil and gas. The Commission shall adopt suitable rules and regulations for the conduct of its business.

No action shall be taken by the Commission except (i) by the affirmative vote of the majority of the whole number of the compacting states represented at any meeting and (ii) by a concurring vote of a majority in interest of the compacting states at the meeting, such interest to be determined as follows: the vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during that period.

Article VII.

No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject that state to financial responsibility to the other states joining herein.

Article VIII.

This compact shall continue in effect until Congress withdraws its consent. Any state joining herein may, upon 60 days' notice, withdraw herefrom.

The representatives of the signatory states have signed this agreement in a single original that shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.

This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party thereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

§ 45.2-302. Governor to act as representative to Interstate Oil Compact Commission.

A. The Governor is hereby designated as the official representative of the Commonwealth on the Interstate Oil Compact Commission (the Commission) provided for in the compact ratified by this chapter. The Governor shall exercise and perform for the Commonwealth all powers and duties imposed by the compact upon representatives to the Commission.

B. The Director of the Department of Mines, Minerals and Energy is hereby designated as the assistant representative and shall act as the official representative of the Commonwealth on the Commission when the authority to so act is delegated to him by the Governor.

CHAPTER 4.

PRESUMPTIONS REGARDING OWNERSHIP.

§ 45.2-400. Presumption that no coal, minerals, ore, or oil exists in certain lands.

A. Subject to the provisions of subsection B, in any case in which either (i) a claim to coal, minerals, ore, oil, or subsurface substances in, on, or under lands in the Commonwealth or (ii) the right to enter such land for the purpose of exploring, mining, boring, and sinking shafts for such coal, minerals, ore, oil, or subsurface substances is derived or reserved by any writing made 35 years or more prior to the institution of the action pursuant to § 45.2-401, it shall be prima facie presumed that no coal, minerals, ore, oil, or subsurface substances exist in, on, or under such lands, except lands lying west of the Blue Ridge Mountains.

B. The provisions of subsection A shall apply only if (i) for a period of 35 years or more, such right to explore or mine has not been exercised, the person having such claim or right has never been charged with taxes thereon, all the taxes on the land have been charged to and paid by the person holding the land subject to such right to explore or mine, and no deed of bargain and sale of such claim or reservation in such mineral rights in the lands embraced in such claim has been recorded in the clerk's office of the county wherein the lands are located or (ii) the right to explore and mine has been exercised, the coal, minerals, ore, oil, or subsurface substances in or on the land have been exhausted, and the right of mining or boring has been abandoned for a period of 35 years or more.

§ 45.2-401. Actions to extinguish certain claims.

A. The owner or owners of land subject to a claim or right pursuant to § 45.2-400 separately or jointly may bring an action requesting the extinguishment of such claim or right. The person by whom such claim by such writing was derived or reserved, or his successors in title, shall be made a defendant by name so far as known or as defendants unknown if such successors in title are unknown. The venue for such action shall be as specified in subdivision 3 of § 8.01-261.

B. The court shall allow a period of not less than six months from the time the cause is docketed and set for hearing to elapse. During such time, the defendant may explore and discover any commercial coal, mineral, ore, oil, or subsurface substance.

C. In the absence of satisfactory evidence to the contrary, it shall be presumed that no commercial coal, mineral, ore, oil, or subsurface substance exists in or on the land, and the court shall enter an order declaring the claim or right to be a cloud on the title and releasing the land therefrom and extinguishing such claim or right. However, if the defendant or defendants prove that a commercial coal, mineral, ore, oil, or subsurface substance exists in or on the land, the court shall require such coal, mineral, ore, oil, or subsurface substance to be charged with taxes according to law.

§ 45.2-402. Presumption regarding use of underground space.

A. Except as otherwise provided in the deed by which the owner of minerals derives title, the owner of minerals shall be presumed to be the owner of the shell, container chamber, passage, or space opened underground for the removal of the minerals, with full right to haul and transport minerals from other lands and to pass people, materials, equipment, water, and air through such space. No injunction shall lie to prohibit the use of any such shell, container chamber, passage, or space opened underground by the owner of minerals for any such purpose. The provisions of this subsection shall not affect any contractual obligation or agreement entered into prior to July 1, 1981.

B. Notwithstanding the provisions of subsection A, with respect to the coal mineral estate, unless expressly excepted by the instrument creating the mineral ownership or lease interest, the owner or, if leased, the lessee of the coal mineral estate or its successor, assign, sublessee, or affiliate retains the right to any coal remaining in place after the removal of surrounding coal, as well as the right to use the shell, container chamber, passage, space, or void opened underground that was created by the removal of the coal.

1. Any such shell, container chamber, passage, space, or void opened underground that is within the boundaries of a mine permit issued under this title may be used consistent with state and federal regulations for any activity related to removal of coal from any lands for which a permit to mine coal has been approved, and no injunction shall lie to prohibit such use.

2. Any such shell, container chamber, passage, space, or void opened underground that is located in a sealed mine for which a mining permit no longer exists may be used consistent with state and federal regulations for any activity related to removal of coal from any lands for which a permit to mine coal has been approved only with the consent of the owner of such shell, container chamber, passage, space, or void. Such consent shall not be unreasonably withheld if the owner has been offered reasonable compensation for such use. In determining whether an offer of compensation is reasonable, a court shall be guided by the compensation set forth in other leases for the use of mine voids as is customary in the area.

C. No provision of subdivision B 1 or 2 shall (i) affect any provision contained in any contract in effect as of July 1, 2012, expressly prohibiting the use of any shell, container chamber, passage, space, or void opened underground that was created by the removal of the coal; (ii) alter any contract entered into prior to July 1, 2012, that provides for the payment of compensation from the lessee to the lessor expressly for the use of any shell, container chamber, passage, space, or void opened underground that was created by the removal of the coal; or (iii) have any bearing on or application to any determination of ownership rights in natural gas or coalbed methane.

SUBTITLE II.

COAL MINING.

PART A.

COAL MINES GENERALLY.

CHAPTER 5.

COAL MINE SAFETY ACT.

Article I.

General Provisions.

§ 45.2-500. Coal Mine Safety Act.

For purposes of this title, this chapter and Chapters 7 (§ 45.2-700 et seq.), 8 (§ 45.2-800 et seq.), and 9 (§ 45.2-900 et seq.) shall be known as the Coal Mine Safety Act.

§ 45.2-501. Definitions.

As used in the Coal Mine Safety Act, unless the context requires a different meaning:

"Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury; (iii) an entrapment of an individual for more than 30 minutes; (iv) an unplanned inundation of a mine by liquid or gas; (v) an unplanned ignition or explosion of gas or dust; (vi) an unplanned fire not extinguished within 30 minutes of discovery; (vii) an unplanned ignition or explosion of a blasting agent or an explosive; (viii) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use, or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour; (x) an unstable condition at an impoundment, refuse pile, or culm bank that requires emergency action in order to prevent failure or that causes individuals to evacuate an area, or failure of an impoundment, refuse pile, or culm bank; (xi) damage to hoisting equipment in a shaft or slope that endangers an individual or interferes with use of the equipment for more than 30 minutes; (xii) an event at a mine that causes death or bodily injury to any individual not at a mine at the time the event occurs; and (xiii) the unintentional fall of highwall that entraps equipment for more than 30 minutes.

"Active area" means any place in a mine that is ventilated, if underground, and examined regularly.

"Active workings" means any place in a mine where miners are normally required to work or travel.

"Agent" means any person charged by the operator with responsibility for the operation of all or a part of a mine or the supervision of miners in a mine.

"Approved" means, with reference to a device, apparatus, equipment, condition, method, course, or practice, approved in writing by the Chief or the Director.

"Authorized person" means a person who is assigned by the operator or agent to perform a specific type of duty or to be at a specific location in the mine and is trained and has demonstrated the ability to perform such duty safely and effectively.

"Auxiliary fan" means a supplemental underground fan installed to increase the volume of air to a specified location for the purpose of controlling dust, methane, or air quality.

"Board" means the Board of Coal Mining Examiners established pursuant to Article 3 (§ 45.2-515 et seq.).

"Cable" means (i) a stranded conductor, known as single-conductor cable, or (ii) a combination of conductors insulated from one another, known as multiple-conductor cable.

"Certified person" means a person who holds a valid certificate from the Board of Coal Mining Examiners authorizing him to perform the task to which he is assigned.

"Circuit" means a conducting part or a system of conducting parts through which an electric current is intended to flow.

"Circuit breaker" means a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

"Coal mine" means a surface coal mine or an underground coal mine.

"Coal Mine Safety Act" or "the Act" means this chapter and Chapters 7 (§ 45.2-700 et seq.), 8 (§ 45.2-800 et seq.), and 9 (§ 45.2-900 et seq.) and includes any regulations adopted thereunder, where applicable.

"Cross entry" means any entry or set of entries, turned from main entries, from which room entries are turned.

"Experienced surface miner" means a person with six months or more of experience working at a surface mine or the surface area of an underground coal mine.

"Experienced underground miner" means a person with six months or more of underground coal mining experience.

"Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 91-173, as amended by 95-164), and regulations adopted thereunder.

"Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and destroyed by the passage of overcurrent through it.

"Ground" means a conducting connection between an electric circuit or electrical equipment and earth or to some conducting body that serves in place of earth.

"Grounded" means connected to earth or to some connecting body that serves in place of earth.

"Hazardous condition" means a condition that is likely to cause death or serious personal injury to any person exposed to such condition.

"Imminent danger" means the existence of any condition or practice in a mine that could reasonably be expected to cause death or serious personal injury before such condition or practice can be abated.

"Inactive mine" means a mine (i) at which (a) coal or minerals have not been excavated or processed or (b) work, other than examination by a certified person or emergency work to preserve the mine, has not been performed for a period of 30 days at an underground coal mine or for a period of 60 days at a surface mine; (ii) for which a valid license is in effect; and (iii) at which reclamation activities have not been completed.

"Inexperienced underground miner" means a person with less than six months of underground coal mining experience.

"Intake air" means air that has not passed through the last active working place of the split of any working section or any worked-out area, whether pillared or nonpillared, and by analysis contains at least 19.5 percent oxygen and not more than 0.5 percent carbon dioxide and does not contain a hazardous quantity of flammable gas or a harmful quantity of poisonous gas.

"Interested persons" means members of the mine safety committee and other duly authorized representatives of the employees at a mine, MSHA employees, mine inspectors, and, to the extent required by the Act, any other person.

"Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit and from which cross entries, room entries, or rooms are turned.

"Mine" means any underground coal mine or surface coal mine. Mines that are adjacent to each other and under the same management and that are administered as distinct units are considered separate mines. A site is not considered a mine unless the coal extracted or excavated from it is offered for sale or exchange or used for any other commercial purpose. The area in which coal is excavated under an exemption to the permitting requirements of § 45.2-1009 is not a mine.

"Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.

"Mine foreman" means a person who holds a valid certificate of qualification as a foreman duly issued by action of the Board of Coal Mining Examiners.

"Mine inspector" means a public employee assigned by the Chief or the Director to make mine inspections as required by the Act and other applicable laws.

"Miner" means any individual working in a mine.

"Mineral" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and any mineral that occurs naturally in liquid or gaseous form.

"Monthly" means, unless otherwise stated, occurring any time during the period of the first through the last day of a calendar month.

"Mine Safety and Health Administration" or "MSHA" means the federal Mine Safety and Health Administration.

"Operator" means any person who operates, controls, or supervises a mine or any independent contractor performing services or construction at a mine.

"Panel entry" means a room entry.

"Permissible" means a device, process, equipment, or method classified as "permissible" by MSHA, when such classification is adopted by the Chief or the Director, and includes all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by MSHA unless otherwise expressly stated in the Act.

"Return air" means air that has passed through (i) the last active working place on each split or (ii) worked-out areas, whether pillared or nonpillared.

"Room entry" means any entry or set of entries from which rooms are turned.

"Serious personal injury" means any injury that has a reasonable potential to cause death or any injury other than a sprain or strain that requires an admission to a hospital for 24 hours or more for medical treatment.

"Substation" means an electrical installation containing generating or power-conversion equipment and associated electric equipment and parts, such as switchboards, switches, wiring, fuses, circuit breakers, compensators, and transformers.

"Surface coal mine" means (i) the pit and other active and inactive areas of surface extraction of coal; (ii) on-site preparation plants, shops, tipples, and related facilities appurtenant to the extraction and processing of coal; (iii) surface areas for the transportation and storage of coal extracted at the site; (iv) impoundments, retention dams, tailing ponds, and refuse disposal areas appurtenant to the extraction of coal from the site; (v) equipment, machinery, tools, and other property used in or to be used in the extraction of coal from the site; (vi) private ways and roads appurtenant to such areas; and (vii) the areas used to prepare a site for surface coal extraction activities. A site commences being a surface coal mine upon the beginning of any site preparation activity other than exploratory drilling or other exploration activity that does not disturb the surface and ceases to be a surface coal mine upon completion of initial reclamation activities.

"Travel way" means a passage, walk, or way regularly used and designated for persons to go from one place to another.

"Underground coal mine" means (i) the working face and other active and inactive areas of underground excavation of coal; (ii) underground travel ways, shafts, slopes, drifts, inclines, and tunnels connected to such areas; (iii) on-site

preparation plants, shops, tipples, and related facilities appurtenant to the excavation and processing of coal; (iv) on-site surface areas for the transportation and storage of coal excavated at the site; (v) impoundments, retention dams, and tailing ponds appurtenant to the excavation of coal from the site; (vi) equipment, machinery, tools, and other property, on the surface and underground, used in or to be used in the excavation of coal from the site; (vii) private ways and roads appurtenant to such areas; (viii) the areas used to prepare a site for underground coal excavation activities; and (ix) areas used for the drilling of vertical ventilation holes. A site commences being an underground coal mine upon the beginning of any site preparation activity other than exploratory drilling or other exploration activity and ceases to be an underground coal mine upon completion of initial reclamation activities.

"Weekly" means, unless otherwise stated, occurring any time during the period of Sunday through Saturday of a calendar week.

"Work area" means an area of a surface coal mine in production or being prepared for production and an area of the mine that may pose a danger to miners at such area.

"Worked-out area" means an area where underground coal mining has been completed, whether pillared or nonpillared, excluding developing entries, return air courses, and intake air courses.

"Working face" means any place in a mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle.

"Working place" means the area of an underground coal mine in by the last open crosscut.

"Working section" means all areas from the loading point of a section to and including the working faces.

§ 45.2-502. Safety and health.

In safety and health matters, all miners are to be governed by the Act, Article 4 (§ 45.2-617 et seq.) of Chapter 6, and any other sections of the Code relating to the safety and health of miners and regulations adopted by the Department.

§ 45.2-503. Special safety rules.

The operator of each mine has the right to adopt special safety rules for the safety and operation of his mine, covering the work pertaining to the mine inside and outside of such mine. Such special safety rules shall not be in conflict with the provisions of the Act and, when established, shall be posted at some conspicuous place about the mine where the rules may be seen by all miners at such mine or in lieu thereof shall be furnished by the operator as a printed copy to each of the miners.

§ 45.2-504. Age requirement to work in mines.

A. No person under 18 years of age shall be permitted to work in or around any mine.

B. No operator, agent, or mine foreman shall make a false statement as to the age of any person under 18 years of age applying for work in or around any mine.

§ 45.2-505. Prohibited acts by miners or other persons; miners to comply with law.

A. No miner or other person shall (i) knowingly damage any shaft, lamp, instrument, air course, or brattice or obstruct any airway; (ii) carry in a mine any intoxicating liquors or controlled drugs without the prescription of a licensed physician; (iii) disturb any part of the machinery or appliances in a mine; (iv) open a door used for directing ventilation and fail to close it again; (v) enter any part of a mine against caution or a warning sign or barricade; or (vi) disobey any order issued pursuant to the provisions of the Act.

B. Each miner at any mine shall comply fully with the provisions of the Act and other mining laws of the Commonwealth, including regulations adopted by the Department or the Board, that pertain to his duties.

C. Any individual shall, upon the order of the Chief, complete training that addresses the subject of any violation issued to the individual as a condition for abatement of the violation.

§ 45.2-506. Safety materials and supplies.

It is the duty of each operator or agent to keep on hand at all times at each mine, or within convenient distance of each mine, a sufficient quantity of all materials and supplies required to preserve the safety of miners, as required by the Act. If for any reason the operator or agent cannot procure the necessary materials or supplies, he shall cause all miners to withdraw from the mine, or from the affected portion of the mine, until such materials or supplies are received.

§ 45.2-507. Notifying miners of violations; compliance with Act.

A. The operator and his agent shall cooperate with the mine foreman and other officials in the discharge of their duties as required by the Act. Such operator and agent shall direct the mine foreman and all other miners employed at the mine to comply with all provisions of the Act, especially when the attention of such operator or agent is called by the Chief, the Director, or a mine inspector to any violation of the Act.

B. The operator of any mine or his agent shall operate each of his mines at all times in full conformity with the Act and any other mining law of the Commonwealth, including regulations adopted by the Department or the Board. This requirement shall not relieve any other person who is subject to the provisions of the Act from his duty to comply with the requirements of the Act.

C. Nothing in the Act shall be construed to relieve an operator or his agent from the duty imposed at common law to secure the reasonable safety of his employees.

D. No operator, agent, or certified person shall knowingly permit any person to work in any part of a mine in violation of written instructions issued by a mine inspector pursuant to the Act.

E. The operator or his agent shall fully comply with any action plan required by the Chief to address hazardous conditions or practices.

Article 2.

Chief of the Division of Mines of the Department and Mine Inspectors.

§ 45.2-508. Appointment of Chief.

The Chief of the Division of Mines of the Department of Mines, Minerals and Energy shall be appointed by the Governor. The Chief is the head of the Division of Mines and is under the direction of and reports to the Director.

§ 45.2-509. Qualification of Chief.

The Chief shall have a thorough knowledge of the various systems of working and ventilating coal mines, the nature and properties of mine gases and methods for their detection and control, the control of mine roof, methods of rescue and recovery work in mine disasters, the application of electricity and mechanical loading in mining operations, equipment and explosives used in mining, methods for preventing gas and dust explosions in mines, and mine haulage. The Chief shall possess such experience or educational background in management as determined necessary by the Governor and shall be at least 30 years of age.

§ 45.2-510. Affiliations of Department personnel with labor union, coal company, etc.; interest in coal mine; inspections of mines where inspector previously employed.

A. Neither the Chief nor any other officer or employee of the Department shall, upon taking office or being employed, or at any other time during the term of his office or employment, have any affiliation with any operating coal company, operators' association, or labor union or fail to comply with the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Neither the Chief nor any other officer while in office shall be directly or indirectly interested as owner, partner, proprietor, lessor, operator, superintendent, or engineer of any coal mine, nor shall the Chief or any other officer while in office own any stock in a corporation that owns a coal mine either directly or through a subsidiary.

B. Neither the Chief nor any mine inspector shall perform an inspection at any mine at which he was last employed for a period of two years following termination of his employment.

§ 45.2-511. Appointment and general qualifications of mine inspectors.

A. Each mine inspector shall be appointed by the Director. B. Each mine inspector shall (i) be at least 25 years of age, (ii) be of good moral character and temperate habits, (iii) hold a certificate as a mine foreman, and (iv) hold a certificate as a mine inspector issued by the Board.

§ 45.2-512. Qualifications of coal mine inspectors.

A. Each mine inspector conducting inspections of underground coal mines shall have a thorough knowledge of the various systems of working and ventilating underground coal mines; the nature and properties of mine gases and methods for their detection and control; the control of mine roof and ground control; methods of rescue and recovery work in mine disasters; the application of electricity and mechanical loading in mining operations; equipment and explosives used in mining; methods for preventing gas and dust explosions in mines; and mine haulage.

B. Each mine inspector conducting inspections of surface coal mines shall have a thorough knowledge of the various systems of working surface coal mines, the nature and properties of mine gases and methods of their detection and control, ground control, methods of rescue and recovery work in surface mine disasters, the application of electricity and mechanical loading in mining operations, equipment and explosives used in mining, methods for preventing gas and dust explosions in surface facilities on mine property, and mine haulage.

§ 45.2-513. Duties of the Chief; penalty.

A. The Chief shall (i) supervise execution and enforcement of all laws, including regulations adopted by the Department or the Board, pertaining to the health and safety of persons employed within or at coal mines within the Commonwealth and the protection of property used in connection therewith and (ii) perform all other duties required pursuant to the Act.

B. The Chief shall keep a record of all inspections of coal mines made by him and the mine inspectors. The Chief shall make a comprehensive report to the Director. The Chief shall also keep a permanent record of such inspections, properly indexed, and such record shall at all times be open to inspection by any citizen of the Commonwealth.

C. The Chief may compel individuals to complete training that addresses the subject of a violation issued to the individual as a condition for abatement of the violation.

D. The Chief may require operators to submit for approval action plans to address hazardous conditions or practices.

E. For the purpose of investigating (i) an accident or (ii) a willful act resulting in a notice of violation or closure order, the Chief may compel the attendance of witnesses and administer oaths or affirmations. Any person who knowingly provides any false statement, representation, or certification during such investigation is guilty of a Class 1 misdemeanor.

F. The Chief shall supervise execution and enforcement of all reciprocal agreements made with responsible officers of other states that implicate any part of the Act.

§ 45.2-514. Technical specialists.

The Director may appoint technical specialists in the areas of roof control, electricity, ventilation, and other mine specialties. Each technical specialist shall have all the qualifications of a mine inspector plus the specialized knowledge required in his field. A technical specialist shall advise the Director and mine operators in the areas of his specialty and shall have the power of an inspector to issue a closure order only in a case of imminent danger.

Article 3.

Certification of Coal Mine Workers.

§ 45.2-515. Board of Coal Mining Examiners; purpose.

The Board of Coal Mining Examiners (the Board) is established as a policy board in the executive branch of state government. The purpose of the Board is to issue certificates authorizing the performance of certain tasks.

§ 45.2-516. Board membership; terms; meetings.

A. The Board of Coal Mining Examiners shall have a total membership of five members that shall consist of four nonlegislative citizen members and one ex officio member. The four nonlegislative citizen members shall be appointed by the Governor as follows: one who is a miner who holds a first-class mine foreman's certificate with at least five years of experience in underground coal mining and who is employed at an underground coal mine in the Commonwealth in a nonmanagerial, nonsupervisory capacity at the time of appointment; one who is a miner with at least five years of experience in surface coal mining and is employed at a surface coal mine in the Commonwealth in a nonmanagerial, nonsupervisory capacity at the time of appointment; one who holds a first-class mine foreman's certificate with at least five years of experience in the operation of underground coal mines and is (i) an operator of an underground coal mine, (ii) an officer or director of a corporation operating an underground coal mine, (iii) a general partner of a partnership operating an underground coal mine, or (iv) an employee in a managerial or supervisory capacity of an operator of an underground coal mine in the Commonwealth at the time of appointment; and one who has at least five years of experience in the operation of surface coal mines and is (a) an operator of a surface coal mine, (b) an officer or director of a corporation operating a surface coal mine, (c) a general partner of a partnership operating a surface coal mine, or (d) an employee in a managerial or supervisory capacity of an operator of a surface coal mine in the Commonwealth at the time of appointment. Nonlegislative citizen members of the Board shall be residents of the Commonwealth. The Chief or his designee shall serve ex officio with voting privileges.

B. Members of the Board shall be appointed for terms of four years. The Chief shall serve a term coincident with his term of office. Vacancies occurring on the Board among appointed members shall be filled by the Governor for the unexpired term. All members may be reappointed.

C. The Chief shall serve as chairman of the Board.

D. The Board shall meet at least once a year and shall be called by the Chief to meet at such other times as he deems necessary. The Board shall meet at a place and at times as designated by the Chief and the Board shall remain in session until its work is completed, but no one session of the Board shall continue more than three days.

§ 45.2-517. Board compensation; expenses.

Nonlegislative citizen members of the Board of Coal Mining Examiners shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All such nonlegislative citizen members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of such members shall be provided by the Coal Mining Examiners' Fund established in § 45.2-523.

§ 45.2-518. Records of the Board.

The Chief shall preserve in his office a record of the meetings and transactions of the Board of Coal Mining Examiners and of all certificates issued by the Board.

§ 45.2-519. Nominations for the Board.

Nominations for appointments to the Board of Coal Mining Examiners may be submitted to the Governor by the Director and each organization of coal miners and coal industry interests in the Commonwealth. Nominations are to be made to the Governor by June 1 of the year in which the terms of appointments of members expire. In no case shall the Governor be bound to make any appointment from the nominations submitted.

§ 45.2-520. Certification of certain persons employed in coal mines; powers and duties of the Board.

A. The Board of Coal Mining Examiners may require certification of persons who work in coal mines and persons whose duties and responsibilities in relation to coal mining require competency, skill, or knowledge in order to perform in a manner consistent with the preservation of the health and safety of persons and property. Each of the following certificates shall be issued by the Board, and a person who holds such a certificate is authorized to perform the tasks that the Act or any regulation adopted by the Board or by the Department requires to be performed by such certified person:

1. First-class mine foreman;
2. First-class shaft or slope foreman;
3. Surface foreman;
4. Preparation plant foreman;
5. Electrical maintenance foreman;
6. Dock foreman;
7. Top person;
8. Underground shot firer;
9. Surface blaster;
10. Hoisting engineer;
11. Electrical repairman;
12. Automatic elevator operator;
13. Mine inspector;
14. Qualified gas detector;

15. Diesel engine mechanic;
16. Diesel engine mechanic instructor;
17. First aid instructor;
18. Advanced first aid;
19. Chief electrician; and
20. General coal miner.

B. Certification shall also be required for any additional tasks that the Board requires by regulation.

C. The Board may adopt regulations necessary or incidental to the performance of duties or the execution of powers conferred under this title. Such regulations shall be adopted in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

D. The Board may adopt regulations regarding on-site examinations of mine foremen conducted by mine inspectors pursuant to § 45.2-528.

§ 45.2-521. Examinations required for Coal Mining Certifications.

A. The Board of Coal Mining Examiners may require the examination of an applicant for certification; however, the Board shall require the examination of an applicant for the mine inspector certification. The Board may require other information from each applicant as necessary to ascertain competency and qualifications for each task. Except as specifically provided by the Act, the Board shall prescribe the qualifications for any certification. The examinations shall be conducted under regulations that the Board shall adopt. Such regulations, when adopted, shall (i) be made a part of the permanent record of the Board, (ii) be periodically published, and (iii) be of uniform application to all applicants.

B. Any certificate issued by the Board shall be valid from the date of issuance unless and until it has been suspended pursuant to § 45.2-527 or revoked by the Board pursuant to § 45.2-528.

§ 45.2-522. Performance of certain tasks by uncertified persons; penalty.

It is unlawful for any person to perform any task requiring certification by the Board of Coal Mining Examiners unless he has been certified. It is also unlawful for an operator or his agent to permit any uncertified person to perform such task. A violation of this section constitutes a Class 1 misdemeanor. Each day of operation without a required certification constitutes a separate offense.

§ 45.2-523. Coal Mining Examiners' Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Coal Mining Examiners' Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to § 45.2-524, together with moneys collected pursuant to §§ 45.2-525 and 45.2-526, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of covering the costs of administering the miner certification, the cost of printing certificates and other necessary forms, and the incidental expenses incurred by the Board in conducting examinations, reviewing examination papers, and conducting its other duties pursuant to this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief. The Chief shall keep accounts and records concerning the receipts and expenditures of the Fund as required by the Auditor of Public Accounts.

§ 45.2-524. Examination fees.

A reasonable fee in an amount set by the Board of Coal Mining Examiners, not to exceed \$50, shall be paid to the Chief by each person examined before the commencement of the examination. Fees collected shall be deposited in the Coal Mining Examiners' Fund created by § 45.2-523.

§ 45.2-525. Replacement of lost or destroyed certificates.

If any certificate issued by the Board of Coal Mining Examiners is lost or destroyed, the Chief may supply a copy such certificate to the person to whom it was issued, upon the payment of a reasonable fee in an amount set by the Board not to exceed \$10, so long as it has been established to his satisfaction that the loss or destruction actually occurred and that the person seeking such copy was the holder of such certificate.

§ 45.2-526. Reciprocal acceptances of other certifications.

A. In lieu of conducting an examination prescribed by law or regulation, the Board of Coal Mining Examiners may issue to any person holding a certificate issued by another state a certificate permitting him to perform similar tasks in the Commonwealth, so long as (i) the Board finds that the requirements for certification in such state are substantially equivalent to those of the Commonwealth and (ii) holders of certificates issued by the Board are permitted to perform similar tasks in such state, and obtain similar certification from such state if required, upon presentation of the certificate issued by the Board and without additional testing, training, or other requirements not directly related to program administration.

B. If the issuing authority in another state has revoked or suspended a certificate of a person who holds a similar Virginia certificate issued pursuant to this section, the person shall notify the Chief of such action by the other state within 10 days of such action. The Chief shall schedule a hearing of the Board to determine whether his Virginia certificate shall be revoked or suspended.

§ 45.2-527. Continuing education requirements.

A. The Board of Coal Mining Examiners shall adopt regulations establishing requirements for programs of continuing education for holders of certificates. The Board shall establish (i) the content and amount of continuing education to be required for maintaining certification, (ii) parameters for the content of continuing education programs, (iii) procedures for approving continuing education programs and sponsors, (iv) distribution to holders of certificates of appropriate information regarding continuing education requirements, (v) provisions allowing surplus hours of continuing education to be carried forward from one period to meet the requirements for the next period, (vi) procedures for determining compliance with continuing education requirements, (vii) requirements for a certificate holder to provide the Board with his current address and such further administrative information as may be reasonable, and (viii) the length of time a certificate may be suspended for failure to comply with continuing education requirements before such certificate shall be revoked. The Board may also establish by regulation a fee to recover the reasonable costs of reissuing certificates or otherwise ascertaining that the requirements of this section have been satisfied.

B. A certificate issued by the Board of Coal Mining Examiners shall be suspended if the holder fails to comply with the continuing education requirements established by the Board. The suspension shall be vacated upon compliance with the continuing education requirements. However, if the holder of a certificate does not comply with the continuing education requirements within the period of time established by the Board, the certificate shall be revoked.

§ 45.2-528. Board action; suspend, revoke, or take other action.

A. The Board of Coal Mining Examiners may suspend, revoke, or take other action regarding any certificate upon finding that (i) the holder has (a) failed to comply with the continuing education requirements within the period following the suspension of the certificate as provided in § 45.2-527, (b) been intoxicated while on duty, (c) neglected his duties, (d) violated any provision of the Act or any other coal mining law of the Commonwealth, or (e) used any controlled substance without the prescription of a licensed prescriber or (ii) other sufficient cause exists. The Board shall also suspend, revoke, or take other action regarding the first-class mine foreman certificate of any mine foreman who fails to display a thorough understanding of the roof control plan and ventilation for the area of the mine that he is responsible for implementing when examined on-site by a mine inspector in accordance with guidelines adopted by the Board. In such a case, the Board shall make a determination, based on evidence presented by interested parties, of whether the mine foreman had a thorough knowledge of such plans at the time of his examination by the mine inspector.

B. The Board may act to suspend, revoke, or take other action regarding any certificate upon the presentation of written charges alleging prohibited conduct set forth in subsection A by (i) the Chief or the Director or his designated agent; (ii) the operator of a mine at which such person is employed; or (iii) 10 persons employed at the mine at which such person is employed, or, if fewer than 10 persons are employed at the mine, a majority of the employees at the mine. The Board may act on its own initiative to suspend, revoke, or take other action on any certificate for grounds set forth in clause (i) (a) of subsection A.

C. Any person holding a certificate issued by the Board shall report to the Chief within 30 days of any criminal conviction in any court of competent jurisdiction for possession or use of any controlled substance without the prescription of a licensed prescriber. This conviction shall result in the immediate temporary suspension of all certificates held by such person pending a hearing before the Board.

D. Any miner present at any mine shall be deemed to have given consent to reasonable search, at the direction of the Chief by employees of the Department, of his person and his personal property located at the mine. Such search shall be limited to the investigation of potential violations of the Act.

E. All information regarding substance abuse test results of certified persons, written or otherwise, received by the Department or Board shall be confidential. Any hearing of the Board in which such information is presented shall be conducted as a closed session in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. An affirmative vote of a majority of members of the Board who are qualified to vote is required for any action to suspend, revoke, or take other action regarding a certificate.

G. Prior to suspending, revoking, or taking other action regarding a certificate, the Board shall give due notice to the holder of the certificate and conduct a hearing. Any hearing shall be conducted in accordance with § 2.2-4020 unless the parties agree to informal proceedings. The hearing may be conducted by the Board or, in the Board's discretion, by a hearing officer as provided in Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

H. Any hearing conducted after the temporary suspension of a miner's certificate due to (i) a criminal conviction in any court of competent jurisdiction for possession or use of any controlled substance without the prescription of a licensed prescriber as provided for in subsection C, (ii) a failure to pass a substance abuse test required by the Chief pursuant to § 45.2-556, (iii) a failure to pass a pre-employment substance abuse screening test, (iv) a discharge for violation of the company's substance or alcohol abuse policies, (v) a positive test for the use of any controlled substance without the prescription of a licensed prescriber; (vi) a positive test for intoxication while on duty status, or (vii) a failure to complete a substance abuse program pursuant to § 45.2-565 shall be conducted within 60 days of the temporary suspension. The Board shall make every effort to hold the hearing within 40 days of the temporary suspension.

I. Any person who has been aggrieved by a decision of the Board shall be entitled to judicial review of such decision. Appeals from such decisions shall be conducted in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 45.2-529. Reexamination.

The holder of a certificate revoked pursuant to § 45.2-528 shall be entitled to examination by the Board of Coal Mining Examiners after three months have elapsed from the date of revocation of the certificate if he can prove to the satisfaction of the Board that the cause for revocation of his certificate has ceased to exist. However, no person convicted of violating § 45.2-848 or 45.2-849, subsection A of § 45.2-856, or § 45.2-857 shall be eligible for examination for a period of not less than one year nor more than three years following such conviction, such period to be set by the Board in its discretion at the time of revocation of the certificate.

§ 45.2-530. General coal miner certification.

A. Every person working in a coal mine in the Commonwealth shall hold a general coal miner certificate issued by the Board of Coal Mining Examiners. The Board of Coal Mining Examiners shall issue a general coal miner certificate upon submittal of a complete application.

B. Each applicant for a general coal miner certificate who has not been employed to work in a Virginia coal mine prior to January 1, 1996, shall prove to the Board that he has knowledge of first aid practices and has a general working knowledge of the provisions of the Act, and applicable regulations, pertaining to coal mining health and safety. Each applicant shall have completed the miner training requirements of 30 C.F.R. Part 48 or submit proof of at least one year of experience in a coal mine prior to issuance of the general coal miner certificate.

§ 45.2-531. First-class mine foreman certification.

A. The operator of any coal mine where three or more persons work during any part of a 24-hour period shall employ a mine foreman. The operator shall employ as a mine foreman only a person holding a first-class mine foreman certificate. The holder of such certificate shall present the certificate, or a copy thereof, to the operator where he is employed. Such operator shall file the certificate or its copy in the office at the mine and make it available for inspection by interested persons.

B. The holder of a first-class mine foreman certificate shall be authorized to act as foreman for any underground coal mine.

C. An applicant for a first-class mine foreman certificate shall be at least 23 years of age and shall have had at least five years of experience in a coal mine, at least three years of which shall have been in an underground coal mine. A graduate of an approved course in mining engineering at a baccalaureate institution of higher education shall be given credit for three of the five years of practical experience required. An applicant who possesses a degree in mining technology shall be given credit for two of the five years of practical experience required. If the applicant meets the above requirements, makes 85 percent or more on each of the subjects of the written examination, and passes required map and gas examinations, he shall be entitled to a first-class mine foreman certificate. The written examination shall address, among other relevant topics, the theory and practice of coal mining; the nature and properties of noxious, poisonous, and explosive gases and methods for their detection and control; the requirements of the coal mining laws of the Commonwealth, including regulations adopted by the Department or the Board of Coal Mining Examiners; and the responsibilities and duties of a mine foreman under state law.

D. Each candidate for certification as a first-class mine foreman shall complete the course or courses of instruction in first aid as provided in subsection A of § 45.2-579 and pass an examination relating thereto, approved by the Board of Coal Mining Examiners.

§ 45.2-532. Surface foreman certification.

A. An applicant for a surface foreman certificate shall be at least 23 years of age and have had at least five years of experience in a coal mine, at least three years of which shall have been in a surface coal mine. A graduate of an approved course in mining engineering at a baccalaureate institution of higher education shall be given credit for three of the five years of practical experience required. An applicant who possesses a degree in mining technology shall be given credit for two of the five years of required practical experience. Each applicant shall demonstrate to the Board of Coal Mining Examiners a thorough knowledge of the theory and practice of surface coal mining by making 85 percent or more on the written examination. In addition, each applicant shall pass the examination in gas detection. The holder of a surface foreman certificate issued by the Board shall be authorized to act as surface foreman at any surface coal mine.

B. Each candidate for certification as a surface foreman shall complete, at a minimum, a 24-hour course of instruction in advanced first aid taught by a certified advanced first aid instructor in accordance with subsection A of § 45.2-579 and pass an examination relating thereto approved by the Board. No course or examination shall be required of a candidate holding a current higher level of emergency medical certification from the State Department of Health.

§ 45.2-533. Chief electrician certification.

Each applicant for a chief electrician certificate shall demonstrate to the Board of Coal Mining Examiners by written and oral examination that he has a thorough knowledge of the theory and practice of electricity that pertains to coal mining. In addition, each applicant shall pass the examinations in first aid and gas detection. The holder of a chief electrician certificate issued by the Board may act as chief electrician in any coal mine.

§ 45.2-534. Top person certification.

Each applicant for a top person certificate shall demonstrate to the Board of Coal Mining Examiners by written and oral examination that he has a thorough knowledge of the theory and practice of shaft and slope mine construction. In addition, each applicant shall pass the examinations in first aid and gas detection. The holder of a top person certificate issued by the Board may act as top person in any coal mine.

Article 4.

*Licensing for Operation of Coal Mines.***§ 45.2-535. License required for operation of a coal mine; term.**

A. No person shall engage in the operation of any coal mine within the Commonwealth without first obtaining a license for the operation of a coal mine from the Department. A license for the operation of a coal mine shall be required prior to commencement of the operation of a mine. A separate license is required for each mine operated. Licenses shall be in a form that the Director prescribes. The license shall be posted in a conspicuous place near the main entrance to the mine. The license shall not be transferable, and every change in ownership of a mine shall be reported to the Department as provided in subsection B of § 45.2-540.

B. Each license for the operation of a coal mine shall be valid for a period of no more than one year following the date of issuance. License renewal shall be obtained annually by the anniversary of the date of issuance.

C. Each application for a license for the operation of a coal mine or a renewal or transfer of a license for the operation of a coal mine shall be submitted to the Department accompanied by a fee, payable to the State Treasurer, of \$350.

§ 45.2-536. Coal Mine Operator License Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Coal Mine Operator License Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to the provisions of subsection C of § 45.2-535 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of purchasing or commissioning safety equipment, safety training, safety education, or any expenditure to further the safety program in the mining industry. All expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-537. Application for license for the operation of a coal mine.

A. An application for a license for the operation of a coal mine shall be submitted by the person who will be the operator of the mine. No application for a license or a renewal thereof shall be considered complete unless it contains the following:

1. The identity of the operator of the mine.

a. If the operator is a sole proprietorship, the operator shall state (i) his full name and address; (ii) the name and address of the mine and its federal mine identification number; (iii) the name and address of the person with overall responsibility for operating decisions at the mine; (iv) the name and address of the person with overall responsibility for health and safety at the mine; (v) the federal mine identification numbers of all other mines in which the sole proprietor has a 20 percent or greater ownership interest; and (vi) the trade name, if any, and the full name, address of record, and telephone number of the proprietorship.

b. If the operator is a partnership, the operator shall state (i) the name and address of the mine and its federal mine identification number; (ii) the name and address of the person with overall responsibility for operating decisions at the mine; (iii) the name and address of the person with overall responsibility for health and safety at the mine; (iv) the federal mine identification numbers of all other mines in which the partnership has a 20 percent or greater ownership interest; (v) the full names and addresses of all partners; (vi) the trade name, if any, and the full name and address of record and telephone number of the partnership; and (vii) the federal mine identification numbers of all other mines in which any partner has a 20 percent or greater ownership interest.

c. If the operator is a corporation, the operator shall state (i) the name and address of the mine and its federal mine identification number; (ii) the name and address of the person with overall responsibility for operating decisions at the mine; (iii) the name and address of the person with overall responsibility for health and safety at the mine; (iv) the federal mine identification numbers of all other mines in which the corporation has a 20 percent or greater ownership interest; (v) the full name, address of record, and telephone number of the corporation and the state of incorporation; (vi) the full name and address of each officer and director of the corporation; (vii) the full name, address, and state of incorporation of the parent corporation if the corporation is a subsidiary corporation; and (viii) the federal mine identification numbers of all other mines in which any corporate officer has a 20 percent or greater ownership interest.

d. If the operator is any organization other than a sole proprietorship, partnership, or corporation, the operator shall state (i) the nature and type, or legal identity of the organization; (ii) the name and address of the mine and its federal mine identification number; (iii) the name and address of the person with overall responsibility for operating decisions at the mine; (iv) the name and address of the person with overall responsibility for health and safety at the mine; (v) the federal mine identification numbers of all other mines in which the organization has a 20 percent or greater ownership interest; (vi) the full name, address of record, and telephone number of the organization; (vii) the name and address of each individual who has an ownership interest in the organization; (viii) the names and addresses of the principal organization officials or members; and (ix) the federal mine identification numbers of all other mines in which any official or member has a 20 percent or greater ownership interest;

2. The name and address of any agent of the operator with responsibility for the business operation of the mine and of any person with an ownership or leasehold interest in the coal to be mined;

3. The names and addresses of persons to be contacted in the event of an accident or other emergency at the mine;

4. Any information required by the Department that is relevant to an assessment of the safety and health risks likely to be associated with the operation of the mine; and

5. For any license renewal, the annual report required pursuant to § 45.2-540. When no change has occurred to the information required by subdivision 1, 2, or 3, the operator of the mine shall only be required to certify that such information on the current license application is accurate and complete.

B. The application shall be certified as being accurate and complete by the applicant if an individual or by the agent of a corporate applicant or by a general partner of an applicant that is a partnership. The application shall be submitted on forms furnished or approved by the Department.

C. Within 30 days after the occurrence of any change in the information required by subsection A, the operator shall notify the Department, in writing, of such change.

§ 45.2-538. Denial or revocation of license for the operation of a coal mine.

A. The Chief may revoke a license for the operation of a coal mine or deny an application for the issuance of a license for the operation of a coal mine upon determining that the applicant, the operator, or the operator's agent has committed violations of the mine safety laws of the Commonwealth, including regulations adopted by the Department or the Board of Coal Mining Examiners, that demonstrate a pattern of willful violations resulting in an imminent danger to miners.

B. The Chief may revoke every license issued to any person for the operation of a coal mine and may deny every application by a person for the issuance of a license for the operation of a coal mine who has been convicted of knowingly permitting a miner to work in an underground coal mine where a methane monitor or other device capable of detecting the presence of explosive gases was impaired, disturbed, disconnected, bypassed, or otherwise tampered with in violation of § 45.2-849.

C. The Chief may revoke every license issued to any person for the operation of a coal mine and may deny every application by a person for the issuance of a license for the operation of a coal mine who has been convicted of violating subsection A of § 45.2-856 or 45.2-857.

D. Any person whose license application is denied or whose license is revoked pursuant to subsection A, B, or C may bring a civil action in the circuit court of the city or county in which the mine is located for review of the decision. The commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the decision. The court shall promptly hear and determine the matters raised by the aggrieved party. In any such action, the court shall receive the records of the Department with respect to the determination and shall receive additional evidence at the request of any party. The court, basing its decision on the preponderance of the evidence, shall grant relief that the court determines appropriate.

§ 45.2-539. Operating without license; penalty.

A. In addition to any other power conferred by law, the Chief or his designated representative may issue an order closing any coal mine that is operating without a license. The procedure for issuing a closure order shall be as provided in § 45.2-569.

B. Any person operating an unlicensed mine is guilty of a Class 3 misdemeanor. Each day any person operates an unlicensed mine shall constitute a separate offense.

§ 45.2-540. Annual reports; condition to issuance of license following transfer of ownership.

A. The operator of each mine or his agent shall annually, by February 15, mail or deliver to the Department a report for the preceding 12 months ending with December 31. Such report shall state (i) the names of the operator, any agent, and any officers of the mine; (ii) the amount of coal mined; and (iii) other information, not of a private nature, that from time to time is required by the Department on forms furnished or approved by the Department.

B. Whenever the owner of a mine transfers the ownership of such mine to another person, the person transferring such ownership shall submit a report to the Department of such change and a statement of the tons of coal produced since the January 1 previous to the date of such sale or transfer of such mine. A license shall not be issued covering such transfer of ownership until the report is furnished.

C. The operator of each coal mine or his agent shall annually, by February 15, mail or deliver to the Department (i) an affidavit, certified by the commissioner of the revenue of the locality in which the coal mining operations are conducted, stating that all local coal severance taxes enacted pursuant to §§ 58.1-3703, 58.1-3712, 58.1-3713, and 58.1-3741 due with respect to the coal mining operations have been paid and (ii) an affidavit, certified by the Treasurer of the locality in which the coal mining operations are conducted, stating that all personal property, real estate, and mineral land taxes due with respect to coal mining operations have been paid.

§ 45.2-541. Discontinuance of the working of a mine; notices to Department; resumption of mining following discontinuance.

A. The operator or his agent shall send notice of his intent to discontinue the working of an underground coal mine for a period of 30 days or a surface mine for a period of 60 days to the Department at least 10 days prior to discontinuing the working of a mine with such intent or at any time a mine becomes an inactive mine. Unless examinations of the mine are being conducted during the period of discontinued use, all surface openings to the discontinued underground coal mine shall be secured against unauthorized entrance when the activities are discontinued for 30 days or longer. Danger signs shall be posted at each secured entrance.

B. The operator or his agent shall send to the Department 10 days' prior notice of intent to resume the working of an inactive mine. The production of coal at such mine shall not resume until a mine inspector has inspected and approved it for resumption of production activities.

C. Emergency actions necessary to preserve a mine may be undertaken without the prior notice of intent and advance inspection required by subsection B. In such event, a mine foreman shall examine a mine for hazardous conditions immediately before miners are permitted to work. The operator or his agent shall notify the Department as soon as possible after commencing emergency action necessary to preserve the mine.

D. The operator or his agent shall send to the Department 10 days' prior notice of any change in the name of a mine or in the name of the operator of a mine.

E. The operator or his agent shall send to the Department 10 days' prior notice of the opening of a new mine.

F. Any notice required by this section shall be in writing and shall include the name of the mine, the location of the mine, the name of the operator, and the operator's mailing address and email address.

§ 45.2-542. Maps of mines required to be made; contents; extension and preservation; use by Department; release; posting of map.

A. Prior to commencing mining activity, the operator of a coal mine or his agent shall make or cause to be made, unless already made and filed, an accurate map of such mine. Such map shall be submitted to the Chief prior to producing coal at the mine. All maps shall be presented on the Virginia Coordinate System of 1983, South Zone, unless otherwise approved by the Chief. At intervals not to exceed 12 months and when a coal mine is abandoned, the operator shall submit to the Chief copies of an up-to-date map of the entire mine in an electronic format approved by the Chief. The operator shall also submit to the Chief revisions that show directional changes whenever mine projections deviate more than 600 feet from the approved mine map. Only maps in an electronic format shall be accepted unless otherwise approved by the Chief. If there are no changes in the information required to be submitted pursuant to this section at the time an updated map is due, the operator may submit a notice that there are no changes to the map in lieu of submitting an updated map to the Department.

B. Underground coal mine maps shall show:

1. The active workings;
2. All pillared, worked out, and abandoned areas, except as provided in this section;
3. Entries and air courses with the quantity of airflow, direction of airflow indicated by arrows, and ventilation controls;
4. Contour lines of all elevations;
5. Dip of the coalbed;
6. Escapeways;
7. The locations that are known or should be known of (i) adjacent mine workings within 1,000 feet, (ii) mines above or below, and (iii) water pools above;
8. Either producing or abandoned oil and gas wells located within 500 feet of such mine and in any underground area of such mine; and
9. Other information the Chief requires.

Such map shall identify those areas of the mine that have been pillared, worked out, or abandoned that are inaccessible or that cannot be entered safely.

C. Additional information required to be shown on underground coal mine maps includes:

1. The mine name, company name, mine index number, and name of the person responsible for information on the map;
2. The scale and orientation of the map and symbols used on the map;
3. The property or boundary lines of the mine;
4. All known drill holes that penetrate the coalbed being mined;
5. All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coalbed being mined;
6. The location of all surface mine ventilation fans. The location may be designated on the mine map by symbols;
7. The location of railroad tracks and public highways leading to the mine and mine buildings of a permanent nature with identifying names shown;
8. The location and description of a least two permanent base line points coordinated with the underground and surface mine traverses and the location and description of at least two permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys;
9. The location and elevation of any body of water dammed or held back in any portion of the mine; however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines as provided under subdivision 12;
10. The elevations of tops and bottoms of shafts and slopes and the floor at the entrance to drift and tunnel openings;
11. The elevation of the floor at intervals of not more than 200 feet in (i) at least one entry of each working section and main and cross entries; (ii) the last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries that are abandoned; and (iii) rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and

12. Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed 10-foot elevation levels, except that a broader spacing of contour lines may be approved by the Chief for steeply pitching coalbeds. Contour lines may be placed on overlays or tracings attached to mine maps.

D. Underground coal mine maps submitted to the Chief shall be on a scale of not less than 100 or more than 500 feet to the inch. Mapping of the underground mine works shall be completed by a closed loop survey method of traversing or other equally accurate methods of traversing. All closed loop surveys shall meet a minimum accuracy standard of one part in 5,000. Elevations shall be tied to either the United States Geological Survey or the National Geodetic Survey bench mark system. A registered engineer or licensed land surveyor shall certify that the map of the mine workings is accurate.

E. Underground coal mine maps shall be kept up to date by temporary notations and revised and supplemented at intervals not to exceed six months based on a survey made and certified by a registered engineer or licensed land surveyor who has exercised complete direction and control over the work to which it is affixed. Temporary notations shall include:

1. The location of each working face of each working place;

2. Pillars mined or other such second mining;

3. Permanent ventilation controls constructed or removed, such as seals, overcasts, undercasts, regulators, and permanent stoppings, and the direction of air currents indicated; and

4. Escapeways designated by means of symbols.

F. At underground coal mines, an accurate map of the mine showing clearly all avenues of ingress and egress in case of fire shall be posted in a place accessible to all miners.

G. Surface coal mine maps shall show:

1. The name and address of the mine;

2. The property or boundary lines of the active areas of the mine;

3. Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed 25-foot elevation levels, except that a broader spacing of contour lines may be approved by the Chief for steeply pitching coalbeds. The Chief may approve alternate means of delineating seam elevations where multiple seams are being mined. Contour lines may be placed on overlays or tracings attached to mine maps;

4. The general elevation of each coalbed being mined and the general elevation of the surface;

5. Each producing or abandoned gas or oil well or gas transmission line located on the mine property;

6. The location and elevation of any body of water dammed or held back in any portion of the mine; however, such body of water may be shown on overlays or tracings attached to the mine maps;

7. Every prospect drill hole that penetrates a coalbed being mined on the mine property;

8. Every auger or surface-mined area of a coalbed being mined on the mine property together with the line of maximum depth of holes drilled during auger mining operations;

9. All worked out and abandoned areas;

10. The location of railroad tracks and public highways leading to the mine and mine buildings of a permanent nature with identifying names shown;

11. Underground coal mine workings underlying and within 1,000 feet of any active area of the mine;

12. The location and description of at least two permanent baseline points and the location and description of at least two permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys;

13. The scale of the map; and

14. Other information required by the Chief.

H. Surface coal mine maps shall be kept up to date by temporary notations and revised and supplemented at intervals not to exceed six months based on a survey made and certified by a registered engineer or licensed land surveyor who has exercised complete direction and control over the work to which it is affixed. Temporary notations shall include:

1. The location of each working pit;

2. Auger or highwall miner workings; and

3. Other information that might affect the safety of miners, including updates of gas well or gas line locations.

I. Each surface survey shall originate from at least two permanent survey monuments on the mine property located with a minimum accuracy standard of one part in 10,000. The monuments shall be clearly referenced on the mine map. Elevations shall be tied to either the United States Geological Survey or the National Geodetic Survey bench mark system.

J. The original map, or a true copy thereof, shall be left by the operator at the active mine, open at all reasonable times for the examination and use of the mine inspector.

K. Such maps may be used by the Department for the evaluation of the coal resources of the Commonwealth.

L. The map shall be filed and preserved among the records of the Department and copies of such maps shall be made available at a reasonable cost.

M. Any person who has conducted mining operations or prepared mine maps and who has a map or surveying data of any worked out or abandoned underground coal mine shall on request make such map or data available to the Department to copy or reproduce.

§ 45.2-543. When the Chief may cause maps to be made; payment by operator.

A. If the operator of any mine or his agent neglects or fails to furnish to the Chief a copy of any map or extension thereof, as provided in § 45.2-542, the Chief may cause a correct survey and map of such mine, or extension of the map, to

be made at the expense of the operator of the mine, the cost of which shall be recovered from the operator as other debts are recoverable by a civil action at law.

B. If at any time the Chief has reason to believe that a map or extension thereof furnished pursuant to § 45.2-542 is substantially incorrect or will not serve the purpose for which it is intended, he may have a survey and map or extension thereof made or corrected. The expense of making such survey and map or extension thereof shall be paid by the operator. The expense shall be recovered from the operator, as other debts are recoverable by a civil action at law. However, if the map filed by the operator is found to be substantially correct, the expense shall be paid by the Commonwealth.

§ 45.2-544. Making false statements; penalty.

A. It is unlawful for any person charged with the making of maps or other data to be furnished as provided in the Act to fail to correctly show, within the limits of error, the data required.

B. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act is guilty of a Class 1 misdemeanor.

Article 5.

Mine Rescue Teams.

§ 45.2-545. Mine rescue and first aid stations.

The Director may purchase, equip, and operate for the use of the Department mine rescue and first aid stations as he determines necessary for the adequate provision of mine rescue and recovery services at all mines in the Commonwealth.

§ 45.2-546. Mine rescue teams.

The Director may have trained and employed at the mine rescue and first aid stations operated by the Department mine rescue teams as he determines necessary. Each member of a mine rescue team shall devote four hours each month for training purposes and shall be available at all times to assist in rescue work. Members shall receive compensation for services at a rate set by the Director, to be determined annually based on prevailing wage rates within the industry. For the purposes of workers' compensation coverage during training periods, such team members shall be deemed to be within the scope of their regular employment. The Director shall certify to the Comptroller of the Commonwealth that such team members have performed the required service. Upon such certification, the Comptroller shall issue a warrant upon the state treasury for their compensation. The Director may remove any team member at any time.

§ 45.2-547. Duty to train teams.

It is the duty and responsibility of the Department to see that every team is properly trained by a qualified instructor of the Department or other person who has a certificate of training from the Department or MSHA.

§ 45.2-548. Qualification for team membership; direction of teams.

A. To qualify for membership in a mine rescue team, an applicant shall be an experienced miner and shall pass a physical examination by a licensed physician, physician assistant, or licensed nurse practitioner at least annually. A record that such examination was taken shall be kept on file by the operator who employs the team member and a copy shall be furnished to the Director.

B. All rescue or recovery work performed by mine rescue teams shall be under the jurisdiction of the Department. The Department shall consult with company officials, representatives of MSHA, and representatives of the miners and all shall be in agreement as far as possible on the proper procedure for rescue and recovery; however, the Chief in his discretion may take full responsibility in directing such work. Procedures for use of apparatus or equipment shall be guided by the manuals for the mine rescue apparatus or auxiliary equipment.

§ 45.2-549. Team members to be considered employees of the mine where emergency exists; compensation; workers' compensation.

When engaged in rescue or recovery work during an emergency at a mine, all team members assigned to the work shall be considered, during the period of their work, employees of the mine where the emergency exists and shall be compensated by the operator at the rate established in the area for such work. In no event shall the rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, all team members shall be deemed to be within the employment of the operator of the mine for the purpose of workers' compensation coverage.

§ 45.2-550. Requirements of recovery work.

A. During recovery work and prior to entering any mine, every mine rescue team conducting recovery work shall be properly informed of existing conditions by the operator or his agent in charge.

B. Each mine rescue team performing rescue or recovery work with breathing apparatus shall be provided with a backup team of equal strength stationed at each fresh air base.

C. For every two teams performing work underground, one six-member team shall be stationed at the mine portal.

D. Two-way communication, life lines, or their equivalent shall be provided by the fresh air base to each team, and no team member shall be permitted to advance beyond such communication system.

E. A mine rescue team shall immediately return to the fresh air base if any team member's breathing apparatus malfunctions or the low-oxygen alarm activates.

F. The Director may also assign rescue and recovery work to inspectors, instructors, or other qualified employees of the Department as the Director determines desirable.

§ 45.2-551. State-designated mine rescue teams.

The Director may, upon the request of an operator or agent who employs a mine rescue team, designate two or more mine rescue teams as "state-designated mine rescue teams." Any team that is certified as a mine rescue team by MSHA under 30 C.F.R. Part 49 shall be eligible to be a state-designated mine rescue team. Following the designation of any such teams, the Director shall, upon the payment to the Department of an annual fee set by the Director based on current costs for maintaining mine rescue stations and personnel, assign two or more state-designated mine rescue teams to the operator. An operator who has paid the rescue fee is entitled to the rescue services of a state-designated mine rescue team at no additional charge.

§ 45.2-552. Mine Rescue Fund.

The Mine Rescue Fund, referred to in this section as "the Fund," is hereby created as a special nonreverting fund in the state treasury. The Fund shall be established on the books of the Comptroller. All moneys collected from operators pursuant to agreements entered into by the Director shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used only for mine rescue services under such agreements. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

§ 45.2-553. Inspections; Mine Rescue Coordinator.

A. The Director shall (i) inspect, or cause to be inspected, the rescue station of each state-designated mine rescue team four times each year; (ii) ensure that all rescue stations are adequately equipped; and (iii) ensure that all team members are adequately trained.

B. The Director shall designate an employee of the Department as the Mine Rescue Coordinator, who shall perform the duties assigned to him by the Director.

§ 45.2-554. Workers' compensation; liability.

A. For the purpose of workers' compensation coverage, during any mine disaster to which a state-designated mine rescue team responds under the provisions of this article or during any training exercise for a state-designated mine rescue team, members of the state-designated team shall be deemed to be within the employment of the operator of the mine at which the disaster occurred or the training exercise is conducted. Additionally, for purposes of workers' compensation coverage, travel by members of a state-designated mine rescue team to and from the mine disaster or training exercise shall be deemed to be within the employment of the operator of the mine at which the disaster occurred or the training exercise is conducted.

B. No member of a state-designated mine rescue team engaging in rescue work at a mine shall be liable for civil damages for acts or omissions resulting from the rendering of such rescue work unless the act or omission was the result of gross negligence or willful misconduct.

C. No operator providing personnel to a state-designated mine rescue team to engage in rescue work at a mine not owned or operated by the operator shall be liable for any civil damages for acts or omissions resulting from the rendering of such rescue work.

Article 6.

Mine Explosions; Mine Fires; Accidents.

§ 45.2-555. Reports of explosions and mine fires; procedure.

A. If an explosion or mine fire occurs in a mine, the operator shall notify the Department by the quickest available means. All facilities of the mine shall be made available for rescue and recovery operations and firefighting.

B. No work other than rescue and recovery work and firefighting shall be attempted unless authorized by the Department.

C. If an explosion occurs in an underground coal mine, the fan shall not be reversed except by authority of the officials in charge of rescue and recovery work, and then only after a study of the effect of reversing the fan on any person who may have survived the explosion and is still underground.

D. The Department shall make available all the facilities at its disposal in effecting rescue and recovery work. The Chief shall act as consultant, or take personal charge, where in his opinion the circumstances of any mine explosion, fire, or other accident warrant.

E. The orders of the official in charge of rescue and recovery work shall be respected and obeyed by all persons engaged in rescue and recovery work.

F. The Chief shall maintain an up-to-date rescue and recovery plan for prompt and adequate employment at any coal mine in the Commonwealth. All employees of the Department shall be kept fully informed and trained in their respective duties in executing rescue and recovery plans. The Department's plan shall be reviewed annually. Any changes in the plan shall be published promptly and made available to all operators of mines.

§ 45.2-556. Operators' reports of accidents; investigations; reports by Department.

A. Each operator shall report promptly to the Department the occurrence at any mine of any accident. The scene of the accident shall not be disturbed pending an investigation, except to the extent necessary to rescue or recover a person, prevent or eliminate an imminent danger, prevent destruction of mining equipment, or prevent suspension of use of a slope, entry, or facility vital to the operation of a section or a mine. In a case in which reasonable doubt exists as to whether to leave the scene unchanged, the operator shall secure prior approval from the Department before any changes are made.

B. The Chief shall go personally or dispatch one or more mine inspectors to the scene of such a coal mine accident, investigate causes, and issue such orders as may be needed to ensure safety of other persons.

C. Representatives of the operator shall render assistance as needed and act in a consulting capacity in the investigation. An employee, if so designated by the employees of the mine, shall be notified and as many as three employees, if so designated as representatives of the employees, may be present at the investigation in a consulting capacity.

D. The Chief shall require substance abuse testing as part of an inspection or complaint investigation if there is reasonable cause to suspect a miner's impairment, due to the presence of intoxicants or any controlled substance not used in accordance with the prescription of a licensed prescriber; has been a contributing factor to any accident in which a serious personal injury or death has occurred at a mine. The Chief shall require substance abuse testing of any miner killed or seriously injured and of any other person who might have contributed to the accident. Any substance abuse testing required by the Chief shall be paid for by the Department. Refusal by any miner to submit to substance abuse testing, or the failure to pass such a test, shall result in the immediate temporary suspension of all certificates held by the miner, pending a hearing before the Board of Coal Mining Examiners.

E. The Department shall render a complete report of circumstances and causes of each accident investigated and make recommendations for the prevention of similar accidents. The Department shall furnish one copy of the report to the operator and one copy to an employee representative if one was present at the investigation. The Chief shall maintain a complete file of all accident reports for coal mines and provide further dissemination as ordered by the Director in an effort to prevent mine accidents.

§ 45.2-557. Reports of other accidents and injuries.

A. Each miner employed at a mine shall promptly notify his supervisor of any injury received during the course of his employment.

B. Each operator shall keep on file a report of each accident, including any accident that does not result in a lost-time injury. Copies of an accident report shall be given to the person injured or to his designated representative to review such report and verify its accuracy prior to filing it for review by state or federal mine inspectors.

§ 45.2-558. Duties of mine inspectors.

Each mine inspector shall:

1. Report to his supervisor immediately by the quickest available means any mine fire or explosion or any accident that results in loss of life or serious personal injury;

2. Proceed immediately to the scene of any accident at any mine under his jurisdiction that results in loss of life or serious personal injury and to the scene of any mine fire or explosion regardless of whether there is loss of life or serious personal injury;

3. Make such investigation and suggestions and render such assistance as he deems necessary for the future safety of the employees and make a complete report to his supervisor as soon as practicable;

4. Provide assistance to mine rescue and recovery operations whenever a mine fire or explosion or any accident that results in loss of life or serious personal injury occurs; and

5. Monitor the reopening of every mine or section thereof that has been sealed or abandoned on account of mine fire or explosion, serious accident, or any other cause in accordance with a plan approved by the Chief.

Article 7.

Mine Inspections.

§ 45.2-559. Frequency of mine inspections.

The Chief shall conduct a complete inspection of each underground coal mine at least every 180 days and of each surface coal mine at least once per year. Additional inspections of coal mines shall be made when deemed appropriate by the Chief based on an evaluation of risks at each mine or if requested by miners employed at a mine or the operator of a mine.

§ 45.2-560. Evaluation of risks at mines.

A. For the purpose of allocating the resources of the Department to be used for conducting additional inspections, the Department shall develop a procedural policy of scheduling such inspections based on an assessment, to be made at least annually, of the comparative risks at each underground coal mine and surface coal mine. The Department shall prepare its procedural policy with the assistance of working groups consisting of persons knowledgeable in mine safety issues. The issuance of the procedural policy shall be exempt from Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Variables that shall be included in the risk assessment measures include: (i) fatality and serious accident rates at the mine; (ii) the rates of issuance of closure orders and notices of violations of the mine safety laws of the Commonwealth, including regulations adopted by the Department or the Board of Coal Mining Examiners, at the mine; and (iii) the frequency rates for nonserious accidents or nonfatal days lost.

B. The Chief shall schedule additional inspections at underground coal mines and surface coal mines based on the rating assigned to a mine reflecting the assessment of its risks compared to other such mines pursuant to the assessment described in subsection A.

§ 45.2-561. Review of inspection reports and records.

Prior to commencing an inspection of a coal mine, a mine inspector shall review the most recent available report of inspection by MSHA. During the course of a complete inspection of a coal mine, the mine inspector shall comprehensively review the records for the 30-day period preceding the inspection of pre-shift examinations, on-shift exams, daily inspections, and weekly examinations that are required to be maintained pursuant to the Act. The mine inspector may review the records for such additional period as he deems prudent. During the course of the inspection, the inspector shall review other records relating to safety and health conditions in the mine that are required to be maintained pursuant to the Act.

§ 45.2-562. Advance notice of inspections; confidentiality of trade secrets.

A. No person shall give advance notice of any mine inspection conducted under the provisions of this title without authorization from the Chief or the Director.

B. All information reported to or otherwise obtained by the Chief or the Director or his authorized representative in connection with any inspection or proceeding under this title that contains or might reveal a trade secret referred to in 18 U.S.C. § 1905 shall be considered confidential for the purpose of that section, except that such information may be disclosed to the Chief or the Director or his authorized representative concerned with carrying out any provisions of this title or any proceeding hereunder. In any such proceeding, the court, the Chief, or the Director shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

§ 45.2-563. Scheduling of mine inspections.

A. The Chief and the Director shall schedule the inspections of mines under this article, to the extent deemed reasonable and prudent, in order to reduce their chronological proximity to inspections conducted by MSHA.

B. The Chief, the Director, and each mine inspector, to the extent deemed reasonable and prudent, shall schedule mine inspections to commence at a variety of hours of the day and days of the week, including evening and night shifts, weekends, and holidays.

§ 45.2-564. Denial of entry.

No person shall deny the Chief, the Director, or any mine inspector entry upon or through (i) a mine for the purpose of conducting an inspection or (ii) any office at the site where maps or records relating to the mine are located, in accordance with the Act.

§ 45.2-565. Duties of operator.

A. The operator or his agent of each mine shall furnish the Chief and any mine inspector proper facilities for entering such mine and making examinations or obtaining information and shall furnish any data or information not of a confidential nature requested by such inspector or the Chief.

B. The operator of an underground coal mine or his agent shall provide a mine inspector or the Chief adequate means for transportation to the active working areas of the mine within a reasonable period of time following the mine inspector's arrival at the mine.

C. The operator or his agent shall, when ordered to do so by a mine inspector or the Chief during the course of his inspection, promptly clear the mine or a section thereof of all persons.

D. The mine operator shall implement a substance abuse screening policy and program for all miners that shall, at a minimum, include:

1. A pre-employment, 10-panel urine test for the following and any other substances as set out in regulation adopted by the Board of Coal Mining Examiners:

- a. Amphetamines;
- b. Cannabinoids/THC;
- c. Cocaine;
- d. Opiates;
- e. Phencyclidine (PCP);
- f. Benzodiazepines;
- g. Propoxyphene;
- h. Methadone;
- i. Barbiturates; and
- j. Synthetic narcotics.

Samples shall be collected by providers who are certified as complying with standards and procedures set out in the U.S. Department of Transportation's rule, 49 C.F.R. Part 40. Collected samples shall be tested by laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services for collection and testing. The mine operator may implement a more stringent substance abuse screening policy and program; and

2. The review of the substance abuse screening program with each miner at the time of employment and annually thereafter.

E. The operator or his agent shall notify the Chief, on a form prescribed by the Chief, within seven days of any failure of a pre-employment substance abuse screening test and shall provide a record of the test showing such failure or violation. Notice shall result in the immediate temporary suspension of all certificates held by the applicant, pending a hearing before the Board of Coal Mining Examiners.

F. The operator or his agent shall notify the Chief, on a form prescribed by the Chief, within seven days of (i) discharging a miner due to violation of the company's substance or alcohol abuse policies, (ii) a miner testing positive for intoxication while on duty status, or (iii) a miner testing positive as using any controlled substance without the prescription of a licensed prescriber. An operator that has a substance abuse program shall not be required to notify the Chief under clause (iii) unless the miner having tested positive fails to complete the operator's substance abuse program. The notification shall be accompanied by a record of the test showing such positive results or violation. Notice shall result in the immediate temporary suspension of all certificates held by the applicant, pending a hearing before the Board of Coal Mining Examiners.

G. The provisions of this chapter shall not be construed to preclude an employer from developing or maintaining a substance and alcohol abuse policy, testing program, or substance abuse program that exceeds the minimum requirements set forth in this section.

§ 45.2-566. Duties of inspectors.

A. During a complete inspection of a mine, other than an inactive mine, the mine inspector shall inspect, where applicable, the surface plant; all active workings; all active travel ways; entrances to inaccessible worked-out areas; accessible worked-out areas; at least one entry of each intake and return airway in its entirety; escapeways and other places where miners work or travel or where hazardous conditions might exist; electric installations and equipment; haulage facilities; first aid equipment; ventilation facilities; communication installations; roof and rib conditions; roof-support practices; blasting practices; haulage practices and equipment; and any other condition, practice, or equipment pertaining to the health and safety of the miners. The mine inspector shall make tests for the quantity of air flows, and for gas and oxygen deficiency, in each place that he is required to inspect in an underground coal mine. In a mine operating more than one shift in a 24-hour period, the mine inspector shall devote sufficient time on the second and third shifts to determine conditions and practices relating to the health and safety of the miners. For an inactive mine, the mine inspector shall inspect all areas of the mine where persons may work or travel during the period the mine is an inactive mine.

B. The inspector shall make a personal examination of the interior of the mine and of the outside of the mine where any danger may exist to the miners.

§ 45.2-567. Inspection reports.

A. Upon completing a mine inspection, a mine inspector shall complete a report regarding such inspection. The inspection report shall show the date of inspection, the condition in which the mine is found, a statement regarding any violations of the Act discovered during the inspection, the progress made in the improvement of the mine as such progress relates to health and safety, the number of accidents and injuries occurring in and about the mine since the previous inspection, and all other facts and information of public interest concerning the condition of the mine as are useful and proper.

B. The mine inspector shall (i) deliver one copy of the inspection report to the operator, agent, or mine foreman and one copy to the employees' safety committee, where applicable, and (ii) post one copy at a prominent place on the premises of the mine where it can be read conveniently by the miners.

C. With respect to coal mines, the Department shall provide access to inspection reports to MSHA.

Article 8.

Enforcement and Penalties; Reports of Violations.

§ 45.2-568. Notices of violations.

A. If the Director, the Chief, or a mine inspector has reasonable cause to believe that a violation of the Act has occurred, he shall with reasonable promptness issue a notice of violation to the person responsible for the violation. Each notice of violation shall be in writing, shall describe with particularity the nature of the violation, including a reference to the provision of the Act or the appropriate regulation violated, and shall include an order of abatement and set a reasonable time for abatement of the violation.

B. A copy of the notice of violation shall be delivered to the operator or his agent or the mine foreman.

C. Upon a finding by the mine inspector of the completion of the action required to abate such violation, the Director, the Chief, or the mine inspector shall issue a notice of correction, a copy of which shall be delivered as provided in subsection B.

D. The notice of violation shall be deemed the final order of the Department and shall not be subject to review by any court or agency unless within 20 days following its issuance the person to whom the notice of violation was issued appeals its issuance by notifying the Department in writing that he intends to contest its issuance. The Department shall conduct informal conference or consultation proceedings, presided over by the Chief, pursuant to § 2.2-4019, unless the person and the Department agree to waive such a conference or proceeding to go directly to a formal hearing. If such a conference or proceeding is waived, or if it fails to dispose of the case by consent, the Department shall conduct a formal hearing pursuant to § 2.2-4020. The formal hearing shall be presided over by a hearing officer pursuant to § 2.2-4024, who shall recommend findings and an initial decision, which shall be subject to review and approval by the Director. Any party aggrieved by and claiming unlawfulness of such decision is entitled to judicial review pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

E. If it is finally determined that a notice of violation was not issued in accordance with the provisions of this section, the notice of violation shall be vacated and the improperly issued notice of violation shall not be used to the detriment of the person or the operator to whom it was issued.

§ 45.2-569. Closure orders.

A. The Director, the Chief, or a mine inspector shall issue a closure order requiring any mine or section thereof cleared of all persons, or equipment removed from use, and refusing further entry into the mine by all persons except those necessary to correct or eliminate a hazardous condition, when (i) a violation of the Act has occurred that creates an imminent danger to the life or health of persons in the mine; (ii) a mine fire, mine explosion, or other serious accident has occurred at the mine, as necessary to preserve the scene of such accident during the investigation of the accident; (iii) a mine is operating without a license in violation of § 45.2-535; or (iv) an operator to whom a notice of violation was issued has failed to abate the violation cited therein within the time period provided in such notice for its abatement; however, a

closure order shall not be issued for failure to abate a violation during the pendency of an administrative appeal of the issuance of the notice of violation as provided in subsection D of § 45.2-568.

B. A technical specialist may issue a closure order upon discovering a violation creating an imminent danger.

C. One copy of a closure order shall be delivered to the operator of the mine or his agent or the mine foreman.

D. Upon a finding by the mine inspector of abatement of the violation creating the hazardous condition pursuant to which a closure order has been issued as provided in clause (i) of subsection A; cessation of the need to preserve an accident scene as provided in clause (ii) of subsection A; the issuance of a license for the mine if the closure order was issued as provided in clause (iii) of subsection A; or abatement of the violation for which the notice of violation was issued as provided in clause (iv) of subsection A, the Director, the Chief, or a mine inspector shall issue a notice of correction, a copy of which shall be delivered as provided in subsection C.

E. The issuance of a closure order shall constitute a final order of the Department, and the owner or operator of the mine shall not be entitled to administrative review of such decision. The owner or operator of any mine or part thereof for which a closure order has been issued may, within 10 days following the issuance of the order, bring a civil action in the circuit court of the county or city in which the mine, or the greater portion thereof, is located for review of the decision. The commencement of such a proceeding shall not, unless specifically ordered by the court, operate as a stay of the closure order. The court shall promptly hear and determine the matters raised by the owner or operator. In any such action, the court shall receive the records of the Department with respect to the issuance of the order and any additional evidence at the request of any party. In any proceeding under this section, the Attorney General or the attorney for the Commonwealth for the jurisdiction where the mine is located, upon the request of the Director, shall represent the Department.

F. The court shall vacate the closure order if the preponderance of the evidence establishes that the order was not issued in accordance with the provisions of this section.

G. If it is finally determined that a closure order was issued not in accordance with the provisions of this section, the closure order shall be vacated and the improperly issued closure order shall not be used to the detriment of the owner or operator of the mine for which it was issued.

§ 45.2-570. Tolling of time for abating violations.

The period of time specified in a notice of violation for the abatement of the violation shall not begin to run until (i) the final decision of the Department is issued, if an administrative appeal of its issuance is pursued, or (ii) the final order of the circuit court is rendered, if an appeal of its issuance is taken to circuit court and if such appeal pursuant to clause (i) or (ii) was undertaken in good faith and not solely for delay or avoidance of penalties.

§ 45.2-571. Injunctive relief.

A. Any person violating or failing, neglecting, or refusing to obey any closure order may be compelled in a proceeding instituted by the Director in any appropriate circuit court to obey such order and to comply with such order by injunction or other appropriate relief.

B. Any person failing to abate any violation of the Act that has been cited in a notice of violation within the time period provided in such notice for its abatement may be compelled in a proceeding instituted by the Director in any appropriate circuit court to abate such violation as provided in such notice and to cease the operation of the mine at which such violation exists until the violation has been abated, by injunction or other appropriate remedy.

C. The Director may file a bill of complaint with any appropriate circuit court asking the court to temporarily or permanently enjoin a person from operating a mine in the Commonwealth, to be granted upon finding by a preponderance of the evidence that (i) a history of noncompliance at the mine operated by the person demonstrates that he is not able or willing to operate a mine in compliance with the provisions of the Act or (ii) a history of the issuance of closure orders for the mine operated by the person demonstrates that he is not able or willing to operate a mine in compliance with the provisions of the Act.

§ 45.2-572. Violations; penalty.

Any person who willfully violates any provision of the Act or any regulation adopted pursuant to the Act, unless otherwise specified in the Act, is guilty of a Class 1 misdemeanor.

§ 45.2-573. Prosecution of violations.

A. It is the duty of every attorney for the Commonwealth to whom the Director or his authorized representative has reported any violation of the Act or on his own initiative to cause proceedings to be prosecuted in such case.

B. If the attorney for the Commonwealth declines to cause proceedings to be prosecuted in such case, the Director or the Chief may request the Attorney General to institute proceedings for any violation of the Act on behalf of the Commonwealth; however, such action shall not preclude the Director or the Chief from pursuing any other applicable statutory procedure. Upon receiving such a request from the Director or the Chief, the Attorney General may institute actions and proceedings for violations described in the request.

§ 45.2-574. Fees and costs.

No fees or costs shall be charged to the Commonwealth by a court or any officer for or in connection with the filing of any pleading or other papers in any action authorized by this article.

§ 45.2-575. Reports of violations.

A. The operator of each mine or his agent shall deliver a copy of the Act to each miner upon the commencement of his employment at the mine, unless the miner is already in possession of a copy.

B. Any person aware of a violation of the Act may report the violation to a mine inspector or to any other employee of the Department, in person, in writing, or by telephone call, at the mine, at an office of the Department, or at the mine inspector's residence.

C. The operator of each mine or his agent shall display on a sign placed at the mine office, at the bath house, and on a bulletin board at the mine site a notice containing the office addresses and office and home telephone numbers of mine inspectors and other Department personnel for the purpose of reporting any violation of the Act.

D. The Department shall keep a record, on a form prepared for such purpose, of every alleged violation of the Act that is reported and the results of any investigation. The Department shall give a copy of the complaint form, with the identity of the person making the report and that of any individual identified in the alleged violation being omitted or deleted, to the operator of the mine or his agent. The Department shall not disclose the identity of any person who reports an alleged violation to the owner or operator of the mine or his agent or to any other person or entity. Information regarding the identity of the person reporting the violation shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Article 9.

Virginia Coal Mine Safety Board.

§ 45.2-576. Virginia Coal Mine Safety Board; purpose.

The Virginia Coal Mine Safety Board (the Board) is established as an advisory board in the executive branch of state government. The purpose of the Board is to advise the Chief on matters relating to the health and safety of persons working in the coal industry in the Commonwealth.

§ 45.2-577. Membership; terms; compensation; quorum; meetings.

A. The Virginia Coal Mine Safety Board shall have a total membership of 10 members that shall consist of nine nonlegislative citizen members appointed by the Governor, subject to confirmation by the General Assembly, and one ex officio member. Nonlegislative citizen members shall be appointed as follows: three to be appointed from a list of individuals nominated by the Metallurgical Coal Producers Association; three to be appointed from a list of individuals nominated by the United Mine Workers of America; and three to be appointed from the Commonwealth at large. Nonlegislative citizen members of the Board shall serve at the pleasure of the Governor and be residents of the Commonwealth.

B. The members of the Board shall elect its chairman. Members shall serve for terms of four years and their successors shall be appointed for terms of the same length, but vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Any member may be reappointed for successive terms. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

C. The Board shall hold meetings at times and places designated by the chairman. The chairman may call a meeting of the Board at any time and shall call a meeting of the Board within 20 days of receipt by the chairman of a written request for a meeting by another member of the Board. Notification of each meeting of the Board shall be given in writing to each member by the chairman at least five days in advance of the meeting. The chairman and any four or more members of the Board shall constitute a quorum for the transaction of any business of the Board.

§ 45.2-578. Powers and duties of the Virginia Coal Mine Safety Board.

The Virginia Coal Mine Safety Board has the power to advise and make recommendations to the Chief on matters relating to the health and safety of persons working in the Virginia coal industry. The Board shall serve as the regulatory work committee for the Department on all coal mine health and safety regulations not under the jurisdiction of the Board of Coal Mining Examiners.

Article 10.

Miner Training.

§ 45.2-579. First aid training of coal miners.

A. The Chief shall establish specifications for first aid and refresher training programs for miners at coal mines. Such specifications shall be no less than, but may exceed, the minimum requirements of the training programs that underground and surface coal mine operators are required to provide to their employees pursuant to the federal mine safety law. The Chief may utilize the Department's educational and training facilities in the conduct of such training programs and may require the cooperation of operators in making such programs available to their employees.

B. Each operator of a coal mine, upon request, shall make available to every miner employed in such mine the course of first aid training, including refresher training, as is required pursuant to subsection A.

§ 45.2-580. Training programs.

A. The Department may administer training programs for the purpose of (i) assisting with the provision of selected requirements of the federal mine safety law and (ii) preparing miners for examinations administered by the Board of Coal Mining Examiners. The Director shall establish the curriculum and teaching materials for the training programs, which shall be consistent with the requirements of the federal mine safety law where feasible.

B. The Department is authorized to charge persons attending the training programs reasonable fees to cover the costs of administering such programs. The Director may exempt certain persons from any required fees for refresher training programs, based on the person's employment status or such other criteria as the Director deems appropriate. The Director

shall not be required to allocate more of the Department's resources to training programs than are appropriated or otherwise made available for such purpose or are collected from fees charged to attendees.

C. No miner, operator, or other person shall be required to participate in any training program established under this article. Nothing contained herein shall prevent an operator or any other person from administering a state-approved training program.

§ 45.2-581. Additional coal mining training programs.

The Chief may implement a voluntary on-site safety awareness training program for coal miners. Such training may be conducted by a mine inspector in conjunction with his inspection of a coal mine or by other Department personnel. Safety awareness training for coal miners may include such methods as job safety analysis and topical talks on safety issues intended to reduce accidents.

CHAPTER 6.

COAL MINING PROPERTY, INTERESTS, ADJACENT OWNERS, AND DAMS.

Article 1.

Rights of Owners of Land Adjacent to Coal Mines.

§ 45.2-600. Consent required before working mine near land of another.

No owner or tenant of any land containing coal within the Commonwealth shall open or sink, dig, excavate, or work in any mine on such land within five feet of the line dividing such land from that of another person without the written consent of every person interested in or having title to such adjoining lands or mineral rights in possession, reversion, or remainder, or of the guardian of any such person if the person is under a disability. Any person who violates this section shall forfeit \$500 to any person injured by such activity and to anyone whose consent is required but not obtained.

§ 45.2-601. Adjacent owner to be permitted to survey mine; proceedings to compel entry for survey.

A. The owner, tenant, or occupant of any land or coal on or in which a mine is opened and worked, or his agent, shall permit any person interested in or having title to any land or mineral rights coterminal with that in which such mine is located to have ingress and egress with surveyors and assistants to explore and survey such mine at his own expense if such person has reason to believe his property is being trespassed upon. The purpose of such survey shall be to ascertain whether a violation of § 45.2-600 has occurred. However, such person is not entitled to enter the property more often than once a month. Every owner, tenant, occupant, or agent who refuses such permission, exploration, or survey shall forfeit \$20 for each refusal to the person so refused.

B. The judge of the general district court of the county or city in which such mine is located, before whom any complaint of such refusal shall be made, may issue a summons to such owner, tenant, occupant, or agent to answer such complaint. On the return of the summons executed and proof that (i) the complainant has a right of entry and (ii) such right has been refused without sufficient cause, the judge shall designate an early and convenient time for such entry to be made and issue a warrant commanding the sheriff of the county or city to attend and prevent any obstruction or impediment to such entry, exploration, or survey. The costs of such summons and a fee of \$3 to the sheriff executing the warrant shall be paid by the person whose refusal caused the complaint. If the court dismisses the complaint, the costs shall be paid by the party making the complaint.

Article 2.

Trusts for Coal Interests.

§ 45.2-602. Petition to establish a trust for missing coal owners.

A. Any coal owner or lessee who (i) has more than a 50 percent interest in the coal on a particular tract and (ii) seeks to impress a trust upon unknown or missing owners of such tract of coal may petition the circuit court in the county or city containing the majority of the tract of coal to establish a trust to protect the interests of all coal owners and lessees.

B. The petition shall:

1. Describe the particular tract of coal at issue;
2. List all known, missing, and unknown owners of interests in such tract of coal and set forth the efforts to locate and identify the missing or unknown owners of the interests and provide any other information known to the petitioner that could be helpful in identifying or locating every present owner thereof; and
3. Include the proposed terms of a lease to be offered to the trust. Such lease shall be typical of other arm's-length leases in the area.

C. The petitioner shall establish to the satisfaction of the court that a diligent effort has been made to identify and locate the present owners of such interests.

§ 45.2-603. Advertisement upon filing of petition.

Immediately upon filing the petition pursuant to § 45.2-602, the petitioner shall advertise a notice of the pending action, including a statement that the action is brought for the purpose of impressing a trust authorizing the execution of a valid and present coal lease for the development of a tract of coal described in the petition pursuant to the provisions of subsection B of § 45.2-602. Such notice shall appear in a local newspaper of general circulation at least once a week for two consecutive weeks.

§ 45.2-604. Court may declare trust; trustee sale of lease.

A. If, upon presentation of a petition pursuant to § 45.2-602 to the circuit court in the county or city containing the majority of the tract of coal, it appears to the court that development of the interests in such tract of coal will be advantageous to the unknown or missing owners, the court shall declare a trust in the coal interests and appoint a trustee

for such interests. The court shall authorize the trustee to execute a lease covering the coal interests in the identified tract of coal. The order of the court shall provide for all the terms and provisions of the lease that the trustee is authorized to make.

B. The trustee shall proceed in compliance with the provisions of the order to execute the lease and after executing the lease shall submit a report thereof to the court.

C. The court shall not authorize a trustee's lease upon the coal interests of any owner whose identity and location are known, can be ascertained, or are discovered as a result of the action brought under this article. Any such owner may intervene as a matter of right at any time prior to the judgment approving the trustee's lease for the purpose of establishing his title to the coal interests. If such coal owner's claim is established to the satisfaction of the court, the court shall dismiss the action at the plaintiff's cost.

§ 45.2-605. Duty of trustee; sale of lease; distribution of funds.

A. The trustee shall collect the proceeds from the sale of the lease and hold and invest such proceeds for the use and benefit of the unknown or missing owners. The court may authorize the trustee to expend an amount not to exceed 10 percent of the funds collected by the trustee for the purpose of searching for the unknown or missing owners.

B. Five years after the date of first commercial production of the coal interests, the proceeds in the trust shall be disposed of pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.).

§ 45.2-606. Payment of attorney fees, expenses, and court costs.

All attorney fees, expenses, and court costs incident to the original proceedings shall be paid by the lessee if a lease is executed and by the plaintiff if for any reason no lease is executed. Subsequent to entry of judgment, all allowable attorney fees, expenses, and court costs shall be paid out of funds controlled by the trustee.

§ 45.2-607. Production of coal by majority interest owner; petition to establish trust for known coal owners.

A. Any coal owner or lessee who (i) has at least a two-thirds interest in the coal on a particular tract of land and (ii) seeks to extract such coal may petition the circuit court in the county or city containing the majority of the tract of coal to establish a trust for known coal owners and lessees.

B. The petition shall:

1. Describe the particular tract of coal at issue;
2. List all known owners of interests in the tract of coal; and
3. Include the proposed terms of a lease to be offered to each minority owner. Such lease shall be typical of other arm's-length leases in the area.

C. The petitioner shall establish to the satisfaction of the court that a diligent effort has been made to obtain the consent of each minority owner to lease his interest in the coal. The petitioner shall demonstrate to the court that (i) the production of the coal by the petitioner's lessee is of economic benefit to all parties; (ii) if the coal is not produced, the economic value of the coal is lost and the economic benefit of owning the coal is decreased; and (iii) there is no practical method for dividing such coal among the owners without extracting the coal.

D. Immediately upon filing the petition, the petitioner shall send by registered or certified mail, with a return receipt requested, notice of the petition to the party subject to the petition.

E. The court may appoint a trustee and authorize the trustee to execute a lease pursuant to § 45.2-604.

F. The court shall escrow or direct the trustee to escrow the proceeds of the lease attributable to each of the minority interests until such minority owner's claim is established to the satisfaction of the court.

Article 3.

Emergency Seizure of Coal Property by the Commonwealth.

§ 45.2-608. "Public uses" defined; mining, etc., of coal essential business; subject to seizure by Commonwealth.

A. As used in this article, "public uses" means the mining, production, or marketing of coal for the purpose of providing and furnishing heat or power to the people of the Commonwealth.

B. Any person engaged in the business of the mining, production, or marketing of coal, any portion of which is customarily used in the manufacture of heat or power, is hereby declared to be engaged in a business essential to the health, safety, and welfare of the people of the Commonwealth. Under the conditions and in the manner set forth in this article, such business may be seized and operated by the Commonwealth, or any agency created and organized for such purpose, for public uses.

§ 45.2-609. Interruption of public uses; proclamation of emergency; seizure.

When in the judgment of the Governor there exists a substantial interruption or an imminent threat of a substantial interruption of public uses, he shall proclaim that an emergency exists in the Commonwealth that endangers the health, safety, and welfare of its people and the enjoyment of the public and private property within its borders. It shall then be the duty of the Governor to seize and operate the property of any person used in the mining, production, or marketing of coal that the Governor deems essential for the protection of the health, safety, and welfare of the people of the Commonwealth.

§ 45.2-610. Additional powers of Governor to operate seized properties.

The Governor may exercise the powers and authority to possess and operate for public uses any person's property used in the mining, production, or marketing of coal in the manner provided in this article.

§ 45.2-611. Virginia Fuel Commission; purpose; membership; compensation; staff; powers and duties; report.

A. The Virginia Fuel Commission (the Commission) may be established by the Governor as a supervisory commission in the executive branch of state government. The purpose of the Commission is to act for and on behalf of the Governor in the enforcement of the powers and duties set forth in this article.

B. The Commission shall have a total membership of three nonlegislative citizen members who are residents of the Commonwealth. Each member of the Commission shall be appointed to serve at the pleasure of the Governor, and any vacancy shall be filled in the same manner as the original appointment. One member of the Commission shall be designated by the Governor as chairman. A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the Governor or the chairman.

C. Members shall receive such compensation for the performance of their duties as fixed by the Governor. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

D. The Department shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

E. The Commission, subject to the approval of the Governor, shall have, in addition to the powers and duties incident to this article that the Governor delegates to it, the power and duty to:

1. Adopt such regulations and issue such orders as are, in the judgment of the Commission, necessary to accomplish in full the purposes of this article. Such regulations and orders shall have the force and effect of law, and the violation thereof is punishable as a Class 1 misdemeanor;

2. Appoint and employ such officers and personnel as are, in its judgment, required to carry out the provisions of this article; remove, in its discretion, any and all persons serving thereunder; and fix, subject to approval by the Governor, the remuneration of all such officers and other personnel. Such personnel shall work subject to such safety provisions as are in force on the property at the time of acquisition;

3. Acquire under the power of eminent domain, or by purchase, lease, or otherwise, all of the property of any person used in the business of the mining, production, or marketing of coal, including all lands, tipples, mines, ores, rights-of-way, leaseholds, and every character and type of equipment deemed by the Commission necessary or incidental to the continuous mining and production of coal;

4. Operate, manage, and control any property so acquired; purchase coal, coke, or other fuel and sell such fuel, either at retail or at wholesale; enter into contracts; allocate and provide for the distribution of coal and other fuels so as to ensure a distribution deemed most likely to promote the health, safety, and welfare of the people of the Commonwealth; and do any and all things necessary and incidental to the mining, production, or marketing of coal; and

5. In any year in which the Commission meets, submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. In any year in which the Commission meets, the chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of the next regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 45.2-612. Negotiating purchase or lease of coal properties.

Whenever the Governor proclaims that an emergency exists under this article and appoints the Virginia Fuel Commission pursuant to § 45.2-611, the Commission shall make a bona fide attempt to negotiate the purchase or lease of the coal property of any person engaged in the mining, production, or marketing of coal as the Commission deems necessary to accomplish the purposes of this article. However, where such negotiations cannot be promptly made due to the incapacity of the owner of the property, or for any other reason, the Commission is not required to attempt to negotiate for the acquisition of such property.

§ 45.2-613. Proceedings for condemnation.

A. Proceedings for condemnation pursuant to this article shall be instituted and conducted in the name of the Commission, and the procedure shall, except as altered by the provisions of this article, be carried out as provided in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1.

B. The proceedings for condemnation shall be by petition to the circuit court of the county or city in which the land, property, or property right, or the major portion thereof sought to be temporarily acquired, is located. The petition shall set forth with reasonable particularity a description and designation of the interest, right, or property intended to be temporarily taken, the name of the owner of the interest, right, or property that is to be taken or affected and such other facts as the Commission deems necessary to give adequate information to the court and all persons in interest. The petition shall be verified by oath by a member of the Commission.

C. Upon (i) the filing of the petition described in subsection B in the office of the clerk of the circuit court to which it is addressed, together with as many copies thereof as there are defendants upon which it is to be served, and (ii) the depositing with the clerk for the custody of the court, and for the benefit of the owners of the property taken or affected, an amount of money that the Commission estimates to be just compensation for the property temporarily taken and any damage done, the Commission shall thereupon seize and take possession, custody, and control of the property. The amount of money deposited pursuant to clause (ii) shall not limit the amount of just compensation to be allowed to the owner of the property. The service of such petition upon the defendant shall be made in the manner prescribed by the Rules of Supreme Court of Virginia with respect to Practice and Procedure in Civil Actions in effect at the time the petition is filed.

§ 45.2-614. Expense of acquiring and operating coal property; funds derived from operation.

The expense of acquiring and operating any property acquired under this article shall be paid out of moneys transferred from the general fund that are not otherwise appropriated. Such transfer shall be made upon such authorization

as the Governor prescribes and shall be credited to the account of the Commission, and all funds and revenues derived from or received as a result of such operations shall be paid into the state treasury and credited to the same account. Any amount transferred upon authorization of the Governor from the general fund shall be designated as the "Capital Account" of the Commission. Such amount, or the residue thereof, together with any surplus that accrues, shall be returned to the general fund in the event of liquidation or, in the absence of liquidation, in such installments and at such times as the Governor prescribes.

§ 45.2-615. Restoration of property to owner or operator.

A. Whenever (i) the owner or operator engaged in the business of the mining, production, or marketing of coal whose property has been acquired by the Commission notifies the Commission in writing that he can and will resume operation and render normal service, and satisfies the Commission of the correctness of such notice, or (ii) in the judgment of the Governor, the emergency declared by him no longer exists, the Commission shall restore the possession of the property so acquired by it to such owner or operator upon his request. In the event the Commission refuses such restoration of possession, the owner or operator shall have the right to have a ruling issued requiring the Commission to show cause why such possession shall not be restored, and the court shall determine the matter as provided in this section.

B. Any such owner or operator shall be entitled to receive reasonable, proper, and lawful compensation for the use of the property acquired by the Commonwealth pursuant to this article and shall be paid such compensation out of the state treasury. In the event the Commission has acquired such property by purchase, the owner or operator from whom it was acquired shall, upon reacquisition, repay the purchase price less fair compensation for the use of such property. In the event the Commission and the owner or operator are unable to agree upon the amount of such compensation, either party in interest may file a petition in the circuit court for the county or city in which the property is located for the purpose of having the amount of compensation judicially determined. The court shall, without a jury, hear such evidence and argument of counsel as it deems appropriate and (i) render judgment thereon or (ii) refer to a commissioner such questions as are considered proper and act upon the commissioner's report as in any other civil proceeding. An appeal shall lie to the Supreme Court from any final judgment of the court rendered upon the provisions of this article.

§ 45.2-616. Article subject to provisions of general law.

The provisions of this article are subject to all of the provisions of general law applicable to coal mining operations.

Article 4.

Coal Mine Refuse Impoundments and Retaining Dams.

§ 45.2-617. Definitions.

As used in this article, unless the context requires a different meaning:

"Coal refuse" means waste material resulting from the mining and screening or processing of coal.

"Coal slurry" means waste water and impurities produced as the result of coal washing and preparation of coal for market, containing a combination of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed of from underground workings.

"Mine refuse impoundment" means a mine refuse pile that retains water that has been used in carrying out any part of the process necessary in the production or preparation of coal.

"Mine refuse pile" means a pile of coarse or fine coal refuse that is a result of the mining or screening process that may be stacked, spread, or graded and covers 20 acre-feet or more.

"Operator" means any person who operates, controls, or supervises a retaining dam or a mine refuse impoundment.

"Retaining dam" means an artificial barrier or obstruction that is designed to impound water, coal slurry, or silt (i) to an elevation of five feet or more above the upstream toe of the structure and has a storage volume of 20 acre-feet or more or (ii) to an elevation of 20 feet or more measured at the open channel spillway or from the crest of the dam in a closed system, regardless of storage volume.

"Silt" means fine particles resulting from a mining operation, suspended in or deposited by water.

"Water" means liquid or slurry resulting from the processing of coal in mining operations.

§ 45.2-618. Design and construction of retaining dam or mine refuse impoundment; designs and other data to be submitted to Chief.

A. Any new retaining dam or mine refuse impoundment, or the modification of an existing retaining dam or mine refuse impoundment, shall be designed and constructed by or under the direction of a licensed professional engineer. Such requirement shall only apply to a mine refuse impoundment if it is designed to impound water, coal slurry, or silt (i) to an elevation of five feet or more above the upstream toe of the structure and has a storage volume of 20 acre-feet or more or (ii) to an elevation of 20 feet or more measured at the open channel spillway or from the crest of the dam in a closed system, regardless of storage volume. The design, construction specifications, and other related data, including final abandonment plans for such retaining dam or mine refuse impoundment, shall be certified by the licensed professional engineer.

B. No person shall place, construct, enlarge, alter, repair, remove, or abandon any retaining dam or mine refuse impoundment until the operator has filed an application for and received approval from the Chief for such construction or modification. However, routine repairs that do not affect the engineering design criteria or safety of an approved retaining dam or mine refuse impoundment are not subject to such application and approval requirements.

§ 45.2-619. Examination of retaining dam or mine refuse impoundment; potentially hazardous condition; plans to be submitted by operators.

A. Each retaining dam or mine refuse impoundment shall be examined by an authorized person, as defined in § 45.2-501, at least every seven days or as otherwise approved by the Chief. Each such retaining dam or mine refuse impoundment shall be examined for compliance with approved design and maintenance requirements, visible structural weakness, volume overload, and other hazards.

B. After each examination, the authorized person, as defined in § 45.2-501, shall promptly record the results of the examination in a book that shall be available at the retaining dam or mine refuse impoundment, or other designated location, for inspection by the Chief or his authorized representative. Each examination record shall include a description of any potentially hazardous condition found and any action taken to abate such potentially hazardous condition. Each record shall be countersigned by the supervisor of the authorized person creating the record. If such record discloses a potentially hazardous condition, the countersigning of the record shall be performed no later than the end of the next regularly scheduled working shift following the shift for which the examination was completed, and the person countersigning shall ensure that actions to eliminate or control the potentially hazardous condition have been taken. The operator of the retaining dam or mine refuse impoundment may authorize a person who possesses authority equivalent to that of the supervisor to act in the supervisor's temporary absence to read and countersign the record and ensure that action is taken to eliminate the potentially hazardous condition disclosed in the record.

C. When rising water, coal slurry, or silt reaches 80 percent by volume of the safe design capacity of a retaining dam or mine refuse impoundment, the examination required by subsection A shall be made more often as required by the Chief or his authorized representative.

D. When a potentially hazardous condition exists, the operator shall immediately initiate procedures to:

1. Remove all persons from the area that can reasonably be expected to be affected by the potentially hazardous condition;
2. Eliminate the potentially hazardous condition; and
3. Notify the Chief and other governing agencies by the quickest available means following the protocol established in the site's emergency notification and evacuation plan pursuant to § 45.2-620.

E. The operator of each coal site on which a retaining dam or mine refuse impoundment is located shall submit a plan for carrying out the requirements of § 45.2-618 and subsections A through D for approval by the Chief. The plan shall include:

1. The designs, construction specifications, and other related data required pursuant to § 45.2-618;
2. A schedule and procedures for inspection of the retaining dam or mine refuse impoundment by a qualified person under normal conditions and under conditions that could cause flooding;
3. Procedures for evaluating a potentially hazardous condition;
4. Procedures for removing all persons from the area that can reasonably be expected to be affected by the potentially hazardous condition;
5. Procedures for eliminating the potentially hazardous condition;
6. Procedures for notifying the Chief and other governing agencies; and
7. Any additional information that may be required by the Chief.

F. Before making any changes or modifications in the approved plan, the operator shall obtain approval of such changes or modifications from the Chief.

G. The Chief shall notify the operator in writing whether the operator's plan is approved or disapproved. If the Chief disapproves the plan, he shall provide the operator with his written objections thereto and his required amendments.

§ 45.2-620. Emergency notification and evacuation plan.

A. On or before July 1 of each year, the operator of any retaining dam or mine refuse impoundment that meets the criteria of subsection A of § 45.2-618 shall submit to the Chief an emergency notification and evacuation plan. If there are no changes to a plan at the time the updated plan is due, the operator may submit a notice that there are no changes to the plan in lieu of submitting an updated plan to the Chief.

B. The plan and attendant maps, appropriate for the level of hazard of the retaining dam or mine refuse impoundment, shall describe the retaining dam or mine refuse impoundment and shall include:

1. The name and address of the operator owning, operating, or controlling the structure;
2. The identification numbers of the structure as assigned by the Chief, MSHA, and the Office of Surface Mining;
3. The location of the structure indicated on (i) a current United States Geological Survey 7.5-minute or 15-minute topographic quadrangle map, (ii) an equivalent digital map, or (iii) a topographic map of a scale approved by the Chief;
4. The name and size in acres of the watershed in which the structure is located;
5. A description of the physical and engineering properties of the foundation materials on which the structure is to be or was constructed;
6. The location of existing or proposed instrumentation;
7. A statement of the runoff attributable to the probable maximum precipitation of six-hour duration and the calculations used in determining such runoff;
8. A statement of the runoff attributable to the storm for which the structure is designed and the calculations used in determining such runoff;

9. The location of any surface or underground coal mine, including the depth and extent of such workings, under and within 1,000 feet around the perimeter of the retaining dam or mine refuse impoundment, and the area of impounded material, shown at a scale not to exceed one inch equals 1,000 feet;

10. A map depicting the impoundment area and downstream and adjacent drainways, streambeds, roads, structures, and other public areas that could be affected if an accident were to occur at the impoundment. The map shall be at a scale not to exceed one inch equals 1,000 feet;

11. The names of persons who are familiar with the plan protocols and can take actions necessary to eliminate the hazard and minimize the impact to miners, the community, and the environment;

12. A location where a command and communication center could be established for the company team and emergency response personnel to report during an impoundment event;

13. The location of potential evacuation centers where affected parties could take shelter during an impoundment event;

14. An emergency contact list for agencies that would respond to an impoundment event; and

15. A list of miners employed at the site and businesses, community buildings, residences, and other occupied buildings within the impact zone that could be affected by an impoundment event, or other effective means of identifying such impact zone.

PART B.

UNDERGROUND COAL MINES.

CHAPTER 7.

REQUIREMENTS APPLICABLE TO UNDERGROUND COAL MINES; MINE CONSTRUCTION.

Article 1.

General Provisions.

§ 45.2-700. Scope of chapter.

The provisions of this chapter and Chapter 8 (§ 45.2-800 et seq.) shall apply to the operation of any underground coal mine in the Commonwealth and shall supplement the provisions of Chapter 5 (§ 45.2-500 et seq.).

§ 45.2-701. Regulations governing conditions and practices at underground coal mines.

A. The Chief may, after consultation with the Virginia Coal Mine Safety Board, created by Article 9 (§ 45.2-576 et seq.) of Chapter 5, and in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, adopt regulations necessary to ensure safe and healthy working conditions in underground coal mines in the Commonwealth. Such regulations governing underground coal mines shall relate to:

1. The maintenance, operation, storage, and transportation of any mechanical or electrical equipment, device, or machinery used for any purpose in the underground mining of coal;

2. Safety and health standards for the protection of the life, health, and property of, and the prevention of injuries to, any person involved in or likely to be affected by any underground coal mining operation. Such standards shall include the control of dust concentration levels; the use of respiratory equipment and ventilating systems; the development and maintenance of roof control systems; the handling of combustible materials and rock dusting; the installation, maintenance, and use of electrical devices, equipment, cables, and wires; fire protection, including equipment, emergency evacuation plans, emergency shelters, and communication facilities; the use and storage of explosives; and the establishment and maintenance of barriers in underground coal mines around gas and oil wells. The Chief may adopt regulations setting forth specific occupations and conditions under which a miner is prohibited from working alone underground; and

3. The storage or disposal of any matter or materials (i) extracted or disturbed as the result of an underground coal mining operation or (ii) used in the mining operation or for the refinement or preparation of the materials extracted from the coal mining operation, so that such matter or material does not threaten the health or safety of the miners or the general public.

B. The Chief shall not adopt any regulation establishing any requirement for the operation of, or conditions at, an underground coal mine that is inconsistent with requirements established by the Act.

§ 45.2-702. Standards for regulations.

In adopting regulations pursuant to § 45.2-701, the Chief shall consider:

1. Standards utilized and generally recognized by the coal mining industry;

2. Standards established by recognized professional coal mining organizations and groups;

3. The federal mine safety law;

4. Research, demonstrations, experiments, and such other information that is available regarding the maintenance of the highest degree of safety protection, including the latest available scientific data in the field, the technical feasibility of the standards, and the experience gained under the Act and other mine safety laws; and

5. Such other criteria as are necessary for the protection of the safety and health of miners and other persons or property likely to be endangered by underground coal mines or related operations.

Article 2.

Additional Duties of Certified Persons and Other Miners.

§ 45.2-703. Duties of mine foreman.

A. The mine foreman shall see that the requirements of the Act that pertain to his duties and to the health and safety of the miners are fully complied with at all times.

B. The mine foreman shall see that every miner employed to work in such mine, before beginning work therein, is aware of all hazardous conditions incident to his work in such mine. Any imminent danger that cannot be removed within a reasonable time shall be reported to the Chief by the quickest available means.

§ 45.2-704. Employment and duties of top persons; plan for excavation of shaft or slope.

A. During the construction or modification of any shaft or slope mine, the person engaged in the actual construction or modification of such mine shall employ one or more top persons certified pursuant to § 45.2-534. It is the duty of such top person to examine for proper and safe practices and materials used during the construction or modification of a shaft or slope mine. Such duties shall at all times be performed in the immediate vicinity of the shaft or slope under construction.

B. Prior to commencing the excavation of any shaft or slope, the operator shall submit to the Department a copy of the plan that includes the following: (i) the name and location of the mine and shaft or slope; (ii) a description of the work and methods to be used in the construction of the shaft or slope; (iii) a description of the methods to be used to ensure wall and roof stability; (iv) a description of the system of ventilation to be used, including procedures for evacuation of the shaft or slope if a fan stoppage occurs; (v) details of hoisting equipment to be used; and (vi) such other information as the Chief requires. The excavation of such shaft or slope shall not begin until the plan is approved by the Chief.

§ 45.2-705. Employment of inexperienced underground miners.

A. An inexperienced underground miner shall be required to work with an experienced underground miner for a total of at least six months following the start of underground employment. However, an experienced surface miner shall only be required to work with an experienced underground miner for a total of at least 60 days following the start of underground employment.

B. No inexperienced underground miner shall be assigned, allowed, or required to perform work alone in any area where there is a potential danger to his safety unless he can communicate with others or be heard or seen.

§ 45.2-706. Employment of authorized persons.

No miner shall be placed in charge of a cutting, loading, drilling, continuous miner, or timbering machine in any mine if such miner is not an authorized person capable of determining the safety of the roof and ribs of a working place. Such miner shall also be capable of detecting the presence of explosive gas and shall undergo examination by a mine inspector or other instructor certified by the Board of Coal Mining Examiners and authorized by the Chief to determine the miner's fitness to detect explosive gas before being permitted to have charge of a machine in such mine.

Article 3.

Proximity of Mining to Gas or Oil Wells or Abandoned Areas.

§ 45.2-707. Mining in proximity to gas or oil wells.

A. Except as provided in subsection D, an operator who plans to remove coal, drive any passage or entry, or extend any workings in any mine within 500 feet of any gas or oil well already drilled into the projected mine workings or in the process of being drilled into the projected mine workings shall file with the Chief a notice that such mining is taking place or will take place. The notice shall include a copy of parts of the maps and plans required under § 45.2-542 that show the mine workings or projected mine workings that are within 500 feet of the well. The operator shall simultaneously mail copies of such notice, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to § 45.2-1604. Each notice shall contain a certification made by the operator that he has complied with the provisions of this subsection.

B. Subsequent to the filing of the notice required by subsection A, the operator may proceed with mining operations in accordance with the maps and plans; however, without the prior approval of the Chief, he shall not remove any coal, drive any entry, or extend any workings in any mine within 200 feet of any gas or oil well already drilled or in the process of being drilled into the projected mine workings.

C. The Chief shall adopt regulations that prescribe the procedure to be followed by mine operators in petitioning the Chief for approval to conduct such activities within 200 feet of a gas or oil well or a vertical ventilation hole drilled or in the process of being drilled into the projected mine workings. Each operator who files such a petition shall mail copies of the petition, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector no later than the day of filing. The Gas and Oil Inspector and the operator of the gas or oil well or vertical ventilation hole shall have standing to object to any petition filed under this section. Such objection shall be filed within 10 days following the date such petition is filed.

D. Procedures for safely mining in proximity to or through a coalbed methane well or a vertical ventilation hole developed for methane drainage in a mine shall be addressed in the bleeder system plan for that mine required by § 45.2-837.

§ 45.2-708. Mining in proximity to an abandoned area.

A. The mine foreman shall ensure that boreholes are drilled in each advancing working place that is (i) within 50 feet of an abandoned area in the mine as shown by a survey made and certified by a registered engineer or surveyor, (ii) within 200 feet of an abandoned area in the mine that has not been certified as surveyed, or (iii) within 200 feet of any mine workings of an adjacent mine located in the same coal bed unless the adjacent area of the mine has been pre-shift examined pursuant to § 45.2-826. Each borehole shall be at least 20 feet in depth, shall always be maintained not less than 10 feet in advance of the face, and shall be not more than eight feet from an adjacent borehole unless approved by the Chief. One borehole shall also be drilled for each cut on any side of the active workings that is being driven toward and in proximity to an abandoned mine or part of a mine that might contain explosive or hazardous gas or that is filled with water.

B. Sufficient holes shall be drilled through to accurately determine whether hazardous quantities of methane, carbon dioxide, or other gases or water are present in an abandoned area. Materials shall be available to plug such holes to prevent an inundation of hazardous quantities of gases or water if detected.

C. Mining shall not advance into any abandoned area penetrated by a borehole drilled in accordance with subsection A until a plan has been submitted and approved by the Chief. The plan shall include at a minimum (i) procedures for testing the atmosphere at the back of any borehole drilled into the abandoned area; (ii) the method of ventilation, the ventilation controls, and the air quantities and velocities in the affected working section and working place; (iii) procedures for penetrating an abandoned area when hazardous quantities of methane, carbon dioxide, or other hazardous gases cannot be removed; (iv) dewatering procedures to be used if a penetrated area contains hazardous water accumulation; and (v) procedures and precautions to be followed during a penetration operation. A copy of the plan shall be made available near the site of the penetration operation and the operator shall review the plan with all miners involved in the operation. Failure to comply with the approved plan shall constitute a violation of this section.

D. Any operator, agent of such operator, mine foreman, or miner engaged in drilling or mining into an inaccessible abandoned area shall have upon his person a self-contained self-rescuer.

E. Whenever a mine or section of a mine advances under any body of water that is sufficiently large or in close proximity as to constitute a hazard to miners, the operator shall submit to the Chief a plan meeting the requirements of 30 C.F.R. § 75.1716. The operator shall obtain approval from the Chief for the submitted plan prior to advancing the mine or any section of the mine under the body of water.

F. Prior to penetrating any portion of an active mine with a borehole, ventilation hole, or other hole drilled from the surface or from an overlying or underlying mine, or prior to drilling into any portion of the same active mine, the operator shall submit a plan to the Chief addressing (i) the purpose of the hole, (ii) information about any abandoned mine that the hole might penetrate, (iii) procedures for withdrawing or limiting the number of miners from the mine or affected area during penetration, (iv) casing details and procedures for preventing water inflow and air transfer from the hole into the active mine, (v) procedures for grouting or sealing the hole when it is no longer used, and (vi) such other information as the Chief may require. The drilling of such hole shall not begin until the plan is approved by the Chief.

G. The provisions of this section shall not apply to a gas well, coalbed methane well, or vertical ventilation hole.

Article 4.

Roof, Face, and Rib Control.

§ 45.2-709. Roof, face, and ribs to be secure.

A. All underground active workings and travel ways shall be secured and controlled to protect miners from a fall of roof, face, or ribs. Loose roof and any loose or overhanging ribs or face shall be taken down or supported.

B. The mining method that the mine operator follows shall not expose any miner to a hazardous condition caused by the excessive width of a room or entry, a faulty pillar-recovery method, or any other hazardous mining method or working condition.

§ 45.2-710. Roof control plans.

A. Each underground coal mine shall have a roof control plan approved by the Chief. Each plan shall include (i) a minimum standard for adequately controlling the roof, face, and ribs; (ii) a description of mining methods used; (iii) a listing and specification of roof and rib support materials; (iv) instruction for the installation of temporary and permanent roof supports; (v) a description of any pillar recovery methods; (vi) applicable drawings that demonstrate the width of each opening, each roof support installation sequence, and each pillar recovery sequence; and (vii) any additional requirements deemed necessary by the Chief. The initial submission of any roof control plan shall include maps of mine projections, overlying and underlying mine workings, coal contours, and surface contours. If changes are to be made in the mining system that necessitate any change in the roof control plan, the plan shall be revised and approved by the Chief prior to implementing the new mining system.

B. The Chief shall, where he deems necessary, prescribe adequate minimum standards for systematic support of mine roof, suitable to the roof conditions and mining system of each mine. Such standards shall be incorporated into an approved roof control plan for the mine.

C. Failure to comply with the approved roof control plan for the mine shall constitute a violation of this section.

D. The approved roof control plan shall be posted conspicuously at the mine and a copy shall be available at each working section of the mine.

E. The minimum standards and plan shall provide for temporary support at all active workings, without regard to natural condition.

F. If the minimum standards do not afford adequate protection, such additional supports shall be installed as necessary. Such additional supports shall be described in the plan.

G. This section shall not apply to any roof control system installed prior to January 27, 1988, so long as the support system continues to effectively control the roof, face, and ribs.

§ 45.2-711. Instruction of miners.

The operator or his agent shall instruct all miners in the removal and installation of temporary and permanent roof supports as may be required by the roof control plan.

§ 45.2-712. Copies of plan.

The operator or his agent shall, upon request, furnish a copy of the roof control plan to any miner engaged in removing or installing a temporary or permanent roof support.

§ 45.2-713. Automated temporary roof support systems.

The Chief shall adopt regulations requiring automated temporary roof support systems for the installation of roof bolts.

§ 45.2-714. Supplies of materials for supports.

A. The operator or his agent shall provide at or near each working place an ample supply of suitable materials of proper size with which to secure the roof, face, and ribs of such working place in a safe manner. Suitable supply materials shall be provided for variations in seam height. If the operator or his agent fails to provide such suitable materials, the mine foreman shall cause all miners to withdraw from the mine, or the portion thereof affected, until such materials or supplies are received.

B. Safety posts, jacks, or temporary crossbars shall be set close to the face before other operations are begun and as needed thereafter if any miner goes in by the last permanent roof support.

C. Unless an automated temporary roof support system is used, safety posts or jacks shall be used to protect miners during removal of roof material, installation of crossbars, drilling of roof bolt holes, installation of roof bolts, or performance of any other work that would reasonably require roof support to protect the miners involved.

D. The operator or his agent shall make immediately available for emergency use at each mine site at least two lifting devices with a combined total of at least 80 tons lifting capacity. Each individual lifting device shall have 20 tons or greater lifting capacity.

§ 45.2-715. Examination and testing of roof, face, and ribs.

A. The operator or his agent shall instruct every miner on how to visually examine and conduct sound and vibration testing of roof, face, and ribs.

B. Any miner exposed to danger from a fall of roof, face, or ribs shall visually examine and, if conditions permit, test the roof, face, and ribs by sounding the roof before starting work or before starting a machine and as needed thereafter to ensure safety. If hazardous conditions are found, the miner discovering such conditions shall either (i) correct the conditions immediately by taking down the loose material, installing proper timbering, or installing proper roof support before work is continued or any other work is done or (ii) cause all miners to vacate the place.

C. At least once each shift, or more often if necessary, the mine foreman or other certified person shall examine and test the roof, face, and ribs of each active working section where coal is being produced while one or more miners are working in such section. Any place in which a hazardous condition is found by the mine foreman shall be made safe in his presence or under his direction or all miners shall be withdrawn from such place. Such hazardous condition and corrective actions taken shall be recorded in the on-shift record book at the mine.

§ 45.2-716. Mapping of roof falls.

Any unplanned roof fall that is required to be reported in accordance with § 45.2-556 shall be marked on a map maintained at the mine to indicate the specific location of the fall.

§ 45.2-717. Unsafe conditions.

A. No person shall work or travel under unsupported roof except to install temporary supports in accordance with the approved roof control plan. Any area in by the breaker line where second mining has been or is being conducted shall be considered unsupported.

B. If roof, face, or rib conditions are found to be unsafe, no person shall start any other work in the area where such conditions exist until the conditions have been corrected by taking down loose material or securely supporting the roof, face, or ribs pursuant to subsection B of § 45.2-715.

C. A bar of proper length shall be used to pull down any loose material discovered.

§ 45.2-718. Removal of supports.

A. No person shall deliberately remove any support in an active area unless equivalent protection is provided.

B. Any person who accidentally knocks out or dislodges a support shall promptly replace the support.

Article 5.

Explosives and Blasting.

§ 45.2-719. Surface storage of explosives and detonators.

A. Two or more surface magazines shall be provided for the storage of explosives and the separate storage of detonators.

B. Every surface magazine for storing and distributing explosives in an amount exceeding 150 pounds shall be:

1. Reasonably bullet-resistant and constructed of incombustible material or covered with fire-resistant material. The roof of a magazine that is located in such a way as to make it impossible to fire a bullet directly through the roof from the ground need not be bullet-resistant. Where it is possible to fire a bullet directly through a roof from the ground, such roof shall be made bullet-resistant by material construction, by the use of a ceiling that forms a tray containing not less than a four-inch thickness of sand, or by another method;

2. Provided with doors that are constructed of three-eighth-inch steel plate. Such doors shall be lined with a two-inch thickness of wood or the equivalent;

3. Provided with dry floors that are made of wood or other nonsparking material and have no metal exposed inside the magazine;

4. Provided with suitable warning signs located so that a bullet passing directly through the face of a sign will not strike the magazine;

5. Provided with properly screened ventilators;

6. Equipped with no openings except for entrance and ventilation openings;

7. Kept locked securely when unattended; and

8. Electrically bonded and grounded if constructed of metal.

C. A surface magazine for storing detonators need not be bullet-resistant, but it shall comply with the other provisions of subsection B regarding the storage of explosives.

D. Explosives weighing a total of no more than 150 pounds, or detonators numbering 5,000 or fewer, shall be stored (i) in accordance with the standards set forth in subsection A, B, or C or (ii) in a separate locked box-type magazine. A box-type magazine may also be used as a distributing magazine when the weight of the explosives or the number of detonators does not exceed the limits set forth in this subsection. Every box-type magazine shall be strongly constructed of two-inch hardwood or the equivalent. Every metal magazine shall be lined with nonsparking material. No magazine shall be placed (a) in a building containing oil, grease, gasoline, wastepaper, or other highly flammable material or (b) within 20 feet of a stove, furnace, open fire, or flame.

E. No magazine shall be placed less than 300 feet from any mine opening. However, if a magazine cannot be practicably located at such distance, it may be located less than 300 feet from a mine opening if it is sufficiently barricaded and is approved by the Chief. Unless approved by the Chief, no magazine shall be located closer to an occupied building, public road, or passenger railway than the distance recommended in the "American Table of Distances for Storage of Explosive Materials" published by the Institute of Makers of Explosives.

F. The supply kept in a distribution magazine shall be limited to approximately a 48-hour supply, and supplies of explosives and detonators may be distributed from the same magazine if they are separated by a substantially fastened hardwood partition at least four inches thick or the equivalent.

G. The area surrounding any magazine shall be kept free of rubbish, dry grass, or other materials of a combustible nature for at least 25 feet in every direction.

H. If an explosives magazine is illuminated electrically, each lamp shall be vapor-proof and installed and wired so as to minimize any fire or contact hazard.

I. Only nonmetallic tools shall be used for opening any wooden explosives container. Extraneous materials shall not be stored with explosives or detonators in an explosives magazine.

J. Smoking or carrying smokers' articles or open flames is prohibited in or near any magazine.

§ 45.2-720. Underground transportation of explosives and detonators.

A. Any explosives or detonators carried anywhere underground by any miner shall be in individual containers. Such containers shall be constructed substantially of nonconductive material, maintained in good condition, and kept closed.

B. Any explosives or detonators transported underground in a car that is moved by means of a locomotive or rope, or in a shuttle car, shall be in a substantially covered car or in a special substantially covered container used specifically for transporting explosives or detonators and only under the following conditions:

1. The body and cover of each such car and each such container shall be constructed or lined with nonconductive material;

2. If explosives and detonators are hauled in the same special explosives car or in the same special container, they shall be separated by a substantially fastened hardwood partition at least four inches thick or the equivalent barrier;

3. No explosives, detonators, or other blasting devices shall be transported on the same trip with any miner;

4. If explosives or detonators are transported in a special explosives car or a container in a car, they shall be hauled in a trip specifically for this purpose and not connected to any other trip; however, this provision shall not prohibit the use of such additional cars as needed to lower a rope trip or to haul supplies, including timbers. No materials so transported shall project above the top of the car. In no case shall flammable materials such as oil or grease be hauled on the same trip with explosives; and

5. No explosives or detonators shall be hauled into or out of a mine within five minutes preceding or following a mantrip or any other trip. If traveling against the air current, the mantrip shall precede the explosives trip; if traveling with the air current, the mantrip shall follow the explosives trip.

C. In a low coal seam where it is impractical to comply with the provisions of subsection B, explosives may be transported in the original and unopened case, or in suitable individual containers, to the underground distribution magazine.

D. Explosives and detonators shall be transported underground by belt under the following conditions only:

1. Each shall be transported in the original and unopened case, in a special closed case constructed of nonconductive material, or in a suitable individual container;

2. Clearance requirements shall be the same as those for transporting miners on belts;

3. Suitable loading and unloading stations with stop controls shall be provided; and

4. An authorized person shall supervise the loading and unloading of explosives or detonators.

E. No explosives or detonators shall be transported on a flight or shaking conveyor, scraper, mechanical loading machine, locomotive, cutting machine, or drill truck or on any self-propelled mobile equipment; however, this provision

shall not prohibit the transportation of explosives or detonators in special closed containers in a shuttle car or in equipment designed specifically to transport such explosives or detonators.

§ 45.2-721. Underground storage of explosives and detonators.

A. If a supply of explosives or detonators for use in one or more sections is stored underground, it shall be kept in a section box or magazine of substantial construction with no metal exposed on the inside. Such box or magazine shall be located at least 25 feet from any roadway or power wire and in a reasonably dry, well rock-dusted location protected from falls of roof. In a pitching bed, where it is not possible to comply with such location requirement, such box shall be placed in a niche cut into the solid coal or rock.

B. If explosives and detonators are both stored in the section, they shall be kept in separate boxes or magazines not less than 12 feet apart if feasible; if kept in the same box or magazine, they shall be separated by a substantially fastened hardwood partition at least four inches thick or the equivalent. Not more than a 48-hour supply of explosives or detonators shall be stored underground in such box or magazine.

C. If explosives and detonators are kept near the face for the use of miners, they shall be kept in separate individual closed containers, in niches in the ribs, not less than 12 feet apart, and at least 50 feet from the working place and out of the line of blast. Each such container shall be constructed of substantial material and maintained electrically nonconductive. Where it is physically impracticable to comply with such distance requirements, the explosives and detonator containers shall be stored in the safest available places not less than 15 feet from any pipe, rail, conveyor, haulage road, or power line, not less than 12 feet apart, and at least 50 feet from the working face and out of the line of blast.

D. Explosives and detonators shall be kept in their containers pursuant to subsection C until immediately before use at a working face.

§ 45.2-722. Blasting practices; penalty.

A. All explosives shall be of the permissible type except where addressed in the plan for shaft and slope development required by subsection B of § 45.2-704.

B. All explosives shall be used as follows:

1. Explosives shall be fired only with electric detonators of proper strength;
2. Explosives shall be fired with permissible shot-firing units, unless firing is done from the surface when all persons are out of the mine, or in accordance with a plan approved by the Chief;
3. Where the coal is cut, no borehole in coal shall be drilled beyond the limits of the cut or into the roof or floor;
4. Every borehole shall be cleaned and checked to ensure that it is placed properly and is of the correct depth in relation to the cut before being charged;
5. Every blasting charge in coal shall have a burden of at least 18 inches in every direction if the height of the coal permits;
6. Every borehole shall be stemmed with at least 24 inches of incombustible material, or at least one-half of the length of the hole shall be stemmed if the hole is less than four feet in depth. The Chief may approve the use of other stemming devices;
7. An examination for gas shall be made immediately before firing each shot or group of shots and after blasting is completed;
8. No shot shall be fired in any place where a methane level of one percent or greater can be detected with a permissible methane detector as directed by the Chief;
9. Without approval, no charge of greater than one and one-half pounds shall be used unless (i) each borehole is six feet or more in depth; (ii) the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed; (iii) all cartridges are in contact with each other, with the end cartridges touching the back of the hole and the stemming, respectively; and (iv) explosives permissible pursuant to this article are used. No charge exceeding three pounds shall be used; however, such three-pound limit shall not apply to solid rock work;
10. Any solid shooting shall be done in compliance with conditions prescribed by the Chief;
11. Any shot shall be fired by a certified underground shot firer;
12. No borehole shall be charged while any other work is being done at the face, and any shot shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the miners;
13. Only nonmetallic tamping bars, including a nonmetallic tamping bar with a nonsparking metallic scraper on one end, shall be used for charging and tamping boreholes;
14. The leg wires of every electric detonator shall be kept shunted until ready to connect to the firing cable;
15. The roof and faces of each working place shall be tested before and after firing each shot or group of shots;
16. Ample warning shall be given before any shot is fired, and care shall be taken to ascertain that all miners are in the clear;
17. Every miner shall be removed to a distance of at least 100 feet from the working place and any immediately adjoining working place and shall be accounted for before any shot is fired;
18. No mixed types or brands of explosives shall be charged or fired in any borehole;
19. No adobe, mudcap, or other open, unconfined shot shall be fired in any mine except a type approved by MSHA and the Chief;
20. Any power wire or cable that could contact any blasting cable or leg wire shall be de-energized during charging and firing;

21. Firing a shot from a properly installed and protected blasting circuit may be permitted by the Chief;
22. No miner shall return or be allowed to return to the working place after the firing of any shot until the smoke has reasonably cleared away;
23. Before any miner returns to work and begins to load coal, slate, or refuse, such miner shall make a careful examination of the condition of the roof and do what is necessary to make the working place safe; and
24. An examination for fire shall be made of the working area after any blasting.
- C. It is unlawful for an operator, his agent, or a mine foreman to cause or permit any solid shooting to be done without first obtaining a written permit from the Chief. It is unlawful for any miner to shoot coal from the solid without first obtaining permission to do so from the operator, his agent, or a mine foreman. A violation of this subsection is a Class 1 misdemeanor.

§ 45.2-723. Blasting cables.

Each blasting cable shall be:

1. Well insulated and as long as necessary to allow the shot firer to move to a safe place around a corner;
2. Short-circuited at the battery end until it is ready to attach to the blasting unit;
3. Staggered as to length, or shall have its ends kept well separated when attached to the detonator leg wires; and
4. Kept clear of power wires and all other possible sources of active or stray electric currents.

§ 45.2-724. Misfires.

A. Where a misfire occurs with an electric detonator, a waiting period of at least 15 minutes is required before any miner is allowed to return to the shot area. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

B. Explosives shall be removed by (i) firing a separate charge at least two feet away from, and parallel to, the misfired charge; (ii) washing the stemming and the charge from the borehole with water; or (iii) inserting and firing a new primer after the stemming has been washed out.

C. A careful search of the working place and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole to recover any undetonated explosive.

D. The handling of a misfired shot shall occur under the direct supervision of the mine foreman or a certified person designated by him.

§ 45.2-725. Explosives and blasting practices in shaft and slope operations.

A. Every blasting area in a shaft or slope operation shall be covered with mats or materials when the excavations are too shallow to retain the blasted material.

B. If explosives are in the shaft or slope when an electrical storm approaches, every miner shall be removed from the working place until the storm has passed.

Article 6.

Mine Openings and Escapeways.

§ 45.2-726. Mine openings.

A. Except as provided in § 45.2-728, there shall be at least two travel ways, entries, or openings to the surface from each section of a mine worked. Each longwall panel shall be developed with at least three entries; however, if new technology becomes available pursuant to which a two-entry system can be safely developed, such technology may be used, with the approval of the Chief.

B. One of the required travel ways may be the haulage road.

C. The first opening shall not be made through an adjoining mine. The second opening may be made through an adjoining mine.

D. One of the required travel ways shall be designated as the primary escapeway and shall be in an intake airway.

E. Any surface structure where miners congregate or where the mine map or other official records are kept at the mine shall be offset at least 15 feet from the nearest side of any mine opening or otherwise located to be out of the zone of danger if an explosion occurs, unless otherwise approved by the Chief.

§ 45.2-727. Separation of openings.

A. In a drift or slope mine, openings shall be separated by at least 50 feet of natural strata, unless specifically approved in the roof control plan. All connections between openings not used for the coursing of air, travel, or haulage shall be closed with stoppings of fireproof material.

B. In a shaft mine, openings shall be separated by at least 200 feet of natural strata.

§ 45.2-728. Number of miners in openings.

Until the two travel ways are made as required by § 45.2-726, no more than 20 miners shall work underground in the mine at one time. No additional development shall be permitted until the connection is made to the second opening. In a mine in which final pillar removal operations necessitate closing the second opening, no more than 20 miners shall be permitted to work in the mine.

§ 45.2-729. Maintenance of mine openings.

Every mine opening that is used for entering and leaving the mine and every other required travel way shall be kept in good condition and shall at all times be maintained in a safe condition.

§ 45.2-730. Signs, life lines, and equipment.

A. Direction signs shall be posted conspicuously at all points where a travel way to the mine opening, escapeway, or escapement shaft is intercepted by another travel way. The signs shall indicate the direction of the place of exit and any manway or escapeway.

B. Continuous life lines shall be installed and maintained in accordance with the approved emergency response plan pursuant to subsection A of § 45.2-820.

C. Every escapeway shall be equipped with all necessary stairways, ladders, cleated walkways, or other equipment approved by the Chief. All equipment shall be installed in such a manner that a person using it in an emergency may do so quickly and without undue hazard.

§ 45.2-731. Examination of escapeways.

The mine foreman shall examine every escapeway for hazardous conditions at least weekly. The mine foreman shall mark his initials and the date at each place examined, and if a hazardous condition is found, it shall be reported promptly. A record of such examinations and tests shall be kept at the mine.

§ 45.2-732. Longwall escape routes and plan.

A. The operator of any mine that uses longwalls as a method of mining shall maintain an accessible travel route off the tailgate end of the longwall working face. The operator shall familiarize all miners working on the longwall section with the procedures to follow for escape from the section and, when the travel route is impassible, the operator shall inform such miners of such fact.

B. The operator shall develop a plan for use of longwalls if the travel route becomes impassable. The plan shall address (i) the notification to miners of the fact that the travel way is blocked and of the method and timetable for reestablishment of the travel way, (ii) the re-instruction of miners regarding escapeways and escape procedures in the event of an emergency, (iii) the re-instruction of miners on the availability and use of self-contained self-rescuers, (iv) the monitoring and evaluation of the air entering the longwall section, (v) the location and effectiveness of the two-way communication systems, and (vi) a means of transportation from the longwall section to the main line. The plan provisions shall remain in effect until a travel way is reestablished on the tailgate side of a longwall section. Such an operation shall include provisions for such protective devices as fire extinguishers and respirators for miners working on the longwall section.

§ 45.2-733. Fire protection.

A. Every shaft, and every partition therein, shall be as nearly fireproof as is practicable.

B. Where there is danger of fire entering the mine, every opening shall have adequate protection against a surface fire or a hazardous volume of smoke entering the mine.

§ 45.2-734. Unused openings.

Every unused or abandoned surface opening shall be effectively closed or fenced against unauthorized entrance.

Article 7.

Hoisting.

§ 45.2-735. Hoisting equipment.

A. Every hoist used for handling miners shall be equipped with overspeed, overwind, and automatic stop controls.

B. Every suspended work deck or platform shall (i) operate automatically, (ii) be equipped with guardrails capable of protecting miners and materials from accidental overturning, and (iii) be equipped with safety belts and such other protective devices as the Chief shall require by regulation.

C. Every platform or work deck that is used for transporting miners or materials shall be equipped with leveling indicators, and such conveyance shall be maintained and operated in a reasonably level position at all times.

D. Every shaft, slope, or surface incline hoist shall be equipped with brakes capable of stopping and holding the fully loaded unbalanced cage or trip at any point in the shaft or slope or on the surface incline.

E. An accurate and reliable indicator showing the position of the cage or trip shall be placed so as to be in clear view of the hoisting engineer, unless the position of the cage or trip is clearly visible at all times to the hoisting engineer or other person operating the equipment.

F. Any conveyance that is used to haul miners or materials within a shaft or slope shall be (i) designed to prevent materials from falling back into the shaft or slope and (ii) equipped with a retaining edge of at least six inches to prevent objects from falling into the shaft or slope.

§ 45.2-736. Hoisting ropes.

A. The hoisting rope on any cage or trip shall be adequate in size to handle the load. A rope that is used to hoist or lower coal and other materials shall have a factor of safety of at least five to one. A rope that is used to hoist or lower miners shall have a factor of safety of at least 10 to one.

B. Each hoisting rope shall have at least three full turns remaining on the drum when extended to its maximum working length. The rope shall make at least one full turn on the drum shaft, or around the spoke of the drum in the case of a free drum, and be fastened securely by means of clamps.

C. Each hoisting rope shall be fastened to its load by (i) a spelter-filled socket or (ii) a thimble and an adequate number of clamps that are properly spaced and installed.

D. Any cage, mancar, or trip used for hoisting or lowering miners with a single rope shall be provided with two bridle chains or wire ropes connected securely to the rope at least three feet above the socket or thimble and clamps and to the crosspiece of the cage or to the mancar or trip. Multiple hoisting ropes installed pursuant to subsection C may be used in lieu of two bridle chains.

E. If equipment or supplies are being hoisted or lowered in the slope, safety chains or wire ropes shall be provided and connected securely to the hoist rope. In addition, visible or audible warning devices shall be installed in the slope where they may be seen or heard by any miner approaching the slope track entry from any access.

§ 45.2-737. Hoisting cages.

A. Any cage used for hoisting miners shall be of substantial construction and have (i) adequate steel bonnets, with enclosed sides; (ii) gates, safety chains, or bars across the ends of the cage when miners are being hoisted or lowered; and (iii) sufficient handholds or chains for all miners on the cage to maintain their balance. A locking device to prevent tilting of the cage shall be used on all self-dumping cages when transporting miners.

B. The floor of each cage shall be constructed so that it is (i) adequate to carry the load and (ii) impossible for a miner's foot or body to enter any opening in the bottom of the cage.

C. Each cage used for hoisting miners shall be equipped with safety catches that act quickly and effectively in case of an emergency. The provisions of this subsection shall not apply to a capsule or bucket that is used for emergency escape or during shaft or slope sinking.

§ 45.2-738. Shaft and slope conditions.

A. Every shaft shall be equipped with safety gates at the top and at each landing. Safety gates shall be kept closed except when the cage is being loaded or unloaded.

B. At the bottom of each hoisting shaft and at each intermediate landing, a runaround shall be provided for safe passage from one side of the shaft to the other. This passageway shall be at least five feet in height and three feet in width.

C. Ice shall not be permitted to accumulate excessively in any shaft where miners are hoisted or lowered.

D. Positive-acting stopblocks or derails shall be installed near the top and at intermediate landings of slopes and surface inclines and at the approaches to all shaft landings.

E. Positive-acting stopblocks or derails shall be installed on the haulage track in the slope near the top of the slope. The stopblocks or derails shall be in a position to hold or stop any load to be lowered into the mine, including heavy mining equipment, until such time as the equipment is to be lowered into the mine by the hoist.

§ 45.2-739. Signaling; signal code.

A. Two independent means of signaling shall be provided between the top, bottom, and every intermediate landing of each shaft, slope, or surface incline and the hoisting station. At least one of these means of signaling shall be audible to the hoisting engineer or other person operating the equipment. Bell cords shall be installed in each shaft in such a manner as to prevent unnecessary movement of such cords within the shaft.

B. A uniform signal code approved by the Chief shall be in use at each mine and shall be kept at the cage station designated by the mine foreman.

§ 45.2-740. Inspections of hoisting equipment.

A. Before hoisting or lowering any miner in a shaft, the hoisting engineer shall operate an empty cage up and down each shaft for at least one round trip, both at the beginning of each shift and after the hoist has been idle for one hour or more.

B. Before hoisting or lowering any miner by slope or surface incline hoisting, the hoisting engineer shall operate an empty cage for at least one round trip, both at the beginning of each shift and after the hoist has been idle for one hour or more.

C. The hoisting engineer, at the time the inspections required by subsection A or B are performed, shall (i) inspect all cable or rope fastenings on every cage, bucket, or slope car; (ii) inspect hammer locks and pins, thimbles, and clamps; (iii) inspect safety chains on every cage, bucket, or slope car; (iv) inspect each braking system for malfunctions; (v) clean all excess oil and extraneous materials from the hoist housing construction; (vi) inspect the overwind, overtravel, and lilly switch or control from stopping at the collar and within 100 feet of the work deck; and (vii) check communications between the top house, work deck, and work deck tigger house.

D. The hoisting engineer shall inspect the hoisting rope on every cage or trip at the beginning of each shift.

E. A test of safety catches on every cage shall be made by an authorized person designated by the operator at least once each month. A written record shall be kept of such tests, and such record shall be available for inspection by interested persons.

F. An authorized person designated by the operator shall inspect daily the hoisting equipment, including the headgear, cages, ropes, connections, links and chains, shaft guides, shaft walls, and other facilities. Such person shall also inspect every bull wheel and lighting system on the head frame. Such person shall report immediately to the operator or his agent any defect found, and all such defects shall be corrected promptly. The person making such examination shall make a daily permanent record of such inspection, which shall be available for inspection by interested persons. If a hoist is used only during a weekly examination of an escapeway, then the inspection required by this subsection shall only be required to be completed weekly before the examination occurs.

G. Subsections A, B, C, and D shall not apply to automatically operated elevators.

§ 45.2-741. Hoisting engineers.

A. If miners are transported into or out of an underground area of a mine by a hoist or on a surface incline, a certified hoisting engineer shall be either on duty continuously or available within a reasonable time, as determined by the Chief, to provide immediate transportation while any person is underground.

B. When any miner is being hoisted or lowered in a shaft or on a slope or surface incline, the loading and unloading of any miner and the movement of the cage, car, or trip shall be under the direction of an authorized person.

C. Subsections A and B shall not apply to automatically operated elevators that can be safely operated by any miner; however, a person qualified as an automatic elevator operator shall be available at any such elevator within a reasonable time, as determined by the Chief.

D. An operator or agent of such operator of any mine worked by shaft, slope, or surface incline shall place a competent and sober hoisting engineer in charge of any engine or drum used for lowering or hoisting miners. No hoisting engineer in charge of such machinery shall allow any person, except a person who is designated for such purpose by the operator or his agent, to interfere with any part of the machinery. No person shall interfere with or intimidate a hoisting engineer or automatic elevator operator who is engaged in the discharge of his duties.

§ 45.2-742. Operations of hoisting equipment.

A. The speed of the cage, car, or trip in a shaft or slope or on a surface incline shall not exceed 1,000 feet per minute when a miner is being hoisted or lowered.

B. When moving the platform or work deck, every miner traveling thereon shall have a safety belt secured.

C. No miner shall ride on a loaded cage.

D. The number of miners riding in any cage or car at one time shall not exceed the maximum prescribed by the manufacturer. The Chief may prescribe a lesser number when necessary to ensure the safety of miners being transported.

E. Any conveyance being lowered into a shaft in which a miner is working shall be stopped at least 20 feet above the area where such miner is working.

F. If any miner is working at the bottom of a shaft, there shall be an adjustable ladder or chain ladder attached to the work deck to provide an additional means of escape. Such ladder shall be at least 20 feet in length.

G. Every choker or sling used to transport materials within a shaft or slope shall meet specifications established by the American National Standards Institute.

§ 45.2-743. Maintenance of hoisting equipment.

Every hoist, rope, cage, and other component of any piece of hoisting equipment shall be maintained in a safe operating condition, as directed by the Chief. A hoisting rope shall be replaced as soon as there is evidence of possible failure.

Article 8.

Transportation.

§ 45.2-744. Haulage roads.

A. The roadbed, rails, joints, switches, frogs, and other elements of the track of each haulage road shall be constructed, installed, and maintained in a manner that ensures the safe operation of the haulage road. In determining its safety, consideration shall be given to the speed of equipment and the type of haulage operations conducted on the haulage road.

B. Haulage tracks shall be kept free of accumulations of coal spillage and debris, and water shall not be allowed to accumulate over the top of the rail.

C. Every off-track haulage equipment operator shall observe the haulage road for hazardous conditions during the course of travel and shall promptly correct or report to the mine foreman any hazardous condition observed.

D. Each off-track haulage road shall be maintained reasonably free of bottom irregularities, excess spillage, debris, wet or muddy conditions that make controlling off-track haulage equipment difficult, and any accumulation of water over such an area of the haulage road and in such a depth as to allow water to enter an electrical panel and create a potentially hazardous condition.

E. No uninsulated trolley lines shall be used or installed in any underground coal mine without approval of the Chief.

§ 45.2-745. Track switches and rails.

A. Every track switch shall be provided with a properly installed throw and properly installed latches and bridle bars.

B. Every track switch, other than a switch in a room or entry development, shall be equipped with properly installed guardrails.

C. Every switch throw and stand shall be installed on the side of the track where clearance is provided.

D. Every rail shall be secured at all joints by plates or welds.

§ 45.2-746. Clearance on haulage roads.

A. Every track haulage road in an entry, room, or crosscut shall have a continuous clearance on one side of at least two feet from the farthest projection of moving traffic. The clearance shall be kept free of any obstruction to a height permitted by the height of the coal seam. When it is not possible to maintain such clearance, signs indicating close clearance shall be posted inby and outby the affected area.

B. Every track haulage road in an entry, room, or crosscut shall have a continuous clearance on the side opposite the clearance required by subsection A of at least six inches from the farthest projection of moving traffic. When it is not possible to maintain such clearance, signs indicating close clearance shall be posted inby and outby the affected area.

C. Each track haulage road where trolley lines are used shall have the clearance required by subsection A on the side of the track opposite the trolley lines. This requirement shall not apply if the trolley lines are at least 6.5 feet above the rail.

D. The clearance space on each track haulage road shall be kept free of loose rock, loose coal, loose supplies, and other loose materials. If the clearance space exceeds two feet, at least two feet of the clearance space shall be kept free of such materials.

E. Every parallel track shall be installed so as to provide a clearance of at least two feet between the outermost projections of passing traffic.

F. Ample clearance shall be provided (i) at each conveyor loading head, (ii) at each conveyor control panel, and (iii) along each conveyor line.

G. Every belt conveyor shall be equipped with a control switch to automatically stop the driving motor in the event that the belt is stopped by slipping on the driving pulley as a result of breakage or other accident.

§ 45.2-747. Conveyor crossings.

Suitable facilities for crossing a conveyor belt shall be provided where it is necessary for miners to cross such conveyor belt regularly.

§ 45.2-748. Shelter holes.

A. Every haulage road shall have shelter holes at intervals not to exceed the interval permitted by the roof control plan for crosscuts. Except at a point where more than six feet of side clearance, measured from the rail, is maintained, or at a room switch, a shelter hole shall be provided at each manually operated door and at each switch throw.

B. Except for shelter holes at an underground slope landing where miners pass and cars are handled, each shelter hole shall have (i) a depth of at least five feet; (ii) a width of at most four feet, unless a room neck or crosscut width exceeding four feet is used as a shelter hole; and (iii) a height of at least six feet or, if the height of the traveling space is less than six feet, a height equivalent to that of the traveling space.

C. Every shelter hole at an underground slope landing where miners pass and cars are handled shall be at least (i) 10 feet in depth, (ii) four feet in width, and (iii) six feet in height.

D. Every shelter hole shall be kept free of refuse, loose roof, and other obstructions.

§ 45.2-749. Refuge from moving traffic.

Upon the approach of moving traffic, any miner not engaged in haulage operations shall take refuge in a shelter hole or other place of safety.

§ 45.2-750. Inspection of underground equipment.

Once per week, or more often if necessary, the mine foreman or a certified person shall inspect electrical and diesel transportation equipment to ensure its safe operating condition. Such equipment located on the surface shall be inspected once per month, or more often if necessary. Such person shall correct any defect found during the inspection. A record of such examinations shall be maintained.

§ 45.2-751. Maintenance of equipment.

Every locomotive, mine car, shuttle car, supply car, conveyor, piece of self-propelled mobile equipment, and other piece of equipment shall be maintained in a safe operating condition.

§ 45.2-752. Self-propelled equipment.

A. Every piece of self-propelled mobile transportation or haulage equipment for use underground shall be equipped with safe seating facilities for the person operating the equipment unless it is equipped for remote control operation. Where seating facilities are provided on a piece of self-propelled mobile equipment, the person operating such equipment shall be seated before the equipment is put into motion.

B. Every piece of track-mounted equipment shall be equipped with proper lifting devices for the rerailing of such equipment.

C. An audible warning device and headlights shall be provided on each locomotive, shuttle car, or other piece of self-propelled mobile transportation or haulage equipment.

D. A trip light capable of being seen for at least 300 feet underground shall be used on the rear of any trip that is pulled and on the front of any pushed trip or trip that is lowered on a slope; however, a trip light need not be used if a locomotive is used on each end of a trip.

E. Effective measures, including use of a trailing locomotive, slides, skids, or drags, shall be taken during track haulage to ensure that safe control is maintained when a grade creates a potential hazard.

F. Where block signals are used, procedures to safely control traffic movement within the system shall be established in writing and posted and reviewed with all miners.

§ 45.2-753. Pushing cars.

Pushing any car on a main haulage road is prohibited except (i) where it is necessary to push a car from a sidetrack that is located near the working section to the producing entry or room; (ii) where it is necessary to clear a switch or sidetrack; and (iii) on the approach to a cage, slope, or surface incline. However, where a rail transportation system is utilized and it becomes necessary to routinely push cars, the operator shall develop procedures for coordination and control of rail traffic, such as the provision of effective trip lights or other warning devices, and other safety precautions specific to the mine. Such procedures shall be subject to approval of the Chief.

§ 45.2-754. Transportation of material.

A. Any equipment, material, or supplies being transported shall be loaded in a manner that protects the operator and other personnel from sliding equipment, material, or supplies.

B. Any equipment, material, or supplies that are not necessary for the operation of a piece of self-propelled mobile equipment shall not be transported on such equipment, except for when the mobile equipment is designed to carry such materials or supplies and no hazard is created. Only small hand tools and materials or supplies that do not create hazards may be transported in the same compartment of a mantrip where any miner is seated.

§ 45.2-755. Securing cars.

A. A standing car on any track, unless it is held effectively by brakes, shall be properly blocked to prevent movement.

B. Positive-acting stopblocks or derails shall be used when necessary to protect miners from the hazard of runaway rail equipment. Derails shall be located where a grade at the entrance or any other location in the mine creates a potential collision hazard.

C. Safety chains, steel ropes, or other effective devices capable of holding the load shall be used to prevent a runaway mantrip or other supply car.

§ 45.2-756. Riding on cars.

A. No person other than the motorman and the trip rider shall ride on a locomotive unless authorized by the mine foreman.

B. No person shall ride on a loaded car or between cars of any trip.

C. No person shall get on or off a moving locomotive or a car that is being moved by a locomotive.

D. No person shall be allowed to ride on top of a piece of self-propelled mobile equipment.

§ 45.2-757. Back-poling.

Back-poling shall be prohibited except (i) at a place where the trolley pole cannot be reversed or (ii) when going up an extremely steep grade. In such circumstances, back-poling shall occur only at very slow speed.

§ 45.2-758. Operation of equipment.

A. Every operator of self-propelled mobile haulage equipment shall face in the direction of travel except when the equipment is being loaded and is under the boom of the loading equipment.

B. Every track haulage car that requires coupling and uncoupling shall be equipped with automatic couplers or devices designed to allow coupling and uncoupling without exposing miners between such equipment. Specialty cars designed with safe clearance when connecting to other cars are excluded from the provisions of this subsection.

C. Every person operating self-propelled haulage equipment shall sound a warning before starting such equipment and on approaching any curve, sidetrack, door, curtain, manway crossing, or other place where a miner is or is likely to be.

D. All rail equipment shall be operated at speeds that are safe for the condition of any rail installation, grade, or clearance encountered. When rail equipment is being operated at a normal safe speed, a distance of 300 feet shall be maintained from the rear of other rail equipment in operation, except for a trailing locomotive that is an integral part of the trip.

E. All persons shall stand in the clear during any switching operation.

F. No two pieces of self-propelled mobile mining equipment traveling in opposite directions inside a coal mine shall be allowed to pass each other while both are in motion on the same haulage road unless a distance of at least two feet is maintained between the vehicles.

§ 45.2-759. Dispatchers.

Where a dispatcher is employed to control trips at a mine, traffic under his jurisdiction shall be moved only at his direction. The dispatcher shall be stationed on the surface at the mine.

§ 45.2-760. Availability of mantrips.

The operator or his agent shall maintain a mantrip or other equipment suitable for providing reasonable access within a reasonable time to any area of the mine where miners are working and where transportation is ordinarily provided. The suitability of the equipment and the reasonableness of the time required to reach such an area of the mine shall be determined by the Chief.

§ 45.2-761. Mantrips.

A. Each mantrip that is operated by means of a locomotive shall be pulled and operated at a safe speed that is consistent with the condition of the road and the type of equipment used and shall be so controlled that it can be stopped within the limits of the operator's visibility.

B. Each mantrip shall be under the charge of an authorized person and operated independently of any loaded trip.

C. Each mantrip shall be maintained in safe operating condition. Mantrips shall be provided in sufficient number to prevent any mantrip from becoming overloaded.

D. No person shall ride under a trolley wire other than in a suitably covered mantrip. A covered mantrip shall not be required under trolley wires that are guarded or positioned in accordance with subsection F of § 45.2-808.

E. Other than small hand tools carried on the person, no supplies, tools, or materials shall be transported in the same car or cage with miners on any mantrip, except in a special compartment in the car designed for such purpose.

F. No miner shall board or leave a moving mantrip car. Each miner shall remain seated while in a moving car and shall proceed in an orderly manner to and from a mantrip.

§ 45.2-762. Mantrip loading and unloading areas.

A. Any area used regularly for loading or unloading mantrips shall be kept clear and free of obstructions and have ample clearance for moving equipment. Each miner shall remain in such area until the mantrip is ready to load.

B. Trolley and power wires shall be guarded effectively at any area where persons regularly load or unload from mantrips or cages and where there is a possibility that a person could come into contact with energized electric wiring while boarding or disembarking the mantrip or cage.

§ 45.2-763. Transporting miners by conveyor belt.

A. If a conveyor belt is used for transporting miners, such belt shall be free of loose materials and shall maintain a minimum clearance of at least 18 inches between the belt and the overhead roof or crossbars, projecting equipment, cap

pieces, overhead cables, wiring, and other objects. Each conveyor belt that is used for transporting miners shall be equipped with emergency stop cords for its entire length.

B. The conveyor belt speed while miners are being transported shall not exceed (i) 250 feet per minute if the overhead clearance maintained pursuant to subsection A is more than 18 inches but less than 24 inches and (ii) 300 feet per minute if the overhead clearance is 24 inches or more. Such conveyor belt shall be stopped while miners are boarding or disembarking.

C. The space between miners riding on a conveyor belt line shall be at least five feet.

D. Adequate clearance and proper illumination shall be provided where miners board or disembark a conveyor belt.

Article 9.

Surface Areas.

§ 45.2-764. Housekeeping; noxious fumes.

A. Good housekeeping shall be practiced in and around every building, shaft, slope, yard, or other area of a mine. Such practice includes cleanliness, orderly storage of materials, and the removal of possible sources of injury, such as stumbling hazards, protruding nails, broken glass, and possible falling and rolling materials.

B. Painting or conducting any operation that creates noxious fumes shall be performed only in a well-ventilated atmosphere.

C. Every surface mine structure, enclosure, or other facility shall be maintained in good repair.

§ 45.2-765. Lighting.

A. Lights shall be provided as needed in or on a surface mine structure, enclosure, or other facility.

B. Each road, path, or walk outside of a structure, enclosure, or other facility shall be kept free from obstructions and shall be well-illuminated if it is used at night.

§ 45.2-766. Flammable or combustible materials.

A. Oil, grease, and any similar flammable or combustible material shall be kept in a closed container, separate from other materials, so as to prevent any fire hazard to nearby buildings or mines. If oil, grease, or any similar flammable material is stored in a building, the building or room in which it is stored shall be of fireproof construction and well-ventilated.

B. Any oily rag, oily waste, or wastepaper shall be kept in a closed metal container until removed for disposal.

C. The area within 100 feet of each mine opening shall be kept free of flammable or combustible material; however, this provision shall not apply to the temporary storage of not more than a one-day's supply of such material.

D. Every oxygen or acetylene bottle shall be (i) secured when not in use and (ii) stored with its cap in place in a rack constructed and designated for the storage of such bottles. Smoking shall be prohibited in any place where such materials are stored. Signs indicating that smoking is prohibited in the area shall be posted.

§ 45.2-767. Hazardous crane operations.

A crane operator shall at all times during any hazardous crane operation maintain visual or auditory communication with all persons involved in such crane operation.

§ 45.2-768. Controlling dust at the surface.

A. In each surface structure, enclosure, or facility at any excessively dusty mine, every electric motor, switch, lighting fixture, and control shall be protected by dust-tight construction.

B. Each surface structure and piece of equipment shall be kept free of coal dust accumulations.

C. If mining operations raise an excessive amount of dust into the air, such dust shall be allayed at its sources by the use of water, water with a wetting agent added to it, or another effective method.

§ 45.2-769. Scaffolding and overhead protection.

Proper scaffolding or proper overhead protection shall be provided (i) where repairs are being made to a facility or (ii) where equipment or material is being used or transported overhead.

§ 45.2-770. Welding and cutting.

No welding or cutting with arc or flame shall be done in an excessively dusty atmosphere or dusty location. Firefighting apparatus shall be readily available when such welding or cutting is performed.

§ 45.2-771. Fire prevention and fire control.

The provisions of Article 5 (§ 45.2-912 et seq.) of Chapter 9 shall apply with respect to any requirement for firefighting equipment, duties in the event of a fire, or fire precautions at any surface area of an underground coal mine.

§ 45.2-772. Surface equipment.

The provisions of Article 6 (§ 45.2-915 et seq.) of Chapter 9 shall apply with respect to equipment at any surface area of an underground coal mine.

§ 45.2-773. Travel ways and loading and haulage areas.

The provisions of Article 7 (§ 45.2-922 et seq.) of Chapter 9 shall apply with respect to any travel way, loading area, or haulage area at the surface of an underground coal mine.

§ 45.2-774. Electricity.

The provisions of Article 9 (§ 45.2-926 et seq.) of Chapter 9 shall apply with respect to any power line, circuit, transformer, or other electrical equipment at any surface area of an underground coal mine.

§ 45.2-775. Surface blasting.

The provisions of Article 10 (§ 45.2-931 et seq.) of Chapter 9 shall apply with respect to explosives or blasting at any surface area of an underground coal mine.

§ 45.2-776. Ground control.

The provisions of Article 11 (§ 45.2-934) of Chapter 9 shall apply with respect to any pit, highwall, wall, bank, or bench associated with any coal mining activity conducted at any surface area of an underground coal mine.

CHAPTER 8.

REQUIREMENTS APPLICABLE TO UNDERGROUND COAL MINES; ELECTRICITY, SAFETY, ETC.

Article 1.

Mechanical Equipment.

§ 45.2-800. Face and other equipment.

A. The cutter chains of any mining machine shall be locked securely by mechanical means or an electrical interlock while such machine is parked or being trammed.

B. Drilling in rock shall be conducted wet or other means of dust control shall be used.

C. Each electric drill or other electrically operated rotating tool intended to be held in the hand shall have the electric switch constructed so as to break the circuit when the hand releases the switch or shall be equipped with a properly adjusted friction or safety clutch.

D. While equipment is in operation or is being trammed, no miner shall position himself or be placed in a pinch point between such equipment and the face or any rib of the mine or another piece of equipment in the mine.

E. Each piece of equipment that is raised for repairs or other work shall be securely blocked prior to any person positioning himself where the falling of such equipment could create a hazardous condition.

§ 45.2-801. Shop and other equipment.

A. The following items of shop and other equipment shall be guarded and maintained adequately:

1. Any gear, sprocket, pulley, fan blade or propeller, or friction device or coupling that has a protruding bolt or nut;
2. Shafting or any projecting shaft end that is within seven feet of the floor or platform level;
3. Any belt, chain, or rope drive that is within seven feet of the floor or platform;
4. Any fly wheel. A fly wheel extending more than seven feet above the floor shall be guarded to a height of at least seven feet;
5. Any circular or band saw or planer;
6. Any repair pit, including when the pit is not in use;
7. Any counterweight; and
8. Any mine fan, including the approach to any mine fan.

B. No machinery shall be repaired or serviced while the machinery is in motion; however, this prohibition shall not apply where a safe remote device is used.

C. Any guard or safety device that has been removed from any machine shall be replaced before the machine is put in operation.

D. Each mechanically operated grinding wheel shall be equipped with (i) safety washers and tool rests; (ii) substantial retaining hoods, the hood opening of which shall not expose more than a 90-degree sector of the wheel; and (iii) eyeshields, unless goggles are worn by the miners. Each retaining hood shall include either a device to control and collect excess rock, metal, or dust particles or a device providing equivalent protection to the miner operating such machinery.

E. The operator or his agent shall develop procedures for examining for potential hazards, completing proper maintenance, and properly operating each type of centrifugal pump. Such procedures shall, at a minimum, address the manufacturer's recommendations for start-up and shutdown of the pump, proper actions to be taken when a pump is suspected of overheating, the safe location of start and stop switches, and actions to be taken when a sign of structural metal fatigue, such as a crack in the frame, a damaged cover mounting bracket, or a missing bolt or other component is detected. Every miner who repairs, maintains, or operates any type of centrifugal pump shall be trained in these procedures.

§ 45.2-802. Hydraulic hoses.

Every hydraulic hose used on equipment purchased after January 1, 1986, shall be clearly stamped or labeled by the hydraulic hose manufacturer to indicate the manufacturer's rated pressure in pounds per square inch (psi). Every hose purchased after January 1, 1989, shall have the rated pressure permanently affixed on the outer surface of the hose and repeated at least every two feet. Every hose purchased and installed on an automatic displacement hydraulic system shall either (i) have a four-to-one safety factor based on the ratio between minimum burst pressure and the setting of the hydraulic unloading system, such as a relief valve, or (ii) meet the minimum hose pressure requirements set by the hydraulic equipment manufacturer per the applicable hose standards for each type of equipment. No hydraulic hose shall be used in an application where the hydraulic unloading system is set higher than the hose's rated pressure.

Article 2.

Electricity.

§ 45.2-803. Surface electrical installations.

A. Any overhead high-potential power line shall be (i) placed at least 15 feet above the ground and 20 feet above any driveway, (ii) installed on insulators, and (iii) supported and guarded to prevent contact with other circuits.

B. Any surface transmission line, including a trolley circuit, shall be protected against short circuits and lightning. Each power circuit that leads underground shall be equipped with lightning arrestors within 100 feet of the location at which the circuit enters the mine.

C. Electric wiring in any surface building shall be installed so as to prevent fire and contact hazards.

§ 45.2-804. Surface transformers.

A. Any surface transformer that is not isolated by being elevated at least eight feet above the ground shall be enclosed in a transformer house or surrounded by a suitable fence at least six feet high. If the enclosure or fence is of metal, it shall be grounded effectively. The door to the enclosure or the gate to the fence shall be kept locked at all times unless a person who is authorized to enter the gate or enclosure is present.

B. Any surface transformer that contains flammable oil and is installed near a mine opening, in or near a combustible building, or at any other place where such transformer presents a fire hazard shall be provided with a means to drain or to confine the oil in the event of a rupture of the transformer casing.

§ 45.2-805. Underground transformers.

Every transformer that is used underground shall be air-cooled or filled with nonflammable liquid or inert gas.

§ 45.2-806. Stations and substations.

A. Suitable warning signs shall be posted conspicuously at every transformer station.

B. Every transformer station, substation, battery-charging station, pump station, and compressor station shall be kept free of nonessential combustible material and refuse.

C. Reverse-current protection shall be provided at each storage-battery-charging station to prevent the storage batteries from energizing a power circuit in the event of power failure.

§ 45.2-807. Power circuits.

A. All underground power wires and cables shall (i) have adequate current-carrying capacity, (ii) be guarded from mechanical injury, and (iii) be installed in a permanent manner.

B. Wires and cables that are not encased in armor shall be supported by well-installed insulators and shall not touch any roof, rib, or combustible material; however, this prohibition shall not apply to ground wires, grounded power conductors, or trailing cables.

C. Power wires or cables that are installed in a belt-haulage slope shall be insulated adequately and buried in a trench at least one foot below any combustible material, unless such wires or cables are encased in armor or otherwise fully protected against mechanical injury.

D. Any splice or repair in a power cable shall:

1. Be mechanically strong and have adequate electrical conductivity;
2. Be effectively insulated and sealed so as to exclude moisture;
3. If the cable has metallic armor, possess mechanical protection and electrical conductivity equivalent to that of the original armor; and
4. If the cable has metallic shielding around each conductor, possess new shielding that is equivalent to the original shielding.

E. Every underground high-voltage transmission cable shall be:

1. Installed only in a regularly inspected airway;
2. Covered, buried, or placed on insulators so as to afford protection against damage by derailed equipment if it is installed along a haulage road;
3. Guarded if miners regularly work or pass under such cable, unless it is at least 6.5 feet above the floor or rail;
4. Securely anchored, properly insulated, and guarded at its ends; and
5. Covered, insulated, or placed to prevent contact with any trolley circuit or other low-voltage circuit.

F. Any new high-voltage disconnect that is installed on underground electrical equipment shall automatically ground all three power leads when in the open position. Every high-voltage disconnect that is rebuilt or remanufactured after July 1, 2011, shall meet this standard.

G. Every power wire or cable shall be insulated adequately where it passes into or out of an electrical compartment and where it passes through a door or stopping.

H. Where track is used as a power conductor:

1. Both rails of main-line tracks shall be welded or bonded at every joint, and cross bonds shall be installed at intervals of not more than 200 feet. If the rails are paralleled with a feeder circuit of like polarity, such paralleled feeder shall be bonded to the track rails at intervals of not more than 1,000 feet;
2. At least one rail on any secondary track-haulage road shall be welded or bonded at every joint, and cross bonds shall be installed at intervals of not more than 200 feet; and
3. Track switches on entries shall be well bonded.

§ 45.2-808. Trolley wires and feeder wires.

A. Trolley wires and trolley feeder wires shall be installed on the side of the entry opposite the clearance space and any shelter hole, except where the wires are guarded or are installed at least 6.5 feet above the top of the rail.

B. Trolley-wire hangers shall be so spaced that the wire may become detached from any one hanger without creating a shock hazard.

C. Trolley wires shall be aligned properly and installed on insulated hangers at least six inches outside the rail.

D. Trolley wires and trolley feeder wires shall be provided with cut-out switches at intervals of not more than 1,500 feet and near the beginning of each branch line.

E. Trolley wires and trolley feeder wires shall be kept taut and shall not be permitted to touch the roof or any rib, timber, or combustible material.

F. Trolley wires and trolley feeder wires shall be guarded adequately at both sides of any door and at every place where miners work or pass under them, unless they are at least 6.5 feet above the top of the rail.

G. No trolley wires or trolley feeder wires shall extend beyond any open crosscut between an intake and a return airway. All such wires shall be kept at least 150 feet from any active, open pillar workings.

H. Trolley wires and trolley feeder wires shall be guarded, anchored securely, and insulated properly at the ends.

I. Trolley wires and trolley feeder wires shall be installed only in an intake airway.

J. No trolley wires or other exposed conductors shall carry more than 300 volts.

§ 45.2-809. Grounding.

A. Every metallic sheath, armor, or conduit that encloses a power conductor shall be electrically continuous throughout and shall be grounded effectively.

B. Every metallic frame, casing, or other enclosure of stationary electrical equipment that can become electrified through failure of insulation or by contact with energized parts shall be grounded effectively, or equivalent protection shall be provided.

C. Any three-phase alternating current circuit that is used underground shall contain either a direct or derived neutral that shall be grounded through a suitable resistor at the power center. A grounding circuit that originates at the grounded side of the grounding resistor shall extend with the power conductors and serve as the grounding conductor for the frame of every piece of electrical equipment that is supplied with power from that circuit. A grounding resistor that is manufactured to meet the extended time rating as set forth in American National standard IEEE C57.32-2015 is deemed to meet the requirements of this section. High-voltage circuits extending underground shall be supplied with a grounding resistor of a proper Ohmic value located on the surface to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. Such grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system. Every resistance-grounded alternating circuit used underground shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to ensure the continuity of the ground conductor.

§ 45.2-810. Circuit breakers and switches.

A. Automatic circuit breaking devices or fuses of the correct type and capacity shall be installed so as to protect each piece of electrical equipment and each power circuit against excessive overload; however, this requirement shall not apply to any locomotive that is operated regularly on a grade that exceeds five percent. Wire or other conducting material shall not be used as a substitute for a properly designed fuse, and every circuit breaking device shall be maintained in safe operating condition.

B. An automatic circuit breaker of the correct type and capacity shall be installed on each resistance-grounded circuit used underground. Such circuit breaker shall be located at the power source and equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

C. Operating controls such as switches, starters, and switch buttons shall be installed so that they are readily accessible and can be operated without danger of contact with moving or electrified parts.

D. A disconnecting switch shall be installed underground in each main power circuit within approximately 500 feet of the bottom of each shaft or borehole and at any other place at which a main power circuit enters the mine.

E. Each piece of electrical equipment and each circuit shall be provided with switches or other controls of safe design, construction, and installation.

F. Insulating mats or other electrically nonconductive material shall be kept in place at each power-control switch and at any piece of stationary machinery at which a shock hazard exists.

G. Each circuit breaker, disconnecting device, and switch shall be marked for identification.

§ 45.2-811. Communication systems.

A. Telephone service or equivalent two-way communication facilities shall be provided between the top and each landing of each main shaft or slope. A telephone or equivalent two-way communication facility shall be located on the surface within 500 feet of each main portal and installed in either a building or a box-like structure that is designed to protect the facility from damage by inclement weather. At least one of these communication facilities shall be at a location where an authorized person who is always on duty when miners are underground can see or hear the facility and respond immediately in the event of an emergency.

B. Telephone lines, other than cables, shall be carried on insulators, installed on the opposite side from power or trolley wires, and insulated adequately where they cross power or trolley wires.

C. Lightning arrestors shall be provided at each point where a telephone circuit enters the mine and at each telephone on the surface. Where the telephone circuit enters a building or structure, a lightning arrestor is required only at the point at which the circuit enters such building or structure.

D. If a communication system other than telephones is used and its operation depends entirely upon power from the mine electric system, a means shall be provided to permit continued communication in the event the mine electric power fails or is cut off.

E. Communication systems equipped with audible and visual signals that become operative when telephone communication is being established between the phones of the communication station on the surface and the underground working sections shall be provided.

F. The Chief shall adopt regulations governing any disruption of communication in a mine.

§ 45.2-812. Electrical equipment.

A. Electrical equipment that is taken into or used in by the last open crosscut or in other than an intake airway constitutes permissible equipment.

B. Permissible equipment that is used in an area specified in subsection A shall be maintained in permissible condition.

C. No electrical equipment shall be taken into or operated in any place where a methane level of one percent or more is detected.

D. Voltage limitations for underground installations of electrical equipment using direct or alternating current shall conform to the voltages provided in 30 C.F.R. § 18.47.

E. Electrical equipment shall be classified as permissible and shall be maintained in a permissible condition when such equipment is located within 150 feet of any pillar workings or longwall face.

F. Any electrical conductors and cables installed in or in by the last open crosscut, or within 150 feet of any pillar workings or longwall face, shall be:

1. Shielded high-voltage cables supplying power to permissible longwall equipment or other equipment;

2. Interconnecting conductors and cables of permissible longwall equipment;

3. Conductors and cables of intrinsically safe circuits; or

4. Cables and conductors supplying power to low-voltage or medium-voltage permissible equipment.

G. Electrical equipment shall be maintained in safe operating condition at all times while it is being used, and any unsafe condition shall be corrected promptly or the equipment shall be removed from service.

§ 45.2-813. Trailing cables.

A. Trailing cables that are used underground shall be flame-resistant.

B. Trailing cables shall be provided with suitable short-circuit protection and some means of disconnecting power from the cable. Any power connection that is made in other than an intake airway shall be by means of a permissible connector.

C. Any temporary splice in a trailing cable shall be made in a workmanlike manner and shall be mechanically strong and well insulated.

D. No more than one temporary, unvulcanized splice shall be allowed in any trailing cable.

E. Any permanent splice or repair in a trailing cable shall:

1. Be mechanically strong, with adequate electrical conductivity and flexibility;

2. Be effectively insulated and sealed so as to exclude moisture;

3. Be vulcanized or otherwise treated with suitable materials to provide flame-resistant properties and good bonding to the outer jacket; and

4. If the cable has metallic shielding around each conductor, possess new shielding that is equivalent to the original shielding.

F. Trailing cables shall be protected against mechanical damage. A trailing cable that is damaged in a manner that exposes the insulated inner power conductors shall be repaired promptly or removed from service.

§ 45.2-814. Inspection of electrical equipment and wiring; checking and testing methane monitors.

A. Electrical equipment and wiring shall be inspected by a certified person at least weekly if it is located underground and at least monthly if it is located on the surface. Such equipment and wiring shall be inspected more often if doing so is necessary to ensure safe operating conditions. Any hazardous condition that is found shall be promptly corrected or the equipment or wiring shall be removed from service. Records of such inspections shall be maintained at the mine for a period of one year.

B. A functional check of methane monitors on electrical face equipment shall be conducted to determine whether such monitors are de-energizing the electrical face equipment properly. Such check shall be (i) made on each production shift, (ii) conducted by the equipment operator in the presence of a mine foreman, and (iii) recorded in the on-shift report of the mine foreman.

C. To determine the accuracy and operation of methane monitors on electrical face equipment, weekly calibration tests of such monitors shall be conducted with a known mixture of methane at the flow rate recommended by the methane monitor manufacturer. A record of the results shall be maintained.

D. Required methane monitors shall be maintained in permissible and proper operating condition.

§ 45.2-815. Repairs to circuits and electric equipment.

A. No electrical work shall be performed on any low-voltage, medium-voltage, or high-voltage distribution circuit or equipment except by a certified person or a person who is trained to perform electrical work and to maintain electrical equipment and is working under the direct supervision of a certified person. Every high-voltage circuit shall be grounded before repair work is performed. Disconnecting devices shall be locked out and suitably tagged by the person who performs electrical or mechanical work on such a circuit or piece of equipment connected to such a circuit, except that where locking out is not possible, such devices shall be opened and suitably tagged by such person. Locks and tags shall be removed only

by the person who installed them or, if such person is unavailable, by a certified person authorized by the operator or his agent.

B. A miner may, where necessary, repair energized trolley wires if he wears insulated shoes and lineman's gloves.

C. This section does not prohibit a certified electrical repairman from making checks on or troubleshooting energized circuits or an authorized person from performing repairs or maintenance on equipment once the power is off and the equipment is blocked against motion, except where motion is necessary to make adjustments.

§ 45.2-816. Underground illumination.

A. Electric-light wires shall be supported by suitable insulators or installed in conduit, shall be fastened securely to the power conductors, and shall not contact any combustible material.

B. Every electric light shall be guarded and installed so that it does not contact any combustible material.

§ 45.2-817. Inspection of electric illumination equipment.

Every lamp, extension light, and permissible form of portable illumination, such as a cap lamp or flashlight, that is used for personal illumination underground shall be inspected by an authorized person at least once per week, and more often if necessary, to ensure safe operating conditions. When such equipment is located at the surface, it shall be inspected by an authorized person at least once per month, and more often if necessary, to ensure safe operating conditions. Any defect found shall be corrected.

Article 3.

Fire Prevention and Fire Control.

§ 45.2-818. Firefighting equipment; fire prevention.

A. Each mine shall be provided with suitable firefighting equipment that is adequate for the size of the mine.

B. The following equipment, at a minimum, shall be immediately available at each mine:

1. A water car filled with water and provided with hose and pump, or waterlines and necessary hoses;
2. At least three 20-pound dry chemical fire extinguishers;
3. Ten 50-pound bags of rock dust, which shall be made available at doors or other strategic places;
4. Bolt cutters that can be used to cut trolley wire in an emergency;
5. One pair of rubber gloves that shall be used with each pair of bolt cutters when cutting trolley wire;
6. Two sledge hammers; and
7. Five hundred square feet of brattice cloth, nails, and a hammer.

C. Clean, dry sand, rock dust, or fire extinguishers that are suitable from a toxic and shock standpoint shall be placed at each electrical station, including each substation, transformer station, and permanent pump station, so as to be out of the smoke in case of a fire in the station.

D. Suitable fire extinguishers shall be provided at each (i) electrical station, including each substation, transformer station, and permanent pump station; (ii) piece of self-propelled mobile equipment; (iii) belt head and at the inby end of each belt; (iv) area used for the storage of flammable materials; (v) fueling station; and (vi) any other area that may constitute a fire hazard, so as to be on the fresh air side in case of a fire.

E. All firefighting equipment and each fire sensor system shall be maintained in a usable and operative condition. Each chemical extinguisher shall be examined every six months and the date of the examination shall be indicated on a tag attached to each extinguisher.

F. A sufficient number of approved one-hour, self-contained, self-rescuers shall be readily available, not more than 100 feet away, for the persons involved in the moving or transporting of any piece of off-track mining equipment.

§ 45.2-819. Duties in case of fire.

A. In case of a fire, the next inby permanent stopping into the return air course shall be opened as soon as possible in order to short circuit the air and permit close access to the fire for extinguishment.

B. When a fire that could endanger persons underground cannot be extinguished immediately, such persons shall be withdrawn promptly from the mine.

C. If a fire occurs, the person discovering it and any other person in the vicinity of the fire shall make a prompt effort to extinguish it.

§ 45.2-820. Emergency response plans; list of next of kin.

A. Each operator shall develop an emergency response plan for each mine. The plan shall include (i) a mine emergency communication plan, (ii) an evacuation procedure, (iii) the identification of waterlines, (iv) the number system of brattice, (v) the location of each escapeway, and (vi) such other information as the Chief reasonably requires.

B. The emergency response plan shall be subject to approval by the Chief or mine inspector. The Chief may require periodic updates to an operator's emergency response plan. Such operator shall comply with the requirements of the approved plan.

C. The emergency response plan shall be posted in a conspicuous manner and location readily accessible to all miners, both underground and at the surface of the mine.

D. The operator shall train miners in the implementation of the emergency response plan and shall conduct practice drills. Records of dates and times of practice drills shall be maintained in the emergency response plan.

E. Each miner employed by the operator who goes underground, and each visitor authorized by the operator to enter the mine, shall have available an adequate supply of self-rescue devices, each of which provides at least one hour of

protection and is approved by MSHA. The training related to self-rescue devices shall be included in the emergency response plan approved by the Chief.

F. The operator shall maintain a list of the next of kin of all miners employed at the mine. The list shall be kept at the mine site or at a central facility readily accessible to the mine.

§ 45.2-821. Reporting fires; response.

In case of any unplanned fire at a mine that is not extinguished within 30 minutes of discovery, the operator shall report the fire to the Chief by the quickest available means, giving all information known to the operator. The Chief, based on such information, shall promptly go in person or dispatch a mine inspector to the scene of the fire for consultation and assistance in the extinguishment of the fire and the protection of exposed persons. In the event of a difference of opinion as to measures required, the decision of the Chief or the mine inspector shall be final. The decision of the Chief regarding measures to extinguish the fire and protect persons shall have the force of an order issued pursuant to § 45.2-569 if it is delivered to the operator in writing.

§ 45.2-822. Fire prevention in transportation of mining equipment.

A. Prior to moving or transporting any piece of off-track mining equipment in any area of the active workings where energized trolley wires or trolley feeder wires are present, (i) the piece of equipment shall be examined by a certified person to ensure that accumulations of coal dust, float coal dust, loose coal, oil, grease, and other combustible materials have been removed from such piece of equipment and (ii) a qualified person shall examine the trolley wires, trolley feeder wires, and the associated automatic circuit interrupting devices to ensure that proper short circuit protection exists.

B. A record shall be kept of the examinations required pursuant to subsection A and shall be made available, upon request, to the Chief or his authorized representative.

C. Off-track mining equipment shall not be moved or transported in any area of the active workings where energized trolley wires or trolley feeder wires are present unless under the direct supervision of a certified person who is physically present at all times during the moving or transporting of such equipment.

D. The frame of any unit of off-track mining equipment that is being moved or transported shall be covered on the top and on the trolley wire side with fire-resistant material.

E. Electrical contact shall be maintained between the mine track and the frame of any piece of off-track mining equipment that is being moved in a track and trolley entry. However, rubber-tired equipment need not be grounded to a transporting vehicle if no metal part of such rubber-tired equipment can come into contact with the transporting vehicle.

F. To avoid accidental contact with power lines, the equipment being transported or trammed shall be insulated or, if necessary, the assemblage shall be removed if the clearance to the power lines is six inches or less.

G. Sufficient prior notice shall be given to the Department so that a mine inspector, if he deems it necessary, can travel the route of the move before the actual move is made.

H. A minimum vertical clearance of one foot shall be maintained between the farthest projection of the piece of equipment that is being moved and the energized trolley wires or trolley feeder wires at all times during the movement or transportation of such equipment. If the height of the coal seam does not permit one foot of vertical clearance to be so maintained, the following additional precautions shall be taken:

1. Electric power shall be supplied to the trolley wires or trolley feeder wires only from outby the piece of equipment being moved or transported. Where direct current electric power is used and such electric power can be supplied only from inby the equipment being moved or transported, such power may be supplied from inby such equipment if a miner who has the means to cut off the power is in direct communication with the persons actually engaged in the moving or transporting operation and is stationed outby the equipment being moved;

2. The settings of automatic circuit interrupting devices used to provide short circuit protection for the trolley circuit shall be reduced to not more than one-half of the maximum current that could flow if the equipment being moved or transported were to come into contact with the trolley wire or trolley feeder wire;

3. At all times when the piece of equipment is being moved or transported, a miner shall be stationed at the first automatic circuit breaker outby the equipment being moved. Such miner shall be (i) in direct communication with the persons actually engaged in the moving or transporting operation and (ii) capable of communicating with the authorized person on the surface who is required to be on duty;

4. Where trolley phones are utilized to satisfy the requirements of subdivision 3, telephones or other equivalent two-way communication devices that can readily be connected with the mine communication system shall be carried by (i) the miner who is stationed at the first automatic circuit breaker outby the equipment being moved and (ii) by a miner who is actually engaged in the moving or transporting operation; and

5. No person shall be permitted to be inby the piece of equipment being moved or transported, or in the ventilating current of air that is passing over such equipment, except a person who is directly engaged in moving such equipment.

I. The provisions of subsection H shall not apply to a piece of mining equipment that is transported in a mine car if no part of the equipment extends above or over the sides of the mine car.

§ 45.2-823. Storage and use of flammable fluids and materials.

A. Each underground storage place for oil, grease, or flammable hydraulic fluid shall be of fireproof construction.

B. Oil, grease, and flammable hydraulic fluid that is kept underground for current use shall be kept in a closed metal container.

C. Provisions shall be made to prevent an accumulation of spilled oil or grease at any such storage place or at any location at which such material is used.

D. Oily rags, oily waste, and wastepaper shall be kept in closed metal containers until it is removed for disposal.

E. No gasoline, benzene, kerosene, or other flammable oil shall be used underground in powering machinery.

F. Every oxygen or acetylene bottle that is used underground shall be secured while in use. When stored underground, each oxygen or acetylene bottle shall be placed in a safe location, protected from physical damage, stored with its cap in place where such storage is provided for on the tank, and secured upright or elevated, whichever mine heights allow.

§ 45.2-824. Diesel-powered equipment.

Diesel-powered equipment may be utilized underground with the written approval of the Chief. The Chief shall adopt regulations necessary to carry out the provisions of this section. Such regulations shall require that the air in each travel way in which diesel equipment is used, and in any active workings connected thereto, be of a quality necessary for a safe, healthful working environment. The minimum quantity of ventilating air that shall be supplied for a permissible diesel machine in a given time shall conform to the quantity shown on the approval plate attached to the machine. Every diesel machine or piece of equipment shall be maintained in such manner that the exhaust emissions meet the standards to which the machine or equipment was manufactured.

§ 45.2-825. Arcs, sparks, and flames.

A. The intentional creation of any open arc, open spark, or open flame, except as provided in subsection B, is prohibited.

B. Any underground (i) welding or cutting with arc or flame or (ii) soldering, unless conducted in a fireproof enclosure that is ventilated with intake air, shall be done by or under the direct instruction of a certified foreman or repairman. A person certified in gas detection shall test for methane before and during such welding, cutting, or soldering operation in an underground coal mine and shall make a diligent search for fire after such an operation in all parts of the mine where such operation occurred. Rock dust or a suitable fire extinguisher shall be immediately available during such welding or cutting. Any welding operation shall be performed only in a well-ventilated area.

Article 4.

Ventilation, Mine Gases, and Other Hazardous Conditions.

§ 45.2-826. Pre-shift examinations.

A. The operator or his agent shall establish eight-hour intervals of time, each of which shall be subject to a required pre-shift examination. Within three hours preceding the beginning of any such eight-hour interval during which any person is scheduled to work or travel underground, a mine foreman shall make a pre-shift examination. No person scheduled to enter the mine during the eight-hour interval, other than the mine foreman who is conducting the examination, shall enter any underground area unless a pre-shift examination has been completed for such established eight-hour interval.

B. During the pre-shift examination, the mine foreman shall (i) examine for hazardous conditions, (ii) test for methane and oxygen deficiency with a suitable permissible device, and (iii) determine whether the air is traveling in its regular course and in sufficient volume in each split, at each of the following underground locations:

1. Every track entry or other area where persons are scheduled to work or travel during the oncoming shift;

2. Every belt conveyor that will be used to transport persons during the oncoming shift and the entry in which each such belt conveyor is located;

3. Any working section or area where mechanized mining equipment is being installed or removed if a person is scheduled to work on the section or in the area during the oncoming shift. Such a working section or area includes each working place and each approach to a worked-out area, and ventilation controls on each such section or in each such area;

4. Each approach to a worked-out area along an intake air course if intake air passes by such worked-out area to ventilate any working section where a person is scheduled to work during the oncoming shift;

5. Every seal along an intake air course where intake air passes by such seal to ventilate any working section where a person is scheduled to work during the oncoming shift;

6. Where intake air passes through or by an entry or room to any working section where a person is scheduled to work during the oncoming shift, each such entry or room that is driven (i) more than 20 feet off an intake air course without a crosscut or permanent ventilation controls or (ii) more than two crosscuts off an intake air course without permanent ventilation controls; and

7. Where unattended diesel equipment is expected to operate or an area in which trolley wires or trolley feeder wires are to be or will remain energized during the oncoming shift.

C. During the pre-shift examination, the mine foreman shall determine the volume of air entering each of the following areas if a miner is scheduled to work in such area during the oncoming shift:

1. In the last open crosscut of each set of entries or rooms on each working section or any area in which mechanized mining equipment is being installed or removed;

2. On each longwall or shortwall in each intake entry at the intake end of the longwall or shortwall face immediately outby the face. The mine foreman shall also determine the velocity of air at each end of the face at the locations specified in the approved ventilation plan required by the federal mine safety law; and

3. At the intake end of any pillar line (i) in the intake entry furthest from the return air course, immediately outby the first open crosscut outby the line of pillars being mined, if a single split of air is used or (ii) in the intake entries of each split, immediately inby the split point, if a split system is used.

D. A mine foreman shall make a pre-shift examination of the surface areas of an underground coal mine in accordance with the requirements for pre-shift examinations at surface coal mines as provided in § 45.2-903.

E. The Chief may require the mine foreman to examine other areas of the mine or to examine for other hazards during the pre-shift examination.

F. Any area of the mine where hazardous conditions are found shall be posted with a conspicuous danger sign located where anyone entering the area would pass. Only a person designated by the operator or his agent to correct or evaluate the condition shall enter such posted area.

G. At each working place examined, the mine foreman shall certify by initials, date, and time that the examination was made. In any area to be examined outby a working section, the mine foreman shall certify completion of the examination by initials, date, and time at enough locations to show that the entire area has been examined.

H. Each idle or worked-out area underground shall be inspected for gas and other hazardous conditions by a mine foreman immediately before miners are permitted to enter or work in such place. A certified person shall supervise the correction of any condition that creates an imminent danger. The mine operator or his agent shall not pass beyond the danger sign except in cases of necessity.

I. If no person has been working underground before an established eight-hour interval, no person other than a mine foreman conducting a pre-shift examination shall enter the mine until the examination has been completed and the mine foreman reports that the mine is clear of danger; however, miners may enter under the direction of a mine foreman for the purpose of making the mine safe. The Chief may, in certain mines, authorize mantrips to proceed to a designated station underground, from which no mantrip shall leave until a mine foreman reports that the remainder of the areas of the mine are clear of danger.

J. Miners who are regularly employed on a shift during which a pre-shift examination is being conducted shall be permitted to leave or enter the mine in the performance of their duties.

K. In a multiple-shift operation, certified persons may be used to make the pre-shift examination for the next or succeeding shift.

L. Immediately before any miner is permitted to enter an area of an inactive underground coal mine in order to take emergency actions to preserve the mine, a mine foreman shall examine such area for gas and other hazardous conditions.

M. In the performance of his duties under this section, the mine foreman shall have no superior officer, and every miner shall be subordinate to him.

§ 45.2-827. On-shift examinations.

A. At least once during each shift, and more often if necessary, a certified person shall examine each underground section where coal is produced and any other area where mechanized mining equipment is being installed or removed during the shift. The certified person shall (i) examine for hazardous conditions, (ii) test for methane and oxygen deficiency with a suitable permissible device, and (iii) determine whether the air is traveling in its regular course and in sufficient volume in each split. Any hazardous condition shall be corrected immediately or the miners shall be withdrawn and the affected area plainly marked with danger signs.

B. During each shift in which coal is produced, a certified person shall examine for hazardous conditions along each underground belt conveyor entry where a belt conveyor is operated. Such examination may be conducted at the same time as the pre-shift examination of the belt conveyors and the belt conveyor entries, if the examination is conducted within three hours before the established eight-hour interval. The person conducting the examination shall certify by initials, date, and time at enough locations to show that the entire area has been examined.

C. A person conducting an on-shift examination shall determine at the following underground locations:

1. The volume of air in the last open crosscut of each set of entries or rooms on each working section and in any area in which mechanized mining equipment is being installed or removed;

2. The volume of air on a longwall or shortwall, including any area where longwall or shortwall equipment is being installed or removed, in the intake entry or entries at the intake end of the longwall or shortwall;

3. The velocity of air at each end of the longwall or shortwall face at each location specified in the approved ventilation plan required pursuant to the federal mine safety law; and

4. The volume of air at the intake end of any pillar line (i) in the intake entry furthest from the return air course, immediately outby the first open crosscut outby the line of pillars being mined, if a single split of air is used or (ii) in the intake entries of each split, immediately inby the split point, if a split system is used.

D. A test shall be made for methane before (i) any electrically powered equipment is taken inby the last open crosscut, (ii) any blasting takes place, and (iii) work is resumed after blasting. When a longwall or shortwall mining system is used, such methane test shall be made from under permanent roof support at the shearer, the plow, or the cutting head. Such methane test shall be made at least once every 20 minutes or more often as necessary for safety while such equipment is in operation. When mining has been stopped for more than 20 minutes, a methane test shall be conducted prior to the start-up of equipment.

E. Each idle or worked-out area underground, including any section belt that has been idle for a period of 24 hours or more, shall be examined by a certified person immediately before miners are permitted to enter or work in such area. The person conducting the examination shall certify completion of the examination by initials, date, and time at enough locations to show that the entire area has been examined.

F. Daily and on-shift examinations of surface areas of underground coal mines shall be made in accordance with the requirements for daily and on-shift examinations at surface coal mines as provided in § 45.2-903.

§ 45.2-828. Weekly examinations.

A. At least once every seven days, a mine foreman shall examine each unsealed worked-out area where no pillars have been recovered.

B. At least once every seven days, a mine foreman shall evaluate the effectiveness of each bleeder system used pursuant to § 45.2-837.

C. At least once every seven days, a mine foreman shall examine each of the following locations for hazardous conditions:

1. At least one entry of each intake air course, in its entirety, so that the entire air course is traveled.

2. At least one entry of each return air course, in its entirety, so that the entire air course is traveled.

3. Each longwall or shortwall travel way, in its entirety, so that the entire travel way is traveled.

4. Each seal along each return or bleeder air course and each seal along each intake air course not examined pursuant to § 45.2-826.

5. Each escapeway, in its entirety, so that the entire escapeway is traveled.

6. Each working section not examined pursuant to § 45.2-826 during the previous seven days.

D. At least once every seven days, a certified person shall:

1. Determine the volume of air entering each main intake and each intake split;

2. Determine the volume of air and test for methane in the last open crosscut in any pair or set of developing entries or rooms. Such determination and test shall be conducted in the return of each split of air immediately before it enters the main returns and where the air leaves the main returns; and

3. Test for methane in the return entry nearest each set of seals immediately after the air passes the seals.

E. Any hazardous condition shall be corrected immediately. If the condition creates an imminent danger, everyone except those persons necessary to correct the hazardous condition shall be withdrawn from the area affected to a safe area until the hazardous condition is corrected.

F. No weekly examination is required during any seven-day period in which no person enters any underground area of a mine. If a mine is idled or is in a nonproducing status with entry only for maintenance of the mine, weekly examinations may be conducted in accordance with a plan approved by the Chief.

G. Except for certified persons required to make examinations, no person shall enter any underground area of a coal mine if no weekly examination has been completed within the preceding seven days. The weekly examination may be conducted at the same time as the pre-shift examination.

H. A person making a weekly examination shall certify completion of the examination by initials, date, and time at enough locations to show that the entire area has been examined.

I. Any examination of surface areas of underground coal mines shall be made in accordance with the requirements for weekly examinations at surface coal mines pursuant to § 45.2-903.

§ 45.2-829. Examinations of fans.

A. An authorized person shall conduct a daily inspection of each main fan and of the machinery connected with such fan. The person making the examination shall record such examination in a book prescribed for this purpose or by other adequate means provided to permanently record the performance of the main fan and to give warning of an interruption to a fan. No such daily examination is required on any day in which no person goes underground, except that the examination shall be completed prior to any person entering the mine if no examination was made on the previous day.

B. Any place ventilated by means of a blower fan shall be examined for methane by a certified person before the fan is started at the beginning of the shift and after any interruption of fan operation that lasts for five minutes or more during the shift.

C. Each blower fan and its tubing shall be inspected at least twice during each working shift by a certified person.

§ 45.2-830. Record of examinations.

A. Any hazardous condition found by the mine foreman or another certified person designated by the operator for the purpose of conducting examinations under this article shall be (i) corrected immediately or (ii) posted with conspicuous danger signs until the condition is corrected. If the hazardous condition creates an imminent danger, all persons except those required to perform work to correct the imminent danger shall be withdrawn from the affected area. The hazardous condition and the corrective actions taken shall be recorded in a book maintained for such purpose on the surface at the mine. The record shall be made by the completion of the shift on which the hazardous condition is found.

B. Upon completing the pre-shift examination, the mine foreman shall return to the surface or a designated station underground and report in person to an authorized person before any other miner enters the mine. Immediately upon reaching the surface, the mine foreman shall record in ink or indelible pencil the result of his inspection in a book maintained for such purpose on the surface at the mine.

C. At the completion of any shift during which a portion of a weekly examination is made, a record of each hazardous condition, its location, the corrective action taken, and the result and location of each air and methane measurement shall be made. Such record shall be made by the mine foreman making the examination or another certified person designated by the operator. If the record is made by a person other than the one making the examination, the person making the examination shall verify the record by initials and date.

D. The actual level of methane detected in any examination shall be recorded in the book.

E. A mine foreman or other certified person conducting a required examination shall record the results of his examination in ink or indelible pencil in a book maintained for such purpose on the surface at the mine. Similar records may be kept at designated stations or offices underground.

F. Records shall be countersigned by the supervisor of the examiner creating the records. Where such records disclose a hazardous condition, the countersigning of the records shall be performed no later than the end of the next regularly scheduled working shift following the shift for which the examination records were completed, and the person countersigning shall ensure that actions to eliminate or control each hazardous condition have been taken. Where such records disclose no hazardous condition, the countersigning may be completed within 24 hours following the end of the shift for which the examination records were completed. The operator may authorize another person who possesses authority equivalent to that of the supervisor to act in the supervisor's temporary absence to read and countersign the records and ensure that action is taken to eliminate each hazardous condition disclosed in the records.

G. All records of examination shall be open for inspection by interested persons and maintained at the mine site for a minimum of one year.

§ 45.2-831. Notice of hazardous conditions.

The mine foreman shall give prompt attention to the removal of each hazardous condition reported to him by any person working in the mine. If it is impracticable to remove a hazardous condition at once, the mine foreman shall notify every person whose safety is threatened by such hazardous condition to remain away from the portion of the mine where the hazardous condition exists.

§ 45.2-832. Notice of monitor tampering prohibition.

The operator or agent shall display, in bold-faced type, on a sign placed at the mine office, at the bath house, and on a bulletin board at the mine site, the following notice:

NOTICE: IT IS UNLAWFUL TO DISTURB, DISCONNECT, BYPASS, IMPAIR, OR OTHERWISE TAMPER WITH METHANE MONITORS OR OTHER DEVICES CAPABLE OF DETECTING THE PRESENCE OF EXPLOSIVE GASES IN AN UNDERGROUND COAL MINE. A VIOLATION IS PUNISHABLE AS A CLASS 6 FELONY.

§ 45.2-833. Main fans.

A. The active workings of a mine shall be ventilated by means of main fans.

B. Unless otherwise approved by the Chief, each fan shall be (i) provided with pressure-recording gauges, (ii) installed on the surface in a fireproof housing, and (iii) equipped with fireproof air ducts.

C. In addition to the requirements of subsection B, each main fan shall either:

1. Be equipped with ample means of pressure relief and be offset not less than 15 feet from the nearest side of the mine opening; or

2. Be directly in front of, or over, the mine opening; however, such opening shall not be in direct line with forces coming out of the mine if an explosion were to occur. There shall be another opening, equipped with a weak-wall stopping or with explosion doors, that is located not less than 15 feet or more than 100 feet from the fan opening and in direct line with the forces coming out of the mine if an explosion were to occur; and

3. In a mine ventilated by multiple main mine fans, incombustible doors shall be installed so that if any main mine fan stops and air reversals through the fan are possible, the doors on the affected fan automatically close.

D. Each main mine fan shall be provided with an automatic device to give alarm when the fan slows down or stops. Unless otherwise approved by the Chief, such device shall be placed so that it will be seen or heard by an authorized person.

E. Each main fan shall be on a separate power circuit, independent of the mine circuit.

F. The area surrounding a main fan installation shall be kept free of combustible material for at least 100 feet in every direction where physical conditions permit.

G. Each mine fan shall be operated continuously except when no miner is underground and such mine fan is intentionally stopped for necessary testing, adjustment, maintenance, or repairs, or as otherwise approved by the Chief. If the main fan is intentionally stopped for testing, adjustment, maintenance, or repairs, the mine operator shall comply with the requirements set forth in the approved fan stoppage plan for that mine. If the main fan is stopped after all miners are out of the mine, the fan shall be operated for a period specified in the approved fan stoppage plan for that mine, prepared pursuant to § 45.2-834, before any miner is allowed underground.

H. Where electric power is available, no main mine fan shall be powered by means of an internal combustion engine. However, if electric power is not available or the fan is employed for emergency use, a main mine fan may be powered with an internal combustion engine. Unless otherwise approved by the Chief, such fan shall be operated exhausting and the engine operating such fan shall be offset at least 10 feet from the fan and housed in a separate fireproof structure.

§ 45.2-834. Fan stoppage plan.

A fan stoppage plan shall be prepared for each mine. Such plan shall be subject to approval by the Chief or his designated representative. Failure to comply with any requirement set forth in the approved plan is a violation of this section. Each fan stoppage plan shall require the following:

1. When the main fan fails or stops, the power shall be cut off from the mine and miners shall be withdrawn from all face areas.

2. Miners shall be withdrawn from the underground areas if the ventilation is not restored within a reasonable time determined by the Chief, not to exceed 15 minutes. In determining such reasonable time period, the Chief shall consider, among other factors, the size and number of fans and the methane liberation rate of the mine.

3. If ventilation is restored within the time period established in the plan, each face area and any other area in which methane is likely to accumulate shall be examined by a certified person, and if all areas are found to be free of explosive or harmful gases, power may be restored and work resumed.

4. If ventilation is not restored within the time period established in the plan and the miners are evacuated from the mine, the main fan shall be operated for a period of time specified in the plan. Such period of time shall not be less than 15 minutes. Thereafter, the mine shall be examined by a certified person before any miner is permitted underground or any power circuit is energized.

§ 45.2-835. Auxiliary fans.

A. The installation or use of an auxiliary fan in any mine is prohibited without the prior written approval of the Chief.

B. A machine-mounted scrubber and spray fan system may be used for control of coal dust and enhancement of ventilation. Such an installation is not considered an auxiliary fan.

§ 45.2-836. Quantity of air.

A. The quantity of air passing through the last open crosscut shall be at least 9,000 cubic feet per minute. However, the quantity of air reaching the last open crosscut in a pillar-recovery section may be less than 9,000 cubic feet per minute if at least 9,000 cubic feet of air per minute is being delivered to the intake end of the pillar line.

B. The air current at a working face shall, under all conditions, have a sufficient volume and velocity to readily dilute and carry away smoke from blasting and any flammable or harmful gases and dust.

C. In a longwall or shortwall mining system:

1. The quantity of air shall be at least 30,000 cubic feet per minute reaching the working face, unless otherwise approved by the Chief; and

2. The velocity of air provided to control dust at designated locations on the longwall or shortwall face shall be maintained in accordance with the provisions of the mine ventilation plan approved by MSHA.

D. Ventilation shall be maintained during the installation or removal of mechanized mining equipment.

§ 45.2-837. Bleeder systems.

A. Every mine shall have a system, approved by the Chief, of bleeder openings of air courses designed to provide positive movement of air through or around worked-out areas. Such system shall be sufficient to prevent a hazardous accumulation of gas in any such area and to minimize the effect of variations in atmospheric pressure. Each operator shall submit a bleeder system plan that complies with requirements developed by the Chief.

B. The system requirements developed by the Chief shall, at a minimum, address standards for (i) supplemental roof supports, (ii) water accumulation, (iii) continuous movement of gases from gob areas, (iv) methane content, (v) the use and operation of degasification systems, (vi) air flow direction and content, and (vii) ventilation controls. The Chief shall not approve a plan that provides for a methane content exceeding 4.5 percent in bleeder air courses.

C. This section shall not prohibit the sealing of worked-out areas in accordance with § 45.2-845. The mine map requirements of § 45.2-542 may be used to depict bleeder system standards specified in this section.

D. Failure to comply with an approved plan is a violation of this section.

§ 45.2-838. Coursing of air.

A. The main intake and return air currents of a drift or slope mine shall not be in a single partitioned opening.

B. Every entry driven in coal shall be in a set of two or more entries.

C. Every transformer station, battery-charging station, substation, rectifier, and water pump shall be housed in an incombustible structure or area or be equipped with an approved fire suppression system. Each such installation shall be ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate any working place. This requirement does not apply to any (i) rectifier, battery-charging station, or power center with transformers that are of the dry type or contain nonflammable liquid, if such rectifier, battery-charging station, or power center is located at or near the working section and is moved as the working section advances or retreats; (ii) submersible pump; (iii) permissible pump and associated permissible switch gear; (iv) pump located at or near the working section that is moved as the working section advances or retreats; or (v) small portable pump. Such equipment shall be installed and operated only in a well-ventilated location.

D. Any change in ventilation that materially affects the main air current or any split thereof shall be made when the mine is not in operation and there are no miners in the mine other than those engaged in changing the ventilation.

E. Each section in a mine shall be ventilated by a separate split of air.

F. Air used to ventilate a belt haulage entry shall not be used to ventilate any working place unless approved by the Chief.

§ 45.2-839. Actions for excessive methane.

A. Tests for methane concentration under this section shall be made by certified or qualified persons trained in the use of an approved detecting device that is properly maintained and calibrated. Tests shall be made at least one foot from the roof, face, ribs, and floor.

B. If a methane concentration of one percent or more is present in a working place; an intake air course, including an air course in which a belt conveyor is located; or an area where mining equipment is being installed or removed, work shall cease and electrically powered equipment shall be de-energized in the affected working place, except for any intrinsically

safe atmospheric monitoring system (AMS), which need not be de-energized. Changes or adjustments shall be made to such ventilation system to reduce the methane concentration to below one percent. Only work to reduce the methane concentration to below one percent is permitted. Such limitation does not apply to any other face in the entry or slope in which work can be safely continued.

C. If a methane concentration of 1.5 percent or more is present in a working place; an intake air course, including an air course in which a belt conveyor is located; or an area where mining equipment is being installed or removed, only work necessary to reduce the methane concentration to less than 1.5 percent is permitted, and all miners except those required to perform such necessary work shall be withdrawn from the affected area. Electrically powered equipment in the affected area shall be de-energized and other mechanized equipment in the affected area shall be shut off, except for any intrinsically safe AMS.

D. If a methane concentration of one percent or more is present in a return or split between the last working place on a working section and the location at which such split of air meets another split of air, or the location at which such split is used to ventilate a seal or worked-out area, changes or adjustments shall be made to the ventilation system to reduce the methane concentration in the return air to less than one percent.

E. If a methane concentration of 1.5 percent or more is present in a return air split between the last working place on a working section and the location at which such split of air meets another split of air, or the location at which such split is used to ventilate a seal or worked-out area, all miners except those required to perform necessary work to correct the problem shall be withdrawn from the affected area. Other than an intrinsically safe AMS, all equipment in the affected area shall be de-energized at the source. No other work is permitted in the affected area until the methane concentration in the return air is less than one percent.

F. An alternative methane concentration of as much as 1.5 percent is allowed in a return air split if the following conditions are met: (i) the quantity of air in the split ventilating the active workings is at least 27,000 cubic feet per minute in the last open crosscut; (ii) the methane concentration in the split is continuously monitored during mining operations by an intrinsically safe AMS that gives a visual and audible signal on the working section when the methane concentration in the return air reaches 1.5 percent; and (iii) rock dust is continuously applied with a mechanical duster to the return air course during coal production at a location in the air course that is immediately outby the most inby monitoring point or inby such point if the mechanical duster is maintained in a permissible condition and does not adversely affect the AMS. If a methane concentration of 1.5 percent or more is present at the location at which a return air alternative is applied, all persons shall be withdrawn, except those necessary to improve ventilation, and changes or adjustments shall be made to reduce the methane concentration in the return air to below 1.5 percent as set forth in subsection E.

G. The methane concentration in a bleeder split of air immediately before the air in such split joins another split of air, or in a return air course other than described in subsections D and E, shall not exceed two percent.

§ 45.2-840. Crosscuts.

A. Crosscuts shall be made between entries and between rooms as provided in the approved roof control plan.

B. Every crosscut between an intake and a return air course shall be closed, except the one nearest the face. A crosscut between rooms shall be closed where necessary to provide adequate ventilation at the working face.

C. Where practicable, a crosscut shall be provided at or near the face of each entry or room before the place is abandoned.

D. No entry or room shall be started off an entry beyond the last open crosscut.

§ 45.2-841. Permanent stoppings.

A. Permanent stoppings shall be built and maintained:

1. Between each intake and return air course, except that temporary controls may be used in any room that is located 600 feet or less from the centerline of the entry from which the room was developed. Unless otherwise approved by the Chief, such stoppings shall be maintained to and inclusive of the third connecting crosscut outby the working face.

2. To separate each belt conveyor haulage entry from any return air course, except where a belt entry is used as a return air course.

3. To separate the primary escapeway from any belt or trolley haulage entry, unless otherwise approved by the Chief.

4. In each return air course to direct air into adjacent worked-out areas.

B. Permanent stoppings shall be built of substantial, incombustible material such as concrete, concrete block, brick, tile, or other approved material; however, where physical conditions prohibit the use of such materials, timbers laid longitudinally "skin to skin" may be used.

C. The use of an air lock in the permanent intake stopping line near the section loading point is permitted to access the belt and transport supplies.

D. Stoppings shall be maintained to serve the purpose for which they were built and shall be reasonably airtight.

§ 45.2-842. Ventilation controls.

A. Ventilation shall be so arranged by means of air locks, overcasts, or undercasts that the passage of a haulage trip or person along the entries will cause no interruption of the air current. Each air lock shall be ventilated sufficiently to prevent an accumulation of methane therein.

B. Air lock doors that are used in lieu of permanent stoppings or to control ventilation within an air course shall be (i) made of incombustible material or coated on all accessible surfaces with flame-retardant material having a flame spread

index of 25 or less as tested under ASTM E162 and (ii) of sufficient strength to serve their intended purpose of maintaining separation and permitting travel between or within air courses or entries.

C. To provide easy access between the return, belt, and intake escapeway entries, substantially constructed man-doors that are properly marked so as to be readily detected shall be installed in at least every fifth crosscut in the stopping line separating such entries.

D. Doors shall be kept closed except when a miner or piece of equipment is passing through the doorway. Any motor crew or other miner who opens such doors shall see that they are closed before leaving them.

E. Overcasts, undercasts, and regulators shall be well-constructed; of incombustible material, such as masonry, concrete, concrete block, or prefabricated metal; and (i) of sufficient strength to withstand possible falls from the roof, (ii) of ample area to pass the required quantity of air, and (iii) kept clear of obstructions.

§ 45.2-843. Line brattice.

A. Substantially constructed line brattice shall be used from the last open crosscut of an entry or room when necessary to provide adequate ventilation for the miners and to remove gases. Any line brattice that is damaged by a fall or otherwise shall be repaired promptly.

B. The space between the line brattice and the rib shall be large enough to permit the flow of a sufficient volume of air to keep the working face clear of flammable and noxious gases.

C. Brattice cloth that is used underground shall be of flame-resistant material.

D. An accumulation of methane shall be moved only by means of properly installed line brattice or other approved method.

§ 45.2-844. Ventilation with air from certain areas.

Active face workings shall not be ventilated with air that has passed through a worked-out area or has been used to ventilate a pillar line. This section shall not apply to air that is being used to ventilate an active pillar line or a room that is necessary to establish and maintain such pillar line.

§ 45.2-845. Worked-out areas.

A. Every worked-out area shall be either sealed or ventilated.

B. Where the practice is to seal worked-out areas, the sealing shall be done in accordance with sealing provisions of the approved bleeder plan.

§ 45.2-846. Air quality.

A. All active workings shall be ventilated by a current of air containing at least 19.5 percent by volume of oxygen and no harmful amount of any noxious or poisonous gas.

B. The volume and velocity of the current of air in all active workings shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases, dust, smoke, and explosive fumes.

§ 45.2-847. Examination of mine for explosive gas and other hazardous conditions.

A. Every certified person whose regular duties require him to inspect working places in any mine for hazardous conditions shall have in his possession and shall use, when underground, a permissible methane detector or other permissible device capable of detecting methane and oxygen deficiency.

B. A sufficient number of permissible methane detectors or other permissible devices capable of detecting methane shall be kept at each mine in by the last open crosscut. Every miner shall be trained in the operation of such devices. Every miner working in by the last open crosscut shall be certified by the Board of Coal Mining Examiners pursuant to § 45.2-520 to conduct gas testing.

C. Every methane detector shall be maintained in permissible condition. Every methane detector shall be calibrated at least monthly in accordance with the manufacturer's recommendations. A record of such calibration shall be made in a book for this purpose kept at a surface location at the mine and maintained for one year.

§ 45.2-848. Tampering with methane monitoring devices prohibited; penalty.

A. No person shall intentionally disturb, disconnect, bypass, impair, or otherwise tamper with any methane monitor or other device that is capable of detecting the presence of explosive gas and is used in an underground coal mine. If such methane monitor or device is installed on a face cutting machine, a continuous miner, longwall face equipment, a loading machine, or other mechanized equipment used to extract or load coal, as required pursuant to 30 C.F.R. Part 75.342, and such monitor, device, or equipment malfunctions, it may be disconnected or bypassed for the purpose of removing it or the equipment in order to make necessary repairs to it or the equipment. Any methane monitor or device not otherwise required by law may be disconnected, bypassed, or removed.

B. Violation of this section is a Class 6 felony.

§ 45.2-849. Allowing persons to work in mine where methane monitoring equipment disconnected; penalty.

No operator, agent, or mine foreman shall knowingly permit any miner to work in any area of an underground coal mine where such operator, agent, or mine foreman has knowledge that a methane monitor or other device capable of detecting the presence of explosive gas has been impaired, disturbed, disconnected, or bypassed in violation of § 45.2-848. Violation of this section is a Class 6 felony.

§ 45.2-850. Intentionally bypassing a safety device; prohibition.

A. No person shall intentionally bypass, bridge, or otherwise impair an electrical or hydraulic circuit that affects the safe operation of electrical or mechanical equipment.

B. The provisions of subsection A shall not prohibit (i) a certified electrical repairman from bypassing an energized circuit for troubleshooting; (ii) an authorized person from performing repairs or maintenance on equipment once the power is off and the equipment is blocked against motion, except where motion is necessary to make adjustment or to move the equipment to a safe location; (iii) an authorized person from bypassing a hydraulic circuit for the purpose of troubleshooting or moving equipment to a safe location in order to make necessary repairs or take such equipment out of service; or (iv) an authorized person from activating an override feature that is designed by the machine manufacturer to allow such machine to be moved to a safe location in order to undergo necessary repairs or be taken out of service.

§ 45.2-851. Control of coal dust.

A. Coal dust shall not be permitted to accumulate excessively in any part of the active areas, including any active workings that are soon to be worked-out.

B. Where an underground mining operation creates or raises an excessive amount of coal dust into the air, any coal dust on the ribs, roof, or floor shall undergo an application of water or water with a wetting agent added to it or another effective method, approved by the Chief or his authorized representative, of controlling dust to reduce dispersibility and minimize the risk of explosion. Such application or method shall occur within 40 feet of any active workings or such other area as the Chief or his authorized representative requires.

§ 45.2-852. Rock dusting.

A. Every underground area of a mine, except an area in which the coal dust is too wet or too high in incombustible content to propagate an explosion, shall be rock-dusted to within 40 feet of every working face, unless such area is inaccessible or unsafe to enter or unless the Chief or his authorized representative permits an exception upon his finding that such exception does not pose a hazard to any miner. Every crosscut that is less than 40 feet from a working face shall also be rock-dusted.

B. Every other area of a mine shall be rock-dusted if conditions are found by a proper inspection to be so dusty as to constitute a hazard. If such conditions are found to exist, the Chief or his authorized representative shall require the necessary rock dusting to make every such area of the mine safe.

C. Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible material, shall be cleaned up and shall not be permitted to accumulate excessively in active workings or on electric equipment therein.

Article 5.

Personal Safety; Smoking.

§ 45.2-853. Checking system; tracking system.

A. Each mine shall have a personnel checking system that includes the following requirements:

1. Every person underground shall have on his person a means of positive identification bearing a number recorded by the operator; and

2. An accurate record of the persons in the mine shall be kept on the surface in a place that will not be affected by an explosion. Such record shall consist of a written record, check board, lamp check, or time-clock record and shall bear a number identical to that carried by the person underground.

B. Any mine-wide tracking system shall be maintained in usable and operative condition.

§ 45.2-854. Protective clothing.

A. Every miner shall wear a protective hat while underground and while in any area on the surface where there is a danger of injury from falling objects.

B. Every person assigned to or performing duties on the surface of an underground coal mine, or any person entering the underground portion of such mine, shall wear reflective materials adequate to make him visible from all sides. Such reflective material shall be placed on a hard hat and at least one other item of outer clothing such as a belt, suspenders, jacket, coat, coveralls, shirt, pants, or vest.

C. Protective footwear shall be worn by each miner while on duty in or around a mine where falling objects may cause injury.

D. Every employee inside or outside of a mine shall wear an approved type of goggles or shields where there is a hazard from flying particles.

E. Every welder and helper shall use proper goggles or shields to protect his eyes.

F. Any miner engaged in haulage operations or employed around moving equipment on the surface or underground shall wear snug-fitting clothing.

G. Every employee shall wear gloves when handling material that may injure the hands or when handling energized cables. No gloves with gauntlet cuffs shall be worn around moving equipment.

H. Any miner who may be exposed for short periods to hazards from inhalation of gas, dust, fumes, or mist shall wear approved respiratory equipment. When the exposure is for a prolonged period, adequate approved measures to protect such miner or to reduce the hazard shall be taken.

§ 45.2-855. Noise levels and ear protection.

Each mine operator shall provide approved hearing protection to miners. Every miner shall wear approved hearing protection in any area of excess noise levels in accordance with the mine's hearing conservation program approved under 30 C.F.R. Part 62.

§ 45.2-856. Smoking materials prohibited; penalty.

A. No miner or other person shall smoke or carry or possess underground any smoker's articles or any match, lighter, or similar material generally used for igniting smoker's articles. Violation of this subsection is a Class 6 felony.

B. Each operator shall institute a smoker search program, approved by the Chief, to ensure that no person entering the underground area of the mine carries any smoking material, match, or lighter.

C. Any person entering or present in any underground area of a coal mine shall, by his entry into such underground area of the mine, be subject to a search of his person, including any personal property that is in any underground area of the mine at any time he is underground. Such search shall be conducted at the direction of the Chief by employees of the Department. It shall be limited in scope to the person and property of the person present underground at the time of the search and shall be for the purpose of enforcing the provisions of this section.

D. This section shall not prohibit the possession of equipment used solely for the operation of a flame safety lamp or for welding or cutting.

§ 45.2-857. Allowing persons to work in a mine with smoker's articles; penalty.

A. No operator, agent, or mine foreman shall knowingly permit any person in an underground coal mine to smoke, carry, or possess any smoker's articles or materials used for igniting smoker's articles.

B. Violation of this section is a Class 6 felony.

§ 45.2-858. Posting of notice.

The operator or his agent shall display, in bold-faced type, on a sign placed at the mine office, bath house, and on a bulletin board at the mine site, the following notice:

NOTICE:

IT IS UNLAWFUL FOR A MINER OR OTHER PERSON IN AN UNDERGROUND COAL MINE TO SMOKE OR CARRY OR POSSESS UNDERGROUND ANY SMOKER'S ARTICLES OR MATCHES, LIGHTERS, OR SIMILAR MATERIALS GENERALLY USED FOR IGNITING SMOKER'S ARTICLES. A VIOLATION IS PUNISHABLE AS A CLASS 6 FELONY. ANY PERSON ENTERING OR PRESENT IN THE UNDERGROUND AREA OF ANY COAL MINE IS SUBJECT TO A SEARCH OF HIS PERSON AND PROPERTY BY OFFICIALS OF THE DEPARTMENT OF MINES, MINERALS AND ENERGY FOR SUCH PROHIBITED SMOKER MATERIALS AT ANY TIME WHILE UNDERGROUND.

§ 45.2-859. Smoking in surface and other areas.

A. No miner or other person shall smoke, carry, or possess any smoker's articles, or carry an open flame, in or near any magazine for the storage of explosive materials.

B. No miner or other person shall smoke in or around any oil house, tipple, or other surface area where such practice may cause a fire or explosion.

§ 45.2-860. Portable illumination.

A. For portable illumination underground, every miner shall use a permissible electric cap lamp that is worn on the person. Such requirement shall not preclude the use of any other type of permissible electric lamp, permissible flashlight, permissible safety lamp, or other permissible portable illumination device.

B. Any light bulb on an extension cable shall be guarded adequately.

Article 6.

First Aid Equipment; Medical Care; Emergency Medical Services Providers.

§ 45.2-861. First aid equipment.

Each mine shall have adequate supplies of first aid equipment as determined by the Chief. Such supplies shall be located on the surface, at the bottom of each shaft and slope, and at other strategic locations near the working faces, as the Chief prescribes. Such first aid supplies shall be encased in suitable sanitary receptacles designed to be reasonably dust-tight and moisture-proof. Such supplies shall be available for use of any person employed in the mine. No first aid material shall be removed or diverted without authorization except in case of injury at the mine.

§ 45.2-862. Attention to injured persons.

A. When an injury occurs underground, the injured person shall be brought promptly to the surface. Prompt medical attention shall be provided in the event of injury, and adequate facilities shall be made available for transporting such injured person to a hospital if necessary.

B. Safe transportation shall be provided to carry an injured person from the site where the injury occurred to the surface of the mine.

C. The operator of each mine shall post directional signs that are conspicuously located to identify the routes of ingress to and egress from any mine located off of a public road.

§ 45.2-863. Certified emergency medical services providers.

A. At each mine, the mine operator shall station at least one person who is a working coal miner and who holds a valid certificate as an emergency medical services provider issued pursuant to § 32.1-111.5 so as to make such person available for duty during any time when miners are working at such mine. Such operator shall utilize enough such providers to assure that workers in any mine location can be reached by a provider within a reasonable time as determined by the Chief. Each provider shall have available to him at all times the necessary equipment, as specified by the Chief, for prompt response to emergencies. Telephone facilities or their equivalent shall be installed to provide two-way voice communication between such provider and medical personnel outside the mine.

B. If an insufficient number of qualified miners at a particular mine volunteer to serve as providers pursuant to this section, the operator may utilize the services of first aid trainees, in such numbers as the Chief determines to be appropriate.

PART C.
SURFACE COAL MINES.
CHAPTER 9.
REQUIREMENTS APPLICABLE TO SURFACE COAL MINES.
Article 1.
General Provisions.

§ 45.2-900. Scope of chapter.

This chapter applies to the operation of any surface coal mine in the Commonwealth and supplements the provisions of Chapter 5 (§ 45.2-500 et seq.).

§ 45.2-901. Regulations governing conditions and practices at surface coal mines.

A. The Chief may, after consultation with the Virginia Coal Mine Safety Board and in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), adopt regulations necessary to ensure safe and healthy working conditions in surface coal mines in the Commonwealth. Such regulations governing surface coal mines shall relate to:

1. Safety and health standards for the protection of the life, health, and property of, and the prevention of injuries to, persons involved in or likely to be affected by any surface coal mining. Such regulations shall include standards for the control of dust concentration levels; the installation, maintenance, and use of electrical devices, equipment, cables, and wires; fire protection; the use and storage of explosives; hoistings; drilling; loading and haulage areas; the training of surface miners; the preparation of responses to emergencies; examinations of conditions at a surface mine site; and reporting requirements;

2. The storage or disposal of any matter or material that is (i) extracted or disturbed as the result of a surface coal mining operation or (ii) used in the surface coal mining operation or for the refinement or preparation of the material that is extracted from the surface coal mining operation, so that such matter or material does not threaten the health, safety, or property of miners or the general public; and

3. The operation, inspection, operating condition, and movement of drilling equipment and machines to protect the health, safety, and property of miners and the general public.

B. The Chief shall adopt no regulation establishing a requirement for the operation of, or for conditions at, a surface coal mine that is inconsistent with any requirement established by the Act.

§ 45.2-902. Standards for regulations.

In adopting regulations pursuant to § 45.2-901, the Chief shall consider:

1. Standards utilized and generally recognized by the surface coal mining industry;

2. Standards established by recognized professional coal mining organizations and groups;

3. Standards established by federal mine safety laws;

4. Research, demonstrations, experiments, and such other information that is available regarding the maintenance of the highest degree of safety protection, including the latest available scientific data in the field, the technical feasibility of the standards, and the experience gained under the Act and other mine safety laws; and

5. Such other criteria necessary for the protection of the safety and health of miners and other persons or property likely to be affected by surface coal mines or related operations.

Article 2.

Work Area Examinations, Recordkeeping, and Reporting.

§ 45.2-903. Safety examinations.

A. An on-shift examination of the work area, including any pit, auger, thin seam, or highwall operation, shall be conducted by a certified person for each production shift and at such other times or frequency as the Chief designates as necessary for hazardous conditions.

B. A pre-operational examination of all mobile equipment shall be conducted by an authorized person.

C. A pre-shift examination shall be conducted by a certified person for certain hazardous conditions designated by the Chief.

D. Each mine refuse pile, as defined in § 45.2-617, shall be examined by an authorized person on each day on which any person works at such location.

E. The location of each natural gas pipeline on a permitted surface mine area shall be identified and conspicuously marked so that equipment operators can readily identify the location of such pipeline. A pre-shift examination shall be conducted of the location of each pipeline whenever the work area approaches within 500 feet of such pipeline unless otherwise approved by the Chief.

F. An air quality examination shall be conducted by a certified person when a surface coal mining operation intersects an underground mine, auger hole, or other underground working.

G. At least one examination for methane shall be conducted for each production shift in each surface installation, enclosure, or other facility in which coal is handled or stored. Each such area shall also be tested for methane before any activity involving welding, cutting, or an open flame. An examination conducted pursuant to this subsection shall be made by an authorized person certified to make gas tests.

H. Electrical equipment and wiring shall be inspected as often as necessary but at least once per month.

I. Each fire extinguisher shall be examined at least once every six months.

J. Each area of an inactive surface coal mine shall be examined for hazardous conditions by a mine foreman immediately before any miner is permitted to enter into such area to take emergency actions to preserve a mine.

§ 45.2-904. Records of examinations.

A. Documentation of examinations and testing conducted pursuant to § 45.2-903 shall be recorded in a mine record book provided for that purpose. Documentation shall include records of hazardous conditions found in the work area. However, examinations of fire extinguishers shall be conducted by an authorized person and documentation shall be accomplished by recording the date of the examination on a permanent tag attached to each extinguisher.

B. The actual methane readings taken during examinations required under the Act shall be recorded in the mine record book.

C. The surface foreman shall maintain and sign a daily record book. Where any such report discloses a hazardous condition, the surface foreman shall take prompt action to have such condition corrected, barricaded, or posted with warning signs.

D. Each record shall be countersigned by the supervisor of the examiner creating the record. Where such record discloses a hazardous condition, the countersigning of the record shall be performed no later than the end of the next regularly scheduled working shift following the shift for which the examination record was completed, and the person countersigning shall ensure that actions to eliminate or control the hazardous condition have been taken. Where such record does not disclose a hazardous condition, the countersigning shall be completed within 24 hours following the end of the shift for which the examination record was completed. The operator may authorize another person who has authority equivalent to that of the supervisor to act in the supervisor's temporary absence to read and countersign records and ensure that action is taken to eliminate any hazardous condition disclosed in a record.

E. All records of inspections shall be open for inspection by any interested person and maintained at the mine site for a minimum of one year.

§ 45.2-905. Areas with safety or health hazards; duties of surface mine foreman.

A. Any hazardous condition shall be corrected promptly or the affected area shall be barricaded or posted with warning signs specifying the hazard and proper safety procedures. Any imminent danger that cannot be removed within a reasonable time shall be reported to the Chief by the quickest available means.

B. The surface mine foreman shall see that the requirements of the Act pertaining to his duties and to the health and safety of the miners are fully complied with at all times.

C. The surface mine foreman shall see that every miner employed to work at the mine, before beginning work therein, is aware of any hazardous condition incident to his work at the mine.

Article 3.

Personal Protection.

§ 45.2-906. Personal protection devices and practices.

A. Every person at a surface coal mine shall wear the following protection in the specified conditions:

- 1. A hard hat in and around any area of a mine where falling objects could cause injury.*
- 2. Hard-toed footwear in and around a mine.*
- 3. Safety goggles or a shield where there is a hazard of flying material.*
- 4. A protective shield or goggles when welding.*
- 5. Snug-fitting clothes when working around moving parts or machinery.*
- 6. Gloves where the hands could be injured. Gauntlet cuffed gloves are prohibited around moving machinery.*

B. The operator shall supply ear protection to any miner upon request.

C. Every person assigned to or performing duties at a surface mine work area shall wear reflective material adequate to make the person visible from all sides. Such reflective material shall be placed on the hard hat and at least one other item of outer clothing, such as a belt, suspenders, a jacket, a coat, coveralls, a shirt, pants, or a vest.

§ 45.2-907. Housekeeping.

A. Good housekeeping shall be practiced in and around every building, shaft, slope, yard, or other area of the mine. Such practices include cleanliness, orderly storage of materials, and the removal of possible sources of injury, such as stumbling hazards, protruding nails, broken glass, and material that could fall or roll.

B. Every surface mine structure, enclosure, or other facility shall be maintained in a safe condition.

§ 45.2-908. Noxious fumes.

Painting or any operation that creates noxious fumes shall be performed only in a well-ventilated atmosphere.

Article 4.

First Aid Equipment; Medical Care; Emergency Medical Services Providers.

§ 45.2-909. First aid equipment.

Every surface coal mine shall have adequate supplies of first aid equipment as determined by the Chief. Such supplies shall be located at strategic locations at the mine site so as to be available in a reasonable response time. Such supplies shall be encased in suitable sanitary receptacles designed to be reasonably dust-tight and moisture proof. In addition to the supplies in the receptacles, blankets, splints, and properly constructed stretchers in good condition shall be provided at every mine. All of the first aid supplies shall be available for use by any person employed at the mine. No first aid supplies shall be removed or diverted without authorization except in case of injury at the mine.

§ 45.2-910. First aid training.

A. Each surface foreman shall complete and pass a first aid course of study as prescribed by the Chief. The Chief may utilize the Department's educational and training facilities in the conduct of such training programs and may require the cooperation of mine operators in making such programs available to their employees.

B. Each operator of a surface coal mine shall make first aid training, including refresher training, available upon request to every miner employed at such mine.

§ 45.2-911. Attention to injured persons.

A. Prompt medical attention shall be provided in the event of an injury, and adequate facilities shall be made available for transporting injured persons to a hospital where necessary.

B. Safe transportation shall be provided to move injured persons from the site where the injury occurred to an area that is accessible to emergency transportation.

C. The operator of each mine shall post directional signs that are conspicuously located to identify each route of ingress to and egress from any mine located off of a public road.

Article 5.

Fire Prevention and Fire Control.

§ 45.2-912. Firefighting equipment; duties in case of fire; fire precaution in transportation of mining equipment; fire prevention generally.

A. Each mine shall be provided with suitable firefighting equipment that is adequate for the size of the mine and includes at least three 20-pound dry chemical fire extinguishers. Equipment and devices used for the detection, warning, and extinguishing of fires shall be suitable in type, size, and quantity for the type of fire hazard that could be encountered. Such equipment and devices shall be strategically located and plainly identified.

B. Suitable fire extinguishers shall be provided at or on each (i) electrical station, such as a substation, transformer station, or permanent pump station; (ii) piece of self-propelled mobile equipment; (iii) belt head; (iv) area used for the storage of flammable materials; (v) fueling station; and (vi) other area that could constitute a fire hazard. Such fire extinguishers shall be placed so as to be out of the smoke in case of a fire.

§ 45.2-913. Duties in case of fire.

A. If a fire occurs, the person discovering it and any other person in the vicinity of the fire shall make a prompt effort to extinguish it. When a fire that could endanger persons at the mine cannot be extinguished immediately, all persons shall be withdrawn promptly from the area of the fire.

B. In case of any unplanned fire at or about a mine that is not extinguished within 30 minutes of discovery, the operator or agent shall report the fire to the Chief by the quickest available means, giving all information known to the operator or agent regarding the fire. The Chief shall take prompt action and decide whether to go in person or dispatch qualified subordinates to the scene of the fire for consultation and assistance in the extinguishing of the fire and the protection of exposed persons. In the event of a difference of opinion as to measures required, the decision of the Chief or his designated subordinate shall be final, but such decision shall be given to the operator in writing in order to have the force of an order.

§ 45.2-914. Fire precautions.

A. An examination for fire shall be made after every blasting operation.

B. No person shall smoke or use an open flame within 25 feet of any location used to handle or store flammable or combustible liquids or where an arc or flame could cause a fire or explosion.

C. Any area surrounding a flammable liquid storage tank or electrical substation or transformer shall be kept free of combustible material for at least 25 feet in every direction. Each such storage tank, substation, or transformer shall be posted with readily visible fire hazard warning signs.

D. Any structure or area used for storage of flammable materials shall be constructed of fire resistant material; kept well-ventilated, clean, and orderly; and posted with readily visible fire hazard warning signs.

E. Every fuel line shall be equipped with a shut-off valve at its source. Each such valve shall be readily accessible and maintained in good operating condition.

F. Every battery charging area shall be well-ventilated and posted with warning signs prohibiting smoking or open flames within 25 feet.

G. Oil, grease, flammable hydraulic fluid, and other flammable materials shall be kept in closed metal containers and separated from other materials so as to not create a fire hazard.

H. Combustible materials, grease, lubricants, paints, and other flammable materials and liquids shall not be allowed to accumulate where they could create a fire hazard. Provision shall be made to prevent the accumulation of such material on any equipment, at any storage area, and at any location where the material is used.

I. Electric motors, switches, lighting fixtures, and controls shall be protected by dust-tight construction.

J. Precautions shall be taken to ensure that no spark or other hot material results in a fire when welding or cutting. No welding or cutting with an arc or flame shall be done in any excessively dusty atmosphere or location. Firefighting apparatus shall be readily available when welding or cutting is performed.

K. Precautions shall be taken before applying heat, cutting, or welding on any pipe or container that has contained a flammable or combustible material.

L. Every oxygen or acetylene bottle shall be (i) stored in a rack constructed and designated for the storage of such bottles with their caps in place and (ii) secured when not in use. Such bottles shall not be stored near oil, grease, or other flammable material.

M. Every oxygen and acetylene gauge and regulator shall be kept clean and free of oil, grease, and other combustible materials.

N. Every belt conveyor shall be equipped with a control switch to automatically stop the driving motor of the conveyor in the event that the belt is stopped by slipping on the driving pulley as a result of breakage or other accident.

O. The area surrounding every main fan installation or other mine opening shall be kept free from grass, weeds, underbrush, and other combustible materials for 25 feet in every direction.

P. Every internal combustion engine, except a diesel engine, shall be shut off prior to fueling.

Article 6.

Surface Equipment.

§ 45.2-915. Haulage and mobile equipment; operating condition.

A. All mobile equipment shall be maintained in a safe operating condition.

B. Positive-acting stopblocks shall be used where necessary to protect persons from the danger of moving or runaway haulage equipment.

C. Where it is necessary for persons to cross conveyors regularly, suitable crossing facilities shall be provided.

D. No person shall get on or off moving equipment.

E. When the equipment operator is present, any person getting on or off mobile equipment shall notify the operator before doing so.

F. Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall either be blocked or turned in to a bank unless the lowering of the bucket or blade to the ground will prevent movement and such bucket or blade is lowered.

G. No person shall work on or from a piece of mobile equipment in a raised position unless the equipment is specifically designed to lift a person.

H. Water, debris, or spilled materials that could create a hazard to moving equipment shall be removed.

I. Where seating facilities are provided on self-propelled mobile equipment, the operator shall be seated before such equipment is moved. No person shall be allowed to ride on top of self-propelled mobile equipment.

J. The operator of a piece of self-propelled haulage equipment shall sound a warning before he starts such equipment and as he approaches any place where a person is or is likely to be.

K. Each mantrip shall be operated independently under the charge of an authorized person.

L. Each mantrip shall be maintained in safe operating condition. Mantrips shall be provided in sufficient number to prevent any mantrip from becoming overloaded.

M. No employee shall board or leave a moving mantrip. Each employee shall remain seated while in a moving car and shall proceed in an orderly manner to and from a mantrip.

§ 45.2-916. Equipment operation.

A. Equipment operating speeds, conditions, and characteristics shall be prudent and consistent with the conditions of the roadway, grade, clearance, visibility, and traffic and the type and use of equipment.

B. Any vehicle that follows another vehicle shall do so at a safe distance; passing shall be limited to areas of adequate clearance and visibility.

C. Mobile equipment shall be operated under power control at all times and each mobile equipment operator shall have full control of the equipment while in motion.

D. Before starting or moving equipment, an equipment operator shall be certain by signal or other means that all persons are clear.

§ 45.2-917. Safety measures on equipment.

A. Every rubber-tired or crawler-mounted piece of equipment shall have a rollover protective structure to the extent required by 30 C.F.R. § 77.403-1.

B. Each seat belt provided in mobile equipment shall be maintained in safe working condition. Every operator of such equipment shall wear a seat belt when the equipment is in motion.

C. Mobile equipment shall be equipped with adequate brakes and parking brakes.

D. Cab windows shall be of safe design, kept in good condition, and clean for adequate visibility.

E. Any tire shall be deflated before any repair on it is started, and adequate means shall be provided to prevent wheel-locking rims from creating a hazard during tire inflation.

F. An audible warning device and headlights shall be provided on each piece of self-propelled mobile equipment.

G. An automatic backup alarm that is audible above surrounding noise levels shall be provided on each piece of mobile equipment. An automatic reverse-activated strobe light may be substituted for an audible alarm when mobile equipment is operated at night.

H. Each piece of equipment that is raised for repairs or other work shall be securely blocked before any person positions himself where the falling of such equipment could create a hazardous condition.

§ 45.2-918. Transportation of personnel.

No person shall be permitted to ride or otherwise be transported (i) on or in a dipper, shovel, bucket, fork, or clamshell; (ii) on or in the cargo space of a dump truck; (iii) outside the cab or bed of a piece of heavy equipment; or (iv) on or in a chain, belt, or bucket conveyor, unless the item described in clauses (i) through (iv) is specifically designed to transport persons.

§ 45.2-919. Lighting.

A. Lights shall be provided on or in surface structures as needed.

B. Roads, paths, and walks outside of surface structures shall be kept free from obstructions and shall be well-illuminated if used at night.

§ 45.2-920. Shop and other equipment.

A. The following shall be guarded and maintained adequately:

1. Gears, sprockets, pulleys, fan blades or propellers, friction devices, and couplings with protruding bolts or nuts.

2. Shafting and projecting shaft ends that are within seven feet of the floor or the platform level.

3. Belt, chain, or rope drives that are within seven feet of the floor or the platform.

4. Fly wheels. Any fly wheel that extends more than seven feet above the floor shall be guarded to a height of at least seven feet.

5. Circular and band saws and planers.

6. Repair pits. Guards shall be kept in place when a pit is not in use.

7. Counterweights.

8. Mine fans. The approach to any mine fan shall be guarded.

9. Lighting and other electrical equipment that could create a shock hazard or cause personal injury.

B. No machinery shall be repaired or oiled while in motion unless a safe remote oiling device is used.

C. A guard or safety device that is removed from any machine shall be replaced before the machine is put in operation.

D. Every mechanically operated grinding wheel shall be equipped with:

1. Safety washers and tool rests;

2. A substantial retaining hood, the hood opening of which shall not expose more than a 90-degree sector of the wheel. Each such hood shall include a device to control and collect excess rock, metal, or dust particles. If no such device is provided, equivalent protection shall be provided to each employee operating such machinery; and

3. Eyeshields, unless goggles are worn by the operator.

E. The operator or his agent shall develop proper procedures for examining for potential hazards, completing maintenance, and operating each type of centrifugal pump. The procedures shall, at a minimum, address the manufacturers' recommendations for start-up and shutdown of each type of pump, the proper actions to be taken when a pump is suspected of overheating, the safe location of start and stop switches, and the actions to be taken when signs of structural metal fatigue, such as cracks in the frame, damaged cover mounting brackets, or missing bolts or other components, are detected. Every miner who repairs, maintains, or operates any such pump shall be trained in these procedures.

§ 45.2-921. Hydraulic hoses.

Every hydraulic hose that is used on equipment shall have the hydraulic hose manufacturer's rated pressure in pounds per square inch (psi) permanently affixed on the outer surface of the hose and repeated at least every two feet. Every hose installed on an automatic displacement hydraulic system shall either (i) have a four-to-one safety factor based on the ratio between minimum burst pressure and the setting of the hydraulic unloading system, such as a relief valve, or (ii) meet the minimum hose pressure requirements set by the hydraulic equipment manufacturer per the applicable hose standards for each type of equipment. No hydraulic hose shall be used in an application where the hydraulic unloading system is set higher than the hose's rated pressure.

*Article 7.**Travel Ways and Loading and Haulage Areas.***§ 45.2-922. Stairways, platforms, runways, and floor openings.**

A. Stairways, platforms, and runways shall be provided where persons work or travel.

B. Stairways, elevated platforms, elevated runways, and floor openings shall be equipped with suitable handrails or guardrails.

C. Stairways, elevated platforms, runways, and floor openings shall be provided with toe boards. Stairways, platforms, and runways shall be kept clear of stumbling and slipping hazards and shall be maintained in good repair.

§ 45.2-923. Loading and haulage work area requirements.

A. Every ramp or dump shall be of solid construction, ample width, and ample clearance, and headroom shall be kept reasonably free of spillage.

B. Berms or guards shall be provided on the outer bank of every elevated haulage road. Every berm shall be constructed of substantial material to the mid-axle height of the largest vehicle regularly used on such haulage road. The width and height of the berm shall be constructed on a two-to-one ratio when it is constructed of unconsolidated material. Other equally effective and appropriate methods may be used for berms.

C. Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel and overturning at dumping stations.

D. Dumping locations and haulage roads shall be kept reasonably free of water, debris, and spillage. Water, debris, or spilled material that creates a hazard to moving equipment shall be removed.

E. Every haulage road constructed on or after July 1, 2005, shall be constructed at least one and one-half times the width of the widest equipment in use, and any haulage road that is used for passing shall be constructed at least three times the width of the widest equipment in use. In any area in which it is not possible to construct the haulage road to at least the applicable minimum width, the foreman shall establish procedures for safe travel of haulage vehicles.

F. Traffic rules, signals, and warning signs shall be standardized at each mine and shall be posted. Such rules, signals, and signs shall include rules for the travel of on-road vehicles operating near off-road haulers in work areas.

G. Every dumping station at which material is dumped over an embankment shall be designed to minimize backing and, where conditions permit, to provide for perpendicular travel to allow the equipment operator to observe the dumping station for changing conditions prior to backing. Reflectorized signs, strobe lights, or other available means shall be used to clearly indicate each dumping location. This subsection shall not apply to a dumping station (i) that is moved after each dumped load as mining progresses, (ii) where spotters are being used, or (iii) where loads are dumped short and pushed over the embankment. Any dumping station that could interfere with a haulage road or work area below shall be clearly marked with signs to prevent further dumping, unless other effective precautions are taken to protect such haulage road or work area below the dump station.

§ 45.2-924. Equipment operation.

A. If a truck spotter is used, he shall be well in the clear while any truck is backing into dumping position and dumping. Every truck spotter shall use lights at night to direct backing and dumping operations.

B. Every dipper, bucket, scraper blade, or similar movable part shall be secured or lowered to the ground when not in use.

C. Equipment that is to be hauled shall be loaded and protected so as to prevent sliding or spillage. When moving between work areas, the equipment shall be secured in the travel position.

D. Tow bars shall be used to tow heavy equipment and a safety chain shall be used in conjunction with each tow bar.

E. Dust control measures shall be taken so as to prevent the obstruction of visibility of any equipment operator.

F. No dipper, bucket, loading boom, or other heavy load shall be swung over the cab of haulage equipment until the driver is out of the cab and in a safe location, unless the equipment is designed specifically to protect the driver from falling material.

G. Lights, flares, or other warning devices shall be posted when parked equipment creates a hazard for other vehicles.

Article 8.

Dust Control.

§ 45.2-925. Control of dust and combustible material.

A. Where a surface coal mining operation raises an excessive amount of dust into the air, such dust shall be allayed at its sources by the use of water, water with a wetting agent added to it, or another effective method.

B. Drilling in rock shall be done wet or other means of dust control shall be used.

C. Loose coal, coal dust, oil, grease, or other combustible materials shall not be permitted to accumulate excessively on equipment or surface structures.

Article 9.

Electricity.

§ 45.2-926. Overhead high-potential power lines; surface transmission lines; electric wiring in surface buildings.

A. Overhead high-potential power lines shall be (i) placed at least 15 feet above the ground and 20 feet above any driveway or haulage road, (ii) installed on insulators, and (iii) supported and guarded to prevent contact with other circuits.

B. Surface transmission lines shall be protected against short circuits and lightning.

C. Electric wiring in surface buildings shall be installed so as to prevent fire and contact hazards.

§ 45.2-927. Transformers.

A. Unless a surface transformer is isolated by elevation to a height of eight feet or more above the ground, it shall be enclosed in a transformer house or surrounded by a suitable fence at least six feet high. If the enclosure or fence is made of metal, such enclosure or fence shall be grounded effectively. The gate or door to the enclosure shall be kept locked at all times unless an authorized person is present.

B. Any surface transformer that contains flammable oil and is installed where it presents a fire hazard shall be provided with a means to drain or confine the oil in the event of a rupture of the transformer casing.

C. Suitable warning signs shall be posted conspicuously at every transformer station on the surface.

D. Every transformer station on the surface shall be kept free of nonessential combustible materials and refuse.

E. No electrical work shall be performed on any low-voltage, medium-voltage, or high-voltage distribution circuit or equipment except by (i) a certified person or (ii) a person who is trained to perform electrical work and to maintain electrical equipment and who is working under the direct supervision of a certified person. Every high-voltage circuit shall be grounded before repair work is performed. Disconnecting devices shall be locked out and suitably tagged by the person who performs electrical or mechanical work on such a circuit or on any equipment connected to the circuit. However, in a case in which such locking out is not possible, such devices shall be opened and suitably tagged by such person. Each lock and tag shall be removed only by the person who installed it or, if such person is unavailable, by a certified person who is authorized by the operator or his agent. However, an employee may, where necessary, repair energized trolley wires if he wears insulated shoes and lineman's gloves.

F. This section does not prohibit a certified electrical repairman from making checks on or troubleshooting an energized circuit or an authorized person from performing repairs or maintenance on equipment once the power is off and the equipment is blocked against motion, except where motion is necessary to make adjustments.

§ 45.2-928. Grounding.

A. Every metallic sheath, armor, or conduit enclosing a power conductor shall be electrically continuous throughout and shall be grounded effectively.

B. Every metallic frame, casing, or other enclosure of stationary electric equipment that can become electrified through failure of insulation or by contact with energized parts shall be grounded effectively, or equivalent protection shall be provided.

C. When electric equipment is operated from a three-phase alternating current circuit originating in a transformer that is connected to provide a neutral point, a continuous grounding conductor of adequate size shall be installed and connected to the neutral point and to the frame of the power-utilizing equipment. Such grounding conductor shall be grounded at the neutral point and at intervals along the conductor, if feasible. A suitable circuit breaker or switching device shall be provided having a ground-trip coil connected in series with the grounding conductor to provide effective ground-fault tripping.

§ 45.2-929. Circuit breakers and switches.

A. An automatic circuit breaking device or fuse of the correct type and capacity shall be installed so as to protect each piece of electric equipment and power circuit against excessive overload. Wire or another conducting material shall not be used as a substitute for a properly designed fuse, and every circuit breaking device shall be maintained in safe operating condition.

B. Operating controls, such as switches, starters, or switch buttons, shall be so installed that they are readily accessible and can be operated without danger of contact with moving or live parts.

C. Electric equipment and circuits shall be provided with switches or other controls of safe design, construction, and installation.

D. An insulating mat or other electrically nonconductive material shall be kept in place at each power-control switch and at stationary machinery where a shock hazard exists.

E. Suitable warning signs shall be posted conspicuously at every high-voltage installation.

F. Every power wire or cable shall have adequate current-carrying capacity, be guarded from mechanical injury, and be installed in a permanent manner.

G. Every power circuit shall be labeled to indicate the unit or circuit that it controls.

H. All persons shall stay clear of any electrically powered shovel or other similar heavy equipment during an electrical storm.

I. Every device that is installed on or after July 1, 2005, that provides either short circuit protection or protection against overload shall conform to the minimum requirements for protection of electric circuits and equipment of the National Electrical Code in effect at the time of its installation.

J. Every electric conductor installed on or after July 1, 2005, shall be sufficient in size to meet the minimum current-carrying capacity provided for in the National Electrical Code in effect at the time of its installation.

K. Every trailing cable purchased on or after July 1, 2005, shall meet the minimum requirements for ampacity provided in the standards of the Insulated Cable Engineers Association/National Electrical Manufacturers Association in effect at the time such cable is purchased.

§ 45.2-930. Electrical trailing cables.

A. Every trailing cable shall be provided with suitable short-circuit protection and a means of disconnecting power from the cable.

B. Any temporary splice in a trailing cable shall be made in a workmanlike manner and shall be mechanically strong and well-insulated.

C. The number of temporary, unvulcanized splices in a trailing cable shall be limited to one.

D. Every permanent splice in a trailing cable shall be made mechanically strong, with adequate electrical conductivity and flexibility, and shall be effectively insulated and sealed so as to exclude moisture. The finished splice shall be vulcanized or otherwise treated with suitable materials to provide flame-resistant properties and good bonding to the outer jacket.

E. Every trailing cable shall be protected against mechanical injury.

Article 10.

Explosives and Blasting.

§ 45.2-931. Surface storage of explosives and detonators.

A. Two or more surface magazines shall be provided for the storage of explosives and the separate storage of detonators.

B. Every surface magazine for storing and distributing explosives in an amount exceeding 150 pounds shall be:

1. Reasonably bullet-resistant and constructed of incombustible material or covered with fire-resistant material. The roof of a magazine that is located in such a way as to make it impossible to fire a bullet directly through the roof from the ground need not be bullet-resistant. Where it is possible to fire a bullet directly through a roof from the ground, such roof shall be made bullet-resistant by material construction, by the use of a ceiling that forms a tray containing not less than a four-inch thickness of sand, or by another method;

2. Provided with doors that are constructed of three-eighth-inch steel plate. Such doors shall be lined with a two-inch thickness of wood or the equivalent;

3. Provided with dry floors made of wood or other nonsparking material and have no metal exposed inside the magazine;

4. Provided with suitable warning signs located so that a bullet passing directly through the face of a sign will not strike the magazine;

5. Provided with properly screened ventilators;
6. Equipped with no openings except for entrance and ventilation openings;
7. Kept locked securely when unattended; and
8. Electrically bonded and grounded if constructed of metal.

C. A surface magazine for storing detonators need not be bullet-resistant, but it shall comply with other provisions for storing explosives.

D. Explosives weighing a total of no more than 150 pounds, or detonators numbering 5,000 or fewer, shall be stored either (i) in accordance with the standards set forth in subsection A, B, or C or (ii) in a separate locked box-type magazine. A box-type magazine may also be used as a distributing magazine when the weight of the explosives or the number of detonators does not exceed the limits set forth in this subsection. Every box-type magazine shall be strongly constructed of two-inch hardwood or the equivalent. Every metal magazine shall be lined with nonsparking material. No magazine shall be placed (a) in a building containing oil, grease, gasoline, wastepaper, or other highly flammable material or (b) within 20 feet of a stove, furnace, open fire, or flame.

E. No magazine shall be placed less than 300 feet from any mine opening. However, if a magazine cannot be practicably located at such a distance, it may be located less than 300 feet from a mine opening if it is sufficiently barricaded and is approved by the Chief. Unless approved by the Chief, no magazine shall be located closer to an occupied building, public road, or passenger railway than the distance recommended in the "American Table of Distances for Storage of Explosive Materials" published by the Institute of Makers of Explosives.

F. The supply kept in a distribution magazine shall be limited to approximately a 48-hour supply, and supplies of explosives and detonators may be distributed from the same magazine if they are separated by a substantially fastened hardwood partition at least four inches thick or the equivalent.

G. The area surrounding any magazine shall be kept free of rubbish, dry grass, or other materials of a combustible nature for at least 25 feet in every direction.

H. If an explosives magazine is illuminated electrically, each lamp shall be of vapor-proof type and installed and wired so as to present a minimal fire or contact hazard.

I. Only nonmetallic tools shall be used for opening any wooden explosives container. Extraneous materials shall not be stored with explosives or detonators in an explosives magazine.

J. Smoking or carrying smokers' articles or open flames is prohibited in or near any magazine.

§ 45.2-932. Misfires.

A. Every misfire shall be reported promptly to the mine foreman, and no other work shall be performed in the blasting area until the hazard has been corrected. A waiting period of at least 15 minutes is required before anyone is allowed to any misfired hole. If explosives are suspected of burning in a hole, every person affected shall move to a safe location for one hour or until the danger has passed, whichever time is longer. When such failure involves an electronic detonator, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before any electrical connection is examined.

B. Explosives shall be removed by (i) firing a separate charge at least two feet away from, and parallel to, the misfired charge; (ii) washing the stemming and the charge from the borehole with water; or (iii) inserting and firing a new primer after the stemming has been washed out.

C. A careful search of the blasting area and, if necessary, of the coal after it reaches the tippel shall be made after blasting a misfired hole to recover any undetonated explosive.

D. The handling of a misfired shot shall occur under the direct supervision of the foreman or an authorized person designated by him.

§ 45.2-933. Minimum blasting practices.

A. If explosives are in use on the surface and an electrical storm approaches, all persons shall be removed from the blast area until the storm has passed.

B. In accordance with the standards set forth in § 45.2-902, the Chief shall adopt regulations regarding the safe storage, transportation, handling, and use of blasting agents and other explosives.

Article II.

Ground Control.

§ 45.2-934. Ground control.

A. Every surface coal mining operation shall establish and follow a ground control plan approved by the Chief to ensure the safety of workers and others affected by the operation. The ground control plan shall be consistent with prudent engineering design. Mining methods, including benching, shall ensure wall and bank stability in order to obtain a safe overall slope. The ground control plan shall also ensure the safety of every person who is (i) located in a residence or other occupied building; (ii) working or traveling on any roadway; or (iii) located in any other area where persons congregate, work, or travel that could be affected by blasting or by the falling, sliding, or other uncontrolled movement of material. The ground control plan shall identify how residents or occupants of other buildings located down the slope from active workings will be notified when ground-disturbing activities will take place above them and what actions will be taken to protect such residents or occupants from ground control failures during the work.

B. Scaling and removal of loose hazardous material from the top of a pit or from a highwall, wall, bank, or bench shall be completed to ensure a safe work area.

C. Employees and other persons, except those involved in correction of the condition, shall be restricted from any area where hazardous highwall or pit conditions exist.

D. Unless he is required for the purpose of making repairs, no person shall be allowed in any area that is located between equipment and a highwall, wall, bank, or bench if the equipment could hinder escape from falling or sliding material. Special precautions shall be taken when any person is required to perform such repairs.

Article 12.

Auger and Highwall Mining.

§ 45.2-935. Inspection of electric equipment and wiring; checking and testing methane monitors.

Electric equipment and wiring that extends to an underground area shall be inspected by a certified person at least once a week and more often if necessary to ensure safe operating conditions. Any hazardous condition found shall be corrected or the equipment or wiring shall be removed from service. Such surface inspection is also required for any trailing cable or circuit breaker used in conjunction with such equipment and wiring.

§ 45.2-936. Highwall inspections.

A. A mine foreman shall inspect the face of each highwall for a distance of 25 feet in both directions from an auger or highwall miner operation (i) before any such operation begins and at least once during each coal producing shift and (ii) frequently during any period of heavy rainfall or intermittent freezing and thawing.

B. Hazardous conditions shall be corrected and loose material removed from above the mining area before any work is begun.

C. Records shall be kept of the inspection and examination performed pursuant to subsection A. Such records shall be maintained for at least one year.

§ 45.2-937. Penetration of underground mines; testing.

A. A qualified person shall test for the presence of methane and for a deficiency of oxygen, using an approved device, at the entrance to an auger hole or at a highwall miner entry when either such entry point penetrates a worked-out area of an underground mine.

B. If one percent or more of methane is detected or 19.5 percent or less of oxygen is found to exist, no further work shall be performed until the atmosphere has been made safe.

§ 45.2-938. Safety precautions.

A. No person shall enter an auger hole or highwall miner entry without prior approval from the Chief.

B. Every auger hole or highwall miner entry shall be blocked with highwall spoil or other suitable material before it is abandoned.

C. Every auger or highwall mining machine that is exposed to any highwall or explosion hazard shall be provided with worker protection from falling material and a mine explosion.

D. At least one person shall be assigned to observe the highwall for possible movement while ground personnel are working in a high-risk area in close proximity to the highwall.

E. All persons shall stay clear of any moving auger or highwall miner train, and no person shall pass over or under a moving train unless adequate crossing facilities are provided.

F. The ground control plan shall specify any spacing of holes, web design, and use of alignment control devices.

G. The ground control plan shall include other administrative, engineering, and source controls that are to be provided for safe operations.

Article 13.

Proximity of Mining to Gas or Oil Wells or Vertical Ventilation Holes.

§ 45.2-939. Surface coal mining; distance from wells; requirements.

A. Any mine operator who plans to remove coal or extend any workings in any mine to a distance of less than 500 feet from any gas or oil well that is already drilled or is in the process of being drilled shall file with the Chief a notice that such mining is taking place or will take place, together with copies of parts of the maps and plans required under § 45.2-542 that show the mine workings and projected mine workings beneath the tract in question and within 500 feet of the well. Such mine operator shall simultaneously mail copies of such notice, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to the provisions of § 45.2-1604. The mine operator shall certify in each notice that he has complied with the provisions of this subsection.

B. Subsequent to the filing of the notice required by subsection A, the mine operator may proceed with surface coal mining operations in accordance with the maps and plans. However, without the prior approval of the Chief, such mine operator shall not remove any coal or extend any workings in any mine to a distance of less than 200 feet from any gas or oil well that is already drilled or is in the process of being drilled.

C. The Chief shall adopt regulations that prescribe the procedure to be followed by a mine operator in petitioning the Chief for approval to conduct surface coal mining operations to a distance of less than 200 feet from a well. A petition may include a request to mine through a plugged well or a plugged vertical ventilation hole. Such petition may also include a request to mine through a well or a vertical ventilation hole and to lower the head of such well or vertical ventilation hole. Each mine operator who files a petition to remove coal or extend any workings to a distance of less than 200 feet from any gas or oil well shall mail copies of the petition, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector no later than the day of filing. The well operator and the Gas and Oil Inspector

shall have standing to object to any petition filed under this section. Such objection shall be filed within 10 days following the date such petition is filed.

CHAPTER 10.

VIRGINIA COAL SURFACE MINING CONTROL AND RECLAMATION ACT OF 1979.

Article 1.

General and Administrative Provisions.

§ 45.2-1000. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Approximate original contour" means the surface configuration achieved by backfilling and grading the mined area so that the reclaimed area, including any terracing or access road, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the Director determines that they are in compliance with the applicable performance standards adopted pursuant to this chapter.

"Coal surface mining and reclamation operation" means a surface mining operation and any activity necessary and incidental to the reclamation of such operation.

"Coal surface mining operation" means:

1. Any activity conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of § 45.2-1018, any surface operation and surface impact incident to an underground coal mine, the products of which enter commerce or the operation of which directly or indirectly affects interstate commerce. Such activity includes (i) excavation for the purpose of obtaining coal, including by such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; (ii) the use of explosives and blasting; (iii) in situ distillation or retorting, leaching, or other chemical or physical processing; and (iv) the cleaning, concentrating, or other processing or preparation and loading of coal for interstate commerce at or near the mine site. However, such activity does not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to § 45.2-1008; and

2. The area upon which such activity occurs or where such activity disturbs the natural land surface. Such area includes (i) any adjacent land whose use is incidental to any such activity; (ii) all lands affected by the construction of any new road or the improvement or use of any existing road to gain access to the site of such activity and for haulage; and (iii) any excavation, workings, impoundment, dam, ventilation shaft, entryway, refuse bank, dump, stockpile, overburden pile, spoil bank, culm bank, tailings, hole or depression, repair area, storage area, processing area, shipping area, and other area upon which is sited any structure, facility, or other property or materials on the surface, resulting from or incident to such activity.

"Division" means the Division of Mined Land Reclamation.

"Federal act" means the federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 91 U.S. Stat. 445.

"Imminent danger to the health and safety of the public" means the existence in a coal surface mining and reclamation operation of any condition, practice, or violation of a permit or other requirement of this chapter that could reasonably be expected to cause substantial physical harm to a person outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of substantial physical harm, including death or serious injury, before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

"Operator" means any person engaging in a coal surface mining operation whether or not such coal is sold within the Commonwealth.

"Other minerals" means clay, stone, sand, gravel, metalliferous or nonmetalliferous ore, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and any mineral that occurs naturally in liquid or gaseous form.

"Permit" means a permit issued by the Director pursuant to state regulations.

"Permit area" means the area of land indicated on the approved map submitted by the operator with the operator's application. Such area of land shall be covered by the operator's bond as required by § 45.2-1016 and shall be readily identifiable by appropriate markers on the site.

"Permittee" means a person holding any of the following permits issued by the Director: (i) a permit for coal surface mining pursuant to § 45.2-1009, (ii) a permit for coal exploration pursuant to § 45.2-1008, or (iii) a National Pollutant Discharge Elimination System permit pursuant to § 45.2-1029.

"Person" means any individual, partnership, association, joint venture, trust, company, firm, joint stock company, corporation, other group or combination acting as a unit, or other legal entity.

"Secretary" means the U.S. Secretary of the Interior.

"State or local agency" means any department, agency, or instrumentality of the Commonwealth; public authority, municipal corporation, local governmental unit, or political subdivision of the Commonwealth; or department, agency, or instrumentality of any public authority, municipal corporation, local governmental unit, or political subdivision of the Commonwealth; or two or more of any of the aforementioned.

"State regulations" means the permanent state regulatory program established by this chapter meeting the requirements of the federal act for the regulation of coal surface mining and reclamation operations within the Commonwealth, submitted to the Secretary pursuant to § 503 of the federal act.

"Unwarranted failure to comply" means the failure of a permittee to (i) prevent the occurrence of any violation of its permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care or (ii) abate any violation of such permit or requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care.

§ 45.2-1001. Limitations of chapter.

Nothing in this chapter is intended or shall be construed to limit, impair, abridge, create, enlarge, or otherwise affect, substantially or procedurally, the rights of any person in any dispute involving property rights, including interests in water resources, or the right of any person to seek damages or other relief on account of injury to persons or property, including interests in water resources, and to maintain any action or other appropriate proceeding therefor, except as is otherwise specifically provided in this chapter. Nothing in this chapter is intended or shall be construed to affect the powers of the Commonwealth to initiate, prosecute, or maintain actions to abate public nuisances.

§ 45.2-1002. Application of chapter.

A. The provisions of this chapter shall not apply to the extraction of coal:

1. By a landowner for his own noncommercial use from land owned or leased by him; or
 2. As an incidental part of federal, state, or local government-financed highway or other construction under regulations established by the Director.

B. Any agency, unit, or instrumentality of the Commonwealth, or of federal or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government, that proposes to engage in coal surface mining operations that are subject to the requirements of this chapter shall comply with the provisions of this chapter.

§ 45.2-1003. Authority and duties of Director.

A. The authority to adopt regulations necessary to carry out the purposes and provisions of this chapter is vested in the Director. Such regulations shall be consistent with regulations adopted by the Secretary pursuant to the federal act or in conformity with any court ruling construing such act. The Director may adopt by regulation definitions other than those provided in § 45.2-1000 as necessary to carry out the intent of this chapter. Unless otherwise directed by law, in adopting regulations, the Director shall comply with the Administrative Process Act (§ 2.2-4000 et seq.) and the Virginia Register Act (§ 2.2-4100 et seq.).

B. In addition to the adoption of regulations under this chapter, the Director may issue or distribute to the public interpretative, advisory, or procedural bulletins pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). Such materials shall be clearly designated as to their nature, shall be provided solely for purposes of public information and education, and shall not have the force of regulations.

C. The authority to administer and enforce the provisions of this chapter is vested in the Director. In administering and enforcing the provisions of this chapter, the Director shall exercise the following powers in addition to any other powers conferred upon him by law:

1. To supervise the administration and enforcement of this chapter; to make investigations and inspections necessary to ensure compliance with this chapter; to conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this chapter; to issue orders and notices of violation; to review and vacate or modify or approve orders and decisions; and to order the suspension, revocation, or withholding of any permit for failure to comply with any provision of this chapter or any regulation adopted hereunder;

2. To administer the program for the purchase and reclamation of abandoned and unreclaimed mine areas pursuant to Article 4 (§ 45.2-1031 et seq.);

3. To encourage and conduct investigations, research, experiments, and demonstrations and to collect and disseminate information relating to coal surface mining and reclamation of lands and waters affected by coal surface mining;

4. To receive any federal, state, or other funds and to enter into any contracts for which funds are available to carry out the purposes of this chapter; and

5. To enter into cooperative agreements with the Secretary to regulate coal surface mining on federal lands.

D. The Division of Mined Land Reclamation shall have the responsibilities provided under this chapter and such duties and responsibilities as the Director may assign or as may be provided for in regulations adopted by the Director.

§ 45.2-1004. Training and certification of blasters.

A. In order to ensure that explosives are used only in accordance with applicable state and federal laws, the Director may adopt regulations requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or the use, storage, and handling of explosives in coal surface mining operations.

B. The Division shall assume primary responsibility for conducting the examinations and issuing the certificates for such persons in accordance with the regulations adopted pursuant to this section.

§ 45.2-1005. Conflicts of interest prohibited.

A. For the purposes of this section, "financial interest" includes a pecuniary interest accruing to an employee or to the employee's spouse, minor child, or other relative living in the same household.

B. No employee of the Department performing any function or duty under this chapter shall have a financial interest in any underground or surface coal mining operation.

C. The Director shall adopt regulations for the monitoring and enforcement of the provisions of this section, including regulations (i) for the filing and review of statements and supplements by employees concerning any financial interest that might be affected by this section; (ii) for the hiring, transfer, and removal of employees consistent with the prohibition of this section; (iii) for the resolution of prohibited interests; (iv) for the confidentiality, protection, and disclosure to enforcement authorities of reporting statements; and (v) for such exemptions from the provisions of this section as are consistent with federal law.

D. Judicial proceedings to enforce the provisions of this section may be brought by the Attorney General at the request of the Director.

E. Nothing in this section shall be construed as repealing or amending any other provision of law pertaining to conflicts of interest except that in cases of conflict, the provisions of this section shall control.

§ 45.2-1006. Resisting, etc., Director or agent of the Director; penalty.

It is a misdemeanor, punishable by a fine of not more than \$5,000, confinement in jail for not more than one year, or both, for any person, except as permitted by law, to willfully resist, prevent, impede, or interfere with the Director or any agent of the Director in the performance of duties pursuant to this chapter.

§ 45.2-1007. Coal Surface Mining Regulatory Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Coal Surface Mining Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to § 45.2-1010 or another provision of this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for administering coal surface mining state regulations. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

Article 2.

Regulation of Mining Activity.

§ 45.2-1008. Coal exploration operations.

A. Any coal exploration operation that substantially disturbs the natural land surface shall be conducted in accordance with exploration regulations adopted by the Director. Such regulations shall, at a minimum, (i) require that any person, prior to conducting any exploration under this section, file with the Director notice of intention to explore that includes a description of the exploration area and the proposed period of exploration and (ii) include provisions for the reclamation, in accordance with the performance standards established pursuant to § 45.2-1017, of all lands disturbed in exploration, including all excavations, roads, and drill holes, and for the removal of necessary facilities and equipment.

B. Information submitted to the Director pursuant to this section as confidential concerning trade secrets or privileged commercial or financial information that relates to the competitive rights of the person or entity intended to explore the described area shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be disclosed.

C. Any person who conducts any coal exploration activity that substantially disturbs the natural land surface in violation of this section or any regulation issued pursuant thereto is subject to the provisions of § 45.2-1021.

D. No person shall remove more than 250 tons of coal while engaged in a coal exploration operation without a specific written coal exploration permit issued by the Director.

§ 45.2-1009. Permit required for coal surface mining operation; term; transfer, etc.

A. No person shall engage in or carry out any coal surface mining operation without having first obtained a permit to engage in such operation issued by the Director in accordance with state regulations.

B. Each coal surface mining permit issued pursuant to the requirements of this chapter shall be for a term of five years. The rights granted under such permit shall not be transferred, assigned, or sold without the written approval of the Director in accordance with regulations adopted by the Director. The Director shall also adopt regulations meeting the requirements of § 506 of the federal act for longer permit terms, successors in interest to the permittee, termination of the permit for failure to commence operation, right of and procedure for permit renewal, and extension of boundaries of a mining operation.

§ 45.2-1010. Form and contents of permit application; fee.

A. Application for a surface mining permit shall be made to the Division in the format required by the Director and shall be signed and verified under oath by the person intending to engage in the surface mining of coal, or the person's legal representative.

B. The application shall contain the information required by regulations adopted by the Director, including the information required under the provisions of § 507(b) of the federal act.

C. To the extent that funds are available from the federal Office of Surface Mining Reclamation and Enforcement, the Director shall provide for permit application assistance to small operators as provided in § 507(c) and (h) of the federal act. Such assistance shall be provided in accordance with regulations adopted by the Director.

D. Each applicant for a permit shall be required to submit to the Division as part of the permit application an operation plan and a reclamation plan that meet the requirements of this chapter and regulations adopted by the Director.

E. Each application for a coal surface mining permit issued under this chapter shall be accompanied by a fee of \$26 per acre for the area of land to be affected by the total operation for which plans have been submitted. A payment of \$13 per acre for any area disturbed under the permit shall be payable annually on the anniversary date of the permit. All fees collected under the provisions of this section shall be paid into the Coal Surface Mining Regulatory Fund created pursuant to § 45.2-1007.

F. Each applicant for a coal surface mining permit shall file a copy of his application for public inspection at an appropriate public office approved by the Director where the mining is proposed to occur. However, information that pertains only to the analysis of the chemical and physical property of the coal, excepting information regarding such mineral or elemental content that is potentially toxic in the environment, shall be kept confidential upon request of the applicant and not made a matter of public record.

G. Each applicant for a coal surface mining permit shall submit to the Division as part of the permit application a certificate issued by an insurance company authorized to do business in the Commonwealth certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operation for which such permit is sought. Such policy shall provide for personal injury and property damage protection in an amount that is not less than that specified in regulations adopted by the Director and is adequate to compensate any person who is injured or whose property is damaged as a result of a surface coal mining and reclamation operation, including by the use of explosives, and who is entitled by law to compensation under applicable provisions of law. Such policy shall be maintained in full force and effect during the term of the permit and any renewal, including the length of all reclamation operations. The Director may adopt regulations that provide for the submission by the applicant of evidence of self-insurance, meeting the requirements of this subsection, in lieu of a certificate of a public liability insurance policy.

§ 45.2-1011. Operation and reclamation plans.

Each application for a coal surface mining permit pursuant to state regulations shall include an operation plan and a reclamation plan, in such form and containing such information as the Director requires, including the information required under § 508(a) of the federal act, and meeting the requirements of this chapter and regulations adopted by the Director. An operation plan shall not include underground workings. An operation plan and a reclamation plan, as approved by the Director, shall be integral parts of the terms and conditions of a coal surface mining permit.

§ 45.2-1012. Revision of permits.

A. The process for revision of a permit is as follows:

1. During the term of a permit, the permittee may submit an application for a revision of such permit, together with a revised operation plan and reclamation plan, to the Director:

2. An application for a revision of a permit shall not be approved unless the Director finds that reclamation as required by the federal act and state regulations can be accomplished under the revised reclamation plan. The Director shall establish by regulation the period of time within which the revision shall be approved or disapproved, as well as parameters for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply; however, any revisions that propose significant alterations in the operation plan or reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

3. Any extension to the area covered by the permit, except an insignificant boundary revision, shall be made by application for another permit.

B. The Director shall, within a time limit prescribed in regulations adopted by him, review each outstanding permit and may require reasonable revision or modification of the permit provisions during the term of any permit; however, such revision or modification shall be based upon a written finding and subject to notice and hearing requirements.

§ 45.2-1013. Approval or denial of permit.

A. Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by the federal act and pursuant to state regulations, including public notification and opportunity for public hearing, the Director shall grant, require modification of, or deny the application for a permit in a reasonable time established by regulation and shall notify the applicant in writing. The applicant shall have the burden of establishing that the application is in compliance with all of the requirements of state regulations. Within 10 days after the granting of a permit, the Director shall notify the government officials in the county or city in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

B. No permit or revision application shall be approved unless the application affirmatively demonstrates, and the Director finds in writing on the basis of the information set forth in the application or from information otherwise available, which shall be documented in the approval and made available to the applicant, that:

1. The permit application is accurate and complete and that all the requirements of the federal act and state regulations have been complied with;

2. The applicant has demonstrated that reclamation as required by the federal act and state regulations can be accomplished under the reclamation plan contained in the permit application;

3. An assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance has been made by the Director in accordance with regulation, and the proposed operation has been designed to prevent material damage to hydrologic balance outside the permit area;

4. The area proposed to be mined is not included within an area designated as unsuitable for coal surface mining pursuant to this chapter or located within an area under study for such designation in an administrative proceeding commenced pursuant to this chapter; and

5. In any case in which the private mineral estate has been severed from the private surface estate, the applicant has submitted to the Director:

a. The written consent of the surface owner to the extraction of coal by surface mining methods;

b. A conveyance that expressly grants or reserves the right to extract coal by surface mining methods; or

c. If the conveyance does not expressly grant the right to extract coal by surface mining methods, evidence that the surface-subsurface legal relationship will be determined in accordance with the laws of the Commonwealth. Nothing herein shall be construed to authorize the Director to adjudicate any property rights dispute.

C. The applicant shall file with each permit application a schedule listing all notices of violations of the federal act, this chapter, and any law, rule, or regulation of the United States, the Commonwealth, or any department or agency in the United States pertaining to air or water environmental protection, incurred by the applicant in connection with any coal surface mining operation during the three-year period preceding the date of application. The schedule shall also indicate the final resolution of each such notice of violation. Where the schedule or other information available to the Director indicates that any coal surface mining operation owned or controlled by the applicant is currently in violation of any law, rule, or regulation referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the authority, department, or agency that has jurisdiction over such violation. No permit shall be issued to an applicant after a finding by the Director, following an opportunity for a hearing, that the applicant or the operator specified in the application controls or has controlled any mining operation with a demonstrated pattern of willful violations of the federal act or this chapter of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the federal act or this chapter.

D. If the Director finds an application in compliance with subsection B and the area proposed to be mined contains prime farmland pursuant to § 507(b)(16) of the federal act, the Director shall comply with applicable regulations issued by the Secretary in determining whether to issue a permit for such area.

§ 45.2-1014. Public participation in process of issuing or revising permits.

A. The Director shall establish by regulation procedures for the notification of and participation by the public and appropriate federal, state, and local governmental authorities in the process for issuing or revising coal surface mining permits, in accordance with § 513 of the federal act.

B. Any person having an interest that is or might be adversely affected, or the officer or head of any federal, state, or local governmental agency or authority, has the right to file written objections to the proposed initial or revised application for a permit for a coal surface mining operation with the Director within 30 days after the last publication of the applicant's notice required by the regulation adopted pursuant to subsection A. If no written objection is filed and an informal hearing is requested, the Director shall then hold an informal hearing in the manner and location prescribed by regulation, unless every party requesting the informal hearing stipulates agreement prior to the requested informal hearing and withdraws such request therefor.

§ 45.2-1015. Decision of Director upon permit application; hearing; appeal.

A. The Director shall notify each applicant for a permit within a reasonable time, as set forth in regulations, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and written objections that have been filed, of his written decision to approve or disapprove the application, in whole or in part, except that if an informal hearing has been held pursuant to § 45.2-1014, the Director shall issue to the applicant and the parties to the hearing his written decision within 60 days of such hearing.

B. If such application is approved, a permit shall be issued. If such application is disapproved, specific reasons shall be given in the notification. Within 30 days after the applicant is notified of the final decision of the Director on such permit application, the applicant, or any person with an interest that is or might be adversely affected, may request a hearing on the reasons for the final determination. The Director shall hold a formal adjudicatory hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and within 30 days thereafter shall issue to the applicant and every person who participated in the hearing the written decision of the Director granting or denying the permit in whole or in part and stating the reasons therefor. No person who presided at an informal hearing under § 45.2-1014 shall preside at the formal adjudicatory hearing or participate in the decision therein or any administrative appeal therefrom.

C. Where a hearing is requested pursuant to subsection B, the Director, under such conditions as he prescribes, may grant temporary relief pending final determination of the proceedings if:

1. All parties to the proceeding have been notified and given an opportunity to be heard on any request for temporary relief;

2. The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

3. Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

D. Any applicant or person who has an interest that is or might be adversely affected and has participated in the formal hearing as an objector who is aggrieved by the decision of the Director or by the failure of the Director to act within

the time limits specified in this chapter has a right to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 45.2-1016. Performance bonds.

A. *After a coal surface mining permit application has been approved, but before such permit is issued, the applicant shall file with the Director, on a form prescribed and furnished by the Director, a bond for performance payable to the Commonwealth and conditioned upon the faithful performance of all the requirements of this chapter and the permit. The bond shall cover that area of land within the permit area upon which the operator plans to initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As each succeeding increment of coal surface mining and reclamation operations is initiated and conducted within the permit area, the permittee shall file with the Director an additional bond to cover such increment in accordance with this section. The amount of the bond required for each bonded area shall be determined by the Director and shall (i) depend upon the reclamation requirements of the approved permit and (ii) reflect the probable difficulty of reclamation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work is performed by the Director in the event of forfeiture but in no case shall the bond for the entire area under one permit be less than \$10,000.*

B. *Liability under a performance bond shall be for the duration of the coal surface mining and reclamation operation and for a period coincident with the operator's responsibility for revegetation as required under regulations adopted pursuant to § 45.2-1017. The bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth, except that the operator may elect to deposit cash, negotiable bonds of the United States or the Commonwealth, or negotiable certificates of deposit of any bank organized for transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.*

C. *Cash or securities deposited pursuant to subsection B shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.*

D. *The Director may accept a letter of credit on certain designated funds issued by a financial institution authorized to do business in the United States. Such letter of credit shall be irrevocable and unconditional, shall be payable to the Department upon demand, and shall afford the Department protection equivalent to a corporate surety's bond. Such letter of credit shall be provided on a form and in a format established by the Director. Nothing in this section shall relieve the permittee of responsibility under the permit or the issuer of liability on the letter of credit.*

E. *The issuer of a letter of credit pursuant to subsection D shall give prompt notice to the permittee and the Department of any notice received or action filed alleging the insolvency or bankruptcy of the issuer, or alleging any violation of a regulatory requirement that could result in the suspension or revocation of the issuer's charter or license to do business. In the event the issuer becomes unable to fulfill any of its obligations under the letter of credit for any reason, the issuer shall immediately notify the permittee and the Department. Upon the incapacity of an issuer by a reason of bankruptcy, insolvency, or the suspension or revocation of its charter or license, the permittee shall be deemed to be without proper performance bond coverage and shall promptly notify the Department. The Department shall then issue a notice to the permittee specifying a reasonable period not exceeding 90 days to replace bond coverage. If an adequate bond is not posted by the end of the period allowed, the permittee shall cease coal extraction and coal processing operations and shall immediately begin to conduct reclamation operations in accordance with its reclamation plan. No coal extraction or coal processing operation shall resume until the Department has determined that an acceptable bond has been posted. If an acceptable bond has not been posted by the end of the period allowed, the Department may suspend the permit until an acceptable bond is posted.*

F. *The Director may develop and adopt an alternative system to achieve the objectives and purposes of the bonding program established under this section.*

G. *The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the Director from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.*

§ 45.2-1017. Performance standards.

A. *The Director shall by regulation establish performance standards that meet the requirement of § 515 of the federal act, are consistent with regulations adopted thereunder by the Secretary, and are applicable to all coal surface mining and reclamation operations except as otherwise provided in this chapter.*

B. *Any permit issued pursuant to this chapter to conduct a coal surface mining operation shall require that such operation meets all applicable performance standards established by the Director.*

C. *The Director shall include in such regulations special procedures and standards, consistent with regulations adopted by the Secretary, for the issuance of permits for mountaintop removal operations, without regard to requirements to restore to approximate original contour, and for variances from such requirements for steep-slope operations.*

D. *The Director may adopt, with the approval of the Secretary, alternative performance standards and procedures for administering and enforcing the program created pursuant to this chapter.*

E. *The Director, with the approval of the Secretary, may authorize departures on an experimental basis from the environmental protection performance standards adopted under this section and § 45.2-1018.*

§ 45.2-1018. Surface effects of underground coal mining operations.

A. The Director shall adopt regulations directed toward the surface effects of underground coal mining operations and embodying the requirements of §§ 516 and 720(a)(1) of the federal act. The provisions of this chapter relating to permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to any surface operation or surface impact incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the differences between surface and underground coal mining. Nothing in § 720(a)(1) of the federal act shall be construed to prohibit or interrupt any underground coal mining operation.

B. The regulations adopted by the Director shall require that each permit applicant submit hydrologic reclamation plans that include measures to prevent the sudden release of accumulated water from underground workings.

C. The Director shall suspend underground coal mining under any elementary or secondary school, institution of higher education, urbanized area, city, town, or community, and adjacent to any industrial or commercial building, major impoundment, or permanent stream, if he finds imminent danger to people from such underground coal mining.

§ 45.2-1019. Inspections and monitoring.

A. For the purpose of administering and enforcing any permit issued under this chapter or determining whether any person is in violation of any requirement of this chapter or any regulation adopted hereunder:

1. The Director shall require any permittee to (i) establish and maintain appropriate records; (ii) make monthly reports to the Division; (iii) install, use, and maintain any necessary monitoring equipment or methods; (iv) evaluate results in accordance with such methods, at such locations and intervals and in such manner as the Director prescribes; and (v) provide other information relative to a coal surface mining and reclamation operation as the Director deems reasonable and necessary;

2. For any coal surface mining and reclamation operation that removes or disturbs strata that serve as aquifers and thereby significantly ensure the hydrologic balance of water use, either on or off the mining site, the Director shall specify monitoring sites at which the permittee shall record (i) the quantity and quality of surface drainage above and below the mine site and in the potential zone of influence; (ii) the level, amount, and characteristics of samples of groundwater and aquifers that are potentially affected by mining or are located directly below the deepest coal seam to be mined; and (iii) amount of precipitation. The Director shall specify certain records of well logs and borehole data to be maintained. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth in regulations adopted by the Director in order to assure their reliability and validity; and

3. Any authorized representative of the Director, without advance notice and upon presentation of appropriate credentials, has (i) the right of entry to, upon, or through any coal surface mining and reclamation operation and (ii) the right to inspect any monitoring equipment, method of exploration, method of operation, or records required by this chapter and to copy any such records.

No search warrant shall be required for any entry or inspection under this subsection, except with respect to entry into a building.

B. Inspections by the Director shall (i) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the coal surface mining and reclamation operation covered by each permit, (ii) occur without prior notice to the permittee or any agent or employee of the permittee except for necessary on-site meetings with the permittee, and (iii) include the filing of inspection reports adequate to enforce the requirements of this chapter and carry out its terms and purposes.

C. Each permittee shall conspicuously maintain at the entrance to each coal surface mining and reclamation operation a clearly visible sign setting forth such information as is prescribed by regulation.

D. Each inspector, upon detection of a violation of any requirement of this chapter or of a regulation adopted hereunder, shall promptly inform the operator in writing and shall report such violation to the Director in writing.

E. Copies of any records, reports, inspection materials, or information obtained by the Director under this article shall be made immediately available to the public at central and sufficient locations in the area of mining so that they are conveniently available to residents in such areas. However, information that pertains only to the analysis of the chemical and physical properties of the coal, excepting information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1020. Enforcement of chapter generally.

A. If the Director determines that any condition or practice or any violation by a permittee of any requirement of this chapter, regulation adopted hereunder, or permit condition (i) creates an imminent danger to the health or safety of the public or (ii) is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Director shall immediately order a cessation of the coal surface mining and reclamation operation or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Director determines that the condition, practice, or violation has been abated or until such order is modified, vacated, or terminated by the Director. Whenever the Director finds that the ordered cessation of coal surface mining and reclamation operations, or any portion thereof, is not expected to completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the Director shall, in addition to ordering

the cessation of the operation, impose affirmative obligations on the operator and require such operator to take whatever steps the Director determines necessary to abate the imminent danger or the significant environmental harm.

B. If the Director determines that a permittee is in violation of any requirement of this chapter, any regulation adopted hereunder, or any permit condition, but such violation does not create an imminent danger to the health or safety of the public or cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Director shall issue a notice of violation to the permittee or his agent setting a reasonable period of not more than 90 days for the abatement of the violation and shall provide an opportunity for public hearing.

C. Upon expiration of the period of time originally set pursuant to subsection B or subsequently extended for good cause shown upon the written finding of the Director, if the Director finds that a violation has not been abated, he shall immediately order a cessation of coal surface mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Director determines that the violation has been abated or until such order is modified, vacated, or terminated by the Director pursuant to subsection E. The Director shall include in the cessation order the necessary measures to abate the violation in the most expeditious manner possible.

D. Whenever the Director determines that a pattern of violations of the requirements of this chapter, any regulation adopted hereunder, or any permit condition exists or has existed, and if the Director also finds that such violations are (i) caused by the unwarranted failure of the permittee to comply with any such requirements or (ii) willfully caused by the permittee, the Director shall promptly issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide opportunity for a formal public hearing. If a hearing is requested, the Director shall inform all interested parties of the time and place of the hearing. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Director shall promptly suspend or revoke the permit.

E. Each notice or order issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal surface mining and reclamation operation to which the notice or order applies. Each notice or order shall be given promptly to the permittee or his agent by the Director and shall be in writing and signed by the Director. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Director. Any notice or order issued pursuant to this section that requires cessation of mining by the operator shall expire within 30 days of actual notice to the operator unless an informal public hearing is held at the site or close enough to the site to allow viewings thereof during the course of the public hearing. Such informal public hearing may be waived by the operator.

F. The Director may institute a civil action for injunctive or other relief in any court of competent jurisdiction whenever any permittee or his agent, or any other person:

1. Violates or fails or refuses to comply with any order or decision issued by the Director;
2. Interferes with, hinders, or delays the Director in carrying out the provisions of this chapter or the regulations adopted hereunder;
3. Refuses to admit the Director to a mine;
4. Refuses to permit inspection of a mine;
5. Refuses to furnish any information or report requested by the Director pursuant to the provisions of this chapter or the regulations adopted hereunder;
6. Refuses to permit access to, and copying of, such records as the Director determines necessary in carrying out the provisions of this chapter or the regulations adopted hereunder; or
7. Conducts any coal surface mining or coal exploration operation without first obtaining a permit, after a permit has lapsed, or after suspension or revocation of a permit.

§ 45.2-1021. Civil and criminal penalties.

A. Any permittee who violates any permit condition or any other provision of this chapter or the regulations adopted hereunder may be assessed a civil penalty by the Director, except that if such violation leads to the issuance of a cessation order, the civil penalty shall be assessed. Such penalty shall not exceed \$5,000 for each violation except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty shall not exceed \$70,000 for each violation. Each day of continuing violation may be deemed a separate violation for the purposes of assessing penalties. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular coal surface mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

B. A civil penalty may be assessed by the Director only after the person charged with a violation has been given an opportunity for a public hearing. After such public hearing has been held, the Director shall make findings of fact and issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating therein, when appropriate, an order requiring that the penalty be paid. When appropriate, the Director shall consolidate such hearing with other proceedings pursuant to the provisions of this chapter. Any hearing under this section shall be a formal adjudicatory hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). If the person charged with such violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Director after the Director determines that a violation has occurred and the amount of the penalty warranted and issues an order requiring that the penalty be paid.

C. Upon the issuance of a notice or order charging that a violation described under subsection A has occurred, the Director shall inform the permittee within 30 days of the proposed amount of the penalty. Such permittee shall, within 30 days of being so informed, pay the proposed penalty in full or, if the permittee contests either the amount of the penalty or the fact of the violation, forward the proposed amount to the Director for placement in an interest-bearing trust account in the state treasury. Failure to forward the money to the Director within 30 days constitutes a waiver of all legal rights to contest the violation or the amount of the penalty. If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty will be reduced, the Director shall within 30 days of such determination remit the appropriate amount to the permittee with accrued interest thereon.

D. If a permittee required to pay a civil penalty fails to do so, the Director may transmit a true copy of the final order assessing such penalty to the clerk of the court of any county or city wherein it is ascertained that the permittee owing the penalty has any estate; and the clerk to whom such copy is sent shall record such final order, as a judgment is required by law to be recorded, and index it in the name of the Commonwealth and the name of the person owing the penalty. Upon such recording and indexing, there shall be a lien in favor of the Commonwealth on the property of the permittee within such county or city in the amount of the penalty. The Director may collect civil penalties that are owed in the same manner as provided by law in respect to judgment of a court of record. All civil penalties shall be paid into a special fund in the state treasury to be used by the Director for enhancing conservation and recreational opportunities in the coal-producing counties of the Commonwealth. The Director shall transfer quarterly 50 percent of the fund balance to the Virginia Coalfield Economic Development Authority, created pursuant to Chapter 60 (§ 15.2-6000 et seq.) of Title 15.2, for the purposes of developing infrastructure and improvements at Breaks Interstate Park and 50 percent of the fund balance to the Virginia Coalfield Regional Tourism Development Authority for the purpose of developing conservation and recreational opportunities consistent with the provisions of Chapter 55 (§ 15.2-5500 et seq.) of Title 15.2.

E. Any person who willfully and knowingly (i) conducts any coal surface mining or coal exploration operation without first obtaining a permit, or after a permit has lapsed, or after suspension or revocation of a permit; (ii) violates a condition of a permit issued pursuant to this chapter; or (iii) disregards or fails or refuses to comply with any regulation adopted or order issued pursuant to the provisions of this chapter, except an order incorporated in a decision under subsection B, shall upon conviction be punished by a fine of not more than \$10,000, by confinement in jail for not more than 12 months, or both.

F. Whenever a corporate permittee violates a condition of a permit or disregards or fails or refuses to comply with any order issued under this chapter, except an order incorporated in a decision issued under subsection B, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal is subject to the same civil penalties, fines, and confinement in jail to which a person may be subject under subsections A and E.

G. Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any required statement, representation, or certification, in any application, objection, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, any regulation adopted hereunder, or any order or decision issued by the Director under this chapter shall upon conviction be punished by a fine of not more than \$10,000, by confinement in jail for not more than 12 months, or both.

H. Any operator who within the period permitted for the correction of such violation fails to correct a violation for which a notice or order has been issued shall be assessed a civil penalty of not less than \$750 for each day during which such failure or violation occurs. Such period for the correction of a violation shall not end until the entry of (i) a final order by the Director, in the case of any review proceedings initiated by the operator wherein the Director orders, after an expedited hearing, the suspension of the abatement requirements of the notice or order after determining that the operator is likely to suffer irreparable loss or damage from the application of such requirements or (ii) an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements.

§ 45.2-1022. Citizen suits; rights of citizens to accompany inspectors.

A. Except as provided in subsection B or C, any person having an interest that is or could be adversely affected may, in order to compel compliance with the provisions of this chapter, commence a civil action on his own behalf against:

1. The United States, any other governmental instrumentality or agency, or any person alleged to be in violation of any provision of this chapter or of any regulation, order, or permit issued pursuant thereto; or

2. The Director, when there is alleged a failure of the Director to perform any act or duty under this chapter that is not a discretionary act on the part of the Director.

B. No action shall be commenced under subdivision A 1:

1. Prior to 60 days after the plaintiff has given written notice of the violation to the Secretary, the Director, and any alleged violator; or

2. If the Commonwealth or the Secretary has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or the Commonwealth to require compliance with the provisions of this chapter, or any regulation, order, or permit issued pursuant to this chapter, so long as in any such action in a court of the Commonwealth, any person is entitled to intervene as a matter of right.

C. No action shall be commenced under subdivision A 2 prior to 60 days after the plaintiff has given written notice of such action to the Director in a manner prescribed by regulation. However, such action may be brought immediately after

such notification in any case in which it is alleged that a violation or order would constitute an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

D. Any action with respect to a violation of this chapter or a regulation adopted hereunder may be brought only in the circuit court of the county or city in which the surface coal mining operation complained of is located. In any such action commenced under the provisions of this section, the Director may intervene as a matter of right, whether or not the Director is a party to the action.

E. The court, in issuing any final order in any action brought pursuant to subsection A, may award costs of litigation, including attorney and expert witness fees, to any party if the court determines such award is appropriate. If a preliminary injunction is sought, the court may require the filing of a bond or equivalent security in accordance with the rules of civil procedure.

F. Nothing in this section shall restrict any common-law or statutory right of any person or class of persons to seek enforcement of any provision of this chapter or the regulations adopted hereunder or to seek any other relief, including relief against the Director.

G. Any person who as a result of the violation by any operator of any regulation, order, or permit issued pursuant to this chapter suffers injury to his person or property may bring an action for damages, including reasonable attorney and expert witness fees. Such action shall be brought only in the circuit court of the county or city in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect the rights established by or limits imposed under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

H. Whenever information provided to the Director by any person results in any inspection, the Director shall notify such person of the time at which the inspection is scheduled to occur, and such person shall be allowed to accompany the inspector during the inspection.

§ 45.2-1023. Forfeiture or release of performance bond.

A. The Director shall adopt regulations, consistent with regulations adopted by the Secretary, establishing procedures, conditions, criteria, and schedules for the forfeiture or release of performance bonds or deposits required under this chapter; however, no bond shall be fully released until all reclamation requirements of this chapter and the regulations adopted hereunder are fully met.

B. Any person with a valid legal interest that could be adversely affected by release of the bond, or the responsible officer or head of any federal, state, or local governmental agency that (i) has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or (ii) is authorized to develop and enforce environmental standards with respect to such operations, has the right to file written objections to the proposed release from bond by the Director within 30 days after the last publication of notice, as required by regulation. If a written objection is filed and a hearing requested, the Director shall inform all interested parties of the time and place of the hearing and hold a public hearing, either in the locality of the coal surface mining operation proposed for bond release or in Richmond, at the option of the objector, within 30 days of the request for such hearing.

C. Without prejudice to the rights of any objector or the applicant or the responsibilities of the Director pursuant to this section, the Director may establish an informal conference, in accordance with regulations adopted pursuant to § 45.2-1014, to resolve written objections.

D. For the purpose of the hearing specified in subsection B, the Director may administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses or production of materials, and take evidence, including inspections of the land affected or other coal surface mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing shall be made, and a transcript shall be made available on the motion of any party or by order of the Director.

§ 45.2-1024. Performance of reclamation operations by Director.

In the event of forfeiture of a performance bond, in whole or in part, the Director shall deposit the proceeds in the state treasury in a special fund to be used by the Director to complete the reclamation plan and other regulatory requirements pertaining to the operation for which the forfeited bond had been posted. The Director may use the resources and facilities of the Division or enter into contracts for performance of such reclamation with any person, any soil conservation district, or any agency of the state or federal government. After completion of the reclamation and payment of all costs and administrative expenses associated with the completion of reclamation, any additional funds from the forfeiture of the bond shall be returned.

§ 45.2-1025. Administrative review of notice or order issued under § 45.2-1020.

A. A permittee who is issued a notice or order pursuant to § 45.2-1020, or any person having an interest that is or could be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Director for the review of such notice or order within 30 days of the receipt thereof or within 30 days of its modification, vacation, or termination. Upon receipt of such application, the Director shall cause such investigation to be made as he deems appropriate. Such investigation shall, at the request of the applicant or the person having an interest that is or could be adversely affected, include a public formal hearing to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

B. Upon receiving the report of such investigation, the Director shall make findings of fact and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order complained of.

Such order shall incorporate the Director's findings of fact. If the application for review concerns an order for cessation of coal surface mining and reclamation operations issued pursuant to the provisions of subsection A or C of § 45.2-1020, the Director shall issue the written decision within 30 days of the receipt of the application for review unless temporary relief has been granted by the Director pursuant to subsection C or by a court pursuant to § 45.2-1027.

C. Pending completion of the hearing required by this section, the applicant may file with the Director a written request that the Director grant temporary relief from any notice or order issued under § 45.2-1020, together with a detailed statement giving reasons for granting such relief. The Director shall issue an order granting or denying such relief expeditiously. If the applicant requests relief from an order for cessation of coal surface mining and reclamation operations issued pursuant to subsection A or C of § 45.2-1020, the order on such a request shall be issued within five days of its receipt. The Director may grant such relief, under such conditions as the Director prescribes, if:

1. A hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

2. The applicant shows that there is substantial likelihood that the decision of the Director will be favorable to the applicant; and

3. Such relief will not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air, or water resources.

D. Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to § 45.2-1020, the Director shall hold a public formal hearing, unless waived by the permittee, after giving written notice of the time, place, and date thereof. Within 60 days following the formal hearing, the Director shall issue and furnish to the permittee and every other party to the hearing a written decision concerning suspension or revocation of the permit and reasons therefor. If the Director revokes the permit, the permittee shall immediately cease coal surface mining operations on the permit area and shall complete reclamation within a period specified by the Director, or the Director shall declare as forfeited the performance bonds for the operation.

E. The Director may adopt regulations providing for the award of costs and expenses, including attorney fees, to any party to any administrative proceedings under this chapter, incurred by such person in connection with his participation in such proceedings, and may assess such costs and expenses against any other party as the Director deems proper. For the purpose of this subsection, "party" includes the Commonwealth or any of its agents, officers, or employees.

§ 45.2-1026. Hearings.

Every formal hearing shall be conducted in accordance with § 2.2-4020 unless the parties consent to informal proceedings. When a hearings officer presides, such officer shall recommend findings and a decision to the Director, who shall then issue findings and a decision, unless the Director provides for the making of findings and an initial decision by such hearings officer subject to review and reconsideration by the Director on appeal as of right or on the Director's own motion. Such regulations shall also provide for a reasonable time in which such appeals shall be acted upon, which shall be in addition to the period required for the making of the initial decision.

§ 45.2-1027. Judicial review of final order or decision or decision under § 45.2-1035.

A. Any party aggrieved by a final order, decision, or decision for entry upon property pursuant to § 45.2-1035, issued by the Director, after exhaustion of the administrative remedies provided for in this chapter, has the right to the judicial review thereof in the circuit court of the county or city in which the land at issue or a major portion thereof is located. In all other respects, judicial review shall be in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Director. The court may, under such conditions as it prescribes, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

1. All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

2. The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

3. Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

C. The court may award costs and expenses, including attorney fees, to any party to any proceeding under this section and may assess such costs and expenses against any other party as the court deems proper. For the purpose of this subsection, "party" includes the Commonwealth or any of its agents, officers, or employees.

§ 45.2-1028. Designating areas unsuitable for coal surface mining.

A. 1. The Director shall establish a planning process that enables objective decisions, based on competent and scientifically sound data and information, regarding which land areas of the Commonwealth, if any, are unsuitable for coal surface mining operations pursuant to the standards set forth in subdivisions 2 and 3. Such designation shall not prevent the mineral exploration pursuant to this chapter of any area so designated.

2. Upon petition pursuant to subsection C, the Director shall designate a land area as unsuitable for all or certain types of coal surface mining operations if the Director determines that reclamation pursuant to the requirements of this chapter is not technologically and economically feasible.

3. Upon petition pursuant to subsection C, the Director may designate a surface area as unsuitable for certain types of coal surface mining operations if such operations will (i) be incompatible with existing land use plans or programs;

(ii) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, or aesthetic values or natural systems; (iii) affect renewable resource lands, including aquifers and aquifer recharge areas, in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or food or fiber products; or (iv) affect natural hazard lands, including areas subject to frequent flooding and areas of unstable geology, in which such operations could substantially endanger life and property.

4. Any determination of the unsuitability of a land area for coal surface mining made pursuant to this section shall be integrated as closely as possible with present and future land use planning and regulation processes at the federal, state, and local levels.

5. The requirements of this section shall not apply to any land area (i) on which a coal surface mining operation was being conducted on August 3, 1977; (ii) on which a coal surface mining operation was being conducted under a permit issued pursuant to the provisions of the federal act; or (iii) where substantial legal and financial commitments in either such operation were in existence prior to January 4, 1977.

B. Prior to designating any land area as unsuitable for a coal surface mining operation, the Director shall cause to be prepared a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

C. Any person having an interest that is or could be adversely affected has the right to petition the Director to have an area designated as unsuitable for coal surface mining operations, or to have such a designation terminated. Such petition shall contain allegations of facts with supporting evidence that would tend to establish the allegations. Within 10 months after receipt of the petition, the Department shall hold a public hearing in the locality in which the affected area is located, after appropriate notice and publication of the date, time, and location of the hearing. After a person having an interest that is or could be adversely affected has filed a petition but before the hearing required by this subsection has taken place, any person may intervene by filing allegations of facts with supporting evidence that would tend to establish the allegations. The Director shall issue and furnish to the petitioner and any other party to the hearing, within 60 days after such hearing, a written decision regarding the petition and the reasons therefor. In the event that all petitioners stipulate agreement prior to the hearing and withdraw their requests, such hearing need not be held.

D. Subject to valid existing rights, no coal surface mining operation, except an operation that existed on August 3, 1977, shall be permitted:

1. On any lands within the boundaries of any unit of the National Park System, the National Wildlife Refuge System, the National Trails System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under § 5(a) of the Wild and Scenic Rivers Act; any National Recreation Area designated by act of Congress; or any federal lands within the boundaries of any national forest, except as otherwise provided by federal law;

2. That will adversely affect any publicly owned park or any site listed in the National Register of Historic Places unless approved jointly by the Director and the federal, state, or local agency with jurisdiction over the park or historic site;

3. Within 100 feet of the outside right-of-way line of any public road, except where a mine access road or haulage road joins such right-of-way line. However, the Director may permit such mine access or haulage road to be relocated or the area affected to lie within 100 feet of such public road if, after public notice and opportunity for hearing in the locality, a written finding is made that the interests of the public and landowners affected thereby will be protected; or

4. Within 300 feet of any occupied dwelling, unless waived by the owner thereof; within 300 feet of any public building, school, church, community or institutional building, or public park; or within 100 feet of a cemetery.

Article 3.

National Pollutant Discharge Elimination System Permit; Replacement of Water Supply.

§ 45.2-1029. National Pollutant Discharge Elimination System permits.

A. For the purpose of this section:

"Board" means the State Water Control Board.

"Industrial wastes" means the same as that term is defined in § 62.1-44.3.

"NPDES" means the National Pollutant Discharge Elimination System.

"Other wastes" means the same as that term is defined in § 62.1-44.3.

"Sewage" means the same as that term is defined in § 62.1-44.3.

B. The authority to issue, amend, revoke, and enforce National Pollutant Discharge Elimination System permits under the State Water Control Law (§ 62.1-44.2 et seq.) for the discharge of sewage, industrial wastes, and other wastes from coal surface mining operations, to the extent delegated by the U.S. Environmental Protection Agency and required under the federal Clean Water Act, P.L. 92-500, as amended, is vested solely in the Director, notwithstanding any provision of law contained in Title 62.1, except as provided in this section. For the purpose of enforcement under this section, the provisions of §§ 62.1-44.31 and 62.1-44.32 shall apply to permits, orders, and regulations issued by the Director in accordance with this section.

C. The Director shall transmit to the State Water Control Board a copy of each application for an NPDES permit received by the Director and provide written notice to the Board of every action related to the consideration of such permit application.

D. Prior to the issuance or reissuance of a permit, each applicant shall submit an application on a form approved by the Director and a fee of \$300 for each discharge outfall point under such permit. If an application is approved, the permittee shall, on the anniversary of the permit approval for each year of the permit term, submit \$300 for each discharge

outfall point under such permit. Each permit shall remain valid for five years. All fees provided for under this section shall be in addition to any other fees levied pursuant to this chapter.

E. No NPDES permit shall be issued if, within 30 days of the date of the transmittal of the complete application and the proposed NPDES permit, the Board objects in writing to the issuance of such permit. Whenever the Board objects to the issuance of such permit under this section, such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions that such permit would include if it were issued by the Board.

F. An applicant who is aggrieved by an objection made under subsection E has the right to a hearing before the Board pursuant to § 62.1-44.25. If the Board withdraws in writing its objection to the issuance of a certificate, the Director may issue the permit. Any applicant aggrieved by a final decision of the Board made pursuant to this subsection has the right to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

G. Whenever, on the basis of any information available to it, the Board finds that any person is in violation of any condition or limitation contained in a NPDES permit issued by the Director, it shall notify the person allegedly in violation and the Director. If after the thirtieth day following notification by the Board, the Director has not commenced appropriate enforcement action, the Board may take appropriate enforcement action pursuant to §§ 62.1-44.15, 62.1-44.23, and 62.1-44.32.

H. The Director shall adopt regulations deemed necessary for the issuance, administration, monitoring, and enforcement of NPDES permits for coal surface mining operations.

I. The Director, by examining the available and relevant data, shall determine whether a discharge could cause or contribute to an instream excursion above the narrative or numeric criteria of a water quality standard.

J. If a total maximum daily load (TMDL) has been established by the Board for the receiving water body, then there shall be consideration of the TMDL in the reasonable potential determination as to whether a discharge could cause or contribute to an instream excursion above the narrative or numeric criteria of a water quality standard. If the receiving water body does not have a TMDL established, the Director may consider biological monitoring, chemical monitoring, and whole effluent toxicity testing to determine whether a discharge could cause or contribute to an instream excursion above the narrative or numeric criteria of a water quality standard. The Director may require whole effluent toxicity testing if he determines that the discharge adversely affects the biological condition of the receiving water body.

§ 45.2-1030. Replacement of water supply.

A. The operator of any coal surface mining operation shall replace the water supply of an owner of interest in real property who obtains all or part of such owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such coal surface mining operation.

B. Every underground coal mining operation shall promptly replace any drinking, domestic, or residential water supply from a well or spring that was in existence prior to the application for a surface coal mining and reclamation permit and that has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this subsection shall be construed to prohibit or interrupt underground coal mining operations.

C. Each operator of an underground coal mine shall record the daily progress of mining operations on one or more mine maps maintained at the mine site or in the company office. Such map shall, at a minimum, include information on the daily progress of mining operations and be maintained until the completion of the mining. The operator shall provide such map to the Division upon completion of mining and upon request of the Director.

D. If the Director has ordered replacement of a water supply under subsection B and the operator subject to the order has failed to provide the required map in accordance with subsection C, then the Director's replacement order shall not be overturned absent clear and convincing evidence to the contrary. Upon conclusion of an investigation, if the Director does not order replacement under the provisions of subsection B and reasonable access for a pre-mining survey was denied, the Director's determination shall not be overturned absent clear and convincing evidence to the contrary.

Article 4.

Abandoned Mine Reclamation.

§ 45.2-1031. State Reclamation Program.

A. The Commonwealth's program for the reclamation of land and water adversely affected by past mining shall include the State Reclamation Plan, the Abandoned Mine Reclamation Fund created pursuant to § 45.2-1032, and annual reclamation projects, as provided for in this article.

B. The Director is authorized to develop and submit to the Secretary for approval a State Reclamation Plan in accordance with the provisions of Title IV of the federal act and of this article. The plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the programmatic capability of the Division to perform such work, and shall include such regulations, policies, and procedures as may be necessary to establish and implement the plan and annual reclamation projects and to carry out the provisions of this article. The Director may from time to time develop and submit to the Secretary amendments and revisions to the plan consistent with this article.

C. The Director may:

1. Prepare and submit to the Secretary annual applications for the support of the State Reclamation Program and implementation of specific reclamation projects;

2. Enter into agreements with the Secretary for the emergency restoration, reclamation, abatement, control, or prevention of the adverse effects of coal mining practices;

3. Administer the State Reclamation Plan and annual reclamation projects and receive and administer grants from the Secretary therefor; and

4. Prepare and submit such information and reports as the Secretary requests.

D. The Director and the Department, in carrying out the functions of preparing and revising the State Reclamation Plan and developing annual reclamation projects, shall provide appropriate opportunities for public involvement.

§ 45.2-1032. Abandoned Mine Reclamation Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Abandoned Mine Reclamation Fund, referred to in this article as "the Fund." The Fund shall be established on the books of the Comptroller and shall be administered by the Director.

B. All funds granted by the Secretary for purposes of conducting the approved State Reclamation Plan and annual reclamation projects; use fees charged for uses of lands acquired or reclaimed pursuant to this article, after expenditures for maintenance have been deducted; moneys recovered through the satisfaction of liens filed against privately owned land pursuant to this article; moneys recovered from sale of lands acquired by the Director pursuant to this article; and donations made for the purposes of this article and other moneys made available or appropriated to the Director for such purposes shall be paid into the state treasury and credited to the Fund.

C. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

D. Moneys in the Fund shall be used solely for the purpose of carrying out the State Reclamation Program as approved by the Secretary. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1033. Operator may perform reclamation; bidding; conditions; adjustment of required bonds; regulations.

A. Notwithstanding any licensing requirement under Title 54.1, an operator is eligible to bid on contracts to conduct reclamation projects under the State Reclamation Program and the Coal Surface Mining Reclamation Fund in accordance with this article and Article 5 (§ 45.2-1043 et seq.) if the Director finds that the following conditions have been met: (i) the operator has had at least three years of relevant mining experience in the Commonwealth pursuant to this chapter and (ii) the operator meets all other applicable requirements of federal, state, and local law.

B. Notwithstanding the provisions of Title 11 (§ 11-1 et seq.), the Director may adjust the amounts of required bid or performance bonds for such contracts upon a finding that such amounts are sufficient to protect the public interest.

C. The Director shall adopt regulations to implement this section.

§ 45.2-1034. Eligible lands and water; priorities for expenditures.

A. Lands and water eligible for reclamation or drainage abatement expenditures under this article are those that were (i) mined for coal or (ii) affected by coal mining, waste banks, coal processing, or other coal mining processes, and were abandoned or left in an inadequate reclamation status and for which there is no continuing reclamation responsibility under state or federal law.

B. The Director shall establish priorities in the State Reclamation Plan for the expenditure of funds in conformance with the priorities set forth in § 403 of the federal act.

§ 45.2-1035. Right of entry, acquisition, disposition, and reclamation of land adversely affected by past coal mining practices.

A. The Director shall take all reasonable actions to obtain written consent from the owner or owners of record of the land or property to be entered onto to perform an inspection for purposes of reclamation or for conducting studies or exploratory work pertaining to the need for and feasibility of reclamation, prior to such entry.

B. The provisions of subsection C shall apply if the Director, pursuant to an approved state program, makes findings of fact that:

1. Land or water resources have been adversely affected by past coal mining practices;

2. The adverse effects are significant enough that, in the public interest, action to restore, reclaim, abate, control, or prevent such effects should be taken; and

3. The owners of the land or water resources where entry will be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices (i) are not known or readily available or (ii) will not give permission for the Director or his agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

C. Upon making the findings of fact required by subsection B and giving notice by certified mail to the owners if known or, if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the county or city in which the land lies, the Director, his agents, employees, or contractors shall have the right to enter upon the property adversely affected by past coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property or trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land to the extent provided in § 45.2-1036 and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged

damages by virtue of such entry. Such provision regarding the mitigation or offsetting of a claim or action by an owner is not intended to create new rights of action or eliminate the existing sovereign immunity of the Commonwealth and its agents and employees.

D. The Director and his agents, employees, or contractors shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property or trespass thereon.

E. The Director, pursuant to an approved state program, may acquire title in the name of the Commonwealth to any land or interest therein by purchase, donation, or condemnation, if such land or interest is adversely affected by past coal mining practices, after approval of the Secretary and upon determinations that acquisition of such land is necessary for successful reclamation and that:

1. The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreational, historical, conservation, or reclamation purposes or provide open space benefits; and

2. Either (a) permanent facilities, such as a treatment plant or a relocated stream channel, will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices or (b) acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this article or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

F. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

G. The Director, with the approval of the Secretary, and in accordance with the State Reclamation Plan, may:

1. Transfer the administrative responsibility for land acquired under this section to any state, regional, or local agency, department, or institution, with or without cost, upon terms that will ensure that the use of the land is consistent with the authorization under which the land was acquired;

2. Sell land acquired under this section that is suitable for industrial, commercial, residential, or recreational development, by public sale under a system of competitive bidding, at not less than fair market value and under regulations adopted to ensure that such lands are put to proper use consistent with local, state, or federal land use plans, if any, for the area in which the land is located; and

3. Transfer land acquired under this section to the United States to be reclaimed by the Secretary. After such reclamation is completed, any state, regional, or local agency, department, or institution may purchase such land from the Secretary for governmental, educational, recreational, historical, open-space, or other public purpose upon such terms as the Secretary requires.

H. Prior to the disposition of any land acquired under this section, the Director, pursuant to the State Reclamation Plan, when requested and after appropriate public notice, shall hold a public hearing in the county or city or counties or cities where the land is located. The hearing shall be held at a time that shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

I. The Director may authorize the use, pending disposition, of land acquired under this section for any lawful purpose that is not inconsistent with the reclamation and post-reclamation uses for which the land was acquired. The Director shall charge any user of the land a reasonable use fee that shall go toward the purpose of operating and maintaining improvement of the land, and any excess thereof shall be deposited in the State Reclamation Fund. The Director may waive the fee if the Director finds in writing that a waiver is in the public interest.

J. Any state, regional, or local agency, department, or institution may purchase or otherwise acquire and develop lands that the Secretary is authorized to dispose of pursuant to § 407(h) of the federal act.

§ 45.2-1036. Commonwealth to have lien for reclamation work.

The Commonwealth shall have a lien, if perfected as provided in § 45.2-1037, on land reclaimed by the Director pursuant to this article for the amount of the increase in the appraised market value of the land resulting from the reclamation. However, no such lien shall attach to or be filed against the property of any person who owned the surface of the land prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation that necessitated the reclamation performed under this article. Nor shall any such lien attach to or be filed against any property if the Director waives the lien as provided in § 45.2-1037.

§ 45.2-1037. Perfection of lien; waiver of lien.

A. The Director shall perfect the lien given under the provisions of § 45.2-1036 by filing, within six months after completion of the reclamation, in the clerk's office of the court of the county or city in which the land or any part thereof is located, a statement consisting of the name of the owner of record of the property sought to be charged; an itemized account of moneys expended for the reclamation work; notarized copies of appraisals, made by an independent appraiser, of the fair market value of the land both before and upon completion of the reclamation work; and a brief description of the property to which the lien attaches.

B. The Director shall waive a lien if he determines that the direct and indirect costs of filing such lien exceed the increase in fair market value resulting from reclamation or that the reclamation primarily benefits health, safety, or environmental values of the community or area in which the land is located. If reclamation is necessitated by an unforeseen occurrence, the Director shall waive a lien if he determines that the reclamation will not result in a significant increase in the market value of the land.

§ 45.2-1038. Recordation and indexing of lien; notice.

It is the duty of the clerk in whose office the statement described in § 45.2-1037 is filed to record such statement in the deed books of such office and to index such recording in the general index of deeds. Such indexing shall be made in the name of the Commonwealth as well as the owner of the property and shall show the type of such lien. From the time of such recording and indexing, all persons shall be deemed to have notice thereof.

§ 45.2-1039. Priority of lien.

Any lien acquired under this article shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

§ 45.2-1040. Hearing to determine amount of lien.

Any party having an interest in the real property against which a lien has been filed may, within 60 days of such filing, petition the circuit court having jurisdiction wherein the property or some portion thereof is located to hold a hearing to determine the increase in the market value of the land as a result of reclamation. After reasonable notice to the Director, the court shall hold a hearing to determine the amount of such increase. If the court determines such increase to be erroneously excessive, it shall determine the proper amount and order that the lien and the record be amended to show this amount.

§ 45.2-1041. Satisfaction of lien.

Any lien acquired under this article shall be satisfied to the extent of the value of the consideration received at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property and shall be satisfied in accordance with this section. If an owner fails to satisfy a lien as provided in this article, the Director may proceed to enforce the lien by a petition filed in a circuit court having jurisdiction wherein the property or some portion thereof is located.

§ 45.2-1042. Miscellaneous powers of Director.

A. In addition to any other remedies provided for in this chapter, the Director may petition any court of competent jurisdiction for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work pursuant to this chapter.

B. The Director is authorized, to the extent of funds available for the purposes herein, to construct and operate plants for the control and treatment of water pollution resulting from mine drainage. Such plants may include major interceptors and other facilities appurtenant to such plants. No such control or treatment shall in any way be less than that required under the federal Clean Water Act.

C. The Director may transfer funds to other appropriate state or local agencies in order to carry out the reclamation authorized by this article.

Article 5.

Coal Surface Mining Reclamation Fund.

§ 45.2-1043. Coal Surface Mining Reclamation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Coal Surface Mining Reclamation Fund, referred to in this article as "the Fund." The Fund shall be established on the books of the Comptroller. All payments made into the Fund in accordance with the provisions of this article shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1044. Participation in Fund.

A. Participation in the Fund is open to any operator applying for a permit under this chapter who can demonstrate to the Director a history of at least three consecutive years of compliance under this chapter or any other comparable state or federal act.

B. Participation in the Fund is optional as to each permit application, and approval of such participation by the Division, upon payment by the operator of all entrance fees to the Fund required by this article, shall constitute compliance with all requirements of § 45.2-1016 and regulations issued pursuant thereto. Such participation shall relieve the operator of all bonding requirements except those set forth in this article. Nothing in this article shall preclude compliance with § 45.2-1016 in lieu of participation in the Fund, prior to commencement of such participation. Commencement of participation in the Fund, as to the applicable permit, constitutes an irrevocable commitment to participate therein as to the applicable permit and for the duration of the coal surface mining operations covered thereunder.

C. For any mining operation bonded under this article, the total cumulative amount of exposed highwall shall not exceed 1,500 linear feet. The width of the coal pit shall be limited to two mining cuts or 500 feet, whichever is less, measured perpendicular from the most advanced highwall to the coal outcrop or to the nearest point of rough backfilling and grading.

D. The Director may allow extended distances for rough backfilling and grading beyond those established in this section the applicant (i) can demonstrate to the Director a history of at least seven consecutive years of compliance with this chapter or with any other comparable state or federal act or (ii) submits a bond for the proposed additional area. The additional bond shall be equal to the ratio of the extended distance to the distance specified in subsection C, multiplied by an approved cost estimate of reclamation prepared for the permit.

§ 45.2-1045. Initial payments into Fund; renewal payments; bonds.

A. Any operator filing a permit application for a coal surface mining operation participating in the pool fund shall pay into the Fund, as an entrance fee, a sum equal to \$1,000 for each applicable permit application. An entrance fee of \$5,000 shall be required of each operator who elects to participate in the Fund if the Director has determined that the total balance of the Fund is less than \$1.75 million. The entrance fee shall be reduced to \$1,000 when the total Fund balance is greater than \$2 million. A renewal fee of \$1,000 shall be required of each permittee in the Fund at permit renewal.

1. For the purposes of this section, all planned expenditures shall be deducted from the balance of the Fund during each calendar quarter; including any forfeiture on which engineering cost estimates have been prepared but no money from the Fund has actually been expended.

2. If the actual expenditures from the Fund are less than the engineering cost estimate, the difference shall be credited to the balance of the Fund during the calendar quarter in which the final expenditure is made from the Fund to accomplish the reclamation.

B. In addition to the initial payments into the Fund described in subsection A, every operator who participates in the Fund shall furnish to the Fund a bond that meets the criteria of § 45.2-1016 and regulations issued pursuant thereto as follows:

1. For an underground mining operation participating in the Fund prior to July 1, 1991, the amount of \$1,000 per acre covered by each permit. In no event shall such total bond be less than \$40,000, except that on a permit that has completed all mining and for which a completion report was approved prior to July 1, 1991, the total bond shall not be less than \$10,000.

2. For an underground mining operation entering the Fund on or after July 1, 1991, and for any additional acreage bonded after such date, the amount of \$3,000 per acre. In no event shall the total bond for such underground operation entering the Fund on or after July 1, 1991, be less than \$40,000.

3. For any other coal mining operation participating in the Fund prior to July 1, 1991, the amount of \$1,500 per acre covered by each permit. In no event shall such total bond be less than \$100,000, except that on a permit that has completed all mining and for which a completion report was approved prior to July 1, 1991, the total bond shall not be less than \$25,000.

4. For any other coal mining operation entering the Fund on or after July 1, 1991, and for any additional acreage bonded after such date, the amount of \$3,000 per acre. In no event shall the total bond for such operation entering the Fund on or after July 1, 1991, be less than \$100,000.

C. All fees and payments provided in this article shall be in addition to initial permit application and anniversary payments provided pursuant to § 45.2-1010 or any other payments required in compliance with this chapter.

D. Each Fund participant shall be allowed to post incremental bonds as set forth in § 45.2-1016. Such bonds shall be posted in annual increments according to a schedule contained in the permit application and approved annually by the Director on the anniversary date.

E. Any mining operation participating in the Fund that has been in temporary cessation for more than six months as of July 1, 1991, shall within 90 days of that date post bond equal to the total estimated cost of reclamation for all portions of the permitted site that are in temporary cessation. Any mining operation participating in the Fund that has been in temporary cessation for six months or less as of July 1, 1991, shall within 90 days after the date on which the operation has been in temporary cessation for more than six months post bond equal to the total estimated cost of reclamation for all portions of the permitted site that are in temporary cessation. Any mining operation participating in the Fund that enters temporary cessation on or after July 1, 1991, shall, prior to the date on which the operation has been in temporary cessation for more than six months, post bond equal to the total estimated cost of reclamation for all portions of the permitted site that are in temporary cessation. Such bond shall remain in effect throughout the remainder of the period during which the site is in temporary cessation. At such time as the site returns to active status, the bond posted under this subsection may be released if the permittee has posted bond pursuant to subsection B.

§ 45.2-1046. Assessment of reclamation tax revenues for Fund.

A. There is hereby levied a reclamation tax upon the production of coal by each operator participating in the Fund under a permit issued under this chapter as set forth in this article.

B. Thirty days after the end of each calendar quarter during which the total balance of the Fund, including interest thereon, is less than \$20 million, each operator shall pay into the Fund an amount equal to:

1. Four cents per clean ton of coal produced by a surface mining operation permitted under this chapter;

2. Three cents per clean ton of coal produced by a deep mining operation permitted under this chapter; and

3. One and one-half cents per clean ton of coal processed or loaded by a preparation or loading facility permitted under this chapter.

C. At the end of each calendar quarter during which the total balance in the Fund, including interest thereon, exceeds \$20 million, payments under this section shall cease until again required pursuant to subsection B.

D. In no event shall any operator pay reclamation tax under this section on total coal production in excess of five million tons per calendar year, regardless of the number of permits held by that operator. In no event shall any operator holding more than one type of permit pay tax at a rate in excess of five and one-half cents per ton on coal originally surface-mined by that operator or in excess of four and one-half cents per ton on coal originally deep-mined by that operator. Any operator holding one permit upon which coal is mined and processed or loaded shall pay only the tax applicable under this section to the surface mining operation or deep mining operation.

§ 45.2-1047. Special assessment.

A. In addition to the tax assessed pursuant to § 45.2-1046, and in order to ensure Fund solvency, the Director of the Division shall require each permittee to pay any special assessment made pursuant to subsection B.

B. On and after July 1, 1990, the Director of the Division shall assess each permit in the Fund the amount of \$500. Such assessment shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

C. On or after July 1, 1991, the Director of the Division shall assess an amount not to exceed \$500,000. The amount of the assessment shall be \$250 for each permit participating in the Fund that has completed all mining activity and for which a completion report has been approved. The remaining assessments shall be made in equal amounts per acre for each disturbed acre permitted under the Fund. The amount of disturbed acreage for each permit shall be determined by the most recent anniversary map, or updated anniversary map, submitted by the permittee to the Division prior to July 1, 1991. The assessments under subsection B and this subsection shall not apply to acreage that has been reclaimed and for which an increment of the bond has been transferred to other acreage in the permit. The assessments under subsection B and this subsection shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

D. Failure to tender moneys assessed pursuant to the provisions of this section within 30 calendar days of assessment shall constitute a violation of this chapter. Any civil penalties collected for violations of this section shall be applied to the balance of the Fund.

§ 45.2-1048. Collection of reclamation tax and penalties for nonpayment.

A. Payment of taxes under this section shall be made no later than 30 days after the end of each calendar quarter when taxes are applicable in accordance with § 45.2-1046. The Division shall notify each operator holding a permit under this chapter of those periods during which the taxes are applicable, provide forms for reporting coal production figures subject to taxes, and collect all taxes for the Fund.

B. Pursuant to regulations adopted by the Director, and consistent with the provisions of § 45.2-1024, all funds paid into the Fund, and interest accrued to the Fund, shall be available for the completion of defaulted reclamation plans filed pursuant to § 45.2-1011. From the interest accrued to the Fund, amounts sufficient to properly administer the Fund are hereby appropriated to the Division. The Director shall also adopt regulations for the implementation of this article and for the collection of taxes hereunder:

C. The Division, upon advance written request to an operator, may audit the relevant books and records of the operator upon which taxes paid under this section are based. Failure to consent to a reasonable request for the audit shall be deemed a violation of this article by the operator.

D. Upon the failure of an operator to pay taxes when due under this section, the Division shall issue a notice of violation pursuant to subsection B of § 45.2-1020. The notice of violation shall state that upon failure of payment within 15 days thereafter, the Division shall issue a cessation order to the operator for failure to abate the notice of violation. Upon the issuance of the cessation order pursuant to subsection C of § 45.2-1020, the enforcement procedures set forth in Article 2 (§ 45.2-1008 et seq.) shall apply. Civil penalties imposed upon an operator pursuant to a violation of this article shall be placed in the Fund.

§ 45.2-1049. Forfeiture of bonds on operations participating in the Fund; alternative remedies.

A. Forfeiture of bonds of an operation participating in the Fund shall be accomplished as set forth in § 45.2-1023 and the regulations adopted by the Director.

B. In addition to forfeiture, the Director may proceed against the permittee of a surface coal mining operation under the provisions of subsection F of § 45.2-1020 by filing a civil action for injunctive or other relief in any court of competent jurisdiction to compel the permittee to perform the reclamation work in full compliance with this chapter, the regulations, and approved permit plans. Any injunctive relief shall be granted without the necessity of pleading or proving inadequate remedy at law or irreparable harm, and no bond shall be required.

C. Proceedings under either subsection A or B shall not constitute a waiver by the Director to proceed under the other subsection, nor shall the commencement of action under one subsection constitute an election to proceed solely under that subsection.

§ 45.2-1050. Reinstatement to the Fund; recovery of Fund expenditures.

A. An operator who has defaulted on any reclamation obligation and has thereby caused the Fund to incur reclamation expenses shall not be eligible to participate in the Fund thereafter until restitution for such default has been made. Compliance with this requirement shall be a prerequisite to the filing by the operator of any new permit application under this chapter but shall not affect the operator's obligation to comply with all other requirements of this chapter in applying for a permit.

B. The Director may file a motion for judgment in any court of competent jurisdiction against the permittee to recover all moneys expended by the Fund to accomplish a reclamation. Such expenditures shall include construction costs, engineering costs, administrative costs, and legal costs. In any action to recover such costs, the defendant shall not relitigate the facts giving rise to the forfeiture or defend by claiming the forfeiture was improper.

§ 45.2-1051. Coal Surface Mining Reclamation Fund Advisory Board.

A. The Coal Surface Mining Reclamation Fund Advisory Board (the Advisory Board) is established as an advisory board in the executive branch of state government. The purpose of the Advisory Board is to formulate recommendations for the Director concerning oversight of the general operation of the Fund.

B. The Advisory Board shall have a total membership of eight members that shall consist of seven nonlegislative citizen members and one ex officio member. Nonlegislative citizen members shall be appointed by the Governor and subject to confirmation by the General Assembly as follows: at least four shall represent the coal industry, one shall be a representative of the Director, and two shall represent conservation interests and any other public or private interests as are appropriate in accordance with Article V of the Interstate Mining Compact (§ 45.2-201). The Director of the Division or his designee shall serve ex officio with nonvoting privileges and shall serve as Secretary to the Advisory Board. Nonlegislative citizen members of the Advisory Board shall be citizens of the Commonwealth.

C. The ex officio member of the Advisory Board shall serve a term coincident with his term of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

D. The nonlegislative citizen members of the Advisory Board shall be appointed for five-year staggered terms. No person shall serve more than two consecutive terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

E. The Advisory Board shall annually elect a chairman and vice-chairman from among its membership and shall formulate rules for its organization and procedure. A majority of the members shall constitute a quorum.

F. The nonlegislative citizen members of the Advisory Board shall serve without compensation or reimbursement for expenses incurred in the performance of their duties.

G. The Advisory Board shall meet not less than twice each year, with such meetings held at the call of the chairman or whenever the majority of the members so request.

H. The Advisory Board shall have the following powers and duties:

1. Report biannually to the Director and the Governor on the status of the Fund; and

2. Recommend to the Director regulations or changes to the Fund for the administration or operation of the Fund.

I. The Department shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board, upon request.

J. The Director may adopt the recommendations of the Advisory Board through regulatory action from time to time in accordance with the provisions of this chapter and otherwise in accordance with law.

K. The Advisory Board shall serve as the advisory body required by Article V of the Interstate Mining Compact (§ 45.2-201).

SUBTITLE III.
MINERAL MINES.

PART A.

MINERAL MINES GENERALLY.

CHAPTER II.

MINERAL MINE SAFETY ACT.

Article 1.

General Provisions.

§ 45.2-1100. Mineral Mine Safety Act.

For purposes of this title, this chapter and Chapters 14 (§ 45.2-1400 et seq.) and 15 (§ 45.2-1500 et seq.) shall be known as the Mineral Mine Safety Act.

§ 45.2-1101. Definitions.

As used in the Mineral Mine Safety Act and in regulations adopted under the Act, unless the context requires a different meaning:

"Abandoned area" means the inaccessible area of an underground mine that is sealed or ventilated and in which further mining is not intended.

"Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury; (iii) an entrapment of an individual for more than 30 minutes; (iv) an unplanned inundation of a mine by liquid or gas; (v) an unplanned ignition or explosion of gas or dust; (vi) an unplanned mine fire not extinguished within 30 minutes of discovery; (vii) an unplanned ignition or explosion of a blasting agent or an explosive; (viii) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use, or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix) a rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour; (x) an unstable condition at a water or silt retaining dam or mine refuse pile that requires emergency action in order to prevent failure or causes individuals to evacuate an area, or failure of such retaining dam or refuse pile; (xi) damage to hoisting equipment in a shaft or slope that endangers an individual or interferes with use of the equipment

for more than 30 minutes; and (xii) an event at a mine that causes death or serious personal injury to any individual not at a mine at the time the event occurs.

"Active area" means any place in a mine that is ventilated, if underground, and examined regularly.

"Active workings" means any place in a mine where miners are normally required to work or travel.

"Agent" means any person charged by the operator with responsibility for the operation of all or a part of a mine or the supervision of miners in a mine.

"Approved" means, with reference to a device, apparatus, equipment, condition, method, course, or practice, approved in writing by the Director.

"Approved competent person" means a person with more than two years of experience designated by the Department as having the authority to function as a mine foreman even though the person has less than five years of experience. If an approved competent person meets all the criteria for certification as a mine foreman other than the experience criteria, he may perform the duties of a mine foreman except the pre-shift examination.

"Armored cable" means a cable provided with a wrapping of metal, plastic, or other approved material.

"Authorized person" means a person who is assigned by the operator or agent to perform a specific type of duty or to be at a specific location in the mine and is task-trained in accordance with requirements of the federal mine safety law.

"Blower fan" means a fan with tubing used to direct part of a particular circuit of air to a working place.

"Booster fan" means an underground fan installed in conjunction with a main fan to increase the volume of air in one or more circuits.

"Cable" means (i) a stranded conductor, known as single-conductor cable, or (ii) a combination of conductors insulated from one another, known as multiple-conductor cable.

"Certified person" means a person who holds a valid certificate from the Department authorizing him to perform the particular task to which he is assigned.

"Circuit" means a conducting part or a system of conducting parts through which an electric current is intended to flow.

"Circuit breaker" means a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

"Competent person" means a person having abilities and experience that fully qualify him to perform the particular duty to which he is assigned.

"Cross entry" means any entry or set of entries, turned from main entries, from which room entries are turned.

"Division" means the Division of Mineral Mining.

"Experienced surface miner" means a person with more than six months of experience working at a surface mine or the surface area of an underground mine.

"Experienced underground miner" means a person with more than six months of underground mining experience.

"Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 91-173, as amended by P.L. 95-164) and regulations adopted thereunder.

"Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and destroyed by the passage of overcurrent through it.

"Ground" means a conducting connection between an electric circuit or electrical equipment and earth or some conducting body that serves in place of earth.

"Grounded" means connected to earth or to some connecting body that serves in place of earth.

"Hazardous condition" means a condition that is likely to cause death or serious personal injury to a person exposed to such condition.

"Imminent danger" means the existence of any condition or practice in a mine that could reasonably be expected to cause death or serious personal injury before such condition or practice can be abated.

"Inactive mine" means a mine (i) at which (a) coal or minerals have not been excavated or processed or (b) work, other than examination by a certified person or emergency work to preserve the mine, has not been performed for a period of 30 days at an underground mine or for a period of 60 days at a surface mine; (ii) for which a valid license is in effect; and (iii) at which reclamation activities have not been completed.

"Independent contractor" means any person who contracts to perform services or construction at a mine.

"Intake air" means air that has not passed through the last active working place of the split or by the unsealed entrance to an abandoned area and by analysis contains at least 19.5 percent oxygen and not more than 0.5 percent carbon dioxide and does not contain a hazardous quantity of flammable gas or a harmful quantity of poisonous gas.

"Interested persons" means members of the mine safety committee and other duly authorized representatives of the employees at a mine, MSHA employees, mine inspectors, and, to the extent required by the Act, any other person.

"Licensed operator" means the operator who has obtained the license for a particular mine under § 45.2-1124.

"Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit and from which cross entries, room entries, or rooms are turned.

"Mine" means any underground mineral mine or surface mineral mine. Mines that are adjacent to each other and under the same management and that are administered as distinct units are considered separate mines. A site is not considered a mine unless the mineral extracted or excavated from it is offered for sale or exchange or used for any other commercial purpose.

"Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.

"Mine foreman" means a person who holds a valid certificate of qualification as a foreman issued by the Department.

"Mine inspector" means a public employee assigned by the Director to make mine inspections as required by the Mineral Mine Safety Act or other applicable law.

"Miner" means any individual working in a mineral mine.

"Mineral" means clay, stone, sand, gravel, metalliferous or nonmetalliferous ore, or any other solid material or substance of commercial value excavated in solid form from a natural deposit on or in the earth, exclusive of coal and any mineral that occurs naturally in liquid or gaseous form.

"Mineral mine" means a surface mineral mine or an underground mineral mine.

"Mineral Mine Safety Act" or "the Act" means this chapter and Chapters 14 (§ 45.2-1400 et seq.) and 15 (§ 45.2-1500 et seq.) and includes any regulations adopted thereunder, where applicable.

"Mine Safety and Health Administration" or "MSHA" means the federal Mine Safety and Health Administration.

"Operator" means any person who operates, controls, or supervises a mine or any independent contractor performing services or construction at a mine.

"Panel entry" means a room entry.

"Permissible" means any device, process, equipment, or method classified at any time as permissible by MSHA, when such classification is adopted by the Director. "Permissible" includes, unless otherwise herein expressly stated, any requirement, restriction, exception, limitation, or condition attached to such classification by MSHA.

"Return air" means air that has passed through (i) the last active working place on each split or (ii) an abandoned or worked-out area. No area within a panel shall be deemed abandoned until it is inaccessible or sealed.

"Room entry" means any entry or set of entries from which a room is turned.

"Serious personal injury" means any injury that (i) has a reasonable potential to cause death or (ii) is other than a sprain or strain and requires an admission to a hospital for 24 hours or more for medical treatment.

"Substation" means an electrical installation containing generating or power-conversion equipment and associated electric equipment and parts, such as switchboards, switches, wiring, fuses, circuit breakers, compensators, and transformers.

"Surface mineral mine" means (i) the pit and any other active or inactive area of surface extraction of minerals; (ii) any onsite mill, shop, loadout facility, or related structure appurtenant to the excavation and processing of minerals; (iii) any impoundment, water or silt retaining dam, tailing pond, mine refuse pile, or other area appurtenant to the extraction of minerals from the site; (iv) any onsite surface area for the transportation or storage of minerals excavated at the site; (v) equipment, machinery, tools, and other property used in, or to be used in, the work of extracting minerals from the site; (vi) any private way or road appurtenant to such area; and (vii) any area used for surface-disturbing exploration, other than by drilling or seismic testing, or for preparation of a site for surface mineral extraction activity. A site shall commence being a surface mineral mine upon the beginning of any surface-disturbing exploration activity other than exploratory drilling or seismic testing and shall cease to be a surface mineral mine upon completion of initial reclamation activities. The surface extraction of a mineral shall not constitute surface mineral mining unless the mineral (a) is extracted for its unique or intrinsic characteristics or (b) requires processing prior to its intended use.

"Travel way" means a passage, walk, or way regularly used and designated for persons to use in going from one place to another.

"Underground mineral mine" means (i) the working face and any other active or inactive area of underground excavation of minerals; (ii) any underground travel way, shaft, slope, drift, incline, or tunnel connected to such area; (iii) any onsite mill, loadout area, shop, or related facility appurtenant to the excavation and processing of minerals; (iv) any onsite surface area for the transportation or storage of minerals excavated at the site; (v) any impoundment, retention dam, tailing pond, or waste area appurtenant to the excavation of minerals from the site; (vi) equipment, machinery, tools, and other property, on the surface or underground, used in, or to be used in, the excavation of minerals from the site; (vii) any private way or road appurtenant to such area; and (viii) any area used to prepare a site for underground mineral excavation activities. A site commences being an underground mineral mine upon the beginning of any site preparation activity other than exploratory drilling or other exploration activity and ceases to be an underground mineral mine upon completion of initial reclamation activities.

"Work area," as used in Chapter 9 (§ 45.2-900 et seq.), means an area of a mine in production or being prepared for production or an area of a mine that may pose a danger to miners at such area in production or being prepared for production.

"Working face" means any place in a mine in which work of extracting minerals from their natural deposit in the earth is performed during the mining cycle.

"Working place" means the area of an underground mine in by the last open crosscut.

"Working section" means the portion of a mine encompassing all areas from the loading point of a section to and including the working faces.

§ 45.2-1102. Safety and health.

In safety and health, all mineral miners are to be governed by the Act, Article 1 (§ 45.2-1300 et seq.) of Chapter 13, any other section of the Code relating to the safety and health of miners, and regulations adopted by the Department.

§ 45.2-1103. Special safety rules.

The operator of a mine may adopt special safety rules for the safety and operation of his mine regarding the work pertaining thereto inside and outside of the mine. Such rules, however, shall not conflict with the provisions of the Act. Such rules, if established, shall be posted at some conspicuous place about the mine where they may be seen by all miners subject to such rules. In lieu of posting the rules, the operator may furnish a printed copy of such rules to each miner subject to such rules.

§ 45.2-1104. Persons permitted to work in mines; age requirements.

A. No person under 18 years of age shall be permitted to work in any mine.

B. The Department shall conform to § 212 of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and federal regulations adopted pursuant to that Act with respect to any person under 18 years of age working around any mine.

C. No operator, agent, or mine foreman shall make a false statement as to the age of any person under 18 years of age applying for work in or around any mine.

§ 45.2-1105. Prohibited acts by miners or other persons; miners to comply with law.

A. No miner or other person shall (i) knowingly damage any shaft, lamp, instrument, air course, or brattice or obstruct any airway; (ii) carry in a mine any intoxicating liquors or controlled drugs without the prescription of a licensed physician; (iii) disturb any part of the machinery or appliances in a mine; (iv) open a door used for directing ventilation and fail to close it again; (v) enter any part of a mine against caution or a warning sign or barricade; or (vi) disobey any order issued pursuant to the provisions of the Act.

B. Each miner at any mine shall comply fully with the provisions of the Act and other mining laws of the Commonwealth, including regulations adopted by the Department, that pertain to his duties.

§ 45.2-1106. Safety materials and supplies.

It is the duty of each operator or agent to keep on hand at all times at each mine, or within convenient distance of each mine, a sufficient quantity of all materials and supplies required to preserve the safety of miners working in any area in which the operator is responsible for their health and safety, as required by the Act. If for any reason the operator or agent cannot procure the necessary materials or supplies, he shall cause all miners to withdraw from the mine, or from the affected portion of the mine, until such materials or supplies are received.

§ 45.2-1107. Notifying miners of violations; compliance with Act.

A. The operator and his agent shall cooperate with the mine foreman, competent person, and other officials in the discharge of their duties as required by the Act. Such operator and agent shall direct all miners to comply with all provisions of the Act, especially when the attention of such operator or agent is called by the Director or a mine inspector to any violation of the Act.

B. The operator of any mine or his agent shall operate at all times in full conformity with the Act and any other mining law of the Commonwealth, including any regulation of the Department. This requirement shall not relieve any other person who is subject to the provisions of the Act from his duty to comply with the requirements of the Act.

C. Nothing in the Act shall be construed to relieve an operator or his agent from the duty imposed at common law to secure the reasonable safety of his employees.

D. No operator, agent, competent person, or certified person shall knowingly permit any person to work in any part of a mine in violation of written instructions issued by a mine inspector pursuant to the Act.

Article 2.

Director and Mining Inspectors.

§ 45.2-1108. Affiliations of Department personnel with labor union, mining company, etc.; interest in mine; inspections of mines where inspector previously employed.

A. Neither the Director nor any other officer or employee of the Department shall, upon taking office or being employed, or at any other time during the term of his office or employment, have any affiliation with any operating company, operators' association, or labor union or fail to comply with the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Neither the Director nor any other officer while in office shall be directly or indirectly interested as owner, partner, proprietor, lessor, operator, superintendent, or engineer of any mine, nor shall the Director or any other officer while in office own any stock in a corporation that owns a mine either directly or through a subsidiary.

B. Neither the Director nor any mine inspector shall perform an inspection at any mine at which he was last employed for a period of two years following termination of his employment.

§ 45.2-1109. Appointment and general qualifications of mine inspectors.

A. Each mine inspector shall be appointed by the Director.

B. Each mine inspector shall (i) be at least 25 years of age; (ii) be of good moral character and temperate habits; (iii) hold a certificate as a mine foreman; and (iv) hold a certificate as a mine inspector issued prior to July 1, 2012, by the Board of Mineral Mining Examiners or on or after July 1, 2012, by the Department.

§ 45.2-1110. Qualifications of mine inspectors.

Each mine inspector conducting inspections of mineral mines shall have a thorough knowledge of the various systems of working and ventilating underground mineral mines and working surface mineral mines, the control of mine roof and ground control, methods of rescue and recovery in mining operations, the application of electricity and mechanical loading in mining operations, equipment and explosives used in mining, and mine haulage.

§ 45.2-1111. Duties of Director.

A. The Director shall (i) supervise the execution and enforcement of all laws pertaining to the safety and health of persons employed within or at mineral mines within the Commonwealth and the protection of property used in connection therewith and (ii) perform all other duties required pursuant to the Act.

B. The Director shall keep a record of all inspections of mineral mines made by him or his authorized representatives. The Director shall also keep a permanent record of such inspections, properly indexed, and such record shall at all times be open to inspection by any citizen of the Commonwealth.

§ 45.2-1112. Technical specialists.

The Director may appoint technical specialists in the areas of roof control, electricity, ventilation, and other mine specialties. Each technical specialist shall have all the qualifications of a mine inspector plus any specialized knowledge required in his field. A technical specialist shall advise the Director and mine operators in the areas of his specialty and shall have the power of an inspector to issue a closure order only in a case of imminent danger.

Article 3.

Certification of Mineral Mine Workers.

§ 45.2-1113. Records of Board of Mineral Mining Examiners.

The Director of the Division shall preserve in his office a record of the meetings and transactions of the Board of Mineral Mining Examiners and of all certificates issued by the Board.

§ 45.2-1114. Certification of certain persons employed in mineral mines; powers of the Department.

A. The Department may require certification of each person who works in a mineral mine or whose duties and responsibilities in relation to mineral mining require competency, skill, or knowledge in order to perform the tasks required of him in a manner consistent with the preservation of the health and safety of persons and property. Each of the following certificates shall be issued by the Department, and a person who holds such a certificate is authorized to perform the tasks that the Act requires to be performed by such certified person:

1. Surface foreman;
2. Surface foreman open pit;
3. Underground foreman;
4. Surface blaster;
5. Electrical repairman;
6. Underground mining blaster;
7. General mineral miner; and
8. Mine inspector.

B. Certification shall also be required for any additional tasks that the Department requires by regulation.

C. The Department may adopt regulations necessary or incidental to the performance of duties or the execution of powers conferred under this title. Such regulations shall be adopted in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

§ 45.2-1115. Examinations required for Mineral Mining Certifications.

A. The Department may require the examination of each applicant for certification. The Department shall require the examination of each applicant for a mine inspector certification. The Department may require such other information from an applicant as necessary to ascertain competency and qualifications for each task.

B. Except as provided by the Act for a general mineral miner or surface foreman certification, the Department shall prescribe the qualifications for each type of certification. The examinations shall be conducted under conditions and regulations that the Department establishes or adopts. Such established conditions and adopted regulations shall be made a part of the permanent record of the Department, published periodically, and applied uniformly to all applicants.

C. Any certificate issued by the Department, except the general mineral miner certificate, shall be valid from the date of issuance for a period of five years unless renewed or unless revoked pursuant to § 45.2-1120. The general mineral miner certificate shall be valid from the date of issuance until it is revoked pursuant to § 45.2-1120.

§ 45.2-1116. Performance of certain tasks by uncertified persons; penalty.

It is unlawful for any person to perform any task requiring Department certification unless he has been certified. It is unlawful for an operator or his agent to permit any uncertified person to perform such task. A violation of this section constitutes a Class 1 misdemeanor. Each day of operation without a required certification constitutes a separate offense. A certificate issued by the Board of Mineral Mining Examiners prior to July 1, 2012, shall be acceptable as a certificate issued by the Department until the Department provides otherwise by appropriate regulations.

§ 45.2-1117. Examination fees; Mineral Mining Examiners' Fund.

A. A fee of \$10 shall be paid to the Director by each person examined before the commencement of the examination.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Mineral Mining Examiners' Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to subsection A, together with moneys collected pursuant to § 45.2-1119, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

C. The Fund shall be administered by the Director, and moneys in the Fund shall be used solely for the purposes of payment of the cost of printing certificates and other necessary forms and the incidental expenses incurred by the

Department in conducting examinations, reviewing examination papers, and conducting its other duties pursuant to this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. The Director shall keep accounts and records concerning the receipts and expenditures of the Fund as required by the Auditor of Public Accounts.

§ 45.2-1118. Reciprocal acceptance of other certifications.

In lieu of conducting an examination prescribed by law or regulation, the Department may issue to any person holding a certificate issued by another state a certificate permitting him to perform similar tasks in the Commonwealth so long as (i) the Department finds that the requirements for certification in such other state are substantially equivalent to those of the Commonwealth and (ii) holders of certificates issued by the Department are permitted to perform similar tasks in such state, and obtain similar certification from such state if required, upon presentation of the certificate issued by the Department and without additional testing, training, or other requirements not directly related to program administration.

§ 45.2-1119. Renewal of certificates.

The holder of any certificate issued by the Board of Mineral Mining Examiners or the Department, other than a general mineral miner certificate, may renew the certificate by successfully completing the examination for the renewal of such certificate. The Department shall establish requirements for renewal of a certificate in accordance with the procedure set forth in § 45.2-1115. The Department shall notify a certificate holder at least 180 days prior to the expiration of the certificate. Any certificate requiring renewal that is not renewed by the fifth anniversary of its issuance or of a previous renewal is invalid. As a condition to renewal, the holder shall provide the Department with all administrative information reasonably required and pay the examination fee as provided in § 45.2-1117.

§ 45.2-1120. Revocation of certificates.

A. The Department may revoke any certificate upon finding that (i) the holder has (a) been intoxicated while on duty; (b) neglected his duties; (c) violated any provision of the Act or any other mineral mining law of the Commonwealth, including any regulation adopted by the Department; or (d) used any controlled substance without the prescription of a licensed physician or (ii) other sufficient cause exists.

B. The Department may act to revoke any certificate upon the presentation of written charges by (i) the Director of the Division or any other employee of the Department; (ii) the operator of a mine at which such person is employed; (iii) an independent contractor working at such mine; or (iv) 10 persons working at the mine at which such person is employed or, if fewer than 10 persons are working at the mine, a majority of the workers at the mine.

C. Prior to revoking a certificate, the Department shall give due notice to the holder of the certificate and conduct a hearing. Any hearing shall be conducted in accordance with § 2.2-4020 unless the parties agree to informal proceedings. The hearing shall be conducted by a hearing officer as provided in § 2.2-4024.

D. Any person aggrieved by a decision of the Department is entitled to judicial review of such decision. Appeals from such decisions shall be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 45.2-1121. Reexamination.

The holder of a certificate revoked pursuant to § 45.2-1120 is entitled to examination by the Department after a period of three months has elapsed from the date of revocation of the certificate if he can prove to the satisfaction of the Department that the cause for revocation of his certificate has ceased to exist.

§ 45.2-1122. General mineral miner certification.

A. Every person beginning work in a mineral mine subsequent to January 1, 1997, shall hold a general mineral miner certificate issued by the Board of Mineral Mining Examiners or the Department. Any person who has worked in a mineral mine in the Commonwealth prior to that date may, but shall not be required to, hold a general mineral miner certificate.

B. Each applicant for a general mineral miner certificate shall prove to the Department that he has knowledge of first aid practices and has a general working knowledge of the provisions of the Act and applicable regulations pertaining to mineral mining health and safety.

§ 45.2-1123. Foreman certification.

A. At any mineral mine where three or more persons work at the same time during any part of a 24-hour period, the licensed operator or independent contractor engaged in the extraction or processing of minerals shall employ a mine foreman. Only a person holding a foreman certificate in accordance with § 45.2-1114 shall be employed as a mine foreman. The holder of such a certificate shall present the certificate, or a copy thereof, to the operator where he is employed. Such operator shall file the certificate or its copy in the office at the mine and make it available for inspection by interested persons.

B. Every applicant for a foreman certificate shall have at least five years of experience at mineral mining, or other experience deemed appropriate by the Department, and shall demonstrate to the Department a thorough knowledge of the theory and practice of mineral mining by making a score of 85 percent or more on the written examination. In addition, each applicant shall pass an examination in first aid approved by the Department.

C. The certified mine foreman at each mine shall examine all active workings at the beginning of each shift. Any hazard or unsafe condition shall be corrected before any miner starts work in the affected area.

D. Any independent contractor working in a mineral mine who is engaged in an activity other than the extraction or processing of minerals and is working in a clearly demarcated area where (i) no mining-associated hazard exists and (ii) no other miner travels or works while engaged in an extraction or processing activity shall employ a competent person to

examine the work area of the contractor at the beginning of each shift. Any hazard or unsafe condition shall be corrected prior to any person starting work in the affected area.

Article 4.

Licensing of Mineral Mines.

§ 45.2-1124. License required for operation of mineral mines; term.

A. No person shall engage in the operation of any mineral mine within the Commonwealth without first obtaining a license from the Department. Licenses shall be in a form that the Director prescribes. The license for each mine shall be posted in a conspicuous place near the main entrance to such mine.

B. A license is required prior to commencement of the operation of a mine, and a separate license shall be secured for each mine operated. The Director may transfer a license to a successor operator so long as the successor operator has complied with the requirements of the Act. Every change in ownership of a mine shall be reported to the Department as provided in subsection D of § 45.2-1129.

C. Each license shall be valid for a period of one year following the date of issuance, and a mine operator shall secure the renewal of a license by its anniversary date.

D. Within 30 days after the occurrence of any change in the information required by subsection B, the licensed operator shall notify the Department in writing of such change.

§ 45.2-1125. Fee to accompany application for license; Mineral Mine License Fund; disposition of fees.

A. Each application for a mineral mine license or a renewal or transfer of a license shall be submitted to the Department, accompanied by a fee of \$400 payable to the State Treasurer, except an application submitted electronically, which shall be accompanied by a fee of \$330. However, any person engaged in mining sand or gravel on an area of five acres or less shall be required to pay a fee of \$100, except an application submitted electronically, which shall be accompanied by a fee of \$80. All such fees collected shall be retained by the Department and paid into the Mineral Mine License Fund created pursuant to subsection B.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Mineral Mine License Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to subsection A shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures from the Fund shall be made solely for the purpose of acquiring or providing safety equipment, safety training, or safety education or to further the safety program in the mineral mining industry. All expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1126. Application for license.

A. Each application for a license shall be submitted by the person who will be the licensed operator of the mine. No application for a license or a renewal thereof is complete unless it contains the following:

1. The identity of the applicant. The applicant shall state (i) the name and address of the mine and its federal mine identification number; (ii) the name and address of the person with overall responsibility for operating decisions at the mine, (iii) the name and address of the person with overall responsibility for health and safety at the mine, and (iv) the federal mine identification number of every other mine in which the applicant has a 20 percent or greater ownership interest;

2. If the applicant is a sole proprietorship, in addition to the information required by subdivision 1, (i) his full name and address and (ii) the trade name, if any, and the full name, address of record, and telephone number of the proprietorship;

3. If the applicant is a partnership, in addition to the information required by subdivision 1, (i) the full name and address of each partner; (ii) the trade name, if any, and the full name and address of record and telephone number of the partnership; and (iii) the federal mine identification number of every other mine in which any partner has a 20 percent or greater ownership interest;

4. If the applicant is a corporation, in addition to the information required by subdivision 1, (i) the full name, address of record, and telephone number of the corporation and the state of incorporation; (ii) the full name and address of each officer and director of the corporation; (iii) the full name, address, and state of incorporation of the parent corporation if the corporation is a subsidiary corporation; and (iv) the federal mine identification numbers of every other mine in which any corporate officer has a 20 percent or greater ownership interest;

5. If the applicant is any organization other than a sole proprietorship, partnership, or corporation, in addition to the information required by subdivision 1, (i) the nature and type, or legal identity, of the organization; (ii) the full name, address of record, and telephone number of the organization; (iii) the name and address of each individual who has an ownership interest in the organization; (iv) the name and address of the principal organization officials or members; and (v) the federal mine identification number of every other mine in which any official or member has a 20 percent or greater ownership interest;

6. The name and address of any agent of the applicant with responsibility for the business operation of the mine, and any person with an ownership or leasehold interest in the minerals to be mined;

7. The following information about each independent contractor working at the mine: (i) the independent contractor's trade name, business address, and business telephone number; (ii) a description of the nature of the work to be performed

by the independent contractor and where at the mine the work is to be performed; (iii) the independent contractor's MSHA identification number, if any; (iv) the independent contractor's address of record for service of citations and other documents; (v) the names and addresses of persons with overall responsibility for operating decisions; and (vi) the names and addresses of persons with overall responsibility for the health and safety of employees;

8. The names and addresses of persons to be contacted in the event of an accident or other emergency at the mine;

9. Any information required by the Department that is relevant to an assessment of the safety and health risks likely to be associated with the operation of the mine; and

10. For any license renewal, the annual report required pursuant to § 45.2-1129.

B. The application shall be certified as being complete and accurate by the applicant, if an individual; by the agent of a corporate applicant; or by a general partner of an applicant that is a partnership. The application shall be submitted on forms furnished or approved by the Department.

C. Within 30 days after the occurrence of any change in the information required by subsection A, the licensed operator shall notify the Department in writing of such change.

§ 45.2-1127. Denial or revocation of license.

A. The Director may deny an application for, or revoke a license for, the operation of a mineral mine upon determining that the applicant, the licensed operator, or the agent of such applicant or operator has committed violations of the mine safety laws of the Commonwealth that demonstrate a pattern of willful violations resulting in an imminent danger to miners.

B. The Director may revoke every license issued to any person for the operation of a mineral mine and may deny every application by a person for the issuance of a license for the operation of a mineral mine if such person has been convicted of knowingly permitting a miner to work in an underground coal mine where a methane monitor or other device capable of detecting the presence of explosive gases was impaired, disturbed, disconnected, bypassed, or otherwise tampered with in violation of § 45.2-849.

C. The Director may revoke every license issued to any person for the operation of a mineral mine and may deny every application by a person for the issuance of a license for the operation of a mineral mine if such person has been convicted of violating subsection A of § 45.2-856 or 45.2-857.

D. Any person whose license is denied or revoked pursuant to subsection A, B, or C may bring a civil action in the circuit court of the city or county in which the mine is located for review of the decision. The commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the decision. The court shall promptly hear and determine the matters raised by the aggrieved party. In any such action the court shall receive the records of the Department regarding the determination and shall receive additional evidence at the request of any party. The court, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

§ 45.2-1128. Operating without license; penalty.

A. In addition to any other power conferred by law, the Director or his designated representative may issue an order closing any mineral mine that is operating without a license. The procedure for issuing a closure order shall be as provided in § 45.2-1158.

B. Any person operating an unlicensed mineral mine is guilty of a Class 3 misdemeanor. Each day any person operates an unlicensed mineral mine constitutes a separate offense.

§ 45.2-1129. Annual reports; condition to issuance of license following transfer of ownership.

A. The licensed operator of each mine or his agent shall annually, by February 15, mail or deliver to the Department a report for the 12 months ending prior to the preceding January 1. Such report shall state (i) the names of the licensed operator, any agent, and their officers of the mine; (ii) the amount of minerals mined; (iii) any changes in the information required to be part of the license application by subsection A of § 45.2-1126; and (iv) any other information, not of a private nature, that from time to time is required by the Department on forms furnished or approved by the Department.

B. Each independent contractor who is working or has worked at a mine during the preceding 12 months shall annually, by February 15, mail or deliver to the Department a report for the 12 months ending prior to the preceding January 1. Such report shall state (i) the independent contractor's name and Department identification number; (ii) the number of the independent contractor's employees who worked at each mine, listed by mine name and license number; (iii) the number of the independent contractor's employee hours worked at each mine, listed by mine name and license number; and (iv) the lump sum amount of wages paid by the independent contractor at each mine, if such amount is above \$1,000, listed by mine name and license number.

C. For purposes of subsection B, "independent contractor" means any (i) extraction or processing contractor, including a driller, blaster, portable crusher, or stripping or land clearing contractor; (ii) maintenance or repair contractor for mobile or stationary extraction or processing equipment, including a welder, mechanic, painter, or electrician; and (iii) construction contractor involved in mine site construction maintenance or repair, including a plant construction contractor, concrete fabricator, or equipment erector.

D. If the owner of a mine transfers the ownership of such mine to another person, the person transferring such ownership shall submit a report to the Department of such change and a statement of the amount of minerals produced since the January 1 prior to the date of such transfer of ownership. No license shall be issued covering such transfer of ownership until the report is furnished.

E. All wage information contained in any report filed with the Department pursuant to this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be published or made open

to public inspection in any manner revealing the employing unit's identity. However, such information may be disclosed to the Director or his authorized representative concerned with carrying out any provisions of this title. Wage data aggregated so as to not reveal the employing unit's identity shall not be exempt from such disclosure.

§ 45.2-1130. Notices to Department; resumption of mining following discontinuance.

A. The licensed operator or his agent shall send notice of intent to abandon or discontinue the working of an underground mine for a period of 30 days, or a surface mine for a period of 60 days, to the Department at least 10 days prior to discontinuing the working of a mine with such intent, or at any time a mine becomes an inactive mine.

B. The licensed operator or his agent shall send to the Department 10 days' prior notice of intent to resume the working of an inactive mine. Except for a surface mineral mine that is inspected by MSHA, the working of such mine shall not resume until a mine inspector has inspected the mine and approved it.

C. An emergency action necessary to preserve a mine may be undertaken without the prior notice of intent and advance inspection required by subsection B. In such event, a mine foreman shall examine the mine for hazardous conditions immediately before any miner is permitted to work. The licensed operator or his agent shall notify the Department as soon as possible after commencing an emergency action necessary to preserve the mine.

D. The licensed operator or his agent shall send to the Department 10 days' prior notice of any change in the name of a mine or in the name of the operator of a mine.

E. The licensed operator or his agent shall send to the Department 10 days' prior notice of the opening of a new mine.

F. Any notice required by this section shall be in writing and shall include the name and location of the mine and the name, mailing address, and email address of the licensed operator.

§ 45.2-1131. Maps of mines required to be made; contents; extension and preservation; use by Department; release; posting of map.

A. Prior to commencing mining activity, the licensed operator of a mineral mine or his agent shall submit, unless already submitted, an accurate map of such mine. The scale of such map shall be stated thereon and shall be between 100 feet and 400 feet to the inch. Such map shall show the openings or excavations, shafts, slopes, entries, headings, rooms, pillars, permanent explosive magazines, permanent fuel storage facilities, and airways with darts or arrows showing direction of air currents. Such map shall also show any portion of such mine that has been abandoned and any portion of the property lines and the outcrop of the mineral of the tract of land on which the mine is located that are located within 1,000 feet of any part of the workings of such mine. For an underground mine only, such map shall show the general inclination of the mineral strata.

B. The licensed operator of such mine shall annually, beginning on the anniversary date of the mine permit issued pursuant to Chapter 12 (§ 45.2-1200 et seq.) and continuing while the mine is in operation, cause such map to be extended so as to accurately show the progress of the workings, and the property lines and outcrop as described in subsection A, and shall forward such updated map to the Department to be kept on record, subject to the conditions stated in subsection D. If there are no changes in the information required by this section, the licensed operator shall not be required to submit an updated map to the Department.

C. Each map required pursuant to this section shall be filed and preserved among the records of the Department. The Department shall make such map available at a reasonable cost to any person owning, leasing, or residing on or having an equitable interest in any surface area or coal or mineral interest within 1,000 feet of such mining operation upon written proof satisfactory to the Director and upon a sworn affidavit that such person requesting a map has the required legal or equitable interest. However, the Director shall provide to such person only that portion of the map that abuts or is contiguous to the property in which such requesting party has a legal or equitable interest. In no case shall any copy of such map be made for any person who does not possess the required legal or equitable interest without the consent of the licensed operator or his agent. The Director shall promptly deliver notice of such request to the licensed operator of such mining operation.

D. The original version of a map required by this section, or a true copy thereof, shall be kept by the licensed operator at the active mine, open at all reasonable times for the examination and use of the mine inspector.

E. Copies of the maps required pursuant to this section shall be made available at a reasonable cost to the governing body of any locality in which the mine is located upon written request; however, such copies shall be provided on the condition that they not be released to any person who does not have a legal or equitable interest in any surface area or mineral interest within 1,000 feet of the mining operation without the written consent of the licensed operator or his agent. The governing body shall promptly deliver notice of any such request for a copy of a map to the licensed operator or his agent.

§ 45.2-1132. When the Director may cause maps to be made; payment of expense.

A. If a licensed mine operator or his agent neglects or fails to furnish to the Director a copy of any map or extension thereof, as provided in § 45.2-1131, the Director may cause a correct survey and map of such mine or extension to be made at the expense of the licensed operator of such mine. The expense of making such survey and map or extension thereof shall be recovered from such licensed operator as other debts are recoverable by a civil action.

B. If at any time the Director has reason to believe that a map or extension furnished pursuant to § 45.2-1131 is substantially incorrect or will not serve the purpose for which it is intended, he may have a survey and map or extension thereof made or corrected. The expense of making such survey and map or extension thereof shall be paid by the licensed operator and recovered from such licensed operator as other debts are recoverable by a civil action. However, if the map filed by the licensed operator is found to be substantially correct, the expense shall be paid by the Commonwealth.

§ 45.2-1133. Making false statements; penalty.

It is unlawful for any person responsible for making any map or other data to be furnished pursuant to the Act to (i) fail to correctly show, within the limits of error, the data required or (ii) knowingly make any false statement or return in connection with such map or other data. A violation of this section is a misdemeanor, and a person convicted of violating this section shall be fined not less than \$50 and not more than \$200.

Article 5.

Mine Rescue Teams.

§ 45.2-1134. Mine rescue and first aid stations.

The Director is hereby authorized to purchase, equip, and operate for the use of the Department any mine rescue and first aid stations he determines necessary for the adequate provision of mine rescue and recovery services at all mines in the Commonwealth.

§ 45.2-1135. Mine rescue teams.

The Director may have trained and employed at the mine rescue and first aid stations operated by the Department within the Commonwealth the mine rescue teams that he determines necessary. Each member of a mine rescue team shall devote four hours each month for training purposes and shall be available at all times to assist in rescue work. Members shall receive compensation for services at a rate set by the Director, to be determined annually based on prevailing wage rates within the industry. For the purposes of workers' compensation coverage during training periods, such team members shall be deemed to be within the scope of their regular employment. The Director shall certify to the Comptroller of the Commonwealth that such team members have performed the required service. Upon such certification, the Comptroller shall issue a warrant upon the state treasury for their compensation. The Director may remove any team member at any time.

§ 45.2-1136. Duty to train team.

It is the duty and responsibility of the Department to see that every mine rescue team is properly trained by a qualified instructor of the Department or another person who has a certificate of training from the Department or MSHA.

§ 45.2-1137. Qualification for team membership; direction of teams.

A. To qualify for membership in a mine rescue team, an applicant shall (i) be an experienced miner; (ii) be 50 years of age or younger; and (iii) pass a physical examination by a licensed physician, licensed physician assistant, or licensed nurse practitioner at least annually. A record that such examination was taken shall be kept on file by the operator who employs the team member and a copy shall be furnished to the Director.

B. All rescue or recovery work performed by any mine rescue team shall be under the jurisdiction of the Department. The Department shall consult with company officials, representatives of MSHA, and representatives of the miners, and all shall be in agreement as far as possible on the proper procedure for rescue and recovery; however, the Director in his discretion may take full responsibility in directing such work. In every instance, procedures shall be guided by the mine rescue apparatus and auxiliary equipment manuals.

§ 45.2-1138. Team members considered employees of the mine where emergency exists; compensation; workers' compensation.

When engaged in rescue or recovery work during an emergency at a mine, all team members assigned to the work shall be considered, during the period of their work, employees of the mine where the emergency exists and shall be compensated by the licensed operator at the rate established in the area for such work. In no event shall such rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, all team members shall be deemed to be within the employment of the licensed operator of the mine for the purpose of workers' compensation coverage.

§ 45.2-1139. Requirements of recovery work.

A. During recovery work and prior to entering any mine, each mine rescue team conducting recovery work shall be properly informed of existing conditions by the operator or his agent in charge.

B. Each mine rescue team performing rescue or recovery work with breathing apparatus shall be provided with a backup team of equal strength, stationed at each fresh air base.

C. For every two teams performing work underground, one six-member team shall be stationed at the mine portal.

D. Two-way communication, life lines, or their equivalent shall be provided by the fresh air base to each team, and no team member shall be permitted to advance beyond such communication system.

E. A mine rescue team shall immediately return to the fresh air base if any team member's breathing apparatus malfunctions or the low-oxygen alarm activates.

F. The Director may also assign rescue and recovery work to inspectors, instructors, or other qualified employees of the Department as the Director determines to be desirable.

§ 45.2-1140. State-designated mine rescue teams.

The Director may, upon the request of a licensed operator or agent who employs a mine rescue team, designate two or more mine rescue teams as "state-designated mine rescue teams." Any team that is certified as a mine rescue team by MSHA under 30 C.F.R. Part 49 is eligible to be a state-designated team. Following the designation of any such team, the Director shall, upon the payment to the Department of an annual fee, set by the Director based on current costs for maintaining mine rescue stations and personnel, assign two or more state-designated teams to the licensed operator. A licensed operator who has paid the rescue fee is entitled to the rescue services of a state-designated rescue team at no additional charge.

§ 45.2-1141. Mine Rescue Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Mine Rescue Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected from licensed operators pursuant to the provisions of § 45.2-1140 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Moneys in the Fund shall be used solely for the purposes of administering the state-designated mine rescue team program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

C. On July 1 of each year, or as soon thereafter as sufficient moneys are in the Fund, 10 percent of the moneys in the Fund shall be transferred from the Fund to the Department for purposes of administering the state-designated mine rescue team program. On an annual basis, funds in excess of the sum that is transferred for administrative purposes shall be divided equally among all state-designated mine rescue teams.

§ 45.2-1142. Inspections; Mine Rescue Coordinator.

A. The Director shall (i) inspect, or cause to be inspected, the rescue station of each state-designated mine rescue team four times each year; (ii) ensure that each rescue station is adequately equipped; and (iii) ensure that all team members are adequately trained.

B. The Director shall designate an employee of the Department as the Mine Rescue Coordinator, who shall perform the duties assigned by the Director.

§ 45.2-1143. Workers' compensation; liability.

A. For the purpose of workers' compensation coverage during any mine disaster to which a state-designated mine rescue team responds under the provisions of this article, each member of the state-designated team shall be deemed to be within the employment of the licensed operator of the mine at which the disaster occurred.

B. No member of a state-designated team engaging in rescue work at a mine shall be liable for civil damages for acts or omissions resulting from the rendering of such rescue work unless the act or omission was the result of gross negligence or willful misconduct.

C. No operator providing personnel to a state-designated mine rescue team to engage in rescue work at a mine not owned or operated by the operator shall be liable for any civil damages for acts or omissions resulting from the rendering of such rescue work.

Article 6.

Mine Explosions; Mine Fires; Accidents.

§ 45.2-1144. Reports of explosions and mine fires; procedure.

A. If an explosion or mine fire occurs in a mine, the operator shall notify the Department by the quickest available means. Any independent contractor shall notify the licensed operator of such incident. All facilities of the mine shall be made available for rescue and recovery operations and firefighting.

B. No work other than rescue and recovery work and firefighting shall be attempted or started until and unless it is authorized by the Department.

C. If an explosion occurs in an underground mine, the fan shall not be reversed except by authority of the officials in charge of rescue and recovery work, and then only after a study of the effect of reversing the fan on persons who might have survived the explosion and are still underground.

D. The Department shall make available all the facilities at its disposal in effecting rescue and recovery work. The Director shall act as consultant, or take personal charge, where in his opinion the circumstances of any mine explosion, fire, or other accident warrant.

E. The orders of the officials in charge of rescue and recovery work shall be respected and obeyed by all persons engaged in rescue and recovery work.

F. The Director shall maintain an up-to-date rescue and recovery plan for prompt and adequate employment at any mineral mine in the Commonwealth. All employees of the Department shall be kept fully informed and trained in their respective duties in executing rescue and recovery plans. The Department's plans shall be published annually and furnished to all licensed operators of mineral mines. Changes in the plan shall be published promptly when made and furnished to all licensed operators of mines.

§ 45.2-1145. Operators' reports of accidents; investigations; reports by Department.

A. Each operator shall report promptly to the Department the occurrence at any mine of any accident involving serious personal injury or death to any person, whether employed in the mine or not. The scene of the accident shall not be disturbed pending an investigation, except to prevent the suspension of use of a slope, entry, or facility vital to the operation of a section or a mine. In any case in which reasonable doubt exists as to whether to leave the scene unchanged, the operator shall secure prior approval from the Department before any change is made.

B. The Director shall go personally or dispatch one or more mine inspectors to the scene of such a mineral mine accident, investigate causes, and issue any orders needed to ensure the safety of other persons.

C. Representatives of the operator shall render any assistance needed and act in a consulting capacity in the investigation. An employee, if so designated by the employees of the mine, shall be notified, and as many as three employees if so designated as representatives of the employees may be present at the investigation in a consulting capacity.

D. The Department shall render a complete report of circumstances and causes of each accident investigated and make recommendations for the prevention of similar accidents. The Department shall furnish one copy of the report to the licensed operator; one copy to any other operator whose employees were exposed to hazards as a result of the accident, and one copy to the employee representative if he has been present at the investigation. The Director shall maintain a complete file of all accident reports for mineral mines. Further publicity may be ordered by the Director in an effort to prevent mine accidents.

§ 45.2-1146. Reports of other accidents and injuries.

A. Each miner employed at a mine shall promptly notify his supervisor of any injury received during the course of his employment.

B. Each operator shall keep on file a report of each accident including any accident that does not result in a lost-time injury. Copies of such report shall be given to the injured person or his designated representative to enable him to review the accident report and verify its accuracy prior to the filing of such report for the review of state or federal mine inspectors.

§ 45.2-1147. Duties of mine inspectors.

Each mine inspector shall:

1. Report to his supervisor immediately, and by the quickest available means, any mine fire, mine explosion, or accident involving serious personal injury or death;

2. Proceed immediately to the scene of any accident at any mine under his jurisdiction that results in loss of life or serious personal injury, and to the scene of any mine fire or explosion regardless of whether there is loss of life or personal injury. He shall make any investigation and suggestions and render any assistance he deems necessary for the future safety of the employees, and he shall make a complete report to his supervisor as soon as practicable. He shall have the power to compel the attendance of witnesses and administer oaths or affirmations; and

3. Take charge of mine rescue and recovery operations whenever a mine fire, mine explosion, or other serious accident occurs and supervise the reopening of any mine or section thereof that has been sealed or abandoned on account of fire or any other cause.

Article 7.

Mine Inspections.

§ 45.2-1148. Frequency of mine inspections.

A. The Director shall conduct a complete inspection of each underground mineral mine at least every 180 days, and of any surface mineral mine that is not inspected by MSHA at least once per year. An additional inspection of such mineral mine shall be made when deemed appropriate by the Director based on an evaluation of risks at such mine or if requested by miners employed at a mine or the licensed operator of a mine.

B. The Director shall not conduct an inspection of a surface mineral mine that is inspected by MSHA; however, a mine inspector or other employee of the Department may enter such mine in order to (i) respond to a complaint of a violation of the Act; (ii) respond to and investigate any serious personal injury or death; and (iii) with the consent of the licensed operator, conduct training programs.

C. The Director shall determine whether a particular surface mineral mine is inspected by MSHA. The Director shall make such determination based on information provided by MSHA and Department records.

D. The Director shall request representatives of MSHA to serve with Department personnel on a joint committee of cooperation. The committee shall include the Director of the Division and such additional Division employees as the Director designates. The committee shall meet at least twice annually at the call of the Director for the purpose of facilitating communication and resolving discrepancies regarding the inspection responsibilities of state and federal agencies with respect to surface mineral mines in the Commonwealth.

§ 45.2-1149. Evaluation of risks at mines.

A. For the purpose of allocating the resources of the Department that are to be used for conducting additional inspections, the Department shall develop a procedural policy for scheduling such inspections based on an assessment, to be made at least annually, of the comparative risks at each underground mineral mine and at any surface mineral mine that is not inspected by MSHA. Such policy shall be prepared with the assistance of working groups consisting of persons knowledgeable in mine safety issues. The issuance of such policy shall be exempt from Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Variables that shall be included in the risk assessment measures include (i) fatality and serious accident rates at the mine, (ii) the rates of issuance of closure orders and notices of violations of the mine safety laws of the Commonwealth at the mine, and (iii) the frequency rates for nonserious accidents or nonfatal days lost. Risk assessments shall be developed for both independent contractors and individual mine sites.

B. The Director shall schedule additional inspections at each underground mineral mine, and at each surface mineral mine that is not inspected by MSHA, based on the rating assigned to it reflecting the assessment of its risks compared to other such mines in the Commonwealth.

§ 45.2-1150. Review of inspection reports and records.

Prior to completing an inspection of an underground mineral mine, a mine inspector shall review the most recent available report of inspection by MSHA. Prior to completing any inspection of a mine, a mine inspector shall comprehensively review the records of pre-shift examinations, on-shift exams, daily inspections, weekly examinations, and other records relating to safety and health conditions in the mine that are required to be maintained pursuant to the Act, for

the 30-day period preceding the inspection. The mine inspector may, but shall not be required to, review the records for such additional period as he may deem prudent.

§ 45.2-1151. Advance notice of inspections; confidentiality of trade secrets.

A. No person shall give advance notice of any mine inspection conducted under the provisions of this title without authorization from the Director.

B. All information that is reported to or otherwise obtained by the Director or his authorized representative in connection with any inspection or proceeding under this title and that contains or might reveal a trade secret referred to in 18 U.S.C. § 1905 shall be considered confidential for the purpose of that section, except that such information may be disclosed to the Director or his authorized representative concerned with carrying out any provision of this title or any proceeding hereunder. In any such proceeding, the court or the Director shall issue any order appropriate to protect the confidentiality of trade secrets.

§ 45.2-1152. Scheduling of mine inspections.

A. The Director shall schedule the inspections of mines under this article, to the extent deemed reasonable and prudent, in order to reduce their chronological proximity to inspections conducted by MSHA. To this end, the Director shall endeavor to coordinate the timing of inspections with MSHA personnel.

B. The Director and mine inspectors, to the extent deemed reasonable and prudent, shall schedule mine inspections to commence at a variety of hours of the day and days of the week, including evening and night shifts, weekends, and holidays.

§ 45.2-1153. Denial of entry.

No person shall deny the Director or any mine inspector entry upon or through a mine for the purpose of conducting an inspection or into any office at the site where maps or records relating to the mine are located, pursuant to the Act.

§ 45.2-1154. Duties of operator.

A. Each operator of a mine, or his agent, shall furnish to the Director and each mine inspector proper facilities for entering such mine and making examinations or obtaining information and shall furnish any data or information not of a confidential nature requested by such inspector.

B. Each operator of an underground mine, or his agent, shall provide each mine inspector adequate means for transportation to the active working areas of the mine within a reasonable time following the mine inspector's arrival at the mine.

C. Such operator or agent shall, when ordered to do so by a mine inspector during the course of an inspection, promptly clear the mine or section thereof of all persons.

§ 45.2-1155. Duties of inspectors.

A. During a complete inspection of any mine, other than an inactive mine, the mine inspector shall inspect, where applicable, the surface plant; all active workings; all active travel ways; entrances to abandoned areas; accessible worked-out areas; at least one entry of each intake and return airway in its entirety; escapeways and other places where miners work or travel or where hazardous conditions might exist; electric installations and equipment; haulage facilities; first aid equipment; ventilation facilities; communication installations; roof and rib conditions; roof-support practices; blasting practices; haulage practices and equipment; and any other condition, practice, or equipment pertaining to the health and safety of the miners. The mine inspector shall make tests for the quantity of air flows, and for oxygen deficiency and gas, in each place that he is required to inspect in an underground mine.

B. In a mine that operates more than one shift in a 24-hour period, the mine inspector shall devote sufficient time on the second and third shifts to determine conditions and practices relating to the health and safety of the miners. For an inactive mine, the mine inspector shall inspect all areas of the mine where persons might work or travel during the period the mine is an inactive mine.

C. The inspector shall make a personal examination of (i) the interior of each mine inspected and (ii) the outside of such mine where any danger to the miners might exist.

§ 45.2-1156. Certificates of inspection.

A. Upon completing a mine inspection, each mine inspector shall complete a certificate of inspection. Such certificate of inspection shall show the date of inspection, the condition in which the mine was found, a statement regarding any violation of this chapter or Chapter 14 (§ 45.2-1400 et seq.) or 15 (§ 45.2-1500 et seq.) discovered during the inspection, the progress made in the improvement of the mine as such progress relates to health and safety, the numbers of accidents and injuries occurring in and about the mine since the previous inspection, and all other facts and information of public interest concerning the condition of the mine as are useful and proper.

B. The mine inspector shall deliver one copy of the certificate of inspection to the licensed operator, agent, or mine foreman and one copy to the employees' safety committee, where applicable, and shall post copies at one or more prominent places on the premises where they can be read conveniently by the miners.

C. The Department shall provide access to certificates of inspection of underground mineral mines to MSHA.

Article 8.

Enforcement and Penalties; Reports of Violations.

§ 45.2-1157. Notices of violations.

A. If the Director or a mine inspector has reasonable cause to believe that a violation of the Act has occurred, he shall with reasonable promptness issue a notice of violation to the person responsible for the violation. Each notice of violation shall be in writing, shall describe with particularity the nature of the violation, including a reference to the provision of the

Mineral Mine Safety Act or the appropriate regulation violated, and shall include an order of abatement and set a reasonable time for abatement of the violation.

B. A copy of the notice of violation shall be delivered to the licensed operator or his agent or the mine foreman and to any independent contractor whose employees were exposed to a hazard related to the violation.

C. Upon a finding by the mine inspector of the completion of the action required to abate such violation, the Director or the mine inspector shall issue a notice of correction, a copy of which shall be delivered as provided in subsection B.

D. The notice of violation shall be deemed the final order of the Department and shall not be subject to review by any court or agency unless, within 20 days following its issuance, the person to whom the notice of violation was issued appeals its issuance by notifying the Department in writing that he intends to contest its issuance. The Department shall conduct informal conference or consultation proceedings, presided over by the Director, pursuant to § 2.2-4019, unless the person and the Department agree to waive such a conference or proceeding to go directly to a formal hearing. If such a conference or proceeding is waived, or if it fails to dispose of the case by consent, the Department shall conduct a formal hearing pursuant to § 2.2-4020. The formal hearing shall be presided over by a hearing officer pursuant to § 2.2-4024, who shall recommend findings and an initial decision, which shall be subject to review and approval by the Director. Any party aggrieved by and claiming unlawfulness of such decision is entitled to judicial review pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

E. If it is finally determined that a notice of violation was not issued in accordance with the provisions of this section, such notice of violation shall be vacated and the improperly issued notice of violation shall not be used to the detriment of the person or the operator to whom it was issued.

§ 45.2-1158. Closure orders.

A. The Director or a mine inspector shall issue a closure order requiring that a mine or section thereof be cleared of all persons, or that equipment be removed from use, and refusing further entry into the mine of any person except a person who is necessary to correct or eliminate a hazardous condition when (i) a violation of the Act has occurred and creates an imminent danger to the life or health of any person in the mine; (ii) a mine fire, mine explosion, or other serious accident has occurred at the mine, making it necessary to preserve the scene of such accident during the investigation of the accident; (iii) a mine is operating without a license, as provided by § 45.2-1124; or (iv) an operator to whom a notice of violation was issued has failed to abate the violation cited therein within the time period provided in such notice for its abatement. However, a closure order shall not be issued for failure to abate a violation during the pendency of an administrative appeal of the issuance of the notice of violation as provided in subsection D of § 45.2-1157. In addition, a technical specialist may issue a closure order upon discovering a violation creating an imminent danger.

B. One copy of the closure order shall be delivered to (i) the licensed operator of the mine, his agent, or the mine foreman and (ii) any independent contractor working in the area of the mine affected by the closure order.

C. Upon a finding by the mine inspector of the abatement of the violation creating the hazardous condition pursuant to which a closure order was issued as provided in clause (i) of subsection A, or the cessation of the need to preserve an accident scene as provided in clause (ii) of subsection A, or the issuance of a license for the mine if the closure order was issued as provided in clause (iii) of subsection A, or the abatement of the violation for which the notice of violation was issued as provided in clause (iv) of subsection A, the Director or mine inspector shall issue a notice of correction, copies of which shall be delivered as provided in subsection B.

D. The issuance of a closure order shall constitute a final order of the Department, and the owner, licensed operator, or independent contractor to whom such closure order was issued shall not be entitled to administrative review of such decision. Such owner, licensed operator, or independent contractor may, within 10 days following the issuance of the order, bring a civil action in the circuit court of the city or county in which the mine, or the greater portion thereof, is located for review of the decision. The commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the closure order. The court shall promptly hear and determine the matters raised by the owner, operator, or independent contractor. In any such action the court shall receive the records of the Department regarding the issuance of the order and shall receive additional evidence at the request of any party. In any proceeding under this section, the Attorney General or the attorney for the Commonwealth for the jurisdiction where the mine is located, upon the request of the Director, shall represent the Department. The court shall vacate the closure order if the preponderance of the evidence establishes that the order was not issued in accordance with the provisions of this section.

E. If it is finally determined that a closure order was not issued in accordance with the provisions of this section, the closure order shall be vacated and the improperly issued closure order shall not be used to the detriment of the owner or operator to whom it was issued.

§ 45.2-1159. Tolling of time for abating violations.

The period of time specified in a notice of violation for the abatement of the violation shall not begin to run until (i) the final decision of the Department is issued, if an administrative appeal of its issuance is pursued, or (ii) the final order of the circuit court is rendered, if an appeal of its issuance is taken to circuit court, provided that such appeal pursuant to clause (i) or (ii) was undertaken in good faith and not solely for delay or avoidance of penalties.

§ 45.2-1160. Injunctive relief.

A. Any person violating or failing, neglecting, or refusing to obey a closure order may be compelled in a proceeding instituted by the Director in any appropriate circuit court to obey such order and to comply therewith by injunction or other appropriate relief.

B. Any person failing to abate any violation of this chapter or Chapter 14 (§ 45.2-1400 et seq.) or 15 (§ 45.2-1500 et seq.) that has been cited in a notice of violation within the time period provided in such notice for its abatement may be compelled in a proceeding instituted by the Director in any appropriate circuit court to abate such violation as provided in such notice, and to cease the operation of the mine at which such violation exists until the violation has been abated, by injunction or other appropriate remedy.

C. The Director may file a bill of complaint with any appropriate circuit court asking the court to temporarily or permanently enjoin a person from operating a mine in the Commonwealth or contracting for work at a mine in the Commonwealth, to be granted upon a finding by a preponderance of the evidence that (i) a history of noncompliance by the person demonstrates that he is not able or willing to operate in compliance with the provisions of the Act or (ii) a history of the issuance of closure orders to the person demonstrates that he is not able or willing to operate in compliance with the provisions of the Act.

§ 45.2-1161. Violations; penalties.

Any person convicted of willfully violating any provision of the Act, unless otherwise specified in the Act, is guilty of a Class 1 misdemeanor.

§ 45.2-1162. Prosecution of violations.

A. It is the duty of every attorney for the Commonwealth to whom the Director or his authorized representative reports any violation of the Act, or on his own initiative, to cause proceedings to be prosecuted in such case.

B. If the attorney for the Commonwealth declines to cause proceedings to be prosecuted in such case, the Director may request the Attorney General to institute proceedings for any violation of the Act on behalf of the Commonwealth. However, such action shall not preclude the Director from pursuing other applicable statutory procedures. Upon receiving such a request from the Director, the Attorney General may institute actions and proceedings for violations described in the request.

§ 45.2-1163. Fees and costs.

No fees or costs shall be charged to the Commonwealth by a court or any officer for or in connection with the filing of any pleading or other papers in any action authorized by this article.

§ 45.2-1164. Reports of violations.

A. Any person aware of a violation of this chapter or Chapter 14 (§ 45.2-1400 et seq.) or 15 (§ 45.2-1500 et seq.) may report the violation to a mine inspector or to any other employee of the Department, in person, in writing, or by telephone call, at the mine, at an office of the Department, or at the mine inspector's residence.

B. Each operator, or his agent, shall deliver a copy of this chapter and Chapters 14 (§ 45.2-1400 et seq.) and 15 (§ 45.2-1500 et seq.) to each miner in his employ upon the commencement of the miner's work at a mine, unless the miner is already in possession of a copy.

C. The licensed operator of each mine, or his agent, shall display on a sign placed at the mine office, at the bath house, and on a bulletin board at a prominent place at the mine site where it can be read conveniently by the miners, a notice containing the office and home telephone numbers of mine inspectors and other Department personnel, and office addresses, that may be used to report any violation of this chapter or Chapter 14 (§ 45.2-1400 et seq.) or 15 (§ 45.2-1500 et seq.).

D. The Department shall keep a record, on a form prepared for such purpose, of every alleged violation of this chapter or Chapter 14 (§ 45.2-1400 et seq.) or 15 (§ 45.2-1500 et seq.) that is reported and the results of any investigation. The Department shall give a copy of the complaint form, with the identity of the person making the report omitted or deleted, to the licensed operator of the mine or his agent and to any independent contractor who is alleged to have committed the violation. The Department shall not disclose the identity of any person who reports an alleged violation to the owner or operator of the mine or his agent or to any other person or entity. Information regarding the identity of the person reporting a violation is excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Article 9.

Miner Training.

§ 45.2-1165. Training programs.

A. The Department may administer training programs for the purpose of (i) assisting with the provision of selected requirements of the federal mine safety law and (ii) preparing miners for examinations administered by the Department. The Director shall establish the curriculum and teaching materials for each training program, which shall be consistent with the requirements of the federal mine safety law where feasible.

B. The Department is authorized to charge each person attending a training program reasonable fees to cover the costs of administering the program. The Director may exempt certain persons from any required fees for refresher training programs based on the person's employment status or any other criteria the Director deems appropriate. The Director shall not be required to allocate more of the Department's resources to training programs than are appropriated or otherwise made available for such purpose or are collected from fees charged to attendees.

C. No miner, operator, or other person shall be required to participate in any training program established under this section. Nothing contained in this section shall prevent an operator or any other person from administering a state-approved training program.

§ 45.2-1166. Mineral mining safety training.

The Director may implement a program of voluntary safety talks for mineral miners. Safety training may include topical training and talks conducted by inspectors or other Department personnel either on site or in a classroom provided for such purpose.

§ 45.2-1167. Mineral mining safety training programs.

A. Each operator shall have a plan containing the following programs: training for new miners, training for experienced miners who are newly employed, training for miners for new tasks, annual refresher training, and hazard training. For the purpose of this section, the definition of miner does not include a scientific worker; delivery worker; customer, including a commercial over-the-road truck driver; vendor; or visitor.

B. Such plan shall be available to the Director for review upon request.

CHAPTER 12.

PERMITS FOR CERTAIN MINING OPERATIONS; RECLAMATION OF LAND.

Article I.

General Provisions.

§ 45.2-1200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Disturbed land" means the area from which overburden has been removed in any mining operation, plus the area covered by the spoil and refuse, plus any area used in such mining operation, including land used for processing, stockpiling, or settling ponds.

"Division" means the Division of Mineral Mining.

"Mineral" means ore, rock, and any other solid homogeneous crystalline chemical element or compound that results from the inorganic processes of nature other than coal.

"Mining" means the breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals or any activity constituting all or part of a process for the extraction or removal of minerals so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include (i) any aspect of deep mining that does not have a significant effect on the surface or (ii) excavation or grading when conducted solely in aid of onsite farming or construction. Nothing in this section applies to the mining of coal. "Mining" does not include, and this title, chapter, or section shall not be construed to apply to, the process of searching, prospecting, exploring, or investigating for minerals by drilling.

"Mining operation" means any area included in an approved plan of operation.

"Operator" means any individual, corporation or corporation officer, firm, joint venture, partnership, business trust, association, or any other group or combination acting as a unit, or any legal entity that is engaged in mining.

"Orphaned lands" means lands disturbed by surface mining of minerals, other than coal operations, that were not required by law to be reclaimed or that have not been reclaimed.

"Overburden" means all of the earth and other materials that lie above a natural deposit of minerals, ores, rock, or other solid matter and also other materials after removal from their natural deposit in the process of mining.

"Reclamation" means the restoration or conversion of disturbed land to a stable condition that minimizes or prevents adverse disruption and the injurious effects of such disruption and presents an opportunity for further productive use if such use is reasonable.

"Refuse" means all waste soil, rock, mineral tailings, slimes, and other material directly connected with the mine or with the cleaning and preparation of substances mined, including all waste material deposited in the permit area from other sources.

"Spoil" means any overburden or other material removed from its natural state in the process of mining.

§ 45.2-1201. Construction of chapter.

Nothing in this chapter is intended, nor shall anything in this chapter be construed, to limit, impair, abridge, create, enlarge, or otherwise affect, substantively or procedurally, the right of any person who is a party to any dispute involving property rights, or the right of any person to seek damages or other relief on account of injury to persons or property due to mining activities regulated by this chapter or to maintain any action or other appropriate procedure therefor. Nothing in this chapter is intended, nor shall anything in this chapter be construed, to affect the powers of the Commonwealth to initiate, prosecute, and maintain actions to abate public nuisances.

§ 45.2-1202. Authority of Director; enforcement of chapter by injunction.

A. The Director may adopt regulations to effectuate the provisions and the policy of this chapter and may adopt definitions for use in interpreting this chapter.

B. The Director may administer and enforce the provisions of this chapter. In administering and enforcing the provisions of this chapter pursuant to the findings and legislative policy adopted by the General Assembly, the Director shall exercise the following powers in addition to any other powers conferred upon him by law:

1. Supervise the administration and enforcement of this chapter and all regulations and orders adopted thereunder;
2. Issue orders to enforce the provisions of this chapter; all regulations adopted thereunder, and the terms and conditions of any permit;
3. Make investigations and inspections to ensure compliance with any provision of this chapter or any regulation or order adopted thereunder;

4. Encourage and conduct investigations, research, experiments, and demonstrations and collect and disseminate information relating to surface mining and reclamation of lands and waters affected by surface mining; and

5. Receive any federal funds, state funds, or any other funds and enter into any contracts for which funds are available to carry out the purposes of this chapter.

C. In addition to any administrative remedy granted herein, the Director may petition any court of competent jurisdiction for an injunction against a violation of any provision of this chapter or any regulation or order adopted hereunder or to compel the performance of any act required by such provision, regulation, or order without regard to any adequate remedy that may exist at law, and such injunction shall be issued without bond. However, with regard to the suspension of mining operations, § 45.2-1225 shall control.

§ 45.2-1203. Exemption for restricted mining.

Any operator engaged in mining who disturbs less than one acre of land and removes less than 500 tons of minerals at any particular site is exempt from all mining permit fees, renewal fees, and bond requirements of this chapter if such person intending to engage in such restricted mining submits an application for a permit, a sketch of the mining site, and an operations plan to be adhered to in accordance with §§ 45.2-1205 and 45.2-1206. The Director shall approve the application if he determines that the issuance of the permit will not violate any provision of this chapter.

Article 2.

Regulation of Mining Activity.

§ 45.2-1204. Permit Fee Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Permit Fee Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All permit fees and renewal fees collected pursuant to § 45.2-1205 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of the administration of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1205. Permit required; fee; renewal fee; application; furnishing copy of map, etc., to landowner; approval by Department.

A. It is unlawful for any operator to engage in any mining operation in the Commonwealth without first obtaining from the Department a permit to engage in such operation and paying a permit fee of \$50 per acre for every acre of land to be affected by the total operation for which plans have been submitted. Such permit fee shall be deposited in the Permit Fee Fund pursuant to § 45.2-1204. A permit shall be obtained prior to the start of any mining operation.

B. A separate permit shall be secured for each mining operation conducted. An application for a mining permit shall be made in writing on forms prescribed by the Director and shall be signed and sworn to by the applicant or his duly authorized representative. The application, in addition to other information reasonably required by the Director, shall contain the following information: (i) the common name and geologic title, where applicable, of the mineral to be extracted; (ii) a description of the land upon which the applicant proposes to conduct mining operations, setting forth the name of the county or city in which such land is located, the location of its boundaries, and any other description of the land to be disturbed necessary to allow it to be located and distinguished from other lands and easily ascertainable as shown by a map attached thereto showing the amount of land to be disturbed; (iii) the name and address of the owner or owners of the surface of the land; (iv) the name and address of the owner or owners of the mineral, ore, or other solid matter; (v) the source of the operator's legal right to enter and conduct operations on the land to be covered by the permit; (vi) the total number of acres of land to be covered by the permit; (vii) a reasonable estimate of the number of acres of land that will be disturbed by mining operations on the area to be covered by the permit during the ensuing year; (viii) whether any mining permit of any type is now held by the applicant, and the number of such permits; (ix) the name and address of the applicant, if an individual; the names and addresses of all partners, if a partnership; the state of incorporation and the name and address of its registered agent, if a corporation; or the name and address of the trustee, if a trust; and (x) if known, whether the applicant, any subsidiary or affiliate of the applicant, any partnership, association, trust, or corporation controlled by or under common control with the applicant, or any person required to be identified by clause (ix) has ever had a mining permit of any type issued under the laws of the Commonwealth or any other state revoked or has ever had a mining or other bond, or security deposited in lieu of bond, forfeited. Clause (iv) shall not apply to the shell, container chamber, passage, or open space set forth in § 45.2-402.

C. The application for a permit shall be accompanied by two copies of an accurate map or aerial photograph or plan that meets the following requirements:

1. Is prepared by a licensed engineer or licensed land surveyor or issued by a standard mapping service or in a manner acceptable to the Director;
2. Identifies the area corresponding with the land described in the application;
3. Shows adjacent deep mining, if any, and the boundaries of surface properties, with the names of owners of the affected area that lie within 100 feet of any part of the affected area;
4. Is drawn to a scale of 400 feet to the inch or better;
5. Shows the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, gas and oil wells, and utility lines on the area affected and within 500 feet of such area;

6. Shows by appropriate markings the boundaries of the area of land affected, the outcrop of the seam at the surface or the deposit to be mined, and the total number of acres involved in the area of land affected;

7. Shows the date on which the map was prepared, the north arrow, and the quadrangle name; and

8. Shows the drainage plan on and away from the area of land affected, including the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

D. No permit shall be issued by the Department until the Director has approved the plan of operation required in this section and § 45.2-1206 and the bond from the applicant as required in § 45.2-1208.

E. If the operator believes that changes in his original plan are necessary or if additional land not shown as a part of the approved plan of operation is to be disturbed, he shall submit an amended plan of operation that shall be reviewed for approval by the Director in the same manner as an original plan and shall be subject to the provisions of this section and §§ 45.2-1206 and 45.2-1208.

F. If within 10 days of the anniversary date of the permit, the Director, after inspection, is satisfied that the operation is proceeding according to the plan submitted to and approved by him, then the Director shall renew the permit upon payment of a renewal fee by the operator for land to be affected by the total operation in the next ensuing year according to the following schedule:

<i>Anniversary Date:</i>	<i>Renewal Fee:</i>
<i>Beginning July 1, 2019</i>	<i>\$18 per disturbed acre</i>
<i>Beginning July 1, 2020</i>	<i>\$20 per disturbed acre</i>
<i>Beginning July 1, 2021</i>	<i>\$22 per disturbed acre</i>
<i>Beginning July 1, 2022</i>	<i>\$24 per disturbed acre</i>

The renewal fees shall be deposited in the Permit Fee Fund pursuant to § 45.2-1204.

G. Upon receipt of a written request by any landowner on whose property a sand and gravel operation is permitted pursuant to this section, the operator of the sand and gravel operation shall provide a copy of the map, photograph, or plan to the landowner.

§ 45.2-1206. Operations plan; reclamation; policy of Director.

A. Each application for a permit shall be accompanied by an operations plan that follows the form and contains the accompanying material that the Director requires. The operations plan shall describe the specifications for surface grading and restoration, including sketches delineating placement of spoil, stockpiles, and tailing ponds, to a surface that is suitable for the proposed subsequent use of the land after reclamation is completed.

B. The operations plan shall include a provision for reclamation of all land estimated to be affected by the mining operation for which the permit is sought. The reclamation provision shall follow the form and contain the accompanying material that the Director requires and shall state:

1. The planned use to which the affected land is to be returned through reclamation; and

2. The proposed actions to ensure suitable reclamation of the affected land for the planned use to be carried out by the applicant as an integral part of the proposed mining operation and to be conducted simultaneously insofar as practicable. The Director shall set schedules for the integration of reclamation with the mining operation according to the various individual mineral types.

C. It is the policy of the Director to encourage adoption of productive land use, such as use for pasture, agricultural purposes, recreational areas, sanitary landfills, forestry and timberland operations, and industrial and building sites, and to consider the general original contour in determining the particular reclamation program for the acreage. The Director may require an amendment to the operations plan to meet the exigencies of any unanticipated circumstance or event.

§ 45.2-1207. Special Reclamation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Special Reclamation Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All forfeited bonds collected pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of performing reclamation pursuant to the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1208. Bond of operator.

Each operator at the time of filing his application shall furnish bond on a form that is prescribed by the Director. Such bond shall be payable to the Department and conditioned on the faithful performance by the operator of all requirements of this chapter and the operations plan as approved and directed by the Department. The amount of bond shall be \$3,000 per acre, based upon the number of acres of land that the operator estimates will be affected by mining operations during the next year. Such bond shall be executed by the operator and by a corporate surety licensed to do business in the Commonwealth. However, in lieu of such bond the operator may deposit cash or collateral security acceptable to the Director.

§ 45.2-1209. Review of operations plan and reclamation provision by Director; issuance of permit.

A. Upon receipt of an operations plan acceptable to the Director and bond as required by this article, the Director shall review the plan. If the Director approves the plan, he shall issue a permit. If the Director disapproves the plan, he shall furnish the applicant with his written objections thereto and his required amendments. Until the applicant amends his operations plan to meet the Director's reasonable objections and files a satisfactory amended plan with the Director, no permit shall be issued.

B. In reviewing the operations plan, if the Director finds that the operation will constitute a hazard to the public safety or welfare, or that a reasonable degree of reclamation or proper drainage control is not feasible, he may disapprove the permit application. However, the Director may approve the permit after deleting the areas from the permit application that he holds in his findings to be objectionable.

C. The Director shall issue the permit unless he finds that the applicant has had control or has had common control with a person, partnership, association, trust, or corporation that has had a mining permit revoked or bond or other security forfeited for failure to reclaim lands as required by law, in which event no permit shall be issued. However, if an operator who forfeited a bond pays, within 30 days of notice and demand by the Director, the cost of reclamation in excess of the amount of the forfeited bond, or if any bond is forfeited and the amount forfeited is equal to or greater than the cost of reclamation, such operator shall then become eligible for another permit.

§ 45.2-1210. Application for permit; adjoining landowners; local official.

A. Each application for a permit shall be accompanied by a statement showing the names and addresses of the owners of each property within 1,000 feet of the property line of any land proposed to be permitted, as well as certification that such landowners have been notified by certified mail of the application for a permit unless notified previously. Such residents may file written objections with the Director and may request a hearing.

B. Each application for a permit shall also be accompanied by a statement certifying that the chief administrative official of the county or city in which the land proposed to be permitted is located has been notified of the proposed operation by certified mail.

C. This section applies to an initial application for a permit only, and no new notice shall be required for a renewal application or for a permit for acreage in addition to that originally permitted.

§ 45.2-1211. Succession of one operator by another at uncompleted project.

If one operator succeeds another at any uncompleted operation, whether by sale, assignment, lease, merger, or otherwise, the Director may release the first operator from all liability under this chapter as to that particular operation and transfer the permit to the successor operator. However, the successor operator shall have complied with the requirements of this chapter and shall assume as part of his obligation under this chapter all liability for the reclamation of the area of land affected by the first operator. No fee, or any portion thereof, paid by the first operator shall be returned to either operator. The permit fee for the successor operator for the area of land permitted by the first operator shall be calculated according to the following schedule, except as provided by § 45.2-1203:

Date of Succession:	Permit Fee:
Beginning July 1, 2019	\$18 per disturbed acre
Beginning July 1, 2020	\$20 per disturbed acre
Beginning July 1, 2021	\$22 per disturbed acre
Beginning July 1, 2022	\$24 per disturbed acre

The mining permit for the successor operator shall be valid for one year from the date of issuance and shall be renewed thereafter in accordance with the provisions of this chapter.

§ 45.2-1212. Additional bond to be posted annually; release of previous bond; report of reclamation work.

A. Within 10 days following the anniversary date of any permit, the operator shall post additional bond in the amount of \$3,000 per acre for each acre of land estimated by him to be disturbed during the next year following the anniversary date of the permit. Bond or other security previously posted shall be released for each area disturbed in the last 12 months if reclamation work has been completed or transferred to additional acres to be disturbed.

B. To obtain the approval of the Director to release the bond, the operator shall file with the Department a written report on a form prescribed by the Department stating under oath that reclamation has been completed on certain lands and shall submit (i) the identity of the operation; (ii) the county or city in which the operation is located and its location with reference to the nearest public highway; (iii) a description of the area of land affected by the operation within the period of time covered by such report with sufficient certainty to enable the operation to be located and distinguished from other lands; and (iv) an accurate map or plan prepared by a licensed land surveyor or licensed engineer or issued by a standard mapping service or in a manner acceptable to the Director showing the boundary lines of the area of land affected by the operation, the number of acres comprising such area, and the methods of access to the area from the nearest public highway.

§ 45.2-1213. Notice of noncompliance served on operator.

A. The Director may cause a notice of noncompliance to be served on an operator whenever the operator fails to obey any order by the Director to:

1. Apply a control technique or institute an action approved in his operations or reclamation plan;

2. Comply with any required amendment to the operations or reclamation plan; or
3. Comply with any other requirement of this chapter or any regulation adopted pursuant to this chapter that affects the health, safety, or welfare of the Commonwealth.

B. A copy of the notice shall be delivered to the operator or served by certified mail addressed to the operator at the permanent address shown on the application for a permit. The notice shall specify in writing how the operator has failed to obey the order of the Director and shall require the operator to comply with the order within a reasonable period of time as fixed by the Director following service of the notice.

C. If the operator has not complied with the requirements set forth in the notice of noncompliance within the time limits fixed therein, the Director shall revoke the permit and declare the forfeiture of the entire bond. When the bond is collected, it shall be deposited in the Special Reclamation Fund created pursuant to § 45.2-1207. After completion of the reclamation and payment of all fees as required by this chapter, any additional funds from the forfeiture of the bond shall be returned to the corporate surety, and any additional funds from the forfeiture of the collateral security, certified check, or cash that was deposited in lieu of bond shall be returned to the person who provided it originally or to the operator. Within 30 days of the issuance of any permit revocation or bond forfeiture made under this section, the operator may request a review pursuant to the provisions of Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act.

§ 45.2-1214. Collection of debts.

The amount by which the cost of reclamation exceeds the amount of the operator's forfeited bond shall constitute a debt of the operator to the Commonwealth. The Director is authorized to collect such debts, together with the cost of collection, through appropriate legal action or by declaring the forfeiture of other payments. Moneys collected through legal action, less the cost of collections, shall be deposited in the Special Reclamation Fund created pursuant to § 45.2-1207.

§ 45.2-1215. Commonwealth to have lien for reclamation work.

The Commonwealth shall have a lien, if perfected as provided in subsection A of § 45.2-1216, on land owned by the operator and reclaimed by the Director pursuant to this chapter for the amount of the increase in the appraised market value of the land resulting from the reclamation, except that no lien shall attach to or be filed against the property of any person if the Director waives the lien as provided in subsection B of § 45.2-1216.

§ 45.2-1216. Perfection of lien; waiver of lien.

A. Except as provided in subsection B, the Director shall perfect the lien given under the provisions of § 45.2-1215 by filing, within six months after completion of the reclamation, in the clerk's office of the court of the county or city in which the land or any part thereof is located, a statement consisting of the names of all owners of record of the property sought to be charged; an itemized account of moneys expended for the reclamation work; notarized copies of appraisals, made by an independent appraiser, of the fair market value of the land both before and upon completion of the reclamation work; and a brief description of the property to which the lien attaches.

B. The Director shall waive a lien if he determines that (i) the direct and indirect costs of filing such lien exceed the increase in fair market value resulting from reclamation or (ii) if reclamation is necessitated by an unforeseen occurrence, the reclamation will not result in a significant increase in the fair market value of the land.

§ 45.2-1217. Recordation and indexing of lien; notice.

It is the duty of the clerk in whose office the statement described in § 45.2-1216 is filed to record the statement in the deed books of such office, and index the statement in the general index of deeds, in the name of the Commonwealth as well as the owner of the property, showing the type of the lien. From the time of such recording and indexing, all persons shall be deemed to have notice thereof.

§ 45.2-1218. Priority of lien.

Any lien acquired under this article shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

§ 45.2-1219. Hearing to determine amount of lien.

Any party having an interest in the real property against which a lien has been filed may, within 60 days of such filing, petition the circuit court of the county or city in which the property or some portion thereof is located to hold a hearing to determine the increase in the fair market value of the land as a result of reclamation. After reasonable notice to the Director, the court shall hold a hearing to determine the amount of such increase. If the court determines such increase to be erroneously excessive, it shall determine the proper amount and order that the lien and the record be amended to show such amount.

§ 45.2-1220. Satisfaction of lien.

Any lien acquired under this article shall be satisfied to the extent of the value of the consideration received at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property and may be satisfied in accordance with this section. If an owner fails to satisfy a lien as provided in this section, the Director may proceed to enforce the lien by a petition filed in the circuit court of the county or city in which the property or some portion thereof is located.

§ 45.2-1221. Additional bond to cover amended estimate of land to be disturbed.

If, during any operation, it is found that the operator's estimate of the amount of disturbed land for which bond or other security has been posted for reclamation is less than the actual area disturbed, the Director shall order the operator to file additional bond or security sufficient to cover an amended estimate of land to be disturbed by such operation.

§ 45.2-1222. Interference with reclamation unlawful; other mining operations on land.

It is unlawful for any owner of surface rights or mineral rights to interfere with the operator in the discharge of his obligations to the Commonwealth for the reclamation of lands disturbed by him. If an owner of surface rights or mineral rights desires to conduct other mining operations on lands disturbed by the operator furnishing bond pursuant to this chapter, such owner or other person shall be in all respects subject to the provisions of this chapter and the Director shall then release an equivalent amount of bonds to the operator originally furnishing bond on the disturbed area.

§ 45.2-1223. Penalty for violation of chapter, etc.

Any violation of any provision of this chapter or of any order of the Director is a misdemeanor punishable by a maximum fine of \$1,000 or a maximum of one year in jail, or both.

§ 45.2-1224. Assistance of federal, state, and local agencies.

In approving plans of operation and in issuing rules and regulations for reclamation, the Director may avail himself and the Department of the advice, assistance, and facilities of local soil and water conservation district supervisors or any other federal, state, or local agency.

§ 45.2-1225. Injunction prohibiting mining operation.

Whenever adverse ecological disruptions or the injurious effects thereof seriously threaten or endanger the health, safety, welfare, or property rights of citizens of the Commonwealth, and abatement by the application of control techniques is not feasible, the Director shall petition the appropriate circuit court for an injunction to prohibit further operations. Such injunction shall not relieve the operator of the duty to reclaim lands previously affected according to the terms and conditions of the applicable permit.

§ 45.2-1226. Appeals from decisions of the Department.

An appeal from any order of the Department shall be conducted in accordance with Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. The appeal shall be taken within 30 days following the issuance of the order by forwarding to the Director by certified mail a notice of appeal designating the order from which the appeal is taken.

§ 45.2-1227. Local standards and regulations; waiver of application of chapter; review for strict compliance with chapter.

A. Any locality may establish standards and adopt regulations dealing with the same subjects dealt with in this chapter so long as such standards and regulations are no less stringent than those adopted by the Director.

B. This chapter shall not be construed to repeal any local ordinance or regulation or charter provision in any locality where such provision is no less stringent than the standard adopted by the Director. The Director may waive the application of this chapter if, in his opinion, a locality in which mining operations are being conducted has enacted and is enforcing zoning ordinances dealing with the subject matter and prescribing standards and regulations not less stringent than those set forth in this chapter. If the Director waives any provision of this chapter, the operator shall comply strictly with all the provisions of the ordinances of the locality in which the operation is located.

C. The Director may also waive the application of this chapter as to any mining or borrow pit operation that is conducted solely and exclusively for a state project and that is subject by contract to the control and supervision of a state agency, so long as regulations satisfactory to the Director have been adopted and are incorporated into any contract for such removal. The locality or state agency shall ensure strict compliance with all provisions of the ordinances, regulations, or contracts and the Director shall from time to time review such ordinances, regulations, or contracts and their enforcement programs to ensure compliance with this chapter. If the Director determines that such strict compliance is not present, then he may rescind the waiver of the application of this chapter.

Article 3.

Orphaned Lands.

§ 45.2-1228. Orphaned Lands Reclamation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Orphaned Lands Reclamation Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. An amount equal to the average interest rate earned for all funds in the state treasury as applied to the Minerals Reclamation Fund created pursuant to § 45.2-1234 shall be paid annually into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for the purpose of the reclamation of orphaned lands pursuant to this article. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1229. Survey; priorities for reclamation.

The Director shall conduct a survey to determine the extent of the orphaned lands in the Commonwealth and shall establish priorities for the reclamation of such lands.

§ 45.2-1230. Agreements with owners or lessees; reclamation by Director.

The Director is authorized to enter into agreements with owners or lessees of orphaned land when the owners agree to the reclamation of such land by the Division to the extent and in the manner deemed appropriate or reasonable by the Director. The Director shall not return orphaned land to any use other than the minimum potential use of the land that existed prior to the initiation of mining operations unless the landowner or owners, or lessee or lessees, agree to bind themselves to the payment of the additional cost upon terms that the Director deems reasonable. In entering into such agreements, the Director shall be guided by the priorities for reclamation established by him and shall not enter into any

such agreement unless funds are immediately available for the performance of the agreement by the Director as provided in this article.

§ 45.2-1231. Contracts for reclamation.

The Director is authorized to contract with any state agency, federal agency, or private contractor through the Division for the purpose of reclaiming orphaned lands pursuant to the agreements specified in this article.

§ 45.2-1232. Acceptance of federal funds, gifts, etc.

The Director is authorized (i) to accept federal funds or gifts or grants from any source for the purposes of this article; (ii) to acquire by gift or purchase, but not by the exercise of the power of eminent domain, any orphaned lands whose acquisition he judges to be in the public interest; and (iii) to utilize any such funds, gifts, or grants for the purposes of this article.

Article 4.

Minerals Reclamation Fund.

§ 45.2-1233. Definition.

For purposes of this article, "Fund" means the Minerals Reclamation Fund created pursuant to § 45.2-1234.

§ 45.2-1234. Minerals Reclamation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Minerals Reclamation Fund. The Fund shall be established on the books of the Comptroller. All payments made by operators in accordance with the provisions of this article shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the reclamation of mining operations pursuant to § 45.2-1238. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1235. Membership in Fund; payments required.

Each operator who has had five years of satisfactory operation in the Commonwealth under Chapter 12 (§ 45.2-1200 et seq.) shall become a member of the Fund by making an initial payment to the Fund of \$50 for each acre estimated to be affected by mining operations during the next year. Thereafter, the member shall, within 10 days following the anniversary date of each permit issued to the member, make a payment to the Fund of \$12.50 for each acre estimated to be affected by mining operations during the next year. Such payments shall continue to be made until the member has paid into the Fund a total of \$500 for each acre estimated to be affected under the permits issued to the member.

§ 45.2-1236. Release of bonds and other securities.

All bonds and other securities issued by an operator pursuant to § 45.2-1208 or 45.2-1212 shall be released upon the acceptance into the Fund of such bonds or securities and the payment of required fees.

§ 45.2-1237. Return of member payments.

Subject to the provisions of § 45.2-1240, the Director shall return from the Fund to the member any payment that the member has previously paid to the Fund once the Director determines that the member has completed satisfactory reclamation in accordance with § 45.2-1212. The payments returned shall be only those payments that the member made for the acres that have been satisfactorily reclaimed. In lieu of such return, the member may request that the Director retain the payments in the Fund as payments for additional acres to be disturbed by the member's operations.

§ 45.2-1238. Revocation of permits; reclamation work.

If a permit issued to a member is revoked pursuant to § 45.2-1213, then the payments that the member has made to the Fund in connection with such permit shall be forfeited to the Fund. The Director shall use such forfeited payments, or as much of such payments as necessary, for the reclamation of the mining operation to which the permit applied. If the cost of reclamation exceeds the amount of the forfeited payments, the Director shall also use the proceeds from the member's bond or other security also forfeited in conjunction with the revocation of the permit in accordance with § 45.2-1213, except that if all of the member's bonds and other securities have been released pursuant to § 45.2-1236, then the Director shall draw upon the Fund for the entire cost of reclamation.

§ 45.2-1239. Collection of debt where cost of reclamation exceeds member's forfeited payments, etc.

The amount by which the cost of reclamation exceeds the amount of a member's forfeited payments and the member's forfeited bond or other security, if any, shall constitute a debt of the member to the Commonwealth. The Director is authorized to collect such debts together with the cost of collection through appropriate legal action or by declaring the forfeiture of other payments made by the member to the Fund. Moneys collected through legal action, less the costs of collection, shall be deposited in the Fund.

§ 45.2-1240. Decreases in size of Fund.

Whenever the size of the Fund decreases to less than \$2 million, the Director shall suspend the return of payments pursuant to § 45.2-1237 and shall assess all members an equal amount for each affected acre, for a total amount sufficient to raise the Fund to \$2 million. In lieu of such assessment, all members shall at the request of the Director post bonds or other securities within six months after the Director so notifies the members. Failure of a member to post bond or other surety or to pay the required assessment shall result in the revocation of the permit of the member and the forfeiture of the member's payments in accordance with § 45.2-1238.

§ 45.2-1241. Order of return of payments.

The return of payments to members shall be made in the order in which the Director approves the completion of reclamation pursuant to § 45.2-1212.

§ 45.2-1242. Discontinuance of Fund.

If the Fund is discontinued, any amounts remaining in the Fund shall be returned to the members in proportion to the amount that each member has paid.

§ 45.2-1243. Construction of article; Fund used solely for reclamation.

Nothing in this article shall be construed as vesting in any member any right, title, or interest in the Fund or the disposition of the Fund. The Fund shall be used solely for reclamation of land pursuant to this chapter.

CHAPTER 13.

MINERAL MINING RETAINING DAMS; ADJACENT OWNERS.

Article 1.

Mineral Mining Retaining Dams and Refuse Piles.

§ 45.2-1300. Definitions.

As used in this article, unless the context requires a different meaning:

"Impound water" means to impound water for use in carrying out any part of the process necessary in the production or preparation of minerals.

"Refuse" means waste material resulting from a mineral mining operation.

"Silt" means fine particles resulting from a mineral mining operation, suspended in or deposited by water.

"Water" means water used in a mining operation.

§ 45.2-1301. Dams and mine refuse piles; construction.

A. Any water-retaining or silt-retaining dam or mine refuse pile or modification of an existing water-retaining or silt-retaining dam or mine refuse pile shall be designed and constructed by or under the direction of a qualified engineer if such dam or pile is designed to impound water or silt to a height of (i) five feet or more above the lowest natural ground level within the impounded area and has a storage volume of 50 acre-feet or more or (ii) 20 feet or more, regardless of storage volume.

B. Designs, construction specifications, and other related data, including final abandonment plans, for a water-retaining or silt-retaining dam or mine refuse pile shall be approved and certified by the qualified engineer as specified in subsection A and by the licensed operator or his agent.

C. The designs, construction specifications, and other related data approved and certified in accordance with subsection B shall be submitted for approval to the Director. If the Director approves the submittal, he shall notify the licensed operator in writing. If the Director disapproves the submittal, he shall notify the licensed operator with his written objections and required amendments. The Director shall approve or disapprove the submittal within 30 days following receipt thereof.

§ 45.2-1302. Examination of dams and mine refuse piles; potentially hazardous conditions; plans to be submitted by licensed operators.

A. Every water-retaining or silt-retaining dam or mine refuse pile shall be examined daily for visible structural weakness, volume overload, and other hazards by a qualified person designated by the licensed operator. When rising water and silt reaches 80 percent by volume of the safe design capacity of the dam or pile, such examination shall be made more often as required by the Director or his designated agent. Frequent examinations shall be made during periods of rainfall that could create flooding conditions.

B. When a potentially hazardous condition exists, the operator shall initiate procedures to:

1. Remove all persons from the area that can reasonably be expected to be affected by such potentially hazardous condition;

2. Eliminate such potentially hazardous condition; and

3. Notify the Director.

C. Records of the inspections required by subsection A shall be kept and certified by the licensed operator or his agent. Such records shall be kept on the surface at the office or designated station of the mine.

D. The licensed operator of each mineral mine on which a water-retaining or silt-retaining dam is located shall adopt a plan for carrying out the requirements of subsections A and B. The plan shall be submitted for approval to the Director and shall include:

1. A schedule and procedures for the inspection of the retaining dam by a qualified person;

2. Procedures for evaluating any potentially hazardous condition;

3. Procedures for removing all persons from the area that may reasonably be expected to be affected by such potentially hazardous condition;

4. Procedures for eliminating such potentially hazardous condition;

5. Procedures for notifying the Director; and

6. Any additional information that may be required by the Director.

E. Before making any change or modification in the plan approved in accordance with subsection D, the licensed operator shall obtain approval of such change or modification from the Director.

Article 2.

Rights of Owners of Land Adjacent to Mineral Mines.

§ 45.2-1303. Consent required before working mine near land of another.

No owner or tenant of any land within the Commonwealth containing minerals shall open or sink, dig, excavate, or work in any mine on such land within five feet of the line dividing such land from that of another person without the written consent of every person interested in or having title to such adjoining lands or mineral rights in possession, reversion, or remainder, or of the guardian of any such person that may be under a disability. Any person violating this section shall forfeit \$500 to each person injured by such violation and to each person whose consent was required but not obtained.

§ 45.2-1304. Adjacent owner to be permitted to survey mine; proceedings to compel entry for survey.

A. If a person who is interested in or has title to any land or mineral rights coterminal with the land or mineral rights on or in which a mine is located has reason to believe his property is being trespassed upon, then the owner, tenant, or occupant of the land or minerals on or in which such mine is opened and worked, or his agent, shall permit such interested person to have ingress and egress with surveyors and assistants to explore and survey such mine for the purpose of ascertaining whether a violation of § 45.2-1203 has occurred. Such exploration and survey shall occur at the expense of the interested person, and such person shall not be entitled to enter the mine property more often than once each month.

B. If such interested person is refused entry to such mine, he may file a complaint before the judge of the general district court of the county or city in which such mine is located. Such judge may issue a summons to such mine owner, tenant, occupant, or agent to answer the complaint. Upon the return of the executed summons and the submission of proof that the complainant has right of entry and that such right of entry has been refused without sufficient cause, the judge shall designate a prompt and convenient time for such entry to be made and issue a warrant commanding the sheriff of the county or city to attend and prevent obstructions or impediments to such entry, exploration, and survey.

C. Any owner, tenant, occupant, or agent who refuses permission, exploration, or survey pursuant to subsection A shall forfeit \$20 for each refusal to the person so refused. The costs of such summons and a fee of \$3 to the sheriff executing the warrant shall be paid by the person whose refusal caused the complaint. If the court dismisses the complaint, the costs of such summons and execution shall be paid by the party making the complaint.

PART B.

UNDERGROUND MINERAL MINES.

CHAPTER 14.

REQUIREMENTS APPLICABLE TO UNDERGROUND MINERAL MINES.

§ 45.2-1400. Scope of chapter.

This chapter is applicable to the operation of any underground mineral mine in the Commonwealth and shall supplement the provisions of Chapter 11 (§ 45.2-1100 et seq.).

§ 45.2-1401. Regulations governing conditions and practices at underground mineral mines.

A. The Director shall adopt, in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, regulations necessary to ensure the safety and health of miners and other persons and property at underground mineral mines in the Commonwealth. Nothing in this section shall restrict the Director from adopting regulations more stringent than regulations adopted pursuant to the federal mine safety law. Such regulations applicable to underground mineral mines shall establish requirements for the:

1. Protection of miners from general risks found at underground mineral mines and in mining;
2. Provision and use of personal protection equipment and devices for the head, feet, hands, and body;
3. Maintenance, operation, storage, and transportation of mechanical or electrical equipment, devices, and machinery used in the underground mining of minerals;
4. Control of unstable roof, face, rib, floor, and other ground conditions;
5. Handling and storage of combustible materials, including requirements for emergency plans, firefighting and emergency rescue, fire prevention and safety features on mine equipment, fire safety in mine structures and other areas, and other flame and spark hazards;
6. Control of exposure to airborne contaminants and excessive noise levels;
7. Provision of adequate air quality and quantity through ventilation and other appropriate measures;
8. Safe storage, transportation, and use of explosives and blasting devices;
9. Safe design, operation, maintenance, and inspection of drilling equipment;
10. Construction, installation, maintenance, use, and inspection of boilers, air compressors, and compressed gas systems;
11. Safe design, use, maintenance, and inspection of passageways, walkways, ladders, and other travel ways;
12. Safe design, operation, maintenance, and inspection of electrical equipment and systems;
13. Safe storage, transportation, and handling of materials, including corrosive and hazardous substances;
14. Safe design, use, maintenance, and inspection of guards on moving parts of equipment and machinery;
15. Safe design and operation of chutes;
16. Inspection, maintenance, safe design, and operation of hoisting equipment and cables;
17. Inspection, maintenance, and construction of mine shafts;
18. Actions to be taken by certified and competent persons; and
19. Safe design, operation, maintenance, and inspection of, and the conduct of mining activities at, surface areas of underground mineral mines.

B. The Director shall not adopt any regulation relating to underground mineral mines that is inconsistent with any requirement established by the Act or that, if an operator were to take action to comply with the provisions of such regulation, would place the operator in violation of the federal mine safety law.

§ 45.2-1402. Adoption of regulations.

The Director shall adopt regulations:

- 1. Regarding transportation of miners, including regulations regarding (i) the carrying of tools by miners on mantrips; (ii) the riding of any miner, except the motorman and trip rider, inside a car; and (iii) the boarding and disembarking of miners to and from mantrips;*
- 2. Requiring any bare wire and any cable other than a ground wire, grounded power conductor, or trailing cable to be supported by insulators and away from combustible materials, roof, and ribs;*
- 3. Regarding the bonding, welding, or securing of rails and track switches where track is used to conduct electrical power;*
- 4. Requiring the installation of disconnecting switches underground in all main power circuits at appropriate locations;*
- 5. Requiring respiratory equipment and hearing protection, including by requiring that (i) each miner exposed for short periods to a hazard from inhalation of gas, dust, or fumes wear approved respiratory equipment and (ii) each operator supply hearing protection to miners upon request; and*
- 6. Requiring that fire precautions be taken when mining equipment is transported underground in proximity to energized trolley wires or trolley feeder wires.*

§ 45.2-1403. Flame safety lamps.

No flame safety lamp shall be used for detecting methane. The Director shall determine whether flame safety lamps shall constitute approved devices for detecting oxygen deficiency. If flame safety lamps are approved for such purpose, the Director shall establish standards for their use and maintenance.

§ 45.2-1404. Standards for regulations.

In adopting regulations pursuant to § 45.2-1401 or 45.2-1402, the Director shall consider:

- 1. Standards utilized and generally recognized by the underground mineral mining industry;*
- 2. Standards established by recognized professional mineral mining organizations and groups;*
- 3. The federal mine safety law;*
- 4. Research, demonstrations, experiments, and any other information available regarding the maintenance of a reasonable degree of safety protection, including the latest available scientific data in the field, the technical and economic feasibility of such standards, and experience gained under the Act and other mine safety laws; and*
- 5. Any other criteria necessary to ensure the safety and health of miners and other persons or property likely to be affected by any underground mineral mine or related operation.*

§ 45.2-1405. Mining in proximity to gas and oil wells.

A. The Director shall adopt regulations requiring each licensed operator to notify, and in appropriate circumstances obtain the consent of, the Director prior to removing minerals in proximity to any gas or oil well already drilled or in the process of being drilled.

B. Any licensed operator who plans to remove any mineral, drive any passage or entry, or extend any workings in any mine within 500 feet of any gas or oil well already drilled or in the process of being drilled shall file with the Director a notice that mining is taking place or will take place, together with copies of the maps and plans required under § 45.2-1131 showing the mine workings and projected mine workings that are within 500 feet of the well. The licensed operator shall simultaneously mail copies of such notice, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to the provisions of § 45.2-1604. Each such notice shall contain a certification made by the sender that the sender has complied with such requirements.

C. After filing such notice, the licensed operator may proceed with mining operations in accordance with the maps and plans submitted; however, without the prior approval of the Director, the operator shall not remove any material, drive any entry, or extend any workings in any mine within 200 feet of any gas or oil well already drilled or in the process of being drilled. Each licensed operator who files such a petition shall mail copies of the petition, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector no later than the day of filing. The Gas and Oil Inspector and the well operator shall have standing to object to any petition filed under this section. Any such objection shall be filed within 10 days following the date such petition is filed.

PART C.

SURFACE MINERAL MINES.

CHAPTER 15.

REQUIREMENTS APPLICABLE TO SURFACE MINERAL MINES.

§ 45.2-1500. Scope of chapter.

This chapter is applicable to the operation of any surface mineral mine in the Commonwealth and shall supplement the provisions of Chapter 11 (§ 45.2-1100 et seq.).

§ 45.2-1501. Regulations governing conditions and practices at surface mineral mines.

A. The Director shall adopt, in accordance with Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, regulations necessary to ensure safe working conditions and practices at surface mineral mines in the Commonwealth.

Nothing in this section shall restrict the Director from adopting regulations more stringent than regulations adopted pursuant to the federal mine safety law. Such regulations applicable to surface mineral mines shall establish requirements for the:

1. Protection of miners from general risks found at surface mineral mines;
2. Provision and use of personal protection equipment;
3. Control of unstable ground conditions;
4. Handling and storage of combustible materials, including requirements for emergency plans, firefighting and emergency rescue, fire prevention and safety features on mine equipment, and fire prevention and safety in mine structures and buildings;
5. Control of exposure to airborne toxic contaminants;
6. Safe storage, transportation, and use of explosives and blasting devices;
7. Safe design, operation, maintenance, and inspection of drilling equipment;
8. Construction, use, maintenance, and inspection of boilers, air compressors, and compressed gas systems;
9. Safe design, operation, maintenance, and inspection of mobile equipment;
10. Safe design, use, maintenance, and inspection of ladders, walkways, and travel ways;
11. Safe design, operation, maintenance, and inspection of electrical equipment and systems;
12. Safe design, use, maintenance, and inspection of guards on moving parts of equipment and machinery;
13. Safe storage, transportation, and handling of materials, including corrosive and hazardous substances;
14. Safe design, operation, maintenance, and inspection of hoisting equipment and cables;
15. Actions to be taken by certified and competent persons; and
16. Design, construction, maintenance, and inspection of refuse piles and water and silt retaining dams, including emergency response plans.

B. The Director shall not adopt any regulation relating to surface mineral mines that is inconsistent with any requirement established by the Act or that, if an operator were to take action to comply with the provisions of such regulation, would place the operator in violation of the federal mine safety law.

§ 45.2-1502. Standards for regulations.

In adopting regulations pursuant to § 45.2-1501, the Director shall consider:

1. Standards utilized and generally recognized by the surface mineral mining industry;
2. Standards established by recognized professional mineral mining organizations and groups;
3. The federal mine safety law;
4. Research, demonstrations, experiments, and any other information available regarding the maintenance of a reasonable degree of safety protection, including the latest available scientific data in the field, the technical and economic feasibility of such standards, and the experience gained under the Act and other mine safety laws; and
5. Any other criteria necessary to ensure the safety and health of miners and other persons or property likely to be endangered by any surface mineral mine or related operation.

§ 45.2-1503. Mining in proximity to gas and oil wells.

A. The Director shall adopt regulations requiring each licensed operator to notify, and in appropriate circumstances obtain the consent of, the Director prior to removing minerals in proximity to any gas or oil well already drilled or in the process of being drilled.

B. Any licensed operator who plans to remove any mineral, drive any passage or entry, or extend any workings in any mine within 500 feet of any gas or oil well already drilled or in the process of being drilled shall file with the Director a notice that mining is taking place or will take place, together with copies of the maps and plans required under § 45.2-1131 showing the mine workings and projected mine workings that are within 500 feet of the well. The licensed operator shall simultaneously mail copies of such notice, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to § 45.2-1604. Each such notice shall contain a certification made by the sender that the sender has complied with such requirements.

C. After filing such notice, the licensed operator may proceed with mining operations in accordance with the maps and plans submitted; however, without the prior approval of the Director, the operator shall not remove any material, drive any entry, or extend any workings in any mine within 200 feet of any gas or oil well already drilled or in the process of being drilled. Each licensed operator who files such petition shall mail copies of the petition, maps, and plans by certified mail, return receipt requested, to the well operator and the Gas and Oil Inspector no later than the day of filing. The Gas and Oil Inspector and the well operator shall have standing to object to any petition filed under this section. Any such objection shall be filed within 10 days following the date such petition is filed.

§ 45.2-1504. Respiratory equipment.

The Director shall adopt regulations requiring any miner exposed for short periods to hazards from inhalation of gas, dust, or fumes to wear approved respiratory equipment.

§ 45.2-1505. Health regulations.

A. The Director may adopt regulations requiring that sources of dust at surface mineral mines be wetted down unless controlled by dry collection measures or other means approved by the Director.

B. The Director may adopt regulations providing that no miner at a surface mineral mine that is subject to inspection by the Department pursuant to § 45.2-1148 shall be exposed to noise levels that exceed the federal limit adopted by MSHA

for non-coal miners. Such regulations shall provide that if such exposure exceeds the federal limit, the Director may require the operator to employ feasible engineering and administrative control measures.

SUBTITLE IV.

GAS AND OIL.

CHAPTER 16.

VIRGINIA GAS AND OIL ACT.

Article 1.

General Provisions.

§ 45.2-1600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abandonment of a well" or "cessation of well operations" means the time at which (i) a gas or oil operator has ceased operation of a well and has not properly plugged the well and reclaimed the site as required by this chapter; (ii) a gas or oil operator has allowed the well to become incapable of production or conversion to another well type, or (iii) the Director revokes a permit or forfeits a bond covering a gas or oil operation.

"Associated facility" means any facility utilized for gas or oil operations in the Commonwealth, other than a well or a well site.

"Barrel" means 42 U.S. gallons of liquids, including slurries, at a temperature of 60 degrees Fahrenheit.

"Board" means the Virginia Gas and Oil Board.

"Coalbed methane gas" means occluded natural gas produced from coalbeds and rock strata associated with it.

"Coalbed methane gas well" means a well capable of producing coalbed methane gas.

"Coalbed methane gas well operator" means any person who operates or has been designated to operate a coalbed methane gas well.

"Coal claimant" means a person identified as possessing an interest in production royalties when a drilling unit is force-pooled or who asserts or possesses a claim to funds that are held in escrow, for a force-pooled coalbed methane gas well, or in suspense, for a voluntarily pooled coalbed methane gas well, by virtue of owning an interest in the coal estate contained within the drilling unit subject to the pooling order or agreement.

"Coal operator" means any person who operates or has the right to operate a coal mine.

"Coal owner" means any person who owns, leases, mines and produces, or has the right to mine and produce a coal seam.

"Coal seam" means any stratum of coal 20 inches or more in thickness. "Coal seam" includes a stratum of less than 20 inches in thickness if it (i) is being commercially worked or (ii) in the judgment of the Department could foreseeably be commercially worked and will require protection if a well is drilled through it.

"Correlative right" means the right of each gas or oil owner having an interest in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of production of the gas or oil in such pool or its equivalent without being required to drill unnecessary wells or incur other unnecessary expenses to recover or receive the gas or oil or its equivalent.

"Cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 pounds per square foot and a standard temperature base of 60 degrees Fahrenheit.

"DEQ" means the Department of Environmental Quality.

"Disposal well" means any well drilled or converted for the disposal of drilling fluids, produced waters, or other wastes associated with gas or oil operations.

"Drilling unit" means the acreage on which one gas or oil well may be drilled.

"Enhanced recovery" means (i) any activity involving injection of any air, gas, water, or other fluid into the productive strata; (ii) the application of pressure, heat, or other means for the reduction of viscosity of the hydrocarbons; or (iii) the supplying of additional motive force other than normal pumping to increase the production of gas or oil from any well or pool.

"Evidence of a proceeding or agreement" means written evidence that the coal claimant has (i) filed and has pending a judicial or arbitration proceeding against the gas claimant to determine the ownership of the coalbed methane gas and the right to the funds held in escrow or suspense or (ii) reached an agreement with the gas claimant to apportion the funds between them.

"Exploratory well" means any well drilled to (i) find and produce gas or oil in an unproven area, (ii) find a new reservoir in a field previously found to be productive of gas or oil in another reservoir, or (iii) extend the limits of a known gas or oil reservoir.

"Field rules" means rules established by order of the Board that define a pool, drilling units, production allowables, or other requirements for gas or oil operations within an identifiable area.

"First point of sale" means, for oil, the point at which the oil is (i) sold, exchanged, or transferred for value from one person to another person or (ii) when used by the original owner of the oil, transported off the permitted site and delivered to another facility for use by the original owner. "First point of sale" means, for gas, the point at which the gas is (a) sold, exchanged, or transferred for value to any interstate or intrastate pipeline, local distribution company, or person for use by such person or (b) when used by the owner of the gas for a purpose other than the production or transportation of the gas, delivered to a facility for use.

"Gas" or "natural gas" means all natural gas, whether hydrocarbon, nonhydrocarbon, or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluids not defined as oil pursuant to this section.

"Gas claimant" means a person who is identified as possessing an interest in production royalties when a drilling unit is forced-pooled or who asserts or possesses a claim to funds that are held in escrow, for a force-pooled coalbed methane gas well, or in suspense, for a voluntarily pooled coalbed methane gas well, by virtue of owning an interest in the gas estate contained within the drilling unit subject to the pooling order or agreement.

"Gas or oil operations" means any (i) activity relating to drilling, redrilling, deepening, stimulating, production, enhanced recovery, converting from one type of a well to another, combining or physically changing to allow the migration of fluid from one formation to another, or plugging or replugging any well; (ii) ground-disturbing activity relating to the development, construction, operation, or abandonment of a gathering pipeline; (iii) development, operation, maintenance, or restoration of any site involved with gas or oil operations; or (iv) work undertaken at a facility used for gas or oil operations. "Gas or oil operations" embraces all of the land or property that is used for or that contributes directly or indirectly to a gas or oil operation, including all roads.

"Gas or oil operator" means any person who operates or has been designated to operate any gas or oil well or gathering pipeline.

"Gas or oil owner" means any person who owns, leases, has an interest in, or has the right to explore for, drill, or operate a gas or oil well as principal or lessee. If the gas is owned separately from the oil, this definition shall apply separately to the gas owner or oil owner.

"Gas title conflicts" means conflicting ownership claims between gas claimants. "Gas title conflicts" does not include conflicting ownership claims between a gas claimant and a coal claimant.

"Gathering pipeline" means a pipeline that is used or intended for use in the transportation of gas or oil from the well to (i) a transmission pipeline regulated by the U.S. Department of Transportation or the State Corporation Commission or (ii) an offsite storage, marketing, or other facility where the gas or oil is sold.

"Geophysical operator" means a person who has the right to explore for gas or oil using ground-disturbing geophysical exploration.

"Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coal seam.

"Ground-disturbing" means any changing of land that could result in soil erosion from water or wind and the movement of sediments into state waters, including clearing, grading, excavating, drilling, and transporting and filling of land.

"Ground-disturbing geophysical exploration" or "geophysical operation" means any activity in search of gas or oil that breaks or disturbs the surface of the earth, including road construction or core drilling. The term does not include the conduct of (i) a gravity, magnetic, radiometric, or similar geophysical survey or (ii) a vibroseis or similar seismic survey.

"Injection well" means any well used to inject or otherwise place any substance associated with gas or oil operations into the earth or underground strata for disposal, storage, or enhanced recovery.

"Inspector" means the Virginia Gas and Oil Inspector appointed by the Director pursuant to § 45.2-1604 or such other public officer, employee, or other authority who in an emergency acts instead of, or by law is assigned the duties of, the Virginia Gas and Oil Inspector.

"Log" means the written record progressively describing all strata, water, oil, or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, quantity of oil, volume of gas, pressures, rate of fill-up, freshwater-bearing and saltwater-bearing horizons and depths, cavings strata, casing records, and other information usually recorded in the normal procedure of drilling. "Log" includes electrical survey records or electrical survey logs.

"Mine" means an underground or surface excavation or development with or without shafts, slopes, drifts, or tunnels for the extraction of coal, minerals, or nonmetallic materials, commonly designated as mineral resources, and the hoisting or haulage equipment or appliances, if any, for the extraction of the mineral resources. "Mine" includes all of the land or property of the mining plant, including both the surface and subsurface, that is used in or contributes directly or indirectly to the mining, concentration, or handling of the mineral resources, including all roads.

"Mineral" means the same as that term is defined in § 45.2-1200.

"Mineral operator" means any person who operates or has the right to operate a mineral mine.

"Mineral owner" means any person who owns minerals, leases minerals, mines and produces minerals, or has the right to mine and produce minerals and to appropriate such minerals that he produces from it, either for himself or for himself and others.

"Nonparticipating operator" means a gas or oil owner of a tract that is included in a drilling unit who elects to share in the operation of the well on a carried basis by agreeing to have his proportionate share of the costs allocable to his interest charged against his share of production from the well.

"Offsite disturbance" means any soil erosion, water pollution, or escape of gas, oil, or waste from gas, oil, or geophysical operations off a permitted site that results from activity conducted on a permitted site.

"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, that are produced at the well in liquid form by ordinary production methods and are not the result of condensation of gas after it leaves the underground reservoir.

"Orphaned well" means any well abandoned prior to July 1, 1950, or for which no records exist concerning its drilling, plugging, or abandonment.

"Participating operator" means a gas or oil owner who elects to (i) bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a well on a drilling unit and (ii) receive a share of production from the well equal to the proportion that the acreage in the drilling unit he owns or holds under lease bears to the total acreage of the drilling unit.

"Permittee" means any gas, oil, or geophysical operator holding a permit for gas, oil, or geophysical operations issued under authority of this chapter.

"Person under a disability" means the same as that term is defined in § 8.01-2.

"Pipeline" means any pipe above or below the ground used or to be used to transport gas or oil.

"Plat" or "map" means a map, drawing, or print showing the location of a well, mine, or quarry, or other information required under this chapter.

"Pool" means an underground accumulation of gas or oil in a single and separate natural reservoir. A pool is characterized by a single natural pressure system so that production of gas or oil from one part of the pool tends to or does affect the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, or water in the formation, so that it is effectively separated from any other pool that may be present in the same geologic structure. A "coalbed methane pool" means an area that is underlain or appears to be underlain by at least one coalbed capable of producing coalbed methane gas.

"Project area" means the well and any gathering pipeline, associated facility, road, and any other disturbed area, all of which are permitted as part of a gas, oil, or geophysical operation.

"Restoration" means all activity required to return a permitted site to other use after gas, oil, or geophysical operations have ended, as approved in the operations plan for the permitted site.

"Royalty owner" means any owner of gas or oil in place, or owner of gas or oil rights, who is eligible to receive payment based on the production of gas or oil.

"State waters" means all water, on the surface and under the ground, that is wholly or partially within or bordering the Commonwealth or within its jurisdiction and that affects the public welfare.

"Stimulation" means any action taken by a gas or oil operator to increase the inherent productivity of a gas or oil well, including fracturing, shooting, or acidizing, but excluding (i) cleaning out, bailing, or workover operations and (ii) the use of surface-tension reducing agents, emulsion breakers, paraffin solvents, or other agents that affect the gas or oil being produced, as distinguished from the producing formation.

"Storage well" means any well used for the underground storage of gas.

"Surface owner" means any person who is the owner of record of the surface of the land.

"Waste" or "escape of resources" means (i) physical waste, as that term is generally understood in the gas and oil industry; (ii) the inefficient, excessive, or improper use or unnecessary dissipation of reservoir energy; (iii) the inefficient storing of gas or oil; (iv) the locating, drilling, equipping, operating, or producing of any gas or oil well in a manner that causes or tends to cause a reduction in the quantity of gas or oil ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss or destruction of gas or oil; (v) the production of gas or oil in excess of transportation or marketing facilities; (vi) the amount reasonably required to be produced in the proper drilling, completing, or testing of the well from which it is produced, except gas produced from an oil well or condensate well pending the time when with reasonable diligence the gas can be sold or otherwise usefully utilized on terms and conditions that are just and reasonable; or (vii) underground or aboveground waste in the production or storage of gas, oil, or condensate, however caused. "Waste" does not include gas vented from a methane drainage borehole or coalbed methane gas well where necessary for safety reasons or for the efficient testing and operation of a coalbed methane gas well, nor does it include the plugging of a coalbed methane gas well for the recovery of the coal estate.

"Waste from gas, oil, or geophysical operations" means any substance other than gas or oil that is produced or generated during or results from (i) the development, drilling, and completion of any well and associated facility or the development and construction of gathering pipelines or (ii) well, pipeline, and associated facility operations, including brines and produced fluids other than gas or oil. "Waste from gas, oil, or geophysical operations" includes all rubbish and debris, including all material generated during or resulting from well plugging, site restoration, or the removal and abandonment of gathering pipelines and associated facilities.

"Water well" means any well drilled, bored, or dug into the earth for the sole purpose of extracting from it potable, fresh, or usable water for household, domestic, industrial, agricultural, or public use.

"Well" means any shaft or hole sunk, drilled, bored, or dug into the earth or into underground strata for the extraction, injection, or placement of any gaseous or liquid substance or any shaft or hole sunk or used in conjunction with such extraction, injection, or placement. "Well" does not include any shaft or hole sunk, drilled, bored, or dug into the earth for the sole purpose of pumping or extracting from it potable, fresh, or usable water for household, domestic, industrial, agricultural, or public use and does not include any water borehole, methane drainage borehole where the methane is vented or flared rather than produced and saved, subsurface borehole drilled from the mine face of an underground coal mine, any other borehole necessary or convenient for the extraction of coal or drilled pursuant to a uranium exploratory program carried out pursuant to the laws of the Commonwealth, or any coal or non-fuel mineral core hole or borehole drilled for the purpose of exploration.

§ 45.2-1601. Regulation of coal surface mining not affected by chapter.

Nothing in this chapter shall be construed as limiting the powers of the Director relating to coal surface mining operations and reclamation. The provisions of Chapter 10 (§ 45.2-1000 et seq.), including requirements for permits and bonds, shall apply to gas, oil, or geophysical operations located on any area for which a coal surface mining permit is in effect and shall be in addition to the requirements for gas, oil, or geophysical operations set forth in this chapter, except that well work and the operation of pipelines on an area that has been reclaimed by the surface mine operator or the Director shall be treated as postmining uses. The Director shall give special consideration to the development and adoption of variances from the postmining use requirements of Chapter 10 for gas, oil, or geophysical operations; however, all such variances shall be consistent with the provisions of Chapter 10.

§ 45.2-1602. Construction; purposes.

The provisions of this chapter shall be liberally construed so as to effectuate the following purposes:

1. To foster, encourage, and promote the safe and efficient exploration for and development, production, utilization, and conservation of the Commonwealth's gas and oil resources;
2. To provide a method of gas and oil conservation for maximizing exploration, development, production, and utilization of gas and oil resources;
3. To recognize and protect the rights of any person owning an interest in gas or oil resources contained within a pool;
4. To ensure the safe recovery of coal and other minerals;
5. To maximize the production and recovery of coal without substantially affecting the right of a gas or oil owner proposing to drill a gas or oil well to explore for and produce gas or oil;
6. To protect the citizens and the environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil; and
7. To recognize that the use of the surface for gas or oil development shall be only the use that is reasonably necessary to obtain the gas or oil.

§ 45.2-1603. Virginia Gas and Oil Board; membership; compensation.

A. The Virginia Gas and Oil Board is established as a policy board in the executive branch of state government. The purpose of the Board is to carry out the provisions of this chapter.

B. The Board shall have a total membership of seven members that shall consist of six nonlegislative citizen members and one ex officio member. Nonlegislative citizen members of the Board shall be appointed to be appointed by the Governor, subject to confirmation by the General Assembly, as follows: one who is a representative of the gas and oil industry and not the coal industry, one who is a representative of the coal industry and not the gas and oil industry, and four who are not representatives of the gas, oil, or coal industry. The Director or his designee shall serve ex officio with voting privileges. A chairman shall be designated by the Governor from among the membership of the Board.

C. All vacancies occurring on the Board shall be filled in the same manner as the original appointment within 60 days of the occurrence of the vacancy. The ex officio member of the Board shall serve terms coincident with such member's term of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of six years from the day on which the term of their immediate predecessor expired. All members may be reappointed. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth, and the Governor shall seek to appoint persons who reside in localities with significant oil or gas production or storage.

D. Each member of the Board shall receive compensation for the performance of his duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

§ 45.2-1604. Duties and responsibilities of the Director; Virginia Gas and Oil Inspector.

A. The Director has the jurisdiction and authority necessary to enforce the provisions of this chapter. The Director has the power and duty to regulate gas, oil, or geophysical operations, collect fees, and perform other responsibilities prescribed in regulations adopted by the Department or the Board.

B. The Director shall appoint the Virginia Gas and Oil Inspector.

§ 45.2-1605. Exclusivity of regulation and enforcement.

No locality or other political subdivision of the Commonwealth shall impose any condition or require any other local license, permit, fee, or bond that varies from or is in addition to the requirements of this chapter to perform any gas, oil, or geophysical operation. However, no provision of this chapter shall be construed to limit or supersede the jurisdiction or requirements of any other state agency, local land-use ordinance, regulation of general purpose, or § 58.1-3712, 58.1-3713, 58.1-3713.3, 58.1-3713.4, 58.1-3741, 58.1-3742, or 58.1-3743.

§ 45.2-1606. Confidentiality.

The Director shall hold confidential all logs, surveys, and reports relating to the drilling, completion, and testing of a well that are filed by a gas or oil operator under this chapter for a period of 90 days after the completion of the well or 18 months after the total depth of the well has been reached, whichever occurs first. Upon receipt of a gas, oil, or geophysical operator's written request, the Director shall hold confidential such information concerning an exploratory well or corehole for a period of two years after completion of the well or four years from the date such well or hole reaches total depth, whichever occurs first. The Director, for good cause shown by the gas, oil, or geophysical operator, may

annually extend the period of time for which information regarding exploratory drilling is held confidential. However, the Director shall upon request provide a copy of any survey or log for strata through the lowest coal seam to the coal owner.

§ 45.2-1607. Expenditure of funds.

All funds, except civil penalties collected pursuant to § 45.2-1608, collected by or appropriated to the Department pursuant to the provisions of this chapter shall be expended only for the purpose of carrying out the provisions of this chapter.

§ 45.2-1608. Violations; penalties.

A. Any person who violates or refuses, fails, or neglects to comply with any regulation or order of the Board, Director, or Inspector; any condition of a permit, or any provision of this chapter is guilty of a Class 1 misdemeanor.

B. In addition, any person who violates any regulation or order of the Board, Director, or Inspector; any condition of a permit, or any provision of this chapter shall upon such finding by an appropriate circuit court be assessed a civil penalty of not more than \$10,000 for each day of such violation. All civil penalties under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. The court shall direct that all civil penalties assessed under this section be paid into the treasury of the county or city where the gas, oil, or geophysical operation determined by the court to be in violation is located.

C. The Board, with the consent of the gas, oil, or geophysical operator, may provide in an order issued by the Board against such operator for the payment of civil penalties for past violations in specific sums not to exceed the limit specified in subsection B. Such civil penalties shall be instead of any appropriate civil penalty that could be imposed under this section and shall not be subject to the provisions of § 2.2-514. Civil penalties collected under this section shall be paid into the treasury of the county or city where the gas, oil, or geophysical operation subject to the order issued by the Board is located.

§ 45.2-1609. Appeals; venue; standing.

A. Any order or decision of the Board may be appealed to the appropriate circuit court. Whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo. The court has the power to enter interlocutory orders as necessary to protect the rights of all interested parties pending a final decision.

B. Unless the parties otherwise agree, the venue for court review shall be the county or city where the gas, oil, or geophysical operation that is the subject of such order or decision is located.

C. The Director and all parties required to be given notice of hearings of the Board pursuant to the provisions of § 45.2-1618 shall have standing to appeal any order or decision of the Board that directly affects them. The permittee or permit applicant, the Director, and those parties with standing to object pursuant to the provisions of § 45.2-1632 shall have standing to appeal any order or decision of the Board that directly affects them. However, except for an aggrieved permit applicant or the Director, no person shall have standing to appeal a decision of the Board concerning a permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.2-1637. The filing of any petition for appeal concerning the issuance of a new permit that was objected to pursuant to the provisions of § 45.2-1611 or 45.2-1612 or by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a gas storage field certificated by the State Corporation Commission shall automatically stay the permit until such stay is dissolved or the appeal is decided by the circuit court. However, in an appeal by a gas storage field operator, such automatic stay shall not apply to an oil, gas, or coalbed methane well completed more than 100 feet above the cap rock above the storage stratum.

§ 45.2-1610. Copy of lease to lessor.

Any person who, as either principal or agent, executes a lease of land or right therein for drilling for gas or oil, or for the development or production of gas or oil, shall furnish a copy of the lease, duly executed by the lessee, to the lessor.

§ 45.2-1611. Objections by coal owner.

A. In deciding on objections by a coal owner to a proposed permit modification or drilling unit modification, only the following questions shall be considered:

1. Whether the work can be done safely with respect to persons engaged in coal mining at or near the well site; and
2. Whether the well work is an unreasonable or arbitrary exercise of the well operator's right to explore for, market, and produce gas or oil.

B. In deciding on objections by a coal owner to the establishment of a drilling unit, the issuance of a permit for a new well, or the stimulation of a coalbed methane gas well, the following safety aspects shall first be considered, and no order or permit shall be issued where the evidence indicates that the proposed activity will be unsafe:

1. Whether the drilling unit or drilling location is above or in close proximity to any mine opening or shaft, entry, travel way, airway, haulageway, drainageway, or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine or in any coal mine already surveyed and platted but not yet being operated;
2. Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;
3. Whether the proposed well can be drilled safely or the proposed coalbed methane gas well can be stimulated safely, taking into consideration the dangers from creeps, squeezes, or other disturbances due to the extraction of coal; and
4. The extent to which the proposed drilling unit or drilling location or stimulation of the coalbed methane gas well unreasonably interferes with the safe recovery of coal, gas, or oil.

C. The following questions with respect to the drilling unit or drilling location of a new well or stimulation of a new coalbed methane gas well shall also be considered:

1. The extent to which the proposed drilling unit or drilling location or coalbed methane gas well stimulation will unreasonably interfere with present or future coal mining operations;
 2. The feasibility of moving the proposed drilling unit or drilling location to a mined-out area, an area below the coal outcrop, or some other area;
 3. The feasibility of a drilling moratorium for not more than two years in order to permit the completion of coal mining operations;
 4. The methods proposed for the recovery of coal and gas;
 5. The practicality of locating the unit or the well on a uniform pattern with other units or wells;
 6. The surface topography and use; and
 7. Whether the decision will substantially affect the right of the gas operator to explore for and produce the gas.
- D. The factors in subsection C are not intended to and shall not be construed to authorize the Director, or the Board under § 45.2-1638, to supersede, impair, abridge, or affect any contractual rights or obligations existing between the respective owners of coal and gas or any interest therein.

§ 45.2-1612. Distance limitations of certain wells.

A. If the well operator and the objecting coal owners who are present or represented at a hearing to consider the objections to the proposed drilling unit or location are unable to agree upon a drilling unit or location for a new well within 2,500 linear feet of the location of an existing well or a well for which a permit application is on file, then the permit or drilling unit shall be refused.

B. The distance limitation established by this section shall not apply if (i) the proposed well will be drilled through an existing or planned pillar of coal required for protection of a preexisting well drilled to any depth and (ii) the proposed well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

Article 2.

Gas and Oil Conservation.

§ 45.2-1613. Meetings of the Board; notice; general powers and duties.

A. The Board shall schedule a monthly meeting at a time and place designated by the chairman. If no petition for action is filed with the Board prior to a meeting, the Board may cancel the meeting. Notification or cancellation of each meeting shall be given in writing to the members by the chairman at least five days in advance of the meeting. Four members shall constitute a quorum for the transaction of any business that comes before the Board. All determinations of the Board shall be by majority vote of the quorum present.

B. The Board has the power necessary to execute and carry out all of its duties specified in this chapter. The Board is authorized to investigate and inspect records and facilities as necessary and proper to perform its duties under this chapter. The Board may employ personnel and consultants as necessary to perform its duties under this chapter.

§ 45.2-1614. Additional duties and responsibilities of the Board.

A. In executing its duties under this chapter, the Board shall:

1. Foster, encourage, and promote the safe and efficient exploration for and development, production, and conservation of gas and oil resources located in the Commonwealth;
2. Administer a method of gas and oil conservation for the purpose of maximizing exploration, development, production, and utilization of gas and oil resources;
3. Administer procedures for the recognition and protection of the rights of gas or oil owners with interests in gas or oil resources contained within a pool;
4. Promote the maximum production and recovery of coal without substantially affecting the right of a gas owner proposing a gas well to explore for and produce gas; and
5. Hear and decide appeals of the Director's decisions and orders issued under Article 3 (§ 45.2-1629 et seq.).

B. Without limiting its general authority, the Board has the specific authority to issue regulations or orders pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) in order to:

1. Prevent waste through the design, spacing, or unitization of wells, pools, or fields.
2. Protect correlative rights.
3. Enter spacing and pooling orders.
4. Establish drilling units.
5. Establish maximum allowable production rates for the prevention of waste and the protection of correlative rights.
6. Provide for the maximum recovery of coal.
7. Classify pools and wells as gas, oil, gas and oil, or coalbed methane gas.
8. Collect data, make investigations and inspections, examine property, leases, papers, books, and records, and require or provide for the keeping of records and the making of reports.
9. Set application fees.
10. Govern practices and procedures before the Board.
11. Require additional data from parties to any hearing.
12. Take actions reasonably necessary to carry out the provisions of this chapter.

§ 45.2-1615. Applicability and construction.

A. The provisions of this article apply to all lands in the Commonwealth, whether publicly or privately owned. However, no well commenced prior to July 1, 1990, shall be required to be plugged or abandoned solely for purposes of complying with the conservation provisions of this article.

B. No provision of this article shall be construed to grant to the Board the authority or power to fix prices of gas or oil.

§ 45.2-1616. Statewide spacing of wells.

A. Unless prior approval has been received from the Board or a provision of the field or pool rules so allows:

1. No well drilled in search of oil shall be located closer than 1,250 feet to any well completed in the same pool; however, this spacing requirement is subject to § 45.2-1612;

2. No well drilled in search of gas shall be located closer than 2,500 feet to any other well completed in the same pool or closer than 2,500 feet to any storage well within the boundary of a gas storage field certificated by the State Corporation Commission prior to January 1, 1997, if the well to be drilled is to be completed within the same horizon as the certificated gas storage field; and

3. No well shall be drilled closer to the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit, than one-half of the applicable minimum well spacing distance prescribed in this section.

B. Unless prior approval has been received from the Board or a provision of the field or pool rules so allows:

1. No well drilled in search of coalbed methane gas shall be located closer than 1,000 feet to any other coalbed methane gas well, or in the case of a coalbed methane gas well located in the gob, closer than 500 feet to any other coalbed methane gas well located in the gob.

2. No coalbed methane gas well shall be drilled closer than 500 feet, or in the case of a well located in the gob, closer than 250 feet, from the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit.

3. The spacing limitations set forth in this subsection are subject to the provisions of §§ 45.2-1611 and 45.2-1612.

§ 45.2-1617. Voluntary pooling of interests in drilling units; validity of unit agreements.

A. If two or more separately owned tracts are embraced within a drilling unit, or if there are separately owned interests in all or a part of any such drilling unit, the gas or oil owners owning such interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. Such agreement may be based on the exercise of pooling rights or rights to establish drilling units that are granted in any gas or oil lease.

B. No voluntary pooling agreement between or among gas or oil owners shall be held to violate the statutory or common law of the Commonwealth that prohibits monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.

§ 45.2-1618. Notice of hearing; standing; form of hearing.

A. Any person who applies for a hearing in front of the Board pursuant to the provisions of § 45.2-1619, 45.2-1620, or 45.2-1622 shall simultaneously with the filing of such application provide notice by commercial delivery service, return receipt requested, or certified mail, return receipt requested, to each gas or oil owner, coal owner, or mineral owner having an interest underlying the tract that is the subject of the hearing and to the operator of any gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the tract that is the subject of the hearing. Whenever a hearing applicant is unable to provide such written notice because the identity or location of a person to whom notice is required to be given is unknown, the hearing applicant shall promptly notify the Board of such inability.

B. At least 10 days prior to a hearing, the Board shall publish its agenda in a newspaper of general circulation in each locality where the lands that are the subject of the hearing are located. The agenda shall include the name of each applicant, the locality where the lands that are the subject of the hearing are located, the purpose of the hearing, and the date, time, and location of the hearing.

C. The Board shall conduct all hearings on any application made to it pursuant to the formal litigated issues hearing provisions of the Administrative Process Act (§ 2.2-4000 et seq.). The applicant and any person to whom notice is required to be given pursuant to subsection A shall have standing to be heard at the hearing. The Board shall render its decision on such application within 30 days of the hearing's closing date and shall provide notification of its decision to all parties to the hearing pursuant to the provisions of the Administrative Process Act.

§ 45.2-1619. Field rules and drilling units for wells; hearings and orders.

A. In order to prevent the waste of gas or oil or the drilling of unnecessary wells or to protect correlative rights, the Board on its own motion or upon application of the gas or oil owner may establish or modify drilling units. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool. Any gas, oil, or royalty owner may apply to the Board for the establishment of field rules and the creation of drilling units for the field. Unless such motion is made or an application is received at least 30 days prior to the next regularly scheduled monthly meeting of the Board, it shall not be heard by the Board at such meeting and shall be heard at the next meeting of the Board thereafter.

B. At any hearing of the Board regarding the establishment or modification of drilling units, the Board shall make the following determinations:

1. Whether the proposed drilling unit is an unreasonable or arbitrary exercise of a gas or oil owner's right to explore for or produce gas or oil;

2. Whether the proposal would unreasonably interfere with the present or future mining of coal or other minerals;
3. The acreage to be included in the order;
4. The acreage to be embraced within each drilling unit and its shape;
5. The area within which wells may be drilled on each unit; and
6. The allowable production of each well.

C. In establishing or modifying a drilling unit for coalbed methane gas wells, and in order to accommodate the unique characteristics of coalbed methane development, the Board shall require that drilling units conform to the mine development plan, if any. If requested by the coal operator, well spacing shall correspond with mine operations, including the drilling of multiple coalbed methane gas wells on each drilling unit.

D. If an order to establish or modify a drilling unit will allow a well to be drilled into or through a coal seam, any coal owner within the area to be covered by the drilling unit may object to the establishment of the drilling unit. Upon a coal owner's objection, and without superseding, impairing, abridging, or affecting any contractual rights or obligations existing between coal and gas owners, the Board shall make its determination in accordance with the provisions of §§ 45.2-1611 and 45.2-1612.

E. The Board may continue a hearing to its next meeting to allow for further investigation and the gathering and taking of additional data and evidence. If at the time of a hearing there is not sufficient evidence for the Board to determine field boundaries, drilling unit size or shape, or allowable production, the Board may enter a temporary order establishing provisional drilling units, field boundaries, and allowable production for the orderly development of the pool pending receipt of the information necessary to determine the ultimate pool boundaries, spacing of wells for the pool, and allowable production. Upon additional findings of fact, the boundaries of a pool, drilling units for the pool, and allowable production may be modified by the Board.

F. Unless otherwise provided for by the Board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional well shall be permitted in the pool until the Board's order establishing or modifying the pool or units has been entered.

G. After the Board issues a field or pool spacing order that creates drilling units or a pattern of drilling units for a pool, if a gas or oil owner applies for a permit or otherwise indicates his desire to drill a well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool, the Board may, on its own motion or the motion of any interested person, require that the well be located and drilled in compliance with the provisions of the order affecting the pool.

§ 45.2-1620. Pooling of interests in drilling units.

A. The Board, upon application from any gas or oil owner, shall enter an order pooling all interests in a drilling unit for the development and operation thereof when:

1. Two or more separately owned tracts are embraced in a drilling unit;
2. There are separately owned interests in all or part of any such drilling unit and those owners having interests have not agreed to pool their interests; or
3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.2-1616.

However, no pooling order shall be entered until the notice and hearing requirements of this article have been satisfied.

B. Subject to any contrary provision contained in a gas or oil lease regarding the property, gas or oil operations incident to the drilling of a well on any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations on each tract in the unit. The portion of production allocated to any tract covered by a pooling order shall be in the same proportion as the acreage of that tract bears to the total acreage of the unit.

C. Every pooling order entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision F 2 b of § 45.2-1631, subject to the permit provisions contained in Article 3 (§ 45.2-1629 et seq.);
2. Include the time and date when such order expires;
3. Designate the gas or oil owner who is authorized to drill and operate the well. Except in the case of a coalbed methane gas well, such designated operator shall possess the right to conduct operations or possess the written consent of owners with the right to conduct operations on at least 25 percent of the acreage included in the unit;
4. Prescribe the conditions under which a gas or oil owner may become a participating operator or exercise a right of election under subdivision 7;
5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;
6. Require that any nonleasing gas or oil owner be provided with reasonable access to unit records submitted to the Director or Inspector;
7. Establish a procedure for a gas or oil owner who received notice of the hearing but does not decide to become a participating operator to elect to (i) sell or lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his share equal the following:

a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or

b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given shall be deemed to have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The Board shall cause to be established an escrow account into which the unknown lessor's share of proceeds shall be paid and held for his benefit. Such escrowed proceeds shall be deemed to be unclaimed property and shall be disposed of pursuant to the provisions of the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.). Upon discovery of the identity and location of any unknown owner of an interest that is subject to escrow under the provisions of this subsection and is not subject to conflicting claims of ownership, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds to be considered at the next available hearing. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement.

E. Any person who does not make an election under the pooling order shall be deemed to have leased his gas or oil interest to the gas or oil well operator as the pooling order provides.

F. If a gas or oil owner is a person under a disability, the applicant for a pooling order may petition the appropriate circuit court to appoint a guardian ad litem pursuant to the provisions of § 8.01-261 for purposes of making the election provided for by this section.

G. Any royalty or overriding royalty reserved in any lease that is deducted from a nonparticipating operator's share of production shall not be subject to charges for operating costs but shall be separately calculated and paid to the royalty owner.

H. The Board shall resolve all disputes arising among gas or oil operators regarding the amount and reasonableness of well operation costs. The Board shall, by regulation, establish allowable types of costs that may be shared in pooled gas or oil operations.

§ 45.2-1621. Coalbed methane gas; ownership.

No conveyance, reservation, or exception of coal shall be deemed to include coalbed methane gas. Nothing in this section shall affect a coal operator's right to vent coalbed methane gas for safety purposes or release coalbed methane gas in connection with mining operations. The provisions of this section shall not affect any settlement of any dispute, or any judgment or governmental order, as to the ownership or development of coalbed methane gas made or entered into prior to April 13, 2010.

§ 45.2-1622. Pooling of interests for coalbed methane gas wells; conflicting claims to ownership.

A. If there are conflicting claims to the ownership of coalbed methane gas, the Board, upon application from any claimant, shall enter an order pooling all interests or estates in the coalbed methane gas-drilling unit for the development and operation thereof.

B. In addition to the provisions of § 45.2-1620, the following provisions shall apply to the order provided in subsection A:

1. Simultaneously with the filing of such application, the gas or oil owner applying for the order shall provide notice pursuant to the provisions of § 45.2-1618 to each person identified by the applicant as a potential owner of an interest in the coalbed methane gas underlying the tract that is the subject of the hearing.

2. The Board shall cause to be established an escrow account into which the payment for costs or proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants.

3. The coalbed methane gas well operator shall deposit into the escrow account any money paid by a person claiming a contested ownership interest as a participating operator's share of costs pursuant to the provisions of § 45.2-1620 and the order of the Board.

4. The coalbed methane gas well operator shall deposit into the escrow account one-eighth of all proceeds attributable to the conflicting interests plus all proceeds in excess of ongoing operational expenses attributable to a participating or nonparticipating operator as provided for under § 45.2-1620 and the order of the Board.

5. The Board shall order payment of principal and accrued interest, less escrow account fees, from the escrow account to conflicting claimants only after (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them is issued, (ii) a determination is reached by an arbitrator pursuant to § 45.2-1623, or (iii) an agreement is reached among all claimants owning conflicting estates in the tract in question or any undivided interest therein. Upon receipt of an affidavit from conflicting claimants affirming such decision, determination, or agreement, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds on behalf of the conflicting claimants. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement. The amount to be paid to the conflicting claimants shall be determined on the basis of (a) the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing, made part of the pooling order that established the escrow account; (b) the operator's records of deposits attributable to those tracts for which funds are being requested; and (c) the records of the escrow account for the coalbed methane gas-drilling unit. The petition for disbursement shall be placed on the first available Board docket. Funds shall be disbursed within 30 days after the Board decision and receipt by the Department of all documentation required by the Board. The interests of any cotenants that have not been resolved by the agreement or by judicial decision shall remain in the escrow account.

6. Any person who does not make an election under the pooling order shall be deemed, subject to a final legal determination of ownership, to have leased his gas or oil interest to the coalbed methane gas well operator as provided in the pooling order.

§ 45.2-1623. Conflicting claims of ownership; arbitration.

A. The Board shall enter an order requiring that the matter of disputed ownership be submitted to arbitration and notify the circuit court in the jurisdiction in which the majority of the subject tract is located (i) upon written request from all claimants to the ownership of coalbed methane gas related to the subject tract under § 45.2-1622; (ii) upon receipt of an affidavit executed by all such claimants affirming that there is no other known surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the subject tract; (iii) after a hearing noticed pursuant to subsection B of § 45.2-1618; and (iv) upon a determination by the Department whether sufficient funds are available to pay the estimated costs of the arbitration pursuant to subsection F. Within 30 days of receipt of the notice from the Board, the circuit court shall appoint an attorney from the list maintained by the Department pursuant to subsection C or, at the discretion of the court, another attorney meeting the qualifications set forth in subsection C. Prior to his appointment as an arbitrator of a particular dispute, the attorney shall certify to the circuit court that he has not derived more than 10 percent of his income during any of the preceding three years from any (a) claimants asserting ownership or rights in the subject tract or (b) affiliated entities or immediate family members of such claimants. If the attorney cannot provide such certification, he shall notify the circuit court and he will be disqualified from serving as arbitrator for that particular dispute.

B. The Department shall send notice to all claimants if it determines that there are insufficient funds to pay the estimated costs of the arbitration pursuant to subsection F. The claimants may, by unanimous agreement, proceed with the arbitration process, notify the Board of such agreement, and bear the costs to the extent of the insufficiency. If the parties do not agree, the arbitration shall be delayed until such funds are available.

C. To be qualified as an arbitrator, a candidate shall (i) be an attorney licensed in the Commonwealth; (ii) have at least 10 years of experience in real estate law, including substantial expertise in mineral title examination; and (iii) disclose to the Board whether he has been engaged within the preceding three years by any person in a matter subject to the jurisdiction of the Board or the Department under this chapter. The Department shall solicit applications from attorneys meeting the qualifications set forth in this subsection and maintain a list of attorneys qualifying as arbitrators for use by the circuit courts. The Department shall update its list at least once annually. To maintain qualification, each attorney whose name appears on the list shall update annually his disclosures as set forth in clause (iii).

D. The arbitrator shall determine a time and place for the arbitration hearing and cause written notification of such hearing to be served on each surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the tract that is the subject of the hearing. Parties shall be served personally or by certified mail, return receipt requested, not less than 14 days before the hearing. Appearance at the hearing waives such party's right to challenge notice. Any party to the arbitration has the right to representation before the arbitrator pursuant to § 8.01-581.05. In accordance with § 8.01-581.06, the arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; administer oaths; and, upon application by a party to the arbitration, permit the taking of depositions for use as evidence. The arbitrator shall hear and determine the controversy upon the evidence and consistent with applicable law, notwithstanding the failure of a party to appear at the hearing.

E. The arbitrator shall issue his determination as to the ownership in the coalbed methane gas and entitlement to proceeds held in escrow within six months from the order of the Board requiring the matter be submitted to arbitration, unless a longer period is otherwise agreed to by all parties. Such determination shall be in writing and sent to the Board and to each party to whom notice is required to be given under subsection D.

F. Upon the issuance of the arbitrator's determination of ownership and subject to the availability of funds, the fees and expenses of the arbitration, but not including fees or costs of counsel engaged by the respective claimants or any other costs of the claimants, shall be paid from the accrued interest on general escrow account funds.

G. An arbitrator's determination rendered pursuant to subsection E shall be binding upon the parties, and upon request of any party to the arbitration such determination may be entered as the judgment of the circuit court responsible for appointing the arbitrator under subsection A.

H. Upon application of any party to the arbitration, a determination rendered pursuant to subsection E may be confirmed, vacated, corrected, or appealed pursuant to the grounds set forth in Chapter 21 (§ 8.01-577 et seq.) of Title 8.01.

§ 45.2-1624. Release of funds held in escrow or suspense because of conflicting claims to coalbed methane gas.

A. For a coalbed methane gas well that was force-pooled prior to July 1, 2015, the coalbed methane gas well operator shall, on or before January 1, 2016, apply to the Board for the release of the funds in escrow and give written notice of such application to every conflicting claimant identified in the pooling orders, or to the successor of such claimant where the successor is known to the coalbed methane gas well operator or has identified himself to the coalbed methane gas well operator or the Board. Such notice shall be in accordance with the applicable provisions of § 45.2-1618 and, if any unknown person or unlocatable conflicting claimant is subject to escrow, such notice shall also be published in a newspaper of general circulation in the county or counties where the drilling unit is located once each week for four successive weeks. The application shall include a detailed accounting in accordance with subdivision B 5 of § 45.2-1622. The Board shall order payment of the principal and accrued interest, less escrow account fees, held in escrow, along with all future royalties attributable to the drilling unit, to each gas claimant identified in the pooling order unless, within 45 days of the coalbed methane gas well operator's notice of its application, the coal claimant provides the Board and the coalbed methane gas well operator with evidence of a proceeding or agreement. The Board, pursuant to its authority granted by § 45.2-1614,

may extend the time for filing the application and delay the payment of funds for a gas title conflict, the existence of an unknown gas claimant, the existence of an unlocatable gas claimant, an unresolved gas heirship issue, or any other reason beyond the reasonable control of the coalbed methane gas well operator and shall not order payment if the gas claimant fails to provide the Board with information needed under applicable law or regulation to distribute the funds.

B. For a coalbed methane gas well force-pooled on or after July 1, 2015, the Board, in its pooling order, shall direct the coalbed methane gas well operator to pay royalties to the gas claimant unless the coal claimant provides the coalbed methane gas well operator and the Board with evidence of a proceeding or agreement not later than the time and place of the pooling hearing. The coalbed methane gas well operator shall provide written notice of the hearing to every gas claimant and coal claimant in accordance with § 45.2-1618. However, the Board, pursuant to its authority granted by § 45.2-1614, shall not order the coalbed methane gas well operator to make payment to a gas claimant if there exists any gas title conflict, unknown gas claimant, unlocatable gas claimant, unresolved gas heirship issue, or other reason beyond the reasonable control of the coalbed methane gas well operator or if the gas claimant fails to provide the coalbed methane gas well operator with the information required under applicable law or regulation to pay royalties. If the Board so declines to order payment to be made to a gas claimant, the coalbed methane gas well operator shall provide each affected gas claimant and the Board with written notice of the reason payment is not required to be made in accordance with the applicable provisions of § 45.2-1618. If payment is not required to be made due to the gas claimant's failure to provide needed information under applicable law or regulation, the notice shall identify the information that is needed to enable the payment to be made.

C. For a coalbed methane gas well voluntarily pooled at any time, the coalbed methane gas well operator shall pay royalties, including past royalties held, to each gas claimant unless, within 45 days of the coalbed methane gas well operator's provision of written notice to the coal claimant that the operator will be paying royalties to the gas claimants, the coal claimant provides the coalbed methane gas well operator and each gas claimant with evidence of a proceeding or agreement. For any unit voluntarily pooled before July 1, 2015, the coalbed methane gas well operator shall provide such written notice to each gas claimant and coal claimant on or before January 1, 2016. For any unit voluntarily pooled on or after July 1, 2015, the coalbed methane gas well operator shall provide such written notice to each gas claimant and coal claimant not later than 45 days after production commences. However, the coalbed methane gas well operator shall not be required to make payment to a gas claimant if there exists any gas title conflict, unknown gas claimant, unlocatable gas claimant, unresolved gas heirship issue, or other reason beyond the reasonable control of the coalbed methane gas well operator or if the gas claimant fails to provide the coalbed methane gas well operator with information to process or pay royalties. If the Board so declines to order payment to be made to a gas claimant, the coalbed methane gas well operator shall provide each affected gas claimant with written notice of the reason payment is not required to be made in accordance with the applicable provisions of § 45.2-1618. If payment is not required to be made due to a gas claimant's failure to provide needed information, the notice shall identify the information that is needed to enable the payment to be made.

D. Any pending judicial or arbitration proceeding shall be pursued by the coal claimant with diligence and shall not be voluntarily dismissed or nonsuited without the consent of the gas claimant. No default judgment shall be entered against a gas claimant in such proceeding. Royalties shall be paid as determined by the final order in the proceeding. A prevailing gas claimant may recover from the nonprevailing coal claimant reasonable costs and attorney fees if such gas claimant substantially prevails on the merits of the case and the coal claimant's position is not substantially justified.

E. A coalbed methane gas well operator paying funds to a gas claimant in accordance with this section shall have no liability to a coal claimant for the payments made by the coalbed methane gas well operator to a gas claimant.

F. This section shall not operate to extinguish any other right or cause of action or defense thereto, including any claim for an accounting or claim under § 8.01-31. Nothing in this section shall create, confer, or impose a fiduciary duty.

§ 45.2-1625. Appeals of the Director's decisions; notices; hearings and orders.

A. With the exception of an aggrieved permit applicant, no person shall have standing to appeal a decision of the Director to the Board concerning a new permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.2-1637.

B. When a person applies for a hearing to appeal a decision of the Director to the Board, the Board shall, at least 20 days prior to the hearing, give notice by certified mail, return receipt requested, to the person making the appeal and, if different, to the gas or oil operator subject to the appeal.

C. Upon submittal of the petition for appeal of a decision of the Director to the Board, the Director shall forward to the Board (i) the permit application or order and associated documents; (ii) all required notices; and (iii) the written objections, proposals, and claims recorded during the informal fact-finding hearing.

D. In any appeal involving a permit for a new well that was objected to (i) pursuant to the provisions of § 45.2-1611 or 45.2-1612 or (ii) by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a gas storage field certificated by the State Corporation Commission, the filing of a petition for appeal shall stay any permit until the case is decided by the Board or the stay is dissolved by a court of record. However, in an appeal by a gas storage field operator, such automatic stay shall not apply to any oil, gas, or coalbed methane well completed more than 100 feet above the cap rock above the storage stratum. In any other appeal, the Director may order the permit or other decision stayed for good cause shown until the case is decided by the Board or the stay is dissolved by a court of record. An appeal based on an alleged risk of danger to any person not engaged in the gas or oil operations shall be prima facie proof of good cause for a stay.

E. The Board shall conduct all hearings under this section in accordance with the formal litigated issues hearing provisions of Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. However, any person to whom notice is required to be given pursuant to subsection B shall have standing to be heard at the hearing. The Board shall render its decision on such appeals within 30 days of the hearing's closing date and shall provide notification of its decision to all parties pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 45.2-1626. Enforcement.

The Director shall enforce the provisions of this article pursuant to the provisions of Article 3 (§ 45.2-1629 et seq.). In addition, if any person violates or threatens to violate any provision of this article, regulation adopted thereunder, or order of the Board, the Board may maintain suit to restrain any such violation or threatened violation.

§ 45.2-1627. Standing when Director or Board fails to act.

If the Director or Board fails to take enforcement action within 10 days of the Board's receipt of a petition alleging that the petitioner is or will be adversely affected by a violation or threatened violation of any provision of this article, regulation adopted thereunder, or order of the Board, the petitioner shall have standing to file a complaint in the appropriate circuit court. The Board, in addition to the person violating or threatening to violate the provision of this article, regulation adopted thereunder, or order of the Board, shall be made a party to any such action.

§ 45.2-1628. Recording of orders.

The Inspector shall cause a true copy of any order entered by the Board that establishes a drilling unit or pools any interests to be recorded in the office of the clerk of the circuit court of each locality wherein any portion of the relevant drilling unit is located. Such order shall be recorded in the record book in which gas or oil leases are normally recorded. The sole charge for recordation shall be a tax equal to \$10 plus \$1 per page of the order. From the time noted on the recordation by the clerk, the recordation shall be notice of the order to all persons.

Article 3.

Regulation of Gas and Oil Development and Production.

§ 45.2-1629. Duties, responsibilities, and authority of the Director.

A. The Director shall adopt and enforce regulations and orders necessary to ensure the safe and efficient development and production of gas and oil resources located in the Commonwealth. Such regulations and orders shall be designed to:

1. Prevent pollution of state waters and require compliance with the water quality standards adopted by the State Water Control Board;

2. Protect against offsite disturbances from gas, oil, or geophysical operations;

3. Ensure the restoration of all sites disturbed by gas, oil, or geophysical operations;

4. Prevent the escape of the Commonwealth's gas and oil resources;

5. Provide for safety in coal and mineral mining and coalbed methane well and related facility operations;

6. Control wastes from gas, oil, or geophysical operations;

7. Provide for the accurate measurement of gas and oil production and delivery to the first point of sale; and

8. Protect the public safety and general welfare.

B. In adopting regulations and when issuing orders for the enforcement of the provisions of this article, the Director shall consider the following factors:

1. The protection of the citizens and environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil;

2. The means of ensuring the safe recovery of coal and other minerals without substantially affecting the right of coal, minerals, gas, oil, or geophysical operators to explore for and produce coal, minerals, gas, or oil; and

3. The protection of safety and health on permitted sites for coalbed methane wells and related facilities.

C. In adopting regulations and orders, the Director may set and enforce standards governing the following: gas or oil ground-disturbing geophysical exploration; the development, drilling, casing, equipping, operating, and plugging of gas or oil production, storage, enhanced recovery, or disposal wells; the development, operation, and restoration of site disturbances for wells, gathering pipelines, and associated facilities; and gathering pipeline safety.

D. Whenever the Director determines that an emergency exists, he shall issue an emergency order without advance notice or hearing. Such order shall have the same validity as an order issued with advance notice and hearing but shall remain in force no longer than 30 days from its effective date. After issuing an emergency order, the Director shall promptly notify the public of the order by publication and hold a public hearing for the purposes of modifying, repealing, or making permanent the emergency order. An emergency order shall prevail as against a general regulation or order when in conflict with it. Emergency orders shall apply to gas, oil, or geophysical operations and to particular fields, geographical areas, subject areas, subject matters, or situations.

E. The Director also may:

1. Issue, condition, and revoke permits;

2. Issue notices of violation and orders upon the violation of any provision of this chapter or regulation adopted thereunder;

3. Issue closure orders in cases of imminent danger to persons or damage to the environment or upon a history of violations;

4. Require or forfeit bonds or other financial securities;

5. Prescribe the nature of and form for the presentation of any information or documentation required by any provision of this article or regulation adopted thereunder;

6. Maintain suit in the county or city where a violation has occurred or is threatened or wherever a person who has violated or threatens to violate any provision of this chapter is found in order to restrain the actual or threatened violation;

7. At reasonable times and under reasonable circumstances, enter upon any property and take action as necessary to administer and enforce the provisions of this chapter; and

8. Inspect and review all properties and records thereof as necessary to administer and enforce the provisions of this chapter.

F. The Director has no jurisdiction to hear objections with respect to any matter subject to the jurisdiction of the Board as set out in Article 2 (§ 45.2-1613 et seq.). Such objections shall be referred to the Board in a manner prescribed by the Director.

§ 45.2-1630. Powers, duties, and responsibilities of the Inspector.

A. The Inspector shall administer the laws and regulations and shall have access to all records and properties necessary for this purpose. He shall perform all duties delegated by the Director pursuant to § 45.2-105 and maintain permanent records of the following:

1. Each application for a gas, oil, or geophysical operation and each permitted gas, oil, or geophysical operation;
2. Meetings, actions, and orders of the Board;
3. Each petition for mining coal within 200 feet of or through a well;
4. Each request for special plugging by a coal owner or coal operator; and
5. All other records prepared pursuant to this chapter.

B. The Inspector shall serve as the principal executive of the staff of the Board.

C. The Inspector may take charge of well or corehole operations or pipeline emergency operations whenever a well or corehole blowout, release of hydrogen sulfide or other gas, or other serious accident occurs.

§ 45.2-1631. Permit required; gas, oil, or geophysical operations; coalbed methane gas wells; environmental assessment.

A. No person shall commence any ground-disturbing activity for a well, gathering pipeline, geophysical exploration, or associated activity, facility, or structure without first having obtained from the Director a permit to conduct such activity. Every permit application or permit modification application filed with the Director shall be verified by the permit applicant and shall contain all data, maps, plats, plans, and other information as required by regulation or the Director.

B. For each permit issued on or after July 1, 1996, a new permit issued by the Director shall be issued only for the following activities: geophysical operations, drilling, casing, equipping, stimulating, producing, reworking an initially productive zone, plugging a well, or construction and operation of a gathering pipeline. An application for a new permit to conduct geophysical operations shall be accompanied by an application fee of \$130. An application for a new permit for any other activity shall be accompanied by an application fee of \$600.

C. For a permit issued prior to July 1, 1996, prior to commencing any reworking, deepening, or plugging of a well, or other activity not previously approved on the permitted site, a permittee shall first obtain a permit modification from the Director. Each application for a permit modification shall be accompanied by a permit modification fee of \$300. For a permit issued on or after July 1, 1996, prior to commencing any new zone completion, a permittee shall first obtain a permit modification from the Director.

D. Every permit and all operations provided for under this section shall conform to the regulations and orders of the Director and the Board. If permit terms or conditions required or provided for under this article are in conflict with any provision of a conservation order issued pursuant to the provisions of Article 2 (§ 45.2-1613 et seq.), the terms or conditions of the permit shall control. In such event, the operator shall return to the Board for reconsideration of the conservation order in light of the conflicting permit. Every permittee shall be responsible for all operations, activities, or disturbances associated with the permitted site.

E. No permit or permit modification shall be issued by the Director until he has received from the applicant a written certification that (i) all notice requirements of this article have been complied with, together with proof thereof, and (ii) the applicant has the right to conduct the operations as set forth in the application and operations plan.

F. A permit is required to drill any coalbed methane gas well or to convert any methane drainage borehole into a coalbed methane gas well. In addition to the other requirements of this section, every permit application for a coalbed methane gas well shall include:

1. The method that the coalbed methane gas well operator will use to stimulate the well.

2. a. A signed consent from the coal operator of each coal seam that is located within (i) 750 horizontal feet of the proposed well location that the applicant proposes to stimulate or (ii) 100 vertical feet above or below a coal-bearing stratum that the applicant proposes to stimulate.

b. The consent required by this subsection may be (i) contained in a lease or other such agreement; (ii) contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or identified and the operator has complied with § 45.2-1618, provided by a pooling order entered pursuant to § 45.2-1620 or 45.2-1622 if such order contains a finding that the operator has exercised due diligence in attempting to identify and locate the coal operator, contained in such order. The consent required by this subsection shall be deemed to be granted for any tract where title to the coal is held by multiple owners if the applicant has obtained consent to stimulate from the cotenants holding a majority interest in the

tract and none of the coal cotenants has leased the tract for coal development. The requirement of signed consent contained in this subsection shall in no way be considered to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease entered into prior to January 1, 1990, between the applicant and any coal operator or any extension or renewal thereto, and the existence of such lease or contractual arrangement and any extension or renewal thereto shall constitute a waiver of the requirement for the applicant to file an additional signed consent.

3. The unit map, if any, approved by the Board.

G. No permit that is required by this chapter for an activity to be conducted within an area of Tidewater Virginia where drilling is authorized under subsection B of § 45.2-1646 shall be granted until the environmental impact assessment required by § 45.2-1646 has been conducted and the assessment has been reviewed by the Department.

H. The applicant for a permit for a gathering pipeline, oil or gas well, or coalbed methane well shall identify in the permit application any cemetery, as identified on a United States Geological Survey topographic map or located by routine field review, within 100 feet of the permitted activity.

I. The operator of any coalbed methane well drilled within 250 feet of a cemetery shall comply with a written request of any person owning an interest in a private cemetery or the authorized agent of a public cemetery that the operator of such well suspend operations for a period from two hours before to two hours after any burial service that takes place on the surface area of such cemetery. However, if the well operator or a mine operator determines that such suspension of operations will have an adverse effect on the safety of the well operations or mining operations, the operator shall be under no obligation to comply with the request, and operation of the well shall continue.

§ 45.2-1632. Notice of permit applications and permit modification applications required; content.

A. Within one day of the day on which the application for a permit for a gas or oil operation is filed, the applicant shall provide notice of the application to the following persons:

1. Every surface owner, coal owner, and mineral owner on the tract to be drilled;
2. Every coal operator who has registered an operation plan with the Department for activities located on the tract to be drilled;
3. Every surface owner on a tract where the surface is to be disturbed;
4. Every gas, oil, or royalty owner (i) within one half of the distance specified in § 45.2-1616 for that type of well or one half of the distance to the nearest well completed in the same pool, whichever is less, or (ii) within the boundaries of a drilling unit established pursuant to the provisions of this chapter;
5. Every coal operator who has applied for or obtained a mining or prospecting permit with respect to a tract located within 500 feet of the proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof;
6. Every coal owner or mineral owner on a tract located within 500 feet of the proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof; and
7. Every operator of a gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the well location or whose certificated boundary is within 1,250 feet of the proposed well location.

B. Within one day of the day on which the application for a permit modification for a gas or oil operation is filed, the applicant requesting such permit modification shall provide notice of the application to all persons listed in subsection A who may be directly affected by the proposed activity.

C. Within one day of the day on which the application for a permit for geophysical operations is submitted, the applicant shall provide notice to those persons listed in subdivisions A 1, 2, and 3.

D. Each notice required to be given pursuant to subsection A, B, or C shall contain a statement of the time within which objections may be made and the name and address of the person to whom objections shall be forwarded. Only a person entitled to notice under subsection A, B, or C shall have standing to object to the issuance of the proposed permit or permit modification for a gas, oil, or geophysical operation as the use may be. Upon receipt of notice, any person may waive in writing the time and right to object.

E. Within seven days of the day on which the application for a permit is filed, the applicant shall provide notice to (i) the local governing body or chief executive officer of the locality where the well is proposed to be located and (ii) the general public, through publication of a notice in at least one newspaper of general circulation in the locality where the well is proposed to be located.

F. An applicant shall make a reasonable effort to provide the notices required under subsections A, B, and C. If an applicant is unable to identify or locate any person to whom notice is required, then the notice provided in clause (ii) of subsection E shall be considered sufficient notice to such persons and the date of notification shall be the date of publication.

§ 45.2-1633. Bonding and financial security required.

A. To ensure compliance with all laws and regulations pertaining to permitted activities and the furnishing of reports and other information required by the Board or Director, each permit applicant shall give bond with surety acceptable to the Director and payable to the Commonwealth. At the election of the permit applicant, a cash bond may be given. The amount of the bond required shall be sufficient to cover the costs of properly plugging the well and restoring the site but in no case shall the amount of the bond be less than \$10,000 per well plus \$2,000 per acre of disturbed land, calculated to the nearest

tenth of an acre. Each bond shall remain in force until released by the Director. The Director may require additional bond or financial security for any well proposed to be drilled in Tidewater Virginia.

B. Upon receipt of an application for multiple permits for gas or oil operations and at the request of the permit applicant, the Director may, in lieu of requiring a separate bond for each permit, require a blanket bond. The amount of the blanket bond shall be as follows:

1. For one to 10 wells, \$25,000.
2. For 11 to 50 wells, \$50,000.
3. For 51 to 200 wells, \$100,000.
4. For more than 200 wells, \$200,000.

For purposes of calculating blanket bond amounts, from one-tenth of an acre to five acres of disturbed land for a separately permitted gathering pipeline shall be equivalent to one well. The Director shall adopt regulations for the release of acreage used to calculate blanket bond amounts for separately permitted gathering pipelines in cases where sites have been stabilized.

C. Any gas or oil operator who elects to post a blanket bond shall pay into the Gas and Oil Plugging and Restoration Fund those fees and assessments required under the provisions of § 45.2-1634.

§ 45.2-1634. Gas and Oil Plugging and Restoration Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gas and Oil Plugging and Restoration Fund, referred to in this section as "the Fund." All payments made into the Fund by gas or oil operators, all collections of debt for expenditures made from the Fund, and all interest payments made into the Fund pursuant to the provisions of this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director or his designee.

B. Each permittee operating under a blanket bond pursuant to § 45.2-1633 shall annually pay to the Fund an amount equal to \$50 multiplied by the number of permits he then holds, such payment to be submitted with the annual report required under § 45.2-1640, until the payments and interest accruing to the Fund totals \$100,000. Whenever the Director determines that the Fund's balance has fallen below \$25,000 due to uncollectible debts, the Director shall assess a fee of \$50 per permit per year on each permittee with a blanket bond until the Fund's balance once again reaches \$100,000.

C. Moneys in the Fund shall be used solely for the purpose of supplementing bond proceeds in order to pay for the full cost of plugging and restoration in the event of a blanket bond forfeiture.

D. The amount by which the cost of plugging and restoration exceeds the amount of the gas or oil operator's forfeited bond shall constitute a debt of the operator to the Commonwealth. The Director is authorized to collect such debts together with the costs of collection through appropriate legal action. All moneys collected pursuant to this subsection, less the costs of collection, shall be deposited in the Fund.

E. No permit shall be issued to a gas or oil operator until he has fully reimbursed the Commonwealth for any debt incurred pursuant to the provisions of subsection D.

F. In the event of a discontinuance of the Fund, any amounts remaining in the Fund shall be returned to each gas or oil operator with a blanket bond in proportion to the number of permits under the blanket bond of each operator.

§ 45.2-1635. Expiration of permits.

Each permit issued pursuant to this chapter shall expire 24 months from its date of issuance unless the permitted activity has commenced within that time period. An operator may renew an existing permit for an additional 24 months by submitting a written request containing the coal operator's approval and remitting a \$325 renewal fee no later than the expiration date.

§ 45.2-1636. Abandonment or cessation of well or corehole operation; plugging required.

Upon the abandonment or cessation of the operation of any well or corehole, the gas, oil, or geophysical operator shall immediately fill and plug the well or corehole in the manner required by regulations in force at the time of abandonment or the operation's cessation.

§ 45.2-1637. Objections to permits; hearing.

A. Objections to a new permit or permit modification may be filed with the Director by any person having standing as set out in § 45.2-1632. Such objections shall be filed within 15 days of the objecting party's receipt of the notice required by § 45.2-1632. Any person objecting to a permit shall state the reasons for his objections.

B. The only objections to permits or permit modifications that may be raised by a surface owner are:

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect freshwater-bearing strata;
3. The permitted work will constitute a hazard to the safety of any person;
4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, so long as a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest; and

5. If the surface owner is an interstate park commission, the location of the well or pipeline will unreasonably infringe on the surface owner's use of the surface, so long as a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

C. The only objections to permits or permit modifications that may be raised by a royalty owner are that the proposed well work:

1. Directly impinges upon the royalty owner's gas and oil interest;
2. Threatens to violate the objecting royalty owner's property or statutory rights aside from his contractual rights; and
3. Would not adequately prevent the escape of the Commonwealth's gas and oil resources or provide for the accurate measurement of gas and oil production and delivery to the first point to sale.

D. Objections to permits or permit modifications may be raised by a coal owner or operator pursuant to the provisions of §§ 45.2-1611 and 45.2-1612.

E. The only objections to permits or permit modifications that may be raised by a mineral owner are those that could be raised by a coal owner under § 45.2-1611, so long as the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.

F. The only objections to permits or permit modifications that may be raised by a gas storage field operator are those in which the gas storage operator affirmatively proves that the proposed well work will adversely affect the operation of his gas storage field certificated by the State Corporation Commission; however, nothing in this subsection shall be construed to preclude the owner of nonstorage strata from drilling a well for the purpose of producing oil or gas from any stratum above or below the storage stratum.

G. The Director shall fix a time and place for an informal fact-finding hearing concerning an objection filed pursuant to this section. The hearing shall be scheduled for not less than 20 nor more than 30 days after the objection is filed. The Director shall prepare a notice of the hearing, stating all objections and by whom each is made, and send a copy of such notice by certified mail, return receipt requested, at least 10 days prior to the hearing date to the permit applicant and to every person with standing to object as prescribed by § 45.2-1632.

H. At the hearing, if the parties fail to come to an agreement, the Director shall proceed to decide the objection pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) relating to informal fact-finding procedures.

§ 45.2-1638. Appeals of Director's decisions to the Board.

A. Any person with standing under the provisions of § 45.2-1632 who is aggrieved by a decision of the Director may appeal to the Board, subject to the limitations imposed by subsection B, by petition to the Board filed within 10 days following the appealed decision.

B. No petition for appeal may raise any matter other than a matter that was raised by the Director or that the petitioner put in issue either by application or by an objection, proposal, or claim made and specified in writing at the informal fact-finding hearing held under § 45.2-1637 leading to the appealed decision.

§ 45.2-1639. Persons required to register; designated agents.

A. Any person who owns a well, drills a well, completes well work, operates any well or gathering pipeline, conducts ground-disturbing geophysical explorations, or transports gas or oil up to and including the first point of sale shall register with the Director and shall provide his name and address and the name, address, and official title of the person in charge of his operations in the Commonwealth.

B. Any person registering under subsection A shall designate the name and address of an agent who shall be the attorney-in-fact of the registrant for the purposes set forth in this section. The designated agent shall be a resident of the Commonwealth. Notices, orders, other communications, and all processes issued pursuant to this chapter may be served upon or otherwise delivered to the designated agent as and for the operator. Any designation of an agent shall remain in force until the Director is notified in writing of a designation termination and the designation of a new agent.

§ 45.2-1640. Report of permitted activities and production required; contents.

A. Each holder of a permit for a gas or oil well or gathering pipeline shall file monthly and annual reports of his activities as prescribed by the Director. Such reports shall be for the purpose of obtaining information regarding the production and sale of gas and oil resources, as well as information concerning the ownership and control of permitted activities. Filing of such reports by a permittee shall be a condition of such permit. Every annual report filed by a permittee shall contain a certification that such permittee has paid all severance taxes levied under the provisions of §§ 58.1-3712, 58.1-3713, and 58.1-3741.

B. At the same time that a permittee files the monthly and annual reports as required by subsection A, the permittee shall send copies of the reports by mail to the commissioner of the revenue of the political subdivision where the permitted well is located.

§ 45.2-1641. Developing a gas or oil well as a water well.

If any well drilled for gas or oil does not produce commercial or paying quantities of either resource, the well may be developed as a water well upon the request of the surface owner of the property on which the well is located. Any such development of a water well shall occur only after notice is given to the Director and his approval has been received. Such development of a water well shall be performed in accordance with applicable state and local requirements. Unless the gas

or oil operator and surface owner otherwise agree, the surface owner shall pay the gas or oil operator a reasonable sum for all casing and tubing set and left in the well that would have otherwise been removed upon plugging of the well.

§ 45.2-1642. Orphaned Well Fund; orphaned wells.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Orphaned Well Fund, referred to in this section as "the Fund." All moneys appropriated to it and any surcharges collected pursuant to subsection D shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys from the Fund shall be used solely for purposes of restoration and plugging of orphaned wells. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director or his designee.

B. The Director shall conduct a survey to determine the condition and location of orphaned wells in the Commonwealth. He shall establish priorities for the plugging and restoration of the identified orphaned wells. The plugging and restoration of orphaned well sites that pose an imminent danger to public safety shall have the highest priority.

C. In performing his duties under this section, the Director shall make every reasonable effort to identify and obtain the permission of a surface owner prior to entering onto the surface owner's land. In all cases, the Director shall as soon as practicable cause to be published in a newspaper of general circulation in the county or city wherein an orphaned well is located a notice of the proposed plugging and restoration work to be conducted on the property.

D. Each operator who applies for a new permit for any activity other than geophysical operations shall pay a \$200 surcharge per permit into the Fund. Such surcharge shall continue until the Director determines that all orphaned wells in the Commonwealth are properly plugged and their sites are properly stabilized.

E. In the event of a discontinuance of the Fund, any amounts remaining in the Fund shall be placed in the Gas and Oil Plugging Restoration Fund created pursuant to § 45.2-1634.

§ 45.2-1643. Interference by injection wells with groundwater supply.

A. For purposes of this section:

"Beneficial use" means the same as that term is defined in § 62.1-255.

"Groundwater" means the same as that term is defined in § 62.1-255.

B. Any person who owns or operates an injection well in a manner that proximately causes the contamination or diminution of groundwater used for a beneficial use by any person who resides within the lesser of (i) the area of review required by the U.S. Environmental Protection Agency for the permitting of such injection well or (ii) a one-half-mile radius of the well shall provide the person with a replacement water supply. A replacement water supply shall provide the person with water of equivalent quality and quantity as was provided by groundwater prior to the contamination or diminution of the water supply resulting from the operation of the injection well. A replacement water supply shall include the provision of necessary storage and service facilities.

C. This section shall apply to any injection well operating under a permit from the Director.

§ 45.2-1644. Safety in coalbed methane gas, oil, and geophysical operations.

The Director shall inspect permitted coalbed methane well and related facility operations to ensure the safety of persons on permitted sites. If an inspection reveals any hazardous condition that creates an imminent danger, the Director shall issue a closure order pursuant to § 45.2-1629 requiring the area to be cleared or the equipment removed from use, except for (i) work necessary to continue to vent methane from an active underground mine if such work can be done safely and (ii) any work necessary to correct or eliminate the imminent danger. The Director shall lift the closure order when he finds that the imminent danger has been corrected or eliminated. If an inspection reveals any other condition that creates a risk to the safety or health of any person on the permitted site, the Director shall notify the Department of Labor and Industry for actions under Title 40.1, as applicable.

Article 4.

Drilling for Gas or Oil in the Chesapeake Bay or Tidewater Virginia; Hydraulic Fracturing.

§ 45.2-1645. Chesapeake Bay; drilling for gas or oil prohibited.

Notwithstanding any other law, no person shall drill for gas or oil in the waters of the Chesapeake Bay or any of its tributaries. The provisions of this subsection shall be enforced consistent with the requirements of this chapter.

§ 45.2-1646. Tidewater Virginia; drilling for gas or oil prohibited in certain areas.

A. In Tidewater Virginia, as defined in § 62.1-44.15:68, no person shall drill for gas or oil (i) within 500 feet of the shoreline of the waters of the Chesapeake Bay or any of its tributaries, as measured landward of the shoreline, or (ii) if it is farther than 500 feet from such shoreline, in any Chesapeake Bay Preservation Area, as defined in § 62.1-44.15:68, that a local government designates as a Resource Protection Area and incorporates into its local comprehensive plan. Resource Protection Areas shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72.

B. If any person desires to drill for gas or oil in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit an environmental impact assessment to the Department as part of his application for a permit to drill. Such environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of gas or oil into the environment during drilling, production, and transportation for:

- a. *Finfish, shellfish, and other marine or freshwater organisms;*
- b. *Birds and other wildlife that use the air and water resources;*
- c. *Air and water quality; and*
- d. *Land and water resources;*
2. *Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and*
3. *An examination of the secondary environmental effects of induced economic development due to the drilling and production.*

C. *Upon receipt of an environmental impact assessment, the Department shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. DEQ shall:*

1. *Publish in the Virginia Register of Regulations a notice that is sufficient to identify the environmental impact assessment and provides an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;*
2. *Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to DEQ; and*
3. *Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department within 90 days after notification and receipt of the environmental impact assessment from the Department.*

D. *The Department shall not grant a permit under § 45.2-1631 until it has considered the findings and recommendations of DEQ.*

E. *DEQ shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.*

F. *A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:*

1. *For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;*
2. *The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both already filed with and approved by the State Water Control Board. For purposes of this section, such oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The State Water Control Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, the location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare, and property that may result from discharge or accidental release;*
3. *All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside any area described in subsection A;*
4. *The drilling site is stabilized with boards, gravel, or other materials that will result in minimal amounts of runoff;*
5. *Persons certified in blowout prevention are present at all times during drilling;*
6. *Conductor pipe is set as necessary from the surface;*
7. *Casing is set and pressure-grouted from the surface to a point at least 2,500 feet below the surface or 300 feet below the deepest known groundwater, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;*
8. *Freshwater-based drilling mud is used during drilling;*
9. *There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids, or other contaminated fluids;*
10. *Multiple blow-out preventers are employed; and*
11. *The person complies with all requirements of Chapter 16 (§ 45.2-1600 et seq.) and regulations adopted thereunder.*

G. *The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 16 (§ 45.2-1600 et seq.).*

H. *If exploration activities in Tidewater Virginia result in a finding by the Director that production of commercially recoverable quantities of oil is likely and imminent, the Director shall notify the Secretary of Commerce and Trade and the Secretary of Natural Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards, transportation issues, state-of-the-art oil production well technology, economic impacts, regulatory initiatives, operational standards, and other matters related to the production of oil in the region. No permit for an oil production well shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes; (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives; and (iii) any resulting legislation has become effective. The report by the Secretaries and the Governor's recommendations shall be completed within 18 months of the notification of the Secretaries of the findings of the Director.*

§ 45.2-1647. Hydraulic fracturing; groundwater management area.

No person shall conduct any hydraulic fracturing in any well that has been drilled through any portion of a groundwater management area declared by regulation prior to January 1, 2020, pursuant to the provisions of the Ground Water Management Act of 1992 (§ 62.1-254 et seq.). For purposes of this section, "hydraulic fracturing" means the

treatment of a well by the application of hydraulic fracturing fluid, including a base fluid and any additive, under pressure for the express purpose of initiating or propagating fractures in a target geologic formation to enhance production of natural gas or oil.

Article 5.

Replacement of Water by Gas Well Operators.

§ 45.2-1648. Operator's right to sample water.

An operator may enter upon surface land at reasonable times and in a reasonable manner to obtain samples of water from any water well that is (i) located within 1,320 feet of a proposed or existing gas well and (ii) actually being utilized by the surface owner or occupant for domestic use. If the surface owner or occupant refuses to allow the operator to sample or causes the operator to be prevented from sampling any such water well, the operator shall promptly notify the Department of such refusal or prevention. The Department shall maintain a record of such notifications. In the event of such a refusal or prevention, the surface owner shall not be entitled to the remedies set forth in § 45.2-1649.

§ 45.2-1649. Replacement of water supply.

If any water supply of a surface owner who obtains all or part of his supply of water for domestic use from a water well has been materially affected by contamination or partial or complete interruption proximately resulting from a gas well operation within 1,320 feet of the water well, the operator of such gas well shall promptly provide a replacement water supply that shall be capable of meeting the uses such water supply met prior to the contamination or partial or complete interruption.

SUBTITLE V.

OTHER SOURCES OF ENERGY; ENERGY POLICY.

CHAPTER 17.

OTHER SOURCES OF ENERGY GENERALLY; ENERGY POLICY.

Article 1.

General Provisions.

§ 45.2-1700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Consortium" means the Virginia Coastal Energy Research Consortium established pursuant to Article 5 (§ 45.2-1714 et seq.).

"Division" means the Division of Energy of the Department of Mines, Minerals and Energy.

"Plan" means the Virginia Energy Plan prepared pursuant to Article 4 (§ 45.2-1700 et seq.).

§ 45.2-1701. Division of Energy established; powers and duties.

A. The Division of Energy is established in the Department. The Director has the immediate authority to coordinate the development and implementation of energy policy in the Commonwealth.

B. The Division shall coordinate the energy-related activities of the various state agencies and advise the Governor on energy issues that arise at the local, state, and national levels. All state agencies and institutions shall cooperate fully with the Division to assist in the proper execution of the duties assigned by this section.

C. In addition, the Division is authorized to make and enter into all contracts and agreements necessary or incidental to the performance of its duties or the execution of its powers, including the implementation of energy information and conservation plans and programs.

D. The Division shall:

1. Consult with state agencies and institutions concerning energy-related activities or policies as needed for the proper execution of the duties assigned to the Division by this section;

2. Serve as the Commonwealth's liaison with appropriate agencies of the federal government concerning the activities of the federal government related to energy production, consumption, and transportation and energy resource management in general;

3. Provide services to encourage efforts by and among businesses in the Commonwealth, industries, utilities, academic institutions, state and local governments, and private institutions to develop energy resources and energy conservation programs;

4. In consultation with the State Corporation Commission, the Department of Environmental Quality, and the Virginia Center for Coal and Energy Research, prepare the Virginia Energy Plan pursuant to § 45.2-1710;

5. Observe the energy-related activities of state agencies and advise such agencies in order to encourage conformity with established energy policy; and

6. Serve, pursuant to § 58.1-3660, as the state certifying authority for solar energy projects and for the production of coal, oil, and gas, including gas, natural gas, and coalbed methane gas.

Article 2.

Energy and Operational Efficiency Performance-Based Contracting Act.

§ 45.2-1702. Definitions.

As used in this article:

"Contracting entity" means any public body as defined in § 2.2-4301.

"Energy conservation measures" means the use of methods and techniques, the application of knowledge, or the installation of devices, including an alteration or betterment of an existing facility, that reduces energy consumption or operating costs and includes:

1. *Insulation of the facility structure and systems within the facility.*
2. *Installation of storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, or additional glazing; reductions in glass area; or the completion of other window and door system modifications that reduce energy consumption.*
3. *Installation of automatic energy control systems, including related software, or required network communication wiring, computer devices, wiring, and support services, or the design and implementation of major building technology infrastructure with operational improvements.*
4. *Modification or replacement of heating, ventilating, or air-conditioning systems.*
5. *Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system. Such replacement or modification shall, at a minimum, conform to the applicable provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).*
6. *Installation of energy recovery systems.*
7. *Installation of cogeneration systems that produce, in addition to electricity, steam or another form of energy, such as heat, for use primarily within a facility or complex of facilities.*
8. *Installation of energy conservation measures that provide long-term operating cost reductions and significantly reduce the BTUs consumed.*
9. *Installation of building technology infrastructure measures that provide long-term operating cost reductions and reduce related operational costs.*
10. *Installation of an energy system, such as solar, biomass, or wind.*
11. *Installation of devices that reduce water consumption or sewer charges.*

"Energy cost savings" means a measured reduction in fuel, energy, or operation and maintenance costs created from the implementation of one or more energy conservation measures when compared with an established baseline for previous fuel, energy, or operation and maintenance costs. When calculating "energy cost savings" attributable to the services performed or equipment installed pursuant to a performance-based efficiency contract, maintenance savings shall be included.

"Energy performance-based contract" means a contract for the evaluation, recommendation, and implementation of energy conservation measures that includes, at a minimum:

1. *The design and installation of equipment to implement one or more such measures and, if applicable, the operation and maintenance of such measures.*
2. *The amount of any actual annual savings. Such amount shall meet or exceed the total annual contract payments made by the contracting entity for such contract.*
3. *The financing charges to be incurred by the contracting entity for such contract.*

"Maintenance savings" means the operating expenses eliminated and future capital replacement expenditures avoided as a result of new equipment installed or services performed by the performance contractor.

"Performance guarantee bond" means the performance bond provided by the energy performance contractor for each year of the energy program in an amount equal to, but no greater than, the guaranteed measured and verifiable annual savings set forth in the program.

§ 45.2-1703. Energy performance-based contract procedures; required contract provisions.

A. *Any contracting entity may enter into an energy performance-based contract with an energy performance contractor to significantly reduce (i) energy costs to a level established by the public body or (ii) operating costs of a facility through one or more energy conservation or operational efficiency measures. For the purposes of this article, energy conservation or operational efficiency measures shall not include roof replacement projects.*

B. *The energy performance contractor shall be selected through competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2. The evaluation of the request for proposals shall analyze the estimates of all costs of installation, maintenance, repairs, debt service, post-installation project monitoring, and reporting. Notwithstanding any other provision of law, any contracting entity may purchase energy conservation or operational efficiency measures under an energy performance-based contract entered into by another contracting entity pursuant to this article even if it did not participate in the request for proposals if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities.*

C. *Before entering into a contract for energy conservation measures, the contracting entity shall require the performance contractor to provide a payment and performance bond relating to the installation of energy conservation measures in an amount the contracting entity finds reasonable and necessary to protect its interests.*

D. *Prior to the design and installation of any energy conservation measures, the contracting entity shall obtain from the energy performance contractor a report disclosing all costs associated with such energy conservation measures and providing an estimate of the amount of the energy cost savings. After reviewing the report, the contracting entity may enter into an energy performance-based contract if it finds (i) the amount the entity would spend on the energy conservation measures recommended in the report will not exceed the amount to be saved in energy and operation costs more than 20 years from the date of installation, based on life-cycle costing calculations, if the recommendations in the report were*

followed and (ii) the energy performance contractor provides a written guarantee that the energy and operating cost savings will meet or exceed the costs of the system. The contract may provide for payments over a period not to exceed 20 years.

E. The term of any energy performance-based contract shall expire at the end of each fiscal year but may be renewed annually for up to 20 years, subject to the contracting entity making sufficient annual appropriations based upon continued realized cost savings. Such contract shall stipulate that the agreement does not constitute a debt, liability, or obligation of the contracting entity, or a pledge of the faith and credit of the contracting entity. Such contract may also provide capital contributions for the purchase and installation of energy conservation measures that cannot be totally funded by the energy and operational savings.

F. An energy performance-based contract shall include the following provisions:

1. A guarantee by the energy performance contractor that annual energy and operational cost savings will meet or exceed the amortized cost of energy conservation measures. The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy savings or operational cost savings, or both, will meet or exceed within 20 years the costs of the energy and operational savings measures. The qualified provider shall reimburse the contracting entity for any shortfall of guaranteed energy savings projected in the contract.

2. A requirement that the energy performance contractor to whom the contract is awarded provide a 100 percent performance guarantee bond to the contracting entity for the installation and faithful performance of the installed energy savings measures as outlined in the contract document.

3. A requirement that the energy performance contractor provide to the contracting entity an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall that may occur:

G. The Department shall make a reasonable effort, as long as workload permits, to:

1. Provide general advice, upon request, to local governments considering pursuit of an energy performance-based contract pursuant to this article; and

2. Annually compile a list of performance-based contracts entered into by local governments of which the Department becomes aware.

§ 45.2-1704. Application of article.

The provisions of this article shall not apply to any new construction project undertaken by a public body.

Article 3.

Energy Policy of the Commonwealth.

§ 45.2-1705. Legislative findings.

The General Assembly hereby finds that:

1. Energy is essential to the health, safety, and welfare of the people of the Commonwealth and to the Commonwealth's economy;

2. The government of the Commonwealth should facilitate the availability and delivery of reliable and adequate supplies of energy to industrial, commercial, and residential users at reasonable costs so that such users and the Commonwealth's economy are able to be productive;

3. The Commonwealth would benefit from articulating clear objectives pertaining to energy issues, adopting an energy policy that advances such objectives, and establishing a procedure for measuring the implementation of such policy;

4. Climate change is an urgent and pressing challenge for the Commonwealth. Swift decarbonization and a transition to clean energy are required to meet the urgency of the challenge; and

5. The Commonwealth will benefit from being a leader in deploying a low-carbon energy economy.

§ 45.2-1706. Energy objectives.

A. The Commonwealth recognizes that each of the following objectives pertaining to energy issues will advance the health, welfare, and safety of the residents of the Commonwealth:

1. Ensuring an adequate energy supply and a Commonwealth-based energy production capacity;

2. Minimizing the Commonwealth's long-term exposure to volatility and increases in world energy prices through greater energy independence;

3. Ensuring the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy;

4. Managing the rate of consumption of existing energy resources in relation to economic growth;

5. Establishing sufficient supply and delivery infrastructure to enable widespread deployment of distributed energy resources and to maintain reliable energy availability in the event of a disruption occurring in a portion of the Commonwealth's energy matrix;

6. Maximizing energy efficiency programs that are the lowest-cost energy option to reduce greenhouse gas emissions in order to produce electricity cost savings and create jobs and economic opportunity from the energy efficiency service sector;

7. Facilitating conservation;

8. Optimizing intrastate and interstate use of energy supply and delivery to maximize energy availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's economy pursuant to subdivision 2 of § 45.2-1705;

9. Increasing the Commonwealth's reliance on sources of energy that, compared to traditional energy resources, are less polluting of the Commonwealth's air and waters;

10. Establishing greenhouse gas emissions reduction goals across the Commonwealth's economy sufficient to reach net-zero emissions by 2045, including in the electric power, transportation, industrial, agricultural, building, and infrastructure sectors;

11. Requiring that pathways to net-zero greenhouse gas emissions be determined on the basis of technical, policy, and economic analysis to maximize their effectiveness, optimize the Commonwealth's economic development, and create quality jobs while minimizing adverse impacts on public health, affected communities, and the environment;

12. Developing energy resources necessary to produce 30 percent of the Commonwealth's electricity from renewable energy sources by 2030 and 100 percent of the Commonwealth's electricity from carbon-free sources by 2040;

13. Enabling widespread integration of distributed energy resources into the grid, including storage and carbon-free generation, such as rooftop solar installations as defined in § 56-576;

14. Removing impediments to the use of carbon-free energy resources located within and outside the Commonwealth, including distributed renewable energy generation resources, nuclear power plants, and generation resources that employ carbon capture and sequestration;

15. Mitigating the negative impacts of climate change and the energy transition on disadvantaged communities and prioritizing investment in such communities;

16. Developing the carbon-free energy resources required to fully decarbonize the electric power supply of the Commonwealth, including deployment of 30 percent renewable energy sources by 2030 and realizing 100 percent carbon-free electric power by 2040;

17. Increasing the Commonwealth's reliance on and production of sustainably produced biofuels made from traditional agricultural crops and other feedstocks, such as winter cover crops, warm season grasses, fast-growing trees, algae, or other suitable feedstocks grown in the Commonwealth that will create jobs and income, produce clean-burning fuels that will help to improve air quality, and provide the new markets for the Commonwealth's silvicultural and agricultural products needed to preserve farm employment, conserve farmland and forestland, and increase implementation of silvicultural and agricultural best management practices to protect water quality; and

18. Ensuring that decision making is transparent and includes opportunities for full participation by the public.

B. Except as provided in subsection D of § 56-585.1, nothing in this section shall be deemed to abrogate or modify in any way the provisions of the Virginia Electric Utility Regulation Act (§ 56-576 et seq.).

§ 45.2-1707. Commonwealth Energy Policy.

A. To achieve the objectives enumerated in § 45.2-1706, it is the policy of the Commonwealth to:

1. Support research and development of, and promote the use of, renewable energy sources;

2. Ensure that the combination of energy supplies and energy-saving systems is sufficient to support the demands of economic growth;

3. Promote cost-effective conservation of energy and fuel supplies;

4. Ensure the adequate supply of natural gas necessary to ensure the reliability of the electricity supply and the needs of businesses during the transition to renewable energy;

5. Promote the generation of electricity through technologies that do not contribute to greenhouse gases and global warming;

6. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;

7. Support efforts to reduce the demand for imported petroleum by developing alternative technologies, including the production of synthetic and hydrogen-based fuels, and the infrastructure required for the widespread implementation of such technologies;

8. Ensure that development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on economically disadvantaged or minority communities;

9. Establish greenhouse gas emissions reduction standards across all sectors of the Commonwealth's economy that target net-zero carbon emissions by 2045;

10. Enact mandatory clean energy standards and overall strategies for reaching net-zero carbon in the electric power sector by 2040;

11. Equitably incorporate requirements for technical, policy, and economic analyses and assessments that recognize the unique attributes of different energy resources and delivery systems to identify pathways to net-zero carbon that maximize the Commonwealth's energy reliability and resilience, economic development, and jobs;

12. Minimize the negative impacts of climate change and the energy transition on economically disadvantaged or minority communities and prioritize investment in such areas; and

13. Support the distributed generation of renewable electricity by:

a. Encouraging private sector investments in distributed renewable energy;

b. Increasing the security of the electricity grid by supporting distributed renewable energy projects with the potential to supply electric energy to critical facilities during a widespread power outage; and

c. Augmenting the exercise of private property rights by landowners desiring to generate their own energy from renewable energy sources on their lands.

B. The elements of the policy set forth in subsection A shall be referred to collectively in this title as the Commonwealth Energy Policy.

C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where appropriate shall act in a manner consistent therewith.

D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues and shall not be construed to amend, repeal, or override any contrary provision of applicable law. No failure or refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner consistent with the Commonwealth Energy Policy, or to take any other action whatsoever shall create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

§ 45.2-1708. Role of local governments in achieving objectives of the Commonwealth Energy Policy.

A. In the development of any local ordinance addressing the siting of renewable energy facilities that generate electricity from wind or solar resources, such ordinance shall:

1. Be consistent with the provisions of the Commonwealth Energy Policy pursuant to subsection C of § 45.2-1707;
2. Provide reasonable criteria to be addressed in the siting of any renewable energy facility that generates electricity from wind or solar resources. Such criteria shall provide for the protection of the locality in a manner consistent with the goals of the Commonwealth to promote the generation of energy from wind and solar resources; and
3. Include provisions establishing reasonable requirements upon the siting of any such renewable energy facility, including provisions limiting noise, requiring buffer areas and setbacks, and addressing generation facility decommissioning.

B. Any measures required by an ordinance adopted pursuant to subsection A shall be consistent with the locality's existing ordinances.

§ 45.2-1709. Nuclear energy; considered a clean energy source.

For the purposes of the Commonwealth Energy Policy as set out in § 45.2-1707, in any clean energy initiative or carbon-free energy initiative undertaken, overseen, regulated, or permitted by the Department, nuclear energy shall be considered to be a clean energy source.

Article 4.

Virginia Energy Plan.

§ 45.2-1710. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, the Clean Energy Advisory Board, the solar, wind, and energy efficiency sectors, and a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations and natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan (the Plan) that identifies actions over a 10-year period consistent with the goal of the Commonwealth Energy Policy set forth in § 45.2-1707 to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including the electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § 45.2-1706, that will implement the Commonwealth Energy Policy set forth in § 45.2-1707.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of non-greenhouse-gas-generating energy resources, such as nuclear power, used in the Commonwealth;
2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how distributed energy resources and regional generation, transmission, and distribution resources affect the Commonwealth;
3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources, including an assessment of state and local impediments to expanded use of distributed resources and recommendations to reduce or eliminate such impediments;
4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;
5. An analysis of the efficient use of energy resources and conservation initiatives;
6. An analysis of how such Virginia-specific issues relate to regional initiatives to ensure the adequacy of fuel production, generation, transmission, and distribution assets;
7. An analysis of the siting of energy resource development, refining, and transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities;
8. With regard to any regulations proposed or adopted by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the federal Clean Air Act, 42 U.S.C. § 7411(d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers, (ii) the effect on energy markets and reliability, and (iii) the commercial availability of technology required to comply with such regulations;
9. An inventory of greenhouse gas emissions compiled using a method determined by the Department of Environmental Quality for the four years prior to the issuance of the Plan; and
10. Recommendations, based on the analyses completed under subdivisions 1 through 9, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Energy Policy.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize state geographic information systems, to the extent deemed practicable, to assess how recommendations in the Plan may affect pristine natural areas and other significant onshore natural resources. Effective October 1, 2024, interim updates on the Plan shall also contain projections for greenhouse gas emissions that would result from implementation of the Plan's recommendations.

D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a system for assigning numerical scores to any parcel of real property based on the extent to which such parcel is suitable for the siting of a wind energy facility or solar energy facility. For a wind energy facility, the scoring system shall address the wind velocity, sustained velocity, and turbulence. For either a wind energy facility or a solar energy facility, the scoring system shall address the parcel's proximity to electric power transmission lines or systems, potential impacts of such a facility to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the siting of such a facility to be measured against the hypothetical score of an ideal location for such a facility.

E. Upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner stating that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.

§ 45.2-1711. Schedule for the Plan.

A. The Division shall complete the Plan.

B. Prior to the completion of the Plan and each update thereof, the Division shall present drafts to, and consult with, the Virginia Coal and Energy Commission established pursuant to Chapter 25 (§ 30-188 et seq.) of Title 30 and the Commission on Electric Utility Regulation established pursuant to Chapter 31 (§ 30-201 et seq.) of Title 30.

C. The Plan shall be updated by the Division and submitted as provided in § 45.2-1713 by October 1, 2014, and every fourth October 1 thereafter. In addition, the Division shall provide interim updates on the Plan by October 1 of the third year of each Governor's administration. Updated reports shall reassess goals for energy conservation on the basis of progress to date in meeting the goals in the previous Plan and lessons learned from attempts to meet such goals.

D. Beginning with the Plan update in 2014, the Division shall include a section setting forth energy policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the federal Clean Air Act, 42 U.S.C. § 7411(d). In such section of the Plan, the Division shall address policy options for establishing separate standards of performance pursuant to § 111(d) of the federal Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired electric generating units to promote the Plan's overall goal of fuel diversity as follows:

1. The Plan shall address policy options for establishing the standards of performance for existing coal-fired electric generating units, including the following factors:

a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c) the energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired electric generating units that are subject to the standard of performance;

b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably undertaken at each coal-fired electric generating unit; and

c. Increased efficiencies and other measures that can be implemented at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other fuels, co-firing other fuels with coal, or limiting the utilization of the unit.

2. The Plan shall also address policy options for establishing the standards of performance for existing gas-fired electric generating units, including the following factors:

a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric generating units instead of to coal-fired electric generating units; and

b. Increased efficiencies and other measures that can be reasonably implemented at the unit to reduce carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels or limiting the utilization of the unit.

3. The Plan shall examine policy options for state regulatory action to adopt less stringent standards or longer compliance schedules than those provided for in applicable federal rules or guidelines based on analysis of the following:

a. Consumer impacts, including any disproportionate impacts of energy price increases on lower-income populations;

b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic process design;

c. Physical difficulties with or impossibility of implementing emission reduction measures;

d. The absolute cost of applying the performance standard to the unit;

e. The expected remaining useful life of the unit;

f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to comply with the performance standard; and

g. Any other factors specific to the unit that make application of a less stringent standard or longer compliance schedule more reasonable.

4. The Plan shall identify options, to the maximum extent permissible, for any federally required regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units and regulatory mechanisms that provide flexibility in complying with such standards, including the averaging of emissions, emissions trading, or other alternative implementation measures that are determined to further the interests of the Commonwealth and its citizens.

§ 45.2-1712. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to the Division by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 45.2-1713. Submission of the Plan.

Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the Governor, the Commissioners of the State Corporation Commission, and the General Assembly. The Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Plan's executive summary shall be posted on the General Assembly's website.

Article 5.

Virginia Coastal Energy Research Consortium.

§ 45.2-1714. Virginia Coastal Energy Research Consortium established; board of directors.

A. The Virginia Coastal Energy Research Consortium is hereby established to include Old Dominion University, the Virginia Institute of Marine Science of The College of William and Mary in Virginia, the Advanced Research Institute of Virginia Polytechnic Institute and State University, James Madison University, Norfolk State University, Virginia Commonwealth University, Hampton University, George Mason University, and the University of Virginia and is to be located at Old Dominion University.

B. The Consortium shall be governed by a board of directors (the Board), which shall consist of 16 voting members as follows: the Director or his designee, the Commissioner of Marine Resources or his designee, the President of the Virginia Manufacturers Association or his appointed member of the maritime manufacturing industry, the President of the Virginia Maritime Association or his appointed member of the maritime industry, the Director of the Advanced Research Institute of Virginia Polytechnic Institute and State University or his designee, the President of Old Dominion University or his designee, the Director of the Virginia Institute of Marine Science of The College of William and Mary in Virginia or his designee, the President of Norfolk State University or his designee, the President of James Madison University or his designee, the President of Virginia Commonwealth University or his designee, the President of the University of Virginia or his designee, the President of Hampton University or his designee, the President of George Mason University or his designee, the chairman of the Hampton Roads Technology Council or his appointed member of the technology community, the Director of the Hampton Roads Clean Cities Coalition or his appointed member of the renewable energy industry, and the Director of the Department of Environmental Quality or his designee as the lead agency for the Virginia Coastal Zone Management Program.

In addition, a representative of the National Aeronautics and Space Administration's Langley Research Center, to be selected by the Director of the Research Center, shall serve as a nonvoting ex officio member of the Board.

§ 45.2-1715. Functions, powers, and duties of the Consortium.

The Consortium shall serve as an interdisciplinary study, research, and information resource for the Commonwealth on coastal energy issues. As used in this article, "coastal energy" includes wave or tidal action, currents, offshore winds, thermal differences, and methane hydrates. The Consortium shall (i) consult with the General Assembly, federal, state, and local agencies, nonprofit organizations, private industry, and other potential users of coastal energy research; (ii) establish and administer agreements with other baccalaureate institutions of higher education in the Commonwealth to carry out research projects relating to the feasibility of increasing the Commonwealth's reliance on all domestic forms of coastal energy; (iii) disseminate new information and research results; (iv) apply for grants made available pursuant to federal legislation, including the federal Methane Hydrate Research and Development Act of 2000, P.L. 106-193, and from other sources; and (v) facilitate the application and transfer of new coastal energy technologies.

§ 45.2-1716. Appointment of a director; powers and duties.

A. The Board shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall report to the Board and be under its supervision.

B. The executive director shall exercise all powers imposed upon him by law, carry out the specific duties imposed upon him by the Board, and develop appropriate policies and procedures for (i) identifying priority coastal energy research projects; (ii) cooperating with the General Assembly, federal, state, and local governmental agencies, nonprofit organizations, and private industry in formulating its research projects; (iii) selecting research projects to be funded; and (iv) disseminating information and transferring technology related to coastal energy within the Commonwealth. The executive director shall employ such personnel and secure such services as may be required to carry out the purposes of the

Consortium, expend appropriated funds, and accept moneys from federal or private sources for cost-sharing on coastal energy projects.

Article 6.

Southwest Virginia Energy Research and Development Authority.

§ 45.2-1717. (Expires July 1, 2029) Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Southwest Virginia Energy Research and Development Authority established pursuant to this article.

"Developer" means any private developer of an energy development project.

"Energy development project" means an electric generation facility located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities.

"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.

§ 45.2-1718. (Expires July 1, 2029) Southwest Virginia Energy Research and Development Authority established; purpose.

The Southwest Virginia Energy Research and Development Authority is established as a political subdivision of the Commonwealth. The purposes of the Authority are to promote opportunities for energy development in Southwest Virginia, create jobs and economic activity in Southwest Virginia consistent with the Virginia Energy Plan prepared pursuant to Article 4 (§ 45.2-1710 et seq.), and position Southwest Virginia and the Commonwealth as a leader in energy workforce and energy technology research and development. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this article.

§ 45.2-1719. (Expires July 1, 2029) Membership; terms; vacancies; expenses.

A. The Authority shall have a total membership of 11 nonlegislative citizen members appointed as follows: four members to be appointed by the Governor, four members to be appointed by the Speaker of the House of Delegates, and three members to be appointed by the Senate Committee on Rules. All members of the Authority shall be citizens of the Commonwealth.

B. Except as otherwise provided in this article, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Authority shall appoint from its membership a chairman and a vice-chairman, each of whom shall serve in such capacity at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at each meeting of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from funds appropriated to the Authority by the General Assembly.

E. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

F. Except as otherwise provided in this article, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1720. (Expires July 1, 2029) Powers and duties of the Authority.

In addition to the other powers and duties established under this article, the Authority has the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at any place within the Commonwealth it designates;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is established;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary and fix their compensation to be payable from funds made available to the Authority;
7. Invest its funds as permitted by applicable law;
8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any other state, from any municipality, county, or other political subdivision thereof, or from any other

source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;

10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied in this article;

11. Leverage the strength in energy workforce and energy technology research and development of the Commonwealth's public and private institutions of higher education;

12. Support the development of pump storage hydropower in Southwest Virginia and energy storage generally;

13. Promote the development of renewable energy generation facilities on brownfield sites, including abandoned mine sites;

14. Promote energy workforce development;

15. Assist energy technology research and development by, among other actions, promoting the development of a Southwest Virginia Energy Park; and

16. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to energy development in Southwest Virginia.

§ 45.2-1721. (Expires July 1, 2029) Annual report.

On or before October 15 of each year, beginning in 2020, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor.

§ 45.2-1722. (Expires July 1, 2029) Confidentiality of information.

A. The Authority shall hold in confidence the personal and financial information supplied to it or maintained by it concerning the siting and development of energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on any person or entity applying for or receiving an allocation of any federal loan guarantee, as well as specific information relating to the amount of, or the identity of the recipient of, such distribution, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1723. (Expires July 1, 2029) Declaration of public purpose; exemption from taxation.

A. The exercise of the powers granted by this article shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be deemed to be performing an essential governmental function in the exercise of the powers conferred upon it by this article, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this article.

§ 45.2-1724. (Expires July 1, 2029) Sunset.

The provisions of this article shall expire on July 1, 2029.

CHAPTER 18.

WIND ENERGY.

Article 1.

General Provisions.

§ 45.2-1800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Offshore Wind Development Authority established pursuant to Article 2 (§ 45.2-1803 et seq.).

"Division" means the Division of Offshore Wind in the Department as established pursuant to § 45.2-1802.

"Hampton Roads region" means the same as that term is defined in § 22.1-356.

§ 45.2-1801. Offshore wind energy resources; policy.

It is the policy of the Commonwealth to support federal efforts to examine the feasibility of offshore wind energy being utilized in an environmentally responsible fashion.

§ 45.2-1802. Division of Offshore Wind established.

A. The Director shall establish the Division of Offshore Wind in the Department and shall appoint persons to direct, support, and execute the powers and duties of the Division.

B. The powers and duties of the Division include:

1. Identifying specific measures that will facilitate the establishment of the Hampton Roads region as a wind industry hub for offshore wind generation projects in state and federal waters off the United States coast;

2. Coordinating state agencies' activities related to offshore wind, including development of programs that prepare the Commonwealth's workforce to work in the offshore wind industry, create employment opportunities for Virginians within such industry, create opportunities for Commonwealth-based businesses to participate in the offshore wind industry supply chain, and attract out-of-state offshore wind-related businesses to locate within the Commonwealth;

3. Developing and implementing a stakeholder engagement strategy that identifies key groups, sets forth outreach objectives, and outlines a timeline for outreach and engagement;

4. Identifying regulatory and other barriers to the deployment of offshore wind and attraction of offshore wind supply chain businesses; and

5. Providing staff support for the Authority and facilitating fulfillment of the Authority's purpose and duties set forth in Article 2 (§ 45.2-1803 et seq.).

C. On or before October 15 of each year, the Division shall submit an annual summary of its activities, the ways in which those activities have furthered the functions and programs of the Division, and the benefits of the efforts of the Division to the Commonwealth and its economy to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. The Division may include its submission with the report of the Authority required by § 45.2-1808.

Article 2.

Virginia Offshore Wind Development Authority.

§ 45.2-1803. Definitions.

As used in this article, unless the context requires a different meaning:

"Developer" means any private developer of an offshore wind energy project.

"Offshore wind energy project" means a wind-powered electric energy facility, including tower, turbine, and associated equipment, located off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes interests in land, improvements, and ancillary facilities.

"Transmission study" means a study to determine the potential interconnection options to accommodate multiple offshore wind energy projects in the Hampton Roads region.

§ 45.2-1804. Virginia Offshore Wind Development Authority established; purpose.

A. The Virginia Offshore Wind Development Authority is established as a political subdivision of the Commonwealth.

B. The Authority is established for the purposes of facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the offshore wind energy industry, offshore wind energy projects, and associated supply chain vendors by (i) collecting relevant meteorological and environmental data; (ii) identifying existing state and regulatory or administrative barriers to the development of the offshore wind energy industry; (iii) working in cooperation with relevant local, state, and federal agencies to upgrade port and other logistical facilities and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels; and (iv) ensuring that the development of such projects is compatible with other ocean uses and avian and marine resources, including both the possible interference with and positive effects on naval facilities and operations, NASA-Wallops Flight Facility operations, shipping lanes, recreational and commercial fisheries, and avian and marine species and habitats.

C. The Authority shall, in cooperation with the relevant state and federal agencies as necessary, recommend ways to encourage and expedite the development of the offshore wind energy industry. The Authority shall also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate.

D. The Authority shall have only those powers enumerated in this article.

§ 45.2-1805. Membership; terms; vacancies; expenses.

A. The Authority shall be composed of nine nonlegislative citizen members appointed by the Governor, one of whom shall be a representative of the Virginia Commercial Space Flight Authority as established in § 2.2-2202. In addition, one ex officio member without voting privileges shall be selected by the Governor after consideration of the persons nominated by the U.S. Secretary of the Navy. With the exception of the representative of the Virginia Commercial Space Flight Authority, all members of the Authority shall be citizens of the Commonwealth.

B. Except as otherwise provided in this article, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Authority shall appoint from its membership a chairman and a vice-chairman, each of whom shall serve in such capacity at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at each meeting of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

E. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

F. Except as otherwise provided in this article, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1806. Powers and duties of the Authority.

In addition to the other powers and duties established under this article, the Authority has the power and duty to:

- 1. Adopt, use, and alter at will an official seal;*
- 2. Make bylaws for the management and regulation of its affairs;*
- 3. Maintain an office at any place within the Commonwealth it designates;*
- 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is established;*
- 5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;*
- 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary, and fix their compensation to be payable from funds made available to the Authority;*
- 7. Invest its funds as permitted by applicable law;*
- 8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any other state, from any municipality, county, or other political subdivision thereof, or from any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;*
- 9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;*
- 10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied in this article;*
- 11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the offshore wind energy industry, including facilitating any permitting processes; and*
- 12. Enter into interstate partnerships to develop the offshore wind energy industry and offshore wind energy projects.*

§ 45.2-1807. Director; staff; counsel to the Authority.

A. The Director shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this article and subject to the policies, control, and direction of the Authority. The Director shall maintain and is custodian of all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this article.

B. The Division shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

§ 45.2-1808. Annual report.

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. Such report may include the submission of the Division required by § 45.2-1802.

§ 45.2-1809. Confidentiality of information.

A. The Authority shall hold in confidence the personal and financial information supplied to it or maintained by it concerning the siting and development of offshore wind energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on any person or entity applying for or receiving an allocation of any federal loan guarantee, as well as specific information relating to the amount of, or the identity of the recipient of, such distribution, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1810. Declaration of public purpose; exemption from taxation.

A. The exercise of the powers granted by this article shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be deemed to be performing an essential governmental function in the exercise of the powers conferred upon it by this article, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this article.

§ 45.2-1811. Operation.

The Authority shall, through moneys derived from sources other than state funds, to the extent such moneys are available, operate in cooperation with the National Oceanic and Atmospheric Administration to upgrade wind resource and other metocean assessment equipment at Chesapeake Light Tower and other structures.

§ 45.2-1812. Public-private partnerships.

A. The Authority may establish public-private partnerships with developers pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for purposes set forth in this section.

B. The Authority may establish a public-private partnership for the installation and operation of wind resource and other metocean equipment, including light detection and ranging equipment, meteorological measurement towers, and data collection platforms. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developer shall share the costs of the upgrade;

2. The developer, in coordination with the Authority and relevant state and federal agencies, shall operate any meteorological measurement towers and data collection platforms; and

3. The developer shall make all collected data available to the Authority.

C. The Authority may establish a public-private partnership for the collection of avian and marine environmental data. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developer shall share the costs of data collection;

2. The developer, in coordination with the Authority and relevant state and federal agencies, shall manage the environmental data collection process; and

3. The developer shall make all collected data available to the Authority.

D. The Authority may make any data collected pursuant to subsection B or C available to the public.

E. The Authority may establish a public-private partnership for the upgrade of port facilities and other logistical equipment and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels that will support the construction and operations of offshore wind energy projects. Any partnership established pursuant to this subsection shall stipulate that the Authority and the entities shall share the costs of the upgrade.

§ 45.2-1813. Federal loan guarantees.

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the federal Energy Policy Act of 2005, P.L. 109-58; the federal American Recovery and Reinvestment Act of 2009, P.L. 111-5; or other similar federal legislation to facilitate the development of offshore wind energy projects.

B. Upon obtaining a federal loan guarantee for an offshore wind energy project pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or any portion thereof to a qualified third party on terms and conditions the Authority finds appropriate. Any action of the Authority relating to the allocation and assignment of such loan guarantee shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Any decision of the Authority pursuant to this section shall be final and not subject to review or appeal.

CHAPTER 19.
SOLAR ENERGY.

Article 1.

Virginia Solar Energy Center.

§ 45.2-1900. Virginia Solar Energy Center; purposes.

A. The Virginia Solar Energy Center (the Center) is established as part of the Department. The purposes of the Center are to (i) serve the people of the Commonwealth as a clearinghouse to gather, maintain, and disseminate general and technical information on solar energy and its utilization; (ii) coordinate programs for solar energy data-gathering in the Commonwealth; (iii) coordinate efforts and programs on solar energy with other state agencies and institutions, other states, and federal agencies; (iv) promote cooperation among and between Virginia business, industry, and agriculture and the public related to the use of solar energy; (v) develop public education programs on solar energy for use in schools and by the public; and (vi) provide assistance in formulating policies on the utilization of solar energy that would be in the best interest of the Commonwealth.

B. The Center may receive nonstate funds for the purposes provided in this section.

Article 2.

Virginia Solar Energy Development and Energy Storage Authority.

§ 45.2-1901. (Expires July 1, 2025) Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Solar Energy Development and Energy Storage Authority established pursuant to this article.

"Developer" means any private developer of a solar energy project or an energy storage project.

"Energy storage project" means an energy storage facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

"Solar energy project" means an electric generation facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

§ 45.2-1902. (Expires July 1, 2025) Virginia Solar Energy Development and Energy Storage Authority established; purpose.

The Virginia Solar Energy Development Authority is continued as the Virginia Solar Energy Development and Energy Storage Authority. The Authority constitutes a political subdivision of the Commonwealth. The Authority is established for

the purposes of (i) facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the solar energy and energy storage industries and solar energy and energy storage projects by developing programs that increase the availability of financing for solar energy projects and energy storage projects; (ii) facilitating the increase of solar energy generation systems and energy storage projects on public and private sector facilities in the Commonwealth; (iii) promoting the growth of the Commonwealth's solar and energy storage industries; (iv) providing a hub for collaboration between entities, both public and private, to partner on solar energy projects and energy storage projects; and (v) positioning the Commonwealth as a leader in research, development, commercialization, manufacturing, and deployment of energy storage technology. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority has only those powers enumerated in this article.

§ 45.2-1903. (Expires July 1, 2025) Membership; terms; vacancies; expenses.

A. The Authority shall have a total membership of 15 nonlegislative citizen members appointed as follows: eight members to be appointed by the Governor; four members to be appointed by the Speaker of the House of Delegates; and three members to be appointed by the Senate Committee on Rules. All members of the Authority shall be citizens of the Commonwealth. Members may include representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar customers, institutions of higher education who have expertise in energy technology, and solar research academics.

B. Except as otherwise provided in this article, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Authority shall appoint from its membership a chairman and a vice-chairman, each of whom shall serve in such capacity at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at each meeting of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from funds appropriated to the Authority by the General Assembly.

E. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

F. Except as otherwise provided in this article, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1904. (Expires July 1, 2025) Partnerships.

A. The Authority may establish public-private partnerships with entities pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) to increase the number of solar energy generation systems on or located adjacent to public and private facilities in the Commonwealth. Any partnership established pursuant to this section shall stipulate that the Authority and the developers shall share the costs of the installation and operation of solar energy facilities and equipment.

B. The Authority may provide a central hub for appropriate entities, both public and private, to enter into partnerships that result in solar energy generation projects being developed in the Commonwealth. The Authority may act as a good faith broker in such matters to facilitate appropriate partnerships, including public-private partnerships.

§ 45.2-1905. (Expires July 1, 2025) Federal loan guarantees.

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the federal Energy Policy Act of 2005, P.L. 109-58; the federal American Recovery and Reinvestment Act of 2009, P.L. 111-5; or other similar federal legislation to facilitate the development of solar energy projects.

B. Upon obtaining a federal loan guarantee for a solar energy project pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or any portion thereof to a qualified third party on terms and conditions the Authority finds appropriate. Any action of the Authority relating to the allocation and assignment of such loan guarantee shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Any decision of the Authority pursuant to this section shall be final and not subject to review or appeal.

§ 45.2-1906. (Expires July 1, 2025) Powers and duties of the Authority.

In addition to other powers and duties established under this article, the Authority has the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at any place within the Commonwealth it designates;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is established;

5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any other state, from any municipality, county, or other political subdivision thereof, or from any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;

10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied in this article;

11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the solar energy and energy storage industries, including facilitating any permitting processes;

12. Enter into interstate partnerships to develop the solar energy industry, solar energy projects, and energy storage projects;

13. Collaborate with entities, including institutions of higher education, to increase the training and development of the workforce needed by the solar and energy storage industries in the Commonwealth, including industry-recognized credentials and certifications;

14. Conduct any other activities as may seem appropriate to increase solar energy generation in the Commonwealth and the associated jobs and economic development and competitiveness benefits, including assisting investor-owned utilities in the planned deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020 through entering into agreements in its discretion in any manner provided by law for the purpose of planning and providing for the financing or assisting in the financing of the construction or purchase of such solar energy projects authorized pursuant to § 56-585.1;

15. Promote collaborative efforts among the Commonwealth's public and private institutions of higher education in research, development, and commercialization efforts related to energy storage;

16. Monitor relevant developments in energy storage technology and deployment nationally and globally and disseminate relevant information and research results; and

17. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to the development and commercialization of energy storage.

§ 45.2-1907. (Expires July 1, 2025) Director; staff; counsel to the Authority.

A. The Director shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this article and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for such support may be provided by any source, public or private, for the purposes for which the Authority is established. The Director shall maintain and is custodian of all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and any person dealing with the Authority may rely on such certificates. The Director also shall perform other duties prescribed by the Authority in carrying out the purposes of this article.

B. The Department shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

§ 45.2-1908. (Expires July 1, 2025) Annual report.

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor:

§ 45.2-1909. (Expires July 1, 2025) Confidentiality of information.

A. The Authority shall hold in confidence the personal and financial information supplied to it or maintained by it concerning the siting and development of solar energy projects and energy storage projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on any person or entity applying for or receiving an allocation of any federal loan guarantee, as well as specific information relating to the amount of, or the identity of the recipient of, such distribution, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 45.2-1910. (Expires July 1, 2025) Declaration of public purpose; exemption from taxation.

A. The exercise of the powers granted by this article shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be deemed to be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this article.

§ 45.2-1911. Sunset.

The provisions of this article shall expire on July 1, 2025.

Article 3.

Clean Energy Advisory Board.

§ 45.2-1912. Definitions.

As used in this article, unless the context requires a different meaning:

"Board" means the Clean Energy Advisory Board created pursuant to § 45.2-1913.

"Fund" means the Low-to-Moderate Income Solar Loan and Rebate Fund created pursuant to § 45.2-1916.

"Program" means the Low-to-Moderate Income Solar Loan and Rebate Pilot Program created pursuant to § 45.2-1917.

§ 45.2-1913. Clean Energy Advisory Board; purpose.

The Clean Energy Advisory Board is established as an advisory board in the executive branch of state government. The purpose of the Board is to establish a pilot program for disbursing loans or rebates for the installation of solar energy infrastructure in low-income and moderate-income households.

§ 45.2-1914. Membership; terms; quorum; meetings.

A. The Board shall have a total membership of 17 members that shall consist of 16 nonlegislative citizen members and one ex officio member. Members may reside within or without the Commonwealth. Nonlegislative citizen members shall be appointed as follows:

1. Six nonlegislative citizen members to be appointed by the Speaker of the House of Delegates upon consideration of the recommendations of the Board of Directors of the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (the MDV-SEIA Board) and the Governor's Advisory Council on Environmental Justice (the Council), one of whom shall be a designee of the Virginia Housing Development Authority, created pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36; one of whom shall be a rooftop solar energy professional or employer or representative of rooftop solar energy professionals; one of whom shall be a current or former member of the Council; one of whom shall be a member or representative of the Virginia, Maryland and Delaware Association of Electric Cooperatives (VMDAEC); one of whom shall be an expert with experience developing low-income or moderate-income incentive and loan programs for distributed renewable energy resources; and one of whom shall be an attorney who is licensed to practice in the Commonwealth and maintains a legal practice dedicated to rural development, rural electrification, and energy policy;

2. Three nonlegislative citizen members to be appointed by the Senate Committee on Rules upon consideration of the recommendations of the MDV-SEIA Board, one of whom shall be a solar energy professional or employer or representative of solar energy professionals, one of whom shall work for or with an investor-owned electric utility company based in the Commonwealth, and one of whom shall be a member or representative of VMDAEC; and

3. Seven nonlegislative citizen members to be appointed by the Governor upon consideration of the recommendations of the MDV-SEIA Board and the Council and subject to confirmation by the General Assembly, one of whom shall be an attorney who is licensed to practice in the Commonwealth and maintains a legal practice in renewable energy law and transactions, one of whom shall be an attorney who is licensed to practice in the Commonwealth and specializes in tax law and energy transactions, one of whom shall be an attorney with the Division of Consumer Counsel created pursuant to the provisions of § 2.2-517, one of whom shall be an employee of a community development financial institution who specializes in impact investing, one of whom shall be a member of a Virginia environmental organization, and two of whom shall be designees of the Department of Housing and Community Development, created pursuant to the provisions of Chapter 8 (§ 36-131 et seq.) of Title 36.

B. The Director or his designee shall serve ex officio with voting privileges and shall assist in convening the meetings of the Board.

C. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. The ex officio member of the Board shall serve a term coincident with his term of office. Nonlegislative citizen members shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

D. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

§ 45.2-1915. Powers and duties of the Board; report.

The Board has the powers and duties to:

1. Advise the Director on the management of the Fund pursuant to the provisions of § 45.2-1916;
2. Develop, establish, and operate, with the approval of the Director, the Program pursuant to the provisions of § 45.2-1917;
3. Advise the Director on the possibility of working with a community development financial institution or other financial institutions to further the purposes of the Program;
4. Advise the Director on the distribution of moneys in the Fund in the form of loans or rebates pursuant to the provisions of § 45.2-1917; and

5. Submit to the Governor and the General Assembly an annual report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 45.2-1916. Low-to-Moderate Income Solar Loan and Rebate Fund.

There is hereby established in the state treasury a special nonreverting fund to be known as the Low-to-Moderate Income Solar Loan and Rebate Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of extending loans or paying rebates to electric customers who complete solar installations or energy efficiency improvements pursuant to the provisions of § 45.2-1917. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 45.2-1917. Low-to-Moderate Income Solar Loan and Rebate Pilot Program.

A. The Board, with the approval of the Director, shall develop and establish a Low-to-Moderate Income Solar Loan and Rebate Pilot Program and rules for the loan or rebate application process. The Program shall be open to any Virginia resident whose household income is at or below 80 percent of the state median income or regional median income, whichever is greater. The Program shall allow only one loan per residence, irrespective of the ownership of the solar energy system that is installed. Such loan shall be available only for a solar installation or energy efficiency improvements pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36.

B. The Board shall accept an application only from the installer of the solar installation or the agent of the customer.

Each application shall include (i) 12 months of the customer's utility bills prior to installation of the solar energy system and an agreement to provide 12 months of utility bills to the Board following the installation; (ii) the customer's permission for the Director to (a) create a customer profile for the customer if he becomes an eligible loan or rebate customer, (b) aggregate the data provided by such eligible loan or rebate customers, and (c) use such aggregate data for the purpose of lowering energy costs and implementing effective programs; (iii) evidence of the completion of a home performance audit, conducted by a qualified local weatherization service provider, before and after installation of energy efficiency services such as lighting or insulation improvements, attic tents, weatherization, air sealing of openings in the building envelope, sealing of ducts, or thermostat upgrades, to demonstrate that such energy efficiency services were completed and resulted in a reduction in consumption of at least 12 percent; and (iv) an affidavit attesting to the receipt of a public benefit at the time the solar energy system is to be installed.

C. The Board shall review each application submitted to it on a first-come, first-served basis and shall recommend to the Director the approval or denial of each such application within 30 days of receipt. If the Director approves an application, he shall hold a reservation of funds for as long as 180 days for final loan or rebate claim and disbursement.

D. A customer whose application is approved may install an energy system that is interconnected pursuant to the provisions of § 56-594 or any section in Title 56 that addresses net energy metering provisions for electric cooperative service territories.

E. All of the work of installing the energy system shall be completed by a licensed contractor that (i) possesses an Alternative Energy System (AES) Contracting specialty as defined by the Board for Contractors pursuant to the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1; (ii) possesses certification for solar installation from the North American Board of Certified Energy Practitioners, Solar Energy International, Roof Integrated Solar Energy, or a similar installer certification program; (iii) possesses a rating of "A" or higher from the local Better Business Bureau; and (iv) has installed a minimum of 150 net-metered residential solar systems in the Commonwealth. If the work of installing the solar energy system requires electrical work, such work shall be completed by an electrical contractor licensed by the Department of Professional and Occupational Regulation. All photovoltaic panels, inverters, and other electrical apparatus used in the solar energy system shall be tested and certified by a federal Occupational Safety and Health Administration Nationally Recognized Testing Laboratory such as UL LLC and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

F. The customer or the installer, acting on behalf of the customer, shall submit any loan or rebate claim within 90 days of completion of the installation of the solar energy system, with completion deemed to have occurred once the solar energy

system's bi-directional meter or net meter, or the respective utility's revenue grade meter, has been installed and the system has been electrified. Each rebate claim shall include, at a minimum, a date of system electrification and a time-stamped and date-stamped verification of (i) bi-directional net meter delivery or (ii) the operation of a compatible programmed smart meter capable of tracking net metering activity.

G. The Director shall review and approve or deny a loan or rebate claim within 60 days of receipt and shall provide a written explanation of each denial to the respective claimant. The Director shall disburse from the Fund created pursuant to § 45.2-1916 the loan or rebate for each approved claim within 60 days of its receipt of the claim and according to the order in which its respective application was approved. Any rebate or grant shall be in the amount of no more than \$2 per DC watt for up to six kilowatts of solar capacity installed. The customer may use a rebate in addition to any federal tax credits or state incentives or enhancements earned for the same solar installation.

CHAPTER 20.

GEOHERMAL ENERGY.

Article 1.

General Provisions.

§ 45.2-2000. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the State Water Control Board.

"Correlative right" means the right of each geothermal owner in a geothermal system to produce without waste his just and equitable share of the geothermal resources in the geothermal system.

"Geothermal energy" means the usable energy that is produced or that can be produced from a geothermal resource.

"Geothermal resource" means the natural heat of the earth and the energy, in whatever form, that is present in, associated with, or created by, or that may be extracted from, such natural heat, as determined by the regulations of the Department.

"Geothermal system" means any aquifer, pool, reservoir, or other geologic formation containing geothermal resources.

§ 45.2-2001. Application.

The provisions of this chapter regarding (i) permitting, well regulations, reservoir management, and allocation apply to geothermal resources at temperatures above the minimum temperature set forth by the Department pursuant to § 45.2-2004 and (ii) leasing requirements, royalties, or severance taxes apply to geothermal resource applications producing more than the volumetric rate set forth by the Department pursuant to § 45.2-2004.

§ 45.2-2002. Ownership.

Ownership rights to a geothermal resource are in the owner of the surface property underlain by the geothermal resource unless such rights have been otherwise explicitly reserved or conveyed. Nothing in this section shall divest the people or the Commonwealth of any rights, title, or interest they might have in any geothermal resource.

§ 45.2-2003. Findings; clarification of nature of the resource.

Geothermal resources are found and hereby declared to be sui generis, being neither mineral resources nor water resources. No mineral estate shall be construed to include geothermal resources unless such inclusion is explicit in the terms of the deed or other instrument of conveyance.

Article 2.

Resource Regulation.

§ 45.2-2004. Powers and duties of the Department.

A. The Department has jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter and has the power and authority to make and enforce regulations and orders and do whatever is reasonably necessary to carry out the provisions of this chapter. Any regulations adopted by the Department pursuant to the provisions of this chapter shall be adopted in compliance with the Administrative Process Act (§ 2.2-4000 et seq.).

B. The Department shall:

1. Consult with the Board in carrying out its powers and duties pursuant to the provisions of this chapter;
2. Develop a comprehensive geothermal permitting system for the Commonwealth that provides for the exploration and development of geothermal resources;
3. Adopt regulations necessary to provide for geothermal drilling and the exploration for and development of geothermal resources in the Commonwealth. Such regulations shall be based on a system of correlative rights;
4. Establish minimum temperature levels and volumetric rates in order to determine Department jurisdiction over geothermal resource development. In establishing such temperature levels, the Department shall set (i) minimum temperature levels for permitting, well regulations, reservoir management, and allocation of geothermal resources and (ii) minimum volumetric rates for geothermal leasing, royalties, and severance taxes, as necessary. The Department shall review established temperature level and volumetric rate requirements biennially and revise the figures as necessary. Revision of temperature levels or volumetric rate requirements shall not occur more often than every two years, and such revision shall not operate retroactively; and
5. Consult with the State Department of Health as necessary to protect potable waters of the Commonwealth and to carry out the powers and duties of the Department pursuant to the provisions of this chapter.

§ 45.2-2005. Reinjection policy.

The Department, the Board, and the State Department of Health shall jointly develop and revise as necessary a policy on reinjection of spent geothermal fluids. Such policy shall refer to the reinjection into the ground of waters extracted from the earth in the process of geothermal development, production, or utilization.

§ 45.2-2006. Cancellation or suspension of permit.

If the Department determines, after a public hearing held in conjunction with the Board, that a holder of a permit issued pursuant to the provisions of this chapter has willfully violated any provision of such permit or any provision of this chapter, the Department may cancel or suspend such permit for cause or impose limitations on the future use thereof in order to prevent future violations.

§ 45.2-2007. Penalties; injunctions.

A. Any person who violates any provision of this chapter is guilty of a misdemeanor, punishable by a civil penalty of not less than \$10 or more than \$250 for each violation.

B. In addition, upon violation of any provision of this chapter or regulation of the Department adopted pursuant to this chapter, the Department may, either before or after the institution of proceedings pursuant to subsection A, institute a civil action in the circuit court where the well is located for injunctive relief to restrain the violation and for any other or further relief that the court deems proper.

§ 45.2-2008. Judicial review.

Any person aggrieved by a final decision of the Department pursuant to the provisions of § 45.2-2006 is entitled to judicial review of such final decision in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 21.
NUCLEAR ENERGY.

Article 1.

General Provisions.

§ 45.2-2100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Nuclear Energy Consortium Authority established pursuant to this chapter.

"Board" means the board of directors of the Authority.

"Consortium" means the Virginia Nuclear Energy Consortium established by the Authority pursuant to § 45.2-2105.

"Member" means a member of the Consortium.

§ 45.2-2101. Nuclear energy; strategic plan.

A. The Department and the Secretaries of Commerce and Trade and Education shall work in coordination with the Authority, established pursuant to Article 2 (§ 45.2-2102), and the Virginia Economic Development Partnership Authority, established pursuant to Article 4 (§ 2.2-2234 et seq.) of Chapter 22 of Title 2.2, to develop a strategic plan for nuclear energy as part of the Commonwealth's overall goal of carbon-free energy.

B. Such plan may include (i) the promotion of new technologies and opportunities for innovation, including advanced manufacturing; (ii) the establishment of a collaborative research center and university nuclear leadership program to promote education in fields that meet the workforce demands of Virginia's nuclear industry; and (iii) recognition of the role of nuclear energy in the Commonwealth's goal of employing 100 percent carbon-free sources of energy by 2050.

C. Such plan shall be completed by October 1, 2020, updated every four years thereafter, and published on the Internet by the Authority.

Article 2.

Virginia Nuclear Energy Consortium Authority.

§ 45.2-2102. Virginia Nuclear Energy Consortium Authority established.

There is hereby established a political subdivision of the Commonwealth known as the Virginia Nuclear Energy Consortium Authority. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 45.2-2103. Purposes; powers of Authority.

A. The Authority is established for the purposes of making the Commonwealth a national and global leader in nuclear energy and serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues.

B. The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including the following rights, powers, and duties to:

- 1. Adopt, use, and alter at will a corporate seal;*
- 2. Acquire, purchase, hold, use, lease, or otherwise dispose of property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority;*
- 3. Adopt bylaws for the management and regulation of its affairs;*
- 4. Develop and adopt a strategic plan for carrying out the purposes set out in this article;*
- 5. Make and enter into any contract or agreement necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including an agreement with any person or federal agency;*

6. Consult with the General Assembly; federal, state, and local agencies; nonprofit organizations; private industry; and other potential developers and users of nuclear energy;
7. Promote and facilitate agreements among public and private institutions of higher education in the Commonwealth and other research entities to carry out research projects relating to nuclear energy;
8. Disseminate information and research results;
9. Identify and support, in cooperation with Virginia's nuclear entities and the public and private sectors, the development of education programs related to Virginia's nuclear industry;
10. Provide for the establishment of the Consortium by the Board as provided in § 45.2-2105;
11. Develop a policy regarding any interest in intellectual property acquired or developed by the Consortium;
12. In order to fund and support the activities of the Authority and the Consortium, apply for, solicit, and accept from any source, including any agency of the federal government, the Commonwealth, or any other state; any locality or other political subdivision; any member; or any private corporation or other entity, (i) grants, including grants made available pursuant to federal legislation; (ii) aid; or (iii) contributions of money, property, or other things of value, which shall be held, used, and applied for the purposes set out by this chapter;
13. Facilitate the collaboration of members toward obtaining grants and expending funds in accomplishing the purposes set out by this chapter;
14. Encourage, facilitate, and support the application, commercialization, and transfer of new nuclear energy technologies;
15. Provide public information and communication about nuclear energy and related educational and job opportunities;
16. Provide advice, assistance, and services to institutions of higher education and to other persons providing services or facilities for nuclear research or graduate education;
17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's public institutions of higher education, private companies, federal laboratories, and not-for-profit organizations to accomplish the purposes set out by this chapter; and
18. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

§ 45.2-2104. Board of the Authority.

A. The Authority shall be governed by a board of directors consisting of 17 members appointed as follows:

1. The Director or his designee;
 2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or his designee;
 3. The Chancellor of the Virginia Community College System or his designee;
 4. The President of Virginia Commonwealth University or his designee;
 5. The President of the University of Virginia or his designee;
 6. The President of Virginia Polytechnic Institute and State University or his designee;
 7. The President of George Mason University or his designee;
 8. Two individuals, each representing a single institution of higher education in the Commonwealth that is not already represented on the Board. At least one of the institutions shall be a private institution of higher education;
 9. Six individuals, each representing a single business entity located in the Commonwealth that is engaged in activities directly related to the nuclear energy industry;
 10. One individual representing a nuclear energy-related nonprofit organization; and
 11. One individual representing a Commonwealth-based federal research laboratory.
- B. The members of the Board described in subdivisions A 1 through 7 shall serve terms coincident with their terms of office.

C. The 10 members of the Board described in subdivisions A 8 through 11 shall be appointed by the Governor. After the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. Members of the Board described in subdivisions A 8 through 11 may serve two successive terms on the Board.

D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy.

E. Meetings of the Board shall be held at the call of the chairman or any seven members. Nine members of the Board constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present is an act of the Board.

F. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers, who need not be members of the Board, as it deems proper. The chairman, or in his absence the vice-chairman, shall preside at each meeting of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore who shall preside at such meeting.

H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall forfeit his office or employment by reason of acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an annual summary of its activities, and recommendations for the support and expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor.

§ 45.2-2105. Establishment of the Consortium.

A. The Board shall provide for the formation, by January 1, 2014, of a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, not organized for profit, that shall include in its name the words "Virginia Nuclear Energy Consortium" or some variation thereof that is approved by the Board.

B. The Consortium shall be established for the purpose of conducting activities useful in (i) making the Commonwealth a leader in nuclear energy; (ii) serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues; and (iii) carrying out the provisions of this article, including raising money on behalf of the Authority in the corporate and nonprofit community and from other nonstate sources.

C. The membership of the Consortium shall be open to:

- 1. Public or private institutions of higher education in the Commonwealth;*
- 2. Commonwealth-based federal research laboratories;*
- 3. Nuclear energy-related nonprofit organizations;*
- 4. Business entities with operating facilities located in the Commonwealth that are engaged in activities directly related to the nuclear energy industry; and*
- 5. Other individuals or entities whose membership is approved by the board of directors of the Consortium through a process established by the bylaws of the Consortium.*

D. The board of directors of the Consortium shall consist of members selected and approved by the Consortium pursuant to a process established by its bylaws.

E. The board of directors of the Consortium shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall carry out the specific duties assigned to him by the board of directors and develop appropriate policies and procedures for the operation of the Consortium; employ persons and secure services as required to carry out the purposes of the Consortium; expend funds as authorized by the Authority; and accept moneys from federal or private sources on behalf of the Authority, including moneys contributed by Consortium members to the Authority, for cost-sharing on nuclear energy research or projects. The executive director and any other employee of the Consortium (i) shall be compensated in the manner provided by the board of directors of the Authority, (ii) shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), and (iii) shall not be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

F. The articles of incorporation of the Consortium shall provide that upon dissolution the net assets of the Consortium shall be transferred to the Authority.

G. The Consortium shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), or 47 (§ 2.2-4700 et seq.) of Title 2.2, Chapter 14 (§ 30-130 et seq.) of Title 30, or Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1.

H. The board of directors of the Consortium shall adopt, alter, and repeal bylaws governing the manner in which its business shall be transacted and the manner in which the activities of the Consortium shall be conducted.

I. The Consortium shall report on all of its nonproprietary activities at least twice a year to the Authority.

§ 45.2-2106. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such persons as the Authority authorizes to execute such warrants or orders.

§ 45.2-2107. Audits; external reviews.

A. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority. The audit report and any nonproprietary information provided to the auditor in connection with the audit shall be made available to the public, upon request, in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. The Authority, if it receives state funds, shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor.

Article 3.

Exploration for Uranium Ore.

§ 45.2-2108. Definitions.

As used in this article, unless the context requires a different meaning:

"Exploration activity" means and is limited to the drilling of test holes or stratigraphic or core holes of a depth in excess of 50 feet for the purpose of determining the location, quantity, or quality of uranium ore.

"Person" means any individual, firm, corporation, partnership, association, or other legal entity.

"Usable quality water" means groundwater that is used or can be used for a beneficial purpose, including a domestic, livestock, or irrigation use.

§ 45.2-2109. Regulations.

The Director shall, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), adopt regulations as may be necessary and proper to carry out the provisions of this article.

§ 45.2-2110. Permit for exploration activity required; fee.

A. It is unlawful for any person to commence any exploration activity without first obtaining a permit to do so from the Director. The application for the permit shall be in a form the Director prescribes and shall be accompanied by a fee of \$250 and by any other information required by this article.

B. The application for a permit to carry out exploration activity shall be accompanied by a bond, payable to the Commonwealth, with surety acceptable to the Director. The bond shall ensure compliance with the provisions of this article and any regulations adopted hereunder relating to the drilling, redrilling, plugging, or abandoning of any exploration activity. The bond shall be set by the Director in an amount deemed reasonable and necessary.

C. An initial permit shall be valid for a period of one year and may be renewed annually.

§ 45.2-2111. Maps or plats of proposed exploration activity area.

Before undertaking any exploration activity on any tract of land, the person proposing the exploration activity shall prepare or have prepared and file with the Director, together with the application required by § 45.2-2110, an accurate map, on a scale stated thereon, showing the location of the proposed exploration activity; the courses and distances of such activity from two permanent points or landmarks on the tract; the approximate location areas in which test holes or core or stratigraphic holes may be drilled; the name of the owner; and boundaries and acreage of the tract on which the exploration activity is to take place.

§ 45.2-2112. Abandoning exploration hole; affidavits required.

Within 45 days after the abandonment of any exploration hole, the permittee shall notify the Director that such exploration hole has been plugged and abandoned, giving the location of the hole. The permittee shall submit an affidavit setting forth the time and manner in which the hole was plugged and filled. One copy of the affidavit shall be retained by the permittee, one shall be sent to the State Geologist, and the third shall be sent to the Director:

§ 45.2-2113. Plugging.

The plugging of an exploration hole shall be as follows:

1. Each exploration hole shall be adequately plugged with cement from the bottom of the hole upward to a point three feet below plow depth. The remainder of the hole between the top of the plug and the surface shall be filled with cuttings or nontoxic material.

2. If multiple aquifers alternating usable quality water and saltwater zones, or other conditions determined by the Director to be potentially deleterious to surface water or groundwater are encountered, the conditions shall be isolated immediately by cement plugs. Each hole shall be plugged with cement to prevent water from flowing into or out of the hole or mixing within the hole. The length of the plug shall be determined by the Director on the basis of available data on the specific site.

3. Each exploration hole shall be plugged as soon as reasonably practical after drilling, unless multiple aquifers are encountered.

4. Alternative plugging procedures and materials may be utilized if the applicant demonstrates to the Director's satisfaction that the alternatives will protect groundwater and comply with the provisions of this article. In the event that a hole is more suitably plugged with a nonporous material other than cement, the material shall have characteristics at least equal to cement.

5. In the event that an exploration hole is to remain unplugged pursuant to the provisions of § 45.2-2114, the procedure contained in subdivision 2, if applicable, shall be applied and the exploration hole shall be plugged to the extent required by that subdivision.

§ 45.2-2114. Developing an exploration hole as a water well.

If any exploration hole drilled for the purpose of determining the location, quantity, or quality of uranium ore indicates a stratum or source of potable fresh water that could be developed pursuant to established U.S. Environmental Protection Agency safe drinking water standards for a community water system, upon the request of the owner of the property on which the exploration hole is located and following application to and approval by the Director, who shall secure concurrence from the State Department of Health, the well, in lieu of being plugged and abandoned, may be developed and completed as a water well. The development and completion of an exploration hole as a water well shall be performed in accordance with applicable state water control laws and regulations.

§ 45.2-2115. Right of inspection by Director.

For the purposes of carrying out the provisions of this article, the Director is hereby vested with authority to inspect at reasonable times and in a reasonable manner any area for which he has received an application for a permit, or has granted a permit, for exploration activity.

§ 45.2-2116. Uranium mining permit applications; uranium mining deemed to have significant effect on surface.

Notwithstanding any other provision of law, no application for a uranium mining permit shall be accepted by any agency of the Commonwealth until a program for permitting uranium mining is established by statute. For the purpose of construing the definition of "mining" in § 45.2-1200, uranium mining is deemed to have a significant effect on the surface.

§ 45.2-2117. State and local authority.

Nothing in this article shall be construed to alter the authority of any state or local governing body, including any authority conferred under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2, relating to any matter that is the subject of this article.

§ 45.2-2118. Confidentiality of logs, surveys, and reports.

A. The Director shall hold confidential all logs, surveys, plats, and reports filed under this article by any person engaged in the exploration for uranium for a period of two years after the completion of the exploratory activities.

B. Upon written request by any person engaged in exploration for uranium, the Director shall hold confidential all logs, surveys, plats, and reports filed under this chapter for an additional two-year period. The Director shall grant such request if the requesting party certifies that he considers all such information to be of a proprietary nature relating to his competitive rights. The requesting party may renew his request every two years.

C. Nothing in this section shall be construed to deny the State Geologist access to any log, survey, plat, or report filed under this article. However, the State Geologist shall hold such information confidential to the same extent as the Director.

§ 45.2-2119. Civil penalty.

A. Any person who violates any provision of this article, or who fails, neglects, or refuses to comply with any regulation adopted by the Director or final order of a court lawfully issued, shall be subject to a civil penalty not to exceed \$10,000 for each violation. Each day of violation shall constitute a separate offense. All civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Minerals Reclamation Fund pursuant to § 45.2-1234.

B. The Director may restrain violations of this article in accordance with the provisions of § 45.2-1608.

§ 55.1-1820.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any disclosure packet pursuant to § 55.1-1809 given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-1951.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No unit owners' association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the unit owners' association establishes such a prohibition. However, a unit owners' association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § 55.1-1990 given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the unit owners' association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The unit owners' association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the unit owners' association. A unit owners' association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-2133.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § 55.1-2161 given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

CHAPTER 29.

RENEWABLE ENERGY CO-LOCATION OF DISTRIBUTION FACILITIES.

§ 56-614. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Distribution facilities" includes poles and wires, or cables, or pipelines or other underground conduits by which a renewable generator is able to (i) supply electricity generated at its renewable energy facility to the electric distribution grid, (ii) distribute steam generated at its renewable energy facility to customers, or (iii) supply landfill gas it collects to customers or a natural gas distribution or transmission pipeline.

"Locality" means the same as that term is defined in § 15.2-102.

"Public highway" means, for purposes of computing the public rights-of-way use fee, the centerline mileage of highways and streets that are part of the primary state highway system as defined in § 33.2-100, the secondary state highway system as defined in §§ 33.2-100 and 33.2-324, the highways of those cities and certain towns defined in § 33.2-319, and the highways and streets maintained and operated by counties that have withdrawn or elect to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that have not elected to return.

"Public rights-of-way use fee" means the fee chargeable to a renewable generator for the occupation and use of public streets, roads, highways, works, turnpikes, streets, avenues, and alleys in the Commonwealth by a locality or the Commonwealth Transportation Board for a renewable generator for its distribution facilities.

"Renewable energy facility" means (i) an electrical generation facility that produces not more than 2 megawatts peak net power output to the distribution grid, which electricity is generated only from a renewable energy source; (ii) a steam reduction facility with a rated capacity of not more than 5,000 mmBtus per hour that produces steam only from a renewable energy source; or (iii) a solid waste management facility permitted by the Department of Environmental Quality from which landfill gas is transmitted or distributed off premises.

"Renewable energy source" means energy derived from any source specified in the definition of renewable energy in § 56-576.

"Renewable generator" means a person that (i) does not have the power of a public service corporation to acquire rights-of-way, easements, or other interests in lands as provided in § 56-49 and (ii) operates a renewable energy facility.

"Restrictions or requirements concerning the use of the public rights-of-way" includes permitting processes; requirements regarding notice, time, and location of excavations and repair work; enforcement of the statewide building code; and inspections but does not include any existing franchise fee or public rights-of-way use fee.

§ 56-615. Right to occupy rights-of-way; location of rights-of-way.

A. Every renewable generator shall have authority to occupy and use the public roads, works, turnpikes, streets, avenues, and alleys in any county, with the consent of the board of supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of the council thereof, and the waterways within the Commonwealth, with the consent of the Marine Resources Commission, for the erection of distribution facilities. However, if the road or street is in the primary state highway system or the secondary state highway system, the consent of the board of supervisors or other

governing authority of any county shall not be necessary, provided that a permit for such occupation and use is first obtained from the Department of Transportation. The use of any road or street in the primary state highway system or secondary state highway system that has been designated a limited access highway in accordance with § 33.2-401 shall not be permitted, unless the Department of Transportation approves an exception in accordance with the then-current policy.

B. Neither a locality nor the Department of Transportation shall impose any fees on a renewable generator for the use of public rights-of-way except in the manner prescribed in § 56-617.

C. Neither a locality nor the Department of Transportation shall impose on renewable generators, whether by franchise, ordinance, or other means, any restrictions or requirements concerning the use of the public rights-of-way that are (i) unfair or unreasonable or (ii) any greater than those imposed on providers of electric or natural gas utility service.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the Department of Transportation of a renewable generator to use the public rights-of-way shall be granted or denied within 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. Neither a locality receiving directly or indirectly a public rights-of-way use fee nor the Department of Transportation shall require a renewable generator to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the public rights-of-way use fee.

F. This chapter shall not affect the obligation of the Department of Transportation to give notice, pursuant to § 33.2-272, to localities when it grants its permission for the construction, installation, location, or placement of a landfill gas pipeline within any highway right-of-way.

§ 56-616. Occupation of property of certain localities; imposition of terms and conditions as to use of property.

A. Any incorporated city or town may impose upon a renewable generator any terms and conditions consistent herewith and supplemental hereto, as to the occupation and use of its streets, avenues, and alleys, and as to the construction and maintenance of the distribution facilities of the renewable generator along, over, or under the same, that the city or town may deem expedient and proper.

B. No locality shall impose any fees on a renewable generator for the use of public rights-of-way except in the manner prescribed in § 56-617.

C. No locality shall impose on a renewable generator, whether by franchise, ordinance, or other means, any restrictions or requirements concerning the use of the public rights-of-way that are (i) unfair or unreasonable or (ii) any greater than those imposed on providers of electric or natural gas utility service.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way of a renewable generator to use the public rights-of-way shall be granted or denied within 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. No locality receiving directly or indirectly a public rights-of-way use fee shall require a renewable generator to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the public rights-of-way use fee.

F. A renewable generator shall have the same rights, duties, and responsibilities related to the crossing of a railroad as afforded other public service corporations in §§ 56-12, 56-17 through 56-22, 56-25, 56-26, and 56-27. Nothing in this chapter shall expand the rights of renewable generators to either cross or otherwise have access to railroad property to an extent greater than that afforded other public service corporations in this title.

§ 56-617. Public rights-of-way use fee.

A. Notwithstanding any other provisions of law, there is hereby established a public rights-of-way use fee to be charged in lieu of any and all fees of general application, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, otherwise chargeable to a renewable generator by the Department of Transportation or a locality in connection with a permit for such occupation and use granted in accordance with § 56-615 or 56-616. The public rights-of-way use fee established by this section is imposed on all renewable generators that occupy and use public rights-of-way in order to (i) supply electricity generated at its renewable energy facility to the electric distribution grid, (ii) distribute steam generated at its renewable energy facility to customers, or (iii) supply landfill gas to customers or to a natural gas distribution or transmission pipeline.

B. The amount of the public rights-of-way use fee for a renewable generator shall be \$1,500 per mile or any portion thereof over which the renewable generator has installed distribution facilities.

C. A renewable generator shall remit its required public rights-of-way use fee to the locality or the Department of Transportation, as applicable, prior to initiation of construction, as follows:

1. The renewable generator shall remit directly to the applicable locality all public rights-of-way use fees billed in (i) cities, (ii) towns whose public streets and roads are not maintained by the Department of Transportation, and (iii) any county that has withdrawn or elects to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that has elected not to return.

2. The public rights-of-way use fees in all other counties shall be remitted by each renewable generator to the Department of Transportation, and shall first be used to offset the administrative costs of processing the permit with the remaining fee being added to the secondary system construction improvement program funds of the counties where the facilities are located.

§ 56-618. Reimbursement for relocation costs.

A. Renewable generators shall be reimbursed 100 percent of the eligible cost of relocating distribution facilities installed in the public rights-of-way, for the first three years after the completion of the installation, that are incurred at the direction of a locality that imposes by ordinance the public rights-of-way use fee or the Department of Transportation in any public rights-of-way in accordance with §§ 56-458 and 56-462. For the fourth through sixth year after the completion of the installation, the renewable generator shall be reimbursed 50 percent of the eligible cost for the relocation of facilities installed in the public rights-of-way. Beginning in the seventh year, the renewable generators shall be responsible for the cost of relocating facilities installed in the public rights-of-way. Such reimbursement shall be received from either (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is in the primary state highway system or the secondary state highway system.

B. The amount of relocation reimbursement in any fiscal year to be reimbursed under this section shall not exceed the amount of public rights-of-way use fees received by that locality or the Department of Transportation from the renewable generator required to relocate its distribution facilities.

§ 56-619. Relocation of lines or works of renewable generator acquired by Commonwealth Transportation Board.

Whenever a renewable generator is required by the Commonwealth Transportation Board or the Commissioner of Highways to remove any part of its distribution facilities off of the right-of-way of a road now or hereafter included in the primary or secondary state highway system, or if any right-of-way, property, or interest therein used and occupied by the renewable generator with its lines or works, or part thereof, is acquired by the Commonwealth Transportation Board or the Commissioner of Highways for the uses of the primary or secondary state highway system, or if the renewable generator is notified by such Board or Commissioner of the desire of such Board or Commissioner to acquire such right-of-way, property, or interest therein, used and occupied by such company with its lines or works, or part thereof, for the uses of the primary or secondary state highway system, the renewable generator shall relocate its lines or works, or the part or parts thereof affected.

§ 56-620. How consent of appropriate authorities obtained; terms of use.

The consent required under § 56-615, when given, shall be by ordinance regularly adopted by the council or other governing body of the city or town or by resolution regularly adopted and spread upon the minutes by the board of supervisors or other governing authority of the county in which such line is to be located, or, if such permission is to be given by the Commissioner of Highways or his designee, through the issuance of a land use permit. Such use of the public roads, turnpikes, streets, avenues, and alleys in any of the cities or towns or counties of the Commonwealth shall be subject to such terms, regulations, and restrictions as may be imposed by the corporate authorities of any such city or town, or the board of supervisors or other governing authority of any such county, except that if the road or street is in the primary or secondary state highway system, as now or hereafter established, any occupation and use thereof under the provisions of this chapter, whether by consent heretofore or hereafter obtained, shall be subject to such terms, regulations, and restrictions as may be imposed by the Commonwealth Transportation Board not in conflict in incorporated cities and towns with any vested contractual rights of such company with such city or town.

§ 56-621. Cost to Commonwealth in connection with inspection and coordination of construction of line to be paid by renewable generator.

The actual costs and expenses of the Commonwealth for the inspection or coordination of the construction or installation of any of the distribution facilities of the renewable generator, under the provisions of this chapter, under any permit of the Commonwealth Transportation Board shall be borne by the renewable generator. The sum of the payment required by this section shall be paid to the Department of Transportation within 30 days from the receipt of a progress or final bill from the Department of Transportation.

§ 56-622. Renewable generator may contract for right-of-way.

A renewable generator may contract with any person that owns lands, or any interest, franchise, privilege, or easement therein or in respect thereto, over which distribution facilities are proposed to be constructed, for the right-of-way for erecting, repairing, and preserving its poles and other structures necessary for operating its facilities, and for sufficient land for the erection and occupation of offices at suitable distances along its distribution facilities.

§ 56-623. Construction of transmission facilities.

All posts, poles, wires, cables, lines, pipelines, conduits, and other distribution facilities erected under any authority conferred by this chapter shall be so located as in no way to obstruct or interfere with public travel or the ordinary use of, or the safety and convenience of persons traveling through, on, or over, the public roads, turnpikes, streets, avenues, alleys, railroads, or waters in or upon which the same may be erected. All distribution facilities erected as aforesaid shall be placed at such height as provided by regulations of the Commission or the Commonwealth Transportation Board. Buried distribution facilities shall be laid at such distance below the surface of any public road, turnpike, street, avenue, or alley, and at such distance from the outside of any gas or water main or other conduit already laid under such public road, turnpike, street, avenue, or alley, as prescribed by regulations of the Commission or by the Commonwealth Transportation Board. No distribution facilities shall be strung across or laid, nor posts or poles erected, upon the property of any person without first obtaining the consent of the owner thereof. Such distribution facilities shall not damage private property without compensation therefor, nor in any way obstruct the navigation of any stream, or impair or endanger the use thereof by the public or any other person entitled to the use of the same. In consideration of co-locating on existing rights of way, the renewable generator shall meet the respective safety and clearance standards of the public service corporation

including the National Electrical Safety Code, the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.), gas pipeline safety standards pursuant to § 56-257.2, and the public service corporation's own safety and clearance standards as the same are communicated to the renewable generator in writing, and any applicable federal laws and regulations.

§ 56-624. Restoring condition of ground.

The portions of the surface of the roads, turnpikes, streets, avenues, or alleys, or of any pavements opened up or disturbed in erecting, repairing, laying, or replacing distribution facilities under the provisions of this chapter shall be immediately restored to and maintained in good condition by the renewable generator doing such work. In case of the failure of the renewable generator to restore and maintain the same, the corporate authorities of the city or town, or the board of supervisors or other governing authority of the county, or the Commissioner of Highways, as the case may be, may properly restore and maintain the same, and the costs thereof may be recovered by the city or town, or county, or Commonwealth, from the renewable generator, in any court of proper jurisdiction.

2. That whenever any of the conditions, requirements, provisions, or contents of any section or chapter of Title 45.1, Title 67, or any other title of the Code of Virginia as such title existed prior to October 1, 2021, are transferred in the same or modified form to a new section or chapter of Title 45.2 or any other title of the Code of Virginia and whenever any such former section or chapter is given a new number in Title 45.2 or any other title, all references to any such former section or chapter of Title 45.1, Title 67, or any other title appearing in the Code of Virginia shall be construed to apply to the new or renumbered section or chapter containing such conditions, requirements, provisions, contents, or portions thereof.

3. That the regulations of any department or agency affected by the revision of Title 45.1 or such other titles of the Code of Virginia as are in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.

4. That the provisions of § 30-152 of the Code of Virginia shall apply to the revision of Title 45.1 and repeal of Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia so as to give effect to other laws enacted by the 2021 Session of the General Assembly, notwithstanding the delay in the effective date of this act.

5. That the repeal of Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, effective October 1, 2021, shall not affect any act or offense done or committed, any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, neither the repeal of Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), § 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, nor the enactment of Title 45.2 shall apply to offenses committed prior to October 1, 2021, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purposes of this enactment, an offense was committed prior to October 1, 2021, if any of the essential elements of the offense occurred prior thereto.

6. That any notice given, recognizance taken, or process or writ issued before October 1, 2021, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if Title 45.2 had been effective before the same was given, taken, or issued.

7. That if any clause, sentence, paragraph, subdivision, or section of Title 45.2 shall be adjudged in any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or section thereof directly involved in the controversy in which the judgment shall have been rendered, and to this end the provisions of Title 45.2 are declared severable.

8. That the repeal of Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, effective as of October 1, 2021, shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or other contract, that existed prior to such repeal.

9. That the repeal of Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, effective October 1, 2021, shall not affect the validity, enforceability, or legality of any properly recorded deed that was recorded prior to such repeal.

10. That the repeal of Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia, effective as of October 1, 2021, shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.

11. That Chapter 6.1 (§§ 11-34.1 through 11-34.4) of Title 11, Title 45.1 (§§ 45.1-161.1 through 45.1-399), §§ 62.1-195.1 and 62.1-195.3, and Title 67 (§§ 67-100 through 67-1700) of the Code of Virginia are repealed.

12. That the provisions of this act shall not affect the existing terms of persons currently serving as members of any agency, board, authority, commission, or other entity and that appointees currently holding positions shall maintain their terms of appointment and continue to serve until such time as the existing terms might expire or become renewed. However, any new appointments made on or after October 1, 2021, shall be made in accordance with the provisions of this act.

13. That the provisions of this act shall become effective on October 1, 2021.

CHAPTER 388

An Act to amend and reenact §§ 19.2-353.5 through 19.2-355 of the Code of Virginia, relating to fines and costs; accrual of interest; deferral or installment payment agreements.

[H 1895]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-353.5 through 19.2-355 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-353.5. Interest on fines and costs.

A. For purposes of this section, "incarcerated" or "incarceration" means confinement in a local or regional correctional facility, juvenile correctional facility, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

B. No interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction (i) for a period of 40 180 days ~~from~~ following the date of the final judgment imposing such fine or costs ~~or~~; (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration.

C. A person who owes fines and costs on which interest has accrued during a period of incarceration may move any court in which he owes fines and costs to waive the interest that accrued on such fines and costs during such period of incarceration. Upon certification of the period of incarceration by the superintendent, warden, or other official in charge of a correctional facility on a form developed by the Office of the Executive Secretary of the Supreme Court, such interest shall be waived.

D. In no event shall interest accrue in such cases during any period in which a fine, costs, or both a fine and costs are being paid in deferred or installment payments pursuant to an order of the court. Whenever interest on any unpaid fine or costs accrues, it shall accrue at the judgment rate of interest set forth in § 6.2-302.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. ~~Whenever~~ (i) a Any defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, who is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to may pay such fine, restitution, forfeiture, or penalty and any costs which that the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may shall authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money moneys collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money moneys collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;

3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons sentenced to local correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work (i) before or after imprisonment or (ii) in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

§ 19.2-354.1. Deferred or installment payment agreements.

A. For purposes of this section:

"Deferred payment agreement" means an agreement in which no installment payments are required and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's stated term.

"Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs" includes restitution unless the court orders a separate payment schedule for restitution.

"Installment payment agreement" means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

"Modified deferred payment agreement" means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

B. The court shall give a defendant ordered to pay fines and costs written notice of the availability of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work. The court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred payment agreement, modified deferred payment agreement, or installment payment agreement.

C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely (i) because of the category of offense for which the defendant was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and costs have been referred for collections pursuant to § 19.2-349, or (v) because the defendant has not established a payment history.

D. In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court shall take into account the defendant's financial resources and obligations, including any fines and costs owed by the defendant in other courts. In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

E. A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection. No court shall require a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement, in which case the court may

require a down payment pursuant to subsection I. Nothing in this section shall prevent a defendant from voluntarily making a down payment upon entering any payment agreement.

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. ~~A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement~~ *A defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement.* In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court ~~shall~~ *may* require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

§ 19.2-355. Petition of defendant.

(a) ~~In determining whether the defendant is unable to pay such fine forthwith, the~~ *The* court may require ~~such any~~ *any* defendant ~~entering a deferred, modified deferred, or installment payment agreement~~ to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.

(b) Such form shall be a questionnaire, and shall include, but shall not be limited to: the name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate; income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned by the defendant, or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant, ~~if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the court.~~ At the end of such form there shall be printed in bold face type, in a distinctive color the following: THIS STATEMENT IS MADE UNDER OATH, ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTION CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF § 18.2-434 OF THE CODE OF VIRGINIA. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE PENITENTIARY FOR A PERIOD OF TEN YEARS. A copy of the petition shall be retained by the defendant.

(c) If the defendant is unable to read or write, the court, or the clerk, may assist the defendant in completing the petition and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

CHAPTER 389

An Act to amend and reenact § 53.1-202.3, as it shall become effective, of the Code of Virginia, relating to earned sentence credits; revocation of suspended sentence.

[H 2010]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-202.3, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 53.1-202.3. (Effective July 1, 2022) Rate at which sentence credits may be earned; prerequisites.

A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for *a conviction for any offense of:*

1. A Class 1 felony;
2. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;
3. Any violation of § 18.2-40 or 18.2-45;
4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any person results from providing any material support, or of subsection A of § 18.2-46.6;
5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2;
6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, any violation of § 18.2-51.6 or 18.2-51.7, or any felony violation of § 18.2-57.2;
7. Any felony violation of § 18.2-60.3;
8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

9. Robbery under § 18.2-58 or carjacking under § 18.2-58.1;
10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
11. Any violation of § 18.2-90;
12. Any violation of § 18.2-289 or subsection A of § 18.2-300;
13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;
14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, except for a violation of § 18.2-362 or subsection B of § 18.2-371.1;
15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, except for a violation of subsection A of § 18.2-374.1:1;
16. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any violation of § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or
17. A second or subsequent violation of the following offenses, in any combination, when such offenses were not part of a common act, transaction, or scheme and such person has been at liberty as defined in § 53.1-151 between each conviction:
 - a. Any felony violation of § 3.2-6571;
 - b. Voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 - c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;
 - d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;
 - e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;
 - f. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;
 - g. Any violation of § 18.2-89 or 18.2-92;
 - h. Any violation of subsection A of § 18.2-374.1:1;
 - i. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or
 - j. Any violation of subdivision E 2 of § 40.1-29.

The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1.

B. For any offense other than those enumerated in subsection A for which sentence credits may be earned, earned sentence credits shall be awarded and calculated using the following four-level classification system:

1. Level I. For persons receiving Level I sentence credits, 15 days shall be deducted from the person's sentence for every 30 days served. Level I sentence credits shall be awarded to persons who participate in and cooperate with all programs to which the person is assigned pursuant to § 53.1-32.1 and who have no more than one minor correctional infraction and no serious correctional infractions as established by the Department's policies or procedures.

2. Level II. For persons receiving Level II sentence credits, 7.5 days shall be deducted from the person's sentence for every 30 days served. Level II sentence credits shall be awarded to persons who participate in and cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1, but who require improvement in not more than one area as established by the Department's policies or procedures.

3. Level III. For persons receiving Level III sentence credits, 3.5 days shall be deducted from the person's sentence for every 30 days served. Level III sentence credits shall be awarded to persons who participate in and cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1, but who require significant improvement in two or more areas as established by the Department's policies or procedures.

4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will be classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1 or that person causes substantial security or operational problems at the correctional facility as established by the Department's policies or procedures.

C. A person's classification level under subsection B shall be reviewed at least once annually, and the classification level may be adjusted based upon that person's participation in and cooperation with programs, job assignments, and educational curriculums assigned pursuant to § 53.1-32.1. A person's classification and calculation of earned sentence credits shall not be lowered or withheld due to a lack of programming, educational, or employment opportunities at the correctional facility at which the person is confined. Records from this review, including an explanation of the reasons why a person's classification level was or was not adjusted, shall be maintained in the person's correctional file.

D. A person's classification level under subsection B may be immediately reviewed and adjusted following removal from a program, job assignment, or educational curriculum that was assigned pursuant to § 53.1-32.1 for disciplinary or noncompliance reasons.

E. A person may appeal a reclassification determination under subsection C or D in the manner set forth in the grievance procedure established by the Director pursuant to his powers and duties as set forth in § 53.1-10.

F. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.

G. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

CHAPTER 390

An Act to amend and reenact §§ 4.1-206, 4.1-206.3, as it shall become effective, 4.1-231, 4.1-231.1, as it shall become effective, 4.1-233, 4.1-233.1, as it shall become effective, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; designated outdoor refreshment area license.

[H 2266]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206, 4.1-206.3, as it shall become effective, 4.1-231, 4.1-231.1, as it shall become effective, 4.1-233, 4.1-233.1, as it shall become effective, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or

charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. ~~Local special events~~ *Designated outdoor refreshment area* license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* to sell alcoholic beverages within the permanent retail location for consumption in the

area designated for the ~~special event~~ *designated outdoor refreshment area*, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the ~~special event~~ *designated outdoor refreshment area*, the Board shall consult with the locality. ~~Local special events~~ *Designated outdoor refreshment area* licensees shall be limited to 16 ~~special~~ events per year, and the duration of any ~~special~~ event shall not exceed three consecutive days. *However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board.* Such limitations on the number of ~~special~~ events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, ~~local special events~~ *designated outdoor refreshment area* licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the ~~special~~ event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the ~~local special events~~ *designated outdoor refreshment area* licensee. The ~~local special events~~ *designated outdoor refreshment area* licensee shall post appropriate signage clearly demarcating for the public the boundaries of the ~~special~~ event; however, no physical barriers shall be required for this purpose. The ~~local special events~~ *designated outdoor refreshment area* licensee shall provide adequate security for the ~~special~~ event to ensure compliance with the applicable provisions of this title and Board regulations.

18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member and up to two guests of each member, provided that such member and guests are persons who may lawfully consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.

19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the

control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common

alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation

in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. ~~Local special events~~ *Designated outdoor refreshment area* licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the ~~special event~~ *designated outdoor refreshment area*, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the ~~special event~~ *designated outdoor refreshment area*, the Board shall consult with the locality. ~~Local special events~~ *Designated outdoor refreshment area* licensees shall be limited to 16 ~~special events~~ per year, and the duration of any ~~special event~~ shall not exceed three consecutive days. *However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board.* Such limitations on the number of ~~special events~~ that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, ~~local special events~~ *designated outdoor refreshment area* licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the ~~special event~~, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the ~~local special events~~ *designated outdoor refreshment area* licensee. The ~~local special events~~ *designated outdoor refreshment area* licensee shall post appropriate signage clearly demarcating for the public the boundaries of the ~~special event~~; however, no physical barriers shall be required for this purpose. The ~~local special events~~ *designated outdoor refreshment area* licensee shall provide adequate security for the ~~special event~~ to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services;

(iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.
2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.
3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.
4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.
5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:
 - a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
 - b. Fruit distiller's license, \$3,725;
 - c. Banquet facility license or museum license, \$190;
 - d. Bed and breakfast establishment license, \$35;
 - e. Tasting license, \$40 per license granted;
 - f. Equine sporting event license, \$130;
 - g. Motor car sporting event facility license, \$130;
 - h. Day spa license, \$100;
 - i. Delivery permit, \$120 if the permittee holds no other license under this title;
 - j. Meal-assembly kitchen license, \$100;
 - k. Canal boat operator license, \$100;
 - l. Annual arts venue event license, \$100;
 - m. Art instruction studio license, \$100;
 - n. Commercial lifestyle center license, \$300;
 - o. Confectionery license, \$100;
 - p. ~~Local special events~~ *Designated outdoor refreshment area* license, \$300. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;*
 - q. Coworking establishment license, \$500; and
 - r. Bespoke clothier establishment license, \$100.
2. Wine licenses. For each:
 - a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
 - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$230; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$230;

i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and

j. Internet beer retailer license, \$150.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail on-premises wine and beer license to a historic cinema house, \$200;

d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

g. Gourmet brewing shop license, \$230;

h. Wine and beer shipper's license, \$230;

i. Annual banquet license, \$150;

j. Fulfillment warehouse license, \$120;

k. Marketing portal license, \$150; and

l. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

- f. Mixed beverage club events licenses, \$35 for each day of each event;
 - g. Annual mixed beverage special events license, \$560;
 - h. Mixed beverage carrier license:
 - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (ii) \$560 for each common carrier of passengers by boat;
 - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 - i. Annual mixed beverage amphitheater license, \$560;
 - j. Annual mixed beverage motor sports race track license, \$560;
 - k. Annual mixed beverage banquet license, \$500;
 - l. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$460;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 - m. Annual mixed beverage motor sports facility license, \$560; and
 - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-231.1. (Effective July 1, 2021) Fees on state licenses.

A. (For expiration date, see Editor's note) The annual fees on state licenses shall be as follows:

- 1. Manufacturer licenses. For each:
 - a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000 gallons manufactured during such year, \$4,060;
 - b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels manufactured during such year, \$4,690;
 - c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;
 - d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;
 - e. Wine importer's license, \$460; and
 - f. Beer importer's license, \$460.
- 2. Wholesale licenses. For each:

a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, \$1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, \$3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, \$1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, \$2,440; and

(3) With an average yearly membership of more than 500 resident members, \$3,410;

c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the premises of the casino gaming establishment;

d. Mixed beverage caterer's license, \$1,990;

e. Mixed beverage limited caterer's license, \$550;

f. Mixed beverage carrier license:

(1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) \$910 for each common carrier of passengers by boat;

(3) \$520 for each common carrier of passengers by bus; and

(4) \$2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, \$630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, \$945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and

(3) With a seating capacity at tables for more than 150 persons, \$1,875;

i. Annual mixed beverage performing arts facility license, \$630;

j. Bed and breakfast license, \$100;

k. Museum license, \$260;

l. Motor car sporting event facility license, \$300;

m. Commercial lifestyle center license, \$300;

n. Mixed beverage port restaurant license, \$1,050; and

o. Annual mixed beverage special events license, \$630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, \$450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, \$300;

b. Gourmet brewing shop license, \$320; and

c. Confectionery license, \$170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

(2) Mixed beverage special events license, \$45 for each day of each event;

(3) Mixed beverage club events license, \$35 for each day of each event; and

(4) Tasting license, \$40.

b. Annual licenses. For each:

(1) Annual banquet license, \$300;

- (2) Banquet facility license, \$260;
- (3) ~~Local special events~~ *Designated outdoor refreshment area* license, \$300. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;*
- (4) Annual mixed beverage banquet license, \$630;
- (5) Equine sporting event license, \$300; and
- (6) Annual arts venue event license, \$300.
- 7. Retail licenses — marketplace. For each marketplace license, \$1,000.
- 8. Retail licenses — shipper, bottler, and related licenses. For each:
 - a. Wine and beer shipper's license, \$230;
 - b. Internet wine and beer retailer license, \$240;
 - c. Bottler license, \$1,500;
 - d. Fulfillment warehouse license, \$210; and
 - e. Marketing portal license, \$285.
- 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-233. (Repealed effective July 1, 2021) Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

- 1. Alcoholic beverages. — For each:
 - a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 - b. Fruit distiller's license, \$1,500;
 - c. Bed and breakfast establishment license, \$40;
 - d. Museum license, \$10;
 - e. Tasting license, \$5 per license granted;
 - f. Equine sporting event license, \$10;
 - g. Day spa license, \$20;
 - h. Motor car sporting event facility license, \$10;
 - i. Meal-assembly kitchen license, \$20;
 - j. Canal boat operator license, \$20;
 - k. Annual arts venue event license, \$20;
 - l. Art instruction studio license, \$20;
 - m. Commercial lifestyle center license, \$60;
 - n. Confectionery license, \$20;
 - o. ~~Local special events~~ *Designated outdoor refreshment area* license, \$60. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$600;*
 - p. Coworking establishment license, \$50; and
 - q. Bespoke clothier establishment license, \$20.
- 2. Beer. — For each:
 - a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;
 - b. Bottler's license, \$500;
 - c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 - d. Retail on-premises beer license for a hotel, restaurant, club or other person and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
 - e. Beer shipper's license, \$10.
- 3. Wine. — For each:
 - a. Winery license, \$50;

- b. Wholesale wine license, \$50;
- c. Farm winery license, \$50; and
- d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Historic cinema house license, \$20;

d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

e. Gourmet brewing shop license, \$150;

f. Wine and beer shipper's license, \$10;

g. Annual banquet license, \$15; and

h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

5. Mixed beverages. — For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$200;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage limited caterer's license, \$100;

e. Mixed beverage special events licenses, \$10 for each day of each event;

f. Mixed beverage club events licenses, \$10 for each day of each event;

g. Annual mixed beverage amphitheater license, \$300;

h. Annual mixed beverage motor sports race track license, \$300;

i. Annual mixed beverage banquet license, \$75;

j. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$100;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

(iii) With a seating capacity at tables for more than 150 persons, \$400;

k. Annual mixed beverage motor sports facility license, \$300; and

l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

§ 4.1-233.1. (Effective July 1, 2021) Fees on local licenses.

A. In addition to the state license taxes, the annual local license taxes that may be collected shall not exceed the following sums:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 10,000 barrels manufactured during such year, \$1,000;

c. Winery license, \$50; and

d. Farm winery license, \$50.

2. Wholesale licenses. For each:

a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

b. Wholesale wine license, \$50.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, \$200;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$500;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$650; and

(5) With a seating capacity at tables for more than 1,000 persons, \$800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, \$350;

c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the premises of the casino gaming establishment;

d. Mixed beverage caterer's license, \$500;

e. Mixed beverage limited caterer's license, \$100;

f. Annual mixed beverage motor sports facility license, \$300;

g. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, \$100;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; and

(3) With a seating capacity at tables for more than 150 persons, \$400;

h. Annual mixed beverage performing arts facility license, \$300;

i. Bed and breakfast license, \$40;

j. Museum license, \$10;

k. Motor car sporting event facility license, \$10;

l. Commercial lifestyle center license, \$60; and

m. Annual mixed beverage special events license, \$300.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:

a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;

b. Hospitals, \$10;

c. Rural grocery stores, \$37.50; and

d. Historic cinema houses, \$20.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;

b. Gourmet brewing shop license, \$150; and

c. Confectionery license, \$20.

6. Retail licenses — banquet, special event, and tasting licenses. For each:

a. Per-day event licenses. For each:

(1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

(2) Mixed beverage special events license, \$10 for each day of each event;

(3) Mixed beverage club events license, \$10 for each day of each event; and

(4) Tasting license, \$10.

b. Annual licenses. For each:

(1) Annual banquet license, \$15;

(2) ~~Local special events~~ Designated outdoor refreshment area license, \$60. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$600;

(3) Annual mixed beverage banquet license, \$75;

- (4) Equine sporting event license, \$10; and
- (5) Annual arts venue event license, \$10.
- 7. Retail licenses — marketplace. For each marketplace license, \$200.
- 8. Retail licenses — shipper, bottler, and related licenses. For each:
 - a. Wine and beer shipper's license, \$10; and
 - b. Bottler license, \$500.

B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.

E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.

§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license, mixed beverage special events license, or ~~local special events~~ *designated outdoor refreshment area* license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.

CHAPTER 391

An Act to amend and reenact §§ 4.1-206, 4.1-206.3, as it shall become effective, 4.1-231, 4.1-231.1, as it shall become effective, 4.1-233, 4.1-233.1, as it shall become effective, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; designated outdoor refreshment area license.

[S 1471]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206, 4.1-206.3, as it shall become effective, 4.1-231, 4.1-231.1, as it shall become effective, 4.1-233, 4.1-233.1, as it shall become effective, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license

shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. ~~Local special events~~ *Designated outdoor refreshment area* license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the ~~special event~~ *designated outdoor refreshment area*, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the ~~special event~~ *designated outdoor refreshment area*, the Board shall consult with the locality. ~~Local special events~~ *Designated outdoor refreshment area* licensees shall be limited to 16 ~~special~~ events per year, and the duration of any ~~special~~ event shall not exceed three consecutive days. *However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board.* Such limitations on the number of ~~special~~ events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, ~~local special events~~ *designated outdoor refreshment area* licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the ~~special~~ event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way

by the local special events designated outdoor refreshment area licensee. The local special events designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events designated outdoor refreshment area licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.

18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member and up to two guests of each member, provided that such member and guests are persons who may lawfully consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.

19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on

another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and

serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas

covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The

licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. ~~Local special events~~ *Designated outdoor refreshment area* licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the ~~special event~~ *designated outdoor refreshment area* to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the ~~special event~~ *designated outdoor refreshment area*, including sidewalks and the premises of businesses not licensed to

sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the *special event designated outdoor refreshment area*, the Board shall consult with the locality. *Local special events Designated outdoor refreshment area* licensees shall be limited to 16 *special events* per year, and the duration of any *special event* shall not exceed three consecutive days. *However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board.* Such limitations on the number of *special events* that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, *local special events designated outdoor refreshment area* licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the *special event*, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the *local special events designated outdoor refreshment area* licensee. The *local special events designated outdoor refreshment area* licensee shall post appropriate signage clearly demarcating for the public the boundaries of the *special event*; however, no physical barriers shall be required for this purpose. The *local special events designated outdoor refreshment area* licensee shall provide adequate security for the *special event* to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.
2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.
3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for

the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

j. Meal-assembly kitchen license, \$100;

k. Canal boat operator license, \$100;

l. Annual arts venue event license, \$100;

m. Art instruction studio license, \$100;

n. Commercial lifestyle center license, \$300;

o. Confectionery license, \$100;

p. ~~Local special events~~ *Designated outdoor refreshment area* license, \$300. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;*

q. Coworking establishment license, \$500; and

r. Bespoke clothier establishment license, \$100.

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$230; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

- c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
- d. Beer importer's license, \$370;
- e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
- f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
- h. Beer shipper's license, \$230;
- i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
- j. Internet beer retailer license, \$150.
4. Wine and beer licenses. For each:
- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
- b. Retail on-premises wine and beer license to a hospital, \$145;
- c. Retail on-premises wine and beer license to a historic cinema house, \$200;
- d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
- e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
- f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- g. Gourmet brewing shop license, \$230;
- h. Wine and beer shipper's license, \$230;
- i. Annual banquet license, \$150;
- j. Fulfillment warehouse license, \$120;
- k. Marketing portal license, \$150; and
- l. Gourmet oyster house license, \$230.
5. Mixed beverage licenses. For each:
- a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
- (i) With a seating capacity at tables for up to 100 persons, \$560;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
- (i) With an average yearly membership of not more than 200 resident members, \$750;
 - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
 - (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- c. Mixed beverage caterer's license, \$1,860;
- d. Mixed beverage limited caterer's license, \$500;
- e. Mixed beverage special events license, \$45 for each day of each event;
- f. Mixed beverage club events licenses, \$35 for each day of each event;
- g. Annual mixed beverage special events license, \$560;
- h. Mixed beverage carrier license:
- (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (ii) \$560 for each common carrier of passengers by boat;
 - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- i. Annual mixed beverage amphitheater license, \$560;
- j. Annual mixed beverage motor sports race track license, \$560;
- k. Annual mixed beverage banquet license, \$500;
- l. Limited mixed beverage restaurant license:
- (i) With a seating capacity at tables for up to 100 persons, \$460;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-231.1. (Effective July 1, 2021) Fees on state licenses.

A. (For expiration date, see Editor's note) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000 gallons manufactured during such year, \$4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels manufactured during such year, \$4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;

d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;

e. Wine importer's license, \$460; and

f. Beer importer's license, \$460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

- (1) With a seating capacity at tables for up to 100 persons, \$1,050;
- (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;
- (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$1,980;
- (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$2,500; and
- (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;
- b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
 - (1) With an average yearly membership of not more than 200 resident members, \$1,250;
 - (2) With an average yearly membership of more than 200 but not more than 500 resident members, \$2,440; and
 - (3) With an average yearly membership of more than 500 resident members, \$3,410;
- c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the premises of the casino gaming establishment;
 - d. Mixed beverage caterer's license, \$1,990;
 - e. Mixed beverage limited caterer's license, \$550;
 - f. Mixed beverage carrier license:
 - (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (2) \$910 for each common carrier of passengers by boat;
 - (3) \$520 for each common carrier of passengers by bus; and
 - (4) \$2,360 for each license granted to a common carrier of passengers by airplane;
 - g. Annual mixed beverage motor sports facility license, \$630;
 - h. Limited mixed beverage restaurant license:
 - (1) With a seating capacity at tables for up to 100 persons, \$945;
 - (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
 - (3) With a seating capacity at tables for more than 150 persons, \$1,875;
 - i. Annual mixed beverage performing arts facility license, \$630;
 - j. Bed and breakfast license, \$100;
 - k. Museum license, \$260;
 - l. Motor car sporting event facility license, \$300;
 - m. Commercial lifestyle center license, \$300;
 - n. Mixed beverage port restaurant license, \$1,050; and
 - o. Annual mixed beverage special events license, \$630.
- 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, \$450.
- 5. Retail licenses — off-premises wine and beer. For each:
 - a. Retail off-premises wine and beer license, \$300;
 - b. Gourmet brewing shop license, \$320; and
 - c. Confectionery license, \$170.
- 6. Retail licenses — banquet, special event, and tasting licenses.
 - a. Per-day event licenses. For each:
 - (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
 - (2) Mixed beverage special events license, \$45 for each day of each event;
 - (3) Mixed beverage club events license, \$35 for each day of each event; and
 - (4) Tasting license, \$40.
 - b. Annual licenses. For each:
 - (1) Annual banquet license, \$300;
 - (2) Banquet facility license, \$260;
 - (3) ~~Local special events~~ *Designated outdoor refreshment area* license, \$300. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;*
 - (4) Annual mixed beverage banquet license, \$630;
 - (5) Equine sporting event license, \$300; and
 - (6) Annual arts venue event license, \$300.
- 7. Retail licenses — marketplace. For each marketplace license, \$1,000.
- 8. Retail licenses — shipper, bottler, and related licenses. For each:
 - a. Wine and beer shipper's license, \$230;
 - b. Internet wine and beer retailer license, \$240;
 - c. Bottler license, \$1,500;
 - d. Fulfillment warehouse license, \$210; and
 - e. Marketing portal license, \$285.
- 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-233. (Repealed effective July 1, 2021) Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40;

d. Museum license, \$10;

e. Tasting license, \$5 per license granted;

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

h. Motor car sporting event facility license, \$10;

i. Meal-assembly kitchen license, \$20;

j. Canal boat operator license, \$20;

k. Annual arts venue event license, \$20;

l. Art instruction studio license, \$20;

m. Commercial lifestyle center license, \$60;

n. Confectionery license, \$20;

o. ~~Local special events~~ *Designated outdoor refreshment area* license, \$60. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$600;*

p. Coworking establishment license, \$50; and

q. Bespoke clothier establishment license, \$20.

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

d. Retail on-premises beer license for a hotel, restaurant, club or other person and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and

e. Beer shipper's license, \$10.

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Historic cinema house license, \$20;

d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

e. Gourmet brewing shop license, \$150;

f. Wine and beer shipper's license, \$10;

g. Annual banquet license, \$15; and

h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

5. Mixed beverages. — For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

- (i) With a seating capacity at tables for up to 100 persons, \$200;
- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- (iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage limited caterer's license, \$100;

e. Mixed beverage special events licenses, \$10 for each day of each event;

f. Mixed beverage club events licenses, \$10 for each day of each event;

g. Annual mixed beverage amphitheater license, \$300;

h. Annual mixed beverage motor sports race track license, \$300;

i. Annual mixed beverage banquet license, \$75;

j. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$100;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

(iii) With a seating capacity at tables for more than 150 persons, \$400;

k. Annual mixed beverage motor sports facility license, \$300; and

l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

§ 4.1-233.1. (Effective July 1, 2021) Fees on local licenses.

A. In addition to the state license taxes, the annual local license taxes that may be collected shall not exceed the following sums:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 10,000 barrels manufactured during such year, \$1,000;

c. Winery license, \$50; and

d. Farm winery license, \$50.

2. Wholesale licenses. For each:

a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

b. Wholesale wine license, \$50.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

- (1) With a seating capacity at tables for up to 100 persons, \$200;
- (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;
- (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$500;
- (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$650; and
- (5) With a seating capacity at tables for more than 1,000 persons, \$800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, \$350;

c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the premises of the casino gaming establishment;

d. Mixed beverage caterer's license, \$500;

e. Mixed beverage limited caterer's license, \$100;

f. Annual mixed beverage motor sports facility license, \$300;

g. Limited mixed beverage restaurant license:

- (1) With a seating capacity at tables for up to 100 persons, \$100;
- (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or
- (3) With a seating capacity at tables for more than 150 persons, \$400;

h. Annual mixed beverage performing arts facility license, \$300;

i. Bed and breakfast license, \$40;

j. Museum license, \$10;

k. Motor car sporting event facility license, \$10;

l. Commercial lifestyle center license, \$60; and

m. Annual mixed beverage special events license, \$300.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:

a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;

b. Hospitals, \$10;

c. Rural grocery stores, \$37.50; and

d. Historic cinema houses, \$20.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;

b. Gourmet brewing shop license, \$150; and

c. Confectionery license, \$20.

6. Retail licenses — banquet, special event, and tasting licenses. For each:

a. Per-day event licenses. For each:

(1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

(2) Mixed beverage special events license, \$10 for each day of each event;

(3) Mixed beverage club events license, \$10 for each day of each event; and

(4) Tasting license, \$10.

b. Annual licenses. For each:

(1) Annual banquet license, \$15;

(2) ~~Local special events~~ *Designated outdoor refreshment area* license, \$60. *However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$600;*

(3) Annual mixed beverage banquet license, \$75;

(4) Equine sporting event license, \$10; and

(5) Annual arts venue event license, \$10.

7. Retail licenses — marketplace. For each marketplace license, \$200.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, \$10; and

b. Bottler license, \$500.

B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local

merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.

E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.

§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license, mixed beverage special events license, or ~~local special events~~ *designated outdoor refreshment area* license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.

CHAPTER 392

An Act to direct the Board of Local and Regional Jails to review services provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery; report.

[S 1300]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Board of Local and Regional Jails (the Board) shall conduct a review of services provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery. In conducting such review, the Board shall (i) identify and analyze all obstetric and gynecological services and any other services provided by local and regional jails to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery; (ii) compare such services to best practices recommended by the American Correctional Association, American Jail Association, National Commission on Correctional Health Care, and American College of Obstetricians and Gynecologists; and (iii) develop recommendations to ensure that proper services are provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery.*

§ 2. *In the course of such review, the Board shall convene and consult with a stakeholder work group composed of the following members: representatives of the Indigent Defense Commission, Legal Aid Justice Center, Virginia Sheriffs' Association, and Virginia Association of Regional Jails; at least one physician and one mental health professional who provides care to inmates; at least one obstetrician, one birth advocate, and one reproductive rights advocate; at least two former inmates who were pregnant or gave birth while incarcerated in a local or regional jail; and other interested stakeholders. No more than half of the work group members shall be employees of or under contract with a local or regional jail.*

The Board shall also, as necessary, consult with other relevant stakeholders and experts, including the Department of the Treasury's Division of Risk Management.

§ 3. *Any records or information obtained from current or former inmates during such review shall be used only for purposes of conducting the review required by this act and shall be confidential and exempt from mandatory disclosure*

under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia). No report or other document generated by the Board or the work group during the review shall contain identifying information specific to any current or former inmate, local or regional jail, or prior case or complaint.

§ 4. The Board shall report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the Senate Committee on the Judiciary, Senate Committee on Rehabilitation and Social Services, House Committee for Courts of Justice, and House Committee on Public Safety by July 1, 2022. The Board shall post such report on its website.

§ 5. The Board shall adopt regulations consistent with its findings and recommendations.

CHAPTER 393

An Act to amend and reenact §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia, relating to orders of restitution; enforcement.

[S 1426]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-305.1. Restitution for property damage or loss; community service.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk

shall record receipt of restitution payments in an automated financial management system operated and maintained by the Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim's name and contact information, including the victim's home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim's contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.

F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant's release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.

2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant's release from incarceration, on which the defendant's compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.

3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.

4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant's compliance with the restitution order.

5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant's release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.

6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.

7. At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. The probation officer for the defendant shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation officer shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record prior to his release from supervision.

8. At every hearing conducted pursuant to subdivision 2 where the attorney for the Commonwealth participated in the prosecution and the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. If the attorney for the Commonwealth participated in the prosecution of the offense, the attorney for the Commonwealth shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the attorney for the Commonwealth shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record.

G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims. When depositing such restitution to the Fund, the clerk shall report the victim's last known contact information, including the victim's home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each victim appearing from the clerk's report to be entitled to restitution. The victim's contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.

J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.*

§ 19.2-305.2. Amount of restitution; enforcement.

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution ~~may~~ shall be docketed, *in the name of the Commonwealth, or a locality if applicable, on behalf of the victim*, as provided in § 8.01-446 when so ordered by the court ~~or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action, unless the victim named in the order of restitution requests in writing that the order be docketed in the name of the victim. An order of restitution docketed in the name of the victim shall be enforced by the victim as a civil judgment. The clerk shall record and disburse restitution payments as provided in subsection D of § 19.2-305.1 and subsection A of § 19.2-354 in~~

accordance with orders of restitution or judgments for restitution docketed in the name of the Commonwealth or a locality. At any time before a judgment for restitution docketed in the name of the Commonwealth or a locality is satisfied, the court shall, at the written request of the victim, order the circuit court clerk to execute and docket an assignment of the judgment to the victim. The circuit court clerk shall remove from its automated financial system the amount of unpaid restitution upon docketing the assignment. If a judge of a district court orders the circuit court clerk to execute and docket an assignment of the judgment to the victim, the district court clerk shall remove from its automated financial system the amount of unpaid restitution upon sending the order to the circuit court clerk. If the victim requests that the order of restitution be docketed in the name of the victim or that a judgment for restitution previously docketed in the name of the Commonwealth or a locality be assigned to the victim, the victim shall provide to the court an address where the defendant can mail payment for the amount due and such address shall not be confidential. When a judgment for restitution previously docketed in the name of the Commonwealth or a locality is ordered to be assigned to the victim, the court shall provide notice of such order to the defendant at the defendant's last known address and shall include the mailing address provided by the victim. Enforcement by a victim of any order of restitution docketed as provided in § 8.01-446 is not subject to any statute of limitations. Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.

§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:

1. A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and

2. A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

D. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to

collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor, the General Assembly, the Chairmen of the House and Senate Committees for Courts of Justice, and the Virginia State Crime Commission on the total of restitution assessed, collected, and unpaid for each circuit and district court and the total of restitution collected and deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1 by each circuit and district court.

E. The provisions of this section shall not apply to any orders of restitution docketed in the name of the victim or when it is ordered that an assignment of the judgment for restitution to the victim be docketed.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture, or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.* Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;
3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons sentenced to local correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work (i) before or after imprisonment or (ii) in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

CHAPTER 394

An Act to require the Board of Education to temporarily extend certain teachers' licenses.

[H 1776]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Board of Education shall grant a two-year extension of the license of any individual licensed by the Board of Education pursuant to its authority in subsection B of § 22.1-298.1 of the Code of Virginia whose license expires on June 30, 2021, in order to provide the individual with sufficient additional time to complete the requirements for licensure.*

CHAPTER 395

An Act to amend the Code of Virginia by adding a section numbered 40.1-27.4, relating to employee protections; medicinal use of cannabis oil.

[H 1862]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. **That the Code of Virginia is amended by adding a section numbered 40.1-27.4 as follows:**

§ 40.1-27.4. Discipline for employee's medicinal use of cannabis oil prohibited.

A. *As used in this section, "cannabis oil" means the same as that term is defined in § 54.1-3408.3.*

B. *No employer shall discharge, discipline, or discriminate against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to § 54.1-3408.3.*

C. *Notwithstanding the provisions of subsection B, nothing in this section shall (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours, (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding, or (iii) require any defense industrial base sector employer or prospective employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of 50 ng/ml for a urine test or 10 pg/mg for a hair test.*

CHAPTER 396

An Act to amend and reenact §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia, relating to practice of certified nurse midwives.

[H 1817]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. **That §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. *As used in this section:*

"Clinical "clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a ~~nurse practitioner licensed by the Boards of Medicine and Nursing~~ as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. ~~A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse anesthetist~~ *anesthetist* shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. ~~Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of Every~~ certified nurse midwife shall practice in ~~consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate accordance with regulations, adopted by the Boards and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice. A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement shall address the availability of the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician for routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained by the~~

certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician. Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician or shall clearly state the name of the patient care team physician who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician and information regarding how to contact the patient care team physician.

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time to more than six nurse practitioners.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe ~~(i)~~ Schedules II through ~~V~~ VI controlled substances. *However, if the nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife is required, pursuant to subsection H of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall also be in accordance with any prescriptive authority included in a such practice agreement with a licensed physician pursuant to subsection H of § 54.1-2957 and* ~~(ii) Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.~~

H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

§ 54.1-2957.03. Certified nurse midwives; required disclosures; liability.

A. As used in this section, "birthing center" means a facility outside a hospital that provides maternity services.

B. A certified nurse midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

C. ~~The~~ *A* certified nurse midwife who ~~provided~~ *provides* health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) *physician assistant*, (iii) *nurse practitioner*, ~~(iii)~~ (iv) prehospital emergency medical personnel, or ~~(iv)~~ (v) hospital as defined in § 32.1-123, or ~~agents thereof, who~~ *any employee of, person providing services pursuant to a contract with, or agent of such hospital, that* provides screening and stabilization health care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

2. That any certified nurse midwife who has practiced as a certified nurse midwife in the Commonwealth for at least 1,000 hours, as determined by the Boards of Medicine and Nursing, prior to the effective date of this act shall be deemed to have met the requirements of subsection H of § 54.1-2957 of the Code of Virginia, as amended by this act, related to requirements for practice as a certified nurse midwife without a practice agreement and shall be eligible to practice as a certified nurse midwife in the Commonwealth without a practice agreement.

CHAPTER 397

An Act to amend the Code of Virginia by adding a section numbered 23.1-2911.2, relating to the establishment of the Get Skilled, Get a Job, Give Back (G3) Fund and Program.

[H 2204]

Approved March 29, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-2911.2 as follows:

§ 23.1-2911.2. Get Skilled, Get a Job, Give Back Fund and Program.

A. As used in this section, "high-demand field" means a discipline or field in which there is a shortage of skilled workers to fill current and anticipated additional job vacancies.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Get Skilled, Get a Job, Give Back (G3) Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financial assistance pursuant to subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chancellor.

C. The System shall establish the *Get Skilled, Get a Job, Give Back Program (G3 Program)* for the purpose of providing financial assistance from the Fund to low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field.

D. The Virginia Board of Workforce Development, in consultation with the System, the Council, and the staffs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations, shall make recommendations to the Governor and General Assembly, no later than December 1 of each year, for additions or other changes to the high-demand fields that qualify for financial assistance under the G3 Program.

E. In order to be eligible for financial assistance under the G3 Program, an applicant shall (i) report a total household income that is not more than 400 percent of the federal poverty guidelines established by the U.S. Department of Health and Human Services; (ii) be enrolled or accepted for enrollment, (a) as a full-time student or a part-time student, for a minimum of six credit hours per semester, in a credit-bearing educational program or (b) in a noncredit educational program, at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field; and (iii) have completed and submitted applications for any other federal or state student financial aid program for which the applicant may be eligible.

F. In order to remain eligible for financial assistance under the G3 Program, a participating student shall (i) meet standards for satisfactory academic progress and maintain the required grade point average established in Title IV of the federal Higher Education Act of 1965, as amended; (ii) demonstrate reasonable progress to complete his specific program of study to earn an associate degree in no more than three years; and (iii) not exceed 150 percent of the required credits for the relevant certificate or degree.

G. Each financial assistance award under the G3 Program shall consist of (i) a grant up to the amount necessary to pay for the last-dollar cost of the institution's tuition and mandatory fees and a textbook stipend after all other federal and state financial aid to which the student is entitled is taken into account and (ii) for any student who is enrolled full time and receives a full Federal Pell Grant, a student-support incentive grant as provided in the general appropriation act. Each student-support incentive grant shall be disbursed in two equal payments, the first of which shall occur after the census date for the enrollment period is reached and the second of which shall occur at the end of the academic term for which the student receives the grant, provided, however, that no student who withdraws from or otherwise stops attending the institution during such term shall receive additional payments and that each such student shall be subject to repayment of the funds already received in accordance with state financial aid policies.

H. Each eligible institution that participates in the G3 Program shall provide academic and career advising to all students enrolled in the G3 Program.

I. No later than September 1 of each year, each associate-degree-granting public institution of higher education shall submit to the Council and the System a report with data from the previous fiscal year on student participation in and completion of the G3 Program, including (i) data on student enrollment, student retention rates between academic terms and years, and student wages, including median wages prior to enrollment and one year after completion of a credential or degree and wage rates of students who have not enrolled in over a year and did not complete a credential, and (ii) a comparison of job demand and completion rates. Such data shall be disaggregated by program of study and student income level at the start of participation in the G3 program. The Council and System shall work collaboratively to compile the data provided by each associate-degree-granting public institution of higher education and annually report such data, in the aggregate and by program of study, institution, and student income level at the start of participation in the G3 program, to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Education, and the Senate Committee on Education and Health.

J. No later than September 1 of each year, each associate-degree-granting public institution of higher education that participates in the G3 Program shall adopt and amend, as necessary, policies and procedures to ensure that student participation in the G3 Program does not cause financial assistance awards to exceed funds available for such purpose.

CHAPTER 398

An Act to amend the Code of Virginia by adding a section numbered 23.1-2911.2, relating to the establishment of the *Get Skilled, Get a Job, Give Back (G3) Fund and Program*.

[S 1405]

Approved March 29, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-2911.2 as follows:

§ 23.1-2911.2. *Get Skilled, Get a Job, Give Back Fund and Program.*

A. As used in this section, "high-demand field" means a discipline or field in which there is a shortage of skilled workers to fill current and anticipated additional job vacancies.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the *Get Skilled, Get a Job, Give Back (G3) Fund*, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury

and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financial assistance pursuant to subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chancellor.

C. The System shall establish the Get Skilled, Get a Job, Give Back Program (G3 Program) for the purpose of providing financial assistance from the Fund to low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field.

D. The Virginia Board of Workforce Development, in consultation with the System, the Council, and the staffs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations, shall make recommendations to the Governor and General Assembly, no later than December 1 of each year, for additions or other changes to the high-demand fields that qualify for financial assistance under the G3 Program.

E. In order to be eligible for financial assistance under the G3 Program, an applicant shall (i) report a total household income that is not more than 400 percent of the federal poverty guidelines established by the U.S. Department of Health and Human Services; (ii) be enrolled or accepted for enrollment, (a) as a full-time student or a part-time student, for a minimum of six credit hours per semester, in a credit-bearing educational program or (b) in a noncredit educational program, at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field; and (iii) have completed and submitted applications for any other federal or state student financial aid program for which the applicant may be eligible.

F. In order to remain eligible for financial assistance under the G3 Program, a participating student shall (i) meet standards for satisfactory academic progress and maintain the required grade point average established in Title IV of the federal Higher Education Act of 1965, as amended; (ii) demonstrate reasonable progress to complete his specific program of study to earn an associate degree in no more than three years; and (iii) not exceed 150 percent of the required credits for the relevant certificate or degree.

G. Each financial assistance award under the G3 Program shall consist of (i) a grant up to the amount necessary to pay for the last-dollar cost of the institution's tuition and mandatory fees and a textbook stipend after all other federal and state financial aid to which the student is entitled is taken into account and (ii) for any student who is enrolled full time and receives a full Federal Pell Grant, a student-support incentive grant as provided in the general appropriation act. Each student-support incentive grant shall be disbursed in two equal payments, the first of which shall occur after the census date for the enrollment period is reached and the second of which shall occur at the end of the academic term for which the student receives the grant, provided, however, that no student who withdraws from or otherwise stops attending the institution during such term shall receive additional payments and that each such student shall be subject to repayment of the funds already received in accordance with state financial aid policies.

H. Each eligible institution that participates in the G3 Program shall provide academic and career advising to all students enrolled in the G3 Program.

I. No later than September 1 of each year, each associate-degree-granting public institution of higher education shall submit to the Council and the System a report with data from the previous fiscal year on student participation in and completion of the G3 Program, including (i) data on student enrollment, student retention rates between academic terms and years, and student wages, including median wages prior to enrollment and one year after completion of a credential or degree and wage rates of students who have not enrolled in over a year and did not complete a credential, and (ii) a comparison of job demand and completion rates. Such data shall be disaggregated by program of study and student income level at the start of participation in the G3 program. The Council and System shall work collaboratively to compile the data provided by each associate-degree-granting public institution of higher education and annually report such data, in the aggregate and by program of study, institution, and student income level at the start of participation in the G3 program, to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Education, and the Senate Committee on Education and Health.

J. No later than September 1 of each year, each associate-degree-granting public institution of higher education that participates in the G3 Program shall adopt and amend, as necessary, policies and procedures to ensure that student participation in the G3 Program does not cause financial assistance awards to exceed funds available for such purpose.

CHAPTER 399

An Act to amend and reenact § 10.1-415 of the Code of Virginia, relating to Rappahannock State Scenic River.

[H 1819]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-415 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-415. Rappahannock State Scenic River.

The mainstem of the Rappahannock River in Rappahannock, Culpeper, Fauquier, Stafford, and Spotsylvania, *Caroline, King George, Westmoreland, Essex, and Richmond* Counties and the City of Fredericksburg from its headwaters near Chester Gap to the ~~Ferry Farm-Mayfield Bridge~~ *Essex-Middlesex and Richmond-Lancaster County lines*, a distance of approximately ~~86~~ *165* river miles, is hereby designated as the Rappahannock State Scenic River, a component of the Virginia Scenic Rivers System.

CHAPTER 400

An Act to amend and reenact § 10.1-109 of the Code of Virginia, relating to Department of Conservation and Recreation; leasing of land.

[H 1833]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-109 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-109. Lease of lands and other properties.

A. The Director is authorized, subject to the ~~consent and approval of the Governor and the General Assembly~~ *written recommendation of the Department of General Services to the Governor and the written approval of the Governor*, following review as to form and content by the Attorney General and the provisions of this article, to ~~convey, lease or demise~~ to any person for consideration, by ~~proper deed or other~~ appropriate instrument signed and executed by the Director, in the name of the Commonwealth: (i) any lands or other properties held for general recreational or other public purposes by the Department, for the Commonwealth; *or* (ii) any lands over which the Department has supervision and control, or any part of such lands; *or* (iii) ~~any right, interest or privilege with respect to such lands. The Director, subject to the consent and approval of the Governor, may renew any such lease, contract or agreement without the consent and approval of the General Assembly. Whenever where such lease is for the purposes of recreation, agriculture, or resource management and is consistent with the purposes and duties of the Department. Notwithstanding the provisions of subdivision (ii), whenever land is acquired by purchase or otherwise for public recreation and conservation purposes under the administration of the Department, the Director is authorized to lease the land or any portion of it back to the owner from whom the land is acquired upon terms and conditions in the public interest. No lease granted under this section shall be for an initial term longer than ten years, but any such lease may contain provisions for lease renewals, either contingent or automatic at the discretion of the Director, for a like period upon the same terms and conditions as originally granted. If written notice of termination is received by the Director from the lessee or if use of the lease is in fact abandoned by the lessee at any time prior to the end of the initial term or any renewal, the Director may immediately terminate the lease.~~

B. The Director is authorized to lease state-owned housing under the control of the Department to state employees. Such leases shall be approved as to form and content by the Attorney General and the Department of General Services. The leasing of Department-controlled housing to state employees shall be for the purposes of providing security and operational efficiencies to property of the Department and shall not cause the property to be considered surplus to the agency's need. If the Director determines that the availability of state-owned housing is inadequate to meet the onsite security and operational efficiencies requirements for Department-owned property, he may lease residential property not owned by the Commonwealth from prospective landlords for the purposes of subleasing to state employees who otherwise qualify for leasing state-owned housing. Such leases and subleases shall be approved by the Director.

C. Property leased under this section shall not be considered surplus to the agency's need.

D. The Department shall include information about leasing activities carried out pursuant to this section in an annual report to the General Assembly.

CHAPTER 401

An Act to amend and reenact §§ 2.2-200, 2.2-205, 2.2-206, 2.2-215, 2.2-220.1, 2.2-220.2, 2.2-220.3, 2.2-1156, 2.2-1176, 2.2-2316, 2.2-2338, 2.2-2481, 2.2-2699.10, 2.2-2699.11, 2.2-2699.13, 10.1-603.25, 10.1-704, 10.1-1018, 10.1-1181.15, 10.1-1188, 10.1-1329, 10.1-1402.03, 10.1-1402.04, 10.1-1405, 10.1-2129, 10.1-2202.3, 15.2-2295.1, 28.2-207, 29.1-102, 29.1-573, 29.1-579, 30-377, 56-596.2, 58.1-344.3, 62.1-44.15:68, 62.1-44.34:25, 62.1-44.34:28, 62.1-44.117, 62.1-44.118, 62.1-44.119:1, 62.1-69.31, 62.1-69.32, 62.1-69.33, 62.1-69.41, 62.1-69.52, and 62.1-195.1 of the Code of Virginia, relating to the Secretary of Natural Resources.

[H 1836]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-200, 2.2-205, 2.2-206, 2.2-215, 2.2-220.1, 2.2-220.2, 2.2-220.3, 2.2-1156, 2.2-1176, 2.2-2316, 2.2-2338, 2.2-2481, 2.2-2699.10, 2.2-2699.11, 2.2-2699.13, 10.1-603.25, 10.1-704, 10.1-1018, 10.1-1181.15, 10.1-1188, 10.1-1329, 10.1-1402.03, 10.1-1402.04, 10.1-1405, 10.1-2129, 10.1-2202.3, 15.2-2295.1, 28.2-207, 29.1-102, 29.1-573, 29.1-579, 30-377, 56-596.2, 58.1-344.3, 62.1-44.15:68, 62.1-44.34:25, 62.1-44.34:28, 62.1-44.117, 62.1-44.118, 62.1-44.119:1,

62.1-69.31, 62.1-69.32, 62.1-69.33, 62.1-69.41, 62.1-69.52, and 62.1-195.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-200. Appointment of Governor's Secretaries; general powers; severance.

A. The Governor's Secretaries shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Each Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, each Secretary shall take an oath to faithfully execute the duties of the office.

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 4 (§ 2.2-208 et seq.), the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;

2. Provide such assistance to the Governor or the Secretary as may be required; and

3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 4 (§ 2.2-208 et seq.), each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;

2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

6. Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by law or executive order.

D. Severance benefits provided to any departing Secretary shall be publicly announced by the Governor prior to such departure.

E. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Finance, the Secretary of Health and Human Resources, the Secretary of Natural *and Historic* Resources, the Secretary of Public Safety and Homeland Security, the Secretary of Transportation, and the Secretary of Veterans and Defense Affairs.

§ 2.2-205. Economic development policy for the Commonwealth.

A. During the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level committee appointed in accordance with subsection B, shall develop and implement a written comprehensive economic development policy for the Commonwealth. In developing this policy, the Secretary and the committee shall review the economic development policy in effect at the commencement of the Governor's term of office. The Secretary shall make such revisions to the existing policy as the Secretary deems necessary to ensure that it is appropriate for the Commonwealth. Once the policy has been adopted by the Secretary and the committee and approved by the Governor, it shall be submitted to the General Assembly for its consideration.

B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order creating a cabinet-level committee to assist the Secretary in the development of the comprehensive economic development policy for the Commonwealth. The Secretary shall be the chairman of the committee, and the Secretaries of Administration, Agriculture and Forestry, Education, Health and Human Resources, Natural *and Historic* Resources, and Transportation shall serve as committee members. The Governor may also appoint members of regional and local economic development groups and members of the business community to serve on the committee.

§ 2.2-206. Urban issues; report; responsibilities of the Secretary.

A. In order to evaluate and promote the economic potential and development of the urban areas in the Commonwealth, during the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level committee appointed in accordance with subsection B, shall develop a report on the condition of the state's urban areas and establishing priorities for addressing those conditions. The report shall include the following components:

1. A review of economic and social conditions in the cities of the Commonwealth;

2. The identification of inequities between those urban areas experiencing economic growth and relatively low fiscal stress and those urban areas experiencing economic decline and relatively high levels of fiscal stress;

3. The establishment of specific and quantifiable benchmarks for addressing economic and social conditions and inequities within urban areas;

4. Prioritized recommendations for specific actions by state agencies intended to meet the established performance benchmarks within a prescribed schedule; and

5. A system for tracking agency progress in meeting the benchmarks during the succeeding biennia.

B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order creating a cabinet-level committee to assist the Secretary in the development of an urban policy vision and priorities for the Commonwealth. The Secretary shall be the chairman of the committee, and the Secretaries of Education, Health and Human Resources, Natural *and* Historic Resources and Transportation shall serve as committee members. The Governor may also appoint representatives of local government from Virginia's urban areas to serve as committee members. During the third year of each new gubernatorial administration the Secretary shall review and report on the performance of each agency in meeting the established benchmarks.

Article 7.

Secretary of Natural *and* Historic Resources.

§ 2.2-215. Position established; agencies for which responsible.

The position of Secretary of Natural *and* Historic Resources (the Secretary) is created. The Secretary shall *serve as the Chief Resilience Officer for the purposes of duties required pursuant to § 2.2-222.4, and shall* be responsible to the Governor for the following agencies: Department of Conservation and Recreation, Department of Historic Resources, Marine Resources Commission, Department of Wildlife Resources, ~~Virginia Museum of Natural History~~, and the Department of Environmental Quality. The Governor may, by executive order, assign any state executive agency to the Secretary of Natural *and* Historic Resources, or reassign any agency listed in this section to another Secretary.

§ 2.2-220.1. Chesapeake Bay Watershed Agreement; annual report.

By November 1 of each year, the Secretary of Natural *and* Historic Resources shall report to the Governor and the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources on the implementation of the 2014 Chesapeake Bay Watershed Agreement. The Secretary may use documents, reports, and other materials developed in cooperation with other signatories to the agreement, including the U.S. Environmental Protection Agency and other relevant federal agencies or nongovernmental organizations, to fulfill this reporting requirement.

§ 2.2-220.2. Development of strategies to prevent the introduction of, to control, and to eradicate invasive species.

A. The Secretaries of Natural *and* Historic Resources and Agriculture and Forestry shall coordinate the development of strategic actions to be taken by the Commonwealth, individual state and federal agencies, private businesses, and landowners related to invasive species prevention, early detection and rapid response, control and management, research and risk assessment, and education and outreach. Such strategic actions shall include the development of a state invasive species management plan. The plan shall include a list of invasive species that pose the greatest threat to the Commonwealth. The primary purposes of the plan shall be to address the rising cost of invasive species, to improve coordination among state and federal agencies' efforts regarding invasive species prevention and management and information exchange, and to educate the public on related matters. The Secretaries of Natural *and* Historic Resources and Agriculture and Forestry shall update the state invasive species management plan at least once every four years. The Department of Conservation and Recreation shall provide staff support.

B. The Secretary of Natural *and* Historic Resources shall establish and serve as chair of an advisory group to develop an invasive species management plan and shall coordinate and implement recommendations of that plan. Other members of the advisory group shall include the Departments of Conservation and Recreation, Wildlife Resources, Environmental Quality, Forestry, Agriculture and Consumer Services, Health, and Transportation; the Marine Resources Commission; the Virginia Cooperative Extension; the Virginia Institute of Marine Science; representatives of the agriculture and forestry industries; the conservation community; interested federal agencies; academic institutions; and commercial interests. The Secretary of Agriculture and Forestry shall serve as the vice-chair of the advisory group. The advisory group shall meet at least twice per year and shall utilize ad hoc committees as necessary with special emphasis on working with affected industries, landowners, and citizens, and shall assist the Secretary to:

1. Prevent additional introductions of invasive species to the lands and waters of the Commonwealth;
2. Procure, use, and maintain native species to replace invasive species;
3. Implement targeted control efforts on those invasive species that are present in the Commonwealth but are susceptible to such management actions;
4. Identify and report the appearance of invasive species before they can become established and control becomes less feasible;
5. Implement immediate control measures if a new invasive species is introduced in Virginia, with the aim of eradicating that species from Virginia's lands and waters if feasible given the degree of infestation; and
6. Recommend legislative actions or pursue federal grants to implement the plan.

C. As used in this section, "invasive species" means a species, including its seeds, eggs, spores or other biological material capable of propagating that species, that is not native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health; however, this definition shall not include (i) any agricultural crop generally recognized by the United States Department of Agriculture or the Virginia Department of Agriculture and Consumer Services as suitable to be grown in the Commonwealth, or (ii) any aquacultural organism recognized by the Marine Resources Commission or the Department of Wildlife Resources as suitable to be propagated in the Commonwealth.

Nothing in this section shall affect the authorities of any agency represented on the advisory group with respect to invasive species.

§ 2.2-220.3. Development of strategies to collect land use and conservation information.

The Secretary of Natural *and Historic* Resources, with assistance from the Secretary of Agriculture and Forestry, shall establish and maintain a database of the critical data attributes for onsite best management practices implemented in the Commonwealth that limit the amount of nutrients and sediment entering state waters. The database shall document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia's water quality goals by sharing the data with the appropriate federal or state agencies. To the extent possible or appropriate, the database shall (i) be uniform in content and format to applications in the other states of the Chesapeake Bay watershed, (ii) maintain the confidentiality of information, and (iii) use existing methods of data collection including reports to the U.S. Department of Agriculture's Farm Service Agency, soil and water conservation districts, and localities for the purpose of land use valuation. Any information collected pursuant to this section shall be exempt from the Freedom of Information Act (§ 2.2-3700 et seq.).

§ 2.2-1156. Sale or lease of surplus property and excess building space.

A. The Department shall identify real property assets that are surplus to the current and reasonably anticipated future needs of the Commonwealth and may dispose of surplus assets as provided in this section, except when a department, agency or institution notifies the Department of a need for property that has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property.

B. After it determines the property to be surplus to the needs of the Commonwealth and that such property should be sold, the Department shall request the written opinion of the Secretary of Natural *and Historic* Resources as to whether the property is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural *and Historic* Resources shall provide this review within 15 business days of receipt of full information from the Department. Within 120 days of receipt of the Secretary's review, the Department shall, with the prior written approval of the Governor, proceed to sell the property.

C. Upon receipt of the Secretary's review under subsection B and prior to offering the surplus property for sale to the public, the Department shall notify the chief administrative officer of the locality within which the property is located as well as any economic development entity for such locality of the pending disposition of such property. The chief administrative officer or local economic development entity shall have up to 180 days from the date of such notification to submit a proposal to the Department for the use by the locality or the local economic development entity of such property in conjunction with a bona fide economic development activity. The Department shall review such proposal, and if the Department determines that such proposal is viable and could benefit the Commonwealth, the Department may negotiate with the chief administrative officer or the local economic development entity for the sale of such property to the locality or economic development entity. If no agreement is reached between the Department and the chief administrative officer or the local economic development entity for the sale of the property, or if no proposal for the use of the property is submitted to the Department by the chief administrative officer or the local economic development entity within 180 days of notification of the pending disposition of the property, the Department may proceed to dispose of the property as provided in this section.

D. If the surplus property is not disposed of pursuant to subsection C, the sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

E. In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$250,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

F. The Department may reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property, the proposed terms are unacceptable, or if a need has been found for the property.

G. In lieu of the sale of any such property, or in the event the Department determines there is space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, the Department may, with the approval of the Governor, lease or sublease such property or space to any responsible person, firm or corporation on such terms as shall be approved by the Governor, provided, however, that the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The Department may with the approval of the Governor permit charitable organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or sublease such property or space at cost and on such terms as shall be approved by the Governor, provided such use is deemed appropriate.

The Department shall post reports from the Commonwealth's statewide electronic procurement system, known as eVA, on the Department's website. The report shall include, at a minimum, current leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business Opportunities website. Such reports shall also be made available by electronic subscription. The provisions of this section requiring disposition of property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department.

H. The deed, lease, or sublease conveying the property or excess space shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department or his designee, and such action shall not create a cloud on the title to the property. The terms of the sale, lease, or sublease shall be subject to the written approval of the Governor.

I. An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After the notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer that it deems to be fair and adequate consideration for the property. In all cases, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

J. Subject to any law to the contrary, 50 percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid into the State Park Acquisition and Development Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the state treasury. The Department of Planning and Budget shall develop guidelines that allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the foregoing, income from leases or subleases above the cost of the transaction shall first be applied to rent under the original lease and to the cost of maintenance and operation of the property. The remaining funds shall be distributed as provided herein.

K. When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth in this section.

§ 2.2-1176. Approval of purchase, lease, or contract rental of motor vehicle.

A. No motor vehicle shall be purchased, leased, or subject to a contract rental with public funds by the Commonwealth or by any officer or employee on behalf of the Commonwealth without the prior written approval of the Director. No lease or contract rental shall be approved by the Director except upon demonstration that the cost of such lease or contract rental plus operating costs of the vehicle shall be less than comparable costs for a vehicle owned by the Commonwealth.

Notwithstanding the provisions of this subsection, the Virginia Department of Transportation shall be exempted from the approval of purchase, lease, or contract rental of motor vehicles used directly in carrying out its maintenance, operations, and construction programs.

B. Notwithstanding other provisions of law, on or before January 1, 2012, the Director, in conjunction with the Secretary of Administration and the Secretary of Natural *and Historic* Resources, shall establish a plan providing for the replacement of state-owned or operated vehicles with vehicles that operate using natural gas, electricity, or other alternative fuels, to the greatest extent practicable, considering available infrastructure, the location and use of vehicles, capital and operating costs, and potential for fuel savings. The plan shall be submitted to the Governor for his review and approval. Once the plan is approved by the Governor, the Director shall implement the plan for the centralized fleet. All state agencies and institutions shall cooperate with the Director in developing and implementing the plan.

§ 2.2-2316. Executive Director; Board of Directors; members and officers.

A. Notwithstanding the provisions of § 2.2-2318, all powers, rights and duties conferred by this article or other provisions of law upon the Authority shall be exercised by an Executive Director with the advice and comment of a Board of Directors. The Board of Directors shall be an advisory board within the meaning of § 2.2-2100.

B. The Board of Directors shall consist of the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural *and Historic* Resources, the Lieutenant Governor, and 12 members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board appointed by the Governor shall serve terms of six years. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. The Governor shall make appointments in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth.

Each member of the Board shall be reimbursed for his reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2.2-2104 for each day or portion thereof in which the member is engaged in the business of the Authority.

C. The Governor shall designate one member of the Board as chairman. The Board may elect one member as vice-chairman, who shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural *and Historic* Resources, and the Lieutenant Governor shall not be eligible to serve as chairman or vice-chairman.

D. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors.

E. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his office or employment by reason of acceptance of membership on the Board or by providing service to the Authority.

§ 2.2-2338. Board of Trustees; membership.

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the Fort Monroe Authority, to be governed by a Board of Trustees (Board) consisting of 14 members appointed as follows: the Secretary of Natural *and Historic* Resources and the Secretary of Commerce and Trade, or their successor positions if those positions no longer exist, from the Governor's cabinet; the member of the Senate of Virginia and the member of the House of Delegates representing the district in which Fort Monroe lies; two members appointed by the Hampton City Council; and eight nonlegislative citizen members appointed by the Governor, seven of whom shall have expertise relevant to the implementation of the Fort Monroe Reuse Plan, including but not limited to the fields of historic preservation, tourism, environment, real estate, finance, and education, and one of whom shall be a citizen representative from the Hampton Roads region. The Secretary of Natural *and Historic* Resources and the Secretary of Commerce and Trade shall serve *ex officio* without voting privileges and may send their deputies or another cabinet member to meetings in the event that official duties require their presence elsewhere. Cabinet members and elected representatives shall serve terms commensurate with their terms of office. Legislative members may send another legislator to meetings as full voting members in the event that official duties require their presence elsewhere.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as chairman and another as vice-chairman. The Board shall also elect annually a secretary, who shall be a member of the Board, and a treasurer, who need not be a member of the Board, or a secretary-treasurer, who need not be a member of the Board. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman *pro tempore* who shall preside at such meetings. Seven Trustees shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Trustees present and voting, except that any action to amend or terminate the existing Reuse Plan, or to adopt a new Reuse Plan, shall require the affirmative vote of 75 percent or more of the Trustees present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority.

§ 2.2-2481. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Advise the Governor, the Secretaries of Health and Human Resources, Education, and Natural *and Historic* Resources, the Assistant to the Governor for Commonwealth Preparedness, the State Board of Social Services, and other appropriate officials on national and community service programs in Virginia in order to (i) fulfill the responsibilities and duties prescribed by the federal Corporation for National and Community Service and (ii) develop, implement, and evaluate the Virginia State Service Plan, which outlines strategies for supporting and expanding national and community service throughout the Commonwealth.

2. Promote the use of AmeriCorps programs to meet Virginia's most pressing human, educational, environmental, and public safety needs.

3. Collaborate with the Department of Social Services and other public and private entities to recognize and call attention to the significant community service contributions of Virginia citizens and organizations.

4. Assist the Department of Social Services to promote the involvement of faith-based organizations in community and national service efforts.

5. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman of the Board shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 2.2-2699.10. Membership; terms; quorum; meetings.

A. The Council shall have a total membership of 27 members that shall consist of 21 nonlegislative citizen members and six *ex officio* members. Nonlegislative citizen members shall be appointed by the Governor. The Secretaries of Natural *and Historic* Resources, Commerce and Trade, Agriculture and Forestry, Health and Human Resources, Education, and Transportation, or their designees, including their agency representatives, shall serve *ex officio* with nonvoting privileges.

Nonlegislative citizen members of the Council shall be residents of the Commonwealth and shall include representatives of (i) American Indian tribes, (ii) community-based organizations, (iii) the public health sector, (iv) nongovernmental organizations, (v) civil rights organizations, (vi) institutions of higher education, and (vii) communities impacted by an industrial, governmental, or commercial operation, program, or policy.

Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

B. The Council shall elect a chairperson and vice-chairperson annually from among the membership of the Council. A majority of the members shall constitute a quorum. The meetings of the Council shall be held at the call of the chairperson or whenever the majority of the members so request.

C. The Council shall meet quarterly and shall establish a meeting schedule on an annual basis. When possible, the location of the meetings shall rotate among different geographic regions. When possible, meetings shall be broadcast on the Internet or via teleconference. Each meeting shall include an in-person public comment component.

The Council may provide for the creation of subcommittees. Any subcommittee meetings shall be scheduled with notification to the full Council.

§ 2.2-2699.11. Compensation; expenses; staffing.

A. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Secretary of Natural *and Historic* Resources.

B. The Office of the Governor and the Secretary of Natural *and Historic* Resources shall provide staff support to the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

§ 2.2-2699.13. (Expires June 30, 2023) Plastic Waste Prevention Advisory Council; purpose; membership; compensation; chairman.

A. The Plastic Waste Prevention Advisory Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is to advise the Governor on policy and funding priorities to eliminate plastic waste impacting native species and polluting the Commonwealth's environment and to contribute to achieving plastics packaging circular economy industry standards.

B. The Council shall have a total membership of 10 members that shall consist of two legislative members, four nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources, or their designees, and four nonlegislative citizen members to be appointed by the Governor, subject to confirmation by the General Assembly. The Director of the Department of Environmental Quality or his designee, the State Health Commissioner or his designee, and the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturers Association or their designees shall serve ex officio with voting privileges. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth.

Legislative members and ex officio members of the Council shall serve terms coincident with their terms of office. Gubernatorial appointees shall serve for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. Legislative members of the Council shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of legislative members shall be provided by the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon approval of the Joint Rules Committee. Funding for the costs of expenses of the nonlegislative citizen members and all other expenses of the Council shall be provided by the Office of the Secretary of Natural *and Historic* Resources.

D. The Council shall elect a chairman and a vice-chairman annually from among its membership. A majority of the members shall constitute a quorum. The meetings of the Council shall be held at the call of the chairman or whenever the majority of the members so request.

E. The Department of Environmental Quality shall provide staff support to the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

§ 10.1-603.25. Virginia Shoreline Resiliency Fund; Virginia Community Flood Preparedness Fund; loan and grant program.

A. The Virginia Shoreline Resiliency Fund is hereby continued as a permanent and perpetual fund to be known as the Virginia Community Flood Preparedness Fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions allowances pursuant to subdivision C 1 of § 10.1-1330, all sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any

source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this article shall be deemed to promote the public purposes of enhancing flood prevention or protection and coastal resilience.

B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund. The Department shall direct distribution of loans and grants from the Fund in accordance with the provisions of subsection D.

C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be designated for deposit to, and become part of, the Fund.

D. The Fund shall be administered by the Department as prescribed in this article. The Department, in consultation with the Secretary of Natural *and* Historic Resources and the Special Assistant to the Governor for Coastal Adaptation and Protection, shall establish guidelines regarding the distribution and prioritization of loans and grants, including loans and grants that support flood prevention or protection studies of statewide or regional significance.

E. Localities shall use moneys from the Fund primarily for the purpose of implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund may be used to mitigate future flood damage and to assist inland and coastal communities across the Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall be given to projects that implement community-scale hazard mitigation activities that use nature-based solutions to reduce flood risk.

F. Any locality is authorized to secure a loan made pursuant to this section by placing a lien up to the value of the loan against any property that benefits from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property is located.

G. Any locality using moneys in the Fund to provide a loan for a project in a low-income geographic area is authorized to forgive the principal of such loan. If a locality forgives the principal of any such loan, any obligation of the locality to repay that principal to the Commonwealth shall not be forgiven and such obligation shall remain in full force and effect. The total amount of loans forgiven by all localities in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year to the Fund by the General Assembly.

§ 10.1-704. Use of dredged material for beach nourishment; priority.

The beaches of the Commonwealth shall be given priority consideration as sites for the disposal of that portion of dredged material determined to be suitable for beach nourishment. The Secretary of Natural *and* Historic Resources shall have the responsibility of determining whether the dredged material is suitable for beach nourishment.

§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.

A. The Foundation shall be governed and administered by a Board of Trustees. The Board shall have a total membership of 19 members that shall consist of 17 citizen members and two ex officio voting members as follows: four citizen members, who may be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates and, if such members are members of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate Committee on Rules; 11 nonlegislative citizen members, one from each congressional district, to be appointed by the Governor; and the Secretary of Natural *and* Historic Resources, or his designee, and the Secretary of Agriculture and Forestry, or his designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms that expire in the same year. Legislative members and the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no Senate member shall serve more than two consecutive four-year terms, no House member shall serve more than four consecutive two-year terms and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and

identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative citizen members shall be a farmer. Members of the Board shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office.

B. The Secretary of Natural *and Historic* Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The members appointed as provided in subsection A shall elect a vice-chairman annually from among the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman or whenever a majority of the members so request.

C. Trustees of the Foundation shall receive no compensation for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Department of Conservation and Recreation.

D. The chairman of the Board and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees: the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, the Director of the Department of Historic Resources, the Director of the Department of Wildlife Resources and the Executive Director of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or appoint a designee to serve on the task force.

§ 10.1-1181.15. Forest mitigation agreements.

A. The Secretary of Natural *and Historic* Resources, the Secretary of Agriculture and Forestry, or any agency within those secretariats, or the Virginia Outdoors Foundation may enter into an agreement with the owner or operator of construction projects to accomplish forest mitigation. At a minimum, any such agreement shall:

1. Document the extent to which the construction project has been designed to avoid and minimize adverse impacts to forests;

2. Provide funding for compensation for impacts that approximates at least no net loss of forest acreage and function;

3. Provide for the payment of such funds by the owner or operator to a nonprofit organization, the Virginia Outdoors Foundation, or an agency within the secretariats of Agriculture and Forestry or Natural *and Historic* Resources. The recipient of the funds shall establish criteria for the expenditure of the funds, shall provide such criteria to the public, and shall regularly provide to the public updated information on how funds are spent; and

4. Ensure that expenditures of the funds occur in reasonable proximity to the forest impacts that are caused by the construction project. Reasonable proximity shall be determined by the recipient of the funds and shall be based on appropriate ecological boundaries, with consideration given to communities adversely affected by the construction project.

B. Nothing in this section shall preclude the expenditure of funds (i) by the recipient of the funds for the costs of administration of the funds or (ii) for water quality protection and improvement, land conservation, or environmental education.

C. No agreement entered into pursuant to this article shall identify any specific expenditure.

D. No agreement entered into pursuant to this article shall include any waiver of liability for environmental damage caused by the construction project. No agreement entered into under this article shall guarantee regulatory approval for a construction project by any state agency.

E. No forest mitigation agreement entered into pursuant to this article shall prohibit sustainable forest management on a property receiving funding except as necessary to comply with a requirement of the Commonwealth that specific conservation values be protected on such property.

§ 10.1-1188. State agencies to submit environmental impact reports on major projects.

A. All state agencies, boards, authorities and commissions or any branch of the state government shall prepare and submit an environmental impact report to the Department on each major state project.

"Major state project" means the acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility which is hereafter undertaken by any state agency, board, commission, authority or any branch of state government, including public institutions of higher education, which costs \$500,000 or more. For the purposes of this chapter, authority shall not include any industrial development authority created pursuant to the provisions of Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2 or Chapter 643, as amended, of the 1964 Acts of Assembly. Nor shall it include the Virginia Port Authority created pursuant to the provisions of § 62.1-128, unless such project is a capital project that costs in excess of \$5 million. Nor shall authority include any housing development or redevelopment authority established pursuant to state law. For the purposes of this chapter, branch of state government shall include any county, city or town of the Commonwealth only in connection with highway construction, reconstruction, or improvement projects affecting highways or roads undertaken by the county, city, or town on projects estimated to cost more than \$2 million. For projects undertaken by any locality costing more than \$500,000 and less than \$2 million, the locality shall consult with the Department of Historic Resources to consider and make reasonable efforts to avoid or minimize impacts to

historic resources if the project involves a new location or a new disturbance that extends outside the area or depth of a prior disturbance, or otherwise has the potential to affect such resources adversely.

Such environmental impact report shall include, but not be limited to, the following:

1. The environmental impact of the major state project, including the impact on wildlife habitat;
2. Any adverse environmental effects which cannot be avoided if the major state project is undertaken;
3. Measures proposed to minimize the impact of the major state project;
4. Any alternatives to the proposed construction; and
5. Any irreversible environmental changes which would be involved in the major state project.

For the purposes of subdivision 4, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

B. For purposes of this chapter, this subsection shall only apply to the review of highway and road construction projects or any part thereof. The Secretaries of Transportation and Natural *and Historic* Resources shall jointly establish procedures for review and comment by state natural and historic resource agencies of highway and road construction projects. Such procedures shall provide for review and comment on appropriate projects and categories of projects to address the environmental impact of the project, any adverse environmental effects which cannot be avoided if the project is undertaken, the measures proposed to minimize the impact of the project, any alternatives to the proposed construction, and any irreversible environmental changes which would be involved in the project.

§ 10.1-1329. Definitions.

As used in this article, unless the context requires a different meaning:

"Allowance" means an authorization to emit a fixed amount of carbon dioxide.

"Allowance auction" means an auction in which the Department or its agent offers allowances for sale.

"DHCD" means the Department of Housing and Community Development.

"DMME" means the Department of Mines, Minerals and Energy.

"Energy efficiency program" has the same meaning as provided in § 56-576.

"Fund" means the Virginia Community Flood Preparedness Fund created pursuant to § 10.1-603.25.

"Housing development" means the same as that term is defined in § 36-141.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum of understanding between signatory states dated December 20, 2005, and as may be amended, and the corresponding model rule that established a regional carbon dioxide electric power sector cap and trade program.

"Secretary" means the Secretary of Natural *and Historic* Resources.

§ 10.1-1402.03. Closure of certain coal combustion residuals units.

A. For the purposes of this section only:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers, and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The definitions in this subsection shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided in this section.

B. The owner or operator of any CCR unit located within the Chesapeake Bay watershed at the Bremo Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse a total of no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites listed in this subsection where CCR is located.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the closure process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR or CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C, and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals to beneficially reuse any CCR that are not subject to an existing contractual agreement to remove CCR pursuant to the provisions of subsection B every four years beginning July 1, 2022. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of such beneficial reuse of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers, (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce, and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2022, and no less frequently than every two years thereafter until closure of all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural and Historic Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Commerce and Labor, and the Director.

H. All costs associated with closure of a CCR unit in accordance with this section shall be recoverable through a rate adjustment clause authorized by the State Corporation Commission (the Commission) under the provisions of subdivision A 5 e of § 56-585.1, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this section, exclusive of any other rate adjustment clauses approved by the Commission under the provisions of subdivision A 5 e of § 56-585.1, shall not exceed \$225 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$225 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2019, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2021; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.

I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse no less than 6.8 million cubic yards of CCR in aggregate from no fewer than two of the sites listed in subsection B. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit

closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B.

J. Nothing in this section shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared to such traffic during calendar year 2018.

K. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this section for any fines or civil penalties resulting from violations of federal and state law or regulation.

§ 10.1-1402.04. Closure of certain coal combustion residuals units; Giles and Russell Counties.

A. For the purposes of this section:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Commission" means the State Corporation Commission.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The definitions in this subsection shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided in this section.

B. The owner or operator of any CCR unit located in Giles County or Russell County at the Glen Lyn Plant and the Clinch River Plant shall, if all CCR units at such plant ceased receiving CCR and submitted notification of completion of a final cap to the Department prior to January 1, 2019, complete post-closure care and any required corrective action of such unit. If all CCR units at such plant have not submitted notification of completion of a final cap to the Department prior to January 1, 2019, the owner or operator shall close all CCR units at such plant by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse CCR removed from its CCR unit if beneficial use of such removed CCR is anticipated to reduce costs incurred under this section.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the excavation process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals for the encapsulated beneficial use of CCR pursuant to the provisions of subsection B every four years beginning July 1, 2023. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of the proposed beneficial use of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers; (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce; and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2023, and no less frequently than every two years thereafter until closure of or corrective action at all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any corrective actions or other measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural *and Historic* Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Labor and Commerce, and the Director.

H. All costs associated with closure by removal of a CCR unit or encapsulated beneficial use of CCR material in accordance with subsection B shall be recoverable through a rate adjustment clause authorized by the Commission under the provisions of subdivision A 5 e of § 56-585.1, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this section, exclusive of any other rate adjustment clauses approved by the Commission under the provisions of subdivision A 5 e of § 56-585.1, shall not exceed \$40 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$40 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2020, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2022; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.

I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse CCR from the sites if beneficial use is anticipated to reduce the costs allocated to customers. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B.

J. Nothing in this section shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared with such traffic during calendar year 2019.

K. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this section for any fines or civil penalties resulting from violations of federal and state law or regulation.

§ 10.1-1405. Powers and duties of Director.

A. The Director, under the direction and control of the Secretary of Natural *and Historic* Resources, shall exercise such powers and perform such duties as are conferred or imposed upon him by law and shall perform any other duties required of him by the Governor or the Board.

B. In addition to the other responsibilities set forth herein, the Director shall carry out management and supervisory responsibilities in accordance with the regulations and policies of the Board. In no event shall the Director have the authority to promulgate any final regulation.

The Director shall be vested with all the authority of the Board when it is not in session, subject to such regulations as may be prescribed by the Board.

C. The Director shall serve as the liaison with the United States Department of Energy on matters concerning the siting of high-level radioactive waste repositories, pursuant to the terms of the Nuclear Waste Policy Act of 1982.

D. The Director shall obtain a criminal records check pursuant to § 19.2-389 of key personnel listed in the disclosure statement when the Director determines, in his sole discretion, that such a records check will serve the purposes of this chapter.

§ 10.1-2129. Agency coordination; conditions of grants.

A. If, in any fiscal year beginning on or after July 1, 2005, there are appropriations to the Fund in addition to those made pursuant to subsection A of § 10.1-2128, the Secretary of Natural *and Historic* Resources shall distribute those moneys in the Fund provided from the 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act, and the 10 percent of any unrestricted and uncommitted general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act, as follows:

1. Seventy percent of the moneys shall be distributed to the Department of Conservation and Recreation and shall be administered by it for the sole purpose of implementing projects or best management practices that reduce nitrogen and phosphorus nonpoint source pollution, with a priority given to agricultural best management practices. In no single year shall more than 60 percent of the moneys be used for projects or practices exclusively within the Chesapeake Bay watershed; and

2. Thirty percent of the moneys shall be distributed to the Department of Environmental Quality, which shall use such moneys for making grants for the sole purpose of designing and installing nutrient removal technologies for publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers. The moneys shall also be available for grants when the design and installation of nutrient removal technology utilizes the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.).

3. Except as otherwise provided in the Appropriation Act, in any fiscal year when moneys are not appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128, or when moneys appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128 are less than 40 percent of those specified in subsection A of § 10.1-2128, the Secretary of Natural *and Historic* Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of Agriculture and Consumer Services, and the Directors of the Departments of Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, and the State Water Control Board, and following a public comment period of at least 30 days and a public hearing, shall allocate those moneys deposited in the Fund, but excluding any moneys deposited into the Virginia Natural Resources Commitment Fund established pursuant to § 10.1-2128.1, between point and nonpoint sources, both of which shall receive moneys in each such year.

B. 1. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural *and Historic* Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of Agriculture and Consumer Services, the State Health Commissioner, and the Directors of the Departments of Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, and the State Water Control Board, shall develop written guidelines that (i) specify eligibility requirements; (ii) govern the application for and the distribution and conditions of Water Quality Improvement Grants; (iii) list criteria for prioritizing funding requests; and (iv) define criteria and financial incentives for water reuse.

2. In developing the guidelines, the Secretary shall evaluate and consider, in addition to such other factors as may be appropriate to most effectively restore, protect and improve the quality of state waters: (i) specific practices and programs proposed in the Chesapeake Bay TMDL Watershed Implementation Plan, and the associated effectiveness and cost per pound of nutrients removed; (ii) water quality impairment or degradation caused by different types of nutrients released in different locations from different sources; and (iii) environmental benchmarks and indicators for achieving improved water quality. The process for development of guidelines pursuant to this subsection shall, at a minimum, include (a) use of an advisory committee composed of interested parties; (b) a 60-day public comment period on draft guidelines; (c) written responses to all comments received; and (d) notice of the availability of draft guidelines and final guidelines to all who request such notice.

3. In addition to those the Secretary deems advisable to most effectively restore, protect and improve the quality of state waters, the criteria for prioritizing funding requests shall include: (i) the pounds of total nitrogen and the pounds of total phosphorus reduced by the project; (ii) whether the location of the water quality restoration, protection or improvement project or program is within a watershed or subwatershed with documented water nutrient loading problems or adopted nutrient reduction goals; (iii) documented water quality impairment; and (iv) the availability of other funding mechanisms. Notwithstanding the provisions of subsection E of § 10.1-2131, the Director of the Department of Environmental Quality may approve a local government point source grant application request for any single project that exceeds the authorized grant amount outlined in subsection E of § 10.1-2131. Whenever a local government applies for a grant that exceeds the authorized grant amount outlined in this chapter or when there is no stated limitation on the amount of the grant for which an application is made, the Directors and the Secretary shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government. The development or implementation of cooperative programs developed pursuant to subsection B of § 10.1-2127 shall be given a high priority in the distribution of Virginia Water Quality Improvement Grants from the moneys allocated to nonpoint source pollution.

§ 10.1-2202.3. Stewardship of state-owned historic properties.

A. In order to consider the broad public interest and protect the financial investment in state-owned historic assets, the Department shall develop, on a biennial basis, a report on the stewardship of state-owned properties. The report shall include, but not be limited to, a priority list of the Commonwealth's most significant state-owned properties that are eligible for but not designated on the Virginia Landmarks Register pursuant to § 10.1-2206.1. The report shall also provide a priority

list of significant state-owned properties, designated on or eligible for the Virginia Landmarks Register, which are threatened with the loss of historic integrity or functionality. In developing the report, the Department shall, in addition to significance and threat, take into account other public interest considerations associated with landmark designation and the provision of proper care and maintenance of property. These considerations shall include: (i) potential financial consequences to the Commonwealth associated with failure to care for and maintain property, (ii) significant public educational potential, (iii) significant tourism opportunities, and (iv) community values and comments. The report shall be forwarded to all affected state agencies, including institutions of higher education, the Governor, the Secretary of Administration, the Secretary of Natural *and Historic* Resources, the Secretary of Finance, and the General Assembly. All agencies of the Commonwealth shall assist and support the development of the report by providing information and access to property as may be requested.

B. Each agency that owns property included in the report required by subsection A shall initiate consultation with the Department within 60 days of receipt of the report and make a good faith effort to reach a consensus decision on designation of an unlisted property and on the feasibility, advisability, and general manner of addressing property needs in the case of a threatened historic property.

C. The Department shall prepare a biennial status report summarizing actions, decisions taken, and the condition of properties previously identified as priorities. The status report, which may be combined with the report required pursuant to subsection A, shall be forwarded to all affected state agencies, including institutions of higher education, as well as to the Governor, the Secretary of Administration, the Secretary of Natural *and Historic* Resources, the Secretary of Finance, and the General Assembly.

D. The reports required in subsections A and C shall be completed and distributed as required no later than May 1 of each odd-numbered year, so that information contained therein is available to the agencies, the Secretary of Finance, the Secretary of Administration, and the Governor, as well as the General Assembly, during budget preparation.

§ 15.2-2295.1. Regulation of mountain ridge construction.

A. As used in this section, unless the context requires a different meaning:

"Construction" means the building, alteration, repair, or improvement of any building or structure.

"Crest" means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

"Protected mountain ridge" means a ridge with (i) an elevation of 2,000 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.

"Ridge" means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

"Tall buildings or structures" means any building, structure or unit within a multi-unit building with a vertical height of more than 40 feet, as determined by ordinance, measured from the top of the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge to the uppermost point of the building, structure or unit. "Tall buildings or structures" does not include (i) water, radio, telecommunications or television towers or any equipment for the transmission of electricity, telephone or cable television; (ii) structures of a relatively slender nature and minor vertical projections of a parent building, including, but not limited to, chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills; or (iii) any building or structure designated as a historic landmark, building or structure by the United States or by the Board of Historic Resources.

B. Determinations by the governing body of heights and elevations under this section shall be conclusive.

C. Any locality in which a protected mountain ridge is located may, by ordinance, provide for the regulation of the height and location of tall buildings or structures on protected mountain ridges. The ordinance may be designed and adopted by the locality as an overlay zone superimposed on any preexisting base zone.

D. An ordinance adopted under this section may include criteria for the granting or denial of permits for the construction of tall buildings or structures on protected mountain ridges. Any such ordinance shall provide that permit applications shall be denied if a permit application fails to provide for (i) adequate sewerage, water, and drainage facilities, including, but not limited to, facilities for drinking water and the adequate supply of water for fire protection and (ii) compliance with the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

E. Any locality that adopts an ordinance providing for the regulation of the height and location of tall buildings or structures on protected mountain ridges shall send a copy of the ordinance to the Secretary of Natural *and Historic* Resources.

F. Nothing in this section shall be construed to affect or impair a governing body's authority under this chapter to define and regulate uses in any existing zoning district or to adopt overlay districts regulating uses on mountainous areas as defined by the governing body.

§ 28.2-207. Tournament Advisory Committee continued.

A. The Virginia Saltwater Sport Fishing Tournament Advisory Committee is continued and shall hereinafter be known as the Committee. The Committee shall assist the Director of the Virginia Saltwater Sport Fishing Tournament, hereinafter referred to as the Director, with the development and operation of tournament programs.

B. The Committee shall consist of ~~twelve~~ 12 members appointed by the Commissioner with the approval of the Secretary of Natural *and* *Historic* Resources. Committee members shall be selected from a list of nominees supplied by the Director.

C. The term of office of each member shall be for four years. Initially, four members shall be appointed for two years, four members appointed for three years, and four members appointed for four years. Appointments to fill vacancies shall be made to fill the unexpired term.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses. The Committee shall meet at the call of the Director.

§ 29.1-102. Board of Wildlife Resources; how constituted; meetings.

A. The Commission of Game and Inland Fisheries is continued and shall hereafter be known as the Board of Wildlife Resources (the Board).

B. The Board shall consist of 11 members. Each member of the Board shall be appointed by the Governor, subject to confirmation by the General Assembly. The members appointed shall be citizens of the Commonwealth and shall be knowledgeable about wildlife conservation, hunting, fishing, boating, agriculture, forestry, or habitat. Each Department region, as constituted on July 1, 2014, shall be represented by two members, and three members shall be members-at-large, each representing a different Department region. Members shall be appointed for terms of one to four years; however, appointments shall be made in a manner whereby no more than three members shall have terms which expire in the same year. An appointment to fill a vacancy shall be made in the same manner, but only for the unexpired term. No person shall be eligible to serve more than two consecutive four-year terms. Members may be removed from office during their respective terms by the Governor.

C. The Board shall adopt rules and procedures for the conduct of its business that shall be set forth in a Governance Manual. The Board may establish committees to assist it with its duties and responsibilities. All decisions by a committee shall be reviewed by the Board, and shall only take effect if approved by the Board.

D. The Board shall elect one of its members as its chairman whose duties shall be limited to (i) presiding at all regular and called meetings of the Board; (ii) serving as the Board liaison to the Director, other Board members, and the Secretary of Natural *and* *Historic* Resources; and (iii) the other duties set forth in the Governance Manual as approved by a majority of the Board. The Board shall also elect a vice-chairman to preside in the absence of the chairman. Any additional duties of the vice-chairman shall be set forth in the Governance Manual. The Board shall annually elect one of its members as chairman and one of its members as vice-chairman. At such annual election, the chairman and vice-chairman shall not be eligible to be re-elected to their respective positions and no person shall serve more than one year as chairman and one year as vice-chairman during a four-year term.

E. The Board shall meet at least once every quarter of the calendar year for the transaction of business, and other meetings may be called if necessary by the chairman or at the request of any three members. The majority of the members shall constitute a quorum. Meetings shall be held in Richmond or at such other places within the Commonwealth as may be necessary.

§ 29.1-573. Department; powers.

A. The Department may conduct operations and measures to suppress, control, eradicate, prevent, or retard the spread of any nonindigenous aquatic nuisance species. The maximum effort shall be made to utilize the best available scientific technology that is specific to the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective.

B. Such operations and measures shall be conducted subject to the appropriation of general funds authorized for the purpose of suppressing, controlling, eradicating, preventing, or retarding the spread of any nonindigenous aquatic nuisance species, or the receipt of funds designated for this purpose from private entities, local governments, political subdivisions, or federal grants. If such funds are not available to carry out the purposes of this chapter, then the Secretary of Natural *and* *Historic* Resources shall seek and accept all possible funds from other sources, including federal, state, local, and private grants, loans, and donations.

C. In carrying out its powers, the Department may cooperate with any federal agencies, any agency of an adjacent state, any other state agencies, local governments, political subdivisions, and authorities within the Commonwealth. Other state agencies shall cooperate and provide assistance as requested by the Director in carrying out the purposes of this article.

§ 29.1-579. Wildlife Corridor Action Plan; adoption.

A. The Department, in collaboration with the Department of Transportation and the Department of Conservation and Recreation, shall create a Wildlife Corridor Action Plan.

B. The Plan shall:

1. Identify wildlife corridors, existing or planned barriers to movement along such corridors, and areas with a high risk of wildlife-vehicle collisions. The Plan shall list habitat that is identified as of high quality for priority species and ecosystem health; migration routes of native, game, and migratory species using the best available science and Department surveys, including landscape-scale data from the Conserve Virginia database or a similar land conservation strategy database maintained by the Department of Conservation and Recreation; lands containing a high prevalence of existing human barriers, including roads, dams, power lines, and pipelines; areas identified as of high risk of wildlife-vehicle collisions; habitat identified by the Department as being occupied by rare or at-risk species; and habitat identified as Critical Habitat under the federal Endangered Species Act of 1973, P.L. 93-205, as amended.

2. Prioritize and recommend wildlife crossing projects intended to promote driver safety and wildlife connectivity. The Plan shall describe each such project and include descriptions of wildlife crossing infrastructure or other mitigation techniques recommended to meet Plan goals.

3. Contain maps utilizing the ConserveVirginia public portal, or a similar land conservation strategy public portal maintained by the Department of Conservation and Recreation, and other relevant state databases that detail high-priority areas for wildlife corridor infrastructure and any other information necessary to meet the goals of the Plan.

C. The Secretary of Natural and Historic Resources and the Secretary of Transportation shall jointly submit the Plan to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources no later than September 1, 2022, and shall jointly submit an updated version of the Plan every four years thereafter.

§ 30-377. (Expires July 1, 2025) Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall consist of 23 members that include eight legislative members, five nonlegislative citizen members, and 10 ex officio members. Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, at least one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Speaker of the House of Delegates; two nonlegislative citizen members, one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Senate Committee on Rules; and the Secretaries of Health and Human Resources, Commerce and Trade, Agriculture and Forestry, Education, Public Safety and Homeland Security, Natural and Historic Resources, and Transportation, the Chief Workforce Development Advisor to the Governor, the Commissioner of Health, and the Executive Director of the Virginia Foundation for Healthy Youth, or their designees, to serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

B. Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

§ 56-596.2. Energy efficiency programs; financial assistance for low-income customers.

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings:

1. For Phase I electric utilities:
 - a. In calendar year 2022, at least 0.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - b. In calendar year 2023, at least 1.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - c. In calendar year 2024, at least 1.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and
 - d. In calendar year 2025, at least 2.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
2. For Phase II electric utilities:
 - a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;
 - c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and
 - d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the

Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures. The Commission shall annually review the feasibility of the energy efficiency program savings in this section and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural and Historic Resources and the Secretary of Commerce and Trade on such feasibility by October 1, 2022, and each year thereafter.

C. The projected costs for the utility to design, implement, and operate such energy efficiency programs and portfolios of programs shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs and portfolios of programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subsection E of § 56-592.1, to provide input and feedback on (i) the development of such energy efficiency programs and portfolios of programs; (ii) compliance with the total annual energy savings set forth in this subsection and how such savings affect utility integrated resource plans; (iii) recommended policy reforms by which the General Assembly or the Commission can ensure maximum and cost-effective deployment of energy efficiency technology across the Commonwealth; and (iv) best practices for evaluation, measurement, and verification for the purposes of assessing compliance with the total annual energy savings set forth in subsection B. Utilities shall utilize the services of a third party to perform evaluation, measurement, and verification services to determine a utility's total annual savings as required by this subsection, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs and portfolios produce; and utility spending on each program, including any associated administrative costs. The third-party evaluator shall include and review each utility's avoided costs and cost-benefit analyses. The findings and reports of such third parties shall be concurrently provided to both the Commission and the utility, and the Commission shall make each such final annual report easily and publicly accessible online. Such stakeholder process shall include the participation of representatives from each utility, relevant directors, deputy directors, and staff members of the Commission who participate in approval and oversight of utility energy efficiency savings programs, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder whom the independent monitor deems appropriate for inclusion in such process. The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028. The independent monitor shall report on the status of the energy efficiency stakeholder process, including (a) the objectives established by the stakeholder group during this process related to programs to be proposed, (b) recommendations related to programs to be proposed that result from the stakeholder process, and (c) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the Commission, and the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor on July 1, 2019, and annually thereafter through July 1, 2028.

D. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

§ 58.1-344.3. Voluntary contributions of refunds requirements.

A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in contributions in each of the three previous taxable years for which there is complete data and in which such entity was listed on the individual income tax return.

2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision 1, such entity shall no longer be listed on the individual income tax return.

3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax return until their addition to the individual income tax return results in a maximum of 25 contributions listed on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

b. Each entity added to the income tax return shall appear on the return for at least three consecutive taxable years before the requirement in subdivision 1 is applied to such entity.

4. The Department of Taxation shall report annually by the first day of each General Assembly Regular Session to the Chairmen of the House and Senate Committees on Finance the amounts collected for each entity listed under subsections B and C for the three most recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that will be removed from the individual income tax return because they have failed the requirements in subdivision 1, the entities that will remain on the individual income tax return, and the entities, if any, that will be added to the individual income tax return.

B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions of not less than \$1:

1. Nongame wildlife voluntary contribution.

a. All moneys contributed shall be used for the conservation and management of endangered species and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the Board of Wildlife Resources.

b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so deposited in the Nongame Cash Fund shall be used by the Board of Wildlife Resources for the purposes set forth herein.

2. Open space recreation and conservation voluntary contribution.

a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

b. All moneys shall be deposited into a special fund known as the Open Space Recreation and Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

3. Voluntary contribution to political party.

All moneys contributed shall be paid to the State Central Committee of any party that meets the definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution allowable under this subdivision shall be \$25. In the case of a joint return of married individuals, each spouse may designate that the maximum contribution allowable be paid.

4. United States Olympic Committee voluntary contribution.

All moneys contributed shall be paid to the United States Olympic Committee.

5. Housing program voluntary contribution.

a. All moneys contributed shall be used by the Department of Housing and Community Development to provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide assistance to housing for the low-income elderly for the physically or mentally disabled.

b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.

6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.

b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justice Services for the purposes set forth herein.

8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.

9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.

10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.

12. Voluntary contribution to the Law and Economics Center.

All moneys contributed shall be paid to the Law and Economics Center, a public service and research center of George Mason University. All moneys shall be deposited into a special fund known as the Law and Economics Fund.

13. Voluntary contribution to Children of America Finding Hope.

All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs which are designed to reach children with emotional and physical needs.

14. Voluntary contribution to 4-H Educational Centers.

All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

15. Voluntary contribution to promote organ and tissue donation.

a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory responsibility of promoting and coordinating educational and informational activities as related to the organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the purposes set forth herein.

16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation.

All moneys contributed shall be used by the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation in their work through each of their respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one portion to the Virginia War Memorial division of the Department of Veterans Services and the other portion to the National D-Day Memorial Foundation.

17. Voluntary contribution to the Virginia Federation of Humane Societies.

All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its mission of saving, caring for, and finding homes for homeless animals.

18. Voluntary contribution to the Tuition Assistance Grant Fund.

a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate programs in private Virginia colleges.

b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act (§ 23.1-628 et seq.).

19. Voluntary contribution to the Spay and Neuter Fund.

All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or each locality may make the funds available to any private, nonprofit sterilization program for dogs and cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount to each respective locality.

20. Voluntary contribution to the Virginia Commission for the Arts.

All moneys contributed shall be paid to the Virginia Commission for the Arts.

21. Voluntary contribution for the Department of Emergency Management.

All moneys contributed shall be paid to the Department of Emergency Management.

22. Voluntary contribution for the cancer centers in the Commonwealth.

All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have been designated as cancer centers by the National Cancer Institute.

23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education Scholarship Program.

b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as established in § 30-231.4.

c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living History and Public Policy Center.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to § 63.2-2202.

26. Voluntary contribution to public library foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.

27. Voluntary contribution to Celebrating Special Children, Inc.

All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.

28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for providing Medicare Part D counseling to the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and Rehabilitative Services shall conduct an annual audit

of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.

29. Voluntary contribution to community foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.

a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.

32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.

33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.

35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.

All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for related programs and services.

C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:

1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2. Voluntary Chesapeake Bay restoration contribution.

a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural *and* Historic Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

c. No later than November 1 of each year, the Secretary of Natural *and* Historic Resources shall submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance *and* Appropriations; and the Virginia delegation to the Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an assessment of activities or initiatives supported by each grant. The report shall be posted on a website maintained by the Secretary of Natural *and* Historic Resources, along with a cumulative listing of previous grant awards beginning with awards granted on or after July 1, 2014.

3. Voluntary Jamestown-Yorktown Foundation Contribution.

All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1, 2008.

4. State forests voluntary contribution.

a. All moneys contributed shall be used for the development and implementation of conservation and education initiatives in the state forests system.

b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the purposes set forth herein.

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

6. Voluntary contribution to local school divisions.

a. All moneys contributed shall be used by a specified local public school foundation as created by and for the purposes stated in § 22.1-212.2:2.

b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers designated for a local public school foundation over refundable amounts shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public school foundation.

c. In order for a public school foundation to be eligible to receive contributions under this section, school boards must notify the Department during the taxable year in which they want to participate prior to the deadlines and according to procedures established by the Tax Commissioner.

7. Voluntary contribution to Home Energy Assistance Fund.

All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

8. Voluntary contribution to the Virginia Military Family Relief Fund.

a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in providing assistance to military service personnel on active duty and their families for living expenses including, but not limited to, food, housing, utilities, and medical services.

b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund, established and administered pursuant to § 44-102.2.

9. Voluntary contribution to the Federation of Virginia Food Banks.

All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

The Secretary of Finance may request records or receipts of all distributions by the Federation of Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this subdivision.

D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amount designated for each entity in subsections B and C on all individual income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each entity's respective special fund.

§ 62.1-44.15:68. Definitions.

For the purposes of this article, the following words shall have the meanings respectively ascribed to them:

"Chesapeake Bay Preservation Area" means an area delineated by a local government in accordance with criteria established pursuant to § 62.1-44.15:72.

"Criteria" means criteria developed by the Board pursuant to § 62.1-44.15:72 for the purpose of determining the ecological and geographic extent of Chesapeake Bay Preservation Areas and for use by local governments in permitting, denying, or modifying requests to rezone, subdivide, or use and develop land in Chesapeake Bay Preservation Areas.

"Daylighted stream" means a stream that had been previously diverted into an underground drainage system, has been redirected into an aboveground channel using natural channel design concepts as defined in § 62.1-44.15:51, and would meet the criteria for being designated as a Resource Protection Area (RPA) as defined by the Board under this article.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Secretary" means the Secretary of Natural *and Historic* Resources.

"Tidewater Virginia" means the following jurisdictions:

The Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.

§ 62.1-44.34:25. Virginia Spill Response Council created; purpose; membership.

A. There is hereby created the Virginia Spill Response Council. The purpose of the Council is to (i) improve the Commonwealth's capability to respond in a timely and coordinated fashion to incidents involving the discharge of oil or

hazardous materials which pose a threat to the environment, its living resources, and the health, safety, and welfare of the people of the Commonwealth and (ii) provide an ongoing forum for discussions between agencies which are charged with the prevention of, and response to, oil spills and hazardous materials incidents, and those agencies responsible for the remediation of such incidents.

B. The Secretary of Natural *and Historic* Resources and the Secretary of Public Safety and Homeland Security, upon the advice of the director of the agency, shall select one representative from each of the following agencies to serve as a member of the Council: Department of Emergency Management, State Water Control Board, Department of Environmental Quality, Virginia Marine Resources Commission, Department of Wildlife Resources, Department of Health, Department of Fire Programs, and the Council on the Environment.

C. The Secretary of Natural *and Historic* Resources or his designee shall serve as chairman of the Council.

§ 62.1-44.34:28. Council to submit annual report.

The Council shall submit a report annually to the Secretaries of Natural *and Historic* Resources and Transportation and Public Safety, which includes (i) an evaluation of the emergency response preparedness activities undertaken and the emergency response activities conducted during the year and (ii) a description of the activities of the Council during the year.

§ 62.1-44.117. Development of an impaired waters clean-up plan; strategies; objectives.

A. The Secretary of Natural *and Historic* Resources shall develop a plan for the clean-up of the Chesapeake Bay and Virginia's waters designated as impaired by the U.S. Environmental Protection Agency. The plan shall be revised and amended as needed to reflect changes in strategies, timetables, and milestones. Upon the request of the Secretary of Natural *and Historic* Resources, state agencies shall participate in the development of the plan.

B. The plan shall address both point and nonpoint sources of pollution and shall include, but not be limited to the following:

1. Measurable and attainable objectives for cleaning up the Chesapeake Bay and other impaired Virginia waters;
2. A description of the strategies to be implemented to meet specific and attainable objectives outlined in the plan;
3. Time frames or phasing to accomplish plan objectives and the expected dates of completion;
4. A clearly defined, prioritized, and sufficiently funded program of work within the plan both for point and nonpoint source clean-up projects;
5. A disbursement projection plan detailing the expenditures for point and nonpoint projects and whenever possible, a listing of the specific projects to which the funds are to be allocated;
6. Potential problem areas where delays in the implementation of the plan may occur;
7. A risk mitigation strategy designed to reduce the potential problems that might delay plan implementation;
8. A description of the extent of coordination between state and local governments in developing and achieving the plan's objectives;
9. Assessments of alternative funding mechanisms, that shall include but not be limited to the feasibility of utilizing the Virginia Resources Authority, that would address the needs of the Commonwealth to handle and appropriate state funds prudently and efficiently and address the needs of localities to achieve their goals in a timely and affordable manner; and
10. Recommendations to the oversight committees, as defined in § 62.1-44.118, for legislative action.

C. In reporting and documenting progress being made in clean-up efforts to the oversight committees, the plan shall include measures to assess the progress in accomplishing the program of work outlined in the plan. Special emphasis shall be given to the identification of trends that are either positively or negatively impacting plan accomplishment. These shall include, but are not limited to:

1. Stream miles added and removed from the 303(d) list under the federal Clean Water Act; waters meeting water quality standards; and total reductions of nitrogen, phosphorus, and sediment by tributary basin from point and nonpoint sources of pollution;
2. Scope of water quality monitoring of rivers, streams, estuaries, and lakes and the cumulative number of miles or acres assessed to evaluate the effectiveness of the efforts to restore impaired waters;
3. Number of best management practices (BMP) implemented; participation level in BMP cost-share programs; number of Total Maximum Daily Loads developed and implemented; local compliance levels with nonpoint programs, such as erosion and sediment control, stormwater management, and the Chesapeake Bay Preservation Act; number of wastewater treatment upgrades underway and number completed; and levels of compliance with nutrient-based permit limits; and
4. Updated or new strategies that would permit the optimal use of resources to meet plan objectives as the plan is revised over time.

For the purposes of this chapter "impaired waters" means those waters as defined in § 62.1-44.19:4.

§ 62.1-44.118. Status reports on progress; legislative oversight.

The Secretary of Natural *and Historic* Resources shall submit the impaired waters clean-up plan as described in § 62.1-44.117 no later than January 1, 2007, to the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance *and Appropriations*. Thereafter, a progress report on the implementation of the plan shall be submitted annually to these committees of oversight. The report shall be due on November 1 of each year. Water quality reporting requirements in subsection D of § 10.1-2127, subsection C of § 10.1-2128.1, and § 10.1-2134 shall be annually consolidated in the November 1 report. If there are questions as to the status of the clean-up effort, the chairman of any of these committees may convene his committee for the purpose of receiving testimony. The executive branch departments and

the Secretary of Natural *and Historic* Resources may request a meeting of any of the committees to inform them as to the progress of the clean-up or to propose specific initiatives that may require legislative action.

§ 62.1-44.119:1. Effective date.

The provisions of this chapter shall not become effective unless, on or after July 1, 2026, the Secretary of Agriculture and Forestry and the Secretary of Natural *and Historic* Resources jointly determine that the Commonwealth's commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan have not been satisfied by a combination of agricultural best management conservation practices, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices.

§ 62.1-69.31. Staffing and support.

The local governing bodies and Planning District Commissions found wholly or partially in the Rappahannock River Basin shall provide staff support for the Commission as the localities determine appropriate. Additional staff support may be hired or contracted for by the Commission through funds raised by or provided to it. The Commission is authorized to determine the duties of such staff and fix staff compensation within available resources.

All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its purposes and mission. The Secretary of Natural *and Historic* Resources or his designee shall act as the chief liaison between the administrative agencies and the Commission.

§ 62.1-69.32. Withdrawal; dissolution.

A. A locality may withdraw from the Commission one year after providing a written notice to the Commission of its intent to do so.

B. The Commission may dissolve itself upon a two-thirds vote of all members.

C. The Commission may be dissolved by repeal or expiration of this chapter.

D. The Commission shall be dissolved if the membership of the Commission falls below two-thirds of those eligible.

E. Upon the Commission's dissolution, all funds and assets of the Commission shall be divided on a pro rata basis. The Commonwealth's share of the funds and assets shall be transferred to the Office of the Secretary of Natural *and Historic* Resources for appropriate distribution.

§ 62.1-69.33. Funding.

A. The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses. The funding of the Commission shall be a shared responsibility of state and local governments. The Commonwealth's contribution shall be set through the normal state appropriations process. The Commission's local government members shall determine a process for distribution of costs among the local government members.

B. The Commission shall annually designate a fiscal agent.

C. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the Auditor of Public Accounts or his legal representative, and the costs of such audit services shall be borne by the Commission. The results of the audits shall be delivered to the chief elected officer in each of the Commission's member jurisdictions, the members of the House of Delegates and the Senate who serve on the Commission, the chairmen of the House Appropriations Committee and the Senate Finance *and Appropriations* Committee, and the Secretary of Natural *and Historic* Resources. The Commission's fiscal year shall be the same as the Commonwealth's.

§ 62.1-69.41. Staffing and support.

The Virginia Department of Environmental Quality and the North Carolina Department of Environment and Natural Resources shall provide staff support to the Commission. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of such additional staff shall be determined and fixed by the Commission, within available resources.

All agencies of the Commonwealth of Virginia and the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Virginia Secretary of Natural *and Historic* Resources and the North Carolina Secretary of the Department of Environment and Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the Commission.

§ 62.1-69.52. Withdrawal; dissolution.

A. A locality may withdraw from the Commission one year after providing written notice to the Commission of its intent to do so.

B. The Commission may be dissolved (i) upon three-fourths vote of its members, (ii) if the membership falls below three-fourths of the number of localities eligible for membership in the Commission, or (iii) by repeal or expiration of this chapter.

C. Upon the Commission's dissolution, all funds and assets of the Commission, including funds received from private sources, shall be divided and distributed on a pro rata basis to the member local governing bodies. All state funds and assets, if any, shall be transferred to the Office of the Secretary of Natural *and Historic* Resources for appropriate distribution.

§ 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.

A. Notwithstanding any other law, a person shall not drill for oil or gas in the waters of the Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 62.1-44.15:68, a person shall not drill for oil or gas in, whichever is the greater distance, as measured landward of the shoreline:

1. Those Chesapeake Bay Preservation Areas, as defined in § 62.1-44.15:68, which a local government designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource Protection Areas" shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72; or

2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.

B. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit to the Department of Mines, Minerals and Energy as part of his application for permit to drill an environmental impact assessment. The environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of oil or gas into the environment during drilling, production, and transportation on:

- a. Finfish, shellfish, and other marine or freshwater organisms;
- b. Birds and other wildlife that use the air and water resources;
- c. Air and water quality; and
- d. Land and water resources;

2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and

3. An examination of the secondary environmental effects of induced economic development due to the drilling and production.

C. Upon receipt of an environmental impact assessment, the Department of Mines, Minerals and Energy shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. The Department of Environmental Quality shall:

1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the Department of Environmental Quality; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of Mines, Minerals and Energy, within 90 days after notification and receipt of the environmental impact assessment from the Department.

D. The Department of Mines, Minerals and Energy may not grant a permit under § 45.1-361.29 until it has considered the findings and recommendations of the Department of Environmental Quality.

E. The Department of Environmental Quality shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

F. A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:

1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;

2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both of which have been filed with and approved by the State Water Control Board. For purposes of this section, the oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare and property that may result from discharge or accidental release;

3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside of those areas described in subsection A;

4. The drilling site is stabilized with boards or gravel or other materials which will result in minimal amounts of runoff;

5. Persons certified in blowout prevention are present at all times during drilling;

6. Conductor pipe is set as necessary from the surface;

7. Casing is set and pressure grouted from the surface to a point at least 2500 feet below the surface or 300 feet below the deepest known ground water, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;

8. Freshwater-based drilling mud is used during drilling;

9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids or other contaminated fluids;

10. Multiple blow-out preventers are employed; and

11. The person complies with all requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 and regulations promulgated thereunder.

G. The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1.

H. In the event that exploration activities in Tidewater Virginia result in a finding by the Director of the Department of Mines, Minerals and Energy that production of commercially recoverable quantities of oil is likely and imminent, the Director of the Department of Mines, Minerals and Energy shall notify the Secretary of Commerce and Trade and the Secretary of Natural *and Historic* Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards; transportation issues; state-of-the-art oil production well technology; economic impacts; regulatory initiatives; operational standards; and other matters related to the production of oil in the region. No permits for oil production wells shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes, (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives, and (iii) any resulting legislation has become effective. The report by the Secretaries and the Governor's recommendations shall be completed within 18 months of the findings of the Director of the Department of Mines, Minerals and Energy.

CHAPTER 402

An Act to amend and reenact § 59.1-547 of the Code of Virginia, relating to enterprise zone job creation grants.

[H 1881]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-547 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-547. Enterprise zone job creation grants.

A. As used in this section:

"Base year" means either of the two calendar years immediately preceding a qualified business firm's first year of grant eligibility, at the choice of the business firm.

"Federal minimum wage" means the minimum wage standard as currently defined by the United States Department of Labor in the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Such definition applies to permanent full-time employees paid on an hourly or wage basis. For those permanent full-time employees filling permanent full-time, salaried positions, the minimum wage is defined as the employee's annual salary divided by 52 weeks per year divided by 35 hours per week.

"Full month" means the number of days that a permanent full-time position must be filled in order to count in the calculation of the job creation grant amount. A full month is calculated by dividing the total number of days in the calendar year by 12. A full month for the purpose of calculating job creation grants is equivalent to 30.416666 days.

"Grant eligible position" means a new permanent full-time position created above the threshold number at an eligible business firm. Positions in retail, personal service or food and beverage service shall not be considered grant eligible positions.

"Minimum wage" means the federal minimum wage or the Virginia minimum wage, whichever is higher. The Department shall determine whichever is higher for the current calendar year as of December 1 of the prior calendar year, and its determination shall be continuously in effect throughout the calendar year, regardless of changes to the federal minimum wage or the Virginia minimum wage during that year.

"Permanent full-time position" means a job of indefinite duration at a business firm located within an enterprise zone requiring the employee to report for work within the enterprise zone; and requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the business firm's operation, which "normal year" must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the business firm, or (iii) a minimum of 1,680 hours per year. Such position shall not include (i) seasonal, temporary or contract positions, (ii) a position created when a job function is shifted from an existing location in the Commonwealth to a business firm located within an enterprise zone, (iii) any position that previously existed in the Commonwealth, or (iv) positions created by a business that is simultaneously closing facilities in other areas of the Commonwealth.

"Qualified business firm" means a business firm designated as a qualified business firm by the Department pursuant to § 59.1-542.

"Report to work" means that the employee filling a permanent full-time position reports to the business' zone establishment on a regular basis.

"Subsequent base year" means the base year for calculating the number of grant eligible positions in a second or subsequent five consecutive calendar year grant period. If a second or subsequent five-year grant period is requested within two years after the previous five-year grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant eligible positions in the final year of the previous grant period. If a business firm applies for subsequent five consecutive calendar year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as the subsequent base year, at the choice of the business firm.

"Threshold number" means an increase of four permanent full-time positions over the number of permanent full-time positions in the base year or subsequent base year.

"Virginia minimum wage" means the applicable minimum wage as determined pursuant to the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

B. A business firm shall be eligible to receive enterprise zone job creation grants for any and all years in which the business firm qualifies in the five consecutive calendar years period commencing with the first year of grant eligibility. A business firm may be eligible for subsequent five consecutive calendar year grant periods if it creates new grant eligible positions above the threshold for its subsequent base year.

C. The amount of the grant for which a business firm is eligible shall be calculated as follows:

1. Either (i) \$800 per year for up to five consecutive years for each grant eligible position that during such year is paid a minimum of ~~200~~ 175 percent of the ~~federal~~ minimum wage and that is provided with health benefits, or (ii) \$500 per year for up to five years for each grant eligible position that during such year is paid less than ~~200~~ 175 percent of the ~~federal~~ minimum wage, but at least ~~175~~ 150 percent of the ~~federal~~ minimum wage, and that is provided with health benefits. In areas with an unemployment rate that is one and one-half times or more the state average, or for businesses that are certified under regulations adopted by the Director of the Department of Small Business and Supplier Diversity pursuant to subdivision 8 of § 2.2-1606, the business firm will receive \$500 per year for up to five years for each grant eligible position that during such year is paid at least ~~150~~ 125 percent of the ~~federal~~ minimum wage and that is provided with health benefits. Unemployment rates used to determine eligibility for the reduced wage rate threshold shall be based on the most recent annualized unemployment data published by the Virginia Employment Commission. A business firm may receive grants for up to a maximum of 350 grant eligible jobs annually.

2. Positions paying less than ~~175~~ 150 percent of the ~~federal~~ minimum wage or that are not provided with health benefits shall not be eligible for enterprise zone job creation grants.

D. Job creation grants shall be based on a calendar year. The amount of the grant for which a qualified business firm is eligible with respect to any permanent full-time position that is filled for less than a full calendar year shall be prorated based on the number of full months worked.

E. The amount of the job creation grant for which a qualified business firm is eligible in any year shall not include amounts for grant eligible positions in any year other than the preceding calendar year. Job creation grants shall not be available for any calendar year prior to 2005.

F. Permanent full-time positions that have been used to qualify for any other enterprise zone incentive pursuant to former §§ 59.1-270 through 59.1-284.01 shall not be eligible for job creation grants and shall not be counted as a part of the minimum threshold of four new positions.

G. Any qualified business firm receiving a major business facility job tax credit pursuant to § 58.1-439 shall not be eligible to receive an enterprise zone job creation grant under this section for any job used to qualify for the major business facility job tax credit.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 403

An Act to amend the Code of Virginia by adding a section numbered 55.1-1243.1 and to repeal § 55.1-1243 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe.

[H 1900]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55.1-1243.1 as follows:

§ 55.1-1243.1. Tenant's remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe.

A. A general district court shall enter an order pursuant to this section upon petition by a tenant who presents evidence establishing that his landlord has willfully and without authority from the court (i) removed or excluded the tenant from the dwelling unit unlawfully, (ii) interrupted or caused the interruption of an essential service to the tenant, or (iii) taken action to make the premises unsafe for habitation.

B. An order entered pursuant to this section may require the landlord to (i) allow the tenant to recover possession of the dwelling unit, (ii) resume any such interrupted essential service, or (iii) fix any willful actions taken by the landlord or his agent to make the premises unsafe for habitation.

C. The initial hearing on the tenant's petition shall be held within five calendar days from the date of the filing of the petition. The court may issue a preliminary order ex parte to require the landlord to take action described in subsection B if the court finds (i) there is good cause shown to do so and (ii) the tenant made reasonable efforts to alert the landlord of the hearing. Any preliminary ex parte order issued pursuant to this section shall further include a date of no more than 10 days after the initial hearing for a full hearing to consider the merits of the petition and the damages described in subsection D.

At the full hearing, the court may terminate the rental agreement upon request of the tenant and order the landlord to return all of the security deposit in accordance with § 55.1-1226.

D. In a full hearing on a petition filed pursuant to this section and upon evidence presented establishing one or more of the factors in subsection A, the tenant shall recover (i) the actual damages sustained by him; (ii) statutory damages of \$5,000 or four months' rent, whichever is greater; and (iii) reasonable attorney fees.

2. That § 55.1-1243 of the Code of Virginia is repealed.

CHAPTER 404

An Act to amend the Code of Virginia by adding a section numbered 55.1-1243.1 and to repeal § 55.1-1243 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe.

[S 1215]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55.1-1243.1 as follows:

§ 55.1-1243.1. Tenant's remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe.

A. A general district court shall enter an order pursuant to this section upon petition by a tenant who presents evidence establishing that his landlord has willfully and without authority from the court (i) removed or excluded the tenant from the dwelling unit unlawfully, (ii) interrupted or caused the interruption of an essential service to the tenant, or (iii) taken action to make the premises unsafe for habitation.

B. An order entered pursuant to this section may require the landlord to (i) allow the tenant to recover possession of the dwelling unit, (ii) resume any such interrupted essential service, or (iii) fix any willful actions taken by the landlord or his agent to make the premises unsafe for habitation.

C. The initial hearing on the tenant's petition shall be held within five calendar days from the date of the filing of the petition. The court may issue a preliminary order ex parte to require the landlord to take action described in subsection B if the court finds (i) there is good cause shown to do so and (ii) the tenant made reasonable efforts to alert the landlord of the hearing. Any preliminary ex parte order issued pursuant to this section shall further include a date of no more than 10 days after the initial hearing for a full hearing to consider the merits of the petition and the damages described in subsection D. At the full hearing, the court may terminate the rental agreement upon request of the tenant and order the landlord to return all of the security deposit in accordance with § 55.1-1226.

D. In a full hearing on a petition filed pursuant to this section and upon evidence presented establishing one or more of the factors in subsection A, the tenant shall recover (i) the actual damages sustained by him; (ii) statutory damages of \$5,000 or four months' rent, whichever is greater; and (iii) reasonable attorney fees.

2. That § 55.1-1243 of the Code of Virginia is repealed.

CHAPTER 405

An Act to amend the Code of Virginia by adding a section numbered 15.2-958.3:1, relating to local green banks.

[H 1919]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-958.3:1 as follows:

§ 15.2-958.3:1. Local green banks.

A. As used in this section, "clean energy technologies" means energy resources and emerging technologies that have significant potential for commercialization and do not involve (i) the combustion of coal, petroleum or petroleum products, or municipal solid waste or (ii) nuclear fission. "Clean energy technologies" includes renewable energy sources, projects, and infrastructure; energy efficiency projects; alternative fuels used for electricity generation; alternative fuel vehicles and related infrastructure such as electric vehicle charging station infrastructure; and smart grid.

B. Any locality may, by ordinance, establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies. Such ordinance may include the following functions for a green bank:

1. Finance investment or financial support of investment in clean energy technologies to foster the growth and development of renewable energy sources;

2. Stimulate the demand for renewable energy and the deployment of clean energy technologies that serve end-use customers;

3. Before making any loan, loan guarantee, or other form of financing support for clean energy technologies, develop rules, policies, and procedures to specify borrower eligibility and any other term or condition of financial support;

4. Provide financing or financial support for clean energy technologies;
 5. Develop consumer protection standards for investments to ensure that the green bank and its partners are lending in a transparent and responsible manner that is in the financial interests of the borrowers; and
 6. Undertake any other activity as needed to support the mission of the green bank.
- C. In establishing a green bank, the locality shall determine whether the green bank will be a public entity, quasi-public entity, depository bank, or nonprofit entity.
- D. The locality shall offer private lending institutions the opportunity to participate in the green bank established pursuant to this section.
- E. Prior to the adoption of any ordinance pursuant to this section, the locality shall conduct a public hearing at which interested persons may object to or inquire about the proposed green bank or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

CHAPTER 406

An Act to amend and reenact §§ 10.1-2202 and 10.1-2204 of the Code of Virginia, relating to historic resources; acquisition and lease of land.

[H 1928]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2202 and 10.1-2204 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2202. Powers and duties of the Director.

In addition to the powers and duties conferred upon the Director elsewhere and in order to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural resources; in order to establish and maintain a permanent record of those resources; and in order to foster a greater appreciation of these resources among the citizens of the Commonwealth, the Director shall have the following powers and duties which may be delegated by the Director:

1. To employ such personnel as may be required to carry out those duties conferred by law;
2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth;
3. To apply for and accept bequests, grants and gifts of real and personal property as well as endowments, funds, and grants from the United States government, its agencies and instrumentalities, and any other source. The Director shall have the authority to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;
4. To perform acts necessary or convenient to carry out the duties conferred by law;
5. To promulgate regulations, in accordance with the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and not inconsistent with the National Historic Preservation Act (P.L. 89-665) and its attendant regulations, as are necessary to carry out all responsibilities incumbent upon the State Historic Preservation Officer, including at a minimum criteria and procedures for submitting nominations of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks;
6. To conduct a broad survey and to maintain an inventory of buildings, structures, districts, objects, and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible remains of the Commonwealth's cultural, political, economic, military, or social history;
7. To publish lists of properties, including buildings, structures, districts, objects, and sites, designated as landmarks by the Board, to inspect designated properties from time to time, and periodically publish a complete register of designated properties setting forth appropriate information concerning those properties;
8. With the consent of the landowners, to provide appropriately designed markers for designated buildings, structures, districts, objects and sites;
9. To acquire and to administer battlefield properties and, designated landmarks, and other properties of historic significance as determined by the Department, or easements or interests therein, and to administer such properties, whether acquired pursuant to this subsection or subdivision A 4 of § 10.1-2204;
10. To aid and to encourage counties, cities and towns to establish historic zoning districts for designated landmarks and to adopt regulations for the preservation of historical, architectural, archaeological, or cultural values;
11. To provide technical advice and assistance to individuals, groups and governments conducting historic preservation programs and regularly to seek advice from the same on the effectiveness of Department programs;
12. To prepare and place, in cooperation with the Department of Transportation, highway historical markers approved by the Board of Historic Resources on or along the highway or street closest to the location which is intended to be identified by the marker;
13. To develop a procedure for the certification of historic districts and structures within the historic districts for federal income tax purposes;

14. To aid and to encourage counties, cities, and towns in the establishment of educational programs and materials for school use on the importance of Virginia's historic, architectural, archaeological, and cultural resources;

15. To conduct a program of archaeological research with the assistance of the State Archaeologist which includes excavation of significant sites, acquisition and maintenance of artifact collections for the purposes of study and display, and dissemination of data and information derived from the study of sites and collections;

16. To manage and administer the Historic Resources Fund as provided in § 10.1-2202.1; and

17. To manage and administer the Historical African American Cemeteries and Graves Fund as provided in § 10.1-2211.3.

§ 10.1-2204. Duties of Board of Historic Resources.

A. The Board of Historic Resources shall:

1. Designate historic landmarks, including buildings, structures, districts, objects and sites which constitute the principal historical, architectural, archaeological, and cultural resources which are of local, statewide or national significance and withdraw designation either upon a determination by the Board that the property has failed to retain those characteristics for which it was designated or upon presentation of new or additional information proving to the satisfaction of the Board that the designation had been based on error of fact;

2. Establish and endorse appropriate historic preservation practices for the care and management of designated landmarks;

3. Approve the proposed text and authorize the manufacture of highway historical markers;

4. Acquire ~~by purchase or gift~~ battlefield properties ~~and~~, designated landmarks, *and other properties of historic significance*, or easements or interests therein;

5. Review the programs and services of the Department of Historic Resources, including annual plans and make recommendations to the Director and the Governor concerning the effectiveness of those programs and services;

6. In cooperation with the Department, and through public lectures, writings, and other educational activities, promote awareness of the importance of historic resources and the benefits of their preservation and use; and

7. Apply for gifts, grants and bequests for deposit in the Historic Resources Fund to promote the missions of the Board and the Department.

B. For the purposes of this chapter, designation by the Board of Historic Resources shall mean an act of official recognition designed (i) to educate the public to the significance of the designated resource and (ii) to encourage local governments and property owners to take the designated property's historic, architectural, archaeological, and cultural significance into account in their planning, the local government comprehensive plan, and their decision making. Such designation, itself, shall not regulate the action of local governments or property owners with regard to the designated property.

CHAPTER 407

An Act to amend the Code of Virginia by adding a section numbered 10.1-417.1, relating to designation of a segment of the South River as a state scenic river.

[H 1958]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-417.1 as follows:

§ 10.1-417.1. South State Scenic River.

The South River in the City of Waynesboro from South Oak Lane to Hopeman Parkway, a distance of approximately 6.5 miles, is hereby designated as the South State Scenic River, a component of the Virginia Scenic Rivers System.

CHAPTER 408

An Act to amend and reenact §§ 58.1-3221.6 and 58.1-3970.1 of the Code of Virginia, relating to administration of blighted and derelict properties in certain localities.

[H 1969]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3221.6 and 58.1-3970.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3221.6. Classification of blighted and derelict properties in certain localities.

A. For the purposes of this section:

"Blighted property" means the same as that term is defined in § 36-3.

"Derelict building" means the same as that term is defined in § 15.2-907.1.

"Qualifying locality" means a locality with a score of ~~107~~ 100 or higher on the fiscal stress index, as published by the Department of Housing and Community Development in July 2019 ~~using the revised data for fiscal year 2017~~ 2020.

B. In a qualifying locality, blighted properties, along with the land such properties are located on, are declared to be a separate class of property and shall constitute a separate classification for local taxation of real property.

C. In a qualifying locality, derelict buildings, along with the land such properties are located on, are declared to be a separate class of property and shall constitute a separate classification for local taxation of real property.

D. The governing body of a qualifying locality may, by ordinance, levy a tax on the property enumerated in subsection B at a rate different than that levied on other real property. The rate of tax imposed on such property may exceed the rate applicable to the general class of real property by up to five percent, but shall not be less than the rate applicable to the general class of real property.

E. The governing body of a qualifying locality may, by ordinance, levy a tax on the property enumerated in subsection C at a rate different than that levied on other real property. The rate of tax imposed on the property enumerated in subsection C may exceed the rate applicable to the general class of real property by up to 10 percent, but shall not be less than the rate applicable to the general class of real property.

F. Any tax levied pursuant to subsection D or E shall be imposed on a property upon a determination by the real estate assessor of the locality that such property constitutes either a blighted property or derelict structure, respectively. Such tax shall continue to be imposed until it has been determined by the real estate assessor of the locality that such property no longer constitutes a blighted property or derelict structure.

G. Any person aggrieved by the application of this section may appeal the determination by the real estate assessor as an erroneous assessment in accordance with Article 5 (§ 58.1-3980 et seq.) of Chapter 39.

§ 58.1-3970.1. Appointment of special commissioner to execute title to certain real estate with delinquent taxes or liens to localities.

A. Except as provided in subsection B, in any proceedings under this article for the sale of a parcel or parcels of real estate which meet all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the parcel for removal, repair or securing of a building or structure; removal of trash, garbage, refuse, litter; or the cutting of grass, weeds or other foreign growth, (ii) each parcel has an assessed value of \$75,000 or less, and (iii) such taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel or such taxes alone exceed 25 percent of the assessed value of the parcel, the locality may petition the circuit court to appoint a special commissioner to execute the necessary deed or deeds to convey the real estate to the locality in lieu of the sale at public auction. After notice as required by this article, service of process, and upon answer filed by the owner or other parties in interest to the bill in equity, the court shall allow the parties to present evidence and arguments, ore tenus, prior to the appointment of the special commissioner. Any surplusage accruing to a locality as a result of the sale of the parcel or parcels after the receipt of the deed shall be payable to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns in accordance with § 58.1-3967. No deficiency shall be charged against the owner after conveyance to the locality.

B. For a parcel or parcels of real estate in ~~the Cities of Norfolk, Richmond, Hopewell, Newport News, Petersburg, Fredericksburg, Hampton, and Martinsville~~ a locality with a score of 100 or higher on the fiscal stress index, as published by the Department of Housing and Community Development in July 2020, all of the provisions of subsection A shall apply except (i) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 35 percent and 15 percent, respectively, of the assessed value of the parcel or parcels or (ii) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 20 percent and 10 percent, respectively, of the assessed value of the parcel or parcels, and each parcel has an assessed value of \$150,000 or less, provided that under this clause the property is not an occupied dwelling, and the locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on the parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.

C. For sales by a nonprofit organization pursuant to subsection B, such sales may include either (i) both the land and the structural improvements on a property or (ii) only the structural improvements of a property and not the land the structural improvements are located on. A sale of only the structural improvements is permissible only if (a) the structural improvements are subject to a ground lease with a community land trust, as that term is defined in § 55.1-1200; (b) the structural improvements are subject to a ground lease that has a term of at least 90 years; and (c) the community land trust retains a preemptive option to purchase such structural improvements at a price determined by a formula that is designed to ensure that the improvements remain affordable in perpetuity to low-income and moderate-income families earning less than 120 percent of the area median income, adjusted for family size.

CHAPTER 409

An Act to amend and reenact § 55.1-1229 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; access to dwelling unit during certain declared states of emergency.

[H 1981]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1229 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1229. Access; consent; correction of nonemergency conditions; relocation of tenant; security systems.

A. 1. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises; make necessary or agreed-upon repairs, decorations, alterations, or improvements; supply necessary or agreed-upon services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

2. If, upon inspection of a dwelling unit during the term of a tenancy, the landlord determines there is a violation by the tenant of § 55.1-1227 or the rental agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning in accordance with § 55.1-1248, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit during the term of a tenancy, the landlord discovers a violation of the rental agreement, this chapter, or other applicable law, the landlord may send a written notice of termination pursuant to § 55.1-1245.

3. If the rental agreement so provides and if a tenant without reasonable justification declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant.

As used in this subdivision, "reasonable justification" includes the tenant's reasonable concern for his own health, or the health of any authorized occupant, during a state of emergency declared by the Governor pursuant to § 44-146.17 in response to a communicable disease of public health threat as defined in § 44-146.16, provided that the tenant has provided written notice to the landlord informing the landlord of such concern. In such circumstances, the tenant shall provide to the landlord or managing agent a video tour of the dwelling unit or other acceptable substitute for exhibiting the dwelling unit for sale or lease.

4. The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24 72 hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request for maintenance, the landlord is not required to provide notice to the tenant. *Notwithstanding the foregoing, during a state of emergency declared by the Governor pursuant to § 44-146.17 in response to a communicable disease of public health threat as defined in § 44-146.16, the tenant may provide written notice to the landlord requesting that one or more nonemergency property conditions in the dwelling unit not be addressed in the normal course of business of the landlord due to such communicable disease of public health threat. In such case, the tenant shall be deemed to have waived any and all claims and rights under this chapter against the landlord for failure to address such nonemergency property conditions. At any time thereafter, the tenant may consent in writing to the landlord addressing such nonemergency property conditions in the normal course of business of the landlord. In the case of a tenant who has provided notice that he does not want nonemergency repairs made during the state of emergency due to a communicable disease of public health threat, the landlord may nonetheless enter the dwelling unit to do nonemergency repairs and maintenance with at least seven days' written notice to the tenant and at a time consented to by the tenant, no more than once every six months, provided that the employees and agents sent by the landlord are wearing all appropriate and reasonable personal protective equipment as required by state law. Furthermore, if the landlord is required to conduct maintenance or an inspection pursuant to the agreement for the loan or insurance policy that covers the dwelling unit, the tenant shall allow such maintenance or inspection, provided that the employees and agents sent by the landlord are wearing all appropriate personal protective equipment as required by state law.*

5. During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.

B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to exceed 30 days to a comparable dwelling unit, or hotel, as selected by the landlord and at no expense or cost to the tenant. The landlord shall not be required to pay for any other expenses of the tenant that arise after the temporary relocation period. The landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in less than 30 days. For purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in compliance with § 55.1-1220; (ii) the condition does not need to be remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the condition can only be effectively remedied by the temporary relocation of the tenant pursuant to the provisions of this subsection.

The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to address the nonemergency property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate the unit and terminate the rental agreement within the 30-day notice period. If the landlord properly remedies the nonemergency property condition within the 30-day

period, nothing in this section shall be construed to entitle the tenant to terminate the rental agreement. Further, nothing in this section shall be construed to limit the landlord from taking legal action against the tenant for any noncompliance that occurs during the period of any temporary relocation pursuant to this subsection. During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.

C. The landlord has no other right to access except by court order or that permitted by §§ 55.1-1248 and 55.1-1249 or if the tenant has abandoned or surrendered the premises.

D. The tenant may install within the dwelling unit new security systems that the tenant may believe necessary to ensure his safety, including chain latch devices approved by the landlord and fire detection devices, provided that:

1. Installation does no permanent damage to any part of the dwelling unit;
2. A duplicate of all keys and instructions for the operation of all devices are given to the landlord; and

3. Upon termination of the tenancy, the tenant is responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

E. Upon written request of a tenant in a dwelling unit, the landlord shall install a carbon monoxide alarm in the tenant's dwelling unit within 90 days. The landlord may charge the tenant a reasonable fee to recover the costs of the equipment and labor for such installation. The landlord's installation of a carbon monoxide alarm shall be in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.).

CHAPTER 410

An Act to amend and reenact §§ 36-139 and 55.1-1250 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; landlord remedies; landlord's acceptance of rent with reservation; tenant's right of redemption.

[H 2014]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-139 and 55.1-1250 of the Code of Virginia are amended and reenacted as follows:

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. *Developing a sample termination notice that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant in accordance with § 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on the Department's website.*

28. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 55.1-1250. Landlord's acceptance of rent with reservation; tenant's right of redemption.

A. ~~The~~ No landlord may accept full or partial payment of rent, as well as any damages, money judgment, award of attorney fees, and court costs, and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under ~~§ 55.1-1255~~ 55.1-1245, unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord. However, a landlord may accept partial payment of rent and other amounts owed by the tenant to the landlord and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction for nonpayment of rent under § 55.1-1245, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice may be included in a written termination notice given by the landlord to the tenant in accordance with § 55.1-1245, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. *Such notice shall include*

the following language: "Any partial payment of rent made before or after a judgment of possession is ordered will not prevent your landlord from taking action to evict you. However, full payment of all amounts you owe the landlord, including all rent as contracted for in the rental agreement that is owed to the landlord as of the date payment is made, as well as any damages, money judgment, award of attorney fees, and court costs made at least 48 hours before the scheduled eviction will cause the eviction to be canceled, unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord." If the landlord elects to seek possession of the dwelling unit pursuant to § 8.01-126, the landlord shall provide a copy of this notice to the court for service to the tenant, along with the summons for unlawful detainer: If the dwelling unit is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, nothing in this section shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable. Notwithstanding the requirements of this section, a landlord with four or fewer rental dwelling units, or up to a 10 percent interest in four or fewer rental dwelling units, may limit a tenant's use of the right of redemption to once per lease period, provided that the landlord provides written notice of such limitation to the tenant.

B. The tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, at or before the first return date on an action for unlawful detainer. ~~For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of such return date.~~

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, and dismiss the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises. *For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of such return date.*

~~D. C.~~ In cases of unlawful detainer, a tenant, *or any third party on behalf of a tenant*, may pay the landlord or the landlord's attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement *and as provided by law*, (iv) reasonable attorney fees as contracted for in the rental agreement ~~or~~ *and as provided by law*, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed, *unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord.*

D. If such payment has not been made as of the return date for the unlawful detainer, the tenant, *or any third party on behalf of the tenant*, may pay to the landlord, the landlord's attorney, or the court all amounts claimed on the summons in unlawful detainer, including current rent, damages, late charges, costs of court, any civil recovery, attorney fees, and sheriff fees, *including the sheriff fees for service of the writ of eviction if payment is made after issuance of the writ*, no less than ~~two business days~~ *48 hours* before the date and time scheduled by the officer to whom the writ of eviction has been delivered to be executed. *Upon receipt of such payment, the landlord, or the landlord's attorney or managing agent, shall promptly notify the officer to whom the writ of eviction has been delivered to be executed that the execution of the writ of eviction shall be canceled. If the landlord has actual knowledge that the tenant has made such payment and willfully fails to provide such notification, such act may be deemed to be a violation of § 55.1-1243. In addition, the landlord shall transmit to the court a notice of satisfaction of any money judgment in accordance with § 8.01-454.*

E. *Upon receiving a written request from the tenant, the landlord, or the landlord's attorney or managing agent, shall provide to the tenant a written statement of all amounts owed by the tenant to the landlord so that the tenant may pay the exact amount necessary for the tenant to exercise his right of redemption pursuant to this section. Any payments made by the tenant shall be by cashier's check, certified check, or money order. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term of the rental agreement. A court shall not issue a writ of eviction on any judgment for possession that has expired or has been marked as satisfied.*

2. That the Department of Housing and Community Development shall convene a stakeholder group consisting of landlords, property managers, and tenants, as well as attorneys knowledgeable of the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq. of the Code of Virginia) and other relevant provisions of the Code of Virginia related to eviction procedures in residential landlord and tenant cases, to provide input to the Director of the Department of Housing and Community Development (the Director) regarding the development of the sample termination notice required to be developed by the Director pursuant to § 36-139 of the Code of Virginia, as amended by this act.

CHAPTER 411

An Act to direct the Department of Housing and Community Development to convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth's growing demand for affordable and market-rate housing.

[H 2053]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of Housing and Community Development (Department) shall convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth's growing demand for affordable and market-rate housing. The stakeholder advisory group shall (i) to the extent possible, collect data from stakeholders regarding the current state of the for-sale and rental accessory dwelling unit market in the Commonwealth and information regarding projected demand for accessory dwelling units; (ii) solicit input from stakeholders regarding the current implementation of local accessory dwelling unit ordinances in the Commonwealth; (iii) solicit input from stakeholders regarding locally and state-enacted impediments to the development or construction of accessory dwelling units, including state statutes, building codes, and local zoning ordinances and development standards; (iv) identify local tools to facilitate the construction of accessory dwelling units, including alternative permitting processes, waiver or modification of local parking requirements or ratios, expediting permitting processes, small lot ordinances, and density adjustments; and (v) develop recommendations for state policy changes to remove obstacles to local implementation of accessory dwelling units. The stakeholder advisory group shall include representatives from the Department, the Virginia Housing Development Authority, local planning departments, and local building departments; individuals with expertise in land development, construction, land-use and zoning laws and processes, affordable housing, the Virginia Uniform Statewide Building Code, sustainable development, public transit, common interest communities, property owners' associations, or other areas of expertise as determined by the Department; an affordable housing representative; representatives from social equity organizations; a union representative; a youth organizer; and a representative from the American Association of Retired Persons (AARP). To the extent possible, the Department shall endeavor to ensure balanced geographical representation among the members of the stakeholder advisory group, with representation of rural, suburban, and urban localities and regions of the Commonwealth. The stakeholder advisory group shall receive staff support from the Department. Prior to the first meeting of the stakeholder advisory group, to the extent possible, the Department shall solicit input from the stakeholder advisory group members on the issues enumerated by clauses (i), (ii), (iii), and (iv) and compile such information for presentation at the first meeting of the stakeholder advisory group, and the Department shall continually solicit and compile such input throughout the work of the stakeholder advisory group. The stakeholder advisory group shall report its findings, including any legislative recommendations, to the Director of the Department, the Secretary of Commerce and Trade, the commissioners of the Virginia Housing Development Authority, and the Virginia Housing Commission no later than November 1, 2021. The Department may, in its sole discretion, be permitted to continue its work beyond November 1, 2021, but no later than November 1, 2022.*

CHAPTER 412

An Act to amend and reenact § 15.2-2223.4 of the Code of Virginia, relating to comprehensive plan; transit-oriented development.

[H 2054]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2223.4 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2223.4. Comprehensive plan shall provide for transit-oriented development.

Beginning July 1, 2020, each city with a population greater than 20,000 and each county with a population greater than 100,000 shall consider incorporating into the next scheduled and all subsequent reviews of its comprehensive plan strategies to promote transit-oriented development for the purpose of reducing greenhouse gas emissions through coordinated transportation, housing, and land use planning. Such strategies may include (i) locating new housing development, including low-income, affordable housing, in closer proximity to public transit options; (ii) prioritizing transit options with reduced overall carbon emissions; (iii) increasing development density in certain areas ~~to reduce density in others~~; or (iv) *reducing, modifying, or waiving local parking requirements or ratios; or (v) other strategies designed to reduce overall carbon emissions in the locality.*

CHAPTER 413

An Act to amend the Code of Virginia by adding a section numbered 58.1-1802.2, relating to delinquent returns; enforcement; when approval required.

[H 2059]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 58.1-1802.2 as follows:****§ 58.1-1802.2. Delinquent returns; enforcement; when approval required.**

A. For purposes of this section, "willfully" means voluntarily, knowingly, and intentionally violating a legal duty.

Taxpayers failing to file tax returns due pursuant to Chapter 3 (§ 58.1-300 et seq.) shall be requested to prepare and file all such returns except in instances where there is an indication that the taxpayer willfully failed to file the required return or returns, or if there is any other indication of fraud. All delinquent returns submitted by a taxpayer, whether upon his own initiative or at the request of the Department, shall be enforced pursuant to the provisions of subsection C and shall be accepted. However, when an indication that the taxpayer willfully failed to file the required return or if any other indication of fraud exists, the Department may refuse to accept such delinquent return submission in accordance with the laws of the Commonwealth and guidelines developed pursuant to this section.

B. Where it is determined that required returns have not been filed when due, the extent to which compliance for prior years will be enforced shall be determined by reference to factors ensuring compliance and proper administration of staffing and other Department resources. Factors to be considered shall include, but are not limited to, the taxpayer's prior history of noncompliance, existence of income from illegal sources, effects upon voluntary compliance, anticipated revenue, and collectability, in relation to the time and effort required to determine tax due. The Department shall also consider any special circumstances existing in the case of a particular taxpayer, class of taxpayer, or industry, or which may be peculiar to the class of tax involved.

C. Subject to the provisions of subsection A, application of the criteria in subsection B shall result in enforcement by the Department of delinquency procedures for not more than six years of the taxpayer's returns. Enforcement beyond such period shall not be undertaken without prior approval of the applicable manager designated by the Tax Commissioner. However, the approval of such manager shall not be required if the nonfiling taxpayer voluntarily files returns beyond the established enforcement period. Such approval shall reference the facts of the taxpayer's case and detail the reasons why enforcement for the longer period is recommended.

D. The Department shall develop guidelines for the enforcement procedures provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 414

An Act to direct the Department of Taxation to analyze the prospect of establishing an online portal for tax practitioners.

[H 2060]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of Taxation shall, with input from affected stakeholders, analyze the prospect of establishing an online portal for tax practitioners who possess a valid Power of Attorney and Declaration of Representative form to access confidential client information. In its analysis, the Department shall evaluate (i) comparable services offered by the Internal Revenue Service or by other states that provide electronic access to confidential taxpayer information and (ii) cybersecurity concerns associated with providing such services. The Department shall identify the estimated costs associated with creation of such a portal and report its findings and recommendations to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and Senate Committee on Finance and Appropriations no later than December 1, 2021.*

CHAPTER 415

An Act to direct the Virginia Housing Development Authority to report on recommendations for the creation of a Virginia Good Neighbor Next Door Program.

[H 2072]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Virginia Housing Development Authority shall report to the Governor, the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology, and the Virginia Housing Commission no later than July 1, 2022, on recommendations, including any legislative recommendations, for the creation of*

a Virginia Good Neighbor Next Door Program to provide financial incentives for law-enforcement officers, firefighters, emergency medical services personnel, and teachers to purchase homes within designated revitalization areas in the localities in which they are employed. Such program shall be similar to the Good Neighbor Next Door Program administered by the U.S. Department of Housing and Urban Development.

CHAPTER 416

An Act to rename certain sections of U.S. Route 1 in Virginia the "Emancipation Highway" and to repeal Chapter 286 of the Acts of Assembly of 1922.

[H 2075]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. Any section of U.S. Route 1 in Virginia that is designated as the "Jefferson Davis Highway" shall on the effective date of this act be designated and shall hereafter be known as the "Emancipation Highway." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this highway. This designation shall not affect any other memorial designation heretofore or hereafter applied to this highway or any portions thereof.
2. That Chapter 286 of the Acts of Assembly of 1922 is repealed.
3. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 417

An Act to amend and reenact §§ 2.06, 5.04, as amended, 6.03, 8.04, as amended, 10.06, as amended, 10.07, and 15.03, as amended, of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, relating to powers and organization.

[H 2095]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.06, 5.04, as amended, 6.03, 8.04, as amended, 10.06, as amended, 10.07, and 15.03, as amended, of Chapter 542 of the Acts of Assembly of 1990 are amended and reenacted as follows:

§ 2.06. Power to make regulations for the preservation of safety, health, peace, good order, comfort, convenience, morals and welfare of the city and its inhabitants.

The city shall have the power to adopt ordinances not in conflict with the general laws of the Commonwealth for the preservation of safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants including without limitation:

1. To provide for the prevention of vice, drunkenness, immorality, riots, disturbances, disorderly assemblages, the suppression of houses of ill fame and gambling places, the prevention of lewd and disorderly conduct or exhibitions; and the prevention of conduct and of speech dangerous to the public.

The city may join with the City of Bristol, Tennessee, in the doing of all of the above with respect to State Street, or any other street on the state line, and in the regulation and routing of traffic along and over the same; and in the establishing or regulating of motor vehicles and other public service passenger routes, and in fixing and regulating the charges for such passenger carrying services.

2. To enforce all regulations pertaining to the city's real property, water supply and other public improvements. Wherever such properties, supplies and improvements may be situate they shall be under the police jurisdiction of the city, and any member of the police force of the city shall have the power to make arrests for violation of any ordinance, rule or regulation adopted pursuant to this section.

3. To control its streets, alleys and other public properties and incident thereto:

- (a) To grant or authorize the issuance of permits under such terms and conditions as the council may impose for the use of streets, alleys and other public places of the city.

- (b) To prevent any obstruction of or any encroachment over, under or in any street, alley, sidewalk or other public place.

- (c) To provide penalties for maintaining any such obstruction or encroachment.

- (d) To remove the same and charge the cost thereof to the owner or owners, occupant or occupants of the property so obstructed or encroaching, and collect the sum charged in any manner provided by law for the collection of delinquent taxes.

- (e) To require the owner or owners or the occupant or occupants of the property so obstructing or encroaching to remove the same and pending such removal, charge the owner or owners of the property so obstructing or encroaching compensation for the use of such portion of the street, alley, sidewalk or other public place obstructed or encroached upon the equivalent of what would be the tax upon the lands so occupied if it were owned by the owner or owners of the property so obstructing or encroaching.

- (f) To impose penalty for each and every day that such obstruction or encroachment is allowed to continue.

(g) To authorize encroachments upon streets, alleys, sidewalks or other public places, subject to such terms and conditions as the council may prescribe.

(h) To recover possession of any street, alley, sidewalk or other public place or any other property of the city by any appropriate action at law or equity.

4. To regulate the operation of motor vehicles and exercise control over traffic in the streets of the city and provide penalties for the violation of such regulations payable into the city treasury.

5. To regulate use of property and incident thereto:

(a) To compel the abatement and removal of all public nuisances within the city or upon property owned by the city beyond its limit at the expense of the person or persons causing the same or of the owner or occupant of the ground or premises whereon the same may be and collect said expense by suit or other lawful action.

(b) To require all lands, lots, sidewalks, unimproved city right-of-ways and other premises within the city to be kept clean and sanitary and free from stagnant water, weeds, snow, filth, mud and unsightly deposits by the owners and occupants thereof, or in the case of sidewalks and unimproved city right-of-ways by the owner or operator of property contiguous thereto and to make them so at the expense of the owner or occupants thereof (or contiguous owner or occupant), and to collect the expense by suit or motion and to make said expense a lien upon the property collectable as other delinquent taxes.

(c) To regulate or prevent slaughter houses or other noisome or offensive businesses within the city.

(d) To regulate or prevent the keeping of hogs or other animals, poultry or other fowl in the city or the exercise of any dangerous or unwholesome business, trade or employment.

(e) To regulate the transportation of all articles through the streets of the city.

(f) To compel the abatement of smoke and dust and prevent unnecessary noise.

(g) To regulate the locations of stables and the manner in which they will be kept and constructed.

(h) To regulate the location, construction, operation and maintenance of billboards.

(i) To define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, aesthetics, safety, convenience and welfare of the inhabitants of the city.

6. To regulate, to the extent not prohibited by the laws of the Commonwealth, public health, and incident thereto:

(a) To regulate the production, preparation, distribution, sale and possession of milk, other beverages and foods for human consumption and the places in which they are produced, prepared, distributed, sold, served or stored.

(b) To regulate the construction, installation, maintenance and condition of all sewer pipes, connections, toilets, water closets and plumbing fixtures of all kinds.

(c) To regulate the construction and use of septic tanks and dry closets, where sewers are not available.

(d) To regulate the sanitation of swimming pools and lakes.

(e) To regulate by emergency regulation all things required to provide for the quarantine of any person or persons afflicted with a contagious and infectious disease and for the removal of such person to a hospital ward specially designated for contagious or infectious diseases.

(f) To inspect and prescribe reasonable rules and regulations with respect to private hospitals, sanatoria, convalescent homes, clinics and other private institutions, homes and facilities for the care of the sick, children, the aged and the destitute.

(g) To make and enforce all regulations necessary to preserve and promote public health and sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.

7. To provide for the care, support and maintenance of children and of sick, aged, insane or poor persons and paupers.

8. To provide and maintain, either within or without the city, charitable, recreative, curative, corrective, detentive or penal institutions.

9. To extinguish and prevent fires and to compel citizens to render assistance to the fire department in case of need and incident thereto:

(a) To establish, regulate and control a fire department or division.

(b) To regulate the size, height, materials and construction of buildings, fences, walls, retaining walls and other structures hereafter erected in such a manner as the public safety and convenience may require.

(c) To remove or require to be removed or reconstructed any building, structure or addition thereto which by reason of dilapidation, defect of structure or other causes may have become dangerous to life or property, or which may be erected contrary to law.

(d) To establish and designate from time to time fire limits within which limits wooden buildings shall not be constructed, removed, added to, enlarged or repaired and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof material.

(e) To enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments or amusements.

10. To regulate, and if necessary to acquire, maintain and operate, cemeteries, crematoriums, columbariums and like means for the disposal of the dead and to regulate and make burials therein, prescribe the records to be kept by the owners of such cemeteries, crematoriums, columbariums and other facilities for the disposal of the dead, prohibit all burials except in public burying grounds and to otherwise regulate the burial and disposition of the dead.

11. To acquire by any lawful means, including without limitation the exercise of eminent domain, any property adjoining other property used by the city for any public purpose when such property to be acquired is used and maintained

in such manner as to impair the usefulness or efficiency of any such public property; and to likewise acquire property adjacent to any street, the topography of which, from its proximity thereto, impairs the convenient use of such street, or renders impractical, without extraordinary expense, the improvement of the same, and the city may subsequently dispose of property so acquired, limiting the use thereof to protect the usefulness, efficiency or convenience of such public property.

12. To exercise full police powers and establish and maintain a department or division of police; ~~to authorize the appointment and qualification of police officers of the City of Bristol, Tennessee, as police officers in the City of Bristol, Virginia, and to permit and authorize the appointment of law-enforcement officers of the City of Bristol, Virginia, as law-enforcement officers in the City of Bristol, Tennessee.~~

13. To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals and similar shows or fairs, or prohibit the holding of the same or any of them within the city.

14. To make and enforce such regulations as shall be necessary to prevent peddling, obstructing public ways or buying and selling at a higher price any food item at the same market or fair or one within four miles of the same market or fair.

15. To regulate or prohibit the manufacture, storage, transportation, possession or use of explosive or inflammable substances and the use or exhibition of fireworks and discharge of firearms and to regulate or prohibit the making of fires in the streets, alleys and other public places in the city; to regulate the making of fires on private property.

16. To compel the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. The city shall also have the power to compel the razing or repair of all public or private buildings, walls or structures which impair the beauty, value, usefulness of those properties contiguous to or in the vicinity of said public or private property which would ordinarily be encompassed within the meaning of the word "neighborhood."

17. To regulate or prohibit the running at large and the keeping of animals and fowl and provide for the impounding and confiscation of any such animal or fowl found at large or kept in violation of such regulations, and to prevent cruelty to and abuse of animals.

18. To do all other things whatsoever necessary or expedient to promote or maintain the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city or its inhabitants; and to join with the City of Bristol, Tennessee, or any other political subdivision within or without Virginia, in any plan, arrangement, contract or joint venture to promote or maintain the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of said political subdivisions, or their inhabitants, or to secure additional water for them or their inhabitants, but this grant of power or exercise thereof shall in no event defeat, limit or abridge the right of the City of Bristol, Virginia, to exercise the power of eminent domain as provided by the general law of the Commonwealth of Virginia and this charter.

§ 5.04. Powers and duties with respect to the budget.

A. The city manager shall direct the department directors to prepare departmental estimates and other data necessary or useful to the city manager in the preparation of the budget. The city manager shall examine from time to time the departments, divisions, boards, commissions, offices and agencies of the city, in relation to their organization, personnel and other requirements; ascertain the manner in which their respective budgets are carried out and their functions performed; call the attention of the directors thereof to any improvements or economies which might be made in their administrative practices; and cooperate with the directors thereof in the preparation of their budget estimates for each ensuing year.

B. Not later than the second Tuesday in ~~May~~ *April*, the city manager shall have prepared and submit to the council an annual budget estimate for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government.

§ 6.03. City attorney.

~~The head of the department of law~~ *general counsel of the city* shall be the city attorney. He shall be an attorney-at-law, licensed to practice under the laws of the Commonwealth. ~~City council~~ *The city attorney* may also appoint assistant city attorneys, who shall be attorneys at law, licensed to practice under the laws of the Commonwealth.

The city attorney shall, with the mayor and city manager, have charge, management and entire control of all the law business of the city. Pursuant to such, the city attorney shall:

1. Be the legal adviser to the council, the city manager and of all departments, boards, commissions and agencies of the city, excluding the school board and the Bristol Virginia Utility Board, in all matters affecting the interests of the city and shall upon request furnish a written opinion on any question of law involving the city's operation or position;

2. At the request of the city manager or any member of the council, prepare ordinances for introduction, and at the request of the council or any member thereof, shall examine any ordinance after introduction and render his opinion as to the form and legality thereof;

3. Draw or approve all bonds, deeds, releases, contracts or other instruments to which the city is a party or in which it has an interest;

4. Have the management and control of all the law business of the city and the departments, boards and commissions and agencies thereof or in which the city has an interest, and represent the city as counsel in any civil case in which it is interested, in criminal cases in which the constitutionality or validity of any ordinance is brought in issue, and upon request of the mayor or city manager shall prosecute the violation of any ordinance of the city, the violation of which is a misdemeanor;

5. Institute and prosecute all legal proceedings as shall be necessary or proper to protect the interest of the city;

6. Attend in person or assign one of his assistants to attend all regular meeting of the council and all special called meetings of the council that he is requested to attend; and

7. Perform such other duties and powers as may be assigned to him by council.

§ 8.04. City planning commission.

There shall be a city planning commission consisting of seven members, one of whom shall be a member of city council selected by the council for a term coincident with his term on the council and the remaining members shall be citizens appointed by city council for four-year terms, to be staggered beginning July 1, 2019. All citizens of the City of Bristol, Virginia, ~~owning real property~~ shall be eligible for appointment to the planning commission, and all appointees shall take the oath of office before entering into their duties. Each appointee, other than the councilmanic and employee appointees, shall be eligible for only two consecutive terms.

The planning commission's duties shall be to:

1. Exercise general supervision of and make regulations for the administration of its affairs;
 2. Prescribe rules pertaining to its investigations and hearings;
 3. Supervise its physical affairs and responsibilities, under rules and regulations as prescribed by the governing body;
 4. Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;

5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;

6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;

7. Prepare and submit an annual budget estimate in the manner prescribed by the city council;

8. Review, amend and recommend a comprehensive city plan to city council as provided for by state law and this charter and amendments thereto as needed;

9. Exercise such authority and perform such duties relative to zoning, subdivisions and other matters related to development within the City of Bristol, Virginia, as are provided for in the respective ordinances provided for the same by city council; and

10. Perform such other duties as council may from time to time assign to the planning commission.

The planning commission shall be staffed by the director of the department of planning and employees of that department until and unless the council shall by ordinance provide for a separate staff for the planning commission. The planning commission may, with the approval of the city manager, call upon the heads of other departments for staff functions as the need may arise.

§ 10.06. Additional appropriations.

~~Subject to the limitations contained hereinafter, appropriations in addition to those contained in the appropriation ordinance may be made by the council by a four-fifths vote during the fiscal year if the chief financial officer certifies in writing that there is available in the general fund a sum unencumbered and unappropriated sufficient to meet such appropriation. At any time during the fiscal year when reimbursements or payments from the Commonwealth of Virginia and the United States of America for specified purposes exceed budget estimates of anticipated revenue for such purposes, such excess reimbursement or payments may be included in the general fund unencumbered and unappropriated balances and may be appropriated for such specified purposes, whether such grants be termed categorical or general Appropriations in addition to those contained in the appropriation ordinance may be made by the council pursuant to § 15.2-2507 of the Code of Virginia.~~

§ 10.07. Disposition of unencumbered balances; incurring liabilities.

~~At the close of each fiscal year, or upon the completion or abandonment at any time within the year of any work, improvement or other object for which a specific appropriation has been made, the unexpended balance of such any appropriation shall revert to the general fund from which it was appropriated and shall be, subject to further appropriations, except that funds obligated to any ongoing project, capitol or operating, which has not been completed or if completed has not been billed to the city and paid, shall remain appropriated to the purpose for which it was appropriated until expended. This does not prohibit the council from authorizing transfers between department budgets as may be necessary to adjust expenditures re-appropriation by city council in the next fiscal year. No city liability shall be incurred by an officer or employee of the city except in accordance with the provisions of the appropriations made by council or under continuing contracts and loans authorized under provisions of this charter.~~

§ 15.03. Investigation into city affairs.

~~The City council, the city manager, and any officer, board or commission authorized by them or either of them, the city attorney shall have power to make investigation investigations as to city affairs. For that purpose, the city council, the city manager, or any such officer, board or commission the city attorney shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence relating to any person, officer, board, commission, authority or other entity that conducts business with the City of Bristol, Virginia. Any person refusing or failing to attend or to testify or to produce such books and papers may be summonsed by such board council, city manager, or officer city attorney before the judge of the General District Court for the City of Bristol, Virginia, by council, the board city manager, or official the city attorney making such investigation, and upon failure to give satisfactory explanation of such failure or refusal, may be found guilty by the judge of the general district court of a Class 2 misdemeanor and fined or jailed accordingly. Such persons shall have~~

the right to appeal to the circuit court of the city any conviction pursuant hereto. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.

CHAPTER 418

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 13 of Title 10.1 a section numbered 10.1-1322.5, relating to Virginia Electric Vehicle Grant Fund and Program; creation; work group report.

[H 2118]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 13 of Title 10.1 a section numbered 10.1-1322.5 as follows:

§ 10.1-1322.5. Virginia Electric Vehicle Grant Fund and Program; report.

A. As used in this section:

"Department" means the Department of Environmental Quality.

"Electric school bus" means a school bus that is propelled to a significant extent by an electric motor that draws electricity from a battery and is capable of being recharged from an external source of electricity.

"Fund" means the Virginia Electric Vehicle Grant Fund established in subsection B.

"Fund and Program project" means all or any part of projects pursued for the Fund and Program that are necessary and desirable for (i) reducing air pollution in order to protect the health of Virginians; (ii) increasing the number and use of electric school buses in Virginia; (iii) replacing commercial vehicles or heavy equipment in Virginia that use fossil fuels with electric vehicles or equivalents that reduce air emissions; (iv) ensuring a broad geographic distribution of grant awards; and (v) creating employment opportunities for Virginians.

"Program" means the Virginia Electric Vehicle Grant Program established pursuant to subsection C.

"School bus" has the same meaning as the term "schoolbus" as defined in 49 U.S.C. § 30125, and its successor amendments.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Electric Vehicle Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Program established pursuant to subsection C or (ii) implementing and administering the Program. Moneys used for implementing and administering the Fund and Program shall be limited to amounts necessary to implement the Fund and Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

C. The Virginia Electric Vehicle Grant Program is hereby established for the purpose of awarding grants on a competitive basis to Fund and Program projects pursuant to subsection D from such funds as may be available from the Fund. The Department shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant. The Program shall be administered by the Department. In administering the Program, the Department shall consult with other departments and stakeholders described in subsection E to publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Department and grant recipients.

D. Grants shall be awarded for Fund and Program projects that meet these criteria, and, to the extent practicable, shall follow this order of priority: (i) Fund and Program projects by public school divisions (a) to cover the costs, in whole or in part, associated with replacing existing diesel school buses that they operate with electric school buses that reduce air emissions; (b) to implement recharging infrastructure or other infrastructure needed to charge or maintain such electric school buses; and (c) to train workers according to labor standards to be developed by the Department to support the maintenance, charging, and operations of such electric school buses and (ii) Fund and Program projects by public, private, or nonprofit entities in Virginia (a) to assist with replacing commercial motor vehicles, heavy equipment, or other machinery owned and operated by the entities that are used in Virginia that rely on diesel fuels with electric vehicles or equivalent equipment that reduce air emissions and (b) to implement recharging infrastructure or other infrastructure needed to charge or maintain such electric vehicles or equivalent equipment.

E. The Department shall consult with the Department of Mines, Minerals and Energy, the Department of Transportation, the Department of Education, and other agencies of the Commonwealth, as well as organizations with expertise in the climate and public health, and other interested stakeholders, to adopt necessary policies and procedures for administering the Fund and Program and for determining eligibility, qualifications, terms, conditions, and other requirements for Fund and Program projects. The criteria for prioritizing Fund and Program projects by public school divisions shall take into consideration geographic areas with high asthma rates, lowest measured air quality, and level of air emission from existing school buses.

F. Notwithstanding any provision to the contrary, in no event shall any allocation of funds be made to the Fund or the Program unless federal funds or nonstate funds are available to cover the entire cost of such allocation.

G. The Department shall submit an annual report to the General Assembly regarding administration of the Fund and Program for the preceding fiscal year. The report shall include the number of grants awarded, the number of vehicles or equipment replaced, the number of jobs supported, and, to the extent available, the general environmental or health impact of the Fund and Program. The report shall be furnished to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than November 1 of each year. However, no annual report shall be required if the Fund and Program do not receive funding.

2. That the Department of Environmental Quality shall, as funding becomes available, convene a work group consisting of representatives from relevant state agencies, as well as from labor unions and from education, energy, environment, health, manufacturing, technology, and transportation sectors, and other interested stakeholders to develop recommendations for establishing and administering the Virginia Electric Vehicle Grant Fund (the Fund) and the Virginia Electric Vehicle Grant Program (the Program) and identifying and developing strategies for obtaining dedicated streams of revenues for the Fund, including from the federal government and from corporate, philanthropic, nonprofit, or other entities. Recommendations for administering the Program shall include criteria that prioritizes public school divisions that (i) serve the most students who live in areas with the highest asthma rates and lowest measured air quality; (ii) allow the grants to be distributed equitably to serve students who live in rural or low-income areas; (iii) maximize the use of grants through other incentives that public school divisions undertake, such as participating in local transparent and competitive public-private partnerships, achieving further reductions in air emissions by, for example, installing solar panels to power the infrastructure for electric school buses; and (iv) enter into project labor agreements that pay the local prevailing wage rate, participate in registered apprenticeship programs, and establish preferences for hiring veterans, local workers, women, and workers from historically economically disadvantaged communities for work related to the Program. Upon completion, the work group shall report its recommendations to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations.

CHAPTER 419

An Act to amend and reenact § 10.1-1197.5 of the Code of Virginia, relating to small renewable energy projects; energy storage.

[H 2148]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1197.5 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1197.5. Definitions.

As used in this article,:

"Energy storage facility" means energy storage equipment or technology that is capable of absorbing energy, storing such energy for a period of time, and redelivering energy after it has been stored.

"Small renewable energy project" means (i) an electrical generation facility with a rated capacity not exceeding 150 megawatts that generates electricity only from sunlight or wind; (ii) an electrical generation facility with a rated capacity not exceeding 100 megawatts that generates electricity only from falling water, wave motion, tides, or geothermal power; or (iii) an electrical generation facility with a rated capacity not exceeding 20 megawatts that generates electricity only from biomass, energy from waste, or municipal solid waste; (iv) an energy storage facility that uses electrochemical cells to convert chemical energy with a rated capacity not exceeding 150 megawatts; or (v) a hybrid project composed of an electrical generation facility that meets the parameters established in clause (i), (ii), or (iii) and an energy storage facility that meets the parameters established in clause (iv).

2. That the Department of Environmental Quality shall promulgate regulations to implement the provisions of this act to be effective no later than January 1, 2022. The Department's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Department of Environmental Quality shall provide an opportunity for public comment on the regulations prior to adoption.

CHAPTER 420

An Act to amend and reenact § 29.1-556.1 of the Code of Virginia, relating to release of balloon; prohibition; civil penalty.

[H 2159]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-556.1 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-556.1. Release of certain balloons prohibited; civil penalty; community service.

A. It shall be unlawful for any individual 16 years of age or older or other person to knowingly intentionally release, discard, or cause to be released into the atmosphere within a one-hour period fifty or more balloons which are (i) or discarded outdoors any balloon made of a nonbiodegradable or nonphotodegradable material or any material which that requires more than five minutes' contact with air or water to degrade and (ii) inflated with a substance which is lighter than air. Any person who violates convicted of a violation of this section shall be liable for a civil penalty not to exceed five dollars of \$25 per balloon released above the allowable limit or discarded, which shall be paid into the Lifetime Hunting and Fishing Endowment Game Protection Fund established pursuant to § 29.1-101.1 29.1-101. If an individual under the age of 16 releases a balloon by arrangement with or at the instruction of an adult, the adult shall be liable for the civil penalty assessed.

B. The provisions of this section shall not apply to any (i) balloons balloon released (a) by or on behalf of any agency of the Commonwealth, or the United States or (b) pursuant to a contract with the Commonwealth, the United States, or any other state, territory, or government for scientific or meteorological purposes or (ii) hot air balloons balloon that are is recovered after launch.

CHAPTER 421

An Act to amend and reenact §§ 46.2-100, 46.2-208, 46.2-209, 46.2-209.1, 46.2-216.1, 46.2-328.3, and 46.2-600.1 of the Code of Virginia, relating to Department of Motor Vehicles; privileged information.

[H 2163]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-100, 46.2-208, 46.2-209, 46.2-209.1, 46.2-216.1, 46.2-328.3, and 46.2-600.1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 3111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric power-assisted bicycles shall be classified as follows:

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;
2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and
3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § 46.2-700, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and ~~(iv)~~ (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include electric personal assistive mobility devices or electric power-assisted bicycles.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselytizing mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 500 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be considered a motor vehicle or a vehicle.

"Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating a personal delivery device. "Personal delivery device operator" does not include (i) an entity or person who requests the services of a personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The *following* information ~~outlined below~~ shall be considered privileged and, unless otherwise provided for in this title, shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;
2. Driver information, defined as all data that relates to driver's license status and driver activity;
3. Special identification card information, defined as all data that relates to identification card status; and
4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, physician assistant, or nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized *agent or* representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized *agent or* representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier, *or* surety, or ~~representative~~ *authorized agent* of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, *driver information, or special identification card information* and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

9. Upon the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, *or* court, or the authorized agent of any of the foregoing, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. The Commissioner shall also provide driver, special identification card, and vehicle information as requested pursuant to this subdivision. The Commissioner may release other appropriate information to the governmental entity upon request. Upon request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and address of its owner. The certificate shall be prima facie evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this subdivision unless the requester provides the depicted individual's name and other sufficient identifying information contained on such individual's record. The information in this subdivision shall be provided free of charge.

The Department shall release to a requester information that is required for a requester to carry out the requester's official functions in accordance with this subdivision. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which the information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subdivision without an existing agreement to receive the information, the request shall be in a manner prescribed by the Department, and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner

shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized ~~representative agent~~ of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) ~~all the driver information, including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth,~~ provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light photo-monitoring system acting on behalf of a government entity, or the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. ~~The~~ Upon written agreement, the Commissioner may release *minimum information as needed* in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is

the subject of the information, or the authorized representative agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. *The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.*

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify: (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. *Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.*

G. *The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.*

H. *Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.*

§ 46.2-209. Release of information in Department records for motor vehicle research purposes.

A. *For the purposes of this section, "privileged information" means:*

1. *Personal information as defined in § 2.2-3801;*
2. *Driver information, defined as all data that relates to driver's license status and driver activity;*

3. *Special identification card information, defined as all data that relates to identification card status; and*

4. *Vehicle information, defined as title number and registration number.*

B. Notwithstanding the provisions of *subsections A and E of § 46.2-208*, the Commissioner may furnish *privileged information for motor vehicle research purposes when the information is furnished in such a manner that individuals cannot be identified, by social security or license number*, or in other cases wherein, in his opinion, highway safety or the general welfare of the public will be promoted by furnishing the information, and the recipient of the information has agreed in writing with the Commissioner or his designee that the information furnished will be used for no purpose other than the purpose for which it was furnished. No such information shall be used for solicitation of sales. *The Commissioner shall not disclose, pursuant to this section, an individual's social security number or lack thereof, driver's license or special identification card number, Individual Tax ID Number, country of origin, immigration status, or place of birth or the type of document issued to the individual pursuant to Chapter 3 (§ 46.2-300 et seq.).*

C. *No privileged information released pursuant to this section shall be distributed by any recipient of such information to a third party for a purpose other than the purpose for which it was furnished. Privileged information requested by an entity that has been altered or aggregated may only be used for the original purposes specified in the written agreement and shall be subject to the protections of this section. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution.*

§ 46.2-209.1. Release of vehicle information by Department to prospective vehicle purchasers.

Notwithstanding the provisions of *subsection A of § 46.2-208*, the Commissioner may furnish vehicle information to a prospective purchaser of that vehicle, if the prospective purchaser completes an application therefor, including the vehicle's make, model, year, and vehicle identification number, and pays the fee prescribed by the Commissioner. Such information furnished by the Commissioner may be provided from the Department's own records, or may be obtained by the Commissioner through the National Motor Vehicle Title Information System or any other nationally recognized system providing similar information.

Nothing in this section shall be construed to authorize the release of any personal information, *driver information, or special identification card information* as defined in ~~§ 2.2-3804~~ *46.2-208*.

§ 46.2-216.1. Electronic filings or submissions to Department; provision of electronic documents by Department.

A. Whenever this title or Title 58.1 provides that applications, certificates, fees, letters of credit, notices, penalties, records, reports, surety bonds, tariffs, taxes, time schedules, or any other documents or payments be filed or submitted to the Department in written form or otherwise, the Commissioner may, after providing 12-months' written notification to impacted applicants, licensees, or any other person or entity, require that all or certain applicants, licensees, or any other person or entity engaged in business with the Department, make such filings or submissions electronically in a format prescribed by the Commissioner. Any such requirement shall not apply to an individual application for a driver's license, commercial driver's license, special identification card, or the titling or registration of 12 or fewer vehicles during a period of one year. The Commissioner shall develop a method to ensure that the electronic filing is received and stored accurately and that it is readily available to satisfy the requirements of the statutes which call for a written document. Notwithstanding the provisions of this section, the Commissioner may accept, in lieu of paper documents, a filing or submission made by electronic means for any document not required to be filed or submitted electronically pursuant to the provisions of this title or Title 58.1.

B. Whenever this title or Title 58.1 provides that a written certificate or other document is to be delivered to an owner, registrant, licensee, lien holder, or any other person or entity by the Department or the Commissioner, the Commissioner may provide the written certificate or other document by electronic means. The electronic document may consist of all of the information included in the paper certificate or document or it may be an abstract or listing of the information held in electronic form by the Department. Whenever a certificate or other document is provided by electronic means, the Department will not be required to produce a written certificate or document until requested to do so by the owner, registrant, licensee, lien holder, or other party.

C. The Commissioner is authorized to establish, where feasible and cost efficient, contracts with public-private partnerships with commercial operations to provide for simplification and streamlining of services to citizens through electronic means. Such electronic services shall include (i) an electronic lien and titling program, (ii) an online dealer program, and (iii) a print-on-demand license plate program.

1. Notwithstanding the provisions of *subsection A of § 46.2-208*, to conduct customer-initiated transactions through electronic means the Commissioner may provide a customer's personal, driver, or vehicle information relating to the operation or theft of a motor vehicle or to public safety to the following entities: (i) lending institutions; (ii) motor vehicle dealers; or (iii) third-party vendors that enter into contracts with the Department. Pursuant to subsection A, the Commissioner may require such entities engaged in business with the Department to submit electronic filings using the third-party vendors that have contracts with the Department. Customer information obtained by such entities conducting customer-initiated transactions, including third-party vendors that enter into contracts with the Department, is subject to the restrictions upon use and dissemination imposed by (a) the federal Drivers Privacy Protection Act at 18 U.S.C. § 2721 et seq., (b) the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and §§ 46.2-208 and 58.1-3, and (c) any rules, regulations, or guidelines adopted by the Department with regard to disclosure or dissemination of any information obtained from the Department.

2. The Department may impose a reasonable fee in accordance with fair market prices on such entities, including third-party vendors that enter into contracts with the Department, for customer-initiated transactions conducted through electronic means. Such fees shall be used to defray the costs of the transaction to the Department. Any transaction fees imposed and collected by the Department shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-328.3. Driver privilege cards and permits.

A. Upon application of any person who does not meet the requirements for a driver's license or permit under subsection A or B of § 46.2-328.1, the Department may issue to the applicant a driver privilege card or permit if the Department determines that the applicant (i) has reported income and deductions from Virginia sources, as defined in § 58.1-302, or been claimed as a dependent, on an individual income tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements set forth in Article 8 (§ 46.2-705 et seq.) of Chapter 6.

B. Driver privilege cards and permits shall confer the same privileges and shall be subject to the same provisions of this title as driver's licenses and permits issued under this chapter, unless otherwise provided, and shall be subject to the following conditions and exceptions:

1. The front of a driver privilege card or permit shall be identical in appearance to a driver's license or permit that is not a REAL ID credential and the back of the card or permit shall be identical in appearance to the restriction on the back of a limited-duration license, permit, or special identification card;

2. An applicant for a driver privilege card or permit shall not be eligible for a waiver of any part of the driver examination provided under § 46.2-325;

3. An applicant for a driver privilege card or permit shall not be required to present proof of legal presence in the United States;

4. A driver privilege card or permit shall expire on the applicant's second birthday following the date of issuance;

5. The fee for an original driver privilege card or permit shall be \$50. The Department may issue, upon application by the holder of a valid, unexpired card or permit issued under this section, and upon payment of a fee of \$50, another driver privilege card or permit that shall be valid for a period of two years from the date of issuance. The amount paid by an applicant for a driver privilege card or other document issued pursuant to this chapter shall be considered privileged information for the purposes of § 46.2-208. No applicant shall be required to provide proof of compliance with clauses (i) and (ii) of subsection A for a reissued, renewed, or duplicate card or permit; and

6. Any information collected pursuant to this section that is not otherwise collected by the Department or required for the issuance of any other driving credential issued pursuant to the provisions of this chapter and any information regarding restrictions in the Department's records related to the issuance of a credential issued pursuant to this section shall be considered privileged. Notwithstanding the provisions of § 46.2-208, such information shall not be released except upon request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order.

C. The Department shall not release the following information relating to the issuance of a driver privilege card or permit, except upon request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driver privilege card or permit, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications.

The Department shall release *only* to any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, information related to the issuance of a driver privilege card or permit, the release of which is not otherwise prohibited by this section, that is required for a requester to carry out the requester's official functions if the requester provides the individual's name and other sufficient identifying information contained on the individual's record. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subsection without an existing agreement to receive the information, such request shall be in a manner prescribed by the Department and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request *Any such release shall be in accordance with the requirements of § 46.2-208.*

§ 46.2-600.1. Indication of special communication needs.

A. As used in this section, "disability that can impair communication" means a condition with symptoms that can impair the ability of a person with such condition to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems, including autism spectrum disorders as defined in § 38.2-3418.17 and hearing loss.

B. The Department shall include on the application for registration of a motor vehicle an option for the vehicle owner to, if applicable, voluntarily indicate that he has a disability that can impair communication. Any application on which the applicant indicates that he has such a disability shall be accompanied by a certification signed by a licensed physician that such individual has a disability that can impair communication.

C. Any vehicle owner with a driver's license indicator authorized pursuant to subsection K of § 46.2-342 or special identification card indicator authorized pursuant to subsection L of § 46.2-345 shall be eligible for the registration indicator. Vehicle owners with a driver's license indicator or special identification card indicator may apply to the Department for a registration indicator in a manner prescribed by the Commissioner.

D. Notwithstanding the provisions of *subsection A of § 46.2-208*, the Department shall provide information regarding vehicle registrants who have indicated, pursuant to subsection B or C, that they have a disability that can impair communication with employees and agents of criminal justice agencies as defined in § 9.1-101. The Department shall confirm the presence or absence of a registration indicator indicating that the registrant has a disability that can impair communication, but it shall not provide information about the type of health condition or disability that the registrant has.

2. That the Department of State Police shall submit annually on July 1 to the Commissioner of the Department of Motor Vehicles, the Chairman of the House Committee on Communications, Technology and Innovation and the Chairman of the Senate Committee on General Laws and Technology a list of the governmental entities with access to the Department of Motor Vehicles' privileged information through VCIN and the International Justice and Public Safety Network.

CHAPTER 422

An Act to amend and reenact § 15.2-4904 of the Code of Virginia, relating to Industrial Development and Revenue Bond Act; directors; Mathews County.

[H 2186]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4904 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as

agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia, and (iv) in Mathews County where the board of supervisors may appoint one employee of the locality to the Economic Development Authority of the County of Mathews. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

CHAPTER 423

An Act to require the establishment of a work group to study the mining and processing of gold in the Commonwealth; report.

[H 2213]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Secretary of Natural Resources, the Secretary of Health and Human Resources, and the Secretary of Commerce and Trade shall establish a work group to study the mining and processing of gold in the Commonwealth. Such work group shall include representation from the Virginia Council on Environmental Justice established pursuant to Article 36 (§ 2.2-2699.8 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia as well as the following stakeholder groups: experts in mining, hydrology, toxicology, geology, and public health; environmental organizations; representatives*

of potentially affected communities in localities with significant deposits of gold; and residents of Native American communities in such localities. The work group shall (i) evaluate the impacts of the mining and processing of gold on public health, safety, and welfare in the Commonwealth; (ii) evaluate whether existing air and water quality regulations are sufficient to protect air and water quality in the Commonwealth from the mining and processing of gold, including evaluation of the impacts of different leaching and tailings management techniques on downstream communities; (iii) evaluate whether existing bonding, reclamation, closure, and long-term monitoring of sites for such mining or processing are sufficient; and (iv) report its findings to the Department of Mines, Minerals and Energy no later than December 1, 2022.

CHAPTER 424

An Act to amend and reenact § 15.2-1809 of the Code of Virginia, relating to liability of public access authorities.

[H 2217]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1809 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1809. Liability of localities and certain authorities in the operation of parks, recreational facilities and playgrounds.

No city or town which operates any park, recreational facility or playground shall be liable in any civil action or proceeding for damages resulting from any injury to the person or from a loss of or damage to the property of any person caused by any act or omission constituting ordinary negligence on the part of any officer or agent of such city or town in the maintenance or operation of any such park, recreational facility or playground. Every such city or town shall, however, be liable in damages for the gross negligence of any of its officers or agents in the maintenance or operation of any such park, recreational facility or playground.

The immunity created by this section is hereby conferred upon counties, *and public access authorities created pursuant to this title, including the land holdings and facilities of the public access authorities*, in addition to, and not limiting on, other immunity existing at common law or by statute.

CHAPTER 425

An Act to direct the Board of Housing and Community Development to consider adopting amendments to the Uniform Statewide Building Code relating to energy efficiency and conservation upon each publication of a new version of the International Code Council's International Energy Conservation Code.

[H 2227]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *That upon each publication by the International Code Council of a new version of the International Energy Conservation Code (IECC), the Board of Housing and Community Development (the Board) shall consider adopting amendments to the Uniform Statewide Building Code (Building Code) to address changes in the IECC relating to energy efficiency and conservation. In doing so, the Board shall consider adopting Building Code standards that are at least as stringent as those contained in the new version of the IECC. For the purposes of this act, a standard shall be deemed to be as stringent as one contained in the IECC if such standard would perform the same function as that contained in the IECC without using more energy than would be used under the IECC standard. In conducting its review, the Board shall assess the public health, safety, and welfare benefits of adopting standards that are at least as stringent as those contained in the IECC, including potential energy savings and air quality benefits over time compared to the cost of initial construction.*

CHAPTER 426

An Act to amend and reenact §§ 54.1-2108.1 and 55.1-1237 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; responsibilities of real estate brokers; foreclosure of single-family residential dwelling units.

[H 2229]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2108.1 and 55.1-1237 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2108.1. Protection of escrow funds, etc., held by a real estate broker in the event of foreclosure of real property; required deposits.

A. Notwithstanding any other provision of law:

1. If a licensed real estate broker or an agent of the ~~such~~ licensee is holding escrow funds for the owner of real property and such property is foreclosed upon, the licensee or ~~an agent of the licensee~~ shall have the right to file an interpleader action pursuant to § 16.1-77.

2. ~~If there is in effect at the date of the foreclosure sale, a single-family residential dwelling unit is foreclosed upon, and at the date of the foreclosure sale there is a real estate purchase contract to buy the property foreclosed upon such property and the real estate purchase such contract provides that the earnest money deposit held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract and the licensee or an agent of the licensee may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from, or notice to, the parties.~~

3. ~~If there is in effect at the date of the foreclosure sale, a tenant in a single-family residential dwelling unit is foreclosed upon and there is a tenant in the dwelling unit on the date of the foreclosure sale and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.~~

4. ~~If there is in effect at the date of the foreclosure sale a tenant in a single-family residential dwelling unit is foreclosed upon pursuant to § 55.1-1237, the foreclosure acts as a termination of the rental agreement by the landlord and the tenant may remain in possession of such dwelling, and there is a tenant in such dwelling unit on the date of the foreclosure sale, the successor in interest who acquires the dwelling unit at the foreclosure sale shall assume such interest subject to the following:~~

a. If the successor in interest acquires the dwelling unit for the purpose of occupying such unit as his primary residence, the successor in interest shall provide written notice to the tenant, in accordance with the provisions of § 55.1-1202, notifying the tenant that the rental agreement is terminated and that the tenant must vacate the dwelling unit on a date not less than 90 days after the date of such written notice.

b. If the successor in interest acquires the dwelling unit for any other purpose, the successor in interest shall acquire the dwelling unit subject to the rental agreement and the tenant shall be permitted to occupy the dwelling unit for the remaining term of the lease, provided, however, that the successor in interest may terminate the rental agreement pursuant to § 55.1-1245 or the terms of the rental agreement. The successor in interest shall provide written notice of such termination to the tenant in accordance with the provisions of § 55.1-1202.

If rent is paid to a real estate licensee acting on behalf of the landlord as a managing agent, such property management agreement having been entered into prior to and in effect at the time of the foreclosure sale, the managing agent may collect the rent and shall place it into an escrow account by the end of the fifth business banking day following receipt.

5. ~~If there is in effect at the date of the foreclosure sale a single-family residential dwelling unit is foreclosed upon, and at the date of the foreclosure sale there is a written property management agreement between the a landlord and a real estate licensee licensed pursuant to the provisions of § 54.1-2106.1, the foreclosure shall convert the property management agreement into a month-to-month agreement between the successor landlord and the real estate licensee acting as a managing agent, except in the event that the terms of the original property management agreement between the landlord and the real estate licensee acting as a managing agent require an earlier termination date. Unless altered by the parties, the terms of the original property management agreement that existed between the landlord and the real estate licensee acting as a managing agent shall govern the agreement between the successor landlord and the real estate licensee acting as a managing agent. The property management agreement may be terminated by either party upon provision of written notice to the other party at least 30 days prior to the intended termination date. Any funds received or held by the real estate licensee acting as a managing agent shall be disbursed only in accordance with the terms of the property management agreement or as otherwise provided by law.~~

B. Notwithstanding any other provision of law:

1. Any rent paid to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, regardless of when received, unless otherwise agreed to in writing by the principals to a lease transaction.

2. Any security deposits paid to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction.

3. Any application deposit as defined by § 55.1-1200 paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a real estate licensee acting on behalf of a landlord client shall be placed in escrow by the end of the fifth business banking day following approval of the rental application by the landlord, unless otherwise agreed to in writing by the principals to a lease transaction.

4. Such funds shall remain in an escrow account until disbursed in accordance with the terms of the lease, the property management agreement, or the applicable statutory provisions, as applicable.

5. Except in the event of foreclosure, if a real estate licensee acting on behalf of a landlord client as a managing agent elects to terminate the property management agreement, the licensee may transfer any funds held in escrow by the licensee on behalf of the landlord client to the landlord client without his consent, provided that the real estate licensee provides written notice to each tenant that the funds have been so transferred. In the event of foreclosure, a real estate licensee shall not transfer any funds to a landlord client whose property has been foreclosed upon.

6. A real estate licensee acting on behalf of a landlord client as a managing agent who complies with the provisions of this section shall have immunity from any liability for such compliance, in the absence of gross negligence or intentional misconduct.

§ 55.1-1237. Notice to tenant in event of foreclosure.

A. The landlord of a dwelling unit used as a single-family residence shall give written notice to the tenant or any prospective tenant of such dwelling unit that the landlord has received a notice of a mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days after written notice from the lender is received by the landlord. This requirement shall not apply (i) to any managing agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

B. If the landlord fails to provide the notice required by this section, the tenant shall have the right to terminate the rental agreement upon written notice to the landlord at least five business days prior to the effective date of termination. If the tenant terminates the rental agreement, the landlord shall make disposition of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is applicable.

C. ~~If there is in effect at the date of the foreclosure sale a tenant in a dwelling unit foreclosed upon, the foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance with the rental agreement or the provisions of § 55.1-1202 or 55.1-1410, as applicable the dwelling unit is foreclosed upon and there is a tenant in such dwelling unit on the date of the foreclosure sale, the successor in interest who acquires the dwelling unit at the foreclosure sale shall assume such interest subject to the following:~~

1. If the successor in interest acquires the dwelling unit for the purpose of occupying such unit as his primary residence, the successor in interest shall provide written notice to the tenant, in accordance with the provisions of § 55.1-1202, notifying the tenant that the rental agreement is terminated and that the tenant must vacate the dwelling unit on a date not less than 90 days after the date of such written notice.

2. If the successor in interest acquires the dwelling unit for any other purpose, the successor in interest shall acquire the dwelling unit subject to the rental agreement and the tenant shall be permitted to occupy the dwelling unit for the remaining term of the lease, provided, however, that the successor in interest may terminate the rental agreement pursuant to § 55.1-1245 or the terms of the rental agreement. The successor in interest shall provide written notice to the tenant, in accordance with the provisions of § 55.1-1202, informing the tenant of such.

D. ~~Unless or until the successor owner terminates the month-to-month tenancy, the~~ The terms of the terminated rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any, or successor owner; or (iii) into a court escrow account pursuant to the provisions of § 55.1-1244; however, there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a managing agent designated in the ~~terminated~~ rental agreement, the tenant shall remain obligated for payment of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides written notice identifying the name, address, and telephone number of the party to which the rent should be paid.

E. ~~The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.~~

CHAPTER 427

An Act to amend and reenact §§ 17.1-275, 55.1-1200, 55.1-1204, 55.1-1206, 55.1-1208, 55.1-1211, 55.1-1226, 64.2-2008, and 64.2-2012 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; landlord charges for security deposits, insurance premiums for damage insurance, and insurance premiums for renter's insurance; filing of information regarding resident agent appointed by nonresident property owner.

[H 2249]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-275, 55.1-1200, 55.1-1204, 55.1-1206, 55.1-1208, 55.1-1211, 55.1-1226, 64.2-2008, and 64.2-2012 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$18 for an instrument or document consisting of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30 pages or sheets; and \$52 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$17 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. Three dollars and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies authorized under this section shall include costs included in the lease and maintenance agreements for the equipment and the technology needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ

tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.

16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of the Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19, 20. [Repealed.]

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

23. For preparation and issuance of a subpoena duces tecum, \$5.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, \$0.50.

26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-295.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. [Repealed.]

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55.1-1211 or 55.1-1401, a fee of \$10.

~~36.~~ [Repealed.]

~~37.~~ 36. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

~~38.~~ 37. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

~~39.~~ 38. For lodging, indexing, and preserving a will in accordance with § 64.2-409, a fee of \$5.

~~40.~~ 39. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

~~41.~~ 40. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

~~42.~~ 41. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

~~43.~~ 42. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

~~44.~~ 43. For issuing any execution, and recording the return thereof, a fee of \$1.50.

~~45.~~ 44. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

§ 55.1-1200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Action" means any recoupment, counterclaim, setoff, or other civil action and any other proceeding in which rights are determined, including actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, that is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee that is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance, or governmental regulation concerning fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of any structure or that part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Community land trust" means a community housing development organization whose (i) corporate membership is open to any adult resident or organization of a particular geographic area specified in the bylaws of the organization and (ii) board of directors includes a majority of members who are elected by the corporate membership and are composed of tenants, corporate members who are not tenants, and any other category of persons specified in the bylaws of the organization and that:

1. Is not sponsored by a for-profit organization;
2. Acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
3. Transfers ownership of any structural improvements located on such leased parcels to the tenant; and
4. Retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income and moderate-income families in perpetuity.

"Damage insurance" means a bond or commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and to replace all or part of a security deposit.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including a manufactured home, as defined in § 55.1-1300.

"Effective date of rental agreement" means the date on which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Essential service" includes heat, running water, hot water, electricity, and gas.

"Facility" means something that is built, constructed, installed, or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or an authorized occupant, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. "Landlord" does not include a community land trust.

"Managing agent" means the person authorized by the landlord to act as the property manager on behalf of the landlord pursuant to the written property management agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the U.S. Environmental Protection Agency, the U.S. Department of Housing and Urban Development, or the American Conference of Governmental Industrial Hygienists (Bioaerosols: Assessment and Control); Standard and Reference Guides of the Institute of Inspection, Cleaning and Restoration Certification (IICRC) for Professional Water Damage Restoration and Professional Mold Remediation; or any protocol for mold remediation prepared by an industrial hygienist consistent with such guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any other lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice in the form of a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or, from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person, whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association; two or more persons having a joint or common interest; any combination thereof; and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, including a mortgagee in possession, in whom is vested:

1. All or part of the legal title to the property; or
2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

"Person" means any individual, group of individuals, corporation, partnership, business trust, association, or other legal entity, or any combination thereof.

"Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances contained therein, and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment, or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all rental agreements, written or oral, and valid rules and regulations adopted under § 55.1-1228 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit.

"Renter's insurance" means insurance coverage specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in dwelling units not occupied by the owner.

"Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant for a dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. "Major facility" in the case of a bathroom means a toilet and either a bath or shower and in the case of a kitchen means a refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. "Security deposit" does not include a damage insurance policy or renter's insurance policy, as those terms are defined in § 55.1-1206, purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multifamily residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or essential service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and includes a roomer. "Tenant" does not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or any other medium.

"Utility" means electricity, natural gas, or water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2 or a ratio utility billing system as defined in § 55.1-1212.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55.1-1202, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or any other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) is affixed.

§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.

A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. A landlord shall offer a prospective tenant a written rental agreement containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord-tenant relationship and shall provide with it the statement of tenant rights and responsibilities developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139. The parties to a written rental agreement shall sign the form developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities. The written rental agreement shall be effective upon the date signed by the parties.

C. If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law, consisting of the following terms and conditions:

1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;
2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection C of § 55.1-1253;
3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;
4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;
5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;
6. The landlord may collect a security deposit in an amount, ~~or require damage insurance coverage for an amount, or any combination thereof, that does not to exceed a total amount equal to two months of rent;~~ and
7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

D. Except as provided in the written rental agreement, or as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. Except as provided in the written rental agreement, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the

landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

E. A landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement. No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

F. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

G. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

H. The landlord shall provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

I. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

J. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

§ 55.1-1206. Landlord may obtain certain insurance for tenant.

A. A landlord may require as a condition of tenancy that a tenant have ~~commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement~~ *damage insurance* and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55.1-1200, such payments shall not be deemed a security deposit, but shall be rent. However, as provided in § 55.1-1208, the landlord shall not require a tenant to pay both a security deposit and the cost of damage insurance premiums, if the total amount of any security deposit and damage insurance ~~coverage~~ *premiums* exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. *For a tenant that opts out of the landlord's damage insurance program, the landlord shall allow such tenant to either provide their own damage insurance policy or pay the full security deposit.*

B. A landlord may require as a condition of tenancy that a tenant have ~~renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in dwelling units not occupied by the owner.~~ A landlord may require a tenant to pay for the cost of premiums for such *renter's* insurance obtained by the landlord, in order to provide such coverage for the tenant as part of rent or as otherwise provided in this section. As provided in § 55.1-1200, such payments shall not be deemed a security deposit but shall be rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. If the landlord requires that such premiums be paid ~~to the landlord~~ prior to the commencement of the tenancy, the total amount of all security deposits, insurance ~~coverage~~ *premiums* for damage insurance, and insurance premiums for renter's insurance shall not exceed the amount of two months' periodic rent. ~~Otherwise~~ *However*, the landlord ~~may shall be permitted to~~ add a monthly amount as additional rent to recover ~~the additional costs of such renter's insurance coverage premiums.~~

D. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage

and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. Such summary or certificate shall include a statement regarding whether the insurance policy contains a waiver of subrogation provision. Any failure of the landlord to provide such summary or certificate, or to make available a copy of the insurance policy, shall not affect the validity of the rental agreement.

If the rental agreement does not require the tenant to obtain renter's insurance, the landlord shall provide a written notice to the tenant, prior to the execution of the rental agreement, stating that (i) the landlord is not responsible for the tenant's personal property, (ii) the landlord's insurance coverage does not cover the tenant's personal property, and (iii) if the tenant wishes to protect his personal property, he should obtain renter's insurance. The notice shall inform the tenant that any such renter's insurance obtained by the tenant does not cover flood damage and advise the tenant to contact the Federal Emergency Management Agency (FEMA) or visit the websites for FEMA's National Flood Insurance Program or for the Virginia Department of Conservation and Recreation's Flood Risk Information System to obtain information regarding whether the property is located in a special flood hazard area. Any failure of the landlord to provide such notice shall not affect the validity of the rental agreement. If the tenant requests translation of the notice from the English language to another language, the landlord may assist the tenant in obtaining a translator or refer the tenant to an electronic translation service. In doing so, the landlord shall not be deemed to have breached any of his obligations under this chapter or otherwise become liable for any inaccuracies in the translation. The landlord shall not charge a fee for such assistance or referral.

E. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant, as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

§ 55.1-1208. Prohibited provisions in rental agreements.

A. A rental agreement shall not contain provisions that the tenant:

1. Agrees to waive or forgo rights or remedies under this chapter;

2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;

3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;

4. Agrees to pay the landlord's attorney fees except as provided in this chapter;

5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or any associated costs;

6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession of a firearm within individual dwelling units unless required by federal law or regulation; or

7. Agrees to ~~both the payment of a security deposit and the provision of a bond or commercial insurance policy purchased by the tenant to secure the performance of the terms and conditions of a rental agreement, if the total of the security deposit and the bond or insurance coverage exceeds, insurance premiums for damage insurance, and insurance premiums for renter's insurance prior to the commencement of the tenancy that exceed the amount of two months' periodic rent.~~

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by him and reasonable attorney fees.

§ 55.1-1211. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.

A. As used in this section, "nonresident property owner" means any nonresident individual or group of individuals who owns and leases residential real property.

B. Every nonresident property owner shall appoint and continuously maintain an agent who (i) if such agent is an individual, is a resident of the Commonwealth, or if such agent is a corporation, limited liability company, partnership, or other entity, is authorized to transact business in the Commonwealth and (ii) maintains a business office within the Commonwealth. Every lease executed by or on behalf of nonresident property owners regarding any such real property shall specifically designate such agent and the agent's office address for the purpose of service of any process, notice, order, or demand required or permitted by law to be served upon such nonresident property owner.

C. Whenever any nonresident property owner fails to appoint or maintain an agent, as required in this section, or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon whom may be served any process, notice, order, or demand. Service may be made on the Secretary of the Commonwealth or any of his staff at his office who shall forthwith cause it to be sent by registered or certified mail addressed to the nonresident property owner at his address as shown on the official tax records maintained by the locality where the property is located.

D. The name and office address of the agent appointed as provided in this section shall be ~~filed in~~ *listed on a form provided by the State Corporation Commission and delivered to* the office of the clerk of the court ~~in which deeds are recorded in the county or city in which the property lies. Recordation shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74, for which the clerk shall be entitled to a fee of \$10 State Corporation Commission for filing. Beginning July 1, 2022, the clerk of the State Corporation Commission shall charge a fee of \$10 for the filing of a resident agent appointment.~~

E. No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning property for which a designation is required by this section until such designation has been filed.

§ 55.1-1226. Security deposits.

A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, such security deposit, whether it is property or money held by the landlord as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy *or the date the tenant vacates the dwelling unit, whichever occurs last.* As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the

determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

I. The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The *provider of damage insurance company* is licensed *or approved* by the Virginia State Corporation Commission;

2. ~~The insurance permits the payment of premiums on a monthly basis, unless the tenant selects a different payment schedule;~~

3. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;

4. 3. The coverage provided per claim is no less than the amount the landlord requires for security deposits;

5. 4. ~~The provider of damage insurance company agrees to approve or deny payment of a claim in accordance with regulations adopted by the State Corporation Commission's Bureau of Insurance; and~~

6. 5. ~~The provider of damage insurance company shall notify the landlord within 10 days if the damage policy lapses or is canceled.~~

J. ~~Each landlord may designate one or more damage insurance companies from which the landlord will accept damage insurance in lieu of a security deposit. Such insurers shall be identified in the written lease agreement.~~

~~K.~~ A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

§ 64.2-2008. Fees and costs.

A. The petitioner shall pay the filing fee set forth in subdivision A 43 42 of § 17.1-275 and costs. Service fees and court costs may be waived by the court if it is alleged under oath that the estate of the respondent is unavailable or insufficient. If a guardian or conservator is appointed and the court finds that the petition is brought in good faith and for the benefit of the respondent, the court shall order that the petitioner be reimbursed from the estate for all reasonable costs and fees if the estate of the incapacitated person is available and sufficient to reimburse the petitioner. If a guardian or conservator is not appointed and the court nonetheless finds that the petition is brought in good faith and for the benefit of the respondent, the court may direct the respondent's estate, if available and sufficient, to reimburse the petitioner for all reasonable costs and fees. The court may require the petitioner to pay or reimburse all or some of the respondent's reasonable costs and fees and any other costs incurred under this chapter if the court finds that the petitioner initiated a proceeding under this chapter that was in bad faith or not for the benefit of the respondent.

B. In any proceeding filed pursuant to this article, if the adult subject of the petition is determined to be indigent, any fees and costs of the proceeding that are fixed by the court or taxed as costs shall be borne by the Commonwealth.

§ 64.2-2012. Petition for restoration, modification, or termination; effects.

A. Upon petition by the incapacitated person, the guardian or conservator, or any other person or upon motion of the court, the court may (i) declare the incapacitated person restored to capacity; (ii) modify the type of appointment or the areas of protection, management, or assistance previously granted or require a new bond; (iii) terminate the guardianship or conservatorship; (iv) order removal of the guardian or conservator as provided in § 64.2-1410; or (v) order other appropriate relief. The fee for filing the petition shall be as provided in subdivision A 43 42 of § 17.1-275.

B. In the case of a petition for modification to expand the scope of a guardianship or conservatorship, the incapacitated person shall be entitled to a jury, upon request. Notice of the hearing and a copy of the petition shall be personally served on the incapacitated person and mailed to other persons entitled to notice pursuant to § 64.2-2004. The court shall appoint a guardian ad litem for the incapacitated person and may appoint one or more licensed physicians or psychologists or licensed professionals skilled in the assessment and treatment of the physical or mental conditions of the incapacitated person, as alleged in the petition, to conduct an evaluation. Upon the filing of any other such petition or upon the motion of the court, and after reasonable notice to the incapacitated person, any guardian or conservator, any attorney of record, any person entitled to notice of the filing of an original petition as provided in § 64.2-2004, and any other person or entity as the court may require, the court shall hold a hearing.

C. An order appointing a guardian or conservator may be revoked, modified, or terminated upon a finding that it is in the best interests of the incapacitated person and that:

1. The incapacitated person is no longer in need of the assistance or protection of a guardian or conservator;
2. The extent of protection, management, or assistance previously granted is either excessive or insufficient considering the current need of the incapacitated person;
3. The incapacitated person's understanding or capacity to manage his estate and financial affairs or to provide for his health, care, or safety has so changed as to warrant such action; or
4. Circumstances are such that the guardianship or conservatorship is no longer necessary or is insufficient.

D. The court shall declare the person restored to capacity and discharge the guardian or conservator if, on the basis of evidence offered at the hearing, the court finds by a preponderance of the evidence that the incapacitated person has substantially regained his ability to (i) care for his person in the case of a guardianship or (ii) manage and handle his estate in the case of a conservatorship.

In the case of a petition for modification of a guardianship or conservatorship, the court shall order (a) limiting or reducing the powers of the guardian or conservator if the court finds by a preponderance of the evidence that it is in the best interests of the incapacitated person to do so, or (b) increasing or expanding the powers of the guardian or conservator if the court finds by clear and convincing evidence that it is in the best interests of the incapacitated person to do so.

The court may order a new bond or other appropriate relief upon finding by a preponderance of the evidence that the guardian or conservator is not acting in the best interests of the incapacitated person or of the estate.

E. The powers of a guardian or conservator shall terminate upon the death, resignation, or removal of the guardian or conservator or upon the termination of the guardianship or conservatorship.

A guardianship or conservatorship shall terminate upon the death of the incapacitated person or, if ordered by the court, following a hearing on the petition of any interested person.

F. The court may allow reasonable compensation from the estate of the incapacitated person to any guardian ad litem, attorney, or evaluator appointed pursuant to this section. Any compensation allowed shall be taxed as costs of the proceeding.

2. That the clerk of the State Corporation Commission (the clerk) shall provide a downloadable form for the filing of a resident agent appointment pursuant to § 55.1-1211 of the Code of Virginia, as amended by this act, and begin accepting paper filings on July 1, 2021. The clerk shall begin accepting online filings pursuant to § 55.1-1211 of the Code of Virginia, as amended by this act, by July 1, 2022.

CHAPTER 428

An Act to amend and reenact §§ 1, 2, 8, 10, 11, 12, 21, and 22, as amended, §§ 25, 26, 28, and 31, §§ 32 and 35, as amended, and § 38 of Chapter 66 of the Acts of Assembly of 1960, relating to Hampton Roads Sanitation District.

[H 2257]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 1, 2, 8, 10, 11, 12, 21, and 22, as amended, §§ 25, 26, 28, and 31, §§ 32 and 35, as amended, and § 38 of Chapter 66 of the Acts of Assembly of 1960 are amended and reenacted as follows:

§ 1. The creation of the Hampton Roads Sanitation District is hereby ratified, validated and confirmed, and said District shall embrace all the territory within the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of *Accomack*, Gloucester, Isle of Wight, James City,

King and Queen, King William, Mathews, Middlesex, *Northampton* and York; and the County of Surry, excluding the Town of Claremont; and the Town of Urbanna. Territory may be added to the District as hereinafter provided in this act.

For the purpose of this section, the territory of a county included within the District shall include all the territory lying within the boundaries of any town in the county unless otherwise specified.

Said District shall constitute a political subdivision of *the* Commonwealth established as a governmental instrumentality to provide for the public health and welfare.

§ 2. The functions, affairs and property of the Hampton Roads Sanitation District shall be managed and controlled by a commission, known as the "Hampton Roads Sanitation District Commission," consisting of eight members appointed by the Governor. The Commission and the term of each such member shall continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of four years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Commission shall be eligible for reappointment without limitation as to the number of terms that may be served. Members of the Commission may be suspended or removed by the Governor at his pleasure.

At the time of their appointment, one of the members of the Commission, and each of his successors, shall be residents of the territory in the District within the City of Norfolk; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Virginia Beach; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Newport News or *the City of Williamsburg or James City County*; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Hampton or *the City of Poquoson or York County*; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Chesapeake; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Suffolk or Isle of Wight County or Surry County; one of the members, and each of his successors, shall be residents of the territory in the District within ~~the City of Williamsburg or James City County or York County or the City of Poquoson~~ *Accomack County or Northampton County* or Gloucester County or King William County or Mathews County or Middlesex County or ~~the Town of Urbanna~~ or King and Queen County; and one of the members, and each of his successors, shall be residents of the territory in the District within the City of Portsmouth. Any member who shall cease to reside within the territory from which he was appointed shall thereupon be disqualified from holding office as a member of the Commission and the vacancy thus created shall be filled by appointment by the Governor for the balance of the unexpired term.

§ 8. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "District" means the Hampton Roads Sanitation District hereinabove mentioned.

(b) The word "Commission" means the Hampton Roads Sanitation District Commission hereinabove mentioned, or if said Commission shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to said Commission shall be conferred by law.

(c) The word "sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public building, together with such ~~industrial~~ *industrial* wastes as may be present.

(d) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource.

(e) The term "sewage disposal system" means and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification, *reclamation* or disposal of sewage, including industrial wastes, or any integral part thereof, and, without limiting the generality of the foregoing definition, shall embrace treatment plants, pumping stations, *storage tanks*, intercepting sewers, force mains, gravity mains, laterals, reclaimed water distribution lines, *wells, nutrient removal and/or recovery facilities, energy recovery and green energy facilities*, and all necessary appurtenances and equipment, and shall include all lands, property, rights, ~~rights of way~~ *rights-of-way*, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

(f) The term "sewer improvements" shall embrace sewer mains, *storage tanks* and laterals for the reception of sewage from premises connected therewith and carrying such sewage to a sewage disposal system.

(g) The term "sewage system" shall embrace sewage disposal systems, sewer improvements and all other real and personal property operated by the Commission for the purposes of this act.

(h) The word "cost," as applied to a sewage disposal system or to extensions or additions thereto or to sewer improvements, shall include the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, ~~rights of way~~ *rights-of-way*, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed advisable by the Commission, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, provisions for working capital and a reserve for interest, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized.

(i) The word "owner" shall include all individuals, copartnerships, limited liability companies, associations and corporations and also counties, cities, towns and other political subdivisions and all public agencies and instrumentalities.

(j) The word "bonds" or the words "revenue bonds" shall embrace revenue bonds, notes and other obligations of the District issued under the provisions of this act.

(k) The word "pollution" means the condition of water resulting directly or indirectly from any of the following acts:

(1) contaminating such water;

(2) rendering such water unclean or impure;

(3) rendering such water injurious to public health, or unfit for public use;

(4) rendering such water harmful for cattle, stock or other animals;

(5) rendering such water deleterious to, or unfit for, fish or shellfish, or fish or shellfish propagation, or aquatic animals, or plant life in such water;

(6) rendering such water unfit for commercial use; or

(7) rendering such water harmful to fish or shellfish used for human consumption.

(l) *The term "associated water system" means and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the treatment, purification or distribution of potable drinking water serving no more than 1,000 premises connected to a sewage disposal system and all necessary appurtenances and equipment, and shall include all lands, property, rights, rights-of-way, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.*

§ 10. The Commission is hereby authorized and empowered:

(a) to adopt bylaws and to make rules and regulations for the management of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to sue and to be sued;

(d) to construct, and to improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a sewage disposal system or systems *with or without associated water systems*, enter within or without or partly within and partly without the corporate limits of the District, and to construct sewer improvements within the corporate limits of the District;

(e) to issue revenue bonds, notes or other obligations of the District for any of its authorized purposes, payable solely from the special funds provided under the authority of this act and pledged for their payment, all as provided in this act;

(f) to fix and collect rates, fees and other charges for the services and facilities furnished by any such sewage disposal system or sewer improvements *or associated water systems*, and to fix and collect charges for making connections with any such system or improvements;

(g) to acquire in the name of the District, either by purchase, lease, grant, or the exercise of the right of eminent domain, such lands, structures, property, rights, ~~rights of way~~ *rights-of-way*, easements, franchises and other interests in or relating to lands, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, improvement, extension, enlargement or operation of any sewage disposal system or sewer improvements *or associated water systems*, and to hold and dispose of all real and personal property under its control;

(h) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, managers, and such other officers, employees and agents as may be necessary in its judgment, and to fix their compensation;

(i) to exercise jurisdiction, control and supervision over any sewage disposal system or systems or sewer improvements *or associated water systems* operated or maintained by the Commission and to make and enforce such rules and regulations for the maintenance and operation of any such sewage disposal system or systems or sewer improvements *or associated water systems* as may, in the judgment of the Commission, be necessary or desirable for the efficient operation of any such system or improvements and for accomplishing the purposes of this act;

(j) to enter on any lands, water or premises located within or without the District to make surveys, borings, soundings or examinations for the purposes of this act;

(k) to construct and operate trunk, intercepting or outlet sewers, sewer mains, laterals, conduits or pipelines in, along or under any streets, alleys, highways or other public places within or without the District; in so constructing its facilities, it shall see that the public use of such streets, alleys, highways, and other public places is not unnecessarily interrupted or interfered with and that such streets, alleys, highways and other public places are restored to their former usefulness and condition within a reasonable time; to this end the Commission shall cooperate with the Commonwealth Transportation Board and the appropriate officers of the respective counties, cities and towns having an interest in such matters;

(l) to restrain, enjoin or otherwise prevent any county, city, town or political subdivision and any person or corporation, public or private, from discharging into any waters within the District, any sewage, industrial wastes or other refuse which would contribute or tend to contribute to the pollution of such waters, and to restrain, enjoin or otherwise prevent the violation of any provision of this act or of any resolution, rule or regulation adopted pursuant to the powers granted by this act;

(m) to use and connect with any sewage disposal system or sewer improvement within the District and, if deemed necessary by the Commission to close off and seal any outlets and outfalls therefrom;

(n) subject to such provisions and restrictions as may be set forth in the resolution authorizing any revenue bonds or in the trust agreement hereinafter mentioned securing the same, to enter into contracts with the United States of America or any agency or instrumentality thereof, or with any county, city, town or political subdivision or any sanitary district, private corporation, copartnership, association or individual providing for or relating to the treatment and disposal of sewage;

(o) to receive and accept from the United States of America or any agency or instrumentality thereof grants for or in aid of the planning, construction or financing of any sewage disposal system or sewer improvements *or associated water*

systems, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(p) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(q) to do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons;

(r) to execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Commission or to carry out the powers expressly given in this act; and

(s) to seek civil penalties or civil charges against owners who have been charged with violation of or found to be in violation of the pretreatment standards incorporated in the permit or other requirements of the District's approved industrial waste control program. The penalties which the District may seek, and the procedures to be followed by the District, shall be the same as those set forth for the State Water Control Board, as set forth in § 62.1-44.32 of the Code of Virginia.

1. For purposes of this subsection, the term "owner" shall include the definition contained in subsection (i) of § 8 and, in addition, any corporate officer designated in the permit issued by the District, if any.

2. With the consent of any owner who has violated a provision of this subsection, or is charged by the District with having violated the provision of this subsection, the District may provide, in an order issued by it against such owner, for the payment of civil charges for such violations in specific sums not to exceed those set forth in § 62.1-44.32 of the Code of Virginia for each violation. Each day of violation shall constitute a separate offense. Such civil charges shall be instead of any appropriate civil or criminal penalty imposed under the provisions of this subsection.

§ 11. (a) The Commission is hereby authorized and empowered to acquire by purchase, lease, grant or conveyance such lands, structures, property, rights, ~~rights of way~~ *rights-of-way*, easements, franchises and other interests in or relating to lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any sewage disposal system or sewer improvements *or associated water systems*, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and commissions of the Commonwealth with the approval of the Governor and all counties, cities, towns and political subdivisions, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the District at the request of the Commission upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Commission, including public highways and other real property already devoted to public use.

(b) The Commission is also hereby authorized and empowered to acquire by condemnation or eminent domain such lands, structures, property rights, *rights-of-way*, easements, franchises and other interests in or relating to lands, including lands lying under water and riparian rights, deemed necessary or convenient for the construction and operation of any sewage disposal system or sewer improvements *or associated water systems*. The powers of condemnation or eminent domain conferred on the Commission by this act shall be exercised by the Commission pursuant to the provisions of Title 25.1, Chapter 1 through 4, inclusive, of the Code of Virginia, 1950, as now enacted or as hereafter amended or reenacted; provided, however, that the Commission may proceed (i) *for the procurement of lands, structures, property rights, rights-of-way, easements, franchises and other interests in or relating to lands contiguous to the site of an existing sewage disposal system for construction and operation of an expanded sewage disposal system to meet new regulatory requirements, including nutrient removal technology classified under § 10.1-2131 of the Code of Virginia, 1950, as eligible for partial grant funding from the Virginia Department of Environmental Quality, without regard to the provisions of §§ 15.2-4313 and 25.1-106 of the Code of Virginia, 1950, as enacted or as hereafter amended or reenacted, when such expansion is to be funded in part or in whole by issuance of revenue bonds payable from the revenues of the District provided under this act, and (ii) pursuant to the provisions of Article 7 1 (§ 33.1-89 33.2-1000 et seq.) of Chapter 1 10 of Title 33.1 33.2 of the Code of Virginia, 1950, as enacted or as hereafter amended or reenacted, for the procurement of ~~rights of way~~ *rights-of-way* for sewer lines and sites for pumping stations.*

(c) Title to any property acquired by the Commission shall be taken in the name of the District.

(d) The Commonwealth with the approval of the Governor hereby consents to the use of any lands or property owned by the Commonwealth including lands lying under water, which are deemed by the Commission to be necessary for the construction or operation of any sewage disposal system or sewer improvements *or associated water systems*.

§ 12. The Commission is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the District for any one or more of the following purposes:

(a) refunding any bonds heretofore issued by the Commission and any revenue bonds, notes and other obligations issued under the provisions of this act and then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption thereof; provided, however, that no bonds issued after the effective date of this act shall be refunded at a net interest cost exceeding that of such bonds to be refunded unless, prior to the issuance of such refunding bonds, the Commission shall have determined that the issuance of such refunding bonds will be in the best interests of the District,

(b) paying the cost of a sewage disposal system or systems *or associated water system*,

(c) paying the cost of extensions and additions thereto, and

(d) paying the cost of sewer *or water* improvements.

§ 21. In the discretion of the Commission the revenue bonds of any issue may be secured by a trust agreement by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Any such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any sewage disposal system or sewer improvements *or associated water systems* or any part thereof. Any such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the acquisition of property and the construction, improvement, extension, enlargement, reconstruction, maintenance, equipment, repair, operation and insurance of the properties of the District, and the custody, safeguarding and application of all moneys. Any such trust agreement may provide for or permit the issuance of additional bonds from time to time for the further extension of the sewerage system. If the Commission issues bonds that may be tendered for purchase by the holders thereof, any such trust agreement may provide that, for all purposes of the laws of the Commonwealth, the indebtedness of the District evidenced by such bonds shall not be deemed extinguished upon the purchase thereof by the District unless such bonds are delivered by the District to the trustee under such trust agreement with written instructions to cancel such bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement or resolution may be treated as a part of the cost of operation.

No such trust agreement or resolution need be filed or recorded except in the records of the Commission.

§ 22. The Commission may, in the resolution providing for the issuance of revenue bonds or in the trust agreement securing the same, covenant to fix the rates, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by, the sewage disposal system or systems and the sewer improvements, *or associated water systems* if any, for which such bonds are to be issued, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with or may use any such sewage disposal system or sewer improvements *or associated water systems*. The Commission may revise such rates, fees and charges from time to time. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (a) to pay the cost of maintaining, repairing and operating such sewage disposal system or systems *or associated water system* and such sewer improvements, if any, including reserves for such purpose and for renewals and replacements and necessary extensions and additions to the sewerage system *or associated water systems*, (b) to pay the principal of and the interest on such revenue bonds as the same shall become due and to provide reserves therefor, ~~and~~ (c) *to pay costs associated with a customer assistance program, and* (d) to provide a margin of safety for making such payments. The Commission shall charge and collect the rates, fees and charges so fixed or revised, and, except as hereinafter provided in this act, such rates, fees and charges shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the Commonwealth or of any district or other political subdivision of the Commonwealth.

Such rates, fees and charges shall be just and equitable and may be based or computed either upon the quantity of water used or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewerage system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon the type or character of such premises or upon any other factor affecting the use of the facilities furnished or *upon household income for households at or below 200 percent of the federal poverty level or upon any combination of the foregoing factors or as a constant rate based upon average winter water usage in premises of similar character*. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering at the expense of the owner, tenant or occupant of such premises or in any other manner as directed and approved by the Commission. Premises not discharging the entire volume of water into the sanitary sewers ~~shall~~ *may* be allowed a reduction in the charges provided the customer installs facilities, in a manner satisfactory to the Commission, for measuring the volume either discharged or not discharged into the sanitary sewers *in lieu of a constant rate as described herein*.

The Commission shall fix and determine the time or times when and the place or places where such rates, fees and charges shall be due and payable and may require that such rates, fees and charges shall be paid in advance for periods of not more than six months. A copy of the schedules of all rates, fees and charges in effect shall at all times be kept on file at the principal office of the Commission, and such schedules shall at all reasonable times be open to public inspection.

In cases where the character of the sewage from any manufacturing or industrial plant, building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the Commission may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the Commission before discharging such sewage, into the sewerage system or prohibit the discharge, directly or indirectly, of such sewage into the sewerage system.

§ 25. In the event that the rates, fees or charges charged by the Commission for the services and facilities of any sewage disposal system or sewer improvements *or associated water systems* by or in connection with any real estate or other property served shall not be paid as and when due, the owner, tenant or occupant, as the case may be, of such property

shall, until such rates, fees and charges shall be paid, cease to dispose of sewage or industrial wastes originating from or on such property by discharge thereof directly or indirectly into the sewerage system, and if such owner, tenant or occupant shall not cease such disposal within two months thereafter, it shall be the duty of each county, city, town or other public corporation, board or body, private corporation or person supplying water to or selling water for use on, such property, within five days after receipt of notice of such facts from the Commission to cease supplying water to, and selling water for use on, such property. If such county, city, town or other public corporation, board or body, private corporation or person shall not within such time cease supplying water to, and selling water for use on, such property, the Commission may shut off the supply of water to such property and may disconnect such property from such sewage disposal system or sewer improvements *or associated water systems*, and for such purposes may enter on any lands, waters and premises of such county, city, town or other public corporation, board or body, private corporation or person.

If any rates, fees or charges for the services and facilities furnished by any sewage disposal system or sewer improvements *or associated water systems* of the District shall not be paid within thirty days after the same shall become due and payable, the Commission may at the expiration of such thirty day period proceed to recover the amount of any such delinquent rates, fees or charges by any action, suit or proceeding permitted by law or in equity.

§ 26. The Commission shall keep and preserve a complete register, or registers, open to public inspection, of all rates, fees and charges which have been charged by the Commission to the owners, tenants or occupants of any real estate for the use and services of any sewage disposal system or sewer improvements *or associated water systems* and have become due and payable and have not been paid. Such register or registers shall be kept in such place or places as the Commission shall determine.

§ 28. All revenues derived by the Commission from the sewage disposal system or systems or sewer improvements *or associated water systems* financed or refinanced by the bonds of any issue or issues, except such part thereof as may be required to pay the cost of maintaining, repairing and operating such system or systems or sewer improvements and to provide such reserves therefor as may be provided in the resolution providing for the issuance of such revenue bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited to the credit of the following special funds:

(a) a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided, including the accumulation of a reserve for such purposes; such pledge shall be valid and binding from the time when the pledge is made, the revenues so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission or the District, irrespective of whether such parties have notice thereof; and

(b) a fund for anticipated renewals, replacements, extensions, additions and extraordinary repairs of the sewerage system *or associated water systems*.

The use and disposition of moneys to the credit of any such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of such revenue bonds or in the trust agreement securing the same, and, except as may otherwise be provided in such resolution or trust agreement, such sinking fund shall be a fund for the benefit of such bonds without distinction or priority of one over another.

§ 31. The exercise of the powers granted by this act shall be in all respects for the benefits of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the sewage system *or associated water systems* by the Commission will constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the sewerage system *or associated water systems* or any property acquired or used by the Commission under the provisions of this act or upon the income therefrom and the revenue bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, town or other political subdivision thereof.

§ 32. The Commission shall have no power to mortgage, pledge, encumber or otherwise dispose of any part of the sewerage system *or associated water systems* of the District, except such part or parts thereof as may be no longer necessary or useful for the purposes of the Commission; however, the Commission may enter into lease purchase and installment purchase agreements for equipment and fixtures and grant security interests therein. The provisions of this section shall be deemed to constitute a contract with the holders of bonds of the District. The sewerage system *and associated water systems, if any*, of the District shall be exempt from any and all liability which may be incurred by, or imposed upon, the Commission or any county, city, town or political subdivision.

§ 35. Any substantial change in the method used by the Commission for treating ~~and~~, *reclaiming and/or* disposing of sewage and industrial wastes so as to prevent the pollution of any waters within the District, shall, before being finally adopted or used by the Commission, be approved by the Virginia Department of Environmental Quality as effective and satisfactory for the purpose intended.

§ 38. Each county, city, town or other political subdivision shall promptly pay to the Commission all rates, fees and charges which the Commission may charge to it as owner, tenant or occupant of real estate. The Commission and any county, city, town or political subdivision in whole or in part outside of the District are authorized to enter into contracts providing for or relating to the treatment and, *reclamation and/or* disposal of sewage or industrial wastes originating in such

county, city, town or political subdivision, by means of any sewage disposal system or such other facilities as the Commission may determine to provide for such purpose, and such county, city, town or political subdivision is authorized to do everything necessary or proper to carry out and perform every such contract.

CHAPTER 429

An Act to amend and reenact § 58.1-2636 of the Code of Virginia, relating to revenue share for solar energy projects and energy storage systems.

[H 2269]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2636 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-2636. Revenue share for solar energy projects and energy storage systems.

A. 1. Any locality may by ordinance assess a revenue share of (i) up to \$1,400 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the facility based on submissions by the facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project, or (ii) up to \$1,400 per megawatt, as measured in alternating current (AC) storage capacity, on any energy storage system.

2. Except as prohibited by subdivision 3, the maximum amount of the revenue share that may be imposed shall be increased on July 1, 2026, and every five years thereafter by 10 percent.

3. The provisions of subdivision 2 shall not apply to solar photovoltaic projects or energy storage systems for which an application has been filed with the locality, as defined by subsection D of § 58.1-3660, and such application has been approved by the locality prior to January 1, 2021. The provisions of subdivision 2 shall apply to all such projects and systems for which an application is approved by the locality on or after January 1, 2021.

B. For purposes of this section, "solar photovoltaic (electric energy) project" shall not include any project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended; (ii) 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; or (iii) five megawatts or less.

CHAPTER 430

An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas severance tax; sunset date.

[H 2293]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3713 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3713. Local gas road improvement and Virginia Coalfield Economic Development Authority tax.

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of § 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in

§ 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same.

B. Any county or city imposing the tax authorized in this section or in subsection B of § 58.1-3741 shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. No tax shall be imposed under this section on or after January 1, 2022 2024.

CHAPTER 431

An Act to amend and reenact § 46.2-629 of the Code of Virginia, relating to odometer disclosure exemption.

[H 2294]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-629 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-629. Odometer reading to be reported on certificate of title, application, or power of attorney.

A. Every owner or transferor of any motor vehicle, including a dealer, shall, at the time of transfer of ownership of any motor vehicle by him, record on the certificate of title, if one is currently issued on the vehicle in the Commonwealth, and on any application for certificate of title the reading on the odometer or similar device plus any known additional distance traveled not shown by the odometer or similar device of the motor vehicle at the time of transfer. If, however, a transferor gives his power of attorney to a dealer or other person for the purpose of assigning the transferor's interest in a motor vehicle, the transferor shall conspicuously record on the power of attorney the reading on the odometer or similar device at the time of the assignment. The owner or transferor of a motor vehicle may electronically provide, in a form and format prescribed by the Commissioner, the reading on the odometer or similar device at the time of transfer if a paper certificate of title was not issued by the Department in accordance with § 46.2-603.1 and electronic provision of odometer readings is permitted under the Federal Odometer Act (49 U.S.C. § 32701 et seq.) or any federal regulations promulgated thereunder.

B. The Department shall not issue to any transferee any new certificate of title to a motor vehicle unless subsection A has been complied with.

C. It shall be unlawful for any person knowingly to record an incorrect odometer or similar device reading plus any known additional distance not shown by the odometer or similar device on any certificate of title or application for a title, or on any power of attorney as described in subsection A.

D. Notwithstanding other provisions of this section, an owner or transferor, including a dealer, of any of the following types of motor vehicles need not disclose the vehicle's odometer reading:

1. Vehicles having gross vehicle weight ratings of more than 16,000 pounds; ~~and~~
2. Vehicles ~~that were~~ manufactured for a model year at least 10 years earlier than the calendar year in which the sale or transfer occurs in or before the 2010 model year that are transferred at least 10 years after January 1 of the calendar year corresponding to its designated model year and were previously exempt from recording an odometer reading on the certificate of title in another state, provided that the Department shall brand the titles of all such vehicles to indicate this exemption; ~~and~~

3. Vehicles manufactured in or after the 2011 model year that are transferred at least 20 years after January 1 of the calendar year corresponding to its designated model year and were previously exempt from recording an odometer reading on the certificate of title in another state, provided that the Department shall brand the titles of all such vehicles to indicate this exemption.

E. Violation of this section shall constitute a Class 1 misdemeanor.

F. The provisions of subsections A and B shall not apply to transfers under § 46.2-633.

G. This section shall not apply to transfers or application for certificates of title of all-terrain vehicles, mopeds, or off-road motorcycles as defined in § 46.2-100.

CHAPTER 432

An Act to amend and reenact § 29.1-100 of the Code of Virginia, relating to muzzleloading rifle and shotgun; definitions.

[H 2298]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-100 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-100. Definitions.

As used in and for the purposes of this title only, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

"Bag or creel limit" means the quantity of game, fish or fur-bearing animals that may be taken, caught, or possessed during a period fixed by the Board.

"Board" means the Board of Wildlife Resources.

"Closed season" means that period of time fixed by the Board during which wild animals, birds or fish may not be taken, captured, killed, pursued, hunted, trapped or possessed.

"Conservation police officers" means supervising officers, and regular and special conservation police officers.

"Department" means the Department of Wildlife Resources.

"Director" means the Director of the Department of Wildlife Resources.

"Firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material.

"Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

"Fur-bearing animals" includes beaver, bobcat, fisher, fox, mink, muskrat, opossum, otter, raccoon, skunk, and weasel.

"Game" means wild animals and wild birds that are commonly hunted for sport or food.

"Game animals" means deer (including all Cervidae), bear, rabbit, fox, squirrel, bobcat and raccoon.

"Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch, white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in streams which are blocked from access from tidewaters by dams.

"Hunting and trapping" includes the act of or the attempted act of taking, hunting, trapping, pursuing, chasing, shooting, snaring or netting birds or animals, and assisting any person who is hunting, trapping or attempting to do so regardless of whether birds or animals are actually taken; however, when hunting and trapping are allowed, reference is made to such acts as being conducted by lawful means and in a lawful manner. The Board of Wildlife Resources may authorize by regulation the pursuing or chasing of wild birds or wild animals during any closed hunting season where persons have no intent to take such birds or animals.

"Lawful," "by law," or "law" means the statutes of this Commonwealth or regulations adopted by the Board which the Director is empowered to enforce.

"Migratory game birds" means doves, ducks, brant, geese, swan, coot, gallinules, sora and other rails, snipe, woodcock and other species of birds on which open hunting seasons are set by federal regulations.

"Muzzleloader" means any firearm described in subdivision 3 of the definition of antique firearm in § 18.2-308.2:2.

"Muzzleloading pistol" means a muzzleloader originally designed, made or intended to fire a projectile (bullet) from one or more barrels when held in one hand and that is loaded from the muzzle or forward end of the cylinder.

"Muzzleloading rifle" means a muzzleloader firing a single projectile that is loaded ~~along with the propellant~~ from the muzzle of the gun.

"Muzzleloading shotgun" means a muzzleloader with a smooth bore firing multiple projectiles that are loaded ~~along with the propellant~~ from the muzzle of the gun.

"Nonmigratory game birds" means grouse, bobwhite quail, turkey and all species of birds introduced into the Commonwealth by the Board.

"Nuisance species" means blackbirds, coyotes, crows, cowbirds, feral swine, grackles, English sparrows, starlings, or those species designated as such by regulations of the Board, and those species found committing or about to commit depredation upon ornamental or shade trees, agricultural crops, wildlife, livestock or other property or when concentrated in numbers and manners as to constitute a health hazard or other nuisance. However, the term nuisance does not include (i) animals designated as endangered or threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or fur-bearing animals, and (iii) those species protected by state or federal law.

"Open season" means that period of time fixed by the Board during which wild animals, wild birds and fish may be taken, captured, killed, pursued, trapped or possessed.

"Pistol" means a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having one or more chambers as an integral part of or permanently aligned with the bore and a short stock at an angle to and extending below the line of the bore that is designed to be gripped by one hand.

"Possession" means the exercise of control of any wild animal, wild bird, fish or fur-bearing animal, or any part of the carcass thereof.

"Properly licensed person" means a person who, while engaged in hunting, fishing or trapping, or in any other activity permitted under this title, in and upon the lands and inland waters of this Commonwealth, has upon his person all the licenses, permits and stamps required by law.

"Regulation" means a regulation duly adopted by the Board pursuant to the authority vested by the provisions of this title.

"Revolver" means a projectile weapon of the pistol type, having a breechloading chambered cylinder arranged so that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

"Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

"Transportation" means the transportation, either upon the person or by any other means, of any wild animal or wild bird or fish.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

CHAPTER 433

An Act to amend the Code of Virginia by adding a section numbered 46.2-1533.1, relating to test driving vehicles; residence districts.

[H 2318]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-1533.1 as follows:

§ 46.2-1533.1. Test driving vehicle; residence districts.

A. For the purposes of this section, "test drive" means the use of dealer's license plates authorized pursuant to subdivision B 1 of § 46.2-1550.

B. The local governing body of any county, city, or town may by ordinance require licensed motor vehicle dealers located within such locality to notify any buyer or potential buyer that test drives a motor vehicle that he is prohibited from conducting such test drive in a resident district designated for increased fines pursuant to § 46.2-878.2. Any governing body that enacts an ordinance pursuant to this section shall notify all licensed motor vehicle dealers located within such locality of the enactment of the ordinance and send a copy of each such notice to the Board.

C. Any motor vehicle dealer licensed under this chapter located within a locality that has enacted an ordinance pursuant to this section shall notify any buyer or potential buyer who is test driving a vehicle of such ordinance prior to such test drive. The notice shall advise the buyer or potential buyer to avoid the designated area during a test drive. Nothing herein shall prohibit a buyer or potential buyer from driving to or from his residence, regardless of whether he lives in any such residence district, provided that he is permitted by the dealer to drive to his residence.

D. If any buyer or potential buyer is convicted of a traffic infraction that occurred in a residence district designated for increased fines pursuant to § 46.2-878.2 while test driving a vehicle in a locality that has enacted an ordinance pursuant to this section, the locality may notify the Board. The Board shall determine whether the dealer that authorized the test drive provided notice to the buyer or potential buyer as required by the ordinance. If the dealer did not make the notification required by the ordinance to the buyer or potential buyer who committed the traffic infraction, that may be considered by the Board as a violation of this chapter; and, in addition to any other sanctions or remedies available to the Board under this chapter, the Board may assess a separate civil penalty pursuant to § 46.2-1507.

E. Under no circumstances shall an actual or alleged violation of this section give rise to or be used as the basis for a claim of civil liability against a licensed dealer for injuries caused by a prospective or actual buyer of a motor vehicle during a test drive.

CHAPTER 434

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.17, consisting of a section numbered 59.1-284.38, relating to Shipping and Logistics Headquarters Grant Program.

[H 5001]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.17, consisting of a section numbered 59.1-284.38, as follows:

CHAPTER 22.17.

SHIPPING AND LOGISTICS HEADQUARTERS GRANT PROGRAM.

§ 59.1-284.38. Shipping and Logistics Headquarters Grant Program.

A. As used in this chapter, unless the context requires a different meaning:

"Capital investment" means an expenditure within an eligible locality, by or on behalf of a qualified company on or after January 1, 2021, in real property, tangible personal property, or both, at one of the facilities within an eligible locality that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) the purchase of land and buildings and the cost of infrastructure development and land improvements; (ii) a capital expenditure related to a leasehold interest in real property; and (iii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease.

"Eligible locality" means the City of Chesapeake, the City of Norfolk, or the County of Arlington.

"Facilities" means the buildings, group of buildings, or campus, including any related furniture, fixtures, equipment, and business personal property, in an eligible locality that is owned, leased, licensed, occupied, or otherwise operated by or on behalf of a qualified company for use as a headquarters facility, a customer care center, or a research and development innovation center in the furtherance of its shipping and logistics business.

"Fund" means the Shipping and Logistics Headquarters Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an aggregate amount of up to \$9.5 million. Grant proceeds are intended to be used by the qualified company to pay or reimburse costs associated with constructing, renovating, acquiring, and staffing the facilities.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2021, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new jobs for the qualified company.

"New job" means full-time employment at or associated with any of the facilities measured at any time after January 1, 2021, for which the annual average wage is at least \$56,713 for a position in the City of Norfolk or the City of Chesapeake or at least \$99,385 for a position in the County of Arlington, that requires a minimum of 38 hours of an employee's time per week for the entire normal year, consisting of at least 48 weeks, of the qualified company's operations. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new jobs. Any new job shall be in addition to the baseline number of existing full-time positions at the qualified company's facilities, to be set forth in the memorandum of understanding.

"Qualified company" means a shipping and logistics company, and its affiliates, that between January 1, 2021, and December 31, 2030, is expected to (i) retain its North American headquarters operations in the City of Norfolk; (ii) make or cause to be made a capital investment at one or more of the facilities of at least \$36 million; (iii) create and maintain at least 415 new jobs at or associated with the facilities related to, or supportive of, its shipping and logistics business functions; and (iv) establish and operate a research and development innovation center.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. There is hereby created in the state treasury a nonreverting fund to be known as the Shipping and Logistics Headquarters Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund shall be paid into the state treasury and credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose to pay grant installments pursuant to this chapter. Payment of such grant installments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for grant installments under this section without a specific appropriation for the same.

C. Subject to appropriation by the General Assembly, a qualified company shall be eligible to receive grant installments of \$6.33 million in fiscal year 2022 and \$3.17 million in fiscal year 2023. Such grant installments shall be paid to the qualified company from the Fund during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding to provide security for any potential repayment of the grant, including a cash escrow.

D. A qualified company receiving a grant installment pursuant to this section shall provide evidence, satisfactory to the Secretary, annually of, for each facility: (i) the aggregate number of new jobs created and maintained as of the last day of the calendar year, the payroll paid by the qualified company during the calendar year, and the average annual wage of the new jobs in the calendar year and (ii) the aggregate amount of the capital investment made during the calendar year, including the extent to which such capital investment was or was not subject to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). The report and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 each year following the end of the prior calendar year upon which the evidence is based.

E. The memorandum of understanding shall provide that if any annual report and evidence provided pursuant to subsection D indicates that the qualified company failed to meet certain targets for capital investment that is or is not subject to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), the average annual wage for new jobs, or the number of new jobs, the qualified company may be required to repay the Commonwealth a portion of the grant in an amount that reflects the value of the shortfall in the applicable target.

F. As a condition of receipt and retention of the grant, a qualified company shall make available to the Secretary for inspection all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt and retention of the grant as set forth herein and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary, and shall not be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

CHAPTER 435

An Act to amend and reenact § 33.2-1907 of the Code of Virginia, relating to the Transportation District Commission of Hampton Roads; membership.

[S 1126]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1907 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1907. Members of transportation commissions.

A. Any transportation district commission created pursuant to this chapter shall consist of the number of members the component governments shall agree upon, or as may otherwise be provided by law. The governing body of each participating county and city shall appoint from among its members the number of commissioners to which the county or city is entitled; however, for those commissions with powers as set forth in subsection A of § 33.2-1915, the governing body of each participating county or city is not limited to appointing commissioners from among its members. In addition, the governing body may appoint, from its number or otherwise, designated alternate members for those appointed to the commission who shall be able to exercise all of the powers and duties of a commission member when the regular member is absent from commission meetings. Each such appointee shall serve at the pleasure of the appointing body; however, no appointee to a commission with powers as set forth in subsection B of § 33.2-1915 may continue to serve when he is no longer a member of the appointing body. Each governing body shall inform the commission of its appointments to and removals from the commission by delivering to the commission a certified copy of the resolution making the appointment or causing the removal.

The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of each commission, ex officio with voting privileges. The Chairman of the Commonwealth Transportation Board may appoint an alternate member who may exercise all the powers and duties of the Chairman of the Commonwealth Transportation Board when neither the Chairman of the Commonwealth Transportation Board nor his designee is present at a commission meeting.

The Potomac and Rappahannock Transportation Commission shall also include two members who reside within the boundaries of the transportation district appointed by the Speaker of the House who may be members of the House of Delegates and one member of the Senate appointed by the Senate Committee on Rules. Each legislative member shall be from a legislative district located wholly or in part within the boundaries of the transportation district and shall serve a term coincident with his term of office. The members of the General Assembly shall be eligible for reappointment for successive terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

The Transportation District Commission of Hampton Roads shall *include one member of the House of Delegates and one member of the Senate, one of whom shall represent a district that includes the City of Hampton or Newport News and one of whom shall represent a district that includes the City of Chesapeake, Norfolk, Portsmouth, or Virginia Beach. The member of the House of Delegates shall be appointed by the Speaker of the House of Delegates for a term coincident with his term of office, and the member of the Senate shall be appointed by the Senate Committee on Rules for a term coincident with his term of office. The members of the General Assembly shall be eligible for reappointment for successive terms, and vacancies occurring other than by expiration of a term shall be filled for the unexpired term. The Transportation District Commission of Hampton Roads shall also consist of one nonlegislative citizen member appointed by the Governor from each county and city embraced by the transportation district. However, for the gubernatorial appointments that will become effective July 1, 2016, three of the appointments shall be for initial terms of two years and three appointments shall be for terms of four years. Thereafter, all Nonlegislative citizen members shall have experience in at least one of the following fields: transit, transportation, or land use planning; management of transit, transportation, or other public sector operations; public budgeting or finance; corporate communications; government oversight; or state or local government. All gubernatorial appointments shall be for terms of four years so as to stagger the terms of the gubernatorial appointees.* The governing body of each such county or city may appoint either a member of its governing body or its county or city manager to serve as an ex officio member with voting privileges. Every such ex officio member shall be allowed to attend all meetings of the commission that other members may be required to attend. Vacancies shall be filled in the same manner as the original appointments.

B. The Secretary or his designee and any appointed member of the Northern Virginia Transportation Commission are authorized to serve as members of the board of directors of the Washington Metropolitan Area Transit Authority (§ 33.2-3100 et seq.) and while so serving the provisions of § 2.2-2800 shall not apply to such member. In appointing Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern

Virginia Transportation Commission shall include the Secretary or his designee as a principal member on the board of directors of WMATA. Any designee serving as the principal member must reside in a locality served by WMATA.

In selecting from its membership those members to serve on the board of directors of WMATA, the Northern Virginia Transportation Commission shall comply with the following requirements:

1. A board member shall not have been an employee of WMATA within one year of appointment to serve on the board of directors.

2. A board member shall have (i) experience in at least one of the fields of transit planning, transportation planning, or land use planning; transit or transportation management or other public sector management; engineering; finance; public safety; homeland security; human resources; or the law or (ii) knowledge of the region's transportation issues derived from working on regional transportation issue resolution.

3. A board member shall be a regular patron of the services provided by WMATA.

4. Board members shall serve a term of four years with a maximum of two consecutive terms. A board member's term or terms must coincide with his term on the body that appointed him to the Northern Virginia Transportation Commission. Any vacancy created if a board member cannot fulfill his term because his term on the appointing body has ended shall be filled for the unexpired term in the same manner as the member being replaced was appointed within 60 days of the vacancy. The initial appointments to a four-year term will be as follows: the Secretary, or his designee, for a term of four years; the second principal member for a term of three years; one alternate for a term of two years; and the remaining alternate for a term of one year. Thereafter, board members shall be appointed for terms of four years. Service on the WMATA board of directors prior to July 1, 2012, shall not be considered in determining length of service. Any person appointed to an initial one-year or two-year term, or appointed to an unexpired term in which two years or less is remaining, shall be eligible to serve two consecutive four-year terms after serving the initial or unexpired term.

5. Members may be removed from the board of directors of WMATA if they attend fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to employment at WMATA; or if they are found to be in violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

6. Each member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall file semiannual reports with the Secretary's office beginning July 1, 2012. The reports shall include (i) the dates of attendance at WMATA board meetings, (ii) any reasons for not attending a specific meeting, and (iii) dates and attendance at other WMATA-related public events.

7. Each nonelected member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall be eligible to receive reasonable and necessary expenses and compensation pursuant to §§ 2.2-2813 and 2.2-2825 from the Northern Virginia Transportation Commission for attending meetings and for the performance of his official duties as a board member on that day.

Any entity that provides compensation to a WMATA board member for his service on the WMATA board shall be required to submit on July 1 of each year to the Secretary the amount of that compensation. Such letter will remain on file with the Secretary's office and be available for public review.

C. When the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission enter into an agreement to operate a commuter railway, the agreement governing the creation of the railway shall provide that the Chairman of the Commonwealth Transportation Board or his designee shall have one vote on the oversight board for the railway. For each year in which the state contribution to the railway is greater than or equal to the highest contribution from an individual locality, the total annual subsidy as provided by the member localities used to determine vote weights shall be recalculated to include the Commonwealth contributing an amount equal to the highest contributing locality. The vote weights shall be recalculated to provide the Chairman of the Commonwealth Transportation Board or his designee the same weight as the highest contributing locality. The revised vote weights shall be used in determining the passage of motions before the oversight board.

2. That the provisions of this act amending the qualifications of nonlegislative citizen members appointed to serve on the Transportation District Commission of Hampton Roads (the Commission) shall not affect the appointment of any nonlegislative citizen member of the Commission as of the effective date of this act until the expiration of the term of such nonlegislative citizen member.

CHAPTER 436

An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption of compensation for certain diseases; applicable to salaried and volunteer emergency medical services personnel.

[H 1818]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

2. That the provisions of this act shall not apply to any individual who was diagnosed with hypertension or heart disease before July 1, 2021.

CHAPTER 437

An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption of compensation for certain diseases; applicable to salaried and volunteer emergency medical services personnel.

[S 1275]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) *salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection*, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. ~~Volunteer emergency medical services personnel, volunteer~~ law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

2. That the provisions of this act shall not apply to any individual who was diagnosed with hypertension or heart disease before July 1, 2021.

CHAPTER 438

An Act to amend and reenact § 2.2-435.8 of the Code of Virginia, relating to workforce development; data sharing.

Approved March 30, 2021

[H 1876]

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-435.8 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-435.8. Workforce program evaluations; sharing of certain data.**

A. Notwithstanding any provision of law to the contrary ~~To the extent permitted under federal law,~~ the agencies specified in subsection D ~~may~~ *shall* share data from within their respective databases ~~solely~~ to (i) ~~provide support~~ the workforce program evaluation and policy analysis required by subdivision A 8 of § 2.2-435.7 and clause (i) of subdivision A 10 of § 2.2-435.7 and; (ii) ~~conduct education program evaluations that require employment outcomes data~~ to meet state and federal reporting requirements; (iii) ~~improve coordination, outcomes, and efficiency across public workforce programs and partner organizations;~~ (iv) ~~enable the development of comprehensive consumer-facing software applications;~~ (v) ~~support requirements for performance-driven contracts;~~ and (vi) ~~support workforce initiatives developed by the General Assembly and the Governor.~~

B. Data shared pursuant to subsection A shall ~~not include any personal only the identifying information and attribute information required to match entities across programs, support the coordination of services, and evaluate outcomes,~~ shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall ~~re-encrypt the data to prevent any participating agency from connecting shared data sets with existing agency files maintain the data in an encrypted state pursuant to § 2.2-2009 and restrict data sharing according to the Virginia Workforce Data Trust memorandum of understanding.~~ For the purposes of this section:

1. "Identifying information" means the same as that term is defined in § 18.2-186.3; and
2. "Encrypted" means the same as that term is defined in § 18.2-186.6.

The agencies specified in subsection D shall enter into a memorandum of understanding supporting the Virginia Workforce Data Trust and the associated application ecosystem. "Virginia Workforce Data Trust" means a workforce database maintained by the Chief Workforce Development Advisor of the Commonwealth compliant with § 2.2-2009. In accordance with the governance process defined in the aforementioned memorandum, the data sharing referenced in subsection A shall be accomplished by integrating additional organizations, systems, data elements, and functionality into the Virginia Workforce Data Trust.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor or his designee may retain a third-party entity to assist with the evaluation and analysis.

D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance, Job Service, Trade Act, and Veterans Employment Training Programs;
2. Virginia Community College System: Postsecondary Career and Technical Education, Workforce Innovation and Opportunity Act Adult, Youth and Dislocated Worker Programs;
3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;
4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;
5. Department of Education: Adult Education and Family Literacy, Special Education, and Career and Technical Education;
6. Department of Labor and Industry: Apprenticeship;
7. Department of Social Services: Supplemental Nutrition Assistance Program and Virginia Initiative for Education and Work;
8. Virginia Economic Development Partnership *Authority*: Virginia Jobs Investment Program;
9. Department of Juvenile Justice: Youth Industries and Institutional Work Programs and Career and Technical Education Programs;
10. Department of Corrections: Career and Technical Education Programs; and
11. The State Council of Higher Education for Virginia.

CHAPTER 439

An Act to amend the Code of Virginia by adding a section numbered 22.1-131.1, relating to certain school board property; establishment of gun-free zone permitted.

[H 1909]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 22.1-131.1 as follows:****§ 22.1-131.1. Certain school board property; establishment of gun-free zone permitted.**

Notwithstanding the provisions of § 15.2-915, in addition to ensuring compliance with the federal Gun-Free School Zones Act of 1990, 18 U.S.C. § 922(q), any school board may deem any building or property that it owns or leases where employees of such school board are regularly present for the purpose of performing their official duties, outside of school

zones, as that term is defined in 18 U.S.C. § 921, as a gun-free zone and may prohibit any individual from knowingly purchasing, possessing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property. Such prohibition shall not apply to (i) any law-enforcement officer; (ii) any retired law-enforcement officer qualified to carry firearms pursuant to subsection C of § 18.2-308.016; (iii) any individual who possesses an unloaded firearm that is in a closed container in or upon a motor vehicle or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; or (iv) any individual who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress to or egress from the school board property.

CHAPTER 440

An Act to amend the Code of Virginia by adding a section numbered 23.1-407.1, relating to public institutions of higher education; admissions applications; criminal history.

[H 1930]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-407.1 as follows:

§ 23.1-407.1. Admissions applications; criminal history.

A. No public institution of higher education shall (i) utilize an institution-specific admissions application that contains questions about the criminal history of the applicant or (ii) deny admission to any applicant solely on the basis of any criminal history information provided by the applicant on any third-party admissions application accepted by the institution.

B. Notwithstanding the provisions of subsection A, any public institution of higher education that requires each student to enroll in the Reserve Officers' Training Corps (ROTC) as a condition of enrollment may inquire into the criminal history of any applicant prior to the applicant's receiving a conditional offer of acceptance to determine his eligibility to accept a commission in the Armed Forces of the United States.

C. Nothing in this section shall be construed to prohibit a public institution of higher education from inquiring into the criminal history of any individual who has been admitted to but has yet to enroll at the institution. Any public institution of higher education may withdraw an offer of admission to any individual whom the institution subsequently determines to have a criminal history that poses a threat to the institution's community.

D. Notwithstanding the provisions of subsection A, a law school of a public institution of higher education that is accredited by the American Bar Association may inquire into the criminal history of any applicant to determine whether the applicant appears capable of being admitted to the bar. Any such law school shall inform applicants that the existence of a criminal history will not, by itself, disqualify an applicant for admission.

2. That the provisions of this act shall become effective on January 1, 2022.

CHAPTER 441

An Act to amend and reenact §§ 38.2-1866, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1873 of the Code of Virginia and to repeal § 38.2-1845.9 of the Code of Virginia, relating to public adjusters; continuing education.

[H 1942]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1866, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, and 38.2-1873 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-1866. Continuing education requirements.

A. Every individual resident and nonresident (i) insurance consultant, (ii) life and annuities insurance agent, (iii) health agent, (iv) property and casualty insurance agent (v) personal lines agent, and (vi) title insurance agent shall, on a biennial basis, furnish evidence as set forth in this article that the continuing education requirements of this article have been satisfied. As used in this article, the term "agent" shall be construed to refer to any of the individual licensees referred to above.

B. Every individual resident and nonresident public adjuster shall, on a biennial basis, furnish evidence as set forth in this article that the continuing education requirements of this article have been satisfied.

C. Any agent who holds a life and annuities license or a health agent license, or both, shall complete 16 hours of relevant continuing education credits.

~~C. D.~~ Any agent who holds a personal lines license or a property and casualty license shall complete 16 hours of relevant continuing education credits.

~~D. E.~~ Any agent who holds a title agent license shall complete 16 hours of relevant continuing education credits.

~~E. F.~~ A public adjuster shall complete 24 hours of relevant continuing education credits.

G. Except as provided in subsection B and § 38.2-1871, any agent who holds licenses from more than one category of licenses identified in subsection A shall complete 24 hours of relevant continuing education credits with a minimum of eight credit hours in each such category.

~~F. H. Of the total required credits for each biennium, an agent shall complete three credit hours shall be in insurance ethics, which may include insurance law and regulations applicable in Virginia the Commonwealth.~~

~~G. I. Of the total required credits for each biennium, a public adjuster shall complete three credit hours in insurance ethics.~~

J. Agents may receive no more than 75 percent of their required credits from courses provided by insurance companies or agencies. The Board, in its sole discretion, shall, at the time of course approval, determine whether any particular course shall be considered to be insurance company or agency sponsored, and shall require all course sponsors to provide this information clearly and conspicuously to all those enrolling in that course.

§ 38.2-1867. Insurance continuing education board; approval of credits.

A. An insurance continuing education board, hereinafter called the Board, appointed by the Commission, shall approve all continuing education instructors, programs of instruction, and courses, including technical courses or agency management and operations courses, and shall evaluate credit hours for all programs or courses offered. The Board shall establish and monitor standards for the education of insurance agents and public adjusters and set minimum requirements for course instructors. The Board shall have the authority to disapprove or withdraw approval of course sponsors, courses, or course instructors when the established standards are not satisfied, or where such standards have been violated.

B. The number of credits for each self-study course, correspondence course, or program of classroom instruction shall be determined in a manner prescribed by the Board. However, for an approved classroom course, a credit hour shall be equivalent to a classroom hour providing at least 50 minutes of continuous instruction or participation. No credits shall be granted for approved classroom courses unless notice to the Board is accompanied by proof of attendance by the course provider. No credits shall be granted for any correspondence or self-study course that does not include a test of the subject matter which shall be successfully completed by each agent requesting credit. The Board shall have the right to review and approve or disapprove the proposed test as part of the course approval process.

C. An instructor of an approved continuing education course shall be eligible to receive the same number of credits as a person enrolled in the course for the purpose of meeting the continuing education course requirements of this article. However, agents, public adjusters, and instructors may apply credits for attending or teaching the same course only once during the two-year period set forth in subsection B of § 38.2-1868.1.

D. ~~Excess Any agent with excess~~ credit hours accumulated during the two-year period set forth in subsection B of § 38.2-1868.1 may be ~~carried~~ carry such hours forward to the next biennium only.

E. Members of the Board shall be appointed by the Commission as follows:

1. One active member of the Independent Insurance Agents of Virginia, as recommended by the Independent Insurance Agents of Virginia;
2. One active member of the Professional Insurance Agents of Virginia and the District of Columbia, as recommended by the Professional Insurance Agents of Virginia and the District of Columbia;
3. One active member of the National Association of Insurance and Financial Advisors of Virginia, as recommended by the National Association of Insurance and Financial Advisors of Virginia;
4. One active member of the Virginia Land Title Association, as recommended by the Virginia Land Title Association;
5. One active member of the Virginia Association of Health Underwriters, as recommended by the Virginia Association of Health Underwriters;
6. Three representatives of the property and casualty insurance industry;
7. Three representatives of the life and health insurance industry; and
8. One representative of the adult education or higher education field.

F. No person shall serve as a member of the Board if, in the opinion of the Commission, such person (i) prepares, submits for approval, or teaches insurance continuing education courses in Virginia or in any other jurisdiction, other than as an incidental part of such person's employment, or (ii) no longer meets the criteria on which the original appointment to the Board was based pursuant to subsection E.

G. No meeting of the Board or any subcommittee of the Board shall be held unless timely notice of such meeting has been provided to the Commission's Bureau of Insurance. At any such meeting of the Board or any subcommittee of the Board, one or more representatives from the Bureau of Insurance shall be permitted to attend and to participate in such meeting, except that such Bureau of Insurance representative or representatives shall not have the right to vote on any matters before the Board.

H. Actions of the Board shall be exempt from the application of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 38.2-1868.1. Proof of compliance with continuing education requirements; waivers.

A. As used in this article:

"Proof of compliance" means all fees prescribed by the Board and all documents and forms specified by the Board for demonstrating completion of Board-approved continuing education courses relevant to the license held and for the required number of hours.

"Received by the Board or its administrator" means delivered into the possession of the Board or its administrator in a form and manner prescribed by the Board.

B. Each agent *and public adjuster* holding one or more licenses subject to the continuing education requirements of this article shall complete all continuing education course or waiver requirements and shall submit to the Board or its administrator proof of compliance with such requirements in the form and manner required by the Board biennially, based on the agent's *or public adjuster's* month and year of birth. An agent *or public adjuster* born in an even-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's *or public adjuster's* birth month in even-numbered years. An agent *or public adjuster* born in an odd-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's *or public adjuster's* birth month in odd-numbered years.

C. A licensed agent *or public adjuster* who is unable to comply with the continuing education requirements of this article due to military service or other extenuating circumstances, including long-term illness or incapacity may request a waiver of such requirements. Requests for waivers of continuing education requirements shall be made in a form and manner prescribed by the Board. ~~Agents~~ *An agent or public adjuster* seeking a waiver of some or all of the continuing education requirements shall submit all documentation, forms, and fees specified by the Board so as to be received by the Board or its administrator no later than the last day of the two-year period set forth in subsection B and in §§ 38.2-1825.1 ~~and~~, 38.2-1840, *and 38.2-1845.8*. After the two-year period, ~~agents an agent or public adjuster~~ *an agent or public adjuster* who ~~have~~ *has* failed to complete the continuing education requirements may request a waiver of the continuing education reinstatement requirements set forth in subsection E of § 38.2-1825.1 ~~and~~, subsection E of § 38.2-1840, *and subsection E of § 38.2-1845.8* within the 12-month reinstatement period described therein. The Board shall approve or disapprove the waiver request within 30 days of receipt thereof and shall provide written notice of its decision to the waiver applicant within five days of rendering its decision. Any waiver granted pursuant to this subsection shall be valid only for the biennium for which waiver application was made.

D. All fees specified by the Board shall be nonrefundable once received by the Commission, the Board, or the Board's administrator, except that duplicate payments may be refunded.

§ 38.2-1869. Failure to satisfy requirements; termination of license.

A. Failure of an agent *or public adjuster* to complete all continuing education course or waiver requirements, pay any fee imposed by the Board, or otherwise furnish proof of compliance during the two-year period set forth in subsection B of § 38.2-1868.1, or to complete the license renewal requirements set forth in § 38.2-1825.1 ~~or~~, 38.2-1840, *or 38.2-1845.8*, shall result in the termination, pursuant to § 38.2-1825.1 ~~or~~, 38.2-1840, *or 38.2-1845.8*, of each license held by the agent *or public adjuster* for which the requirements of this article were not satisfied.

B. Neither the Board, its administrator, nor the Commission shall have the power to grant an agent *or public adjuster* additional time for completing the continuing education credits required by § 38.2-1866, or additional time for seeking waivers or submitting proof of compliance as required by § 38.2-1868.1.

C. An agent *or public adjuster* whose license has been terminated pursuant to § 38.2-1825.1 ~~or~~, 38.2-1840, *or 38.2-1845.8* for failure to satisfy the continuing education requirements of this article may appeal the determination of noncompliance to the Board. However, failure of an agent *or public adjuster* to provide notice of appeal in the form and manner prescribed by the Board within 30 calendar days following expiration of the two-year period set forth in subsection B of § 38.2-1868.1 and in §§ ~~38.2-1825 and 38.2-1825.1~~, 38.2-1840, *and 38.2-1845.8* shall be deemed a waiver by such agent *or public adjuster* of the right to appeal the determination of noncompliance with the Board.

D. Pursuant to the requirements of subsection C of § 38.2-1815 and §§ 38.2-1857.1 and 55.1-1003, respectively:

1. A resident variable contract agent whose life and annuities insurance agent license is terminated for failure to satisfy the requirements of this article shall also have such variable contract license terminated by the Commission;

2. A resident agent holding a license as a surplus lines broker whose property and casualty insurance agent license is terminated for failure to satisfy the requirements of this article shall also have such surplus lines broker license terminated by the Commission; and

3. An agent holding a registration as a title settlement agent whose title insurance agent license is terminated for failure to satisfy the requirements of this article shall also have such registration as a title settlement agent terminated by the Commission.

Any such license or registration so terminated may be applied for again after the agent has obtained, respectively, a new life and annuities insurance agent's license, a new property and casualty insurance agent's license, or a new title insurance agent's license and appointment, if appointment is required.

E. An insurance consultant who fails to renew his insurance consultant license by the date specified in § 38.2-1840, but who reinstates his insurance consultant license within 12 months following such renewal date shall be treated, for purposes of determining exemption from continuing education requirements pursuant to § 38.2-1871, as if such insurance consultant license had been renewed in a timely manner.

F. *A resident public adjuster whose license has been terminated under the terms of this section and whose license is not reinstated pursuant to § 38.2-1845.8 shall be permitted to make application for a new license if all of the requirements of § 38.2-1845.2 are met.*

§ 38.2-1871. Licensees not subject to the continuing education requirements of this article.

A. A resident or nonresident agent *or public adjuster* who has been issued a license during the last 13 months of the two-year period set forth in subsection B of § 38.2-1868.1 and in §§ 38.2-1825.1 ~~and~~, 38.2-1840, *and 38.2-1845.8* shall be

exempt from fulfilling the continuing education course requirements set forth in this article for that license for that biennium.

B. The following licensees are not subject to the continuing education course requirements set forth in this article:

1. Life and health insurance consultants who are also licensed both as life and annuities insurance agents and as health agents and who satisfy the continuing education course requirements needed for continuation of their life and annuities and health agent licenses;

2. Property and casualty insurance consultants who are also licensed as property and casualty agents and who satisfy the continuing education course requirements needed for continuation of their property and casualty agent license;

3. Nonresident agents who furnish evidence in the form and manner required by the Board of their current good standing in their home state, provided that the insurance supervisory official of the nonresident agent's home state will grant similar exemptions to Virginia residents have met the continuing education requirements of their home state and whose home state gives credit to residents of the Commonwealth on the same basis; and

4. Nonresident public adjusters who have met the continuing education requirements of their home state and whose home state gives credit to residents of the Commonwealth on the same basis; and

5. Agents who have applied for and received a permanent exemption from the continuing education course requirements set forth in this article by December 31, 2018.

§ 38.2-1873. Continuing insurance education fees.

The continuing insurance education program established by this article shall be self-supporting, and any costs incurred by the Board, its members, its administrator, or the Commission in connection with the good faith execution of their respective duties pertaining to the continuing education of insurance agents and public adjusters licensed in the Commonwealth shall be borne by the continuing insurance education fees paid by agents, public adjusters, course sponsors, and course instructors, which fees, except for duplicate payments, shall be nonrefundable upon receipt.

2. That § 38.2-1845.9 of the Code of Virginia is repealed.

CHAPTER 442

An Act to amend the Code of Virginia by adding a section numbered 23.1-615.1, relating to the establishment of the Enslaved Ancestors College Access Scholarship and Memorial Program.

[H 1980]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-615.1 as follows:

§ 23.1-615.1. Enslaved Ancestors College Access Scholarship and Memorial Program.

A. The Enslaved Ancestors College Access Scholarship and Memorial Program (the Program) is established for the purpose of reckoning with the history of the Commonwealth, addressing the long legacy of slavery in the Commonwealth, and acknowledging that the foundational success of several public institutions of higher education was based on the labor of enslaved individuals.

B. Consistent with the purpose set forth in subsection A, Longwood University, the University of Virginia, Virginia Commonwealth University, the Virginia Military Institute, and The College of William and Mary in Virginia shall each implement and execute the Program, with any source of funds other than state funds or tuition or fee increases, by annually (i) identifying and memorializing, to the extent possible, all enslaved individuals who labored on former and current institutionally controlled grounds and property and (ii) providing a tangible benefit such as a college scholarship or community-based economic development program for individuals or specific communities with a demonstrated historic connection to slavery that will empower families to be lifted out of the cycle of poverty.

C. The Council shall collaborate with the institutions set forth in subsection B to establish guidelines for the implementation of the Program, including guidelines for the identification of all enslaved individuals who labored on former and current institutionally controlled grounds and property, the development of appropriate means to memorialize these individuals, the development of programs for individuals and communities still experiencing the legacy of slavery to empower them to break the cycle of poverty, eligibility criteria for participation in such programs, and the duration of such programs.

D. Each institution set forth in subsection B shall continue the activities set forth in subsection B pursuant to the Program for a period equal in length to the period during which the institution used enslaved individuals to support the institution or until scholarships have been awarded to a number of recipients equal to 100 percent of the population of enslaved individuals identified pursuant to subsection B who labored on former and current institutionally controlled grounds and property, whichever occurs first.

E. Each institution set forth in subsection B shall annually submit to the Council information on the implementation of the Program. The Council shall compile such information in a report and submit such report no later than November 1 of each year to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, the Senate Committee on Finance and Appropriations, and the Virginia African American Advisory Board.

F. Each private institution of higher education with a legacy of slavery that is similar to that of any institution set forth in subsection B is strongly encouraged to participate in the Program on a voluntary basis.

2. That the State Council of Higher Education for Virginia shall collaborate with Longwood University, the University of Virginia, Virginia Commonwealth University, the Virginia Military Institute, and The College of William and Mary in Virginia to establish guidelines for the Enslaved Ancestors College Access Scholarship and Memorial Program, as created by this act, pursuant to the provisions of this act no later than July 1, 2022.

CHAPTER 443

An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to Standards of Learning assessments; reading and mathematics; grades three through eight; individual student growth.

[H 2027]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board of ~~Education~~ shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome *and growth* measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in ~~Virginia~~ *the Commonwealth*.

The Board of ~~Education~~ shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of ~~Education~~. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (i) (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (ii) (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of ~~Education~~, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent of Public Instruction shall develop ~~and the~~ *subject to revision by the* Board of ~~Education~~ shall ~~approve~~, criteria for determining and recognizing educational performance in the Commonwealth's ~~public~~ *local* school

divisions and public schools. ~~Such~~ *The portion of such criteria, when approved, that measures individual student growth shall become an integral part of the accreditation process and shall include student outcome measurements for schools in which any grade level in the grade three through eight range is taught.* The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance and individual student growth in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance and individual student growth in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. ~~The Department of Education shall make available to school divisions Standards of Learning assessments typically administered by the middle and high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later~~ *In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year.*

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome and growth measures that are required by the Standards for Accreditation end-of-course or end-of-grade standards of accreditation the required assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

~~The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.~~

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) (i) reading and mathematics in grades three and four; (b) (ii) reading, mathematics, and science in grade five; (c) (iii) reading and mathematics in grades six and seven; (d) (iv) reading, writing, and mathematics in grade eight; (e) (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. *The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.*

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall

(1) (a) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) (b) permit and encourage integrated assessments that include multiple subject areas; and (3) (c) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department of Education shall award recovery credit to any student in grades three through eight who ~~fails~~ *performs below grade level* on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and ~~passes~~ *performs at or above grade level* on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board of Education shall (A) (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (B) (2) select appropriate industry certification and state licensure examinations; and (C) (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board of Education or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department of Education shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board of Education may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local school boards regarding such special provisions.

The Board of Education shall not include in its calculation of the passage rate ~~of~~ *for* a Standards of Learning assessment or *the level of achievement of the Standards of Learning objectives for an individual student growth assessment* for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of Education may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis,

and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year data, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's Department's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's Board's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards for Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

2. That the provisions of subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall be fully implemented in each local school division in the Commonwealth no later than the 2022-2023 school year. The provisions of subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall be implemented in each local school division in the Commonwealth during the 2021-2022 school year with the following exception: the through-year growth assessment system shall include one beginning-of-year and one end-of-year assessment but shall not include any mid-year assessment.

3. That with such funds and content as are available for such purpose, the through-year growth assessment system set forth in subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

CHAPTER 444

An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to Standards of Learning assessments; reading and mathematics; grades three through eight; individual student growth.

[S 1357]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.**

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome *and growth* measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in ~~Virginia~~ *the Commonwealth*.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (i) (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (ii) (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent of Public Instruction shall develop ~~and the~~ *subject to revision by the* Board of Education shall approve, criteria for determining and recognizing educational performance in the Commonwealth's public local school divisions and public schools. ~~Such~~ *The portion of such* criteria, ~~when approved, that measures individual student growth~~ shall become an integral part of the accreditation process and shall include student outcome measurements for schools in which any grade level in the grade three through eight range is taught. The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance *and individual student growth* in the school divisions, the Board shall include

consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance *and individual student growth* in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. ~~The Department of Education shall make available to school divisions Standards of Learning assessments typically administered by the middle and high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later~~ *In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year.*

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome *and growth* measures that are required by the ~~Standards for Accreditation end-of-course or end-of-grade standards of accreditation~~ *the required* assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

~~The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.~~

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) (i) reading and mathematics in grades three and four; (b) (ii) reading, mathematics, and science in grade five; (c) (iii) reading and mathematics in grades six and seven; (d) (iv) reading, writing, and mathematics in grade eight; (e) (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. *The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.*

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (1) (a) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) (b) permit and encourage integrated assessments that include multiple subject areas; and (3) (c) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department of ~~Education~~ shall award recovery credit to any student in grades three through eight who ~~fails~~ *performs below grade level* on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and ~~passes~~ *performs at or above grade level* on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board of ~~Education~~ shall ~~(A)~~ *(1)* develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; ~~(B)~~ *(2)* select appropriate industry certification and state licensure examinations; and ~~(C)~~ *(3)* prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the ~~Virginia Department of Education~~ shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of ~~Education~~, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of ~~Education~~. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board of ~~Education~~ or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department of ~~Education~~ shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board of ~~Education~~ may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of ~~Education~~ shall provide notice to local school boards regarding such special provisions.

The Board of ~~Education~~ shall not include in its calculation of the passage rate of *for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment* for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board of ~~Education~~ may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of ~~Education~~ may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and

state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year data, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's Department's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's Board's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards for Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

2. That the provisions of subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall be fully implemented in each local school division in the Commonwealth no later than the 2022-2023 school year. The provisions of subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall be implemented in each local school division in the Commonwealth during the 2021-2022 school year with the following exception: the through-year growth assessment system shall include one beginning-of-year and one end-of-year assessment but shall not include any mid-year assessment.

3. That with such funds and content as are available for such purpose, the through-year growth assessment system set forth in subsection C of § 22.1-253.13:3 of the Code of Virginia, as amended by this act, shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

CHAPTER 445

An Act to amend and reenact §§ 40.1-29 and 40.1-29.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 40.1-29.2, relating to the Virginia Overtime Wage Act; penalties.

[H 2063]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-29 and 40.1-29.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 40.1-29.2 as follows:

§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.

A. All employers operating a business shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that (i) a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education, or trade school, and (ii) employees whose weekly wages total more than 150 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500, upon agreement by each affected employee, may be paid once each month if the institution or employer so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

B. Payment of wages or salaries shall be (i) in lawful money of the United States, (ii) by check payable at face value upon demand in lawful money of the United States, (iii) by electronic automated fund transfer in lawful money of the United States into an account in the name of the employee at a financial institution designated by the employee, or (iv) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds with full written disclosure by the employer of any applicable fees and affirmative consent thereto by the employee. However, an employer that elects not to pay wages or salaries in accordance with clause (i) or (ii) to an employee who is hired after January 1, 2010, shall be permitted to pay wages or salaries by credit to a prepaid debit card or card account in accordance with clause (iv), even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution in accordance with clause (iii) and the employer arranges for such card or card account to be issued through a network system through which the employee shall have the ability to make at least one free withdrawal or transfer per pay period, which withdrawal may be for any sum in such card or card account as the employee may elect, using such card or card account at financial institutions participating in such network system.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. On each regular pay date, each employer, other than an employer engaged in agricultural employment including agribusiness and forestry, shall provide to each employee a written statement, by a paystub or online accounting, that shows the name and address of the employer; the number of hours worked during the pay period if the employee is paid on the basis of (i) the number of hours worked or (ii) a salary that is less than the standard salary level adopted by regulation of the U.S. Department of Labor pursuant to § 13(a)(1) of the federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), as amended, establishing an exemption from the Act's overtime premium pay requirements; the rate of pay; the gross wages earned by the employee during the pay period; and the amount and purpose of any deductions therefrom. The paystub or online accounting shall include sufficient information to enable the employee to determine how the gross and net pay were calculated. An employer engaged in agricultural employment including agribusiness and forestry, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with this section or § 40.1-29.2, unless the failure to pay was because of a bona fide dispute between the employer and its employee:

1. To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000; and

2. To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid, if the conviction is a second or subsequent conviction under this section or § 40.1-29.2.

For purposes of this section, the determination as to the "value of the wages earned" shall be made by combining all wages the employer failed or refused to pay pursuant to this section and § 40.1-29.2.

F. The Commissioner may require a written complaint of the violation of this section or § 40.1-29.2 and, with the written and signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section or § 40.1-29.2, and to collect any moneys unlawfully withheld from such employee which that shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorney fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A or § 40.1-29.2 shall be liable for the payment of all wages due,

and an additional equal amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Any employer who knowingly fails to make payment of wages in accordance with subsection A or § 40.1-29.2 shall be subject to a civil penalty not to exceed \$1,000 for each violation. The Commissioner shall notify any employer that ~~he~~ *the Commissioner* alleges has violated any provision of this section or § 40.1-29.2 by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

I. Final orders of the Commissioner, the general district courts, or the circuit courts may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

J. In addition to any civil or criminal penalty provided by this section, and without regard to any exhaustion of alternative administrative remedies provided for in this section, if an employer fails to pay wages to an employee in accordance with this section or § 40.1-29.2, the employee may bring an action, individually, jointly, with other aggrieved employees, or on behalf of similarly situated employees as a collective action consistent with the collective action procedures of the Fair Labor Standards Act, 29 U.S.C. § 216(b), against the employer in a court of competent jurisdiction to recover payment of the wages, and the court shall award the wages owed, an additional equal amount as liquidated damages, plus prejudgment interest thereon as provided in subsection G, and reasonable attorney fees and costs. If the court finds that the employer knowingly failed to pay wages to an employee in accordance with this section or § 40.1-29.2, the court shall award the employee an amount equal to triple the amount of wages due and reasonable attorney fees and costs.

K. As used in this section, a person acts "knowingly" if the person, with respect to information, (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. Establishing that a person acted knowingly shall not require proof of specific intent to defraud.

L. An action under this section or § 40.1-29.2 shall be commenced within three years after the cause of action accrued. The period for filing is tolled upon the filing of an administrative action under subsection F until the employee has been informed that the action has been resolved or until the employee has withdrawn the complaint, whichever is sooner.

§ 40.1-29.1. Investigations of employers for nonpayment of wages.

If in the course of an investigation of a complaint of an employer's failure or refusal to pay wages in accordance with the requirements of § 40.1-29 or 40.1-29.2, the Commissioner acquires information creating a reasonable belief that other employees of the same employer may not have been paid wages in accordance with such requirements, the Commissioner shall have the authority to investigate whether the employer has failed or refused to make any required payment of wages to other employees of the employer as required by § 40.1-29 or 40.1-29.2. If the Commissioner finds in the course of such investigation that the employer has violated a provision of § 40.1-29 or 40.1-29.2, the Commissioner may institute proceedings on behalf of any employee against his employer. Such proceedings shall be undertaken in accordance with the provisions of § 40.1-29, except that the Commissioner shall not require a written complaint of the violation or the written and signed consent of any employee as a condition of instituting such proceedings.

§ 40.1-29.2. Virginia Overtime Wage Act.

A. As used in this section:

"Employ" includes to permit or suffer to work.

"Employee" means any individual employed by an employer, including employees of derivative carriers within the meaning of the federal Railway Labor Act, 45 U.S.C. § 151 et seq. "Employee" does not include the following: (i) any individual who volunteers solely for humanitarian, religious, or community service purposes for a public body, church, or nonprofit organization that does not otherwise employ such individual, (ii) any person who is exempt from the federal overtime wage pursuant to 29 U.S.C. § 213(a), and (iii) any person who meets the exemptions set forth in 29 U.S.C. § 213(b)(1) or 213(b)(11).

"Employer" means any person acting directly or indirectly in the interest of an employer in relation to an employee. "Employer" does not include any labor organization, other than when acting as an employer; anyone acting in the capacity of officer or agent of such labor organization; or any carrier subject to the federal Railway Labor Act, 45 U.S.C. §§ 151 through 188, except derivative carriers within the meaning of the federal Railway Labor Act.

"Person" means an individual, partnership, association, corporation, business trust, legal representative, any organized group of persons, or the Commonwealth, any of its constitutional officers, agencies, institutions, or political subdivisions, or any public body. This definition constitutes a waiver of sovereign immunity by the Commonwealth.

"Wages" means the same as that term is defined in § 40.1-28.9.

"Workweek" means a fixed and regularly occurring period of 168 hours or seven consecutive 24-hour periods. It need not coincide with the calendar week and may begin on any day and at any hour. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of this section.

B. For any hours worked by an employee in excess of 40 hours in any one workweek, an employer shall pay such employee an overtime premium at a rate not less than one and one-half times the employee's regular rate, pursuant to 29 U.S.C. § 207. An employee's regular rate shall be calculated as follows:

1. For employees paid on an hourly basis, the regular rate is the hourly rate of pay plus any other non-overtime wages paid or allocated for that workweek, excluding any amounts that are excluded from the regular rate by the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and its implementing regulations, divided by the total number of hours worked in that workweek.

2. For employees paid on a salary or other regular basis, the regular rate is one-fortieth of all wages paid for that workweek.

C. For fire protection or law-enforcement employees of any public sector employer for whom 29 U.S.C. § 207(k) applies, such employer shall pay an overtime premium as set forth in this section for (i) all hours worked in excess of the threshold set forth in 20 U.S.C. § 207(k) and (ii) any additional hours such employee worked or received as paid leave as set forth in subsection A of § 9.1-701.

D. An employer may assert an exemption to the overtime requirement of this section for employees who meet the exemptions set forth in 29 U.S.C. § 213(a)(1) or for employees who meet the exemptions set forth in 29 U.S.C. §§ 213(b)(1) or 213(b)(11).

E. No agency, institution, political subdivision, or public body that complies with the requirements of 29 U.S.C. § 207(k) and § 9.1-701 shall be deemed to have violated subsection B with respect to fire suppression or law-enforcement employees covered by such statutes.

F. Any employer that violates the overtime wage requirements of this section shall be liable to the employee for all remedies, damages, or other relief available in an action brought under subsection J of § 40.1-29.

G. Any action pursuant to this section shall be commenced within three years after the cause of action accrues.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 446

An Act to amend and reenact § 2.2-208.1 of the Code of Virginia and to amend and reenact the second and eleventh enactments of Chapter 860 and the second and eleventh enactments of Chapter 861 of the Acts of Assembly of 2020, relating to early childhood education; quality rating and improvement system participation; School Readiness Committee.

[H 2105]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-208.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-208.1. School Readiness Committee; Secretary to establish.

A. In recognition of the fact that early care and education of young children is linked to academic success and workforce readiness, the Secretary of Education, in consultation with the Secretary of Health and Human Resources, and upon receiving recommendations for appointments from the Virginia Education Association, the Virginia School Boards Association, the Virginia Association of Elementary School Principals, the Virginia Council for Private Education, the Virginia Child Care Association, the Virginia Association for Early Childhood Education, the Virginia Head Start Association, the Virginia Alliance for Family Child Care Associations, and the Virginia Chamber of Commerce, shall establish and appoint members to the School Readiness Committee (the Committee).

B. The Committee shall have a total membership of no fewer than 27 members that shall consist of seven legislative members, no fewer than 16 nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules on the recommendation of the Chair of the Senate Committee on Education and Health; and no fewer than 16 nonlegislative citizen members to be appointed by the Secretary of Education. Nonlegislative citizen members shall include at least three representatives of the office of the Secretary of Education, one representative of the State Council of Higher Education for Virginia, one representative of a baccalaureate public institution of higher education in the Commonwealth with a teacher education program, one representative of an associate-degree-granting public institution of higher education in the Commonwealth with a teacher education program,

one representative of the Virginia Early Childhood Foundation, one representative of the Virginia Association of School Superintendents, four representatives of the private business sector, one early childhood education teacher from a public early childhood education program, one early childhood education teacher from a private early childhood education program, one administrator from a public early childhood education program, and one administrator from a private early childhood education program, *one administrator from a Head Start program, one administrator from a family child care program, and one parent or guardian of a child who is participating in early childhood care and education in the Commonwealth.* The Commissioner of Social Services or his designee, the Secretary of Education or his designee, the Secretary of Health and Human Resources or his designee, and the Superintendent of Public Instruction or his designee shall serve ex officio with voting privileges.

C. In recognition of the fact that one of the most important factors in learning outcomes for young children is the capabilities of the adults who support their growth and learning, the first goal of the Committee is to address the development and alignment of an effective professional development and credentialing system for the early childhood education workforce in the Commonwealth, including the (i) development of a competency-based professional development pathway for practitioners who teach children from birth to age five in both public and private early childhood education programs; (ii) consideration of articulation agreements between associate and baccalaureate degree programs; (iii) review of teacher licensure and education programs, including programs offered at comprehensive community colleges in the Commonwealth, to address competencies specific to early childhood development; (iv) alignment of existing professional development funding streams; and (v) development of innovative approaches to increasing accessibility, availability, affordability, and accountability of the Commonwealth's workforce development system for early childhood education teachers and providers., *supports, and compensation of the educators who support their growth and learning, the primary goal of the Committee is to provide recommendations for and track progress on the financing of a comprehensive birth-to-five early childhood care and education system in the Commonwealth that addresses both affordability for families and adequate compensation for educators. As part of this effort, the Committee should consider best practices and innovations in the private and public sector from across the Commonwealth and the country. The Committee should consider different sources of revenue and establish long-term goals and targets for affordable access to quality care and education for all birth-to-five children in the Commonwealth. Based on disparities in school readiness outcomes, the Committee should ensure that all recommendations address societal inequities and address the needs of the Commonwealth's more vulnerable children, families, and early childhood educators.* The Committee shall periodically review the goals set forth in this subsection and other priorities within the early childhood care and education systems and make recommendations to the Board of Education, the State Council of Higher Education for Virginia, the Department of Social Services, and the Chairmen of the House Committee on Education, the Senate Committee on Education and Health, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services. ~~An affirmative vote by a majority of the legislative members in attendance and a majority of nonlegislative members in attendance shall be required for the Committee to adopt any recommendations.~~ The Board of Education shall review the recommendations of the Committee and submit to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, in advance of the next regular session of the General Assembly, any comments on such recommendations that the Board of Education deems appropriate.

D. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All legislative members and nonlegislative citizen members may be reappointed.

E. After the initial staggering of terms, legislative members and nonlegislative citizen members shall be appointed for terms of three years.

F. No legislative member or nonlegislative citizen member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

G. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Committee shall be held at the call of the chairman or whenever the majority of the members so request.

H. The Virginia Early Childhood Foundation shall provide for the facilitation of the work of the Committee under the direction of the Secretary of Education or his designee and with the guidance of a steering subcommittee that includes the Secretary of Education, the Secretary of Health and Human Resources, one legislative member, one representative of the private business sector, one representative of the Virginia Early Childhood Foundation, and one early childhood education teacher or administrator from a private early childhood education program.

I. The chairman may request and access the expertise of additional representatives and organizations relating to the Committee's goals and priorities. In order to meet the federally mandated requirements for early childhood advisory councils, the chairman may establish and appoint additional members to advisory subcommittees to address areas of special concern and priority.

J. The Department of Education and the Department of Social Services shall provide staff support to the Committee. All agencies of the Commonwealth shall provide assistance to the Committee, upon request.

2. That the second and eleventh enactments of Chapter 860 and the second and eleventh enactments of Chapter 861 of the Acts of Assembly of 2020 are amended and reenacted as follows:

2. That §§ ~~2-2-208.1~~, 63.2-1701.1, 63.2-1704, 63.2-1704.1, 63.2-1716, 63.2-1717, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, 63.2-1727, 63.2-1738, 63.2-1809 through 63.2-1813, and 63.2-1815 of the Code of Virginia are repealed.

11. That, notwithstanding the provisions of the third enactment of this act, the establishment and implementation of the quality rating and improvement system described in § 22.1-289.05 of the Code of Virginia, as created by this act, shall occur as follows: (i) the Board of Education shall establish such quality rating and improvement system no later than July 1, 2021, (ii) *publicly funded providers may participate in the quality rating and improvement system beginning in the 2021-2022 school year and shall participate in the quality rating and improvement system beginning in the 2022-2023 school year*, and ~~(iii)~~ (iii) the initial quality ratings shall be published in the fall of ~~2023~~ 2024.

CHAPTER 447

An Act to amend and reenact §§ 23.1-409, 23.1-802, and 23.1-1303 of the Code of Virginia, relating to public institutions of higher education; governing boards; meetings, input, and disclosures.

[H 2120]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-409, 23.1-802, and 23.1-1303 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-409. Transparency in higher education information.

Each baccalaureate public institution of higher education shall maintain and update annually no later than September 30 a tab or link on the home page of its website that shall include the following information:

1. The institution's six-year undergraduate graduation rate for each of the past 10 years;
2. The institution's freshman-to-sophomore retention rate for full-time undergraduate students for each of the past 10 years;
3. The institution's average annual percentage increase in base undergraduate tuition for each of the past 10 years;
4. The institution's average annual percentage increase in mandatory undergraduate comprehensive student fees for each of the past 10 years;
5. A link to the annual report of the use of student fees as required by § 23.1-408;
6. A link to the postsecondary education and employment data referenced in subsection D of § 23.1-204.1; and
7. A summary of the institution's budget, consistent with the institution's annual budgeting process, that includes (i) the major budget units (MBUs) in the institution and standard expenditure categories within each MBU for the current fiscal year and the previous fiscal year or (ii) a link to the annual reports required by subdivision B ~~40 11~~ of § 23.1-1303.

§ 23.1-802. Student mental health; policies; website resource; training.

A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior and (ii) provide for training where appropriate. Such policies shall require procedures for notifying the institution's student health or counseling center for the purposes set forth in subdivision B 4 5 of § 23.1-1303 when a student exhibits suicidal tendencies or behavior.

B. The board of visitors of each baccalaureate public institution of higher education shall develop and implement policies that ensure that after a student suicide, affected students have access to reasonable medical and behavioral health services, including postvention services. For the purposes of this subsection, "postvention services" means services designed to facilitate the grieving or adjustment process, stabilize the environment, reduce the risk of negative behaviors, and prevent suicide contagion.

C. The board of visitors of each baccalaureate public institution of higher education shall establish a written memorandum of understanding with its local community services board or behavioral health authority and with local hospitals and other local mental health facilities in order to expand the scope of services available to students seeking treatment. The memorandum shall designate a contact person to be notified, to the extent allowable under state and federal privacy laws, when a student is involuntarily committed, or when a student is discharged from a facility. The memorandum shall provide for the inclusion of the institution in the post-discharge planning of a student who has been committed and intends to return to campus, to the extent allowable under state and federal privacy laws.

D. Each baccalaureate public institution of higher education shall create and feature on its website a page with information dedicated solely to the mental health resources available to students at the institution.

E. Each resident assistant in a student housing facility at a public institution of higher education shall participate in Mental Health First Aid training or a similar program prior to the commencement of his duties.

§ 23.1-1303. Governing boards; duties.

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection H of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. *Establish and maintain on the institution's website (i) a listing of all board members, including the name of the Governor who made each appointment and the date of each appointment; (ii) a listing of all committees created by the board and the membership of each committee; (iii) a schedule of all upcoming meetings of the full board and its committees and instructions for the public to access such meetings; (iv) an archive of agendas and supporting materials for each meeting of the governing board and its committees that was held; and (v) an email address or email addresses that allow board members to receive public communications pertaining to board business;*

~~2.~~ 3. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

~~3.~~ 4. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. 5. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

~~5.~~ 6. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

~~6.~~ 7. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

~~7.~~ 8. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

~~8.~~ 9. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

~~9.~~ 10. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

~~10.~~ 11. Submit *and make publicly available on the institution's website* the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

~~11.~~ 12. No later than December 1 of each year, report to the Council *and make publicly available on the institution's website* (i) the value of investments as reflected on the Statement of Net Position as of June 30 of the previous fiscal year,

excluding any funds derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities.

~~12.~~ 13. Submit to the General Assembly and the Governor *and make publicly available on the institution's website* an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

~~13.~~ 14. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

~~14.~~ 15. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies or institution regulations to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies or institution regulations of the institution employing them; ~~and~~

~~15.~~ 16. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution; *and*

~~17.~~ 17. *Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at least twice per academic year on topics of general interest to the faculty and (ii) in advance of decisions to be made on the search for the institution's new chief executive officer.*

2. That the State Council of Higher Education for Virginia, in consultation with the Virginia Freedom of Information Advisory Council, shall work with the public institutions of higher education in the Commonwealth and with technology experts to develop a minimal uniform standard, to the extent practicable, for providing the public with real-time electronic access to meetings of the governing boards of public institutions of higher education. Such minimal uniform standard shall be implemented by each public institution of higher education no later than July 1, 2022, and any policy changes necessary to effectuate such implementation shall be recommended to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2021.

3. That pursuant to the provisions of subdivision 15 of § 23.1-203 of the Code of Virginia, the State Council of Higher Education for Virginia shall consider updates to § 23.1-1304 of the Code of Virginia and to other provisions of law to address changes being made by public institutions of higher education whose governing boards hold virtual meetings and the institutions' efforts to improve public transparency through real-time electronic access to such meetings and shall report any recommendations to the governing board of each public institution of higher education and to the General Assembly no later than November 1, 2021.

CHAPTER 448

An Act to amend and reenact §§ 40.1-28.7:7 and 60.2-212, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 65.2-301.2, relating to employee classification: disaster; personal protective equipment.

[H 2134]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-28.7:7 and 60.2-212, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 65.2-301.2 as follows:

§ 40.1-28.7:7. Misclassification of workers.

A. An individual who has not been properly classified as an employee may bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. An individual's representative may bring the action on behalf of the individual. If the court finds that the employer has not properly classified the individual as an employee, the court may award the individual damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a reasonable attorney fee, and the costs incurred by the individual in bringing the action.

B. In a proceeding under subsection A, an individual who performs services for a person for remuneration shall be presumed to be an employee of the person that paid such remuneration, and the person that paid such remuneration shall be presumed to be the employer of the individual who was paid for performing the services, unless it is shown that the individual is an independent contractor as determined under the Internal Revenue Service guidelines.

C. As used in this section, "Internal Revenue Service guidelines" means the most recent version of the guidelines published by the Internal Revenue Service for evaluating independent contractor status, including its interpretation of common law doctrine on independent contractors, and any regulations that the Internal Revenue Service may promulgate regarding determining whether an employee is an independent contractor, including 26 C.F.R. § 31.3121(d)-1.

D. In a proceeding under subsection A, a hiring party providing an individual with personal protective equipment in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any determination regarding whether such individual is an employee or independent contractor. For the purposes of this subsection, the terms "communicable disease of public health threat," "disaster," and "state of emergency" have the same meaning as provided in § 44-146.16.

§ 60.2-212. (Expires July 1, 2022, or earlier, see Acts 2020, c. 1261) Employment.

A. "Employment" means:

1. Any service including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied; and

2. Any service, of whatever nature, performed by an individual for any employing unit, for remuneration or under any contract of hire, written or oral, and irrespective of citizenship or residence of either,

a. Within the United States, or

b. On or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the individual is employed on the vessel or aircraft it touches at a port in the United States, if such individual performs such services on or in connection with such vessel or aircraft when outside the United States, provided that the operating office, from which the operations of the vessel or aircraft are ordinarily and regularly supervised, managed, directed or controlled, is within the Commonwealth.

B. Notwithstanding subdivision 2 b of subsection A of this section, "employment" means all service performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within the Commonwealth.

C. Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless the Commission determines that such individual is not an employee for purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, based upon an application of the standard used by the Internal Revenue Service for such determinations.

D. Notwithstanding the provisions of subsection C, an individual who performs services as a real estate salesperson, under direction of a real estate broker under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, or as a real estate appraiser under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 pursuant to an executed independent contractor agreement and for remuneration solely by way of commission or fee, shall not be an employee for purposes of this chapter.

E. Notwithstanding the provisions of subsection C, a hiring party providing an individual with personal protective equipment in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any determination regarding whether such individual is an employee or independent contractor. For the purposes of this subsection, the terms "communicable disease of public health threat," "disaster," and "state of emergency" have the same meaning as provided in § 44-146.16.

§ 60.2-212. (Effective July 1, 2022, or earlier, see Acts 2020, c. 1261) Employment.

A. "Employment" means:

1. Any service including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied; and

2. Any service, of whatever nature, performed by an individual for any employing unit, for remuneration or under any contract of hire, written or oral, and irrespective of citizenship or residence of either,

a. Within the United States, or

b. On or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the individual is employed on the vessel or aircraft it touches at a port in the United States, if such individual performs such services on or in connection with such vessel or aircraft when outside the United States, provided that the operating office, from which the operations of the vessel or aircraft are ordinarily and regularly supervised, managed, directed or controlled, is within the Commonwealth.

B. Notwithstanding subdivision 2 b of subsection A of this section, "employment" means all service performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within the Commonwealth.

C. Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless the Commission determines that such individual is not an employee for purposes of the Federal Insurance Contributions Act

and the Federal Unemployment Tax Act, based upon an application of the 20 factors set forth in Internal Revenue Service Revenue Ruling 87-41, issued pursuant to 26 C.F.R. 31.3306(i)-1 and 26 C.F.R. 31.3121(d)-1.

D. Notwithstanding the provisions of subsection C, an individual who performs services as a real estate salesperson, under direction of a real estate broker under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, or as a real estate appraiser under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 pursuant to an executed independent contractor agreement and for remuneration solely by way of commission or fee, shall not be an employee for purposes of this chapter.

E. Notwithstanding the provisions of subsection C, a hiring party providing an individual with personal protective equipment in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any determination regarding whether such individual is an employee or independent contractor. For the purposes of this subsection, the terms "communicable disease of public health threat," "disaster," and "state of emergency" have the same meaning as provided in § 44-146.16.

§ 65.2-301.2. Employee classification; disaster; personal protective equipment not considered.

A. For the purposes of this section, the terms "communicable disease of public health threat," "disaster," and "state of emergency" have the same meaning as provided in § 44-146.16.

B. In any proceeding under the provisions of this title, a hiring party providing an individual with personal protective equipment in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any determination regarding whether such individual is an employee or independent contractor.

CHAPTER 449

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 40.1 an article numbered 2.1, consisting of sections numbered 40.1-33.3 through 40.1-33.6, relating to employees; paid sick leave.

[H 2137]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 40.1 an article numbered 2.1, consisting of sections numbered 40.1-33.3 through 40.1-33.6, as follows:

Article 2.1.

Paid Sick Leave.

§ 40.1-33.3. Definitions.

As used in this article, unless the context requires a different meaning:

"Employee" means a home health worker who works on average at least 20 hours per week or 90 hours per month.

"Employee" does not include an individual who (i) is licensed, registered, or certified by a health regulatory board within the Department of Health Professions; (ii) is employed by a hospital licensed by the Department of Health; and (iii) works, on average, no more than 30 hours per month.

"Employer" has the same meaning as provided in § 40.1-2. "Employer" does not include any agency of the federal government.

"Family member" means:

1. Regardless of age, a biological child, adopted or foster child, stepchild, legal ward, child to whom the employee stands in loco parentis, or individual to whom an employee stood in loco parentis when the individual was a minor;

2. A biological parent, foster parent, stepparent, adoptive parent, legal guardian of an employee or an employee's spouse, or individual who stood in loco parentis to an employee when the employee or employee's spouse was a minor child;

3. An individual to whom an employee is legally married under the laws of any state;

4. A grandparent, grandchild, or sibling, whether of a biological, foster, adoptive, or step relationship, of an employee or the employee's spouse;

5. An individual for whom an employee is responsible for providing or arranging care, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment; or

6. Any other individual related by blood or affinity whose close association with an employee is the equivalent of a family relationship.

"Home health worker" means an individual who provides personal care, respite, or companion services to an individual who receives consumer-directed services under the state plan for medical assistance services.

"Paid sick leave" means leave that is compensated at the same hourly rate and with the same benefits, including health care benefits, as an employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in § 40.1-33.5; however, such hourly rate shall not be less than the minimum wage amount set forth in § 40.1-28.10 without reduction for any tip credit that the employer would otherwise be permitted to claim.

§ 40.1-33.4. Accrual of paid sick leave.

A. All employees shall accrue a minimum of one hour of paid sick leave for every 30 hours worked. Paid sick leave shall be carried over to the year following the year in which it was accrued. An employee shall not accrue or use more than 40 hours of paid sick leave in a year, unless the employer selects a higher limit.

B. Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., will be assumed to work 40 hours in each workweek for purposes of paid sick leave accrual unless their normal workweek is less than 40 hours, in which case paid sick leave accrues on the basis of that normal workweek.

C. Paid sick leave as provided in this section shall begin to accrue at the commencement of employment. An employer may provide all paid sick leave that an employee is expected to accrue in a year at the beginning of the year.

D. Any employer with a paid leave policy, such as a paid time off policy, that provides an employee an amount of paid leave sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as paid sick leave under this article shall not be required to provide additional paid sick leave to any employee that is eligible for paid leave under the policy.

E. Any employer that has entered into a bona fide collective bargaining agreement that requires the employer to provide an amount of paid leave sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as paid sick leave under this article shall not be required to provide additional paid sick leave to any employee covered by such collective bargaining agreement.

§ 40.1-33.5. Use of paid sick leave.

A. Paid sick leave shall be provided to an employee by an employer for:

1. An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care; or

2. Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care.

B. Paid sick leave shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

C. When the use of paid sick leave is foreseeable, the employee shall make a good faith effort to provide notice of the need for such leave to the employer in advance of the use of the paid sick leave and shall make a reasonable effort to schedule the use of paid sick leave in a manner that does not unduly disrupt the operations of the employer.

D. An employer that requires notice of the need to use paid sick leave shall provide a written policy that contains procedures for its employees to provide notice. An employer that has not provided to an employee a copy of its written policy for providing such notice shall not deny paid sick leave to the employee based on noncompliance with such a policy.

E. An employer shall not require, as a condition of an employee's taking paid sick leave, that an employee search for or find a replacement worker to cover the hours during which the employee is using paid sick leave. An employer shall not require an employee to work an alternate shift to make up for the use of sick leave.

F. For paid sick leave of three or more consecutive work days, an employer may require reasonable documentation that the paid sick leave has been used for a purpose for which such leave is required to be provided as set forth in subsection A.

§ 40.1-33.6. Retaliatory action prohibited.

No employer shall discharge, discipline, threaten, discriminate against, or penalize an employee, or take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment, because the employee (i) has requested or exercised the benefits provided for in this article or (ii) has alleged a violation of this article.

CHAPTER 450

An Act to amend and reenact § 22.1-291.4 of the Code of Virginia, relating to school board policies; abusive work environments; definitions.

[H 2176]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-291.4 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-291.4. Bullying and abusive work environments prohibited.

A. As used in this section:

"Abusive conduct" means conduct of a school board employee in the workplace that a reasonable person would find hostile and that is severe enough to cause physical harm or psychological harm to another school board employee based on a determination in which the following factors are considered: the severity, nature, and frequency of the conduct and, when applicable, the continuation of the conduct after a school board employee requests that it cease or demonstrates outward signs of physical harm or psychological harm in the face of the conduct. "Abusive conduct" includes verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; the gratuitous sabotage or undermining of another school board employee's work performance; attempts to exploit another school board employee's known psychological or physical vulnerability; or repeated infliction of verbal abuse, such as the use of derogatory remarks,

insults, or epithets. "Abusive conduct" does not include (i) a single act, unless it is especially severe, or (ii) conduct that the school board proves with clear and convincing evidence is necessary for the furtherance of its legitimate and lawful interests.

"Abusive work environment" means a workplace in a school division in which abusive conduct occurs.

"Physical harm" means a material impairment of a school board employee's physical health or bodily integrity, as documented by a licensed physician or another licensed health care provider.

"Psychological harm" means a material impairment of a school board employee's mental health, as documented by a licensed psychologist, psychiatrist, or psychotherapist or another licensed mental health care provider.

B. Each school board shall implement policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

B- C. Each school board shall adopt policies to:

1. Prohibit abusive work environments in the school division;

2. Provide for the appropriate discipline of any school board employee who contributes to an abusive work environment; and

3. Prohibit retaliation or reprisal against a school board employee who alleges an abusive work environment or assists in the investigation of an allegation of an abusive work environment.

D. Nothing in this section shall be construed to limit a school board's authority to adopt policies to prohibit any other type of workplace conduct as the school board deems necessary.

CHAPTER 451

An Act to amend and reenact §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-214.4, relating to the Department of Education and the Board of Education; special education.

[H 2299]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-214.4 as follows:

§ 22.1-214. Board to prepare special education program for children with disabilities.

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests that will assess inner and middle ear functioning, be performed on each child who is deaf or hard of hearing or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies that can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint

or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the ~~Individualized Education Plan~~ *individualized education program* (IEP) ~~Team~~ *team* unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education that comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments that would have been available to such school division to provide special education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation, and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities.

§ 22.1-214.4. Certain duties of Department.

The Department shall:

1. *Provide training and guidance documents to local school divisions on the development of individualized education programs (IEPs) for children with disabilities that incorporate specific examples of high-quality present level of performance descriptions, annual goals, and postsecondary transition sections.*

2. *Develop a required training module for each individual who participates in an IEP meeting that comprehensively addresses and explains in detail (i) each IEP team member's respective role in the IEP meeting, (ii) the IEP development process, and (iii) components of effective IEPs. The training module shall be required for all IEP participants, with the exception of parents, prior to participating in an IEP meeting and at regular intervals thereafter.*

3. *Annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local school divisions to verify that the IEPs are in compliance with state and federal laws and regulations governing IEP content, and provide a summary report of the findings of such reviews and recommendations regarding any necessary corrective actions to the reviewed divisions' superintendents, special education directors, school board chairs and vice-chairs, and local special education advisory committees. In reviewing local school divisions' IEPs, the Department shall determine whether the special education and related services, supplementary aids and services, and program modifications that will be provided to enable students with disabilities to participate in nonacademic and extracurricular activities are sufficient, and include its findings and corrective actions in the summary reports it provides to the reviewed local school divisions' superintendents, special education directors, and school board members. Nothing in this section shall be construed to (i) direct the Department to make determinations regarding whether a particular IEP provides a free appropriate public education to any individual student or (ii) authorize the Department to override a parent's consent to proposed revisions to an individual student's IEP. In determining corrective actions, the Department shall make recommendations to the relevant school division regarding, among other things, those individual IEPs for which the IEP team should convene to consider revisions necessary to incorporate content required by special education regulations. For those individual IEPs for which the Department recommends that the IEP team should convene to consider such revisions, the relevant school division shall notify the relevant parents or caregivers of the recommendations issued in the summary report of the structured review conducted pursuant to this subdivision.*

4. *Develop and maintain a statewide plan for improving (i) its ongoing oversight of local practices related to transition planning and services for children with disabilities and (ii) technical assistance and guidance provided for postsecondary transition planning and services for children with disabilities. At a minimum, such plan shall articulate how the Department will reliably and comprehensively assess the compliance and quality of transition plans for children with disabilities on an ongoing basis and communicate findings to local school division staff and local school boards. The Department shall, no later than December 1 of each year, update the Chairmen of the Senate Committee on Education and Health and the House Committee on Education on its progress in implementing such plan.*

5. *Develop and maintain a statewide strategic plan for recruiting and retaining special education teachers. At a minimum, such plan shall (i) use data analyses to determine the specific staffing needs of each local school division on an ongoing basis; (ii) evaluate the potential effectiveness of strategies for addressing recruitment and retention challenges, including tuition assistance, differentiated pay for special education teachers, and the expansion of special education teacher mentorships; and (iii) estimate the costs of implementing each such strategy, including the extent to which federal funds could be used to support implementation. The Department shall, no later than November 1 of each year, update the Chairmen of the Senate Committee on Education and Health and the House Committee on Education on its progress in implementing such plan.*

§ 22.1-215. School divisions to provide special education; plan to be submitted to Board.

Each school division shall provide free and appropriate education, including special education, for (i) the children with disabilities residing within its jurisdiction and (ii) the children with disabilities who do not reside within its jurisdiction but reside in the Commonwealth and are enrolled in a full-time virtual school program provided by the school division, in accordance with regulations of the Board of Education. A school division that is required to provide a free and appropriate education, including special education, for a nonresident student who is enrolled in its full-time virtual school program pursuant to this section shall be entitled to any federal and state funds applicable to the education of such student. In the case of a student who is a resident of the Commonwealth but does not reside in the school division in which he is enrolled in a full-time virtual school program, the school division in which the student resides shall be released from the obligation to provide a free and appropriate education, including special education, for such student.

For the purposes of this section, "children with disabilities, residing within its jurisdiction" shall include: (a) those individuals of school age identified as appropriate to be placed in public school programs who are residing in a state facility operated by the Department of Behavioral Health and Developmental Services located within the school division, or (b) those individuals of school age who are Virginia residents and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 as a result of being in the custody of a local department of social services or welfare or being privately placed, not solely for school purposes.

The Board of Education shall promulgate regulations to identify those children placed within facilities operated by the Department of Behavioral Health and Developmental Services who are eligible to be appropriately placed in public school programs.

The cost of the education provided to children residing in state facilities who are appropriate to place within the public schools shall remain the responsibility of the Department of Behavioral Health and Developmental Services. The cost of the education provided to children who are not residents of the Commonwealth and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall be billed to the sending agency or person by the school division as provided in subsection C of § 22.1-5. No school division shall refuse to educate any such child or charge tuition to any such child.

Each school division shall submit to the Board of Education in accordance with the schedule and by the date specified by the Board, a plan acceptable to the Board for such education for the period following and a report indicating the extent to which the plan required by law for the preceding period has been implemented. However, the schedule specified by the Board shall not require plans to be submitted more often than annually unless changes to the plan are required by federal or state law or regulation.

Each local school division shall complete a self-assessment and action planning instrument addressing inclusion practices, as developed by the Department, once every three years and report the results of the assessment and plans for improvement to the Department, the division's superintendent, the division's special education director, and the chairs of the local school board and local special education advisory committee.

§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards. *The Board shall develop and implement statewide requirements for earning an Applied Studies diploma for implementation at the beginning of the 2022–2023 school year.*

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

Each local school board shall provide guidance from the Department to parents of students with disabilities regarding the Applied Studies diploma and its limitations at a student's annual individualized education program meeting corresponding to grades three through 12 when curriculum or statewide assessment decisions are being made that impact the type of diploma for which the student can qualify.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. Require that students (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience, as defined by the Board; or (iii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The Department of Education shall develop, maintain, and make available to each local school board a catalogue of the testing accommodations available to English language learners for each such certification, examination, assessment, and battery. Each local school board shall develop and implement policies to require each high school principal or his designee to notify each English language learner of the availability of such testing accommodations prior to the student's participation in any such certification, examination, assessment, or battery.

7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. Permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student that elects to substitute a credit in computer science for credit in world language, his or her school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully

completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; ~~and~~

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion; *and*

9. *Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.*

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

2. That the Department of Education shall (i) conduct a one-time targeted review of the transition sections of a random sample of students' individualized education programs (IEPs) in each local school division; (ii) communicate its findings to each local school division, school board, and local special education advisory committee; and (iii) ensure that local school divisions correct any IEPs that are found to be out of compliance no later than the end of the 2021-2022 school year. The Superintendent of Public Instruction shall submit a letter to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education certifying that school divisions have corrected all instances of noncompliance identified pursuant to such review.

3. That the Department of Education shall submit to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education (i) the statewide plan developed pursuant to subdivision 4 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than December 1, 2022, and (ii) the statewide strategic plan developed pursuant to subdivision 5 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than November 1, 2021.

4. That the Department of Education shall develop guidance, in multiple languages, for students and parents conveying (i) the limitations of the applied studies diploma, (ii) key curriculum and testing decisions that reduce the likelihood that a student will be able to obtain a standard diploma, and (iii) a statement that the pursuit of an applied studies diploma may preclude a student's ability to pursue a standard diploma.

5. That the Board of Education shall review and amend its regulations governing general education teacher preparation programs for kindergarten through twelfth grade to ensure graduates are required to demonstrate proficiency in (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

6. That the Board of Education shall review and amend its regulations governing administrator preparation programs to ensure graduates are required to demonstrate comprehension of (i) key special education laws and regulations, (ii) individualized education program development, (iii) the roles and responsibilities of special education teachers, and (iv) appropriate behavior management practices.
7. That the Department of Education shall (i) develop criteria for what constitutes "exceptional circumstances" that warrant extension of the 60-calendar day regulatory timeline for complaint investigations and include the criteria in its publicly available complaint resolution procedures, (ii) consistently track the Department of Education's receipt of each sufficient complaint and its issuance of the respective letter of findings, and (iii) require staff to report at least quarterly to the Superintendent of Public Instruction on the specific reasons for granting an extension due to "exceptional circumstances" and the amount of time it took to complete each investigation beyond the 60-calendar day regulatory timeline.
8. That the Department of Education shall develop policies and procedures for considering and addressing credible allegations of local education agency (LEA) noncompliance with the requirements of the Individuals with Disabilities Education Act (P.L. 101-476) that do not meet the current regulatory standard for state complaints. Such policies and procedures shall include expectations and mechanisms for collaboration between the Office of Dispute Resolution and Administrative Services and the Office of Special Education Program Improvement in the Division of Special Education and Student Services at the Department of Education to investigate and resolve such credible allegations of noncompliance that do not qualify for state complaint investigations.
9. That the Department of Education shall elevate the position of parent ombudsman for special education to report to the Superintendent of Public Instruction. The parent ombudsman for special education shall systematically track and report questions and concerns raised by parents to the Superintendent of Public Instruction. The Department of Education shall develop a one-page comprehensive summary of the roles and responsibilities of the parent ombudsman for special education, the specific supports the parent ombudsman for special education can provide to parents, and how to contact the parent ombudsman for special education. The Department of Education shall make the summary available in multiple languages on its website.
10. That the Department of Education shall develop and implement a process for systematically auditing and verifying school divisions' self-determinations of compliance with all Individuals with Disabilities Education Act (P.L. 101-476) performance indicators. The verification process shall include a random sample of school divisions each year and ensure that all school divisions' self-determinations are reviewed and verified no less frequently than once every five years.
11. That the Department of Education shall develop and implement a clear and comprehensive plan to improve its approach to monitoring Virginia's special education system on an ongoing basis. The plan shall describe the Department of Education's procedures for effectively determining whether school divisions are complying with state and federal requirements pertaining to (i) identification and eligibility determination processes, (ii) individualized education program development and implementation, (iii) post-secondary transition planning, (iv) inclusion in academic and non-academic experiences and the use of discipline, and (v) special education staffing. The plan shall propose actions to increase monitoring capacity and onsite visits with existing resources and by leveraging available federal funding. The Department of Education shall present its plan to the Senate Committee on Education and Health, the House Committee on Education, and the Joint Legislative Audit and Review Commission no later than November 1, 2021.
12. That the Department of Education shall study the need for and feasibility of allowing parents to provide partial consent to the initial implementation of their child's individualized education program (IEP), including an assessment of the use of partial parental consent in other states and by school divisions in the Commonwealth. The Department shall issue a report of its findings to the Board of Education and the House Committee on Education and Senate Committee on Education and Health by December 31, 2021.
13. That the requirement that every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students, as set out in § 22.1-298.1 of the Code of Virginia, as amended by the act, shall have a delayed effective date of July 1, 2022.
14. That the Board of Education shall amend its Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81) to include a provision requiring that, if a school division develops a draft individualized education program (IEP) prior to a scheduled IEP meeting, it shall provide such draft IEP to the parents at least two business days in advance of such IEP meeting. Such requirement to provide such draft IEP to the parents at least two business days in advance of such IEP meeting shall become effective no later than the start of the 2022-2023 school year.
15. That the requirement for all IEP participants, with the exception of parents, to participate in the training module developed by the Department of Education pursuant to subdivision 2 of § 22.1-214.4 of the Code of Virginia, as created by this act, prior to participating in an IEP meeting and at regular intervals thereafter shall become effective no later than the start of the 2022-2023 school year.

16. That the requirement for each local school division to complete and report the results of a self-assessment and action planning instrument as set forth in § 22.1-215 of the Code of Virginia, as amended by this act, shall become effective no later than the start of the 2022–2023 school year.

CHAPTER 452

An Act to amend and reenact §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-214.4, relating to the Department of Education and the Board of Education; special education.

[S 1288]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-214.4 as follows:

§ 22.1-214. Board to prepare special education program for children with disabilities.

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests that will assess inner and middle ear functioning, be performed on each child who is deaf or hard of hearing or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies that can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the ~~Individualized Education Plan~~ *individualized education program* (IEP) ~~Team~~ *team* unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education that comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments that would have been available to such school division to provide special education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation, and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities.

§ 22.1-214.4. Certain duties of Department.

The Department shall:

1. *Provide training and guidance documents to local school divisions on the development of individualized education programs (IEPs) for children with disabilities that incorporate specific examples of high-quality present level of performance descriptions, annual goals, and postsecondary transition sections.*

2. *Develop a required training module for each individual who participates in an IEP meeting that comprehensively addresses and explains in detail (i) each IEP team member's respective role in the IEP meeting, (ii) the IEP development process, and (iii) components of effective IEPs. The training module shall be required for all IEP participants, with the exception of parents, prior to participating in an IEP meeting and at regular intervals thereafter.*

3. *Annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local school divisions to verify that the IEPs are in compliance with state and federal laws and regulations governing IEP content, and provide a summary report of the findings of such reviews and recommendations regarding any necessary corrective actions to the reviewed divisions' superintendents, special education directors, school board chairs and vice-chairs, and local special education advisory committees. In reviewing local school divisions' IEPs, the Department shall determine whether the special education and related services, supplementary aids and services, and program modifications that will be provided to enable students with disabilities to participate in nonacademic and extracurricular activities are sufficient, and include its findings and corrective actions in the summary reports it provides to the reviewed local school divisions' superintendents, special education directors, and school board members. Nothing in this section shall be construed to (i) direct the Department to make determinations regarding whether a particular IEP provides a free appropriate public education to any individual student or (ii) authorize the Department to override a parent's consent to proposed revisions to an individual student's IEP. In determining corrective actions, the Department shall make recommendations to the relevant school division regarding, among other things, those individual IEPs for which the IEP team should convene to consider revisions necessary to incorporate content required by special education regulations. For those individual IEPs for which the Department recommends that the IEP team should convene to consider such revisions, the relevant school division shall notify the relevant parents or caregivers of the recommendations issued in the summary report of the structured review conducted pursuant to this subdivision.*

4. *Develop and maintain a statewide plan for improving (i) its ongoing oversight of local practices related to transition planning and services for children with disabilities and (ii) technical assistance and guidance provided for postsecondary transition planning and services for children with disabilities. At a minimum, such plan shall articulate how the Department will reliably and comprehensively assess the compliance and quality of transition plans for children with disabilities on an ongoing basis and communicate findings to local school division staff and local school boards. The Department shall, no later than December 1 of each year, update the Chairmen of the Senate Committee on Education and Health and the House Committee on Education on its progress in implementing such plan.*

5. *Develop and maintain a statewide strategic plan for recruiting and retaining special education teachers. At a minimum, such plan shall (i) use data analyses to determine the specific staffing needs of each local school division on an ongoing basis; (ii) evaluate the potential effectiveness of strategies for addressing recruitment and retention challenges, including tuition assistance, differentiated pay for special education teachers, and the expansion of special education teacher mentorships; and (iii) estimate the costs of implementing each such strategy, including the extent to which federal funds could be used to support implementation. The Department shall, no later than November 1 of each year, update the Chairmen of the Senate Committee on Education and Health and the House Committee on Education on its progress in implementing such plan.*

§ 22.1-215. School divisions to provide special education; plan to be submitted to Board.

Each school division shall provide free and appropriate education, including special education, for (i) the children with disabilities residing within its jurisdiction and (ii) the children with disabilities who do not reside within its jurisdiction but reside in the Commonwealth and are enrolled in a full-time virtual school program provided by the school division, in accordance with regulations of the Board of Education. A school division that is required to provide a free and appropriate education, including special education, for a nonresident student who is enrolled in its full-time virtual school program pursuant to this section shall be entitled to any federal and state funds applicable to the education of such student. In the case of a student who is a resident of the Commonwealth but does not reside in the school division in which he is enrolled in a full-time virtual school program, the school division in which the student resides shall be released from the obligation to provide a free and appropriate education, including special education, for such student.

For the purposes of this section, "children with disabilities, residing within its jurisdiction" shall include: (a) those individuals of school age identified as appropriate to be placed in public school programs who are residing in a state facility operated by the Department of Behavioral Health and Developmental Services located within the school division, or (b) those individuals of school age who are Virginia residents and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700

et seq.) of Title 63.2 as a result of being in the custody of a local department of social services or welfare or being privately placed, not solely for school purposes.

The Board of Education shall promulgate regulations to identify those children placed within facilities operated by the Department of Behavioral Health and Developmental Services who are eligible to be appropriately placed in public school programs.

The cost of the education provided to children residing in state facilities who are appropriate to place within the public schools shall remain the responsibility of the Department of Behavioral Health and Developmental Services. The cost of the education provided to children who are not residents of the Commonwealth and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall be billed to the sending agency or person by the school division as provided in subsection C of § 22.1-5. No school division shall refuse to educate any such child or charge tuition to any such child.

Each school division shall submit to the Board of Education in accordance with the schedule and by the date specified by the Board, a plan acceptable to the Board for such education for the period following and a report indicating the extent to which the plan required by law for the preceding period has been implemented. However, the schedule specified by the Board shall not require plans to be submitted more often than annually unless changes to the plan are required by federal or state law or regulation.

Each local school division shall complete a self-assessment and action planning instrument addressing inclusion practices, as developed by the Department, once every three years and report the results of the assessment and plans for improvement to the Department, the division's superintendent, the division's special education director, and the chairs of the local school board and local special education advisory committee.

§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards. *The Board shall develop and implement statewide requirements for earning an Applied Studies diploma for implementation at the beginning of the 2022-2023 school year.*

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

Each local school board shall provide guidance from the Department to parents of students with disabilities regarding the Applied Studies diploma and its limitations at a student's annual individualized education program meeting corresponding to grades three through 12 when curriculum or statewide assessment decisions are being made that impact the type of diploma for which the student can qualify.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. Require that students (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience, as defined by the Board; or (iii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The Department of Education shall develop, maintain, and make available to each local school board a catalogue of the testing accommodations available to English language learners for each such certification, examination, assessment, and battery. Each local school board shall develop and implement policies to require each high school principal or his designee to notify each English language learner of the availability of such testing accommodations prior to the student's participation in any such certification, examination, assessment, or battery.

7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. Permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student that elects to substitute a credit in computer science for credit in world language, his or her school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse; and

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion; and

9. *Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.*

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

2. That the Department of Education shall (i) conduct a one-time targeted review of the transition sections of a random sample of students' individualized education programs (IEPs) in each local school division; (ii) communicate its findings to each local school division, school board, and local special education advisory committee; and (iii) ensure that local school divisions correct any IEPs that are found to be out of compliance no later than the end of the 2021-2022 school year. The Superintendent of Public Instruction shall submit a letter to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education certifying that school divisions have corrected all instances of noncompliance identified pursuant to such review.

3. That the Department of Education shall submit to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education (i) the statewide plan developed pursuant to subdivision 4 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than December 1, 2022, and (ii) the statewide strategic plan developed pursuant to subdivision 5 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than November 1, 2021.

4. That the Department of Education shall develop guidance, in multiple languages, for students and parents conveying (i) the limitations of the applied studies diploma, (ii) key curriculum and testing decisions that reduce the likelihood that a student will be able to obtain a standard diploma, and (iii) a statement that the pursuit of an applied studies diploma may preclude a student's ability to pursue a standard diploma.

5. That the Board of Education shall review and amend its regulations governing general education teacher preparation programs for kindergarten through twelfth grade to ensure graduates are required to demonstrate proficiency in (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

6. That the Board of Education shall review and amend its regulations governing administrator preparation programs to ensure graduates are required to demonstrate comprehension of (i) key special education laws and regulations, (ii) individualized education program development, (iii) the roles and responsibilities of special education teachers, and (iv) appropriate behavior management practices.

7. That the Department of Education shall (i) develop criteria for what constitutes "exceptional circumstances" that warrant extension of the 60-calendar day regulatory timeline for complaint investigations and include the criteria in its publicly available complaint resolution procedures, (ii) consistently track the Department of Education's receipt of each sufficient complaint and its issuance of the respective letter of findings, and (iii) require staff to report at least quarterly to the Superintendent of Public Instruction on the specific reasons for granting an extension due to "exceptional circumstances" and the amount of time it took to complete each investigation beyond the 60-calendar day regulatory timeline.

8. That the Department of Education shall develop policies and procedures for considering and addressing credible allegations of local education agency (LEA) noncompliance with the requirements of the Individuals with Disabilities Education Act (P.L. 101-476) that do not meet the current regulatory standard for state complaints. Such policies

and procedures shall include expectations and mechanisms for collaboration between the Office of Dispute Resolution and Administrative Services and the Office of Special Education Program Improvement in the Division of Special Education and Student Services at the Department of Education to investigate and resolve such credible allegations of noncompliance that do not qualify for state complaint investigations.

9. That the Department of Education shall elevate the position of parent ombudsman for special education to report to the Superintendent of Public Instruction. The parent ombudsman for special education shall systematically track and report questions and concerns raised by parents to the Superintendent of Public Instruction. The Department of Education shall develop a one-page comprehensive summary of the roles and responsibilities of the parent ombudsman for special education, the specific supports the parent ombudsman for special education can provide to parents, and how to contact the parent ombudsman for special education. The Department of Education shall make the summary available in multiple languages on its website.

10. That the Department of Education shall develop and implement a process for systematically auditing and verifying school divisions' self-determinations of compliance with all Individuals with Disabilities Education Act (P.L. 101-476) performance indicators. The verification process shall include a random sample of school divisions each year and ensure that all school divisions' self-determinations are reviewed and verified no less frequently than once every five years.

11. That the Department of Education shall develop and implement a clear and comprehensive plan to improve its approach to monitoring Virginia's special education system on an ongoing basis. The plan shall describe the Department of Education's procedures for effectively determining whether school divisions are complying with state and federal requirements pertaining to (i) identification and eligibility determination processes, (ii) individualized education program development and implementation, (iii) post-secondary transition planning, (iv) inclusion in academic and non-academic experiences and the use of discipline, and (v) special education staffing. The plan shall propose actions to increase monitoring capacity and onsite visits with existing resources and by leveraging available federal funding. The Department of Education shall present its plan to the Senate Committee on Education and Health, the House Committee on Education, and the Joint Legislative Audit and Review Commission no later than November 1, 2021.

12. That the Department of Education shall study the need for and feasibility of allowing parents to provide partial consent to the initial implementation of their child's individualized education program (IEP), including an assessment of the use of partial parental consent in other states and by school divisions in the Commonwealth. The Department shall issue a report of its findings to the Board of Education and the House Committee on Education and Senate Committee on Education and Health by December 31, 2021.

13. That the requirement that every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students, as set out in § 22.1-298.1 of the Code of Virginia, as amended by the act, shall have a delayed effective date of July 1, 2022.

14. That the Board of Education shall amend its Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81) to include a provision requiring that, if a school division develops a draft individualized education program (IEP) prior to a scheduled IEP meeting, it shall provide such draft IEP to the parents at least two business days in advance of such IEP meeting. Such requirement to provide such draft IEP to the parents at least two business days in advance of such IEP meeting shall become effective no later than the start of the 2022-2023 school year.

15. That the requirement for all IEP participants, with the exception of parents, to participate in the training module developed by the Department of Education pursuant to subdivision 2 of § 22.1-214.4 of the Code of Virginia, as created by this act, prior to participating in an IEP meeting and at regular intervals thereafter shall become effective no later than the start of the 2022-2023 school year.

16. That the requirement for each local school division to complete and report the results of a self-assessment and action planning instrument as set forth in § 22.1-215 of the Code of Virginia, as amended by this act, shall become effective no later than the start of the 2022-2023 school year.

CHAPTER 453

An Act to amend and reenact §§ 2.2-200, 2.2-204, 2.2-205, 2.2-205.1, 2.2-435.6, 2.2-435.8, 2.2-435.9, 2.2-435.10, 2.2-2471, 2.2-2471.1, 2.2-2472, 2.2-2472.2, 2.2-2472.3, and 30-377 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 2 of Title 2.2 an article numbered 6.1, consisting of sections numbered 2.2-214.2 and 2.2-214.3; and to repeal § 2.2-435.7 of the Code of Virginia, relating to Governor's Secretaries; Secretary of Labor created.

[H 2321]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-200, 2.2-204, 2.2-205, 2.2-205.1, 2.2-435.6, 2.2-435.8, 2.2-435.9, 2.2-435.10, 2.2-2471, 2.2-2471.1, 2.2-2472, 2.2-2472.2, 2.2-2472.3, and 30-377 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 2.2 an article numbered 6.1, consisting of sections numbered 2.2-214.2 and 2.2-214.3, as follows:

§ 2.2-200. Appointment of Governor's Secretaries; general powers; severance.

A. The Governor's Secretaries shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Each Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, each Secretary shall take an oath to faithfully execute the duties of the office.

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 4 (§ 2.2-208 et seq.), the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;

2. Provide such assistance to the Governor or the Secretary as may be required; and

3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 4 (§ 2.2-208 et seq.), each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;

2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

6. Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by law or executive order.

D. Severance benefits provided to any departing Secretary shall be publicly announced by the Governor prior to such departure.

E. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Finance, the Secretary of Health and Human Resources, *the Secretary of Labor*, the Secretary of Natural Resources, the Secretary of Public Safety and Homeland Security, the Secretary of Transportation, and the Secretary of Veterans and Defense Affairs.

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Commonwealth of Virginia Innovation Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, ~~Department of Labor and Industry~~, Department of Mines, Minerals and Energy, ~~Virginia Employment Commission~~, ~~Department of Professional and Occupational Regulation~~, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-205. Economic development policy for the Commonwealth.

A. During the first year of each new gubernatorial administration, the Secretary, with the assistance of a cabinet-level committee appointed in accordance with subsection B, shall develop and implement a written comprehensive economic development policy for the Commonwealth. In developing this policy, the Secretary and the committee shall review the economic development policy in effect at the commencement of the Governor's term of office. The Secretary shall make such revisions to the existing policy as the Secretary deems necessary to ensure that it is appropriate for the Commonwealth. Once the policy has been adopted by the Secretary and the committee and approved by the Governor, it shall be submitted to the General Assembly for its consideration.

B. During the first year of each new gubernatorial administration, the Governor shall issue an executive order creating a cabinet-level committee to assist the Secretary in the development of the comprehensive economic development policy for the Commonwealth. The Secretary shall be the chairman of the committee, and the Secretaries of Administration, Agriculture and Forestry, Education, Health and Human Resources, *Labor*, Natural Resources, and Transportation shall serve as committee members. The Governor may also appoint members of regional and local economic development groups and members of the business community to serve on the committee.

§ 2.2-205.1. Economic Crisis Strike Force.

A. There is hereby established the Economic Crisis Strike Force (Strike Force) for the purpose of serving as a working group to respond as needed to economic disasters in Virginia communities by (i) immediately providing a single point of contact for citizens in affected communities to assist with accessing available government and private sector services and resources, (ii) assisting localities in developing short-term and long-term strategies for addressing the economic crisis, and (iii) identifying opportunities for workforce retraining, job creation, and new investment.

B. The Strike Force shall be chaired by the Secretary of Commerce and Trade and be deployed at the direction of the Governor. Membership shall include high level representatives designated by the Secretaries of Education and Health and Human Resources, *and Labor* and by the respective heads of the following agencies: the Department of Agriculture and Consumer Services, the Department of Education, the Department of Housing and Community Development, the Department of Labor and Industry, the Department of Medical Assistance Services, the Department of Small Business and Supplier Diversity, the Department of Social Services, the Virginia Community College System, the Virginia Employment Commission, the Virginia Economic Development Partnership, and the Virginia Tourism Authority. The Strike Force shall also include representatives from such other agencies as may be designated by the Governor to meet the needs of a particular affected community. In addition, the Governor may designate such citizens as he deems appropriate to advise the Strike Force.

C. Staff support for the Strike Force shall be provided by the Office of the Governor and the Secretary of Commerce and Trade. All agencies of the Commonwealth shall assist the Strike Force upon request.

D. On or before December 1 of each year, the Strike Force shall report to the Governor and the General Assembly on its activities.

E. For the purposes of this section, "economic disaster" means an employment loss of at least five percent during the immediately preceding six-month period, the closure or downsizing of a major regional employer in an economically distressed area, a natural disaster or act of terrorism for which the Governor has declared a state of emergency, or other economic crisis situations, which in the opinion of the Governor adversely affect the welfare of the citizens of the Commonwealth.

Article 6.1.

Secretary of Labor.

§ 2.2-214.2. Position established; agencies for which responsible.

The position of Secretary of Labor (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Department of Labor and Industry, the Department of Professional and Occupational Regulation, and the Virginia Employment Commission. The Governor, by executive order, may assign any state executive agency to the Secretary.

§ 2.2-214.3. Responsibilities of the Secretary.

A. The Secretary shall assist the Governor in his capacity as the Chief Workforce Development Officer for the Commonwealth pursuant to § 2.2-435.6. The Secretary shall be responsible for the duties assigned to him pursuant to this article, Chapter 4.2 (§ 2.2-435.6 et seq.), Article 24 (§ 2.2-2470 et seq.) of Chapter 24, and other tasks as may be assigned to him by the Governor.

B. The Chief Workforce Development Officer's responsibilities as carried out by the Secretary of Labor shall include:

1. Developing a strategic plan for the statewide delivery of workforce development and training programs and activities. The strategic plan shall be developed in coordination with the development of the comprehensive economic development policy required by § 2.2-205. The strategic plan shall include performance measures that link the objectives of such programs and activities to the record of state agencies, local workforce development boards, and other relevant entities in attaining such objectives;

2. Determining the appropriate allocation, to the extent permissible under applicable federal law, of funds and other resources that have been appropriated or are otherwise available for disbursement by the Commonwealth for workforce development programs and activities;

3. Ensuring that the Commonwealth's workforce development efforts are implemented in a coordinated and efficient manner by, among other activities, taking appropriate executive action to this end and recommending to the General Assembly necessary legislative actions to streamline and eliminate duplication in such efforts;

4. Facilitating efficient implementation of workforce development and training programs by Cabinet Secretaries and agencies responsible for such programs;

5. Developing, in coordination with the Virginia Board of Workforce Development, (i) certification standards for programs and providers and (ii) uniform policies and procedures, including standardized forms and applications, for one-stop centers;

6. Monitoring, in coordination with the Virginia Board of Workforce Development, the effectiveness of each one-stop center and recommending actions needed to improve its effectiveness;

7. Establishing measures to evaluate the effectiveness of the local workforce development boards and conducting annual evaluations of the effectiveness of each local workforce development board. As part of the evaluation process, the Governor shall recommend to such boards specific best management practices;

8. Conducting annual evaluations of the performance of workforce development and training programs and activities and their administrators and providers using the performance measures developed through the strategic planning process described in subdivision 1. The evaluations shall include, to the extent feasible, (i) a comparison of the per-person costs for

each program or activity, (ii) a comparative rating of each program or activity based on its success in meeting program objectives, and (iii) an explanation of the extent to which each agency's appropriation requests incorporate the data reflected in the cost comparison described in clause (i) and the comparative rating described in clause (ii). These evaluations, including the comparative rankings, shall be considered in allocating resources for workforce development and training programs. These evaluations shall be submitted to the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and included in the biennial reports pursuant to subdivision 10;

9. Monitoring federal legislation and policy in order to maximize the Commonwealth's effective use of access to federal funding available for workforce development programs; and

10. Submitting biennial reports, which shall be included in the Governor's executive budget submissions to the General Assembly, on improvements in the coordination of workforce development efforts statewide. The reports shall identify (i) program success rates in relation to performance measures established by the Virginia Board of Workforce Development, (ii) obstacles to program and resource coordination, and (iii) strategies for facilitating statewide program and resource coordination.

§ 2.2-435.6. Chief Workforce Development Officer.

A. The Governor shall serve as Chief Workforce Development Officer for the Commonwealth.

B. The Governor may appoint a Chief Workforce Development Advisor who shall be responsible for the duties assigned to him pursuant to this chapter and Article 24 (§ 2.2-2470 et seq.) of Chapter 24 or other tasks as may be assigned to him by the Governor.

§ 2.2-435.8. Workforce program evaluations; sharing of certain data.

A. Notwithstanding any provision of law to the contrary, the agencies specified in subsection D may share data from within their respective databases solely to (i) provide the workforce program evaluation and policy analysis required by subdivision A B 8 of § 2.2-435.7 2.2-214.3 and clause (i) of subdivision A B 10 of § 2.2-435.7 2.2-214.3 and (ii) conduct education program evaluations that require employment outcomes data to meet state and federal reporting requirements.

B. Data shared pursuant to subsection A shall not include any personal identifying information, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall re-encrypt the data to prevent any participating agency from connecting shared data sets with existing agency files. For the purposes of this section:

1. "Identifying information" means the same as that term is defined in § 18.2-186.3; and

2. "Encrypted" means the same as that term is defined in § 18.2-186.6.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor or his designee may retain a third-party entity to assist with the evaluation and analysis.

D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance, Job Service, Trade Act, and Veterans Employment Training Programs;

2. Virginia Community College System: Postsecondary Career and Technical Education, Workforce Innovation and Opportunity Act Adult, Youth and Dislocated Worker Programs;

3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;

4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;

5. Department of Education: Adult Education and Family Literacy, Special Education, and Career and Technical Education;

6. Department of Labor and Industry: Apprenticeship;

7. Department of Social Services: Supplemental Nutrition Assistance Program and Virginia Initiative for Education and Work;

8. Virginia Economic Development Partnership: Virginia Jobs Investment Program;

9. Department of Juvenile Justice: Youth Industries and Institutional Work Programs and Career and Technical Education Programs;

10. Department of Corrections: Career and Technical Education Programs; and

11. The State Council of Higher Education for Virginia.

§ 2.2-435.9. Annual report by publicly funded career and technical education and workforce development programs; performance on state-level metrics.

Beginning November 1, 2016, and annually thereafter, each agency administering any publicly funded career and technical education and workforce development program shall submit to the Governor and the Virginia Board of Workforce Development a report detailing the program's performance against state-level metrics established by the Virginia Board of Workforce Development and the Chief Workforce Development Advisor *Secretary of Labor*.

§ 2.2-435.10. Administration of the Workforce Innovation and Opportunity Act; memorandum of understanding; executive summaries.

A. The Chief Workforce Development Advisor, the Commissioner of the Virginia Employment Commission, *Secretary of Labor* and the Chancellor of the Virginia Community College System shall enter into a memorandum of understanding

that sets forth (i) the roles and responsibilities of each of these entities in administering a state workforce system and facilitating regional workforce systems that are business-driven, aligned with current and reliable labor market data, and targeted at providing participants with workforce credentials that have demonstrated value to employers and job seekers; (ii) a funding mechanism that adequately supports operations under the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128)(WIOA); and (iii) a procedure for the resolution of any disagreements that may arise concerning policy, funding, or administration of the WIOA.

B. ~~The Chief Workforce Development Advisor, the Virginia Employment Commission, Secretary of Labor~~ and the Virginia Community College System shall collaborate to produce an annual executive summary, no later than the first day of each regular session of the General Assembly, of the interim activity undertaken to implement the memorandum of understanding described in subsection A and to administer the WIOA.

§ 2.2-2471. Virginia Board of Workforce Development; purpose; membership; terms; compensation and expenses; staff.

A. The Virginia Board of Workforce Development (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to assist and advise the Governor, the General Assembly, and the ~~Chief Workforce Development Advisor~~ *Secretary of Labor* in meeting workforce development needs in the Commonwealth through recommendation of policies and strategies to increase coordination and thus efficiencies of operation between all education and workforce programs with responsibilities and resources for employment, occupational training, and support connected to workforce credential and job attainment.

B. The Board shall consist of the following:

1. Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates and two members of the Senate to be appointed by the Senate Committee on Rules. Legislative members shall serve terms coincident with their terms of office and may be reappointed for successive terms;

2. The Governor and his designee who shall be the ~~Chief Workforce Development Advisor~~ *Secretary of Labor* or another cabinet-level official appointed to the Board;

3. The Secretaries of Commerce and Trade, Education, Health and Human Resources, Public Safety and Homeland Security, and Veterans and Defense Affairs, or their designees, each of whom shall serve ex officio;

4. The Chancellor of the Virginia Community College System or his designee, who shall serve ex officio; and

5. Additional members appointed by the Governor as are required to ensure that the composition of the Board satisfies the requirements of the WIOA. The additional members shall include:

a. Two local elected officials;

b. Eight members who shall be representatives of the workforce, to include (i) three representatives nominated by state labor federations, of which one shall be a representative of a joint-labor apprenticeship program, and (ii) at least one representative of a private career college; and

c. Nonlegislative citizen members representing businesses in the Commonwealth, the total number of whom shall constitute a majority of the members of the Board and who shall include the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturers Association or their designees as well as business owners, chief executive officers, chief operating officers, chief financial officers, senior managers, or other business executives or employers with optimum policy-making or hiring authority who represent the Commonwealth's economic development priorities. Business members shall represent diverse regions of the state, to include urban, suburban, and rural areas, and at least two members shall also be members of local workforce development boards.

Nonlegislative citizen members may be nonresidents of the Commonwealth. Members appointed in accordance with this subdivision shall serve four-year terms, subject to the pleasure of the Governor, and may be reappointed.

C. The Governor shall select a chairman and vice-chairman, who shall serve two-year terms, from among nonlegislative citizen members representing the business community appointed in accordance with subdivision B 5 c. The Board shall meet at least every three months or upon the call of the chair or the Governor as stipulated by the Board's bylaws. The chairman and the vice-chairman shall select at least five members of the Board to serve as an executive committee of the Board, which shall have the limited purpose of establishing meeting agendas, reviewing bylaws and other documents pertaining to Board governance and operations, approving reports to the Governor, and responding to urgent federal, state, and local issues between scheduled Board meetings.

D. Compensation and reimbursement of expenses of the members shall be as follows:

1. Legislative members appointed in accordance with subdivision B 1 shall receive such compensation and reimbursement of expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12.

2. Ex officio members of the Board shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

3. Members of the Board appointed in accordance with subdivision B 5 shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

Funding for the costs of compensation and expenses of the members shall be provided from federal funds received under the WIOA.

§ 2.2-2471.1. Secretary of Labor; staff support.

A. Staffing for the Board and Board functions shall be supervised by the ~~Chief Workforce Development Advisor~~ *Secretary of Labor*. Additional staff support, including staffing of standing committees, may include other directors or coordinators of relevant education and workforce programs as requested by the ~~Chief Workforce Development Advisor~~ *Secretary of Labor* and as in-kind support to the Board from agencies administering workforce programs.

B. The ~~Chief Workforce Development Advisor~~ *Secretary of Labor* shall enter into a written agreement with direct agencies administering workforce programs regarding supplemental to supply staff support to Board committees and other logistical support for the Board. Such written agreements shall be provided to members of the Board upon request.

§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.

A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;

2. Provide policy direction to local workforce development boards;

3. Assist the Governor in the development, implementation, and modification of any combined state plan developed pursuant to the WIOA;

4. Identify current and emerging statewide workforce needs of the business community;

5. Forecast and identify training requirements for the new workforce;

6. Recommend strategies to match trained workers with available jobs to include strategies for increasing business engagement in education and workforce development;

7. Evaluate the extent to which the state's workforce development programs emphasize education and training opportunities that align with employers' workforce needs and labor market statistics and report the findings of this analysis to the Governor every two years;

8. Advise and oversee the development of a strategic workforce dashboard and tools that will inform the Governor, policy makers, system stakeholders, and the public on issues such as state and regional labor market conditions, the relationship between the supply and demand for workers, workforce program outcomes, and projected employment growth or decline. The Virginia Employment Commission, along with other workforce partners, shall provide data to populate the tools and dashboard;

9. Determine and publish a list of jobs, trades, and professions for which high demand for qualified workers exists or is projected by the Virginia Employment Commission. The Virginia Employment Commission shall support the Virginia Board of Workforce Development in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including associate-degree-granting and baccalaureate public institutions of higher education; government agencies, including the Department of Education and public libraries; and other users in the public and private sectors;

10. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent with the WIOA as an alternative model to traditional programs;

11. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce education and training, and support services for workforce development programs;

12. Review and recommend industry credentials that align with high demand occupations, which credentials shall include a credential that determines career readiness;

13. Define the Board's role in certifying WIOA training providers, including those not subject to the authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

14. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 13;

15. Create quality standards, guidelines, and directives applicable to local workforce development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; and

16. Perform any act or function in accordance with the purposes of this article.

B. The Board may establish such committees as it deems necessary.

C. The Board, the ~~Chief Workforce Development Advisor~~ *Secretary of Labor*, and the Governor's ~~cabinet secretaries~~ *other Cabinet Secretaries* shall assist the Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of all federal and state funded career and technical and adult education and workforce development programs and providers within Virginia's Workforce System.

D. The Board shall assist the Governor in the following areas with respect to workforce development: development of any combined state plan developed pursuant to the WIOA; development and continuous improvement of a statewide workforce development system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all

mandatory partners and the degree to which local workforce development boards have obtained funding from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce development board shall develop and submit to the Governor and the Board an annual workforce demand plan for its workforce development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements. Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIOA funds; report performance statistics to the Board; and certify local training providers in accordance with criteria provided by the Board. Further, a local training provider certified by any workforce development board has reciprocal certification for all workforce development boards.

F. Each workforce development board shall develop and execute a strategic plan designed to combine public and private resources to support sector strategies, career pathways, and career readiness skills development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.

G. Local workforce development boards are encouraged to implement pay-for-performance contract strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§ 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

H. Each chief local elected official shall consult with the Governor regarding designation of local workforce development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce development board and one-stop center; and collaborate with the local workforce development board on local plans and program oversight.

I. Each local workforce development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIOA;
2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
3. Adult education and literacy activities authorized under Title II of the WIOA;
4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);
7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.;
8. Programs authorized under Title 60.2, in accordance with applicable federal law;
9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Education and Work (VIEW) established pursuant to § 63.2-608;
10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.);
11. Other programs or activities as required by the WIOA; and
12. Programs authorized under Title I of the WIOA.

J. The quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members. Each local workforce development board shall share information regarding its meetings and activities with the public.

K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall not disqualify unemployed service members from WIOA-related services.

L. The ~~Chief Workforce Development Advisor~~ *Secretary of Labor* shall be responsible for the coordination of the Virginia Workforce System and the implementation of the WIOA.

§ 2.2-2472.2. Minimum levels of fiscal support from WIOA Adult and Dislocated Worker funds by local workforce development boards; incentives.

A. Each local workforce development board shall allocate a minimum of 40 percent of WIOA Adult and Dislocated Worker funds to training services as defined under § 134(c)(3)(D) of the WIOA that lead to recognized postsecondary education and workforce credentials aligned with in-demand industry sectors or occupations in the local area or region. Beginning October 1, 2016, and biannually thereafter, the ~~Chief Workforce Development Advisor~~ *Secretary of Labor* shall submit a report to the Board evaluating the rate of the expenditure of WIOA Adult and Dislocated Worker funds under this section.

B. Failure by a local workforce development board to meet the required training expenditure percentage requirement shall result in sanctions, to increase in severity for each year of noncompliance. These sanctions may include corrective action plans; ineligibility to receive state-issued awards, additional WIOA incentives, or sub-awards; the recapturing and reallocation of a percentage of the local area board's Adult and Dislocated Worker funds; or for boards with recurring noncompliance, development of a reorganization plan through which the Governor would appoint and certify a new local board.

C. The Virginia Community College System, in consultation with the Governor, shall develop a formula providing for 30 percent of WIOA Adult and Dislocated Worker funds reserved by the Governor for statewide activities to be used solely for providing incentives to postsecondary workforce training institutions through local workforce development boards to accelerate the increase of workforce credential attainment by participants. Fiscal incentive awards provided under this section must be expended on training activities that lead participants to a postsecondary education or workforce credential that is aligned with in-demand industry sectors or occupations within each local workforce area. Apprenticeship-related instruction shall be included as a qualifying training under this subsection if such instruction is provided through a postsecondary education institution.

§ 2.2-2472.3. Strategy for career pathways for opportunity youth.

A. As used in this section, "opportunity youth" means individuals between the ages of 16 and 24 who are (i) homeless, in foster care, or involved in the justice system or (ii) neither gainfully employed nor enrolled in an educational institution.

B. Local workforce development boards, in consultation with local chief elected officials; secondary and postsecondary education institutions, business leaders, and local community organizations, including youth organizations, shall develop focused strategies for engaging opportunity youth and placing them on pathways to education, training, and careers. The key focus of the strategy shall be actions that lead to retention, credential attainment, and gainful employment.

C. Each local workforce development board shall develop a strategic plan that includes performance measures for evaluating results of the implementation of the strategies developed pursuant to subsection B. The plan shall be submitted to the ~~Governor's Chief Workforce Development Advisor~~ *Secretary of Labor* annually on or before November 30.

§ 30-377. (Expires July 1, 2025) Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall consist of 23 members that include eight legislative members, five nonlegislative citizen members, and 10 ex officio members. Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, at least one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Speaker of the House of Delegates; two nonlegislative citizen members, one of whom shall have a background in community competence building and one of whom shall have a significant background in health and wellness within the private sector equivalent to that of ex officio members of the Commission, to be appointed by the Senate Committee on Rules; and the Secretaries of Health and Human Resources, Commerce and Trade, Agriculture and Forestry, Education, Public Safety and Homeland Security, Natural Resources, ~~and~~ Transportation, ~~the Chief Workforce Development Advisor to the Governor and Labor~~, the Commissioner of Health, and the Executive Director of the Virginia Foundation for Healthy Youth, or their designees, to serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

B. Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

2. That § 2.2-435.7 of the Code of Virginia is repealed.

CHAPTER 454

An Act to amend and reenact §§ 22.1-253.13:2 and 22.1-274 of the Code of Virginia, relating to Standards of Quality.

[§ 1257]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:2 and 22.1-274 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. (Effective until July 1, 2022) Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

D. (Effective July 1, 2022) Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention,

Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors:

a. Effective with the 2020-2021 school year, in elementary schools, one hour per day per 75 students, one full-time at 375 students, one hour per day additional time per 75 students or major fraction thereof; in middle schools, one period per 65 students, one full-time at 325 students, one additional period per 65 students or major fraction thereof; in high schools, one period per 60 students, one full-time at 300 students, one additional period per 60 students or major fraction thereof.

b. Effective with the 2021-2022 school year, local school boards shall employ one full-time equivalent school counselor position per 325 students in grades kindergarten through 12.

c. Local school divisions that employ a sufficient number of school counselors to meet the school counselor staffing requirements set forth in this subdivision may assign school counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors, and shall be based on the school's total enrollment; school counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual

pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. *Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.*

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) ~~social workers and~~ social work administrative positions *not included in subsection O*; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral *administrative* positions, ~~including licensed behavior analysts, licensed assistant behavior analysts, school nurses, and school psychologists not included in subsection O~~;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-274. School health services.

A. A school board shall provide pupil personnel and support services in compliance with § 22.1-253.13:2. A school board may employ school nurses, physicians, physical therapists, occupational therapists, and speech therapists. No such personnel shall be employed unless they meet such standards as may be determined by the Board of Education. Subject to the approval of the appropriate local governing body, a local health department may provide personnel for health services for the school division.

B. In implementing subsection *O P* of § 22.1-253.13:2, relating to providing support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools, each school board may strive to employ, or contract with local health departments for, nursing services consistent with a ratio of at least one nurse (i) per 2,500 students by July 1, 1996; (ii) per 2,000 students by July 1, 1997; (iii) per 1,500 students by July 1, 1998; and (iv) per 1,000 students by July 1, 1999. In those school divisions in which there are more than 1,000 students in average daily membership in

school buildings, this section shall not be construed to encourage the employment of more than one nurse per school building. Further, this section shall not be construed to mandate the aspired-to ratios.

C. The Board of Education shall monitor the progress in achieving the ratios set forth in subsection B and any subsequent increase in prevailing statewide costs, and the mechanism for funding health services, pursuant to subsection *OP* of § 22.1-253.13:2 and the appropriation act. The Board shall also determine how school health funds are used and school health services are delivered in each locality and shall provide, by December 1, 1994, a detailed analysis of school health expenditures to the House Committee on Education, the House Committee on Appropriations, the Senate Committee on Education and Health, and the Senate Committee on Finance.

D. With the exception of school administrative personnel and persons employed by school boards who have the specific duty to deliver health-related services, no licensed instructional employee, instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii) obtain training in the administration of insulin and glucagon. However, instructional aides and clerical employees may not refuse to dispense oral medications.

For the purposes of this subsection, "health-related services" means those activities that, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

E. Each school board shall ensure that in school buildings with an instructional and administrative staff of 10 or more (i) at least three employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (ii) if one or more students diagnosed as having diabetes attend such school, at least two employees have been trained in the administration of insulin and glucagon. In school buildings with an instructional and administrative staff of fewer than 10, school boards shall ensure that (a) at least two employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (b) if one or more students diagnosed as having diabetes attend such school, at least one employee has been trained in the administration of insulin and glucagon. "Employee" includes any person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board. When a registered nurse, nurse practitioner, physician, or physician assistant is present, no employee who is not a registered nurse, nurse practitioner, physician, or physician assistant shall assist with the administration of insulin or administer glucagon. Prescriber authorization and parental consent shall be obtained for any employee who is not a registered nurse, nurse practitioner, physician, or physician assistant to assist with the administration of insulin and administer glucagon.

CHAPTER 455

An Act to amend and reenact § 44-146.18 of the Code of Virginia, relating to the State Coordinator of Emergency Management; establishment of Emergency Management Equity Working Group.

[S 1296]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 44-146.18 of the Code of Virginia is amended and reenacted as follows:

§ 44-146.18. Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management (the Department). Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to, and recover from all disasters including acts of terrorism;
2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry, and other public and private entities deemed vital to preparedness, public safety, and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;
3. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response, and recovery programs;
4. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations, and personnel as appropriate;

5. Coordinate and administer disaster mitigation, preparedness, response, and recovery plans and programs with the proponent federal, state, and local government agencies and related groups;

6. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans, and systems;

7. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

8. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

9. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

10. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

11. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § 23.1-804;

12. Develop standards, provide guidance, and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;

13. Prepare, maintain, coordinate, or implement emergency resource management plans and programs with federal, state, and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

14. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery;

15. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor;

16. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services intelligence pertaining to all probable hazards affecting the Commonwealth;

17. Coordinate intelligence activities relating to terrorism with the Department of State Police; ~~and~~

18. Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals; *and*

19. *Establish and maintain an Emergency Management Equity Working Group (the Working Group) to ensure that emergency management programs and plans provide support to at-risk individuals and populations disproportionately impacted by disasters. The Working Group shall include experts from (i) the Governor's Office of Diversity, Equity, and Inclusion and other state agencies; (ii) the public at large; and (iii) the private sector who have expertise related to at-risk and vulnerable populations and the threats faced by such populations during a disaster.*

The Department of Emergency Management shall ensure that all such plans, assessments, and programs required by this subsection include specific preparedness for, and response to, disasters resulting from electromagnetic pulses and geomagnetic disturbances.

C. The Department of Emergency Management shall during a period of impending emergency or declared emergency be responsible for:

1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;

2. Providing facilities from which state agencies and supporting organizations may conduct emergency operations;

3. Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;

4. Establishing and maintaining liaison with affected political subdivisions;

5. Determining requirements for disaster relief and recovery assistance;

6. Coordinating disaster response actions of federal, state and volunteer relief agencies; and

7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

D. The Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

E. The Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts

with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

F. The Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue. Powers and duties of the Coordinator shall include:

1. Coordinating the search and rescue function of the Department of Emergency Management;
2. Coordinating with local, state, and federal agencies involved in search and rescue;
3. Coordinating the activities of search and rescue organizations involved in search and rescue;
4. Maintaining a register of search and rescue certifications, training, and responses;
5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts;
6. Providing on-scene search and rescue coordination when requested by an authorized person;
7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue emergency;
8. Gathering and maintaining statistics on search and rescue in the Commonwealth;
9. Compiling, maintaining, and making available an inventory of search and rescue resources available in the Commonwealth; and
10. Periodically reviewing search and rescue cases and developing best professional practices.

Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

CHAPTER 456

An Act to require each school board to offer in-person instruction to students enrolled in the local school division; exceptions permitted.

[S 1303]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act:

"In-person instruction" means any form of instructional interaction between teachers and students that occurs in person and in real time.

"In-person instruction" does not include the act of proctoring remote online learning in a classroom.

§ 2. Each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. For the purposes of this act, each school board shall (i) adopt, implement, and, when appropriate, update specific parameters for the provision of in-person instruction and (ii) provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention.

§ 3. Notwithstanding the provisions of § 2 of this act:

1. If a local school board determines, in collaboration with the local health department and in strict adherence to "Step 2: Determine the Level of School Impact" in the Department of Health's Interim Guidance to K-12 School Reopening or any similar provision in any successor guidance document published by the Department of Health, that the transmission of COVID-19 within a school building is at a high level, the local school board may provide fully remote virtual instruction or a combination of in-person instruction and remote virtual instruction to the at-risk groups of students indicated as the result of such collaboration or, if needed, the whole student population in the school building, but in each instance only for as long as it is necessary to address and ameliorate the level of transmission of COVID-19 in the school building.

2. Any local school board may, for any period during which the Governor's declaration of a state of emergency due to the COVID-19 pandemic is in effect, provide fully remote virtual instruction to any enrolled student upon the request of such student's parent, guardian, or legal custodian.

3. Any local school board may permit any teacher who is required to isolate as the result of a COVID-19 infection and any teacher who is required to quarantine as the result of exposure to another individual with a COVID-19 infection to

teach from a remote location and in a fully virtual manner for the duration of such period of isolation or quarantine, consistent with the mitigation strategies as set forth in § 2 of this act.

4. Any teacher or other school staff member who is permitted to perform any job function from a remote location or in a fully virtual manner as a reasonable accommodation pursuant to Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12111 et seq.) shall be permitted to continue to perform any such job function in such a manner.

§ 4. The Department of Education shall establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction.

§ 5. All teachers and school staff shall be offered access to receive an approved COVID-19 vaccination through their relevant local health district.

2. That in order to facilitate the implementation of § 3 of the first enactment of this act, the Department of Health shall maintain a guidance document for K-12 school reopening that contains metrics for determining whether transmission of COVID-19 within public school buildings is at a low, medium, or high level.

3. That the provisions of this act shall expire on August 1, 2022.

CHAPTER 457

An Act to amend and reenact § 16.1-260 of the Code of Virginia and to amend the Code of Virginia by adding in Article 12.1 of Chapter 11 of Title 16.1 a section numbered 16.1-309.11, relating to juvenile offenders; youth justice diversion programs.

[H 2017]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-260 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 12.1 of Chapter 11 of Title 16.1 a section numbered 16.1-309.11 as follows:

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously

been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and, the performance of community service, *or on a complaint alleging that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11*, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, *or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice diversion program alleging that the juvenile failed to comply with the youth justice diversion program's sentence within 180 days of the sentencing date*, may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the

complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, or a violation of § 18.2-250.1, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-309.11. Youth justice diversion program.

A. For the purposes of this section, "youth justice diversion program" means a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses volunteer attorneys as judges; (iv) conducts peer trials of juveniles who are referred to the program by the intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration.

B. Any jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the youth justice diversion program by the chief judge of the juvenile and domestic relations district court that serves such jurisdiction. Each local youth justice diversion program advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the youth justice diversion program that serves the jurisdiction. Advisory committee membership may include, but shall not be limited to, the following persons or their designees: (i) a judge from the juvenile and domestic relations district court that serves such jurisdiction; (ii) the attorney for the Commonwealth; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the youth justice diversion program is located; (v) a representative of the Department of Juvenile Justice from the local office that serves the jurisdiction; (vi) a local law-enforcement officer; (vii) a representative of a local school in such jurisdiction; (viii) a representative of juvenile court services; (ix) a representative of a juvenile detention center or group home; (x) a representative of a local children and family services agency; and (xi) any other persons selected by the local youth justice diversion program advisory committee.

C. Each local youth justice diversion program advisory committee shall establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult in the youth justice diversion program, with the consent of the juvenile's parent or legal guardian.

D. Each local youth justice diversion program advisory committee shall establish policies and procedures for the operation of the youth justice diversion program to attain the following goals: (i) early intervention in and prevention of delinquent behavior; (ii) providing positive alternative sanctions for offenders by providing a peer-driven sentencing mechanism that allows young people to take responsibility, to be held accountable, and to make restitution; (iii) advocating for fair, constructive, and restorative sentences predicated on sensitivity to the unique needs and the diversity of the participating juveniles; and (iv) developing positive citizenship attitudes, encouraging civic engagement, and promoting educational success through a diversity of service learning opportunities, strategies, and activities.

E. All records and reports concerning juvenile participants in a local youth justice diversion program made available to members of a local youth justice diversion program advisory committee and volunteers of a local youth justice diversion program and all records and reports identifying a juvenile participant that are generated by the committee or program from such reports shall be confidential and shall not be disclosed, except as authorized by other applicable law.

F. A juvenile referred to a youth justice diversion program may be required to contribute to the cost of the program pursuant to guidelines developed by the local youth justice diversion program advisory committee.

CHAPTER 458

An Act to study improved communication between beekeepers and applicators of neonicotinoid insecticides.

[H 2030]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Department of Agriculture and Consumer Services (the Department) shall study the Beekeeper Pollinator Protection Plan and voluntary best management practices, authorized pursuant to § 3.2-108.1 of the Code of Virginia, for the purpose of proposing improvements to communication between beekeepers and applicators to further reduce the risk to pollinators from neonicotinoid pesticides. In conducting its study, the Department may establish a stakeholder working group composed of representatives of affected groups, including beekeepers, agricultural producers, commercial pesticide applicators, private pesticide applicators, pesticide manufacturers, retailers, lawn and turf service providers, the Virginia Farm Bureau, the Virginia Agribusiness Council, other agribusiness and farmer organizations, and the Virginia Cooperative Extension. The Department shall, no later than December 1, 2021, provide a report on its findings to the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources and the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources.

CHAPTER 459

An Act to amend and reenact §§ 24.2-604, 24.2-671, and 24.2-802.1 of the Code of Virginia, relating to polling places; prohibited activities; possession of a firearm; penalty.

[H 2081]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-604, 24.2-671, and 24.2-802.1 of the Code of Virginia are amended and reenacted as follows:****§ 24.2-604. Polling places; prohibited activities; prohibited area; penalties.**

A. During the times the polls are open and ballots are being counted, *or within one hour of opening or after closing*, it is unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; ~~or~~ (iii) to hinder or delay a qualified voter in entering or leaving a polling place; *or (iv) to knowingly possess any firearm as defined in § 18.2-308.2:2 within 40 feet of any building, or part thereof, used as a polling place.*

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices ~~which~~ *that* state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. It is unlawful for any authorized representative permitted in the polling place pursuant to § 24.2-604.4, any voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; (v) be in a position to see the marked ballot of any other voter; or (vi) otherwise impede the orderly conduct of the election.

D. The provisions of subsections A and C shall not be construed to prohibit a person who approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other apparel on which a candidate's name or a political slogan appears or from having a sticker or button attached to his apparel on which a candidate's name or a political slogan appears. This exemption shall not apply to candidates, representatives of candidates, or any other person who approaches or enters the polling place for any purpose other than voting.

E. This section shall not be construed to prohibit a candidate from entering any polling place on the day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place per election day, provided that he complies with the restrictions stated in subsections A, C, and D.

F. The provisions of clause (iv) of subsection A shall not apply to (i) any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (ii) any person occupying his own private property that falls within 40 feet of a polling place; or (iii) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a polling place.

G. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or C is guilty of a Class 1 misdemeanor.

§ 24.2-671. Electoral board to meet and ascertain results; conclusiveness of results.

Each electoral board shall meet at the clerk's or general registrar's office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election. The board may adjourn to another room of sufficient size in a public building to ascertain the results, and may adjourn as needed, not to exceed seven calendar days from the date of the election. Written directions to the location of any room other than the clerk's or general registrar's office where the board will meet shall be posted at the doors of the clerk's and general registrar's offices prior to the beginning of the meeting.

The board shall open the returns delivered by the officers.

If the electoral board has exercised the option provided by § 24.2-668 for delivery of the election materials to the office of the general registrar on the night of the election, the electoral board shall meet at the office of the general registrar at or before 5:00 p.m. on the day after any election.

The board shall ascertain from the returns the total votes in the county or city, or town in a town election, for each candidate and for and against each question and complete the abstract of votes cast at such election, as provided for in § 24.2-675. For any office in which no person was elected by write-in votes, and for which the total number of write-in votes for that office is less than (i) 10 percent of the total number of votes cast for that office and (ii) the total number of votes cast for the candidate receiving the most votes, the electoral board shall ascertain the total votes for each write-in candidate for the office within one week following the election. For offices for which the electoral board issues the certificate of election, the result so ascertained, signed and attested, shall be conclusive and shall not thereafter be subject to challenge except as specifically provided in Chapter 8 (§ 24.2-800 et seq.) ~~of this title.~~

Once the result is so ascertained, the secretary of the electoral board shall deliver one copy of each statement of results to the general registrar to be available for inspection when his office is open for business. The secretary shall then return all pollbooks, any printed inspection and return sheets, and one copy of each statement of results to the clerk.

Beginning with the general election in November 2007, a report of any changes made by the local electoral board to the unofficial results ascertained by the officers of election or any subsequent change to the official abstract of votes made by the local electoral board shall be forwarded to the State Board of Elections and the explanation of such change shall be posted on the State Board website.

Each political party and each independent candidate on the ballot, or each primary candidate, shall be entitled to have representatives present when the local electoral board meets to ascertain the results of the election. Each such party and candidate shall be entitled to have at least as many representatives present as there are teams of officials working to ascertain the results, and the room in which the local electoral board meets shall be of sufficient size and configuration to allow the representatives reasonable access and proximity to view the ballots as the teams of officials work to ascertain the results. The representatives and observers lawfully present shall be prohibited from interfering with the officials in any way. *It is unlawful for any person to knowingly possess any firearm as defined in § 18.2-308.2:2 within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election, unless such person is (a) any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (b) occupying his own private property that falls within 40 feet of a polling place; or (c) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election.*

§ 24.2-802.1. Preliminary hearing; court to fix procedure for recount, appoint officers, and supervise the recount.

A. Within seven calendar days of the filing of the petition for a recount of any election other than an election for presidential electors, or within five calendar days of the filing of a petition for a recount of an election for presidential electors, the chief judge of the circuit court shall call a preliminary hearing at which (i) motions may be disposed of and (ii) the rules of procedure may be fixed, both subject to review by the full court. The petitioner and his counsel and each other party and their counsel under supervision of the electoral board and its agents shall have access to pollbooks and other materials used in the election for examination purposes, provided that individual ballots cast in the election shall not be examined at the preliminary hearing. The chief judge during the preliminary hearing shall review all security measures taken for all ballots and voting systems and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount.

The chief judge, subject to review by the full court, may set the place for the recount and may order the delivery of election materials to a central location and the transportation of voting systems to a central location in each county or city under appropriate safeguards. *These safeguards shall include prohibiting any person from knowingly possessing any firearm as defined in § 18.2-308.2:2 within 40 feet of any building or part thereof used as the place for the recount, unless such person is (a) any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (b) occupying his own private property that falls within 40 feet of a polling place; or (c) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a place for the recount.*

B. After the full court is appointed under § 24.2-801 or 24.2-801.1, it shall call a hearing at which all motions shall be disposed of and the rules of procedure shall be fixed finally, and it shall issue a written order setting out such rules of procedure. The court shall call for the advice and cooperation of the Department, the State Board, or any local electoral board, as appropriate, and such boards or agency shall have the duty and authority to assist the court. The court shall fix any additional procedures, that are not provided for in this chapter, that shall provide for the accurate counting of votes in the election. The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting systems in use in the election district.

C. The court shall permit each candidate, or petitioner and governing body or chief executive officer, to select an equal number of the officers of election to be recount officials and to count printed ballots. The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable period. The court may permit each party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team from each locality using ballot scanner machines to insert the ballots into one or more scanners. Each team shall be composed of one representative of each party.

The court may provide that if, at the time of the recount, any recount official fails to appear, the remaining recount officials present shall appoint substitute recount officials who shall possess the same qualifications as the recount officials for whom they substitute. The court may select pairs of recount coordinators to serve for each county or city in the election district who shall be members of the county or city electoral board and represent different political parties. The court shall have authority to summon such officials and coordinators. On the request of any party to the recount, the court shall allow that party to appoint one representative observer for each team of recount officials. The representative observers shall have an unobstructed view of the work of the recount officials. The expenses of its representatives shall be borne by each party.

D. The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used and any or all ballots cast at the election, or may assume supervision thereof through the recount coordinators and officials.

CHAPTER 460

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 4 of Title 18.2 a section numbered 18.2-37.1 and by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5, relating to homicides and assaults and bodily woundings; certain matters not to constitute defenses.

[H 2132]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 4 of Title 18.2 a section numbered 18.2-37.1 and by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.5 as follows:

§ 18.2-37.1. Certain matters not to constitute defenses.

A. Another person's actual or perceived sex, gender, gender identity, or sexual orientation is not in and of itself, or together with an oral solicitation, a defense to any charge of capital murder, murder in the first degree, murder in the second degree, or voluntary manslaughter and is not in and of itself, or together with an oral solicitation, provocation negating or excluding malice as an element of murder.

B. Nothing in this section shall be construed to prevent a defendant from exercising his constitutionally protected rights, including his right to call for evidence in his favor that is relevant and otherwise admissible in a criminal prosecution.

§ 18.2-57.5. Certain matters not to constitute defenses.

A. Another person's actual or perceived sex, gender, gender identity, or sexual orientation is not in and of itself, or together with an oral solicitation, a defense to any charge brought under this article.

B. Nothing in this section shall be construed to prevent a defendant from exercising his constitutionally protected rights, including his right to call for evidence in his favor that is relevant and otherwise admissible in a criminal prosecution.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 461

An Act to amend and reenact § 19.2-387.3 of the Code of Virginia, relating to Substantial Risk Order Registry; maintenance and access.

[H 2258]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-387.3 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-387.3. Substantial Risk Order Registry; maintenance; access.

*A. The Department of State Police shall keep and maintain a computerized Substantial Risk Order Registry (the Registry) for the entry of orders issued pursuant to § 19.2-152.13 or 19.2-152.14. ~~The purpose of the Registry shall be to assist the efforts of law-enforcement agencies to protect their communities and their citizens.~~ The Department of State Police shall make the Registry information available, upon request, to criminal justice agencies, including local law-enforcement agencies, through the Virginia Criminal Information Network. *The Department of State Police may make the Registry information available upon request to institutions of higher education and other research organizations or institutions in the Commonwealth. The Department of State Police shall remove the names and other personal identifying information from the data before it is released to the institution of higher education or research organization or other institution.* Registry information provided under this section shall be used only for the purposes of the administration of criminal justice as defined in § 9.1-101, *except as otherwise provided in this subsection.**

B. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

CHAPTER 462

An Act to amend and reenact §§ 46.2-839 and 46.2-905 of the Code of Virginia, relating to traffic regulation; bicycles.

[H 2262]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-839 and 46.2-905 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-839. Passing bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

Any driver of any *motor* vehicle overtaking a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle proceeding in the same direction shall pass at a reasonable speed at least three feet to the left of the overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle and shall not again proceed to the right side of the highway until safely clear of such overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle. *If the lane of travel is not wide enough to allow the overtaking motor vehicle to pass in the manner required in this section while in the same lane as the overtaken vehicle, the overtaking vehicle shall change lanes.*

§ 46.2-905. Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds on roadways and bicycle paths.

Any person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, or moped on a roadway at less than the normal speed of traffic at the time and place under conditions then existing shall ride as close as safely practicable to the right curb or edge of the roadway, except under any of the following circumstances:

1. When overtaking and passing another vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection or into a private road or driveway;
3. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge;
4. When avoiding riding in a lane that must turn or diverge to the right; and
5. When riding upon a one-way road or highway, a person may also ride as near the left-hand curb or edge of such roadway as safely practicable.

For purposes of this section, a "substandard width lane" is a lane too narrow for a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, or moped and another vehicle to pass safely side by side within the lane.

Persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, or motorized skateboards or scooters on a highway shall not ride more than two abreast. ~~Persons riding two abreast shall not impede the normal and reasonable movement of traffic, shall move into a single file formation as quickly as is practicable when being overtaken from the rear by a faster moving vehicle, and, on a laned roadway, shall ride in a single lane.~~

Notwithstanding any other provision of law to the contrary, the Department of Conservation and Recreation shall permit the operation of electric personal assistive mobility devices on any bicycle path or trail designated by the Department for such use.

2. That the Department of State Police shall convene a work group, including representatives from state and local law-enforcement agencies, traffic safety organizations, and bicycle enthusiast and advocacy organizations, to review issues related to allowing bicycle operators to treat stop signs as yield signs. The work group shall consider laws adopted in other states related to this issue, safety data, and any other issues deemed appropriate and relevant by the work group. The Department of State Police shall submit a report to the Chairmen of the House and Senate Committees on Transportation summarizing the work and any recommendations of the work group by December 1, 2021.

CHAPTER 463

An Act to amend and reenact §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is currently effective and as it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia and to repeal Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of Virginia, relating to habitual offenders; repeal.

[S 1122]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is currently effective and as it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-9. Guardian ad litem for persons under disability; when guardian ad litem need not be appointed for person under disability.

A. A suit wherein a person under a disability is a party defendant shall not be stayed because of such disability, but the court in which the suit is pending, or the clerk thereof, shall appoint a discreet and competent attorney-at-law as guardian ad litem to such defendant, whether the defendant has been served with process or not. If no such attorney is found willing to act, the court shall appoint some other discreet and proper person as guardian ad litem. Any guardian ad litem so appointed shall not be liable for costs. Every guardian ad litem shall faithfully represent the estate or other interest of the person under a disability for whom he is appointed, and it shall be the duty of the court to see that the interest of the defendant is so represented and protected. Whenever the court is of the opinion that the interest of the defendant so requires, it shall remove any guardian ad litem and appoint another in his stead. When, in any case, the court is satisfied that the guardian ad litem has rendered substantial service in representing the interest of the person under a disability, it may allow the guardian reasonable compensation therefor, and his actual expenses, if any, to be paid out of the estate of the defendant. However, if the defendant's estate is inadequate for the purpose of paying compensation and expenses, all, or any part thereof, may be taxed as costs in the proceeding or, in the case of proceedings to adjudicate a person under a disability as an habitual offender pursuant to former § 46.2-351.2 or former § 46.2-352, shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges. In a civil action against an incarcerated felon for damages arising out of a criminal act, the compensation and expenses of the guardian ad litem shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges. If judgment is against the incarcerated felon, the amount allowed by the court to the guardian ad litem shall be taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the same shall be paid to the Commonwealth. By order of the court, in a civil action for divorce from an incarcerated felon, the compensation and expenses of the guardian ad litem shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges if the crime (i) for which the felon is incarcerated occurred after the date of the marriage for which the divorce is sought, (ii) for which the felon is incarcerated was committed against the felon's spouse, child, or stepchild and involved physical injury, sexual assault, or sexual abuse, and (iii) resulted in incarceration subsequent to conviction and the felon was sentenced to confinement for more than one year. The amount allowed by the court to the guardian ad litem shall be taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the same shall be paid to the Commonwealth.

B. Notwithstanding the provisions of subsection A or the provisions of any other law to the contrary, in any suit wherein a person under a disability is a party and is represented by an attorney-at-law duly licensed to practice in this Commonwealth, who shall have entered of record an appearance for such person, no guardian ad litem need be appointed for such person unless the court determines that the interests of justice require such appointment; or unless a statute applicable to such suit expressly requires that the person under a disability be represented by a guardian ad litem. The court may, in its discretion, appoint the attorney of record for the person under a disability as his guardian ad litem, in which event the attorney shall perform all the duties and functions of guardian ad litem.

Any judgment or decree rendered by any court against a person under a disability without a guardian ad litem, but in compliance with the provisions of this subsection B, shall be as valid as if the guardian ad litem had been appointed.

§ 8.01-407. How summons for witness issued, and to whom directed; prior permission of court to summon certain officials and judges.

A. A summons may be issued, directed as prescribed in § 8.01-292, commanding the officer to summon any person to attend on the day and at the place that such attendance is desired, to give evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The summons may be issued by the clerk of the court if the attendance is desired at a court or in a proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to properly request a summons up to and including the date of the proceeding:

If attendance is desired before a commissioner in chancery or other commissioner of a court, the summons may be issued by the clerk of the court in which the matter is pending, or by such commissioner in chancery or other commissioner;

If attendance is desired before a notary or other officer taking a deposition, the summons may be issued by such notary or other officer at the instance of the attorney desiring the attendance of the person sought;

If attendance is sought before a grand jury, the summons may be issued by the attorney for the Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending in a court or at a deposition in connection with such proceeding, including medical malpractice review panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply mutatis mutandis. When an attorney-at-law who is an active member of the Virginia State Bar transmits one or more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of

a letter, shall contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued, (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in whose court the case is pending together with a photocopy of either (a) the payment instrument and a photocopy of the letter sent to the clerk's office that accompanied such payment instrument or (b) the clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one sheriff for service of process, then subpoenas shall be grouped by the jurisdiction in which they are to be served. For each person to be served, an original subpoena and copy thereof shall be included. If the attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an additional copy of the transmittal sheet together with an envelope addressed to the attorney with sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be date-stamped and returned to the attorney-at-law in the above-described envelope.

However, when such transmittal does not comply with the provisions of this section, the sheriff may promptly return such transmittal if accompanied by a short description of such noncompliance. An attorney may not issue a summons in any of the following civil proceedings: (a) habeas corpus under Article 3 (§ 8.01-654 et seq.) of Chapter 25 of this title, (b) delinquency or abuse and neglect proceedings under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, (c) civil forfeiture proceedings, (d) ~~habitual offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title 46.2,~~ (e) administrative license suspension pursuant to § 46.2-391.2, and (f) (e) petition for writs of mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date that attendance is desired.

In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court of the county or city in which the attendance is desired.

A summons shall express on whose behalf, and in what case or about what matter, the witness is to attend. Failure to respond to any such summons shall be punishable by the court in which the proceeding is pending as for contempt. When any subpoena is served less than five calendar days before appearance is required, the court may, after considering all of the circumstances, refuse to enforce the subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before appearance is required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271, such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court thereof; the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees. However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the

maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) ~~Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.~~

(8) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners' Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et seq.).

(9) (8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

For purposes of this section, the territory served by a county general district court expressly authorized by statute to be established in a city includes the general district court courtroom.

§ 16.1-305. Confidentiality of court records.

A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records, of neglected and abused children, children in need of services, children in need of supervision and delinquent children shall be filed with the other papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and records of the court and shall be open for inspection only to the following:

1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic relations district courts;

2. Representatives of a public or private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

3. The attorney for any party, including the attorney for the Commonwealth;

4. Any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court. However, for the purposes of an investigation conducted by a local community-based probation services agency, preparation of a pretrial investigation report, or of a presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a local community-based probation services agency established or operated pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial services or probation officer shall have access to the defendant's records in juvenile court without a court order;

5. Any attorney for the Commonwealth and any local pretrial services or community-based probation officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court delinquency records maintained in an electronic format by the court for the strictly limited purposes of preparing a pretrial investigation report, including any related risk assessment instrument, any presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

A copy of the court order of disposition in a delinquency case shall be provided to a probation officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing guidelines. The copies shall remain confidential, but reports may be prepared using the information contained therein as provided in §§ 19.2-298.01 and 19.2-299.

6. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

A1. Any person, agency, or institution that may inspect juvenile case files pursuant to subdivisions A 1 through A 4 shall be authorized to have copies made of such records, subject to any restrictions, conditions, or prohibitions that the court may impose.

B. All or any part of the records enumerated in subsection A, or information secured from such records, which is presented to the judge in court or otherwise in a proceeding under this law shall also be made available to the parties to the proceedings and their attorneys.

B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, all court records regarding that adjudication and any subsequent adjudication of delinquency, other than those records specified in subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that certain records or portions thereof remain confidential to the extent necessary to protect any juvenile victim or juvenile witness.

C. All other juvenile records, including the docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by those persons and agencies designated in subsections A and B of this section. However, a licensed bail bondsman shall be entitled to know the status of a bond he has posted or provided surety on for a juvenile under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any other portion of his principal's juvenile court records.

D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney that such papers are needed as evidence in a pending criminal, *or* traffic, *or* habitual offender proceeding and that such papers will be only used for such evidentiary purpose.

D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act that would be a felony if committed by an adult, which show the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for the Commonwealth upon his certification that such papers are needed as evidence in a pending criminal prosecution for a violation of § 18.2-308.2 and that such papers will be only used for such evidentiary purpose.

E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an award to the victim of a crime, and such information shall not be disseminated or used by the Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the disposition in a case involving a juvenile who is committed to state care after being adjudicated for a criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a written request, the Department of Juvenile Justice shall provide advance notice of such juvenile offender's anticipated date of release from commitment.

G. Any record in a juvenile case file which is open for inspection by the professional staff of the Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by the court, may be transmitted electronically to the Department of Juvenile Justice. Any record so transmitted shall be subject to the provisions of § 16.1-300.

§ 17.1-213. Disposition of papers in ended cases.

A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in hardcopy form, either in the locality served by the circuit court where such files originated or in The Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years after conclusion:

1. Conditional sales contracts;
2. Concealed weapons permit applications;
3. Minister appointments;
4. Petitions for appointment of trustee;
5. Name changes;
6. Nolle prosequi cases;
7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;
8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were commenced on a felony charge but concluded as a misdemeanor;
9. Suits to enforce a lien;
10. Garnishments;
11. Executions except for those covered in § 8.01-484; *and*
12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in the appropriate order book; *and*
13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving privileges.

C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the following:

1. All civil case files to which subsection D does not pertain shall be retained 20 years from the court order date.
2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts, shall be retained 10 years from the court order date.
3. Except as otherwise provided in this subdivision, criminal case files involving a felony conviction and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2, or 18.2-60.4 shall be retained (i) 20 years from the

sentencing date or (ii) until the sentence term ends, whichever comes later. Case files involving a conviction for a sexually violent offense as defined in § 37.2-900, a violent felony as defined in § 17.1-805, or an act of violence as defined in § 19.2-297.1 shall be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever comes later.

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative copies of any such microfilmed materials for storage in The Library of Virginia.

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an

individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further

disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been (i) suspended or revoked for ~~(i)~~ a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) ~~driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been~~ administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

B. Except as provided in §§ ~~§~~ 46.2-304 and ~~46.2-357~~, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restricted license is issued pursuant to subsection E. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

C. A violation of subsection B is a Class 1 misdemeanor.

D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive a motor vehicle for the same period for which it had been previously suspended or revoked. In the event the person violated subsection B by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension or revocation or to commence immediately if the previous suspension or revocation has expired.

E. Any person who is otherwise eligible for a restricted license may petition each court that suspended his license pursuant to subsection D for authorization for a restricted license, provided that the period of time for which the license was suspended by the court pursuant to subsection D, if measured from the date of conviction, has expired, even though the suspension itself has not expired. A court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be issued unless each court that issued a suspension of the person's license pursuant to subsection D authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or revocation of the person's license or privilege to drive for any other cause. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the Commissioner

of a restricted license. A copy of the restricted license issued by the Commissioner shall be carried at all times while operating a motor vehicle.

F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty of a violation of this section but is guilty of a violation of § 18.2-272.

§ 46.2-301.1. Administrative impoundment of motor vehicle for certain driving while license suspended or revoked offenses; judicial impoundment upon conviction; penalty for permitting violation with one's vehicle.

A. The motor vehicle being driven by any person (i) whose driver's license, learner's permit or privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or 18.2-272 or driving while under the influence in violation of § 18.2-266, 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction; (ii) ~~driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or~~ where such person's license has been administratively suspended under the provisions of § 46.2-391.2; (iii) driving after such person's driver's license, learner's permit or privilege to drive a motor vehicle has been suspended or revoked for unreasonable refusal of tests in violation of § 18.2-268.3, 46.2-341.26:3 or a substantially similar ordinance or law in any other jurisdiction; or (iv) driving without an operator's license in violation of § 46.2-300 having been previously convicted of such offense or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction shall be impounded or immobilized by the arresting law-enforcement officer at the time the person is arrested for driving after his driver's license, learner's permit or privilege to drive has been so revoked or suspended or for driving without an operator's license in violation of § 46.2-300 having been previously convicted of such offense or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction. The impoundment or immobilization for a violation of ~~clauses~~ *clause (i) through, (ii), or (iii)* shall be for a period of 30 days. The period of impoundment or immobilization for a violation of clause (iv) shall be until the offender obtains a valid operator's license pursuant to § 46.2-300 or three days, whichever is less. In the event that the offender obtains a valid operator's license at any time during the three-day impoundment period and presents such license to the court, the court shall authorize the release of the vehicle upon payment of all reasonable costs of impoundment or immobilization to the person holding the vehicle.

The provisions of this section as to the offense described in clause (iv) of ~~this subsection~~ shall not apply to a person who drives a motor vehicle with no operator's license ~~(i)~~ (a) whose license has been expired for less than one year prior to the offense or ~~(ii)~~ (b) who is under 18 years of age at the time of the offense. The arresting officer, acting on behalf of the Commonwealth, shall serve notice of the impoundment upon the arrested person. The notice shall include information on the person's right to petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general district court of the jurisdiction where the arrest was made. Transmission of the notice may be by electronic means.

At least five days prior to the expiration of the period of impoundment imposed pursuant to this section or § 46.2-301, the clerk shall provide the offender with information on the location of the motor vehicle and how and when the vehicle will be released; however, for a violation of clause (iv) ~~above~~, such information shall be provided at the time of arrest.

All reasonable costs of impoundment or immobilization, including removal and storage expenses, shall be paid by the offender prior to the release of his motor vehicle. Notwithstanding the above, where the arresting law-enforcement officer discovers that the vehicle was being rented or leased from a vehicle renting or leasing company, the officer shall not impound the vehicle or continue the impoundment but shall notify the rental or leasing company that the vehicle is available for pickup and shall notify the clerk if the clerk has previously been notified of the impoundment.

B. Any driver who is the owner of the motor vehicle that is impounded or immobilized under subsection A may, during the period of the impoundment, petition the general district court of the jurisdiction in which the arrest was made to review that impoundment. The court shall review the impoundment within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting law-enforcement officer did not have probable cause for the arrest, or that the magistrate did not have probable cause to issue the warrant, the court shall rescind the impoundment. Upon rescission, the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all reasonable costs of impoundment or immobilization, including removal or storage costs paid or incurred by him. Otherwise, the court shall affirm the impoundment. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the impoundment or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

C. The owner or co-owner of any motor vehicle impounded or immobilized under subsection A who was not the driver at the time of the violation may petition the general district court in the jurisdiction where the violation occurred for the release of his motor vehicle. The motor vehicle shall be released if the owner or co-owner proves by a preponderance of the evidence that he (i) did not know that the offender's driver's license was suspended or revoked when he authorized the offender to drive such motor vehicle; (ii) did not know that the offender had no operator's license and that the operator had been previously convicted of driving a motor vehicle without an operator's license in violation of § 46.2-300 or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction when he authorized the offender to drive such motor vehicle; or (iii) did not consent to the operation of the motor vehicle by the offender. If the owner proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial

hardship if that motor vehicle is impounded or immobilized for the period of impoundment that otherwise would be imposed pursuant to this section, the court, in its discretion, may release the vehicle after some period of less than such impoundment period.

D. Notwithstanding any provision of this section, a subsequent dismissal or acquittal of the charge of driving without an operator's license or of driving on a suspended or revoked license shall result in an immediate rescission of the impoundment or immobilization provided in subsection A. Upon rescission, the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all reasonable costs of impoundment or immobilization, including removal or storage costs, incurred or paid by him.

E. Any person who knowingly authorizes the operation of a motor vehicle by (i) a person he knows has had his driver's license, learner's permit or privilege to drive a motor vehicle suspended or revoked for any of the reasons set forth in subsection A or (ii) a person who he knows has no operator's license and who he knows has been previously convicted of driving a motor vehicle without an operator's license in violation of § 46.2-300 or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction shall be guilty of a Class 1 misdemeanor.

F. Notwithstanding the provisions of this section or § 46.2-301, nothing in this section shall impede or infringe upon a valid lienholder's rights to cure a default under an existing security agreement. Furthermore, such lienholder shall not be liable for any cost of impoundment or immobilization, including removal or storage expenses which may accrue pursuant to the provisions of this section or § 46.2-301. In the event a lienholder repossesses or removes a vehicle from storage pursuant to an existing security agreement, the Commonwealth shall pay all reasonable costs of impoundment or immobilization, including removal and storage expenses, to any person or entity providing such services to the Commonwealth, except to the extent such costs or expenses have already been paid by the offender to such person or entity. Such payment shall be made within seven calendar days after a request is made by such person or entity to the Commonwealth for payment. Nothing herein, however, shall relieve the offender from liability to the Commonwealth for reimbursement or payment of all such reasonable costs and expenses.

§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle; proof of financial responsibility; reinstatement fee.

A. The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public on the highways in the Commonwealth.

B. Before granting or restoring a license or registration to any person whose driver's license or other privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended pursuant to § 46.2-389, 46.2-391, 46.2-391.1, or 46.2-417, the Commissioner shall require proof of financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.), but no person shall be licensed who may not be licensed under the provisions of §§ 46.2-389 through 46.2-431.

C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2; conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation of § 46.2-301 or 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the additional amount shall be retained by the Department as provided in this section and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5. When three years have elapsed from the termination date of the order of suspension or revocation and the person has complied with all other provisions of law, the Commissioner may relieve him of paying the reinstatement fee.

D. No reinstatement fee shall be required when the suspension or revocation of license results from the person's suffering from mental or physical infirmities or disabilities from natural causes not related to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any person whose license is suspended by a court of competent jurisdiction for any reason, other than a cause for mandatory suspension as provided in this title, provided the court ordering the suspension is not required by § 46.2-398 to forward the license to the Department during the suspended period.

E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

F. Before granting or restoring a license or registration to any person whose driver's license or other privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended, the Commissioner shall collect from such person, in addition to all other fees provided for in this section, an additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this subsection into the Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol or drug use.

G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant to subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his record for which reinstatement is required, then such person shall be required to pay one reinstatement fee, the amount of which shall equal the full reinstatement fee attributable to the one of his revocations or suspensions that would trigger the highest reinstatement fee, plus an additional \$5 fee for administrative costs associated with compliance for each additional suspension or revocation. Fees collected pursuant to this subsection shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 53.1-21. Transfer of prisoners into and between state and local correctional facilities.

A. Any person who (A) (i) is accused or convicted of an offense (a) in violation of any county, city, or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth, or (c) against the laws of any other state or country, or (2) (ii) is a witness held in any case in which the Commonwealth is a party and who is confined in a state or local correctional facility, may be transferred by the Director, subject to the provisions of § 53.1-20, to any other state or local correctional facility which he may designate.

B. The following limitations shall apply to the transfer of persons into the custody of the Department:

1. No person convicted of violating § 20-61 shall be committed or transferred to the custody of the Department.
2. ~~No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 shall be committed or transferred to the custody of the Department without the consent of the Director.~~
3. No person who is convicted of a misdemeanor or a felony and receives a jail sentence of ~~twelve~~ 12 months or less shall be committed or transferred to the custody of the Department without the consent of the Director.

4. 3. Beginning July 1, 1991, and subject to the provisions of § 53.1-20, no person, whether convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the combined length of all sentences to be served totals two years or less, without the consent of the Director.

2. That Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of Virginia is repealed.

3. That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege to drive a motor vehicle that was suspended or revoked solely on the basis that such person was determined to be or adjudicated a habitual offender pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia prior to the effective date of this act. Nothing in this act shall require the Commissioner to reinstate a person's driving privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is otherwise ineligible for a driver's license.

4. That the Virginia Alcohol and Safety Action Program (VASAP) shall be authorized to administer intervention interviews pursuant to former § 46.2-355.1 of the Code of Virginia for individuals who were ordered to attend an intervention interview on or before June 30, 2021. The Department of Motor Vehicles shall suspend the driving privileges of any person who fails to attend such intervention interview within 60 days of the date of such notice for an intervention interview, in accordance with former § 46.2-355.1 of the Code of Virginia.

CHAPTER 464

An Act to amend and reenact §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.2-6540.01 through 3.2-6540.04, 3.2-6541.1, 3.2-6542.1, 3.2-6542.2, 3.2-6543.1, 3.2-6562.2, and 18.2-52.2 relating to dangerous dogs; penalty.

[S 1135]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6540 and 3.2-6542 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.2-6540.01 through 3.2-6540.04, 3.2-6541.1, 3.2-6542.1, 3.2-6542.2, 3.2-6543.1, 3.2-6562.2, and 18.2-52.2 as follows:

§ 3.2-6540. Dangerous dogs; investigation, summons, and hearing.

A. As used in this section, "dangerous dog" means: *includes*

1. ~~A canine or a hybrid canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat as defined in § 3.2-6581.~~

A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (i) no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or

cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or

2. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

B. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

C. Any law-enforcement officer or animal control officer who (i) has reason to believe that a ~~canine or canine crossbreed within his jurisdiction~~ an animal is a dangerous dog and (ii) is located in the jurisdiction where the animal resides or in the jurisdiction where the act was committed may apply to a magistrate ~~servicing the jurisdiction~~ for the issuance of a summons requiring the owner or ~~custodian~~, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue.

C. No law-enforcement officer or animal control officer shall apply for a summons pursuant to subsection B if, upon investigation, the officer finds (i) in the case of an injury to a companion animal that is a dog or cat, that no serious injury has occurred as a result of the attack or bite, that both animals are owned by the same person, or that the incident originated on the property of the attacking or biting dog's owner or (ii) in the case of an injury to a person, that the injury caused by the dog upon the person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury. In determining whether serious injury to a companion animal that is a dog or cat has occurred, the officer may consult with a licensed veterinarian.

D. A law-enforcement officer or animal control officer who applies for a summons pursuant to subsection B shall provide the owner with written notice of such application. For 30 days following such provision of written notice, the owner shall not dispose of the animal other than by surrender to the animal control officer or by euthanasia by a licensed veterinarian. Following such provision of written notice, an owner who elects to euthanize a dog that is the subject of a dangerous dog investigation shall provide documentation of such euthanasia to the animal control officer.

E. If a law-enforcement officer successfully makes an application for the issuance of a summons pursuant to subsection B, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous.

~~The F.~~ Following the issuance of a summons following an application pursuant to subsection B, an animal control officer shall ~~may~~ confine the animal until such time as the evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or ~~custodian~~ can confine the animal in a manner that protects the public safety, he may permit the owner or ~~custodian~~ to confine the animal until such time as the evidence shall be heard and a verdict rendered. Upon being served with a summons for a dangerous dog, the owner shall not dispose of the animal, other than by euthanasia, until the case has been adjudicated. The court, through its contempt powers, may compel the owner, ~~custodian~~, or ~~harbinger~~ of the animal to produce the animal and to provide documentation that it has been, or will be within three business days, implanted with electronic identification registered to the owner. The owner shall provide the registration information to the animal control officer.

G. Nothing in this section shall prohibit an animal control officer or law-enforcement officer from securing a summons for a hearing to determine whether a dog that is surrendered but not euthanized is a dangerous dog.

H. Unless good cause is determined by the court, the evidentiary hearing pursuant to the dangerous dog summons shall be held not more than 30 days from the issuance of the summons. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt. The court shall determine that the animal is a dangerous dog if the evidence shows that it (i) killed a companion animal that is a dog or cat or inflicted serious injury on a companion animal that is a dog or cat, including a serious impairment of health or bodily function that requires significant medical attention, a serious disfigurement, any injury that has a reasonable potential to cause death, or any injury other than a sprain or strain or (ii) directly caused serious injury to a person, including laceration, broken bone, or substantial puncture of skin by teeth. Unless good cause is determined by the court, the appeal of a dangerous dog finding shall be heard within 30 days.

~~D.~~ I. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall:

1. Shall order the animal's owner to comply with the provisions of this section. ~~The court, upon finding the animal to be a dangerous dog, may and §§ 3.2-6540.01, 3.2-6542, and 3.2-6542.1;~~

2. May order the owner, ~~custodian, or harbinger thereof~~ of the animal to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. ~~The court, in its discretion, may also~~ Such order shall not preclude the injured person from pursuing civil remedies, including damages that accrue after the original finding that the animal is a dangerous dog; and

3. May order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner.

E. *J.* If, after hearing the evidence, the court decides to defer further proceedings without entering an adjudication that the animal is a dangerous dog, it may do so, notwithstanding any other provision of this section. A court that defers further proceedings shall place specific conditions upon the owner of the dog, *including the requirement that the owner provide documentation that the dog has been, or will be within three business days, implanted with electronic identification registered to the owner. The registration information shall be provided to the animal control officer.* If the owner violates any of the conditions, the court may enter an adjudication that the animal is a dangerous dog and proceed as otherwise provided in this section. Upon fulfillment of the conditions, the court shall dismiss the proceedings against the animal and the owner without an adjudication that the animal is a dangerous dog.

F. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

G. *K.* No ~~canine or canine crossbreed animal~~ shall be found by the court to be a dangerous dog solely:

1. *Solely* because it is a particular breed; nor is the ownership of a particular breed of canine or canine crossbreed prohibited.;

H. ~~No animal shall be found to be a dangerous dog if~~ 2. If the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal; or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. ~~No;~~

3. ~~If the animal is a police dog that was engaged in the performance of its duties as such at the time of the acts act complained of shall be found to be a dangerous dog. No animal that;~~

4. ~~If at the time of the acts complained of, the animal was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.;~~

5. ~~As a result of killing or inflicting serious injury on a dog or cat while engaged with its owner as part of lawful hunting or participating in an organized, lawful dog handling event; or~~

6. ~~If the court determines based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.~~

I. *L.* If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section *and §§ 3.2-6540.01, 3.2-6540.02, 3.2-6540.03, 3.2-6540.04, 3.2-6542, and 3.2-6542.1.*

J. The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$150, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

K. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (a) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (b) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

L. While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to § 3.2-6503. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

M. The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

N. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks

another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

O. Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

P. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 or (ii) grant the owner up to 30 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

Q. All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.2-6556.

R. The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous dogs. No locality may impose a felony penalty for violation of such ordinances.

§ 3.2-6540.01. Obligations of officer and owner following dangerous dog finding.

A. After an animal is found to be a dangerous dog pursuant to § 3.2-6540, the local animal control officer or treasurer shall provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times.

B. Within 30 days of the finding that an animal is a dangerous dog pursuant to § 3.2-6540, the owner shall:

1. Provide documentation that the animal has been neutered or spayed;

2. Provide documentation that the animal has been implanted with electronic identification registered to the owner. The registration information shall be provided to the animal control officer;

3. Present satisfactory evidence to the animal control officer of liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety to the value of at least \$100,000 in lieu of liability insurance;

4. Pay to the local governing body a fee of \$150 and under the direction of the animal control officer complete a dangerous dog registration certificate issued by the Department pursuant to § 3.2-6542. No dangerous dog registration certificate required to be obtained under this section shall be issued to any person younger than 18 years of age; and

5. Post the residence where the animal is housed with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property. Such signs shall remain posted at all points of entry to the home and yard as long as the animal remains on the property.

C. Any dangerous dog not confined inside a locked enclosure constructed pursuant to subsection D shall be (i) confined inside the owner's residence or (ii) if outdoors, controlled by a physical leash employed by the responsible adult owner and securely muzzled in a manner that does not cause injury to the animal or interfere with the animal's vision or respiration but prevents it from biting a person or another animal.

D. Any owner of a dangerous dog who keeps the dog outdoors and not within the immediate physical presence of its owner shall, within 30 days of the finding that an animal is a dangerous dog, cause to be constructed a secure, locked enclosure of sufficient height and design to prevent escape by the animal or entry by or direct physical contact with any person or other animal. While so confined within the structure, the animal shall be provided for according to § 3.2-6503.

E. The owner of a dog found to be dangerous shall cause the local animal control officer to be promptly notified of (i) any change in the manner of locating the owner or the dog at any time; (ii) any transfer of ownership of the dog to a new

owner, including the name and address of the new owner; (iii) any instance in which the animal is loose or unconfined; (iv) any complaint or incident of attack or bite by the dog upon any person or cat or dog; (v) any claim made or lawsuit brought as a result of any attack; and (vi) the escape, loss, or death of the dog.

F. Unless for good cause shown, the owner of a dangerous dog shall notify the animal control officer at least 10 days prior to moving or relocating the animal and the officer shall update the dangerous dog registry accordingly.

G. Any dangerous dog not reclaimed by the owner from the animal control officer within 10 days of notice to do so by such animal control officer shall be considered abandoned and may be disposed of according to the provisions of § 3.2-6546.

H. Any contract or agreement for the use of real property, including a recorded restrictive covenant, condominium instrument of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), declaration of a common interest community as defined in § 54.1-2345, or cooperative instrument of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), may prohibit the keeping of a dangerous dog or otherwise impose conditions that are more restrictive than those provided in subsection B.

I. The owner of a dog found to be dangerous shall maintain the liability insurance coverage or bond in surety required by subdivision B 3 as long as he owns the dangerous dog and shall submit a certificate of insurance or evidence of such bond to the animal control officer on an annual basis.

§ 3.2-6540.02. Notice of dangerous dog finding; penalty.

A. Any releasing agency transferring or releasing for adoption within the Commonwealth an animal found to be a dangerous dog pursuant to § 3.2-6540 shall notify in writing the receiving party of the requirements of this section and §§ 3.2-6540, 3.2-6540.01, 3.2-6540.03, and 3.2-6540.04.

B. Any releasing agency transferring or releasing for adoption outside the Commonwealth an animal found to be a dangerous dog pursuant to § 3.2-6540 shall notify the appropriate animal control officer in the receiving jurisdiction that the animal has been so adjudicated.

C. Any owner of an animal found to be a dangerous dog in another state shall, upon bringing such animal to reside within the Commonwealth, notify the animal control officer of the jurisdiction in which the owner resides that the animal has been so adjudicated.

D. Any owner who disposes by surrender to a releasing agency, gift, sale, transfer, or trade of an animal found to be a dangerous dog pursuant to § 3.2-6540 shall notify the receiver in writing that the animal has been so adjudicated. A violation of this subsection is a Class 3 misdemeanor.

§ 3.2-6540.03. Violation of law by owner of dangerous dog; penalty.

A. If an owner of an animal previously found to be a dangerous dog pursuant to § 3.2-6540 is charged with a violation of § 3.2-6540, 3.2-6540.01, 3.2-6540.02, or 3.2-6540.04, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered pursuant to § 3.2-6540. Unless good cause is determined by the court, such evidentiary hearing shall be held within 30 days of the issuance of the summons. The court, through its contempt powers, may compel the owner of the animal to produce the animal.

B. Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 or (ii) grant the owner up to 30 days to comply with the requirements of § 3.2-6540.01, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

C. Any owner of a dangerous dog who is charged with a violation pursuant to subsection A and is found to have willfully failed to comply with the requirements of § 3.2-6540, 3.2-6540.01, 3.2-6540.02, or 3.2-6540.04 is guilty of a Class 1 misdemeanor. The court may determine that a person convicted under this subsection shall be prohibited from owning, possessing, or residing on the same property with a dog.

§ 3.2-6540.04. Subsequent attack or bite by dangerous dog; penalty.

A. Any owner of an animal found to be a dangerous dog pursuant to § 3.2-6540, when such finding arose out of a separate and distinct incident, is guilty of a:

1. Class 2 misdemeanor if such dog attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or

2. Class 1 misdemeanor if such dog bites a human being or attacks a human being causing bodily injury.

B. The provisions of subsection A shall not apply to any animal that at the time of the act complained of was responding to pain or injury, was protecting itself, its kennel, its offspring, a person, or its owner's property, or was a police dog engaged in the performance of its duties at the time of the attack.

C. The court may determine that a person convicted under this section shall be prohibited from owning, possessing, or residing on the same property with a dog.

§ 3.2-6541.1. Authority to prohibit ownership of particular breed.

No locality shall prohibit the ownership of a particular breed of dog.

§ 3.2-6542. Establishment of Dangerous Dog Registry.

A. The Commissioner shall establish the Virginia Dangerous Dog Registry to be maintained by the Department, Office of Animal Care and Health Policy. The State Veterinarian shall maintain information provided and posted by animal control officers or other such officials statewide on a website. All information collected for the Dangerous Dog Registry shall be available to animal control officers via the website. *The website list shall be known as the Virginia Dangerous Dog Registry.*

B. Registration information shall include the name of the animal, a photograph, sex, age, weight, primary breed, secondary breed, color and markings, whether spayed or neutered, the acts that resulted in the dog being designated as dangerous and associated trial docket information, microchip or tattoo number, address where the animal is maintained, name of the owner, address of the owner, telephone numbers of the owner, and a statement that the owner has complied with the provisions of the dangerous dog order. The address of the owner along with the name and breed of the dangerous dog, the acts that resulted in the dog being deemed *found* dangerous, and information necessary to access court records of the adjudication shall be available to the general public. ~~By January 31 of each year, until such time as the dangerous dog is deceased, the owner shall submit to an animal control officer or other designated local official of the county or city in which he currently resides a renewal registration that shall include all information contained in the original registration and any updates. The owner shall verify the information is accurate by annual resubmissions. The animal control officer or other such official shall post any updates on the website. In the event that~~ *If* the dangerous dog is moved to a different location, or contact information for the owner changes in any way at any time, the owner shall submit a renewal containing the address of the new location or other updated information within 10 days of such move or change to an animal control officer or other such official for the new location. There shall be no charge for any updated information provided between renewals.

C. Each county ~~and or~~ city shall submit to the State Veterinarian by January 31 of each year \$90 for each dangerous dog it initially registered and \$25 for each dangerous dog for which it renewed registration within the previous calendar year. Any funds collected pursuant to this section shall be used by the State Veterinarian to maintain the registry and website. ~~The website list shall be known as the Virginia Dangerous Dog Registry.~~

D. Actions of the Department relating to the establishment, operation, and maintenance of the Virginia Dangerous Dog Registry under this section *or* § 3.2-6542.1 shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Copies of all records, documents, and other papers pertaining to the Dangerous Dog Registry that are duly certified and authenticated in writing on the face of such documents to be true copies by the State Veterinarian or the Dangerous Dog Registry administrator shall be received as evidence with like effect as the original records, documents, or other papers in all courts of the Commonwealth.

§ 3.2-6542.1. Renewal of dangerous dog registration.

A. *By January 31 of each year, until the animal is deceased, the owner of an animal found to be a dangerous dog pursuant to § 3.2-6540 shall update and renew the dangerous dog registration certificate obtained pursuant to § 3.2-6540.01 for a fee of \$85 in the same manner as the initial certificate was obtained. However, if the dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal shall be included in the initial registration at no additional charge to the owner.*

B. *Prior to the renewal date of a dangerous dog registration each year, a local animal control officer shall conduct an inspection of the dangerous dog and the premises on which it is kept, and no certificate of renewal shall be issued without such inspection. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry established by § 3.2-6542.*

C. *No dangerous dog registration certificate required to be obtained under this section shall be issued to any person who is younger than 18 years of age or who fails to present satisfactory evidence of (i) compliance with the provisions of §§ 3.2-6540, 3.2-6540.01, 3.2-6540.02, 3.2-6540.03, and 3.2-6540.04; (ii) the animal's current rabies vaccination, if applicable; and (iii) a current county or city dog license, as appropriate.*

§ 3.2-6542.2. Dangerous dog fees; local fund.

All fees collected by a locality pursuant to § 3.2-6540, 3.2-6540.01, 3.2-6540.02, 3.2-6540.03, 3.2-6540.04, 3.2-6542, or 3.2-6542.1, less the costs incurred by the animal control officer in producing and distributing any certificate or tag required by such section and any fees due to the Department for maintenance of the Virginia Dangerous Dog Registry established by § 3.2-6542, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.2-6556.

§ 3.2-6543.1. Authority to enact parallel dangerous dog ordinance.

The governing body of any locality may enact an ordinance regulating dangerous dogs that is parallel to § 3.2-6540, 3.2-6540.01, 3.2-6540.02, 3.2-6540.03, or 3.2-6540.04. No locality shall impose a felony penalty for violation of such ordinance.

§ 3.2-6562.2. Rabies exposure reports.

Each local department of health shall make available to its local animal control officer and shall report to the State Department of Health any exposure report involving a dog bite to a human that is maintained with such local department of health through a state-mandated retention period.

§ 18.2-52.2. Animal attack resulting from owner's disregard for human life; penalty.

A. *Any owner of an animal is guilty of a Class 6 felony if his willful act or omission in the care, control, or containment of such animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such animal attacking and causing serious bodily injury to any person.*

B. The provisions of subsection A shall not apply to any animal that at the time of the act complained of was responding to pain or injury, was protecting itself, its kennel, its offspring, a person, or its owner's property, or was a police dog engaged in the performance of its duties at the time of the attack.

C. The court may determine that a person convicted under this section shall be prohibited from owning, possessing, or residing on the same property with an animal of the type that led to such conviction.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 465

An Act to amend and reenact §§ 18.2-52.1, 18.2-67.4:1, 18.2-346.1, 32.1-291.16, 54.1-2982, 54.1-2983, and 57-48 of the Code of Virginia and to repeal §§ 18.2-62 and 32.1-289.2 of the Code of Virginia, relating to sexually transmitted infections, infected sexual battery.

[S 1138]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-52.1, 18.2-67.4:1, 18.2-346.1, 32.1-291.16, 54.1-2982, 54.1-2983, and 57-48 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-52.1. Possession of infectious biological substances or radiological agents; penalties.

A. Any person who possesses, with the intent thereby to injure another, an infectious biological substance or radiological agent is guilty of a Class 5 felony.

B. Any person who (i) destroys or damages, or attempts to destroy or damage, any facility, equipment or material involved in the sale, manufacturing, storage or distribution of an infectious biological substance or radiological agent, with the intent to injure another by releasing the substance, or (ii) manufactures, sells, gives, distributes or uses an infectious biological substance or radiological agent with the intent to injure another is guilty of a Class 4 felony.

C. Any person who maliciously and intentionally causes any other person bodily injury by means of an infectious biological substance or radiological agent is guilty of a felony and shall be punished by confinement in a state correctional facility for a period of not less than five years nor more than 30 years.

D. For purposes of this section:

An "infectious biological substance" includes any bacteria, viruses, fungi, protozoa, or rickettsiae capable of causing death or serious bodily injury. ~~This definition shall "Infectious biological substance" does not include the human immunodeficiency virus (HIV as defined in § 18.2-67.4:1) or any other related virus that causes acquired immunodeficiency syndrome (AIDS), syphilis, or hepatitis B.~~

A "radiological agent" includes any substance able to release radiation at levels that are capable of causing death or serious bodily injury.

§ 18.2-67.4:1. Infected sexual battery; penalty.

A. Any person who, ~~knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person~~ with the intent to transmit the infection to ~~another that person and transmits such infection to that person~~ is guilty of a Class 6 felony.

B. Any person who, ~~knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person~~ is guilty of a Class 1 misdemeanor.

C. "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) of this title. ~~Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.~~

§ 18.2-346.1. Testing of convicted prostitutes and injection drug users for sexually transmitted infection.

A. As soon as practicable following conviction of any person for violation of § 18.2-346 or 18.2-361, ~~or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use, or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required~~ *provided the option* to submit to testing for ~~infection with human immunodeficiency viruses and hepatitis C a sexually transmitted infection~~. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) ~~acquired immunodeficiency syndrome and hepatitis C sexually transmitted infections~~, and (iii) the transmission and prevention of ~~infection with human immunodeficiency viruses and hepatitis C sexually transmitted infections~~.

B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. *Any tests performed pursuant to this section shall be consistent with current Centers for Disease Control and Prevention recommendations.* The results of such test for a sexually transmitted infection shall be confidential as provided in § 32.1-36.1 and shall be disclosed to the person who is the subject of the test and to the Department of Health as required by § 32.1-36. The Department shall conduct surveillance and investigation in accordance with the requirements of § 32.1-39.

C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may share protected health information relating to such positive test with relevant sheriffs' offices, the state police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters, paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals to seek appropriate testing and treatment; and (ii) as may be needed to prevent and control disease and is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals and the public.

The disclosed protected health information shall be held confidential; no person to whom such information is disclosed shall redisclose or otherwise reveal the protected health information without first obtaining the specific authorization from the individual who was the subject of the test for such redisclosure.

Such protected health information shall only be used to protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, as such regulations may be amended.

D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution or drug use.

The cost of the tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.

§ 32.1-291.16. Sale or purchase of parts prohibited; penalty.

A. With the exception of hair, ova, blood, and other self-replicating body fluids, it shall be unlawful for any person to sell, to offer to sell, to buy, to offer to buy, or to procure through purchase any natural body part for any reason including, but not limited to, medical and scientific uses such as transplantation, implantation, infusion, or injection. Any person engaging in any of these prohibited activities shall be guilty of a Class 4 felony.

B. Nothing in this section shall prohibit the reimbursement of reasonable expenses associated with the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

C. *This section shall not be construed to prohibit the donation of any organs, tissues, or any natural body part, knowing that the donor is, or was, infected with a sexually transmitted infection, for use in medical or scientific research.*

D. *Notwithstanding the provisions of subsection A, this section shall not prohibit the donation or acquisition of organs for transplantation, provided that (i) the recipient of such organ is informed that such organ is infected with human immunodeficiency virus and, following such notice, consents to the receipt of such organ and (ii) acquisition and transplantation of such organ is in compliance with the provisions of the federal HIV Organ Policy Equity Act, 42 U.S.C. § 274f-5.*

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 (~~§ 32.1-289.2~~ *32.1-291.1* et seq.) of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the health care of the patient.

"Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training or experience to assess whether a person is capable or incapable of making an informed decision.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

"Health care provider" shall have the same meaning as provided in § 8.01-581.1.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, intellectual disability, or any other mental or physical disorder that precludes communication or impairs judgment, to make

an informed decision about providing, continuing, withholding or withdrawing a specific health care treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed health care decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Patient care consulting committee" means a committee duly organized by a facility licensed to provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient care consulting committee shall consist of five individuals, including at least one physician, one person licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice professional nursing, and one individual responsible for the provision of social services to patients of the facility. At least one committee member shall have experience in clinical ethics and at least two committee members shall have no employment or contractual relationship with the facility or any involvement in the management, operations, or governance of the facility, other than serving on the patient care consulting committee. A patient care consulting committee may be organized as a subcommittee of a standing ethics or other committee established by the facility or may be a separate and distinct committee. Four members of the patient care consulting committee shall constitute a quorum of the patient care consulting committee.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the health care is to be rendered or withheld.

"Qualified advance directive facilitator" means a person who has successfully completed a training program approved by the Department of Health for providing assistance in completing and executing a written advance directive, including successful demonstration of competence in assisting a person in completing and executing a valid advance directive and successful passage of a written examination.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

§ 54.1-2983. Procedure for making advance directive; notice to physician.

Any adult capable of making an informed decision may, at any time, make a written advance directive to address any or all forms of health care in the event the declarant is later determined to be incapable of making an informed decision. A written advance directive shall be signed by the declarant in the presence of two subscribing witnesses and may (i) specify the health care the declarant does or does not authorize; (ii) appoint an agent to make health care decisions for the declarant; and (iii) specify an anatomical gift, after the declarant's death, of all of the declarant's body or an organ, tissue or eye donation pursuant to Article 2 (§ ~~32.1-289.2~~ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1. A written advance directive may be submitted to the Advance Health Care Directive Registry, pursuant to Article 9 (§ 54.1-2994 et seq.).

Further, any adult capable of making an informed decision who has been diagnosed by his attending physician as being in a terminal condition may make an oral advance directive (i) directing the specific health care the declarant does or does not authorize in the event the declarant is incapable of making an informed decision, and (ii) appointing an agent to make health care decisions for the declarant under the circumstances stated in the advance directive if the declarant should be determined to be incapable of making an informed decision. An oral advance directive shall be made in the presence of the attending physician and two witnesses.

An advance directive may authorize an agent to take any lawful actions necessary to carry out the declarant's decisions, including, but not limited to, granting releases of liability to medical providers, releasing medical records, and making decisions regarding who may visit the patient.

It shall be the responsibility of the declarant to provide for notification to his attending physician that an advance directive has been made. If an advance directive has been submitted to the Advance Health Care Directive Registry pursuant to Article 9 (§ 54.1-2994 et seq.), it shall be the responsibility of the declarant to provide his attending physician, legal

representative, or other person with the information necessary to access the advance directive. In the event the declarant is comatose, incapacitated or otherwise mentally or physically incapable of communication, any other person may notify the physician of the existence of an advance directive and, if applicable, the fact that it has been submitted to the Advance Health Care Directive Registry. An attending physician who is so notified shall promptly make the advance directive or a copy of the advance directive, if written, or the fact of the advance directive, if oral, a part of the declarant's medical records.

In the event that any portion of an advance directive is invalid or illegal, such invalidity or illegality shall not affect the remaining provisions of the advance directive.

§ 57-48. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Agriculture and Consumer Services.

"Charitable organization" means any person that is or holds itself out to be organized or operated for any charitable purpose, or any person that solicits or obtains contributions solicited from the public. "Charitable organization" does not include (i) any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political campaign committee or political action committee or other political committee required by state or federal law to file a report or statement of contributions and expenditures; or (iii) any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt charitable organization or on behalf of an organization excluded from the definition of charitable organization.

"Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting, or intervening in litigation.

"Charitable sales promotion" means advertised sales that feature the names of both the commercial co-venturer and the charitable or civic organization and that state that the purchase or use of the goods, services, entertainment, or any other thing of value that the commercial co-venturer normally sells will benefit the charitable or civic organization or its purposes. To qualify as a charitable sales promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer usually charges without the charitable sales promotion and the consumer retains the thing of value.

"Civic organization" means any local service club, veterans post, fraternal society or association, volunteer fire or rescue group, or local civic league or association of 10 or more persons not organized for profit but operated exclusively for educational or charitable purposes as defined in this section, including the promotion of community welfare, and the net earnings of which are devoted exclusively to charitable, educational, recreational, or social welfare purposes.

"Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a specified limited period of time.

"Commissioner" means the Commissioner of Agriculture and Consumer Services or a member of his staff to whom he may delegate his duties under this chapter.

"Contribution" means any gift, bequest, devise, or other grant of any money, credit, financial assistance, or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance, or property received from any governmental authority. "Contribution" does not include any donation of blood or any gift made pursuant to Article 2 (§ ~~32.1-289.2~~ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1.

"Department" means the Department of Agriculture and Consumer Services.

"Federated fund-raising organization" means any federation of independent charitable organizations that have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

"File with the Commissioner" means depositing the originals of the documents required to be filed, along with the payment of the appropriate fee and all supporting documents with the Department or submitting the required documents and any appropriate attachments and fees by utilizing an online filing system approved by the Commissioner.

"Fund-raising expenses" means the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

"Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold offices. "Membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

"Parent organization" means that part of a charitable organization that coordinates, supervises, or exercises control over policy, fund raising, and expenditures or assists or advises one or more chapters, branches, or affiliates.

"Person" means any individual, organization, trust, foundation, association, partnership, corporation, society, or other group or combination acting as a unit.

"Professional fund-raising counsel" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic organization, but who actually solicits no contributions as a part of

such services. A bona fide salaried officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional fund-raising counsel.

"Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees who are specially employed by or for a charitable or civic organization and are engaged in the solicitation of contributions under the direction of such person or any person who, for a financial or other consideration, plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable or civic organization in connection with the solicitation of contributions but does not qualify as a professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt charitable organization or a bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional solicitor.

"Sale," "sell," and "sold" mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

"Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose, including, without limitation, the following methods of requesting such contribution:

1. Any oral or written request;
2. Any announcement to the press, over the radio or television, or by telephone or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;
3. The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support; or
4. The sale of, offer, or attempt to sell, any advertisement, advertising space, subscription, ticket, or any service or tangible item in connection with which any appeal is made for any charitable purpose or where the name of any charitable or civic organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose.

"Solicitation," as defined in this section, shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

"Terrorists and terrorist organizations" means any person, organization, group, or conspiracy who assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339B, or who commits or attempts to commit acts of terrorism, as defined in § 18.2-46.4.

2. That §§ 18.2-62 and 32.1-289.2 of the Code of Virginia are repealed.

CHAPTER 466

An Act to amend and reenact § 16.1-300 of the Code of Virginia, relating to confidentiality of juvenile records; exceptions.

[S 1206]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-300 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-300. Confidentiality of Department records.

A. The social, medical, psychiatric, and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) referred to a court service unit, or (iv) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;
2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.);
3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the child's attorney;
4. Any person who has reached the age of majority and requests access to his own records or reports;
5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;
6. *The Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services in accordance with subsection A of § 16.1-277.02 regarding, a juvenile who is the subject of the record and the Department of Behavioral Health and Developmental Services or any local community services board that is providing treatment, services, or care for a juvenile who is the subject of the record for a purpose relevant to the provision of the treatment, services, or care when*

these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to juveniles who are the subject of the records. Prior to making any report or record open for inspection, the court service unit or Department of Juvenile Justice shall determine which reports or records are relevant to the treatment, services, or care of such juvenile and shall limit such inspection to such relevant reports or records. Any local department of social services or local community services board that inspects any social, medical, psychiatric, and psychological reports and records of juveniles in accordance with this subdivision shall not disseminate any information received from such inspection unless such dissemination is expressly required by law;

~~6.~~ 7. Any other person, agency or institution, including any law-enforcement agency, school administration, or probation office by order of the court, having a legitimate interest in the case, the juvenile, or in the work of the court;

~~7.~~ 8. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the confidential information is for the provision of treatment or rehabilitation services for the juvenile who is the subject of the information, (ii) when the requesting party has custody or is providing supervision for a juvenile and the release of the confidential information is in the interest of maintaining security in a secure facility, as defined by § 16.1-228 if the facility is located in Virginia, or as similarly defined by the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release of the confidential information is for consideration of admission to any group home, residential facility, or postdispositional facility, and copies of the records in the custody of such home or facility shall be destroyed if the child is not admitted to the home or facility;

~~8.~~ 9. Any attorney for the Commonwealth, any pretrial services officer, local community-based probation officer and adult probation and parole officer for the purpose of preparing pretrial investigation, including risk assessment instruments, presentence reports, including those provided in § 19.2-299, discretionary sentencing guidelines worksheets, including related risk assessment instruments, as directed by the court pursuant to subsection C of § 19.2-298.01 or any court-ordered post-sentence investigation report;

~~9.~~ 10. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions; or any state criminal justice agency that is conducting research, provided that the agency agrees that all information received shall be kept confidential, or released or published only in aggregate form;

~~10.~~ 11. With the exception of medical, psychiatric, and psychological records and reports, any full-time or part-time employee of the Department of State Police or of a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is entitled to any information related to a criminal street gang, including that a person is a member of a criminal street gang as defined in § 18.2-46.1. Information shall be provided by the Department to law enforcement without their request to aid in initiating an investigation or assist in an ongoing investigation of a criminal street gang as defined in § 18.2-46.1. This information may also be disclosed, at the Department's discretion, to a gang task force, provided that the membership (i) consists of only representatives of state or local government or (ii) includes a law-enforcement officer who is present at the time of the disclosure of the information. The Department shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall divulge such information except in connection with gang-activity intervention and prevention, a criminal investigation regarding a criminal street gang as defined in § 18.2-46.1 that is authorized by the Attorney General or by the attorney for the Commonwealth, or in connection with a prosecution or proceeding in court;

~~11.~~ 12. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as permitted under subsection B of § 66-3.2;

~~12.~~ 13. Any state or local correctional facility as defined in § 53.1-1 when such facility has custody of or is providing supervision for a person convicted as an adult who is the subject of the reports and records. The reports and records shall remain confidential and shall be open for inspection only in accordance with this section; and

~~13.~~ 14. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

A designated individual treating or responsible for the treatment of a person may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in subsection A, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.

If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall ~~(i)~~ (a) inform the individual making the request of the action taken to withhold any information and the

reasons for such action; ~~(ii)~~ (b) provide such individual with as much information as is deemed appropriate under the circumstances; and ~~(iii)~~ (c) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court ~~(a)~~ (1) having jurisdiction over the facility where the child is currently placed or ~~(b)~~ (2) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.

2. That the Virginia Commission on Youth shall convene a work group to include representatives from the Department of Juvenile Justice, the Department of Social Services, the Department of Behavioral Health and Developmental Services, the Department of Education, youth and families with lived experience in the juvenile justice and child welfare systems, representatives of Virginia juvenile justice advocacy groups, representatives of local public defender offices, and representatives from other relevant state or local entities. The work group shall review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families. The work group shall report its findings and recommendations to the Governor and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2021.

CHAPTER 467

An Act to amend and reenact §§ 9.1-102, 9.1-108, and 9.1-112, as they shall become effective, of the Code of Virginia, relating to membership on Criminal Justice Services Board and Committee on Training; law-enforcement training.

[S 1256]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102, 9.1-108, and 9.1-112, as they shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 9.1-102. (Effective March 1, 2021) Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the time required for completion of such training. Such compulsory minimum training standards shall include crisis intervention training in accordance with clause (i) of § 9.1-188;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant

women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training academies approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the

preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties;

j. Missing children, missing adults, and search and rescue protocol; and

k. The handling and use of tear gas or other gases and kinetic impact munitions, as defined in § 19.2-83.3, that embody current best practices for using such items as a crowd control measure or during an arrest or detention of another person;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation techniques; and (iii) training in the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards that strengthen and improve such programs, including sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, including school security officers described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VSCS) pursuant to § 9.1-184. Such training standards shall be specific to the role and responsibility of school security officers and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent development and brain research. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer

working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research;

55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-1723.1 that also addresses the storage and maintenance of body-worn camera system records;

56. Establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of detector canines used by the Department of Corrections, and a central database on the performance and effectiveness of such detector canines that requires the Department of Corrections to submit comprehensive information on each canine handler and detector canine, including the number and types of calls and searches, substances searched for and whether or not detected, and the number of false positives, false negatives, true positives, and true negatives;

57. Establish compulsory training standards for basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency;

58. Establish guidelines and standards for psychological examinations conducted pursuant to subsection C of § 15.2-1705;

59. Establish compulsory in-service training standards, *to include frequency of retraining*, for law-enforcement officers in the following subjects: (i) relevant state and federal laws; (ii) awareness of cultural diversity and the potential for bias-based profiling as defined in § 52-30.1; (iii) de-escalation techniques; (iv) working with individuals with disabilities, mental health needs, or substance use disorders; and (v) the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

60. Develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-service, and advanced training standards to be employed by criminal justice training academies approved by the Department when conducting training;

61. Adopt statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and appropriate due process procedures for decertification based on serious misconduct in violation of those standards;

62. Establish and administer a waiver process, in accordance with §§ 2.2-5515 and 15.2-1721.1, for law-enforcement agencies to use certain military property. Any waivers granted by the Criminal Justice Services Board shall be published by the Department on the Department's website;

63. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to include crisis intervention training in accordance with clause (ii) of § 9.1-188;

64. Advise and assist the Department of Behavioral Health and Developmental Services, and support local law-enforcement cooperation, with the development and implementation of the Marcus alert system, as defined in § 37.2-311.1, including the establishment of local protocols for law-enforcement participation in the Marcus alert system pursuant to § 9.1-193 and for reporting requirements pursuant to §§ 9.1-193 and 37.2-311.1; and

65. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ 9.1-108. (Effective March 1, 2021) Criminal Justice Services Board membership; terms; vacancies; members not disqualified from holding other offices; designation of chairmen; meetings; compensation.

A. The Criminal Justice Services Board is established as a policy board within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of 32 members as follows: the Chief Justice of the Supreme Court of Virginia, or his designee; the Attorney General or his designee; the Superintendent of the Department of State Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; the Chairman of the Parole Board; the Executive Director of the Virginia Indigent Defense Commission or his designee; and the Executive Secretary of the Supreme Court of Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the Superintendent of the Department of State Police, the Director of the Department of Corrections, the Director of the Department of Juvenile Justice, or the Chairman of the Parole Board will be absent from a Board meeting, he may appoint a member of his staff to represent him at the meeting.

Twenty members shall be appointed by the Governor from among citizens of the Commonwealth. At least one shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01, one shall be a representative of a social justice organization *that is engaged in advancing inclusion and human rights*, one shall be a mental health service provider, and two shall represent community interests, at least one of whom shall represent the community interests of minority individuals from one of the four groups defined in subsection F of § 2.2-4310. The remainder shall be representative of the broad categories of state and local governments, criminal justice systems, and law-enforcement agencies, including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense counsel, the judiciary, correctional and rehabilitative activities, and other locally elected and appointed administrative and legislative officials. Among these members there shall be two sheriffs representing the Virginia Sheriffs' Association selected from among names submitted by the Association; one member who is an active duty law-enforcement officer appointed after consideration of the names, if any, submitted by police or fraternal associations that have memberships of at

least 1,000; two representatives of the Virginia Association of Chiefs of Police appointed after consideration of the names submitted by the Association, if any; one attorney for the Commonwealth appointed after consideration of the names submitted by the Virginia Association of Commonwealth's Attorneys, if any; one person who is a mayor, city or town manager, or member of a city or town council representing the Virginia Municipal League appointed after consideration of the names submitted by the League, if any; one person who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of Counties appointed after consideration of the names submitted by the Association, if any; one member representing the Virginia Association of Campus Law Enforcement Administrators appointed after consideration of the names submitted by the Association, if any; one member of the Private Security Services Advisory Board; and one representative of the Virginia Association of Regional Jails appointed after consideration of the names submitted by the Association, if any.

Four members of the Board shall be members of the General Assembly appointed as follows: one member of the House Committee on Appropriations appointed by the Speaker of the House of Delegates after consideration of the recommendation by the committee's chairman; one member of the House Committee for Courts of Justice appointed by the Speaker of the House of Delegates after consideration of the recommendation by the committee's chairman; one member of the Senate Committee on Finance and Appropriations appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee on Finance and Appropriations; and one member of the Senate Committee on the Judiciary appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee on the Judiciary. The legislative members shall serve terms coincident with their terms of office and shall serve as ex officio, nonvoting members. Legislative members may be reappointed for successive terms.

B. The members of the Board appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Gubernatorial appointed members of the Board shall not be eligible to serve for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Board shall be filled in the same manner as the original appointment, but for the unexpired term.

C. The Governor shall appoint a chairman of the Board for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The Board shall designate one or more vice-chairmen from among its members, who shall serve at the pleasure of the Board.

D. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

F. The Board may adopt bylaws for its operation.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for the performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Criminal Justice Services.

§ 9.1-112. (Effective March 1, 2021) Committee on Training; membership.

There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 17 of § 9.1-102. The Committee on Training shall be composed of 19 members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; a member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia Sheriffs' Association; two representatives of the Virginia Association of Chiefs of Police; the active-duty law-enforcement officer representing police and fraternal associations; the attorney for the Commonwealth representing the Virginia Association of Commonwealth's Attorneys; an attorney representing the Virginia Indigent Defense Commission; a representative of the Virginia Municipal League; a representative of the Virginia Association of Counties; a mental health service provider; a regional jail superintendent representing the Virginia Association of Regional Jails; one citizen representing a social justice organization *that is engaged in advancing inclusion and human rights*; two citizens representing community interests, at least one of whom shall represent the community interests of minority individuals from one of the four groups defined in subsection F of § 2.2-4310; and one member designated by the chairman of the Board from among the other appointments made by the Governor.

The Committee on Training shall annually elect its chairman from among its members.

The Committee on Training may appoint curriculum review committees to assist the Committee on Training in carrying out its duties under this section. Any curriculum review committee shall be composed of nine members appointed by the Committee on Training. At least one member shall be a representative from the Department of State Police Training Academy, one member shall be a representative of a regional criminal justice academy, one member shall be a representative of an independent criminal justice academy, and one member shall be a representative of a community-based organization. The remainder shall be selected from names submitted by the Department of individuals with relevant experience.

CHAPTER 468

An Act to amend the Code of Virginia by adding in Title 9.1 a chapter numbered 15, consisting of sections numbered 9.1-1500, 9.1-1501, and 9.1-1502, relating to certifications for victims of qualifying criminal activity.

[S 1468]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 9.1 a chapter numbered 15, consisting of sections numbered 9.1-1500, 9.1-1501, and 9.1-1502, as follows:

CHAPTER 15.

CERTIFICATIONS FOR VICTIMS OF QUALIFYING CRIMINAL ACTIVITY.

§ 9.1-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Certification form" means a certification form or declaration completed by a certifying agency that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity. Such form or declaration may include any information required (i) by 8 U.S.C. § 1184(p), including the current United States Citizenship and Immigration Services Form I-918, Supplement B, or any successor form for purposes of obtaining a U visa, or (ii) by 8 U.S.C. § 1184(o), including the current United States Citizenship and Immigration Services Form I-914, Supplement B, or any successor form for purposes of obtaining a T visa.

"Certifying agency" means a state or local law-enforcement agency, an attorney for the Commonwealth, the Attorney General, or any other agency or department employing law-enforcement officers as defined in § 9.1-101 that has responsibility for the investigation or prosecution of a qualifying criminal activity.

"Certifying official" means the head of the certifying agency, a law-enforcement officer as defined in § 9.1-101, or any person employed by a certifying agency in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency. A certifying official may act on behalf of his employing certifying agency or on behalf of another certifying agency through an agreement with the other certifying agency. Each certifying agency shall designate at least one certifying official for its agency.

"Qualifying criminal activity" means any activity, regardless of the stage of detection, investigation, or prosecution, designated in 8 U.S.C. § 1101(a)(15)(U)(iii), or in any implementing federal regulations, supplementary information, guidance, and instructions.

"Victim of qualifying criminal activity" means a person described in 8 U.S.C. § 1101(a)(15)(U)(i)(III), in the definition of "victim of a severe form of trafficking" in 22 U.S.C. § 7102(11), or in any implementing federal regulations, supplementary information, guidance, and instructions.

§ 9.1-1501. Certifications for victims of qualifying criminal activity.

A. A certifying official shall (i) respond to requests for completion of certification forms received by the agency, as required by this section, and (ii) make information regarding the agency's procedures for certification requests publicly available for victims of qualifying criminal activity and their representatives.

B. Any person seeking completion of a certification form shall first submit a request for completion of the certification form to any certifying official for the certifying agency that detected, investigated, or prosecuted the criminal activity upon which the request is based.

C. A request for completion of a certification form under this section may be submitted by the victim of qualifying criminal activity or a representative of the person seeking the certification form. Such representative of the person may include an attorney, a licensed clinical social worker, a guardian ad litem, or an employee of a crime victim and witness assistance program or a domestic violence or sexual assault services provider.

D. Upon receiving a request for completion of a certification form, a certifying official shall provide a response to the request within 120 days. Within such time, the certifying official shall complete the certification except (i) if the person making the request for completion of the certification form is in federal immigration removal proceedings or detained, the certifying official shall complete and provide the certification form to the person no later than 21 business days after the request is received by the certifying agency; (ii) if the twenty-first birthdate of the applicant's children or the eighteenth birthdate of the applicant's sibling is within 120 days of the date of the request, the certifying official shall respond within 30 days; (iii) if the person's children, parents, or siblings under clause (ii) would become ineligible for benefits under 8 U.S.C. § 1184(p) and 1184(o) in less than 21 business days of receipt of the certification request, the certifying official shall complete and provide a certification form to the person within seven days; or (iv) a certifying official may extend the time period by which it must complete and provide the certification form to the person as required under this subsection upon written agreement with the person or person's representative. If the certifying official cannot determine whether the applicant is a victim of qualifying criminal activity or determines that the applicant does not qualify, the certifying official shall provide a written explanation to the person or the person's representative setting forth reasons why the available evidence does not support a finding that the person is a victim of qualifying criminal activity.

Requests for expedited completion of a certification form under clause (i), (ii), or (iii) shall be affirmatively raised by the person or that person's representative in writing to the certifying agency and shall establish that the person is eligible for expedited review.

E. A certifying official who issued an initial certification form shall complete and reissue a certification form within 90 business days of receiving a request from a victim to reissue the certification form. If the victim seeking recertification has a deadline to respond to a request for evidence from United States Citizenship and Immigration Services, the certifying official shall complete and issue the form no later than 21 business days after the request is received by the certifying official. Requests for expedited recertification shall be affirmatively raised by the victim or victim's representative in writing and shall establish that the victim is eligible for expedited review. A certifying official may extend the deadline by which he will complete and reissue the certification form only upon written agreement with the victim or victim's representative.

F. Notwithstanding any other provision of this section, a certifying official's completion of a certification form shall not be considered sufficient evidence that an applicant for a U or T visa has met all eligibility requirements for that visa, and completion of a certification form by a certifying official shall not be construed to guarantee that the victim will receive federal immigration relief. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U or T visa. Completion of a certification form by a certifying official merely verifies factual information relevant to the federal immigration benefit sought, including information relevant for federal immigration officials to determine eligibility for a U or T visa. By completing a certification form, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge. No provision in this chapter limits the manner in which a certifying official or certifying agency may describe whether the person has cooperated or been helpful to the agency or provide any additional information the certifying official or certifying agency believes might be relevant to a federal immigration officer's adjudication of a U or T visa application. If, after completion of a certification form, the certifying official later determines that the person was not the victim of qualifying criminal activity or the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he is a victim, the certifying official may notify United States Citizenship and Immigration Services in writing.

G. A certifying official or agency receiving requests for completion of certification forms shall not disclose the immigration status of a victim or person requesting the certification form, except to comply with federal or state law or a legal process or if authorized by the victim or person requesting the certification form.

§ 9.1-1502. Proceedings for Enforcement of Chapter.

A. A certifying agency or certifying official acting or failing to act in good faith in compliance with this chapter shall have immunity from civil or criminal liability that may otherwise occur as a result of so acting or failing to act, except for gross negligence or willful or wanton misconduct.

B. If a certifying agency fails to respond within the statutory timeframes or refuses to certify that an applicant was a victim of qualifying criminal activity, the applicant may petition a circuit court to review the determination of the certifying agency within 30 days of such determination or within 30 days of the expiration of the statutory timeframe in subsection D. The circuit court shall conduct an evidentiary hearing on such petition within 30 days of the filing of the petition. Upon conducting a hearing and the circuit court being satisfied that the applicant having proven their eligibility for completion of a certification form by a preponderance of the evidence and the circuit court having found that the certifying agency's refusal to sign was unreasonable, a circuit court judge may execute the certification form. In assessing the reasonableness of the certifying agency's decision or failure to respond, the circuit court may consider whether the applicant has complied with the terms of this section and whether circumstances exist that would justify a deferral of a decision including whether a certification would jeopardize an ongoing criminal investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, result in the destruction of evidence, or the applicant's cooperation is not complete.

Upon finding that the certifying agency denied the application without a factual or legal justification, or failed to respond to the applicant, the circuit court shall make an award of reasonable costs and attorney fees to a prevailing applicant. Such determination shall be without prejudice to any future proceeding premised upon a material change in circumstances.

C. Any petition filed pursuant to subsection B, along with the record of all hearings and all other pleadings and papers filed, and orders entered in connection with such petition shall be kept under seal by the clerk unless otherwise ordered by the court.

D. Nothing in this chapter shall be construed to alter or diminish the duties and requirements of a law-enforcement officer, as defined in § 9.1-101, the attorney for the Commonwealth, or the Attorney General from disclosing exculpatory information to a defendant in a criminal case.

CHAPTER 469

An Act to amend the Code of Virginia by adding a section numbered 2.2-4328.1, relating to the Virginia Public Procurement Act; preference for energy-efficient and water-efficient goods.

[H 1811]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 2.2-4328.1 as follows:****§ 2.2-4328.1. Preference for energy-efficient and water-efficient goods.**

A. As used in this section, "FEMP" means the Federal Energy Management Program.

B. When in the course of procuring goods, if a state agency receives two or more bids for products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, such public body may only select among those bids.

C. When in the course of procuring goods, if a local public body receives two or more bids for products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, such local public body may only select among those bids unless, before selecting a different bid, the local public body provides a written statement that demonstrates the cost of the products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified was unreasonable.

CHAPTER 470

An Act to amend and reenact § 32.1-162.12 of the Code of Virginia, relating to home care organizations; personal care services; supervision; regulations.

[H 1831]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-162.12 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-162.12. Regulations.**

The Board shall prescribe such regulations governing the activities and services provided by home care organizations as may be necessary to protect the public health, safety, and welfare. Such regulations shall include, but not be limited to, an informed consent contract, the qualifications and supervision of licensed and nonlicensed personnel, a complaint procedure for consumers, the provision and coordination of treatment and services provided by the organization, clinical records kept by the organization, utilization and quality control review procedures, and arrangements for the continuing evaluation of the quality of care provided. Regulations shall be appropriate for the categories of service defined in § 32.1-162.7. *Regulations governing the delivery of personal care services shall provide for supervision of home care attendants providing personal care services by a licensed nurse through use of interactive audio or video technology.*

CHAPTER 471

An Act to amend and reenact §§ 24.2-101, 24.2-416.1, 24.2-603, 24.2-653.1, 24.2-704, 24.2-705, 24.2-706 through 24.2-711, and 24.2-712 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-103.2, 24.2-667.1, and 24.2-707.1, relating to absentee voting; procedural and process reforms; availability and accessibility reforms; penalty.

[H 1888]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-101, 24.2-416.1, 24.2-603, 24.2-653.1, 24.2-704, 24.2-705, 24.2-706 through 24.2-711, and 24.2-712 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-103.2, 24.2-667.1, and 24.2-707.1 as follows:****§ 24.2-101. Definitions.**

As used in this title, unless the context requires a different meaning:

"Ballot scanner machine" means the electronic counting machine in which a voter inserts a marked ballot to be scanned and the results tabulated.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Department of Elections" or "Department" means the state agency headed by the Commissioner of Elections.

"Direct recording electronic machine" or "DRE" means the electronic voting machine on which a voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is recorded electronically.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"General registrar" means the person appointed by the electoral board of a county or city pursuant to § 24.2-110 to be responsible for all aspects of voter registration, in addition to other duties prescribed by this title. When performing duties related to the administration of elections, the general registrar is acting in his capacity as the director of elections for the locality in which he serves.

"Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device operated by a voter, is available for verification by the voter at the time the ballot is cast, and is then fed into and scanned by a separate counting machine capable of reading ballots and tabulating results.

"Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve at a polling place for any election.

"Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

"Polling place" means the structure that contains the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

"Precinct" means the territory designated by the governing body of a county, city, or town to be served by one polling place.

"Primary" or "primary election" means an election held for the purpose of selecting a candidate to be the nominee of a political party for election to office.

"Printed ballot" means a tangible ballot that is printed on paper and includes both machine-readable ballots and paper ballots.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) a registered voter. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law. Whether a signature should be counted towards satisfying the signature requirement of any petition shall be determined based on the signer of the petition's qualification to vote. For purposes of determining if a signature on a petition shall be included in the count toward meeting the signature requirements of any petition, "qualified voter" shall include only persons maintained on the Virginia voter registration system (a) with active status and (b) with inactive status who are qualified to vote for the office for which the petition was circulated.

"Qualified voter in a town" means a person who is a resident within the corporate boundaries of the town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified voter.

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For purposes of applying the precinct size requirements of § 24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall

include only persons maintained on the Virginia voter registration system with active status. For purposes of determining if a signature on a petition shall be included in the count toward meeting the signature requirements of any petition, "registered voter" shall include only persons maintained on the Virginia voter registration system (i) with active status and (ii) on inactive status who are qualified to vote for the office for which the petition was circulated.

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, applications, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method.

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain. A place of abode is the physical place where a person dwells.

"Special election" means any election that is held pursuant to law to fill a vacancy in office or to hold a referendum.

"State Board" or "Board" means the State Board of Elections.

"Virginia voter registration system" or "voter registration system" means the automated central record-keeping system for all voters registered within the Commonwealth that is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-103.2. Duties of the Department of Elections related to accessible absentee voting.

The Department of Elections shall make available to all localities a tool to allow a voter with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. The Department shall develop instructions regarding the use and availability of such tool, including instructions on making the tool available to voters and counting ballots voted with such tool.

§ 24.2-416.1. Voter registration by mail.

A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20302 et seq.); (ii) is provided the right to vote otherwise than in person under § 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20102(b)(2)(B)(ii)), including any disabled voter and any voter age 65 or older; (iii) is entitled to vote by absentee ballot by reason of his confinement while awaiting trial or for having been convicted of a misdemeanor; (iv) is entitled to vote otherwise than in person under other federal law; (v) is a full-time student in an institution of higher education; or (vi) requests to vote an absentee ballot by mail for presidential and vice-presidential elections only, for any reason, as entitled by federal law.

§ 24.2-603. Hours polls to be open; closing the polls.

At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the election and closed at 7:00 p.m. on the same day except as provided for central absentee voter precincts pursuant to subsection F G of § 24.2-712.

At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes. The officers of election shall list the names of all qualified voters in line before the polling place at 7:00 p.m. and permit those voters and no others to vote after 7:00 p.m.

§ 24.2-653.1. Voters who did not receive absentee ballots; provisional ballots.

Any person who offers to vote pursuant to § 24.2-643 at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote, but whose name is shown on the pollbook as having applied for an absentee ballot, shall be entitled to cast a provisional ballot if, for any reason, he did not receive or has lost the absentee ballot *or has chosen to not vote absentee*. In such case, he shall be required to present to the officer of election a statement signed by him that he did not receive the ballot or, has lost the ballot, *or has not cast the ballot*, subject to felony penalties for making false statements as pursuant to § 24.2-1016, before being given a printed ballot and permitted to vote the provisional ballot. The electoral board shall process the ballot in accordance with the provisions of § 24.2-653.01 and the instructions of the State Board.

§ 24.2-667.1. Reporting of results; absentee votes.

The general registrar shall report to the Department of Elections the number and results of absentee ballots cast early in person pursuant to § 24.2-701.1 separately from the number and results of all other absentee ballots.

§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.

A. The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or write.

B. *On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall send by mail to him a ballot return envelope and accessible instructions provided by the Department for using such tool and returning the marked ballot. The general registrar shall cause the outer envelope containing the ballot*

return envelope and accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to the voter. For purposes of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile sticker.

An absentee voter using such tool shall return the marked absentee ballot in accordance with the instructions provided by the Department.

No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's signature or address is anywhere on the ballot return envelope.

C. On receipt of an application from an applicant marked to indicate that he will require assistance due to any other disability or if an applicant offered the ballot marking tool pursuant to subsection B declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

§ 24.2-705. Emergency applications and absentee ballots for individual emergencies.

A. Any person registered and otherwise qualified to vote may request at any time prior to 2:00 p.m. on the day preceding the election that he be permitted to vote by emergency absentee ballot with the assistance of his designated representative. The Department shall prescribe a form and the instructions for submitting such a request to the general registrar that shows that the voter requesting an emergency absentee ballot (i) was unable to apply for an absentee ballot by the deadline due to his hospitalization or illness, or the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot or (ii) will be unable to vote on election day due to his hospitalization or illness, the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot that occurred after the deadline for applying for an absentee ballot.

The representative designated by a voter for purposes of this subsection shall be age 18 or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.

The requesting voter shall sign the form and state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the form are true and correct. His signature shall be witnessed by the designated representative, who shall sign and return the completed form to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. If the requesting voter is blind or physically unable to sign the form, his designated representative shall write on the signature line that the voter is blind or unable to sign his form.

On receipt of the completed form and a determination of the qualification of the requesting voter to vote, the general registrar shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the requesting voter.

The requesting voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The designated representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the designated representative of the requesting voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the statement on its reverse side was signed by the requesting voter; and (iv) the ballot was returned, under seal, to the general registrar at the registrar's office.

The ballot shall be counted only if the ballot is received by the general registrar prior to the close of polls, and the general registrar shall deliver the ballot to the officers of election at each appropriate precinct pursuant to § 24.2-710.

B. A qualified voter may vote absentee in person in the office of the general registrar through 2:00 p.m. on the day immediately preceding the election by complying with the requirements of § 24.2-643 and affirming that one of the following emergency circumstances will prevent him from voting on election day:

1. After 12:00 p.m. on the Saturday before the election, an obligation arose that requires the voter be absent from his county or city on election day for (i) his business, profession, or occupation; (ii) the hospitalization of the voter or a member of his immediate family; or (iii) the death of a member of his immediate family. For purposes of this subdivision, "immediate family" means the child, grandchild, parent, grandparent, legal guardian, sibling, or spouse of the voter.

2. The voter is an officer of election who was assigned after 12:00 p.m. on the Saturday before the election to work in a precinct other than his own on election day.

C. The Commissioner of Elections may act administratively to facilitate absentee voting by qualified voters who are emergency workers or utility workers or who otherwise respond to and offer assistance to an area in which a state of emergency has been declared by an appropriate authority. These administrative actions may include central issuance and acceptance of absentee ballots for federal and state elections using the systems and procedures developed for voters who are members of a uniformed service.

§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications received. The list shall be available for inspection and copying and the applications shall be available

for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with ~~printing only on the flap side~~, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Date _____

Signature of witness _____ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. ~~A properly addressed~~ An envelope, *properly addressed and postage prepaid*, for the return of the ballot to the general registrar by mail or by the applicant in person, *or to a drop-off location*.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. *Such instructions shall include information on the sites of all drop-off locations in the county or city.*

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

C. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions B 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

D. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions B 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

E. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

§ 24.2-707. How ballots marked and returned.

A. On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to § 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery service but does not include delivery by a personal courier service or other individual except as provided by §§ 24.2-703.2 and 24.2-705.

C. Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

§ 24.2-707.1. Drop-off locations for return of absentee ballots.

A. The general registrar of each county or city shall establish at the office of the general registrar and each voter satellite office in operation for an election a drop-off location for the purpose of allowing the deposit of completed absentee ballots for such election. On the day of the election, there shall also be a drop-off location at each polling place in operation for the election. The general registrar may establish additional drop-off locations within the county or city as he deems necessary. All drop-off locations shall be accessible; be on public property, unless located at a polling place; and otherwise comply with any criteria for drop-off locations set by the Department.

B. The Department shall set standards for the establishment and operation of drop-off locations, including necessary security requirements. The Department shall submit such standards annually by October 1 to the Chairmen of the House and Senate Committees on Privileges and Elections, the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations.

C. Not later than 55 days prior to any election, the general registrar shall post notice of the sites of the drop-off locations in the locality in the office of the general registrar and on the official website of the county or city. Such notice shall remain in the office of the general registrar and on the official website of the county or city for the duration of the period during which absentee ballots may be returned.

D. Absentee ballots shall be collected from drop-off locations in accordance with the instructions provided by the Department. Such instructions shall include chain of custody requirements and recordkeeping requirements. Absentee ballots shall be collected at least daily by (i) two officers of election or electoral board members representing the two major political parties where practicable or (ii) two employees from the office of the general registrar, unless the drop-off location

is in the office of the general registrar, in which case the general registrar or an assistant general registrar may collect the absentee ballots.

§ 24.2-708. Return of unused ballots; voting by applicant who did not receive or lost ballot; defaced ballots.

A. If for any reason a *Any* person, who has applied for and received a *an absentee* ballot, decides may choose not to vote absentee, he shall and shall be entitled to cast a ballot in accordance with the provisions of this subsection.

1. *The voter may, prior to the day of the election, return the ballot to the general registrar (i) unopened, in the sealed envelope in which it was sent to him or (ii) opened and unmarked, to the general registrar, before the day of the election in which the ballot was intended to be used.*

The general registrar shall note on the absentee voter applicant list *voter's record*, opposite the name of the person returning the ballot *voter*, the fact that the ballot was returned unused and the date of the return. ~~The general registrar and shall carefully preserve the ballot with all ballots returned unused and deliver them, together. Such ballots shall be delivered, with other returned ballots, to the officers of election on election day. A voter who has returned his unused ballot before the day of the election as provided herein~~ *The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or at a central absentee voter precinct on the day of the election. On the day of the election, (a) if the general registrar or an officer of election is able to confirm the return of the unused ballot, the voter shall be entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where the person is registered to vote, upon confirmation by the general registrar or an officer of election of the return of the unused ballot. If and (b) if the general registrar or an officer of election is unable to confirm the return of the unused ballot, the voter shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1. Notwithstanding the provisions of this subsection, a*

2. *The voter may, on the day of the election, return his unused ballot to his proper polling place or central absentee voter precinct on election day and shall be entitled to vote a regular ballot, and his the unused ballot shall be preserved with other unused ballots. The voter shall then be entitled to vote a regular ballot.*

3. *The voter may, on the day of the election, offer to vote at his proper polling place or at a central absentee voter precinct without returning his unused ballot, and he shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1.*

B. If for any reason a *Any* person who has applied for and has been sent an absentee ballot but does not receive the ballot or loses the ballot, he shall be entitled to cast another a ballot after presenting in accordance with the provisions of this subsection.

1. *The voter may, prior to the day of the election, present to the general registrar or officer of election a statement signed by him that he did not receive the ballot or has lost the ballot, Such statement shall be made subject to felony penalties for making false statements as pursuant to § 24.2-1016, and the voter shall then be entitled to cast a regular ballot. If such person offers*

2. *The voter may, on the day of the election, offer to vote at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote on the day of the elections, and he shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1.*

C. If a *Any* person who has applied for and has been sent an absentee ballot that has been unintentionally or accidentally defaced and rendered the ballot unfit for voting, he shall be entitled to cast a ballot after presenting in accordance with the provisions of this subsection.

1. *The voter may, prior to the day of the election, present the defaced ballot to the general registrar or an officer of election. The returned, and the ballot shall be marked spoiled by the general registrar or an officer of election and placed in a spoiled-ballot envelope to be retained with the ballots for the election. A voter who has returned his defaced ballot before the day of the election as provided herein* *The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or at a central absentee voter precinct on the day of the election. On the day of the election, (i) if the general registrar or an officer of election is able to confirm the return of the defaced ballot, the voter shall be entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote, upon confirmation by the general registrar or an officer of election of the return of the defaced ballot. If and (ii) if the general registrar or an officer of election is unable to confirm the return of the defaced ballot, the voter shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1. A voter who returns*

2. *The voter may, on the day of the election, present his defaced or unfit ballot to his proper polling place or central absentee voter precinct on election day shall be entitled to vote a regular ballot, and his the defaced or unfit ballot shall be preserved with other spoiled ballots. The voter shall then be entitled to vote a regular ballot.*

§ 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar or to a drop-off location in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar or to a drop-off location before the closing of the polls. *Any voter who is in line to return an absentee ballot at a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit his absentee ballot.* The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because (a) the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed or (b) it is not returned sealed in the outside envelope so long as it is returned sealed in the inner envelope.

B. Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) postmarked on or before the date of the election shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For purposes of this subsection, a postmark shall include any other official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service.

C. Notwithstanding the provisions of subsection A, any absentee ballot (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by a covered voter, as defined in § 24.2-452, shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

D. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

§ 24.2-709.1. Processing returned absentee ballots before election day; cure process.

Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) A. On receipt of an absentee ballot returned in person or by mail to the office of the general registrar or to a drop-off location before election day, the general registrar shall mark the date of receipt in the voter's record and shall examine the ballot envelopes envelope to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at A voter affirmation statement shall not be deemed to be incomplete on the sole basis of the voter's failure to provide (i) his full name or his middle initial, as long as the voter provided his full first and last name, or (ii) the date, or any part of the date, including the year, on which he signed the statement.

B. If the voter affirmation has been completed as required, the general registrar may open the sealed ballot envelope and insert the ballot in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If a general registrar does not choose to do so, the sealed ballot envelope shall be deposited into a secure container provided for such purpose, in which it shall remain until the general registrar initiates the process of opening the sealed ballot envelopes deposited into the secure container and inserting such ballots into optical scan counting equipment without initiating any ballot count totals. Such process shall be at the general registrar's discretion at any time prior to the seventh day immediately preceding the election but shall be mandatory beginning on the seventh day immediately preceding the election.

At least two officers of election, one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures sealed ballot envelopes are opened as authorized in or required by this section subsection. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

In the event that circumstances prevent a general registrar from complying with the provisions of this subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 and shall not invalidate the absentee ballots.

C. For any absentee ballot received by the Friday immediately preceding the day of the election, if the general registrar finds during the examination of the ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2-707 was not properly followed, and such error or failure would render the ballot void by law, the general registrar shall enter into the voter's record in the voter registration system that the absentee ballot has an issue requiring correction in order for it to be counted. This information shall be included on any absentee voter applicant list provided pursuant to subsection C of § 24.2-710.

Within three days of such finding, the registrar shall notify the voter in writing or by email of the error or failure and shall provide information to the voter on how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in this chapter if he is found to be entitled to vote. No absentee ballot needing correction shall be delivered to the officers of election at the appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to this subsection.

The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first ballot with other spoiled ballots.

§ 24.2-710. Absentee voter applicant lists.

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate

container provided for the purpose, in which they shall remain until the day of the election, unless the registrar opts to open sealed ballot envelopes in order to expedite the counting of absentee ballots in accordance with § 24.2-709.1.

A. *The provisions of this subsection shall apply only to those localities not using an electronic pollbook.* On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person or applying to vote absentee pursuant to § 24.2-705 for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

B. On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate container to the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

C. Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such lists shall be used only for campaign and political purposes. In no event shall any list furnished under this section contain (a) any voter's social security number or any part thereof, (b) any voter's day and month of birth, or (c) the residence address of any voter who has provided a post office box address to be used on public lists pursuant to § 24.2-418.

§ 24.2-711. Duties of electoral board, general registrar, and officers of election.

A. Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on the pollbook. The pollbook may be so marked prior to election day by the general registrar, the secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been marked prior to election day, before the polls open the officers of election at each precinct shall check the marks for accuracy and make any additions or corrections required.

The chief officer of election shall keep the copy of the absentee voter applicant list in the polling place as a public record open for inspection upon request at all times while the polls are open.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot and offers to vote in his precinct, the officers of election in the precinct shall determine the matter pursuant to §§ 24.2-653.1 and 24.2-708.

Immediately after the close of the polls, the container of absentee ballots shall be opened by the officers of election. As each ballot envelope is removed from the container, the name of the voter shall be called and checked as if the voter were voting in person. If the voter is found entitled to vote, an officer shall mark the voter's name on the pollbook with the first or next consecutive number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot envelope shall then be opened, and the ballot deposited in the ballot container without being unfolded or examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide in the statement on the back of the unopened envelope his full middle name or his middle initial, unless the voter also failed to provide his full first and last name. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope. At least two officers of election, one representing each political party, shall write and sign a statement of the cause for rejection on the envelope or on an attachment to the envelope.

When all ballots have been accounted for and either voted or rejected, the officers shall place the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this title.

B. Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

C. The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city ~~may shall~~ establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. ~~The decision to establish any A central~~ absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board and general registrar.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

~~The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.~~

D. Absentee ballots ~~may shall~~ be processed as required by ~~§ 24.2-711~~ 24.2-709.1 by the officers of election at the central absentee voter precinct prior to the closing of the polls. In the case of machine-readable ballots, the ballot container ~~may shall~~ be opened and the absentee ballots ~~may shall~~ be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals by the machines shall be ~~initiated prior to~~ transmitted outside of the central absentee voter precinct until after the closing of the polls.

In the case of absentee ballots that are counted by hand, the officers of election ~~may shall~~ begin tallying such ballots at any time after 3:00 p.m. noon on the day of the election in accordance with the procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy. No counts of such tallies shall be determined or transmitted outside of the central absentee voter precinct until after the closing of the polls.

The use of cellular telephones or other communication devices shall be prohibited in the central absentee voter precinct during such *processing and* tallying and until the closing of the polls. Any person present in the central absentee voter precinct shall sign a statement under oath that he will not transmit any counts prior to the closing of the polls. Any person who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.

E. As soon as the polls are closed in the county or city, the officers of election at the central absentee voter precinct shall proceed promptly to ascertain and record the total vote given by all absentee ballots and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6.

~~E. F.~~ The electoral board or general registrar may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and

2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

~~E. G.~~ The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct and provided further that the central absentee voter precinct is the same location as the office of the general registrar.

2. § 1. *That the Department of Elections shall enroll on the permanent absentee voter list pursuant to § 24.2-703.1 of the Code of Virginia, as it shall become effective, each voter enrolled, on or before June 30, 2021, on the special absentee voter applicant list pursuant to § 24.2-703.1 of the Code of Virginia, as it is currently effective, without any action necessary on the voter's part, unless the voter opts out of enrollment on the permanent absentee voter list. On or before July 1, 2021, the Department of Elections shall provide the means for a voter to opt out of being enrolled on the permanent absentee voter*

list. On or before July 1, 2021, the general registrars shall notify each voter enrolled on the special absentee voter applicant list that the voter will be enrolled on the permanent absentee voter list unless the voter so declines and shall provide instructions on how to do so.

CHAPTER 472

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.001, relating to public health emergency; emergency medical services agencies; real-time access to information.

[H 1989]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.001 as follows:

§ 32.1-48.001. Real-time information sharing for emergency medical services agencies.

A. The Department shall develop and implement a system for sharing information regarding confirmed cases of communicable diseases of public health threat with emergency medical services agencies in real time during a declared public health emergency related to a communicable disease of public health threat, in order to protect the health and safety of emergency medical services personnel and the public. Such system shall include information about the location of confirmed cases of the communicable disease of public health threat, including the address of such location; the number of confirmed and suspected cases of the communicable disease of public health threat at each such location; any measures implemented at such location to prevent exposing others to the communicable disease of public health threat; and any other information that the Department shall deem appropriate. Such system shall be updated in real time to reflect each confirmed case of the communicable disease of public health threat.

B. During a declared public health emergency related to a communicable disease of public health threat, every local and district health department in the Commonwealth shall report information regarding confirmed and suspected cases of the communicable disease of public health threat to the Department, in a format specified by the Board, for inclusion in the system developed pursuant to subsection A.

C. Information contained in the system developed pursuant to subsection A shall be made available to every emergency medical services agency in the Commonwealth and shall be used by such emergency medical services agencies for the purpose of (i) developing protocols to ensure the safety of emergency medical services personnel and the public when responding to calls for assistance at locations at which a case of the communicable disease of public health threat has been confirmed, including protocols related to appropriate staffing of the emergency medical services agency and the availability and use of appropriate equipment, including personal protective equipment, by emergency medical services personnel when responding to such calls, and (ii) during a declared public health emergency related to a communicable disease of public health threat, identifying specific locations at which a case of such communicable disease of public health threat has been confirmed for the purpose of implementing such protocols when responding to calls for assistance.

D. The Department shall make information submitted pursuant to subsection B and any other information contained in the system developed pursuant to subsection A available, upon request, to the Emergency Medical Services Advisory Board and each regional emergency medical services council, for the purpose of monitoring and improving the quality of emergency medical services in the Commonwealth.

E. The Department shall regularly consult with the Emergency Medical Services Advisory Board to identify the types of information that should be included in the system developed pursuant to subsection A and to revise reporting requirements for local and district health departments pursuant to subsection B.

F. Information contained in the system developed pursuant to subsection A shall be confidential and shall not be disclosed except in accordance with this section.

2. That the provisions of this act shall not become effective unless the Centers for Disease Control and Prevention (the CDC) approves a grant to the Commonwealth from the Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) program that is sufficient to fund the costs of the Department of Health (the Department) to establish and implement the information-sharing system created by this act. The Department shall apply to the CDC for such funding and shall report to the Governor and the General Assembly on the outcome of its application.

CHAPTER 473

An Act to amend and reenact §§ 2.2-1182 and 2.2-1183 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1804.1, relating to building standards for certain state and local buildings.

[H 2001]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1182 and 2.2-1183 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-1804.1 as follows:

§ 2.2-1182. Definitions.

A. This article shall be known and may be cited as the High Performance Buildings Act.

B. As used in this article, unless the context requires a different meaning:

"Centralized fleet" means the same as that term is defined in § 2.2-1173.

"High performance building certification program" means a public building design, construction, and renovation program that meets the requirements of VEES.

"Sufficient electric vehicle charging infrastructure" means provision or reservation of sufficient space to provide electric vehicle charging stations and related infrastructure, including transformers, service equipment, and large conduit, to support every centralized fleet vehicle that will be located at such building.

"VEES" means the Virginia Energy Conservation and Environmental Standards developed by the Department considering the U.S. Green Building Council (LEED) green building rating standard, the Green Building Initiative "Green Globes" building standard, and other appropriate requirements as determined by the Department.

§ 2.2-1183. Building standards; exemption; report.

A. Any executive branch agency or institution entering the design phase for the construction of a new building greater than 5,000 gross square feet in size, or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building, shall conform to VEES and the building shall be designed, ensure that such building:

1. Is designed, constructed, verified, and operated to comply with the high performance building certification program and VEES;

2. Has sufficient electric vehicle charging infrastructure. However, the provisions of this subdivision shall not apply to buildings located in the right-of-way of the Interstate System as that term is defined in § 33.2-100; and

3. Has features that permit the agency or institution to track the building's energy efficiency and associated carbon emissions, including metering of all electricity, gas, water, and other utilities.

B. Any executive branch agency or institution may exceed the design and construction standards required by subsection A, provided that such agency or institution obtains prior written approval from the Director of the Department.

C. The Director of the Department may grant an exemption from the design and construction standards required by subsection A upon a finding that special circumstances make the construction or renovation to the standards impracticable. Such exemption shall be made in writing and shall explain the basis for granting such exemption. If the Director cites cost as a factor in granting an exemption, the Director shall include a comparison of the cost the agency or institution will incur over the next 20 years if the agency does not comply with the standards required by subsection A versus the costs to the agency or institution if the agency or institution were to comply with such standards.

D. Each agency or institution shall submit an annual report to the Governor by January 1 of each year detailing the energy-efficiency and associated carbon emissions metrics for each building built or renovated in accordance with the design and construction standards required by subsection A and completed during the prior fiscal year.

§ 15.2-1804.1. Building by locality; high performance standards.

A. As used in this section:

"Design phase" means the design of a building construction or renovation project, inclusive of the issuance of a request for proposal and the project budget approval.

"EV" means an electric vehicle.

"High performance building certification program" means a public building design, construction, and renovation program that achieves certification using the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) green building rating standard or the Green Building Initiative's "Green Globes" building standard, or meets the requirements of VEES.

"Sufficient ZEV charging and fueling infrastructure" means the provision of ZEV charging or fueling infrastructure, including EV-ready charging electrical capacity and pre-wiring, (i) sufficient to support every passenger-type vehicle owned by the locality and available for use by the locality that will be located at such building upon full occupancy, meet projected demand for such infrastructure during the first 10 years following building occupancy, or (ii) that achieves the current ZEV or EV charging credit for a high performance building certification program.

"VEES" means the Virginia Energy Conservation and Environmental Standards developed by the Department considering the U.S. Green Building Council (LEED) green building rating standard, the Green Building Initiative "Green Globes" building standard, and other appropriate requirements as determined by the Department.

"ZEV" means a zero-emissions vehicle.

B. Any locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size, or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building, shall ensure that such building:

1. Is designed, constructed, verified, and operated to comply with a high performance building certification program;

2. Has sufficient ZEV charging and fueling infrastructure. In making a sufficiency determination, the locality may also consider the interest of the Commonwealth in providing infrastructure for nearby locations, geographical gaps in ZEV charging infrastructure, availability of incentives, and other factors;

3. *Has features that permit the agency or institution to measure the building's energy consumption and associated carbon emissions, including metering of all electricity, gas, water, and other utilities; and*

4. *Incorporates appropriate resilience and distributed energy features.*

C. *Notwithstanding the provisions of subsection B, for any such construction or renovation of a building that is less than 20,000 gross square feet in size, the locality may instead ensure that such building achieves the relevant ENERGY STAR certification and implement mechanical, electrical, plumbing, and envelope commissioning.*

D. *Upon a finding that special circumstances make the construction or renovation to the standards impracticable, the governing body of such locality may, by resolution, grant an exemption from any such design and construction standards. Such resolution shall be made in writing and shall explain the basis for granting the exemption. If the local governing body cites cost as a factor in granting an exemption, the local governing body shall include a comparison of the cost the locality will incur over the next 20 years or the lifecycle of the project, whichever is shorter, if the locality does not comply with the standards required by subsection B versus the costs to the locality if the locality were to comply with such standards.*

E. *Any local governing body may, by ordinance, adopt its own green design and construction program that includes standards that are more stringent than any equivalent standard in subsection B. While such program remains in effect, the locality shall be deemed compliant with the provisions of this section.*

2. That the provisions of § 15.2-1804.1 of the Code of Virginia, as created by this act, shall become effective for any locality with a population of less than 100,000 on July 1, 2023.

CHAPTER 474

An Act to amend and reenact § 24.2-509 of the Code of Virginia, relating to nomination of candidates for elected offices; restrictions on nomination method selected by political party.

[H 2020]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-509 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-509. Party to determine method of nominating its candidates for office; exceptions.

A. The duly constituted authorities of the state political party shall have the right to determine the method by which a party nomination for a member of the United States Senate or for any statewide office shall be made. The duly constituted authorities of the political party for the district, county, city, or town in which any other office is to be filled shall have the right to determine the method by which a party nomination for that office shall be made. *A method of nomination shall not be selected if such method will have the practical effect of excluding participation in the nominating process by qualified voters who are otherwise eligible to participate in the nominating process under that political party's rules but are unable to attend meetings because they are (i) a member of a uniformed service, as defined in § 24.2-452, on active duty; (ii) temporarily residing outside of the United States; (iii) a student attending a school or institution of higher education; (iv) a person with a disability; or (v) a person who has a communicable disease of public health threat as defined in § 32.1-48.06 or who may have come in contact with a person with such disease. However, such restriction shall not apply when selecting a candidate for a special election or nominating a candidate pursuant to § 24.2-539, or in the event that no candidate files the required paperwork by the deadline prescribed in § 24.2-522.*

B. Notwithstanding subsection A, the following provisions shall apply to the determination of the method of making party nominations. A party shall nominate its candidate for election for a General Assembly district where there is only one incumbent of that party for the district by the method designated by that incumbent, or absent any designation by him by the method of nomination determined by the party. A party shall nominate its candidates for election for a General Assembly district where there is more than one incumbent of that party for the district by a primary unless all the incumbents consent to a different method of nomination. A party, whose candidate at the immediately preceding election for a particular office other than the General Assembly (i) was nominated by a primary or filed for a primary but was not opposed and (ii) was elected at the general election, shall nominate a candidate for the next election for that office by a primary unless all incumbents of that party for that office consent to a different method.

When, under any of the foregoing provisions, no incumbents offer as candidates for reelection to the same office, the method of nomination shall be determined by the political party.

For the purposes of this subsection, any officeholder who offers for reelection to the same office shall be deemed an incumbent notwithstanding that the district which he represents differs in part from that for which he offers for election.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 475

An Act to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective, 37.2-416, and 37.2-506 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; background checks; persons providing contractual services.

[H 2092]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, as it is currently effective and as it shall become effective, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board* pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any*

person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider ~~or~~, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the provider to serve in a direct care position* has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The ~~chairmen~~ *Chairman* of the ~~Committees for Courts of Justice of the Senate~~ *Committee on the Judiciary* or the House of ~~Delegates~~ *Committee for Courts of Justice* for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board* pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority* pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the provider to serve in a direct care position* has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. ~~The chairmen~~ *Chairman* of the ~~Committees for Courts of Justice of the Senate~~ *Committee on the Judiciary* or the ~~House of Delegates~~ *Committee for Courts of Justice* for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct

the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-416. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract with the provider to serve in a direct care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

4. *Allow any person under contract with the provider to serve in a direct care position who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.*

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment *or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider* at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment *or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider* at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, ~~or~~ (iii) permit to enter into a shared living arrangement, *or (iv) permit any person under contract with the provider to serve in a direct care position on behalf of the provider or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider* persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, ~~or~~ permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permission for any person under contract with the provider to serve in a direct care position*, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

K. *Any person employed by a temporary agency that has entered into a contract with the provider and who will serve in a direct care position on behalf of the provider licensed pursuant to this article shall undergo a background check that shall include:*

1. *A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and*
2. *A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.*

Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, ~~and~~ (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *and (vi) any person under contract to serve in a direct care position on behalf of the community services board* to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, ~~or~~ permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, *or permit any person under contract to serve in a direct care position on behalf of the community services board* persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the

definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or *permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board* at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or *permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board* at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement, or (iv) *permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board* persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or *permission for any person under contract to serve in a direct care position on behalf of the*

community services board, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

K. Any person employed by a temporary agency that has entered into a contract with a community services board and who will serve in a direct care position on behalf of the community services board shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and
2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no community services board shall permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

CHAPTER 476

An Act to require the Department of Medical Assistance Services to deem testing for, treatment of, and vaccination against COVID-19 to be emergency services.

[H 2124]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. That, during a public health emergency related to COVID-19 declared by the United States Secretary of Health and Human Services, the Department of Medical Assistance Services shall deem testing for, treatment of, and vaccination against COVID-19 to be emergency services for which payment may be made pursuant to 42 U.S.C. § 1396b(v).
2. That the provisions of this act shall not become effective unless the U.S. Health Resources and Services Administration COVID-19 Uninsured Program (the Program), which is identified by Catalog of Federal Domestic Assistance number 93.461, no longer funds claims reimbursement, whether due to termination of the Program or exhaustion of federal funds for the Program.

CHAPTER 477

An Act to amend and reenact §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia, relating to public accommodations, employment, and housing; prohibited discrimination on the basis of status as active military or a military spouse.

[H 2161]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2901.1. Employment discrimination prohibited.

A. For the purposes of *As used in this section*, "age":

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military status as a veteran*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military status as a veteran*; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be prompt, complete, and fair.

C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of employment or which may reasonably be expected to be a part of the job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within the agency; and (vii) relief of employees from duties of the agency in emergencies.

D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The employee may appeal the denial of a hearing by the agency head to the Director of the Department of Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the entire grievance record to the Department of Human Resource Management within five workdays. The Director shall render a decision on whether the employee is entitled to a hearing upon the grievance record and other probative evidence.

E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is employed or in any other locality agreed to by the employee, employer, and hearing officer. The employee and the agency may be represented by legal counsel or a lay advocate, the provisions of § 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and be cross-examined.

§ 2.2-3900. Short title; declaration of policy.

A. This chapter shall be known and cited as the Virginia Human Rights Act.

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, *military status as a veteran*, or disability in places of public accommodation, including educational institutions and in real estate transactions;

2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or *military status as a veteran*;

3. Preserve the public safety, health, and general welfare;

4. Further the interests, rights, and privileges of individuals within the Commonwealth; and

5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

§ 2.2-3901. Definitions.

A. The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth, or related medical conditions, including lactation. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

B. The term "gender identity," when used in reference to discrimination in the Code and acts of the General Assembly, means the gender-related identity, appearance, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

C. The term "sexual orientation," when used in reference to discrimination in the Code and acts of the General Assembly, means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

D. The terms "because of race" or "on the basis of race" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

E. For purposes of *As used* in this chapter, "lactation", *unless the context requires a different meaning*:

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military status as a veteran*, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Division of Human Rights of the Department of Law (the Division) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction over the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.

A. As used in this section, *unless the context requires a different meaning*:

"Age" means being an individual who is at least 18 years of age.

"Place of public accommodation" means all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations.

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any such person in the use thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any individual on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or *military status as a veteran*.

C. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public.

D. The provisions of this section shall not prohibit (i) discrimination against individuals who are less than 18 years of age or (ii) the provision of special benefits, incentives, discounts, or promotions by public or private programs to assist persons who are 50 years of age or older.

E. The provisions of this section shall not supersede or interfere with any state law or local ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Employee" means an individual employed by an employer.

"Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, *military* status as a ~~veteran~~, sex, sexual orientation, gender identity, marital status, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military* status as a ~~veteran~~, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military* status as a ~~veteran~~, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any

individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful employment practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful employment practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;

5. For an employer to provide reasonable accommodations related to pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 15.2-853. Commission on human rights; human rights ordinance.

A county may enact an ordinance prohibiting discrimination in housing, real estate transactions, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military* status as a ~~veteran~~, age, marital status, sexual orientation, gender identity, or disability. The board may enact an ordinance establishing a local commission on human rights that shall have the following powers and duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;

2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county;

3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination; and

4. To exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

For the purposes of this article, "person", unless the context requires otherwise:

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts, or unincorporated organizations.

§ 15.2-854. Investigations.

Whenever the commission on human rights has a reasonable cause to believe that any person has engaged in, or is engaging in, any violation of a county ordinance that prohibits discrimination due to race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military* status as a ~~veteran~~, age, marital status, sexual orientation, gender identity, or disability, and, after making a good faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether such violation has occurred, is unable to obtain such data, information, or attendance, it may request the county attorney to petition the judge of the general district court for its jurisdiction for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney. Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

§ 15.2-965. Human rights ordinances and commissions.

A. Any locality may enact an ordinance, not inconsistent with nor more stringent than any applicable state law, prohibiting discrimination in housing, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military* status as a ~~veteran~~, age, marital status, sexual orientation, gender identity, or disability.

B. The locality may enact an ordinance establishing a local commission on human rights that shall have the powers and duties granted by the Virginia Human Rights Act (§ 2.2-3900 et seq.).

C. As used in this section:

"Gender identity" means the gender-related identity, appearance, or other gender-related characteristics of an individual, without regard to the individual's designated sex at birth.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.

A. As used in this section, "age" article, unless the context requires a different meaning:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No department, office, board, commission, agency, or instrumentality of local government shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military* status as a ~~veteran~~.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 15.2-1507. Provision of grievance procedure; training programs.

A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to certify it as provided in this section, the local governing body shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town, or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.

Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in clause (iii) of subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or *military status as a veteran*; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification, or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity that may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means, and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

- (1) Appointees of elected groups or individuals;
- (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
- (3) Deputies and executive assistants to the chief administrative officer of a locality;
- (4) Agency heads or chief executive officers of government operations;
- (5) Employees whose terms of employment are limited by law;
- (6) Temporary, limited term, and seasonal employees;

(7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii) a grievance procedure established and administered by the department, board, or authority that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated

pursuant thereto. If a department, board, or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management and a final step providing for a panel hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided that such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.

a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.

b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time that is allowed for local government response in each comparable situation.

d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.

a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within 30 days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

9. Qualification for panel or administrative hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town, or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may

reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2), consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules that are promulgated shall include the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section that would result in the reinstatement of any employee of a sheriff's office who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by certain officers; civil penalty.

A. It shall be an unlawful employment practice for a constitutional officer:

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or *military status as a veteran*; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or *military status as a veteran*.

B. Nothing in this section shall be construed to make it an unlawful employment practice for a constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular office. The provisions of this section shall not apply to policy-making positions, confidential or personal staff positions, or undercover positions.

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the Division of Human Rights of the Department of Law. The Division shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed \$2,000.

F. As used in this section, "military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 22.1-295.2. Employment discrimination prohibited.

A. For the purposes of *As used in this section*, "age":

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No school board or any agent or employee thereof shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military status as a veteran*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 22.1-306. Definitions.

As used in this article, *unless the context requires a different meaning*:

"Business day" means any day that the relevant school board office is open.

"Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Grievance" means a complaint or dispute by a teacher relating to his employment, including (i) disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting, or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, religion, political affiliation, disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military status as a veteran*. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (1) (a) establishment and revision of wages or salaries, position classifications, or general benefits; (2) (b) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (3) (c) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (4) (d) failure to promote; (5) (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (6) (f) hiring, transfer, assignment, and retention of teachers within the school division; (7) (g) suspension from duties in emergencies; (8) (h) the methods, means, and personnel by which the school division's operations are to be carried on; or (9) (i) coaching or extracurricular activity sponsorship.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 36-96.1. Declaration of policy.

A. This chapter shall be known and referred to as the Virginia Fair Housing Law.

B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and ensured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth.

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context ~~clearly indicates otherwise~~ *requires a different meaning*:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Disability" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof, that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military status as a veteran*, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

§ 36-96.2. Exemptions.

A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6, this chapter shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period, provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this chapter only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written

notice in violation of this chapter. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

B. Except for subdivision A 3 of § 36-96.3, this chapter shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability. Nor shall anything in this chapter apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this chapter be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, or religious or correctional institution from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

D. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.

E. It shall not be unlawful under this chapter for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

F. A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this chapter shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.

G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits the rental application or similar document from requiring information concerning the number, ages, sex and familial relationship of the applicants and the dwelling's intended occupants.

H. Nothing in this chapter shall prohibit a landlord from considering evidence of an applicant's status as a victim of family abuse, as defined in § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's application pursuant to subsection D of § 55.1-1203.

I. Nothing in this chapter shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a 10 percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

J. It shall not be unlawful under this chapter for an owner or an owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

§ 36-96.3. Unlawful discriminatory housing practices.

A. It shall be an unlawful discriminatory housing practice for any person to:

1. Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or *military* status as a ~~veteran~~;

2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or *military* status as a ~~veteran~~;

3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an

illegal preference under this chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship, including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

4. Represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

5. Deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability;

6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability;

8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with the buyer or renter; or

9. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented, or made available; or (iii) any person associated with that buyer or renter.

B. For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

1. The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision, the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

C. Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of subdivision B 3.

D. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this chapter.

§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

A. It is unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability. It is not unlawful, however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.

B. As used in this section, the term "residential real estate-related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling or (ii) secured by residential real estate; or

2. The selling, brokering, insuring, or appraising of residential real property. However, nothing in this chapter shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a *veteran*, or disability.

C. It shall be unlawful for any state, county, city, or municipal treasurer or governmental official whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be deposited any public funds in any lending institution provided for herein which is found to be committing discriminatory practices, where such findings were upheld by any court of competent jurisdiction. Upon such a court's judicial enforcement of any order to restrain a practice of such lending institution or for said institution to cease or desist in a discriminatory practice, the appropriate fiscal officer or treasurer of the Commonwealth or any political subdivision thereof which has funds deposited in any lending institution which is practicing discrimination, as set forth herein, shall take immediate steps to have the said funds withdrawn and redeposited in another lending institution. If for reasons of sound economic management, this action will result in a financial loss to the Commonwealth or any of its political subdivisions, the action may be deferred for a period not longer than one year. If the lending institution in question has corrected its discriminatory practices, any prohibition set forth in this section shall not apply.

§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.

A. Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a *veteran*, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of the Commonwealth.

B. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorney fees and costs incurred.

D. A family care home, foster home, or group home in which individuals with physical disabilities, mental illness, intellectual disability, or developmental disability reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure.

§ 55.1-1208. Prohibited provisions in rental agreements.

A. A rental agreement shall not contain provisions that the tenant:

1. Agrees to waive or forgo rights or remedies under this chapter;

2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;

3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;

4. Agrees to pay the landlord's attorney fees except as provided in this chapter;

5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or any associated costs;

6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession of a firearm within individual dwelling units unless required by federal law or regulation; or

7. Agrees to both the payment of a security deposit and the provision of a bond or commercial insurance policy purchased by the tenant to secure the performance of the terms and conditions of a rental agreement, if the total of the security deposit and the bond or insurance coverage exceeds the amount of two months' periodic rent; or

8. *Agrees to waive remedies or rights under the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., prior to the occurrence of a dispute between landlord and tenant. Execution of leases shall not be contingent upon the execution of a waiver of rights under the Servicemembers Civil Relief Act; however, upon the occurrence of any dispute, the landlord and tenant may execute a waiver of such rights and remedies as to that dispute in order to facilitate a resolution.*

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by him and reasonable attorney fees.

§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.

A. For purposes of this section, "*military status*" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven

true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner from placing a "for sale" sign on or in the owner's home except that the size, placement, and character of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured home in that manufactured home park. The landlord shall have the burden of proving that his refusal or restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national origin, *military* status as a *veteran*, familial status, marital status, elderliness, disability, sexual orientation, gender identity, sex, or pregnancy, childbirth or related medical conditions shall be conclusively presumed to be unreasonable.

CHAPTER 478

An Act to amend and reenact §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia, relating to public accommodations, employment, and housing; prohibited discrimination on the basis of status as active military or a military spouse.

[S 1410]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2901.1, 2.2-3004, 2.2-3900, 2.2-3901, 2.2-3902, 2.2-3904, 2.2-3905, 15.2-853, 15.2-854, 15.2-965, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-295.2, 22.1-306, 36-96.1 through 36-96.3, 36-96.4, 36-96.6, 55.1-1208, and 55.1-1310 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2901.1. Employment discrimination prohibited.

A. ~~For the purposes of As used in this section, "age":~~

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military* status as a *veteran*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military* status as a *veteran*; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be prompt, complete, and fair.

C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of

employment or which may reasonably be expected to be a part of the job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within the agency; and (vii) relief of employees from duties of the agency in emergencies.

D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The employee may appeal the denial of a hearing by the agency head to the Director of the Department of Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the entire grievance record to the Department of Human Resource Management within five workdays. The Director shall render a decision on whether the employee is entitled to a hearing upon the grievance record and other probative evidence.

E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is employed or in any other locality agreed to by the employee, employer, and hearing officer. The employee and the agency may be represented by legal counsel or a lay advocate, the provisions of § 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and be cross-examined.

§ 2.2-3900. Short title; declaration of policy.

A. This chapter shall be known and cited as the Virginia Human Rights Act.

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, *military* status as a *veteran*, or disability in places of public accommodation, including educational institutions and in real estate transactions;

2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or *military* status as a *veteran*;

3. Preserve the public safety, health, and general welfare;

4. Further the interests, rights, and privileges of individuals within the Commonwealth; and

5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

§ 2.2-3901. Definitions.

A. The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth, or related medical conditions, including lactation. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

B. The term "gender identity," when used in reference to discrimination in the Code and acts of the General Assembly, means the gender-related identity, appearance, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

C. The term "sexual orientation," when used in reference to discrimination in the Code and acts of the General Assembly, means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

D. The terms "because of race" or "on the basis of race" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

E. For purposes of *As used in this chapter, "lactation", unless the context requires a different meaning:*

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military* status as a *veteran*, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably

necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Division of Human Rights of the Department of Law (the Division) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction over the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.

A. As used in this section, ~~unless the context requires a different meaning:~~

"Age" means being an individual who is at least 18 years of age.

"Place of public accommodation" means all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations.

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any such person in the use thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any individual on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or *military status as a veteran*.

C. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public.

D. The provisions of this section shall not prohibit (i) discrimination against individuals who are less than 18 years of age or (ii) the provision of special benefits, incentives, discounts, or promotions by public or private programs to assist persons who are 50 years of age or older.

E. The provisions of this section shall not supersede or interfere with any state law or local ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Employee" means an individual employed by an employer.

"Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, *military status as a veteran*, sex, sexual orientation, gender identity, marital status, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military status as a veteran*, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, *military status as a veteran*, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful employment practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful employment practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military* status as a ~~veteran~~, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military status as a veteran*, or national origin;

5. For an employer to provide reasonable accommodations related to pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military status as a veteran*, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military status as a veteran*, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, *military status as a veteran*, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 15.2-853. Commission on human rights; human rights ordinance.

A county may enact an ordinance prohibiting discrimination in housing, real estate transactions, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military status as a veteran*, age, marital status, sexual orientation, gender identity, or disability. The board may enact an ordinance establishing a local commission on human rights that shall have the following powers and duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;
2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county;
3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination; and
4. To exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

For the purposes of this article, "~~person~~", *unless the context requires otherwise*:

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts, or unincorporated organizations.

§ 15.2-854. Investigations.

Whenever the commission on human rights has a reasonable cause to believe that any person has engaged in, or is engaging in, any violation of a county ordinance that prohibits discrimination due to race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military status as a veteran*, age, marital status, sexual orientation, gender identity, or disability, and, after making a good faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether such violation has occurred, is unable to obtain such data, information, or attendance, it may request the county attorney to petition the judge of the general district court for its jurisdiction for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney. Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

§ 15.2-965. Human rights ordinances and commissions.

A. Any locality may enact an ordinance, not inconsistent with nor more stringent than any applicable state law, prohibiting discrimination in housing, employment, public accommodations, credit, and education on the basis of race,

color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, *military* status as a ~~veteran~~, age, marital status, sexual orientation, gender identity, or disability.

B. The locality may enact an ordinance establishing a local commission on human rights that shall have the powers and duties granted by the Virginia Human Rights Act (§ 2.2-3900 et seq.).

C. As used in this section:

"Gender identity" means the gender-related identity, appearance, or other gender-related characteristics of an individual, without regard to the individual's designated sex at birth.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.

A. As used in this section, "age" article, unless the context requires a different meaning:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No department, office, board, commission, agency, or instrumentality of local government shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military* status as a ~~veteran~~.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 15.2-1507. Provision of grievance procedure; training programs.

A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to certify it as provided in this section, the local governing body shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town, or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.

Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in clause (iii) of subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or *military* status as a ~~veteran~~; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification, or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity that may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means, and personnel by which work activities are to be carried on; (vi) except where such action affects an

employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

- (1) Appointees of elected groups or individuals;
- (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
- (3) Deputies and executive assistants to the chief administrative officer of a locality;
- (4) Agency heads or chief executive officers of government operations;
- (5) Employees whose terms of employment are limited by law;
- (6) Temporary, limited term, and seasonal employees;
- (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii) a grievance procedure established and administered by the department, board, or authority that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto. If a department, board, or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management and a final step providing for a panel hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided that such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.

a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.

b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time that is allowed for local government response in each comparable situation.

d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.

a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within 30 days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

9. Qualification for panel or administrative hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town, or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2), consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules that are promulgated shall include the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section that would result in the reinstatement of any employee of a sheriff's office who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by certain officers; civil penalty.

A. It shall be an unlawful employment practice for a constitutional officer:

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or *military status as a veteran*; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or *military status as a veteran*.

B. Nothing in this section shall be construed to make it an unlawful employment practice for a constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular office. The provisions of this section shall not apply to policy-making positions, confidential or personal staff positions, or undercover positions.

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as

a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the Division of Human Rights of the Department of Law. The Division shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed \$2,000.

F. As used in this section, "military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 22.1-295.2. Employment discrimination prohibited.

A. For the purposes of *As used in this section*, "age":

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No school board or any agent or employee thereof shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or *military status as a veteran*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

§ 22.1-306. Definitions.

As used in this article, *unless the context requires a different meaning*:

"Business day" means any day that the relevant school board office is open.

"Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Grievance" means a complaint or dispute by a teacher relating to his employment, including (i) disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting, or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, religion, political affiliation, disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or *military status as a veteran*. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (1) (a) establishment and revision of wages or salaries, position classifications, or general benefits; (2) (b) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (3) (c) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (4) (d) failure to promote; (5) (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (6) (f) hiring, transfer, assignment, and retention of teachers within the school division; (7) (g) suspension from duties in emergencies; (8) (h) the methods, means, and personnel by which the school division's operations are to be carried on; or (9) (i) coaching or extracurricular activity sponsorship.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C.

§ 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 36-96.1. Declaration of policy.

A. This chapter shall be known and referred to as the Virginia Fair Housing Law.

B. It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and ensured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth.

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context clearly indicates otherwise requires a different meaning:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Disability" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof; that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic

and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

§ 36-96.2. Exemptions.

A. Except as provided in subdivision A 3 of § 36-96.3 and subsections A, B, and C of § 36-96.6, this chapter shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period, provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this chapter only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

B. Except for subdivision A 3 of § 36-96.3, this chapter shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a ~~veteran~~, or disability. Nor shall anything in this chapter apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this chapter be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, or religious or correctional institution from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

D. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.

E. It shall not be unlawful under this chapter for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

F. A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this chapter shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.

G. Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and

implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state or federal restrictions. Nothing in this chapter prohibits the rental application or similar document from requiring information concerning the number, ages, sex and familial relationship of the applicants and the dwelling's intended occupants.

H. Nothing in this chapter shall prohibit a landlord from considering evidence of an applicant's status as a victim of family abuse, as defined in § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's application pursuant to subsection D of § 55.1-1203.

I. Nothing in this chapter shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a 10 percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

J. It shall not be unlawful under this chapter for an owner or an owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

§ 36-96.3. Unlawful discriminatory housing practices.

A. It shall be an unlawful discriminatory housing practice for any person to:

1. Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or *military status as a veteran*;

2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity, or *military status as a veteran*;

3. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship, including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

4. Represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

5. Deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability;

6. Include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

7. Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, *military status as a veteran*, or disability;

8. Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with the buyer or renter; or

9. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented, or made available; or (iii) any person associated with that buyer or renter.

B. For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered

multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

1. The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;
2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and
3. All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision, the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

C. Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of subdivision B 3.

D. Nothing in this chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this chapter.

§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

A. It is unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a *veteran*, or disability. It is not unlawful, however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.

B. As used in this section, the term "residential real estate-related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling or (ii) secured by residential real estate; or
2. The selling, brokering, insuring, or appraising of residential real property. However, nothing in this chapter shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a *veteran*, or disability.

C. It shall be unlawful for any state, county, city, or municipal treasurer or governmental official whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be deposited any public funds in any lending institution provided for herein which is found to be committing discriminatory practices, where such findings were upheld by any court of competent jurisdiction. Upon such a court's judicial enforcement of any order to restrain a practice of such lending institution or for said institution to cease or desist in a discriminatory practice, the appropriate fiscal officer or treasurer of the Commonwealth or any political subdivision thereof which has funds deposited in any lending institution which is practicing discrimination, as set forth herein, shall take immediate steps to have the said funds withdrawn and redeposited in another lending institution. If for reasons of sound economic management, this action will result in a financial loss to the Commonwealth or any of its political subdivisions, the action may be deferred for a period not longer than one year. If the lending institution in question has corrected its discriminatory practices, any prohibition set forth in this section shall not apply.

§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.

A. Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, *military* status as a *veteran*, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of the Commonwealth.

B. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorney fees and costs incurred.

D. A family care home, foster home, or group home in which individuals with physical disabilities, mental illness, intellectual disability, or developmental disability reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure.

§ 55.1-1208. Prohibited provisions in rental agreements.

A. A rental agreement shall not contain provisions that the tenant:

1. Agrees to waive or forgo rights or remedies under this chapter;
2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;
3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;
4. Agrees to pay the landlord's attorney fees except as provided in this chapter;
5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or any associated costs;
6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession of a firearm within individual dwelling units unless required by federal law or regulation; or
7. Agrees to both the payment of a security deposit and the provision of a bond or commercial insurance policy purchased by the tenant to secure the performance of the terms and conditions of a rental agreement, if the total of the security deposit and the bond or insurance coverage exceeds the amount of two months' periodic rent; or

8. *Agrees to waive remedies or rights under the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., prior to the occurrence of a dispute between landlord and tenant. Execution of leases shall not be contingent upon the execution of a waiver of rights under the Servicemembers Civil Relief Act; however, upon the occurrence of any dispute, the landlord and tenant may execute a waiver of such rights and remedies as to that dispute in order to facilitate a resolution.*

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by him and reasonable attorney fees.

§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.

A. *For purposes of this section, "military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.*

B. No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner from placing a "for sale" sign on or in the owner's home except that the size, placement, and character of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured home in that manufactured home park. The landlord shall have the burden of proving that his refusal or restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national origin, *military status as a veteran*, familial status, marital status, elderliness, disability, sexual orientation, gender identity, sex, or pregnancy, childbirth or related medical conditions shall be conclusively presumed to be unreasonable.

CHAPTER 479

An Act to amend and reenact § 15.2-914, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to regulation of child care services in localities.

[H 2326]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-914, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 15.2-914. (Effective until July 1, 2021) Regulation of child-care services and facilities in cities and certain counties.

Any (i) county that has adopted the urban county executive form of government, *or* (ii) city adjacent to a county that has adopted the urban county executive form of government, *or* (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure *which that* is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 63.2-1716.

Except as otherwise provided in this section, such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities and may be more extensive in scope than comparable state statutes or regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

§ 15.2-914. (Effective July 1, 2021) Regulation of child-care services and facilities in cities and certain counties.

Any (i) county that has adopted the urban county executive form of government, *or* (ii) city adjacent to a county that has adopted the urban county executive form of government, *or* (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure ~~which~~ *that* is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 22.1-289.031.

Except as otherwise provided in this section, such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities and may be more extensive in scope than comparable state statutes or regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

CHAPTER 480

An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 66, consisting of sections numbered 38.2-6600 through 38.2-6606, relating to the Commonwealth Health Reinsurance Program; established; special fund established; federal waiver application.

[H 2332]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 66, consisting of sections numbered 38.2-6600 through 38.2-6606, as follows:

§ 38.2-4214. Application of certain provisions of law.

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, and 38.2-1040 through

38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, §§ 38.2-3501 and 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1 and 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607 and 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall apply to the operation of a plan.

§ 38.2-4319. Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.20, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

CHAPTER 66.

COMMONWEALTH HEALTH REINSURANCE PROGRAM.

§ 38.2-6600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable Care Act" means the Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, and as it may be further amended.

"Attachment point" means the amount set by the Commission for claims costs incurred by an eligible carrier for a covered person's covered benefits in a benefit year, above which the claims costs for benefits are eligible for reinsurance payments under the Program.

"Benefit year" means the calendar year for which an eligible carrier provides coverage through an individual health benefit plan.

"Coinsurance rate" means the rate set by the Commission at which the Program will reimburse an eligible carrier for claims incurred for a covered person's covered benefits in a benefit year, which claims exceed the attachment point but are below the reinsurance cap.

"Covered benefits" has the same meaning as provided in § 38.2-3438.

"Covered person" means an individual covered under individual health insurance coverage that (i) is delivered or issued for delivery in the Commonwealth and (ii) is neither a grandfathered plan, student health insurance coverage, nor transitional coverage that the federal government allows under a nonenforcement policy.

"Eligible carrier" means a carrier that (i) offers individual health insurance coverage other than a grandfathered plan, student health insurance coverage, or transitional coverage that the federal government allows under a nonenforcement policy and (ii) incurs claims costs for a covered person's covered benefits in the applicable benefit year.

"Fund" means the Commonwealth Health Reinsurance Program Special Fund established by the Commission pursuant to § 38.2-6604.

"Grandfathered plan" has the same meaning as provided in § 38.2-3438.

"Group health insurance coverage" has the same meaning as provided in § 38.2-3438.

"Individual health insurance coverage" has the same meaning as provided in § 38.2-3438.

"Net written premiums" means premiums earned on individual and group health insurance coverage, including grandfathered plans, in the Commonwealth, less return premiums and dividends paid or credited to policy or contract holders on the health benefits plan business.

"Payment parameters" means the attachment point, reinsurance cap, and coinsurance rate for the Program.

"Program" means the Commonwealth Health Reinsurance Program established pursuant to this chapter.

"Reinsurance cap" means the amount set by the Commission for claims costs incurred by an eligible carrier for a covered person's covered benefits in a benefit year, above which the claims costs for benefits are no longer eligible for reinsurance payments under the Program.

"Reinsurance payment" means an amount paid to an eligible carrier under the Program.

"State Innovation Waiver" means a waiver of one or more requirements of the Affordable Care Act authorized by § 1332 of the Affordable Care Act, 42 U.S.C. § 18052, and applicable federal regulations.

"Total amount paid by the eligible carrier for any eligible claim" means the amount paid by the eligible carrier based on the allowed amount less any deductible, coinsurance, or copayment, as of the time applicable data is submitted or made accessible under subdivision C 1 of § 38.2-6602.

§ 38.2-6601. Commission powers and duties; rules; report.

A. The Commission shall have all the powers necessary to implement the provisions of this chapter and is specifically authorized to:

1. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter, including contracts for the administration of the Program, as well as other approved initiatives under the State Innovation Waiver, and with appropriate administrative staff, consultants, and legal counsel;

2. Take action as necessary to avoid the payment of improper claims under the Program;

3. Establish administrative and accounting procedures for the operation of the Program and other approved initiatives under the State Innovation Waiver;

4. Establish procedures and standards for eligible carriers to submit claims under the Program;

5. Establish or adjust the payment parameters in accordance with subdivision B 2 of § 38.2-6602 for each benefit year;

6. Apply for a State Innovation Waiver, federal funds, or both, in accordance with § 38.2-6606, for the implementation and operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources;

7. Apply for, accept, administer, and expend gifts, grants, and donations and any federal funds that become available for the operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources; and

8. Adopt rules as necessary to implement, administer, and enforce this chapter, including rules necessary to align state law with any federal program.

B. If the State Innovation Waiver is granted pursuant to § 38.2-6606, the Commission, during implementation of the Program, shall evaluate the effect of the Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions.

§ 38.2-6602. Commonwealth Health Reinsurance Program; established.

A. The Commission shall implement a reinsurance program, known as the Commonwealth Health Reinsurance Program. Implementation and operation of the Program is contingent upon approval of the State Innovation Waiver

submitted by the Commission in accordance with § 38.2-6606. If the State Innovation Waiver and federal funding request submitted by the Commission pursuant to § 38.2-6606 are approved, the Commission shall implement and operate the Program in accordance with this section.

B. The Commission or its designee shall collect or access data from an eligible carrier as necessary to determine reinsurance payments, according to the data requirements under subdivision C 1.

1. Unless an eligible carrier is notified otherwise by the Commission, on a quarterly basis during the applicable benefit year, each eligible carrier shall report to the Commission its claims costs that exceed the attachment point for that benefit year. For each applicable benefit year, the Commission shall notify eligible carriers of reinsurance payments to be made for the applicable benefit year no later than September 30 of the year following the applicable benefit year. By November 15 of the year following the applicable benefit year, the Commission shall disburse all applicable reinsurance payments to an eligible carrier.

2. For the 2023 benefit year and each benefit year thereafter, the Commission shall establish and publish the payment parameters for the applicable benefit year by May 1 of the year immediately preceding the applicable benefit year. In setting the payment parameters under this subsection, the Commission shall consider the following factors: (i) stabilized or reduced premium rates in the individual market; (ii) increased participation in the individual market; (iii) improved access to health care services and their providers for enrolled individuals; (iv) mitigation of the impact high-risk individuals have on premium rates in the individual market; (v) transfers made under the federal risk adjustment program to eliminate double reimbursement for high-cost cases; (vi) the availability of any federal funding available for the Program; and (vii) the total amount available to fund the Program.

3. If the Commission determines that all reinsurance payments for a covered person's covered benefits requested under the Program by eligible carriers for a benefit year will not be equal to the amount of funding allocated to the Program, the Commission shall determine a uniform pro rata adjustment to be applied to all such requests for reinsurance payments.

C. A carrier that meets the requirement of this subsection and subsection D shall be eligible to request reinsurance payments from the Program. An eligible carrier shall make requests for reinsurance payments in accordance with the requirements established by the Commission.

1. To receive reinsurance payments through the Program, an eligible carrier shall, by April 30 of the year following the benefit year for which reinsurance payments are requested, (i) provide the Commission with access to the data within the dedicated data environment established by the eligible carrier under the federal risk adjustment program under 42 U.S.C. § 18063 or access to other carrier-specific data if and where necessary and (ii) submit to the Commission an attestation that the carrier has complied with the dedicated data environments, data requirements, establishment and usage of masked enrollee identification numbers, and data submission deadlines.

2. An eligible carrier shall maintain documents and records sufficient to substantiate the requests for reinsurance payments made pursuant to this section for at least five years. An eligible carrier shall also make those documents and records available upon request from the Commission for purposes of verification, investigation, audit, or other review of reinsurance payment requests. The Commission may audit an eligible carrier to assess the carrier's compliance with this section. The eligible carrier shall ensure that its contractors, subcontractors, and agents cooperate with any audit under this section.

D. The Commission or its designee shall calculate each reinsurance payment based on an eligible carrier's incurred claims costs for a covered person's covered benefits in the applicable benefit year net of transfers received for the same enrolled individual under the federal risk adjustment program. If the net claims costs for a covered person's covered benefits in the applicable benefit year do not exceed the attachment point for the applicable benefit year, the carrier shall not be eligible for a reinsurance payment. If the claims costs exceed the attachment point for the applicable benefit year, the Commission shall calculate the reinsurance payment as the product of the coinsurance rate and the eligible carrier's claims costs up to the reinsurance cap. A carrier shall be ineligible for reinsurance payments for claims costs for a covered person's covered benefits in the applicable benefit year that exceed the reinsurance cap. The Commission shall ensure that reinsurance payments made to eligible carriers do not exceed the total amount paid by the eligible carrier for any eligible claim. An eligible carrier may request that the Commission reconsider a decision on the carrier's request for reinsurance payments within 21 days after notice of the Commission's decision.

E. The Commission shall require each eligible carrier that participates in the Program to file with the Commission, by a date and in a form and manner specified by the Commission by rule, the care management protocols the eligible carrier will use to manage claims within the payment parameters.

§ 38.2-6603. Accounting; reports.

A. The Commission shall keep an accounting for each benefit year of all:

1. Funds appropriated for reinsurance payments and administrative and operational expenses;
2. Requests for reinsurance payments received from eligible carriers;
3. Reinsurance payments made to eligible carriers; and
4. Administrative and operational expenses incurred for the Program.

B. By November 1 of each year, the Commission shall report to the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Governor on the operation of the Program. Such report shall be posted on the Commission's website and shall include, at a minimum, the following information for the relevant benefit year:

1. Amounts deposited into the Fund;
2. Requests for reinsurance payments received by eligible carriers;
3. Reinsurance payments made to eligible carriers;
4. Administrative and operational expenses incurred for the Program; and
5. Quantifiable impact of the Program on individual health insurance coverage rates.

§ 38.2-6604. Commonwealth Health Reinsurance Program Special Fund.

A. The Commission shall be authorized to fund the operations of the Program and to fund other purposes to implement the approved State Innovation Waiver through funds provided to the Commonwealth pursuant to the State Innovation Waiver requested pursuant to § 38.2-6606 and all funds appropriated for such purpose. All funds received under this section and paid into the state treasury shall be deposited to a special fund designated the "Commonwealth Health Reinsurance Program Special Fund State Corporation Commission." Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for (i) the purposes of increasing affordability in the individual market through the Program with a goal of decreasing premiums by up to 20 percent, depending on available revenue and (ii) the establishment, operation, and administration of the Program in carrying out the purposes authorized under this chapter, to include additional purposes to implement an approved State Innovation Waiver with funds that remain following the payment of all applicable reinsurance requests for a benefit year.

B. The Commission shall not use any special fund revenues dedicated to its other functions and duties, including revenues from utility consumer taxes or fees from licensees regulated by the Commission, or fees paid to the office of the Clerk of the Commission, to fund any of the activities or operating expenses of the Program. The Commission shall not pay any funds beyond the moneys in the Fund for the establishment, administration, or operation of the Program.

C. The provision of reinsurance payments shall not constitute an entitlement derived from the Commonwealth or a claim on any other money of the Commonwealth.

D. The Commission shall have no responsibility to make reinsurance payments that would be payable out of federal pass-through funding if such federal pass-through funding is insufficient to fully make such payments.

§ 38.2-6605. Confidentiality of data.

Data and information that an eligible carrier considers confidential proprietary information that is provided to the Commission pursuant to the provisions of this chapter shall be excluded from, and the Commission shall not be subject to, subpoena or public inspection with respect to such information.

§ 38.2-6606. State Innovation Waiver request.

A. The Commission shall apply to the appropriate federal agencies under 42 U.S.C. § 18052 for a State Innovation Waiver for benefit years beginning January 1, 2023, and future years, (i) to establish a reinsurance program, in accordance with the provisions of this chapter; (ii) to maximize federal pass-through funding for the reinsurance program; (iii) to be able to use remaining funds for other uses as recommended by a work group established by the Secretary of Health and Human Resources; and (iv) to waive any applicable provisions of the Affordable Care Act. An application for a State Innovation Waiver or for federal funds shall clearly state that operation of the Program is contingent on approval of the waiver or funding request. The Commission shall include in the application a request for pass-through of federal funding in accordance with § 1332(a)(3) of 42 U.S.C § 18052 to allow the Commonwealth to obtain and use, for purposes of helping finance the Program, any federal funds that would, absent the waiver, be used to pay advance payment tax credits and cost-sharing reductions authorized under the federal act. The Commission is authorized to apply for, accept, administer, and expend gifts, grants, and donations, and any federal funds that become available for the implementation of the Program, including the use of amounts necessary to develop and submit the State Innovation Waiver and request for federal funding.

B. The Commission shall submit the waiver application to the appropriate federal agencies by January 1, 2022. The Commission shall make a draft application available for public review and comment by October 1, 2021. The Commission may amend the waiver application as necessary to carry out the provisions of this chapter. The Commission shall promptly notify the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations of any federal actions regarding the waiver request and of any amendment to the waiver application.

2. That the provisions of the first enactment of this act, except § 38.2-6606 of the Code of Virginia, as created by this act, shall become effective 30 days following the date the State Corporation Commission (the Commission) notifies the Governor and the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations of federal approval of the State Innovation Waiver request required to be submitted by the Commission pursuant to § 38.2-6606 of the Code of Virginia, as created by this act.

3. That the Secretary of Health and Human Resources (the Secretary) shall convene a work group that includes representatives from the Bureau of Insurance of the State Corporation Commission (the Commission) and Virginia Health Benefit Exchange Division, the Department of Taxation, the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, health plans, physicians, hospitals, agents and brokers, navigators, other consumer assisters, consumer advocates, including advocates for underinsured individuals, and other relevant stakeholders to develop (i) any other initiatives other than a reinsurance program to include in a request for a State Innovation Waiver and (ii) recommendations for

developing a state-based subsidy program to increase affordability of health plans to individuals and to increase enrollment in the Virginia Health Benefit Exchange (the Exchange). The initiatives developed by the work group described in clause (i) shall be included in the request for a State Innovation Waiver application if completed and delivered to the Commission by the date indicated by the Commission. The work group shall make use of available data pertaining to Exchange enrollment and uninsured individuals to identify recommended options for providing subsidies. In doing so, the work group shall consider implications of a subsidy program on Exchange enrollment and the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia), as established by this act, possible tax consequences for individuals, and a feasible timeframe for implementing a subsidy program. The Secretary shall report to the Commission the initiatives described in clause (i) by the date indicated by the Commission and shall report the work group's recommendations for legislative consideration described in clause (ii) to the Governor, the Health Benefit Exchange Advisory Committee, and the General Assembly by September 15, 2021.

4. That after the second full year of operation of the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia) (the Program), as established by this act, the State Corporation Commission (the Commission) shall complete a study that evaluates (i) the effects of the Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions and (ii) health plan affordability, including cost sharing and premiums. The Commission shall issue a report of the study within 120 days after the end of the second full year of operation of the Program, post the report on the Virginia Health Benefit Exchange Division's website, and submit the report to the Governor, the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations, for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.

5. That the General Assembly shall appropriate a sum sufficient to ensure the operation of the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia), established by this act, in accordance with the provisions of this act and the State Innovation Waiver required by § 38.2-6606 of the Code of Virginia, as created by this act.

CHAPTER 481

An Act to amend and reenact § 54.1-3482 of the Code of Virginia, relating to the Department of Health Professions; practice of physical therapy.

[S 1187]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3482 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 30 60 consecutive days after an initial evaluation without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Treatment for more than 30 60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with

the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the ~~30-day~~ 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. ~~A~~ *After discharging a patient*, a physical therapist shall not perform an initial evaluation of a patient under this subsection *without a referral* if the physical therapist has performed an initial evaluation of the patient under this subsection for the same condition within the immediately preceding 60 days.

C. A physical therapist who has not completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician.

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957 when such patient's medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

CHAPTER 482

An Act to amend and reenact § 24.2-110 of the Code of Virginia, relating to elections; qualifications of the general registrar; residency.

[S 1281]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-110 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-110. Appointment, qualifications, and term of general registrar; vacancies; certain prohibitions.

Each electoral board shall meet in the month of May or June in 2007, and every four years thereafter, and shall appoint a general registrar, who shall be a qualified voter of the county or city for which he is appointed unless such county or city has a population of county or city for which he is appointed unless such county or city has a population of 25,000 50,000 or less. ~~In the case of a city that is wholly contained within one county, the city electoral board may appoint a qualified voter of that county to serve as city general registrar or less.~~ In the case of a city that is wholly contained within one county, the city electoral board may appoint a qualified voter of that county to serve as city general registrar. General registrars shall serve four-year terms beginning July 1, 2007, and each fourth year thereafter, and continue in office until a successor is appointed and qualifies.

The electoral board shall fill any vacancy in the office of general registrar for the unexpired term. The electoral board shall declare vacant and fill the office of the general registrar if the appointee fails to qualify and deliver a copy of his oath to the secretary of the electoral board within 30 days after he has been notified of his appointment.

No general registrar shall hold any other office, by election or appointment, while serving as general registrar; however, with the consent of the electoral board, he may undertake other duties which do not conflict with his duties as general registrar. General registrars shall not serve as officers of election. The election or appointment of a general registrar to any other office shall vacate the office of the general registrar.

No general registrar shall be eligible to offer for or hold an office to be filled by election in whole or in part by the qualified voters of his jurisdiction at any election held during the time he serves as general registrar or for the six months thereafter.

The electoral board shall not appoint to the office of general registrar any person who is the spouse of an electoral board member or any person, or the spouse of any person, who is the parent, grandparent, sibling, child, or grandchild of an electoral board member.

No general registrar shall serve as the chairman of a political party or other officer of a state, local or district level political party committee. No general registrar shall serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of his jurisdiction. The restrictions of this paragraph shall apply to paid assistant registrars but shall not apply to unpaid assistant registrars.

CHAPTER 483

An Act to amend and reenact §§ 2.2-3704, 2.2-3706, 2.2-3711, 2.2-3714, 19.2-174.1, and 19.2-368.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3706.1, relating to the Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal investigative files.

[H 2004]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3704, 2.2-3706, 2.2-3711, 2.2-3714, 19.2-174.1, and 19.2-368.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3706.1 as follows:

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days *or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days* in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business

of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Criminal incident information relating to felony offenses, which shall include:
 - a. A general description of the criminal activity reported;
 - b. The date the alleged crime was committed;
 - c. The general location where the alleged crime was committed;
 - d. The identity of the investigating officer or other point of contact; and
 - e. A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision 1.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision 1 shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

2. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

3. 2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and

4. 3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, ~~other than criminal incident information subject to release in accordance with subdivision A 4~~ not required to be disclosed in accordance with § 2.2-3706.1;

2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision B 9 of this section and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations.

A. For purposes of this section:

"Immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

"Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.

B. All public bodies engaged in criminal law-enforcement activities shall provide the following records and information when requested in accordance with the provisions of this chapter:

1. Criminal incident information relating to felony offenses contained in any report, notes, electronic communication, or other document, including filings through an incident-based reporting system, which shall include:

- a. A general description of the criminal activity reported;*
- b. The date and time the alleged crime was committed;*
- c. The general location where the alleged crime was committed;*
- d. The identity of the investigating officer or other point of contact;*
- e. A description of any injuries suffered or property damaged or stolen; and*
- f. Any diagrams related to the alleged crime or the location where the alleged crime was committed, except that any diagrams described in subdivision 14 of § 2.2-3705.2 and information therein shall be excluded from mandatory disclosure, but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law.*

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subdivision 1; and

2. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, initial incident reports, filings through any incident-based reporting system, diagrams, maps, photographs, correspondence, reports, witness statements, or evidence, relating to a criminal investigation or proceeding that is not ongoing.

C. The provisions of subsection B shall not apply if the release of such information:

- 1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;*
- 2. Would deprive a person of a right to a fair trial or an impartial adjudication;*
- 3. Would constitute an unwarranted invasion of personal privacy;*
- 4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;*
- 5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or*
- 6. Would endanger the life or physical safety of any individual.*

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

D. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement officer encounters with members of the public.

No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified, except for transcripts of recorded interviews between a victim and law enforcement, shall be released pursuant to subdivision B 2 to anyone except (i) the victim; (ii) members of the immediate family of the victim, if the victim is deceased; or (iii) the parent or guardian of the victim, if the victim is a minor.

E. In the event of a conflict between this section as it relates to requests made under this section and other provisions of law, the other provisions of law, including court sealing orders, that restrict disclosure of criminal investigative files, as defined in subsection B, shall control.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion

of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files ~~subject to the exclusion in subdivision B 4 of § 2.2-3706.~~

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3714. Violations and penalties.

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3706.1, 2.2-3707, 2.2-3708.2, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on the public body, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider mitigating factors, including reliance of members of the public body on (i) opinions of the Attorney General, (ii) court cases substantially supporting the rationale of the public body, and (iii) published opinions of the Freedom of Information Advisory Council.

§ 19.2-174.1. Information required prior to admission to a mental health facility.

Prior to any person being placed into the custody of the Commissioner for evaluation or treatment pursuant to §§ 19.2-169.2, 19.2-169.3, 19.2-169.6, 19.2-182.2, and 19.2-182.3, and Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the court or special justice shall provide the Commissioner with the following, if available: (i) the commitment order, (ii) the names and addresses for the attorney for the Commonwealth, the attorney for the person and the judge holding jurisdiction over the person, (iii) a copy of the warrant or indictment, and (iv) a copy of the criminal incident information as defined in § 2.2-3706.2.2-3706.1 or a copy of the arrest report or a summary of the facts relating to the crime. The party requesting the placement into the Commissioner's custody or, in the case of admissions pursuant to §§ 19.2-169.3 and 19.2-169.6, and Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the person having custody over the defendant or inmate shall gather the above information for submission to the court at the hearing. If the information is not available at the hearing, it shall be provided by the party requesting placement or the person having custody directly to the Commissioner within 96 hours of the person being placed into the Commissioner's custody. If the 96-hour period expires on a Saturday, Sunday or legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday or legal holiday.

§ 19.2-368.3. Powers and duties of Commission.

The Commission shall have the following powers and duties in the administration of the provisions of this chapter:

1. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of this chapter, to include a distinct policy (i) for the payment of physical evidence recovery kit examinations and (ii) to require each health care provider as defined in § 8.01-581.1 that provides services under this chapter to negotiate with the Commission or its designee to establish prospective agreements relating to rates for payment of claims for such services allowed under § 19.2-368.11:1, such rates to discharge the obligation to the provider in full except where the provider is an agency of the Commonwealth and the claimant receives a third party recovery in addition to the payment from the Fund.

2. Notwithstanding the provisions of §§ 2.2-3706 and 2.2-3706.1, to acquire from the attorneys for the Commonwealth, State Police, local police departments, sheriffs' departments, and the Chief Medical Examiner such investigative results, information and data as will enable the Commission to determine if, in fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was responsible for his own injury. These data shall include prior adult arrest records and juvenile court disposition records of the offender. For such purposes and in accordance with § 16.1-305, the Commission may also acquire from the juvenile and domestic relations district courts a copy of the order of disposition relating to the crime. The use of any information received by the Commission pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section, and this information shall be confidential and shall not be disseminated further. The agency from which the information is requested may submit original reports, portions thereof, summaries, or such other configurations of information as will comply with the requirements of this section.

3. To hear and determine all claims for awards filed with the Commission pursuant to this chapter, and to reinvestigate or reopen cases as the Commission deems necessary.

4. To require and direct medical examination of victims.

5. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue summonses requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated by the Commission to any member or employee thereof.

6. To take or cause to be taken affidavits or depositions within or without the Commonwealth.

7. To render each year to the Governor and to the General Assembly a written report of its activities. This report shall include a detailed section on all unclaimed restitution collected and disbursed to the victim from the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1.

8. To accept from the government of the United States grants of federal moneys for disbursement under the provisions of this chapter.

9. To collect and disburse unclaimed restitution pursuant to subsection I of § 19.2-305.1 and develop, in consultation with circuit court clerks and the Office of the Executive Secretary of the Supreme Court of Virginia, policies and procedures for the receipt, collection, and disbursement of unclaimed restitution to victims of crime.

10. To identify and locate victims of crime for whom restitution owed to such victims has been deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1. Notwithstanding the provisions of §§ 2.2-3706 and 2.2-3706.1, the Commission may acquire from the attorneys for the Commonwealth, State Police, local police departments, and sheriffs' departments such information as will enable the Commission to identify and locate such victims. The use of any information received by the Commission pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section, and this information shall be confidential and shall not be disseminated further.

CHAPTER 484

An Act to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exclusion for personal contact information provided to a public body.

[H 2025]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1; (ii) records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subdivision, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the public records of a public body. For the purpose of this subdivision, "vendor proprietary information software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease.

9. Information concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal contact information furnished to a public body *or any of its members* for the purpose of receiving electronic mail communications from the public body *or any of its members*, ~~provided that unless the electronic mail recipient has requested that of such electronic communications indicates his approval for the public body not to disclose such information.~~ However, access shall not be denied to the person who is the subject of the record. As used in this subdivision, "personal contact information" means the information provided to the public body *or any of its members* for the purpose of receiving electronic mail communications from the public body *or any of its members* and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Information relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such information would adversely affect the bargaining position or negotiating strategy of the public body. Such information shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of information relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the information. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

CHAPTER 485

An Act to amend and reenact § 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571, 59.1-572, and 59.1-573, relating to food delivery platforms; agreements with restaurants required; penalty.

[H 2062]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571, 59.1-572, and 59.1-573, as follows:

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information

however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. (Effective July 1, 2021) Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2; **and**
65. (Effective July 1, 2021) Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2; **and**
66. *Violating any provision of Chapter 52 (§ 59.1-571 et seq.).*
- B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

CHAPTER 52.

FAIR FOOD DELIVERY ACT.

§ 59.1-571. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Food delivery platform" means a person that operates a mobile application or other online service to act as an intermediary between consumers and multiple restaurants to submit food orders on behalf of a consumer to a participating restaurant and to arrange for the delivery of the order from the restaurant to the consumer.

"Restaurant" has the same meaning as provided in § 35.1-1 and excludes establishments listed in § 35.1-25.

§ 59.1-572. Food delivery platform; agreements required.

No food delivery platform shall submit an order on behalf of a consumer to a restaurant or arrange for the delivery of an order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the food delivery platform to submit orders to and deliver food prepared by the restaurant.

§ 59.1-573. Enforcement; penalties.

Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of Chapter 17 (§ 59.1-196 et seq.).

CHAPTER 486

An Act to amend and reenact §§ 8.01-251, 8.01-458, and 55.1-339 of the Code of Virginia, relating to limitations on enforcement of judgments; judgment liens; settlement agents.

Approved March 31, 2021

[H 2099]

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 8.01-251, 8.01-458, and 55.1-339 of the Code of Virginia are amended and reenacted as follows:**
- § 8.01-251. Limitations on enforcement of judgments.**

A. ~~No execution shall be issued and no action brought on a judgment dated prior to July 1, 2021, including a judgment in favor of the Commonwealth and a judgment rendered in another state or country, after 20 years from the date of such judgment or domestication of such judgment, unless the period is extended as provided in this section. No execution shall be issued and no action brought on a judgment dated on or after July 1, 2021, including a judgment in favor of the Commonwealth and a judgment rendered in another state or country, after 20 10 years from the date of such judgment or domestication of such judgment, unless the period is extended as provided in this section, except that no execution shall be issued and no action brought on a judgment dated on or after July 1, 2021, that was created by nonpayment of child support after 20 years from the date of such judgment or domestication of such judgment.~~

B. ~~The limitation prescribed in subsection A may be extended on motion of the judgment creditor or his assignee with notice to the judgment debtor, and an order of the circuit court of the jurisdiction in which the judgment was entered to show cause why the period for issuance of execution or bringing of an action should not be extended. Any such motion shall be filed within the 20-year period from the date of the original judgment or from the date of the latest extension thereof. If upon the hearing of the motion the court decides that there is no good cause shown for not extending the period of limitation, the order shall so state and the period of limitation mentioned in subsection A shall be extended for an additional 20 years from the date of filing of the motion to extend. Additional extensions may be granted upon the same procedure, subject in each case to the recording provisions prescribed in § 8.01-458 by the recordation of a certificate in the form provided in subsection G prior to the expiration of the limitation period prescribed herein in the clerk's office in which such judgment lien is recorded and executed by either the judgment lien creditor or by his duly authorized attorney-in-fact or agent. Recordation of the certificate shall extend the limitations of the right to enforce such judgment lien for 10 years from the date of the recordation of the certificate. A judgment creditor may record one additional extension by recording another certificate in the form provided in subsection G prior to the expiration of the original 10-year extension of the limitation period, which shall extend the limitations of the right to enforce such judgment lien for 10 years from the date of recordation of the second certificate. The clerk of the court shall index the certificate in both names in the index of the judgment lien book and give reference to the book and page in which the original lien is recorded. This extension procedure is subject to the exception that if the action is against a personal representative of a decedent, the motion shall be within two years from the date of his qualification, the extension may be for only two years from the time of the filing of the motion recordation of the certificate, and there may be only one such extension.~~

C. ~~No suit shall be brought to enforce the lien of any judgment, including judgments in favor of the Commonwealth, upon which the right to issue an execution or bring an action is barred by other subsections of this section, nor shall any suit be brought to enforce the lien of any judgment against the lands which have been conveyed by the judgment debtor to a grantee for value, unless the same be brought within 10 five years from the due recordation of the deed from such judgment debtor to such grantee and unless a notice of lis pendens shall have been recorded in the manner provided by § 8.01-268 before the expiration of such 10-year five-year period.~~

D. ~~In computing the time, any time during which the right to sue out execution on the judgment is suspended by the terms thereof, or by legal process, shall be omitted. Sections 8.01-230 et seq., 8.01-247 and 8.01-256 shall apply to the right to bring such action in like manner as to any right.~~

E. ~~The provisions of this section apply to judgments obtained after June 29, 1948, and to judgments obtained prior to such date which are not then barred by the statute of limitations, but nothing herein shall have the effect of reducing the time for enforcement of any judgment the limitation upon which has been extended prior to such date by compliance with the provisions of law theretofore in effect.~~

F. ~~This section shall not be construed to impair the right of subrogation to which any person may become entitled while the lien is in force, provided that he institutes proceedings to enforce such right within five years after the same accrued, nor shall the lien of a judgment be impaired by the recovery of another judgment thereon, or by a forthcoming bond taken on an execution thereon, such bond having the force of a judgment.~~

G. ~~F. Limitations on enforcement of judgments entered in the general district courts shall be governed by § 16.1-94.1, unless an abstract of such judgment is docketed in the judgment book of a circuit court. Upon the docketing of such judgment, the limitation for the enforcement of a district court judgment is the same as for a judgment of the circuit court.~~

G. Any extension of the limitations of the right to enforce a judgment shall conform substantially with the following form:

**CERTIFICATE OF EXTENSION OF
LIMITATION OF RIGHT TO ENFORCE JUDGMENT LIEN**

Place of Record _____
 Date Judgment Docketed _____
 Judgment Lien Book _____ Book Page _____
 Name of Creditor(s) _____
 Address of Creditor(s) _____
 Phone number of Creditors(s) (if available) _____
 Name of Debtor(s) _____

I/we, the judgment lien creditor(s), do hereby certify that the aforementioned judgment lien be extended 10 years from the date of my/our endorsement upon this certificate.

*Judgment Creditor/Attorney-in-Fact/Agent: _____
 Commonwealth of Virginia*

County/City of _____
 Subscribed, sworn to and acknowledged before me by
 _____ this _____ day of _____, 20 _____
 My Commission expires: _____
 Notary Public: _____

§ 8.01-458. From what time judgment to be a lien on real estate; docketing revived judgment.

Every judgment for money rendered in this Commonwealth by any state or federal court or by confession of judgment, as provided by law, shall be a lien on all the real estate of or to which the defendant in the judgment is or becomes possessed or entitled, from the time such judgment is recorded on the judgment lien docket of the clerk's office of the county or city where such land is situated; ~~provided, however, when a judgment is revived under the provisions of § 8.01-251, that such revived judgment shall not be a lien as prescribed in this section unless and until such judgment is again docketed as provided herein. In such event the lien shall be effective from the date of the original docketing.~~ Any judgment or decree properly docketed under the provisions of this section shall, if the real estate subject to the lien of such judgment has been annexed to or merged with an adjoining city subsequent to such docketing, be deemed to have been docketed in the proper clerk's office of such city.

§ 55.1-339. Release of deed of trust or other lien.

A. As used in this section:

"Deed of trust" means any mortgage, deed of trust, or vendor's lien.

"Judgment lien" includes a judgment lien prescribed by § 8.01-458 but does not include any lien in favor of the federal, state, or local government, or any political subdivision thereof.

"Lien creditor" and "creditor" shall be construed as synonymous and mean the holder, payee, or obligee of a note, bond, or other evidence of debt and shall embrace the lien creditor or his successor in interest as evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond, or other evidence of debt.

"Payoff letter" means a written communication from the lien creditor or servicer stating, at a minimum, the amount outstanding and required to be paid to satisfy the obligation.

"RESA" means Chapter 10 (§ 55.1-1000 et seq.), Real Estate Settlement Agents.

"Satisfactory evidence of the payment of the obligation secured by the deed of trust or judgment lien" means (i) any one of (a) the original canceled check or a copy of the canceled check, showing all endorsements, payable to the lien creditor or servicer, as applicable, (b) confirmation in written or electronic form of a wire transfer to the bank account of the lien creditor or servicer, as applicable, or (c) a bank statement in written or electronic form reflecting completion of the wire transfer or negotiation of the check, as applicable, and (ii) a payoff letter or other reasonable documentary evidence that the payment was to effect satisfaction of the obligation secured or evidenced by the deed of trust or judgment lien.

"Satisfied by payment" includes obtaining written confirmation from the lien creditor that the underlying obligation has a zero balance.

"Servicer" means a person or entity that collects loan payments on behalf of a lien creditor.

"Settlement agent" has the same meaning ascribed to it in § 55.1-1000, provided that a person shall not be a settlement agent unless he is registered pursuant to § 55.1-1014 and otherwise fully in compliance with the applicable provisions of RESA.

"Title insurance company" has the same meaning ascribed to it in § 38.2-4601, provided that the title insurance company seeking to release a lien by the process described in subsection E issued a policy of title insurance, through a title insurance agency or agent as defined in § 38.2-4601.1, for a real estate transaction wherein the loan secured by the lien was satisfied by payment made by the title insurance agency or agent also acting as the settlement agent.

B. 1. Except as provided in Article 3 (§ 55.1-346 et seq.), after full or partial payment or satisfaction has been made of a debt secured by a deed of trust, vendor's lien, or other lien, or any one or more obligations representing at least 25 percent of the total amount secured by such lien, but less than the total number of the obligations so secured, or the debt secured is evidenced by two or more separate written obligations sufficiently described in the instrument creating the lien, has been fully paid, the lien creditor shall issue a certificate of satisfaction or certificate of partial satisfaction in a form sufficient for recordation reflecting such payment and release of lien. This requirement shall apply to a credit line deed of trust prepared pursuant to § 55.1-318 only when the obligor or the settlement agent has paid the debt in full and requested that the instrument be released.

If the lien creditor receives notice from a settlement agent at the address identified in its payoff statement requesting that the certificate be sent to such settlement agent, the lien creditor shall provide the certificate within 90 days after receipt of such notice to the settlement agent at the address specified in the notice received from the settlement agent.

If the notice is not received from a settlement agent, the lien creditor shall deliver, within 90 days after such payment, the certificate to the appropriate clerk's office with the necessary fee for recording by certified mail, return receipt requested, or when there is written proof of receipt from the clerk's office, by hand delivery, electronic delivery via the clerk's electronic filing system, or delivery by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained.

If the lien creditor has already delivered the certificate to the clerk's office by the time it receives notice from the settlement agent, the lien creditor shall deliver a copy of the certificate to the settlement agent within 90 days of the receipt of the notice at the address for notification set forth in the payoff statement.

If *Except as provided for judgment lien creditors in § 8.01-454*, if the lien creditor has not, within 90 days after payment, either provided the certificate of satisfaction to the settlement agent or delivered it to the clerk's office with the necessary fee for filing, the lien creditor shall forfeit \$500 to the lien obligor. No settlement agent or attorney may take an assignment of the right to the \$500 penalty or facilitate such an assignment to any third party designated by the settlement agent or attorney. Following the 90-day period, if the amount forfeited is not paid within 10 business days after written demand for payment is sent to the lien creditor by certified mail at the address for notification set forth in the payoff statement, the lien creditor shall pay any court costs and reasonable attorney fees incurred by the obligor in collecting the forfeiture.

2. If the note, bond, or other evidence of debt secured by such deed of trust, vendor's lien, or other lien referred to in subdivision 1 or any interest therein has been assigned or transferred to a party other than the original lien creditor, the subsequent holder shall be subject to the same requirements as a lien creditor for failure to comply with this subsection, as set forth in subdivision 1.

C. The certificate of satisfaction shall be signed by the creditor or his duly authorized agent, attorney, or attorney-in-fact or any person to whom the instrument evidencing the indebtedness has been endorsed or assigned for the purpose of effecting such release. An affidavit shall be filed or recorded with the certificate of satisfaction by the creditor, or his duly authorized agent, attorney, or attorney-in-fact, with such clerk, stating that the debt therein secured and intended to be released or discharged has been paid to such creditor or his agent, attorney, or attorney-in-fact, who was entitled and authorized to receive such debt when the debt was satisfied.

D. When the certificate of satisfaction has been signed and the affidavit required by subsection C has been duly filed or recorded with the certificate of satisfaction with such clerk, the certificate of satisfaction shall operate as a release of the encumbrance as to which such payment or satisfaction is entered and, if the encumbrance is by deed of trust, as a reconveyance of the legal title as fully and effectually as if such certificate of satisfaction were a formal deed of release duly executed and recorded.

E. Release of lien by settlement agent or title insurance company.

A settlement agent or title insurance company may release a deed of trust *or judgment lien* in accordance with the provisions of this subsection (i) if the obligation secured by the deed of trust *or judgment lien* has been satisfied by payment made by the settlement agent and (ii) whether or not the settlement agent or title insurance company is named as a trustee under the deed of trust or otherwise has received the authority to release the lien.

1. Notice to lienholder.

a. After or accompanying payment in full of the obligation secured by a deed of trust *or judgment lien*, a settlement agent or title insurance company intending to release a deed of trust *or judgment lien* pursuant to this subsection shall deliver to the lien creditor by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, a notice of intent to release the deed of trust *or judgment lien* with a copy of the payoff letter and a copy of the release to be recorded as provided in this subsection.

b. The notice of intent to release shall contain (i) the name of the lien creditor, the name of the servicer if loan payments on the deed of trust *or judgment lien* are collected by a servicer, or both names; (ii) the name of the settlement agent; (iii) the name of the title insurance company if the title insurance company intends to release the lien; and (iv) the date of the notice. The notice of intent to release shall conform substantially to the following form:

NOTICE OF INTENT TO RELEASE

Notice is hereby given to you concerning the deed of trust *or judgment lien* described on the certificate of satisfaction, a copy of which is attached to this notice, as follows:

1. The settlement agent identified below has paid the obligation secured by the deed of trust *or judgment lien* described herein or obtained written confirmation from you that such obligation has a zero balance.

2. The undersigned will release the deed of trust *or judgment lien* described in this notice unless, within 90 days from the date this notice is mailed by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, the undersigned has received by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, a notice stating that a release of the deed of trust *or judgment lien* has been recorded in the clerk's office or that the obligation secured by the deed of trust *or judgment lien* described herein has not been paid, or the lien creditor or servicer otherwise objects to the release of the deed of trust *or judgment lien*. Notice shall be sent to the address stated on this form.

(Name of settlement agent)

(Signature of settlement agent or title insurance company)

(Address of settlement agent or title insurance company)

(Telephone number of settlement agent or title insurance company)

(Virginia RESA registration number of settlement agent at the time the obligation was paid or confirmed to have a zero balance)

2. Certificate of satisfaction and affidavit of settlement agent or title insurance company.

a. If, within 90 days following the day on which the settlement agent or title insurance company mailed or delivered the notice of intent to release in accordance with this subsection, the lien creditor or servicer does not send by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the settlement agent or title insurance company a notice stating that a release of the deed of trust *or judgment lien* has been recorded in the clerk's

office or that the obligation secured by the deed of trust *or judgment lien* has not been paid in full or that the lien creditor or servicer otherwise objects to the release of the deed of trust *or judgment lien*, the settlement agent or title insurance company may execute, acknowledge, and file with the clerk of court of the jurisdiction in which the deed of trust *or judgment lien* is recorded a certificate of satisfaction, which shall include (i) the affidavit described in subdivision 2 b and (ii) a copy of the notice of intent to release that was sent to the lender *lien creditor*, the servicer, or both. The certificate of satisfaction shall include the settlement agent's RESA registration number, issued by the Virginia State Bar or the Virginia State Corporation Commission, that was in effect at the time the settlement agent paid the obligation secured by the deed of trust *or judgment lien* or obtained written confirmation from the lien creditor that such obligation has a zero balance. The certificate of satisfaction shall note that the individual executing the certificate of satisfaction is doing so pursuant to the authority granted by this subsection. After filing or recording the certificate of satisfaction, the settlement agent or title insurance company shall mail a copy of the certificate of satisfaction to the lien creditor or servicer. The validity of a certificate of satisfaction otherwise satisfying the requirements of this subsection shall not be affected by the inaccuracy of the RESA registration number placed thereon or the failure to mail a copy of the recorded certificate of satisfaction to the lien creditor or servicer and shall nevertheless release the deed of trust *or judgment lien* described therein as provided in this subsection.

b. The certificate of satisfaction used by the settlement agent or title insurance company shall include an affidavit certifying (i) that the settlement agent has satisfied the obligation secured by the deed of trust *or judgment lien* described in the certificate, (ii) that the settlement agent or title insurance company possesses satisfactory evidence of payment of the obligation secured by the deed of trust *or judgment lien* described in the certificate or written confirmation from the lien creditor that such obligation has a zero balance, (iii) that the lien of the deed of trust *or judgment lien* may be released, (iv) that the person executing the certificate is the settlement agent or the title insurance company or is duly authorized to act on behalf of the settlement agent or title insurance company, and (v) that the notice of intent to release was delivered to the lien creditor or servicer and the settlement agent or title insurance company received evidence of receipt of such notice by the lien creditor or servicer. The affidavit shall be substantially in the following form:

AFFIDAVIT OF SETTLEMENT AGENT OR TITLE INSURANCE COMPANY

The undersigned hereby certifies that, in accordance with the provisions of § 55.1-339 of the Code of Virginia of 1950, as amended and in force on the date hereof (the Code), (a) the undersigned is a settlement agent or title insurance company as defined in subsection A of § 55.1-339 of the Code or a duly authorized officer, director, member, partner, or employee of such settlement agent or title insurance company; (b) the settlement agent has satisfied the obligation secured by the deed of trust *or judgment lien*; (c) the settlement agent or title insurance company possesses satisfactory evidence of the payment of the obligation secured by the deed of trust *or judgment lien* described in the certificate recorded herewith or written confirmation from the lien creditor that such obligation has a zero balance; (d) the settlement agent or title insurance company has delivered to the lien creditor or servicer in the manner specified in subdivision E 1 of § 55.1-339 of the Code the notice of intent to release and possesses evidence of receipt of such notice by the lien creditor or servicer; and (e) the lien of the deed of trust *or judgment lien* is hereby released.

(Authorized signer)

3. Effect of filing.

When filed or recorded with the clerk's office, a certificate of satisfaction that is executed and notarized as provided in this subsection and accompanied by (i) the affidavit described in subdivision 2 b and (ii) a copy of the notice of intent to release that was sent to the lender, lien creditor, or servicer shall operate as a release of the encumbrance described therein and, if the encumbrance is by deed of trust, as a reconveyance of the legal title as fully and effectively as if such certificate of satisfaction were a formal deed of release duly executed and recorded.

4. Effect of wrongful or erroneous certificate; damages.

a. The execution and filing or recording of a wrongful or erroneous certificate of satisfaction by a settlement agent or title insurance agent does not relieve the party obligated to repay the debt, or anyone succeeding to or assuming the responsibility of the obligated party as to the debt, from any liability for the debt or other obligations secured by the deed of trust *or judgment lien* that is the subject of the wrongful or erroneous certificate of satisfaction.

b. A settlement agent or title insurance agent that wrongfully or erroneously executes and files or records a certificate of satisfaction is liable to the lien creditor for actual damages sustained due to the recording of a wrongful or erroneous certificate of satisfaction.

c. The procedure authorized by this subsection for the release of a deed of trust *or judgment lien* shall constitute an optional method of accomplishing a release of a deed of trust *or judgment lien* secured by property in the Commonwealth. The nonuse of the procedure authorized by this subsection for the release of a deed of trust *or judgment lien* shall not give rise to any liability or any cause of action whatsoever against a settlement agent or any title insurance company by any obligated party or anyone succeeding to or assuming the interest of the obligated party.

5. Applicability.

a. The procedure authorized by this subsection for the release of a deed of trust may be used to effect the release of a deed of trust after July 1, 2002, regardless of when the deed of trust was created, assigned, or satisfied by payment made by the settlement agent. *The procedure authorized by this subsection for the release of a judgment lien may be used to effect the release of such judgment lien after July 1, 2021, regardless of when the judgment lien was created, assigned, or satisfied by payment made by the settlement agent.*

b. This subsection applies only to transactions involving the purchase of or lending on the security of real estate located in the Commonwealth that is either (i) unimproved real estate with a lien to be released of \$1 million or less or (ii) real estate containing at least one but not more than four residential dwelling units.

c. The procedure authorized by this subsection applies only to the full and complete release of a deed of trust *or judgment lien*. Nothing in this subsection shall be construed to authorize the partial release of property from a deed of trust *or judgment lien* or otherwise permit the execution or recordation of a certificate of partial satisfaction.

2. That the provisions of this act, except for the provisions amending subsections B and G of § 8.01-251 of the Code of Virginia, as amended by this act, shall become effective on January 1, 2022.

3. That the provisions of this act amending subsections B and G of § 8.01-251 of the Code of Virginia, as amended by this act, shall become effective in due course, and a judgment lien creditor or his duly authorized attorney-in-fact or agent may record a Certificate of Extension of Limitation of Right to Enforce Judgment Lien for judgment liens dated prior to July 1, 2021, beginning on July 1, 2021.

CHAPTER 487

An Act to amend and reenact §§ 13.1-609 and 13.1-610, as they shall become effective, § 13.1-615, § 13.1-615.1, as it shall become effective, §§ 13.1-625 and 13.1-628, §§ 13.1-630 and 13.1-636, as they shall become effective, §§ 13.1-639, 13.1-658, 13.1-661, 13.1-710, 13.1-711, and 13.1-716, §§ 13.1-718, 13.1-721.1, 13.1-722.6, and 13.1-722.12:1, as they shall become effective, §§ 13.1-759, 13.1-765, 13.1-775.1, 13.1-803, 13.1-806, 13.1-807, 13.1-809, 13.1-815, 13.1-815.1, 13.1-816, 13.1-829, 13.1-830, 13.1-831, 13.1-835, 13.1-894, 13.1-897.1, 13.1-898.7, 13.1-921, 13.1-927, 13.1-936.1, and 13.1-944.7, §§ 13.1-1002, 13.1-1004, 13.1-1005, and 13.1-1012, as they shall become effective, §§ 13.1-1017, 13.1-1052, and 13.1-1054, §§ 13.1-1062 and 13.1-1065, as they shall become effective, §§ 13.1-1073.1, 13.1-1074, 13.1-1075, 13.1-1080, and 13.1-1087, §§ 13.1-1096, 13.1-1099.14, and 13.1-1099.26, as they shall become effective, and §§ 13.1-1201, 13.1-1203, 13.1-1212, 13.1-1214, 13.1-1222, 13.1-1242, 13.1-1252, 13.1-1255, 13.1-1264, 13.1-1265, 13.1-1271, 13.1-1277, 15.2-5112, 15.2-5431.9, 50-73.1, 50-73.2, 50-73.6, 50-73.17, 50-73.54, 50-73.67, 50-73.70, 50-73.83, and 50-73.135 of the Code of Virginia; to amend the Code of Virginia by adding in Article 11.1 of Chapter 10 of Title 13.1 a section numbered 13.1-898.1:1, by adding in Article 11 of Chapter 14 of Title 13.1 a section numbered 13.1-1263.1, by adding in Chapter 54.1 of Title 15.2 sections numbered 15.2-5431.8:1, 15.2-5431.9:1, and 15.2-5431.35:1, and by adding in Article 7.1 of Chapter 2.1 of Title 50 a section numbered 50-73.48:5; and to repeal Article 17 (§§ 13.1-941.01 through 13.1-944) of Chapter 10 of Title 13.1 of the Code of Virginia, relating to business entities; filings with the State Corporation Commission; Virginia Stock Corporation Act.

[H 2121]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-609 and 13.1-610, as they shall become effective, § 13.1-615, § 13.1-615.1, as it shall become effective, §§ 13.1-625 and 13.1-628, §§ 13.1-630 and 13.1-636, as they shall become effective, §§ 13.1-639, 13.1-658, 13.1-661, 13.1-710, 13.1-711, and 13.1-716, §§ 13.1-718, 13.1-721.1, 13.1-722.6, and 13.1-722.12:1, as they shall become effective, §§ 13.1-759, 13.1-765, 13.1-775.1, 13.1-803, 13.1-806, 13.1-807, 13.1-809, 13.1-815, 13.1-815.1, 13.1-816, 13.1-829, 13.1-830, 13.1-831, 13.1-835, 13.1-894, 13.1-897.1, 13.1-898.7, 13.1-921, 13.1-927, 13.1-936.1, and 13.1-944.7, §§ 13.1-1002, 13.1-1004, 13.1-1005, and 13.1-1012, as they shall become effective, §§ 13.1-1017, 13.1-1052, and 13.1-1054, §§ 13.1-1062 and 13.1-1065, as they shall become effective, §§ 13.1-1073.1, 13.1-1074, 13.1-1075, 13.1-1080, and 13.1-1087, §§ 13.1-1096, 13.1-1099.14, and 13.1-1099.26, as they shall become effective, and §§ 13.1-1201, 13.1-1203, 13.1-1212, 13.1-1214, 13.1-1222, 13.1-1242, 13.1-1252, 13.1-1255, 13.1-1264, 13.1-1265, 13.1-1271, 13.1-1277, 15.2-5112, 15.2-5431.9, 50-73.1, 50-73.2, 50-73.6, 50-73.17, 50-73.54, 50-73.67, 50-73.70, 50-73.83, and 50-73.135 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 11.1 of Chapter 10 of Title 13.1 a section numbered 13.1-898.1:1, by adding in Article 11 of Chapter 14 of Title 13.1 a section numbered 13.1-1263.1, by adding in Chapter 54.1 of Title 15.2 sections numbered 15.2-5431.8:1, 15.2-5431.9:1, and 15.2-5431.35:1, and by adding in Article 7.1 of Chapter 2.1 of Title 50 a section numbered 50-73.48:5 as follows:

§ 13.1-609. (Effective July 1, 2021) Certificate of good standing.

A. Anyone may apply to the Commission to furnish a certificate of good standing for a domestic or foreign corporation.

B. The certificate of good standing shall state that the corporation is in good standing in the Commonwealth and shall set forth:

1. The domestic corporation's corporate name or the foreign corporation's corporate name and, if applicable, the designated name adopted for use in the Commonwealth;

2. That (i) the domestic corporation is duly incorporated under the law of the Commonwealth, the date of its incorporation, which is the original date of incorporation or formation of the domesticated or converted corporation if the corporation was domesticated or converted from a foreign jurisdiction *or was converted from a domestic eligible entity*, and

the period of its duration if less than perpetual, or (ii) the foreign corporation is authorized to transact business in the Commonwealth; and

3. If requested, a list of all certificates relating to articles filed with the Commission that have been issued by the Commission with respect to such corporation and their respective effective dates.

C. A domestic corporation or a foreign corporation authorized to transact business in the Commonwealth shall be deemed to be in good standing if:

1. All fees, fines, penalties, and interest assessed, imposed, charged or to be collected by the Commission pursuant to this chapter have been paid except for any annual registration fee that is not due;

2. An annual report required by § 13.1-775 has been delivered to and accepted by the Commission; and

3. No certificate of dissolution, certificate of withdrawal, or order of reinstatement prohibiting the domestic corporation from engaging in business until it changes its corporate name has been issued or such certificate or prohibition has not become effective or no longer is in effect.

D. The certificate may state any other facts of record in the office of the clerk of the Commission that may be requested by the applicant.

E. Subject to any qualification stated in the certificate, a certificate of good standing issued by the Commission may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in the Commonwealth.

§ 13.1-610. (Effective July 1, 2021) Notices and other communications.

A. For purposes of this chapter, except for notice to or from the Commission:

1. A notice shall be in writing except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

2. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter shall be in the English language. A notice or other communication may be given by any method of delivery, except that electronic transmissions shall be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication may be given by a broad non-exclusionary dissemination to the public, which may include a newspaper of general circulation in the area where the notice is intended to be given, or by radio, television, or other form of public communication in the area where the notice is intended to be given or other methods of distribution that the corporation has previously identified to its shareholders.

3. A notice or other communication to a domestic or foreign corporation authorized to transact business in the Commonwealth may be delivered to the corporation's registered agent at its registered office or to the secretary at the corporation's principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

4. A notice or other communication may be delivered by electronic transmission if consented to by the recipient or if otherwise authorized by subsection B.

5. Any consent under subdivision 4 may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if (i) the corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with such consent and (ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent or other person responsible for the giving of notice or other communications; however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

6. Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

a. It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission; and

b. It is in a form capable of being processed by that system.

7. Receipt of an electronic acknowledgment from an information processing system described in subdivision 6 establishes that an electronic transmission was received. However, such receipt of an electronic acknowledgment, by itself, does not establish that the content sent corresponds to the content received.

8. An electronic transmission is received under this section even if no individual is aware of its receipt.

9. A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

a. If in physical form, the earliest of when it is actually received or when it is left at:

(1) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation pursuant to subsection C of § 13.1-770;

(2) A director's residence or usual place of business;

(3) The corporation's principal office; or

(4) The corporation's registered office when left with the corporation's registered agent;

b. If mailed postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail;

c. If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received or: (i) if sent by registered or certified mail return receipt requested, the date shown on the return receipt, signed by or on behalf of the addressee; or (ii) five days after it is deposited in the United States mail;

d. If an electronic transmission, when it is received as provided in subdivision 7; and

e. If oral, when communicated.

10. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if (i) the electronic transmission is otherwise retrievable in perceivable form, and (ii) the sender and the recipient have consented in writing to the use of such form of electronic transmission.

B. If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

C. Without limiting the manner by which notice otherwise may be given effectively to shareholders, any notice to shareholders given by a public corporation, under any provision of this chapter, the articles of incorporation, or the bylaws, shall be effective if given in a manner permitted by the rules and regulations under the federal Securities Exchange Act of 1934, provided that the corporation has first received any affirmative written consent or implied consent required under those rules and regulations.

D. If any provisions of this chapter are deemed to modify, limit, or supersede the federal General Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by § 102(a)(2) of that federal act or any successor provision of that federal act.

E. Whenever notice would otherwise be required to be given under any provision of this chapter to a shareholder, the notice need not be given if:

1. Notices to shareholders of two consecutive annual meetings, and all notices of meetings during the period between two consecutive annual meetings, have been sent, other than by electronic transmission, to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered; or

2. All, but not less than two, distributions to shareholders during a 12-month period, or two consecutive distributions to shareholders during a period of more than 12 months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered.

If any shareholder, for which notice is not required, delivers to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given shall be reinstated.

§ 13.1-615. Fees to be collected by Commission; application of payment; payment of fees prerequisite to Commission action; exceptions.

A. The Commission shall assess the registration fees and shall charge and collect the filing fees, charter fees, and entrance fees imposed by law. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment. When the Commission receives payment of an annual registration fee assessed against a domestic or foreign corporation, such payment shall be applied against any unpaid annual registration fees previously assessed against such corporation, including any penalties incurred thereon, beginning with the assessment or penalty that has remained unpaid for the longest period of time.

B. The Commission shall not file or issue with respect to any domestic or foreign corporation any document or certificate specified in this chapter, except the annual report required by § 13.1-775, a statement of change pursuant to § 13.1-635 or 13.1-764, and a statement of resignation pursuant to § 13.1-636 or 13.1-765, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such corporation. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign corporation that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the corporation's annual registration fee payment in any year, provided that the Commission shall not issue a certificate of domestication with respect to a foreign corporation, *a certificate of conversion with respect to a foreign eligible entity, or a certificate of conversion with respect to a domestic corporation that will become a domestic eligible entity* until the annual registration fee has been paid by or on behalf of that corporation *or eligible entity*.

C. (Effective until July 1, 2021) A domestic or foreign corporation shall not be required to pay the annual registration fee assessed against it pursuant to subsection B of § 13.1-775.1 in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:

1. A certificate of termination of corporate existence, a certificate of incorporation surrender, or a certificate of entity conversion for a domestic corporation;

2. A certificate of withdrawal for a foreign corporation;

3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign corporation that has merged into a surviving domestic corporation or eligible entity or into a surviving foreign corporation or eligible entity; or

4. An authenticated copy of an instrument of entity conversion for a foreign corporation that has converted to a different entity type.

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

C. (Effective July 1, 2021) A domestic or foreign corporation shall not be required to pay the annual registration fee assessed against it pursuant to subsection B of § 13.1-775.1 in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:

1. A certificate of termination of corporate existence, a certificate of ~~incorporation surrender~~ *domestication for a domestic corporation*, or a certificate of conversion for a domestic corporation *that will become a foreign eligible entity*;
2. A certificate of withdrawal for a foreign corporation;
3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign corporation that has merged into a surviving domestic corporation or eligible entity or into a surviving foreign corporation or eligible entity; or
4. An authenticated copy of an instrument of conversion for a foreign corporation that has converted to a different entity type.

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

D. A foreign corporation that has amended its articles of incorporation to reduce the number of shares it is authorized to issue, effective prior to its annual registration fee assessment date pursuant to subsection B of § 13.1-775.1 of a given year, and has timely filed an authenticated copy of the amendment with the Commission pursuant to § 13.1-760 after its annual registration fee assessment date pursuant to subsection B of § 13.1-775.1 shall have its annual registration fee reassessed to reflect the new number of authorized shares.

E. Annual registration fee assessments that have been paid shall not be refunded.

§ 13.1-615.1. (Effective July 1, 2021) Charter and entrance fees for corporations.

A. Every domestic corporation, upon the granting of its charter or upon its incorporation by domestication or conversion, shall pay a charter fee into the state treasury, and every foreign corporation, when it obtains from the State Corporation Commission a certificate of authority to transact business in the Commonwealth, shall pay an entrance fee into the state treasury. The fee in each case is to be ascertained and fixed as follows:

For any domestic or foreign corporation whose number of authorized shares is 1,000,000 or fewer shares: \$50 for each 25,000 shares or fraction thereof;

For any domestic or foreign corporation whose number of authorized shares is more than 1,000,000 shares: \$2,500.

B. For any foreign corporation that files articles of domestication and that had authority to transact business in the Commonwealth at the time of such filing, the charter fee to be charged upon domestication shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as an entrance fee by such corporation.

~~C. For any foreign corporation that files an application for a certificate of authority to transact business in the Commonwealth and that had previously surrendered its articles of incorporation as a domestic corporation, the entrance fee to be charged upon obtaining a certificate of authority to transact business in the Commonwealth shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as a charter fee by such corporation.~~

D. Whenever by articles of amendment, articles of merger, articles of correction, or articles of ratification, the number of authorized shares of any domestic or foreign corporation or of the surviving corporation is increased, the charter or entrance fee to be charged shall be an amount equal to the difference between the amount already paid as a charter or entrance fee by such corporation and the amount that would be required by this section to be paid if the increased number of authorized shares were being stated at that time in the original articles of incorporation.

~~E. D. For any domestic *nonstock corporation*, limited liability company, *business trust*, *limited partnership*, or *partnership* that files articles of conversion to become a domestic corporation and that had previously converted from a domestic corporation, the charter fee to be charged upon conversion shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as a charter fee by the domestic *nonstock corporation*, limited liability company, *business trust*, *limited partnership*, or *partnership* when it was a domestic corporation.~~

~~F. E. For any domestic nonstock corporation that files articles of ~~restatement~~ *conversion* to become a domestic corporation and that was not previously incorporated as a domestic corporation, the charter fee to be charged shall be an amount equal to the difference between the amount already paid as a charter fee by the domestic nonstock corporation upon its incorporation and the amount that would be required by this section to be paid in accordance with the number of authorized shares in the corporation's amended and restated articles of incorporation.~~

~~G. F. If no charter or entrance fee has been heretofore paid to the Commonwealth, the amount to be paid shall be the same as would have to be paid on original incorporation or application for authority to transact business.~~

§ 13.1-625. Emergency bylaws.

A. Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection D of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including *provisions that may be inconsistent with one or more provisions of this chapter with respect to*:

1. Procedures for calling a meeting of the board of directors;
2. Quorum requirements for the meeting; and

3. Designation of additional or substitute directors.

B. All provisions of the regular bylaws not inconsistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

C. Corporate action taken in good faith in accordance with the emergency bylaws:

1. Binds the corporation; and

2. May not be used to impose liability on a director, officer, employee, or agent of the corporation.

D. An emergency exists for purposes of this section *and* § 13.1-628 if *there is a catastrophic event, including an attack on the United States or in any locality in which the corporation conducts its business or customarily holds meetings of the board of directors or shareholders, an epidemic or pandemic, or a declaration of a national emergency by the United States government or an emergency by the government of the locality in which the corporation's principal office is located, that affects the corporation and regardless of whether a quorum of the board of directors cannot or a committee can be readily be assembled because of some catastrophic event convened for action.*

§ 13.1-628. Emergency powers.

A. In anticipation of or during an emergency ~~defined~~, as described in subsection D of § 13.1-625, the board of directors of a corporation may:

1. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

2. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

B. During *such* an emergency ~~defined in subsection D~~, unless emergency bylaws provide otherwise:

1. Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by *electronic transmission, press release, publication and, or radio*; and

2. One or more officers of the corporation present at a meeting of the board of directors may be deemed by a majority of the directors present at the meeting to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

C. *During such an emergency, the board of directors, or, if a quorum cannot be readily convened for a meeting, a majority of the directors present, may:*

1. *Take any action that it determines to be practical and necessary to address circumstances of the emergency with respect to a meeting of shareholders notwithstanding anything to the contrary in this chapter or in the articles of incorporation or bylaws, including (i) to postpone any such meeting to a later time or date, with the record date for determining the shareholders entitled to notice of, and to vote at, such meeting applying to the postponed meeting irrespective of § 13.1-660, unless the board of directors fixes a new record date, and (ii) with respect to a corporation subject to the reporting requirements of § 13(a) or 15(d) of the federal Securities Exchange Act of 1934, as amended, to notify shareholders of any postponement, a change of the place of the meeting, or a change to hold the meeting solely by means of remote communication pursuant to § 13.1-660.2 solely by a document publicly filed by the corporation with the U.S. Securities and Exchange Commission pursuant to § 13, 14, or 15(d) of the federal Securities Exchange Act of 1934, as amended; and*

2. *With respect to any distribution that has been declared as to which the record date has not occurred, cancel such distribution, change the amount of such distribution, or change the record date or the payment date to a later date; provided that, in any such case, the corporation gives notice of such action to shareholders as promptly as practicable thereafter, and in any event before the record date theretofore in effect. Such notice, in the case of a corporation subject to the reporting requirements of § 13(a) or 15(d) of the federal Securities Exchange Act of 1934, as amended, may be given solely by a document publicly filed by the corporation with the U.S. Securities and Exchange Commission pursuant to § 13, 14, or 15(d) of the federal Securities Exchange Act of 1934, as amended.*

No person shall be liable and no meeting of shareholders shall be postponed or voided for the failure to make a list of shareholders available pursuant to § 13.1-661 if it was not practicable to allow inspection during such an emergency.

D. Corporate action taken in good faith during *such* an emergency under this section to further the ordinary business affairs of the corporation:

1. Binds the corporation; and

2. May not be used to impose liability on a director, officer, employee, or agent of the corporation.

~~D. An emergency exists for purposes of this section if a quorum of the corporation's board of directors cannot readily be assembled because of some catastrophic event-~~

§ 13.1-630. (Effective July 1, 2021) Corporate name.

A. A corporate name shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd." Such words and their corresponding abbreviations may be used interchangeably for all purposes.

B. A corporate name shall not contain:

1. Any language stating or implying that the corporation will conduct any of the special kinds of businesses listed in § 13.1-620 unless it proposes in fact to engage in such special kind of business;

2. The word "redevelopment" unless the corporation is organized as an urban redevelopment corporation pursuant to Chapter 190 of the 1946 Acts of Assembly of 1946, as amended;

3. Any word, abbreviation, or combination of characters that states or implies the corporation is a limited liability company, a limited partnership, *a registered limited liability partnership*, or a protected series of a series limited liability company; or

4. Any word or phrase that is prohibited by law for such corporation.

C. Except as authorized by subsection D, a corporate name shall be distinguishable upon the records of the Commission from:

1. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;

2. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;

3. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;

4. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;

5. A limited liability company name reserved under § 13.1-1013;

6. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;

7. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;

8. A business trust name reserved under § 13.1-1215;

9. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;

10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;

11. A limited partnership name reserved under § 50-73.3; and

12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

D. A domestic corporation may apply to the Commission for authorization to use a name that is not distinguishable upon the Commission's records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in a form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying corporation.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether a corporate name is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under this section and § 13.1-544.1, subsection A of § 13.1-1012, § 13.1-1104, subsection A of § 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

§ 13.1-636. (Effective July 1, 2021) Resignation of registered agent.

A. A registered agent may resign as agent for the corporation by signing and filing with the Commission a statement of resignation stating (i) the name of the corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the corporation. The statement of resignation shall be accompanied by a certification that the registered agent will have a copy of the statement mailed to the principal office of the corporation by certified mail on or before the business day following the day on which the statement is filed. When the statement of resignation takes effect, the registered office is also discontinued.

B. A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change in accordance with § 13.1-635 *to appoint a registered agent* is filed with the Commission.

§ 13.1-639. Terms of class or series determined by board of directors.

A. If the articles of incorporation so provide, the board of directors, without shareholder action, may, by adoption of an amendment of the articles of incorporation:

1. Classify any unissued shares into one or more classes or into one or more series within one or more classes;

2. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or

3. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within one or more classes.

B. If the board of directors acts pursuant to subsection A, it shall determine the terms, including the preferences, rights and limitations, to the same extent permitted under § 13.1-638, of:

1. Any class of shares before the issuance of any shares of that class, or

2. Any series within a class before the issuance of any shares of that series.

C. Unless the articles of incorporation otherwise provide, the board of directors, without shareholder action, may, by adoption of an amendment of the articles of incorporation, delete from the articles of incorporation any provisions originally adopted by the board of directors without shareholder action fixing the terms, including the preferences, limitations, and rights of any class of shares or series within a class, provided there are no shares of such class or series then outstanding.

D. Unless the articles of incorporation otherwise provide, the board of directors of a corporation that is registered as an open-end management investment company under the federal Investment Company Act of 1940, without shareholder action, may, by adoption of an amendment of the articles of incorporation:

1. Classify any unissued shares into one or more classes or into one or more series within one or more classes; or
2. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or
3. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within one or more classes.

E. When the board of directors has adopted an amendment of the articles of incorporation pursuant to subsection A, C, or D, the corporation shall file with the Commission articles of amendment pursuant to § 13.1-710 with the addition, when the board of directors has acted pursuant to subsection A, of any determination made pursuant to subsection B.

If the Commission finds that the articles of amendment comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment. Shares of any class or series that are classified or reclassified under this section by the articles of amendment shall not be issued until the certificate of amendment is effective.

F. Whenever the articles of incorporation provide that the board of directors may classify or reclassify unissued shares in the manner prescribed in subsection A, the articles of incorporation shall be deemed to authorize the board of directors to adopt pursuant to this section an amendment to the articles of incorporation without shareholder action unless the articles of incorporation specifically state that shareholder action is required.

§ 13.1-658. Notice of meeting.

A. Except as otherwise provided in subsection F, a corporation shall notify shareholders of the date, time, and place, if any, of each annual and special shareholders' meeting no fewer than 10 nor more than 60 days before the meeting date except that notice of a shareholders' meeting to act on an amendment of the articles of incorporation, a plan of merger, share exchange, domestication, or conversion, a proposed sale of assets pursuant to § 13.1-724, or the dissolution of the corporation shall be given not fewer than 25 nor more than 60 days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to § 13.1-660.2 for holders of any class or series of shares, the notice to the holders of such class or series of shares shall describe the means of remote communication to be used. The notice shall include the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

B. Unless the articles of incorporation or this chapter requires otherwise, notice of an annual meeting of shareholders need not state the purpose or purposes for which the meeting is called.

C. Notice of a special meeting of shareholders shall state the purpose or purposes for which the meeting is called.

D. If not otherwise fixed under § 13.1-656 or 13.1-660, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

E. Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place, if any, is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or shall be fixed under § 13.1-660, however, notice of the adjourned meeting shall be given not fewer than 10 days before the meeting date to shareholders entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

F. Notwithstanding the foregoing, no notice of a shareholders' meeting need be given to a shareholder if (i) an annual report and proxy statements for two consecutive annual meetings of shareholders or (ii) all, and at least two, checks in payment of dividends or interest on securities during a 12-month period, have been sent by first-class United States mail, addressed to the shareholder at the shareholder's address as it appears on the share transfer books of the corporation, and returned undeliverable. The obligation of the corporation to give notice of shareholders' meetings to any such shareholder shall be reinstated once the corporation has received a new address for such shareholder for entry on its share transfer books.

§ 13.1-661. Shareholders' list for meeting.

A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under subsection E of § 13.1-660 to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list shall be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

B. The shareholders' list for notice shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, (i) at the corporation's principal office or at a place identified in the meeting notice in the county or city where the meeting will be

held or (ii) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. The original share transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of subsection D of § 13.1-771, to copy a list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

C. ~~The~~ If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also be open to such inspection during the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

D. If the corporation refuses to allow a shareholder or the shareholder's agent or attorney to inspect a shareholders' list before or at the meeting, or to copy a list as permitted by subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the Commonwealth its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

E. Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

§ 13.1-710. Articles of amendment.

A. After an amendment of the articles of incorporation has been adopted and approved as required by this chapter, the corporation shall deliver to the Commission for filing articles of amendment that shall set forth:

1. The name of the corporation;

2. The text of each amendment adopted or the information required by subdivision L 5 of § 13.1-604;

3. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which *provisions* may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with subsection L of § 13.1-604;

4. The date of each amendment's adoption or approval;

5. If an amendment (i) was adopted by the board of directors or the incorporators without shareholder approval, a statement that the amendment was duly adopted by the board of directors or by a majority of the incorporators, as the case may be, including the reason that shareholder and, if applicable, board of directors' approval was not required; (ii) was approved by the shareholders, either a statement that the amendment was adopted by unanimous consent of the shareholders, or a statement that the amendment was adopted by the board of directors, was submitted to the shareholders in accordance with this article, and was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or (iii) is being filed pursuant to subdivision L 5 of § 13.1-604, a statement to that effect.

B. If the Commission finds that the articles of amendment comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment.

§ 13.1-711. Restated articles of incorporation.

A. A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder approval.

B. The restatement may include one or more new amendments to the articles of incorporation. If the restatement includes one or more new amendments requiring shareholder approval, the new amendment or amendments shall be adopted and approved as provided in § 13.1-707.

C. A corporation restating its articles of incorporation shall file with the Commission articles of restatement setting forth:

1. The name of the corporation immediately prior to restatement;

2. Whether the restatement contains a new amendment of the articles of incorporation;

3. The text of the restated articles of incorporation;

4. If the restatement includes a new amendment that provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, which *provisions* may be made dependent upon facts objectively ascertainable outside the articles of restatement in accordance with subsection L of § 13.1-604;

5. The date of the restatement's adoption;

6. If the restatement does not contain a new amendment of the articles, a statement that the restatement was adopted by the board of directors or approved by the shareholders;

7. If the restatement contains a new amendment of the articles not requiring shareholder approval, a statement that the restatement was adopted by the board of directors without shareholder approval pursuant to § 13.1-706 or subdivision L 5 of § 13.1-604, as the case may be; and

8. If the restatement contains a new amendment of the articles requiring shareholder approval, a statement that the restatement (i) was adopted by the unanimous consent of the shareholders or (ii) was adopted by the board of directors, was submitted to the shareholders in accordance with this article, and was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

D. If the Commission finds that the articles of restatement comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of restatement. When the certificate of restatement is effective the restated articles of incorporation supersede the original or previously restated articles of incorporation and all amendments of them.

E. The Commission may certify restated articles of incorporation or amended and restated articles of incorporation as the articles of incorporation currently in effect.

§ 13.1-716. Merger.

A. One or more domestic corporations may merge with one or more domestic or foreign corporations or eligible entities pursuant to a plan of merger, or two or more foreign corporations or domestic or foreign eligible entities may merge, resulting in a survivor that is a domestic corporation created in the merger. ~~When a domestic corporation is the survivor of a merger with a domestic nonstock corporation, it may become, pursuant to subdivision C 6, a domestic nonstock corporation, provided that the only parties to the merger are domestic corporations and domestic nonstock corporations.~~

B. A foreign corporation or a foreign eligible entity may be a party to a merger with a domestic corporation, or may be created as the survivor of a merger in which a domestic corporation is a party, but only if the merger is permitted by the organic law of the foreign corporation or eligible entity.

C. The plan of merger shall include:

1. As to each party to the merger, its name, jurisdiction of formation, and type of entity;
2. The survivor's name, jurisdiction of formation, and type of entity and, if the survivor is to be created in the merger, a statement to that effect;
3. The terms and conditions of the merger;
4. The manner and basis of converting the shares of each merging domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property or any combination of the foregoing;
5. The manner and basis of converting any rights to acquire the shares of each merging domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property or any combination of the foregoing;
6. Any amendment of the articles of incorporation of the survivor that is a domestic corporation or if the articles of incorporation are amended and restated, as an attachment to the plan, the survivor's restated articles of incorporation, or if a new domestic corporation is to be created by the merger, as an attachment to the plan, the survivor's articles of incorporation; and

7. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party.

D. In addition to the requirements of subsection C, a plan of merger may contain any other provision not prohibited by law.

E. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-604.

F. Unless the plan of merger provides otherwise, the plan of merger may be amended prior to the effective date of the certificate of merger, but if the shareholders of a domestic corporation that is a party to the merger are required by any provision of this chapter to vote on the plan, the plan may not be amended subsequent to approval of the plan by such shareholders to change any of the following, unless the amendment is subject to the approval of the shareholders:

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash or other property to be received under the plan by the shareholders of or ~~owners~~ holders of eligible interests in any party to the merger;
2. The articles of incorporation of any domestic corporation that will be the survivor of the merger, except for changes permitted by § 13.1-706; or
3. Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

G. One or more domestic corporations may merge pursuant to this section into another domestic corporation if the articles of incorporation of each of them could lawfully contain all the corporate powers and purposes of all of them.

H. Any corporation authorized by its articles of incorporation to engage in a special kind of business enumerated in § 13.1-620 may be merged with another corporation authorized by its articles of incorporation to engage in the same special kind of business, including mergers authorized under § 6.2-1146, whether or not either or both of such corporations are actually engaged in the transaction of such business, and the shareholders of the corporations parties to the merger may receive shares of a corporation not authorized by its articles of incorporation to engage in such special kind of business.

§ 13.1-718. (Effective July 1, 2021) Action on a plan of merger or share exchange.

A. Subject to the provisions of subdivision F 4, in the case of a domestic corporation that is (i) a party to a merger, (ii) an acquired entity in a share exchange, or (iii) the acquiring entity in a share exchange:

1. The plan of merger or share exchange shall first be adopted by the board of directors.
2. Except as provided in subsections F and G and in §§ 13.1-719 and 13.1-719.1, after adopting the plan of merger or share exchange the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan or, in the case of an offer

referred to in subsection G, that the shareholders tender their shares to the offeror in response to the offer, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors shall inform the shareholders of the basis for that determination.

B. The board of directors may set conditions for the approval of the plan of merger or share exchange by the shareholders or the effectiveness of the plan of merger or share exchange.

C. If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing domestic or foreign corporation or eligible entity and its shareholders are to receive shares or other eligible interests or the right to receive shares or other eligible interests in the survivor, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation and bylaws or organic rules of the survivor. If the corporation is to be merged into a domestic or foreign corporation or eligible entity and a new domestic or foreign corporation or eligible entity is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or organic rules of the new corporation or eligible entity.

D. Unless the articles of incorporation, or the board of directors acting pursuant to subsection B, require a greater vote, approval of the plan of merger or share exchange requires the approval of each voting group entitled to vote on the plan by more than two-thirds of all the votes entitled to be cast by that voting group. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast on the plan by each voting group entitled to vote on the plan of merger or share exchange at a meeting at which a quorum of the voting group exists.

E. Separate voting by voting groups is required:

1. Except as otherwise provided in the articles of incorporation, on a plan of merger by each class or series of shares that:

a. Is to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing, or is proposed to be eliminated without being converted into any of the foregoing; or

b. Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 13.1-708;

2. Except as otherwise provided in the articles of incorporation, on a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group;

3. On a plan of merger, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger; and

4. On a plan of share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of share exchange.

F. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if:

1. The corporation will survive the merger or is the acquiring corporation in a share exchange;

2. Except for amendments permitted by § 13.1-706, its articles of incorporation will not be changed;

3. Each shareholder of the corporation whose shares were outstanding immediately before the effective time of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and rights immediately after the effective time of the merger or share exchange; and

4. With respect to shares of the surviving corporation in a merger or the shares of the acquiring entity in a share exchange entity that are entitled to vote unconditionally in the election of directors, the number of shares outstanding immediately after the merger or share exchange, plus the number of shares issuable as a result of the merger or share exchange, either by the conversion of securities issued pursuant to the merger or share exchange or the exercise of options, rights, and warrants issued pursuant to the merger or share exchange, will not exceed by more than 20 percent the total number of shares of the surviving corporation outstanding immediately before the merger or share exchange.

G. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if:

1. The plan of merger or share exchange expressly (i) permits or requires such a merger or share exchange to be effected under this subsection and (ii) provides that such merger or share exchange be effected as soon as practicable following the consummation of the offer referred to in subdivision 3 if such merger or share exchange is effected under this subsection;

2. Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms provided in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing;

3. The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in subdivision 7 6 and that the shares of the corporation that are not tendered in response to the offer will be treated as set forth in subdivision 8;

4. The offer remains open for at least 10 business days;

5. The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

6. The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this subsection, would be required by this chapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the approval were present and voted:

a. Shares purchased by the offeror in accordance with the offer;

b. Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and

c. Shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent, or subsidiary;

7. The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation; and

8. Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in subdivision 6 a or c need not be converted into or exchanged for the consideration described in this subdivision.

H. As used in ~~subsection~~ *subsections G and K*:

"Offer" means the offer referred to in subdivision 3.

"Offeror" means the person making the offer.

"Parent" of any entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests in that entity.

"Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests.

I. If a corporation has not yet issued shares and its articles of incorporation do not otherwise provide, its board of directors may adopt and approve a plan of merger or share exchange on behalf of the corporation without shareholder action.

J. If as a result of a merger or share exchange one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the plan of merger or share exchange requires the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such new interest holder liability, unless in the case of a shareholder that already has interest holder liability with respect to such domestic corporation, (i) the new interest holder liability is with respect to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the person is a shareholder, and (ii) the terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.

K. Shares tendered in response to an offer shall be deemed, for purposes of ~~this section~~ *subsection G*, to have been purchased in accordance with the offer at the earliest time as of which the offeror has irrevocably accepted those shares for payment and either (i) in the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares or (ii) in the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.

§ 13.1-721.1. (Effective July 1, 2021) Abandonment of a merger or share exchange.

A. Unless otherwise provided in ~~a~~ *the* plan of merger or share exchange or in the laws under which a foreign corporation or a domestic or foreign eligible entity that is a party to a merger or a share exchange is organized or by which it is governed, after a plan of merger or share exchange has been adopted and approved as required by this article, and at any time before the certificate of merger or share exchange has become effective, the plan may be abandoned by a domestic corporation that is a party ~~thereto~~ *to the plan* without action by *its* shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the plan of merger or share exchange.

B. If a merger or share exchange is abandoned after the articles of merger or share exchange have been filed with the Commission but before the certificate of merger or share exchange has become effective, in order for the certificate of merger or share exchange to be abandoned, all parties to the plan of merger or share exchange shall sign a statement of abandonment and deliver it to the Commission for filing prior to the effective time and date of the certificate of merger or share exchange. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall

issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the merger or share exchange shall be deemed abandoned and shall not become effective.

C. The statement of abandonment shall contain:

1. The name of ~~the~~ *each domestic and foreign corporation and eligible entity that is a party to the merger and its jurisdiction of formation and entity type;*

2. *When the survivor will be a domestic corporation or a domestic nonstock corporation created by the merger, the name of the survivor set forth in the articles of merger;*

3. The date on which the articles of merger or share exchange were filed with the Commission;

~~3.~~ 4. The date and time on which the Commission's certificate of merger or share exchange becomes effective; and

4. 5. A statement that the merger or share exchange is being abandoned in accordance with this section.

§ 13.1-722.6. (Effective July 1, 2021) Amendment of plan of domestication; abandonment.

A. A plan of domestication of a domestic corporation may be amended:

1. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

2. In the manner provided in the plan, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change:

a. The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the domesticating corporation under the plan;

b. The articles of incorporation or bylaws of the domesticated corporation that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic law or its proposed article of incorporation or bylaws as set forth in the plan; or

c. Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect.

B. Unless otherwise provided in the plan of domestication, after ~~the~~ a plan of domestication has been adopted and approved by a domestic corporation as required by this article, and at any time before the certificate of domestication has become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

C. *A domesticating corporation that is a foreign corporation may abandon its domestication to a domestic corporation in the manner prescribed by its organic law.*

D. If a domestication is abandoned after the articles of domestication have been filed with the Commission but before the certificate of domestication has become effective, a statement of abandonment signed by the domesticating corporation shall be delivered to the Commission for filing prior to the effective time and date of the certificate of domestication. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the domestication shall be deemed abandoned and shall not become effective.

~~D.~~ E. The statement of abandonment shall contain:

1. The name of the domesticating corporation *and its jurisdiction of formation;*

2. *When the domesticating corporation is a foreign corporation, the name of the domesticated corporation set forth in the articles of domestication;*

3. The date on which the articles of domestication were filed with the Commission;

~~3.~~ 4. The date and time on which the Commission's certificate of domestication becomes effective; and

4. 5. A statement that the domestication is being abandoned in accordance with this section *or, when the domesticating corporation is a foreign corporation, a statement that the foreign corporation abandoned the domestication as required by its organic law.*

§ 13.1-722.12:1. (Effective July 1, 2021) Amendment of plan of conversion; abandonment.

A. A plan of conversion of a converting entity that is a domestic corporation may be amended:

1. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

2. In the manner provided in the plan, except that shareholders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change:

a. The amount or kind of eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the converting corporation under the plan;

b. The organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the eligible interest holders of the converted entity under its organic law or organic rules; or

c. Any other terms or conditions of the plan, if the change would adversely affect such shareholders in any material respect.

B. Unless otherwise provided in the plan of conversion, after the plan of conversion has been approved by a converting entity that is a domestic corporation in the manner required by this article and at any time before the certificate of conversion has become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

C. *A converting entity that is a foreign eligible entity may abandon its conversion to a domestic corporation in the manner prescribed by its organic law.*

D. If a conversion is abandoned after articles of conversion have been filed with the Commission but before the certificate of conversion has become effective, a statement of abandonment shall be signed on behalf of the converting domestic corporation *or foreign eligible entity* and delivered to the Commission for filing prior to the effective time and date of the certificate of conversion. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the conversion shall be deemed abandoned and shall not become effective.

~~D.~~ E. The statement of abandonment shall contain:

1. The name of the converting entity *and its jurisdiction of formation and entity type*;
2. *When the converting entity is a foreign eligible entity, the name of the converted entity set forth in the articles of conversion*;
3. The date on which the articles of conversion were filed with the Commission;
- ~~3.~~ 4. The date and time on which the Commission's certificate of conversion becomes effective; and
4. 5. A statement that the conversion is being abandoned in accordance with this section *or, when the converting entity is a foreign eligible entity, a statement that the foreign eligible entity abandoned the conversion as required by its organic law.*

§ 13.1-759. Application for certificate of authority.

A. To obtain a certificate of authority to transact business in the Commonwealth, a foreign corporation shall deliver an application to the Commission. The application shall be made on a form prescribed and furnished by the Commission. The application shall be signed in the name of the foreign corporation and set forth:

1. The name of the foreign corporation, and if the foreign corporation is prevented by § 13.1-762 from using its name in the Commonwealth, a designated name that satisfies the requirements of subsection B of § 13.1-762;
2. The foreign corporation's jurisdiction of formation, and if the foreign corporation was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it by the Commission;
3. ~~The foreign corporation's original date of incorporation, organization, or formation as an entity and its period of duration of the foreign corporation~~;
4. The street address of the foreign corporation's principal office;
5. The address of the proposed registered office of the foreign corporation in the Commonwealth (including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located) and the name of its proposed registered agent in the Commonwealth at such address and that the registered agent is either (a) an individual who is a resident of Virginia and either an officer or director of the corporation or a member of the Virginia State Bar or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office;
6. The names and business addresses of the foreign corporation's directors and principal officers; and
7. The number of shares the foreign corporation is authorized to issue, itemized by class.

B. The foreign corporation shall deliver with the completed application a copy of its articles of incorporation and all amendments *and corrections* thereto duly authenticated by the Secretary of State or other official having custody of corporate records in its jurisdiction of formation.

C. A foreign corporation is not precluded from receiving a certificate of authority to transact business in the Commonwealth because of any difference between the law of the foreign corporation's jurisdiction of formation and the law of the Commonwealth.

D. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of authority to transact business in the Commonwealth.

§ 13.1-765. Resignation of registered agent of foreign corporation.

A. ~~The A~~ registered agent of a foreign corporation may resign ~~the agency appointment as agent for the foreign corporation~~ by signing and filing with the Commission a statement of resignation *stating (i) the name of the foreign corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the foreign corporation. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the statement mailed to the principal office of the foreign corporation by certified mail on or before the business day following the day on which the statement is filed. The* ~~When the statement of resignation may include a statement that takes effect~~, the registered office is also discontinued.

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided, A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed~~

with the Commission or (ii) the date on which a statement of change to appoint a registered agent is filed, in accordance with § 13.1-764, with the Commission.

§ 13.1-775.1. Annual registration fees to be paid by domestic and foreign corporations; penalty for failure to pay timely.

A. Every domestic corporation and every foreign corporation authorized to transact business in the Commonwealth shall pay into the state treasury on or before the last day of the twelfth month next succeeding the month in which it was incorporated or authorized to transact business in the Commonwealth, and by such date in each year thereafter, an annual registration fee as prescribed by this section, provided that (i) for a domestic corporation that became a domestic corporation by conversion from a domestic nonstock corporation or limited liability company, or by domestication or conversion from a foreign corporation, nonstock corporation, or limited liability company that was authorized or registered to transact business in the Commonwealth at the time of the domestication or conversion, the annual registration fee shall be paid each year on or before the date on which its annual registration fee was due prior to the domestication or conversion and (ii) for a domestic corporation that became a domestic corporation by conversion from a domestic limited partnership or business trust, or from a foreign limited partnership or business trust that was registered to transact business in the Commonwealth at the time of the conversion, the annual registration fee shall be paid each year on or before the last day of the twelfth month next succeeding the month in which it was originally incorporated, organized, or formed as an entity, except the initial annual registration fee to be paid by a the domestic corporation created by entity conversion shall be due in the year after the calendar year in which it converted the conversion became effective when the annual registration fee of the domestic or foreign limited partnership or business trust was paid for the calendar year in which it converted, or when the month in which the conversion was effective precedes the month in which the domestic corporation was originally incorporated, organized, or formed as an entity by two months or less. At the discretion of the Commission, the annual registration fee due date for a corporation may be extended, on a monthly basis for a period of not less than one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to distribute annual registration fee due dates of corporations as equally as practicable throughout the year on a monthly basis.

Any such corporation whose number of authorized shares is 5,000 or less shall pay an annual registration fee of \$50. Any such corporation whose number of authorized shares is more than 5,000 shall pay an annual registration fee of \$50 plus \$15 for each 5,000 shares or fraction thereof in excess of 5,000 shares, up to a maximum of \$850.

The annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by law upon the corporation for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or receipts.

B. Each year, the Commission shall ascertain from its records the number of authorized shares of each domestic corporation and each foreign corporation authorized to transact business in the Commonwealth, as of the first day of the second month next preceding the month in which it was incorporated or authorized to transact business in the Commonwealth and, except as provided in subsection A, shall assess against each such corporation the annual registration fee herein imposed. *Notwithstanding the foregoing, (i) for a domestic corporation that became a domestic corporation by conversion from a domestic nonstock corporation or limited liability company, or by domestication or conversion from a foreign corporation, nonstock corporation, or limited liability company that was authorized or registered to transact business in the Commonwealth at the time of the domestication or conversion, the assessment shall be made as of the first day of the second month next preceding the month in which its annual registration fee was due prior to the conversion or domestication and (ii) for a domestic corporation that became a domestic corporation by conversion from a domestic or foreign limited partnership or business trust, except as provided in subsection A, the assessment shall be made as of the first day of the second month next preceding the month in which the domestic corporation was originally incorporated, organized, or formed as an entity.* In any year in which a corporation's annual registration fee due date is extended pursuant to subsection A, the annual registration fee assessment shall be increased by a prorated amount to cover the period of extension. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each such corporation.

C. Any domestic or foreign corporation that fails to pay the annual registration fee herein imposed within the time prescribed shall incur a penalty of 10 percent of the annual registration fee, or \$10, whichever is greater, which shall be added to the amount of the annual registration fee due. The penalty shall be in addition to any other penalty or liability imposed by law.

D. The fees paid into the state treasury under this section shall be set aside as a special fund to be used only by the Commission as it deems necessary to defray all costs of staffing, maintaining and operating the office of the clerk of the Commission, together with all other costs incurred by the Commission in supervising, implementing and administering the provisions of Part 5 (§ 8.9A-501 et seq.) of Title 8.9A, this title, except for Chapters 5 (§ 13.1-501 et seq.) and 8 (§ 13.1-557 et seq.) and Article 7 (§ 55.1-653 et seq.) of Chapter 6 of Title 55.1, provided that one-half of the fees collected shall be credited to the general fund. The excess of fees collected over the projected costs of administration in the next fiscal year shall be paid into the general fund prior to the close of the fiscal year.

§ 13.1-803. Definitions.

As used in this Act chapter, unless the context requires a different meaning:

"Articles of incorporation" means all documents constituting, at any particular time, the charter of a corporation. It includes the original charter issued by the General Assembly, a court or the Commission and all amendments including certificates of merger, consolidation, or correction. When the articles of incorporation have been restated pursuant to any

articles of restatement, amendment, domestication, or merger, it includes only the restated articles of incorporation without the accompanying articles of restatement, amendment, domestication, or merger. *When used with respect to a foreign corporation, the "articles of incorporation" of such entity means the document that is equivalent to the articles of incorporation of a domestic corporation.*

"Board of directors" means the group of persons vested with the management of the business of the corporation irrespective of the name by which such group is designated, and "director" means a member of the board of directors.

"Certificate," when relating to articles filed with the Commission, means the order of the Commission that makes the articles effective, together with the articles.

"Commission" means the State Corporation Commission of Virginia.

"Conspicuous" means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, text that is italicized, is in boldface, contrasting colors, or capitals, or is underlined is conspicuous.

"Corporation" or "domestic corporation" means a corporation not authorized by law to issue shares, irrespective of the nature of the business to be transacted, organized under this Act chapter or existing pursuant to the laws of the Commonwealth on January 1, 1986, or that, by virtue of articles of incorporation, amendment, or merger, has become a domestic corporation of the Commonwealth, even though also being a corporation organized under laws other than the laws of the Commonwealth or that has become a domestic corporation of the Commonwealth pursuant to Article 11.1 (§ 13.1-898.2 13.1-898.1:1 et seq.) of this Act.

"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with § 13.1-810, by electronic transmission.

"Disinterested director" means a director who, at the time action is to be taken under § 13.1-871, 13.1-878, or 13.1-880, does not have (i) a financial interest in a matter that is the subject of such action or (ii) a familial, financial, professional, employment, or other relationship with a person who has a financial interest in the matter, either of which would reasonably be expected to affect adversely the objectivity of the director when participating in the action, and if the action is to be taken under § 13.1-878 or 13.1-880, is also not a party to the proceeding. The presence of one or more of the following circumstances shall not by itself prevent a person from being a disinterested director: (a) nomination or election of the director to the current board by any person, acting alone or participating with others, who is so interested in the matter or (b) service as a director of another corporation of which an interested person is also a director.

"Document" means (i) any tangible medium on which information is inscribed, and includes any writing or written instrument, or (ii) an electronic record.

"Domestic," with respect to an entity, means an entity governed as to its internal affairs by the organic law of the Commonwealth.

"Domestic business trust" has the same meaning as specified in § 13.1-1201.

"Domestic limited liability company" has the same meaning as specified in § 13.1-1002.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Domestic partnership" means an association of two or more persons to carry on as co-owners of a business for profit formed under § 50-73.88 or predecessor law of the Commonwealth and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

"Effective date," when referring to a document for which effectiveness is contingent upon issuance of a certificate by the Commission, means the time and date determined in accordance with § 13.1-806.

"Effective date of notice" is defined in § 13.1-810.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with subsection J of § 13.1-810.

"Electronic transmission" or "electronically transmitted" means any form or process of communication, not directly involving the physical transfer of paper or other tangible medium, that (i) is suitable for the retention, retrieval, and reproduction of information by the recipient, and (ii) is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with subsection J of § 13.1-810.

"Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign stock corporation.

"Eligible interests" means interests or shares.

"Employee" includes, unless otherwise provided in the bylaws, an officer but not a director. A director may accept duties that make him the director also an employee.

"Entity" includes any domestic or foreign corporation; any domestic or foreign stock corporation; any domestic or foreign unincorporated entity; any estate or trust; and any state, the United States, and any foreign government.

"Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than the Commonwealth.

"Foreign business trust" has the same meaning as specified in § 13.1-1201.

"Foreign corporation" means a corporation not authorized by law to issue shares, organized under laws other than the laws of the Commonwealth.

"Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Foreign partnership" means an association of two or more persons to carry on as co-owners of a business for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

"Foreign registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"Foreign stock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-603.

"Foreign unincorporated entity" means ~~an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than the Commonwealth~~ a foreign partnership, foreign limited liability company, foreign limited partnership, or foreign business trust.

"Government subdivision" includes authority, county, district, and municipality.

"Includes" denotes a partial definition.

"Individual" means a natural person.

"Interest" means either or both of the following rights under the organic law of a foreign or domestic unincorporated entity:

1. The right to receive distributions from the entity either in the ordinary course or upon liquidation; or

2. The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business and affairs.

"Jurisdiction of formation" means the state or country the law of which includes the organic law governing a domestic or foreign corporation or eligible entity.

"Means" denotes an exhaustive definition.

"Member" means one having a membership interest in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

"Membership interest" means the interest of a member in a domestic or foreign corporation, including voting and all other rights associated with membership.

"Organic document" means the document, if any, that is filed of public record to create an unincorporated entity. Where an organic document has been amended or restated, the term means the organic document as last amended or restated.

"Organic law" means the statute governing the internal affairs of a domestic or foreign corporation or eligible entity.

"Person" includes an individual and an entity.

"Principal office" means the office, in or out of the Commonwealth, where the principal executive offices of a domestic or foreign corporation are located, or, if there are no such offices, the office, in or out of the Commonwealth, so designated by the board of directors. The designation of the principal office in the most recent annual report filed pursuant to § 13.1-936 shall be conclusive for purposes of this ~~Aet~~ chapter.

"Proceeding" includes civil suit and criminal, administrative and investigatory action conducted by a governmental agency.

"Protected series" has the same meaning as specified in § 13.1-1002.

"Record date" means the date established under Article 7 (§ 13.1-837 et seq.) of this ~~Aet~~ chapter on which a corporation determines the identity of its members and their membership interests for purposes of this ~~Aet~~ chapter. The determination shall be made as of the close of business at the principal office of the corporation on the record date unless another time for doing so is specified when the record date is fixed.

"Registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"Shares" has the same meaning as specified in § 13.1-603.

"Sign" or "signature" means, with present intent to authenticate or adopt a document: (i) to execute or adopt a tangible symbol to a document, and includes any manual, facsimile, or conformed signature; or (ii) to attach to or logically associate with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature in an electronic transmission.

"State" when referring to a part of the United States, includes a state, commonwealth, and the District of Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.

"Transact business" includes the conduct of affairs by any corporation that is not organized for profit.

"Unincorporated entity" or "domestic unincorporated entity" means a domestic partnership, limited liability company, limited partnership, or business trust.

"United States" includes any district, authority, bureau, commission, department, or any other agency of the United States.

"Voting group" means all members of one or more classes that under the articles of incorporation or this ~~Aet~~ chapter are entitled to vote and be counted together collectively on a matter at a meeting of members. All members entitled by the articles of incorporation or this ~~Aet~~ chapter to vote generally on the matter are for that purpose a single voting group.

"Voting power" means the current power to vote in the election of directors.

"Writing" or "written" means any information in the form of a document.

§ 13.1-806. Effective time and date of document.

A. ~~A~~ *Except as otherwise provided in § 13.1-807, a certificate issued by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles filed with the Commission and the articles state that the certificate shall become effective at a later time and or date specified in the articles. In that event the certificate shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the 15th fifteenth day after the date on which the certificate is issued by the Commission. If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.* Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this Act chapter.

B. Notwithstanding subsection A, any certificate that has a delayed effective time and or date shall not become effective if, prior to the effective time and date, ~~the parties~~ *a statement of cancellation signed by each party* to the articles to which the certificate relates ~~file a request for cancellation with the Commission and the Commission, by order, cancels the certificate is delivered to the Commission for filing. If the Commission finds that the statement of cancellation complies with the requirements of law, it shall, by order, cancel the certificate.~~

C. *A statement of cancellation shall contain:*

1. *The name of the corporation;*
2. *The name of the articles and the date on which the articles were filed with the Commission;*
3. *The time and date on which the Commission's certificate becomes effective; and*
4. *A statement that the articles are being canceled in accordance with this section.*

D. Notwithstanding subsection A, for purposes of §§ 13.1-829 and 13.1-924, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is issued.

E. *For articles with a delayed effective date and time, the effective date and time shall be Eastern Time.*

§ 13.1-807. Correcting filed articles.

A. ~~The board of directors of a corporation may authorize correction of any articles~~ *Articles* filed with the Commission ~~may be corrected if (i) the articles contain an inaccuracy; (ii) the articles were not properly authorized or defectively executed signed, attested, sealed, verified, or acknowledged; or (iii) the electronic transmission of the articles to the Commission was defective.~~

B. Articles are corrected by filing with the Commission articles of correction ~~setting forth that:~~

1. ~~The~~ *Set forth* the name of the corporation prior to filing;
2. ~~A description of~~ *Describe* the articles to be corrected, including their effective date;
3. ~~Each inaccurate or defective matter that is~~ *Specify the inaccuracy or defect* to be corrected;
4. ~~The correction of each inaccurate or defective matter~~ *Correct the inaccuracy or defect*; and
5. ~~A statement~~ *State* that the board of directors authorized the correction and the date of such authorization.

C. *If the Commission finds that the articles of correction comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of correction.* Upon the issuance of a certificate of correction by the Commission, the articles of correction shall become effective as of the effective date and time of the articles they correct except as to persons relying on the uncorrected articles and adversely affected by the correction. As to those persons, articles of correction are effective upon the issuance of the certificate of correction.

D. No articles of correction shall be accepted by the Commission when received more than 30 days after the effective date of the certificate relating to the articles to be corrected.

§ 13.1-809. Certificate of good standing.

A. Anyone may apply to the Commission to furnish a certificate of good standing for a domestic or foreign corporation.

B. The certificate *of good standing* shall state that the corporation is in good standing in the Commonwealth and shall set forth:

1. The domestic corporation's corporate name or the foreign corporation's corporate name ~~used and, if applicable, the designated name adopted for use~~ in the Commonwealth;

2. That (i) the domestic corporation is duly incorporated under the law of the Commonwealth, the date of its incorporation, *which is the original date of incorporation or formation of the domesticated or converted corporation if the corporation was domesticated from a foreign jurisdiction or was converted from a domestic eligible entity*, and the period of its duration if less than perpetual; or (ii) the foreign corporation is authorized to transact business in the Commonwealth; and

3. If requested, a list of all certificates relating to articles filed with the Commission that have been issued by the Commission with respect to such corporation and their respective effective dates.

C. A domestic corporation or a foreign corporation authorized to transact business in the Commonwealth shall be deemed to be in good standing if:

1. All fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this Act chapter have been paid;

2. An annual report required by § 13.1-936 has been delivered to and accepted by the Commission; and

3. No certificate of dissolution, certificate of withdrawal, or order of reinstatement prohibiting the domestic corporation from engaging in business until it changes its corporate name has been issued or such certificate or prohibition *has not become effective or no longer is in effect.*

D. The certificate may state any other facts of record in the office of the clerk of the Commission that may be requested by the applicant.

E. Subject to any qualification stated in the certificate, a certificate of good standing issued by the Commission may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in the Commonwealth.

§ 13.1-815. Fees to be collected by Commission; payment of fees prerequisite to Commission action; exceptions.

A. The Commission shall assess the registration fees and shall charge and collect the filing fees, charter fees and entrance fees imposed by law. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment. When the Commission receives payment of an annual registration fee assessed against a domestic or foreign corporation, such payment shall be applied against any unpaid annual registration fees previously assessed against such corporation, including any penalties incurred thereon, beginning with the assessment or penalty that has remained unpaid for the longest period of time.

B. The Commission shall not file or issue with respect to any domestic or foreign corporation any document or certificate specified in this ~~Act~~ *chapter*, except the annual report required by § 13.1-936, a statement of change pursuant to § 13.1-834 or 13.1-926, and a statement of resignation pursuant to § 13.1-835 or 13.1-927, until all fees, charges, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this ~~Act~~ *chapter* or Title 12.1 have been paid by or on behalf of such corporation. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign corporation that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the corporation's annual registration payment in any year, provided that the Commission shall not issue a certificate of domestication with respect to a foreign corporation *or a certificate of entity conversion with respect to a domestic corporation that will become a domestic eligible entity* until the annual registration fee has been paid by or on behalf of that corporation.

C. A domestic or foreign corporation shall not be required to pay the annual registration fee assessed against it pursuant to subsection B of § 13.1-936.1 in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:

1. A certificate of termination of corporate existence, *or a certificate of incorporation surrender, or a certificate of entity conversion* for a domestic corporation;
2. A certificate of withdrawal for a foreign corporation;
3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign corporation that has merged into a surviving domestic corporation or eligible entity, or into a surviving foreign corporation or eligible entity; or
4. An authenticated copy of an instrument of entity conversion for a foreign corporation that has converted to a different entity type.

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

D. Annual registration fee assessments that have been paid shall not be refunded.

§ 13.1-815.1. Charter and entrance fees for corporations.

A. Every domestic corporation, upon the granting of its charter or upon domestication, shall pay a charter fee in the amount of \$50 into the state treasury, and every foreign corporation shall pay an entrance fee of \$50 into the state treasury for its certificate of authority to transact business in the Commonwealth.

B. For any foreign corporation that files articles of domestication and that had authority to transact business in the Commonwealth at the time of such filing, the charter fee to be charged upon domestication shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as an entrance fee by such corporation. ~~For any foreign corporation that files an application for a certificate of authority to transact business in the Commonwealth and that had previously surrendered its articles of incorporation as a domestic corporation, the entrance fee to be charged upon obtaining a certificate of authority to transact business in the Commonwealth shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as a charter fee by such corporation.~~

C. For any domestic stock corporation that files articles of conversion to become a domestic corporation, the charter fee to be charged shall be an amount equal to the difference between the amount already paid as a charter fee by the domestic stock corporation and the amount that would be required by this section to be paid.

§ 13.1-816. Fees for filing documents or issuing certificates.

The Commission shall charge and collect the following fees, except as provided in § 12.1-21.2:

1. *For the filing of articles of entity conversion to convert a corporation to a limited liability company, the fee shall be \$100.*
2. For filing any one of the following, the fee shall be \$25:
 - a. Articles of incorporation, domestication, or incorporation surrender.
 - b. Articles of amendment or restatement.
 - c. Articles of merger.
 - d. Articles of correction.
 - e. An application of a foreign corporation for a certificate of authority to transact business in the Commonwealth.

f. An application of a foreign corporation for an amended certificate of authority to transact business in the Commonwealth.

g. A copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.

h. A copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.

i. A copy of an instrument of entity conversion of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.

j. *An application to register or to renew the registration of a corporate name.*

~~2.~~ 3. For filing any one of the following, the fee shall be \$10:

a. An application to reserve or to renew the reservation of a corporate name.

b. A notice of transfer of a reserved corporate name.

c. An application for use of an indistinguishable name.

d. Articles of dissolution.

e. Articles of revocation of dissolution.

f. Articles of termination of corporate existence.

g. An application for withdrawal of a foreign corporation.

h. *A notice of release of a registered name.*

~~3.~~ 4. For issuing a certificate pursuant to § 13.1-945, the fee shall be \$6.

§ 13.1-829. Corporate name.

A. A corporate name shall not contain:

1. Any word or phrase that indicates or implies that it is organized for the purpose of conducting any business other than a business ~~which~~ *that* it is authorized to conduct;

2. The word "redevelopment" unless the corporation is organized as an urban redevelopment corporation pursuant to Chapter 190 of the 1946 Acts of Assembly of 1946, as amended;

3. Any word, abbreviation, or combination of characters that states or implies the corporation is a limited liability company ~~or~~, a limited partnership, *a registered limited liability partnership, or a protected series of a series limited liability company*; or

4. Any word or phrase that is prohibited by law for such corporation.

B. Except as authorized by subsection C, a corporate name shall be distinguishable upon the records of the Commission from:

1. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;

2. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;

3. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;

4. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;

5. A limited liability company name reserved under § 13.1-1013;

6. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;

7. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;

8. A business trust name reserved under § 13.1-1215;

9. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;

10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;

11. A limited partnership name reserved under § 50-73.3; and

12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

C. A domestic corporation may apply to the Commission for authorization to use a name that is not distinguishable upon the Commission's records from one or more of the names described in subsection B. The Commission shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying corporation.

D. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this ~~Act~~ *chapter*.

E. The Commission, in determining whether a corporate name is distinguishable upon its records from the name of any of the business entities listed in subsection B, shall not consider any word, phrase, abbreviation, or designation required or permitted under § 13.1-544.1, subsection A of § 13.1-630, subsection A of § 13.1-1012, § 13.1-1104, subsection A of

§ 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

§ 13.1-830. Reserved name.

A. A person may apply to the Commission to reserve the exclusive use of a corporate name, including a designated name for a foreign corporation. If the Commission finds that the corporate name applied for is distinguishable upon the records of the Commission, it shall reserve the name for the applicant's exclusive use for a 120-day period.

B. The owner of a reserved corporate name may renew the reservation for successive periods of 120 days each by filing with the Commission, during the 45-day period preceding the date of expiration of the reservation, a renewal application.

C. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Commission a notice of the transfer, signed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

D. A reserved corporate name may be used by its owner in connection with (i) the formation of, or an amendment to change the name of, a domestic stock or nonstock corporation, limited liability company, business trust, or limited partnership; (ii) an application for a certificate of authority or registration to transact business in the Commonwealth as a foreign stock or nonstock corporation, limited liability company, business trust, or limited partnership; or (iii) an amended application for such authority or registration, provided that the proposed name complies with the provisions of § 13.1-630, 13.1-762, 13.1-829, 13.1-924, 13.1-1012, 13.1-1054, 13.1-1214, 13.1-1244, 50-73.2, or 50-73.56, as the case may be.

§ 13.1-831. Registered name.

A. A foreign corporation may register its corporate name, or its corporate name with any addition required by § 13.1-924, if the name is distinguishable upon the records of the Commission ~~from the corporate names that are not available under subsection B of § 13.1-829.~~

B. A foreign corporation registers its corporate name, or its corporate name with any addition required by § 13.1-924, by:
 1. ~~Filing~~ filing with the Commission (i) an application setting forth its corporate name, or its corporate name with any addition required by § 13.1-924, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and (ii) a certificate setting forth that such corporation is in good standing, or a document of similar import, from the state or country of incorporation, executed by the official who has custody of the records pertaining to corporations; ~~and~~

2. ~~Paying to the Commission a registration fee in the amount of \$20.~~

C. ~~Except as provided in subsection E F,~~ registration is effective for one year after the date an application is filed.

~~C. D.~~ D. If the Commission finds that the corporate name applied for is available, it shall register the name for the applicant's exclusive use.

~~D. E.~~ E. A foreign corporation whose registration is effective may renew it for the succeeding year by filing with the Commission, during the 60-day period preceding the date of expiration of the registration, a renewal application that complies with the requirements of subsection B, ~~and paying a renewal fee of \$20.~~ The renewal application is effective when filed in accordance with this section and, except as provided in subsection ~~E F,~~ renews the registration for one year after the date the registration would have expired if such subsequent renewal of the registration had not occurred.

~~E. F.~~ F. A foreign corporation whose registration is effective may thereafter obtain a certificate of authority to transact business in the Commonwealth under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this *Aet chapter* or by another foreign corporation thereafter authorized to transact business in the Commonwealth. The registration terminates when the domestic corporation is incorporated or the foreign corporation obtains a certificate of authority to transact business in the Commonwealth or consents to the authorization of another foreign corporation to transact business in the Commonwealth under the registered name.

~~F. G.~~ G. A foreign corporation that has in effect a registration of its corporate name may release such name by filing a notice of release of a registered name with the Commission ~~and by paying a fee of \$10.~~

§ 13.1-835. Resignation of registered agent.

A. A registered agent may resign ~~the agency appointment as agent for the corporation~~ by signing and filing with the Commission a statement of resignation *stating (i) the name of the corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the corporation. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the statement mailed to the principal office of the corporation by certified mail on or before the business day following the day on which the statement is filed. The* ~~When the statement of resignation may include a statement that takes effect,~~ the registered office is also discontinued.

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided, A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed or (ii) the date on which a statement of change to appoint a registered agent is filed, in accordance with § 13.1-834, with the Commission.~~

§ 13.1-894. Merger.

A. One or more domestic corporations may merge with one or more domestic or foreign corporations or eligible entities pursuant to a plan of merger, or two or more foreign corporations or domestic or foreign eligible entities may merge into a new, *resulting in a survivor that is a domestic corporation to be created in the merger in the manner provided in this chapter. When a domestic corporation is the survivor of a merger with a domestic stock corporation, it may become,*

pursuant to subdivision C 5, a domestic stock corporation, provided that the only parties to the merger are domestic corporations and domestic stock corporations.

B. A foreign corporation or a foreign eligible entity may be a party to a merger with a domestic corporation, or may be created pursuant to the terms of the plan of *as the survivor of a merger in which a domestic corporation is a party* but only if the merger is permitted by the laws under which *organic law* of the foreign corporation or eligible entity is organized or by which it is governed.

C. The plan of merger shall include:

1. The name of each domestic or foreign corporation or eligible entity that will merge and the name of the domestic or foreign corporation or eligible entity that will be *As to each party to the merger, its name, jurisdiction of formation, and type of entity;*

2. *The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor of the is to be created in the merger, a statement to that effect;*

3. The terms and conditions of the merger;

4. The manner and basis of converting the membership interests of each merging domestic or foreign corporation and eligible interests of each domestic or foreign eligible entity into membership interests, eligible interests or other securities, obligations, rights to acquire membership interests, eligible interests or other securities, cash or other property, or any combination of the foregoing;

5. The manner and basis of converting any rights to acquire the membership interests of each merging domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into membership interests, eligible interests or other securities, obligations, rights to acquire membership interests, eligible interests or other securities, cash or other property, or any combination of the foregoing;

6. *Any amendment to the articles of incorporation of any the survivor that is a domestic or foreign corporation or stock corporation or the organic document of any domestic or foreign unincorporated entity to be created by the merger if the articles of incorporation are amended and restated, as an attachment to the plan, the survivor's restated articles of incorporation, or; if a new domestic or foreign corporation or stock corporation or unincorporated entity is not to be created by the merger, any amendments to as an attachment to the plan, the survivor's articles of incorporation or organic document; and*

7. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed or required by the articles of incorporation or organic document of any such party.

D. *In addition to the requirements of subsection C, a plan of merger may contain any other provision not prohibited by law.*

E. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-804.

F. *Unless the plan of merger provides otherwise, a plan of merger may also include a provision that the plan may be amended prior to the effective time and date of the certificate of merger, but if the members of a domestic corporation that is a party to the merger are required by any provision of this chapter to vote on the plan, the plan may not be amended subsequent to approval of the plan by such members to change any of the following unless such the amendment is approved by subject to the approval of the members:*

1. The amount or kind of membership interests, eligible interests or other securities, obligations, rights to acquire membership interests, eligible interests or other securities, cash, or other property to be received under the plan by the members of or owners holders of eligible interests in any party to the merger;

2. The articles of incorporation of any domestic or foreign corporation or stock corporation or the organic document of any unincorporated entity that will survive or be created as a result the survivor of the merger, except for changes permitted by subsection B of § 13.1-885; or

3. Any of the other terms or conditions of the plan if the change would adversely affect such members in any material respect.

§ 13.1-897.1. Abandonment of a merger.

A. Unless otherwise provided in a the plan of merger or in the laws under which a foreign corporation or a domestic or foreign eligible entity that is a party to a merger is organized or by which it is governed, after the a plan of merger has been adopted and approved as required by this article, and at any time before the certificate of merger has become effective, the merger plan may be abandoned by a domestic corporation that is a party thereto to the plan without action by its members in accordance with any procedures set forth in the plan of merger or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the plan of merger.

B. If a merger is abandoned under subsection A after the articles of merger have been filed with the Commission but before the certificate of merger has become effective, a statement that the in order for the certificate of merger has been to be abandoned in accordance with this section, executed on behalf of a party, all parties to the plan of merger; shall be delivered sign a statement of abandonment and deliver it to the Commission for filing prior to the effective time and date of the certificate of merger. Upon filing, the statement shall take effect If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the time and date the statement of abandonment was received by the Commission, and the merger shall be deemed abandoned and shall not become effective.

C. The statement of abandonment shall contain:

1. The name of each domestic and foreign corporation and eligible entity that is a party to the merger and its jurisdiction of formation and entity type;
2. When the survivor will be a domestic corporation or domestic stock corporation created by the merger; the name of the survivor set forth in the articles of merger;
3. The date on which the articles of merger were filed with the Commission;
4. The date and time on which the Commission's certificate of merger becomes effective; and
5. A statement that the merger is being abandoned in accordance with this section.

§ 13.1-898.1:1. Definitions.

As used in this article, unless the context requires a different meaning:

"Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

"Domesticating corporation" means the domestic corporation that approves a plan of domestication pursuant to § 13.1-898.3 or the foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

"Domestication" means a transaction pursuant to this article, including domestication of a foreign corporation as a domestic corporation or domestication of a domestic corporation in another jurisdiction, where the other jurisdiction authorizes such a transaction even if by another name.

§ 13.1-898.7. Abandonment of domestication.

A. Unless otherwise provided in a the plan of domestication of a domestic corporation to become a foreign corporation, after the a plan of domestication has been approved and adopted and approved by a domestic corporation as required by this article, and at any time before the certificate of incorporation surrender has become effective, the domestication plan may be abandoned by the domestic corporation without action by its members in accordance with any procedures set forth in the plan of domestication or, if no such procedures are set forth in the plan of domestication, in the manner determined by the board of directors.

B. A domesticating corporation that is a foreign corporation may abandon its domestication to a domestic corporation in the manner prescribed by its organic law.

C. If a domestication is abandoned as provided under subsection A after articles of incorporation surrender or articles of domestication have been filed with the Commission but before the certificate of incorporation surrender or certificate of domestication has become effective, written notice that the domestication has been abandoned in accordance with this section a statement of abandonment signed by the domesticating corporation shall be filed with delivered to the Commission for filing prior to the effective time and date of the certificate of incorporation surrender or certificate of domestication. The notice shall take effect upon filing. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the domestication shall be deemed abandoned and shall not become effective.

C. If the domestication of a foreign corporation into the Commonwealth is abandoned in accordance with the laws of the jurisdiction in which the foreign corporation is incorporated after articles of domestication have been filed with the Commission but before the certificate of domestication has become effective, written notice that the domestication has been abandoned shall be filed with the Commission prior to the effective time and date of the certificate of domestication. The notice shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

D. The statement of abandonment shall contain:

1. The name of the domesticating corporation and its jurisdiction of formation;
2. When the domestication corporation is a foreign corporation, the name of the domesticated corporation set forth in the articles of domestication;
3. The date on which the articles of incorporation surrender or articles of domestication were filed with the Commission;
4. The date and time on which the Commission's certificate of incorporation surrender or certificate of domestication becomes effective; and
5. A statement that domestication is being abandoned in accordance with this section or, when the domesticating corporation is a foreign corporation, a statement that the foreign corporation abandoned the domestication as required by its organic law.

§ 13.1-921. Application for certificate of authority.

A. A foreign corporation may apply to the Commission for a certificate of authority to transact business in the Commonwealth. The application shall be made on forms prescribed and furnished by the Commission. The application shall set forth:

1. The name of the foreign corporation, and if the corporation is prevented by § 13.1-924 from using its name in the Commonwealth, a designated name that satisfies the requirements of subsection B of § 13.1-924;
2. The name of the state or other foreign corporation's jurisdiction under whose laws it is incorporated of formation, and if the foreign corporation was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other

jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it by the Commission;

3. The *foreign corporation's original date of incorporation, organization, or formation as an entity and its period of duration*;

4. The street address of the foreign corporation's principal office;

5. The address of the proposed registered office of the foreign corporation in the Commonwealth, including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located, and the name of its proposed registered agent in the Commonwealth at such address and that the registered agent is either (a) an individual who is a resident of Virginia and either an officer or director of the corporation or a member of the Virginia State Bar or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office; and

6. The names and usual business addresses of the current directors and principal officers of the foreign corporation.

B. The foreign corporation shall deliver with the completed application a copy of its articles of incorporation and all amendments *and corrections* thereto, duly authenticated by the Secretary of State or other official having custody of corporate records in ~~the state or other its jurisdiction under whose laws it is incorporated of formation.~~

C. *A foreign corporation is not precluded from receiving a certificate of authority to transact business in the Commonwealth because of any difference between the law of the foreign corporation's jurisdiction of formation and the law of the Commonwealth.*

D. If the Commission finds that the application complies with the requirements of law, and that all required fees have been paid, it shall issue a certificate of authority to transact business in the Commonwealth.

§ 13.1-927. Resignation of registered agent of foreign corporation.

A. ~~The A registered agent of a foreign corporation may resign the agency appointment as agent for the corporation by signing and filing with the Commission a statement of resignation stating (i) the name of the foreign corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the foreign corporation. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the statement mailed to the principal office of the corporation by certified mail on or before the business day following the day on which the statement is filed. The When the statement of resignation may include a statement that takes effect, the registered office is also discontinued.~~

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided, A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change to appoint a registered agent is filed, in accordance § 13.1-926, with the Commission.~~

§ 13.1-936.1. Annual registration fees to be paid by domestic and foreign corporations; penalty for failure to pay timely.

A. Every domestic corporation and every foreign corporation authorized to conduct its affairs in the Commonwealth shall pay into the state treasury on or before the last day of the twelfth month next succeeding the month in which it was incorporated or authorized to conduct its affairs in the Commonwealth, and by such date in each year thereafter, an annual registration fee of \$25, *provided that for a domestic corporation that became a domestic corporation by conversion from a domestic stock corporation or by domestication from a foreign corporation that was authorized to transact business in the Commonwealth at the time of the conversion or domestication, the annual registration fee shall be paid each year on or before the date on which its annual registration fee was due prior to the conversion or domestication.* At the discretion of the Commission, the annual registration fee due date for a corporation may be extended, on a monthly basis for a period of not less than one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to distribute annual registration fee due dates of corporations as equally as practicable throughout the year on a monthly basis.

The annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by law upon the corporation for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or receipts. Nonstock corporations incorporated before 1970 ~~which that~~ were not liable for the annual registration fee therefor shall not be liable for an annual registration fee hereafter.

B. Each year, the Commission shall ascertain from its records each domestic corporation and each foreign corporation authorized to conduct its affairs in the Commonwealth, as of the first day of the second month next preceding the month in which it was incorporated or authorized to ~~conduct its affairs~~ *transact business* in the Commonwealth and shall assess against each such corporation the annual registration fee herein imposed. *Notwithstanding the foregoing, for a domestic corporation that became a domestic corporation by conversion from a domestic stock corporation or by domestication from a foreign corporation that was authorized to transact business in the Commonwealth at the time of the domestication, the assessment shall be made as of the first day of the second month preceding the month in which its annual registration fee was due prior to the conversion or domestication.* In any year in which a corporation's annual registration fee due date is extended pursuant to subsection A, the annual registration fee assessment shall be increased by a prorated amount to cover the period of extension. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each such corporation.

C. Any domestic or foreign corporation that fails to pay the annual registration fee herein imposed within the time prescribed shall incur a penalty of \$10, which shall be added to the amount of the annual registration fee due. The penalty shall be in addition to any other penalty or liability imposed by law.

D. The fees paid into the state treasury under this section shall be set aside as a special fund to be used only by the Commission as it deems necessary to defray all costs of staffing, maintaining and operating the office of the clerk of the Commission, together with all other costs incurred by the Commission in supervising, implementing and administering the provisions of Part 5 (§ 8.9A-501 et seq.) of Title 8.9A, this title, except for Chapters 5 (§ 13.1-501 et seq.) and 8 (§ 13.1-557 et seq.) and Article 7 (§ 55.1-653 et seq.) of Chapter 6 of Title 55.1, provided that one-half of the fees collected shall be credited to the general fund. The excess of fees collected over the projected costs of administration in the next fiscal year shall be paid into the general fund prior to the close of the fiscal year.

§ 13.1-944.7. Abandonment of entity conversion.

A. Unless otherwise provided in a *the plan of entity conversion of a domestic corporation to become a limited liability company*, after *the a plan of entity conversion has been approved and adopted and approved by the converting domestic corporation in the manner as required by this article*, and at any time before the certificate of entity conversion has become effective, the *conversion plan* may be abandoned by the corporation without action by *the its* members in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan of *entity conversion*, in the manner determined by the board of directors.

B. If an entity conversion is abandoned ~~under subsection A~~ after articles of entity conversion have been filed with the Commission but before the certificate of entity conversion has become effective, a statement ~~that the entity conversion has been abandoned in accordance with this section of abandonment~~ shall be signed *on behalf of the converting domestic corporation and delivered to the Commission for filing before the effective time and date of the certificate of entity conversion. Upon filing, the statement shall take effect. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement was received by the Commission*, and the entity conversion shall be deemed abandoned and shall not become effective.

C. *The statement of abandonment shall contain:*

1. *The name of the converting domestic corporation;*
2. *The name of the converted entity set forth in the articles of entity conversion;*
3. *The date on which the articles of conversion were filed with the Commission;*
4. *The date and time on which the Commission's certificate of entity conversion becomes effective; and*
5. *A statement that the entity conversion is being abandoned in accordance with this section.*

§ 13.1-1002. (Effective July 1, 2021) Definitions.

As used in this chapter, *unless the context requires a different meaning:*

"Articles of organization" means all documents constituting, at any particular time, the articles of organization of a limited liability company. The articles of organization include the original articles of organization, the original certificate of organization issued by the Commission, and all amendments to the articles of organization. When the articles of organization have been restated pursuant to any articles of restatement, amendment, domestication, or merger, the articles of organization include only the restated articles of organization without the articles of restatement, amendment, domestication, or merger.

"Assignee" means a person to which all or part of a membership interest has been transferred, whether or not the transferor is a member.

"Bankruptcy" means, with respect to any person, being the subject of an order for relief under Title 11 of the United States Code.

"Commission" means the State Corporation Commission of Virginia.

"Contribution" means any cash, property or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a member contributes to a limited liability company in his capacity as a member.

"Distribution" means a direct or indirect transfer of money or other property, or incurrence of indebtedness by a limited liability company, to or for the benefit of its members in respect of their interests.

"Domestic," *with respect to an entity, means an entity governed as to its internal affairs by the organic law of the Commonwealth.*

"Domestic business trust" has the same meaning as specified in § 13.1-1201.

"Domestic corporation" has the same meaning as specified in § 13.1-603.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-803.

~~"Domestic other business entity" means a partnership, limited partnership, business trust, stock corporation, or nonstock corporation that is formed, organized, or incorporated under the laws of the Commonwealth.~~

"Domestic partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

"Effective date," when referring to a document for which effectiveness is contingent upon issuance of a certificate by the Commission, means the time and date determined in accordance with § 13.1-1004.

"Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by the recipient through an automated process. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) shall have the meaning set forth in that section.

"Eligible interests" means, as to a partnership, partnership interest as specified in § 50-73.1; as to a limited partnership, partnership interest as specified in § 50-73.1; as to a business trust, the beneficial interest of a beneficial owner as specified in § 13.1-1226; as to a stock corporation, shares as specified in § 13.1-603; or, as to a nonstock corporation, membership interest as specified in § 13.1-803.

"Entity" includes any domestic or foreign limited liability company, any domestic or foreign other business entity, any estate or trust, and any state, the United States, and any foreign government.

"Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than the Commonwealth.

"Foreign business trust" has the same meaning as specified in § 13.1-1201.

"Foreign corporation" has the same meaning as specified in § 13.1-603.

"Foreign limited liability company" means an entity, excluding a foreign business trust, that is an unincorporated organization that is organized under laws other than the laws of the Commonwealth and that is denominated by that law as a limited liability company, and that affords to each of its members, pursuant to the laws under which it is organized, limited liability with respect to the liabilities of the entity.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Foreign nonstock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-803.

~~"Foreign other business entity" means a partnership, limited partnership, business trust, stock corporation, or nonstock corporation that is formed, organized, or incorporated under the laws of a state or jurisdiction other than the Commonwealth.~~

"Foreign partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

"Foreign protected series" means a protected series established by a foreign series limited liability company and having attributes comparable to a protected series established under Article 16 (§ 13.1-1088 et seq.). The term applies whether or not the law under which the foreign series limited liability company is organized refers to "protected series" or "series."

"Foreign registered limited liability partnership" has the same meanings as specified in §§ 50-2 and 50-73.79.

"Foreign series limited liability company" means a foreign limited liability company having at least one foreign protected series.

"Foreign stock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-603.

"Jurisdiction," when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

"Jurisdiction of formation" means the jurisdiction whose law governs the internal affairs of a person state or country the law of which includes the organic law governing a domestic or foreign limited liability company or other business entity.

"Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated organization organized and existing under this chapter, or that has become a domestic limited liability company of the Commonwealth pursuant to § 13.1-1010.3 as it existed prior to its repeal, even though also being a non-United States entity organized under laws other than the laws of the Commonwealth, or that has become a domestic limited liability company of the Commonwealth pursuant to § 56-1, even though also being a non-United States entity organized under laws other than the laws of the Commonwealth, or that has become a domestic limited liability company of the Commonwealth pursuant to § 13.1-1010.1 as it existed prior to its repeal, or that has become a domestic limited liability company of the Commonwealth pursuant to Article 12.2 (§ 13.1-722.8 et seq.) of Chapter 9, Article 17.1 (§ 13.1-944.1 et seq.) of Chapter 10, Article 14 (§ 13.1-1074 et seq.) or Article 15 (§ 13.1-1081 et seq.) of this chapter, or Article 12 (§ 13.1-1264 et seq.) of Chapter 14. A limited liability company's status for federal tax purposes shall not affect its status as a distinct entity organized and existing under this chapter.

"Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement.

"Manager-managed limited liability company" means a limited liability company that is managed by a manager or managers as provided for in its articles of organization or an operating agreement.

"Member" means a person that has been admitted to membership in a limited liability company as provided in § 13.1-1038.1 and that has not ceased to be a member.

"Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

"Membership interest" or "interest" means a member's share of the profits and the losses of the limited liability company and the right to receive distributions of the limited liability company's assets.

"Non-United States entity" means a foreign limited liability company (other than one formed under the laws of a state), or a corporation, business trust or association, real estate investment trust, common-law trust, or any other unincorporated business, including a partnership, formed, incorporated, organized, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than any state).

"Operating agreement" means an agreement of the members as to the affairs of a limited liability company and the conduct of its business, or a writing or agreement of a limited liability company with one member that satisfies the requirements of subdivision A 2 of § 13.1-1023.

"Organic law" means the statute governing the internal affairs of a domestic or foreign limited liability company or other business entity.

"Other business entity" means a domestic or foreign partnership, limited partnership, business trust, stock corporation, or nonstock corporation.

"Person" has the same meaning as specified in § 13.1-603. "Person" includes a protected series.

"Principal office" means the office, in or out of the Commonwealth, where the principal executive offices of a domestic or foreign limited liability company are located or, if there are no such offices, the office, in or out of the Commonwealth, so designated by the limited liability company. The designation of the principal office in the most recent statement of change filed pursuant to § 13.1-1018.1 shall be conclusive for the purpose of this chapter.

"Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

"Protected series," except in the term "foreign protected series," means a person established under § 13.1-1095.

"Record," when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"Series limited liability company," except in the term "foreign series limited liability company," means a limited liability company having at least one protected series.

"Sign" means, with present intent to authenticate or adopt a record, to execute or adopt a tangible symbol or to attach to or logically associate with the record an electronic symbol, sound, or process.

"State," when referring to a part of the United States, includes a state, commonwealth and the District of Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.

"Transfer" includes an assignment, a conveyance, a sale, a lease, an encumbrance including a mortgage or security interest, a gift, and a transfer by operation of law.

"United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

§ 13.1-1004. (Effective July 1, 2021) Issuance of certificate by Commission; recordation of documents.

A. Whenever this chapter conditions the effectiveness of a document upon the issuance of a certificate by the Commission to evidence the effectiveness of the document, the Commission shall by order issue the certificate if it finds that the document complies with the provisions of this chapter and that all required fees have been paid. The Commission shall admit any such certificate to record in its office.

B. The existence of a limited liability company or a protected series shall begin at the time the Commission issues a certificate of organization or certificate of protected series designation unless a later date and time are specified as provided by subsection D. The certificate of organization shall be conclusive evidence that all conditions precedent required to be performed by the person(s) forming the limited liability company have been complied with and that the limited liability company has been formed under this chapter.

C. Whenever the Commission is directed to admit any document to record in its office, it shall cause it to be spread upon its record books or to be recorded or reproduced in any other manner the Commission may deem suitable. Except as otherwise provided by law, the Commission may furnish information from and provide access to any of its records by any means the Commission may deem suitable.

D. 1. A certificate issued by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles filed with the Commission or a statement filed with the Commission pursuant to Article 16 (§ 13.1-1088 et seq.) and the articles or statement states that the certificate shall become effective at a later time ~~and~~ or date specified in the articles or statement. In that event, the certificate shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the certificate is issued by the Commission. *If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.* Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this chapter.

2. Notwithstanding subdivision 1, any certificate that has a delayed effective time ~~and~~ or date shall not become effective if, prior to the effective time and date, ~~the parties a statement of cancellation signed by each party to the articles or statement to which the certificate relates file a request for cancellation with is delivered to the Commission, and for filing. If the Commission finds that the statement of cancellation complies with the requirements of law, it shall, by order, cancels~~ cancel the certificate.

3. A statement of cancellation shall contain:

a. The name of the limited liability company;

b. The name of the articles or statement and the date on which the articles or statement were filed with the Commission;

c. The time and date on which the Commission's certificate becomes effective; and

d. A statement that the articles or statement are being canceled in accordance with this section.

4. Notwithstanding subdivision 1, for purposes of §§ 13.1-1012, 13.1-1054, and 13.1-1096, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is issued.

5. For articles or a statement with a delayed effective date and time, the effective date and time shall be Eastern Time.

E. Notwithstanding any other provision of law to the contrary, the Commission shall have the power to act upon a petition filed by a limited liability company or protected series at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person without authority to act for the limited liability company.

§ 13.1-1005. (Effective July 1, 2021) Fees.

The Commission shall charge and collect the following fees:

1. For filing any one of the following, the fee shall be \$100:

a. Articles of organization.

b. An application for registration as a foreign limited liability company.

c. Articles of entity conversion to convert a limited liability company to a domestic business trust or to convert a domestic partnership or limited partnership to a limited liability company.

d. Articles of domestication.

e. A statement of protected series designation.

f. An application for registration as a foreign protected series.

2. For filing any one of the following, the fee shall be \$25:

a. Articles of amendment.

b. Articles of cancellation.

c. Articles of correction referred to in § 13.1-1011.1, a copy of an amendment or correction referred to in § 13.1-1055, or an amended application for registration referred to in § 13.1-1055, provided that an amended application shall not require a separate fee when it is filed with a copy of an amendment or a correction referred to in § 13.1-1055.

d. A copy of an instrument of merger of a foreign limited liability company referred to in § 13.1-1060.

e. Articles of merger.

f. Articles of entity conversion to convert a limited liability company to a domestic corporation, in addition to a charter fee ascertained in accordance with § 13.1-615.1.

g. A copy of an instrument of entity conversion of a foreign limited liability company holding a certificate of registration to transact business in the Commonwealth.

h. Articles of restatement.

i. Articles of organization surrender.

j. An application for a certificate of cancellation to cancel a certificate of registration as a foreign limited liability company.

k. A statement of designation change pursuant to § 13.1-1095 or 13.1-1096.

l. A statement of designation cancellation.

m. An application for a certificate of cancellation to cancel a certificate of registration as a foreign protected series.

3. For filing any one of the following, the fee shall be \$10:

a. An application to reserve or to renew the reservation of a name for use by a domestic or foreign limited liability company ~~or any protected series thereof~~.

b. A notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company ~~or any protected series thereof~~.

4. For issuing a certificate pursuant to § 13.1-1067 or 13.1-1099, \$6 for each certificate.

§ 13.1-1012. (Effective July 1, 2021) Name.

A. A limited liability company name shall contain the words "limited company" or "limited liability company" or their abbreviations "L.C.," "LC," "L.L.C.," or "LLC."

B. A limited liability company name shall not contain:

1. Any word, abbreviation, or combination of characters that states or implies the limited liability company is a corporation, a limited partnership, a *registered limited liability partnership*, or a protected series of a series limited liability company; or

2. Any word or phrase the use of which is prohibited by law for such company.

C. Except as authorized by subsection D, a limited liability company name shall be distinguishable upon the records of the Commission from:

1. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;

2. A limited liability company name reserved under § 13.1-1013;

3. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;

4. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;
5. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;
6. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;
7. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;
8. A business trust name reserved under § 13.1-1215;
9. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;
10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;
11. A limited partnership name reserved under § 50-73.3; and
12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

D. A domestic limited liability company may apply to the Commission for authorization to use a name that is not distinguishable upon its records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying limited liability company.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether a limited liability company name is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under this section and § 13.1-544.1, subsection A of § 13.1-630, § 13.1-1104, subsection A of § 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

§ 13.1-1017. Resignation of registered agent.

A. ~~The A registered agent of a domestic or foreign limited liability company may resign the agency appointment as agent for the domestic or foreign limited liability company by signing and filing with the Commission a statement of resignation stating (i) the name of the limited liability company or foreign limited liability company, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the domestic or foreign limited liability company. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the statement mailed to the principal office of the domestic or foreign limited liability company by certified mail on or before the business day following the day on which the statement is filed. The~~ *When the statement of resignation may include a statement that takes effect, the registered office is also discontinued.*

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided, A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change to appoint a registered agent is filed, in accordance with §13.1-1016, with the Commission.~~

§ 13.1-1052. Application for certificate of registration.

A. ~~A To obtain a certificate of registration to transact business in the Commonwealth, a foreign limited liability company may apply shall deliver an application to the Commission for a certificate of registration to transact business in the Commonwealth. The application shall be made on a form prescribed and furnished by the Commission. The application shall be signed in the name of the foreign limited liability company and set forth:~~

1. The name of the foreign limited liability company and, if the *foreign* limited liability company is prevented by § 13.1-1054 from using its own name in the Commonwealth, a designated name that satisfies the requirements of § 13.1-1054;

2. ~~The name of the state or other foreign limited liability company's jurisdiction under whose law it is formed, its date of formation and period of duration of formation,~~ and if the *foreign* limited liability company was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, *nonstock corporation*, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every *such* prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it by the Commission;

3. ~~The foreign limited liability company's original date of organization, formation, or incorporation as an entity and its period of duration;~~

4. The address of the proposed registered office of the foreign limited liability company in the Commonwealth (including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located) and the name of its proposed registered agent in the Commonwealth at that address and a statement that the registered agent is either (a) an individual who is a resident of the Commonwealth and is either (1) a member or manager of the limited liability company, (2) a member or manager of a limited liability company that is a member or manager of the

limited liability company, (3) an officer or director of a corporation that is a member or manager of the limited liability company, (4) a ~~general~~ partner of a ~~general or limited~~ partnership *that is a member or manager of the limited liability company*, (5) ~~a general partner of a limited partnership~~ that is a member or manager of the limited liability company, ~~(5) (6)~~ (6) a trustee of a trust that is a member or manager of the limited liability company, or ~~(6) (7)~~ (7) a member of the Virginia State Bar, or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office;

4. 5. A statement that the clerk of the Commission is irrevocably appointed the agent of the foreign limited liability company for service of process if the foreign limited liability company fails to maintain a registered agent in the Commonwealth as required by § 13.1-1015, the registered agent's authority has been revoked, the registered agent has resigned, or the registered agent cannot be found or served with the exercise of reasonable diligence;

~~5.~~ 6. The post office address, including the street and number, if any, of the foreign limited liability company's principal office; and

~~6.~~ 7. A statement evidencing that the foreign limited liability company is a "foreign limited liability company" as defined in § 13.1-1002.

B. The foreign limited liability company shall deliver with the completed application a copy of its articles of organization or other constituent documents and all amendments and corrections thereto ~~filed in the foreign limited liability company's state or other jurisdiction of organization~~, duly authenticated by the Secretary of State or other official having custody of the limited liability company records in ~~the state or other its jurisdiction under whose law it is organized of formation~~.

C. *A foreign limited liability company is not precluded from receiving a certificate of authority to transact business in the Commonwealth because of any difference between the law of the foreign limited liability company's jurisdiction of formation and the law of the Commonwealth.*

D. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of registration to transact business in the Commonwealth.

§ 13.1-1054. Name of foreign limited liability company.

A. No certificate of registration shall be issued to a foreign limited liability company unless the name of the foreign limited liability company satisfies the requirements of § 13.1-1012.

B. If the name of a foreign limited liability company does not satisfy the requirements of § 13.1-1012, to obtain or maintain a certificate of registration to transact business in the Commonwealth:

1. The foreign limited liability company may adopt a designated name for use in the Commonwealth that adds the words "limited company" or "limited liability company" or the abbreviation "L.C.," "LC," "L.L.C." or "LLC" to its name or, if it is a professional limited liability company, the words "professional *limited* company" or "professional limited liability company" or the initials "P.L.C.," "PLC," "P.L.L.C.," or "PLLC" at the end of its name, if it informs the Commission of its designated name; or

2. If its real name is unavailable, the foreign limited liability company may adopt a designated name that is available, and which satisfies the requirements of § 13.1-1012, if it informs the Commission of the designated name.

§ 13.1-1062. (Effective July 1, 2021) Assessment of annual registration fees; annual registration fees to be paid by domestic and foreign limited liability companies.

A. ~~Each~~ *Every* domestic limited liability company, ~~each~~ *every* protected series, ~~each~~ *every* foreign limited liability company registered to transact business in the Commonwealth, and ~~each~~ *every* foreign protected series registered to transact business in the Commonwealth shall pay into the state treasury on or before the last day of the twelfth month next succeeding the month in which it was organized, established, or registered to transact business in the Commonwealth, and by such date in each year thereafter, an annual registration fee of \$50, provided that (i) *for a domestic limited liability company that became a domestic limited liability company by conversion from a domestic stock corporation or nonstock corporation, or by domestication from a foreign limited liability company that was registered to transact business in the Commonwealth at the time of the domestication, the annual registration fee shall be paid each year on or before the date on which its annual registration fee was due prior to the conversion or domestication and* (ii) *for a domestic limited liability company that became a domestic limited liability company by conversion from a domestic limited partnership or business trust, the annual registration fee shall be paid each year on or before the last day of the twelfth month next succeeding the month in which it was originally incorporated, organized, or formed as an entity, except the initial annual registration fee to be paid by a the domestic limited liability company created by entity conversion shall be due in the year after the calendar year in which it converted the conversion became effective when the annual registration fee of the domestic limited partnership or business trust was paid for the calendar year in which it was converted, or when the month in which the conversion was effective precedes the month in which the domestic limited partnership or business trust was originally incorporated, organized, or formed as an entity by two months or less.*

The annual registration fee shall be imposed irrespective of any specific license tax or other tax or fee imposed by law upon the domestic or foreign limited liability company or any protected series thereof for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or receipts.

B. Each year, the Commission shall ascertain from its records each domestic limited liability company, each protected series, each foreign limited liability company registered to transact business in the Commonwealth, and each foreign

protected series registered to transact business in the Commonwealth, as of the first day of the second month next preceding the month in which it was organized, established, or registered to transact business in the Commonwealth, and, except as provided in subsection A, shall assess against each such limited liability company and each such protected series the annual registration fee herein imposed. *Notwithstanding the foregoing, (i) for a domestic limited liability company that became a domestic limited liability company by conversion from a domestic stock corporation or nonstock corporation, or by domestication from a foreign limited liability company that was registered to transact business in the Commonwealth at the time of the domestication, the assessment shall be made as of the first day of the second month next preceding the month in which its annual registration fee was due prior to the conversion or domestication and (ii) for a domestic limited liability company that became a domestic limited liability company by conversion from a domestic limited partnership or business trust, except as provided in subsection A, the assessment shall be made as of the first day of the second month next preceding the month in which the domestic limited liability company was originally incorporated, organized, or formed as an entity.*

C. At the discretion of the Commission, the annual registration fee due date for a limited liability company may be extended, on a monthly basis for a period of not less than one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to distribute annual registration fee due dates of limited liability companies as equally as practicable throughout the year on a monthly basis.

D. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each domestic and foreign limited liability company and each protected series thereof.

E. Any domestic limited liability company that has ceased to exist in the Commonwealth because of the issuance of a certificate of cancellation of existence, certificate of organization surrender, or certificate of entity conversion, any protected series that has been canceled, any foreign limited liability company that has obtained a certificate of cancellation, or any foreign protected series that has obtained a certificate of cancellation, effective on or before its annual registration fee due date pursuant to subsection A in any year, shall not be required to pay the annual registration fee for that year. Any domestic or foreign limited liability company that has merged, effective on or before its annual registration fee due date pursuant to subsection A in any year, into a surviving domestic or foreign corporation, limited liability company, business trust, limited partnership, or partnership that files with the Commission an authenticated copy of the instrument of merger on or before such date, shall not be required to pay the annual registration fee for that year. Any foreign limited liability company that has converted, effective on or before its annual registration fee due date pursuant to subsection A in any year, to a different entity type that files with the Commission an authenticated copy of the instrument of entity conversion on or before such date, shall not be required to pay the annual registration fee for that year. *A domestic or foreign limited liability company shall not be required to pay the annual registration fee assessed against it pursuant to subsection B in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:*

1. *A certificate of cancellation of existence or a certificate of organization surrender for a domestic limited liability company;*

2. *A certificate of cancellation for a foreign limited liability company;*

3. *A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign limited liability company that has merged into a surviving domestic limited liability company or other business entity or into a surviving foreign limited liability company or other business entity; or*

4. *An authenticated copy of an instrument of entity conversion for a foreign limited liability company that has converted to a different entity type.*

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

F. **Registration fee** Annual registration assessments that have been paid shall not be refunded.

G. The fees paid into the state treasury under this section and the fees collected under § 13.1-1005 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by the Commission as it deems necessary to defray the costs of the Commission and of the office of the clerk of the Commission in supervising, implementing, administering and enforcing the provisions of this chapter. The projected excess of fees collected over the costs of administration and enforcement so incurred shall be paid into the general fund prior to the close of each fiscal year, based on the unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this transfer amount to reflect actual fees collected shall occur during the first quarter of the succeeding fiscal year.

§ 13.1-1065. (Effective July 1, 2021) Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. The Commission shall not file or issue with respect to any domestic or foreign limited liability company any document or certificate specified in this chapter, except a statement of change pursuant to § 13.1-1016, a statement of resignation pursuant to § 13.1-1017, and a statement of change pursuant to § 13.1-1018.1, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such limited liability company. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign limited liability company that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the limited liability company's annual registration fee payment in any year, provided that the Commission shall not issue a certificate of domestication with respect to a foreign limited liability company or a certificate of entity conversion with

respect to a domestic limited liability company that will become a domestic other business entity until the annual registration fee has been paid by or on behalf of that limited liability company.

B. The Commission shall not file or issue with respect to any protected series or foreign protected series any document or certificate specified in this chapter until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such protected series. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a protected series or foreign protected series that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the protected series' annual registration fee payment in any year.

C. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.

§ 13.1-1073.1. Abandonment of merger.

A. Unless otherwise provided in ~~the~~ a plan of merger or in the laws under which a foreign limited liability company or a domestic or foreign other business entity that is a party to a merger is organized or by which ~~the merger~~ it is governed, after ~~the a plan of merger~~ has been approved as required by this article, and at any time before the certificate of merger has become effective, ~~it the plan~~ may be abandoned by a domestic limited liability company that is a party ~~thereto to the plan~~ without action by ~~its~~ members in accordance with any procedures set forth in the plan ~~of merger~~ or, if no procedures are set forth in the plan, by a vote of the members of the limited liability company that is equal to or greater than the vote cast for the plan ~~of merger~~ pursuant to § 13.1-1071, subject to any contractual rights of other parties to the ~~plan~~ of merger.

B. If a merger is abandoned ~~under subsection A~~ after articles of merger have been filed with the Commission but before the certificate of merger has become effective, ~~a statement that the in order for the certificate of merger has been abandoned in accordance with this section, signed on behalf of a party to be abandoned, all parties to the plan of merger,~~ shall be delivered ~~sign a statement of abandonment and deliver it to the Commission for filing before prior to the effective time and date of the certificate of merger. Upon filing, the statement shall take effect If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the merger shall be deemed~~ abandoned and shall not become effective.

C. The statement of abandonment shall contain:

1. The name of each domestic and foreign limited liability company and other business entity that is a party to the merger and its jurisdiction of formation and entity type;

2. When the survivor will be a domestic stock or nonstock corporation created by the merger, the name of the survivor set forth in the articles of merger;

3. The date on which the articles of merger were filed with the Commission;

4. The date and time on which the Commission's certificate of merger becomes effective; and

5. A statement that the merger is being abandoned in accordance with this section.

§ 13.1-1074. Definitions.

A. A foreign limited liability company may become a domestic limited liability company if the laws of the jurisdiction in which the foreign limited liability company is organized authorize it to domesticate in another jurisdiction. The laws of this Commonwealth shall govern the effect of domesticating in this Commonwealth pursuant to this article.

B. A domestic limited liability company not required by law to be a domestic limited liability company may become a foreign limited liability company if the jurisdiction in which the limited liability company intends to domesticate allows for the domestication. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved in the manner provided in this article. The laws of the jurisdiction in which the limited liability company domesticates shall govern the effect of domesticating in that jurisdiction.

As used in this article, unless the context requires a different meaning:

"Domesticated limited liability company" means the domesticating limited liability company as it continues in existence after a domestication.

"Domesticating limited liability company" means the domestic limited liability company that approves a plan of domestication pursuant to § 13.1-1075 or the foreign limited liability company that approves a domestication pursuant to the organic law of the foreign limited liability company.

"Domestication" means a transaction pursuant to this article, including domestication of a foreign limited liability company as a domestic limited liability company or domestication of a domestic limited liability company in another jurisdiction, where the other jurisdiction authorizes such a transaction even if by another name.

§ 13.1-1075. Domestication.

A. A foreign limited liability company may become a domestic limited liability company if the laws of the jurisdiction in which the foreign limited liability company is organized authorize it to domesticate in another jurisdiction. The laws of the Commonwealth shall govern the effect of domesticating in the Commonwealth pursuant to this article.

B. A domestic limited liability company not required by law to be a domestic limited liability company may become a foreign limited liability company if the jurisdiction in which the limited liability company intends to domesticate allows for the domestication. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved in the manner provided in this article. The laws of the jurisdiction in which the limited liability company domesticates shall govern the effect of domesticating in that jurisdiction.

C. The plan of domestication shall set forth:

1. The name of the state or other jurisdiction under whose laws the domestic or foreign limited liability company is organized;
2. A statement of the jurisdiction in which the domestic or foreign limited liability company is to be domesticated;
3. The terms and conditions of the domestication, provided that such terms and conditions may not alter the ownership proportion and relative rights, preferences, and limitations of the interests of the limited liability company; and
4. For a foreign limited liability company that is to become a domestic limited liability company, as a referenced attachment, amended and restated articles of organization that comply with § 13.1-1011 as they will be in effect upon consummation of the domestication.

~~B. D.~~ The plan of domestication may include any other provision relating to the domestication.

~~C. E.~~ The plan of domestication may also include a provision that the members may amend the plan at any time prior to the effective date of the certificate of domestication or such other document required by the laws of the other jurisdiction to consummate the domestication.

§ 13.1-1080. Abandonment of domestication.

~~A.~~ Unless otherwise provided in ~~a the~~ plan of domestication of ~~a domestic limited liability company to become a foreign limited liability company~~, after ~~the a~~ plan of domestication has been approved by ~~a domestic limited liability company~~ as required by this article, and at any time before the certificate of organization surrender has become effective, the ~~domestication plan~~ may be abandoned by ~~the limited liability company~~ without action by ~~the its~~ members in accordance with any procedures set forth in the plan of ~~domestication~~ or, if no procedures are set forth in the plan, by a vote of the members of the ~~domestic~~ limited liability company that is equal to or greater than the vote cast for the plan of domestication pursuant to § 13.1-1076.

~~B.~~ A domesticating limited liability company that is a foreign limited liability company may abandon its domestication to a domestic limited liability company in the manner prescribed by its organic law.

~~C.~~ If a domestication is abandoned ~~under subsection A~~ after articles of organization surrender or articles of domestication have been filed with the Commission but before the certificate of organization surrender or certificate of domestication has become effective, a statement that ~~the domestication has been abandoned in accordance with this section of abandonment signed by the domesticating limited liability company~~ shall be delivered to the Commission for filing ~~before prior to~~ the effective time and date of the certificate of organization surrender or certificate of domestication. ~~Upon filing, the statement shall take effect~~ If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the domestication shall be deemed abandoned and shall not become effective.

~~C.~~ If the domestication of a foreign limited liability company into the Commonwealth is abandoned in accordance with the laws of the jurisdiction in which the foreign limited liability company is organized after articles of domestication have been filed with the Commission but before the certificate of domestication has become effective, a statement that the domestication has been abandoned shall be delivered to the Commission for filing before the effective time and date of the certificate of domestication. Upon filing, the statement shall take effect and the domestication shall be deemed abandoned and shall not become effective.

~~D.~~ The statement of abandonment shall contain:

1. The name of the domesticating limited liability company and its jurisdiction of formation;
2. When the domesticating limited liability company is a foreign limited liability company, the name of the domesticated limited liability company set forth in the articles of domestication;
3. The date on which the articles of organization surrender or articles of domestication were filed with the Commission;
4. The date and time on which the Commission's certificate of organization surrender or certificate of domestication becomes effective; and
5. A statement that domestication is being abandoned in accordance with this section or, when the domesticating limited liability company is a foreign limited liability company, a statement that the foreign limited liability company abandoned the domestication as required by its organic law.

§ 13.1-1087. Abandonment of entity conversion.

~~A.~~ Unless otherwise provided in ~~a the~~ plan of entity conversion of ~~a domestic limited liability company to become a domestic stock corporation or business trust~~, after ~~the a~~ plan of entity conversion has been approved as ~~by a converting entity in the manner~~ required by this article, and at any time before the certificate of entity conversion has become effective, the ~~conversion plan~~ may be abandoned by the ~~limited liability company converting entity~~ without action by ~~the its~~ members or partners, as the case may be, in accordance with any procedures set forth in the plan of ~~entity conversion~~ or, if no such procedures are set forth in the plan of ~~entity conversion~~:

1. When the converting entity is a domestic limited liability company, by a vote of the members, managers, or organizers of the limited liability company that is equal to or greater than the vote cast for ~~the plan of~~ entity conversion pursuant to subsection A of § 13.1-1084.

~~B.~~ Unless otherwise set forth in a plan of entity conversion of a domestic partnership to become a domestic limited liability company, after the plan has been approved as required by this article, and at any time before the certificate of entity

conversion has become effective, the conversion may be abandoned by the partnership without action by the partners in accordance with any procedures set forth in the plan of entity conversion or, if no procedures are set forth in the plan of entity conversion,;

2. *When the converting entity is a domestic partnership*, by a vote of the partners of the domestic partnership that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection B of § 13.1-1084.

C. Unless otherwise set forth in a plan of entity conversion of a domestic limited partnership to become a limited liability company, after the plan has been approved as required by this article, and at any time before the certificate of entity conversion has become effective, the conversion may be abandoned by the domestic limited partnership without action by the partners in accordance with any procedures set forth in the plan of entity conversion or, if no procedures are set forth in the plan of entity conversion,; *and*

3. *When the converting entity is a domestic limited partnership*, by a vote of the partners of the domestic limited partnership that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection C of § 13.1-1084.

D. B. If an entity conversion is abandoned under subsection A, B, or C after articles of entity conversion have been filed with the Commission but before the certificate of entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section of abandonment shall be signed on behalf of the converting entity and delivered to the Commission for filing before prior to the effective time and date of the certificate of entity conversion. Upon filing, the statement shall take effect. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the entity conversion shall be deemed abandoned and shall not become effective.

C. The statement of abandonment shall contain:

1. The name of the converting entity and its entity type;
2. The name of the resulting entity set forth in the articles of conversion;
3. The date on which the articles of entity conversion were filed with the Commission;
4. The date and time on which the Commission's certificate of entity conversion becomes effective; and
5. A statement that the entity conversion is being abandoned in accordance with this section.

§ 13.1-1096. (Effective July 1, 2021) Name.

A. Except as otherwise provided in subsection B, the name of a protected series shall comply with the provisions of § 13.1-1012.

B. The name of a protected series of a series limited liability company shall:

1. Begin with the name of the series limited liability company, including any word words or abbreviation required by subsection A of § 13.1-1012 to designate that the series limited liability company is a limited liability company; and

2. Contain the phrase "protected series" or the abbreviation "P.S." or "PS."

C. If a series limited liability company changes its name, the series limited liability company shall deliver to the Commission for filing a statement of designation change for each protected series of the series limited liability company pursuant to subsection D of § 13.1-1095.

§ 13.1-1099.14. (Effective July 1, 2021) Protected series may not be party to entity transaction.

A protected series may not:

1. Be a party to a merger;
2. Convert to a different type of entity;
3. Domesticate as a protected series under the laws of a foreign jurisdiction; or
4. Be a party to or be formed, organized, established, or created in a transaction substantially like a merger, an interest exchange, a conversion, or a domestication.

§ 13.1-1099.26. (Effective July 1, 2021) Effect on certain actions.

This article does not affect an action commenced, proceeding brought, or right accrued before July 1, 2020 2021.

§ 13.1-1201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Articles of trust" means all documents constituting, at any particular time, the articles of trust of a business trust. "Articles of trust" includes the original articles of trust, the original certificate of trust issued by the Commission, and all amendments to the articles of trust. When the articles of trust have been restated pursuant to any articles of amendment, the articles of trust includes only the restated articles of trust and any subsequent amendments to the restated articles of trust, but does not include the articles of amendment accompanying the restated articles of trust. *When used with respect to a foreign business trust, the "articles of trust" of such entity means the document that is equivalent to the articles of trust of a domestic business trust.*

"Beneficial owner" means any owner of a beneficial interest in a business trust, the fact of ownership to be determined and evidenced, whether by means of registration, the issuance of certificates or otherwise, in conformity to the applicable provisions of the governing instrument of the business trust.

"Business trust" or "domestic business trust" means an unincorporated business, trust, or association that:

- A. 1. Is governed by a governing instrument under which:

1- a. Property is or will be held, managed, administered, controlled, invested, reinvested, or operated by a trustee for the benefit of persons as are or may become entitled to a beneficial interest in the trust property; or
 2- b. Business or professional activities for profit are carried on or will be carried on by one or more trustees for the benefit of persons as are or may become entitled to a beneficial interest in the trust property; and

~~B.~~ 2. Files articles of trust under § 13.1-1212.

~~C.~~ "Business trust" includes, without limitation, any of the following entities that conform with ~~subsections A~~ *subdivisions 1 and B 2* of this definition:

1- (1) A trust of the type known at common law as a "business trust" or "Massachusetts trust";

2- (2) A trust qualifying as a real estate mortgage investment conduit under § 860 D of the United States Internal Revenue Code of 1986, as amended, or under any successor provision;

3- (3) A trust qualifying as a real estate investment trust under §§ 856 through 859 of the United States Internal Revenue Code of 1986, as amended, or under any successor provision; or

4- (4) A "real estate investment trust" or "trust" created under former Chapter 9 (§ 6-577 et seq.) of Title 6 or former Chapter 9 (§ 6.1-343 et seq.) of Title 6.1.

"Commission" means the State Corporation Commission of Virginia.

"Domestic," with respect to an entity, means an entity governed as to its internal affairs by the organic law of the Commonwealth.

"Domestic corporation" has the same meaning as specified in § 13.1-603.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-803.

"Domestic partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

"Effective date," when referring to a document for which effectiveness is contingent upon issuance of a certificate by the Commission, means the time and date determined in accordance with § 13.1-1203.

"Entity" includes any domestic or foreign business trust or other business entity, any estate or trust, and any state, the United States, and any foreign government.

"Foreign" with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than the Commonwealth.

"Foreign business trust" means a business trust formed under the laws law of any a jurisdiction other than this the Commonwealth and denominated as such under the laws of such state or foreign country or other foreign jurisdiction that would be a business trust if formed under the law of the Commonwealth.

"Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Foreign nonstock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-803.

"Governing instrument" means a trust instrument that creates a business trust and provides for the governance of the affairs of the business trust and the conduct of its business, including, without limitation, a declaration of trust.

"Jurisdiction of formation" means the state or country the law of which includes the organic law governing a domestic or foreign business trust or other business entity.

"Organic law" means the statute governing the internal affairs of a domestic or foreign business trust or other business entity.

"Other business entity" means a domestic or foreign stock corporation, a professional nonstock corporation, a general limited liability company, partnership, or limited partnership, a registered limited liability partnership, common law trust, a limited liability company, a professional limited liability company, or any other unincorporated business. "Other business entity" shall not include a business trust.

"Person" has the same meaning as specified in § 13.1-603.

"Protected series" has the same meaning as specified in § 13.1-1002.

"Registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions; and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

"Trust" includes a common law trust, business trust, and foreign business trust.

"Trustee" means a person appointed as a trustee in accordance with the governing instrument of a business trust.

"Trustee" may include a beneficial owner of a business trust.

"United States" includes any district, authority, bureau, commission, department, or other agency of the United States.

§ 13.1-1203. Issuance of certificate by Commission; recordation of documents.

A. Whenever this chapter conditions the effectiveness of a document upon the issuance of a certificate by the Commission to evidence the effectiveness of the document, the Commission shall by order issue the certificate if it finds that the document complies with the provisions of this chapter and that all required fees have been paid. The Commission shall admit any such certificate to record in its office.

B. The existence of a business trust shall begin at the time the Commission issues a certificate of trust, unless a later date and time are specified as provided by subsection D. The certificate of trust shall be conclusive evidence that all conditions precedent required to be performed by the person or persons forming the business trust have been complied with and that the business trust has been formed under this chapter.

C. Whenever the Commission is directed to admit any document to record in its office, it shall cause it to be spread upon its record books or to be recorded or reproduced in any other manner the Commission may deem suitable. Except as otherwise provided by law, the Commission may furnish information from and provide access to any of its records by any means the Commission may deem suitable.

D. 1. A certificate issued by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles filed with the Commission and the articles state that the certificate shall become effective at a later time ~~and~~ *or* date specified in the articles. In that event, the certificate shall become effective at the earlier of the time and date so specified or at 11:59 p.m. on the fifteenth day after the date on which the certificate is issued by the Commission. *If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.* Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this chapter.

2. Notwithstanding subdivision 1, any certificate that has a delayed effective time ~~and~~ *or* date shall not become effective if, prior to the effective time and date, ~~the parties a statement of cancellation signed by each party to the articles to which the certificate relates file a request for cancellation with is delivered to the Commission, and for filing.~~ *If the Commission finds that the statement of cancellation complies with the requirements of the law, it shall, by order, cancel the certificate.*

3. *A statement of cancellation shall contain:*

- a. The name of the business trust;*
- b. The name of the articles and the date on which the articles were filed with the Commission;*
- c. The time and date on which the Commission's certificate becomes effective; and*
- d. A statement that the articles are being canceled in accordance with this section.*

4. Notwithstanding subdivision 1, for purposes of §§ 13.1-1214 and 13.1-1244, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is issued.

5. *For articles with a delayed effective date and time, the effective date and time shall be Eastern Time.*

E. The Commission shall have the power to act upon a petition filed by a business trust at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person without authority to act for the business trust.

§ 13.1-1212. Articles of trust.

A. The articles of trust shall set forth:

1. A name for the business trust that satisfies the requirements of § 13.1-1214;
2. The post office address, including the street and number, if any, of the business trust's initial registered office, the name of the city or county in which it is located, the name of its initial registered agent at that office, and that the agent is either (i) an individual who is a resident of this Commonwealth and is a trustee or officer of the business trust, an officer or director of a corporation that is a trustee of the business trust, a general partner of a general or limited partnership that is a trustee of the business trust, a member or manager of a limited liability company that is a trustee of the business trust, a trustee of a business trust or other trust that is a trustee of the business trust, or a member of the Virginia State Bar or (ii) a domestic or foreign stock or nonstock corporation, limited liability company ~~or~~, registered limited liability partnership, *or business trust* authorized to transact business in this Commonwealth; and

3. The post office address, including the street and number, if any, of the principal office of the business trust, which may be the same as the registered office, but need not be within this Commonwealth.

B. The articles of trust may set forth any other matter that under this chapter is permitted to be set forth in a governing instrument of a business trust.

C. The articles of trust need not set forth any of the powers enumerated in this chapter.

D. If the Commission finds that the articles of trust comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of trust.

§ 13.1-1214. Name.

A. A business trust name may contain:

1. One or more of the following words: ~~"company,"~~ "association," "club," *"company,"* "foundation," "fund," "institute," "society," ~~"union," or~~ "syndicate," *or "union,"* or abbreviations of like import; and
2. The word "trust," provided that the context or remaining words in the name meet the standards prescribed in §§ 6.2-939 and 6.2-1040.

B. A business trust name shall not contain:

1. Any word, abbreviation, or combination of characters that states or implies the business trust is a corporation, a limited liability company, a limited partnership, ~~or~~ a registered limited liability partnership, *or a protected series of a series limited liability company;* or
2. Any word or phrase the use of which is prohibited by law for such business trust.

C. Except as authorized by subsection D, a business trust name shall be distinguishable upon the records of the Commission from:

1. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;
2. A business trust name reserved under § 13.1-1215;
3. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;
4. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;
5. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830, or 13.1-831;
6. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;
7. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;
8. A limited liability company name reserved under § 13.1-1013;
9. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;
10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;
11. A limited partnership name reserved under § 50-73.3; and
12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

D. A domestic business trust may apply to the Commission for authorization to use a name that is not distinguishable upon its records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other domestic or foreign business trust or other business entity consents to the use in writing and submits an undertaking in a form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying business trust.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether a business trust name is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under § 13.1-544.1, subsection A of § 13.1-630, subsection A of § 13.1-1012, § 13.1-1104, subsection A of § 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

§ 13.1-1222. Resignation of registered agent.

A. A registered agent may resign ~~the agency appointment~~ *as agent for the domestic or foreign business trust* by signing and filing with the Commission a statement of resignation *stating (i) the name of the business trust or foreign business trust, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the domestic or foreign business trust. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof by certified mail will have a copy of the statement mailed to the principal office of the domestic or foreign business trust by certified mail on or before the business day following the day on which the statement is filed. The* When the statement of resignation ~~may include a statement that takes effect,~~ the registered office is also discontinued.

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided,~~ *A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change in accordance with § 13.1-1221 to appoint a registered agent is filed with the Commission.*

§ 13.1-1242. Application for certificate of registration.

A. A foreign business trust may apply to the Commission for a certificate of registration to transact business in the Commonwealth. The application shall be made on a form prescribed and furnished by the Commission. The application shall set forth:

1. The name of the foreign business trust and, if the business trust is prevented by § 13.1-1244 from using its own name in the Commonwealth, a designated name that satisfies the requirements of § 13.1-1244;
2. ~~The name of the state or other foreign business trust's jurisdiction under whose law it is formed, the date of its formation, and if the foreign business trust was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, nonstock corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it by the Commission;~~
3. *The foreign business trust's original date of formation, organization, or incorporation as an entity and its period of duration.*

4. The address of the proposed registered office of the foreign business trust in the Commonwealth (including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located) and the name of its proposed registered agent in the Commonwealth at such address and that the registered agent is either (a) an individual who is a resident of the Commonwealth and is either (1) a trustee or officer of the business trust, (2) an officer or director of a corporation that is a trustee of the business trust, (3) a general partner of a *partnership that is a trustee of a business trust*, (4) a general ~~or partner~~ of a limited partnership that is a trustee of the business trust, (4) (5) a member or manager of a limited liability company that is a trustee of the business trust, (5) (6) a trustee of a business trust or other trust that is a trustee of the business trust, or (6) (7) a member of the Virginia State Bar, or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office;

4. 5. A statement that the clerk of the Commission is irrevocably appointed the agent of the foreign business trust for service of process if the foreign business trust fails to maintain a registered agent in the Commonwealth as required by § 13.1-1220, the registered agent's authority has been revoked, the registered agent has resigned, or the registered agent cannot be found or served with the exercise of reasonable diligence;

5. 6. The post office address, including the street and number, if any, of the foreign business trust's principal office; and

6. 7. A statement evidencing that the foreign business trust is a "foreign business trust" as defined in § 13.1-1201.

B. The foreign business trust shall deliver with the completed application a copy of the articles of trust or other constituent documents and all amendments and corrections thereto filed in the foreign business trust's state or other jurisdiction of formation, duly authenticated by the Secretary of State or other official having custody of the business trust records in the state or other its jurisdiction under whose laws it is formed of formation.

C. *A foreign business is not precluded from receiving a certificate of registration to transact business in the Commonwealth because of any difference between the law of the foreign business trust's jurisdiction of formation and the law of the Commonwealth.*

D. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of registration to transact business in the Commonwealth.

§ 13.1-1252. Assessment of annual registration fees; annual registration fee to be paid by domestic and foreign business trusts.

A. ~~Each~~ Every domestic business trust, and ~~each~~ every foreign business trust registered to transact business in the Commonwealth, shall pay into the state treasury on or before October 1 in each year after the calendar year in which it was formed or registered to transact business in the Commonwealth an annual registration fee of \$50, provided that *for a domestic business trust that became a domestic business trust by conversion from a domestic stock corporation or limited liability company, or by domestication from a foreign business trust that was registered to transact business in the Commonwealth at the time of the domestication, the initial annual registration fee to be paid by a the domestic business trust created by entity conversion shall be due in the year after the calendar year in which it converted the conversion became effective when the annual registration fee of the domestic stock corporation or limited liability company or foreign business trust was paid for the calendar year in which the conversion or domestication became effective.*

The annual registration fee shall be imposed irrespective of any specific license tax or other tax or fee imposed by law upon the business trust for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or receipts.

B. Each year, the Commission shall ascertain from its records each domestic business trust and each foreign business trust registered to transact business in the Commonwealth as of July 1 and, except as provided in subsection A, shall assess against each such business trust the annual registration fee herein imposed.

C. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each domestic and foreign business trust.

D. ~~Any domestic business trust that has ceased to exist in the Commonwealth because of the issuance of a certificate of cancellation of existence, certificate of trust surrender, or certificate of entity conversion, or any foreign business trust that has obtained a certificate of cancellation, effective on or before its annual registration fee due date pursuant to subsection A in any year, shall not be required to pay the annual registration fee for that year. Any domestic or foreign business trust that has merged, effective on or before its annual registration fee due date pursuant to subsection A in any year, into a surviving domestic or foreign corporation, limited liability company, business trust, limited partnership, or partnership that files with the Commission an authenticated copy of the instrument of merger on or before such date, shall not be required to pay the annual registration fee for that year. Any foreign business trust that has converted, effective on or before its annual registration fee due date pursuant to subsection A in any year, to a different entity type that files with the Commission an authenticated copy of the instrument of entity conversion on or before such date, shall not be required to pay the annual registration fee for that year. A domestic or foreign business trust shall not be required to pay the annual registration fee assessed against it pursuant to subsection B in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:~~

1. *A certificate of cancellation of existence or a certificate of trust surrender for a domestic business trust;*

2. *A certificate of cancellation for a foreign business trust;*

3. *A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign business trust that has merged into a surviving domestic business trust or other business entity or into a surviving foreign business trust or other business entity; or*

4. *An authenticated copy of an instrument of entity conversion for a foreign business trust that has converted to a different entity type.*

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

E. ~~Registration~~ *Annual registration fee assessments that have been paid shall not be refunded.*

F. *The fees paid into the state treasury under this section and the fees collected under § 13.1-1204 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by the Commission as it deems necessary to defray the costs of the Commission and of the office of the clerk of the Commission in supervising, implementing, administering and enforcing the provisions of this chapter. The projected excess of fees collected over the costs of administration and enforcement so incurred shall be paid into the general fund prior to the close of each fiscal year, based on the unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this transfer amount to reflect actual fees collected shall occur during the first quarter of the succeeding fiscal year.*

§ 13.1-1255. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. *The Commission shall not file or issue with respect to any domestic or foreign business trust any document or certificate specified in this chapter, except a statement of change pursuant to § 13.1-1221 and a statement of resignation pursuant to § 13.1-1222, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such business trust. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign business trust that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the business trust's annual registration fee payment in any year, provided that the Commission shall not issue a certificate of domestication with respect to a foreign business trust or a certificate of entity conversion with respect to a domestic business trust that will become a domestic stock corporation or limited liability company until the annual registration fee has been paid by or on behalf of that business trust.*

B. *The Commission shall have the authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.*

§ 13.1-1263.1. Abandonment of merger.

A. *Unless otherwise provided in the plan of merger or in the laws under which a foreign business trust or a domestic or foreign other business entity that is a party to a merger is organized or by which it is governed, after a plan of merger has been approved as required by this article, and at any time before the certificate of merger has become effective, the plan may be abandoned by a domestic business trust that is a party to the plan without action by its trustees or the holders of beneficial interests in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan, by a vote of the trustees and the holders of beneficial interests of the business trust that is equal to or greater than the vote cast for the plan pursuant to § 13.1-1258, subject to any contractual rights of other parties to the plan of merger.*

B. *If a merger is abandoned after articles of merger have been filed with the Commission but before the certificate of merger has become effective, in order for the certificate of merger to be abandoned, all parties to the plan of merger shall sign a statement of abandonment and deliver it to the Commission for filing prior to the effective time and date of the certificate of merger. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the merger shall be deemed abandoned and shall not become effective.*

C. *The statement of abandonment shall contain:*

1. *The name of each domestic and foreign business trust and other business entity that is a party to the merger and its jurisdiction of formation and entity type;*

2. *When the survivor will be a domestic stock or nonstock corporation created by the merger, the name of the survivor set forth in the articles of merger;*

3. *The date on which the articles of merger were filed with the Commission;*

4. *The date and time on which the Commission's certificate of merger becomes effective; and*

5. *A statement that the merger is being abandoned in accordance with this section.*

§ 13.1-1264. Definitions.

As used in this article, *unless the context requires a different meaning:*

"Articles of organization" has the same meaning specified in § 13.1-1002.

"Converting entity" means the domestic or foreign business trust, corporation, limited liability company, limited partnership, partnership, or other entity that adopts a plan of domestication or plan of entity conversion pursuant to this article.

"Corporation" and "domestic corporation" have the same meaning specified in § 13.1-603.

"Domesticated business trust" means the domesticating business trust as it continues in existence after a domestication.

"Domesticating business trust" means the domestic business trust that approves a plan of domestication pursuant to § 13.1-1267 or the foreign business trust that approves a domestication pursuant to the organic law of the foreign business trust.

"Domestication" means a transaction pursuant to this article, including domestication of a foreign business trust as a domestic business trust or domestication of a domestic business trust in another jurisdiction, where the other jurisdiction authorizes such a transaction even if by another name.

"Domestic entity" means a domestic corporation, limited liability company, limited partnership, partnership, or other entity.

"Foreign corporation" has the same meaning specified in § 13.1-603.

"Foreign entity" means a foreign business trust, corporation, limited liability company, limited partnership, partnership, or other entity.

"Foreign limited liability company" has the same meaning specified in § 13.1-1002.

"Foreign limited partnership" has the same meaning specified in § 50-73.1.

"Foreign partnership" has the same meaning specified in § 13.1-1002.

"Limited liability company" and "domestic limited liability company" have the same meaning specified in § 13.1-1002.

"Limited partnership" and "domestic limited partnership" have the same meaning specified in § 50-73.1.

"Member" has the same meaning specified in § 13.1-1002.

"Membership interest" or "interest" has the same meaning specified in § 13.1-1002.

"Other entity" means a domestic or foreign real estate investment trust or common law trust.

"Partnership" and "domestic partnership" mean an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of this Commonwealth, and includes, for all purposes of the laws of this Commonwealth, a registered limited liability partnership.

"Resulting entity" means the domestic limited liability company or business trust that is in existence upon consummation of an entity conversion pursuant to this article.

"Surviving entity" means the domestic business trust that is in existence upon consummation of a domestication pursuant to this article.

§ 13.1-1265. Domestication.

A. A foreign business trust, ~~corporation, limited liability company, limited partnership, partnership or other entity~~ may become a domestic business trust if the laws of the jurisdiction in which the foreign entity is formed authorize it to domesticate in another jurisdiction. The laws of this Commonwealth shall govern the effect of domesticating in this Commonwealth pursuant to this article.

B. A domestic business trust not required by law to be a domestic business trust may become a foreign business trust if the jurisdiction in which the business trust intends to domesticate allows for the domestication. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved in the manner provided in this article. The laws of the jurisdiction in which the business trust domesticates shall govern the effect of domesticating in that jurisdiction.

§ 13.1-1271. Abandonment of domestication.

A. Unless a *otherwise provided* in the plan of domestication of a domestic business trust prohibits abandonment of the domestication without approval of one or more voting groups, after the a plan of domestication has been authorized approved by a domestic business trust as required by this article, and at any time before the certificate of trust surrender or certificate of domestication filed in the other jurisdiction has become effective, the domestication plan may be abandoned by the business trust without further action by any voting group its trustees in accordance with the procedure any procedures set forth in the plan or, if none is no such procedures are set forth in the plan, in the manner determined by a vote of the trustees that is equal to or greater than the vote cast for the plan of domestication pursuant to § 13.1-1267.

B. A domesticating business trust that is a foreign business trust may abandon its domestication to a domestic business trust in the manner prescribed by its organic law.

C. If a domestication is abandoned under subsection A after articles of trust surrender or articles of domestication have been filed with the Commission but before the certificate of trust surrender or certificate of domestication has become effective, written notice that the domestication has been abandoned in accordance with this section a statement of abandonment signed by the domesticating business trust shall be filed with delivered to the Commission for filing prior to the effective time and date of the certificate of trust surrender or certificate of domestication. The notice shall take effect upon filing If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the domestication shall be deemed abandoned and shall not become effective.

C. If the domestication of a foreign entity into a domestic business trust is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the Commission but before the certificate of domestication has become effective in this Commonwealth, written notice that the domestication has been abandoned shall be filed with the Commission prior to the effective date of the certificate of domestication. The notice shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

D. The statement of abandonment shall contain:

1. The name of the domesticating business trust and its jurisdiction of formation;
2. When the domesticating business trust is a foreign business trust, the name of the domesticated business trust set forth in the articles of domestication;

3. *The date on which the articles of trust surrender or articles of domestication were filed with the Commission;*

4. *The date and time on which the Commission's certificate of trust surrender or certificate of domestication becomes effective; and*

5. *A statement that the domestication is being abandoned in accordance with this section or, when the domesticating business trust is a foreign business trust, a statement that the foreign business trust abandoned the domestication as required by its organic law.*

§ 13.1-1277. Abandonment of entity conversion.

A. ~~Unless otherwise provided in a the plan of entity conversion of a domestic business trust to become a domestic limited liability company, after the a plan of entity conversion has been approved as by the converting entity in the manner required by this article, and at any time before the certificate of entity conversion has become effective, the conversion plan may be abandoned by the business trust converting entity without action by the its trustees or partners, as the case may be, in accordance with any procedures set forth in the plan of entity conversion or, if no such procedures are set forth in the plan;~~

1. *When the converting entity is a business trust, by a vote of the trustees of the business trust that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection A of § 13.1-1274.*

B. ~~Unless otherwise provided in a plan of entity conversion of a domestic partnership to become a domestic business trust, after the plan has been approved as required by this article, and at any time before the certificate of entity conversion has become effective, the conversion may be abandoned by the partnership without action by the partners in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan;~~

2. *When the converting entity is a domestic partnership, by a vote of the partners of the domestic partnership that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection B of § 13.1-1274.*

C. ~~Unless otherwise provided in a plan of entity conversion of a domestic limited partnership to become a domestic business trust, after the plan has been approved as required by this article, and at any time before the certificate of entity conversion has become effective, the conversion may be abandoned by the limited partnership without action by the partners in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan;~~

3. *When the converting entity is a domestic limited partnership, by a vote of the partners of the domestic limited partnership that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection C of § 13.1-1274.*

D. ~~Unless otherwise provided in a plan of entity conversion of an other entity to become a domestic business trust, after the plan has been approved as required by this article, and at any time before the certificate of entity conversion has become effective, the conversion may be abandoned by the other entity without action by the persons who had authority to approve the entity conversion in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan;~~ *and*

4. *When the converting entity is an other entity, by a vote of the persons who had authority to approve the entity conversion on behalf of the other entity that is equal to or greater than the vote cast for the plan of entity conversion pursuant to subsection D of § 13.1-1274.*

E. ~~B. If an entity conversion is abandoned under subsection A, B, C, or D after articles of entity conversion have been filed with the Commission but before the certificate of entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section of abandonment shall be signed on behalf of the converting entity and delivered to the Commission for filing before prior to the effective time and date of the certificate of entity conversion. Upon filing, the statement shall take effect If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the entity conversion shall be deemed abandoned and shall not become effective.~~

C. *The statement of abandonment shall contain:*

1. *The name of the converting entity and its entity type;*

2. *The name of the resulting entity set forth in the articles of entity conversion;*

3. *The date on which the articles of the entity conversion were filed with the Commission;*

4. *The date and time on which the Commission's certificate of entity conversion becomes effective; and*

5. *A statement that the entity conversion is being abandoned in accordance with this section.*

§ 15.2-5112. Joinder of another locality or authority; withdrawal from authority.

A. Any locality may become a member of any existing authority, and any locality which that is a member of an existing authority may withdraw therefrom upon unanimous consent of the remaining members of the authority in accordance with this section. However, no locality may withdraw from any authority that has outstanding bonds without the unanimous consent of all the holders of such bonds unless all such bonds have been paid or cashed or United States government obligations have been deposited for their payment.

B. The governing body of any locality wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance.

C. The governing body of any locality wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such locality. The resolutions, ordinances, or agreement creating the expanded authority shall specify the number and terms of office of members of the board of the expanded authority which are to be appointed by each of the participating political subdivisions, and the names, addresses, and terms of office of initial appointments to

board membership. Upon the date of issuance of the certificate by the State Corporation Commission as provided in this section, the terms of office of the board members of the existing authority shall terminate and the appointments made in the resolutions, ordinances, or agreement creating the expanded authority shall become effective.

D. If the authority by resolution expresses its consent to withdrawal or joinder of a locality, the governing body of such locality and the governing bodies of the political subdivisions then members of the authority shall advertise the ordinance, resolution, or agreement and hold a public hearing in accordance with § 15.2-5104.

Upon adoption or approval of the ordinance, resolution, or agreement, the governing body seeking to withdraw or join the authority shall file either an application to withdraw from or an application to become a member of the authority, whichever applies, with the State Corporation Commission. A joinder application shall set forth all of the information required in the case of original incorporation and shall be accompanied by certified copies of the resolutions, ordinances, or agreement described in subsection B C. Joinder and withdrawal applications shall be executed by the proper officers of the withdrawing or incoming locality under its official seal, and shall be joined in by the proper officers of the governing board of the authority, and in the case of a locality seeking to become a member of the authority also by the proper officers of each of the political subdivisions that are then members of the authority, pursuant to resolutions by the governing bodies of such political subdivisions.

E. If the State Corporation Commission finds that the application conforms to law, it shall approve the application. When all proper fees and charges have been paid, it shall file the approved application and issue to the applicant a certificate of withdrawal or a certificate of joinder, whichever applies, attached to a copy of the approved application. The withdrawal or joinder shall become effective upon the issuing of such certificate.

F. Any authority may join an existing authority if the joinder is approved by concurrent ordinances or resolutions of the localities which created the joining authority, notwithstanding any contrary provisions of § 15.2-5150. However, if the localities, at the time of the creation of an authority, state that the authority is created with the intention of joining an existing authority, such concurrent ordinances or resolutions shall not be necessary. The provisions of this section pertaining to a locality becoming a member or withdrawing from an authority shall also apply, mutatis mutandis, to an authority becoming a member or withdrawing.

§ 15.2-5431.8:1. Amendment of articles of incorporation.

The articles of incorporation of any authority created under the provisions of this chapter may be amended with respect to the name or powers of such or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority.

§ 15.2-5431.9. Dissolution and termination of authority.

A. Whenever the board of an authority determines that the purposes for which it was created have been completed or are impractical or impossible and that all its obligations have been paid or have been assumed by one or more of such political subdivisions or any authority created thereby or that cash or United States government securities have been deposited for their payment, it shall adopt and file with the governing body a resolution declaring such facts. If the governing body adopts a resolution concurring in such declaration and finding that the authority should be dissolved, ~~they~~ it shall file appropriate articles of dissolution with the State Corporation Commission. *When the affairs of the authority have been wound up and all of its assets have been distributed, the governing bodies shall file appropriate articles of termination of corporate existence with the State Corporation Commission.*

B. *If any of the governing bodies refuses to adopt a resolution concurring in such declaration, then the authority may petition the circuit court for any locality that is a member of the authority to order one or more of such governing bodies to create a new authority. The circuit court may order the governing body of the political subdivision requesting dissolution of the existing authority to adopt an ordinance establishing a new authority to which the provisions of §§ 15.2-5431.3 through 15.2-5431.6 shall not apply. Thereafter, the court may order that the assets be divided among the authorities and, subject to the approval of any debt holder, require the assumption of a proportionate share of the obligations of the existing authority by the new authority.*

C. Notwithstanding the provisions of subdivision 1 of § 15.2-5431.11, an authority shall continue in existence and shall not be dissolved because the term for which it was created, including any extensions thereof, has expired, unless all of such authority's functions have been taken over and its obligations have been paid or have been assumed by one or more political subdivisions or by an authority created thereby, or cash or United States government securities have been deposited for their payment.

§ 15.2-5431.9:1. Joinder of another locality or authority; withdrawal from authority.

A. *Any locality may become a member of any existing authority, and any locality that is a member of an existing authority may withdraw therefrom upon unanimous consent of the remaining members of the authority in accordance with this section. However, no locality may withdraw from any authority that has outstanding bonds without the unanimous consent of all the holders of such bonds unless all such bonds have been paid or cashed or United States government obligations have been deposited for their payment.*

B. *The governing body of any locality wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance.*

C. *The governing body of any locality wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such locality. The resolutions, ordinances, or agreement creating the expanded authority shall*

specify the number and terms of office of members of the board of the expanded authority who are to be appointed by each of the participating political subdivisions, and the names, addresses, and terms of office of initial appointments to board membership. Upon the date of issuance of the certificate by the State Corporation Commission as provided in this section, the terms of office of the board members of the existing authority shall terminate and the appointments made in the resolutions, ordinances, or agreement creating the expanded authority shall become effective.

D. If the authority by resolution expresses its consent to withdrawal or joinder of a locality, the governing body of such locality and the governing bodies of the political subdivisions then members of the authority shall advertise the ordinance, resolution, or agreement and hold a public hearing in accordance with § 15.2-5431.5.

Upon adoption or approval of the ordinance, resolution, or agreement, the governing body seeking to withdraw or join the authority shall file either an application to withdraw from or an application to become a member of the authority, whichever applies, with the State Corporation Commission. A joinder application shall set forth all of the information required in the case of original incorporation and shall be accompanied by certified copies of the resolutions, ordinances, or agreement described in subsection C. Joinder and withdrawal applications shall be executed by the proper officers of the withdrawing or incoming locality under its official seal and shall be joined in by the proper officers of the governing board of the authority, and in the case of a locality seeking to become a member of the authority also by the proper officers of each of the political subdivisions that are then members of the authority, pursuant to resolutions by the governing bodies of such political subdivisions.

E. If the State Corporation Commission finds that the application conforms to law, it shall approve the application. When all proper fees and charges have been paid, it shall file the approved application and issue to the applicant a certificate of withdrawal or a certificate of joinder, whichever applies, attached to a copy of the approved application. The withdrawal or joinder shall become effective upon the issuing of such certificate.

F. Any authority may join an existing authority if the joinder is approved by concurrent ordinances or resolutions of the localities that created the joining authority, notwithstanding any contrary provisions of § 15.2-5431.35:1. However, if the localities, at the time of the creation of an authority, state that the authority is created with the intention of joining an existing authority, such concurrent ordinances or resolutions shall not be necessary. The provisions of this section pertaining to a locality becoming a member or withdrawing from an authority shall also apply, *mutatis mutandis*, to an authority becoming a member or withdrawing.

§ 15.2-5431.35:1. Creating or joining more than one authority.

No governing body that is a member of an authority shall create or join with any other governing body in the creation of another authority or join another authority if the latter authority would duplicate the services being performed in any part of the areas being served by the authority of which the governing body is a member.

§ 50-73.1. Definitions.

As used in this chapter, unless the context otherwise requires a different meaning:

"Certificate of limited partnership" means the certificate referred to in § 50-73.11, and the certificate as amended or restated.

"Commission" means the State Corporation Commission.

"Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

"Domestic," with respect to an entity, means an entity governed as to its internal affairs by the organic law of the Commonwealth.

"Domestic business trust" has the same meaning as specified in § 13.1-1201.

"Domestic corporation" has the same meaning as specified in § 13.1-603.

"Domestic limited liability company" has the same meaning as specified in § 13.1-1002.

"Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-803.

"Domestic partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Effective date," when referring to a document for which effectiveness is contingent upon the filing with or issuance of a certificate by the Commission, means the time and date determined in accordance with subsection C of § 50-73.17.

"Entity" includes any domestic or foreign limited partnership or other business entity, any estate or trust, and any state, the United States, and any foreign government.

"Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in § 50-73.28.

"Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than the Commonwealth.

"Foreign business trust" has the same meaning as specified in § 13.1-1201.

"Foreign corporation" has the same meaning as specified in § 13.1-603.

"Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

"Foreign limited partnership" means a partnership formed under the laws of any state or jurisdiction other than the Commonwealth and having as partners one or more general partners and one or more limited partners.

"Foreign partnership" means an association of two or more persons to carry on as co-owners of a business for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

"Foreign registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

"Jurisdiction of formation" means the state or country the law of which includes the organic law governing a domestic or foreign limited partnership or other business entity.

"Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

"Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of the Commonwealth and having one or more general partners and one or more limited partners.

"Liquidating trustee" means a person, other than a general partner, but including a limited partner, who carries out the winding up of a limited partnership as provided in this chapter.

"Organic law" means the statute governing the internal affairs of a domestic or foreign limited partnership or eligible entity.

"Other business entity" means a domestic or foreign stock corporation, nonstock corporation, business trust, limited liability company, or partnership.

"Partner" means a limited or general partner.

"Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

"Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

"Person" means an individual, partnership, limited partnership (domestic or foreign), trust, estate, association, corporation, or any other legal or commercial entity.

"Principal office" means the office, in or out of the Commonwealth, where the principal executive offices of a domestic or foreign limited partnership are located. Any reference to a specified office contained in the records of the Commission as of July 1, 2010, shall be deemed, in all instances, to be a reference to the principal office of a domestic or foreign limited partnership.

"Protected series" has the same meaning as specified in § 13.1-1002.

"Registered limited liability partnership" means a limited partnership or general partnership formed under the laws of the Commonwealth that is registered under § 50-73.132.

"State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

§ 50-73.2. Name.

A. A limited partnership name, as set forth in its certificate of limited partnership, shall either (i) contain the words "limited partnership" or "a limited partnership" or the abbreviations "L.P." or "LP" or (ii) in the case of a limited partnership that is also a registered limited liability partnership, comply with the requirements of subdivision A 2 of § 50-73.78.

B. A limited partnership name shall not contain:

1. The name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

2. Any word, abbreviation, or combination of characters that states or implies the limited partnership is a corporation or, a limited liability company, a *protected series of a limited liability company*, or a *registered limited liability partnership*, unless it is so registered; or

3. Any word or phrase the use of which is prohibited by law for such limited partnership.

C. Except as authorized by subsection D, a limited partnership name shall be distinguishable upon the records of the Commission from:

1. The name of a domestic limited partnership or a foreign limited partnership registered pursuant to this chapter;

2. A limited partnership name reserved under this chapter;

3. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth;

4. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;

5. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;

6. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;

7. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;

8. A limited liability company name reserved under § 13.1-1013;

9. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;

10. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;

11. A business trust name reserved under § 13.1-1215; and

12. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth.

D. A domestic limited partnership may apply to the Commission for authorization to use a name that is not distinguishable upon its records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other domestic or foreign limited partnership or other business entity consents to the use in writing and submits an undertaking in a form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying limited partnership.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether the name of a limited partnership is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under this section and § 13.1-544.1, subsection A of § 13.1-630, subsection A of § 13.1-1012, § 13.1-1104, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

§ 50-73.6. Resignation of registered agent.

A. A registered agent may resign ~~the agency appointment~~ *as agent for the domestic or foreign limited partnership* by signing and filing with the Commission a statement of resignation *stating (i) the name of the limited partnership or foreign limited partnership, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the domestic or foreign limited partnership. The statement of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the statement mailed to the principal office of the domestic or foreign limited partnership by certified mail on or before the business day following the day on which the statement is filed. The* ~~When the statement of resignation may include a statement that takes effect, the registered office is also discontinued.~~

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided, on the~~ *A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change to appoint a registered agent is filed, in accordance with § 50-73.5, with the Commission.*

§ 50-73.17. Filing; fees; effective time and date.

A. 1. One signed copy of the certificate of limited partnership, of any amended and restated certificate referred to in § 50-73.77, of any certificate of amendment or cancellation, of any restated certificate of limited partnership or of any articles of merger shall be delivered to the Commission for filing and shall be accompanied by the required filing fee.

2. Any document delivered to the Commission for filing shall be typewritten or printed in black. Photocopies, or other reproduced copies, of typewritten or printed certificates may be filed. In every case, information in the document shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality.

3. The document shall be in the English language. A limited partnership name need not be in English if written in English letters or Arabic or Roman numerals. The certificate of limited partnership or partnership agreement, duly authenticated by the official having custody of the applicable records in the state or other jurisdiction under whose law the limited partnership is formed, which is required of foreign limited partnerships, need not be in English if accompanied by a reasonably authenticated English translation.

4. If, pursuant to any provision of this chapter, the Commission has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

5. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. If the Commission finds that the certificate complies with the provisions of this chapter, that it has been signed as required by this chapter, and that the required filing fee has been paid, it shall file the certificate and admit it to record in its office.

6. The Commission may accept the electronic filing of any information required or permitted to be filed by this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically filed information pursuant to § 59.1-496.

B. The Commission shall charge and collect the following fees, except as provided in § 12.1-21.2:

1. For filing any one of the following, the fee shall be \$10:

a. An application to reserve or to renew the reservation of a name for use by a domestic or a foreign limited partnership;

b. A notice of the transfer of a name reserved for the use by a domestic or a foreign limited partnership; and

c. A certificate declaring withdrawal referred to in § 50-73.25.

2. For filing any one of the following, the fee shall be \$100:

a. A certificate of limited partnership;

b. An application for registration as a foreign limited partnership; and

- c. An amended and restated certificate of limited partnership referred to in § 50-73.77.
3. For filing any one of the following, the fee shall be \$25:
- A certificate of amendment;
 - A restated certificate of limited partnership;
 - A copy of an amendment or correction referred to in § 50-73.57, or an amended application referred to in § 50-73.57, provided that an amended application shall not require a separate fee when it is filed with a copy of an amendment or a correction referred to in § 50-73.57;
 - Articles of merger;
 - A copy of an instrument of merger of a foreign limited partnership holding a certificate of registration to transact business in the Commonwealth;
 - A copy of an instrument of entity conversion of a foreign limited partnership holding a certificate of registration to transact business in the Commonwealth;
 - A certificate of cancellation; and
 - An application for cancellation of a foreign limited partnership.
4. For issuing a certificate pursuant to § 50-73.76:1, the fee shall be \$6.

C. 1. A certificate filed with or issued by the Commission pursuant to the provisions of this chapter is effective at the time such certificate is filed or issued unless the certificate or articles to which the certificate relates are filed on behalf of a limited partnership and state that they shall become effective at a later time ~~and~~ *or date specified in the certificate or articles*. In that event, the certificate shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the certificate is filed with or issued by the Commission. *If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.* Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this chapter.

2. Notwithstanding subdivision 1, ~~as to~~ any certificate that has a delayed effective time ~~and~~ *or date shall not become effective* if, prior to the effective time and date, a ~~party~~ *statement of cancellation signed by each party* to which the certificate relates ~~files a request for cancellation with is delivered to the Commission, for filing. If the Commission finds that the statement of cancellation complies with the requirements of law, it shall, by order, cancel the certificate and it shall not become effective.~~

3. *A statement of cancellation shall contain:*

- The name of the limited partnership;*
- The name of the certificate and the date on which the certificate was filed with or issued by the Commission;*
- The time and date on which the Commission's certificate becomes effective; and*
- A statement that the certificate is being canceled in accordance with this section.*

4. Notwithstanding subdivision 1, for purposes of §§ 50-73.2 and 50-73.56, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is filed or, in the case of a certificate of merger, issued.

5. *For certificates with a delayed effective date and time, the effective date and time shall be Eastern Time.*

D. Notwithstanding any other provision of law to the contrary, the Commission shall have the power to act upon a petition filed by a limited partnership at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person without authority to act for the limited partnership.

§ 50-73.48:5. Abandonment of merger.

A. *Unless otherwise provided in the plan of merger or in the laws under which a foreign limited partnership or a domestic or foreign other business entity that is a party to a merger is organized or by which it is governed, after a plan of merger has been approved as required by this article, and at any time before the certificate of merger has become effective, the plan may be abandoned by a domestic limited partnership that is a party to the plan without action by its partners in accordance with any procedures set forth in the plan or, if no procedures are set forth in the plan, by a vote of the partners of the limited partnership that is equal to or greater than the vote cast for the plan pursuant to § 50-73.48:2, subject to any contractual rights of other parties to the plan of merger.*

B. *If a merger is abandoned after articles of merger have been filed with the Commission but before the certificate of merger has become effective, in order for the certificate of merger to be abandoned, all parties to the plan of merger shall sign a statement of abandonment and deliver it to the Commission for filing prior to the effective time and date of the certificate of merger. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the merger shall be deemed abandoned and shall not become effective.*

C. *The statement of abandonment shall contain:*

- The name of each domestic and foreign limited partnership and other business entity that is a party to the merger and its jurisdiction of formation and entity type;*
- When the survivor will be a domestic stock or nonstock corporation created by the merger, the name of the survivor set forth in the articles of merger;*
- The date on which the articles of merger were filed with the Commission;*
- The date and time on which the Commission's certificate of merger becomes effective; and*
- A statement that the merger is being abandoned in accordance with this section.*

§ 50-73.54. Application for certificate of registration.

A. ~~A To obtain a certificate of registration to transact business in the Commonwealth, a foreign limited partnership may apply shall deliver an application to the Commission for a certificate of registration to transact business in the Commonwealth. The application shall be made on a form prescribed and furnished by the Commission, executed. The application shall be signed in the name of the foreign limited partnership by a general partner and setting set forth:~~

1. The name of the foreign limited partnership and, if the limited partnership is prevented by § 50-73.56 from using its own name in the Commonwealth, a designated name that satisfies the requirements of § 50-73.56;

2. ~~The name of the state or other foreign limited partnership's jurisdiction under whose law it is formed of formation, the date of its formation,~~ and if the foreign limited partnership was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, *nonstock corporation*, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other jurisdiction of incorporation, organization or formation; and (iv) the entity identification number issued to it by the Commission;

3. ~~The foreign limited partnership's original date of formation, organization, or incorporation as an entity and its period of duration;~~

4. The address of the proposed registered office of the foreign limited partnership in the Commonwealth, including both (i) the post office address, including the street and number, if any, and (ii) the name of the city or county in which it is located and the name of its proposed registered agent in the Commonwealth at such address and that the registered agent is either (a) an individual who is a resident of Virginia and either (1) a general partner of the limited partnership, (2) an officer or director of a ~~corporate stock or nonstock corporation that is a~~ general partner of the limited partnership, (3) a ~~general partner of a partnership that is a~~ general partner of the limited partnership, (4) a ~~general partner of a limited partnership that is a~~ general partner of the limited partnership, (5) a member or manager of a limited liability company that is a general partner of the limited partnership, (6) a trustee of a trust that is a general partner of the limited partnership, or (7) a member of the Virginia State Bar or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth;

4. 5. A statement that the Clerk of the Commission is irrevocably appointed the agent of the foreign limited partnership for service of process if the foreign limited partnership fails to maintain a registered agent in the Commonwealth as required by § 50-73.4, the registered agent's authority has been revoked, the registered agent has resigned, or the registered agent cannot be found or served with the exercise of reasonable diligence;

5. 6. The name and post office address, including the street and number, if any, of each general partner and, if a general partner is a business entity, the jurisdiction under whose law the general partner is incorporated, organized, or formed, and, if it is of record with the Commission, the identification number issued by the Commission to such general partner; and

6. 7. The post office address, including the street and number, if any, of the foreign limited partnership's principal office, at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to maintain those records until the foreign limited partnership's registration in the Commonwealth is canceled or withdrawn.

B. The foreign limited partnership shall deliver with the completed application a copy of its certificate of limited partnership or, if there is no such certificate, a copy of the partnership agreement and all amendments *and corrections* thereto filed in the foreign limited partnership's ~~state or other~~ jurisdiction of formation, duly authenticated by the secretary of state or other official having custody of the limited partnership records in ~~the state or other its jurisdiction under whose law it is formed of formation.~~

C. ~~A foreign limited partnership is not precluded from receiving a certificate of registration to transact business in the Commonwealth because of any difference between the law of the foreign limited partnership's jurisdiction of formation and the law of the Commonwealth.~~

D. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of registration to transact business in the Commonwealth.

§ 50-73.67. Annual registration fees to be paid by domestic and foreign limited partnerships.

A. ~~Each~~ Every domestic limited partnership, and ~~each~~ every foreign limited partnership registered to transact business in the Commonwealth, shall pay into the state treasury on or before October 1 in each year after the calendar year in which it was formed or registered to transact business in the Commonwealth an annual registration fee of \$50, *provided that the initial annual registration fee to be paid by a domestic limited partnership created by an entity conversion from a domestic stock corporation shall be due in the year after the calendar year in which the conversion became effective when the annual registration fee of the domestic stock corporation was paid for the calendar year in which the conversion became effective.*

The annual registration fee shall be imposed irrespective of any specific license tax or other tax or fee imposed by law upon the *domestic or foreign* limited partnership for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or receipts.

B. Each year, the Commission shall ascertain from its records each domestic limited partnership and each foreign limited partnership registered to transact business in the Commonwealth as of July 1 and, except as provided in subsection A, shall assess against each such limited partnership the annual registration fee herein imposed.

C. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each domestic and foreign limited partnership.

D. Any domestic limited partnership that has ceased to exist in the Commonwealth because of the filing of a certificate of cancellation or any foreign limited partnership that has obtained a certificate of cancellation, effective on or before its annual registration fee due date pursuant to subsection A in any year, shall not be required to pay the annual registration fee for that year. Any domestic or foreign limited partnership that has merged, effective on or before its annual registration fee due date pursuant to subsection A in any year, into a surviving domestic or foreign corporation, limited liability company, business trust, limited partnership, or partnership that files with the Commission an authenticated copy of the instrument of merger on or before such date shall not be required to pay the annual registration fee for that year. Any foreign limited partnership that has converted, effective on or before its annual registration fee due date pursuant to subsection A in any year, to a different entity type that files with the Commission an authenticated copy of the instrument of entity conversion on or before such date shall not be required to pay the annual registration fee for that year. *A domestic or foreign limited partnership shall not be required to pay the annual registration fee assessed against it pursuant to subsection B in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:*

1. *A certificate of cancellation of existence for a domestic limited partnership;*
2. *A certificate of cancellation for a foreign limited partnership;*
3. *A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign limited partnership that has merged into a surviving domestic limited partnership or other business entity or into a surviving foreign limited partnership or other business entity; or*
4. *An authenticated copy of an instrument of entity conversion for a foreign limited partnership that has converted into a different entity type.*

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

E. ~~Registration~~ Annual registration fee assessments that have been paid shall not be refunded.

F. The fees paid into the state treasury under this section and the fees collected under subsection B of § 50-73.17 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by the Commission as it deems necessary to defray the costs of the Commission and of the office of the clerk of the Commission in supervising, implementing, administering and enforcing the provisions of this chapter. The projected excess of fees collected over the costs of administration and enforcement so incurred shall be paid into the general fund prior to the close of each fiscal year, based on the unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this transfer amount to reflect actual fees collected shall occur during the first quarter of the succeeding fiscal year.

§ 50-73.70. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. The Commission shall not file or issue with respect to any domestic or foreign limited partnership any document or certificate specified in this chapter, except a statement of change pursuant to § 50-73.5 and a statement of resignation pursuant to § 50-73.6, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such limited partnership. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign limited partnership that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the limited partnership's annual registration fee payment in any year, *provided that the Commission shall not issue a certificate of conversion with respect to a domestic limited partnership that will become a domestic stock corporation until the annual registration fee has been paid by or on behalf of the limited partnership.*

B. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.

§ 50-73.83. Execution, filing, and recording of statements; effective time and date; refunds; penalty.

A. A statement may be filed with the Commission. A duly authenticated copy of a statement that is filed in an office in another state may be filed with the Commission. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in the Commonwealth.

B. A duly authenticated copy of a statement that has been filed with the Commission and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this chapter. A recorded statement that is not a duly authenticated copy of a statement filed with the Commission does not have the effect provided for recorded statements in this chapter.

C. A statement filed by a partnership shall be executed by at least two partners; ~~except as provided in subdivision A 1 of § 50-73.78.~~ Other statements shall be executed by a partner or other person authorized by this chapter. The person executing a statement shall sign it and state beneath or opposite his signature his name and the capacity in which he executes the document. Any person may execute a statement by an attorney-in-fact. It shall be unlawful for any person to sign a document he knows is false in any material respect with intent that the document be delivered to the Commission for filing, and any person who violates this provision shall be guilty of a Class 1 misdemeanor.

D. A person authorized by this chapter to file a statement may:

1. Amend or cancel the statement by filing an amendment or cancellation that ~~names states the name of~~ the partnership as it is set forth on the records of the Commission, states the identification number issued by the Commission to the partnership, identifies the statement, and states the substance of the amendment or cancellation; and

2. Renew a statement of partnership authority by filing during the 90-day period preceding the date of the statement's cancellation by operation of law, a renewal of a statement of partnership authority that names the partnership, states the identification number issued by the Commission to the partnership, states the partnership's desire to renew the statement of partnership authority, and states that all of the information set forth in the statement of partnership authority is true and correct as of the execution date of the renewal.

E. A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

F. The fees paid into the state treasury under this section shall be set aside and paid into the special fund created under § 13.1-775.1, subject to that section. The Commission shall have the authority to certify to the Comptroller directing refund of any overpayment of a fee or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment. The Commission shall charge and collect the following fees:

1. The fee shall be \$100 for filing any one of the following:

a. A statement of registration as a registered limited liability partnership; or

b. A statement of registration as a foreign registered limited liability partnership.

2. The fee shall be \$50 for filing an annual continuation report pursuant to § 50-73.134.

3. The fee shall be \$25 for filing any one of the following:

a. An amendment to a statement of registration as a registered limited liability partnership;

b. An amendment to a statement of registration as a foreign registered limited liability partnership; or

c. A statement of partnership authority or any other statement or an amendment thereto or cancellation thereof, or a renewal of a statement of partnership authority.

4. For issuing a certificate pursuant to § 50-73.150, the fee shall be \$6.

The court responsible for recording transfers of real property may collect a fee for recording a statement.

G. The Commission may provide forms for statements and reports.

H. Any statement filed with the Commission under this chapter shall be typewritten or printed. The typewritten or printed portion shall be in black. Photocopies, or other reproduced copies, of typewritten or printed statements may be filed. In every case, information in the statement shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality. The statement shall be in the English language. A partnership name need not be in English if written in English letters or Arabic or Roman numerals. Any signature on a statement may be a facsimile.

I. The Commission may accept the electronic filing of any information required or permitted to be filed under this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically filed information pursuant to § 59.1-496.

J. ~~1.~~ A statement shall be effective at the time of the filing of the statement with the Commission as set forth in this section unless the statement is filed on behalf of a partnership formed under § 50-73.88 or predecessor law and states that it shall become effective at a later time and or date specified in the statement. In that event, the statement shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the statement is filed with the Commission. *If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.*

~~K.~~ 2. Notwithstanding the terms of ~~subsection J subdivision 1,~~ any statement that has a delayed effective time and or date shall not become effective if, prior to the effective time and date, the parties a notice of cancellation signed by each party to which the statement relates file a written notice of abandonment with is delivered to the Commission for filing. *If the Commission finds that the notice of cancellation complies with the requirements of the law, it shall file the notice and the statement shall be deemed canceled and shall not become effective.*

3. A notice of cancellation shall contain:

a. The name of the partnership;

b. The name of the statement and the date on which the statement was filed with the Commission;

c. The time and date on which the statement becomes effective; and

d. A statement that the statement is being canceled in accordance with this section.

4. For statements with a delayed effective date and time, the effective date and times shall be Eastern Time.

§ 50-73.135. Registered office and registered agent.

A. Each registered limited liability partnership and each foreign registered limited liability partnership registered pursuant to this article shall continuously maintain in this Commonwealth:

1. A registered office that may be the same as any of its places of business; and

2. A registered agent who shall be either:

a. An individual who is a resident of this Commonwealth and is either (i) a general partner of the registered limited liability partnership, (ii) an officer or director of a corporate general partner of the registered limited liability partnership, (iii) a general partner of a partnership or limited partnership that is a general partner of the registered limited liability partnership, (iv) a member or manager of a limited liability company that is a general partner of the registered limited liability partnership, (v) a trustee of a trust that is a general partner of the registered limited liability partnership, or (vi) a member of the Virginia State Bar, and whose business office is identical with the registered office; or

b. A domestic or foreign stock or nonstock corporation, limited liability company or registered limited liability partnership authorized to transact business in this Commonwealth, the business office of which is identical with the registered office; provided *that* such a registered agent (i) shall not be its own registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public, one or more natural persons at the office of the registered agent upon whom any process, notice or demand may be served and shall continuously maintain at least one such person at that office. Whenever any such person accepts service, a photographic copy of such instrument shall be attached to the return.

B. The registered agent of a registered limited liability partnership or foreign registered limited liability partnership is the partnership's agent for service of process, notice, or demand required or permitted by law to be served on the partnership. The sole duty of the registered agent is to forward to the registered limited liability partnership or foreign registered limited liability partnership at its last known address any process, notice, or demand that is served on the registered agent.

C. A registered limited liability partnership or a foreign registered limited liability partnership that is registered to transact business in the Commonwealth may change its registered office or registered agent, or both, upon filing with the Commission a certificate of change on a form prescribed and furnished by the Commission that sets forth:

1. The name of the registered limited liability partnership or foreign registered limited liability partnership;
2. The address of its current registered office;
3. If the current address of its registered office is to be changed, the post-office address, including the street and number, if any, of the new registered office, and the name of the city or county in which it is located;
4. The name of its current registered agent;
5. If the current registered agent is to be changed, the name of the new registered agent; and
6. That after the change or changes are made, the registered limited liability partnership or foreign registered limited liability partnership will be in compliance with the requirements of this section.

D. A certificate of change shall forthwith be filed with the Commission by a registered limited liability partnership or foreign registered limited liability partnership whenever its registered agent dies, resigns, or ceases to satisfy the requirements of subsection A.

E. A registered limited liability partnership's or foreign registered limited liability partnership's registered agent may sign a certificate as required above if (i) the business address of the registered agent changes to another post office address within the Commonwealth or (ii) the name of the registered agent has been legally changed. A registered limited liability partnership's or foreign registered limited liability partnership's new registered agent may sign and submit for filing a certificate as required above if (a) the former registered agent is a business entity that has been merged into the new registered agent, (b) the instrument of merger is on record in the office of the clerk of the Commission, and (c) the new registered agent is an entity that is qualified to serve as a registered agent pursuant to subsection A. In either instance, the registered agent or surviving entity shall forthwith file a certificate of change as required in subsection D, which shall recite that a copy of the certificate shall be mailed to the principal office of the registered limited liability partnership or foreign registered limited liability partnership on or before the business day following the day on which the certificate is filed.

F. A registered agent may resign ~~the agency appointment as agent for the registered limited liability partnership or foreign registered limited liability partnership~~ by signing and filing with the Commission a certificate of resignation *stating (i) the name of the domestic or foreign registered limited liability partnership, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the domestic or foreign registered limited liability partnership. The certificate of resignation shall be accompanied by a certification that the registered agent shall mail a copy thereof will have a copy of the certificate mailed* to the principal office of the registered limited liability partnership or foreign registered limited liability partnership by certified mail on or before the business day following the day on which the certificate is filed. ~~The~~ *When the certificate of resignation may include a statement that takes effect, the registered office is also discontinued. The agency appointment is terminated, and the registered office discontinued if so provided, A certificate of resignation takes effect on the earlier of (a) 12:01 a.m. on the thirty-first day after the date on which the certificate was filed with the Commission or (b) the date on which a certificate of change in accordance with subsection C to appoint a registered agent is filed with the Commission.* If any registered limited liability partnership or foreign registered limited liability partnership whose registered agent has filed with the Commission a certificate of resignation fails to file a certificate of change pursuant to subsection C within 31 days after the date on which the certificate of resignation was filed, the Commission shall mail notice to the registered limited liability partnership or foreign registered limited liability partnership of the impending cancellation of its status as a registered limited liability partnership. If the registered limited liability partnership or foreign registered limited liability partnership fails to file a certificate of change on or before the last day of the second month immediately following the month in which the impending cancellation notice was mailed, the registered limited liability partnership's or foreign registered limited liability partnership's status as a registered limited liability partnership shall be automatically canceled as of that day.

G. Whenever a registered limited liability partnership or a foreign registered limited liability partnership fails to appoint or maintain a registered agent in this Commonwealth or whenever its registered agent cannot with reasonable diligence be found at his address, the clerk of the Commission shall be the agent of the partnership upon whom service may be made in accordance with § 12.1-19.1.

H. This section does not prescribe the only means, or necessarily the required means, of serving a registered limited liability partnership or a foreign registered limited liability partnership.

2. That Article 17 (§§ 13.1-941.01 through 13.1-944) of Chapter 10 of Title 13.1 of the Code of Virginia is repealed.
3. That until July 1, 2023, the term "incorporation surrender" when used in any provision of Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia, the term "organization surrender" when used in any provision of Chapter 12 (§ 13.1-1000 et seq.) of Title 13.1 of the Code of Virginia, and the term "trust surrender" when used in any provision of Chapter 14 (§ 13.1-1200 et seq.) of Title 13.1 of the Code of Virginia shall also be construed to mean "domestication," and the term "entity conversion" when used in any provision of Chapter 10, 12, or 14 of Title 13.1 of the Code of Virginia shall also be construed to mean "conversion."
4. That the provisions of this act (i) shall be applied prospectively only; (ii) shall not affect the validity of any filing made, or other action taken, prior to July 1, 2021, with respect to the name of a stock corporation, nonstock corporation, limited liability company, business trust, or limited partnership; and (iii) shall not be construed to require any such stock corporation, nonstock corporation, limited liability company, business trust, or limited partnership that was in compliance with applicable laws regarding the distinguishability of its name prior to July 1, 2021, to change its name or take other action to comply with the requirements of this act.

CHAPTER 488

An Act to amend and reenact § 8.01-53 of the Code of Virginia, relating to wrongful death beneficiaries.

[H 2190]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-53 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-53. Class and beneficiaries; when determined.

A. The damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased, and, *only if there is a surviving spouse, children of the deceased, or children of any deceased child of the deceased*, the parents of the decedent if any of such parents, within 12 months prior to the decedent's death, regularly received support or regularly received services from the decedent for necessities, including living expenses, food, shelter, health care expenses, or in-home assistance or care, or (ii) if there be none such is no surviving spouse, children of the deceased, or children of any deceased child of the deceased, then to the parents, brothers and sisters of the deceased, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents or (iv) if there are survivors under clause (i) or clause (ii), the award shall be distributed to those beneficiaries and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i), (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.2-200. Provided, however, no parent whose parental rights and responsibilities have been terminated by a court of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

B. The class and beneficiaries thereof eligible to receive such distribution shall be fixed (i) at the time the verdict is entered if the jury makes the specification, or (ii) at the time the judgment is rendered if the court specifies the distribution.

C. A beneficiary may renounce his interest in any claim brought pursuant to § 8.01-50 and, in such event, the damages shall be distributed to the beneficiaries in the same class as the renouncing beneficiary or, if there are none, to the beneficiaries in any subsequent class in the order of priority set forth in subsection A.

CHAPTER 489

An Act to amend and reenact §§ 2.2-511, 8.01-36, 8.01-267.8, 8.01-383.1, 8.01-555, 8.01-626, 8.01-670, 8.01-671, 8.01-675.3, 8.01-676.1, 9.1-909, 15.2-1627, 15.2-1643, 15.2-2139, 15.2-2140, 15.2-2656, 15.2-3104, 15.2-3217, 15.2-3221, 15.2-3222, 15.2-3227, 15.2-3244, 15.2-3308, 15.2-3528, 15.2-3605, 15.2-3809, 15.2-3909, 15.2-4108, 15.2-4120, 15.2-5218, 15.2-5367, 15.2-6606, 15.2-6632, 15.2-7406, 16.1-279.1, 17.1-309, 17.1-400 through 17.1-403, 17.1-405 through 17.1-408, 17.1-410, 17.1-413, 17.1-503, 17.1-513, 18.2-308.08, 18.2-384, 19.2-152.10, 19.2-165, 19.2-321.1, 19.2-321.2, 19.2-322.1, 19.2-386.13, 19.2-402, 19.2-403, 19.2-404, 22.1-97, 22.1-289.024, as it shall become effective, 24.2-237, 24.2-422, 24.2-433, 25.1-239, 32.1-48.010, 32.1-48.013, 33.2-928, 33.2-2917, 37.2-920, 45.1-161.322, 55.1-1833, 55.1-1966, 55.1-2211, 57-2.02, 58.1-527, 58.1-1828, 58.1-2282, 58.1-3147, 58.1-3992, and 63.2-1710 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 26.1 of Title 8.01 sections numbered 8.01-675.5 and 8.01-675.6; and to repeal §§ 8.01-670.1 and 8.01-672 of the Code of Virginia, relating to the Court of Appeals; jurisdiction; number of judges.

[S 1261]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-511, 8.01-36, 8.01-267.8, 8.01-383.1, 8.01-555, 8.01-626, 8.01-670, 8.01-671, 8.01-675.3, 8.01-676.1, 9.1-909, 15.2-1627, 15.2-1643, 15.2-2139, 15.2-2140, 15.2-2656, 15.2-3104, 15.2-3217, 15.2-3221, 15.2-3222, 15.2-3227, 15.2-3244, 15.2-3308, 15.2-3528, 15.2-3605, 15.2-3809, 15.2-3909, 15.2-4108, 15.2-4120, 15.2-5218, 15.2-5367, 15.2-6606, 15.2-6632, 15.2-7406, 16.1-279.1, 17.1-309, 17.1-400 through 17.1-403, 17.1-405 through 17.1-408, 17.1-410, 17.1-413, 17.1-503, 17.1-513, 18.2-308.08, 18.2-384, 19.2-152.10, 19.2-165, 19.2-321.1, 19.2-321.2, 19.2-322.1, 19.2-386.13, 19.2-402, 19.2-403, 19.2-404, 22.1-97, 22.1-289.024, as it shall become effective, 24.2-237, 24.2-422, 24.2-433, 25.1-239, 32.1-48.010, 32.1-48.013, 33.2-928, 33.2-2917, 37.2-920, 45.1-161.322, 55.1-1833, 55.1-1966, 55.1-2211, 57-2.02, 58.1-527, 58.1-1828, 58.1-2282, 58.1-3147, 58.1-3992, and 63.2-1710 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 26.1 of Title 8.01 sections numbered 8.01-675.5 and 8.01-675.6 as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for notice of appeal has been granted by filed with the clerk of the circuit court noting an appeal to the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. ~~In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal.~~

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 8.01-36. Joinder of action of tort to infant with action for recovery of expenses incurred thereby and claim for recovery of expenses by infant.

A. Where there is pending any action by an infant plaintiff against a tort-feasor for a personal injury, where the cause of action accrued prior to July 1, 2013, any parent or guardian of such infant, who is entitled to recover from the same tort-feasor the expenses of curing or attempting to cure such infant from the result of such personal injury, may bring an action against such tort-feasor for such expenses, in the same court where such infant's case is pending, either in the action filed in behalf of the infant or in a separate action. If the claim for expenses be by separate action, upon motion of any party to either case, made to the court at least one week before the trial, both cases shall be tried together at the same time as parts

of the same transaction. But separate verdicts when there is a jury trial shall be rendered, and the judgment shall distinctly separate the decision and judgment in the separate causes of action.

In the event of the cases being carried to the ~~Supreme~~ *Court of Appeals*, which may be done if there be the jurisdictional amount in either case, they shall both be carried together as one case and record, but the ~~Supreme~~ *Court of Appeals* shall clearly specify the decision in each case, separating them in the decision to the extent necessary to do justice among the parties. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall clearly specify the decision in each case, separating them in the decision to the extent necessary to do justice among the parties.*

B. For causes of action that accrue on or after July 1, 2013, the past and future expenses of curing or attempting to cure an infant of personal injuries proximately caused by a tort-feasor are damages recoverable by an infant in a cause of action against the tort-feasor and, if applicable to the infant's cause of action, are subject to the limitation on damages in § 8.01-581.15. Any parent or guardian of such infant who has paid for or is personally obligated to pay for past or future expenses to cure or attempt to cure the infant shall have a lien and right of reimbursement against any recovery by the infant up to the amount the parent or guardian has actually paid or is personally obligated to pay. The right to reimbursement of any parent or guardian shall accrue upon the first tender of funds of any recovery from a tort-feasor to the infant. Court approval of the infant settlement shall release party defendants from all claims for past or future expenses of curing or attempting to cure the infant.

Nothing in this section shall relieve a parent of the obligation to pay for the medical expenses of curing or attempting to cure the infant as such obligation exists under current law.

§ 8.01-267.8. Interlocutory appeal.

A. The ~~Supreme Court~~ or the Court of Appeals, in its discretion, may permit an appeal to be taken from an order of a circuit court although the order is not a final order where the circuit court has ordered a consolidated trial of claims joined or consolidated pursuant to this chapter.

B. The ~~Supreme Court~~ or the Court of Appeals, in its discretion, may permit an appeal to be taken from any other order of a circuit court in an action combined pursuant to this chapter although the order is not a final order provided the written order of the circuit court states that the order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

C. Application for an appeal pursuant to this section shall be made within ~~ten~~ 10 days after the entry of the order and shall not stay proceedings in the circuit court unless the circuit court or the appellate court shall so order.

§ 8.01-383.1. Appeal when verdict reduced and accepted under protest; new trial for inadequate damages.

A. In any action at law in which the trial court ~~shall require~~ *requires* a plaintiff to remit a part of his recovery, as ascertained by the verdict of a jury, or else submit to a new trial, such plaintiff may remit and accept judgment of the court thereon for the reduced sum under protest, but, notwithstanding such remittitur and acceptance, if under protest, *may appeal* the judgment of the court in requiring him to remit ~~may be reviewed by the Supreme Court upon an appeal awarded the plaintiff as in other actions at law; and in any such case in which an appeal is awarded the~~ *to the Court of Appeals. The defendant, may appeal* the judgment of the court in requiring such remittitur ~~may be the subject of review by the Supreme Court to the Court of Appeals, regardless of the amount. If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall review the judgment, regardless of amount.~~

B. In any action at law when the court finds as a matter of law that the damages awarded by the jury are inadequate, the trial court may (i) award a new trial or (ii) require the defendant to pay an amount in excess of the recovery of the plaintiff found in the verdict. If either the plaintiff or the defendant declines to accept such additional award, the trial court shall award a new trial.

If additur pursuant to this subsection is accepted by either party under protest, it may be reviewed on appeal.

§ 8.01-555. When appeal bond given property to be delivered to owner.

When judgment in favor of the plaintiff is rendered by a general district court in any case in which an attachment is issued and on appeal therefrom to a circuit court an appeal bond is given, with condition to prosecute the appeal with effect or pay the debt, interest, costs and damages, as well as the costs of the appeal, the officer, in whose custody any attached property is, shall deliver the same to the owner thereof. When an appeal is from a circuit court to the ~~Supreme Court of Appeals~~ and an appeal bond is given pursuant to § 8.01-676.1, the officer having custody shall proceed in like manner.

§ 8.01-626. Review of injunction by Court of Appeals.

Wherein a circuit court (i) grants an injunction or (ii) refuses an injunction or (iii) having granted an injunction, dissolves or refuses to enlarge it, an aggrieved party may, ~~within 15 days of the court's order, present a petition for review to a justice of the Supreme Court; however, if the issue concerning the injunction arose in a case over which the Court of Appeals would have appellate jurisdiction under § 17.1-405 or 17.1-406, the petition for review shall be initially presented to a judge of file a petition for review with the clerk of the Court of Appeals within 15 days of the circuit court's order. The clerk shall assign the petition to a three-judge panel of the Court of Appeals.~~ The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings, including the original papers and the court's order respecting the injunction. The ~~justice or judge court~~ may take such action thereon as ~~he~~ *it* considers appropriate under the circumstances of the case.

When a judge of the Court of Appeals has initially acted upon a petition for review of an order of a circuit court respecting an injunction, a party aggrieved by such action of the judge of the Court of Appeals may, within 15 days of the order of the judge of the Court of Appeals, present a petition for review of such order to a justice *the clerk* of the Supreme Court if the case would otherwise be appealable to the Supreme Court in accordance with § 17.1-410. *The clerk shall assign the petition to a three-justice panel of the Supreme Court.* The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court's order respecting the injunction, and a copy of the order of the judge of the Court of Appeals from which review is sought. The justice *Supreme Court* may take such action thereon as he *it* considers appropriate under the circumstances of the case.

Nothing in this section shall be construed to prevent the Court of Appeals or the Supreme Court from resolving a petition for review by an order joined by more than one judge or justice. An order issued by a justice of the Supreme Court does not become a judgment of the court except on the concurrence of at least three justices, as provided in § 17.1-308.

§ 8.01-670. In what cases awarded.

A. Except as provided by § 17.1-405, any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:

1. By any judgment in a controversy concerning:
 - a. The title to or boundaries of land,
 - b. The condemnation of property,
 - c. The probate of a will,
 - d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,
 - e. A mill, roadway, ferry, wharf, or landing,
 - f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or
 - g. The construction of any statute, ordinance, or county proceeding imposing taxes; or
2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ; or
3. By a final judgment in any other civil case.

B. Except as provided by § 17.1-405, any party may present a petition for an appeal to the Supreme Court in any case on an equitable claim wherein there is an interlocutory decree or order:

1. Granting, dissolving or denying an injunction; or
2. Requiring money to be paid or the possession or title of property to be changed; or
3. Adjudicating the principles of a cause.

C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

A party aggrieved by a final decision of the Court of Appeals may petition the Supreme Court for an appeal in accordance with § 17.1-411.

§ 8.01-671. Time within which petition must be presented.

A. In cases where an appeal is permitted from the trial court to the Supreme Court, no petition shall be presented for an appeal to the Supreme Court from any final judgment, whether the Commonwealth be a party or not, ~~(i) which shall have been that was rendered more than 90 days before the petition is presented, provided that a 30-day an extension may be granted, in the discretion of the court Supreme Court, in order to attain the ends of justice; or (ii) if it be an appeal from a final decree refusing a bill of review to a decree rendered more than 120 days prior thereto, unless the petition is presented within 90 days from the date of such decree.~~

B. When an appeal from an interlocutory decree or order is permitted, the petition for appeal shall be presented within the appropriate time limitation set forth in subsection A.

C. No appeal to the Supreme Court from a decision of the Court of Appeals shall be granted unless a petition for appeal is filed within 30 days after the date of the decision appealed from. *However, an extension may be granted, in the discretion of the court, in order to attain the ends of justice.*

§ 8.01-675.3. Time within which appeal must be taken; notice.

Except as provided in § 19.2-400 for pretrial appeals by the Commonwealth in criminal cases and in § 19.2-401 for cross appeals by the defendant in such pretrial appeals, a notice of appeal to the Court of Appeals in any case within the jurisdiction of the court shall be filed within 30 days from the date of any final judgment order, decree, or conviction. When an appeal from an interlocutory decree or order is permitted, the *notice of appeal* shall be filed within 30 days from the date of such decree or order, except for pretrial appeals pursuant to § 19.2-398. *However, an extension may be granted, in the discretion of the Court of Appeals, in order to attain the ends of justice.*

For purposes of this section, § 17.1-408, and an appeal pursuant to § 19.2-398, a petition for appeal in a criminal case or a notice of appeal to the Court of Appeals, shall be deemed to be timely filed if (i) it is mailed postage prepaid by registered or certified mail and (ii) the official postal receipt, showing mailing within the prescribed time limits, is exhibited upon demand of the clerk or any party.

§ 8.01-675.5. Appeal of interlocutory orders and decrees by permission; immunity.

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, any party may file in the circuit court a motion requesting that the circuit court certify such order or decree for interlocutory appeal.

The motion shall include a concise analysis of the statutes, rules, or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion; (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia; (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court; and (iv) it is in the parties' best interest to seek an interlocutory appeal. If the request for certification is opposed by any party, the parties may brief the motion in accordance with the Rules of Supreme Court of Virginia.

Within 15 days of the entry of an order by the circuit court granting such certification, a petition for appeal may be filed with the Court of Appeals. If the Court of Appeals determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its decision.

The consideration of any petition and appeal by the Court of Appeals shall be in accordance with the applicable provisions of the Rules of the Supreme Court of Virginia and shall not take precedence on the docket unless the court so orders.

B. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Court of Appeals in accordance with the procedures set forth in § 8.01-626. If the assigned judge or judges grant the petition for review, the clerk shall refer the appeal to a panel of the court, as the court shall direct, and the parties shall prosecute the appeal in the manner provided for in the Rules of Supreme Court of Virginia.

C. No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court orders such a stay upon a finding that (i) the petition or appeal could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

D. The failure of a party to seek interlocutory review under this section shall not preclude review of the issue on appeal from a final order. An order by the Court of Appeals denying interlocutory review under this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

§ 8.01-675.6. Jurisdictional amount.

No petition shall be presented for an appeal from any judgment of a circuit court except in cases in which the controversy is for a matter of \$500 or more in value or amount, and except in cases in which it is otherwise expressly provided; nor to a judgment of any circuit court when the controversy is for a matter less in value or amount than \$500, exclusive of costs, unless there be drawn in question a freehold or franchise or the title or bounds of land, or some other matter not merely pecuniary.

§ 8.01-676.1. Security for appeal.

A. Security for costs of appeal of right to Court of Appeals *in civil cases*. A party filing a notice of an appeal of right to the Court of Appeals *in a civil case* shall simultaneously file an appeal bond or irrevocable letter of credit in the penalty of \$500, or such sum as the trial court may require, subject to subsection E, conditioned upon paying all costs and fees incurred in the Court of Appeals and the Supreme Court if it takes cognizance of the claim. If the appellant wishes suspension of execution *in a civil appeal*, the security shall also be conditioned and shall be in such sum as the trial court may require as provided in subsection C.

B. Security for costs on petition for appeal to Court of Appeals or Supreme Court. An appellant whose petition for appeal is granted by the Court of Appeals or the Supreme Court shall (if he has not done so) within 15 days from the date of the Certificate of Appeal file an appeal bond or irrevocable letter of credit in the same penalty as provided in subsection A, conditioned on the payment of all damages, costs, and fees incurred in the Court of Appeals and in the Supreme Court.

C. Security for suspension of execution. An appellant who wishes execution of the judgment or award from which an appeal is sought to be suspended during the appeal shall, subject to the provisions of subsection J, file a suspending bond or irrevocable letter of credit conditioned upon the performance or satisfaction of the judgment and payment of all damages incurred in consequence of such suspension, and except as provided in subsection D, execution shall be suspended upon the filing of such security and the timely prosecution of such appeal. Such security shall be continuing and additional security shall not be necessary except as to any additional amount ~~which~~ that may be added or to any additional requirement ~~which~~ that may be imposed by the courts.

D. Suspension of execution in decrees for support and custody; injunctions. The court from which an appeal is sought may refuse to suspend the execution of decrees for support and custody, and may also refuse suspension when a judgment refuses, grants, modifies, or dissolves an injunction.

E. Increase or decrease in penalty or other modification of security. 1. The trial court or commission may, upon the motion of any party (i) for good cause shown, modify the terms of the security for the appeal or of the security for the suspension of execution of a judgment and (ii) resolve any objection to the form or issuer of a bond or letter of credit at any

time until the Court of Appeals or the Supreme Court acts upon any similar motion. Any party aggrieved by the decision of the trial court or commission may request a review of such decision by the appellate court before which the case is pending.

2. The Court of Appeals or the Supreme Court may order that the penalty or any other terms or requirements of the security for the appeal or of the security for the suspension of execution of a judgment be modified for good cause shown (i) upon the motion of any party or (ii) if such request is made in the brief of any party filed in the Court of Appeals, or in the Petition for Appeal or the appellee's Brief in Opposition filed in the Supreme Court or the Court of Appeals.

3. Affidavits and counter-affidavits may be filed by the parties containing facts pertinent to such request. Any increase or decrease in the amount of or other modification of the security so ordered shall be effected in the clerk's office of the trial court within 15 days of the order of the trial court, the Court of Appeals, or the Supreme Court.

4. If an increase so ordered is not effected within 15 days, the appeal shall be dismissed, in the case of the security required under subsection A or B, or the suspension of execution of a judgment shall be discontinued, in the case of the security required under subsection C.

F. By whom executed. Each bond filed shall be executed by a party or another on his behalf, and by surety approved by the clerk of the court from which appeal is sought, or by the clerk of the Supreme Court or the clerk of the Court of Appeals if the bond is ordered by such Court. Any letter of credit posted as security for an appeal shall be in a form acceptable to the clerk of the court from which appeal is sought, or by the clerk of the Supreme Court or the Court of Appeals if the security is ordered by such court. The letter of credit shall be from a bank incorporated or authorized to conduct banking business under the laws of this Commonwealth or authorized to do business in this Commonwealth under the banking laws of the United States, or a federally insured savings institution located in this Commonwealth.

G. Appeal from State Corporation Commission; security for costs. When an appeal of right is entered from the State Corporation Commission to the Supreme Court, and no suspension of the order, judgment, or decree appealed from is requested, such appeal bond or letter of credit shall be filed when and in the amount required by the clerk of the Supreme Court, whose action shall be subject to review by the Supreme Court.

H. Appeal from State Corporation Commission; suspension. Any judgment, order, or decree of the State Corporation Commission subject to appeal to the Supreme Court may be suspended by the Commission or by the Supreme Court pending decision of the appeal if the Commission or the Supreme Court deems such suspension necessary for the proper administration of justice but only upon the written application of an appellant after reasonable notice to all other parties in interest and the filing of a suspending bond or irrevocable letter of credit with such conditions, in such penalty, and with such surety thereon as the Commission or the Supreme Court may deem sufficient. But no surety shall be required if the appellant is any county, city or town of this Commonwealth, or the Commonwealth.

I. Forms of bonds; letters of credit; where filed. The Clerk of the Supreme Court shall prescribe separate forms for bonds, one for costs alone, one for suspension of execution, and one for both and a form for irrevocable letters of credit, to which the bond or bonds or irrevocable letters of credit given shall substantially conform. The forms for each bond and the letter of credit shall be published in the Rules of Court. It shall be sufficient if the bond or letter of credit, when executed as required, is filed with the trial court, clerk of the Virginia Workers' Compensation Commission, or the clerk of the State Corporation Commission, whichever is applicable, and no personal appearance in the trial court, Virginia Workers' Compensation Commission, or State Corporation Commission by the principal, the surety on the bond or the bank issuing the letter of credit shall be required as a condition precedent to its filing.

J. In any civil litigation under any legal theory, the amount of the suspending bond or irrevocable letter of credit to be furnished during the pendency of all appeals or discretionary reviews of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of appellate review by any courts shall be set in accordance with applicable laws or court rules, and the amount of the suspending bond or irrevocable letter of credit shall include an amount equivalent to one year's interest calculated from the date of the notice of appeal in accordance with § 8.01-682. However, the total suspending bond or irrevocable letter of credit that is required of an appellant and all of its affiliates shall not exceed \$25 million, regardless of the value of the judgment.

K. Dissipation of assets. If the appellee proves by a preponderance of the evidence that a party bringing an appeal, for whom the suspending bond or irrevocable letter of credit requirement has been limited or waived, is purposefully dissipating its assets or diverting assets outside the jurisdiction of the United States courts for the purpose of evading the judgment, the limitation or waiver shall be rescinded and a court may require the appellant to post a suspending bond or irrevocable letter of credit in an amount up to the full amount of the judgment. Dissipation of assets shall not include those ongoing expenditures made from assets of the kind that the appellant made in the regular course of business prior to the judgment being appealed, such as the payment of stock dividends and other financial incentives to the shareholders of publicly owned companies, continued participation in charitable and civic activities, and other expenditures consistent with the exercise of good business judgment.

L. For good cause shown, a court may otherwise waive the filing of a suspending bond or irrevocable letter of credit as to the damages in excess of, or other than, the compensatory damages. Subject to the provisions of subsection K, the parties may agree to waive the requirement of a suspending bond or irrevocable letter of credit or agree to a suspending bond or irrevocable letter of credit in an amount less than the compensatory damages.

M. Exemption. When an appeal is proper to protect the estate of a decedent or person under disability, or to protect the interest of the Commonwealth or any county, city, or town of this Commonwealth, no security for appeal shall be required.

N. Indigents. No person who is an indigent shall be required to post security for an appeal bond.

O. Virginia Workers' Compensation Commission. No claimant who files an appeal from a final decision of the Virginia Workers' Compensation Commission with the Court of Appeals shall be required to post security for costs as provided in subsection A ~~or B~~ if such claimant has not returned to his employment or by reason of his disability is unemployed. Such claimant shall file an affidavit describing his disability and employment status with the Court of Appeals together with a motion to waive the filing of the security under subsection A ~~or B~~.

P. Time for filing security for appeal. The appeal bond or letter of credit prescribed in subsections A and B is not jurisdictional and the time for filing such security in cases before the Court of Appeals or the Supreme Court may be extended by a judge or justice of the court before which the case is pending on motion for good cause shown and to attain the ends of justice. The effect of failing to perfect an appeal bond shall be governed by the Rules of Supreme Court of Virginia.

Q. Consideration of appeal bond, suspending bond, or letter of credit by Court of Appeals or Supreme Court. A determination on an issue affecting an appeal bond, suspending bond, or letter of credit in a case before the Court of Appeals or the Supreme Court may be considered by an individual judge of such court rather than by a panel of judges.

R. This section applies to injunction bonds required pursuant to § 8.01-631.

S. In accordance with § 1-205, if the party required to post an appeal or suspending bond tenders such bond together with cash in the full amount required by this section to the clerk specified in this section, no surety shall be required.

§ 9.1-909. Relief from registration, reregistration, or verification.

A. Upon expiration of three years from the date upon which the duty to register as a Tier III offender or murderer is imposed, the person required to register may petition the court in which he was convicted or, if the conviction occurred outside of the Commonwealth, the circuit court in the jurisdiction where he currently resides, for relief from the requirement to verify his registration information four times each year at three-month intervals. After five years from the date of his last conviction for a violation of § 18.2-472.1, a Tier III offender or murderer may petition for relief from the requirement to verify his registration information every month. A person who is required to register may similarly petition the circuit court for relief from the requirement to verify his registration twice each year after five years from the date of his last conviction for a violation of § 18.2-472.1. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing the court shall order a comprehensive assessment of the applicant by a panel of three certified sex offender treatment providers as defined in § 54.1-3600. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to verify his registration information more frequently than once a year shall be terminated. The court shall promptly notify the State Police upon entry of an order granting the petition. The person shall, however, be under a continuing duty to register annually for life. If the petition is denied, the duty to verify his registration information with the same frequency as before shall continue. ~~An appeal from the~~ A denial of a petition shall ~~lie to the Supreme Court~~ be appealable pursuant to § 17.1-405.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

B. The duly appointed guardian of a person convicted of an offense requiring registration, reregistration, or verification of his registration information as either a Tier I, Tier II, or Tier III offender or murderer, who due to a physical condition is incapable of (i) reoffending and (ii) reregistering or verifying his registration information, may petition the court in which the person was convicted for relief from the requirement to reregister or verify his registration information. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration information. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that due to his physical condition the person (i) no longer poses a menace to the health and safety of others and (ii) is incapable of reregistering or verifying his registration information, the petition shall be granted and the duty to reregister or verify his registration information shall be terminated. However, for a person whose duty to reregister or verify his registration information was terminated under this subsection, the Department of State Police shall, annually for Tier I or Tier II offenders and quarterly for persons convicted of Tier III offenses and murder, verify and report to the attorney for the Commonwealth in the jurisdiction in which the person resides that the person continues to suffer from the physical condition that resulted in such termination.

The court shall promptly notify the State Police upon entry of an order granting the petition to terminate the duty to reregister.

If the petition is denied, the duty to reregister shall continue. An appeal from the denial of a petition shall be to the ~~Virginia Supreme Court of Appeals~~.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

If, at any time, the person's physical condition changes so that he is capable of reoffending, reregistering, or verifying his registration information, the attorney for the Commonwealth shall file a petition with the circuit court in the jurisdiction where the person resides and the court shall hold a hearing on the petition, with notice to the person and his guardian, to determine whether the person still suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration information. If the petition is granted, the duty to reregister shall commence from the date of the court's order. An appeal from the denial or granting of a petition shall be to the ~~Virginia Supreme Court of Appeals~~. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-250.1, 18.2-268.3, 29.1-738.2, or 46.2-341.26:3. *He may, in his discretion, file a notice of appeal with the circuit court for the appeal of a criminal case for which he was the prosecuting attorney and he may appear and represent the Commonwealth in any criminal case on appeal before the Court of Appeals or the Supreme Court for which he was the prosecuting attorney, provided that the Attorney General consented to such appearance pursuant to § 2.2-511.*

He shall also represent the Commonwealth in an appeal of a civil matter related to the enforcement of a criminal law or a criminal case for which he was the prosecuting attorney, including a petition for expungement of a defendant's criminal record, an action of forfeiture filed in accordance with the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, or any matter which he may enforce pursuant to this section.

§ 15.2-1643. Circuit courts to order court facilities to be repaired.

A. When it appears to the circuit court for any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure, out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause why a mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in subdivisions 1 through 4, the court facilities are in fact insecure or out of repair or otherwise pose a danger to the health, welfare and safety of court employees or the public and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the local governing body shall appoint a five-member panel, three of whom shall be qualified by training and experience as either an architect or a professional engineer, not representing the same firms, to review the court facilities in question and make recommendations to the local governing body and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed necessary.

In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

1. Security provisions to safeguard court personnel, participants and the public;
2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;

3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and

4. Comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

In making their recommendations, the panel may consult recognized national standard works in the field.

All costs, fees and expenses of the five-member panel, after approval by the local governing body, shall be paid by the county or city that appointed the panel.

C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise unsafe, it shall issue its mandamus as provided in subsection A.

D. Appeals shall be allowed to the Supreme Court of Virginia Appeals as appeals from courts of equity are allowed.

E. Nothing in this section shall be construed to authorize a circuit court to require that an additional or replacement courthouse be constructed.

§ 15.2-2139. Special court; costs.

The costs in the proceedings before the special court shall be paid by the party instituting the proceedings and shall be the same as in other civil cases; the costs shall also include the per diem and expenses of the court reporter, if any, and, in the discretion of the court, a reasonable allowance to the court for secretarial services in connection with the preparation of the written opinion. In the event of an appeal, the Supreme Court of Virginia Appeals shall determine by whom the appellate costs shall be paid. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall determine by whom the appellate costs shall be paid.*

§ 15.2-2140. Dispute between jurisdictions; appeals.

A. An appeal may be granted by the Supreme Court of Virginia, or any judge thereof, to filed in the Court of Appeals by any party from the judgment of the special court, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence. The special court shall certify the facts in the case to the Supreme Court of Appeals, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. In any case, by consent of all parties of record, a motion to dismiss may be made at any time before final judgment on appeal.

B. If the judgment of the special court is reversed on appeal, or if the judgment is modified, the Supreme Court of Appeals shall enter such order as the special court should have entered, and the order shall be final.

C. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth in subsection A and shall enter such order as the special court should have entered.*

§ 15.2-2656. Appeals.

An appeal from the final judgment of the circuit court in a bond validation proceeding may be taken to the Supreme Court of Virginia Appeals. No appeal shall be allowed unless a notice of appeal is filed in the circuit court within 15 days after the date on which the final judgment of the court is entered and unless the appealing party's petition for appeal opening brief is filed with the Supreme Court of Virginia Appeals within 30 days after the date on which the final judgment of the court is entered. When a notice of appeal is timely and properly filed with the clerk of the circuit court, the clerk shall certify and transmit the record to the Clerk of the Supreme Court of Virginia Appeals within 30 days after the date on which the final judgment of the circuit court is entered and the Court of Appeals shall give the appeal an expedited review. Failure of the clerk to comply with this requirement shall not affect the jurisdiction of the Supreme Court of Virginia Appeals to consider the appeal. *If the Supreme Court of Virginia grants the petition for appeal, it shall be placed on the privileged docket.*

§ 15.2-3104. Procedure when commissioners fail to agree.

If the commissioners fail to agree upon the location of the line, they shall so report to the circuit courts for their respective localities, stating in their reports the points and grounds of disagreement and describing fully the conflicting lines. Either locality may file a petition in the circuit court for either locality to have a court, constituted as hereinafter provided, ascertain and establish the true boundary line in doubt or dispute. Such petition shall describe, with reasonable certainty, the location contended for and shall state the grounds of such contention. A plat, showing the location contended for, filed with the petition, may serve the purposes of such description. The petitioner shall make the other locality the party defendant, and the case shall be commenced by serving a copy of the petition upon the county attorney, if any, or the attorney for the Commonwealth of such county, the city attorney of such city or the town attorney of such town. No formal plea or answer to the petition shall be necessary, but the defendant shall state its grounds of defense in writing, describing, with the same degree of certainty required of the petitioner, the line as contended for by the defendant, and the locality shall be deemed to be at issue. The issue shall be the true location of the boundary line so in doubt or dispute.

The case shall be heard and decided by a court without a jury presided over by three judges as follows: the judge of the circuit court for the petitioning locality, the judge of the circuit court for the defendant locality, and a judge of some circuit court in this Commonwealth remote from the localities, to be designated by the Chief Justice. When the localities are within the same circuit, the Chief Justice shall designate a third judge from an adjoining circuit. The court shall hear the case upon the evidence introduced in the manner in which evidence is introduced in common-law cases and shall ascertain and establish the true boundary line by a majority decision, and shall give judgment accordingly. Costs shall be awarded as the

court shall determine. The judgment of the court shall be recorded in the common-law order book and in the current deed book of the court and indexed in the names of the localities, and, unless reversed, shall forever settle, determine, designate and establish the true boundary line. A copy of any final judgment shall be certified to the Secretary of the Commonwealth. ~~An appeal may be granted by the Supreme Court, or any justice thereof, to either~~ *Either party may appeal* from the judgment of the court to the *Court of Appeals*, and the cost of such appeal shall be awarded to the party substantially prevailing. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall render a decision and award the costs of the appeal to the party that substantially prevailed.*

§ 15.2-3217. Court granting annexation to exist for 10 years.

The special court shall not be dissolved after rendering a decision granting any motion or petition for annexation, but shall remain in existence for a period of ~~ten~~ 10 years from the effective date of any annexation order entered, or from the date of any decision of the Supreme Court *or the Court of Appeals* affirming such an order. Vacancies occurring in the court during such ~~ten-year~~ 10-year period shall be filled as provided in § 15.2-3004.

The court may be reconvened at any time during the ~~ten-year~~ 10-year period on its own motion, or on motion of the governing body of the county, or of the city or town, or on petition of not less than ~~fifty~~ 50 registered voters or property owners in the area annexed; however, if the area annexed contains fewer than 100 registered voters or property owners, a majority of such registered voters or property owners may petition for the reconvening of the court.

The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which annexation was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award ~~attorneys'~~ attorney fees, and court and other reasonable costs to the party or parties on whose motion the court is reconvened.

Any such action of the court shall be subject to review by the ~~Supreme~~ *Court of Appeals* in the same manner as is provided with respect to the original decision of the court.

§ 15.2-3221. Appeals; how heard.

An appeal may be ~~granted by the Supreme Court, or any justice thereof~~ *made to the Court of Appeals*. The special court shall certify the facts in the case to the ~~Supreme~~ *Court of Appeals*, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth herein and shall enter such order as the special court should have entered.* In any case, by consent of all parties of record, the motion to annex may be dismissed at any time before final judgment on appeal.

§ 15.2-3222. What order to be entered by the Supreme Court or the Court of Appeals.

If the judgment of the special court is reversed on appeal, or if the judgment is modified, the ~~Supreme~~ *Court of Appeals* shall enter such order as the special court should have entered, *certify a copy of the order to the Secretary of the Commonwealth*, and such order shall be final. ~~In the event that the Supreme Court enters such order, a copy of the order shall be certified to the Secretary of the Commonwealth unless appealed to the Supreme Court.~~ *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth in § 15.2-3221, shall enter such order as the special court should have entered, and shall certify the order to the Secretary of the Commonwealth.*

§ 15.2-3227. Annexation proceedings final for 10 years.

Except by mutual agreement of the governing bodies affected, no city or town, having instituted proceedings to annex territory of a county, shall again seek to annex territory of such county within the ~~ten~~ 10 years next succeeding the effective date of annexation in any proceeding under this article or previous acts. In the event annexation is denied, such prohibition shall begin with the date of the final order of the court denying annexation or, in the case of an appeal to the Supreme Court *or the Court of Appeals*, with the date of the final order of the Supreme Court *or the Court of Appeals*. However, a city or town moving to dismiss the proceedings before a hearing on its merits may file a new petition five years after the filing of the petition in the prior suit. No county shall, except with the consent of its governing body, be made defendant in any annexation proceeding brought by any city within such ~~ten-year~~ 10-year period.

Notwithstanding the foregoing provisions, a city shall have the right to file and maintain an annexation proceeding against any county against which it has not filed such a proceeding during the preceding ~~thirteen~~ 13 years.

The provisions of this section shall not apply to any petition for annexation brought by a city or town, within such ~~ten-year~~ 10-year period, if the previous petition was dismissed due to a procedural defect, lack of jurisdiction, or any defense other than the merits of the case. The provisions of this section shall not apply to a city or town ~~which~~ *that* institutes an annexation proceeding by filing notice with the Commission on Local Government but which subsequently fails to petition the court to grant such annexation. In that event, however, the city or town shall not again institute proceedings for annexation against the county for at least two years after the date the Commission renders its final report on the initial proceeding.

This section shall also apply to any city ~~which~~ *that* was a town at the time of the filing of such petition.

§ 15.2-3244. Appeal from such order.

Any one or more of the petitioners, or the defendants, or any inhabitants of the town, who may feel themselves aggrieved by an order declaring territory to be abandoned as provided by this article, or by the refusal to enter such order, may, at any time within ~~sixty~~ 60 days from the date of the order, upon giving bond for costs, the amount thereof to be fixed by the court, ~~apply~~ *appeal* to the ~~Supreme~~ *Court of Appeals* for a writ of error and ~~supersedeas~~ *Court of Appeals* according to the

general law. *Any one or more of the petitioners, or the defendants, or any inhabitants of the town, who may feel themselves aggrieved by any decision of the Court of Appeals rendered pursuant to this section, may, at any time within 30 days from the date of the order, upon giving bond for costs, the amount thereof to be fixed by the court, apply to the Supreme Court for a writ of error and supersedeas according to the general law.*

§ 15.2-3308. Partial immunity proceedings final for five years; exceptions.

No county, having instituted proceedings for immunity for part or parts of the county, shall again seek immunity for substantially the same part or parts of the county within the next five years.

Such prohibition shall begin with the date of the final order of the court granting or denying immunity or, in the case of an appeal to the ~~Supreme~~ *Supreme Court of Appeals*, with the date of the final order of the ~~Supreme~~ *Supreme Court of Appeals* or, in the case of an appeal to the *Supreme Court*, with the date of the final order issued by the *Supreme Court*. The provisions of this section shall not apply to a petition for partial immunity if the previous petition was withdrawn, or was dismissed for any reason other than the merits of the case.

The provisions of this section further shall not apply to a county which institutes an immunity proceeding by filing notice with the Commission on Local Government but subsequently fails to petition the court to grant such immunity. In that event, however, the county shall not again institute proceedings for immunity for substantially the same part or parts of the county for at least two years after the date the Commission renders its final report on the initial proceeding.

§ 15.2-3528. Appeals.

Appeals may be ~~granted by made to the Supreme Court of Virginia Appeals~~ as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-3605. How appeals granted and heard.

An appeal may be ~~granted by made to the Supreme Court or any justice thereof~~ *Court of Appeals*. Court costs shall be awarded as the ~~Supreme Court of Appeals~~ *Court of Appeals* determines. The costs in the ~~Supreme Court of Appeals~~ *Supreme Court* shall be awarded to the party substantially prevailing. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall render a decision and award the costs of the appeal to the party that substantially prevailed.*

§ 15.2-3809. Appeals.

Appeals may be ~~granted by made to the Supreme Court of Virginia Appeals~~ as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-3909. Appeals.

Appeals may be ~~granted by made to the Supreme Court of Virginia Appeals~~ as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-4108. Appeals.

Appeals may be ~~granted by made to the Supreme Court of Virginia Appeals~~ as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-4120. Court granting transition to town status to exist for 10 years.

A. The special court created pursuant to § 15.2-4101 shall not be dissolved after rendering a decision granting any motion or petition for transition to town status, but shall remain in existence for a period of ~~ten~~ 10 years from the effective date of any transition order entered, or from the date of any decision of the Supreme Court *or the Court of Appeals* affirming such an order. Vacancies occurring in the court during such ~~ten-year~~ 10-year period shall be filled by designation of another judge from the panel provided for in Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. The court may be reconvened at any time during the ~~ten-year~~ 10-year period on its own motion, or on motion of the governing body of the county, or of the town, or on petition of not less than ~~fifteen~~ 15 percent of the registered voters of the town.

C. The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which town status was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award ~~attorneys'~~ *attorney* fees, court and other reasonable costs to the party or parties on whose motion the court is reconvened.

D. Any such action of the court shall be subject to review by the Supreme Court *and the Court of Appeals* in the same manner as is provided with respect to the original decision of the court.

§ 15.2-5218. Appeal from order; supersedeas.

Any party aggrieved by such order may ~~apply for an~~ appeal to the ~~Supreme Court of Virginia Appeals~~ and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases. *Any party aggrieved by a judgment of the Court of Appeals rendered pursuant to this section may*

appeal to the Supreme Court, and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases.

§ 15.2-5367. Appeal.

An appeal may be granted by the Supreme Court of Virginia, or any judge thereof, to either the Authority or the city may take an appeal from the judgment of the court to the Court of Appeals, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence. The trial court shall certify the facts in the case to the Supreme Court of Appeals and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. By consent of both parties of record, the petition may be dismissed at any time before final judgment on the appeal. The authority or the city may appeal any judgment of the Court of Appeals rendered pursuant to this section to the Supreme Court. If the Supreme Court grants the petition for appeal, the appeal shall be heard consistent with the procedures set forth in this section. By consent of both parties of record, the petition may be dismissed at any time before final judgment on the appeal.

§ 15.2-6606. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same at its pleasure;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;
7. Construct, install, maintain, and operate facilities for managing access sites;
8. Determine fees, rates, and charges for the use of its facilities;
9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;
10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;
11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;
12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;
13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof, accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;
14. Establish personnel rules;
15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;
16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;
18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;
19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Request and accept legal advice and assistance from the Office of the Attorney General;

21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

22. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the ~~Supreme~~ Court of Virginia Appeals.

§ 15.2-6632. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same at its pleasure;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;
7. Construct, install, maintain, and operate facilities for managing access sites;
8. Determine fees, rates, and charges for the use of its facilities;
9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements, and legal instruments, as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;
10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;
11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;
12. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;
13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, and depository and investment services contemplated by § 15.2-6638 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;
14. Establish personnel rules;
15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;
16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

21. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the ~~Supreme~~ *Virginia Appeals* Court of

§ 15.2-7406. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same at its pleasure;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the Authority within the territorial limits of the participating political subdivisions;
7. Construct, install, maintain, and operate facilities for managing access sites;
8. Determine fees, rates, and charges for the use of its facilities;
9. Apply for and accept gifts, grants of money, or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;
10. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and fix their duties and compensation;
11. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-7412, accounting services, including the annual independent audit required by § 15.2-7409, and procurement of goods and services and act as fiscal agent for the Authority;
12. Establish personnel rules;
13. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;
14. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
15. Borrow money, as hereinafter provided, and borrow money for the purpose of meeting casual deficits in its revenues;

16. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

17. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

18. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

19. Whenever it shall appear to the Authority that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia Appeals.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;
3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;
4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;
5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;
6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;
7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;
8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;
9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and
10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of

the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 17.1-309. Jurisdiction of writs of mandamus and prohibition.

The Supreme Court shall have jurisdiction to issue writs of mandamus and prohibition to the circuit and district courts, the Court of Appeals, and to the State Corporation Commission and in all other cases in which such writs, respectively, would lie according to the principles of the common law. Provided that no writ of mandamus, prohibition or any other summary process whatever shall issue in any case of the collection of revenue or attempt to collect the same, or to compel the collecting officers to receive anything in payment of taxes except such money as is legal tender for the payment of revenue, or in any case arising out of the collection of revenue in which the applicant for the writ of process has any other remedy adequate for the protection and enforcement of his individual right, claim and demand, if just.

§ 17.1-400. Creation and organization; election and terms of judges; oath; vacancies; qualifications; incompatible activities prohibited; chief judge.

A. The Court of Appeals of Virginia is hereby established effective January 1, 1985. It shall consist of ~~44~~ 17 judges who shall be elected for terms of eight years by the majority of the members elected to each house of the General Assembly. *The General Assembly shall consider regional diversity in making its elections.* Before entering upon the duties of the office, a judge of the Court of Appeals shall take the oath of office required by law. The oath shall be taken before a justice of the Supreme Court of Virginia or before any officer authorized by law to administer an oath. When any vacancy exists while the General Assembly is not in session, the Governor may appoint a successor to serve until 30 days after the commencement of the next regular session of the General Assembly. Whenever a vacancy occurs or exists in the office of a judge of the Court of Appeals while the General Assembly is in session, or when the term of office of a judge of the Court of Appeals will expire or the office will be *vacant or* vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor may be elected at any time during a session preceding the date of such vacancy by the vote of a majority of the members elected to each house of the General Assembly for a full term and, upon qualification, the successor shall enter at once upon the discharge of the duties of the office; however, such successor shall not qualify prior to the predecessor leaving office. No person shall be elected or reelected to a subsequent term under this section until he has submitted to a criminal history record search and submitted to a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect and reports of such searches have been received by the chairmen of the House and Senate Committees for Courts of Justice. If the person has not met the requirement of filing in the preceding calendar year a disclosure form prescribed in § 2.2-3117 or 30-111, he shall also provide a written statement of economic interests on the disclosure form prescribed in § 2.2-3117 to the chairmen of the House and Senate Committees for Courts of Justice.

All judges of the Court of Appeals shall be residents of the Commonwealth and shall, at least five years prior to the appointment or election, have been licensed to practice law in the Commonwealth. No judge of the Court of Appeals, during his continuance in office, shall engage in the practice of law within or without the Commonwealth or seek or accept any nonjudicial elective office, or hold any other office of public trust, or engage in any other incompatible activity.

B. The chief judge shall be elected by majority vote of the judges of the Court of Appeals to serve a term of four years.

C. If a judge of the Court of Appeals is absent or unable through sickness, disability, or any other reason to perform or discharge any official duty or function authorized or required by law, a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired judge of a circuit court of Virginia, with his or her prior consent, may be appointed by the chief judge of the Court of Appeals, acting upon his own initiative or upon a personal request from the absent or disabled judge, to perform or discharge the official duties or functions of the absent or disabled judge until that judge shall again be able to attend his duties. The chief judge of the Court of Appeals shall be notified forthwith at the time any absent or disabled judge is able to return to his duties.

D. The chief judge of the Court of Appeals may, upon his own initiative, designate a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired or active judge of a circuit court of Virginia, with the prior consent of such justice or judge, to perform or discharge the official duties or functions of a judge of the Court of Appeals if there is a need to do so due to congestion in the work of the court. Nothing in this subsection shall be construed to increase the number of judges of the Court of Appeals provided for in subsection A of this section.

E. Any retired chief justice, retired justice, retired chief judge or active or retired judge sitting on the Court of Appeals pursuant to subsection C or D shall receive from the state treasury actual expenses for the time he or she is actually engaged in holding court.

F. The powers and duties herein conferred or empowered upon the chief judge of the Court of Appeals may be exercised and performed by any judge or any committee of judges of the court designated by the chief judge for such purpose.

§ 17.1-401. Senior judge.

A. Any chief judge or judge of the Court of Appeals who is eligible for retirement, other than for disability, with the consent of a majority of the members of the court first obtained, may elect to retire under the Judicial Retirement System (§ 51.1-300 et seq.) and be known and designated as a senior judge. In addition, any chief judge or judge of the Court of Appeals who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) shall be subject to recall, with the consent of a majority of the members of the court, and may be known and designated as a senior judge.

B. Any chief judge or judge who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Judge of the Court of Appeals to perform the duties of a judge of the court. Such judge shall have all the powers, duties, and privileges attendant on the position for which he is recalled to serve.

C. While serving in such status, a senior judge shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such judge, shall receive as compensation a sum equal to one-fourth of the total compensation of an active judge of the Court of Appeals for a similar period of service. A retired judge, while performing the duties of a senior judge, shall be furnished office space, support staff, a telephone, and supplies as are furnished a judge of the court.

D. A judge may terminate his status as a senior judge, or such status may be terminated by a majority of the members of the court. Each judge designated a senior judge shall serve a one-year term unless the court, by order or otherwise, extends the term for an additional year. There shall be no limit on the number of terms a senior judge may so serve.

E. Only ~~five~~ *seven* retired judges shall serve as senior judges at any one time.

F. Nothing in this section shall be construed to increase the number of judges of the Court of Appeals provided for in § 17.1-400.

§ 17.1-402. Sessions; panels; quorum; presiding judges; hearings en banc.

A. The Court of Appeals shall sit at such locations within the Commonwealth as the chief judge, upon consultation with the other judges of the court, shall designate so as to provide, insofar as feasible, convenient access to the various geographic areas of the Commonwealth. The chief judge shall schedule sessions of the court as required to discharge expeditiously the business of the court.

B. The Court of Appeals shall sit in panels of at least three judges each. The presence of all judges in the panel shall be necessary to constitute a quorum. The chief judge shall assign the members to panels and, insofar as practicable, rotate the membership of the panels. The chief judge shall preside over any panel of which he is a member and shall designate the presiding judges of the other panels.

C. Each panel shall hear and determine, independently of the others, the petitions for appeal *pursuant to § 17.1-406 or 19.2-398* and appeals ~~granted~~ in criminal *and civil* cases ~~and the other cases~~ assigned to that panel.

D. The Court of Appeals shall sit en banc (i) when there is a dissent in the panel to which the case was originally assigned and an aggrieved party requests an en banc hearing and at least ~~four~~ *six* judges of the court vote in favor of such a hearing or (ii) when any judge of any panel shall certify that in his opinion a decision of such panel of the court is in conflict with a prior decision of the court or of any panel thereof and ~~three~~ *five* other judges of the court concur in that view. The court may sit en banc upon its own motion at any time *or upon the petition of any party*, in any case in which a majority of the court determines it is appropriate to do so. The court sitting en banc shall consider and decide the case and may overrule any previous decision by any panel or of the full court.

E. The court may sit en banc with no fewer than ~~eight~~ *13* judges. In all cases decided by the court en banc, the concurrence of at least a majority of the judges sitting shall be required to reverse a judgment, in whole or in part.

§ 17.1-403. Rules of practice, procedure, and internal processes; promulgation by Supreme Court; amendments; summary disposition of appeals.

The Supreme Court shall prescribe and publish the initial rules governing practice, procedure, and internal processes for the Court of Appeals designed to achieve the just, speedy, and inexpensive disposition of all litigation in that court consistent with the ends of justice and to maintain uniformity in the law of the Commonwealth. Before amending the rules thereafter, the Supreme Court shall receive and consider recommendations from the Court of Appeals. The rules shall prescribe procedures ~~governing the summary disposition of appeals which are determined to be without merit~~ (i) *authorizing the Court of Appeals to prescribe truncated record or appendix preparation and (ii) permitting the Court of Appeals to dispense with oral argument if the panel has examined the briefs and record and unanimously agrees that oral argument is unnecessary because (a) the appeal is wholly without merit or (b) the dispositive issue or issues have been authoritatively decided, and the appellant has not argued that the case law should be overturned, extended, modified, or reversed.*

§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers' Compensation Commission, and civil matter appeals.

~~Any~~ *Unless otherwise provided by law, any* aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. ~~Any~~ *Except as provided in subsection B of § 17.1-406, any* final judgment, order, or decree of a circuit court ~~involving:~~

a. Affirmance or annulment of a marriage;

b. Divorce;

c. Custody;

d. Spousal or child support;

e. The control or disposition of a child;

f. Any other domestic relations matter arising under Title 16.1 or Title 20;

g. Adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2; or

h. A final grievance hearing decision issued pursuant to subsection B of § 2.2-3007, in a civil matter;

4. Any interlocutory decree or order entered in any of the cases listed in this section (i) ~~granting, dissolving, or denying an injunction or~~ (ii) ~~adjudicating the principles of a cause pursuant to § 8.01-267.8, 8.01-626, or 8.01-675.5; or~~

5. *Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.*

§ 17.1-406. Appeals in criminal matters; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may ~~present a petition for appeal to the Court of Appeals from~~ (i) any final conviction in a circuit court of a traffic infraction or a crime, except where a sentence of death has been imposed, (ii) ~~any final decision of a~~

circuit court on an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2; (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iv) any final order for declaratory or injunctive relief under § 57-2.02. The Commonwealth or any county, city, or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a conviction in which a sentence of death is imposed, from a final decision, judgment or order of a circuit court involving a petition for a writ of habeas corpus, from any final finding, decision, order, or judgment of the State Corporation Commission, and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 17.1-407. Procedures on appeal.

A. The notice of appeal in all cases within the jurisdiction of the court shall be filed with the clerk of the trial court or the clerk of the Virginia Workers' Compensation Commission, as appropriate, and a copy of such notice shall be mailed or delivered to all opposing counsel and parties not represented by counsel, and to the clerk of the Court of Appeals, and to the Attorney General in criminal cases. The clerk shall endorse thereon the day and year he received it.

B. Appeals pursuant to § 17.1-405 and subsection A of § 17.1-406, other than petitions for appeal by the Commonwealth in criminal cases, are appeals of right. The clerk of the Court of Appeals shall refer each case for which a notice of appeal has been filed, other than appeals in criminal cases, to a panel of the court as the court may direct.

C. Each petition for appeal by the Commonwealth in a criminal case shall be referred to one or more judges of the Court of Appeals as the court shall direct. A judge to whom the petition is referred may grant the petition on the basis of the record without the necessity of oral argument. The clerk shall refer each appeal for which a petition has been granted to a panel of the court as the court shall direct.

D. If the judge to whom a petition is initially referred does not grant the appeal before a petition for appeal by the Commonwealth is denied, counsel for the petitioner Commonwealth shall be entitled to state orally before a panel of the court the reasons why his appeal should be granted. If all of the judges of the panel to whom the petition is referred are of the opinion that the petition ought not be granted, the order denying the appeal shall state the reasons for the denial. Thereafter, no other petition in the matter shall be entertained in the Court of Appeals.

§ 17.1-408. Time for filing; notice; opening brief; petition.

The notice of appeal to the Court of Appeals shall be filed in every case within the court's appellate jurisdiction as provided in § 8.01-675.3. The petition for appeal opening brief in a criminal case shall be filed not more than forty 40 days after the filing of the record with the Court of Appeals. However, a thirty-day extension may be granted in the discretion of the court Court of Appeals in order to attain the ends of justice. When an appeal from an interlocutory decree or order is permitted in a criminal case, In an appeal pursuant to subsection B or C of § 19.2-398, the petition for appeal shall be presented within the forty-day 40-day time limitation provided in this section.

Upon receiving a notice of appeal in a criminal case or, if notice of the appeal is received by the clerk prior to the entry of final judgment, upon entry of final judgment, the clerk of the circuit court shall cause a transcript to be prepared of the trial and any other circuit court proceedings, as requested by the appellant in the notice of appeal or by order of the circuit court, at the expense of the Commonwealth.

§ 17.1-410. Disposition of appeals; finality of decisions.

A. Each appeal of right taken to the Court of Appeals and each appeal for which a petition for appeal has been granted shall be considered by a panel of the court.

When the Court of Appeals has (i) rejected a petition for appeal, (ii) dismissed an appeal in any case in accordance with the Rules of Court, or (iii) (ii) decided an appeal, its decision shall be final, without appeal to the Supreme Court, in:

1. Traffic infraction and misdemeanor cases where no incarceration is imposed;
2. Cases originating before any administrative agency or the Virginia Workers' Compensation Commission;
3. Cases involving the affirmance or annulment of a marriage, divorce, custody, spousal or child support or the control or disposition of a juvenile and other domestic relations cases arising under Title 16.1 or Title 20, or involving adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2;
4. Appeals in criminal cases pursuant to §§ subsections A or E of § 19.2-398 and § 19.2-401. Such finality of the Court of Appeals' decision shall not preclude a defendant, if he is convicted, from requesting the Court of Appeals or Supreme Court on direct appeal to reconsider an issue which was the subject of the pretrial appeal; and
5. 2. Appeals involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04.
3. Appeals involving denial of a concealed handgun permit pursuant to § 18.2-308.08.

B. Notwithstanding the provisions of subsection A, in any case other than an appeal pursuant to § 19.2-398, in which the Supreme Court determines on a petition for review that the decision of the Court of Appeals involves a substantial constitutional question as a determinative issue or matters of significant precedential value, review may be had in All other decisions of the Court of Appeals shall be appealable to the Supreme Court in accordance with the provisions of § 17.1-411.

§ 17.1-413. Opinions; reporting, printing and electronic publication.

A. The Court of Appeals shall state in writing the reasons for its decision ~~(i) rejecting a petition for appeal or (ii) deciding ruling in a case after hearing~~. Subject to rules promulgated under § 17.1-403 the Court in its discretion may render its decision by order or memorandum opinion. All orders and opinions of the Court of Appeals shall be preserved with the record of the case. Opinions designated by the Court of Appeals as having precedential value or as otherwise having significance for the law or legal system shall be expeditiously reported in separate Court of Appeals Reports in the same manner as the decisions and opinions of the Supreme Court. The clerk of the Court of Appeals shall retain in the clerk's office a list and brief summary of the case for all unpublished decisions and opinions of the Court of Appeals. The list of cases and summary shall be made available to any person upon request.

B. The Executive Secretary of the Supreme Court shall contract for the printing of the reports of the Supreme Court and the Court of Appeals and for the advance sheets of each court. He shall select a printer for the reports and prescribe such contract terms as will ensure issuance of the reports as soon as practicable after a sufficient number of opinions are filed. He shall make such contracts after consultation with the Department of General Services and shall distribute these reports in accordance with the applicable provisions of law. He shall also provide for the electronic publication on the Internet of the opinions of the Supreme Court and Court of Appeals subject to conditions and restrictions established by each court regarding the electronic publication of its opinions.

§ 17.1-503. Rules of practice and procedure; rules not to preclude judges from hearing certain cases.

A. The Supreme Court may formulate rules of practice and procedure for the circuit courts following consultation with the chairmen of the House and Senate Courts of Justice Committees and the executive committee of the Judicial Conference of Virginia for courts of record. Such rules, subject to the strict construction of the provisions of § 8.01-4, which shall be the only rules of practice and procedure in the circuit courts of the Commonwealth, shall be included in the Code of Virginia as provided in § 8.01-3, subject to revision by the General Assembly.

B. No rule shall hereafter be promulgated under the limitations of § 8.01-4, or otherwise which would avoid or preclude the judge before whom an accused is arraigned in criminal cases from hearing all aspects of the case on its merits, or to avoid or preclude any judge in any case who has heard any part of the case on its merits, from hearing the case to its conclusion. However, another judge may hear portions of a case where a judge is required to disqualify himself, in cases in which a mistrial is declared, or in cases which have been reversed on appeal, or in the event of sickness, disability or vacation of the judge. The parties to any suit, action, cause or prosecution may waive the provisions of this section. Such waiver shall be entered of record.

C. In its rules of practice and procedure for the circuit courts, the Supreme Court shall include rules relating to court decisions on any order of quarantine or isolation issued by the State Health Commissioner pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 that shall ensure, to the extent possible, that such hearings are held in a manner that will protect the health and safety of individuals subject to any such order of quarantine or isolation, court personnel, counsels, witnesses, and the general public. The rules shall also provide for expedited reviews by the ~~Supreme Court of Appeals~~ of decisions by any circuit court *and by the Supreme Court of decisions of the Court of Appeals* relating to appeals of any order of quarantine or isolation.

§ 17.1-513. Jurisdiction of circuit courts.

The circuit courts shall have jurisdiction of proceedings by quo warranto or information in the nature of quo warranto and to issue writs of mandamus, prohibition and certiorari to all inferior tribunals created or existing under the laws of the Commonwealth, and to issue writs of mandamus in all matters of proceedings arising from or pertaining to the action of the boards of supervisors or other governing bodies of the several counties for which such courts are respectively held or in other cases in which it may be necessary to prevent the failure of justice and in which mandamus may issue according to the principles of common law. They shall have appellate jurisdiction in all cases, civil and criminal, in which an appeal may, as provided by law, be taken from the judgment or proceedings of any inferior tribunal.

They shall have original and general jurisdiction of all civil cases, except cases upon claims to recover personal property or money not of greater value than \$100, exclusive of interest, and except such cases as are assigned to some other tribunal; also in all cases for the recovery of fees in excess of \$100; penalties or cases involving the right to levy and collect toll or taxes or the validity of an ordinance or bylaw of any corporation; and also, of all cases, civil or criminal, in which an appeal may be had to the ~~Supreme Court of Appeals~~.

They shall have jurisdiction to hear motions filed for the purpose of modifying, dissolving, or extending a protective order pursuant to § 16.1-279.1 or 19.2-152.10 if the circuit court issued such order, unless the circuit court remanded the matter to the jurisdiction of the juvenile and domestic relations district court in accordance with § 16.1-297. They shall also have original jurisdiction of all indictments for felonies and of presentments, informations and indictments for misdemeanors. They shall also have jurisdiction for bail hearings pursuant to §§ 19.2-327.2:1 and 19.2-327.10:1.

They shall have appellate jurisdiction of all cases, civil and criminal, in which an appeal, writ of error or supersedeas may, as provided by law, be taken to or allowed by such courts, or the judges thereof, from or to the judgment or proceedings of any inferior tribunal. They shall also have jurisdiction of all other matters, civil and criminal, made cognizable therein by law and when a motion to recover money is allowed in such tribunals, they may hear and determine the same, although it is to recover less than \$100.

While a matter is pending in a circuit court, upon motion of the plaintiff seeking to decrease the amount of the claim to within the exclusive or concurrent jurisdiction of the general district court as described in subdivision 1 of § 16.1-77, the circuit court shall order transfer of the matter to the general district court that has jurisdiction over the amended amount of

the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

§ 18.2-308.08. Denial of a concealed handgun permit; appeal.

A. Only a circuit court judge may deny issuance of a concealed handgun permit to a Virginia resident or domiciliary who has applied for a permit pursuant to § 18.2-308.04. Any order denying issuance of a concealed handgun permit shall state the basis for the denial of the permit, including, if applicable, any reason under § 18.2-308.09 that is the basis of the denial, and the clerk shall provide notice, in writing, upon denial of the application, of the applicant's right to an ore tenus hearing and the requirements for perfecting an appeal of such order.

B. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

C. Any person denied a permit to carry a concealed handgun by the circuit court may ~~present a petition for review~~ *appeal to the Court of Appeals. The petition for review shall be filed. Such person shall file a notice of appeal with the clerk of the circuit court noting an appeal to the Court of Appeals and file his opening brief with the Court of Appeals* within 60 days of the expiration of the time for requesting an ore tenus hearing, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. ~~The petition opening brief shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the~~ *The decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.*

§ 18.2-384. Proceeding against book alleged to be obscene.

(1) *A.* Whenever he has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book, any citizen or the attorney for the Commonwealth of any county or city, or city attorney, in which the sale or commercial distribution of such book occurs may institute a proceeding in the circuit court in said city or county for adjudication of the obscenity of the book.

(2) *B.* The proceeding shall be instituted by filing with the court a petition:

(a) *1.* Directed against the book by name or description;

(b) *2.* Alleging the obscene nature of the book; and

(c) *3.* Listing the names and addresses, if known, of the author, publisher, and all other persons interested in its sale or commercial distribution.

(3) *C.* Upon the filing of a petition pursuant to this article, the court in term or in vacation shall forthwith examine the book alleged to be obscene. If the court find no probable cause to believe the book obscene, the judge thereof shall dismiss the petition; but if the court find probable cause to believe the book obscene, the judge thereof shall issue an order to show cause why the book should not be adjudicated obscene.

(4) *D.* The order to show cause shall be:

(a) *1.* Directed against the book by name or description;

(b) *2.* Published once a week for two successive weeks in a newspaper of general circulation within the county or city in which the proceeding is filed;

(c) *3.* If their names and addresses are known, served by registered mail upon the author, publisher, and all other persons interested in the sale or commercial distribution of the book; and

(d) *4.* Returnable ~~twenty-one~~ 21 days after its service by registered mail or the commencement of its publication, whichever is later.

(5) *E.* When an order to show cause is issued pursuant to this article, and upon four days' notice to be given to the persons and in the manner prescribed by the court, the court may issue a temporary restraining order against the sale or distribution of the book alleged to be obscene.

(6) *F.* On or before the return date specified in the order to show cause, the author, publisher, and any person interested in the sale or commercial distribution of the book may appear and file an answer. The court may by order permit any other person to appear and file an answer amicus curiae.

(7) *G.* If no one appears and files an answer on or before the return date specified in the order to show cause, the court, upon being satisfied that the book is obscene, shall order the clerk of court to enter judgment that the book is obscene, but the court in its discretion may except from its judgment a restricted category of persons to whom the book is not obscene.

(8) *H.* If an appearance is entered and an answer filed, the court shall order the proceeding set on the calendar for a prompt hearing. The court shall conduct the hearing in accordance with the rules of civil procedure applicable to the trial of cases by the court without a jury. At the hearing, the court shall receive evidence, including the testimony of experts, if such evidence be offered, pertaining to:

(a) 1. The artistic, literary, medical, scientific, cultural and educational values, if any, of the book considered as a whole;
 (b) 2. The degree of public acceptance of the book, or books of similar character, within the county or city in which the proceeding is brought;

(c) 3. The intent of the author and publisher of the book;

(d) 4. The reputation of the author and publisher;

(e) 5. The advertising, promotion, and other circumstances relating to the sale of the book;

(f) 6. The nature of classes of persons, including scholars, scientists, and physicians, for whom the book may not have prurient appeal, and who may be subject to exception pursuant to subsection (7) G.

(9) I. In making a decision on the obscenity of the book, the court shall consider, among other things, the evidence offered pursuant to subsection (8) H, if any, and shall make a written determination upon every such consideration relied upon in the proceeding in his findings of fact and conclusions of law or in a memorandum accompanying them.

(10) J. If he finds the book not obscene, the court shall order the clerk of court to enter judgment accordingly. If he finds the book obscene, the court shall order the clerk of court to enter judgment that the book is obscene, but the court, in its discretion, may except from its judgment a restricted category of persons to whom the book is not obscene.

(11) K. While a temporary restraining order made pursuant to subsection (5) E is in effect, or after the entry of a judgment pursuant to subsection (7) G, or after the entry of judgment pursuant to subsection (10) J, any person who publishes, sells, rents, lends, transports in intrastate commerce, or commercially distributes or exhibits the book, or has the book in his possession with intent to publish, sell, rent, lend, transport in intrastate commerce, or commercially distribute or exhibit the book, is presumed to have knowledge that the book is obscene under §§ 18.2-372 through 18.2-378 of this article.

(12) L. Any party to the proceeding, including the petitioner, may appeal from the judgment of the court to the Supreme Court of Virginia Appeals, as otherwise provided by law.

(13) M. It is expressly provided that the petition and proceeding authorized under this article, relating to books alleged to be obscene, shall be intended only to establish scier in cases where the establishment of such scier is thought to be useful or desirable by the petitioner; and the provisions of § 18.2-384 shall in nowise be construed to be a necessary prerequisite to the filing of criminal charges under this article.

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such

identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

E. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

F. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

G. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

H. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fees shall be charged for filing or serving petitions pursuant to this section.

K. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

L. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

M. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 19.2-165. Recording evidence and incidents of trial in felony cases; cost of recording; cost of transcripts; certified transcript deemed prima facie correct; request for copy of transcript.

In all ~~felony~~ criminal cases in a court of record, the court or judge trying the case shall by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court. The expense of reporting or recording the trial of criminal cases shall be paid by the Commonwealth out of the appropriation for criminal charges, upon approval of the trial judge. However, if the defendant is convicted, the Commonwealth shall be entitled to receive the amount allocated to the court reporter fund under the fixed felony fee. Localities that maintain mechanical or electronic devices for this purpose shall be entitled to retain their reasonable expenses attributable to the cost of operating and maintaining such equipment. The clerk shall receive the

evidence at the time of admission of such evidence by the court and shall maintain control over such evidence until the time such evidence is transferred on appeal, or destroyed or returned in accordance with law.

~~In all felony cases where it appears to the court from the affidavit of the defendant and other evidence that the defendant intends to seek an appeal and is financially unable to pay such costs or to bear the expense of a copy~~ *The costs for the preparation* of the transcript of the evidence for an appeal, the trial court shall, upon the motion of counsel for the defendant, order the evidence transcribed for such appeal and all costs therefor shall be paid by the Commonwealth out of the appropriation for criminal charges. ~~If the conviction is not reversed, all costs paid by the Commonwealth, under the provisions hereof, shall be assessed against the defendant.~~

The reporter or other individual designated to report and record the trial shall file the original shorthand notes or other original records with the clerk of the circuit court who shall preserve them in the public records of the court for not less than five years if an appeal was taken and a transcript was prepared, or ten years if no appeal was taken. The transcript in any case certified by the reporter or other individual designated to report and record the trial shall be deemed prima facie a correct statement of the evidence and incidents of trial.

Upon the request of any counsel of record, or of any party not represented by counsel, and upon payment of the reasonable cost thereof, the court reporter covering any proceeding shall provide the requesting party with a copy of the transcript of such proceeding or any requested portion thereof.

The court shall not direct the court reporter to cease recording any portion of the proceeding without the consent of all parties or of their counsel of record.

The administration of this section shall be under the direction of the Supreme Court of Virginia.

§ 19.2-321.1. Motion in the Court of Appeals for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the circuit court or an officer or employee thereof, an appeal, in whole or in part, in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; or (iii) ~~been denied or the conviction has been affirmed~~ *the conviction*, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Court of Appeals within six months after the appeal has been dismissed ~~or denied~~, the conviction has been affirmed, or the circuit court judgment sought to be appealed has become final, whichever is later. Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth ~~or, if a petition for appeal was granted in the original attempt to appeal, upon~~ *and* the Attorney General, in accordance with the Rules of Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Court of Appeals shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Court of Appeals granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding.

§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) been dismissed in part because at least one assignment of error contained in the petition for appeal did not adhere to proper form or procedures; or (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or

fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth ~~or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon~~ and the Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, nor shall it apply in cases in which a sentence of death has been imposed.

§ 19.2-322.1. Suspension of execution of judgment on appeal.

Execution of a judgment from which an appeal to the Court of Appeals or the Supreme Court is sought may be suspended during an appeal provided the appeal is timely prosecuted ~~and an appeal bond is filed as provided in § 8.01-676.1.~~

§ 19.2-386.13. Writ of error and supersedeas.

For the purpose of review on a writ of error or supersedeas, a final judgment or order in the cause shall be deemed a final judgment ~~or order within the meaning of subsection A of § 8.01-670~~ and may be appealed to the Court of Appeals.

§ 19.2-402. Petition for appeal; brief in opposition; time for filing.

A. When a notice of appeal has been filed pursuant to § 19.2-400, the Commonwealth may petition the Court of Appeals for an appeal pursuant to § 19.2-398. The Commonwealth shall be represented by the *Attorney General or the attorney for the Commonwealth prosecuting the case if he filed a notice of appearance pursuant to § 2.2-511.*

B. The provisions of this subsection apply only to pretrial appeals. The petition for a pretrial appeal shall be filed with the clerk of the Court of Appeals not more than 14 days after the notice of transcript or written statement of facts required by § 19.2-405 is filed or, if there are objections thereto, within 14 days after the judge signs the transcript or written statement of facts. The accused may file a brief in opposition with the clerk of the Court of Appeals within 14 days after the filing of the petition for pretrial appeal. If the accused has filed a notice of cross appeal, he shall file a petition for cross appeal to be consolidated with, and filed within the same time period as, his brief in opposition. The Commonwealth may file a brief in opposition to any petition for cross appeal within 10 days after the petition for cross appeal is filed. Except as specifically provided in this section, all other requirements for the petition for pretrial appeal and brief in opposition shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia.

§ 19.2-403. Procedures on petition for pretrial appeal.

The procedures on a pretrial appeal to the Court of Appeals by the Commonwealth pursuant to *subsections A and E of § 19.2-398*, and on a cross appeal of a pretrial appeal by the accused pursuant to § 19.2-401, shall be governed by the provisions of subsections C and D of § 17.1-407. The Court of Appeals, however, shall grant or deny the petition for a pretrial appeal, and the petition for cross appeal, if any, not later than 30 days after the brief in opposition is timely filed or the time for such filing has expired.

No petition for rehearing may be filed in any pretrial appeal pursuant to this chapter. If the petition for a pretrial appeal pursuant to this chapter is denied, the Court's mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court.

§ 19.2-404. Procedures on awarded pretrial appeal.

This section applies only to pretrial appeals. If the Court of Appeals grants the Commonwealth's petition for a pretrial appeal, the Attorney General shall ~~thereafter~~ represent the Commonwealth during that appeal *unless the attorney for the Commonwealth prosecuting the case has filed a notice of appearance pursuant to § 2.2-511.*

The Commonwealth shall file its opening brief in the office of the clerk of the Court of Appeals within 25 days after the date of the certificate awarding the appeal. The brief of the appellee shall be filed in the office of the clerk of the Court of Appeals within 25 days after the filing of the Commonwealth's opening brief. The Commonwealth may then file a reply brief, including its response to any cross appeal, in the office of the clerk of the Court of Appeals within 15 days after the filing of the brief of the accused. With the permission of a judge of the Court of Appeals, the time for filing any brief may be extended for good cause shown. Four copies of each brief shall be filed and three copies shall be mailed or delivered to opposing counsel on or before the date of filing. Except as specifically provided in this section, all other requirements of the brief shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia. The Court of Appeals shall accelerate the appeal on its docket and render its decision not later than 60 days after the filing of the appellee's brief or after the time for filing such brief has expired.

When the opinion is rendered by the Court of Appeals, the mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court. No petition for rehearing may be filed.

§ 22.1-97. Calculation and reporting of required local expenditures; procedure if locality fails to appropriate sufficient educational funds.

A. The Department of Education shall collect annually the data necessary to make calculations and reports required by this subsection.

At the beginning of each school year, the Department shall make calculations to ensure that each school division has appropriated sufficient funds to support its estimated required local expenditure for providing an educational program meeting the prescribed Standards of Quality, required by Article VIII of the Constitution of Virginia and Chapter 13.2 (§ 22.1-253.13:1 et seq.) of this title. At the conclusion of the school year, the Department shall make calculations to verify whether the locality has provided the required expenditure, based on average daily membership as of March 31 of the relevant school year.

The Department shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the results of such calculations and the degree to which each school division has met, failed to meet, or surpassed its required expenditure.

The Joint Legislative Audit and Review Commission shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the state expenditure provided each locality for an educational program meeting the Standards of Quality.

The Department and the Joint Legislative Audit and Review Commission shall coordinate to ensure that their respective reports are based upon comparable data and are delivered together, or as closely following one another as practicable, to the appropriate standing committees.

B. Whenever such calculations indicate that the governing body of a county, city or town fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the Standards of Quality, the Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the circuit court for the county, city or town a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the Board of Education, and the governing body shall be made a party defendant thereto. The court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be given first priority on the docket of such court and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and the writ of mandamus shall be awarded or denied according to the law and facts of the case and with or without costs, as the court may determine. The order of the court shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the ~~Supreme Court next after habeas corpus cases already on the docket~~ *Court of Appeals*.

§ 22.1-289.024. (Effective July 1, 2021) Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for a child day program or family day system operated by an agency of the Commonwealth, the provisions of § 22.1-289.025 shall apply. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or family day system other than a child day program or family day system operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Superintendent's intent to refuse to issue or renew, or revoke a license shall be received in writing from the child day program or family day system operator within 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the ~~Virginia~~ *Supreme Court or the Court of Appeals*.

B. In every appeal to a court of record, the Superintendent shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license for a child day program or family day system has been refused by the Superintendent, the applicant shall not thereafter for a period of six months apply again for such license unless the Superintendent in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

§ 24.2-237. Who to represent Commonwealth; trial by jury; appeal.

The attorney for the Commonwealth shall represent the Commonwealth in any trial under this article. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an attorney to represent the Commonwealth. Any officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the defendant shall each have the right to ~~apply appeal to the Supreme Court for a writ of error and supersedeas~~ *Court of Appeals* upon the record made in the trial court and the ~~Supreme Court may hear~~ *Court of Appeals shall consider* and determine such cases.

§ 24.2-422. Appeal of person denied registration.

A. Within five days after the denial of an application to register, the general registrar shall notify the applicant of the denial. Notice shall be given in writing and by email or telephone if such information was provided by the applicant.

The general registrar shall send a new application for registration to the applicant with the form prescribed in subsection B. If the applicant provided his email address on the application for registration, the general registrar may send information to that email address regarding online voter registration. The general registrar shall advise the applicant that he may complete and submit the new application, in lieu of filing an appeal, if the reason stated for denial is that the applicant has failed to sign the application or failed to provide a required item of information on the application. If the general registrar is able to reach the applicant by telephone, corrections may be made by the applicant by telephone. Any applicant who returns a second application and whose second application is denied shall have the right to appeal provided in subsection B.

B. A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he offers to register by filing with the clerk of the court, within 10 days of being notified of the denial, a petition in writing to have his right to register determined.

The petitioner may file his petition by completing and filing a form which shall be prescribed by the State Board and which shall be used by the general registrar to notify an applicant of the denial of his application to register and of the reasons for the denial. The form shall (i) state that an applicant denied registration has the right to appeal to the circuit court of the county or city in which he offers to register, (ii) give the name and address of the clerk of the circuit court for such county or city (to be supplied by the general registrar), (iii) state that a filing fee of \$10 must be paid when filing the petition, (iv) contain a statement by which the applicant may indicate his desire to petition the court to have his right to register determined, and (v) provide space for the applicant to state the facts in support of his right to register.

On the filing of a petition to have the right to register determined, the clerk of the court shall immediately bring the matter to the attention of the chief judge of the court for the scheduling of a hearing on the petition. The matter shall be heard and determined on the face of the petition, the answer made in writing by the general registrar, and any evidence introduced as part of the proceedings. The proceedings shall take precedence over all other business of the court and shall be heard as soon as possible.

On the filing of the petition, the clerk of the court shall immediately give notice to the attorney for the Commonwealth for his county or city, who shall appear and defend against the petition on behalf of the Commonwealth.

Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against the petitioner, an appeal shall lie to the ~~Supreme Court of Virginia~~ *Virginia Appeals*.

C. The provisions of § 24.2-416, pertaining to the closing of registration records in advance of an election, shall apply to any application submitted pursuant to subsection A or B following a denial of registration.

§ 24.2-433. Appeal from decision of court.

From the judgment of the court, an appeal shall lie, as a matter of right, to the ~~Supreme Court of Virginia~~ *Virginia Appeals*. The appeal shall be placed on the privileged docket and be heard at ~~by the next ensuing session available panel~~ of the court.

§ 25.1-239. Finality of order confirming, altering or modifying report; appeal.

A. The order confirming, altering or modifying the report of just compensation shall be final.

B. Any party aggrieved thereby may ~~apply for an appeal to the Supreme Court of Appeals~~ and a supersedeas may be granted in the same manner as is now provided by law and the Rules of Court applicable to civil cases. An order setting aside the report and awarding a new trial of the issue of just compensation shall not be a final order for the purposes of appeal.

C. Any party aggrieved by a judgment of the Court of Appeals rendered pursuant to subsection B may apply for an appeal to the Supreme Court and a supersedeas may be granted in the same manner as is now provided by law and the Rules of Court applicable to civil cases. An order setting aside the report and awarding a new trial of the issue of just compensation shall not be a final order for the purposes of appeal.

§ 32.1-48.010. Appeal of any order of quarantine.

A. Any person or persons subject to an order of quarantine or a court-ordered extension of any such order pursuant to this article may file an appeal of the order of quarantine as such order applies to such person or persons in the circuit court for the city or county in which the subject or subjects of the order reside or are located or the circuit court for the jurisdiction or jurisdictions for any affected area. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of quarantine is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.

B. A hearing on the appeal of the order of quarantine shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

C. Any person appealing an order of quarantine shall have the burden of proving that he is not properly the subject of the order of quarantine.

D. The filing of an appeal shall not stay any order of quarantine.

E. Upon receiving multiple appeals of an order of quarantine that applies to a group of persons or an affected area, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all

appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.

F. The circuit court shall not conduct a de novo review of the order of quarantine; however, the court shall consider the existing record and such supplemental evidence as the court shall consider relevant. The court shall conduct the hearing on an appeal of an order of quarantine in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or upon the court's own motion.

G. Upon completion of the hearing, the court may (i) vacate or modify the order of quarantine as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (ii) vacate or modify the order of quarantine as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (iii) confirm the order of quarantine as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of quarantine as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of quarantine as it applies to any person who has filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from quarantine unless such order to vacate the quarantine shall be stayed by the filing of an appeal to the Supreme Court of Virginia or the Court of Appeals. Any party to the case may file an appeal of the circuit court decisions to the Supreme Court of Virginia Appeals. Parties to the case shall include any person who is subject to an order of quarantine and has filed an appeal of such order with the circuit court and the State Health Commissioner.

H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of quarantine or any appeal of an order of quarantine by a person or persons who are subject to such order shall be appealable directly to the Supreme Court of Virginia Appeals, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.

I. Appeals of any circuit court order relating to an order of quarantine shall not stay any order of quarantine.

J. Persons requesting judicial review of any order of quarantine shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of quarantine reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

§ 32.1-48.013. Appeal of any order of isolation.

A. Any person or persons subject to an order of isolation or a court-ordered confirmation or extension of any such order pursuant to this article may file an appeal of the order of isolation in the circuit court for the city or county in which such person or persons reside or are located or, in the case of an affected area, in the circuit court for any affected jurisdiction or jurisdictions. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of isolation is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.

B. A hearing on the appeal of the order of isolation shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

C. Any person appealing an order of isolation shall have the burden of proving that he is not properly the subject of the order of isolation.

D. An appeal shall not stay any order of isolation.

E. Upon receiving multiple appeals of an order of isolation, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.

F. The circuit court shall not conduct a de novo review of the order of isolation; however, the court shall consider the existing record and such supplemental evidence as the court shall consider relevant. The court shall conduct the hearing on an appeal of an order of isolation in a manner that will protect the health and safety of court personnel, counsels, witnesses,

and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or the court's own motion.

G. Upon completion of the hearing, the court may (i) vacate or modify the order of isolation as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (ii) vacate or modify the order of isolation as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (iii) confirm the order of isolation as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective infection control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of isolation as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of isolation as it applies to any person who has filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from isolation unless such order to vacate the isolation shall be stayed by the filing of an appeal to the Supreme Court of Virginia Appeals. Any party to the case may file an appeal of the circuit court decisions to the Supreme Court of Virginia Appeals. Parties to the case shall include any person who is subject to an order of isolation and has filed an appeal of such order with the circuit court and the State Health Commissioner.

H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of isolation or any appeal of an order of isolation by a person or persons who are subject to such order shall be appealable directly to the Supreme Court of Virginia Appeals, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.

I. Appeals of any circuit court order relating to an order of isolation shall not stay any order of isolation.

J. Persons appealing any order of isolation shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of isolation reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

§ 33.2-928. Procedure to secure abandonment of highways to be flooded in connection with municipal water supply projects.

A city or town subject to the provisions of this article shall certify to the governing body of the county within which the highway, or the greater part thereof, lies a copy of the ordinance adopted by the city or town as provided in this article. The governing body of the county, upon receipt, shall within 30 days (i) consider the reasonableness of the action contemplated by the city or town ordinance, (ii) propose and publish an ordinance approving or disapproving the action contemplated by the city or town, and (iii) conduct a hearing thereon. In the event that after such hearing the governing body of the county disapproves the proposed flooding, discontinuance, and abandonment of the highway, the city or town shall have the right to an appeal to the circuit court of the county where the question of the reasonableness of the proposed flooding and abandonment shall be heard de novo by the circuit court and judgment shall be rendered according to its decision. ~~From the~~ *The judgment a writ of error will lie in the discretion of the Supreme Court of Virginia of the circuit court may be appealed to the Court of Appeals.*

§ 33.2-2917. Miscellaneous.

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or by call for redemption shall be paid into the state treasury. No interest shall accrue on such principal or interest from the day the same is due. The Comptroller shall keep an account of all money thus paid into the state treasury, and it shall be paid to the individual partnership, association, or corporation entitled thereto upon satisfactory proof that such individual, partnership, association, or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the Supreme Court of Virginia Appeals as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to such authorized proceedings. No such proceedings shall be filed after 10 years from the day the principal of or interest on such bonds is due; however, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such 10-year period has expired.

B. The Authority may contract with the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police for the policing of any Authority facilities, and the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police are hereby authorized to enter into contracts with the Authority for such purpose. Police officers providing police services pursuant to such contracts shall be under the exclusive control and

direction of the authority providing such officers and shall be responsible to that authority exclusively for the performance of their duties and the exercise of their powers. The Authority shall reimburse the City of Richmond, the County of Henrico or Chesterfield, or the Commonwealth in such amounts and at such time as shall be mutually agreed upon for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all regulations of the Authority made in accordance, and such officers shall have all the rights and duties of police officers as provided by the general laws of the Commonwealth. The violation of any such regulation shall be punishable as follows: if such a violation would have been a violation of law if committed on any public highway in the City of Richmond or the County of Henrico or Chesterfield, it shall be punishable in the same manner as if it had been committed on such public highway; otherwise it shall be punishable as a Class 1 misdemeanor. All other police officers of the Commonwealth, the City of Richmond, and the Counties of Henrico and Chesterfield shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any time without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws and regulations, the court having jurisdiction for the trial of criminal offenses committed in the City of Richmond or in the Counties of Henrico and Chesterfield within whose boundaries any crime is committed shall have jurisdiction to try any person charged with the violation of any such laws and regulations within such boundaries. A copy of the regulations of the Authority, attested by the secretary or secretary-treasurer of the Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such secretary or secretary-treasurer may be admitted as evidence without any proof of the seal or signature or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions, and suits against the Authority, or any other person, firm, or corporation, growing out of the construction, maintenance, repair, operation, and use of any Authority facility, or growing out of any other circumstances, events, or causes in connection therewith, unless otherwise provided in this section, shall be brought and conducted in the court having jurisdiction of such actions, suits, and proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the causes of such actions, suits, and proceedings arise, and jurisdiction is hereby conferred on such court for that purpose. All such actions, suits, and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the City of Richmond, except as otherwise provided in this section, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings instituted and conducted by the Authority shall be brought and conducted in the court having jurisdiction of such proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the land or other property to be so acquired or the major portion thereof is situated, and jurisdiction is hereby conferred on such court for such purpose.

D. On or before September 30 of each year, the Authority shall prepare a report of its activities for the 12-month period ending the preceding July 1 of such year and shall file a copy thereof with the Commonwealth Transportation Board, the City of Richmond, and the Counties of Henrico and Chesterfield. Each such report shall set forth an operating and financial statement covering the Authority's operations during the 12-month period covered by the report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority, and the cost of such audit shall be treated as a part of the cost of construction and operation of a project.

E. The records, books, and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the Commonwealth Transportation Board, the governing bodies of the City of Richmond and the Counties of Henrico and Chesterfield, and any bondholder at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent, or employee of the Authority who contracts with the Authority or is interested in contracting with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000 or imprisonment in jail for not more than one year, either or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the City of Richmond, provided that the term "contract," as used in this chapter, shall not be held to include the depositing of funds in, the borrowing of funds from, or the serving as agent or trustee by any bank in which any member, agent, or employee of the Authority may be a director, officer, or employee or have a security interest, nor shall such term include contracts or agreements with the Commonwealth Transportation Board or the purchase of services from, or other transactions in the ordinary course of business with, public service corporations.

§ 37.2-920. Appeal by Attorney General; emergency custody order.

In any case in which the Attorney General successfully appeals the trial court's denial of probable cause, denial of civil commitment or conditional release, or discharge or placement on conditional release after an annual review hearing, upon the issuance of the mandate by the Supreme Court of Virginia Appeals, the trial court shall immediately issue an emergency custody order to any local law-enforcement official to have the person taken into custody and held in the local correctional facility, pending further appropriate proceedings.

§ 45.1-161.322. Restoration of property to owner or operator.

A. Whenever the owner or operator of the business of mining, production and marketing coal, whose property has been acquired by the Commission, shall notify the Commission in writing, stating that he is in position to, and can and will resume operation and render normal service, and shall satisfy the Commission of the correctness of such statement or whenever in the judgment of the Governor the emergency declared by him no longer exists, the Commission shall restore

the possession of the property so acquired by them to the owner or operator upon his request. In the event the Commission refuses such restoration of possession, the owner or operator shall have the right to have a rule issued requiring the Commission to show cause why such possession should not be restored and the court shall determine the matter as in this section provided.

B. Any such owner or operator shall be entitled to receive reasonable, proper and lawful compensation for the use of the properties so acquired by the Commonwealth and paid the same out of the state treasury. In the event the Commission has acquired such property by purchase, the owners upon reacquisition shall repay the purchase price less fair compensation for use of such property. In the event the Commission and the owner or operator are unable to agree upon the amount of such compensation either party in interest may file a petition in the circuit court for the county or city in which the property is located for the purpose of having the same judicially determined. The court shall, without a jury, hear such evidence and argument of counsel as may be deemed appropriate and render judgment thereon or may refer to a commissioner such questions as are considered proper and act upon the commissioner's report as in other equity proceedings. An appeal shall lie to the ~~Supreme~~ Court of Appeals from any final judgment of the court rendered upon the provisions of this chapter.

§ 55.1-1833. Lien for assessments.

A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied against that lot in accordance with the provisions of this chapter and all lawful provisions of the declaration. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of such lien. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed of trust under § 55.1-318 shall be given in the same fashion as if the association's lien were a judgment.

B. The association, in order to perfect the lien given by this section, shall file, before the expiration of 12 months from the time the first such assessment became due and payable in the clerk's office of the circuit court in the county or city in which such development is situated, a memorandum, verified by the oath of the principal officer of the association or such other officer or officers as the declaration may specify, which contains the following:

1. The name of the development;
2. A description of the lot;
3. The name or names of the persons constituting the owners of that lot;
4. The amount of unpaid assessments currently due or past due relative to such lot together with the date when each fell due;
5. The date of issuance of the memorandum;
6. The name of the association and the name and current address of the person to contact to arrange for payment or release of the lien; and
7. A statement that the association is obtaining a lien in accordance with the provisions of the Property Owners' Association Act as set forth in Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1.

It shall be the duty of the clerk in whose office such memorandum is filed as provided in this section to record and index the same as provided in subsection D, in the names of the persons identified in such memorandum as well as in the name of the association. The cost of recording and releasing the memorandum shall be taxed against the person found liable in any judgment or order enforcing such lien.

C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by certified mail, at the property owner's last known address, informing the property owner that a memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The notice shall be sent at least 10 days before the actual filing date of the memorandum of lien.

D. Notwithstanding any other provision of this section or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1989, all memoranda of liens arising under this section shall be recorded in the deed books in the clerk's office. Any memorandum shall be indexed in the general index to deeds, and the general index shall identify the lien as a lien for lot assessments.

E. No action to enforce any lien perfected under subsection B shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which the petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

F. The judgment or order in an action brought pursuant to this section shall include reimbursement for costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

G. When payment or satisfaction is made of a debt secured by the lien perfected by subsection B, the lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of § 55.1-339, the principal officer of the association, or any other officer or officers as the declaration may specify, shall be deemed the duly authorized agent of the lien creditor.

H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1828.

I. At any time after perfecting the lien pursuant to this section, the property owners' association may sell the lot at public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the purpose of transferring title to the lot. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The association shall give notice to the lot owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the lot owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the lot. The notice shall further inform the lot owner of the right to bring a court action in the circuit court of the county or city where the lot is located to assert the nonexistence of a debt or any other defense of the lot owner to the sale.

2. After expiration of the 60-day notice period specified in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which such development is situated. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same as provided in subsection D, in the names of the persons identified in such appointment as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the lot owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the lot owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder who holds a note against the property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city in which the property to be sold, or any portion of such property, is located pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the property or some portion of such property is located in a city or in a county immediately contiguous to a city, publication of the advertisement on five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the association finds appropriate, shall set forth a description of the property to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the property by street address, if any, or, if none, shall give the general location of the property with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the association may further advertise as the association finds appropriate.

6. In the event of postponement of sale, which postponement shall be at the discretion of the association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

8. The association shall have the following powers and duties upon a sale:

a. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the declaration, the association may bid to purchase the lot at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the lot. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale

required under subdivision I 10 and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require any bidder at any sale to post a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the property is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or, if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The property owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty of title. The trustee shall not be required to take possession of the property prior to the sale of such property or to deliver possession of the lot to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1815 upon the written request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the time of the sale. The association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts the sale is set aside by the court or an appeal is *allowed by filed in the Court of Appeals or granted by* the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

§ 55.1-1966. Lien for assessments.

A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of such lien for assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

B. Notwithstanding any other provision of this section, or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1974, all memoranda of liens arising under this section shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

C. In order to perfect the lien given by this section, the unit owners' association shall file a memorandum verified by the oath of the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, before the expiration of 90 days from the time the first such assessment became due and payable. The memorandum shall be filed in the clerk's office of the circuit court in the county or city in which such condominium is situated. The memorandum shall contain the following:

1. A description of the condominium unit in accordance with the provisions of § 55.1-1909.
2. The name or names of the persons constituting the unit owners of that condominium unit.
3. The amount of unpaid assessments currently due or past due together with the date when each fell due.
4. The date of issuance of the memorandum.

The clerk in whose office such memorandum is filed shall record and index the memorandum as provided in subsection B, in the names of the persons identified in such memorandum as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment enforcing such lien.

D. No action to enforce any lien perfected under subsection C shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which such petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

E. The judgment in an action brought pursuant to this section shall include reimbursement for costs and attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

F. When payment or satisfaction is made of a debt secured by the lien perfected by subsection C, such lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the

penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of that section, the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor.

G. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1915.

H. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of such condominium unit, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 days of the receipt of such request shall extinguish the lien created by subsection A as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

I. At any time after perfecting the lien pursuant to this section, the unit owners' association may sell the unit at public sale, subject to prior liens. For purposes of this section, the unit owners' association shall have the power both to sell and convey the unit and shall be deemed the unit owner's statutory agent for the purpose of transferring title to the unit. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The unit owners' association shall give notice to the unit owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the unit owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the unit. The notice shall further inform the unit owner of the right to bring a court action in the circuit court of the county or city where the condominium is located to assert the nonexistence of a debt or any other defense of the unit owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners' association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the condominium is located. The clerk in whose office such appointment is filed shall record and index the appointment as provided in subsection C, in the names of the persons identified therein as well as in the name of the unit owners' association. The unit owners' association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the unit owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the unit owners' association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, and shall include the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the condominium unit to be sold at his last known address as such owner and address appear in the records of the unit owners' association, (ii) any lienholder who holds a note against the condominium unit secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust provided the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the unit owners' association shall be in a newspaper having a general circulation in the locality in which the condominium unit to be sold, or any portion of such unit, is located pursuant to the following provisions:

a. The unit owners' association shall advertise once a week for four successive weeks; however, if the condominium unit or some portion of such unit is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the unit owners' association finds appropriate, shall set forth a description of the condominium unit to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the condominium unit by street address, if any, or, if none, shall give the general location of the condominium unit with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the unit owners' association. The advertisement shall set forth the

name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the unit owners' association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of a sale, which postponement shall be at the discretion of the unit owners' association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the condominium unit voidable by the court.

8. In the event of a sale, the unit owners' association shall have the following powers and duties:

a. Written one-price bids may be made and shall be received by the trustee from the unit owners' association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the condominium instruments, the unit owners' association may bid to purchase the unit at a foreclosure sale. The unit owners' association may own, lease, encumber, exchange, sell, or convey the unit. Whenever the written bid of the unit owners' association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the unit owners' association or its agent or attorney.

b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the condominium unit is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the unit owners' association in connection with that sale.

c. The unit owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the unit owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the unit owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice of such encumbrance prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the unit with special warranty of title. The trustee shall not be required to take possession of the condominium unit prior to the sale or to deliver possession of the unit to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309 and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1945 upon the written request of the prior unit owner, current unit owner, or any holder of a recorded lien against the unit at the time of the sale. The unit owners' association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a unit is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts, the sale is set aside by the court or an appeal is ~~allowed~~ *filed in the Court of Appeals or granted* by the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

§ 55.1-2211. Time-share estate owners' association control liens.

A. The board of directors of the association shall have the authority to adopt regular annual assessments and to levy periodic special assessments against each of the time-share estate unit owners and to collect the same from such owners according to law if the purpose in so doing is determined by the board of directors to be in the best interest of the time-share project or time-share program and the proceeds are used to either pay common expenses or fund a reserve. In addition, the board of directors of the association shall have the authority to collect, on behalf of the developer or on its own account, the maintenance fee imposed by the developer pursuant to § 55.1-2210. The authority hereby granted and conferred upon the association shall exist notwithstanding any covenants and restrictions of record applicable to the project stated to the contrary, and any such covenants and restrictions are hereby declared void.

B. The developer may provide that it not be obligated to pay all or a portion of any assessment, dues, or other charges of the association, however denominated, passed, or adopted, pursuant to subsection A, if such developer so provides, in bold type, in the time-share instrument for the time-share estate project. If no such provision exists, the developer shall be responsible to pay the same assessment, dues, or other charges that a time-share estate owner is obligated to pay for each of its unsold time-shares existing at the end of the fiscal year of the association and no more if the board of directors of the association so determines. In no event shall either a time-share expense or the dues, assessment, or charges of the association discriminate against the developer.

C. The association shall have a lien on every time-share estate within its project for unpaid and past due regular or special assessments levied against that estate in accordance with the provisions of this chapter and for all unpaid and past

due maintenance fees. The exemption created by § 34-4 shall not be claimed against the debt or lien of the association created by this section.

The association, in order to perfect the lien given by this subsection, shall file, before the expiration of four years from the time such special or regular assessment or maintenance fee became due, in the clerk's office of the county or city in which the project is situated, a memorandum verified by the oath of any officer of the association or its managing agent and containing the following information:

1. The name and location of the project;
2. The name and address of each owner of the time-share on which the lien exists and a description of the unit in which the time-share is situated;
3. The amount of past due special or regular assessments or past due maintenance fees applicable to the time-share, together with the date when each became due;
4. The amount of any other charges owing occasioned by the failure of the owner to pay the assessments or maintenance fees, including late charges, interest, postage and handling, attorney fees, recording costs, and release fees;
5. The name, address, and telephone number of the association's trustee, if known at the time, who will be called upon by the association to foreclose on the lien upon the owner's failure to pay as provided in this subsection; and
6. The date of issuance of the memorandum.

Notwithstanding any other provision of this chapter, or any other provision of law requiring documents to be recorded in the deed books of the clerk's office of any court, from July 1, 1981, all memoranda of liens arising under this subsection shall be recorded in the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for time-share estate regular or special assessments or maintenance fees.

The clerk in whose office such memorandum is filed as provided in this subsection shall record and index such memorandum as provided in this subsection, in the names of the persons identified in such memorandum as well as in the name of the time-share estates owners' association. The cost of recording such memorandum shall be taxed against the owner of the time-share on which the lien is placed. The filing with the clerk of one memorandum on which is listed two or more delinquent time-share estate unit owners is permitted in order to perfect the lien hereby allowed, and the cost of filing in this event shall be the clerk's fee as prescribed in subdivision A 2 of § 17.1-275.

D. At any time after perfecting the lien pursuant to this section, the association may sell the time-share estate at a public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the time-share estate and shall be deemed the time-share estate owner's statutory agent for the purpose of transferring title to the time-share estate. A nonjudicial foreclosure sale shall be conducted by a trustee and in accordance with the following:

1. The association shall give notice to the time-share estate owner, prior to advertisement, as required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the time-share estate owner, by which the debt secured by the lien shall be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the time-share estate. The notice shall further inform the time-share estate owner of the right to bring a court action in the circuit court of the county or city where the time-share project is located to assert the nonexistence of a debt or any other defenses of the time-share estate owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the time-share project is located. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same, as provided in this subsection, in the names of the persons identified therein as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If, prior to the date of the foreclosure sale, the time-share estate owner (i) satisfies the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees, the time-share estate owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the time-share estate.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the time-share estate to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder that holds a note against the time-share estate secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by regular mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city wherein the time-share estate to be sold and the time-share project, or any portion of such project, lies pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the time-share estate and the time-share project or some portion of such project is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of time-share estate being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the association finds appropriate, shall set forth:

(1) A description of the time-share estate to be sold, which description need not be as extensive as that contained in the deed of trust, but shall identify the time-share project by street address, if any, or, if none, shall give the general location of such time-share project with reference to streets, routes, or known landmarks with further identification of the time-share estate to be sold. Where available, tax map identification may be used. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale; or

(2) In lieu of the requirements of subdivision (1), the advertisement shall set forth the date, time, place, and terms of sale and the name of the association; the street address of the time-share estate to be sold, if any, or, if none, the general location of the time-share project; and the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries and give additional information concerning the time-share estate to be sold, including providing in hard copy or electronic form a description of the time-share estate to be sold by street address, if any, or, if none, by the general location of the time-share project with reference to streets, routes, or known landmarks, and, where available, tax map identification. The advertisement under this subdivision (2) shall also include a website address where the information contained in subdivision (1) is displayed for the time-share estate to be sold.

c. In addition to the advertisement required by subdivisions 5 a and b, the association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of the sale, which postponement shall be at the discretion of the association, advertisement of the postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court. Such petition shall be filed within 60 days of the sale or the right to do so shall lapse.

8. In the event of a sale, the association shall have the following powers and duties:

a. The association may sell two or more time-share estates at the sale. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person that has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the time-share instrument, the association may bid to purchase the time-share estate at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the time-share estate. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require of any bidder at any sale a cash deposit of as much as one-third of the sale price before his bid is received, which shall be refunded to him if the time-share estate is not sold to him through action of the trustee. The deposit of the successful bidder shall be applied to his credit at settlement; if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and shall apply such proceeds in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the time-share estate owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the time-share estate owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the time-share estate with special warranty of title. The trustee shall not be required to take possession of the time-share estate prior to the sale of such estate or deliver possession of the time-share estate to the purchaser at the sale.

10. If the sale of a time-share estate is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless, within six months from the date of foreclosure, the sale is set aside by the court or an appeal is ~~allowed by~~ *filed in the Court of Appeals or granted by the Supreme Court of Virginia* and an order is entered requiring such sale to be set aside.

When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, such lien shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, any officer of the time-share estate owners' association or its managing agent shall be deemed the duly authorized agent of the lien creditor.

E. The commissioner of accounts to whom an account of sale is returned in connection with the foreclosure of either a lien under subsection C or a purchase money deed of trust taken back by the developer in the sale of a time-share in order to satisfy § 64.2-1309 shall be entitled to a fee, not to exceed \$70, on each foreclosure of a lien under subsection C and not to exceed \$125 on each foreclosure of a purchase money deed of trust taken back by the developer.

F. Any time-share owner within the project having executed a contract for the disposition of the time-share shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments or maintenance fees currently levied against that time-share. Such request shall be in writing, directed to the president of the time-share estate owners' association, and delivered to the principal office of the association. Failure of the association to furnish or make available such statement within 20 days from the actual receipt of such written request shall extinguish the lien created by subsection C as to the time-share involved. Payment of a fee reflecting the reasonable cost of materials and labor, not to exceed the actual cost of such materials and labor, may be required as a prerequisite to the issuance of such a statement.

§ 57-2.02. Religious freedom preserved; definitions; applicability; construction; remedies.

A. As used in this section:

"Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence.

"Exercise of religion" means the exercise of religion under Article I, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First Amendment to the United States Constitution.

"Government entity" means any branch, department, agency, or instrumentality of state government, or any official or other person acting under color of state law, or any political subdivision of the Commonwealth and does not include the Department of Corrections, the Department of Juvenile Justice, and any facility of the Department of Behavioral Health and Developmental Services that treats civilly committed sexually violent predators, or any local, regional or federal correctional facility.

"Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.

"Substantially burden" means to inhibit or curtail religiously motivated practice.

B. No government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive means of furthering that compelling governmental interest.

C. Nothing in this section shall be construed to (i) authorize any government entity to burden any religious belief or (ii) affect, interpret or in any way address those portions of Article 1, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First Amendment to the United States Constitution that prohibit laws respecting the establishment of religion. Granting government funds, benefits or exemptions, to the extent permissible under clause (ii) of this subsection, shall not constitute a violation of this section. As used in this subsection, "granting" used with respect to government funding, benefits, or exemptions shall not include the denial of government funding, benefits, or exemptions.

D. A person whose religious exercise has been burdened by government in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory and injunctive relief from a circuit court, but shall not obtain monetary damages. A person who prevails in any proceeding to enforce this section against a government entity may recover his reasonable costs and attorney fees. The provisions of this subsection relating to attorney fees shall not apply to criminal prosecutions.

E. Nothing in this section shall prevent any governmental institution or facility from maintaining health, safety, security or discipline.

F. The decision of the circuit court to grant or deny declaratory and injunctive relief may be appealed by ~~petition~~ to the Court of Appeals of Virginia.

§ 58.1-527. Appeals from hearings.

A. Within ~~thirty~~ 30 days after the decision of the claimant agency upon a hearing pursuant to § 58.1-526 has become final, the debtor aggrieved thereby may secure judicial review thereof by commencing an action in the circuit court of the county or of the city, or if the city has no circuit court, then in the circuit court of the county in which such city is geographically located, in which the debtor resides or in which the principal office of the claimant agency is geographically located. In such action against the claimant agency for review of its decision, the claimant agency shall be named a defendant in a petition for judicial review. This section shall not be construed to confer jurisdiction on the circuit court to review questions of federal income tax law when the claimant agency is the Internal Revenue Service.

B. Such petition shall also state the grounds upon which review is sought and shall be served upon the head of the claimant agency or upon such person as the claimant agency may designate. With its answer, the claimant agency shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this article, the findings of the claimant agency as to the facts shall be sustained if supported by the evidence. Such actions and the questions so certified shall be heard in a summary manner at the earliest possible date. An appeal may be taken from the decision of such court to the ~~Supreme~~ Court of Appeals in conformity with the general law governing appeals in equity cases.

C. It shall not be necessary in any proceeding under this section to enter exceptions to the rulings of the claimant agency, and no bond shall be required upon an appeal to any court.

D. Notwithstanding the other provisions of this section, if the claimant agency is otherwise subject to the Administrative Process Act (§ 2.2-4000 et seq.), appeals of such agency's decision as it relates to the debtor shall be held in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 58.1-1828. Appeal.

The Tax Commissioner or the taxpayer may take an appeal from any final order of the court to the ~~Supreme Court of Appeals~~.

§ 58.1-2282. Appeal of Commissioner's decisions.

A. Any person against whom an assessment, order or decision of the Commissioner has been adversely rendered, which assessment, order, or decision relates to the collection of unreported, incorrectly or fraudulently reported taxes, the granting or canceling of a license, the filing of a bond, an increase in the amount of a bond, a change of surety on a bond, the filing of reports, the examination of records, or any other matter wherein the findings are in the discretion of the Commissioner, may, within ~~thirty~~ 30 days from the date thereof, file a petition of appeal from such assessment, order, or decision, in the circuit court in the city or county wherein such person resides, provided that any petition for a refund for taxes timely paid shall be filed within one year of the date of payment. A copy of the petition shall be sent to the Commissioner at the time of the filing with the court. The original shall show, by certificate, the date of mailing such copy to the Commissioner.

B. In any proceeding under this section, the assessments by the Commissioner shall be presumed correct. The burden of proof shall be upon the petitioner to show that the assessment was incorrect and contrary to law. The circuit court is authorized to enter judgment against such person for the taxes, penalty, and interest due. The failure by any such person to appeal under the provisions of this section within the time period specified shall render the assessment, order, or decision of the Commissioner conclusively valid and binding upon such person. Such person or the Commissioner may ~~petition the Court of Appeals~~ appeal from the final decision of the circuit court to the *Court of Appeals*.

§ 58.1-3147. Appeal.

An appeal may be ~~allowed~~ taken to the ~~Supreme Court of Appeals~~ from any order entered either discharging or declining to discharge any treasurer.

§ 58.1-3992. Appeal.

Any locality or taxpayer aggrieved by the action of a court of record under this article may appeal to the ~~Supreme Court of Appeals~~.

§ 63.2-1710. Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of § 63.2-1710.2 shall apply. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency other than an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Commissioner's intent to refuse to issue or renew, or revoke a license shall be received in writing from the assisted living facility, adult day care center or child welfare agency operator within ~~fifteen~~ 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the ~~Virginia Supreme Court of Appeals~~.

B. In every appeal to a court of record, the Commissioner shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license as an assisted living facility or adult day care center has been refused by the Commissioner, the applicant shall not thereafter for a period of one year apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the one-year period shall be extended until a final decision has been rendered on appeal.

E. When issuance or renewal of a license for a child welfare agency has been refused by the Commissioner, the applicant shall not thereafter for a period of six months apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

2. That §§ 8.01-670.1 and 8.01-672 of the Code of Virginia are repealed.

3. That any case for which a notice of appeal to the Supreme Court has been filed prior to January 1, 2022, shall continue in the Supreme Court of Virginia and shall not be affected by the provisions of this act.

4. That any case for which a petition for appeal in a criminal case to the Court of Appeals has been filed prior to January 1, 2022, and a decision on such petition remains pending, such petition for appeal shall be deemed granted and the clerk of the Court of Appeals shall certify the granting of such petition to the trial court and all counsel. Such case shall be considered mature for purposes of further proceedings from the date of such certificate.

5. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the House Committee for Courts of Justice and the Senate Committee on the Judiciary detailing the expanded workload of the Court of Appeals of Virginia pursuant to the first enactment of this act each year following the enactment of the first enactment clause of this act for three years by January 1 of such year. The first such report shall be made by January 1, 2023.

6. That the provisions of this act amending § 17.1-400 of the Code of Virginia shall become effective in due course and that the remaining provisions of this act shall become effective on January 1, 2022.

CHAPTER 490

An Act to amend and reenact § 2.2-3708.2 of the Code of Virginia, relating to the Virginia Freedom of Information Act; meetings held by electronic communication means during a state of emergency.

[S 1271]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3708.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3708.2. Meetings held through electronic communication means.

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

a. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or

b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body, *or any joint meetings thereof*, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17 *or the locality in which the public body is located has declared a local state of emergency pursuant to § 44-146.21*, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to ~~address the emergency provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities~~. The public body convening a meeting in accordance with this subdivision shall:

a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

b. Make arrangements for public access to such meeting *through electronic communication means, including videoconferencing if already used by the public body*; ~~and~~

c. *Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received*; and

d. Otherwise comply with the provisions of this ~~section~~ chapter.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

The provisions of this subdivision 3 shall be applicable only for the duration of the emergency declared pursuant to § 44-146.17 or 44-146.21.

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to subdivisions A 1 and 2 and subsection B shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § 2.2-3707.01, state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

- a. The total number of meetings held that year in which there was participation through electronic communication means;
- b. The dates and purposes of each such meeting;
- c. A copy of the agenda for each such meeting;
- d. The primary or central meeting location of each such meeting;
- e. The types of electronic communication means by which each meeting was held;

f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;

g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;

h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;

i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;

j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and

k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.

E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

2. Nothing in this act is intended to limit the authority of the General Assembly in the exercise of its authority to set its rules of procedure pursuant to Article IV, Section 6 of the Constitution of Virginia.

CHAPTER 491

An Act to amend and reenact § 18.2-340.33 of the Code of Virginia, relating to charitable gaming; increase in certain maximum allowable prize amounts.

[H 1843]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-340.33 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-340.33. Prohibited practices.

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

5. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations;

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session; and

f. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed \$50 per session.

6. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

7. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

8. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed ~~\$50~~ \$250 for a single door prize or ~~\$250~~ \$500 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100. *However, up to 10 games per bingo session may feature a regular bingo or special bingo game prize of up to \$200;*

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed ~~\$1,000~~ \$2,000;

d. Except as provided in this subdivision 8, no bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

9. The provisions of subdivision 8 shall not apply to:

Any progressive bingo game, in which ~~(a)~~ (i) a regular or special prize, not to exceed \$100, is awarded on the basis of predetermined numbers or patterns selected at random and ~~(b)~~ (ii) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the predetermined numbers or patterns are covered when a certain number of numbers is called, provided ~~(i)~~ that (a) there are no more than six such games per session per organization, ~~(ii)~~ (b) the amount of increase of the progressive prize per session is no more than ~~\$100~~ \$200, ~~(iii)~~ (c) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, ~~(iv)~~ (d) the organization separately accounts for the proceeds from such sale, and ~~(v)~~ (e) such games are otherwise operated in accordance with the Department's rules of play.

10. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to a raffle conducted no more than three times per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any one geographical region of the Commonwealth.

11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the management and operation but not the conduct of any charitable games shall conduct such

games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

12. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Board regulation.

13. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

14. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Department as a supplier pursuant to § 18.2-340.34.

15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

2. That beginning July 1, 2024, and at least once every five years thereafter, the Department of Agriculture and Consumer Services shall convene a stakeholder work group to review the limitations on prize amounts and provide any recommendations to the General Assembly by November 30 of the year in which the stakeholder work group is convened.

CHAPTER 492

An Act to amend and reenact the second enactment of Chapter 46 of the Acts of Assembly of 2020, Special Session I, relating to the Virginia Residential Landlord and Tenant Act; landlord remedies; noncompliance with rental agreement; payment plan; extend sunset.

[H 1889]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 46 of the Acts of Assembly of 2020, Special Session I, is amended and reenacted as follows:

2. That the provisions of this act shall expire on July 1, ~~2024~~ 2022.

CHAPTER 493

An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, relating to electric vehicle rebate program; creation and funding; report.

[H 1979]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, as follows:

CHAPTER 18. ELECTRIC VEHICLE REBATE PROGRAM.

§ 67-1800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory Council" means the Electric Vehicle Rebate Program Advisory Council.

"Base price" means the manufacturer's base price for the lowest price trim level of the model and shall not include charges for optional equipment, taxes, title, or registration fees.

"Dealer" means a motor vehicle dealer licensed pursuant to Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2.

"Department" means the Department of Mines, Minerals and Energy.

"Electric motor vehicle" means a two-axle motor vehicle with a base price of not more than \$55,000 that uses electricity as its only source of motive power. "Electric motor vehicle" includes fuel cell electric vehicles.

"EPA" means the federal Environmental Protection Agency.

"Fund" means the Electric Vehicle Rebate Program Fund.

"Participating dealer" means a dealer who is participating in the Program.

"Program" means the Electric Vehicle Rebate Program established pursuant to this chapter.

"Purchase" means the purchase or lease of a new or used electric motor vehicle.

"Qualified resident of the Commonwealth" means a resident of the Commonwealth whose annual household income does not exceed 300 percent of the current poverty guidelines.

"Used electric motor vehicle" means a previously owned or leased electric motor vehicle that is more than two years old and not more than seven years old.

§ 67-1801. Electric Vehicle Rebate Program.

There is hereby established an Electric Vehicle Rebate Program for the purchase of new and used electric motor vehicles to provide an incentive to increase electric vehicle awareness and adoption in the Commonwealth. The Program shall be administered by the Department. The Department shall determine the best method to administer the Program, which may include contracting with a third-party administrator. As provided in § 58.1-2420, the Commissioner of the Department of Motor Vehicles may examine all records, books, papers, or other documents of any dealer in motor vehicles to verify the truth and accuracy of any statement or any other information relating to rebates claimed by the dealer.

§ 67-1802. Eligibility for rebate; amount of rebate.

A. Beginning January 1, 2022, a resident of the Commonwealth who purchases a new electric motor vehicle from a participating dealer shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.

B. Beginning January 1, 2022, a resident of the Commonwealth who purchases a used electric motor vehicle from a participating dealer with a sale price as provided by § 58.1-2401 of not more than \$25,000 shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.

C. Any rebate provided under this chapter shall be applied toward payment for the purchase. The participating dealer shall be reimbursed by the Department from the Fund for each eligible rebate.

D. Rebates available pursuant to this chapter are subject to availability of funds in the Fund.

E. The amount of the rebates provided under this chapter may be increased or decreased annually by the Department in an amount not to exceed the recommendation of the Advisory Council pursuant to subsection A of § 67-1804.

§ 67-1803. Program website.

The Department shall establish a website for the administration of the Program. The website shall include general information for the public, including details about the Program and performance metrics regarding the Program. The website shall also provide (i) data updated weekly regarding the availability of funds in the Fund at the time of the purchase and (ii) instructions for the dealer as to how to process a reimbursement for the rebate provided pursuant to this chapter.

§ 67-1804. Electric Vehicle Rebate Program Advisory Council.

A. The Electric Vehicle Rebate Program Advisory Council is established to monitor the implementation and operation of the Program and to make recommendations to the Department regarding suggested changes to the Program, including regular assessment to determine the effect of the rebate on increasing electric vehicle sales, whether the Fund allocations pursuant to subsection B of § 67-1805 should be adjusted, and whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter. The Advisory Council shall consider the goal of increasing electric vehicle awareness and adoption in developing and making its recommendations. The Advisory Council shall annually evaluate and recommend an increase or decrease in the amount of the rebates provided under this chapter to reflect the rate of inflation, as defined by the Federal Bureau of Labor Statistics, and the relative price of electric motor vehicles compared with the price of traditional motor vehicles.

B. The Advisory Council shall consist of three legislative members and 13 nonlegislative members as follows: (i) two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates; (ii) one member of the Senate, to be appointed by the Senate Committee on Rules; (iii) three nonlegislative citizen members to be appointed by the Secretary of Transportation, two of whom shall be licensed new motor vehicle dealers and one of whom shall represent a new vehicle dealer association to which a majority of new motor vehicle dealers in the Commonwealth belong; (iv) seven nonlegislative citizen members to be appointed by the Secretary of Natural Resources, two of whom shall represent environmental justice organizations, two of whom shall represent environmental advocacy organizations, one of whom shall represent a vehicle manufacturer association to which a majority of vehicle manufacturers belong, and two of whom shall represent vehicle original equipment manufacturers; (v) the Director of the Department, or his designee, who shall serve ex officio with voting privileges; (vi) the Director of the Department of Environmental Quality, or his designee, who shall serve ex officio with voting privileges; and (vii) the Executive Director of the Motor Vehicle Dealer Board, who shall serve ex officio with voting privileges.

After an initial staggering of terms, legislative and nonlegislative members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Council shall elect a chairman and vice-chairman annually from among the members. The meetings of the Advisory Council shall be at the call of the chairman, the Director of the Department, or whenever a majority of the members so request.

D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties, as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

E. The Department shall serve as staff to the Advisory Council.

§ 67-1805. Electric Vehicle Rebate Program Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Electric Vehicle Rebate Program Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this chapter, including expenses related to the administration of the Program by the Department. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. All funds shall be allocated for the payment of rebates and enhanced rebates in this chapter. Beginning July 1, 2024, 25 percent of any unused funds remaining in the Fund at the end of the fiscal year shall be reallocated to fund electric vehicle charging infrastructure as approved by the General Assembly.

§ 67-1806. Report.

The Director of the Department shall report annually on or before December 1 to the Governor and the General Assembly regarding the implementation and administration of the Program and any recommendations of the Department or the Advisory Council. Each report shall include an assessment of the rebate and enhanced rebate, a recommendation on whether the Fund allocation set forth in subsection B of § 67-1805 should be adjusted, and a recommendation on whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter.

2. That the initial terms of the Electric Vehicle Rebate Program Advisory Council shall be staggered as follows: (i) of the members of the House of Delegates appointed by the Speaker, one shall be appointed for a term of two years and one shall be appointed for a term of four years; (ii) the member of the Senate appointed by the Senate Committee on Rules shall be appointed for a term of four years; (iii) of the nonlegislative citizen members appointed by the Secretary of Transportation, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years; and (iv) of the nonlegislative citizen members appointed by the Secretary of Natural Resources, one shall be appointed for a term of one year, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and two shall be appointed for a term of four years.

3. That the Department of Mines, Minerals and Energy, in consultation with the Electric Vehicle Rebate Program Advisory Council, as created by this act, shall develop and implement a process for verifying eligible purchasers and shall ensure that such process (i) is capable of being administered at the point of sale or lease of a vehicle, (ii) allows for the immediate determination of purchaser eligibility and the total amount of the rebate to which the purchaser is entitled, and (iii) confirms the rebate to the participating dealer.

4. That the provisions of this act shall expire on January 1, 2027.

CHAPTER 494

An Act to amend and reenact §§ 55.1-1800, 55.1-1815, 55.1-1816, 55.1-1832, 55.1-1900, 55.1-1935, 55.1-1949, 55.1-1952, and 55.1-1953 of the Code of Virginia, relating to the Property Owners' Association Act; the Condominium Act; use of electronic means for meetings and voting.

[S 1183]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1800, 55.1-1815, 55.1-1816, 55.1-1832, 55.1-1900, 55.1-1935, 55.1-1949, 55.1-1952, and 55.1-1953 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. *A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods.* Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

§ 55.1-1815. Access to association records; association meetings; notice.

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55.1-1816;
8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

F. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot. In lieu of sending such notice by United States mail, notice may instead be (i) hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member, or (ii) sent to the member by electronic mail, provided that the member has elected to receive such notice by electronic mail and, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. Except as provided in subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

H. Unless expressly prohibited by the governing documents, a member may vote at a meeting of the association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the board of directors has adopted guidelines for such voting by electronic means. Members voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.

§ 55.1-1816. Meetings of the board of directors.

A. All meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the association's board of directors or any subcommittee or other committee of the board of directors conducting the meeting.

Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of an association's board of directors or subcommittee or other committee of the board of directors for a meeting shall be made available for inspection by the membership of the association at the same

time such documents are furnished to the members of the board of directors or any subcommittee or committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of directors or subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being recorded.

~~If a meeting is conducted by telephone conference or video conference or similar electronic means, at least two members of the board of directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the board of directors participating in the meeting who is not physically present.~~

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation of this chapter.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a designated period of time during a *each* meeting to allow members an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the board of directors may limit the comments of members to the topics listed on the meeting agenda.

§ 55.1-1832. Use of technology.

A. ~~Unless expressly prohibited by the declaration expressly provides otherwise,~~ (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any declaration or bylaw provision or any provision of this chapter may be accomplished using electronic means.

B. The association, the lot owners, and those entitled to occupy a lot may perform any obligation or exercise any right under any declaration or bylaw provision or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any declaration or bylaw provision or any provision of this chapter.

D. Voting on, consent to, and approval of any matter under any declaration or bylaw provision or any provision of this chapter may be accomplished by electronic means, provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. *If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.*

E. Subject to other provisions of law, no action required or permitted by any declaration or bylaw provision or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the ~~executive~~ board of directors.

F. *Any meeting of the association, the board of directors, or any committee may be held entirely or partially by electronic means, provided that the board of directors has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The board of directors shall determine whether any such meeting may be held entirely or partially by electronic means.*

G. If any person does not have the capability or desire to conduct business using electronic means, the association shall make *available a reasonable accommodation alternative*, at its expense, for such person to conduct business with the association without use of such electronic means.

~~G. H.~~ This section shall not apply to any notice related to an enforcement action by the association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

§ 55.1-1900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Capital components" means those items, whether or not a part of the common elements, for which the unit owners' association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Condominium" means real property, and any incidents to or interests in such real property, lawfully subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" means, collectively, the declaration, bylaws, and plats and plans recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification recorded with a condominium instrument shall be deemed an integral part of that condominium instrument. Once recorded, any amendment or certification of any condominium instrument shall be deemed an integral part of the affected condominium instrument if such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit.

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium.

"Conversion condominium" means a condominium containing structures that before the recording of the declaration were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a portion of the common elements within which additional units or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium that a declarant may convert into one or more units or common elements, including limited common elements, in accordance with the provisions of the declaration and this chapter.

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of its interest in a condominium unit not previously disposed of, including an institutional lender that may not have succeeded to or accepted any special declarant rights pursuant to § 55.1-1947; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), "declarant" does not include an institutional lender that acquires title by foreclosure or deed in lieu of foreclosure unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55.1-1947. "Declarant" does not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but does not include the transfer or release of security for a debt.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. *A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods.* Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act has the meaning set forth in that section.

"Executive board" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the unit owners' association.

"Expandable condominium" means a condominium to which additional land may be added in accordance with the provisions of the declaration and this chapter.

"Future common expenses" means common expenses for which assessments are not yet due and payable.

"Identifying number" means one or more letters or numbers that identify only one unit in the condominium.

"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be identified with reference to established datum.

"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold interests due to expire naturally at the same time. A condominium including leased land, or an interest in such land, within which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

"Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

"Nonbinding reservation agreement" means an agreement between the declarant and a prospective purchaser that is in no way binding on the prospective purchaser and that may be canceled without penalty at the sole discretion of the prospective purchaser.

"Offer" means any inducement, solicitation, or attempt to encourage any person to acquire any legal or equitable interest in a condominium unit, except as security for a debt. Nothing that expressly states that the condominium has not been registered with the Common Interest Community Board and that no unit in the condominium can or will be offered for sale until such time as the condominium has been so registered shall be considered an "offer."

"Officer" means any member of the executive board or official of the unit owners' association.

"Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value may be considered substantially identical within the meaning of §§ 55.1-1917 and 55.1-1918.

"Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

"Purchaser" means any person, other than a declarant, that acquires by means of a voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options, of less than 20 years or (ii) as security for a debt.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the plat and plans and rounded to the nearest whole number. Certain spaces within the units, including attic, basement, or garage space, may be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium and so long as that basis is described in the declaration.

"Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group of persons that becomes a declarant, to (i) expand an expandable condominium; (ii) contract a contractable condominium; (iii) convert convertible land or convertible space or both; (iv) appoint or remove any officers of the unit owners' association or the executive board pursuant to subsection A of § 55.1-1943; (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer, or the executive board; or (vi) maintain sales offices, management offices, model units, and signs pursuant to § 55.1-1929.

"Unit" means a portion of the condominium designed and intended for individual ownership and use. For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection D of § 55.1-1925.

"Unit owner" means one or more persons that own a condominium unit or, in the case of a leasehold condominium, whose leasehold interest in the condominium extends for the entire balance of the unexpired term. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person holding an interest in a condominium unit solely as security for a debt.

§ 55.1-1935. Use of technology.

A. Unless *expressly prohibited* by the condominium instruments ~~expressly provide otherwise~~, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of this chapter may be accomplished using electronic means.

B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any obligation or exercise any right under any condominium instrument or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any condominium instrument or any provision of this chapter.

D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of this chapter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. *If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.*

E. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

F. *Any meeting of the unit owners' association, the executive board, or any committee may be held entirely or partially by electronic means, provided that the executive board has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The executive board shall determine whether any such meeting may be held entirely or partially by electronic means.*

G. If any person does not have the capability or desire to conduct business using electronic means, the unit owners' association shall make *available* a reasonable ~~accommodation~~ *alternative*, at its expense, for such person to conduct business with the unit owners' association without use of such electronic means.

~~G. H.~~ This section shall not apply to any notice related to an enforcement action by the unit owners' association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

§ 55.1-1949. Meetings of unit owners' association and executive board.

A. 1. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners' association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units, unless the unit owner has provided to such officer or his agent an address other than the address of the unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the person of the unit owner.

3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may, ~~to the extent that the condominium instruments or the condominium's rules and regulations expressly provide,~~ send notice by electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his agent certifies in writing that notice was sent ~~and, if such electronic mail was returned as undeliverable, notice was subsequently sent by United States mail.~~

B. 1. Except as otherwise provided in the condominium instruments, the provisions of this subsection shall apply to executive board meetings at which business of the unit owners' association is transacted or discussed. All meetings of the unit owners' association or the executive board, including any subcommittee or other committee of such association or board, shall be open to all unit owners of record. The executive board shall not use work sessions or other informal gatherings of the executive board to circumvent the open meeting requirements of this section. ~~The unit owners' association may, to the extent that the condominium instruments or adopted rules expressly provide, send notice by electronic means if consented to by the officer to whom the notice is given.~~ Minutes of the meetings of the executive board shall be recorded and shall be available as provided in § 55.1-1945.

2. Notice of the time, date, and place of each meeting of the executive board or of any subcommittee or other committee of the executive board, and of each meeting of a subcommittee or other committee of the unit owners' association, shall be published where it is reasonably calculated to be available to a majority of the unit owners.

A unit owner may make a request to be notified on a continual basis of any such meetings, which request shall be made at least once a year in writing and include the unit owners' name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any unit owner requesting notice (i) by first-class mail or email in the case of meetings of the executive board or (ii) by email in the case of meetings of any subcommittee or other committee of the executive board or of a subcommittee or other committee of the unit owners' association.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the (i) executive board or any subcommittee or other committee of such board or (ii) subcommittee or other committee of the unit owners' association conducting the meeting.

3. Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of the executive board or subcommittee or other committee of the executive board for a meeting shall be made available for inspection by the membership of the unit owners' association at the same time such documents are furnished to the members of the executive board.

4. Any unit owner may record any portion of a meeting required to be open. The executive board or subcommittee or other committee of the executive board conducting the meeting may adopt rules (i) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (ii) requiring the unit owner recording the meeting to provide notice that the meeting is being recorded.

~~If a meeting of the executive board is conducted by telephone conference or video conference or similar electronic means, at least two board members shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any board member participating in the meeting who is not physically present.~~

5. Voting by secret or written ballot in an open meeting is a violation of this chapter except for the election of officers.

C. The executive board or any subcommittee or other committee of the executive board may convene in executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts, probable or pending litigation, and matters involving violations of the condominium instruments or rules and regulations promulgated pursuant to such condominium instruments for which a unit owner, his family members, tenants, guests, or other invitees are responsible; or discuss and consider the personal liability of unit owners to the unit owners' association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The executive board shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the executive board or subcommittee or other committee of the executive board, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other

action, which shall have its substance reasonably identified in the open meeting. The requirements of this section do not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the executive board, the executive board shall provide a designated period of time during a *each* meeting to allow unit owners an opportunity to comment on any matter relating to the unit owners' association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the executive board may limit the comments of unit owners to the topics listed on the meeting agenda.

§ 55.1-1952. Meetings of unit owners' association and executive board; quorums.

A. Unless the condominium instruments otherwise provide or as specified in subsection G H of § 55.1-1953, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than one-third of the votes are present at the beginning of such meeting. The bylaws may provide for a larger percentage, or for a smaller percentage not less than 10 percent.

B. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the executive board if persons entitled to cast one-half of the votes in that body are present at the beginning of such meeting.

C. On petition of the unit owners' association or any unit owner entitled to vote, the circuit court of the county or city in which the condominium or the greater part of such condominium is located may order an annual meeting of the unit owners' association be held for the purpose of the election of members of the executive board, provided that:

1. No annual meeting as required by § 55.1-1949 has been held due to the failure to obtain a quorum of unit owners as specified in the condominium instruments; and

2. The unit owners' association has made good faith attempts to convene a duly called annual meeting of the unit owners' association in three successive years, which attempts have proven unsuccessful due to the failure to obtain a quorum.

The court may set the quorum for the meeting and enter other orders necessary to convene the meeting.

A unit owner filing a petition under this subsection shall provide a copy of the petition to the executive board at least 10 business days prior to filing.

§ 55.1-1953. Meetings of unit owners' association and executive board; voting by unit owners; proxies.

A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55.1-1920 a number of votes in the unit owners' association proportionate to the undivided interest in the common elements appertaining to each such unit.

B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. If more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. For purposes of this subsection, "person" is deemed to include any natural person having authority to execute deeds on behalf of any person, excluding natural persons, that is, either alone or in conjunction with another person, a unit owner.

D. The votes appertaining to any unit may be cast pursuant to a proxy duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such unit owners. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium instruments, any proxy is void if it is not dated, or if it purports to be revocable without the required notice. Any proxy shall be void if not signed by or on behalf of the unit owner. If the unit owner is more than one person, any such unit owner may object to the proxy at or prior to the meeting, whereupon the proxy shall be deemed revoked. Any proxy shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. ~~To the extent the condominium instruments or the condominium's rules and regulations expressly so provide, a vote or proxy may be submitted by electronic means, provided that any such electronic means shall either set forth or be submitted with information from which it can be determined that the electronic means was authorized by the unit owner or the unit owner's proxy.~~

E. *Unless expressly prohibited by the condominium instruments, a unit owner may vote at a meeting of the unit owners' association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the executive board has adopted guidelines for such voting by electronic means. Unit owners voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.*

F. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

F. G. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same proportions as the votes cast by unit owners other than the unit owners' association.

G. H. Except to the extent that the condominium instruments provide otherwise, the voting interest allocated to the unit or member that has been suspended by the unit owners' association or the executive board pursuant to the condominium instruments shall not be counted in the total number of voting interests used to determine the quorum for any meeting or vote under the condominium instruments.

CHAPTER 495

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 13.4, consisting of sections numbered 58.1-439.29 and 58.1-439.30, relating to Virginia housing opportunity tax credit.

[S 1197]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 13.4, consisting of sections numbered 58.1-439.29 and 58.1-439.30, as follows:

Article 13.4.

Virginia Housing Opportunity Tax Credit Act.

§ 58.1-439.29. Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Housing Development Authority, or its successor agency.

"Credit period" means the credit period as defined in § 42(f)(1) of the Internal Revenue Code, as amended.

"Eligibility certificate" means a certificate issued by the Authority to the owner of a qualified project certifying that such project qualifies for the Virginia housing opportunity tax credit authorized by this article, and specifying the amount of housing opportunity tax credits that the owner of such qualified project may claim in each year of the credit period. The Authority shall issue an eligibility certificate to a qualified project upon the Authority's approval of a final cost certification that complies with the Authority's requirements.

"Federal low-income housing tax credit" means the federal tax credit as provided in § 42 of the Internal Revenue Code, as amended.

"Housing opportunity tax credit" or "tax credit" means the tax credit created by this article.

"Qualified project" means a qualified low-income building, as defined in § 42(c) of the Internal Revenue Code, as amended, that is located in Virginia, is placed in service on or after January 1, 2021, and is issued an eligibility certificate.

"Qualified taxpayer" means a taxpayer owning an interest, direct or indirect, through one or more pass-through entities, in a qualified project at any time prior to filing a tax return claiming a housing opportunity tax credit.

"Taxpayer" means an individual, corporation, S corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, or nonprofit organization.

"Virginia tax liability" means the income taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of this chapter; Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1- 2500 et seq.) of Chapter 25, and Article 2 (§ 58.1-2620 et seq.) of Chapter 26. An insurance company claiming a housing opportunity tax credit against the taxes, licenses, and other fees, fines, and penalties imposed by Article 1 of Chapter 25, including any retaliatory tax imposed on insurance companies by the Code of Virginia, shall not be required to pay any additional tax as a result of claiming the housing opportunity tax credit. The housing opportunity tax credit may fully offset any retaliatory tax imposed by the Code of Virginia.

§ 58.1-439.30. Tax credit.

A. A housing opportunity tax credit shall be allowed for each qualified project for each year of the credit period, in an amount equal to the amount of federal low-income housing tax credit allocated or allowed by the Authority to such qualified project, except that there shall be no reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2).

B. For taxable years beginning on and after January 1, 2021, but before January 1, 2026, a qualified taxpayer may claim a housing opportunity tax credit against its Virginia tax liability prior to reduction by any other credits allowed the taxpayer. The housing opportunity tax credit may be allocated by pass-through entities to some or all of its partners, members, or shareholders in any manner agreed to by such persons, regardless of whether or not any such person is allocated or allowed any portion of any federal low-income housing tax credit with respect to the qualified project, whether or not the allocation of the housing opportunity tax credit under the terms of the agreement has substantial economic effect within the meaning of § 704(b) of the Internal Revenue Code, and whether or not any such person is deemed a partner for federal income tax purposes as long as the partner or member would be considered a partner or member as defined under applicable state law, and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return, including any amendments thereto, with respect to the year of the housing opportunity tax credit. Such pass-through entities or qualified taxpayer may assign all or any part of its interest, including its interest in the tax credits,

to one or more pass-through entities or qualified taxpayers, and the qualified taxpayer shall be able to claim the housing opportunity tax credit so long as its interest is acquired prior to the filing of its tax return claiming the housing opportunity tax credit.

C. The housing opportunity tax credit authorized by this article shall not be refundable. Any housing opportunity tax credit not used in a taxable year may be carried forward for the succeeding five years.

D. A qualified taxpayer claiming a housing opportunity tax credit shall submit a copy of the eligibility certificate at the time of filing its tax return with the Department. If the owner of the qualified project has applied to the Authority for the eligibility certificate but the Authority has not yet issued the eligibility certificate at the time the qualified taxpayer files its original tax return claiming the housing opportunity tax credit, the taxpayer may claim the housing opportunity tax credit based upon the amount of tax credit set forth in the carryover allocation or 42(m) letter, as applicable, issued to the qualified project and shall amend its tax return to include the eligibility certificate upon its receipt. If the amount of tax credit in the eligibility certificate is different than the amount of tax credit previously claimed, the taxpayer shall adjust the tax credit amount claimed on the amended tax return.

E. If under § 42 of the Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a qualified project is required to be recaptured or is otherwise disallowed during the credit period, the taxpayer claiming housing opportunity tax credits with respect to such project shall also be required to recapture a portion of any tax credits authorized by this article. The percentage of housing opportunity tax credits subject to recapture shall be equal to the percentage of federal low-income housing credits subject to recapture or otherwise disallowed during such period. Any tax credits recaptured or disallowed shall increase the income tax liability of the qualified taxpayer who claimed the tax credits in a like amount and shall be included on the tax return of the qualified taxpayer submitted for the taxable year in which the recapture or disallowance event is identified.

F. The Authority shall administer the housing opportunity tax credit program and shall be authorized to promulgate the regulations and guidelines necessary to implement and administer the provisions of this article. Such regulations and guidelines may include the imposition of application, allocation, certification, and monitoring fees designed to recoup the costs of the Authority in administering the housing opportunity tax credit program. The Authority may also promulgate regulations and guidelines in consultation with the Department to allow a qualified project to elect in its application to the Authority to sell all or any portion of its credits awarded pursuant to this article to one or more unrelated taxpayers. Regulations and guidelines regarding the sale of credits, if promulgated, shall not take effect prior to January 1, 2023, and shall not apply to credits awarded prior to January 1, 2023.

G. The total amount of tax credits authorized under this article shall not exceed \$15 million per calendar year.

CHAPTER 496

An Act to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-986 and by adding a section numbered 22.1-79.9, relating to promotion of broadband service for educational purposes.

[S 1225]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-986 and by adding a section numbered 22.1-79.9 as follows:

§ 15.2-986. Broadband services; education.

Any locality or other public body of the Commonwealth may appropriate public funds, personal property, real estate, or donations to any local school board, school division, public school, charitable institution or association, or private provider of broadband services for the purposes of promoting, facilitating, and encouraging the development, expansion, provision, and operation of broadband services for educational purposes, as described in § 22.1-79.9, and may promote, encourage, support, and take any action that a local school board is authorized to take under that section.

§ 22.1-79.9. Promotion of broadband services for educational purposes.

A. As used in this section:

"Affordability program" means a program or package of broadband services which may include educational programming or access to educational content, offered by a private broadband service provider to school-age children and their families at a lower price, or with specialized services, compared to the broadband services offered by the private broadband service provider to the general public.

"Child nutrition program" means any school meal program funded and regulated by the U.S. Department of Agriculture, including the National School Lunch Program, School Breakfast Program, National School Lunch Program After-school Snack Service, Child and Adult Care Food Program, Summer Food Service Program, and Special Milk Program.

"Sponsored program" means a financial program to provide lower-cost or free broadband services, or a specialized offering of broadband services, for educational purposes to the home of a student when the student would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students.

B. Any school board may:

- 1. Promote and publicize the availability of private broadband services for educational purposes to parents and students, including the availability of any affordability programs or sponsored programs;*
- 2. Provide promotional or informational materials for private broadband services to parents, students, and potential sponsors including brochures, flyers, and cable, internet, broadband, or other public service announcements, in any media, regarding locally available private broadband service offerings, including the availability of any affordability programs or sponsored programs, to encourage student use of broadband services for educational purposes;*
- 3. Accept compensation, or in-kind donations of materials and services, from any private broadband service provider to reimburse the school board or other public body for its actual costs incurred in providing the materials described in subdivision 2;*
- 4. Enter into agreements with local businesses, charitable groups, or private broadband service providers to promote sponsored programs to provide reduced cost or free broadband services for educational purposes to households of qualifying students. Under such agreements, the school board may award grants or subsidies to private broadband service providers to reduce or eliminate the cost of sponsored program broadband services provided to qualifying student households; and*
- 5. Utilize any federal, state, or local funds that are not otherwise restricted to pay grants or subsidies to support sponsored programs, including any federal funds that may be available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-36, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021, or similar legislation.*

CHAPTER 497

An Act to amend the Code of Virginia by adding a section numbered 62.1-44.15:55.1, relating to solar projects; erosion and sediment control.

[S 1258]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 62.1-44.15:55.1 as follows:

§ 62.1-44.15:55.1. Department review of erosion and sediment control plans for solar projects.

A. Any locality that does not operate a regulated MS4 and for which the Department did not administer a VSMP as of July 1, 2020, shall notify the Department if it decides to have the Department provide the locality with (i) review of the erosion and sediment control plan required by subsection A of § 62.1-44.15:55 and (ii) a recommendation on the plan's compliance with the requirements of this article and the Board's regulations, for any solar project and its associated infrastructure with a rated electrical generation capacity exceeding five megawatts.

B. The VESCP authority for a locality that notifies the Department pursuant to subsection A shall, within five days of receiving an erosion and sediment control plan, forward such plan to the Department for review. If a plan forwarded to the Department is incomplete, the Department shall return the plan to the VESCP authority immediately and the application process shall start over. If a plan forwarded to the Department is complete, the Department shall review it for compliance with the requirements of this article and the Board's regulations and provide a recommendation to the VESCP authority. The VESCP authority shall then (i) grant written approval of the plan or (ii) provide written notice of disapproval of the plan in accordance with subsection B of § 62.1-44.15:55.

C. The VESCP authority for a locality that notifies the Department pursuant to subsection A shall, within five days of receiving any resubmittal of a previously disapproved erosion and sediment control plan, forward such resubmitted plan to the Department. The Department shall review a resubmittal of a previously disapproved erosion and sediment control plan for compliance with the requirements of this article and the Board's regulations and provide a recommendation to the VESCP authority. The VESCP authority shall then (i) grant written approval of the plan or (ii) provide written notice of disapproval of the plan in accordance with subsection B of § 62.1-44.15:55.

D. The Department shall adopt a fee schedule and charge fees for conducting reviews pursuant to this section. The fees shall be charged to applicants and not to any VESCP authority. Such fees shall be remitted to the State Treasurer for deposit in the Fund established by subsection E. The amount of the fees shall be set at an amount representing no less than 60 percent, but not to exceed 62 percent, of the administrative and other costs to the Department of conducting such reviews.

E. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Erosion and Sediment Control Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected by the Department pursuant to this section and all other funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the Department's responsibilities pursuant to this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

An accounting of moneys received by and distributed from the Fund shall be kept by the State Comptroller.

CHAPTER 498

An Act to amend and reenact §§ 10.1-207, 10.1-1105, 29.1-579, and 33.2-353 of the Code of Virginia, relating to government planning; wildlife corridors.

[S 1274]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 10.1-207, 10.1-1105, 29.1-579, and 33.2-353 of the Code of Virginia are amended and reenacted as follows:****§ 10.1-207. Cooperation of other departments, etc.**

All departments, commissions, boards, agencies, officers, and institutions of the Commonwealth, or any political subdivision thereof and park authorities shall cooperate with the Department in the preparation, revision and implementation of a comprehensive plan for the development of outdoor recreational facilities, and such local and detailed plans as may be adopted pursuant thereto. *The comprehensive plan shall consider and incorporate, where applicable, wildlife corridors and any recommendation of the Wildlife Corridor Action Plan developed pursuant to § 29.1-579.*

§ 10.1-1105. Additional powers and duties of State Forester.

A. The State Forester shall supervise and direct all forest interests and all matters pertaining to forestry within the Commonwealth. He shall have charge of all forest wardens and shall appoint, direct and supervise persons he employs to perform labor in the forest reservations or the nurseries provided for herein, and he is authorized to employ temporary forest wardens to extinguish forest fires in the Commonwealth. He shall take such action as is authorized by law to prevent and extinguish forest fires; develop a program to promote the use of prescribed burning for community protection and ecological, silvicultural, and wildlife management; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; develop silvicultural best management practices, including reforestation, prevention of erosion and sedimentation, and maintenance of buffers for water quality, pursuant to Article 12 (§ 10.1-1181.1 et seq.); collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; and, as far as his duties as State Forester will permit, conduct an educational course on forestry at the University of Virginia for credit toward a degree, at farmers' institutes and at similar meetings within the Commonwealth. He shall provide for the protection of state waters from pollution by sediment deposition resulting from silvicultural activities as provided in Article 12 (§ 10.1-1181.1 et seq.). In addition, the State Forester shall cooperate with counties, municipalities, corporations and individuals in preparing plans and providing technical assistance, based on generally accepted scientific forestry principles, for the protection, management and replacement of trees, wood lots and timber tracts and the establishment and preservation of urban forests, under an agreement that the parties obtaining such assistance shall pay the field and traveling expenses of the person employed in preparing such plans. The State Forester also shall assist landowners and law-enforcement agencies with regard to reported cases of timber theft. *The State Forester shall develop and implement forest conservation and management strategies to improve wildlife habitat and corridors, incorporating applicable elements of any wildlife action plan developed by the Department of Wildlife Resources and the Wildlife Corridor Action Plan developed pursuant to § 29.1-579.*

B. Records of the Department composed of confidential commercial or financial information supplied by individuals or business entities to the Department in the course of an investigation of timber theft are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 29.1-579. Wildlife Corridor Action Plan; adoption.

A. The Department, in collaboration with the Department of Transportation, *the Department of Forestry*, and the Department of Conservation and Recreation, shall create a Wildlife Corridor Action Plan.

B. The Plan shall:

1. Identify wildlife corridors, existing or planned barriers to movement along such corridors, and areas with a high risk of wildlife-vehicle collisions. The Plan shall list habitat that is identified as of high quality for priority species and ecosystem health; migration routes of native, game, and migratory species using the best available science and Department surveys, including landscape-scale data from the ConserveVirginia database or a similar land conservation strategy database maintained by the Department of Conservation and Recreation; lands containing a high prevalence of existing human barriers, including roads, dams, power lines, and pipelines; areas identified as of high risk of wildlife-vehicle collisions; habitat identified by the Department as being occupied by rare or at-risk species; and habitat identified as Critical Habitat under the federal Endangered Species Act of 1973, P.L. 93-205, as amended.

2. Prioritize and recommend wildlife crossing projects intended to promote driver safety and wildlife connectivity. The Plan shall describe each such project and include descriptions of wildlife crossing infrastructure or other mitigation techniques recommended to meet Plan goals.

3. Contain maps utilizing the ConserveVirginia public portal, or a similar land conservation strategy public portal maintained by the Department of Conservation and Recreation, and other relevant state databases that detail high-priority areas for wildlife corridor infrastructure and any other information necessary to meet the goals of the Plan.

C. The Secretary of Natural Resources and the Secretary of Transportation shall jointly submit the Plan to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture,

Conservation and Natural Resources no later than September 1, 2022, and shall jointly submit an updated version of the Plan every four years thereafter.

D. The Department shall assist state agencies and political subdivisions, and by request any federal agency, in considering and incorporating, where applicable, wildlife corridors and the recommendations of the Plan when developing any governmental strategic plan, map, or action. The Department shall publish the plan and any subsequent updates on its website.

§ 33.2-353. Commonwealth Transportation Board to develop and update Statewide Transportation Plan.

A. The Board shall, with the assistance of the Office of Intermodal Planning and Investment, conduct a comprehensive review of statewide transportation needs in a Statewide Transportation Plan setting forth assessment of capacity needs for all corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1. The assessment shall consider all modes of transportation. Such corridors shall be planned to include multimodal transportation improvements, and the plan shall consider corridor location in planning for any major transportation infrastructure, including environmental impacts and the comprehensive land use plan of the locality in which the corridor is planned. In the designation of such corridors, the Board shall not be constrained by local, district, regional, or modal plans.

The Statewide Transportation Plan shall be updated as needed but no less than once every four years. The plan shall promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety.

B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that cover at least a 20-year planning horizon, in accordance with federal transportation planning requirements. The plan shall include quantifiable measures and achievable goals relating to, but not limited to, congestion reduction and safety, transit and high-occupancy vehicle facility use, job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality, movement of freight by rail, and per capita vehicle miles traveled. The Board shall consider such goals in evaluating and selecting transportation improvement projects for inclusion in the Six-Year Improvement Program pursuant to § 33.2-214.

C. The plan shall incorporate the measures and goals of the approved long-range plans developed by the applicable regional organizations. Each such plan shall be summarized in a public document and made available to the general public upon presentation to the Governor and General Assembly.

D. It is the intent of the General Assembly that this plan assess transportation needs and assign priorities to projects on a statewide basis, avoiding the production of a plan that is an aggregation of local, district, regional, or modal plans.

E. The plan shall consider and incorporate, where applicable, wildlife corridors and any recommendation of the Wildlife Corridor Action Plan developed pursuant to § 29.1-579.

2. That in the development of the Virginia Wildlife Action Plan, or any successor publication, the Department of Wildlife Resources shall consider and incorporate, where applicable, wildlife corridors and any recommendation of the Wildlife Corridor Action Plan developed pursuant to § 29.1-579 of the Code of Virginia, as amended by this act.

CHAPTER 499

An Act to amend and reenact §§ 18.2-340.19 and 18.2-340.28 of the Code of Virginia, relating to the Charitable Gaming Board; regulations; electronic pull tabs.

[S 1287]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.19 and 18.2-340.28 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations that:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. In the case of the conduct of Texas Hold'em poker tournaments, the regulations shall provide that the predetermined percentage of gross receipts may be used for expenses related to compensating operators contracted by the qualified organization to administer such events. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Board finds appropriate to and consistent with the purpose of charitable gaming.

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation or conduct of charitable gaming may be required in order for the Board to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the Board or Department in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. *Such regulations shall not prohibit the use of multiple video monitors or touchscreens on an electronic pull tab device.*

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo; (ii) permit members who participate in the management, operation or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of 18 years may play bingo, provided such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. Board-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo, network bingo, pull tabs, or seal cards as a part of such bingo game and, if a permit is required pursuant to § 18.2-340.25, such games shall be played only at such times designated in the permit for regular bingo games.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

D. The use of electronic pull tab devices utilizing multiple video monitors or touchscreens shall be limited to one player at a time.

CHAPTER 500

An Act to amend the Code of Virginia by adding in Chapter 24 of Title 15.2 an article numbered 3, consisting of sections numbered 15.2-2413.1 through 15.2-2413.11, relating to tourism improvement districts.

[S 1298]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 15.2 an article numbered 3, consisting of sections numbered 15.2-2413.1 through 15.2-2413.11, as follows:

Article 3.

Tourism Improvement Districts.

§ 15.2-2413.1. Definitions.

As used in this article, unless the context requires a different meaning:

"Activities" means any programs or services provided for the purpose of conferring specific benefits upon the businesses that are located in the tourism improvement district and to which a fee is charged.

"Administering nonprofit" means a private nonprofit entity that is under contract with a locality to administer or implement activities specified in the tourism improvement district plan. An "administering nonprofit" may be an existing nonprofit entity or a newly formed nonprofit entity. An "administering nonprofit" shall be a private entity and shall not be considered a public entity for any purpose, nor may its board members or staff be considered public officials for any purpose.

"Benefited business" means a business located within a tourism improvement district that is determined to be benefited, directly or indirectly, by tourism improvement district activities provided by such tourism improvement district. "Benefited business" includes one or more types of businesses, one or more segments of businesses, or businesses within one or more industries, as set forth in a tourism improvement district plan.

"Benefit zone" means an apportioned area designated within a tourism improvement district in which businesses pay a fee based upon the degree of benefit derived from activities to be provided.

"Business" means a business of any kind located in a tourism improvement district.

"Business fee" means any fee charged to a benefited business pursuant to this article.

"Business owner" means any person recognized by a locality as the owner of a business subject to a business fee. A business may appoint an authorized agent to act as its representative for the purposes of this article. Such agent shall be considered the business owner for the purposes of any signature required under this article or for any other purpose authorized by the business owner. A locality shall have no obligation to obtain other information as to the ownership of businesses, and its determination of ownership shall be final and conclusive for the purposes of this article.

"Capital improvement" means an improvement to tangible personal property with an estimated useful life of five years or more.

"Fee" means a fee charged by a locality in accordance with a tourism improvement district plan.

"Lead locality" means the locality in which the tourism improvement district plan is filed for the establishment of a tourism improvement district where such district includes more than one locality.

"Locality" means any county, city, or town in the Commonwealth.

"Majority share of benefited businesses" means one or more benefited businesses within a tourism improvement district or proposed tourism improvement district that cumulatively comprise a majority, based on the weighting methodology set forth in the tourism improvement district plan.

"Tourism business" means any type of business in the tourism sector. "Tourism business" includes a tourist home, hotel, motel, trailer court, recreational vehicle park, privately owned or privately managed campground, lodging intended for short-term occupancy, restaurant, tourism attraction, and tourism activity provider.

"Tourism improvement district" means a district established by a locality under the provisions of this article.

"Tourism improvement district plan" means a proposal for a tourism improvement district under the provisions of this article.

§ 15.2-2413.2. Filing of tourism improvement district plan.

Any benefited business may file a tourism improvement district plan with the clerk of a locality. The tourism improvement district plan shall contain the following:

1. A map of the proposed tourism improvement district;
2. A description of the boundaries of the tourism improvement district proposed for establishment or extension in a manner sufficient to identify the businesses included;
3. The activities proposed and the projected cost thereof;
4. A description of how businesses included within the tourism improvement district will benefit;
5. The total estimated annual amount proposed to be expended for all costs relating to tourism improvement district operation and implementation of activities and the manner in which benefited businesses will be charged a fee;
6. The proposed source or sources of financing;
7. The proposed time for implementation and completion of the tourism improvement district plan;
8. The weighting methodology for calculating a majority share of benefited businesses for the tourism improvement district;
9. Any proposals for rules and regulations to be applicable to the tourism improvement district;
10. Identification of an entity, charged with promoting tourism in that locality or region, as the administering nonprofit; and
11. Any other item or matter that the locality requires to be included in the tourism improvement district plan.

§ 15.2-2413.3. Petition for a proposed tourism improvement district.

Upon the submission to the clerk of a locality of a written petition, signed by the business owners in the proposed tourism improvement district who will pay more than 50 percent of the fees proposed to be charged, a locality may initiate proceedings to form a tourism improvement district. The amount of the fees attributable to a business owned by the same business owner who is in excess of 40 percent of the amount of all fees proposed to be charged shall not be included in determining whether the petition is signed by business owners who will pay more than 50 percent of the total amount of fees proposed to be charged.

Any petition shall include a summary of the tourism improvement district plan. That summary shall include a map showing the boundaries of the tourism improvement district, information specifying where the complete tourism improvement district plan can be obtained, and information specifying that the complete tourism improvement district plan shall be furnished by the signatories of the petition upon request.

§ 15.2-2413.4. Hearing on a proposed tourism improvement district.

A. After the filing of the tourism improvement district plan pursuant to § 15.2-2413.2 and the submission of a petition pursuant to § 15.2-2413.3, a locality may adopt a resolution containing:

1. A copy of the tourism improvement district plan;
2. A statement that the tourism improvement district plan is on file in the clerk's office for public inspection;
3. The time and place the locality will meet and hold a public hearing to hear all persons interested in the subject of the tourism improvement district plan;
4. A statement that any business owner who is to be charged a fee under the tourism improvement district plan who objects to the plan must file an objection with the clerk within 30 days of the conclusion of the hearing on forms made available by the clerk; and
5. The place, if any, other than the clerk's office, where the tourism improvement district plan may be inspected in advance of the hearing if the locality determines that, in the public interest, any additional place of inspection is necessary or desirable.

B. Any objection shall be made orally or in writing by any interested person. Every written objection shall be filed with the clerk at or before the time fixed for the public hearing. The locality may waive any irregularity in the form or content of any written objection. A written objection may be withdrawn in writing at any time before the conclusion of the public hearing. Each written objection shall contain a description of the business in which the person filing the objection is interested, sufficient to identify the business, and, if a person filing is not shown on the official records of the locality as the owner of the business, the objection shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written objection that does not comply with this section shall not be counted in determining a majority objection. If written objections are received from the owners or authorized representatives of businesses in the proposed tourism improvement district that will pay 50 percent or more of the fees proposed to be charged and objections are not withdrawn so as to reduce the objections to less than 50 percent, no further proceedings to charge the proposed fee against such businesses, as contained in the tourism improvement district plan, shall be taken for a period of one year from the date of the finding by the locality of such majority objection.

C. The locality shall cause a copy of the resolution adopted under subsection A, or a summary thereof, to be published at least once in a newspaper in general circulation in the locality, the first publication to be not less than 10 days and not more than 30 days before the date set for the hearing. Not less than 10 days and not more than 30 days before the date set for the hearing, the locality shall mail a copy of the resolution or a summary thereof to each owner of a business that is proposed to be charged a fee within the proposed tourism improvement district at the address shown on the localities most recent list of businesses. If the locality publishes or mails a summary of the resolution, such summary shall include the address of the clerk, a statement that copies of the resolution shall be made available free of charge to the public, the activities proposed, the total estimated annual amount proposed to be expended for activities, and a statement indicating the rights of owners to object pursuant to subsection B.

D. If a tourism improvement district includes multiple localities or portions thereof, the notice and hearing process set forth in this section shall be conducted by the lead locality. A lead locality may not form a tourism improvement district within the territorial jurisdiction of another locality without that locality granting by majority vote of the governing body consent to the lead locality.

§ 15.2-2413.5. Establishment or extension of the tourism improvement district.

A. Not earlier than 30 days after the conclusion of the last day of the public hearing held pursuant to § 15.2-2413.4, the governing body of the locality that conducted the hearing process shall determine:

1. Whether the notice of hearing for all hearings required to be held was published and mailed as required by law and is otherwise sufficient;
2. Whether all the businesses charged a fee within the boundaries of the proposed tourism improvement district or extension will benefit from the establishment or extension of the tourism improvement district; and
3. Whether the establishment or extension of the tourism improvement district is in the public interest.

B. If the locality determines the question of subdivision A 3 in the negative, or if the requisite number of owners file objections as provided in subsection B of § 15.2-2413.4, the locality shall not establish or extend the tourism improvement district, as applicable. Thereafter, no plan for the establishment or extension of a tourism improvement district to include any business proposed to be included in the disapproved tourism improvement district may be submitted until the expiration of at least one year from the date of disapproval.

C. If the locality shall find that notice was incorrectly or insufficiently given or that any business charged a fee within the boundaries of the proposed tourism improvement district or extension is not benefited thereby or that certain businesses benefited thereby had not been included therein, it shall call a further hearing at a definite place and time not less than 10 days and not more than 30 days after this determination. In the resolution calling such hearing, it shall specify the necessary changes, if any, to the boundaries of the proposed tourism improvement district or extension to be made in order that all of the benefited businesses are included in the general tourism improvement district, and only those businesses deemed benefited shall be subject to fees within such tourism improvement district. Notice of the further hearing shall be published and mailed in the manner provided in § 15.2-2413.4, except that, where boundaries are to be altered, this notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed tourism improvement district or extension. The further hearing shall be conducted in the same manner as the original hearing.

D. If a locality determines in the affirmative all questions in subsection A, it may by ordinance establish a tourism improvement district and any ordinances provided for in § 15.2-2413.6.

§ 15.2-2413.6. Local ordinances related to tourism improvement districts.

A. Any locality establishing a tourism improvement district may enact ordinances on any of the following subjects that provide for:

1. Activities and other additional services required for tourism promotion or events or for enhancement of the tourism improvement district;

2. Activities in the tourism improvement district that will fund the promotion of tourism activities in the tourism improvement district, including acquiring, constructing, installing, or maintaining capital improvements;

3. Operating and maintaining any tourism improvement district activity;

4. The charging of fees on all benefited businesses within a tourism improvement district, which shall be charged on the basis of the estimated benefit to such businesses within the tourism improvement district;

5. The classifying of businesses for purposes of determining the benefit to the businesses of the activities provided pursuant to this article;

6. A process for the collection of revenues from fees from benefited businesses; and

7. Forming a tourism improvement district in cooperation with, and that includes, other localities.

B. After establishing a tourism improvement district, a locality shall not decrease the level of publicly funded tourism promotion services in a tourism improvement district existing prior to the creation of such tourism improvement district.

§ 15.2-2413.7. Amendment to the tourism improvement district plan.

A. At any time after the establishment or extension of a tourism improvement district pursuant to the provisions of this article, the tourism improvement district plan upon which the establishment or extension was based, may, upon the recommendation of the administering nonprofit, be amended by the locality after compliance with the procedures set forth in this section.

B. Amendments to the tourism improvement district plan that provide for changes to the boundaries of the tourism improvement district or any change in the method of determining fees upon which the business fee is based may be adopted by ordinance, provided that the locality shall, after a public hearing, determine that it is in the public interest to authorize the changes to the boundaries of the tourism improvement district or the changes to the method of determining fees. The locality shall give notice of the hearing by publication of a notice on the locality's website or in at least one newspaper having general circulation in the tourism improvement district specifying the time when and the place where the hearing will be held and stating any changes to the boundaries of the tourism improvement district, or any change in the method of determining fees upon which the business fee is based. The notice shall be published at least 10 days prior to the date specified for the hearing.

C. Amendments to the tourism improvement district plan that provide for the tourism improvement district to incur indebtedness in order to provide for additional activities, that provide for an increase only in the amount to be expended annually for activities, or that provide for an increase in the total maximum amount to be expended for activities in the tourism improvement district may be adopted by ordinance. Prior to the adoption of an ordinance making one or more of the amendments as described in this subsection, the governing body shall, after a public hearing, determine that it is in the public interest to authorize the tourism improvement district to incur indebtedness to provide for additional activities, to increase the amount to be expended annually, or to increase the total maximum amount to be expended for activities in the tourism improvement district, or any applicable combination of the foregoing. Notice of the hearing shall be published and mailed in the manner provided in § 15.2-2413.4.

§ 15.2-2413.8. Establishment of separate benefit zones within tourism improvement district; categories of businesses.

The locality may establish one or more separate benefit zones within the tourism improvement district based upon the degree of benefit derived from the activities to be provided within the benefit zone and may impose a different fee within each benefit zone. The locality may also define categories of businesses based upon the degree of benefit that each will derive from the activities to be provided within the tourism improvement district and may impose a different fee or rate of fee on each category of business, or on each category of business within each zone.

§ 15.2-2413.9. Expenses of the tourism improvement district.

A. A locality may appropriate funds to pay expenses associated with the tourism improvement district. A locality may appropriate funds to the administering nonprofit.

B. A locality may issue bonds and other obligations subject to the provisions of the Public Finance Act of 1991 (§ 15.2-2600 et seq.) for the purpose of funding the costs of the tourism improvement district plan. Principal and interest payments on such bonds may be paid from the proceeds of any fees imposed under this article.

C. No funds raised pursuant to this article shall be used by the locality for any purposes other than funding the expenses of the tourism improvement district.

§ 15.2-2413.10. Administering nonprofit.

A. Any locality establishing a tourism improvement district may contract with an administering nonprofit for the purpose of carrying out such activities as may be prescribed in the tourism improvement district plan.

B. The administering nonprofit may make recommendations to the locality with respect to any matter involving or relating to the tourism improvement district.

§ 15.2-2413.11. Dissolution.

A. Any tourism improvement district established or extended pursuant to the provisions of this article, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the tourism improvement district, may be dissolved by majority vote of the local governing body. The tourism improvement district may be dissolved if the locality determines there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the tourism improvement district. In the event of dissolution of a tourism improvement district, any remaining revenues, after all outstanding debts are paid, derived from the charge of fees, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be appropriated for the purposes of the tourism improvement district plan or shall be refunded to the businesses that are charged a fee by applying the same method and basis that was used to determine the tourism improvement district fees that were charged.

B. During the operation of the tourism improvement district, there shall be a 30-day period each year in which owners of benefited businesses may request dissolution of the tourism improvement district. The first such period shall begin one year after the date of establishment of the tourism improvement district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the tourism improvement district. Each successive year of operation of the tourism improvement district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of businesses in the tourism improvement district who pay 50 percent or more of the fees charged, the locality may by majority vote of the local governing body dissolve the tourism improvement district.

C. The locality shall hold a hearing on any proposed dissolution.

2. That if any provision of this act or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any of the provisions of this act or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this act are hereby declared to be severable.

CHAPTER 501

An Act to amend and reenact § 62.1-44.15:81 of the Code of Virginia, relating to water quality standards; modification of permits and certifications.

[S 1311]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:81 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:81. Application and preparation of draft certification conditions.

A. Any applicant for a federal license or permit for a natural gas transmission pipeline greater than 36 inches inside diameter subject to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) shall submit a separate application, at the same time the Joint Permit Application is submitted, to the Department containing a description of all activities that will occur in upland areas, including activities in or related to (i) slopes with a grade greater than 15 percent; (ii) karst geology features, including sinkholes and underground springs; (iii) proximity to sensitive streams and wetlands identified by the Department of Conservation and Recreation or the Department of Wildlife Resources; (iv) seasonally high water tables; (v) water impoundment structures and reservoirs; and (vi) areas with highly erodible soils, low pH, and acid sulfate soils. Concurrently with the Joint Permit Application, the applicant shall also submit a detailed erosion and sediment control plan and stormwater management plan subject to Department review and approval.

B. After receipt of an application in accordance with subsection A, the Department shall issue a request for information about how the erosion and sediment control plan and stormwater management plan will address activities in or related to the upland areas identified in subsection A. The response to such request shall include the specific strategies and best management practices that will be utilized by the applicant to address challenges associated with each area type and an explanation of how such strategies and best management practices will ensure compliance with water quality standards.

C. At any time during the review of the application, but prior to issuing a certification pursuant to this article, the Department may issue an information request to the applicant for any relevant additional information necessary to determine (i) if any activities related to the applicant's project in upland areas are likely to result in a discharge to state

waters and (ii) how the applicant proposes to minimize water quality impacts to the maximum extent practicable to protect water quality. The information request shall provide a reasonable amount of time for the applicant to respond.

~~€~~ D. The Department shall review the information contained in the application, *the response to the information request in subsection B*, and any additional information obtained through any information requests issued pursuant to subsection B C to determine if any activities described in the application or in any additional information requests (i) are likely to result in a discharge to state waters with the potential to adversely impact water quality and (ii) will not be addressed by the Virginia Water Protection Permit issued for the activity pursuant to Article 2.2 (§ 62.1-44.15:20 et seq.). The Department of Wildlife Resources, the Department of Conservation and Recreation, the Department of Health, and the Department of Agriculture and Consumer Services shall consult with the Department during the review of the application and any additional information obtained through any information requests issued pursuant to subsection B or C. Following the conclusion of its review, the Department shall develop a draft certification or denial. *A draft certification, including (i) any additional conditions for activities in upland areas necessary to protect water quality and (ii) a condition that the applicant shall not commence land-disturbing activity prior to approval by the Department of the erosion and sediment control plan and stormwater management plan required pursuant to subsection E, shall be noticed for public comment and potential issuance by the Department or the Board pursuant to § 62.1-44.15:02 that contains any additional conditions for activities in upland areas necessary to protect water quality.* The Department shall make the information contained in the application and any additional information obtained through any information requests issued pursuant to subsection B or C available to the public.

~~Ɔ~~ E. Notwithstanding any applicable annual standards and specifications for erosion and sediment control or stormwater management pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) or 2.4 (§ 62.1-44.15:51 et seq.), the applicant shall not commence land-disturbing activity prior to *resolution of any unresolved issues identified in subsection B to the satisfaction of the Department and approval by the Department of an erosion and sediment control plan and stormwater management plan in accordance with applicable regulations.* The Department shall act on any plan submittal within 60 days after initial submittal of a completed plan to the Department. The Department may issue either approval or disapproval and shall provide written rationale for ~~any disapproval~~ *its decision.* The Department shall act on any plan that has been previously disapproved within 30 days after the plan has been revised and resubmitted for approval.

~~Ɔ~~ F. No action by either the Department or the Board on a certification pursuant to this article shall alter the siting determination made through Federal Energy Regulatory Commission or State Corporation Commission approval.

~~Ɔ~~ G. The Department shall assess an administrative charge to the applicant to cover the direct costs of services rendered associated with its responsibilities pursuant to this section.

H. Neither the Department nor the Board shall expressly waive certification of a natural gas transmission pipeline of greater than 36 inches inside diameter under § 401 of the federal Clean Water Act (33 U.S.C. § 1341). The Department or the Board shall act on any certification request within a reasonable period of time pursuant to federal law. Nothing in this section shall be construed to prohibit the Department or the Board from taking action to deny a certification in accordance with the provisions of § 401 of the federal Clean Water Act (33 U.S.C. § 1341).

CHAPTER 502

An Act to amend and reenact § 2.2-2238 of the Code of Virginia, relating to Virginia Economic Development Partnership Authority; Office of Education and Labor Market Alignment established; workforce and higher education alignment.

[S 1314]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2238 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;
2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;
3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;
4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;
5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;
6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;
7. Encourage the export of products and services from the Commonwealth to international markets;

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4; ~~and~~

9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce; *and*

10. *Establish an Office of Education and Labor Market Alignment (the Office) to coordinate data analysis on workforce and higher education alignment and translate data to partners. The Office shall provide a unified, consistent source of information or analysis for policy development and implementation related to talent development. The Office shall partner with the State Council of Higher Education for Virginia, institutions of higher education, the Virginia Department of Education, the Virginia Employment Commission, GO Virginia, and other relevant entities to offer resources and expertise related to education and labor market alignment.*

B. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

C. The Authority may encourage the import of products and services from international markets to the Commonwealth.

CHAPTER 503

An Act to study waste control and recycling; permits.

[S 1319]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *A. That the Department of Environmental Quality (the Department) is requested to continue its Waste Diversion and Recycling Task Force (the Task Force) that was created pursuant to SJ 42 (2020).*

B. That the Department shall include in the Task Force additional members including (i) two directly affected community members who reside within a reasonable vicinity of a currently permitted and operating landfill; (ii) two experts on solid waste management and recycling at the academic or research level who shall be independent of and not associated with or employed by any public or private waste management entity or any advocacy group; (iii) a member of the Virginia Council on Environmental Justice; (iv) a representative of a rural solid waste planning unit; (v) a representative of an urban solid waste planning unit; (vi) a representative of a rural local government with experience in land-use planning; (vii) a representative of an urban local government with experience in land-use planning; (viii) a representative of the Virginia Trucking Association; and (ix) a representative of an environmental advocacy group focusing on the management and recycling of solid waste. If the Director of the Department determines that certain additional members would contribute to the deliberations of the Task Force, he may allow participation of additional members who shall be nonvoting members and shall not be counted for purposes of a quorum.

C. That in addition to those topics of study identified in SJ 42 (2020), the Task Force shall (i) further study available options to divert from landfills in the Commonwealth food residuals, organic waste, and baseline recyclables; (ii) conduct a meta-analysis or systematic review of the policies, legislation, practices, and programs proposed and implemented by other states and draw upon such programs in considering recommendations for waste diversion policies; (iii) examine Virginia's status as a prime destination for out-of-state trash and explore ways in which waste from other states can be diverted from Virginia's landfills; (iv) assess the landfill, hazardous waste, and recycling facilities needed to manage toxic materials generated by electric vehicle and electric grid backup battery waste; and (v) investigate the role of a composting and food donation infrastructure in reducing the volume of waste that is accepted by landfills, including upgrading and refining existing food donation infrastructure, identifying food material and organic waste generators and haulers, comparing the use of in-house composting with regional composting hubs, studying the ideal distance between composting hubs and waste generators, considering the permitting of composting hubs, and exploring markets and systems for composting services and anaerobic digestion.

D. That in developing its recommendations, the Task Force shall take guidance from the U.S. Environmental Protection Agency's Sustainable Materials Management Program Strategic Plan.

E. That the Task Force shall hold its first meeting of the 2021 interim no later than October 15, 2021, and shall publish an executive summary and a report of its findings and recommendations no later than November 1, 2022.

CHAPTER 504

An Act to establish the Carbon Sequestration Task Force; report.

[S 1374]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1 A. *The Secretary of Natural Resources shall, jointly with the Secretary of Agriculture and Consumer Services, convene a task force for the purpose of studying carbon sequestration in the Commonwealth.*

B. The task force shall be composed of the Secretary of Natural Resources and the Secretary of Agriculture and Consumer Services; the Director of the Department of Environmental Quality or his designee; the Director of the Department of Conservation and Recreation or his designee; the Director of the Department of Wildlife Resources or his designee; the Commissioner of Agriculture and Consumer Services or his designee; the Virginia State Forester or his designee; the Marine Resources Commissioner or his designee; technical experts from the University of Virginia, the Virginia Polytechnic Institute and State University, the Virginia Institute of Marine Sciences, and Virginia State University; a representative from each of the Virginia Farm Bureau, the Virginia Agribusiness Council, the Virginia Association of Soil and Water Conservation Districts, the Virginia Forestry Association, the Virginia Cooperative Extension, the Chesapeake Bay Foundation, Shellfish Growers of Virginia, and the Nature Conservancy and other conservation organizations; and other technical experts, as needed. The Secretary of Natural Resources and the Secretary of Agriculture and Consumer Services shall serve as co-chairs of the task force.

C. The task force shall (i) consider possible methods of increasing carbon sequestration within the natural environment through state land and marine resources use policies; agricultural, aquacultural, and silvicultural practices; and other practices to achieve natural resources restoration and long-term conservation; (ii) recommend short-term and long-term benchmarks for increasing carbon sequestration; (iii) develop a standardized methodology to establish baseline carbon levels and account for increases in carbon sequestration over time; (iv) identify existing carbon markets and considerations relevant to potential participation by the Commonwealth; and (v) identify other potential funding mechanisms to encourage carbon sequestration practices in the Commonwealth.

D. The task force shall, before the first day of the 2022 Session of the General Assembly, submit a report of its findings to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources.

CHAPTER 505

An Act to amend and reenact § 15.2-816.1 of the Code of Virginia, relating to underground utility facilities; Fairfax County.

[S 1385]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-816.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-816.1. Underground electric distribution, telecommunications, cable, and other utility facilities.

A. *There is hereby established a pilot program under which the governing body of any locality operating under the urban county executive form of government may request an electric utility, telecommunications provider, cable provider, or other utility to enter into an agreement with the locality to place underground electric distribution lines in transportation projects to serve and facilitate the creation of transit-oriented development in such locality in conjunction with, facilities, telecommunications facilities, cable facilities, or other utility facilities as part of a transportation infrastructure improvement project, a commercial or industrial improvement project, or roads serving any such project that the Commonwealth Transportation Board or such locality identifies that reduces reduce congestion, improves improve mobility, incorporates improve transit systems system infrastructure, and improves improve safety. Such pilot program shall further an understanding of such underground electric distribution lines in regard to electric reliability, construction methods and related cost and timeline estimating, and the probability of meeting such projections. The pilot program shall consist of the approval to convert qualifying electric distribution lines in whole or in part underground in areas of transit-oriented developments in conjunction with a transportation infrastructure project the Commonwealth Transportation Board identifies. The pilot program shall terminate on July 1, 2022, after which date no agreement shall be entered into pursuant to subsection B. The termination of the pilot program shall not affect any such agreement entered into prior to such date or any of the terms of such an agreement, including any additional levy imposed pursuant to such an agreement, or improve service or access to such project.*

B. *If the parties desire to proceed, the locality operating under the urban county executive form of government and the utility shall enter into an agreement with an electric utility, telecommunications provider, cable provider, or other utility that provides that (i) the locality shall pay to the utility or provider its full additional costs of relocating and converting that portion of the line facility located in the locality underground rather than overhead that are not recoverable under applicable rates, minus the net of relocation credits, which costs shall include associated feasibility costs, or any smaller portion of*

such costs as the utility and the locality may agree; (ii) the locality shall impose an additional levy on electric utility customers in the locality pursuant to § 58.1-3814 in an amount sufficient to cover the utility's additional costs, which additional levy shall be collected by the utility on behalf of the locality utility or provider shall convert, operate, and maintain the agreed portion of the facility underground in cooperation with any other utility or provider with facilities placed underground there; (iii) the utility shall convert, operate, and maintain the agreed portion of the line underground; and agreement is contingent upon the adoption of the levy set forth in subsection C; and (iv) other terms and conditions on which the parties may agree shall be included in the agreement. No agreement shall require any telecommunications provider or cable provider to share conduit.

C. If the locality operating under the urban county executive form of government and the utility enter into an agreement as described in subsection B, the locality may impose an additional levy on electric utility customers in the locality pursuant to § 58.1-3814. The locality shall by ordinance fix the amount of such additional levy, which shall not exceed \$1 per month on residential customers and shall not exceed 6.67 percent of the monthly amount charged to nonresidential consumers of the utility service. The initial proceeds of such levy shall be dedicated to a project incorporating bus rapid transit on a road in the National Highway System serving a Metrorail station and an anticipated extension of Metrorail in a designated revitalization area in such locality. The provider of billing services shall bill the tax to all users who are subject to the tax and to whom it bills for electricity service and shall remit such tax to the appropriate locality. Any levy imposed pursuant to this section shall be in addition to the limit for any utility consumer tax prescribed in § 58.1-3814. If the provisions of this section are inconsistent with the provisions of § 58.1-3814, the provisions of this section shall be controlling.

D. ~~Upon~~ The locality may, or the Commissioner of Highways, upon presentation of the agreement to the Commonwealth Transportation Board, the Commissioner of Highways shall, be responsible for securing the necessary easements and permits for the utility or provider necessary for the conversion of the existing distribution lines, based upon plans that the electric utility provides. The electric utility shall take such other actions as it deems appropriate in furtherance of the conversion of the approved distribution line, including acquiring the materials necessary for the underground installation, telecommunication, cable, or other utility facilities.

E. ~~If~~ With the exception of any local zoning ordinances and review under § 15.2-2232 or any cable franchise agreement, if the provisions of this section are inconsistent with the provisions of any other law or local ordinance, the provisions of this section shall be controlling.

F. For purposes of this section, the term "electric utility" includes any cooperative, as that term is defined in § 56-231.15, operating within the locality.

CHAPTER 506

An Act to amend and reenact § 2.2-3905 of the Code of Virginia, relating to the employees providing domestic service; the Virginia Human Rights Act; application of laws applicable to employee safety and payment of wages.

[H 1864]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3905 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii) one or more domestic workers. However, (i) (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, status as a veteran, sex, sexual orientation, gender identity, marital status, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer person employing more than five persons or one or more domestic workers and (ii) (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful employment practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful employment practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

5. For an employer to provide reasonable accommodations related to pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

CHAPTER 507

An Act to amend and reenact § 65.2-402.1 of the Code of Virginia, relating to workers' compensation; presumption as to death or disability of health care providers from COVID-19.

[H 1985]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402.1 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of

Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this ~~section~~ *subsection*, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this ~~section~~ *subsection* gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subsection F.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

C. D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

D. E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subsection B shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subsection B.

E. F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. The presumptions described in subsection B shall apply to any person entitled to invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, and;

a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

b. On or after July 1, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and symptoms of COVID-19 that required medical treatment.

F. G. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

CHAPTER 508

An Act to amend and reenact §§ 8.01-225, 22.1-274.2, and 54.1-3408 of the Code of Virginia, relating to public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers.

[H 2019]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-225, 22.1-274.2, and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick

or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or, in the case of a school board employee, with the insertion or reinsertion of an insulin pump or any of its parts pursuant to subsection B of § 22.1-274.01:1 or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of insulin and glucagon, who assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the student's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic

reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

15. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

16. Is an employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a participant in the outdoor experience or program for youth believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

17. Is an employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1, is authorized by a prescriber and trained in the administration of epinephrine, and provides, administers, or assists in the administration of epinephrine to an individual believed in good faith to be having an anaphylactic reaction on the premises of the restaurant at which the employee is employed, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

18. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

19. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

20. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency medical services agency.

21. In good faith administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose in accordance with the provisions of subsection Z of § 54.1-3408 shall not be liable for any civil damages for any personal injury that results from any act or omission in the administration of naloxone or other opioid antagonist used for overdose reversal, unless such act or omission was the result of gross negligence or willful and wanton misconduct.

22. Is an employee of a school board, school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency and who administers or assists in the administration of such medications to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis pursuant to a written order or standing protocol issued by a prescriber within the course of his professional practice and in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

23. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber *the local health director* and trained in the administration of albuterol

inhalers *and valved holding chambers* or nebulized albuterol and who provides, administers, or assists in the administration of an albuterol inhaler *and a valved holding chamber* or nebulized albuterol for a student believed in good faith to be in need of such medication, or is the prescriber of such medication, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

24. Is an employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person present in the public place believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ 22.1-274.2. Possession and administration of inhaled asthma medications and epinephrine by certain students or school board employees.

A. Local school boards shall develop and implement policies permitting a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.

B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

C. Local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

D. Each local school board shall adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b).

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (1) (a) epinephrine may possess and administer epinephrine and (2) (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations

promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in

accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

2. That the Department of Education, in conjunction with the Department of Health, shall develop and implement policies for the administration of stock albuterol in public schools for inclusion in the Department of Education's "Guidelines for Managing Asthma in Virginia Schools: A Team Approach" document. Such departments shall develop policies with input from representatives of local school boards, the Virginia Association of School Nurses, the Virginia Chapter of the American Academy of Pediatrics, and such other organizations and entities as such departments deem appropriate. Such departments shall identify and develop appropriate revisions to the "Virginia School Health Guidelines" relating to, but not limited to, the specification of training needs and requirements for the administration of albuterol. Such departments shall provide guidelines to the Superintendent of Public Instruction for dissemination no later than September 30, 2021.

3. That the provisions of the first enactment of this act shall become effective on January 1, 2022.

CHAPTER 509

An Act to amend and reenact §§ 40.1-2, 40.1-49.3, and 40.1-49.8 of the Code of Virginia, relating to the employees providing domestic service; application of laws applicable to employee safety.

[H 2032]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-2, 40.1-49.3, and 40.1-49.8 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-2. Definitions.

As used in this title, unless the context clearly requires otherwise, the following terms have the following meanings:

"Board" means the Safety and Health Codes Board.

"Business establishment" means any proprietorship, firm or corporation where people are employed, permitted or suffered to work, including agricultural employment on a farm.

"Commission" means the Safety and Health Codes Board.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

"Department" means the Department of Labor and Industry.

"Domestic service" means services related to the care of an individual in a private home or the maintenance of a private home or its premises, on a permanent or temporary basis, including services performed by individuals such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs. "Domestic service" does not include work that is irregular, uncertain, or incidental in nature and duration.

"Employ" shall include to permit or suffer to work.

"Employee" means any person who, in consideration of wages, salaries or commissions, may be permitted, required or directed by any employer to engage in any employment directly or indirectly.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee.

"Female" or "woman" means a female 18 years of age or over.

"Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators, conveyors, shafts, tunnels, including machinery being operated on farms in connection with the production or harvesting of agricultural products.

§ 40.1-49.3. Definitions.

For the purposes of §§ 40.1-49.4, 40.1-49.5, 40.1-49.6, 40.1-49.7, and 40.1-51.1 through 40.1-51.3 the following terms shall have the following meanings:

"Commission" means the Virginia Workers' Compensation Commission.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to Commissioner shall include his authorized representatives.

"Employee" means an ~~employee of an employer~~ individual who is employed in a business of his by an employer.

"Employer" means any person or entity who that (i) is engaged in business or engages an individual to perform domestic service and (ii) has employees, but "Employer" does not include the United States.

"Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

"Serious violation" means a violation deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

"Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

"Circuit court" means the circuit court of the city or county wherein the violation of this title or any standard, rule or regulation issued pursuant thereto is alleged to have occurred. Venue shall be determined in accordance with the provisions of §§ 8.01-257 through 8.01-267.

§ 40.1-49.8. Inspections of workplace.

In order to carry out the purposes of the occupational safety and health laws of the Commonwealth and any such rules, regulations, or standards adopted in pursuance of such laws, the Commissioner, upon representing appropriate credentials to the owner, operator, or agent in charge, is authorized, with the consent of the owner, operator, or agent in charge of such workplace as described in subdivision (1) of this section 1, or with an appropriate order or warrant:

(1) 1. To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace, or environment where work is performed, including any place where an individual is engaged to perform domestic service, by an employee of an employer; and

(2) 2. To inspect, investigate, and take samples during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent, or employee.

CHAPTER 510

An Act to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035, as it shall become effective, 22.1-289.039, as it shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia, relating to child care providers; background check portability; subsidy pilot program; report.

[H 2086]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035, as it shall become effective, 22.1-289.039, as it shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative, or a federal or state authority or court as may be required to comply

with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 63.2-1720.1 or § 63.2-1724;*

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, *except as otherwise provided in subdivision A 12.*

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a

person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;*

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;
26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;
29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;
30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;
32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;
33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);
34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;
37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;
38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; *however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and*

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, *except as otherwise provided in subdivision A 46.*

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 22.1-289.035. (Effective July 1, 2021) Licensed child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02;

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

4. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee, and the Department or its designee shall report to the child day center or family day home whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Superintendent's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) except as provided in subsection J.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child day center, family day home, family day system, or child day program described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child day center, family day home, family day system, or child day program shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child day center, family day home, family day system, or child day program, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

§ 22.1-289.039. (Effective July 1, 2021) Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 22.1-289.031 shall require all applicants for employment, employees, applicants to serve as volunteers, and volunteers and any other person who is expected to be alone with one or more children enrolled in the child day center to obtain a background check in accordance with § 22.1-289.035. A child day center that is exempt from licensure pursuant to § 22.1-289.031 shall refuse employment or service to any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Further dissemination of the information provided to the facility is prohibited, *except as otherwise provided in subsection J of § 22.1-289.035.*

§ 63.2-1720.1. (Repealed effective July 1, 2021) Licensed child day centers and licensed family day homes; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02;

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

4. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The individual's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individual. Upon

receipt of the individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) *except as provided in subsection J.*

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a ~~child day~~ child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child welfare agency described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child welfare agency shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

§ 63.2-1724. (Repealed effective July 1, 2021) Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require all applicants for employment, employees, applicants to serve as volunteers, and volunteers and any other person who is expected to be alone with one or more children enrolled in the child day center to obtain a background check in accordance with § 63.2-1720.1. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Further dissemination of the information provided to the facility is prohibited, *except as otherwise provided in subsection J of § 63.2-1720.1.*

2. That the provisions of §§ 19.2-389, as it shall become effective, 22.1-289.035, as it shall become effective, and 22.1-289.039, as it shall become effective, of the Code of Virginia, as amended by this act, shall become effective on January 1, 2022.

3. That the provisions of §§ 19.2-389, as it is currently effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia, as amended by this act, (i) shall not become effective unless the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia, except for § 22.1-289.04 of the Code of Virginia, become effective on a date

subsequent to July 1, 2021, and (ii) shall expire upon the effective date of such provisions of Chapter 14.1 of Title 22.1 of the Code of Virginia.

4. That the Department of Education (the Department) shall establish a two-year pilot program for the purpose of stabilizing and improving the quality of services provided in the Commonwealth's child care industry. To the extent permitted under federal law and regulations, the pilot program shall provide a fixed sum of funds to certain child care providers that have entered into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant and that have agreed to meet higher standards of quality and care, as determined by the Department. The fixed amount of funds disbursed to a participating child care provider shall be determined based on (i) the number of children that the provider contracts with the Department to provide care for, subject to any attendance requirements established by the Department; (ii) the Department's estimated comprehensive costs of providing high-quality, full-time child care services; and (iii) funds necessary to provide equitable compensation to child care staff. In determining which child care providers shall be permitted to participate in the pilot program, the Department shall prioritize providers that are located in areas of the Commonwealth that have the greatest need for child care services and serve families that are underserved and have the greatest need for child care services. The Department shall require all child care providers that participate in the pilot program to report to the Department (a) de-identified data regarding wages paid to employees of the provider and associated retention rates, (b) information that can be used to assess the financial stability of providers both before and during participation in the pilot program, and (c) any other information necessary to evaluate the effectiveness of the pilot program. The Department shall report to the Governor and the General Assembly no later than December 1 of each year of the pilot program. Such report shall include (1) the number of child care providers selected to participate in the pilot program; (2) the criteria for selection and other statistical information about child care providers selected to participate in the pilot program; (3) the locations of participating child care providers; (4) information regarding wages paid to employees of participating child care providers and associated retention rates; (5) information that can be used to assess the financial stability of participating child care providers both before and during participation in the pilot program; (6) child outcome analysis and evaluation; (7) actual expenditures for the pilot program; (8) the projected cost of and potential revenue sources for expanding the pilot program to all child care providers that have entered into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant; and (9) any other information deemed necessary by the Department to evaluate the effectiveness of the pilot program.

5. That the Department of Education (the Department) shall, in collaboration with the School Readiness Committee, identify and analyze financing strategies that can be used to support the systemic costs of high-quality child care services, ensure equitable compensation for child care staff, and better prepare children for kindergarten. The Department shall also analyze the effectiveness of using a cost-of-quality modeling system for the child care subsidy program. The Department shall report its findings to the Governor and the General Assembly no later than December 1, 2021.

CHAPTER 511

An Act to amend and reenact § 11-4.6 of the Code of Virginia, relating to liability of contractor for wages of subcontractor's employees.

[S 1209]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 11-4.6 of the Code of Virginia is amended and reenacted as follows:

§ 11-4.6. Liability of contractor for wages of subcontractor's employees.

A. As used in this section, unless the context requires a different meaning:

"Construction contract" means a contract between a general contractor and a subcontractor relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance thereto, including moving, demolition, and excavation connected therewith, or any provision contained in any contract relating to the construction of projects other than buildings.

"General contractor" and "subcontractor" have the meanings ascribed thereto in § 43-1, *except that those terms shall not include persons solely furnishing materials.*

B. Any construction contract entered into on or after July 1, 2020, shall be deemed to include a provision under which the general contractor and the subcontractor at any tier are jointly and severally liable to pay any subcontractor's employees at any tier the greater of (i) all wages due to a subcontractor's employees at such rate and upon such terms as shall be provided in the employment agreement between the subcontractor and its employees or (ii) the amount of wages that the subcontractor is required to pay to its employees under the provisions of applicable law, including the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.) and the *federal* Fair Labor Standards Act (29 U.S.C. § 201 et seq.).

C. A general contractor shall be deemed to be the employer of a subcontractor's employees at any tier for purposes of § 40.1-29. If the wages due to the subcontractor's employees under the terms of the employment agreement between a

subcontractor and its employees are not paid, the general contractor shall be subject to all penalties, criminal and civil, to which an employer that fails or refuses to pay wages is subject under § 40.1-29. Any liability of a general contractor pursuant to § 40.1-29 shall be joint and several with the subcontractor that failed or refused to pay the wages to its employees.

D. Except as otherwise provided in a contract between the general contractor and the subcontractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorney fees owed as a result of the subcontractor's failure to pay wages to the subcontractor's employees as provided in subsection B, unless the subcontractor's failure to pay the wages was due to the general contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their construction contract.

E. The provisions of this section shall only apply if (i) it can be demonstrated that the general contractor knew or should have known that the subcontractor was not paying his employees all wages due, (ii) the construction contract is related to a project other than a single family residential project, and (iii) the value of the project, or an aggregate of projects under one construction contract, is greater than \$500,000. *As evidence a general contractor may offer a written certification, under oath, from the subcontractor in direct privity of contract with the general contractor stating that (a) the subcontractor and each of his sub-subcontractors has paid all employees all wages due for the period during which the wages are claimed for the work performed on the project and (b) to the subcontractor's knowledge all sub-subcontractors below the subcontractor, regardless of tier, have similarly paid their employees all such wages. Any person who falsely signs such certification shall be personally liable to the general contractor for fraud and any damages the general contractor may incur.*

CHAPTER 512

An Act to direct the Bureau of Insurance to review and make recommendations regarding paid family and medical leave.

[S 1219]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission's Bureau of Insurance (the Bureau) shall make recommendations regarding any necessary statutory changes that would permit the sale of private insurance plans that would help meet the policy goals identified in the "Paid Family and Medical Leave Study" published by the Offices of the Secretary of Commerce and Trade and the Chief Workforce Development Advisor in September 2020 and coexist as part of a statewide paid family and medical leave program, administered by the Commonwealth, as outlined in such study. In conducting its review, the Bureau shall convene a stakeholder group to participate in the process, which shall include representatives from the insurance industry, the business community, including small and mid-size businesses that have had difficulty purchasing private insurance in the past, labor organizations, advocates for paid family leave and medical leave, and other interested parties. The Bureau shall report its findings and recommendations to the Senate Committees on Commerce and Labor and Finance and Appropriations and the House Committees on Labor and Commerce and Appropriations by November 30, 2021.*

CHAPTER 513

An Act to amend and reenact §§ 2.2-3905, 40.1-2, 40.1-29, 40.1-49.3, and 40.1-49.8 of the Code of Virginia, relating to the employees providing domestic service; the Virginia Human Rights Act; application of laws applicable to employee safety and payment of wages.

[S 1310]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3905, 40.1-2, 40.1-29, 40.1-49.3, and 40.1-49.8 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii) *one or more domestic workers*. However, (i) (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, status as a veteran, sex, sexual orientation, gender identity, marital status, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any ~~employer~~ *person* employing more than five persons or *one or more domestic workers* and (ii) (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful employment practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such

a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful employment practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

5. For an employer to provide reasonable accommodations related to pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 40.1-2. Definitions.

As used in this title, unless the context clearly requires otherwise, the following terms have the following meanings:

"Board" means the Safety and Health Codes Board.

"Business establishment" means any proprietorship, firm or corporation where people are employed, permitted or suffered to work, including agricultural employment on a farm.

"Commission" means the Safety and Health Codes Board.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

"Department" means the Department of Labor and Industry.

"Domestic service" means services related to the care of an individual in a private home or the maintenance of a private home or its premises, on a permanent or temporary basis, including services performed by individuals such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs. "Domestic service" does not include work that is irregular, uncertain, or incidental in nature and duration.

"Employ" shall include to permit or suffer to work.

"Employee" means any person who, in consideration of wages, salaries or commissions, may be permitted, required or directed by any employer to engage in any employment directly or indirectly.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee.

"Female" or "woman" means a female 18 years of age or over.

"Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators, conveyors, shafts, tunnels, including machinery being operated on farms in connection with the production or harvesting of agricultural products.

§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.

A. All employers operating a business *or engaging an individual to perform domestic service* shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that (i) a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education, or trade school, and (ii) employees whose weekly wages total more than 150 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500, upon agreement by each affected employee, may be paid once each month if the institution or employer so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

B. Payment of wages or salaries shall be (i) in lawful money of the United States, (ii) by check payable at face value upon demand in lawful money of the United States, (iii) by electronic automated fund transfer in lawful money of the United States into an account in the name of the employee at a financial institution designated by the employee, or (iv) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds with full written disclosure by the employer of any applicable fees and affirmative consent thereto by the employee. However, an employer that elects not to pay wages or salaries in accordance with clause (i) or (ii) to an employee who is hired after January 1, 2010, shall be permitted to pay wages or salaries by credit to a prepaid debit card or card account in accordance with clause (iv), even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution in accordance with clause (iii) and the employer arranges for such card or card account to be issued through a network system through which the employee shall have the ability to make at least one free withdrawal or transfer per pay period, which withdrawal may be for any sum in such card or card account as the employee may elect, using such card or card account at financial institutions participating in such network system.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. On each regular pay date, each employer other than an employer engaged in agricultural employment including agribusiness and forestry shall provide to each employee a written statement, by a paystub or online accounting, that shows the name and address of the employer; the number of hours worked during the pay period if the employee is paid on the basis of (i) the number of hours worked or (ii) a salary that is less than the standard salary level adopted by regulation of the U.S. Department of Labor pursuant to § 13(a)(1) of the federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), as amended, establishing an exemption from the Act's overtime premium pay requirements; the rate of pay; the gross wages earned by the employee during the pay period; and the amount and purpose of any deductions therefrom. The paystub or online accounting shall include sufficient information to enable the employee to determine how the gross and net pay were calculated. An employer engaged in agricultural employment including agribusiness and forestry, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with this section, unless the failure to pay was because of a bona fide dispute between the employer and its employee:

1. To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000; and

2. To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid, if the conviction is a second or subsequent conviction under this section.

For purposes of this section, the determination as to the "value of the wages earned" shall be made by combining all wages the employer failed or refused to pay pursuant to this section.

F. The Commissioner may require a written complaint of the violation of this section and, with the written and signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section, and to collect any moneys unlawfully withheld from such employee which shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private

counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorney fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A shall be liable for the payment of all wages due, and an additional equal amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Any employer who knowingly fails to make payment of wages in accordance with subsection A shall be subject to a civil penalty not to exceed \$1,000 for each violation. The Commissioner shall notify any employer that he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

I. Final orders of the Commissioner, the general district courts, or the circuit courts may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

J. In addition to any civil or criminal penalty provided by this section, and without regard to any exhaustion of alternative administrative remedies provided for in this section, if an employer fails to pay wages to an employee in accordance with this section, the employee may bring an action, individually, jointly, with other aggrieved employees, or on behalf of similarly situated employees as a collective action consistent with the collective action procedures of the Fair Labor Standards Act, 29 U.S.C. § 216(b), against the employer in a court of competent jurisdiction to recover payment of the wages, and the court shall award the wages owed, an additional equal amount as liquidated damages, plus prejudgment interest thereon as provided in subsection G, and reasonable attorney fees and costs. If the court finds that the employer knowingly failed to pay wages to an employee in accordance with this section, the court shall award the employee an amount equal to triple the amount of wages due and reasonable attorney fees and costs.

K. As used in this section, a person acts "knowingly" if the person, with respect to information, (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. Establishing that a person acted knowingly shall not require proof of specific intent to defraud.

L. An action under this section shall be commenced within three years after the cause of action accrued. The period for filing is tolled upon the filing of an administrative action under subsection F until the employee has been informed that the action has been resolved or until the employee has withdrawn the complaint, whichever is sooner.

§ 40.1-49.3. Definitions.

For the purposes of §§ 40.1-49.4, 40.1-49.5, 40.1-49.6, 40.1-49.7, and 40.1-51.1 through 40.1-51.3 the following terms shall have the following meanings:

"Commission" means the Virginia Workers' Compensation Commission.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to Commissioner shall include his authorized representatives.

"Employee" means an ~~employee of an employer~~ individual who is employed in a business of his by an employer.

"Employer" means any person or entity ~~who that~~ (i) is engaged in business or engages an individual to perform domestic service and (ii) has employees, but "Employer" does not include the United States.

"Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

"Serious violation" means a violation deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

"Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

"Circuit court" means the circuit court of the city or county wherein the violation of this title or any standard, rule or regulation issued pursuant thereto is alleged to have occurred. Venue shall be determined in accordance with the provisions of §§ 8.01-257 through 8.01-267.

§ 40.1-49.8. Inspections of workplace.

In order to carry out the purposes of the occupational safety and health laws of the Commonwealth and any such rules, regulations, or standards adopted in pursuance of such laws, the Commissioner, upon representing appropriate credentials to

the owner, operator, or agent in charge, is authorized, with the consent of the owner, operator, or agent in charge of such workplace as described in subdivision (4) of this section 1, or with an appropriate order or warrant:

(4) 1. To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace, or environment where work is performed, *including any place where an individual is engaged to perform domestic service*, by an employee of an employer; and

(2) 2. To inspect, investigate, and take samples during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent, or employee.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 514

An Act to amend and reenact § 8.01-225 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-274.6, relating to public schools; seizure management and action plan; biennial training.

[S 1322]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-225 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-274.6 as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency

life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED; or (v) renders care in accordance with a seizure management and action plan pursuant to § 22.1-274.6, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or, in the case of a school board employee, with the insertion or reinsertion of an insulin pump or any of its parts pursuant to subsection B of § 22.1-274.01:1 or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of insulin and glucagon, who assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the student's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia

Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

15. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

16. Is an employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a participant in the outdoor experience or program for youth believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

17. Is an employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1, is authorized by a prescriber and trained in the administration of epinephrine, and provides, administers, or assists in the administration of epinephrine to an individual believed in good faith to be having an anaphylactic reaction on the premises of the restaurant at which the employee is employed, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

18. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

19. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

20. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency medical services agency.

21. In good faith administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose in accordance with the provisions of subsection Z of § 54.1-3408 shall not be liable for any civil damages for any personal injury that results from any act or omission in the administration of naloxone or other opioid antagonist used for overdose reversal, unless such act or omission was the result of gross negligence or willful and wanton misconduct.

22. Is an employee of a school board, school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency and who administers or assists in the administration of such medications to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis pursuant to a written order or standing protocol issued by a prescriber within the course of his professional practice and in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

23. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of albuterol inhalers or nebulized albuterol and who provides, administers, or assists in the administration of an albuterol inhaler or nebulized albuterol for a student believed in good faith to be in need of such medication, or is the prescriber of such medication, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

24. Is an employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person present in the public place believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ 22.1-274.6. Seizure management and action plan; training.

A. The parent or guardian of a student with a diagnosed seizure disorder may submit to the local school division a seizure management and action plan developed by the student's treating physician for review by school division employees with whom the student has regular contact. The seizure management and action plan shall (i) identify the health care services the student may receive at school or while participating in a school activity, (ii) identify seizure-related medication prescribed to the student that must be administered in the event of a seizure, (iii) evaluate the student's ability to manage and understand his seizure disorder, and (iv) be signed by the student's parent or guardian, the student's treating physician, and the school nurse. Each such seizure management and action plan shall state that (a) such plan is separate from any individualized education program (IEP) or Section 504 Plan that is in place for the student and (b) nothing in such plan shall be construed to abrogate any provision of any IEP or Section 504 Plan that is in place for the student.

B. Each local school division shall require all school nurses employed by the division to complete, on a biennial basis, a Board of Education-approved online course of instruction for school nurses regarding treating students with seizures and seizure disorders that includes information about seizure recognition and related first aid. Approved training programs shall be fully consistent with training programs and guidelines developed by the Epilepsy Foundation of America and any successor organization.

C. Each local school division shall require all employees whose duties include regular contact with students to complete, on a biennial basis, a Board of Education-approved online course of instruction for school employees regarding treating students with seizures and seizure disorders that includes information about seizure recognition and related first aid. Approved training programs shall be fully consistent with training programs and guidelines developed by the Epilepsy Foundation of America and any successor organization.

2. That the provisions of this act shall become effective on July 1, 2022.

CHAPTER 515

An Act to amend the Code of Virginia by adding a section numbered 65.2-706.2, relating to workers' compensation; claims not barred.

[S 1351]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 65.2-706.2 as follows:

§ 65.2-706.2. Claims not barred.

No order issued by the Commission awarding or denying benefits shall bar by res judicata any claim by an employee or cause a waiver, abandonment, or dismissal of any claim by an employee if the order does not expressly adjudicate such claim.

CHAPTER 516

HOUSE JOINT RESOLUTION NO. 555

Proposing an amendment to Section 1 of Article II of the Constitution of Virginia, relating to qualifications of voters and the right to vote; persons not entitled to vote.

Agreed to by the House of Delegates, February 27, 2021

Agreed to by the Senate, February 27, 2021

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 1 of Article II of the Constitution of Virginia as follows:

ARTICLE II

FRANCHISE AND OFFICERS

Section 1. Qualifications of voters.

(a) In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in ~~this section~~ subsection (b), and shall be registered to vote pursuant to this article. *Every person who meets these qualifications shall have the fundamental right to vote in the Commonwealth, and such right shall not be abridged by law, except that:*

(1) No person who has been convicted of a felony shall be ~~qualified entitled to vote unless his civil rights have been restored by the Governor or other appropriate authority.~~ *during any period of incarceration for such felony conviction, but every such person, upon release from incarceration for that felony conviction and without further action required of him, shall be invested with all political rights, including the right to vote; and*

~~As prescribed by law, no~~ (2) No person who has been adjudicated to be ~~mentally incompetent~~ by a court of competent jurisdiction to lack the capacity to understand the act of voting shall be ~~qualified entitled to vote during such period of incapacity~~ until his ~~competency~~ capacity has been reestablished as prescribed by law.

(b) The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide for persons who are employed overseas, and their spouses and dependents residing with them, and who are qualified to vote except for relinquishing their place of abode in the Commonwealth while overseas, to vote in the Commonwealth subject to conditions and time limits defined by law. The General Assembly may provide for persons who are qualified to vote except for having moved their residence from one precinct to another within the Commonwealth to continue to vote in a former precinct subject to conditions and time limits defined by law. The General Assembly may also provide, in elections for President and Vice President of the United States, alternatives to registration for new residents of the Commonwealth.

(c) Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

CHAPTER 517

HOUSE JOINT RESOLUTION NO. 582

Proposing an amendment to Section 15-A of Article I of the Constitution of Virginia, relating to marriage; repeal of same-sex marriage prohibition; affirmative right to marry.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 19, 2021

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 15-A of Article I of the Constitution of Virginia as follows:

ARTICLE I

BILL OF RIGHTS

Section 15-A. ~~Marriage~~ *Fundamental right to marry.*

~~That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions the right to marry is a fundamental right, inherent in the liberty of persons, and marriage is one of the vital personal rights essential to the orderly pursuit of happiness.~~

~~This Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage and agents shall issue marriage licenses, recognize marriages, and treat all marriages equally under the law regardless of the sex or gender of the parties to the marriage.~~

~~Religious organizations and clergy acting in their religious capacity shall have the right to refuse to perform any marriage.~~

CHAPTER 518

SENATE JOINT RESOLUTION NO. 270

Proposing an amendment to Section 15-A of Article I of the Constitution of Virginia, relating to marriage; repeal of same-sex marriage prohibition; affirmative right to marry.

Agreed to by the Senate, February 5, 2021

Agreed to by the House of Delegates, February 15, 2021

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 15-A of Article I of the Constitution of Virginia as follows:

ARTICLE I
BILL OF RIGHTS

Section 15-A. *Marriage Fundamental right to marry.*

That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions *the right to marry is a fundamental right, inherent in the liberty of persons, and marriage is one of the vital personal rights essential to the orderly pursuit of happiness.*

This Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage and agents shall issue marriage licenses, recognize marriages, and treat all marriages equally under the law regardless of the sex or gender of the parties to the marriage.

Religious organizations and clergy acting in their religious capacity shall have the right to refuse to perform any marriage.

CHAPTER 519

SENATE JOINT RESOLUTION NO. 272

Proposing an amendment to Section 1 of Article II of the Constitution of Virginia, relating to qualifications of voters and the right to vote; persons not entitled to vote.

Agreed to by the Senate, February 27, 2021

Agreed to by the House of Delegates, February 27, 2021

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 1 of Article II of the Constitution of Virginia as follows:

ARTICLE II
FRANCHISE AND OFFICERS

Section 1. Qualifications of voters.

(a) In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in ~~this section subsection (b)~~, and shall be registered to vote pursuant to this article. *Every person who meets these qualifications shall have the fundamental right to vote in the Commonwealth, and such right shall not be abridged by law, except that:*

(1) No person who has been convicted of a felony shall be ~~qualified entitled to vote unless his civil rights have been restored by the Governor or other appropriate authority.~~ *during any period of incarceration for such felony conviction, but every such person, upon release from incarceration for that felony conviction and without further action required of him, shall be invested with all political rights, including the right to vote; and*

~~As prescribed by law, no~~ (2) No person who has been adjudicated to be ~~mentally incompetent~~ by a court of competent jurisdiction to lack the capacity to understand the act of voting shall be ~~qualified~~ entitled to vote during such period of incapacity until his ~~competency~~ capacity has been reestablished as prescribed by law.

(b) The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide for persons who are employed overseas, and their spouses and dependents residing with them, and who are qualified to vote except for relinquishing their place of abode in the Commonwealth while overseas, to vote in the Commonwealth subject to conditions and time limits defined by law. The General Assembly may provide for persons who are qualified to vote except for having moved their residence from one precinct to another within the Commonwealth to continue to vote in a former precinct subject to conditions and time limits defined by law. The General Assembly may also provide, in elections for President and Vice President of the United States, alternatives to registration for new residents of the Commonwealth.

(c) Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

CHAPTER 520

An Act to amend and reenact §§ 18.2-340.16, 18.2-340.19, 18.2-340.23, 18.2-340.26:1, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, and 18.2-340.34 of the Code of Virginia, relating to charitable gaming; conduct of instant bingo, network bingo, pull tabs, and seal cards.

Approved April 7, 2021

[S 1127]

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.19, 18.2-340.23, 18.2-340.26:1, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, and 18.2-340.34 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.16. Definitions.

As used in this article, unless the context requires a different meaning:

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Board" means the Charitable Gaming Board created pursuant to § 2.2-2455.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to, (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Department" means the Department of Agriculture and Consumer Services.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards, including Department-approved electronic versions thereof, with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include, but is not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

"Network bingo provider" means a person licensed by the Department to operate network bingo.

"Operation" means the activities associated with production of a charitable gaming activity, which may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the organization's management.

"Organization" means any one of the following:

1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for religious, charitable, community or educational purposes, and awards

scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

4. An association of war veterans or auxiliary units thereof organized in the United States;

5. A fraternal association or corporation operating under the lodge system;

6. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;*

7. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;*

8. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;*

9. *An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;*

10. *A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;*

11. *An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;*

12. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;*

13. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;*

14. A local chamber of commerce; or

15. Any other nonprofit organization *that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts from the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.*

"Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

"Qualified organization" means any organization to which a valid permit has been issued by the Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or under Board regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members shall not qualify as a business expense. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

"Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming supplies to any qualified organization.

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown ~~faceup~~ *face up* are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations that:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. ~~In the case of the conduct of Texas Hold'em poker tournaments, the regulations shall provide that the predetermined percentage of gross receipts may be used for expenses related to compensating operators contracted by the qualified organization to administer such events. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Board finds appropriate to and consistent with the purpose of charitable gaming.~~

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation or conduct of charitable gaming may be required in order for the Board to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the Board or Department in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo; (ii) permit members who participate in the management, operation or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of 18 years may play bingo, provided *that* such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations to the card formats for bingo games, provided *that* such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. Board-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period *from raffles conducted in accordance with the provisions of this article* shall be required to (i) notify the Department of its intention to conduct ~~charitable gaming raffles~~ or (ii) comply with Board regulations *governing raffles*. If any organization's actual gross receipts *from raffles* for the 12-month period exceed \$40,000, the Department ~~may~~ *shall* require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) *organization described in subdivision 15 of the definition of "organization" in § 18.2-340.16* or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Nothing in this subsection shall be construed as exempting *any organizations described in subdivision 15 of the definition of "organization" in § 18.2-340.16*, volunteer fire departments ~~and~~, or volunteer emergency medical services agencies from any other provisions of this article or other Board regulations.

C. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Board regulations.

§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards; proceeds not counted as gross receipts.

A. Instant bingo, pull tabs, or seal cards may be sold only (i) *by a qualified organization, as defined in § 18.2-340.16*, (ii) upon the premises *that are owned or exclusively and entirely leased by the qualified organization*, and (iii) at such times ~~as the portion of that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests via controlled access. No organization, except for an association of war veterans or auxiliary units thereof organized in the United States or a fraternal association or corporation operating under the lodge system, may sell instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the organization's principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization. Nothing in this article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last sale games, conducted in accordance with this section.~~

B. ~~The~~ *Except as otherwise provided in subdivision 15 of the definition of "organization" in § 18.2-340.16*, the proceeds from instant bingo, pull tabs, or seal cards shall not be included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

C. No more than 18 devices that facilitate the play of electronic versions of instant bingo, pull tabs, or seal cards, commonly referred to as electronic pull tabs, may be used upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests. ~~The Board may approve exceptions to this requirement where there is a special or documented need.~~

§ 18.2-340.27. Conduct of bingo games.

A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations on any calendar day.

D. Qualified organizations may hold an unlimited number of bingo sessions on any calendar day.

E. Any organization may conduct bingo games ~~at any location within the Commonwealth only~~ *in the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town. An organization shall have only one principal office. An organization may not conduct bingo games at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization. This subsection shall not apply to any association of war veterans or auxiliary units thereof organized in the United States or any fraternal association or corporation operating under the lodge system.*

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may *also* play instant bingo, network bingo, pull tabs, or seal cards as a ~~part of such bingo game and, if a permit is required pursuant to § 18.2-340.25;~~ *however*, such games shall be played only at such times designated in the permit for regular bingo games *and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsection E of § 18.2-340.27.*

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

§ 18.2-340.28:1. Conduct of network bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may *also* sell network bingo cards as a ~~part of a regular bingo game and, if a permit is required pursuant to § 18.2-340.25;~~ *however*, network bingo shall be sold only at such times designated in the permit for regular bingo games *and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsection E of § 18.2-340.27.*

B. Any organization selling network bingo cards shall maintain a record of the date and quantity of network bingo cards purchased from a licensed network bingo provider. The organization shall also maintain a written invoice or receipt from a licensed supplier verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization or by electronic fund transfer. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where network bingo cards are sold.

C. No qualified organization shall sell any network bingo cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any network bingo cards.

D. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in any network bingo game. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in network bingo games.

E. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in network bingo games.

F. No qualified organization shall conduct network bingo more frequently than one day in any calendar week, which shall not be the same day of each week.

G. No network bingo games shall be permitted in the social quarters of an organization that are open only to the organization's members and their guests.

H. No qualified organization shall sell network bingo cards on the Internet or other online service or allow the play of network bingo on the Internet or other online service. However, the location where network bingo games are conducted shall be equipped with a video monitor, television, or video screen, or any other similar means of visually displaying a broadcast or signal, that relays live, real-time video of the numbers as they are called by a live caller. The Internet or other online service may be used to relay information about winning players.

I. Qualified organizations may award network bingo prizes on a graduated scale; however, no single network bingo prize shall exceed \$25,000.

J. Nothing in this section shall be construed to prohibit an organization from participating in more than one network bingo network.

§ 18.2-340.34. Suppliers of charitable gaming supplies; manufacturers of electronic games of chance systems; permit; qualification; suspension, revocation or refusal to renew certificate; maintenance, production, and release of records.

A. No person shall offer to sell, sell, or otherwise provide charitable gaming supplies to any qualified organization and no manufacturer shall distribute electronic games of chance systems for charitable gaming in the Commonwealth unless and until such person has made application for and has been issued a permit by the Department. An application for permit shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$1,000. Each permit shall remain valid for a period of one year from the date of issuance. Application for renewal of a permit shall be accompanied by a fee in the amount of \$1,000 and shall be made on forms prescribed by the Department.

B. The Board shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers and manufacturers of electronic games of chance systems for charitable gaming. The Department ~~may~~ *shall* refuse to issue a permit to any supplier or manufacturer who has, or which has any officer, director, partner, or owner who has, (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense ~~which~~ *that*, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) *violated the gaming laws of any jurisdiction within the last five years, including violations for failure to register;* or (iv) had any license, permit, certificate, or other authority related to

activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; ~~(iv)~~ within the last five years. The Department may refuse to issue a permit to any supplier or manufacturer who has, or which has any officer, director, partner, or owner who has, (a) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or ~~(v)~~ (b) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Department shall suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (i), (ii), (iii), or (iv) of subsection B. The Department may suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (a) or (b) of subsection B or for any violation of this article or regulation of the Board. Before taking any such action, the Department shall give the supplier or manufacturer a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. Each supplier shall document each sale of charitable gaming supplies, including electronic games of chance systems, and other items incidental to the conduct of charitable gaming, such as markers, wands or tape, to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity of deals sold and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color and quantity of bingo paper sold; and (v) any other information with respect to charitable gaming supplies, including electronic games of chance systems, or other items incidental to the conduct of charitable gaming as the Board may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

Each manufacturer of electronic games of chance systems shall document each distribution of such systems to a qualified organization or supplier on an invoice which clearly shows ~~(i)~~ (a) the name and address of the qualified organization or supplier to which such systems were distributed; ~~(ii)~~ (b) the date of distribution; ~~(iii)~~ (c) the serial number of each such system; and ~~(iv)~~ (d) any other information with respect to electronic games of chance systems as the Board may prescribe by regulation. A legible copy of the invoice shall accompany the electronic games of chance systems when delivered to the qualified organization or supplier.

E. Each supplier and manufacturer shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier and manufacturer shall make such documents immediately available for inspection and copying to any agent or employee of the Department upon request made during normal business hours. This subsection shall not limit the right of the Department to require the production of any other documents in the possession of the supplier or manufacturer which relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Department in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the *Virginia* Freedom of Information Act (§ 2.2-3700 et seq.).

F. Each supplier and manufacturer shall provide to the Department the results of background checks and any other records or documents necessary for the Department to enforce the provisions of subsections B and C.

2. That the provisions of this act that amend subsections B and C of § 18.2-340.34 of the Code of Virginia to require the Department of Agriculture and Consumer Services to refuse to issue a permit, or to suspend, revoke, or refuse to renew a permit that has already been issued, to a supplier or manufacturer under certain circumstances shall not apply to offenses committed or suspensions or revocations imposed prior to July 1, 2021.

3. That, notwithstanding §§ 18.2-340.26:1, 18.2-340.27, 18.2-340.28, and 18.2-340.28:1 of the Code of Virginia, as amended by this act, any organization that conducted bingo, network bingo, instant bingo, pull tabs, or seal cards at a location outside of the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or an adjoining county, city, or town on or before February 1, 2021, may continue to conduct bingo, network bingo, instant bingo, pull tabs, or seal cards at such locations until June 30, 2022.

4. That, except as otherwise provided in subdivision A 1 of § 18.2-340.19 of the Code of Virginia, as amended by this act, the Charitable Gaming Board shall not adjust the percentage of gross receipts, as set forth in 11VAC15-40-20 as it was in effect on January 1, 2021, that an organization with a charitable gaming permit must use for religious, charitable, community, or educational purposes or for certain real property expenses until a study is completed by a joint subcommittee of the Senate Committee on General Laws and Technology, the Senate Committee on Finance and Appropriations, the House Committee on General Laws, and the House Committee on Appropriations. The joint subcommittee shall have a total membership of eight members that shall consist of two members from each committee, to be appointed by the respective committee chairmen. In conducting its study, the joint subcommittee shall analyze and make recommendations, as appropriate, regarding (i) the percentage of an organization's gross receipts that should be used for the religious, charitable, community, or educational purposes for which the organization was chartered or organized and certain real property expenses; (ii) whether proceeds from instant bingo, pull tabs, and seal cards should be included when calculating an organization's gross receipts; (iii) the locations at which organizations should be permitted to conduct charitable gaming; (iv) the types of organizations that should be permitted to conduct charitable gaming; (v) the regulatory oversight of charitable gaming in the Commonwealth, including the membership, structure, and necessity of the Charitable Gaming Board; and

(vi) necessary safeguards and conflict of interest prohibitions on the Charitable Gaming Board. Administrative staff support for the joint subcommittee shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. All agencies of the Commonwealth, including the Department of Agriculture and Consumer Services' Office of Charitable and Regulatory Programs, shall provide assistance to the joint subcommittee for this study, upon request. The joint subcommittee shall complete its meetings by November 1, 2021, and report its findings to the General Assembly no later than the first day of the 2022 Regular Session of the General Assembly.

5. That, notwithstanding the provisions of subdivision 15 of the definition of "organization" in § 18.2-340.16 of the Code of Virginia, as amended by this act, any nonprofit organization that (i) is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code; (ii) raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards; and (iii) was issued a charitable gaming permit between January 1, 2018, and January 1, 2021, may generate more than \$40,000 in annual gross receipts from conducting such raffles, bingo, instant bingo, pull tabs, or seal cards until July 1, 2022, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding the provisions of subsection B of § 18.2-340.23 of the Code of Virginia, as amended by this act, any such nonprofit organization generating more than \$40,000 in annual gross receipts until July 1, 2022, shall not be exempt from the payment of application fees or audit fees.

CHAPTER 521

An Act to provide for the operation of the local health department of the Counties of Loudoun and Prince William and the Cities of Manassas and Manassas Park.

[S 1221]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. § 1. *Notwithstanding any other provision of law to the contrary, the local governing body of the County of Loudoun or Prince William or the City of Manassas or Manassas Park may enter into a contract with the State Board of Health (the Board) to provide local health services in such county or city. A local governing body that enters into a contract with the Board pursuant to this act shall not eliminate any service required by law or reduce the level of service below that required by law. In addition, such local governing body shall not eliminate or reduce the level of any service currently delivered in connection with the Commonwealth's program of medical assistance.*

Any contract executed between the local governing body of the County of Loudoun or Prince William or the City of Manassas or Manassas Park and the Board shall set forth the rights and responsibilities of the local governing body for the delivery of health services and shall require that the local governing body, with the concurrence of the State Health Commissioner, appoint the local director of health services in accordance with local procedures, who shall be employed full time as an employee of the local governing body and shall be responsible for directing all state-mandated public health programs. All employees of the local health department operated by the local governing body shall be employees of the local governing body.

The local governing body of a county or city that enters into a contract with the Board pursuant to this act shall operate the local health department, pursuant to the terms of the contract, with such local appropriations and any state funds as may be made available to it, pursuant to the general appropriation act. State funds for the operation of health services and facilities shall continue to be allocated to the county or city as if such services were provided in a county or city without such a contract.

The local governing body of a county or city that enters into a contract with the Board pursuant to this act shall maintain and submit such financial and statistical records as may be required by the Board.

Any county or city that enters into a contract with the Board pursuant to this act shall be the sole owner of all equipment and supplies, including all equipment and supplies used by the local health department at the time of execution of the contract, that were or are purchased for providing public health services, regardless of the source of the funds for such purchases.

Notwithstanding any other provision of law to the contrary, any person who is transferred from state to local employment in accordance with a contract authorized by this act, and who is a member of the Virginia Retirement System at the time of the transfer, shall continue to be a member of the Virginia Retirement System during the period of local employment.

The power to contract conferred by this act shall not be deemed to confer any additional authority to impose fees for local health services upon a county or city that enters into a contract with the Board pursuant to this act.

CHAPTER 522

An Act to amend and reenact §§ 24.2-603, 24.2-704, 24.2-706, 24.2-707, 24.2-709, 24.2-709.1, 24.2-710, 24.2-711, and 24.2-712 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-103.2 and

24.2-707.1, relating to absentee voting; establishment of drop-off locations; preprocessing of returned absentee ballots before election day; cure process; accessibility for voters with visual impairment or print disability.

[S 1245]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-603, 24.2-704, 24.2-706, 24.2-707, 24.2-709, 24.2-709.1, 24.2-710, 24.2-711, and 24.2-712 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-103.2 and 24.2-707.1 as follows:

§ 24.2-103.2. Duties of the Department of Elections related to accessible absentee voting.

The Department of Elections shall make available to all localities a tool to allow a voter with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. The Department shall develop instructions regarding the use and availability of such tool, including instructions on making the tool available to voters and counting ballots voted with such tool.

§ 24.2-603. Hours polls to be open; closing the polls.

At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the election and closed at 7:00 p.m. on the same day except as provided for central absentee voter precincts pursuant to subsection F G of § 24.2-712.

At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes. The officers of election shall list the names of all qualified voters in line before the polling place at 7:00 p.m. and permit those voters and no others to vote after 7:00 p.m.

§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.

A. The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or write.

B. On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall send by mail to him a ballot return envelope and accessible instructions provided by the Department for using such tool and returning the marked ballot. The general registrar shall cause the outer envelope containing the ballot return envelope and accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to the voter. For purposes of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile sticker.

An absentee voter using such tool shall return the marked absentee ballot in accordance with the instructions provided by the Department.

No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's signature or address is anywhere on the ballot return envelope.

C. On receipt of an application from an applicant marked to indicate that he will require assistance due to any other disability or if an applicant offered the ballot marking tool pursuant to subsection B declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Date _____

Signature of witness _____ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person, *or to a drop-off location*.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. *Such instructions shall include information on the sites of all drop-off locations in the county or city.*

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

C. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions B 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

D. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions B 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State

Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

E. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

§ 24.2-707. How ballots marked and returned.

A. On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to § 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery service but does not include delivery by a personal courier service or other individual except as provided by §§ 24.2-703.2 and 24.2-705.

C. Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

§ 24.2-707.1. Drop-off locations for return of absentee ballots.

A. The general registrar of each county or city shall establish at the office of the general registrar and each voter satellite office in operation for an election a drop-off location for the purpose of allowing the deposit of completed absentee ballots for such election. On the day of the election, there shall also be a drop-off location at each polling place in operation for the election. The general registrar may establish additional drop-off locations within the county or city as he deems necessary. All drop-off locations shall be accessible; be on public property, unless located at a polling place; and otherwise comply with any criteria for drop-off locations set by the Department.

B. The Department shall set standards for the establishment and operation of drop-off locations, including necessary security requirements. The Department shall submit such standards annually by October 1 to the Chairmen of the House and Senate Committees on Privileges and Elections, the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations.

C. Not later than 55 days prior to any election, the general registrar shall post notice of the sites of the drop-off locations in the locality in the office of the general registrar and on the official website of the county or city. Such notice shall remain in the office of the general registrar and on the official website of the county or city for the duration of the period during which absentee ballots may be returned.

D. Absentee ballots shall be collected from drop-off locations in accordance with the instructions provided by the Department. Such instructions shall include chain of custody requirements and recordkeeping requirements. Absentee ballots shall be collected at least daily by (i) two officers of election or electoral board members representing the two major political parties where practicable or (ii) two employees from the office of the general registrar, unless the drop-off location is in the office of the general registrar, in which case the general registrar or an assistant general registrar may collect the absentee ballots.

§ 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar or to a drop-off location in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar or to a drop-off location before the closing of the polls. Any voter who is in line to return an absentee ballot at a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit his absentee ballot. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because (a) the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed or (b) it is not returned sealed in the outside envelope so long as it is returned sealed in the inner envelope.

B. Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) postmarked on or before the

date of the election shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For purposes of this subsection, a postmark shall include any other official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service.

C. Notwithstanding the provisions of subsection A, any absentee ballot (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by a covered voter, as defined in § 24.2-452, shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

D. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

§ 24.2-709.1. Processing returned absentee ballots before election day; cure process.

~~Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day:~~ (i) *A. On receipt of an absentee ballot returned in person or by mail to the office of the general registrar or to a drop-off location before election day, the general registrar shall mark the date of receipt in the voter's record and shall examine the ballot envelopes envelope to verify completion of the required voter affirmation;* (ii) *mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted;* or (iii) *open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at A voter affirmation statement shall not be deemed to be incomplete on the sole basis of the voter's failure to provide (i) his full name or his middle initial, as long as the voter provided his full first and last name, or (ii) the date, or any part of the date, including the year, on which he signed the statement.*

B. If the voter affirmation has been completed as required, the general registrar may open the sealed ballot envelope and insert the ballot in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If a general registrar does not choose to do so, the sealed ballot envelope shall be deposited into a secure container provided for such purpose, in which it shall remain until the general registrar initiates the process of opening the sealed ballot envelopes deposited into the secure container and inserting such ballots into optical scan counting equipment without initiating any ballot count totals. Such process shall be at the general registrar's discretion at any time prior to the seventh day immediately preceding the election but shall be mandatory beginning on the seventh day immediately preceding the election.

At least two officers of election, one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures sealed ballot envelopes are opened as authorized in or required by this section subsection. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

In the event that circumstances prevent a general registrar from complying with the provisions of this subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 and shall not invalidate the absentee ballots.

C. For any absentee ballot received by the Friday immediately preceding the day of the election, if the general registrar finds during the examination of the ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2-707 was not properly followed, and such error or failure would render the ballot void by law, the general registrar shall enter into the voter's record in the voter registration system that the absentee ballot has an issue requiring correction in order for it to be counted. This information shall be included on any absentee voter applicant list provided pursuant to subsection C of § 24.2-710.

Within three days of such finding, the registrar shall notify the voter in writing or by email of the error or failure and shall provide information to the voter on how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in this chapter if he is found to be entitled to vote. No absentee ballot needing correction shall be delivered to the officers of election at the appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to this subsection.

The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first ballot with other spoiled ballots.

§ 24.2-710. Absentee voter applicant lists.

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election, unless the registrar opts to open sealed ballot envelopes in order to expedite the counting of absentee ballots in accordance with § 24.2-709.1.

A. The provisions of this subsection shall apply only to those localities not using an electronic pollbook. On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person or applying to vote absentee pursuant to § 24.2-705 for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

B. On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

~~Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate container to the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.~~

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

~~Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.~~

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

C. Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such lists shall be used only for campaign and political purposes. In no event shall any list furnished under this section contain (a) any voter's social security number or any part thereof, (b) any voter's day and month of birth, or (c) the residence address of any voter who has provided a post office box address to be used on public lists pursuant to § 24.2-418.

§ 24.2-711. Duties of electoral board, general registrar, and officers of election.

A. Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on the pollbook. The pollbook may be so marked prior to election day by the general registrar, the secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been marked prior to election day, before the polls open the officers of election at each precinct shall check the marks for accuracy and make any additions or corrections required.

The chief officer of election shall keep the copy of the absentee voter applicant list in the polling place as a public record open for inspection upon request at all times while the polls are open.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot and offers to vote in his precinct, the officers of election in the precinct shall determine the matter pursuant to §§ 24.2-653.1 and 24.2-708.

Immediately after the close of the polls, the container of absentee ballots shall be opened by the officers of election. As each ballot envelope is removed from the container, the name of the voter shall be called and checked as if the voter were voting in person. If the voter is found entitled to vote, an officer shall mark the voter's name on the pollbook with the first or next consecutive number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot envelope shall then be opened, and the ballot deposited in the ballot container without being unfolded or examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide in the statement on the back of the unopened envelope his full middle name or his middle initial, unless the voter also failed to provide his full first and last name. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope. At least two officers of election, one representing each political party, shall write and sign a statement of the cause for rejection on the envelope or on an attachment to the envelope.

When all ballots have been accounted for and either voted or rejected, the officers shall place the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this title.

B. Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

C. The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city ~~may shall~~ establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. ~~The decision to establish any A central~~ absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board and general registrar.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots ~~may shall~~ be processed as required by ~~§ 24.2-711~~ 24.2-709.1 by the officers of election at the central absentee voter precinct prior to the closing of the polls. In the case of machine-readable ballots, the ballot container ~~may shall~~ be opened and the absentee ballots ~~may shall~~ be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals by the machines shall be ~~initiated prior to~~ transmitted outside of the central absentee voter precinct until after the closing of the polls.

In the case of absentee ballots that are counted by hand, the officers of election ~~may shall~~ begin tallying such ballots at any time after 3:00 p.m. on the day of the election in accordance with the procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy. No counts of such tallies shall be determined or transmitted outside of the central absentee voter precinct until after the closing of the polls.

The use of cellular telephones or other communication devices shall be prohibited in the central absentee voter precinct during such *processing and* tallying and until the closing of the polls. Any person present in the central absentee voter precinct shall sign a statement under oath that he will not transmit any counts prior to the closing of the polls. Any person who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.

E. As soon as the polls are closed in the county or city, the officers of election at the central absentee voter precinct shall proceed promptly to ascertain and record the total vote given by all absentee ballots and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6.

~~E. F.~~ The electoral board or general registrar may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and

2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

~~E. G.~~ The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct and provided further that the central absentee voter precinct is the same location as the office of the general registrar.

2. That the Department of Elections shall convene a work group to consider and evaluate methods for sorting absentee ballots by the precinct of the voter casting the absentee ballot and reporting vote totals from absentee ballots separately by each precinct. The work group shall include such persons determined by the Department of Elections as necessary or appropriate. The work group shall organize no later than July 31, 2021, and shall complete its work no later than October 31, 2021. If recommending any specific policies or legislative proposals, the work

group, through the Commissioner of Elections, shall communicate such recommendations to the Chairmen of the House and Senate Committees on Privileges and Elections by November 15, 2021.

CHAPTER 523

An Act to amend and reenact §§ 19.2-120, 19.2-163.03, 19.2-299, and 37.2-808 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.6, relating to criminal proceedings; consideration of mental condition and intellectual and developmental disabilities.

[S 1315]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-120, 19.2-163.03, 19.2-299, and 37.2-808 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.6 as follows:

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or
2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;
2. An offense for which the maximum sentence is life imprisonment or death;
3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;
4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;

5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;

7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;

8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;

9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;

12. A violation of subsection B of § 18.2-57.2;

13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;

14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or

15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

E. The judicial officer shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, *including a diagnosis of an intellectual or developmental disability as defined in § 37.2-100*, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

F. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-163.03. Qualifications for court-appointed counsel.

A. Initial qualification requirements. An attorney seeking to represent an indigent accused in a criminal case, in addition to being a member in good standing of the Virginia State Bar, shall meet the specific criteria required for each type or level of case. The following criteria shall be met for qualification and subsequent court appointment:

1. Misdemeanor case. To initially qualify to serve as counsel appointed pursuant to § 19.2-159 for an indigent defendant charged with a misdemeanor, the attorney shall:

(i) ~~if a.~~ *If an active member of the Virginia State Bar for less than one year, have completed ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Indigent Defense Commission, ~~or two of which shall cover the representation of individuals with behavioral or mental health issues and individuals with intellectual or developmental disabilities as defined in § 37.2-100;~~*

(ii) ~~if b.~~ *If an active member of the Virginia State Bar for one year or more, either complete the ~~six~~ eight hours of approved continuing legal education developed by the Commission, ~~two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,~~ or certify to the Commission that he has represented, in a district court within the past year, four or more defendants charged with misdemeanors; or*

(iii) ~~be c.~~ *Be qualified pursuant to this section to serve as counsel for an indigent defendant charged with a felony.*

2. Felony case.

a. To initially qualify to serve as counsel appointed pursuant to § 19.2-159 for an indigent defendant charged with a felony, the attorney shall (i) have completed the ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Commission, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,* and (ii) certify that he has participated as either lead counsel or co-counsel in four felony cases from their beginning through to their final resolution, including appeals, if any.

b. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past year, as lead counsel in four felony cases through to their final resolution, including appeals, if any, the requirement to complete ~~six~~ eight hours of continuing legal education and the requirement to participate as co-counsel shall be waived.

c. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past five years, as lead counsel in five felony cases through to their final resolution, including appeals, if any, the requirement to participate as either lead counsel or co-counsel in four felony cases within the past year shall be waived.

3. Juvenile and domestic relations case.

a. To initially qualify to serve as appointed counsel in a juvenile and domestic relations district court pursuant to subdivision C 2 of § 16.1-266, the attorney shall (i) have completed the ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Commission, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,* (ii) have completed four additional hours of MCLE-approved continuing legal education on representing juveniles developed by the Commission, and (iii) certify that he has participated as either lead counsel or co-counsel in four cases involving juveniles in a juvenile and domestic relations district court.

b. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has, within the past year, been lead counsel in four cases involving juveniles in juvenile and domestic relations district court, the requirement to complete the ~~40~~ 12 hours of continuing legal education shall be waived.

c. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past five years in five cases involving juveniles in a juvenile and domestic relations district court, the requirement to participate as either lead counsel or co-counsel in four juvenile cases shall be waived.

B. Requalification requirements. After initially qualifying as provided in subsection A, an attorney shall maintain his eligibility for certification biennially by notifying the Commission of completion of at least ~~six~~ *eight* hours of Commission and MCLE-approved continuing legal education, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100*. The Commission shall provide information on continuing legal education programs that have been approved.

In addition, to maintain eligibility to accept court appointments under subdivision C 2 of § 16.1-266, an attorney shall complete biennially thereafter four additional hours of MCLE-approved continuing legal education on representing juveniles, certified by the Commission.

C. Waiver and exceptions. The Commission or the court before which a matter is pending, may, in its discretion, waive the requirements set out in this section for individuals who otherwise demonstrate their level of training and experience. A waiver of such requirements pursuant to this subsection shall not form the basis for a claim of error at trial, on appeal, or in any habeas corpus proceeding.

§ 19.2-271.6. Evidence of defendant's mental condition admissible; notice to Commonwealth.

A. For the purposes of this section:

"Developmental disability" means the same as that term is defined in § 37.2-100.

"Intellectual disability" means the same as that term is defined in § 37.2-100.

"Mental illness" means a disorder of thought, mood, perception, or orientation that significantly impairs judgment or capacity to recognize reality.

B. In any criminal case, evidence offered by the defendant concerning the defendant's mental condition at the time of the alleged offense, including expert testimony, is relevant, is not evidence concerning an ultimate issue of fact, and shall be admitted if such evidence (i) tends to show the defendant did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. For purposes of this section, to establish the underlying mental condition the defendant must show that his condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for (i) a mental illness, (ii) a developmental disability or intellectual disability, or (iii) autism spectrum disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

If a defendant intends to introduce evidence pursuant to this section, he, or his counsel, shall give notice in writing to the attorney for the Commonwealth, at least 60 days prior to his trial in circuit court, or at least 21 days prior to trial in general district court or juvenile and domestic relations district court, or at least 14 days if the trial date is set within 21 days of last court appearance, of his intention to present such evidence. In the event that such notice is not given, and the person proffers such evidence at his trial as a defense, then the court may in its discretion either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under § 19.2-243.

If a defendant intends to introduce expert testimony pursuant to this section, the defendant shall provide the Commonwealth with (a) any written report of the expert witness setting forth the witness's opinions and the bases and reasons for those opinions, or, if there is no such report, a written summary of the expected expert testimony setting forth the witness's opinions and bases and reasons for those opinions, and (b) the witness's qualifications and contact information.

C. The defendant, when introducing evidence pursuant to this section, shall permit the Commonwealth to inspect, copy, or photograph any written reports of any physical or mental examination of the accused made in connection with the case, provided that no statement made by the accused in the course of such an examination disclosed pursuant to this subsection shall be used by the Commonwealth in its case in chief, whether the examination was conducted with or without the consent of the accused.

D. Nothing in this section shall prevent the Commonwealth from introducing relevant, admissible evidence, including expert testimony, in rebuttal to evidence introduced by the defendant pursuant to this section.

E. Nothing in this section shall be construed as limiting the authority of the court from entering an emergency custody order pursuant to subsection A of § 37.2-808.

F. Nothing in this section shall be construed to affect the requirements for a defense of insanity pursuant to Chapter 11 (§ 19.2-167 et seq.).

G. Nothing in this section shall be construed as permitting the introduction of evidence of voluntary intoxication.

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or

18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, *including any diagnoses of an intellectual or developmental disability as defined in § 37.2-100*, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

§ 37.2-808. Emergency custody; issuance and execution of order.

A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, *or a court may issue pursuant to § 19.2-271.6*, an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

When considering whether there is probable cause to issue an emergency custody order, the magistrate may, in addition to the petition, *or the court may pursuant to § 19.2-271.6*, consider (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate *or the court* considers relevant to the determination of whether probable cause exists to issue an emergency custody order.

B. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether the person meets the criteria for temporary detention pursuant to § 37.2-809 and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate *or court* issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute the emergency custody order and provide transportation. However, the magistrate *or court* shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate *or court*, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner, upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate *or court* deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate *or court* shall order the specified primary law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the community services board or its designee responsible for conducting the evaluation. The community services board or its designee conducting the evaluation shall return a copy of the emergency custody order to the court designated by the magistrate *or the court that issued the emergency custody order* as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

Transportation under this section shall include transportation to a medical facility as may be necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. Transportation under this section shall include transportation to a medical facility for a medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission.

D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate *or court* shall order the primary law-enforcement agency from the jurisdiction served by the community services board that designated the person to perform the evaluation required in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. If the community services board serves more than one jurisdiction, the magistrate *or court* shall designate the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person has not yet been taken into custody, the primary law-enforcement agency from the jurisdiction where the person is presently located to execute the order and provide transportation.

E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to this section may transfer custody of the person to the facility or location to which the person is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of security necessary to protect both the person and others from harm, (ii) is actually capable of providing the level of security necessary to protect the person and others from harm, and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of understanding with the law-enforcement agency setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the law-enforcement agency to pay any fees or costs for the transfer of custody.

F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

H. A law-enforcement officer who is transporting a person who has voluntarily consented to be transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of the county, city, or town in which he serves may take such person into custody and transport him to an appropriate location to assess the need for hospitalization

or treatment without prior authorization when the law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to believe that the person meets the criteria for emergency custody as stated in this section. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

J. A representative of the primary law-enforcement agency specified to execute an emergency custody order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a person into custody pursuant to subsection G or H shall notify the community services board responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable after execution of the emergency custody order or after the person has been taken into custody pursuant to subsection G or H.

K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time of execution.

L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing, observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency custody order issued pursuant to this section. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order, the person may be detained by a hospital emergency room or other appropriate facility for testing, observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing, observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility in which the person is detained shall notify the nearest community services board, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to § 37.2-1104, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

M. Any person taken into emergency custody pursuant to this section shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures.

N. If an emergency custody order is not executed within eight hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an employee or designee of the community services board as defined in § 37.2-809 may, for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual.

P. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical screening and assessment services provided to persons with mental illnesses while in emergency custody.

Q. No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall collect the following data and report such data annually to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by December 1, 2021, and December 1, 2022: (i) the number of cases in which a defendant introduces evidence concerning his mental condition pursuant to § 19.2-271.6 of the Code of Virginia, as created by this act; (ii) the number of cases in which such evidence is introduced and a jury or court finds that a defendant did not have the intent required for the offense charged due to a mental illness as defined in § 19.2-271.6 of the Code of Virginia, as created by this act, an intellectual or developmental disability, or autism spectrum disorder; (iii) the number of cases in which the court issues an emergency custody order pursuant to § 37.2-808 of the Code of Virginia, as amended by this act, after a jury or the court finds that a defendant did not have the intent required for the offense charged due to a mental illness as defined in § 19.2-271.6 of the Code of Virginia, as created by this act, an intellectual or developmental disability, or autism spectrum disorder; and (iv) if an emergency custody order is issued in such case, the number of defendants for whom no subsequent temporary detention order is issued and who are released, the number of defendants for whom a subsequent temporary detention order is issued, and the number of defendants who are subsequently involuntarily admitted.

3. That the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century (the Joint Subcommittee) shall study, consider, and provide recommendations regarding the relevant standard of danger to self or others that may be appropriately applied to persons found not guilty under this act in the issuance of emergency custody orders, involuntary temporary detention orders, or the ordering of other mandatory mental health treatments in accordance with Article 4 (§ 37.2-808 et seq.) or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2 of the Code of Virginia. The Joint Subcommittee shall report its findings, conclusions, and recommendations to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by December 1, 2021.

CHAPTER 524

An Act to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, relating to sealing of criminal records; penalties.

[S 1339]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, as follows:

§ 9.1-101. (Effective until March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of

the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (Effective March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the

private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-128. Dissemination of criminal history record information; Board to adopt regulations and procedures.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

D. *The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ 19.2-389, 19.2-389.3, and 19.2-392.13.*

§ 9.1-134. Sealing of criminal history record information.

The Board shall adopt procedures reasonably designed to (i) ensure the prompt sealing of criminal history record information and the sealing or purging of criminal history record information, including any records relating to an arrest, charge, or conviction, when required by state or federal law, regulation, or court order, and (ii) permit opening of sealed information under conditions authorized by law.

§ 17.1-205.1. Sealing Fee Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Sealing Fee Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accruing to the Fund pursuant to §§ 19.2-392.12 and 19.2-392.16 and all funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered by the Executive Secretary of the Supreme Court, who shall use such funds solely to fund the costs for the compensation of court-appointed counsel under the provisions of subsection L of § 19.2-392.12. Expenditures from the Fund shall be limited by an appropriation in the general appropriation act. Expenditures and disbursements from

the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon request of the Executive Secretary of the Supreme Court.

§ 17.1-293.1. Online case information system; exceptions.

A. The Executive Secretary shall make available a publicly viewable online case information system of certain nonconfidential information entered into the case management system for criminal cases in the circuit courts participating in the Executive Secretary's case management system and in the general district courts. Such system shall be searchable by defendant name across all participating courts, and search results shall be viewable free of charge.

B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary shall not make any offense that was ordered to be sealed available for online public viewing in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary.

C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing.

§ 17.1-502. Administrator of circuit court system.

A. The Executive Secretary of the Supreme Court shall be the administrator of the circuit court system, which includes the operation and maintenance of a case management system and financial management system and related technology improvements.

B. Any circuit court clerk may establish and maintain his own case management system, financial management system, or other independent technology using automation or technology improvements provided by a private vendor or the locality. Any data from the clerk's independent system may be provided directly from such clerk to designated state agencies. The data from the clerk's independent system may also be provided to designated state agencies through an interface with the technology systems operated by the Executive Secretary.

B1. If the data from a case management system established under subsection B is not provided to the Executive Secretary of the Supreme Court through an interface, such data shall be provided to the Department of State Police through an interface for purposes of complying with §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The parameters of such interface shall be determined by the Department of State Police. The costs of designing, implementing, and maintaining such interface shall be the responsibility of the circuit court clerk.

C. The Executive Secretary shall provide an electronic interface with his case management system, financial management system, or other technology improvements upon written request of any circuit court clerk. The circuit court clerk and the clerk's designated application service provider shall comply with the security and data standards established by the Executive Secretary for any such electronic interface. The Executive Secretary shall establish security and data standards for such electronic interfaces on or before June 30, 2013, and such standards shall be consistent with the policies, standards, and guidelines established pursuant to § 2.2-2009.

D. The costs of designing, implementing, and maintaining any such interface with the systems of the Executive Secretary shall be the responsibility of the circuit court clerk. Prior to incurring any costs, the Office of the Executive Secretary shall provide the circuit court clerk a written explanation of the options for providing such interfaces and provide the clerk with a proposal for such costs and enter into a written contract with the clerk to provide such services.

E. The Executive Secretary shall assist the chief judges in the performance of their administrative duties. He may employ such staff and other assistants, from state funds appropriated to him for the purpose, as may be necessary to carry out his duties, and may secure such office space as may be requisite, to be located in an appropriate place to be selected by the Executive Secretary.

§ 19.2-72. When it may issue; what to recite and require.

On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall examine on oath the complainant and any other witnesses, or when such officer shall suspect that an offense punishable otherwise than by a fine has been committed he may, without formal complaint, issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required if the complainant is not a law-enforcement officer; however, if no arrest warrant is issued in response to a written complaint made by such complainant, the written complaint shall be returned to the complainant. If upon such examination such officer finds that there is probable cause to believe the accused has committed an offense, such officer shall issue a warrant for his arrest, except that no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or, if his name is unknown, set forth a description by which he can be identified with reasonable certainty, (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested and brought before a court of appropriate jurisdiction in the county, city or town in which the offense was allegedly committed, and (v) be signed by the issuing officer. *If a warrant is issued for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, the warrant shall reference the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code.* The warrant shall require the officer to whom it is directed to summon such witnesses as shall be therein named to appear and give evidence on the examination. But in a city or town having a police force, the warrant shall be directed "To any policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman, sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his

deputy may execute an arrest warrant throughout the county in which he serves and in any city or town surrounded thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act committed during the execution of such warrant. A jail officer as defined in § 53.1-1 employed at a regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail. The venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special conservators of the peace.

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of § 19.2-82.

2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

3. Unless otherwise authorized by law, any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§ 19.2-387 et seq.). Reports to the Central Criminal Records Exchange concerning such persons shall be made pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.

Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

Any person charged with committing any violation of § 18.2-407 may be arrested and immediately brought before a magistrate who shall proceed as provided in § 19.2-82.

B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses pursuant to this section, if such officers are in uniform or displaying a badge of office. On application, the chief law-enforcement officer of the county or city shall supply each officer with a supply of summons forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.

C. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. *If the summons is issued for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, the summons shall reference the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code.*

§ 19.2-310.7. Expungement when DNA taken for a conviction.

A. A person whose DNA profile has been included in the data bank pursuant to § 19.2-310.2 may request expungement on the grounds that the conviction on which the authority for including his DNA profile was based has been reversed and the case dismissed. Provided that the person's DNA profile is not otherwise required to be included in the data bank pursuant to § 9.1-903, 16.1-299.1, 19.2-310.2, or 19.2-310.2:1, the Department of Forensic Science shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of (i) a written request for expungement pursuant to this section and (ii) a certified copy of the court order reversing and dismissing the conviction.

B. Entry of a sealing order pursuant to § 19.2-392.7 or 19.2-392.12 shall not serve as grounds for expungement of a person's DNA profile or any records in the data bank relating to that DNA profile.

§ 19.2-340. Fines; how recovered; in what name.

When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would be inconsistent with the manifest intention of the General Assembly, it shall be paid to the Commonwealth if prescribed by a statute and

recoverable by presentment, indictment, information, or warrant and paid to the locality if prescribed by an ordinance and recoverable by warrant. *Whenever any warrant or summons is issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, and such warrant or summons references the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code, any fine prescribed by the county, city, or town ordinance shall be paid to the locality.* Fines imposed and costs taxed in a criminal or traffic prosecution, including a prosecution for a violation of an ordinance adopted pursuant to § 46.2-1220, for committing an offense shall constitute a judgment and, if not paid at the time they are imposed, execution may issue thereon in the same manner as upon any other monetary judgment, subject to the period of limitations provided by § 19.2-341.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. ~~Records~~ *Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to the an arrest, criminal charge, or conviction of a person, for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes:* (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) ~~to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;~~ (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (viii) (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any

party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

B. ~~An employer or~~ Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

~~D.~~ F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B ~~or~~ C, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, for each charge when any person is arrested on any of the following charges:

- a. Treason;
- b. Any felony;
- c. Any offense punishable as a misdemeanor under Title 54.1;
- d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or
- e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, 63.2-1509, or 63.2-1727.
- e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 22.1-289.041, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, or 63.2-1509.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal Records Exchange only for those offenses enumerated in this subsection. Only reports received for those offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.

2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

4. For any person served with a show cause for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

5. If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the

Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action that may have resulted from an indictment, presentment or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of ~~arrest or~~ confinement submitted to it by any ~~law-enforcement agency or any~~ correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure

that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

CHAPTER 23.2.

SEALING OF CRIMINAL HISTORY RECORD INFORMATION AND COURT RECORDS.

§ 19.2-392.5. *Sealing defined; effect of sealing.*

A. As used in this chapter, unless the context requires a different meaning, "sealing" means to (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13. "Sealing" may be required either by the issuance of a court order following the filing of a petition or automatically by operation of law under the processes set forth in this chapter.

B. The provisions of this chapter shall only apply to adults who were arrested, charged, or convicted of a criminal offense and to juveniles who were tried in circuit court pursuant to § 16.1-269.1.

C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. The court, except as provided in subsection B of § 19.2-392.14, and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of sealed court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to the effective date of this section.

D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not relieve the person who was arrested, charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense that was ordered to be sealed.

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be (i) disclosed in any sentencing report; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not constitute a barrier crime as defined in § 19.2-392.02, except as otherwise required under federal law.

J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

§ 19.2-392.6. Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.

A. If a person was charged with an offense in violation of § 4.1-305 or 18.2-250.1, and such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D.

B. If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D: § 4.1-305, 18.2-96, 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or § 18.2-250.1 or 18.2-415.

C. Subject to the provisions of subsection D, any offense listed under subsection A and any conviction listed under subsection B shall be ordered to be automatically sealed if seven years have passed since the date of the dismissal or conviction and the person charged with or convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

§ 19.2-392.7. Process for automatic sealing of offenses resulting in a conviction or deferred disposition.

A. On at least a monthly basis, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in § 19.2-392.6.

B. After reviewing the offenses under subsection A, the Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least a monthly basis the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with or convicted of such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such order, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.8. Automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. If a person is charged with the commission of a misdemeanor offense, excluding traffic infractions under Title 46.2, and (i) the person is acquitted, (ii) a nolle prosequi is entered, or (iii) the charge is otherwise dismissed, excluding any charge that is deferred and dismissed after a finding of facts sufficient to justify a finding of guilt, the court disposing of the matter shall, at the time the acquittal, nolle prosequi, or dismissal is entered, order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the attorney for the Commonwealth or any other person advises the court at the time the acquittal, nolle prosequi, or dismissal is entered that:

1. The charge is ancillary to another charge that resulted in a conviction or a finding of facts sufficient to justify a finding of guilt;
2. A nolle prosequi is entered or the charge is dismissed as part of a plea agreement;
3. Another charge arising out of the same facts and circumstances is pending against the person;
4. The Commonwealth intends to reinstitute the charge or any other charge arising out of the same facts and circumstances within three months;
5. Good cause exists, as established by the Commonwealth by a preponderance of the evidence, that such charge should not be automatically sealed; or
6. The person charged with the offense objects to such automatic sealing.

B. If a person is charged with the commission of a felony offense and is acquitted, or the charge against him is dismissed with prejudice, he may immediately upon the acquittal or dismissal orally request that the records relating to the charge be sealed. Upon such request and with the concurrence of the attorney for the Commonwealth, the court shall order the automatic sealing of records relating to the arrest or charge under the process described in § 19.2-392.13.

C. If the court enters an order of sealing pursuant to subsection A or B, the court shall advise the person that the offense has been ordered to be automatically sealed.

D. Any denial by the court to enter a sealing order under subsection A or B shall be without prejudice, and the person may seek expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order under subsection A or B shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

E. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

F. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.9. Automatic sealing for mistaken identity or unauthorized use of identifying information.

A. If (i) a person is charged or arrested as a result of mistaken identity or (ii) a person's name or other identification is used without his consent or authorization by another person who is charged or arrested using such name or identification, and a nolle prosequi is entered or the charge is otherwise dismissed, the attorney for the Commonwealth or any other person requesting the nolle prosequi or dismissal shall notify the court of the mistaken identity or unauthorized use of identifying information at the time such request is made. Upon such notification, the court disposing of the matter shall, at the time the nolle prosequi or dismissal is entered, order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the person charged or arrested as a result of the mistaken identity or unauthorized use of identifying information objects to such automatic sealing.

B. If the court enters an order of sealing pursuant to subsection A, the court shall advise the person charged that the offense has been ordered to be automatically sealed.

C. Any denial by the court to enter a sealing order under subsection A shall be without prejudice. Entry of a sealing order or the denial of entry of a sealing order under subsection A shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

D. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

E. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.10. Process for automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall provide an electronic list of all offenses in such case management system to the Department of State Police that were ordered to be automatically sealed pursuant to §§ 19.2-392.8 and 19.2-392.9.

B. Upon receipt of the electronic lists under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

§ 19.2-392.11. Automatic sealing of misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history record.

A. On at least an annual basis, the Department of State Police shall review the Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions that resulted in (i) an acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient to justify a

finding of guilt, where the criminal history record of such person contains no convictions for any criminal offense for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 and where such criminal history record contains no arrests or charges for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding traffic infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal history record that has previously been ordered to be sealed shall not be deemed a conviction.

B. Upon identification of the finalized case dispositions under subsection A, the Department of State Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least an annual basis the Executive Secretary of the Supreme Court shall provide an electronic list of such offenses to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police on at least an annual basis. Upon receipt of such order, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. This section shall not be construed as prohibiting a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

H. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such offense was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.12. Sealing of offenses resulting in a deferred and dismissed disposition or conviction by petition.

A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24, a person who has been convicted of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95 may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records relating to the charge or conviction, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, or (c) not been convicted of any other felony within the past 10 years of his petition.

B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this section if such person files a petition to proceed without the payment of fees and costs, and the court with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except when not reasonably available, the date of arrest, the name of the arresting agency, and the date of conviction. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the charge or conviction to be sealed, the date of final disposition of the charge or conviction as set forth in the petition; the petitioner's date of birth, sex, race, and social security number, if available; and the full name used by the petitioner at the time of arrest or summons. A petitioner may only have two petitions granted pursuant to this section within his lifetime.

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is delivered to him or received in the mail.

E. Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law-enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner. Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the sealing of the criminal history record information and court records, including electronic records, relating to the charge or conviction, only if the court finds that all criteria in subdivisions 1 through 4 are met, as follows:

1. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, or (iii) release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later, the person has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, for:

a. Seven years for any misdemeanor offense; or

b. Ten years for any felony offense;

2. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

3. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out of different sentencing events; and

4. The continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

G. If the attorney for the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such offense sealed, and the continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of sealing without conducting a hearing.

H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

I. Upon the entry of an order of sealing, the clerk of the court shall cause an electronic copy of such order to be forwarded to the Department of State Police. Such electronic order shall contain the petitioner's full name, date of birth, sex, race, and social security number; if available, as well as the petitioner's state identification number from the criminal history record, the court case number of the charge or conviction to be sealed, if available, and the document control number; if available. Upon receipt of such electronic order, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge or conviction, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to § 17.1-205.1.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the sealing of records contrary to law shall be voidable upon motion and notice made within two years of the entry of such order.

L. If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint counsel to file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed \$120, as determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in § 17.1-205.1.

M. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is ineligible for the sealing of records under this section.

O. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge or conviction under this section when such charge or conviction is eligible for sealing under some other section of this chapter.

§ 19.2-392.13. Disposition of records when an offense is sealed; permitted uses of sealed records.

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have

obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of court shall determine whether such record is open to public access and inspection. If the clerk of court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall

be charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, except to the Virginia Criminal Sentencing Commission for its research purposes. Such electronic records may be disseminated to the Virginia Criminal Sentencing Commission without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of court shall not be required to prohibit dissemination of that record. The Supreme Court, Court of Appeals, and any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed.

G. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

H. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

I. The provisions of this section shall not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

§ 19.2-392.14. Disclosure of sealed records; penalty.

A. It is unlawful for any person having or acquiring access to sealed criminal history record information or a court record, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, to disclose such record or any information from such record to another person, except in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. A clerk of court shall not be in violation of this section if such clerk informs a person requesting access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a court order.

C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person who maliciously and intentionally violates this section is guilty of a Class 6 felony.

§ 19.2-392.15. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments; penalty.

A. Except as provided in subsection B, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed.

B. The provisions of subsection A shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

C. Agencies, officials, and employees of state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

E. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

F. If any entity or person listed under subsections A, C, D, or E includes a question about a prior arrest, charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that information concerning an arrest, charge, or conviction that has been sealed does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection B.

G. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.16. Dissemination of criminal history records and traffic history records by business screening services.

A. For the purposes of this section:

"Business screening service" means a person engaged in the business of collecting, assembling, evaluating, or disseminating Virginia criminal history records or traffic history records on individuals.

"Business screening service" does not include any government entity or the news media.

"Criminal history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.

"Delete" means that a criminal history record shall not be disseminated in any manner, except to any entity authorized to receive and use such information pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134, but may be retained in order to resolve any disputes relating to this section, the accuracy of the record consistent with the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

"Sealed record" means a Virginia criminal history record or a traffic history record that has been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12.

"Traffic history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal traffic infraction charges, and any disposition arising therefrom.

B. If a business screening service knows that a criminal history record or a traffic history record has been sealed, the business screening service shall promptly delete the record.

C. A business screening service shall register with the Department of State Police to electronically receive copies of orders of sealing provided to the Department of State Police pursuant to §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, with a portion of such fee to be used to cover the cost of providing such records and the remainder of such fee to be deposited into the Sealing Fee Fund pursuant to § 17.1-205.1. The contract between the Department of State Police and the business screening service shall prohibit dissemination of the orders of sealing and shall require compliance by the business screening service with the provisions of subsections D, E, and F. The orders of sealing received by the business screening service shall remain confidential and shall not be disseminated or resold. The orders of sealing shall be used for the sole purpose of deleting criminal history records that have been sealed. The business screening service shall destroy the copies of the orders of sealing after deleting the information contained in such orders from sealed records. The Department of State Police shall require that the business screening service seeking access to the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. The Department of State Police shall further require that a business screening service acknowledge

receipt of all electronic copies of orders of sealing provided by the Department of State Police. The Department of State Police shall maintain a public list within its website identifying the business screening services that are licensed to receive such records.

D. A business screening service that disseminates a criminal history record or a traffic history record on or after the effective date of this section shall include the date when the record was collected by the business screening service and a notice that the information may include records that have been sealed since that date.

E. A business screening service shall implement and follow reasonable procedures to assure that it does not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the completeness or accuracy of a criminal history record or traffic history record maintained by a business screening service is disputed by the individual who is the subject of the record, the business screening service shall, without charge, investigate the disputed record. If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the official record, the business screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to have been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12, the business screening service shall promptly delete the record. A business screening service may terminate an investigation of a disputed record if the business screening service reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a description of any information required to investigate the disputed record. The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the business screening service receives notice of the dispute from the subject of the record.

F. A business screening service shall implement procedures for individuals to submit a request to obtain their own criminal history record and traffic history record information maintained by the business screening service and any other information that may be sold to another entity by the business screening service regarding the individual.

G. A business screening service that violates this section is liable to the person who is the subject of the criminal history record or traffic history record for a penalty of \$1,000 or actual damages caused by the violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of any suit by an individual, the business screening service may make a cure offer in writing to the individual claiming to have suffered a loss as a result of a violation of this section. Such offer shall be in writing and include one or more things of value, including the payment of money. A cure offer shall be reasonably calculated to remedy a loss claimed by the individual, as well as any attorney fees or other fees, expenses, or other costs of any kind that such individual may incur in relation to such loss. No cure offer shall be admissible in any proceeding initiated under this section, unless the cure offer is delivered by the business screening service to the individual claiming loss or to any attorney representing such individual prior to the filing of the business screening service's initial responsive pleading in such proceeding. The business screening service shall not be liable for such individual's attorney fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorney fees and court costs, exceed the value of the cure offer.

H. The Attorney General may file a civil action to enforce this section. If the court finds that a business screening service has willfully engaged in an act or practice in violation of this section, the Attorney General may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$2,500 per violation. For the purposes of this section, prima facie evidence of a willful violation may be shown when the Attorney General notifies the alleged violator by certified mail that an act or practice is a violation of this section and the alleged violator, after receipt of said notice, continues to engage in the act or practice. In any civil action pursuant to this subsection, in addition to any civil penalty awarded, the Attorney General may also recover any costs and reasonable expenses incurred by the state in investigating and preparing the case, not to exceed \$1,000 per violation, and attorney fees. Such additional costs and expenses shall be paid into the general fund of the Commonwealth.

I. A business screening service that disseminates criminal history records or traffic history records in the Commonwealth is deemed to have consented to service of process in the Commonwealth and to the jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the recovery of remedies under this section.

J. A business screening service that is a consumer reporting agency and that is in compliance with the applicable provisions of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to be in compliance with the comparable provisions of this section. A business screening service is subject to the state remedies under this section if its actions would violate this section and federal law.

K. Any business screening service or person who engages in the conduct of a business screening service, as set forth in this section, that fails to register with the Department of State Police as required by subsection C and that disseminates criminal history records or traffic history records in the Commonwealth may be subject to (i) suit by any person injured by such dissemination and (ii) enforcement actions by the Attorney General as set forth in subsection H.

§ 19.2-392.17. Traffic infractions deemed sealed.

A. Any record of a traffic infraction under Title 46.2 that is not punishable as a criminal offense shall be deemed to be sealed after 11 years from the date of final disposition of the offense, unless such sealing is prohibited under federal or state law. No record of any such traffic infraction shall be disseminated, unless such dissemination is authorized pursuant to

§ 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the traffic infraction that was ordered to be sealed. Upon receipt of an order directing that a traffic infraction be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal a traffic infraction pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is subject to an administrative suspension order issued pursuant to Driver Improvement Program requirements under § 46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an accumulation of traffic infractions, and less than two years has passed since the date that the suspension order was complied with.

2. That the Department of State Police shall delete all records from the Central Criminal Records Exchange that were not required to be reported to the Central Criminal Records Exchange under subdivision A 1 of § 19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2021.

3. That the Attorney General, after consultation with the Committee on District Courts, the Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall amend the uniform summons described in § 46.2-388 of the Code of Virginia to reflect the amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by this act, by July 1, 2021.

4. That the provisions of §§ 9.1-101, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-310.7, and 19.2-389.3 of the Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of the Code of Virginia, as created by this act, shall become effective on the earlier of (i) the first day of the fourth month following notification of the Chair of the Virginia Code Commission and the Chairs of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, have automated systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, or (ii) July 1, 2025.

5. That the Department of State Police shall first transmit the list required under subsection B of § 19.2-392.7 of the Code of Virginia, as created by this act, not later than the earlier of (i) the first day of the third month following the effective date of this act as provided in clause (i) of the fourth enactment of this act or (ii) October 1, 2025.

6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, shall automate systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, not later than July 1, 2025.

7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for requesting and authorizing access to a sealed court record as set forth in section D of § 19.2-392.13 of the Code of Virginia, as created by this act, not later than July 1, 2025.

8. That the Department of State Police shall purchase Criminal History, Expungement, Master Name Index, Rap Back, Civil Commitment, Applicant Tracking, and such other solutions or services as may be necessary to implement this act. The purchase of these solutions or services shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).

9. That the Virginia State Crime Commission shall consult with stakeholders to determine and recommend methods to educate the public on the sealing process and the effects of an order to seal an arrest, charge, or conviction and shall report on such recommended methods by December 15, 2021.

10. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, shall each provide a report to the Virginia State Crime Commission on the progress of implementing automated systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, by November 1, 2021, and by November 1 of each year thereafter until the automated systems have been fully implemented.

11. That the Department of State Police shall determine the feasibility and cost of implementing an automated system to review out-of-state criminal history records and report to the Virginia State Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such determination has been made.

12. That the Virginia Court Clerks' Association shall determine the necessary staffing and technology costs of implementing the provisions of this act and report to the Virginia State Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such determination has been made.

13. That the Department of State Police shall consult with the Department of Motor Vehicles in determining the form and content of the electronic notice to be provided to the Department of Motor Vehicles as required in subsection A of § 19.2-392.13 of the Code of Virginia, as created by this act.

14. That the Department of Criminal Justice Services shall develop regulations governing the dissemination of sealed criminal history record information as directed by subsection D of § 9.1-128 of the Code of Virginia, as amended by this act, and the sealing of criminal history record information as directed by § 9.1-134 of the Code of Virginia, as amended by this act, in accordance with § 19.2-392.13 of the Code of Virginia, as created by this act.

15. That the Virginia State Crime Commission (the Commission) shall continue its current study on expungement; that such study shall include (i) the interplay between the current expungement statute and the sealing of criminal history record information and court records; (ii) the feasibility of destroying or purging expunged or sealed criminal history record information and court records; (iii) permissible uses of criminal history record information and court records; (iv) plea agreements in relation to the expungement or sealing of criminal history record information and court records; and (v) any other relevant matters that arise during the course of the study; and that the Commission shall report its findings by December 15, 2021. Such report shall also include a recommendation on how to create a review process for any proposed changes to the expungement or sealing of criminal history record information and court records.

16. That the Department of State Police shall develop a form contract for purposes of providing information regarding sealed criminal history record information to business screening services pursuant to § 19.2-392.16 of the Code of Virginia, as created by this act.

17. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 525

An Act to amend and reenact §§ 32.1-127, 32.1-162.5, and 63.2-1732 of the Code of Virginia, relating to hospitals, nursing homes, certified nursing facilities, hospices, and assisted living facilities; visits by clergy; public health emergency.

[S 1356]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-127, 32.1-162.5, and 63.2-1732 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or

imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900

et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that

the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for treatment of individuals experiencing a substance use-related emergency to include the completion of appropriate assessments or screenings to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for patients that are discharged directly from the emergency department for the recommendation of follow-up care following discharge for any identified substance use disorder, depression, or mental health disorder, as appropriate, which may include instructions for distribution of naloxone, referrals to peer recovery specialists and community-based providers of behavioral health services, or referrals for pharmacotherapy for treatment of drug or alcohol dependence or mental health diagnoses; ~~and~~

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision; *and*

29. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

§ 32.1-162.5. Regulations.

A. The Board shall prescribe such regulations governing the activities and services provided by hospices as may be necessary to protect the public health, safety and welfare. Such regulations shall include, but not be limited to, the requirements for: the qualifications and supervision of licensed and nonlicensed personnel; the standards for the care, treatment, health, safety, welfare, and comfort of patients and their families served by the program; the management, operation, staffing and equipping of the hospice program or hospice facility; clinical and business records kept by the hospice or hospice facility; and procedures for the review of utilization and quality of care. To avoid duplication in regulations, the Board shall incorporate regulations applicable to facilities licensed as hospitals or nursing homes under Article 1 (§ 32.1-123 et seq.) and to organizations licensed as home care organizations under Article 7.1 (§ 32.1-162.7 et seq.) that are also applicable to hospice programs in the regulations to govern hospices. A person who seeks a license to establish or operate a hospice and who has a preexisting valid license to operate a hospital, nursing home, or home care organization shall be considered in compliance with those regulations that are applicable to both a hospice and the facility for which it has a license.

B. Notwithstanding any law or regulation to the contrary, regulations for hospice facilities shall include minimum standards for design and construction consistent with the Hospice Care section of the current edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities issued by the American Institute of Architects Academy of Architecture for Health.

C. Regulations for hospices shall require each hospice facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board, during a public health emergency related to COVID-19. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the hospice facility and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of patients and staff of the hospice facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subsection; and (iv) the steps the hospice facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subsection. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each hospice facility publish on its website or communicate to patients or their personal representatives, in writing or via electronic means, the hospice facility's plan for providing visits to patients as required by this subsection.

D. During a declared public health emergency related to a communicable disease of public health threat, regulations governing hospices shall require each hospice facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subsection to comply with all reasonable requirements of the hospice adopted to protect the health and safety of the person, patients, and staff of the hospice.

§ 63.2-1732. Regulations for assisted living facilities.

A. The Board shall have the authority to adopt and enforce regulations to carry out the provisions of this subtitle and to protect the health, safety, welfare, and individual rights of residents of assisted living facilities and to promote their highest level of functioning. Such regulations shall take into consideration cost constraints of smaller operations in complying with such regulations and shall provide a procedure whereby a licensee or applicant may request, and the Commissioner may grant, an allowable variance to a regulation pursuant to § 63.2-1703.

B. Regulations shall include standards for staff qualifications and training; facility design, functional design, and equipment; services to be provided to residents; administration of medicine; allowable medical conditions for which care can be provided; and medical procedures to be followed by staff, including provisions for physicians' services, restorative care, and specialized rehabilitative services. The Board shall adopt regulations on qualifications and training for employees of an assisted living facility in a direct care position. "Direct care position" means supervisors, assistants, aides, or other employees of a facility who assist residents in their daily living activities.

C. Regulations for a Medication Management Plan in a licensed assisted living facility shall be developed by the Board, in consultation with the Board of Nursing and the Board of Pharmacy. Such regulations shall (i) establish the elements to be contained within a Medication Management Plan, including a demonstrated understanding of the responsibilities associated with medication management by the facility; standard operating and record-keeping procedures; staff qualifications, training and supervision; documentation of daily medication administration; and internal monitoring of plan conformance by the facility; (ii) include a requirement that each assisted living facility shall establish and maintain a written Medication Management Plan that has been approved by the Department; and (iii) provide that a facility's failure to

conform to any approved Medication Management Plan shall be subject to the sanctions set forth in § 63.2-1709 or 63.2-1709.2.

D. The Board shall amend 22VAC40-73-450 governing assisted living facility individualized service plans to require (i) that individualized service plans be reviewed and updated (a) at least once every 12 months or (b) sooner if modifications to the plan are needed due to a significant change, as defined in 22VAC40-73-10, in the resident's condition and (ii) that any deviation from the individualized service plan (a) be documented in writing or electronically, (b) include a description of the circumstances warranting deviation and the date such deviation will occur, (c) certify that notice of such deviation was provided to the resident or his legal representative, (d) be included in the resident's file, and (e) in the case of deviations that are made due to a significant change in the resident's condition, be signed by an authorized representative of the assisted living facility and the resident or his legal representative.

E. Regulations shall require all licensed assisted living facilities with six or more residents to be able to connect by July 1, 2007, to a temporary emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. The installation shall be in compliance with the Uniform Statewide Building Code.

F. Regulations for medical procedures in assisted living facilities shall be developed in consultation with the State Board of Health and adopted by the Board, and compliance with these regulations shall be determined by Department of Health or Department inspectors as provided by an interagency agreement between the Department and the Department of Health.

G. In developing regulations to determine the number of assisted living facilities for which an assisted living facility administrator may serve as administrator of record, the Board shall consider (i) the number of residents in each of the facilities, (ii) the travel time between each of the facilities, and (iii) the qualifications of the on-site manager under the supervision of the administrator of record.

H. Regulations shall require that each assisted living facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the facility is located, pursuant to § 9.1-914.

I. Regulations shall require that each assisted living facility ascertain, prior to admission, whether a potential resident is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the facility anticipates the potential resident will have a length of stay greater than three days or in fact stays longer than three days.

J. During a declared public health emergency related to a communicable disease of public health threat, regulations shall require each assisted living facility to establish a protocol to allow residents to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a resident pursuant to this subsection to comply with all reasonable requirements of the assisted living facility adopted to protect the health and safety of the person, residents, and staff of the assisted living facility.

CHAPTER 526

An Act to amend and reenact § 65.2-402.1 of the Code of Virginia, relating to workers' compensation; presumption as to death or disability from COVID-19.

[S 1375]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402.1 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter; or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of

Chapter 8 of Title 23.1 and employed by any public institution of higher education,; (xvi) correctional officer as defined in § 53.1-1~~;~~ or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this ~~section~~ *subsection*, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this ~~section~~ *subsection* gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

~~C. D.~~ *D.* Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

~~D. E.~~ *E.* Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

~~E. F. 1.~~ *F. 1.* The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions,; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons,; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed,; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. The presumptions described in subsection B shall apply to any person entitled to invoke them for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

~~F. G.~~ *G.* Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

CHAPTER 527

An Act to amend the Code of Virginia by adding a section numbered 18.2-283.2, relating to carrying a firearm or explosive material within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc.; penalty.

[S 1381]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-283.2 as follows:

§ 18.2-283.2. Carrying a firearm or explosive material within Capitol Square and the surrounding area, into a building owned or leased by the Commonwealth, etc.; penalty.

A. For the purposes of this section, "Capitol Square and the surrounding area" means (i) the grounds, land, real property, and improvements in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets, and the sidewalks of Bank Street extending from 50 feet west of the Pocahontas Building entrance to 50 feet east of the entrance of the Capitol of Virginia.

B. It is unlawful for any person to carry any firearm as defined in § 18.2-308.2:2 or explosive material as defined in § 18.2-308.2 within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or any agency thereof are regularly present for the purpose of performing their official duties.

C. A violation of this section is punishable as a Class 1 misdemeanor. Any firearm or explosive material carried in violation of this section shall be subject to seizure by a law-enforcement officer and forfeited to the Commonwealth and disposed of as provided in § 19.2-386.28.

D. The provisions of this section shall not apply to the following while acting in the conduct of such person's official duties: (i) any law-enforcement officer as defined in § 9.1-101; (ii) any authorized security personnel; (iii) any active military personnel; (iv) any fire marshal appointed pursuant to § 27-30 when such fire marshal has police powers provided by § 27-34.2:1; or (v) any member of a cadet corps who is recognized by a public institution of higher education while such member is participating in an official ceremonial event for the Commonwealth.

E. The provisions of clauses (iii) and (iv) of subsection B shall not apply to (i) any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016 who is visiting a gun range owned or leased by the Commonwealth; (ii) any of the following employees authorized to carry a firearm while acting in the conduct of such employee's official duties: (a) a bail bondsman as defined in § 9.1-185, (b) an employee of the Department of Corrections or a state juvenile correctional facility, (c) an employee of the Department of Conservation and Recreation, or (d) an employee of the Department of Wildlife Resources; (iii) any individual carrying a weapon into a courthouse who is exempt under § 18.2-283.1; (iv) any property owned or operated by a public institution of higher education; (v) any state park; or (vi) any magistrate acting in the conduct of the magistrate's official duties.

F. Notice of the provisions of this section shall be posted conspicuously along the boundary of Capitol Square and the surrounding area and at the public entrance of each location listed in subsection B, and no person shall be convicted of an offense under subsection B if such notice is not posted at such public entrance, unless such person had actual notice of the prohibitions in subsection B.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 528

An Act to amend and reenact §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131; and to repeal § 24.2-124, as it shall become effective, of the Code of Virginia, relating to elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action; penalties.

[S 1395]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131, as follows:

§ 24.2-104.1. Civil actions by Attorney General.

A. Whenever the Attorney General has reasonable cause to believe that a violation of an election law has occurred and that the rights of any voter or group of voters have been affected by such violation, the Attorney General may commence a civil action in the appropriate circuit court for appropriate relief.

B. In such civil action, the court may:

1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title, as is necessary to assure the full enjoyment of the rights granted by this title.

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation and (ii) in an amount not exceeding \$100,000 for any subsequent violation. Such civil penalties are payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

3. Award a prevailing plaintiff reasonable attorney fees and costs.

C. The court or jury may award such other relief to the aggrieved person as the court deems appropriate, including compensatory damages and punitive damages.

§ 24.2-105. (Effective September 1, 2021) Prescribing various forms.

A. The State Board shall prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth.

B. The State Board shall prescribe voting and election materials in languages other than English for use by a county, city, or town that is subject to the requirements of § 24.2-124 § 24.2-128. For purposes of this subsection, voting and election materials mean registration or voting notices, forms, and instructions. For purposes of this subsection, registration notices mean any notice of voter registration approval, denial, or cancellation, required by the provisions of Chapter 4 (§ 24.2-400 et seq.).

The State Board may make available voting and election materials in any additional languages other than those required by subsection A of § 24.2-124 § 24.2-128 as it deems necessary and appropriate. The State Board may accept voting and election materials translated by volunteers but shall verify the accuracy of such translations prior to making the translated materials available to a county, city, or town, or any voter.

*CHAPTER 1.1.**RIGHTS OF VOTERS.***§ 24.2-125. Definitions.**

For purposes of this chapter, "protected class" means a group of citizens protected from discrimination based on race or color or membership in a language minority group.

§ 24.2-126. Vote denial or dilution.

A. No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by the state or any locality in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote based on race or color or membership in a language minority group.

B. A violation of subsection A is established if, on the basis of the totality of circumstances, it is shown that the political processes leading to nomination or election in the state or a locality are not equally open to participation by members of a protected class in that its members have less opportunity than other members of the electorate to participate in the political processes or to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the state or locality is one circumstance that may be considered.

C. Nothing in this section shall be construed to establish a right to have members of a protected class elected in numbers equal to their proportion in the population.

§ 24.2-127. Impairment of voting rights of registered voters.

Nothing in this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any registered voter.

§ 24.2-128. Minority language accessibility.

A. The State Board shall designate a county, city, or town as a covered locality if it determines, in consultation with the Director of the Census, on the basis of the 2010 American Community Survey census data and subsequent American Community Survey data in five-year increments, or comparable census data, that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of an Indian reservation, more than five percent of the American Indian citizens of voting age within the Indian reservation are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process.

B. Whenever a covered locality provides any voting or election materials, it shall provide such materials in the language of the applicable minority group as well as in the English language. For purposes of this requirement, "voting or election materials" means registration or voting notices, forms, instructions, assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and notices regarding changes to local election districts, precincts, or polling places. For purposes of this requirement, "registration notices" means any notice of voter registration

approval, denial, or cancellation required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials in the preferred language identified by the voter.

C. The Attorney General, or any qualified voter who is a member of a language minority group for whom a covered locality is required to provide voting or election materials in such language, may institute a cause of action in the circuit court of the covered locality to compel the provision of the voting or election materials in the language of the applicable minority group. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-129. Covered practices; actions required prior to enactment or administration.

A. For the purposes of this section:

"Certification of no objection" means a certification issued by the Attorney General that there is no objection to the enactment or administration of a covered practice by a locality because the covered practice neither has the purpose or effect of denying or abridging the right to vote based on race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

"Covered practice" means:

1. Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district;

2. Any change, or series of changes within a 12-month period, to the boundaries of the locality that reduces by more than five percentage points the proportion of the locality's voting age population that is composed of members of a single racial or language minority group, as determined by the most recent American Community Survey data;

3. Any change to the boundaries of election districts or wards in the locality, including changes made pursuant to a decennial redistricting measure;

4. Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or that limits or impairs the creation or distribution of voting or election materials in any language other than English; or

5. Any change that reduces the number of or consolidates or relocates polling places in the locality, except where permitted by law in the event of an emergency.

"Voting age population" means the resident population of persons who are 18 years of age or older, as determined by the most recent American Community Survey data available at the time any change to a covered practice is published pursuant to subsection B.

B. Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body shall cause to be published on the official website for the locality the proposed covered practice and general notice of opportunity for public comment on the proposed covered practice. The governing body shall also publicize the notice through press releases and such other media as will best serve the purpose and subject involved. Such notice shall be made at least 45 days in advance of the last date prescribed in the notice for public comment.

Public comment shall be accepted for a period of no fewer than 30 days. During this period, the governing body shall afford interested persons an opportunity to submit data, views, and arguments in writing by mail, fax, or email, or through an online public comment forum on the official website for the locality if one has been established. The governing body shall conduct at least one public hearing during this period to receive public comment on the proposed covered practice.

The governing body may make changes to the proposed covered practice in response to public comment received. If doing so, the revised covered practice shall be published and public comment shall be accepted in accordance with this subsection, except the public comment period shall be no fewer than 15 days.

C. Following the public comment period or periods prescribed in subsection B, the governing body shall publish the final covered practice, which shall include a plain English description of the practice and the text of an ordinance giving effect to the practice, maps of proposed boundary changes, or other relevant materials, and notice that the covered practice will take effect in 30 days. During this 30-day waiting period, any person who will be subject to or affected by the covered practice may challenge in the circuit court of the locality where the covered practice is to be implemented the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. The governing body of a locality seeking to administer or implement a covered practice, in lieu of following the provisions of subsections B and C, may submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection. Such practice shall not be given effect until the Attorney General has issued such certification. A certification of no objection shall be deemed to have been issued if the Attorney General does not interpose an objection within 60 days of the governing body's submission or if, upon good cause shown and to facilitate an expedited approval within 60 days of the governing body's submission, the Attorney General has affirmatively indicated that no such objection will be made. An affirmative indication by the Attorney General that no objection will be made or the absence of

an objection to the covered practice by the Attorney General shall not bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

§ 24.2-130. At-large method of election; limitations; violations; remedies.

A. An at-large method of election, including one that combines at-large elections with district- or ward-based elections, shall not be imposed or applied by the governing body of any locality in a manner that impairs the ability of members of a protected class, as defined in § 24.2-125, to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.

B. A violation of subsection A is established if it is shown that racially polarized voting occurs in local elections and that this, in combination with the method of election, dilutes the voting strength of members of a protected class. For purposes of this subsection, "racially polarized voting" refers to the extent to which the candidate preferences of members of the protected class and other voters in the jurisdiction have differed in recent elections for the office at issue and other offices in which the voters have been presented with a choice between candidates who are members of the protected class and candidates who are not members of the protected class. A finding of racially polarized voting or a violation of subsection A shall not be precluded by the fact that members of a protected class are not geographically compact or concentrated in a locality. Proof of an intent on the part of voters or elected officials to discriminate against members of a protected class shall not be required to prove a violation of subsection A.

C. Any voter who is a member of a protected class, as defined in § 24.2-125, and who resides in a locality where a violation of this section is alleged shall be entitled to initiate a cause of action in the circuit court of the county or city in which the locality is located. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. Upon a finding of a violation of this section, the court shall implement appropriate remedies that are tailored to remedy the violation.

§ 24.2-131. Voter Education and Outreach Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Voter Outreach and Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All penalties and charges directed to this fund by § 24.2-104.1 and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of educating voters and persons qualified to be voters on the rights ensured to them pursuant to federal and state constitutional and statutory law and remedies. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Administration or his designee.

§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. ~~Notice~~ In addition to the requirements set forth in § 24.2-129, notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

§ 24.2-649. Assistance for certain voters; penalties.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the printed ballot in the officer's presence but in a secret manner and, obscuring his vote, return the ballot to the officer. The officer shall immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board.

Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting machine may be used in lieu of a printed ballot only so long as: (i) the voting machine remains in the plain

view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. If a printed ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646 or in the ballot scanner machine in accordance with the instructions of the State Board.

C. If the voter requires assistance in a language other than English and has not designated a person to assist him, an officer of election, ~~before he assists may assist as an interpreter, but~~ shall first inquire of the representatives authorized to be present pursuant to § 24.2-604.4 whether they have a volunteer available who can interpret for the voter. One representative interpreter for each party or candidate, insofar as available, shall be permitted to observe the officer of election communicate with the voter. *In any locality designated as a covered locality pursuant to § 24.2-128, the local electoral board shall ensure that interpretation services in the language of the applicable minority group are available and easily accessible to voters needing assistance pursuant to this subsection.* The voter may designate one of the volunteer party or candidate interpreters to provide assistance. A person so designated by the voter shall meet all the requirements of this section for a person providing assistance.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee voters shall be applicable in such cases.

E. In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance pursuant to this section that such machine is available for him to use to vote in privacy without assistance and the officers of election shall instruct the voter on the use of the voting machine. Nothing in this section shall be construed to require a voter to use the machine unassisted.

§ 24.2-1000. Intimidation of officers of election.

Any person who, by bribery, intimidation, *threats, coercion*, or other means in violation of the election laws, willfully hinders or prevents, or attempts to hinder or prevent, the officers of election at any ~~precinct polling place, voter satellite office, or other location being used by a locality for voting purposes~~ from holding an election shall be is guilty of a Class 5 felony.

§ 24.2-1005. Intimidation of voters; civil cause of action.

A. Any person who (i) ~~by threats, bribery, or other means in violation of the election laws, intimidates, threatens, or coerces, or attempts to influence intimidate, threaten, or coerce~~, any other person in giving his vote or ballot or ~~by such means who intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce a voter to deter or prevent him from voting;~~ (ii) ~~furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire; or (iii) changes a ballot of a person to prevent the person from voting as he desired, shall be is~~ guilty of a Class 1 misdemeanor.

B. In addition to the criminal penalty provided in subsection A, such actions shall also create a cause of action. A voter who is intimidated, threatened, or coerced by another person in violation of subsection A shall be entitled to institute an action for preventative relief, including an application for a permanent or temporary injunction, restraining order, or other order, against such person. The action shall be instituted in the circuit court of the locality where the violation occurred. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

C. This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

§ 24.2-1005.1. Communication of false information to registered voter.

A. It shall be unlawful for any person to communicate to a registered voter, by any means, false information, knowing the same to be false, intended to impede the voter in the exercise of his right to vote. The provisions of this section shall apply to information only about the date, time, and place of the election, or the voter's precinct, polling place, or voter registration status, *or the location of a voter satellite office or the office of the general registrar.*

B. Any person who violates the provisions of this section ~~shall be~~ is guilty of a Class 1 misdemeanor.

~~C. A violation of this section~~ *Such violation* may be prosecuted either in the jurisdiction from which the communication was made or in the jurisdiction in which the communication was received.

C. In addition to the criminal penalty provided in subsection B, a violation of the provisions of this section shall also create a cause of action. A registered voter to whom such false information is communicated shall be entitled to institute an action for preventative relief, including an application for a permanent or temporary injunction, restraining order, or other order, against the person communicating such false information. The action shall be instituted in the circuit court of either the jurisdiction from which the communication was made or the jurisdiction in which the communication was received. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-1005.2. Interference with voting.

A. Any person acting under the color of law who, contrary to an official policy or procedure, fails to permit, or refuses to permit, a qualified voter to vote, or who willfully fails or refuses to tabulate, count, or report the vote of a qualified voter, is subject to a civil penalty in an amount not exceeding \$1,000 for each affected voter. Such civil penalties shall be payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

B. Any person who furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire is guilty of a Class 1 misdemeanor. Any person who changes a ballot of a person to prevent the person from voting as he desires is guilty of a Class 1 misdemeanor. This subsection applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

2. That § 24.2-124, as it shall become effective, of the Code of Virginia is repealed.

3. That the provisions of § 24.2-128 of the Code of Virginia, as created by this act, shall become effective on September 1, 2021.

4. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 529

An Act to amend and reenact §§ 16.1-253 and 16.1-253.2 of the Code of Virginia, relating to violations of protective orders; preliminary child protective order.

[S 1415]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253 and 16.1-253.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-253. Preliminary protective order.

A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order, after a hearing, if necessary to protect a child's life, health, safety or normal development pending the final determination of any matter before the court. The order may require a child's parents, guardian, legal custodian, other person standing in loco parentis or other family or household member of the child to observe reasonable conditions of behavior for a specified length of time. These conditions shall include any one or more of the following:

1. To abstain from offensive conduct against the child, a family or household member of the child or any person to whom custody of the child is awarded;
2. To cooperate in the provision of reasonable services or programs designed to protect the child's life, health or normal development;
3. To allow persons named by the court to come into the child's home at reasonable times designated by the court to visit the child or inspect the fitness of the home and to determine the physical or emotional health of the child;
4. To allow visitation with the child by persons entitled thereto, as determined by the court;
5. To refrain from acts of commission or omission which tend to endanger the child's life, health or normal development;

6. To refrain from such contact with the child or family or household members of the child, as the court may deem appropriate, including removal of such person from the residence of the child. However, prior to the issuance by the court of an order removing such person from the residence of the child, the petitioner must prove by a preponderance of the evidence that such person's probable future conduct would constitute a danger to the life or health of such child, and that there are no less drastic alternatives which could reasonably and adequately protect the child's life or health pending a final determination on the petition; or

7. To grant the person on whose behalf the order is issued the possession of any companion animal as defined in § 3.2-6500 if such person meets the definition of owner in § 3.2-6500.

B. A preliminary protective order may be issued ex parte upon motion of any person or the court's own motion in any matter before the court, or upon petition. The motion or petition shall be supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irreparable injury to the child's life or health. If an ex parte order is issued without an affidavit being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five business days after the issuance of the order.

C. Prior to the hearing required by this section, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian, or other person standing in loco parentis of the child, to any other family or household member of the child to whom the protective order may be directed and to the child if he or she is 12 years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child, his or her parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this section the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary protective order hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing shall be held and an order may be entered, although a party to the hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

Any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

G. If at the preliminary protective order hearing held pursuant to this section the court makes a finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of the preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the dispositional hearing. The dispositional hearing shall be scheduled at the time of the hearing pursuant to this section, and shall be held within 60 days of this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the

dispositional hearing shall nonetheless be scheduled at the hearing pursuant to this section. All parties present at the hearing shall be given notice of the date and time scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

H. Nothing in this section enables the court to remove a child from the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis, except as provided in § 16.1-278.2, and no order hereunder shall be entered against a person over whom the court does not have jurisdiction.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. Violation of any order issued pursuant to this section shall ~~constitute~~ *be punishable as contempt of court. However, if the violation involves an act or acts of commission or omission that endanger the child's life or health or result in bodily injury to the child, it shall be punishable as a Class 1 misdemeanor.*

K. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of the preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

L. No fee shall be charged for filing or serving any petition or order pursuant to this section.

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

A. In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to ~~§ 16.1-253~~, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to ~~§ 16.1-253~~, 16.1-253.1, 16.1-253.4, 16.1-278.14, or 16.1-279.1 or subsection B of § 20-103 is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § 18.2-60.3, he is guilty of a Class 6

felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 16.1-279.1 for a specified period not exceeding two years from the date of conviction.

E. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued or in any county or city where any act constituting the violation of the protective order occurred.

2. That the provisions of this act shall supersede and control any provision of Chapter 184 of the Acts of Assembly of 2021, Special Session I.

CHAPTER 530

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 23.1 a section numbered 23.1-110, by adding in Article 3 of Chapter 1 of Title 32.1 a section numbered 32.1-23.3, and by adding a section numbered 54.1-2400.03, relating to Department of Health; Eligible Health Care Provider Reserve Directory; emergency.

[S 1436]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 23.1 a section numbered 23.1-110, by adding in Article 3 of Chapter 1 of Title 32.1 a section numbered 32.1-23.3, and by adding a section numbered 54.1-2400.03 as follows:

§ 23.1-110. Medical schools to report information concerning fourth-year medical students to the Department of Health; Eligible Health Care Provider Reserve Directory.

All medical schools in the Commonwealth shall report information prescribed in subsection B of § 32.1-23.3 for fourth-year medical students who are in good standing and scheduled to graduate early or on time to the Department of Health for inclusion in the Eligible Health Care Provider Reserve Directory (the Directory) when such students register for inclusion in the Directory and consent to the release of their education records required for inclusion in the Directory in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

§ 32.1-23.3. Eligible Health Care Provider Reserve Directory.

A. As used in this section, "eligible health care provider" means (i) any person licensed, registered, or certified by a health regulatory board within the Department of Health Professions whose license, registration, or certification is in good standing, or was in good standing within five years or less prior and only lapsed because such person retired; (ii) any emergency medical services provider certified or licensed by the Department of Health whose certification or licensing is in good standing, or was in good standing within five years or less prior and only lapsed because such person retired; and (iii) any fourth-year medical student who is engaged in a course of study approved by the Board of Medicine and is in good standing with the student's medical school and is scheduled to graduate early or on time who registers for the Eligible Health Care Provider Reserve Directory (the Directory).

B. The Department shall establish an Eligible Health Care Provider Reserve Directory to collect information regarding eligible health care providers in the Commonwealth who are qualified and who may be available to assist in the response to a public health emergency. The Directory shall include the name, contact information, and licensure, certification, or registration type and status of the eligible health care provider or, if the eligible health care provider is a fourth-year medical student, academic standing and anticipated graduation date of the fourth-year medical student. Every health regulatory board of the Department of Health Professions, the Office of Emergency Medical Services of the Department of Health, and each medical school located in the Commonwealth, upon the request of a fourth-year medical student, shall provide such information to the Department for inclusion in the Directory.

C. During a declared public health emergency, the Governor may request and the Commissioner may provide information regarding eligible health care providers from the Directory. Information obtained from the Directory may be used to (i) identify eligible health care providers who may be able to assist in responding to the public health emergency and (ii) contact such eligible health care providers to request assistance in responding to the public health emergency. Information contained in the Directory shall not be used for any other purpose.

§ 54.1-2400.03. Health regulatory boards to report information concerning health professionals to the Department of Health; Eligible Health Care Provider Reserve Directory.

Every health regulatory board within the Department of Health Professions shall report information prescribed in subsection B of § 32.1-23.3 for persons licensed, registered, or certified or previously licensed, registered, or certified by the health regulatory board to the Department of Health for inclusion in the Eligible Health Care Provider Reserve Directory. However, a health regulatory board shall not report information for any such person who has notified the health regulatory board in writing that he does not want his information included in the Eligible Health Care Provider Reserve Directory.

2. That an emergency exists and this act is in force from its passage.

CHAPTER 531

An Act to amend and reenact § 15.2-2306 of the Code of Virginia, relating to preservation of historic sites.

[S 1457]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2306 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-2306. Preservation of historical sites and architectural areas.**

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their

renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. *Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.*

2. That an emergency exists and this act is in force from its passage.

CHAPTER 532

An Act to amend and reenact §§ 2.2-204, 2.2-604.2, 2.2-1157, 2.2-1176.1, 2.2-3705.6, 2.2-4006, 10.1-606.3, 10.1-659, 10.1-1194, 10.1-1329, 10.1-1330, 10.1-1406.2, 11-34.3, 15.2-958.3, 15.2-980, 15.2-2224, 23.1-2626, 23.1-2627, 28.2-1208, 30-275, 33.2-236, 45.1-161.1, 45.1-161.2, 45.1-161.5, 45.1-161.15, 45.1-161.179, 45.1-161.292:2, 45.1-180, 45.1-229, 45.1-230, 45.1-270.4:1, 45.1-361.28, 45.1-361.41, 45.1-383, 45.1-390, 56-265.15:1, 56-576, 56-585.5, 56-594.3, 56-596.2, 58.1-439.2, 58.1-439.12:02, 58.1-3660, 58.1-3706, 58.1-3745, 62.1-44.15:21, 62.1-44.15:66, 62.1-195.1, 62.1-243, 62.1-256, 62.1-259, 63.2-805, 67-200, 67-202.1, 67-602, 67-900, 67-1000, 67-1206, 67-1208, 67-1209, 67-1403, and 67-1506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 45.1-161.4:1, relating to Department of Mines, Minerals and Energy.

[H 1855]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-604.2, 2.2-1157, 2.2-1176.1, 2.2-3705.6, 2.2-4006, 10.1-606.3, 10.1-659, 10.1-1194, 10.1-1329, 10.1-1330, 10.1-1406.2, 11-34.3, 15.2-958.3, 15.2-980, 15.2-2224, 23.1-2626, 23.1-2627, 28.2-1208, 30-275, 33.2-236, 45.1-161.1, 45.1-161.2, 45.1-161.5, 45.1-161.15, 45.1-161.179, 45.1-161.292:2, 45.1-180, 45.1-229, 45.1-230, 45.1-270.4:1, 45.1-361.28, 45.1-361.41, 45.1-383, 45.1-390, 56-265.15:1, 56-576, 56-585.5, 56-594.3, 56-596.2,

58.1-439.2, 58.1-439.12:02, 58.1-3660, 58.1-3706, 58.1-3745, 62.1-44.15:21, 62.1-44.15:66, 62.1-195.1, 62.1-243, 62.1-256, 62.1-259, 63.2-805, 67-200, 67-202.1, 67-602, 67-900, 67-1000, 67-1206, 67-1208, 67-1209, 67-1403, and 67-1506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 45.1-161.4:1 as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Commonwealth of Virginia Innovation Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of ~~Mines, Minerals and~~ Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-604.2. Designation of officials; energy manager.

A. The head of each state agency shall designate an existing employee, known as an energy manager, who shall be responsible for implementing improvements to state buildings to reduce greenhouse gas emissions and improve energy efficiency and climate change resiliency.

B. The energy manager shall:

1. Maintain a list of the facilities owned and leased by his agency, including buildings and interior spaces. Such list shall indicate energy usage and any prior energy audit or energy saving performance contract.

2. Enter energy and water consumption and building-related information into the ENERGY STAR Portfolio Manager account for any building or facility over 5,000 square feet, beginning with the largest facilities not yet accounted for, as follows:

- a. By January 1, 2021, five percent of agency facilities;
- b. By January 1, 2022, 20 percent of agency facilities;
- c. By January 1, 2023, 45 percent of agency facilities;
- d. By January 1, 2024, 70 percent of agency facilities; and
- e. By January 1, 2025, 100 percent of agency facilities.

3. By January 1, 2021, or as each utility account is established, whichever is later, coordinate with the Department of ~~Mines, Minerals and~~ Energy (DMME) to link utility accounts to the state portfolio master account and to provide to DMME ~~the Department of Energy~~ access to such ENERGY STAR Portfolio Manager account.

4. On an ongoing basis, identify priority buildings and spaces for energy audits or energy saving performance contracts. In determining priorities, the energy manager may consider how energy usage may be reduced and the feasibility of installing energy saving or on-site renewable energy systems.

5. Provide to ~~DMME the Department of Energy~~ the priority building list on an annual basis.

§ 2.2-1157. Exploration for and extraction of minerals on state-owned uplands.

A. The Department of ~~Mines, Minerals and~~ Energy, in cooperation with the Division, shall develop, with the assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the Plan). The Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Division, with the advice of the Department of ~~Mines, Minerals and~~ Energy.

B. Upon receiving the recommendation of both the Director of the Department of General Services and the Director of the Department of ~~Mines, Minerals and~~ Energy, the Governor shall determine whether the proposed mineral exploration, leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well through which the extraction will occur is situated on such land.

For purposes of this section, "state-owned uplands" means lands owned by the Commonwealth that (i) lie landward of the mean low water mark in tidal areas or (ii) have an elevation above the average surface water level in nontidal areas.

C. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or extraction on state-owned uplands shall, through their boards or commissions, recommend all such activities to the Division following guidelines set forth in the Plan. The Division and the Department of ~~Mines, Minerals and~~ Energy shall review and recommend to the Governor such proposed activities. Such agencies, departments or institutions, through their boards or commissions, may execute the leases or contracts that have been approved by the Governor.

D. The proceeds from all such sales or leases above the costs of the sale to the Department of ~~Mines, Minerals and~~ Energy or to the agency, department or institution sponsoring the sale shall be paid into the general fund of the state treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by the Virginia Marine Resources Commission pursuant to Title 28.2 (§ 28.2-100 et seq.).

§ 2.2-1176.1. Alternative Fuel Vehicle Conversion Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Alternative Fuel Vehicle Conversion Fund, hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of such moneys appropriated by the General Assembly and any other funds available from donations, grants, in-kind contributions, and other funds as may be received for the purposes stated herein. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of assisting agencies of the Commonwealth with the incremental cost of state-owned alternative fuel vehicles and local government and agencies thereof and local school divisions with the incremental cost of such local government-owned alternative fuel vehicles. Moneys in the Fund may be used in conjunction with or as matching funds for any eligible federal grants for the same purpose. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

As used in this section, "incremental cost" means the entire cost of a certified conversion of an existing vehicle to use at least one alternative fuel or the additional cost of purchasing a new vehicle equipped to operate on at least one alternative fuel over the normal cost of a similar vehicle equipped to operate on a conventional fuel such as gasoline or diesel fuel.

The Director, in consultation with the Director of the Department of ~~Mines, Minerals and Energy~~, shall establish guidelines for contributions and reimbursements from the Fund for the purchase or conversion of state-owned or local government-owned vehicles.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of ~~Mines, Minerals and Energy~~, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private

Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.

2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;

b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.

6. Regulations of (i) the regulatory boards served by the Department of Labor and Industry pursuant to Title 40.1 and the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 and (ii) the Board of Accountancy that are limited to reducing fees charged to regulants and applicants.

7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

11. Regulations of the Marine Resources Commission.

12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E of § 54.1-3443.

14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

16. Amendments to the State Health Services Plan adopted by the Board of Health following receipt of recommendations by the State Health Services Task Force pursuant to § 32.1-102.2:1 if the Board (i) provides a Notice of Intended Regulatory Action in accordance with the requirements of § 2.2-4007.01, (ii) provides notice and receives comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing on the proposed amendments.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

§ 10.1-606.3. Requirement for development in dam break inundation zones.

A. For any development proposed within the boundaries of a dam break inundation zone that has been mapped in accordance with § 10.1-606.2, the locality shall, as part of a preliminary plan review pursuant to § 15.2-2260, or as part of a plan review pursuant to § 15.2-2259 if no preliminary review has been conducted, (i) review the dam break inundation zone map on file with the locality for the affected impounding structure, (ii) notify the dam owner, and (iii) within 10 days forward a request to the Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required of the dam. The Department shall notify the dam

owner and the locality of its determination within 45 days of the receipt of the request. Upon receipt of the Department's determination, the locality shall complete the review in accordance with § 15.2-2259 or 15.2-2260. If a locality has not received a determination within 45 days of the Department's receipt of the request, the Department shall be deemed to have no comments, and the locality shall complete its review. Such inaction by the Department shall not affect the Board's authority to regulate the impounding structure in accordance with this article.

If the Department determines that the plan of development would change the spillway design flood standards of the impounding structure, the locality shall not permit development as defined in § 15.2-2201 or redevelopment in the dam break inundation zone unless the developer or subdivider agrees to alter the plan of development so that it does not alter the spillway design flood standard required of the impounding structure or he contributes payment to the necessary upgrades to the affected impounding structure pursuant to § 15.2-2243.1.

The developer or subdivider shall provide the dam owner and all affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

The requirements of this subsection shall not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the locality as of the time of the official submission of a development plan to the locality.

B. The locality is authorized to map the dam break inundation zone in accordance with criteria set out in the Virginia Impounding Structure Regulations (4VAC50-20) and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the locality and a map has not been prepared by the impounding structure owner.

C. This section shall not be construed to supersede or conflict with the authority granted to the Department of ~~Mines, Minerals and Energy~~ for the regulation of mineral extraction activities in the Commonwealth as set out in Title 45.1. Nothing in this section shall be interpreted to permit the impairment of a vested right in accordance with § 15.2-2307.

§ 10.1-659. Flood protection programs; coordination.

The provisions of this chapter shall be coordinated with the Virginia Coastal Resilience Master Plan and federal, state, and local flood prevention and water quality programs to minimize loss of life, property damage, and negative impacts on the environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection, dam safety, shoreline erosion and public beach preservation, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation, including projects that result in hydrologic modification of rivers, streams, and flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality; forested watershed management programs of the Department of Forestry; the agricultural stewardship, farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer Services; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of Wildlife Resources; the mineral extraction regulatory program of the Department of ~~Mines, Minerals and Energy~~; the flood plain restrictions of the Virginia Waste Management Board; flooding-related research programs of the state universities; local government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities Act program of the Department of Historic Resources; and any other state agency programs deemed necessary by the Director, the Chief Resilience Officer of the Commonwealth, and the Special Assistant to the Governor for Coastal Adaptation and Protection. The Department shall also coordinate with soil and water conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The Director and either the Special Assistant to the Governor for Coastal Adaptation and Protection or the Chief Resilience Officer shall jointly hold meetings of representatives of these programs, entities, and localities in order to determine, coordinate, and prioritize the Commonwealth's efforts and expenditures to increase flooding resilience. The Department shall cooperate with other public and private agencies having flood plain management programs and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.

§ 10.1-1194. Watershed Planning and Permitting Coordination Task Force created; membership; duties.

A. There is hereby created the Watershed Planning and Permitting Coordination Task Force, which shall be referred to in this article as the Task Force. The Task Force shall be composed of the Directors, or their designees, of the Department of Environmental Quality, the Department of Conservation and Recreation, the Department of Forestry, the Department of ~~Mines, Minerals and Energy~~, and the Commissioner, or his designee, of the Department of Agriculture and Consumer Services.

B. The Task Force shall meet at least quarterly on such dates and times as the members determine. A majority of the Task Force shall constitute a quorum.

C. The Task Force shall undertake such measures and activities it deems necessary and appropriate to see that the functions of the agencies represented therein, and to the extent practicable of other agencies of the Commonwealth, and the

efforts of state and local agencies and authorities in watershed planning and watershed permitting are coordinated and promoted.

§ 10.1-1329. Definitions.

As used in this article, unless the context requires a different meaning:

"Allowance" means an authorization to emit a fixed amount of carbon dioxide.

"Allowance auction" means an auction in which the Department or its agent offers allowances for sale.

"DHCD" means the Department of Housing and Community Development.

"DMME" "DOE" means the Department of ~~Mines, Minerals and Energy~~.

"Energy efficiency program" has the same meaning as provided in § 56-576.

"Fund" means the Virginia Community Flood Preparedness Fund created pursuant to § 10.1-603.25.

"Housing development" means the same as that term is defined in § 36-141.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum of understanding between signatory states dated December 20, 2005, and as may be amended, and the corresponding model rule that established a regional carbon dioxide electric power sector cap and trade program.

"Secretary" means the Secretary of Natural Resources.

§ 10.1-1330. Clean Energy and Community Flood Preparedness.

A. The provisions of this article shall be incorporated by the Department, without further action by the Board, into the final regulation adopted by the Board on April 19, 2019, and published in the Virginia Register on May 27, 2019. Such incorporation by the Department shall be exempt from the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

B. The Director is hereby authorized to establish, implement, and manage an auction program to sell allowances into a market-based trading program consistent with the RGGI program and this article. The Director shall seek to sell 100 percent of all allowances issued each year through the allowance auction, unless the Department finds that doing so will have a negative impact on the value of allowances and result in a net loss of consumer benefit or is otherwise inconsistent with the RGGI program.

C. To the extent permitted by Article X, Section 7 of the Constitution of Virginia, the state treasury shall (i) hold the proceeds recovered from the allowance auction in an interest-bearing account with all interest directed to the account to carry out the purposes of this article and (ii) use the proceeds without further appropriation for the following purposes:

1. Forty-five percent of the revenue shall be credited to the account established pursuant to the Fund for the purpose of assisting localities and their residents affected by recurrent flooding, sea level rise, and flooding from severe weather events.

2. Fifty percent of the revenue shall be credited to an account administered by DHCD to support low-income energy efficiency programs, including programs for eligible housing developments. DHCD shall review and approve funding proposals for such energy efficiency programs, and ~~DMME~~ DOE shall provide technical assistance upon request. Any sums remaining within the account administered by DHCD, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in such account to support low-income energy efficiency programs.

3. Three percent of the revenue shall be used to (i) cover reasonable administrative expenses of the Department in the administration of the revenue allocation, carbon dioxide emissions cap and trade program, and auction and (ii) carry out statewide climate change planning and mitigation activities.

4. Two percent of the revenue shall be used by DHCD, in partnership with ~~DMME~~ DOE, to administer and implement low-income energy efficiency programs pursuant to subdivision 2.

D. The Department, the Department of Conservation and Recreation, DHCD, and ~~DMME~~ DOE shall prepare a joint annual written report describing the Commonwealth's participation in RGGI, the annual reduction in greenhouse gas emissions, the revenues collected and deposited in the interest-bearing account maintained by the Department pursuant to this article, and a description of each way in which money was expended during the fiscal year. The report shall be submitted to the Governor and General Assembly by January 1, 2022, and annually thereafter.

§ 10.1-1406.2. Conditional exemption for coal and mineral mining overburden or solid waste.

The provisions of this chapter shall not apply to coal or mineral mining overburden returned to the mine site or solid wastes from the extraction, beneficiation, and processing of coal or minerals that are managed in accordance with requirements promulgated by the Department of ~~Mines, Minerals and Energy~~.

§ 11-34.3. Energy Performance-Based Contract Procedures; required contract provisions.

A. Any contracting entity may enter into an energy performance-based contract with an energy performance contractor to significantly reduce energy costs to a level established by the public body or operating costs of a facility through one or more energy conservation or operational efficiency measures. For the purposes of this chapter, energy conservation or operational efficiency measures shall not include roof replacement projects.

B. The energy performance contractor shall be selected through competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2. The evaluation of the request for proposal shall analyze the estimates of all costs of installation, maintenance, repairs, debt service, post installation project monitoring and reporting. Notwithstanding any other provision of law, any contracting entity may purchase energy conservation or operational efficiency measures under an energy performance-based contract entered into by another contracting entity pursuant to this chapter even if it did not participate in the request for proposals if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities.

C. Before entering into a contract for energy conservation measures and facility technology infrastructure upgrades and modernization measures, the contracting entity shall require the performance contractor to provide a payment and performance bond relating to the installation of energy conservation measures and facility technology infrastructure upgrades and modernization measures in the amount the contracting entity finds reasonable and necessary to protect its interests.

D. Prior to the design and installation of the energy conservation measure, the contracting entity shall obtain from the energy performance contractor a report disclosing all costs associated with the energy conservation measure and providing an estimate of the amount of the energy cost savings. After reviewing the report, the contracting entity may enter into an energy performance-based contract if it finds (i) the amount the entity would spend on the energy conservation measures and facility and technology infrastructure upgrades and modernization measures recommended in the report will not exceed the amount to be saved in energy and operation costs more than 20 years from the date of installation, based on life-cycle costing calculations, if the recommendations in the report were followed and (ii) the energy performance contractor provides a written guarantee that the energy and operating cost savings will meet or exceed the costs of the system. The contract may provide for payments over a period of time not to exceed 20 years.

E. The term of any energy performance-based contract shall expire at the end of each fiscal year but may be renewed annually up to 20 years, subject to the contracting entity making sufficient annual appropriations based upon continued realized cost savings. Such contracts shall stipulate that the agreement does not constitute a debt, liability, or obligation of the contracting entity, or a pledge of the faith and credit of the contracting entity. Such contract may also provide capital contributions for the purchase and installation of energy conservation and facility and technology infrastructure upgrades and modernization measures that cannot be totally funded by the energy and operational savings.

F. An energy performance-based contract shall include the following provisions:

1. A guarantee by the energy performance contractor that annual energy and operational cost savings will meet or exceed the amortized cost of energy conservation measures. The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed within 20 years the costs of the energy and operational savings measures. The qualified provider shall reimburse the contracting entity for any shortfall of guaranteed energy savings projected in the contract.

2. A requirement that the energy performance contractor to whom the contract is awarded provide a 100 percent performance guarantee bond to the contracting entity for the installation and faithful performance of the installed energy savings measures as outlined in the contract document.

3. A requirement that the energy performance contractor provide to the contracting entity an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall that may occur.

G. The Department of ~~Mines, Minerals and Energy~~ (the Department) shall make a reasonable effort, as long as workload permits, to:

1. Provide general advice, upon request, to local governments that wish to consider pursuit of an energy performance-based contract pursuant to this section;

2. Annually compile a list of performance-based contracts entered into by local governments of which the Department may become aware.

§ 15.2-958.3. Financing clean energy, resiliency, and stormwater management programs.

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy, resiliency, or stormwater management improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum and maximum aggregate dollar amount that may be financed with respect to a property and (ii) if a locality or other public body is originating the loan, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body;

4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of clauses (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems, resiliency improvements, or stormwater management improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55.1-2000:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

G. The Department of Mines, Minerals and Energy shall have the authority to serve as a statewide sponsor for a clean energy financing program that meets the requirements of this section. The Department of Mines, Minerals and Energy shall engage a private entity through a competitive selection process to develop and administer the program.

§ 15.2-980. Civil penalties for violations of noise ordinances.

Any locality may, by ordinance, adopt a uniform schedule of civil penalties for violations of that locality's noise ordinance. This provision shall not apply to noise generated in connection with the business being performed on industrial property. Civil fines will not exceed \$250 for the first offense and \$500 for each subsequent offense. The locality may authorize the chief law-enforcement officer to enforce any civil penalties adopted pursuant to the provisions of this section. The provisions of this section shall not apply to railroads. No ordinance of any locality shall apply to sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

§ 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.

A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, groundwater and surface water availability, quality, and sustainability, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, dam break inundation zones and potential impacts to downstream properties to the extent that information concerning such information exists and is available to the local planning authority, the transmission of electricity, broadband infrastructure, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of ~~Mines, Minerals and~~ Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:

1. An official map;
2. A capital improvements program;
3. A subdivision ordinance;
4. A zoning ordinance and zoning district maps;
5. A mineral resource map;
6. A recreation and sports resource map; and
7. A map of dam break inundation zones.

§ 23.1-2626. Powers and duties of the Center.

The Center, under the direction of the executive director, shall:

1. Develop a degree program in energy production and conservation research at the master's level in conjunction with the Council;
2. Develop and provide programs of continuing education and in-service training for persons who work in the fields of coal or other energy research, development, or production;
3. Collaborate with other departments of the University, including the Department of Mining and Minerals Engineering;
4. Conduct research in the fields of coal, coal utilization, migrating natural gases such as methane and propane, and other energy-related work;
5. Collect and maintain data on energy production, development, and utilization;
6. Foster the utilization of research information, discoveries, and data;
7. Coordinate the functions of the Center with each of the Center's energy research facilities to prevent duplication of effort;
8. Apply for and accept grants from the federal government, state government, and any other source to carry out the purposes of this article. The Center may comply with such conditions and execute such agreements as may be necessary to accept such grants;
9. Accept gifts, bequests, and any other thing of value to carry out the purposes of this article;
10. Receive, administer, and expend all funds and other assistance made available to the Center to carry out the purposes of this article;
11. Consult with the Division of *Renewable Energy and Energy Efficiency* of the Department of ~~Mines, Minerals and~~ Energy in the preparation of the Virginia Energy Plan pursuant to § 67-201; and
12. Do all things necessary or convenient for the proper administration of this article.

§ 23.1-2627. Virginia Coal Research and Development Advisory Board.

The Virginia Coal Research and Development Advisory Board (the Advisory Board) shall serve in an advisory capacity to the executive director of the Center. Representatives to the Advisory Board shall be appointed by the board. The board shall appoint such other individuals as it deems necessary to the work of the Advisory Board.

Members shall include representatives from the Department of Conservation and Recreation, the Department of Small Business and Supplier Diversity, the Department of ~~Mines, Minerals and~~ Energy, the Department of Labor and Industry, the Virginia Port Authority, and each public institution of higher education, excluding the University.

§ 28.2-1208. Granting easements in, permitting the use of, or leasing the beds of certain waters.

A. The Commission may, with the approval of the Attorney General and the Governor, grant easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed five years, except in the case of offshore renewable energy leases described in clause (ii), in which case the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient and proper. Such easements and leases may include the right to renew the same for an additional period not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from the bottoms covered thereby specified minerals and mineral substances or (ii) generate electrical energy from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase payment for any easement granted to a public service corporation, certificated telephone company, interstate natural gas company or provider of cable television or other multichannel video programming service shall be \$100 and shall be for a period of 40 years. However, no easement or lease shall in any way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased bottoms or the waters above.

B. All easements granted and leases made pursuant to this section shall be executed for, and in the name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the Governor.

C. All mineral royalties collected from such easements or leases on and after July 1, 2000, shall be paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All royalties collected as a result of the generation or transmission of electrical or compressed air energy from offshore renewable sources including wave or tidal action, currents, offshore winds, and thermal or salinity gradients shall be paid into the state treasury and appropriated to the Virginia Coastal Energy Research Consortium established pursuant to § 67-600.

D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports to the General Assembly on all easements and leases executed pursuant to this section during the preceding 12 months.

E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the Department of ~~Mines, Minerals and Energy~~ and with the assistance of affected state agencies, departments and institutions, including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in § 2.2-1157 and the Virginia Energy Plan (§ 67-200 et seq.). The State Subaqueous Minerals and Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii) public advertising for competitive bids or proposals for mineral and renewable energy leasing and extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the Governor as required by subsection A. The environmental impact reports shall address, but not be limited to:

1. The environmental impact of the proposed activity;
2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
3. Measures proposed to minimize the impact of the proposed activity;
4. Any alternative to the proposed activity; and
5. Any irreversible environmental changes which would be involved in the proposed activity.

For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

F. Neither the Commission nor the Department of ~~Mines, Minerals and Energy~~ shall grant any lease, easement, or permit allowing on the beds of any of the coastal waters of the Commonwealth any infrastructure for conveying to shore oil or gas produced from an offshore oil or gas lease in the portion of the Atlantic Ocean identified as the Outer Continental Shelf (OCS) Planning Area by the U.S. Bureau of Ocean Energy Management. For purposes of this section, the term "infrastructure" includes pipelines, gathering systems, processing facilities, and storage facilities. The provisions of this subsection shall not apply to any infrastructure in existence as of July 1, 2020.

§ 30-275. (Contingent expiration date) Manufacturing Development Commission; purpose; membership; terms; compensation and expenses; staff; voting on recommendations.

A. The Manufacturing Development Commission (the Commission) is established in the legislative branch of state government. The purpose of the Commission shall be to assess manufacturing needs and formulate legislative and regulatory remedies to ensure the future of the manufacturing sector in Virginia.

B. The Commission shall have a total membership of 14 that shall consist of eight legislative members, five nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: three members of the Senate, to be appointed by the Senate Committee on Rules; five members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and five nonlegislative citizen members of whom (i) one shall be a representative of a public institution of higher education other than Norfolk State University or Virginia State University, (ii) one shall be a representative of an entity or organization active in economic development efforts in the Commonwealth, (iii) one shall be a representative of a Virginia manufacturer, (iv) one shall be the president of the Virginia Manufacturers Association, and (v) one shall be a representative of Norfolk State University or Virginia State University, to be appointed by the Governor. The Secretary of Commerce and Trade or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth.

Nonlegislative citizen members shall be appointed for terms of four years. Legislative members, the president of the Virginia Manufacturers Association, and ex officio members shall serve terms coincident with their terms of office. All members may be reappointed for successive terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

C. The members of the Commission shall elect a chairman and a vice-chairman annually, who shall be members of the General Assembly. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at the call of the chairman or whenever a majority of the members so request.

D. Legislative members of the Commission shall receive such compensation as is set forth in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for compensation and reimbursement of expenses of the members shall be provided from existing appropriations to the Commission. Costs of this Commission shall not exceed \$12,000 per year.

E. Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis, and other services as requested by the Commission. Technical assistance shall be provided by the Department of ~~Mines, Minerals and Energy~~. All agencies of the Commonwealth shall assist the Commission, upon request.

F. No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) votes against the recommendation and (ii) votes for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 33.2-236. Maps or plats prepared at request and expense of local governing bodies and other groups; Department of Energy to seek other existing sources.

The Commissioner of Highways may prepare photogrammetric maps or plats of specific sites or areas at the request of the governing bodies of localities of the Commonwealth, local nonprofit industrial development agencies, planning district commissions, soil and water conservation districts, metropolitan planning organizations, public service authorities, and local chambers of commerce. The Department of ~~Mines, Minerals and Energy~~ shall first review the request to determine whether suitable or alternate maps or plats are currently available, and the local governing body, agency, or chamber shall agree to reimburse the Department of Transportation for the cost of producing the maps or plats.

§ 45.1-161.1. Definitions.

As used in this title, unless the context requires a different meaning:

"Chief" means the Chief of the Division of Mines of the Department of ~~Mines, Minerals and Energy~~.

"Department" means the Department of ~~Mines, Minerals and Energy~~.

"Director" means the Director of the Department of ~~Mines, Minerals and Energy~~.

§ 45.1-161.2. Department continued; appointment of Director.

The Department of ~~Mines, Minerals and Energy~~ is continued as an agency within the Secretariat of Commerce and Trade. The Department shall be headed by a Director who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at his pleasure for a term coincident with his own.

§ 45.1-161.4:1. Appointment of Chief Clean Energy Policy Advisor.

The Chief Clean Energy Policy Advisor shall be appointed by the Governor and shall be under the direction of and report to the Director.

§ 45.1-161.5. Establishment of divisions; division heads.

The following divisions, through which the functions, powers, and duties of the Department may be discharged, are established in the Department: a Division of Mines, a Division of Mined Land ~~Reclamation~~ *Repurposing*, a Division of Geology and Mineral Resources, a Division of Gas and Oil, a Division of Mineral Mining, a Division of *Renewable Energy and Energy Efficiency*, and a Division of Offshore Wind. The Director may establish other divisions as he deems necessary. ~~Except as provided in § 45.1-161.15 with respect to the Chief of the Division of Mines, the~~ *The* Director shall appoint persons to direct the various functions and programs of the divisions, and may delegate to the head of any division any of the powers and duties conferred or imposed by law on the Director.

§ 45.1-161.15. Chief of Division of Mines.

~~The Chief shall be appointed by the Governor.~~ The Chief shall be the head of the Division of Mines, and shall be under the direction of and shall report to the Director.

§ 45.1-161.179. Posting of notice.

A. The operator, or his agent, shall display, in bold-faced type, on a sign placed at the mine office, bath house, and on a bulletin board at the mine site, the following notice:

NOTICE

IT IS UNLAWFUL FOR A MINER OR OTHER PERSON IN AN UNDERGROUND COAL MINE TO SMOKE OR CARRY OR POSSESS UNDERGROUND ANY SMOKER'S ARTICLES OR MATCHES, LIGHTERS, OR SIMILAR MATERIALS GENERALLY USED FOR IGNITING SMOKER'S ARTICLES. A VIOLATION IS PUNISHABLE AS A CLASS 6 FELONY. ANY PERSON ENTERING OR PRESENT IN THE UNDERGROUND AREA OF ANY COAL MINE IS SUBJECT TO A SEARCH OF HIS PERSON AND PROPERTY BY OFFICIALS OF THE DEPARTMENT OF MINES, MINERALS AND ENERGY FOR SUCH PROHIBITED SMOKER MATERIALS AT ANY TIME WHILE UNDERGROUND.

B. Beginning October 1, 2021, every new sign displayed in accordance with this section shall refer to the Department of Energy rather than to the Department of Mines, Minerals and Energy.

§ 45.1-161.292:2. Definitions.

As used in this chapter and in Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) and in regulations promulgated under such chapters, unless the context requires a different meaning:

"Abandoned area" means the inaccessible area of an underground mine that is sealed or ventilated and in which further mining is not intended.

"Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury; (iii) an entrapment of an individual for more than 30 minutes; (iv) an unplanned inundation of a mine by liquid or gas; (v) an unplanned ignition or explosion of gas or dust; (vi) an unplanned mine fire not extinguished within 30 minutes of discovery; (vii) an unplanned ignition or explosion of a blasting agent or an explosive; (viii) an unplanned roof fall at or above the anchorage zone in

active workings where roof bolts are in use; or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix) a rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour; (x) an unstable condition at an impoundment or refuse pile which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, or refuse pile; (xi) damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than 30 minutes; and (xii) an event at a mine which causes death or bodily injury to an individual not at a mine at the time the event occurs.

"Active areas" means all places in a mine that are ventilated, if underground, and examined regularly.

"Active workings" means any place in a mine where miners are normally required to work or travel.

"Agent" means any person charged by the operator with responsibility for the operation of all or a part of a mine or the supervision of the miners in a mine.

"Approved" means a device, apparatus, equipment, condition, method, course or practice approved in writing by the Director.

"Approved competent person" means a person designated by the Department as having the authority to function as a mine foreman even though the person has less than five years' experience but more than two years' experience. If an approved competent person has met all the criteria for a mine foreman certification other than the experience criteria, he may perform the duties of a mine foreman except the pre-shift examination.

"Armored cable" means a cable provided with a wrapping of metal, plastic or other approved material.

"Authorized person" means a person assigned by the operator or agent to perform a specific type of duty or duties or to be at a specific location or locations in the mine who is task trained in accordance with requirements of the federal mine safety law.

"Blower fan" means a fan with tubing used to direct part of a particular circuit of air to a working place.

"Booster fan" means an underground fan installed in conjunction with a main fan to increase the volume of air in one or more circuits.

"Cable" means a stranded conductor (single-conductor cable) or a combination of conductors insulated from one another (multiple-conductor cable).

"Certified person" means a person holding a valid certificate from the Department authorizing him to perform the task to which he is assigned.

"Circuit" means a conducting part or a system of conducting parts through which an electric current is intended to flow.

"Circuit breaker" means a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

"Competent person" means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

"Cross entry" means any entry or set of entries, turned from main entries, from which room entries are turned.

"Department" means the Department of Mines, Minerals and Energy.

"Experienced surface miner" means a person with more than six months of experience working at a surface mine or the surface area of an underground mine.

"Experienced underground miner" means a person with more than six months of underground mining experience.

"Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 95-164), and regulations promulgated thereunder.

"Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and destroyed by the passage of overcurrent through it.

"Ground" means a conducting connection between an electric circuit or equipment and earth or to some conducting body which serves in place of earth.

"Grounded" means connected to earth or to some connecting body which serves in place of the earth.

"Hazardous condition" means conditions that are likely to cause death or serious personal injury to persons exposed to such conditions.

"Imminent danger" means the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious personal injury before such condition or practice can be abated.

"Inactive mine" means a mine (i) at which coal or minerals have not been excavated or processed, or work, other than examinations by a certified person or emergency work to preserve the mine, has not been performed at an underground mine for a period of 30 days, or at a surface mine for a period of 60 days, (ii) for which a valid license is in effect, and (iii) at which reclamation activities have not been completed.

"Independent contractor" means any person that contracts to perform services or construction at a mine.

"Intake air" means air that has not passed through the last active working place of the split or by the unsealed entrances to abandoned areas and by analysis contains not less than 19.5 percent oxygen nor more than 0.5 percent of carbon dioxide, nor any hazardous quantities of flammable gas nor any harmful amounts of poisonous gas.

"Interested persons" means members of the Mine Safety Committee and other duly authorized representatives of the employees at a mine; federal Mine Safety and Health Administration employees; mine inspectors; and, to the extent required by this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), any other person.

"Licensed operator" means the operator who has obtained the license for a particular mine under § 45.1-161.292.30.

"Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit from which cross entries, room entries, or rooms are turned.

"Mine" means any underground mineral mine or surface mineral mine. Mines that are adjacent to each other and under the same management and which are administered as distinct units shall be considered as separate mines. A site shall not be a mine unless the mineral extracted or excavated therefrom is offered for sale or exchange, or used for any other commercial purposes.

"Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.

"Mine foreman" means a person holding a valid certificate of qualification as a foreman issued by the Department.

"Mine inspector" means a public employee assigned by the Director to make mine inspections as required by this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), and other applicable laws.

"Miner" means any individual working in a mineral mine.

"Mineral" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

"Mineral mine" means a surface mineral mine or an underground mineral mine.

"Mineral Mine Safety Act" or "Act" shall mean this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), and shall include any regulations promulgated thereunder, where applicable.

"Operator" means any person who operates, controls or supervises a mine or any independent contractor performing services or construction at such mine.

"Panel entry" means a room entry.

"Permissible" means a device, process, or equipment or method heretofore or hereafter classified by such term by the Mine Safety and Health Administration, when such classification is adopted by the Director, and includes, unless otherwise herein expressly stated, all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the Administration.

"Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned or worked-out areas. Area within a panel shall not be deemed abandoned until inaccessible or sealed.

"Room entry" means any entry or set of entries from which rooms are turned.

"Serious personal injury" means any injury which has a reasonable potential to cause death or any injury other than a sprain or strain which requires an admission to a hospital for 24 hours or more for medical treatment.

"Substation" means an electrical installation containing generating or power-conversion equipment and associated electric equipment and parts, such as switchboards, switches, wiring, fuses, circuit breakers, compensators and transformers.

"Surface mineral mine" means (i) the pit and other active and inactive areas of surface extraction of minerals; (ii) on-site mills, shops, loadout facilities, and related structures appurtenant to the excavation and processing of minerals; (iii) impoundments, retention dams, tailing ponds, and other areas appurtenant to the extraction of minerals from the site; (iv) on-site surface areas for the transportation and storage of minerals excavated at the site; (v) equipment, machinery, tools and other property used in, or to be used in, the work of extracting minerals from the site; (vi) private ways and roads appurtenant to such area; and (vii) the areas used for surface-disturbing exploration (other than by drilling or seismic testing) or preparation of a site for surface mineral extraction activities. A site shall commence being a surface mineral mine upon the beginning of any surface-disturbing exploration activities other than exploratory drilling or seismic testing, and shall cease to be a surface mineral mine upon completion of initial reclamation activities. The surface extraction of a mineral shall not constitute surface mineral mining unless (a) the mineral is extracted for its unique or intrinsic characteristics, or (b) the mineral requires processing prior to its intended use.

"Travel way" means a passage, walk or way regularly used and designated for persons to go from one place to another.

"Underground mineral mine" means (i) the working face and other active and inactive areas of underground excavation of minerals; (ii) underground travel ways, shafts, slopes, drifts, inclines and tunnels connected to such areas; (iii) on-site mills, loadout areas, shops, and related facilities appurtenant to the excavation and processing of minerals; (iv) on-site surface areas for the transportation and storage of minerals excavated at the site; (v) impoundments, retention dams, tailing ponds and waste areas appurtenant to the excavation of minerals from the site; (vi) equipment, machinery, tools, and other property, on the surface or underground, used in, or to be used in, the excavation of minerals from the site; (vii) private ways and roads appurtenant to such area; and (viii) the areas used to prepare a site for underground mineral excavation activities. A site shall commence being an underground mineral mine upon the beginning of any site preparation activity other than exploratory drilling or other exploration activity, and shall cease to be an underground mineral mine upon completion of initial reclamation activities.

"Work area," as used in Chapter 14.4 (§ 45.1-161.253 et seq.), means those areas of a mine in production or being prepared for production and those areas of the mine which may pose a danger to miners at such areas.

"Working face" means any place in a mine in which work of extracting minerals from their natural deposit in the earth is performed during the mining cycle.

"Working place" means the area of an underground mine in by the last open crosscut.

"Working section" means all areas from the loading point of a section to and including the working faces.

§ 45.1-180. Definitions.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section except where the context clearly requires a different meaning:

(a) Mining. — Means the breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals; any activity constituting all or part of a process for the extraction or removal of minerals so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Nothing herein shall apply to mining of coal. This definition shall not include, nor shall this title, chapter, or section be construed to apply to the process of searching, prospecting, exploring or investigating for minerals by drilling.

(b) Disturbed land. — The areas from which overburden has been removed in any mining operation, plus the area covered by the spoil and refuse, plus any areas used in such mining operation including land used for processing, stockpiling, and settling ponds.

(c) Overburden. — All of the earth and other material which lie above a natural deposit of minerals, ores, rock or other solid matter and also other materials after removal from their natural deposit in the process of mining.

(d) Spoil. — Any overburden or other material removed from its natural state in the process of mining.

(e) Operator. — Any individual, corporation or corporation officer, firm, joint venture, partnership, business trust, association, or any other group or combination acting as a unit, or any legal entity which is engaged in mining.

(f) through (i) Repealed.

(j) Mining operation. — Any area included in an approved plan of operation.

(k) Reclamation. — The restoration or conversion of disturbed land to a stable condition which minimizes or prevents adverse disruption and the injurious effects thereof and presents an opportunity for further productive use if such use is reasonable.

(l) Mineral. — Ore, rock, and any other solid homogeneous crystalline chemical element or compound that results from the inorganic processes of nature other than coal.

(m) Division. — ~~The Division of Mined Land Reclamation~~ *Mineral Mining*.

(n) Refuse. — All waste soil, rock, mineral tailings, slimes and other material directly connected with the mine, cleaning and preparation of substances mined including all waste material deposited in the permit area from other sources.

§ 45.1-229. Definitions.

The following words and phrases when used in this chapter shall have the meaning respectively ascribed to them in this section except where the context clearly requires a different meaning; the Director shall have the power to adopt by regulation such other definitions as may be deemed necessary to carry out the intent of this chapter.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the Director determines that they are in compliance with the applicable performance standards promulgated pursuant to this chapter.

"Division" means the Division of Mined Land ~~Reclamation~~ *Repurposing*.

"Federal act" means the federal Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, 91 U.S. Stat. 445.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a coal surface mining and reclamation operation, which condition, practice or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

"State regulatory program" or "permanent state regulatory program" means the program established by this chapter meeting the requirements of the federal act for the regulation of coal surface mining and reclamation operations within the Commonwealth, submitted to the Secretary pursuant to § 503 of the federal act.

"Person" means any individual, partnership, association, joint venture, trust, company, firm, joint stock company, corporation, or any other group or combination acting as a unit, or any other legal entity.

"Secretary" means the Secretary of the Interior of the United States.

"State or local agency" means any department, agency or instrumentality of the Commonwealth; or any public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth; or any department, agency or instrumentality of any public authority, municipal corporation, local governmental unit, political subdivision of the Commonwealth, or two or more of any of the aforementioned.

"Coal surface mining and reclamation operations" means surface mining operations and all activities necessary and incidental to the reclamation of such operations after March 20, 1979.

"Coal surface mining operations" means the following:

1. Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of § 45.1-243, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for

the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site; however, such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to § 45.1-233 of this chapter; and

2. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the chapter due to indifference, lack of diligence, or lack of reasonable care.

"Operator" means any person engaging in coal surface mining operations whether or not such coal is sold within or without the Commonwealth.

"Permit" means a permit issued by the Director pursuant to the approved state regulatory program.

"Permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by § 45.1-241 and shall be readily identifiable by appropriate markers on the site.

"Permittee" means a person holding a permit issued by the Director for coal surface mining pursuant to § 45.1-234, for coal exploration pursuant to § 45.1-233, or for an NPDES permit pursuant to § 45.1-254.

"Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

§ 45.1-230. Authority and duties of Director.

A. The authority to publish and promulgate such regulations as may be necessary to carry out the purposes and provisions of this chapter is hereby vested in the Director. Regulations shall be consistent with regulations promulgated by the Secretary pursuant to the federal act or in conformity to any court ruling construing such act. In promulgating such regulations, the Director shall provide an opportunity for public comment, both oral and written, and shall give public notice of proposed regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and the Virginia Register Act (§ 2.2-4100 et seq.).

A1. In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code.

B. The authority to administer and enforce the provisions of this chapter is hereby vested in the Director. In administering and enforcing the provisions of this chapter, the Director shall exercise the following powers in addition to any other powers conferred upon him by law:

1. To supervise the administration and enforcement of this chapter; to make investigations and inspections necessary to insure compliance with this chapter; to conduct hearings, administer oaths, issue subpoenas and compel the attendance of witnesses and production of written or printed material as provided for in this chapter; to issue orders and notices of violation; to review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this chapter or any rules and regulations adopted thereunder;

2. To administer the program for the purchase and reclamation of abandoned and unreclaimed mine areas pursuant to Article 4 (§ 45.1-260 et seq.) of this chapter;

3. To encourage and conduct investigations, research, experiments and demonstrations, and to collect and disseminate information relating to coal surface mining and reclamation of lands and waters affected by coal surface mining;

4. To receive any federal or state funds, or any other funds, and to enter into any contracts for which funds are available to carry out the purposes of this chapter;

5. To enter into cooperative agreements with the Secretary to regulate coal surface mining on federal lands.

C. The Division of Mined Land Reclamation *Repurposing* shall have the responsibilities provided under this chapter and such duties and responsibilities as the Director may assign, or as may be provided for in regulations promulgated by the Director.

§ 45.1-270.4:1. Special assessment.

A. In addition to the tax assessed pursuant to § 45.1-270.4, and in order to ensure Fund solvency, the ~~Commissioner~~ *Director* of the Division of Mined Land ~~Reclamation~~ *Repurposing* shall require each permittee to pay any special assessment made pursuant to subsection B of this section.

B. On and after July 1, 1990, the ~~Commissioner~~ *Director* of the Division of Mined Land ~~Reclamation~~ shall assess each permit in the Fund the amount of \$500. This assessment shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

On or after July 1, 1991, the ~~Commissioner~~ *Director* of the Division of Mined Land ~~Reclamation~~ shall assess an amount not to exceed \$500,000. The amount of the assessment shall be \$250 for each permit participating in the Fund which has completed all mining activity and for which a completion report has been approved. The remaining assessments shall be made in equal amounts per acre for each disturbed acre permitted under the Fund. The amount of disturbed acreage for each permit shall be determined by the most recent anniversary map, or updated anniversary map, submitted by the permittee to the Division of Mined Land ~~Reclamation~~ prior to July 1, 1991. The assessments under this subsection shall not apply to acreage that has been reclaimed and for which an increment of the bond has been transferred to other acreage in the permit. The assessments under this subsection shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

C. Failure to tender moneys assessed pursuant to the provisions of this section within thirty calendar days of assessment shall constitute a violation of the Virginia Coal Surface Mining Control and Reclamation Act (§ 45.1-226 et seq.). Any civil penalties collected for violations of this section shall be applied to the balance of the Fund.

§ 45.1-361.28. Powers, duties and responsibilities of the Inspector.

A. The Inspector shall administer the laws and regulations and shall have access to all records and properties necessary for this purpose. He shall perform all duties delegated by the Director pursuant to § 45.1-161.5 and maintain permanent records of the following:

1. Each application for a gas, oil, or geophysical operation and each permitted gas, oil, or geophysical operation;
2. Meetings, actions and orders of the Board;
3. Petitions for mining coal within 200 feet of or through a well;
4. Requests for special plugging by a coal owner or coal operator; and
5. All other records prepared pursuant to this chapter.

B. The Inspector or *another Department employee as determined by the Director* shall serve as the principal executive of the staff of the Board.

C. The Inspector may take charge of well or corehole, or pipeline emergency operations whenever a well or corehole blowout, release of hydrogen sulfide or other gases, or other serious accident occurs.

§ 45.1-361.41. Interference by injection wells with ground water supply.

A. Any person who owns or operates an injection well in a manner that proximately causes the contamination or diminution of ground water used for a beneficial use by any person who resides within the lesser of (i) the area of review required by the United States Environmental Protection Agency for the permitting of that injection well, or (ii) a one-half mile radius of the well shall provide the person with a replacement water supply. A replacement water supply shall provide the person or persons with water of equivalent quality and quantity as was provided by ground water prior to the contamination or diminution of the water supply resulting from the operation of the injection well. A replacement water supply shall include the provision of necessary storage and service facilities. "Ground water" shall have the same meaning ascribed to it in § 62.1-255. "Beneficial use" shall have the same meaning ascribed to it in § 62.1-10.

B. This section shall apply to any injection well, ~~whether operating under a permit from the Director of the Department of Mines, Minerals and Energy issued prior to, on or after July 1, 1992.~~

§ 45.1-383. Division of Geology and Mineral Resources; State Geologist.

In the Department there shall be a Division of Geology and Mineral Resources. ~~The chief executive and head officer of the Division shall be called the~~ *and a* Commissioner of Mineral Resources and State Geologist, hereinafter referred to as the State Geologist. The State Geologist shall be appointed by the Director, shall be a geologist of established reputation and shall receive such compensation as may be provided in accordance with law for the purpose.

§ 45.1-390. Division of Renewable Energy and Energy Efficiency established; findings and policy; powers and duties.

The General Assembly finds that because energy-related issues continually confront the Commonwealth, and many separate agencies are involved in providing energy programs and services, there exists a need for a state organization responsible for coordinating Virginia's energy programs and ensuring Virginia's commitment to the development of renewable and indigenous energy sources, as well as the efficient use of traditional energy resources. In accordance with this need, the Division of *Renewable Energy and Energy Efficiency* is created in the Department of ~~Mines, Minerals and Energy~~. The Director shall have the immediate authority to coordinate development and implementation of energy policy in Virginia.

The Division shall coordinate the energy-related activities of the various state agencies and advise the Governor on energy issues that arise at the local, state and national levels. All state agencies and institutions shall cooperate fully with the Division to assist in the proper execution of the duties assigned by this section.

In addition, the Division is authorized to make and enter into all contracts and agreements necessary or incidental to the performance of its duties or the execution of its powers, including the implementation of energy information and conservation plans and programs.

The Division shall:

1. Consult with any or all state agencies and institutions concerning energy-related activities or policies as needed for the proper execution of the duties assigned to the Division by this section;
2. Maintain liaison with appropriate agencies of the federal government on the activities of the federal government related to energy production, consumption, transportation and energy resource management in general;
3. Provide services to encourage efforts by and among Virginia businesses, industries, utilities, academic institutions, state and local governments and private institutions to develop energy conservation programs and energy resources;
4. In consultation with the State Corporation Commission, the Department of Environmental Quality, and the Center for Coal and Energy Research, prepare the Virginia Energy Plan pursuant to § 67-201; *and*
5. Observe the energy-related activities of state agencies and advise these agencies in order to encourage conformity with established energy policy; *and*
6. ~~Serve, pursuant to § 58.1-3660, as the state certifying authority for solar energy projects and for the production of coal, oil, and gas, including gas, natural gas, and coalbed methane gas.~~

§ 56-265.15:1. Exemptions; routine maintenance.

Nothing in this chapter shall apply to:

1. Any hand digging performed by an owner or occupant of a property.
2. The tilling of soil for agricultural purposes.
3. Any excavation done by a railroad when the excavation is made entirely on the land which the railroad owns and on which the railroad operates, provided there is no encroachment on any operator's rights-of-way or easements.
4. An excavation or demolition during an emergency, as defined in § 56-265.15, provided all reasonable precaution has been taken to protect the underground utility lines.

In the case of the state highway systems or streets and roads maintained by political subdivisions, officials of the Department of Transportation or the political subdivision where the use of such highways, roads, streets or other public way is impaired by an unforeseen occurrence shall determine the necessity of repair beginning immediately after the occurrence.

5. Any excavation for routine pavement maintenance, including patch type paving or the milling of pavement surfaces, upon the paved portion of any street, road, or highway of the Commonwealth provided that any such excavation does not exceed a depth of twelve inches (0.3 meter).

6. Any excavation for the purpose of mining pursuant to and in accordance with the requirements of a permit issued by the Department of Mines, Minerals and Energy.

7. Any hand digging performed by an operator to locate the operator's utility lines in response to a notice of excavation from the notification center, provided all reasonable precaution has been taken to protect the underground utility lines.

8. Any installation of a sign that does not involve excavation as defined in § 56-265.15.

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

(Expires December 31, 2023) "Business park" means a land development containing a minimum of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is developed and constructed by an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in order to promote business development and that is located in an area of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Community in which a majority of the population are people of color" means a U.S. Census tract where more than 50 percent of the population comprises individuals who identify as belonging to one or more of the following groups: Black,

African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but does not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Curtailment" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid security, customer service, or energy efficiency and conservation, including advanced metering infrastructure; intelligent grid devices for real time system and asset information; automated control systems for electric distribution circuits and substations; communications networks for service meters; intelligent grid devices and other distribution equipment; distribution system hardening projects for circuits, other than the conversion of overhead tap lines to underground service, and substations designed to reduce service outages or service restoration times; physical security measures at key distribution substations; cyber security measures; energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED street light conversions; and new customer information platforms designed to provide improved customer access, greater service options, and expanded access to energy usage information.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Historically economically disadvantaged community" means (i) a community in which a majority of the population are people of color or (ii) a low-income geographic area.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test.

Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

"Low-income geographic area" means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Low-income utility customer" means any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"New underground facilities" means facilities to provide underground distribution service. "New underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted devices, connections at customer meters, and transition terminations from existing overhead distribution sources.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household participating in any of the following public assistance programs: the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Special Supplemental Nutrition Program for Women, Infants and Children, Virginia Low Income Home Energy Assistance Program, federal Low Income Home Energy Assistance Program, state plan for medical assistance, Medicaid, Housing Choice Voucher Program, or Family Access to Medical Insurance Security Plan.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, non-agricultural, or non-silvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of ~~Mines, Minerals and Energy~~ under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an industrial or commercial process.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility.

"Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

"Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

"Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

"Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

"Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed in that program year, as well as savings still being achieved by measures and programs implemented in prior years, or (ii) savings attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and power facilities must meet or exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

"Waste heat to power" means a system that generates electricity through the recovery of a qualified waste heat resource.

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Mines, Minerals and Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the

previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.

3. By December 31, 2045, each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

4. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2019; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, or falling water electric generating resources in operation, or proposed for operation, in the Commonwealth or physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%
2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%
2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and

35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of ~~Mines, Minerals and Energy~~. In administering this account, the Department of ~~Mines, Minerals and Energy~~ shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to

energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis, however, an accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities by the utility pursuant to subsections D and E. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the

utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

§ 56-594.3. Shared solar programs.

A. As used in this section:

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill credit.

"Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar facility allocated to a subscriber to offset that subscriber's electricity bill.

"Low-income customer" means any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Low-income service organization" means a nonresidential customer of an investor-owned utility whose primary purpose is to serve low-income individuals and households.

"Low-income shared solar facility" means a shared solar facility at least 30 percent of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Minimum bill" means an amount determined by the Commission under subsection D that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Shared solar facility" means a facility that:

1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts of alternating current;

2. Is located in the service territory of an investor-owned electric utility;

3. Is connected to the electric distribution grid serving the Commonwealth;

4. Has at least three subscribers;

5. Has at least 40 percent of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and

6. Is located on a single parcel of land.

"Shared solar program" or "program" means the program created through the adoption of rules to allow for the development of shared solar facilities.

"Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar facility that is interconnected with the utility and (ii) receives service in the service territory of the same utility in whose service territory the shared solar facility is located.

"Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its ownership or operation of a shared solar facility.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's average annual bill for the customer account to which the subscription is attributed.

"Utility" means a Phase II Utility.

B. The Commission shall establish by regulation a program that affords customers of a Phase II Utility the opportunity to participate in shared solar projects. Under its shared solar program, a utility shall provide a bill credit for the proportional output of a shared solar facility attributable to that subscriber. The shared solar program shall be administered as follows:

1. The value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any amount of the bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to the next month's bill.

2. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

3. The subscriber organization shall, on a monthly basis, in a standardized electronic format, and pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

4. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers. The utility shall apply bill credits to subscriber bills within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

5. Each utility shall, on a monthly basis and in a standardized electronic format, provide to the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

6. A subscriber organization may accumulate bill credits in the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month. On an annual basis and pursuant to guidelines established by the Commission, the subscriber organization shall furnish to the utility allocation instructions for distributing excess bill credits to subscribers.

7. All environmental attributes associated with a shared solar facility, including renewable energy certificates, shall be considered property of the subscriber organization. At the subscriber organization's discretion, such environmental attributes may be distributed to the subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.

C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an applicable bill credit based on the subscriber's customer class of residential, commercial, or industrial. Each class's applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).

D. The Commission shall establish a minimum bill, which shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services and (ii) minimize the costs shifted to customers not in a shared solar program. Low-income customers shall be exempt from the minimum bill.

E. The Commission shall approve a shared solar facility program of 150 megawatts with a minimum requirement of 30 percent low-income customers. The Commission shall approve an additional 50 megawatts of capacity upon determining that at least 45 megawatts of the aggregated shared solar capacity in the Commonwealth have been subscribed to by low-income customers. Subscriber organizations shall be allowed to demonstrate compliance with the low income requirement using either project capacity or project savings methodology. The Commission, in collaboration with the Department of Mines, Minerals and Energy, may adopt mechanisms to ensure low-income customer participation.

F. The Commission shall establish by regulation a shared solar program that complies with the provisions of subsections B, C, D, and E by January 1, 2021, and shall require each utility to file any tariffs, agreements, or forms necessary for implementation of the program within 60 days of the utility's full implementation of a new customer information platform or by July 1, 2023, whichever occurs first. Any rule or utility implementation filings approved by the Commission shall:

1. Reasonably allow for the creation of shared solar facilities;
2. Allow all customer classes to participate in the program;
3. Create a stakeholder working group including low-income community representatives and community solar providers to facilitate low-income customer and low-income service organization participation in the program;
4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity goals, such as state agency and affordable housing provider participation in the program as subscribers of shared solar projects;
5. Not remove a customer from its otherwise applicable customer class in order to participate in a shared solar facility;
6. Reasonably allow for the transferability and portability of subscriptions, including allowing a subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same utility's service territory;
7. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the utility to recover reasonable interconnection costs for each shared solar facility;
8. Adopt standardized consumer disclosure forms;
9. Allow the utility the opportunity to recover reasonable costs of administering the program;
10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting projects;
11. Address the co-location of two or more shared solar facilities on a single parcel of land and provide guidelines for determining when two or more facilities are co-located;

12. Include a program implementation schedule;

13. Prohibit credit checks as a means of establishing eligibility for residential customers to become subscribers;

14. Require net crediting functionality as part of any new customer information platform approved by the Commission.

Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization. The net crediting fee shall not exceed one percent of the bill credit value. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits; and

15. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference between the bill credit provided to the subscriber and the cost of energy injected into the grid by the subscriber organization.

G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar program, a utility shall, provided that the utility has successfully implemented its customer information platform, begin crediting subscriber accounts of each shared solar facility interconnected in its service territory, subject to the requirements of this section and regulations adopted thereto.

§ 56-596.2. Energy efficiency programs; financial assistance for low-income customers.

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings:

1. For Phase I electric utilities:

a. In calendar year 2022, at least 0.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 1.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 1.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

d. In calendar year 2025, at least 2.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

2. For Phase II electric utilities:

a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures. The Commission shall annually review the feasibility of the energy efficiency program savings in this section and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural Resources and the Secretary of Commerce and Trade on such feasibility by October 1, 2022, and each year thereafter.

C. The projected costs for the utility to design, implement, and operate such energy efficiency programs and portfolios of programs shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs and portfolios of programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subsection E of § 56-592.1, to provide input and feedback on (i) the development of such energy efficiency programs and portfolios of programs; (ii) compliance with the total annual energy savings set forth in this subsection and how such savings affect utility integrated resource plans; (iii) recommended policy reforms by which the General Assembly or the Commission can ensure maximum and cost-effective deployment of energy efficiency technology across the Commonwealth; and (iv) best practices for evaluation, measurement, and verification for the purposes of assessing compliance with the total annual energy savings set forth in subsection B. Utilities shall utilize the services of a third party to perform evaluation, measurement, and verification services to determine a utility's total annual savings as required by this subsection, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs and portfolios produce; and utility spending on each program, including any associated administrative costs. The third-party evaluator shall include and review each utility's avoided costs and cost-benefit analyses. The findings and reports of such third parties shall be concurrently provided to both the Commission and the utility, and the Commission shall make each such final annual report easily and

publicly accessible online. Such stakeholder process shall include the participation of representatives from each utility, relevant directors, deputy directors, and staff members of the Commission who participate in approval and oversight of utility energy efficiency savings programs, the office of Consumer Counsel of the Attorney General, the Department of ~~Mines, Minerals and Energy~~, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder whom the independent monitor deems appropriate for inclusion in such process. The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028. The independent monitor shall report on the status of the energy efficiency stakeholder process, including (a) the objectives established by the stakeholder group during this process related to programs to be proposed, (b) recommendations related to programs to be proposed that result from the stakeholder process, and (c) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the Commission, and the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor on July 1, 2019, and annually thereafter through July 1, 2028.

D. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

§ 58.1-439.2. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, but before January 1, 2017, and on and after January 1, 2018, but before January 1, 2023, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For metallurgical coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton
36" and under	\$2.00
Above 36"	\$1.00

The seam thickness shall be based on the weighted average isopach mapping of actual metallurgical coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of ~~Mines, Minerals and Energy~~ is hereby authorized to audit all information upon which the isopach mapping is based.

2. For metallurgical coal mined by surface mining methods, a credit in the amount of 40 cents (\$0.40) per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, but before January 1, 2023, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent (\$.01) per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 90 percent of the face value within 90 days after filing the return; however, for credit earned in tax years beginning on and after January 1, 2002, such excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 85 percent of the face value within 90 days after filing the return. The remaining 10 or 15 percent of the value of the credit being redeemed, as applicable for such tax year, shall be deposited by the Commissioner in a regional economic development fund administered by the Virginia Coalfield Economic Development Authority to be used for regional economic diversification in accordance with guidelines developed by the Virginia Coalfield Economic Development Authority and the Virginia Economic Development Partnership.

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433.1 or 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999.

F. The amount of credit allowed pursuant to subsection A shall be the amount of credit earned multiplied by the person's employment factor. The person's employment factor shall be the percentage obtained by dividing the total number of coal mining jobs of the person filing the return, including the jobs of the contract operators of such person, as reflected in the annual tonnage reports filed with the Department of ~~Mines, Minerals and Energy~~ for the year in which the credit was earned by the total number of coal mining jobs of such persons or operators as reflected in the annual tonnage reports for the year immediately prior to the year in which the credit was earned. In no case shall the credit claimed exceed that amount set forth in subsection A.

G. The tax credit allowed under this section shall be claimed in the third taxable year following the taxable year in which the credit was earned and allowed.

H. As used in this section, "metallurgical coal" means bituminous coal used for the manufacture of iron and steel with calorific value of 14,000 BTUs or greater on a moisture and ash free basis.

§ 58.1-439.12:02. Biodiesel and green diesel fuels producers tax credit.

A. For purposes of this section:

"Biodiesel fuel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751.

"Green diesel fuel" means a fuel produced from nonfossil renewable resources including agricultural or silvicultural plants, animal fats, residue and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, and meeting applicable ASTM specifications.

"Feedstock" means the agricultural or other renewable resources, whether plant or animal derived, used to produce biodiesel or green diesel fuels.

"Producer" means any person, entity, or agricultural cooperative association, as defined in the Agricultural Cooperative Association Act (§ 13.1-312 et seq.) that, in a calendar year, produces in the Commonwealth up to two million gallons of biodiesel or green diesel fuels using feedstock originating domestically within the United States.

B. For taxable years beginning on or after January 1, 2008, any taxpayer who is a biodiesel fuel or green diesel fuel producer shall be entitled to a nonrefundable credit against the taxes imposed by § 58.1-320 or 58.1-400 in an amount equal to \$0.01 per gallon of biodiesel or green diesel fuels produced by such taxpayer. However, the annual amount of the credit shall not exceed \$5,000. The taxpayer shall be eligible for the credit during the first three years of production of biodiesel or green diesel fuels.

Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of the credit in accordance with this section shall file a notification of such transfer to the Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.

C. The Department of ~~Mines, Minerals and Energy~~ shall certify that the biodiesel or green diesel fuels producer has satisfied the requirements of this section for the taxable year in which the credit is allowed. In addition, the taxpayer shall submit with his income tax return all documentation as required by the Department of Taxation. Any credit not usable for the taxable year may be carried over the next three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

§ 58.1-3660. Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, except that in the case of equipment, facilities, devices, or other property intended for use by any political subdivision in conjunction with the operation of its water, wastewater, stormwater, or solid waste management facilities or systems, including property that may be financed pursuant to Chapter 22 (§ 62.1-224 et seq.) of Title 62.1, the state certifying authority having jurisdiction with respect to such property shall, upon the request of the political subdivision, make such certification prospectively for property to be constructed, reconstructed, erected, or acquired for such purposes. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. All such property as described in this definition shall not include the land on which such equipment or facilities are located.

"State certifying authority" means the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of ~~Mines, Minerals and Energy~~, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018, for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019.

D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization, shall be 80 percent of the assessed value when an application has been filed with the locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.

E. For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.

F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, the amount of the exemption shall be as follows: 80 percent of the assessed value in the first five years in service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.

§ 58.1-3706. Limitation on rate of license taxes.

A. Except as specifically provided in this section and except for the fee authorized in § 58.1-3703, no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712 and 58.1-3713, or any other provision of this title or any charter, shall be imposed on any person whose gross receipts from a business, profession or occupation subject to licensure are less than: (i) \$100,000 in any locality with a population greater than 50,000; or (ii) \$50,000 in any locality with a population of 25,000 but no more than 50,000. Any business with gross receipts of more than \$100,000, or \$50,000, as applicable, may be subject to the tax at a rate not to exceed the rate set forth below for the class of enterprise listed:

1. For contracting, and persons constructing for their own account for sale, sixteen cents per \$100 of gross receipts;
2. For retail sales, twenty cents per \$100 of gross receipts;
3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross receipts; and
4. For repair, personal and business services, and all other businesses and occupations not specifically listed or exempt in this section, thirty-six cents per \$100 of gross receipts.

The rate limitations prescribed in this section shall not be applicable to license taxes on (i) wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by § 58.1-3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi) itinerant merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums, arenas, or auditoriums having a maximum capacity in excess of 10,000 persons and open to the public, which shall be governed by § 58.1-3729; (viii) savings institutions and credit unions, which shall be governed by § 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct sellers, which shall be governed by § 58.1-3719.1.

B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the following conditions:

1. A locality may not increase a rate on any category which is at or above the maximum prescribed for such category in subsection A.

2. If a locality increases the rate on a category which is below the maximum, it shall apply all revenue generated by such increase to reduce the rate on a category or categories which are above such maximum.

3. A locality shall lower rates on categories which are above the maximums prescribed in subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by which such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If in any tax year the amount of revenues received from all categories exceeds the revenue base for such year, the rates shall be adjusted as follows: The revenues of those categories with rates at or below the maximum shall be subtracted from the revenue base for such year. The resulting amount shall be allocated to the category or categories with rates above the maximum in a manner determined by the locality, and divided by the gross receipts of such category for the tax year. The resulting rate or rates shall be applicable to such category or categories for the second tax year following the year whose revenue was used to make the calculation.

C. Any person engaged in the short-term rental business as defined in § 58.1-3510.4 shall be classified in the category of retail sales for license tax rate purposes.

D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences shall be subject to a license tax rate not to exceed three cents per \$100 of such federal funds received in payment of such contracts upon documentation provided by such person, firm or corporation to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes by that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due and paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other locality in the Commonwealth.

3. Notwithstanding the provisions of subdivision D 1, in any county operating under the county manager plan of government, the following shall govern the taxation of the licensees described in subdivision D 1. Persons, firms, or corporations designated as the principal or prime contractors receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences may be separately classified by any such county and subject to tax at a license tax rate not to exceed the limits set forth in subsections A through C above as to such federal funds received in payment of such contracts upon documentation provided by such persons, firms, or corporations to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

E. In any case in which the Department of ~~Mines, Minerals and Energy~~ determines that the weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District — Lower Atlantic Region) has increased by 20% or greater in any one-week period over the immediately preceding one-week period and does not fall below the increased rate for at least 28 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate on retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by such retailer in the license year of such increase. For license years beginning on or after January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such records available upon request by the local tax official.

The provisions of this subsection shall not apply to any person or entity (i) not conducting business as a gas retailer in the county, city, or town for the entire license year immediately preceding the license year of such increase or (ii) that was subject to a license fee in the county, city, or town pursuant to § 58.1-3703 for the license year immediately preceding the license year of such increase.

The Department of ~~Mines, Minerals and Energy~~ shall determine annually if such increase has occurred and remained in effect for such 28-day period.

§ 58.1-3745. Lien on real estate and personal property of businesses severing coal.

There shall be a priority lien upon a debtor's estate for all taxes due and owing under the authority granted by this chapter. Such lien shall be inferior only to real estate and personal property taxes, levies, and penalties; any obligation, bond, or instrument used in lieu of a bond to the Department of ~~Mines, Minerals and Energy~~ under Title 45.1; and liens benefiting the Commonwealth. This lien shall not require a distraint action prior to enforcement.

The purchaser at a sale of real estate to which the lien under this section applies shall cause the proceeds of such sale to be applied to the payment of all taxes and levies assessed and due under the authority granted by this chapter, the provisions of § 55.1-324 notwithstanding. The words "taxes" and "levies" as used in this section include the penalties and interest accruing on such taxes and levies in pursuance of law. In addition to existing remedies for the collection of taxes and levies, the lien imposed hereby shall be enforceable in the same manner as provided in Article 4 (§ 58.1-3965 et seq.) of

Chapter 39. There shall be a further lien upon the rents of such real estate, whether the same be in money or in kind, for taxes and levies of the current year.

§ 62.1-44.15:21. Impacts to wetlands.

A. Permits shall address avoidance and minimization of wetland impacts to the maximum extent practicable. A permit shall be issued only if the Board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

B. Permits shall contain requirements for compensating impacts on wetlands. Such compensation requirements shall be sufficient to achieve no net loss of existing wetland acreage and functions and may be met through (i) wetland creation or restoration, (ii) purchase or use of mitigation bank credits pursuant to § 62.1-44.15:23, (iii) contribution to the Wetland and Stream Replacement Fund established pursuant to § 62.1-44.15:23.1 to provide compensation for impacts to wetlands, streams, or other state waters that occur in areas where neither mitigation bank credits nor credits from a Board-approved fund that have met the success criteria are available at the time of permit application, or (iv) contribution to a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions. The Board shall evaluate the appropriate compensatory mitigation option on a case-by-case basis with consideration for which option is practicable and ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option offers the greatest likelihood of success and avoidance of temporal loss of acreage and function. This evaluation shall be consistent with the U.S. Army Corps of Engineers Compensatory Mitigation for Losses of Aquatic Resources (33 C.F.R. Part 332). When utilized in conjunction with creation, restoration, or mitigation bank credits, compensation may incorporate (a) preservation or restoration of upland buffers adjacent to wetlands or other state waters or (b) preservation of wetlands.

C. The Board shall utilize the U.S. Army Corps of Engineers' "Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, Final Report" as the approved method for delineating wetlands. The Board shall adopt appropriate guidance and regulations to ensure consistency with the U.S. Army Corps of Engineers' implementation of delineation practices. The Board shall also adopt guidance and regulations for review and approval of the geographic area of a delineated wetland. Any such approval of a delineation shall remain effective for a period of five years; however, if the Board issues a permit pursuant to this article for an activity in the delineated wetland within the five-year period, the approval shall remain effective for the term of the permit. Any delineation accepted by the U.S. Army Corps of Engineers as sufficient for its exercise of jurisdiction pursuant to § 404 of the Clean Water Act shall be determinative of the geographic area of that delineated wetland.

D. The Board shall develop general permits for such activities in wetlands as it deems appropriate. General permits shall include such terms and conditions as the Board deems necessary to protect state waters and fish and wildlife resources from significant impairment. The Board is authorized to waive the requirement for a general permit or deem an activity in compliance with a general permit when it determines that an isolated wetland is of minimal ecological value. The Board shall develop general permits for:

1. Activities causing wetland impacts of less than one-half of an acre;
2. Facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or State Corporation Commission, except for construction of any natural gas transmission pipeline that is greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). No Board action on an individual or general permit for such facilities shall alter the siting determination made through Federal Energy Regulatory Commission or State Corporation Commission approval. The Board and the State Corporation Commission shall develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1, and 56-580 to ensure that consultation on wetland impacts occurs prior to siting determinations;
3. Coal, natural gas, and coalbed methane gas mining activities authorized by the Department of Mines, Minerals and Energy, and sand mining;
4. Virginia Department of Transportation or other linear transportation projects; and
5. Activities governed by nationwide or regional permits approved by the Board and issued by the U.S. Army Corps of Engineers. Conditions contained in the general permits shall include, but not be limited to, filing with the Board any copies of preconstruction notification, postconstruction report, and certificate of compliance required by the U.S. Army Corps of Engineers.

E. Within 15 days of receipt of an individual permit application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. Provided the application is not administratively withdrawn, the Board shall, within 120 days of receipt of a complete application, issue the permit, issue the permit with conditions, deny the permit, or decide to conduct a public meeting or hearing. If a public meeting or hearing is held, it shall be held within 60 days of the decision to conduct such a proceeding, and a final decision as to the permit shall be made within 90 days of completion of the public meeting or hearing. A permit application may be administratively withdrawn from processing by the Board if the application is incomplete or for failure by the applicant to provide the required information after 60 days from the date of the latest written information request made by the Board. Such administrative withdrawal shall occur after the Board has provided (i) notice to the applicant and (ii) an opportunity for an informal fact-finding proceeding pursuant to § 2.2-4019. An applicant may request a suspension of application review by the Board. A submission by the applicant making such a request shall not preclude the Board from administratively withdrawing an application. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit

application fee and may be subject to additional notice requirements. In addition, for an individual permit application related to an application to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity pursuant to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) for construction of any natural gas transmission pipeline greater than 36 inches inside diameter, the Board shall complete its consideration within the one-year period established under 33 U.S.C. § 1341(a).

F. Within 15 days of receipt of a general permit coverage application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. Provided the application is not administratively withdrawn, the Board shall, within 45 days of receipt of a complete application, deny, approve, or approve with conditions any application for coverage under a general permit within 45 days of receipt of a complete preconstruction application. The application shall be deemed approved if the Board fails to act within 45 days. A permit coverage application may be administratively withdrawn from processing by the Board if the application is incomplete or for failure by the applicant to provide the required information after 60 days from the date of the latest written application request made by the Board. Such administrative withdrawal shall occur after the Board has provided (i) notice to the applicant and (ii) an opportunity for an informal fact-finding proceeding pursuant to § 2.2-4019. An applicant may request suspension of an application review by the Board. A submission by the applicant making such a request shall not preclude the Board from administratively withdrawing an application. Resubmittal of a permit coverage application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee and may be subject to additional notice requirements.

G. No Virginia Water Protection Permit shall be required for impacts to wetlands caused by activities governed under Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 or normal agricultural activities or normal silvicultural activities. This section shall also not apply to normal residential gardening, lawn and landscape maintenance, or other similar activities that are incidental to an occupant's ongoing residential use of property and of minimal ecological impact. The Board shall develop criteria governing this exemption and shall specifically identify the activities meeting these criteria in its regulations.

H. No Virginia Water Protection Permit shall be required for impacts caused by the construction or maintenance of farm or stock ponds, but other permits may be required pursuant to state and federal law. For purposes of this exclusion, farm or stock ponds shall include all ponds and impoundments that do not fall under the authority of the Virginia Soil and Water Conservation Board pursuant to Article 2 (§ 10.1-604 et seq.) of Chapter 6 pursuant to normal agricultural or silvicultural activities.

I. No Virginia Water Protection Permit shall be required for wetland and open water impacts to a stormwater management facility that was created on dry land for the purpose of conveying, treating, or storing stormwater, but other permits may be required pursuant to local, state, or federal law. The Department shall adopt guidance to ensure that projects claiming this exemption create no more than minimal ecological impact.

J. An individual Virginia Water Protection Permit shall be required for impacts to state waters for the construction of any natural gas transmission pipeline greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). For purposes of this subsection:

1. Each wetland and stream crossing shall be considered as a single and complete project; however, only one individual Virginia Water Protection Permit addressing all such crossings shall be required for any such pipeline. Notwithstanding the requirement for only one such individual permit addressing all such crossings, individual review of each proposed water body crossing with an upstream drainage area of five square miles or greater shall be performed.

2. All pipelines shall be constructed in a manner that minimizes temporary and permanent impacts to state waters and protects water quality to the maximum extent practicable, including by the use of applicable best management practices that the Board determines to be necessary to protect water quality.

3. The Department shall assess an administrative charge to any applicant for such project to cover the direct costs of services rendered associated with its responsibilities pursuant to this subsection. This administrative charge shall be in addition to any fee assessed pursuant to § 62.1-44.15:6.

§ 62.1-44.15:66. No limitation on authority of Department of Energy.

The provisions of this article shall not limit the powers or duties of the Department of ~~Mines, Minerals and Energy~~ as they relate to strip mine reclamation under Chapters 16 (§ 45.1-180 et seq.) and 19 (§ 45.1-226 et seq.) of Title 45.1 or oil or gas exploration under the Virginia Gas and Oil Act (§ 45.1-361.1 et seq.).

§ 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.

A. Notwithstanding any other law, a person shall not drill for oil or gas in the waters of the Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 62.1-44.15:68, a person shall not drill for oil or gas in, whichever is the greater distance, as measured landward of the shoreline:

1. Those Chesapeake Bay Preservation Areas, as defined in § 62.1-44.15:68, which a local government designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource Protection Areas" shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72; or

2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.

B. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit to the Department of ~~Mines, Minerals and Energy~~ as part of his application for permit to drill an environmental impact assessment. The environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of oil or gas into the environment during drilling, production, and transportation on:

- a. Finfish, shellfish, and other marine or freshwater organisms;
- b. Birds and other wildlife that use the air and water resources;
- c. Air and water quality; and
- d. Land and water resources;

2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and

3. An examination of the secondary environmental effects of induced economic development due to the drilling and production.

C. Upon receipt of an environmental impact assessment, the Department of ~~Mines, Minerals and Energy~~ shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. The Department of Environmental Quality shall:

1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the Department of Environmental Quality; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of ~~Mines, Minerals and Energy~~, within 90 days after notification and receipt of the environmental impact assessment from the Department.

D. The Department of ~~Mines, Minerals and Energy~~ may not grant a permit under § 45.1-361.29 until it has considered the findings and recommendations of the Department of Environmental Quality.

E. The Department of Environmental Quality shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

F. A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:

1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;

2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both of which have been filed with and approved by the State Water Control Board. For purposes of this section, the oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare and property that may result from discharge or accidental release;

3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside of those areas described in subsection A;

4. The drilling site is stabilized with boards or gravel or other materials which will result in minimal amounts of runoff;

5. Persons certified in blowout prevention are present at all times during drilling;

6. Conductor pipe is set as necessary from the surface;

7. Casing is set and pressure grouted from the surface to a point at least 2500 feet below the surface or 300 feet below the deepest known ground water, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;

8. Freshwater-based drilling mud is used during drilling;

9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids or other contaminated fluids;

10. Multiple blow-out preventers are employed; and

11. The person complies with all requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 and regulations promulgated thereunder.

G. The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1.

H. In the event that exploration activities in Tidewater Virginia result in a finding by the Director of the Department of ~~Mines, Minerals and Energy~~ that production of commercially recoverable quantities of oil is likely and imminent, the Director of the Department of ~~Mines, Minerals and Energy~~ shall notify the Secretary of Commerce and Trade and the Secretary of Natural Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards; transportation issues; state-of-the-art oil production well technology; economic impacts; regulatory initiatives; operational standards; and other matters related to the production of oil in the region. No permits for oil production wells shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes, (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives, and (iii) any resulting legislation has become effective. The report by the Secretaries and the Governor's

recommendations shall be completed within 18 months of the findings of the Director of the Department of Mines, Minerals and Energy.

§ 62.1-243. Withdrawals for which surface water withdrawal permit not required.

A. No surface water withdrawal permit shall be required for (i) any nonconsumptive use, (ii) any water withdrawal of less than 300,000 gallons in any single month, (iii) any water withdrawal from a farm pond collecting diffuse surface water and not situated on a perennial stream as defined in the United States Geological Survey 7.5-minute series topographic maps, (iv) any withdrawal in any area which has not been declared a surface water management area, or (v) any withdrawal from a wastewater treatment system permitted by the State Water Control Board or the Department of Mines, Minerals and Energy.

B. No political subdivision or investor-owned water company permitted by the Department of Health shall be required to obtain a surface water withdrawal permit for:

1. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

2. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

3. Any withdrawal in existence on July 1, 1989, from an instream impoundment of water used for public water supply purposes; however, during periods when permit conditions in a surface water management area are in force under regulations adopted by the Board pursuant to § 62.1-249, and when the rate of flow of natural surface water into the impoundment is equal to or less than the average flow of natural surface water at that location, the Board may require the release of water from the impoundment at a rate not exceeding the existing rate of flow of natural surface water into the impoundment.

Withdrawals by a political subdivision or investor-owned water company permitted by the Department of Health shall be affected by subdivision 3 of subsection B only at the option of that political subdivision or investor-owned water company.

To qualify for any exemption in subsection B of this section, the political subdivision making the withdrawal, or the political subdivision served by an authority making the withdrawal, shall have instituted a water conservation program approved by the Board which includes: (i) use of water saving plumbing fixtures in new and renovated plumbing as provided under the Uniform Statewide Building Code; (ii) a water loss reduction program; (iii) a water use education program; and (iv) ordinances prohibiting waste of water generally and providing for mandatory water use restrictions, with penalties, during water shortage emergencies. The Board shall review all such water conservation programs to ensure compliance with (i) through (iv) of this paragraph.

C. No existing beneficial consumptive user shall be required to obtain a surface water withdrawal permit for:

1. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

2. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

To qualify for either exemption in subsection C of this section, the beneficial consumptive user shall have instituted a water management program approved by the Board which includes: (i) use of water-saving plumbing; (ii) a water loss reduction program; (iii) a water use education program; and (iv) mandatory reductions during water shortage emergencies. However, these reductions shall be on an equitable basis with other uses exempted under subsection B of this section. The Board shall review all such water management programs to ensure compliance with (i) through (iv) of this paragraph.

D. The Board shall issue certificates for any withdrawals exempted pursuant to subsections B and C of this section. Such certificates shall include conservation or management programs as conditions thereof.

§ 62.1-256. Duties of Board.

The Board shall have the following duties and powers:

1. To issue ground water withdrawal permits in accordance with regulations adopted by the Board;
2. To issue special orders as provided in § 62.1-268;
3. To study, investigate and assess ground water resources and all problems concerned with the quality and quantity of ground water located wholly or partially in the Commonwealth, and to make such reports and recommendations as may be necessary to carry out the provisions of this chapter;
4. To require any person withdrawing ground water for any purpose anywhere in the Commonwealth, whether or not declared to be a ground water management area, to furnish to the Board such information with regard to such ground water withdrawal and the use thereof as may be necessary to carry out the provisions of this chapter, excluding ground water withdrawals occurring in conjunction with activities related to exploration for and production of oil, gas, coal or other minerals regulated by the Department of Mines, Minerals and Energy;

5. To prescribe and enforce requirements that naturally flowing wells be plugged or destroyed, or be capped or equipped with valves so that flow of ground water may be completely stopped when said ground water is not currently being applied to a beneficial use;

6. To enter at reasonable times and under reasonable circumstances, any establishment or upon any property, public or private, for the purposes of obtaining information, conducting surveys or inspections, or inspecting wells and springs, and to duly authorize agents to do the same, to ensure compliance with any permits, standards, policies, rules, regulations, rulings and special orders which it may adopt, issue or establish to carry out the provisions of this chapter;

7. To issue special exceptions pursuant to § 62.1-267;

8. To adopt such regulations as it deems necessary to administer and enforce the provisions of this chapter; and

9. To delegate to its Executive Director any of the powers and duties invested in it to administer and enforce the provisions of this chapter except the adoption and promulgation of rules, standards or regulations; the revocation of permits; and the issuance, modification, or revocation of orders except in case of an emergency as provided in subsection B of § 62.1-268.

§ 62.1-259. Certain withdrawals; permit not required.

No ground water withdrawal permit shall be required for (i) withdrawals of less than 300,000 gallons a month; (ii) temporary construction dewatering; (iii) temporary withdrawals associated with a state-approved ground water remediation; (iv) the withdrawal of ground water for use by a ground water heat pump where the discharge is reinjected into the aquifer from which it is withdrawn; (v) the withdrawal from a pond recharged by ground water without mechanical assistance; (vi) the withdrawal of water for geophysical investigations, including pump tests; (vii) the withdrawal of ground water coincident with exploration for and extraction of coal or activities associated with coal mining regulated by the Department of Mines, Minerals and Energy; (viii) the withdrawal of ground water coincident with the exploration for or production of oil, gas or other minerals other than coal, unless such withdrawal adversely impacts aquifer quantity or quality or other ground water users within a ground water management area; (ix) the withdrawal of ground water in any area not declared a ground water management area; or (x) the withdrawal of ground water pursuant to a special exception issued by the Board.

§ 63.2-805. Home Energy Assistance Program; report; survey.

A. The General Assembly declares that it is the policy of this Commonwealth to support the efforts of public agencies, private utility service providers, and charitable and community groups seeking to assist low-income Virginians in meeting their residential energy needs. To this end, the Department is designated as the state agency responsible for coordinating state efforts in this regard.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Home Energy Assistance Fund, hereinafter the "Fund." Moneys in the Fund shall be used to:

1. Supplement the assistance provided through the Department's administration of the federal Low-Income Home Energy Assistance Program Block Grant; and

2. Assist the Commonwealth in maximizing the amount of federal funds available under the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program by providing funds to comply with fund-matching requirements, and by means of leveraging in accordance with the rules set by the Home Energy Assistance Program.

The Fund shall be established on the books of the Comptroller. The Fund shall consist of donations and contributions to the Fund and such moneys as shall be appropriated by the General Assembly. Interest earned on money in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this section. The State Treasurer shall make expenditures and disbursements from the Fund on warrants issued by the Comptroller upon written request signed by the Commissioner. Up to twelve percent of the Fund may be used to pay the Department's expenses in administering the Home Energy Assistance Program.

C. The Department shall establish and operate the Home Energy Assistance Program. In administering the Home Energy Assistance Program, it shall be the responsibility of the Department to:

1. Administer distributions from the Fund;

2. Lead and facilitate meetings with the Department of Housing and Community Development, the Department of Mines, Minerals and Energy, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, for the purpose of sharing information directed at alleviating the seasonal energy needs of low-income Virginians, including needs for weatherization assistance services;

3. Collect and analyze data regarding the amounts of energy assistance provided through the Department, categorized by fuel type in order to identify the unmet need for energy assistance in the Commonwealth;

4. Develop and maintain a statewide list of available private and governmental resources for low-income Virginians in need of energy assistance; and

5. Report annually to the Governor and the General Assembly on or before October 1 of each year through October 1, 2007, and biennially thereafter, on the effectiveness of low-income energy assistance programs in meeting the needs of low-income Virginians. In preparing the report, the Department shall:

a. Conduct a survey biennially in each year that the report is due to the General Assembly that shall collect information regarding the extent to which the Commonwealth's efforts in assisting low-income Virginians are adequate and are not duplicative of similar services provided by utility services providers, charitable organizations and local governments;

b. Obtain information on energy programs in other states; and

c. Obtain necessary information from the Department of Housing and Community Development, the Department of ~~Mines, Minerals and Energy~~, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, to complete the biennial survey and to compile the required report. The Department of Housing and Community Development, the Department of ~~Mines, Minerals and Energy~~, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, shall provide the necessary information to the Department.

The Department is authorized to assume responsibility for administering all or any portion of any private, voluntary low-income energy assistance program upon the application of the administrator thereof, on such terms as the Department and such administrator shall agree and in accordance with applicable law and regulations. If the Department assumes administrative responsibility for administering such a voluntary program, it is authorized to receive funds collected through such voluntary program and distribute them through the Fund.

D. Local departments may, to the extent that funds are available, promote interagency cooperation at the local level by providing technical assistance, data collection and service delivery.

E. Subject to Board regulations and to the availability of state or private funds for low-income households in need of energy assistance, the Department is authorized to:

1. Receive state and private funds for such services; and
2. Disburse funds to state agencies, and vendors of energy services, to provide energy assistance programs for low-income households.

F. Actions of the Department relating to the review, allocation and awarding of benefits and grants shall be exempt from the provisions of Article 3 (§ 2.2-4018 et seq.) and Article 4 (§ 2.2-4024 et seq.) of Chapter 40 of the Administrative Process Act (§ 2.2-4000 et seq.).

G. No employee or former employee of the Department shall divulge any information acquired by him in the performance of his duties with respect to the income or assistance eligibility of any individual or household obtained in the course of administering the Home Energy Assistance Program, except in accordance with proper judicial order. The provisions of this section shall not apply to (i) acts performed or words spoken or published in the line of duty under law; (ii) inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged; or (iii) the publication of statistics so classified as to prevent the identification of any individual or household.

§ 67-200. Definitions.

As used in this title, unless the context requires a different meaning:

"Department" means the Department of ~~Mines, Minerals and Energy~~.

"Division" means the Division of *Renewable Energy and Energy Efficiency* of the Department of ~~Mines, Minerals and Energy~~.

"Plan" means the Virginia Energy Plan prepared pursuant to this chapter, including any updates thereto.

§ 67-202.1. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including but not limited to (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to the Division of ~~Energy of the Department of Mines, Minerals and Energy~~ by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 67-602. Control and supervision.

The Consortium shall be governed by a board of directors, which shall consist of 16 voting members as follows: (i) the Director of the Department of ~~Mines, Minerals and Energy~~ or his designee; (ii) the Commissioner of the Virginia Marine Resources Commission or his designee; (iii) the President of the Virginia Manufacturers Association or his appointed member of the maritime manufacturing industry; (iv) the President of the Virginia Maritime Association or his appointed member of the maritime industry; (v) the Director of the Advanced Research Institute of Virginia Polytechnic Institute and State University or his designee; (vi) the President of Old Dominion University or his designee; (vii) the Director of the Virginia Institute of Marine Science of The College of William and Mary in Virginia or his designee; (viii) the President of Norfolk State University or his designee; (ix) the President of James Madison University or his designee; (x) the President of Virginia Commonwealth University or his designee; (xi) the President of the University of Virginia or his designee; (xii) the President of Hampton University or his designee; (xiii) the President of George Mason University or his designee; (xiv) the chairman of the Hampton Roads Technology Council or his appointed member of the technology community; (xv) the Director of the Hampton Roads Clean Cities Coalition or his appointed member of the renewable energy industry; and (xvi) the Director of the Department of Environmental Quality or his designee as the lead agency for the Virginia Coastal Zone Management Program.

In addition, a representative of the National Aeronautics and Space Administration's Langley Research Center, to be selected by the director of the Research Center, shall serve as a nonvoting ex officio member of the Consortium's board of directors.

§ 67-900. (Contingent effective date) Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of ~~Mines, Minerals and Energy~~.

"Fund" means the Renewable Electricity Production Grant Fund established pursuant to § 67-902.

"Qualified energy resources" means solar, wind, closed-loop biomass, organic, livestock, and poultry waste resources and lignin and other organic by-products of kraft pulping processes, bark, chip rejects, sawdust, fines and other wood waste, regardless of the point of origin.

"Qualified Virginia facility" means a facility located in the Commonwealth that uses qualified energy resources to produce electricity, and that is originally placed in service on or after January 1, 2007.

§ 67-1000. (Contingent effective date) Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of ~~Mines, Minerals and Energy~~.

"Fund" means the Solar and Wind Energy System Acquisition Grant Fund established pursuant to § 67-1002.

"Individual" means the same as that term is defined in § 58.1-302.

"Photovoltaic property" means property that uses a solar photovoltaic process to generate electricity and that meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Solar water heating property" means property that, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within the structure and meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's or corporation's premises, (iv) is intended primarily to offset all or part of the individual's or corporation's own electricity requirements, and (v) meets applicable performance and quality standards as specified by the Department.

§ 67-1206. Transmission of power from offshore wind energy projects.

A. The incumbent, investor-owned utility for the onshore service territory adjacent to any offshore wind generation project shall, at the request of the Department of ~~Mines, Minerals and Energy~~, initiate a transmission study. Such utility shall initiate the transmission study no more than 30 days following the request of the Department of ~~Mines, Minerals and Energy~~, and shall report to the Department of ~~Mines, Minerals and Energy~~ within 180 days of the request. The Department of ~~Mines, Minerals and Energy~~ shall report the results of the study to the Authority. The Department of ~~Mines, Minerals and Energy~~ shall request the study no later than July 31, 2010.

B. Upon receipt of the study, but no later than May 31, 2011, the Authority shall recommend such actions as it deems appropriate to facilitate transmission of power from offshore wind energy projects.

§ 67-1208. Director; staff; counsel to the Authority.

A. The Director of the Department of ~~Mines, Minerals and Energy~~ shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Division of Offshore Wind within the Department of ~~Mines, Minerals and Energy~~ shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

§ 67-1209. Annual report.

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairs of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. Such report may include the submission of the Division of Offshore Wind within the Department of ~~Mines, Minerals and Energy~~ required by § 45.1-161.5:1.

§ 67-1403. Board of the Authority.

A. The Authority shall be governed by a board of directors consisting of 17 members appointed as follows:

1. The Director of the Department of ~~Mines, Minerals and Energy~~ or his designee;
2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or his designee;
3. The Chancellor of the Virginia Community College System or his designee;
4. The President of Virginia Commonwealth University or his designee;

5. The President of the University of Virginia or his designee;
6. The President of Virginia Polytechnic Institute and State University or his designee;
7. The President of George Mason University or his designee;
8. Two individuals to represent an institution of higher education in the Commonwealth not already represented on the Board, at least one of which shall be a private institution of higher education;
9. Six individuals, each to represent a single business entity located in the Commonwealth that is engaged in activities directly related to the nuclear energy industry;
10. One individual to represent a nuclear energy-related nonprofit organization; and
11. One individual to represent a Virginia-based federal research laboratory.

B. The members of the Board described in subdivisions A 1 through A 7 shall serve terms coincident with their terms of office.

C. The 10 members of the Board described in subdivisions A 8 through A 11 shall be appointed by the Governor. The original terms of five of such members shall end on June 30, 2015, and the original term of the five other such members shall end on June 30, 2017, all as designated by the Governor. After the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. Members of the Board described in subdivisions A 8 through A 11 may serve two successive terms on the Board.

D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy.

E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board.

F. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings.

H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an annual summary of its activities, and recommendations for the support and expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

§ 67-1506. (Expires July 1, 2025) Director; staff; counsel to the Authority.

A. The Director of the Department of ~~Mines, Minerals and Energy~~ shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for this support may be provided by any source, public or private, for the purposes for which the Authority is created. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Department of ~~Mines, Minerals and Energy~~ shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2. That the provisions of this act shall become effective on October 1, 2021.

CHAPTER 533

An Act to amend and reenact §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131; and to repeal § 24.2-124, as it shall become effective, of the Code of Virginia, relating to elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action; penalties.

[H 1890]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131, as follows:

§ 24.2-104.1. Civil actions by Attorney General.

A. Whenever the Attorney General has reasonable cause to believe that a violation of an election law has occurred and that the rights of any voter or group of voters have been affected by such violation, the Attorney General may commence a civil action in the appropriate circuit court for appropriate relief.

B. In such civil action, the court may:

1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title, as is necessary to assure the full enjoyment of the rights granted by this title.

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation and (ii) in an amount not exceeding \$100,000 for any subsequent violation. Such civil penalties are payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

3. Award a prevailing plaintiff reasonable attorney fees and costs.

C. The court or jury may award such other relief to the aggrieved person as the court deems appropriate, including compensatory damages and punitive damages.

§ 24.2-105. (Effective September 1, 2021) Prescribing various forms.

A. The State Board shall prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth.

B. The State Board shall prescribe voting and election materials in languages other than English for use by a county, city, or town that is subject to the requirements of § 24.2-124 § 24.2-128. For purposes of this subsection, voting and election materials mean registration or voting notices, forms, and instructions. For purposes of this subsection, registration notices mean any notice of voter registration approval, denial, or cancellation, required by the provisions of Chapter 4 (§ 24.2-400 et seq.).

The State Board may make available voting and election materials in any additional languages other than those required by subsection A of § 24.2-124 § 24.2-128 as it deems necessary and appropriate. The State Board may accept voting and election materials translated by volunteers but shall verify the accuracy of such translations prior to making the translated materials available to a county, city, or town, or any voter.

CHAPTER 1.1.

RIGHTS OF VOTERS.

§ 24.2-125. Definitions.

For purposes of this chapter, "protected class" means a group of citizens protected from discrimination based on race or color or membership in a language minority group.

§ 24.2-126. Vote denial or dilution.

A. No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by the state or any locality in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote based on race or color or membership in a language minority group.

B. A violation of subsection A is established if, on the basis of the totality of circumstances, it is shown that the political processes leading to nomination or election in the state or a locality are not equally open to participation by members of a protected class in that its members have less opportunity than other members of the electorate to participate in the political processes or to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the state or locality is one circumstance that may be considered.

C. Nothing in this section shall be construed to establish a right to have members of a protected class elected in numbers equal to their proportion in the population.

§ 24.2-127. Impairment of voting rights of registered voters.

Nothing in this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any registered voter.

§ 24.2-128. Minority language accessibility.

A. The State Board shall designate a county, city, or town as a covered locality if it determines, in consultation with the Director of the Census, on the basis of the 2010 American Community Survey census data and subsequent American Community Survey data in five-year increments, or comparable census data, that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of an Indian reservation, more than five percent of the American Indian citizens of voting age within the Indian reservation are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process.

B. Whenever a covered locality provides any voting or election materials, it shall provide such materials in the language of the applicable minority group as well as in the English language. For purposes of this requirement, "voting or election materials" means registration or voting notices, forms, instructions, assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and notices regarding changes to local election districts, precincts, or polling places. For purposes of this requirement, "registration notices" means any notice of voter registration approval, denial, or cancellation required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials in the preferred language identified by the voter.

C. The Attorney General, or any qualified voter who is a member of a language minority group for whom a covered locality is required to provide voting or election materials in such language, may institute a cause of action in the circuit court of the covered locality to compel the provision of the voting or election materials in the language of the applicable minority group. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-129. Covered practices; actions required prior to enactment or administration.

A. For the purposes of this section:

"Certification of no objection" means a certification issued by the Attorney General that there is no objection to the enactment or administration of a covered practice by a locality because the covered practice neither has the purpose or effect of denying or abridging the right to vote based on race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

"Covered practice" means:

1. Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district;

2. Any change, or series of changes within a 12-month period, to the boundaries of the locality that reduces by more than five percentage points the proportion of the locality's voting age population that is composed of members of a single racial or language minority group, as determined by the most recent American Community Survey data;

3. Any change to the boundaries of election districts or wards in the locality, including changes made pursuant to a decennial redistricting measure;

4. Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or that limits or impairs the creation or distribution of voting or election materials in any language other than English; or

5. Any change that reduces the number of or consolidates or relocates polling places in the locality, except where permitted by law in the event of an emergency.

"Voting age population" means the resident population of persons who are 18 years of age or older, as determined by the most recent American Community Survey data available at the time any change to a covered practice is published pursuant to subsection B.

B. Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body shall cause to be published on the official website for the locality the proposed covered practice and general notice of opportunity for public comment on the proposed covered practice. The governing body shall also publicize the notice through press releases and such other media as will best serve the purpose and subject involved. Such notice shall be made at least 45 days in advance of the last date prescribed in the notice for public comment.

Public comment shall be accepted for a period of no fewer than 30 days. During this period, the governing body shall afford interested persons an opportunity to submit data, views, and arguments in writing by mail, fax, or email, or through an online public comment forum on the official website for the locality if one has been established. The governing body shall conduct at least one public hearing during this period to receive public comment on the proposed covered practice.

The governing body may make changes to the proposed covered practice in response to public comment received. If doing so, the revised covered practice shall be published and public comment shall be accepted in accordance with this subsection, except the public comment period shall be no fewer than 15 days.

C. Following the public comment period or periods prescribed in subsection B, the governing body shall publish the final covered practice, which shall include a plain English description of the practice and the text of an ordinance giving effect to the practice, maps of proposed boundary changes, or other relevant materials, and notice that the covered practice will take effect in 30 days. During this 30-day waiting period, any person who will be subject to or affected by the covered practice may challenge in the circuit court of the locality where the covered practice is to be implemented the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. The governing body of a locality seeking to administer or implement a covered practice, in lieu of following the provisions of subsections B and C, may submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection. Such practice shall not be given effect until the Attorney General has issued such

certification. A certification of no objection shall be deemed to have been issued if the Attorney General does not interpose an objection within 60 days of the governing body's submission or if, upon good cause shown and to facilitate an expedited approval within 60 days of the governing body's submission, the Attorney General has affirmatively indicated that no such objection will be made. An affirmative indication by the Attorney General that no objection will be made or the absence of an objection to the covered practice by the Attorney General shall not bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

§ 24.2-130. At-large method of election; limitations; violations; remedies.

A. An at-large method of election, including one that combines at-large elections with district- or ward-based elections, shall not be imposed or applied by the governing body of any locality in a manner that impairs the ability of members of a protected class, as defined in § 24.2-125, to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.

B. A violation of subsection A is established if it is shown that racially polarized voting occurs in local elections and that this, in combination with the method of election, dilutes the voting strength of members of a protected class. For purposes of this subsection, "racially polarized voting" refers to the extent to which the candidate preferences of members of the protected class and other voters in the jurisdiction have differed in recent elections for the office at issue and other offices in which the voters have been presented with a choice between candidates who are members of the protected class and candidates who are not members of the protected class. A finding of racially polarized voting or a violation of subsection A shall not be precluded by the fact that members of a protected class are not geographically compact or concentrated in a locality. Proof of an intent on the part of voters or elected officials to discriminate against members of a protected class shall not be required to prove a violation of subsection A.

C. Any voter who is a member of a protected class, as defined in § 24.2-125, and who resides in a locality where a violation of this section is alleged shall be entitled to initiate a cause of action in the circuit court of the county or city in which the locality is located. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. Upon a finding of a violation of this section, the court shall implement appropriate remedies that are tailored to remedy the violation.

§ 24.2-131. Voter Education and Outreach Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Voter Outreach and Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All penalties and charges directed to this fund by § 24.2-104.1 and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of educating voters and persons qualified to be voters on the rights ensured to them pursuant to federal and state constitutional and statutory law and remedies. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Administration or his designee.

§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. ~~Notice~~ In addition to the requirements set forth in § 24.2-129, notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

§ 24.2-649. Assistance for certain voters; penalties.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the printed ballot in the officer's presence but in a secret manner and, obscuring his vote, return the ballot to the officer. The officer shall

immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board.

Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting machine may be used in lieu of a printed ballot only so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. If a printed ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646 or in the ballot scanner machine in accordance with the instructions of the State Board.

C. If the voter requires assistance in a language other than English and has not designated a person to assist him, an officer of election, ~~before he assists~~ *may assist as an interpreter, but shall first* inquire of the representatives authorized to be present pursuant to § 24.2-604.4 whether they have a volunteer available who can interpret for the voter. One representative interpreter for each party or candidate, insofar as available, shall be permitted to observe the officer of election communicate with the voter. *In any locality designated as a covered locality pursuant to § 24.2-128, the local electoral board shall ensure that interpretation services in the language of the applicable minority group are available and easily accessible to voters needing assistance pursuant to this subsection.* The voter may designate one of the volunteer party or candidate interpreters to provide assistance. A person so designated by the voter shall meet all the requirements of this section for a person providing assistance.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee voters shall be applicable in such cases.

E. In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance pursuant to this section that such machine is available for him to use to vote in privacy without assistance and the officers of election shall instruct the voter on the use of the voting machine. Nothing in this section shall be construed to require a voter to use the machine unassisted.

§ 24.2-1000. Intimidation of officers of election.

Any person who, by bribery, intimidation, *threats, coercion*, or other means in violation of the election laws, willfully hinders or prevents, or attempts to hinder or prevent, the officers of election at any ~~precinct polling place, voter satellite office, or other location being used by a locality for voting purposes~~ from holding an election ~~shall be~~ *is* guilty of a Class 5 felony.

§ 24.2-1005. Intimidation of voters; civil cause of action.

A. Any person who ~~(i) by threats, bribery, or other means in violation of the election laws, intimidates, threatens, or coerces, or attempts to influence intimidate, threaten, or coerce, any other person in giving his vote or ballot or by such means who intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce a voter to deter or prevent him from voting; (ii) furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire; or (iii) changes a ballot of a person to prevent the person from voting as he desired, shall be~~ *is* guilty of a Class 1 misdemeanor.

B. *In addition to the criminal penalty provided in subsection A, such actions shall also create a cause of action. A voter who is intimidated, threatened, or coerced by another person in violation of subsection A shall be entitled to institute an*

action for preventative relief, including an application for a permanent or temporary injunction, restraining order, or other order; against such person. The action shall be instituted in the circuit court of the locality where the violation occurred. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

C. This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

§ 24.2-1005.1. Communication of false information to registered voter.

A. It shall be unlawful for any person to communicate to a registered voter, by any means, false information, knowing the same to be false, intended to impede the voter in the exercise of his right to vote. The provisions of this section shall apply to information only about the date, time, and place of the election, or the voter's precinct, polling place, or voter registration status, *or the location of a voter satellite office or the office of the general registrar.*

B. Any person who violates the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

~~C. A violation of this section~~ *Such violation* may be prosecuted either in the jurisdiction from which the communication was made or in the jurisdiction in which the communication was received.

C. In addition to the criminal penalty provided in subsection B, a violation of the provisions of this section shall also create a cause of action. A registered voter to whom such false information is communicated shall be entitled to institute an action for preventative relief, including an application for a permanent or temporary injunction, restraining order; or other order; against the person communicating such false information. The action shall be instituted in the circuit court of either the jurisdiction from which the communication was made or the jurisdiction in which the communication was received. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-1005.2. Interference with voting.

A. Any person acting under the color of law who, contrary to an official policy or procedure, fails to permit, or refuses to permit, a qualified voter to vote, or who willfully fails or refuses to tabulate, count, or report the vote of a qualified voter; is subject to a civil penalty in an amount not exceeding \$1,000 for each affected voter. Such civil penalties shall be payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

B. Any person who furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire is guilty of a Class 1 misdemeanor. Any person who changes a ballot of a person to prevent the person from voting as he desires is guilty of a Class 1 misdemeanor. This subsection applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

2. That § 24.2-124, as it shall become effective, of the Code of Virginia is repealed.

3. That the provisions of § 24.2-128 of the Code of Virginia, as created by this act, shall become effective on September 1, 2021.

4. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 534

An Act to amend and reenact §§ 16.1-269.1 and 18.2-58 of the Code of Virginia, relating to robbery; penalties.

[H 1936]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-269.1 and 18.2-58 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.

A. Except as provided in subsections B and C, if a juvenile 14 years of age or older at the time of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;

2. The juvenile court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;

3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and

4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the following factors:

- a. The juvenile's age;
- b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than 20 years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;
- c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;
- d. The appropriateness and availability of the services and dispositional alternatives in both the criminal justice and juvenile justice systems for dealing with the juvenile's problems;
- e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;
- f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;
- g. The extent, if any, of the juvenile's degree of intellectual disability or mental illness;
- h. The juvenile's school record and education;
- i. The juvenile's mental and emotional maturity; and
- j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision 4.

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile 16 years of age or older is charged with murder in violation of § 18.2-31, 18.2-32 or 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2. If the juvenile is 14 years of age or older, but less than 16 years of age, then the court may proceed, on motion of the attorney for the Commonwealth, as provided in subsection A.

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile 16 years of age or older is charged with murder in violation of § 18.2-33; felonious injury by mob in violation of § 18.2-41; abduction in violation of § 18.2-48; malicious wounding in violation of § 18.2-51; malicious wounding of a law-enforcement officer in violation of § 18.2-51.1; felonious poisoning in violation of § 18.2-54.1; adulteration of products in violation of § 18.2-54.2; robbery in violation of *subdivision B 1 or 2 of* § 18.2-58 or carjacking in violation of § 18.2-58.1; rape in violation of § 18.2-61; forcible sodomy in violation of § 18.2-67.1; object sexual penetration in violation of § 18.2-67.2; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance in violation of § 18.2-248 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248 provided the adjudications occurred after the juvenile was at least 16 years of age; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute methamphetamine in violation of § 18.2-248.03 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.03 provided the adjudications occurred after the juvenile was at least 16 years of age; or felonious manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute anabolic steroids in violation of § 18.2-248.5 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.5 provided the adjudications occurred after the juvenile was at least 16 years of age, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. Prior to giving written notice of his intent to proceed pursuant to this subsection, the attorney for the Commonwealth shall submit a written request to the director of the court services unit to complete a report as described in subsection B of § 16.1-269.2 unless waived by the juvenile and his attorney or other legal representative. The report shall be filed with the court and mailed or delivered to (i) the attorney for the Commonwealth and (ii) counsel for the juvenile, or, if the juvenile is not represented by counsel, to the juvenile and a parent, guardian, or other person standing in loco parentis with respect to the juvenile, within 21 days of the date of the written request. After reviewing the report, if the attorney for the Commonwealth still intends to proceed pursuant to this subsection, he shall then provide the written notice of such intent, which shall include affirmation that he reviewed the report. The notice shall be filed with the court and mailed or delivered to counsel for the juvenile or, if the juvenile is not then represented by counsel, to the juvenile and a parent, guardian or other person standing in loco parentis with respect to the juvenile at least seven days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such notice, if he elects to withdraw the notice prior to certification of the charge to the grand jury, or if the juvenile is 14 years of age or older, but less than 16 years of age, he may proceed as provided in subsection A.

D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and ancillary charges which may otherwise be properly within the jurisdiction of the juvenile court.

If the court does not find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

If the court finds that the juvenile was not (i) for the purposes of subsection A, 14 years of age or older or (ii) for purposes of subsection B or C, 16 years of age or older, at the time of the alleged commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 have not been met, the case shall proceed as otherwise provided for by law.

E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

§ 18.2-58. Robbery; penalties.

~~If any~~ A. For the purposes of this section, "serious bodily injury" means the same as that term is defined in § 18.2-51.4.

~~B. Any person who commits robbery by partial strangulation, or suffocation, or by striking or beating, or by other violence to the person, or by assault or otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of firearms, or other deadly weapon or instrumentality whatsoever, he shall be~~ is guilty of a felony and shall be punished by confinement in a state correctional facility for life or any term not less than five years as follows:

1. Any person who commits robbery and causes serious bodily injury to or the death of any other person is guilty of a Class 2 felony.

2. Any person who commits robbery by using or displaying a firearm, as defined in § 18.2-308.2:2, in a threatening manner is guilty of a Class 3 felony.

3. Any person who commits robbery by using physical force not resulting in serious bodily injury or by using or displaying a deadly weapon other than a firearm in a threatening manner is guilty of a Class 5 felony.

4. Any person who commits robbery by using threat or intimidation or any other means not involving a deadly weapon is guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 535

An Act to amend and reenact §§ 16.1-281, 16.1-283, 63.2-906, and 63.2-910.2 of the Code of Virginia, relating to foster care; termination of parental rights; relatives and fictive kin.

[H 1962]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-281, 16.1-283, 63.2-906, and 63.2-910.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services or child welfare agency shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section.

The representatives of such department or agency shall involve *in the development of the plan* the child's parent(s) ~~in the development of the plan~~, except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, *relatives and fictive kin who are interested in the child's welfare*, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child. The representatives of such department or agency shall involve a child who is ~~14~~ 12 years of age or older in the development of the plan and, at the option of such child, up to two members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A child under ~~14~~ 12 years of age may be involved in the development of the plan if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department or agency shall include in the plan a full description of the reasons therefor.

The department or child welfare agency shall file the plan with the juvenile and domestic relations district court within 45 days following the transfer of custody or the board's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within 45 days following transfer of custody to the board or agency or the board's placement of the child.

B. The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or placements which will be provided for the child; (v) for school-age children, the school placement of the child; (vi) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; and (vii) for children 14 years and older, an explanation of the child's rights with respect to education, health, visitation, court participation, and the right to stay safe and avoid exploitation. The foster care plan shall include all documentation specified in 42 U.S.C. § 675(5)(l) and § 63.2-905.3. If the child in foster care is placed in a qualified residential treatment program as defined in § 16.1-228, the foster care plan shall also include the report and documentation set forth in subsection A of § 63.2-906.1. If the child in foster care is pregnant or is the parent of a child, the foster care plan shall also include (a) a list of the services and programs to be provided to or on behalf of the child to ensure parental readiness or capability and (b) a description of the foster care prevention strategy for any child born to the child in foster care. In cases in which a foster care plan approved prior to July 1, 2011, identifies independent living as the goal for the child, and in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall also describe the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process. For a child 14 years of age and older, the plan shall include a signed acknowledgment by the child that the child has received a copy of the plan and that the rights contained therein have been explained to the child in an age-appropriate manner.

If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, the department, child welfare agency or team shall (1) include a full description of the reasons for this conclusion; (2) provide information on the opportunities for placing the child with a relative or in an adoptive home; (3) design the plan to lead to the child's successful placement with a relative ~~if a subsequent transfer of custody to the relative is planned, or fictive kin for the purpose of establishing eligibility for the Federal-Funded Kinship Guardianship Assistance program established pursuant to § 63.2-1305 or the State-Funded Kinship Guardianship Assistance program established pursuant to § 63.2-1306~~ or in an adoptive home within the shortest practicable time; and (4) if neither of such placements is feasible, explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living.

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that (A) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (B) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (C) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (D) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Independent living" has the meaning set forth in § 63.2-100.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

Within 30 days of making a determination that reasonable efforts to reunite the child with the parents are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other person standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child, to the parents or other person standing in loco parentis, and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan shall be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held within 60 days of (i) the child's initial foster care placement, if the child was placed through an agreement between the parents or guardians and the local department of social services or a child welfare agency; (ii) the original preliminary removal order hearing, if the child was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the dispositional hearing at which the child was placed in foster care and an order was entered pursuant to § 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. However, the hearing shall be held in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

C1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to clause (iv) of subsection A of § 16.1-282.1; or, in cases in which independent living was identified as the goal for a child in a foster care plan approved prior to July 1, 2011, or in which a child has been admitted to the United States as a refugee or asylee and is over 16 years of age and independent living has been identified as the permanency goal for the child, by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to clause (v) of subsection A of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board placed the child.

E. 1. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, a hearing shall be held within 60 days of such placement. Prior to such hearing, the qualified residential treatment program shall file with the court the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228. The court shall (i) consider the assessment report prepared by a qualified individual pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228 and submitted pursuant to this subsection; (ii) consider the report and documentation required under subsection A of § 63.2-906.1 and filed with the foster care or permanency plan; (iii) determine whether the needs of the child can be met through placement in a foster home or, if not, whether placement in the qualified residential treatment program would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; and (iv) approve or deny the placement of the child in the qualified residential treatment program. The hearing required by this subsection may be held in conjunction with a dispositional hearing held pursuant to subsection C, a foster care review hearing held pursuant to § 16.1-282, a permanency planning hearing held pursuant to § 16.1-282.1, or an annual foster care review hearing held pursuant to § 16.1-282.2, provided that such hearing has already been scheduled by the court and is held within 60 days of the child's placement in the qualified residential treatment program.

2. If the child remains placed in the qualified residential treatment program during any subsequent hearings held pursuant to subsection C or § 16.1-282, 16.1-282.1, or 16.1-282.2, the local board of social services or licensed child-placing agency shall present evidence at such hearing that demonstrates (i) that the ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster home and that the child's placement in the qualified residential treatment program provides the most effective and

appropriate level of care for the child in the least restrictive environment and is consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (ii) the specific treatment or service needs of the child that will be met in the qualified residential treatment program and the length of time the child is expected to need such treatment or services; and (iii) the efforts made by the local board of social services to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, or adoptive parent, or in a foster home. The court shall review such evidence and approve or deny the continued placement of the child in the qualified residential treatment program.

F. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within four months in accordance with § 16.1-282. However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § 16.1-263.

G. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

§ 16.1-283. Termination of residual parental rights.

A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding if the petition specifically requests such relief. No petition seeking termination of residual parental rights shall be accepted by the court prior to the filing of a foster care plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the best interests of the child. The court may hear and adjudicate a petition for termination of parental rights in the same proceeding in which the court has approved a foster care plan which documents that termination is in the best interests of the child. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. The local board of social services or a licensed child-placing agency need not have identified an available and eligible family to adopt a child for whom termination of parental rights is being sought prior to the entry of an order terminating parental rights.

Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services or to a licensed child-placing agency or ~~granting transferring~~ custody or guardianship to a person with a legitimate interest, ~~subject to the provisions of subsection A1.~~ However, in such cases the court shall give a consideration to granting custody to a person with a legitimate interest, *and if custody is not granted to a person with a legitimate interest, the judge shall communicate to the parties the basis for such decision either orally or in writing.* An order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto.

The summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child, a relative providing care for the child, and any preadoptive parents for the child informing them that they may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding. The persons entitled to notice and an opportunity to be heard need not be made parties to the proceedings. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264.

A1. Any order transferring custody of the child to a person with a legitimate interest pursuant to subsection A shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a person with a legitimate interest should further provide, as appropriate, for any terms and conditions ~~which~~ *that* would promote the child's interest and welfare.

B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement entered into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health or development; and

2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subdivision B 2:

a. The parent or parents have a mental or emotional illness or intellectual disability of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;

b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or

c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition; or

2. The parent or parents, without good cause, have been unwilling or unable within a reasonable period of time not to exceed 12 months from the date the child was placed in foster care to remedy substantially the conditions which led to or required continuation of the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end. Proof that the parent or parents, without good cause, have failed or been unable to make substantial progress towards elimination of the conditions which led to or required continuation of the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

D. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused upon the ground of abandonment may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The child was abandoned under such circumstances that either the identity or the whereabouts of the parent or parents cannot be determined; and

2. The child's parent or parents, guardian, or relatives have not come forward to identify such child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care; and

3. Diligent efforts have been made to locate the child's parent or parents, *guardian, or relatives* without avail.

E. The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) the parent has subjected any child to aggravated circumstances.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse which place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this subsection or who has been found by the court to have subjected any child to aggravated circumstances.

F. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first written Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

G. Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he is 14 years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination. However, residual parental rights of a child 14 years of age or older may be terminated over the objection of the child, if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

§ 63.2-906. Foster care plans; permissible plan goals; court review of foster children.

A. Each child who is committed or entrusted to the care of a local board or to a licensed child-placing agency or who is placed through an agreement between a local board and the parent, parents or guardians, where legal custody remains with the parent, parents or guardians, shall have a foster care plan prepared by the local department, the child welfare agency, or the family assessment and planning team established pursuant to § 2.2-5207, as specified in § 16.1-281. The representatives of such local department, child welfare agency, or team shall (i) involve *in the development of the plan* the child's parent(s) ~~in the development of the plan~~, except when parental rights have been terminated or the local department or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, *relatives and fictive kin who are interested in the child's welfare*, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the child welfare agency placed the child and (ii) for any child for whom reunification remains the goal, meet and consult with the child's parent(s) or other person standing in loco parentis, provided that the parent(s) or other person has been located and parental rights have not been terminated, no less than once every two months and at all critical decision-making points throughout the child's foster care case. If reunification is not the goal for the child, the local board, child welfare agency, or team shall provide information to the child's parents regarding the parents' option to voluntarily terminate parental rights, unless a parent's parental rights have been terminated. The representatives of such department, child welfare agency, or team shall involve the child in the development of the plan, if (a) *the child is 12 years of age or older or (b) the child is younger than 12 years of age and such involvement is consistent with the best interests of the child*. In cases where either the parent(s) or child is not involved in the development of the plan, the department, child welfare agency, or team shall include in the plan a full description of the reasons therefor in accordance with § 16.1-281.

A court may place a child in the care and custody of ~~(a)~~ (1) a public agency in accordance with § 16.1-251 or 16.1-252; ~~and (b)~~ or (2) a public or licensed private child-placing agency in accordance with § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. Children may be placed by voluntary relinquishment in the care and custody of a public or private agency in accordance with § 16.1-277.01 or §§ 16.1-277.02 and 16.1-278.3. Children may be placed through an agreement where legal custody remains with the parent, parents or guardians in accordance with §§ 63.2-900 and 63.2-903, or § 2.2-5208.

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;
2. Transfer custody of the child to a relative other than his prior family or to fictive kin for the purpose of establishing eligibility for the Kinship Guardianship Assistance program pursuant to § 63.2-1305;
3. Finalize an adoption of the child;
4. Place a child who is 16 years of age or older in permanent foster care;
5. Transition to independent living if, and only if, the child is admitted to the United States as a refugee or asylee; or
6. Place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with subsection A2 of § 16.1-282.1.

C. Each child in foster care shall be subject to the permanency planning and review procedures established in §§ 16.1-281, 16.1-282, and 16.1-282.1.

§ 63.2-910.2. Petition to terminate parental rights.

A. If a child has been in foster care under the responsibility of a local board for 15 of the most recent 22 months or if the parent of a child in foster care has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; or (ii) felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of

such offense, the local board shall file a petition to terminate the parental rights of the child's parents and concurrently identify, recruit, process, and approve a qualified family for adoption of the child, unless:

1. At the option of the local board, the child is being cared for by a relative;

2. The local board has determined that the filing of such a petition would not be in the best interests of the child and has documented a compelling reason for such determination in the child's foster care plan, *such as (i) a relative has shown the will and ability to care for the child or (ii) the parent's incarceration or participation in a court-ordered residential substance abuse treatment program constitutes the primary factor in the child's placement in foster care, and termination of parental rights is not in the child's best interests*; or

3. The local board has not provided to the family of the child, within the time period established in the child's foster care plan, services deemed necessary for the child's safe return home or has not otherwise made reasonable efforts to return the child home, if required under § 473(a)(15)(B)(ii) of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

CHAPTER 536

An Act to amend and reenact § 58.1-112 of the Code of Virginia, relating to authorizing Tax Commissioner to waive accrual of interest in the event that the Governor declares a state of emergency; emergency.

[H 1999]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-112 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-112. Return filing frequency; waiver of penalties.

A. In the case of any return or payment for a tax administered by the Department that is required to be filed or paid more often than annually, the Tax Commissioner shall have the authority to set thresholds or other conditions in which such returns or payments for all or any class of taxpayers may be filed or paid less frequently, but at least annually.

B. The Tax Commissioner shall have the authority to waive penalties and grant extensions of time to file a return or pay a tax, or both, to any class of taxpayers when the Tax Commissioner in his discretion finds that the normal due date has caused, or would, cause, undue hardship to the class of taxpayers because of a natural disaster or other reason.

C. *The Tax Commissioner shall have the authority to waive interest for any class of taxpayers when the Tax Commissioner in his discretion finds that imposing interest has caused, or would cause, undue hardship to the class of taxpayers because of a natural disaster or other reason. The Tax Commissioner may grant a waiver of interest only to the extent that the Governor declares a state of emergency to exist in the Commonwealth pursuant to subdivision (7) of § 44-146.17 with respect to such natural disaster or other reason.*

D. Any action of the Department under this section shall be exempt from the Administrative Process Act and the Virginia Register Act, but the Department shall preserve the reason for its action among its records. The Department shall promulgate its action in a manner that is reasonably calculated to inform the affected class of the action.

2. That an emergency exists and this act is in force from its passage.

CHAPTER 537

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 17 of Title 15.2 a section numbered 15.2-1723.2 and by adding a section numbered 23.1-815.1, relating to facial recognition technology; authorization of use by local law-enforcement agencies and public institutions of higher education.

[H 2031]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 17 of Title 15.2 a section numbered 15.2-1723.2 and by adding a section numbered 23.1-815.1 as follows:

§ 15.2-1723.2. Facial recognition technology; approval.

A. *For purposes of this section, "facial recognition technology" means an electronic system for enrolling, capturing, extracting, comparing, and matching an individual's geometric facial data to identify individuals in photos, videos, or real time. "Facial recognition technology" does not include the use of an automated or semi-automated process to redact a recording in order to protect the privacy of a subject depicted in the recording prior to release or disclosure of the recording outside of the law-enforcement agency if the process does not generate or result in the retention of any biometric data or surveillance information.*

B. *No local law-enforcement agency shall purchase or deploy facial recognition technology unless such purchase or deployment of facial recognition technology is expressly authorized by statute. For purposes of this section, a statute that*

does not refer to facial recognition technology shall not be construed to provide express authorization. Such statute shall require that any facial recognition technology purchased or deployed by the local law-enforcement agency be maintained under the exclusive control of such local law-enforcement agency and that any data contained by such facial recognition technology be kept confidential, not be disseminated or resold, and be accessible only by a search warrant issued pursuant to Chapter 5 (§ 19.2-52 et seq.) of Title 19.2 or an administrative or inspection warrant issued pursuant to law.

C. Nothing in this section shall apply to commercial air service airports.

§ 23.1-815.1. Facial recognition technology; approval.

A. For purposes of this subsection, "facial recognition technology" means an electronic system for enrolling, capturing, extracting, comparing, and matching an individual's geometric facial data to identify individuals in photos, videos, or real time. "Facial recognition technology" does not include the use of an automated or semi-automated process to redact a recording in order to protect the privacy of a subject depicted in the recording prior to release or disclosure of the recording outside of the law-enforcement agency if the process does not generate or result in the retention of any biometric data or surveillance information.

B. No campus police department shall purchase or deploy facial recognition technology unless such purchase or deployment of facial recognition technology is expressly authorized by statute. For purposes of this section, a statute that does not refer to facial recognition technology shall not be construed to provide express authorization. Such statute shall require that any facial recognition technology purchased or deployed by the campus police department be maintained under the exclusive control of such campus police department and that any data contained by such facial recognition technology be kept confidential, not be disseminated or resold, and be accessible only by a search warrant issued pursuant to Chapter 5 (§ 19.2-52 et seq.) of Title 19.2 or an administrative or inspection warrant issued pursuant to law.

2. That local law-enforcement agencies and campus police departments at public institutions of higher education using facial recognition technology prior to July 1, 2021, are prohibited from using such technology on or after July 1, 2021, unless and until such use is authorized by an act of the General Assembly pursuant to the provisions of this act.

CHAPTER 538

An Act to amend and reenact §§ 19.2-303, 19.2-303.1, and 19.2-306 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-306.1, relating to probation, revocation, and suspension of sentence; limitations.

[H 2038]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-303, 19.2-303.1, and 19.2-306 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-306.1 as follows:

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. *The court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. Any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The limitation on the period of probation shall not apply to the extent that an additional period of probation is necessary (i) for the defendant to participate in a court-ordered program or (ii) if a defendant owes restitution and is still subject to restitution compliance review hearings in accordance with § 19.2-305.1.* The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been

taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

~~In~~ *Notwithstanding any other provision of law, in any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.*

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation ~~for such time as the court shall determine~~ *in accordance with the provisions of this section*, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation ~~for such time as the court shall determine~~ *in accordance with the provisions of this section.*

§ 19.2-303.1. Fixing period of suspension of sentence.

~~In any case where a court suspends the imposition or execution of a sentence, it may fix the period of suspension for a reasonable time, having due regard to the gravity of the offense, without regard up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. The limitation on the period of suspension shall not apply to the extent that an additional period of suspension is necessary for the defendant to participate in a court-ordered program.~~

§ 19.2-306. Revocation of suspension of sentence and probation.

A. In any case in which the court has suspended the execution or imposition of sentence, the court may revoke the suspension of sentence for any cause the court deems sufficient that occurred at any time within the probation period, or within the period of suspension fixed by the court. If neither a probation period nor a period of suspension was fixed by the court, then the court may revoke the suspension for any cause the court deems sufficient that occurred within the maximum period for which the defendant might originally have been sentenced to be imprisoned.

B. The court may not conduct a hearing to revoke the suspension of sentence unless the court issues process to notify the accused or to compel his appearance before the court within *90 days of receiving notice of the alleged violation or within one year after the expiration of the period of probation or the period of suspension, whichever is sooner*; or, in the case of a failure to pay restitution, within three years after such expiration. If neither a probation period nor a period of suspension was fixed by the court, then the court shall issue process within ~~one year~~ *six months* after the expiration of the maximum period for which the defendant might originally have been sentenced to be incarcerated. Such notice and service of process may be waived by the defendant, in which case the court may proceed to determine whether the defendant has violated the conditions of suspension.

C. If the court, after hearing, finds good cause to believe that the defendant has violated the terms of suspension, then: (i) ~~if the court originally suspended the imposition of sentence, the court shall revoke the suspension, and the court may pronounce whatever sentence might have been originally imposed or~~ (ii) ~~if the court originally suspended the execution of the sentence, the court shall revoke the suspension and the original sentence shall be in full force and effect~~ *revoke the suspension and impose a sentence in accordance with the provisions of § 19.2-306.1.* The court may again suspend all or any part of this sentence *for a period up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, less any time already served*, and may place the defendant upon terms and conditions or probation. *The court shall measure the period of any suspension of sentence from the date of the entry of the original*

sentencing order. However, if a court finds that a defendant has absconded from the jurisdiction of the court, the court may extend the period of probation or suspended sentence for a period not to exceed the length of time that such defendant absconded.

D. If any court has, after hearing, found no cause to impose a sentence that might have been originally imposed, or to revoke a suspended sentence or probation, then any further hearing to impose a sentence or revoke a suspended sentence or probation, based solely on the alleged violation for which the hearing was held, shall be barred.

E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the manner provided by law to the circuit court having criminal jurisdiction from a judgment or order revoking any suspended sentence.

§ 19.2-306.1. Limitation on sentence upon revocation of suspension of sentence; exceptions.

A. For the purposes of this section, "technical violation" means a violation based on the probationer's failure to (i) report any arrest, including traffic tickets, within three days to the probation officer; (ii) maintain regular employment or notify the probation officer of any changes in employment; (iii) report within three days of release from incarceration; (iv) permit the probation officer to visit his home and place of employment; (v) follow the instructions of the probation officer, be truthful and cooperative, and report as instructed; (vi) refrain from the use of alcoholic beverages to the extent that it disrupts or interferes with his employment or orderly conduct; (vii) refrain from the use, possession, or distribution of controlled substances or related paraphernalia; (viii) refrain from the use, ownership, possession, or transportation of a firearm; (ix) gain permission to change his residence or remain in the Commonwealth or other designated area without permission of the probation officer; or (x) maintain contact with the probation officer whereby his whereabouts are no longer known to the probation officer. Multiple technical violations arising from a single course of conduct or a single incident or considered at the same revocation hearing shall not be considered separate technical violations for the purposes of sentencing pursuant to this section.

B. If the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation is that the defendant was convicted of a criminal offense that was committed after the date of the suspension, or has violated another condition other than (i) a technical violation or (ii) a good conduct violation that did not result in a criminal conviction, then the court may revoke the suspension and impose or resuspend any or all of that period previously suspended.

C. The court shall not impose a sentence of a term of active incarceration upon a first technical violation of the terms and conditions of a suspended sentence or probation, and there shall be a presumption against imposing a sentence of a term of active incarceration for any second technical violation of the terms and conditions of a suspended sentence or probation. However, if the court finds, by a preponderance of the evidence, that the defendant committed a second technical violation and he cannot be safely diverted from active incarceration through less restrictive means, the court may impose not more than 14 days of active incarceration for a second technical violation. The court may impose whatever sentence might have been originally imposed for a third or subsequent technical violation. For the purposes of this subsection, a first technical violation based on clause (viii) or (x) of subsection A shall be considered a second technical violation, and any subsequent technical violation also based on clause (viii) or (x) of subsection A shall be considered a third or subsequent technical violation.

D. The limitations on sentencing in this section shall not apply to the extent that an additional term of incarceration is necessary to allow a defendant to be evaluated for or to participate in a court-ordered drug, alcohol, or mental health treatment program. In such case, the court shall order the shortest term of incarceration possible to achieve the required evaluation or participation.

CHAPTER 539

An Act to amend and reenact §§ 60.2-619 and 60.2-633 of the Code of Virginia, relating to unemployment compensation; continuation of benefits; repayment of overpayments.

[H 2040]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-619 and 60.2-633 of the Code of Virginia are amended and reenacted as follows:

§ 60.2-619. Determinations and decisions by deputy; appeals therefrom.

A. 1. A representative designated by the Commission as a deputy, shall promptly examine the claim. On the basis of the facts found by him, the deputy shall either:

a. Determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof; or

b. Refer such claim or any question involved therein to any appeal tribunal or to the Commission, which tribunal or Commission shall make its determination in accordance with the procedure described in § 60.2-620.

2. When the payment or denial of benefits will be determined by the provisions of subdivision 2 of § 60.2-612, the deputy shall promptly transmit his full finding of fact with respect to that subdivision to any appeal tribunal, which shall make its determination in accordance with the procedure described in § 60.2-620.

B. Upon the filing of an initial claim for benefits, the Commission shall cause an informatory notice of such filing to be mailed to the most recent 30-day or 240-hour employing unit of the claimant and all subsequent employing units, and any

reimbursable employing units ~~which~~ *that* may be liable for reimbursement to the Commission for any benefits paid. However, the failure to furnish such notice shall not have any effect upon the claim for benefits. *If a claimant has had a determination of initial eligibility for benefits under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility and in accordance with the terms of this subsection, until a determination is made that provides the claimant notice and an opportunity to be heard. When a question concerning continued eligibility for benefits arises, a determination shall be made as to whether it affects future weeks of benefits or only past weeks. With respect to future weeks, presumptive payment shall not be made until but no later than the end of the week following the week in which such issue arises, regardless of the type of issue. With respect to past weeks, presumptive payment shall be issued immediately, regardless of the type of issue. Notice shall be given to individuals who receive payments under such presumption that pending eligibility may affect their entitlement to the payment and may result in an overpayment that requires repayment.*

C. Notice of determination upon a claim shall be promptly given to the claimant by delivering or by mailing such notice to the claimant's last known address. In addition, notice of any determination ~~which~~ *that* involves the application of the provisions of § 60.2-618, together with the reasons therefor, shall be promptly given in the same manner to the most recent 30-day or 240-hour employing unit by whom the claimant was last employed and any subsequent employing unit which is a party. The Commission may dispense with the giving of notice of any determination to any employing unit, and such employing unit shall not be entitled to such notice if it has failed to respond timely or adequately to a written request of the Commission for information, as required by § 60.2-528.1, from which the deputy may have determined that the claimant may be ineligible or disqualified under any provision of this title. The deputy shall promptly notify the claimant of any decision made by him at any time which in any manner denies benefits to the claimant for one or more weeks.

D. Such determination or decision shall be final unless the claimant or any such employing unit files an appeal from such determination or decision (i) within 30 calendar days after the delivery of such notification, (ii) within 30 calendar days after such notification was mailed to his last known address, or (iii) within 30 days after such notification was mailed to the last known address of an interstate claimant. For good cause shown, the 30-day period may be extended.

E. Benefits shall be paid promptly in accordance with a determination or redetermination under this chapter, or decision of an appeal tribunal, the Commission, the Board of Review or a reviewing court under §§ 60.2-625 and 60.2-631 upon the issuance of such determination, redetermination or decision, regardless of the pendency of the period to file an appeal or petition for judicial review that is provided in this chapter, or the pendency of any such appeal or review. Such benefits shall be paid unless or until such determination, redetermination or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modifying or reversing redetermination or decision. If a decision of an appeal tribunal allowing benefits is affirmed in any amount by the Commission, benefits shall continue to be paid until such time as a court decision has become final so that no further appeal can be taken. If an appeal is taken from the Commission's decision, benefits paid shall result in a benefit charge to the account of the employer under § 60.2-530 only when, and as of the date on which, as the result of an appeal, the courts finally determine that the Commission should have awarded benefits to the claimant or claimants involved in such appeal.

§ 60.2-633. Receiving benefits to which not entitled.

A. Any person who has received any sum as benefits under this title to which he was not entitled shall be liable to repay such sum to the Commission. For purposes of this section, "benefits under this title" includes benefits under an unemployment benefit program of the United States or of any other state. In the event the claimant does not refund the overpayment, the Commission shall deduct from any future benefits such sum payable to him under this title. *The Commission shall waive the requirement to repay the overpayment after an individual case review if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good conscience.*

For the purposes of this section:

1. *An overpayment made "without fault on the part of the individual" shall include overpayments that (i) result from administrative error; (ii) are the result of inducement, solicitation, or coercion on the part of the employer; or (iii) result from the employer's failure to respond timely or adequately to the Commission's request for information, as required by § 60.2-528.1. An overpayment shall not be considered "without fault on the part of the individual" if such overpayment was the result of (a) a reversal in the appeals process, unless the employer failed to respond timely or adequately to the Commission's request for information regarding the individual's separation from employment; (b) a programming, technological, or automated system error not directly associated with an individual claim that results in erroneous payments to a group of individuals; or (c) fraud.*

2. *It shall be contrary to equity and good conscience if requiring repayment of an overpayment would deprive the individual of the income required to provide for basic necessities, including shelter, food, medicine, child care, or any other essential living expenses.*

~~However, if an overpayment of benefits under this chapter, but not under an unemployment benefit program of the United States or of any other state, occurred due to administrative error, B. For any overpayment where repayment is not forgiven, the Commission shall have the authority to negotiate the terms of repayment, which shall include (i) deducting up to 50 percent of the payable amount for any future week of benefits claimed, rounded down to the next lowest dollar until~~

the overpayment is satisfied; (ii) forgoing collection of the payable amount until the recipient has found employment as defined in § 60.2-212; or (iii) determining and instituting an individualized repayment plan.

The Commission shall collect an overpayment of benefits under this chapter caused by administrative error only by offset against future benefits or a negotiated repayment plan; however, the Commission may institute any other method of collection if the individual fails to enter into or comply with the terms of the repayment plan. Administrative error shall not include decisions reversed in the appeals process. ~~In addition, the overpayment~~

Overpayments where the obligation to repay has not been waived may be collectible by civil action in the name of the Commission. Amounts collected in this manner may be subject to an interest charge as prescribed in § 58.1-15 from the date of judgment and may be subject to fees and costs. Collection activities for any benefit overpayment established of ~~five dollars~~ \$5 or less may be suspended. The Commission may, for good cause, determine as uncollectible and discharge from its records any benefit overpayment which remains unpaid after the expiration of seven years from the date such overpayment was determined, or immediately upon the death of such person or upon his discharge in bankruptcy occurring subsequently to the determination of overpayment. Any existing overpayment balance not equal to an even dollar amount shall be rounded to the next lowest even dollar amount.

~~B. C.~~ The Commission is authorized to accept repayment of benefit overpayments by use of a credit card. The Virginia Employment Commission shall add to such payment a service charge for the acceptance of such card. Such service charge shall not exceed the percentage charged to the Virginia Employment Commission for use of such card.

D. No determination with respect to benefit overpayments shall be issued until after a determination or decision that finds a claimant ineligible or disqualified for benefits previously paid has become final.

~~C. E.~~ Final orders of the Commission with respect to benefit overpayments may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner as may be appropriate.

2. That the Virginia Employment Commission (the Commission) shall notify each person with an unpaid overpayment of benefits established for claim weeks paid commencing March 15, 2020, under Chapter 6 (§ 60.2-600 et seq.) of Title 60.2 of the Code of Virginia, or under an unemployment benefit program of the United States or any other state, that such individual may be entitled to a waiver of obligation to repay such overpayment and shall provide 30 days from the date of such notification for the individual to request a waiver of repayment. For good cause shown, the Commission may extend the 30-day period for requesting a waiver. The Commission shall conduct an individualized review and adjudicate any request received in accordance with the provisions of § 60.2-619 of the Code of Virginia, as amended by this act, and any individual who is denied a waiver shall have the right to appeal as provided in subsection D of § 60.2-619 of the Code of Virginia, as amended by this act. In ruling on any waiver request, the Commission shall apply the provisions of Title 60.2 or, if applicable, the overpayment waiver provisions of any unemployment compensation program of the United States.

3. That the provisions of this act that allow the waiver of any obligation to repay overpayments established for the week commencing March 15, 2020, through the week commencing June 27, 2021, shall apply only to overpayment balances that remain outstanding. Amounts already paid or collected against such overpayments shall not be reimbursed to the claimant, except for benefits paid under the Pandemic Unemployment Assistance program.

4. That notwithstanding any provision to the contrary, the Virginia Employment Commission may suspend or forgo referring any overpayment established since March 15, 2020, to the collections process established under § 2.2-4806 of the Code of Virginia. However, the authority to suspend or forgo such referrals shall expire on July 1, 2022.

5. That all costs to the Unemployment Compensation Fund (the Fund) resulting from the provisions of this act for overpayments of benefits under Chapter 6 (§ 60.2-600 et seq.) of Title 60.2 of the Code of Virginia shall be reimbursed to the Fund from the general fund in the general appropriation act. For an overpayment waived pursuant to this act, no employer shall be responsible for (i) reimbursing benefits or (ii) benefits charges, except as provided in § 60.2-528.1 of the Code of Virginia.

6. That the provisions of this act shall expire on July 1, 2022.

CHAPTER 540

An Act to amend and reenact §§ 19.2-120, 19.2-163.03, 19.2-299, and 37.2-808 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.6, relating to criminal proceedings; consideration of mental condition and intellectual and developmental disabilities.

[H 2047]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-120, 19.2-163.03, 19.2-299, and 37.2-808 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.6 as follows:

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or
2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;
2. An offense for which the maximum sentence is life imprisonment or death;
3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;
4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;
5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;
6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;
7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;
8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;
9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;
10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;
11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;
12. A violation of subsection B of § 18.2-57.2;
13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;
14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or
15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.

D. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

E. The judicial officer shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;
2. The history and characteristics of the person, including his character, physical and mental condition, *including a diagnosis of an intellectual or developmental disability as defined in § 37.2-100*, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings; and
3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

F. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-163.03. Qualifications for court-appointed counsel.

A. Initial qualification requirements. An attorney seeking to represent an indigent accused in a criminal case, in addition to being a member in good standing of the Virginia State Bar, shall meet the specific criteria required for each type or level of case. The following criteria shall be met for qualification and subsequent court appointment:

1. Misdemeanor case. To initially qualify to serve as counsel appointed pursuant to § 19.2-159 for an indigent defendant charged with a misdemeanor, the attorney shall:

(i) ~~if a.~~ *If an active member of the Virginia State Bar for less than one year, have completed ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Indigent Defense Commission, ~~or two of which shall cover the representation of individuals with behavioral or mental health issues and individuals with intellectual or developmental disabilities as defined in § 37.2-100;~~*

(ii) ~~if b.~~ *If an active member of the Virginia State Bar for one year or more, either complete the ~~six~~ eight hours of approved continuing legal education developed by the Commission, ~~two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,~~ or certify to the Commission that he has represented, in a district court within the past year, four or more defendants charged with misdemeanors;* or

(iii) ~~be c.~~ *Be qualified pursuant to this section to serve as counsel for an indigent defendant charged with a felony.*

2. Felony case.

a. To initially qualify to serve as counsel appointed pursuant to § 19.2-159 for an indigent defendant charged with a felony, the attorney shall (i) have completed the ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Commission, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,* and (ii) certify that he has participated as either lead counsel or co-counsel in four felony cases from their beginning through to their final resolution, including appeals, if any.

b. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past year, as lead counsel in four felony cases through to their final resolution, including appeals, if any, the requirement to complete ~~six~~ eight hours of continuing legal education and the requirement to participate as co-counsel shall be waived.

c. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past five years, as lead counsel in five felony cases through to their final resolution, including appeals, if any, the requirement to participate as either lead counsel or co-counsel in four felony cases within the past year shall be waived.

3. Juvenile and domestic relations case.

a. To initially qualify to serve as appointed counsel in a juvenile and domestic relations district court pursuant to subdivision C 2 of § 16.1-266, the attorney shall (i) have completed the ~~six~~ eight hours of MCLE-approved continuing legal education developed by the Commission, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100,* (ii) have completed four additional hours of MCLE-approved continuing legal education on representing juveniles developed by the Commission, and (iii) certify that he has participated as either lead counsel or co-counsel in four cases involving juveniles in a juvenile and domestic relations district court.

b. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has, within the past year, been lead counsel in four cases involving juveniles in juvenile and domestic relations district court, the requirement to complete the ~~10~~ 12 hours of continuing legal education shall be waived.

c. If the attorney has been an active member of the Virginia State Bar for more than one year and certifies that he has participated, within the past five years in five cases involving juveniles in a juvenile and domestic relations district court, the requirement to participate as either lead counsel or co-counsel in four juvenile cases shall be waived.

B. Requalification requirements. After initially qualifying as provided in subsection A, an attorney shall maintain his eligibility for certification biennially by notifying the Commission of completion of at least ~~six~~ eight hours of Commission and MCLE-approved continuing legal education, *two of which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities as defined in § 37.2-100.* The Commission shall provide information on continuing legal education programs that have been approved.

In addition, to maintain eligibility to accept court appointments under subdivision C 2 of § 16.1-266, an attorney shall complete biennially thereafter four additional hours of MCLE-approved continuing legal education on representing juveniles, certified by the Commission.

C. Waiver and exceptions. The Commission or the court before which a matter is pending, may, in its discretion, waive the requirements set out in this section for individuals who otherwise demonstrate their level of training and experience. A waiver of such requirements pursuant to this subsection shall not form the basis for a claim of error at trial, on appeal, or in any habeas corpus proceeding.

§ 19.2-271.6. Evidence of defendant's mental condition admissible; notice to Commonwealth.

A. For the purposes of this section:

"Developmental disability" means the same as that term is defined in § 37.2-100.

"Intellectual disability" means the same as that term is defined in § 37.2-100.

"Mental illness" means a disorder of thought, mood, perception, or orientation that significantly impairs judgment or capacity to recognize reality.

B. In any criminal case, evidence offered by the defendant concerning the defendant's mental condition at the time of the alleged offense, including expert testimony, is relevant, is not evidence concerning an ultimate issue of fact, and shall be admitted if such evidence (i) tends to show the defendant did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. For purposes of this section, to establish the underlying mental condition the defendant must show that his condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for (i) a mental illness, (ii) a developmental disability or intellectual disability, or (iii) autism spectrum disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

If a defendant intends to introduce evidence pursuant to this section, he, or his counsel, shall give notice in writing to the attorney for the Commonwealth, at least 60 days prior to his trial in circuit court, or at least 21 days prior to trial in general district court or juvenile and domestic relations district court, or at least 14 days if the trial date is set within 21 days of last court appearance, of his intention to present such evidence. In the event that such notice is not given, and the person proffers such evidence at his trial as a defense, then the court may in its discretion either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under § 19.2-243.

If a defendant intends to introduce expert testimony pursuant to this section, the defendant shall provide the Commonwealth with (a) any written report of the expert witness setting forth the witness's opinions and the bases and reasons for those opinions, or, if there is no such report, a written summary of the expected expert testimony setting forth the witness's opinions and bases and reasons for those opinions, and (b) the witness's qualifications and contact information.

C. The defendant, when introducing evidence pursuant to this section, shall permit the Commonwealth to inspect, copy, or photograph any written reports of any physical or mental examination of the accused made in connection with the case, provided that no statement made by the accused in the course of such an examination disclosed pursuant to this subsection shall be used by the Commonwealth in its case in chief, whether the examination was conducted with or without the consent of the accused.

D. Nothing in this section shall prevent the Commonwealth from introducing relevant, admissible evidence, including expert testimony, in rebuttal to evidence introduced by the defendant pursuant to this section.

E. Nothing in this section shall be construed as limiting the authority of the court from entering an emergency custody order pursuant to subsection A of § 37.2-808.

F. Nothing in this section shall be construed to affect the requirements for a defense of insanity pursuant to Chapter 11 (§ 19.2-167 et seq.).

G. Nothing in this section shall be construed as permitting the introduction of evidence of voluntary intoxication.

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, including any diagnoses of an intellectual or developmental disability as defined in § 37.2-100, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the

investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

§ 37.2-808. Emergency custody; issuance and execution of order.

A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, *or a court may issue pursuant to § 19.2-271.6*, an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

When considering whether there is probable cause to issue an emergency custody order, the magistrate may, in addition to the petition, *or the court may pursuant to § 19.2-271.6*, consider (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate *or the court* considers relevant to the determination of whether probable cause exists to issue an emergency custody order.

B. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether the person meets the criteria for temporary detention pursuant to § 37.2-809 and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate *or court* issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute the emergency custody order and provide transportation. However, the magistrate *or court* shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate *or court*, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner, upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate *or court* deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative

transportation provider, the magistrate *or court* shall order the specified primary law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the community services board or its designee responsible for conducting the evaluation. The community services board or its designee conducting the evaluation shall return a copy of the emergency custody order to the court designated by the magistrate *or the court that issued the emergency custody order* as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

Transportation under this section shall include transportation to a medical facility as may be necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. Transportation under this section shall include transportation to a medical facility for a medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission.

D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate *or court* shall order the primary law-enforcement agency from the jurisdiction served by the community services board that designated the person to perform the evaluation required in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. If the community services board serves more than one jurisdiction, the magistrate *or court* shall designate the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person has not yet been taken into custody, the primary law-enforcement agency from the jurisdiction where the person is presently located to execute the order and provide transportation.

E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to this section may transfer custody of the person to the facility or location to which the person is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of security necessary to protect both the person and others from harm, (ii) is actually capable of providing the level of security necessary to protect the person and others from harm, and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of understanding with the law-enforcement agency setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the law-enforcement agency to pay any fees or costs for the transfer of custody.

F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

H. A law-enforcement officer who is transporting a person who has voluntarily consented to be transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of the county, city, or town in which he serves may take such person into custody and transport him to an appropriate location to assess the need for hospitalization or treatment without prior authorization when the law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to believe that the person meets the criteria for emergency custody as stated in this section. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

J. A representative of the primary law-enforcement agency specified to execute an emergency custody order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a person into custody pursuant to subsection G or H shall notify the community services board responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable after execution of the emergency custody order or after the person has been taken into custody pursuant to subsection G or H.

K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time of execution.

L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing, observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency custody order issued pursuant to this section. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order, the person may be detained by a hospital emergency room or other appropriate facility for testing, observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing, observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility in which the person is detained shall notify the nearest community services board, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to § 37.2-1104, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

M. Any person taken into emergency custody pursuant to this section shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures.

N. If an emergency custody order is not executed within eight hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an employee or designee of the community services board as defined in § 37.2-809 may, for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual.

P. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical screening and assessment services provided to persons with mental illnesses while in emergency custody.

Q. No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall collect the following data and report such data annually to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by December 1, 2021, and December 1, 2022: (i) the number of cases in which a defendant introduces evidence concerning his mental condition pursuant to § 19.2-271.6 of the Code of Virginia, as created by this act; (ii) the number of cases in which such evidence is introduced and a jury or court finds that a defendant did not have the intent required for the offense charged due to a mental illness as defined in § 19.2-271.6 of the Code of Virginia, as created by this act, an intellectual or developmental disability, or autism spectrum disorder; (iii) the number of cases in which the court issues an emergency custody order pursuant to § 37.2-808 of the Code of Virginia, as amended by this act, after a jury or the court finds that a defendant did not have the intent required for the offense charged due to a mental illness as defined in § 19.2-271.6 of the Code of Virginia, as created by this act, an intellectual or developmental disability, or autism spectrum disorder; and (iv) if an emergency custody order is issued in such case, the number of defendants for whom no subsequent temporary detention order is issued and who are released, the number of defendants for whom a subsequent temporary detention order is issued, and the number of defendants who are subsequently involuntarily admitted.

3. That the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century (the Joint Subcommittee) shall study, consider, and provide recommendations regarding the relevant standard of danger to self or others that may be appropriately applied to persons found not guilty under this act in the issuance of emergency custody orders, involuntary temporary detention orders, or the ordering of other mandatory mental health treatments in accordance with Article 4 (§ 37.2-808 et seq.) or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2 of the Code of Virginia. The Joint Subcommittee shall report its findings, conclusions, and recommendations to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by December 1, 2021.

CHAPTER 541

An Act to amend and reenact §§ 20-108.1 and 63.2-1918 of the Code of Virginia, relating to child support obligations; party's incarceration not deemed voluntary unemployment or underemployment.

[H 2055]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-108.1 and 63.2-1918 of the Code of Virginia are amended and reenacted as follows:

§ 20-108.1. Determination of child or spousal support.

A. In any proceeding on the issue of determining spousal support, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision shall be rendered based upon the evidence relevant to each individual case.

B. In any proceeding on the issue of determining child support under this title, Title 16.1, or Title 63.2, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision in any such proceeding shall be rendered upon the evidence relevant to each individual case. However, there shall be a rebuttable presumption in any judicial or administrative proceeding for child support, including cases involving split custody or shared custody, that the amount of the award that would result from the application of the guidelines set out in § 20-108.2 is the correct amount of child support to be awarded. Liability for support shall be determined retroactively for the period measured from the date that the proceeding was commenced by the filing of an action with any court provided the complainant exercised due diligence in the service of the respondent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service on the obligor.

In order to rebut the presumption, the court shall make written findings in the order, which findings may be incorporated by reference, that the application of such guidelines would be unjust or inappropriate in a particular case. The finding that rebuts the guidelines shall state the amount of support that would have been required under the guidelines, shall give a justification of why the order varies from the guidelines, and shall be determined by relevant evidence pertaining to the following factors affecting the obligation, the ability of each party to provide child support, and the best interests of the child:

1. Actual monetary support for other family members or former family members;
2. Arrangements regarding custody of the children, including the cost of visitation travel;
3. Imputed income to a party who is voluntarily unemployed or voluntarily ~~under-employed~~; *underemployed*, provided that (i) income may not be imputed to a custodial parent when a child is not in school, child care services are not available, and the cost of such child care services are not included in the computation and ~~provided further, that~~; (ii) any consideration of imputed income based on a change in a party's employment shall be evaluated with consideration of the good faith and reasonableness of employment decisions made by the party, including to attend and complete an educational or vocational program likely to maintain or increase the party's earning potential; and (iii) *a party's current incarceration alone, as defined in § 8.01-195.10, for 180 or more consecutive days, other than for a crime against the child that is the subject of the child support order or the custodial parent of that child, shall not be deemed voluntary unemployment or voluntary underemployment. In addition, notwithstanding subsection F, a party's incarceration for 180 or more consecutive days, other than for failure to pay child support as ordered or for a crime against the child that is the subject of the child support order or the custodial parent of that child, shall be a material change in circumstances upon which a modification of child support may be based;*
4. Any child care costs incurred on behalf of the child or children due to the attendance of a custodial parent in an educational or vocational program likely to maintain or increase the party's earning potential;
5. Debts of either party arising during the marriage for the benefit of the child;
6. Direct payments ordered by the court for maintaining life insurance coverage pursuant to subsection D, education expenses, or other court-ordered direct payments for the benefit of the child;
7. Extraordinary capital gains such as capital gains resulting from the sale of the marital abode;
8. Any special needs of a child resulting from any physical, emotional, or medical condition;
9. Independent financial resources of the child or children;
10. Standard of living for the child or children established during the marriage;
11. Earning capacity, obligations, financial resources, and special needs of each parent;
12. Provisions made with regard to the marital property under § 20-107.3, where said property earns income or has an income-earning potential;
13. Tax consequences to the parties including claims for exemptions, child tax credit, and child care credit for dependent children;
14. A written agreement, stipulation, consent order, or decree between the parties which includes the amount of child support; and
15. Such other factors as are necessary to consider the equities for the parents and children.

C. In any proceeding under this title, Title 16.1, or Title 63.2 on the issue of determining child support, the court shall have the authority to order either party or both parties to provide health care coverage or cash medical support, as defined in § 63.2-1900, or both, for dependent children if reasonable under all the circumstances and health care coverage for a spouse or former spouse.

D. In any proceeding under this title, Title 16.1, or Title 63.2 on the issue of determining child support, the court shall have the authority to order a party to (i) maintain any existing life insurance policy on the life of either party provided the party so ordered has the right to designate a beneficiary and (ii) designate a child or children of the parties as the beneficiary of all or a portion of such life insurance for so long as the party so ordered has a statutory obligation to pay child support for the child or children.

E. Except when the parties have otherwise agreed, in any proceeding under this title, Title 16.1, or Title 63.2 on the issue of determining child support, the court shall have the authority to and may, in its discretion, order one party to execute all appropriate tax forms or waivers to grant to the other party the right to take the income tax dependency exemption and any credits resulting from such exemption for any tax year or future years, for any child or children of the parties for federal and state income tax purposes.

F. Notwithstanding any other provision of law, any amendments to this section shall not be retroactive to a date before the effective date of the amendment, and shall not be the basis for a material change in circumstances upon which a modification of child support may be based.

G. Child support payments, whether current or arrears, received by a parent for the benefit of and owed to a child in the parent's custody, whether the payments were ordered under this title, Title 16.1, or Title 63.2, shall not be subject to garnishment. A depository wherein child support payments have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of deposits that are subject to garnishment.

H. In any proceeding on the issue of determining child or spousal support or an action for separate maintenance under this title, Title 16.1, or Title 63.2, when the earning capacity, voluntary unemployment, or voluntary ~~under-employment~~ *underemployment* of a party is in controversy, the court in which the action is pending, upon the motion of any party and for good cause shown, may order a party to submit to a vocational evaluation by a vocational expert employed by the moving party, including, but not limited to, any interviews and testing as requested by the expert. The order may permit the attendance of the vocational expert at the deposition of the person to be evaluated. The order shall specify the name and address of the expert, the scope of the evaluation, and shall fix the time for filing the report with the court and furnishing copies to the parties. The court may award costs or fees for the evaluation and the services of the expert at any time during the proceedings. The provisions of this section shall not preclude the applicability of any other rule or law.

§ 63.2-1918. Administrative establishment of obligations.

The Department shall set child support at the amount resulting from computations pursuant to the guideline set out in § 20-108.2 in determining the required monthly support obligation, the amount of support obligation arrearage, if any, and the amount to be paid periodically against such arrearage. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the correct amount of child support to be awarded. In order to rebut the presumption the Department shall make written findings in its order that the application of the guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence pertaining to support for other children in the household or other children for whom any administrative or court order exists, or relevant evidence pertaining to imputed income to a person who is voluntarily unemployed or who fails to provide verification of income upon request of the Department; provided that income may not be imputed to the custodial parent because (i) a child is not regularly attending school, (ii) child care services are not available, or (iii) the cost of such child care services are not added to the basic child support obligation. *In addition, a party's current incarceration alone, as defined in § 8.01-195.10, for 180 or more consecutive days, other than for a crime against the child that is the subject of the child support order or the custodial parent of that child, shall not be deemed voluntary unemployment or voluntary underemployment.* Additional factors that may lead to rebuttal of the presumption shall be determined by Department regulation.

2. That the provisions of this act shall only apply to petitions for child support commenced on or after July 1, 2021, and petitions for modifications of such orders, and that the provisions of this act shall not be construed to create a material change in circumstances for the purposes of modifying an existing child support order.

3. That the provisions of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly.

CHAPTER 542

An Act to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, relating to sealing of criminal records; penalties.

[H 2113]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, as follows:

§ 9.1-101. (Effective until March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the

private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (Effective March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-128. Dissemination of criminal history record information; Board to adopt regulations and procedures.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ 19.2-389, 19.2-389.3, and 19.2-392.13.

§ 9.1-134. Sealing of criminal history record information.

The Board shall adopt procedures reasonably designed to (i) ensure the prompt sealing of criminal history record information and the sealing or purging of criminal history record information, including any records relating to an arrest, charge, or conviction, when required by state or federal law, regulation, or court order; and (ii) permit opening of sealed information under conditions authorized by law.

§ 17.1-205.1. Sealing Fee Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Sealing Fee Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accruing to the Fund pursuant to §§ 19.2-392.12 and 19.2-392.16 and all funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered by the Executive Secretary of the Supreme Court, who shall use such funds solely to fund the costs for the compensation of court-appointed counsel under the provisions of subsection L of § 19.2-392.12. Expenditures from the Fund shall be limited by an appropriation in the general appropriation act. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon request of the Executive Secretary of the Supreme Court.

§ 17.1-293.1. Online case information system; exceptions.

A. The Executive Secretary shall make available a publicly viewable online case information system of certain nonconfidential information entered into the case management system for criminal cases in the circuit courts participating in the Executive Secretary's case management system and in the general district courts. Such system shall be searchable by defendant name across all participating courts, and search results shall be viewable free of charge.

B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary shall not make any offense that was ordered to be sealed available for online public viewing in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary.

C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing.

§ 17.1-502. Administrator of circuit court system.

A. The Executive Secretary of the Supreme Court shall be the administrator of the circuit court system, which includes the operation and maintenance of a case management system and financial management system and related technology improvements.

B. Any circuit court clerk may establish and maintain his own case management system, financial management system, or other independent technology using automation or technology improvements provided by a private vendor or the locality. Any data from the clerk's independent system may be provided directly from such clerk to designated state agencies. The data from the clerk's independent system may also be provided to designated state agencies through an interface with the technology systems operated by the Executive Secretary.

B1. If the data from a case management system established under subsection B is not provided to the Executive Secretary of the Supreme Court through an interface, such data shall be provided to the Department of State Police through an interface for purposes of complying with §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The parameters of such interface shall be determined by the Department of State Police. The costs of designing, implementing, and maintaining such interface shall be the responsibility of the circuit court clerk.

C. The Executive Secretary shall provide an electronic interface with his case management system, financial management system, or other technology improvements upon written request of any circuit court clerk. The circuit court clerk and the clerk's designated application service provider shall comply with the security and data standards established by the Executive Secretary for any such electronic interface. The Executive Secretary shall establish security and data standards for such electronic interfaces on or before June 30, 2013, and such standards shall be consistent with the policies, standards, and guidelines established pursuant to § 2.2-2009.

D. The costs of designing, implementing, and maintaining any such interface with the systems of the Executive Secretary shall be the responsibility of the circuit court clerk. Prior to incurring any costs, the Office of the Executive Secretary shall provide the circuit court clerk a written explanation of the options for providing such interfaces and provide the clerk with a proposal for such costs and enter into a written contract with the clerk to provide such services.

E. The Executive Secretary shall assist the chief judges in the performance of their administrative duties. He may employ such staff and other assistants, from state funds appropriated to him for the purpose, as may be necessary to carry out his duties, and may secure such office space as may be requisite, to be located in an appropriate place to be selected by the Executive Secretary.

§ 19.2-72. When it may issue; what to recite and require.

On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall examine on oath the complainant and any other witnesses, or when such officer shall suspect that an offense punishable otherwise than by a fine has been committed he may, without formal complaint, issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required if the complainant is not a law-enforcement officer; however, if no arrest warrant is issued in response to a written complaint made by such complainant, the written complaint shall be returned to the complainant. If upon such examination such officer finds that there is probable cause to believe the accused has committed an offense, such officer shall issue a warrant for his arrest, except that no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or, if his name is unknown, set forth a description by which he can be identified with reasonable certainty, (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested and brought before a court of appropriate jurisdiction in the county, city or town in which the offense was allegedly committed, and (v) be signed by the issuing officer. *If a warrant is issued for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, the warrant shall reference the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code.* The warrant shall require the officer to whom it is directed to summon such witnesses as shall be therein named to appear and give evidence on the examination. But in a city or town having a police force, the warrant shall be directed "To any policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman, sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his deputy may execute an arrest warrant throughout the county in which he serves and in any city or town surrounded thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act committed during the execution of such warrant. A jail officer as defined in § 53.1-1 employed at a regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail. The venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special conservators of the peace.

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of § 19.2-82.

2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor

for which he cannot receive a jail sentence, except as otherwise provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

3. Unless otherwise authorized by law, any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§ 19.2-387 et seq.). Reports to the Central Criminal Records Exchange concerning such persons shall be made pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.

Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

Any person charged with committing any violation of § 18.2-407 may be arrested and immediately brought before a magistrate who shall proceed as provided in § 19.2-82.

B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses pursuant to this section, if such officers are in uniform or displaying a badge of office. On application, the chief law-enforcement officer of the county or city shall supply each officer with a supply of summons forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.

C. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. *If the summons is issued for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, the summons shall reference the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code.*

§ 19.2-310.7. Expungement when DNA taken for a conviction.

A. A person whose DNA profile has been included in the data bank pursuant to § 19.2-310.2 may request expungement on the grounds that the conviction on which the authority for including his DNA profile was based has been reversed and the case dismissed. Provided that the person's DNA profile is not otherwise required to be included in the data bank pursuant to § 9.1-903, 16.1-299.1, 19.2-310.2, or 19.2-310.2:1, the Department of Forensic Science shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of (i) a written request for expungement pursuant to this section and (ii) a certified copy of the court order reversing and dismissing the conviction.

B. Entry of a sealing order pursuant to § 19.2-392.7 or 19.2-392.12 shall not serve as grounds for expungement of a person's DNA profile or any records in the data bank relating to that DNA profile.

§ 19.2-340. Fines; how recovered; in what name.

When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would be inconsistent with the manifest intention of the General Assembly, it shall be paid to the Commonwealth if prescribed by a statute and recoverable by presentment, indictment, information, or warrant and paid to the locality if prescribed by an ordinance and recoverable by warrant. *Whenever any warrant or summons is issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, and such warrant or summons references the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code, any fine prescribed by the county, city, or town ordinance shall be paid to the locality.* Fines imposed and costs taxed in a criminal or traffic prosecution, including a prosecution for a violation of an ordinance adopted pursuant to § 46.2-1220, for committing an offense shall constitute a judgment and, if not paid at the time they are imposed, execution may issue thereon in the same manner as upon any other monetary judgment, subject to the period of limitations provided by § 19.2-341.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. ~~Records~~ *Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to the an arrest, criminal charge, or conviction of a person, for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes:* (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent

offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (viii) (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

B. An employer or Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

~~F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.~~

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B ~~or~~ C, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, for each charge when any person is arrested on any of the following charges:

- a. Treason;
- b. Any felony;
- c. Any offense punishable as a misdemeanor under Title 54.1;
- d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or
- e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, 63.2-1509, or 63.2-1727.
- e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 22.1-289.041, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, or 63.2-1509.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall

preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal Records Exchange only for those offenses enumerated in this subsection. Only reports received for those offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.

2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

4. For any person served with a show cause for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

5. If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or *capias* may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias* to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, *nolle prosequi*, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action that may have resulted from an indictment, presentment or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and

(ii) any adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of ~~arrest or~~ confinement submitted to it by any ~~law-enforcement agency or any~~ correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

CHAPTER 23.2.

SEALING OF CRIMINAL HISTORY RECORD INFORMATION AND COURT RECORDS.

§ 19.2-392.5. Sealing defined; effect of sealing.

A. As used in this chapter, unless the context requires a different meaning, "sealing" means to (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and

(ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13. "Sealing" may be required either by the issuance of a court order following the filing of a petition or automatically by operation of law under the processes set forth in this chapter.

B. The provisions of this chapter shall only apply to adults who were arrested, charged, or convicted of a criminal offense and to juveniles who were tried in circuit court pursuant to § 16.1-269.1.

C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. The court, except as provided in subsection B of § 19.2-392.14, and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of sealed court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to the effective date of this section.

D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not relieve the person who was arrested, charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense that was ordered to be sealed.

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be (i) disclosed in any sentencing report; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not constitute a barrier crime as defined in § 19.2-392.02, except as otherwise required under federal law.

J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

§ 19.2-392.6. Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.

A. If a person was charged with an offense in violation of § 4.1-305 or 18.2-250.1, and such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D.

B. If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to

the provisions of subsections C and D: § 4.1-305, 18.2-96, 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or § 18.2-250.1 or 18.2-415.

C. Subject to the provisions of subsection D, any offense listed under subsection A and any conviction listed under subsection B shall be ordered to be automatically sealed if seven years have passed since the date of the dismissal or conviction and the person charged with or convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

§ 19.2-392.7. Process for automatic sealing of offenses resulting in a conviction or deferred disposition.

A. On at least a monthly basis, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in § 19.2-392.6.

B. After reviewing the offenses under subsection A, the Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least a monthly basis the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with or convicted of such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such order, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.8. Automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. If a person is charged with the commission of a misdemeanor offense, excluding traffic infractions under Title 46.2, and (i) the person is acquitted, (ii) a nolle prosequi is entered, or (iii) the charge is otherwise dismissed, excluding any charge that is deferred and dismissed after a finding of facts sufficient to justify a finding of guilt, the court disposing of the matter shall, at the time the acquittal, nolle prosequi, or dismissal is entered, order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the attorney for the Commonwealth or any other person advises the court at the time the acquittal, nolle prosequi, or dismissal is entered that:

1. The charge is ancillary to another charge that resulted in a conviction or a finding of facts sufficient to justify a finding of guilt;

2. A nolle prosequi is entered or the charge is dismissed as part of a plea agreement;

3. Another charge arising out of the same facts and circumstances is pending against the person;

4. The Commonwealth intends to reinstitute the charge or any other charge arising out of the same facts and circumstances within three months;

5. Good cause exists, as established by the Commonwealth by a preponderance of the evidence, that such charge should not be automatically sealed; or

6. The person charged with the offense objects to such automatic sealing.

B. If a person is charged with the commission of a felony offense and is acquitted, or the charge against him is dismissed with prejudice, he may immediately upon the acquittal or dismissal orally request that the records relating to the charge be sealed. Upon such request and with the concurrence of the attorney for the Commonwealth, the court shall order the automatic sealing of records relating to the arrest or charge under the process described in § 19.2-392.13.

C. If the court enters an order of sealing pursuant to subsection A or B, the court shall advise the person that the offense has been ordered to be automatically sealed.

D. Any denial by the court to enter a sealing order under subsection A or B shall be without prejudice, and the person may seek expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order under

subsection A or B shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

E. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

F. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.9. Automatic sealing for mistaken identity or unauthorized use of identifying information.

A. If (i) a person is charged or arrested as a result of mistaken identity or (ii) a person's name or other identification is used without his consent or authorization by another person who is charged or arrested using such name or identification, and a nolle prosequi is entered or the charge is otherwise dismissed, the attorney for the Commonwealth or any other person requesting the nolle prosequi or dismissal shall notify the court of the mistaken identity or unauthorized use of identifying information at the time such request is made. Upon such notification, the court disposing of the matter shall, at the time the nolle prosequi or dismissal is entered, order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the person charged or arrested as a result of the mistaken identity or unauthorized use of identifying information objects to such automatic sealing.

B. If the court enters an order of sealing pursuant to subsection A, the court shall advise the person charged that the offense has been ordered to be automatically sealed.

C. Any denial by the court to enter a sealing order under subsection A shall be without prejudice. Entry of a sealing order or the denial of entry of a sealing order under subsection A shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

D. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

E. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.10. Process for automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall provide an electronic list of all offenses in such case management system to the Department of State Police that were ordered to be automatically sealed pursuant to §§ 19.2-392.8 and 19.2-392.9.

B. Upon receipt of the electronic lists under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

§ 19.2-392.11. Automatic sealing of misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history record.

A. On at least an annual basis, the Department of State Police shall review the Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions that resulted in (i) an acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record of such person contains no convictions for any criminal offense for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 and where such criminal history record contains no arrests or charges for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding traffic infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal history record that has previously been ordered to be sealed shall not be deemed a conviction.

B. Upon identification of the finalized case dispositions under subsection A, the Department of State Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least an annual basis the Executive Secretary of the Supreme Court shall provide an electronic list of such offenses to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police on at least an annual basis. Upon receipt of such order, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. This section shall not be construed as prohibiting a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

H. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such offense was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.12. Sealing of offenses resulting in a deferred and dismissed disposition or conviction by petition.

A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24, a person who has been convicted of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95 may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records relating to the charge or conviction, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, or (c) not been convicted of any other felony within the past 10 years of his petition.

B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this section if such person files a petition to proceed without the payment of fees and costs, and the court with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except when not reasonably available, the date of arrest, the name of the arresting agency, and the date of conviction. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the charge or conviction to be sealed; the date of final disposition of the charge or conviction as set forth in the petition; the petitioner's date of birth, sex, race, and social security number, if available; and the full name used by the petitioner at the time of arrest or summons. A petitioner may only have two petitions granted pursuant to this section within his lifetime.

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is delivered to him or received in the mail.

E. Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law-enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner. Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the sealing of the criminal history record information and court records, including electronic records, relating to the charge or conviction, only if the court finds that all criteria in subdivisions 1 through 4 are met, as follows:

1. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, or (iii) release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later, the person has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, for:

- a. Seven years for any misdemeanor offense; or
- b. Ten years for any felony offense;

2. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

3. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out of different sentencing events; and

4. The continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

G. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such offense sealed, and the continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of sealing without conducting a hearing.

H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

I. Upon the entry of an order of sealing, the clerk of the court shall cause an electronic copy of such order to be forwarded to the Department of State Police. Such electronic order shall contain the petitioner's full name, date of birth, sex, race, and social security number, if available, as well as the petitioner's state identification number from the criminal history record, the court case number of the charge or conviction to be sealed, if available, and the document control number, if available. Upon receipt of such electronic order, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge or conviction, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to § 17.1-205.1.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the sealing of records contrary to law shall be voidable upon motion and notice made within two years of the entry of such order.

L. If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint counsel to file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed \$120, as determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in § 17.1-205.1.

M. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is ineligible for the sealing of records under this section.

O. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge or conviction under this section when such charge or conviction is eligible for sealing under some other section of this chapter.

§ 19.2-392.13. Disposition of records when an offense is sealed; permitted uses of sealed records.

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time

employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of court shall determine whether such record is open to public access and inspection. If the clerk of court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, except to the Virginia Criminal Sentencing Commission for its research purposes. Such electronic records may be disseminated to the Virginia Criminal Sentencing Commission without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of court shall not be required to prohibit dissemination of that record. The Supreme Court, Court of Appeals, and any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed.

G. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

H. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

I. The provisions of this section shall not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

§ 19.2-392.14. Disclosure of sealed records; penalty.

A. It is unlawful for any person having or acquiring access to sealed criminal history record information or a court record, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, to disclose such record or any information from such record to another person, except in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. A clerk of court shall not be in violation of this section if such clerk informs a person requesting access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a court order.

C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person who maliciously and intentionally violates this section is guilty of a Class 6 felony.

§ 19.2-392.15. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments; penalty.

A. Except as provided in subsection B, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed.

B. The provisions of subsection A shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

C. Agencies, officials, and employees of state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

E. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

F. If any entity or person listed under subsections A, C, D, or E includes a question about a prior arrest, charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that information concerning an arrest, charge, or conviction

that has been sealed does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection B.

G. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.16. Dissemination of criminal history records and traffic history records by business screening services.

A. For the purposes of this section:

"Business screening service" means a person engaged in the business of collecting, assembling, evaluating, or disseminating Virginia criminal history records or traffic history records on individuals.

"Business screening service" does not include any government entity or the news media.

"Criminal history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.

"Delete" means that a criminal history record shall not be disseminated in any manner, except to any entity authorized to receive and use such information pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134, but may be retained in order to resolve any disputes relating to this section, the accuracy of the record consistent with the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

"Sealed record" means a Virginia criminal history record or a traffic history record that has been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12.

"Traffic history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal traffic infraction charges, and any disposition arising therefrom.

B. If a business screening service knows that a criminal history record or a traffic history record has been sealed, the business screening service shall promptly delete the record.

C. A business screening service shall register with the Department of State Police to electronically receive copies of orders of sealing provided to the Department of State Police pursuant to §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, with a portion of such fee to be used to cover the cost of providing such records and the remainder of such fee to be deposited into the Sealing Fee Fund pursuant to § 17.1-205.1. The contract between the Department of State Police and the business screening service shall prohibit dissemination of the orders of sealing and shall require compliance by the business screening service with the provisions of subsections D, E, and F. The orders of sealing received by the business screening service shall remain confidential and shall not be disseminated or resold. The orders of sealing shall be used for the sole purpose of deleting criminal history records that have been sealed. The business screening service shall destroy the copies of the orders of sealing after deleting the information contained in such orders from sealed records. The Department of State Police shall require that the business screening service seeking access to the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. The Department of State Police shall further require that a business screening service acknowledge receipt of all electronic copies of orders of sealing provided by the Department of State Police. The Department of State Police shall maintain a public list within its website identifying the business screening services that are licensed to receive such records.

D. A business screening service that disseminates a criminal history record or a traffic history record on or after the effective date of this section shall include the date when the record was collected by the business screening service and a notice that the information may include records that have been sealed since that date.

E. A business screening service shall implement and follow reasonable procedures to assure that it does not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the completeness or accuracy of a criminal history record or traffic history record maintained by a business screening service is disputed by the individual who is the subject of the record, the business screening service shall, without charge, investigate the disputed record. If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the official record, the business screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to have been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12, the business screening service shall promptly delete the record. A business screening service may terminate an investigation of a disputed record if the business screening service reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a description of any information required to investigate the disputed record. The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the business screening service receives notice of the dispute from the subject of the record.

F. A business screening service shall implement procedures for individuals to submit a request to obtain their own criminal history record and traffic history record information maintained by the business screening service and any other information that may be sold to another entity by the business screening service regarding the individual.

G. A business screening service that violates this section is liable to the person who is the subject of the criminal history record or traffic history record for a penalty of \$1,000 or actual damages caused by the violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of any suit by an individual, the business screening service may make a cure offer in writing to the individual claiming to have suffered a loss as a result of a violation of this section. Such offer shall be in writing and include one or more things of value, including the payment of money. A cure offer shall be reasonably calculated to remedy a loss claimed by the individual, as well as any attorney fees or other fees, expenses, or other costs of any kind that such individual may incur in relation to such loss. No cure offer shall be admissible in any proceeding initiated under this section, unless the cure offer is delivered by the business screening service to the individual claiming loss or to any attorney representing such individual prior to the filing of the business screening service's initial responsive pleading in such proceeding. The business screening service shall not be liable for such individual's attorney fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorney fees and court costs, exceed the value of the cure offer.

H. The Attorney General may file a civil action to enforce this section. If the court finds that a business screening service has willfully engaged in an act or practice in violation of this section, the Attorney General may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$2,500 per violation. For the purposes of this section, prima facie evidence of a willful violation may be shown when the Attorney General notifies the alleged violator by certified mail that an act or practice is a violation of this section and the alleged violator, after receipt of said notice, continues to engage in the act or practice. In any civil action pursuant to this subsection, in addition to any civil penalty awarded, the Attorney General may also recover any costs and reasonable expenses incurred by the state in investigating and preparing the case, not to exceed \$1,000 per violation, and attorney fees. Such additional costs and expenses shall be paid into the general fund of the Commonwealth.

I. A business screening service that disseminates criminal history records or traffic history records in the Commonwealth is deemed to have consented to service of process in the Commonwealth and to the jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the recovery of remedies under this section.

J. A business screening service that is a consumer reporting agency and that is in compliance with the applicable provisions of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to be in compliance with the comparable provisions of this section. A business screening service is subject to the state remedies under this section if its actions would violate this section and federal law.

K. Any business screening service or person who engages in the conduct of a business screening service, as set forth in this section, that fails to register with the Department of State Police as required by subsection C and that disseminates criminal history records or traffic history records in the Commonwealth may be subject to (i) suit by any person injured by such dissemination and (ii) enforcement actions by the Attorney General as set forth in subsection H.

§ 19.2-392.17. Traffic infractions deemed sealed.

A. Any record of a traffic infraction under Title 46.2 that is not punishable as a criminal offense shall be deemed to be sealed after 11 years from the date of final disposition of the offense, unless such sealing is prohibited under federal or state law. No record of any such traffic infraction shall be disseminated, unless such dissemination is authorized pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the traffic infraction that was ordered to be sealed. Upon receipt of an order directing that a traffic infraction be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal a traffic infraction pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is subject to an administrative suspension order issued pursuant to Driver Improvement Program requirements under § 46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an accumulation of traffic infractions, and less than two years has passed since the date that the suspension order was complied with.

2. That the Department of State Police shall delete all records from the Central Criminal Records Exchange that were not required to be reported to the Central Criminal Records Exchange under subdivision A 1 of § 19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2021.

3. That the Attorney General, after consultation with the Committee on District Courts, the Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall amend the uniform summons described in

§ 46.2-388 of the Code of Virginia to reflect the amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by this act, by July 1, 2021.

4. That the provisions of §§ 9.1-101, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-310.7, and 19.2-389.3 of the Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of the Code of Virginia, as created by this act, shall become effective on the earlier of (i) the first day of the fourth month following notification of the Chair of the Virginia Code Commission and the Chairs of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, have automated systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, or (ii) July 1, 2025.

5. That the Department of State Police shall first transmit the list required under subsection B of § 19.2-392.7 of the Code of Virginia, as created by this act, not later than the earlier of (i) the first day of the third month following the effective date of this act as provided in clause (i) of the fourth enactment of this act or (ii) October 1, 2025.

6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, shall automate systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, not later than July 1, 2025.

7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for requesting and authorizing access to a sealed court record as set forth in section D of § 19.2-392.13 of the Code of Virginia, as created by this act, not later than July 1, 2025.

8. That the Department of State Police shall purchase Criminal History, Expungement, Master Name Index, Rap Back, Civil Commitment, Applicant Tracking, and such other solutions or services as may be necessary to implement this act. The purchase of these solutions or services shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).

9. That the Virginia State Crime Commission shall consult with stakeholders to determine and recommend methods to educate the public on the sealing process and the effects of an order to seal an arrest, charge, or conviction and shall report on such recommended methods by December 15, 2021.

10. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, shall each provide a report to the Virginia State Crime Commission on the progress of implementing automated systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, by November 1, 2021, and by November 1 of each year thereafter until the automated systems have been fully implemented.

11. That the Department of State Police shall determine the feasibility and cost of implementing an automated system to review out-of-state criminal history records and report to the Virginia State Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such determination has been made.

12. That the Virginia Court Clerks' Association shall determine the necessary staffing and technology costs of implementing the provisions of this act and report to the Virginia State Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such determination has been made.

13. That the Department of State Police shall consult with the Department of Motor Vehicles in determining the form and content of the electronic notice to be provided to the Department of Motor Vehicles as required in subsection A of § 19.2-392.13 of the Code of Virginia, as created by this act.

14. That the Department of Criminal Justice Services shall develop regulations governing the dissemination of sealed criminal history record information as directed by subsection D of § 9.1-128 of the Code of Virginia, as amended by this act, and the sealing of criminal history record information as directed by § 9.1-134 of the Code of Virginia, as amended by this act, in accordance with § 19.2-392.13 of the Code of Virginia, as created by this act.

15. That the Virginia State Crime Commission (the Commission) shall continue its current study on expungement; that such study shall include (i) the interplay between the current expungement statute and the sealing of criminal history record information and court records; (ii) the feasibility of destroying or purging expunged or sealed criminal history record information and court records; (iii) permissible uses of criminal history record information and court records; (iv) plea agreements in relation to the expungement or sealing of criminal history record information and court records; and (v) any other relevant matters that arise during the course of the study; and that the Commission shall report its findings by December 15, 2021. Such report shall also include a recommendation on how to create a review process for any proposed changes to the expungement or sealing of criminal history record information and court records.

16. That the Department of State Police shall develop a form contract for purposes of providing information regarding sealed criminal history record information to business screening services pursuant to § 19.2-392.16 of the Code of Virginia, as created by this act.

17. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 543

An Act to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 19.4, consisting of sections numbered 19.2-327.15 through 19.2-327.20, relating to issuance of writ of vacatur for victims of commercial sex trafficking.

[H 2133]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 19.4, consisting of sections numbered 19.2-327.15 through 19.2-327.20, as follows:

CHAPTER 19.4.

ISSUANCE OF WRIT OF VACATUR FOR VICTIMS OF COMMERCIAL SEX TRAFFICKING.

§ 19.2-327.15. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Qualifying offense" means a conviction or adjudication of delinquency for any violation of § 18.2-346 or 18.2-347.

"Victim of sex trafficking" means any person convicted or adjudicated delinquent of a qualifying offense in the Commonwealth who committed such offense as a direct result of being solicited, invited, recruited, encouraged, forced, intimidated, or deceived by another to engage in acts of prostitution or unlawful sexual intercourse for money or its equivalent, as described in subsection A of § 18.2-346, regardless of whether any other person has been charged or convicted of an offense related to the sex trafficking of such person.

§ 19.2-327.16. Issuance of writ of vacatur for victims of commercial sex trafficking.

A. Notwithstanding any other provision of law or rule of court, upon a petition of a person who was convicted or adjudicated delinquent of a qualifying offense, the circuit court of the county or city in which the conviction or adjudication of delinquency was entered shall have the authority to issue writs of vacatur under this chapter.

B. The Rules of Supreme Court of Virginia governing practice and procedures in civil actions shall be applicable to proceedings under this chapter.

C. The circuit court shall have the authority to conduct hearings on petitions for vacatur.

D. Any party aggrieved by the decision of the circuit court may appeal the decision to the Supreme Court of Virginia.

§ 19.2-327.17. Contents and form of the petition for vacatur.

A. Any victim of sex trafficking may file a petition for vacatur setting forth the relevant facts and requesting that the judgment of a conviction or adjudication of delinquency be vacated. Such petition shall allege categorically and with specificity, under oath, all of the following:

1. The petitioner was convicted or adjudicated delinquent of a qualifying offense, including the date on which the qualifying offense occurred, the date of final disposition on which the conviction or adjudication of delinquency was entered, the petitioner's date of birth, and the full name used by the petitioner at the time of the offense;

2. The petitioner committed the qualifying offense as a direct result of being a victim of sex trafficking; and

3. Whether the petitioner has previously filed any other petition in accordance with this chapter in any circuit court and, if so, the disposition of such petition.

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the circuit court may allow the petitioner to amend the petition to correct any deficiency. If the petitioner fails to submit a completed form containing the allegations set forth in subsection A, or if the circuit court has previously dismissed a petition for vacatur from the same petitioner for the same qualifying offense following a hearing conducted pursuant to § 19.2-327.18, the court may dismiss the petition. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

C. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall file those fingerprints with the circuit court with the petition.

D. The Commonwealth shall be made party defendant to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 30 days after receipt of the petition. Upon the motion of the attorney for the Commonwealth and for good cause shown, the court may allow the attorney for the Commonwealth up to an additional 30 days to respond to the petition.

E. A person convicted or adjudicated delinquent of multiple qualifying offenses shall include all qualifying offenses in one petition, if such convictions or adjudications were all entered in the same city or county. A person convicted or adjudicated delinquent of qualifying offenses in different cities or counties shall file petitions in the circuit courts of the cities or counties in which the convictions or adjudications of delinquency were entered.

§ 19.2-327.18. Hearing on petition for vacatur.

A. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court that he does not object to the petition and (ii) stipulates in such written notice that the petitioner was convicted or adjudicated delinquent of a qualifying offense and that the petitioner committed the qualifying offense as a direct result of being a victim of sex trafficking, the circuit court may grant the writ and vacate the qualifying offense without conducting a hearing.

B. If the attorney for the Commonwealth of the county or city in which the petition is filed objects to the petition or does not file an answer, the court shall conduct a hearing on the petition after reasonable notice has been provided to both the petitioner and the attorney for the Commonwealth. The attorney for the Commonwealth shall make reasonable efforts to notify any victim, as defined in § 19.2-11.01, of any qualifying offense of such hearing. The circuit court shall not be required to conduct a hearing if it has previously dismissed a petition for vacatur from the same petitioner for the same qualifying offense.

C. Upon finding that the petitioner has by a preponderance of the evidence proven the elements contained in subsection A of § 19.2-327.17, the circuit court shall grant the writ and vacate the qualifying offense. If the petitioner fails to prove any of these elements, the court shall dismiss the petition.

D. The court may grant the writ and vacate the qualifying offense regardless of whether any person other than the petitioner has been charged or convicted of an offense related to the petitioner being a victim of sex trafficking.

§ 19.2-327.19. Relief under writ of vacatur.

A. Upon granting a writ of vacatur pursuant to subsection C of § 19.2-327.18, the circuit court shall provide the petitioner with a copy of the writ, and such copy shall be sufficient proof that the person named in the writ is no longer under any disability, disqualification, or other adverse consequence resulting from the vacated conviction or adjudication of delinquency.

B. If a writ of vacatur is granted, and no appeal is made to the Supreme Court, or the Supreme Court refuses or denies the Commonwealth's petition for appeal or upholds the decision of the circuit court, an order of expungement for the qualifying offense shall be entered by the circuit court. Upon entry of the order of expungement, the clerk of court shall cause a copy of the writ of vacatur, the order of expungement, and the complete set of petitioner's fingerprints to be forwarded to the Department of State Police, which shall expunge the qualifying offense.

C. The writ to vacate the qualifying offense shall not be expunged pursuant to subsection B and shall be maintained by the circuit court. Access to the writ may be provided only upon court order. Any person seeking access to the writ may file a written motion setting forth why such access is needed. The court shall issue an order to disclose the writ upon the written motion of the petitioner named in the writ. The court may issue an order to disclose the writ if it finds that such disclosure best serves the interests of justice.

D. Costs shall be as provided in § 17.1-275 but shall not be recoverable against the Commonwealth. If the circuit court enters a writ of vacatur, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

E. If the court enters a writ of vacatur, the petitioner shall be entitled to a refund of all fines, costs, forfeitures, and penalties paid in relation to the qualifying offense that was vacated. If the clerk of the court where the conviction was entered is in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, the petitioner shall be entitled to a refund of such amount. If the clerk of the court where the conviction was entered is no longer in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, a refund shall be provided only upon a showing by the petitioner of the amount of fines, costs, forfeitures, and penalties paid.

§ 19.2-327.20. Claims of relief.

Except for appeals to the Supreme Court of Virginia as authorized by subsection D of § 19.2-327.16, an action under this chapter or the performance of any attorney representing the petitioner under this chapter shall not form the basis for relief in any habeas corpus or appellate proceeding. Nothing in this chapter shall create any cause of action for damages against the Commonwealth or any of its political subdivisions or any officers, employees, or agents of the Commonwealth or its political subdivisions.

CHAPTER 544

An Act to amend and reenact §§ 24.2-411.3, 24.2-643, 46.2-203.2, 46.2-216.1, 46.2-323.01, 46.2-323.1, 46.2-346, 46.2-600.1, and 58.1-3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.3, relating to identification privilege cards; fee; confidentiality; penalties.

[H 2138]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-411.3, 24.2-643, 46.2-203.2, 46.2-216.1, 46.2-323.01, 46.2-323.1, 46.2-346, 46.2-600.1, and 58.1-3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.3 as follows:

§ 24.2-411.3. Registration of Department of Motor Vehicles customers.

A. Each person coming into an office of the Department of Motor Vehicles or accessing its website in order to (i) apply for, replace, or renew a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § 46.2-328.3 or *identification privilege cards issued pursuant to § 46.2-345.3*; or (ii) change an address on an existing driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § 46.2-328.3 or *identification privilege cards issued pursuant to § 46.2-345.3* shall be presented with (a) a question asking whether or not the person is a United States citizen and (b) the option to decline to have his information transmitted to the Department of Elections for voter registration purposes. The citizenship question and option to decline shall be accompanied by a statement that intentionally making a materially false statement during the transaction constitutes election fraud and is punishable under Virginia law as a felony.

The Department of Motor Vehicles may not transmit the information of any person who so declines. The Department of Motor Vehicles may not transmit the information of any person who indicates that he is not a United States citizen, nor may such person be asked any additional questions relevant to voter registration but not relevant to the purpose for which the person came to an office of the Department of Motor Vehicles or accessed its website.

B. For each person who does not select the option to decline to have his information transmitted to the Department of Elections for voter registration purposes and who has identified himself as a United States citizen, the Department of Motor Vehicles shall request any information as may be required by the State Board to ensure that the person meets all voter registration eligibility requirements.

C. The Department of Motor Vehicles shall electronically transmit to the Department of Elections, in accordance with the standards set by the State Board, the information collected pursuant to subsection B for any person who (i) has indicated that he is a United States citizen, (ii) has indicated that he is 17 years of age or older, and (iii) at the time of such transaction did not decline to have his information transmitted to the Department of Elections for voter registration purposes.

D. The Department of Elections shall use the information transmitted to determine whether a person already has a registration record in the voter registration system.

1. For any person who does not yet have a registration record in the voter registration system, the Department of Elections shall transmit the information to the appropriate general registrar. The general registrar shall accept or reject the registration of such person in accordance with the provisions of this chapter.

2. For any person who already has a registration record in the voter registration system, if the information indicates that the voter has moved within the Commonwealth, the Department of Elections shall transmit the information and the registration record to the appropriate general registrar, who shall treat such transmittal as a request for transfer and process it in accordance with the provisions of this chapter.

3. General registrars shall not register any person who does not satisfy all voter eligibility requirements.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and the voter may give such information orally or in writing. The officer of election shall verify with the voter his full name and address and shall repeat, in a voice audible to party and candidate representatives present, the full name provided by the voter. The officer shall ask the voter to present any one of the following forms of identification: (i) his voter confirmation documents; (ii) his valid Virginia driver's license, his valid United States passport, or any other identification issued by the Commonwealth, one of its political subdivisions, or the United States, other than a driver privilege card issued under § 46.2-328.3 or *an identification privilege card issued under § 46.2-345.3*; (iii) any valid student identification card issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth; (iv) any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in any other state or territory of the United States; (v) any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business; or (vi) a copy of a current utility bill, bank statement, government check, paycheck, or other government document containing the name and address of the voter. The expiration date on a Virginia driver's license shall not be considered when determining the validity of the driver's license offered for purposes of this section.

Except as provided in subsection E, any voter who does not show one of the forms of identification specified in this subsection shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. A voter who does not show one of the forms of

identification specified in this subsection and does not sign this statement shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

If the voter presents one of the forms of identification listed above, if his name is found on the pollbook in a form identical to or substantially similar to the name on the presented form of identification and the name provided by the voter, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address provided by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

E. This subsection shall apply in the case of any individual who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a federal election in the state. At such election, such individual shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B of this section and subsection A of § 24.2-653 shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

§ 46.2-203.2. Emergency contact information program.

A. As used in this section, "emergency contact" means a person 18 years of age or older whom the customer may designate to be contacted by a law-enforcement officer in an emergency situation.

B. The Department may establish an emergency contact information program to assist law-enforcement personnel in emergency situations. To establish such a program, a person who currently holds a ~~learner's permit, temporary driver's license, driver's license, commercial driver's license, or special identification card issued by the Department~~ *credential issued by the Department under Chapter 3 (§ 46.2-300 et seq.)* or completes an application for the same may voluntarily submit emergency contact information for inclusion in his customer record with the Department. Such emergency contact information may include the name, relationship to the customer, address, and telephone number for an individual the customer designates as a contact in the event of an emergency situation.

C. Any person voluntarily submitting emergency contact information to the Department for inclusion in the applicant's customer record is responsible for maintaining current emergency contact information with the Department. Each applicant submitting emergency contact information to the Department shall certify in his application that he has notified the person he has designated as an emergency contact that such information will be supplied to the Department. The Department shall provide a method by which applicants submitting emergency contact information to the Department may submit such information electronically pursuant to § 46.2-216.1. Customers may add, modify, or delete information at any time. Such modifications or deletions will overwrite all previously provided information.

D. In the event of an emergency situation, the Department shall make emergency contact information in customer records electronically available to a law-enforcement officer who in the exercise of his official duties requires assistance in reaching a customer's emergency contact. Emergency contact information provided to the Department by the customer shall only be disclosed as permitted in this section and shall not be considered a public record subject to disclosure under the Freedom of Information Act and shall not be subject to disclosure by court order or other means of discovery.

E. In the absence of gross negligence or willful misconduct, the Department, its employees, and law-enforcement officers shall be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided by customers for use in an emergency situation.

§ 46.2-216.1. Electronic filings or submissions to Department; provision of electronic documents by Department.

A. Whenever this title or Title 58.1 provides that applications, certificates, fees, letters of credit, notices, penalties, records, reports, surety bonds, tariffs, taxes, time schedules, or any other documents or payments be filed or submitted to the Department in written form or otherwise, the Commissioner may, after providing 12-months' written notification to impacted applicants, licensees, or any other person or entity, require that all or certain applicants, licensees, or any other person or entity engaged in business with the Department, make such filings or submissions electronically in a format prescribed by the Commissioner. Any such requirement shall not apply to an individual application for a ~~driver's license, commercial driver's license, special identification card~~ *credential issued under Chapter 3 (§ 46.2-300 et seq.)*, or the titling or registration of 12 or fewer vehicles during a period of one year. The Commissioner shall develop a method to ensure that the electronic filing is received and stored accurately and that it is readily available to satisfy the requirements of the statutes ~~which~~ *that* call for a written document. Notwithstanding the provisions of this section, the Commissioner may accept, in lieu of paper documents, a filing or submission made by electronic means for any document not required to be filed or submitted electronically pursuant to the provisions of this title or Title 58.1.

B. Whenever this title or Title 58.1 provides that a written certificate or other document is to be delivered to an owner, registrant, licensee, lien holder, or any other person or entity by the Department or the Commissioner, the Commissioner may provide the written certificate or other document by electronic means. The electronic document may consist of all of the information included in the paper certificate or document or it may be an abstract or listing of the information held in electronic form by the Department. Whenever a certificate or other document is provided by electronic means, the Department will not be required to produce a written certificate or document until requested to do so by the owner, registrant, licensee, lien holder, or other party.

C. The Commissioner is authorized to establish, where feasible and cost efficient, contracts with public-private partnerships with commercial operations to provide for simplification and streamlining of services to citizens through electronic means. Such electronic services shall include (i) an electronic lien and titling program, (ii) an online dealer program, and (iii) a print-on-demand license plate program.

1. Notwithstanding the provisions of § 46.2-208, to conduct customer-initiated transactions through electronic means the Commissioner may provide a customer's personal, driver, or vehicle information relating to the operation or theft of a motor vehicle or to public safety to the following entities: (i) lending institutions; (ii) motor vehicle dealers; or (iii) third-party vendors that enter into contracts with the Department. Pursuant to subsection A, the Commissioner may require such entities engaged in business with the Department to submit electronic filings using the third-party vendors that have contracts with the Department. Customer information obtained by such entities conducting customer-initiated transactions, including third-party vendors that enter into contracts with the Department, is subject to the restrictions upon use and dissemination imposed by (a) the federal Drivers Privacy Protection Act at 18 U.S.C. § 2721 et seq., (b) the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and §§ 46.2-208 and 58.1-3, and (c) any rules, regulations, or guidelines adopted by the Department with regard to disclosure or dissemination of any information obtained from the Department.

2. The Department may impose a reasonable fee in accordance with fair market prices on such entities, including third-party vendors that enter into contracts with the Department, for customer-initiated transactions conducted through electronic means. Such fees shall be used to defray the costs of the transaction to the Department. Any transaction fees imposed and collected by the Department shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-323.01. Issuance of credentials; relationship with federal law.

A. The Department shall establish a process for persons who, for reasons beyond their control, are unable to provide all necessary documents required for ~~driver's licenses, permits, and special identification cards~~ *credentials issued under this chapter* and must rely on alternate documents to establish identity or date of birth. Alternative documents to demonstrate legal presence will only be allowed to demonstrate United States citizenship.

B. The Department shall not comply with any federal law or regulation that would require the Department to use any type of computer chip or radio-frequency identification tag or other similar device on or in a ~~driver's license or special identification card~~ *any credential issued under this chapter*.

§ 46.2-323.1. Certification of Virginia residency; nonresidents not eligible for credentials; penalty.

No ~~driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card~~ *credential issued under this chapter* shall be issued to any person who is not a Virginia resident. Every person applying for a ~~driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card~~ *credential issued under this chapter* shall execute and furnish to the Commissioner his certificate that he is a resident of Virginia. The Commissioner or his duly authorized agent may require any such applicant to supply, along with his application, such evidence of his Virginia residency as the Commissioner may deem appropriate and adequate, provided that neither an immigration visa nor a signed written statement, whether or not such statement is notarized, wherein the maker of the statement vouches for the Virginia residency of the applicant, shall be acceptable proof of Virginia residency. If the applicant is less than ~~nineteen~~ *19* years old and cannot otherwise provide proof of Virginia residency, the Commissioner may accept proof of the applicant's parent's or guardian's Virginia residency. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court

order of emancipation shall not be required to provide the parent's certification of residency. It shall be unlawful for any applicant knowingly to make a false certification of Virginia residency or supply false or fictitious evidence of Virginia residency. Any violation of this section shall be punished as provided in § 46.2-348.

§ 46.2-345.3. Issuance of identification privilege cards; fee; confidentiality; penalties.

A. Upon application of any person who does not hold a status that is eligible for a special identification card under subsections A and B of § 46.2-328.1, the parent of any such person who is under the age of 18, or the legal guardian of any such person, the Department may issue an identification privilege card to any resident of the Commonwealth, provided that:

1. Application is made on a form prescribed by the Department;
2. The applicant presents, when required by the Department, proof of identity, residency, and social security number or individual taxpayer identification number;
3. The Department determines that the applicant has reported income and deductions from Virginia sources, as defined in § 58.1-302, or has been claimed as a dependent, on an individual income tax return filed with the Commonwealth in the preceding 12 months; and
4. The applicant does not hold a credential issued under this chapter.

Persons 70 years of age or older may exchange a valid Virginia driver privilege card for an identification privilege card at no fee. Identification privilege cards subsequently issued to such persons shall be subject to the regular fees for identification privilege cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal identification privilege card is \$25. The amount paid by an applicant for an identification privilege card shall be considered privileged information for the purposes of § 46.2-208.

C. An original identification privilege card shall expire on the applicant's fourth birthday following the date of issuance. Duplicate, reissue, or renewal identification privilege cards shall be valid for a period of four years from the date of issuance. No applicant shall be required to provide proof of compliance with subdivision A 3 for a duplicate, reissue, or renewal identification privilege card. Those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday.

Notwithstanding the provisions of this subsection, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control and (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

D. An identification privilege card issued under this section may be similar in size, shape, and design to a driving credential and include a photograph of its holder, but the card shall be readily distinguishable from a driving credential and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for an identification privilege card shall appear in person before the Department to apply for a renewal, duplicate, or reissue unless specifically permitted by the Department to apply in another manner. The front of an identification privilege card shall be identical in appearance to a special identification card issued under § 46.2-345, and the back of the card shall be identical in appearance to the restriction on the back of a limited-duration special identification card.

E. Identification privilege cards, for persons at least 15 years old but younger than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the credential and descriptors within the photograph area to identify persons who are at least 15 years old but younger than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Identification privilege cards for persons under age 15 shall bear a full-face photograph. The identification card issued to persons under age 15 shall be readily distinguishable from a driving credential and from other identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Any information collected pursuant to this section that is not otherwise collected by the Department or required for the issuance of any other special identification card issued pursuant to the provisions of this chapter and any information regarding restrictions in the Department's records related to the issuance of a credential issued pursuant to this section shall be considered privileged. Notwithstanding the provisions of § 46.2-208, such information shall not be released except upon request by the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, or the authorized representative of the subject of the information or pursuant to a court order.

The Department shall release to any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, information related to the issuance of an identification privilege card, the release of which is not otherwise prohibited by this section, that is required for a requester to carry out the requester's official functions if the requester provides the individual's name and other sufficient identifying information contained on the individual's record. Any such release shall be in accordance with the requirements of § 46.2-208.

H. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification privilege card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

I. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's identification privilege card that the applicant has any condition listed in subsection K of § 46.2-342 or that the applicant is blind or vision impaired.

J. Unless the context of the Code provides otherwise, an identification privilege card shall be treated as a special identification card.

§ 46.2-346. Unlawful acts enumerated.

A. No person shall:

1. Display, cause or permit to be displayed, or have in his possession any driver's license which he knows to be fictitious or to have been cancelled, revoked, suspended, or altered, or photographed for the purpose of evading the intent of this chapter;

2. Lend to, or knowingly permit the use of by one not entitled thereto, any driver's license issued to the person so lending or permitting the use thereof;

3. Display or represent as his own any driver's license not issued to him;

4. Reproduce by photograph or otherwise, any ~~driver's license, temporary driver's permit, learner's permit, or special identification card issued by the Department~~ *credential issued under this chapter* with the intent to commit an illegal act;

5. Fail or refuse to surrender to the Department, on demand, any driver's license issued in the Commonwealth or any other state when the license has been suspended, cancelled, or revoked by proper authority in the Commonwealth, or any other state as provided by law, or to fail or refuse to surrender the suspended, cancelled, or revoked license to any court in which a driver has been tried and convicted for the violation of any law or ordinance of the Commonwealth or any county, city, or town thereof, regulating or affecting the operation of a motor vehicle.

B. Any law-enforcement officer empowered to enforce the provisions of this title may retain any driver's license held in violation of this section and shall submit the license to the appropriate court for evidentiary purposes.

§ 46.2-600.1. Indication of special communication needs.

A. As used in this section, "disability that can impair communication" means a condition with symptoms that can impair the ability of a person with such condition to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems, including autism spectrum disorders as defined in § 38.2-3418.17 and hearing loss.

B. The Department shall include on the application for registration of a motor vehicle an option for the vehicle owner to, if applicable, voluntarily indicate that he has a disability that can impair communication. Any application on which the applicant indicates that he has such a disability shall be accompanied by a certification signed by a licensed physician that such individual has a disability that can impair communication.

C. Any vehicle owner with a driver's license indicator authorized pursuant to subsection K of § 46.2-342 ~~or~~; special identification card indicator authorized pursuant to subsection L of § 46.2-345 *or subsection H of § 46.2-345.2; or identification privilege card indicator authorized pursuant to subsection I of § 46.2-345.3* shall be eligible for the registration indicator. ~~Vehicle owners A vehicle owner with a driver's license indicator or special identification card such an indicator on his credential~~ may apply to the Department for a registration indicator in a manner prescribed by the Commissioner.

D. Notwithstanding the provisions of § 46.2-208, the Department shall provide information regarding vehicle registrants who have indicated, pursuant to subsection B or C, that they have a disability that can impair communication with employees and agents of criminal justice agencies as defined in § 9.1-101. The Department shall confirm the presence or absence of a registration indicator indicating that the registrant has a disability that can impair communication, but it shall not provide information about the type of health condition or disability that the registrant has.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned

income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, upon entering into a written agreement, the name, address, social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department

of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which *that* may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which *that* he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

2. That the provisions of this act shall become effective on January 1, 2022.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 545

An Act to amend and reenact §§ 53.1-136 and 53.1-155 of the Code of Virginia, relating to parole; notice and certification; monthly reports; discretionary early consideration.

[H 2167]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-136 and 53.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. Notify by certified mail at least 21 business days prior to release on the Department of Corrections of its decision to grant discretionary parole of any or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for medical reasons, where death is imminent, the attorney for the Commonwealth may be notified (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish monthly by the fifteenth day of each month a statement regarding the action taken by the Board on the parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the amount of time the prisoner has served and indicate whether parole was granted or denied, as well as, (v) whether the prisoner was granted or denied parole, and (vi) the basis for the grant or denial of parole as described in subdivision 3 a. However, in the case of a prisoner granted parole, the information set forth in clauses (i) through (vi) regarding such prisoner shall be included in the statement published in the month immediately succeeding the month in which notification of the decision to grant parole was given to the attorney for the Commonwealth and any victims; and

8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to such inmate.

§ 53.1-155. Investigation prior to release; transition assistance.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character and his conduct, employment and attitude while in prison. The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the Board oral or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a written request in writing or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have forty-five days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at

least forty-five days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last twelve months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

The Department shall offer each prisoner to be released on parole or under mandatory release who has been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a transition program within six months of such prisoner's projected or mandatory release date. The program shall include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe guidelines to govern these programs.

2. That the Virginia Parole Board (the Board) shall include in its monthly statements regarding actions taken by the Board on the parole of prisoners the information required by the provisions of this act amending subdivision 7 of § 53.1-136 of the Code of Virginia no later than December 15, 2021.

CHAPTER 546

An Act to amend and reenact § 18.2-325, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-331.1, relating to illegal gambling; skills games; civil penalty; enforcement by localities and Attorney General.

[H 2168]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-331.1 as follows:

§ 18.2-325. (Effective until July 1, 2021) Definitions.

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

2. "Interstate gambling" means the conduct of an enterprise for profit which *that* engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity; and

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services or the Charitable Gaming Board, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-325. (Effective July 1, 2021) Definitions.

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

2. "Interstate gambling" means the conduct of an enterprise for profit which ~~which~~ *that* engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

7. "*Unregulated location*" means any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services or the Charitable Gaming Board, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-331.1. Operation of gambling devices at unregulated locations; civil penalty.

A. In addition to any other penalty provided by law, any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000 for each gambling device located in such unregulated location.

B. The Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and to request an attachment against all such devices and any moneys within such devices pursuant to Chapter 20 (§ 8.01-533 et seq.) of Title 8.01, and to recover the civil penalty of up to \$25,000 per device.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth, or the attorney for the locality may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and attorney fees.

D. Any civil penalties assessed under this section in an action in equity brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties assessed under this section in an action in equity brought in the name of a locality shall be paid into the general fund of the locality.

CHAPTER 547

An Act to amend and reenact § 65.2-402.1 of the Code of Virginia, relating to workers' compensation; presumption as to death or disability from COVID-19.

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402.1 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this ~~section~~ subsection, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this ~~section~~ subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. *COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.*

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

~~C.~~ D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

~~D.~~ E. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

~~E.~~ F. I. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions;

(ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. *The presumptions described in subsection B shall apply to any person entitled to invoke them for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.*

F. G. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

CHAPTER 548

An Act to amend the Code of Virginia by adding a section numbered 18.2-283.2, relating to carrying a firearm or explosive material within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc.; penalty.

[H 2295]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-283.2 as follows:

§ 18.2-283.2. Carrying a firearm or explosive material within Capitol Square and the surrounding area, into a building owned or leased by the Commonwealth, etc.; penalty.

A. *For the purposes of this section, "Capitol Square and the surrounding area" means (i) the grounds, land, real property, and improvements in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets, and the sidewalks of Bank Street extending from 50 feet west of the Pocahontas Building entrance to 50 feet east of the entrance of the Capitol of Virginia.*

B. *It is unlawful for any person to carry any firearm as defined in § 18.2-308.2:2 or explosive material as defined in § 18.2-308.2 within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or any agency thereof are regularly present for the purpose of performing their official duties.*

C. *A violation of this section is punishable as a Class 1 misdemeanor. Any firearm or explosive material carried in violation of this section shall be subject to seizure by a law-enforcement officer and forfeited to the Commonwealth and disposed of as provided in § 19.2-386.28.*

D. *The provisions of this section shall not apply to the following while acting in the conduct of such person's official duties: (i) any law-enforcement officer as defined in § 9.1-101; (ii) any authorized security personnel; (iii) any active military personnel; (iv) any fire marshal appointed pursuant to § 27-30 when such fire marshal has police powers provided by § 27-34.2:1; or (v) any member of a cadet corps who is recognized by a public institution of higher education while such member is participating in an official ceremonial event for the Commonwealth.*

E. *The provisions of clauses (iii) and (iv) of subsection B shall not apply to (i) any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016 who is visiting a gun range owned or leased by the Commonwealth; (ii) any of the following employees authorized to carry a firearm while acting in the conduct of such employee's official duties: (a) a bail bondsman as defined in § 9.1-185, (b) an employee of the Department of Corrections or a state juvenile correctional facility, (c) an employee of the Department of Conservation and Recreation, or (d) an employee of the Department of Wildlife Resources; (iii) any individual carrying a weapon into a courthouse who is exempt under § 18.2-283.1; (iv) any property owned or operated by a public institution of higher education; (v) any state park; or (vi) any magistrate acting in the conduct of the magistrate's official duties.*

F. *Notice of the provisions of this section shall be posted conspicuously along the boundary of Capitol Square and the surrounding area and at the public entrance of each location listed in subsection B, and no person shall be convicted of an offense under subsection B if such notice is not posted at such public entrance, unless such person had actual notice of the prohibitions in subsection B.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 549

An Act to amend and reenact § 2.2-4321.3 of the Code of Virginia, relating to the Virginia Public Procurement Act; payment of prevailing wage; transportation infrastructure projects.

[H 2327]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-4321.3 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4321.3. (Effective May 1, 2021) Payment of prevailing wage for work performed on public works contracts; penalty.**

A. As used in this section:

"Locality" means any county, city, or town, school division, or other political subdivision.

"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property that is the subject of public works is located, as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

"Public works" means the operation, erection, construction, alteration, improvement, maintenance, or repair of any public facility or immovable property owned, used, or leased by a state agency or locality, *including transportation infrastructure projects*.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" does not include any county, city, or town.

B. Notwithstanding any other provision of this chapter, each state agency, when procuring services or letting contracts for public works paid for in whole or in part by state funds, or when overseeing or administering such contracts for public works, shall ensure that its bid specifications or other public contracts applicable to the public works require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract for public works at the prevailing wage rate. Each public contract for public works by a state agency shall contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done under the public contract shall be at a rate equal to the prevailing wage rate.

C. Notwithstanding any other provision of this chapter, any locality may adopt an ordinance requiring that, when letting contracts for public works paid for in whole or in part by funds of the locality, or when overseeing or administering a public contract, its bid specifications, project agreements, or other public contracts applicable to the public works, *shall require* bidders, offerors, contractors, and subcontractors ~~shall~~ to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract at the prevailing wage rate. Each public contract of a locality that has adopted an ordinance described in this section shall contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done under the public contract shall be at a rate equal to the prevailing wage rate.

D. Any contractor or subcontractor who employs any mechanic, laborer, or worker to perform work contracted to be done under the public contract for public works for or on behalf of a state agency or for or on behalf of a locality that has adopted an ordinance described in subsection C or at a rate that is less than the prevailing wage rate (i) shall be liable to such individuals for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due; and (ii) shall be disqualified from bidding on public contracts with any public body until the contractor or subcontractor has made full restitution of the amount described in clause (i) owed to such individuals. A contractor or subcontractor who willfully violates this section is guilty of a Class I misdemeanor.

E. Any interested party, which shall include a bidder, offeror, contractor, *or* subcontractor, ~~or operator~~, shall have standing to challenge any bid specification, project agreement, or other public contract for public works that violates the provisions of this section. Such interested party shall be entitled to injunctive relief to prevent any violation of this section. Any interested party bringing a successful action under this section shall be entitled to recover reasonable attorney fees and costs from the responsible party.

F. A representative of a state agency or a representative of a locality that has adopted an ordinance described in subsection C may contact the Commissioner of Labor and Industry, at least 10 but not more than 20 days prior to the date bids for such a public contract for public works will be advertised or solicited, to ascertain the proper prevailing wage rate for work to be performed under the public contract.

G. Upon the award of any public contract subject to the provisions of this section, the contractor to whom such contract is awarded shall certify, under oath, to the Commissioner of Labor and Industry the pay scale for each craft or trade employed on the project to be used by such contractor and any of the contractor's subcontractors for work to be performed under such public contract. This certification shall, for each craft or trade employed on the project, specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits, provide an itemization of the amount paid

in wages and each applicable benefit, and list the names and addresses of any third party fund, plan or program to which benefit payments will be made on behalf of employees.

H. Each employer subject to the provisions of this section shall keep, maintain, and preserve (i) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker and (ii) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the public works project is employed during each work day and week. The employer shall preserve these records for a minimum of six years and make such records available to the Department of Labor and Industry within 10 days of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers for whatever time period they request.

I. Contractors and subcontractors performing public works for a state agency or for a locality that has adopted an ordinance described in subsection C shall post the general prevailing wage rate for each craft and classification involved, as determined by the Commissioner of Labor and Industry, including the effective date of any changes thereof, in prominent and easily accessible places at the site of the work or at any such places as are used by the contractor or subcontractors to pay workers their wages. Within 10 days of such posting, a contractor or subcontractor shall certify to the Commissioner of Labor and Industry its compliance with this subsection.

J. The provisions of this section shall not apply to any public contract for public works of \$250,000 or less.

CHAPTER 550

An Act to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, consisting of chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections numbered 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia, relating to marijuana; legalization of simple possession; penalties.

[S 1406]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective

and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections numbered 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 as follows:

§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.

A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic Beverage Control Authority, *Virginia Cannabis Control Authority*, Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of State Police, Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

B. The Secretary shall by reason of professional background have knowledge of law enforcement, public safety, or emergency management and preparedness issues, in addition to familiarity with the structure and operations of the federal government and of the Commonwealth.

Unless the Governor expressly reserves such power to himself, the Secretary shall:

1. Work with and through others, including federal, state, and local officials as well as the private sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.
2. Serve as the point of contact with the federal Department of Homeland Security.
3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism management plans for the state and its agencies in coordination with the Virginia Department of Emergency Management and other applicable state agencies.
4. Work with federal officials to obtain additional federal resources and coordinate policy development and information exchange.

5. Work with and through appropriate members of the Governor's Cabinet to coordinate working relationships between state agencies and take all actions necessary to ensure that available federal and state resources are directed toward safeguarding Virginia and its citizens.

6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related preparedness federal grant requests from state agencies and localities are used to enhance interoperability. The Secretary shall ensure that the annual review and update of the statewide interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth Interoperability Coordinator shall establish an advisory group consisting of representatives of state and local government and constitutional offices, broadly distributed across the Commonwealth, who are actively engaged in activities and functions related to communications interoperability.

7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated security and preparedness strategy, including the National Capital Region Senior Policy Group organized as part of the federal Urban Areas Security Initiative.

8. Serve as a direct liaison between the Governor and local governments and first responders on issues of emergency prevention, preparedness, response, and recovery.

9. Educate the public on homeland security and overall preparedness issues in coordination with applicable state agencies.

10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

11. Encourage homeland security volunteer efforts throughout the state.

12. Coordinate the development of an allocation formula for State Homeland Security Grant Program funds to localities and state agencies in compliance with federal grant guidance and constraints. The formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and need.

13. Work with the appropriate state agencies to ensure that regional working groups are meeting regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access to response teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty preparedness.

14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide assessment of local and regional capabilities, including equipment, training, personnel, response times, and other factors.

15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available for that purpose.

16. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.

18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney

General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Local and Regional Jails, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Wildlife Resources;
10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;
13. Conservation officers of the Department of Conservation and Recreation; or
14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented

pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 2.2-1119. Cases in which purchasing through Division not mandatory.

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies, and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;
 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;
 3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;
 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;
 5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, including office stationery and supplies, office equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;
 6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;
 7. Printing of the records of the Supreme Court; and
 8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.
- B. Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2012.

Article 29.

Cannabis Equity Reinvestment Board.

§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.

A. *The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the executive branch of state government. The purpose of the Board is to directly address the impact of economic disinvestment, violence, and historical overuse of criminal justice responses to community and individual needs by providing resources to support local design and control of community-based responses to such impacts.*

B. *The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members shall be appointed as follows: three to be appointed by the Senate Committee on Rules, one of whom shall be a person who has been previously incarcerated or convicted of a marijuana-related crime, one of whom shall be an expert in the field of public health with experience in trauma-informed care, if possible, and one of whom shall be an expert in education with a focus on access to opportunities for youth in underserved communities; five to be appointed by the Speaker of the House of Delegates, one of whom shall be an expert on Virginia's foster care system, one of whom shall be an expert in workforce development, one of whom shall be a representative from one of Virginia's historically black colleges and universities, one of whom shall be a veteran, and one of whom shall be an entrepreneur with expertise in emerging industries or access to capital for small businesses; and five to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative from the Virginia Indigent Defense Commission and four of whom shall be community-based providers or community development organization representatives who provide services to address the social determinants of health and promote community investment in communities adversely and disproportionately impacted by marijuana prohibitions, including services such as workforce development, youth mentoring and educational services, job training and placement services, and reentry services. Nonlegislative citizen members shall be citizens of the Commonwealth and reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth.*

The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland Security, the Director of Diversity, Equity, and Inclusion, the Chief Workforce Development Advisor, and the Attorney General or their designees shall serve ex officio with voting privileges. The Chief Executive Officer of the Virginia Cannabis Control Authority or his designee shall serve ex officio without voting privileges.

Ex officio members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Board shall be chaired by the Director of Diversity, Equity, and Inclusion or his designee. The Board shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Board shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

§ 2.2-2499.2. Compensation; expenses.

Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

§ 2.2-2499.3. Powers and duties of the Board.

The Cannabis Equity Reinvestment Board shall have the following powers and duties:

- 1. Support persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;*
- 2. Develop and implement scholarship programs and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities.*
- 3. Develop and implement a program to award grants to support workforce development programs, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.*
- 4. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.*
- 5. Collaborate with the Board of Directors of the Virginia Cannabis Control Authority and the Office of Diversity, Equity, and Inclusion as necessary to implement programs and provide recommendations in line with the purpose of this article.*
- 6. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*
- 7. Perform such other activities and functions as the Governor and General Assembly may direct.*

§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

- 1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;*
- 2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;*
- 3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.*

4. *Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and*
5. *Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.*
Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.

§ 2.2-2818. Health and related insurance for state employees.

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under this section:

a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall be sent or delivered to the health care practitioner who ordered it;

b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

c. The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the resolution of such complaints and shall be published and disseminated to all covered state employees. The appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure that shall provide resolution within time frames established by federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review

organizations to review such decisions. Independent review organizations are entities that conduct independent external review of adverse benefit determinations. The Department shall adopt regulations to assure that the independent review organization conducting the reviews has adequate standards, credentials and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

Prior to assigning an appeal to an independent review organization, the Department shall verify that the independent review organization conducting the review of a denial of claims has no relationship or association with ~~(i)~~ (a) the covered person or the covered person's authorized representative; ~~(ii)~~ (b) the treating health care provider, or any of its employees or affiliates; ~~(iii)~~ (c) the medical care facility at which the covered service would be provided, or any of its employees or affiliates; or ~~(iv)~~ (d) the development or manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an independent review organization for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

4. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Behavioral Health and Developmental Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Behavioral Health and Developmental Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services that enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

5. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the

two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is ~~(i)~~ (a) life-threatening, degenerative, or disabling and ~~(ii)~~ (b) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when

a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally.

For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- a. The National Cancer Institute;
- b. An NCI cooperative group or an NCI center;
- c. The FDA in the form of an investigational new drug application;
- d. The federal Department of Veterans Affairs; or
- e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

Coverage under this subdivision shall apply only if:

- (1) There is no clearly superior, noninvestigational treatment alternative;
- (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and
- (3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee

following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up

audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;
2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 and the *Virginia Cannabis Control Authority as provided in § 4.1-623*.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each planning district shall be a high deductible health plan that would qualify for a health savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan.

This subsection shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. Any self-insured group health insurance plan established by the Department of Human Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and

updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

Any plan established in accordance with this section shall be authorized to provide for the selection of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

I. Any plan established in accordance with this section requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

§ 2.2-2905. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;

13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management as requiring specialized and professional training;
16. Employees of the Virginia Lottery;
17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;
18. Employees of the Virginia Commonwealth University Health System Authority;
19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
22. Officers and employees of the Virginia Port Authority;
23. Employees of the Virginia College Savings Plan;
24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;
26. Employees of the Virginia Indigent Defense Commission;
27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809;
28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; ~~and~~
29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control Authority; and*
30. Officers and employees of the Fort Monroe Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis Control Authority*, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the

General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the

agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools

of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the ~~business'~~ *business's* or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for

the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority or the Board of Directors of the Virginia Cannabis Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, ~~and~~ the Virginia Alcoholic Beverage Control Authority, *and the Virginia Cannabis Control Authority*;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
 - a. The Department of State Police;
 - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - c. Police departments of cities, counties, and towns;
 - d. Sheriff's departments of counties and cities;
 - e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 - f. The Division of Capitol Police.
8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;

15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 2.2-4024. Hearing officers.

A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate rules necessary for the administration of the hearing officer system and shall have the authority to establish the number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;
2. Active practice of law for at least five years; and
3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that agency.

B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer appointed in accordance with this section shall be subject to disqualification as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion as follows:

1. If the agency's written regulations or procedures require the hearing officer to render a recommendation or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion on or before the expiration of the specified period; and
2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

If the hearing officer does not render a decision within the time required by this subsection, then the agency or the named party to the case decision may provide written notice to the hearing officer and the Executive

Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with this chapter.

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority pursuant to their basic laws.

§ 3.2-1010. Enforcement of chapter; summons.

Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*, may enforce the provisions of this chapter and the regulations adopted hereunder as well as those who are so designated by the Commissioner. Those designated by the Commissioner may issue a summons to any person who violates any provision of this chapter to appear at a time and place to be specified in such summons.

§ 3.2-3906. Board to adopt regulations.

The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), including:

1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
3. Requiring reporting and record keeping related to licensing and registration;
4. Establishing training, testing and standards for certification of commercial applicators, registered technicians, and private applicators;
5. Revoking, suspending or denying licenses (business), registration (products), and certification or certificate (applicators or technicians);
6. Requiring licensees and certificate holders to inform the public when using pesticides in and around structures;
7. Establishing a fee structure for licensure, registration and certification to defray the costs of implementing this chapter;
8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial, institutional, structural or health-related pest control;
9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or residuals that: (i) undesirably persists in the environment or increases due to biological amplification or unreasonable

adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man, animal, bird or plant may be contrary to the public interest; ~~and~~

10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in compliance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 or Subtitle II (§ 4.1-600 et seq.) of Title 4.1; and*

11. Other regulations necessary or convenient to carry out the purposes of this chapter.

§ 3.2-4112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for personal use or retail sale in Virginia.

"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Hemp product" means ~~any finished a product that is otherwise lawful and~~ that contains industrial hemp, ~~including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption and has completed all stages of processing needed for the product.~~

"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

"Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1 to test hemp products or a marijuana testing facility as defined in § 4.1-600.

"Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds thereof ~~and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer~~, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. *"Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.*

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1* for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1* for the involuntary growth of industrial hemp through

the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 3.2-4114. Regulations.

A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal in, or process industrial hemp or implement the provisions of this chapter.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. *The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products intended for smoking, (ii) identifying the contaminants for which hemp products intended for smoking shall be tested, and (iii) establishing the maximum level of allowable contamination for each contaminant.*

D. *The Board shall adopt regulations establishing (i) labeling and packaging requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption and (ii) advertising requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption.*

E. *With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to subsection C or D.*

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for registration *or license* or renewal of registration *or license* allowed under this chapter. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, dealerships, ~~and~~ process sites, *and hemp testing laboratories.*

C. The Commissioner shall forward a copy or appropriate electronic record of each registration *or license* issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown, dealt, or processed *or where a hemp testing laboratory will be located.*

D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the industrial hemp, at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

G. The Commissioner shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

I. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this chapter.

§ 3.2-4116. Registration conditions.

A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state or federal laws regulating the growing, dealing in, or processing of industrial hemp;

2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field or dealership or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

C. A processor that processes a hemp product intended for smoking or a hemp product that is an industrial hemp extract intended for human consumption shall make available the results of the testing conducted in accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.

§ 3.2-4117.1. Hemp testing laboratory license; exemption.

A. The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or hemp products in the Commonwealth.

B. Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and address of the laboratory.

2. The address of each location at which the laboratory intends to test industrial hemp or hemp products.

3. *The name of the person who will oversee and be responsible for the testing and documentation that such person has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.*

4. *A signed statement that the applicant has no direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product.*

5. *Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.*

6. *Any other information required by the Commissioner.*

7. *The payment of a nonrefundable application fee.*

C. *Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.*

D. *Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be required to apply to the Commissioner for a license to test industrial hemp or hemp products in the Commonwealth.*

§ 3.2-4117.2. Hemp testing laboratory license; conditions.

A. *A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing any industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility, as defined in § 4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing industrial hemp or hemp products in the Commonwealth.*

B. *A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:*

1. *Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.*

2. *Employ a person who will oversee and be responsible for testing hemp products and who has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.*

3. *Allow the Commissioner or his designee to inspect each location at which the laboratory tests hemp products.*

C. *If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection C of § 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant for which testing is required, a hemp testing laboratory shall, within seven days of completing the test, notify the Commissioner of the test results.*

D. *For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed (i) \$1,000 for a first violation; (ii) \$5,000 for a second violation; and (iii) a six-month license suspension for a third or subsequent violation within a five-year period. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.*

§ 3.2-4122. Hemp products.

A. *Any hemp product intended for smoking that is distributed, offered for sale, or sold in the Commonwealth shall be:*

1. *Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.*

2. *Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

3. *Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

B. Any hemp product that is or includes an industrial hemp extract intended for human consumption that is distributed, offered for sale, or sold in the Commonwealth shall be:

1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.
2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

C. A processor shall destroy the batch of hemp product intended for smoking whose testing sample exceeds the maximum level of allowable contamination for each contaminant established in regulations adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product into compliance with such regulation. A processor shall destroy the batch of hemp product that is or includes an industrial hemp extract intended for human consumption whose testing sample exceeds the maximum level of allowable contamination for each contaminant established in regulations adopted pursuant to § 3.2-5145.5, unless remedial measures can bring the hemp product into compliance with such regulation.

D. For any violation of subsection A or B by a processor or by a retail establishment, the Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation. For any violation of subsection C by a processor, the Commissioner may assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking that is produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product intended for smoking pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

F. Notwithstanding the provisions of subsection B, any hemp product that is an industrial hemp extract intended for human consumption and that is produced prior to the initial effective date of the regulations adopted pursuant to subsection D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product that is an industrial hemp extract intended for human consumption pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

Article 6.

Edible Marijuana Products.

§ 3.2-5145.6. Definitions.

As used in this article, unless the context requires a different meaning:

"Edible marijuana product" means the same as that term is defined in § 4.1-600.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean drug as defined in § 54.1-3401.

§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.

A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

§ 3.2-5145.8. Manufacturer of edible marijuana products.

A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana products in the location in which such manufacturing occurs.

§ 3.2-5145.9. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any

regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

TITLE 4.1.

ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ACT.

SUBTITLE I.

ALCOHOLIC BEVERAGE CONTROL ACT.

§ 4.1-100. (Effective until July 1, 2021) Definitions.

As used in this ~~title~~ subtitle unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"*Alcoholic Beverage Control Act*" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of alcoholic beverages.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms, Internet access, printers, copiers, telephones, and fax machines.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the

public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this ~~title~~ subtitle.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than \$25 for any term of membership.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2021) Definitions.

As used in this ~~title~~ *subtitle* unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ *subtitle*.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this ~~title~~ *subtitle* or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this ~~title~~ *subtitle*, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at

least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this ~~title~~ subtitle.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-101.01. Board of Directors; membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House

of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this ~~title~~ *subtitle*.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;
2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;
3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and
4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

§ 4.1-101.07. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions

of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~ *subtitle*, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

§ 4.1-101.09. Exemptions from taxes or assessments.

The exercise of the powers granted by this ~~title~~ *subtitle* shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this ~~title~~ *subtitle* or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this ~~title~~ *subtitle*. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this ~~title~~ *subtitle*.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this ~~title~~ *subtitle* the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this ~~title~~ *subtitle* the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-103. (Effective until July 1, 2021) General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;
17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this ~~title~~ subtitle;
18. Purchase or otherwise acquire title to any land or building required for the purposes of this ~~title~~ subtitle and sell and convey the same by proper deed, with the consent of the Governor;
19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;
20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;
21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;
22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

26. Assess and collect civil penalties and civil charges for violations of this ~~title~~ *subtitle* and Board regulations;

27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

28. Establish minimum food sale requirements for all retail licensees;

29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this ~~title~~ *subtitle*; and

31. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ *subtitle*.

§ 4.1-103. (Effective July 1, 2021) General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements with any person or federal agency;

5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;
17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this ~~title~~ subtitle;
18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;
19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;
20. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;
21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this ~~title~~ subtitle;

30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

§ 4.1-104. Purchases by the Board.

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~ subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 4.1-105. Police power of members, agents and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this ~~title~~ subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-106. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this ~~title~~ subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-107. Counsel for members, agents and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this ~~title~~ subtitle are paid.

§ 4.1-111. (Effective until July 1, 2021) Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ *subtitle* or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ *subtitle* and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against

cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other

documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 4.1-111. (Effective July 1, 2021) Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the

banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to alcoholic beverage advertising.

E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located; or
2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *subtitle*, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.

All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *subtitle*, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

§ 4.1-115. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this ~~title~~ *subtitle*. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;
2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;
3. A statement showing the taxes collected under this ~~title~~ *subtitle* during the year;
4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and
5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor

of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this ~~title~~ *subtitle*, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this ~~title~~ *subtitle* shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within ~~fifty~~ 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this ~~title~~ *subtitle* and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

§ 4.1-118. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this ~~title~~ *subtitle* and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the licensee.

§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic

beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on

contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)

on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to

the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to

be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding

the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-122. Effect of local option referenda.

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this ~~title~~ *subtitle* to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such alcoholic beverages may, in accordance with this ~~title~~ *subtitle*, be sold within the county, city, or town on and after 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this ~~title~~ *subtitle*.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.

A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin or sex.

§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.

A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution,

handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of such inconsistency.

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed ~~forty~~ 50 liters of such wine or ~~fifteen~~ 15 gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~ subtitle or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) ~~seventy-two~~ 72 ounces of beer per person per year, provided

such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this ~~title~~ *subtitle*. The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

§ 4.1-201. (Effective until July 1, 2021) Conduct not prohibited by this subtitle; limitation.

A. Nothing in this ~~title~~ *subtitle* or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this ~~title~~ *subtitle*.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the

places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the Commonwealth for resale outside of the Commonwealth.

9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce. No more than two product samples shall be given to any person per visit.

12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

13. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail

establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

15. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult customers of licensed retail establishments information about wine being consumed on such premises.

17. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

§ 4.1-201. (Effective July 1, 2021) Conduct not prohibited by this subtitle; limitation.

A. Nothing in this ~~title~~ *subtitle* or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this ~~title~~ *subtitle*.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic

beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per day.

11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by

the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments information about wine, beer, or spirits being consumed on such premises.

16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such license. The licensee may be held liable for any violation of this ~~title~~ *subtitle* or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-205. (Effective until July 1, 2021) Local licenses.

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this ~~title~~ *subtitle*.

§ 4.1-205. (Effective July 1, 2021) Local licenses.

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city, or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this ~~title~~ *subtitle*.

§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated

as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more

than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. Local special events license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member and up to two guests of each member, provided that such member and guests are persons who may lawfully consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.

19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer,

acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~ *sub*title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this ~~title~~ *sub*title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *sub*title except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling

equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-206.2. (Effective July 1, 2021) Wholesale licenses.

The Board may grant the following wholesale licenses:

1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners

of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ *subtitle* and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked,

or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-

premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth;

or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle

center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be

granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A

separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this ~~title~~ *sub*title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this ~~title~~ *sub*title and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or

beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the premises described in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that such wine is manufactured on the licensed premises.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ *sub*title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

§ 4.1-207.1. (Repealed effective July 1, 2021) Restricted wholesale wine licenses.

The Board may grant a wholesale wine license to a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102, which shall authorize the licensee to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ *subtitle* and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2 of § 4.1-207.

§ 4.1-208. (Repealed effective July 1, 2021) Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers or in single original metal cans, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

h. A nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products, which shall authorize the licensee to sell beer for on-premises consumption in areas approved by the Board. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

10. Internet beer retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~ *subsubtitle* and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

§ 4.1-212. (Effective until July 1, 2021) Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the

Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.

13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

16. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation

of this ~~title~~ subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or omissions of, the permittee.

17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

18. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-212. (Effective July 1, 2021) Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the

Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this ~~title~~ *sub*title or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this ~~title~~ *sub*title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this ~~title~~ *sub*title or any Board regulation committed by, or any errors or omissions of, the permittee.

16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

17. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-213. Manufacture and sale of cider.

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise provided in this ~~title~~ subtitle or Board regulations.

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

§ 4.1-215. (Effective until July 1, 2021) Limitation on manufacturers, bottlers and wholesalers; exemptions.

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this ~~title~~ subtitle:

a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet

license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event; or

b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of wineries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;
5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or
6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

§ 4.1-215. (Effective July 1, 2021) Limitation on manufacturers, bottlers, and wholesalers; exemptions.

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or

wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of wine or malt beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars, or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;
4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;
5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1; or
6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

§ 4.1-216. (Effective until July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~ *subtitle*.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance

of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

§ 4.1-216. (Effective July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~ *subtitle*.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the

financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.

A. As used in this section:

"Alcoholic beverage advertising material" or "advertising material" means any item, other than an illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which otherwise complies with Board regulations.

"Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

"Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and beer licensees in Virginia or, in the case of spirits, to the Board.

B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

1. The wholesale value of the advertising material does not exceed \$250 per item, and
2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

A retail licensee shall retain for at least two years a record of its procurement of, including any payments for, such advertising materials along with an invoice or sales ticket containing a description of the item so purchased or otherwise procured.

D. Except as otherwise provided in this ~~title~~ *subsection*, a retail licensee shall not display in the interior of its licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully obtained and displayed in accordance with this section or Board regulation.

E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board regulations in effect on January 1, 2007.

§ 4.1-222. Conditions under which Board may refuse to grant licenses.

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Is not 21 years of age or older;
- b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;
- c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
- d. Is not a person of good moral character and repute;
- e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;
- f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;
- g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack of respect for law and order;

i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

l. Has misrepresented a material fact in applying to the Board for a license;

m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false and fraudulent;

n. Is violating or allowing the violation of any provision of this ~~title~~ *subtitle* in his establishment at the time his application for a license is pending;

o. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

p. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated; or

q. Is a member, agent or employee of the Board.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city or town in which such place is located with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this ~~title~~ *subtittle*, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or an institution of higher education; public or private playground or other similar recreational facility; or any state, local, or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area; or

e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which alcoholic beverages are to be sold or consumed.

3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~ *subtittle*; and (iii) objections, if any, which may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political subdivision thereof, which warrants refusal by the Board to grant any license.

5. The Board is not authorized under this chapter to grant such license.

§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or mixed beverage license, including a banquet license, provided such:

1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;
2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~ 12 months;
3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this ~~title~~ subtitle; or
4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Has misrepresented a material fact in applying to the Board for such license;
- b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;
- c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;
- d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;
- e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;
- f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;
- g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
- i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this ~~title~~ subtitle;

l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding

amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this ~~title~~ *subtitle*.

§ 4.1-227. (Effective until July 1, 2021) Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed

restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board regulations.

§ 4.1-227. (Effective July 1, 2021) Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of

the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board regulations.

§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ *subtitle*; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$65 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search

and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

- a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
- b. Fruit distiller's license, \$3,725;
- c. Banquet facility license or museum license, \$190;
- d. Bed and breakfast establishment license, \$35;
- e. Tasting license, \$40 per license granted;
- f. Equine sporting event license, \$130;
- g. Motor car sporting event facility license, \$130;
- h. Day spa license, \$100;
- i. Delivery permit, \$120 if the permittee holds no other license under this ~~title~~ subtitle;
- j. Meal-assembly kitchen license, \$100;
- k. Canal boat operator license, \$100;
- l. Annual arts venue event license, \$100;
- m. Art instruction studio license, \$100;
- n. Commercial lifestyle center license, \$300;

- o. Confectionery license, \$100;
 - p. Local special events license, \$300;
 - q. Coworking establishment license, \$500; and
 - r. Bespoke clothier establishment license, \$100.
2. Wine licenses. For each:
- a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
 - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;
 - c. Wine importer's license, \$370;
 - d. Retail off-premises winery license, \$145, which shall include a delivery permit;
 - e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
 - f. Wine shipper's license, \$230; and
 - g. Internet wine retailer license, \$150.
3. Beer licenses. For each:
- a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
 - b. Bottler's license, \$1,430;
 - c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
 - d. Beer importer's license, \$370;
 - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
 - f. Retail off-premises beer license, \$120, which shall include a delivery permit;
 - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
 - h. Beer shipper's license, \$230;
 - i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
 - j. Internet beer retailer license, \$150.
4. Wine and beer licenses. For each:
- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
 - b. Retail on-premises wine and beer license to a hospital, \$145;
 - c. Retail on-premises wine and beer license to a historic cinema house, \$200;

- d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
 - e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
 - f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
 - g. Gourmet brewing shop license, \$230;
 - h. Wine and beer shipper's license, \$230;
 - i. Annual banquet license, \$150;
 - j. Fulfillment warehouse license, \$120;
 - k. Marketing portal license, \$150; and
 - l. Gourmet oyster house license, \$230.
5. Mixed beverage licenses. For each:
- a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
 - (i) With a seating capacity at tables for up to 100 persons, \$560;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
 - b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
 - (i) With an average yearly membership of not more than 200 resident members, \$750;
 - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
 - (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 - c. Mixed beverage caterer's license, \$1,860;
 - d. Mixed beverage limited caterer's license, \$500;
 - e. Mixed beverage special events license, \$45 for each day of each event;
 - f. Mixed beverage club events licenses, \$35 for each day of each event;
 - g. Annual mixed beverage special events license, \$560;
 - h. Mixed beverage carrier license:
 - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (ii) \$560 for each common carrier of passengers by boat;
 - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 - i. Annual mixed beverage amphitheater license, \$560;
 - j. Annual mixed beverage motor sports race track license, \$560;
 - k. Annual mixed beverage banquet license, \$500;
 - l. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$460;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 - m. Annual mixed beverage motor sports facility license, \$560; and
 - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
- B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and automated clearinghouse information.

A. The Board may accept payment by any commercially acceptable means, including checks, credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in accordance with this ~~title~~ *subtitle*. In addition, the Board may assess a service charge for the use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the Department.

B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the Board. The Board may assess a service charge as provided in subsection A for any payments made under this subsection. The Board may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

§ 4.1-300. Illegal manufacture and bottling; penalty.

A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic beverages in the Commonwealth without being licensed under this ~~title~~ *subtitle* to manufacture such alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of this section.

C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.

If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~ *subtitle*, he shall be guilty of a Class 1 misdemeanor.

In the event of a second or subsequent conviction under this section, a jail sentence of no less than ~~thirty~~ 30 days shall be imposed and in no case be suspended.

§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.

If any person buys alcoholic beverages from any person other than the Board, a government store or a person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1 misdemeanor.

§ 4.1-310. (Effective until July 1, 2021) Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

§ 4.1-310. (Effective July 1, 2021) Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

§ 4.1-310.1. (Effective until July 1, 2021) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not

less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to § 4.1-207.1 shall be exempt from the requirement set forth in clause (ii).

§ 4.1-310.1. (Effective July 1, 2021) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this ~~title~~ *subtitle* or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

§ 4.1-320. Illegal advertising; penalty; exception.

A. Except in accordance with this ~~title~~ *subtitle* and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this ~~title~~ *subtitle* and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii) the sponsorship of an entertainment or cultural event.

§ 4.1-323. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this ~~title~~ *subtitle* or to aid or abet another in doing, or attempting to do, any of the things prohibited by this ~~title~~ *subtitle*.

On an indictment, information or warrant for the violation of this ~~title~~ *subtitle*, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title~~ *subtitle* authorizes him to sell;

2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may combine wine or spirits, or both, with beer pursuant to a patron's order;

3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant to a patron's order;

4. Sell alcoholic beverages of a kind which such license or this ~~title~~ subtitle authorizes him to sell, but to any person other than to those to whom such license or this ~~title~~ subtitle authorizes him to sell;

5. Sell alcoholic beverages which such license or this ~~title~~ subtitle authorizes him to sell, but in any place or in any manner other than such license or this ~~title~~ subtitle authorizes him to sell;

6. Sell any alcoholic beverages when forbidden by this ~~title~~ subtitle;

7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this ~~title~~ subtitle;

8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer license;

9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of any beer sold;

10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller holds a wholesale wine or farm winery license;

11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device;

12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; or

13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of preparing and selling for on-premises consumption food products with a final alcohol content of more than one-half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21 years of age or older.

§ 4.1-325. (Effective until July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this ~~title~~ subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325. (Effective July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this ~~title~~ subtitle;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;
7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;
8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;
10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;
11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;
12. Allow any striptease act on the licensed premises;
13. Allow persons connected with the licensed business to appear nude or partially nude;
14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

- a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or
 - b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
 17. Conceal any sale or consumption of any alcoholic beverages;
 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325.2. (Effective until July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-325.2. (Effective July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-329. Illegal advertising materials; penalty.

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving to any person any advertising materials or decorations under circumstances prohibited by this ~~title~~ subtitle or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as provided in § 4.1-227.

§ 4.1-336. Contraband beverages and other articles subject to forfeiture.

All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of this ~~title~~ subtitle, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 4.1-337. Search warrants.

A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place

for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this ~~title~~ *sub*title for the search of any automobile, boat, conveyance or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this chapter shall be as provided in this section.

B. Production of seized property.— Whenever any article declared contraband under the provisions of this ~~title~~ *sub*title and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this ~~title~~ *sub*title, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or any other violation of this ~~title~~ *sub*title. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were intended for use in violation of this ~~title~~ *sub*title.

C. Hearing and determination.— Upon the return of the warrant as provided in this section, the court shall fix a time not less than ~~ten~~ 10 days, unless waived by the accused in writing, and not more than ~~thirty~~ 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored or possessed in violation of this ~~title~~ *sub*title.

At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this ~~title~~ *sub*title.

D. Disposition of forfeited beverages and other articles.— Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued a certificate stating that such institution has need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where they have been received from the Board pursuant to this section. Such alcoholic beverages shall be administered only upon approval of the patient's physician.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be kept in the offices of the Board.

§ 4.1-348. Beverages not licensed under this subtitle.

The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may be manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

§ 4.1-349. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom any person is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to execute bond, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or refusing to continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-350. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-351. Previous convictions.

In any indictment, information or warrant charging any person with a violation of any provision of this ~~title~~ subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this ~~title~~ subtitle.

§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for violations of this title and all controversies in any judicial proceedings touching the mixture analyzed by him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding.* On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.

In any prosecution for violations of this ~~title~~ *subtitle*, where a sealed container is labeled as containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content of a container, whether sealed or not.

§ 4.1-354. No recovery for alcoholic beverages illegally sold.

No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ *subtitle* may be maintained.

SUBTITLE II.
CANNABIS CONTROL ACT.
CHAPTER 6.
GENERAL PROVISIONS.

§ 4.1-600. Definitions.

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing or testing.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such

plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana or retail marijuana products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which retail marijuana and retail marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

§ 4.1-602. Virginia Cannabis Control Authority; composition.

A. The Virginia Cannabis Control Authority shall consist of the Board of Directors, the Cannabis Public Health Advisory Council, the Chief Executive Officer, and the agents and employees of the Authority.

B. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that the Board might otherwise have under any other law of the Commonwealth.

§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings; compensation and expenses; duties.

A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding health

warnings, retail marijuana and retail marijuana products safety and product composition, and public health awareness, programming, and related resource needs.

B. The Advisory Council shall have a total membership of 21 members that shall consist of 14 nonlegislative citizen members and seven *ex officio* members. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a community services board, one of whom shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom shall be a person with a social or health equity background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient.

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve *ex officio* with voting privileges. *Ex officio* members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to fulfill its purpose as described in subsection A:

1. To review multi-agency efforts to support collaboration and a unified approach on public health responses related to marijuana and marijuana legalization in the Commonwealth and to develop recommendations as necessary.

2. To monitor changes in drug use data related to marijuana and marijuana legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as

provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 4.1-604. Powers and duties of the Board.

The Board shall have the following powers and duties:

- 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;*
- 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;*
- 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law;*
- 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;*
- 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;*
- 6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;*
- 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;*
- 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;*
- 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;*
- 10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed.*
- 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;*
- 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;*
- 13. Adopt, use, and alter at will a common seal;*
- 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;*
- 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;*

16. *Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;*

17. *Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;*

18. *Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;*

19. *Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;*

20. *Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;*

21. *Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;*

22. *Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;*

23. *Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;*

24. *Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;*

25. *Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement*

in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

§ 4.1-606. Regulations of the Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2. Establish requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where practicable an equivalent amount for other marijuana products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available

by the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth;

14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana crimes and (ii) which jurisdictions are economically distressed;

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of marijuana that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

18. Establish restrictions on the number of licenses that a person may be granted to operate a marijuana establishment in single locality or region; and

19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the number of licenses issued shall not exceed the following limits:

- a. Retail marijuana stores, 400;
- b. Marijuana wholesalers, 25;
- c. Marijuana manufacturing facilities, 60; and
- d. Marijuana cultivation facilities, 450.

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet.

4. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

H. The Board's power to regulate shall be broadly construed.

§ 4.1-607. Board membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

§ 4.1-608. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree in business or a related field of study, and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-609. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this subtitle.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

§ 4.1-609. Background investigations of Board members and Chief Executive Officer.

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to

the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately preceding appointment.

§ 4.1-610. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

§ 4.1-611. Seed-to-sale tracking system.

To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.

§ 4.1-612. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.

§ 4.1-613. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

§ 4.1-614. Disposition of moneys collected by the Board.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in the administration of this subtitle.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and
4. Five percent to public health programs, including public awareness campaigns that are designed to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the public of other potential risks.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

§ 4.1-615. Leases and purchases of property by the Board.

The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

§ 4.1-616. Exemptions from taxes or assessments.

The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;
2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

§ 4.1-618. Reversion to the Commonwealth.

In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the Commonwealth.

§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 8 (§ 4.1-800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-620. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General Assembly, and the Chief Executive Officer of the Authority on or before December 15 each year, which shall contain:

1. The number of state licenses of each category issued pursuant to this subtitle;
2. Demographic information concerning the licensees;
3. A description of enforcement and disciplinary actions taken against licensees;
4. A statement of revenues and expenses related to the implementation, administration, and enforcement of this subtitle;
5. A statement showing the taxes collected under this subtitle during the year;
6. General information and remarks about the working of the cannabis control laws within the Commonwealth;
7. A description of the efforts undertaken by the Board to promote diverse business ownership within the cannabis industry; and
8. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-621. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of retail marijuana or retail marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that such information does not identify the licensee.

§ 4.1-622. Criminal history records check required on certain employees; reimbursement of costs.

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

§ 4.1-623. Employees of the Authority.

Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

§ 4.1-624. Police power of members, agents, and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-625. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-626. Counsel for members, agents, and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

§ 4.1-627. Hearings; representation by counsel.

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

§ 4.1-628. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

§ 4.1-629. Local referendum on prohibition of retail marijuana stores.

A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a referendum on the question of whether retail marijuana stores should be prohibited in the locality.

Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city, or town)?"

The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the certifications required by such section, the secretary of the local electoral board shall certify the results of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of the locality.

B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent referendum may be held pursuant to this section within such locality.

If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in the locality effective January 1 of the year immediately following the referendum. A referendum on the same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this section.

C. When any referendum is held pursuant to this section in a town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county. When any referendum is held pursuant to this section in a county, any town located within such county, shall be treated as being part of such county.

D. The legality of any referendum held pursuant to this enactment shall be subject to the inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654 of the Code of Virginia, and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana products.

A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution, handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail marijuana products in the Commonwealth.

B. However, the governing body of any county, city, or town may adopt an ordinance (i) that prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and land use requirements and business license requirements.

D. Except as provided in this section, all local acts, including charter provisions and ordinances of counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana products.

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana and retail marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of appeal pursuant to § 16.1-106.

A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing body adopting it and transmitted to the Board.

On and after the effective date of any ordinance adopted pursuant to this section, no retail marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by the ordinance.

CHAPTER 7.

ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

§ 4.1-700. Exemptions from licensure.

The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2 and subsection B of § 3.2-4122; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions

of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises a pharmaceutical processing facility in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil penalties.

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

D. The privileges conferred by any license granted by the Board shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

The Board may permit a licensee who fails to pay:

1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and

2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

§ 4.1-703. Records of licensees; inspection of records and places of business.

A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold, or shipped.

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor,

and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana stores may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold, or shipped.

D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it developed, researched, or tested and the names and addresses of the licensees or persons who submitted the marijuana or marijuana product to the marijuana testing facility.

E. The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such place and all records, invoices, and accounts therein.

For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" means the business hours when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records are not available for inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

CHAPTER 8.

ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

§ 4.1-800. Marijuana cultivation facility license.

A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize the licensee to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use:

1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a certain number of marijuana plants or marijuana plants in an area not larger than a certain number of square feet, as determined by the Board;

2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants with a tetrahydrocannabinol concentration of no more than one percent, as determined post-decarboxylation.

B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana manufacturer, a retail marijuana store, or a consumer or is disposed of or destroyed.

§ 4.1-801. Marijuana manufacturing facility license.

A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products.

C. All areas within the licensed premises of a marijuana manufacturing facility in which retail marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana wholesaler licensee to the point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana wholesaler or are disposed of or destroyed.

§ 4.1-802. Marijuana testing facility license.

A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop, research, or test retail marijuana, retail marijuana products, and other substances.

B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana or retail marijuana product for personal use as authorized under § 4.1-1100.

C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana testing facility from developing, researching, or testing substances that are not marijuana or marijuana products for that facility or for another person.

D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

F. A person that has an interest in a marijuana testing facility license shall not have any interest in a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana wholesaler, or a licensed retail marijuana store.

§ 4.1-803. Marijuana wholesaler license.

A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which

the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred to the marijuana wholesaler to the point at which the retail marijuana, retail marijuana products, plants, or seeds are transferred or sold to a marijuana manufacturer, marijuana wholesaler, retail marijuana store, or marijuana testing facility or are disposed of or destroyed.

§ 4.1-804. Retail marijuana store license.

A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board.

B. Retail marijuana stores shall be operated in accordance with the following provisions:

1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds using:

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an equivalent amount of marijuana products as determined by regulation promulgated by the Board during a single transaction to one person.

4. A retail marijuana store shall not:

a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by the subtitle;

b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to any person when at the time of such sale he knows or has reason to believe that the person attempting to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age; or

c. Employ or allow to volunteer any person younger than 21 years of age.

5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall authorize

the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail establishments of the licensee. Such additional retail establishments shall be located at the five cannabis dispensing facilities for which the Board of Health has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the pharmaceutical processing facility is located.

§ 4.1-805. Multiple licenses awarded to one person prohibited.

A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of § 4.1-606, no person shall be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, retail marijuana store license, or marijuana testing facility license.

C. Notwithstanding subsection B and any other provision of law to the contrary, any (i) pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 shall be permitted to possess one or any combination of the following licenses: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. However, no pharmaceutical processor or industrial hemp processor that has been issued a marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license shall be issued a marijuana testing facility license or have any interest in a marijuana testing facility licensee. Any pharmaceutical processor or industrial hemp processor who wishes to possess a license in more than one license category pursuant to this subsection shall (a) pay a \$1 million fee to the Board and (b) submit a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support Team) for approval and, upon approval, implement such plan in accordance with the requirements set by the Support Team. Fees collected by the Board pursuant to this subsection shall be allocated to (1) the Virginia Cannabis Equity Loan Fund, (2) the Virginia Cannabis Equity Reinvestment Fund, or (3) a program, as determined by the Board, that provides job training services to persons recently incarcerated.

§ 4.1-806. Temporary permits required in certain instances.

A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the requirements in this subsection.

B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of three business days after the order of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required.

§ 4.1-807. Licensee shall maintain possession of premises.

As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by licensee, agent, or employee.

No marijuana or marijuana products may be used or consumed on the premises of a licensee by the licensee or any agent or employee of the licensee, except for certain sampling for quality control purposes that may be permitted by Board regulation.

§ 4.1-809. Conditions under which the Board may refuse to grant licenses.

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Is not 21 years of age or older;

b. Is not a resident of the Commonwealth;

c. Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any state or of the United States within seven years of the date of the application or has not completed all terms of sentencing and probation resulting from any such felony conviction;

d. Knowingly employs someone younger than 21 years of age;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business that have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has misrepresented a material fact in applying to the Board for a license;

h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;

i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his application for a license is pending;

j. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 8 (§ 4.1-800 et seq.) of Title 4.1 or a retailer of tobacco or tobacco products;

l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1; or

m. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial school or institution of higher education; public or private playground or other similar recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local government-operated facility that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area;

e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an existing retail marijuana store; or

f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which retail marijuana or retail marijuana products are to be sold.

Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or premises until the final stage of the license approval process.

3. The number of licenses existing in the locality is such that the granting of a license is detrimental to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider the (i) criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in the community; (ii) character of, population of, number of similar licenses, and number of all licenses existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) effect that a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this subtitle; and (iv) objections, if any, that may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political subdivision thereof that warrants refusal by the Board to grant any license.

5. The Board is not authorized under this subtitle to grant such license.

§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.

The Board shall refuse to grant any license to any member or employee of the Board or to any corporation or other business entity in which such member or employee is a stockholder or has any other economic interest.

Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interest applies for such a license, it shall state on the application the full economic interests of each such official in such corporation or other business entity.

§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. The Board may refuse a hearing on any application for the granting of any retail marijuana store license, provided that such:

- 1. License for the applicant has been refused or revoked within a period of 12 months;*
- 2. License for any premises has been refused or revoked at that location within a period of 12 months; or*
- 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending and adjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle.*

C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

CHAPTER 9.

ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

§ 4.1-900. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business that have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately

adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises;

o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1; or

p. Has refused to (i) remain neutral regarding any union organizing efforts by employees, including card check recognition and union access to employees; (ii) pay employees prevailing wages as determined by the U.S. Department of Labor; or (iii) classify no more than 10 percent of its workers as independent contractors and such workers are not owners in a worker-owned cooperative.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is *de minimis*; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed premises in the Commonwealth.

7. Any other cause authorized by this subtitle.

§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings

reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to temporary permits granted under § 4.1-806.

§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.

A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding

\$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its employees marijuana seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board regulations.

§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on hand; termination.

A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

2. Provided to the Virginia State Police to be destroyed.

B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within 60 days from the date of such suspension or revocation.

C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

CHAPTER 10.

ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for licenses for establishments that are otherwise required to obtain an inspection by the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds until an inspection is completed.

B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of his application with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication.

The Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership. In considering criminal history record information, the Board shall not disqualify an applicant because of a past conviction for a marijuana-related offense.

The Board shall notify the local governing body of each license application through the town manager, city manager, county administrator, or other designee of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed, except that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations promulgated by the Board. The license application fee shall be determined by the Board and shall be in addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-1001. Fees for state licenses.

A. The annual fees on state licenses shall be determined by the Board.

B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such fee shall not be refundable, except as provided in § 4.1-1002.

C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be liable to state merchants' license taxation and other state taxation.

D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-1002. Refund of state license fee.

A. The Board may correct erroneous assessments made by it against any person and make refunds of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any license that is subsequently merged or changed into another license during the same license period. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license period without any change being made in its ownership, and because of such change is required to pay an additional license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of the required license fee for such period.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

§ 4.1-1003. Marijuana tax; exceptions.

A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 or any other provision of federal, state, or local law.

B. The tax shall not apply to any sale:

- 1. From a marijuana establishment to another marijuana establishment.*
- 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.*
- 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

4. *Of industrial hemp extract or food containing an industrial hemp extract under the provisions of Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.*

C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1004. Optional local marijuana tax.

A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on the first day of the second month following its enactment.

E. Any tax levied under this section shall be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003.

F. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1005. Tax returns and payments; commissions; interest.

A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1008.

C. The Authority may accept payment by any commercially acceptable means, including cash, checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments made under this subsection. The Authority may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any former owner.

F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

§ 4.1-1006. Bonds.

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

§ 4.1-1007. Refunds.

A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting his return.

§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.

A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Authority shall not examine any person's records beyond the three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

B. If any person fails to file a return as required by this section, or files a return that is false or fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring such person to provide any records as it may require relating to the business of such person for the taxable period. The Authority may require such person or the agents and employees of such person to give testimony or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any person fails to file a required return, refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated assessment based upon the information available to it and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file

a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of business is located or in which the person resides. If the person has no place of business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1009.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

§ 4.1-1009. Appeals.

Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

CHAPTER 11.

POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED PRACTICES GENERALLY.

§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty

of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.

A. Notwithstanding the provisions of subdivision c of § 18.2-248.1, a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;
2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and
3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as authorized under this section.

C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;
2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;
3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and
4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

§ 4.1-1101.1. Adult sharing of marijuana.

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. Notwithstanding the provisions of § 18.2-248.1, no civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy; penalties.

A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate or manufacture such marijuana or marijuana products.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy is guilty of a Class 6 felony.

§ 4.1-1103. *Illegal sale of marijuana or marijuana products in general; penalties.*

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except as permitted by this chapter or provided in subsection C, he is guilty of a Class 2 misdemeanor.

A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

§ 4.1-1104. *Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.*

A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

E. No person shall be convicted of both subsections A and D for the same sale.

§ 4.1-1105. *Purchasing of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; forfeiture; treatment and education programs and services.*

A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a similar program available through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-209.2 et seq.). Any such substance abuse treatment or education program to which a person 18 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health and Developmental Services or (b) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-1104.

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental

Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may not be sold; penalties; forfeiture.

A. Any person who purchases retail marijuana or retail marijuana products for another person and at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail marijuana or retail marijuana products to, another person when he knows or has reason to know that such person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven upon a public highway; penalty.

A. For the purposes of this section:

"Open container" means any vessel containing marijuana or marijuana products, except the originally sealed manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana products in violation of this section if (i) an open container is located within the passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

D. Any person who violates this section is guilty of a Class 4 misdemeanor.

§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place; penalty.

A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place.

B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of

the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.

§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds; penalty.

A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a school bus; penalty.

Any person who possesses or consumes marijuana or marijuana products while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as provided in § 46.2-100.

§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products; penalty; exception.

A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the Commonwealth.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1112. Limitation on carrying marijuana or marijuana products in motor vehicle transporting passengers for hire; penalty.

The transportation of marijuana or marijuana products in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1113. Maintaining common nuisances; penalties.

A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1305.

C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right, because of such unlawful use, to enter and repossess the property.

§ 4.1-1114. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.

No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold and conduct such hearing.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1116. Illegal advertising; penalty; exception.

A. Except in accordance with this title and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning marijuana other than such that may legally be manufactured or sold without a license.

B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is done in accordance with § 4.1-1405 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this title and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.

No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional facility or any person committed to the Department of Juvenile Justice in any juvenile correctional center any marijuana or marijuana products.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1118. Separation of plant resin by butane extraction; penalty.

A. No person shall separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1119. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing, or attempting to do, any of the things prohibited by this subtitle.

On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment, and education programs or services; drug tests; costs and fees; violations; discharge.

A. Whenever any person who has not previously been convicted of any offense under this subtitle pleads guilty to or enters a plea of not guilty to an offense under this subtitle, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation upon terms and conditions.

B. As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a similar program that is made available through the Department of Corrections; (ii) a local community-based

probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

C. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay, unless the person is determined by the court to be indigent.

D. As a condition of probation, the court shall require the accused (i) to successfully complete treatment or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of up to 24 hours of community service. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

E. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

F. When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.

Any violation under this subtitle that is subject to a civil penalty is a civil offense and shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

2. Sell retail marijuana or retail marijuana products of a kind that such license or this subtitle authorizes him to sell, but to any person other than to those to whom such license or this subtitle authorizes him to sell;

3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when forbidden by this subtitle;

5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport, sell, or transport by such license or by this subtitle;

6. Keep any retail marijuana or retail marijuana product other than in the container in which it was purchased by him; or

7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail marijuana store.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.

A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a license; penalty.

Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler licensee.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.

A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from one licensed place of business to another licensed place of business, whether or not such places of business are under the same ownership.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1204. Illegal advertising materials; civil penalty.

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under circumstances prohibited by this title or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized in § 4.1-903.

§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana products; penalty.

A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail marijuana products in which such person may be so interested.

The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana or retail marijuana products manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. No retail marijuana store licensee or any agent or employee of such licensee, or any person connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to allow examination and inspection; penalty.

A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or

(iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may suspend or revoke any license of such licensee that was issued by the Authority.

§ 4.1-1207. Nonpayment of marijuana tax; penalties.

A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. On any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004, there shall be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person by which such check was tendered is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

CHAPTER 13.

PROHIBITED PRACTICES; PROCEDURAL MATTERS.

§ 4.1-1300. Enjoining nuisances.

A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their agents and employees, and any person connected with such house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing, selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain all persons from removing any marijuana or marijuana products then on such premises until the further order of the court. If the court is satisfied that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is shown for dissolution.

§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.

A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana products, all marijuana or marijuana products and materials used in their manufacture, all containers in which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful

cultivation, manufacture, transportation, or sale of marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products are being unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 4.1-1302. Search without warrant; odor of marijuana.

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing and no search warrant may be issued solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

§ 4.1-1303. Search warrants.

A. If complaint on oath is made that marijuana or marijuana products are being cultivated, manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this subtitle shall be as provided in this section.

B. Production of seized property. Whenever any article declared contraband under the provisions of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles, the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer

in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

C. Hearing and determination. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this subtitle.

D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the date when given, and shall be kept in the offices of the Board.

§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.

A. When any officer charged with the enforcement of the cannabis control laws of the Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car, or steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor in duplicate.

B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the attorney for the Commonwealth for the county or city in which seizure and arrest were made.

§ 4.1-1306. Contraband retail marijuana or retail marijuana products.

Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.

§ 4.1-1307. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-1308. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him, and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-1309. Previous convictions.

In any indictment, information, or warrant charging any person with a violation of any provision of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this subtitle.

§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana content of a container, whether sealed or not.

§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.

No action to recover the price of any retail marijuana or retail marijuana products sold in contravention of this subtitle may be maintained.

CHAPTER 14.

CANNABIS CONTROL; TESTING; ADVERTISING.

§ 4.1-1400. Board to establish regulations for marijuana testing.

The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana or retail marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is

injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research practices, including regulations relating to testing practices, methods, and standards; quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused, and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which retail marijuana and retail marijuana products shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for each contaminant.

§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required; required destruction; random testing.

A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana product is correct.

B. Mandatory testing of retail marijuana and retail marijuana products under this section shall include testing for:

1. Residual solvents, poisons, and toxins;
2. Harmful chemicals;
3. Dangerous molds and mildew;
4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;
5. Pesticides, fungicides, and insecticides; and
6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct labeling.

Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will be consumed.

C. A licensee shall maintain a record of all mandatory testing that includes a description of the retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.

D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product and within 7 days of completing the test shall notify the Board of the test results.

A marijuana testing facility is not required to notify the Board of the results of any test:

1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the performance of the test that the testing is for research and development purposes only; or

3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a licensee.

E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

1. The retail marijuana or retail marijuana product has previously undergone testing in accordance with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and that testing

demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. The mandatory testing process and the test results for the retail marijuana or retail marijuana product are documented in accordance with the requirements of this subtitle and all applicable regulations adopted pursuant to this subtitle;

3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to another licensee or to a consumer can be easily identified; and

4. The retail marijuana or retail marijuana product has not undergone any further processing, manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail marijuana products whose testing samples indicate noncompliance with the health and safety standards required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can bring the retail marijuana or retail marijuana products into compliance with such required health and safety standards.

G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

§ 4.1-1402. Labeling and packaging requirements; prohibitions.

A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be labeled with the following information:

1. Identification of the type of marijuana or marijuana product and the date of cultivation, manufacturing, and packaging;

2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility, and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated, manufactured, and offered for sale, as applicable;

3. A statement of the net weight of the retail marijuana or retail marijuana product;

4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;

5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

6. Instructions on usage;

7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a recommended use by date or expiration date;

8. For edible retail marijuana products, a nutritional fact panel;

9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-606) FOR MORE INFORMATION."

b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-606) FOR MORE INFORMATION.";

10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana products; and

11. Any other information required by Board regulations.

B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

2. Packaging for multiserving liquid marijuana products shall include an integral measurement component; and

3. Packaging shall comply with any other requirements imposed by Board regulations.

C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall not:

1. Be labeled or packaged in violation of a federal trademark law or regulation;

2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

3. Be labeled or packaged in a manner that obscures identifying information on the label;

4. Be labeled or packaged using a false or misleading label;

5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle, or fruit; and

6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board regulations.

§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and other retail marijuana products deemed applicable by the Authority; health and safety regulations.

A. Requirements and restrictions for edible retail marijuana products and other retail marijuana products deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle, edible retail marijuana products and other retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle:

1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

3. Shall be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content;

4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate;

5. Shall have a universal symbol stamped or embossed on the packaging of each product;

6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the product and shall not contain more than 50 milligrams of THC per package of the product;

7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v) are specifically designed to make the product appeal particularly to persons younger than 21 years of age; and

8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible retail marijuana product and the edible retail marijuana product is not advertised or described for sale as containing the trademarked product.

B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to the cultivation of retail marijuana, the manufacture of retail marijuana products, and the packaging and labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana products by licensees;
2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture of retail marijuana and retail marijuana products; and
3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.

§ 4.1-1404. Advertising and marketing restrictions.

A. As used in this section, unless the context requires a different meaning, "health-related statement" means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning retail marijuana or retail marijuana products other than those that may be legally manufactured in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment in public phone books and directories.

E. A licensee shall not display any marijuana or marijuana product pricing through any means of advertisement other than their establishment website, which shall be registered with the Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm that the person attempting to access the website or sign up for a subscription-based service is 21 years of age or older.

F. Advertising or marketing used by or on behalf of a licensee:

1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the licensee's license number, and shall include the following statement: "For use by adults 21 years of age and older";

2. Shall not be misleading, deceptive, or false;

3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in any way; and

4. Shall comply with any other provisions imposed by Board regulations.

G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For the purposes of this subsection, that method of age affirmation may include user confirmation, birth date disclosure, or any other similar registration method.

H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

J. The provisions of this section shall not apply to noncommercial speech.

K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market and notify the public of the location of marijuana establishments.

§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real

property of (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.

B. However, (i) if there is no building or structure on a playground or similar recreational or child-centered facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational or child-centered facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. Provided that such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located so long as such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-discharge tubes that contain rarefied neon or other gases; or

2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler licensees with advertising limited to trade names and brand names.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements in the Commonwealth.

G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations. Further, any outdoor retail marijuana products directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents and federal laws and regulations.

CHAPTER 15.

VIRGINIA CANNABIS EQUITY BUSINESS LOAN PROGRAM AND FUND.

§ 4.1-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"CDFI" means a community development financial institution that provides credit and financial services for underserved communities.

"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

"Funding" means loans made from the Fund.

"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a marijuana establishment.

§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining

in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing low-interest and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.

A. The Authority shall establish a Program to provide loans to qualified social equity cannabis licensees for the purpose of promoting business ownership and economic growth by communities that have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and shall report annually the number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

B. The Program shall:

- 1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis business properly licensed pursuant to the provisions of this subtitle;*
- 2. Provide loans for the purposes described in subsection A;*
- 3. Provide technical assistance; and*
- 4. Bring together community partners to sustain the Program.*

§ 4.1-1503. Annual reports.

On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or marijuana; reckless operation.

Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or marijuana or any habit-forming drugs shall be guilty of a felony and shall be confined in a state correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying the case, be confined in jail not exceeding twelve 12 months and fined not exceeding \$500, or both such fine and imprisonment.

Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger any person or property, shall be guilty of a misdemeanor.

§ 6.2-107.1. Financial services for licensed marijuana establishments.

A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided in § 4.1-600.

B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state law or regulation solely for providing such a financial service or for further investing any income derived from such a financial service.

C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed marijuana establishment.

§ 9.1-101. (Effective until March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*

Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses,

or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (Effective March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-

time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse," for purposes of continued health insurance pursuant to § 9.1-401, means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

§ 9.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a-1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b-2. The police department, bureau, or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau, or force has three or more law-enforcement officers; or

e-3. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's department of any city or county.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 9.1-1101. Powers and duties of the Department.

A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any private police department that has been designated as a criminal justice agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The Department shall provide such services to any federal investigatory agency within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of ~~§ 18.2-250.1~~, 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-341.26:3.

§ 15.2-2820. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

"Restaurant" means any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, *including marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind, *including marijuana*.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

Such infractions shall not include:

1. Indictable offenses;
2. [Repealed.]
3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;

4. Reckless driving;
5. Leaving the scene of an accident;
6. Driving while under suspension or revocation of driving privileges;
7. Driving without being licensed to drive.
8. [Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions, and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure

to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund)(.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

§ 16.1-228. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the

manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or

his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. ~~For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.~~

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any

time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential

treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish

or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile

has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~ *Chapter 11 (§ 4.1-1100 et seq.)* of Chapter 7 of Title 18.2 4.1;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is charged by summons, the juvenile shall be entitled to

have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a violation of ~~§ 18.2-250.1~~ 4.1-1104, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests; costs and fees; education or treatment programs.

Whenever any juvenile who has not previously been found delinquent of any offense under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as provided in § 4.1-1120 or 18.2-251, is found delinquent of any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such treatment or education program for substance abuse, if available, as the court deems appropriate based upon

consideration of the substance abuse assessment. The treatment or education shall be provided by a program licensed by the Department of Behavioral Health and Developmental Services or by a similar program available through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.).

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~ or 18.2-250; (iv) a misdemeanor violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 or a violation of ~~§ 18.2-250.1, 4.1-1105~~; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile

reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) ~~of this chapter~~ or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or

(vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 17.1-276. Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as defined in § 17.1-295.

The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public Transportation shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public Transportation from paying any access or subscription fee.

B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency. Any such agreement between a state agency or employee thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.

C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

D. Nothing herein shall be construed to require the use by the general public of the secure remote access to land records made available by the clerk, and such records may continue to be accessed in person in the clerk's office.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-

356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony violation of § ~~4.1-1101 or 18.2-248~~ or ~~of 18.2-248.1~~ or a conspiracy to commit a felony violation of § ~~4.1-1101 or 18.2-248~~ or ~~18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-57. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, any conservation police-officers officer appointed pursuant to § 29.1-200, any full-time sworn-members member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes any jail-officers officer in a local and or regional correctional-facilities facility, all any deputy-sheriffs sheriff, whether assigned to law-enforcement duties, court services or local jail responsibilities, any auxiliary police-officers officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, any auxiliary deputy-sheriffs sheriff appointed pursuant to § 15.2-1603, any police-officers officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and any fire-marshals marshal appointed pursuant to § 27-30 when such fire-marshals have marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means the same as that term is defined in § 9.1-101.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance," when used in this article, means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse; and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug

abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.~~

~~E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.~~

~~F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta 9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta 9 tetrahydrocannabinol acid (THC A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC A content.~~

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ *is* unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10

years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions ~~2a through 2e~~ *a, b, and c*;
3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~ that contain cocaine base; or
4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

- a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- c. The offense did not result in death or serious bodily injury to any person;
- d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and
- e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than \$500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered

unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, ~~he shall be~~ *is* guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is* guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV ~~shall be~~ *is* guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, *is* guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance ~~which that~~ *imitates* a controlled substance classified in Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~ *imitates* a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation ~~which that~~ *contains* any quantity of any of the substances referred to in subdivisions a ~~through~~ *through*, b, and c;
3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ *contains* cocaine base; *or*

~~4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
~~5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a ~~through b, and c~~;
3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine base; *or*
4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~
~~5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.~~

A conviction under this section shall be punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a ~~through, b, and c;~~

3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine base; *or*

~~4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

~~5.~~ At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.

I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a continuing series of violations of this section which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and from which such person obtains substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.

Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000. A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession

of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which shall consist of moneys received from ~~(i) fees imposed on certain drug offense convictions pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for violations of § 18.2-250.1.~~ All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1104 or 4.1-1105*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, or 18.2-250, ~~18.2-250.1~~ for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.

No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession

or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and treatment or education.

The trial judge or court trying the case of any person found guilty of a criminal violation of any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances and like substances shall condition any suspended sentence by first requiring such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

§ 18.2-254. Commitment of convicted person for treatment for substance abuse.

A. Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to

an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the criminal offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.

A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1, it shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

B. ~~It shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision ~~shall be~~ *is* guilty of a Class 6 felony.

§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in administering marijuana or controlled substances to minors; penalty.

It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor any book, pamphlet, periodical or other printed matter which he knows advertises for sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or growing ~~marijuana~~ or a controlled substance.

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

A. ~~It shall be~~ *is* unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 63.2-100;

1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 22.1-289.02;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, *or* imitation controlled substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the controlled substance, *or* imitation controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-258. Certain premises deemed common nuisance; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

§ 18.2-258.02. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. ~~It shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34 the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1.~~

C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein ~~shall be~~ *is* guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

§ 18.2-265.1. Definition.

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing ~~marijuana~~ or controlled substances;

3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or any species of plant ~~which~~ *that* is a controlled substance;

4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog;

5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or designed for use in cutting controlled substances;

~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;~~

~~8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances;~~

~~9-8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of marijuana or controlled substances;~~

~~10-9. Containers and other objects intended for use or designed for use in storing or concealing marijuana or controlled substances;~~

~~11-10. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;~~

~~12-11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:~~

~~a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;~~

~~b. Water pipes;~~

~~c. Carburetion tubes and devices;~~

~~d. Smoking and carburetion masks;~~

~~e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;~~

~~f. Miniature cocaine spoons, and cocaine vials;~~

~~g. Chamber pipes;~~

~~h. Carburetor pipes;~~

~~i. Electric pipes;~~

~~j. Air-driven pipes;~~

~~k. Chillums;~~

~~l. Bongs;~~

~~m. Ice pipes or chillers.~~

§ 18.2-265.2. Evidence to be considered in cases under this article.

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

1. Constitutionally admissible statements by the accused concerning the use of the object;

2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to the accused;

3. Instructions, oral or written, provided with the object concerning its use;

4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
5. National and local advertising within the actual knowledge of the accused concerning its use;
6. The manner in which the object is displayed for sale;
7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;
9. The existence and scope of legitimate uses for the object in the community;
10. Expert testimony concerning its use or the purpose for which it was designed; *and*
11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body ~~marijuana or a controlled substance, shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.

Any person who, while committing a crime of violence as defined in § 18.2-288 ~~(2)~~ or a felony violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4 felony.

§ 18.2-308.03. Fees for concealed handgun permits.

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the Department of State Police, the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;

(iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) ~~through (iii)~~, and (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.012. Prohibited conduct.

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission, the Virginia Alcoholic Beverage Control Authority, or the *Virginia Cannabis*

Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the

Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited.

Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1, subsection B of former § 18.2-248.1:1, or § 18.2-250 or 18.2-250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

§ 18.2-308.4. Possession of firearms while in possession of certain substances.

A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment

of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person younger than 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons younger than 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less~~ *younger* than 21 years of age, knowing or having reason to believe that such person is ~~less~~ *younger* than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons ~~under~~ *younger than* 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons ~~under~~ *younger than* 21 years of age. An establishment that prohibits the presence of persons ~~under~~ *younger than* 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person ~~less~~ *younger* than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person ~~less~~ *younger* than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person ~~under~~ *younger than* 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of § 18.2-248.1, or §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.

§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.

Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the Department of Juvenile

Justice in any juvenile correctional center, any drug which is a controlled substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or explosives of any nature is guilty of a Class 3 felony.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-81. Arrest without warrant authorized in certain cases.

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;

8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;

9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.

Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81, persons for crimes involving:

- (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- (c) The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474 or § 18.2-474.1; and
- (d) Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security of the population of a correctional institution.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~ *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1;*
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1; or
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, ~~or a violation of subdivision 6 of § 53.1-203~~, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and 18.2-247~~.

B. In any trial for a violation of ~~§ 18.2-250.1 4.1-1104 or 4.1-1105~~, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ *4.1-1104 or 4.1-1105*, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation

include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

Notwithstanding any other provision of law or rule of court, any person who has been sentenced to jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision (a) (3) of former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a violation of former § 18.2-248.1 where the defendant gave, distributed, or possessed with intent to give or distribute marijuana to a minor, may, at any time before the sentence has been completely served, file a motion with the sentencing court that entered the final judgment or order for a resentencing hearing. If it appears compatible with the public interest and there are circumstances in mitigation of the offense, including the legalization of marijuana, such court may reduce, suspend, or otherwise modify such person's sentence at any time before such person's sentence has been completely served. If the petitioner claims to be indigent, the petitioner shall additionally file with the court a statement of indigency and a request for the appointment of counsel on forms provided by the Supreme Court of Virginia. If the petition is not summarily dismissed and the court finds that the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of Title 19.2, the court shall appoint counsel to represent the petitioner.

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title*

18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1~~ *4.1-1103*, or (c) a drug-related offense in violation of § *4.1-1117* or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § ~~18.2-248.1~~ *4.1-1103* or for a controlled substance or marijuana in violation of § *4.1-1117* or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).

§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such police department or sheriff's office for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.

Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with any prosecution or investigation under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et seq.) of *Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et seq.) of *Title 18.2*. The court in its order may make provision for ensuring integrity of these items until further order of the court.

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that

information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-

1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored

residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal

Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment,

permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in

the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

~~A. Records~~ *Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to the an arrest, criminal charge, or conviction of a person, for a misdemeanor violation of § 18.2-248.1 or a violation of § 18.2-250.1, including any violation charged under § 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (viii) (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of*

Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xvii) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xviii) to any party for use in a protective order hearing as authorized by law; (xix) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xx) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxi) to determine a person's eligibility to be empaneled as a juror; and (xxii) to the person arrested, charged, or convicted of the offense.

~~B. An employer or~~ *Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational-institution institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.*

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry; or

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for

public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

~~D-F.~~ No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B ~~or C~~, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense

under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall

access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar

offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping

systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 19.2-392.1. Statement of policy.

The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability to obtain employment, ~~and an education and to obtain credit~~. It further finds that the police and court records of those of its citizens who have been absolutely pardoned for crimes for which they have been unjustly convicted *or who have demonstrated their rehabilitation* can also be a hindrance. This chapter is intended to protect such persons from the unwarranted damage ~~which~~ that may occur as a result of being arrested and convicted.

§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.

A. *Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under either section and the charge was deferred and dismissed, shall be ordered to be automatically expunged in accordance with the provisions of this section.*

B. *No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502.*

C. *Upon receipt of the electronic list from the Department of State Police provided under subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.*

D. *Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically expunged under the process set forth in subsections E, F, and G. Such order shall contain the names of the persons charged with or convicted of such offenses.*

E. *The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police. Upon receipt of such order, the Department of State Police (i) shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be expunged, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 and (ii) shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be expunged and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically*

that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered expunged, provided that such records are accessible only to the manager of the records or their designee.

F. Records relating to an arrest, charge, or conviction that was ordered to be expunged pursuant to this section shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility

to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was expunged.

G. The Department of Motor Vehicles shall not expunge any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

H. All electronic lists created in accordance with this section are not subject to further dissemination unless explicitly provided for by this section. Any expungement order issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any willful and intentional unlawful dissemination is punishable as an unlawful dissemination of criminal history record information in violation of § 9.1-136.

§ 19.2-392.2:2. Former marijuana offenses; petition for expungement.

A. A person who has been convicted or adjudicated delinquent of a felony violation of former § 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either section and the charge is deferred and dismissed, may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the arrest, charge, conviction, or adjudication.

B. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge, conviction, or adjudication to be expunged, the date of final disposition of the charge, conviction, or adjudication as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

C. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

D. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

E. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the arrest, charge, conviction, or adjudication. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest, charge, conviction, or adjudication was for a misdemeanor violation of subsection A of § 18.2-265.3, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the arrest, charge, conviction, or adjudication and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection C that he does not object to the petition and (ii) when the arrest, charge, conviction, or adjudication to be expunged is a felony violation of former § 18.2-248.1, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

F. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

G. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

H. Records relating to an arrest, charge, conviction, or adjudication that was ordered to be expunged pursuant to this section shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis

and Data Bank set forth in Article 1.1 (§ 19.2-310.2 *et seq.*) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, convicted, or adjudicated delinquent of the offense that was expunged.

I. The Department of Motor Vehicles shall not expunge any conviction, adjudication, or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction, adjudication, or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

J. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments.

A. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest-~~or~~, criminal charge ~~that has not resulted in a~~ conviction, or civil offense, include a reference to or information concerning arrests-~~or~~, charges, convictions, or civil offenses that have been expunged.

B. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has

been expunged. An applicant need not, in answer to any question concerning any arrest ~~or~~, criminal charge ~~that has not resulted in a~~, conviction, *or civil offense* include a reference to or information concerning *an arrest*, charges, *convictions*, *or civil offenses* that have been expunged. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest ~~or~~, criminal charge against him, *conviction*, *or civil offense* that has been expunged.

C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine products.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance; *or* imitation controlled substance; ~~or marijuana~~ as *those terms are* defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.

A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher education under the following conditions:

1. The chief executive officer of the deceased individual's employer certifies that such individual was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for renewal of such waiver.

B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room and board charges.

C. Each public institution of higher education shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-1301. Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and
5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

B. The governing board of each public institution of higher education or its designee may:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

§ 24.2-233. Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance ~~or marijuana~~;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance ~~or marijuana~~ and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

5. Officers and employees of the Department of State Police;

6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board of Directors of the Virginia Cannabis Control Authority*;

7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

8. The Commissioner of the Department of Motor Vehicles;

9. Employees of the Department of Motor Vehicles;

10. Local police officers;

11. Sheriffs and their deputies;

12. Regional jail officials;

13. Animal wardens;

14. The Director and officers of the Department of Wildlife Resources;
15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;
2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;
3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and
4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. ~~It shall be~~ *is* unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. ~~It shall be~~ *is* unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. ~~It shall be~~ *is* unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis oil as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease.

§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages; penalties.

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any other federal, state or foreign government agency; or official student identification card of an institution of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

§ 48-17.1. Temporary injunctions against alcoholic beverage sales.

A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia Alcoholic

Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

§ 51.1-212. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or ~~§~~ 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic

responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabis oil, as defined in § 54.1-3408.3.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include ~~oil from~~ industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with federal requirements for the prescribing of Schedule II through V controlled substances.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248-~~or~~ ~~18.2-248.1~~ for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number patients for whom any individual is authorized to act as a registered agent.

H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant remains; and (d) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical processor shall make a sample available from each homogenized batch of product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch is required to achieve a representative sample for analysis.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate to protect the cannabis from diversion at all times.

G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time.

M. Any person who proposes to use an automated process or procedure during the production of cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. A pharmaceutical processor may acquire ~~oil from~~ industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such ~~oil~~ extract with cannabis plant extract into an allowable dosage of cannabis oil. ~~Oil from industrial~~ *Industrial hemp extract* acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before ~~oil from~~ industrial hemp *extract* may be acquired.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1, or 18.2-250, or 18.2-250.1~~ for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage *or cannabis* control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide

such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, upon entering into a written agreement, the name, address, social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing

official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.

A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher-learning education named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and

5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such

firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officer, (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or *special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, (xvi) correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

C. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

E. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

F. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

2. That §§ 3.2-4113, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 19.2-188.1, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 53.1-231.2, and 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated

nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may

refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child

in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738; or the commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of §

18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 ~~or 18.2-250.1~~ is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 ~~or 18.2-250.1~~ is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, *or* (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, ~~or (c) a violation of § 18.2-250.1~~, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250 ~~or a violation of § 18.2-250.1~~; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-

309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1,

18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or ~~of~~ 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1105.1*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11*

(§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.

No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

B. In any trial for a violation of ~~§ 18.2-250.1~~ 4.1-1105.1, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ 4.1-1105.1, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a *misdemeanor violation of* § 18.2-248.1 or a violation of § 18.2-250.1, including any violation charged under § 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366,

18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to

the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. ~~[Expired.]~~

§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any

substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

~~H. [Expired.]~~

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§ § 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2, or § 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250, or 18.2-250.1* for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

3. That §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia are repealed.

4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth enactments of this act, the provisions of this act shall become effective on January 1, 2024.

5. That the provisions of § 4.1-629 of the Code of Virginia, as created by this act, shall become effective on July 1, 2022.

6. That, subject to the provisions of the eleventh and thirteenth enactments, the provisions of (i) §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 1, 2023.

7. That, except for (i) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, 18.2-308.1:5, 19.2-389.3, 19.2-392.1, 19.2-392.4, and 24.2-233 of the Code of Virginia, as amended by this act, §§ 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (ii) the repeal of § 18.2-250.1 of the Code of Virginia, the provisions of the first, third, fourth, fifth, sixth, and eleventh enactments of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly. The provisions of §§ 4.1-1101.1 and 4.1-1105.1 of the Code of Virginia, as created by this act, shall expire on January 1, 2024, if the provisions of the first, third, and fourth enactments of this act are reenacted by the 2022 Session of the General Assembly.

8. That (i) the provisions of the second enactment of this act, (ii) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, and 18.2-308.1:5 of the Code of Virginia, as amended by this act, § 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (iii) the repeal of § 18.2-250.1 of the Code of Virginia shall become effective on July 1, 2021.

9. That the provisions of the first enactment amending §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia and creating §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia shall become effective on the earlier of (i) the first day of the fourth month following notification to the Chairman of the Virginia Code Commission and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who

maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia have automated systems to exchange information as required by § 19.2-392.2:1 of the Code of Virginia, as created by this act, or (ii) July 1, 2025. The Department of State Police shall first transmit the list required under subsection B of § 19.2-392.2:1 of the Code of Virginia, as created by this act, no later than the earlier of (a) the first day of the third month following the effective date of §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia, as amended by this act, and §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act, or (b) October 1, 2025. The Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia, shall automate systems to exchange information as required by §§ 19.2-392.2:1 of the Code of Virginia, as created by this act, no later than July 1, 2025. If the provisions of this act repealing § 18.2-248.1 of the Code of Virginia are not reenacted by the 2022 Session of the General Assembly, the references to § 18.2-248.1 in §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act, shall not become effective.

10. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall promulgate regulations to implement the provisions of this act by July 1, 2023; however, the Board shall not adopt such regulations prior to July 1, 2022, and shall present such regulations to the Cannabis Oversight Commission for review prior to adoption. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulations; (ii) the text of the proposed regulations; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant to this act. The Board shall consider and keep on file all public comments received for any regulations adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

11. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act, on July 1, 2023, and shall, from July 1, 2023, until January 1, 2024, give preference to qualified social equity applicants, as determined by regulations promulgated by the Board of Directors of the Authority in accordance with this act. The Authority may issue any license authorized by this act to any applicant that meets the requirements for licensure established by this act. Notwithstanding the fourth enactment of this act, any applicant issued a license by the Authority may operate in accordance with the provisions of this act prior to January 1, 2024; however, (i) no retail marijuana store licensee may sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds and (ii) no marijuana cultivation facility licensee may sell immature marijuana plants or marijuana seeds to a consumer prior to January 1, 2024. Notwithstanding any other provision of law, on or after July 1, 2023, and prior to January 1, 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is related to acts committed within the scope of the licensure or employment and in accordance with the provisions of Subtitle II (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia, as created by this act. From July 1, 2023, to July 1, 2028, the Authority shall (a) reserve a license slot for

a qualified social equity applicant for every license that was initially granted to a social equity applicant and was subsequently surrendered and (b) reserve license slots for all pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, and retail license to any such pharmaceutical processor that meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is maintained: after issuance of 100 licenses, 200 licenses, and 300 licenses. The provisions of this enactment shall become effective July 1, 2022.

12. The Virginia Cannabis Control Authority (the Authority) shall develop and implement its diversity, equity, and inclusion plan pursuant to § 4.1-604 of the Code of Virginia, as created by this act, and publish resources to assist social equity applicants by January 1, 2023. The Authority shall, in consultation with the Secretaries of Public Safety and Homeland Security, Transportation, and Health and Human Resources, develop and implement a health, safety, and safe driving campaign by January 1, 2023. The provisions of this enactment shall become effective in due course.

13. That the sale of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds by retail marijuana store licensees and the sale of immature marijuana plants and marijuana seeds by marijuana cultivation facility licensees shall be permitted on and after January 1, 2024. The provisions of this enactment shall become effective in due course.

14. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; four persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years. The provisions of this enactment shall become effective in due course.

15. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the Cannabis Public Health Advisory Council shall serve for terms of four years. The provisions of this enactment shall become effective in due course.

16. That the Board of Agriculture and Consumer Services shall promulgate the regulations required by subsections C and D of § 3.2-4114 of the Code of Virginia, as amended by this act, to become effective by July 1, 2023. The provisions of this enactment shall become effective in due course.

17. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public Safety and Homeland Security shall convene a work group with all appropriate state agencies and authorities to develop a plan for identifying and collecting data that can determine the use and misuse of marijuana in order to determine appropriate policies and programs to promote public health and safety. The plan shall include marijuana-related data regarding (i) poison control center calls; (ii) hospital and emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use, mode of use, and demographic information for vulnerable populations, including youth and pregnant women; and (v) treatment rates for cannabis use disorder and any other diseases related to marijuana use. The plan shall detail the categories for which each data source will be collected, including the region where the individual lives or the incident occurred and the age and the race or ethnicity of the individual. The plan shall also include the means by which initial data will be collected as soon as practicable as a benchmark prior to or as soon as possible after the effective date of an act legalizing marijuana for adult use, the plan for regular collection of such data thereafter, and the cost of the initial and ongoing collection of such data. The plan shall also recommend a timetable and determine the cost for analyzing

and reporting the data. The work group, in consultation with the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to identify disproportionate impacts of marijuana legalization, if any, to include discrimination in the Commonwealth's cannabis industry. The work group shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

18. That the Virginia Department of Education (the Department), with assistance from appropriate agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that teachers have access to sufficient information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use among the youth and about substance abuse, as provided in the 2020 Health Standards of Learning. The Department shall (i) review resources currently provided to teachers to determine if additional or updated material or lesson ideas are needed and (ii) provide or develop any additional materials and resources deemed necessary and make the same available to teachers by January 1, 2024. The provisions of this enactment shall become effective in due course.

19. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall develop a plan for introducing teachers, particularly those teaching health, to the information and resources available to them to assist them in teaching the 2020 Health Standards of Learning as it relates to marijuana use. Such plan shall include providing professional development webinars as soon as practicable, as well as ongoing periodic professional development relating to marijuana, as well as alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

20. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and Developmental Services shall work with existing collegiate recovery programs to determine what, if any, additional evidence-based efforts should be undertaken for college-age individuals to promote education and prevention strategies relating to marijuana. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

21. That, effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or amended thereafter by the Board of Pharmacy (the Board) shall remain in full force and effect and continue to be administered by the Board of Pharmacy until the Board of Directors of the Virginia Cannabis Control Authority (the Authority) promulgates regulations pursuant to the tenth enactment of this act and no later than July 1, 2023. The Board shall provide assistance to the Board of Directors of the Authority in promulgating regulations by July 1, 2023. The provisions of this enactment shall become effective in due course.

22. That there shall be established a Cannabis Oversight Commission (the Commission), which shall consist of 10 members of the General Assembly. Members shall be appointed as follows: six members of the House of Delegates who are members of the House Committee on Appropriations, the House Committee for Courts of Justice, or the House Committee on General Laws to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates and four members of the Senate who are members of the Senate Committee on Finance and Appropriations, the Senate Committee on the Judiciary, or the Senate Committee on Rehabilitation and Social Services to be appointed by the Senate Committee on Rules. The Commission shall elect a chairman and vice-chairman from among its membership; however, the chairman and vice-chairman shall not both be members of the House of Delegates, nor shall both the chairman and vice-chairman be members of the Senate. No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail

notwithstanding the majority vote of the Commission. The Commission shall exercise the function of overseeing the implementation of the provisions of this act and shall convene regularly in the exercise of that function. The Virginia Cannabis Control Authority (the Authority) shall report to the Commission at the Commission's request. The Commission shall expire on January 1, 2024. The provisions of this enactment shall become effective in due course.

23. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on the question of whether the operation of retail marijuana stores shall be prohibited in a particular locality shall be held and results certified by December 31, 2022. A referendum on such question shall not be permitted in a locality after January 1, 2023, unless such referendum follows a referendum held prior to December 31, 2022, and any subsequent referendum, in which a majority of the qualified voters voting in such referendum voted "Yes" to prohibit the operation of retail marijuana stores. The provisions of this enactment shall become effective July 1, 2022.

24. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the Chairmen of the Senate Committee on the Judiciary, the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the House Committee for Courts of Justice by November 1, 2021, and by November 1 each year thereafter regarding the number of civil offenses committed and civil penalties imposed for violations of §§ 4.1-1100, 4.1-1105, and 4.1-1105.1 of the Code of Virginia, as created by this act. The provisions of this enactment shall become effective in due course.

25. That the Joint Legislative Audit and Review Commission (JLARC) shall (i) analyze the provisions of this act, (ii) compare such provisions to JLARC Report 542 (2020), and (iii) report its findings to the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

26. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice. The provisions of this enactment shall become effective in due course.

CHAPTER 551

An Act to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, consisting of chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections numbered 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia, relating to marijuana; legalization of simple possession; penalties.

[H 2312]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is

currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, and by adding sections numbered 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 as follows:

§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.

A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic Beverage Control Authority, *Virginia Cannabis Control Authority*, Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of State Police, Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

B. The Secretary shall by reason of professional background have knowledge of law enforcement, public safety, or emergency management and preparedness issues, in addition to familiarity with the structure and operations of the federal government and of the Commonwealth.

Unless the Governor expressly reserves such power to himself, the Secretary shall:

1. Work with and through others, including federal, state, and local officials as well as the private sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.
2. Serve as the point of contact with the federal Department of Homeland Security.
3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism management plans for the state and its agencies in coordination with the Virginia Department of Emergency Management and other applicable state agencies.
4. Work with federal officials to obtain additional federal resources and coordinate policy development and information exchange.

5. Work with and through appropriate members of the Governor's Cabinet to coordinate working relationships between state agencies and take all actions necessary to ensure that available federal and state resources are directed toward safeguarding Virginia and its citizens.

6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related preparedness federal grant requests from state agencies and localities are used to enhance interoperability. The Secretary shall ensure that the annual review and update of the statewide interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth Interoperability Coordinator shall establish an advisory group consisting of representatives of state and local government and constitutional offices, broadly distributed across the Commonwealth, who are actively engaged in activities and functions related to communications interoperability.

7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated security and preparedness strategy, including the National Capital Region Senior Policy Group organized as part of the federal Urban Areas Security Initiative.

8. Serve as a direct liaison between the Governor and local governments and first responders on issues of emergency prevention, preparedness, response, and recovery.

9. Educate the public on homeland security and overall preparedness issues in coordination with applicable state agencies.

10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

11. Encourage homeland security volunteer efforts throughout the state.

12. Coordinate the development of an allocation formula for State Homeland Security Grant Program funds to localities and state agencies in compliance with federal grant guidance and constraints. The formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and need.

13. Work with the appropriate state agencies to ensure that regional working groups are meeting regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access to response teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty preparedness.

14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide assessment of local and regional capabilities, including equipment, training, personnel, response times, and other factors.

15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available for that purpose.

16. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.

18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney

General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Local and Regional Jails, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Wildlife Resources;
10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;
13. Conservation officers of the Department of Conservation and Recreation; or
14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented

pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 2.2-1119. Cases in which purchasing through Division not mandatory.

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies, and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;
 2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;
 3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;
 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;
 5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, including office stationery and supplies, office equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;
 6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;
 7. Printing of the records of the Supreme Court; and
 8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.
- B. Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2012.

Article 29.

Cannabis Equity Reinvestment Board.

§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.

A. *The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the executive branch of state government. The purpose of the Board is to directly address the impact of economic disinvestment, violence, and historical overuse of criminal justice responses to community and individual needs by providing resources to support local design and control of community-based responses to such impacts.*

B. *The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members shall be appointed as follows: three to be appointed by the Senate Committee on Rules, one of whom shall be a person who has been previously incarcerated or convicted of a marijuana-related crime, one of whom shall be an expert in the field of public health with experience in trauma-informed care, if possible, and one of whom shall be an expert in education with a focus on access to opportunities for youth in underserved communities; five to be appointed by the Speaker of the House of Delegates, one of whom shall be an expert on Virginia's foster care system, one of whom shall be an expert in workforce development, one of whom shall be a representative from one of Virginia's historically black colleges and universities, one of whom shall be a veteran, and one of whom shall be an entrepreneur with expertise in emerging industries or access to capital for small businesses; and five to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative from the Virginia Indigent Defense Commission and four of whom shall be community-based providers or community development organization representatives who provide services to address the social determinants of health and promote community investment in communities adversely and disproportionately impacted by marijuana prohibitions, including services such as workforce development, youth mentoring and educational services, job training and placement services, and reentry services. Nonlegislative citizen members shall be citizens of the Commonwealth and reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth.*

The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland Security, the Director of Diversity, Equity, and Inclusion, the Chief Workforce Development Advisor, and the Attorney General or their designees shall serve ex officio with voting privileges. The Chief Executive Officer of the Virginia Cannabis Control Authority or his designee shall serve ex officio without voting privileges.

Ex officio members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Board shall be chaired by the Director of Diversity, Equity, and Inclusion or his designee. The Board shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Board shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

§ 2.2-2499.2. Compensation; expenses.

Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

§ 2.2-2499.3. Powers and duties of the Board.

The Cannabis Equity Reinvestment Board shall have the following powers and duties:

- 1. Support persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;*
- 2. Develop and implement scholarship programs and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities.*
- 3. Develop and implement a program to award grants to support workforce development programs, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.*
- 4. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.*
- 5. Collaborate with the Board of Directors of the Virginia Cannabis Control Authority and the Office of Diversity, Equity, and Inclusion as necessary to implement programs and provide recommendations in line with the purpose of this article.*
- 6. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*
- 7. Perform such other activities and functions as the Governor and General Assembly may direct.*

§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

- 1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;*
- 2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;*
- 3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.*

4. *Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and*
5. *Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.*
Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.

§ 2.2-2818. Health and related insurance for state employees.

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under this section:

a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall be sent or delivered to the health care practitioner who ordered it;

b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

c. The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the resolution of such complaints and shall be published and disseminated to all covered state employees. The appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure that shall provide resolution within time frames established by federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review

organizations to review such decisions. Independent review organizations are entities that conduct independent external review of adverse benefit determinations. The Department shall adopt regulations to assure that the independent review organization conducting the reviews has adequate standards, credentials and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

Prior to assigning an appeal to an independent review organization, the Department shall verify that the independent review organization conducting the review of a denial of claims has no relationship or association with ~~(i)~~ (a) the covered person or the covered person's authorized representative; ~~(ii)~~ (b) the treating health care provider, or any of its employees or affiliates; ~~(iii)~~ (c) the medical care facility at which the covered service would be provided, or any of its employees or affiliates; or ~~(iv)~~ (d) the development or manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an independent review organization for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

4. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Behavioral Health and Developmental Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Behavioral Health and Developmental Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services that enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

5. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the

two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is ~~(i)~~ (a) life-threatening, degenerative, or disabling and ~~(ii)~~ (b) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when

a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally.

For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- a. The National Cancer Institute;
- b. An NCI cooperative group or an NCI center;
- c. The FDA in the form of an investigational new drug application;
- d. The federal Department of Veterans Affairs; or
- e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

Coverage under this subdivision shall apply only if:

- (1) There is no clearly superior, noninvestigational treatment alternative;
- (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and
- (3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee

following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up

audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;
2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 and the *Virginia Cannabis Control Authority as provided in § 4.1-623*.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each planning district shall be a high deductible health plan that would qualify for a health savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan.

This subsection shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. Any self-insured group health insurance plan established by the Department of Human Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and

updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

Any plan established in accordance with this section shall be authorized to provide for the selection of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

I. Any plan established in accordance with this section requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

§ 2.2-2905. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;

13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management as requiring specialized and professional training;
16. Employees of the Virginia Lottery;
17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;
18. Employees of the Virginia Commonwealth University Health System Authority;
19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
22. Officers and employees of the Virginia Port Authority;
23. Employees of the Virginia College Savings Plan;
24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;
26. Employees of the Virginia Indigent Defense Commission;
27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809;
28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; ~~and~~
29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control Authority; and*
30. Officers and employees of the Fort Monroe Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis Control Authority*, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the

General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the

agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools

of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the ~~business'~~ *business's* or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for

the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority or the Board of Directors of the Virginia Cannabis Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, ~~and~~ the Virginia Alcoholic Beverage Control Authority, *and the Virginia Cannabis Control Authority*;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
 - a. The Department of State Police;
 - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - c. Police departments of cities, counties, and towns;
 - d. Sheriff's departments of counties and cities;
 - e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 - f. The Division of Capitol Police.
8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;

15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 2.2-4024. Hearing officers.

A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate rules necessary for the administration of the hearing officer system and shall have the authority to establish the number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;
2. Active practice of law for at least five years; and
3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that agency.

B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer appointed in accordance with this section shall be subject to disqualification as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion as follows:

1. If the agency's written regulations or procedures require the hearing officer to render a recommendation or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion on or before the expiration of the specified period; and
2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

If the hearing officer does not render a decision within the time required by this subsection, then the agency or the named party to the case decision may provide written notice to the hearing officer and the Executive

Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with this chapter.

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority pursuant to their basic laws.

§ 3.2-1010. Enforcement of chapter; summons.

Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*, may enforce the provisions of this chapter and the regulations adopted hereunder as well as those who are so designated by the Commissioner. Those designated by the Commissioner may issue a summons to any person who violates any provision of this chapter to appear at a time and place to be specified in such summons.

§ 3.2-3906. Board to adopt regulations.

The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), including:

1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
3. Requiring reporting and record keeping related to licensing and registration;
4. Establishing training, testing and standards for certification of commercial applicators, registered technicians, and private applicators;
5. Revoking, suspending or denying licenses (business), registration (products), and certification or certificate (applicators or technicians);
6. Requiring licensees and certificate holders to inform the public when using pesticides in and around structures;
7. Establishing a fee structure for licensure, registration and certification to defray the costs of implementing this chapter;
8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial, institutional, structural or health-related pest control;
9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or residuals that: (i) undesirably persists in the environment or increases due to biological amplification or unreasonable

adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man, animal, bird or plant may be contrary to the public interest; ~~and~~

10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in compliance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 or Subtitle II (§ 4.1-600 et seq.) of Title 4.1; and*

11. Other regulations necessary or convenient to carry out the purposes of this chapter.

§ 3.2-4112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for personal use or retail sale in Virginia.

"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Hemp product" means ~~any finished~~ a product that is otherwise lawful and that contains industrial hemp, including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption and has completed all stages of processing needed for the product.

"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

"Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1 to test hemp products or a marijuana testing facility as defined in § 4.1-600.

"Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds thereof ~~and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer~~, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "*Industrial hemp*" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1* for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1* for the involuntary growth of industrial hemp through

the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 3.2-4114. Regulations.

A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal in, or process industrial hemp or implement the provisions of this chapter.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. *The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products intended for smoking, (ii) identifying the contaminants for which hemp products intended for smoking shall be tested, and (iii) establishing the maximum level of allowable contamination for each contaminant.*

D. *The Board shall adopt regulations establishing (i) labeling and packaging requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption and (ii) advertising requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption.*

E. *With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to subsection C or D.*

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for registration *or license* or renewal of registration *or license* allowed under this chapter. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, dealerships, ~~and~~ process sites, *and hemp testing laboratories.*

C. The Commissioner shall forward a copy or appropriate electronic record of each registration *or license* issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown, dealt, or processed *or where a hemp testing laboratory will be located.*

D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the industrial hemp, at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

G. The Commissioner shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

I. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this chapter.

§ 3.2-4116. Registration conditions.

A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state or federal laws regulating the growing, dealing in, or processing of industrial hemp;

2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field or dealership or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

C. A processor that processes a hemp product intended for smoking or a hemp product that is an industrial hemp extract intended for human consumption shall make available the results of the testing conducted in accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.

§ 3.2-4117.1. Hemp testing laboratory license; exemption.

A. The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or hemp products in the Commonwealth.

B. Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and address of the laboratory.

2. The address of each location at which the laboratory intends to test industrial hemp or hemp products.

3. The name of the person who will oversee and be responsible for the testing and documentation that such person has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

4. A signed statement that the applicant has no direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product.

5. Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

6. Any other information required by the Commissioner.

7. The payment of a nonrefundable application fee.

C. Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.

D. Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be required to apply to the Commissioner for a license to test industrial hemp or hemp products in the Commonwealth.

§ 3.2-4117.2. Hemp testing laboratory license; conditions.

A. A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing any industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility, as defined in § 4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing industrial hemp or hemp products in the Commonwealth.

B. A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:

1. Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

2. Employ a person who will oversee and be responsible for testing hemp products and who has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

3. Allow the Commissioner or his designee to inspect each location at which the laboratory tests hemp products.

C. If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection C of § 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant for which testing is required, a hemp testing laboratory shall, within seven days of completing the test, notify the Commissioner of the test results.

D. For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed (i) \$1,000 for a first violation; (ii) \$5,000 for a second violation; and (iii) a six-month license suspension for a third or subsequent violation within a five-year period. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

§ 3.2-4122. Hemp products.

A. Any hemp product intended for smoking that is distributed, offered for sale, or sold in the Commonwealth shall be:

1. Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.

2. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

3. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

B. Any hemp product that is or includes an industrial hemp extract intended for human consumption that is distributed, offered for sale, or sold in the Commonwealth shall be:

- 1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*
- 2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.*

C. A processor shall destroy the batch of hemp product intended for smoking whose testing sample exceeds the maximum level of allowable contamination for each contaminant established in regulations adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product into compliance with such regulation. A processor shall destroy the batch of hemp product that is or includes an industrial hemp extract intended for human consumption whose testing sample exceeds the maximum level of allowable contamination for each contaminant established in regulations adopted pursuant to § 3.2-5145.5, unless remedial measures can bring the hemp product into compliance with such regulation.

D. For any violation of subsection A or B by a processor or by a retail establishment, the Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation. For any violation of subsection C by a processor, the Commissioner may assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking that is produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product intended for smoking pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

F. Notwithstanding the provisions of subsection B, any hemp product that is an industrial hemp extract intended for human consumption and that is produced prior to the initial effective date of the regulations adopted pursuant to subsection D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product that is an industrial hemp extract intended for human consumption pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

Article 6.

Edible Marijuana Products.

§ 3.2-5145.6. Definitions.

As used in this article, unless the context requires a different meaning:

"Edible marijuana product" means the same as that term is defined in § 4.1-600.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean drug as defined in § 54.1-3401.

§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.

A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

§ 3.2-5145.8. Manufacturer of edible marijuana products.

A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

- 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and*
- 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana products in the location in which such manufacturing occurs.*

§ 3.2-5145.9. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any

regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

TITLE 4.1.

ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ACT.

SUBTITLE I.

ALCOHOLIC BEVERAGE CONTROL ACT.

§ 4.1-100. (Effective until July 1, 2021) Definitions.

As used in this ~~title~~ subtitle unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of alcoholic beverages.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms, Internet access, printers, copiers, telephones, and fax machines.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the

public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this ~~title~~ subtitle.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than \$25 for any term of membership.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2021) Definitions.

As used in this ~~title~~ *subtitle* unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~ *subtitle*.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this ~~title~~ *subtitle* or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this ~~title~~ *subtitle*, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at

least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this ~~title~~ subtitle.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-101.01. Board of Directors; membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House

of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this ~~title~~ *subtitle*.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;
2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;
3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and
4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

§ 4.1-101.07. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions

of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~ *subtitle*, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

§ 4.1-101.09. Exemptions from taxes or assessments.

The exercise of the powers granted by this ~~title~~ *subtitle* shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this ~~title~~ *subtitle* or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this ~~title~~ *subtitle*. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this ~~title~~ *subtitle*.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this ~~title~~ *subtitle* the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this ~~title~~ *subtitle* the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-103. (Effective until July 1, 2021) General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;
17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this ~~title~~ subtitle;
18. Purchase or otherwise acquire title to any land or building required for the purposes of this ~~title~~ subtitle and sell and convey the same by proper deed, with the consent of the Governor;
19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;
20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;
21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;
22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

26. Assess and collect civil penalties and civil charges for violations of this ~~title~~ *subtitle* and Board regulations;

27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

28. Establish minimum food sale requirements for all retail licensees;

29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this ~~title~~ *subtitle*; and

31. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ *subtitle*.

§ 4.1-103. (Effective July 1, 2021) General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ *subtitle*, including agreements with any person or federal agency;

5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;
17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this ~~title~~ subtitle;
18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying, blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;
19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;
20. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;
21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ *subtitle* and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this ~~title~~ *subtitle*;

30. Establish and collect fees for all permits set forth in this ~~title~~ *subtitle*, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ *subtitle*.

§ 4.1-104. Purchases by the Board.

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~ *subtitle* are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 4.1-105. Police power of members, agents and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this ~~title~~ *subtitle* and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-106. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this ~~title~~ *subtitle*, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-107. Counsel for members, agents and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this ~~title~~ *subtitle* are paid.

§ 4.1-111. (Effective until July 1, 2021) Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ *subtitle* or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ *subtitle* and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against

cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other

documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 4.1-111. (Effective July 1, 2021) Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the

banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this ~~title~~ *subtitle*, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ *subtitle* and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ *subtitle*.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to alcoholic beverage advertising.

E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located; or
2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *sub*title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.

All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~ *sub*title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

§ 4.1-115. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this ~~title~~ *sub*title. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;
2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;
3. A statement showing the taxes collected under this ~~title~~ *sub*title during the year;
4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and
5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor

of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this ~~title~~ *subtitle*, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this ~~title~~ *subtitle* shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within ~~fifty~~ 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this ~~title~~ *subtitle* and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

§ 4.1-118. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this ~~title~~ *subtitle* and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the licensee.

§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic

beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on

contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i)

on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to

the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2022) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to

be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding

the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-122. Effect of local option referenda.

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this ~~title~~ *subtitle* to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such alcoholic beverages may, in accordance with this ~~title~~ *subtitle*, be sold within the county, city, or town on and after 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this ~~title~~ *subtitle*.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.

A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin or sex.

§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.

A. The provisions of this ~~title~~ *subtitle* relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this ~~title~~ *subtitle* should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution,

handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of such inconsistency.

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed ~~forty~~ 50 liters of such wine or ~~fifteen~~ 15 gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~ subtitle or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) ~~seventy-two~~ 72 ounces of beer per person per year, provided

such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this ~~title~~ subtitle. The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

§ 4.1-201. (Effective until July 1, 2021) Conduct not prohibited by this subtitle; limitation.

A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this ~~title~~ subtitle.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the

places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the Commonwealth for resale outside of the Commonwealth.

9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce. No more than two product samples shall be given to any person per visit.

12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

13. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail

establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

15. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult customers of licensed retail establishments information about wine being consumed on such premises.

17. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

§ 4.1-201. (Effective July 1, 2021) Conduct not prohibited by this subtitle; limitation.

A. Nothing in this ~~title~~ *subtitle* or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this ~~title~~ *subtitle*.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic

beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per day.

11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by

the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments information about wine, beer, or spirits being consumed on such premises.

16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-205. (Effective until July 1, 2021) Local licenses.

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

§ 4.1-205. (Effective July 1, 2021) Local licenses.

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city, or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated

as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more

than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. Local special events license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

18. Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member and up to two guests of each member, provided that such member and guests are persons who may lawfully consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.

19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer,

acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~ *subtitle* and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling

equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-206.2. (Effective July 1, 2021) Wholesale licenses.

The Board may grant the following wholesale licenses:

1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners

of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ *subtitle* and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked,

or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-

premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth;

or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle

center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be

granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A

separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or

beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail on the premises described in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that such wine is manufactured on the licensed premises.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

§ 4.1-207.1. (Repealed effective July 1, 2021) Restricted wholesale wine licenses.

The Board may grant a wholesale wine license to a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102, which shall authorize the licensee to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this ~~title~~ *subtitle* and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2 of § 4.1-207.

§ 4.1-208. (Repealed effective July 1, 2021) Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ *subtitle* except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this ~~title~~ *subtitle* will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers or in single original metal cans, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

h. A nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products, which shall authorize the licensee to sell beer for on-premises consumption in areas approved by the Board. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

10. Internet beer retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this ~~title~~ *subtitle* and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this ~~title~~ *subsubtitle* and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

§ 4.1-212. (Effective until July 1, 2021) Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the

Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.

13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

16. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation

of this ~~title~~ *subtitle* or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this ~~title~~ *subtitle* and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this ~~title~~ *subtitle* or any Board regulation committed by, or any errors or omissions of, the permittee.

17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

18. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-212. (Effective July 1, 2021) Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the

Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this ~~title~~ *sub*title or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this ~~title~~ *sub*title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this ~~title~~ *sub*title or any Board regulation committed by, or any errors or omissions of, the permittee.

16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

17. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-213. Manufacture and sale of cider.

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise provided in this ~~title~~ subtitle or Board regulations.

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

§ 4.1-215. (Effective until July 1, 2021) Limitation on manufacturers, bottlers and wholesalers; exemptions.

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this ~~title~~ subtitle:

a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet

license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event; or

b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of wineries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;
5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or
6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

§ 4.1-215. (Effective July 1, 2021) Limitation on manufacturers, bottlers, and wholesalers; exemptions.

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or

wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of wine or malt beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this ~~title~~ *subtitle*, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars, or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;
4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;
5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1; or
6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

§ 4.1-216. (Effective until July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~ *subtitle*.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance

of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

§ 4.1-216. (Effective July 1, 2021) Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~ *subtitle*.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this ~~title~~ *subsubtitle*, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the

financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.

A. As used in this section:

"Alcoholic beverage advertising material" or "advertising material" means any item, other than an illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which otherwise complies with Board regulations.

"Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

"Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and beer licensees in Virginia or, in the case of spirits, to the Board.

B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

1. The wholesale value of the advertising material does not exceed \$250 per item, and
2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

A retail licensee shall retain for at least two years a record of its procurement of, including any payments for, such advertising materials along with an invoice or sales ticket containing a description of the item so purchased or otherwise procured.

D. Except as otherwise provided in this ~~title~~ *subsection*, a retail licensee shall not display in the interior of its licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully obtained and displayed in accordance with this section or Board regulation.

E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board regulations in effect on January 1, 2007.

§ 4.1-222. Conditions under which Board may refuse to grant licenses.

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Is not 21 years of age or older;
- b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;
- c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
- d. Is not a person of good moral character and repute;
- e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;
- f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;
- g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack of respect for law and order;

i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

l. Has misrepresented a material fact in applying to the Board for a license;

m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false and fraudulent;

n. Is violating or allowing the violation of any provision of this ~~title~~ *subtitle* in his establishment at the time his application for a license is pending;

o. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

p. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated; or

q. Is a member, agent or employee of the Board.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city or town in which such place is located with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this ~~title~~ *subsubtitle*, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or an institution of higher education; public or private playground or other similar recreational facility; or any state, local, or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area; or

e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which alcoholic beverages are to be sold or consumed.

3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~ *subsubtitle*; and (iii) objections, if any, which may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political subdivision thereof, which warrants refusal by the Board to grant any license.

5. The Board is not authorized under this chapter to grant such license.

§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or mixed beverage license, including a banquet license, provided such:

1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;
2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~ 12 months;
3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this ~~title~~ subtitle; or
4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Has misrepresented a material fact in applying to the Board for such license;
- b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;
- c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;
- d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;
- e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;
- f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;
- g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
- i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this ~~title~~ *subtitle*;

l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ *subtitle* or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding

amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this ~~title~~ *subtitle*.

§ 4.1-227. (Effective until July 1, 2021) Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed

restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;
2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;
3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;
4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and
5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board regulations.

§ 4.1-227. (Effective July 1, 2021) Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of

the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board regulations.

§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ *subtitle*; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$65 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search

and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

- a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
- b. Fruit distiller's license, \$3,725;
- c. Banquet facility license or museum license, \$190;
- d. Bed and breakfast establishment license, \$35;
- e. Tasting license, \$40 per license granted;
- f. Equine sporting event license, \$130;
- g. Motor car sporting event facility license, \$130;
- h. Day spa license, \$100;
- i. Delivery permit, \$120 if the permittee holds no other license under this ~~title~~ subtitle;
- j. Meal-assembly kitchen license, \$100;
- k. Canal boat operator license, \$100;
- l. Annual arts venue event license, \$100;
- m. Art instruction studio license, \$100;
- n. Commercial lifestyle center license, \$300;

- o. Confectionery license, \$100;
 - p. Local special events license, \$300;
 - q. Coworking establishment license, \$500; and
 - r. Bespoke clothier establishment license, \$100.
2. Wine licenses. For each:
- a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
 - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;
 - c. Wine importer's license, \$370;
 - d. Retail off-premises winery license, \$145, which shall include a delivery permit;
 - e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
 - f. Wine shipper's license, \$230; and
 - g. Internet wine retailer license, \$150.
3. Beer licenses. For each:
- a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
 - b. Bottler's license, \$1,430;
 - c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
 - d. Beer importer's license, \$370;
 - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
 - f. Retail off-premises beer license, \$120, which shall include a delivery permit;
 - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
 - h. Beer shipper's license, \$230;
 - i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
 - j. Internet beer retailer license, \$150.
4. Wine and beer licenses. For each:
- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
 - b. Retail on-premises wine and beer license to a hospital, \$145;
 - c. Retail on-premises wine and beer license to a historic cinema house, \$200;

- d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
 - e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
 - f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
 - g. Gourmet brewing shop license, \$230;
 - h. Wine and beer shipper's license, \$230;
 - i. Annual banquet license, \$150;
 - j. Fulfillment warehouse license, \$120;
 - k. Marketing portal license, \$150; and
 - l. Gourmet oyster house license, \$230.
5. Mixed beverage licenses. For each:
- a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
 - (i) With a seating capacity at tables for up to 100 persons, \$560;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
 - b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
 - (i) With an average yearly membership of not more than 200 resident members, \$750;
 - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
 - (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 - c. Mixed beverage caterer's license, \$1,860;
 - d. Mixed beverage limited caterer's license, \$500;
 - e. Mixed beverage special events license, \$45 for each day of each event;
 - f. Mixed beverage club events licenses, \$35 for each day of each event;
 - g. Annual mixed beverage special events license, \$560;
 - h. Mixed beverage carrier license:
 - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (ii) \$560 for each common carrier of passengers by boat;
 - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 - i. Annual mixed beverage amphitheater license, \$560;
 - j. Annual mixed beverage motor sports race track license, \$560;
 - k. Annual mixed beverage banquet license, \$500;
 - l. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$460;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 - m. Annual mixed beverage motor sports facility license, \$560; and
 - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
- B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and automated clearinghouse information.

A. The Board may accept payment by any commercially acceptable means, including checks, credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in accordance with this ~~title~~ *subtitle*. In addition, the Board may assess a service charge for the use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the Department.

B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the Board. The Board may assess a service charge as provided in subsection A for any payments made under this subsection. The Board may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

§ 4.1-300. Illegal manufacture and bottling; penalty.

A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic beverages in the Commonwealth without being licensed under this ~~title~~ *subtitle* to manufacture such alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of this section.

C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.

If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~ *subtitle*, he shall be guilty of a Class 1 misdemeanor.

In the event of a second or subsequent conviction under this section, a jail sentence of no less than ~~thirty~~ 30 days shall be imposed and in no case be suspended.

§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.

If any person buys alcoholic beverages from any person other than the Board, a government store or a person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1 misdemeanor.

§ 4.1-310. (Effective until July 1, 2021) Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

§ 4.1-310. (Effective July 1, 2021) Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

§ 4.1-310.1. (Effective until July 1, 2021) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not

less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to § 4.1-207.1 shall be exempt from the requirement set forth in clause (ii).

§ 4.1-310.1. (Effective July 1, 2021) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this ~~title~~ *subtitle* or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

§ 4.1-320. Illegal advertising; penalty; exception.

A. Except in accordance with this ~~title~~ *subtitle* and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this ~~title~~ *subtitle* and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii) the sponsorship of an entertainment or cultural event.

§ 4.1-323. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this ~~title~~ *subtitle* or to aid or abet another in doing, or attempting to do, any of the things prohibited by this ~~title~~ *subtitle*.

On an indictment, information or warrant for the violation of this ~~title~~ *subtitle*, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title~~ *subtitle* authorizes him to sell;

2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may combine wine or spirits, or both, with beer pursuant to a patron's order;

3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant to a patron's order;

4. Sell alcoholic beverages of a kind which such license or this ~~title~~ subtitle authorizes him to sell, but to any person other than to those to whom such license or this ~~title~~ subtitle authorizes him to sell;

5. Sell alcoholic beverages which such license or this ~~title~~ subtitle authorizes him to sell, but in any place or in any manner other than such license or this ~~title~~ subtitle authorizes him to sell;

6. Sell any alcoholic beverages when forbidden by this ~~title~~ subtitle;

7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this ~~title~~ subtitle;

8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer license;

9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of any beer sold;

10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller holds a wholesale wine or farm winery license;

11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device;

12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; or

13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of preparing and selling for on-premises consumption food products with a final alcohol content of more than one-half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21 years of age or older.

§ 4.1-325. (Effective until July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this ~~title~~ subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325. (Effective July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this ~~title~~ subtitle;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;
7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;
8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;
10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;
11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;
12. Allow any striptease act on the licensed premises;
13. Allow persons connected with the licensed business to appear nude or partially nude;
14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

- a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or
- b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
17. Conceal any sale or consumption of any alcoholic beverages;
18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325.2. (Effective until July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-325.2. (Effective July 1, 2021) Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-329. Illegal advertising materials; penalty.

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving to any person any advertising materials or decorations under circumstances prohibited by this ~~title~~ subtitle or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as provided in § 4.1-227.

§ 4.1-336. Contraband beverages and other articles subject to forfeiture.

All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of this ~~title~~ subtitle, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 4.1-337. Search warrants.

A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place

for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this ~~title~~ *sub*title for the search of any automobile, boat, conveyance or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this chapter shall be as provided in this section.

B. Production of seized property.— Whenever any article declared contraband under the provisions of this ~~title~~ *sub*title and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this ~~title~~ *sub*title, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or any other violation of this ~~title~~ *sub*title. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were intended for use in violation of this ~~title~~ *sub*title.

C. Hearing and determination.— Upon the return of the warrant as provided in this section, the court shall fix a time not less than ~~ten~~ 10 days, unless waived by the accused in writing, and not more than ~~thirty~~ 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored or possessed in violation of this ~~title~~ *sub*title.

At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this ~~title~~ *sub*title.

D. Disposition of forfeited beverages and other articles.— Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued a certificate stating that such institution has need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where they have been received from the Board pursuant to this section. Such alcoholic beverages shall be administered only upon approval of the patient's physician.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be kept in the offices of the Board.

§ 4.1-348. Beverages not licensed under this subtitle.

The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may be manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

§ 4.1-349. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom any person is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to execute bond, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or refusing to continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-350. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-351. Previous convictions.

In any indictment, information or warrant charging any person with a violation of any provision of this ~~title~~ subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this ~~title~~ subtitle.

§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for violations of this title and all controversies in any judicial proceedings touching the mixture analyzed by him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding.* On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.

In any prosecution for violations of this ~~title~~ *subtitle*, where a sealed container is labeled as containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content of a container, whether sealed or not.

§ 4.1-354. No recovery for alcoholic beverages illegally sold.

No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ *subtitle* may be maintained.

SUBTITLE II.
CANNABIS CONTROL ACT.
CHAPTER 6.
GENERAL PROVISIONS.

§ 4.1-600. Definitions.

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing or testing.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature stalks of such

plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana or retail marijuana products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which retail marijuana and retail marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

§ 4.1-602. Virginia Cannabis Control Authority; composition.

A. The Virginia Cannabis Control Authority shall consist of the Board of Directors, the Cannabis Public Health Advisory Council, the Chief Executive Officer, and the agents and employees of the Authority.

B. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that the Board might otherwise have under any other law of the Commonwealth.

§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings; compensation and expenses; duties.

A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding health

warnings, retail marijuana and retail marijuana products safety and product composition, and public health awareness, programming, and related resource needs.

B. The Advisory Council shall have a total membership of 21 members that shall consist of 14 nonlegislative citizen members and seven *ex officio* members. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a community services board, one of whom shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom shall be a person with a social or health equity background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient.

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve *ex officio* with voting privileges. *Ex officio* members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to fulfill its purpose as described in subsection A:

1. To review multi-agency efforts to support collaboration and a unified approach on public health responses related to marijuana and marijuana legalization in the Commonwealth and to develop recommendations as necessary.

2. To monitor changes in drug use data related to marijuana and marijuana legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as

provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 4.1-604. Powers and duties of the Board.

The Board shall have the following powers and duties:

- 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;*
- 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;*
- 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law;*
- 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;*
- 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;*
- 6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;*
- 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;*
- 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;*
- 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;*
- 10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed.*
- 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;*
- 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;*
- 13. Adopt, use, and alter at will a common seal;*
- 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;*
- 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;*

16. *Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;*

17. *Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;*

18. *Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;*

19. *Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;*

20. *Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;*

21. *Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;*

22. *Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;*

23. *Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;*

24. *Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;*

25. *Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement*

in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

§ 4.1-606. Regulations of the Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2. Establish requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where practicable an equivalent amount for other marijuana products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available

by the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth;

14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana crimes and (ii) which jurisdictions are economically distressed;

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of marijuana that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

18. Establish restrictions on the number of licenses that a person may be granted to operate a marijuana establishment in single locality or region; and

19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the number of licenses issued shall not exceed the following limits:

- a. Retail marijuana stores, 400;
- b. Marijuana wholesalers, 25;
- c. Marijuana manufacturing facilities, 60; and
- d. Marijuana cultivation facilities, 450.

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet.

4. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

H. The Board's power to regulate shall be broadly construed.

§ 4.1-607. Board membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

§ 4.1-608. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree in business or a related field of study, and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-609. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this subtitle.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

§ 4.1-609. Background investigations of Board members and Chief Executive Officer.

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to

the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately preceding appointment.

§ 4.1-610. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

§ 4.1-611. Seed-to-sale tracking system.

To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.

§ 4.1-612. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.

§ 4.1-613. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

§ 4.1-614. Disposition of moneys collected by the Board.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in the administration of this subtitle.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and
4. Five percent to public health programs, including public awareness campaigns that are designed to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the public of other potential risks.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

§ 4.1-615. Leases and purchases of property by the Board.

The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

§ 4.1-616. Exemptions from taxes or assessments.

The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;
2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

§ 4.1-618. Reversion to the Commonwealth.

In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the Commonwealth.

§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 8 (§ 4.1-800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-620. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General Assembly, and the Chief Executive Officer of the Authority on or before December 15 each year, which shall contain:

1. The number of state licenses of each category issued pursuant to this subtitle;
2. Demographic information concerning the licensees;
3. A description of enforcement and disciplinary actions taken against licensees;
4. A statement of revenues and expenses related to the implementation, administration, and enforcement of this subtitle;
5. A statement showing the taxes collected under this subtitle during the year;
6. General information and remarks about the working of the cannabis control laws within the Commonwealth;
7. A description of the efforts undertaken by the Board to promote diverse business ownership within the cannabis industry; and
8. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-621. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of retail marijuana or retail marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that such information does not identify the licensee.

§ 4.1-622. Criminal history records check required on certain employees; reimbursement of costs.

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

§ 4.1-623. Employees of the Authority.

Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

§ 4.1-624. Police power of members, agents, and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-625. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-626. Counsel for members, agents, and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

§ 4.1-627. Hearings; representation by counsel.

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

§ 4.1-628. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

§ 4.1-629. Local referendum on prohibition of retail marijuana stores.

A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a referendum on the question of whether retail marijuana stores should be prohibited in the locality.

Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city, or town)?"

The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the certifications required by such section, the secretary of the local electoral board shall certify the results of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of the locality.

B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent referendum may be held pursuant to this section within such locality.

If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in the locality effective January 1 of the year immediately following the referendum. A referendum on the same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of this section.

C. When any referendum is held pursuant to this section in a town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county. When any referendum is held pursuant to this section in a county, any town located within such county, shall be treated as being part of such county.

D. The legality of any referendum held pursuant to this enactment shall be subject to the inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654 of the Code of Virginia, and the judgment of the court entered of record shall be a final determination of the legality of the referendum.

§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana products.

A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution, handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail marijuana products in the Commonwealth.

B. However, the governing body of any county, city, or town may adopt an ordinance (i) that prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and land use requirements and business license requirements.

D. Except as provided in this section, all local acts, including charter provisions and ordinances of counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana products.

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana and retail marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of appeal pursuant to § 16.1-106.

A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing body adopting it and transmitted to the Board.

On and after the effective date of any ordinance adopted pursuant to this section, no retail marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by the ordinance.

CHAPTER 7.

ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

§ 4.1-700. Exemptions from licensure.

The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2 and subsection B of § 3.2-4122; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions

of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises a pharmaceutical processing facility in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil penalties.

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

D. The privileges conferred by any license granted by the Board shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

The Board may permit a licensee who fails to pay:

1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and

2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

§ 4.1-703. Records of licensees; inspection of records and places of business.

A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold, or shipped.

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor,

and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana stores may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured, sold, or shipped.

D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in accordance with Board regulations of all marijuana and marijuana products it developed, researched, or tested and the names and addresses of the licensees or persons who submitted the marijuana or marijuana product to the marijuana testing facility.

E. The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting such place and all records, invoices, and accounts therein.

For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" means the business hours when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records are not available for inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

CHAPTER 8.

ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

§ 4.1-800. Marijuana cultivation facility license.

A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize the licensee to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use:

1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a certain number of marijuana plants or marijuana plants in an area not larger than a certain number of square feet, as determined by the Board;

2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants with a tetrahydrocannabinol concentration of no more than one percent, as determined post-decarboxylation.

B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana manufacturer, a retail marijuana store, or a consumer or is disposed of or destroyed.

§ 4.1-801. Marijuana manufacturing facility license.

A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products.

C. All areas within the licensed premises of a marijuana manufacturing facility in which retail marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana wholesaler licensee to the point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana wholesaler or are disposed of or destroyed.

§ 4.1-802. Marijuana testing facility license.

A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop, research, or test retail marijuana, retail marijuana products, and other substances.

B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana or retail marijuana product for personal use as authorized under § 4.1-1100.

C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana testing facility from developing, researching, or testing substances that are not marijuana or marijuana products for that facility or for another person.

D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

F. A person that has an interest in a marijuana testing facility license shall not have any interest in a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana wholesaler, or a licensed retail marijuana store.

§ 4.1-803. Marijuana wholesaler license.

A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which

the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred to the marijuana wholesaler to the point at which the retail marijuana, retail marijuana products, plants, or seeds are transferred or sold to a marijuana manufacturer, marijuana wholesaler, retail marijuana store, or marijuana testing facility or are disposed of or destroyed.

§ 4.1-804. Retail marijuana store license.

A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board.

B. Retail marijuana stores shall be operated in accordance with the following provisions:

1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds using:

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an equivalent amount of marijuana products as determined by regulation promulgated by the Board during a single transaction to one person.

4. A retail marijuana store shall not:

a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by the subtitle;

b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to any person when at the time of such sale he knows or has reason to believe that the person attempting to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age; or

c. Employ or allow to volunteer any person younger than 21 years of age.

5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall authorize

the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail establishments of the licensee. Such additional retail establishments shall be located at the five cannabis dispensing facilities for which the Board of Health has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the pharmaceutical processing facility is located.

§ 4.1-805. Multiple licenses awarded to one person prohibited.

A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of § 4.1-606, no person shall be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, retail marijuana store license, or marijuana testing facility license.

C. Notwithstanding subsection B and any other provision of law to the contrary, any (i) pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 shall be permitted to possess one or any combination of the following licenses: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. However, no pharmaceutical processor or industrial hemp processor that has been issued a marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license shall be issued a marijuana testing facility license or have any interest in a marijuana testing facility licensee. Any pharmaceutical processor or industrial hemp processor who wishes to possess a license in more than one license category pursuant to this subsection shall (a) pay a \$1 million fee to the Board and (b) submit a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support Team) for approval and, upon approval, implement such plan in accordance with the requirements set by the Support Team. Fees collected by the Board pursuant to this subsection shall be allocated to (1) the Virginia Cannabis Equity Loan Fund, (2) the Virginia Cannabis Equity Reinvestment Fund, or (3) a program, as determined by the Board, that provides job training services to persons recently incarcerated.

§ 4.1-806. Temporary permits required in certain instances.

A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the requirements in this subsection.

B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of three business days after the order of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required.

§ 4.1-807. Licensee shall maintain possession of premises.

As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by licensee, agent, or employee.

No marijuana or marijuana products may be used or consumed on the premises of a licensee by the licensee or any agent or employee of the licensee, except for certain sampling for quality control purposes that may be permitted by Board regulation.

§ 4.1-809. Conditions under which the Board may refuse to grant licenses.

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Is not 21 years of age or older;

b. Is not a resident of the Commonwealth;

c. Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any state or of the United States within seven years of the date of the application or has not completed all terms of sentencing and probation resulting from any such felony conviction;

d. Knowingly employs someone younger than 21 years of age;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business that have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has misrepresented a material fact in applying to the Board for a license;

h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;

i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his application for a license is pending;

j. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 8 (§ 4.1-800 et seq.) of Title 4.1 or a retailer of tobacco or tobacco products;

l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1; or

m. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial school or institution of higher education; public or private playground or other similar recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local government-operated facility that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area;

e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an existing retail marijuana store; or

f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which retail marijuana or retail marijuana products are to be sold.

Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or premises until the final stage of the license approval process.

3. The number of licenses existing in the locality is such that the granting of a license is detrimental to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider the (i) criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in the community; (ii) character of, population of, number of similar licenses, and number of all licenses existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) effect that a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this subtitle; and (iv) objections, if any, that may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political subdivision thereof that warrants refusal by the Board to grant any license.

5. The Board is not authorized under this subtitle to grant such license.

§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.

The Board shall refuse to grant any license to any member or employee of the Board or to any corporation or other business entity in which such member or employee is a stockholder or has any other economic interest.

Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interest applies for such a license, it shall state on the application the full economic interests of each such official in such corporation or other business entity.

§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. The Board may refuse a hearing on any application for the granting of any retail marijuana store license, provided that such:

1. License for the applicant has been refused or revoked within a period of 12 months;

2. License for any premises has been refused or revoked at that location within a period of 12 months; or

3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending and adjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle.

C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

CHAPTER 9.

ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

§ 4.1-900. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business that have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately

adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises;

o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1; or

p. Has refused to (i) remain neutral regarding any union organizing efforts by employees, including card check recognition and union access to employees; (ii) pay employees prevailing wages as determined by the U.S. Department of Labor; or (iii) classify no more than 10 percent of its workers as independent contractors and such workers are not owners in a worker-owned cooperative.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is *de minimis*; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed premises in the Commonwealth.

7. Any other cause authorized by this subtitle.

§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings

reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to temporary permits granted under § 4.1-806.

§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.

A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding

\$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its employees marijuana seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board regulations.

§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on hand; termination.

A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

2. Provided to the Virginia State Police to be destroyed.

B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within 60 days from the date of such suspension or revocation.

C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

CHAPTER 10.

ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for licenses for establishments that are otherwise required to obtain an inspection by the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds until an inspection is completed.

B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of his application with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication.

The Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership. In considering criminal history record information, the Board shall not disqualify an applicant because of a past conviction for a marijuana-related offense.

The Board shall notify the local governing body of each license application through the town manager, city manager, county administrator, or other designee of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed, except that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations promulgated by the Board. The license application fee shall be determined by the Board and shall be in addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-1001. Fees for state licenses.

A. The annual fees on state licenses shall be determined by the Board.

B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such fee shall not be refundable, except as provided in § 4.1-1002.

C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be liable to state merchants' license taxation and other state taxation.

D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-1002. Refund of state license fee.

A. The Board may correct erroneous assessments made by it against any person and make refunds of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any license that is subsequently merged or changed into another license during the same license period. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license period without any change being made in its ownership, and because of such change is required to pay an additional license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of the required license fee for such period.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

§ 4.1-1003. Marijuana tax; exceptions.

A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 or any other provision of federal, state, or local law.

B. The tax shall not apply to any sale:

- 1. From a marijuana establishment to another marijuana establishment.*
- 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.*
- 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

4. *Of industrial hemp extract or food containing an industrial hemp extract under the provisions of Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.*

C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1004. Optional local marijuana tax.

A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on the first day of the second month following its enactment.

E. Any tax levied under this section shall be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003.

F. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1005. Tax returns and payments; commissions; interest.

A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1008.

C. The Authority may accept payment by any commercially acceptable means, including cash, checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments made under this subsection. The Authority may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any former owner.

F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004, interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

§ 4.1-1006. Bonds.

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

§ 4.1-1007. Refunds.

A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting his return.

§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.

A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Authority shall not examine any person's records beyond the three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

B. If any person fails to file a return as required by this section, or files a return that is false or fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring such person to provide any records as it may require relating to the business of such person for the taxable period. The Authority may require such person or the agents and employees of such person to give testimony or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any person fails to file a required return, refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated assessment based upon the information available to it and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file

a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of business is located or in which the person resides. If the person has no place of business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1009.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

§ 4.1-1009. Appeals.

Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

CHAPTER 11.

POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED PRACTICES GENERALLY.

§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty

of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.

A. Notwithstanding the provisions of subdivision c of § 18.2-248.1, a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;
2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and
3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as authorized under this section.

C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;
2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;
3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and
4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

§ 4.1-1101.1. Adult sharing of marijuana.

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. Notwithstanding the provisions of § 18.2-248.1, no civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy; penalties.

A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate or manufacture such marijuana or marijuana products.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy is guilty of a Class 6 felony.

§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except as permitted by this chapter or provided in subsection C, he is guilty of a Class 2 misdemeanor.

A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.

A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

E. No person shall be convicted of both subsections A and D for the same sale.

§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; forfeiture; treatment and education programs and services.

A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a similar program available through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-209.2 et seq.). Any such substance abuse treatment or education program to which a person 18 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health and Developmental Services or (b) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-1104.

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental

Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may not be sold; penalties; forfeiture.

A. Any person who purchases retail marijuana or retail marijuana products for another person and at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail marijuana or retail marijuana products to, another person when he knows or has reason to know that such person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven upon a public highway; penalty.

A. For the purposes of this section:

"Open container" means any vessel containing marijuana or marijuana products, except the originally sealed manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana products in violation of this section if (i) an open container is located within the passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

D. Any person who violates this section is guilty of a Class 4 misdemeanor.

§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place; penalty.

A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place.

B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of

the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.

§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds; penalty.

A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a school bus; penalty.

Any person who possesses or consumes marijuana or marijuana products while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as provided in § 46.2-100.

§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products; penalty; exception.

A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the Commonwealth.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1112. Limitation on carrying marijuana or marijuana products in motor vehicle transporting passengers for hire; penalty.

The transportation of marijuana or marijuana products in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1113. Maintaining common nuisances; penalties.

A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1305.

C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right, because of such unlawful use, to enter and repossess the property.

§ 4.1-1114. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.

No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold and conduct such hearing.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1116. Illegal advertising; penalty; exception.

A. Except in accordance with this title and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning marijuana other than such that may legally be manufactured or sold without a license.

B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is done in accordance with § 4.1-1405 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this title and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.

No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional facility or any person committed to the Department of Juvenile Justice in any juvenile correctional center any marijuana or marijuana products.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1118. Separation of plant resin by butane extraction; penalty.

A. No person shall separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1119. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing, or attempting to do, any of the things prohibited by this subtitle.

On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment, and education programs or services; drug tests; costs and fees; violations; discharge.

A. Whenever any person who has not previously been convicted of any offense under this subtitle pleads guilty to or enters a plea of not guilty to an offense under this subtitle, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation upon terms and conditions.

B. As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a similar program that is made available through the Department of Corrections; (ii) a local community-based

probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

C. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay, unless the person is determined by the court to be indigent.

D. As a condition of probation, the court shall require the accused (i) to successfully complete treatment or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of up to 24 hours of community service. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

E. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

F. When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.

Any violation under this subtitle that is subject to a civil penalty is a civil offense and shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

2. Sell retail marijuana or retail marijuana products of a kind that such license or this subtitle authorizes him to sell, but to any person other than to those to whom such license or this subtitle authorizes him to sell;

3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when forbidden by this subtitle;

5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport, sell, or transport by such license or by this subtitle;

6. Keep any retail marijuana or retail marijuana product other than in the container in which it was purchased by him; or

7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail marijuana store.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.

A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a license; penalty.

Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler licensee.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.

A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from one licensed place of business to another licensed place of business, whether or not such places of business are under the same ownership.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 4.1-1204. Illegal advertising materials; civil penalty.

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under circumstances prohibited by this title or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized in § 4.1-903.

§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana products; penalty.

A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail marijuana products in which such person may be so interested.

The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana or retail marijuana products manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. No retail marijuana store licensee or any agent or employee of such licensee, or any person connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to allow examination and inspection; penalty.

A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or

(iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may suspend or revoke any license of such licensee that was issued by the Authority.

§ 4.1-1207. Nonpayment of marijuana tax; penalties.

A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. On any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004, there shall be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person by which such check was tendered is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

CHAPTER 13.

PROHIBITED PRACTICES; PROCEDURAL MATTERS.

§ 4.1-1300. Enjoining nuisances.

A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their agents and employees, and any person connected with such house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing, selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain all persons from removing any marijuana or marijuana products then on such premises until the further order of the court. If the court is satisfied that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is shown for dissolution.

§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.

A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana products, all marijuana or marijuana products and materials used in their manufacture, all containers in which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful

cultivation, manufacture, transportation, or sale of marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products are being unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

§ 4.1-1302. Search without warrant; odor of marijuana.

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing and no search warrant may be issued solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

§ 4.1-1303. Search warrants.

A. If complaint on oath is made that marijuana or marijuana products are being cultivated, manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this subtitle shall be as provided in this section.

B. Production of seized property. Whenever any article declared contraband under the provisions of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles, the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer

in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

C. Hearing and determination. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this subtitle.

D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the date when given, and shall be kept in the offices of the Board.

§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.

A. When any officer charged with the enforcement of the cannabis control laws of the Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car, or steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor in duplicate.

B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the attorney for the Commonwealth for the county or city in which seizure and arrest were made.

§ 4.1-1306. Contraband retail marijuana or retail marijuana products.

Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.

§ 4.1-1307. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-1308. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him, and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-1309. Previous convictions.

In any indictment, information, or warrant charging any person with a violation of any provision of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this subtitle.

§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana content of a container, whether sealed or not.

§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.

No action to recover the price of any retail marijuana or retail marijuana products sold in contravention of this subtitle may be maintained.

CHAPTER 14.

CANNABIS CONTROL; TESTING; ADVERTISING.

§ 4.1-1400. Board to establish regulations for marijuana testing.

The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana or retail marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is

injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research practices, including regulations relating to testing practices, methods, and standards; quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused, and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which retail marijuana and retail marijuana products shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for each contaminant.

§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required; required destruction; random testing.

A. *A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana product is correct.*

B. *Mandatory testing of retail marijuana and retail marijuana products under this section shall include testing for:*

- 1. Residual solvents, poisons, and toxins;*
- 2. Harmful chemicals;*
- 3. Dangerous molds and mildew;*
- 4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;*
- 5. Pesticides, fungicides, and insecticides; and*
- 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct labeling.*

Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will be consumed.

C. *A licensee shall maintain a record of all mandatory testing that includes a description of the retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.*

D. *If the results of a mandatory test conducted pursuant to this section indicate that the tested retail marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product and within 7 days of completing the test shall notify the Board of the test results.*

A marijuana testing facility is not required to notify the Board of the results of any test:

1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the performance of the test that the testing is for research and development purposes only; or

3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a licensee.

E. *Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:*

1. The retail marijuana or retail marijuana product has previously undergone testing in accordance with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and that testing

demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. The mandatory testing process and the test results for the retail marijuana or retail marijuana product are documented in accordance with the requirements of this subtitle and all applicable regulations adopted pursuant to this subtitle;

3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to another licensee or to a consumer can be easily identified; and

4. The retail marijuana or retail marijuana product has not undergone any further processing, manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail marijuana products whose testing samples indicate noncompliance with the health and safety standards required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can bring the retail marijuana or retail marijuana products into compliance with such required health and safety standards.

G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

§ 4.1-1402. Labeling and packaging requirements; prohibitions.

A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be labeled with the following information:

1. Identification of the type of marijuana or marijuana product and the date of cultivation, manufacturing, and packaging;

2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility, and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated, manufactured, and offered for sale, as applicable;

3. A statement of the net weight of the retail marijuana or retail marijuana product;

4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;

5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

6. Instructions on usage;

7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a recommended use by date or expiration date;

8. For edible retail marijuana products, a nutritional fact panel;

9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-606) FOR MORE INFORMATION."

b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board pursuant to § 4.1-606) FOR MORE INFORMATION.";

10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana products; and

11. Any other information required by Board regulations.

B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

2. Packaging for multiserving liquid marijuana products shall include an integral measurement component; and

3. Packaging shall comply with any other requirements imposed by Board regulations.

C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall not:

1. Be labeled or packaged in violation of a federal trademark law or regulation;

2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

3. Be labeled or packaged in a manner that obscures identifying information on the label;

4. Be labeled or packaged using a false or misleading label;

5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle, or fruit; and

6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board regulations.

§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and other retail marijuana products deemed applicable by the Authority; health and safety regulations.

A. Requirements and restrictions for edible retail marijuana products and other retail marijuana products deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle, edible retail marijuana products and other retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle:

1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

3. Shall be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content;

4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate;

5. Shall have a universal symbol stamped or embossed on the packaging of each product;

6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the product and shall not contain more than 50 milligrams of THC per package of the product;

7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v) are specifically designed to make the product appeal particularly to persons younger than 21 years of age; and

8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible retail marijuana product and the edible retail marijuana product is not advertised or described for sale as containing the trademarked product.

B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to the cultivation of retail marijuana, the manufacture of retail marijuana products, and the packaging and labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana products by licensees;
2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture of retail marijuana and retail marijuana products; and
3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.

§ 4.1-1404. Advertising and marketing restrictions.

A. As used in this section, unless the context requires a different meaning, "health-related statement" means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning retail marijuana or retail marijuana products other than those that may be legally manufactured in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment in public phone books and directories.

E. A licensee shall not display any marijuana or marijuana product pricing through any means of advertisement other than their establishment website, which shall be registered with the Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm that the person attempting to access the website or sign up for a subscription-based service is 21 years of age or older.

F. Advertising or marketing used by or on behalf of a licensee:

1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the licensee's license number, and shall include the following statement: "For use by adults 21 years of age and older";

2. Shall not be misleading, deceptive, or false;

3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in any way; and

4. Shall comply with any other provisions imposed by Board regulations.

G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For the purposes of this subsection, that method of age affirmation may include user confirmation, birth date disclosure, or any other similar registration method.

H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

J. The provisions of this section shall not apply to noncommercial speech.

K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market and notify the public of the location of marijuana establishments.

§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real

property of (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.

B. However, (i) if there is no building or structure on a playground or similar recreational or child-centered facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational or child-centered facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. Provided that such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located so long as such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-discharge tubes that contain rarefied neon or other gases; or

2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler licensees with advertising limited to trade names and brand names.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements in the Commonwealth.

G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations. Further, any outdoor retail marijuana products directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents and federal laws and regulations.

CHAPTER 15.

VIRGINIA CANNABIS EQUITY BUSINESS LOAN PROGRAM AND FUND.

§ 4.1-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"CDFI" means a community development financial institution that provides credit and financial services for underserved communities.

"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

"Funding" means loans made from the Fund.

"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a marijuana establishment.

§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining

in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing low-interest and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.

A. The Authority shall establish a Program to provide loans to qualified social equity cannabis licensees for the purpose of promoting business ownership and economic growth by communities that have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and shall report annually the number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

B. The Program shall:

- 1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis business properly licensed pursuant to the provisions of this subtitle;*
- 2. Provide loans for the purposes described in subsection A;*
- 3. Provide technical assistance; and*
- 4. Bring together community partners to sustain the Program.*

§ 4.1-1503. Annual reports.

On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or marijuana; reckless operation.

Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or marijuana or any habit-forming drugs shall be is guilty of a felony and shall be confined in a state correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying the case, be confined in jail not exceeding twelve 12 months and fined not exceeding \$500, or both such fine and imprisonment.

Any person who shall operate any aircraft within the airspace over, above, or upon the lands or waters of this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger any person or property, shall be is guilty of a misdemeanor.

§ 6.2-107.1. Financial services for licensed marijuana establishments.

A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided in § 4.1-600.

B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state law or regulation solely for providing such a financial service or for further investing any income derived from such a financial service.

C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed marijuana establishment.

§ 9.1-101. (Effective until March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*

Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses,

or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (Effective March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-

time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse," for purposes of continued health insurance pursuant to § 9.1-401, means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

§ 9.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a-1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b-2. The police department, bureau, or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau, or force has three or more law-enforcement officers; or

e-3. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's department of any city or county.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 9.1-1101. Powers and duties of the Department.

A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any private police department that has been designated as a criminal justice agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The Department shall provide such services to any federal investigatory agency within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of ~~§ 18.2-250.1~~, 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-341.26:3.

§ 15.2-2820. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

"Restaurant" means any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, *including marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind, *including marijuana*.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

Such infractions shall not include:

1. Indictable offenses;
2. [Repealed.]
3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;

4. Reckless driving;
5. Leaving the scene of an accident;
6. Driving while under suspension or revocation of driving privileges;
7. Driving without being licensed to drive.
8. [Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions, and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure

to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

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3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund)(.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

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5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

§ 16.1-228. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the

manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or

his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. ~~For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.~~

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any

time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential

treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish

or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile

has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~ *Chapter 11 (§ 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;*
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1,~~ provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is charged by summons, the juvenile shall be entitled to

have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a violation of ~~§ 18.2-250.1~~ 4.1-1104, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests; costs and fees; education or treatment programs.

Whenever any juvenile who has not previously been found delinquent of any offense under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as provided in § 4.1-1120 or 18.2-251, is found delinquent of any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such treatment or education program for substance abuse, if available, as the court deems appropriate based upon

consideration of the substance abuse assessment. The treatment or education shall be provided by a program licensed by the Department of Behavioral Health and Developmental Services or by a similar program available through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.).

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~ or 18.2-250; (iv) a misdemeanor violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 or a violation of ~~§ 18.2-250.1, 4.1-1105~~; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile

reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or

(vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 17.1-276. Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as defined in § 17.1-295.

The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public Transportation shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, and the Department of Rail and Public Transportation from paying any access or subscription fee.

B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency. Any such agreement between a state agency or employee thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency or employee thereof acting in the employee's official capacity to indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.

C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

D. Nothing herein shall be construed to require the use by the general public of the secure remote access to land records made available by the clerk, and such records may continue to be accessed in person in the clerk's office.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-

356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony violation of § ~~4.1-1101 or 18.2-248~~ or of ~~18.2-248.1~~ or a conspiracy to commit a felony violation of § ~~4.1-1101 or 18.2-248~~ or ~~18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-57. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, any conservation police-officers officer appointed pursuant to § 29.1-200, any full-time sworn-members member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes any jail-officers officer in a local and or regional correctional-facilities facility, all any deputy-sheriffs sheriff, whether assigned to law-enforcement duties, court services or local jail responsibilities, any auxiliary police-officers officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, any auxiliary deputy-sheriffs sheriff appointed pursuant to § 15.2-1603, any police-officers officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and any fire-marshals marshal appointed pursuant to § 27-30 when such fire-marshals have marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means the same as that term is defined in § 9.1-101.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance," when used in this article, means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse; and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug

abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.~~

~~E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.~~

~~F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta 9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta 9 tetrahydrocannabinol acid (THC A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC A content.~~

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ *is* unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10

years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions ~~2a through 2e~~ *a, b, and c*;
3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~ that contain cocaine base; or
4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

- a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- c. The offense did not result in death or serious bodily injury to any person;
- d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and
- e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than \$500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered

unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, ~~he shall be~~ *is* guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is* guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV ~~shall be~~ *is* guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, *is* guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance ~~which that~~ imitates a controlled substance classified in Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~ imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances referred to in subdivisions a ~~through~~, b, and c;
3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ contains cocaine base; *or*

~~4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
~~5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a ~~through b, and c~~;
3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine base; *or*
- ~~4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~
~~5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.~~

A conviction under this section shall be punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a ~~through, b, and c~~;

3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine base; *or*

~~4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

~~5.~~ At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.

I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a continuing series of violations of this section which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and from which such person obtains substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.

Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000. A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession

of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which shall consist of moneys received from ~~(i) fees imposed on certain drug offense convictions pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for violations of § 18.2-250.1.~~ All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1104 or 4.1-1105*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, or 18.2-250, ~~or 18.2-250.1~~ for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.

No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession

or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and treatment or education.

The trial judge or court trying the case of any person found guilty of a criminal violation of any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances and like substances shall condition any suspended sentence by first requiring such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

§ 18.2-254. Commitment of convicted person for treatment for substance abuse.

A. Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to

an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the criminal offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.

A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1, it shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

B. ~~It shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision ~~shall be~~ *is* guilty of a Class 6 felony.

§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in administering marijuana or controlled substances to minors; penalty.

It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor any book, pamphlet, periodical or other printed matter which he knows advertises for sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or growing ~~marijuana~~ or a controlled substance.

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

A. ~~It shall be~~ *is* unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 63.2-100;

1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 22.1-289.02;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, *or* imitation controlled substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the controlled substance, *or* imitation controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-258. Certain premises deemed common nuisance; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

§ 18.2-258.02. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. ~~It shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein ~~shall be~~ is guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

§ 18.2-265.1. Definition.

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing ~~marijuana~~ or controlled substances;

3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or any species of plant ~~which~~ *that* is a controlled substance;

4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog;

5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or designed for use in cutting controlled substances;

~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;~~

~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances;

~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of ~~marijuana~~ or controlled substances;

~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~ or controlled substances;

~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;

~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, ~~hashish heads,~~ or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette,~~ that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

§ 18.2-265.2. Evidence to be considered in cases under this article.

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

1. Constitutionally admissible statements by the accused concerning the use of the object;

2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to the accused;

3. Instructions, oral or written, provided with the object concerning its use;

4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
5. National and local advertising within the actual knowledge of the accused concerning its use;
6. The manner in which the object is displayed for sale;
7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;
9. The existence and scope of legitimate uses for the object in the community;
10. Expert testimony concerning its use or the purpose for which it was designed; *and*
11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body ~~marijuana or a controlled substance,~~ *shall be is* guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be is~~ guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be is~~ guilty of a Class 1 misdemeanor.

§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.

Any person who, while committing a crime of violence as defined in § 18.2-288-~~(2)~~ or a felony violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1,~~ has in his possession a firearm or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be is~~ guilty of a Class 4 felony.

§ 18.2-308.03. Fees for concealed handgun permits.

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the Department of State Police, the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;

(iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) ~~through (iii)~~, and (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.012. Prohibited conduct.

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission, the Virginia Alcoholic Beverage Control Authority, or the *Virginia Cannabis*

Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the

Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited.

Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1, subsection B of former § 18.2-248.1:1, or § 18.2-250 or 18.2-250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

§ 18.2-308.4. Possession of firearms while in possession of certain substances.

A. ~~It shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. ~~It shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. ~~It shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment

of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person younger than 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons younger than 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less~~ *younger* than 21 years of age, knowing or having reason to believe that such person is ~~less~~ *younger* than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons ~~under~~ *younger than* 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons ~~under~~ *younger than* 21 years of age. An establishment that prohibits the presence of persons ~~under~~ *younger than* 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person ~~less~~ *younger* than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person ~~less~~ *younger* than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person ~~under~~ *younger than* 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of § 18.2-248.1, or §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.

§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.

Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the Department of Juvenile

Justice in any juvenile correctional center, any drug which is a controlled substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or explosives of any nature is guilty of a Class 3 felony.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-81. Arrest without warrant authorized in certain cases.

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;

8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;

9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.

Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81, persons for crimes involving:

- (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- (c) The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474 or § 18.2-474.1; and
- (d) Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security of the population of a correctional institution.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~ *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1;*
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1; or
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, ~~or a violation of subdivision 6 of § 53.1-203~~, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and 18.2-247~~.

B. In any trial for a violation of ~~§ 18.2-250.1 4.1-1104 or 4.1-1105~~, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ *4.1-1104 or 4.1-1105*, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation

include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

Notwithstanding any other provision of law or rule of court, any person who has been sentenced to jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision (a) (3) of former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a violation of former § 18.2-248.1 where the defendant gave, distributed, or possessed with intent to give or distribute marijuana to a minor, may, at any time before the sentence has been completely served, file a motion with the sentencing court that entered the final judgment or order for a resentencing hearing. If it appears compatible with the public interest and there are circumstances in mitigation of the offense, including the legalization of marijuana, such court may reduce, suspend, or otherwise modify such person's sentence at any time before such person's sentence has been completely served. If the petitioner claims to be indigent, the petitioner shall additionally file with the court a statement of indigency and a request for the appointment of counsel on forms provided by the Supreme Court of Virginia. If the petition is not summarily dismissed and the court finds that the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of Title 19.2, the court shall appoint counsel to represent the petitioner.

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title

18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § 18.2-248.1 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).

§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such police department or sheriff's office for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.

Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with any prosecution or investigation under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et seq.) of *Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et seq.) of *Title 18.2*. The court in its order may make provision for ensuring integrity of these items until further order of the court.

§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that

information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-

1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored

residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal

Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment,

permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in

the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

~~A. Records~~ Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to ~~the~~ an arrest, criminal charge, or conviction of a person, for a misdemeanor violation of § 18.2-248.1 or a violation of § 18.2-250.1, including any violation charged under § 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, ~~maintained in the Central Criminal Records Exchange~~ shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) ~~to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;~~ (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System ~~computer~~; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia Criminal Sentencing Commission for its research purposes; ~~(viii) (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;~~ (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; ~~(x) (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science;~~ ~~(xi) (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration;~~ (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of

Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xvii) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xviii) to any party for use in a protective order hearing as authorized by law; (xix) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xx) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxi) to determine a person's eligibility to be empaneled as a juror; and (xxii) to the person arrested, charged, or convicted of the offense.

~~B. An employer or~~ *Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational-institution institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.*

C. The provisions of subsection B shall not apply if:

- 1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;*
- 2. This Code requires the employer to make such an inquiry;*
- 3. Federal law requires the employer to make such an inquiry; or*
- 4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President.*

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for

public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

~~D-F.~~ No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B ~~or C~~, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense

under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall

access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar

offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping

systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. [Expired.]

§ 19.2-392.1. Statement of policy.

The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability to obtain employment, ~~and an education and to obtain credit~~. It further finds that the police and court records of those of its citizens who have been absolutely pardoned for crimes for which they have been unjustly convicted *or who have demonstrated their rehabilitation* can also be a hindrance. This chapter is intended to protect such persons from the unwarranted damage ~~which~~ that may occur as a result of being arrested and convicted.

§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.

A. *Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under either section and the charge was deferred and dismissed, shall be ordered to be automatically expunged in accordance with the provisions of this section.*

B. *No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502.*

C. *Upon receipt of the electronic list from the Department of State Police provided under subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.*

D. *Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically expunged under the process set forth in subsections E, F, and G. Such order shall contain the names of the persons charged with or convicted of such offenses.*

E. *The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police. Upon receipt of such order, the Department of State Police (i) shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be expunged, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 and (ii) shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be expunged and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically*

that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered expunged, provided that such records are accessible only to the manager of the records or their designee.

F. Records relating to an arrest, charge, or conviction that was ordered to be expunged pursuant to this section shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility

to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was expunged.

G. The Department of Motor Vehicles shall not expunge any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

H. All electronic lists created in accordance with this section are not subject to further dissemination unless explicitly provided for by this section. Any expungement order issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any willful and intentional unlawful dissemination is punishable as an unlawful dissemination of criminal history record information in violation of § 9.1-136.

§ 19.2-392.2:2. Former marijuana offenses; petition for expungement.

A. A person who has been convicted or adjudicated delinquent of a felony violation of former § 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either section and the charge is deferred and dismissed, may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the arrest, charge, conviction, or adjudication.

B. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge, conviction, or adjudication to be expunged, the date of final disposition of the charge, conviction, or adjudication as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

C. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

D. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

E. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the arrest, charge, conviction, or adjudication. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest, charge, conviction, or adjudication was for a misdemeanor violation of subsection A of § 18.2-265.3, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the arrest, charge, conviction, or adjudication and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection C that he does not object to the petition and (ii) when the arrest, charge, conviction, or adjudication to be expunged is a felony violation of former § 18.2-248.1, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

F. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

G. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

H. Records relating to an arrest, charge, conviction, or adjudication that was ordered to be expunged pursuant to this section shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis

and Data Bank set forth in Article 1.1 (§ 19.2-310.2 *et seq.*) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, convicted, or adjudicated delinquent of the offense that was expunged.

I. The Department of Motor Vehicles shall not expunge any conviction, adjudication, or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction, adjudication, or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

J. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments.

A. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest-~~or~~, criminal charge ~~that has not resulted in a~~ conviction, or civil offense, include a reference to or information concerning arrests-~~or~~, charges, convictions, or civil offenses that have been expunged.

B. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest-~~or~~, criminal charge against him, conviction, or civil offense that has

been expunged. An applicant need not, in answer to any question concerning any arrest ~~or~~, criminal charge ~~that has not resulted in a~~, conviction, *or civil offense* include a reference to or information concerning *an arrest*, charges, *convictions*, *or civil offenses* that have been expunged. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest ~~or~~, criminal charge against him, *conviction*, *or civil offense* that has been expunged.

C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine products.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance; *or* imitation controlled substance; ~~or marijuana~~ as *those terms are* defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.

A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher education under the following conditions:

1. The chief executive officer of the deceased individual's employer certifies that such individual was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for renewal of such waiver.

B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room and board charges.

C. Each public institution of higher education shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-1301. Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and
5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

B. The governing board of each public institution of higher education or its designee may:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

§ 24.2-233. Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance ~~or marijuana~~;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance ~~or marijuana~~ and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

5. Officers and employees of the Department of State Police;

6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board of Directors of the Virginia Cannabis Control Authority*;

7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

8. The Commissioner of the Department of Motor Vehicles;

9. Employees of the Department of Motor Vehicles;

10. Local police officers;

11. Sheriffs and their deputies;

12. Regional jail officials;

13. Animal wardens;

14. The Director and officers of the Department of Wildlife Resources;
15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;
2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;
3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and
4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. ~~It shall be~~ *is* unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. ~~It shall be~~ *is* unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. ~~It shall be~~ *is* unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis oil as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease.

§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages; penalties.

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any other federal, state or foreign government agency; or official student identification card of an institution of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

§ 48-17.1. Temporary injunctions against alcoholic beverage sales.

A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia Alcoholic

Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

§ 51.1-212. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or ~~§~~ 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic

responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247.54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabis oil, as defined in § 54.1-3408.3.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include ~~oil from~~ industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with federal requirements for the prescribing of Schedule II through V controlled substances.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248-~~or 18.2-248.1~~ for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number patients for whom any individual is authorized to act as a registered agent.

H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of cannabis oil products between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant remains; and (d) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing cannabis oil, a pharmaceutical processor shall make a sample available from each homogenized batch of product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch is required to achieve a representative sample for analysis.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall ensure security measures are adequate to protect the cannabis from diversion at all times.

G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2* or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time.

M. Any person who proposes to use an automated process or procedure during the production of cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections B through E of § 54.1-3307.2.

N. A pharmaceutical processor may acquire ~~oil from~~ industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such ~~oil~~ extract with cannabis plant extract into an allowable dosage of cannabis oil. ~~Oil from industrial~~ *Industrial hemp extract* acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before ~~oil from~~ industrial hemp extract may be acquired.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1, or 18.2-250, or 18.2-250.1~~* for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage *or cannabis* control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide

such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, upon entering into a written agreement, the name, address, social security number, number and type of personal exemptions, tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing

official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.

A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher-learning education named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and

5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such

firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officer, (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, (xvi) correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

C. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

E. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

F. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

2. That §§ 3.2-4113, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 19.2-188.1, 19.2-389.3, 19.2-392.02, as it is currently effective and as it shall become effective, 53.1-231.2, and 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated

nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may

refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child

in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738; or the commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of §

18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a violation of § 18.2-250.1, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor violation of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or § 18.2-248, 18.2-248.1, or 18.2-250 or a violation of § 18.2-250.1; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-

309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1,

18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or ~~of~~ 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, *unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1105.1*, possession of a controlled substance pursuant to § 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish protection from arrest or prosecution for any individual or offense other than those listed in subsection B.

E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later determined that the person arrested was immune from prosecution under this section.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under *Chapter 11*

(§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250, ~~or 18.2-250.1~~ for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.

No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower, or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

B. In any trial for a violation of ~~§ 18.2-250.1~~ 4.1-1105.1, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ 4.1-1105.1, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a *misdemeanor violation of* § 18.2-248.1 or a violation of § 18.2-250.1, including any violation charged under § 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366,

18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to

the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. ~~[Expired.]~~

§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any

substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. ~~[Expired.]~~

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§ 4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2, or § 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-3442.8. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250, or 18.2-250.1* for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the provisions of this article and Board regulations.

3. That §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia are repealed.

4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth enactments of this act, the provisions of this act shall become effective on January 1, 2024.

5. That the provisions of § 4.1-629 of the Code of Virginia, as created by this act, shall become effective on July 1, 2022.

6. That, subject to the provisions of the eleventh and thirteenth enactments, the provisions of (i) §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 1, 2023.

7. That, except for (i) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, 18.2-308.1:5, 19.2-389.3, 19.2-392.1, 19.2-392.4, and 24.2-233 of the Code of Virginia, as amended by this act, §§ 19.2-392.2:1, 19.2-392.2:2, and 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (ii) the repeal of § 18.2-250.1 of the Code of Virginia, the provisions of the first, third, fourth, fifth, sixth, and eleventh enactments of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly. The provisions of §§ 4.1-1101.1 and 4.1-1105.1 of the Code of Virginia, as created by this act, shall expire on January 1, 2024, if the provisions of the first, third, and fourth enactments of this act are reenacted by the 2022 Session of the General Assembly.

8. That (i) the provisions of the second enactment of this act, (ii) the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1120, 4.1-1121, and 4.1-1302 of the Code of Virginia, as created by this act, Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, §§ 15.2-1627, 16.1-69.48:1, 16.1-228, 16.1-278.8:01, 18.2-251.02, 18.2-308.09, and 18.2-308.1:5 of the Code of Virginia, as amended by this act, § 46.2-341.20:7 of the Code of Virginia, as created by this act, and § 54.1-3442.6 of the Code of Virginia, as amended by this act, and (iii) the repeal of § 18.2-250.1 of the Code of Virginia shall become effective on July 1, 2021.

9. That the provisions of the first enactment amending §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia and creating §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia shall become effective on the earlier of (i) the first day of the fourth month following notification to the Chairman of the Virginia Code Commission and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who

maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia have automated systems to exchange information as required by § 19.2-392.2:1 of the Code of Virginia, as created by this act, or (ii) July 1, 2025. The Department of State Police shall first transmit the list required under subsection B of § 19.2-392.2:1 of the Code of Virginia, as created by this act, no later than the earlier of (a) the first day of the third month following the effective date of §§ 19.2-389.3, 19.2-392.1, and 19.2-392.4 of the Code of Virginia, as amended by this act, and §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act, or (b) October 1, 2025. The Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia, shall automate systems to exchange information as required by §§ 19.2-392.2:1 of the Code of Virginia, as created by this act, no later than July 1, 2025. If the provisions of this act repealing § 18.2-248.1 of the Code of Virginia are not reenacted by the 2022 Session of the General Assembly, the references to § 18.2-248.1 in §§ 19.2-392.2:1 and 19.2-392.2:2 of the Code of Virginia, as created by this act, shall not become effective.

10. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall promulgate regulations to implement the provisions of this act by July 1, 2023; however, the Board shall not adopt such regulations prior to July 1, 2022, and shall present such regulations to the Cannabis Oversight Commission for review prior to adoption. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulations; (ii) the text of the proposed regulations; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant to this act. The Board shall consider and keep on file all public comments received for any regulations adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

11. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act, on July 1, 2023, and shall, from July 1, 2023, until January 1, 2024, give preference to qualified social equity applicants, as determined by regulations promulgated by the Board of Directors of the Authority in accordance with this act. The Authority may issue any license authorized by this act to any applicant that meets the requirements for licensure established by this act. Notwithstanding the fourth enactment of this act, any applicant issued a license by the Authority may operate in accordance with the provisions of this act prior to January 1, 2024; however, (i) no retail marijuana store licensee may sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds and (ii) no marijuana cultivation facility licensee may sell immature marijuana plants or marijuana seeds to a consumer prior to January 1, 2024. Notwithstanding any other provision of law, on or after July 1, 2023, and prior to January 1, 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is related to acts committed within the scope of the licensure or employment and in accordance with the provisions of Subtitle II (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia, as created by this act. From July 1, 2023, to July 1, 2028, the Authority shall (a) reserve a license slot for

a qualified social equity applicant for every license that was initially granted to a social equity applicant and was subsequently surrendered and (b) reserve license slots for all pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, and retail license to any such pharmaceutical processor that meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is maintained: after issuance of 100 licenses, 200 licenses, and 300 licenses. The provisions of this enactment shall become effective July 1, 2022.

12. The Virginia Cannabis Control Authority (the Authority) shall develop and implement its diversity, equity, and inclusion plan pursuant to § 4.1-604 of the Code of Virginia, as created by this act, and publish resources to assist social equity applicants by January 1, 2023. The Authority shall, in consultation with the Secretaries of Public Safety and Homeland Security, Transportation, and Health and Human Resources, develop and implement a health, safety, and safe driving campaign by January 1, 2023. The provisions of this enactment shall become effective in due course.

13. That the sale of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds by retail marijuana store licensees and the sale of immature marijuana plants and marijuana seeds by marijuana cultivation facility licensees shall be permitted on and after January 1, 2024. The provisions of this enactment shall become effective in due course.

14. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; four persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years. The provisions of this enactment shall become effective in due course.

15. That the initial terms of office of those persons appointed to serve as nonlegislative citizen members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen members of the Cannabis Public Health Advisory Council shall serve for terms of four years. The provisions of this enactment shall become effective in due course.

16. That the Board of Agriculture and Consumer Services shall promulgate the regulations required by subsections C and D of § 3.2-4114 of the Code of Virginia, as amended by this act, to become effective by July 1, 2023. The provisions of this enactment shall become effective in due course.

17. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public Safety and Homeland Security shall convene a work group with all appropriate state agencies and authorities to develop a plan for identifying and collecting data that can determine the use and misuse of marijuana in order to determine appropriate policies and programs to promote public health and safety. The plan shall include marijuana-related data regarding (i) poison control center calls; (ii) hospital and emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use, mode of use, and demographic information for vulnerable populations, including youth and pregnant women; and (v) treatment rates for cannabis use disorder and any other diseases related to marijuana use. The plan shall detail the categories for which each data source will be collected, including the region where the individual lives or the incident occurred and the age and the race or ethnicity of the individual. The plan shall also include the means by which initial data will be collected as soon as practicable as a benchmark prior to or as soon as possible after the effective date of an act legalizing marijuana for adult use, the plan for regular collection of such data thereafter, and the cost of the initial and ongoing collection of such data. The plan shall also recommend a timetable and determine the cost for analyzing

and reporting the data. The work group, in consultation with the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to identify disproportionate impacts of marijuana legalization, if any, to include discrimination in the Commonwealth's cannabis industry. The work group shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

18. That the Virginia Department of Education (the Department), with assistance from appropriate agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that teachers have access to sufficient information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use among the youth and about substance abuse, as provided in the 2020 Health Standards of Learning. The Department shall (i) review resources currently provided to teachers to determine if additional or updated material or lesson ideas are needed and (ii) provide or develop any additional materials and resources deemed necessary and make the same available to teachers by January 1, 2024. The provisions of this enactment shall become effective in due course.

19. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall develop a plan for introducing teachers, particularly those teaching health, to the information and resources available to them to assist them in teaching the 2020 Health Standards of Learning as it relates to marijuana use. Such plan shall include providing professional development webinars as soon as practicable, as well as ongoing periodic professional development relating to marijuana, as well as alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

20. That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and Developmental Services shall work with existing collegiate recovery programs to determine what, if any, additional evidence-based efforts should be undertaken for college-age individuals to promote education and prevention strategies relating to marijuana. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

21. That, effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or amended thereafter by the Board of Pharmacy (the Board) shall remain in full force and effect and continue to be administered by the Board of Pharmacy until the Board of Directors of the Virginia Cannabis Control Authority (the Authority) promulgates regulations pursuant to the tenth enactment of this act and no later than July 1, 2023. The Board shall provide assistance to the Board of Directors of the Authority in promulgating regulations by July 1, 2023. The provisions of this enactment shall become effective in due course.

22. That there shall be established a Cannabis Oversight Commission (the Commission), which shall consist of 10 members of the General Assembly. Members shall be appointed as follows: six members of the House of Delegates who are members of the House Committee on Appropriations, the House Committee for Courts of Justice, or the House Committee on General Laws to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates and four members of the Senate who are members of the Senate Committee on Finance and Appropriations, the Senate Committee on the Judiciary, or the Senate Committee on Rehabilitation and Social Services to be appointed by the Senate Committee on Rules. The Commission shall elect a chairman and vice-chairman from among its membership; however, the chairman and vice-chairman shall not both be members of the House of Delegates, nor shall both the chairman and vice-chairman be members of the Senate. No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail

notwithstanding the majority vote of the Commission. The Commission shall exercise the function of overseeing the implementation of the provisions of this act and shall convene regularly in the exercise of that function. The Virginia Cannabis Control Authority (the Authority) shall report to the Commission at the Commission's request. The Commission shall expire on January 1, 2024. The provisions of this enactment shall become effective in due course.

23. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on the question of whether the operation of retail marijuana stores shall be prohibited in a particular locality shall be held and results certified by December 31, 2022. A referendum on such question shall not be permitted in a locality after January 1, 2023, unless such referendum follows a referendum held prior to December 31, 2022, and any subsequent referendum, in which a majority of the qualified voters voting in such referendum voted "Yes" to prohibit the operation of retail marijuana stores. The provisions of this enactment shall become effective July 1, 2022.

24. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the Chairmen of the Senate Committee on the Judiciary, the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the House Committee for Courts of Justice by November 1, 2021, and by November 1 each year thereafter regarding the number of civil offenses committed and civil penalties imposed for violations of §§ 4.1-1100, 4.1-1105, and 4.1-1105.1 of the Code of Virginia, as created by this act. The provisions of this enactment shall become effective in due course.

25. That the Joint Legislative Audit and Review Commission (JLARC) shall (i) analyze the provisions of this act, (ii) compare such provisions to JLARC Report 542 (2020), and (iii) report its findings to the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

26. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice. The provisions of this enactment shall become effective in due course.

CHAPTER 552

An Act to amend and reenact Chapter 1289 of the 2020 Acts of Assembly, as amended by Chapter 56 of the 2020 Acts of Assembly, Special Session I, which appropriated funds for the 2020-22 Biennium and provided a portion of revenues for the two years ending, respectively, on the thirtieth day of June, 2021, and the thirtieth day of June, 2022.

[H 1800]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That Items 1, 4, 7, 9, 32, 33, 34, 36, 39, 40, 41, 42, 43, 44, 45, 48, 50, 52, 57, 61, 63, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 82, 83, 86, 87, 90, 92, 93, 95, 96, 97, 98, 99, 100, 103, 104, 105, 106, 107, 111, 112, 113, 114, 115, 120, 121, 124, 125, 126, 128, 130, 131, 134, 135, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 150, 151, 152, 155, 156, 157, 160, 161, 164, 165, 168, 169, 172, 175, 176, 179, 180, 181, 183, 184, 187, 188, 189, 191, 192, 194, 196, 197, 203, 204, 205, 206, 210, 211, 212, 214, 215, 216, 217, 220, 221, 222, 223, 226, 227, 231, 232, 234, 236, 238, 242, 244, 247, 248, 249, 251, 252, 253, 254, 256, 257, 258, 259, 260, 261, 262.80, 263, 264, 266, 268, 275, 277, 282, 284, 285, 288, 291, 292, 293, 294, 295, 296, 297, 299, 300, 301, 302, 303, 304, 305, 307, 309, 310, 312, 313, 315, 316, 317, 318, 320, 321, 322, 325, 326, 327, 329, 335, 339, 340, 344, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 366, 368, 373, 374, 375, 376, 377, 378, 379, 382, 383, 384, 385, 386, 387, 388, 391, 394, 395, 397, 398, 400, 401, 402, 406, 408, 409, 410, 411, 412, 413, 414.20, 417, 418, 423, 425, 426, 427, 429, 430, 432, 433, 435, 436, 442, 443, 445, 446, 447, 448, 449, 450, 451, 452, 453, 459, 461, 462, 463, 464, 465, 469, 473, 477, 478, 479, 479.10, 481, 483, 484, 487, 488, 491, 492, 497, § 2-0, C-0, C-2, C-26, C-17.30, C-22.10, C, 23.50, C-30, C-33.10, C-36.30, C-36.45, C-40, C-41, C-61.60, C-62, C-64, C-65, C-66, C-68, C-69, C-70.50, C-71, C-72, C-75, C-76, C-77, C-78, § 3-1.01, § 3-2.03, § 3-3.01, § 3-5.03, §3-5.15, §3-5.16, § 4-5.10, § 4-5.11, § 4-6.01, § 4-9.03, and § 4-14 of Chapter 1289 of the 2020 Acts of Assembly, as amended by Chapter 56 of the 2020 Acts of Assembly, Special Session I, be hereby amended and reenacted and that the cited chapter be further amended by adding Items 29.10, 110.10, 397.10, 447.10, C-1.10, C-1.20, C-1.30, C-12.20, C-17.50, C-36.10, C-36.30, C-36.40, C-55.10, C-55.90, C-56.50, C-61.70, C-63.10, C-63.20, C-68.50, C-72.50, C-72.60, C-72.70, § 3-5.23, § 3.6.05, and that the cited chapter be further amended by striking therefrom Items 262.50 and 482.20.

2.§1. The following are hereby appropriated, for the current biennium, as set forth in succeeding parts, sections and items, for the purposes stated and for the years indicated:

A. The balances of appropriations made by previous acts of the General Assembly which are recorded as unexpended, as of the close of business on the last day of the previous biennium, on the final records of the State Comptroller; and

B. The public taxes and arrears of taxes, as well as moneys derived from all other sources, which shall come into the state treasury prior to the close of business on the last day of the current biennium. The term "moneys" means nontax revenues of all kinds, including but not limited to fees, licenses, services and contract charges, gifts, grants, and donations, and projected revenues derived from proposed legislation contingent upon General Assembly passage.

§ 2. Such balances, public taxes, arrears of taxes, and monies derived from all other sources as are not segregated by law to other funds, which funds are defined by the State Comptroller, pursuant to § 2.2-803, Code of Virginia, shall establish and constitute the general fund of the state treasury.

§ 3. The appropriations made in this act from the general fund are based upon the following:

	First Year	Second Year	Total
Unreserved Beginning Balance	\$2,874,058,799	\$0	\$2,874,058,799
Additions to Balance	(\$1,284,491,604) (\$1,278,580,333)	\$29,850,000	(\$1,254,641,604) (\$1,248,730,333)
Official Revenue Estimates	\$21,353,132,509 \$22,320,832,509	\$22,185,484,514 \$22,899,142,814	\$43,538,617,023 \$45,219,975,323
Transfer	\$610,436,934 \$695,527,155	\$612,358,189 \$682,417,349	\$1,222,795,123 \$1,377,944,504
Total General Fund Resources Available for			
Appropriation	\$23,553,136,638 \$24,611,838,130	\$22,827,692,703 \$23,611,410,163	\$46,380,829,341 \$48,223,248,293

The appropriations made in this act from nongeneral fund revenues are based upon the following:

	First Year	Second Year	Total
Balance, June 30, 2020	\$7,596,232,598	\$0	-\$7,596,232,598
	<i>\$6,915,611,972</i>		<i>\$6,915,611,972</i>
Official Revenue Estimates	\$39,404,473,571	\$39,604,200,895	\$79,008,674,466
	<i>\$39,150,326,908</i>	<i>\$40,085,094,957</i>	<i>\$79,235,421,865</i>
Lottery Proceeds Fund	-\$657,959,397	\$666,104,670	\$1,324,064,067
	<i>\$708,231,123</i>	<i>\$690,903,334</i>	<i>\$1,399,134,457</i>
Internal Service Fund	\$2,115,253,639	\$2,231,861,108	\$4,347,114,747
	<i>\$2,127,455,883</i>	<i>\$2,293,917,698</i>	<i>\$4,421,373,581</i>
Bond Proceeds	\$2,479,504,162	\$195,123,500	\$2,674,627,662
	<i>\$2,729,883,162</i>	<i>\$244,775,137</i>	<i>\$2,974,658,299</i>
Total Nongeneral Fund Revenues Available for Appropriation	\$52,253,423,367	\$42,697,290,173	\$94,950,713,540
	<i>\$51,631,509,048</i>	<i>\$43,314,691,126</i>	<i>\$94,946,200,174</i>
TOTAL PROJECTED REVENUES	\$75,806,560,005	\$65,524,982,876	\$141,331,542,881
	<i>\$76,243,347,178</i>	<i>\$66,926,101,289</i>	<i>\$143,169,448,467</i>

§ 4. Nongeneral fund revenues which are not otherwise segregated pursuant to this act shall be segregated in accordance with the acts respectively establishing them.

§ 5. The sums herein appropriated are appropriated from the fund sources designated in the respective items of this act.

§ 6. When used in this act the term:

A. "Current biennium" means the period from the first day of July two thousand twenty, through the thirtieth day of June two thousand twenty-two, inclusive.

B. "Previous biennium" means the period from the first day of July two thousand eighteen, through the thirtieth day of June two thousand twenty, inclusive.

C. "Next biennium" means the period from the first day of July two thousand twenty-two, through the thirtieth day of June two thousand twenty-four, inclusive.

D. "State agency" means a court, department, institution, office, board, council or other unit of state government located in the legislative, judicial, or executive departments or group of independent agencies, or central appropriations, as shown in this act, and which is designated in this act by title and a three-digit agency code.

E. "Nonstate agency" means an organization or entity as defined in § 2.2-1505 C, Code of Virginia.

F. "Authority" sets forth the general enabling statute, either state or federal, for the operation of the program for which appropriations are shown.

G. "Discretionary" means there is no continuing statutory authority which infers or requires state funding for programs for which the appropriations are shown.

H. "Appropriation" shall include both the funds authorized for expenditure and the corresponding level of full-time equivalent employment.

I. "Sum sufficient" identifies an appropriation for which the Governor is authorized to exceed the amount shown in the Appropriation Act if required to carry out the purpose for which the appropriation is made.

J. "Item Details" indicates that, except as provided in § 6 H above, the numbers shown under the columns labeled Item Details are for information reference only.

K. Unless otherwise defined, terms used in this act dealing with budgeting, planning and related management actions are defined in the instructions for preparation of the Executive Budget.

§ 7. The total appropriations from all sources in this act have been allocated as follows:

BIENNIUM 2020-22

General Fund	Nongeneral Fund	Total
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OPERATING EXPENSES	\$46,078,617,618	\$88,155,431,265	\$134,234,048,883
	\$47,976,459,742	\$90,734,188,991	\$138,710,648,733
LEGISLATIVE			
DEPARTMENT	\$212,883,582	\$8,050,998	\$220,934,580
	\$214,240,000		\$222,290,998
JUDICIAL DEPARTMENT	\$1,068,689,563	\$74,735,744	\$1,143,425,307
	\$1,072,499,822		\$1,147,235,566
EXECUTIVE DEPARTMENT	\$44,783,489,979	\$86,016,473,621	\$130,799,963,600
	\$46,684,457,578	\$88,539,697,747	\$135,224,155,325
INDEPENDENT AGENCIES	\$13,554,494	\$2,056,170,902	\$2,069,725,396
	\$5,262,342	\$2,111,704,502	\$2,116,966,844
STATE GRANTS TO			
NONSTATE AGENCIES	\$0	\$0	\$0
CAPITAL OUTLAY			
EXPENSES	-\$0	\$3,280,847,625	\$3,280,847,625
	\$238,682,850	\$3,602,113,539	\$3,840,796,389
TOTAL	\$46,078,617,618	\$91,436,278,890	\$137,514,896,508
	\$48,215,142,592	\$94,336,302,530	\$142,551,455,122

§ 8. This chapter shall be known and may be cited as the "2021 Appropriation Act."

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PART 1: OPERATING EXPENSES

LEGISLATIVE DEPARTMENT

§ 1-1. GENERAL ASSEMBLY OF VIRGINIA (101)

1.	Enactment of Laws (78200) a sum sufficient, estimated at.....			\$54,927,913	\$54,908,073
				\$54,908,073	\$54,922,273
	Legislative Sessions (78204).....	\$54,927,913	\$54,908,073		
		\$54,908,073	\$54,922,273		
	Fund Sources: General.....	\$54,927,913	\$54,908,073		
		\$54,908,073	\$54,922,273		

Authority: Article IV, Constitution of Virginia.

A. Out of this appropriation, the House of Delegates is funded \$33,609,914 the first year and \$33,595,755 the second year from the general fund. The Senate is funded \$21,317,999 the first year and \$21,312,318 the second year from the general fund.

B. Out of this appropriation shall be paid:

1. The salaries of the Speaker of the House of Delegates and other members, and personnel employed by each House; the mileage of members, officers and employees, including salaries and mileage of members of legislative committees sitting during recess; public printing and related expenses required by or for the General Assembly; and the incidental expenses of the General Assembly (§§ 30-19.11 through 30-19.20, inclusive, and § 30-19.4, Code of Virginia). The salary of the Speaker of the House of Delegates shall be \$36,321 per year. The salaries of other members of the House of Delegates shall be \$17,640 per year. The salaries of the members of the Senate shall be \$18,000 per year.

2. Expenses of the Speaker of the House of Delegates not otherwise reimbursed, \$16,200 each year, to be paid in equal monthly installments during the year.

3. In accordance with § 30-19.4, Code of Virginia, and subject to all other conditions of that section except as otherwise provided in the following paragraphs:

a. \$106,845 per calendar year for the compensation of one or more secretaries of the Speaker of the House of Delegates. Salary increases shall be governed by the provisions of Item 477 of this act.

b. \$291,517 per calendar year for the compensation of one or more legislative assistants of the Speaker of the House of Delegates. Salary increases shall be governed by the provisions of Item 477 of this act.

c. \$202,781 per calendar year for the compensation of one or more secretaries or legislative assistants for the Senate majority and minority leadership, as determined by the Majority Leader in consultation with the Chairman of the Senate Committee on Rules. Salary increases shall be governed by the provisions of Item 477 of this act.

d.1. \$44,125 per calendar year for the compensation of legislative assistants for each member of the House of Delegates and \$49,641 for the compensation of legislative assistants for each member of the Senate. Salary increases granted shall be governed by the provisions of Item 477 of this act.

2. In addition, \$16,547 per calendar year for each member of the House of Delegates and \$11,031 per calendar year for each member of the Senate to provide compensation for additional legislative assistant support costs incurred during the legislative session and in the operation of legislative offices within members' districts. Salary increases granted shall be governed by the provisions of Item 477 of this act.

e. The per diem for each legislative assistant of each member of the General Assembly,

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including the Speaker of the House of Delegates. Such per diem shall equal the amount authorized per session day for General Assembly members in paragraph B.5, if such legislative assistant maintains a temporary residence during the legislative session or an extension thereof and if the establishment of such temporary residence results from the person's employment by the member. The per diem for a legislative assistant who is domiciled in the City of Richmond or whose domicile is within twenty miles of the Capitol shall equal thirty-five percent of the amount paid to a legislative assistant who maintains a temporary residence during such session. For purposes of this paragraph, (i) a session day shall include such days as shall be established by the Rules Committee of each respective House and (ii) a temporary residence is defined as a residence certified by the member served by the legislative assistant as occupied only by reason of employment during the legislative session or extension thereof. Notwithstanding the provisions of (i) of the preceding sentence, if the House from which the legislative assistant is paid is in adjournment during a regular or special session, he must show to the satisfaction of the Clerk that he worked each day during such adjournment for which such per diem is claimed.				
f. A mileage allowance as provided in § 2.2-2823 A, Code of Virginia, and as certified by the member. Such mileage allowance shall be paid to a legislative assistant for one round trip between the City of Richmond and such person's home each week during the legislative session or an extension thereof when such person is maintaining a temporary residence.				
g. Per diem and mileage shall be paid only to a person who is paid compensation pursuant to § 30-19.4, Code of Virginia.				
h. Not more than one person shall be paid per diem or mileage during a single weekly pay period for serving a member as legislative assistant during a legislative session or extension thereof.				
i. No person, by virtue of concurrently serving more than one member, shall be paid mileage or per diem in excess of the daily rates specified in this Item.				
j. \$70,578 per calendar year additional allowance for secretaries or legislative assistants to the Majority and Minority Leaders of the House of Delegates and the Senate and for secretaries or legislative assistants to the President Pro Tempore of the Senate, and to the Chairmen of the House Appropriations and Senate Finance Committees. Salary increases shall be governed by the provisions of Item 474 of this act.				
4.a All compensation and reimbursement of expenses to members of the General Assembly and non-General Assembly members for attending a meeting described in paragraphs B.4.c., B.4.d., B.5., and B.6. shall be paid solely as provided pursuant to this item.				
b. The provisions of paragraphs B.4.c. and B.4.d. of this item shall not apply during any regular session of the General Assembly or extension thereof, or during any special session of the General Assembly; provided, however, that the provisions of such paragraphs shall apply during any recess of the same.				
c. Notwithstanding any other provision of law, each General Assembly member shall receive compensation for each day, or portion thereof, of attendance at an official meeting of any joint subcommittee, board, commission, authority, council, compact, or other body that has been created or established by the General Assembly or by resolution of a house of the General Assembly, provided that the member has been appointed to, or designated an official member of, such joint subcommittee, board, commission, authority, council, compact, or other body pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation.				
Notwithstanding any other provision of law, each General Assembly member shall also receive compensation for each day, or portion thereof, of attendance at an official meeting of (i) any standing committee or subcommittee thereof of the House of Delegates to which the member has been appointed, (ii) any standing committee or subcommittee thereof or Committee on Rules of the Senate to which the member has been appointed, or (iii) the Joint Rules Committee of the General Assembly. Any official meeting of a subcommittee of any of the committees described in clauses (i), (ii), or (iii) shall also be an official meeting for which the member shall receive compensation.				
Notwithstanding any other provision of law, any General Assembly member whose				

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attendance, in the written opinion of the chairman of (a) any joint subcommittee, board, commission, authority, council, or other body that has been created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly; (b) any such standing committee of the House of Delegates or of the Senate; (c) the Committee on Rules of the Senate; or (d) the Joint Rules Committee of the General Assembly, is required at an official meeting of the body shall also receive compensation for each day, or portion thereof, of attendance at such official meeting.

Any General Assembly member receiving compensation pursuant to this paragraph for attending an official meeting shall be reimbursed for his or her reasonable and necessary expenses incurred in attending such meeting. Notwithstanding any other provision of law, the reimbursement shall be provided by the respective body holding the meeting or by the entity that supports the work of the body.

d. Compensation to General Assembly members for attendance at any official meeting described under B.4.c. of this item may be at a rate equal to \$300 for each day, or portion thereof, of attendance. If the member attends two or more official meetings during the same day, and at least one of which occurs in the morning and one of which occurs in the afternoon, then the member shall be compensated at a rate of \$400 for the entire day, otherwise compensation is capped at the \$300 per day. The payment of such compensation shall be subject to the restrictions and limitations set forth in subsections B., C., and G. of § 30-19.12, Code of Virginia. Notwithstanding any other provision of law, compensation to General Assembly members for attendance at such official meetings shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. The body holding the meeting shall as soon as practicable report the member's attendance at any official meeting of such body to the Clerk of the House of Delegates or the Clerk of the Senate, as applicable, in order to facilitate payment of the compensation. Such body shall report the member's attendance in such manner as prescribed by the respective Clerk.

5. Notwithstanding any other provision of law, whenever any General Assembly member is required to travel for official attendance as a representative of the General Assembly at any meeting, conference, seminar, workshop, or conclave, which is not conducted by the Commonwealth of Virginia or any of its agencies or instrumentalities, such member shall be entitled to (i) compensation in an amount not to exceed the per day rate set forth in paragraph B.4.d., and (ii) reimbursement for reasonable and necessary expenses incurred. Such compensation and reimbursement for expenses shall be set by the Speaker of the House of Delegates for members of the House of Delegates and by the Senate Committee on Rules for members of the Senate.

6. The provisions of this paragraph shall apply only to non-General Assembly members (hereinafter, "citizen members") of any (i) board, commission, authority, council, or other body created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly, or (ii) joint legislative committee or subcommittee.

Notwithstanding any other provision of law, any citizen member of any body described in this paragraph who is appointed at the state level, or designated an official member of such body, pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation, shall receive compensation solely for each day, or portion thereof, of attendance at an official meeting of the same. In no event shall any citizen member be paid compensation for attending a meeting of an advisory committee or other advisory body. Subject to any contrary law that provides for a higher amount of compensation to be paid, compensation shall be paid at the rate of \$50 for each day, or portion thereof, of attendance at an official meeting.

Such citizen members shall also be reimbursed for reasonable and necessary expenses incurred in attending (i) an official meeting of any body described in this paragraph, or (ii) a meeting of an advisory committee or advisory body of any body described in this paragraph.

Compensation and reimbursement of expenses to such citizen members shall be paid by the body holding the meeting (or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held) or by the entity that supports the

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work of the body.				
<p>A citizen member, however, who is a full-time employee of the Commonwealth or any of its local political subdivisions, including any full-time faculty member of a public institution of higher education, shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed by his employer. If such full-time employee who is a citizen member is required by his employer to take annual, family and personal, or other paid leave or unpaid leave to attend an official meeting under this paragraph, then such person shall be reimbursed for his reasonable and necessary expenses incurred by the body holding the meeting, or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held, or by the entity that supports the work of the body. For the purposes of this paragraph, reasonable and necessary expenses shall exclude the reimbursement for leave taken by a citizen member who is a full-time employee of the Commonwealth.</p>				
<p>A citizen member who is also currently a treasurer, sheriff, clerk of court, commissioner of the revenue, or attorney for the Commonwealth by reason of election of the qualified county or city voters shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of his office are reimbursed. Full-time employees of one of the foregoing constitutional offices shall also not be entitled to compensation under this paragraph and shall be limited to reimbursement for their reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of the constitutional office are reimbursed.</p>				
<p>7. Pursuant to § 30-19.13, Code of Virginia, allowances for expenses of members of the General Assembly during any regular session of the General Assembly or extension thereof or during any special session of the General Assembly shall be paid in an amount not to exceed the maximum daily amount permitted by the Internal Revenue Service under rates established by the U.S. General Services Administration.</p>				
<p>8. Allowance for office expenses and supplies of members of the General Assembly, in the amount of \$1,250 for each month of each calendar year. An additional \$500 for each month of each calendar year shall be paid to the Majority and Minority Leaders of the House of Delegates and the Senate and to the President Pro Tempore of the Senate, the Chairman or Chairs of the Senate Finance Committee, and the Chairman of the House Appropriations Committee.</p>				
<p>C. One legislative assistant of a member of the General Assembly regularly employed on a twelve (12) consecutive month salary basis receiving 60 percent or more of the salary allotted pursuant to paragraph B.3.d.1, may, for the purposes of §§ 51.1-124.3 and 51.1-152, Code of Virginia, be deemed a "state employee" and as such will be eligible for participation in the Virginia Retirement System, the group life insurance plan, the VRS short and long term disability plans, and the state health insurance plan. Upon approval by the Joint Rules Committee, legislative assistants shall be eligible to participate in the short and long-term disability plans sponsored by the Virginia Retirement System pursuant to Chapter 11 of Title 51.1, Code of Virginia. Such legislative assistants shall not receive sick leave and family and personal leave benefits under this plan. Short-term disability benefits shall be payable from the Legislative Reversion Clearing Account.</p>				
<p>D. Out of this appropriation the Clerk of the House of Delegates shall pay the routine maintenance and operating expenses of the General Assembly Building as apportioned to the Senate, House of Delegates, Division of Legislative Services, Joint Legislative Audit and Review Commission, or other legislative agencies. The funds appropriated to each agency in the Legislative Department for routine maintenance and operating expenses during the current biennium shall be transferred to the account established for this purpose.</p>				
<p>E. An amount of up to \$10,000 per year shall be transferred from Item 34 of this act, to reflect equivalent compensation allowances for the Lieutenant Governor as were authorized by the 1994 General Assembly. The Lieutenant Governor shall report such increases to the Speaker of the House and the Chairman of the House Appropriations Committee and the Chairman of the Senate Finance Committee.</p>				

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<p>F.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a joint subcommittee to review public higher education funding policies and to make recommendations to their respective committees. The objective of the review is to develop policies and formulas to provide the public institutions of higher education with an equitable funding methodology that: (a) recognizes differences in institutional mission; (b) provides incentives for achievement and productivity; (c) recognizes enrollment growth; and (d) establishes funding objectives in areas such as faculty salaries, financial aid, and the appropriate share of educational and general costs that should be borne by resident students. In addition, the review shall include the development of comparable cost data concerning the delivery of higher education through an analysis of the relationship of each public institution to its national peers. The public institutions of higher education and the staff of the State Council of Higher Education for Virginia are directed to provide technical assistance, as required, to the joint subcommittee.</p>				
<p>2. The Joint Subcommittee on Higher Education Funding Policies shall conduct an assessment of the adequacy of the current educational and general funding levels for Virginia's public institutions of higher education. The assessment shall be used to develop guidelines against which to measure funding requests for higher education. The assessment shall include, but not be limited to, the following components:</p> <ul style="list-style-type: none"> a) Updated student-to-faculty ratios based on current practice or industry norms. b) Consideration of support staff needs and the changing requirements of support staff due to technology and privatization of services previously performed by the institutions. c) Costs of instruction, such as equipment, utilities, facilities maintenance, and other nonpersonal services expenses. d) Recognition of the individual mission of the institution, student characteristics, location, or other factors that may influence the costs of instruction. e) Benchmarking of the funding guidelines against a group of peer institutions, or other appropriate comparator group, to assess the validity of the guidelines. f) Means by which measures of institutional performance can be assessed and incorporated into funding and policy guidelines for higher education. 				
<p>3. The Joint Subcommittee on Higher Education Funding Policies shall develop a more precise methodology for determining funding needs at Virginia's public institutions of higher education related to enrollment growth. The methodology should take into consideration that support staff and operations may need to be expanded when enrollment growth reaches certain levels.</p>				
<p>4. The Joint Subcommittee may seek support from the staff of the Senate Finance and House Appropriations Committees, the public institutions of higher education, or other higher education or state agency representatives, as requested by the Joint Subcommittee. At its discretion, the Joint Subcommittee may contract for consulting services.</p>				
<p>5. The Joint Subcommittee is hereby continued to provide direction and oversight of higher education funding policies. The Joint Subcommittee shall review and articulate policies and funding methodologies on: (a) the appropriate share of educational and general costs that should be borne by students; (b) student financial aid; (c) undergraduate medical education funding; (d) the mix of full-time and part-time faculty; (e) the mix of in-state and out-of-state students as it relates to tuition policy; and (f) the viability of statewide articulation agreements between four-year and two-year public institutions.</p>				
<p>6. a. It is the objective of the General Assembly that funding for Virginia's public colleges and universities shall be based primarily on the funding guidelines outlined in the November, 2001 report of the Joint Subcommittee on Higher Education Funding Policies.</p> <p>b. Based on the findings and recommendations of its November, 2001 report, the Joint Subcommittee shall coordinate with the State Council of Higher Education, the Secretary of Education, and the Department of Planning and Budget in incorporating the higher</p>				

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education funding guidelines into the development of budget recommendations.

c. As part of its responsibilities to ensure the fair and equitable distribution and use of public funds among the public institutions of higher education, the State Council of Higher Education shall incorporate the funding guidelines established by the Joint Subcommittee into its budget recommendations to the Governor and the General Assembly.

G. The Chairmen of the Senate Finance and House Appropriations Committees shall each appoint four members from their respective committees to a joint subcommittee to review compensation of state agency heads and cabinet secretaries. The Department of Human Resource Management, the Virginia Retirement System and all other agencies and institutions of the Commonwealth are directed to provide technical assistance, as required, to the joint subcommittee.

H. 1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint up to five members from their respective committees to a joint subcommittee to provide on-going direction and oversight of Standards of Quality funding cost policies and to make recommendations to their respective committees.

2. The Joint Subcommittee on Elementary and Secondary Education Funding shall: a) study the Commonwealth's use of the prevailing salary and cost approaches to funding the Standards of Quality, as compared with alternative approaches, such as a fixed point in time salary base that is increased annually by some minimum percentage or funding the national average teacher salary; and b) review the "federal revenue deduct" methodology, including the current use of a cap on the deduction; and c) review the methodology for establishing a consistent funding cap process for all state funded instructional and certain support positions.

3. The school divisions, the staff of the Virginia Department of Education, and staff of the Joint Legislative Audit and Review Commission, are directed to provide technical assistance, as required, to the joint subcommittee.

I.The Speaker of the House shall establish the salary for the Clerk of the House of Delegates.

J. The Senate Committee on Rules shall establish the salary for the Clerk of the Senate.

K. Notwithstanding the salaries set out in Items 2, 4, 5, and 6, the Committee on Joint Rules may establish salary ranges for such agency heads consistent with the provisions and salary ranges included in § 4-6.01 of this act.

L. Included within this appropriation is \$15,400 each year from the general fund for expenses related to the Joint Subcommittee on Tax Preferences, pursuant to House Bill 777 of the 2012 Session. This includes \$6,622 each year to be allocated by the Clerk of the Senate and \$8,778 each year to be allocated by the Clerk of the House of Delegates.

M. Included in the appropriations for this item is \$25,000 the first year and \$25,000 the second year from the general fund for the operations of the Virginia Indian Commemorative Commission and the development of a monument commemorating the life, achievements, and legacy of Native Americans in the Commonwealth.

N.1. The Special Joint Subcommittee to Consult on the Plan to Close State Training Centers shall continue to conduct a review of the assumptions behind the cost and cost savings of implementing the U.S. Department of Justice (DOJ) settlement agreement including but not limited to a review of the cost of providing care in the state intellectual disability (ID) training centers and in the community and an explanation of the difference in costs.

2. The Joint Subcommittee to Consult on the Plan to Close State Training Centers, in collaboration with the Department of Behavioral Health and Developmental Services, shall develop and evaluate a plan for consideration of operating a smaller state training center to serve those individuals for which care in a training center is appropriate. The Joint Subcommittee shall evaluate and determine the operating costs, capital costs, and consider all other relevant factors in developing the plan for consideration.

O. The Joint Commission on Transportation Accountability shall regularly review, and provide oversight of the usage of funding generated pursuant to the provisions of House Bill 2313, 2013 Session of the General Assembly. To this end, by November 15 the Secretary of

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~~Transportation~~*Director of the Department of Rail and Public Transportation*, the Northern Virginia Transportation Authority and the Hampton Roads Transportation Accountability Commission shall each prepare a report on the uses of the ~~Intercity Passenger Rail Operating and Capital Funds~~*Commonwealth Rail Fund*, the Northern Virginia Transportation Authority Fund, and the Hampton Roads Transportation Fund, respectively, each year to be presented to the Joint Commission on Transportation Accountability.

P-1: There is hereby created in the legislative branch the Virginia World War I and World War II Commemoration Commission. The Commission shall plan, develop, and carry out programs and activities appropriate to commemorate the 100th anniversary of World War I and the 75th anniversary of World War II.

2: The Commission shall have a total membership of ten members consisting of six legislative members; two nonlegislative citizen members; and two ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate of Virginia to be appointed by the Senate Committee on Rules; one nonlegislative citizen member who shall be a World War II historian; to be appointed by the Speaker of the House of Delegates; one nonlegislative citizen member who shall be a World War II veteran or a family member of a World War II veteran; to be appointed by the Senate Committee on Rules; and two ex-officio members; to include the Commissioner of the Virginia Department of Veterans Services or his designee and the Executive Director of the Virginia War Memorial. The nonlegislative and ex-officio members shall be non-voting members. The nonlegislative citizen members shall be citizens of the Commonwealth, unless otherwise approved in writing by the chairman of the committee and the respective Clerk; and shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. The voting members of the Commission shall elect a Chairman and Vice-Chairman from among its membership; who shall be members of the Virginia General Assembly.

3: Legislative members of the Commission and Advisory Council shall receive such compensation as provided in § 30-19-12, Code of Virginia; and nonlegislative citizen members of the Commission shall receive such compensation for the performance of their duties as provided in § 2-2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2-2-2813 and 2-2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission.

4: There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia World War I and World War II Commemoration Commission Fund; hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts; grants; donations; bequests; or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon; at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.

5: The Virginia Department of Veterans Services and the Virginia War Memorial shall provide technical assistance to the Commission. The Division of Legislative Services shall act as the fiscal agent for the Commission. Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal; research; policy analysis; and other services as requested by the Commission shall be provided by the Division of Legislative Services; and by other state agencies and institutions as may be requested by the Commission. The Director of the Division of Legislative Services is authorized to fund the operations of the Virginia World War I and World War II Commemoration

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Commission from the appropriations to the Division and to provide full reimbursement to the Division from the unexpended balances of such Commission; once allotted:				
<p>6. The Commission may appoint and establish an Advisory Council composed of nonlegislative citizens at large and public officials who have knowledge of World War I and World War II and their respective anniversary commemorations; to serve in a consultative capacity to assist the Commission in its work. Nonlegislative citizen members of the Advisory Council shall serve without compensation but may be reimbursed for travel expenses to attend a meeting of the Advisory Council within the Commonwealth of Virginia. The Advisory Council shall have a Chairman and Vice-Chairman, one of whom shall be a member of the House of Delegates; to be appointed by the Speaker of the House of Delegates; and one of whom shall be a member of the Senate; to be appointed by the Senate Committee on Rules.</p>				
<p><i>PQ.1.</i> The Chairs of the House Appropriations and Senate Finance and Appropriations Committees shall each appoint up to five members from their respective committees to a Joint Subcommittee for Early Childhood Care and Education to provide ongoing oversight of the implementation of Virginia's unified public-private system for early childhood care and education. The members of the Joint Subcommittee shall elect a chairman and vice chairman annually.</p>				
<p>2. The goals and objectives of the Joint Subcommittee shall be to (i) review the cost-effectiveness of federal and state funding used to improve Virginia's early childhood care and education system, (ii) ensure that the transition of child care regulation from the Board of Social Services to the Board of Education occurs seamlessly without impacting health and safety oversight functions, (iii) ensure that the transition of functions from the Department of Social Services to the Department of Education occurs seamlessly without the interruption of the provision of state services or undue impact on the operation of either agency, (iv) review the implementation of the Board of Education's Quality Rating Implementation System, (v) review workforce needs for Virginia's early childhood education system, (vi) further facilitate partnerships between school divisions and private providers for the Virginia Preschool Initiative, (vii) consider recommendations and options included in the 2017 JLARC report on Improving Virginia's Early Childhood Development Programs, and (viii) consider funding methodology changes to transition the Virginia Preschool Initiative funding model to maximize the number of children served, while recognizing prevailing costs.</p>				
<p>3. The staff of the Elementary and Secondary Education subcommittees for the House Appropriations and Senate Finance and Appropriations Committees and the Department of Education will help with facilitating the scope of work to be completed by the Joint Subcommittee. The Virginia Early Childhood Foundation will provide support and resources to the members and staff of the Joint Subcommittee. Other stakeholders, such as those from the Virginia Department of Social Services, the Virginia Community College System, local school divisions, private and faith-based child day-care providers, accredited organizations, education associations and businesses may provide additional information if requested. A report of any findings and recommendations shall be submitted to the Chairs of House Appropriations and Senate Finance and Appropriations Committees.</p>				
<p><i>QR. 1.a.</i> The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a Joint Subcommittee on the Future Competitiveness of Virginia Higher Education to (a) review ways to maintain and improve the quality of higher education, while providing for broad access and affordability; (b) examine the impact of financial, demographic, and competitive changes on the sustainability of individual institutions and the system as a whole; (c) identify best practices to make the system more efficient, including shared services, institutional flexibility, and easily accessible academic pathways; (d) evaluate the use of distance education and online instruction across the Commonwealth and appropriate business models for such programs; (e) review current need-based financial aid programs and alternative models to best provide for student affordability and completion; (f) review the recommendations of the Joint Legislative Audit and Review Commission on the study of the cost efficiency of higher education institutions and make recommendations to their respective committees on the implementation of those recommendations; (g) study the effectiveness and value of transfer students; (h) evaluate the effectiveness of dual enrollment in reducing the cost of higher education; and (i) study the effectiveness of preparing teachers to enter the K-12 system.</p>				
<p>b. The Subcommittee will also conduct a focused review of access, affordability, quality, and</p>				

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	FY2021	FY2022	FY2021	FY2022
<p>autonomy issues related to Virginia's public higher education system. As part of that review the Subcommittee will explore ways to (a) improve the quality of higher education; (b) review the autonomy and flexibility granted to Virginia's public higher education institutions, including the history of restructuring and the expansion of autonomy; (c) examine access and affordability in higher education, including the cost of education and need-based financial aid programs; (d) review the impact of financial, demographic, and competitive changes on the sustainability of Virginia's public higher education system; and (e) identify any practices that would result in more efficient outcomes regarding cost and completion, including dual enrollment and online programs.</p>				
<p>2. As the Joint Subcommittee conducts its analysis, it shall consider the mission, vision, goals and strategies outlined in the statewide strategic plan for higher education developed and approved by the State Council of Higher Education for Virginia, and endorsed by the General Assembly in House Joint Resolution 555 of the 2015 Session of the General Assembly.</p>				
<p>3. As part of its deliberations, the Joint Subcommittee shall review alternative tuition and fee structures and programs that could result in lower costs to in-state undergraduate students.</p>				
<p>4. The Joint Subcommittee may seek support and technical assistance from the staff of the House Appropriations and Senate Finance Committees, the public institutions of higher education, the staff of the Joint Legislative Audit and Review Commission, and the staff of the State Council of Higher Education for Virginia. Other state agency or higher education representatives shall provide support upon request. At its discretion, the Joint Subcommittee may contract for consulting services.</p>				
<p>5. The members of the Joint Subcommittee shall provide a final report to their respective committees at the conclusion of the review.</p>				
<p><i>RS.</i> The Joint Subcommittee to Evaluate Tax Preferences established pursuant to Chapter 777, 2012 Session of the General Assembly, is hereby directed, as part of its work to undertake a review of the Neighborhood Assistance Act tax credit program and to report to the General Assembly on any proposed changes to the program structure, eligibility requirements, distribution of funding or overall funding amounts made available for the credit.</p>				
<p><i>SF.1.</i> The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint five members from their respective committees to a Joint Subcommittee for Health and Human Resources Oversight to respond to federal health care changes, provide ongoing oversight of the Medicaid and children's health insurance programs and oversight of Health and Human Resources agencies. The members of the Joint Subcommittee shall elect a chairman and vice chairman annually.</p>				
<p>2.a. The Joint Subcommittee shall monitor, evaluate and respond to federal legislation that repeals, amends or replaces the Affordable Care Act (ACA), Medicaid (Title XIX of the Social Security Act), the Children's Health Insurance Program (Title XXI of the Social Security Act) or any proposals to block grant or change the method by which these programs are funded. The joint subcommittee shall recommend actions to be taken by the General Assembly to address the impact of any such federal legislation that would affect the state budget and health care coverage now available to Virginians. Furthermore, the subcommittee shall evaluate federal changes for opportunities to improve Virginia's Medicaid and other health insurance programs.</p>				
<p>b. The Joint Subcommittee shall establish a workgroup to monitor the implementation of Medicaid coverage of newly eligible individuals pursuant to the Patient Protection and Affordable Care Act to ensure (i) the efficient and cost effective use of resources; (ii) innovative and cost effective approaches to Medicaid eligibility screening and renewals, provider accountability, administrative operations, and fraud prevention; and (iii) progress in implementing the Training, Education, Employment and Opportunity Program (TEEOP); (iv) uniform and effective screening for Medicaid eligibility in local and regional jails; and (v) use of private vendors to facilitate successful implementation when cost effective. In addition, the workgroup shall examine the role of the current Certificate of Need program, including a review of past and current studies of the program, in</p>				

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ensuring access to care.				
<p>3. The Joint Subcommittee shall provide ongoing oversight of initiatives and operations of the Health and Human Resources agencies. The joint subcommittee shall examine progress made in implementing changes to: (i) Medicaid managed care programs, including managed long-term supports and services (the Commonwealth Coordinated Care Plus program) and changes to the Medallion program; (ii) Medicaid waiver programs including the Medicaid waivers serving individuals with developmental disabilities; (iii) the Medicaid Enterprise System; (iv) improve eligibility, enrollment and renewal processes in the Medicaid and CHIP programs; (v) the organizational structure and realignment of staff and resources of the Department of Medical Assistance Services resulting from the change from a fee-for-service to a managed care delivery system; (vi) improve the cost effective delivery of services through the Comprehensive Services Act; and (vii) initiatives and programmatic changes across the Health and Human Resources agencies to ensure efficient and effective use of resources across the Secretariat, including an assessment of the costs and benefits of transferring the Office for Aging Services of the Division for Community Living in the Department for Aging and Rehabilitative Services to the Department of Social Services or establishing it as a stand-alone agency.</p> <p>4. The Joint Subcommittee may seek support and technical assistance from staff of the House Appropriations and Senate Finance Committees, the staff of the Joint Legislative Audit and Review Commission, and the staff of the Department of Medical Assistance Services. Other state agency staff shall provide support upon request.</p> <p>5. The staff of the House Appropriations and Senate Finance Committees shall help facilitate the scope of work to be completed by the Joint Subcommittee for Health and Human Resources Oversight.</p> <p>T1. The Co-Chairs of the Senate Finance Committee shall appoint five members from their Committee and the Chairman of the House Appropriations Committee shall appoint four members from his Committee and two members of the House Finance Committee to a Joint Subcommittee on Local Government Fiscal Stress. The Joint Subcommittee shall elect a chairman and vice-chairman from among its membership.</p> <p>2. The goals and objectives of the Joint Subcommittee will be to review (i) savings opportunities from increased regional cooperation and consolidation of services, including by jointly operating or merging small school divisions; (ii) local responsibilities for service delivery of state-mandated or high priority programs, (iii) causes of fiscal stress among local governments, (iv) potential financial incentives and other governmental reforms to encourage increased regional cooperation; and (v) the different taxing authorities of cities and counties.</p> <p>3. Administrative staff support shall be provided by the Office of the Clerks of the House and Senate. The Joint Subcommittee may seek support and technical assistance from the staff of the Division of Legislative Services, House Appropriations and Senate Finance Committees, and the Commission on Local Government. All agencies of the Commonwealth shall provide assistance to the Joint Subcommittee for this study, upon request.</p> <p>4. No recommendation of the Joint Subcommittee shall be adopted if a majority votes against the recommendation. The Joint Subcommittee shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.</p> <p>U. Notwithstanding any other provision of law, the Senate Joint Resolution 47 (2014 Session) Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century shall continue its work.</p> <p>V. Pursuant to projects authorized and funded in paragraph E.1 of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly will temporarily move to and operate from the Pocahontas Building bounded by the following streets: 9th Street to the west, 10th Street to the east, Bank Street to the north, and Main Street to the south in the City of Richmond. Space occupied temporarily by the General Assembly shall be under the control of the Legislative Support Commission (§ 30-34.1). Funding for routine maintenance and operations of the temporary space is included in Item 1 of this act.</p> <p>W. Any nonlegislative citizen member appointed by either the Speaker of the House, the</p>				

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Senate Committee on Rules or the Joint Rules Committee to any Authority, Board, Commission, Committee, or other deliberative body in the Commonwealth shall serve at the pleasure of such appointing authority. Any such member may be relieved of his appointment at any time, with or without cause.

~~XY.~~ Included within this appropriation is ~~\$19,840 the first year~~ \$14,200 the second year from the general fund for a joint committee established to study staffing levels, employment conditions, and compensation at the Virginia Department of Corrections pursuant to ~~House Joint Resolution 29~~ House Joint Resolution 522 of the ~~2020~~2021 Special Session I of the General Assembly.

Y. Included within this appropriation is \$22,400 in the second year from the general fund for a joint subcommittee on campaign finance reform pursuant to the passage of House Joint Resolution 526 in the 2021 General Assembly.

Z. The Chair of the Senate Committee on the Judiciary shall convene a workgroup to review the process by which non-elected judges, including retired judges, are utilized by the Circuit Courts to make legally binding decisions. The workgroup shall include in its review the frequency of such use of non-elected judges, any issues that arise from the use of non-elected judges, and the process by which non-elected judges are evaluated. The workgroup shall prepare and deliver a report for review by the Senate Committee on the Judiciary by the first day of the 2022 Regular General Assembly Session.

AA.1. The Chair of the Senate Finance and Appropriations Committee shall appoint six members from the Senate Committee on Finance and Appropriations and the Chair of the House Appropriations Committee shall appoint three members from the House Committee on Appropriations and three members of the House Committee on Finance to a Joint Subcommittee on Tax Policy. The Joint Subcommittee shall elect a chairman and vice-chairman from among its membership.

2. The goals and objectives of the Joint Subcommittee shall include (i) evaluating the fiscal impact of amendments to tax brackets, tax rates, credits, deductions, and exemptions, as well as any other factors it deems relevant to making Virginia's individual income tax system more fair and equitable; (ii) giving consideration to the fairness, certainty, convenience of payment, economy in collection, simplicity, neutrality, and economic efficiency of the Commonwealth's tax policies and any changes thereto; and (iii) recommending whether the General Assembly should amend the Code of Virginia.

3. To assist the Joint Subcommittee, the Chair of the Joint Subcommittee may appoint a workgroup which includes the staff of the House Committee on Finance, the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, and any other stakeholders deemed appropriate. All agencies of the Commonwealth shall provide technical assistance to the Joint Subcommittee, upon request.

Total for General Assembly of Virginia.....			\$54,927,913	\$54,908,073
			\$54,908,073	\$54,922,273
General Fund Positions.....	224.00	224.00		
Position Level.....	224.00	224.00		
Fund Sources: General.....	\$54,927,913	\$54,908,073		
	\$54,908,073	\$54,922,273		

§ 1-2. AUDITOR OF PUBLIC ACCOUNTS (133)

2.	Legislative Evaluation and Review (78300).....			\$14,927,713	\$14,927,713
	Financial and Compliance Audits (78301).....	\$14,927,713	\$14,927,713		
	Fund Sources: General.....	\$13,076,429	\$13,076,429		
	Special.....	\$1,851,284	\$1,851,284		

Authority: Article IV, Section 18, Constitution of Virginia; Title 30, Chapter 14, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Auditor of Public Accounts, \$193,535 from July 1, 2020 to ~~June 24, 2021~~ December 31, 2020, \$198,179

ITEM 2.	Item Details(\$)		Appropriations(\$)		
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022	
<p>from January 1, 2021 to June 9, 2021, and \$193,535 \$208,087 from June 25 10, 2021 to June 30, 2022.</p>					
<p>B. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year pursuant to § 2.2-1829, Code of Virginia. The Auditor shall, at the same time, provide his report on (i) the 15 percent limitation and the amount that could be paid into the Revenue Stabilization Fund and (ii) any amounts necessary for deposit into the Fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.</p>					
<p>C. The specifications of the Auditor of Public Accounts for the independent certified public accountants auditing localities shall include requirements for any money received by the sheriff. These requirements shall include that the independent certified public accountant must submit a letter to the Auditor of Public Accounts annually providing assurance as to whether the sheriff has maintained a proper system of internal controls and records in accordance with the Code of Virginia. This letter shall be submitted along with the locality's audit report.</p>					
<p>D.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. For any specific stormwater outfall generating more than \$200,000 in annual fees, such report shall include identification of specific actions to remediate nutrient and sediment reduction from the specific outfall.</p>					
<p>2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.</p>					
<p>E. The Auditor of Public Accounts' Specifications for Audits of Counties, Cities, and Towns and the Specifications for Audits of Authorities, Boards, and Commissions, for the independent certified public accountants auditing localities and local government entities, shall include requirements related to the communication of other internal control deficiencies or financial matters, commonly referred to as a management letter. These requirements shall include that any such communication issued by the independent certified public accountants related to other internal control deficiencies or other financial matters that merit the attention of management and the governing body must be made in the form of official, written communication.</p>					
<p>F. Out of the amounts appropriated in this item, \$325,000 the first year and \$325,000 the second year from the general fund shall be available to implement compensation adjustments to address recruitment and retention. Implementation of the salary adjustments is contingent on the approval of a compensation plan by the Committee on Joint Rules</p>					
Total for Auditor of Public Accounts.....			\$14,927,713	\$14,927,713	
General Fund Positions.....			120.00	120.00	
Nongeneral Fund Positions.....			16.00	16.00	
Position Level.....			136.00	136.00	
Fund Sources: General.....			\$13,076,429	\$13,076,429	
Special.....			\$1,851,284	\$1,851,284	
§ 1-3. COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (413)					
3.	Ground Transportation System Safety Services (60500).....			\$1,581,154	\$1,581,154
	Ground Transportation Safety Promotion (60503).....		\$1,581,154	\$1,581,154	

ITEM 3.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Special.....	\$1,581,154	\$1,581,154		
Authority: §§ 18.2-271.1 and 18.2-271.2, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Executive Director, \$127,534 from July 1, 2020 to June 24, 2021 and \$127,534 from June 25, 2021 to June 30, 2022.				
B. Notwithstanding the salaries listed in paragraph A. of this item, the Commission on the Virginia Alcohol Safety Action Program may establish a salary range for the Executive Director of the program.				
Total for Commission on the Virginia Alcohol Safety Action Program.....			\$1,581,154	\$1,581,154
Nongeneral Fund Positions.....	11.50	11.50		
Position Level.....	11.50	11.50		
Fund Sources: Special.....	\$1,581,154	\$1,581,154		

§ 1-4. DIVISION OF CAPITOL POLICE (961)

4. Administrative and Support Services (39900).....			\$12,559,655	\$13,270,924 \$14,117,831
Security Services (39923).....	\$12,559,655	\$13,270,924 \$14,117,831		
Fund Sources: General.....	\$12,559,655	\$13,270,924 \$14,117,831		

Authority: Title 30, Chapter 3.1, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Chief, Division of Capitol Police, \$163,800 from July 1, 2020 to ~~June 30, 2021~~ and ~~\$163,800 from July 1, 2021 to December 24, 2020~~, \$200,000 from December 25, 2020 to June, 9, 2021, and \$210,000 from June 10, 2021, to June 30, 2022.

B. Out of the amounts included in this item, \$693,000 the first year and \$635,000 the second year from the general fund is provided to support implementation of the increased security measures enacted during the 2020 General Assembly session at the Capitol and Pocahontas Buildings. Out of this appropriation, \$58,000 in the first year shall be used to replace outdated equipment in the Capitol and Pocahontas Buildings.

C. Out of the amounts provided in this item, \$654,138 the first year and \$682,157 the second year from the general fund is provided to support rent plan increases in the Washington Building, Old City Hall, and new K-9 Facility.

D. Out of the amounts provided in this item, \$248,500 the first year from the general fund is provided to the Division of Capitol Police for financial management activities. Out of the amounts provided in this item, \$989,750 the second year from the general fund is provided to the Division of Capitol Police for financial management, operations of a new Communications Center, and the purchase of fitness equipment for Old City Hall.

Total for Division of Capitol Police.....			\$12,559,655	\$13,270,924 \$14,117,831
General Fund Positions.....	111.00	121.00		
Position Level.....	111.00	121.00		
Fund Sources: General.....	\$12,559,655	\$13,270,924 \$14,117,831		

§ 1-5. DIVISION OF LEGISLATIVE AUTOMATED SYSTEMS (109)

5. Information Technology Development and Operations (82000).....			\$7,131,967	\$5,916,457
Computer Operations Services (82001).....	\$7,131,967	\$5,916,457		

ITEM 5.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$6,844,298	\$5,628,788		
Special.....	\$287,669	\$287,669		
Authority: Title 30, Chapter 3.2, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Automated Systems, \$173,040 from July 1, 2020 to June 24 9, 2021 and \$173,040 \$181,692 from June 25 10, 2021 to June 30, 2022.				
B. Included in this appropriation is funding sufficient for the ongoing replacement of a legacy legislative bill tracking system. The expenditure of these funds is contingent on the Director of the Division of Legislative Automated Systems developing a detailed implementation plan and submitting the plan to the Committee on Joint Rules for its approval. Any procurement of a replacement legislative bill tracking system shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia and the contract review provisions of § 2.2-2012. The plan may propose to procure a replacement legislative bill tracking system using (i) a request for information or a request for proposal, singly or jointly or in any combination thereof, (ii) such other industry recognized procurement method for procuring a management information system, or (iii) such other procurement method that comports with the best interests of the Commonwealth in the determination of the Director.				
C. Out of the amounts included in this item, \$516,650 the first year and \$201,140 the second year from the general fund is provided to complete the replacement of a legacy legislative bill tracking system.				
D. Out of the amounts included in this item, \$950,000 the first year and \$50,000 the second year from the general fund is provided for software, security, and infrastructure upgrades for the Division of Legislative Automated Systems.				
Total for Division of Legislative Automated Systems.			\$7,131,967	\$5,916,457
General Fund Positions.....	19.00	19.00		
Position Level.....	19.00	19.00		
Fund Sources: General.....	\$6,844,298	\$5,628,788		
Special.....	\$287,669	\$287,669		

§ 1-6. DIVISION OF LEGISLATIVE SERVICES (107)

6.	Legislative Research and Analysis (78400).....			\$7,191,641	\$7,941,641
	Bill Drafting and Preparation (78401).....	\$7,191,641	\$7,941,641		
	Fund Sources: General.....	\$7,171,608	\$7,921,608		
	Special.....	\$20,033	\$20,033		

Authority: Title 30, Chapter 2.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Services, \$157,374 from July 1, 2020 to June ~~24~~ 9, 2021 and ~~\$157,374~~ \$165,242 from June ~~25~~ 10, 2021, to June 30, 2022.

B. Notwithstanding the salary set out in paragraph A. of this item, the Committee on Joint Rules may establish a salary range for the Director, Division of Legislative Services.

C. The Division of Legislative Services shall continue to provide administrative support to include payroll processing, accounting, and travel expense processing at no charge to the Chesapeake Bay Commission, the Joint Commission on Health Care, the Virginia Commission on Youth, and the Virginia State Crime Commission.

D. Out of this appropriation, \$250,000 the first year from the general fund is provided to support the work of the Senate Joint Resolution 47 (2014) Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century. The funding may be used to contract for expertise and assistance in its work to evaluate the community-based system of service delivery or other related topics as required by the work of the Joint Subcommittee. Any contractor hired shall evaluate the current system along with alternative delivery systems to provide the necessary information and assistance to the subcommittee in determining the

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most appropriate delivery system, or modifications to the current delivery system, that ensures access, quality, consistency, and accountability. Any remaining balance at year-end shall be carried forward to the subsequent fiscal year.				
E. Out of this appropriation, \$15,000 each year from the general fund is provided to support costs of the Commission on Civics Education.				
			\$7,191,641	\$7,941,641
	Total for Division of Legislative Services.....			
	General Fund Positions.....	61.00	61.00	
	Position Level.....	61.00	61.00	
	Fund Sources: General.....	\$7,171,608	\$7,921,608	
	Special.....	\$20,033	\$20,033	
Capitol Square Preservation Council (820)				
7.	Architectural and Antiquity Research Planning and Coordination (74800).....		\$217,162 \$167,162	\$217,162
	Architectural Research (74801).....	\$217,162 \$167,162	\$217,162	
	Fund Sources: General.....	\$217,162 \$167,162	\$217,162	
Authority: Title 30, Chapter 28, Code of Virginia.				
A. Any net proceeds from the public sale or auction of the surplus property from the General Assembly Building replacement project, less actual direct costs incurred by the Clerk of the House of Delegates, the Clerk of the Senate, and the Department of General Services, shall be deposited into a special non-reverting fund created on the books of the State Comptroller. The Capitol Square Preservation Council shall transfer these funds to the Virginia Capitol Preservation Foundation after entering into an agreement to use such funds to support the restoration and ongoing preservation of Virginia's Capitol and Capitol Square.				
B: Out of the amounts in this Item, \$50,000 from the general fund the first year shall be available for development of interpretive signs regarding the history of Massive Resistance to incorporate these signs beside the statue of Harry F. Byrd Sr.				
BC. Out of the amounts in this Item, \$6,000 from the general fund the first year shall be available for the placement of identifying plaques for the figures in the Women's Monument.				
	Total for Capitol Square Preservation Council.....		\$217,162 \$167,162	\$217,162
	General Fund Positions.....	2.00	2.00	
	Position Level.....	2.00	2.00	
	Fund Sources: General.....	\$217,162 \$167,162	\$217,162	
Virginia Disability Commission (837)				
8.	Social Services Research, Planning, and Coordination (45000).....		\$25,802	\$25,802
	Social Services Coordination (45001).....	\$25,802	\$25,802	
	Fund Sources: General.....	\$25,802	\$25,802	
Authority: Title 30, Chapter 35, Code of Virginia.				
	Total for Virginia Disability Commission.....		\$25,802	\$25,802
	Fund Sources: General.....	\$25,802	\$25,802	

ITEM 8.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Dr. Martin Luther King, Jr. Memorial Commission (845)				
9.	Human Relations Management (14600).....		\$50,643 \$150,643	\$50,643 \$100,643
	Human Relations Management (14601).....	\$50,643 \$150,643	\$50,643 \$100,643	
	Fund Sources: General.....	\$50,643 \$150,643	\$50,643 \$100,643	
Authority: Title 30, Chapter 27, Code of Virginia.				
<i>A. Out of the amounts included in this appropriation, \$100,000 in the first year from the general fund is provided for the construction of the Emancipation and Freedom Monument.</i>				
<i>B. Included within the appropriation for this item is \$50,000 the second year from the general fund for the Dr. Martin Luther King, Jr. Memorial Commission to complete a pre-planning study to locate a memorial tribute to the late Senator Yvonne Miller on Virginia's Capitol Square or another location. The Department of General Services shall consult with the Commission, if requested by the Commission, to provide its capital project pre-planning expertise and Capitol Square operation and maintenance knowledge to the Commission as it formulates its study findings. The Commission will complete its pre-planning study and report its findings to the Governor, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than November 1, 2021. The Department of General Services shall be compensated for its services provided to the Commission from the funds authorized in this item.</i>				
	Total for Dr. Martin Luther King, Jr. Memorial Commission.....		\$50,643 \$150,643	\$50,643 \$100,643
	Fund Sources: General.....	\$50,643 \$150,643	\$50,643 \$100,643	
Joint Commission on Technology and Science (847)				
10.	Technology Research, Planning, and Coordination (53700).....		\$352,514	\$227,514
	Technology Research (53701).....	\$352,514	\$227,514	
	Fund Sources: General.....	\$352,514	\$227,514	
Authority: Title 30, Chapter 11, Code of Virginia.				
	Total for Joint Commission on Technology and Science.....		\$352,514	\$227,514
	General Fund Positions.....	2.00	2.00	
	Position Level.....	2.00	2.00	
	Fund Sources: General.....	\$352,514	\$227,514	
Commissioners for the Promotion of Uniformity of Legislation in the United States (145)				
11.	Governmental Affairs Services (70100).....		\$87,566	\$87,566
	Interstate Affairs (70103).....	\$87,566	\$87,566	
	Fund Sources: General.....	\$87,566	\$87,566	
Authority: Title 30, Chapter 29, Code of Virginia.				
Commissioners shall receive no compensation for their services from the funds appropriated in this item, but their necessary travel and hotel expenses shall be reimbursed, subject to the approval of the Joint Rules Committee or to the joint approval of the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules.				

ITEM 11.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	Total for Commissioners for the Promotion of Uniformity of Legislation in the United States.....			\$87,566	\$87,566
	Fund Sources: General.....	\$87,566	\$87,566		
State Water Commission (971)					
12.	Environmental Policy and Program Development (51600).....			\$10,308	\$10,308
	Environmental Policy and Program Development (51601).....	\$10,308	\$10,308		
	Fund Sources: General.....	\$10,308	\$10,308		
	Authority: Title 30, Chapter 24, Code of Virginia.				
	Total for State Water Commission.....			\$10,308	\$10,308
	Fund Sources: General.....	\$10,308	\$10,308		
Virginia Coal and Energy Commission (118)					
13.	Resource Management Research, Planning, and Coordination (50700).....			\$21,630	\$21,630
	Energy Conservation Advisory Services (50703).....	\$21,630	\$21,630		
	Fund Sources: General.....	\$21,630	\$21,630		
	Authority: Title 30, Chapter 25, Code of Virginia.				
	Total for Virginia Coal and Energy Commission.....			\$21,630	\$21,630
	Fund Sources: General.....	\$21,630	\$21,630		
Virginia Code Commission (108)					
14.	Enactment of Laws (78200).....			\$93,643	\$93,643
	Code Modernization (78201).....	\$93,643	\$93,643		
	Fund Sources: General.....	\$69,557	\$69,557		
	Special.....	\$24,086	\$24,086		
	Authority: Title 30, Chapter 15, Code of Virginia.				
	The Code Commission shall not authorize, or undertake, a re-numbering or re-codification of the Code of Virginia, 1950 as amended unless there is a specific appropriation included in a general Appropriation Act addressing the fiscal impact of such an action. The Commission is authorized to develop a proposal, for review by the Committee on Joint Rules, to re-number the Code of Virginia, including the proposed re-numbering structure and a detailed estimate of any potential fiscal impact on state agencies from the restructuring.				
	Total for Virginia Code Commission.....			\$93,643	\$93,643
	Fund Sources: General.....	\$69,557	\$69,557		
	Special.....	\$24,086	\$24,086		
Virginia Freedom of Information Advisory Council (834)					
15.	Governmental Affairs Services (70100).....			\$216,456	\$216,456
	Public Information Services (70109).....	\$216,456	\$216,456		
	Fund Sources: General.....	\$216,456	\$216,456		
	Authority: Title 30, Chapter 21, Code of Virginia.				

ITEM 15.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	Total for Virginia Freedom of Information Advisory Council.....		\$216,456	\$216,456
	1.50	1.50		
	1.50	1.50		
	\$216,456	\$216,456		
Virginia Housing Commission (840)				
16.	Housing Assistance Services (45800).....		\$21,152	\$21,152
	\$21,152	\$21,152		
	\$21,152	\$21,152		
	Authority: § 30-257, Code of Virginia.			
	Total for Virginia Housing Commission.....		\$21,152	\$21,152
	\$21,152	\$21,152		
Brown v. Board of Education Scholarship Committee (858)				
17.	Human Relations Management (14600).....		\$25,363	\$25,363
	\$25,363	\$25,363		
	\$25,363	\$25,363		
	Authority: Title 30, Chapter 34.1, Code of Virginia.			
	Pursuant to § 30-231.5, Code of Virginia, there is provided \$25,000 each year from the general fund to support the operations of the Brown v. Board of Education Scholarship Awards Committee. This operational support shall be used to provide for the expenses incurred by the members of the committee and may be used for such other services as deemed necessary to accomplish the purposes for which it was created.			
	Total for Brown v. Board of Education Scholarship Committee.....		\$25,363	\$25,363
	\$25,363	\$25,363		
Commission on Unemployment Compensation (860)				
18.	Consumer Affairs Services (55000).....		\$6,052	\$6,052
	\$6,052	\$6,052		
	\$6,052	\$6,052		
	Authority: Title 30, Chapter 33, Code of Virginia.			
	Total for Commission on Unemployment Compensation.....		\$6,052	\$6,052
	\$6,052	\$6,052		
Small Business Commission (862)				
19.	Economic Development Services (53400).....		\$15,191	\$15,191
	\$15,191	\$15,191		
	\$15,191	\$15,191		
	Authority: Title 30, Chapter 22, Code of Virginia.			
	Total for Small Business Commission.....		\$15,191	\$15,191
	\$15,191	\$15,191		

ITEM 19.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Commission on Electric Utility Regulation (863)					
20.	Resource Management Research, Planning, and Coordination (50700).....			\$10,013	\$10,013
	Resource Management Policy and Program Development (50701).....	\$10,013	\$10,013		
	Fund Sources: General.....	\$10,013	\$10,013		
	Authority: Title 30, Chapter 31, Code of Virginia.				
	Total for Commission on Electric Utility Regulation.....			\$10,013	\$10,013
	Fund Sources: General.....	\$10,013	\$10,013		
Manufacturing Development Commission (864)					
21.	Economic Development Services (53400).....			\$12,039	\$12,039
	Economic Development Research, Planning, and Coordination (53401).....	\$12,039	\$12,039		
	Fund Sources: General.....	\$12,039	\$12,039		
	Authority: Title 30, Chapter 41, Code of Virginia.				
	Total for Manufacturing Development Commission.....			\$12,039	\$12,039
	Fund Sources: General.....	\$12,039	\$12,039		
Joint Commission on Administrative Rules (865)					
22.	Governmental Affairs Services (70100).....			\$10,090	\$10,090
	Intragovernmental Services (70104).....	\$10,090	\$10,090		
	Fund Sources: General.....	\$10,090	\$10,090		
	Authority: Title 30, Chapter 8.1, Code of Virginia.				
	Total for Joint Commission on Administrative Rules.....			\$10,090	\$10,090
	Fund Sources: General.....	\$10,090	\$10,090		
Autism Advisory Council (871)					
23.	Health Research, Planning, and Coordination (40600).....			\$6,350	\$6,350
	Health Policy Research (40606).....	\$6,350	\$6,350		
	Fund Sources: General.....	\$6,350	\$6,350		
	Authority: Title 30, Chapter 50, Code of Virginia.				
	Total for Autism Advisory Council.....			\$6,350	\$6,350
	Fund Sources: General.....	\$6,350	\$6,350		
Virginia Conflict of Interest and Ethics Advisory Council (876)					
24.	Personnel Management Services (70400).....			\$614,724	\$614,724
	Personnel Management Services (70400).....	\$598,922	\$598,922		
	Agency Human Resource Services (70401).....	\$15,802	\$15,802		
	Fund Sources: General.....	\$614,724	\$614,724		

ITEM 24.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Chapters 792 and 804 of the 2014 Acts of Assembly.				
Out of the the amounts appropriated to the Council, an amount estimated at \$195,000 each year is from lobbyist registration fees pursuant to § 2.2-424, Code of Virginia.				
	Total for Virginia Conflict of Interest and Ethics Advisory Council.....		\$614,724	\$614,724
	General Fund Positions.....	5.00	5.00	
	Position Level.....	5.00	5.00	
	Fund Sources: General.....	\$614,724	\$614,724	
Joint Commission on Transportation Accountability (875)				
25.	Ground Transportation Planning and Research (60200).....		\$28,267	\$28,267
	Fund Sources: General.....	\$28,267	\$28,267	
	Total for Joint Commission on Transportation Accountability.....		\$28,267	\$28,267
	Fund Sources: General.....	\$28,267	\$28,267	
Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities (877)				
26.	Economic Development Services (53400).....		\$0	\$0
	Total for Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities.....		\$0	\$0
Virginia-Israel Advisory Board (330)				
27.	Economic Development Services (53400).....		\$219,002	\$219,002
	Economic Development Research, Planning, and Coordination (53401).....	\$215,184	\$215,184	
	Economic Development Services (53412).....	\$3,818	\$3,818	
	Fund Sources: General.....	\$219,002	\$219,002	
	Total for Virginia-Israel Advisory Board.....		\$219,002	\$219,002
	General Fund Positions.....	1.00	1.00	
	Position Level.....	1.00	1.00	
	Fund Sources: General.....	\$219,002	\$219,002	
Commission to Evaluate Opportunity For Minority Business Expansion (878)				
27.10	Economic Development Services (53400).....		\$20,000	\$20,000
	Economic Development Research, Planning, and Coordination (53401).....	\$20,000	\$20,000	
	Fund Sources: General.....	\$20,000	\$20,000	

Authority: Discretionary Inclusion

A. The Virginia Minority Business Commission (the Commission) shall promote the growth and competitiveness of Virginia minority-owned businesses.

B.1. The Commission shall consist of 13 members that include seven legislative members and six nonlegislative citizen members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members with expertise in entrepreneurship, economics,

ITEM 27.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

and business to be appointed by the Speaker of the House of Delegates; and three nonlegislative citizen members with expertise in entrepreneurship, economics, and business to be appointed by the Senate Committee on Rules. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

2. Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments. The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

3. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2813 and § 2.2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission.

C. The Commission shall: (i) Evaluate the impact of existing statutes and proposed legislation on minority businesses; (ii) Assess the Commonwealth's minority business assistance programs and examine ways to enhance their effectiveness; (iii) Provide minority business owners and advocates with a forum to address their concerns; (iv) Develop strategies and recommendations to promote the growth and competitiveness of Virginia minority-owned businesses; and, (v) Collaborate with the Department of Small Business and Supplier Diversity and other appropriate entities to facilitate the Commission's work and mission.

D. The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than November 1st of each year. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Total for Commission to Evaluate Opportunity For Minority Business Expansion.....			\$20,000	\$20,000
Fund Sources: General.....	\$20,000	\$20,000		

Commission on the May 31, 2019 Virginia Beach Mass Shooting (879)

27.20	Research, Planning, and Coordination (78800).....			\$38,504	\$38,504
	Policy Research and Planning (78801).....	\$38,504	\$38,504		
	Fund Sources: General.....	\$38,504	\$38,504		

Authority: Discretionary Inclusion

A. The Commission to Investigate the May 31, 2019, Virginia Beach Mass Shooting is established as an independent commission. The purpose of the Commission is to conduct an independent, thorough, objective incident review of the May 31, 2019, tragedy and make recommendations regarding improvements that can be made in the Commonwealth's laws, policies, procedures, systems, and institutions, as well as those of other governmental agencies and private providers.

ITEM 27.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>B.1. The Commission shall consist of 21 members appointed as follows: five nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; five nonlegislative citizen members to be appointed by the Senate Committee on Rules; and 10 nonlegislative citizen members to be appointed by the Governor. The Superintendent of State Police shall serve ex officio as a nonvoting member of the Commission. Each nonlegislative citizen member of the Commission shall have significant experience as either a (i) law-enforcement officer, (ii) jurist, (iii) local government administrator, (iv) qualified, licensed forensic psychologist, (v) first responder, (vi) security expert, or (vii) IT specialist, and no nonlegislative citizen member of the Commission shall be currently serving in an elected capacity. The Governor shall appoint at least one person from each of the occupations and professions described in clauses (i) through (vii). Every effort shall be made to ensure that appointees do not have a conflict of interest yet can provide the best insight into their specialization. The Commission shall elect a chairman and vice-chairman from among its membership.</p> <p>2. Unless otherwise approved in writing by the chairman of the Commission, Commission members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.</p> <p>C.1. The Commission shall: (i) investigate the underlying motive for the May 31, 2019, Virginia Beach mass shooting; (ii) investigate the gunman's personal background and entire prior employment history with the City of Virginia Beach and his interactions with coworkers and supervisors, including but not limited to formal documentation and informal incidents; (iii) determine how the gunman was able to carry out his actions; (iv) identify any obstacles confronted by first responders; (v) identify and examine the security procedures and protocols in place immediately prior to the mass shooting; (vi) examine the post-shooting communications between law enforcement and the families of the victims; (vii) assess such other matters as it deems necessary to gain a comprehensive understanding of the tragic events of May 31, 2019, and (viii) develop recommendations regarding improvements that can be made in the Commonwealth's laws, policies, procedures, systems, and institutions, as well as those of other government agencies and private providers, to minimize the risk of a tragedy of this nature from ever occurring again in the Commonwealth.</p> <p>2. To the extent required by law, the Commission shall (i) protect the confidentiality of any individual's or family member's personal or health information and (ii) make public or publish information and findings only in summary or aggregate form without identifying personal or health information related to any individual or family member unless authorization is obtained from an individual or family member that specifically permits the Commission to disclose that person's personal or health information; and (iii) ensure that its investigation does not impede any investigation into the matter being conducted by law enforcement.</p> <p>D. The Office of the State Inspector General shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Office of the State Inspector General upon request. Upon the request of the Chairman, the Director of the Department of Planning and Budget may authorize a transfer of this appropriation to the Office of the State Inspector General to support the work of the Commission.</p> <p>E. Beginning in 2021, the Chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than November 1 of each year. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.</p>				
	Total for Commission on the May 31, 2019 Virginia Beach Mass Shooting.....		\$38,504	\$38,504
	Fund Sources: General.....	\$38,504	\$38,504	
Commission on School Construction and Modernization (881)				
27.30	Research, Planning, and Coordination (78800).....		\$34,340	\$34,340
	Policy Research and Planning (78801).....	\$34,340	\$34,340	
	Fund Sources: General.....	\$34,340	\$34,340	

ITEM 27.30.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 30, Chapter 60, Code of Virginia.				
Total for Commission on School Construction and Modernization.....			\$34,340	\$34,340
Fund Sources: General.....	\$34,340	\$34,340		

Commission to Study Slavery and Subsequent De Jure and De Facto Racial and Economic Discrimination Against African Americans (880)

27.40	Research, Planning, and Coordination (78800).....			\$141,521	\$94,164
	Policy Research and Planning (78801).....	\$141,521	\$94,164		
	Fund Sources: General.....	\$141,521	\$94,164		
Authority: Title 2.2, Chapter 25, Article 11, Code of Virginia.					
	Total for Commission to Study Slavery and Subsequent De Jure and De Facto Racial and Economic Discrimination Against African Americans.....			\$141,521	\$94,164
	Fund Sources: General.....	\$141,521	\$94,164		
	Grand Total for Division of Legislative Services.....			\$9,469,973 \$9,519,973	\$10,047,616 \$10,097,616
	General Fund Positions.....	72.50	72.50		
	Position Level.....	72.50	72.50		
	Fund Sources: General.....	\$9,425,854 \$9,475,854	\$10,003,497 \$10,053,497		
	Special.....	\$44,119	\$44,119		

§ 1-7. CHESAPEAKE BAY COMMISSION (842)

28.	Resource Management Research, Planning, and Coordination (50700).....			\$337,309	\$337,309
	Resource Management Policy and Program Development (50701).....	\$337,309	\$337,309		
	Fund Sources: General.....	\$337,309	\$337,309		
Authority: Title 30, Chapter 36, Code of Virginia.					
	Total for Chesapeake Bay Commission.....			\$337,309	\$337,309
	General Fund Positions.....	1.00	1.00		
	Position Level.....	1.00	1.00		
	Fund Sources: General.....	\$337,309	\$337,309		

§ 1-8. JOINT COMMISSION ON HEALTH CARE (844)

29.	Health Research, Planning, and Coordination (40600).....			\$795,343	\$795,343
	Health Policy Research (40606).....	\$795,343	\$795,343		
	Fund Sources: General.....	\$795,343	\$795,343		

Authority: Title 30, Chapter 18, Code of Virginia.

A. The Joint Commission on Health Care shall examine and identify strategies to ensure that the public is made fully aware of the risks and concerns related to the use of psychiatric medications that have dramatically increased over the last 25 years. The Commission shall identify methods: (i) to raise awareness of risks related to the mental and physical health side effects of Attention Deficit Hyperactivity Disorder (ADHD) medication use and risks from potential drug addiction from ADHD medication use; (ii) to

ITEM 29.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>compile and track statistics regarding the number of children in Virginia schools who are diagnosed with ADHD or other categories such as "specific learning disabilities, other health impairment, multiple disorder, and emotional disturbances" in the most effective means possible; (iii) used by other states and countries to limit antipsychotic use and the best methods for developing similar systems in the Commonwealth, including approaches and interventions which focus on treatment, recovery, and legal penalties; and (iv) to identify the incidence and prevalence of prescribing anti-psychotics for off-label use by general physicians and psychiatrists for treatment of ADHD for which there is no FDA indication. The Joint Commission on Health Care shall complete its analysis according to the workload priorities set for Commission staff and report findings to the Chairmen of the House Appropriations and Senate Finance Committees.</p> <p>B. The Joint Commission on Health Care shall study options for increasing the use of telemental health services in the Commonwealth. The Joint Commission on Health Care shall specifically study the issues and recommendations related to telemental health services set forth in the report of the Service System Structure and Financing Work Group of the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century. All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request. The Joint Commission on Health Care shall submit an interim report to the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century.</p>				
			\$795,343	\$795,343
	General Fund Positions.....	6.00		
	Position Level.....	6.00		
	Fund Sources: General.....	\$795,343		
§ 1-9. BEHAVIORAL HEALTH COMMISSION (882)				
29.1	<i>Health Research, Planning, and Coordination (40600).....</i>		\$0	\$348,774
	<i>Behavioral Health Policy Research (40610).....</i>	\$0		\$348,774
	<i>Fund Sources: General.....</i>	\$0		\$348,774
	Total for Behavioral Health Commission.....		\$0	\$348,774
	<i>General Fund Positions.....</i>	0.00		4.00
	<i>Position Level.....</i>	0.00		4.00
	<i>Fund Sources: General.....</i>	\$0		\$348,774
§ 1-10. VIRGINIA COMMISSION ON YOUTH (839)				
30.	Social Services Research, Planning, and Coordination (45000).....		\$369,344	\$369,344
	Social Services Research and Planning (45003).....	\$369,344		\$369,344
	Fund Sources: General.....	\$369,344		\$369,344
	Authority: Title 30, Chapter 20, Code of Virginia.			
	Total for Virginia Commission on Youth.....		\$369,344	\$369,344
	General Fund Positions.....	3.00		3.00
	Position Level.....	3.00		3.00
	Fund Sources: General.....	\$369,344		\$369,344
§ 1-11. VIRGINIA STATE CRIME COMMISSION (142)				
31.	Criminal Justice Research, Planning and Coordination (30500).....		\$1,341,968	\$1,341,968
	Criminal Justice Research (30503).....	\$1,341,968		\$1,341,968

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$1,204,374	\$1,204,374		
Federal Trust.....	\$137,594	\$137,594		
Authority: Title 30, Chapter 16, Code of Virginia.				
Total for Virginia State Crime Commission.....			\$1,341,968	\$1,341,968
General Fund Positions.....	9.00	9.00		
Nongeneral Fund Positions.....	4.00	4.00		
Position Level.....	13.00	13.00		
Fund Sources: General.....	\$1,204,374	\$1,204,374		
Federal Trust.....	\$137,594	\$137,594		

§ 1-12. JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION (110)

32.	Legislative Evaluation and Review (78300).....		\$5,701,520	\$5,701,520
	Performance Audits and Evaluation (78303).....	\$5,701,520	\$5,701,520	
	Fund Sources: General.....	\$5,577,841	\$5,577,841	
	Trust and Agency.....	\$123,679	\$123,679	

Authority: Title 30, Chapters 7 and 8, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Director, Joint Legislative Audit and Review Commission (JLARC), \$169,525 from July 1, 2020, to June 24 9 2021, and ~~\$169,525~~ \$178,001 from June 25 10, 2021, to June 30, 2022.

B. JLARC, upon request of the Department of Planning and Budget and approval of the Chairman, shall review and provide comments to the department on its use of performance measures in the state budget process. JLARC staff shall review the methodology and proposed uses of such performance measures and provide periodic status reports to the Commission.

C. Expenses associated with the oversight responsibility of the Virginia Retirement System by JLARC and the House Appropriations and Senate Finance Committees shall be reimbursed by the Virginia Retirement System upon documentation by the Director, JLARC of the expenses incurred.

D. Out of this appropriation, funds are provided to continue the technical support staff of JLARC, in order to assist with legislative fiscal impact analysis when an impact statement is referred from the Chairman of a standing committee of the House or Senate, and to conduct oversight of the expenditure forecasting process. Pursuant to existing statutory authority, all agencies of the Commonwealth shall provide access to information necessary to accomplish these duties.

E.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the Virginia Information Technologies Agency (VITA) on a continuing basis and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.

2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) VITA's infrastructure outsourcing contracts and any amendments thereto; (ii) adequacy of VITA's planning and oversight responsibilities, including VITA's oversight of information technology projects and the security of governmental information; (iii) cost-effectiveness and adequacy of VITA's procurement services and its oversight of the procurement activities of State agencies.

3. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of VITA.

4. Records provided to VITA by a private entity pertaining to VITA's comprehensive infrastructure agreement or any successor contract, or any contractual amendments thereto

ITEM 32.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	<p>for the operation of the Commonwealth's information technology infrastructure shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise. In order for the records specified in clauses (i) and (ii) to be excluded from the Virginia Freedom of Information Act, the private entity shall make a written request to VITA:</p>			
	<p>a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;</p>			
	<p>b. Identifying with specificity the data or other materials for which protection is sought; and</p>			
	<p>c. Stating the reasons why protection is necessary.</p>			
	<p>VITA shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. VITA shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision. Once a written determination is made by VITA, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of VITA or JLARC.</p>			
	<p>Except as specifically provided in this item, nothing in this item shall be construed to authorize the withholding of (a) procurement records as required by § 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by VITA and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of the private entity under the comprehensive infrastructure agreement, or any successor contract, or any contractual amendments thereto for the operation of the Commonwealth's information technology infrastructure.</p>			
	<p>5. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for VITA review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.</p>			
	<p>6. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.</p>			
	<p>F.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to conduct, on a continuing basis, a review and evaluation of economic development initiatives and policies and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.</p>			
	<p>2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) spending on and performance of individual economic development incentives, including grants, tax preferences, and other assistance; (ii) economic benefits to Virginia of total spending on economic development initiatives at least biennially; (iii) effectiveness, value to taxpayers, and economic benefits to Virginia of individual economic development initiatives on a cycle approved by the Commission; and (iv) design, oversight, and accountability of economic development entities, initiatives, and policies as needed.</p>			
	<p>3. For the purpose of carrying out its duties under this authority and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the facilities, employees, information, and records, including confidential information, and the public and executive session meetings and records of the board of VEDP, involved in economic development initiatives and policies for the purpose of carrying out such duties in accordance with the established standards, processes, and practices exercised by JLARC pursuant to its statutory authority. Access shall include the right to attend such meetings for the purpose of carrying out such duties. Any non-disclosure agreement that VEDP enters into on or after July 1, 2016, for the provision of confidential and proprietary information to VEDP by a third party shall require that JLARC also be allowed access to such information for the purposes of</p>			

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	FY2021	FY2022	FY2021	FY2022

carrying out its duties.

4. Notwithstanding the provisions of subsection A or B of § 58.1-3 or any other provision of law, unless prohibited by federal law, an agreement with a federal entity, or a court decree, the Tax Commissioner is authorized to provide to JLARC such tax information as may be necessary to conduct oversight of economic development initiatives and policies.

5. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:

(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its oversight of economic development initiatives and policies, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.

(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its oversight of economic development initiatives and policies where, if such records are made public, the financial interest of the private entity would be adversely affected.

6. By August 15 of each year, the Secretary of Commerce and Trade shall provide to JLARC all information collected pursuant to § 2.2-206.2, Code of Virginia, in a format and manner specified by JLARC to ensure that the final report to be submitted by the Secretary fulfills the intent of the General Assembly and provides the data and evaluation in a meaningful manner for decision-makers.

7. JLARC shall assist the agencies submitting information to the Secretary of Commerce and Trade pursuant to the provisions of § 2.2-206.2, Code of Virginia, to ensure that the agencies work together to effectively develop standard definitions and measures for the data required to be reported and facilitate the development of appropriate unique project identifiers to be used by the impacted agencies.

8. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for ongoing review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.

9. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.

10. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.

G. Notwithstanding the salaries listed in paragraph A. of this item, the Joint Legislative Audit and Review Commission (JLARC) may establish a salary range for the Director of JLARC.

H.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the agencies and programs under the Secretary of Health and Human Resources (HHR) on a continuing basis.

2. Review and evaluation work shall be directed by JLARC in consultation with the Joint Committee for Health and Human Resources Oversight.

3. Review and evaluation shall include, but not be limited to (i) studies of agencies or programs; (ii) targeted analysis of spending trends and other issues warranting examination; and (iii) assessment of the soundness and accuracy of population and spending forecasts, including the process, assumptions, methodology, and results.

4. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of all agencies within the HHR secretariat.

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5. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:				
(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its evaluation of agencies and programs within the HHR secretariat, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.				
(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its evaluation of agencies and programs within the HHR secretariat where, if such records are made public, the financial interest of the private entity would be adversely affected.				
6. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for ongoing review and evaluation of agencies and programs within the HHR secretariat, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.				
7. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.				
8. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.				
1.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the Commonwealth's enterprise resource planning and related financial, payroll, personnel management and benefit eligibility systems (Cardinal) on a continuing basis and to provide such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.				
2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) procurement for the planning, development, implementation, operation, and maintenance of Cardinal and any subsequent contracts and amendments thereto; (ii) the development, implementation, performance, and costs of Cardinal; (iii) the long-term viability of the technologies utilized in Cardinal; (iv) the adequacy of the system of governance for Cardinal, including the responsibility for, and control of specific data in Cardinal, the responsibility for systems support and maintenance, and the appropriate role of the Virginia Information Technologies Agency; and (v) the security of governmental and personally identifiable information contained in Cardinal.				
3. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of all state agencies and institutions.				
4. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:				
(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its evaluation of Cardinal, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.				
(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its evaluation of Cardinal where, if such records are made public, the financial interest of the private entity would be adversely affected.				
5. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for Cardinal review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.				

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<p>6. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.</p> <p>7. All agencies and institutions of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.</p> <p>J. The Joint Legislative Audit and Review Commission staff shall have access to all information and operations of the Board of Corrections and to observe closed or executive sessions of the Board of Corrections and any of its committees. This authority shall not be limited by §2.2-3712 or any other provision of law.</p> <p><i>K. The clerk of each circuit court shall provide the Joint Legislative Audit and Review Commission with all case data in an electronic format from its own case management system or the statewide Circuit Case Management System upon request of the Commission. If the statewide Circuit Case Management System is used by the clerk, when requested by the Commission, the Executive Secretary of the Supreme Court shall provide for the transfer of such data to the Commission. The Commission may use the data for research, evaluation, or statistical purposes only and shall ensure the confidentiality and security of the data. The Commission shall only publish analyses based on this data as needed for its reports, fiscal impact reviews, or racial and ethnic impact statements as required by the General Assembly. The Commission shall not publish personal or case identifying information, including names, social security numbers and dates of birth, which may be included in the data from a case management system. Upon transfer to the Joint Legislative Audit and Review Commission, such data shall not be subject to the Virginia Freedom of Information Act. Except for the publishing of personal or case identifying information, including names, social security numbers and dates of birth, the restrictions in this section shall not prohibit the Commission from sharing aggregate data in reports, fiscal impact reviews, or racial and ethnic impact statements.</i></p>				
Total for Joint Legislative Audit and Review Commission.....			\$5,701,520	\$5,701,520
General Fund Positions.....		42.00	42.00	
Nongeneral Fund Positions.....		1.00	1.00	
Position Level.....		43.00	43.00	
Fund Sources: General.....		\$5,577,841	\$5,577,841	
Trust and Agency.....		\$123,679	\$123,679	

§ 1-13. VIRGINIA COMMISSION ON INTERGOVERNMENTAL COOPERATION (105)

33.	Governmental Affairs Services (70100).....		\$780,935	\$780,935 \$847,312
	Interstate Affairs (70103).....	\$780,935	\$780,935 \$847,312	
	Fund Sources: General.....	\$780,935	\$780,935 \$847,312	

Authority: Title 30, Chapter 19, Code of Virginia.

Out of this appropriation may be paid from the general fund the annual assessments:

1. To the National Conference of State Legislatures;
2. To the Council of State Governments;
3. To the Southern Regional Education Board; and
4. To the Education Commission of the States.

Total for Virginia Commission on Intergovernmental Cooperation.....			\$780,935	\$780,935 \$847,312
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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$780,935	\$780,935 \$847,312		

§ 1-14. LEGISLATIVE DEPARTMENT REVERSION CLEARING ACCOUNT (102)

34.	Across the Board Reductions (71400).....			(\$194,600)	(\$194,600)
	Across the Board Reduction (71401).....	(\$194,600)	(\$194,600)		
	Fund Sources: General.....	(\$194,600)	(\$194,600)		

Authority: Discretionary Inclusion.

A. On or before June 30, 2021, the Committee on Joint Rules shall authorize a reversion to the general fund of \$5,911,271 representing savings generated by legislative agencies in the second year of the 2018 - 2020 biennium. The total savings amount includes estimated savings within the following legislative agencies:

<i>Legislative Agency</i>	<i>Estimated Savings</i>
133: Auditor of Public Accounts	\$500,000.00
961: Division of Capitol Police	\$2,000,000.00
109: Division of Legislative Automated Systems	\$40,000.00
107: Division of Legislative Services	\$1,000,000.00
837: Virginia Disability Commission	\$68,463.70
847: Joint Commission on Technology and Science	\$166,641.57
971: State Water Commission	\$9,121.92
118: Virginia Coal and Energy Commission	\$21,614.55
108: Virginia Code Commission	\$334,651.00
862: Small Business Commission	\$13,646.28
871: Autism Advisory Council	\$16,926.12
876: Virginia Conflict of Interest and Ethics Advisory Council	\$165,078.21
872: Virginia World War I and World War II Commemoration Commission	\$300,104.58
875: Joint Commission on Transportation Accountability	\$28,199.92
877: Commission on Economic Opportunity for Virginians in Aspiring Communities	\$30,222.37
844: Joint Commission on Health Care	\$108,047.50
839: Virginia Commission on Youth	\$40,000.00
110: Joint Legislative Audit and Review Commission	\$1,068,553.29
Total	\$5,911,271

35.	Enactment of Laws (78200).....			\$710,315	\$710,315
	Undesignated Support for Enactment of Laws Services (78205).....	\$710,315	\$710,315		
	Fund Sources: General.....	\$710,315	\$710,315		

Authority: Discretionary Inclusion.

A. Transfers out of this appropriation may be made to fund unanticipated costs in the budgets of legislative agencies or other such costs approved by the Joint Rules Committee.

B. Included within this appropriation is \$200,000 the first year and \$200,000 the second year from the general fund and one position for the operation of the Capitol Guides program. The allocation of these funds shall be subject to the approval of the Committee on Joint Rules. The Capitol Guides program shall be jointly administered by the Clerk of the House of Delegates and the Clerk of the Senate.

C. Included within this appropriation is \$250,000 the first year and \$250,000 the second year from the general fund to support the development of the Women's Monument on Capitol Square.

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D. Included within this appropriation is \$395,000 the first year and \$100,000 the second year from the general fund to provide funds, to be matched at a rate of fifty percent by the Virginia Historical Society, that support efforts to commemorate the 100th anniversary of the women's right to vote.				
Total for Legislative Department Reversion Clearing Account.....			\$515,715	\$515,715
General Fund Positions.....	1.00	1.00		
Position Level.....	1.00	1.00		
Fund Sources: General.....	\$515,715	\$515,715		
TOTAL FOR LEGISLATIVE DEPARTMENT.....			\$110,440,509	\$110,494,071
			<i>\$110,470,669</i>	<i>\$111,820,329</i>
General Fund Positions.....	608.50	618.50 622.50		
Nongeneral Fund Positions.....	32.50	32.50		
Position Level.....	641.00	651.00 655.00		
Fund Sources: General.....	\$106,415,010	\$106,468,572		
	<i>\$106,445,170</i>	<i>\$107,794,830</i>		
Special.....	\$3,764,226	\$3,764,226		
Trust and Agency.....	\$123,679	\$123,679		
Federal Trust.....	\$137,594	\$137,594		

ITEM 36.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
JUDICIAL DEPARTMENT				
§ 1-15. SUPREME COURT (111)				
36.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$14,367,332	\$14,367,332 \$14,694,927
	Appellate Review (32101).....	\$9,181,432		\$9,181,432 \$9,409,027
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$5,185,900		\$5,185,900 \$5,285,900
	Fund Sources: General.....	\$14,188,052		\$14,188,052 \$14,515,647
	Special.....	\$179,280		\$179,280
	Authority: Article VI, Sections 1 through 6, Constitution of Virginia; Title 17.1, Chapter 3 and § 19.2-163, Code of Virginia.			
	A. Out of the amounts for Appellate Review shall be paid:			
	1. The annual salary of the Chief Justice, \$201,921 from July 1, 2020 to June 9, 2021, \$201,921 \$212,017 from June 10, 2021 to June 30, 2022.			
	2. The annual salaries of the six (6) Associate Justices, each \$189,396 from July 1, 2020 to June 9, 2021, \$189,396 \$198,865 from June 10, 2021 to June 30, 2022.			
	3. To each justice, \$13,500 the first year and \$13,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.			
	B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2020, in the appropriation made in Item 35, Chapter 854, Acts of Assembly of 2019, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2021.			
	C.1. Out of the amounts appropriated in this Item, \$5,175,000 the first year and \$5,175,000 the second year from the general fund is included for increased reimbursements for court-appointed counsel pursuant to § 19.2-163, Code of Virginia.			
	2. The Director, Department of Planning and Budget, shall upon the request of the Executive Secretary of the Supreme Court of Virginia, transfer from the second year amount identified in Paragraph C.1. of this item to the first year an amount equal to the estimated shortfall for criminal fund waivers in the first year. Any such request shall be submitted by the Executive Secretary no later than May 1st of any fiscal year. Any amounts transferred shall be communicated to the Chairmen of the House Appropriations and Senate Finance Committees no later than 30 days following any such transfer.			
	D. The Executive Secretary of the Supreme Court of Virginia shall encourage training of Juvenile and Domestic Relations District Court judges regarding the options available for court-ordered services for families in truancy cases prior to the initiation of other remedies.			
37.	Law Library Services (32300).....		\$1,076,534	\$1,076,534
	Law Library Services (32301).....	\$1,076,534		\$1,076,534
	Fund Sources: General.....	\$1,076,534		\$1,076,534
	Authority: §§ 42.1-60 through 42.1-64, Code of Virginia.			
38.	Adjudication Training, Education, and Standards (32600).....		\$899,140	\$899,140
	Judicial Training (32603).....	\$899,140		\$899,140
	Fund Sources: General.....	\$899,140		\$899,140
	Authority: Title 16.1, Chapter 9; Title 17.1, Chapter 7; §§ 2.2-4025, 19.2-38.1 and 19.2-43, Code of Virginia.			

ITEM 38.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
39.	Administrative and Support Services (39900).....			\$35,512,025	\$35,171,369 \$43,501,601
	General Management and Direction (39901).....	\$35,512,025	\$35,171,369 \$43,501,601		
	Fund Sources: General.....	\$25,239,057	\$24,898,401 \$33,228,633		
	Special.....	\$124,375	\$124,375		
	Dedicated Special Revenue.....	\$8,833,848	\$8,833,848		
	Federal Trust.....	\$1,314,745	\$1,314,745		

Authority: §§ 16.1-69.30, 16.1-69.33, 17.1-314 through 17.1-320 and 17.1-502, Code of Virginia.

A. The Executive Secretary of the Supreme Court shall submit an annual fiscal year summary, on or before September 1 of each year, to the Chairmen of the House Appropriations and Senate Finance Committees and to the Director, Department of Planning and Budget, which will report the number of individuals for whom legal or medical services were provided and the nature and cost of such services as are authorized for payment from the criminal fund or the involuntary mental commitment fund.

B. Notwithstanding the provisions of § 19.2-326, Code of Virginia, the amount of attorney's fees allowed counsel for indigent defendants in appeals to the Supreme Court shall be in the discretion of the Supreme Court.

C. The Chief Justice is authorized to reallocate legal support staff between the Supreme Court and the Court of Appeals of Virginia, in order to meet changing workload demands.

D. Prior to January 1 of each year, the Judicial Council and the Committee on District Courts are requested to submit a fiscal impact assessment of their recommendations for the creation of any new judgeships, including the cost of judicial retirement, to the Chairmen of the House and Senate Committees on Courts of Justice, and the House Appropriations and Senate Finance Committees.

E. Included in this Item is \$3,750,000 the first year and \$3,750,000 the second year from the general fund, which may support computer system improvements for the several circuit and district courts. The Executive Secretary of the Supreme Court shall submit an annual report to the Director, Department of Planning and Budget on or before September 1 of each year outlining the improvement projects undertaken and the project status of each project. Each project in the report should include the life to date cost of the project, the amount spent on the project in the most recently completed fiscal year, the year the project began, the estimated cost to complete the remainder of the project and an estimated project completion date.

F. Given the continued concern about providing adequate compensation levels for court-appointed attorneys providing criminal indigent defense in the Commonwealth, the Executive Secretary of the Supreme Court, in conjunction with the Governor, Attorney General, Indigent Defense Commission, representatives of the Indigent Defense Stakeholders Group and Chairmen of the House and Senate Courts of Justice Committees, shall continue to study and evaluate all available options to enhance Virginia's Indigent Defense System.

G. In addition to any filing fee or other fee permitted by law, an electronic access fee may be charged for each case filed electronically pursuant to Rule 1:17 of the Rules of the Supreme Court of Virginia. The amount of this fee shall be set by the Supreme Court of Virginia. Moneys collected pursuant to this fee shall be deposited into the State Treasury to the credit of the Courts Technology Fund established pursuant to § 17.1-132, to be used to support the costs of statewide electronic filing systems.

H. 1. No state funds used to support the operation of drug court programs shall be provided to programs that serve first-time substance abuse offenders only or do not include probation violators. This restriction shall not apply to juvenile drug court programs.

2. Notwithstanding the provisions of subsection O. of § 18.2-254.1, Code of Virginia, any

ITEM 39.	Item Details(\$)		Appropriations(\$)	
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<p>locality is authorized to establish a drug treatment court supported by existing state resources and by federal or local resources that may be available. This authorization is subject to the requirements and conditions regarding the establishment and operation of a local drug treatment court advisory committee as provided by § 18.2-254.1 and the requirements and conditions established by the state Drug Treatment Court Advisory Committee. Any drug court treatment program established after July 1, 2012, shall limit participation in the program to offenders who have been determined, through the use of a nationally recognized, validated assessment tool, to be addicted to or dependent on drugs. However, no such drug court treatment program shall limit its participation to first-time substance abuse offenders only; nor shall it exclude probation violators from participation.</p> <p>3. The evaluation of drug treatment court programs required by § 18.2-254.1 shall include the collection of data needed for outcome measures, including recidivism. Drug treatment court programs shall provide to the Office of the Executive Secretary of the Supreme Court the information needed to conduct such an evaluation.</p> <p>4. Included within this appropriation is \$960,000 the first year and \$960,000 the second year from the general fund for drug courts in jurisdictions with high drug caseloads, to be allocated by the State Drug Treatment Court Advisory Committee to existing drug courts which have been approved by the Supreme Court of Virginia but have not previously received state funding.</p> <p>I. Notwithstanding the provisions of § 16.1-69.48, Code of Virginia, the Executive Secretary of the Supreme Court shall ensure the deposit of all Commonwealth collections directly into the State Treasury for Item 42 General District Courts, Item 43 Juvenile and Domestic Relations District Courts, Item 44 Combined District Courts, and Item 45 Magistrate System.</p> <p>J. Included in this appropriation, \$240,000 the first year and \$240,000 the second year from the general fund is provided to implement the Judicial Performance Evaluation Program established by § 17.1-100 of the Code of Virginia.</p> <p>K. Working in collaboration with the Chief Justice and Associate Justices of the Supreme Court of Virginia and the Chief Judge and Associate Judges of the Court of Appeals of Virginia, the Executive Secretary of the Supreme Court, in consultation with the Director of the Department of General Services, is directed to develop a comprehensive plan that meets the future space needs of both courts around Capitol Square, which is acceptable to the Chief Justice of the Supreme Court of Virginia and the Chief Judge of the Court of Appeals of Virginia.</p> <p>L. Included in this appropriation, \$175,321 the first year and \$175,321 the second year from nongeneral funds and two positions to support drug treatment court evaluation and monitoring. The source of funds is the Drug Offender Assessment Fund.</p> <p>M. Included in the amounts appropriated for this item are \$400,000 the first year and \$400,000 the second year from the general fund to be allocated by the State Drug Treatment Court Advisory Committee for the establishment of drug courts in jurisdictions with high drug-related caseloads, or to increase funding provided to existing drug court programs experiencing high caseload growth.</p> <p>N. Included in this appropriation is \$500,000 the first year and \$500,000 the second year from the general fund to support the creation and expansion of mental health court dockets in jurisdictions with high caseloads, to be allocated by the Virginia Supreme Court.</p> <p>O.1. There is hereby created in the state treasury a special nonreverting fund to be known as the Attorney Wellness Fund, hereinafter referred to as the Fund. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund, but shall remain in the Fund. Except for transfers pursuant to this Item, there shall be no transfers out of the Fund, including transfers to the general fund.</p> <p>2. Notwithstanding the provisions of § 54.1-3912, Code of Virginia, in addition to any other fee permitted by law, the Supreme Court of Virginia may adopt rules assessing members of the Virginia State Bar an annual fee of up to \$30 to be deposited in the State Bar Fund and transferred to the Attorney Wellness Fund.</p>				

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3.Moneys in the Fund shall be allocated at the direction of the Supreme Court of Virginia solely for the purposes of wellness initiatives for attorneys, judges, and law students, to prevent substance abuse and behavioral health disorders. The revenue raised in support of the Fund shall not be used to supplant current funding to the judicial branch. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the Executive Secretary of the Supreme Court of Virginia.

P. The Office of the Executive Secretary of the Supreme Court shall prepare and distribute evaluation forms in all Circuit Court cases that are overseen by a retired judge for the purpose of collecting information on the number and types of cases referred to retired judges, and use such information to prepare and annually publish a report to be distributed to the members of the House Committee on Courts of Justice and the Senate Committee on the Judiciary, on or about January 1, each year.

Q. Included in this appropriation is \$1,539,033 the second year for the implementation of an automatic expungement process pursuant to House Bill 2113 and Senate Bill 1339 of the 2021 Session of the General Assembly.

R. The Executive Secretary of the Supreme Court shall review, in consultation with representatives of the Indigent Defense Commission, Virginia Community Criminal Justice Association, and other stakeholders identified by the Executive Secretary, the requirements of House Bill 2286 of the 2021 Session of the General Assembly, as introduced, and produce (i) a plan for the implementation of the provisions of the bill, (ii) an estimate of the costs of implementing the provisions of the bill, and (iii) an estimate of potential off-setting savings resulting from implementation of the plan. The Executive Secretary shall provide a report detailing the plan for implementation, and associated costs and savings, to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1, 2021.

Total for Supreme Court.....			\$51,855,031	\$51,514,375 \$60,172,202
General Fund Positions.....	159.63	159.63 221.63		
Nongeneral Fund Positions.....	8.00	8.00		
Position Level.....	167.63	167.63 229.63		
Fund Sources: General.....	\$41,402,783	\$41,062,127 \$49,719,954		
Special.....	\$303,655	\$303,655		
Dedicated Special Revenue.....	\$8,833,848	\$8,833,848		
Federal Trust.....	\$1,314,745	\$1,314,745		

Court of Appeals of Virginia (125)

40.	Pre-Trial, Trial, and Appellate Processes (32100)....		\$9,948,128 \$11,012,737	\$9,948,128 \$18,197,264
	Appellate Review (32101).....	\$9,943,128 \$11,007,737	\$9,943,128 \$18,192,264	
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$5,000	\$5,000	
	Fund Sources: General.....	\$9,948,128 \$11,012,737	\$9,948,128 \$18,197,264	

Authority: Title 17.1, Chapter 4 and § 19.2-163, Code of Virginia.

A. Out of the amounts in this Item for Appellate Review shall be paid:

1. 1. The annual salary of the Chief Judge, \$183,008 from July 1, 2020 to June 9, 2021, ~~\$183,008~~ \$192,158 from June 10, 2021 to June 30, 2022.
2. The annual salaries of the ten (10) judges, each at \$179,926 from July 1, 2020 to June 9,

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
2021, \$179,926 \$188,922 from June 10, 2021 to June 30, 2022.				
3. Salaries of the judges are to be 95 percent of the salaries of justices of the Supreme Court except for the Chief Judge, who shall receive an additional \$3,000 annually.				
4. To each judge, \$6,500 the first year and \$6,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.				
B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2020, in the appropriation made in Item 39, Chapter 854, Acts of Assembly of 2019, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2021.				
C. The amount of attorney's fees allowed counsel to indigent defendants in appeals to the Court of Appeals shall be in the discretion of the court.				
<i>D. Out of the amounts appropriated in this Item, \$1,064,609 the first year and \$7,613,112 the second year from the general fund to support additional judges and associated staff to address anticipated workload increases related to legislation adopted by the 2021 Session of the General Assembly that expands the jurisdiction and organization of the Court of Appeals of Virginia.</i>				
Total for Court of Appeals of Virginia.....			\$9,948,128 \$11,012,737	\$9,948,128 \$18,197,264
General Fund Positions.....	69.13 96.13	69.13 128.13		
Position Level.....	69.13 96.13	69.13 128.13		
Fund Sources: General.....	\$9,948,128 \$11,012,737	\$9,948,128 \$18,197,264		

Circuit Courts (113)

41.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$114,248,355	\$113,834,853 \$112,174,403
	Trial Processes (32103).....	\$54,071,629	\$54,071,629 \$49,832,296	
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$60,176,726	\$59,763,224 \$62,342,107	
	Fund Sources: General.....	\$114,248,355	\$113,834,853 \$112,174,403	

Authority: Article VI, Section 1, Constitution of Virginia; Title 17.1, Chapter 5; § 19.2-163, Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of Circuit Court judges, each at \$175,826 from July 1, 2020 to June 9, 2021, ~~\$175,826~~ \$184,617 from June 10, 2021 to June 30, 2022. Such salaries shall represent the total compensation from all sources for Circuit Court judges.

2. Expenses necessarily incurred for the position of judge of the Circuit Court, including clerk hire not exceeding \$1,500 a year for each judge.

3. The state's share of expenses incident to the prosecution of a petition for a writ of habeas corpus by an indigent petitioner, including payment of counsel fees as fixed by the Court; the expenses shall be paid upon receipt of an appropriate order from a Circuit Court.

4. A circuit court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.

B. The Chief Circuit Court Judge shall restrict the appointment of special justices to conduct involuntary mental commitment hearings to those unusual instances when no General District

ITEM 41.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Court or Juvenile and Domestic Relations District Court Judge can be made available or when the volume of the hearings would require more than eight hours a week.

C. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2020, in the appropriation made in Item 40, Chapter 854, Acts of Assembly of 2019, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2021.

D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.

E.1. General fund appropriations for Other Court Costs and Allowances (Criminal Fund) total ~~\$128,840,989~~ 131,540,989 the first year and ~~\$127,467,905~~ 129,488,054 the second year in this Item and Items 36, 40, 42, 43 and 44.

2. The Chief Justice of the Supreme Court of Virginia shall determine how the amounts appropriated to Other Courts Costs and Allowances (Criminal Fund) will be allocated, consistent with statutory provisions in the Code of Virginia. Funds within these appropriations are to be used to fund fully the statutory caps on compensation applicable to attorneys appointed by the court to defend criminal charges. Should this appropriation not be sufficient to fund fully all of the statutory caps on compensation as established by § 19.2-163, Code of Virginia, that this appropriation shall be applied first to fully fund the statutory caps for the most serious noncapital felonies and then, should funds still remain in this appropriation, to the other statutory caps, in declining order of the severity of the charges to which each cap is applicable.

3. Notwithstanding the provisions of § 19.2-163, Code of Virginia, the amount of compensation allowed to counsel appointed by the court to defend a felony charge that may be punishable by death shall be calculated on an hourly basis at a rate set by the Supreme Court of Virginia.

F.1. For any hearing conducted pursuant to § 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has allegedly violated.

2. For any hearing conducted pursuant to § 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.

3. Following any hearing conducted pursuant to § 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.

4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.

G. Mandated changes or improvements to court facilities pursuant to § 15.2-1643, Code of Virginia, or otherwise, including any new construction, shall be delayed at the request of the local governing body in which the court is located until June 30, 2022. The provisions of this item shall not apply to facilities that were subject to litigation on or before November 30, 2008.

ITEM 41.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>H. In order to reduce expenditures through the Criminal Fund for court-appointed counsel, compensation paid to attorneys appointed pursuant to Virginia Code § 53.1-40 shall be limited to \$55 per hour, with a maximum per diem compensation of \$200, except in cases where the appointed attorney is appointed to represent indigent prisoners at more than one state prison, and in such cases their billing shall be capped monthly at \$6,000, plus reasonable expenses, to be paid from the Criminal Fund.</p> <p>I.1. Notwithstanding the provisions of § 19.2-155, Code of Virginia, in cases where an Attorney for the Commonwealth must recuse himself from a case or a special prosecutor must be appointed, the circuit court judge must appoint an Attorney for the Commonwealth or an Assistant Attorney for the Commonwealth from another jurisdiction. If the circuit court judge determines that the appointment of such Attorney for the Commonwealth or such Assistant Attorney for the Commonwealth is not appropriate or that such an attorney or assistant is unavailable then the judge must request approval from the Executive Secretary of the Supreme Court for an exception to this requirement.</p> <p>2. The Executive Secretary of the Supreme Court shall include in the annual report required in paragraph A. of Item 39 information on the number of exceptions granted related to special prosecutors and the related expenditures.</p> <p>J. Notwithstanding any other provisions of Chapter 23 of Title 8.1 of the Code of Virginia, a reasonable fee not to exceed \$150 may be charged by Commissioners of Accounts for any foreclosures on a timeshare estate to reimburse them for the reasonable costs associated therewith.</p>				
Total for Circuit Courts.....			\$114,248,355	\$113,834,853 <i>\$112,174,403</i>
General Fund Positions.....	165.00	165.00 <i>154.00</i>		
Position Level.....	165.00	165.00 <i>154.00</i>		
Fund Sources: General.....	\$114,248,355	\$113,834,853 <i>\$112,174,403</i>		

General District Courts (114)

42. Pre-Trial, Trial, and Appellate Processes (32100).....			\$129,538,848	\$130,943,333 <i>\$128,310,347</i>
Trial Processes (32103).....	\$104,727,552 <i>\$100,258,076</i>	\$106,591,572 <i>\$104,445,389</i>		
Other Court Costs And Allowances (Criminal Fund) (32104).....	\$18,882,131	\$18,422,596 <i>\$17,935,793</i>		
Involuntary Mental Commitments (32105).....	\$5,929,165	\$5,929,165		
Fund Sources: General.....	\$129,538,848 <i>\$125,069,372</i>	\$130,943,333 <i>\$128,310,347</i>		

Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-137, 19.2-163 and 37.2-809 et seq., Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of all General District Court judges, \$158,252 from July 1, 2020 to June 9, 2021, ~~\$158,252~~ *\$166,164* from June 10, 2021 to June 30, 2022. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for General District Court Judges and incorporate all supplements formerly paid by the various localities.

2. The salaries of substitute judges and court personnel.

B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2020, in the appropriation made in Item 41, Chapter 854, Acts of Assembly of 2019 in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary

ITEM 42.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Mental Commitments and the balances remaining in these item details on June 30, 2021.

C. Any balance, or portion thereof, in the item detail Involuntary Mental Commitments, may be transferred between Items 42, 43, 44, and 310, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.

D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.

E. A district court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.

F. Upon the retirement or separation from employment of any chief general district court clerks from the 7th judicial district or the 13th judicial district, any vacant chief clerk positions in excess of one chief clerk for each general district court shall be reallocated by the Committee on District Courts to district courts with the highest documented unmet staffing requirements.

G. Included in the appropriation for this item is ~~\$5,732,280~~ 1,424,522 the first year and \$7,596,300 the second year from the general fund for the Office of the Executive Secretary of the Supreme Court to use, at its discretion, for additional general district court clerk positions, salary increases for general district court clerks, or a combination thereof.

42.10 Omitted.

Total for General District Courts.....			\$129,538,848	\$130,943,333
			\$125,069,372	\$128,310,347
General Fund Positions.....	1,146.10	1,176.10		
		1,156.10		
Position Level.....	1,146.10	1,176.10		
		1,156.10		
Fund Sources: General.....	\$129,538,848	\$130,943,333		
	\$125,069,372	\$128,310,347		

Juvenile and Domestic Relations District Courts (115)

43. Pre-Trial, Trial, and Appellate Processes (32100)....			\$107,875,063	\$107,675,016
				\$106,848,692
Trial Processes (32103).....	\$71,056,587	\$71,056,587		
		\$70,402,194		
Other Court Costs And Allowances (Criminal Fund) (32104).....	\$36,553,729	\$36,353,682		
		\$36,181,751		
Involuntary Mental Commitments (32105).....	\$264,747	\$264,747		
Fund Sources: General.....	\$107,875,063	\$107,675,016		
		\$106,848,692		

Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-69.58, 16.1-226 through 16.1-334, 19.2-163 and 37.2-809 through 37.2-813., Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of all full-time Juvenile and Domestic Relations District Court Judges, \$158,252 from July 1, 2020 to June 9, 2021, ~~\$158,252~~ \$166,164 from June 10, 2021 to June 30, 2022. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for Juvenile and Domestic Relations District Court Judges.

2. The salaries of substitute judges and court personnel.

ITEM 43.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2020, in the appropriation made in Item 42, Chapter 854, Acts of Assembly of 2019, in the Item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2021.</p> <p>C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may be transferred between Items 42, 43, 44, and 310, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.</p> <p>D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.</p> <p>E. Out of the amounts appropriated in this Item, \$310,300 the first year and \$310,300 the second year from the general fund is included to cover the cost of fee changes to mediators appointed in any custody and support or visitation cases.</p> <p>F. Notwithstanding the provisions of § 20-124.4, Code of Virginia, the fee paid to mediators shall be \$120 per appointment mediated. For such purpose, \$303,000 the first year and \$303,000 the second year from the general fund is included in the appropriation for this item.</p> <p>G. Notwithstanding any other provision of law, during a declared judicial state of emergency as defined in § 17.1-330, Code of Virginia, and for up to 90 days after the declaration has been rescinded or expires, a chief judge may waive the ceremonial requirements pursuant to § 46.2-336, Code of Virginia, or otherwise conduct juvenile licensing ceremonies in an alternative manner prescribed by the court. The judge may mail or otherwise deliver driver's licenses to licensees at the time such licenses are received by the judge. The Chief judge may also coordinate with the Department of Motor Vehicles to have licenses mailed directly to licensees.</p>				
Total for Juvenile and Domestic Relations District Courts.....			\$107,875,063	\$107,675,016 <i>\$106,848,692</i>
General Fund Positions.....	617.10	617.10 <i>611.10</i>		
Position Level.....	617.10	617.10 <i>611.10</i>		
Fund Sources: General.....	\$107,875,063	\$107,675,016 <i>\$106,848,692</i>		

Combined District Courts (116)

44.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$24,133,853	\$24,133,853 <i>\$23,136,034</i>
	Trial Processes (32103).....	\$14,847,290		\$14,847,290 <i>\$13,849,471</i>
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$7,737,503		\$7,737,503
	Involuntary Mental Commitments (32105).....	\$1,549,060		\$1,549,060
	Fund Sources: General.....	\$24,133,853		\$24,133,853 <i>\$23,136,034</i>

Authority: Article VI, Section 8, Constitution of Virginia, §§ 16.1-69.1 through 16.1-137, 16.1-226 through 16.1-334, 19.2-163, and 37.2-809 through 37.2-813, Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid the salaries of substitute judges and court personnel.

B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2020, in the appropriation made in Item 43, Chapter 854, Acts of Assembly of 2019, in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2021.

C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may

ITEM 44.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
be transferred between Items 42, 43, 44, and 310, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.				
D. The appropriation in this Item for Other Court Costs and Allowances shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.				
Total for Combined District Courts.....			\$24,133,853	\$24,133,853 <i>\$23,136,034</i>
General Fund Positions.....	204.55	204.55 195.55		
Position Level.....	204.55	204.55 195.55		
Fund Sources: General.....	\$24,133,853	\$24,133,853 <i>\$23,136,034</i>		

Magistrate System (103)

45.	Pre-Trial, Trial, and Appellate Processes (32100)....		\$35,364,272	\$35,364,272 <i>\$32,747,182</i>
	Pre-Trial Assistance (32102).....	\$35,364,272	\$35,364,272 <i>\$32,747,182</i>	
	Fund Sources: General.....	\$35,364,272	\$35,364,272 <i>\$32,747,182</i>	
Authority: Article VI, Section 8, Constitution of Virginia; Title 19.2, Chapter 3, Code of Virginia.				
	Total for Magistrate System.....		\$35,364,272	\$35,364,272 <i>\$32,747,182</i>
	General Fund Positions.....	446.20	446.20 423.20	
	Position Level.....	446.20	446.20 423.20	
	Fund Sources: General.....	\$35,364,272	\$35,364,272 <i>\$32,747,182</i>	
	Grand Total for Supreme Court.....		\$472,963,550	\$473,413,830 <i>\$469,558,683</i> <i>\$481,586,124</i>
	General Fund Positions.....	2,807.71 2,834.71	2,837.71 2,889.71	
	Nongeneral Fund Positions.....	8.00	8.00	
	Position Level.....	2,815.71 2,842.71	2,845.71 2,897.71	
	Fund Sources: General.....	\$462,511,302 <i>\$459,106,435</i>	\$462,961,582 <i>\$471,133,876</i>	
	Special.....	\$303,655	\$303,655	
	Dedicated Special Revenue.....	\$8,833,848	\$8,833,848	
	Federal Trust.....	\$1,314,745	\$1,314,745	

§ 1-16. BOARD OF BAR EXAMINERS (233)

46.	Regulation of Professions and Occupations (56000).....		\$1,762,384	\$1,762,384
	Lawyer Regulation (56019).....	\$1,762,384	\$1,762,384	
	Fund Sources: Special.....	\$1,762,384	\$1,762,384	

Authority: Title 54.1, Chapter 39, Articles 3 and 4 and § 54.1-3934, Code of Virginia.

The State Comptroller shall continue the Board of Bar Examiners Fund on the Cardinal system. Revenues collected from fees paid by applicants for admission to the bar shall be

ITEM 46.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
deposited into the Board of Bar Examiners Fund. The source of nongeneral funds included in this item is the Board of Bar Examiners Fund. Interest generated by the fund shall be retained by the fund.				
Total for Board of Bar Examiners.....			\$1,762,384	\$1,762,384
Nongeneral Fund Positions.....	9.00	9.00		
Position Level.....	9.00	9.00		
Fund Sources: Special.....	\$1,762,384	\$1,762,384		

§ 1-17. JUDICIAL INQUIRY AND REVIEW COMMISSION (112)

47.	Adjudication Training, Education, and Standards (32600).....			\$678,657	\$678,657
	Judicial Standards (32602).....	\$678,657	\$678,657		
	Fund Sources: General.....	\$678,657	\$678,657		
Authority: Article VI, Section 10, Constitution of Virginia; Title 17.1, Chapter 9, Code of Virginia.					
	Total for Judicial Inquiry and Review Commission....			\$678,657	\$678,657
	General Fund Positions.....	3.00	3.00		
	Position Level.....	3.00	3.00		
	Fund Sources: General.....	\$678,657	\$678,657		

§ 1-18. INDIGENT DEFENSE COMMISSION (848)

48.	Legal Defense (32700).....			\$61,249,487	\$63,148,850
				\$58,400,443	\$66,207,526
	Criminal Indigent Defense Services (32701).....	\$53,908,026	\$55,807,389		
		\$51,058,982	\$62,194,581		
	Capital Indigent Defense Services (32702).....	\$3,928,516	\$3,928,516		
			\$0		
	Legal Defense Regulatory Services (32703).....	\$221,798	\$221,798		
	Administrative Services (32722).....	\$3,191,147	\$3,191,147		
			\$3,791,147		
	Fund Sources: General.....	\$61,237,507	\$63,136,870		
		\$58,388,463	\$66,195,546		
	Special.....	\$11,980	\$11,980		

Authority: §§ 19.2-163.01 through 19.2-163.8, Code of Virginia

A. Pursuant to § 19.2-163.01, Code of Virginia, the Executive Director of the Indigent Defense Commission shall serve at the pleasure of the commission.

B. Out of the amounts in this Item, \$200,000 the first year and \$200,000 the second year from the general fund is provided to support two positions to enforce and monitor compliance with the new Standards of Practice for court-appointed counsel.

C. Out of the amounts in this Item, \$185,092 the first year and \$185,092 the second year from the general fund is included for the financing costs of purchasing computers through the state's master equipment lease purchase program.

D. Out of the amounts in this item, \$3,798,726 949,682 the first year and \$5,698,089 the second year from the general fund is provided to hire additional public defender positions to address increased workloads and reduce turnover in offices across the Commonwealth. The Commission may direct a portion of the funding for salary adjustments, including increasing starting salaries for attorneys and adjusting salaries for current staff to address turnover rates within the offices.

48.10 Omitted.

ITEM 48.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Indigent Defense Commission.....			\$61,249,487 \$58,400,443	\$63,148,850 \$66,207,526
General Fund Positions.....	660.00	660.00 701.00		
Position Level.....	660.00	660.00 701.00		
Fund Sources: General.....	\$61,237,507	\$63,136,870		
Special.....	\$58,388,463	\$66,195,546		
	\$11,980	\$11,980		

§ 1-19. VIRGINIA CRIMINAL SENTENCING COMMISSION (160)

49. Adjudicatory Research, Planning, and Coordination (32400).....			\$1,240,651	\$1,240,651 \$1,573,851
Adjudicatory Research And Planning (32403).....	\$1,240,651	\$1,240,651 \$1,573,851		
Fund Sources: General.....	\$1,170,582	\$1,170,582		
Special.....	\$70,069	\$70,069		

Authority: Title 17.1, Chapter 8, Code of Virginia

A. For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

B. The clerk of each circuit court shall provide the Virginia Criminal Sentencing Commission case data in an electronic format from its own case management system or the statewide Circuit Case Management System. If the statewide Circuit Case Management System is used by the clerk, when requested by the Commission, the Executive Secretary of the Supreme Court shall provide for the transfer of such data to the Commission. The Commission may use the data for research, evaluation, or statistical purposes only and shall ensure the confidentiality and security of the data. The Commission shall only publish statistical reports and analyses based on this data as needed for its annual reports or for other reports as required by the General Assembly. The Commission shall not publish personal or case identifying information, including names, social security numbers and dates of birth, that may be included in the data from a case management system. Upon transfer to the Virginia Criminal Sentencing Commission, such data shall not be subject to the Virginia Freedom of Information Act. Except for the publishing of personal or case identifying information, including names, social security numbers and dates of birth, the restrictions in this section shall not prohibit the Commission from sharing aggregate data when requested by a member of the General Assembly, the Office of the Attorney General, the Office of the Governor, or a member of the Governor's Cabinet.

Total for Virginia Criminal Sentencing Commission.....			\$1,240,651	\$1,240,651 \$1,573,851
General Fund Positions.....	10.00	10.00 12.00		
Position Level.....	10.00	10.00 12.00		
Fund Sources: General.....	\$1,170,582	\$1,170,582		
Special.....	\$70,069	\$70,069		

§ 1-20. VIRGINIA STATE BAR (117)

ITEM 50.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
50.	Legal Defense (32700).....			\$16,921,912	\$16,921,912
				\$15,421,912	
	Criminal Indigent Defense Services (32701).....	\$352,500	\$352,500		
	Indigent Defense, Civil (32704).....	\$16,569,412	\$16,569,412		
		\$15,069,412			
	Fund Sources: General.....	\$7,571,912	\$7,571,912		
		\$6,071,912			
	Special.....	\$8,350,000	\$8,350,000		
	Dedicated Special Revenue.....	\$1,000,000	\$1,000,000		

Authority: § 17.1-278, Code of Virginia.

A. The Virginia State Bar and the Legal Services Corporation of Virginia shall not use funds provided for in this act, and those available from financial institutions pursuant to § 54-1-3916, Code of Virginia, to file lawsuits on behalf of aliens present in the United States in violation of law.

B.1. The amounts for Indigent Defense, Civil, include up to \$75,000 the first year and up to \$75,000 the second year from the general fund for the Community Tax Law Project, to provide indigent defense services in matters related to taxation disputes, and educational services involving the rights and responsibilities of taxpayers.

2. The amounts for Indigent Defense, Civil, include up to ~~\$7,125,000~~ 5,625,000 the first year and up to \$7,125,000 the second year from the general fund and \$2,000,000 the first year and \$2,000,000 the second year from nongeneral funds to provide grants for high quality civil legal assistance to low income Virginians and to promote equal access to justice.

3. The amounts for Indigent Defense, Criminal, include up to \$352,500 the first year and up to \$352,500 the second year from the general fund to provide grants to the Virginia Capital Representation Resource Center for representation to people sentenced to death in Virginia and to promote equal access to justice.

C. The Virginia State Bar and the Legal Services Corporation of Virginia shall annually, on or about January 1, provide a report to the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the status of legal services assistance programs in the Commonwealth. The report shall include, but not be limited to, efforts to maintain and improve the accuracy of caseload data, case opening and case closure information, and program activity levels as it relates to clients.

51.	Regulation of Professions and Occupations (56000)...			\$15,721,191	\$15,721,191
	Lawyer Regulation (56019).....	\$15,721,191	\$15,721,191		
	Fund Sources: Dedicated Special Revenue.....	\$15,721,191	\$15,721,191		

Authority: Title 54.1, Chapter 39, Article 2 and §§ 54.1-3935 through 54.1-3938, Code of Virginia.

A. It is the intention of the General Assembly that the Virginia State Bar strictly direct its activities toward the purposes of regulating the legal profession and improving the quality of legal services available to the people of the Commonwealth, and that, insofar as reasonably possible, the Virginia State Bar shall refrain from commercial or other undertakings not necessarily or reasonably related to the above stated purposes.

B. Out of the amounts appropriated for this Item, \$1,000,000 the first year and \$1,000,000 the second year from revenues generated from the assessment of annual fees by the Supreme Court of Virginia upon members of the Virginia State Bar, pursuant to Chapter 847, 2007 Acts of Assembly, is provided for transfer to the Clients' Protection Fund of the Virginia State Bar.

C. The Virginia State Bar shall review its member fee structure and make changes necessary to ensure fees are set at amounts needed only to cover costs and to provide for an appropriate balance.

51.10 Omitted.

ITEM 51.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Virginia State Bar.....			\$32,643,103 \$31,143,103	\$32,643,103
Nongeneral Fund Positions.....	178.00	89.00		
Position Level.....	178.00	89.00		
Fund Sources: General.....	\$7,571,912 <i>\$6,071,912</i>	\$7,571,912		
Special.....	\$8,350,000	\$8,350,000		
Dedicated Special Revenue.....	\$16,721,191	\$16,721,191		
TOTAL FOR JUDICIAL DEPARTMENT.....			\$570,537,832 \$562,783,921	\$572,887,475 \$584,451,645
General Fund Positions.....	3,480.71 <i>3,507.71</i>	3,510.71 <i>3,605.71</i>		
Nongeneral Fund Positions.....	195.00	106.00		
Position Level.....	3,675.71 <i>3,702.71</i>	3,616.71 <i>3,711.71</i>		
Fund Sources: General.....	\$533,169,960 <i>\$525,416,049</i>	\$535,519,603 <i>\$547,083,773</i>		
Special.....	\$10,498,088	\$10,498,088		
Dedicated Special Revenue.....	\$25,555,039	\$25,555,039		
Federal Trust.....	\$1,314,745	\$1,314,745		

ITEM 52.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
EXECUTIVE DEPARTMENT				
EXECUTIVE OFFICES				
§ 1-21. OFFICE OF THE GOVERNOR (121)				
52.	Administrative and Support Services (79900).....		\$6,808,769	\$6,572,269 \$6,173,077
	General Management and Direction (79901).....	\$6,808,769		\$6,572,269 \$6,173,077
	Fund Sources: General.....	\$6,808,122		\$6,571,622 \$6,172,430
	Federal Trust.....	\$647		\$647
	Authority: Article V, Constitution of Virginia; Title 2.2, Chapter 1, Code of Virginia.			
	A. This appropriation includes \$175,000 the first year and \$175,000 the second year from the general fund to pay the salary of the Governor.			
	B. Out of the amounts for General Management and Direction, \$75,000 each year is included for the Governor's discretionary expenses.			
	C. This item includes \$899,192 the first year and \$599,192 the second year to fund the Office of the Chief Diversity Officer.			
	D. This item includes \$599,192 the first year and \$599,192 the second year to fund the Office of the Chief Workforce Advisor.			
	E. Out of the appropriation for this item \$103,800 from the general fund is provided each year for the Governor's Fellows program. Any balances remaining from the appropriation identified in this paragraph shall be brought forward and made available to support the Governor's Fellows in the subsequent fiscal year. The Department of Planning and Budget is authorized to transfer amounts from the appropriation in this paragraph to applicable state agencies as required to execute the purposes of this paragraph.			
	F. This item includes \$416,000 the first year and \$479,500 the second year from the general fund and four and a half positions to establish the Office of the Children's Ombudsman in the Executive Branch.			
	<i>G.1. The Office of Diversity, Equity, and Inclusion shall develop recommendations to implement a language access policy for Virginia state government to ensure equitable access to state services for Virginians with limited English proficiency. The Office shall consult with relevant state agencies, organizations serving immigrants and refugees in Virginia, and applicable Virginia Advisory Boards. In developing the recommendations, the Office shall identify current practices in Virginia state agencies, and best practices from other states and localities, assess applicable federal requirements, consider relevant data pertaining to Virginia's immigrant community, and identify a plan, including timeline, fiscal impact, and methods for making translated materials available to the public, that would be required for implementing a language access policy.</i>			
	<i>2. The Chief Diversity Officer shall provide recommendations on or before November 1, 2021 to the Governor, and the Chairs of the House General Laws Committee and Senate General Laws and Technology Committee.</i>			
53.	Historic and Commemorative Attraction Management (50200).....		\$801,225	\$801,225
	Executive Mansion Operations (50207).....	\$801,225		\$801,225
	Fund Sources: General.....	\$801,225		\$801,225
	Authority: Title 2.2, Chapter 1, Code of Virginia.			
54.	Governmental Affairs Services (70100).....		\$539,415	\$539,415
	Intergovernmental Relations (70101).....	\$539,415		\$539,415

ITEM 54.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$375,148	\$375,148		
Commonwealth Transportation.....	\$164,267	\$164,267		
Authority: Title 2.2, Chapter 3, Code of Virginia.				
55. Disaster Planning and Operations (72200).....			a sum sufficient	
Disaster Operations (72202).....	a sum sufficient			
Disaster Assistance (72203).....	a sum sufficient			
Authority: Title 44, Chapter 3.2, Code of Virginia.				
A.1. The amount for Disaster Assistance is from all funds of the state treasury, not constitutionally restricted, and is to be effective only in the event of a declared state of emergency or authorization by the Governor of the sum sufficient, pursuant to § 44-146.28, Code of Virginia. Any appropriation authorized by this Item shall be transferred to state agencies for payment of eligible costs according to written directions of the Governor or by such other person or persons as may be designated by him for this purpose.				
2. Any amount authorized for expenditure pursuant to § 44-146.28, Code of Virginia, shall be paid to eligible jurisdictions in accordance with guidelines and procedures established by the Department of Emergency Management, pursuant to § 44-146.28, Code of Virginia.				
3. The amount calculated for disaster assistance for any event provided under this authority shall be made in consultation with the Secretary of Finance, and, as deemed appropriate by the Secretary, the Department of Planning and Budget.				
B. In the event of a Presidentially declared disaster, the state and local share of any federal assistance, hazard mitigation, or flood control programs in which the state participates will be determined in accordance with the procedures in the "Commonwealth of Virginia Emergency Operations Plan, Basic Plan," promulgated by the Department of Emergency Management. The state share of any such program shall be no less than 10 percent.				
Total for Office of the Governor.....			\$8,149,409	\$7,912,909 \$7,513,717
General Fund Positions.....	50.17	50.17 47.17		
Nongeneral Fund Positions.....	1.33	1.33		
Position Level.....	51.50	51.50 48.50		
Fund Sources: General.....	\$7,984,495	\$7,747,995 \$7,348,803		
Commonwealth Transportation.....	\$164,267	\$164,267		
Federal Trust.....	\$647	\$647		

§ 1-22. LIEUTENANT GOVERNOR (119)

56. Administrative and Support Services (79900).....			\$389,229	\$389,229
General Management and Direction (79901).....	\$389,229	\$389,229		
Fund Sources: General.....	\$389,229	\$389,229		

Authority: Article V, Sections 13, 14, and 16, Constitution of Virginia; and Title 24.2, Chapter 2, Article 3, Code of Virginia.

Out of this appropriation shall be paid:

1. The salary of the Lieutenant Governor, \$36,321 the first year and \$36,321 the second year;
2. Expenses of the Lieutenant Governor during sessions of the General Assembly on the same basis as for the members of the General Assembly;
3. Salaries and benefits for compensation of up to three staff positions in the Office of the

ITEM 56.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Lieutenant Governor.				
Total for Lieutenant Governor.....			\$389,229	\$389,229
General Fund Positions.....	4.00	4.00		
Position Level.....	4.00	4.00		
Fund Sources: General.....	\$389,229	\$389,229		

§ 1-23. ATTORNEY GENERAL AND DEPARTMENT OF LAW (141)

57.	Legal Advice (32000).....			\$37,133,302	\$37,682,025
	State Agency/Local Legal Assistance and Advice (32002).....	\$37,133,302	\$37,682,025	\$37,383,302	\$42,263,262
		\$37,383,302	\$42,263,262		
	Fund Sources: General.....	\$23,238,332	\$23,787,055		
		\$23,488,332	\$28,368,292		
	Special.....	\$12,644,138	\$12,644,138		
	Federal Trust.....	\$1,250,832	\$1,250,832		

Authority: Title 2.2 Chapter 5, Code of Virginia.

A. Out of this appropriation shall be paid:

1. The salary of the Attorney General, \$150,000 the first year and \$150,000 the second year.
2. Expenses of the Attorney General not otherwise reimbursed, \$9,000 each year in equal monthly installments.
3. Salary expenses necessary to provide legal services pursuant to Title 2.2, Chapter 5, Code of Virginia.

B. Out of this appropriation, \$738,536 the first year and \$738,536 the second year from the general fund is designated for efforts to enforce the 1998 Tobacco Master Settlement Agreement and Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia. The Department of Law shall be responsible for enforcement of Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia and the 1998 Tobacco Master Settlement Agreement. The general fund shall be reimbursed on a proportional basis from the Tobacco Indemnification and Community Revitalization Fund and the Virginia Tobacco Settlement Fund for costs associated with the enforcement of the 1998 Tobacco Master Settlement Agreement pursuant to transfers directed by Item 479 and § 3-1.01, Paragraph N of this act.

C. Upon notification by the Attorney General, agencies that administer programs which are funded wholly or partially from nongeneral fund appropriations shall transfer to the Department of Law the necessary funds to cover the costs of legal services that are related to such nongeneral funds. The Attorney General, in consultation with the respective agency heads, shall determine the amounts for transfer. It is the intent of the General Assembly that legal services provided by the Office of the Attorney General for general fund-supported programs shall be provided out of this appropriation.

D. At the request of the Attorney General, the Director, Department of Planning and Budget, shall provide an amount not to exceed \$100,000 per year from the Miscellaneous Contingency Reserve Account to pay the compensation, fees, and expenses of (i) counsel appointed by the Office of the Attorney General in actions brought pursuant to § 15.2-1643, Code of Virginia, to cause court facilities to be made secure, or put in good repair, or rendered otherwise safe, and (ii) counsel representing court personnel, including clerks, judges, and Justices in actions arising out of their official duties.

E.1. Pursuant to Chapter 577 of the Acts of Assembly of 2008, the Office of the Attorney General shall provide legal service in civil matters and consultation and legal advice in suits and other legal actions to soil and water conservation district directors and districts upon the request of those district directors or districts at no charge, inclusive of all fees, expenses, or other costs associated with litigation, excluding the payment of damages.

ITEM 57.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

2. If the Office of the Attorney General is unable to provide legal services to the soil and water conservation districts, and as a result the districts incur costs from retaining other counsel, then the Director of the Department of Planning and Budget shall transfer general fund appropriations from the Office of the Attorney General to the Department of Conservation and Recreation in an amount equal to the cost incurred by the soil and water conservation districts to be used to reimburse the districts for costs incurred.

F. The Attorney General shall prepare and submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1 of each year detailing expenditures in the prior fiscal year for special outside counsel by any executive branch agencies. The report shall include the reasoning why outside counsel is necessary, the hourly rate charged by outside counsel, total expenditures, and funding source.

G. Except as otherwise specifically provided by law, all legal services of the Office of the Attorney General shall be performed exclusively by (i) an employee of the Office, (ii) an employee of another Virginia governmental entity as may be provided by law, (iii) an employee of a federal governmental entity pursuant to an agreement between the Office of the Attorney General and such federal governmental entity, or (iv) law students or recent law school graduates sponsored by a separate institution with a stipend. Except as otherwise specifically provided under this act, the sole source of compensation paid to employees of the Office of the Attorney General for performing legal services on behalf of the Commonwealth shall be from the appropriations provided under this act. In any case in which the Office of the Attorney General is authorized under law to contract with, hire, or engage a person other than a person described in clauses (i), (ii), (iii), or (iv) to perform legal services on behalf of the Commonwealth, the sole consideration for such legal services shall be a monetary amount bargained for in an arm's length transaction with such person and the Office of the Attorney General or another Virginia governmental entity, stating under what authority that office enters the contract. Only persons described in clauses (i), (ii), (iii), or (iv) shall perform legal services on premises leased by the Office of the Attorney General. Nothing in this paragraph shall prohibit the Office of the Attorney General from entering into a settlement agreement with a defendant arising from a case litigated or prosecuted by a federal governmental entity, local governmental entity, or an Attorney General's Office in another state or United States territory. Nothing in this paragraph shall prohibit the Office of the Attorney General from employing and providing office space to an unpaid intern assisting in performing legal services, provided that such intern does not possess a current license to practice law in the Commonwealth, any other state, or any United States territory.

H. Out of the amounts included in this appropriation, \$404,273 is provided in the second year from the general fund pursuant to the passage of House Bill 2004 in the 2021 General Assembly.

I. The appropriation in this item includes up to \$250,000 from the general fund in the first year to conduct an independent, third-party investigation of the Office of the State Inspector General's policies, process, and procedures employed during its investigation of the Virginia Parole Board's handling of the Vincent Martin matter. The Office of the Attorney General, in consultation with the Office of the Governor, the Speaker of the House of Delegates, and the President pro tempore of the Senate, is directed to secure an investigator to conduct the investigation. The Office of the State Inspector General and the Virginia Parole Board shall cooperate fully in the investigation. Records that are confidential under federal or state law shall be maintained as confidential by the Office of State Inspector General and shall not be further disclosed, except as required by law. Records that are confidential under state law shall be accessible to the investigator; records that are confidential under federal law shall be made available to the extent permitted by federal law. All confidential records provided to the investigator shall be maintained as confidential by the investigator and shall not be further disclosed, except as required by law. Notwithstanding any other provision of law, investigative notes, draft reports, and other correspondence generated during the course of this investigation are exempt from disclosure under the Virginia Freedom of Information Act, section 2.2-3700 et seq. of the Code of Virginia. No later than June 15, 2021, the investigator shall prepare a written report to the Governor, Speaker, Majority Leader and Minority Leader of the House of Delegates, President pro tempore, Majority Leader and Minority Leader of the Senate with the investigator's findings and any recommendations.

ITEM 58.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
58.	Medicaid Program Services (45600).....		\$14,413,873	\$14,413,873
	Medicaid Fraud Investigation and Prosecution (45614).....	\$14,413,873	\$14,413,873	
	Fund Sources: Special.....	\$3,810,836	\$3,810,836	
	Federal Trust.....	\$10,603,037	\$10,603,037	
	Authority: Title 32.1, Chapter 9, Code of Virginia.			
59.	Regulation of Business Practices (55200).....		\$4,275,325	\$4,275,325
	Regulatory and Consumer Advocacy (55201).....	\$4,275,325	\$4,275,325	
	Fund Sources: General.....	\$2,225,711	\$2,225,711	
	Special.....	\$2,049,614	\$2,049,614	
	Authority: Title 2.2, Chapter 5, Code of Virginia.			
	<p>Included in this Item is \$1,250,000 the first year and \$1,250,000 the second year from special funds for the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund as established in Item 48 of Chapter 966 of the Acts of Assembly 1994 and amended herein. The Department of Law is authorized to deposit to the fund any fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of regulatory and consumer advocacy litigation, litigation in which the Office of the Attorney General participates, or civil enforcement efforts including, but not limited to, those brought pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia. The Department of Law is also authorized to deposit to the fund any attorneys' fees which from time to time may be obtained. Any deposit to, and interest earnings on, the fund shall be retained in the fund, provided, however, that any amounts contained in the fund that exceed \$1,250,000 on the final day of the fiscal year shall be deposited to the credit of the general fund. In addition to the uses of the fund permitted by Item 48 of Chapter 966 of the Acts of Assembly of 1994, the fund may be used to pay costs associated with enforcement efforts pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia, costs associated with litigation initiated by the Office of the Attorney General, and costs associated with civil commitment procedures pursuant to Chapter 9 of Title 37.2 of the Code of Virginia.</p>			
60.	Any judgment rendered pursuant to the Virginia Tort Claims Act shall be paid out of the state treasury under the direction of the Attorney General. Claims against agencies funded solely from the general fund shall be paid from the general fund. Claims against agencies funded by both general and nongeneral funds shall be paid from a combination of funds based upon the appropriations from such funds.			
61.	Personnel Management Services (70400).....		\$1,044,626	\$1,159,335
	Compliance and Enforcement (70414).....	\$1,044,626	\$1,159,335	
	Fund Sources: General.....	\$968,177	\$1,082,886	
	Federal Trust.....	\$76,449	\$76,449	
	Authority: Title 2.2, Chapter 26, Article 12, and Chapter 39; Title 15.2, Chapter 16, § 15.2-1604, Code of Virginia.			
	Total for Attorney General and Department of Law....		\$56,867,126	\$57,530,558
			\$57,117,126	\$62,111,795
	General Fund Positions.....	245.75	253.75	296.75
	Nongeneral Fund Positions.....	203.25	203.25	203.25
	Position Level.....	449.00	457.00	500.00
	Fund Sources: General.....	\$26,432,220	\$27,095,652	
		\$26,682,220	\$31,676,889	
	Special.....	\$18,504,588	\$18,504,588	
	Federal Trust.....	\$11,930,318	\$11,930,318	

ITEM 61.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Division of Debt Collection (143)				
62.	Collection Services (74000).....		\$3,354,446	\$3,354,446
	State Collection Services (74001).....	\$3,135,630		
	State Fraud Recovery Services (74002).....	\$218,816		
	Fund Sources: Special.....	\$3,354,446		
Authority: Title 2.2, Chapter 5 and Title 8.01, Chapter 3, Code of Virginia.				
<p>A. 1. The Division of Debt Collection shall provide legal services and advice related to the collection of funds owed the Commonwealth, including the recovery of certain funds pursuant to the Virginia Fraud Against Taxpayers Act (FATA) (§ 8.01-216.1 et seq.) by the Commonwealth as defined by 8.01-216.2. All agencies and institutions shall follow the procedures for collection of funds owed the Commonwealth as specified in §§ 2.2-518 and 2.2-4800 et seq. of the Code of Virginia, and all agencies, institutions, and political subdivisions shall follow the procedures for recovery of funds as specified in §§ 2.2-518 and 8.01-216.1 et seq. of the Code of Virginia, except as provided otherwise therein or in this act.</p> <p>2. The provisions of this section shall not apply to any investigations, litigation, or recoveries related to matters handled under the authority granted to the Medicaid Fraud Control Unit within the Department of Law pursuant to the provisions of 42 C.F.R. § 1007 et seq. All matters pertaining to the recovery of such Medicaid funds, including damages, fines, and penalties received pursuant to FATA, are specifically excluded from the provisions of this section.</p> <p>B.1. The Division of Debt Collection is entitled to retain as fees up to 30 percent of any revenues generated by its collection services pursuant to paragraph A. to pay operating costs supported by the appropriation in this item.</p> <p>2. Upon closing its books at the end of the fiscal year, after the execution of all transfers to state agencies having claims collected by the Division of Debt Collection, the Division may retain up to a \$400,000 balance in its operating accounts. Any amounts contained in the operating accounts that exceed \$400,000 on the final day of the fiscal year shall be deposited to the credit of the general fund no later than September 1 of the succeeding fiscal year.</p> <p>3. The Division of Debt Collection is entitled to retain as special revenue up to 30 percent of any funds recovered on behalf of the Commonwealth as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA for its fraud recovery services pursuant to paragraph A., to pay operating costs supported by the appropriation in this item.</p> <p>4. There shall be created on the books of the Comptroller a special, nonreverting, revolving fund to be known as the Fraud Recovery Fund (FATA Fund). The Division is authorized to deposit to the FATA Fund any revenue, fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of its fraud recovery services. The Division is also authorized to deposit to the FATA Fund any attorneys' fees which from time to time may be awarded to the Commonwealth. Any deposit to, and interest earnings on, the FATA Fund shall be retained in the FATA Fund. The Division shall retain 30% of any funds recovered as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA, and shall transfer the remaining funds to the appropriate state agencies and political subdivisions on a periodic basis or such other period of time approved by the Division.</p> <p>5. The Director, Department of Planning and Budget, may grant an exception to the provisions in paragraph B.2. if the Division of Debt Collection can show just cause.</p> <p>C. The Division of Debt Collection may contract with private collection agents for the collection of debts amounting to less than \$15,000.</p>				
	Total for Division of Debt Collection.....		\$3,354,446	\$3,354,446
	Nongeneral Fund Positions.....	27.00		27.00

ITEM 62.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Position Level.....	27.00	27.00		
Fund Sources: Special.....	\$3,354,446	\$3,354,446		
Grand Total for Attorney General and Department of Law.....			\$60,221,572	\$60,885,004
			\$60,471,572	\$65,466,241
General Fund Positions.....	245.75	253.75 296.75		
Nongeneral Fund Positions.....	230.25	230.25		
Position Level.....	476.00	484.00 527.00		
Fund Sources: General.....	\$26,432,220	\$27,095,652		
	\$26,682,220	\$31,676,889		
Special.....	\$21,859,034	\$21,859,034		
Federal Trust.....	\$11,930,318	\$11,930,318		

§ 1-24. SECRETARY OF THE COMMONWEALTH (166)

63.	Central Records Retention Services (73800).....			\$2,732,355	\$2,732,355 \$2,757,355
	Appointments (73801).....	\$1,920,871	\$1,920,871 \$1,945,871		
	Authentications (73802).....	\$72,879	\$72,879		
	Judicial Support Services (73803).....	\$566,470	\$566,470		
	Lobbyist and Organization Registrations (73804).....	\$14,993	\$14,993		
	Notaries Commissioning (73805).....	\$157,142	\$157,142		
	Fund Sources: General.....	\$2,614,018	\$2,614,018 \$2,639,018		
	Dedicated Special Revenue.....	\$118,337	\$118,337		

Authority: §§ 2.2-400 through 2.2-435, 2.2-3106, Code of Virginia.

A. The fee charged by the Secretary of the Commonwealth under the provisions of § 2.2-409, Code of Virginia, for a Service of Process shall be \$28.00.

B. Included in the general fund appropriation for this item is \$18,470 each year for costs related to the Virginia Indian Advisory Board, pursuant to the provisions of House Bill 814 of the 2016 General Assembly.

	Total for Secretary of the Commonwealth.....			\$2,732,355	\$2,732,355 \$2,757,355
	General Fund Positions.....	19.00	19.00		
	Position Level.....	19.00	19.00		
	Fund Sources: General.....	\$2,614,018	\$2,614,018 \$2,639,018		
	Dedicated Special Revenue.....	\$118,337	\$118,337		

§ 1-25. OFFICE OF THE STATE INSPECTOR GENERAL (147)

64.	Inspection, Monitoring, and Auditing Services (78700).....			\$7,144,376	\$7,144,376
	Inspection and Compliance of Program Operations (78701).....	\$7,144,376	\$7,144,376		
	Fund Sources: General.....	\$4,778,140	\$4,778,140		
	Special.....	\$282,390	\$282,390		
	Commonwealth Transportation.....	\$2,083,846	\$2,083,846		

Authority: Title 2.2, Chapter 3.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the State Inspector General

ITEM 64.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

\$161,759 from July 1, 2020 to June 30, 2021 and \$161,759 from July 1, 2021 to June 30, 2022.

B. The Office of the State Inspector General shall be responsible for investigating the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury.

C. The Office of the State Inspector General shall be responsible for coordinating and recommending standards for those internal audit programs in existence as of July 1, 2012, and developing and maintaining other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls. The State Inspector General shall assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies.

D. The Office of the State Inspector General shall be responsible for providing timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law.

E. The Office of the State Inspector General shall be responsible for assisting citizens in understanding their rights and the processes available to them to express concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the foregoing:

F.1. The Office of the State Inspector General shall be responsible for development, coordination and management of a program to train internal auditors. The Office of the State Inspector General shall assist internal auditors of state agencies and institutions in receiving continued professional education as required by professional standards. The Office of the State Inspector General shall coordinate its efforts with state institutions of higher education and offer training programs to the internal auditors as well as coordinate any special training programs for the internal auditors.

2. To fund the direct costs of hiring training instructors, the Office of the State Inspector General is authorized to collect fees from training participants to provide training events for internal auditors. A nongeneral fund appropriation of \$125,000 the first year and \$125,000 the second year is provided for use by the Office of the State Inspector General to facilitate the collection of payments from training participants for this purpose.

Total for Office of the State Inspector General.....			\$7,144,376	\$7,144,376
General Fund Positions.....	24.00	24.00		
Nongeneral Fund Positions.....	16.00	16.00		
Position Level.....	40.00	40.00		
Fund Sources: General.....	\$4,778,140	\$4,778,140		
Special.....	\$282,390	\$282,390		
Commonwealth Transportation.....	\$2,083,846	\$2,083,846		

§ 1-26. INTERSTATE ORGANIZATION CONTRIBUTIONS (921)

65.	Governmental Affairs Services (70100).....			\$190,949	\$190,949
	Interstate Affairs (70103).....	\$190,949	\$190,949		
	Fund Sources: General.....	\$190,949	\$190,949		

Authority: Discretionary Inclusion.

Out of the amounts for Interstate Affairs funding is provided for the following

ITEM 65.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
organizational memberships:				
1. National Association of State Budget Officers				
2. National Governors' Association				
3. Federal Funds Information for States				
Total for Interstate Organization Contributions.....			\$190,949	\$190,949
Fund Sources: General.....	\$190,949	\$190,949		
TOTAL FOR EXECUTIVE OFFICES.....			\$78,827,890	\$79,254,822
			\$79,077,890	\$83,461,867
General Fund Positions.....	342.92	350.92 390.92		
Nongeneral Fund Positions.....	247.58	247.58		
Position Level.....	590.50	598.50 638.50		
Fund Sources: General.....	\$42,389,051 <i>\$42,639,051</i>	\$42,815,983 <i>\$47,023,028</i>		
Special.....	\$22,141,424	\$22,141,424		
Commonwealth Transportation.....	\$2,248,113	\$2,248,113		
Dedicated Special Revenue.....	\$118,337	\$118,337		
Federal Trust.....	\$11,930,965	\$11,930,965		

**ACTS
OF THE
GENERAL ASSEMBLY**



2021 SPECIAL SESSION I

VOLUME I

VOLUME II

VOLUME III

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2021 SPECIAL SESSION I

which met at the State Capitol, Richmond

Convened Wednesday, February 10, 2021

Adjourned sine die Monday, March 1, 2021

Reconvened Wednesday, April 7, 2021

Adjourned sine die Wednesday, April 7, 2021

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COMMONWEALTH OF VIRGINIA

RICHMOND

2021

Compiled by the Clerk's Office

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Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth**

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in cooperation with the

**Senate of Virginia,
Division of Legislative Services,
and
Division of Legislative Automated Systems**

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

OFFICE OF ADMINISTRATION

§ 1-27. SECRETARY OF ADMINISTRATION (180)

66.	Administrative and Support Services (79900).....			\$1,753,686	\$1,753,686
	General Management and Direction (79901).....	\$919,341	\$919,341		
	Accounting and Budgeting Services (79903).....	\$834,345	\$834,345		
	Fund Sources: General.....	\$1,753,686	\$1,753,686		

Authority: Title 2.2, Chapter 2, Code of Virginia.

Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-203.1; § 2.2-213.3; § 2.2-222.3; § 2.2-436; § 2.2-437; § 2.2-1617; § 2.2-2005; § 2.2-2006; § 2.2-2007; § 2.2-2220; § 2.2-2699.5; § 2.2-2699.7; § 2.2-2817.1; § 2.2-2822; § 2.2-3503; § 2.2-3504; § 2.2-3803; § 30-279; § 59.1-497; and § 59.1-550, Code of Virginia, shall be executed by the Secretary of Administration. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-225, Code of Virginia, shall be divided between the Secretary of Administration and the Secretary of Commerce and Trade as determined by the Governor.

67.	Central Support Services for Business Solutions (82400).....			\$2,602,000	\$2,260,000 \$2,602,000
	Information Technology Services for Data Exchange Programs (82401).....	\$2,602,000	\$2,260,000 \$2,602,000		
	Fund Sources: Internal Service.....	\$2,602,000	\$2,260,000 \$2,602,000		

Authority: § 2.2-203.2:4, Code of Virginia

Pursuant to § 2.2-2020, Code of Virginia, the funds appropriated to this Item shall be used to support a data sharing and analytics program for the purposes of developing a database to identify data elements and document user access patterns. The database will also support the creation of an enterprise data dictionary and a cloud-based data catalog platform. Agencies, as defined in § 2.2-3801, Code of Virginia, shall cooperate with the Secretary of Administration to further develop the data sharing and analytics program.

Total for Secretary of Administration.....				\$4,355,686	\$4,013,686 \$4,355,686
--	--	--	--	--------------------	---

General Fund Positions.....	13.00	13.00			
Nongeneral Fund Positions.....	0.00	2.00			4.00
Position Level.....	13.00	15.00 17.00			
Fund Sources: General.....	\$1,753,686	\$1,753,686			
Internal Service.....	\$2,602,000	\$2,260,000 \$2,602,000			

§ 1-28. COMPENSATION BOARD (157)

68.	Financial Assistance for Sheriffs' Offices and Regional Jails (30700).....			\$498,093,191 \$493,782,962	\$500,723,539 \$500,352,342
	Financial Assistance for Regional Jail Operations (30710).....	\$162,990,071 \$160,322,012	\$163,292,147 \$163,006,720		
	Financial Assistance for Local Law Enforcement (30712).....	\$100,329,833 \$99,729,833	\$100,329,833		

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Financial Assistance for Local Court Services (30713).....	\$59,446,848	\$59,446,848 \$60,450,806		
Financial Assistance to Sheriffs (30716).....	\$14,084,402 \$13,042,232	\$14,218,085 \$13,128,357		
Financial Assistance for Local Jail Operations (30718).....	\$161,242,037	\$163,436,626		
Fund Sources: General.....	\$490,090,533 \$485,780,304	\$492,720,881 \$492,349,684		
Dedicated Special Revenue.....	\$8,002,658	\$8,002,658		

Authority: Title 15.2, Chapter 16, Articles 3 and 6.1; and §§ 53.1-83.1 and 53.1-85, Code of Virginia.

A.1. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as hereinafter prescribed, according to the population of the city or county served and whether the sheriff is charged with civil processing and courtroom security responsibilities only, or the added responsibilities of law enforcement or operation of a jail, or both. Execution of arrest warrants shall not, in and of itself, constitute law enforcement responsibilities for the purpose of determining the salary for which a sheriff is eligible.

2. Whenever a sheriff is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such sheriff under the provisions of this item and such sheriff shall receive as additional compensation the sum of one thousand dollars.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Law Enforcement and Jail Responsibility			
Less than 10,000	\$71,522	\$71,522 \$75,098	\$71,522 \$75,098
10,000 to 19,999	\$82,207	\$82,207 \$86,317	\$82,207 \$86,317
20,000 to 39,999	\$90,339	\$90,339 \$94,856	\$90,339 \$94,856
40,000 to 69,999	\$98,195	\$98,195 \$103,105	\$98,195 \$103,105
70,000 to 99,999	\$109,105	\$109,105 \$114,560	\$109,105 \$114,560
100,000 to 174,999	\$121,230	\$121,230 \$127,292	\$121,230 \$127,292
175,000 to 249,999	\$127,609	\$127,609 \$133,989	\$127,609 \$133,989
250,000 and above	\$141,787	\$141,787 \$148,876	\$141,787 \$148,876
Law Enforcement or Jail			
Less than 10,000	\$70,089	\$70,089 \$73,893	\$70,089 \$73,893
10,000 to 19,999	\$80,564	\$80,564 \$84,592	\$80,564 \$84,592
20,000 to 39,999	\$88,531	\$88,531 \$92,958	\$88,531 \$92,958
40,000 to 69,999	\$96,231	\$96,231 \$101,043	\$96,231 \$101,043

ITEM 68.	Item Details(\$)		Appropriations(\$)	
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70,000 to 99,999	\$106,923	\$106,923 <i>\$112,269</i>	\$106,923 <i>\$112,269</i>	\$106,923 <i>\$112,269</i>
100,000 to 174,999	\$118,803	\$118,803 <i>\$124,743</i>	\$118,803 <i>\$124,743</i>	\$118,803 <i>\$124,743</i>
175,000 to 249,999	\$125,057	\$125,057 <i>\$131,310</i>	\$125,057 <i>\$131,310</i>	\$125,057 <i>\$131,310</i>
250,000 and above	\$139,661	\$139,661 <i>\$146,644</i>	\$139,661 <i>\$146,644</i>	\$139,661 <i>\$146,644</i>
No Law Enforcement or Jail Responsibility				
Less than 10,000	\$65,858	\$65,858 <i>\$69,151</i>	\$65,858 <i>\$69,151</i>	\$65,858 <i>\$69,151</i>
10,000 to 19,999	\$73,175	\$73,175 <i>\$76,834</i>	\$73,175 <i>\$76,834</i>	\$73,175 <i>\$76,834</i>
20,000 to 39,999	\$81,304	\$81,304 <i>\$85,369</i>	\$81,304 <i>\$85,369</i>	\$81,304 <i>\$85,369</i>
40,000 to 69,999	\$90,339	\$90,339 <i>\$94,856</i>	\$90,339 <i>\$94,856</i>	\$90,339 <i>\$94,856</i>
70,000 to 99,999	\$100,378	\$100,378 <i>\$105,397</i>	\$100,378 <i>\$105,397</i>	\$100,378 <i>\$105,397</i>
100,000 to 174,999	\$111,529	\$111,529 <i>\$117,105</i>	\$111,529 <i>\$117,105</i>	\$111,529 <i>\$117,105</i>
175,000 to 249,999	\$117,397	\$117,397 <i>\$123,267</i>	\$117,397 <i>\$123,267</i>	\$117,397 <i>\$123,267</i>
250,000 and above	\$131,862	\$131,862 <i>\$138,455</i>	\$131,862 <i>\$138,455</i>	\$131,862 <i>\$138,455</i>

B. Out of the amounts provided for in this Item, no expenditures shall be made to provide security devices such as magnetometers in standard use in major metropolitan airports. Personnel expenditures for operation of such equipment incidental to the duties of courtroom and courthouse security deputies may be authorized, provided that no additional expenditures for personnel shall be approved for the principal purpose of operating these devices.

C. Notwithstanding the provisions of § 53.1-120, or any other section of the Code of Virginia, unless a judge provides the sheriff with a written order stating that a substantial security risk exists in a particular case, no courtroom security deputies may be ordered for civil cases, not more than one deputy may be ordered for criminal cases in a district court, and not more than two deputies may be ordered for criminal cases in a circuit court. In complying with such orders for additional security, the sheriff may consider other deputies present in the courtroom as part of his security force.

D. Should the scheduled opening date of any facility be delayed for which funds are available in this Item, the Director, Department of Planning and Budget, may allot such funds as the Compensation Board may request to allow the employment of staff for training purposes not more than 45 days prior to the rescheduled opening date for the facility.

E. Consistent with the provisions of paragraph B of Item 75, the board shall allocate the additional jail deputies provided in this appropriation using a ratio of one jail deputy for every 3.0 beds of operational capacity. Operational capacity shall be determined by the Department of Corrections. No additional deputy sheriffs shall be provided from this appropriation to a local jail in which the present staffing exceeds this ratio unless the jail is overcrowded. Overcrowding for these purposes shall be defined as when the average annual daily population exceeds the operational capacity. In those jails experiencing overcrowding, the board may allocate one additional jail deputy for every five average annual daily prisoners above operational capacity. Should overcrowding be reduced or eliminated in any jail, the Compensation Board shall reallocate positions previously

ITEM 68.	Item Details(\$)		Appropriations(\$)	
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assigned due to overcrowding to other jails in the Commonwealth that are experiencing overcrowding.				
F. Two-thirds of the salaries set by the Compensation Board of medical, treatment, and inmate classification positions approved by the Compensation Board for local correctional facilities shall be paid out of this appropriation.				
G.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a master deputy pay grade to those sheriffs' offices which had certified, on or before January 1, 1997, having a career development plan for deputy sheriffs that meet the minimum criteria set forth by the Compensation Board for such plans. The Compensation Board shall allow for additional grade 9 positions, at a level not to exceed one grade 9 master deputy per every five Compensation Board grade 7 and 8 deputy positions in each sheriff's office.				
2. Each sheriff who desires to participate in the Master Deputy Program who had not certified a career development plan on or before January 1, 1997, may elect to participate by certifying to the Compensation Board that the career development plan in effect in his office meets the minimum criteria for such plans as set by the Compensation Board. Such election shall be made by July 1 for an effective date of participation the following July 1.				
3. Subject to appropriations by the General Assembly for this purpose, funding shall be provided by the Compensation Board for participation in the Master Deputy Program to sheriffs' offices electing participation after January 1, 1997, according to the date of receipt by the Compensation Board of the election by the sheriff.				
H. The Compensation Board shall estimate biannually the number of additional law enforcement deputies which will be needed in accordance with § 15.2-1609.1, Code of Virginia. Such estimate of the number of positions and related costs shall be included in the board's biennial budget request submission to the Governor and General Assembly. The allocation of such positions, established by the Governor and General Assembly in Item 75 of this act, shall be determined by the Compensation Board on an annual basis. The annual allocation of these positions to local sheriffs' offices shall be based upon the most recent final population estimate for the locality that is available to the Compensation Board at the time when the agency's annual budget request is completed. The source of such population estimates shall be the Weldon Cooper Center for Public Service of the University of Virginia or the United States Bureau of the Census. For the first year of the biennium, the Compensation Board shall allocate positions based upon the most recent provisional population estimates available at the time the agency's annual budget is completed.				
I. Any amount in the program Financial Assistance for Sheriffs' Offices and Regional Jails may be transferred between Items 68 and 69, as needed, to cover any deficits incurred in the programs Financial Assistance for Confinement of Inmates in Local and Regional Facilities, and Financial Assistance for Sheriffs' Offices and Regional Jails.				
J.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Sheriffs' Career Development Program.				
2. Following receipt of a sheriff's certification that the minimum requirements of the Sheriffs' Career Development Program have been met, and provided that such certification is submitted by sheriffs as part of their annual budget request to the Compensation Board on or before February 1 of each year, the Compensation Board shall increase the annual salary shown in paragraph A of this Item by the percentage shown herein for a twelve-month period effective the following July 1.				
a. 9.3 percent increase for all sheriffs who certify their compliance with the established minimum criteria for the Sheriffs' Career Development Program where such criteria includes that a sheriff has achieved certification in a program agreed upon by the Compensation Board and the Virginia Sheriffs' Institute by Virginia Commonwealth University , or, where such criteria include that a sheriff's office seeking accreditation has been assessed and will be considered for accreditation by the accrediting body no later than March 1, and have achieved accreditation by March 1 from the Virginia Law Enforcement Professional Standards Commission, or the Commission on Accreditation of Law Enforcement agencies, or the American Correctional Association.				

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3. Other constitutional officers' associations may request the General Assembly to include certification in a program agreed upon by the Compensation Board and the officers' associations by the Weldon Cooper Center for Public Service to the requirements for participation in their respective career development programs.

K. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$8,000,000 the first year and \$8,000,000 the second year from the Wireless E-911 Fund is included in this appropriation for local law enforcement dispatchers to offset dispatch center operations and related costs.

L. Notwithstanding the provisions of §§ 53.1-131 through 53.1 -131.3, Code of Virginia, local and regional jails may charge inmates participating in inmate work programs a reasonable daily amount, not to exceed the actual daily cost, to operate the program.

M.1. Included in this appropriation is ~~\$1,856,649~~ 1,256,649 the first year and \$1,856,649 the second year from the general fund for the Compensation Board to contract for services to be provided by the Virginia Center for Policing Innovation to implement and maintain the interface between all local and regional jails in the Commonwealth and the Statewide Automated Victim Information and Notification (SAVIN) system, to provide for SAVIN program coordination, and to maintain the interface between SAVIN and the Virginia Sex Offender Registry and provide for automated protective order notifications. All law enforcement agencies receiving general funds pursuant to this item shall provide the data requirements necessary to participate in the SAVIN system.

2. The data collected for purposes of the Statewide Automated Victim Information and Notification (SAVIN) system may be used to support additional public safety systems authorized by statute or the Appropriation Act. In support of these systems, the data may be used to determine or supplement risk factors, provide notifications, or data-driven information. The Commonwealth of Virginia's Chief Data Officer and the Compensation Board shall be permitted access to, and extraction of, such raw state data provided for these purposes, under terms agreed to by both the vendor collecting data under contract with the Virginia Center for Policing Innovation and the Commonwealth of Virginia's Chief Data Officer. No raw data shall be transferred beyond the SAVIN system except that which is shared with the Commonwealth of Virginia's Chief Data Officer in such mutually agreed upon manner.

N. Included in this appropriation is \$2,419,030 the first year and \$2,478,556 the second year from the general fund to support staffing costs associated with the expansion project at Prince William/Manassas Regional Jail.

O. Included in this appropriation is \$2,194,589 in the second year from the general fund to support staffing costs associated with the Henry County jail replacement project.

69.	Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600).....			\$59,182,111	\$56,649,386
	Financial Assistance for Local Jail Per Diem (35601).....	\$27,867,884	\$26,686,659		
	Financial Assistance for Regional Jail Per Diem (35604).....	\$31,314,227	\$29,962,727		
	Fund Sources: General.....	\$59,182,111	\$56,649,386		

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

A. In the event the appropriation in this Item proves to be insufficient to fund all of its provisions, any amount remaining as of June 1, 2021, and June 1, 2022, may be reallocated among localities on a pro rata basis according to such deficiency.

B. For the purposes of this Item, the following definitions shall be applicable:

1. Effective sentence--a convicted offender's sentence as rendered by the court less any portion of the sentence suspended by the court.

2. Local responsible inmate--(a) any person arrested on a state warrant and incarcerated in a local correctional facility, as defined by § 53.1-1, Code of Virginia, prior to trial; (b) any person convicted of a misdemeanor offense and sentenced to a term in a local correctional

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<p>facility; or (c) any person convicted of a felony offense and given an effective sentence of (i) twelve months or less or (ii) less than one year.</p>				
<p>3. State responsible inmate--any person convicted of one or more felony offenses and (a) the sum of consecutive effective sentences for felonies, committed on or after January 1, 1995, is (i) more than 12 months or (ii) one year or more, or (b) the sum of consecutive effective sentences for felonies, committed before January 1, 1995, is more than two years.</p>				
<p>C. The individual or entity responsible for operating any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the department to accept the transfer of convicted felons, from other local facilities or from facilities operated by the Department of Corrections. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall consider the security requirements of transferred offenders and the capability of the local facility to maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.</p>				
<p>D. Out of this appropriation, an amount not to exceed \$377,010 the first year and \$377,010 the second year from the general fund, is designated to be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons.</p>				
<p>E. The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners in local correctional facilities, as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:</p>				
<p>1. For local responsible inmates--\$4 per inmate day, or, if the inmate is housed and maintained in a jail farm not under the control of the sheriff, the rate shall be \$18 per inmate day.</p>				
<p>2. For state responsible inmates--\$12 per inmate day.</p>				
<p>F. For the payment specified in paragraph E.1. of this Item for prisoners in alternative punishment or alternative to incarceration programs:</p>				
<p>1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.</p>				
<p>2. No such payment shall be made unless the program has been approved by the Department of Corrections or the Department of Criminal Justice Services. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.</p>				
<p>G.1. Except as provided for in paragraph G.2., and notwithstanding any other provisions of this Item, the Compensation Board shall provide payment to any locality with an average daily jail population of under ten in FY 1995 an inmate per diem rate of \$18 per day for local responsible inmates and \$12 per day for state responsible inmates held in these jails in lieu of personal service costs for corrections' officers.</p>				
<p>2. Any locality covered by the provisions of this paragraph shall be exempt from the provisions thereof provided that the locally elected sheriff, with the assistance of the Compensation Board, enters into good faith negotiations to house his prisoners in an existing local or regional jail. In establishing the per diem rate and capital contribution, if any, to be charged to such locality by a local or regional jail, the Compensation Board and the local sheriff or regional jail authority shall consider the operating support and capital contribution made by the Commonwealth, as required by §§ 15.2-1613, 15.2-1615.1, 53.1-80, and 53.1-81, Code of Virginia. The Compensation Board shall report periodically to the Chairmen of the House Appropriations and Senate Finance Committees on the progress of these negotiations and may withhold the exemption granted by this paragraph if, in the board's opinion, the local sheriff fails to negotiate in good faith.</p>				
<p>H.1. The Compensation Board shall recover the state-funded costs associated with housing</p>				

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federal inmates, District of Columbia inmates or contract inmates from other states. The Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day salary funds provided by the Commonwealth, as identified in the most recent Jail Cost Report prepared by the Compensation Board. Beginning July 1, 2009, the Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day operating costs provided by the Commonwealth, excluding payments otherwise provided for in this Item, as identified in the most recent Jail Cost Report prepared by the Compensation Board. If a jail is not included in the most recent Jail Cost Report, the Compensation Board shall use the statewide average of per inmate day salary funds provided by the Commonwealth.

2. The Compensation Board shall deduct the amount to be recovered by the Commonwealth from the facility's next quarterly per diem payment for state-responsible and local-responsible inmates. Should the next quarterly per diem payment owed the locality not be sufficient against which to net the total quarterly recovery amount, the locality shall remit the remaining amount not recovered to the Compensation Board.

3. Any local or regional jail which receives funding from the Compensation Board shall give priority to the housing of local-responsible, state-responsible, and state contract inmates, in that order, as provided in paragraph H.1.

4. The Compensation Board shall not provide any inmate per diem payments to any local or regional jail which holds federal inmates in excess of the number of beds contracted for with the Department of Corrections, unless the Director, Department of Corrections, certifies to the Chairman of the Compensation Board that a) such contract beds are not required; b) the facility has operational capacity built under contract with the federal government; c) the facility has received a grant from the federal government for a portion of the capital costs; or d) the facility has applied to the Department of Corrections for participation in the contract bed program with a sufficient number of beds to meet the Department of Corrections' need or ability to fund contract beds at that facility in any given fiscal year.

5. The Compensation Board shall apply the cost recovery methodology set out in paragraph H.1. of this Item to any jail which holds inmates from another state on a contractual basis. However, recovery in such circumstances shall not be made for inmates held pending extradition to other states or pending transfer to the Virginia Department of Corrections.

6. The provisions of this paragraph shall not apply to any local or regional jail where the cumulative federal share of capital costs exceeds the Commonwealth's cumulative capital contribution.

7. For a local or regional jail which operates bed space specifically built utilizing federal capital or grant funds for the housing of federal inmates and for which Compensation Board funding has never been authorized for staff for such bed space, the Compensation Board shall allow an exemption from the recovery provided in paragraph H.1. for a defined number of federal prisoners upon certification by the sheriff or superintendent that the federal government has paid for the construction of bed space in the facility or provided a grant for a portion of the capital cost. Such certification shall include specific funding amounts paid by the federal government, localities, and/or regional jail authorities, and the Commonwealth for the construction of bed space specifically built for the housing of federal inmates and for the construction of the jail facility in its entirety. The defined number of federal prisoners to be exempted from the recovery provided in paragraph H.1. shall be based upon the proportion of funding paid by the federal government and localities and/or regional jail authorities for the construction of bed space to house federal prisoners to the total funding paid by all sources, including the Commonwealth, for all construction costs for the jail facility in its entirety.

8. Beginning March 1, 2013, federal inmates placed in the custody of a regional jail pursuant to a work release program operated by the federal Bureau of Prisons shall be exempt from the recovery of costs associated with housing federal inmates pursuant to paragraph H.1. of this item if such federal inmates have been assigned by the federal

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Bureau of Prisons to a home electronic monitoring program in place for such inmates by agreement with the jail on or before January 1, 2012 and are not housed in the jail facility. However, no such exemption shall apply to any federal inmate while they are housed in the regional jail facility.

I. Any amounts in the program Financial Assistance for Confinement of Inmates in Local and Regional Facilities, may be transferred between Items 68 and 69, as needed, to cover any deficits incurred in the programs Financial Assistance for Sheriffs' Offices and Regional Jails and Financial Assistance for Confinement of Inmates in Local and Regional Facilities.

J.1. The Compensation Board shall provide an annual report on the number and diagnoses of inmates with mental illnesses in local and regional jails, the treatment services provided, and expenditures on jail mental health programs. The report shall be prepared in cooperation with the Virginia Sheriffs Association, the Virginia Association of Regional Jails, the Virginia Association of Community Services Boards, and the Department of Behavioral Health and Developmental Services, and shall be coordinated with the data submissions required for the annual jail cost report. Copies of this report shall be provided by November 1 of each year to the Governor, Director, Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees.

2. Whenever a person is admitted to a local or regional correctional facility, the staff of the facility shall screen such person for mental illness using a scientifically validated instrument. The Commissioner of Behavioral Health and Developmental Services shall designate the instrument to be used for the screenings and such instrument shall be capable of being administered by an employee of the local or regional correctional facility, other than a health care provider, provided that such employee is trained in the administration of such instrument.

K. Out of the amounts appropriated in this item, \$198,664 the first year and \$215,939 the second year from the general fund is provided for the purpose of reimbursing the County of Nottoway for the expense of confining residents of the Virginia Center for Behavioral Rehabilitation arrested for new offenses and held in Piedmont Regional Jail at the expense of the County. Reimbursements by the Board are to be made quarterly, and shall be equal to demonstrated costs incurred by the County of Nottoway for confinement of these individuals, and shall not exceed the amounts provided in this paragraph for each fiscal year. Demonstrated costs may include expenses incurred in the last month of the prior fiscal year if not previously reimbursed. The County of Nottoway, the Virginia Center for Behavioral Rehabilitation, and Piedmont Regional Jail shall upon request provide the Compensation Board any information and assistance it determines is necessary to calculate amounts to be reimbursed to the County of Nottoway.

70.	Financial Assistance for Local Finance Directors (71700).....			\$5,798,424	\$5,798,424 \$5,803,941
	Financial Assistance to Local Finance Directors (71701).....	\$703,671	\$703,671		
	Financial Assistance for Operations of Local Finance Directors (71702).....	\$5,094,753	\$5,094,753 \$5,100,270		
	Fund Sources: General.....	\$5,798,424	\$5,798,424 \$5,803,941		

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A.1. The annual salaries of elected or appointed officers who hold the combined office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Less than 10,000	\$64,399	\$64,399	\$64,399

ITEM 70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
				\$67,619
10,000-19,999	\$71,557	\$71,557		\$67,619
		\$75,135		\$75,135
20,000-39,999	\$79,509	\$79,509		\$79,509
		\$83,484		\$83,484
40,000-69,999	\$88,340	\$88,340		\$88,340
		\$92,757		\$92,757
70,000-99,999	\$98,157	\$98,157		\$98,157
		\$103,065		\$103,065
100,000-174,999	\$109,059	\$109,059		\$109,059
		\$114,512		\$114,512
175,000 to 249,999	\$114,803	\$114,803		\$114,803
		\$120,543		\$120,543
250,000 and above	\$130,459	\$130,459		\$130,459
		\$136,982		\$136,982

2. Whenever any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such officer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia.

2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item following receipt of the appointed officer's certification that the minimum requirements of the Treasurers' Career Development Program have been met, provided that such certifications are submitted by appointed officers as part of their annual budget request to the Compensation Board on February 1 of each year.

71.	Financial Assistance for Local Commissioners of the Revenue (77100).....			\$20,269,606	\$20,356,019
				\$19,283,345	\$20,313,754
	Financial Assistance to Local Commissioners of the Revenue for Tax Value Certification (77101).....	\$10,774,765	\$10,774,765		
		\$10,706,546	\$10,796,630		
	Financial Assistance for Operations of Local Commissioners of the Revenue (77102).....	\$9,045,032	\$9,131,445		
		\$8,126,990	\$9,067,315		
	Financial Assistance for State Tax Services by Commissioners of the Revenue (77103).....	\$449,809	\$449,809		
	Fund Sources: General.....	\$20,269,606	\$20,356,019		
		\$19,283,345	\$20,313,754		

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A. The annual salaries of county or city commissioners of the revenue shall be as hereinafter prescribed, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Less than 10,000	\$64,399	\$64,399	\$64,399
		\$67,719	\$67,719
10,000-19,999	\$71,557	\$71,557	\$71,557
		\$75,135	\$75,135

ITEM 71.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
20,000-39,999	\$79,509	\$79,509	\$79,509	\$79,509
		\$83,484	\$83,484	\$83,484
40,000-69,999	\$88,340	\$88,340	\$88,340	\$88,340
		\$92,757	\$92,757	\$92,757
70,000-99,999	\$98,157	\$98,157	\$98,157	\$98,157
		\$103,065	\$103,065	\$103,065
100,000-174,999	\$109,059	\$109,059	\$109,059	\$109,059
		\$114,512	\$114,512	\$114,512
175,000 to 249,999	\$114,803	\$114,803	\$114,803	\$114,803
		\$120,543	\$120,543	\$120,543
250,000 and above	\$130,459	\$130,459	\$130,459	\$130,459
		\$136,982	\$136,982	\$136,982

B. 1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Commissioners of the Revenue Career Development Program.

2. Following receipt of the commissioner's certification that the minimum requirements of the Commissioners of the Revenue Career Development Program have been met, and provided that such certification is submitted by commissioners of the revenue as part of their annual budget request to the Compensation Board on or before February 1 of each year, the Compensation Board may increase the annual salary in paragraph A of this item by 9.3 percent following receipt of the commissioner's certification that the minimum requirements of the Commissioners' Career Development Program have been met, provided that such certifications are submitted by commissioners as part of their annual budget request to the Compensation Board on February 1 of each year.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Commissioners Career Development Program.

2. For each deputy commissioner selected by the commissioner of the revenue for participation in the Deputy Commissioners Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent, following receipt of the commissioner of the revenue's certification that the minimum requirements of the Deputy Commissioners Career Development Program have been met, and provided that such certification is submitted by the commissioner of the revenue as part of the annual budget request to the Compensation Board on or before February 1st of each year for an effective date of salary increase of the following July 1.

72. Financial Assistance for Attorneys for the Commonwealth (77200).....			\$79,221,735	\$79,304,674
			\$77,855,700	\$79,352,967
Financial Assistance to Attorneys for the Commonwealth (77201).....	\$17,151,315	\$17,151,315		
	\$17,134,035	\$17,157,074		
Financial Assistance for Operations of Local Attorneys for the Commonwealth (77202).....	\$62,070,420	\$62,153,359		
	\$60,721,665	\$62,195,893		
Fund Sources: General.....	\$78,621,535	\$78,704,474		
	\$77,255,500	\$78,752,767		
Dedicated Special Revenue.....	\$600,200	\$600,200		

Authority: Title 15.2, Chapter 16, Articles 4 and 6.1, Code of Virginia.

A.1. The annual salaries of attorneys for the Commonwealth shall be as hereinafter prescribed according to the population of the city or county served except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Less than 10,000	\$57,070	\$57,070	\$57,070

ITEM 72.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
				\$59,924
10,000-19,999	\$63,420	\$63,420		\$59,924
		\$66,591		\$63,420
20,000-34,999	\$69,760	\$69,760		\$66,591
		\$73,248		\$69,760
35,000-44,999	\$125,563	\$125,563		\$73,248
		\$131,841		\$125,563
45,000-99,999	\$139,512	\$139,512		\$131,841
		\$146,488		\$139,512
100,000-249,999	\$144,745	\$144,745		\$146,488
		\$151,982		\$144,745
250,000 and above	\$149,980	\$149,980		\$151,982
		\$157,479		\$149,980

2. The attorneys for the Commonwealth and their successors who serve on a full-time basis pursuant to §§ 15.2-1627.1, 15.2-1628, 15.2-1629, 15.2-1630 or § 15.2-1631, Code of Virginia, shall receive salaries as if they served localities with populations between 35,000 and 44,999.

3. Whenever an attorney for the Commonwealth is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such attorney for the Commonwealth under the provisions of this paragraph and such attorney for the Commonwealth shall receive as additional compensation the sum of one thousand dollars.

B. No expenditure shall be made out of this Item for the employment of investigators, clerk-investigators or other investigative personnel in the office of an attorney for the Commonwealth.

C. Consistent with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may, in addition to the options otherwise provided by law, employ individuals to assist in collection of outstanding fines, costs, forfeitures, penalties, and restitution. Notwithstanding any other provision of law, beginning on the date upon which the order or judgment is entered, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. The attorneys for the Commonwealth shall account for the amounts collected and apportion costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.

D. The provisions of this act notwithstanding, no Commonwealth's attorney, public defender or employee of a public defender, shall be paid or receive reimbursement for the state portion of a salary in excess of the salary paid to judges of the circuit court. Nothing in this paragraph shall be construed to limit the ability of localities to supplement the salaries of locally elected constitutional officers or their employees.

E. The Statewide Juvenile Justice project positions, as established under the provisions of Item 74 E, of Chapter 912, 1996 Acts of Assembly, and Chapter 924, 1997 Acts of Assembly, are continued under the provisions of this act. The Commonwealth's attorneys receiving such positions shall annually certify to the Compensation Board that the positions are used primarily, if not exclusively, for the prosecution of delinquency and domestic relations felony cases, as defined by Chapters 912 and 924. In the event the positions are not primarily or exclusively used for the prosecution of delinquency and domestic relations felony cases, the Compensation Board shall reallocate such positions by using the allocation provisions as provided for the board in Item 74 E of Chapters 912 and 924.

F. The Compensation Board shall monitor the Department of Taxation program regarding the collection of unpaid fines and court costs by private debt collection firms contracted by Commonwealth's attorneys and shall include, in its annual report to the General Assembly on the collection of court-ordered fines and fees for clerks of the courts and Commonwealth's attorneys, the amount of unpaid fines and costs collected by this

ITEM 72.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
program.				
G. Out of this appropriation, \$389,165 the first year and \$389,165 the second year from the general fund is designated for the Compensation Board to fund five additional positions in Commonwealth's attorney's offices that shall be dedicated to prosecuting gang-related criminal activities. The board shall ensure that these positions work across jurisdictional lines, serving the Northern Virginia area (counties of Fairfax, Loudoun, Prince William, and Arlington and the cities of Falls Church, Alexandria, Manassas, Manassas Park and Fairfax).				
H. In accordance with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may employ individuals, or contract with private attorneys, private collection agencies, or other state or local agencies, to assist in collection of delinquent fines, costs, forfeitures, penalties, and restitution. If the attorney for the Commonwealth employs individuals, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. If the attorney for the Commonwealth does not undertake collection, the attorney for the Commonwealth shall, as soon as practicable, take steps to ensure that any agreement or contract with an individual, attorney or agency complies with the terms of the current Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § 19.2-349 promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board ("the Master Guidelines"). Notwithstanding any other provision of law, the delinquent amounts owed shall be increased by seventeen (17) percent to help offset the costs associated with employing such individuals or contracting with such agencies or individuals. If such increase would exceed the contracted collection agent's fee, then the delinquent amount owed shall be increased by the percentage or amount of the collection agent's fee. Effective July 1, 2015, as provided in § 19.2-349, Code of Virginia, treasurers not being compensated on a contingency basis as of January 1, 2015 shall be prohibited from being compensated on a contingency basis but shall instead be compensated for administrative costs pursuant to § 58.1-3958, Code of Virginia. Treasurers currently collecting a contingency fee shall be eligible to contract on a contingency fee basis. Effective July 1, 2015, any treasurer collecting a contingency fee shall retain only the expenses of collection, and the excess collection shall be divided between the state and the locality in the same manner as if the collection had been done by the attorney for the Commonwealth. The attorneys for the Commonwealth shall account for the amounts collected and the fees and costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.				
I. Notwithstanding the provisions of Article 7, Chapter 4, Title 38, Code of Virginia, beginning July 1, 2018, \$600,000 each year from the Insurance Fraud Fund is included in this appropriation to fund multi-jurisdictional Assistant Commonwealth's Attorney positions that shall be dedicated to prosecuting insurance fraud and related criminal activities. The Department of State Police shall identify those jurisdictions most affected by insurance fraud based upon data provided by the Virginia State Police Insurance Fraud Program. The Virginia State Police Insurance Fraud Program shall ensure that these positions work across jurisdictional lines, serving jurisdictions identified as most in need of these resources as supported by data. These funds shall remain unallocated until the Compensation Board and Virginia State Police notify the Director of the Department of Planning and Budget of the joint agreements reached with the Commonwealth's Attorneys of the jurisdictions receiving the additional Assistant Commonwealth's Attorney positions and the jurisdictions to be served by these positions. The Commonwealth's Attorneys receiving such positions shall annually certify to the Compensation Board that these positions are used primarily, if not exclusively, for the prosecution of insurance fraud and related criminal activities.				
J. The appropriations in this item includes \$1,350,989 the first year and \$1,433,928 the second year from the general fund to fund approximately twenty-five percent of the unfunded positions needed based on the fiscal year 2020 staffing standards calculation.				
K. Any locality in the Commonwealth that employs the use of body worn cameras for its law enforcement officers shall be required to establish and fund one full-time equivalent entry-level Assistant Commonwealth's Attorney, at a salary no less than that established by the Compensation Board for an entry-level Commonwealth's Attorney, at a rate of one Assistant				

ITEM 72.

	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

Commonwealth's Attorney for up to 75 body worn cameras employed for use by local law enforcement officers, and one Assistant Commonwealth's Attorney for every 75 body worn cameras employed for use by local law enforcement officers, thereafter. However, with the consent of the Commonwealth's Attorney, a locality may provide their Commonwealth's Attorney's office with additional funding, using a different formula than stated above, as needed to accommodate the additional workload resulting from the requirement to review, redact and present footage from body worn cameras. If, as of July 1, 2019, a locality is providing additional funding to the Commonwealth's Attorney's office specifically to address the staffing and workload impact of the implementation of body worn cameras on that office, that additional funding shall be credited to the formula used in that locality. Any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the Compensation Board by July 1, 2019 and shall remain in effect unless modified by the agreement of both parties until June 30th of the following year. The term "locality" means every county or independent city with an Attorney for the Commonwealth. The term "employed for use" includes all body worn cameras maintained by the law enforcement agency or agencies of that locality, regardless of any temporary inoperability.

L. Included in this appropriation is \$93,200 in the second year from the general fund to support the costs of converting the Commonwealth's Attorney's office in Craig County from part-time to full-time status effective July 1, 2021, in accordance with the election of the officer pursuant to § 15.2-1629, Code of Virginia.

73.	Financial Assistance for Circuit Court Clerks (77300).....		\$59,086,979	\$59,285,062
			\$55,864,548	\$59,131,556
	Financial Assistance to Circuit Court Clerks (77301).....	\$14,619,426		
		\$14,563,977		\$14,647,182
	Financial Assistance for Operations for Circuit Court Clerks (77302).....	\$27,757,545		
		\$25,090,563		\$27,955,628
	Financial Assistance for Circuit Court Clerks' Land Records (77303).....	\$16,710,008		
		\$16,210,008		\$17,210,008
	Fund Sources: General.....	\$51,083,609		
		\$47,861,178		\$51,281,692
	Trust and Agency.....	\$8,003,370		\$8,003,370

Authority: Title 15.2, Chapter 16, Article 6.1; §§ 51.1-706 and 51.1-137, Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. The annual salaries of clerks of circuit courts shall be as hereinafter prescribed.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Less than 10,000	\$80,910	\$80,910 \$84,956	\$80,910 \$84,956
10,000 to 19,999	\$99,699	\$99,699 \$104,684	\$99,699 \$104,684
20,000-39,999	\$114,150	\$114,150 \$119,858	\$114,150 \$119,858
40,000-69,999	\$119,928	\$119,928 \$125,924	\$119,928 \$125,924
70,000-99,999	\$130,039	\$130,039 \$136,541	\$130,039 \$136,541
100,000-174,999	\$141,600	\$141,600 \$148,680	\$141,600 \$148,680
175,000-249,999	\$145,994	\$145,994 \$153,294	\$145,994 \$153,294

ITEM 73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
250,000 and above	\$150,273	\$150,273 \$157,787	\$150,273	\$157,787

2. Whenever a clerk of a circuit court is such for a county and a city, for two or more counties, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of the circuit court clerk under the provisions of this Item.

3. Except as provided in Item 75 A 2, the annual salary herein prescribed shall be full compensation for services performed by the office of the circuit court clerk as prescribed by general law, and for the additional services of acting as general receiver of the court pursuant to § 8.01-582, Code of Virginia, indexing and filing land use application fees pursuant to § 58.1-3234, Code of Virginia, and all other services provided from, or utilizing the facilities of, the office of the circuit court clerk. Pursuant to § 8.01-589, Code of Virginia, the court shall provide reasonable compensation to the office of the clerk of the circuit court for acting as general receiver of the court. Out of the compensation so allowed, the clerk shall pay his bond or bonds. The remainder of the compensation so allowed shall be fee and commission income to the office of the circuit court clerk.

4. In any county or city operating under provisions of law which authorizes the governing body to fix the compensation of the clerk on a salary basis, such clerk shall receive such salary as shall be allowed by the governing body. Such salary shall not be fixed at an amount less than the amount that would be allowed the clerk under paragraphs A 1 through A 3 of this Item.

5. All clerks shall deposit all clerks' fees and state revenue with the State Treasurer in a manner consistent with § 2.2-806, Code of Virginia, unless otherwise provided by the Compensation Board as set forth in § 17.1-284, Code of Virginia or otherwise provided by law.

B. The reports filed by each circuit court clerk pursuant to § 17.1-283, Code of Virginia, for each calendar year shall include all income derived from the performance of any office, function or duty described or authorized by the Code of Virginia whether directly or indirectly related to the office of circuit court clerk, including, by way of description and not limitation, services performed as a commissioner of accounts, receiver, or licensed agent, but excluding private services performed on a personal basis which are completely unrelated to the office. The Compensation Board may suspend the allowance for office expenses for any clerk who fails to file such reports within the time prescribed by law, or when the board determines that such report does not comply with the provisions of this paragraph.

C. Each clerk of the circuit court shall submit to the Compensation Board a copy of the report required pursuant to § 19.2-349, Code of Virginia, at the same time that it is submitted to the Commonwealth's attorney.

D. Included within this appropriation are Trust and Agency funds necessary to support one position to assist circuit court clerks in implementing the recommendations of the Land Records Management Task Force Report dated January 1, 1998.

E. Notwithstanding the provisions of § 17.1-279 E, Code of Virginia, the Compensation Board may allocate to the clerk of any circuit court funds for the acquisition of equipment and software for a pilot project for the automated application for, and issuance of, marriage licenses by such court. Any such funds allocated shall be deemed to have been expended pursuant to clause (iii) of § 17.1-279 E for the purposes of the limitation on allocations set forth in that subsection.

F.1. Notwithstanding the provisions of § 17.1-279, Code of Virginia, the Compensation Board may allocate up to ~~\$978,426~~ 1,978,426 the first year and \$978,426 the second year of Technology Trust Fund moneys for operating expenses in the clerks' offices.

2. Notwithstanding the provisions of § 17.1-279, Code of Virginia, the Compensation Board when distributing funds to the Circuit Court Clerk's Offices from the Technology Trust Fund shall ensure that each office has at least \$1,000 per year for technology related expenditures.

G. Notwithstanding § 17.1-287, Code of Virginia, any elected official funded through this Item may elect to relinquish any portion of his state funded salary established in paragraph A

ITEM 73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>1 of this Item. In any office where the official elects this option, the Compensation Board shall ensure the amount relinquished is used to fund salaries of other office staff.</p>				
<p>H.1. For audits of clerks of the circuit court completed after July 1, 2004, the Auditor of Public Accounts shall report any internal control matter that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The Auditor of Public Accounts will also report on compliance with appropriate law and other financial matters of the clerks' office.</p>				
<p>2. For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.</p>				
<p>3. Notwithstanding the provisions of Item 477, the Compensation Board shall not provide any salary increase to any circuit court clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.</p>				
<p>I.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Circuit Court Clerks' Career Development Program.</p>				
<p>2. Following receipt of a clerk's certification that the minimum requirements of the Clerks' Career Development Program have been met, and provided that such certification is submitted by Clerks as part of their annual budget request to the Compensation Board by February 1 of each year, the Compensation Board shall increase the annual salary shown in Paragraph A.1. of this item by 9.3 percent with the salary increase becoming effective on the following July 1 for a 12-month period.</p>				
<p>J.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Deputy Clerks of Circuit Courts' Career Development Program.</p>				
<p>2. For each deputy clerk selected by the clerk for participation in the Deputy Clerks' Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent following receipt of the clerk's certification that the minimum requirements of the Deputy Clerks' Career Development Program have been met and provided that such certification is submitted by clerks as part of their annual budget request to the Compensation Board by February 1 of each year.</p>				
<p>K. Upon request of the attorney for the Commonwealth, the clerk of the circuit court shall contemporaneously provide the attorney for the Commonwealth copies of all documents provided to the Virginia Criminal Sentencing Commission pursuant to § 19.2-298.01 E, Code of Virginia.</p>				
<p>L. The Compensation Board may obligate Trust and Agency funds in excess of the current biennium appropriation for the automation efforts of the clerks' offices from the Technology Trust Fund provided that sufficient cash is available to cover projected costs in each year and that sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.</p>				
<p>M. Offices of the Clerks of the Circuit Court, jails, adult detention centers, and the Department of Corrections are further authorized to enter into agreements to electronically transmit and process criminal court orders to assure timely and accurate recordation and processing of such records.</p>				
<p>N.. Included in the appropriation for this item is \$75,000 the first year and \$75,000 the second year from the general fund for the Williamsburg and James City County Circuit Court Clerk's office to conduct a pilot program to provide an online listing of foreclosures; continued courthouse posting of foreclosures; and to provide notice of foreclosures in the local newspaper for a limited period of time.</p>				

ITEM 73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
74.			\$18,934,947	\$19,755,973
			\$18,096,282	\$19,049,403
	Financial Assistance for Local Treasurers (77400).....			
	Financial Assistance to Local Treasurers (77401).....	\$10,621,638 \$10,565,127	\$10,621,638 \$10,642,389	
	Financial Assistance for Operations of Local Treasurers (77402).....	\$7,979,040 \$7,196,886	\$8,800,066 \$8,072,745	
	Financial Assistance for State Tax Services by Local Treasurers (77403).....	\$334,269	\$334,269	
	Fund Sources: General.....	\$18,934,947 \$18,096,282	\$19,755,973 \$19,049,403	

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A.1. The annual salaries of treasurers, elected or appointed officers who hold the combined office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2020 to June 30, 2021	July 1, 2021 to November 30, 2021	December 1, 2021 to June 30, 2022
Less than 10,000	\$64,399	\$64,399 \$67,619	\$64,399 \$67,619
10,000 to 19,999	\$71,557	\$71,557 \$75,135	\$71,557 \$73,135
20,000-39,999	\$79,509	\$79,509 \$83,484	\$79,509 \$83,484
40,000-69,999	\$88,340	\$88,340 \$92,757	\$88,340 \$92,757
70,000-99,999	\$98,157	\$98,157 \$103,065	\$98,157 \$103,065
100,000-174,999	\$109,059	\$109,059 \$114,512	\$109,059 \$114,512
175,000-249,999	\$114,803	\$114,803 \$120,543	\$114,803 \$120,543
250,000 and above	\$130,459	\$130,459 \$136,982	\$130,459 \$136,982

2. Provided, however, that in cities having a treasurer who neither collects nor disburses local taxes or revenue or who distributes local revenues but does not collect the same, such salaries shall be seventy-five percent of the salary prescribed above for the population range in which the city falls except that in no case shall any such treasurer, or any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, receive an increase in salary less than the annual percentage increase provided from state funds to any other treasurer, within the same population range, who was at the maximum prescribed salary in effect for the fiscal year 1980.

3. Whenever a treasurer is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such treasurer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia.

2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of

ITEM 74.	Item Details(\$)		Appropriations(\$)	
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	FY2021	FY2022	FY2021	FY2022

the Treasurers' Career Development Program have been met, provided that such certifications are submitted by treasurers as part of their annual budget request to the Compensation Board on February 1 of each year.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Treasurers' Career Development Program.

2. For each deputy treasurer selected by the treasurer for participation in the Deputy Treasurers' Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of the Deputy Treasurers' Career Development Program have been met, and provided that such certification is submitted by the treasurer as part of the annual budget request to the Compensation Board on or before February 1 of each year for an effective date of salary increase of the following July 1st.

D. Notwithstanding the provisions of § 8.01-490, Code of Virginia, a treasurer, sheriff or other officer distraining or levying upon personal property may employ a licensed auctioneer or auction firm, as defined in § 54.1-600, Code of Virginia, to sell such property on behalf of the officer, and may transport such property to the site of an auction for such purpose, regardless of whether the site is within or outside the officer's county or city.

75.	Administrative and Support Services (79900).....			\$4,677,220	\$4,677,220
	General Management and Direction (79901).....	\$3,671,951	\$3,671,951	\$5,208,548	\$5,764,904
			\$3,921,951		
	Information Technology Services (79902).....	\$970,119	\$970,119		
		\$1,501,447	\$1,807,803		
	Training Services (79925).....	\$35,150	\$35,150		
	Fund Sources: General.....	\$4,677,220	\$4,677,220		
		\$5,208,548	\$5,764,904		

Authority: Title 2.2-1839; Title 15.2, Chapter 16, Articles 2, 3, 4 and 6.1; Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. In determining the salary of any officer specified in Items 68, 70, 71, 72, 73, and 74 of this act, the Compensation Board shall use the greater of the most recent actual United States census count or the most recent provisional population estimate from the United States Bureau of the Census or the Weldon Cooper Center for Public Service of the University of Virginia available when fixing the officer's annual budget and shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent remains in office.

2. In determining the salary of any officer specified in Items 68, 70, 71, 72, 73, and 74 of this act, nothing herein contained shall prevent the governing body of any county or city from supplementing the salary of such officer in such county or city for the provisions of Chapter 822, 2012 Acts of Assembly or for additional services not required by general law; provided, however, that any such supplemental salary shall be paid wholly by such county or city.

3. Any officer whose salary is specified in Items 68, 70, 71, 72, 73, and 74 of this act shall provide reasonable access to his work place, files, records, and computer network as may be requested by his duly elected successor after the successor has been certified.

B.1. Notwithstanding any other provision of law, the Compensation Board shall authorize and fund permanent positions for the locally elected constitutional officers, subject to appropriation by the General Assembly, including the principal officer, at the following levels:

	FY 2021	FY 2022
Sheriffs	11,425	11,520
Partially Funded: Jail Medical, Treatment, and Classification and	796	808

ITEM 75.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Records Positions				
Commissioners of the Revenue		851		851
Treasurers		861		861
Directors of Finance		383		383
Commonwealth's Attorneys		1,332		1,332
Clerks of the Circuit Court		1,158		1,158
TOTAL		16,806		16,913

2. The Compensation Board is authorized to provide funding for 597 temporary positions the first year and 597 temporary positions the second year.

3. The board is authorized to adjust the expenses and other allowances for such officers to maintain approved permanent and temporary manpower levels.

4. Paragraphs B 1 and B 2 of this Item shall not apply to the clerks of the circuit courts and their employees specified in § 17.1-288, Code of Virginia, or those under contract pursuant to § 17.1-290, Code of Virginia.

C.1. Reimbursement by the Compensation Board for the use of vehicles purchased or leased with public funds used in the discharge of official duties shall be at a rate equal to that approved by the Joint Legislative Audit and Review Commission for Central Garage Car Pool services. No vehicle purchased or leased with public funds on or after July 1, 2002, shall display lettering on the exterior of the vehicle that includes the name of the incumbent sheriff.

2. Reimbursement by the Compensation Board for the use of personal vehicles in the discharge of official duties shall be at a rate equal to that established in § 4-5.04 e 2. of this act. All such requests for reimbursement shall be accompanied by a certification that a publicly owned or leased vehicle was unavailable for use.

D. The Compensation Board is directed to examine the current level of crowding of inmates in local jails among the several localities and to reallocate or reduce temporary positions among local jails as may be required, consistent with the provisions of this act.

E. Any new positions established in Item 75 of this act shall be allocated by the Compensation Board upon request of the constitutional officers in accordance with staffing standards and ranking methodologies approved by the Compensation Board to fulfill the requirements of any court order occurring from proceedings under § 15.2-1636.8, Code of Virginia, in accordance with the provisions of Item 68 of this act.

F. Any funds appropriated in this act for performance pay increases for designated deputies or employees of constitutional officers shall be allocated by the Compensation Board upon certification of the constitutional officer that the performance pay plan for that office meets the minimum standards for such plans as set by the Compensation Board. Nothing herein, and nothing in any performance pay plan set by the Compensation Board or adopted by a constitutional officer, shall change the status of employees or deputies of constitutional officers from employees at will or create a property or contractual right to employment. Such deputies and employees shall continue to be employees at will who serve at the pleasure of the constitutional officers.

G. The Compensation Board shall apply the current fiscal stress factor, as determined by the Commission on Local Government, to any general fund amounts approved by the board for the purchase, lease or lease purchase of equipment for constitutional officers. In the case of equipment requests from regional jail superintendents and regional special prosecutors, the highest stress factor of a member jurisdiction will be used.

H. The Compensation Board shall not approve or commit additional funds for the operational cost, including salaries, for any local or regional jail construction, renovation, or expansion project which was not approved for reimbursement by the State Board of Corrections prior to January 1, 1996, unless: (1) the Secretary of Public Safety and Homeland Security certifies that such additional funding results in an actual cost savings to the Commonwealth or (2) an exception has been granted as provided for in Item 398 of this act.

I. Subject to appropriations by the General Assembly for this purpose, the Compensation

ITEM 75.	Item Details(\$)		Appropriations(\$)	
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Board may provide funding for executive management, lawful employment practices, and jail management training for constitutional officers, their employees, and regional jail superintendents.

J. Any local or regional jail that receives funding from the Compensation Board shall report inmate populations to the Compensation Board, through the local inmate data system, no less frequently than weekly. Each local or regional jail that receives funding from the Compensation Board shall use the Virginia Crime Codes (VCC) in identifying and describing offenses for persons arrested and/or detained in local and regional jails in Virginia.

K.1. The Compensation Board shall provide the Chairmen of the Senate Finance and House Appropriations Committees and the Secretaries of Finance and Administration with an annual report, on December 1 of each year, of jail revenues and expenditures for all local and regional jails and jail farms which receive funds from the Compensation Board. Information provided to the Compensation Board is to include an audited statement of revenues and expenses for inmate canteen accounts, telephone commission funds, inmate medical co-payment funds, any other fees collected from inmates and investment/interest monies for inclusion in the report.

2. Local and regional jails and jail farms and local governments receiving funds from the Compensation Board shall, as a condition of receiving such funds, provide such information as may be required by the Compensation Board, necessary to prepare the annual jail cost report.

3. If any sheriff, superintendent, county administrator, or city manager fails to send such information within five working days after the information should be forwarded, the Chairman of the Compensation Board shall notify the sheriff, superintendent, county administrator or city manager of such failure. If the information is not provided within ten working days from that date, then the chairman shall cause the information to be prepared from the books of the city, county, or regional jail and shall certify the cost thereof to the State Comptroller. The State Comptroller shall issue his warrant on the state treasury for that amount, deducting the same from any funds that may be due the sheriff or regional jail from the Commonwealth.

L. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2, Code of Virginia, or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2, Code of Virginia, subsequent to July 1, 1999, the Compensation Board shall provide funding from Items 68, 71, 72, 73, and 74 of this act, consistent with the requirements of § 15.2-1302, Code of Virginia. Notwithstanding the provisions of paragraph E of this Item, any positions in the constitutional offices of the former city or former county which are available for reallocation as a result of the transition or consolidation shall be first reallocated in accordance with Compensation Board staffing standards to the constitutional officers in the county in which the town is situated or to the consolidated city, without regard to the Compensation Board's priority of need ranking for reallocated positions. The salary and fringe benefit costs for these positions shall be deducted from any amounts due the county or to the consolidated city, as provided in § 15.2-1302, Code of Virginia.

M. Notwithstanding any other provisions of § 15.2-1605, Code of Virginia, the Compensation Board shall provide no reimbursement for accumulated vacation time for employees of Constitutional Officers.

N. The Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 68, 70, 71, 72, 73, and 74 of this act, an amount equal to 100 percent of each locality's share of the insurance premium paid by the Compensation Board on behalf of the constitutional officers, directors of finance, and regional jails. From sheriffs and regional jails, the Compensation Board shall deduct an additional \$80,000 each year for the costs of conducting training on managing risk in the operation of local and regional jails.

O. Effective July 1, 2007, the Compensation Board is authorized to withhold reimbursements due the locality for sheriff and jail expenses upon notification from the

ITEM 75.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	<p>Superintendent of State Police that there is reason to believe that crime data reported by a locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the Superintendent that the data is accurate, the Compensation Board shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.</p>			
	<p>P. Notwithstanding the provisions of § 51.1-1403 A, Code of Virginia, the Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 68, 70, 71, 72, 73, and 74 of this act, an amount equal to each locality's retiree health premium paid by the Compensation Board on behalf of the constitutional offices, directors of finance, and regional jails.</p>			
	<p>Q.1. Compensation Board payments of, or reimbursements for, the employer paid contribution to the Virginia Retirement System, or any system offering like benefits, shall not exceed the Commonwealth's proportionate share of the following, whichever is less: (a) the actual retirement rate for the local constitutional officer's office or regional correctional facility as set by the Board of the Virginia Retirement System or (b) the employer rate established for the general classified workforce of the Commonwealth covered under and payable to the Virginia Retirement System.</p>			
	<p>2. The rate specified in paragraph Q.1. shall exclude the cost of any early retirement program implemented by the Commonwealth.</p>			
	<p>3. Any employer paid contribution costs for rates exceeding those specified in paragraph Q.1. shall be borne by the employer.</p>			
	<p>4. The benefits rate reimbursed by the Compensation Board to localities and regional jails shall not exceed the rate identified for fiscal year 2011 in Chapter 890, Item 469, paragraph I.1.</p>			
	<p>R. Localities shall not utilize Compensation Board funding to supplant local funds provided for the salaries of constitutional officers and their employees under the provisions of Chapter 822, 2012 Acts of Assembly, who were affected members in service on June 30, 2012.</p>			
	<p>S. Effective July 1, 2016, the Compensation Board is authorized to withhold reimbursements due to the locality for sheriff's law enforcement expenses if the sheriff fails to certify to the Board that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia. Upon subsequent certification by the sheriff that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia, the Compensation Board shall make reimbursement of withheld funding due to the locality when such subsequent certification is made within the same fiscal year that funds have been withheld.</p>			
	<p>T.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Executive Secretary of the State Compensation Board shall implement the recommendations relating to the State Compensation Board made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.</p>			
	<p>U. The Compensation Board shall perform a review of the career development programs within the constitutional offices regarding the demographic composition of the employees in the programs and make recommendations as needed to ensure equity and fairness within the programs. The Compensation Board shall provide a report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.</p>			
	<p><i>V.1. The Compensation Board shall work with the Virginia Association of Commonwealth's Attorneys to examine the staffing standards used to determine and distribute funding and positions allocated to Commonwealth's Attorney's offices, including the use of diversion programs, specialty dockets, and other programs that incentivize best practices and improved outcomes as part of overall criminal justice reform efforts, rather than the current practice which relies solely on metrics related to felony charges and convictions. The examination shall identify funding needs to support staffing for statutorily prescribed duties while also identifying funding needs for participation in special programs, discretionary duties, and current local supplemental funds allocated. To assist in this goal, the Compensation Board</i></p>			

ITEM 75.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

shall contract with the National Center for State Courts to perform a time study as to the comprehensive duties and responsibilities of Commonwealth's Attorneys' offices including, but not limited to, "in-court" obligations, the use of diversion programs and speciality dockets, expungement/rights restoration volume as well as other obligations reflected in the Code of Virginia (e.g. duties prescribed under §15.2-1627, et seq). The Compensation Board shall develop a revised staffing standard for Commonwealth's Attorney's offices based on the results of the study that expands the current model focused on felony charges and convictions and accounts for the use of diversion programs, speciality dockets, and other programs. Included within this appropriation is \$250,000 in the second year from the general fund for the purpose of contracting with the Center to perform the study. All Commonwealth's Attorneys shall participate in the study as needed and identified by the Compensation Board and the National Center for State Courts.

2. The Compensation Board shall provide a status report on the progress of the study and participants to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021. The Compensation Board shall deliver a report containing the results of the study, anticipated costs, and staffing standards methodology revisions under review or approved by the Board to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2022.

W. The Compensation Board shall review the plan to be developed by the Department of Criminal Justice Services by July 1, 2021 outlining law enforcement agencies' roles and engagement with the development of the Mental Health Awareness Response and Community Understanding Services Alert System, established pursuant to House Bill 5043 and Senate Bill 5038 of the 2020 Special Session I of the General Assembly, and shall survey sheriffs' offices to determine anticipated costs to support staffing and training needs to meet the requirements established by the plan. The Compensation Board shall provide a report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021 of the findings of the survey and estimated costs to meet the requirements established by the plan.

75.10 Omitted.

Total for Compensation Board.....			\$745,264,213	\$746,550,297
			\$735,071,920	\$746,418,253
General Fund Positions.....	20.00	20.00		21.00
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	21.00	21.00		22.00
Fund Sources: General.....	\$728,657,985	\$729,944,069		
	\$718,465,692	\$729,812,025		
Trust and Agency.....	\$8,003,370	\$8,003,370		
Dedicated Special Revenue.....	\$8,602,858	\$8,602,858		

§ 1-29. DEPARTMENT OF GENERAL SERVICES (194)

76. Laboratory Services (72600).....			\$43,993,781	\$43,628,632
				\$44,333,825
Statewide Laboratory Services (72604).....	\$27,168,531	\$27,040,962		\$27,746,155
Newborn Screening Laboratory Services (72607)....	\$14,138,978	\$13,901,398		
Laboratory Accreditation Services (72608).....	\$507,734	\$507,734		
Drinking Water Testing Services (72609).....	\$2,178,538	\$2,178,538		
Fund Sources: General.....	\$15,919,544	\$15,791,975		
Special.....	\$20,000	\$20,000		
Enterprise.....	\$16,414,389	\$16,176,809		
Internal Service.....	\$4,345,016	\$4,345,016		\$5,050,209
Federal Trust.....	\$7,294,832	\$7,294,832		

ITEM 76.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Authority: Title 2.2, Chapter 11, Article 2, Code of Virginia.</p> <p>A. The provisions of § 2.2-1104, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services shall ensure that no individual is denied the benefits of laboratory tests mandated by the Department of Health for reason of inability to pay for such services.</p> <p>B. Out of this appropriation, \$4,345,016 the first year and \$4,345,016 \$5,050,209 the second year for Statewide Laboratory Services is sum sufficient and these amounts are estimates from an internal service fund which shall be paid from revenues derived from charges collected from state agencies and institutions of higher education for laboratory testing services. The internal service fund shall also consist of revenues transferred from the Department of Transportation for motor fuel testing as stated in § 3-1.02 of this act.</p> <p>C.1. The provisions of § 2.2-1104 B, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services may charge a fee for the limited and specific purpose of analyses of water samples where (i) testing is required by Department of Health regulations as mandated by the federal Safe Drinking Water Act, (ii) funding to support such testing is not otherwise provided for in this act, and (iii) fees shall not be increased unless a plan is first approved by the Governor.</p> <p>2. The Division of Consolidated Laboratory Services may charge a fee to recover its costs to certify laboratories under the requirements of §§ 2.2-1104 A. 4 and 2.2-1105, Code of Virginia, where certification of these laboratories is required by the Department of Health regulations mandated by the federal Safe Drinking Water Act, Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), Code of Virginia.</p> <p>3.a. Any regulations or guidelines necessary to implement or change the amount of the fees charged for testing of water samples or certification of laboratories may be adopted without complying with the Administrative Process Act (§2.2-4000 et seq.) provided that input is solicited from the public. Such input requires only that notice and an opportunity to submit written comments be given.</p> <p>b. Notwithstanding any other provision of law, changes to fees charged for testing of water samples or certification of laboratories shall be subject to the provisions of § 4-5.03 of this act, effective July 1, 2016.</p> <p>c. Fees charged for testing of water samples or certification of laboratories shall not exceed the cost of providing such services.</p> <p>D. Out of this appropriation, \$410,861 the first year and \$410,861 the second year from the general fund shall be used for the third and fourth year of payments to finance the replacement of instrumentation used for drinking water testing that is at least ten years old utilizing the state's Master Equipment Leasing Program in addition to annual service maintenance agreements for such instrumentation.</p>				
77.	Real Estate Services (72700).....		\$72,138,370	\$73,494,163
	Statewide Leasing and Disposal Services (72705).....	\$72,138,370	\$73,494,163	
	Fund Sources: Internal Service.....	\$72,138,370	\$73,494,163	

Authority: Title 2.2, Chapter 11, Article 4, § 2.2-1156, Code of Virginia.

A. Out of this appropriation, \$72,138,370 the first year and \$73,494,163 the second year for Statewide Leasing and Disposal Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues from rent payments or fees to be paid by state agencies and institutions for their occupancy of facilities and management of real property transactions, including, but not necessarily limited to, leases of non-state owned office space throughout the Commonwealth for use by such agencies and institutions. Also included are funds to pay costs associated with the disposal of state-owned real property and interests therein. In implementing the program, the Department of General Services may utilize brokerage services, portfolio management strategies, personnel policies, and compensation practices generally consistent with prevailing industry best practices.

ITEM 77.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>B.1. The costs paid for each sale of state-owned property shall be returned to the fund upon sale of the property in an amount calculated at 115 percent of such costs.</p> <p>2. The rate charged for administration of single-agency leases shall be three percent of lease costs and the rate for administration of master leases shall be four percent of lease costs. Fees approved in accordance with § 4-5.03 of this act may also be charged for one-time transactions.</p> <p>C. The Department of General Services shall issue guidelines to ensure that site selection for new state facilities is accomplished in a way that is consistent with the Principles of Sustainable Community Investment identified in Executive Order 69 (2008) and Executive Order 82 (2009).</p> <p>D. The Department of General Services shall honor all existing leases and contracts and manage the property located at the Center for Innovative Technology Complex at 2214 Rock Hill Road, Herndon, Virginia, as part of its real estate services operation. However, the Department of General Services shall allow the Innovation and Entrepreneurship Investment Authority to continue to manage and maintain the facility unless otherwise directed by the Governor.</p> <p>E. To affect implementation of Chapter 678, 2019 Acts of Assembly, the correct Tax Map Parcel is 211-130-1.</p>				
78.	Procurement Services (73000).....		\$66,006,041	\$65,570,830 \$66,599,778
	Statewide Procurement Services (73002).....	\$31,387,816	\$30,416,782	
	Surplus Property Programs (73007).....	\$2,020,823	\$2,020,823	
	Statewide Cooperative Procurement and Distribution Services (73008).....	\$32,597,402	\$33,133,225 \$34,162,173	
	Fund Sources: General.....	\$2,012,725	\$2,012,725	
	Special.....	\$3,632,726	\$3,632,726	
	Enterprise.....	\$25,742,365	\$24,771,331	
	Internal Service.....	\$34,618,225	\$35,154,048 \$36,182,996	

Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.

A. 1. Out of this appropriation, \$597,437 the first year and \$597,437 the second year for federal surplus property is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.

2. Out of this appropriation, \$1,423,386 the first year and \$1,423,386 the second year for state surplus property is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.

B. Out of this appropriation, \$32,597,402 the first year and ~~\$33,133,225~~ \$34,162,173 the second year for Statewide Cooperative Procurement and Distribution Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.

C. The Commonwealth's statewide electronic procurement system and program known as eVA will be financed by fees assessed to state agencies and institutions of higher education and vendors.

D. The Department of General Services shall allow nonprofit food banks operating in Virginia and granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code to purchase directly from the Virginia Distribution Center.

E.1. The Department of General Services, for goods and services requirements identified by the Virginia Department of Social Services and the Virginia Department of Emergency Management, is directed to develop and maintain a list of emergency contracts for use by state agencies responsible for emergency response and recovery, and to establish contracts for resources, goods and services, as identified by the Virginia Department of Social Services and the Virginia Department of Emergency Management in the event of state

ITEM 78.	Item Details(\$)		Appropriations(\$)	
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shelter activation during a declaration of state emergency.

2. Following completion or revision by the Department of Social Services of documentation, pursuant to Item 358, paragraph B, regarding the specifications of goods and services required in the event of shelter activation, the department shall take necessary steps, in compliance with the Virginia Public Procurement Act, to timely negotiate, execute, or amend contracts sufficient to support the goods and services needs identified by the Department of Social Services and the Virginia Department of Emergency Management.

3. By November 1, 2020, the department in consultation with relevant state agencies, shall submit a report identifying options for warehousing supplies needed to support state shelters to include associated storage and supply management resource costs to store and maintain needed supplies. The department shall report its findings to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Administration, the Secretary of Health and Human Resources, the Secretary of Education, and the Secretary of Public Safety and Homeland Security, and the Secretary of Finance.

F. Notwithstanding the provisions of §4-3.02 of this act, the Secretary of Finance may authorize a repayment period longer than twelve months for a treasury loan issued to support the implementation and transition costs of the statewide electronic procurement system.

79.	Physical Plant Management Services (74100).....			\$57,834,163	\$57,668,843
				\$55,325,255	\$54,547,690
	Parking Facilities Management (74105).....	\$5,468,350	\$5,468,350		
	Statewide Building Management (74106).....	\$46,298,900	\$46,389,195		
		\$43,789,992	\$43,268,042		
	Statewide Engineering and Architectural Services (74107).....	\$5,484,480	\$5,228,865		
	Seat of Government Mail Services (74108).....	\$582,433	\$582,433		
	Fund Sources: General.....	\$2,749,623	\$1,316,623		
			\$1,816,623		
	Special.....	\$5,468,350	\$5,468,350		
	Internal Service.....	\$49,616,190	\$50,883,870		
		\$47,107,282	\$47,262,717		

Authority: Title 2.2, Chapter 11, Articles 4, 6, and 8; § 58.1-3403, Code of Virginia.

A.1. Out of this appropriation, ~~\$44,645,792~~ \$42,136,884 the first year and ~~\$45,819,087~~ \$42,197,934 the second year for Statewide Building Management represent a sum sufficient internal service fund which shall be paid from revenues from rental charges assessed to occupants of seat of government buildings controlled, maintained, and operated by the Department of General Services and fees paid for other building maintenance and operation services provided through service agreements and special work orders. The internal service fund shall support the facilities at the seat of government and maintenance and operation of such other state-owned facilities as the Governor or department may direct, as otherwise provided by law.

2. The rent rate for occupants of office space in seat of government facilities operated and maintained by the Department of General Services, excluding the building occupants that currently have maintenance service agreements with the department, shall be ~~\$17.51~~ \$15.96 per square foot the first year and ~~\$18.24~~ \$15.96 the second year.

3. On or before September 1 of each year, the Department of General Services shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Administration, and the Department of Planning and Budget regarding the operations and maintenance costs of all buildings controlled, maintained, and operated by the Department of General Services. The report shall include, but not be limited to, the cost and fund source associated with the following: utilities, maintenance and repairs, security, custodial services, groundskeeping, direct administration and other overhead, and any other operations or maintenance costs for the most recently concluded fiscal year. The amount of unleased space in each building shall also be reported.

4. Further, out of the estimated cost for Statewide Building Management, amounts estimated at \$2,424,879 the first year and \$2,424,879 the second year shall be paid for Payment in Lieu

ITEM 79.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
of Taxes. In addition to the amounts for Statewide Building Management, the following sums, estimated at the amounts shown for this purpose, are included in the appropriations for the agencies identified:				
		FY 2021		FY 2022
Alcoholic Beverage Control Authority		\$79,698		\$79,698
Department of Motor Vehicles		\$196,017		\$196,017
Department of State Police		\$639		\$639
Department of Transportation		\$186,030		\$186,030
Department for the Blind and Vision Impaired		\$4,630		\$4,630
Science Museum of Virginia		\$17,904		\$17,904
Virginia Employment Commission		\$57,662		\$57,662
Virginia Museum of Fine Arts		\$158,513		\$158,513
Virginia Retirement System		\$42,920		\$42,920
Veterans Services		\$135,180		\$135,180
Workers' Compensation Commission		\$64,116		\$64,116
TOTAL		\$943,309		\$943,309

B.1. Out of this appropriation, \$4,970,398 the first year and \$5,064,783 the second year for Statewide Engineering and Architectural Services provided by the Division of Engineering and Buildings represent a sum sufficient internal service fund which shall be paid from revenues from fees paid by state agencies and institutions of higher education for the review of architectural, mechanical, and life safety plans of capital outlay projects.

2. In administering this internal service fund, the Division of Engineering and Buildings (DEB) shall provide capital project cost review services to state agencies and institutions of higher education and produce capital project cost analysis work products for the Department of Planning and Budget. DEB shall collect fees, consistent with those fees authorized above in paragraph B.1, from state agencies and institutions of higher education for completed capital project cost review services or work products.

3. The hourly rate for engineering and architectural services shall be \$150.00 the first year and \$154.00 the second year, excluding contracted services and other special rates as authorized pursuant to § 4-5.03 of this act.

4. Out of the amounts appropriated in this Item, \$164,082 the first year and \$164,082 the second year from the general fund is provided for the Division of Engineering and Buildings to support the Commonwealth's capital budget and capital pool process for which fees authorized in this paragraph cannot otherwise be assessed.

C. Interest on the employee vehicle parking fund authorized by § 4-6.04 c of this act shall be added to the fund as earned.

D. The Department of General Services shall, in conjunction with affected agencies, develop, implement, and administer a consolidated mail function to process inbound and outbound mail for agencies located in the Richmond metropolitan area. The consolidated mail function shall include the establishment of a centralized mail receiving and outbound processing location or locations, and the enhancement of mail security capabilities within these location(s).

E. All new and renovated state-owned facilities, if the renovations are in excess of 50 percent of the structure's assessed value, that are over 5,000 gross square feet shall be designed and constructed consistent with energy performance standards at least as stringent as the U.S. Green Building Council's LEED rating system or the Green Globes rating system.

F. Effective July 1, 2009, the total service charge for the property known as the General Assembly Building and the State Capitol Building shall not exceed \$70,000 per fiscal year.

G. The Director of the Department of General Services shall work with the Commissioner

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	<p>of the Department of Transportation and other agencies to maximize the use of light-emitting diodes (LEDs) instead of traditional incandescent light bulbs when any state agency installs new outdoor lighting fixtures or replaces nonfunctioning light bulbs on existing outdoor lighting fixtures as long as the LEDs lights are determined to be cost effective.</p> <p>H. Out of this appropriation, \$350,000 the first year from the general fund is designated for the Department of General Services (DGS), with the cooperation of the Department of Behavioral Health and Developmental Services (DBHDS), to review the DBHDS capital outlay, maintenance reserve, maintenance and operations and real estate activities across the DBHDS agency. DGS shall develop system-wide recommendations that are cost effective and promote operational efficiency. DGS shall report its findings and recommendations to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than October 1, 2021.</p> <p>I. Notwithstanding the provisions of Acts of Assembly 1889, Chapter 24, which is hereby repealed, the Department of General Services, in accordance with the direction and instruction of the Governor, shall remove and store the Robert E. Lee Monument or any part thereof.</p>			
80.	Printing and Reproduction (82100).....		\$161,823	\$161,823
	Statewide Graphic Design Services (82101).....	\$161,823	\$161,823	
	Fund Sources: Internal Service.....	\$161,823	\$161,823	
	<p>Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.</p> <p>1. The appropriation for Statewide Graphic Design Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.</p> <p>2. The hourly rate charged for graphic design services shall be \$85.00 the first year and \$85.00 the second year. The amount charged for contracted services shall be 115 percent of the actual cost of such contracted services.</p>			
81.	Transportation Pool Services (82300).....		\$20,207,673	\$20,207,673
	Statewide Vehicle Management Services (82302).....	\$20,207,673	\$20,207,673	
	Fund Sources: Internal Service.....	\$20,207,673	\$20,207,673	
	<p>Authority: Title 2.2, Chapter 11, Article 7; § 2.2-120, Code of Virginia.</p> <p>A. The appropriation for Statewide Vehicle Management Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges to agencies for fleet management services.</p> <p>B. Charges for central fleet vehicles leased by state agencies and institutions shall be the vehicle purchase cost and interest charges amortized over a period of 84 months or less, in addition to a standard monthly operating charge of \$120.00 the first year and \$120.00 the second year per vehicle for the cost of maintenance and support.</p> <p>C. In addition to providing services to state agencies and institutions, fleet management services may also be provided to local public bodies on a fee for service basis in accordance with established Department of General Services Fleet Management policies and procedures.</p> <p>D. The Department of General Services shall manage the Commonwealth's consolidation of bulk and commercial fuel contracts awarded in response to Chapter 879, Acts of Assembly of 2008, Item 1-83 C. The intent of this consolidation is to leverage the Commonwealth's state and local public entities, gasoline and diesel fuel purchase volume to achieve the most favored pricing from private sector fuel providers, and reduce procurement administration workload from state agencies, institutions, local government entities, and other authorized users of awarded contracts that would have otherwise procured and contracted separately for these commodities.</p> <p>E. The Commonwealth of Virginia, Department of General Services may enter into a comprehensive agreement, or multiple comprehensive agreements, pursuant to the Public-Private Education Facilities and Infrastructure Act – 2002 (§ 56-575.1 et seq.), to achieve the purposes of § 2.2-1176 (B) and result in the replacement of state-owned or operated vehicles</p>			

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
with vehicles that operate on alternative fuels. Any agreement entered into must be cost neutral or result in a reduction in the Commonwealth's combined vehicle acquisition and operational costs, and result in lower environmental emissions. The agreements shall not be subject to the requirements found in Title 30, Chapter 42, Code of Virginia (§ 30-278 et. seq.). The Director, Department of General Services, in consultation with the Governor's Senior Advisor on Energy and the Secretary of Finance, shall determine whether the agreement is cost neutral or results in cost savings to the Commonwealth.				
F. The comprehensive agreement referenced in paragraph E. above, may allow for the Department of General Services (DGS) to establish alternative fuels (natural gas, propane, electric) fueling sites at its office of fleet management facility in Richmond, Virginia. Such sites may be open to the general public for the purchase of alternative fuels when such fuels are not available on the retail market within 10 miles of the DGS fleet management facility. Rates for fuel purchased by the general public will be established by the private vendor operating the fueling site. In emergency situations or fuel shortages, the Commonwealth retains the ability to restrict access to such sites as necessary.				
82.	Administrative and Support Services (79900).....		\$5,703,640	\$5,603,640 \$6,003,640
	General Management and Direction (79901).....	\$3,114,954		\$3,014,954 \$3,414,954
	Information Technology Services (79902).....	\$2,588,686		\$2,588,686
	Fund Sources: General.....	\$5,703,640		\$5,603,640 \$6,003,640

Authority: Title 2.2, Chapter 11 and Chapter 24, Article 1, Code of Virginia.

A. Out of the amounts provided in this item, \$100,000 the first year from the general fund is provided to support the completion of an assessment of state structures vulnerable to man-made or natural emergencies.

B.1. The Department shall lead, provide administrative support to, and convene an annual public body procurement workgroup to review and study proposed changes to the Code of Virginia in areas of non-technology goods and services, technology goods and services, construction, transportation, and professional services procurements. The workgroup shall consist of the Director of the Department of Small Business and Supplier Diversity, Director of the Department of General Services, the Chief Information Officer of Virginia Information Technology Agency, Commissioner of the Virginia Department of Transportation, Director of the Department of Planning and Budget, the President of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP), the President of the Virginia Association of Governmental Purchasing or their designees; a representative from the Office of the Attorney General Government Operations and Transactions Division, a staff member of the Virginia House Appropriations Committee, Senate Finance and Appropriations Committee, and Division of Legislative Services.

2. The workgroup is charged with hearing legislation referred by letter from the Chairs of the House Rules, General Laws, and Appropriations Committees, and Chairs of the Senate Rules, General Laws and Technology, and Finance and Appropriations Committees. The workgroup will hear from stakeholders identified by the patron of the referred legislation and other interested individuals to discuss the legislation's impacts to: 1) small businesses to include women and minorities; 2) the Commonwealth's budget; and 3) the Commonwealth's procurement processes. Such meetings will be open to the public. In addition, the Chairs of the House Rules and House Appropriations Committees and Chairs of Senate Rules and Senate Finance and Appropriations Committees may request the workgroup review procurement related proposals in advance of upcoming legislative sessions to better understand potential impacts prior to the start of the annual General Assembly Session.

3. The workgroup will first examine current construction procurement processes by state agencies and covered institutions, needed to incentivize positive business behavior by general contractors that support achieving the Commonwealth's discretionary spend goals for small, women, and minority owned businesses. Additionally, the workgroup will provide best practices associated with oversight of subcontracts to include reporting

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<i>requirements for payroll records, contracts and payments to other businesses, including individuals classified as independent contractors. In its initial review, the workgroup will provide findings to the Chairs of the House Rules, General Laws, and Appropriations Committees, and Chairs of the Senate Rules, General Laws and Technology, and Finance and Appropriations Committees, on or before September 1, 2021.</i>				
82.10	Omitted.			
	Total for Department of General Services.....		\$266,045,491	\$266,335,604
			\$263,536,583	\$265,348,592
	General Fund Positions.....	248.50	248.50	250.50
	Nongeneral Fund Positions.....	435.50	435.50	
	Position Level.....	684.00	684.00	686.00
	Fund Sources: General.....	\$26,385,532	\$24,724,963	\$25,624,963
	Special.....	\$9,121,076	\$9,121,076	
	Enterprise.....	\$42,156,754	\$40,948,140	
	Internal Service.....	\$181,087,297	\$184,246,593	
	Federal Trust.....	\$7,294,832	\$7,294,832	

§ 1-30. DEPARTMENT OF HUMAN RESOURCE MANAGEMENT (129)

83.	Personnel Management Services (70400).....		\$108,932,147	\$108,413,840
			\$108,485,214	\$109,594,197
	Agency Human Resource Services (70401).....	\$2,365,564	\$2,065,564	
		\$1,915,564	\$2,915,564	
	Human Resource Service Center (70402).....	\$1,176,473	\$1,114,273	
	Equal Employment Services (70403).....	\$725,773	\$725,773	
	Health Benefits Services (70406).....	\$7,096,747	\$7,096,747	
	Personnel Development Services (70409).....	\$406,738	\$382,338	
		\$409,805	\$712,695	
	Personnel Management Information System (70410)..	\$1,395,087	\$1,263,380	
	Employee Dispute Resolution Services (70416).....	\$1,182,370	\$1,182,370	
	State Employee Program Services (70417).....	\$1,905,191	\$1,905,191	
	State Employee Workers' Compensation Services (70418).....	\$91,463,439	\$91,463,439	
	Administrative and Support Services (70419).....	\$1,214,765	\$1,214,765	
	Fund Sources: General.....	\$5,590,750	\$5,266,350	
		\$5,143,817	\$6,446,707	
	Special.....	\$1,805,051	\$1,742,851	
	Enterprise.....	\$2,596,995	\$2,596,995	
	Internal Service.....	\$7,104,757	\$6,973,050	
	Trust and Agency.....	\$91,834,594	\$91,834,594	

Authority: Title 2.2, Chapters 12 and 28, 29, 30, and 32, Code of Virginia.

A. The Department of Human Resource Management shall report any proposed changes in premiums, benefits, carriers, or provider networks to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees at least sixty days prior to implementation.

B.1. The Department of Human Resource Management shall operate a human resource service center to support the human resource needs of those agencies identified by the Secretary of Administration in consultation with the Department of Planning and Budget. The agencies identified shall cooperate with the Department of Human Resource Management by transferring such records and functions as may be required.

2. Nothing in this paragraph shall prohibit additional agencies from using the services of the

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

center; however, these additional agencies' use of the human resource service center shall be subject to approval by the affected cabinet secretary and the Secretary of Administration.

3.The cost of the human resource center's services shall be recovered and paid solely from revenues derived from charges for services. The rates required to recover the costs of the human resource service center shall be provided by the Department of Human Resource Management to the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.

4. The rates for the human resource service center shall be \$1,306.00 per full-time equivalent and \$483.00 per wage employee the first year and \$1,237.00 per full-time equivalent and \$458.00 per wage employee the second year.

C. The institutions of higher education shall be exempt from the centralized advertising requirements identified in Executive Order 73 (01).

D.1. To ensure fair and equitable performance reviews, the Department of Human Resource Management, within available resources, is directed to provide performance management training to agencies and institutions of higher education with classified employees.

2. Agency heads in the Executive Department are directed to require appropriate performance management training for all agency supervisors and managers.

E. The Department of Human Resource Management shall take into account the claims experience of each agency and institution when setting premiums for the workers' compensation program.

F.1. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees by October 30 of each year, on its recommended workers' compensation premiums for state agencies for the following biennium. This report shall also include the basis for the department's recommendations; the status and recommendations of the loss control program authorized in paragraph F. 2; the number and amount of workers' compensation settlements concluded in the previous fiscal year, inclusive of those authorized in paragraph F. 3.a; and the impact of those settlements on the workers' compensation program's reserves.

2. Beginning July 1, 2015, the Department of Human Resource Management shall conduct an annual review of each state agency's loss control history, to include the severity of workers' compensation claims, experience modification factor, and frequency normalized by payroll. Based on the annual review, state agencies deemed by the Department of Human Resource Management as having higher than normal loss history shall be required to participate in a loss control program. All executive, judicial, legislative, and independent agencies required to participate in the loss control program shall fully cooperate with the Department of Human Resource Management's review.

3.a. A working capital advance of up to \$20,000,000 shall be provided to the Department of Human Resource Management to identify and potentially settle certain workers' compensation claims open for more than one year but less than 10 years. The Department of Human Resource Management shall pay back the working capital advance from annual premiums over a seven-year period.

b. The Secretary of Finance and Secretary of Administration shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.

G. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees, by October 15 of each year, on the renewal cost of the state employee health insurance program premiums that will go into effect on July 1 of the following year. This report shall include the impact of the renewal cost on employee and employer premiums and a valuation of liabilities as required by Other Post Employment Benefits reporting standards.

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
H.	Out of this appropriation, \$606,439 the first year and \$606,439 the second year from the general fund is provided for the time, attendance and leave system.			
I.	The Department of Human Resource Management shall develop and distribute instructions and guidelines to all executive department agencies for the provision of an annual statement of total compensation for each classified employee. The statement should account for the full cost to the Commonwealth and the employee of cash compensation as well as Social Security, Medicare, retirement, deferred compensation, health insurance, life insurance, and any other benefits. The Director, Department of Human Resource Management, shall ensure that all executive department agencies provide this notice to each employee. The Department of Accounts and the Virginia Retirement System shall provide assistance upon request. Further, the Director of the Department of Human Resource Management shall provide instructions and guidelines for the development notices of total compensation to all independent, legislative, and judicial agencies, and institutions of higher education for preparation of annual statements to their employees.			
J. 1.	The appropriation for the Personnel Management Information System (PMIS) is a sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges to participating agencies, identified by the Department of Human Resource Management and approved by the Department of Planning and Budget, to support the operation of PMIS and its subsystems authorized in this Item.			
2.a.	The rate for agencies to support PMIS and its subsystems, operated and maintained by the Department of Human Resource Management, shall be \$10.91 per position the first year and no more than \$10.66 per position the second year. The rate is based upon the higher of the agency's maximum employment level as of July 1, 2019, and filled wage positions as of June 30, 2019, or the total number of filled classified and wage positions as of June 30, 2019.			
b.	The rates authorized to support the operation of PMIS and its subsystems shall be provided by the Department of Human Resource Management and approved by the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.			
3.	The State Comptroller shall recover the cost of services provided for the administration of the internal service fund through interagency transactions as determined by the State Comptroller.			
K.	The Department of Human Resource Management shall work with the Virginia Information Technologies Agency to develop a pilot program, beginning in July of 2019, utilizing a currently available electronic platform, to track and evaluate the productivity contract staff when teleworking or working in an office that is not part of the agency for which they work or for which they have a contract. The Departments shall identify specific executive branch agencies which have a significant number of such contractors and work with these agencies to develop the pilot project. The Departments shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the results of the pilot program by November 15, 2020.			
L.	Out of the amounts appropriated for this item, \$24,400 from the general fund the first year is provided for the development of a diversity and cultural competency training module, which is to be administered to all state employees employed on or after January 1, 2021.			
M.	The Director of the Department of Human Resource Management shall communicate to all executive branch agencies the requirement that all employees with state email addresses and state phone numbers include contact information in their email signature, which shall include, at a minimum, an office phone number and/or state cell phone number.			
N.	<i>The Department in collaboration with the Department of General Services, the Virginia Information Technologies Agency, and any other state agency upon request, shall examine the Commonwealth's existing telework policies, and how agency program and service delivery tools and methodologies employed during the COVID-19 pandemic may inform future policy objectives regarding the use of telework and alternative work schedules as a means of achieving administrative efficiencies, reducing cost, and sustaining the hiring and retention of a highly qualified workforce. The Department shall report to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on its findings</i>			

ITEM 83.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>by September 1, 2021.</i>				
Total for Department of Human Resource Management.....			\$108,932,147 \$108,485,214	\$108,413,840 \$109,594,197
General Fund Positions.....	43.90	43.90		
Nongeneral Fund Positions.....	71.10	71.10		
Position Level.....	115.00	115.00		
Fund Sources: General.....	\$5,590,750	\$5,266,350		
Special.....	\$5,143,817	\$6,446,707		
Enterprise.....	\$1,805,051	\$1,742,851		
Internal Service.....	\$2,596,995	\$2,596,995		
Trust and Agency.....	\$7,104,757	\$6,973,050		
	\$91,834,594	\$91,834,594		

Administration of Health Insurance (149)

84.	Personnel Management Services (70400).....			\$2,197,071,067	\$2,301,071,067
	Health Benefits Services (70406).....	\$1,574,195,823	\$1,678,195,823		
	Local Health Benefit Services (70407).....	\$587,455,244	\$587,455,244		
	Health Insurance Benefit Payment Under the Line of Duty Act (70408).....	\$35,420,000	\$35,420,000		
	Fund Sources: Enterprise.....	\$587,455,244	\$587,455,244		
	Internal Service.....	\$1,574,195,823	\$1,678,195,823		
	Trust and Agency.....	\$35,420,000	\$35,420,000		

Authority: § 2.2-2818, § 2.2-1204, and Title 9.1, Chapter 4, Code of Virginia.

A. The appropriation for Health Benefits Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues paid by state agencies to the Department of Human Resource Management.

B. The amounts for Local Health Benefits Services include estimated revenues received from localities for the local choice health benefits program.

C.1. In the event that the total of all eligible claims exceeds the balance in the state employee medical reimbursement account, there is hereby appropriated a sum sufficient from the general fund of the state treasury to enable the payment of such eligible claims.

2. The term "employee medical reimbursement account" means the account administered by the Department of Human Resource Management pursuant to § 125 of the Internal Revenue Code in connection with the health insurance program for state employees (§ 2.2-2818, Code of Virginia).

D. Any balances remaining in the reserved component of the Employee Health Insurance Fund shall be considered part of the overall Health Insurance Fund. It is the intent of the General Assembly that future premiums for the state employee health insurance program shall be set in a manner so that the balance in the Health Insurance Fund will be sufficient to meet the estimated Incurred But Not Paid liability for the Fund and maintain a contingency reserve at a level recommended by the Department of Human Resource Management for a self-insured plan subject to the approval of the General Assembly.

E. The Department of Human Resource Management shall implement a Medication Therapy Management pilot program for state employees with certain disease states including Type II diabetes. The department shall continue to consult with all provider stakeholders in order to establish program parameters.

F. Concurrent with the date the Governor introduces the budget bill, the Directors of the Departments of Planning and Budget and Human Resource Management shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report detailing the assumptions included in the Governor's introduced budget for the state employee health insurance plan. The report shall include the proposed premium schedule

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
that would be effective for the upcoming fiscal year and any proposed changes to the benefit structure.				
G. Of money appropriated for the state employee health insurance fund, \$650,000 the first year and \$650,000 the second year shall be held separate and apart from the fund to pay for any required fees due to the Patient-Centered Outcomes Research Institute.				
H. In addition to such other payments as may be available, the full cost of group health insurance, net of any deductions and credits, for the surviving spouses and dependents of certain public safety officers killed in the line of duty and for certain public safety officers disabled in the line of duty, and the spouses and dependents of such disabled officers, are payable from this Item pursuant to Title 9.1, Chapter 4, Code of Virginia, effective July 1, 2017.				
I. The Department of Human Resource Management (DHRM) shall work with the Joint Legislative Audit and Review Commission (JLARC) to enable the private actuarial firm that contracts with JLARC, to perform a peer review of the actuarial calculations used for the State Health Insurance Program. The review shall (1) review the reasonableness of actuarial methods, and accuracy of reports produced by the actuary; (2) assess the data and methods used to establish rates; (3) review and comment on actuarial models used to estimate the impact of plan changes, develop rates and budget projections, and monitor claims experience; and (4) provide recommendations concerning the appropriate target level of cash balances for the fund. DHRM shall reimburse JLARC for expenses incurred in the review from the balances in the health insurance fund. JLARC shall report the findings by September 30, 2021.				
Total for Administration of Health Insurance.....			\$2,197,071,067	\$2,301,071,067
Fund Sources: Enterprise.....			\$587,455,244	\$587,455,244
Internal Service.....			\$1,574,195,823	\$1,678,195,823
Trust and Agency.....			\$35,420,000	\$35,420,000
Virginia Management Fellows Program Administration (164)				
85.	Administrative and Support Services (79900).....			\$1,479,339
	General Management and Direction (79901).....		\$1,479,339	\$1,479,339
	Fund Sources: General.....		\$1,479,339	\$1,479,339
Authority: Discretionary Inclusion				
A. Out of the appropriation for this Item is included \$1,479,339 the first year and \$1,479,339 the second year from the general fund for a joint internship and management training program to assist in improving leadership, management, and succession planning capabilities of all branches of state government. The Department of Human Resource Management shall contract with a Virginia public university for the continuation of the program. Any balances remaining from the appropriation identified in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to support the Virginia Management Fellows program in the subsequent fiscal year.				
B.The Department of Planning and Budget is authorized to transfer amounts from the appropriation in this item to applicable state agencies as required to execute the purposes of this item.				
Total for Virginia Management Fellows Program Administration.....			\$1,479,339	\$1,479,339
General Fund Positions.....			1.00	1.00
Position Level.....			1.00	1.00
Fund Sources: General.....			\$1,479,339	\$1,479,339
Grand Total for Department of Human Resource Management.....			\$2,307,482,553	\$2,410,964,246
			\$2,307,035,620	\$2,412,144,603

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
General Fund Positions.....	44.90	44.90		
Nongeneral Fund Positions.....	71.10	71.10		
Position Level.....	116.00	116.00		
Fund Sources: General.....	\$7,070,089	\$6,745,689		
	\$6,623,156	\$7,926,046		
Special.....	\$1,805,051	\$1,742,851		
Enterprise.....	\$590,052,239	\$590,052,239		
Internal Service.....	\$1,581,300,580	\$1,685,168,873		
Trust and Agency.....	\$127,254,594	\$127,254,594		

§ 1-31. DEPARTMENT OF ELECTIONS (132)

86.	Electoral Services (72300).....			\$18,858,038	\$16,823,166
				\$35,593,662	\$16,910,479
	Electoral Administration, Uniformity, Legality, and Quality Assurance Services (72302).....	\$1,621,062	\$1,621,062		
	Statewide Voter Registration System and Associated Information Technology Services (72304).....	\$13,422,132	\$11,386,990		
		\$30,157,756			
	Campaign Finance Disclosure Administration Services (72309).....	\$178,568	\$178,568		
	Voter Services and Communications (72311).....	\$1,060,726	\$1,060,726		
				\$1,148,039	
	Administrative Services (72312).....	\$2,575,550	\$2,575,820		
	Fund Sources: General.....	\$15,805,788	\$13,770,916		
		\$32,541,412	\$13,858,229		
	Special.....	\$52,250	\$52,250		
	Trust and Agency.....	\$3,000,000	\$3,000,000		

Authority: Title 24.2, Chapter 1, Code of Virginia.

A. It is the intention of the General Assembly that all local precincts, other than central absentee precincts established under § 24.2-712, Code of Virginia, will use electronic pollbooks for elections held beginning in November, 2010.

B. Any locality using paper pollbooks for elections held beginning in November, 2010, shall be responsible for entering voting credit as provided in § 24.2-668. Additionally, any locality using paper pollbooks for elections held after November, 2010 may be required to reimburse the Department of Elections for state costs associated with providing paper pollbooks.

C. Municipalities will pay all expenses associated with May elections after June 30, 2009, including those costs incurred by the Department of Elections.

D. The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the State Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence.

E. All unpaid charges and civil penalties assessed under Title 24.2 shall be subject to interest, the administrative collection fee and late penalties authorized in the Virginia Debt Collection Act, Chapter 48 of Title 2.2, § 2.2-4800 et seq.

F. Out of this appropriation, \$212,687 the first year and ~~\$212,687~~ the second year from the general fund is provided for voter outreach and education required to inform voters about the photo identification requirements pursuant to Chapter 725 of the Acts of Assembly of 2013. It is the intent of the General Assembly that registration cards containing the voter's photograph and signature be provided free to any eligible voter upon request to the general registrar.

G. Out of this appropriation, \$212,423 the first year and \$212,423 the second year from the general fund is provided for conducting list maintenance mailings as required by the National Voter Registration Act.

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H.	Out of this appropriation, \$6,800 each year from the general fund is provided to increase the membership of the State Board of Elections from three members to five members, consistent with the provisions of § 24.2-102, Code of Virginia.			
I. 1.	It is the intent of the General Assembly that federal awards from the Help America Vote Act of 2002 (HAVA) under P.L. 116-93 be used to replace the Virginia Election and Registration Information System (VERIS) by July 1, 2022. Out of the amounts included in this item, \$2,035,142 up to \$18,770,766 the first year from the general fund may be used to support VERIS replacement and shall serve as the state's required match to receive the federal HAVA award.			
	<i>2. All available HAVA funding and associated state matching funds required that are eligible for this purpose shall be exhausted prior to using other general fund appropriation provided in this Item.</i>			
	<i>3. Out of the general fund amounts provided in this paragraph, \$16,735,624 shall be unallotted. The Secretary of Finance and Secretary of Administration shall approve the allotment of these funds to be used for VERIS replacement costs after the exhaustion of all available HAVA funding and the initial required state match component of \$2,035,142.</i>			
	<i>4. Any balances remaining from the appropriation identified in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to support VERIS replacement in the subsequent fiscal year.</i>			
J.	Out of the amounts included in this item, \$96,644 the first year and \$96,644 the second year from the general fund and one position shall support a permanent, full-time director of operations position subject to the Virginia Personnel Act (§ 2.2-2900 et seq.) within the Department.			
K.1	<i>Notwithstanding Virginia Code §§ 24.2-506, 24.2-521, and 24.2-684.1, during a state of emergency as declared by the Governor due to the novel coronavirus (COVID-19) during 2021, any candidate for nomination by primary or any candidate for any office, other than a party nominee, may gather petition signatures as prescribed under Chapter 6 of Title 24.2 or by using the relevant form published by the Department of Elections as described under paragraph (2).</i>			
	<i>2. For local offices, offices of the General Assembly, statewide offices, constitutional offices, and referenda, the Department of Elections will develop and publish, not later than March 1, 2021, forms to be used for petition circulation that permit a qualified petition signer to sign a petition while not in the presence of a petition circulator, provided that, in using the form, the petition signer must provide the following information:</i>			
	<i>a. Affirmation that the signer is who they attest they are;</i>			
	<i>b. Affirmation that the signer is a resident of their jurisdiction, including a statement of their address; and</i>			
	<i>c. The last four digits of the signer's social security number.</i>			
	<i>3. If an individual signs a petition form published by the Department of Elections as described under paragraph (2), that individual shall transmit that form, either by mail, electronically, or physically, to the candidate, the candidate's campaign, or the petition circulator.</i>			
	<i>4. If a petition form is required to be submitted to the Chair or Chair of the several committees of the respective party of the candidate for whom the petition is signed, the candidate, the candidate's campaign, or the appropriate petition circulator shall submit the petition forms as prescribed under Title 24.2 of the Virginia Code.</i>			
	<i>5. If a petition form is required to be submitted to a general registrar, the candidate, the candidate's campaign, or the appropriate petition circulator shall submit the petition forms as prescribed under Title 24.2 of the Virginia Code.</i>			
	<i>6. If a petition form is required to be submitted to the State Board of Elections, the candidate, the candidate's campaign, or the appropriate petition circulator shall submit the petition form to the State Board of Elections either by mail, electronically, or physically. Any such petition forms shall be required to be received by the State Board of Elections by the relevant deadline under Virginia Code Title 24.2.</i>			

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<p>7. If a petition is required to be submitted to a court or other appropriate authority pursuant to Virginia Code § 24.2-684.1, the individual circulating such petition shall submit the petition to the court or other appropriate authority as prescribed under Title 24.2 of the Virginia Code.</p> <p>L.1. For the special elections, general elections, and primaries to be held prior to July 1, 2021 upon receipt of an absentee ballot returned four days prior to the date of the election, each general registrar shall examine the ballot envelopes to verify completion of the required voter affirmation.</p> <p>2. If the general registrar finds during the examination of a returned absentee ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2-707 of the Code of Virginia was not properly followed, and such error or failure shall render the ballot void by law, the general registrar shall, within three days of such finding, notify the voter of the error or failure. However, notwithstanding the provisions of §§ 24.2-706 and 24.2-707 of the Code of Virginia, the failure of an absentee voter marking and returning a mail absentee ballot for special elections, general elections, and primaries, or ballot measures held prior to July 1, 2021, to have a witness sign the statement on the back of the absentee ballot return envelope shall not be considered a material omission and shall not render his ballot void. Such notice shall be made by phone, email, or in writing and shall provide information to the voter as to how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in § 24.2-709.1 of the Code of Virginia if he is found to be entitled to vote. Notwithstanding any other provision of law to the contrary, no absentee ballot needing correction shall be delivered to the officers of election at the appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to this subparagraph.</p> <p>3. The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first ballot with other spoiled ballots.</p> <p>M.1. Notwithstanding any other provision of law, for special elections, general elections, and primaries to be held prior to July 1, 2021, mailed absentee ballots shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, (iii) to a drop-off location, or (iv) by commercial delivery service.</p> <p>2. Mailed absentee ballots shall provide instructions that include information on the locations of all drop-off locations available in the locality at the time such ballots are mailed by the general registrar.</p> <p>3. The general registrar of each county or city shall establish at the office of the general registrar and each voter satellite office in operation for an election a drop-off location for the purpose of allowing voters to deposit completed absentee ballots for such election. On the day of the election, there shall also be a drop-off location at each polling place in operation for the election. The general registrar may establish additional drop-off locations within the county or city as he deems necessary. All drop-off locations shall be accessible; be on public property, unless located at a polling place; and otherwise comply with any criteria for drop-off locations set by the Department of Elections.</p> <p>4. The Department of Elections shall set standards for the establishment and operation of drop-off locations, including necessary security requirements. The Department of Elections shall submit such standards to the Chairs of the House and Senate Committees on Privileges and Elections, the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations within 30 days of the effective date of this act.</p> <p>5. The general registrar of a county or city utilizing drop-off locations shall post notice of the locations of the drop-off locations in the locality in the office of the general registrar and on the official website for the county or city. Such notice shall remain in the office of the general registrar and on the official website for the county or city for the duration of the period during which absentee ballots may be returned.</p> <p>6. Absentee ballots shall be collected from drop-off locations in accordance with the instructions provided by the Department of Elections. Such instructions shall include</p>				

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<i>chain of custody requirements and recordkeeping requirements. Absentee ballots shall be collected at least daily, by two officers of election representing the two major political parties, when practicable, or by two employees from the office of the general registrar, unless the drop-off location is in the office of the general registrar, in which case the general registrar or an assistant general registrar may collect the absentee ballots.</i>				
<i>7. Any ballot returned to a drop-off location in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to a drop-off location before the closing of the polls. Any voter who is in line to return the voter's absentee ballot at a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit the absentee ballot.</i>				
<i>N. The general registrar shall include with the absentee ballot prescribed in § 24.2-706 of the Code of Virginia, an envelope, properly addressed and postage prepaid, for the return of the ballot to the general registrar by mail for special elections, general elections, and primaries to be held prior to July 1, 2021.</i>				
<i>O. The provisions of paragraphs L., M. and N. shall expire June 30, 2021.</i>				
<i>P. The Department shall use remaining funds provided in Chapter 1, 2020 Special Session I Acts of Assembly to reimburse localities for the cost of prepaid postage for the return of absentee ballots. The Department of Elections shall reimburse localities for return absentee ballot prepaid postage by validating qualifying amounts through proper documentation. These funds shall not be used or otherwise obligated for any other purposes.</i>				
<i>Q. Out of the amounts in this item, \$300,000 in the second year from the general fund is provided for voter outreach and education about new voting laws enacted by the 2020 General Assembly and 2021 General Assembly.</i>				

87.	Financial Assistance for Electoral Services (78000)....		\$8,809,953	\$8,809,953
			\$6,275,378	\$9,789,512
	Financial Assistance for General Registrar Compensation (78001).....	\$7,637,437		
		\$5,322,303		\$8,836,437
	Financial Assistance for Local Electoral Board Compensation and Expenses (78002).....	\$1,172,516		
		\$953,075		\$953,075
	Fund Sources: General.....	\$8,809,953		
		\$6,275,378		\$9,789,512

Authority: Title 24.2, Chapter 1, Code of Virginia.

A.1.a. In determining the salary for each general registrar, the Department of Elections shall use the most recent provisional population estimate from the Weldon Cooper Center for Public Service of the University of Virginia. The Department of Elections shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent general registrar remains in office.

b. The annual salaries of general registrars, in accordance with the provisions of § 24.2-111, Code of Virginia, shall be as hereinafter prescribed.

	July 1, 2020 to June 30, 2021	July 1, 2021 to June 30, 2022
Population		
0-25,000	\$49,256	\$49,256
25,001-50,000	\$54,123	\$54,123
50,001-100,000	\$59,317	\$59,317
100,001-150,000	\$66,290	\$66,290
150,001-200,000	\$72,600	\$72,600
200,001 and above	\$95,957	\$95,957

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c. Any locality required to supplement the salary of a general registrar on June 30, 1981, shall continue that supplement at the identical annual amount as paid in FY 1982. This supplement shall continue as long as the incumbent general registrar on July 1, 1982, continues in office. Further, any locality may supplement the annual salary of the general registrar. There shall be no reimbursement out of the state treasury for such supplements.

2. General registrars in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park shall receive a cost of competition supplement equal to 15 percent of the salaries authorized in paragraph A.1.a. The cost of this supplement shall be paid out of the general fund of the state treasury.

B.1.a. The Department of Elections shall set the annual compensation for secretaries and members of local electoral boards on July 1 of each year. In determining such compensation, the Department of Elections shall use the most recent provisional population estimate from the Weldon Cooper Center for Public Service of the University of Virginia.

b. The annual compensation of the secretary of each local electoral board shall be as hereinafter prescribed.

Population Size of Locality	July 1, 2020 to June 30, 2021	July 1, 2021 to June 30, 2022
0-10,000	\$2,215	\$2,215 \$2,326
10,001-25,000	\$3,319	\$3,319 \$3,485
25,001-50,000	\$4,425	\$4,425 \$4,646
50,001-100,000	\$5,531	\$5,531 \$5,808
100,001-150,000	\$6,635	\$6,635 \$6,967
150,001-200,000	\$7,760	\$7,760 \$8,148
200,001-350,000	\$8,856	\$8,856 \$9,299
Above 350,000	\$9,957	\$9,957 \$10,455

c. The annual compensation of other members of local electoral boards shall be fixed at one-half the annual compensation provided to the secretary of the board.

d. The governing body of any county or city may pay to a full-time secretary of an electoral board such supplemental compensation as it deems appropriate. There shall be no reimbursement out of the state treasury for such supplements.

2. Nothing herein contained shall prevent the governing body of any county or city from paying the secretary of its electoral board such additional allowance for expenses as it deems appropriate but there shall be no reimbursement out of the state treasury for such expenses.

3. Notwithstanding § 24.2-108, Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.

C. Notwithstanding the salaries listed in paragraph A. of this item, effective July 1, 2021 the annual salaries for general registrars shall be adjusted to equal the salaries for Local Treasurers as established under Item 74 of this act.

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87.10 Omitted.				
Total for Department of Elections.....			\$27,667,991 \$41,869,040	\$25,633,119 \$26,699,991
General Fund Positions.....	57.00 58.00	57.00 58.00		
Position Level.....	57.00 58.00	57.00 58.00		
Fund Sources: General.....	\$24,615,741 \$38,816,790	\$22,580,869 \$23,647,741		
Special.....	\$52,250	\$52,250		
Trust and Agency.....	\$3,000,000	\$3,000,000		

§ 1-32. VIRGINIA INFORMATION TECHNOLOGIES AGENCY (136)

88. Omitted.				
89. Omitted.				
90. Information Technology Development and Operations (82000).....			\$272,755,360 \$286,481,512	\$270,172,570 \$333,239,172
Network Services -- Data, Voice, and Video (82003).	\$105,785,317 \$107,106,695	\$105,179,381 \$122,026,674		
Data Center Services (82005).....	\$60,975,720 \$73,380,494	\$59,286,028 \$32,904,542		
Desktop and End User Services (82006).....	\$70,630,246	\$70,274,907 \$134,290,936		
Multisourcing Service Integrator (MSI) Oversight Services (82009).....	\$29,100,688	\$29,156,790 \$32,590,081		
Computer Operations Security Services (82010).....	\$6,263,389	\$6,275,464 \$11,426,939		
Fund Sources: Internal Service.....	\$272,755,360 \$286,481,512	\$270,172,570 \$333,239,172		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, ~~\$272,755,360~~~~\$286,481,512~~ the first year and ~~\$270,172,570~~~~\$333,239,172~~ the second year for Information Technology Development and Operations is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.

B. Political subdivisions and local school divisions are hereby authorized to purchase information technology goods and services of every description from the Virginia Information Technologies Agency and its vendors, provided that such purchases are not prohibited by the terms and conditions of the contracts for such goods and services.

C. 1. The Secretary of Finance and Secretary of Administration shall approve the draw downs from the agency's line of credit authorized in § 3-2.03 of this act prior to the expenditure of funds for costs associated with replacing or implementing information technology services currently provided by the multi-supplier vendor model.

2. The Director, Department of Planning and Budget, is authorized to administratively adjust the appropriation in this item and Item 92 of this act for approved transition costs associated with replacing or implementing information technology services currently provided by the multi-supplier vendor model.

D. The Chief Information Officer of the Commonwealth shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on progress toward transitioning to new information technology services that will replace the information technology services previously provided by Northrop Grumman. Such a report shall be made

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at least quarterly, in a format mutually agreeable to them; and shall (i) assess the Virginia Information Technologies Agency's organization and in-scope information technology and telecommunications costs; and (ii) identify options available to the Commonwealth at the expiry of the current agreements including any anticipated steps required to plan for their expiration.

DE. 1. The Virginia Information Technologies Agency shall, in consultation with state agencies, report quarterly to the Secretary of Administration and the Secretary of Finance with a detailed transition plan for this migration out of the Commonwealth Enterprise Solutions Center (CESC). This plan will, at a minimum, identify the migration-readiness status of all such applications, data, and systems, propose detailed transition timelines, and identify ongoing and one-time costs for the migration.

2. For purposes of facilitating and expediting the migration of all Commonwealth applications, data, and systems currently physically located or hosted in CESC to a data center physically located in Virginia by June 30, 2022, The Virginia Information Technologies Agency shall procure a statewide contract on behalf of executive branch agencies to provide migration-readiness modifications where such modifications are deemed necessary by the Chief Information Officer of the Commonwealth.

3. The Virginia Information Technologies Agency is hereby authorized to fund approved migration expenses on behalf of agencies from its line of credit authorized in § 3-2.03 of this act. All proposed draws from the Virginia Information Technologies Agency's line of credit recommended by the Chief Information Officer of the Commonwealth for required migration expenses shall be approved by the Secretary of Finance and the Secretary of Administration prior to any expenditure of funds.

4. It is the responsibility of each approved agency to repay its specific costs incurred on the Virginia Information Technologies Agency's line of credit. Upon approval of expenditures to be paid from the line of credit draw request, the Secretary of Administration and the Secretary of Finance shall specify the repayment period.

5. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may provide agencies whose applications or systems are funded in whole or in part by nongeneral funds interest-free treasury loans to fund expenses associated with the migration of agency applications, data, and systems out of CESC where such modifications are deemed necessary by the Chief Information Officer of the Commonwealth. Such treasury loans shall only be for the nongeneral fund component of the migration costs. The repayment plan for such loans may be extended for a period longer than twelve months by the Secretary of Finance.

EF. The Virginia Information Technologies Agency shall continue to identify the charge-back structure to allocate costs based on agencies' consumption of data storage. The funds from this charge-back structure shall be used to support the Chief Data Officer's efforts to create a Commonwealth data inventory, and enterprise data dictionary and catalog.

F. The Virginia Information Technologies Agency shall provide a network infrastructure report to the House Appropriations Committee, Senate Finance and Appropriations Committee, and Joint Legislative Audit and Review Commission by November 1 of each year. The report shall indicate whether the Commonwealth's network infrastructure is adequate to meet the needs of state agencies, and if not, identify any needed upgrades. For each network infrastructure upgrade identified, the report shall specify the estimated cost and whether the upgrade is to the portion of the network maintained by the Virginia Information Technologies Agency or another state agency.

91.	Central Support Services for Business Solutions (82400).....			\$6,865,060	\$6,865,060
	Information Technology Services for Data Exchange Programs (82401).....	\$6,632,234	\$6,632,234		
	Information Technology Services for Productivity Improvements (82402).....	\$232,826	\$232,826		
	Fund Sources: Internal Service.....	\$6,865,060	\$6,865,060		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

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<p>A. The appropriation for Central Support Services for Business Solutions is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services. Included in these amounts are the projected first and second year costs for workplace productivity and collaboration solutions. These solutions are offered as optional services to executive branch agencies and other customers.</p> <p>B. Included in the amounts provided in paragraph A. of this item is \$75,000 the first year and \$75,000 the second year shall be used to implement a training curriculum for state employees on best practices for cyber security.</p>				
92.	Administrative and Support Services (89900).....		\$43,465,830	\$46,918,343
			\$44,450,830	\$47,038,343
	General Management and Direction (89901).....	\$23,768,220	\$24,715,943	
		\$24,753,220	\$24,835,943	
	Accounting and Budgeting Services (89903).....	\$6,533,117	\$9,678,117	
	Human Resources Services (89914).....	\$917,784	\$917,784	
	Planning and Evaluation Services (89916).....	\$3,610,587	\$3,120,377	
	Procurement and Contracting Services (89918).....	\$5,282,342	\$5,282,342	
	Web Development and Support Services (89940).....	\$3,353,780	\$3,203,780	
	Fund Sources: Special.....	\$10,132,640	\$10,132,640	
	Internal Service.....	\$33,333,190	\$36,785,703	
		\$34,318,190	\$36,905,703	

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. Out of this appropriation, ~~\$33,333,190~~\$34,318,190 the first year and ~~\$36,785,703~~\$36,905,703 the second year for Administrative and Support Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

2. In accordance with § 2.2-2013 D, Code of Virginia, the surcharge rate used to fund expenses for operations and staff of services administered by the Virginia Information Technologies Agency shall be no more than ~~12.90~~12.76 percent the first year and ~~14.65~~13.55 percent the second year.

3. Included in the amounts for Administrative and Support Services are funds from the Acquisition Services Special Fund which is paid solely from receipts from vendor information technology contracts. These funds will be used to finance procurement and contracting activities and costs unallowable for federal fund reimbursement.

B. The provisions of Title 2.2, Chapter 20.1 of the Code of Virginia shall not apply to the Virginia Port Authority.

C. The requirement that the Department of Behavioral Health and Developmental Services purchase information technology equipment or services from the Virginia Information Technologies Agency according to the provisions of Chapters 981 and 1021 of the Acts of Assembly of 2003 shall not adversely impact the provision of services to mentally disabled clients.

D. The Chief Information Officer and the Secretary of Administration shall provide the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with a report detailing any amendments or modifications to the information technology infrastructure services contracts. The report shall include statements describing the fiscal impact of such amendments or modifications and shall be submitted within 30 days following the signing of any amended agreement.

E.1. Notwithstanding the provisions of §§ 2.2-1509, 2.2-2007 and 2.2-2017, Code of Virginia, the scope of formal reporting on major information technology projects in the Recommended Technology Investment Projects (RTIP) report is reduced. The efforts involved in researching, analyzing, reviewing, and preparing the report will be streamlined and project ranking will be discontinued. Project analysis will be targeted as determined by the Chief Information Officer (CIO) and the Secretary of Administration. Information on major information technology investments will continue to be provided General Assembly members and staff. Specifically,

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the following tasks will not be required, though the task may be performed in a more streamlined fashion: (i) The annual report to the Governor, the Secretary, and the Joint Commission on Technology and Science; (ii) The annual report from the CIO for submission to the Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of Recommended Technology Investment Projects (RTIP Report); (iii) The development by the CIO and regular update of a methodology for prioritizing projects based upon the allocation of points to defined criteria and the inclusion of this information in the RTIP Report; (iv) The indication by the CIO of the number of points and how they were awarded for each project recommended for funding in the RTIP Report; (v) The reporting, for each project listed in the RTIP, of all projected costs of ongoing operations and maintenance activities of the project for the next three biennia following project implementation, a justification and description for each project baseline change, and whether the project fails to incorporate existing standards for the maintenance, exchange, and security of data; and (vi) The reporting of trends in current projected information technology spending by state agencies and secretariats, including spending on projects, operations and maintenance, and payments to Virginia Information Technologies Agency.

2. Notwithstanding any other provision of law and effective July 1, 2015, the Virginia Information Technologies Agency (VITA) shall maintain and update quarterly a list of major information technology projects that are active or are expected to become active in the next fiscal year and have been approved and recommended for funding by the Secretary of Administration. Such list shall serve as the official repository for all ongoing information technology projects in the Commonwealth and shall include all information required by § 2.2-1509.3 (B)(1)-(8), Code of Virginia. VITA shall make such list publically available on its website, updated on a quarterly basis, and shall submit electronically such quarterly update to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget, in a format mutually agreeable to them. To ensure such list can be maintained and updated quarterly, state agencies with major information technology projects that are active or are expected to become active in the next fiscal year shall provide in a timely manner all data and other information requested by VITA.

93. Information Technology Security Oversight (82900).....			\$9,099,513	\$8,419,513 \$8,834,513
Technology Security Oversight Services (82901).....	\$5,912,326	\$5,232,326 \$5,647,326		
Information Technology Security Service Center (82902).....	\$2,608,669	\$2,608,669		
Cloud Based Services Oversight (82903).....	\$578,518	\$578,518		
Fund Sources: General.....	\$282,252	\$282,252		
Special.....	\$295,414	\$295,414		
Internal Service.....	\$8,521,847	\$7,841,847 \$8,256,847		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, \$5,715,131 the first year and ~~\$5,035,131~~\$5,450,131 the second year for Technology Security Oversight Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

B.1. The Virginia Information Technologies Agency shall operate an information technology security service center to support the information technology security needs of agencies electing to participate in the information technology security service center. Support for participating agencies shall include, but not be limited to, vulnerability scans, information technology security audits, and Information Security Officer services. Participating agencies shall cooperate with the Virginia Information Technologies Agency by transferring such records and functions as may be required.

2.a. The Virginia Information Technologies Agency shall perform vulnerability scans of all public-facing websites and systems operated by state agencies. All state agencies which

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operate such websites and systems shall cooperate with the Virginia Information Technologies Agency in order to complete the vulnerability scans. However, the State Corporation Commission shall not be required to disable, in full or in part, any software system, process, or other tool utilized to protect such public-facing websites and systems.				
b. Out of this appropriation, \$282,252 the first year and \$282,252 the second year from the general fund shall be used to support vulnerability scanning of public-facing websites and systems of the Commonwealth.				
3. Agencies electing to participate in the information technology security service center shall enter into a memorandum of understanding with the Virginia Information Technologies Agency. Such memorandums shall outline the services to be provided by the Virginia Information Technologies Agency and the costs to provide those services. If a participating agency elects to not renew its memorandum of understanding, the agency shall notify the Virginia Information Technologies Agency twelve months prior to the scheduled renewal date of its intent to become a non-participating agency.				
4. Non-participating agencies shall be required by July 1 each year to notify the Chief Information Officer of the Commonwealth that the agency has met the requirements of the Commonwealth's information security standards. If the agency has not met the requirements of the Commonwealth's information security standards, the agency shall report to the Chief Information Officer of the Commonwealth the steps and procedures the agency is implementing in order to satisfy the requirements.				
5. Out of this appropriation, \$2,326,417 the first year and \$2,326,417 the second year for Information Technology Security Service Center is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from internal service fund revenues.				
6. Notwithstanding any other provision of state law, and to the extent and in the manner permitted by federal law, the Virginia Information Technologies Agency shall have the legal authority to access, use, and view data and other records transferred to or in the custody of the information technology security service center pursuant to this item. The services of the center are intended to enhance data security, and no state law or regulation imposing data security or dissemination restrictions on particular records shall prevent or burden the custodian agency's authority under this item to transfer such records to the center for the purpose of receiving the center's services. All such transfers and any access, use, or viewing of data by center personnel in support of the center's provision of such services to the transferring agency shall be deemed necessary to assist in valid administrative needs of the transferring agency's program that received, used, or created the records transferred, and personnel of the center shall, to the extent necessary, be deemed agents of the transferring agency's administrative unit that is responsible for the program. Without limiting the foregoing, no transfer of records under this item shall trigger any requirement for notice or consent under the Government Data Collection and Dissemination Practices Act (GDCDPA) (§ 2.2-3800 et. Seq.) or other law or regulation of the Commonwealth. The transferring agency shall continue to be deemed the custodian of any record transferred to the center for purposes of the GDCDPA, the Freedom Of Information Act, and other laws or regulations of the Commonwealth pertaining to agencies that administer the transferred records and associated programs. Custody of such records for security purposes shall not make the Virginia Information Technologies Agency a custodian of such records. Any memorandum of understanding under authority of this item shall specify the records to be transferred, security requirements, and permitted use of data provided. VITA and any contractor it uses in the provision of the center's services shall hold such data in confidence and implement and maintain all information security safeguards defined in the memorandum of understanding or required by federal or state laws, regulations, or policies for the protection of sensitive data.				
7. The rates required to recover the costs of the information technology security service center shall be provided by the Virginia Information Technologies Agency to the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate.				
C.1. Out of this appropriation, \$480,299 the first year and \$480,299 the second year for Cloud Based Services Oversight is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from internal service fund revenues for a program to				

ITEM 93.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
support the use of cloud service providers by state agencies served by the Virginia Information Technologies Agency.				
2. As part of the program, the Virginia Information Technologies Agency shall develop policies, standards, and procedures for the use of cloud services providers by state agencies served by the Virginia Information Technologies Agency. These policies, standards, and procedures shall address the security and privacy of Commonwealth and citizen data; ensure compliance with federal and state laws and regulations; and provide for ongoing oversight and management of cloud services to verify performance through service level agreements or other means. VITA shall also establish a statewide contract of approved vendors authorized to offer cloud based services to state agencies.				
3. Requests to use cloud providers shall be submitted by participating agencies to the Virginia Information Technologies Agency, which shall review such requests in accordance with the Commonwealth's policies, standards, and procedures. For approved requests, and consistent with Chapter 20.1 of Title 2.2, the Virginia Information Technologies Agency will procure cloud services on behalf of other agencies or may, upon request, authorize other state agencies to undertake such procurements on their own. The Virginia Information Technologies Agency shall also administer and oversee all contracts for cloud services used by agencies participating in the cloud services center, including verification of security and performance.				
4. The Virginia Information Technologies Agency shall work with state agencies to assess opportunities for additional use of cloud services, including infrastructure, platform, and software as a service. This assessment shall include a review of options for use of service brokers and integrators, and options for providing storage and server services through cloud or on-premises means.				
5. The rates required to recover the costs associated with providing oversight and management of cloud based services shall be included in the submission required by § 4-5.03 of this act.				
Total for Virginia Information Technologies Agency.....			\$332,185,763 <i>\$346,896,915</i>	\$332,375,486 <i>\$395,977,088</i>
General Fund Positions.....	2.00	2.00		
Nongeneral Fund Positions.....	237.40	237.40 240.40		
Position Level.....	239.40	239.40 242.40		
Fund Sources: General.....	\$282,252	\$282,252		
Special.....	\$10,428,054	\$10,428,054		
Internal Service.....	\$321,475,457	\$321,665,180		
	<i>\$336,186,609</i>	<i>\$385,266,782</i>		
TOTAL FOR OFFICE OF ADMINISTRATION....			\$3,683,001,697 <i>\$3,698,765,764</i>	\$3,785,872,438 <i>\$3,850,944,213</i>
General Fund Positions.....	385.40 386.40	385.40 389.40		
Nongeneral Fund Positions.....	745.00	747.00 752.00		
Position Level.....	1,130.40 1,131.40	1,132.40 1,141.40		
Fund Sources: General.....	\$788,765,285	\$786,031,528		
	<i>\$792,327,108</i>	<i>\$789,046,713</i>		
Special.....	\$21,406,431	\$21,344,231		
Enterprise.....	\$632,208,993	\$631,000,379		
Internal Service.....	\$2,086,465,334	\$2,193,340,646		
	<i>\$2,098,667,578</i>	<i>\$2,255,397,236</i>		
Trust and Agency.....	\$138,257,964	\$138,257,964		
Dedicated Special Revenue.....	\$8,602,858	\$8,602,858		
Federal Trust.....	\$7,294,832	\$7,294,832		

ITEM 94.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
OFFICE OF AGRICULTURE AND FORESTRY					
§ 1-33. SECRETARY OF AGRICULTURE AND FORESTRY (193)					
94.	Administrative and Support Services (79900).....			\$518,381	\$518,381
	General Management and Direction (79901).....	\$518,381	\$518,381		
	Fund Sources: General.....	\$518,381	\$518,381		
	Authority: Title 2.2, Chapter 2, Article 2.1; § 2.2-203.3, Code of Virginia.				
	Total for Secretary of Agriculture and Forestry.....			\$518,381	\$518,381
	General Fund Positions.....	3.00	3.00		
	Position Level.....	3.00	3.00		
	Fund Sources: General.....	\$518,381	\$518,381		
§ 1-34. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (301)					
95.	Nutritional Services (45700).....			\$5,042,932	\$5,042,932 \$5,642,932
	Distribution of USDA Donated Food (45708).....	\$5,042,932	\$5,042,932 \$5,642,932		
	Fund Sources: General.....	\$317,478	\$317,478 \$917,478		
	Federal Trust.....	\$4,725,454	\$4,725,454		
	Authority: Title 3.2, Chapters 1 and 47, Code of Virginia.				
	<i>Out of the appropriation in this Item, \$600,000 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants to assist Virginia farmers and food producers with donating, selling, or otherwise providing agriculture products to Virginia's charitable food assistance organizations in accordance with House Bill 2203 and Senate Bill 1188 of 2021 Special Session I of the General Assembly.</i>				
96.	Animal and Poultry Disease Control (53100).....			\$8,255,501	\$8,255,501 \$8,350,034
	Animal Disease Prevention and Control (53101).....	\$3,300,545	\$3,300,545		
	Diagnostic Services (53102).....	\$4,640,702	\$4,640,702		
	Animal Welfare (53104).....	\$314,254	\$314,254 \$408,787		
	Fund Sources: General.....	\$5,437,637	\$5,437,637 \$5,532,170		
	Special.....	\$1,736,246	\$1,736,246		
	Federal Trust.....	\$1,081,618	\$1,081,618		
	Authority: Title 3.2, Chapters 60 and 65, Code of Virginia.				
	Out of the amounts in this Item, \$150,000 the first year and \$150,000 the second year from the general fund is included for the purchase of laboratory equipment through the Commonwealth's Master Equipment Leasing Program.				
97.	Agricultural Industry Marketing, Development, Promotion, and Improvement (53200).....			\$23,870,243 \$25,870,243	\$22,661,906 \$22,642,069
	Grading and Certification of Virginia Products (53201).....	\$7,667,186	\$7,667,186		
	Milk Marketing Regulation (53204).....	\$867,098	\$867,098		
	Marketing Research (53205).....	\$301,714	\$301,714		
	Market Virginia Agricultural and Forestry Products Nationally and Internationally (53206).....	\$4,920,038	\$4,961,701		

ITEM 97.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Agricultural Commodity Boards (53208).....	\$7,716,368	\$7,716,368 \$6,946,531		
Agribusiness Development Services and Farmland Preservation (53209).....	\$2,397,839 \$4,397,839	\$1,147,839 \$1,897,839		
Fund Sources: General.....	\$10,322,168	\$9,113,831		
Special.....	\$158,125	\$158,125		
Trust and Agency.....	\$7,120,404	\$7,120,404		
Dedicated Special Revenue.....	\$5,548,648	\$5,548,648		
Federal Trust.....	\$720,898	\$720,898		

Authority: Title 3.2, Chapters 1, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 30, 32, 34, 35; Title 28.2, Chapter 2; and Title 61.1, Chapter 4, Code of Virginia.

A. Agricultural Commodity Boards shall be paid from the special fund taxes levied in the following estimated amounts:

1. To the Tobacco Board, \$143,000 the first year and \$143,000 the second year.
2. To the Corn Board, \$390,000 the first year and \$390,000 the second year.
3. To the Egg Board, \$210,000 the first year and \$210,000 the second year.
4. To the Soybean Board, \$1,164,000 the first year and \$1,164,000 the second year.
5. To the Peanut Board, \$320,000 the first year and \$320,000 the second year.
6. To the Cattle Industry Board, \$800,000 the first year and \$800,000 the second year.
7. To the Virginia Small Grains Board, \$400,000 the first year and \$400,000 the second year.
8. To the Virginia Horse Industry Board, \$320,000 the first year and \$320,000 the second year.
9. To the Virginia Sheep Industry Board, \$35,000 the first year and \$35,000 the second year.
10. To the Virginia Potato Board, \$25,000 the first year and \$25,000 the second year.
11. To the Virginia Cotton Board, \$180,000 the first year and \$180,000 the second year.
12. To the State Apple Board, \$150,000 the first year and \$150,000 the second year.

B. Each commodity board is authorized to expend funds in accordance with its authority as stated in the Code of Virginia. Such expenditures will be limited to available revenue levels.

C. Each commodity board specified in this Item shall provide an annual notification to its excise tax paying producers which summarizes the purpose of the board and the excise tax, current tax rate, amount of excise taxes collected in the previous tax year, the previous fiscal year expenditures and the board's past year activities. The manner of notification shall be determined by each board.

D. Out of the amounts in this Item shall be paid from certain special fund license taxes, license fees, and permit fees levied or imposed under Title 28.2, Chapters 2, 3, 4, 5, 6 and 7, Code of Virginia, to the Virginia Marine Products Board, \$402,543 and two positions the first year and \$402,543 and two positions the second year.

E. Out of the amounts in this Item, \$2,782,245 the first year and ~~\$2,782,245~~\$2,012,408 the second year from the general fund shall be deposited to the Virginia Wine Promotion Fund as established in § 3.2-3005, Code of Virginia.

F. Out of the amounts in this Item, \$250,000 the first year and ~~\$250,000~~\$1,000,000 the second year from the general fund shall be deposited to the Virginia Farmland

ITEM 97.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Preservation Fund established in § 3.2-201, Code of Virginia. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.</p> <p>G. Out of the amounts in this Item, the Commissioner is authorized to expend from the general fund amounts not to exceed \$25,000 the first year and \$25,000 the second year for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.</p> <p>H. Out of the amounts in this Item, the Commissioner is authorized to expend \$1,120,226 the first year and \$1,120,226 the second year from the general fund for the promotion of Virginia's agricultural products overseas. Such efforts shall be conducted in concert with the international offices opened by the Virginia Economic Development Partnership.</p> <p>I. Out of the amounts in this Item, \$25,000 the first year and \$25,000 the second year from the general fund shall be provided to support 4-H and Future Farmers of America youth participation educational costs at the State Fair of Virginia. These funds shall not be used for administrative costs by the State Fair.</p> <p>J. Out of the amounts in this item, \$250,000 the first year from the general fund shall be provided in support of critical infrastructure upgrades at the Holiday Lake 4-H Center.</p> <p>K. Out of the amounts in this item, \$1,125,000 \$3,125,000 the first year and \$125,000 the second year from the general fund is provided for the Department to operate the Virginia Food Access Investment Program consistent with the provisions of House Bill 1509 and Senate Bill 1073 of the 2020 Session of the General Assembly.</p>				
98.	Economic Development Services (53400).....		\$1,233,692	\$1,233,692 \$2,483,692
	Financial Assistance for Economic Development (53410).....	\$1,233,692	\$1,233,692 \$2,483,692	
	Fund Sources: General.....	\$1,233,692	\$1,233,692 \$2,483,692	
<p>Authority: Title 3.2, Chapter 3.1, Code of Virginia.</p> <p>A. Out of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be deposited to the Governor's Agriculture and Forestry Industries Development Fund for the payment of grants or loans in accordance § 3.2-303 et seq., Code of Virginia. Notwithstanding any other provision of law, at the discretion of the Governor, the cap on the amount of funding that may be awarded to an individual project as provided in § 3.2-305, Code of Virginia, may be waived for qualifying projects of regional or statewide interest.</p> <p>B. Out of the amounts in this Item, \$233,692 the first year and \$233,692 the second year may be used by the department to pay administrative costs.</p> <p>C. Out of the amounts in this item, \$250,000 the second year from the general fund is provided for the Department's efforts to support the International Trade Plan.</p> <p>D. Out of the amounts in this item, \$1,000,000 the second year from the general fund is provided for the Dairy Producer Margin Coverage Premium Assistance Program, consistent with the provisions of House Bill 1750 and Senate Bill 1193 of 2021 Special Session I of the General Assembly.</p>				
99.	Plant Pest and Disease Control (53500).....		\$5,048,711	\$4,485,211 \$4,460,658
	Plant Pest and Disease Prevention and Control Services (53504).....	\$5,048,711	\$4,485,211 \$4,460,658	
	Fund Sources: General.....	\$3,003,692	\$2,440,192 \$2,415,639	
	Special.....	\$631,895	\$631,895	
	Federal Trust.....	\$1,413,124	\$1,413,124	

ITEM 99.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Authority: Title 3.2, Chapters 7, 8, 9, 10, 28, 38, 41.1 and 44; Title 15.2, Chapter 18, Code of Virginia.</p> <p>A. The Commissioner may enter into agreements with local and state agencies, or other persons, for the control of black vultures, coyotes, and other wildlife that pose danger to agricultural animals. The Commissioner shall enter into an agreement with the federal government to establish and maintain the Virginia Cooperative Wildlife Damage Management Program.</p> <p>B. Out of the amounts in this Item, \$125,000 the first year and \$125,000 \$200,000 the second year from the general fund shall be deposited to the Beehive Grant Fund established pursuant to § 3.2-4415, Code of Virginia. Notwithstanding the provisions of § 3.2-4416, Code of Virginia, the department shall not accept applications for grants from the Beehive Grant Program if funds are not appropriated for such purposes nor shall the department be required to continue to accept applications for the program if funds appropriated have been fully allocated to grantees for a given fiscal year.</p> <p>C. Notwithstanding the provisions of §§ 3.2-4114.2 and 3.2-4115, Code of Virginia, the Commissioner shall charge an annual nonrefundable fee of \$150 on each application for registration, or renewal of registration, as an industrial hemp grower, an annual nonrefundable fee of \$200 on each application for registration as an industrial hemp processor, and an annual nonrefundable fee of \$250 for registration as an industrial hemp dealer pursuant to Chapter 41 of Title 3.2, Code of Virginia.</p> <p>D. The Commissioner of Agriculture and Consumer Services shall, pursuant to 7 U.S.C. 5940, administer an agricultural pilot program to study the growth, cultivation, and marketing of industrial hemp via the Commissioner’s administration of the provisions of the Industrial Hemp Law (Va. Code § 3.2-4112 et seq.). The Commissioner’s research shall include an analysis of information collected during the administration of the Industrial Hemp Law. The Commissioner shall (i) conclude such agricultural pilot program on the date that is one year after the date on which the U.S. Secretary of Agriculture establishes a plan under section 297C of the Agricultural Marketing Act of 1946 or on the effective date of the repeal of 7 U.S.C. 5940, whichever is later, and (ii) submit a report on such research to the Governor and General Assembly by December 1, 2020.</p>				
100.	Agriculture and Food Homeland Security (54100)...		\$279,875	\$279,875 \$185,342
	Agricultural and Food Emergencies Prevention and Response (54101).....	\$279,875	\$279,875 \$185,342	
	Fund Sources: General.....	\$276,554	\$276,554 \$182,021	
	Special.....	\$3,321	\$3,321	
<p>Authority: Title 3.2, Chapters 7, 51, 59, 60, and 65, Code of Virginia.</p>				
101.	Consumer Affairs Services (55000).....		\$1,779,181	\$1,779,181
	Consumer Affairs - Regulation and Consumer Education (55001).....	\$1,779,181	\$1,779,181	
	Fund Sources: General.....	\$33,726	\$33,726	
	Special.....	\$1,745,455	\$1,745,455	
<p>Authority: Title 3.2, Chapter 1; Title 57, Chapter 5; Title 59.1, Chapters 24, 25, 33.1, 34, 34.1 and 36, Code of Virginia.</p>				
102.	Regulation of Business Practices (55200).....		\$3,517,648	\$3,517,648
	Regulation of Grain Commodity Sales (55207).....	\$110,149	\$110,149	
	Regulation of Weights and Measures and Motor Fuels (55212).....	\$3,407,499	\$3,407,499	
	Fund Sources: General.....	\$3,307,999	\$3,307,999	
	Special.....	\$209,649	\$209,649	

ITEM 102.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Authority: Title 3.2, Chapters 43, 47, 55.1, 56, 57, and 58; and Title 59.1, Chapter 12, Code of Virginia.</p> <p>In lieu of periodic inspections by the Commissioner, Department of Agriculture and Consumer Services, any person whose weights and measures devices, as defined in § 3.2-5600, et seq., Code of Virginia, which are used for a commercial purpose may select to provide for the inspection and testing of all such weights and measures to determine the accuracy and correct operation of the equipment or device. The owner shall have all such weights and measures devices tested at least annually by a service agency that is registered pursuant to § 3.2-5703, Code of Virginia. Weights and measures that have been rejected by a service agency shall not be used again commercially until they have been officially reexamined by the rejecting authority or an inspector employed by the Commissioner, and found to be in compliance with Title 3.2, Chapter 56, Code of Virginia. The owner of such weights and measures devices, or third-party agencies on behalf of the owner, shall report to the Commissioner on an annual basis in a manner prescribed by the Commissioner the results of all testing, including (i) the number of inspections completed, (ii) the number of failures in the weights and measures equipment or devices, and (iii) the actions taken to correct any inaccuracies in the equipment or devices.</p>				
103.	Food Safety and Security (55400).....		\$11,303,322	\$11,292,822
			\$11,036,121	\$11,412,310
	Regulation of Food Establishments and Processors (55401).....	\$5,617,917	\$5,607,417	
		\$5,350,716	\$5,726,905	
	Regulation of Meat Products (55402).....	\$4,374,217	\$4,374,217	
	Regulation of Milk and Dairy Industry (55403).....	\$1,311,188	\$1,311,188	
	Fund Sources: General.....	\$6,276,723	\$6,266,223	
		\$6,009,522	\$6,385,711	
	Special.....	\$659,537	\$659,537	
	Federal Trust.....	\$4,367,062	\$4,367,062	
<p>Authority: Title 3.2, Chapters 51, 51.1, 52, 53, 54, 55, and 60, Code of Virginia.</p> <p>A. Each establishment under the authority of the Regulation of Meat Products that is requesting overtime or holiday inspection shall pay that part of the actual cost of the inspection services.</p> <p>B. The Commissioner, Department of Agriculture and Consumer Services, is authorized to collect an annual inspection fee, not to exceed \$40, from all establishments that are subject to inspection pursuant to Title 3.2, Chapter 51, Code of Virginia. However, any such establishment that is subject to any permit fee, application fee, inspection fee, risk assessment fee, or similar fee imposed by any locality shall be subject to this annual inspection fee only to the extent that the annual inspection fee and the locally-imposed fee, when combined, do not exceed \$40. This fee structure shall be subject to the approval of the Secretary of Agriculture and Forestry. Any food bank, second harvest certified food bank, food bank member charity, or other food related activity which is exempt from taxation under 26 U.S.C. § 501 (c) (3), which maintains a food handling or storage facility, or any food-related program operated by any Community Services Board, as defined in Title 37.2, Chapter 5, Code of Virginia, shall be exempt from this inspection fee. Also, a producer of fruits and herbs that are dried, without the addition of any other ingredients, and sold only at a local farmers' market shall be exempt from the fee.</p>				
104.	Regulation of Products (55700).....		\$6,382,714	\$6,327,714
			\$6,142,693	\$6,265,542
	Pesticide Regulation and Applicator Certification (55704).....	\$3,873,884	\$3,873,884	
	Regulation of Feed, Seed, and Fertilizer Products (55706).....	\$2,508,830	\$2,453,830	
		\$2,268,809	\$2,391,658	
	Fund Sources: General.....	\$871,121	\$816,121	
		\$631,100	\$753,949	
	Dedicated Special Revenue.....	\$4,810,820	\$4,810,820	
	Federal Trust.....	\$700,773	\$700,773	

ITEM 104.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Authority: Title 3.2, Chapters 1, 36, 37, 39, 40, 43, 47, 48, and 49; Title 18.2, Chapter 6; and Title 59.1, Chapter 12, Code of Virginia.</p> <p>The Office of Pesticide Services shall publish a report on the activities, educational programs, research, and grants administered through the Pesticide Control Act Fund to the Board of Agriculture and Consumer Services by October 15 of each year.</p>				
105.	Regulation of Charitable Gaming Organizations (55900).....		\$1,687,925	\$1,687,925 \$2,095,525
	Charitable Gaming Regulation and Enforcement (55907).....	\$1,687,925	\$1,687,925 \$2,095,525	
	Fund Sources: General.....	\$1,583,066	\$1,583,066 \$1,990,666	
	Dedicated Special Revenue.....	\$104,859	\$104,859	
<p>Authority: Title 2.2, Chapter 24; Title 18.2, Chapter 8; and Title 59.1, Chapter 51, Code of Virginia.</p> <p>A. Notwithstanding § 18.2-340.31, Code of Virginia, any and all fees paid by any organization conducting charitable gaming under a permit issued by the department, including audit and administrative fees and permit fees, shall be deposited to the general fund.</p> <p>B. The department shall deposit into the Investigation Fund any assets it receives as a result of a law enforcement seizure and subsequent forfeiture by either a state or federal court. The fund shall be used to defray the expenses of investigation and enforcement actions and to purchase equipment for enforcement purposes.</p> <p>C. Included in these amounts is \$100,000 the first year and \$100,000 the second year in nongeneral funds from annual registration fees paid by operators of fantasy contests to support both direct and indirect expenses of the department in the regulation of fantasy contests in Virginia.</p> <p><i>D.1 The Office of the State Inspector General shall, with the assistance of the Office of Charitable and Regulatory Programs, review the regulatory structure of charitable gaming in Virginia, to include, at a minimum: (i) current permitting requirements and exemptions; (ii) net revenue dedicated to charitable activities and which types of gaming revenue is excluded from this calculation; (iii) charitable gaming occurring in remote locations not located in the same jurisdiction as the registered address of the charitable organization; (iv) enforcement of the "social quarters" and "members and guests" limitation; (v) the structure of the Charitable Gaming Board including any changes needed to prevent conflicts of interest; (vi) the adequacy of enforcement and resources dedicated to oversight activities of the Office of Charitable and Regulatory Programs; and (vii) whether regulation of charitable gaming would be more appropriately vested with the Virginia Lottery. The Office of the State Inspector General shall report on their findings to the General Assembly no later than October 1, 2021.</i></p> <p><i>2. All regulations promulgated by the Charitable Gaming Board and in effect on March 1, 2021 shall remain in force and no additional regulations shall be promulgated or additional physical devices authorized for either charitable or fantasy contests regulated by the Office of Charitable and Regulatory Programs prior to June 31, 2022.</i></p>				
106.	Administrative and Support Services (59900).....		\$12,218,057	\$12,071,166 \$12,194,015
	General Management and Direction (59901).....	\$12,218,057	\$12,071,166 \$12,194,015	
	Fund Sources: General.....	\$9,715,028	\$9,568,137 \$9,690,986	
	Special.....	\$2,203,385	\$2,203,385	
	Trust and Agency.....	\$167,990	\$167,990	
	Federal Trust.....	\$131,654	\$131,654	

ITEM 106.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 3.2, Chapters 1, 4, 5, 6 and 29; Title 10.1, Chapter 5, Code of Virginia.				
106.10	Omitted.			
	Total for Department of Agriculture and Consumer Services.....		\$80,619,801 \$82,112,579	\$78,635,573 \$81,028,948
	General Fund Positions.....	344.00 349.99		
	Nongeneral Fund Positions.....	214.00 219.01		
	Position Level.....	558.00 569.00		
	Fund Sources: General.....	\$42,378,884 \$43,871,662	\$40,394,656 \$42,788,031	
	Special.....	\$7,347,613	\$7,347,613	
	Trust and Agency.....	\$7,288,394	\$7,288,394	
	Dedicated Special Revenue.....	\$10,464,327	\$10,464,327	
	Federal Trust.....	\$13,140,583	\$13,140,583	

§ 1-35. DEPARTMENT OF FORESTRY (411)

107.	Forest Management (50100).....			\$36,508,061 \$35,824,907	\$36,831,653 \$37,115,564
	Reforestation Incentives to Private Forest Land Owners (50102).....	\$3,977,197 \$4,345,039	\$4,384,039 \$4,345,039		
	Forest Conservation, Wildfire & Watershed Services (50103).....	\$26,886,048 \$25,835,052	\$26,802,798 \$26,835,709		
	Tree Restoration and Improvement, Nurseries & State-Owned Forest Lands (50104).....	\$4,744,816	\$4,744,816 \$5,034,816		
	Financial Assistance for Forest Land Management (50105).....	\$900,000	\$900,000		
	Fund Sources: General.....	\$21,094,319 \$20,411,165	\$21,417,911 \$21,701,822		
	Special.....	\$10,927,516	\$10,927,516		
	Trust and Agency.....	\$106,538	\$106,538		
	Dedicated Special Revenue.....	\$89,535	\$89,535		
	Federal Trust.....	\$4,290,153	\$4,290,153		

Authority: Title 10.1, Chapter 11, and Title 58.1, Chapter 32, Article 4, Code of Virginia.

A. The State Forester is hereby authorized to utilize any unobligated balances in the fire suppression fund authorized by § 10.1-1124, Code of Virginia, for the purpose of acquiring replacement equipment for forestry management and protection operations.

B. In the event that budgeted amounts for forest fire suppression are insufficient to meet forest fire suppression demands, such amounts as may be necessary for this purpose may be transferred from Item 479 of this act to the Department of Forestry, with the approval of the Director, Department of Planning and Budget.

C. The department shall provide technical assistance and project supervision in the aerial spraying of herbicides on timberland on landowner property. In addition to recovering the direct cost associated with the spraying contract, the department may charge an administrative fee for this service.

D. The Department of Forestry, in cooperation with the Department of Corrections, shall increase the use of inmate labor for routine and special work projects in state forests.

E. The appropriation in Reforestation Incentives to Private Forest Land Owners includes \$1,945,239 the first year and \$1,945,239 the second year from the general fund for the

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<p>Reforestation of Timberlands Program. This appropriation shall be deemed sufficient to meet the provisions of Titles 10.1 and 58.1, Code of Virginia.</p>				
<p>F. Out of this appropriation, \$2,126,126 the first year and \$2,126,126 the second year from the general fund is included for the purchase of forest fire protection equipment through the state's master equipment lease purchase program.</p>				
<p>G. The department is authorized to enter into agreements with private entities for the active operational life of the tower located at 900 Natural Resources Drive in Albemarle County, Virginia. Notwithstanding any other provision of law, any revenues received from such agreements shall be retained by the department and used for forest land management.</p>				
<p>H.1. The State Comptroller shall continue the Virginia State Forest Mitigation and Acquisition Fund and the Long Term Mitigation Fund as established in Item 102, Chapter 806, 2013 Acts of Assembly. All moneys in these funds shall be used as provided for in this Item and in Item 102, Chapter 806, 2013 Acts of Assembly, and Item 98, Chapter 665, 2015 Acts of Assembly.</p>				
<p>2.a. With the exception of the amounts prescribed in paragraph H.2.b. of this item, the Virginia State Forest Mitigation and Acquisition Fund shall be used solely for forest land or conservation easement acquisition.</p>				
<p>b. The Long Term Mitigation Fund shall be used solely for long term management of the Cumberland State Forest Stream Buffer Preservation Stewardship Plan.</p>				
<p>3. For any such future mitigation projects, no state forest land shall be used to provide compensatory mitigation for wetland or stream impacts of any public or private project until such time as due consideration has been given to the availability of mitigation credits available from private sources. State forest land means all sites, roadways, game food patches, ponds, lakes, streams, rivers, beaches, and lakes to which the Department of Forestry holds title for use, development, and administration.</p>				
<p>I. The department is authorized to sell properties and timber located at the following: 16520 Five Forks Road, Amelia, Virginia, 23002; 26401 Blue Star Highway, Emporia, Virginia, 23847; 11260 Jessie Dupont Memorial Highway, Kilmarnock, Virginia, 22482; 152 Maury River Road, Lexington, Virginia, 24450; and 2080 Sowers Road NE, Floyd, Virginia, 24091. Notwithstanding any other provision of law, the net proceeds of these transactions shall be deposited into the general fund.</p>				
<p>J. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the Virginia Natural Resources Leadership Institute.</p>				
<p>K. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is provided to increase bandwidth capacity at the agency's offices in Abingdon, Appomattox-Buckingham State Forest, New Kent, Salem, and Tappahannock.</p>				
<p>L. Out of the amounts in this item, \$154,000 the first year and \$521,842 the second year from the general fund is provided for a Hardwood Forest Habitat initiative. Not later than October 15, 2021, the State Forester shall provide to the Chairs of the House Appropriations and Senate Finance and Appropriations Committee a report on the proposed landowner incentive program for hardwood forest management identifying (i) potential hardwood forest operators eligible for participation in the program; (ii) effective hardwood forest management practices and potential landowner incentives; (iii) the amount of revenue collected annually from existing hardwood forest operations subject to the Forest Product Tax pursuant to Chapter 16 of Title 58; and (iv) the estimated annual costs and long term benefits of the Hardwood Forest Habitat program.</p>				
<p><i>M. The Department of Forestry shall convene a stakeholder workgroup for the purpose of developing and providing recommendations to state and local governments related to policies which encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and to encourage the planting of trees. The stakeholder workgroup shall also examine Virginia's existing enabling statutes and their use related to the preservation, planting, and replacement of trees during the land development process, including, but not limited to, §§ 15.2-960, 15.2-961, 15.2-961.1, and 15.2-961.2, Code of Virginia, and recommend potential changes to those</i></p>				

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<p><i>sections that would enhance the preservation, planting, and replacement of trees during the land development process and incentives for the preservation, planting, or replacement of trees during the land development process. The stakeholder workgroup shall be composed of representatives of the residential and commercial development and construction industries, agricultural and forestry industry representatives, professional environmental technical experts, representatives of local governments, and other affected parties who the Department of Forestry deems necessary. The Department shall provide a report detailing findings, recommendations, and draft legislation of the workgroup to the Chairs of the House Agriculture, Chesapeake and Natural Resources and Senate Agriculture, Conservation and Natural Resources Committees no later than November 1, 2021, and shall include in the report recommendations for draft legislation to encourage the conservation of tree cover and mature trees, or the planting of trees.</i></p>				
107.10	Omitted.			
	Total for Department of Forestry.....		\$36,508,061 \$35,824,907	\$36,831,653 \$37,115,564
	General Fund Positions.....	165.59	165.59	
	Nongeneral Fund Positions.....	113.41	113.41	
	Position Level.....	279.00	279.00	
	Fund Sources: General.....	\$21,094,319	\$21,417,911	
		\$20,411,165	\$21,701,822	
	Special.....	\$10,927,516	\$10,927,516	
	Trust and Agency.....	\$106,538	\$106,538	
	Dedicated Special Revenue.....	\$89,535	\$89,535	
	Federal Trust.....	\$4,290,153	\$4,290,153	
§ 1-36. AGRICULTURAL COUNCIL (307)				
108.	Agricultural and Seafood Product Promotion and Development Services (53000).....		\$490,675	\$490,675
	Grants for Agriculture, Research, Education and Services (53001).....	\$490,675	\$490,675	
	Fund Sources: Dedicated Special Revenue.....	\$490,675	\$490,675	
	Authority: Title 3.2, Chapter 29, Code of Virginia.			
	Total for Agricultural Council.....		\$490,675	\$490,675
	Fund Sources: Dedicated Special Revenue.....	\$490,675	\$490,675	
§ 1-37. VIRGINIA RACING COMMISSION (405)				
109.	Economic Development Services (53400).....		\$1,500,000	\$1,500,000
	Financial Assistance to the Horse Breeding Industry (53411).....	\$1,500,000	\$1,500,000	
	Fund Sources: Special.....	\$1,500,000	\$1,500,000	
	Authority: Title 59.1, Chapter 29, Code of Virginia.			
110.	Regulation of Horse Racing and Pari-Mutuel Betting (55800).....		\$1,708,655	\$1,708,655
	License and Regulate Horse Racing and Pari-mutuel Wagering (55801).....	\$1,708,655	\$1,708,655	
	Fund Sources: Special.....	\$1,708,655	\$1,708,655	
	Authority: Title 59.1, Chapter 29, Code of Virginia.			
	A. Out of this appropriation, the members of the Virginia Racing Commission shall receive compensation and reimbursement for their reasonable expenses in the performance of their duties, as provided in § 2.2-2104, Code of Virginia.			

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B. Notwithstanding the provisions of § 59.1-392, Code of Virginia, up to \$255,000 the first year and \$255,000 the second year shall be transferred to Virginia Polytechnic Institute and State University to support the Virginia-Maryland Regional College of Veterinary Medicine.

C. Any revenues received during the biennium and which are due to the commission pursuant to § 59.1-364 et seq., Code of Virginia, shall be used first to fund the operating expenses of the commission as appropriated in this item. Any change in operating expenses as herein appropriated requires the approval of the Department of Planning and Budget. A year-end fund balance of \$500,000 shall be maintained for payment of authorized commission obligations for operating expenses as appropriated under the provisions of this act and amounts payable to specific entities pursuant to § 59.1-392 and appropriated in paragraphs B and D of this item prior to the reversion of nongeneral fund balances. Any fund balances in this item at the end of fiscal years 2021 and 2022 in excess of \$500,000 shall revert to the general fund.

D. Out of these amounts, the obligations set out in § 59.1-392 D. 5., D.6., G.5., G.6., K.3., K.4., K.5., N.3., N.4., and N.5., Code of Virginia, shall be fully funded.

E. In the event revenues exceed the appropriated amounts in this item, the Virginia Racing Commission is authorized to seek an administrative appropriation, up to \$700,000, from the Director, Department of Planning and Budget, to develop programs or award grants for the promotion and marketing, sustenance and growth of the Virginia horse industry, including horse breeding.

F.1. The Virginia Racing Commission shall report monthly to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on the gross gaming revenues generated from traditional horse racing wagering and from historical horse racing (HHR) wagering from any significant infrastructure limited licensee facility and each satellite facility licensee authorized for operation in the Commonwealth. This monthly reporting shall include the actual dollar amount of the (i) total prize payout; (ii) total contributions to purses for thoroughbred and harness racing; (iii) amount of state and local taxes collected and remitted by jurisdiction; (iv) amount retained by the Virginia Racing Commission; and (v) amount retained by any licensee or operator.

2. Included within the monthly report required in F.1., from the amounts included in clause (v) of F.1., the Commission shall specifically identify the actual dollar amounts allocated pursuant to a Revenue Sharing Agreement dated April 13, 2018, or any amendments thereto, or for an Amended Memorandum of Understanding dated December 4, 2017, or any amendments thereto, for (i) contributions to the Virginia Equine Alliance and other parties collectively referred to in the Revenue Sharing Agreement as the Horsemen; (ii) all HHR gross commission; (iii) any amounts or rebates from Advanced Deposit Wagering to service providers; (iv) deposits to the Virginia Breeders Fund; (v) deposits to the Virginia-Certified Residency Program; and (vi) any allocation of funds for problem gaming.

3. In addition to the reporting requirements in F.1. and F.2., the Commission shall report quarterly to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on the actual number of days of live racing conducted across the Commonwealth for the preceding quarter, including all reporting requirements identified in F.1 and F.2 resulting from each day of live racing pursuant to 11 VAC 10-47-190.

4. Not later than November 1, 2020 the Virginia Racing Commission shall investigate and report on the total amount of money allocated annually from the provisions of F.1. and F.2. to the Virginia Equine Alliance for supporting development of the equine industry in Virginia and any funding that directly or indirectly supports the operations of the Virginia Horse Center or the Virginia Horse Center Foundation. As part of this report, the Commission shall, in cooperation with the Department of Agriculture and Consumer Services, make a recommendation as to the benefits of involvement of the Commonwealth in the whole or partial operation or management of the Virginia Horse Center Foundation, including the addition of state-appointed members to the Board of Directors of the Foundation. The Commission may take any steps necessary to accomplish the

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investigation, including negotiations with the Board of Directors, but shall not expend state funds for the purchase, transfer, or lease of real property unless specifically appropriated for that purpose or approved by the General Assembly.				
5. For any local referendum passed pursuant to § 59.1-391 after July 1, 2020, the Virginia Racing Commission shall not authorize any additional satellite facilities as defined in § 59.1-365 of the Code of Virginia, or additional simulcast wagering terminals pursuant to 11 VAC 10-47-180, during a period of two years after the effective date of this act.				
Total for Virginia Racing Commission.....			\$3,208,655	\$3,208,655
Nongeneral Fund Positions.....	10.00	10.00		
Position Level.....	10.00	10.00		
Fund Sources: Special.....	\$3,208,655	\$3,208,655		
TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY.....			\$121,345,573	\$119,684,937
			\$122,155,197	\$122,362,223
General Fund Positions.....	512.59	512.59 518.58		
Nongeneral Fund Positions.....	337.41	337.41 342.42		
Position Level.....	850.00	850.00 861.00		
Fund Sources: General.....	\$63,991,584	\$62,330,948		
	\$64,801,208	\$65,008,234		
Special.....	\$21,483,784	\$21,483,784		
Trust and Agency.....	\$7,394,932	\$7,394,932		
Dedicated Special Revenue.....	\$11,044,537	\$11,044,537		
Federal Trust.....	\$17,430,736	\$17,430,736		

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OFFICE OF COMMERCE AND TRADE

§ 1-38. SECRETARY OF COMMERCE AND TRADE (192)

111.	Administrative and Support Services (79900).....		\$1,110,829		\$1,110,829
	General Management and Direction (79901).....	\$1,110,829			\$1,110,829
	Fund Sources: General.....	\$1,110,829			\$1,110,829

Authority: Title 2.2, Chapter 2, Article 3; § 2.2-201, Code of Virginia.

A. It is the intent of the General Assembly that state programs providing financial, technical, or training assistance to local governments for economic development projects or directly to businesses seeking to relocate or expand operations in Virginia should not be used to help a company relocate or expand its operations in one or more Virginia communities when the same company is simultaneously closing facilities in other Virginia communities. It is the responsibility of the Secretary of Commerce and Trade to enforce this policy and to inform the Chairmen of the Senate Finance and House Appropriations Committees in writing of the justification to override this policy for any exception.

B. The Secretary shall develop and implement, as a component of the comprehensive economic development policy requirements as established in § 2.2-205, Code of Virginia, a strategic workforce development plan for the Commonwealth.

C. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-205, § 2.2-2221, § 2.2-2221.1, § 2.2-2233.1, § 2.2-2240.1, § 2.2-2485, § 2.2-2698, § 2.2-2699.1, § 2.2-2738, § 15.2-2425, § 23.1-2911.1, § 23.1-3102, § 23.1-3132, § 58.1-322.02, and § 58.1-402, Code of Virginia, shall be executed by the Secretary of Commerce and Trade. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-225, Code of Virginia, shall be divided between the Secretary of Administration and the Secretary of Commerce and Trade as determined by the Governor.

D.1: The Chief Workforce Development Advisor and Secretary of Commerce and Trade are hereby directed to study the development, implementation and costs of a statewide paid family and medical leave program for all employers including the Commonwealth of Virginia: In conducting this study, the designated executive branch officials shall: (i) research other states that have fully implemented paid family and medical leave; (ii) quantify economic impact on businesses and workers if a paid family and medical leave was implemented; (iii) develop an operating plan which includes designated agency or entity; staffing needs; technology requirements; implementation timeline and business practices; (iv) identify resources needed to implement a statewide program; and (v) research start up loans for paid leave programs in other states and loan payback. Such study shall be reported to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on or before September 30, 2020.

2: In completing the study required in paragraph D.1: of this item; the Chief Workforce Development Advisor and Secretary of Commerce and Trade shall convene a workgroup of industry stakeholders. Such stakeholders may include, but not be limited to; representatives from small business owners; chambers of commerce; the insurance industry; labor; and health care.

E.1: The Commonwealth's Chief Workforce Advisor to the Governor shall convene a workgroup to review the Commonwealth's state public works payment process to contractor employees to identify whether misclassification of workers is a prevalent problem. If the findings reveal such misclassification; the workgroup shall identify and make process improvement recommendations to correct any identified issues.

2: The workgroup shall consist of the Commonwealth's Chief Workforce Advisor to the Governor; Secretary of Finance; Secretary of Administration; and Secretary of Commerce and Trade; or their designees; staff from the House Appropriations and Senate Finance and Appropriations Committees; representatives from Virginia public colleges and universities and state agencies; two representatives from labor organizations that can bring forth to the

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<p>workgroup documented situations where such misclassification has occurred on Commonwealth public work projects; two representatives from the general contractor business community with experience in providing construction services to the Commonwealth; and representatives from the Department of General Services; Department of Small Business and Supplier Diversity; Department of Labor and Industry; and Department of Taxation. The membership of this workgroup shall not exceed 20 individuals.</p> <p>3. The Chief Workforce Advisor shall report initial findings and recommendations to the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee no later than December 15, 2020. A final report to the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee will be submitted no later than April 15, 2021.</p>				
Total for Secretary of Commerce and Trade.....			\$1,110,829	\$1,110,829
General Fund Positions.....			9.00	9.00
Position Level.....			9.00	9.00
Fund Sources: General.....			\$1,110,829	\$1,110,829

§ 1-39. SECRETARY OF LABOR (195)

111.10	Administrative and Support Services (79900).....		\$0	\$599,192
	General Management and Direction (79901).....	\$0	\$599,192	
	Fund Sources: General.....	\$0	\$599,192	

A.1. Pursuant to the provisions of House Bill 2321 of the 2021 General Assembly, there is hereby created a new Secretary of Labor effective July 1, 2021. Included in this item is funding for the salary of the Secretary of Labor and authorization for four positions. The Secretary shall be responsible to the Governor for the following agencies: Department of Labor and Industry, Virginia Employment Commission, and Department of Professional and Occupational Regulation. Effective July 1, 2021, the appropriations and positions of the agencies listed in this section shall be transferred from the Secretary of Commerce and Trade to the Secretary of Labor. The Governor, by executive order, may assign any state executive agency to the Secretary of Labor or reassign any agency to another Secretary. In addition, the Governor is hereby authorized to transfer positions and associated funding from agencies within the new Secretariat to the office of said Secretary up to a maximum of four positions.

2. Pursuant to the provisions of House Bill 2321 of the 2021 General Assembly any budgetary item acted on by the 2021 General Assembly pertaining to the Chief Workforce Development Advisor shall be transferred to this new Secretariat, accordingly. This includes provisions contained under Items 52 and 111 of this act.

3. The Director, Department of Planning and Budget, shall include implementation of the actions set forth in this item in the Budget Bill submitted to the 2022 Session of the General Assembly.

B.1. The Chief Workforce Development Advisor to the Governor/Secretary of Labor in coordination with the Secretary of Administration, Secretary of Finance, and Secretary of Commerce and Trade shall convene a workgroup to review the Commonwealth's state public works payment process to contractor employees. The workgroup shall identify and make process improvement recommendations to correct any identified issues with the intent to put forward a comprehensive legislative and budgetary package for consideration in the 2022 General Assembly Session.

2. The workgroup shall consist of the Commonwealth's Chief Workforce Advisor to the Governor/Secretary of Labor, Secretary of Finance, Secretary of Administration, and Secretary of Commerce and Trade, or their designees, staff from the House Appropriations and Senate Finance and Appropriations Committees, representatives from Virginia public colleges and universities and state agencies, two representatives from labor organizations that can bring forth to the workgroup documented situations where such misclassification has occurred on Commonwealth public work projects, two representatives from the general contractor business community with experience in providing construction services to the Commonwealth, and representatives from agencies deemed relevant by the their

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corresponding cabinet official, which may include the Department of General Services, Department of Small Business and Supplier Diversity, Department of Labor and Industry, Department of Professional and Occupational Regulation, Virginia Employment Commission, Virginia Worker's Compensation Commission, and Department of Taxation. It is the intent of the General Assembly that the representatives on this workgroup shall be representative of all perspectives to protect workers engaged on state contracts and to balance financial and workload impacts for state agencies.

3. The Chief Workforce Advisor/Secretary of Labor shall submit a final report to the Chairs of the House Appropriations and General Laws Committees, and Senate Finance and Appropriations and General Laws and Technology Committees on or before October 1, 2021.

4. In making recommendations for its October 2021 report, the workgroup shall consider the findings, recommendations, and insights from the initiatives established in Item 82 of this act, and paragraphs C. and D. of this item. Among other things the workgroup shall, examine the procurement, wage theft, worker misclassification, and prevailing wage laws in offering potential recommendations for legislation and budgetary actions in the 2022 General Assembly Session that can address prevention and enforcement of the state's labor laws on capital construction projects. The workgroup shall provide state fiscal impact estimates by fiscal year and fund source for any recommendation contained in its final report to ensure the General Assembly understands the costs of these recommendations prior to the start of the 2022 General Assembly Session. Additionally, the workgroup shall discuss ideas to incentivize positive business behavior by general contractors, models that require subcontractors to get authorization prior to outsourcing any work on state contracts, such as the one deployed by the Virginia Military Institute, and data collection and verification of employee payrolls for independent contractors working on state contracts.

5. Initial ideas from the workgroup are implemented in paragraphs C. and D. of this item. The workgroup may make recommendations to continue, stop, or modify these items in its final report.

C.1. The Secretary of Commerce and Trade, the Secretary of Administration, the Secretary of Finance, and the Chief Workforce Development Advisor/Secretary of Labor, with the assistance of their relevant agencies shall work to establish a state government infrastructure to identify and investigate potential worker misclassification and wage theft issues on the Commonwealth's capital construction projects. The infrastructure shall include an initial resolution process for project owners to work with the prime contractor. If the identified matter cannot be resolved with the initial step, it shall be referred to the Secretary of Finance and the Chief Workforce Development Advisor/Secretary of Labor to direct the claim to the agency with the appropriate statutory authority to launch an investigation. The investigating agency shall notify the Secretary of Finance and the Chief Workforce Development Advisor/Secretary of Labor of any violation committed by the contractor. This includes issues of wage theft and worker misclassification. The Secretary of Finance or the Chief Workforce Development Advisor/Secretary of Labor shall notify the appropriate project owner of such violation of the state's worker misclassification or wage theft laws by a contractor performing work on a state project. The agency finding such violation occurred shall address the matter pursuant to the applicable provisions under the law, which may include debarment by the Department of Taxation under the state's worker misclassification laws. The project owner shall take appropriate contractual remedies to address the violation in addition to those pursued by the investigating agency.

2. The Secretary of Commerce and Trade and the Chief Workforce Development Advisor/Secretary of Labor, will identify, or develop its own, national and state labor laws training program for the Commonwealth's capital project managers. The Department of General Services, and institutions of higher education with capital outlay autonomy, shall include in their construction of administration procedures a requirement that project managers that oversee capital projects complete the training by July 1, 2023. The Secretary of Administration and the Chief Workforce Development Advisor/Secretary of Labor shall ensure any state employee who oversees capital outlay construction projects take an online or face to face course on national and state labor laws related to

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<p>construction projects by July 1, 2023. The Secretary of Commerce and Trade shall report to the Governor, Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee costs to implement and support this professional development training on or before September 1, 2021, or include these costs in the report required in paragraph B. of this item.</p>				
<p>3. In implementing the provisions of paragraph C. of this item, the Chief Workforce Development Advisor/Secretary of Labor shall develop legislative recommendations and implementation procedures that require the Department of Labor and Industry, the Virginia Employment Commission, the Department of Occupational Regulation, and the Workers Compensation Commission to debar contractors for workplace-related violations. These recommendations shall be reviewed and incorporated into the final report of the workgroup created in paragraph B.1. of this item.</p>				
<p>D.1. The Secretary of Commerce and Trade, Secretary of Administration, the Secretary of Finance and the Chief Workforce Development Advisor/Secretary of Labor shall convene an interagency taskforce to meet regularly to share data on any recent substantiated findings of worker misclassification and wage theft issues in the Commonwealth including any on state capital projects. For any such findings identified that pertain to public bodies the taskforce will provide its findings to the State Inspector General for further investigation. The taskforce shall include representatives from the Department of Labor and Industry, the Department of Professional and Occupational Regulation, the Virginia Employment Commission, and the Virginia Worker's Compensation Commission. The taskforce may consider signing a data sharing agreement or Memorandum of Understanding to share information on employers who are currently being investigated or found guilty of unlawful business practices, such as wage theft and worker misclassification.</p>				
<p>2. The taskforce shall recommend measures to improve transparency for construction contractors on public works projects, which may include requiring all contractors for public works to submit on a monthly or biweekly basis certified payrolls for employees, certified payrolls for independent contractors, and the number of employees and independent contractors present on the worksite. These recommendations shall be reviewed and incorporated into the final report of the workgroup created in paragraph B.1. of this item.</p>				
<p>3. The taskforce shall advise the public works process workgroup in paragraph B.1. of this item on topics including the implementation status of Virginia's new labor laws on worker misclassification and wage theft, and other relevant ideas to preventing and enforcing wage theft and worker misclassification on state capital construction projects including those contained in paragraph 2. above.</p>				
<p>E.1. The Office of the Chief Workforce Advisor/Secretary of Labor shall convene a workgroup that includes representatives from the Departments of Education, Social Services, Professional and Occupational Regulation, Health Professions; the Health Workforce Development Authority; Office of Diversity, Equity, and Inclusion; the Virginia Community College System; Commonwealth Catholic Charities, Catholic Charities; Migration and Refugee Services; International Rescue Committee; Church World Services; Lutheran Social Services; Ethiopian Development Council; NoVA Friends of Refugees; ReEstablish Richmond; local one-stop career centers that have experience serving refugees; an employer; and at least one refugee or special immigrant visa holder. The workgroup shall identify barriers that recent refugees in Virginia face to entering the workforce; assess participation in adult education and workforce training programs; compare, to the extent practicable, the current employment of recent refugees to that of their employment, including any occupational and professional credentials and academic degrees earned, prior to resettling in the United States; and identify the top occupations that recent refugees seek to work in Virginia and make recommendations for addressing any barriers that prevent them from using their work experience gained outside of the United States to obtaining employment in these occupations in Virginia.</p>				
<p>2. The Chief Workforce Advisor/Secretary of Labor shall submit a report containing the recommendations of the workgroup on or before November 1, 2021 to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor.</p>				

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Total for Secretary of Labor.....			\$0	\$599,192
General Fund Positions.....	0.00	4.00		
Position Level.....	0.00	4.00		
Fund Sources: General.....	\$0	\$599,192		

§ 1-40. SECRETARY OF COMMERCE AND TRADE (192)

Economic Development Incentive Payments (312)

112.	Economic Development Services (53400).....			\$71,491,733	\$51,830,483
	Financial Assistance for Economic Development (53410).....	\$71,491,733	\$51,830,483	\$70,491,733	\$75,915,483
	Fund Sources: General.....	\$71,341,733	\$51,680,483	\$70,341,733	\$75,765,483
	Dedicated Special Revenue.....	\$150,000	\$150,000		

Authority: Discretionary Inclusion.

A.1. Out of the appropriation for this Item, \$19,750,000 the first year and \$19,750,000 the second year from the general fund shall be deposited to the Commonwealth's Development Opportunity Fund, as established in § 2.2-115, Code of Virginia. Such funds shall be used at the discretion of the Governor, subject to prior consultation with the Chairmen of the House Appropriations and Senate Finance Committees, to attract economic development prospects to locate or expand in Virginia. If the Governor, pursuant to the provisions of § 2.2-115, E.1., Code of Virginia, determines that a project is of regional or statewide interest and elects to waive the requirement for a local matching contribution, such action shall be included in the report on expenditures from the Commonwealth's Development Opportunity Fund required by § 2.2-115, F., Code of Virginia. Such report shall include an explanation on the jobs anticipated to be created, the capital investment made for the project, and why the waiver was provided.

2. The Governor may allocate these funds as grants or loans to political subdivisions. Loans shall be approved by the Governor and made in accordance with procedures established by the Virginia Economic Development Partnership and approved by the State Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the general fund of the state treasury. The Governor may establish the interest rate to be charged, otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the State Comptroller as required.

3. Funds may be used for public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and other activity required to prepare a site for construction; construction or build-out of publicly-owned buildings; grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision pursuant to their duties or powers; training; or anything else permitted by law.

4. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.

5. It is the intent of the General Assembly that the Virginia Economic Development Partnership shall work with localities awarded grants from the Commonwealth's Development Opportunity Fund to recover such moneys when the economic development projects fail to meet minimal agreed-upon capital investment and job creation targets. All such recoveries shall be deposited and credited to the Commonwealth's Development

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Opportunity Fund.				
6. Up to \$5,000,000 of previously awarded funds and funds repaid by political subdivisions or business beneficiaries and deposited to the Commonwealth's Development Opportunity Fund may be used to assist Prince George County with site improvements related to the location of a major aerospace engine manufacturer to the Commonwealth.				
B.1. Out of the appropriation for this Item, \$4,946,900 the first year and \$4,541,900 \$4,381,900 the second year from the general fund shall be deposited to the Investment Performance Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5101, Code of Virginia.				
2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.				
C. Out of the appropriation for this Item, \$4,000,000 \$3,000,000 the first year and \$4,000,000 the second year from the general fund and an amount estimated at \$150,000 the first year and \$150,000 the second year from nongeneral funds shall be deposited to the Governor's Motion Picture Opportunity Fund, as established in § 2.2-2320, Code of Virginia. These nongeneral fund revenues shall be deposited to the fund from revenues generated by the digital media fee established pursuant to § 58.1-1731, et seq., Code of Virginia. Such funds shall be used at the discretion of the Governor to attract film industry production activity to the Commonwealth.				
D.1. Out of the appropriation for this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be deposited to the Virginia Economic Development Incentive Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5102.1, Code of Virginia.				
2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.				
3. Notwithstanding § 2.2-5102.1.E. or any other provision of law, and subject to appropriation by the General Assembly, up to \$8,000,000 in economic development incentive grants is authorized for eligible projects to be awarded on or after July 1, 2017, but before June 30, 2019. Any eligible project awarded such grants shall be subject to the conditions set forth in § 2.2-5102.1. Any additional grant awards not authorized by this act, including any awards after June 30, 2019, shall require separate legislation.				
E. Out of the appropriation for this Item, \$4,669,833 the first year and \$4,669,833 the second year from the general fund shall be available for eligible businesses under the Virginia Jobs Investment Program. Pursuant to § 2.2-1611, Code of Virginia, the appropriation provided for the Virginia Jobs Investment Program for eligible businesses shall be deposited to the Virginia Jobs Investment Program Fund.				
F. Out of the appropriation for this Item, \$500,000 the first year and \$500,000 the second year from the general fund may be provided to the Virginia Economic Development Partnership to facilitate additional domestic and international marketing and trade missions approved by the Governor. The Director, Department of Planning and Budget, is authorized to provide these funds to the Virginia Economic Development Partnership upon written approval of the Governor.				
G. Out of the appropriation for this Item, \$20,000,000 the first year from the general fund shall be deposited to the Semiconductor Manufacturing Grant Fund for the award of grants to a qualified semiconductor manufacturing company in a qualified locality in accordance with § 59.1-284.32, Code of Virginia, and subject to performance metrics agreed to in a memorandum of understanding with the Commonwealth.				
H. Out of the appropriation in this Item, \$8,000,000 the first year and \$8,000,000 second year from the general fund shall be deposited to the Advanced Shipbuilding Production Facility Grant Fund for grants to be paid in accordance with § 59.1-284.29, Code of Virginia.				

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I.	Out of the appropriation in this Item, \$5,310,000 the first year and \$2,900,000 \$5,190,000 the second year from the general fund shall be deposited to the Special Workforce Grant Fund for grants to be paid in accordance with § 59.1-284.30, Code of Virginia.			
J.	Out of the appropriation in this Item, \$2,000,000 the first year and \$2,000,000 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants to a qualified truck manufacturing company in a qualified locality in accordance with § 59.1-284.33, Code of Virginia.			
K.1.	Out of the appropriation in this Item, \$730,000 the first year and \$2,993,750 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants in accordance with § 59.1-284.36, Code of Virginia.			
2.	Of the amounts deposited to the fund, \$2,500,000 the second year may be awarded as grants to a qualified pharmaceutical company in a qualified locality pursuant to § 59.1-284.35 and 59.1-284.36, Code of Virginia.			
3.	Of the amounts deposited to the fund, \$730,000 the first year and \$493,750 the second year may be awarded as grants to a comprehensive community college and a baccalaureate public institution of higher education in or near the eligible county pursuant to § 59.1-284.37, Code of Virginia.			
L.	Out of the appropriation in this Item, \$500,000 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants to a qualified advanced production company in a qualified locality in accordance with § 59.1-284.34, Code of Virginia.			
M.1.	Out of the amounts in this item, \$425,000 the first year and \$825,000 the second year from the general fund shall be deposited to the Governor's New Airline Service Incentive Fund to assist in the provision of marketing, advertising, or promotional activities by airlines in connection with the launch of new air passenger service at Virginia airports, and to incentivize airlines that have committed to commencing new air passenger service in Virginia, pursuant to the provisions of § 2.2-2320.1, Code of Virginia.			
2.	Notwithstanding the provisions of § 2.2-2320.1, Code of Virginia, 25 percent of the annual appropriation to the Governor's New Airline Service Incentive Fund shall be set aside for projects in Virginia commercial airports with less than 400,000 enplanements per calendar year for the purposes of economic development in these areas. Enplanement data shall come from the Federal Aviation Administration.			
N.	<i>Out of the appropriation in this Item, \$5,625,000 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants to a qualified technology company in a qualified locality in accordance with Senate Bill 1156 of the 2021 General Assembly, Special Session I and subject to performance metrics agreed to in a memorandum of understanding with the Commonwealth.</i>			
O.1.	<i>Out of the amounts in this item, \$10,000,000 the second year from the general fund shall be provided to the City of Petersburg for expenses incurred from the installation of a water tank and associated infrastructure at a chemical plant complex in the city. The water tank and associated infrastructure shall be adequate to ensure the water pressure can support the minimum fire protection and manufacturing needs of a regional pharmaceutical manufacturing cluster.</i>			
2.	<i>Disbursement of these funds shall require an executed memorandum of understanding with the Virginia Economic Development Partnership and the City of Petersburg by a pharmaceutical manufacturer that sets forth the requirements for capital investments and the creation of new full-time jobs. Such requirements shall include at a minimum, new capital investments of \$105,800,000 and the creation of 88 new full-time jobs in the City of Petersburg.</i>			
3.	<i>Disbursement of these funds is contingent upon the City of Petersburg executing a loan through the Department of Environmental Quality's Virginia Clean Water Revolving Loan Fund to address sewer improvements at the chemical plant complex. The amount of the loan shall be sufficient to provide water and sewer improvements necessary to sustain a</i>			

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<i>regional pharmaceutical manufacturing cluster, including the construction of a pump station that will substantially increase sewer capacity.</i>				
<i>P. Out of the appropriation in this item, \$6,330,000 the second year from the general fund shall be deposited to a special, nonreverting fund for the award of grants to a qualified shipping and logistics company in a qualified locality in accordance with House Bill 5001 of the 2021 General Assembly, Special Session I and subject to performance metrics agreed to in a memorandum of understanding with the Commonwealth.</i>				
<i>Q. Notwithstanding any provisions of § 30-310, Code of Virginia, the MEI Commission shall only be required to review economic development incentive packages in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality that exceed \$250,000 in aggregate incentive investments.</i>				

112.10 Omitted.

Total for Economic Development Incentive Payments.....			\$71,491,733	\$51,830,483
			\$70,491,733	\$75,915,483
Fund Sources: General.....	\$71,341,733	\$51,680,483		
	\$70,341,733	\$75,765,483		
Dedicated Special Revenue.....	\$150,000	\$150,000		
Grand Total for Secretary of Commerce and Trade....			\$71,491,733	\$51,830,483
			\$70,491,733	\$75,915,483
Fund Sources: General.....	\$71,341,733	\$51,680,483		
	\$70,341,733	\$75,765,483		
Dedicated Special Revenue.....	\$150,000	\$150,000		

§ 1-41. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (165)

113. Housing Assistance Services (45800).....			\$155,060,089	\$126,060,089
			\$168,760,089	\$181,410,089
Housing Assistance (45801).....	\$86,370,766	\$59,370,766		
	\$100,070,766	\$114,370,766		
Homeless Assistance (45804).....	\$16,477,905	\$16,477,905		
Financial Assistance for Housing Services (45805)....	\$52,211,418	\$50,211,418		
		\$50,561,418		
Fund Sources: General.....	\$75,975,897	\$48,975,897		
	\$89,675,897	\$74,025,897		
Special.....	\$349,976	\$349,976		
Dedicated Special Revenue.....	\$100,000	\$100,000		
Federal Trust.....	\$78,634,216	\$76,634,216		
		\$106,934,216		

Authority: Title 36, Chapters 8, 9, and 11; and Title 58.1, Chapter 3, Articles 4 and 13, Code of Virginia.

A. Out of the amounts in this Item, \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the first year and \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the second year shall be provided to support services for persons at risk of or experiencing homelessness and housing for populations with special needs, and \$4,050,000 the first year and \$4,050,000 the second year from the general fund shall be provided for homeless prevention. Of the general fund amount provided, the department is authorized to use up to two percent in each year for program administration. The amounts allocated for services for persons at risk of or experiencing homelessness may be matched through local or private sources. Any balances for the purposes specified in this paragraph which are unexpended on June 30, 2021, and June 30, 2022, shall not revert to the general fund but shall be carried forward and reappropriated.

B. The department shall report to the Chairmen of the Senate Finance, the House

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Appropriations Committees, and the Director, Department of Planning and Budget, by November 4 of each year on the state's homeless programs, including, but not limited to, the number of (i) emergency shelter beds, (ii) transitional housing units, (iii) single room occupancy dwellings, (iv) homeless intervention programs, (v) homeless prevention programs, and (vi) the number of homeless individuals supported by the permanent housing state funding on a locality and statewide basis and the accomplishments achieved by the additional state funding provided to the program in the first year. The report shall also include the number of Virginians served by these programs, the costs of the programs, and the financial and in-kind support provided by localities and nonprofit groups in these programs. In preparing the report, the department shall consult with localities and community-based groups.

C. Out of the amounts in this Item, \$1,100,000 the first year and \$1,100,000 the second year from the general fund shall be provided for rapid re-housing efforts. In keeping with the specific goals of the Balance of State Continuum of Care, \$200,000 of this amount in each year shall be focused on ensuring that no veteran is homeless or in a shelter for more than 30 days. These funds shall be used to supplement other state and federal programs, shall be directed to areas throughout the state where federal funds are not available, and shall be used to serve those veterans ineligible for federal benefits.

D. The department shall continue to collaborate with the Department of Veteran Services to ensure coordinated efforts towards reducing homelessness among veterans.

E.1. Out of the amounts in this Item, ~~\$55,000,000~~\$70,700,000 the first year and ~~\$30,000,000~~\$55,000,000 the second year from the general fund shall be deposited to the Virginia Housing Trust Fund, established pursuant to § 36-142 et seq., Code of Virginia. Notwithstanding § 36-142, Code of Virginia, when awarding grants through eligible organizations for targeted efforts to reduce homelessness, priority consideration shall be given to efforts to reduce the number of homeless youth and families and to expand permanent supportive housing. Notwithstanding § 36-142, Code of Virginia, the department may use funds appropriated in paragraph E.1. of this Item to address housing issues resulting from the COVID-19 pandemic, with the exception of monies provided for the continuation of the Virginia Rent and Mortgage Relief Program in paragraph E.2.

2. Out of the amounts appropriated in paragraph E.1., ~~\$12,500,000~~\$28,200,000 in the first year from the general fund is hereby designated to continue the Virginia Rent and Mortgage Relief Program when monies allocated from the Coronavirus Relief Funds awarded to the Commonwealth through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) expire. In addition to the amounts designated in this paragraph, it is the intent of the General Assembly that the Department use additional funds, if necessary, from the amounts appropriated in paragraph E.1. to sustain the Virginia Rent and Mortgage Relief Program, during the declared state of emergency pursuant to § 44-146.17, Code of Virginia, in response to a communicable disease of public health threat as defined in § 44-146.16, Code of Virginia.

3. As part of the plan required by § 36-142 E., Code of Virginia, the department shall also report on the impact of the loans and grants awarded through the fund, including but not limited to: (i) the number of affordable rental housing units repaired or newly constructed, (ii) the number of individuals receiving down payments and/or closing assistance, (iii) the progress and accomplishments in reducing homelessness achieved by the additional support provided through the fund, and (iv) the progress in expanding permanent supportive housing options.

4.a. In administering the funds appropriated in paragraphs B.1. and B.2. of Item 479.10 for the Virginia Rent and Mortgage Relief Program, the Department shall allow for financial assistance to cover one-hundred percent of current and past due rent included in the application for rental assistance. The financial assistance supported with funds in paragraphs B.1. and B.2. of Item 479.10 for the Virginia Rent and Mortgage Relief Program shall cover the period between April 1, 2020 and expiration of the Coronavirus Relief Funds awarded to the Commonwealth through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

b. In administering the funds appropriated in paragraph E.2. of this item for the Virginia Rent and Mortgage Relief Program, the Department shall allow for financial assistance to

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cover one-hundred percent of current and past due rent included in the application for rental assistance. At such time the general funds provided in paragraph E.2. of this item are deployed, the Department may allow for financial assistance to be used to cover past due rent accumulated prior to April 1, 2020.

c. Landlords and tenants shall be able to access the funds appropriated in paragraph E.2. of this item and paragraphs B.1. and B.2. of Item 479.10 for the Virginia Rent and Mortgage Relief Program.

F. Out of the amounts in this Item, \$15,800,000 the first year and \$15,800,000 the second year from federal trust funds shall be provided to support Virginia affordable housing programs and the Indoor Plumbing Program.

G. Out of the amounts in this Item, \$50,000 the first year and \$50,000 the second year from the general fund and one position shall be provided to support the administrative costs associated with administering the tax credits authorized pursuant to § 58.1-435, Code of Virginia.

H. The department shall develop and implement strategies, that may include potential Medicaid financing, for housing individuals with serious mental illness. The department shall include other agencies in the development of such strategies including the Virginia Housing Development Authority, Department of Behavioral Health and Developmental Services, Department of Aging and Rehabilitative Services, Department of Medical Assistance Services, and Department of Social Services. The department shall also include stakeholders whose constituents have an interest in expanding supportive housing for people with serious mental illness, including the National Alliance on Mental Illness Virginia, the Virginia Housing Alliance and the Virginia Sheriff's Association. An annual report on such strategies and the progress on implementation shall be provided to the Chairmen of the House Appropriations and Senate Finance Committees by the first day of each General Assembly Regular Session.

I. The Department of Housing and Community Development shall work with the Virginia Housing Commission to identify the impact of legislation that passed the 2019 session of the General Assembly that is designed to mitigate eviction rates and recommend if any further action is necessary to complement these efforts. The Department shall consider current federal, state and local resources, including but not limited to the following: (a) current counseling and social services provided by state agencies and authorities; (b) the potential needs of the cities of Richmond, Newport News, Hampton, Norfolk, and Chesapeake, as well as eviction prevention and diversion programs established in the cities of Arlington and Richmond; (c) data collected pursuant to Chapter 356, 2019 Acts of Assembly; and, (d) eviction prevention and diversion programs in other states. The Department shall analyze and recommend how to better coordinate current public and private resources and programs to reduce eviction rates in Virginia, as well as how current prevention efforts can coordinate with existing and newly created eviction diversion laws and programs.

J.1. Out of the amounts appropriated in this item, \$3,300,000 the first year and \$3,300,000 the second year from the general fund shall be used to establish a competitive Eviction Prevention and Diversion Pilot Program that will support local or regional eviction prevention and diversion programs that utilize a systems approach with linkages to local departments of social services and legal aid resources. This program shall prioritize grant applications that provide a local match at an amount deemed appropriate by the Department.

2. The resources provided in J.1. may be used to facilitate the development of a statement of tenant rights and responsibilities and implement the provisions of § 36-139 and § 55.1-1204, Code of Virginia.

K. Out of the amounts in this item, \$2,000,000 the first year from the general fund is provided to establish an affordable housing pilot program in the City of Falls Church, for the purpose of providing grants or loans for the development or preservation of affordable housing units for individuals and families meeting income requirements. The department, with the cooperation of the Virginia Housing Development Authority, shall develop guidelines and procedures for administering the pilot program.

K. Out of the amounts in this item, \$50,000 in the second year from the general fund is

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<i>provided pursuant to the passage of House Bill 2053 in the 2021 General Assembly, which directs the Department to lead a workgroup to provide recommendations on increasing local development of accessory dwelling units on single-family dwelling lots.</i>				
114.	Community Development Services (53300).....		\$130,532,362	\$111,082,362
			\$129,238,362	\$138,776,362
	Community Development and Revitalization (53301).....	\$73,017,794 \$71,917,794	\$58,017,794 \$85,191,794	
	Financial Assistance for Regional Cooperation (53303).....	\$39,338,251 \$39,144,251	\$34,888,251 \$35,408,251	
	Financial Assistance for Community Development (53305).....	\$18,176,317	\$18,176,317	
	Fund Sources: General.....	\$101,061,590 \$99,767,590	\$81,611,590 \$109,305,590	
	Special.....	\$5,221,893	\$5,221,893	
	Trust and Agency.....	\$150,000	\$150,000	
	Federal Trust.....	\$24,098,879	\$24,098,879	

Authority: Title 15.2, Chapter 13, Article 3 and Chapter 42; Title 36, Chapters 8, 10 and 11; and Title 59.1, Chapter 22, Code of Virginia.

A. Out of the amounts in this Item, \$351,930 the first year and \$351,930 the second year from the general fund is provided for annual membership dues to the Appalachian Regional Commission. These dues are payable from the amounts for Financial Assistance for Regional Cooperation.

B. The department and local program administrators shall make every reasonable effort to provide participants basic financial counseling to enhance their ability to benefit from the Indoor Plumbing Program and to foster their movement to economic self-sufficiency.

C. Out of the amounts in this Item shall be paid from the general fund in four equal quarterly installments each year:

1. To the Lenowisco Planning District Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year, which includes \$38,610 the first year and \$38,610 the second year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.

2. To the Cumberland Plateau Planning District Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year, which includes \$42,390 the first year and \$42,390 the second year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.

3. To the Mount Rogers Planning District Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

4. To the New River Valley Planning District Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

5. To the Roanoke Valley-Alleghany Regional Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

6. To the Central Shenandoah Planning District Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

7. To the Northern Shenandoah Valley Regional Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

8. To the Northern Virginia Regional Commission, ~~\$165,943~~\$151,943 the first year and \$165,943 the second year.

9. To the Rappahannock-Rapidan Regional Commission, ~~\$89,971~~\$75,971 the first year and \$89,971 the second year.

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10. To the Thomas Jefferson Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
11. To the Region 2000 Local Government Council, \$89,971 \$75,971 the first year and \$89,971 the second year.				
12. To the West Piedmont Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
13. To the Southside Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
14. To the Commonwealth Regional Council, \$89,971 \$75,971 the first year and \$89,971 the second year.				
15. To the Richmond Regional Planning District Commission, \$127,957 \$113,957 the first year and \$127,957 the second year.				
16. To the George Washington Regional Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
17. To the Northern Neck Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
18. To the Middle Peninsula Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
19. To the Crater Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
20. To the Accomack-Northampton Planning District Commission, \$89,971 \$75,971 the first year and \$89,971 the second year.				
21. To the Hampton Roads Planning District Commission \$165,943 \$151,943 the first year, and \$165,943 the second year.				
D. Out of the amounts in this Item, \$1,568,442 \$968,442 the first year and \$1,568,442 the second year from the general fund shall be provided for the Southeast Rural Community Assistance Project (formerly known as the Virginia Water Project) operating costs and water and wastewater grants. The department shall disburse the total payment each year in twelve equal monthly installments.				
E. The department shall leverage any appropriation provided for the capital costs for safe drinking water and wastewater treatment in the Lenowisco, Cumberland Plateau, or Mount Rogers planning districts with other state moneys, federal grants or loans, local contributions, and private or nonprofit resources.				
F.1. Out of the amounts in this Item, \$95,000 the first year and \$95,000 the second year from the general fund shall be provided for the Center for Rural Virginia. The department shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the status, needs and accomplishments of the center.				
2. As part of its mission, the Center for Rural Virginia shall monitor the implementation of the budget initiatives approved by the 2005 Session of the General Assembly for rural Virginia and shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the effectiveness of these various programs in addressing rural economic development problems.				
G. Out of the amounts in this Item, \$171,250 the first year and \$171,250 the second year from the general fund shall be provided to support The Crooked Road: Virginia's Heritage Music Trail.				
H. Out of the amounts in this Item, \$3,000,000 \$2,500,000 the first year and \$3,000,000 the second year from the general fund shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund to support industrial site revitalization. Out of the amounts in this paragraph, \$1,000,000 each year the first year and \$1,500,000 the second				

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year from the general fund is designated for removing, renovating or modernizing port-related buildings and facilities in the cities of Portsmouth, Norfolk, Newport News, Richmond or Front Royal.

I.1. Out of the amounts in this Item, \$500,000 the first year and ~~\$500,000~~ \$2,000,000 the second year from the general fund shall be provided for the Virginia Main Street Program. This amount shall be in addition to other appropriations for this activity.

2. Out of the amounts provided in this paragraph, \$1,500,000 shall be used by the Department to support small businesses in order to assist with economic recovery from the COVID-19 pandemic. The Department may use these funds to support small, micro, and sole proprietor businesses, as well as women-owned and minority-owned businesses, the Community Business Launch program, and other such business support activities.

J. Of the general fund amounts provided for the Virginia Main Street Program, the Indoor Plumbing Rehabilitation Program, and the water and wastewater planning and construction projects in Southwest Virginia, the department is authorized to use up to two percent of the appropriation in each year for program administration.

K.1. Out of the amounts in this Item, \$875,000 the first year and \$875,000 the second year from the general fund shall be provided for the Southwest Virginia Cultural Heritage Foundation.

2. The foundation shall report by September 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the expenditures of the foundation and its ongoing efforts to generate revenues sufficient to sustain operations.

L.1. Out of the amounts in this Item, \$49,725,000 the first year and ~~\$34,725,000~~ \$49,725,000 the second year from the general fund is provided for the Virginia Telecommunication Initiative. The funds shall be used for providing financial assistance to supplement construction costs by private sector broadband service providers to extend service to areas that presently are unserved by any broadband provider. Any balances for the purposes specified in this paragraph which are unexpended on June 30, 2021, and June 30, 2022, shall not revert to the general fund but shall be carried forward and reappropriated.

2. The department shall develop appropriate criteria and guidelines for the use of the funding provided to the Virginia Telecommunication Initiative. Such criteria and guidelines shall: (i) facilitate the extension of broadband networks by the private sector, *except as provided for in paragraph L.5. of this item*, and shall focus on unserved areas; (ii) attempt to identify the most cost-effective solutions, given the proposed technology and speed that is desired; (iii) give consideration to proposals that are public-private partnerships in which the private sector will own and operate the completed project; (iv) consider the number of locations where the applicant states that service will be made available, in addition to whether customers take the service in both evaluating applications and in establishing completion and accountability requirements; and, (v) require investment from the private sector partner in the project prior to making any award from the fund at an appropriate level determined by the Department. The department shall encourage additional assistance from the local governments in areas designated to receive funds to lower the overall cost and further assist in the timely completion of construction, including assistance with permits, rights of way, easement and other issues that may hinder or delay timely construction and increase the cost.

3. The department shall post electronic copies of all submitted applications to the department's website after the deadline for application submissions has passed but before project approval, and shall establish a process for providers to challenge applications where providers assert the proposed area is served by another broadband provider.

4. The department shall consult with the Broadband Advisory Council to designate the unserved areas to receive funds. The department shall report annually to the Governor's Broadband Advisory Council on the progress by the private sector on the designated projects.

5. *The Department shall establish a one-year pilot program in which public broadband*

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<p><i>authorities may apply directly for Virginia Telecommunications Initiative funds without investment from the private sector. Such awards shall not exceed 10 percent of total available VATI funds in fiscal year 2022.</i></p>				
<p>5. The Broadband Advisory Council shall assess updating the Virginia Telecommunication Initiative (VATI) to allow for public broadband authorities to apply directly for VATI funds without investment from the private sector. The Department of Housing and Community Development on behalf of the Council shall submit feedback on the potential impacts of this policy change to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on or before the start of the 2021 General Assembly Session.</p>				
<p>M. Out of the amounts in this item, \$1,158,647 the first year and \$1,158,647\$1,408,647 the second year from the general fund is provided for administrative support for the the Virginia Telecommunications Initiative.</p>				
<p>N.1. Out of the amounts in this Item, \$34,450,000 the first year and \$30,000,000 the second year from the general fund shall be deposited to the Virginia Growth and Opportunity Fund to encourage regional cooperation among business, education, and government on strategic economic and workforce development efforts in accordance with § 2.2-2487, Code of Virginia.</p>				
<p>2. Of the amounts provided in this paragraph, the appropriation shall be distributed as follows: (i) \$2,250,000 the first year and \$2,250,000 the second year from the general fund shall be allocated to qualifying regions to support organizational and capacity building activities, which, notwithstanding § 2.2-2489, Code of Virginia, may not require matching funds if a waiver is granted by the Virginia Growth and Opportunity Board to a qualifying region upon request; (ii) \$16,900,000 the first year and \$16,900,000 the second year from the general fund shall be allocated to qualifying regions based on each region's share of the state population; and (iii) \$15,300,000 the first year and \$10,850,000 the second year from the general fund shall be awarded to regional councils on a competitive basis.</p>				
<p>3. The Virginia Growth and Opportunity Board may allocate monies among the distributions outlined in paragraph N.2. of this item to meet demonstrated demand for funds. However, only those regional councils whose allocation is less than \$1,000,000 in a fiscal year based on the region's share of state population shall be eligible to receive an additional allocation, and the amount shall be limited such that the total allocation does not exceed \$1,000,000 in a fiscal year.</p>				
<p>4. The Chairman of the Virginia Growth and Opportunity Board shall convene a broadband telecommunications advisory workgroup in cooperation with the Secretary of Commerce and Trade and the Commonwealth Chief Broadband Advisor, including representatives of the Department of Housing and Community Development, the Center for Innovative Technology, Virginia Economic Development Partnership, Mid-Atlantic Broadband Communities Corporation, staff from the House Appropriations Committee and Senate Finance Committee, and representatives from the broadband telecommunications industry, to develop a framework for policies related to broadband telecommunications across the Commonwealth of Virginia. The framework shall be used to provide guidance on statewide policies for commercial and economic planning and project development, including regional solutions; to improve access to and utilization of broadband to support economic development goals, including those developed by qualifying regions and those areas of the Commonwealth recognized as having high unemployment. Such framework shall include, but not be limited to, the following principles: (i) potential broadband telecommunications development and deployment solutions must be technology-neutral in order to leverage all available or emerging technologies to identify the most cost-effective plan; (ii) solutions that utilize speeds greater than the minimum technology standards as prescribed by the Virginia Telecommunications Initiative for unserved areas; (iii) maximize opportunities for private sector driven models related to construction, operations, and maintenance and open access to private-sector Internet Service Providers where public ownership of infrastructure may be proposed; (iv) facilitate broadband development and deployment-friendly policies at the regional and local level to expedite implementation of plans and projects; as well as mitigate costs; and (v) opportunities to leverage new and existing broadband infrastructure, including transoceanic and transcontinental backbone lines; to encourage new private sector job creation and investment in the Commonwealth.</p>				

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45. The Virginia Growth and Opportunity Board may approve grants for assessments of commercial economic development demand and current access, and to advance the planning and engineering of broadband infrastructure that are aligned with the framework recommended by the working group, <i>established in Chapter 2, 2018 Special Session I, Acts of Assembly</i> and shall give priority consideration for broadband technology development and deployment to facilitate the connectivity or upgrade of services to current and proposed business-ready sites in areas of high unemployment in qualifying regions.				
56. The department shall report one month after the close of each calendar quarter to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on grant awards and expenditures from the Virginia Growth and Opportunity Fund. The report shall include, but not be limited to, total appropriations made or transferred to the fund, total grants awarded, total expenditures from the fund, cash balances, and balances available for future commitments. The report shall further summarize such amounts by the allocations provided in paragraph N.2. of this item, including amounts allocated to support organizational and capacity building activities, amounts allocated to regional councils based on each region's share of the state population, and amounts to be awarded on a competitive basis.				
<i>O. Of the amounts in this item, \$100,000 in the first year and \$20,000 in the second year from the general fund shall be provided to the Middle Peninsula Planning District Commission for the purpose of designing and constructing a pilot elevated septic system suitable for areas susceptible to recurrent flooding in rural coastal Virginia. The Department of Health will monitor its ability to protect public health and as a potential strategy for resiliency of recurrent tidal flooding.</i>				
<i>P.1. Out of the amounts in this item, \$424,000 in the second year from the general fund is provided to support the creation of a statewide broadband map. The Department shall, in coordination with the Office of the Chief Broadband Advisor, develop a statewide broadband availability map indicating broadband coverage, including maximum broadband speeds available in service territories in the Commonwealth. The Department and Chief Advisor shall provide the initial map by July 1, 2022, or as soon as practicable, and shall update the map at least annually.</i>				
<i>2. Broadband service providers shall be required to submit updated service territory data to the Department annually. The Department shall establish a process, timeline, and specific data requirements for broadband providers to submit their data. All public bodies shall cooperate with the Department, or any agent thereof, to furnish data requested by the Department for the initial improvement and maintenance of the map.</i>				
<i>3. In no instance may the Department require broadband providers to submit any data, in either substantive content or form, beyond that which the provider is required to submit to the Federal Communications Commission pursuant to the federal Broadband Deployment Accuracy and Technological Availability Act, 47 U.S.C. § 641 et. seq., provided, however, that satellite-based broadband providers that have been designated as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(6) for any portion of the Commonwealth shall be required to submit comparable data as other broadband providers. Public bodies and broadband providers shall not be required to submit any customer information, such as names, addresses, or account numbers.</i>				
<i>4. The Department may publish only anonymized versions of the map, showing locations served and unserved by broadband without reference to any specific provider. The map shall not include information regarding ownership or control over the network or networks providing service. The Department shall establish a process for broadband providers to petition the Department to correct inaccuracies in the map. Any determination made by the Department pursuant to any specific petition with respect to any specific map to correct inaccuracies shall be final and not subject to further review.</i>				
<i>5. Maps published by the Department pursuant to this section may be considered, but shall not be considered conclusive, for purposes of determining eligibility for funding for Commonwealth broadband expansion grant or loan programs, including the Virginia Telecommunication Initiative, or challenges thereto.</i>				

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	<p>6. <i>The Department: (i) may contract with private parties to make the necessary improvements to the existing map and to maintain the map. Such private parties may include any entities and individuals selected by the Department to assist the Department in improving and maintaining such a map; (ii) shall consult existing broadband maps, particularly those published by the Federal Communications Commission; and (iii) may acquire existing, privately held data or mapping information that may contribute to the accuracy of the map.</i></p>			
	<p>7. <i>Information submitted by a broadband provider in connection with this section shall be excluded from the requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Information submitted by a broadband provider pursuant to this section shall be used solely for the purposes stated under this section and shall not be released by the Department, or any other public records custodian, without the express written permission of the submitting broadband provider.</i></p>			
	<p>8. <i>The Department shall annually evaluate federal mapping data and shall waive the requirement for broadband providers to submit territory data if a map of near identical or greater quality is made publicly available by the Federal Communications Commission as part of the federal Digital Opportunity Data Collection program or its successor. This waiver shall not be unreasonably withheld.</i></p>			
	<p>9. <i>For the purposes of the initiative outlined in paragraph P. of this item, "Broadband" means Internet access at speeds equal to or greater than the broadband Internet speed benchmark set by the Federal Communications Commission. "Broadband provider" means a provider of fixed or mobile broadband Internet access service and includes any entity required to provide the federal government with information on Federal Communications Commission Form 477 or as part of the federal Digital Opportunity Data Collection program or a provider of satellite-based broadband Internet access service that has been designated as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(6) for any portion of the Commonwealth. "Chief Advisor" means the Commonwealth Broadband Chief Advisor as established in § 2.2-205.2, Code of Virginia. "Map" means the statewide broadband availability map developed and maintained pursuant to paragraph P. of this item.</i></p>			
	<p><i>Q.1. Out of the amounts in this item, \$10,000,000 the second year from the general fund is provided to establish a special, non-reverting Virginia Community Development Financial Institutions (CDFI) Fund to provide grants to community development financial institutions (CDFIs), community development enterprises (CDE), or other such similar entities as permitted by law, whose primary purpose is to provide financing in the form of loans, grants or forgivable loans to small businesses or community revitalization real estate projects in Virginia. The general funds appropriated in this paragraph constitute a one-time appropriation of funding to capitalize this program. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Of the amounts included in this paragraph, up to \$300,000 the second year from the general fund is provided to the Department for administrative costs.</i></p>			
	<p>2. <i>The Department is hereby authorized to develop appropriate criteria and guidelines for the use of funding provided to the Virginia Community Development Financial Institution Fund. The Department shall award grant funding based on these criteria and guidelines and may enter into a contractual agreement with eligible CDFIs or similar private entities to make grants and loans to small businesses adversely impacted by the COVID pandemic. In developing such guidelines, the Department shall consider prioritizing state funds for CDFIs, CDEs, and other such entities that do not receive federal funding made available from the Consolidated Appropriations Act, 2021 (P.L. 116-260). An eligible qualifying CDFI shall be a community development bank, community development credit union, or other similar private entity that the Department finds is (i) established to conduct business legally within the Commonwealth; (ii) subject to oversight by federal or state financial institutions or insurance regulatory agencies, as appropriate; and (iii) eligible for certification by the U.S. Department of Treasury as a community development financial institution or other similar charter or principles which require support of small businesses.</i></p>			
	<p>3. <i>The community development bank, community development credit union, or other similar organization is intended to be a source of targeted lending and investment with the capacity</i></p>			

ITEM 114.	Item Details(\$)		Appropriations(\$)	
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<p><i>to provide a high degree of leverage for economic development and business support activities within communities throughout the Commonwealth. These activities may include loans and investments to start or expand small businesses, operating and working capital, property renovation or development, and financial services with a focus on small businesses impacted by the COVID pandemic. The entity may also provide services that help ensure that credit is used effectively, such as technical assistance to small businesses and credit counseling to consumers.</i></p> <p><i>4. On or before December 1 of each year, the Department shall report to the Secretary of Commerce and Trade, the Governor, and the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other matters regarding the Fund as the Department may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.</i></p> <p><i>R. Out of the amounts in this item, \$500,000 the second year from the general fund is provided for the Lenowisco Planning District Commission and Cumberland Plateau Planning District Commission designated for initiatives intended to expand education and telehealth access. Such funds for grants shall be managed by the Virginia Coalfield Economic Development Authority.</i></p>				
115.	Economic Development Services (53400).....		\$15,039,114 \$14,789,114	\$15,039,114
	Financial Assistance for Economic Development (53410).....	\$15,039,114 \$14,789,114		\$15,039,114
	Fund Sources: General.....	\$15,039,114 \$14,789,114		\$15,039,114
<p>Authority: Title 59.1, Chapters 22 and 49, Code of Virginia.</p> <p>Out of the amounts in this Item, \$14,750,000\$14,500,000 the first year and \$14,750,000 the second year from the general fund shall be provided to carry out the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, related to the Enterprise Zone Grant Act. Notwithstanding the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, the department is authorized to prorate, with no payment of the unpaid portion of the grant necessary in the next fiscal year, the amount of awards each business receives to match the appropriation for this Item. Should actual grants awarded in each fiscal year be less than the amounts provided in this Item, the excess shall not revert to the general fund but shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund for revitalization purposes. Consistent with the provisions of § 59.1-548, Code of Virginia, beginning on January 1, 2019, the installation of solar panels shall be considered eligible investments for the purposes of the real property improvement grants, provided that such solar installation investment is in an amount of at least \$50,000 and the grant shall be calculated at a rate of 20 percent of the amount of qualified real property investments in excess of \$450,000 in the case of the construction of a new building or facility. Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of \$50,000 in the case of the rehabilitation or expansion of an existing building or facility. In the case where a grant is awarded based solely on a solar investment, the grant shall be calculated at a rate of 20 percent of the amount of total qualified real property investments made in solar installation. For such properties eligible for real property improvement grants made solely on the basis of solar installation investments of at least \$50,000 but not more than \$100,000, awards shall not exceed \$1,000,000 in aggregate in any fiscal year.</p>				
116.	Regulation of Structure Safety (56200).....		\$2,981,943	\$2,981,943
	State Building Code Administration (56202).....	\$2,981,943		\$2,981,943
	Fund Sources: General.....	\$517,160		\$517,160
	Special.....	\$2,164,783		\$2,164,783
	Dedicated Special Revenue.....	\$300,000		\$300,000

Authority: Title 15.2, Chapter 9; Title 27, Chapters 1, 6, and 9; Title 36, Chapters 4, 4.1, 4.2, 6, and 8; Title 58.1, Chapter 36, Article 5; and Title 63.2, Chapter 17, Code of

ITEM 116.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Virginia.				
A. The Department of Housing and Community Development shall establish a workgroup to study the ideal Automated External Defibrillator (AED) density in commercial and residential buildings. The Department shall report its findings to the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee on or before November 1, 2021.				
117.	Governmental Affairs Services (70100).....		\$364,081	\$364,081
	Intergovernmental Relations (70101).....	\$364,081	\$364,081	
	Fund Sources: General.....	\$364,081	\$364,081	
Authority: Title 15.2, Subtitle III, Code of Virginia.				
<i>A. The Commission on Local Government will review the fiscal effects of mandatory property tax exemptions on the capacity of local governments to deliver essential services to the public. As part of the review, the Commission will ascertain the impact of the exemptions on property tax collections, the shift to and reliance on other local revenues to compensate for exempted properties, the additional fiscal stress placed on non-exempted properties and non-exempted local taxpayers, and the ability of local governments to meet spending needs. In addition, the Commission will develop and include in its review potential recommendations to mitigate the fiscal impacts on local governments tied to these state tax exemption initiatives. The Commission will report its findings to the Governor, the Joint Subcommittee on Local Government Fiscal Stress, and the Chairs of the House Committee on Finance, and the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2021.</i>				
118.	Administrative and Support Services (59900).....		\$3,560,233	\$3,560,233
	General Management and Direction (59901).....	\$3,560,233	\$3,560,233	
	Fund Sources: General.....	\$3,029,036	\$3,029,036	
	Special.....	\$531,197	\$531,197	
Authority: Title 36, Chapter 8, Code of Virginia.				
118.10	Omitted.			
	Total for Department of Housing and Community Development.....		\$307,537,822 \$319,693,822	\$259,087,822 \$342,131,822
	General Fund Positions.....	73.25 75.25	73.25 84.25	
	Nongeneral Fund Positions.....	60.75	60.75 77.75	
	Position Level.....	134.00 136.00	134.00 162.00	
	Fund Sources: General.....	\$195,986,878 \$208,142,878	\$149,536,878 \$202,280,878	
	Special.....	\$8,267,849	\$8,267,849	
	Trust and Agency.....	\$150,000	\$150,000	
	Dedicated Special Revenue.....	\$400,000	\$400,000	
	Federal Trust.....	\$102,733,095	\$100,733,095 \$131,033,095	
§ 1-42. DEPARTMENT OF LABOR AND INDUSTRY (181)				
119.	Economic Development Services (53400).....		\$2,542,650	\$2,542,650
	Apprenticeship Program (53409).....	\$2,542,650	\$2,542,650	
	Fund Sources: General.....	\$1,985,712	\$1,985,712	
	Federal Trust.....	\$556,938	\$556,938	
Authority: Title 40.1, Chapter 6, Code of Virginia.				

ITEM 119.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
120.	Regulation of Business Practices (55200).....			\$1,773,255	\$2,520,193
				\$1,898,182	\$2,019,903
	Labor Law Services (55206).....	\$1,773,255	\$2,520,193		
		\$1,898,182	\$2,019,903		
	Fund Sources: General.....	\$1,773,255	\$2,520,193		
		\$1,898,182	\$2,019,903		

Authority: Title 40.1, Chapters 1, 3, 4, and 5, Code of Virginia.

A. Out of the amounts in this item, ~~\$596,794~~ \$421,721 the first year and ~~\$1,343,732~~ \$843,442 the second year from the general fund is provided to support additional positions within the Labor and Employment Law Division, including one attorney, one supervisor, one administrative staff, and ~~ten~~ five investigators.

B.1. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's minimum wage program, including, but not limited to, the number of (i) customer contacts concerning minimum wage, (ii) minimum wage claims processed, (iii) cases with wages collected, (iv) cases with claims ruled invalid, (v) cases with final orders issued, and (vi) cases cleared within 90 days.

2. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's earned paid sick leave program, including, but not limited to, the number of (i) customer contacts concerning earned paid sick leave, (ii) sick leave claims processed, (iii) cases with earned paid sick leave claims resolved, whether for accrual of time, use of time, notice and posting, or retaliation (iv) claims not substantiated, (v) cases taken to court, and (vi) cases cleared within 90 days, not to include cases adjudicated in court.

3. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's anti-discrimination in payment of wage program, including, but not limited to, the number of (i) customer contacts concerning discrimination involving payment of wage complaints or proceedings, (ii) payment of wage discrimination complaints processed, (iii) meritorious complaints with payment of wage discrimination resolved with either reinstatement or recovery of lost wages, (iv) non meritorious complaints, i.e. cases with no adverse action or no protected activity, and (v) cases taken to court.

4. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's anti-discrimination in worker misclassification program, including, but not limited to, the number of (i) customer contacts concerning discrimination involving worker misclassification, (ii) discrimination in worker misclassification claims processed, (iii) meritorious complaints with worker misclassification wage discrimination resolved with either reinstatement and/or recovery of lost wages, (iv) non meritorious complaints, i.e. cases with no adverse action or no protected activity, and (v) cases taken to court.

5. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's prevailing wage rate program, including, but not limited to, the number of (i) contacts from state agencies to determine the proper prevailing wage, (ii) prevailing wage determinations for the involved planning district calculated using Davis-Bacon rates for the cities and counties within the planning district, and (iii) contractor provided scale of pay and fringe benefits certified and received.

C. Out of the amounts included in this appropriation, \$300,000 in the first year from the general fund is provided to support the labor law and state capital construction process workgroup and related infrastructure established in paragraphs B., C., and D. of Item 111.10 of this act. The funds may be used to hire outside consultants, or cover any

ITEM 120.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p><i>additional costs that the Chief Workforce Development Advisor/new Secretary of Labor created by House Bill 2321, 2021 General Assembly recommends to effectuate the provisions outlined in Item 111.10 in the aforementioned paragraphs. The Director of the Department of Planning and Budget is authorized to transfer the amounts contained in this paragraph to the Chief Workforce Development Advisor/new Secretariat created by House Bill 2321, 2021 General Assembly. These funds shall not revert back to the general fund at the end of the fiscal year. These funds shall not be used or otherwise obligated for any other purpose.</i></p>				
121.	Regulation of Individual Safety (55500).....		\$12,294,906	\$12,294,906
	Virginia Occupational Safety and Health Services (55501).....		\$10,811,056	\$12,301,626
	\$12,294,906	\$12,294,906		
	\$10,811,056	\$12,301,626		
	Fund Sources: General.....	\$5,851,958	\$5,851,958	
		\$4,368,108	\$5,858,678	
	Special.....	\$885,449	\$885,449	
	Federal Trust.....	\$5,557,499	\$5,557,499	
<p>Authority: Title 40.1, Chapters 1, 3, 3.2, and 3.3; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.</p> <p>A. Notwithstanding § 40.1-49.4 D., Code of Virginia, and § 4-2.02 of this act, the Department of Labor and Industry may retain up to \$481,350 in civil penalties assessed pursuant to § 40.1-49.4, Code of Virginia, as the required federal grant match for voluntary protection and voluntary compliance programs.</p> <p>B. Of the amounts provided in this item, \$650,000 the first year and \$650,000 the second year from the general fund is provided to support three positions in the Virginia Occupational Safety and Health Voluntary Protection Program and three positions in the Office of Consultation Services.</p>				
122.	Regulation of Structure Safety (56200).....		\$583,694	\$583,694
	Boiler and Pressure Vessel Safety Services (56201)....		\$583,694	\$583,694
	Fund Sources: General.....		\$583,694	\$583,694
<p>Authority: Title 40.1, Chapter 3.1, Code of Virginia.</p>				
123.	Administrative and Support Services (59900).....		\$3,883,545	\$3,883,545
	General Management and Direction (59901).....		\$3,883,545	\$3,883,545
	Fund Sources: General.....		\$2,794,712	\$2,794,712
	Special.....		\$1,088,833	\$1,088,833
<p>Authority: Title 40.1, Chapters 1, 3, 3.1, 3.2, 3.3, 4, 5, and 6; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.</p>				
123.10	Omitted.			
	Total for Department of Labor and Industry.....		\$21,078,050	\$21,824,988
			\$19,719,127	\$21,331,418
	General Fund Positions.....		134.55	134.55
	Nongeneral Fund Positions.....		73.45	73.45
	Position Level.....		208.00	208.00
	Fund Sources: General.....		\$12,989,331	\$13,736,269
			\$11,630,408	\$13,242,699
	Special.....		\$1,974,282	\$1,974,282
	Federal Trust.....		\$6,114,437	\$6,114,437
<p>§ 1-43. DEPARTMENT OF MINES, MINERALS AND ENERGY (409)</p>				
124.	Minerals Management (50600).....		\$30,517,723	\$30,517,723
				\$29,697,002

ITEM 124.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Geologic and Mineral Resource Investigations, Mapping, and Utilization (50601).....	\$1,145,327	\$1,145,327 \$1,155,578		
Mineral Mining Environmental Protection, Worker Safety and Land Reclamation (50602).....	\$3,117,329	\$3,117,329 \$3,072,874		
Gas and Oil Environmental Protection, Worker Safety and Land Reclamation (50603).....	\$1,681,917	\$1,681,917 \$1,564,730		
Coal Environmental Protection and Land Reclamation (50604).....	\$18,908,887	\$18,908,887 \$18,731,582		
Coal Worker Safety (50605).....	\$5,664,263	\$5,664,263 \$5,172,238		
Fund Sources: General.....	\$10,475,224	\$10,475,224 \$9,654,503		
Special.....	\$6,106,078	\$6,106,078		
Trust and Agency.....	\$525,000	\$525,000		
Dedicated Special Revenue.....	\$173,000	\$173,000		
Federal Trust.....	\$13,238,421	\$13,238,421		

Authority: Title 45.1, Code of Virginia.

A. Out of this appropriation, \$31,224 the first year and \$31,224 the second year from special funds shall be provided for annual membership dues to the Interstate Mining Compact Commission.

B. Out of this appropriation shall be provided reimbursement for expenses associated with administrative and judicial review when so ordered by a court of competent jurisdiction.

C. Out of this appropriation, \$6,119 the first year and \$6,119 the second year from the general fund shall be provided for annual membership dues to the Interstate Oil and Gas Compact Commission.

D. The application fee for a coal mine license or a renewal or transfer of a license pursuant to § 45.1-161.58, Code of Virginia, shall be in the amount of \$350.

E. The application fee for a mineral mine license or a renewal or transfer of a license pursuant to § 45.1-161.292:31, Code of Virginia, shall be in the amount of \$400, except applications submitted electronically, which shall be accompanied by a fee of \$330. However, the fee for any person engaged in mining sand or gravel on an area of five acres or less shall be required to pay a fee of \$100, except applications submitted electronically, which shall be accompanied by a fee of \$80.

F. The application fee for a new oil or gas well permit pursuant to § 45.1-361.29, Code of Virginia, shall be in the amount of \$600 and the application fee for permit modifications shall be \$300.

G. Out of this appropriation, \$250,000 the second year from the general fund is provided to study the health and environmental impacts of the mining of gold, pursuant to House Bill 2213 of the 2021 General Assembly, Special Session I.

125. Resource Management Research, Planning, and Coordination (50700).....			\$3,689,051	\$3,689,051 \$4,226,173
Energy Conservation and Alternative Energy Supply Programs (50705).....	\$3,689,051	\$3,689,051 \$4,226,173		
Fund Sources: General.....	\$1,541,505	\$1,541,505 \$2,078,627		
Special.....	\$103,871	\$103,871		
Federal Trust.....	\$2,043,675	\$2,043,675		

Authority: Title 45.1, Chapter 26, Code of Virginia.

ITEM 125.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>A. Out of this appropriation, \$38,362 the first year and \$38,362 the second year from the general fund shall be provided for dues and expenses for the Southern States Energy Board.</p>				
<p>B. To defray the costs of implementing the Virginia Energy Management Program, the Department of Mines, Minerals and Energy is authorized to have included in state fuel oil, natural gas, electricity, and similar energy contracts a provision for suppliers to collect from using agencies and remit to the department an administrative surcharge. The surcharge shall reflect the department's actual costs to administer the program. Additionally, the department is authorized, consistent with federal funding rules, to distribute energy-related federal funds as grants or as loans to other state or nonstate agencies for use in financing energy-related projects, and to recover from the recipient an administrative service charge to recover the department's costs of administering such grant or loan programs.</p>				
<p>C. Out of this appropriation, \$137,000 the first year and \$137,000 the second year from the general fund is provided to support one position within the Division of Energy to assist localities with siting, procurement, land use concerns, and other solar energy-related issues.</p>				
<p>D. Out of this appropriation, \$387,500 the first year and \$387,500 the second year from the general fund is provided to establish the Office of Offshore Wind to coordinate state agency activities to develop and execute strategies that reduce barriers for deployment of offshore wind and attract offshore wind supply chain businesses for Virginia's benefit, promote Virginia's infrastructure and workforce development assets, work with public and private sector partners to make Virginia a regional hub for offshore wind, and to provide staff support for the Virginia Offshore Wind Development Authority.</p>				
<p><i>E. The Department of Mines, Minerals, and Energy (DMME) shall establish a work group to determine the feasibility and approach of creating a Virginia R-PACE program. The R-PACE work group shall assess the status and readiness of Federal regulations to support an R-PACE program; determine market interest, size, and potential volume for a Virginia R-PACE program; recommend draft legislation to facilitate program implementation and administration; and develop draft guidelines governing R-PACE loans in Virginia. DMME shall at least include the following stakeholders: the Virginia PACE Authority; the Virginia Bankers Association and other mortgage originators; the Virginia Realtors Association; PACE capital financing institution representative; solar energy contractor; and a representative of the homebuilding industry. Additionally, the R-PACE work group shall solicit and evaluate written public comments. The Department shall provide a report detailing its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1, 2021.</i></p>				
126.	Administrative and Support Services (59900).....		\$4,779,342	\$4,779,342 \$4,765,161
	General Management and Direction (59901).....	\$4,779,342	\$4,779,342 \$4,765,161	
	Fund Sources: General.....	\$2,408,094	\$2,408,094 \$2,393,913	
	Special.....	\$1,454,965	\$1,454,965	
	Dedicated Special Revenue.....	\$916,283	\$916,283	
	Authority: Title 45.1, Chapter 14.1, Code of Virginia.			
126.10	Omitted.			
	Total for Department of Mines, Minerals and Energy.		\$38,986,116	\$38,986,116 \$38,688,336
	General Fund Positions.....	162.43	162.43	
	Nongeneral Fund Positions.....	74.57	74.57	
	Position Level.....	237.00	237.00	
	Fund Sources: General.....	\$14,424,823	\$14,424,823 \$14,127,043	
	Special.....	\$7,664,914	\$7,664,914	
	Trust and Agency.....	\$525,000	\$525,000	
	Dedicated Special Revenue.....	\$1,089,283	\$1,089,283	

ITEM 126.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Federal Trust.....	\$15,282,096	\$15,282,096		

§ 1-44. DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION (222)

127. Regulation of Professions and Occupations (56000).....			\$25,028,025	\$25,026,017
Licensure, Certification, and Registration of Professions and Occupations (56046).....	\$7,894,327	\$7,892,319		
Enforcement of Licensing, Regulating and Certifying Professions and Occupations (56047).....	\$8,220,393	\$8,220,393		
Administrative Services (56048).....	\$8,913,305	\$8,913,305		
Fund Sources: Special.....	\$1,328,410	\$1,328,410		
Dedicated Special Revenue.....	\$23,364,615	\$23,362,607		
Federal Trust.....	\$335,000	\$335,000		

Authority: Title 54.1, Chapters 1, 2, 3, 4, 5, 6, 7, 8.1, 9, 11, 15, 18, 20.1, 20.2, 21, 22, 22.1, 23, 23.1, 23.2, 23.3, and 23.4; Title 55, Chapters 4.1, 4.2, 19, 21, 24, 26, 27, 28, and 29; and Title 36, Chapter 5.1, Code of Virginia.

A. Costs for professional and occupational regulation may be met by fees paid by the respective professions and occupations.

B. Any fund balances currently held in the Dedicated Special Revenue Fund (0900), the Common Interest Community Management Information Fund (0259) and the Special Revenue Fund (0200) shall be held in reserve and may not be disbursed by the Department of Professional and Occupational Regulation, but shall be applied to offset the anticipated, future costs of restructuring its organization, including additional staffing needs and the replacement or upgrade of the Department's information technology systems requirements that may be implemented pursuant to recommendations identified in assessments required in Item 119, paragraphs B. and C., Chapter 854, 2019 Acts of Assembly. Such reserve funds shall be disbursed only to cover expenses of the Department or its regulatory boards as provided in § 54.1-308.

C. The Department is authorized to provide electronic credentials to persons regulated by the Department or its regulatory boards. An "electronic credential" means an electronic method by which a person may display or transmit to another person information that verifies information about a person such as their certification, licensure, registration, or permit. Any statutory or regulatory requirement to display, post, or produce a credential issued by a Department regulatory board or the Department may be satisfied by the proffer of an electronic credential. The Department may use a third-party electronic credential system that is not maintained by the agency. Such electronic credential system shall include a verification system that is operated by the agency or its agent on its behalf for the purpose of verifying the authenticity and validity of electronic credentials issued by the Department. No funds are appropriated for this purpose.

D. The COVID-19 Phase 3 or later Personal Care and Personal Grooming Services guidelines authorize any individual licensed to practice under Chapter 7 of Title 54.1 of the Code of Virginia to provide services effectively and safely. The guidelines may require enhanced safety precautions in the absence of a customer face covering, including requiring the licensee to wear a face shield and/or utilize some other similar barrier.

Total for Department of Professional and Occupational Regulation.....			\$25,028,025	\$25,026,017
Nongeneral Fund Positions.....	204.00	204.00		
Position Level.....	204.00	204.00		
Fund Sources: Special.....	\$1,328,410	\$1,328,410		
Dedicated Special Revenue.....	\$23,364,615	\$23,362,607		
Federal Trust.....	\$335,000	\$335,000		

§ 1-45. DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY (350)

ITEM 128.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
128. Economic Development Services (53400).....			\$7,401,214	\$7,771,779
			\$7,030,649	\$8,370,182
Minority Business Enterprise Certification (53414)....	\$1,918,318	\$1,918,318		
	\$1,768,534			
Business Information Services (53418).....	\$1,847,190	\$2,217,755		
	\$1,749,094	\$2,340,440		
Administrative Services (53422).....	\$1,394,137	\$1,394,137		
	\$1,271,452	\$1,869,855		
Financial Services for Economic Development (53423).....	\$2,241,569	\$2,241,569		
Fund Sources: General.....	\$4,758,407	\$5,128,972		
	\$4,387,842	\$5,727,375		
Special.....	\$837,232	\$837,232		
Commonwealth Transportation.....	\$1,640,575	\$1,640,575		
Trust and Agency.....	\$100,000	\$100,000		
Dedicated Special Revenue.....	\$65,000	\$65,000		

Authority: Title 2.2, Chapters 16.1 and 22, Code of Virginia.

A. The Department of Small Business and Supplier Diversity, in conjunction with the Department of General Services, the Virginia Employment Commission, and the Virginia Department of Transportation, is authorized to conduct analyses of the availability of minority business enterprises in Virginia and the utilization of such businesses by the Commonwealth of Virginia, localities, or private industry in the acquisition of goods and services. The department also is authorized to receive and accept from the United States government, or any agency thereof, and from any other source, private or public, any and all gifts, grants, allotments, bequests or devises of any nature that would assist the department in conducting such analyses or otherwise strengthen its services to minority business enterprises. The Director, Department of Planning and Budget, is authorized to establish a nongeneral fund appropriation for the purposes of expending revenues that may be received for this effort.

B. By April 1 of each year, the department shall report to the Governor and the Secretary of Commerce and Trade the expenditures of the Small Business Jobs Grant Fund and anticipated needs for small business development in order to monitor the effective use of these funds.

C.1. Out of the amounts in this Item, \$819,753 the first year and \$819,753 the second year from the general fund shall be deposited to the Small Business Investment Grant Fund pursuant to § 2.2-1616, Code of Virginia. The department shall aggressively market the program and shall report to the Governor and the Secretary of Commerce and Trade on the status of the program by November 1 of each year.

2. In administering the funds allocated in paragraphs B.1. and B.2. of Item 479.10 of this act for the Rebuild Virginia Grant program, the Department shall reexamine its program eligibility criteria and maximum grant award to ensure deployment of funds prior to the expiration of the Coronavirus Relief Funds awarded to the Commonwealth through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). At a minimum, the Department shall expand the eligibility criteria to include small businesses: that have already received CARES Act funding from any federal, state, regional or local agency or authority, meet the small business definition of § 2.2-1604 of the Code of Virginia, and are Virginia-based recreation and related tourism small businesses.

D. Out of the amounts in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to support the Business One-Stop Program.

E.1. Out of the amounts in this Item, \$170,591 from the general fund and \$1,002,232 from nongeneral funds the first year and \$170,591 from the general fund and \$1,002,232 from nongeneral funds the second year shall be provided for the Virginia Small Business Financing Authority. The general fund amount shall be used to support operating expenses of the authority.

2. To meet changing financing needs of small businesses, the Executive Director, Virginia Small Business Financing Authority, with the approval of the Director, Department of Small Business and Supplier Diversity, may transfer moneys between funds managed by the authority. These include the Virginia Small Business Growth Fund (§ 2.2-2310, Code of

ITEM 128.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Virginia); the Virginia Export Fund (§ 2.2-2309, Code of Virginia); and the Insurance or Guarantee Fund (§ 2.2-2290, Code of Virginia). The Executive Director, Virginia Small Business Financing Authority, shall report, by fund, the transfers made by January 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees.

3. The Virginia Small Business Financing Authority is authorized to insure additional loans for eligible small businesses, pursuant to § 2.2-2290, Code of Virginia, up to an aggregate amount not to exceed four times the principal amount in the Insurance or Guarantee Fund, or up to an aggregate amount of \$15,000,000. In the event that the authority is called upon to pay on guaranties of loans of more than 10 percent of the aggregate amount of all outstanding insured loans, the authority shall not insure any further loans and shall immediately notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees. Pursuant to § 4-1.03 of this act, the Director, Department of Planning and Budget, is authorized to transfer a sum sufficient to the Insurance or Guarantee Fund in the event the amount in the fund falls below the amount needed to honor any guarantee.

4. For the I-95 HOV/HOT Lanes project as evidenced by the Comprehensive Agreement approved pursuant to the Public-Private Transportation Act of 1995, the maximum fee and/or premium charged by the Virginia Small Business Financing Authority pursuant to §§ 2.2-2285 and 2.2-2291, Code of Virginia, for acting as the conduit issuer for any bond financing is not to exceed \$25,000 per annum.

F. The Department of Small Business and Supplier Diversity shall include employment services organizations within the development and operation of any state procurement program or program goal and targets for small, women-owned, and minority-owned businesses consistent with requirements in the Code of Virginia requiring the Department to certify employment service organizations.

G. Notwithstanding any other provision of law, any business certified on or after July 1, 2017, by the Virginia Department of Small Business and Supplier Diversity as a small, women-owned, or minority-owned business, shall be certified for a period of five years unless (i) the certification is revoked before the end of the five-year period, (ii) the business ceases operation, or (iii) the business no longer qualifies as a small, women- or minority-owned business.

H. Beginning with the calendar quarter ending September 30, 2018, the Director of the Department of Small Business and Supplier Diversity shall report to the Secretary of Commerce and Trade and the Chairmen of the House Appropriations and Senate Finance Committees on the agency's efforts to maximize job creation and retention among the Commonwealth's small businesses. The report shall include, at a minimum, measures of (i) the effectiveness of programs administered by the Small Business Financing Authority in assisting borrowers to create jobs and enable increased capital investment; (ii) the efficiency and effectiveness of Small, Women-owned, and Minority-owned Business and Disadvantaged Business Enterprise programs; (iii) the success of the agency's outreach and technical assistance activities; and, (iv) the number of businesses certified, and the average number of business days to process a certification application each month. The report shall be in a format prescribed by the Secretary, but shall include specific data breakouts for rural areas and service disabled veteran businesses currently certified in the SWaM certification, and shall be due within thirty days of the close of each calendar quarter.

I. The Department shall develop and submit a detailed improvement plan for the Business One Stop. The plan should include the following for each statutory requirement: (i) a description of the purpose and benefit to small businesses; (ii) the cost of fully implementing and maintaining the requirement; (iii) the resources needed beyond those currently available to implement and maintain the requirement; and (iv) the Department's recommendation as to whether the requirement should be kept. The plan shall be provided to the House Labor and Commerce, and Appropriations Committees; and Senate Commerce and Labor, and Finance and Appropriations Committees no later than November 1, 2021.

J. Notwithstanding § 2.2-1604, Code of Virginia, any cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 of the Code of Virginia as a

ITEM 128.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>nonstock corporation that was certified as a small business by the Department of Small Business and Supplier Diversity prior to July 1, 2017, may be recertified as a small business by the Department, provided that such cooperative association otherwise meets the requirements for certification as a small business pursuant to Article 1 (§ 2.2-1603 et seq.) of Chapter 16.1 of Title 2.2 of the Code of Virginia and any other applicable provision of the Code of Virginia.</i>				
128.10	Omitted.			
	Total for Department of Small Business and Supplier Diversity.....		\$7,401,214	\$7,771,779
			\$7,030,649	\$8,370,182
	General Fund Positions.....	33.00 40.00		
	Nongeneral Fund Positions.....	24.00		
	Position Level.....	57.00 64.00		
	Fund Sources: General.....	\$4,758,407 \$4,387,842	\$5,128,972 \$5,727,375	
	Special.....	\$837,232	\$837,232	
	Commonwealth Transportation.....	\$1,640,575	\$1,640,575	
	Trust and Agency.....	\$100,000	\$100,000	
	Dedicated Special Revenue.....	\$65,000	\$65,000	

§ 1-46. FORT MONROE AUTHORITY (360)

129.	Economic Development Services (53400).....		\$6,174,674	\$6,174,674
	Administrative Services (53422).....	\$6,174,674	\$6,174,674	
	Fund Sources: General.....	\$6,174,674	\$6,174,674	

Authority: Title 2.2, Chapter 22, Code of Virginia.

A.1. Out of the amounts in this Item, \$6,174,674 the first year and \$6,174,674 the second year from the general fund shall be provided for the Commonwealth's share of the estimated operating expenses of the Fort Monroe Authority (FMA). This appropriation represents the Commonwealth's share of the FMA's estimated operating expenses. These expenses may not be reimbursed by the federal government and shall be reduced by any federal funding the authority may receive for expenditures funded through the Commonwealth's contribution that ultimately qualify for federal reimbursement. Any such reimbursements shall be repaid to the general fund. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments.

2. All moneys of the FMA, from whatever source derived, shall be paid to the treasurer of the FMA. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts of the books of the FMA.

3. Employees of the FMA shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

4. Pursuant to § 2.2-2338, Code of Virginia, the Board of Trustees of the FMA shall be deemed a state public body and may meet by electronic communication means in accordance with the requirements set forth in § 2.2-3708, Code of Virginia. Electronic communication shall mean the same as that term is defined in § 2.2-3701, Code of Virginia.

5. Notwithstanding any other provision of law or agreement, the amount paid from all sources of funds by the FMA to the City of Hampton pursuant to § 2.2-2342, Code of Virginia, shall not exceed \$983,960 in FY 2021 and \$983,960 in FY 2022. Beginning July 1, 2016, the FMA shall not pay any such amount to the City of Hampton until the City has recorded among the land records in the Office of the Circuit Court Clerk of the City of Hampton an instrument removing any liens or claims of liens on the real property of the Commonwealth at Fort Monroe. Such instrument shall state that the City acknowledges that in the event of conflict

ITEM 129.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>between any fees in lieu of taxes provided for under § 2.2-2342 of the Code of Virginia and the Appropriations Act, the Appropriations Act shall prevail. Such instrument shall further state that the FMA has paid all amounts set by the Appropriations Act for fiscal year 2014, fiscal year 2015 and fiscal year 2016 and that the City does not assert nor will it assert in the future any liens of any kind on the real property of the Commonwealth at Fort Monroe. Such instrument shall be in a form acceptable to, and have the written approval of the Attorney General of the Commonwealth in advance of recordation.</p>				
			\$6,174,674	\$6,174,674
Total for Fort Monroe Authority.....				
Fund Sources: General.....	\$6,174,674	\$6,174,674		

§ 1-47. VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP (310)

130.	Economic Development Services (53400).....			\$47,302,309	\$39,481,922
	Economic Development Services (53412).....	\$47,302,309	\$39,481,922	\$34,802,309	\$43,752,309
		\$34,802,309	\$43,752,309		
	Fund Sources: General.....	\$47,302,309	\$39,481,922		
		\$34,802,309	\$43,752,309		

Authority: Title 2.2, Chapter 22, Article 4 and Chapter 51; and § 15.2-941, Code of Virginia.

A. Upon authorization of the Governor, the Virginia Economic Development Partnership may transfer funds appropriated to it by this act to a nonstock corporation.

B. Prior to July 1 of each fiscal year, the Virginia Economic Development Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operational plan. Prior to November 1 of each fiscal year, the Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all partnership employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.

C. In developing the criteria for any pay for performance plan, the board shall include, but not be limited to, these variables: 1) the number of economic development prospects committed to move to or expand operations in Virginia; 2) dollar investment made in Virginia for land acquisition, construction, buildings, and equipment; 3) number of full-time jobs directly related to an economic development project; and 4) location of the project. To that end, the pay for performance plan shall be weighted to recognize and reward employees who successfully recruit new economic development prospects or cause existing prospects to expand operations in localities with fiscal stress greater than the statewide average. Fiscal Stress shall be based on the Index published by the Commission on Local Government. If a prospect is physically located in more than one contiguous locality, the highest Fiscal Stress Index of the participating localities will be used.

D. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments. The Director, Department of Planning and Budget may authorize an increase in disbursements for any month, not to exceed the total appropriation for the fiscal year, if such an advance is necessary to meet payment obligations.

E. The Virginia Economic Development Partnership shall provide administrative and support services for the Virginia Tourism Authority as prescribed in the Memorandum of Agreement until July 1, 2022, or until the authority is able to provide such services.

F. The Virginia Economic Development Partnership shall report one month after the close of each quarter to the Chairmen of the Senate Finance and House Appropriations Committees on the Commonwealth's Development Opportunity Fund. The report shall include, but not be limited to, total appropriations made or transferred to the fund, total grants awarded, cash balances, and balances available for future commitments.

G. Prior to purchasing airline and hotel accommodations related to overseas trade shows,

ITEM 130.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>the Virginia Economic Development Partnership shall provide an itemized list of projected costs for review by the Secretary of Commerce and Trade.</p> <p>H.1. Out of the amounts in this Item, \$2,250,000 in the first year and \$2,250,000 in the second year from the general fund shall be deposited in the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund established pursuant to § 10.1-1237, Code of Virginia.</p> <p>2. Guidelines developed by the Virginia Economic Development Partnership, in consultation with the Department of Environmental Quality, governing the use of the Fund shall provide for grants of up to \$500,000 for site remediation and include a requirement that sites with potential for redevelopment and economic benefits to the surrounding community be prioritized for consideration of such grants.</p> <p>I. Any requests for administrative or staff support for the Committee on Business Development and Marketing or the Committee on International Trade established to advise the Virginia Economic Development Partnership shall be directed to, and are subject to the approval of, the Chairman or the Chief Executive Officer of the Virginia Economic Development Partnership.</p> <p>J. Out of the amounts in this item, \$5,020,387 the first year and \$9,700,000\$7,370,387 the second year from the general fund is provided to support the development of a workforce program to provide training and recruitment services to select companies locating or expanding in the Commonwealth.</p> <p>K. Out of the amounts in this item, \$13,062,500\$562,500 the first year and \$562,500\$5,562,000 the second year from the general fund is provided to characterize, inventory, and develop economic sites in the Commonwealth.</p> <p><i>L.1. Out of the amounts in this Item, \$500,000 the second year from the general fund is provided to establish the Office of Education and Labor Market Alignment in accordance with Senate Bill 1314 of the 2021 General Assembly, Special Session I.</i></p> <p><i>2. Notwithstanding any provision of law, the Office of Labor Market Alignment (the Office) shall serve as a resource for education and workforce programs administered by state government to better inform programmatic decisions on workforce education and training. Additionally, the Office shall serve as a guide and resource for the Governor and the General Assembly in determining strategic education and workforce investments in current and future education and workforce training programs with a particular focus on those programs supported with state general fund dollars. The Office shall communicate relevant information in a clear and concise manner to better enable policy makers and decision makers to navigate the complex, often confusing connections between education and the labor market.</i></p> <p><i>3. The Virginia Economic Development Partnership shall include in its annual report, due on November 1st of each year, an update on the activities of the Office of Labor Market and Alignment.</i></p> <p><i>M. Out of the amounts in this Item, \$1,100,000 the second year from the general fund is provided to support implementation of Virginia's International Trade Plan. Out of the amounts provided in this paragraph, \$330,000 shall be used to increase Virginia's capacity to leverage federal trade funding, and \$370,000 shall be used to support businesses with supply chain security. The remaining funds shall be used to expand current trade programs managed by the Partnership including the Virginia Leaders in Export Trade program.</i></p>				
130.10	Omitted.			
	Total for Virginia Economic Development Partnership.....		\$47,302,309	\$39,481,922
			\$34,802,309	\$43,752,309
	Fund Sources: General.....	\$47,302,309	\$39,481,922	
		\$34,802,309	\$43,752,309	

ITEM 131.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
131. Workforce Systems Services (47000).....			\$555,338,468	\$552,133,812 \$587,118,054
Job Placement Services (47001).....	\$31,718,264	\$31,718,264		
Unemployment Insurance Services (47002).....	\$522,735,822	\$519,531,166 \$554,515,408		
Workforce Development Services (47003).....	\$884,382	\$884,382		
Fund Sources: <i>General</i>	\$0	\$34,984,242		
Special.....	\$8,931,271	\$8,931,271		
Trust and Agency.....	\$546,407,197	\$543,202,541		

Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.

A. Revenues deposited into the Special Unemployment Compensation Administration Fund shall be used for the purposes set out in the following order of priority: 1) to make payment of any interest owed on loans from the U.S. Treasury for payment of unemployment compensation benefits; 2) to support essential services of the Commission, particularly in the event of reductions in federal funding; 3) to finance the cost of capital projects; and 4) to fund the discretionary fund established in § 60.2-315, Code of Virginia. Funding may be transferred from the capital budget to the operating budget consistent with this language.

B.1. Reed Act funds distributed by the Employment Security Financing Act of 1954 with respect to the federal fiscal years 1956, 1957, and 1958 and credited to the agency from the proceeds related to the sale of agency property with federal equity are hereby appropriated (up to \$600,000) to maintain service levels in the agency's local offices.

2. Reed Act funds distributed by the Balanced Budget Act of 1997 and credited to the unemployment trust fund with respect to federal fiscal years 2000, 2001, and 2002, under § 1103 of the Social Security Act (42 U.S.C.), as amended, shall be used only for the administration of the unemployment compensation program, under the direction of the Virginia Employment Commission, and shall not be subject to the requirements of § 60.2-305, Code of Virginia. Reed Act funds from the Balanced Budget Act are hereby appropriated (up to \$2.2 million, not to exceed the balance of said Reed Act funds) to pay for upgrading the information technology systems at the Virginia Employment Commission.

C. There is hereby appropriated out of the funds made available to this state under § 1103 of the Social Security Act (42 U.S.C.) as amended, the balance of the \$51,067,866 of Reed Act funds, if any, provided in Item 120 E. of Chapter 847, 2007 Acts of Assembly, for upgrading obsolete information technology systems, to include staff costs. This appropriation is subject to the provisions of § 60.2-305, Code of Virginia. Savings as a result of the new systems shall be retained by the commission.

D. Notwithstanding any other provision of law, all fees incurred by the Virginia Employment Commission with respect to the collection of debts authorized to be collected under § 2.2-4806 of the Code of Virginia, using the Treasury Offset Program of the United States, shall become part of the debt owed the Commission and may be recovered accordingly.

E. Workforce development programs shall give priority to assisting Medicaid enrollees who are required to participate in the Training, Education, Employment and Opportunity Program to the extent allowed by federal law.

F. The Governor shall have the authority to alter the administration of the provisions of the Virginia Unemployment Compensation Act, Title 60.2 of the Code of Virginia, to meet the exigencies of a health emergency crisis.

G. The Virginia Employment Commission shall establish and maintain one dedicated full-time customer service position responsible for investigating and responding to legislative inquiries.

H. Out of this appropriation, \$750,000 the second year from the general fund is provided to pay the estimated interest on the federal cash advances for unemployment insurance benefits.

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<p><i>I. Out of this appropriation, \$9,960,283 the second year from the general fund is provided for personnel and contract costs associated with the increase in customer service support necessary to process the high volume of unemployment insurance claims.</i></p> <p><i>J. Out of this appropriation, \$5,000,000 the second year from the general fund is provided to incorporate programs authorized under the Coronavirus Aid, Relief, and Economic Security (CARES) Act into the modernized unemployment system developed under the agency's Unemployment Modernization (UI Mod) Project.</i></p> <p><i>K. Out of the amounts in this Item, \$300,000 from the general fund in the second year is provided to support the completion of an actuarial study to determine the expected tax rate and other costs for implementing a Paid Family and Medical Leave Program in Virginia. The Commission shall submit the results of this study to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on or before the start of the 2022 General Assembly Session.</i></p> <p><i>L. Out of the amounts in this item, \$18,973,959 from the general fund in the second year is provided to reimburse the Unemployment Compensation Fund for any forgiven overpayments of state unemployment insurance benefits pursuant to the provisions of House Bill 2040, 2021 General Assembly. Of the amounts included in this paragraph, \$250,000 the second year from the general fund is provided to the Commission for administrative costs. The funding provided in this paragraph is contingent on the passage of House Bill 2040, 2021 General Assembly.</i></p>					
132.	Economic Development Services (53400).....			\$3,091,588	\$3,091,588
	Economic Information Services (53402).....	\$3,091,588	\$3,091,588		
	Fund Sources: Special.....	\$540,060	\$540,060		
	Trust and Agency.....	\$2,551,528	\$2,551,528		

Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.

133.	<p>For payment to the Secretary of the Treasury of the United States to the credit of the federal unemployment trust fund established by the Social Security Act, to be held for the state upon the terms and conditions provided in the said Social Security Act, there is hereby appropriated the amount remaining in the clearing account of the Unemployment Compensation Fund created by § 60.2-301, Code of Virginia, after deducting the refunds payable therefrom pursuant to § 60.2-301, Code of Virginia, a sum sufficient.</p>				
	Total for Virginia Employment Commission.....			\$558,430,056	\$555,225,400 \$590,209,642
	General Fund Positions.....	0.00	5.00		
	Nongeneral Fund Positions.....	865.00	865.00		
	Position Level.....	865.00	865.00		
			870.00		
	Fund Sources: General.....	\$0	\$34,984,242		
	Special.....	\$9,471,331	\$9,471,331		
	Trust and Agency.....	\$548,958,725	\$545,754,069		

§ 1-49. VIRGINIA TOURISM AUTHORITY (320)

134.	Tourist Promotion (53600).....			\$21,143,272	\$21,093,272
				\$20,993,272	\$23,233,272
	Tourist Promotion Services (53607).....	\$21,143,272	\$21,093,272		
		\$20,993,272	\$23,233,272		
	Fund Sources: General.....	\$21,143,272	\$21,093,272		
		\$20,993,272	\$23,233,272		

Authority: Title 2.2, Chapter 22, Article 8, Code of Virginia.

A.1. The Department of Transportation shall pay to the Virginia Tourism Authority \$1,400,000 the first year and \$1,325,000 the second year for continued operation of the Welcome Centers, of which \$200,000 the first year and \$125,000 the second year is for

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<p>maintenance of the Danville Welcome Center. The Department of Transportation shall fund maintenance at each state Welcome Center based on the agreed-upon service levels contained in the Memorandum of Agreement between the Virginia Tourism Authority and the Department of Transportation.</p>				
<p>2. To the extent necessary to fund the operations of the Welcome Centers, the Virginia Tourism Authority is authorized to collect fees paid by businesses for display space at the Welcome Centers.</p>				
<p>B. Upon authorization of the Governor, the Virginia Tourism Authority may transfer funds appropriated to it by this act to a nonstock corporation.</p>				
<p>C. Prior to July 1 of each fiscal year, the Virginia Tourism Authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operating plan. Prior to September 1 of each fiscal year, the authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all authority employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.</p>				
<p>D. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments. The Director, Department of Planning and Budget may authorize an increase in disbursements for any month, not to exceed the total appropriation for the fiscal year, if such an advance is necessary to meet payment obligations.</p>				
<p>E.1. Out of the amounts in this Item, \$2,850,000\$2,700,000 the first year and \$2,850,000 the second year from the general fund is provided for grants to regional and local tourism authorities and other tourism entities to support their efforts. From the grants provided from the amounts included in this paragraph, priority consideration shall be given to funding for the Daniel Boone Visitor Center, as well as \$300,000\$200,000 the first year and \$300,000 the second year to the Heart of Appalachia Tourism Authority Coalfield Regional Tourism Authority, and \$50,000 the first year and \$50,000 the second year for events sponsored by Special Olympics Virginia, and \$850,000 the first year and \$850,000 the second year to the Southwest Virginia Regional Recreation Authority for the Spearhead Trails initiative; and \$50,000 the first year to the City of Bristol for the Birthplace of Country Music.</p>				
<p>2. Out of the amounts in this paragraph provided for the Southwest Virginia Regional Recreation Authority, up to \$25,000 the first year and up to \$25,000 the second year from the general fund, shall be provided to establish a peer-support program for Virginia veterans in partnership with the Spearhead Trails initiative. The Virginia Department of Behavioral Health and Developmental Services and the Virginia Department of Veterans Services shall provide assistance in establishing such program upon the request of the board of the Southwest Regional Recreation Authority.</p>				
<p>F. The Virginia Tourism Authority shall place a high priority on marketing rural areas of the state.</p>				
<p>G. Out of the amounts in this Item, \$3,100,000 in the first year and \$3,100,000 in the second year from the general fund is provided to supplement appropriations to promote Virginia's tourism industries through an enhanced advertising campaign. Of these amounts, at least \$1,000,000 the first year and \$1,000,000 the second year shall be used to support a cooperative advertising program to partner with private sector tourism businesses and regional tourism entities to advertise Virginia as a tourism destination. The state dollars shall be used to incentivize private and regional tourism marketing funds on a \$1.00 for \$1.00 basis whereby the Virginia Tourism Corporation shall enter into agreements to undertake joint advertising purchases to promote Virginia and specific facilities with private sector and regional partners.</p>				
<p>H. Out of the amounts in this Item, \$330,012 the first year and \$330,012 the second year from the general fund is provided to promote and advertise tourism in Virginia. These amounts include \$130,012 in the first year and \$130,012 in the second year for "See Virginia First," a partnership operated by the Virginia Association of Broadcasters to</p>				

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<p>advertise Virginia Tourism, provided the Association contributes a total of at least \$390,036 in television and radio advertising value to promote tourism in Virginia in the first year and \$390,036 in the second year. Also included in these amounts is \$100,000 the first year and \$100,000 the second year to promote Virginia Parks, and \$100,000 the first year and \$100,000 the second year to promote Virginia's wineries.</p> <p>I. Out of the amounts in this Item, \$497,544 the first year and \$497,544 the second year from the general fund is provided to purchase media in the Washington, D.C., Virginia, and Baltimore, Maryland markets through the "See Virginia First," a partnership operated by the Virginia Association of Broadcasters, in association with its affiliates in other states in the region, provided that the Association can obtain contributions of at least \$1,492,632 the first year and \$1,492,632 the second year in television, radio and station-related internet advertising value to promote tourism in Virginia.</p> <p>J. Out of the amounts in this Item, \$150,000 the first year and \$150,000 the second year from the general fund is provided to support a tourism development initiative in the County of Henrico.</p> <p>K. Out of the amounts in this item, \$25,000 the first year and \$25,000 the second year from the general fund is provided to support the Carver Price Legacy Museum.</p> <p>L. With such funds as are available, the Virginia Tourism Authority shall collaborate with "Opening Doors for Virginians with Disabilities" to maintain and update the Opening Doors for Virginians with Disabilities travel guide and establish a more user-friendly link to this information on the Virginia Tourism Corporation website home page.</p> <p><i>M. Out of the amounts in this item, \$2,140,000 the second year from the general fund is provided for grants to promote tourism in accordance with the provisions of Senate Bill 1398, as enacted during the 2021 Special Session I of the General Assembly.</i></p>				

134.10	Omitted.				
	Total for Virginia Tourism Authority.....			\$21,143,272	\$21,093,272
				\$20,993,272	\$23,233,272
	Fund Sources: General.....	\$21,143,272	\$21,093,272		
		\$20,993,272	\$23,233,272		

§ 1-50. VIRGINIA INNOVATION PARTNERSHIP AUTHORITY (309)

135.	Economic Development Services (53400).....			\$50,700,000	\$39,700,000
				\$51,100,000	\$41,550,000
	Economic Development Services (53412).....	\$50,700,000	\$39,700,000		
		\$51,100,000	\$41,550,000		
	Fund Sources: General.....	\$25,700,000	\$39,700,000		
		\$26,100,000	\$41,550,000		
	Special.....	\$25,000,000	\$0		

Authority: Discretionary Inclusion.

A. The appropriation in this item shall be used for the purpose of and in accordance with the terms and conditions specified in legislation to be considered by the 2020 General Assembly to establish the Virginia Innovation Partnership Authority to serve as a consolidated entity for innovation and new technology-based economic development in the Commonwealth. When viewed holistically, the activities, programs, and centers of excellence of the Virginia Innovation Partnership Authority within this item shall focus on outcomes of job creation, new company formation, investment in applied research projects, and capital investment in Virginia companies.

B. The Virginia Innovation Partnership Authority (VIPA) is hereby authorized to transfer funds in this appropriation to an established managing non-profit to expend said funds for realizing the statutory purposes of the Authority, by contracting with governmental and private entities, notwithstanding the provisions of § 4-1.05 b of this act.

C. This appropriation shall be disbursed in twelve equal monthly disbursements each fiscal

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year. The Director, Department of Planning and Budget, may authorize an increase in disbursements for any month not to exceed the total appropriation for the fiscal year if such an advance is necessary to meet payment obligations.

D.1. No later than June 15 of each year, the Authority shall provide to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Commerce and Trade, and the Director, Department of Planning and Budget, a report of its operating plan for each year of the biennium. No later than September 30 of each year, the Authority shall submit to the same entities a detailed expenditure report for the concluded fiscal year. Both reports shall be prepared in the formats as approved by the Director, Department of Planning and Budget, and include, but not be limited, to the following:

- a. All planned and actual revenue and expenditures along with funding sources, including state, federal, and other revenue sources of both the Authority and the managing non-profit entity;
- b. By activity or program, total grants made and investments awarded for each grant and investment program;
- c. By activity or program, recoveries of previous grants or investments and sales of equity positions;
- d. Cash balances by funding source, and a report, by program, of available, committed and projected expenditures of all cash balance; and,
- e. Private investment activity related to the fund of funds established in P. of this item.

2. The President of the managing non-profit entity shall report quarterly to the entity's board of directors, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Commerce and Trade, and the Director, Department of Planning and Budget, in a format approved by the Board the following:

- a. The quarterly financial performance, determined by comparing the budgeted and actual revenues and expenditures to planned revenues and expenditures for the fiscal year;
- b. All investments and grants executed compared to projected investment closings, return on prior investments and grants, including all gains and losses; and
- c. The financial and programmatic performance of all operating entities owned by the managing non-profit entity.
- d. The timeline and associated activities for the transition into the new Authority including the appointment of a new board, the development of a new brand and name, the creation of guidelines and policies for funds and divisions managed directly by VIPA, the disbursement of funds contained in this item, and other such organizational change management strategies as deemed appropriate by the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee.

E.1. By November 1 of each year, the President of the Authority shall report to the Governor and the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, the Secretary of Commerce and Trade, and to the Director, Department of Planning and Budget, on key programs and funds managed directly by VIPA. The report shall summarize performance on the outcomes of public and private research investment in applied research projects, capital investment in Virginia companies, job creation, and new company formation.

2. To the extent possible, the annual performance report shall contain information on the metrics outlined below.

- a. For activities associated with the Growth Accelerator Program (GAP): (i) the number of companies receiving investments from the fund, (ii) the state investment and amount of privately leveraged investments per company, (iii) the estimated number of jobs created, (iv) the estimated tax revenue generated, (v) the number of companies who have received investments from the GAP fund still operating in Virginia, (vi) return on investment, to include the value of proceeds from the sale of equity in companies that received support

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	<p>from the program and economic benefits to the Commonwealth, (vii) the number of state investments that failed and the state investment associated with failed investments, (viii) the number of new companies created or expanded and the number of patents filed, and (ix) the geographic distribution of investments.</p>			
	<p>b. For activities associated with the Regional Innovation Fund: (i) the type and number of capacity building projects, (ii) the total state investment per project, (iii) the anticipated results of the investment, (iv) number of jobs created, (v) number of businesses founded, (vi) additional sources of investment in the projects receiving support from the fund, and (vii) the geographic distribution of the investments.</p>			
	<p>c. For activities associated with the Commonwealth Commercialization Fund: (i) the number of research grants awarded by domain area, (ii) the state investment per research project, (iii) the number of eminent researchers attracted and retained, (iv) additional research dollars leveraged as a result of the state investment, (v) number of new products completed/released to production, (vi) start-ups created from the research investment, (vii) new licenses granted to companies within Virginia, (viii) new licenses granted to companies outside Virginia, and (ix) the geographic distribution of the investments.</p>			
	<p>3. Such report shall include the prior fiscal year outcomes as well as the outcomes of each program managed directly by VIPA since inception. In addition, the report shall also include program changes anticipated in the subsequent fiscal year.</p>			
	<p>F.1. Out of the appropriation in this item, \$3,100,000 the first year and \$3,100,000 the second year from the general fund shall be allocated to the Division of Investment to support the Commonwealth Growth Accelerator Program fund and other indirect investment mechanisms to foster the development of Virginia-based technology companies.</p>			
	<p>2. Funds returned, including proceeds received due to the sale of a company that previously received a GAP investment, shall remain in the program and be used to make future early stage financing investments consistent with the goals of the program. The managing non-profit may recover the direct costs incurred associated with securing the return of such funds from the moneys returned.</p>			
	<p>G. A total of \$2,000,000 the first year and \$2,000,000 the second year from the general fund shall be allocated to the Entrepreneurial Ecosystems Division and Regional Innovation Fund to support and promote technology-based entrepreneurial activities in the Commonwealth as specified in § 2.2-2357, Code of Virginia. Out of these amounts, \$1,000,000 the first year and \$1,000,000 the second year shall be used to co-fund entrepreneurial ecosystem projects identified by the Virginia Initiative for Growth and Opportunity in Each Region (GO Virginia) Board.</p>			
	<p>H. A total of \$5,000,000 the second year from the general fund shall be allocated to the Commonwealth Commercialization Fund to foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation as specified in § 2.2-2359, Code of Virginia.</p>			
	<p>I. A total of \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be allocated to the Technology Industry Development Services to support strategic initiatives to advance the Authority's public purpose. These initiatives may include: (i) seeking, or supporting others in seeking, federal grants, contracts, or other funding sources; (ii) assuming responsibility for strategic initiatives and partnerships with federal and local governments; (iii) taking a lead role in defining, promoting, and implementing policies that advance innovation and entrepreneurial activity; and (iv) contracting with federal and private entities to further innovation, commercialization, and entrepreneurship in the Commonwealth.</p>			
	<p>J. Out of the appropriation in this item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be made available for the Virginia Center for Unmanned Systems. The Center shall serve as a catalyst for growth of unmanned and autonomous systems vehicles and technologies in Virginia. The Center will establish collaboration between businesses, investors, universities, entrepreneurs and government organizations to increase the Commonwealth's position as a leader of the Autonomous Systems community.</p>			
	<p>K.1. Out of the appropriation in this item, \$3,750,000 the first year and \$3,750,000 the second</p>			

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year from the general fund and \$5,000,000 the first year from nongeneral funds shall be provided for the Virginia Biosciences Health Research Corporation (VBHRC), a non-stock corporation research consortium initially comprised of the University of Virginia, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, George Mason University and the Eastern Virginia Medical School. The consortium will contract with private entities, foundations and other governmental sources to capture and perform research in the biosciences, as well as promote the development of bioscience infrastructure tools which can be used to facilitate additional research activities. The Department of Planning and Budget is authorized to provide these funds to the non-stock corporation research consortium referenced in this paragraph upon request filed with the Department of Planning and Budget by VBHRC.

2. Of the amounts provided in K.1. for the research consortium, up to \$3,750,000 the first year and \$3,750,000 the second year may be used to develop or maintain investments in research infrastructure tools to facilitate bioscience research.

3. The remaining funding shall be used to capture and perform research in the biosciences and must be matched at least dollar-for-dollar by funding provided by such private entities, foundations and other governmental sources. No research will be funded by the consortium unless at least two of the participating institutions, including the five founding institutions and any other institutions choosing to join, are actively and significantly involved in collaborating on the research. No research will be funded by the consortium unless the research topic has been vetted by a scientific advisory board and holds potential for high impact near-term success in generating other sponsored research, creating spin-off companies or otherwise creating new jobs. The consortium will set guidelines to disburse research funds based on advisory board findings. The consortium will have near-term sustainability as a goal, along with corporate-sponsored research gains, new Virginia company start-ups, and job creation milestones.

4. Other publicly-supported institutions of higher education in the Commonwealth may choose to join the consortium as participating institutions. Participation in the consortium by the five founding institutions and by other participating institutions choosing to join will require a cash contribution from each institution in each year of participation of at least \$50,000.

5. Of these funds, up to \$500,000 the first year and \$500,000 the second year may be used to pay the administrative, promotional and legal costs of establishing and administering the consortium, including the creation of intellectual property protocols, and the publication of research results.

6. VHBRC, in consultation with the publicly-supported institutions of higher education in the Commonwealth participating in the consortium, shall provide to the Secretary of Commerce and Trade, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Director of the Department of Planning and Budget, and VIPA by October 1 of each year a written report summarizing the activities of the consortium, including, but not limited to, a summary of how any funds disbursed to the consortium during the previous fiscal year were spent, and the consortium's progress during the fiscal year in expanding upon existing research opportunities and stimulating new research opportunities in the Commonwealth.

7. The accounts and records of the consortium shall be made available for review and audit by the Auditor of Public Accounts upon request.

8. Up to \$2,500,000 of the funds managed by the Commonwealth Health Research Board (CHRB), created pursuant to § 32.1-162.23, Code of Virginia, shall be directed toward collaborative research projects, approved by the boards of the VBHRC and CHRB, to support Virginia's core bioscience strengths, improve human health, and demonstrate commercial viability and a high likelihood of creating new companies and jobs in Virginia.

9.a. The VBHRC shall administer a one-time grant program designed to support the acceleration of clinical testing of a therapeutic drug that treats clinical symptoms caused by COVID-19. VBHRC shall consult with subject matter experts in the healthcare industry or academia to develop criteria for awarding funds provided in paragraph P.3. of

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	<p>this item. At a minimum, these criteria must include: (i) the company was founded in and is headquartered in Virginia; and (ii) the company is actively conducting a Phase 1 or Phase 2 clinical trial of a therapeutic drug approved by the United States Food and Drug Administration ("FDA") to treat life-threatening symptoms caused by COVID-19. In awarding these funds, the board of directors of the VBHRC may waive the requirements that (i) two of the participating institutions are actively and significantly involved in collaborating on the research, and (ii) funding be matched at least dollar-for-dollar by funding provided by private entities, foundations and other governmental sources.</p>			
	<p>b. In awarding these funds, VBHRC may, in consultation with the President and CEO of the Virginia Innovation Partnership Authority's managing nonprofit, the Center for Innovative Technology, and individuals with investment expertise in the area of pharmaceutical drug development: (i) require the grantee to offer to conduct subsequent clinical trials of its drug in hospitals located in Virginia, provided the hospitals have the capacity to participate in the trial in a timely manner that is consistent with and does not delay the company's clinical trial schedule; (ii) require the grantee to give a preference to qualified Virginia pharmaceutical manufacturers for production of the grantee's COVID-19 therapeutic drug, provided the manufacturers have the capacity to produce the drug in a timely manner that is consistent with and does not delay the company's production schedule; and, (iii) seek a reasonable amount of equity interest in the grantee company in return for the grant.</p>			
	<p>L.1. Out of the appropriation in this item, \$1,925,000 the first year and \$925,000 the second year from the general fund shall be made available to the Commonwealth Center for Advanced Manufacturing (CCAM) for rent, operating support, and maintenance. These funds shall not revert back to the general fund at the end of the fiscal year.</p>			
	<p>2. Out of the appropriation in this item, VIPA shall provide \$1,100,000 the first year and \$1,100,000 the second year from the general fund to CCAM for the purpose of providing private sector incentive grants to industry members of the CCAM as follows: (i) incentive grants for new industry members with no prior membership at CCAM; (ii) incentive grants to small manufacturing members who locate their primary job center in the Commonwealth, as determined by VEDP, in order to mitigate inaugural, industry membership costs associated with joining CCAM; (iii) grants dedicated to CCAM industry members to be used exclusively for research project costs and require a minimum one-to-one match in funds to conduct additional directed research at the CCAM facility after their base amount of directed research is programmed; and (iv) grants to CCAM for seedling research project costs that enable CCAM to market new research programs to prospective and existing industry members. These funds shall not revert back to the general fund at the end of the fiscal year. and (iv) grants dedicated to matching funds for the purpose of attracting federal funds for research projects related to the COVID-19 pandemic to be conducted at the CCAM facility on a one to one basis.</p>			
	<p>3. Out of the appropriation in this item, VIPA shall provide \$600,000 the first year and \$600,000 the second year from the general fund to CCAM for university research grants requiring a minimum one-to-one match in funds that bring in external research funds from federal or private organizations for research to be conducted at the CCAM facility. All project approvals are contingent upon each university partner entering into a memorandum of understanding (MOU) with CCAM that includes specific details about the university's anticipated commitment of financial and human resources, as well as programming and academic credentialing plans, to the CCAM facility. <i>These funds shall not revert back to the general fund at the end of the fiscal year.</i></p>			
	<p>4. No grant funds shall be disbursed until the conditions of paragraph L:2 of this Item have been met and approval from VIPA has been granted:</p>			
	<p><i>4. Out of the appropriation in this item, VIPA shall provide \$400,000 the first year and \$1,000,000 the second year from the general fund to CCAM for the purposes of: (i) attracting federal funds for research projects to be conducted at CCAM, including marketing, travel, grant proposal writing, and business development costs; (ii) matching funds for federal research programs; and (iii) federal research program costs not reimbursable on federal research awards. These funds shall not revert back to the general fund at the end of the fiscal year.</i></p>			
	<p>5. CCAM shall submit a report on October 1 of each year to the Secretary of Finance, Chairs</p>			

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of the House Appropriations and Senate Finance and Appropriations Committees, and VIPA containing a status update of all new incentive programs, including but not limited to the following: (i) MOUs it has entered into with each university partner; (ii) funds disbursed to both university and private sector partners of CCAM, as well as any other recipients; (iii) any other agreements CCAM has entered into with representatives of the public and private sectors that may impact current and future incentive fund disbursements; (iv) all efforts and costs associated with obtaining federal research grants; and (v) any additional information requested by the Secretary of Finance, or the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.

M.1. Out of the appropriation in this item, \$5,000,000 the first year and \$10,000,000 the second year from the general fund is provided to scale the Commonwealth Cyber Initiative (CCI) and provide resources for faculty recruiting at both the Hub, Virginia Polytechnic Institute and State University, and Node sites. ~~The Hub and certified Node sites will have the ability to seek matching funds for faculty recruitment and support for renovations and equipment. Certified institutions shall submit their funding request application to VIPA for review and evaluation from an investment from the Commonwealth Commercialization Fund. After completing its review, VIPA shall approve or deny the request for an allocation of funds.~~ The amounts provided in this paragraph are non-reverting and shall constitute the base budget for subsequent fiscal years.

2. Out of the appropriation in this item, \$2,500,000 the first year and \$7,500,000 the second year from the general fund is provided for the leasing of space and establishment of the Hub by the anchoring institution and for the establishment of research faculty, entrepreneurship programs, student internships and educational programming, and operations of the Hub. The amounts provided in this paragraph are non-reverting and shall constitute the base budget for subsequent fiscal years.

3. Nothing shall prevent the Hub and certified Node sites from seeking matching funds for faculty recruitment and support for renovations and equipment from previous bond authorizations for higher education equipment or grant programs managed by the Authority, including but not limited to the Commonwealth Commercialization Fund. Certified institutions shall submit their funding request application to the Authority for review and authorization under the application procedures relevant for the program or bond authorization. After completing its review, VIPA shall approve or deny the request for an allocation of funds.

43. CCI shall submit a report by October 1st of each year to the the Secretary of Commerce and Trade, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Director of the Department of Planning and Budget, and VIPA detailing the use and leverage of the investment in this item in strengthening the state's cyber economy. The state report shall contain information on: (i) external research grants attracted to support the work of CCI, (ii) research grants awarded from the funds contained in this item, (iii) research faculty recruited, (iv) results of entrepreneurship and workforce programming, (v) collaborative partnerships and projects, (vi) correlated economic outcomes (jobs and new business formation), and (vii) the geographic distribution of awards from the funding contained in this item.

N.1. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is designated for the Commonwealth Center for Advanced Logistics (CCALS) to provide seed money for collaborative public sector projects with partners, such as the Port of Virginia, Department of Corrections, and the Virginia Department of Transportation.

2. CCALS shall submit a report by October 1st of each year to the Secretary of Commerce and Trade, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Director of the Department of Planning and Budget, and VIPA to include (i) all planned and actual revenue and expenditures along with funding sources, including state, federal, and other revenue sources for CCALS, (ii) the research activities of CCALS, and (iii) relevant economic outcomes as a result of the CCALS' work in each fiscal year.

O. Out of this appropriation, \$125,000 the first year and \$125,000 the second year is designated for the Virginia Academy of Engineering, Science and Medicine to provide technical assistance to VIPA.

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<p>P.1. Out of the amounts transferred to the Authority as a result of actions pursuant to Item 126.10, paragraph S.5 of the Chapter 854, 2019 Acts of Assembly, \$10,000,000 the first year shall be allocated to the Commonwealth Commercialization Fund to foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation as specified in § 2.2-2359, Code of Virginia.</p>				
<p>2. Out of the amounts transferred to the Authority as a result of actions pursuant to Item 126.10, paragraph S.5 of the Chapter 854, 2019 Acts of Assembly, \$5,000,000 the first year shall be allocated to scale the Commonwealth Cyber Initiative (CCI) for activities at the Hub, Virginia Polytechnic Institute and State University, and Node sites and \$5,000,000 the first year shall be allocated for the leasing of space and establishment of the Hub by the anchoring institution.</p>				
<p>3. Out of the amounts transferred to the Authority as a result of actions pursuant to Item 126.10, paragraph S.5 of the Chapter 854, 2019 Acts of Assembly, \$5,000,000 the first year shall be allocated to the Virginia Biosciences Health Research Corporation to administer the program outlined in paragraph K.9. of this item. The funds provided in this paragraph shall be transferred to the Virginia Biosciences Health Research Corporation within 30 days of the passage of this act.</p>				
<p>4. Excluding the amounts in paragraph P.1., P.2., and P.3. of this item, any additional funds transferred to the Authority as a result of actions pursuant to Item 126.10, paragraph S.5 of the Chapter 854, 2019 Acts of Assembly may be used: (1) to enable the establishment of a fund of funds that will permit the Commonwealth to invest in one or more syndicated private investment funds; (2) to enhance direct investment programs by placing additional investments in partnership with Virginia accelerators and university technology commercialization programs; and (3) to enable the establishment of a sustainable program to enhance discovery of, and early investment in, technologies aligned with the Virginia Innovation Index. Decisions to invest in private funds shall be subject to approval by the Board of Directors. Investments in such funds shall be monitored by the Board of Directors.</p>				
<p>Q. Until such time the VIPA Board of Directors is fully appointed, the President and CEO of the Authority's managing nonprofit, the Center for Innovative Technology shall have the authority to provide the funds provided for centers of excellence in this item. Centers of Excellence include Virginia Center for Unmanned Systems, Virginia Biosciences Health Research Corporation, Commonwealth Center for Advanced Manufacturing, and Commonwealth Cyber Initiative.</p>				
<p><i>R. Out of the appropriation in this item, \$750,000 the second year from the general fund is provided for the annual lease or rental costs for the Authority's Richmond headquarters and a secondary location in Northern Virginia.</i></p>				
<p><i>S.1. Out of the appropriation in this item, \$100,000 the second year from the general fund is provided for the Virginia Nuclear Energy Consortium Authority (VNECA) for the purpose of developing a proposal to create a nuclear research and innovation hub in Virginia. In creating this proposal, VNECA shall convene a workgroup that includes, but is not limited to, the Department of Minerals, Mines and Energy, the Virginia Economic Development Partnership, the Virginia Innovation Partnership Authority, Virginia public colleges and universities, and relevant industry representatives.</i></p>				
<p><i>2. VNECA shall submit a report that includes planning activities and the final proposal to the Secretary of Commerce and Trade, Secretary of Education, Chairs of the House Appropriations Committee, the House Labor and Commerce Committee, the Senate Finance and Appropriations Committee, and the Senate Commerce and Labor Committee no later than November 1, 2021.</i></p>				
Total for Virginia Innovation Partnership Authority....			\$50,700,000	\$39,700,000
			\$51,100,000	\$41,550,000
Fund Sources: General.....	\$25,700,000	\$39,700,000		
	\$26,100,000	\$41,550,000		
Special.....	\$25,000,000	\$0		

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
TOTAL FOR OFFICE OF COMMERCE AND TRADE.....			\$1,156,384,100	\$1,067,313,302
			\$1,153,560,612	\$1,218,093,176
General Fund Positions.....	412.23	412.23		
	421.23	444.23		
Nongeneral Fund Positions.....	1,301.77	1,301.77		
		1,318.77		
Position Level.....	1,714.00	1,714.00		
	1,723.00	1,763.00		
Fund Sources: General.....	\$400,932,256	\$342,068,122		
	\$398,108,768	\$462,547,996		
Special.....	\$54,544,018	\$29,544,018		
Commonwealth Transportation.....	\$1,640,575	\$1,640,575		
Trust and Agency.....	\$549,733,725	\$546,529,069		
Dedicated Special Revenue.....	\$25,068,898	\$25,066,890		
Federal Trust.....	\$124,464,628	\$122,464,628		
		\$152,764,628		

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OFFICE OF EDUCATION

§ 1-51. SECRETARY OF EDUCATION (185)

136.	Administrative and Support Services (79900).....			\$725,468	\$725,468
	General Management and Direction (79901).....	\$725,468	\$725,468		
	Fund Sources: General.....	\$725,468	\$725,468		

Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.

A. The Secretary of Education is hereby authorized to make allocations of the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 (PL 107-16)(Section 142(k)(5) of the Internal Revenue Code of 1986, as amended) for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount. In making such allocations, the Secretary is directed to give priority to public-private partnership proposals that will serve as demonstration projects concerning the leveraging of private sector contributions and resources, the achievement of economies or efficiencies associated with private sector innovation, and other benefits that are or may be derived from public-private partnerships in contrast to more traditional approaches to public school construction and renovation. The Secretary is directed to report annually not later than August 31 to the Chairmen of the Senate Finance and House Appropriations Committees regarding any guidelines implemented and any allocations made pursuant to this paragraph.

B. For the funds identified for reallocation in each of the higher education institutions' educational and general programs, each respective institution shall report the amounts and the specific purposes for which they were used in its six-year academic plans finalized in the fall of 2020 and the fall of 2021.

Total for Secretary of Education.....				\$725,468	\$725,468
General Fund Positions.....	5.00	5.00			
Position Level.....	5.00	5.00			
Fund Sources: General.....	\$725,468	\$725,468			

§ 1-52. DEPARTMENT OF EDUCATION, CENTRAL OFFICE OPERATIONS (201)

137.	Instructional Services (18100).....			\$32,785,396	\$210,401,623
				\$32,179,146	\$262,761,801
	Public Education Instructional Services (18101).....	\$13,211,912	\$13,211,912		
		\$12,605,662	\$12,813,662		
	Program Administration and Assistance for Instructional Services (18102).....	\$17,985,714	\$195,601,941		
			\$248,360,369		
	Adult Education and Literacy (18104).....	\$1,587,770	\$1,587,770		
	Fund Sources: General.....	\$11,081,240	\$10,681,240		
		\$10,474,990	\$10,582,990		
	Special.....	\$300,000	\$300,000		
	Commonwealth Transportation.....	\$279,612	\$279,612		
	Trust and Agency.....	\$5,000	\$5,000		
	Federal Trust.....	\$21,119,544	\$199,135,771		
			\$251,594,199		

Authority: Public Education Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L.108-447, P.L. 102-305, Federal Code.

Program Administration and Assistance for Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, P.L. 102-305, Federal Code.

Compliance and Monitoring of Instructional Services: Title 22.1, Chapter 13, Code of

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Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, Federal Code.				
Adult Education and Literacy: §§ 2.2-2472, 22.1-223-226, 22.1-253.13:1, 22.1-254.2, Code of Virginia; P.L. 105-220, Federal Code.				
A. The Superintendent of Public Instruction is encouraged to implement school/community team training.				
B. The Superintendent of Public Instruction shall provide direction and technical assistance to local school divisions in the revision of their Vocational Education curriculum and instructional practices.				
C. The Superintendent of Public Instruction, in cooperation with the Commissioner of Social Services, shall encourage local departments of social services and local school divisions to work together to develop cooperative arrangements for the use of school resources, especially computer labs, for the purpose of training Temporary Assistance for Needy Families (TANF) recipients for the workforce.				
D. Notwithstanding § 4-1.04 a 3 of this act, the Superintendent of Public Instruction may apply for grant funding to be used by local school divisions consistent with the provisions of Chapter 447, 1999 Acts of Assembly. The nongeneral fund appropriation for this agency shall be adjusted by the amount of the proceeds of any such grant awards.				
E. 1. Out of the appropriations in this item, \$1,300,000 the first year and \$1,300,000 the second year from the general fund is provided to support students and teachers pursuing information technology industry certifications. The funding shall be used to provide outreach, training, instructional resources, industry recognized certification opportunities for teachers and students enrolled in Virginia public high schools and regional career and technical education programs, and information technology curriculum resources for use by students' parents.				
2. The funds provided in this initiative shall be used to support the following priority objectives: a) increase the percentage of students enrolled in career and technical education courses who receive instruction in information technology leading to an increased number of students achieving industry recognized certifications in information technology; b) increase the number of high schools and regional career and technical education programs that receive the training and technical support to be ready to implement information technology curricula leading to increased statewide implementation and use; c) increase the number of teachers teaching targeted career and technical education courses and other high school teachers who receive training in information technology and in industry recognized certifications leading to an increased number of teachers achieving industry recognized certifications in information technology; and, d) support implementation of information technology curricula in school divisions in Southside and Southwest Virginia so that implementation in those regions is at least comparable to implementation in other regions of Virginia.				
F. Out of the appropriation in this Item, \$413,000 the first year and \$413,000 the second year from the general fund is provided for the Department of Education to continue a professional development program intended to increase the capacity of principals as school leaders in under-performing schools.				
G. Out of the appropriation in this Item, \$366,000 the first year and \$366,000 the second year from the general fund is provided to the Department of Education to assist local school divisions, as needed, to establish criteria for the professional development of teachers and principals on the subject of issues related to high-needs students.				
H. <i>Out of this appropriation, \$1,450,000 the first year and \$1,750,000 the second year from the general fund is provided for the Virginia Kindergarten Readiness Program.</i>				
a. Out of this appropriation <i>Of this amount, \$1,350,000 the first year and \$1,350,000 the second year from the general fund is provided through the Department of Education to the University of Virginia to continue statewide implementation of the Virginia Kindergarten Readiness Program conducted in the fall, and to develop and implement a post-assessment upon the conclusion of the kindergarten year.</i>				

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b. The Department of Education shall coordinate with the University of Virginia's Center for Advanced Study of Teaching and Learning to ensure that all school divisions shall be required to have their kindergarten students assessed annually during the school year using the multi-dimensional kindergarten readiness assessment model. All school divisions shall be required to have their kindergarten students assessed with such model.				
<i>c. Of this amount, \$300,000 the second year shall be allocated to the University of Virginia to support implementation of a pre-kindergarten version of the Virginia Kindergarten Readiness Program for four-year-old children enrolled in publicly-funded pre-kindergarten programs.</i>				
<i>ed. Further, out of this appropriation Of this amount, \$100,000 the first year and \$100,000 the second year from the general fund shall be allocated to University of Virginia's Center for Advanced Study of Teaching and Learning to provide training to school divisions annually on how to effectively use Virginia Kindergarten Readiness Program data to improve instructional practices and student learning. Such teacher focused professional development and training shall be prioritized for the school divisions that would most benefit from state assistance in order to provide more time for classroom instruction and student learning.</i>				
<i>de. The Department and the University of Virginia's Center for Advanced Study of Teaching and Learning shall use the results of the multi-dimensional Virginia Kindergarten Readiness Program assessments to determine how well the Virginia Preschool Initiative promotes readiness in all key developmental domains assessed. The Department shall submit such findings using data from the prior year's fall assessment to the Chairmen of House Appropriations and Senate Finance Committees no later than October 1 each year.</i>				
<i>I. Out of this appropriation, \$1,000,000 \$700,000 the first year and \$1,000,000 \$700,000 the second year from the general fund is provided through the Department of Education to the University of Virginia's Center for Advanced Study of Teaching and Learning to ensure that teachers in all select Virginia Preschool Initiative classrooms programs and public school-based preschool teachers <i>publicly-funded early childhood programs</i> receive appropriate individualized professional development training from professional development specialists to support quality teacher-child interactions and effective research-based curriculum implementation. Funding and professional development assistance shall be prioritized for teachers with Classroom Assessment Scoring System (CLASS) observation scores that did not meet the statewide minimum acceptable threshold standard established by the University of Virginia's Center for Advanced Study of Teaching and Learning and the Department of Education. The University of Virginia's Center for Advanced Study of Teaching and Learning, assisted on an as needed basis, by the Department of Education, Virginia Early Childhood Foundation, and Elevate Early Education to hire and train specialists to provide such individualized professional development. The University of Virginia's Center for Advanced Study of Teaching and Learning and the Training and Technical Assistance Centers funded by the Individuals with Disabilities Act (IDEA) through the Department of Education shall coordinate to ensure alignment of professional development and supports for teachers of children with special needs. <i>In the event the University of Virginia does not require all funds from this appropriation to provide professional development, unused funds may be reallocated to cover the cost of conducting CLASS observations in publicly-funded classrooms.</i></i>				
<i>J. Out of this appropriation, \$700,000 \$350,000 the first year and \$700,000 \$350,000 the second year from the general fund is provided through the Department of Education to the University of Virginia to ensure that all select Virginia Preschool Initiative and public school-based preschool classroom <i>publicly-funded early childhood</i> programs have the quality of their teacher-child interactions assessed through a rigorous and research-based classroom observational instrument at least once every two years using the CLASS observational instrument for such assessment. The University of Virginia, with input from the Department of Education and the use of its detailed plan for such assessments, has established a statewide minimum acceptable threshold for the quality of teacher-child interactions for Virginia Preschool Initiative classroom programs, and classrooms that are assessed below the threshold receive additional technical assistance from the Department of Education and the University of Virginia. The threshold shall be reviewed and re-affirmed no later than the beginning of the 2021-2022 school year. The University of Virginia's Center for Advanced Study of Teaching and Learning shall submit a progress report on such classroom observations to the Chairmen of House Appropriations and Senate Finance Committees no later than June 30 each year. <i>In</i></i>				

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the event that the University of Virginia does not require all funds from this appropriation to conduct classroom observations, unused funds may be reallocated to cover the cost of providing professional development to classrooms.

K. The Superintendent of Public Instruction shall convene a work group to develop and establish a plan to transfer the Child Care Development Fund grant from the Virginia Department of Social Services to the Virginia Department of Education no later than July 1, 2021. The work group shall include representatives of (i) the Secretariats of Education and Health and Human Resources; (ii) relevant state agencies, including the Department of Planning and Budget, the Office of the Attorney General, the Department of Education, and the Department of Social Services; (iii) relevant regulatory boards, including the Board of Education; and (iv) the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The goal of this transfer is to house responsibility of child care and education programs under one agency. The plan shall be submitted to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than August 15, 2020. Such plan shall confirm the funding amounts and positions that need to be transferred between the impacted agencies, and shall identify any savings or additional costs associated with the transfer of these programs. The review shall also assess any potential administrative impacts on the Department of Social Services and the Department of Education.

L. 1. Out of this appropriation, \$3,055,524 the second year from nongeneral funds shall be transferred to the Department of Social Services to address costs associated with administration of the Child Care and Development Fund.

2. The Department of Social Services and the Department of Education shall ensure that the Temporary Assistance for Needy Families (TANF) Virginia Initiative for Employment and Work (VIEW) mandated child care forecast is funded through a combination of general fund, TANF, and Child Care Development Fund (CCDF) grant dollars. The amount of needed CCDF dollars identified in the Memorandum of Agreement between the agencies shall be transferred from the Department of Education to the Department of Social Services within the first thirty days of the fiscal year. The Department of Social Services shall notify the Department of Education of the required amount of the next fiscal year transfer upon the enrollment of the budget. This amount shall reflect the need identified in the official forecast as well as changes resulting from actions in the final budget.

M. The Department of Education, in collaboration with the Department of Social Services, shall prepare an annual Child Care and Development Fund (CCDF) report that reflects all CCDF expenditures from the previous fiscal year, current grant balances, as well as all anticipated spending for the current and two subsequent fiscal years. Identified spending should, at a minimum, be broken down by subsidies (mandated and discretionary), administrative costs, and quality efforts. In addition, this plan should report, by locality, the number of subsidies (mandated and discretionary) provided, number of providers receiving CCDF dollars, the overall number of child care providers, and the waitlist for services. This information should be provided the previous fiscal year, current fiscal year, and two subsequent fiscal years. The plan shall also include an appendix with the most recently completed CCDF annual report as required by the federal Office of Child Care. The department shall submit the report by October 1 of each year to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees. In addition, the department shall post this report on its website along with any reports from previous fiscal years.

N. The University of Virginia shall provide financial information for the last five fiscal years related to the Phonological Awareness Literacy Screening (PALS) program to the Department of Education. Such information shall include revenues and expenditures by category, and shall differentiate revenues and expenditures related to the PALS program for the benefit of (i) Virginia public school students and (ii) all other students. The Department shall submit such information to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1, 2020.

O. Notwithstanding any other provision of law, the Department of Education shall have temporary authority to make any changes to the Child Care and Development Fund (CCDF) State Plan, request waivers from the federal Office of Child Care, change

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<p><i>eligibility criteria for benefits and services, and payment levels for the Child Care Subsidy Program in response to the COVID-19 pandemic and new authorities and funding made available by the federal government to effect those policies necessary to ensure that benefits are available to eligible populations in response to COVID-19. Prior to the implementation of any change, the Department of Education must receive written approval from the Governor. Within 15 days of implementing changes in response to COVID-19, the Department of Education shall send a list of such actions to the Director of the Department of Planning and Budget and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees. The provisions of this paragraph, as well as any actions implemented under its authority, shall be in accordance with the Governor's emergency declaration for COVID-19 and be in effect for the period specified therein following the July 1, 2021, transfer of the CCDF grant from the Virginia Department of Social Services to the Virginia Department of Education.</i></p> <p><i>P. The Department of Education shall conduct a review of Family Life Education in the Commonwealth. Each school division shall report to the Department on whether the division offers Family Life Education; how medical accuracy of the curriculum is determined; whether the curriculum includes instruction on a range of contraceptive options; whether instruction is provided on sexual orientation and gender identity; whether the curriculum is provided by school division staff or external organizations; and how often Family Life Education is provided. The Department shall also use the Youth Risk Behavior Survey to examine and report on any correlation that may exist between student behavior and the type of Family Life Education offered in the division. The Department shall submit a report by November 1, 2021, to the Governor and Chairmen of the House Appropriations and Senate Finance and Appropriations Committees. The report shall also include best practices for teacher training and parent and community involvement.</i></p> <p><i>Q. The Department of Education shall report on its progress in implementing the recommendations identified in the "Feasibility Study of Developing an Early Childhood Mental Health Consultation Program", as directed by House Joint Resolution 51 (2020), and identify any legislative, regulatory, budgetary, and other actions necessary to implement recommendations in such study. Such progress report shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than October 1, 2021.</i></p> <p><i>R. Out of this appropriation, \$52,458,428 the second year from the federal Child Care and Development Fund is provided to temporarily expand the Child Care Subsidy Program, pursuant to the passage of House Bill 2206 of 2021 Special Session I.</i></p> <p><i>S. Out of this appropriation, \$208,000 the second year from the general fund is provided to integrate Virginia's Career and Technical Education curriculum database and information system into the state's learning management system.</i></p> <p><i>T. The Superintendent of Public Instruction shall convene a workgroup to make recommendations on the desired qualifications and training for school personnel providing health services in schools. The workgroup shall include at least: (i) three local school division representatives, including one superintendent; (ii) two members of a local school board; (iii) school personnel providing health services, including contracted personnel from a local health department, personnel with varying levels of nursing credentials, and personnel without nursing credentials; and (iv) two members of the Board of Education. The recommendations shall be submitted to the General Assembly no later than October 1, 2021. Such recommendations shall detail any necessary legislative or budgetary changes to implement the recommendations.</i></p>				
138.	Special Education and Student Services (18200).....		\$17,362,182 \$19,230,744	\$17,352,182 \$17,427,182
	Special Education Instructional Services (18201).....	\$10,194,690		\$10,194,690 \$10,269,690
	Special Education Administration and Assistance Services (18202).....	\$1,046,351		\$1,046,351
	Special Education Compliance and Monitoring Services (18203).....	\$3,616,701 \$5,485,263		\$3,616,701
	Student Assistance and Guidance Services (18204).....	\$2,504,440		\$2,494,440

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Fund Sources: General.....	\$2,439,977	\$2,429,977		
	\$4,308,539	\$2,504,977		
Special.....	\$120,000	\$120,000		
Federal Trust.....	\$14,802,205	\$14,802,205		

Authority: Special Education Instructional Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Administration and Assistance Services: §§ 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Compliance and Monitoring Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Student Assistance and Guidance Services: Title 22.1, Chapters 1, 13, 14, 16; §§ 22.1-16.2, 22.1-17.1, 22.1-17.2, 22.1-199.4, 22.1-206, 22.1-207.1, 22.1-208.01, 22.1-209.2, Code of Virginia; P.L. 107-110 and P.L. 108-446, Federal Code.

A. The Department of Education, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the special education services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local school divisions. In addition, the Department of Education shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B. The Board of Education shall consider the caseload standards for speech-language pathologists as part of its review of the Standards of Quality, pursuant to § 22.1-18.01, Code of Virginia.

C. The Board of Education shall consider the inclusion of instructional positions needed for blind and visually impaired students enrolled in public schools and shall consider developing a caseload requirement for these instructional positions as part of its review of the Standards of Quality, pursuant to § 22.1-18.01, Code of Virginia.

D. Out of this appropriation, \$447,416 the first year and \$447,416 the second year from the general fund is provided to the Department of Education to provide training, technical assistance, and on-site coaching to public school teachers and administrators on implementation of a positive behavioral interventions and supports program with the goal of improving school climate and reducing disruptive behavior in the classroom. Such training and other assistance may be provided as part of the Department's ongoing efforts to assist schools with implementation of a tiered system of supports that addresses both academic and behavioral needs.

E. Out of this appropriation, \$290,000 the first year and \$290,000 the second year from the general fund and \$290,000 the first year and \$290,000 the second year from federal funds shall be used for Multisensory Structured Literacy teacher training.

F. Out of this appropriation, \$492,755 the first year and \$492,755 the second year from the general fund is provided to support statewide training and assistance for local school divisions to implement the Board of Education's Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia.

G.1. The Department of Education shall serve as the lead agency to collect and report data that succinctly measures the progress and outcomes of students that are placed in private provider settings by such student's public school of residence in Virginia or have been placed in a private provider facility by other legal means for which the Commonwealth is responsible for providing education. In keeping with the November 1, 2018, Private Day Special Education Outcomes report's findings and recommendations, the data shall include at least student attendance rates, graduation rates, individual student progress improvement rates relative to student individual education plans, standardized test scores,

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return to public school setting percentages, suspension and expulsion rates, transition to enrolling in post-secondary education percentages, and parental and student perspectives.				
2. The Department of Education, in collaboration with the Office of Children's Services, shall establish an implementation advisory group to assist in refining the outcome measures contained in paragraph G.1 of this item and the collection of any additional information that is beneficial in determining and measuring outcomes of such students in private day school settings that ensure a consistent set of comparable and compatible data relative to such data of students enrolled in the public schools in Virginia and who have an individualized education plan. The advisory workgroup shall include a representative number of various stakeholders that includes, but is not limited to, private day schools, local school divisions, associations that represent private providers, and others as necessary. The advisory group shall assist in the development of data collection protocols, requirements, and outcome reporting mechanisms. The relevant data shall be provided to the department annually by each private provider that receives state funding for the purpose of providing services as prescribed in such student's individualized education plan.				
3. The department shall begin collecting outcome data for private day special education schools no later than the 2020-2021 school year. If warranted, other state agencies shall provide appropriate support to facilitate the collection of such data. All public school divisions that have students enrolled in such a private provider facility shall include in their contract for services with the private provider a requirement for the department to receive the data necessary to satisfy the data collections and subsequent reporting requirements. The department shall report annually on the outcome data for students enrolled in special education private day schools to Chairmen of the House Appropriations, House Education, Senate Finance, and Senate Education and Health Committees by the first day of the regular General Assembly Session.				
4. The Department of Education shall enter into a data sharing Memorandum of Understanding with the Office of Children's Services to allow linkage of specific student data to specific private day schools.				
5. The Department of Education and the Office of Children's Services shall have authority to implement these changes prior to the completion of any regulatory process undertaken in order to effect such changes.				
6. <i>The Department of Education shall collect and publish data annually from each private special education day school on: (i) the number of teachers who are not fully endorsed in the content that they are teaching; (ii) the number of teachers who have less than one year of classroom experience; (iii) the number of teachers who are provisionally licensed; (iv) the type of academic credentials attained by each teacher and in what subjects; (v) the number of career and technical education credentials conferred by each school on its graduating students in each of the three prior academic years; (vi) each school's accreditation status, including the accrediting body; and (vii) the number of incidents of restraint and seclusion occurring in each of the previous three academic years.</i>				
<i>H. Out of this appropriation, \$1,868,562 the first year from the general fund is provided for the Department of Education to repay a Treasury Loan related to federal Substance Abuse and Mental Health Services Administration grant reimbursements.</i>				
<i>I. The Board of Education shall develop and promulgate regulations for private special education day schools on restraint and seclusion that establish the same requirements for restraint and seclusion as those for public schools.</i>				
<i>J. The Department of Education shall revise the state's special education complaint procedures and practices to ensure the Department requires and enforces corrective actions that (i) achieve full and appropriate remedies for school divisions' non-compliance with special education laws and regulations, including, at a minimum, requiring school divisions to provide compensatory services to students with disabilities when the Department determines divisions did not provide legally obligated services; and (ii) ensure that relevant personnel understand how to avoid similar non-compliance in the future.</i>				
139. Pupil Assessment Services (18400).....			\$39,750,487	\$39,750,487 \$48,500,487

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Test Development and Administration (18401).....	\$39,750,487	\$39,750,487 \$48,500,487		
Fund Sources: General.....	\$28,673,646	\$28,673,646		
Special.....	\$281,595	\$281,595		
Federal Trust.....	\$10,795,246	\$10,795,246 \$19,545,246		
<p>Authority: § 22.1-253.13:3, sections C and E, Code of Virginia; P.L. 107-110, Federal Code.</p> <p>A. Out of this appropriation, \$25,380,678 the first year and \$25,380,678 the second year from the general fund is provided to support the costs of contracts for test development, administration, scoring, and reporting as well as other program-related costs of the Standards of Learning testing program.</p> <p>B. Out of this appropriation, \$1,551,416 the first year and \$1,551,416 the second year from the general fund is provided for continued computer adaptive test transition and revision.</p> <p>C. Notwithstanding any contrary provisions of law, the Department of Education shall not be required to administer the Stanford 9 norm-referenced test.</p> <p>D.1. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is provided for assessment related materials for a verified credit in high school history and social science. In establishing graduation requirements, the State Board of Education shall require students to earn one verified credit in history and social science. Such verified credit shall be earned by (i) the successful completion of a state-developed end-of-course Standards of Learning assessment; (ii) achievement of a passing score on a Board-approved standardized test administered on a statewide, multistate, or international basis that measures content that incorporates or exceeds the Standards of Learning content in the course for which the verified credit is given; (iii) achievement of criteria for the receipt of a locally awarded verified credit from the local school board in accordance with criteria established in Board guidelines when the student has not passed a corresponding Standards of Learning assessment; or (iv) successful completion of assessments that include state-developed performance tasks scored locally in accordance with Board guidelines using state-developed rubrics.</p> <p>2. The Department of Education shall report on the progress of implementing option (iv), including examples of tasks and scoring rubrics; agency support to school divisions for implementation; and information about divisions planning or interested in offering the option to students. Such progress report shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.</p> <p>3. The Department of Education shall report on the progress of implementing option (iv), including the number of divisions offering the option; the number of students earning a verified credit with such option; and the number of students attempting but not successfully earning a verified credit with such option. Such progress report shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.</p> <p><i>E. Out of this appropriation, \$8,750,000 the second year is appropriated from nongeneral funds for the purpose of developing the through year growth assessment system in grades 3-8, pursuant to the provisions in House Bill 2027 and Senate Bill 1357 of the 2021 Special Session I.</i></p>				
140. School and Division Assistance (18500).....			\$7,007,518	\$7,007,518
School Improvement (18501).....	\$1,982,646	\$1,982,646		
School Nutrition (18502).....	\$4,567,439	\$4,567,439		
Pupil Transportation (18503).....	\$457,433	\$457,433		
Fund Sources: General.....	\$2,559,719	\$2,559,719		
Special.....	\$31,010	\$31,010		
Federal Trust.....	\$4,416,789	\$4,416,789		

ITEM 140.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

Authority: School Improvement: § 22.1-253.13:1 et seq., Code of Virginia; P. L. 107-110, Federal Code.

School Nutrition: §§ 22.1-24, 22.1-89.1, and 22.1-207.3, Code of Virginia; P.L. 79-396, P.L. 89-642, P.L. 95-627, as amended, P.L. 108-265, Federal Code.

Pupil Transportation: Title 22.1, Chapter 12, and Title 46.2, Code of Virginia; P. L. 103-272 and P.L. 109-20, Federal Code.

A. This appropriation includes \$1,100,183 the first year and \$1,100,183 the second year from the general fund for contractual services related to assisting schools that do not meet the Standards of Accreditation as prescribed by the Board of Education.

B. Notwithstanding the provisions of § 2.2-1502.1, Code of Virginia, the Board of Education, in cooperation with the Department of Planning and Budget, is authorized to invite a school division to participate in the school efficiency review program described in § 2.2-1502.1, Code of Virginia, as a component of a division level academic review pursuant to § 22.1-253.13:3, Code of Virginia.

C. The Department of Education shall develop a plan to implement an effective and appropriately-resourced school improvement program. The plan should specify the activities necessary for its Office of School Quality to provide effective support to school divisions in the school improvement program, and the number of state staff and funding required to effectively implement the planned activities. The plan should also define performance measures that will be used to evaluate the effectiveness of the services its Office of School Quality provides to school divisions and how it will evaluate performance compared to those measures and make changes as needed to ensure ongoing effectiveness. The Department shall submit the plan for the state's more effective and appropriately-resourced school improvement program to the Board of Education and the Chairs of the House Education and Appropriations Committees and Senate Education and Health and Finance and Appropriations Committees no later than November 1, 2021.

141.	Technology Assistance Services (18600).....			\$7,832,258	\$14,963,258 \$15,051,100
	Instructional Technology (18601).....	\$637,928	\$637,928		
	Distance Learning and Electronic Classroom (18602)				
		\$7,194,330	\$14,325,330 \$14,413,172		
	Fund Sources: General.....	\$6,997,304	\$14,128,304 \$5,997,304		
	Special.....	\$105,000	\$105,000		
	Trust and Agency.....	\$674,678	\$674,678 \$1,893,520		
	Federal Trust.....	\$55,276	\$55,276 \$7,055,276		

Authority: Instructional Technology: §§ 22.1-20.1, 22.1-70.2, 22.1-199.1, 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 107-110, Federal Code.

Distance Learning and Electronic Classroom: § 22.1-212.2, Code of Virginia.

A. This appropriation includes \$1,000,000 the first year and ~~\$1,000,000~~ the second year from the general fund for statewide digital content development, online learning, and related support services, as prescribed through contract with the Department of Education. All digital content produced and delivery of online learning shall meet criteria established by the Department of Education, meet or exceed applicable Standards of Learning, and be correlated to such state standards.

B. In developing the deliverables for each contract, the Department of Education shall consult with division superintendents or their designated representatives to assess school divisions' needs for digital content, online learning, teacher training, and support services that advance technology integration into the K-12 classroom, as well as for additional educational resources that may be made available to school divisions throughout the Commonwealth.

ITEM 141.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

C. Virtual Virginia Payments

1. From appropriations in this Item, the Department of Education shall provide assistance for the Virtual Virginia program.
2. This appropriation includes \$498,000 the first year and \$498,000 the second year from the general fund to support the Virtual Virginia full-time program for 200 students in grades nine through 12.
3. This appropriation includes \$330,000 the first year and \$330,000 the second year from the general fund to support the virtual mathematics outreach program.
4. The local share of costs associated with the operation of the Virtual Virginia program shall be computed using the composite index of local ability-to-pay.
5. The Department of Education shall develop a plan to establish a per-student, per-course fee schedule for local school divisions to participate in Virtual Virginia (VVA) coursework for elementary, middle, and high school students. Such fee schedule plan shall provide (i) an allotment of slots, determined by the Department, per course to a school division free of charge, and (ii) for any slots a school division wishes to use beyond the free slots, a per-course, per-student fee that may include discounts for school divisions based upon the composite index of local ability to pay. The department shall also include in its plan the current student participation enrollment by grade level in each VVA course, the number of students enrolled in VVA courses that a fee of any kind is charged and how such fee is currently paid for in each participating school division. The department shall submit its Virtual Virginia Plan to the Chairmen of House Appropriations and Senate Finance Committee upon completion of developing such plan.

D. Virginia Learner Equitable Access Platform (VA LEAP)

1. Out of this appropriation, \$7,131,000 the second year from the general fund is provided for the implementation of the VA LEAP statewide learning management system.
2. The Superintendent of Public Instruction shall convene a workgroup to develop a plan for the implementation of VA LEAP, including representatives of the Department of Education, school divisions with and without existing learning management systems, learning management system providers, eMediaVA, Virtual Virginia, and other appropriate stakeholders. The plan shall (i) address the integration of existing school division learning management systems into a statewide system; (ii) address the integration of VA LEAP with existing state investments, including eMediaVA, Virtual Virginia and #GoOpenVA; (iii) consider integrating these systems into a single sign-on system; (iv) include a cost-benefit analysis of various approaches to implementing a statewide learning management system; and (v) provide an update on the estimated costs to implement a learning management system based on anticipated local school division participation and technical requirements. Such plan shall be submitted to the Governor and the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee no later than December 1, 2020.

E. Virginia Initiative to Support Internet Outside of School Networks (VISION) program.

To support technology needs and internet access for virtual learning as a result of extended school closures and modified school schedules through the VISION program, \$26,900,000 in federal relief funds are provided from the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), including \$18,000,000 in Governor's Education Emergency Relief (GEER) funds previously announced for this purpose and \$8,900,000 in GEER funds previously announced to support longer-term internet access initiatives.

F. To support a school division's needs for an analytics solution to evaluate student progress and determine instructional gaps, the Department of Education may provide funds out of this appropriation as one-time grants to divisions to support the costs of such analytics solution.

G. Virtual Education Supports

ITEM 141.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>Out of this appropriation, \$7,000,000 the second year is appropriated from federal Governor's Education Emergency Relief (GEER) funds from the Coronavirus Response and Relief Supplemental Appropriations Act (P.L. 116-260) to continue the expansion of Virtual Virginia's Outreach Program initiated or expanded with federal funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).</i>				
142.	Teacher Licensure and Education (56600).....		\$3,055,444	\$2,775,944
			\$2,818,930	\$3,285,421
	Teacher Licensure and Certification (56601).....	\$2,680,944		\$2,401,444
		\$2,444,430		\$2,364,930
	Teacher Education and Assistance (56602).....	\$374,500		\$374,500
				\$920,491
	Fund Sources: General.....	\$1,002,247		\$722,747
		\$765,733		\$1,232,224
	Special.....	\$2,053,197		\$2,053,197

Authority: Teacher Licensure and Certification: §§ 22.1-16, 22.1-298.1, 22.1-299, 22.1-299.2, 22.1-302, 22.1-303, 22.1-305.2, 22.1-316 to 22.1-318, Code of Virginia; P.L. 107-110, Federal Code.

Teacher Education and Assistance: §§ 22.1-290; 22.1-290.01; 22.1-290.1, 22.1-298, 22.1-305.2, 22.1-305.1, Code of Virginia; P. L. 108-446 and P. L. 107-110, Federal Code.

A. Proceeds from the fee schedule for the issuance of teaching certificates shall be utilized to defray all, or any part of, the expenses incurred by the Department of Education in issuing or accounting for teaching certificates. The fee schedule shall take into account the actual costs of issuing certificates. Any portion of the general fund appropriation for this Item may be supplemented by such fees.

B. The Board of Education is authorized to approve changes in the licensure fee amounts charged to school personnel pursuant to 8VAC20-22-40 A.2.

C. In furtherance of the General Assembly's interest in understanding trends in Virginia's teaching work force, teacher turnover rates, and the market for teachers, as evidenced by such metrics as the number of applicants per position, the Department shall develop and provide a model exit questionnaire that Virginia school divisions may administer to their exiting teachers.

D. Out of this appropriation, \$93,084 the first year and \$93,084 the second year from the general fund is provided to support local school division access to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse to research educator misconduct.

E. Out of this appropriation, ~~\$348,500~~ \$248,500 the first year and ~~\$169,000~~ \$269,000 the second year from the general fund is provided to automate the teacher licensure application and intake process.

F. Out of this appropriation, \$100,000 the first year from the general fund is provided for the Department of Education to study the teacher licensure process and any required assessments in the licensure process for any inherent biases that may prevent minority teacher candidates from entering the profession, pursuant to Senate Joint Resolution 15.

G. *Out of this appropriation, \$150,000 the second year from the general fund is provided one-time for the development of a training module for teachers seeking to renew a teaching license on the instruction of students with disabilities pursuant to passage of House Bill 2299 and Senate Bill 1288 of 2021 Special Session I. The training shall include, at a minimum, strategies for differentiating instruction for students with disabilities, the role of the general education teacher in special education, the use of effective models of collaborative instruction, including co-teaching, and the goals and benefits of inclusive education for all students.*

H. *Out of this appropriation, \$395,991 the second year from the general fund is provided to strengthen the Department of Education's role in helping school divisions with the most substantial teacher recruitment and retention challenges and to implement a statewide strategic plan for recruiting and retaining special education teachers.*

ITEM 142.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
143. Administrative and Support Services (19900).....			\$23,874,703	\$22,074,703
			\$23,739,703	\$22,586,177
General Management and Direction (19901).....	\$5,362,774	\$5,362,774		
	\$5,227,774	\$5,388,948		
Information Technology Services (19902).....	\$12,292,460	\$10,892,460		
Accounting and Budgeting Services (19903).....	\$4,004,438	\$3,604,438		
Policy, Planning, and Evaluation Services (19929)..	\$2,215,031	\$2,215,031		
		\$2,700,331		
Fund Sources: General.....	\$21,496,248	\$19,696,248		
	\$21,361,248	\$20,207,722		
Special.....	\$2,378,455	\$2,378,455		

Authority: Article VIII, Sections 2, 4, 5, 6, 8, Constitution of Virginia; Title 2.2, Chapters 10, 12, 29, 30, 31, and 32; Title 22.1, 22.1-8 through 20, 22.1-21 through 24; Title 51.1, Chapters 4, 5, 6.1, and 11; Title 60.2, Chapters 60.2-100, 60.2-106; Title 65.2, Chapters 1, 6, and 9, Code of Virginia; P.L. 108-446, P.L. 107-110, Federal Code.

A. Out of this appropriation, \$9,000 the first year and \$9,000 the second year from the general fund is designated to support annual membership dues to the Southern Regional Education Board. In addition, \$5,000 the first year and \$5,000 the second year from the general fund is designated to pay registration and travel expenses of citizens appointed as Virginia commissioners for the Southern Regional Education Board.

B. Out of this appropriation \$79,000 the first year and \$79,000 the second year from the general fund is provided for the fees and travel expenses associated with the Interstate Compact on Educational Opportunity for Military Children, established pursuant to Chapter 187, of the 2009 Acts of Assembly.

C. The Department of Education is authorized to collect proceeds from the sale of educational resources it has developed, such as technology applications, on-line course content, assessments, and other educational content, to out-of-state individuals or entities and to in-state, for-profit entities. The Department of Education is further authorized to deposit such proceeds in a non-reverting special fund account established in its financial records for this purpose. Net proceeds from such sales shall be expended by the Department of Education to further develop existing educational resources or to create new educational resources for the benefit of the commonwealth's public schools and which may also be sold under the provisions of this paragraph. The Secretary of Administration shall authorize any licensing agreements executed by the Department of Education pursuant to this paragraph.

D. Out of this appropriation, \$34,625 the first year and \$34,625 the second year from the general fund shall be used to provide performance evaluation training to teachers, principals, division superintendents, and other affected school division personnel in support of the transition from continuing employment contracts to annual employment contracts for teachers and principals.

E. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the Board of Education, in consultation with the Standards of Learning Innovation Committee, to continue redesigning the School Performance Report Card so that it is more effective in communicating to parents and the public regarding information about the status and achievements of the schools and school divisions.

F. Out of this appropriation, \$300,000 the first year and \$300,000 the second year is provided from the general fund for the Department of Education to develop a growth scale for the existing Standards of Learning mathematics and reading assessments. This growth scale should facilitate data-driven school improvement efforts and support the state's accountability and accreditation systems.

G. Out of the amounts in this item, the Department of Education shall develop and administer biennially to individuals holding a license from the Department in each public elementary and secondary school in the Commonwealth a voluntary and anonymous school personnel survey to evaluate school-level teaching conditions and the impact such

ITEM 143.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

conditions have on teacher retention and student achievement. Such survey may include questions regarding school leadership, teacher leadership, teacher autonomy, demands on teachers' time, student conduct management, professional development, instructional practices and support, new teacher support, community engagement and support, and facilities and other resources. The Superintendent of Public Instruction shall report the results of any school personnel survey to the Chairmen of the House Committees on Appropriations and Education and to the Senate Committees on Finance and Education and Health annually before the first day of each General Assembly Regular Session.

H. The Department of Education shall develop and administer a one-time collection of data from school divisions to determine the prevailing practice of planning time for elementary school teachers. The Department shall compile and report the information to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than the beginning of the 2021 General Assembly session.

I. Notwithstanding the provisions set forth in this Act or in § 22.1, Code of Virginia, the Superintendent of Public Instruction may grant temporary flexibility or issue waivers of certain deadlines and requirements that cannot be met due to the state of emergency or school closures resulting from Novel Coronavirus (COVID-19). Such flexibility or waivers may include, but are not limited to, accreditation, testing and assessments, graduation, licensure, including temporary licensure, school calendars, and program applications and reports due to the Department of Education or Board of Education. Such authority only applies to deadlines and requirements for fiscal year 2020 (school year 2019-2020), ~~or~~ fiscal year 2021 (school year 2020-2021), *or fiscal year 2022 (school year 2021-2022)*. Prior to granting any flexibility or waivers pursuant to this language, the Superintendent of Public Instruction must report to the Secretary of Education and substantiate how the state of emergency or school closures resulting from COVID-19 impacted each deadline or requirement, the proposed alternative, and the affected fiscal and school years. Subsequently, information about waivers or flexibility extended shall be reported to the Board of Education and made available on the agency website.

J. Out of this appropriation, \$120,000 the second year from the general fund is provided for the Department of Education to develop and implement a pilot program to more comprehensively supervise school division compliance with a subset of key standards by requiring (i) the submission of more comprehensive compliance information, (ii) selective independent verification of compliance, (iii) monitoring of corrective action implementation, and (iv) analysis of compliance trends and issues. The Department shall conduct the pilot program during the 2021-2022 school year and submit a report on the results to the Board of Education and House Education and Appropriations Committees and Senate Education and Health and Finance and Appropriations Committees no later than November 30, 2022.

143.10 Omitted.

Total for Department of Education, Central Office Operations.....			\$131,667,988	\$314,325,715
			\$132,558,786	\$376,619,686
General Fund Positions.....	151.00	153.50		158.17
Nongeneral Fund Positions.....	185.50	335.50		335.83
Position Level.....	336.50	489.00		494.00
Fund Sources: General.....	\$74,250,381	\$78,891,881		
	\$75,141,179	\$71,758,582		
Special.....	\$5,269,257	\$5,269,257		
Commonwealth Transportation.....	\$279,612	\$279,612		
Trust and Agency.....	\$679,678	\$679,678		\$1,898,520
Federal Trust.....	\$51,189,060	\$229,205,287		\$297,413,715

Direct Aid to Public Education (197)

ITEM 144.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
144.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$45,771,554	\$44,194,141
				\$39,672,445	\$45,219,426
	Financial Assistance for Supplemental Education (14304).....	\$45,771,554	\$44,194,141		
		\$39,672,445	\$45,219,426		
	Fund Sources: General.....	\$45,771,554	\$44,194,141		
		\$39,672,445	\$45,219,426		

Authority: Discretionary Inclusion.

Appropriation Detail of Educational, Cultural, Community, and Artistic Affairs (14300)

Supplemental Education Assistance Programs (14304)	FY 2021	FY 2022
Achievable Dream	\$500,000	\$500,000
Active Learning Grants	\$250,000	\$0
	\$0	\$250,000
American Civil War Museum	\$1,000,000	\$0
Black History Museum and Cultural Center of Virginia	\$1,300,000	\$0
Blue Ridge PBS	\$500,000	\$500,000
	\$350,000	\$350,000
Bonder and Amanda Johnson Community Development Corporation	\$100,000	\$0
Brooks Crossing Innovation and Opportunity Center	\$250,000	\$250,000
Career and Technical Education Regional Centers	\$660,000	\$660,000
Career and Technical Education Resource Center	\$298,021	\$298,021
<i>Career and Technical Education Student Organizations</i>	\$0	\$718,957
Career Council at Northern Neck Career & Technical Center	\$60,300	\$60,300
Chesterfield Recovery High School	\$250,000	\$250,000
College Partnership Laboratory School	\$50,000	\$50,000
Communities in Schools (CIS)	\$2,004,400	\$2,004,400
	\$1,244,400	\$1,244,400
Computer Science Teacher Training	\$550,000	\$550,000
<i>Dual Enrollment Passport Pilots</i>	\$0	\$250,000
Early Childhood Educator Incentive	\$3,000,000	\$5,000,000
<i>eMediaVA</i>	\$0	\$1,000,000
Emil and Grace Shihadeh Innovation Center	\$250,000	\$0
Great Aspirations Scholarship Program (GRASP)	\$500,000	\$500,000
Jobs for Virginia Graduates (JVG)	\$2,243,776	\$2,243,776
Literacy Lab - VPI Minority Educator Fellowship	\$300,000	\$0
		\$300,000
National Board Certification Program	\$5,021,609	\$5,009,196
	\$5,072,500	\$4,975,524
Newport News Aviation Academy - STEM Program	\$100,000	\$0
Newport News - Soundscapes	\$90,000	\$0
Petersburg Executive Leadership	\$350,000	\$350,000

ITEM 144.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Recruitment Incentives				
Positive Behavioral Interventions & Support (PBIS)	\$1,598,000		\$1,598,000	
Power Scholars Academy - YMCA BELL	\$1,000,000 \$550,000		\$1,000,000	
Praxis and Virginia Communication and Literacy Assessment Assistance for Provisionally Licensed Minority Teachers	\$50,000		\$50,000	
Project Discovery	\$962,500		\$962,500	
School Program Innovation	\$500,000		\$500,000	
Small School Division Assistance	\$145,896		\$145,896	
Southside Virginia Regional Technology Consortium	\$108,905		\$108,905	
Southwest Virginia Public Education Consortium	\$124,011		\$124,011	
STEM Program / Research Study (VA Air & Space Center)	\$681,975		\$681,975	
STEM Competition Team Grants	\$200,000		\$200,000	
Targeted Extended/Enriched School Year and Year-round School Grants	\$7,763,312		\$7,763,312	
Teach for America	\$500,000		\$500,000	
Teacher Improvement Funding Initiative	\$15,000		\$15,000	
Teacher Recruitment & Retention Grant Programs	\$2,181,000		\$2,181,000	
Teacher Residency Program	\$1,750,000		\$1,750,000	
Van Gogh Outreach Program	\$71,849		\$71,849	
Virginia Early Childhood Foundation (VECF)	\$6,250,000 \$2,750,000		\$6,250,000	
Virginia Reading Corps	\$600,000		\$600,000	
Virginia Student Training and Refurbishment (VA STAR) Program	\$300,000		\$300,000	
Vision Screening Grants	\$391,000		\$391,000	
Vocational Lab Pilot	\$175,000		\$0	
Western Virginia Public Education Consortium	\$50,000		\$50,000	
Wolf Trap Model STEM Program	\$725,000		\$725,000	
Total	\$45,771,554 \$39,672,445		\$44,194,141 \$45,219,426	

A. Out of this appropriation, the Department of Education shall provide \$2,243,776 the first year and \$2,243,776 the second year from the general fund for the Jobs for Virginia Graduates initiative.

B. Out of this appropriation, the Department of Education shall provide \$124,011 the first year and \$124,011 the second year from the general fund for the Southwest Virginia Public Education Consortium at the University of Virginia's College at Wise. An additional \$71,849 the first year and \$71,849 the second year from the general fund is provided to the Consortium to continue the Van Gogh Outreach program with Lee and Wise County Public Schools and expand the program to the twelve school divisions in Southwest Virginia.

C. This appropriation includes \$108,905 the first year and \$108,905 the second year from the general fund for the Southside Virginia Regional Technology Consortium to expand the research and development phase of a technology linkage.

D. An additional state payment of \$145,896 the first year and \$145,896 the second year from the general fund is provided as a Small School Division Assistance grant for the City of Norton. To receive these funds, the local school board shall certify to the Superintendent of Public Instruction that its division has entered into one or more educational, administrative or

ITEM 144.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
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support service cost-sharing arrangements with another local school division.

E. Out of this appropriation, \$298,021 the first year and \$298,021 the second year from the general fund shall be allocated for the Career and Technical Education Resource Center to provide vocational curriculum and resource instructional materials free of charge to all school divisions.

F. It is the intent of the General Assembly that the Department of Education provide bonuses from state funds to classroom teachers in Virginia's public schools who hold certification from the National Board of Professional Teaching Standards. Such bonuses shall be \$5,000 the first year of the certificate and \$2,500 annually thereafter for the life of the certificate. This appropriation includes an amount estimated at ~~\$5,021,609~~ \$5,072,500 the first year and ~~\$5,009,196~~ \$4,975,524 the second year from the general fund for the purpose of paying these bonuses. By October 15 of each year, school divisions shall notify the Department of Education of the number of classroom teachers under contract for that school year that hold such certification.

G. This appropriation includes \$2,181,000 the first year and \$2,181,000 the second year from the general fund for grants, scholarships, and incentive payments to attract, recruit, and retain high-quality teachers and fill critical teacher shortage disciplines in Virginia's public schools.

1. Out of this appropriation, \$708,000 the first year and \$708,000 the second year from the general fund is provided for teaching scholarship loans. These scholarships shall be for undergraduate students in college with a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent, who are nominated by their Virginia regionally accredited college or university, and who meet the criteria and qualifications, pursuant to § 22.1-290.01, Code of Virginia, except as provided herein. Awards shall be made to students who are enrolled full-time or part-time in approved undergraduate or graduate teacher education programs for the top ten critical teacher shortage disciplines, however minority students may be enrolled in any content area for teacher preparation. Upon program completion, scholarship recipients may fulfill the scholarship loan obligation by teaching in the public schools of the Commonwealth in the first full academic year after becoming eligible for a renewable teaching license in the appropriate endorsement area and teaching for at least two years in a school division (i) in one of the critical teacher shortage disciplines as established by the Board of Education; or (ii) in a Virginia public school with 50 percent or more of the students eligible for free or reduced price lunch; or (iii) in a school division designated critical shortage subject area, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas. Scholarship recipients who only complete one year of the teaching obligation shall be forgiven for one-half of the scholarship loan amount. Scholarship amounts are based on up to \$10,000 per year for full-time students, and shall be prorated for part-time students based on the number of credit hours. The Department of Education shall report annually on the critical shortage teaching areas in Virginia.

a. The Department of Education shall make payments on behalf of the scholarship recipients directly to the Virginia institution of higher education where the scholarship recipient is enrolled full-time or part-time in an approved undergraduate or graduate teacher education program.

b. The Department of Education is authorized to recover total funds awarded as scholarships, or the appropriate portion thereof, in the event that scholarship recipients fail to honor the stipulated teaching obligation.

c. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.

2. Out of this appropriation, \$808,000 the first year and \$808,000 the second year from the general fund is provided to attract, recruit, and retain high-quality diverse individuals to teach science, technology, engineering, or mathematics (STEM) subjects in Virginia's middle and high schools experiencing difficulty in recruiting qualified teachers. Eligible teachers must (i) be employed full-time in a Virginia school division or school with more than 40 percent of the students eligible for free or reduced price lunch; (ii) be entering their first, second, or third year of teaching experience; and (iii) hold a five- or ten-year

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valid Virginia teaching license with an endorsement in Middle Education 6-8: Mathematics, Mathematics-Algebra-I, Mathematics, Middle Education 6-8: Science, Biology, Chemistry, Earth and Space Science, Physics, Engineering, or Technology Education and be assigned to a teaching position in a corresponding STEM subject area. Selected eligible teachers will receive a \$5,000 incentive award after the completion of each year of full-time teaching experience, up to three consecutive years under the grant, in an eligible school division or school with a satisfactory performance evaluation and a written commitment to return in the same school division for the following school year. The maximum incentive award for each eligible teacher is \$15,000. Eligibility for these incentives shall be determined through an application process whereby school divisions shall apply to the Department of Education. Priority for distribution of these incentives shall be to school divisions experiencing the most acute difficulties in recruiting qualified teachers, as determined using Department of Education criteria. For the purpose of the award of the additional \$1,000 to individuals who received funds under this program prior to July 1, 2018, the criteria provided in Chapter 1, 2018 Acts of Assembly, Special Session I, shall continue to apply through fiscal year 2021. For individuals who received funds under this program prior to July 1, 2020, the criteria provided in Chapter 854, 2019 Acts of Assembly, shall continue to apply. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.				
3. Out of this appropriation, \$415,000 the first year and \$415,000 the second year from the general fund is provided to help school divisions recruit and retain qualified middle-school mathematics teachers. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.				
4. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is provided for tuition scholarships to be specifically allocated solely for licensed public high school teachers pursuing additional credentialing requirements necessary to be considered faculty who are qualified to teach dual enrollment courses in high schools in their local school division. The Department of Education shall make payments on behalf of the scholarship recipients directly to the regionally accredited Virginia institution of higher education where the scholarship recipient is enrolled in courses for credit applicable to dual enrollment course curriculum available for public high school students. The lifetime maximum dual enrollment tuition scholarship award for each approved eligible teacher is \$7,500. Eligibility for access to these dual enrollment tuition scholarship awards shall be determined through an application process whereby school divisions shall apply to the Department of Education. In the application process, the applying school division shall include: i) an explanation of why such dual enrollment tuition scholarship is warranted, ii) the dual enrollment course or courses that shall be offered by the scholarship recipient's high school and taught by the recipient upon the recipient's successful completion of required coursework for appropriate credentialing to teach such dual enrollment courses, and iii) the projected student enrollment in the recipient taught public high school dual enrollment courses. The Department of Education shall compile and report the application information for each applying school division, and shall also report the number of recipients and amount of tuition awarded to each school division, the institution of higher education receiving tuition, the credentialing area pursued by recipients, and dual enrollment courses offered after the recipient's successful completion of the pursued credentialing. The Department shall submit the report by June 30, 2020, and annually thereafter, to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health.				
H. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be distributed to the Great Aspirations Scholarship Program (GRASP) to provide students and families in need access to financial aid, scholarships, and counseling to maximize educational opportunities for students.				
I. Out of this appropriation, the Department of Education shall provide \$2,004,400 \$1,244,400 the first year and \$2,004,400 \$1,244,400 the second year from the general fund to Communities in Schools. These funds shall be used to strengthen and sustain existing programming in Hampton Roads, Northern Virginia, Petersburg, Richmond City, and Southwest Virginia and to expand programming to new schools. Further, Communities in Schools is directed to assist the Community School organization with developing				

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opportunities to establish a Community School program in interested school divisions.

J. Out of this appropriation, the Department of Education shall provide \$962,500 the first year and \$962,500 the second year from the general fund for Project Discovery. These funds are towards the cost of the program in Abingdon, Accomack/Northampton, Alexandria, Amherst, Appomattox, Arlington, Bedford, Bland, Campbell, Charlottesville, Cumberland, Danville/Pittsylvania, Fairfax, Franklin/Patrick, Fredericksburg/Spotsylvania, Goochland/Powhatan, Lynchburg, Newport News, Norfolk, Richmond City, Roanoke City, Smyth, Surry/Sussex, Tazewell, Williamsburg/James City, and Wythe and the salary of a fiscal officer for Project Discovery. The Department of Education shall administer the Project Discovery funding distributions to each community action agency. Distributions to each community action agency shall be based on performance measures established by the Board of Directors of Project Discovery. The contract with Project Discovery should specify the allocations to each local program and require the submission of a financial and budget report and program evaluation performance measures.

2. Each participating community action agency shall submit annual performance metrics for services provided through the Project Discovery program that provide measurable evaluations and outcomes of participating students. Such performance metrics shall include evidenced-based data that effectively measure academic improvement outcomes. In addition, the performance metrics shall also include evidenced-based data to evaluate the specific effectiveness of the program for participating students on a longitudinal basis. Further, the performance metrics shall include the coordination and collaboration efforts the program staff regularly have with the school-based personnel, such as teachers and guidance counselors, that support and maximize opportunities of participating students to successfully graduate from high school and then to enroll and graduate from an institution of higher learning. Project Discovery shall submit a comprehensive and cumulative program performance metrics evaluation to the Department of Education no later than October 1 each year.

K. Out of this appropriation, the Department of Education shall provide \$300,000 the first year and \$300,000 the second year from the general fund for the Virginia Student Training and Refurbishment Program.

L. Out of this appropriation, \$1,598,000 the first year and \$1,598,000 the second year from the general fund is provided to expand the number of schools implementing a system of positive behavioral interventions and supports with the goal of improving school climate and reducing disruptive behavior in the classroom. Such a system may be implemented as part of a tiered system of supports that utilizes evidence-based, system-wide practices to provide a response to academic and behavioral needs. Any school division which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school-year in which the program is to be implemented. The proposal must define student outcome objectives including, but not limited to, reductions in disciplinary referrals and out-of-school suspension rates. In making the competitive grant awards, the Department of Education shall give priority to school divisions proposing to serve schools identified by the Department as having high suspension rates. No funds awarded to a school division under this grant may be used to supplant funding for schools already implementing the program.

M. Targeted Extended/Enriched School Year and Year-round School Grants Payments

1. Out of this appropriation, \$7,150,000 the first year and \$7,150,000 the second year from the general fund is provided for a targeted extended/enriched school year or year-round school incentive in order to improve student achievement. Annual start-up grants of up to \$300,000 per school may be awarded for a period of up to two years after the initial implementation year. The per school amount may be up to \$400,000 in the case of schools that have an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators, or schools that had an Accredited with Conditions status and were rated at Level Three in two or more Academic Achievement for All Students school quality indicators when the initial application was made. Schools that qualified for the per school grant up to \$400,000 under the previous Standards of Accreditation Denied Accreditation status remain eligible for funding for the initial three year period; after that period, such schools are subject to eligibility under the

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<p>current Standards of Accreditation. After the third consecutive year of successful participation, an eligible school's grant amount shall be based on a shared split of the grant between the state and participating school division's local composite index. Such continuing schools shall remain eligible to receive a grant based on the 2012 JLARC Review of Year Round Schools' researched base findings.</p>				
<p>2. Except for school divisions with schools that are in an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators or in a Denied Accreditation status, any other school division applying for such a grant shall be required to provide a twenty percent local match to the grant amount received from either an extended/enriched school year or year-round school start-up or planning grant.</p>				
<p>3. In the case of any school division with schools that are in an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators or in a Denied Accreditation status that apply for funds, the school division shall also consult with the Superintendent of Public Instruction or designee on all recommendations regarding instructional programs or instructional personnel prior to submission to the local board for approval.</p>				
<p>4. Out of this appropriation, \$613,312 the first year and \$613,312 the second year from the general fund is provided for planning grants of no more than \$50,000 each for local school divisions pursuing the creation of new extended/enriched school year or year-round school programs for divisions or individual schools in support of the findings from the 2012 JLARC Review of Year Round Schools. School divisions must submit applications to the Department of Education by August 1 of each year. Priority shall be given to schools based on need, relative to the state accreditation ratings or similar federal designations. Applications shall include evidence of commitment to pursue implementation in the upcoming school year. If balances exist, existing extended school year programs may be eligible to apply for remaining funds.</p>				
<p>5. A school division that has been awarded an extended/enriched school year or year-round school start-up grant or planning grant for the development of an extended/enriched school year or year-round school program may spend the awarded grant over two consecutive fiscal years.</p>				
<p>6. a) Any such school division receiving funding from a Targeted Extended/Enriched School Year and Year-round School grant shall provide an annual progress report to the Department of Education that evaluates end of year success of the extended/enriched school year or year-round school model implemented as compared to the prior school year performance as measured by an appropriate evaluation matrix no later than September 1 each year.</p>				
<p>b) The Department of Education shall develop such evaluation matrix that would be appropriate for a comprehensive evaluation for such models implemented. Further, the Department of Education is directed to submit the annual progress reports from the participating school divisions and an executive summary of the program's overall status and levels of measured success to the Chairmen of House Appropriations and Senate Finance Committees no later than November 1 each year.</p>				
<p>7. Any funds remaining in this paragraph following grant awards may be disbursed by the Department of Education as grants to school divisions to support innovative approaches to instructional delivery or school governance models.</p>				
<p>N. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided through grants or contracts for the cost of fees and financial incentives associated with hiring teachers in challenged schools. These funds may be used for grants or contracts awarded and expenses associated with supporting the Teach for America program. School divisions or their partners may apply for those funds through applications submitted to the Department of Education. Applications must be submitted to the Department of Education by September 1 each year. Within the fiscal year, any unobligated balance may be used for the Teacher Residency program.</p>				
<p>O. Out of this appropriation, \$725,000 the first year and \$725,000 the second year from the general fund is provided for the Accomack, Albemarle, Arlington, Chesterfield, Fairfax,</p>				

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<p>Henrico, Loudoun, Norfolk, Petersburg, Richmond, Suffolk, and Wythe Public Schools to continue or initiate STEM and early literacy model programs for preschool, kindergarten, and first grade students. The model will also support growth in the 5C skills identified in the Profile of a Virginia Graduate. Within this appropriation, funds may support further expansion in rural divisions from Regions 3, 6, or 8, based on need. Each developed model will focus on enhancing children's learning experiences through the arts.</p>				
<p>P. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided for the Achievable Dream partnership with Newport News School Division.</p>				
<p>Q. Out of this appropriation, \$1,750,000 the first year and \$1,750,000 the second year from the general fund is provided for grants for teacher residency partnerships between university teacher preparation programs and the Petersburg, Norfolk, and Richmond City school divisions and any other university teacher preparation programs and hard-to-staff school divisions to help improve new teacher training and retention for hard-to-staff schools. The grants will support a site-specific residency model program for preparation, planning, development and implementation, including possible stipends in the program to attract qualified candidates and mentors. Applications must be submitted to the Department of Education by August 1 each year.</p>				
<p>Partner school divisions shall provide at least one-third of the cost of each program and shall provide data requested by the university partner in order to evaluate program effectiveness by the mutually agreed upon timelines. Each university partner shall report annually, no later than June 30, to the Department of Education on available outcome measures, including student performance indicators, as well as additional data needs requested by the Department of Education. The Department of Education shall provide, directly to the university partners, relevant longitudinal data that may be shared. The Department of Education shall consolidate all submissions from the participating university partners and school divisions and submit such consolidated annual report to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1 each year.</p>				
<p>R. Out of this appropriation, \$60,300 the first year and \$60,300 the second year from the general fund is provided to the Northern Neck Regional Technical Center to expand the workforce readiness education and industry based skills and certification development efforts supporting that region in the state. These funds support the Center's programs that serve high school students from the surrounding counties of Essex, Lancaster, Northumberland, Rappahannock, Westmoreland and Colonial Beach.</p>				
<p>S. Out of this appropriation, \$6,250,000\$2,750,000 the first year and \$6,250,000 the second year from the general fund is provided to the Virginia Early Childhood Foundation.</p>				
<p>1. Of this amount, \$250,000 the first year and \$250,000 the second year is provided for general operations of the Foundation's grant program to strengthen the capacity of local communities to promote school readiness for young children through innovative regional partnerships.</p>				
<p>2. Of this amount, \$1,000,000 the first year and \$1,000,000 the second year is provided to operate a scholarship program to increase the skills of Virginia's early education workforce.</p>				
<p>3. Of this amount, \$5,000,000\$1,500,000 the first year and \$5,000,000 the second year from the general fund is provided for a pilot initiative to support public-private delivery of pre-kindergarten services for at least 500 at-risk three- and four-year-old children each year. Programs must provide full-day or half-day and, at least, school-year services.</p>				
<p>a) The Department of Education shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be required to be evaluated in the fall and in the spring by each participating provider and grantees must certify that the Virginia Preschool Initiative standards are followed in order to receive the funding for quality preschool</p>				

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	<p>education and criteria for the service components. Such standards shall align with the Virginia Standards of Learning for Kindergarten.</p>			
	<p>b) The Department of Education shall require and ensure that all participating classrooms have the quality of their teacher-child interactions assessed through a rigorous and research-based observation instrument at least once every two years.</p>			
	<p>c) Any locality that desires to participate in this grant program must submit a proposal each year to the Virginia Early Childhood Foundation. For the first year, the application must be submitted by August 15. For subsequent years, the application must be submitted by May 15 to align with the Virginia Preschool Initiative timeline. Each application shall identify a lead agency for this program within the locality. The lead agency shall be responsible for developing a local plan for the delivery of quality preschool services to at-risk three- and four-year-old children in private settings that demonstrates the coordination of resources and the combination of funding streams in an effort to serve the greatest number of at-risk children.</p>			
	<p>d) The proposal must demonstrate: (i) coordination with all parties necessary for the successful delivery of comprehensive services, including schools, child care providers, local social services agencies, Head Start, local health departments, and other groups identified by the lead agency, (ii) a plan for supporting inclusive practices for children with identified special needs, and (iii) a plan to transition the pilot into a sustainable program that is supported with a similar level of state support as Virginia Preschool Initiative slots.</p>			
	<p>e) Local plans must indicate the number of at-risk three- and four-year-old children to be served, and the eligibility criteria for participation in this program shall be consistent with the economic and educational risk factors stated in the current program guidelines that are specific to: (i) family income at or below 200 percent of federal poverty guidelines, (ii) homelessness, (iii) student's parents or guardians are school dropouts, or (iv) family income is above 200 percent but at or below 350 percent of federal poverty guidelines in the case of students with special needs or disabilities. Up to 15 percent of slots may be filled based on locally established eligibility criteria so as to meet the unique needs of at-risk children in the community.</p>			
	<p>f) Notwithstanding any provisions of § 22.1-299, Code of Virginia, and in order to achieve the priorities of the Joint Subcommittee on Early Childhood Care and Education for exploring the feasibility of and barriers to mixed delivery preschool systems in Virginia, recipients of a Mixed-Delivery Preschool grant shall be provided maximum flexibility within their respective pilot initiative in order to fully implement the associated goals and objectives of the pilot. Recipients of a Mixed-Delivery Preschool grant and divisions participating in such grant pilot activities shall be exempted from all regulatory and statutory provisions related to teacher licensure requirements and qualifications when paid by public funds within the confines of the Mixed-Delivery Preschool pilot initiative.</p>			
	<p>g) Children served by the pilots shall be assigned student identification numbers as provided in § 22.1-287.03 B of the Code of Virginia to evaluate pilot program outcomes and to permit comparison with Virginia Preschool Initiative outcomes.</p>			
	<p>h) Pilot providers shall provide information to the Department of Education as necessary to fulfill the reporting requirement established.</p>			
	<p>T. This appropriation includes \$500,000 the first year and \$500,000 the second year from the general fund to support ten competitive grants, not to exceed \$50,000 each, for planning the implementation of systemic Elementary, Middle, and/or High School Program Innovation by either individual school divisions or consortia of school divisions or implementing a plan for public pre-kindergarten through Grade 12 School Program Innovation previously approved by the Department of Education. The local applicant(s) selected to conduct this systemic approach to school reform, in consultation with the Department of Education, will develop and plan or implement innovative approaches to engage and to motivate students through personalized learning and instruction leading to demonstrated mastery of content, as well as skills development of career readiness. Essential elements of school innovation include: (1) student centered learning, with progress based on student demonstrated proficiency; (2) 'real-world' connections that promote alignment with community work-force needs and emphasize transition to college and/or career; and (3) varying models for educator supports and staffing. Individual school divisions or consortia will be invited to apply on a competitive basis by</p>			

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<p>submitting a grant application that includes descriptions of key elements of innovations, a detailed budget, expectations for outcomes and student achievement benefits, evaluation methods, and plans for sustainability. The Department of Education will make the final determination of which individual school divisions or consortia of divisions will receive the year-long planning grant for public pre-kindergarten through Grade 12 School Innovation or a grant to implement an Elementary, Middle, and/or High School Program Innovation plan previously approved by the Department of Education. Any school division or consortium of divisions which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school year in which the planning or implementation for systemic school innovation is to take place.</p>				
<p>U. Out of this appropriation, \$100,000 the first year from the general fund is provided to support the Newport News Aviation Academy's four-year high school STEM program, which focuses on piloting, aircraft maintenance, engineering, computers, and electronics.</p>				
<p>V. Out of this appropriation, \$15,000 the first year and \$15,000 the second year is provided for grants to school divisions of up to \$5,000 each to explore alternative teacher compensation approaches that move away from tenure-based step increases toward compensation systems based on teacher performance and student progress. Priority will be given to school divisions that have not previously explored alternative compensation approaches and have schools not achieving full accreditation, or that have high numbers of at-risk students needing qualified teachers in hard-to-staff subjects.</p>				
<p>W. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is provided for STEM Competition Team Grants. Notwithstanding § 22.1-362, Code of Virginia, Paragraph B, grants may not exceed \$5,000 each.</p>				
<p>X. Out of this appropriation, \$681,975 the first year and \$681,975 the second year from the general fund is provided to support a multi-platform STEM education engagement program and research study, via the Virginia Air & Space Center.</p>				
<p>Y. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is provided for executive leadership incentives in the Petersburg City Public Schools to strengthen the impact of division and school level executive leadership on student achievement in the school division. Such incentives may include, but not be limited to, supplements to locally funded salaries, deferred salary compensation, bonuses, housing and commuting supplements, and professional development supplements. The Department of Education shall provide such executive management incentive payments directly to the Petersburg City Public Schools accounts pursuant to a Memorandum of Understanding entered into between the Board of Education and the Petersburg City School Board, which shall cover no less than both years of the biennium and may be amended with the consent of both parties. Such Agreement shall include operational and student achievement metrics and include provisions for the achievement of such metrics as a condition of payment of the incentive funds by the Department of Education. The Department of Education shall provide updates on the Agreement to the Chairmen of the Senate Finance and House Appropriations Committees.</p>				
<p>Z. Out of this amount, \$600,000 the first year and \$600,000 the second year from the general fund shall be reserved for school divisions to partner with the Virginia Reading Corps program. The implementation partner shall determine and select partner school divisions. The Virginia Reading Corps shall report annually to the school divisions and Department of Education on the outcomes of this program.</p>				
<p>AA. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for Chesterfield County Public Schools to partner and plan with Virginia State University for the continued development of a College Partnership Laboratory School in support of Etrick Elementary School.</p>				
<p>BB. Out of this appropriation, \$175,000 the first year from the general fund is provided to establish a Career and Technical Education Vocational Laboratory pilot that will be located within the Virginia Aviation Academy located in the Newport News school division. This vocational-based lab will be developed and focused on advanced, augmented and virtual reality related education.</p>				

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CC.	Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for praxis assistance and Virginia Communication and Literacy Assessment assistance for provisionally licensed minority teachers seeking full licensure in Virginia. Grants of up to \$10,000 shall be awarded to school divisions, teacher preparation programs, or nonprofit organizations in all regions of the state to subsidize test fees and the cost of tutoring for provisionally licensed minority teachers seeking full licensure in Virginia.			
DD.	Out of this appropriation, \$391,000 the first year and \$391,000 the second year from the general fund is provided to school divisions to pay for a portion of the vision screening of students in kindergarten, grade two or three and grades seven and ten, pursuant to Chapter 312, 2017 Session Acts of Assembly. Eligible school divisions may receive the state's share of \$7.00 for each student reported in average daily membership and enrolled in kindergarten, grades three, seven and ten and who has received such vision screening test. The Department of Education shall administrator and distribute reimbursements to school divisions and the funding shall be prorated if needed, such that the appropriation is not exceeded. Prioritization shall be given the schools that would most benefit from state assistance in order to provide such vision screening service to students that are eligible for free lunch.			
EE.	Out of this appropriation, \$660,000 the first year and \$660,000 the second year from the general fund is provided for annual grants of \$60,000 to each of the nine regional career and technical centers, Winchester Public Schools' Innovation Center and Norfolk Public Schools' Norfolk Technical Center, to expand workforce readiness education and industry based skills.			
FF. 1.	Out of this appropriation, \$550,000 the first year and \$550,000 the second year from the general fund is provided to CodeVA for the development, marketing, and implementation of high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth using the Computer Science Standards of Learning For Virginia Public Schools, which were reviewed and endorsed by the Virginia Board of Education in November 2017. The provided funds may be utilized for planning, preparing and materials needed for teacher training sessions provided during the biennium.			
2.	CodeVA shall report, no later than October 1, each year to the Chairmen of the House Education and Senate Education & Health Committees, Secretary of Education and the Superintendent of Public Instruction on its activities in the previous year to support computer science teacher training and curriculum development, including on collaboration with other stakeholders to avoid duplication of efforts.			
GG.	Out of this appropriation, \$1,000,000 the first year from the general fund is provided to the American Civil War Museum to support the advancement of experiential learning opportunities for K-12 students. These funds are intended to support high-quality, off-site learning experiences for students to engage in educational content, aligned to Virginia's Standards of Learning, related to the history of the American Civil War.			
HH.	Out of this appropriation, \$1,300,000 the first year from the general fund is provided to the Black History Museum and Cultural Center of Virginia to support the advancement of experiential learning opportunities for K-12 students. These funds are intended to support high-quality, off-site learning experiences and traveling exhibitions for students to engage in educational content, aligned to Virginia's Standards of Learning, related to African American History.			
H.	Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided to the Western Virginia Public Education Consortium. Funds shall be used to support the consortium's annual job fair and professional development conferences for teachers and administrators from the consortium's 23 member local school divisions.			
JJ.	To strengthen quality and reduce turnover in hard-to-serve preschool classrooms, \$3,000,000 the first year and \$5,000,000 the second year from the general fund shall be used to supplement the Early Childhood Educator Incentive created through the Preschool Development Grant Birth to Five. The Virginia Department of Education shall set the specific guidelines for the program and funds.			
KK.	Out of this appropriation, \$250,000 the first <i>second</i> year from the general fund shall be			

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<p>provided for grants to school divisions to encourage <i>active for encouraging active-in class, remote and hybrid</i> learning for students in pre-kindergarten through the second grade. School divisions seeking to apply for this grant shall submit a proposal to the Department of Education outlining the intended use of funds and a projected number of students to be served. The Department shall establish criteria for awarding these funds. The funds may be used to purchase a platform featuring on-demand adventures activities that transform <i>integrate</i> math and English Standards of Learning content into movement-rich activities <i>that can be used at school, home and on all devices (i.e. computers, tables and phones)</i>. The Department of Education shall summarize the grants awarded, identifying the recipient school divisions, intended use of funds, and number of students served. Such summary shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.</p>				
<p>LL. Out of this appropriation, \$500,000 each <i>\$350,000 the first year and \$350,000 the second year</i> from the general fund is provided to Blue Ridge PBS for educational outreach programming.</p>				
<p>MM. Out of this appropriation, \$100,000 the first year from the general fund is provided for the Bonder and Amanda Johnson Community Development Corporation for programming and outreach efforts.</p>				
<p>NN. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is provided for the Brooks Crossing Innovation and Opportunity Center in Newport News to purchase industry-related equipment, training simulators and software to support career training, wealth building, and individual casework.</p>				
<p>OO. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is provided to the Chesterfield County School Board to assist with establishing a recovery high school as a year-round high school with enrollment open to any high school student residing in Superintendent's Region 1 who is in the early stages of recovery from substance use disorder or dependency. Students in the high school will be provided academic, emotional, and social support needed to progress toward earning a high school diploma and reintegrating into a traditional high school setting. The Chesterfield County School Board shall submit a report regarding the planning, implementation, and outcomes of the recovery high school to the Chairs of the House Appropriations and Senate Finance and Appropriations Committee by December 1 each year.</p>				
<p>PP. Out of this appropriation, \$250,000 the first year from the general fund is provided to Winchester Public Schools for one-time support for furniture and equipment for the renovated Emil and Grace Shihadeh Innovation Center.</p>				
<p>QQ. Out of this appropriation, \$300,000 the first<i>second</i> year from the general fund is provided for a fellowship program administered by the Literacy Lab to place recent high-school graduates of a minority background new to the field of education in VPI or Head Start classrooms of participating local school divisions or community-based early childhood centers to provide evidence based literacy support to at-risk pre-kindergarten students. Such a program must provide training, coaching, and professional development to the fellowship participants, place fellowship participants for at least 800 paid hours within a pre-kindergarten classroom during a school year, work to diversify the educator pipeline, and assist fellowship participants in understanding the teacher education and licensure process in Virginia. Literacy Lab shall partner with school divisions or community-based early childhood centers in Richmond and Portsmouth. Literacy Lab shall report by August 1, 2021<i>2022</i> to the Chairs of the House Education and Senate Education and Health Committees, Secretary of Education, and the Superintendent of Public Instruction on its activities to provide training, coaching, and professional development to the fellowship participants, including collaboration with school division partners and community-based early childhood centers, and provide metrics on the success of participants entering the educator pipeline either through employment or a teacher preparation program.</p>				
<p>RR. Out of this appropriation, \$90,000 the first year from the general fund is provided to Newport News Public Schools for the Soundscapes social intervention programs.</p>				

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>SS. Out of this appropriation, \$1,000,000\$550,000 the first year and \$1,000,000 the second year from the general fund is provided to support pilot- public-private partnerships between local school divisions and the Greater Richmond and Central Virginia affiliates of the Virginia Alliance of YMCAs to expand student participation opportunities in existing summer Power Scholars Academies in such partnered school divisions.</p>				
<p>TT. Out of this appropriation, \$718,957 the second year from the general fund is provided to support Career and Technical Education Student Organizations. These Student Organizations extend Career and Technical Education in Virginia through networks of programs, business and community partnerships, and leadership experiences at the school, state, and national levels and provide Virginia students with opportunities to apply academic, technical, and employability knowledge and skills necessary in today's workforce.</p>				
<p>UU. Out of this appropriation, \$1,000,000 is provided from the general fund in the second year for the Hampton Roads Education Telecommunications Association's eMediaVA program for statewide digital content development, online learning, and related support services. All digital content produced and delivery of online learning shall meet criteria established by the Department of Education, meet or exceed applicable Standards of Learning, and be correlated to such state standards. The eMedia VA program shall incorporate consultation with division superintendents or their designated representatives to assess school divisions' needs for digital content, online learning, teacher training, and support services that advance technology integration into the K-12 classroom, as well as for additional educational resources that may be made available to school divisions throughout the Commonwealth.</p>				
<p>VV. Out of this appropriation, \$250,000 the second year from the general fund is provided for grants to support one-time pilot programs to school divisions to redesign dual enrollment course offerings to align/link to the Passport and Uniform Certificate of General Studies offered by Virginia's community colleges. Divisions awarded such grants shall collaborate with the local community college to effectively redesign the local school division's dual enrollment course offerings. Divisions applying shall include: (i) an explanation of why such dual enrollment pilot program is warranted; (ii) the dual enrollment courses currently offered by the division; (iii) the projected student enrollment in dual enrollment courses; and (iv) the number of the division's employed staff qualified to teach dual enrollment and the number currently teaching a dual enrollment course. The Department of Education may consider in the awarding of a grant: (i) the division's local composite index; (ii) the level of misalignment in the division's dual enrollment course offerings to the Passport and Uniform Certificate of General Studies; and (iii) the division's level of dual enrollment course availability and current student enrollment in those courses. The Department of Education shall report, along with the divisions and community colleges, the components of the redesign and efforts to increase availability and participation in dual enrollment courses to the General Assembly by November 1, 2022. The Department of Education and the Virginia Community College System shall use these pilot programs to provide a comprehensive guide to every school division and community college to assist with aligning high school dual enrollment course offerings to the Passport and Uniform Certificate of General Studies.</p>				
145.	State Education Assistance Programs (17800).....		\$7,827,533,432	\$7,923,143,959
			\$7,743,770,876	\$8,082,601,961
	Standards of Quality for Public Education (SOQ) (17801).....	\$6,620,415,451	\$6,666,530,687	
		\$6,485,684,773	\$6,627,363,546	
	Financial Incentive Programs for Public Education (17802).....	\$494,624,297	\$534,644,196	
		\$497,164,169	\$710,320,952	
	Financial Assistance for Categorical Programs (17803).....	\$54,534,287	\$55,864,406	
		\$52,690,811	\$54,014,129	
	Distribution of Lottery Funds (17805).....	\$657,959,397	\$666,104,670	
		\$708,231,123	\$690,903,334	
	Fund Sources: General.....	\$6,892,751,305	\$7,171,674,289	
		\$6,817,944,753	\$7,266,333,627	
	Special.....	\$895,000	\$895,000	
	Commonwealth Transportation.....	\$2,100,000	\$1,470,000	

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	FY2021	FY2022	FY2021	FY2022
Trust and Agency.....	\$819,959,397	\$749,104,670		
	\$870,231,123	\$773,903,334		
Dedicated Special Revenue.....	\$95,227,730	\$0		
	\$36,000,000	\$40,000,000		
Federal Trust.....	\$16,600,000	\$0		

Authority: Standards of Quality for Public Education (SOQ) (17801): Article VIII, Section 2, Constitution of Virginia; Chapter 667, Acts of Assembly, 1980; §§ 22.1-176 through 22.1-198, 22.1-199.1, 22.1-199.2, 22.1-213 through 22.1-221, 22.1-227 through 22.1-237, 22.1-253.13:1 through 22.1-253.13:8, 22.1-254.01, Code of Virginia; Title 51.1, Chapters 1, 5, 6.2, 7, and 14, Code of Virginia; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 98-524, as amended, Federal Code.

Financial Incentive Programs for Public Education (17802): §§ 22.1-24, 22.1-289.1 through 22.1-318, Code of Virginia; P.L. 79-396, as amended; P.L. 89-10, as amended; P.L. 89-642, as amended; P.L. 108-265, as amended; Title II P.L. 99-159, as amended, Federal Code.

Financial Assistance for Categorical Programs (17803): Discretionary Inclusion; Treaty of 1677 between Virginia and the Indians; §§ 22.1-3.4, 22.1-108, 22.1-199 through 22.1-212.2:2, 22.1-213 through 22.1-221, 22.1-223 through 22.1-237, 22.1-254, Code of Virginia; P.L. 89-10, as amended; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 94-588; P.L. 95-561, as amended; P.L. 98-211, as amended; P.L. 98-524, as amended; P.L. 99-570; P.L. 100-297, as amended; P.L. 102-73, as amended; P.L. 105-220, as amended, Federal Code.

Distribution of Lottery Funds (17805): §§ 58.1-4022 and 58.1-4022.1, Code of Virginia

Appropriation Detail of Education Assistance Programs (17800)

Standards of Quality (17801)	FY 2021	FY 2022
Basic Aid	\$3,729,638,016	\$3,730,508,454
	\$3,467,108,109	\$3,536,922,242
Sales Tax	\$1,326,400,000	\$1,354,600,000
	\$1,512,500,000	\$1,563,000,000
Textbooks	\$75,370,476	\$75,647,111
	\$72,851,568	\$73,119,307
Vocational Education	\$62,115,030	\$62,037,147
	\$60,508,948	\$60,443,307
Gifted Education	\$37,649,935	\$37,796,975
	\$36,382,479	\$36,523,788
Special Education	\$432,323,121	\$433,527,914
	\$418,622,981	\$419,818,073
Prevention, Intervention, and Remediation	\$121,073,126	\$121,259,822
	\$117,973,133	\$118,181,833
English as a Second Language	\$82,232,407	\$95,145,149
	\$74,642,794	\$82,592,805
VRS Retirement (includes RHCC)	\$500,930,006	\$502,639,077
	\$484,558,788	\$489,390,727
Social Security	\$214,915,707	\$215,609,194
	\$207,892,825	\$209,927,966
Group Life	\$15,142,348	\$15,174,856
	\$14,648,748	\$14,858,510
Remedial Summer School	\$22,625,279	\$22,584,988
	\$17,994,400	
Total	\$6,620,415,451	\$6,666,530,687
	\$6,485,684,773	\$6,627,363,546

Incentive Programs (17802)

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Compensation Supplement	\$94,322,745	\$0	\$191,668,158	\$232,692,010
Governor's Schools	\$19,504,533	\$19,139,086	\$20,130,033	\$20,266,962
At-Risk Add-On (split funded)	\$149,886,328	\$107,830,098	\$173,220,888	\$147,939,452
Clinical Faculty	\$318,750		\$318,750	
Career Switcher Mentoring Grants	\$279,983		\$279,983	
Special Education - Endorsement Program	\$437,186		\$437,186	
Special Education – Vocational Education	\$200,089		\$200,089	
Virginia Workplace Readiness Skills Assessment	\$308,655		\$308,655	
Math/Reading Instructional Specialists Initiative	\$1,834,538		\$1,834,538	
Early Reading Specialists Initiative	\$1,476,790		\$1,476,790	
Breakfast After the Bell Incentive	\$1,074,000		\$1,074,000	
School Meals Expansion	\$5,300,000	\$0	\$5,300,000	\$4,100,000
Virginia Preschool Initiative - Per Pupil Amount	\$97,139,047	\$72,405,681	\$107,086,043	
Early Childhood Expansion	\$22,691,530	\$0	\$26,344,868	
Virginia Preschool Initiative - Provisional Teacher Licensure	\$306,100		\$306,100	
No Loss Funding	\$1,776,174	\$278,642,957	\$1,973,585	\$164,335,526
Enrollment Loss	\$2,540,119		\$2,102,530	
Alleghany County - Covington City School Division Consolidation Incentive	\$0		\$582,000	\$1,200,000
COVID-19 Local Relief Payments	\$95,227,730	\$12,910,256	\$0	
<i>Albuterol and Valved Holding Chambers</i>	\$0		\$120,000	
Total	\$494,624,297	\$497,164,169	\$534,644,196	\$710,320,952
Categorical Programs (17803)				
Adult Education	\$1,051,800		\$1,051,800	
Adult Literacy	\$2,480,000		\$2,480,000	
American Indian Treaty Commitment	\$39,795	\$39,305	\$42,938	\$54,077
School Lunch Program	\$5,801,932		\$5,801,932	
Special Education - Homebound	\$4,934,272	\$3,091,286	\$4,983,617	\$3,122,201
Special Education - Jails	\$3,635,221		\$3,957,457	
Special Education - State Operated Programs	\$36,591,267		\$37,546,662	
Total	\$54,534,287	\$52,690,811	\$55,864,406	\$54,014,129
Lottery Funded Programs (17805)				
At-Risk Add-On (split funded)	\$58,211,291	\$69,256,566	\$60,956,428	\$85,024,872

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Foster Care	\$10,667,347	\$13,083,167		\$11,528,816
Special Education - Regional Tuition	\$101,152,929	\$98,152,929		\$101,152,929
Early Reading Intervention	\$28,874,557	\$27,103,087		\$28,952,264
Mentor Teacher	\$1,000,000			\$1,000,000
K-3 Primary Class Size Reduction	\$141,698,697	\$129,176,942		\$141,828,973
School Breakfast Program	\$7,238,768	\$1,437,082		\$7,920,136
SOL Algebra Readiness	\$15,194,903	\$15,213,962		\$15,239,492
Infrastructure and Operations Per Pupil Funds	\$262,983,700	\$283,292,382		\$266,241,801
Regional Alternative Education	\$9,526,559	\$9,206,220		\$9,834,814
Individualized Student Alternative Education Program (ISAEF)	\$2,247,581			\$9,870,797
Career and Technical Education – Categorical	\$12,400,829			\$2,247,581
Project Graduation	\$1,387,240			\$12,400,829
Race to GED (NCLB/EFAL)	\$2,410,988			\$11,681,872
Path to Industry Certification (NCLB/EFAL)	\$1,831,464			\$1,387,240
Supplemental Basic Aid	\$1,132,544	\$1,030,714		\$2,410,988
Supplemental Support for Accomack & Northampton		\$0		\$1,831,464
Learning Loss Instructional Supports	\$39,999,970			\$1,170,915
Total	\$657,959,397	\$708,231,123		\$1,049,271
Technology – VPSA	\$57,533,200	\$56,085,200		\$2,000,000
Security Equipment - VPSA	\$12,000,000			\$0

Payments out of the above amounts shall be subject to the following conditions:

A. Definitions

1. "March 31 Average Daily Membership," or "March 31 ADM" - The responsible school division's average daily membership for grades K-12 including (1) handicapped students ages 5-21 and (2) students for whom English is a second language who entered school for the first time after reaching their twelfth birthday, and who have not reached twenty-two years of age on or before August 1 of the school year, for the first seven (7) months (or equivalent period) of the school year through March 31 in which state funds are distributed from this appropriation. Preschool and postgraduate students shall not be included in March 31 ADM.

a. School divisions shall take a count of September 30 fall membership and report this information to the Department of Education no later than October 15 of each year.

b. Except as otherwise provided herein, by statute, or by precedent, all appropriations to the Department of Education shall be calculated using March 31 ADM unadjusted for half-day kindergarten programs, estimated at ~~1,257,188,551,213,092.90~~ the first year and ~~1,262,626,851,218,331.05~~ the second year. March 31 ADM for half-day kindergarten shall be adjusted at 85 percent.

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c. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1 and who are enrolled in a public school on less than a full-time basis in any mathematics, science, English, history, social science, vocational education, health education or physical education, fine arts or foreign language course, or receiving special education services required by a student's individualized education plan, shall be counted in the funded fall membership and March 31 ADM of the responsible school division. Each course shall be counted as 0.25, up to a cap of 0.5 of a student.				
d. Students enrolled in an Individualized Student Alternative Education Program (ISAE) pursuant to § 22.1-254 E shall be counted in the March 31 Average Daily Membership of the responsible school division. School divisions shall report these students separately in their March 31 reports of Average Daily Membership.				
2. "Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.				
3.a. "Basic Operation Cost" - The cost per pupil, including provision for the number of instructional personnel required by the Standards of Quality for each school division with a minimum ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in March 31 ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, general administration, division superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), school nurses <i>in the first year only</i> , operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, fixed charges and other costs in programs not funded by other state and/or federal aid.				
b. The <i>In the first year only</i> , state and local shares of funding resulting from the support cost calculation for school nurses shall be specifically identified as such and reported to school divisions annually. School <i>In the first year only</i> , school divisions may spend these funds for licensed school nurse positions employed by the school division or for licensed nurses contracted by the local school division to provide school health services.				
4.a. "Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 2/3 of the index of wealth per pupil in unadjusted March 31 ADM reported for the first seven (7) months of the 2017-2018 school year and 1/3 of the index of wealth per capita (population estimates for 2017 as determined by the Weldon Cooper Center for Public Service of the University of Virginia) multiplied by the local nominal share of the costs of the Standards of Quality of 0.45 in each year. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 2017 - 50 percent; (2) adjusted gross income for the calendar year 2017 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 2017 which are subject to the state general sales and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per March 31 ADM, or per capita, expressed as a percentage of the state average per March 31 ADM, or per capita, for the same element. A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing all payments based on the composite index of local ability-to-pay. Each constituent index element for a locality used to determine the composite index of local ability-to-pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than November 15, 2019.				
b. For any locality whose total calendar year 2017 Virginia Adjusted Gross Income is comprised of at least 3 percent or more by nonresidents of Virginia, such nonresident income shall be excluded in computing the composite index of ability-to-pay. The Department of Education shall compute the composite index for such localities by using adjusted gross income data which exclude nonresident income, but shall not adjust the composite index of any other localities. The Department of Taxation shall furnish to the Department of Education such data as are necessary to implement this provision.				
c.1) Notwithstanding the funding provisions in § 22.1-25 D, Code of Virginia, additional state funding for future consolidations shall be as set forth in future Appropriation Acts.				

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2) In the case of the consolidation of Bedford County and Bedford City school divisions, the fifteen year period for the application of a new composite shall apply beginning with the fiscal year that starts on July 1, 2013. The composite index established by the Board of Education shall equal the lowest composite index that was in effect prior to July 1, 2013, of any individual localities involved in such consolidation, and this index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index as set forth above.

3) If the composite index of a consolidated school division is reduced during the course of the fifteen year period to a level that would entitle the school division to a lower interest rate for a Literary Fund loan than it received when the loan was originally released, the Board of Education shall reduce the interest rate of such loan for the remainder of the period of the loan. Such reduction shall be based on the interest rate that would apply at the time of such adjustment. This rate shall remain in effect for the duration of the loan and shall apply only to those years remaining to be paid.

d.4) When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year only in the division where the error occurred. The composite index of any other locality shall not be changed as a result of the adjustment. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.

~~2.) A payment estimated at \$197,155 the first year and \$198,755 the second year from the general fund shall be disbursed to Montgomery County school division for a substantial error in the composite index of the locality for the 2020-2022 biennium. The composite index of any other locality shall not be changed as a result of the adjustment for Montgomery County.~~

e. In the event that any school division consolidates two or more small schools, the division shall continue to receive Standards of Quality funding and provide for the required local expenditure for a period of five years as if the schools had not been consolidated. Small schools are defined as any elementary, middle, or high school with enrollment below 200, 300 and 400 students, respectively.

5. "Required Local Expenditure for the Standards of Quality" - The locality's share based on the composite index of local ability-to-pay of the cost required by all the Standards of Quality minus its estimated revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins.

6. "Required Local Match" - The locality's required share of program cost based on the composite index of local ability-to-pay for all Lottery and Incentive programs, where required, in which the school division has elected to participate in a fiscal year.

7. "Planning District Eight" - The nine localities which comprise Planning District Eight are Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

8. "State Share of the Standards of Quality" - The state share of the Standards of Quality (SOQ) shall be equal to the total funded SOQ cost for a school division less the school division's estimated revenues from the state sales and use tax dedicated to public education based on the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, adjusted for the state's share of the composite index of local ability to pay.

9. Entitlements under this Item that use school-level or division-level Free Lunch eligibility percentages to determine the entitlement amounts are based on the most recent data available as of the biennial rebenchmarking calculations made for the current biennium. For schools that participate in the Community Eligibility Provision program, such entitlements are based on the most recent Free Lunch eligibility data available prior

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	to that school's enrollment in the Community Eligibility Provision program.			
	<p>10. In the event that the general fund appropriations in this Item are not sufficient to meet the entitlements payable to school divisions pursuant to the provisions of this Item, the Department of Education is authorized to transfer any available general fund funds between these Items to address such insufficiencies. If the total general fund appropriations after such transfers remain insufficient to meet the entitlements of any program funded with general fund dollars, the Department of Education is authorized to prorate such shortfall proportionately across all of the school divisions participating in any program where such shortfall occurred.</p>			
	<p>11. The Department of Education is directed to apply a cap on inflation rates in the same manner prescribed in § 51.1-166.B, Code of Virginia, when updating funding to school divisions during the biennial rebenchmarking process.</p>			
	<p>12. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to combine the end-of-year Average Daily Membership (ADM) for those school divisions who have partnered together as a fiscal agent division and a contractual division for the purposes of calculating prevailing costs included in the Standards of Quality (SOQ).</p>			
	<p>13. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to include zeroes in the linear weighted average calculation of support non-personal costs for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).</p>			
	<p>14. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported travel expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).</p>			
	<p>15. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported leases and rental and facility expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).</p>			
	<p>16. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to fund transportation costs using a 15 year replacement schedule, which is the national standard guideline, for school bus replacement schedule for the purpose of calculating funded transportation costs included in the Standards of Quality (SOQ).</p>			
	<p>17. To provide additional flexibility, notwithstanding the provisions of § 22.1-79.1, Code of Virginia, any school division that was granted a waiver regarding the opening date of the school year for the 2011-2012 school year under the good cause requirements shall continue to be granted a waiver for the 2020-2021 school year and the 2021-2022 school year.</p>			
	<p>18. In the first year, to provide temporary flexibility, notwithstanding any other provision in statute or in this item, school divisions may elect to increase the teacher to pupil staffing ratios in kindergarten through grade 7 and English classes for grades 6 through 12 by one additional student; the teacher to pupil staffing ratio requirements for Elementary Resource teachers, Prevention, Intervention and Remediation, Gifted and Talented, Career and Technical funded programs (other than on Career and Technical courses where school divisions will have to maintain a maximum class size based on federal Occupational Safety & Health Administration safety requirements) are waived; and the instructional and support technology positions, and librarian staffing ratios for new hires are waived.</p>			
	<p>In the first year, school divisions shall report to the Board of Education the number and type of positions that were not filled in the previous school year and during the current school year through these flexibility provisions. The Board of Education shall include a compilation of such responses in its report on the conditions and needs of public education in the Commonwealth, that is required to be submitted to the Governor and General Assembly no later than December 1, as referenced in §§ 22.1-18 and 22.1-253.13:8 of the Code of Virginia.</p>			

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B. General Conditions

1. The Standards of Quality cost in this Item related to fringe benefits shall be limited for instructional staff members to the employer's cost for a number not exceeding the number of instructional positions required by the Standards of Quality for each school division and for their salaries at the statewide prevailing salary levels as printed below.

Instructional Position	First Year Salary	Second Year Salary
Elementary Teachers	\$51,371	\$51,371
Elementary Assistant Principals	\$71,532	\$71,532
Elementary Principals	\$89,378	\$89,378
Secondary Teachers	\$53,777	\$53,777
Secondary Assistant Principals	\$77,181	\$77,181
Secondary Principals	\$99,215	\$99,215
Instructional Aides	\$18,995	\$18,995

a.1) Payment by the state to a local school division shall be based on the state share of fringe benefit costs of 55 percent of the employer's cost distributed on the basis of the composite index.

2) A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing fringe benefit funds under this provision.

3) The state payment to each school division for retirement, social security, and group life insurance costs for non-instructional personnel is included in and distributed through Basic Aid.

b. Payments to school divisions from this Item shall be calculated using March 31 Average Daily Membership adjusted for half-day kindergarten programs.

c. Payments for health insurance fringe benefits are included in and distributed through Basic Aid.

2. Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.

3. In the event the statewide number of pupils in March 31 ADM results in a state share of cost exceeding the general fund appropriation in this Item, the locality's state share of Basic Aid shall be reduced proportionately so that this general fund appropriation will not be exceeded. In addition, the required local share of Basic Aid shall also be reduced proportionately to the reduction in the state's share.

4. The Department of Education shall make equitable adjustments in the computation of indices of wealth and in other state-funded accounts for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. However, only the indices of wealth and other state-funded accounts of localities party to the annexation will be adjusted.

5. In the event that the actual revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item (both of which are returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service) for sales in the fiscal year in which the school year begins are different from the number estimated as the basis for this appropriation, the estimated state sales and use tax revenues shall not be adjusted.

6. This appropriation shall be apportioned to the public schools with guidelines established by the Department of Education consistent with legislative intent as expressed in this act.

7.a. Appropriations of state funds in this Item include the number of positions required by the Standards of Quality. This Item includes a minimum of 51 professional instructional positions and aide positions (C 5); Education of the Gifted, 1.0 professional instructional

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	<p>position (C 6); Occupational-Vocational Education Payments and Special Education Payments; a minimum of 6.0 professional instructional positions and aide positions (C 7 and C 8) for each 1,000 pupils in March 31 ADM each year in support of the current Standards of Quality. Funding in support of one hour of additional instruction per day based on the percent of students eligible for the federal free lunch program with a pupil-teacher ratio range of 18:1 to 10:1, depending upon a school division's combined failure rate on the English and Math Standards of Learning, is included in Remedial Education Payments (C 9).</p>			
	<p>b. No actions provided in this section signify any intent of the General Assembly to mandate an increase in the number of instructional personnel per 1,000 students above the numbers explicitly stated in the preceding paragraph.</p>			
	<p>c. Appropriations in this Item include programs supported in part by transfers to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this Act. These transfers combined together with other appropriations from the general fund in this Item funds the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support technology position per 1,000 students; one instructional technology position per 1,000 students; and a full daily planning period for teachers at the middle and high school levels in order to relieve the financial pressure these education programs place on local real estate taxes.</p>			
	<p>d. To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers required by the Standards of Quality to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these SOQ funds in this manner shall only employ instructional personnel licensed by the Board of Education.</p>			
	<p>e. To provide flexibility in the provision of reading intervention services, school divisions may use the state Early Reading Intervention initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall only employ instructional personnel licensed by the Board of Education.</p>			
	<p>f. To provide flexibility in the provision of mathematics intervention services, school divisions may use the state Standards of Learning Algebra Readiness initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ mathematics teacher specialists to provide the required mathematics intervention services. School divisions using the Standards of Learning Algebra Readiness initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.</p>			
	<p>g.1) Notwithstanding the provisions of subsection H of § 22.1-253.13:2, Code of Virginia, <i>in the 2020-2021 school year</i>, each school board shall employ the following full-time equivalent school counselor positions for any school that reports fall membership, according to the type of school and student enrollment: in elementary schools, one hour per day per 91 students, one full-time at 455 students, one hour per day additional time per 91 students or major fraction thereof; in middle schools, one period per 74 students, one full-time at 370 students, one additional period per 74 students or major fraction thereof; in high schools, one period per 65 students, one full-time at 325 students, one additional period per 65 students or major fraction thereof.</p>			
	<p>2) <i>Effective with the 2021-2022 school year, local school boards shall employ one full-time equivalent school counselor position per 325 students in grades kindergarten through 12.</i></p>			
	<p>8.a.1) Pursuant to § 22.1-97, Code of Virginia, the Department of Education is required to make calculations at the start of the school year to ensure that school divisions have appropriated adequate funds to support their estimated required local expenditure for the corresponding state fiscal year. In an effort to reduce the administrative burden on school divisions resulting from state data collections, such as the one needed to make the</p>			

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aforementioned calculations, the requirements of § 22.1-97, Code of Virginia, pertaining to the adequacy of estimated required local expenditures, shall be satisfied by signed certification by each division superintendent at the beginning of each school year that sufficient local funds have been budgeted to meet all state required local effort and required local match amounts. This provision shall only apply to calculations required of the Department of Education related to estimated required local expenditures and shall not pertain to the calculations associated with actual required local expenditures after the close of the school year.

2) The Department of Education shall also make calculations after the close of the school year to verify that the required local effort level, based on actual March 31 Average Daily Membership, was met. Pursuant to § 22.1-97, Code of Virginia, the Department of Education shall report annually, no later than the first day of the General Assembly session, to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health, the results of such calculations made after the close of the school year and the degree to which each school division has met, failed to meet, or surpassed its required local expenditure. The Department of Education shall specify the calculations to determine if a school division has expended its required local expenditure for the Standards of Quality. This calculation may include but is not limited to the following calculations:

b. The total expenditures for operation, defined as total expenditures less all capital outlays, expenditures for debt service, facilities, non-regular day school programs (such as adult education, preschool, and non-local education programs), and any transfers to regional programs will be calculated.

c. The following state funds will be deducted from the amount calculated in paragraph a. above: revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item) for sales in the fiscal year in which the school year begins; total receipts from state funds (except state funds for non-regular day school programs and state funds used for capital or debt service purposes); and the state share of any balances carried forward from the previous fiscal year. Any qualifying state funds that remain unspent at the end of the fiscal year will be added to the amount calculated in paragraph a. above.

d. Federal funds, and any federal funds carried forward from the previous fiscal year, will also be deducted from the amount calculated in paragraph a. above. Any federal funds that remain unspent at the end of the fiscal year and any capital expenditures paid from federal funds will be added to the amount calculated in paragraph a. above.

e. Tuition receipts, receipts from payments from other cities or counties, and fund transfers will also be deducted from the amount calculated in paragraph a, then

f. The final amount calculated as described above must be equal to or greater than the required local expenditure defined in paragraph A. 5.

g. The Department of Education shall collect the data necessary to perform the calculations of required local expenditure as required by this section.

h. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures unless it first complies with all of the Standards of Quality.

9.a. Any required local matching funds which a locality, as of the end of a school year, has not expended, pursuant to this Item, for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.

b. Whenever the Department of Education has recovered funds as defined in the preceding paragraph a., the Secretary of Education is authorized to repay to the locality affected by that action, seventy-five percent (75%) of those funds upon his determination that:

1) The local school board agrees to include the funds in its June 30 ending balance for the year following that in which the under expenditure occurs;

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2) The local governing body agrees to reappropriate the funds as a supplemental appropriation to the approved budget for the second year following that in which the under expenditure occurs, in an appropriate category as requested by the local school board, for the direct benefit of the students;				
3) The local school board agrees to expend these funds, over and above the funds required to meet the required local expenditure for the second year following that in which the under expenditure occurs, for a special project, the details of which must be furnished to the Department of Education for review and approval;				
4) The local school board agrees to submit quarterly reports to the Department of Education on the use of funds provided through this project award; and				
5) The local governing body and the local school board agree that the project award will be cancelled and the funds withdrawn if the above conditions have not been met as of June 30 of the second year following that in which the under expenditure occurs.				
c. There is hereby appropriated, for the purposes of the foregoing repayment, a sum sufficient, not to exceed 75 percent of the funds deposited in the general fund pursuant to the preceding paragraph a.				
10. The Department of Education shall specify the manner for collecting the required information and the method for determining if a school division has expended the local funds required to support the actual local match based on all Lottery and Incentive programs in which the school division has elected to participate. Unless specifically stated otherwise in this Item, school divisions electing to participate in any Lottery or Incentive program that requires a local funding match in order to receive state funding, shall certify to the Department of Education its intent to participate in each program by July 1 each fiscal year in a manner prescribed by the Department of Education. As part of this certification process, each division superintendent must also certify that adequate local funds have been appropriated, above the required local effort for the Standards of Quality, to support the projected required local match based on the Lottery and Incentive programs in which the school division has elected to participate. State funding for such program(s) shall not be made until such time that the school division can certify that sufficient local funding has been appropriated to meet required local match. The Department of Education shall make calculations after the close of the fiscal year to verify that the required local match was met based on the state funds that were received.				
11. Any sum of local matching funds for Lottery and Incentive program which a locality has not expended as of the end of a fiscal year in support of the required local match pursuant to this Item shall be paid by the locality into the general fund of the state treasury unless the carryover of those unspent funds is specifically permitted by other provisions of this act. Such payments shall be made no later than the end of the school year following that in which the under expenditure occurred.				
12. The Superintendent of Public Instruction shall provide a report annually, no later than the first day of the General Assembly session, on the status of teacher salaries, by local school division, to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees. In addition to information on average salaries by school division and statewide comparisons with other states, the report shall also include information on starting salaries by school division and average teacher salaries by school.				
13. All state and local matching funds required by the programs in this Item shall be appropriated to the budget of the local school board.				
14. By November 15 of each year, the Department of Planning and Budget, in cooperation with the Department of Education, shall prepare and submit a preliminary forecast of Standards of Quality expenditures, based upon the most current data available, to the Chairmen of the House Appropriations and Senate Finance Committees. In odd-numbered years, the forecast for the current and subsequent two fiscal years shall be provided. In even-numbered years, the forecast for the current and subsequent fiscal year shall be provided. The forecast shall detail the projected March 31 Average Daily Membership and the resulting impact on the education budget.				
15. School divisions may choose to use state payments provided for Standards of Quality				

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Prevention, Intervention, and Remediation in both years as a block grant for remediation purposes, without restrictions or reporting requirements, other than reporting necessary as a basis for determining funding for the program.				
16. Except as otherwise provided in this act, the Superintendent of Public Instruction shall provide guidelines for the distribution and expenditure of general fund appropriations and such additional federal, private and other funds as may be made available to aid in the establishment and maintenance of the public schools.				
17. At the Department of Education's option, fees for audio-visual services may be deducted from state Basic Aid payments for individual local school divisions.				
18. For distributions not otherwise specified, the Department of Education, at its option, may use prior year data to calculate actual disbursements to individual localities.				
19. Payments for accounts related to the Standards of Quality made to localities for public education from the general fund, as provided herein, shall be payable in twenty-four semi-monthly installments at the middle and end of each month.				
20. Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the Department of Education shall, for purposes of calculating the state and local shares of the Standards of Quality, apportion state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2018, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2019, estimate of school age population provided by the Weldon Cooper Center for Public Service.				
Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the State Comptroller shall distribute the state sales and use tax revenues dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2018, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2019, estimate of school age population provided by the Weldon Cooper Center for Public Service.				
21. The school divisions within the Tobacco Region, as defined by the Tobacco Indemnification and Community Revitalization Commission, shall jointly explore ways to maximize their collective expenditure reimbursement totals for all eligible E-Rate funding.				
22. This Item includes appropriations totaling an estimated \$657,959,397 \$708,231,123 the first year and \$666,104,670 \$690,903,334 the second year from the revenues deposited to the Lottery Proceeds Fund. These amounts are appropriated for distribution to counties, cities, and towns to support public education programs pursuant to Article X, Section 7-A Constitution of Virginia. Any county, city, or town which accepts a distribution from this fund shall provide its portion of the cost of maintaining an educational program meeting the Standards of Quality pursuant to Section 2 of Article VIII of the Constitution without the use of distributions from the fund.				
23. For reporting purposes, the Department of Education shall include Lottery Proceeds Funds as state funds.				
24.a. Any locality that has met its required local effort for the Standards of Quality accounts for FY 2021 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in FY 2021 may carry over into FY 2022 any remaining state Direct Aid to Public Education fund balances available to help minimize any FY 2022 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in FY 2022.				
b. Any locality that has met its required local effort for the Standards of Quality accounts for FY 2022 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in FY 2022 may carry over into FY 2023 any remaining state Direct Aid to Public Education fund balances available to help				

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	minimize any FY 2023 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in FY 2023.			
	25. Localities are encouraged to allow school boards to carry over any unspent local allocations into the next fiscal year. Localities are also encouraged to provide increased flexibility to school boards by appropriating state and local funds for public education in a lump sum.			
	26. The Department of Education shall include in the annual School Performance Report Card for school divisions the percentage of each division's annual operating budget allocated to instructional costs. For this report, the Department of Education shall establish a methodology for allocating each school division's expenditures to instructional and non-instructional costs in a manner that is consistent with the funding of the Standards of Quality as approved by the General Assembly.			
	27. It is the intent of the General Assembly that all school divisions annually provide their employees, upon request, with a user-friendly statement of total compensation, including contract duration if less than 12 months.			
	28. The Department of Education, in collaboration with the Virginia Community College System, will ensure that the same policies regarding the cost for dual enrollment courses held at a community college, are consistently applied to public school students and home-schooled students alike. These policies will clearly address the school division contributions and any student charges for dual enrollment courses, and will ensure that public school students and home-school students are treated in the same manner.			
	29. Each school division shall report each year to the Department of Education the individual uses for the prior year of the following funds prescribed by this item: (i) Prevention, Intervention, and Remediation, (ii) At-Risk Add-On, and (iii) Early Reading Intervention. The Department shall prescribe the format and timeline required for the reporting of such information, which shall include, permitted categories of spending, personnel, both state and local contributions, and to the extent possible, the individual schools which these funds were expended. The Department shall compile and submit this information to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than the first day of the General Assembly session.			
	30. In the first year only, the Department of Education shall not reduce semi-monthly payments to school divisions due to mid-year adjustments to ADM projections. Semi-monthly payments occurring after the final calculation of March 31 ADM shall be adjusted to address changes in membership that occur throughout the school year. It is the intent of the General Assembly that this is a one-time action to address fluctuating enrollment resulting from the COVID-19 emergency.			
	<i>31. Beginning in the second year, multidivision online providers, as defined in § 22.1-212.23, Code of Virginia, shall provide certain data as prescribed by the Department of Education related to students enrolled through a contract between such a provider and a school division, including such students who do not reside in the school division that is party to the contract. Such data shall include, but is not limited to, enrollment, which shall be disaggregated by serving school, demographics, attendance, achievement, and achievement gaps, and be transmitted in a format prescribed by the Department. The Department shall report such data annually through the School Quality Profiles in a manner that clearly disaggregates and communicates school quality information related to (i) the students that do not reside in the school division and are served through the contract, and (ii) all other students.</i>			
	C. Apportionment			
	1. Subject to the conditions stated in this paragraph and in paragraph B of this Item, each locality shall receive sums as listed above within this program for the basic operation cost and payments in addition to that cost. The apportionment herein directed shall be inclusive of, and without further payment by reason of, state funds for library and other teaching materials.			
	2. School Employee Retirement Contributions			
	a. This Item provides funds to each local school board for the state share of the employer's			

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retirement cost incurred by it, on behalf of instructional and support personnel, for subsequent transfer to the retirement allowance account as provided by Title 51.1, Chapter 1, Code of Virginia.				
b. Notwithstanding § 51.1-1401, Code of Virginia, the Commonwealth shall provide payments for only the state share of the Standards of Quality fringe benefit cost of the retiree health care credit. This Item includes payments in both years based on the state share of fringe benefit costs of 55 percent of the employer's cost on funded Standards of Quality instructional and support positions, distributed based on the composite index of the local ability-to-pay.				
3. School Employee Social Security Contributions				
a. This Item provides funds to each local school board for the state share of the employer's Social Security cost incurred by it, on behalf of the instructional personnel for subsequent transfer to the Contribution Fund pursuant to Title 51.1, Chapter 7, Code of Virginia.				
b. Appropriations for contributions in paragraphs 2 and 3 above include payments from funds derived from the principal of the Literary Fund in accordance with Article VIII, Section 8, of the Constitution of Virginia. The amounts set aside from the Literary Fund for these purposes shall not exceed \$162,000,000 the first year and \$83,000,000 the second year.				
4. School Employee Insurance Contributions				
This Item provides funds to each local school board for the state share of the employer's Group Life Insurance cost incurred by it on behalf of instructional personnel who participate in group insurance under the provisions of Title 51.1, Chapter 5, Code of Virginia.				
5. Basic Aid Payments				
a.1) A state share of the Basic Operation Cost, which cost per pupil in March 31 ADM is established individually for each local school division based on the number of instructional personnel required by the Standards of Quality and the statewide prevailing salary levels (adjusted in Planning District Eight for the cost of competing) as well as recognized support costs calculated on a prevailing basis for an estimated March 31 ADM.				
2) This appropriation includes funding to recognize the common labor market in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area. Standards of Quality salary payments for instructional and support positions in school divisions of the localities set out below have been adjusted for the equivalent portion of the Cost of Competing Adjustment (COCA) rates that are paid to local school divisions in Planning District Eight. For the counties of Stafford, Fauquier, Spotsylvania, Clarke, Warren, Frederick, and Culpeper and the Cities of Fredericksburg and Winchester, the SOQ payments for instructional and support positions have been increased by 25 percent each year of the COCA rates paid to school divisions in Planning District Eight.				
The support COCA rate is 16.0 10.6 percent the first year and 18.0 percent the second year.				
b. The state share for a locality shall be equal to the Basic Operation Cost for that locality less the locality's estimated revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item), in the fiscal year in which the school year begins and less the required local expenditure.				
c. For the purpose of this paragraph, the Department of Taxation's fiscal year sales and use tax estimates are as cited in this Item.				
d. 1) In accordance with the provisions of § 37.2-713, Code of Virginia, the Department of Education shall deduct the locality's share for the education of handicapped pupils residing in institutions within the Department of Behavioral Health and Developmental Services from the locality's Basic Aid payments.				
2) The amounts deducted from Basic Aid for the education of intellectually disabled				

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persons shall be transferred to the Department of Behavioral Health and Developmental Services in support of the cost of educating such persons; the amount deducted from Basic Aid for the education of emotionally disturbed persons shall be used to cover extraordinary expenses incurred in the education of such persons. The Department of Education shall establish guidelines to implement these provisions and shall provide for the periodic transfer of sums due from each local school division to the Department of Behavioral Health and Developmental Services and for Special Education categorical payments. The amount of the actual transfers will be based on data accumulated during the prior school year.				
e. 1) The apportionment to localities of all driver education revenues received during the school year shall be made as an undesignated component of the state share of Basic Aid in accordance with the provisions of this Item. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of state funds appropriated for driver education. The Department of Education will deduct a designated amount per pupil from a school division's Basic Aid payment when the school division is not in compliance with § 22.1-205 C, Code of Virginia. Such amount will be computed by dividing the current appropriation for the Driver Education Fund by actual March 31 ADM.				
2) Local school boards may charge a per pupil fee for behind-the-wheel driver education provided, however, that the fee charged plus the per pupil basic aid reimbursement for driver education shall not exceed the actual average per pupil cost. Such fees shall not be cause for a pro rata reduction in Basic Aid payments to school divisions.				
f. Textbooks				
1) The appropriation in this Item includes \$75,370,476 \$72,851,568 the first year and \$75,647,111 \$73,119,307 the second year from the general fund as the state's share of the cost of textbooks based on a per pupil amount of \$107.47 the first year and \$107.47 the second year. A school division shall appropriate these funds for textbooks or any other public education instructional expenditure by the school division. The state's distributions for textbooks shall be based on adjusted March 31 ADM. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.				
2) School divisions shall provide free textbooks to all students.				
3) School divisions may use a portion of this funding to purchase Standards of Learning instructional materials. School divisions may also use these funds to purchase electronic textbooks or other electronic media resources integral to the curriculum and classroom instruction and the technical equipment required to read and access the electronic textbooks and electronic curriculum materials.				
4) Any funds provided to school divisions for textbook costs that are unexpended as of June 30, 2021, or June 30, 2022, shall be carried on the books of the locality to be appropriated to the school division the following year to be used for same purpose. School divisions are permitted to carry forward any remaining balance of textbook funds until the funds are expended for a qualifying purpose.				
5) Notwithstanding any other provision in statute or in this item, to provide temporary flexibility in the first year, school divisions may elect to use textbook payments to address costs incurred as a result of reopening schools that were closed due to the COVID-19 pandemic or to support virtual learning needs in school divisions that have not fully reopened to in-person instruction. Such costs may include, but are not limited to cleaning supplies, personal protective equipment, reduced class sizes to meet social distancing guidelines, technology needs and internet access. No local match is required to receive these state funds in the first year only and such local match shall be excluded from the determination of required local effort in the first year pursuant to Item 145.B.8. of this act, and § 22.1-97, Code of Virginia.				
g. The one-cent state sales and use tax earmarked for education and the sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item which are distributed to localities on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item shall be reflected in each				

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locality's annual budget for educational purposes as a separate revenue source for the current fiscal year.

h. The appropriation for the Standards of Quality for Public Education (SOQ) includes amounts estimated at ~~\$365,700,000~~ \$421,600,000 the first year and ~~\$375,900,000~~ \$433,800,000 the second year from the amounts transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this act which are derived from the 0.375 cent increase in the state sales and use tax levied pursuant to § 58.1-638, Code of Virginia. These additional funds are provided to local school divisions and local governments in order to relieve the financial pressure education programs place on local real estate taxes.

i. From the total amounts in paragraph h. above, an amount estimated at ~~\$243,800,000~~ \$281,000,000 the first year and ~~\$250,600,000~~ \$289,200,000 the second year (approximately 1/4 cent of sales and use tax) is appropriated to support a portion of the cost of the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support and one instructional technology position per 1,000 students; a full daily planning period for teachers at the middle and high school levels in order to relieve the pressure on local real estate taxes and shall be taken into account by the governing body of the county, city, or town in setting real estate tax rates.

j. From the total amounts in paragraph h. above, an amount estimated at ~~\$125,300,000~~ \$140,500,000 the first year and ~~\$121,900,000~~ \$144,600,000 the second year (approximately 1/8 cent of sales and use tax) is appropriated in this Item to distribute the remainder of the revenues collected and deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item.

k. For the purposes of funding certain support positions in Basic Aid, a funding ratio methodology is used based upon the prevailing ratio of actual support positions, consistent with those recognized for SOQ funding, to actual instructional positions, consistent with those recognized for SOQ funding, as established in Chapter 781, 2009 Acts of Assembly. For the purposes of making the required spending adjustments, the appropriation and distribution of Basic Aid shall reflect this methodology. Local school divisions shall have the discretion as to where the adjustment may be made, consistent with the Standards of Quality funded in this Act. *Beginning in the second year, such methodology shall not apply to specialized student support positions due to the establishment of a staffing standard for such positions, pursuant to Senate Bill 1257, 2021 Special Session I.*

6. Education of the Gifted Payments

a. An additional payment shall be disbursed by the Department of Education to local school divisions to support the state share of one full-time equivalent instructional position per 1,000 students in adjusted March 31 ADM.

b. Local school divisions are required to spend, as part of the required local expenditure for the Standards of Quality the established per pupil cost for gifted education (state and local share) on approved programs for the gifted.

7. Occupational-Vocational Education Payments

a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Vocational Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.

b. An amount estimated at ~~\$129,097,464~~ \$129,097,542 the first year and \$129,160,173 the second year from the general fund included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.

8. Special Education Payments

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a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Special Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.				
b. Out of the amounts for special education payments, general fund support is provided to fund the caseload standards for speech pathologists at 68 students for each year of the biennium.				
9. Remedial Education Payments				
a. An additional payment estimated at \$121,073,126 \$117,973,133 the first year and \$121,259,822 \$118,181,833 the second year from the general fund shall be disbursed by the Department of Education to support the Board of Education's Standards of Quality Prevention, Intervention, and Remediation program adopted in June 2003.				
b. The payment shall be calculated based on one hour of additional instruction per day for identified students, using the three year average percent of students eligible for the federal Free Lunch program as a proxy for students needing such services. Fall membership shall be multiplied by the three year average division-level Free Lunch eligibility percentage to determine the estimated number of students eligible for services. Pupil-teacher ratios shall be applied to the estimated number of eligible students to determine the number of instructional positions needed for each school division. The pupil-teacher ratio applied for each school division shall range from 10:1 for those divisions with the most severe combined three year average failure rates for English and math Standards of Learning test scores to 18:1 for those divisions with the lowest combined three year average failure rates for English and math Standards of Learning test scores.				
c. Funding shall be matched by the local government based on the composite index of local ability-to-pay.				
d. To provide flexibility in the instruction of English Language Learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the SOQ Prevention, Intervention, and Remediation account to employ additional English Language Learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided through the staffing standard of 20 instructional positions per 1,000 limited English proficiency students. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall only employ instructional personnel licensed by the Board of Education.				
e. An additional state payment estimated at \$149,886,328 \$107,830,098 the first year and \$173,220,888 \$147,939,452 the second year from the general fund and \$58,211,291 \$69,256,566 the first year and \$60,956,428 \$85,024,872 the second year from the Lottery Proceeds Fund shall be disbursed based on the estimated number of federal Free Lunch participants, in support of programs for students who are educationally at risk. The additional payment shall be based on the state share of:				
1) A minimum 1.0 percent Add-On, as a percent of the per pupil basic aid cost, for each child who qualifies for the federal Free Lunch Program; and				
2) An addition to the Add-On, based on the concentration of children qualifying for the federal Free Lunch Program. Based on its percentage of Free Lunch participants, each school division will receive a total between 1.0 and 23.0 19.9 percent in the first year and between 1.0 and 26.0 percent in the second year in additional basic aid per Free Lunch participant. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.				
3a) Local school divisions are required to spend the established At-Risk Add-On payment (state and local share) on approved programs for students who are educationally at risk.				
b) To receive these funds, each school division shall certify to the Department of Education that the state and local share of the At-Risk Add-On payment will be used to support approved programs for students who are educationally at risk. These programs may include: teacher recruitment programs and incentives, Dropout Prevention, community and school-				

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based truancy officer programs, Advancement Via Individual Determination (AVID), Project Discovery, Reading Recovery, programs for students who speak English as a Second Language, hiring additional school guidance counselors, testing coordinators, and licensed behavior analysts, or programs related to increasing the success of disadvantaged students in completing a high school degree and providing opportunities to encourage further education and training. Further, in the first year only each school division shall report by August 1 to the Department the individual uses of these funds. The Department shall compile the responses and provide them to the Chairmen of House Appropriations and Senate Finance Committees no later than the first day of each Regular General Assembly Session.

4) If the Board of Education has required a local school board to submit a corrective action plan pursuant to § 22.1-253.13:3, Code of Virginia, either for the school division pursuant to a division level review, or for any schools within its division that have been designated as not meeting the standards as approved by the Board of Education, the Superintendent of Public Instruction shall determine and report to the Board of Education whether each such local school board has met its obligation to develop and submit such corrective action plan(s) and is making adequate and timely progress in implementing the plan(s). Additionally, if an academic or other review process undertaken pursuant to § 22.1-253.13:3, Code of Virginia, has identified actions for a local school board to implement, the Superintendent of Public Instruction shall determine and report to the Board of Education whether the local school board has implemented required actions. If the Superintendent certifies that a local school board has failed or refused to meet any of those obligations as referenced in a memorandum of understanding between the local school board and the Board of Education, the Board of Education shall withhold payment of some or all At-Risk Add-On funds otherwise allocated to the affected division pursuant to this allocation for the pending fiscal year. In determining the amount of At-Risk Add-On funds to be withheld, the Board of Education shall take into consideration the extent to which such funds have already been expended or contractually obligated. The local school board shall be given an opportunity to correct its failure and, if successful in a timely manner, may have some or all of its At-Risk Add-On funds restored at the Board of Education's discretion.

f. Regional Alternative Education Programs

1) An additional state payment of ~~\$9,526,559~~\$9,206,220 the first year and ~~\$9,834,814~~\$9,870,797 the second year from the Lottery Proceeds Fund shall be disbursed for Regional Alternative Education programs. Such programs shall be for the purpose of educating certain expelled students and, as appropriate, students who have received suspensions from public schools and students returned to the community from the Department of Juvenile Justice.

2) Each regional program shall have a small student/staff ratio. Such staff shall include, but not be limited to education, mental health, health, and law enforcement professionals, who will collaborate to provide for the academic, psychological, and social needs of the students. Each program shall be designed to ensure that students make the transition back into the "mainstream" within their local school division.

3) a) Regional alternative education programs are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs. This incremental per pupil payment shall be adjusted for the composite index of local ability-to-pay of the school division that counts such students attending such program in its March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the regional programs for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the school day or school year that the student does not attend such program.

b) In the event a school division does not use all of the student slots it is allocated under this program, the unused slots may be reallocated or transferred to another school division.

1. A school division must request from the Department of Education the availability and

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possible use of any unused student slots. If any unused slots are available and if the requesting school division chooses to utilize any of the unused slots, the requesting school division shall only receive the state's share of tuition for the unused slot that was allocated in this Item for the originally designated school division.				
2. However, no requesting school division shall receive more tuition funding from the state for any requested unused slot than what would have been the calculated amount for the requesting school division had the unused slot been allocated to the requesting school division in the original budget. Furthermore, the requesting school division shall pay for any remaining tuition payment necessary for using a previously unused slot.				
3. The Department of Education shall provide assistance for the state share of the incremental cost of Regional Alternative Education program operations based on the composite index of local ability-to-pay.				
4) Out of the appropriation included in paragraph C.38. of this item, \$304,117 the first year and \$612,979 \$759,098 the second year from the Lottery Proceeds Fund are provided for a compensation supplement payment equal to 2.0 percent of base pay on July 1, 2020; and for a compensation supplement payment equal to 2.0 5.0 percent of base pay on July 1, 2021, for Regional Alternative Education Program instructional and support positions, as referenced in paragraph C. 38. of this item.				
5) The Department of Education shall develop a plan to determine and biennially rebenchmark the allocation of existing regional alternative education program slots to participating school divisions. In developing a plan, the Department shall (i) identify a mechanism to calculate slot distribution based on the number of students in a participating division requiring regional alternative education, (ii) identify needs to implement such a plan, including reporting from local school divisions, (iii) identify any legislative and Appropriation Act amendments necessary for implementation, and (iv) plan for the full implementation to rebenchmark the slot allocation of regional alternative education programs. The Department shall report the recommendation to the Secretary of Education, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by August 1, 2021.				
g. Remedial Summer School				
1) This appropriation includes \$22,625,279 \$17,994,400 the first year and \$22,584,988 the second year from the general fund for the state's share of Remedial Summer School Programs. These funds are available to school divisions for the operation of programs designed to remediate students who are required to attend such programs during a summer school session or during an intersession in the case of year-round schools. These funds may be used in conjunction with other sources of state funding for remediation or intervention. School divisions shall have maximum flexibility with respect to the use of these funds and the types of remediation programs offered; however, in exercising this flexibility, students attending these programs shall not be charged tuition and no high school credit may be awarded to students who participate in this program.				
2) For school divisions charging students tuition for summer high school credit courses, consideration shall be given to students from households with extenuating financial circumstances who are repeating a class in order to graduate.				
10. K-3 Primary Class Size Reduction Payments				
a. An additional payment estimated at \$141,698,697 \$129,176,942 the first year and \$141,828,973 \$132,995,629 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education as an incentive for reducing class sizes in the primary grades.				
b. The Department of Education shall calculate the payment based on the incremental cost of providing the lower class sizes based on the lower of the division average per pupil cost of all divisions or the actual division per pupil cost.				
c. Localities are required to provide a match for these funds based on the composite index of local ability-to-pay.				

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d. By October 15 of each year school divisions must provide data to the Department of Education that each participating school has a September 30 pupil/teacher ratio in grades K through 3 that meet the following criteria:

Qualifying School Percentage of Students Approved Eligible for Free Lunch, Three-Year Average	Grades K-3 School Ratio	Maximum Individual K-3 Class Size
30% but less than 45%	19 to 1	24
45% but less than 55%	18 to 1	23
55% but less than 65%	17 to 1	22
65% but less than 70%	16 to 1	21
70% but less than 75%	15 to 1	20
75% or more	14 to 1	19

e. School divisions may elect to have eligible schools participate at a higher ratio, or only in a portion of grades kindergarten through three, with a commensurate reduction of state and required local funds, if local conditions do not permit participation at the established ratio and/or maximum individual class size. In the event that a school division requires additional actions to ensure participation at the established ratio and/or maximum individual class size, such actions must be completed by December 1 of the impacted school year. Special education teachers and instructional aides shall not be counted towards meeting these required pupil/teacher ratios in grades kindergarten through three.

f. The Superintendent of Public Instruction may grant waivers to school divisions for the class size requirement in eligible schools that have only one class in an affected grade level in the school.

11. Literary Fund Subsidy Program Payments

a. The Department of Education and the Virginia Public School Authority (VPSA) shall provide a program of funding for school construction and renovation through the Literary Fund and through VPSA bond sales. The program shall be used to provide funds, through Literary Fund loans and subsidies, and through VPSA bond sales, to fund a portion of the projects on the First or Second Literary Fund Waiting List, or other critical projects which may receive priority placement on the First or Second Literary Fund Waiting List by the Department of Education. Interest rate subsidies will provide school divisions with the present value difference in debt service between a Literary Fund loan and a borrowing through the VPSA. To qualify for an interest rate subsidy, the school division's project must be eligible for a Literary Fund loan and shall be subject to the same restrictions. The VPSA shall work with the Department of Education in selecting those projects to be funded through the interest rate subsidy/bond financing program, so as to ensure the maximum leverage of Literary Fund moneys and a minimum impact on the VPSA Bond Pool.

b. The Department of Education may offer Literary Fund loans from the uncommitted balances of the Literary Fund after meeting the obligations of the interest rate subsidy sales and the amounts set aside from the Literary Fund for Debt Service Payments for Education Technology and Security Equipment in this Item.

c. 1) In the event that on any scheduled payment date of bonds of the Virginia Public School Authority (VPSA) authorized under the provisions of a bond resolution adopted subsequent to June 30, 1997, issued subsequent to June 30, 1997, and not benefiting from the provisions of either § 22.1-168 (iii), (iv), and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the sum of (i) the payments on general obligation school bonds of cities, counties, and towns (localities) paid to the VPSA and (ii) the proceeds derived from the application of the provisions of § 15.2-2659, Code of Virginia, to such bonds of localities, is less than the debt service due on such bonds of the VPSA on such date, there is hereby appropriated to the VPSA, first, from available moneys of the Literary Fund and, second, from the general fund a sum equal to such deficiency.

2) The Commonwealth shall be subrogated to the VPSA to the extent of any such

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appropriation paid to the VPSA and shall be entitled to enforce the VPSA's remedies with respect to the defaulting locality and to full recovery of the amount of such deficiency, together with interest at the rate of the defaulting locality's bonds.

d. The chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds of the VPSA issued and projected to be issued during such biennium pursuant to the bond resolution referred to in paragraph a above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.

e. The Virginia Department of Education and the Virginia Department of the Treasury shall develop recommendations to make Literary Fund construction loans more competitive and attractive to school divisions as a viable source for funding school construction projects. The objective of such recommendations should focus on making such loans valuable to both the Literary Fund and the borrowing localities with a goal of increasing localities' use of loans and increasing the overall health of the Literary Fund. The agencies should consider changes to the Literary Fund loan program and State Board of Education regulations that reflect market-favorable interest rates and provide loan alternatives for localities that are competitive with the Virginia Public School Authority and other construction financing programs. The agencies shall report these recommendations to the Governor and the Chairpersons of the House Appropriations and Senate Finance and Appropriations Committees no later than July 31, 2021.

12. Educational Technology Payments

a. Any unobligated amounts transferred to the educational technology fund shall be disbursed on a pro rata basis to localities. The additional funds shall be used for technology needs identified in the division's technology plan approved by the Department of Education.

b. The Department of Education shall authorize estimated amounts as indicated in Table 1 from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in the referenced years.

Table 1

Grant Year	FY 2021	FY 2022
2016	\$13,755,000	
2017	\$13,952,250	\$13,954,500
2018	\$12,473,250	\$12,469,500
2019	\$11,978,250	\$11,975,500
2020	\$12,291,266 \$11,390,975	\$12,291,266 \$11,389,500
2021		\$12,568,314 \$12,301,025

c. It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for education technology grant programs. In developing the proposed 2022-2024, 2024-2026, and 2026-2028 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2023, 2024, 2025, 2026, and 2027.

d. 1) An education technology grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at ~~\$57,533,200~~\$56,085,200 in fiscal year 2021 and ~~\$57,832,400~~\$57,308,800 in fiscal year 2022. Proceeds of the notes will be used to establish a computer-based instructional and testing system for the Standards of Learning (SOL) and to develop the capability for high speed Internet connectivity at high schools followed by middle schools followed by elementary schools. School divisions shall use these funds first to develop and maintain the capability to support the administration of online SOL testing for all students with the exception of students with a documented need for a paper SOL test.

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2) Grant funds from the issuance of \$57,533,200 \$56,085,200 in fiscal year 2021 and \$57,832,400 \$57,308,800 in fiscal year 2022 in equipment notes are based on a grant of \$26,000 per school and \$50,000 per school division. For purposes of this grant program, eligible schools shall include schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, 2020, for the fiscal year 2021 issuance, and September 30, 2021, for the fiscal year 2022 issuance, as well as regional vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, CodeRVA Regional High School, and the School for the Deaf and the Blind. Schools that serve only pre-kindergarten students shall not be eligible for this grant.				
3. a.) Supplemental grants shall be allocated to eligible divisions to support schools that are not fully accredited in accordance with this paragraph. Schools that include a ninth grade that administer SOL tests in Spring 2020 and that are not fully accredited for the second consecutive year, based on school accreditation ratings in effect for fiscal year 2020 and fiscal year 2021 will qualify to participate in the Virginia e-Learning Backpack Initiative in fiscal year 2021 and receive: (1) a supplemental grant of \$400 per student reported in ninth grade fall membership in a qualifying school for the purchase of a laptop or tablet for that student and (2) a supplemental grant of \$2,400 per qualifying school to purchase two content creation packages for teachers. Schools eligible to receive this supplemental grant in fiscal year 2021 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Schools that administer SOL tests in Spring 2021 and that are not fully accredited for the second consecutive year based on school accreditation ratings in effect for fiscal year 2021 and fiscal year 2022 will qualify to participate in the initiative in fiscal year 2022. Schools eligible for the supplemental grants in previous fiscal years shall continue to be eligible for the remaining years of their grant award. Schools eligible to receive this supplemental grant in fiscal year 2022 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Grants awarded to qualifying schools that do not have grades 10, 11, or 12 may transition with the students to the primary receiving school for all years subsequent to grade 9. Schools are eligible to receive these grants for a period of up to four years beginning in fiscal year 2014 and shall not be eligible to receive a separate award in the future once the original award period has concluded. Schools that are fully accredited or that are new schools with conditional accreditation in their first year shall not be eligible to receive this supplemental grant.				
b.) Supplemental grants allocated to school divisions for participation in the Virginia e-Learning Backpack Initiative prior to fiscal year 2017 shall be used in eligible schools for (1) the purchase of a laptop or tablet for a student reported in ninth grade fall membership, and (2) the purchase of two content creation packages for teachers per grant. The amounts for such grants shall remain unchanged.				
4) Required local match:				
a) Localities are required to provide a match for these funds equal to 20 percent of the grant amount, including the supplemental grants provided pursuant to paragraph g. 5). At least 25 percent of the local match, including the match for supplemental grants, shall be used for teacher training in the use of instructional technology, with the remainder spent on other required uses. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.				
b) School divisions that administer 100 percent of SOL tests online in all elementary, middle, and high schools may use up to 75 percent of their required local match to purchase targeted technology-based interventions. Such interventions may include the necessary technology and software to support online learning, technology-based content systems, content management systems, technology equipment systems, information and data management systems, and other appropriate technologies that support the individual needs of learners. School divisions that receive supplemental grants pursuant to paragraph g.5) above shall use the funds in qualifying schools to purchase laptops and tablets for ninth grade students reported in fall membership and content creation packages for				

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teachers.				
5) The goal of the education technology grant program is to improve the instructional, remedial, and testing capabilities of the Standards of Learning for local school divisions and to increase the number of schools achieving full accreditation.				
6) Funds shall be used in the following manner:				
a) Each division shall use funds to reach a goal, in each high school, of: (1) a 5-to-1 student to computer ratio; (2) an Internet-ready local area network (LAN) capability; and (3) high speed access to the Internet. School connectivity (computers, LANs and network access) shall include sufficient download/upload capability to ensure that each student will have adequate access to Internet-based instructional, remedial and assessment programs.				
b) When each high school in a division meets the goals established in paragraph a) above, the remaining funds shall be used to develop similar capability in first the middle schools and then the elementary schools.				
c) For purposes of establishing or enhancing a computer-based instructional program supporting the Standards of Learning pursuant to paragraph g. 1) above, these grant funds may be used to purchase handheld multifunctional computing devices that support a broad range of applications and that are controlled by operating systems providing full multimedia support and mobile Internet connectivity. School divisions that elect to use these grant funds to purchase such qualifying handheld devices must continue to meet the on-line testing requirements stated in paragraph g. 1) above.				
d) School divisions shall be eligible to receive supplemental grants pursuant to paragraph g.5) above. These supplemental grants shall be used in qualifying schools for the purchase of laptops and tablets for ninth grade students reported in fall membership and content creation packages for teachers. Participating school divisions will be required to select a core set of electronic textbooks, applications and online services for productivity, learning management, collaboration, practice, and assessment to be included on all devices. In addition, participating school divisions will assume recurring costs for electronic textbook purchases and maintenance.				
e) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.				
7) Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.				
e. The Department of Education shall maintain criteria to determine if high schools, middle schools, or elementary schools have the capacity to meet the goals of this initiative. The Department of Education shall be responsible for the project management of this program.				
f. 1) In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority (VPSA) issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the Literary Fund are less than the amounts authorized for debt service due on such bonds or notes of the VPSA on such date, there is hereby appropriated to the VPSA from the general fund a sum equal to such deficiency.				
2) The Chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes of the VPSA issued and projected to be issued during such biennium pursuant to the resolution referred to in paragraph 1) above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.				

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g. Unobligated proceeds of the notes, including investment income derived from the proceeds of the notes may be used to pay interest on, or to decrease principal of the notes or to fund a portion of such other educational technology grants as authorized by the General Assembly.

h. 1) For the purposes of § 56-232, Code of Virginia, "Contracts of Telephone Companies with State Government" and for the purposes of § 56-234 "Contracts for Service Rendered by a Telephone Company for the State Government" shall be deemed to include communications lines into public schools which are used for educational technology. The rate structure for such lines shall be negotiated by the Superintendent of Public Instruction and the Chief Information Officer of the Virginia Information Technologies Agency. Further, the Superintendent and Director are authorized to encourage the development of "by-pass" infrastructure in localities where it fails to obtain competitive prices or prices consistent with the best rates obtained in other parts of the state.

2) The State Corporation Commission, in its consideration of the discount for services provided to elementary schools, secondary schools, and libraries and the universal service funding mechanisms as provided under § 254 of the Telecommunications Act of 1996, is hereby encouraged to make the discounts for intrastate services provided to elementary schools, secondary schools, and libraries for educational purposes as large as is prudently possible and to fund such discounts through the universal fund as provided in § 254 of the Telecommunications Act of 1996. The commission shall proceed as expeditiously as possible in implementing these discounts and the funding mechanism for intrastate services, consistent with the rules of the Federal Communications Commission aimed at the preservation and advancement of universal service.

13. Security Equipment Payments

1) A security equipment grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at up to \$12,000,000 in fiscal year 2021 and \$12,000,000 in fiscal year 2022 in conjunction with the Virginia Public School Authority technology notes program authorized in C.12. of this Item. Proceeds of the notes will be used to help offset the related costs associated with the purchase of appropriate security equipment that will improve and help ensure the safety of students attending public schools in Virginia.

2) The Department of Education shall authorize estimated amounts as indicated in Table 1 from the Literary Fund to provide debt service payments for the security equipment grant programs conducted through the Virginia Public School Authority in the referenced years.

Table 1

Grant Year	FY 2021	FY 2022
2016	\$1,233,750	
2017	\$1,246,000	\$1,249,500
2018	\$1,273,500	\$1,273,500
2019	\$1,258,500	\$1,261,750
2020	\$2,620,255	\$2,620,255
	\$2,430,288	\$2,430,750
2021		\$2,620,255
		\$2,565,690

3) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2022-2024, 2024-2026, and 2026-2028 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2023, 2024, 2025, 2026, and 2027.

4) In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v),

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	Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the Literary Fund are less than the amounts authorized for debt service due on such bonds or notes on such date, there is hereby appropriated to the Virginia Public School Authority from the general fund a sum equal to such deficiency.			
	5) The Chairman of the Board of Commissioners of the Virginia Public School Authority shall, on or before November 1 of each year, deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes issued and projected to be issued during such biennium. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.			
	6) Grant award funds from the issuance of up to \$12,000,000 in fiscal year 2021 and \$12,000,000 in fiscal year 2022 in equipment notes shall be distributed to eligible school divisions. The grant awards will be based on a competitive grant basis of up to \$250,000 per school division. School divisions will be permitted to apply annually for grant funding. For purposes of this program, eligible schools shall include schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, 2020, for the fiscal year 2021 issuance, and September 30, 2021, for the fiscal year 2022 issuance, as well as regional vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, and the Virginia School for the Deaf and the Blind.			
	7) School divisions would submit their application to Department of Education by August 1 of each year based on the criteria developed by the Department of Education in collaboration with the Department of Criminal Justice Services who will provide requested technical support. Furthermore, the Department of Education will have the authority to make such grant awards to such school divisions.			
	8) It is also the intent of the General Assembly that, beginning with fiscal year 2020, the total amount of the grant awards shall not exceed \$60,000,000 over any ongoing revolving five year period.			
	9) Required local match:			
	a) Localities are required to provide a match for these funds equal to 25 percent of the grant amount. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.			
	b) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.			
	c) Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.			
	14. Virginia Preschool Initiative Payments			
	a.1) It is the intent of the General Assembly that a payment estimated at \$80,539,047 \$55,805,681 the first year and \$107,086,043 the second year from the general fund and \$16,600,000 the first year from federal funds shall be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are residents of Virginia and unserved by Head Start program funding and for at-risk five-year-olds who are not eligible to attend kindergarten.			
	2) These state funds and required local matching funds shall be used to provide programs for at-risk four-year-old children, which include quality preschool education, health services, social services, parental involvement and transportation. It shall be the policy of the Commonwealth that state funds and required local matching funds for the Virginia Preschool Initiative not be used for capital outlay, not be used to supplant any Head Start federal funds provided for local early education programs, and not be used until the local Head Start grantee certifies that all local Head Start slots are filled. Programs must provide full-day or half-day			

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and, at least, school-year services.

3) The Department of Education shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be required to be evaluated in the fall and in the spring by each participating school division and the school divisions must certify that the Virginia Preschool Initiative program follows the established standards in order to receive the funding for quality preschool education and criteria for the service components. Such standards shall align with the Virginia Standards of Learning for Kindergarten.

4) a) Grants shall be distributed based on an allocation formula providing the state share of a ~~\$6,959~~\$6,326 per pupil grant in the first year and a \$7,655 per pupil grant in the second year for 100 percent of the unserved at-risk four-year-olds in each locality for a full-day program. The number of unserved at-risk four-year-olds in each locality shall be based on the projected number of kindergarten students, updated once each biennium for the Governor's introduced biennial budget. Grants to half-day programs shall be funded based on the state share of ~~\$3,480~~\$3,163 in the first year and \$3,828 in the second year per unserved at-risk four-year-old in each locality.

b) Out of this appropriation, ~~\$2,837,266 the first year~~ and \$6,117,049 the second year from the general fund is provided to serve at-risk three-year-olds who are residents of Virginia and unserved by Head Start funding on a pilot basis using criteria as determined by the Department of Education. Localities may apply to participate in the pilot by May 15 each year and shall be selected on a competitive basis. Pilot providers shall be required to: (i) demonstrate broad stakeholder support, (ii) track outcomes for participating children, (iii) demonstrate how they will maximize federal and state funds to preserve existing birth to five slots, including certifying that all local Head Start slots are filled, (iv) support inclusive practices of children with identified special needs, and (v) collaborate among the school division, local department of social services, programs accepting child care subsidy payments, and providers for Head Start, private child care, and early childhood special education and early intervention programs. In addition, localities shall be selected using other criteria that include prioritizing: (i) communities with limited child care options; (ii) programs serving children in private, mixed-delivery settings; or (iii) communities that demonstrate full support of public and private providers. Grants shall be distributed based on an allocation formula providing the state share of a ~~\$6,959 per pupil grant in the first year~~, and a \$7,655 per pupil grant in the second year. Grants to half-day programs shall be funded based on the state share of ~~\$3,480 in the first year~~, and \$3,828 in the second year.

c) Full-day programs shall operate for a minimum of five and one-half instructional hours, excluding breaks for meals, and half-day programs shall operate for a minimum of three hours of classroom instructional time per day, excluding breaks for lunch. Virginia Preschool Initiative programs may include unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time, provided that such unstructured recreational time does not exceed 15 percent of total instructional time or teaching hours. No additional state funding is provided for programs operating greater than three hours per day but less than five and one-half hours per day. In determining the state and local shares of funding, the composite index of local ability-to-pay is capped at 0.5000.

d) For new programs in the first year of implementation only, programs operating less than a full school year shall receive state funds on a fractional basis determined by the pro-rata portion of a school year program provided. In determining the prorated state funds to be received, a school year shall be 180 days or 990 teaching hours.

e) To ensure children with special needs have equitable opportunity to enter kindergarten ready, all Virginia Preschool Initiative programs are expected to be inclusive of children with disabilities. Specifically, programs shall meet or exceed a target inclusion rate, such that 10 percent of all children participating in the Virginia Preschool Initiative are children with disabilities, defined as those with an Individualized Education Plan, and are served in inclusive classrooms that include children who do not have an Individualized Education Plan. A program that is unable to meet this target shall provide reasons a 10 percent inclusion rate was not achieved in the given school year in its annual

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<i>comprehensive report.</i>				
<p>b.1) Any locality that desires to participate in this grant program must submit a proposal through its chief administrator (county administrator or city manager) by May 15 of each year. The chief administrator, in conjunction with the school superintendent, shall identify a lead agency for this program within the locality. The lead agency shall be responsible for developing a local plan for the delivery of quality preschool services to at-risk children, which demonstrates the coordination of resources and the combination of funding streams in an effort to serve the greatest number of at-risk four-year-old children. Starting in fiscal year 20212022, localities may apply for additional funds to serve at-risk three-year-old children on a pilot basis.</p>				
<p>2) The proposal must demonstrate coordination with all parties necessary for the successful delivery of comprehensive services, including the schools, child care providers, local social services agency, Head Start, local health department, and other groups identified by the lead agency. The proposal must identify which entities were consulted and how the locality will ensure that federal funds are preserved and maximized including demonstrating compliance with Title I of the federal Elementary and Secondary Education Act to ensure that a Local Educational Agency receiving Title I funding coordinates with Head Start programs and other early learning programs receiving federal funds by developing Memorandums of Understanding with such agencies to coordinate services. The proposal must also demonstrate a plan for supporting inclusive practices for children with identified special needs.</p>				
<p>3) A local match, based on the composite index of local ability-to-pay, shall be required. For purposes of meeting the local match, localities may use local expenditures for existing qualifying programs, however, at least fifty percent of the local match will be cash and no more than fifty percent will be in-kind. In-kind contributions are defined as cash outlays that are made by the locality that benefit the program but are not directly charged to the program. The value of fixed assets cannot be considered as an in-kind contribution. Philanthropic or other private funds may be contributed to the locality to be appropriated in their local budget and then utilized as local match. Localities shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program must be used to supplement, not supplant, any funds currently provided for programs within the locality. However, in the event a locality is unable to continue the previous level of support to programs for at-risk four-year-olds from Title I of the federal Elementary and Secondary Education Act (ESEA), the state and local funds provided in this grants program may be used to continue services to these Title I students. Such inability may occur due to adjustments to the allocation formula in the reauthorization of ESEA as the Every Student Succeeds Act of 2015, or due to a percentage reduction in a locality's Title I allocation in a particular year. Any locality so affected shall provide written evidence to the Superintendent of Public Instruction and request his approval to continue the services to Title I students.</p>				
<p>c. Local plans must provide clear methods of service coordination for the purpose of reducing the per child cost for the service, increasing the number of at-risk children served and/or extending services for the entire year. Examples of these include:</p>				
<p>1) "Wraparound Services" -- methods for combining funds such as child care subsidy dollars administered by local social service agencies with dollars for quality preschool education programs.</p>				
<p>2) "Wrap-out Services" - methods for using grant funds to purchase quality preschool services to at-risk four-year-old children through an existing child care setting by purchasing comprehensive services within a setting which currently provides quality preschool education.</p>				
<p>3) "Expansion of Service" - methods for using grant funds to purchase slots within existing programs, such as Head Start, which provides comprehensive services to at-risk three- and four-year-old children.</p>				
<p>d. Local plans must indicate the number of at-risk four-year-old children to be served, and the eligibility criteria for participation in this program shall be consistent with the economic and educational risk factors stated in the 2015-2016 programs guidelines that are specific to: (i) family income at or below 200 percent of federal poverty guidelines, (ii) homelessness, (iii) student's parents or guardians are school dropouts, or (iv) family income is above 200 percent but at or below 350 percent of federal poverty guidelines in the case of students with special</p>				

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needs or disabilities. Up to 15 percent of a division's slots may be filled based on locally established eligibility criteria so as to meet the unique needs of at-risk children in the community. If applicable, local plans must also indicate the number of at-risk three-year-old children to be served using the same eligibility criteria listed above. Localities that can demonstrate that more than 15 percent of slots are needed to meet the needs of at-risk children in their community may apply for a waiver from the Superintendent of Public Instruction to use a larger percentage of their slots. Localities must demonstrate that increasing eligibility will enable the maximization of federal funds and will not have a negative impact on access for other individuals currently being served.

e.1) The Department of Education shall provide technical assistance for the administration of this grant program to provide assistance to localities in developing a comprehensive, coordinated, quality preschool program that prepares all participants for kindergarten.

2) The Department shall provide interested localities with information on models for service delivery, methods of coordinating funding streams, such as funds to match federal IV-A child care dollars, to maximize funding without supplanting existing sources of funding for the provision of services to at-risk three- and four-year-old children. A priority for technical assistance in the design of programs shall be given to localities where the majority of the at-risk three- and four-year-old population is currently unserved.

f. The Department of Education shall include in the program's application package specific information regarding the potential availability of funding for supplemental grants that may be used for one-time expenses, other than capital, related to start-up or expansion of programs, with priority given to proposals for expanding the use of partnerships with either nonprofit or for-profit providers. Furthermore, the Department is mandated to communicate to all eligible school divisions the remaining available balances in the program's adopted budget, after the fall participation reports have been submitted and finalized for such grants.

g. Out of this appropriation, ~~\$3,982,079 the first year and \$3,285,258 the second year~~ from the general fund is provided to support Virginia Preschool Initiative slots to serve children on wait lists. In each year, unused grants distributed as provided in paragraph C.14.a.4. of this Item shall be redistributed based on guidelines established by the Department of Education subject to the appropriation available for this purpose. Such guidelines shall provide the criteria used to redistribute grants and provide for the notification of grants redistribution to programs no later than July 1 of each year. The Department shall conduct this process annually, and the redistribution shall not affect the allocation formula for the subsequent year.

h.1) Out of this appropriation, ~~\$5,020,000 the first year and \$5,005,000~~ *\$4,886,000* the second year from the general fund is provided to support an add-on grant per child for approximately 2,000 children to incentivize mixed-delivery of services through private providers. These add-on grants are intended to provide funds to minimize the difference between the amount of the per-pupil grant allocation and the per-pupil cost to serve a child in a community-based or private provider setting. Recipients of the add-on grants will be encouraged to support classrooms that support inclusive practices of children with special needs. Localities shall indicate in their plans submitted pursuant to C.14.b.1 of this Item how many of their Virginia Preschool Initiative slots will be provided in community-based or private provider settings to receive the add-on grant.

2) The amount of these add-on grants shall vary by region ~~in fiscal year 2021~~ and provide a grant of: (i) \$3,500 per child for divisions in Planning District 8, (ii) \$2,500 per child for divisions in Planning District 15, Planning District 23, and for the counties of Stafford, Fauquier, Spotsylvania, Clarke, Warren, Frederick, and Culpeper and the Cities of Fredericksburg and Winchester, and (iii) \$1,500 per child in any other division.

3) The Department of Education shall develop a plan to determine the magnitude of the gap between regional prevailing child care market rates and the Virginia Preschool Initiative per pupil amount. The Department shall establish a schedule designating the amount of the add-on grants for each school division for fiscal year ~~2022~~2023. The amount of the add-on grant plus the Virginia Preschool Initiative per pupil amount shall not exceed prevailing child care market rates in a particular region. The Department shall report on the established schedule to the Chairs of the House Appropriations and Senate

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<p>i. The Department of Education shall develop a plan to determine, recognize, and biennially rebenchmark the per-student funding amount of the Virginia Preschool Initiative, similar to the current formula supporting public K-12 education in Virginia. In developing such plan, the Department shall (i) identify needs to implement such plan, including reporting from local school divisions, (ii) include relevant stakeholders, including school division finance staff and local Virginia Preschool Initiative administrators, (iii) identify any legislative or Appropriation Act amendments necessary for implementation, and (iv) plan for full implementation to benchmark the per-student funding amount of the Virginia Preschool Initiative.</p>				
<p>j. Out of this appropriation, \$6,419,996 the first year and \$7,062,088 the second year from the general fund is provided to support increased Virginia Preschool Initiative teacher to student ratios and class sizes, as follows:</p>				
<p>1) Any classroom that exceeds benchmarks set by the Board of Education shall be staffed as follows: (i) one teacher shall be provided for any class of ten students or less; (ii) if the enrollment in any class exceeds ten students but does not exceed 20, a full-time teacher's aide shall be assigned to the class; and (iii) the maximum class size shall be 20 students.</p>				
<p>2) All other classrooms shall be staffed as follows: (i) one teacher shall be employed for any class of nine students or less; (ii) if the enrollment in any class exceeds nine students but does not exceed 18, a full-time teacher's aide shall be assigned to the class; and (iii) the maximum class size shall be 18 students.</p>				
<p>k. Out of this appropriation, \$306,100 the first year and \$306,100 the second year from the general fund is allocated for the Department of Education to provide grants of no more than \$30,000 each for local school divisions that have applied for such funds for the sole purpose of providing financial incentives to provisionally licensed teachers teaching students enrolled in the Virginia Preschool Initiative <i>or other publicly-funded preschool programs operated by the school division</i> and who are actively engaged in coursework and professional development, toward achieving the required degree and license that satisfy the licensure requirements reflected in § 22.1-299, Code of Virginia. School divisions must submit applications to the Department of Education by December 1 of each year. Priority for awarding grants shall be given to hard-to-staff schools and schools with the highest number of provisionally licensed teachers teaching students enrolled in the Virginia Preschool Initiative <i>or other publicly-funded preschool programs operated by the school division</i>. The Department of Education shall develop the application process to be provided to school divisions that have provisionally licensed <i>preschool</i> teachers employed and are teaching students enrolled in the Virginia Preschool Initiative <i>or other publicly-funded preschool programs operated by the school division</i>.</p>				
<p>l. 1.) The Department of Education shall collect information from local <i>Virginia Preschool Initiative</i> programs and from pilot providers participating in the Virginia Early Childhood Foundation's pilot Mixed-Delivery Preschool Initiative established in Item 144 as needed to compile a comprehensive report on the usage of state funds detailing, but not limited to the number of calculated slots and funding allocated to each local program or pilot provider, and the number of such slots that have been filled.</p>				
<p>2.) Such comprehensive report shall be aggregated in a manner to identify: (i) funding and the number of slots used to serve a student in a public school and non-public school setting, (ii) the number of three-year olds served, (iii) waitlist slots requested, offered, and provided, (iv) the number of students served whose families are at or below 130 percent poverty, above 130 percent but at or below 200 percent of poverty, above 200 percent but at or below 350 percent of poverty, and above 350 percent of poverty.</p>				
<p>3.) <i>Such comprehensive report shall describe the Virginia Preschool Initiative programs' progress towards the target inclusion rate, such that 10 percent of all children enrolled in each program are children with disabilities, defined as those with an Individualized Education Plan. Virginia Preschool Initiative programs shall report the share of children with Individualized Education Plans in inclusive classrooms annually starting with the 2020-2021 school year. If the program's current inclusion rate falls below 10 percent, the program shall provide reasons a 10 percent inclusion rate was not achieved in the given school year</i></p>				

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and what actions the program could implement to increase its rate of inclusion in the next year.

34.) Such comprehensive report shall include details regarding any supplemental grants awarded pursuant to paragraph f.

45.) The Department shall submit such comprehensive report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 31 each year.

56.) The Department shall develop a plan for comprehensive public reporting on early childhood expenditures, outcomes, and program quality to replace this reporting requirement. Such plan *and subsequent reports* shall consider the components included in this reporting requirement, and include all publicly-funded providers as defined in ~~House Bill 1012~~Chapter 860 and ~~Senate Bill 578~~Chapter 861, 2020 Acts of Assembly. The plan shall identify any fiscal, legislative, or regulatory barriers to implementing such public reporting, and shall consider integration with the Department's School Quality Profiles. Such plan shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020. *In subsequent years, the Department of Education shall update and submit the report by December 1 of each year.*

m. Out of this appropriation, ~~\$2,042,044~~\$2,320,370 the first year and ~~\$2,246,277~~\$2,807,846 the second year from the general fund is provided to support approximately an additional 609 Virginia Preschool Initiative slots that were previously filled under the Virginia Preschool Initiative Plus (VPI Plus). These slots are intended to hold harmless eight school divisions that participated in VPI Plus during the 2019-2020 school year, by allocating the same number of slots to those eight school divisions.

n. Out of this appropriation, ~~\$4,432,189~~ the first year and ~~\$4,875,473~~\$4,994,473 the second year from the general fund is provided as flexible funding available to supplement any of the other initiatives provided in section C.14 of this item. *Additionally, within the fiscal year, any funds appropriated for Virginia Preschool Initiative Payments that are not awarded may be used as flexible funding to supplement any of the other initiatives provided in paragraph C.14 of this Item. The Department of Education shall prioritize serving at-risk four-year-old children when executing the flexibility provisions in this paragraph.*

15. Early Reading Intervention Payments

a. An additional payment of ~~\$28,874,557~~\$27,103,087 the first year and ~~\$28,952,264~~\$27,192,313 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing early reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on diagnostic tests which have been approved by the Department of Education. The Department of Education shall review the tests of any local school board which requests authority to use a test other than the state-provided test to ensure that such local test uses criteria for the early diagnosis of reading deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of five to one. The estimated number of students in each school division in each year shall be determined by multiplying the projected number of students reported in each school division's fall membership in grades kindergarten, 1, 2, and 3 by the percent of students who are determined to need services based on diagnostic tests administered in the ~~previous~~ most recent year that data is available in that school division and adjusted in the following manner:

	Year 1	Year 2
Kindergarten	100%	100%

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Grade 1	100%		100%	
Grade 2	100%		100%	
Grade 3	100%		100%	

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. At the beginning of the school year, local school divisions shall partner with the parents of those third grade students in the division who demonstrate reading deficiencies, discussing with them a developed plan for remediation and retesting. Such intervention programs, at the discretion of the local school division, may include, but not be limited to, the use of: special reading teachers; trained aides; full-time early literacy tutors; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; or extended instructional time in the school day or year for these students. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

d. In the event that a school division does not use the diagnostic test provided by the Department of Education in the year that serves as the basis for updating the funding formula for this program but has used it in past years, the Department of Education shall use the most recent data available for the division for the state-provided diagnostic test.

e. The results of all reading diagnostic tests and reading remediation shall be discussed with the student and the student's parent prior to the student being promoted to grade four.

f. Funds appropriated for Standards of Quality Prevention, Intervention, and Remediation, Remedial Summer School, or At-Risk Add-On may also be used to meet the requirements of this program.

16. Standards of Learning Algebra Readiness Payments

a. An additional payment of ~~\$15,194,903~~ \$15,213,962 the first year and ~~\$15,239,492~~ \$15,248,151 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing math intervention services to students in grades 6, 7, 8 and 9 who are at-risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on diagnostic tests which have been approved by the Department of Education. These amounts reflect \$200,000 the first year and \$200,000 the second year apportioned to each school division to account for the cost of the diagnostic test. The Department of Education shall review the tests to ensure that such local test uses state-provided criteria for diagnosis of math deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of ten to one. The estimate number of students in each school division shall be determined by multiplying the projected number of students reported in each school division's fall membership by the percent of students that qualify for the federal Free Lunch Program.

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

17. School Construction Grants Program Escrow

Notwithstanding the requirements of § 22.1-175.5, Code of Virginia, school divisions are permitted to withdraw funds from local escrow accounts established pursuant to § 22.1-175.5 to pay for recurring operational expenses incurred by the school division. Localities are not

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required to provide a local match of the withdrawn funds.

18. English as a Second Language Payments

A payment of ~~\$82,232,407~~\$74,642,794 the first year and ~~\$95,145,149~~\$82,592,805 the second year from the general fund shall be disbursed by the Department of Education to local school divisions to support the state share of *18.5 professional instructional positions per 1,000 students in the first year and 20 professional instructional positions per 1,000 students in the second year* for whom English is a second language. Local school divisions shall provide a local match based on the composite index of local ability-to-pay.

19. Special Education Instruction Payments

a. The Department of Education shall establish rates for all elements of Special Education Instruction Payments.

b. Out of the appropriations in this Item, the Department of Education shall make available, subject to implementation by the Superintendent of Public Instruction, an amount estimated at ~~\$101,152,929~~\$98,152,929 the first year and \$101,152,929 the second year from the Lottery Proceeds Fund for the purpose of the state's share of the tuition rates for approved public Special Education Regional Tuition school programs. Notwithstanding any contrary provision of law, the state's share of the tuition rates shall be based on the composite index of local ability-to-pay.

c.1. Out of the amounts for Financial Assistance for Categorical Programs, \$36,591,267 the first year and \$37,546,662 the second year from the general fund is appropriated to permit the Department of Education to enter into agreements with selected local school boards for the provision of educational services to children residing in certain hospitals, clinics, and detention homes by employees of the local school boards. The portion of these funds provided for educational services to children residing in local or regional detention homes shall only be determined on the basis of children detained in such facilities through a court order issued by a court of the Commonwealth. The selection and employment of instructional and administrative personnel under such agreements will be the responsibility of the local school board in accordance with procedures as prescribed by the local school board. State payments for the first year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2020 and the first three quarters of FY 2021. State payments for the second year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2021 and the first three quarters of FY 2022.

2. *The Board of Education shall make recommendations for: (i) appropriate staffing and funding levels necessary for State Operated Programs (SOP) in regional and local detention centers to provide a quality education program; (ii) implementation of appropriate efficiencies in staffing practices in such programs; (iii) statutory and regulatory changes needed to implement the Board's findings; and (iv) appropriate programs to redirect any potential savings realized from implementation of the Board's findings.*

In developing such recommendations, the Board shall consider: (i) the dramatic decrease in the Average Daily Population in detention centers over the course of two decades without a comparable decrease in state funding; (ii) establishing a system-wide staffing ratio that is comparable to those provided in Regional Alternative Education Programs and aligned with the staffing requirements provided in the federal Prison Rape Elimination Act; (iii) implementing efficiencies, such as sharing SOP instructional staff with participating school divisions, hiring part-time teachers and dually-certified teachers and principals, and utilizing a lead teacher in lieu of a full-time principal in programs with a low average daily population; (iv) changes to SOP operating agreements to facilitate more efficient staffing practices and to clarify the role of the state and school divisions in hiring and supervising SOP instructional staff; (v) increasing the use of enhanced distance learning; and (vi) the draft recommendations deliberated by the Commission on Youth from the 2020 study.

The Board shall convene a workgroup to assist in the development of such findings and recommendations and shall include staff members from the Senate Finance and

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<p><i>Appropriations Committee, House Appropriations Committee, Department of Planning and Budget, the Virginia Department of Education, the Department of Juvenile Justice, the President of the Virginia Juvenile Detention Association or his/her designee, the Chair of the Virginia Commission on Youth or his/her designee, and other representatives the Board deems appropriate. Findings and recommendations shall be reported to the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee by November 1, 2021.</i></p>				
20. Vocational Education Instruction Payments				
<p>a. It is the intention of the General Assembly that the Department of Education explore initiatives that will encourage greater cooperation between jurisdictions and the Virginia Community College System in meeting the needs of public school systems.</p>				
<p>b. This appropriation includes \$1,800,000 the first year and \$1,800,000 the second year from the Lottery Proceeds Fund for secondary vocational-technical equipment. A base allocation of \$2,000 each year shall be available for all divisions, with the remainder of the funding distributed on the basis of student enrollment in secondary vocational-technical courses. State funds received for secondary vocational-technical equipment must be used to supplement, not supplant, any funds currently provided for secondary vocational-technical equipment within the locality. Local school divisions are not required to provide a local match in order to receive these state funds.</p>				
<p>c.1) This appropriation includes an additional \$2,000,000 the first year and \$2,000,000 the second year from the Lottery Proceeds Fund to update vocational-technical equipment to industry standards providing students with classroom experience that translates to the workforce.</p>				
<p>2) Of this amount, \$1,400,000 the first year and \$1,400,000 the second year is provided for vocational-technical equipment in high-demand, high-skill, and fast-growth industry sectors as identified by the Virginia Board of Workforce Development and based on data from the Bureau of Labor Statistics and the Virginia Employment Commission.</p>				
<p>3) Of this amount, \$600,000 the first year and \$600,000 the second year will be awarded based on competitive innovative program grants for high-demand and fast-growth industry sectors with priority given to state-identified challenged schools, the Governor's Science Technology, Engineering, and Mathematics (STEM) academies, and the Governor's Health Science Academies.</p>				
<p>d. This appropriation includes \$500,000 the first year and \$500,000 the second year from the Lottery Proceeds Fund to support credentialing testing materials for students and professional development for instructors in science, technology, engineering, and mathematics-health sciences (STEM-H) career and technical education programs.</p>				
21. Adult Education Payments				
<p>State funds shall be used to reimburse general adult education programs on a fixed cost per pupil or cost per class basis. No state funds shall be used to support vocational noncredit courses.</p>				
22. General Education Payments				
<p>a. This appropriation includes \$2,410,988 the first year and \$2,410,988 the second year from the Lottery Proceeds Fund to support Race to GED. Out of this appropriation, \$465,375 the first year and \$465,375 the second year shall be used for PluggedIn VA.</p>				
<p>b. This appropriation includes \$1,387,240 the first year and \$1,387,240 the second year from the Lottery Proceeds Fund to support Project Graduation and any associated administrative and contractual service expenditures related to this initiative.</p>				
23. Individual Student Alternative Education Program (ISAEP) Payments				
<p>Out of this appropriation, \$2,247,581 the first year and \$2,247,581 in the second year from the Lottery Proceeds Fund shall be provided for the secondary schools' Individual Student Alternative Education Program (ISAEP), pursuant to Chapter 488 and Chapter 552 of the 1999 Session of the General Assembly.</p>				

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24. Foster Children Education Payments

a. An additional state payment is provided from the Lottery Proceeds Fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil of school age as defined in § 22.1-1, Code of Virginia; not a resident of the school division providing his education (a) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (b) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (c) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home; or (d) who is a student that was formerly in foster care upon reaching 18 years of age but who has not yet reached 22 years of age. For pupils included in subsection (d), the school division shall keep an accurate record of the number of days in which such child was enrolled in its public schools and shall be included in the division's certification provided to the Board of Education by July 1 each school year per § 22.1-101.1 C, Code of Virginia.

b. This appropriation provides ~~\$10,667,347~~ \$13,083,167 the first year and \$11,528,816 the second year from the Lottery Proceeds Fund to support children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines, as provided by subsections A and B of § 22.1-101.1, Code of Virginia. To the extent these funds are not adequate to cover the full costs specified therein, the Department is authorized to expend unobligated balances in this Item for this support.

25. Sales Tax Payments

a. This is a sum-sufficient appropriation for distribution to counties, cities and towns a portion of net revenue from the state sales and use tax, in support of the Standards of Quality (Title 22.1, Chapter 13.2, Code of Virginia) (See the Attorney General's opinion of August 3, 1982).

b. Certification of payments and distribution of this appropriation shall be made by the State Comptroller.

c. The distribution of state sales tax funds shall be made in equal bimonthly payments at the middle and end of each month.

d. Included in this appropriation are the accelerated sales tax revenues attributable to §58.1-638 B., D., and F.1., Code of Virginia, and collected pursuant to §3-5.06 of this act.

26. Adult Literacy Payments

a. Appropriations in this Item include \$125,000 the first year and \$125,000 the second year from the general fund for the ongoing literacy programs conducted by Mountain Empire Community College.

b. Out of this appropriation, the Department of Education shall provide \$100,000 the first year and \$100,000 the second year from the general fund for the Virginia Literacy Foundation grants to support programs for adult literacy including those delivered by community-based organizations and school divisions providing services for adults with 0-9th grade reading skills.

27. Governor's School Payments

a. Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of regular school year Governor's Schools based on each participating locality's composite index of local ability-to-pay. Participating school divisions must certify that no tuition is assessed to students for participation in this program.

b.1) Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of summer residential Governor's Schools and Foreign Language Academies to be based on the greater of the state's share of the composite index of local ability-to-pay or 50 percent. Participating school divisions must certify that no tuition is assessed to students for participation in this

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program if they are enrolled in a public school.				
2) Out of the amounts for Governor's School Payments, \$41,000 the first year and \$41,000 the second year is provided to support the Hanover Regional Summer Governor's School for Career and Technical Advancement, which was established pursuant to Chapter 425, 2014 Acts of Assembly, and Chapter 665, 2015 Acts of Assembly.				
c. For the Summer Governor's Schools and Foreign Language Academies programs, the Superintendent of Public Instruction is authorized to adjust the tuition rates, types of programs offered, length of programs, and the number of students enrolled in order to maintain costs within the available state and local funds for these programs.				
d. It shall be the policy of the Commonwealth that state general fund appropriations not be used for capital outlay, structural improvements, renovations, or fixed equipment costs associated with initiation of existing or proposed Governor's schools. State general fund appropriations may be used for the purchase of instructional equipment for such schools, subject to certification by the Superintendent of Public Instruction that at least an equal amount of funds has been committed by participating school divisions to such purchases.				
e. The Board of Education shall not take any action that would increase the state's share of costs associated with the Governor's Schools as set forth in this Item. This provision shall not prohibit the Department of Education from submitting requests for the increased costs of existing programs resulting from updates to student enrollment for school divisions currently participating in existing programs or for school divisions that begin participation in existing programs.				
f.1) Regular school year Governor's Schools are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs for each student attending a Governor's School up to a cap of 1,800 students per Governor's School in the first year and a cap of 1,800 students per Governor's School in the second year. This incremental per pupil payment shall be adjusted for the composite index of the school division that counts such students attending an academic year Governor's School in their March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the Governor's Schools for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the day that the student does not attend a Governor's School.				
2) Students attending a revolving Academic Year Governor's School program for only one semester shall be counted as 0.50 of a full-time equivalent student and will be funded for only fifty percent of the full-year funded per pupil amount. Funding for students attending a revolving Academic Year program will be adjusted based upon actual September 30th and January 30th enrollment each fiscal year. For purposes of this Item, revolving programs shall mean Academic Year Governor's School programs that admit students on a semester basis.				
3) Students attending a continuous, non-revolving Academic Year Governor's School program shall be counted as a full-time equivalent student and will be funded for the full-year funded per pupil amount. Funding for students attending a continuous, non-revolving Academic Year Governor's School program will be adjusted based upon actual September 30th student enrollment each fiscal year. For purposes of this Item, continuous, non-revolving programs shall mean Academic Year Governor's School programs that only admit students at the beginning of the school year. Fairfax County Public Schools shall not reduce local per pupil funding for the Thomas Jefferson Governor's School below the amounts appropriated for the 2003-2004 school year.				
g. All regional Governor's Schools are encouraged to provide full-day grades 9 through 12 programs.				
h. Out of the appropriation included in paragraph C. 38. of this item, \$408,502 the first year and \$834,740 \$1,046,023 the second year from the general fund is provided in the Academic Year Governor's School funding allocation to increase the per pupil amount the second year as an add-on for a compensation supplement payment equal to 2.0 percent of base pay on July				

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1, 2020; and for a compensation supplement payment equal to 2-0 5.0 percent of base pay on July 1, 2021, for Academic Year Governor's School instructional and support positions.

i. Each Academic Year Governor's School shall set diversity goals for its student body and faculty, and develop a plan to meet said goals in collaboration with community partners at public meetings, and such goals and plan shall be published on the school's website. Each school shall submit a report to the Governor by October 1 of each year on its goals and status of implementing its plan, and such report shall be published on the school's website. The report shall include, but not be limited to the following: utilization of universal screenings in feeder divisions; admission processes in place or under consideration that promote access for historically underserved students; and outreach and communication efforts deployed to recruit historically underserved students. The report shall include the racial/ethnic make-up and socioeconomic diversity of its students, faculty, and applicants.

28. School Nutrition Payments

It is provided that, subject to implementation by the Superintendent of Public Instruction, no disbursement shall be made out of the appropriation for school nutrition to any locality in which the schools permit the sale of competitive foods in food service facilities or areas during the time of service of food funded pursuant to this Item.

29. School Breakfast Payments

a. Out of this appropriation, ~~\$7,238,768~~\$1,437,082 the first year and \$7,920,136 the second year from the Lottery Proceeds Fund is included to continue a state funded incentive program to maximize federal school nutrition revenues and increase student participation in the school breakfast program. These funds are available to any school division as a reimbursement for breakfast meals served that are in excess of the baseline established by the Department of Education. The per meal reimbursement shall be \$0.22; however, the department is authorized, but not required to reduce this amount proportionately in the event that the actual number of meals to be reimbursed exceeds the number on which this appropriation is based so that this appropriation is not exceeded.

b. In order to receive these funds, school divisions must certify that these funds will be used to supplement existing funds provided by the local governing body and that local funds derived from sources that are not generated by the school nutrition programs have not been reduced or eliminated. The funds shall be used to improve student participation in the school breakfast program. These efforts may include, but are not limited to, reducing the per meal price paid by students, reducing competitive food sales in order to improve the quality of nutritional offerings in schools, increasing access to the school breakfast program, or providing programs to increase parent and student knowledge of good nutritional practices. In no event shall these funds be used to reduce local tax revenues below the level appropriated to school nutrition programs in the prior year. Further, these funds must be provided to the school nutrition programs and may not be used for any other school purpose.

c.1) Out of this appropriation, \$1,074,000 the first year and \$1,074,000 the second year from the general fund is provided to fund an After-the-Bell Model breakfast program available on a voluntary basis to elementary, middle, and high schools where student eligibility for free or reduced lunch exceeds 45.0 percent for the participating eligible school, and to provide additional reimbursement for eligible meals served in the current traditional school breakfast program at all grade levels in any participating school. The Department of Education is directed to ensure that only eligible schools receive reimbursement funding for participating in the After-the-Bell school breakfast model. The schools participating in the program shall evaluate the educational impact of the models implemented that provide school breakfasts to students after the first bell of the school day, based on the guidelines developed by the Department of Education and submit the required report to the Department of Education no later than August 31 each year.

2) The Department of Education shall communicate, through Superintendent's Memo, to school divisions the types of breakfast serving models and the criteria that will meet the requirements for this State reimbursement, which may include, but are not limited to, breakfast in the classroom, grab and go breakfast, or a breakfast after first period. School

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divisions may determine the breakfast serving model that best applies to its students, so long as it occurs after the instructional day has begun. The Department of Education shall monthly transfer to each school division a reimbursement rate of \$0.05 per breakfast meal that meets either of the established criteria in elementary schools and a reimbursement rate of \$0.10 per breakfast meal that meets either of the established criteria in middle or high schools.

3) No later than July 1 each year, the Department of Education shall provide for a breakfast program application process for school divisions with eligible schools, including guidelines regarding specified required data to be compiled from the prior school year or years and for the upcoming school year program. The number of approved applications shall be based on the estimated number of sites that can be accommodated within the approved funding level. The Department of Education shall set criteria for establishing priority should the number of applications from eligible schools exceed the approved funding level. The reporting requirements must include: chronic absenteeism rates, student attendance and tardy arrivals, office discipline referrals, student achievement measures, teachers' and administrators' responses to the impact of the program on student hunger, student attentiveness, and overall classroom learning environment before and after implementation, and the financial impact on the division's school food program. Funded schools that do not provide data by August 31 are subject to exclusion from funding in the following year. The Department of Education shall collect and compile the results of the breakfast program and shall submit the report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1 following each school year.

30. Clinical Faculty and Mentor Teacher Program Payments

This appropriation includes \$1,000,000 the first year and \$1,000,000 the second year from the Lottery Proceeds Fund to be paid to local school divisions for statewide Mentor Teacher Programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. This appropriation also includes \$318,750 the first year and \$318,750 the second year from the general fund for Clinical Faculty programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. Such programs shall include elements which are consistent with the following:

- a. An application process for localities and school/higher education partnerships that wish to participate in the programs;
- b. For Clinical Faculty programs only, provisions for a local funding or institutional commitment of 50 percent, to match state grants of 50 percent;
- c. Program plans which include a description of the criteria for selection of clinical faculty and mentor teachers, training, support, and compensation for clinical faculty and mentor teachers, collaboration between the school division and institutions of higher education, the clinical faculty and mentor teacher assignment process, and a process for evaluation of the programs;
- d. The Department of Education shall allow flexibility to local school divisions and higher education institutions regarding compensation for clinical faculty and mentor teachers consistent with these elements of the programs; and
- e. It is the intent of the General Assembly that no preference between pre-service or beginning teacher programs be construed by the language in this Item. School divisions operating beginning teacher mentor programs shall receive equal consideration for funding.

31. Career Switcher/Alternative Licensure Payments

Appropriations in this Item include \$279,983 the first year and \$279,983 the second year from the general fund to provide grants to school divisions that employ mentor teachers for new teachers entering the profession through the alternative route to licensure as prescribed by the Board of Education.

32. Virginia Workplace Readiness Skills Assessment

Appropriations in this Item include \$308,655 the first year and \$308,655 the second year from the general fund to provide support grants to school divisions for standard diploma graduates. To provide flexibility, school divisions may use the state grants for the actual assessment or

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for other industry certification preparation and testing.

33. Early Reading Specialists Initiative

a. An additional payment of \$1,476,790 the first year and \$1,476,790 the second year from the general fund shall be disbursed by the Department of Education to qualifying local school divisions for the purpose of providing a reading specialist for schools with a third grade that rank lowest statewide on the reading Standards of Learning (SOL) assessments. Funding for a reading specialist during the 2020-2022 biennium shall be based on the results of the Spring 2019 reading SOL assessments. Such schools shall be eligible to receive the state share of funding for both years of the biennium. Following certification from a school division that it will not participate in the program, the Department is authorized to identify additional eligible schools based upon the list of schools that rank lowest on the Spring 2019 SOL reading assessment.

b. These payments shall be based on the state's share of the cost of providing one reading specialist per qualifying school.

c. These payments are available to any school division with a qualifying school that (1) certifies to the Department of Education that the division has hired a reading specialist to provide direct services to children reading below grade level in the school to improve reading achievement and (2) ~~applies and receives a waiver for up to two years from the Board of Education for the administration of third grade SOL assessments in science or history and social science or both~~ for the purpose of creating additional instructional time for reading specialists to work with students reading below grade level to improve reading achievement.

d. These payments also are available to any school division with a qualifying school that certifies to the Department of Education that the division is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a reading specialist.

e. School divisions receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

f. Within the fiscal year, any funds not awarded from this program may be awarded to eligible schools under the Math/Reading Instructional Specialist Initiative.

34. Math/Reading Instructional Specialist Initiative

a. Included in this appropriation is \$1,834,538 the first year and \$1,834,538 the second year from the general fund in additional payments for reading or math instructional specialists at underperforming schools. From this amount, the state share of one reading or math specialist shall be provided to local school divisions with schools which rank lowest statewide on the Spring Standards of Learning (SOL) math or reading assessment. Funding for one math or reading specialist during the 2020-2022 biennium shall be based on the results of the Spring 2019 SOL assessments. Such schools shall be eligible to receive the state share of funding for both years of the biennium. If, following certification from a school division that it will not participate in the program, the Department is authorized to identify additional eligible schools based upon the list of schools that rank lowest on the Spring 2019 SOL math or reading assessment.

b. These payments are available to any school division with a qualifying school that certifies to the Department of Education that the division has (1) hired a math or reading instructional specialist, or (2) is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a math specialist or a reading specialist. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

c. *School divisions that elect to use funding to support tuition for collegiate programs and instruction for currently employed instructional school personnel pursuant to paragraph b. shall provide documentation of these costs to the Department of Education prior to receiving state funds. The Department of Education shall provide state funding for the*

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lesser of the actual cost or the state share of a math or reading specialist position per eligible school for funds used in such a manner.

ed. The Department of Education is authorized to utilize available funding appropriated to the Early Reading Specialist Initiative contained in this Item to pay for instructional specialists at additional eligible schools, or to support tuition for collegiate programs and instruction for currently employed instructional school personnel at additional eligible schools to earn the credentials necessary to meet licensure requirements to be endorsed as an instructional specialist.

de. Within the fiscal year, any funds not awarded from this program may be awarded to eligible schools under the Early Reading Specialists Initiative.

f. The Department of Education may award prorated state funds for specialist positions filled after the beginning of the school year.

35. Broadband Connectivity Capabilities

By November 1 each year, school divisions shall report to the Department of Education the status of broadband connectivity capability of schools in the division on a form to be provided by the Department. Such report shall include school-level information on the method of Internet service delivery, the level of bandwidth capacity and the degree such capacity is sufficient for delivery of school-wide digital resources and instruction, degree of internet connectivity via Wi-Fi, cost information related to Internet connectivity, data security, and such other pertinent information as determined by the Department of Education. The Department shall provide a summary of the division responses in a report to be made available on its agency Web site.

36. Infrastructure and Operations Per Pupil Funds

a. Out of this appropriation, an amount estimated at ~~\$262,983,700~~\$283,292,382 the first year and ~~\$266,241,801~~\$276,361,275 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions to support the state share of an estimated ~~\$375.27~~\$417.91 per pupil the first year and ~~\$378.52~~\$406.19 per pupil the second year in adjusted March 31 average daily membership. These per pupil amounts are subject to change for the purpose of payment to school divisions based on the actual March 31 ADM collected each year. Beginning in the second year, these funds shall be matched by the local government, based on the composite index of local ability-to-pay. Further, in order to receive this funding, the locality in which the school division is located shall appropriate these funds solely for educational purposes and shall not use such funds to reduce total local operating expenditures for public education below the amount expended by the locality for such purposes in the year upon which the 2018-20 biennial Standards of Quality expenditure data were based; provided however that no locality shall be required to maintain a per-pupil expenditure which is greater than the per pupil amount expended by the locality for such purposes in the year upon which the 2018-20 biennial Standards of Quality expenditure data were based. The Department of Education is authorized each year to temporarily suspend Infrastructure and Operations Per Pupil Allocation payments made to school divisions from Lottery funds to ensure that any shortfall in Lottery revenue can be accounted for in the remaining Infrastructure and Operations Per Pupil Allocation payments to be made for the year.

b. From the amounts listed above, funds are provided to ensure that small school divisions receive an Infrastructure and Operations payment of at least \$200,000 each year. Beginning in the second year, divisions receiving additional funds for a payment of at least \$200,000 shall only be required to provide the local match on the per pupil amount distributed in paragraph C.36.a.

c. Of the amounts listed above, no more than 70 percent the first year and no more than 60 percent the second year shall be used for recurring costs and at least 30 percent the first year and at least 40 percent the second year shall be spent on nonrecurring expenditures by the relevant school divisions. Nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, school buses, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the last 10 years.

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d. Any lottery funds provided to school divisions from this item that are unexpended as of June 30, 2021, and June 30, 2022, shall be carried on the books of the locality to be appropriated to the school division in the following year.

37. Special Education Endorsement Program

a. Notwithstanding § 22.1-290.02, Code of Virginia, out of this appropriation, \$437,186 the first year and \$437,186 the second year from the general fund is provided for traineeships and program operation grants that shall be awarded to public Virginia institutions of higher education to prepare persons who are employed in the public schools of Virginia, state operated programs, or regional special education centers as special educators with a provisional license and enrolled either part-time or full-time in programs for the education of children with disabilities. Applicants shall be graduates of a regionally accredited college or university.

b. The award of such grants shall be made by the Department of Education, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be \$600 for a minimum of three semester hours of course work in areas required for the special education endorsement to be taken by the applicant during a single semester or summer session. Only one traineeship shall be awarded to a single applicant in a single semester or summer session.

38. Compensation Supplement

a.1) ~~Out of this appropriation, \$94,731,247 the first year from the general fund and \$304,117 the first year from the Lottery Proceeds Fund are provided and \$192,502,898 \$233,738,033 the second year from the general fund and \$612,979 \$759,098 the second year from the Lottery Proceeds Fund is provided for the state share of a payment of the following salary increases up to a 5.0 percent salary increase effective July 1, 2021 for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, school counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$408,502 the first year and \$834,740 \$1,046,023 the second year from the general fund referenced in paragraph C. 27. h. for the Academic Year Governor's Schools for the state share of a payment of the following salary increases for instructional and support positions, and this amount includes \$304,117 the first year and \$612,979 \$759,098 the second year from the Lottery Proceeds Fund referenced in paragraph C. 9. f. 4) for Regional Alternative Education Programs for the state share of a payment of the following salary increases for instructional and support positions.~~

~~2) For the first year, the state share of a payment equivalent to a 2.0 percent salary increase effective July 1, 2020, for SOQ instructional and support positions:~~

~~It is the intent that the instructional and support position salaries are increased in school divisions throughout the state by at least an average of 2.0 percent during the first year. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 2.0 percent salary increase the first year for funded SOQ instructional and support positions; effective July 1, 2020; to school divisions that certify to the Department of Education that salary increases of a minimum average of 2.0 percent have been or will have been provided during the the first year to instructional and support personnel, excluding any increases referenced in paragraph 3. The state funds for which the division is eligible to receive shall be matched by the local government, based on the composite index of local ability-to-pay, which shall be calculated using an effective date of July 1, 2020; as the basis for the local match requirement for both funded SOQ instructional and support positions:~~

~~3) For the second year, the state share of a payment equivalent to a 2.0 percent salary increase effective July 1, 2021, for SOQ instructional and support positions:~~

~~b. It is the intent that the instructional and support position salaries are increased in school divisions throughout the state by at least an average of 2.0 percent during the second year 5.0 percent during the biennium. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 2.0 up to a 5.0 percent salary increase the~~

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second year for funded SOQ instructional and support positions, effective July 1, 2021, to school divisions that certify to the Department of Education ~~that salary increases of a minimum average of 2.0 percent have~~*the average salary increase that has been or will have been provided during the 2020-2022 biennium; either in the first year or in the second year or through a combination of the two years;* to instructional and support personnel; ~~excluding any increases referenced in paragraph 2.~~ The state funds for which the division is eligible to receive shall be matched by the local government, based on the composite index of local ability-to-pay, which shall be calculated using an effective date of July 1, 2021, as the basis for the local match requirement for both funded SOQ instructional and support positions.

c. The state share of funding provided to a school division in support of this compensation supplement shall be prorated for school divisions that provide less than an average 5.0 percent salary increase during the biennium; however, to access these funds, a school division must provide at least an average 2.0 percent salary increase during the biennium.

~~b. d.~~ This funding is not intended as a mandate to increase salaries.

39. School Meals Expansion

Out of this appropriation, ~~\$5,300,000~~*the first year and \$5,300,000*~~\$4,100,000~~ the second year from the general fund is provided for local school divisions to reduce or eliminate the cost of school breakfast and school lunch for students who are eligible for reduced price meals under the federal National School Lunch Program and School Breakfast Program. The Department of Education is authorized to reduce this amount proportionately so as not to exceed this appropriation.

40. No Loss Funding

~~Out of this appropriation, \$1,776,174 the first year and \$1,973,585 the second year from the general fund is provided to ensure that no school division loses state funding in fiscal year 2021 or fiscal year 2022 as compared to that school division's fiscal year 2020 state distribution. Out of this appropriation, \$242,642,957 the first year and \$124,335,526 the second year from the general fund and \$36,000,000 the first year and \$40,000,000 the second year from the COVID-19 Relief Fund established in § 2.2-115.1, Code of Virginia, is provided to ensure that no school division loses state funding in the 2020-2022 biennium as compared to that school division's fiscal year 2021 and fiscal year 2022 state distributions as calculated in Chapter 56, 2020 Acts of Assembly, Special Session I. These payments account for declines in actual Fall Membership and projected Average Daily Membership as well as declines in Direct Aid program enrollment or participation during the 2020-2022 biennium as a result of the COVID-19 pandemic. These funds shall support operational costs of the Standards of Quality, Categorical, Incentive, and Lottery Funded programs delineated in this Item. In both fiscal years, such payments shall be updated for technical updates to Direct Aid student enrollments and program participation, as well as any increased revenue distributions.~~

41. Enrollment Loss

Out of this appropriation, ~~\$2,540,119~~ the first year and ~~\$2,102,530~~ the second year from the general fund is provided for enrollment loss payments to school divisions with a September 30 fall membership count of 10,000 or less that has decreased by more than two percent from the previous September 30 fall membership count. Such payment shall be calculated based on the state share per pupil of Basic Aid for each locality, for a percentage of the enrollment loss (as determined below) between the September 30 fall membership count and the subsequent September 30 fall membership count:

Local Composite Index	Percentage
0.0000-0.1999	85%
0.2000-0.3499	70%
0.3500-0.4999	45%
0.5000 or more	30%

42. Alleghany County - Covington City School Division Consolidation Incentive

Out of this appropriation, ~~\$582,000~~ *\$1,200,000* the second year from the general fund is provided as an incentive for the consolidation of the Alleghany County and Covington City

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school divisions. Such funds shall only be disbursed upon (i) the Board of Supervisors of Alleghany County and the Covington City Council adopting resolutions in support of the consolidation and (ii) the Board of Education's approval of such consolidation pursuant to § 22.1-25 of the Code of Virginia. This incentive payment shall be made following the execution of such consolidation; and such payments shall be provided for no more than five fiscal years, beginning in fiscal year 2022. This incentive payment represents the first two installments of five \$600,000 payments as recommended for this consolidation incentive through the methodology contained in the Study on School Division Joint Contracting Incentives (Report Document 548, 2016). Beginning in fiscal year 2023 through fiscal year 2025, \$600,000 shall be provided each fiscal year as the incentive payment, with no adjustments.

43. COVID-19 Local Relief Payments

a. This item includes an appropriation estimated at ~~\$95,227,730~~ \$12,910,256 in the first year from the ~~COVID-19 Relief Fund established in § 2.2-115.1 of the Code of Virginia~~ general fund to be distributed to school divisions as COVID-19 Local Relief payments in support of the Standards of Quality. Local governing bodies shall appropriate these funds to school divisions in the same manner in which they appropriate sales tax revenues dedicated to public education.

b. This local relief payment represents the net increase in the estimated amounts of the local share of Basic Aid costs from the amount estimated in Chapter 1289, 2020 Acts of Assembly, to the amount estimated in House Bill 5005 and Senate Bill 5015 as introduced for the 2020 Special Session I; this item, and shall be distributed to school divisions based on this methodology.

c. For the purposes of calculating Required Local Expenditure as defined in this item, this local relief payment will be counted as a credit toward the local share of the costs of the Standards of Quality in the first year.

d. It is the intent of the General Assembly to update this local relief payment based on any subsequent increases to the Sales Tax estimates approved by the General Assembly and included in this item that the final COVID-19 Local Relief Payments be updated for actual sales tax distributions through the final June monthly distribution in fiscal year 2021.

45. Supplemental Support for Accomack & Northampton

An additional state payment of \$2,000,000 the second year from the Lottery Proceeds Fund shall be disbursed to provide one-time support to Accomack and Northampton school divisions for teacher recruitment and retention efforts, including adjustments to salary scales to minimize misalignment to salary scales of adjacent counties. Disbursement of these funds is contingent on the division providing the required local share of a 5.0 percent compensation supplement included in paragraph C. 38.

46. Learning Loss Instructional Supports

An additional state payment estimated at \$39,999,970 the first year from the Lottery Proceeds Fund shall be disbursed to support the state share of \$156.54 per pupil the first year based on the estimated number of federal Free Lunch participants, in support of one-time programs and initiatives to address learning loss resulting from the COVID-19 pandemic. No local match is required to receive these state funds, and unexpended funds from the first year shall remain available in the second year.

School divisions are required to spend these payments on eligible programs, including: (i) extending the school year, (ii) summer school, (iii) tutoring, remediation and recovery, and supplemental afterschool programs, (vi) counseling and other student supports, (v) assessments to determine student progress and the need for access to these programs, (vi) other similar programs, and (vii) modifications to facilities to assist with COVID-19 mitigation strategies for in-person learning.

47. Albuterol and Valved Holding Chambers

Out of this appropriation, \$120,000 the second year from the general fund is allocated to support the purchase of albuterol and valved holding chambers in the public schools of

ITEM 145.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>the Commonwealth.</i>				
146.	Federal Education Assistance Programs (17900).....		\$1,066,525,233	\$1,066,525,233 \$1,103,025,233
	Federal Assistance to Local Education Programs (17901).....	\$1,066,525,233	\$1,066,525,233 \$1,103,025,233	
	Fund Sources: Federal Trust.....	\$1,066,525,233	\$1,066,525,233 \$1,103,025,233	

Authority: PL 107-110, PL 108-446, PL 105-332, PL 105-220, PL 105-220, Federal Code.

a. The appropriation to support payments to school divisions from federal program grant funds is contained in this Item. Such federal program grant funds are based on the latest estimates available to the Department of Education and are provided here for informational purposes and are subject to change within each state fiscal year by the awarding federal agency. The Department of Education is directed to update the estimated federal program grant fund amounts contained in the table in this item on a periodic basis throughout the biennium.

b. The Department of Education will encourage localities to apply for Medicaid reimbursements for eligible special education expenditures which will help to increase available state and local funding for other educational activities and expenditures.

c. It is the intent of the General Assembly that in any fiscal year when revenues received or budgeted by the Commonwealth, applicable to any public education program, which were derived from a federally funded grant or program and subsequently realize a decrease in such funding levels, that the Commonwealth will not supplant any of the decreased federal funding received or budgeted with any general fund revenues from the Commonwealth.

d. Temporary Extension of Special Education Eligibility

1. *Out of this appropriation, \$6,500,000 the second year from federal Elementary and Secondary School Emergency Relief funds are provided to support the state's share of costs for school divisions to provide one additional year of high school attendance for students with disabilities as provided in paragraph 2 below.*

2. *Notwithstanding the provisions of § 22.1-213 of the Code of Virginia or 8VAC20-81-10 of the Virginia Administrative Code or any other provision of law to the contrary, any student with a disability who receives special education and related services, reaches age 22 after September 30, 2020, and is scheduled to complete high school in the spring of 2021 shall be given the option for an extension to attend high school for the duration of the 2021–22 school year.*

3. *Payments to school divisions shall provide (i) an amount equal to the state's share of basic aid funding for any such student based on the composite index of local ability-to-pay, and (ii) an amount equal to the federal Individuals with Disabilities Education Act funding that the school division would have received if such student were eligible to receive a free appropriate public education under federal law.*

4. *Localities are required to provide a match for these funds based on the composite index of local ability-to-pay.*

e. *Out of this appropriation, \$30,000,000 the second year is provided from federal Elementary and Secondary School Emergency Relief funds for grants to school divisions and other appropriate entities to address learning loss, remediation and recovery, and other student support needs related to the impact of COVID-19 on the public education system. Grants shall be awarded by the Department of Education, in consultation with a stakeholder workgroup convened to focus on remediation and recovery needs.*

Item Details of Federal Education Assistance Program Awards (17900)	FY 2021	FY 2022
School Nutrition - Breakfast, Lunch, Special Milk	\$369,078,569	\$369,078,569
School Nutrition - Summer Food Service	\$14,250,000	\$14,250,000

ITEM 146.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Program and After School At-risk Program				
Fresh Fruit and Vegetables	\$4,714,061			\$4,714,061
Child Nutrition Programs Team Nutrition	\$498,010			\$498,010
Special Education - Program Improvement	\$1,524,000			\$1,524,000
Special Education - IDEA - Part B Section 611	\$291,082,767			\$291,082,767
Special Education - IDEA - Part B Section 619 - Preschool	\$8,863,495			\$8,863,495
Migration Education - Basic Grant	\$945,262			\$945,262
Migrant Education - Consortium Incentive Grants	\$133,333			\$133,333
Title I - Neglected & Delinquent Children	\$1,263,459			\$1,263,459
Title I Part A - Improving Basic Programs	\$254,532,699			\$254,532,699
Title II Part A - Improving Teacher Quality	\$36,500,579			\$36,500,579
Title III Part A - Language Acquisition State Grant	\$12,743,264			\$12,743,264
Title IV Part A - Student Support and Academic Enrichment Grant	\$6,969,326			\$6,969,326
Title IV Part B - 21st Century Community Learning Centers	\$20,507,430			\$20,507,430
Title VI - Rural and Low-Income Schools	\$2,242,591			\$2,242,591
Adult Literacy	\$12,880,748			\$12,880,748
Vocational Education - Basic Grant	\$24,254,182			\$24,254,182
School Climate Transformation	\$707,941			\$707,941
Education for Homeless Children and Youth	\$1,309,517			\$1,309,517
Empowering Educators through a Systems Approach	\$1,524,000			\$1,524,000
<i>Elementary and Secondary School Emergency Relief</i>		\$0		\$36,500,000
Total	\$1,066,525,233			\$1,066,525,233 \$1,103,025,233
146.10 Omitted.				
Total for Direct Aid to Public Education.....			\$8,939,830,219 \$8,849,968,554	\$9,033,863,333 \$9,230,846,620
Fund Sources: General.....	\$6,938,522,859 \$6,857,617,198	\$7,215,868,430 \$7,311,553,053		
Special.....	\$895,000	\$895,000		
Commonwealth Transportation.....	\$2,100,000	\$1,470,000		
Trust and Agency.....	\$819,959,397 \$870,231,123	\$749,104,670 \$773,903,334		
Dedicated Special Revenue.....	\$95,227,730 \$36,000,000	\$0 \$40,000,000		
Federal Trust.....	\$1,083,125,233	\$1,066,525,233 \$1,103,025,233		
Grand Total for Department of Education, Central Office Operations.....			\$9,071,498,207 \$8,982,527,340	\$9,348,189,048 \$9,607,466,306

ITEM 146.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
General Fund Positions.....	151.00	153.50 158.17		
Nongeneral Fund Positions.....	185.50	335.50 335.83		
Position Level.....	336.50	489.00 494.00		
Fund Sources: General.....	\$7,012,773,240 \$6,932,758,377	\$7,294,760,311 \$7,383,311,635		
Special.....	\$6,164,257	\$6,164,257		
Commonwealth Transportation.....	\$2,379,612	\$1,749,612		
Trust and Agency.....	\$820,639,075 \$870,910,801	\$749,784,348 \$775,801,854		
Dedicated Special Revenue.....	\$95,227,730 \$36,000,000	\$0 \$40,000,000		
Federal Trust.....	\$1,134,314,293	\$1,295,730,520 \$1,400,438,948		

§ 1-53. VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND (218)

147.	Instruction (19700).....			\$5,689,278	\$5,689,278
	Classroom Instruction (19701).....	\$5,489,018	\$5,489,018		
	Occupational-Vocational Instruction (19703).....	\$158,065	\$158,065		
	Outreach and Community Assistance (19710).....	\$42,195	\$42,195		
	Fund Sources: General.....	\$4,746,372	\$4,746,372		
	Special.....	\$135,239	\$135,239		
	Federal Trust.....	\$807,667	\$807,667		
	Authority: §§ 22.1-346 through 22.1-349, Code of Virginia.				
148.	Residential Support (19800).....			\$5,092,349	\$5,092,349
	Food and Dietary Services (19801).....	\$449,885	\$449,885		
	Medical and Clinical Services (19802).....	\$403,650	\$403,650		
	Physical Plant Services (19803).....	\$2,100,276	\$2,100,276		
	Residential Services (19804).....	\$1,784,204	\$1,784,204		
	Transportation Services (19805).....	\$354,334	\$354,334		
	Fund Sources: General.....	\$4,949,636	\$4,949,636		
	Special.....	\$104,220	\$104,220		
	Federal Trust.....	\$38,493	\$38,493		
	Authority: Title 22.1, Chapter 19, Code of Virginia.				
149.	Administrative and Support Services (19900).....			\$1,942,608	\$1,942,608
	General Management and Direction (19901).....	\$1,942,608	\$1,942,608		
	Fund Sources: General.....	\$1,706,940	\$1,706,940		
	Special.....	\$182,198	\$182,198		
	Federal Trust.....	\$53,470	\$53,470		
	Authority: Title 22.1, Chapter 19, Code of Virginia.				
	Notwithstanding any other provision of law, the Virginia School for the Deaf and Blind is authorized to retain the income generated by the rental of facilities on the Staunton campus to outside entities.				
	Total for Virginia School for the Deaf and the Blind...			\$12,724,235	\$12,724,235
	General Fund Positions.....	185.50	185.50		
	Position Level.....	185.50	185.50		
	Fund Sources: General.....	\$11,402,948	\$11,402,948		
	Special.....	\$421,657	\$421,657		
	Federal Trust.....	\$899,630	\$899,630		

ITEM 149.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

§ 1-54. STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA (245)

150. Higher Education Student Financial Assistance (10800).....			\$97,643,934	\$101,443,934
			\$92,598,559	\$106,468,934
Scholarships (10810).....	\$97,453,934	\$101,253,934		
	\$92,408,559	\$106,278,934		
Regional Financial Assistance for Education (10813).....	\$190,000	\$190,000		
Fund Sources: General.....	\$97,383,934	\$101,183,934		
	\$92,338,559	\$101,208,934		
Special.....	\$10,000	\$10,000		
		\$5,010,000		
Dedicated Special Revenue.....	\$250,000	\$250,000		

Authority: Title 23.1, Chapter 6, Code of Virginia, Regional Grants and Contracts: Discretionary Inclusion; Undergraduate and Graduate Assistance: Discretionary Inclusion

A. Those private institutions which participate in the programs provided by the appropriations in this Item shall, upon request by the State Council of Higher Education, submit financial and other information which the Council deems appropriate.

B. Out of the amounts for Scholarships the following sums shall be made available for:

1. Tuition Assistance Grant Program, ~~\$75,198,303~~ \$71,098,303 the first year and ~~\$78,998,303~~ \$79,598,303 the second year from the general fund is designated for full-time undergraduate and graduate students.

2. a. Virginia Space Grant Consortium Scholarships, \$795,000 the first year and \$795,000 the second year from the general fund.

b. Out of the amounts included in this item, \$100,000 the first year and \$100,000 the second year from the general fund shall be provided to the Virginia Space Grant Consortium (VSGC) to provide scholarships for select high school students to participate in immersive ground and flight training through the solo experience as a step in addressing the critical pilot shortage. The VSGC shall work with Averett University and Liberty University to provide two sessions of its New Horizons solo academy giving 30 high school students the opportunity to accomplish their first solo flight.

c. Out of the amounts included in this item, ~~\$220,375 the first year and~~ \$220,375 the second year from the general fund shall be provided to the Virginia Space Grant Consortium to provide scholarships for high school students to participate in the Virginia Earth System Science Scholars program.

3. Out of this appropriation, \$20,000 the first year and \$20,000 the second year from the general fund is designated to provide grants of up to \$5,000 per year for Virginia students who attend schools and colleges of optometry. Each student receiving a grant shall agree to set up practice in the Commonwealth for a period of not less than two years upon completion of instruction.

4. No amount, or part of an amount, listed for any program specified under paragraph B shall be expended for any other program in this appropriation.

C. Tuition Assistance Grant Program

1. Payments to students out of this appropriation shall not exceed \$3,750 the first year and \$4,000 the second year for qualified undergraduate students and \$2,200 the first year and \$2,200 the second year for qualified graduate and medical students attending not-for-profit, independent institutions in accordance with § 23.1-628 through § 23.1-635, Code of Virginia. However, for those undergraduate students pursuing a career in teaching, payments shall be increased by an additional \$500 in their senior year.

2. The private institutions which participate in this program shall, during the spring semester previous to the commencement of a new academic year or as soon as a student is

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
admitted for that year, whichever is later, notify their enrolled and newly admitted Virginia students about the availability of tuition assistance awards under the program. The information provided to students and their parents must include information about the eligibility requirements, the application procedures, and the fact that the amount of the award is an estimate and is not guaranteed. The number of students applying for participation and the funds appropriated for the program determine the amount of the award. Conditions for reduction of award amount and award eligibility are described in this Item and in the regulations issued by the State Council of Higher Education. The institutions shall certify to the council that such notification has been completed and shall indicate the method by which it was carried out.				
3. Institutions participating in this program must submit annually to the council copies of audited financial statements.				
4. To be eligible for a fall or full-year award out of this appropriation, a student's application must have been received by a participating independent college or by the State Council of Higher Education by July 31. Returning students who received the award in the previous year will be prioritized with the July 31 award. Applications for a fall or full-year award received after July 31 but no later than September 14 will be held for consideration if funds are available after July 31 and returning student awards have been made. Applications for spring semester only awards must be received by December 1 and will be considered only if funds remain available.				
5. No limitations shall be placed on the award of Tuition Assistance Grants other than those set forth herein or in the Code of Virginia.				
6. All eligible institutions not previously approved by the State Council of Higher Education to participate in the Tuition Assistance Grant Program shall have received accreditation by a nationally recognized regional accrediting agency, prior to participation in the program or by the Commission on Osteopathic College Accreditation of the American Osteopathic Association in the case of freestanding institutions of higher education that offer the Doctor of Osteopathic Medicine as the sole degree program.				
7. Payments to undergraduate students shall be greater than payments to graduate and medical students and shall be based on a differential established by the State Council of Higher Education for Virginia.				
8. No awards shall be provided to graduate students except in health-related professional programs to include allied health, nursing, pharmacy, medicine, and osteopathic medicine.				
9. Notwithstanding any other provisions of law, Eastern Virginia Medical School is not eligible to participate in the Tuition Assistance Grant Program.				
10. Any general fund appropriation in the Tuition Assistance Grant Program which is unexpended at the close of business June 30 of any fiscal year shall be reappropriated for use in the program in the following year.				
11. Beginning with the fall of 2020, new incoming students enrolled exclusively in an online education or distance learning program are not eligible to receive awards <i>are eligible to receive awards up to \$2,000</i> from the Tuition Assistance Grant Program. However, existing students enrolled exclusively in online education or distance learning programs as of the 2019-20 academic year shall remain eligible to receive awards of up to the 2019-2020 award amounts for as long as the student maintains enrollment in each successive fiscal year, unless granted an exception for cause by SCHEV, until current degree completion or current degree program eligibility limits have otherwise expired, whichever comes first. This requirement shall not be applicable to otherwise place-based students required by the institution to receive distance learning instruction due to on-going COVID-19-related concerns. Council shall develop appropriate guidance for implementation of this requirement, including definitions and administrative procedures.				
D.1. Regional Grants and Contracts: Out of this appropriation, \$170,000 the first year and \$170,000 the second year from the general fund is designated to support Virginia's participation in the Southern Regional Education Board initiative to increase the number of minority doctoral graduates.				

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<p>2. The amounts listed in paragraph D.1. shall be expended in accordance with the agreements between the Commonwealth of Virginia and the Southern Regional Education Board.</p> <p>E.1. Out of this appropriation, \$2,730,000\$2,130,000 the first year and \$2,730,000\$2,280,000 the second year from the general fund is designated to support the Virginia Military Survivors and Dependents program, § 23.1-608, Code of Virginia, to provide up to a \$2,200 annual stipend to offset the costs of room, board, books and supplies for qualified survivors and dependents of military service members.</p> <p>2. The amount of the stipend is an estimate depending on the number of students eligible under § 23.1-608, Code of Virginia. Changes that increase or decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.</p> <p>3. The Director, State Council of Higher Education for Virginia, shall allocate these funds to public institutions of higher education on behalf of students qualifying under this provision.</p> <p>4. Each institution of higher education shall report the number of recipients for this program to the State Council of Higher Education for Virginia by April 1 of each year. The State Council of Higher Education for Virginia shall report this information to the Chairmen of the House Appropriations and Senate Finance Committees by May 15 of each year.</p> <p>5. The Department of Veterans Services shall consult with the State Council of Higher Education for Virginia prior to the dissemination of any information related to the financial benefits provided under this program.</p> <p>F.1. Out of the appropriation for this Item, \$3,885,256 the first year and \$3,885,256 the second year from the general fund is designated to support the Two-Year College Transfer Grant Program.</p> <p>2. The State Council of Higher Education for Virginia shall disburse these funds for full-time students consistent with § 23.1-623 through § 23.1-627, Code of Virginia. Beginning with students who are entering a senior institution as a two-year transfer student for the first time in the fall 2013 academic year, and who otherwise meet the eligibility criteria of § 23.1-624, Code of Virginia, the maximum EFC is raised to \$12,000.</p> <p>3. The actual amount of the award depends on the number of students eligible under § 23.1-623 through § 23.1-627, Code of Virginia. Changes that decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.</p> <p>4. Out of this appropriation, up to \$600,000 the first year and \$600,000 the second year from the general fund is designated to support students eligible for the first time under § 23.1-623 through § 23.1-627, Code of Virginia. The State Council of Higher Education for Virginia shall transfer these funds to Norfolk State University, Old Dominion University, Radford University, University of Virginia's College at Wise, Virginia Commonwealth University and Virginia State University so that each institution can provide for grants of \$1,000 from these funds for these students.</p> <p>a. Each institution shall award grants from these funds for one year and students shall not receive subsequent awards until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of two years of support.</p> <p>b. Any balances remaining from the appropriation identified in paragraph F.4. shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to the State Council of Higher Education for Virginia to support the purposes specified in paragraphs F.1. and F.4. in the subsequent fiscal year.</p> <p>c. It is anticipated that the institutions shift by a total of 600 the number of students each enrolls from first time freshman to transfers eligible under § 23.1-623 through § 23.1-627, Code of Virginia. Institutional goals under this fund are estimated as follows:</p>				
Institution	Transfer Target			

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Norfolk State University				80
Old Dominion University				140
Radford University				140
University of Virginia's College at Wise				20
Virginia Commonwealth University				140
Virginia State University				80

d. The State Council of Higher Education for Virginia may allocate these funds among the institutions in Paragraph F.4.c. as necessary to meet the actual number of transfers each institution generates for students eligible for the first time under § 23.1-623 through § 23.1-627, Code of Virginia. Each institution shall report its progress toward the targets in Paragraph F.4.c. to the Chairmen of the House Appropriations and Senate Finance Committees by May 1 each year.

e. The report shall include a detailed accounting of the use of the funds provided and a plan for achieving the goals identified in this item.

G. 1. Out of this appropriation, \$13,500,000 the first year and \$13,500,000 the second year from the general fund is designated for the New Economy Workforce Credential Grant Program.

2. The State Council of Higher Education for Virginia shall develop guidelines for the program, collect data, evaluate and approve grant funds for allocation to eligible institutions.

3. Local community colleges shall not start new workforce programs that would duplicate existing high school and adult Career and Technical Education (CTE) programs for high-demand occupations in order to receive funding under this Grant.

4. No more than 25 percent of Grant funds may be used in one occupational field.

H. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated for the Cybersecurity Public Service Grant Program (the Program) as a public-private initiative for the purpose of attracting to and retaining in qualified employment talented recent graduates and veterans to meet qualified employers' growing demand for cybersecurity professionals. The Program shall provide renewable grants of up to \$20,000 of matching state and employer funds on a competitive basis to an individual who (i) either (a) graduated within the past year from a Virginia public institution of higher education or regionally accredited Virginia private institution of higher education with an undergraduate or graduate degree in computer science or another academic program recognized by the Council to prepare an individual for a career in cybersecurity and who resides in the Commonwealth or (b) has served on active duty in the Armed Forces of the United States, was discharged or released within the past year from such service under conditions other than dishonorable, gained experience or received training in computer science during such service, and resides in the Commonwealth and (ii) accepts an offer of employment in a computer science position with any federal, state, or local government organization, including any federal or state military or defense organization, that is located in the Commonwealth or any private organization that contractually provides cybersecurity services for any such federal, state, or local organization and that is located in the Commonwealth. The State Council of Higher Education for Virginia shall administer and award grants pursuant to the Program and shall adopt regulations relating to recent graduate and veteran eligibility and academic or job qualifications, the application process, and identification and prioritization of qualified employers and qualified employment and may adopt such other regulations for the administration of the Program as it deems necessary. Recipients of the former Cybersecurity Public Service Scholarship may fulfill that program's employment commitment utilizing the employer description contained herein at the rate of one year of service for each year of award received.

I. 1. Out of this appropriation, ~~\$365,000 each~~ \$240,000 the first year and \$240,000 the second year from the general fund is designated for the Grow Your Own Teacher pilot program to provide grants to low-income high school graduates who attended an institution of higher education in the Commonwealth and subsequently teach in high-need public schools in the school divisions in which they graduated from high school.

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2. The Virginia Department of Education (VDOE) shall establish a process by which local school boards may apply for grants from the Grow Your Own Teacher Pilot Program to provide a grant of \$7,500 per academic year for up to four years for individuals who (i) graduated from a public high school in the local school division; (ii) were eligible for free lunch during the individual's attendance at a public high school in the local school division; and (iii) teach, within one year of graduating from an institution of higher education in the Commonwealth for a period of at least four years, at a public school at which at least 50 percent of students qualify for free lunch in the school division in which such individual graduated from high school. In developing such process, the department will ensure that at least one school division within each of the eight superintendent regions, applying for such grants, be awarded prior to awarding grants to multiple school divisions within a single superintendent region. Each superintendent region shall be permitted to apply for up to four tuition grant awards. VDOE is authorized to offer and award any remaining unallotted awards to other applying school divisions within a superintendent region.

3. In the event that any nominee fails or refuses to comply with the teaching commitment under paragraph I.2. no grant shall be disbursed to the nominee.

J. Out of this appropriation, \$5,000,000 the second year from nongeneral funds is designated for scholarships for eligible students participating in the Gaining Early Awareness and Readiness for Undergraduate Program (GearUp).

151.	Financial Assistance For Educational and General Services (1100).....			\$75,000	\$75,000
				\$100,000	\$100,000
	Outstanding Faculty Recognition (1109).....	\$75,000	\$75,000		
		\$100,000	\$100,000		
	Fund Sources: Special.....	\$75,000	\$75,000		
		\$100,000	\$100,000		

Authority: Outstanding Faculty Recognition Program: Discretionary Inclusion.

Outstanding Faculty Recognition Program

1. The State Council of Higher Education for Virginia shall annually provide a grant to faculty members selected to be honored under this program from such private funds as may be designated for this purpose.

2. The faculty members shall be selected from public and private institutions of higher education in Virginia, but recipients of Outstanding Faculty Recognition Awards shall not be eligible for the awards in subsequent years.

152.	Higher Education Academic, Fiscal, and Facility Planning and Coordination (1110).....			\$19,585,818	\$20,535,818
				\$18,785,818	\$20,385,818
	Higher Education Coordination and Review (11104).....	\$7,896,303	\$8,846,303		
		\$7,096,303	\$8,696,303		
	Regulation of Private and Out-of-State Institutions (11105).....	\$1,294,253	\$1,294,253		
	Institutional Program Support (11107).....	\$10,395,262	\$10,395,262		
	Fund Sources: General.....	\$18,141,565	\$19,091,565		
		\$17,341,565	\$18,941,565		
	Special.....	\$1,254,253	\$1,254,253		
	Trust and Agency.....	\$190,000	\$190,000		

Authority: § 23.1-200, § 23.1-203, § 23.1-1107, § 23.1-629, § 23.1-903.4.

A. 1. It is the intent of the General Assembly to provide general fund support to contract at a level equivalent to the Tuition Assistance Grant undergraduate award with Mary Baldwin University for Virginia women resident students to participate in the Virginia Women's Institute for Leadership at Mary Baldwin University.

2. The amounts included in this Item are \$307,899 the first year and \$307,899 the second

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	year from the general fund for the programmatic administration of this program.			
	3. General fund appropriations provided under this contract include financial incentive for the participating students at Mary Baldwin University in the Virginia Women's Institute for Leadership Program. Students receiving this financial incentive will not be eligible for Tuition Assistance Grants.			
	4. By September 1 of each year, Mary Baldwin University shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Director, State Council of Higher Education for Virginia, and the Director, Department of Planning and Budget, on the number of students participating in the Virginia Women's Leadership Program, the number of in-state and out-of-state students receiving awards, the amount of the awards, the number of students graduating, and the number of students receiving commissions in the military.			
	B. In discharging the responsibilities specified in § 23.1-219, Code of Virginia, the State Council of Higher Education for Virginia shall provide exemptions to individual proprietorships, associations, co-partnerships or corporations which are now or in the future will be using the words "college" or "university" in their training programs solely for their employees or customers, which do not offer degree-granting programs, and whose name includes the word "college" or "university" in a context from which it clearly appears that such entity is not an educational institution.			
	C. Out of the appropriation for Higher Education Coordination and Review, \$9,562,363 the first year and \$9,562,363 \$9,162,363 the second year from the general fund is provided for continuation of the Virtual Library of Virginia. Funding for the Virtual Library of Virginia is provided for the benefit of students and faculty at the Commonwealth's public institutions of higher education and participating nonprofit, independent private colleges and universities. Out of this amount, \$436,946 the first year and \$436,946 the second year is earmarked to allow the participation of nonprofit, independent private colleges and universities.			
	D. Out of this appropriation, \$950,366 and ten positions the first year and \$950,366 and ten positions the second year from nongeneral funds is provided to support higher education coordination and review services, including expenses incurred in the regulation and oversight of the private and out-of-state postsecondary institutions and proprietary schools operating in Virginia. These funds will be generated through fee schedules developed pursuant to § 23.1-224, Code of Virginia. Out of this amount, \$190,000 the first year and \$190,000 the second year from nongeneral funds is designated to administration of the Student Tuition Guarantee Fund.			
	E. The State Council of Higher Education for Virginia, in consultation with the House Appropriations Committee, the Senate Finance Committee, the Department of General Services, and the Department of Planning and Budget, shall develop a six-year capital outlay plan for higher education institutions including affiliated entities. As a part of this plan SCHEV shall consider (i) current funding mechanisms for capital projects and improvements at the Commonwealth's institutions of higher education, including general obligation bonds and other viable funding methods; (ii) mechanisms to assist private institutions of higher education in the Commonwealth with their capital needs.			
	F. The Executive Director, State Council of Higher Education for Virginia, may appoint an advisory committee to assist the council with technology-enriched learning initiatives. The advisory committee may assist the council in (i) developing innovative, cost-effective, technology-enriched teaching and learning initiatives, including distance and distributed learning initiatives; (ii) improving cooperation among and between the public and private institutions of higher education in the Commonwealth; (iii) improving efficiency and expand the availability of technology-enriched courses; and (iv) facilitating the sharing of research and experience to improve student learning.			
	G. The State Council of Higher Education for Virginia shall include Eastern Virginia Medical School in any calculations used to determine the funding requirements for state medical schools.			
	H. In addition to the reviews conducted under § 23.1-206 and § 23.1-306, Code of Virginia, the State Council of Higher Education shall evaluate the progress of individual initiatives funded in this act as part of the incentive funding provided to colleges and universities with			

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

regard to improvements in retention, graduation, degree production and other criteria the Council deems appropriate.

I. Out of this appropriation, \$330,687 the first year and \$330,687 the second year from the general fund is designated to support research and analysis and the administration of a multi-agency longitudinal data system to improve consumer information and policy recommendations.

J. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund is designated to establish and maintain a fund for excellence and innovation. The fund is designed to stimulate collaboration among public school divisions, community colleges and universities to create and expand affordable student pathways and to pursue shared services and other efficiency initiatives at colleges and universities that lead to measurable cost reductions. Grants will be awarded on a competitive basis, with eligibility criteria determined by the State Council of Higher Education for Virginia.

K. Out of this appropriation, \$224,000 and one position the first year and \$174,000 and one position the second year from the general fund is designated for the establishment of a student loan ombudsman to provide timely assistance to student borrowers of any student education loan in the Commonwealth. The ombudsman will also be responsible for establishing and maintaining an online student loan borrower education course, which would cover key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements.

L. 1. Out of this appropriation, ~~\$1,000,000~~ \$700,000 the first year and \$2,000,000 the second year from the general fund is designated for the Innovative Internship Fund and Program, § 23.1-903.4, Code of Virginia. The funding is designed to expand paid or credit-bearing student internship and other work-based learning opportunities in collaboration with Virginia employers. The Program comprises institutional grants and a statewide initiative to facilitate the readiness of students, employers, and institutions of higher education to participate in internship and other work-based learning opportunities.

2. In administering the statewide initiative, the Council shall (i) engage stakeholders from business and industry, secondary and higher education, economic development, and state agencies and entities that are successfully engaging employers or successfully operating internship programs; (ii) explore strategies in Virginia and elsewhere on successful institutional, regional, statewide or sector-based internship programs; (iii) gather data on current institutional internship practices, scale, and outcomes; (iv) develop internship readiness educational resources, delivery methods, certification procedures, and outreach and awareness activities for employer partners, students, and institutional career development personnel; (v) pursue shared services or other efficiency initiatives, including technological solutions; and (vi) create a process to track key measures of performance.

3. The Council shall establish eligibility criteria, including requirements for matching funds, for institutional grants. Such grants shall be used to accomplish one or more of the following goals: (i) support state or regional workforce needs; (ii) support initiatives to attract and retain talent in the Commonwealth; (iii) support research and research commercialization in sectors and clusters targeted for development; (iv) support regional economic growth and diversification plans; (v) enhance the job readiness of students; (vi) enhance higher education affordability and timely completion for Virginia students; or (vii) further the objectives of increasing the tech talent pipeline.

M. In addition to the exceptions pursuant to § 2.2-3815, the provisions of the section shall not be construed to prevent the release of a social security number to the U.S. Census, U.S. Education Department, or other agency of the federal government, by the State Council of Higher Education for the purposes of data-matching to improve knowledge of the outcomes of education programs of the Commonwealth, including, but not limited, to earnings and education-related debt. *In addition, the office of the workforce development advisor shall also have access to wage records collected by the Council.*

N. The State Council of Higher Education for Virginia shall collect annual dues on behalf of Virginia Sea Grant to support its operational costs. The Council shall make payments out of nongeneral funds in this appropriation to Virginia Sea Grant, and shall enter into a memorandum of understanding with Virginia Sea Grant to define fiscal responsibilities

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	and establish reimbursement rates and processes for the delivery of services.			
	O 1. The State Council of Higher Education for Virginia, in consultation with staff from the House Appropriations and Senate Finance and Appropriations Committee, Department of Planning and Budget, Secretary of Finance and Secretary of Education, as well as representatives of public higher education institutions, shall review financial aid awarding practices and tuition discounting strategies.			
	2. The Council shall review current state financial aid awarding policies and make recommendations to: (1) appropriately prioritize and address affordability for low- and middle-income students; (2) increase program efficiency and effectiveness in meeting state goals that align with The Virginia Plan; and (3) simplify communication and improve student understanding of eligibility criteria. The review shall also: (1) assess financial aid by income level and the utilization and reporting of tuition revenue used for financial aid and unfunded scholarships; and (2) consider the pros and cons of authorizing remittance of tuition and fees for merit scholarships for students of high academic achievement.			
	3. By November 1, 2020, the Council shall submit a report and any related recommendations to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.			
	P. 1. The State Council of Higher Education for Virginia shall develop a plan for implementing a statewide survey on institutional expenditures by program and academic discipline at Virginia's public institutions to determine the effectiveness of spending related to the attainment of state and institutional goals and inform strategic decision-making.			
	2. The Council may review existing reporting capacities and other state examples of cost analysis by program and academic discipline in higher education to: (1) determine the Council's current capacity to conduct the survey; (2) determine any additional staff and financial support necessary for conducting such a survey; (3) determine the potential for long-range cost containments; and (4) detail a plan for survey implementation.			
	3. By November 1, 2020, the Council shall submit a report and any related recommendations to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.			
	Q. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated for the Guidance to Postsecondary Success program. The program coordinates statewide efforts to increase college access and student success.			
	R. 1. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is designated to support related costs of undertaking a review of higher education costs; funding needs; appropriations and efficiencies:			
	2. The State Council of Higher Education, in consultation with representatives from House Appropriations Committee, Senate Finance and Appropriations Committee, Department of Planning and Budget, Secretary of Finance, and Secretary of Education, as well as representatives of public higher education institutions, shall review methodologies to determine higher education costs, funding needs, and appropriations in Virginia. The review shall identify and recommend: (1) methods to determine appropriate costs; (2) measures of efficiency and effectiveness; (3) provisions for any new reporting requirements; (4) strategies to allocate limited public resources based on outcomes that align with state needs related to affordability, access, completion, and workforce alignment, including with regard to nonresident pricing; (5) the impact of funding on underrepresented student populations; and (6) a timeline for implementation:			
	3. The review shall build on existing efforts including the assessment of base adequacy, recommendations provided through the Strategic Finance Plan, and peer institution comparisons to determine if existing funding models should be updated or replaced. It shall also build on promising practices and include input from Virginia's institutions, policy makers, and other education experts:			
	4. The Council shall present a proposed workplan to the Joint Subcommittee on the Future Competitiveness of Higher Education in Virginia by August 15, 2020. The Council shall submit a preliminary report and any related recommendations to the Governor and the			

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<p>Chairmen of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020 with a final report by July 1, 2021.</p> <p>S. The State Council of Higher Education for Virginia, in fulfilling the requirements under § 23.1-1304 Code of Virginia, may use online training modules that expand training beyond the initial orientation for Boards of Visitor members.</p> <p>T. During the 2020-2022 biennium, the Council shall coordinate (i) the dissemination to the institutions the measures of financial status included in the most recent Auditor of Public Accounts Higher Education Comparative Report, and (ii) collection of institutions' resulting financial sustainability reviews and possible action plans, to include if warranted discussion of a full range of potential structural options to improve long-term financial health. The six-year plan review group identified under § 23.1-306 shall review such submissions.</p> <p>U. 1. Out of this appropriation, \$300,000 the second year from the general fund is designated to support related costs of undertaking a review of higher education costs, funding needs, appropriations and efficiencies.</p> <p>2. The State Council of Higher Education, in consultation with representatives from House Appropriations Committee, Senate Finance and Appropriations Committee, Department of Planning and Budget, Secretary of Finance, and Secretary of Education, as well as representatives of public higher education institutions, shall review methodologies to determine higher education costs, funding needs, and appropriations in Virginia. The review shall identify and recommend: (1) methods to determine appropriate costs, including a detailed cost analysis of Virginia institutions and peer institutions; (2) measures of efficiency and effectiveness, including identifying opportunities for mitigating costs, increasing financial efficiencies, and incorporating current best practices employed by Virginia institutions and other institutions, nationwide; (3) provisions for any new reporting requirements, including a possible periodic review of cost data and strategies employed to implement efficient and effective operational practices; (4) strategies to allocate limited public resources based on outcomes that align with state needs related to affordability, access, completion, and workforce alignment, and the impact on tuition and pricing; (5) the impact of funding on underrepresented student populations; and (6) a timeline for implementation.</p> <p>3. The review shall build on existing efforts including the assessment of base adequacy, recommendations provided through the Strategic Finance Plan, and peer institution comparisons to determine if existing funding models should be updated or replaced. It shall also build on promising practices and include input from Virginia's institutions, policy makers, and other education experts. Any such review and assessment shall consider the mix of programs, mission, enrollment level, and other characteristics of Virginia's public institutions of higher education.</p> <p>4. The Council shall submit a proposed workplan to the Joint Subcommittee on the Future Competitiveness of Higher Education in Virginia by August 15, 2021. The Council shall submit a preliminary report and any related recommendations to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2021 with a final report by July 1, 2022.</p>				
153.	Higher Education Federal Programs Coordination (11200).....		\$2,440,426	\$2,440,426
	Higher Education Federal Programs Coordination (11201).....	\$2,440,426	\$2,440,426	
	Fund Sources: Federal Trust.....	\$2,440,426	\$2,440,426	
<p>Authority: Title 23.1, Chapter 2, Code of Virginia.</p> <p>Out of this appropriation, \$2,440,426 the first year and \$2,440,426 the second year from nongeneral funds is designated for grants to improve teacher quality (No Child Left Behind Act grant).</p>				
154.	Financial Assistance for Public Education (Categorical) (17100).....		\$3,000,000	\$3,000,000

ITEM 154.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Early Awareness and Readiness Programs (17117).....	\$3,000,000	\$3,000,000		
Fund Sources: Federal Trust.....	\$3,000,000	\$3,000,000		
Authority: Discretionary Inclusion.				
Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from nongeneral funds is designated for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP) grant.				
155. Technology Assistance Services (18600).....			\$100,000	\$100,000
			\$200,000	\$200,000
Distance Learning and Electronic Classroom (18602)				
	\$100,000	\$100,000		
	\$200,000	\$200,000		
Fund Sources: Special.....	\$100,000	\$100,000		
	\$200,000	\$200,000		
Authority: Code of Virginia, § 23.1-211				
Out of this appropriation, \$100,000 \$200,000 the first year and \$100,000 \$200,000 the second year from nongeneral funds is designated to cover the costs of coordination and administration of the Virginia State Authorization Reciprocity Agreement (SARA) program as administered by the Southern Regional Education Board (SREB) and the National Council on State Authorization Reciprocity Agreements (NC-SARA).				
155.10 Omitted.				
Total for State Council of Higher Education for Virginia.....			\$122,845,178	\$127,595,178
			\$117,124,803	\$132,595,178
General Fund Positions.....	46.00	46.00		
		47.00		
Nongeneral Fund Positions.....	17.00	17.00		
Position Level.....	63.00	63.00		
		64.00		
Fund Sources: General.....	\$115,525,499	\$120,275,499		
	\$109,680,124	\$120,150,499		
Special.....	\$1,439,253	\$1,439,253		
	\$1,564,253	\$6,564,253		
Trust and Agency.....	\$190,000	\$190,000		
Dedicated Special Revenue.....	\$250,000	\$250,000		
Federal Trust.....	\$5,440,426	\$5,440,426		

§ 1-55. CHRISTOPHER NEWPORT UNIVERSITY (242)

156. Educational and General Programs (10000).....			\$81,019,468	\$81,019,468
				\$82,689,968
Higher Education Instruction (100101).....	\$40,209,587	\$40,209,587		
Higher Education Research (100102).....	\$1,961,180	\$1,961,180		
Higher Education Academic (100104).....	\$10,893,008	\$10,893,008		
Higher Education Student Services (100105).....	\$6,761,024	\$6,761,024		
Higher Education Institutional Support (100106).....	\$9,237,660	\$9,237,660		
Operation and Maintenance Of Plant (100107).....	\$11,957,009	\$11,957,009		
		\$13,627,509		
Fund Sources: General.....	\$33,248,951	\$33,248,951		
		\$34,267,951		
Higher Education Operating.....	\$47,770,517	\$47,770,517		
		\$48,422,017		

Authority: Title 23.1, Chapter 14, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional

ITEM 156.	Item Details(\$)		Appropriations(\$)	
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initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$667,670 the first year and \$667,670 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Science (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. Christopher Newport University is expected to maintain increases in:

a. Data Science and Technology awards of 5 annually over the base year.

b. Science and Engineering awards of 15 annually over the base year.

c. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.

157.	Higher Education Student Financial Assistance (10800).....			\$10,141,930	\$10,141,930
				\$9,892,330	
	Scholarships (10810).....	\$10,126,767	\$10,126,767		
		\$9,877,167			
	Fellowships (10820).....	\$15,163	\$15,163		
	Fund Sources: General.....	\$6,211,930	\$6,211,930		
		\$5,962,330			
	Higher Education Operating.....	\$3,930,000	\$3,930,000		

Authority: Title 23.1, Chapter 14, Code of Virginia.

Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

ITEM 158.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
158.	Financial Assistance For Educational and General Services (11000).....		\$1,498,882	\$1,498,882
	Sponsored Programs (11004).....		\$1,498,882	\$1,498,882
	Fund Sources: Higher Education Operating.....		\$1,498,882	\$1,498,882
	Authority: Title 23.1, Chapter 14, Code of Virginia.			
	The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.			
159.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$81,302,437	\$81,302,437
	Food Services (80910).....		\$17,924,629	\$17,924,629
	Bookstores And Other Stores (80920).....		\$709,300	\$709,300
	Residential Services (80930).....		\$30,619,629	\$30,619,629
	Parking And Transportation Systems And Services (80940).....		\$1,808,076	\$1,808,076
	Student Unions And Recreational Facilities (80970)...		\$5,901,288	\$5,901,288
	Recreational And Intramural Programs (80980).....		\$167,142	\$167,142
	Other Enterprise Functions (80990).....		\$14,174,444	\$14,174,444
	Intercollegiate Athletics (80995).....		\$9,997,929	\$9,997,929
	Fund Sources: Higher Education Operating.....		\$61,598,568	\$61,598,568
	Debt Service.....		\$19,703,869	\$19,703,869
	Authority: Title 23.1, Chapter 14, Code of Virginia.			
159.10	Omitted.			
	Total for Christopher Newport University.....		\$173,962,717 <i>\$173,713,117</i>	\$173,962,717 <i>\$175,633,217</i>
	General Fund Positions.....		341.56	341.56 <i>353.06</i>
	Nongeneral Fund Positions.....		596.18	596.18 <i>603.68</i>
	Position Level.....		937.74	937.74 <i>956.74</i>
	Fund Sources: General.....		\$39,460,881 <i>\$39,211,281</i>	\$39,460,881 <i>\$40,479,881</i>
	Higher Education Operating.....		\$114,797,967	\$114,797,967 <i>\$115,449,467</i>
	Debt Service.....		\$19,703,869	\$19,703,869
§ 1-56. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)				
160.	Educational and General Programs (10000).....		\$227,490,351	\$227,490,351 <i>\$228,190,351</i>
	Higher Education Instruction (100101).....		\$125,621,500	\$125,621,500 <i>\$126,321,500</i>
	Higher Education Research (100102).....		\$1,391,200	\$1,391,200
	Higher Education Public Services (100103).....		\$21,500	\$21,500
	Higher Education Academic (100104).....		\$32,582,800	\$32,582,800
	Higher Education Student Services (100105).....		\$9,721,000	\$9,721,000
	Higher Education Institutional Support (100106).....		\$28,191,900	\$28,191,900
	Operation and Maintenance Of Plant (100107).....		\$29,960,451	\$29,960,451
	Fund Sources: General.....		\$49,738,886	\$49,738,886 <i>\$50,438,886</i>
	Higher Education Operating.....		\$168,089,414	\$168,089,414
	Debt Service.....		\$9,662,051	\$9,662,051

ITEM 160.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 23.1, Chapter 28, Code of Virginia.				
A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).				
B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
C. Out of this appropriation, \$245,000 the first year and \$245,000 the second year from the general fund is designated to support the Lewis B. Puller Jr. Veterans Benefits Clinic.				
D. Out of this appropriation, \$287,850 and two positions the first year and \$287,850 and two positions the second year from the general fund is designated to develop a specialization in military and veterans counseling within the existing clinical mental health counseling degree program and a post-graduate certificate in veterans counseling.				
E. The College of William and Mary may extend the authority granted to it under the Restructured Higher Education Financial and Administrative Operations Act (Title 23.1, Chapter 10, Code of Virginia) to Richard Bland College in a manner that is consistent with the Management Agreement By and Between the Commonwealth of Virginia and the College of William and Mary in Virginia, executed November 15, 2005 and subsequently amended to the provisions of the memorandum of understanding related to financial operations and other related administrative areas as executed by the presidents of both institutions on November 15, 2017 and as may subsequently be amended.				
F. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.				
G. 1. Out of this appropriation, \$1,221,670 the first year and \$1,221,670 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.				
2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:				
a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;				
b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);				
c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and				
d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).				
3. The College of William and Mary is expected to maintain increases in:				
a. Data Science and Technology awards of 20 annually over the base year.				
b. Science and Engineering awards of 15 annually over the base year.				

ITEM 160.	Item Details(\$)		Appropriations(\$)	
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c. Education awards of 5 annually over the base year.				
d. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.				
H. Out of this appropriation, \$250,000 and two positions the first year and \$250,000 and two positions the second year from the general fund is designated for the development of the Public Policy's Whole of Government program. This program will provide a hybrid Master of Public Policy degree that will allow the first year to be completed online.				
I. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.				

161.	Higher Education Student Financial Assistance (10800).....			\$49,304,176	\$49,344,076
				\$49,091,776	\$49,224,776
	Scholarships (10810).....	\$35,214,477	\$35,214,477		
		\$35,081,477			
	Fellowships (10820).....	\$14,089,699	\$14,129,599		
		\$14,010,299	\$14,010,299		
	Fund Sources: General.....	\$5,062,676	\$5,102,576		
		\$4,850,276	\$4,983,276		
	Higher Education Operating.....	\$44,241,500	\$44,241,500		

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. Higher education operating funds appropriated in this program may be allocated for need-based aid to Virginia undergraduate students to enhance the quality and diversity of the student body.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

162.	Financial Assistance For Educational and General Services (11000).....			\$32,524,929	\$32,524,929
	Sponsored Programs (11004).....	\$32,524,929	\$32,524,929		
	Fund Sources: General.....	\$75,000	\$75,000		
	Higher Education Operating.....	\$32,264,735	\$32,264,735		
	Debt Service.....	\$185,194	\$185,194		

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the

ITEM 162.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
general fund and \$400,000 the first year and \$400,000 the second year from nongeneral funds are designated to build research capacity in biomedical research and biomaterials engineering.				
B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
163.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$89,321,641	\$89,321,641
	Food Services (80910).....	\$16,436,830	\$16,436,830	
	Bookstores And Other Stores (80920).....	\$3,875,918	\$3,875,918	
	Residential Services (80930).....	\$30,311,011	\$30,311,011	
	Parking And Transportation Systems And Services (80940).....	\$2,366,059	\$2,366,059	
	Telecommunications Systems And Services (80950).....	\$4,661,486	\$4,661,486	
	Student Health Services (80960).....	\$5,575,127	\$5,575,127	
	Student Unions And Recreational Facilities (80970).....	\$9,482,054	\$9,482,054	
	Recreational And Intramural Programs (80980).....	\$1,148,078	\$1,148,078	
	Other Enterprise Functions (80990).....	\$6,723,167	\$6,723,167	
	Intercollegiate Athletics (80995).....	\$8,741,911	\$8,741,911	
	Fund Sources: Higher Education Operating.....	\$68,020,592	\$68,020,592	
	Debt Service.....	\$21,301,049	\$21,301,049	
	Authority: Title 23.1, Chapter 28, Code of Virginia.			
163.10	Omitted.			
	Total for The College of William and Mary in Virginia.....		\$398,641,097 \$398,428,697	\$398,680,997 \$399,261,697
	General Fund Positions.....	552.16	552.16 555.16	
	Nongeneral Fund Positions.....	882.96	882.96	
	Position Level.....	1,435.12	1,435.12 1,438.12	
	Fund Sources: General.....	\$54,876,562 \$54,664,162	\$54,916,462 \$55,497,162	
	Higher Education Operating.....	\$312,616,241	\$312,616,241	
	Debt Service.....	\$31,148,294	\$31,148,294	
Richard Bland College (241)				
164.	Educational and General Programs (10000).....		\$15,086,047 \$14,378,047	\$15,086,047 \$15,180,047
	Higher Education Instruction (100101).....	\$6,784,153	\$6,784,153 \$7,083,153	
	Higher Education Public Services (100103).....	\$4,500	\$4,500	
	Higher Education Academic (100104).....	\$991,193	\$991,193	
	Higher Education Student Services (100105).....	\$1,080,192	\$1,080,192	
	Higher Education Institutional Support (100106).....	\$4,423,956 \$3,715,956	\$4,423,956 \$4,218,956	
	Operation and Maintenance Of Plant (100107).....	\$1,802,053	\$1,802,053	
	Fund Sources: General.....	\$9,202,914 \$8,494,914	\$9,202,914 \$9,296,914	
	Higher Education Operating.....	\$5,883,133	\$5,883,133	
	Authority: Title 23.1, Chapter 28, Code of Virginia.			

ITEM 164.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).				
B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
C. In order to advance the goals outlined in T21 and collaboration and innovation in higher education; In order to advance the goals of the Commonwealth of Virginia, the Virginia Plan for Higher Education and Richard Bland College, Richard Bland College may develop and deliver new, collaborative educational pathways and innovative educational models, including distance learning, technology-based instruction, prior learning assessments, experiential learning, stackable credentials, work-based learning, and competency-based programs that lead to STEM-H and other high-demand credentials and careers; with such funds as are appropriated or made available for this purpose that lead to high-demand fields and industries critical to the economic development of the Petersburg region and Virginia. In addition, Richard Bland College may: Richard Bland College shall strengthen educational pathways for traditional and nontraditional students, including veterans and military personnel; through the continued establishment and strengthening of cross-institutional and cross-sector partnerships including the use of innovative educational approaches in order to promote entry into high-demand fields and industries critical to the economic development of Virginia. Richard Bland College may:				
<i>1. Continue to explore new and expanded partnership opportunities with the College of William and Mary as well as identify potential new higher education partners to pursue shared services and other options for cost reduction and increased efficiencies for any non-core business functions of the college. Utilization of shared services functions in the areas of Collections, Enterprise Resource Program (ERP), Procurement, and Accounts Payable will reduce overhead expenses and enable re-investment in the College's core business;</i>				
<i>2. Identify higher education partners to strategically merge and align academic programming to advance the credential and completion goals outlined in the Virginia Plan for Higher Education;</i>				
<i>† 3. Broker agreements between and among educational, industry, and non-profit partners and establish collaborative, innovative partnership agreements with school districts, public and private colleges and universities, economic development agencies, employers, philanthropic organizations, veterans organizations, public agencies and other partners as necessary to strengthen and streamline educational pathways from high school, to work-based learning, to baccalaureate and advanced degrees that prepare individuals, including nontraditional students and veterans, for entry into STEM-H and other high-demand careers in the Commonwealth;</i>				
<i>2. Serve as a clearing house of educational pathway and career pathway information and as a resource and referral agency for traditional and non-traditional students, including veterans;</i>				
<i>3. Serve as an educational innovation resource center; referral agency and hub for collaboration; innovation; and information sharing among educational and industry partners to facilitate the vetting, piloting, and effective implementation of innovative, evidence-based educational resources; including open educational resources and self-paced, competency-based tools designed to maximize limited resources; improve educational outcomes; or accelerate time to credential completion;</i>				
<i>4. Pilot and implement innovative educational approaches and technologies, and promote the development, delivery, and ongoing assessment of innovative, cost-effective degree programs and stackable credentials, including industry-recognized, competency-based credentials that are aligned with and responsive to the educational and workforce development needs of</i>				

ITEM 164.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>traditional and non-traditional students, including veterans and military personnel, and advance the economic development needs of employers and industries statewide;</p> <p>5. Identify and implement new strategies to support economic and community development in Virginia and to expand opportunities for traditional and non-traditional students, including veterans, to prepare for high-demand fields.</p> <p>6. Identify opportunities for resource sharing and new operational efficiencies in the delivery of postsecondary education and pursue additional funding by federal, state, corporate, and private philanthropic sources to support collaborative, innovative approaches to education that improve educational access and outcomes; strengthen the alignment between postsecondary education and high-demand career pathways in Virginia; and support improved educational attainment, economic opportunity, and economic development for Virginians.</p> <p>7. Richard Bland College may explore shared services and other options for increased collaboration with the College of William and Mary.</p> <p>6. The President of Richard Bland College shall submit a report on the institution's progress in exploring and expanding partnership opportunities for shared services and academic programming with other higher education partners to the Chairs of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations no later than July 1 of each year.</p> <p>D. Out of this appropriation, \$1,232,350 \$1,437,750 and 10 13 positions each year from the general fund is designated to address the staffing recommendations of the Auditor of Public Accounts related to financial management, information technology, human resources, financial aid, and operations.</p>				
165.	Higher Education Student Financial Assistance (10800).....		\$1,520,580 \$1,366,180	\$1,520,480
	Scholarships (10810).....	\$1,520,580 \$1,366,180		\$1,520,480
	Fund Sources: General.....	\$1,460,580 \$1,306,180		\$1,460,480
	Higher Education Operating.....	\$60,000		\$60,000
	Authority: Title 23.1, Chapter 28, Code of Virginia.			
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.			
166.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$15,000	\$15,000
	Sponsored Programs (11004).....	\$15,000		\$15,000
	Fund Sources: Higher Education Operating.....	\$15,000		\$15,000
	Authority: Title 23.1, Chapter 28, Code of Virginia.			
167.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$4,741,277	\$4,741,277
	Food Services (80910).....	\$640,627		\$640,627
	Bookstores And Other Stores (80920).....	\$200,000		\$200,000
	Residential Services (80930).....	\$2,384,338		\$2,384,338
	Parking And Transportation Systems And Services (80940).....	\$248,000		\$248,000
	Recreational And Intramural Programs (80980).....	\$29,000		\$29,000

ITEM 167.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Other Enterprise Functions (80990).....	\$882,500	\$882,500		
Intercollegiate Athletics (80995).....	\$356,812	\$356,812		
Fund Sources: Higher Education Operating.....	\$4,741,277	\$4,741,277		
Authority: Title 23.1, Chapter 28, Code of Virginia.				
167.10 Omitted.				
Total for Richard Bland College.....			\$21,362,904	\$21,362,804
			\$20,500,504	\$21,456,804
General Fund Positions.....	78.43	78.43		
		81.43		
Nongeneral Fund Positions.....	41.41	41.41		
Position Level.....	119.84	119.84		
		122.84		
Fund Sources: General.....	\$10,663,494	\$10,663,394		
	\$9,801,094	\$10,757,394		
Higher Education Operating.....	\$10,699,410	\$10,699,410		

Virginia Institute of Marine Science (268)

168. Educational and General Programs (10000).....			\$27,300,448	\$27,300,448
			\$26,825,448	\$27,485,448
Higher Education Instruction (100101).....	\$1,133,039	\$1,133,039		
Higher Education Research (100102).....	\$12,031,625	\$12,031,625		
	\$11,556,625	\$12,216,625		
Higher Education Academic (100104).....	\$5,943,970	\$5,943,970		
Higher Education Institutional Support (100106).....	\$3,159,830	\$3,159,830		
Operation and Maintenance Of Plant (100107).....	\$5,031,984	\$5,031,984		
Fund Sources: General.....	\$25,312,763	\$25,312,763		
	\$24,837,763	\$25,497,763		
Higher Education Operating.....	\$1,987,685	\$1,987,685		

Authority: Title 23.1, Chapter 28, and Title 28.2, Chapter 11, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. If sufficient appropriations are not made available by the Commonwealth, it shall not be necessary for the Virginia Institute of Marine Science to reallocate funds from existing research projects to provide the funding for research mandated in the Code of Virginia or in the Appropriation Act.

C. Out of this appropriation, \$212,772 and four positions the first year and \$212,772 and four positions the second year from the general fund is designated to support an Aquaculture Genetics and Breeding Technology Center at the Virginia Institute of Marine Science. The center shall coordinate its efforts with the repletion program of the Virginia Marine Resources Commission.

D. It is the intent of the General Assembly that the development of a disease resistant native oyster remains a high priority for oyster-related research activities at the Virginia Institute of Marine Science.

E. Out of this appropriation, \$68,391 the first year and \$68,391 the second year from the general fund is provided for the continuation of the Clean Marina Program. This additional funding will allow the Virginia Institute of Marine Science to provide education, outreach, and technical assistance to the Commonwealth's marinas in an effort to improve water quality.

F. Out of this appropriation, \$289,096 the first year and \$289,096 the second year from the general fund is designated for the monitoring of the Chesapeake Bay's blue crab population.

ITEM 168.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>This additional support will permit the Virginia Institute of Marine Science to generate the data necessary to develop fishery management plans, determine in-danger habitats, and project the annual blue crab catch.</p>				
<p>G. Notwithstanding Chapter 719, 1999 Acts of Assembly, out of this appropriation, \$159,579 the first year and \$159,579 the second year from the general fund shall be provided to the Virginia Institute of Marine Science to support the Fishery Resource Grant Fund and Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the State Comptroller upon written request of the President of the College of William and Mary.</p>				
<p>H. Out of this appropriation, \$432,894 and 3.15 positions the first year and \$432,894 and 3.15 positions the second year from the general fund is designated to support research on sea level rise and state-of-the-art storm surge modeling, as well as for subcontracting with the College of William and Mary's Virginia Coastal Policy Center (CWMVCPC) to conduct policy and legal analyses of stakeholder-driven adaptation responses to sea level rise, in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving the Virginia Institute of Marine Science, Old Dominion University, and the CWMVCPC, shall work with municipalities both along coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.</p>				
<p>I. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated for the establishment of a marine conservation fellowship program in partnership with Virginia-based marine science education programs and conservation museums.</p>				
<p>J. Out of this appropriation, \$14,783 the first year and \$14,783 the second year from the general fund is designated for debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Leasing Program (MELP) for upgrades to the campus information technology infrastructure. In addition to these amounts, \$188,086 and one position the first year and \$188,086 and one position the second year from the general fund is designated for supporting a network engineer, maintenance contracts, and staff training.</p>				
<p>K. Out of this appropriation, \$84,678 the first year and \$84,585 the second year from the general fund is designated for debt service costs for the second and third year payments of a five-year lease under the Master Equipment Leasing Program (MELP) for the equipment associated with the modeling and assessment technologies used to monitor the water quality of the Chesapeake Bay and its tributaries. In addition to this amount, \$406,075 and 2.70 positions the first year and \$406,075 and 2.70 positions the second year from the general fund is designated for a postdoctoral researcher and two research technicians, research-related supplies and materials, and ongoing service center costs.</p>				
<p>L. Out of this appropriation, \$403,000 the first year and \$403,000 the second year from the general fund is designated for evaluating the ecological health of the Elizabeth River, monitoring the performance of past restoration projects, and providing scientific guidance on development of new restoration projects. Every third year a State of the Elizabeth River Scorecard report on pollution levels in the Elizabeth River shall be produced. The scorecard shall include, at a minimum, an assessment of fish health data including cancer levels, tributyltin levels, and benthic index of biotic integrity, in correlation with water and sediment contaminant analyses from the Elizabeth River.</p>				
<p>M. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p>				
<p>N. Out of this appropriation, \$386,668 and 2.75 positions the first year and \$386,668 and 2.75 positions the second year from the general fund is provided for an annual survey of submerged bay grasses and the development of best management practices for oyster aquaculture that supports co-existence with bay grasses. The survey is also intended to assist in evaluating attainment of water quality standards, permitting efforts of other state agencies, and evaluating progress towards meeting the Chesapeake Bay Program goals.</p>				

ITEM 168.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>O. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is provided to support the development of a wave, hydrodynamic, and sediment transport model for the region around Chincoteague Inlet; including Assateague Inlet, Wallops Island, and Chincoteague Island, that can be used to inform erosion control and stabilization management decisions on the islands.</p> <p><i>P. Out of this appropriation, \$185,000 the second year from the general fund is provided for a cooperative research program on shellfish aquaculture and seagrass. The research program is intended to determine how aquaculture activity affects the recovery rate of ecologically functional eelgrass beds and develop a landscape-level ecological model that can inform management decisions about how to apportion habitats within the entire coastal bay system on Virginia's Eastern Shore.</i></p>				
169.	Higher Education Student Financial Assistance (10800).....		\$374,402 \$321,002	\$401,002 \$321,002
	Fellowships (10820).....	\$374,402 \$321,002	\$401,002 \$321,002	
	Fund Sources: General.....	\$374,402 \$321,002	\$401,002 \$321,002	
	Authority: Title 23.1, Chapter 28, Code of Virginia.			
170.	Financial Assistance For Educational and General Services (11000).....		\$24,469,673	\$24,469,673
	Eminent Scholars (11001).....	\$75,000	\$75,000	
	Sponsored Programs (11004).....	\$24,394,673	\$24,394,673	
	Fund Sources: Higher Education Operating.....	\$24,469,673	\$24,469,673	
	Authority: Title 23.1, Chapter 28 and Title 28.2, Chapter 11, Code of Virginia.			
<p>A. Out of the amounts for sponsored programs, \$50,000 the first year and \$50,000 the second year from nongeneral funds shall be paid from the Marine Fishing Improvement Fund to support the Mariculture and Marine Product Advisory Program.</p> <p>B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the institute to cover sponsored program operations.</p>				
170.10	Omitted.			
	Total for Virginia Institute of Marine Science.....		\$52,144,523 \$51,616,123	\$52,171,123 \$52,276,123
	General Fund Positions.....	298.82	298.82 303.72	
	Nongeneral Fund Positions.....	96.60	96.60	
	Position Level.....	395.42	395.42 400.32	
	Fund Sources: General.....	\$25,687,165 \$25,158,765	\$25,713,765 \$25,818,765	
	Higher Education Operating.....	\$26,457,358	\$26,457,358	
	Grand Total for The College of William and Mary in Virginia.....		\$472,148,524 \$470,545,324	\$472,214,924 \$472,994,624
	General Fund Positions.....	929.41	929.41 940.31	
	Nongeneral Fund Positions.....	1,020.97	1,020.97	
	Position Level.....	1,950.38	1,950.38 1,961.28	
	Fund Sources: General.....	\$91,227,221 \$89,624,021	\$91,293,621 \$92,073,321	

ITEM 170.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Higher Education Operating.....	\$349,773,009	\$349,773,009		
Debt Service.....	\$31,148,294	\$31,148,294		

§ 1-57. GEORGE MASON UNIVERSITY (247)

171.	Educational and General Programs (10000).....			\$631,184,609	\$635,184,609
	Higher Education Instruction (100101).....	\$386,203,962	\$388,651,444		
	Higher Education Research (100102).....	\$10,433,820	\$10,499,938		
	Higher Education Public Services (100103).....	\$2,611,552	\$2,628,102		
	Higher Education Academic (100104).....	\$79,862,178	\$80,368,292		
	Higher Education Student Services (100105).....	\$27,231,818	\$27,404,392		
	Higher Education Institutional Support (100106)....	\$67,147,611	\$67,573,147		
	Operation and Maintenance Of Plant (100107).....	\$57,693,668	\$58,059,294		
	Fund Sources: General.....	\$166,315,949	\$168,315,949		
	Higher Education Operating.....	\$464,868,660	\$466,868,660		

Authority: Title 23.1, Chapter 15, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation, an amount estimated at \$289,614 the first year and \$289,614 the second year from the general fund and \$124,120 the first year and \$124,120 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

C. Out of this appropriation, \$459,125 the first year and \$459,125 the second year from the general fund is designated for the Institute for Conflict Analysis.

D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

E. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is designated to support the Potomac Bay Science Center.

F. Out of this appropriation, \$400,000 the first year and \$400,000 the second year from the general fund is designated to develop a pathway program to attract and train veterans for cyber security careers.

G. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

H. 1. Out of this appropriation, \$4,685,320 the first year and \$4,685,320 the second year

ITEM 171.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p> <p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p> <p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p> <p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. George Mason University is expected to maintain increases in:</p> <p>a. Data Science and Technology awards of 50 annually over the base year.</p> <p>b. Science and Engineering awards of 35 annually over the base year.</p> <p>c. Healthcare awards of 35 annually over the base year.</p> <p>d. Education awards of 40 annually over the base year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p> <p>I. Out of this appropriation \$50,000 the first year and \$50,000 the second year from the general fund is designated for campus lighting, generators and other infrastructure at the School of Conflict Resolution at the Point of View facility.</p> <p>J. The Board of Visitors of George Mason University may participate in a joint venture or innovation agreement with an individual, corporation, governmental body or agency, partnership, association, or other entity to develop and deliver new, collaborative distance learning and technology-based instruction programs for traditional and non-traditional students, including veterans and military personnel. The Board may create or operate such entity accordingly. In the course of any venture or agreement, the Board may authorize a pilot and implementation of distance learning and technology-based instruction programs that are aligned with and responsive to the educational and workforce needs of traditional and non-traditional students. If the Board determines it is necessary to the development and delivery of distance learning and technology-based instruction programs, the Board may create or assist in the creation of; own in whole or in part or otherwise control; participate in or with any entities, public or private; and purchase, receive, subscribe for, own, use, employ, sell, pledge or otherwise acquire or dispose of (i) shares or obligations of, or interests in, any entity organized for any purpose within or outside the Commonwealth and (ii) obligations of any person or corporation. Prior to the execution of any joint venture or innovation agreement, George Mason University shall formally seek and receive approval from the State Council of Higher Education for Virginia and report on whether there will be any impact on current or future operations of the Online Virginia Network Authority.</p>				
172.	Higher Education Student Financial Assistance (10800).....		\$51,894,994 \$44,896,594	\$51,921,494 \$51,841,494
	Scholarships (10810).....	\$46,101,728 \$39,156,728	\$46,101,628	
	Fellowships (10820).....	\$5,793,266 \$5,739,866	\$5,819,866 \$5,739,866	

ITEM 172.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$37,798,994	\$37,825,494		
Higher Education Operating.....	\$30,800,594	\$37,745,494		
	\$14,096,000	\$14,096,000		
Authority: Title 23.1, Chapter 15, Code of Virginia.				
A. Notwithstanding the provisions of § 4-5.01.5.b) of this Act, George Mason University is hereby authorized to transfer the balance of its discontinued student loan funds to an endowment fund established by the University to be used for undergraduate and graduate students in the Higher Education Student Financial Assistance Program.				
B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
173.	Financial Assistance For Educational and General Services (11000).....		\$281,275,000	\$281,275,000
	Eminent Scholars (11001).....	\$1,000,000		\$1,000,000
	Sponsored Programs (11004).....	\$280,275,000		\$280,275,000
	Fund Sources: General.....	\$2,106,250		\$2,106,250
	Higher Education Operating.....	\$279,168,750		\$279,168,750
Authority: Title 23.1, Chapter 15, Code of Virginia.				
A. 1. Out of this appropriation, \$956,250 the first year and \$956,250 the second year from the general fund and \$5,850,000 the first year and \$5,850,000 the second year from nongeneral funds are designated to build research capacity in biomedical research and biomaterials engineering.				
2. Out of this appropriation, \$750,000 the first year and \$750,000 the second year from the general fund is designated for applied research in simulation modeling and gaming.				
B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated for Lyme Disease research and medical test development.				
C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
D. Out of this appropriation, \$275,000 the first year and \$275,000 the second year from the general fund is designated for George Mason University, in collaboration with Eastern Virginia Medical School, Old Dominion University, the University of Virginia, Virginia Commonwealth University, Virginia Tech-Carilion, INOVA, and Sentara Health System, to create the Virginia Commonwealth Clinical Research Network to serve as a network of institutions to conduct significant clinical trials in areas that include oncology, mental health and substance abuse. The Virginia Commonwealth Clinical Research Network would facilitate identifying and recruiting patients and expand access for researchers to a clinical base thereby creating greater opportunities for grant funding and the development commercialization of breakthrough products and services.				
174.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$241,847,817	\$241,847,817
	Food Services (80910).....	\$37,525,061		\$37,525,061
	Bookstores And Other Stores (80920).....	\$2,007,709		\$2,007,709
	Residential Services (80930).....	\$40,978,104		\$40,978,104
	Parking And Transportation Systems And Services (80940).....	\$15,487,834		\$15,487,834
	Telecommunications Systems And Services (80950).....	\$562,121		\$562,121
	Student Health Services (80960).....	\$5,502,720		\$5,502,720

ITEM 174.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Student Unions And Recreational Facilities (80970)...	\$11,382,463	\$11,382,463		
Recreational And Intramural Programs (80980).....	\$18,667,176	\$18,667,176		
Other Enterprise Functions (80990).....	\$84,912,834	\$84,912,834		
Intercollegiate Athletics (80995).....	\$24,821,795	\$24,821,795		
Fund Sources: Higher Education Operating.....	\$187,705,617	\$187,705,617		
Debt Service.....	\$54,142,200	\$54,142,200		
Authority: Title 23.1, Chapter 15, Code of Virginia.				
174.10 Omitted.				
Total for George Mason University.....			\$1,206,202,420	\$1,210,228,920
			\$1,199,204,020	\$1,210,148,920
General Fund Positions.....	1,082.14	1,082.14		
Nongeneral Fund Positions.....	4,185.49	4,185.49		
Position Level.....	5,267.63	5,267.63		
Fund Sources: General.....	\$206,221,193	\$208,247,693		
	\$199,222,793	\$208,167,693		
Higher Education Operating.....	\$945,839,027	\$947,839,027		
Debt Service.....	\$54,142,200	\$54,142,200		

§ 1-58. JAMES MADISON UNIVERSITY (216)

175. Educational and General Programs (10000).....			\$343,368,529	\$343,368,529 \$347,368,529
Higher Education Instruction (100101).....	\$181,217,171	\$181,217,171 \$185,217,171		
Higher Education Research (100102).....	\$929,467	\$929,467		
Higher Education Public Services (100103).....	\$1,602,857	\$1,602,857		
Higher Education Academic (100104).....	\$48,200,000	\$48,200,000		
Higher Education Student Services (100105).....	\$22,992,122	\$22,992,122		
Higher Education Institutional Support (100106).....	\$48,199,040	\$48,199,040		
Operation and Maintenance Of Plant (100107).....	\$40,227,872	\$40,227,872		
Fund Sources: General.....	\$96,710,352	\$96,710,352 \$100,710,352		
Higher Education Operating.....	\$244,707,524	\$244,707,524		
Debt Service.....	\$1,950,653	\$1,950,653		

Authority: Title 23.1, Chapter 16, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining

ITEM 175.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

D. 1. Out of this appropriation, \$2,445,920 the first year and \$2,445,920 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. James Madison University is expected to maintain increases in:

a. Data Science and Technology awards of 10 annually over the base year.

b. Science and Engineering awards of 15 annually over the base year.

c. Healthcare awards of 45 annually over the base year.

d. Education awards of 15 annually over the base year.

e. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.

E. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between James Madison University and the Commonwealth, as set forth in Chapters 124 and 125 of the 2019 Acts of Assembly.

176.	Higher Education Student Financial Assistance (10800).....			\$21,618,426	\$21,618,426
	Scholarships (10810).....	\$20,702,455	\$20,702,455	\$20,339,026	
		\$19,423,055			
	Fellowships (10820).....	\$915,971	\$915,971		
	Fund Sources: General.....	\$12,725,146	\$12,725,146		
		\$11,445,746			
	Higher Education Operating.....	\$8,893,280	\$8,893,280		

Authority: Title 23.1, Chapter 16, Code of Virginia.

A. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that

ITEM 176.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
B. The appropriation for the fund source Higher Education Operating in this Item shall be considered sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between James Madison University and the Commonwealth as set forth in Chapters 124 and 125 of the 2019 Acts of Assembly.				
177.	Financial Assistance For Educational and General Services (11000)			
	a sum sufficient, estimated at.....		\$42,700,000	\$42,700,000
	Eminent Scholars (11001).....	\$232,547	\$232,547	
	Sponsored Programs (11004).....	\$42,467,453	\$42,467,453	
	Fund Sources: Higher Education Operating.....	\$42,700,000	\$42,700,000	
	Authority: Title 23.1, Chapter 16, Code of Virginia.			
178.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$244,527,990	\$244,527,990
	Food Services (80910).....	\$79,756,129	\$79,756,129	
	Bookstores And Other Stores (80920).....	\$1,671,000	\$1,671,000	
	Residential Services (80930).....	\$40,608,562	\$40,608,562	
	Parking And Transportation Systems And Services (80940).....	\$8,299,037	\$8,299,037	
	Telecommunications Systems And Services (80950)..	\$1,653,061	\$1,653,061	
	Student Health Services (80960).....	\$7,311,895	\$7,311,895	
	Student Unions And Recreational Facilities (80970)...	\$8,350,305	\$8,350,305	
	Recreational And Intramural Programs (80980).....	\$14,665,647	\$14,665,647	
	Other Enterprise Functions (80990).....	\$22,731,460	\$22,731,460	
	Intercollegiate Athletics (80995).....	\$59,480,894	\$59,480,894	
	Fund Sources: Higher Education Operating.....	\$202,228,750	\$202,228,750	
	Debt Service.....	\$42,299,240	\$42,299,240	
	Authority: Title 23.1, Chapter 16, Code of Virginia.			
178.10	Omitted.			
	Total for James Madison University.....		\$652,214,945	\$652,214,945
			\$650,935,545	\$656,214,945
	General Fund Positions.....	1,278.00	1,278.00	
	Nongeneral Fund Positions.....	2,631.52	2,631.52	
	Position Level.....	3,909.52	3,909.52	
	Fund Sources: General.....	\$109,435,498	\$109,435,498	
		\$108,156,098	\$113,435,498	
	Higher Education Operating.....	\$498,529,554	\$498,529,554	
	Debt Service.....	\$44,249,893	\$44,249,893	

§ 1-59. LONGWOOD UNIVERSITY (214)

179.	Educational and General Programs (10000).....		\$74,507,670	\$74,507,670
	Higher Education Instruction (100101).....	\$37,433,763	\$37,433,763	
		\$37,296,353		
	Higher Education Public Services (100103).....	\$617,652	\$617,652	
	Higher Education Academic (100104).....	\$7,396,182	\$7,396,182	
	Higher Education Student Services (100105).....	\$4,874,063	\$4,874,063	
	Higher Education Institutional Support (100106).....	\$14,584,160	\$14,584,160	
	Operation and Maintenance Of Plant (100107).....	\$9,601,850	\$9,601,850	

ITEM 179.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$31,636,303	\$31,636,303		
	\$31,498,893			
Higher Education Operating.....	\$42,871,367	\$42,871,367		

Authority: Title 23.1, Chapter 17, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this Act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$547,000 the first year and \$547,000 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. Longwood University is expected to maintain increases in:

a. Science and Engineering awards of 5 annually over the base year.

b. Healthcare awards of 5 annually over the base year.

c. Education awards of 5 annually over the base year.

d. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees annually beginning August 2020.

180.	Higher Education Student Financial Assistance (10800).....			\$9,572,818	\$9,572,818
				\$8,785,418	
	Scholarships (10810).....	\$9,552,154	\$9,552,154		
		\$8,764,754			
	Fellowships (10820).....	\$20,664	\$20,664		
	Fund Sources: General.....	\$6,577,179	\$6,577,179		
		\$5,789,779			
	Higher Education Operating.....	\$2,995,639	\$2,995,639		

Authority: Title 23.1, Chapter 17, Code of Virginia.

ITEM 180.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
181.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$3,178,393	\$3,178,393 \$5,678,393
	Sponsored Programs (11004).....	\$3,178,393 \$3,178,393 \$5,678,393		
	Fund Sources: Higher Education Operating.....	\$3,178,393 \$3,178,393 \$5,678,393		
Authority: Title 23.1, Chapter 17, Code of Virginia.				
182.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$64,882,672	\$64,882,672
	Food Services (80910).....	\$8,139,258	\$8,139,258	
	Bookstores And Other Stores (80920).....	\$273,195	\$273,195	
	Residential Services (80930).....	\$22,354,254	\$22,354,254	
	Parking And Transportation Systems And Services (80940).....	\$989,591	\$989,591	
	Telecommunications Systems And Services (80950)..	\$951,620	\$951,620	
	Student Health Services (80960).....	\$974,226	\$974,226	
	Student Unions And Recreational Facilities (80970)...	\$3,179,541	\$3,179,541	
	Recreational And Intramural Programs (80980).....	\$2,172,334	\$2,172,334	
	Other Enterprise Functions (80990).....	\$16,807,306	\$16,807,306	
	Intercollegiate Athletics (80995).....	\$9,041,347	\$9,041,347	
	Fund Sources: Higher Education Operating.....	\$57,295,361	\$57,295,361	
	Debt Service.....	\$7,587,311	\$7,587,311	
Authority: Title 23.1, Chapter 17, Code of Virginia.				
182.10	Omitted.			
	Total for Longwood University.....		\$152,141,553 \$151,216,743	\$152,141,553 \$154,641,553
	General Fund Positions.....	288.89	288.89 289.89	
	Nongeneral Fund Positions.....	471.67	471.67	
	Position Level.....	760.56	760.56 761.56	
	Fund Sources: General.....	\$38,213,482 \$37,288,672	\$38,213,482	
	Higher Education Operating.....	\$106,340,760	\$106,340,760 \$108,840,760	
	Debt Service.....	\$7,587,311	\$7,587,311	
§ 1-60. NORFOLK STATE UNIVERSITY (213)				
183.	Educational and General Programs (10000).....		\$96,293,110	\$95,793,110 \$102,793,110
	Higher Education Instruction (100101).....	\$43,640,574	\$43,640,574 \$50,640,574	
	Higher Education Research (100102).....	\$199,975	\$199,975	
	Higher Education Public Services (100103).....	\$1,326,879	\$1,326,879	
	Higher Education Academic (100104).....	\$13,876,226	\$13,376,226	
	Higher Education Student Services (100105).....	\$5,687,658	\$5,687,658	

ITEM 183.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Higher Education Institutional Support (100106).....	\$18,431,948	\$18,431,948		
Operation and Maintenance Of Plant (100107).....	\$13,129,850	\$13,129,850		
Fund Sources: General.....	\$54,420,122	\$53,920,122 \$60,920,122		
Higher Education Operating.....	\$41,872,988	\$41,872,988		

Authority: Title 23.1, Chapter 19, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$5,350,128 the first year and \$5,350,128 the second year from the general fund is designated for the recently initiated Bachelor of Science academic programs in Electronics Engineering and Optical Engineering and Master of Science academic programs in Electronics Engineering, Optical Engineering, Computer Science, and Criminal Justice.

2. Out of the amounts for programs listed in paragraph B.1. above, shall be provided \$273,486 the first year and \$273,486 the second year from the general fund for lease payments through the Master Equipment Leasing Program for educational and general equipment.

3. Out of the amounts for Educational and General Programs, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income from the Eminent Scholars Program.

C.1. Out of the amounts for Educational and General Programs, a maximum of \$70,000 the first year and \$70,000 the second year from the general fund is designated for the Dozoretz National Institute for Minorities in Applied Sciences.

2. Any unexpended balances in paragraphs B.1., B.2., B.3., and C.1. in this Item at the close of business on June 30, 2020 and June 30, 2021 shall not revert to the surplus of the general fund, but shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year. Norfolk State University may expend any prior year end balances to support its educational and general activities or its auxiliary enterprise activities.

D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

E. Out of this appropriation, \$220,000 the first year and \$220,000 the second year from the general fund is designated to increase retention and graduation of juniors and seniors in good academic standing and who have additional demonstrated need.

F. 1. Out of this appropriation, \$826,570 the first year and \$826,570 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less

ITEM 183.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);				
c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and				
d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).				
3. Norfolk State University is expected to maintain increases in:				
a. Data Science and Technology awards of 5 annually over the base year.				
b. Science and Engineering awards of 5 annually over the base year.				
c. Healthcare awards of 5 annually over the base year.				
d. Education awards of 5 annually over the base year.				
e. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.				
G. Out of this appropriation, \$548,000 each year from the general fund is designated for the Center for African American Policy to provide non-partisan research on public policy issues affecting African Americans and other people of color.				

184. Higher Education Student Financial Assistance (10800).....			\$23,279,906	\$24,693,081
			\$21,647,706	
Scholarships (10810).....	\$23,101,354	\$24,514,529		
	\$21,469,154			
Fellowships (10820).....	\$178,552	\$178,552		
Fund Sources: General.....	\$18,147,039	\$19,560,214		
	\$16,514,839			
Higher Education Operating.....	\$5,132,867	\$5,132,867		

Authority: Title 23.1, Chapter 19, Code of Virginia.

A. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

B. 1. Out of this appropriation up to \$3,459,590 the first year and \$4,872,765 from the general fund is provided for an affordability pilot program to offer financial assistance to Virginia students who are Pell grant eligible, meet university admissions requirements, and live within a 25 mile radius of the university. The program is designed to address regional needs relating to access and completion. Funds shall be used to provide last dollar or reduced tuition and fees to students for up to 150 percent of required credits to complete a certificate or degree. Priority shall be placed on students from Norfolk, Portsmouth, and Newport News and remaining funds may be used for room and board if available. It is the intention that the program may ramp up to 300 students total at any one time by fiscal year 2024. In the first and second year, in the event that financial aid remains available after recruiting new students for fall semester, the remaining financial aid may be used to fund current students who meet the criteria and/or for eligible new students that enroll in the spring semester.

2. As part of the six-year plan process, the university shall submit an annual report of the program that includes number of students served, average financial need of students, total expenditures, average award per student, retention and completion rates, other student outcomes as defined by the university, and planned outcomes for the upcoming year.

3. The University shall submit a detailed budget and implementation plan, including how the

ITEM 184.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
institution will disseminate information about the program to area students, the projected size of each cohort, and how the institution will monitor and report on the success of the program. After approval of the plan by the Governor and the Chairs of House Appropriations and Senate Finance and Appropriations, this funding may be released.				
185.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$20,231,943	\$20,231,943
	Sponsored Programs (11004).....	\$20,231,943	\$20,231,943	
	Fund Sources: Higher Education Operating.....	\$20,231,943	\$20,231,943	
Authority: Title 23.1, Chapter 19, Code of Virginia.				
186.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$41,965,589	\$41,965,589
	Food Services (80910).....	\$1,368,865	\$1,368,865	
	Bookstores And Other Stores (80920).....	\$393,740	\$393,740	
	Residential Services (80930).....	\$14,529,508	\$14,529,508	
	Parking And Transportation Systems And Services (80940).....	\$458,180	\$458,180	
	Student Health Services (80960).....	\$1,000,000	\$1,000,000	
	Student Unions And Recreational Facilities (80970).....	\$9,570,213	\$9,570,213	
	Other Enterprise Functions (80990).....	\$7,477,215	\$7,477,215	
	Intercollegiate Athletics (80995).....	\$7,167,868	\$7,167,868	
	Fund Sources: Higher Education Operating.....	\$38,171,807	\$38,171,807	
	Debt Service.....	\$3,793,782	\$3,793,782	
Authority: Title 23.1, Chapter 19, Code of Virginia.				
186.10	Omitted.			
	Total for Norfolk State University.....		\$181,770,548 \$180,138,348	\$182,683,723 \$189,683,723
	General Fund Positions.....	517.15	517.15	
	Nongeneral Fund Positions.....	689.97	689.97	
	Position Level.....	1,207.12	1,207.12	
	Fund Sources: General.....	\$72,567,161 \$70,934,961	\$73,480,336 \$80,480,336	
	Higher Education Operating.....	\$105,409,605	\$105,409,605	
	Debt Service.....	\$3,793,782	\$3,793,782	
§ 1-61. OLD DOMINION UNIVERSITY (221)				
187.	Educational and General Programs (10000).....		\$324,951,395	\$326,951,395 \$329,451,395
	Higher Education Instruction (100101).....	\$189,232,003	\$191,232,003 \$193,732,003	
	Higher Education Research (100102).....	\$6,104,825	\$6,104,825	
	Higher Education Public Services (100103).....	\$307,123	\$307,123	
	Higher Education Academic (100104).....	\$52,968,617	\$52,968,617	
	Higher Education Student Services (100105).....	\$18,966,446	\$18,966,446	
	Higher Education Institutional Support (100106).....	\$30,353,936	\$30,353,936	
	Operation and Maintenance Of Plant (100107).....	\$27,018,445	\$27,018,445	
	Fund Sources: General.....	\$143,948,380	\$145,948,380 \$148,448,380	
	Higher Education Operating.....	\$181,003,015	\$181,003,015	
Authority: Title 23.1, Chapter 20, Code of Virginia.				

ITEM 187.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
A.1. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).				
2. Out of this appropriation, the university may allocate funds to expand enrollment capacity through expansion of distance learning, TELETECHNET and summer school.				
B. Out of this appropriation, \$431,013 the first year and \$431,013 the second year from the general fund and \$198,244 the first year and \$198,244 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.				
C. Notwithstanding § 1-610, Code of Virginia, Old Dominion University is hereby designated as the administrative agency for the Virginia Coordinate System.				
D. Notwithstanding § 23.1-506, Code of Virginia, the governing board of Old Dominion University may charge reduced tuition to any person enrolled in one of Old Dominion University's TELETECHNET sites or higher education centers who lives within a 50-mile radius of the site/center, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in any state, or the District of Columbia, which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.				
E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
F. Out of this appropriation, \$320,000 the first year and \$320,000 the second year from the general fund is designated to provide opportunity for 80 students per year to be engaged in STEM education using aerospace, high tech science, technology and engineering in partnership with NASA Wallops Flight Facility. Old Dominion University will collaborate with the Virginia Space Grant Consortium and STEM educators to identify the students who will participate in the program each year. The designated funding in this paragraph will not be considered as a resource for purposes of funding guidelines.				
G. Out of this appropriation, \$409,200 and four positions the first year and \$409,200 and four positions the second year from the general fund is designated to support modeling of socioeconomic impacts of recurrent flooding in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving Old Dominion University, the Virginia Institute of Marine Science, and the College of William and Mary's Virginia Coastal Policy Center, shall work with municipalities both along coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.				
H. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.				
I. 1. Out of this appropriation, \$3,611,790 the first year and \$3,611,790 the second year from				

ITEM 187.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p> <p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p> <p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p> <p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Old Dominion University is expected to maintain increases in:</p> <p>a. Data Science and Technology awards of 15 annually over the base year.</p> <p>b. Science and Engineering awards of 40 annually over the base year.</p> <p>c. Healthcare awards of 40 annually over the base year.</p> <p>d. Education awards of 30 annually over the base year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p> <p>J. Out of this appropriation, \$25,000 the first year and \$25,000 the second year from the general fund is designated for the Marine Rescue Program, a collaborative program between Old Dominion University and the Virginia Aquarium and Marine Science Foundation to support rescue efforts for stranded and sick marine animals throughout the entire Virginia coastline region of the Chesapeake Bay.</p>				
188.	Higher Education Student Financial Assistance (10800).....		\$39,850,407	\$39,933,207
			\$34,347,607	\$39,684,607
	Scholarships (10810).....	\$36,973,912	\$36,973,912	
		\$31,636,912		
	Fellowships (10820).....	\$2,876,495	\$2,959,295	
		\$2,710,695	\$2,710,695	
	Fund Sources: General.....	\$31,522,889	\$31,605,689	
		\$26,020,089	\$31,357,089	
	Higher Education Operating.....	\$8,327,518	\$8,327,518	
<p>Authority: Title 23.1, Chapter 20, Code of Virginia.</p> <p>Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p>				
189.	Financial Assistance For Educational and General Services (11000).....		\$18,223,980	\$18,223,980
			\$17,973,980	\$17,973,980
	Eminent Scholars (11001).....	\$421,387	\$421,387	

ITEM 189.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Sponsored Programs (11004).....	\$17,802,593 \$17,552,593	\$17,802,593 \$17,552,593		
Fund Sources: General.....	\$4,803,965 \$4,553,965	\$4,803,965 \$4,553,965		
Higher Education Operating.....	\$13,420,015	\$13,420,015		
Authority: Title 23.1, Chapter 20, Code of Virginia.				
A.1. Out of this appropriation, \$2,099,838 and 14 positions the first year and \$2,099,838 and 14 positions the second year from the general fund and \$4,500,000 the first year and \$4,500,000 the second year from nongeneral funds are designated to build research capacity in modeling and simulation, which shall include efforts to improve traffic management through modeling.				
2. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to support science, technology, engineering and mathematics (STEM), and health-related programs. Old Dominion University shall use these funds to promote the use of modeling and simulation in the medical industry.				
B. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund is designated to expand research efforts at the Center for Bioelectrics, which uses electrical stimuli in the biomedical area to eliminate cancer cells and tumors without damaging healthy surrounding tissue, accelerate wound healing, and efficiently deliver DNA vaccines. Non-biomedical areas of research include reducing pollutants in exhaust and establishing effective ground penetrating radar.				
C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
D. Out of this appropriation, \$370,000 the first year and \$370,000 the second year from the general fund is designated to the Virginia SmallSat Data Consortium, to support development of the Virginia Institute for Spaceflight and Autonomy.				
E: Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to support a minority fellowship program partnership between Old Dominion University and the Virginia Symphony Orchestra. Participating fellows shall be minority string musicians enrolled as graduate certificate students at Old Dominion University.				
190.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$120,682,026	\$120,682,026
	Food Services (80910).....	\$5,260,460		\$5,260,460
	Bookstores And Other Stores (80920).....	\$655,764		\$655,764
	Residential Services (80930).....	\$38,399,263		\$38,399,263
	Parking And Transportation Systems And Services (80940).....	\$6,539,784		\$6,539,784
	Telecommunications Systems And Services (80950)..	\$906,134		\$906,134
	Student Health Services (80960).....	\$3,575,660		\$3,575,660
	Student Unions And Recreational Facilities (80970)..	\$8,197,679		\$8,197,679
	Recreational And Intramural Programs (80980).....	\$4,215,657		\$4,215,657
	Other Enterprise Functions (80990).....	\$18,763,357		\$18,763,357
	Intercollegiate Athletics (80995).....	\$34,168,268		\$34,168,268
	Fund Sources: Higher Education Operating.....	\$94,206,664		\$94,206,664
	Debt Service.....	\$26,475,362		\$26,475,362

Authority: Title 23.1, Chapter 20, Code of Virginia.

Old Dominion University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of TELETECHNET classes offered at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for TELETECHNET students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to

ITEM 190.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
those students. Tuition and fee rates to meet this requirement shall be established by the University's Board of Visitors. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the State Council of Higher Education for Virginia. Revenues in excess of expenditures shall be retained in the fund to support the entire TELETECHNET program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.				
190.10	Omitted.			
	Total for Old Dominion University.....		\$503,707,808	\$505,790,608
			\$497,955,008	\$507,792,008
	General Fund Positions.....	1,084.51	1,084.51	
	Nongeneral Fund Positions.....	1,525.98	1,525.98	
	Position Level.....	2,610.49	2,610.49	
	Fund Sources: General.....	\$180,275,234	\$182,358,034	
		\$174,522,434	\$184,359,434	
	Higher Education Operating.....	\$296,957,212	\$296,957,212	
	Debt Service.....	\$26,475,362	\$26,475,362	

§ 1-62. RADFORD UNIVERSITY (217)

191.	Educational and General Programs (10000).....			\$135,081,721	\$135,081,721
	Higher Education Instruction (100101).....	\$83,717,430	\$83,717,430		
	Higher Education Public Services (100103).....	\$616,976	\$616,976		
	Higher Education Academic (100104).....	\$11,867,177	\$11,867,177		
	Higher Education Student Services (100105).....	\$6,300,716	\$6,300,716		
	Higher Education Institutional Support (100106).....	\$21,373,055	\$21,373,055		
	Operation and Maintenance Of Plant (100107).....	\$11,206,367	\$11,206,367		
	Fund Sources: General.....	\$56,715,984	\$56,715,984		
	Higher Education Operating.....	\$78,365,737	\$78,365,737		

Authority: Title 23.1, Chapter 21, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$1,028,460 the first year and \$1,028,460 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the

ITEM 191.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Radford University is expected to maintain increases in:</p> <p>a. Data Science and Technology awards of 5 annually over the base year.</p> <p>b. Science and Engineering awards of 5 annually over the base year.</p> <p>c. Healthcare awards of 10 annually over the base year.</p> <p>d. Education awards of 10 annually over the base year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p> <p>5. Out the amounts designated for degree production \$300,000 the first year and \$300,000 the second year is designated to support a flat-fee degree pilot initiative for education programs. Radford University shall offer alternative tuition or fee structures, including discounted tuition, flat tuition rates, discounted student fees, or student fee and student services flexibility, to any first-time, incoming freshman undergraduate student who (i) has established domicile, as that term is defined in § 23.1-500 et seq., in the Commonwealth and (ii) enrolls full time with the intent to earn a degree in a program that leads to employment as a teacher in the region. Such an alternative tuition or fee structure may be renewed each year if the recipient maintains continuous full-time enrollment. If a recipient fails to maintain continuous full-time enrollment, subsequently enrolls in a noneligible degree program, or fails to complete the eligible degree program within four years, the institution shall convert the financial benefit received by the student to a financial obligation payable by the student to the institution on terms established by the institution.</p>				
192.	Higher Education Student Financial Assistance (10800).....		\$16,080,073 <i>\$13,541,673</i>	\$16,080,073
	Scholarships (10810).....	\$15,161,326 \$12,622,926		\$15,161,326
	Fellowships (10820).....	\$918,747		\$918,747
	Fund Sources: General.....	\$14,172,602 \$11,634,202		\$14,172,602
	Higher Education Operating.....	\$1,907,471		\$1,907,471
	Authority: Title 23.1, Chapter 21, Code of Virginia.			
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.			
193.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$9,010,037	\$9,010,037
	Eminent Scholars (11001).....	\$48,397		\$48,397
	Sponsored Programs (11004).....	\$8,961,640		\$8,961,640
	Fund Sources: Higher Education Operating.....	\$9,010,037		\$9,010,037

ITEM 193.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 23.1, Chapter 21, Code of Virginia.				
194.	Administrative and Support Services (19900).....		\$24,341,670 \$22,341,670	\$26,341,670 \$30,341,670
	Operation of Higher Education Centers (19931).....	\$24,341,670 \$22,341,670	\$26,341,670 \$30,341,670	
	Fund Sources: General.....	\$3,707,422 \$1,707,422	\$5,707,422 \$9,707,422	
	Higher Education Operating.....	\$20,634,248	\$20,634,248	
Authority: Title 23.1, Chapter 23, Code of Virginia				
The appropriation listed in this Item is designated to support Radford University Carilion.				
195.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$68,977,308	\$68,977,308
	Food Services (80910).....	\$19,251,178	\$19,251,178	
	Bookstores And Other Stores (80920).....	\$605,227	\$605,227	
	Residential Services (80930).....	\$16,275,025	\$16,275,025	
	Parking And Transportation Systems And Services (80940).....	\$1,657,550	\$1,657,550	
	Telecommunications Systems And Services (80950).....	\$659,898	\$659,898	
	Student Health Services (80960).....	\$3,242,356	\$3,242,356	
	Student Unions And Recreational Facilities (80970).....	\$6,101,566	\$6,101,566	
	Recreational And Intramural Programs (80980).....	\$1,659,883	\$1,659,883	
	Other Enterprise Functions (80990).....	\$5,324,675	\$5,324,675	
	Intercollegiate Athletics (80995).....	\$14,199,950	\$14,199,950	
	Fund Sources: Higher Education Operating.....	\$64,777,308	\$64,777,308	
	Debt Service.....	\$4,200,000	\$4,200,000	
Authority: Title 23.1, Chapter 21, Code of Virginia.				
195.10	Omitted.			
	Total for Radford University.....		\$253,490,809 \$248,952,409	\$255,490,809 \$259,490,809
	General Fund Positions.....	631.39	631.39	
	Nongeneral Fund Positions.....	964.69	964.69	
	Position Level.....	1,596.08	1,596.08	
	Fund Sources: General.....	\$74,596,008 \$70,057,608	\$76,596,008 \$80,596,008	
	Higher Education Operating.....	\$174,694,801	\$174,694,801	
	Debt Service.....	\$4,200,000	\$4,200,000	
§ 1-63. UNIVERSITY OF MARY WASHINGTON (215)				
196.	Educational and General Programs (10000).....		\$80,984,150 \$80,597,650	\$81,165,650
	Higher Education Instruction (100101).....	\$42,303,389 \$41,916,889	\$42,484,889	
	Higher Education Research (100102).....	\$421,671	\$421,671	
	Higher Education Public Services (100103).....	\$487,364	\$487,364	
	Higher Education Academic (100104).....	\$10,134,529	\$10,134,529	
	Higher Education Student Services (100105).....	\$9,020,583	\$9,020,583	
	Higher Education Institutional Support (100106).....	\$11,346,754	\$11,346,754	
	Operation and Maintenance Of Plant (100107).....	\$7,269,860	\$7,269,860	
	Fund Sources: General.....	\$30,175,852 \$29,789,352	\$30,357,352	

ITEM 196.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Higher Education Operating.....	\$50,808,298	\$50,808,298		

Authority: Title 23.1, Chapter 18, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation an amount estimated at \$80,483 the first year and \$80,483 the second year from the general fund and \$36,130 the first year and \$36,130 the second year nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. The participating institutions and centers shall jointly submit an annual report and operating plan to the State Council of Higher Education for Virginia in support of these funded activities.

C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

D. Notwithstanding any other provision of law, the University of Mary Washington may enter into an agreement with the Fredericksburg Regional Alliance, a nonprofit organization dedicated to cooperative economic development efforts in the Fredericksburg region, for the purpose of expanding regional efforts in the field of economic development and research.

E. 1. Out of this appropriation, \$338,550 the first year and \$338,550 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. University of Mary Washington is expected to maintain increases in:

a. Science and Engineering awards of 5 annually over the base year.

b. Education awards of 5 annually over the base year.

c. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.

F. Out of this appropriation, ~~\$386,500 the first year~~ and \$568,000 the second year from the general fund is designated to support an educational partnership between regional K-12, community college, University of Mary Washington and industry to develop a curriculum that accelerates time to degree, lowers cost, eliminates the skills gap and reduces reliance on

ITEM 196.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	student debt in the areas of Education, Healthcare and Cybersecurity.			
197.	Higher Education Student Financial Assistance (10800).....		\$13,851,662 \$13,381,262	\$14,351,562
	Scholarships (10810).....	\$13,830,529 \$13,360,129	\$14,330,429	
	Fellowships (10820).....	\$21,133	\$21,133	
	Fund Sources: General.....	\$4,151,662 \$3,681,262	\$4,151,562	
	Higher Education Operating.....	\$9,700,000	\$10,200,000	
	Authority: Title 23.1, Chapter 18, Code of Virginia.			
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.			
198.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$809,533	\$809,533
	Eminent Scholars (11001).....	\$57,396	\$57,396	
	Sponsored Programs (11004).....	\$752,137	\$752,137	
	Fund Sources: Higher Education Operating.....	\$809,533	\$809,533	
	Authority: Title 23.1, Chapter 18, Code of Virginia.			
199.	Museum and Cultural Services (14500)..... Collections Management and Curatorial Services (14501).....		\$799,139	\$799,139
	Fund Sources: General.....	\$481,118	\$481,118	
	Special.....	\$318,021	\$318,021	
	Authority: Title 23.1, Chapter 18 and Chapter 51, Acts of Assembly of 1960; § 23.1-1310, Code of Virginia.			
	The amounts provided in this appropriation are designated for the support of Belmont, the estate and memorial gallery of American artist Gari Melchers.			
200.	Administrative and Support Services (19900)..... Operation of Higher Education Centers (19931).....		\$1,700,000	\$1,700,000
	Fund Sources: General.....	\$1,250,000	\$1,250,000	
	Special.....	\$450,000	\$450,000	
	Authority: Title 23.1, Chapter 18, Code of Virginia.			
201.	Historic and Commemorative Attraction Management (50200)..... Historic and Commemorative Attraction Management (50200)..... Historic Landmarks and Facilities Management (50203).....		\$327,897	\$327,897
	Fund Sources: General.....	\$53,950	\$53,950	
	Special.....	\$273,947	\$273,947	
	Fund Sources: General.....	\$273,947	\$273,947	
	Special.....	\$53,950	\$53,950	
	Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.			
	The amounts provided in this appropriation are designated for the support of the James Monroe Museum and Memorial Library.			

ITEM 202.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
202.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$45,976,228	\$45,976,228
	Food Services (80910).....	\$9,250,229	\$9,250,229	
	Residential Services (80930).....	\$13,921,169	\$13,921,169	
	Parking And Transportation Systems And Services (80940).....	\$692,417	\$692,417	
	Telecommunications Systems And Services (80950)..	\$2,832,104	\$2,832,104	
	Student Health Services (80960).....	\$592,823	\$592,823	
	Student Unions And Recreational Facilities (80970)..	\$5,391,937	\$5,391,937	
	Recreational And Intramural Programs (80980).....	\$1,040,941	\$1,040,941	
	Other Enterprise Functions (80990).....	\$9,600,754	\$9,600,754	
	Intercollegiate Athletics (80995).....	\$2,653,854	\$2,653,854	
	Fund Sources: Higher Education Operating.....	\$40,537,600	\$40,537,600	
	Debt Service.....	\$5,438,628	\$5,438,628	
	Authority: Title 23.1, Chapter 18, Code of Virginia.			
202.10	Omitted.			
	Total for University of Mary Washington.....		\$144,448,609 \$143,591,709	\$145,130,009
	General Fund Positions.....	228.66	228.66	
	Nongeneral Fund Positions.....	465.00	465.00	
	Position Level.....	693.66	693.66	
	Fund Sources: General.....	\$36,332,579 \$35,475,679	\$36,513,979	
	Special.....	\$821,971	\$821,971	
	Higher Education Operating.....	\$101,855,431	\$102,355,431	
	Debt Service.....	\$5,438,628	\$5,438,628	

§ 1-64. UNIVERSITY OF VIRGINIA (207)

203.	Educational and General Programs (10000).....		\$766,707,739	\$766,707,739
			\$767,307,739	\$767,307,739
	Higher Education Instruction (100101).....	\$396,979,594 \$397,579,594	\$396,979,594 \$397,579,594	
	Higher Education Research (100102).....	\$29,967,019	\$29,967,019	
	Higher Education Public Services (100103).....	\$11,817,444 \$11,317,444	\$11,817,444 \$11,317,444	
	Higher Education Academic (100104).....	\$126,405,223 \$126,705,223	\$126,405,223 \$126,705,223	
	Higher Education Student Services (100105).....	\$38,059,981 \$38,159,981	\$38,059,981 \$38,159,981	
	Higher Education Institutional Support (100106).....	\$50,201,939 \$50,301,939	\$50,201,939 \$50,301,939	
	Operation and Maintenance Of Plant (100107).....	\$113,276,539	\$113,276,539	
	Fund Sources: General.....	\$142,881,817 \$142,381,817	\$142,881,817 \$142,381,817	
	Higher Education Operating.....	\$620,945,922 \$622,045,922	\$620,945,922 \$622,045,922	
	Debt Service.....	\$2,880,000	\$2,880,000	

Authority: Title 23.1, Chapter 22, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. This appropriation includes an amount not to exceed \$1,393,959 the first year and

ITEM 203.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	<p>\$1,393,959 the second year from the general fund for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.</p>			
	<p>2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.</p>			
	<p>3. The University of Virginia, in cooperation with the Virginia Commonwealth University Health System Authority, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.</p>			
	<p>4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for the University of Virginia for purposes of determining the university's portion of the statewide general fund reduction requirement.</p>			
	<p>C. 1. Out of this appropriation, \$2,276,467 the first year and \$2,276,467 the second year from the general fund and \$1,714,900 the first year and \$1,714,900 the second year from nongeneral funds is designated for the Virginia Foundation for Humanities and Public Policy.</p>			
	<p>2. Out of the total funding in paragraph C.1., \$250,000 and two positions the first year and \$250,000 and two positions the second year from the general fund and \$714,900 and four positions the first year and \$714,900 and four positions the second year from nongeneral funds is provided to support Discovery Virginia, an online archive to preserve elements of Virginia history, culture, and heritage, and make the materials accessible to the public.</p>			
	<p>3. Out of the total funding in paragraph C.1., \$500,000 and 2.00 positions the first year and \$500,000 and 2.00 positions the second year from the general fund and \$1,000,000 and 4.15 positions the first year and \$1,000,000 and 4.15 positions the second year from nongeneral funds is provided to create curriculum materials for K-12 schools, establish a network of Humanities Ambassadors in public schools and libraries across the state, and support classroom visits by Foundation program staff to support student use of the Foundation for the Humanities resources.</p>			
	<p>4. Pursuant to House Joint Resolution 762, 1999 Session of the General Assembly, funds in this Item begin to address the objective of appropriating one dollar per capita for the support of the Foundation.</p>			
	<p>D. Out of this appropriation, an amount estimated at \$501,230 the first year and \$501,230 the second year from the general fund and at least \$468,850 the first year and at least \$468,850 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.</p>			
	<p>E. Out of this appropriation, \$183,306 the first year and \$183,306 the second year from the general fund, and at least \$283,500 the first year and at least \$283,500 the second year from nongeneral funds are designated for the independent Virginia Institute of Government at the University of Virginia Center for Public Service.</p>			
	<p>F. Out of this appropriation, at least \$148,577 the first year and \$148,577 the second year from the general fund is designated for support of diabetes education and public service at the Virginia Center for Diabetes Professional Education at the University of Virginia.</p>			
	<p>G. Out of this appropriation \$304,927 the first year and \$304,927 the second year from the general fund and \$53,189 the first year and \$53,189 the second year from nongeneral funds are designated for support of the State Arboretum at Blandy Farm.</p>			
	<p>H. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund</p>			

ITEM 203.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>				
<p>I. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p>				
<p>J. Out of this appropriation, \$190,000 the first year and \$190,000 the second year from the general fund is designated for a pilot program to expand health care services to rural and medically underserved areas through the use of nurse practitioners and telemedicine.</p>				
<p>K. Out of this appropriation, \$175,000 the first year and \$175,000 the second year is designated to support the efforts of the Weldon Cooper Center to produce population estimates at least every other year in between census years.</p>				
<p>L. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the University of Virginia and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.</p>				
<p>M. 1. Out of this appropriation, \$2,661,340 the first year and \$2,661,340 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p>				
<p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p>				
<p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p>				
<p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p>				
<p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p>				
<p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p>				
<p>3. The University of Virginia is expected to maintain increases in:</p>				
<p>a. Data Science and Technology awards of 20 annually over the base year.</p>				
<p>b. Science and Engineering awards of 30 annually over the base year.</p>				
<p>c. Healthcare awards of 20 annually over the base year.</p>				
<p>d. Education awards of 10 annually over the base year.</p>				
<p>e. The 2016-17 year will serve as the base year for these purposes.</p>				

ITEM 203.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.				
204. Higher Education Student Financial Assistance (10800).....			\$166,645,252	\$166,756,552
			\$166,102,052	\$166,422,352
Scholarships (10810).....	\$76,300,533	\$76,300,433		
	\$75,980,133			
Fellowships (10820).....	\$90,344,719	\$90,456,119		
	\$90,121,919	\$90,121,919		
Fund Sources: General.....	\$12,926,964	\$13,038,264		
	\$12,383,764	\$12,704,064		
Higher Education Operating.....	\$153,718,288	\$153,718,288		

Authority: Title 23.1, Chapter 22, Code of Virginia.

A. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund, shall be provided to support public-private sector partnerships in order to maximize the number of newly licensed nurses and increase the supply of nursing faculty.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

205. Financial Assistance For Educational and General Services (11000).....			\$577,028,122	\$577,028,122
				\$579,528,122
Sponsored Programs (11004).....	\$577,028,122	\$577,028,122		
		\$579,528,122		
Fund Sources: General.....	\$9,969,379	\$9,969,379		
		\$12,469,379		
Higher Education Operating.....	\$544,248,743	\$544,248,743		
Debt Service.....	\$22,810,000	\$22,810,000		

Authority: Title 23.1, Chapter22, Code of Virginia.

A. Out of this appropriation, \$1,744,245 the first year and \$1,744,245 the second year from the general fund and \$14,350,000 the first year and \$14,350,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering and biosciences.

B. Out of this appropriation, \$4,162,634 the first year and ~~\$4,162,634~~ \$6,662,634 the second year from the general fund is designated for the support of cancer research.

C. Out of this appropriation, \$3,112,500 the first year and \$3,112,500 the second year from the general fund is designated for support of the Focused Ultrasound Center to support core programs and research activities. The funding provided in this paragraph supports the activities and research at the University of Virginia as designated by the Focused Ultrasound Foundation.

D. Out of this appropriation, \$950,000 the first year and \$950,000 the second year from the general fund is designated to support the creation of the UVA Economic Development Accelerator.

E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to

ITEM 205.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	cover sponsored program operations.				
206.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$222,775,089 \$221,675,089	\$222,775,089 \$221,675,089
	Food Services (80910).....	\$5,370,300	\$5,370,300		
	Residential Services (80930).....	\$45,728,208	\$45,728,208		
	Parking And Transportation Systems And Services (80940).....	\$12,559,388	\$12,559,388		
	Telecommunications Systems And Services (80950)..	\$15,564,808	\$15,564,808		
	Student Health Services (80960).....	\$9,988,673	\$9,988,673		
	Student Unions And Recreational Facilities (80970)...	\$7,764,975	\$7,764,975		
	Recreational And Intramural Programs (80980).....	\$9,719,717	\$9,719,717		
	Other Enterprise Functions (80990).....	\$61,430,758	\$61,430,758		
	Intercollegiate Athletics (80995).....	\$54,648,262 \$53,548,262	\$54,648,262 \$53,548,262		
	Fund Sources: Higher Education Operating.....	\$200,917,089 \$199,817,089	\$200,917,089 \$199,817,089		
	Debt Service.....	\$21,858,000	\$21,858,000		

Authority: Title 23.1, Chapter 22, Code of Virginia.

206.10	Omitted.				
	Total for University of Virginia.....			\$1,733,156,202 \$1,732,113,002	\$1,733,267,502 \$1,734,933,302
	General Fund Positions.....	1,088.78	1,088.78		
	Nongeneral Fund Positions.....	5,955.32	5,955.32		
	Position Level.....	7,044.10	7,044.10		
	Fund Sources: General.....	\$165,778,160 \$164,734,960	\$165,889,460 \$167,555,260		
	Higher Education Operating.....	\$1,519,830,042	\$1,519,830,042		
	Debt Service.....	\$47,548,000	\$47,548,000		

University of Virginia Medical Center (209)

207.	State Health Services (43000).....			\$2,121,343,665	\$2,252,140,011
	Inpatient Medical Services (43007).....	\$848,383,762	\$895,320,108		
	Outpatient Medical Services (43011).....	\$527,024,843	\$582,884,843		
	Administrative Services (43018).....	\$745,935,060	\$773,935,060		
	Fund Sources: Higher Education Operating.....	\$2,103,697,200	\$2,234,493,546		
	Debt Service.....	\$17,646,465	\$17,646,465		

Authority: §§ 23.1, Chapter 22, Article 3 , Code of Virginia and Chapter 38, Acts of Assembly of 1978.

A. The appropriation to the University of Virginia Medical Center provides for the care, treatment, health related services and education activities associated with Virginia patients, including indigent and medically indigent patients. Inasmuch as the University of Virginia Medical Center is a state teaching hospital, this appropriation is to be used to jointly support the education of health students through patient care provided by this appropriation.

B. By July 1 of each year, the Director, Department of Medical Assistance Services shall approve a common criteria and methodology for determining free care attributable to the appropriations in this Item. The Medical Center will report to the Department of Medical Assistance Services expenditures for indigent, medically indigent, and other patients. The Auditor of Public Accounts and the State Comptroller shall monitor the implementation of these procedures. The Medical Center shall report by October 31 annually to the Department of Medical Assistance Services, the Comptroller and the Auditor of Public Accounts on expenditures related to this Item. Reporting shall be by means of the indigent care cost report

ITEM 207.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

and shall follow criteria approved by the Director, Department of Medical Assistance Services.

C. Funding for Family Practice is included in the University of Virginia's Educational and General appropriation. Support for other residencies is included in the hospital appropriation.

D. It is the intent of the General Assembly that the University of Virginia Medical Center – Hospital maintain its efforts to staff residencies and fellow positions to produce sufficient generalist physicians in medically underserved regions of the state.

E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover medical center operations.

F. Notwithstanding anything contrary to law, the University of Virginia has authority to determine compensation paid to Medical Center employees in accordance with policies established by the Board of Visitors.

G. In order to provide the state share for Medicaid supplemental payments to Medicaid provider private hospitals in which the University of Virginia Medical Center has a non-majority interest, the University of Virginia shall transfer to the Department of Medical Assistance Services public funds that comply with 42 C.F.R. § 433.51.

208. The June 30, 2020 and June 30, 2021 unexpended balances to the University of Virginia Medical Center are hereby reappropriated; their use is subject to approval of allotments by the Department of Planning and Budget.

209. A full accrual system of accounting shall be effected by the institution, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia, with the provision that appropriations for operating expenses may not be used for capital projects.

Total for University of Virginia Medical Center.....			\$2,121,343,665	\$2,252,140,011
Nongeneral Fund Positions.....	7,679.22	7,794.22		
Position Level.....	7,679.22	7,794.22		
Fund Sources: Higher Education Operating.....	\$2,103,697,200	\$2,234,493,546		
Debt Service.....	\$17,646,465	\$17,646,465		

University of Virginia's College at Wise (246)

210. Educational and General Programs (10000).....			\$30,619,387	\$30,619,387
Higher Education Instruction (100101).....	\$12,113,082	\$12,113,082		\$12,113,082
Higher Education Public Services (100103).....	\$559,455	\$559,455		
Higher Education Academic (100104).....	\$4,886,573	\$4,886,573		
Higher Education Student Services (100105).....	\$2,546,774	\$2,546,774		
Higher Education Institutional Support (100106).....	\$5,636,979	\$5,636,979		
Operation and Maintenance Of Plant (100107).....	\$4,876,524	\$4,876,524		
Fund Sources: General.....	\$18,887,822	\$18,887,822		\$18,887,822
Higher Education Operating.....	\$11,731,565	\$11,731,565		

Authority: Title 23.1, Chapter 22, Article 2, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. The software engineering curriculum being established to insure success of recent

ITEM 210.	Item Details(\$)		Appropriations(\$)		
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022	
<p>economic development projects in Southwest Virginia, shall be considered on its merits by the State Council of Higher Education for Virginia and shall not be dependent on funding by the Commonwealth.</p> <p>C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p> <p>D. Out of this appropriation, \$233,358 the first year and \$233,358 the second year from the general fund and \$138,577 the first year and \$138,577 the second year from nongeneral funds are designated to facilitate the technical training programs for the Northrop Grumman state backup data center.</p> <p>E. Out of this appropriation, \$715,580 the first year and \$715,580 the second year from the general fund is designated to support debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Lease Program (MELP) to upgrade the university's information technology network and security systems. In addition to these amounts, \$116,489 the first year and \$116,489 the second year from the general fund is designated to support training and software costs.</p> <p>F. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the University of Virginia and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.</p>					
211.	Higher Education Student Financial Assistance (10800).....			\$3,657,135	\$3,657,035
	Scholarships (10810).....	\$3,657,135 \$3,254,335	\$3,657,035	\$3,254,335	
	Fund Sources: General.....	\$3,607,135 \$3,204,335	\$3,607,035		
	Higher Education Operating.....	\$50,000	\$50,000		
<p>Authority: Title 23.1. Chapter 22, Article 2, Code of Virginia.</p> <p>Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p>					
212.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			\$3,986,572 \$5,413,574	\$3,890,188 \$5,663,186
	Sponsored Programs (11004).....	\$3,986,572 \$5,413,574	\$3,890,188 \$5,663,186		
	Fund Sources: Higher Education Operating.....	\$3,986,572 \$5,413,574	\$3,890,188 \$5,663,186		
<p>Authority: Title 23.1 Chapter 22, Article 2, Code of Virginia.</p>					
213.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$12,368,379	\$12,368,379
	Food Services (80910).....	\$294,528	\$294,528		
	Bookstores And Other Stores (80920).....	\$268,500	\$268,500		
	Residential Services (80930).....	\$4,802,199	\$4,802,199		

ITEM 213.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Parking And Transportation Systems And Services (80940).....	\$154,349	\$154,349		
Student Health Services (80960).....	\$211,363	\$211,363		
Student Unions And Recreational Facilities (80970).....	\$1,304,000	\$1,304,000		
Recreational And Intramural Programs (80980).....	\$123,400	\$123,400		
Other Enterprise Functions (80990).....	\$2,054,235	\$2,054,235		
Intercollegiate Athletics (80995).....	\$3,155,805	\$3,155,805		
Fund Sources: Higher Education Operating.....	\$9,378,379	\$9,378,379		
Debt Service.....	\$2,990,000	\$2,990,000		

Authority: Title 23.1, Chapter 22, Article 2, Code of Virginia.

213.10 Omitted.

Total for University of Virginia's College at Wise...			\$50,631,473	\$50,534,989
			\$51,655,675	\$53,118,899

General Fund Positions.....	171.46	171.46		
Nongeneral Fund Positions.....	202.24	202.24		
Position Level.....	373.70	373.70		
Fund Sources: General.....	\$22,494,957	\$22,494,857		
	\$22,092,157	\$23,305,769		
Higher Education Operating.....	\$25,146,516	\$25,050,132		
	\$26,573,518	\$26,823,130		
Debt Service.....	\$2,990,000	\$2,990,000		

Grand Total for University of Virginia.....			\$3,905,131,340	\$4,035,942,502
			\$3,905,112,342	\$4,040,192,212

General Fund Positions.....	1,260.24	1,260.24		
Nongeneral Fund Positions.....	13,836.78	13,951.78		
Position Level.....	15,097.02	15,212.02		
Fund Sources: General.....	\$188,273,117	\$188,384,317		
	\$186,827,117	\$190,861,029		
Higher Education Operating.....	\$3,648,673,758	\$3,779,373,720		
	\$3,650,100,760	\$3,781,146,718		
Debt Service.....	\$68,184,465	\$68,184,465		

§ 1-65. VIRGINIA COMMONWEALTH UNIVERSITY (236)

214. Educational and General Programs (10000).....			\$662,382,918	\$662,382,918
			\$661,925,711	\$661,882,918
Higher Education Instruction (100101).....	\$401,841,363	\$401,841,363		
	\$401,591,363	\$401,591,363		
Higher Education Research (100102).....	\$14,553,827	\$14,553,827		
	\$14,178,827	\$14,178,827		
Higher Education Public Services (100103).....	\$8,890,462	\$8,890,462		
	\$9,058,255	\$9,015,462		
Higher Education Academic (100104).....	\$100,127,994	\$100,127,994		
Higher Education Student Services (100105).....	\$26,559,040	\$26,559,040		
Higher Education Institutional Support (100106)....	\$55,267,268	\$55,267,268		
Operation and Maintenance Of Plant (100107).....	\$55,142,964	\$55,142,964		
Fund Sources: General.....	\$198,253,042	\$198,253,042		
	\$197,795,835	\$197,753,042		
Higher Education Operating.....	\$464,129,876	\$464,129,876		

Authority: Title 23.1, Chapter 23, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of

ITEM 214.	Item Details(\$)		Appropriations(\$)	
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Assembly).				
B.1. Out of this appropriation, \$4,336,607 the first year and \$4,336,607 the second year from the general fund is provided for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.				
2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.				
3. The university, in cooperation with the University of Virginia, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.				
4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for Virginia Commonwealth University for purposes of determining the University's portion of the statewide general fund reduction requirement.				
C. Out of this appropriation, an amount estimated at \$332,140 the first year and \$332,140 the second year from the general fund and \$168,533 the first year and \$168,533 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.				
D.1. Out of this appropriation, not less than \$486,685 \$386,685 the first year and not less than \$486,685 \$536,685 the second year from the general fund is designated for the Virginia Center on Aging. This includes \$319,750 the first year and \$319,750 the second year for the Alzheimer's and Related Diseases Research Award Fund.				
2. Out of this appropriation, \$253,244 the first year and \$253,244 the second year from the general fund and \$356,250 the first year and \$356,250 the second year from nongeneral funds are designated for the operation of the Virginia Geriatric Education Center and the Geriatric Academic Career Awards Program, both to be administered by the Virginia Center on Aging.				
3. Funding designated in paragraphs D.1. and D.2. of this item are intended as a pass-through payment to support the Center on Aging and dementia-related research by investigators throughout the Commonwealth. These funds shall be exempt from supplantation assessment or other budget management plans at Virginia Commonwealth University. <i>All other funding support for the center shall be maintained by the university at least at the level provided in fiscal year 2019.</i>				
E. All costs for maintenance and operation of the physical plant of the School of Engineering, Phase I and future renovations, repairs, and improvements as they become necessary shall be financed from nongeneral funds.				
F. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is designated for support of the Council on Economic Education.				
G. Out of this appropriation, \$492,753 \$192,753 the first year and \$492,753 \$192,753 the second year from the general fund is designated for support of the Education Policy Institute.				
H.1. Notwithstanding any other provisions of law, Virginia Commonwealth University is authorized to remit tuition and fees for merit scholarships for students of high academic achievement subject to the following limitations and restrictions:				
2. The number of such scholarships annually awarded to undergraduate Virginia students shall not exceed 20 percent of the fall headcount enrollment of Virginia students in undergraduate studies in the institution from the preceding academic year. The total value of such merit scholarships annually awarded shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by 20 percent of				

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the headcount enrollment of Virginia students in undergraduate studies in the institution for the fall semester from the preceding academic year.				
3. The number of such scholarships annually awarded to undergraduate non-Virginia students shall not exceed 20 percent of the fall headcount enrollment of non-Virginia students in undergraduate studies in the institution from the preceding academic year. The total value of such merit scholarships annually awarded shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by 20 percent of the fall headcount enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year.				
4. A scholarship awarded under this program shall entitle the holder to receive an annual remission of an amount not to exceed the cost of tuition and required fees to be paid by the student.				
I. Out of this appropriation, \$252,595 the first year and \$252,595 the second year from the general fund is provided for the Medical College of Virginia Palliative Care Partnership.				
J. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
K. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated for the Virginia Commonwealth University School of Pharmacy to support the Center for Compounding Practice and Research. The allocation will serve to support any costs associated with creating the Center including facility-related expenses as well as the purchase of the compounding equipment necessary for this state of the art teaching and research facility and will be leveraged as a matching gift with private funds. The Center will train Pharm.D. students to meet technical compounding demands, provide continuing education to registered pharmacists and conduct ongoing research on compounded medications.				
L. Out of this appropriation, \$255,000 the first year and \$255,000 the second year from the general fund is designated to support a substance abuse fellowship program and a sickle cell opiod management program at the Virginia Commonwealth University School of Medicine.				
M. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated to support a partnership between Virginia Commonwealth University and the Virginia Repertory Theatre at the historic November Theatre (formally known as the Empire Theatre).				
N. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Commonwealth University and the Commonwealth, as set forth in Chapters 594 and 616, of the 2008 Acts of Assembly.				
O. 1. Out of this appropriation, \$4,273,380 the first year and \$4,273,380 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.				
2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:				
a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;				
b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for				

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<p>the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Virginia Commonwealth University is expected to maintain increases in:</p> <p>a. Data Science and Technology awards of 20 annually over the base year.</p> <p>b. Science and Engineering awards of 30 annually over the base year.</p> <p>c. Healthcare awards of 40 annually over the base year.</p> <p>d. Education awards of 20 annually over the base year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p>				

P. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

Q. Out of this appropriation, \$192,793 the first year from the general fund shall be provided to the L. Douglas Wilder School of Government and Public Affairs at Virginia Commonwealth University to support the Research Institute for Social Equity (RISE) addressing issues of racism and racial equity in public policy.

215. Higher Education Student Financial Assistance (10800).....			\$70,623,275	\$70,693,575
			\$68,844,475	\$73,482,875
Scholarships (10810).....	\$67,057,891	\$67,057,891		
	\$65,419,491	\$70,057,891		
Fellowships (10820).....	\$3,565,384	\$3,635,684		
	\$3,424,984	\$3,424,984		
Fund Sources: General.....	\$39,974,686	\$40,044,986		
	\$35,195,886	\$39,834,286		
Higher Education Operating.....	\$30,648,589	\$30,648,589		
	\$33,648,589	\$33,648,589		

Authority: Title 23.1, Chapter 23, Code of Virginia.

A. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state

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funding and / or the institution from private funds.				
216.	Financial Assistance For Educational and General Services (11000).....		\$334,199,678	\$329,199,678
			\$329,199,678	\$331,699,678
	Eminent Scholars (11001).....	\$3,063,732	\$3,063,732	
	Sponsored Programs (11004).....	\$331,135,946	\$326,135,946	
		\$326,135,946	\$328,635,946	
	Fund Sources: General.....	\$21,512,500	\$16,512,500	
		\$16,512,500	\$19,012,500	
	Higher Education Operating.....	\$292,580,898	\$292,580,898	
	Debt Service.....	\$20,106,280	\$20,106,280	
Authority: Title 23.1, Chapter 23, Code of Virginia.				
A. Out of this appropriation, \$1,162,500 the first year and \$1,162,500 the second year from the general fund and \$6,600,000 the first year and \$6,600,000 the second year from nongeneral funds are designated to build research capacity in the areas of biomedical engineering and regenerative medicine.				
B. Out of this appropriation, \$20,000,000 \$15,000,000 the first year and \$15,000,000 \$17,500,000 the second year from the general fund is designated for the support of cancer research.				
C. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is designated to support the Parkinson's and Movement Disorders Center.				
D. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
217.	State Health Services (43000).....		\$27,652,534	\$27,652,534
			\$32,652,534	\$32,652,534
	State Health Services Technical Support And Administration (43012).....	\$27,652,534	\$27,652,534	
		\$32,652,534	\$32,652,534	
	Fund Sources: Higher Education Operating.....	\$27,652,534	\$27,652,534	
		\$32,652,534	\$32,652,534	
Authority: Discretionary Inclusion.				
This appropriation includes funding to support 238 instructional and administrative faculty positions and for administrative and classified positions which provide services, through internal service agreements, to the Virginia Commonwealth University Health System Authority.				
218.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$175,517,017	\$175,517,017
	Food Services (80910).....	\$15,997,248	\$15,997,248	
	Bookstores And Other Stores (80920).....	\$5,338,412	\$5,338,412	
	Residential Services (80930).....	\$31,548,153	\$31,548,153	
	Parking And Transportation Systems And Services (80940).....	\$24,456,370	\$24,456,370	
	Telecommunications Systems And Services (80950).....	\$5,676,016	\$5,676,016	
	Student Health Services (80960).....	\$5,943,633	\$5,943,633	
	Student Unions And Recreational Facilities (80970).....	\$14,560,559	\$14,560,559	
	Recreational And Intramural Programs (80980).....	\$11,859,159	\$11,859,159	
	Other Enterprise Functions (80990).....	\$42,073,280	\$42,073,280	
	Intercollegiate Athletics (80995).....	\$18,064,187	\$18,064,187	
	Fund Sources: Higher Education Operating.....	\$141,649,137	\$141,649,137	
	Debt Service.....	\$33,867,880	\$33,867,880	

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Authority: Title 23.1, Chapter 23, Code of Virginia.				
219.	Administrative and Support Services (19900).....		\$45,058,639	\$45,058,639
	Operation of Higher Education Centers (19931).....	\$45,058,639	\$45,058,639	
	Fund Sources: Higher Education Operating.....	\$45,058,639	\$45,058,639	
Authority: Title 23.1, Chapter 23, Code of Virginia.				
A.1. Out of this appropriation, \$45,058,639 the first year and \$45,058,639 the second year from nongeneral funds is designated to support the university's branch campus in Qatar.				
2. Notwithstanding § 2.2-1802 of the Code of Virginia, Virginia Commonwealth University is authorized to maintain a local bank account in Qatar and non-U.S. countries to facilitate business operations the VCU Qatar Campus. These accounts are exempt from the Securities for Public Deposits Act, Title 2.2, Chapter 44 of the Code of Virginia.				
3. Procurements and expenditures from the local bank account(s) are not subject to the Virginia Public Procurement Act and the Commonwealth Accounting Policies and Procedures (CAPP) Manual. Virginia Commonwealth University will institute procurement policies based on competitive procurement principles, except as otherwise stated within these policies. Expenditures from the local bank account will be recorded in the Commonwealth Accounting and Reporting System by Agency Transaction Vouchers, as appropriated herewith with revenue recognized as equal to the expenditures.				
4. Notwithstanding § 2.2-1149 of the Code of Virginia, Virginia Commonwealth University is authorized to approve operating, income and capital leases in Qatar under policies and procedures developed by the University.				
5. Virginia Commonwealth University is authorized to establish and hire staff (non-faculty) positions in Qatar under policies and procedures developed by the University. These employees, who are employed solely to support the Qatar Campus are not considered employees of the Commonwealth of Virginia and are not subject to the Virginia Personnel Act. Employees hired as University and Academic Professionals are considered employees of the Commonwealth of Virginia and are subject to the university's policies, Management Agreement, and applicable law.				
6. The Board of Visitors of Virginia Commonwealth University is authorized to establish policies for the Qatar Campus.				
219.10	Omitted.			
	Total for Virginia Commonwealth University.....		\$1,315,434,061 \$1,313,198,054	\$1,310,504,361 \$1,320,293,661
	General Fund Positions.....	1,507.80	1,507.80	
	Nongeneral Fund Positions.....	3,792.29	3,792.29	
	Position Level.....	5,300.09	5,300.09	
	Fund Sources: General.....	\$259,740,228	\$254,810,528	
		\$249,504,221	\$256,599,828	
	Higher Education Operating.....	\$1,001,719,673	\$1,001,719,673	
		\$1,009,719,673	\$1,009,719,673	
	Debt Service.....	\$53,974,160	\$53,974,160	
§ 1-66. VIRGINIA COMMUNITY COLLEGE SYSTEM (260)				
220.	Educational and General Programs (10000).....		\$940,135,189	\$939,220,366
			\$934,248,443	\$943,958,446
	Higher Education Instruction (100101).....	\$416,559,330	\$415,644,507	
		\$410,672,584	\$415,382,587	
	Higher Education Public Services (100103).....	\$4,606,631	\$4,606,631	
	Higher Education Academic (100104).....	\$96,422,712	\$96,422,712	
	Higher Education Student Services (100105).....	\$98,251,949	\$98,251,949	

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Higher Education Institutional Support (100106).....	\$226,038,151	\$226,038,151 \$231,038,151		
Operation and Maintenance Of Plant (100107).....	\$98,256,416	\$98,256,416		
Fund Sources: General.....	\$418,578,929	\$417,314,106		
	\$412,692,183	\$417,052,186		
Higher Education Operating.....	\$521,556,260	\$521,906,260 \$526,906,260		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. It is the objective of the Commonwealth that a standard of 70 percent full-time faculty be established for the Virginia Community College System. Consistent with higher education funding guidelines, it is expected that the Virginia Community College System will utilize the funds provided for base operating support to achieve this objective. In addition, the first priority for new funding provided to the community college system shall be for operating support at individual community colleges. Thirty days prior to the beginning of each fiscal year, the Virginia Community College System shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the allocation of all new general funds and nongeneral funds in this item and any cost recovery plans between the individual community colleges and the system office.

C. It is the intent of the General Assembly that funds available to the Virginia Community College System be reallocated to accommodate changes in enrollment and other cost factors at each of the community colleges.

D. Tuition and fee revenues from out-of-state students taking distance education courses through the Virginia Community College System must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the State Board for Community Colleges.

E. Out of this appropriation, amounts for the following special programs are designated: at J. Sargeant Reynolds Community College, the Program for the Deaf, \$64,547 and four positions the first year and \$64,547 and four positions the second year from the general fund and the Program for the Intellectually Disabled, \$91,004 and four positions the first year and \$91,004 and four positions the second year from the general fund; and, at New River Community College, the Program for the Deaf, \$78,328 and four positions the first year and \$78,328 and four positions the second year from the general fund, and the Program for the Intellectually Disabled, \$69,682 and 4.5 positions the first year and \$69,682 and 4.5 positions the second year from the general fund; and, at Danville Community College, the Program for the Deaf, \$26,001 and one position the first year and \$26,001 and one position the second year from the general fund.

F. Out of this appropriation, \$39,001 the first year and \$39,001 the second year from the general fund is designated to support the Southwest Virginia Telecommunications Network.

G. Out of this appropriation, \$261,370 and four positions the first year and \$261,370 and four positions the second year from the general fund is provided to support Virginia Western Community College's participation in the Roanoke Higher Education Center and the Botetourt County Education and Training Center at Greenfield.

H. Out of this appropriation, \$130,005 the first year and \$130,005 the second year from the general fund is designated to support the Southwestern Virginia Advanced Manufacturing Technology Center at Wytheville Community College.

I.1. Out of this appropriation, \$345,000 the first year and \$345,000 the second year from the general fund is provided for the annual lease or rental costs of space in the Botetourt County Education and Training Center at Greenfield.

2. The general fund amounts provided for in this paragraph for workforce training,

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retraining, programming, and community education facilities at the Botetourt County Education and Training Center shall be matched by local or private sources in a ratio of two-thirds state funds to at least one-third local or private funds, as approved by the State Board for Community Colleges.				
J. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
K. Out of this appropriation, \$191,884 the first year and \$191,884 the second year from the general fund shall be provided to Northern Virginia Community College to support public-private sector partnerships in order to maximize the number of newly licensed nurses and increase the supply of nursing faculty.				
L. Out of this appropriation, \$489,000 the first year and \$489,000 the second year from the general fund is designated for Northern Virginia Community College to implement the SySTEMic Solutions initiative which will enable expansion of dual enrollment courses with a STEM focus in all Northern Virginia school districts; opportunities to earn industry-aligned certifications; professional development opportunities for STEM teachers; part-time employment and internship opportunities for students in STEM programs; hands-on SOL-based science lessons at the elementary level with industry input and support; and collaborative robotics programs between the community college and K-12 schools. It is expected that an equal amount of private funds will be generated as a match for the state support.				
M. Out of this appropriation, \$19,560 the first year and \$19,560 the second year from the general fund shall be provided to Southside Virginia Community College. Out of this amount, \$7,824 each year from the general fund shall be provided to the Estes Community Center in Chase City, \$7,824 each year from the general fund shall be provided to the Lake Country Advanced Knowledge Center in South Hill, and \$3,912 the first year and \$3,912 the second year from the general fund shall be provided to the Clarksville Enrichment Complex.				
N. Out of this appropriation, \$115,130 the first year and \$115,130 the second year from the general fund is provided for the Mecklenburg County Job Retraining Center.				
O. Out of this appropriation, \$255,000 the first year and \$255,000 the second year from the general fund and \$163,000 the first year and \$163,000 the second year from nongeneral funds is designated for the operation of the Amherst Center of Central Virginia Community College. Central Virginia Community College shall report annually to the Chairmen of the House Appropriations and Senate Finance Committees on the number of students enrolled, the programs provided with number of students served and the number of degrees and certificates awarded by program.				
P. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is designated for Lord Fairfax Community College. Of this amount \$100,000 the first year and \$100,000 the second year is designated to expand the career and technical education programs at the Middletown Campus and \$100,000 the first year and \$100,000 the second year is designated for workforce training programs at the Fauquier Campus. The programs will be designed in collaboration with regional employers and high schools.				
Q. Out of this appropriation, \$1,100,000 and seven positions the first year and \$1,100,000 and seven positions the second year from the general fund is designated for veterans resource centers at Northern Virginia Community College, Tidewater Community College, Thomas Nelson Community College, Germanna Community College, J. Sargeant Reynolds Community College, John Tyler Community College, and Virginia Western Community College.				
R. Out of this appropriation, \$250,000 and nine positions the first year and \$250,000 and nine positions the second year from the general fund is designated to support the Rural Horseshoe				

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Initiative.

S. Out of this appropriation, \$480,000 and two positions the first year and \$480,000 and two positions the second year from the general fund are designated for the Virginia Community College System, in partnership with the State Council of Higher Education for Virginia, to develop and maintain a mandated online repository for all transfer agreements, course equivalency tools, Passport Credit Program Guidelines and other informational resources related to transferring from a public two-year institution to a public four-year institution. The repository shall also include a Dual Enrollment Guide, Exam Equivalency Guide, Degree Searcher, and other transfer tools and components that support student transfer.

~~F. Out of this appropriation, \$386,748 each year from the general fund is provided for a Small Business Assistance and Youth Entrepreneurship Pilot Program; a collaboration between the Virginia Community College System; Portsmouth Public Schools' Minority and Women Business Enterprise Advisory Committee; Historically Black Colleges and Universities; and the Faith Based Community to provide essential tools in economic development to start, sustain and grow a business.~~

U. Out of this appropriation, \$1,000,000 the first year from the general fund is designated for Lord Fairfax Community College, in partnership with Shenandoah University, for services related to a Hub for Innovation, Virtual Reality and Entrepreneurship (HIVE) to serve as a technology hub, business accelerator, and magnet location for tech business.

V. The Virginia Community College System is requested to work together with the City of Norfolk, Norfolk Public Schools, and other private or nonprofit entities for development of a plan for a possible Advanced Regional Technology and Workforce Academy in the City of Norfolk. The Academy will provide adult and youth workforce and educational services by Tidewater Community College in collaboration with Norfolk Public Schools and other local school divisions. The Virginia Community College System shall submit a proposed governance structure for the Academy and other proposed components of the plan to the Secretary of Education, the Secretary of Finance, and Chief Workforce Development Advisor for consideration.

W. The Central Virginia Community College, with guidance provided by the Virginia Community College System, shall develop a plan to explore a Bedford County campus if land were to be donated for that purpose. The plan would include details related to any public-private partnerships that could be created for this purpose and estimates of future operational costs for the campus. The plan shall be submitted to the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee by December 1, 2020.

X. Out of this appropriation, ~~\$385,177~~ \$413,689 the second year from the general fund is designated for costs of two associate degree programs in Physical Therapy Assistant and Surgical Technology that have transferred to Virginia Western Community College as a result of the merger of Radford University and the Jefferson College of Health Sciences authorized in Chapter 60 of the 2019 Acts of Assembly.

~~Y. Out of this appropriation, \$4,000,000 each year from the general fund is designated for general operating support for the Virginia Community College System.~~

Z. Out of this appropriation, ~~\$1,500,000~~ \$4,000,000 the first year and \$500,000 the second year from the general fund is designated for *advising*, marketing, outreach and public awareness efforts for the new G3 program in Item 221.

AA. *Out of this appropriation, \$1,000,000 the second year from the general fund is designated for health science and technology education at Virginia Western, New River and Dabney S. Lancaster Community Colleges.*

BB. *Out of this appropriation, \$296,314 the second year from the general fund is designated for Southside Virginia Community College to implement the Solar Hands-On Instructional Network of Excellence (SHINE) workforce program.*

ITEM 221.		Item Details(\$)		Appropriations(\$)	
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221.	Higher Education Student Financial Assistance (10800)				
	a sum sufficient, estimated at.....			\$121,054,661	\$119,054,661
				\$84,283,661	\$125,404,661
	Scholarships (10810).....	\$121,054,661	\$119,054,661		
		\$84,283,661	\$125,404,661		
	Fund Sources: General.....	\$88,607,355	\$86,607,355		
		\$51,836,355	\$86,957,355		
	Higher Education Operating.....	\$32,447,306	\$32,447,306		
			\$38,447,306		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is designated for Tidewater Community College to support an apprenticeship program for Virginia's shipyard workers. All general fund amounts appropriated for this apprenticeship program shall be used to provide scholarships to shipyard workers enrolled in the program. The conditions for receiving a scholarship shall be those conditions described in § 23.1-2912, Code of Virginia.

B.1. Funding in this Item shall be allocated for the Virginia Guaranteed Assistance Program, the Commonwealth Award and need-based student financial assistance for industry-based certifications or related programs that do not qualify for other sources of student financial assistance.

2. Out of this appropriation, \$2,000,000 the first year from the general fund is designated for students enrolled in eligible workforce programs at the Virginia Community College System and Richard Bland College in partnership with the VA Ready program. This partnership leverages private resources in order to assist Virginians unemployed as a result of the COVID-19 pandemic to earn credentials in high demand fields.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

D. 1. Out of this appropriation, \$34,500,000 ~~each~~ *the second* year from the general fund is designated for the Get Skilled, Get a Job, Give Back Program (G3 Program). The G3 Program will offer financial assistance to low- and middle-income Virginia residents who are eligible for in-state tuition pursuant to § 23.1, Code of Virginia, and who are enrolled in a program at a Virginia public associate degree-granting institution that leads to an occupation in a high-demand field. *A high-demand field means a discipline or field in which there is a shortage of skilled workers to fill current and anticipated additional job vacancies.*

The programs covered under the G3 Program by Classification of Instructional Program (CIP) Codes are as follows:

CIP Code	Description
11.0101	Computer and Information Sciences, General
11.0103	Information Technology
11.0201	Computer Programming/ Programmer, General
11.0701	Computer Science
11.0801	Web Page, Digital/Multimedia and Information Resources Design
11.0901	Computer Systems Networking and Telecommunications
11.1001	Network and System Administration/ Administrator

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11.1003		Computer and Information Systems Security/Information Assurance		
13.0101		Education, General		
13.1013		Education/Teaching of Individuals with Autism		
13.1501		Teacher Assistant/Aide		
15.0000		Engineering and Engineering- Related Fields		
15.0101		Architectural Engineering Technology/Technician		
15.0201		Civil Engineering Technology/Technician		
15.0303		Electrical, Electronic and Communications Engineering Technology/Technician		
15.0305		Telecommunications Technology/Technician		
15.0599		Environmental Control Technologies/Technicians, Other		
15.0612		Industrial Technology/Technician		
15.0613		Manufacturing Engineering Technology/Technician		
15.0699		Industrial Production Technologies/Technicians, Other		
15.0899		Mechanical Engineering Related Technologies/Technicians, Other		
15.0901		Mining Technology/Technician		
15.1301		Drafting and Design Technology/Technician, General		
15.1302		CAD/CADD Drafting and/or Design Technology/Technician		
15.1303		Architectural Drafting and Architectural CAD/CADD		
15.1401		Nuclear Engineering Technology/Technician		
15.9999		Engineering Technologies and Engineering-Related Fields, Other		
19.0707		Family and Community Services		
19.0709		Child Care Provider/Assistant		
30.0101		Biological and Physical Sciences		
41.0101		Biology Technician/Biotechnology Laboratory Technician		
43.0102		Corrections		

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43.0103		Criminal Justice/Law Enforcement Administration		
43.0104		Criminal Justice/Safety Studies		
43.0106		Forensic Science and Technology		
43.0107		Criminal Justice/Police Science		
43.0203		Fire Science/Fire-fighting		
43.0303		Critical Infrastructure Protection		
43.0406		Homeland Security, Other		
43.9999		Homeland Security, Law Enforcement, Firefighting and Related Protective Services, Other		
46.0000		Construction Trades		
46.0302		Electrician		
47.0000		Mechanic and Repair Technologies / Technicians		
47.0101		Electrical/Electronics Equipment Installation and Repair, General		
47.0105		Industrial Electronics Technology/Technician		
47.0201		Heating, Air Conditioning, Ventilation and Refrigeration Maintenance Technology/Technician		
47.0603		Autobody/Collision and Repair Technology/Technician		
47.0604		Automobile/Automotive Mechanics Technology/Technician		
47.0605		Diesel Mechanics Technology/Technician		
47.0607		Airframe Mechanics and Aircraft Maintenance Technology/Technician		
48.0000		Precision Production		
48.0501		Machine Tool Technology/Machinist		
48.0508		Welding Technology/Welder		
48.0599		Precision Metal Working, Other		
48.0701		Woodworking, General		
51.0601		Dental Assisting/Assistant		
51.0602		Dental Hygiene/Hygienist		
51.0603		Dental Laboratory Technology/Technician		
51.0707		Health Information/Medical Records Technology/Technician		
51.0708		Medical Transcription/ Transcriptionist		
51.0713		Medical Insurance Coding Specialist/Coder		

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51.0799		Health and Medical Administrative Services, Other		
51.0801		Medical/Clinical Assistant		
51.0803		Occupational Therapist Assistant		
51.0805		Pharmacy Technician/Assistant		
51.0806		Physical Therapy Technician/Assistant		
51.0808		Veterinary/Animal Health Technology/Technician and Veterinary Assistant		
51.0904		Emergency Medical Technology/Technician (EMT Paramedic)		
51.0907		Medical Radiologic Technology/Science - Radiation Therapist		
51.0908		Respiratory Care Therapy/Therapist		
51.0909		Surgical Technology/Technologist		
51.0910		Diagnostic Medical Sonography/Sonographer and Ultrasound Technician		
51.0911		Radiologic Technology/Science - Radiographer		
51.0912		Physician Assistant		
51.0999		Allied Health Diagnostic, Intervention, and Treatment Professions, Other		
51.1004		Clinical/Medical Laboratory Technician		
51.1005		Clinical Laboratory Science/Medical Technology/Technologist		
51.1009		Phlebotomy Technician/Phlebotomist		
51.1105		Pre-Nursing Studies		
51.1501		Substance Abuse/Addiction Counseling		
51.1504		Community Health Services/Liaison/Counseling		
51.1508		Mental Health Counseling/Counselor		
51.1599		Mental and Social Health Services and Allied Professions, Other		
51.1801		Opticianry/Ophthalmic Dispensing Optician		
51.2706		Medical Informatics		
51.3101		Dietetics/Dietitian		
51.3501		Massage Therapy/Therapeutic Massage		

ITEM 221.		Item Details(\$)		Appropriations(\$)	
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	51.3801		Registered Nursing/Registered Nurse		
	51.3899		Registered Nursing, Nursing Administration, Nursing Research and Clinical Nursing, Other		
	51.3901		Licensed Practical/Vocational Nurse Training		
	51.3902		Nursing Assistant/Aide and Patient Care Assistant/Aide		

2. a. ~~The Board of Workforce Development shall keep a list of high-demand fields and related educational programs. The Board of Workforce Development, in consultation with the Virginia Community College System, the State Council of Higher Education for Virginia, and the Chief Workforce Development Advisor, shall make recommendations to the General Assembly to help determine additions and changes to the high-demand fields for which programs may be offered pursuant to this item.~~ *The Virginia Board of Workforce Development, in consultation with the System, the Council, and the staffs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations, shall make recommendations to the Governor and General Assembly, no later than December 1 of each year, for additions or other changes to the high-demand fields that qualify for financial assistance under the G3 Program.*

b. All additions and changes to the eligible high-demand fields for which programs may be offered pursuant to this item shall be approved by the General Assembly prior to implementation.

3. In order to be eligible for financial assistance under this program at a qualified public institution, an applicant shall:

a. Receive a total household income less than or equal to four hundred percent of the Federal Poverty Level;

b. Be enrolled or accepted for enrollment as a full-time or part-time student at an approved institution in an approved program specific to a high-demand field, as specified in paragraph D.1., and shall be enrolled in a minimum of six credit hours per semester, or in an eligible non-credit program;

c. Have submitted complete applications for federal and state student financial aid programs for which they may be eligible.

d. In addition, healthcare workers, first responders and other essential workers as defined under Phase 1a and 1b of the Center for Disease Control (CDC) and Virginia Department of Health (VDH) and that are serving in the frontline of the COVID-19 pandemic shall, subject to the provisions of paragraph D.1. of this item, be eligible for programs offered under the G-3 initiative that enhance or upgrade their skills at no cost during the period that is covered under the state of emergency and for two years thereafter.

4. In order to remain eligible for financial assistance under this program at an approved institution, a participating student shall:

a. Meet standards for Satisfactory Academic Progress and maintain the required grade point average established by federal Higher Education Act of 1965 Title IV requirements;

b. Demonstrate reasonable progress to complete their specific program of study to earn an associate degree in no more than three years;

c. Not exceed 150 percent of required credits of certificate or degree.

5. a. Payments out of this appropriation shall provide (i) grants up to the amount necessary to pay for the last-dollar cost of the enrolled institution's tuition, mandatory fees, and textbook stipend for eligible students after all other qualified federal and state financial aid., and (ii) a Student Support Incentive Grant up to \$2,250 per year for eligible students who are enrolled full-time and receive full Federal Pell Grants.

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b. Each Student Support Incentive Grant shall be distributed to the eligible students in two equal payments, with the first disbursement after the census date for the enrollment period is reached, and the final disbursement at the end of the term of which the students qualified. Students who withdraw or stop attending during the term shall not receive additional payments and shall be subject to repayment of the funds already received. An eligible student may receive up to \$900 per semester and up to \$450 per Summer Term.

6. a. Funds for marketing and public awareness efforts to increase participation in the program are contained in Item 220 ~~of~~ of this act.

b. By September 1, ~~2020~~2021, the governing boards of Virginia's public associate degree-granting institutions shall develop policies and procedures to ensure that program participation does not exceed budget appropriation.

7. a. No later than September 1 of each year, each Virginia public associate degree-granting institution shall submit to the State Council of Higher Education for Virginia and the Virginia Community College System a report with data from the previous fiscal year on program participation and completion, including data on what high-demand fields are supported by students at each institution.

b. The Council and System shall work collaboratively to compile the data provided by each public associate degree-granting institution and report such data, in aggregate and by institution annually, to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Senate Education and Health Committee, and the House Education Committee. The report must include student enrollment, retention rates between terms and academic years, wage data including median wages prior to enrollment and one year after completion of a credential or degree, wage rates of students who have not enrolled in over a year and did not complete a credential, and a comparison of demand of jobs and completion rates. The report must disaggregate the information above by program of study, college, and student income level at start of program.

222.	Financial Assistance For Educational and General Services (11000).....			\$57,236,044	\$57,236,044 \$60,736,044
	Sponsored Programs (11004).....	\$57,236,044	\$57,236,044 \$60,736,044		
	Fund Sources: Higher Education Operating.....	\$57,236,044	\$57,236,044 \$60,736,044		

Authority: Title 23.1, Chapter 29, Code of Virginia.

The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.

223.	Economic Development Services (53400).....			\$123,627,970	\$123,627,970
	Management of Workforce Development Program Services (53427).....	\$123,627,970	\$123,627,970	\$123,377,970	\$127,377,970
	Fund Sources: General.....	\$11,126,314 \$10,876,314	\$11,126,314 \$11,376,314		
	Higher Education Operating.....	\$112,501,656	\$112,501,656 \$116,001,656		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. 1. Out of this appropriation, \$53,850,629 and 38 positions the first year, and \$53,850,629 and 38 positions the second year from nongeneral funds is provided for the administration and implementation of workforce development programs as part of the federal Workforce Innovation and Opportunity Act of 2014 (WIOA).

2. Out of this appropriation, and consistent with Sections 128 and 133 of WIOA, 15% of

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<p>the nongeneral funds received for the administration of Title I of WIOA shall be reserved by the Governor in a fund to support administration of the Title 1 programs and to support statewide strategic workforce initiatives. At the end of the federal allotment cycle, unobligated Rapid Response funds shall also be transferred to the Governor's fund, consistent with Section 134 of WIOA. The investment strategy for the fund shall be determined by the Governor, in consultation with the Chief Workforce Development Advisor, the Virginia Community College System, and workforce system stakeholders no later than the first day of the federal program year for WIOA Title I. The investment strategy shall be consistent with required and allowable activities under Section 134 of WIOA. By December 15 of each year, the Chief Workforce Development Advisor shall report on the use of funds and generated outcomes to the Chairmen of the House Appropriations and Senate Finance Committees.</p>				
<p>B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is provided to continue planning for the advanced integrated manufacturing technology program at Thomas Nelson Community College.</p>				
<p>C.1. Out of this appropriation, \$166,162 the first year and \$166,162 the second year from the general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College.</p>				
<p>2. Out of this appropriation, \$1,086,350 the first year and \$1,086,350 the second year from the general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College for an ongoing match for a grant from the U.S. Department of Commerce to develop a manufacturer assistance program covering most of Virginia.</p>				
<p>D. It is the intent of the General Assembly that noncredit business and industry work-related training courses and programs offered by community colleges be funded at a ratio of 30 percent from the general fund and 70 percent from nongeneral funds. Out of this appropriation, \$664,647 in the first year and \$664,647 in the second year from the general fund is designated for this purpose. These funds may be combined with funds of \$249,243 the first year and \$249,243 the second year already included in the Virginia Community College System budget for the "Virginia Works" program. The funds will be allocated by formula to all colleges based on the number of individuals served by non-credit activities.</p>				
<p>E.1. As recommended by House Joint Resolution No. 622 (1997), the Joint Subcommittee to Study Noncredit Education for Workforce Training in the Commonwealth, the Virginia Community College System is directed to establish one or more Institutes of Excellence responsible for development of statewide training programs to meet current, high demand workforce needs of the Commonwealth. Out of this appropriation, at least \$664,647 the first year and \$664,647 the second year from the general fund is available to support the Institutes of Excellence.</p>				
<p>2. Under the guidance of the Virginia Workforce Council, authorized in Title 2.2, Chapter 26, Article 25, Code of Virginia, the Virginia Community College System shall submit to the Chairmen of the Senate Finance and House Appropriations Committees by November 4 of each year a report detailing the financing, activities, accomplishments and plans for the Institutes of Excellence and the four workforce development centers, and outcomes of the appropriations for 23 workforce coordinators and for non-credit training. The report shall include, but not be limited to:</p>				
<p>a. performance measures to be used to evaluate the effectiveness of the workforce coordinators at all 23 colleges;</p>				
<p>b. detailed information on number of students trained, employers served and courses offered; the types of certifications awarded; and the participation by local governments and the public or private sector, and other data relevant to the activities of the four regional workforce development centers;</p>				
<p>c. the number of students trained, employers served and courses offered through noncredit instruction, and the amounts of local government, public or private sector funding used to match this appropriation; and</p>				
<p>d. the amount or percentage of private and public funding contributed for the institutes' programming and operating needs; the number of private and public partnerships involved in</p>				

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<p>the institutes' programming; the number of faculty and colleges affected by the institutes' programming; and performance measures to be used to evaluate the sharing or broadcasting of information and new/improved/updated curricula to other Virginia Community College campuses.</p> <p>F. Out of this appropriation, \$1,196,820 and 23 positions the first year and \$1,196,820 and 23 positions the second year from the general fund is provided for staff who will be responsible for coordinating workforce training in the campus service area. The staff will work with local business and industry to determine training needs, coordinate with local economic development personnel, the local workforce training council, and other providers. It is the General Assembly's intent that the Virginia Community College System maximize these positions by encouraging funding matches at the local level.</p> <p>G. Out of this appropriation, \$470,880 and four positions the first year and \$470,880 and four positions the second year from the general fund is provided for four workforce training centers: the Peninsula Workforce Development Center (Thomas Nelson Community College), \$78,480 and one position the first year and \$78,480 and one position the second year; the Regional Center for Applied Technology Training (Danville Community College), \$156,960 and one position the first year and \$156,960 and one position the second year; a Workforce Development Center at Paul D. Camp Community College, \$156,960 and one position the first year and \$156,960 and one position the second year; and the Central Virginia Manufacturing Technology Training Center in the Lynchburg area, \$78,480 and one position the first year and \$78,480 and one position the second year. Each center shall provide a 25 percent match prior to the release of state funding.</p> <p>H. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to continue the pre-hire immersion training program.</p> <p>I. Out of this appropriation, \$460,000 the first year and \$460,000 the second year from the general fund is designated to support the veteran's credit for prior learning application.</p> <p>J. Out of this appropriation, \$104,950 the first year and \$104,950 the second year from the general fund is designated to support career and technical education at Lord Fairfax Community College's Luray-Page County Center with a focus on healthcare and medical programs.</p> <p>K. Out of this appropriation, \$310,000 the first year and \$310,000 the second year from the general fund is designated to implement a pilot program between Virginia Western Community College, Botetourt County Public Schools, and local industry partners to meet the demand for mechatronic technicians. The program goal is to prepare 100 Mechatronic Engineering Technicians over five years using established career pathways with Botetourt County Public Schools and Virginia Western Community College and a sustainable faculty preparation program.</p> <p>L. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is designated to implement a pilot program between Virginia Western Community College, Roanoke City Public Schools and local industry partners to create a Career Technical dual track program to allow high school students the opportunity to complete high school with both a diploma and a workforce credential / certificate.</p> <p>M. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated for a hospitality and culinary apprenticeship program. Funds may be used to reimburse employees for related instruction and equipment.</p> <p><i>N. Out of this appropriation, \$500,000 the second year from the general fund is designated towards implementing a construction pre-hire immersion training pilot program at two community colleges.</i></p> <p><i>O. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover workforce development program operations.</i></p>				
224.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$53,821,317	\$53,821,317

ITEM 224.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Food Services (80910).....	\$1,238,576	\$1,238,576		
Bookstores And Other Stores (80920).....	\$14,447,297	\$14,447,297		
Parking And Transportation Systems And Services (80940).....	\$18,487,416	\$18,487,416		
Student Unions And Recreational Facilities (80970)...	\$19,648,028	\$19,648,028		
Fund Sources: Higher Education Operating.....	\$37,710,554	\$37,710,554		
Debt Service.....	\$16,110,763	\$16,110,763		

Authority: Title 23.1, Chapter 29, Code of Virginia.

225. The appropriations in this section are for the following community colleges:

College I.D.	Community College	College I.D.	Community College
61	System Office	80	Northern Virginia
70	Shared Services Center	85	Patrick Henry
91	Blue Ridge	77	Paul D. Camp
92	Central Virginia	82	Piedmont
87	Dabney S. Lancaster	78	Rappahannock
79	Danville	76	Southside Virginia
84	Eastern Shore	94	Southwest Virginia
97	Germanna	93	Thomas Nelson
83	J. Sargeant Reynolds	95	Tidewater
90	John Tyler	96	Virginia Highlands
98	Lord Fairfax	86	Virginia Western
99	Mountain Empire	88	Wytheville
75	New River		

225.10 Omitted.

Total for Virginia Community College System.....			\$1,295,875,181	\$1,292,960,358
			\$1,252,967,435	\$1,311,298,438
General Fund Positions.....	5,558.57	5,558.57		
		5,588.57		
Nongeneral Fund Positions.....	5,296.58	5,296.58		
Position Level.....	10,855.15	10,855.15		
		10,885.15		
Fund Sources: General.....	\$518,312,598	\$515,047,775		
	\$475,404,852	\$515,385,855		
Higher Education Operating.....	\$761,451,820	\$761,801,820		
		\$779,801,820		
Debt Service.....	\$16,110,763	\$16,110,763		

§ 1-67. VIRGINIA MILITARY INSTITUTE (211)

226. Educational and General Programs (10000).....			\$44,577,245	\$44,583,746
			\$44,354,698	
Higher Education Instruction (100101).....	\$19,618,778	\$19,625,279		
	\$19,396,231			
Higher Education Public Services (100103).....	\$81,424	\$81,424		
Higher Education Academic (100104).....	\$6,086,647	\$6,086,647		
Higher Education Student Services (100105).....	\$2,848,779	\$2,848,779		
Higher Education Institutional Support (100106).....	\$7,925,823	\$7,925,823		
Operation and Maintenance Of Plant (100107).....	\$8,015,794	\$8,015,794		
Fund Sources: General.....	\$12,908,519	\$12,915,020		
	\$12,685,972			
Higher Education Operating.....	\$31,268,726	\$31,268,726		
Debt Service.....	\$400,000	\$400,000		

ITEM 226.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Authority: Title 23.1, Chapter 25, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Resources determined by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the base adequacy funding guidelines.

D. 1. Out of this appropriation, \$395,740 the first year and \$395,740 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. Virginia Military Institute is expected to maintain increases in:

a. Data Science and Technology awards of 5 annually over the base year.

b. Science and Engineering awards of 5 annually over the base year.

c. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.

E. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

ITEM 227.	Item Details(\$)		Appropriations(\$)	
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227. Higher Education Student Financial Assistance (10800).....			\$5,745,018	\$5,744,918
Scholarships (10810).....	\$5,745,018	\$5,744,918	\$5,718,218	
Fund Sources: General.....	\$1,145,018	\$1,144,918		
Higher Education Operating.....	\$1,118,218	\$1,118,218		
Higher Education Operating.....	\$4,600,000	\$4,600,000		
Authority: Title 23.1, Chapter 25, § 23.1-2506, Code of Virginia.				
A. Out of the amounts for Scholarships and Loans, the institute shall provide for State Cadetships and for discretionary student aid.				
B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
228. Financial Assistance For Educational and General Services (11000)				
a sum sufficient, estimated at.....			\$894,898	\$894,898
Eminent Scholars (11001).....	\$200,000	\$200,000		
Sponsored Programs (11004).....	\$694,898	\$694,898		
Fund Sources: Higher Education Operating.....	\$894,898	\$894,898		
Authority: Title 23.1, Chapter 25, Code of Virginia.				
229. Unique Military Activities (11300).....			\$10,172,662	\$10,172,662
Fund Sources: General.....	\$5,610,058	\$5,610,058		
Higher Education Operating.....	\$4,562,604	\$4,562,604		
Authority: Discretionary Inclusion.				
A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.				
2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.				
230. Higher Education Auxiliary Enterprises (80900)				
a sum sufficient, estimated at.....			\$29,916,510	\$29,916,510
Food Services (80910).....	\$7,497,369	\$7,497,369		
Bookstores And Other Stores (80920).....	\$1,174,021	\$1,174,021		
Residential Services (80930).....	\$2,080,471	\$2,080,471		
Student Health Services (80960).....	\$232,440	\$232,440		
Student Unions And Recreational Facilities (80970)...	\$1,838,039	\$1,838,039		
Recreational And Intramural Programs (80980).....	\$955,874	\$955,874		
Other Enterprise Functions (80990).....	\$10,743,395	\$10,743,395		
Intercollegiate Athletics (80995).....	\$5,394,901	\$5,394,901		
Fund Sources: Higher Education Operating.....	\$27,920,510	\$27,920,510		
Debt Service.....	\$1,996,000	\$1,996,000		
Authority: Title 23.1, Chapter 25, Code of Virginia.				
230.10 Omitted.				
Total for Virginia Military Institute.....			\$91,306,333	\$91,312,734
			\$91,056,986	

ITEM 230.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
General Fund Positions.....	188.71	188.71 189.71		
Nongeneral Fund Positions.....	281.06	281.06		
Position Level.....	469.77	469.77 470.77		
Fund Sources: General.....	\$19,663,595	\$19,669,996		
Higher Education Operating.....	\$69,246,738	\$69,246,738		
Debt Service.....	\$2,396,000	\$2,396,000		

§ 1-68. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)

231.	Educational and General Programs (10000).....			\$810,133,941	\$810,133,941
	Higher Education Instruction (100101).....	\$478,205,600 \$492,560,485	\$478,205,600 \$492,560,485	\$829,558,281	\$829,558,281
	Higher Education Research (100102).....	\$22,400,067	\$22,400,067		
	Higher Education Public Services (100103).....	\$24,988,052	\$24,988,052		
	Higher Education Academic (100104).....	\$92,583,717 \$93,818,092	\$92,583,717 \$93,818,092		
	Higher Education Student Services (100105).....	\$25,289,611 \$25,928,715	\$25,289,611 \$25,928,715		
	Higher Education Institutional Support (100106).....	\$79,434,413 \$81,740,385	\$79,434,413 \$81,740,385		
	Operation and Maintenance Of Plant (100107).....	\$87,232,481 \$88,122,485	\$87,232,481 \$88,122,485		
	Fund Sources: General.....	\$180,293,109	\$180,293,109		
	Higher Education Operating.....	\$629,840,832 \$649,265,172	\$629,840,832 \$649,265,172		

Authority: Title 23.1, Chapter 26, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation shall be expended an amount estimated at \$869,882 the first year and \$869,882 the second year from the general fund and \$436,357 the first year and \$436,357 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

C. Out of this appropriation, \$301,219 the first year and \$301,219 the second year from the general fund is designated to support the Marion duPont Scott Equine Center of the Virginia-Maryland Regional College of Veterinary Medicine.

D. Out of this appropriation, \$225,588 the first year and \$225,588 the second year from the general fund is designated to support tobacco research for medicinal purposes and field tests at sites in Blackstone and Abingdon.

E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

F. Out of this appropriation, \$288,000 the first year and \$288,000 the second year from the

ITEM 231.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>general fund is designated to develop a STEM Industry Internship program in partnership with the Virginia Space Grant Consortium, Virginia Regional Technology Councils and industry. The program will provide 75 undergraduate students across the Commonwealth an opportunity to centrally apply for real world work experience and provide Virginia's industries with access to qualified interns. Virginia Tech will partner with the Virginia Space Grant Consortium and work with Virginia's Regional Technology Councils who will serve as the program's conduit to industry, advertising the program and linking with interested industry partners.</p> <p>G. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, Virginia Military Institute, Virginia Commonwealth University, the College of William and Mary, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the eight institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p> <p>H. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund is designated to support a cyber range platform to be used for cyber security training by students in Virginia's public high schools, community colleges, and four-year institutions. Virginia Tech shall form a consortium among participating institutions, and shall serve as the coordinating entity for use of the platform. The consortium should initially include all Virginia public institutions with a certification of academic excellence from the federal government.</p> <p>I. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.</p> <p>J. 1. Out of this appropriation, \$5,215,880 the first year and \$5,215,880 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p> <p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p> <p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p> <p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Virginia Tech is expected to maintain increases in:</p> <p>a. Data Science and Technology awards of 60 annually over the base year.</p> <p>b. Science and Engineering awards of 100 annually over the base year.</p> <p>c. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairmean of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p>				

ITEM 231.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
232. Higher Education Student Financial Assistance (10800).....			\$33,314,961	\$33,457,361
			\$34,433,712	\$36,056,912
Scholarships (10810).....	\$27,952,536	\$27,952,536		
	\$29,356,087	\$30,979,287		
Fellowships (10820).....	\$5,362,425	\$5,504,825		
	\$5,077,625	\$5,077,625		
Fund Sources: General.....	\$24,893,936	\$25,036,336		
	\$22,985,936	\$24,609,136		
Higher Education Operating.....	\$8,421,025	\$8,421,025		
	\$11,447,776	\$11,447,776		

Authority: Soil Scientist Scholarships: Title 23.1, Chapter 26, and § 23.1-615, Code of Virginia.,

A. Out of the amount for Scholarships, the following sums shall be made available from the general fund for:

1. Soil Scientist Scholarships, \$11,000 the first year and \$11,000 the second year.
2. Scholarships, internships, and graduate assistantships administered by the Multicultural Academic Opportunities Program at the university, \$86,500 the first year and \$86,500 the second year. Eligible students must have financial need and participate in an academic support program.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

233. Financial Assistance For Educational and General Services (11000).....			\$353,801,687	\$353,801,687
Eminent Scholars (11001).....	\$2,000,000	\$2,000,000		
Sponsored Programs (11004).....	\$351,801,687	\$351,801,687		
Fund Sources: General.....	\$5,388,544	\$5,388,544		
Higher Education Operating.....	\$348,413,143	\$348,413,143		

Authority: Title 23.1, Chapter 26, Code of Virginia.

A. Out of this appropriation, \$2,388,544 the first year and \$2,388,544 the second year from the general fund and \$15,000,000 the first year and \$15,000,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering, biomaterials and nanotechnology.

B. Virginia Polytechnic Institute and State University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of the Institute for Distance and Distributed Learning (IDDL) classes offered to students at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for IDDL students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to those students. The Board of Visitors shall set tuition and fee rates to meet this requirement and shall set other policies regarding the IDDL as may be appropriate. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the Auditor of Public Accounts. As a part of this "instructional enterprise" fund Virginia Tech is authorized to establish a program in which Internet-based (on-line)

ITEM 233.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>courses, certificate, and entire degree programs, primarily at the graduate level, are offered to students in Virginia who are not enrolled for classes on the Blacksburg campus or one of the extended campus locations. Tuition generated by Virginia students taking these on-line courses and tuition from IDDL students at locations outside Virginia shall be retained in the fund to support the entire IDDL program and shall not be used by the state to offset other Educational and General costs. Revenues in excess of expenditures shall be retained in the fund to support the entire IDDL program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.</p> <p>C. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the general fund is designated to support and enhance brain disorder research.</p> <p>D. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.</p>				
234.	Unique Military Activities (11300).....		\$2,757,350	\$2,757,350 \$2,907,350
	Fund Sources: General.....	\$2,757,350	\$2,757,350 \$2,907,350	
<p>Authority: Discretionary Inclusion.</p> <p>A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.</p> <p>2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.</p>				
235.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$313,121,077	\$313,121,077
	Food Services (80910).....	\$58,017,586	\$58,017,586	
	Residential Services (80930).....	\$54,276,261	\$54,276,261	
	Parking And Transportation Systems And Services (80940).....	\$13,709,452	\$13,709,452	
	Telecommunications Systems And Services (80950)..	\$19,617,224	\$19,617,224	
	Student Health Services (80960).....	\$11,308,313	\$11,308,313	
	Student Unions And Recreational Facilities (80970)..	\$18,411,985	\$18,411,985	
	Recreational And Intramural Programs (80980).....	\$9,123,592	\$9,123,592	
	Other Enterprise Functions (80990).....	\$61,473,310	\$61,473,310	
	Intercollegiate Athletics (80995).....	\$67,183,354	\$67,183,354	
	Fund Sources: Higher Education Operating.....	\$302,770,577	\$302,770,577	
	Debt Service.....	\$10,350,500	\$10,350,500	
<p>Authority: Title 23.1, Chapter 26, Code of Virginia.</p>				
235.10	Omitted.			
	Total for Virginia Polytechnic Institute and State University.....		\$1,513,129,016 \$1,533,672,107	\$1,513,271,416 \$1,535,445,307
	General Fund Positions.....	1,890.53	1,890.53	
	Nongeneral Fund Positions.....	4,933.45	4,933.45	
	Position Level.....	6,823.98	6,823.98	
	Fund Sources: General.....	\$213,332,939 \$211,424,939	\$213,475,339 \$213,198,139	
	Higher Education Operating.....	\$1,289,445,577 \$1,311,896,668	\$1,289,445,577 \$1,311,896,668	

ITEM 235.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Debt Service..... \$10,350,500 \$10,350,500

Virginia Cooperative Extension and Agricultural Experiment Station (229)

236.	Educational and General Programs (10000).....			\$93,914,832	\$93,914,832
				\$93,864,832	\$94,864,832
	Higher Education Research (100102).....	\$40,815,821	\$40,815,821		
			\$41,815,821		
	Higher Education Public Services (100103).....	\$49,273,406	\$49,273,406		
		\$49,223,406	\$49,223,406		
	Higher Education Academic (100104).....	\$746,416	\$746,416		
	Operation and Maintenance Of Plant (100107).....	\$3,079,189	\$3,079,189		
	Fund Sources: General.....	\$74,873,528	\$74,873,528		
		\$74,823,528	\$75,823,528		
	Higher Education Operating.....	\$19,041,304	\$19,041,304		

Authority: Title 23.1, Chapter 26, Article 2, Code of Virginia.

A. Appropriations for this agency shall include operating expenses for research and investigations, and the several regional and county agricultural experiment stations under its control, in accordance with law.

B.1. It is the intent of the General Assembly that the Cooperative Extension Service gives highest priority to programs and services which comprised the original mission of the Extension Service, especially agricultural programs at the local level. The university shall ensure that the service utilizes information technology to the extent possible in the delivery of programs.

2. The budget of this agency shall include and separately account for local payments. Virginia Polytechnic Institute and State University, in conjunction with Virginia State University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the agency, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.

C. The Virginia Cooperative Extension and Agricultural Experiment Station shall not charge a fee for testing the soil on property used for commercial farming.

D. It is the intent of the General Assembly that the general fund share for the Virginia Cooperative Extension and Agriculture Experiment Station shall be 95 percent.

E. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

F. Out of this appropriation, \$1,000,000 the second year from the general fund is designated to support extension programs for the on-going costs of internet connectivity and to begin phasing in twelve additional extension agents and six additional specialists. Funding for the equipment and technology upgrades which will enhance the quality of research and extension programming at the Agricultural Research and Extension Centers is contained in a separate item under the Higher Education Equipment Trust Fund (HEETF).

236.10 Omitted.

Total for Virginia Cooperative Extension and Agricultural Experiment Station.....				\$93,914,832	\$93,914,832
				\$93,864,832	\$94,864,832
General Fund Positions.....	731.24	731.24			
Nongeneral Fund Positions.....	388.27	388.27			
Position Level.....	1,119.51	1,119.51			

ITEM 236.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$74,873,528	\$74,873,528		
Higher Education Operating.....	\$74,823,528	\$75,823,528		
	\$19,041,304	\$19,041,304		
Grand Total for Virginia Polytechnic Institute and State University.....			\$1,607,043,848	\$1,607,186,248
			\$1,627,536,939	\$1,630,310,139
General Fund Positions.....	2,621.77	2,621.77		
Nongeneral Fund Positions.....	5,321.72	5,321.72		
Position Level.....	7,943.49	7,943.49		
Fund Sources: General.....	\$288,206,467	\$288,348,867		
	\$286,248,467	\$289,021,667		
Higher Education Operating.....	\$1,308,486,881	\$1,308,486,881		
	\$1,330,937,972	\$1,330,937,972		
Debt Service.....	\$10,350,500	\$10,350,500		

§ 1-69. VIRGINIA STATE UNIVERSITY (212)

237.	Educational and General Programs (10000).....			\$80,354,378	\$78,982,811
	Higher Education Instruction (100101).....	\$44,236,688	\$44,365,121		
	Higher Education Research (100102).....	\$2,159,360	\$2,159,360		
	Higher Education Public Services (100103).....	\$120,448	\$120,448		
	Higher Education Academic (100104).....	\$6,401,130	\$6,401,130		
	Higher Education Student Services (100105).....	\$5,003,201	\$5,003,201		
	Higher Education Institutional Support (100106).....	\$15,057,077	\$13,557,077		
	Operation and Maintenance Of Plant (100107).....	\$7,376,474	\$7,376,474		
	Fund Sources: General.....	\$42,024,756	\$40,653,189		
	Higher Education Operating.....	\$38,329,622	\$38,329,622		

Authority: Title 23.1, Chapter 27, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$3,790,639 the first year and \$3,790,639 the second year from the general fund is designated for continued enhancement of the existing Bachelor of Science academic programs in Computer Science, Manufacturing Engineering, Computer Engineering, Mass Communications and Criminal Justice, and the doctoral program in Education.

2. Out of this appropriation, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income for the Eminent Scholars Program.

3. Any unexpended balances in paragraphs B.1. and B.2. in this Item at the close of business on June 30, 2020 and June 30, 2021, shall not revert to the surplus of the general fund but shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year. Virginia State University may expend any prior year end balances to support its educational and general activities or its auxiliary enterprise activities.

C. This appropriation includes \$200,000 the first year and \$200,000 the second year from the general fund to increase the number of faculty with terminal degrees to at least 85 percent of the total teaching faculty.

D. Out of this appropriation, Virginia State University is authorized to use up to \$600,000 the first year and \$600,000 the second year from the general fund to address extremely critical deferred maintenance deficiencies in its facilities, including residence halls and dining facilities.

E. As Virginia's public colleges and universities approach full funding of the base adequacy

ITEM 237.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>				
<p>F. Out of this appropriation, \$1,300,000 the first year and \$1,300,000 the second year from the general fund is designated to support the Manufacturing Engineering and Logistics Technology program.</p>				
<p>G. Out of this appropriation, \$104,022 the first year and \$104,022 the second year from the general fund is designated for debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Lease Program (MELP) for upgrades to the university's police radio system.</p>				
<p>H. Out of this appropriation, \$321,757 the first year and \$321,757 the second year from the general fund is designated to support debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Lease Program (MELP) to improve the university's information technology network. In addition to these amounts, \$295,419 the first year and \$295,419 the second year from the general fund is designated to support training and software costs.</p>				
<p>I. 1. Out of this appropriation, \$480,710 the first year and \$480,710 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p>				
<p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p>				
<p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p>				
<p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p>				
<p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p>				
<p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p>				
<p>3. Virginia State University is expected to maintain increases in:</p>				
<p>a. Data Science and Technology awards of 5 annually over the base year.</p>				
<p>b. Science and Engineering awards of 5 annually over the base year.</p>				
<p>c. Education awards of 5 annually over the base year.</p>				
<p>d. The 2016-17 year will serve as the base year for these purposes.</p>				
<p>4. SCHEV shall report on the progress toward these goals to the Chairmen of the House Appropriations and Senate Finance Committees annually beginning August 2020.</p>				
<p>J. Out of this appropriation, an amount estimated at \$299,286 the first year and \$299,286 the second year from the general fund and \$224,464 the first year and \$224,464 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.</p>				

ITEM 237.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
238.	Higher Education Student Financial Assistance (10800).....		\$21,154,956 \$19,677,956	\$22,248,248
	Scholarships (10810).....	\$20,755,897 \$19,278,897		\$21,849,189
	Fellowships (10820).....	\$399,059		\$399,059
	Fund Sources: General.....	\$14,557,929 \$13,080,929		\$15,651,221
	Higher Education Operating.....	\$6,597,027		\$6,597,027
Authority: Title 23.1, Chapter 27, Code of Virginia.				
<p>A. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p> <p>B. 1. Out of this appropriation up to \$3,773,490 the first year and \$4,872,765 the second year from the general fund is provided for an affordability pilot program to offer financial assistance to Virginia students who are Pell grant eligible, meet university admissions requirements, and live within a 25 mile radius of the university. The program is designed to address regional needs relating to access and completion. Funds shall be used to provide last dollar or reduced tuition and fees to students for up to 150 percent of required credits to complete a certificate or degree. Priority shall be placed on students from Matoaca, Petersburg, and Colonial Heights high schools, and remaining funds may be used for room and board if available. It is the intention that the program may ramp up to 300 students total at any one time by fiscal year 2024. In the first and second year, in the event that financial aid remains available after recruiting new students for fall semester, the remaining financial aid may be used to fund current students who meet the criteria and/or for eligible new students that enroll in the spring semester.</p> <p>2. As part of the six-year plan process, the university shall submit an annual report of the program that includes number of students served, average financial need of students, total expenditures, average award per student, retention and completion rates, other student outcomes as defined by the university, and planned outcomes for the upcoming year.</p> <p>3. The University shall submit a detailed budget and implementation plan, including how the institution will disseminate information about the program to area students, the projected size of each cohort, and how the institution will monitor and report on the success of the program. After approval of the plan by the Governor and the Chairs of House Appropriations and Senate Finance and Appropriations, this funding may be released.</p>				
239.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$35,538,161	\$35,538,161
	Sponsored Programs (11004).....	\$35,538,161		\$35,538,161
	Fund Sources: Higher Education Operating.....	\$35,538,161		\$35,538,161
Authority: Title 23.1, Chapter 27, Code of Virginia.				
240.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$48,215,794	\$48,215,794
	Food Services (80910).....	\$11,489,606		\$11,489,606
	Bookstores And Other Stores (80920).....	\$1,451,001		\$1,451,001
	Residential Services (80930).....	\$17,374,870		\$17,374,870
	Parking And Transportation Systems And Services (80940).....	\$417,467		\$417,467
	Student Health Services (80960).....	\$1,046,036		\$1,046,036
	Student Unions And Recreational Facilities (80970)...	\$2,678,662		\$2,678,662
	Other Enterprise Functions (80990).....	\$6,705,300		\$6,705,300

ITEM 240.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Intercollegiate Athletics (80995).....	\$7,052,852	\$7,052,852		
Fund Sources: Higher Education Operating.....	\$37,883,249	\$37,883,249		
Debt Service.....	\$10,332,545	\$10,332,545		
Authority: Title 23.1, Chapter 27, Code of Virginia.				
240.10 Omitted.				
Total for Virginia State University.....			\$185,263,289 \$183,786,289	\$184,985,014
General Fund Positions.....	335.47	335.47		
Nongeneral Fund Positions.....	489.89	489.89		
Position Level.....	825.36	825.36		
Fund Sources: General.....	\$56,582,685 \$55,105,685	\$56,304,410		
Higher Education Operating.....	\$118,348,059	\$118,348,059		
Debt Service.....	\$10,332,545	\$10,332,545		

Cooperative Extension and Agricultural Research Services (234)

241.	Educational and General Programs (10000).....			\$13,952,280	\$14,025,378
	Higher Education Research (100102).....	\$6,484,329	\$6,523,802		
	Higher Education Public Services (100103).....	\$6,736,754	\$6,770,379		
	Higher Education Institutional Support (100106)....	\$65,829	\$65,829		
	Operation and Maintenance Of Plant (100107).....	\$665,368	\$665,368		
	Fund Sources: General.....	\$7,126,822	\$7,199,920		
	Higher Education Operating.....	\$6,825,458	\$6,825,458		

Authority: Title 23.1, Chapter 27, § 23.1-2704, Title 23, Chapter 13, Code of Virginia.

A. Out this appropriation, \$392,107 the first year and \$392,107 the second year from the general fund is designated for support of research and extension activities aimed at the production of hybrid striped bass in Virginia farm ponds. No expenditures will be made from these funds for other purposes without the prior written permission of the Secretary of Education.

B. The Extension Division budgets shall include and separately account for local payments. Virginia State University, in conjunction with Virginia Polytechnic Institute and State University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the Extension Division, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.

C. Out of this appropriation, \$394,000 the first year and \$394,000 the second year from the general fund is designated for the Small-Farmer Outreach Training and Technical Assistance Program to provide outreach and business management education to small farmers.

241.10 Omitted.					
Total for Cooperative Extension and Agricultural Research Services.....				\$13,952,280	\$14,025,378
General Fund Positions.....	31.75	31.75			
Nongeneral Fund Positions.....	67.00	67.00			
Position Level.....	98.75	98.75			
Fund Sources: General.....	\$7,126,822	\$7,199,920			
Higher Education Operating.....	\$6,825,458	\$6,825,458			

ITEM 241.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Grand Total for Virginia State University.....			\$199,215,569 \$197,738,569	\$199,010,392
General Fund Positions.....	367.22	367.22		
Nongeneral Fund Positions.....	556.89	556.89		
Position Level.....	924.11	924.11		
Fund Sources: General.....	\$63,709,507 \$62,232,507	\$63,504,330		
Higher Education Operating.....	\$125,173,517	\$125,173,517		
Debt Service.....	\$10,332,545	\$10,332,545		
§ 1-70. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)				
242. Museum and Cultural Services (14500).....			\$3,115,398	\$3,115,398 \$3,177,961
Collections Management and Curatorial Services (14501).....	\$188,555	\$188,555		
Education and Extension Services (14503).....	\$1,294,606	\$1,294,606		
Operational and Support Services (14507).....	\$1,632,237	\$1,632,237 \$1,694,800		
Fund Sources: General.....	\$2,379,699	\$2,379,699 \$2,442,262		
Special.....	\$735,699	\$735,699		
Authority: Title 23.1, Chapter 32, Article 2, Code of Virginia.				
A. Any revenue generated by the Frontier Culture Museum of Virginia from the development of its properties pursuant to § 23.1-3203, Code of Virginia, may be retained by the museum to support agency operations. Such revenues shall be deposited into a special fund which shall be created on the books of the State Comptroller. Amounts in this fund shall be appropriated consistent with the provisions of this act.				
B. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the American Frontier Culture Foundation.				
Total for Frontier Culture Museum of Virginia.....			\$3,115,398	\$3,115,398 \$3,177,961
General Fund Positions.....	22.50	22.50		
Nongeneral Fund Positions.....	15.00	15.00		
Position Level.....	37.50	37.50		
Fund Sources: General.....	\$2,379,699	\$2,379,699 \$2,442,262		
Special.....	\$735,699	\$735,699		
§ 1-71. GUNSTON HALL (417)				
243. Museum and Cultural Services (14500).....			\$914,376	\$914,376
Education and Extension Services (14503).....	\$94,202	\$94,202		
Operational and Support Services (14507).....	\$820,174	\$820,174		
Fund Sources: General.....	\$706,571	\$706,571		
Special.....	\$207,805	\$207,805		
Authority: Title 23.1, Chapter 32, Article 3, Code of Virginia.				
Total for Gunston Hall.....			\$914,376	\$914,376
General Fund Positions.....	8.00	8.00		
Nongeneral Fund Positions.....	3.00	3.00		
Position Level.....	11.00	11.00		
Fund Sources: General.....	\$706,571	\$706,571		

ITEM 243.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Special.....	\$207,805	\$207,805		

§ 1-72. JAMESTOWN-YORKTOWN FOUNDATION (425)

244.	Museum and Cultural Services (14500).....			\$20,975,663	\$20,265,282
				\$19,666,480	\$20,805,095
	Collections Management and Curatorial Services (14501).....	\$662,037	\$662,037		
	Education and Extension Services (14503).....	\$8,102,579	\$7,993,479		
			\$8,465,299		
	Operational and Support Services (14507).....	\$12,211,047	\$11,609,766		
		\$10,901,864	\$11,677,759		
	Fund Sources: General.....	\$12,042,431	\$11,332,050		
		\$10,733,248	\$11,871,863		
	Special.....	\$8,933,232	\$8,933,232		

Authority: Title 23.1, Chapter 32, Article 4, Code of Virginia.

A. Out of the amounts for Operational and Support Services, the Director is authorized to expend from special funds amounts not to exceed \$3,500 the first year and \$3,500 the second year for entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the agency.

B. With the prior written approval of the Director, Department of Planning and Budget, nongeneral fund revenues which are unexpended by the end of the fiscal year may be paid to the Jamestown-Yorktown Foundation, Inc. for the specific purposes determined by the Board of Trustees in support of Foundation programs.

C. It is the intent of the General Assembly that the Jamestown-Yorktown Foundation be authorized to fill all positions authorized in this act and all part-time (wage) positions funded in this act, notwithstanding § 4-7.01 of this act.

D. Out of the appropriation for this Item, \$54,777 the first year and \$54,777 the second year from the general fund is designated for debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Lease Program (MELP) for the purchase of museum electronic security equipment through the state's master equipment lease program.

E. Out of the appropriation for this Item, \$254,311 the second year from the general fund is designated for The American Revolution 250th Commission to formulate and implement a program for the inclusive observance of the 250th anniversary of the independence of the United States and the Revolutionary War in Virginia.

244.10 Omitted.

	Total for Jamestown-Yorktown Foundation.....			\$20,975,663	\$20,265,282
				\$19,666,480	\$20,805,095
	General Fund Positions.....	111.00	111.00		
	Nongeneral Fund Positions.....	63.00	63.00		
	Position Level.....	174.00	174.00		
	Fund Sources: General.....	\$12,042,431	\$11,332,050		
		\$10,733,248	\$11,871,863		
	Special.....	\$8,933,232	\$8,933,232		

§ 1-73. THE LIBRARY OF VIRGINIA (202)

245.	Archives Management (13700).....			\$6,417,426	\$6,417,426
	Management of Public Records (13701).....	\$1,212,882	\$1,212,882		
	Management of Archival Records (13702).....	\$2,026,483	\$2,026,483		
	Historical and Cultural Publications (13703).....	\$696,258	\$696,258		
	Archival Research Services (13704).....	\$1,291,996	\$1,291,996		

ITEM 245.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Conservation-Preservation of Historic Records (13705).....	\$177,762	\$177,762		
Circuit Court Record Preservation (13706).....	\$1,012,045	\$1,012,045		
Fund Sources: General.....	\$2,745,363	\$2,745,363		
Special.....	\$3,342,561	\$3,342,561		
Federal Trust.....	\$329,502	\$329,502		
Authority: Title 42.1, Chapters 1 and 7, Code of Virginia.				
A. The Librarian of Virginia shall report annually to the Secretary of Education on progress in the processing and preserving of circuit court records.				
B. The Librarian of Virginia and the State Archivist shall conduct an annual study of The Library of Virginia's archival preservation needs and priorities, and shall report annually by December 1 to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees of the General Assembly on The Library of Virginia's progress to date in reducing its archival backlog.				
246.	Statewide Library Services (14200).....		\$6,545,519	\$6,545,519
	Cooperative Library Services (14201).....	\$2,651,222	\$2,651,222	
	Consultation to Libraries (14203).....	\$765,527	\$765,527	
	Research Library Services (14206).....	\$3,128,770	\$3,128,770	
	Fund Sources: General.....	\$3,092,325	\$3,092,325	
	Special.....	\$289,332	\$289,332	
	Federal Trust.....	\$3,163,862	\$3,163,862	
Authority: Title 42.1, Chapters 1 and 3, Code of Virginia.				
It is the intent of the General Assembly to continue to provide electronic resources for public libraries and to provide universal access to all citizens of the Commonwealth. First priority shall be the ability to access the Internet in local public libraries.				
247.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....		\$19,233,584 \$18,233,584	\$18,233,584
	State Formula Aid for Local Public Libraries (14301).....	\$19,233,584 \$18,233,584		\$18,233,584
	Fund Sources: General.....	\$19,233,584 \$18,233,584		\$18,233,584
Authority: Title 42.1, Chapter 3, Code of Virginia.				
A. It is the objective of the Commonwealth that all local public libraries receiving state aid provide access to their patrons to worldwide electronic information on the Internet. It is the intent of the General Assembly that local public libraries receiving state aid invest in the technology necessary to provide or enhance this service.				
B. Included in this appropriation is \$190,070 the first year and \$190,070 the second year from the general fund to supplement the state formula aid distribution provided in Title 42.1, Code of Virginia, for Fairfax Public Library System.				
C. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the general fund of the total amounts for aid to libraries may be used for summer reading materials and programs or for STEAM instructional materials.				
D. Out of this appropriation, \$1,000,000 from the general fund in the first year is designated to provide aid to local libraries to expand broadband access to support Virginia families in virtual learning and job search assistance efforts. The State Library shall allocate these funds to localities to expand local wi-fi and mobile hotspots.				
248.	Administrative and Support Services (19900).....		\$10,747,787 \$10,652,787	\$10,652,787

ITEM 248.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
General Management and Direction (19901).....	\$3,625,634 \$3,530,634	\$3,530,634		
Information Technology Services (19902).....	\$3,598,303	\$3,598,303		
Physical Plant Services (19915).....	\$3,523,850	\$3,523,850		
Fund Sources: General.....	\$8,548,503 \$8,453,503	\$8,453,503		
Special.....	\$1,039,899	\$1,039,899		
Federal Trust.....	\$1,159,385	\$1,159,385		

Authority: Title 42.1, Chapter 1, Code of Virginia.

In the event that any budget reduction actions are required, the Director, Department of Planning and Budget, shall exclude from any reduction target calculations the rent plan included in the Library of Virginia budget.

248.10 Omitted.

Total for The Library Of Virginia.....			\$42,944,316 \$41,849,316	\$41,849,316
General Fund Positions.....	134.09	134.09		
Nongeneral Fund Positions.....	63.91	63.91		
Position Level.....	198.00	198.00		
Fund Sources: General.....	\$33,619,775 \$32,524,775	\$32,524,775		
Special.....	\$4,671,792	\$4,671,792		
Federal Trust.....	\$4,652,749	\$4,652,749		

§ 1-74. THE SCIENCE MUSEUM OF VIRGINIA (146)

249. Museum and Cultural Services (14500).....			\$11,883,283 \$10,672,679	\$11,883,283 \$10,882,679
Collections Management and Curatorial Services (14501).....	\$1,724,441	\$1,724,441		
Education and Extension Services (14503).....	\$5,141,670 \$4,141,066	\$5,141,670 \$4,141,066		
Operational and Support Services (14507).....	\$5,017,172 \$4,807,172	\$5,017,172		
Fund Sources: General.....	\$5,654,487 \$5,444,487	\$5,654,487		
Special.....	\$5,228,192	\$5,228,192		
Federal Trust.....	\$1,000,604 \$0	\$1,000,604 \$0		

Authority: Title 23.1, Chapter 32, Article 5, Code of Virginia.

A. This appropriation from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provisions in this act.

B. Out of this appropriation, \$351,314 the first year and \$351,314 the second year from the general fund is designated for debt service costs for the third and fourth year payments of a five-year lease under the Master Equipment Lease Program (MELP) for the purchase of an IMAX digital projection system.

C. Out of this appropriation, \$150,000 the first year and \$150,000 the second year is provided to pilot a STEM partnership between the Science Museum of Virginia, the Virginia Air and Space Center, and the Virginia Living Museum for programs that promote achievement for K-12 students in Hampton Roads and across the state, leveraging technology in the vital STEM component of the workforce pipeline.

D. Purchase of items for resale at retail outlets and food services operations open to the public operated by the Science Museum of Virginia shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia.

ITEM 249.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
However, such purchase procedures shall provide for competition where practicable.				
249.10	Omitted.			
	Total for The Science Museum of Virginia.....		\$11,883,283	\$11,883,283
			\$10,672,679	\$10,882,679
	General Fund Positions.....	58.19	58.19	
	Nongeneral Fund Positions.....	34.81	34.81	
	Position Level.....	93.00	93.00	
	Fund Sources: General.....	\$5,654,487	\$5,654,487	
		\$5,444,487		
	Special.....	\$5,228,192	\$5,228,192	
	Federal Trust.....	\$1,000,604	\$1,000,604	
		\$0	\$0	

§ 1-75. VIRGINIA MUSEUM OF NATURAL HISTORY (942)

250.	Museum and Cultural Services (14500).....			\$3,545,803	\$3,545,803
	Collections Management and Curatorial Services (14501).....	\$119,311	\$119,311		
	Education and Extension Services (14503).....	\$326,517	\$326,517		
	Operational and Support Services (14507).....	\$2,223,704	\$2,223,704		
	Scientific Research (14508).....	\$876,271	\$876,271		
	Fund Sources: General.....	\$2,990,923	\$2,990,923		
	Special.....	\$459,284	\$459,284		
	Federal Trust.....	\$95,596	\$95,596		
	Authority: Title 10.1, Chapter 20, Code of Virginia.				
	Total for Virginia Museum of Natural History.....			\$3,545,803	\$3,545,803
	General Fund Positions.....	38.00	38.00		
	Nongeneral Fund Positions.....	9.50	9.50		
	Position Level.....	47.50	47.50		
	Fund Sources: General.....	\$2,990,923	\$2,990,923		
	Special.....	\$459,284	\$459,284		
	Federal Trust.....	\$95,596	\$95,596		

§ 1-76. VIRGINIA COMMISSION FOR THE ARTS (148)

251.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$5,699,798	\$6,699,798
				\$3,936,912	\$3,936,912
	Financial Assistance to Cultural Organizations (14302).....	\$5,332,798	\$6,332,798		
		\$3,686,912	\$3,686,912		
	Administration of Grants for Cultural and Artistic Affairs (14307).....	\$367,000	\$367,000		
		\$250,000	\$250,000		
	Fund Sources: General.....	\$5,048,123	\$6,048,123		
		\$3,285,237	\$3,285,237		
	Dedicated Special Revenue.....	\$11,000	\$11,000		
	Federal Trust.....	\$640,675	\$640,675		

Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.

A. In the allocation of grants to arts organizations, the Commission shall give preference to the performing arts.

B. It is the objective of the Commonwealth to fund the Virginia Commission for the Arts at an amount that equals one dollar for each resident of Virginia.

ITEM 251.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
252.	Museum and Cultural Services (14500).....			\$678,130	\$678,130
				\$795,130	\$795,130
	Operational and Support Services (14507).....	\$678,130	\$678,130		
		\$795,130	\$795,130		
	Fund Sources: General.....	\$579,011	\$579,011		
		\$696,011	\$696,011		
	Federal Trust.....	\$99,119	\$99,119		
	Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.				
252.10	Omitted.				
	Total for Virginia Commission for the Arts.....			\$6,377,928	\$7,377,928
				\$4,732,042	\$4,732,042
	General Fund Positions.....	6.00	6.00		
	Position Level.....	6.00	6.00		
	Fund Sources: General.....	\$5,627,134	\$6,627,134		
		\$3,981,248	\$3,981,248		
	Dedicated Special Revenue.....	\$11,000	\$11,000		
	Federal Trust.....	\$739,794	\$739,794		

§ 1-77. VIRGINIA MUSEUM OF FINE ARTS (238)

253.	Museum and Cultural Services (14500).....			\$44,032,450	\$44,032,450
				\$43,892,883	\$44,897,207
	Collections Management and Curatorial Services (14501).....	\$8,208,491	\$8,208,491		
	Education and Extension Services (14503).....	\$8,373,990	\$8,373,990		
		\$8,623,990	\$9,123,990		
	Operational and Support Services (14507).....	\$27,449,969	\$27,449,969		
		\$27,060,402	\$27,564,726		
	Fund Sources: General.....	\$11,371,438	\$11,371,438		
		\$11,231,871	\$12,236,195		
	Special.....	\$6,452,595	\$6,452,595		
	Enterprise.....	\$7,479,910	\$7,479,910		
	Dedicated Special Revenue.....	\$18,478,507	\$18,478,507		
	Federal Trust.....	\$250,000	\$250,000		

Authority: Title 23.1, Chapter 32, Article 6, Code of Virginia.

A. The appropriation in this Item from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provision of this act.

B. Nongeneral fund revenues included in this Item under Dedicated Special Revenue will be restricted for the uses specified by the donors and shall not be subject to interagency transfers or appropriation reductions.

C. The Comptroller of Virginia shall establish a special revenue account fund detail code for nongeneral funds donated to the Virginia Museum of Fine Arts by private donors and volunteers who sponsor fundraising activities to support the museum's general operations, exhibitions, and programs, and entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the museum.

D. Out of this appropriation, \$158,513 in the first year and \$158,513 in the second year from the general fund is provided to cover the service fee in lieu of taxes levied by the City of Richmond.

E. Purchase of items for resale at retail outlets and food services operations open to the public operated by the Virginia Museum of Fine Arts shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia. However, such purchase procedures shall provide for competition where practicable.

ITEM 253.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>F. Out of this appropriation, \$250,000 the first year and \$750,000 the second year from the general fund is provided to support the development of a plan for transforming Monument Avenue. The museum shall work with community stakeholders to develop the plan and utilize the recommendations from the Report of the Monuments Work Group (2016) on the best practices to foster constructive dialogues. The plan shall be reported to the Governor, Secretary of Education, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by September 1, 2022.</i>				
253.10	Omitted.			
	Total for Virginia Museum of Fine Arts.....		\$44,032,450 \$43,892,883	\$44,032,450 \$44,897,207
	General Fund Positions.....	141.50 143.50		
	Nongeneral Fund Positions.....	212.00		
	Position Level.....	353.50 355.50		
	Fund Sources: General.....	\$11,371,438 \$11,231,871	\$11,371,438 \$12,236,195	
	Special.....	\$6,452,595	\$6,452,595	
	Enterprise.....	\$7,479,910	\$7,479,910	
	Dedicated Special Revenue.....	\$18,478,507	\$18,478,507	
	Federal Trust.....	\$250,000	\$250,000	

§ 1-78. EASTERN VIRGINIA MEDICAL SCHOOL (274)

254.	Financial Assistance For Educational and General Services (11000).....		\$30,990,881 \$30,365,881	\$30,990,881 \$30,365,881
	Sponsored Programs (11004).....	\$595,612	\$595,612	
	Medical Education (11005).....	\$30,395,269 \$29,770,269	\$30,395,269 \$29,770,269	
	Fund Sources: General.....	\$30,990,881 \$30,365,881	\$30,990,881 \$30,365,881	

Authority: Title 23.1, Chapter 30 and Chapter 87, Acts of Assembly of 2002.

A. Out of this appropriation, \$595,612 the first year and \$595,612 the second year from the general fund is designated to build research capacity in medical modeling and simulation.

B. Out of this appropriation, \$6,158,108 the first year and \$6,158,108 the second year from the general fund is designated for treatment, care and maintenance of indigent Virginia patients through the medical school. The aid is to be apportioned on the basis of a plan to be approved, at the beginning of each biennium, by the Director, Department of Medical Assistance Services.

C. Out of this appropriation, \$375,700 the first year and \$375,700 the second year from the general fund is designated to support financial aid for in-state medical and health professions students.

D. Out of this appropriation, \$658,597 the first year and \$658,597 the second year from the general fund is designated for the operation of the Family Practice Residency program and Family Practice Medical Student programs.

E. Out of this appropriation, \$60,620 the first year and \$60,620 the second year from the general fund is designated to support the Eastern Virginia Area Health Education Center.

F. Eastern Virginia Medical School shall transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to physicians affiliated with Eastern Virginia Medical School for Medicaid supplemental capitation payments to managed care organizations for the purpose of securing access to Medicaid physicians services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.

ITEM 254.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>G. Eastern Virginia Medical School is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the primary teaching hospitals affiliated with Eastern Virginia Medical School. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to hospital services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.</p> <p>H. 1. Out of this appropriation, \$1,250,000 the first year and \$1,250,000 the second year from the general fund is designated to support accreditation requirements at the Eastern Virginia Medical School.</p> <p>2. Out of this appropriation, \$1,250,000 the first year and \$1,250,000 the second year from the general fund is designated to support community health programs in partnership with Sentara Healthcare.</p>				
255.	Appropriations for this agency shall be disbursed in twelve equal monthly installments each fiscal year.			
255.10	Omitted.			
	Total for Eastern Virginia Medical School.....		\$30,990,881 \$30,365,881	\$30,990,881 \$30,365,881
	Fund Sources: General.....	\$30,990,881 \$30,365,881	\$30,990,881 \$30,365,881	

§ 1-79. NEW COLLEGE INSTITUTE (938)

256.	Administrative and Support Services (1990).....		\$4,292,196 \$4,237,698	\$4,292,196 \$4,413,700
	Operation of Higher Education Centers (19931).....	\$4,292,196 \$4,237,698	\$4,292,196 \$4,413,700	
	Fund Sources: General.....	\$2,747,051 \$2,692,553	\$2,747,051 \$2,868,553	
	Special.....	\$1,545,145	\$1,545,145	

Authority: Title 23.1, Chapter 31, Article 4, Code of Virginia.

A. It is the intent of the General Assembly that the New College Institute, the Institute for Advanced Learning and Research, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education and the Department of Planning and Budget on their joint efforts in this regard.

B. The requirements of § 4-5.05 shall not apply to this appropriation.

C. 1. The Governing Board of the New College Institute shall be authorized to seek an agreement with the New College Foundation and other non-governmental parties to acquire the Building on Baldwin for the amount not funded by the Virginia Tobacco Indemnification and Community Revitalization Commission, the federal government through the U.S. Economic Development Administration, the Appalachian Regional Commission, other federal monies, or local government.

2. If agreement on acquisition of the Building on Baldwin cannot be reached, the Governing Board of the New College Institute, with the assistance of the Department of General Services (DGS), is further authorized to plan for the construction or acquisition of a new facility. Priority will be given to options utilizing existing state property. The Governing Board and DGS may partner with local community colleges and/or local governments to this end.

D. Notwithstanding any other provision of law, New College Institute is authorized to retain the income generated by the rental of space at the Building on Baldwin in

ITEM 256.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>Martinsville, VA to outside entities.</i>				
256.10	Omitted.			
	Total for New College Institute.....		\$4,292,196	\$4,292,196
			\$4,237,698	\$4,413,700
	General Fund Positions.....	17.00	17.00	
		18.00	18.00	
	Nongeneral Fund Positions.....	6.00	6.00	
	Position Level.....	23.00	23.00	
		24.00	24.00	
	Fund Sources: General.....	\$2,747,051	\$2,747,051	
		\$2,692,553	\$2,868,555	
	Special.....	\$1,545,145	\$1,545,145	

§ 1-80. INSTITUTE FOR ADVANCED LEARNING AND RESEARCH (885)

257.	Economic Development Services (53400).....			\$6,510,193	\$6,510,193
				\$6,415,193	
	Regional Research, Technology, Education, and Commercialization Services (53421).....	\$6,510,193	\$6,510,193		
		\$6,415,193			
	Fund Sources: General.....	\$6,510,193	\$6,510,193		
		\$6,415,193			

Authority: Title 23.1, Chapter 31, Article 3, Code of Virginia.

A. It is the intent of the General Assembly that the Institute for Advanced Learning and Research, the New College Institute, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education on their joint efforts in this regard.

B. The requirements of § 4-5.05 shall not apply to this appropriation.

C. This Item includes no funds for the agency's use of leased property for engagement activities.

D. This Item includes \$31,927 the first year and \$31,927 the second year from the general fund for debt service on a five-year term loan through the Master Equipment Leasing Program (MELP) to purchase communications infrastructure and 16 telephone handsets. It is intended that the ongoing amount will be removed from the agency's base budget in 2022.

257.10	Omitted.			
	Total for Institute for Advanced Learning and Research.....		\$6,510,193	\$6,510,193
			\$6,415,193	
	Fund Sources: General.....	\$6,510,193	\$6,510,193	
		\$6,415,193		

§ 1-81. ROANOKE HIGHER EDUCATION AUTHORITY (935)

258.	Administrative and Support Services (19900).....			\$1,790,791	\$1,673,020
				\$1,478,720	\$1,790,791
	Operation of Higher Education Centers (19931).....	\$1,790,791	\$1,673,020		
		\$1,478,720	\$1,790,791		
	Fund Sources: General.....	\$1,790,791	\$1,673,020		
		\$1,478,720	\$1,790,791		

ITEM 258.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 23.1, Chapter 31, Article 5, Code of Virginia.				
A. The requirements of § 4-5.05 shall not apply to this appropriation.				
258.10	Omitted.			
	Total for Roanoke Higher Education Authority.....		\$1,790,791	\$1,673,020
			\$1,478,720	\$1,790,791
	Fund Sources: General.....	\$1,790,791	\$1,673,020	
		\$1,478,720	\$1,790,791	

§ 1-82. SOUTHERN VIRGINIA HIGHER EDUCATION CENTER (937)

259.	Administrative and Support Services (19900).....		\$8,243,669	\$8,044,697
			\$7,949,697	\$8,338,669
	Operation of Higher Education Centers (19931).....	\$8,243,669	\$8,044,697	
		\$7,949,697	\$8,338,669	
	Fund Sources: General.....	\$4,097,837	\$3,898,865	
		\$3,803,865	\$4,192,837	
	Special.....	\$4,145,832	\$4,145,832	

Authority: Title 23.1, Chapter 31, Article 6, Code of Virginia.

A. It is the intent of the General Assembly that the Southern Virginia Higher Education Center, the Institute for Advanced Learning and Research, and the New College Institute coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education for Virginia on their joint efforts in this regard.

B. Out of this appropriation, \$29,050 the first year and \$29,050 the second year from the general fund is designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and the General Assembly.

C. Out of this appropriation, \$266,000 and four positions the first year and \$266,000 and four positions the second year from the general fund is designated for additional operational support of the Southern Virginia Higher Education Center and its efforts to provide STEM programs and specialized workforce training to the citizens of Southside Virginia.

D. Out of this appropriation, \$731,250 and eight positions the first year and \$731,250 and eight positions the second year from the general fund and \$782,100 and 3.5 positions the first year and \$782,100 and 3.5 positions the second year from nongeneral funds are designated to maintain workforce advancement programs in the areas of health care, manufacturing, information technology, and STEM that were originally established through short-term grants in order to expand the credentials-to-career pipeline for key industry sectors in Southside Virginia.

E. Out of this appropriation, \$127,055 the first year and \$127,055 the second year from the general fund is designated for debt service costs under the Master Equipment Leasing Program (MELP) for the acquisition of technical training equipment. In addition to these costs, \$394,125 and six positions the first year and \$394,125 and six positions the second year from the general fund and \$233,375 the first year and \$233,375 the second year from nongeneral funds are designated for the staff and operational costs associated with the Career Tech Academy, providing automation and robotics technical training to high school students from the counties of Charlotte, Halifax, and Mecklenburg.

F. The Southern Virginia Higher Education Center is authorized to provide specialized workforce training consistent with grant agreements and memoranda of understanding with employers that existed as of January 1, 2016. The center will seek opportunities to

ITEM 259.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
collaborate with local community colleges in meeting the continuing goals of these programs and on new training needs identified by employers. If the local community colleges are unable to meet the training needs identified by employers, then the center is authorized to seek other education providers or to offer specialized workforce training independent of the local community colleges.				
G. The requirements of § 4-5.05 shall not apply to this appropriation.				
259.10	Omitted.			
	Total for Southern Virginia Higher Education Center.		\$8,243,669	\$8,044,697
			\$7,949,697	\$8,338,669
	General Fund Positions.....	34.80	34.80	
	Nongeneral Fund Positions.....	29.50	29.50	
	Position Level.....	64.30	64.30	
	Fund Sources: General.....	\$4,097,837	\$3,898,865	
		\$3,803,865	\$4,192,837	
	Special.....	\$4,145,832	\$4,145,832	

§ 1-83. SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER (948)

260.	Administrative and Support Services (1990).....			\$3,981,650	\$3,981,650
				\$3,386,650	\$4,481,650
	General Management and Direction (1990).....	\$38,794	\$38,794		
	Operation of Higher Education Centers (1993).....	\$3,942,856	\$3,942,856		
		\$3,347,856	\$4,442,856		
	Fund Sources: General.....	\$2,766,000	\$2,766,000		
		\$2,171,000	\$3,266,000		
	Special.....	\$1,215,650	\$1,215,650		

Authority: Title 23.1, Chapter 31, Article 7, Code of Virginia.

A. The board of trustees of the Southwest Virginia Higher Education Center may establish and administer agreements with out-of-state institutions certified to operate in Virginia pursuant to § 23.1-219 Code of Virginia for such institutions to provide undergraduate-level and graduate-level instructional programs at the Center.

B. Out of the appropriation for this item, ~~\$500,000 each~~ \$1,000,000 the second year from the general fund shall be deposited to the Virginia Rural Information Technology Apprenticeship Grant Fund, as established in § 23.1-3129.1 Code of Virginia, for the purpose of awarding grants on a competitive basis from the Fund to small, rural information technology businesses in qualifying localities to establish apprenticeship programs.

260.10	Omitted.			
	Total for Southwest Virginia Higher Education Center.....		\$3,981,650	\$3,981,650
			\$3,386,650	\$4,481,650
	General Fund Positions.....	30.00	30.00	
	Nongeneral Fund Positions.....	3.00	3.00	
	Position Level.....	33.00	33.00	
	Fund Sources: General.....	\$2,766,000	\$2,766,000	
		\$2,171,000	\$3,266,000	
	Special.....	\$1,215,650	\$1,215,650	

§ 1-84. SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION DOING BUSINESS FOR JEFFERSON SCIENCE ASSOCIATES, LLC (936)

261.	Financial Assistance For Educational and General Services (11000).....			\$1,797,683	\$1,797,683
				\$1,547,683	\$1,547,683

ITEM 261.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Sponsored Programs (11004).....	\$1,797,683	\$1,797,683		
	\$1,547,683	\$1,547,683		
Fund Sources: General.....	\$1,797,683	\$1,797,683		
	\$1,547,683	\$1,547,683		

Authority: Discretionary Inclusion.

A. This appropriation represents the Commonwealth of Virginia's contribution to the Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC, for the support of the Thomas Jefferson National Accelerator Facility (Jefferson Lab) located at Newport News, Virginia. This contribution includes funds to support faculty positions and industry-led research that will promote economic development opportunities in the Commonwealth.

B. Out of this appropriation, ~~\$500,000~~~~\$750,000~~ the first year and ~~\$500,000~~~~\$750,000~~ the second year from the general fund is designated to provide funding to expand a center for nuclear femtography in partnership with the Commonwealth's research universities. Nuclear femtography is expected to be the next generation of nanotechnology.

C. This nonstate agency is exempt from the match requirement of § 2.2-1505, Code of Virginia and § 4-5.05 of this act.

D. An amount of \$1,500,000 each year from the general fund shall be designated for the design, research, and development activities associated with a potential high performance data facility project from amounts appropriated under Item 112.A.1. of this act.

261.10 Omitted.

Total for Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC.....			\$1,797,683	\$1,797,683
			\$1,547,683	\$1,547,683
Fund Sources: General.....	\$1,797,683	\$1,797,683		
	\$1,547,683	\$1,547,683		

§ 1-85. ONLINE VIRGINIA NETWORK AUTHORITY (244)

262. Educational and General Programs (10000).....			\$4,000,000	\$4,000,000
Higher Education Instruction (10001).....	\$4,000,000	\$4,000,000		
Fund Sources: General.....	\$4,000,000	\$4,000,000		

Authority: Title 23.1, Chapter 31, Article 9, Code of Virginia.

Out of this appropriation, \$4,000,000 the first year and \$4,000,000 the second year from the general fund is designated for the Online Virginia Network Authority (OVN). George Mason University, Old Dominion University, James Madison University, and the Virginia Community College System shall provide a five-year status report by November 1, 2020 on the success of the OVN in (1) serving adult learners, nontraditional students, and other students seeking access to an online degree program; (2) reducing costs relative to a traditional degree; (3) reducing the unit cost of providing online education; (4) using tuition revenue from online students to support the cost of the initiative; (5) partnering with those currently providing online courses; and (6) utilizing only existing financial aid programs. The OVN shall provide an annual progress report to the Governor and the Chairs of the House Appropriations and the Senate Finance and Appropriations Committees by November 1 of each year.

262.10 Omitted.

Total for Online Virginia Network Authority.....			\$4,000,000	\$4,000,000
Fund Sources: General.....	\$4,000,000	\$4,000,000		

§ 1-86. IN-STATE UNDERGRADUATE TUITION MODERATION (980)

ITEM 262.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
262.50	In-State Undergraduate Tuition Moderation and Six-Year Plan Funding Pool (11400).....		\$54,750,000	\$25,000,000
	In-State Undergraduate Tuition Moderation (11401)...	\$54,750,000	\$25,000,000	
	Fund Sources: General.....	\$54,750,000	\$25,000,000	

Authority: Discretionary Inclusion

A.1: Out of this appropriation, \$54,750,000 the first year from the general fund is designated for In-State Undergraduate Affordability and Six-Year Plan Funding Pool: Allocations to public colleges and universities from this item are as follows:

Institution	FY 2021 Allocation
Christopher Newport University	\$2,750,000
College of William and Mary	900,000
George Mason University	4,600,000
James Madison University	7,000,000
Longwood University	2,100,000
University of Mary Washington	3,200,000
Norfolk State University	1,000,000
Old Dominion University	3,200,000
Radford University	2,100,000
University of Virginia	3,700,000
University of Virginia's College at Wise	800,000
Virginia Commonwealth University	12,700,000
Virginia Military Institute	400,000
Virginia Polytechnic Institute & State University	2,700,000
Virginia State University	1,200,000
Richard Bland College	500,000
Virginia Community College System	5,900,000
Total	\$54,750,000

2: Allocations listed in paragraph A.1: of this item shall be granted to public colleges and universities in fiscal year 2021 so long as they maintain for fiscal year 2021 all tuition and mandatory Educational and General (E & G) fee charges to include tuition differentials for in-state undergraduate students to fiscal year 2020 levels:

3: The State Council of Higher Education for Virginia (SCHEV) shall certify whether each public college and university has met the tuition freeze requirements of this fund: SCHEV shall report its findings to the Governor; the Chairs of the House Appropriations and Senate Finance and Appropriations Committees; and the Director of the Department of Planning and Budget by July 1, 2020:

4: Upon certification by SCHEV that the requirements in paragraph A.2: have been met; the Director; Department of Planning and Budget; shall transfer the amounts listed above to each of the certified institutions:

5: If an institution elects to increase tuition and mandatory E & G fees for in-state undergraduate students in fiscal year 2021 above the fiscal year 2020 levels; the institution shall not be eligible for an allocation from the pool:

6: The Rector; Board of Visitors of institutions choosing to forego allocations from this item and electing to increase tuition and mandatory E & G fees for in-state undergraduate students in fiscal year 2021 shall communicate the Board Resolution certifying that decision to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by August 1, 2020:

7: All unallocated funds shall be transferred to Item 275; the Revenue Cash Reserve by September 1, 2020:

ITEM 262.50.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

B: Out of this appropriation, \$25,000,000 the second year from the general fund is designated for the continuation cost of the In-State Undergraduate Affordability and Six-Year Plan Funding Pool in Paragraph A-1. Individual institution allocations will be dependent on institutional actions in accordance with Paragraph A of this item; any required adjustments for one-time compensation actions authorized in Item 477; and relative to the total funds available.

C: No other tuition moderation actions shall be funded for fiscal year 2022:

262.60 Omitted.

Total for In-State Undergraduate Tuition Moderation.....			\$54,750,000	\$25,000,000
			\$0	\$0
Fund Sources: General.....	\$54,750,000	\$25,000,000		
	\$0	\$0		

§ 1-87. MAINTAIN AFFORDABLE ACCESS (984)

262.80 Educational and General Programs (10000).....			\$60,000,000	\$0
				\$113,500,000
Higher Education Instruction (10001).....	\$60,000,000	\$0		
		\$113,500,000		
Fund Sources: General.....	\$60,000,000	\$0		
		\$113,500,000		

Authority: Discretionary Inclusion

A. Out of this appropriation, \$60,000,000 the first year from the general fund is designated to maintain affordable access to public colleges and universities. Allocations from this item are as follows: Out of this appropriation, \$60,000,000 the first year and \$73,500,00 the second year from the general fund is designated to maintain affordable access to public colleges and universities. Institutions may use these funds for operational support, to enhance financial aid, or to address the impacts of the COVID-19 pandemic. For purposes of base budget development, these appropriated funds shall be transferred to the individual institution. Allocations from this item are as follows:

Institution	FY 2021 Allocation
Christopher Newport University	\$2,400,000
College of William and Mary	3,500,000
James Madison University	5,700,000
Longwood University	1,500,000
University of Mary Washington	3,300,000
Norfolk State University	2,000,000
Radford University	4,900,000
University of Virginia	3,000,000
University of Virginia's College at Wise	1,000,000
Virginia Commonwealth University	10,000,000
Virginia Military Institute	1,000,000
Virginia Polytechnic Institute & State University	4,000,000
Virginia State University	1,700,000
Richard Bland College	1,000,000
Virginia Community College System	15,000,000
Total	\$60,000,000

B: Institutions may use these funds to support operations; enhance financial aid; or for other purposes to address the impact of the COVID-19 pandemic:

Institution	FY 2021 Allocation	FY 2022 Allocation
Christopher Newport University	\$2,400,000	\$2,400,000

ITEM 262.80.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>College of William and Mary</i>	3,500,000			3,500,000
<i>George Mason University</i>		0		9,000,000
<i>James Madison University</i>	5,700,000			5,700,000
<i>Longwood University</i>	1,500,000			1,500,000
<i>University of Mary Washington</i>	3,300,000			3,300,000
<i>Norfolk State University</i>	2,000,000			2,000,000
<i>Old Dominion University</i>		0		4,500,000
<i>Radford University</i>	4,900,000			4,900,000
<i>University of Virginia</i>	3,000,000			3,000,000
<i>University of Virginia's College at Wise</i>	1,000,000			1,000,000
<i>Virginia Commonwealth University</i>	10,000,000			10,000,000
<i>Virginia Military Institute</i>	1,000,000			1,000,000
<i>Virginia Polytechnic Institute & State University</i>	4,000,000			4,000,000
<i>Virginia State University</i>	1,700,000			1,700,000
<i>Richard Bland College</i>	1,000,000			1,000,000
<i>Virginia Community College System</i>	15,000,000			15,000,000
Total	\$60,000,000			\$73,500,000

B. Out of the allocation for the Virginia Community College System, \$2,500,000 the second year from the general fund is designated for additional advisors.

C. Out of the appropriation contained in Item 299 P. of this act from federal funding provided under the Consolidated Appropriations Act, 2021 (P.L. 116-260), \$34,524,000 the first year is allocated for the costs of conducting COVID-19 tests at Virginia's public colleges and universities. Any unexpended balances shall be carried over to the second year of the biennium. Allocations for this item are as follows:

Institution	FY 2021 Allocation
<i>Christopher Newport University</i>	\$450,000
<i>College of William and Mary</i>	792,000
<i>George Mason University</i>	3,438,000
<i>James Madison University</i>	1,962,000
<i>Longwood University</i>	396,000
<i>University of Mary Washington</i>	396,000
<i>Norfolk State University</i>	504,000
<i>Old Dominion University</i>	2,124,000
<i>Radford University</i>	1,062,000
<i>University of Virginia</i>	2,250,000
<i>University of Virginia's College at Wise</i>	180,000
<i>Virginia Commonwealth University</i>	2,718,000
<i>Virginia Military Institute</i>	144,000
<i>Virginia Polytechnic Institute & State University</i>	3,276,000
<i>Virginia State University</i>	396,000
<i>Richard Bland College</i>	216,000
<i>Virginia Community College System</i>	14,220,000
Total	\$34,524,000

D. Out of this appropriation, \$40,000,000 the second year from the general fund is provided to Virginia's public colleges and universities to enable institutions to address affordability issues in fiscal year 2022 due to unavoidable cost increases and required spending. Allocations from this item are as follows:

Institution	FY 2022 Allocation
<i>Christopher Newport University</i>	\$895,600

ITEM 262.80.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>College of William and Mary</i>				1,376,500
<i>George Mason University</i>				4,061,900
<i>James Madison University</i>				2,511,700
<i>Longwood University</i>				675,300
<i>University of Mary Washington</i>				739,200
<i>Norfolk State University</i>				843,500
<i>Old Dominion University</i>				2,807,600
<i>Radford University</i>				1,330,500
<i>University of Virginia</i>				3,501,500
<i>University of Virginia's College at Wise</i>				316,700
<i>Virginia Commonwealth University</i>				4,860,500
<i>Virginia Military Institute</i>				242,600
<i>Virginia Polytechnic Institute & State University</i>				4,918,300
<i>Virginia State University</i>				653,100
<i>Richard Bland College</i>				167,300
<i>Virginia Community College System</i>				10,098,200
Total				\$40,000,000

E. To address student affordability, \$22,000,000 in Governor's Education Emergency Relief funds from the Coronavirus Response and Relief Supplemental Appropriations Act, (P.L. 116-260) shall be allocated to public institutions of higher education for one-time need-based undergraduate financial aid in the second year.

F. To provide additional operational relief to institutions of higher education, the following reporting and procurement policies shall be modified accordingly:

1. Pursuant to § 4-2.01.b.11 of this act, for future reporting on fiscal year 2023 and beyond, required reporting requirements on intercollegiate athletic revenues and expenses, specifically related to the share of athletic revenues from school funds and student fees, as set out in § 23.1-1309, Code of Virginia, fiscal years 2020, 2021, and 2022 shall be excluded from the calculated five-year rolling average of the change in generated revenue and student fees also outlined in § 23.1-1309, Code of Virginia.

2. Consistent with the 2019 updates to the Virginia Public Procurement Act, institutions of higher education that have entered into memoranda of understanding or management agreements with the state are permitted to conform their Request for Proposal advertising rules to that of § 2.2-4302.2.A.2.

Total for Maintain Affordable Access.....			\$60,000,000	\$0
				\$113,500,000
Fund Sources: General.....	\$60,000,000	\$0		
		\$113,500,000		

§ 1-88. VIRGINIA COLLEGE BUILDING AUTHORITY (941)

263. Authority: Chapter 597, Acts of Assembly of 1986.

A.1. The purpose of this Item is to provide an ongoing program for the acquisition and replacement of instructional and research equipment at state-supported institutions of higher education in accordance with the intent and purpose of Chapter 597, Acts of Assembly of 1986.

2. The Governor shall annually present to the General Assembly through the Commonwealth's budget process, the estimated payments and the corresponding total value of equipment to be acquired.

B.1. The State Council of Higher Education for Virginia shall establish and maintain procedures through which institutions of higher education apply for allocations made available under the program, and shall develop guidelines and recommendations for the apportionment of such equipment to each state-supported institution of higher education.

ITEM 263.	Item Details(\$)		Appropriations(\$)		
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022	
<p>2. The Authority shall finance equipment for educational institutions in accordance with § 23.1-1207, Code of Virginia, and according to terms and conditions approved through the Commonwealth's budget and appropriation process. Bonds or notes issued by the Virginia College Building Authority to finance equipment may be sold and issued at the same time with other obligations of the Authority as separate issues or as a combined issue. Each institution shall make available such additional detail on specific equipment to be purchased as may be requested by the Governor or the General Assembly. If emergency acquisitions are necessary when the General Assembly is not in session, the Governor may approve such acquisitions. The Governor shall report his approval of such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees.</p>					
<p>3. Amounts for debt service payments for allocations provided by this Item shall be provided pursuant to Item 288 of this act.</p>					
<p>C.1. Transfer of the appropriation in Item 288 of this act to the Virginia College Building Authority shall be subject to the approval of the Secretary of Finance. An allocation of \$166,000,000 made in the 2018-2020 biennium brings the total amount of equipment acquired through the program to approximately \$1,642,789,454.</p>					
<p>2. Allocations of \$85,725,000 the first year and \$84,150,000 \$88,150,000 the second year will be made to support the purchase of additional equipment to enhance instructional and research activity at Virginia's public colleges and universities. Allocations are as follows:</p>					
Institution	Prior Allocations	FY 2021 Allocation	FY 2022 Allocation	FY 2021 Research Allocation	FY 2022 Research Allocation
George Mason University	\$101,484,031	\$3,947,024	\$3,947,024	\$474,407	\$474,407
Old Dominion University	\$109,635,133	\$5,016,192	\$5,016,192	\$329,078	\$329,078
University of Virginia	\$292,378,958	\$10,458,476	\$10,458,476	\$5,189,341	\$5,189,341
Virginia Commonwealth University	\$198,582,821	\$6,853,430	\$6,853,430	\$2,995,552	\$2,995,552
Virginia Polytechnic Institute and State University	\$304,907,014	\$10,331,639	\$10,331,639	5,240,458	\$5,240,458
College of William and Mary	\$55,485,724	\$2,300,493	\$2,300,493	\$595,857	\$595,857
Christopher Newport University	\$16,387,285	\$754,464	\$754,464	\$0	\$0
University of Virginia's College at Wise	\$6,644,133	\$250,681	\$250,681	\$0	\$0
James Madison University	\$52,350,203	\$2,309,646	\$2,309,646	\$0	\$0
Longwood University	\$16,373,835	\$743,433	\$743,433	\$0	\$0
University of Mary Washington	\$17,970,414	\$655,746	\$655,746	\$0	\$0
Norfolk State University	\$43,633,007	\$3,450,108	\$2,350,108	\$0	\$0
Radford University	\$37,578,654	1,744,993	\$1,744,993	\$0	\$0
Virginia Military Institute	\$19,026,682	\$886,084	\$886,084	\$0	\$0
Virginia State University	\$28,830,887	\$1,342,189	\$1,342,189	\$0	\$0

ITEM 263.	Item Details(\$)			Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Richard Bland College	\$3,936,560	\$160,149	\$160,149	\$0	\$0
Virginia Community College System	\$314,013,213	\$18,071,542	\$17,596,542	\$0	\$0
Virginia Institute of Marine Science	\$10,184,330	\$362,100	\$362,100	\$175,307	\$175,307
Virginia Cooperative Extension and Agricultural Experiment Station	\$0	\$0	\$4,000,000	\$0	\$0
Southwest Virginia Higher Education Center	\$1,623,607	\$80,111	\$80,111	\$0	\$0
Roanoke Higher Education Authority	\$1,304,839	\$77,623	\$77,623	\$0	\$0
Institute for Advanced Learning and Research	\$6,565,000	\$274,172	\$274,172	\$0	\$0
Southern Virginia Higher Education Center	\$816,156	\$95,790	\$95,790	\$0	\$0
New College Institute	\$479,222	\$34,486	\$34,486	\$0	\$0
Eastern Virginia Medical School	\$2,597,716	\$524,429	\$524,429	\$0	\$0
TOTAL	\$1,642,789,454	\$70,725,000	\$69,150,000 \$73,150,000	\$15,000,000	\$15,000,000

D.1. Out of the allocations for the Virginia Community College System, \$5,000,000 the first year and \$5,000,000 the second year is designated to support the equipment needs of Workforce Development activities, including those related to the New Economy Industry Credential Assistance Training Grant Program.

2. Out of the allocations for the Virginia Community College System, \$475,000 the first year is designated to support healthcare and medical programs at Lord Fairfax Community College.

E. Out of the allocations for Norfolk State University, \$2,250,000 the first year and "\$1,150,000" the second year is designated for information technology upgrades.

F. Out of the allocations for the Virginia Cooperative Extension and Agricultural Experiment Station, \$1,550,000 the second year is designated for information technology upgrades and \$2,450,000 the second year is designated for equipment for the Agricultural Research and Extension Centers (ARECS).

Total for Virginia College Building Authority.....				\$0	\$0
TOTAL FOR OFFICE OF EDUCATION.....				\$21,672,033,633 \$21,464,734,893	\$21,995,282,888 \$22,423,411,617
General Fund Positions.....		18,874.60 18,875.60	18,877.10 18,940.17		
Nongeneral Fund Positions.....		42,279.01	42,544.01 42,551.84		
Position Level.....		61,153.61 61,154.61	61,421.11 61,492.01		
Fund Sources: General.....		\$9,570,504,818 \$9,341,159,593	\$9,765,500,341 \$9,965,403,151		

ITEM 263.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Special.....	\$42,442,364	\$42,442,364		
	\$42,567,364	\$47,567,364		
Higher Education Operating.....	\$9,608,949,753	\$9,742,499,715		
	\$9,640,827,846	\$9,795,875,304		
Commonwealth Transportation.....	\$2,379,612	\$1,749,612		
Enterprise.....	\$7,479,910	\$7,479,910		
Trust and Agency.....	\$820,829,075	\$749,974,348		
	\$871,100,801	\$775,991,854		
Debt Service.....	\$358,087,772	\$358,087,772		
Dedicated Special Revenue.....	\$113,967,237	\$18,739,507		
	\$54,739,507	\$58,739,507		
Federal Trust.....	\$1,147,393,092	\$1,308,809,319		
	\$1,146,392,488	\$1,412,517,143		

ITEM 264.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

OFFICE OF FINANCE

§ 1-89. SECRETARY OF FINANCE (190)

264.	Administrative and Support Services (79900).....			\$685,384	\$685,384
	General Management and Direction (79901).....	\$685,384	\$685,384		
	Fund Sources: General.....	\$685,384	\$685,384		

Authority: Title 2.2, Chapter 2, Article 5; § 2.2-201, Code of Virginia.

A. The Secretary of Finance, in consultation with other affected secretaries, is hereby authorized to order the State Comptroller to transfer to the general fund a reasonable sum, as determined by the State Comptroller, from annual charges of internal service funds and enterprise funds that exceed the cost of providing services or that represent over-recoveries from the general fund.

B. The Secretaries of Finance and Administration shall convene a workgroup to study collective bargaining for state public sectors employees. The workgroup shall consist of subject matter experts from legal, human resource, labor, and higher education entities. The workgroup shall research policies and public costs in other states and evaluate the implementation of collective bargaining policies for state public sector employees in Virginia. The workgroup shall submit a report on its findings and recommendations to the Governor, Chairs of House Committee on Appropriations and Committee of Labor and Commerce and the Chairs of the Senate Committee on Commerce and Labor and Committee on Finance and Appropriations by November 1, 2021.

C. The Secretary of Finance, in his role as chair of the Debt Capacity Advisory Committee (DCAC), shall convene a workgroup of relevant stakeholders to examine the process, procedures, and other requirements necessary for the various agencies, institutions, and authorities of the Commonwealth, for which the authority to issue state tax-supported debt has been vested, to report to the DCAC prior to the issuance of any such state tax-supported debt. As a part of this evaluation of the Commonwealth's debt policies, the DCAC shall also examine whether a separate capacity model should be developed for transportation outside of the overall state tax-supported debt model. A report detailing the workgroup's recommendations shall be delivered to the members of the DCAC, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, ~~2020~~2021.

	Total for Secretary of Finance.....			\$685,384	\$685,384
	General Fund Positions.....	4.00	4.00		
	Position Level.....	4.00	4.00		
	Fund Sources: General.....	\$685,384	\$685,384		

§ 1-90. DEPARTMENT OF ACCOUNTS (151)

265.	Financial Systems Development and Management (72400).....			\$3,664,091	\$3,499,091
	Financial Systems Development (72401).....	\$833,000	\$833,000		
	Financial Systems Maintenance (72402).....	\$930,044	\$765,044		
	Computer Services (72404).....	\$1,901,047	\$1,901,047		
	Fund Sources: General.....	\$3,664,091	\$3,499,091		
	Authority: Title 2.2, Chapter 8, Code of Virginia.				
266.	Accounting Services (73700).....			\$9,382,098	\$9,382,098
	General Accounting (73701).....	\$4,210,140	\$4,210,140		
	Disbursements Review (73702).....	\$1,077,382	\$1,077,382		
	Payroll Operations (73703).....	\$1,304,205	\$1,304,205		
	Financial Reporting (73704).....	\$2,790,371	\$2,790,371		

ITEM 266.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$8,386,409	\$8,386,409		
Special.....	\$995,689	\$995,689		
<p>Authority: Title 2.2, Chapter 8, and § 2.2-1822, Code of Virginia.</p> <p>A.1. There is hereby created on the books of the State Comptroller the Commonwealth Charge Card Rebate Fund. Rebates earned in any fiscal year on the Commonwealth's statewide charge card program shall be deposited to the Commonwealth Charge Card Rebate Fund. The cost of administration of the program as well as rebates due to political subdivisions and payments due to the federal government are hereby appropriated from the fund. All remaining rebate revenue in the fund shall be deposited to the general fund by June 30 of each year.</p> <p>2. The Department of Accounts is authorized to include the administrative costs estimated at \$80,000 per year for executing entries in the Commonwealth's accounting system for Level III institutions as defined in Chapter 675, 2009 Acts of Assembly, in the program costs appropriated from the fund.</p> <p>B. Notwithstanding the provisions of §§ 17.1-286 and 58.1-3176, Code of Virginia, the State Comptroller shall not make payments to the Circuit Court clerks on amounts directly deposited into the State Treasury by General District Courts, Juvenile and Domestic Relations General District Courts, Combined District Courts, and the Magistrates System. The State Comptroller shall continue to make payments, in accordance with §§ 17.1-286 and 58.1-3176, Code of Virginia, to the respective clerks on those amounts directly deposited into the state treasury by the Circuit Courts.</p> <p>C.1. There is hereby created in the state treasury a special nonreverting fund that shall be known as the Federal Repayment Reserve Fund. The Fund shall be established on the books of the Comptroller and shall consist of such moneys as the State Comptroller determines will be required to repay the federal government its share of any rebates, Internal Service Fund profits, transfers to the general fund or amounts arising from other sources. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Comptroller shall hold all moneys in this Fund until such payment is required by the federal government.</p> <p>2. Effective upon creation of Federal Repayment Reserve Fund, any agency with cash balances held in reserve for the anticipated federal repayment shall transfer the estimated amount determined by the State Comptroller prior to June 30. On an ongoing basis, agencies shall coordinate with the State Comptroller to identify amounts due to be returned to the federal government. The State Comptroller shall transfer those amounts to the Fund on or before June 30 of each year.</p> <p>D. The Department of Accounts is authorized to charge employees a mandatory fee of up to 15 cents for each payroll deduction administered under the Supplemental Insurance and Annuities program. Reimbursement by the employing agency is prohibited.</p> <p><i>E.1. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund.</i></p> <p><i>2. The provisions contained in this paragraph shall be in effect until July 1, 2021, at which time any balances remaining in this Fund shall transfer to the Opioid Abatement Fund created pursuant to House Bill 2322 and Senate Bill 1469 of the 2021 General Assembly, and subject to the provisions thereof.</i></p>				
267. Service Center Administration (82600).....			\$2,969,987	\$3,057,788
Payroll Service Bureau (82601).....	\$2,969,987	\$3,057,788		

ITEM 267.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Internal Service.....	\$2,969,987	\$3,057,788		

Authority: Title 2.2, Chapter 8, Code of Virginia.

A. The appropriation for the Payroll Service Bureau is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.

B.1. The Department of Accounts shall operate the payroll service center to support the salaried and wage employees of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in transferring such records and functions as may be required. The payroll service center shall provide services to employees to include, but not be limited to, payroll, benefit enrollment and leave accounting. The Department of Accounts shall be responsible for all accounting reconciliations for these services; however, each employing agency shall remain fully responsible for certifying the accuracy of each payroll paid to its employees. This certification shall be in such form as the Comptroller directs.

2.a. The Department of Accounts shall recover the cost of services provided by the payroll service center through interagency transactions as determined by the State Comptroller.

b. The Department of Accounts is authorized to charge the following rates to agencies participating in the payroll service center based on the type and number of W-2 forms processed and how each customer agency reports employee leave to the department. Prior to the implementation of Cardinal Human Capital Management (HCM), the new Payroll Service Bureau Cardinal HCM rate category shall be assigned by the Comptroller to the category that most closely coincides with the prior rate.

Criteria	FY 2021	FY 2022
Wage employees with automatic leave processing	\$105.33	\$107.29
Wage employees with manual leave processing	\$127.90	\$130.29
Salaried employees with automatic leave processing	\$112.86	\$114.95
Salaried employees with manual leave processing	\$150.48	\$153.27

C.1. The Department of Accounts shall operate a fiscal service center to support the operations of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in transferring such records and functions as may be required. The service center shall provide services to agencies to include accounts payable processing, travel voucher processing, related reconciliations, and such other fiscal services as may be appropriate.

2. The Department of Accounts shall recover the cost of services provided by the fiscal service center through interagency transactions as determined by the State Comptroller.

3. The Department of Accounts is authorized to charge fees of up to twenty percent of revenues generated pursuant to non-tax debt collection initiatives to pay the administrative costs of supporting such initiatives. These fees are over and above any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.

D. Nothing in this section shall prohibit additional agencies from using the services of the centers; however, such additions shall be subject to approval by the affected cabinet secretary and the Secretary of Finance.

268. Information Systems Management and Direction (71100).....			\$25,818,318	\$35,462,674
Financial Oversight for Performance Budgeting System (71107).....	\$2,724,495	\$2,795,717		
Financial Oversight for Cardinal System (71108).....	\$23,093,823	\$32,666,957		

ITEM 268.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Internal Service.....	\$25,818,318	\$35,462,674		

Authority: Title 2.2 Chapter 8, Code of Virginia

A. The appropriation for Financial Oversight for Performance Budgeting System and Financial Oversight for Cardinal System is sum sufficient and amounts shown are estimates from internal service funds for the Commonwealth's enterprise applications which shall be paid solely from revenues derived from charges for services. All users of the Commonwealth's enterprise applications shall be assessed a surcharge based on licenses, transactions, or other meaningful methodology as determined by the Secretary of Finance and the owner of the enterprise application, which shall be deposited in the fund. Additionally, the State Comptroller shall recover the cost of services provided for the administration of the fund through interagency transactions as determined by the State Comptroller.

1. Out of this appropriation, the Performance Budgeting System is appropriated \$2,724,495 the first year and \$2,795,717 the second year from internal service fund revenues.

2. Out of this appropriation, the Cardinal Financial System is appropriated \$23,093,823 the first year and \$20,902,457 the second year from internal service fund revenues.

3. Out of this appropriation, the Cardinal Human Capital Management (HCM) system is appropriated \$11,764,500 the second year from internal service fund revenues. The second year amount of \$11,764,500 represents nine months of operating costs incurred after the full transition to the new Cardinal HCM system during the second year. The operating costs incurred during the transition are funded through the Working Capital Advance included in paragraph B.1. of this Item.

4. The State Comptroller shall submit revised projections of revenues and expenditures for the internal service funds for the Commonwealth's enterprise applications and estimates of any anticipated changes to fee schedules in accordance with § 4-5.03 of this act.

5. In the event that expenses of the enterprise applications become due before costs have been fully recovered in the department's internal service fund, a treasury loan shall be provided to the department to finance these costs. This treasury loan shall be repaid from the proceeds collected in the funds.

B.1.a. The Department of Accounts, in coordination with the Department of Human Resource Management shall replace the Commonwealth Integrated Payroll/Personnel System (CIPPS) and the Personnel Management Information System and the Benefits Eligibility System (PMIS & BES) with an integrated Human Capital Management (HCM) system. In order to maximize the efficiencies and benefits of the current Commonwealth Enterprise Resource Planning system, Cardinal, along with establishing a single source of personnel and payroll information and to achieve greater security of sensitive personally identifiable information, such system shall be based on the HCM modules within the Cardinal Enterprise Resource Planning application currently serving as the Commonwealth's financial system.

b. A working capital advance of up to \$142,734,000 shall be provided to the Department of Accounts to pay the costs of replacing CIPPS and PMIS & BES. This may include any costs necessary for the planning, development, configuration, and roll-out of the new HCM application, and any transitional post-production support operating costs prior to the full transition to the new system. These costs do not include costs necessary to ensure agencies are prepared for the implementation of the new application and the decommissioning of CIPPS and PMIS & BES, such as interfaces from agency based systems. An additional amount of up to \$10,000,000 may be provided to be directed toward any unforeseen costs associated with the roll-out of the statewide Cardinal HCM system.

c. The Department of Accounts and the Department of Human Resource Management shall recommend to the Governor a permanent system of governance over the new HCM application, which shall designate specifically which agencies have the responsibility for authority and control of the data in the new HCM application as well as responsibility for systems support and maintenance.

2. The Secretary of Finance and Secretary of Administration shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance

ITEM 268.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Committees of any approved drawdowns.				
3. Repayment of the working capital advance and ongoing systems operation, maintenance and support costs for the statewide Human Capital Management system shall be funded through an internal service fund for the enterprise application pursuant to paragraph A. of this Item.				
<i>C. In order to capitalize on the efficiencies and benefits of the successfully implemented Commonwealth Enterprise Resource Planning system, Cardinal, a Cardinal Governance Committee (CGC) shall be established to evaluate and recommend expansion options for the Cardinal Financials and Human Capital Management (HCM) applications. The CGC shall analyze expansion opportunities in both the financial and human resources arenas that will most benefit Commonwealth state agencies in meeting their agency missions and core objectives. Additionally, this evaluation will analyze opportunities that could possibly allow for the decommissioning of agency-based systems in favor of the Commonwealth's enterprise system to improve efficiency and cost effectiveness. Once these opportunities are evaluated and finalized, the CGC shall present recommendations to the Commonwealth's Secretary of Finance and Secretary of Administration for review by September 30, 2021. Upon their approval of any such recommendations, the Cardinal Program will have the authority to proceed with these projects, subject to available funding.</i>				
269.	Administrative and Support Services (79900).....		\$1,521,866	\$1,521,866
	General Management and Direction (79901).....	\$1,521,866	\$1,521,866	
	Fund Sources: General.....	\$1,521,866	\$1,521,866	
Authority: Title 2.2, Chapter 8, Code of Virginia.				
As a condition of the appropriation in this Item, the department shall provide to the Chairmen of the House Appropriations and Senate Finance Committees the expenditure and revenue reports necessary for timely legislative oversight of state finances. The necessary reports include monthly and year-end versions and shall be provided in an interactive electronic format agreed upon by the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, and the Comptroller. Delivery of these reports shall occur by way of electronic mail or other methods to ensure their receipt within 48 hours of their initial run after the close of the business month.				
270.	In the event of default by a unit, as defined in § 15.2-2602, Code of Virginia, on payment of principal of or interest on any of its general obligation bonded indebtedness when due, the State Comptroller, in accordance with § 15.2-2659, Code of Virginia, is hereby authorized to make such payment to the bondholder, or paying agent for the bondholder, and to recover such payment and associated costs of publication and mailing from any funds appropriated and payable by the Commonwealth to the unit for any and all purposes.			
271.	In the event of default by any employer participating in the health insurance program authorized by § 2.2-1204, Code of Virginia, in the remittance of premiums or other fees and costs of the program, the State Comptroller is hereby authorized to pay such premiums and costs and to recover such payments from any funds appropriated and payable by the Commonwealth to the employer for any purpose. The State Comptroller shall make such payments upon receipt of notice from the Director, Department of Human Resource Management, that such payments are due and unpaid from the employer.			
272.	The State Comptroller shall make calculations of payments and transfers related to interest earned on federal funds, interest receivable on state funds advanced on behalf of federal programs, and direct cost reimbursements due from the federal government pursuant to Item 287 of this act.			
	Total for Department of Accounts.....		\$43,356,360	\$52,923,517
	General Fund Positions.....	115.00	115.00	
	Nongeneral Fund Positions.....	54.00	54.00	
	Position Level.....	169.00	169.00	

ITEM 272.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$13,572,366	\$13,407,366		
Special.....	\$995,689	\$995,689		
Internal Service.....	\$28,788,305	\$38,520,462		

Department of Accounts Transfer Payments (162)

273.	Financial Assistance to Localities - General (72800) a sum sufficient, estimated at.....			\$583,895,000	\$583,895,000
	Distribution of Rolling Stock Taxes (72806).....	\$6,530,000	\$6,530,000		
	Distribution of Recordation Taxes (72808).....	\$20,000,000	\$20,000,000		
	Financial Assistance to Localities - Rental Vehicle Tax (72810).....	\$50,000,000	\$50,000,000		
	Distribution of Sales Tax Revenues from Certain Public Facilities (72811).....	\$1,040,000	\$1,040,000		
	Distribution of Tennessee Valley Authority Payments in Lieu of Taxes (72812).....	\$1,200,000	\$1,200,000		
	Distribution of the Virginia Communications Sales and Use Tax (72816).....	\$440,000,000	\$440,000,000		
	Distribution of Payments to Localities for Enhanced Emergency Communications Services (72817).....	\$37,000,000	\$37,000,000		
	Distribution of Sales Tax Revenues from Certain Tourism Projects (72819).....	\$125,000	\$125,000		
	Distribution of Historic Triangle Sales Tax Collections (72820).....	\$28,000,000	\$28,000,000		
	Fund Sources: General.....	\$28,895,000	\$28,895,000		
	Trust and Agency.....	\$50,000,000	\$50,000,000		
	Dedicated Special Revenue.....	\$505,000,000	\$505,000,000		

Authority: §§ 15.2-5914, 58.1-608.3, 58.1-662, 58.1-816, 58.1-1736, 58.1-1741, 58.1-2658.1, and 58.1-3406, Code of Virginia.

A.1. In order to carry out the provisions of § 58.1-645 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$440,000,000 in the first year and \$440,000,000 in the second year equal to the revenues collected pursuant to § 58.1-645 et seq., Code of Virginia, from the Virginia Communications Sales and Use Tax. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia, and Item 284 of this act. For the purposes of the State Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the fund shall be accounted for as part of the general fund of the state treasury.

2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and to the Department of Taxation for the costs of administering the Virginia Communications Sales and Use Tax Fund.

B. In order to carry out the provisions of § 58.1-1734 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$50,000,000 in the first year and \$50,000,000 in the second year equal to the revenues collected pursuant to A. 2. of § 58.1-1736 Code of Virginia, from the Virginia Motor Vehicle Rental Tax.

C. In order to carry out the provisions of § 56-484:17 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$37,000,000 in the first year and \$37,000,000 in the second year equal to the revenues collected pursuant to § 56-484.17:1, Code of Virginia, from the Virginia Wireless Tax.

D. In order to carry out the provisions of Chapter 850, 2018 Acts of Assembly, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$28,000,000 the first year and \$28,000,000 the second year equal to the revenues collected pursuant to § 58.1-603.2, Code of Virginia, from the additional state sales and use tax in the Historic Triangle.

ITEM 273.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
E.1. Out of this appropriation, amounts estimated at \$20,000,000 the first year and \$20,000,000 the second year from the general fund shall be deposited into the Hampton Roads Regional Transit Fund, as provided in § 33.2-2600.1, Code of Virginia, from revenues collected pursuant to § 58.1-816 B., Code of Virginia.				
2. Notwithstanding the provisions of § 58.1-816, Code of Virginia, the appropriation in this Item for the distribution of recordation taxes is not subject to the sum sufficient provisions of this Item.				

274.	Revenue Stabilization Fund (73500).....		\$77,409,780	\$0
	Payments to the Revenue Stabilization Fund (73501).....	\$77,409,780	\$0	
	Fund Sources: General.....	\$77,409,780	\$0	

Authority: Title 2.2, Chapter 18, Article 4, Code of Virginia.

A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The auditor shall, at the same time, provide his report on the 15 percent limitation and the amount that could be paid into the fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.

B. Out of this appropriation, \$77,409,780 the first year from the general fund attributable to actual tax collections for fiscal year 2019 shall be paid by the State Comptroller on or before June 30, 2021, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2019. This appropriation meets the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

275.	Revenue Cash Reserve (23700).....		\$89,027,631	\$300,000,000
			\$339,027,631	\$650,000,000
	Appropriated Revenue Reserve (23701).....	\$89,027,631	\$300,000,000	
		\$339,027,631	\$650,000,000	
	Fund Sources: General.....	\$89,027,631	\$300,000,000	
		\$339,027,631	\$650,000,000	

Authority: Title 2.2, Chapter 18, Article 4.1, Code of Virginia.

Notwithstanding any contrary provision of law, there is hereby appropriated in this item ~~\$89,027,631~~ \$339,027,631 from the general fund the first year and ~~\$300,000,000~~ \$650,000,000 from the general fund the second year to the Revenue Reserve established pursuant to § 2.2-1831.2, Code of Virginia, to mitigate any potential revenue or transfer shortfalls that may arise during the biennium. Notwithstanding any contrary provision of law, these amounts may be transferred to the Revenue Stabilization Fund to meet any Constitutionally-mandated deposit required based on revenue growth in either year of the fiscal year during the 2020-2022 biennium.

276.	Virginia Education Loan Authority Reserve Fund (73600).....		\$194,778	\$194,778
	Loan Servicing Reserve Fund (73601).....	\$94,778	\$94,778	
	Edvantage Reserve Fund (73602).....	\$100,000	\$100,000	
	Fund Sources: Trust and Agency.....	\$194,778	\$194,778	

Authority: Chapter 384, Acts of Assembly of 1995; Chapter 39, Acts of Assembly of 1998.

A. The General Assembly hereby recognizes and reaffirms the provisions of such Declarations as may have been adopted by the Virginia Education Loan Authority pursuant to Chapter 384, 1995 Acts of Assembly, and dated June 30, 1996. There is hereby appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$94,778, to be paid out by the State Comptroller consistent with the provisions of the Declarations. There is hereby

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<p>appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$100,000, to be paid out by the State Comptroller for the purpose of determining the validity and amount of any claims against the Fund. The State Comptroller is authorized to take such actions as may be necessary to effect the provisions of this paragraph.</p> <p>B. Funds in the Edvantage Reserve Fund are hereby appropriated for disbursement by the State Comptroller, as provided for by law. All interest earned by the Edvantage Reserve Fund shall remain with the fund.</p>				
277.	Personnel Management Services (70400).....		\$31,049,441 \$131,049,441	\$31,359,934
	<i>Administration of Retirement and Insurance Programs (70415).....</i>	\$100,000,000	\$0	
	Employee Flexible Benefits Services (70420).....	\$31,049,441	\$31,359,934	
	Fund Sources: <i>General</i>	\$100,000,000	\$0	
	Trust and Agency.....	\$31,049,441	\$31,359,934	

Authority: Title 2.2, Chapter 8, Code of Virginia.

1. On or before June 30, 2021, the State Comptroller shall deposit \$100,000,000 from the general fund into the Virginia Retirement System trust fund.

2. From these funds, the Virginia Retirement System shall allocate an amount estimated at \$61,300,000 to the public school teacher plan, representing the expedited repayment to the Retirement System for the contributions that were deferred during the 2010-2012 biennium.

3. Any remaining balance, estimated at \$38,700,000, shall be allocated to the health insurance credit plan for state employees to address the unfunded liability associated with that plan.

278.	Financial Assistance for Health Research (40700).....		\$1,936,111	\$1,846,112
	Health Research Grant Administration Services (40701).....	\$1,936,111	\$1,846,112	
	Fund Sources: Dedicated Special Revenue.....	\$1,936,111	\$1,846,112	

Authority: Title 2.2, Chapter 8, Code of Virginia.

The Department of Accounts is authorized to disburse, as fiscal agent for the Commonwealth Health Research Board, funds received from the Virginia Retirement System pursuant to § 32.1-162.28, Code of Virginia.

279.	Personal Property Tax Relief Program (74600).....		\$950,000,000	\$950,000,000
	Reimbursements to Localities for Personal Property Tax Relief (74601).....	\$950,000,000	\$950,000,000	
	Fund Sources: General.....	\$950,000,000	\$950,000,000	

Authority: Discretionary Inclusion.

A.1. Out of this appropriation, \$950,000,000 the first year and \$950,000,000 the second year from the general fund is provided to be used to implement a program which provides equitable tax relief from the personal property tax on vehicles.

2. The amounts appropriated in this Item provide for a local reimbursement level of 70 percent in tax years 2004 and 2005. The local reimbursement level for tax year 2006 is set at \$950,000,000 pursuant Chapter 1, 2004 Acts of Assembly, Special Session I. Payments to localities with calendar year 2006 car tax payment due dates prior to July 1, 2006, shall not be reimbursed until after July 1, 2006, except as otherwise provided in paragraph D of this Item.

B. Notwithstanding the provisions of subsection B of § 58.1-3524, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, the determination of each county's, city's and town's share of the total funds available for reimbursement for personal property tax relief pursuant to that subsection shall be pro rata based upon the actual payments to such county, city or town pursuant to Title 58.1, Chapter 35.1, Code of Virginia, for tax

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year 2004 as compared to the actual payments to all counties, cities and towns pursuant to that chapter for tax year 2004, made with respect to reimbursement requests submitted on or before December 31, 2005, as certified in writing by the Auditor of Public Accounts not later than March 1, 2006. Notwithstanding the provisions of the second enactment of Chapter 1, 2004 Acts of Assembly, Special Session I, this paragraph shall become effective upon the effective date of this act.

C. The requirements of subsection C 2 of § 58.1-3524 and subsection E of § 58.1-3912, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, with respect to the establishment of tax rates for qualifying vehicles and the format of tax bills shall be deemed to have been satisfied if the locality provides by ordinance or resolution, or as part of its annual budget adopted pursuant to Title 15.2, Chapter 25, Code of Virginia, or the provisions of a local government charter or Title 15.2, Chapter 4, 5, 6, 7 or 8, Code of Virginia, if applicable, specific criteria for the allocation of the Commonwealth's payments to such locality for tangible personal property tax relief among the owners of qualifying vehicles, and such locality's tax bills provide a general description of the criteria upon which relief has been allocated and set out, for each qualifying vehicle that is the subject of such bill, the specific dollar amount of relief so allocated.

D. The Secretary of Finance may authorize advance payment, from funds appropriated in this Item, of sums otherwise due a town on and after July 1, 2006, for personal property tax relief under the provisions of Chapter 1, 2004 Acts of Assembly, Special Session I, if the Secretary finds that such town (1) had a due date for tangible personal property taxes on qualified vehicles for tax year 2006 falling between January 1 and June 30, 2006, (2) had a due date for tangible personal property taxes on qualified vehicles for tax year 2004 falling between January 1 and June 30, 2004, (3) received reimbursements pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, between January 1 and June 30, 2004, (4) utilizes the cash method of accounting, and (5) would suffer fiscal hardship in the absence of such advance payment.

E. It is the intention of the General Assembly that reimbursements to counties, cities and towns that had a billing date for tax year 2004 tangible personal property taxes with respect to qualifying vehicles falling between January 1 and June 30, 2004, and received personal property tax relief reimbursement with respect to tax year 2004 from the Commonwealth between January 1 and June 30, 2004, pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, as it existed prior to the amendments effected by Chapter 1, 2004 Acts of Assembly, Special Session I, be made by the Commonwealth with respect to sums attributable to such spring billing dates not later than August 15 of each fiscal year.

279.10 Omitted.

Total for Department of Accounts Transfer Payments.....			\$1,733,512,741	\$1,867,295,824
			\$2,083,512,741	\$2,217,295,824
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	1.00	1.00		
Fund Sources: General.....	\$1,145,332,411	\$1,278,895,000		
	\$1,495,332,411	\$1,628,895,000		
Trust and Agency.....	\$81,244,219	\$81,554,712		
Dedicated Special Revenue.....	\$506,936,111	\$506,846,112		
Grand Total for Department of Accounts.....			\$1,776,869,101	\$1,920,219,341
			\$2,126,869,101	\$2,270,219,341
General Fund Positions.....	115.00	115.00		
Nongeneral Fund Positions.....	55.00	55.00		
Position Level.....	170.00	170.00		
Fund Sources: General.....	\$1,158,904,777	\$1,292,302,366		
	\$1,508,904,777	\$1,642,302,366		
Special.....	\$995,689	\$995,689		

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Internal Service.....	\$28,788,305	\$38,520,462		
Trust and Agency.....	\$81,244,219	\$81,554,712		
Dedicated Special Revenue.....	\$506,936,111	\$506,846,112		

§ 1-91. DEPARTMENT OF PLANNING AND BUDGET (122)

280.	Planning, Budgeting, and Evaluation Services (71500).....			\$8,651,148	\$8,651,148
	Budget Development and Budget Execution Services (71502).....	\$6,121,506	\$6,121,506		
	Forecasting and Regulatory Review Services (71505).....	\$1,268,852	\$1,268,852		
	Program Evaluation Services (71506).....	\$734,911	\$734,911		
	Administrative Services (71598).....	\$525,879	\$525,879		
	Fund Sources: General.....	\$8,651,148	\$8,651,148		

Authority: Title 2.2, Chapter 15, Code of Virginia.

A. The Department of Planning and Budget shall be responsible for continued development and coordination of an integrated, systematic policy analysis, planning, budgeting, performance measurement and evaluation process within state government. The department shall collaborate with the Governor's Secretaries and all other agencies of state government and other entities as necessary to ensure that information generated from these processes is useful for managing and improving the efficiency and effectiveness of state government operations.

B. The Department of Planning and Budget shall be responsible for the continued development and coordination of a review process for strategic plans and performance measures of the state agencies. The review process shall assess on a periodic basis the structure and content of the plans and performance measures, the processes used to develop and implement the plans and measures, the degree to which agencies achieve intended goals and results, and the relation between intended and actual results and budget requirements.

C.1. Notwithstanding § 2.2-1508, Code of Virginia, or any other provisions of law, on or before December 20, the Department of Planning and Budget shall deliver to the presiding officer of each house of the General Assembly a copy of the budget document containing the explanation of the Governor's budget recommendations. This copy may be in electronic format.

2. The Department of Planning and Budget shall include in the budget document the amount of projected spending and projected net tax-supported state debt for each year of the biennium on a per capita basis. For this purpose, "spending" is defined as total appropriations from all funds for the cited fiscal years as shown in the Budget Bill. The most current population estimates from the Weldon Cooper Center for Public Services shall be used to make the calculations.

D. Notwithstanding any contrary provision of law, any school division may also request the Department of Planning and Budget to assist in the coordination of a school efficiency review for the division, including but not limited to the selection of the contractor to conduct that school division's review. Each participating school division shall pay 100 percent of the cost of the review.

Total for Department of Planning and Budget.....				\$8,651,148	\$8,651,148
General Fund Positions.....	67.00	67.00			
Nongeneral Fund Positions.....	3.00	3.00			
Position Level.....	70.00	70.00			
Fund Sources: General.....	\$8,651,148	\$8,651,148			

§ 1-92. DEPARTMENT OF TAXATION (161)

281.	Planning, Budgeting, and Evaluation Services (71500).....			\$3,931,819	\$3,931,819
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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Tax Policy Research and Analysis (71507).....	\$1,951,007	\$1,951,007		
Appeals and Rulings (71508).....	\$1,225,079	\$1,225,079		
Revenue Forecasting (71509).....	\$755,733	\$755,733		
Fund Sources: General.....	\$3,931,819	\$3,931,819		
Authority: §§ 2.2-1503, 15.2-2502, 58.1-202, 58.1-207, 58.1-210, 58.1-213, 58.1-816, and 58.1-3406, and Title 10.1, Chapter 14, Code of Virginia.				
A. The Department of Taxation shall continue the staffing and responsibility for the revenue forecasting of the Commonwealth Transportation Funds, including the Department of Motor Vehicles Special Fund, as provided in § 2.2-1503, Code of Virginia. The Department of Motor Vehicles shall provide the Department of Taxation with direct access to all data records and systems required to perform this function. The Department of Planning and Budget shall effectuate the transfer of three full-time equivalent positions and sufficient funding to ensure the successful consolidation of this function.				
B. Notwithstanding the provisions of § 58.1-202.2, Code of Virginia, no report on public-private partnership contracts shall be required in years following the final report upon the completion of contract or when no such contract is active.				
C. The Department of Taxation shall report no later than September 1 on an annual basis, to the Chairmen of the House Appropriations, House Finance and Senate Finance Committees, on the amount of state sales and use tax revenues authorized to be remitted for the preceding fiscal year under the provisions of § 58.1-608.3, § 58.1-3851.1, and § 58.1-3851.2, of the Code of Virginia, as amended by the 2015 General Assembly.				
282.	Revenue Administration Services (73200).....		\$61,232,085	\$61,589,772 \$61,659,588
	Tax Return Processing (73214).....	\$6,467,197		\$6,467,197 \$6,519,013
	Customer Services (73217).....	\$12,353,531		\$12,353,531 \$12,371,531
	Compliance Audit (73218).....	\$22,761,388		\$23,119,075
	Compliance Collections (73219).....	\$16,695,927		\$16,695,927
	Legal and Technical Services (73222).....	\$2,954,042		\$2,954,042
	Fund Sources: General.....	\$50,392,070		\$50,749,757 \$50,819,573
	Special.....	\$10,118,172		\$10,118,172
	Dedicated Special Revenue.....	\$721,843		\$721,843

Authority: Title 3.2; Title 58.1, Code of Virginia.

A. Pursuant to § 58.1-1803, Code of Virginia, the Tax Commissioner is hereby authorized to contract with private collection agencies for the collection of delinquent accounts. The State Comptroller is hereby authorized to deposit collections from such agencies into the Contract Collector Fund (§ 58.1-1803, Code of Virginia). Revenue in the Contract Collector Fund may be used to pay private collection agencies/attorneys and perform oversight of their operations, upgrade audit and collection systems and data interfaces, and retain experts to perform analysis of receivables and collection techniques. Any balance in the fund remaining after such payment shall be deposited into the appropriate general, nongeneral, or local fund no later than June 30 of each year.

B.1. The Department of Taxation is authorized to retain, as special revenue, its reasonable share of any court fines and fees to reimburse the department for any ongoing operational collection expenses.

2. Any form of state debt assigned to the Department of Taxation for collection may be collected by the department in the same manner and means as state taxes may be collected pursuant to Title 58.1, Chapter 18, Code of Virginia.

C. The Department of Taxation is hereby appropriated revenues from the Communications Sales and Use Tax Trust Fund to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-662, Code of

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Virginia.				
D. The Tax Commissioner shall have the authority to waive penalties and grant extensions of time to file a return or pay a tax, or both, to any class of taxpayers when the Tax Commissioner in his discretion finds that the normal due date has, or would, cause undue hardship to taxpayers who were, or would be, unable to use electronic means to file a return or pay a tax because of a power or systems failure that causes the department's electronic filing or payment systems to be nonfunctional for all or a portion of a day on or about the due date for a return or payment.				
E. The Department of Taxation is hereby appropriated Land Conservation Incentive Act fees imposed under § 58.1-513 C. 2., Code of Virginia, on the transferring of the value of the donated interest. The Code of Virginia specifies such fees will be used by the Departments of Taxation and Conservation and Recreation to recover the direct cost of administration incurred in implementing the Virginia Land Conservation Act.				
F. In the event that the United States Congress adopts legislation allowing local governments, with the assistance of the Commonwealth, to collect delinquent local taxes using offsets from federal income taxes, the Department of Accounts shall provide a treasury loan to the Department of Taxation to finance the costs of modifying the agency's computer systems to implement this federal debt setoff program. This treasury loan shall be repaid from the proceeds collected from the offsets of federal income taxes collected on behalf of localities by the Department of Taxation.				
G. 1. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia, and Items 273 and 294 of this act. For the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the Fund shall be accounted for as part of the general fund of the state treasury.				
2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and for the costs of administering the Virginia Communications Sales and Use Tax.				
H. Notwithstanding the provisions of § 58.1-478, Code of Virginia, effective July 1, 2011, every employer whose average monthly liability can reasonably be expected to be \$1,000 or more and the aggregate amount required to be withheld by any employer exceeds \$500 shall file the annual report required by § 58.1-478, Code of Virginia, and all forms required by § 58.1-472, Code of Virginia, using an electronic medium using a format prescribed by the Tax Commissioner. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the employer. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
I. Notwithstanding the provisions of § 58.1-214, Code of Virginia, the department shall not be required to mail its forms and instructions unless requested by a taxpayer or his representative.				
J.1. Notwithstanding the provisions of § 58.1-609.12, Code of Virginia, no report on the fiscal, economic and policy impact of the miscellaneous Retail Sales and Use Tax exemptions under § 58.1-609.10, Code of Virginia, shall be required after the completion of the final report in the first five-year cycle of the study, due December 1, 2011. The Department of Taxation shall satisfy the requirement of § 58.1-609.12 that it study and report on the annual fiscal impact of the Retail Sales and Use Tax exemptions for nonprofit entities provided for in § 58.1-609.11, Code of Virginia, by publishing such fiscal impact on its website.				
2. Notwithstanding the provisions of § 58.1-202, Code of Virginia, no report detailing the total amount of corporate income tax relief provided in Virginia shall be required after the completion of such report due on October 1, 2013. The Department of Taxation shall satisfy the requirement of § 58.1-202 that it issue an annual report detailing the total amount of corporate income tax relief provided in Virginia by publishing its Annual Report on its website.				
K. 1. Notwithstanding any provision of the Code of Virginia or this act to the contrary,				

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a. Effective January 1, 2013, all corporations are required to file estimated tax payments and their annual income tax return and final payment using an electronic medium in a format prescribed by the Tax Commissioner .				
b. Effective July 1, 2013, every employer shall file the annual report required by § 58.1-478 and all forms required by § 58.1-472, Code of Virginia, using an electronic medium in a format prescribed by the Tax Commissioner.				
c. Effective July 1, 2014, every employer shall file the annual report required by § 58.1-478 , not later than January 31 of the calendar year succeeding the calendar year in which wages were withheld from employees.				
d. Effective January 1, 2015, for taxable years beginning on and after January 1, 2014, every pass-through entity shall file the annual return required by § 58.1-392, Code of Virginia, and make related payments using an electronic medium in a format prescribed by the Tax Commissioner.				
e. i. Effective until January 1, 2020, all estates and trusts are required to file estimated tax payments pursuant to § 58.1-490 et seq., Code of Virginia, and their annual income tax return pursuant to § 58.1-381, Code of Virginia, and final payment using an electronic medium in a format prescribed by the Tax Commissioner.				
ii. Effective January 1, 2020, annual income tax returns of estates and trusts required pursuant to § 58.1-381, Code of Virginia, that are prepared by an income tax return preparer, as defined in § 58.1-302, Code of Virginia, must be filed using an electronic medium in a format prescribed by the Tax Commissioner.				
f. Taxpayers subject to the taxes imposed pursuant to § 58.1-320 and required to pay estimated tax pursuant to § 58.1-490 et seq., shall be required to file and remit using an electronic medium in a format prescribed by the Tax Commissioner all installment payments of estimated tax and all payments made with regard to a return or an extension of time to file if (i) any one such payment exceeds or is required to exceed \$7,500 \$2,500, or if (ii) the taxpayer's total tax liability exceeds or can be reasonably expected to exceed \$30,000 \$10,000 in any taxable year beginning on or after January 1, 2018 2021. <i>This requirement shall apply to any payments made on and after July 1, 2021.</i> The Department of Taxation shall provide reasonable advanced notice to taxpayers affected by this requirement.				
2.a. The Tax Commissioner shall have the authority to waive the requirement to file or pay by electronic means. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person required to use an electronic medium. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
b. The Tax Commissioner shall have the authority to waive the requirement to file or pay by January 31. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person required to file or pay by January 31. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
L.1. Notwithstanding any other provision of law, Retail Sales and Use Tax returns and payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the June 2012 return, due July 2012, for monthly filers and, for less frequent filers, with the first return they are required to file after July 1, 2013.				
2. Notwithstanding any other provision of law, Out-of-State Dealer's Use Tax and Business Consumer's Use Tax returns and payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the July 2017 return, due August 2017, for monthly filers and, for less frequent filers, with the first return they are required to file after August 1, 2017.				
3. The Tax Commissioner shall have the authority to waive the requirement to file by electronic means upon a determination that the requirement would cause an undue hardship. All requests for waiver shall be transmitted to the Tax Commissioner in writing.				

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M. The Department of Taxation is hereby appropriated revenues from the Virginia Motor Vehicle Rental Tax to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-1741, Code of Virginia.				
N. Notwithstanding the provisions of § 58.1-490 et seq., Code of Virginia,				
1. Effective for taxable years beginning on or after January 1, 2015, a taxpayer shall be permitted to file a declaration of estimated tax with the Department of Taxation instead of with the commissioner of the revenue and notwithstanding the provisions of § 58.1-306, Code of Virginia, the department may so advise taxpayers.				
2. Effective January 1, 2015, every treasurer who receives an estimated income tax return, declaration or voucher pursuant to § 58.1-495 of the Code of Virginia shall transmit such return, declaration or voucher to the Department of Taxation using an electronic medium in a format prescribed by the Tax Commissioner.				
O. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation is authorized to provide Form 1099 in an electronic format to taxpayers. The Tax Commissioner shall ensure that taxpayers may elect to receive the electronic version of the form.				
P. The Department of Taxation is hereby appropriated revenues from the E-911 Wireless Tax to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 56-484.17:1, Code of Virginia.				
Q. The Department of Taxation is hereby appropriated revenues from the assessment for expenses pursuant to §§ 38.2-400 and 38.2-403, Code of Virginia, to recover any costs related to the Insurance Premiums License Tax that are incurred by the Department of Taxation, as provided in § 58.1-2533, Code of Virginia.				
R. The Department of Taxation is authorized to recover the administrative costs associated with debt collection initiatives under the U.S. Treasury Offset Program authorized by § 2.2-4809, not to exceed twenty percent of revenues generated pursuant to such debt collection initiatives. Such sums are in addition to any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.				
S.1. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective July 1, 2015, the Department of Taxation is hereby authorized to charge a fee of \$5.00 per copy of a tax return requested by a taxpayer or a representative thereof.				
2. The Tax Commissioner shall have the authority to waive such fee. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person requesting such copies. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
T. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective January 1, 2016, the Department of Taxation shall not provide to the local commissioners of the revenue or any other local officials copies of federal tax forms or schedules, including but not limited to, federal Schedules C (1040), C-EZ (1040), D (1040), E (1040), or F (1040), or federal Forms 4562 or 2106, or copies of Virginia Schedule 500FED, unless such schedules or forms are attached to a Virginia income tax return and submitted to the department in an electronic format by the taxpayer.				
U.1. Notwithstanding any other provision of law, Vending Machine Dealer's Sales Tax, Motor Vehicle Rental Tax and Fee, Communications Taxes, and Tobacco Products Tax returns shall be filed using an electronic medium prescribed by the Tax Commissioner beginning with the July 2016 return, due August 2016, for monthly filers and, for less frequent filers, with the first return they are required to file after July 1, 2016.				
2. Notwithstanding any other provision of law, Litter Tax returns shall be filed and any payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the first return required to be filed after January 1, 2018.				
3. The Tax Commissioner shall have the authority to waive the requirement to file by electronic means upon a determination that the requirement would cause an undue hardship.				

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All requests for waiver shall be transmitted to the Tax Commissioner in writing.

V.1. Notwithstanding any other provision of law, effective July 1, 2017, the Department of Taxation shall charge a fee of \$275 for each request, except those requested by the local assessing officer, for a letter ruling to be issued pursuant to § 58.1-203, Code of Virginia, or for an advisory opinion issued pursuant to §§ 58.1-3701 or 58.1-3983.1, Code of Virginia; \$50 for each request for an offer in compromise with respect to doubtful collectability authorized by § 58.1-105, Code of Virginia; and \$100 for each request for permission to change a corporation's filing method pursuant to § 58.1-442, Code of Virginia.

2. The Tax Commissioner shall have the authority to waive such fees. Waivers shall be granted only if the Tax Commissioner finds that such fee creates an unreasonable burden on the person making such request. All requests for waiver shall be submitted to the Tax Commissioner in writing.

3. Revenues received from the above fees shall be deposited into the general fund in the state treasury.

W. Notwithstanding the provisions of § 38.2-5601, Code of Virginia, the Department of Taxation shall not be required to update the Virginia Medical Savings Account Plan report after the completion of such report due on December 31, 2016.

X.1. Notwithstanding any other provision of law, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this requirement applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.

Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this provision that does not otherwise require notification under subsections A through L of § 18.2-186.6, Code of Virginia, shall not be subject to any other notification, requirement, exemption, or penalty contained in that section.

2. Notwithstanding any other provision of law, any income tax return preparer, as defined in § 58.1-302, who prepares any Virginia individual income tax return during a calendar year for which he has the primary responsibility for the overall substantive accuracy of the preparation thereof shall notify the Department of Taxation without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted return information that compromises the confidentiality of such information and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or such preparer reasonably believes has caused or will cause, identity theft or other fraud.

Such income tax return preparer shall provide the Department of Taxation with the name and taxpayer identifying number of any taxpayer that may be affected by the compromise in confidentiality, as well as the name of the income tax return preparer, his preparer tax identification number, and such other information as the Department may prescribe.

Y.1. Every payment settlement entity required to file information returns under § 6050W of the Internal Revenue Code shall, within thirty days of the relevant federal deadline for

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filing such returns, submit to the Department of Taxation electronically either (i) a duplicate of all such information returns or (ii) a duplicate of such information returns related to participating payees with a Virginia state address or Virginia state taxpayers.

2. All third-party settlement organizations, as defined in § 6050W of the Internal Revenue Code, shall report to the Department of Taxation electronically, and to any participating payee, within 30 days of the relevant federal deadline for reporting such information, all information specified by § 6050W of the Internal Revenue Code with respect to reportable payment transactions made on or after January 1, 2020 to such participating payee. For purposes of determining whether a third-party settlement organization is subject to this requirement, the de minimis limitations of § 6041(a) of the Internal Revenue Code shall apply mutatis mutandis in lieu of the de minimis limitations of § 6050W of the Internal Revenue Code. This requirement shall apply only with respect to participating payees with a Virginia mailing address.

3. The Tax Commissioner shall have the authority to waive the requirement to submit this information upon a determination that the requirement would cause an unreasonable burden. In addition, the Tax Commissioner shall have the authority to waive the requirement to submit this information electronically upon a determination that the requirement would cause an unreasonable burden. All requests for waiver shall be transmitted to the Tax Commissioner in writing.

Z. The Department of Taxation is hereby appropriated revenues from the Disposable Plastic Bag Tax to recover any administrative costs for collecting the tax incurred by the Department of Taxation as provided by § 58.1-3835 (C), Code of Virginia.

AA. The Department of Taxation is hereby appropriated revenues from the tobacco products tax imposed under § 58.1-1021.02 of the Code of Virginia to recover any administrative costs for implementing the tax on heated tobacco products incurred by the Department of Taxation as provided by Item 3-5.21(D) of this Act.

BB.1. Notwithstanding § 58.1-1803 A, or any other provision of law, the Department of Taxation may appoint a collector in any county or city, including the treasurer thereof, to collect delinquent state taxes at any time, even if such delinquent state taxes were not assessed at least 90 days previously therein.

2. Notwithstanding § 58.1-1803 B, or any other provision of law, the Department of Taxation may appoint collectors or contract with collection agencies to collect delinquent state taxes at any time, even if such delinquent state taxes were not assessed at least 90 days previously therein.

283.	Tax Value Assistance to Localities (73400).....		\$2,187,675	\$2,187,675
	Training for Local Assessors (73401).....	\$159,679		\$159,679
	Valuation and Assessment Assistance for Localities (73410).....	\$2,027,996		\$2,027,996
	Fund Sources: General.....	\$698,453		\$698,453
	Special.....	\$1,489,222		\$1,489,222

Authority: Title 58.1, Chapters 32, 34, 35, 36, and 39 and §§ 58.1-202, subdivisions 6, 10, and 11, 58.1-206; §§ 58.1-2655, 58.1-3239, 58.1-3278, and 58.1-3374, Code of Virginia.

A. The department is hereby authorized to recover from participating localities, as special funds, the direct costs associated with assessor/property tax and local valuation and assessments training classes. In accordance with § 58.1-206, Code of Virginia, the assessing officers and board members attending shall continue to be reimbursed for the actual expenses incurred by their attendance at the programs.

B. In the expenditure of funds out of its appropriations for determination of true values of locally taxable real estate for use by the Board of Education in state school fund distributions, the Department of Taxation shall use a sufficiently representative sampling of parcels, in accordance with the classification system as established in § 58.1-208, Code of Virginia, to reflect actual true values; further, the department shall, upon request of any local school board, review its initial determination and promptly inform the Board of Education of corrections in such determination.

ITEM 283.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
C. Notwithstanding any other provision of law, the requirement that the Department of Taxation print and distribute local tax forms, instructions, and property tax books shall be satisfied by the posting of such documents on the department's web site.				
284.	Administrative and Support Services (79900).....		\$52,241,216	\$52,241,216 \$52,406,035
	General Management and Direction (79901).....	\$31,250,851	\$31,250,851 \$31,261,776	
	Information Technology Services (79902).....	\$20,990,365	\$20,990,365 \$21,144,259	
	Fund Sources: General.....	\$52,087,762	\$52,087,762 \$52,252,581	
	Special.....	\$153,454	\$153,454	
Authority: §§ 58.1-200, 58.1-202, and 58.1-213, Code of Virginia.				
A. To defray the costs of administration for voluntary contributions made on individual income tax returns for taxable years beginning on or after January 1, 2003, the Department of Taxation may retain up to five percent of the contributions made to each organization, not to exceed a total of \$50,000 from all organizations in any taxable year.				
B. The Department is hereby authorized to request and receive a treasury loan to fund the necessary start-up costs associated with the implementation of a sales and use tax modification or other state or local tax imposed pursuant to Chapter 766, 2013 Acts of Assembly. The treasury loan shall be repaid for these costs from the tax revenues. The Department shall also retain sufficient revenues to recover its costs incurred administering these taxes.				
C. Out of this appropriation, \$524,670 the first year and \$524,670 the second year from the general fund shall be provided for an initiative to develop new mobile applications and purchase computer tablets for the department's field collectors and auditors in order to increase revenue collection efficiency.				
D. Notwithstanding the provisions of §§ 2.2-507 and 2.2-510, when the Tax Commissioner determines that an issue may have a major impact on tax policies, revenues or expenditures, he may request that the Attorney General appoint special counsel to render such assistance or representation as needed. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the Department of Taxation.				
E. The Department of Taxation is required to provide, at the beginning of an audit, detailed information on the audit process and tax policies that are being examined. Furthermore, the Department shall compile and make available on their website a list of common issues which are identified in a large number of audits.				
	Total for Department of Taxation.....		\$119,592,795	\$119,950,482 \$120,185,117
	General Fund Positions.....	905.00	905.00	
	Nongeneral Fund Positions.....	56.00	56.00	
	Position Level.....	961.00	961.00	
	Fund Sources: General.....	\$107,110,104	\$107,467,791 \$107,702,426	
	Special.....	\$11,760,848	\$11,760,848	
	Dedicated Special Revenue.....	\$721,843	\$721,843	
§ 1-93. DEPARTMENT OF THE TREASURY (152)				
285.	Investment, Trust, and Insurance Services (72500)..		\$35,279,243	\$35,503,798 \$35,716,292
	Debt Management (72501).....	\$1,155,836	\$1,155,836	
	Insurance Services (72502).....	\$29,614,201	\$29,829,666 \$30,151,253	

ITEM 285.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Banking and Investment Services (72503).....	\$4,509,206 \$4,409,203	\$4,518,296 \$4,409,203		
Fund Sources: General.....	\$3,973,567 \$3,873,564	\$3,823,122 \$4,035,616		
Special.....	\$126,365	\$126,365		
Commonwealth Transportation.....	\$185,187	\$185,187		
Trust and Agency.....	\$30,994,124	\$31,369,124		

Authority: Title 2.2, Chapter 18, Code of Virginia.

A. The Department of the Treasury shall take into account the claims experience of each agency and institution when setting premiums for the general liability program.

B. Coverage provided by the VARISK plan for constitutional officers shall be extended to any action filed against a constitutional officer or appointee of a constitutional officer before the Equal Employment Opportunity Commission or the Virginia State Bar.

C. Notwithstanding the provisions of § 33.2-1919 and § 33.2-1927, Code of Virginia, the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission are authorized to obtain liability policies for the Commissions' joint project, the Virginia Railway Express, consisting of liability insurance and a program of self-insurance maintained by the Commissions and administered by the Department of the Treasury's Division of Risk Management or by an independent third party selected by the Commissions, which liability policies shall be deemed to meet the requirements of § 8.01-195.3, Code of Virginia. In addition, the Director of the Department of Rail and Public Transportation is authorized to work with the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission to obtain the foregoing liability policies for the Commissions. In obtaining liability policies, the Director of the Department of Rail and Public Transportation shall advise the Commissions regarding compliance with all applicable public procurement and administrative guidelines.

D. By January 15 of each year the Department of the Treasury shall report to the chairmen of the House Appropriations and Senate Finance Committees, in a unified report mutually agreeable to them, summarizing changes in required debt service payments from the general fund as the result of any refinancing, refunding, or issuance actions taken or expected to be taken by the Commonwealth within the next twelve months.

E. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the administration of the Virginia Public School Authority programs.

F. Notwithstanding § 2.2-1836 of the Code of Virginia, the Department of the Treasury is authorized to continue the data breach coverage under the Property Plan for state agencies.

G. The Department of the Treasury shall provide to the State Compensation Board the premiums, by local constitutional office and individual regional jail, required to fund the Constitutional Officer and Regional Jail Fund of the State Insurance Reserve Trust Fund. The premiums provided to the Department of the Treasury by the actuary shall be calculated using factors such claims experience by local constitutional office and individual regional jail, each local constitutional office and individual regional jail's total number of positions, and local and regional jail average daily populations.

H. Notwithstanding §2.2-1836, Code of Virginia the Department of the Treasury, Division of Risk Management is authorized to initiate Cyber coverage for state agencies under the Property Plan after July 1, 2020. On or before July 1, 2021, the Department of the Treasury shall provide a report to the Secretary of Finance summarizing the program, loss experiences, and future recommendations including program structure and funding.

I. Out of the amounts for this item shall be paid \$159,535 the first year from the general fund as a lump sum payment within 60 days of signing the release for the relief of Winston Lamont Scott pursuant to § 8.01-195.11 of the Code of Virginia. \$15,000 shall be deducted from this award total and repaid to the Criminal Fund under the provisions provided in subsection C. of § 8.01-195.11 of the Code of Virginia.

ITEM 285.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p><i>J. Out of the amounts for this item, \$321,587 is provided in the second year from the general fund for a lump sum payment within 60 days of signing the release for the relief of Ms. Esther Thorne, pursuant to the passage of this act. \$15,000 shall be deducted from this award total and repaid to the Criminal Fund under the provisions provided in subsection C. of § 8.01-195.11 of the Code of Virginia.</i></p>				
286.	Revenue Administration Services (73200).....		\$15,114,717	\$14,686,914
	Unclaimed Property Administration (73207).....	\$7,867,053		
	Accounting and Trust Services (73213).....	\$2,038,643		
	Check Processing and Bank Reconciliation (73216).....	\$2,510,300		
	Administrative Services (73220).....	\$2,698,721		
	Fund Sources: General.....	\$4,453,844		
	Special.....	\$342,751		
	Trust and Agency.....	\$9,668,758		
	Dedicated Special Revenue.....	\$649,364		

Authority: Title 2.2, Chapter 18 and Title 55.1, Chapter 25, Code of Virginia.

A. Included in this Item is a sum sufficient nongeneral fund appropriation for personal services and other operating expenses to process checks issued by the Department of Social Services. The estimated cost, excluding actual postage costs, is \$89,000 the first year and \$89,000 the second year.

B. Included in this Item is a sum sufficient nongeneral fund appropriation for administrative expenses to process the Virginia Employment Commission (VEC) and Virginia Retirement System (VRS) checks. The estimated cost for VEC is \$5,500 the first year and \$5,500 the second year, and for VRS is \$25,500 the first year and \$25,500 the second year.

C.1. The amounts for Unclaimed Property Administration are for administrative and related support costs of the Uniform Disposition of Unclaimed Property Act, to be paid solely from revenues derived pursuant to the act.

2. The amounts also include a sum sufficient nongeneral fund amount estimated at \$2,000,000 the first year and \$2,000,000 the second year to pay fees for compliance services and securities portfolio custody services for unclaimed property administration.

3. Any revenue derived from the sale of the Department of the Treasury's new unclaimed property system is hereby appropriated to the department for use in unclaimed property customer service and system enhancements.

4. Notwithstanding § 55.1-2525.C of the Uniform Disposition of Unclaimed Property Act, the State Treasurer is not required to publish any item of less than \$250.

D. The State Treasurer is authorized to charge institutions of higher education participating in the private college financing program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Revenue collected from this administrative fee shall be deposited to a special fund in the Department of the Treasury to compensate the department for direct and indirect staff time and expenses involved with this program.

E. The State Treasurer is authorized to sell any securities remitted as unclaimed demutualization proceeds of insurance companies at any time after delivery, pursuant to legislation enacted by the 2003 Session of the General Assembly. The funds derived from the sale of said securities shall be handled in accordance with § 55.1-2531, Code of Virginia.

F.1. The State Treasurer is authorized to charge qualified public depositories holding public deposits, as defined in § 2.2-4401, Code of Virginia, an annual administrative fee of not more than one-half of one basis point of their average public deposit balances over a twelve month period. The State Treasurer shall issue guidelines to effect the implementation of this fee. However, the total fees collected from all qualified

ITEM 286.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
depositories shall not exceed \$100,000 in any one year.				
2. Any regulations or guidelines necessary to implement or change the amount of the fee may be adopted without complying with the Administrative Process Act (§ 2.2-4000 et seq.) provided that input is solicited from qualified public depositories. Such input requires only that notice and an opportunity to submit written comments be given.				
G. The State Treasurer shall work with universities and community colleges to develop policies and procedures which minimize the use of paper checks when issuing any reimbursements of student loan balances. These efforts should include reimbursement through debit cards, direct deposits, or other electronic means.				
H. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the accounting and financial reporting of the Virginia Public School Authority programs.				
287.	1. There is hereby appropriated to the Department of the Treasury a sum sufficient for the transfer to the federal government, in accordance with the provisions of the federal Cash Management Improvement Act of 1990 and related federal regulations, of the interest owed by the state on federal funds advanced to the state for federal assistance programs, where such funds are held by the state from the time they are deposited in the state's bank account until they are paid out to redeem warrants, checks or payments by other means. This sum sufficient appropriation is funded from the interest earned on federal funds deposited and invested by the state. The actual amount for transfer shall be established by the State Comptroller.			
	2. When permitted by applicable federal laws or administrative regulations, the State Comptroller shall first offset and reduce the amount to be transferred by any and all amounts of interest payments calculated to be received by the state from the federal government, where such payments are due to the state because the state was required to disburse its own funds for federal program purposes prior to the receipt of federal funds.			
	3. Should the interest payments calculated to be made by the federal government to the state exceed the interest calculated to be transferred from the state to the federal government, reduced by the federally approved direct cost reimbursement to the state, the State Comptroller shall then notify the federal government of the net amount of interest due to the state and shall record such net interest, upon its receipt, as interest revenue earned by the general fund.			
287.10	Omitted.			
	Total for Department of the Treasury.....		\$50,393,960 <i>\$50,293,957</i>	\$50,190,712 <i>\$50,403,206</i>
	General Fund Positions.....	32.20	32.20	
	Nongeneral Fund Positions.....	91.80	91.80	
	Position Level.....	124.00	124.00	
	Fund Sources: General.....	\$8,427,411	\$8,114,163	
		\$8,327,408	\$8,326,657	
	Special.....	\$469,116	\$469,116	
	Commonwealth Transportation.....	\$185,187	\$185,187	
	Trust and Agency.....	\$40,662,882	\$40,772,882	
	Dedicated Special Revenue.....	\$649,364	\$649,364	
§ 1-94. TREASURY BOARD (155)				
288.	Bond and Loan Retirement and Redemption (74300).		\$876,257,156	\$931,665,934
			<i>\$854,158,182</i>	<i>\$901,282,264</i>
	Debt Service Payments on General Obligation Bonds (74301).....	\$59,181,904	\$56,955,915	
		\$59,201,904	\$56,975,915	
	Capital Lease Payments (74302).....	\$4,757,375	\$4,756,000	

ITEM 288.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Debt Service Payments on Public Building Authority Bonds (74303).....	\$298,386,309	\$319,645,098		
	\$289,399,059	\$307,513,491		
Debt Service Payments on College Building Authority Bonds (74304).....	\$513,931,568	\$550,308,921		
	\$500,799,844	\$532,036,858		
Fund Sources: General.....	\$834,230,106	\$890,333,756		
	\$815,557,436	\$863,243,052		
Higher Education Operating.....	\$31,526,576	\$31,526,576		
Dedicated Special Revenue.....	\$645,000	\$645,000		
Federal Trust.....	\$9,855,474	\$9,160,602		
	\$6,429,170	\$5,867,636		

Authority: Title 2.2, Chapter 18, Code of Virginia; Article X, Section 9, Constitution of Virginia.

A. The Director, Department of Planning and Budget is authorized to transfer appropriations between Items in the Treasury Board to address legislation affecting the Treasury Board passed by the General Assembly.

B.1. Out of the amounts for Debt Service Payments on General Obligation Bonds, the following amounts are hereby appropriated from the general fund for debt service on general obligation bonds issued pursuant to Article X, Section 9 (b), of the Constitution of Virginia:

Series	FY 2021		FY 2022	
	General Fund	Federal Funds	General Fund	Federal Funds
2012 Refunding	\$4,129,700	\$0	\$4,029,200	\$0
2013 Refunding	\$14,535,250	\$0	\$14,079,000	\$0
2015B Refunding	\$13,113,750	\$0	\$12,680,250	\$0
2016B Refunding	\$5,483,450	\$0	\$5,320,700	\$0
2019B Refunding	\$20,439,250	\$0	\$19,425,000	\$0
2019C Refunding	\$1,400,504	\$0	\$1,341,765	\$0
Projected debt service & expenses	\$80,000 \$100,000	\$0	\$80,000 \$100,000	\$0
Total Service Area	\$59,181,904 \$59,201,904	\$0	\$56,955,915 \$56,975,915	\$0

2. Out of the amounts for Debt Service Payments on General Obligation Bonds, sums needed to fund issuance costs and other expenses are hereby appropriated.

C. Out of the amounts for Capital Lease Payments, the following amounts are hereby appropriated for capital lease payments:

	FY 2021	FY 2022
Virginia Biotech Research Park, 2009	\$4,757,375	\$4,756,000
Total Capital Lease Payments	\$4,757,375	\$4,756,000

D.1. Out of the amounts for Debt Service Payments on Virginia Public Building Authority Bonds shall be paid to the Virginia Public Building Authority the following amounts for use by the authority for its various bond issues:

Series	FY 2021		FY 2022	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
2005D	\$2,000,000 \$0	\$0	\$2,000,000 \$0	\$0
2009A	\$4,682,863	\$0	\$4,683,497	\$0
2009C	\$1,087,310	\$0	\$1,088,090	\$0
2009D Refunding	\$2,622,250	\$0	\$2,618,188	\$0

ITEM 288.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	\$0			\$0	
2010A	\$21,843,481 \$15,480,344	\$3,553,029	\$21,825,508	\$3,292,966	\$0
2010B	\$33,944,941	\$3,121,053	\$33,924,754	\$2,916,714	
2011A STARS	\$630,375	\$0	\$630,375	\$0	
2011A	\$12,909,250	\$0	\$12,909,875	\$0	
2011B	\$1,298,949	\$0	\$1,297,924	\$0	
2012A Refunding	\$6,557,350	\$0	\$6,551,700	\$0	
2013A	\$8,825,775	\$0	\$8,824,900	\$0	
2013B Refunding	\$17,243,625	\$0	\$17,245,000	\$0	
2014A	\$8,480,150	\$645,000	\$8,477,525	\$645,000	
2014B	\$2,010,580	\$0	\$2,011,088	\$0	
2014C Refunding	\$25,871,400	\$0	\$17,373,650	\$0	
2015A	\$17,339,870	\$0	\$17,342,870	\$0	
2015B Refunding	\$11,264,775	\$0	\$11,266,900	\$0	
2016A	\$14,387,050	\$0	\$14,389,800	\$0	
2016B Refunding	\$17,811,650	\$0	\$17,811,275	\$0	
2016C	\$11,658,000	\$0	\$11,656,000	\$0	
2016D	\$904,382	\$0	\$906,682	\$0	
2017A Refunding	\$6,722,850	\$0	\$6,722,850	\$0	
2018A	\$11,749,844	\$0	\$11,746,094	\$0	
2018B	\$1,229,590	\$0	\$1,229,490	\$0	
2019A	\$13,434,000	\$0	\$13,438,000	\$0	
2019B	\$10,159,150	\$0	\$10,157,525	\$0	
2019C	\$5,579,052	\$0	\$5,453,302	\$0	
2020A	\$7,540,326	\$0	\$15,721,700	\$0	
2020B Refunding	\$10,280,523	\$0	\$24,629,625	\$0	
2020C	\$2,058,711	\$0	\$6,620,033	\$0	
Projected debt service and expenses	\$18,818,715 \$363,596	\$0	\$49,207,556 \$19,841,253	\$0	
Total Service Area	\$291,067,227 \$281,506,281	\$7,319,082 \$3,892,778	\$312,790,418 \$303,951,777	\$6,854,680 \$3,561,714	

2.a. Funding is included in this Item for the Commonwealth's reimbursement of a portion of the approved capital costs as determined by the Board of Corrections and other interest costs as provided in §§ 53.1-80 through 53.1-82.2 of the Code of Virginia, for the following:

Project	Commonwealth Share of Approved Capital Costs
Prince William – Manassas Regional Jail	\$21,032,421
Middle River Regional Jail - Expansion and Renovation	\$24,125,430
Henry County Jail	\$18,759,878
Chesapeake City Jail	\$6,860,886
Piedmont Regional Jail	\$2,139,464
Prince William – Manassas Regional Jail Expansion	\$678,387
Riverside Regional Jail	\$807,447
Total Approved Capital Costs	\$50,278,483 \$74,403,913

b. The Commonwealth's share of the total construction cost of the projects listed in the table in paragraph D.2.a. shall not exceed the amount listed for each project. Reimbursement of the Commonwealth's portion of the construction costs of these projects shall be subject to the approval of the Department of Corrections of the final expenditures.

ITEM 288.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

c. This paragraph shall constitute the authority for the Virginia Public Building Authority to issue bonds for the foregoing projects pursuant to § 2.2-2261 of the Code of Virginia.

E.1. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for use by the Authority for payments on obligations issued for financing authorized projects under the 21st Century College Program:

Series	FY 2021	FY 2022
2009E Refunding	\$26,967,750	\$26,971,250
2010B	\$27,254,689	\$27,021,208
2011 A	\$10,295,250	\$0
2012A	\$16,248,450	\$16,248,450
	\$15,180,225	\$14,112,000
2012B	\$21,479,850	\$21,477,850
	\$19,726,350	\$17,970,850
2013 A	\$16,814,669	\$16,818,669
	\$15,300,459	\$13,340,250
2014A	\$16,971,650	\$19,673,650
	\$16,684,250	\$15,938,850
2014B Refunding	\$195,400	\$195,400
2015A	\$26,655,700	\$26,656,450
2015B Refunding	\$27,432,898	\$27,429,861
2015D	\$13,716,535	\$13,716,785
2016A	\$19,471,600	\$19,472,600
2016B Refunding	\$1,972,000	\$1,972,000
2016C	\$4,432,507	\$4,431,735
2017B Refunding	\$19,961,500	\$18,609,750
2017C	\$31,465,500	\$31,470,250
2017D	\$11,317,081	\$11,315,706
2017E Refunding	\$26,711,750	\$35,956,750
2019A	\$31,122,350	\$31,126,100
2019B	\$9,985,500	\$9,982,250
2019C Refunding	\$29,213,500	\$29,064,250
2020A & B	\$22,691,465	\$22,693,075
2020B Refunding	\$2,687,900	\$7,864,385
Projected 21st Century debt service & expenses	\$33,001,247	\$77,660,902
	\$356,120	\$40,416,604
Subtotal 21st Century	\$422,687,376	\$467,271,866
	\$410,798,279	\$447,728,359

2. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for the payment of debt service on authorized bond issues to finance equipment:

Series	FY 2021	FY 2022
2013A	\$9,450,000	\$0
2014A	\$9,660,000	\$0
2015A	\$10,479,250	\$10,479,000
2016A	\$11,066,750	\$11,063,750
2017A	\$11,851,750	\$11,852,250
2018	\$12,859,500	\$12,860,750
2019A	\$12,570,250	\$12,571,250
2020A	\$12,064,065	\$12,061,250
Projected debt service & expenses	\$13,306,692	\$24,210,055
	\$0	\$13,420,249

ITEM 288.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Subtotal Equipment	\$91,244,192		\$83,037,055	
	\$90,001,565		\$84,308,499	
Total Service Area	\$513,931,568		\$550,308,921	
	\$500,799,844		\$532,036,858	

3. Beginning with the FY 2008 allocation of the higher education equipment trust fund, the Treasury Board shall amortize equipment purchases at seven years, which is consistent with the useful life of the equipment.

4. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds, the following nongeneral fund amounts from a capital fee charged to out-of-state students at institutions of higher education shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the 21st Century Program:

Institution	FY 2021	FY 2022
George Mason University	\$2,804,490	\$2,804,490
Old Dominion University	\$1,108,899	\$1,108,899
University of Virginia	\$5,006,754	\$5,006,754
Virginia Polytechnic Institute and State University	\$5,192,295	\$5,192,295
Virginia Commonwealth University	\$2,359,266	\$2,359,266
College of William and Mary	\$1,639,845	\$1,639,845
Christopher Newport University	\$131,508	\$131,508
University of Virginia's College at Wise	\$48,330	\$48,330
James Madison University	\$2,843,787	\$2,843,787
Norfolk State University	\$420,789	\$420,789
Longwood University	\$106,149	\$106,149
University of Mary Washington	\$234,834	\$234,834
Radford University	\$300,486	\$300,486
Virginia Military Institute	\$400,470	\$400,470
Virginia State University	\$773,577	\$773,577
Richard Bland College	\$10,830	\$10,830
Virginia Community College System	\$3,301,665	\$3,301,665
TOTAL	\$26,683,974	\$26,683,974

5. Out of the amounts for Debt Service Payments of College Building Authority Bonds, the following is the estimated general and nongeneral fund breakdown of each institution's share of the debt service on the Virginia College Building Authority bond issues to finance equipment. The nongeneral fund amounts shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the equipment program:

Institution	FY 2021		FY 2022	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
College of William & Mary	\$2,992,492	\$259,307	\$2,653,323	\$259,307
University of Virginia	\$15,492,944 \$16,277,138	\$1,088,024	\$15,075,947 \$15,875,947	\$1,088,024
Virginia Polytechnic Institute and State University	\$15,279,292 \$16,204,292	\$992,321	\$14,889,747 \$15,139,747	\$992,321
Virginia Military Institute	\$903,953	\$88,844	\$800,533 \$858,424	\$88,844
Virginia State University	\$1,644,946 \$1,394,946	\$108,886	\$1,275,939	\$108,886
Norfolk State University	\$1,486,086 \$1,011,086	\$108,554	\$1,096,014 \$997,014	\$108,554

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	Longwood University	\$813,221 \$778,221	\$54,746	\$691,450 \$730,450	\$54,746
	University of Mary Washington	\$1,142,531	\$97,063	\$1,204,332 \$1,079,332	\$97,063
	James Madison University	\$2,633,299 \$2,533,299	\$254,504	\$2,063,725 \$2,213,725	\$254,504
	Radford University	\$1,565,037 \$1,315,037	\$135,235	\$973,031 \$1,123,031	\$135,235
	Old Dominion University	\$5,207,706 \$5,850,888	\$374,473	\$5,056,268 \$5,106,268	\$374,473
	Virginia Commonwealth University	\$10,927,292 \$10,977,292	\$401,647	\$9,093,486 \$10,004,070	\$401,647
	Richard Bland College	\$192,408 \$177,408	\$2,027	\$163,209	\$2,027
	Christopher Newport University	\$927,427 \$827,427	\$17,899	\$739,369 \$789,369	\$17,899
	University of Virginia's College at Wise	\$296,121 \$176,121	\$19,750	\$231,863 \$166,863	\$19,750
	George Mason University	\$5,148,921 \$4,998,921	\$205,665	\$5,440,942 \$4,430,559	\$205,665
	Virginia Community College System	\$17,935,987 \$16,235,987	\$633,657	\$15,210,782 \$15,560,782	\$633,657
	Virginia Institute of Marine Science	\$704,080 \$479,080	\$0	\$556,150 \$461,150	\$0
	Roanoke Higher Education Authority	\$86,971	\$0	\$80,089	\$0
	Southwest Virginia Higher Education Center	\$89,759	\$0	\$82,656	\$0
	Institute for Advanced Learning and Research	\$357,191 \$242,191	\$0	\$282,881 \$230,881	\$0
	Southern Virginia Higher Education Center	\$132,326 \$107,326	\$0	\$98,833	\$0
	New College Institute	\$43,640 \$38,640	\$0	\$34,614	\$0
	Eastern Virginia Medical School	\$397,961 \$317,961	\$0	\$399,279 \$309,627	\$0
	TOTAL	\$86,401,591 \$85,158,967	\$4,842,602	\$78,194,462 \$79,465,902	\$4,842,602

F. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on Commonwealth Transportation Board bonds shall be paid to the Trustee for the bondholders by the Treasury Board after transfer of these funds to the Treasury Board from the Commonwealth Transportation Board pursuant to Item 452, paragraph E of this act and §§ 33.2-2300, 33.2-2400, and 58.1-816.1, Code of Virginia.

G. Under the authority of this act, an agency may transfer funds to the Treasury Board for use as lease, rental, or debt service payments to be used for any type of financing where the proceeds are used to acquire equipment and to finance associated costs, including but not limited to issuance and other financing costs. In the event such transfers occur, the transfers shall be deemed an appropriation to the Treasury Board for the purpose of making the lease, rental, or debt service payments described herein.

H. Notwithstanding the provisions of 2.2-11.56, Code of Virginia, if tax-exempt bonds were used by the Commonwealth or its authorities, boards, or institutions to finance the

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<p>acquisition, construction, improvement or equipping of real property, proceeds from the subsequent sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law in order to maintain the tax-exempt status of such bonds.</p> <p><i>I. Out of this appropriation, \$4,000,000 the first year from the general fund is provided for the defeasance of the outstanding bonds on the Central Virginia Training Center.</i></p>				
289.	<p>A. There is hereby appropriated to the Treasury Board a sum sufficient from the general fund to pay obligations incurred pursuant to Article X, Sections 9 (a), 9 (c), and 9 (d), of the Constitution of Virginia, as follows:</p> <ol style="list-style-type: none"> 1. Section 9 (a) To meet emergencies and redeem previous debt obligations. 2. Section 9 (c) Debt for certain revenue-producing capital projects. 3. Section 9 (d) Debt for variable rate obligations secured by general fund appropriations and a payment agreement with the Treasury Board. 4. For payment of the principal of and the interest on obligations, issued in accordance with the cited Sections 9 (c) and 9 (d), in the event pledged revenues are insufficient to meet the obligation of the Commonwealth. <p>B. There is hereby appropriated to the Treasury Board a sum sufficient to pay debt service expected at the time of issuance to be paid from subsidies under federal programs and for arbitrage rebate amounts and other penalties to the United States Government for bonds issued by the Commonwealth pursuant to Article X, Sections 9 (a), 9 (b), 9 (c), and 9 (d) (obligations secured by General Fund appropriations to Treasury Board) of the Constitution of Virginia.</p>			
	Total for Treasury Board.....		\$876,257,156 \$854,158,182	\$931,665,934 \$901,282,264
	Fund Sources: General.....	\$834,230,106 \$815,557,436	\$890,333,756 \$863,243,052	
	Higher Education Operating.....	\$31,526,576	\$31,526,576	
	Dedicated Special Revenue.....	\$645,000	\$645,000	
	Federal Trust.....	\$9,855,474 \$6,429,170	\$9,160,602 \$5,867,636	
§ 1-95. BOARD OF ACCOUNTANCY (226)				
290.	Regulation of Professions and Occupations (56000)...			\$2,328,158 \$2,328,158
	Accountant Regulation (56001).....	\$2,328,158	\$2,328,158	
	Fund Sources: Dedicated Special Revenue.....	\$2,328,158	\$2,328,158	
	Authority: Title 54.1, Chapter 44, Code of Virginia.			
	Total for Board of Accountancy.....			\$2,328,158 \$2,328,158
	Nongeneral Fund Positions.....	13.00	13.00	
	Position Level.....	13.00	13.00	
	Fund Sources: Dedicated Special Revenue.....	\$2,328,158	\$2,328,158	
	TOTAL FOR OFFICE OF FINANCE.....			\$2,834,777,702 \$3,033,691,159 \$3,162,578,725 \$3,353,754,618
	General Fund Positions.....	1,123.20	1,123.20	
	Nongeneral Fund Positions.....	218.80	218.80	
	Position Level.....	1,342.00	1,342.00	
	Fund Sources: General.....	\$2,118,008,930 \$2,449,236,257	\$2,307,554,608 \$2,630,911,033	
	Special.....	\$13,225,653	\$13,225,653	
	Higher Education Operating.....	\$31,526,576	\$31,526,576	

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Commonwealth Transportation.....	\$185,187	\$185,187		
Internal Service.....	\$28,788,305	\$38,520,462		
Trust and Agency.....	\$121,907,101	\$122,327,594		
Dedicated Special Revenue.....	\$511,280,476	\$511,190,477		
Federal Trust.....	\$9,855,474	\$9,160,602		
	\$6,429,170	\$5,867,636		

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OFFICE OF HEALTH AND HUMAN RESOURCES

§ 1-96. SECRETARY OF HEALTH AND HUMAN RESOURCES (188)

291.	Administrative and Support Services (79900).....			\$878,064	\$878,064
	General Management and Direction (79901).....	\$878,064	\$878,064		
	Fund Sources: General.....	\$878,064	\$878,064		

Authority: Title 2.2, Chapter 2; Article 6, and § 2.2-200, Code of Virginia.

A.1. The Secretary of Health and Human Resources, in collaboration with the Office of the Attorney General and the Secretary of Public Safety and Homeland Security, shall present a six-year forecast of the adult offender population presently incarcerated in the Department of Corrections and approaching release who meet the criteria set forth in Chapter 863 and Chapter 914 of the 2006 Acts of Assembly, and who may be eligible for evaluation as sexually violent predators (SVPs) for each fiscal year within the six-year forecasting period. As part of the forecast, the secretary shall report on: (i) the number of Commitment Review Committee (CRC) evaluations to be completed; (ii) the number of eligible inmates recommended by the CRC for civil commitment, conditional release, and full release; (iii) the number of civilly committed residents of the Virginia Center for Behavioral Rehabilitation who are eligible for annual review; and (iv) the number of individuals civilly committed to the Virginia Center for Behavioral Rehabilitation and granted conditional release from civil commitment in a state SVP facility. The secretary shall complete a summary report of current SVP cases and a forecast of SVP eligibility, civil commitments, and SVP conditional releases, including projected bed space requirements, to the Governor and Senate Finance and House Appropriations Committees by November 15 of each year.

2. As part of the forecast process, the Department of Corrections shall administer a STATIC-99 screening to all potential Sexually Violent Predators eligible for civil commitment pursuant to § 37.2-900 et seq., Code of Virginia, within six months of admission to the Department of Corrections. The results of such screenings shall be provided to the commissioner of the Department of Behavioral Health and Developmental Services (DBHDS) on a monthly basis and used for the SVP population forecast process.

3. The Office of the Attorney General shall also provide to the commissioner of DBHDS, on a monthly basis, the status of all SVP cases pending before their office for purposes of forecasting the SVP population.

B. The Secretary of Health and Human Resources shall create a trauma-informed care workgroup to develop a shared vision and definition of trauma-informed care for agencies within the Health and Human Resources Secretariat. The workgroup shall include representatives from the Departments of Social Services, Behavioral Health and Developmental Services, Medical Assistance Services, and Health, as well as stakeholders, researchers, community organizations and representatives from impacted communities. The workgroup shall also (i) examine Virginia's applicable child and family-serving programs and data; (ii) develop strategies to build a trauma-informed system of care for children, using best practices for families who are impacted by the human service delivery system; (iii) identify indicators to measure progress in developing such a system of care; (iv) identify needed professional development/training in trauma-informed practices for all child-serving professionals and (v) identify data sharing issues that need to be addressed to facilitate such a system. In addition, the workgroup shall explore opportunities to expand trauma-informed care throughout the Commonwealth. The Secretary of Health and Human Resources shall report on the workgroup's activities to the Chairmen of the House Appropriations and Senate Finance Committees and the Virginia Commission on Youth by December 15 of each year.

C.1. The Secretary of Health and Human Resources, in collaboration with the Secretary of Administration and the Secretary of Public Safety and Homeland Security, shall convene an interagency workgroup to oversee the development of a statewide integrated electronic health record (EHR) system. The workgroup shall include the Department of Behavioral Health and Developmental Services (DBHDS), the Virginia Department of Health, the Department of Corrections, the Department of Planning and Budget, staff of the House Appropriations and Senate Finance Committees, and other agencies as deemed appropriate by the respective

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Secretaries. The purpose of the workgroup shall be to evaluate common business requirements for electronic health records to ensure consistency and interoperability with other partner state and local agencies and public and private health care entities to the extent allowed by federal and state law and regulations. The goal of the workgroup is to develop an integrated EHR which may be shared as appropriate with other partner state and local agencies and public and private health care entities. The workgroup shall evaluate the DBHDS statement of work developed for its EHR system and the DBHDS platform for potential adaption and/or use by state agencies in order to develop an integrated statewide EHR.

2. The workgroup may consider and evaluate other EHR systems that may be more appropriate to meet specific agency needs and evaluate the cost-effectiveness of pursuing a separate EHR system as compared to a statewide integrated EHR. However, the workgroup shall ensure that standards are developed to ensure that EHRs can be shared as appropriate with public and private partner agencies and health care entities.

3. The workgroup shall also develop an implementation timeline, cost estimates, and assess other issues that may need to be addressed in order to implement an integrated statewide EHR system. The timeline and cost estimates shall be used by the respective agencies to coordinate implementation. The workgroup shall report on its activities and any recommendations to the Joint Subcommittee on Health and Human Resources Oversight by November 1 of each year.

D.1. The Secretary of Health and Human Resources shall develop a state innovation waiver under Section 1332 of the federal Patient Protection and Affordable Care Act (42 U.S.C. 18052) to implement a state reinsurance program to help stabilize the individual insurance market by reducing individual insurance premiums and out-of-pocket costs while preserving access to health insurance. The Secretary shall convene stakeholders to include representatives of health insurers, the State Corporation Commission Bureau of Insurance, consumer advocates, and others deemed necessary to assist in developing the reinsurance program.

2. The State Corporation Commission Bureau of Insurance shall provide technical assistance to the Secretary of Health and Human Resources as requested.

3. The Secretary shall report on the reinsurance program to the Chairs of House Labor and Commerce and Senate Commerce and Labor Committees and the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020. Such report shall include an analysis of the costs and assumptions of such a reinsurance program and potential options to fund the non-federal share of costs. In addition, the report shall include suggested legislation to implement the program. Implementation of the reinsurance program shall be subject to appropriation of the non-federal share of costs by the General Assembly and approval by the United States Secretary of Health and Human Services.

E. The Secretary of Health and Human Resources shall convene a workgroup to review and make recommendations regarding the state regulation of doulas and establishing a community doula benefit for pregnant women covered by Medicaid. The workgroup shall include representatives from the Department of Medical Assistance Services, the Virginia Department of Health, and the Department of Health Professions, as well as representatives from community doula practitioners, stakeholder groups, and community organizations. The workgroup shall examine and report on the (i) federal requirements and permissibility associated with providing a Medicaid doula benefit; (ii) impact that state regulation would have on doula practitioners; (iii) a review of strategies other states have implemented; (iv) an analysis of the appropriate rates for such a benefit; and (v) the estimated costs and potential savings to the state and practitioners over the next six years. The workgroup shall report its findings and recommendations to the Governor and to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.

F.1. It is the intent of the General Assembly that aging services be elevated in importance within state government, to include consideration of reestablishing a separate agency on aging under the Office of the Secretary of Health and Human Resources beginning July 1, 2022. Such an agency would oversee policies and programs impacting older Virginians

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and provide a leadership role across state government in evaluating the impact the aging population has on state services.

2. The Secretary of Health and Human Resources, or his designee, shall convene a workgroup that includes representatives from the Department for Aging and Rehabilitative Services, Area Agencies on Aging, the Virginia Association of Area Agencies on Aging, the Department of Planning and Budget, the Division of Legislative Services, appropriate staff from the House Appropriations and Senate Finance and Appropriations Committees, and other appropriate stakeholders. The workgroup shall: (i) review other state aging departments and best practices for offices of aging services that are fully capable of leading across state government with regard to the impacts of an aging population; (ii) review and develop an optimal organizational structure; (iii) develop a transition plan for transferring staff, funding and making other operational changes as needed; (iv) draft legislation for consideration by the 2022 General Assembly; (v) determine potential costs; and (vi) develop draft changes to the Appropriation Act. The workgroup shall, at a minimum, evaluate the most appropriate place that aging services, adult services, adult protective services and auxiliary grant programs should reside within state government. In addition, the workgroup shall examine any other aging-related programs in the Health and Human Resources Secretariat and make recommendations as appropriate to ensure coordination across such programs.

3. The workgroup shall provide all deliverables and report on its findings by December 1, 2021, to the Governor, the Department of Planning and Budget, and the Chairs of House Appropriations and Senate Finance and Appropriations Committees.

G. The Secretary of Health and Human Resources, or his designee, shall convene a workgroup of appropriate agencies within the secretariat and other stakeholders, as necessary, to research and recommend strategies for the financing of health care services for undocumented immigrant children. The workgroup shall: (i) identify the number of children who would qualify and their geographic location; (ii) demonstrate the impact a lack of health care coverage has on these children; (iii) determine the financial burden carried by hospital systems and other healthcare facilities that currently provide care for these children; (iv) identify the existing barriers these children face when trying to access essential medical services in a timely manner; (v) identify the long-term health impacts to children who do not have health care coverage and the future cost the Commonwealth will incur as a result; and (vi) recommend options for providing health care coverage to these children and the approximate cost to the Commonwealth.

Total for Secretary of Health and Human Resources...			\$878,064	\$878,064
General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$878,064	\$878,064		

Children's Services Act (200)

292.	Protective Services (45300).....			\$371,426,427	\$379,203,904
	Financial Assistance for Child and Youth Services (45303).....	\$371,426,427	\$379,203,904	\$369,379,676	\$385,091,773
		\$369,379,676	\$385,091,773		
	Fund Sources: General.....	\$318,818,681	\$326,596,158		
		\$316,771,930	\$327,459,444		
	Federal Trust.....	\$52,607,746	\$52,607,746		
			\$57,632,329		

Authority: Title 2.2, Chapter 52, Code of Virginia.

A. The Department of Education shall serve as fiscal agent to administer funds cited in paragraphs B and C.

B.1.a. Out of this appropriation, \$260,642,978 the first year and ~~\$268,416,617~~\$268,974,546 the second year from the general fund and \$51,607,746 the first year and ~~\$51,607,746~~\$57,632,329 the second year from nongeneral funds shall be used for the state pool of funds pursuant to § 2.2-5211, Code of Virginia. This appropriation shall consist of a

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Medicaid pool allocation, and a non-Medicaid pool allocation.

b. The Medicaid state pool allocation shall consist of \$28,526,197 the first year and ~~\$28,526,197~~\$31,214,350 the second year from the general fund and \$43,187,748 the first year and ~~\$43,187,748~~\$48,212,331 the second year from nongeneral funds. The Office of Children's Services will transfer these funds to the Department of Medical Assistance Services as they are needed to pay Medicaid provider claims.

c. The non-Medicaid state pool allocation shall consist of \$232,116,781 the first year and ~~\$239,890,420~~\$237,760,196 the second year from the general fund and \$8,419,998 the first year and \$8,419,998 the second year from nongeneral funds. The nongeneral funds shall be transferred from the Department of Social Services.

d. The Office of Children's Services, with the concurrence of the Department of Planning and Budget, shall have the authority to transfer the general fund allocation between the Medicaid and non-Medicaid state pools in the event that a shortage should exist in either of the funding pools.

e. The Office of Children's Services, per the policy of the State Executive Council, shall deny state pool funding to any locality not in compliance with federal and state requirements pertaining to the provision of special education and foster care services funded in accordance with § 2.2-5211, Code of Virginia.

2.a. Out of this appropriation, ~~\$55,666,865~~\$53,620,114 the first year and \$55,666,865 the second year from the general fund and \$1,000,000 the first year and \$1,000,000 the second year from nongeneral funds shall be set aside to pay for the state share of supplemental requests from localities that have exceeded their state allocation for mandated services. The nongeneral funds shall be transferred from the Department of Social Services.

b. In each year, the director of the Office of Children's Services may approve and obligate supplemental funding requests in excess of the amount in 2a above, for mandated pool fund expenditures up to 10 percent of the total general fund appropriation authority in B1a in this Item.

c. The State Executive Council shall maintain local government performance measures to include, but not be limited to, use of federal funds for state and local support of the Children's Services Act.

d. Pursuant to § 2.2-5200, Code of Virginia, Community Policy and Management Teams shall seek to ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the safety of the public. Each locality shall submit to the Office of Children's Services information on utilization of residential facilities for treatment of children and length of stay in such facilities. By December 15 of each year, the Office of Children's Services shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on utilization rates and average lengths of stays statewide and for each locality.

3. Each locality receiving funds for activities under the Children's Services Act (CSA) shall have a utilization management process, including a uniform assessment, approved by the State Executive Council, covering all CSA services. Utilizing a secure electronic site, each locality shall also provide information as required by the Office of Children's Services to include, but not be limited to case specific information, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings suggested by the uniform assessment instrument. The State Executive Council, utilizing this information, shall track and report on child specific outcomes for youth whose services are funded under the Children's Services Act. Only non-identifying demographic, service, cost and outcome information shall be released publicly. Localities requesting funding from the set aside in paragraph 2.a. and 2.b. must demonstrate compliance with all CSA provisions to receive pool funding.

4. The Secretary of Health and Human Resources, in consultation with the Secretary of Education and the Secretary of Public Safety and Homeland Security, shall direct the

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	actions for the Departments of Social Services, Education, and Juvenile Justice, Medical Assistance Services, Health, and Behavioral Health and Developmental Services, to implement, as part of ongoing information systems development and refinement, changes necessary for state and local agencies to fulfill CSA reporting needs.			
	5. The State Executive Council shall provide localities with technical assistance on ways to control costs and on opportunities for alternative funding sources beyond funds available through the state pool.			
	6. Out of this appropriation, \$100,000 \$50,000 the first year and \$100,000 \$50,000 the second year from the general fund is provided for a combination of regional and statewide meetings for technical assistance to local community policy and management teams, family assessment and planning teams, and local fiscal agents. Training shall include, but not be limited to, cost containment measures, building community-based services, including creation of partnerships with private providers and non-profit groups, utilization management, use of alternate revenue sources, and administrative and fiscal issues. A state-supported institution of higher education, in cooperation with the Virginia Association of Counties, the Virginia Municipal League, and the State Executive Council, may assist in the provisions of this paragraph. A training plan shall be presented to and approved by the State Executive Council before the beginning of each fiscal year. A training calendar and timely notice of programs shall be provided to Community Policy and Management Teams and family assessment and planning team members statewide as well as to local fiscal agents and chief administrative officers of cities and counties. A report on all regional and statewide training sessions conducted during the fiscal year, including (i) a description of each program and trainers, (ii) the dates of the training and the number of attendees for each program, (iii) a summary of evaluations of these programs by attendees, and (iv) the funds expended, shall be made to the Chairmen of the House Appropriations and Senate Finance Committees and to the members of the State Executive Council by December 1 of each year. Any funds unexpended for this purpose in the first year shall be reappropriated for the same use in the second year.			
	7. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund is provided for the Office of Children's Services to contract for the support of uniform CSA reporting requirements.			
	8. The State Executive Council shall require a uniform assessment instrument.			
	9. The Office of Children's Services, in conjunction with the Department of Social Services, shall determine a mechanism for reporting Temporary Assistance for Needy Families Maintenance of Effort eligible costs incurred by the Commonwealth and local governments for the Children's Services Act.			
	10. For purposes of defining cases involving only the payment of foster care maintenance, pursuant to § 2.2-5209, Code of Virginia, the definition of foster care maintenance used by the Virginia Department of Social Services for federal Title IV-E shall be used.			
	C. The funding formula to carry out the provisions of the Children's Services Act is as follows:			
	1. Allocations. The allocations for the Medicaid and non-Medicaid pools shall be the amounts specified in paragraphs B.1.b. and B.1.c. in this Item. These funds shall be distributed to each locality in each year of the biennium based on the greater of that locality's percentage of actual 1997 Children's Services Act pool fund program expenditures to total 1997 pool fund program expenditures or the latest available three-year average of actual pool fund program expenditures as reported to the state fiscal agent.			
	2. Local Match. All localities are required to appropriate a local match for the base year funding consisting of the actual aggregate local match rate based on actual total 1997 program expenditures for the Children's Services Act. This local match rate shall also apply to all reimbursements from the state pool of funds in this Item and carryforward expenditures submitted prior to September 30 each year for the preceding fiscal year, including administrative reimbursements under paragraph C.4. in this Item.			
	3.a. Notwithstanding the provisions of C.2. of this Item, beginning July 1, 2008, the local match rate for community based services for each locality shall be reduced by 50 percent.			

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b. Localities shall review their caseloads for those individuals who can be served appropriately by community-based services and transition those cases to the community for services. Beginning July 1, 2009, the local match rate for non-Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base. Beginning July 1, 2011, the local match rate for Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base.				
c. By December 1 of each year, The State Executive Council (SEC) shall provide an update to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the outcomes of this initiative.				
d. At the direction of the State Executive Council, local Community Policy and Management Teams (CPMTs) and Community Services Boards (CSBs) shall work collaboratively in their service areas to develop a local plan for intensive care coordination (ICC) services that best meets the needs of the children and families. If there is more than one CPMT in the CSB's service area, the CPMTs and the CSB may work together as a region to develop a plan for ICC services. Local CPMTs and CSBs shall also work together to determine the most appropriate and cost-effective provider of ICC services for children in their community who are placed in, or at-risk of being placed in, residential care through the Children's Services Act, in accordance with guidelines developed by the State Executive Council. The State Executive Council and Office of Children's Services shall establish guidelines for reasonable rates for ICC services and provide training and technical assistance to CPMTs and fiscal agents regarding these services.				
e. The local match rate for all non-Medicaid services provided in the public schools after June 30, 2011 shall equal the fiscal year 2007 base.				
4. Local Administrative Costs. Out of this appropriation, an amount equal to two percent of the fiscal year 1997 pool fund allocations, not to exceed \$2,060,000 the first year and \$2,060,000 the second year from the general fund, shall be allocated among all localities for administrative costs. Every locality shall be required to appropriate a local match based on the local match contribution in paragraph C.2. of this Item. Inclusive of the state allocation and local matching funds, every locality shall receive the larger of \$12,500 or an amount equal to two percent of the total pool allocation. Localities are encouraged to use administrative funding to hire a full-time or part-time local coordinator for the Children's Services Act program. Localities may pool this administrative funding to hire regional coordinators.				
5. Definition. For purposes of the funding formula in the Children's Services Act, "locality" means city or county.				
D. Community Policy and Management Teams shall use Medicaid-funded services whenever they are available for the appropriate treatment of children and youth receiving services under the Children's Services Act. Effective July 1, 2009, pool funds shall not be spent for any service that can be funded through Medicaid for Medicaid-eligible children and youth except when Medicaid-funded services are unavailable or inappropriate for meeting the needs of a child.				
E. Pursuant to subdivision 3 of § 2.2-5206, Code of Virginia, Community Policy and Management Teams shall enter into agreements with the parents or legal guardians of children receiving services under the Children's Services Act. The Office of Children's Services shall be a party to any such agreement. If the parent or legal guardian fails or refuses to pay the agreed upon sum on a timely basis and a collection action cannot be referred to the Division of Child Support Enforcement of the Department of Social Services, upon the request of the community policy management team, the Office of Children's Services shall make a claim against the parent or legal guardian for such payment through the Department of Law's Division of Debt Collection in the Office of the Attorney General.				
F. The Office of Children's Services, in cooperation with the Department of Medical Assistance Services, shall provide technical assistance and training to assist residential and treatment foster care providers who provide Medicaid-reimbursable services through the Children's Services Act to become Medicaid-certified providers.				

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<p>G. The Office of Children's Services shall work with the State Executive Council and the Department of Medical Assistance Services to assist Community Policy and Management Teams in appropriately accessing a full array of Medicaid-funded services for Medicaid-eligible children and youth through the Children's Services Act, thereby increasing Medicaid reimbursement for treatment services and decreasing the number of denials for Medicaid services related to medical necessity and utilization review activities.</p>				
<p>H. Pursuant to subdivision 21 of § 2.2-2648, Code of Virginia, no later than December 20 in the odd-numbered years, the State Executive Council shall biennially publish and disseminate to members of the General Assembly and Community Policy and Management Teams a progress report on services for children, youth, and families and a plan for such services for the succeeding biennium.</p>				
<p>I. Out of this appropriation, \$275,000 the first year and \$275,000 the second year from the general fund shall be used to purchase and maintain an information system to provide quality and timely child demographic, service, expenditure, and outcome data.</p>				
<p>J. The State Executive Council shall work with the Department of Education to ensure that funding in this Item is sufficient to pay for the educational services of students that have been placed in or admitted to state or privately operated psychiatric or residential treatment facilities to meet the educational needs of the students as prescribed in the student's Individual Educational Plan (IEP).</p>				
<p>K.1. The Office of Children's Services (OCS) shall report on funding for therapeutic foster care services including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition. In addition, the OCS shall provide guidance and training to assist localities in negotiating contracts with therapeutic foster care providers.</p>				
<p>2. The Office of Children's Services shall report on funding for special education day treatment and residential services, including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition.</p>				
<p>3. The Office of Children's Services shall report by December 1 of each year the information included in this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees.</p>				
<p>L. Out of this appropriation, the Director, Office of Children's Services, shall allocate \$2,200,000 the first year and \$2,200,000 the second year from the general fund to localities for wrap-around services for students with disabilities as defined in the Children's Services Act policy manual.</p>				
<p>M. Notwithstanding any other provision of law, the rates paid by localities to providers of private day special education services under the Children's Services Act shall not increase more than two percent the first year above the rates paid in the prior fiscal year. All localities shall submit their contracted rates for private day education services to the Office of Children's Services by August 1 of each year.</p>				
<p>N. Any community policy management team receiving and disbursing funds under the Children's Services Act to pay for a student's placement in a private school; pursuant to an individualized education plan; serving students with disabilities; shall continue to pay a daily or monthly rate for the 2020-21 school year; but may adjust the rate to account for virtual or distance learning provided by a private school to a rate that is commensurate with the level of service being provided; as long as the student's placement is in a private school serving students with disabilities that is continuing to provide a free and appropriate public education and the private school is providing services to the student; including virtual:</p>				
293.	Administrative and Support Services (4990).....		\$2,259,796	\$2,009,796
			\$2,209,796	\$2,181,239
	General Management and Direction (49901).....	\$2,259,796	\$2,009,796	
		\$2,209,796	\$2,181,239	
	Fund Sources: General.....	\$2,259,796	\$2,009,796	
		\$2,209,796	\$2,181,239	

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	FY2021	FY2022	FY2021	FY2022

Authority: Title 2.2, Chapter 26, Code of Virginia.

A. The Office of Children's Services may enter into a memorandum of understanding with the Department of Social Services for the provision of routine administrative support services.

B.1. Out of this appropriation, \$250,000 the first year from the general fund is provided for the Office of Children's Services to contract for the continuation of a study on the current rates paid by localities to special education private day programs licensed by the Virginia Department of Education. Any remaining balance in the appropriation for the rate study that remains unexpended on June 30, 2021, shall be reappropriated in the next fiscal year for this purpose. Any provider of special education private day services receiving public funds for services provided through the Children's Services Act program shall cooperate with this study and make available to the Office of Children's Services all necessary information, as determined by the director, Office of Children's Services, or his designee, required to determine the adequacy of rates paid for such services and to develop recommendations for a rate-setting structure. The study shall consider the financial impact on local school districts, local governments, and private educational services providers.

2. The Office of Children's Services shall take steps to protect from disclosure any provider-specific information designated by the provider to be confidential or a trade secret. Any information so designated shall be exempt from disclosure under the Virginia Freedom of Information Act. (§ 2.2-3700). This provision does not prevent the use of such data in any aggregated manner for purposes of managing, analyzing, or planning programs funded in this Act.

3. The Office of Children's Services shall submit a final report on the preliminary findings on the continuation of the study on rates for private day special education services to the Joint Legislative Audit and Review Commission no later than Sept. 1, 2020/2021 for review and incorporation into their 2020 study on the Children's Services Act. The Office of Children's Services shall provide a final report on the study's findings to the Governor and the Chairmen of the Senate Finance and Appropriations and House Appropriations Committees by June 1, 2021.

4. In addition, the study shall, at a minimum: (i) provide definitions and clear delineation between all staff and positions used by private day schools and assessed in the study; (ii) define which staff positions can be included in the classroom staff ratio assessment; (iii) assess all costs associated with regulatory licensing; and (iv) require providers to report costs and distinguish between different locations.

5. The Office of Children's Services shall implement statewide rates for private day special education services based on the study in this paragraph, effective on July 1, 2021.

C. Out of this appropriation, \$100,000 from the general fund the second year is provided to the Office of Children's Services for a contract to assist in implementing rate setting for private day special education rates. The Office of Children's Services shall implement statewide rates for private day special education services effective July 1, 2022.

D. The Office of Children's Services (OCS) shall report on the implementation of new statutory requirements contained in House Bill 2212, 2021 Special Session I. The report should be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.

E. The Office of Children's Services shall develop a plan to modify its staffing and operations to ensure effective local implementation of the Children's Services Act. The plan shall include any new or different staff positions required, how those positions will be used to monitor and improve effectiveness, and the estimated cost of implementing these changes. The plan shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees as part of the report required by paragraph D of this item.

F. The Office of Children's Services shall collect annually from each local Children's Services Act program the number of program staff by full- and part-time status and the administrative budget broken out by state and local funding to understand local program

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<i>resources and target technical assistance to the most under-sourced local programs.</i>				
293.10	Omitted.			
	Total for Children's Services Act.....		\$373,686,223	\$381,213,700
			\$371,589,472	\$387,273,012
	General Fund Positions.....	14.00	14.00	15.00
	Position Level.....	14.00	14.00	15.00
	Fund Sources: General.....	\$321,078,477	\$328,605,954	
		\$318,981,726	\$329,640,683	
	Federal Trust.....	\$52,607,746	\$52,607,746	\$57,632,329
	Grand Total for Secretary of Health and Human Resources.....		\$374,564,287	\$382,091,764
			\$372,467,536	\$388,151,076
	General Fund Positions.....	19.00	19.00	20.00
	Position Level.....	19.00	19.00	20.00
	Fund Sources: General.....	\$321,956,541	\$329,484,018	
		\$319,859,790	\$330,518,747	
	Federal Trust.....	\$52,607,746	\$52,607,746	\$57,632,329

§ 1-97. DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING (751)

294.	Social Services Research, Planning, and Coordination (45000).....			\$3,587,725	\$3,587,725
				\$3,920,329	\$3,628,725
	Technology Services for Deaf and Hard-of-Hearing (45004).....	\$2,419,807	\$2,419,807		
		\$2,752,411			
	Consumer, Interpreter, and Community Support Services (45005).....	\$723,899	\$723,899		
			\$764,899		
	Administrative Services (45006).....	\$444,019	\$444,019		
	Fund Sources: General.....	\$1,048,970	\$1,048,970		
	Special.....	\$2,438,755	\$2,438,755		
		\$2,771,359			
	Federal Trust.....	\$100,000	\$100,000		
			\$141,000		

Authority: Title 51.5, Chapter 13, Code of Virginia.

A. Up to \$48,529 the first year and up to \$48,529 the second year from the general fund is provided to the Department of Deaf and Hard-of-Hearing (DDHH) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DDHH and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.

B. Out of this appropriation, an amount estimated at ~~\$1,723,070~~ \$2,055,674 the first year and \$1,723,070 the second year from special funds shall be used to cover the cost of providing telecommunications relay service as defined in §51.5-115, Code of Virginia.

C.1. Notwithstanding § 58.1-662 of the Code of Virginia, prior to the distribution of monies from the Communications Sales and Use Tax Trust Fund to counties, cities and towns, there shall be distributed monies in the fund to pay for the Technology Assistance Program. This requirement shall not change any other distributions required by law from the

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Communications Sales and Use Tax Trust Fund.				
2. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from special funds shall be used for the Technology Assistance Program.				
D. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be used to contract with the Connie Reasor Deaf Resource Center in Planning District 1 for the provision of outreach and technical assistance to deaf and hard-of-hearing individuals.				
Total for Department for the Deaf and Hard-Of-Hearing.....			\$3,587,725	\$3,587,725
			\$3,920,329	\$3,628,725
General Fund Positions.....	8.37	8.37		
Nongeneral Fund Positions.....	2.63	2.63		
Position Level.....	11.00	11.00		
Fund Sources: General.....	\$1,048,970	\$1,048,970		
Special.....	\$2,438,755	\$2,438,755		
	\$2,771,359			
Federal Trust.....	\$100,000	\$100,000		
		\$141,000		

§ 1-98. DEPARTMENT OF HEALTH (601)

295. Higher Education Student Financial Assistance (10800).....			\$2,985,000	\$2,985,000
			\$885,000	\$3,120,000
Scholarships (10810).....	\$2,985,000	\$2,985,000		
	\$885,000	\$3,120,000		
Fund Sources: General.....	\$2,400,000	\$2,400,000		
	\$300,000	\$2,435,000		
Dedicated Special Revenue.....	\$85,000	\$85,000		
Federal Trust.....	\$500,000	\$500,000		
		\$600,000		

Authority: §§ 23.1-614 and 32.1-122.5:1 through 32.1-122.10, Code of Virginia.

A. This appropriation shall only be used for the provision of loans or scholarships in accordance with regulations promulgated by the Board of Health, or for the administration, management, and reporting thereof. The department may move appropriation between scholarship or loan repayment programs as long as the scholarship or loan repayment is in accordance with the regulations promulgated by the Board of Health.

B: The Virginia Department of Health shall collaborate with the Virginia Health Care Foundation and the Department of Behavioral Health and Developmental Services; the state teaching hospitals; and other relevant stakeholders on a plan to increase the number of Virginia behavioral health practitioners; including licensed clinical psychologists; licensed clinical social workers; licensed professional counselors; child and adolescent psychiatrists; and psychiatric nurse practitioners; practicing in Virginia's community services boards; behavioral health authorities; state mental health facilities; free clinics; federally qualified health centers and other similar health safety net organizations through the use of a student loan repayment program. The program design shall address the need for behavioral health professionals in behavioral health shortage areas; the types of behavioral health practitioners needed across communities; the results of community health needs assessments that have been completed by hospitals; localities or other organizations; and shortages that may exist in high cost of living areas; which may preclude individuals from choosing employment in public and non-profit community behavioral health and safety net organizations and state mental health facilities. The program design shall include a preference for applicants who choose employment in underserved areas of the Commonwealth and contain conditions for recipients to practice in these areas for at least two years. The program shall be implemented by the Virginia Department of Health. The plan shall identify opportunities to leverage state funding for

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<p>the program with funds from other sources in order to maximize the total funding for such a program. The plan shall determine how the program can complement and coordinate with existing efforts to recruit and retain Virginia behavioral health practitioners:</p>				
<p>C.1. The Virginia Department of Health shall establish the Virginia Behavioral Health Loan Repayment Program. Eligible practitioners include: psychiatrists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors, child and adolescent psychiatrists, <i>psychiatric physician assistants</i>, <i>psychiatric pharmacists</i>, and psychiatric nurse practitioners. The program shall include a tiered incentive system as follows: (i) Tier I providers: child and adolescent psychiatrists, psychiatric nurse practitioners, and psychiatrists; and (ii) Tier II providers: licensed clinical psychologists, licensed clinical social workers, and licensed professional counselors.</p>				
<p>2. For each eligible year of service provided, the practitioner shall receive a year of applicable loan repayment award in return. Loan repayment checks will be submitted at the end of each year of service. Payments will be made directly to the lender. Practitioners must agree to a minimum of two years of practice for the behavioral health provider with the ability for two one-year renewals. The program shall require preference be given to applicants choosing to practice in underserved areas which must be a federally designated mental Health Professional Shortage Area or Medically Underserved Area within the Commonwealth. Practitioners are required to practice at Community Services Boards, behavioral health authorities, state mental health facilities, free clinics, federally qualified health centers and other similar health safety net organizations in order to be eligible for the program. The award amount is up to 25 percent of student loan debt, not to exceed \$30,000 per year for Tier I professionals or \$20,000 per year for Tier II professionals. In no instance shall the loan repayment exceed the total student loan debt.</p>				
<p>3. No match contribution from practice sites or the community is required. Loan repayment awards shall be tax exempt.</p>				
<p>4. The program shall have an Advisory Board, composed of representatives from stakeholder organizations and community members as determined by the department. The Advisory Board will meet annually and provide guidance regarding effective outreach and feedback on both programmatic processes and impact. The department shall provide an annual report to the Advisory Board on successes, challenges and opportunities with the program.</p>				
<p>5. The Board of Health shall develop regulations consistent with this language in order for the department to administer the program.</p>				
<p>D.1. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to the Virginia Department of Health to establish a Nursing Preceptor Incentive Program. The department shall collaborate with the State Council of Higher Education for Virginia, the Virginia Nurses Association, the Virginia Healthcare and Hospital Association, and other relevant stakeholders on an advanced practice nursing student preceptor grant program. The program shall offer a \$1,000 incentive for any Virginia licensed physician, physician's assistant, or advanced practice registered nurse (APRN) who, in conjunction with a licensed and accredited Virginia public or private not-for-profit school of nursing, provides a clinical education rotation of 250 hours, which is certified as having been completed by the school. The amount of the incentive may be adjusted based on the actual number of hours completed during the clinical education rotation. The program shall seek to reduce the shortage of APRN clinical education opportunities and establish new preceptor rotations for advanced practice nursing students, especially in high demand fields such as psychiatry. The department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 20202021, on the progress of establishing the Nursing Preceptor Incentive Program.</p>				
<p>2. The Virginia Health Workforce Development Authority shall develop the process for the consideration of requests for funding from the Nursing Preceptor Incentive Program.</p>				
<p>E. Out of this appropriation, \$35,000 the second year from the general fund is provided for the Nurse Loan Repayment Program to provide loan repayments for certified nurse aides. The total loan repayment allowed per certified nurse aide is limited to no more than \$1,000.</p>				
296.	Emergency Medical Services (40200).....		\$46,280,757	\$46,280,757 \$49,751,484

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Financial Assistance for Non Profit Emergency Medical Services Organizations and Localities (40203).....	\$33,397,814	\$33,397,814 \$33,437,814		
State Office of Emergency Medical Services (40204).....	\$12,882,943	\$12,882,943 \$16,313,670		
Fund Sources: Special.....	\$19,881,111	\$19,881,111 \$20,351,838		
Dedicated Special Revenue.....	\$25,992,505	\$25,992,505 \$28,992,505		
Federal Trust.....	\$407,141	\$407,141		

Authority: §§ 32.1-111.1 through 32.1-111.16, 32.1-116.1 through 32.1-116.3, and 46.2-694 A 13, Code of Virginia.

A. Out of this appropriation, \$25,000 the first year and \$25,000 the second year from special funds shall be provided to the Department of State Police for administration of criminal history record information for local volunteer fire and rescue squad personnel (pursuant to § 19.2-389 A 11, Code of Virginia).

B. Distributions made under § 46.2-694 A 13 b (iii), Code of Virginia, shall be made only to nonprofit emergency medical services organizations. *The Virginia Department of Health shall develop and implement a plan to ensure timely quarterly distributions of Four for Life funding to the Virginia Association of Volunteer Rescue Squads beginning quarterly in May 2021.*

C. Out of this appropriation, \$1,045,375 the first year and \$1,045,375 the second year from the Virginia Rescue Squad Assistance Fund and \$2,052,723 the first year and \$2,052,723 the second year from the special emergency medical services fund shall be provided to the Department of State Police for aviation (med-flight) operations.

D. The State Health Commissioner shall review current funding provided to trauma centers to offset uncompensated care losses, report on feasible long-term financing mechanisms, and examine and identify potential funding sources on the federal, state and local level that may be available to Virginia's trauma centers to support the system's capacity to provide quality trauma services to Virginia citizens. As sources are identified, the commissioner shall work with any federal and state agencies and the Trauma System Oversight and Management Committee to assist in securing additional funding for the trauma system.

E. Notwithstanding any other provision of law or regulation, the Board of Health shall not modify the geographic or designated service areas of designated regional emergency medical services councils in effect on January 1, 2008, or make such modifications a criterion in approving or renewing applications for such designation or receiving and disbursing state funds.

F. Notwithstanding any other provision of law or regulation, funds from the \$0.25 of the \$4.25 for Life fee shall be provided for the payment of the initial basic level emergency medical services certification examination provided by the National Registry of Emergency Medical Technicians (NREMT). The Board of Health shall determine an allocation methodology upon recommendation by the State EMS Advisory Board to ensure that funds are available for the payment of initial NREMT testing and distributed to those individuals seeking certification as an Emergency Medical Services provider in the Commonwealth of Virginia.

G. Out of this appropriation, \$190,000 the first year and \$190,000 the second year from the Virginia Rescue Squad Assistance Fund shall be provided for national background checks on persons applying to serve as a certified or non-certified provider in a licensed emergency medical services agency. The Office of Emergency Medical Services may transfer funding to the Office of State Police for national background checks as necessary. The Virginia Department of Health shall continue to allow local EMS agencies to submit fingerprint cards for background checks on volunteers applying to be a member of local EMS agencies. The cost of the criminal background shall be paid from funds

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	available to the Office of Emergency Medical Services.			
297.			\$15,451,106	\$15,451,106 \$16,052,252
	Anatomical Services (40301).....	\$591,796		\$591,796 \$691,796
	Medical Examiner Services (40302).....	\$14,859,310		\$14,859,310 \$15,360,456
	Fund Sources: General.....	\$13,209,255		\$13,209,255 \$13,260,401
	Special.....	\$1,100,385		\$1,100,385 \$1,400,385
	Federal Trust.....	\$1,141,466		\$1,141,466 \$1,391,466
	Authority: §§ 32.1-277 through 32.1-304, Code of Virginia.			
298.			\$8,517,050	\$8,517,050
	Vital Records and Health Statistics (40400).....			
	Health Statistics (40401).....	\$1,099,826		\$1,099,826
	Vital Records (40402).....	\$7,417,224		\$7,417,224
	Fund Sources: Special.....	\$7,882,104		\$7,882,104
	Federal Trust.....	\$634,946		\$634,946
	Authority: §§ 8.01-217, 32.1-249 through 32.1-276, Code of Virginia; and P.L. 93-353, as amended, Federal Code.			
	A. Effective July 1, 2004, the standard vital records fee shall be \$12.00 and the fee for the expedited record search shall be \$48.00.			
	B. Notwithstanding § 32.1-273.D, Code of Virginia, the revenues generated from the sale of birth, marriage, or divorce records in state administered health districts shall be distributed between the districts that issue the records and the Division of Vital Records. The revenues will be split with 65 percent remaining in the district to support the costs of that district and 35 percent to be transferred to the Division of Vital Records to support ongoing infrastructure costs associated with the collection, retention and issuance of the Commonwealth's vital records.			
	C. The state teaching hospitals shall work with the Department of Health and Division of Vital Records to fully implement use of the Electronic Death Registration System (EDRS) for all deaths occurring within any Virginia state teaching hospital's facilities.			
299.			\$109,901,022	\$109,966,944 \$248,857,180
	Communicable Disease Prevention and Control (40500).....		\$128,626,159	\$248,857,180
	Immunization Program (40502).....	\$8,147,521		\$8,161,841 \$67,284,870
	Tuberculosis Prevention and Control (40503).....	\$2,174,878		\$2,174,878 \$2,224,878
	Sexually Transmitted Disease Prevention and Control (40504).....	\$3,393,106		\$3,393,106
	Disease Investigation and Control Services (40505)....	\$5,682,596		\$5,734,198 \$84,676,405
	HIV/AIDS Prevention and Treatment Services (40506).....	\$88,359,214		\$88,359,214 \$88,634,214
	Pharmacy Services (40507).....	\$2,143,707		\$2,143,707 \$2,643,707
	Fund Sources: General.....	\$11,317,437		\$11,383,359 \$13,145,146
	Special.....	\$1,883,391		\$1,883,391 \$2,708,391
	Federal Trust.....	\$96,700,194		\$96,700,194 \$233,003,643

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<p>Authority: §§ 32.1-11.1, 32.1-11.2, and 32.1-35 through 32.1-73, Code of Virginia; and P.L. 91-464, as amended, Federal Code.</p>				
<p>A. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to purchase medications for individuals who have tuberculosis but who do not qualify for free or reduced prescription drugs and who do not have adequate income or insurance coverage to purchase the required prescription drugs.</p>				
<p>B. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be provided to the Division of Tuberculosis Control for the purchase of medications and supplies for individuals who have drug-resistant tuberculosis and require treatment with expensive, second-line antimicrobial agents.</p>				
<p>C. The requirement for testing of tuberculosis isolates set out in § 32.1-50 E, Code of Virginia, shall be satisfied by the submission of samples to the Division of Consolidated Laboratory Services, or such other laboratory as may be designated by the Board of Health.</p>				
<p>D. Out of this appropriation, \$840,288 the first year and \$840,288 the second year from nongeneral funds shall be used to purchase the Tdap (tetanus/diphtheria/pertussis) vaccine for children without insurance.</p>				
<p>E. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be provided to the State Pharmaceutical Assistance Program (SPAP) for insurance premium payments, coinsurance payments, and other out-of-pocket costs for individuals participating in the Virginia AIDS Drug Assistance Program (ADAP) with incomes between 135 percent and 300 percent of the federal poverty income guidelines and who are Medicare Part D beneficiaries. <i>Virginia Medication Assistance Program (VA MAP), formerly AIDS Drug Assistance Program, with incomes meeting the VA MAP's current requirements and who are Medicare prescription drug coverage beneficiaries.</i></p>				
<p>F. The State Health Commissioner shall monitor patients who have been removed or diverted from the Virginia AIDS Drug Assistance Program due to budget considerations. At a minimum the Commissioner shall monitor patients to determine if they have been successfully enrolled in a private Pharmacy Assistance Program or other program to receive appropriate anti-retroviral medications. The commissioner shall also monitor the program to assess whether a waiting list has developed for services provided through the ADAP program. The commissioner shall report findings to the Chairmen of the House Appropriations and Senate Finance Committees annually on October 1.</p>				
<p>G. The Virginia Department of Health shall report for each month within 30 days after the end of each month, on the number of procedures approved for payment pursuant to § 32.1-92.2, Code of Virginia, and include a description of the nature of the fetal abnormality, to the extent permitted by law, as required for eligibility under § 32.1-92.2, Code of Virginia. The department shall report the information by letter to the Chairmen of the House Appropriations and Senate Finance Committees.</p>				
<p>H. The Virginia Department of Health, in cooperation with the Department of Behavioral Health and Developmental Services (DBHDS), shall utilize \$1,600,011 each year from available federal funding in DBHDS, including the State Opioid Response Grant, as available, to purchase and provide opioid reversal drugs to support community rescue efforts for those who deal with vulnerable populations.</p>				
<p>I. The Department of Health shall convene a work group, which shall include the Commonwealth's Chief Diversity, Equity, and Inclusion Officer and representatives of the Office of Health Equity of the Department of Health, the Department of Emergency Management, and such other stakeholders as the department shall deem appropriate and which may be an existing work group or other entity previously convened for a related purpose, to (i) evaluate the methods by which vaccines and other medications necessary to treat or prevent the spread of COVID-19 are made available to the public, (ii) identify and develop a plan to implement specific actions necessary to ensure such vaccines and other medications are equitably distributed in the Commonwealth to ensure all residents of the Commonwealth are able to access such vaccines and other medications, and (iii) make recommendations for any statutory, regulatory, or budgetary actions necessary to</p>				

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Virginia Office of Rural Health, as the state match for the federal Office of Rural Health Policy Grant. The commissioner is authorized to contract for services to accomplish the plan.				
D. Out of the this appropriation, \$278,000 the first year and \$278,000 the second year is appropriated to the department from statewide indirect cost recoveries to match federal funds and support the programs of the Office of Licensure and Certification. Amounts recovered in excess of the special fund appropriation shall be deposited to the general fund.				
E. The Virginia Department of Health (VDH) in collaboration with the Department of Health Professions shall issue risk mitigation guidelines on the prescription of the class of potent pain medicines known as extended-release and long-acting (ER/LA) opioid analgesics to include co-prescription of an opioid antagonist, approved by the U.S. Food and Drug Administration (FDA), for administration by family members or caregivers in a non-medically supervised environment.				
F. In any case in which the Governor has declared a public health emergency related to the novel coronavirus (COVID-19); every medical care facility licensed by the Virginia Department of Health; except nursing facilities; shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided. In any case in which health care services are provided in an inpatient setting; and the duration of health care services in such inpatient setting is anticipated to last more than 24 hours; the person with a disability may designate more than one designated support person. However, no such facility shall be required to allow more than one designated support person to be present with a person with a disability at any time. A designated support person shall not be subject to any restrictions on visitation adopted by such medical care facility. However, such designated support person may be required to comply with all reasonable requirements of the medical care facility adopted to protect the health and safety of patients and staff of the medical care facility. Every such medical care facility shall establish policies applicable to designated support persons and shall (i) make such policies available to the public on a website maintained by the medical care facility and (ii) provide such policies, in writing, to the patient at such time as health care services are provided. A "designated support person" means a person who is knowledgeable about the needs of a person with a disability and who is designated, orally or in writing, by the individual with a disability, the individual's guardian or the individual's care provider, to provide support and assistance, including physical assistance, emotional support, assistance with communication or decision-making, or any other assistance necessary as a result of the person's disability, to the person with a disability at any time during which health care services are provided.				
<i>G. The Virginia Department of Health shall provide administrative and technical support to the Virginia Partners in Prayer Program through its Office of Health Equity. The cost of this support is estimated to be approximately \$20,000 per year and shall be funded within its existing appropriation.</i>				
<i>H. The provisions of § 32.1-102.4 (B), Code of Virginia, shall not apply to nursing homes.</i>				
301.	State Health Services (43000).....		\$168,067,937 \$167,167,937	\$168,028,397 \$164,546,113
	Child and Adolescent Health Services (43002).....	\$11,744,457	\$11,744,457	
	Women's and Infant's Health Services (43005).....	\$11,080,619	\$11,080,619 \$11,123,335	
	Chronic Disease Prevention, Health Promotion, and Oral Health (43015).....	\$11,650,846 \$11,400,846	\$11,650,846 \$11,900,846	
	Injury and Violence Prevention (43016).....	\$4,970,403 \$4,320,403	\$4,930,863 \$4,830,863	
	Women, Infants, and Children (WIC) and Community Nutrition Services (43017).....	\$128,621,612	\$128,621,612 \$124,946,612	
	Fund Sources: General.....	\$7,464,476 \$6,564,476	\$7,424,936 \$7,617,652	
	Special.....	\$3,111,390	\$3,111,390	
	Dedicated Special Revenue.....	\$64,967,057	\$64,967,057 \$61,292,057	

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Federal Trust.....	\$92,525,014	\$92,525,014		

Authority: §§ 32.1-11, 32.1-77, 32.1-89, and 32.1-90, Code of Virginia; P.L. 94-566, as amended, Title V of the U.S. Social Security Act and Title X of the U.S. Public Health Service Act, Federal Code; and P.L. 95-627, as amended, Federal Code.

A. Out of this appropriation, \$999,804 the first year and \$999,804 the second year from special funds is provided to support the newborn screening program and its expansion pursuant to Chapters 717 and 721, Act of Assembly of 2005, and Chapter 531, 2018 Acts of Assembly. Fee revenues sufficient to fund the Department of Health's costs of the program and its expansion shall be transferred from the Division of Consolidated Laboratory Services.

B. The Special Supplemental Nutrition Program for Women, Infants, and Children is exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.).

C. Out of this appropriation, \$305,000 the first year and \$305,000 the second year from the general fund shall be provided to the department's sickle cell program to address rising pediatric caseloads in the current program. Any remaining funds shall be used to develop transition services for youth who will require adult services to ensure appropriate medical services are available and provided for youth who age out of the current program.

D. It is the intent of the General Assembly that the State Health Commissioner continue providing services through child development clinics and access to children's dental services.

E. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to the Department of Health for the operation of the Resource Mothers program.

F.1. Out of this appropriation, \$124,470 the first year and \$124,470 the second year from the general fund and \$82,980 the first year and \$82,980 the second year from nongeneral funds shall be provided for the Virginia Department of Health to establish and administer a Perinatal Quality Collaborative. The Perinatal Quality Collaborative shall work to improve pregnancy outcomes for women and newborns by advancing evidence-based clinical practices and processes through continuous quality improvement with an initial focus on pregnant women with substance use disorder and infants impacted by neonatal abstinence syndrome.

2. Out of this appropriation, \$315,000 the first year and \$315,000 the second year from the general fund shall be provided to support efforts by the Virginia Neonatal Perinatal Collaborative (VNPC) to decrease maternal mortality and morbidity. Funding shall be used for a coordinator position for community engagement, training and education; the development of a pilot program of the Centers for Disease Control's levels of care assessment (LOCATe) tool in the Richmond metropolitan region and Tidewater region; and development of a Project ECHO tele-education model for education and training. Funding shall also be used to assist the VNPC with expanding capacity to address these issues through the use of software to advance data analytics.

G.1. Out of the appropriation, ~~\$750,000 the first year and \$750,000~~ *\$100,000 the first year and \$650,000* the second year from the general fund shall be transferred to the Virginia Sexual and Domestic Violence Prevention Fund.

2. The Department of Health shall continue to award and provide federal Rape Prevention and Education (RPE) funds through the cooperative agreement with the Centers for Disease Control to the six sexual and domestic violence organizations that received such funds in year two of the cooperative agreement. If however, the Centers for Disease Control does not approve or limits the cooperative agreement funding that can be awarded to these organizations, then the department shall make grants, notwithstanding any other provision of law, from the Virginia Sexual and Domestic Violence Prevention Fund in an amount the first year or the second year to ensure the same level of funding the organizations received in federal RPE funds in year two of the cooperative agreement.

H. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is provided to establish the Virginia Sickle Cell Patient Assistance

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<p>Program: The Virginia Department of Health shall administer the program to provide health insurance premium assistance and cost sharing assistance to patients diagnosed with Sickle Cell Disease who do not qualify for Medicaid.</p> <p><i>I. Out of this appropriation, \$305,000 the first year and \$805,000 the second year from the general fund is provided for a comprehensive adult program for sickle cell disease.</i></p>				
302.	Community Health Services (44000).....		\$280,701,516 \$280,625,627	\$280,990,684 \$288,285,626
	Local Dental Services (44002).....	\$3,907,226		\$3,907,226
	Restaurant and Food Safety, Well and Septic Permitting and Other Environmental Health Services (44004).....	\$41,746,457	\$41,746,457 \$41,346,457	
	Local Family Planning Services (44005).....	\$31,778,639	\$31,778,639 \$31,728,639	
	Support for Local Management, Business, and Facilities (44009).....	\$73,197,325 \$73,121,436	\$73,197,325 \$74,881,133	
	Local Maternal and Child Health Services (44010)....	\$39,003,423	\$39,292,591 \$40,264,119	
	Local Immunization Services (44013).....	\$18,720,510		\$18,720,510
	Local Communicable Disease Investigation, Treatment, and Control (44014).....	\$23,710,463	\$23,710,463 \$29,650,069	
	Local Personal Care Services (44015).....	\$4,648,293	\$4,648,293 \$4,548,293	
	Local Chronic Disease and Prevention Control (44016).....	\$11,533,995	\$11,533,995 \$11,283,995	
	Local Nutrition Services (44018).....	\$30,547,825	\$30,547,825 \$29,897,825	
	Population Health (44019).....	\$1,907,360	\$1,907,360 \$2,057,360	
	Fund Sources: General.....	\$109,681,815 \$109,605,926	\$109,970,983 \$119,629,445	
	Special.....	\$116,800,971	\$116,800,971 \$114,787,451	
	Dedicated Special Revenue.....	\$3,636,482		\$3,636,482
	Federal Trust.....	\$50,582,248	\$50,582,248 \$50,232,248	

Authority: §§ 32.1-11 through 32.1-12, 32.1-31, 32.1-163 through 32.1-176, 32.1-198 through 32.1-211, 32.1-246, and 35.1-1 through 35.1-26, Code of Virginia; Title V of the U.S. Social Security Act; and Title X of the U.S. Public Health Service Act.

A.1. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$425.00, for a construction permit for on-site sewage systems designed for less than 1,000 gallons per day, and alternative discharging systems not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator.

2. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$350.00, for the certification letter for less than 1,000 gallons per day not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator.

3. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$225.00, for a construction permit for an onsite sewage system designed for less than 1,000 gallons per day when the application is supported with certified work from a licensed onsite soil evaluator.

4. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$320.00, for the certification letter for less than 1,000 gallons per day supported with certified work from an onsite soil evaluator or a

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shall work with the Middle Peninsula Planning District Commission to initiate a three-year pilot program to analyze an engineered septic unit that houses and treats all sewage effluent in a vertically elevated, self-contained unit suitable for areas with high water tables and flooding in Coastal Virginia. Such vertically elevated septic system, including holding tank and treatment unit, shall have no physical contact with land; shall be vertically elevated on columns, piers, or other structures that provide for the flow of surface water underneath the septic unit; shall be elevated above the storm surge and flood inundation levels; and shall be designed to meet pollution removal standards of the Department of Health and Department of Environmental Quality. The treated sewage discharge from the vertically elevated septic system may include surface, engineered wetland, or other appropriate discharge approaches that comply with regulations for alternative onsite sewage systems (12VAC5-613 et seq.). Such vertically elevated septic system shall be installed in an upland location in the Middle Peninsula outside of any designated Resource Protection Area or floodplain.

2. By December 1 of each year, the Middle Peninsula Planning District Commission shall submit a report to the Governor and General Assembly with the following information: (i) the feasibility of elevating the parts of septic systems vulnerable to rising sea levels; (ii) optimal system design, or range of designs, for vertically elevated septic systems capable of withstanding sea level rise and chronic flooding that meets effluent standards; (iii) recommendations for legal or regulatory changes, if any, to authorize the use of vertically elevated septic systems; (iv) recommendations for amending current septic system permit requirements to allow for the use of vertically elevated septic systems; (v) recommendations for financing the installation of vertically elevated septic systems; (vi) the expected date of completion of the pilot program; (vii) installation and projected average annual maintenance costs for a vertically elevated septic system over 10 years; and (viii) any other pertinent information.

J. The Virginia Department of Health shall prepare a request for funding the state share of new or escalated rent increases at local health departments and submit the request for inclusion in the Governor's introduced budget annually.

303.	Financial Assistance to Community Human Services Organizations (49200).....			\$25,879,583	\$23,379,583
				\$22,839,583	\$22,283,384
	Payments to Human Services Organizations (49204).....	\$25,879,583	\$23,379,583		
		\$22,839,583	\$22,283,384		
	Fund Sources: General.....	\$23,479,583	\$20,979,583		
		\$20,439,583	\$19,883,384		
	Federal Trust.....	\$2,400,000	\$2,400,000		

Authority: § 32.1-2, Code of Virginia.

A.1. Out of this appropriation, \$832,946 the first year and \$832,946 the second year from the general fund and \$2,400,000 the first year and \$2,400,000 the second year from the federal Temporary Assistance for Needy Families (TANF) block grant shall be used to contract with Families Forward. In the event that the Families Forward changes its name; the provisions of this item shall apply to the successor organization provided that the required program purposes outlined in paragraph A.2. through A.4. are still achieved.

2. The purpose of the program is to develop, expand, and operate a network of local public-private partnerships providing comprehensive care coordination, family support and preventive medical and dental services to low-income, at-risk children.

3. The general fund appropriation in this Item for the Families Forward projects shall not be used for administrative costs.

4. Families Forward shall continue to pursue raising funds and in-kind contributions from local communities. It is the intent of the General Assembly that the Families Forward program increases its efforts to raise funds from local communities and other private or public sources with the goal of reducing reliance on general fund appropriations in the future.

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5. Of this appropriation, from the amounts in paragraph A.1., \$24,679 the first year and \$24,679 the second year from the general fund shall be used to contract with CHIP of Roanoke and shall be used as matching funds to support three full-time equivalent public health nurse positions to services in the Roanoke Valley and Allegheny Highlands.				
B. Out of this appropriation \$53,241 the first year and \$53,241 the second year from the general fund shall be used to contract with the Alexandria Neighborhood Health Services, Inc. to promote the health of women in Alexandria, Arlington, Fairfax County, and Falls Church, to prevent illness and injury and provide early treatment for serious health conditions. The contract with Alexandria Neighborhood Health Services Inc. (ANHSI) shall require that ANHSI provide comprehensive women's health care with a focus on preventative health services and screenings to low income, uninsured women. Women's health care services shall focus on preventative screenings. Blood pressure screening and body mass index shall be performed at each visit. The organization shall pursue raising funds and in-kind contributions from the local community.				
C. Out of this appropriation \$5,982 the first year and \$5,982 the second year from the general fund shall be used to contract with the Louisa County Resource Council to promote, develop, and encourage activities to deliver community-based services to disadvantaged Louisa County residents. The contract with Louisa County Resource Council shall require that the council provide assistance to income-eligible residents in meeting various needs of the clients including medication assistance, outreach assistance, and medical care referrals by exploring affordable options. The council shall continue to pursue raising funds and in-kind contributions from the local community.				
D. Out of this appropriation, \$7,837 the first year and \$7,837 the second year from the general fund shall be used to contract with the Olde Towne Medical Center. The contract with Olde Towne Medical Center shall require that the center provide cost effective, comprehensive primary and preventive health care (including obstetrical care) and oral health care to the uninsured, Medicaid, and Medicare residents in the City of Williamsburg, James City County, and York County. The population served shall include adults and children.				
E.1. Out of this appropriation, \$433,750 the first year and \$433,750 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association (VCHA). The contract with VCHA shall require that the association purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Community and Migrant Health Centers throughout Virginia. The uninsured patients served with these funds shall have family incomes no greater than 200 percent of the federal poverty level. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the pharmacy needs of the greatest number of low-income, uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.				
2. Out of this appropriation, \$175,000 the first year and \$175,000 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association expand access to care provided through community health centers.				
3. Out of this appropriation, \$2,800,000 the first year and \$2,800,000 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association support community health center operating costs for services provided to uninsured clients. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the needs of the greatest number of uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.				
F.1. Out of this appropriation, \$1,321,400 the first year and \$1,321,400 the second year from				

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	FY2021	FY2022	FY2021	FY2022

the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Free Clinics throughout Virginia. The amount allocated to each Free Clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the Free Clinics are able to serve the pharmacy needs of the greatest number of low-income, uninsured adults. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

2. Out of this appropriation, \$175,000 the first year and \$175,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require the organization to expand access to health care services.

3. Out of this appropriation, \$5,300,000 the first year and \$5,300,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization support free clinic operating costs for services provided to uninsured clients. The amount allocated to each free clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the free clinics are able to serve the needs of the greatest number of uninsured persons. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

G. Out of this appropriation, \$29,303 the first year and \$29,303 the second year from the general fund shall be used to contract with HealthWorks of Herndon. The contract with HealthWorks of Herndon (HWH) shall require that HWH provide treatment and prevention services, including health care services and mental health counseling, to low income and uninsured adults and children residing in the communities of Herndon, Reston, Chantilly, and Centreville in Fairfax County. These services shall include comprehensive primary health care with integrated behavioral health care to adult and children, prescription medications, diagnostic and lab testing, specialty referrals, and preventive screenings. Children's services shall include school physicals and sports physicals. Patients will also have access to oral health care through HealthWorks Dental Program.

H. Out of this appropriation, \$164,758 the first year and \$164,758 the second year from the general fund shall be used to contract with the Southwest Virginia Graduate Medical Education Consortium. The contract with Southwest Virginia Graduate Medical Education (GMEC) shall require GMEC to create and support medical residency preceptor sites in rural and underserved communities in Southwest Virginia.

I. Out of this appropriation, \$355,555 the first year and \$355,555 the second year from the general fund shall be used to contract with the regional AIDS resource and consultation centers and one local early intervention and treatment center.

J. Out of this appropriation, \$57,963 the first year and \$57,963 the second year from the general fund shall be used to contract with the Arthur Ashe Health Center in Richmond. The contract with the Arthur Ashe Health Center shall require that the center provide HIV early intervention and treatment for HIV infected patients who reside within the City of Richmond.

K. Out of this appropriation, \$10,663 the first year and \$10,663 the second year from the general fund shall be used to contract with the Health Brigade for AIDS related services. The contract with the Health Brigade shall require that the clinic provide financial assistance and support groups and conduct an education and outreach program for HIV positive clients in Central Virginia.

L.1. Out of this appropriation, \$4,580,571 the first year and \$4,580,571 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation.

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<p>The contract with the Virginia Health Care Foundation (VHCF) shall require that the general fund shall be matched with local public and private resources and shall be awarded to proposals which enhance access to primary health care for Virginia's uninsured and medically underserved residents, through innovative service delivery models. The foundation, in coordination with the Virginia Department of Health, the Area Health Education Centers program, the Joint Commission on Health Care, and other appropriate organizations, is encouraged to undertake initiatives to reduce health care workforce shortages. The foundation shall account for the expenditure of these funds by providing the Governor, the Secretary of Health and Human Resources, the Chairmen of the House Appropriations and Senate Finance Committees, the State Health Commissioner, and the Chairman of the Joint Commission on Health Care with a certified audit and full report on the foundation's initiatives and results, including evaluation findings, not later than October 1 of each year for the preceding fiscal year ending June 30.</p>				
<p>2. The contract with the Virginia Health Care Foundation shall require that on or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation since its inception. The report shall include certification that an amount equal to the state appropriation for the preceding fiscal year ending June 30 has been matched from private and local government sources during that fiscal year.</p>				
<p>3. Of this appropriation, from the amounts in paragraph L.1., \$125,000 the first year and \$125,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be provided to the foundation to expand the Pharmacy Connection software program to unserved or underserved regions of the Commonwealth.</p>				
<p>4. Of this appropriation, from the amounts in paragraph L.1., \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be used to contract with the foundation for the Rx Partnership to improve access to free medications for low-income Virginians.</p>				
<p>5. Of this appropriation, from the amounts in paragraph L.1., \$2,350,000 the first year and \$2,350,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund be provided to the foundation to increase the capacity of the Commonwealth's health safety net providers to expand services to unserved or underserved Virginians. Of this amount, (i) \$850,000 the first year and \$850,000 the second year shall be used to underwrite service expansions and/or increase the number of patients served at existing sites or at new sites, (ii) \$1,350,000 the first year and \$1,350,000 the second year shall be used for Medication Assistance Coordinators who provide outreach assistance, and (iii) \$150,000 the first year and \$150,000 the second year shall be made available for locations with existing medication assistance programs.</p>				
<p>M.1. Out of this appropriation, \$1,272,313 the first year and \$1,272,313 the second year from the general fund shall be used to support the administration of the patient level data base, including the outpatient data reporting system. The department shall establish a contract for this service.</p>				
<p>2. Out of this appropriation from the amounts in paragraph M.1., \$1,025,000 the first year and \$1,025,000 the second year from the general fund the second year shall be used to contract with the Virginia All Payer Claims Database.</p>				
<p>N. Out of this appropriation, \$402,712 the first year and \$402,712 the second year from the general fund shall be used to contract with the Health Wagon. The contract with the Health Wagon shall require the organization to provide summer outreach programs to low-income and uninsured individuals living in southwest Virginia.</p>				
<p>O. Out of this appropriation, \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Statewide Sickle Cell Chapters of Virginia (SSCCV). The contract with SSCCV shall require that the general fund shall be used to provide for grants to community-based programs that provide patient assistance, education,</p>				

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<p>and family-centered support for individuals suffering from sickle cell disease. The SSSCCV shall develop criteria for distributing these funds including specific goals and outcome measures. A report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees detailing program outcomes by October 1 of each year.</p>				
<p>P. Out of this appropriation, \$141,280 the first year and \$141,280 the second year from the general fund shall be used to contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project. The contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project shall require the Foundation to conduct Mission of Mercy (M.O.M) Projects that provide no cost dental services in identified underserved areas.</p>				
<p>Q. Out of this appropriation, \$2,500,000\$1,000,000 the first year from the general fund shall be used to contract with three poison control centers. The State Health Commissioner shall review existing poison control services and determine how best to provide and enhance use of these services as a resource for patients with mental health disorders and for health care providers treating patients with poison-related suicide attempts, substance abuse, and adverse medication events. The Commissioner shall allocate the general fund amounts between the three centers. The general fund amounts shall be based on the proportion of Virginia's population served by each center.</p>				
<p>R. Out of this appropriation, \$32,559 the first year and \$32,559 the second year from the general fund shall be used to contract with the Community Health Center of the Rappahannock Region to provide medical, dental, and behavioral health services to low income and/or uninsured residents in the Rappahannock region. The contract with the center shall require the center to include acute and chronic disease management services, lab and diagnostic services, medication assistance, physical examinations, diagnosis and treatment of sexually transmitted infections, immunizations, women's health services (including family planning and pap smears), preventive and restorative dental services, and behavioral health services.</p>				
<p>S. Out of this appropriation, \$571,750 the first year and \$571,750 the second year from the general fund shall be used to contract with the Hampton Roads Proton Beam Therapy Institute at Hampton University, LLC. The contract with Hampton Roads Proton Beam Therapy Institute shall require that the institute support efforts for proton therapy in the treatment of cancerous tumors with fewer side effects.</p>				
<p>T. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund shall be provided to the Hampton University Proton Therapy Foundation for the cancer and proton research and therapy activities.</p>				
<p>U. Out of this appropriation, \$20,000\$10,000 the first year and \$20,000\$60,000 the second year from the general fund shall be provided to Special Olympics Virginia for the Special Olympics Healthy Athlete Program.</p>				
<p>V. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund shall be provided to contract with the Riverside Shore Memorial Hospital (RSMH) for obstetrical healthcare services. The contract shall require that the RSMH provide obstetrical services to the residents of the Eastern Shore of Virginia.</p>				
<p>W. Out of this appropriation, \$30,000 the first year and \$30,000 the second year from the general fund is provided to contract with the Mel Leaman Free Clinic for health care services.</p>				
<p>X. Out of this appropriation, \$393,801 the second year from the general fund shall be provided to develop a new data collection program to address prescription drug price transparency, pursuant to the provisions of House Bill 2007, 2021 Special Session I. The department shall establish a contract for this service.</p>				
304.	Drinking Water Improvement (50800).....		\$33,755,027	\$33,821,023
	Drinking Water Regulation (50801).....	\$10,758,553	\$10,824,549	\$33,898,623
		\$10,608,553	\$10,884,549	
	Drinking Water Construction Financing (50802).....	\$22,528,534	\$22,528,534	
		\$22,046,134	\$22,546,134	

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Public Health Toxicology (50805).....	\$467,940	\$467,940		
Fund Sources: General.....	\$5,561,249	\$5,627,245		
	\$4,928,849	\$5,204,845		
Special.....	\$6,131,045	\$6,131,045		
Dedicated Special Revenue.....	\$18,903,934	\$18,903,934		
		\$19,403,934		
Federal Trust.....	\$3,158,799	\$3,158,799		
<p>Authority: §§ 32.1-163 through 32.1-176.7, 32.1-246, 32.1-246.1, and 62.1-44.18 through 62.1-44.19:9, Code of Virginia; and P.L. 92-500, P.L. 93-523 and P.L. 95-217, Federal Code.</p> <p>A. It is the intent of the General Assembly that the Department of Health be the agency designated to receive and manage general and nongeneral funds appropriated pursuant to the federal Safe Drinking Water Act of 1996.</p> <p>B. The fee schedule for charges to community waterworks shall be adjusted to the level necessary to cover the cost of operating the Waterworks Technical Assistance Program, consistent with § 32.1-171.1, Code of Virginia, and shall not exceed \$3.00 per connection to all community waterworks.</p>				
305.	Environmental Health Hazards Control (56500).....		\$12,532,540	\$12,532,540
			\$12,232,390	\$12,769,645
	State Office of Environmental Health Services (56501).....	\$4,909,260		
		\$4,609,110		
	Shellfish Sanitation (56502).....	\$2,906,038		
				\$2,895,788
	Bedding and Upholstery Inspection (56503).....	\$853,219		
	Radiological Health and Safety Regulation (56504)....	\$3,864,023		
				\$4,271,773
	Fund Sources: General.....	\$6,327,150		
		\$6,027,000		
	Special.....	\$2,864,503		
				\$3,264,503
	Dedicated Special Revenue.....	\$2,015,416		
	Federal Trust.....	\$1,325,471		
<p>Authority: §§ 2.2-4002 B 16; 28.2-800 through 28.2-825; and 32.1-212 through 32.1-245, Code of Virginia.</p> <p>Out of this appropriation, \$12,500 the first year and \$12,500 the second year from the general fund shall be provided for the activities of the Sewage Appeals Review Board.</p>				
306.	Emergency Preparedness (77500).....		\$34,333,979	\$34,333,979
	Emergency Preparedness and Response (77504).....	\$34,333,979		
	Fund Sources: Federal Trust.....	\$34,333,979		
<p>Authority: §§ 32.1-2, 32.1-39, and 32.1-42, Code of Virginia.</p>				
307.	Administrative and Support Services (49900).....		\$27,710,621	\$25,171,038
				\$25,855,725
	General Management and Direction (49901).....	\$12,855,848		
				\$13,490,535
	Information Technology Services (49902).....	\$6,470,542		
	Accounting and Budgeting Services (49903).....	\$4,020,239		
				\$4,070,239
	Human Resources Services (49914).....	\$2,512,406		
	Procurement and Distribution Services (49918).....	\$1,851,586		
	Fund Sources: General.....	\$16,506,245		
				\$16,426,037
	Special.....	\$7,138,997		
				\$7,672,504
	Federal Trust.....	\$4,065,379		
				\$1,606,004

ITEM 307.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Authority: §§ 3.2-5206 through 3.2-5216, 32.1-11.3 through 32.1-23, 35.1-1 through 35.1-7, and 35.1-9 through 35.1-28, Code of Virginia.

A. The State Comptroller is hereby authorized to provide a line of credit of up to \$200,000 to the Department of Health to cover the actual costs of expanding the availability of vital records through the Department of Motor Vehicles; to be repaid from administrative processing fees provided under Code of Virginia, § 32.1-273 until such time as the line of credit is repaid.

B. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund shall be provided for agency costs related to onboarding to ConnectVirginia, transition costs to convert the agency's node on ConnectVirginia to the state agency node, and provide support to other state agencies in their onboarding efforts.

C.1. Out of this appropriation, \$300,000 from the general fund and \$2,700,000 from nongeneral funds in the first year and \$26,736 from the general fund and \$240,625 from nongeneral funds in the second year is provided for the Virginia Department of Health for the Emergency Department Care Coordination program.

2. The ED Council, under the department's governance and direction shall: advise the State Health Commissioner regarding the operation of, changes to, and outcome measures for the EDCC Program for the purpose of improving the quality of patient care services. The ED Council shall include representatives from the following, as required in the ED Council Bylaws; the Commonwealth, hospitals & health systems, health plans, and providers.

3. The department shall coordinate with the Department of Medical Assistance Services (DMAS) and apply for federal matching funds, such as the Health Information Technology for Economic and Clinical Health (HITECH) Act, Medicaid Management Information Systems (MMIS) and the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT for Patients and Communities Act) or other relevant federal and nongeneral fund sources to: (i) continue the operation and maintenance of the Emergency Department Care Coordination (EDCC) Program; and (ii) in consultation with the EDCC clinical consensus committee, adopt additional functionalities to continue to better care for patients who are high utilizers of the Commonwealth's emergency departments. The department, in coordination with DMAS, shall provide an interim report on the status of funding, including issues related to sustainability; and administration and operations of the EDCC program to the Chairs of House Appropriations and Senate Finance and Appropriations Committees by August 1, 2020.

4. Neither the department nor its contractor shall be obligated to enhance or expand the program without HITECH Act funds or alternative funds.

5. The department, in coordination with the Department of Medical Assistance Services, shall determine the amount of federal and/or state funds available to support program operations in the fourth and fifth years before the end of Federal Fiscal Years (FFY)2020 to FFY2021, ending September 30, 2021. Accordingly, the department, in coordination with the Department of Medical Assistance Services and the ED Council, shall recommend to the Department of Planning and Budget, by June 30, 2020, a funding structure for program operations in fiscal year 2022 (starting July 1, 2021) that apportions program costs across the Commonwealth, participating hospitals, participating health plans, and other participating health care providers.

6. The department, in coordination with the ED Council, shall report annually to the Secretary of Health and Human Resources and the Chairmen of the House Appropriations and Senate Finance Committees on progress, including, but not limited to: (i) the participation rate of hospitals and health systems, providers and subscribing health plans; (ii) strategies for sustaining the program and methods to continue to improve care coordination; and (iii) the impact on health care utilization and quality goals such as reducing the frequency of visits by high-volume Emergency Department utilizers and avoiding duplication of health care services.

D.1. Inpatient hospitals shall report the admission source of any individuals meeting the

ITEM 307.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>criteria for voluntary or involuntary psychiatric commitment as outlined in § 16.1-338, 16.1-339, 16.1-340.1, 16.1-345, 37.2-805, 37.2-809, or 37.2-904, Code of Virginia, to the Board of Health. The Board shall collect and share any and all data regarding the admission source of individuals admitted to inpatient hospitals as a psychiatric patient, pursuant to § 32.1-276.6, Code of Virginia, with the Department of Behavioral Health and Developmental Services.</p> <p>2. The Virginia Department of Health shall promulgate these emergency regulations to become effective within 280 days or less from the enactment of this act.</p> <p>E. Notwithstanding § 32.1-73.11, Code of Virginia, the Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) and Pediatric Acute-onset Neuropsychiatric Syndrome (PANS), established by Chapter 466 of the 2017 Acts of Assembly, is hereby continued.</p> <p>F. The Virginia Department of Health shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the previous year. The report shall be made available on the department's website by August 15 of each year.</p> <p><i>G. Out of this appropriation, \$6,500,000 the first year and \$12,500,000 the second year from the general fund Coronavirus Relief Funds is provided to further enhance the Virginia Department of Health's Virginia's Health is in Our Hands communication campaign in response to the COVID-19 pandemic. The Virginia Department of Health shall allocate no less than 20 percent of funding from state or federal sources dedicated for COVID-19 communications to use for outreach and communications to high-risk populations that have been adversely impacted by the COVID-19 pandemic more so than the general population and for which traditional communication mediums are not as effective. The department shall use such funding for alternative methods of communication, such as outreach coordinators going into communities, providing information pamphlets as part of meal pick-ups at schools, grants to community organizations, and other more effective ways at reaching high-risk populations. This funding shall also be used to translate communication materials into other languages; however the department shall not use machine translations without human review by a professional translator in any communications to non-English speakers.</i></p> <p><i>H. Out of this appropriation, No less than \$600,000 the first year from the general fund Coronavirus Relief Funds is provided for a strategic public communications campaign with a focus on equity, diversity, and inclusion to maximize the reach of COVID-19 communications to target Virginians of various socio-economic, geographic, racial and ethnic, generational, physical and mental abilities, religious, gender, language differences, and other unique similarities and differences.</i></p> <p><i>I. The Commissioner of Health (VDH) shall establish a task force to assist with the promulgation of regulations and the certification process of doulas, as well as to serve as an informational resource for policy related matters for the Virginia Department of Health (VDH). The task force will include private provider organizations such as Birth in Color RVA, Urban Baby Beginnings, Motherhood Collective and any other organization or agency representatives deemed appropriate by VDH.</i></p>				
307.10	Omitted.			
	Total for Department of Health.....		\$785,787,377 \$797,225,161	\$781,129,340 \$929,696,654
	General Fund Positions.....	1,513.50	1,517.50 1,571.50	
	Nongeneral Fund Positions.....	2,198.00	2,198.00 2,228.00	
	Position Level.....	3,711.50	3,715.50 3,799.50	
	Fund Sources: General.....	\$200,240,415 \$192,953,062	\$198,041,753 \$208,119,838	

ITEM 307.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Special.....	\$169,842,442	\$169,842,442		
		\$170,553,922		
Dedicated Special Revenue.....	\$116,052,192	\$116,052,192		
Federal Trust.....	\$299,652,328	\$297,192,953		
	\$318,377,465	\$434,970,702		

§ 1-99. DEPARTMENT OF HEALTH PROFESSIONS (223)

308.	Higher Education Student Financial Assistance (10800).....			\$65,000	\$65,000
	Scholarships (10810).....	\$65,000	\$65,000		
	Fund Sources: Special.....	\$65,000	\$65,000		
	Authority: § 54.1-3011.2, Chapter 30, Code of Virginia.				
309.	Regulation of Professions and Occupations (56000).....			\$35,249,989	\$35,371,849
					\$36,093,084
	Technical Assistance to Regulatory Boards (56044).....	\$35,249,989	\$35,371,849		\$36,093,084
					\$36,093,084
	Fund Sources: Trust and Agency.....	\$1,425,987	\$1,425,987		
	Dedicated Special Revenue.....	\$33,824,002	\$33,945,862		\$34,667,097
					\$34,667,097

Authority: Title 54.1, Chapter 25, Code of Virginia.

A. The Department of Health Professions shall have authority to increase fees for the Board of Pharmacy to administer the operations of the five cannabis processors pursuant to legislation in the 2020 Session. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.

B. Nurse practitioners licensed in the Commonwealth of Virginia, except those licensed in the category of Certified Registered Nurse Anesthetists, with two or more years of clinical experience may continue to practice in the practice category in which they are certified and licensed and prescribe without a written or electronic practice agreement until the termination of a declared state of emergency due to the COVID-19 pandemic.

C. The Department of Health Professions shall study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and regulations on practice and patient outcomes. The department shall report its findings to the Governor and General Assembly by November 1, 2021.

	Total for Department of Health Professions.....			\$35,314,989	\$35,436,849
					\$36,158,084
	Nongeneral Fund Positions.....	259.00	262.00		
			276.00		
	Position Level.....	259.00	262.00		
			276.00		
	Fund Sources: Special.....	\$65,000	\$65,000		
	Trust and Agency.....	\$1,425,987	\$1,425,987		
	Dedicated Special Revenue.....	\$33,824,002	\$33,945,862		\$34,667,097
					\$34,667,097

§ 1-100. DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (602)

310.	Pre-Trial, Trial, and Appellate Processes (32100)....			\$17,991,740	\$17,991,740
				\$15,287,716	\$15,654,501

ITEM 310.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107).....	\$17,991,740 \$15,287,716	\$17,991,740 \$15,654,501		
Fund Sources: General.....	\$17,991,740 \$15,287,716	\$17,991,740 \$15,654,501		
Authority: § 37.2-809, Code of Virginia.				
A. Any balance, or portion thereof, in Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107), may be transferred between Items 42, 43, 44, and 310 as needed, to address any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.				
B. Out of this appropriation, payments may be made to licensed health care providers for medical screening and assessment services provided to persons with mental illness while in emergency custody pursuant to § 37.2-808, Code of Virginia.				
C. To the extent that appropriation in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600), Medicaid Program Services (45600), and Medical Assistance Services for Low Income Children (46600), if available, into this Item.				
311.	Financial Assistance for Health Research (40700).....		\$3,810,000	\$300,000
	Grants for Improving The Quality of Health Services (40703).....	\$3,810,000	\$300,000	
	Fund Sources: Federal Trust.....	\$3,810,000	\$300,000	
Authority: P.L. 111-5, Federal Code.				
312.	Children's Health Insurance Program Delivery (44600).....		\$241,382,694 \$229,304,933	\$258,207,202 \$282,255,323
	Reimbursements for Medical Services Provided Under the Family Access to Medical Insurance Security Plan (44602).....	\$241,382,694 \$229,304,933	\$258,207,202 \$282,255,323	
	Fund Sources: General.....	\$58,401,947 \$48,582,983	\$76,301,200 \$77,642,193	
	Dedicated Special Revenue.....	\$14,065,627	\$14,065,627	
	Federal Trust.....	\$168,915,120 \$166,656,323	\$167,840,375 \$190,547,503	

Authority: Title 32.1, Chapter 13, Code of Virginia; Title XXI, Social Security Act, Federal Code.

A. Pursuant to Chapter 679, Acts of Assembly of 1997, the State Corporation Commission shall annually, on or before June 30, 1998, and each year thereafter, calculate the premium differential between: (i) 0.75 percent of the direct gross subscriber fee income derived from eligible contracts and (ii) the amount of license tax revenue generated pursuant to subdivision A 4 of § 58.1-2501 for the immediately preceding taxable year and notify the Comptroller of the Commonwealth to transfer such amounts to the Family Access to Medical Insurance Security Plan Trust Fund as established on the books of the State Comptroller.

B. As a condition of this appropriation, revenues from the Family Access to Medical Insurance Security Plan Trust Fund, shall be used to match federal funds for the Children's Health Insurance Program.

C. Every eligible applicant for health insurance as provided for in Title 32.1, Chapter 13, Code of Virginia, shall be enrolled and served in the program.

D. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Medicaid Program Services (45600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XXI funds.

ITEM 312.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>E. The Department of Medical Assistance Services shall make the monthly capitation payment to managed care organizations for the member months of each month in the first week of the subsequent month.</p> <p>F. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.</p> <p>G. <i>The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to offer medically necessary treatment for substance use disorder in an Institution for Mental Diseases (IMD) for individuals enrolled in FAMIS MOMS, equivalent to such benefits offered to pregnant women under the Medicaid state plan and 1115 substance use disorder demonstration waiver. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.</i></p> <p>H. <i>The Department of Medical Assistance Services shall amend the Virginia Family Access to Medical Insurance Security (FAMIS) State Plan to allow the payment for prenatal care for all children regardless of the expectant mother's status, pursuant to provisions in Title XXI of the federal 2009 CHIP Reauthorization Act that includes care of all children who upon birth will be U.S. citizens, U.S. nationals, or qualified aliens. The Department shall have the authority to implement this change effective July 1, 2021, or consistent with the effective date in the State Plan Amendment approved by the Centers for Medicare and Medicaid Services (CMS), and prior to completion of any regulatory process.</i></p>				
313.	Medicaid Program Services (45600).....		\$16,268,112,956	\$16,998,372,512
			\$16,296,817,318	\$17,716,819,641
	<i>Payments for Graduate Medical Education Residencies (45606).....</i>	\$6,200,000	\$7,700,000	
	Reimbursements to State-Owned Mental Health and Intellectual Disabilities Facilities (45607).....	\$75,685,714	\$57,410,714	
		\$74,417,827		
	Reimbursements for Behavioral Health Services (45608).....	\$62,787,880	\$66,242,284	
		\$43,736,183	\$56,141,152	
	Reimbursements for Medical Services (45609).....	\$10,191,228,313	\$10,643,313,512	
		\$10,173,289,793	\$10,673,045,695	
	Reimbursements for Long-Term Care Services (45610).....	\$1,682,928,061	\$1,735,055,863	
		\$1,535,198,255	\$1,937,756,017	
	Payments for Healthcare Coverage for Low-Income Uninsured Adults (45611).....	\$4,255,482,988	\$4,496,350,139	
		\$4,463,975,260	\$4,984,766,063	
	Fund Sources: General.....	\$4,859,146,391	\$5,404,301,385	
		\$4,343,953,280	\$5,299,837,047	
	Dedicated Special Revenue.....	\$1,310,610,828	\$1,401,446,240	
		\$1,395,490,789	\$1,459,083,712	
	Federal Trust.....	\$10,098,355,737	\$10,192,624,887	
		\$10,557,373,249	\$10,957,898,882	

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Title XIX, Social Security Act, Federal Code.

ITEM 313.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
A. Out of this appropriation, \$37,842,857 \$32,942,430 the first year and \$28,705,357 \$26,925,625 the second year from the general fund and \$37,842,857 \$41,428,799 the first year and \$28,705,357 \$30,485,089 the second year from the federal trust fund is provided for reimbursement to the institutions within the Department of Behavioral Health and Developmental Services.				
B.1. Included in this appropriation is \$10,753,903 \$6,199,648 the first year and \$12,370,807 \$8,497,374 the second year from the general fund and \$29,942,662 \$25,388,407 the first year and \$31,559,566 \$27,686,133 the second year from nongeneral funds to reimburse the Virginia Commonwealth University Health System for indigent health care costs as reported by the hospital and adjusted by the department for indigent care savings related to Medicaid expansion. This funding is composed of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.				
2. Included in this appropriation is \$19,394,915 \$15,281,075 the first year and \$20,621,854 \$16,408,501 the second year from the general fund and \$34,109,693 \$29,995,853 the first year and \$35,336,632 \$31,123,279 the second year from nongeneral funds to reimburse the University of Virginia Health System for indigent health care costs as reported by the hospital and adjusted by the department for indigent care savings related to Medicaid expansion. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.				
3. The general fund amounts for the state teaching hospitals have been reduced to mirror the general fund impact of reduced and no inflation for inpatient services in prior years. It also includes reductions associated with prior year indigent care reductions. However, the nongeneral funds are appropriated. In order to receive the nongeneral funds in excess of the amount of the general fund appropriated, the health systems shall certify the public expenditures.				
4. The Department of Medical Assistance Service shall have the authority to increase Medicaid payments for Type One hospitals and physicians consistent with the appropriations to compensate for limits on disproportionate share hospital (DSH) payments to Type One hospitals that the department would otherwise make. In particular, the department shall have the authority to amend the State Plan for Medical Assistance to increase physician supplemental payments for physician practice plans affiliated with Type One hospitals up to the average commercial rate as demonstrated by University of Virginia Health System and Virginia Commonwealth University Health System, to change reimbursement for Graduate Medical Education to cover costs for Type One hospitals, to case mix adjust the formula for indirect medical education reimbursement for HMO discharges for Type One hospitals and to increase the adjustment factor for Type One hospitals to 1.0. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
C.1. The estimated revenue for the Virginia Health Care Fund is \$474,082,840 \$567,403,148 the first year and \$491,396,557 \$496,601,500 the second year, to be used pursuant to the uses stated in § 32.1-367, Code of Virginia.				
2. Notwithstanding any other provision of law, revenues deposited to the Virginia Health Care Fund shall only be used as the state share of Medicaid unless specifically authorized by this Act.				
3. Notwithstanding § 32.1-366, Code of Virginia, the State Comptroller shall deposit 41.5 percent of the Commonwealth's allocation of the Master Settlement Agreement with tobacco product manufacturers, as defined in § 3.2-3100, Code of Virginia, to the Virginia Health Care Fund.				
4. <i>Any repayment by managed care organizations resulting from exceeding their profit caps for not meeting the medical loss ratios pursuant to their contracts with the Department of Medical Assistance Services, shall be deposited to the Health Care Fund.</i>				

ITEM 313.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

D. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.

E.1. At least 45 days prior to the submission of any state plan or waiver amendment or renewal of such, to the Centers for Medicare and Medicaid Services (CMS) or change in the contracts with managed care organizations that may impact the capitation rates, the Department of Medical Assistance Services (DMAS) shall provide written notification to the Director, Department of Planning and Budget as to the purpose of such change. This notice shall also assess whether the amendment will require any future state regulatory action or expenditure beyond that which is appropriated in this Act. If the Department of Planning and Budget, after review of the proposed change, determines that it may likely result in a material fiscal impact on the general fund, for which no legislative appropriation has been provided, then the Department of Medical Assistance Services shall delay the proposed change until the General Assembly authorizes such action and notify the Chairs of the House Appropriations and Senate Finance and Appropriations Committees of such action.

2. Effective July 1, 2020, the Department of Medical Assistance Services shall have the authority to include the following modifications to the Commonwealth Coordinated Care Plus and Medallion 4.0 contracts:

- a) Expand care coordination for adoption assistance members;
- b) Require that all foster care children receive a physician and dental visit within the first 30 days of plan enrollment;
- c) Provide cultural competency training and case management initiatives specific to the LGBTQI community;
- d) Require Patient utilization Management and Safety (PUMS) Program “lock-in” re-evaluations for members changing plans;
- e) Require additional care coordinators for the early intervention population;
- f) Develop advisory groups for member feedback and engagement surrounding maternal, child, and women's health;
- g) Develop strategies to keep mom and baby together during residential SUD treatment;
- h) Require plans to identify and address racial disparities in maternal, reproductive and child health;
- i) Improve care coordination of the high-risk maternity program;
- j) Require maternal screenings for substance abuse (SBIRT);
- k) Require maternal screenings for mental health;
- l) Waive the signature requirement for non-emergency transportation providers;
- m) Establish payment targets for the total portion of medical spending covered under a value based payment arrangement; and
- n) Require CCC Plus plans to upgrade Medicare Dual Special Needs Plans (D-SNPs) to Medicare Fully Integrated Dual Eligible Special Needs Plans (FIDE-SNPS).

ITEM 313.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
3. Effective July 1, 2020, the Department of Medical Assistance Services shall amend its CCC Plus and Medallion 4.0 contracts with managed care organizations (MCOs) to include the following provisions related to community mental health and rehabilitation services:				
a) Clarify that required response times are based on calendar days, not business days.				
b) Require that, in any case where a service authorization or reauthorization for community mental health and rehabilitation services, is not approved or denied within the National Committee for Quality Assurance (NCQA) response time standard, the provider shall assume to have approval to provide the service and receive payment until date of denial.				
c) Clarify response time requirements for weekends and holidays, to the extent that they differ from the NCQA response time standards.				
d) Clarify how MCOs are to determine if a service authorization is considered urgent or non-urgent as it pertains to the NCQA response time standards.				
4. The department shall amend its contracts with managed care organizations to direct the MCOs to modify their contracts with providers to include the requirements from paragraphs a. through d. above.				
5. The department shall track and report on compliance with NCQA response time standards for each MCO, broken down by service type. Such tracking shall include: (i) How often total response time, from initial submittal until service authorization or denial, exceeds the NCQA standards; and (ii) How often appeals are filed, and of those, how often are services subsequently approved and how often they are denied. The department shall publish the data on these items on a quarterly basis to the department's website.				
6. In addition to the changes specified in E.2., DMAS shall have authority to include modifications to the Commonwealth Coordinated Care Plus and Medallion 4.0 contracts as necessary to implement actions specifically authorized through language included in this Act.				
7. The department shall conduct an analysis and report on the costs and benefits to amending the Commonwealth Coordinated Care Plus and Medallion 4.0 contracts to combine any applicable medical loss ratios and underwriting gain provisions to ensure uniformity in the applicability of those provisions to the Joint Subcommittee for Health and Human Resources Oversight. The report shall be completed by November 15, 2020.				
8. The Department of Medical Assistance Services shall develop a plan to merge the Commonwealth Coordinated Care Plus and Medallion 4.0 programs. The department shall submit the plan with a feasible timeline for such a merger to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 15, 2020.				
9. <i>The Department of Medical Assistance Services shall modify its contracts with managed care organizations to require annual reporting with regard to Medicaid Community Mental Health Rehabilitation Services on: (i) the number of providers in their network and their geographic locations; (ii) the total number of provider terminations by year since fiscal year 2018 and the number terminated with and without cause; (iii) the localities the terminated providers served; and (iv) the number of Medicaid members the providers were serving prior to termination of their provider contract. The department shall modify its contracts with the managed care organizations to require compliance with these provisions, effective July 1, 2021, such that the first reporting of this information by the managed care organizations shall be submitted by September 1, 2021. The department shall report the data annually, not later than November 1, to the Joint Subcommittee for Health and Human Resources Oversight.</i>				
F.1. The Director, Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover health care services and delivery systems, as may be permitted by Title XIX of the Social Security Act, which may provide less expensive alternatives to the State Plan for Medical Assistance.				
2. At least 30 days prior to the submission of an application for any new waiver of Title XIX or Title XXI of the Social Security Act, the Department of Medical Assistance Services shall				

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notify the Chairmen of the House Appropriations and Senate Finance Committees of such pending application and provide information on the purpose and justification for the waiver along with any fiscal impact. If the department receives an official letter from either Chairmen raising an objection about the waiver during the 30-day period, the department shall not submit the waiver application and shall request authority for such waiver as part of the normal legislative or budgetary process. If the department receives no objection, then the application may be submitted. Any waiver specifically authorized elsewhere in this Item is not subject to this provision. Waiver renewals are not subject to the provisions of this paragraph.

3. The director shall promulgate such regulations as may be necessary to implement those programs which may be permitted by Titles XIX and XXI of the Social Security Act, in conformance with all requirements of the Administrative Process Act.

G. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XIX funds.

H. Notwithstanding any other provision of law, any unexpended general fund appropriation remaining in this Item on the last day of each fiscal year shall revert to the general fund and shall not be reappropriated in the following fiscal year.

I. It is the intent of the General Assembly that the medically needy income limits for the Medicaid program are adjusted annually to account for changes in the Consumer Price Index.

J.1.a. As of July 1, 2019, the Community Living (CL) waiver authorizes 11,736 slots.

b. As of July 1, 2019, the Family and Individuals Support (FIS) waiver authorizes 2,983 slots.

c. As of July 1, 2019, the Building Independence (BI) waiver authorizes 400 slots.

2. Notwithstanding Chapters 228 and 303 of the 2009 Virginia Acts of Assembly and §32.1-323.2 of the Code of Virginia, the Department of Medical Assistance Services shall not add any slots to the Intellectual Disabilities Medicaid Waiver or the Individual and Family Developmental Disabilities and Support Medicaid Waiver other than those slots authorized specifically to support the Money Follows the Person Demonstration, individuals who are exiting state institutions, any slots authorized under Chapters 724 and 729 of the 2011 Virginia Acts of Assembly or §37.2-319, Code of Virginia, or authorized elsewhere in this Act.

3. Upon approval by the Centers for Medicare and Medicaid Services of the application for renewal of the CL, FIS and BI waivers, expeditious implementation of any revisions shall be deemed an emergency situation pursuant to § 2.2-4002 of the Administrative Process Act. Therefore, to meet this emergency situation, the Department of Medical Assistance Services shall promulgate emergency regulations to implement the provisions of this Act.

4.a. The Department of Medical Assistance Services (DMAS) shall amend the CL waiver to add 145 new slots effective July 1, 2020 and an additional 95 slots effective July 1, 2021. An amount estimated at \$5,653,333 the first year and \$9,357,240 the second year from the general fund and \$5,653,333 the first year and \$9,357,240 the second year from nongeneral funds is provided to cover the anticipated costs of the new slots. These estimated amounts assume that 20 of the additional slots in each year may be filled with individuals transitioning from facility care. DMAS shall seek federal approval for necessary changes to the CL waiver to add the additional slots.

b. The Department of Medical Assistance Services (DMAS) shall amend the FIS waiver to add 640 new slots effective July 1, 2020 and an additional ~~455890~~ slots effective July 1, 2021. An amount estimated at \$10,581,760 the first year and ~~\$18,104,730~~ \$25,143,816 the second year from the general fund and \$10,581,760 the first year and ~~\$18,104,730~~ \$25,143,816 the second year from nongeneral funds is provided to cover the anticipated

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costs of the new slots. These estimated amounts assumes that five of the additional slots in each year may be filled with individuals transitioning from facility care. DMAS shall seek federal approval for necessary changes to the FIS waiver to add the additional slots.

c. In addition to the new slots added in 4.a. and b., the Department of Medical Assistance Services (DMAS) shall amend the CL waiver to add 15 new slots effective July 1, 2020 and an additional 15 slots effective July 1, 2021. The Department of Medical Assistance Services (DMAS) shall amend the FIS waiver to add 10 new slots effective July 1, 2020 and an additional 10 slots effective July 1, 2021. These slots shall be held as reserve capacity by the Department of Behavioral Health and Developmental Services (DBHDS) to address emergency situations. An amount estimated at \$750,168 the first year and \$1,500,335 the second year from the general fund and \$750,168 the first year and \$1,500,335 the second year from nongeneral funds is provided to cover the anticipated costs of the emergency slots. DMAS shall seek federal approval for necessary changes to the CL and FIS waivers to add the additional slots. Beginning July 1, 2018, DBHDS shall provide a quarterly report on the use of the emergency slots provided in this paragraph.

d. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall separately track all costs, placements and services associated with the additional slots added in paragraphs J.4.a., J.4.b., and J.4.c. above. By October 1 of each year, the department shall report this data to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget.

K. The Department of Medical Assistance Services and the Virginia Department of Health shall work with representatives of the dental community: to expand the availability and delivery of dental services to pediatric Medicaid recipients; to streamline the administrative processes; and to remove impediments to the efficient delivery of dental services and reimbursement thereof. The Department of Medical Assistance Services shall report its efforts to expand dental services to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget by December 15 each year.

L. The Department of Medical Assistance Services shall not require dentists who agree to participate in the delivery of Medicaid pediatric dental care services, or services provided to enrollees in the Family Access to Medical Insurance Security (FAMIS) Plan or any variation of FAMIS, to also deliver services to subscribers enrolled in commercial plans of the managed care vendor, unless the dentist is a willing participant in the commercial managed care plan.

M.1. The Department of Medical Assistance Services shall implement continued enhancements to the drug utilization review (DUR) program. The department shall continue the Pharmacy Liaison Committee and the DUR Board. The department shall continue to work with the Pharmacy Liaison Committee, meeting at least semi-annually, to implement initiatives for the promotion of cost-effective services delivery as may be appropriate. The department shall solicit input from the Pharmacy Liaison Committee regarding pharmacy provisions in the development and enforcement of all managed care contracts. The department shall report on the Pharmacy Liaison Committee's and the DUR Board's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than December 15 each year of the biennium.

2. The department shall add a representative to the Pharmacy Liaison Committee from the Virginia Community Healthcare Association to represent pharmacy operations and issues at federally qualified health centers in Virginia.

N.1. The Department of Medical Assistance Services shall develop and pursue cost saving strategies internally and with the cooperation of the Department of Social Services, Virginia Department of Health, Office of the Attorney General, Children's Services Act program, Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of the Treasury, University of Virginia Health System, Virginia Commonwealth University Health System Authority, Department of Corrections, federally qualified health centers, local health departments, local school divisions, community service boards, local hospitals, and local governments, that focus on optimizing Medicaid claims and cost recoveries. Any

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revenues generated through these activities shall be transferred to the Virginia Health Care Fund to be used for the purposes specified in this Item.

2. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its efforts to implement paragraph N.1. of this Item. However, prior to reimbursement, the department shall identify for the Secretary of Health and Human Resources each of the vendor's revenue maximization efforts and the manner in which each vendor would be reimbursed. No reimbursement shall be made to the vendor without the prior approval of the above plan by the Secretary.

O. The Department of Medical Assistance Services shall have the authority to pay contingency fee contractors, engaged in cost recovery activities, from the recoveries that are generated by those activities. All recoveries from these contractors shall be deposited to a special fund. After payment of the contingency fee any prior year recoveries shall be transferred to the Virginia Health Care Fund. The Director, Department of Medical Assistance Services, shall report to the Chairmen of the House Appropriations and Senate Finance Committees the increase in recoveries associated with this program as well as the areas of audit targeted by contractors by November 1 each year.

P. The Department of Medical Assistance Services in cooperation with the State Executive Council, shall provide semi-annual training to local Children's Services Act teams on the procedures for use of Medicaid for residential treatment and treatment foster care services, including, but not limited to, procedures for determining eligibility, billing, reimbursement, and related reporting requirements. The department shall include in this training information on the proper utilization of inpatient and outpatient mental health services as covered by the Medicaid State Plan.

Q.1. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, the Department of Medical Assistance Services, in consultation with the Department of Behavioral Health and Developmental Services, shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a Preferred Drug List. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, and others, as appropriate.

2.a. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the Preferred Drug List program. The Pharmacy and Therapeutics Committee shall be composed of 8 to 12 members, including the Commissioner, Department of Behavioral Health and Developmental Services, or his designee. Other members shall be selected or approved by the department. The membership shall include a ratio of physicians to pharmacists of 2:1 and the department shall ensure that at least one-half of the physicians and pharmacists are either direct providers or are employed with organizations that serve recipients for all segments of the Medicaid population. Physicians on the committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment. The Pharmacy and Therapeutics Committee shall recommend to the department (i) which therapeutic classes of drugs should be subject to the Preferred Drug List program and prior authorization requirements; (ii) specific drugs within each therapeutic class to be included on the preferred drug list; (iii) appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression; (iv) appropriate exclusions for medications used for the treatment of brain disorders, cancer and HIV-related conditions; (v) appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost-effective to include in the Preferred Drug List program; and (vi) appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective. In developing and maintaining the preferred drug list, the cost effectiveness of any given drug shall be considered only after it is determined to be safe and clinically effective.

b. The Pharmacy and Therapeutics Committee shall schedule meetings at least semi-annually and may meet at other times at the discretion of the chairperson and members. At

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the meetings, the Pharmacy and Therapeutics committee shall review any drug in a class subject to the Preferred Drug List that is newly approved by the Federal Food and Drug Administration, provided there is at least thirty (30) days notice of such approval prior to the date of the quarterly meeting.				
3. The department shall establish a process for acting on the recommendations made by the Pharmacy and Therapeutics Committee, including documentation of any decisions which deviate from the recommendations of the committee.				
4. The Preferred Drug List program shall include provisions for (i) the dispensing of a 72-hour emergency supply of the prescribed drug when requested by a physician and a dispensing fee to be paid to the pharmacy for such supply; (ii) prior authorization decisions to be made within 24 hours and timely notification of the recipient and/or the prescribing physician of any delays or negative decisions; (iii) an expedited review process of denials by the department; and (iv) consumer and provider education, training and information regarding the Preferred Drug List prior to implementation, and ongoing communications to include computer access to information and multilingual material.				
5. The Preferred Drug List program shall generate savings as determined by the department that are net of any administrative expenses to implement and administer the program.				
6. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, to implement these changes, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act. With respect to such state plan amendments and regulations, the provisions of § 32.1-331.12 et seq., Code of Virginia, shall not apply. In addition, the department shall work with the Department of Behavioral Health and Development Services to consider utilizing a Preferred Drug List program for its non-Medicaid clients.				
7. The Department of Medical Assistance Services shall (i) continually review utilization of behavioral health medications under the State Medicaid Program for Medicaid recipients; and (ii) ensure appropriate use of these medications according to federal Food and Drug Administration (FDA) approved indications and dosage levels. The department may also require retrospective clinical justification according to FDA approved indications and dosage levels for the use of multiple behavioral health drugs for a Medicaid patient. For individuals 18 years of age and younger who are prescribed three or more behavioral health drugs, the department may implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns in accordance with FDA-approved indications and dosage levels.				
8. The Department of Medical Assistance Services shall ensure that in the process of developing the Preferred Drug List, the Pharmacy and Therapeutics Committee considers the value of including those prescription medications which improve drug regimen compliance, reduce medication errors, or decrease medication abuse through the use of medication delivery systems that include, but are not limited to, transdermal and injectable delivery systems.				
R.1. The Department of Medical Assistance Services may amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a specialty drug program. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, the Pharmacy Liaison Committee, and others as appropriate.				
2. In developing the specialty drug program to implement appropriate care management and control drug expenditures, the department shall contract with a vendor who will develop a methodology for the reimbursement and utilization through appropriate case management of specialty drugs and distribute the list of specialty drug rates, authorized drugs and utilization guidelines to medical and pharmacy providers in a timely manner prior to the implementation of the specialty drug program and publish the same on the department's website.				
3. In the event that the Department of Medical Assistance Services contracts with a vendor, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased				

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use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

4. The department shall: (i) review, update and publish the list of authorized specialty drugs, utilization guidelines, and rates at least quarterly; (ii) implement and maintain a procedure to revise the list or modify specialty drug program utilization guidelines and rates, consistent with changes in the marketplace; and (iii) provide an administrative appeals procedure to allow dispensing or prescribing provider to contest the listed specialty drugs and rates.

5. The department shall have authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect these provisions.

S.1. The Department of Medical Assistance Services shall reimburse school divisions who sign an agreement to provide administrative support to the Medicaid program and who provide documentation of administrative expenses related to the Medicaid program 50 percent of the Federal Financial Participation by the department.

2. The Department of Medical Assistance Services shall retain five percent of the Federal Financial Participation for reimbursement to school divisions for medical and transportation services.

T. In the event that the Department of Medical Assistance Services decides to contract for pharmaceutical benefit management services to administer, develop, manage, or implement Medicaid pharmacy benefits, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

U. The Department of Medical Assistance Services, in cooperation with the Department of Social Services' Division of Child Support Enforcement (DSCE), shall identify and report third party coverage where a medical support order has required a custodial or noncustodial parent to enroll a child in a health insurance plan. The Department of Medical Assistance Services shall also report to the DCSE third party information that has been identified through their third party identification processes for children handled by DCSE.

V.1. Notwithstanding the provisions of § 32.1-325.1:1, Code of Virginia, upon identifying that an overpayment for medical assistance services has been made to a provider, the Director, Department of Medical Assistance Services shall notify the provider of the amount of the overpayment. Such notification of overpayment shall be issued within the earlier of (i) four years after payment of the claim or other payment request, or (ii) four years after filing by the provider of the complete cost report as defined in the Department of Medical Assistance Services' regulations, or (iii) 15 months after filing by the provider of the final complete cost report as defined in the Department of Medical Assistance Services' regulations subsequent to sale of the facility or termination of the provider.

2. Notwithstanding the provisions of § 32.1-325.1, Code of Virginia, the director shall issue an informal fact-finding conference decision concerning provider reimbursement in accordance with the State Plan for Medical Assistance, the provisions of § 2.2-4019, Code of Virginia, and applicable federal law. The informal fact-finding conference decision shall be issued within 180 days of the receipt of the appeal request, except as provided herein. If the agency does not render an informal fact-finding conference decision within 180 days of the receipt of the appeal request or, in the case of a joint agreement to stay the appeal decision as detailed below, within the time remaining after the stay expires and the appeal timeframes resume, the decision is deemed to be in favor of the provider. An appeal of the director's informal fact-finding conference decision concerning provider reimbursement shall be heard in accordance with § 2.2-4020 of the Administrative Process

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Act (§ 2.2-4020 et seq.) and the State Plan for Medical Assistance provided for in § 32.1-325, Code of Virginia. The Department of Medical Assistance Services and the provider may jointly agree to stay the deadline for the informal appeal decision or for the formal appeal recommended decision of the Hearing Officer for a period of up to sixty (60) days to facilitate settlement discussions. If the parties reach a resolution as reflected by a written settlement agreement within the sixty-day period, then the stay shall be extended for such additional time as may be necessary for review and approval of the settlement agreement in accordance § 2.2-514 of the Code of Virginia. Once a final agency case decision has been made, the director shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the informal fact-finding conference decision or the final agency case decision. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313, Code of Virginia, from the date the Director's agency case decision becomes final.				
W. Any hospital that was designated a Medicare-dependent small rural hospital, as defined in 42 U.S.C. §1395ww (d) (5) (G) (iv) prior to October 1, 2004, shall be designated a rural hospital pursuant to 42 U.S.C. §1395ww (d) (8) (ii) (II) on or after September 30, 2004.				
X.1. The Department of Medical Assistance Services shall make programmatic changes in the provision of Intensive In-Home services and Community Mental Health services in order to ensure appropriate utilization and cost efficiency. The department shall consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The Department of Medical Assistance Services shall promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.				
2. The Department of Medical Assistance Services shall have the authority to implement prior authorization and utilization review for community-based mental health services for children and adults. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.				
Y. The Department of Medical Assistance Services shall delay the last quarterly payment of certain quarterly amounts paid to hospitals, from the end of each state fiscal year to the first quarter of the following year. Quarterly payments that shall be delayed from each June to each July shall be Disproportionate Share Hospital payments, Indirect Medical Education payments, and Direct Medical Education payments. The department shall have the authority to implement this reimbursement change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.				
Z. The Department of Medical Assistance Services shall make the monthly capitation payment to managed care organizations for the member months of each month in the first week of the subsequent month. The department shall have the authority to implement this reimbursement schedule change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.				
AA. In every June the remittance that would normally be paid to providers on the last remittance date of the state fiscal year shall be delayed one week longer than is normally the practice. This change shall apply to the remittances of Medicaid and FAMIS providers. This change does not apply to providers who are paid a per-month capitation payment. The department shall have the authority to implement this reimbursement change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.				
BB. The Department of Medical Assistance Services shall impose an assessment equal to 6.0 percent of revenue on all ICF-ID providers. The department shall determine procedures for collecting the assessment, including penalties for non-compliance. The department shall have the authority to adjust interim rates to cover new Medicaid costs as a result of this assessment.				
CC. Effective July 1, 2020 2021, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to revise per diem rates paid to Virginia-based psychiatric residential treatment facilities using the provider's audited cost per day from the facility's cost report for provider fiscal years ending in state fiscal year 2018. New Virginia-based residential psychiatric facilities must submit proforma cost report data, which will be used to set the initial per diem rate for up to two years. After this period, the department shall establish a per diem rate based on an audited cost report for a 12-month period within the first two years of operation. Virginia-based residential psychiatric facilities that do not submit cost				

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reports shall be paid at 75 percent of the established rate ceiling. If necessary to enroll out-of-state providers for network adequacy, the department shall negotiate rates. If there is sufficient utilization, the department may require out-of-state providers to submit a cost report to establish a per diem rate. In-state and out-of-state provider per diem rates shall be subject to a ceiling based on the statewide weighted average cost per day from fiscal year 2018 cost reports. The department shall have the authority to implement these changes effective July 1, ~~2020~~ 2021 and prior to the completion of any regulatory process undertaken in order to effect such change.

DD. The Department of Medical Assistance Services shall work with the Department of Behavioral Health and Developmental Services in consultation with the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Coalition of Private Provider Associations, and the Association of Community Based Providers, to establish rates for the Intensive In-Home Service based on quality indicators and standards, such as the use of evidence-based practices.

EE.1. The Department of Medical Assistance Services shall seek federal authority through the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to merge the Commonwealth Coordinated Care Plus and Medallion 4.0 managed care programs, effective July 1, 2022, into a single, streamlined managed care program that links seamlessly with the fee-for-service program, ensuring an efficient and well-coordinated Virginia Medicaid delivery system that provides high-quality care to its members and adds value for providers and the Commonwealth. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

2. The Department of Medical Assistance Services shall conduct an analysis of the impact of merging the separate Family Access to Medical Insurance Security (FAMIS) population into a single Children's Health Insurance Program children's eligibility group under Medicaid. Such analysis shall include the fiscal impact on medical and administrative costs to the agency, including any savings, the federal and state authorities that would need to be modified and processes needed to make such change, and a timeline for such process to occur. The department shall report the results of the analysis to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.

3. The Department of Medical Assistance shall undertake a review of current contracts and staffing to determine the operational savings that would result from merging the Commonwealth Coordinated Care Plus and Medallion 4.0 managed care programs. The department shall report on its review of such administrative cost savings and merger-related costs by October 1, 2021 to the Department of Planning and Budget and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees. expand principles of care coordination to all geographic areas; populations; and services under programs administered by the department: The expansion of care coordination shall be based on the principles of shared financial risk such as shared savings; performance benchmarks or risk and improving the value of care delivered by measuring outcomes; enhancing quality; and monitoring expenditures: The department shall engage stakeholders; including beneficiaries; advocates; providers; and health plans; during the development and implementation of the care coordination projects: Implementation shall include specific requirements for data collection to ensure the ability to monitor utilization; quality of care; outcomes; costs; and cost savings: The department shall report by November 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees detailing implementation progress including; but not limited to; the number of individuals enrolled in care coordination; the geographic areas; populations and services affected and cost savings achieved: Unless otherwise delineated; the department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change: The intent of this Item may be achieved through several steps; including; but not limited to; the following:

a: In fulfillment of this Item; the department and the Department of Behavioral Health and Developmental Services; in collaboration with the Community Services Boards and in consultation with appropriate stakeholders; shall develop a blueprint for the development

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	<p>and implementation of a care coordination model for individuals in need of behavioral health services not currently provided through a managed care organization: The overall goal of the project is to improve the value of behavioral health services purchased by the Commonwealth of Virginia without compromising access to behavioral health services for vulnerable populations. Targeted case management services will continue to be the responsibility of the Community Services Boards. The blueprint shall: (i) describe the steps for development and implementation of the program model(s) including funding; populations served; services provided; timeframe for program implementation; and education of clients and providers; (ii) set the criteria for medical necessity for community mental health rehabilitation services; and (iii) include the following principles:</p>			
	<p>1: Improves value so that there is better access to care while improving equity:</p>			
	<p>2: Engages consumers as informed and responsible partners from enrollment to care delivery:</p>			
	<p>3: Provides consumer protections with respect to choice of providers and plans of care:</p>			
	<p>4: Improves satisfaction among providers and provides technical assistance and incentives for quality improvement:</p>			
	<p>5: Improves satisfaction among consumers by including consumer representatives on provider panels for the development of policy and planning decisions:</p>			
	<p>6: Improves quality; individual safety; health outcomes; and efficiency:</p>			
	<p>7: Develops direct linkages between medical and behavioral services in order to make it easier for consumers to obtain timely access to care and services; which could include up to full integration:</p>			
	<p>8: Builds upon current best practices in the delivery of behavioral health services:</p>			
	<p>9: Accounts for local circumstances and reflects familiarity with the community where services are provided:</p>			
	<p>10: Develops service capacity and a payment system that reduces the need for involuntary commitments and prevents default (or diversion) to state hospitals:</p>			
	<p>11: Reduces and improves the interface of vulnerable populations with local law enforcement, courts, jails; and detention centers:</p>			
	<p>12: Supports the responsibilities defined in the Code of Virginia relating to Community Services Boards and Behavioral Health Authorities:</p>			
	<p>13: Promotes availability of access to vital supports such as housing and supported employment:</p>			
	<p>14: Achieves cost savings through decreasing avoidable episodes of care and hospitalizations; strengthening the discharge planning process; improving adherence to medication regimens; and utilizing community alternatives to hospitalizations and institutionalization:</p>			
	<p>15: Simplifies the administration of acute psychiatric; community mental health rehabilitation; and medical health services for the coordinating entity; providers; and consumers:</p>			
	<p>16: Requires standardized data collection; outcome measures; customer satisfaction surveys; and reports to track costs; utilization of services; and outcomes: Performance data should be explicit; benchmarked; standardized; publicly available; and validated:</p>			
	<p>17: Provides actionable data and feedback to providers:</p>			
	<p>18: In accordance with federal and state regulations; includes provisions for effective and timely grievances and appeals for consumers:</p>			
	<p>b: The department may seek the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to develop and implement a care coordination model; that is consistent with the principles in paragraph a.; for individuals in need of behavioral health services to be effective July 1, 2019: This model may be applied to individuals on a mandatory basis: The department shall have authority to promulgate</p>			

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<p>emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.</p>				
<p>FF. The Department of Medical Assistance Services shall make programmatic changes in the provision of Residential Treatment Facility (Level C) and Levels A and B residential services (group homes) for children with serious emotional disturbances in order ensure appropriate utilization and cost efficiency. The department shall consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The department shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.</p>				
<p>GG. The Department of Medical Assistance Services (DMAS) shall have the authority to amend the State Plan for Medical Assistance to enroll and reimburse freestanding birthing centers accredited by the Commission for the Accreditation of Birthing Centers. Reimbursement shall be based on the Enhanced Ambulatory Patient Group methodology applied in a manner similar to the reimbursement methodology for ambulatory surgery centers. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>HH. The department may seek federal authority through amendments to the State Plans under Title XIX and XXI of the Social Security Act, and appropriate waivers to such, to develop and implement programmatic and system changes that allow expedited enrollment of Medicaid eligible recipients into Medicaid managed care, most importantly for pregnant women. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.</p>				
<p>II.1. The Department of Medical Assistance Services, related to appeals administered by and for the department, shall have authority to amend regulations to:</p>				
<p>i. Utilize the method of transmittal of documentation to include email, fax, courier, and electronic transmission.</p>				
<p>ii. Clarify that the day of delivery ends at normal business hours of 5:00 pm.</p>				
<p>iii. Eliminate an automatic dismissal against DMAS for alleged deficiencies in the case summary that do not relate to DMAS's obligation to substantively address all issues specified in the provider's written notice of informal appeal. A process shall be added, by which the provider shall file with the informal appeals agent within 12 calendar days of the provider's receipt of the DMAS case summary, a written notice that specifies any such alleged deficiencies that the provider knows or reasonably should know exist. DMAS shall have 12 calendar days after receipt of the provider's timely written notification to address or cure any of said alleged deficiencies. The current requirement that the case summary address each adjustment, patient, service date, or other disputed matter identified in the provider's written notice of informal appeal in the detail set forth in the current regulation shall remain in force and effect, and failure to file a written case summary with the Appeals Division in the detail specified within 30 days of the filing of the provider's written notice of informal appeal shall result in dismissal in favor of the provider on those issues not addressed by DMAS.</p>				
<p>iv. Clarify that appeals remanded to the informal appeal level via Final Agency Decision or court order shall reset the timetable under DMAS' appeals regulations to start running from the date of the remand.</p>				
<p>v. Clarify the department's authority to administratively dismiss untimely filed appeal requests.</p>				
<p>vi. Clarify the time requirement for commencement of the formal administrative hearing.</p>				
<p>vii. Clarify that settlement proposals may be tendered during the appeal process and that approval is subject to the requirements of § 2.2-514 of the Code of Virginia. The amended regulations shall develop a framework for the submission of the settlement proposal and state that the Department of Medical Assistance Services and the provider may jointly agree to stay the deadline for the informal appeal decision or for the formal appeal</p>				

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recommended decision of the Hearing Officer for a period of up to sixty (60) days to facilitate settlement discussions. If the parties reach a resolution as reflected by a written settlement agreement within the sixty-day period, then the stay shall be extended for such additional time as may be necessary for review and approval of the settlement agreement in accordance with law.

2. The Department of Medical Assistance Services shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.

JJ. It is the intent of the General Assembly that the implementation and administration of the care coordination contract for behavioral health services be conducted in a manner that insures system integrity and engages private providers in the independent assessment process. In addition, it is the intent that in the provision of services that ethical and professional conflicts are avoided and that sound clinical decisions are made in the best interests of the individuals receiving behavioral health services. As part of this process, the department shall monitor the performance of the contract to ensure that these principles are met and that stakeholders are involved in the assessment, approval, provision, and use of behavioral health services provided as a result of this contract.

KK. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to allow for delivery of notices of program reimbursement or other items referred to in the regulations related to provider appeals by electronic means consistent with the Uniform Electronic Transactions Act. The department shall implement this change effective July 1, 2013, and prior to completion of any regulatory process undertaken in order to effect such changes.

LL. Effective July 1, 2017 through June 30, 2020, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to pay nursing facilities located in the former Danville Metropolitan Statistical Area (MSA) the operating rates calculated for the Other MSA peer group. For purposes of calculating rates under the rebasing effective July 1, 2017, the department shall use the peer groups based on the existing regulations. For future rebasings, the department shall permanently move these facilities to the Other MSA peer group. The department shall have the authority to implement this reimbursement change effective July 1, 2017 and prior to completion of any regulatory process undertaken in order to effect such change.

MM. The Department of Medical Assistance Services shall amend its State Plan under Title XIX of the Social Security Act to implement reasonable restrictions on the amount of incurred dental expenses allowed as a deduction from income for nursing facility residents. Such limitations shall include: (i) that routine exams and x-rays, and dental cleaning shall be limited to twice yearly; (ii) full mouth x-rays shall be limited to once every three years; and (iii) deductions for extractions and fillings shall be permitted only if medically necessary as determined by the department.

NN. Notwithstanding §32.1-325, et seq. and §32.1-351, et seq. of the Code of Virginia, and effective upon the availability of subsidized private health insurance offered through a Health Benefits Exchange in Virginia as articulated through the federal Patient Protection and Affordable Care Act (PPACA), the Department of Medical Assistance Services shall eliminate, to the extent not prohibited under federal law, Medicaid Plan First and FAMIS Moms program offerings to populations eligible for and enrolled in said subsidized coverage in order to remove disincentives for subsidized private healthcare coverage through publicly-offered alternatives. To ensure, to the extent feasible, a smooth transition from public coverage, DMAS shall endeavor to phase out such coverage for existing enrollees once subsidized private insurance is available through a Health Benefits Exchange in Virginia. The department shall implement any necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

OO. The Department of Medical Assistance Services shall have authority to amend the State Plans for Medical Assistance under Titles XIX and XXI of the Social Security Act, and any waivers thereof, to implement requirements of the federal Patient Protection and Affordable Care Act (PPACA) as it pertains to implementation of Medicaid and CHIP eligibility determination and case management standards and practices, including the Modified Adjusted Gross Income (MAGI) methodology. The department shall have authority to implement such

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standards and practices upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

PP. Effective July 1, 2013, the Department of Medical Assistance Services shall establish a Medicaid Physician and Managed Care Liaison Committee including, but not limited to, representatives from the following organizations: the Virginia Academy of Family Physicians; the American Academy of Pediatricians – Virginia Chapter; the Virginia College of Emergency Physicians; the American College of Obstetrics and Gynecology – Virginia Section; Virginia Chapter, American College of Radiology; the Psychiatric Society of Virginia; the Virginia Medical Group Management Association; and the Medical Society of Virginia. The committee shall also include representatives from each of the department's contracted managed care organizations and a representative from the Virginia Association of Health Plans. The committee will work with the department to investigate the implementation of quality, cost-effective health care initiatives, to identify means to increase provider participation in the Medicaid program, to remove administrative obstacles to quality, cost-effective patient care, and to address other matters as raised by the department or members of the committee. The Committee shall establish an Emergency Department Care Coordination work group comprised of representatives from the Committee, including the Virginia College of Emergency Physicians, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Academy of Family Physicians and the Virginia Association of Health Plans to review the following issues: (i) how to improve coordination of care across provider types of Medicaid "super utilizers"; (ii) the impact of primary care provider incentive funding on improved interoperability between hospital and provider systems; and (iii) methods for formalizing a statewide emergency department collaboration to improve care and treatment of Medicaid recipients and increase cost efficiency in the Medicaid program, including recognized best practices for emergency departments. The committee shall meet semi-annually, or more frequently if requested by the department or members of the committee. The department, in cooperation with the committee, shall report on the committee's activities annually to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than October 1 each year.

QQ.1. The Department of Medical Assistance Services shall seek federal authority through any necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to implement a comprehensive value-driven, market-based reform of the Virginia Medicaid/FAMIS programs.

2. The department is authorized to contract with qualified health plans to offer recipients a Medicaid benefit package adhering to these principles. Any coordination of non-traditional behavioral health services covered under contract with qualified health plans or through other means shall adhere to the principles outlined in paragraph EE.a. This reformed service delivery model shall be mandatory, to the extent allowed under the relevant authority granted by the federal government and shall, at a minimum, include (i) limited high-performing provider networks and medical/health homes; (ii) financial incentives for high quality outcomes and alternative payment methods; (iii) improvements to encounter data submission, reporting, and oversight; (iv) standardization of administrative and other processes for providers; and (v) support of the health information exchange.

3.a. Notwithstanding § 30-347, Code of Virginia, or any other provision of law, the Department of Medical Assistance Services shall have the authority to (1) amend the State Plan for Medical Assistance under Title XIX of the Social Security Act, and any waivers thereof, to implement coverage for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act and (2) begin the process of implementing a § 1115 demonstration project to transform the Medicaid program for newly eligible individuals pursuant to the provisions of 4.c. and eligible individuals enrolled in the existing Medicaid program. DMAS shall submit the § 1115 demonstration waiver application to CMS for approval. The department shall provide updates on the progress of the State Plan amendments and demonstration waiver applications to the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, upon request, and provide for participation in discussions with CMS staff. The department shall respond to all requests for information from CMS

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	on the State Plan Amendments and demonstration waiver applications in a timely manner.			
	b. The demonstration project shall include the following elements in the design: The Department of Medical Assistance Services shall develop a supportive employment and housing benefit targeted to high risk Medicaid beneficiaries with mental illness, substance use disorder, or other complex, chronic conditions who need intensive, ongoing support to obtain and maintain employment and stable housing.			
	c. The department shall have the authority to promulgate emergency regulations to implement these changes within 280 days or less from the enactment date of this Act.			
	4. In the event that the increased federal medical assistance percentages for newly eligible individuals included in 42 U.S.C. § 1396d(y)(1)[2010] of the PPACA are modified through federal law or regulation from the methodology in effect on January 1, 2014, resulting in a reduction in federal medical assistance as determined by the department in consultation with the Department of Planning and Budget, the Department of Medical Assistance Services shall disenroll and eliminate coverage for individuals who obtained coverage through 42 U.S.C. § 1396d(y)(1) [2010] of the PPACA. The disenrollment process shall include written notification to affected Medicaid beneficiaries, Medicaid managed care plans, and other providers that coverage will cease as soon as allowable under federal law following the date the department is notified of a reduction in Federal Medical Assistance Percentage.			
	RR.1. Effective July 1, 2014, the Department of Medical Assistance Services shall replace the current Disproportionate Share Hospital (DSH) methodology with the following methodology:			
	a) DSH eligible hospitals must have a total Medicaid Inpatient Utilization Rate equal to 14 percent or higher in the base year using Medicaid days eligible for Medicare DSH or a Low Income Utilization Rate in excess of 25 percent and meet other federal requirements. Eligibility for out of state cost reporting hospitals shall be based on total Medicaid utilization or on total Medicaid NICU utilization equal to 14 percent or higher.			
	b) Each hospital's DSH payment shall be equal to the DSH per diem multiplied by each hospital's eligible DSH days in a base year. Days reported in provider fiscal years in state FY 2011 will be the base year for FY 2015 prospective DSH payments. DSH will be recalculated annually with an updated base year. DSH payments are subject to applicable federal limits.			
	c) Eligible DSH days are the sum of all Medicaid inpatient acute, psychiatric and rehabilitation days above 14 percent for each DSH hospital subject to special rules for out of state cost reporting hospitals. Eligible DSH days for out of state cost reporting hospitals shall be the higher of the number of eligible days based on the calculation in the first sentence times Virginia Medicaid utilization (Virginia Medicaid days as a percent of total Medicaid days) or the Medicaid NICU days above 14 percent times Virginia NICU Medicaid utilization (Virginia NICU Medicaid days as a percent of total NICU Medicaid days). Eligible DSH days for out of state cost reporting hospitals who qualify for DSH but who have less than 12 percent Virginia Medicaid utilization shall be 50 percent of the days that would have otherwise been eligible DSH days.			
	d) Additional eligible DSH days are days that exceed 28 percent Medicaid utilization for Virginia Type Two hospitals (excluding Children's Hospital of the Kings Daughters).			
	e) The DSH per diem shall be calculated in the following manner:			
	a. The DSH per diem for Type Two hospitals is calculated by dividing the total Type Two DSH allocation by the sum of eligible DSH days for all Type Two DSH hospitals. For purposes of DSH, Type Two hospitals do not include Children's Hospital of the Kings Daughters (CHKD) or any hospital whose reimbursement exceeds its federal uncompensated care cost limit. The Type Two Hospital DSH allocation shall equal the amount of DSH paid to Type Two hospitals in state FY 2014 increased annually by the percent change in the federal allotment, including any reductions as a result of the Affordable Care Act, adjusted for the state fiscal year.			
	b. The DSH per diem for State Inpatient Psychiatric Hospitals is calculated by dividing the total State Inpatient Psychiatric Hospital DSH allocation by the sum of eligible DSH days. The State Inpatient Psychiatric Hospital DSH allocation shall equal the amount of DSH paid			

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<p>in state FY 2013 increased annually by the percent change in the federal allotment, including any reductions as a result of the Affordable Care Act, adjusted for the state fiscal year.</p>				
<p>c. The DSH per diem for CHKD shall be three times the DSH per diem for Type Two hospitals.</p>				
<p>d. The DSH per diem for Type One hospitals shall be 17 times the DSH per diem for Type Two hospitals.</p>				
<p>2. Each year, the department shall determine how much Type Two DSH has been reduced as a result of the Affordable Care Act and adjust the percent of cost reimbursed for outpatient hospital reimbursement.</p>				
<p>3. The department shall convene the Hospital Payment Policy Advisory Council at least once a year to consider additional changes to the DSH methodology.</p>				
<p>4. The department shall have the authority to implement these reimbursement changes effective July 1, 2014, and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>SS. The Department of Medical Assistance Services shall have authority to amend the State Plans for Medical Assistance under Titles XIX and XXI of the Social Security Act, and any waivers thereof, to implement requirements of the federal Patient Protection and Affordable Care Act (PPACA), P.L. 111-148, as it pertains to implementation of Medicaid and CHIP eligibility determination and case management standards and practices, including the Modified Adjusted Gross Income (MAGI) methodology and, notwithstanding the requirements of Code of Virginia §2.2-4000, et seq., the process for administrative appeals of MAGI-related eligibility determinations. The department shall have authority to implement such standards and practices upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>TT.1. Notwithstanding § 32.1-330 of the Code of Virginia, the Department of Medical Assistance Services shall improve the preadmission screening process for individuals who will be eligible for long-term care services, as defined in the state plan for medical assistance. The community-based screening team shall consist of a licensed health care professional and a social worker who are employees or contractors of the Department of Health or the local department of social services, or other assessors contracted by the department. The department shall not contract with any entity for whom there exists a conflict of interest. For community-based screening for children, the screening shall be performed by an individual or entity with whom the department has entered into a contract for the performance of such screenings.</p>				
<p>2. The department shall track and monitor all requests for screenings and report on those screenings that have not been completed within 30 days of an individual's request for screening. The screening teams and contracted entities shall use the reimbursement and tracking mechanisms established by the department.</p>				
<p>3. The Department of Medical Assistance Services shall promulgate regulations to implement these provisions to be effective within 280 days of its enactment. The department may implement any changes necessary to implement these provisions prior to the promulgation of regulations undertaken in order to effect such changes.</p>				
<p>UU.1.a. There is hereby appropriated sum-sufficient nongeneral funds for the Department of Medical Assistance Services (DMAS) to pay the state share of supplemental payments for qualifying private hospital partners of Type One hospitals (consisting of state-owned teaching hospitals) as provided in the State Plan for Medical Assistance Services. Qualifying private hospitals shall consist of any hospital currently enrolled as a Virginia Medicaid provider and owned or operated by a private entity in which a Type One hospital has a non-majority interest. The supplemental payments shall be based upon the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance Services. DMAS shall enter into a transfer agreement with any Type One hospital whose private hospital partner qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments to the private</p>				

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<p>hospital partner. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>b. The department shall adjust capitation payments to Medicaid managed care organizations for the purpose of securing access to Medicaid hospital services for the qualifying private hospital partners of Type One hospitals (consisting of state-owned teaching hospitals). The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments and provider payment requirements. DMAS shall enter into a transfer agreement with any Type One hospital whose private hospital partner qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments to the private hospital partner. The department shall have the authority to implement these reimbursement changes consistent with the effective date approved by the Centers for Medicare and Medicaid Services (CMS). No payment shall be made without approval from CMS.</p>				
<p>2.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental payments to Medicaid physician providers with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth. The amount of the supplemental payment shall be based on the difference between the average commercial rate approved by CMS and the payments otherwise made to physicians. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>b. The department shall increase payments to Medicaid managed care organizations for the purpose of securing access to Medicaid physician services in Eastern Virginia, through higher rates to physicians affiliated with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth subject to applicable limits. The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments, and provider payment requirements, subject to approval by CMS. No payment shall be made without approval from CMS.</p>				
<p>c. Funding for the state share for these Medicaid payments is authorized in Item 254.</p>				
<p>3.a. The Department of Medical Assistance Services (DMAS) shall have the authority to amend the State Plan for Medical Assistance Services (State Plan) to implement a supplemental Medicaid payment for local government-owned nursing homes. The total supplemental Medicaid payment for local government-owned nursing homes shall be based on the difference between the Upper Payment Limit of 42 CFR §447.272 as approved by CMS and all other Medicaid payments subject to such limit made to such nursing homes. There is hereby appropriated sum-sufficient funds for DMAS to pay the state share of the supplemental Medicaid payment hereunder. However, DMAS shall not submit such State Plan amendment to CMS until it has entered into an intergovernmental agreement with eligible local government-owned nursing homes or the local government itself which requires them to transfer funds to DMAS for use as the state share for the supplemental Medicaid payment each nursing home is entitled to and to represent that each has the authority to transfer funds to DMAS and that the funds used will comply with federal law for use as the state share for the supplemental Medicaid payment. If a local government-owned nursing home or the local government itself is unable to comply with the intergovernmental agreement, DMAS shall have the authority to modify the State Plan. The department shall have the authority to implement the reimbursement change consistent with the effective date in the State Plan amendment approved by CMS and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>b. If by June 30, 2017, the Department of Medical Assistance Services has not secured approval from the Centers for Medicare and Medicaid Services to use a minimum fee schedule pursuant to 42 C.F.R. § 438.6(c)(1)(iii) for local government-owned nursing homes participating in Commonwealth Coordinated Care Plus (CCC Plus) at the same level as and in lieu of the supplemental Medicaid payments authorized in Section XX.3.a., then DMAS shall:</p> <p>(i) exclude Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes from CCC Plus; (ii) pay for such excluded recipient's nursing home services on a fee-for-service basis, including the related supplemental Medicaid</p>				

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<p>payments as authorized herein; and (iii) prohibit CCC Plus contracted health plans from in any way limiting Medicaid recipients from electing to receive nursing home services from local government-owned nursing homes. The department may include in CCC Plus Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes in the future when it has secured federal CMS approval to use a minimum fee schedule as described above.</p>				
<p>4. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance Services to implement a supplemental payment for clinic services furnished by the Virginia Department of Health (VDH) effective July 1, 2015. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Medicaid payments. VDH may transfer general fund to the department from funds already appropriated to VDH to cover the non-federal share of the Medicaid payments. The department shall have the authority to implement the reimbursement change effective July 1, 2015, and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>5. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 with more than 50 percent Medicaid inpatient utilization in fiscal year 2014 to the maximum allowed by the Centers for Medicare and Medicaid Services within the limit of the appropriation provided for this purpose. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Virginia Medicaid fee-for-service payments. The department shall have the authority to implement these reimbursement changes effective July 1, 2016, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>6.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental Medicaid payments to the primary teaching hospitals affiliated with a Liaison Committee on Medical Education (LCME) accredited medical school located in Planning District 23 that is a political subdivision of the Commonwealth and an LCME accredited medical school located in Planning District 5 that has a partnership with a public university. The amount of the supplemental payment shall be based on the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance and/or the department's contracts with managed care organizations. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment or the managed care contracts approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes. No payment shall be made without approval from CMS.</p>				
<p>b. Funding for the state share for these Medicaid payments is authorized in Item 254 and Item 4-5.03.</p>				
<p>c. Payments authorized in this subsection shall sunset after the effective date of a statewide supplemental payment for private acute care hospitals authorized in Item 3-5.16. For purposes of the upper payment limit, the department shall prorate the upper payment limit if the sunset date is mid-fiscal year. The department shall have the authority to implement this change prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>7. The department shall amend the State plan for Medical Assistance to implement a supplemental inpatient and outpatient payment for Chesapeake Regional Hospital based on the difference between reimbursement with rates using an adjustment factor of 100% minus current authorized reimbursement subject to the inpatient and outpatient Upper Payment Limits for non-state government owned hospitals. The department shall include in its contracts with managed care organizations a minimum fee schedule for Chesapeake Regional Hospital consistent with rates using an adjustment factor of 100%. The department shall adjust capitation payments to Medicaid managed care organizations to fund this minimum fee schedule. Both the contract changes and capitation rate adjustments shall be compliant with 42 C.F.R. 438.6(c)(1)(iii) and subject to CMS approval. Prior to submitting the State Plan Amendment or making the managed care</p>				

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<p>contract changes, Chesapeake Regional Hospital shall enter into an agreement with the department to transfer the non-federal share for these payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date(s) approved by the Centers for Medicare and Medicaid (CMS). No payments shall be made without CMS approval.</p>				
<p>8.a. There is hereby appropriated sum-sufficient nongeneral funds for the department to pay the state share of supplemental payments for nursing homes owned by Type One hospitals (consisting of state-owned teaching hospitals) as provided in the State Plan for Medical Assistance Services. The total supplemental payment shall be based on the difference between the Upper Payment Limit of 42 CFR § 447.272 as approved by CMS and all other Medicaid payments subject to such limit made to such nursing homes. DMAS shall enter into a transfer agreement with any Type One hospital whose nursing home qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>b. The department shall adjust capitation payments to Medicaid managed care organizations to fund a minimum fee schedule compliant with requirements in 42 C.F.R. § 438.6(c)(1)(iii) at a level consistent with the State Plan amendment authorized above for nursing homes owned by Type One hospitals. The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments and provider payment requirements. DMAS shall enter into a transfer agreement with any Type One hospitals whose nursing home qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date approved by CMS. No payment shall be made without approval from CMS.</p>				
<p><i>9. The department shall amend the State plan for Medical Assistance to implement a supplemental inpatient payment for Lake Taylor Transitional Care Hospital based on the difference between Medicaid reimbursement and the inpatient Upper Payment Limit for non-state government owned hospitals. The department shall include in its contracts with managed care organizations a percentage increase for Lake Taylor Transitional Care Hospital consistent with the fee for service supplemental payment percentage increase. The department shall adjust capitation payments to Medicaid managed care organizations to fund this percentage increase. Both the contract changes and capitation rate adjustments shall be compliant with 42 C.F.R. 438.6(c)(1)(iii) and subject to CMS approval. Prior to submitting the State Plan Amendment or making the managed care contract changes, Lake Taylor Transitional Care Hospital shall enter into an agreement with the department to transfer the non-federal share for these payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date(s) approved by the Centers for Medicare and Medicaid (CMS). No payments shall be made without CMS approval. The originating funding for this program will come entirely from Lake Taylor for Lake Taylor.</i></p>				
<p>VV. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to provide coverage for cessation services for tobacco users, including pharmacology, group and individual counseling, and other treatment services including the most current version of or an official update to the Clinical Health Guideline "Treating Tobacco Use and Dependence" published by the Public Health Service of the U.S. Department of Health and Human Services. These services shall be subject to copayment requirements. The department shall have authority to implement this reimbursement change effective July 1, 2014 and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>WW. The Department of Medical Assistance Services shall have the authority to implement Section 1902(a)(10)(A)(i)(IX) of the federal Social Security Act to provide Medicaid benefits up until the age of 26 to individuals who are or were in foster care at least until the age of 18 in any state.</p>				
<p>XX.1. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XIX of the Social Security Act to add coverage for comprehensive dental services</p>				

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to pregnant women receiving services under the Medicaid program to include: (i) diagnostic, (ii) preventive, (iii) restorative, (iv) endodontics, (v) periodontics, (vi) prosthodontics both removable and fixed, (vii) oral surgery, and (viii) adjunctive general services.

2. The Department of Medical Assistance Services is authorized to amend the FAMIS MOMS and FAMIS Select demonstration waiver (No. 21-W-00058/3) for FAMIS MOMS enrollees to add coverage for dental services to align with pregnant women's coverage under Medicaid.

3. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XXI of the Social Security Act to plan to allow enrollment for dependent children of state employees who are otherwise eligible for coverage.

4. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.

YY. The Department of Medical Assistance Services shall convene a workgroup to evaluate and develop strategies and recommendations to improve payment policies and coordination of care in the Medicaid program to encourage the effective and efficient provision of care by providers and health care systems serving Medicaid members. The workgroup shall include representatives from the Virginia Hospital and Healthcare Association, hospitals, the Virginia Association of Health Plans, managed care organizations, emergency department and primary care physicians, and other stakeholders deemed necessary by the department. The workgroup shall: (i) evaluate the appropriate coordination of services and cooperation among Medicaid managed care organizations (MCOs), hospitals, physicians, social services organizations, and nonprofit organizations to achieve a reduction in hospital readmissions, improved health outcomes, and reduced overall costs of care for conditions with high rates of hospital readmission in the Medicaid program; (ii) examine the role of hospital discharge planning and MCO care coordinators in assisting Medicaid beneficiaries with access to appropriate care and services post-discharge and other factors that may contribute to higher rates of readmission such as social determinants of health that could impact a patient's readmission status; (iii) assess the effectiveness of past and current mechanisms to improve outcomes and readmission rates by hospitals and health care systems and best practices and models from federal programs and other states; (iv) assess how to prevent inappropriate utilization of emergency department services; (v) examine the role of MCO care coordinators in assisting Medicaid beneficiaries access to appropriate care, including Medicaid beneficiary access to and the availability and use of alternative non-emergency care options, adequacy of MCO provider networks and reimbursement for primary care and alternative non-emergency care options, and the effectiveness of past and current mechanisms to improve the use of alternative non-emergent care by Medicaid beneficiaries; (vi) evaluate the impact of freestanding emergency departments and hospital emergency department marketing on emergency department utilization along with lower-cost options for triage of non-emergency cases to alternative settings; (vii) consider other states efforts to address emergency department utilization, including the use of medical and health homes, alternative primary care sites, and programs to coordinate the health needs of "super-utilizers"; and (viii) consider strategies to engage in value-based payment arrangements and other forms of financial incentives to encourage appropriate utilization of services and cooperation by health care providers and systems in improving health care outcomes, including a review of designated Performance Withhold Program measures, Clinical Efficiency measures, and other existing or potential programs. The department shall provide data on emergency room utilization and hospital readmissions of Medicaid beneficiaries to the workgroup to assist in its evaluation and analysis. The department shall report on the workgroup's findings and recommendations to the Joint Subcommittee for Health and Human Resources Oversight by ~~December 15, 2020~~ *November 1, 2021*.

ZZ. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for practice plans affiliated with a freestanding children's hospital with more than 50 percent Medicaid inpatient utilization in fiscal year 2009 to the maximum allowed by the Centers for Medicare and Medicaid Services. The department shall have the authority to implement

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these reimbursement changes effective July 1, 2015, and prior to completion of any regulatory process undertaken in order to effect such change.				
AAA. The Department of Medical Assistance Services (DMAS) shall amend its July 1, 2016, managed care contracts in order to conform to the requirement pursuant to House Bill 1942 / Senate Bill 1262, passed during the 2015 Regular Session, for prior authorization of drug benefits.				
BBB.1. Out of this appropriation, \$3,100,000 the first year and \$3,850,000 the second year from the general fund and \$3,100,000 the first year and \$3,850,000 the second year from nongeneral funds shall be used for supplemental payments to fund the fourth year of graduate medical education for two residents who began their residencies in July 2017, the second and third years of graduate medical education of 13 funded slots for residents beginning their residencies in July 2018, the second year of graduate medical education of 16 funded slots for residencies in July 2019, the first and second years of graduate medical education for two residents in July 2020, who were awarded last year but their hiring was delayed, 27 31 slots for residents beginning their residencies in July 2020, provided to hospitals as awarded by the Virginia Health Care Workforce Authority, and 25 slots for residents beginning their residencies in July 2021.				
2. The supplemental payment for each qualifying residency slot shall be \$100,000 annually minus any Medicare residency payment for which the sponsoring institution is eligible. For any residency program at a facility whose Medicaid payments are capped by the Centers for Medicare and Medicaid Services, the supplemental payments for each qualifying residency slot shall be \$50,000 from the general fund annually minus any Medicare residency payments for which the residency program is eligible. Supplemental payments shall be made for up to four years for each qualifying resident. Payments shall be made quarterly following the same schedule used for other medical education payments.				
3. The Department of Medical Assistance Services shall submit a State Plan amendment based on the authorization in BBB.1. of this Item to make supplemental payments for graduate medical education residency slots. The supplemental payments are subject to federal Centers for Medicare and Medicaid Services approval. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.				
4.a. Effective July 1, 2017, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (2 residencies), Carilion Medical Center (6 residencies), Centra Lynchburg General Hospital (1 residency), Riverside Regional Medical Center (2 residencies), Bon Secours St. Francis Medical Center (2 residencies). The department shall make supplemental payments to Carilion Medical Center for 2 psychiatry residencies.				
b. Effective July 1, 2018, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (1 residency), Maryview Hospital (1 residency) and Carilion Medical Center (6 residencies). The department shall make supplemental payments to Carilion Medical Center for 2 psychiatric residencies and to Sentara Norfolk General for 1 OB/GYN residency and 2 psychiatric residencies.				
c. Effective July 1, 2019, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (1 residency), Maryview Hospital (1 residency), Carilion Medical Center (6 residencies), Centra Health (2 residencies), and Riverside Regional Medical Center (2 residencies). The department shall make supplemental payments to Inova Fairfax Hospital for 1 General Surgery residency and to Carilion Medical Center for 2 psychiatric residencies. The department shall make supplemental payments to Sentara Norfolk General 1 OB/GYN residency and 1 urology residency. The department shall make supplemental payments to the University of Virginia Health System for a one year fellowship in Addiction Medicine and to the Virginia Commonwealth University Health System for a one year fellowship in Addiction Medicine.				
d. Effective July 1, 2020, the department shall make supplemental payments for a primary care residency to Riverside Regional Medical Center. The department shall make				

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<p>supplemental payments to Sentara Norfolk General for 2 psychiatric residencies and 1 urology residency. <i>In addition, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (3 residencies), Maryview Hospital (1 residency), Carilion Medical Center (7 residencies), and Centra Health (3 residencies). The department shall make supplemental payments to Sentara Norfolk General for 1 OB/GYN residency and Carilion Medical Center for 2 psychiatry residencies. The department shall make supplemental payments to Riverside Regional Medical Center for 8 emergency medicine residencies. The department shall make supplemental payments to Children's Hospital of King's Daughters for 2 general pediatrics residencies.</i></p> <p><i>e. Effective July 1, 2021, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Carilion Medical Center (7 residencies) and Centra Health (4 residencies). The department shall make supplemental payments to Sentara Norfolk General for 1 OB/GYN residency and 1 emergency medicine residency. The department shall make supplemental payments to Carilion Medical Center for 2 psychiatry residencies. The department shall make supplemental payments to Riverside Regional Medical Center for 8 emergency medicine residencies.</i></p> <p>5. Preference shall be given for residency slots located in underserved areas. Applications for slots that involve multiple medical care providers collaborating in training residents and that involve providing residents the opportunity to train in underserved areas are encouraged. A majority of the new residency slots funded each year shall be for primary care. The department shall adopt criteria for primary care, high need specialties and underserved areas as developed by the Virginia Health Workforce Development Authority. Beginning July 1, 2018, the department shall also review and consider applications from non-hospital sponsoring institutions, such as Federally Qualified Health Centers (FQHCs).</p> <p>6. If the number of qualifying residency slots exceeds the available number of supplemental payments, the Virginia Health Workforce Development Authority shall determine which new residency slots to fund based on priorities developed by the authority.</p> <p>7. The sponsoring institution will be eligible for the supplemental payments as long as it maintains the number of residency slots in total and by category as a result of the increase. The sponsoring institutions must certify by June 1 each year that they continue to meet the criteria for the supplemental payments and report any changes during the year to the number of residents.</p> <p>8. The department shall require all sponsoring institutions receiving Medicaid medical education funding to report annually by September 15 on the number of residents in total and by specialty/subspecialty. Medical education funding includes payments for graduate medical education (GME) and indirect medical education (IME).</p> <p>9: The Department of Planning and Budget shall create a new Service Area in this item for Program 45600; appropriately named; and transfer the appropriation included in this item for graduate medical education residency slots to this new service area. The appropriation in the new service area shall be excluded from the Official Medicaid Forecast.</p> <p>CCC.1. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall amend the state plan for medical assistance and/or seek federal authority through an 1115 demonstration waiver, as soon as feasible, to provide coverage of inpatient detoxification, inpatient substance abuse treatment, residential detoxification, residential substance abuse treatment, and peer support services to Medicaid individuals in the Fee-for-Service and Managed Care Delivery Systems.</p> <p>2. The Department of Medical Assistance Services shall have the authority to make programmatic changes in the provision of all Substance Abuse Treatment Outpatient, Community Based and Residential Treatment services (group homes and facilities) for individuals with substance abuse disorders in order to ensure parity between the substance abuse treatment services and the medical and mental health services covered by the department and to ensure comprehensive treatment planning and care coordination for</p>				

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<p>individuals receiving behavioral health and substance use disorder services. The department shall ensure appropriate utilization and cost efficiency, and adjust reimbursement rates within the limits of the funding appropriated for this purpose based on current industry standards. The department shall consider all available options including, but not limited to, service definitions, prior authorization, utilization review, provider qualifications, and reimbursement rates for the following Medicaid services: substance abuse day treatment for pregnant women, substance abuse residential treatment for pregnant women, substance abuse case management, opioid treatment, substance abuse day treatment, and substance abuse intensive outpatient. Any amendments to the State Plan or waivers initiated under the provisions of this paragraph shall not exceed funding appropriated in this Act for this purpose. The department shall have the authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.</p> <p>3. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance and any waivers thereof to include peer support services to children and adults with mental health conditions and/or substance use disorders. The department shall work with its contractors, the Department of Behavioral Health and Developmental Services, and appropriate stakeholders to develop service definitions, utilization review criteria and provider qualifications. Any amendments to the State Plan or waivers initiated under the provisions of this paragraph shall not exceed funding appropriated in this Act for this purpose. The department shall have the authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.</p> <p>4. The Department of Medical Assistance Services shall, prior to the submission of any state plan amendment or waivers to implement paragraphs CCC.1., CCC.2., and CCC.3., submit a plan detailing the changes in provider rates, new services added, other programmatic changes, and a certification of budget neutrality to the Director, Department of Planning and Budget and the Chairmen of the House Appropriation and Senate Finance Committees.</p> <p>DDD. The Department of Medical Assistance Services (DMAS), in consultation with the appropriate stakeholders, shall seek federal authority via a state plan amendment to cover low-dose computed tomography (LDCT) lung cancer screenings for high-risk adults. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.</p> <p>EEE. The Department of Medical Assistance Services shall not expend any appropriation for an approved Delivery System Reform Incentive Program (DSRIP) §1115 waiver unless the General Assembly appropriates the funding. The department shall notify the Chairmen of the House Appropriations and Senate Finance Committees within 15 days of any final negotiated waiver agreement with the Centers for Medicare and Medicaid Services.</p> <p>FFF. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the managed care regulations to specify that all contracts with health plans in a Medicaid managed care delivery model, including long-term services and supports, require reimbursement to nursing facility and specialized care services at no less than the Medicaid established per diem rate for Medicaid covered days, using the department's methodologies, unless the managed care organization and the nursing facility or specialized care services provider mutually agree to an alternative payment. The department shall have authority to implement this provision prior to the completion of any regulatory process in order to effect such change.</p> <p>GGG.1. The Department of Medical Assistance Services shall monitor the capacity available under the Upper Payment Limit (UPL) for all hospital supplemental payments and adjust payments accordingly when the UPL cap is reached. The department shall make an adjustment to stay under the UPL cap by reducing or eliminating as necessary supplemental payments to hospitals based on when the first supplemental payments were actually made so that the newest supplemental payments to hospitals would be impacted first and so on.</p> <p>2. The Department of Medical Assistance Services shall have the authority to implement reimbursement changes deemed necessary to meet the requirements of this paragraph prior to the completion of any regulatory process in order to effect such changes.</p> <p>HHH.1. By October 1, 2019, the Department of Medical Assistance Services shall require consumer-directed aides providing personal care, respite care and companion services in the</p>				

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Medicaid Commonwealth Coordinated Care (CCC) Plus Waiver and Developmental Disability waiver programs and the Early and Periodic Screening Diagnosis and Treatment (EPSDT) program to utilize an Electronic Visit Verification (EVV) system. ~~Notwithstanding Item 482.20 of this act, n~~ Nothing in this paragraph shall apply to live-in caretakers, who shall be exempt from the EVV requirements beginning January 1, 2021. The department is authorized to contract with a vendor to provide access to an EVV system for use by consumer-directed aides.

2. For personal care, respite care and companion services agencies, the department shall work with the appropriate stakeholders to develop standards for electronic visit verification systems and certification requirements to ensure EVV systems used by such agencies meet all federal requirements and are capable of providing the necessary data the department may require.

3. Nothing stated above shall apply to respite services provided by a DBHDS licensed provider in a DBHDS licensed program site such as a group home, sponsored residential home, supervised living, supported living or similar facility/location licensed to provide respite, as allowed by the Centers for Medicare and Medicaid.

4. The department shall ensure that implementation of electronic visit verification complies with all requirements of the federal Centers of Medicare and Medicaid Services. The department shall have authority to implement these provisions prior to the completion of any regulatory process in order to effect such changes.

5. ~~The Department of Planning and Budget shall transfer from Item 317 to this item an appropriation necessary to cover the administrative costs for managed care organizations to implement the live-in caretaker exemption required pursuant to paragraph HHH.1. in this item:~~

III.1. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the formula for indirect medical education (IME) for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 as a substitute for DSH payments. The formula for these hospitals for indirect medical education for inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers shall be identical to the formula for Type One hospitals. The IME payments shall continue to be limited such that total payments to freestanding children's hospitals with greater than 50 percent Medicaid utilization do not exceed the federal uncompensated care cost limit to which disproportionate share hospital payments are subject, excluding third party reimbursement for Medicaid eligible patients. The department shall have the authority to implement these changes effective July 1, 2017, and prior to completion of any regulatory action to effect such changes.

2. The Department of Medical Assistance Services (DMAS) shall have the authority to create additional hospital supplemental payments for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs effective June 2, 2017. These new payments shall equal what would have been paid to the freestanding children's hospitals under the current disproportionate share hospital (DSH) formula without regard to the uncompensated care cost limit. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effectuate such change.

JJJ. For the period beginning September 1, 2016 until 180 days after publication and distribution of the Developmental Disabilities Waivers provider manual by the Department of Medical Assistance Services (DMAS), retraction of payment from Developmental Disabilities Waivers providers following an audit by DMAS or one of its contractors is only permitted when the audit points identified are supported by the Code of Virginia, regulations, DMAS general providers manuals, or DMAS Medicaid Memos in effect during the date of services being audited.

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<p>KKK. The Department of Medical Assistance Services shall submit a report annually on all supplemental payments made to hospitals through the Medicaid program. This report shall include information for each hospital and by type of supplemental payment (Disproportionate Share Hospital, Graduate Medical Education, Indirect Medical Education, Upper Payment Limit program, and others). The report shall include total Medicaid payments from all sources and calculate the percent of overall payments that are supplemental payments. Furthermore, it shall include a description of each type of supplemental payment and the methodology used to calculate the payments. Each report shall reflect the data for the prior three fiscal years and shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by September 1 each year.</p>				
<p>LLL. Effective July 1, 2018, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to make the following changes. The department shall: (i) eliminate eligibility for Disproportionate Share Hospital (DSH) payments for Children's National Medical Center (CNMC); (ii) increase the annual indirect medical education (IME) payments for CNMC by the amount of DSH the hospital was eligible for in fiscal year 2018; and (iii) reduce the Type 2 DSH allocation by this same amount. The department shall have the authority to implement these changes effective July 1, 2018, and prior to completion of any regulatory action to effect such change.</p>				
<p>MMM.1. The Department of Medical Assistance Services shall work with stakeholders to review and adjust medical necessity criteria for Medicaid-funded nursing services including private duty nursing, skilled nursing, and home health. The department shall adjust the medical necessity criteria to reflect advances in medical treatment, new technologies, and use of integrated care models including behavioral supports. The department shall have the authority to amend the necessary waiver(s) and the State Plan under Titles XIX and XXI of the Social Security Act to include changes to services covered, provider qualifications, medical necessity criteria, and rates and rate methodologies for private duty nursing. The adjustments to these services shall meet the needs of members and maintain budget neutrality by not requiring any additional expenditure of general fund beyond the current projected appropriation for such nursing services.</p>				
<p>2. The department shall have authority to implement these changes to be effective July 1, 2019. The department shall also have authority to promulgate any emergency regulations required to implement these necessary changes within 280 days or less from the enactment dated of this act. The department shall submit a report and estimates of any projected cost savings to the Chairmen of the House Appropriations and Senate Finance Committees 30 days prior to implementation of such changes.</p>				
<p>NNN. Effective July 1, 2019, the department shall amend the State Plan for Medical Assistance to clarify payment rules for new nursing homes or renovations that qualify for mid-year rate adjustments, to include the following:</p>				
<p>1. For any facility whose Fair Rental Value report has less than 12 months of experience, the department shall develop an occupancy schedule that represents average statewide occupancy by month of operation for use in calculating the per diem rate in lieu of a minimum occupancy requirement or actual occupancy.</p>				
<p>2. Any new beds or renovations placed in service between the reporting year and the rate year shall be treated as a mid-year rate adjustment. No new rate will be made after April 30. Rate updates that fall between May 1 and June 30 shall be effective July 1 of the same year.</p>				
<p>3. The department shall annualize real estate taxes, property taxes and property insurance costs that do not represent a full year's cost.</p>				
<p>4. Costs shall be based on currently available documentation at the time but are subject to audit. The department may use any reasonable method to estimate costs for which there is inadequate documentation. Any adjustments based on subsequent documentation or audit for a current rate year shall be applied beginning with the next rate year.</p>				
<p>5. The department shall have 15 days from the date of the provider's submission to determine if the filing is complete for purposes of setting a rate for a new or renovated facility. The facility shall have 15 days from the date the filing is deemed incomplete to submit the required information. The deadline for setting the rate shall be extended for 30 days after the</p>				

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filing is deemed complete.

6. Providers may propose a phased renovation subject to approval by the department. The phased renovation may include reductions to available beds. Any modifications to the proposed renovation are also subject to approval by the department.

7. The department shall have the authority to implement these reimbursement changes effective July 1, 2019 and prior to the completion of any regulatory process undertaken in order to effect such change.

OOO. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance and any relevant waivers thereof to modify reimbursement for Hospice services provided to patients residing in facilities to include at least 100 percent of the relevant Medicaid facility rate for that individual, a component commonly referred to as "room and board." To the extent allowed under federal law and regulation, the Department shall further amend the State plan and/or relevant waivers thereof to pay this "room and board" rate in effect with no discount applied to the facility directly, thus eliminating the Hospice from its role in passing-through this facility payment to the facility. To the extent federal approval of this direct payment component is dependent on whether it is in the State Plan or in relevant waivers, the Department shall implement the direct payment where federal approval is achieved. The department shall have authority to implement these changes effective July 1, 2019 and prior to the completion of any regulatory process undertaken in order to effect such change.

PPP. Effective July 1, 2019, the Department of Medical Assistance Services shall increase the telehealth originating site facility fee to 100 percent of the Medicare rate and shall reflect changes annually based on any changes in the Medicare rate. The department shall exempt Federally Qualified Health Centers and Rural Health Centers from this reimbursement change. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.

QQQ. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase reimbursement for Critical Access Hospitals by using an adjustment factor or percent of cost reimbursement of 100% for inpatient operating and capital rates and outpatient rates effective July 1, 2019. The department shall have the authority to implement these changes effective July 1, 2019 and prior to completion of any regulatory action to effect such change.

RRR. The Department of Medical Assistance Services shall pursue any and all alternatives and cost based reimbursement models to allow a private hospital in rural Southwest Virginia that has closed in the last five years to recoup capital startup costs and minimize operating losses for the next five years, including but not limited to optimizing federal matching dollars in accordance with federal law.

SSS. The Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services shall recognize the Certified Employment Support Professional (CESP) and Association of Community Rehabilitation Educators (ACRE) certifications in lieu of competency requirements for supported employment staff in the Medicaid Community Living, Family and Individual Support and Building Independence Waiver programs and shall allow providers that are Department for the Aging and Rehabilitative Services vendors that hold a national three-year accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) to be deemed qualified to meet employment staff competency requirements, provided the provider submits the results from their CARF surveys including recommendations received to the Department of Behavioral Health and Developmental Services so that the agency can verify that there are no recommendations for the standards that address staff competency.

TTT. Effective July 1, 2019, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the practitioner rates for primary care services by five percent and rates for Emergency Department services by one percent to reflect the equivalent of 70 percent of the 2018 Medicare rates. The department shall ensure through its contracts with managed care organizations that the rate increase is reflected in their rates to providers. The department shall have the authority to implement

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these reimbursement changes prior to the completion of the regulatory process.				
UUU. Effective July 1, 2019, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to create a separate service category for psychiatric services and to increase practitioner rates for psychiatric services by 21 percent to reflect the equivalent of 100 percent of the 2018 Medicare rates. All practitioners who bill these services shall receive new rates. The department shall have the authority to implement these reimbursement changes prior to the completion of the regulatory process.				
VVV. The Department of Medical Assistance Services shall amend its contracts with managed care organizations to require written notification and training to agency-directed personal care providers at least 60 days prior to the implementation of all changes to Quality Management Review and prior authorization policies and processes consistent with state and federal regulations.				
WWW. The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to offer medically necessary treatment for substance use disorder in an Institution for Mental Diseases (IMD) for individuals enrolled in FAMIS MOMS, equivalent to such benefits offered to pregnant women under the Medicaid state plan and 1115 substance use disorder demonstration waiver. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.				
XXX. Effective upon federal approval but no earlier than April 1, 2021, the Department of Medical Assistance Services shall amend the State Plan under Title XIX of the Social Security Act to eliminate the 40 quarter work requirement for Lawful Permanent Residents who otherwise meet all Medicaid eligibility requirements. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.				
YYY.1. The Department of Medical Assistance Services (DMAS) shall have the authority to implement programmatic changes to service definitions, prior authorization and utilization review criteria, provider qualifications, and reimbursement rates for the following existing Medicaid behavioral health services: assertive community treatment, mental health partial hospitalization programs, crisis intervention and crisis stabilization services.				
2. The department shall have the authority to develop new service definitions, prior authorization and utilization review criteria, provider qualifications, and reimbursement rates for the following new Medicaid behavioral health services: multi-systemic therapy, family functional therapy, intensive outpatient services, mobile crisis intervention services, 23 hour temporary observation services and residential crisis stabilization unit services.				
3. Effective on or after January July 1, 2021, DMAS shall implement programmatic changes and reimbursement rates for the following services: assertive community treatment, multi-systemic therapy and family functional therapy.				
4. Effective on or after July 1, 2021, DMAS shall implement programmatic changes and reimbursement rates for the following services: intensive outpatient services, partial hospitalization programs, mobile crisis intervention services, 23 hour temporary observation services, crisis stabilization services and residential crisis stabilization unit services.				
5. Included in this Item is an additional \$3,028,038 the first year and \$10,273,553 \$80,909 the second year from the general fund and \$4,127,378 the first year and \$14,070,322 \$13,791,201 the second year from nongeneral funds to effect the changes required by paragraphs above. In the development and implementation of these changes, the department shall ensure appropriate utilization and cost efficiency. Reimbursement rate changes shall be budget neutral and must not exceed the funding appropriated in the Act for these services.				
6. The Department of Medical Assistance Services shall, prior to the submission of any state plan amendment or waivers to implement these paragraphs, submit a plan detailing the changes in provider rates, new services added and other programmatic changes to the Director, Department of Planning and Budget and the Chairmen of the House Appropriation and Senate Finance Committees.				

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7. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.

~~ZZZ.~~ The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to expand the Preferred Office-Based Opioid Treatment (OBOT) model to include individuals with substance use disorders (SUD) that are covered in the Addiction and Recovery Treatment Services (ARTS) benefit. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.

~~AAAA.~~ *Effective July 1, 2021,* the Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to extend coverage for pregnant women between 138% and 205% of the Federal Poverty Level to up to one year postpartum. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.

~~BBBB.1.~~ *Effective July 1, 2021,* the Department of Medical Assistance Services (DMAS) shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to implement a home visiting benefit for pregnant women at risk and postpartum women at risk of poor health outcomes. Prior to implementation, DMAS shall engage all relevant stakeholders in the development of the benefit and gaining the necessary federal approvals.

2. Included in this Item is an additional \$1,054,300 the first year and \$11,750,159 the second year from the general fund and \$3,514,556 the first year and \$34,216,923 the second year from nongeneral funds to effect the changes required by paragraph ~~BBBB.1.~~ above. DMAS shall prepare a report that 1) identifies the services included in the proposed benefit; and 2) if the estimated cost of the benefit is consistent with the funding provided in this Act. DMAS shall provide this report, 30 days prior to the submission of a state plan amendment, to the Director, Department of Planning and Budget and the Chairmen of the House Appropriation and Senate Finance Committees. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.

~~CCCC.~~ The Department of Medical Assistance Services shall develop and implement episode-based payment models; or bundled payments; for the following conditions: maternity care; asthma; and congestive heart failure. The department shall develop these models with a goal of reducing costs and improving the quality of care for Medicaid members.

~~DDDD.1.~~ *Effective January 1, 2021,* the Department of Medical Assistance Services (DMAS), in consultation with the Department of Behavioral Health and Developmental Services (DBHDS), shall increase provider payment rates for services delivered through the Community Living, Family and Individual Support, and Building Independence Developmental Disability (DD) waivers. The rate increase shall be provided for the following services: Group Home, Sponsored Residential and Group Day Support.

2. *Effective July 1, 2021,* the Department of Medical Assistance Services (DMAS), in consultation with the Department of Behavioral Health and Developmental Services, shall increase provider payment rates for services delivered through the Community Living, Family and Individual Support, and Building Independence Developmental Disability (DD) waivers. The rate increase shall be provided for the following services: Independent Living Supports, Supported Living, In-home Support Services, Group Supported Employment, Workplace Assistance, Community Engagement, Community Coaching and Therapeutic Consultation.

3. Included in this Item is an additional ~~\$25,034,884~~ \$10,697,611 the first year and \$25,785,930 the second year from the general fund and ~~\$25,034,884~~ \$10,697,611 the first year and \$25,785,930 the second year from the nongeneral funds to effect the changes required by the paragraph ~~DDDD.1.~~ above. The DMAS shall prepare a report that 1) identifies the implemented rate and rate increase percentage for each service impacted by this action; and 2) determines whether the estimated cost of each service is consistent with

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	the funding provided in this Act. DMAS shall provide this report to the Director, Department of Planning and Budget and the Chairmen of the House Appropriation and Senate Finance Committees by December 1, 2020.			
	4. The department shall have the authority to implement these changes prior to the completion of any regulatory process to effect such changes.			
	EEEE. Effective July 1, 2020 2021, the Department of Medical Assistance Services shall increase rates by 14.7 percent for psychiatric services to the equivalent of 110 percent of Medicare rates. The department shall have the authority to implement these reimbursement changes prior to the completion of any regulatory process to effect such changes.			
	FFFF: The Department of Medical Assistance Services, shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to provide care coordination services to individuals who are Medicaid eligible 30 days prior to release from incarceration. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.			
	GGGG. Effective on and after July 1, 2020 2021, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to modify reimbursement for nursing facility services such that the direct peer group price percentage shall be increased to 109.3 percent and the indirect peer group price percentage shall be increased to 103.3 percent. The department shall have the authority to implement these changes effective July 1, 2020 2021 and prior to the completion of any regulatory process undertaken in order to effect such change.			
	HHHH. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to implement a supplemental disproportionate share hospital (DSH) payment for Chesapeake Regional Hospital up to its hospital-specific disproportionate share hospital limit (OBRA '93 DSH limit) as determined pursuant to 42 U.S.C. Section 1396r-4. The payment shall be made annually based upon the hospital's disproportionate share limit for the most recent year for which the disproportionate share limit has been calculated subject to the availability of DSH funds under the federal allotment of such funds to the department. Prior to submitting the State Plan Amendment, Chesapeake Regional Hospital shall enter into an agreement with the department to transfer the non-federal share of the supplemental DSH payment. Payment of the supplemental DSH payment is contingent upon receipt of intergovernmental transfer of funds or certified public expenditures from Chesapeake Regional Hospital. In the event that Chesapeake Regional Hospital is ineligible to transfer or certify necessary funds pursuant to federal law, the department may amend the State Plan for Medical Assistance to terminate the supplemental DSH payment program. The department shall have the authority to implement these reimbursement changes consistent with effective date(s) approved by the Centers for Medicare and Medicaid Services (CMS). No payments shall be made without CMS approval. In the event, that CMS recoups supplemental DSH hospital funds from the department, Chesapeake Regional Hospital shall reimburse such funds to the department.			
	HHH: Out of this appropriation, \$733,303 the first year and \$754,247 the second year from the general fund and \$733,303 the first year and \$754,247 the second year from nongeneral funds shall be used to increase the nursing facility direct and indirect operating rates by a uniform percentage for any nursing facilities that underwent a change in ownership subsequent to December 31, 2017, if the Medicaid cost report of a predecessor operator being used by the department to rebase Medicaid price-based operating rates effective July 1, 2020; was audited and the operating costs thereon were materially adjusted due to such predecessor not providing documentation of such costs to the department. The department shall amend the State Plan for Medical Assistance effective July 1, 2020 through June 30, 2023 in order to implement this Item. The department shall also have the authority to implement these reimbursement changes prior to the completion of any regulatory process undertaken in order to effect such change.			
	JJJJ. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to provide that any nursing facility which thereafter loses its Medicaid capital reimbursement status as a hospital-based nursing facility because a replacement hospital was built at a different location and Medicare rules no longer allow the nursing home's cost to be			

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<p>included on the hospital's Medicare cost report shall have its first fair rental value (FRV) capital payment rate set at the maximum FRV rental rate for a new free-standing nursing facility with the date of acquisition for its capital assets being the date the replacement hospital is licensed. The department shall have the authority to implement these reimbursement changes effective July 1, 2020 2021 and prior to the completion of the regulatory process.</p>				
<p>KKKK. Effective July 1, 2020, the department shall amend the State Plan for Medical Assistance to increase the direct and indirect operating rates from 15 percent to 25.4 percent above a facility's calculated price-based rates where at least 80 percent of the resident population have one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy. In addition, a qualifying facility must have at least 90 percent Medicaid utilization and a case mix index of 1.15 or higher in fiscal year 2014. The department shall have the authority to implement this reimbursement methodology change for rates on or after July 1, 20202021, and prior to completion of any regulatory process in order to effect such change.</p>				
<p>LLLL. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to establish Specialized Care operating rates for fiscal years 2021 and 2022 by inflating the fiscal year 2020 rates using Virginia nursing home inflation. After fiscal year 2022, the department shall revert to the existing cost-based methodology. The department has the authority to implement this change notwithstanding current regulations and consistent with the approved State Plan amendment.</p>				
<p>MMMM. The Department of Medical Assistance Services shall require Medicaid managed care organizations to reimburse at no less than 90 percent of the state Medicaid program Durable Medical Equipment fee schedule for the same service or item of durable medical equipment, prosthetics, orthotics, and supplies. The department shall have the authority to implement this reimbursement change effective July 1, 2021 and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>NNNN. The Department of Medical Assistance Services (DMAS) shall convene an advisory panel of representatives chosen by the Virginia Association of Community Services Boards (VACSB), the Virginia Association of Community-Based Providers (VACBP), the Virginia Coalition of Private Provider Associations (VCOPPA), Caliber, the Virginia Network of Private Providers (VNPP), and the Virginia Hospital and Healthcare Association. The advisory panel shall meet at least every two months with the appropriate staff from DMAS to review and advise on all aspects of the plan for and implementation of the redesign of behavioral health services with a specific focus on ensuring that the systemic plan incorporates development, and maintenance of sustainable business models. Upon advice of the Advisory panel, DMAS may assign staff, as necessary, to review operations of a sample of providers to examine the process for service authorization, the interpretation of the medical necessity criteria, and the claims processing by all Medicaid managed care organizations. DMAS will report their findings from this review to the advisory panel and to the Secretary of Health and Human Resources, and the Chairs of House Appropriations and Senate Finance by December 31, 2020.</p>				
<p>OOOO. The Department of Medical Assistance Services (DMAS) shall convene a workgroup of stakeholders to include representatives of Jill's House, SOAR 365, Virginia Sponsored Residential Provider Group, the Virginia Association of Community Services Boards, the Virginia Network of Private Providers and the Department of Behavioral Health and Developmental Services to review the existing and any proposed regulations governing the provision of respite or personal assistance services to determine the barriers to the provision of these services in a center or residential setting other than the individual's home. DMAS shall consider the option of basing the reimbursement for center-based respite and personal assistance on the Level/Tier as determined by the individual's Supports Intensity Scale score. DMAS shall report on the conclusions of the workgroup to the Chairs of House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020, including whether the department needs emergency regulatory authority to make changes in order to minimize barriers to services and support broader appropriate utilization of the identified services.</p>				
<p>PPPP. The Department of Medical Assistance Services shall review and consider</p>				

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amending regulations governing the practice and requirements for peer recovery services for individuals with mental illness and/or substance use disorder. In reviewing the regulations, the department shall convene stakeholders to assess the existing barriers to providing the service and assist in the development of emergency regulations. Stakeholders shall include, but not be limited to, the Virginia Organization of Consumers Asserting Leadership (VOCAL), Substance Abuse Addiction Recovery Alliance (SAARA), Virginia Network of Private Providers (VNPP), Mental Health America-Virginia (MHA-V), Virginia Association of Community Services Boards (VACSB), and National Alliance for Mental Illness-Virginia (NAMI-V). The department shall have the authority to promulgate emergency regulations to implement changes that are budget neutral within 280 days or less from the enactment of this act. The department shall submit changes that have a fiscal impact as part of the normal budget process for consideration in the 2021 Session.				
QQQQ. The Department of Medical Assistance Services shall adjust the post eligibility special earnings allowance for individuals in the CCC Plus, Community Living, Family and Individual Support and Building Independence waiver programs to incentivize employment for individuals receiving waiver services. DMAS shall lower the number of hours from at least eight hours but less than 20 hours per week requirement to at least four hours but less than 20 hours per week. The Special Earnings Allowance for waiver participants allows a percentage of earned income to be disregarded when calculating an individual's contribution to the cost of their waiver services when earning income. The current requirement is at least eight hours but less than 20 hours per week for a disregard of up to 200 percent of Supplemental Security Income (SSI) and a disregard of up to 300 percent for individuals that work 20 hours or more per week.				
RRRR. The Department of Medical Assistance Services shall conduct an analysis to determine if any additional payment opportunities could be directed to the primary teaching hospital affiliated with a Liaison Committee on Medical Education (LCME) accredited medical school located in Planning District 23 that is a political subdivision of the Commonwealth, based on the department's reimbursement methodology established for such payments. If such opportunity does exist, the department shall work with the entities to determine the framework for implementing such payments, including a reasonable cap on such payments so other qualifying entities are not adversely affected in future years.				
SSSS.1. Effective July 1, 2020, the Department of Medical Assistance Services shall increase the rates for agency and consumer directed personal care, respite and companion services in the home and community based services waivers and Early Periodic Screening, and Diagnosis and Treatment (EPSDT) program by five percent. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
2. Effective July 1, 2021, the Department of Medical Assistance Services shall increase the rates for agency and consumer directed personal care, respite and companion services in the home and community based services waivers and Early Periodic Screening, and Diagnosis and Treatment (EPSDT) program by two percent. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
<i>2. Effective May 1, 2021, the Department of Medical Assistance Services shall increase the rates for agency- and consumer-directed personal care, respite and companion services in the home and community based services waivers and Early Periodic Screening, and Diagnosis and Treatment (EPSDT) program by 6.4 percent. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.</i>				
<i>3. Effective January 1, 2022, the Department of Medical Assistance Services shall increase the rates for agency- and consumer-directed personal care, respite and companion services in the home and community based services waivers and Early Periodic Screening, and Diagnosis and Treatment (EPSDT) program by 12.5 percent. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.</i>				
<i>4. The Governor shall include in the introduced budget for the 2022 Session, submitted pursuant to § 2.2-1509, Code of Virginia, appropriations to support additional rate increases</i>				

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for agency- and consumer-directed personal care, respite and companion services that reflect additional increases in the state minimum wage such that the rates: (i) maintain the existing differential between the consumer-directed Rest-of-State rate above the state minimum wage; (ii) maintain the differential between the Northern Virginia and the Rest-of-State rate; and (iii) for agency-directed services are increased by the same percentage increase applied to consumer-directed services based on the prior provisions.

TTTT. Out of this appropriation, \$796,755 from the general fund and \$796,755 from nongeneral funds the first year and \$833,109 from the general fund and \$833,109 from nongeneral funds the second year shall be used to increase reimbursement rates for adult day health services provided through Medicaid home- and community-based waiver programs by 10 percent effective July 1, 2020. The department shall have the authority to implement these reimbursement changes prior to the completion of any regulatory process undertaken in order to effect such changes.

UUUU. Effective July 1, 2021, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the practitioner rates for anesthesiologists to reflect the equivalent of 70 percent of the 2019 Medicare rates. The department shall ensure through its contracts with managed care organizations that the rate increase is reflected in their rates to providers. The department shall have the authority to implement these reimbursement changes prior to the completion of any regulatory process undertaken in order to effect such changes.

VVVV. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 to the maximum allowed by the Centers for Medicare and Medicaid Services within the limit of the appropriation provided for this purpose. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Virginia Medicaid fee-for-service payments. The department shall have the authority to implement these reimbursement changes effective July 1, ~~2020~~2021, and prior to the completion of any regulatory process undertaken in order to effect such change.

WWWW. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance or any waiver under Title XIX of the Social Security Act to increase the income eligibility for participation in the Medicaid Works program to 138 percent of the Federal Poverty Level. The department shall have the authority to implement this change prior to the completion of the regulatory process necessary to implement such change.

XXXX. The Department of Medical Assistance Services shall amend the State Plan under Title XIX and XXI to add coverage of tobacco cessation services for full coverage adults who are not enrolled pursuant to the Patient Protection and Affordable Care Act. The department shall have the authority to implement these changes effective July 1, ~~2020~~2021, and prior to the completion of any regulatory process undertaken in order to effect such changes.

YYYY. Effective July 1, 2021, the Department of Medical Assistance Services shall increase rates for skilled and private duty nursing services to 80 percent of the benchmark rate developed by the department and consistent with the appropriation available for this purpose. The department shall have the authority to implement these changes prior to the completion of any regulatory process to effect such changes.

ZZZZ. Effective, January 1, 2021, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance under Title XIX of the Social Security Act, and any necessary waivers, to authorize time and a half up to eight hours and effective July 1, 2021, up to 16 hours for a single attendant who works more than 40 hours per week for attendants providing Medicaid-reimbursed consumer-directed (CD) personal assistance, respite and companion services. The department shall have authority to implement this provision prior to the completion of any regulatory process undertaken in order to effect such change.

AAAAA. The Department of Medical Assistance Services shall amend the State Plan for

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<p>Medical Assistance Services to allow the pending, reviewing and the reducing of fees for avoidable emergency room claims for codes 99282, 99283 and 99284, both physician and facility. The department shall utilize the avoidable emergency room diagnosis code list currently used for Managed Care Organization clinical efficiency rate adjustments. If the emergency room claim is identified as a preventable emergency room diagnosis, the department shall direct the Managed Care Organizations to default to the payment amount for code 99281, commensurate with the acuity of the visit. The department shall have the authority to implement this reimbursement change effective July 1, 2020, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>BBBBB. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services under Title XIX to modify the definition of readmissions to include cases when patients are readmitted to a hospital for the same or a similar diagnosis within 30 days of discharge, excluding planned readmissions, obstetrical readmissions, admissions to critical access hospitals, or in any case where the patient was originally discharged against medical advice. If the patient is readmitted to the same hospital for a potentially preventable readmission then the payment for such cases shall be paid at 50 percent of the normal rate, except that a readmission within five days of discharge shall be considered a continuation of the same stay and shall not be treated as a new case. Similar diagnoses shall be defined as ICD diagnosis codes possessing the same first three digits. The department shall have the authority to implement this reimbursement change effective July 1, 2020, and prior to the completion of any regulatory process undertaken in order to effect such change. The department shall report quarterly on the number of hospital readmissions, the cost, and the primary diagnosis of such readmissions to the Joint Subcommittee for Health and Human Resources Oversight.</p>				
<p>CCCCC. The Department of Medical Assistance Services shall establish a workgroup of Medicaid managed care organizations, physicians and pharmacists and other stakeholders, as necessary, to assess policies and procedures, including risk sharing arrangements, reimbursement methods or other mechanisms to determine Medicaid coverage and reimbursement of FDA fast-track drugs and emerging-break-through technologies. The assessment shall include an examination of other states' approaches to determine Medicaid coverage, clinical criteria for coverage across the fee-for-service and managed care programs, risk sharing arrangements, and reimbursement methodologies including kick-payments or other pass-through arrangements that are consistent with the utilization and cost of the drug or technology. The assessment will also examine and make recommendations regarding the timeline for providing coverage from the date of FDA approval of the drug or technology. The workgroup shall report on issues and recommendations to the Joint Subcommittee for Health and Human Resources Oversight by September 1, 2020, including any budgetary or regulatory authority required to implement changes for such coverage.</p>				
<p>DDDDD. The Department of Medical Assistance Services shall continue working with the Department of Behavioral Health and Developmental Services to complete the actions necessary to qualify to file a Section 1115 waiver application for Serious Mental Illness and/or Serious Emotional Disturbance. The department shall develop such a waiver application at the appropriate time that shall be consistent with the Addiction Treatment and Recovery Services substance abuse waiver program. The department shall develop a plan with a timeline and potential costs savings of such a waiver to the Commonwealth. The department shall provide an update on the status of the waiver by November 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.</p>				
<p>EEEE.1. Effective January 1, 2021, the Department of Medical Assistance Services shall develop and implement an actuarially sound risk adjustment model that addresses the behavioral health acuity differences among the Medicaid managed care organizations for the community well population of individuals who are dually eligible for Medicare and Medicaid currently served through the Commonwealth Coordinated Care (CCC) Plus program. Behavioral Health services shall be defined to include the following: case management services, community behavioral health, early intervention services, and addiction and recovery treatment services. The risk adjustment shall be based on nationally accepted models, such as the Chronic Illness and Disability Payment System (COPS) or Clinical Classifications Software Refined (CCSR), and shall incorporate variables predictive of behavioral health service utilization. Managed care experience shall be utilized as the basis for the risk adjustment.</p>				

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2. Effective January 1, 2021, the Department of Medical Assistance Services shall develop and implement differential capitation rates for members in behavioral health treatment versus those who are not, for the community well population of individuals who are dually eligible for Medicare and Medicaid currently served through the CCC Plus program. The rates shall be actuarially sound and the behavioral health rates shall additionally incorporate risk adjustment to account for acuity differences amongst the managed care organizations. Behavioral health services shall be defined to include the following: case management services, community behavioral health, early intervention services, and addiction and recovery treatment services. The risk adjustment shall be based on nationally accepted models, such as The Chronic Illness and Disability Payment System (COPS) or Clinical Classifications Software Refined (CCSR), and shall incorporate variables predictive of behavioral health service utilization. Managed care experience shall be utilized as the basis for the establishment of the capitation rates and the risk adjustment.				
3. The risk adjustment model and differential capitation rates in these paragraphs shall be implemented such that the impact is budget neutral.				
FFFFF.1. The Department of Medical Assistance Services shall accept from any county, city, or town provider assessment funds that have been collected, pursuant to an ordinance, from inpatient hospitals to make Medicaid supplemental payments pursuant to the State Plan for Medical Assistance Services amendments 11-018 and 11-019. The Department of Medical Assistance Services shall pay such funds into the state treasury to be credited to the Medicaid Supplemental Payment Program Fund established in subsection 2.				
2. There is hereby created in the state treasury a special nonreverting fund to be known as the Medicaid Supplemental Payment Program Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accepted by the Department of Medical Assistance Services from any county, city, or town to make Medicaid supplemental payments pursuant to the State Plan for Medical Assistance Services amendments 11-018 and 11-019 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of funding the non-federal share of the Medicaid supplemental payment programs authorized by the State Plan for Medical Assistance Services amendments 11-018 and 11-019. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Medical Assistance Services.				
3. Medicaid supplemental payments authorized under amendments 11-018 and 11-019 are strictly applicable to the period October 25, 2011 through June 30, 2017 and will necessarily be applied against the private hospital upper payment limit for each state fiscal year therein. No Medicaid supplemental payments authorized under amendments 11-018 and 11-019 may apply to any state fiscal year or any related private hospital upper payment limit beginning July 1, 2017.				
4. In the event of any federal disallowance action associated with Medicaid supplemental payments paid to qualifying hospitals by the Department of Medical Assistance Services under the authority of amendments 11-018 and 11-019, hospitals in receipt of the Medicaid supplemental payments in dispute or the hospital health system owner shall return to the Department of Medical Assistance Services all federal funds associated with the Medicaid supplemental payments subject to the disallowance action.				
5. The authority of a local government to enact an ordinance to impose an assessment shall be governed by the charter of such local government or pursuant to the Uniform Charters Powers Act.				
6. The authority of the Department of Medical Assistance Services to appropriate monies under amendments 11-018 and 11-019 shall only be permitted as authorized in the budget.				
7. The Department of Medicaid Assistance services shall retain five percent of the federal funding for state costs related to administration of the supplemental payment program and				

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shall deposit such funds into the Health Care Fund.				
8. The provisions of this paragraph are contingent on approval from CMS waiving the two year timely filing requirement and federal approval of the local provider assessment program.				
GGGGG. The Department of Medical Assistance Services shall review reimbursement of services covered under the state's Medicaid program provided by local education agencies to Medicaid eligible children and determine what services can be covered outside of a student's Individualized Education Plan consistent with federal rules and regulations. The department shall evaluate options to consider to allow school divisions to draw down additional federal resources in supporting the needs of school children. The department shall report its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 15, 2020.				
HHHHH. Free-standing emergency departments, also referred to as dedicated emergency departments as defined in 42 C.F.R. § 489.24(b) that operate as a department of a hospital subject to requirements of the federal Emergency Medical Treatment and Labor Act (42 U.S.C. § 1395dd), and is located off the main hospital campus or in an independent facility, shall submit to the payor upon billing for services rendered (i) the campus location in which their services were rendered, and (ii) an indicator specifying that the services were rendered in a free-standing emergency department.				
IIII.1. Effective July 1, 2021, the Department of Medical Assistance Services shall have the authority to amend the State Plan of Medical Assistance under Title XIX of the Social Security Act to provide a comprehensive dental benefit to adults. The department shall work with its Dental Advisory Committee, including members of the Virginia Dental Association, the Virginia Health Catalyst, the Virginia Commonwealth University School of Dentistry, the Virginia Dental Hygienists Association, the Virginia Health Care Association, a representative of the developmental and intellectual disability community, the Virginia Department of Health and the administrator of the Smiles for Children program to develop the benefit. The benefit shall be modeled after the existing benefit for pregnant women. The benefit shall include preventive and restorative services and shall not include any cosmetic services or orthodontic services. The Dental Advisory Committee shall design a benefit that does not exceed the appropriated funds to provide such services. The department shall work with its dental benefit administrator, the Virginia Dental Association, the Virginia Association of Free and Charitable Clinics, the Virginia Community Healthcare Association and other stakeholders to ensure an adequate network of providers and awareness among beneficiaries. The department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees on the benefit design and plans for the implementation of the benefit by November 1, 2020. The department shall have authority to promulgate emergency regulations to implement these changes within 280 days or less from the enactment date of this act.				
2. The Department of Planning and Budget shall have the authority to transfer appropriation from Item 317 to Item 316 in this act, as needed, to fund the administrative costs of implementing the new Medicaid dental benefit for adults if the existing appropriation in Item 316 is insufficient.				
JJJJ. The Department of Medical Assistance Services shall conduct a review of other state methods and strategies for providing sick leave to personal care attendants and evaluate feasible options for the Commonwealth to consider. The department shall report its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.				
KKKKK.1. The Department of Medical Assistance Services, in collaboration with the Virginia Department of Social Services, state workforce agencies and programs, and appropriate stakeholders, shall develop a referral system designed to connect current and newly eligible Medicaid enrollees to employment, training, education assistance and other support services. The department shall review current federal law and regulations that may allow through State Plan amendments, contracts, or other policy changes, the department to support such a referral program. The department shall provide new enrollees in the Medicaid program, that have been identified as being potentially unemployed or underemployed with information on all available state and federal programs available to them that offer training, education assistance or other types of employment support services. The department shall				

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work with its contracted managed care organizations to facilitate referrals to employment related services. To the degree that resources are available in other state agencies or from federal grants to support the referral program and existing authority permits such use, the department shall coordinate the use of such programs to provide assistance to Medicaid enrollees.

2. The department shall report on development of the referral program and make recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020.

LLLLL.J. The Department of Medical Assistance Services shall increase nursing home and specialized care per diem rates by \$20 per day per patient effective until June 30, 2021, and by \$15 per day effective July 1, 2021. Such adjustment shall be made through existing managed care capitation rates as a mandated specified rate increase. DMAS shall adjust capitation rates to account for the nursing facility rate increase. The department shall have the authority to file all necessary regulatory authorities without delay, make any necessary contract changes, and implement these reimbursement changes without regard to existing regulations. The specified rate increase in this paragraph applies across fee-for-service and Medicaid managed care.

2.a. *The Department of Medical Assistance Services (DMAS) shall work with appropriate nursing facility (NF) stakeholders and the CCC Plus managed care organizations (MCOs) to develop a unified, value-based purchasing (VBP) program that includes enhanced funding for facilities that meet or exceed performance and/or improvement thresholds as developed, reported, and consistently measured by DMAS in cooperation with participating facilities. The methodology and timing for the Virginia nursing facility VBP program, including structures for nursing facility performance accountability and disbursement of earned financial incentives, shall be completed no later than December 31, 2021, with the program targeted to begin no later than July 1, 2022. Nursing facility performance evaluation under the program shall prioritize maintenance of adequate staffing levels and avoidance of negative care events, such as hospital admissions and emergency department visits. The program may also consider performance evaluation in the areas of preventive care, utilization of home and community based services, including community transitions, and other relevant domains of care.*

b. *During the first year of this program, half of the available funding shall be distributed to participating nursing facilities to be invested in functions, staffing, and other efforts necessary to build their capacity to enhance the quality of care furnished to Medicaid members. The size of such payments shall be based on the nursing facility size as determined by the average number of Medicaid members enrolled with the nursing facility. The remaining funding shall be allocated based on performance criteria as designated under the nursing facility VBP Program. The amount of funding devoted to nursing facility quality of care investments shall be 25 percent of available funding in the second year of the program before the program transitions to payments based solely on nursing facility performance criteria in the third year of the program. In the third year of this program, such funds as appropriated for this purpose shall be fully disbursed according to the aforementioned unified VBP arrangement to participating nursing facilities that qualify for the enhanced funding.*

c. *The department shall convene the stakeholders no less than annually through at least the first two years of the program to review program progress and discuss potential modifications to components of the arrangement, including, but not limited to, timing of enhanced payments, performance metrics, and threshold determinations. The department shall implement the necessary regulatory changes and other necessary measures to be consistent with federal approval of any appropriate changes to the state plan or relevant waivers thereof, and prior to the completion of any regulatory process undertaken to effect such change.*

MMMMM. The Department of Medical Assistance Services (DMAS) shall modify the disbursement methodology for the State's allocation of federal CARES Act funding to nursing facilities and assisted living facilities to define eligible costs for reimbursement from this funding as COVID-related costs incurred since March 12, 2020, or as far back as the CARES Act allows.

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NNNNN. The Department of Medical Assistance Services shall submit a request to amend its 1915(c) Home and Community-Based Services (HCBS) waivers with an Emergency Preparedness and Response Appendix K to the Centers for Medicare and Medicaid Services to allow telehealth and virtual and/or distance learning for Group Day, Supported Employment and Benefits Planning services for the duration of the Governor's declared state of emergency due to the COVID-19 pandemic or until the Appendix K expires. The department shall have the authority to implement this change prior to the completion of the regulatory process.				
OOOOO. The Department of Medical Assistance Services shall allow Medicaid agency-directed personal care and respite services to conduct telephonic supervisory visits by a licensed nurse (either a registered nurse or a licensed practical nurse (LPN)). A registered nurse must conduct the supervisory visit at least every 90 calendar days with the LPN making any other supervisory visits during that time. The department's forms shall be used to document the interaction during these phone calls and shall meet the standards already established by the department to include verbal consent, authorization, and confirmation of participation. This flexibility shall remain in place only for the duration of the Governor's declared state of emergency due to the COVID-19 pandemic.				
<i>PPPPP. The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to expand the Preferred Office-Based Opioid Treatment (OBOT) model to include individuals with substance use disorders (SUD) that are covered in the Addiction and Recovery Treatment Services (ARTS) benefit. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.</i>				
<i>QQQQQ. The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Titles XIX and XXI of the Social Security Act to expand the definition of durable medical equipment per 42 CFR 440.70 (b) (3), so that the definition is no longer limited to items primarily used in the home but also extends to any setting where normal activities take place. The Department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.</i>				
<i>RRRRR. The Department of Medical Assistance Services (DMAS) is authorized to amend the State Plan for Medical Assistance Services to implement a supplemental Medicaid payment for Department of Veterans Services (DVS) state government-owned nursing facilities. The total supplemental Medicaid payment for DVS state government owned nursing homes shall be based on the difference between the Upper Payment Limit of 42 CFR 447.272, as approved by the Centers for Medicare and Medicaid Services (CMS), and all other Medicaid payments subject to such limit made to such nursing homes. DMAS shall not submit any State Plan amendment to CMS that implements this payment until DMAS enters into an intergovernmental agreement with DVS. This agreement shall include the following provisions: 1) DVS shall transfer funds to DMAS for use as the state share of the full cost of the supplemental Medicaid payment for which each nursing home is entitled; 2) DVS must demonstrate that it has the authority and ability to transfer the necessary funds to DMAS; and, 3) DVS shall attest that any funds provided for state match will comply with federal law for use as the state share for the supplemental Medicaid payment. If DVS is unable to enter into or comply with the provisions of such an intergovernmental agreement, then DMAS shall immediately modify the Medicaid State Plan and adjust any supplemental payments accordingly. DMAS shall have the authority to implement the reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to the completion of any regulatory process undertaken in order to effect such change.</i>				
<i>SSSSS. Out of amounts appropriated in the items for this agency, \$1,739,306 the second year from the general fund and \$3,805,694 the second year from nongeneral funds is provided to offset systems costs incurred by managed care organizations (MCO) as a result of complying with the federal requirements associated with the Interoperability and Patient Access Final Rule and the 21st Century Cures Act. Beginning with FY 2023 MCO contracts, the Department of Medical Assistance Services shall adjust capitation rates to remove all one-</i>				

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time funding associated with this effort.

TTTTT. The Department of Medical Assistance Services shall update its regulations to reflect the Department of Behavioral Health and Developmental Services licensing criteria for the American Society of Addiction Medicine (ASAM) Level of Care 4.0. The Department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.

UUUUU. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to authorize the reimbursement, using a budget neutral methodology, of pharmacy-administered immunizations for all vaccinations covered under the medical benefit for Medicaid members. Reimbursement for fee-for-service members shall be the cost of the vaccine plus an administration fee not to exceed \$16. Reimbursement for pharmacy-administered vaccinations for pediatric Medicaid members eligible for free vaccinations through the Vaccines For Children (VFC) program shall include only the administration fee. The Department is authorized to set the administration fee for COVID-19 vaccines at the same level as Medicare reimbursement for such vaccines. The Department shall promulgate regulations to become effective within 280 days or less from the enactment date of this Act to implement this change.

VVVVV. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to authorize coverage for clinically appropriate audio-only services, provider-to-provider consultations, store-and-forward, and virtual check-ins with patients. The Department shall promulgate regulations to become effective within 280 days or less from the enactment date of this Act to implement this change.

WWWWW. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to authorize coverage of community doula services for Medicaid-enrolled pregnant women. Services shall include up to 8 prenatal/postpartum visits, and support during labor and delivery. The Department shall also implement up to two linkage-to-care incentive payments for postpartum and newborn care.

XXXXX.1. Out of this appropriation, \$995,742 the second year from the general fund and \$995,742 the second year from nongeneral funds shall be used to fund the cost of COVID-19 vaccinations for non-expansion adults in the Medicaid fee-for-service and managed care programs. The Department of Medical Assistance Services (DMAS) shall have the authority to make necessary changes to waivers and/or the Medicaid state plan to implement this change and ensure that all adult Medicaid members have access to COVID-19 vaccinations. The department shall have the authority to implement such changes effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such changes.

2. By August 1, 2021, DMAS shall develop a report that details all COVID-19 vaccination costs incurred in FY 2021 and a projection of FY 2022 costs. This report shall include, at a minimum, a breakdown of spending by purpose and fund as well as the impact on managed care capitated payments. DMAS shall provide this report to the Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance and Appropriations Committees upon completion.

YYYYY. The Department of Medical Assistance Services shall amend the Medicaid and CHIP State Plans to authorize prescriptions of contraceptives up to a 12 month supply for eligible beneficiaries in the Medicaid and CHIP programs. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.

ZZZZZ. The Department of Medical Assistance Services shall modify agency policy manuals to affirm coverage of services related to gender dysphoria for Medicaid members.

AAAAA. The Department shall amend the State Plan for Medical Assistance to allow payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be

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provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

BBBBBB. The Department of Medical Assistance Services shall seek federal authority through waiver and State Plan amendments under Title XIX of the Social Security Act to provide sick leave to providers of consumer-directed personal, respite or companion care.

CCCCCC. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XIX of the Social Security Act to add coverage for the current procedural terminology (CPT) codes for Applied Behavioral Analysis that were added to the CPT list in January 2019, or any future updates to these CPT codes. The department shall have the authority to implement related programmatic changes to service definitions, prior authorization and utilization review criteria, provider qualifications, and reimbursement rates for the Behavioral Therapy Program. The department shall have the authority to implement these changes effective December 1, 2021, and prior to completion of any regulatory process to effect such changes.

DDDDDD. The Department of Medical Assistance Services, in coordination with the Department of Behavioral Health and Developmental Services, shall submit a request to the Centers for Medicare and Medicaid Services to amend its 1915(c) Home & Community-Based Services (HCBS) waivers to allow telehealth and virtual and/or distance learning as a permanent service option and accommodation for individuals on the Community Living, Family and Individual Services and Building Independence Waivers. The amendment, at a minimum, shall include all services currently authorized for telehealth and virtual options during the COVID-19 pandemic. The departments shall actively work with the established Developmental Disability Waiver Advisory Committee and other appropriate stakeholders in the development of the amendment including service elements and rate methodologies. The department shall have the authority to implement these changes prior to the completion of the regulatory process.

EEEEEE. The Department of Medical Assistance Services (DMAS) shall convene a workgroup and make recommendations on a Medicaid home-visiting benefit to support members' health, access to care and health equity. The workgroup shall include representatives from DMAS, Managed Care Organizations, the Virginia Department of Health, the Department of Health Professions, licensed and unlicensed providers of maternal and child health services, Early Impact Virginia, stakeholder groups, and community organizations. The workgroup shall: (i) analyze federal and state regulations and funding mechanisms impacting establishment of a Medicaid home visiting benefit; (ii) review home visiting strategies and benefits implemented in other state Medicaid programs; (iii) analyze and make recommendations on appropriate services and rates to be included in a Medicaid home visiting benefit; and (iv) project estimated costs over the next five years. The department shall report on the results and recommendations of the workgroup to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2021.

FFFFFF. It is the intent of the General Assembly that from any additional federal funding that is provided to the Commonwealth to offset the economic impacts from COVID-19 that a portion of such funding shall be set aside and allocated to provide support payments to Medicaid Developmental Disability Waiver providers that have experienced a significant disruption in operations and revenue during the COVID-19 public health emergency (PHE). The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, the Virginia Network of Private Providers, the Virginia Association of Community Rehabilitation Programs (vaACCSES), representatives of different types of waiver providers, and other appropriate stakeholders shall develop criteria to determine the eligibility for and the amount of the support payments. The criteria shall prioritize providers that have received no other state or federal assistance to date during the PHE, other waiver providers that have received some limited assistance

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from state and federal sources, and waiver providers that are at risk of closing due to the PHE disruption and for which the Commonwealth needs to maintain an adequate provider network such that when the PHE emergency ends there are sufficient providers to meet the service needs of Medicaid members.

GGGGGG. The Department of Medical Assistance Services shall defer the next scheduled nursing facility rate rebasing for one year in order to utilize the calendar year 2021 cost reports as the base year. The deferred year's rates would reflect the prior year rates inflated according to the existing reimbursement regulations. The department shall have the authority to implement these changes effective July 1, 2021 and prior to the completion of any regulatory process undertaken in order to effect such change.

HHHHHH. The Department of Medical Assistance Services shall analyze utilization of Transportation Network Company (TNC) Type II Non Emergency Medicaid Transportation (NEMT) providers by the Medicaid fee-for-service program and the department's contracted Medicaid managed care organizations. The department shall identify any barriers to patient access to TNC Type II NEMT services. In its review of barriers to accessing TNC Type II NEMT benefits, the department shall identify any gaps in TNC Type II service contracting between the department's contracted MCOs, or their transportation brokers and TNC Type II NEMT providers. Additionally, the department shall examine the eligible patient population for TNC Type II NEMT services to ensure all clinically indicated Medicaid beneficiaries are eligible for TNC Type II NEMT services. Further, the department shall examine the necessity of TNC Type II operating requirements and identify any extraneous service requirements limiting TNC Type II services. The department shall report its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2021.

IIIII.1. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance to adjust the formula for indirect medical education (IME) reimbursement for managed care discharges for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 by increasing the case mix adjustment factor to 2.718. This increased case mix index (CMI) factor shall take precedence over future rebasing. Total payments for IME in combination with other payments for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 may not exceed the federal uncompensated care cost limit that disproportionate share hospital payments are subject to. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.

2. The Department of Medical Assistance Services shall work with the freestanding children's hospitals to assess the method used to determine the case mix adjustment factor and what factors may be influencing changes that result in significant funding shifts when rebasing occurs.

JJJJJ. The Department of Medical Assistance Services, shall convene a work group to plan for implementing a pilot program to provide mobile vision clinic services to Medicaid, FAMIS and MCHIP children in a school-based setting. The work group shall be comprised of Medicaid managed care organizations, mobile vision providers, school districts with and without these services, the Virginia Department of Education and others as appropriate. The work group shall determine the scope and design of the pilot program, including (i) the referral process for initial and follow-up services (ii) who shall provide the services, (iii) how parents or legal guardians will be notified, (iv) the role of school districts and the Department of Education in screening and referring children to the program, (iv) reimbursement rates for services that consider access, quality, and cost effectiveness of services provided, (v) detailed cost estimates of the pilot program, and (vi) a mechanism for evaluating the pilot program, The Department shall report on the recommendations of the workgroup by October 15, 2021 to the Governor and General Assembly.

KKKKKK. The Department of Medical Assistance Services (DMAS) shall research the implications of eliminating restrictive Medicaid eligibility requirements through a "1634 agreement" with the Social Security Administration (SSA) which will allow for automatic enrollment of Supplemental Security Income (SSI) recipients into Virginia's Medicaid

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<p><i>program as categorically eligible individuals. DMAS shall report on its findings, including cost and programmatic changes that would be necessary to effect such changes by October 1, 2021 to the Governor and General Assembly.</i></p> <p><i>LLLLLL. Notwithstanding the provisions of Item 479.10 of this Act, the Director of the Department of Planning and Budget shall have the authority to appropriate additional federal Medicaid revenue for current services as provided for in the American Rescue Plan Act of 2021 (ARPA). However, no expansion of Medicaid programs or services shall be implemented with ARPA funds unless specifically authorized by the General Assembly. Any state funds offset by this additional federal revenue shall remain unspent and shall be retained until expenditure of such funds is reauthorized and appropriated by the General Assembly.</i></p>				
314.	Medical Assistance Services (Non-Medicaid) (46400).....		\$821,702	\$821,702
	Insurance Premium Payments for HIV-Positive Individuals (46403).....	\$556,702		\$556,702
	Reimbursements from the Uninsured Medical Catastrophe Fund (46405).....	\$265,000		\$265,000
	Fund Sources: General.....	\$781,702		\$781,702
	Dedicated Special Revenue.....	\$40,000		\$40,000
<p>Authority:- §32.1-330.1 and §32.1-324.3, Code of Virginia.</p> <p>A. Out of this appropriation, \$556,702 the first year and \$556,702 the second year from the general fund shall be provided for insurance payment assistance to HIV-infected persons in accordance with § 32.1-330.1, Code of Virginia, except that the eligibility threshold for assistance shall allow a maximum income of no more than 250 percent of the federal poverty threshold.</p> <p>B. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund shall be transferred to the Uninsured Medical Catastrophe Fund under § 32.1-324.3, Code of Virginia.</p>				
315.	Medical Assistance Services for Low Income Children (46600).....		\$213,912,225 \$216,174,386	\$228,204,922 \$229,857,696
	Reimbursements for Medical Services Provided to Low-Income Children (46601).....	\$213,912,225 \$216,174,386		\$228,204,922 \$229,857,696
	Fund Sources: General.....	\$62,154,540 \$57,242,911		\$78,114,888 \$71,584,053
	Federal Trust.....	\$151,757,685 \$158,931,475		\$150,090,034 \$158,273,643
<p>Authority: Title 32.1, Chapters 9, 10 and 13, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.</p> <p>To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medicaid Program Services (45600), if available, into this Item to be used as state match for federal Title XXI funds.</p>				
316.	Medical Assistance Management Services (Forecasted) (49600).....		\$43,871,083	\$43,871,083 \$43,913,791
	Medicaid payments for enrollment and utilization related contracts (49601).....	\$41,335,776		\$41,285,776 \$41,328,484
	CHIP payments for enrollment and utilization related contracts (49632).....	\$2,535,307		\$2,585,307
	Fund Sources: General.....	\$14,377,806		\$14,377,806 \$14,392,754

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Dedicated Special Revenue.....	\$2,344,057	\$2,344,057		
Federal Trust.....	\$27,149,220	\$27,149,220 \$27,176,980		

Amounts appropriated in this Item shall fund administrative expenditures associated with contracts between the department and companies providing dental benefit services, consumer-directed payroll services, claims processing, behavioral health management services and disease state/chronic care programs for Medicaid and FAMIS recipients.

317. Administrative and Support Services (49900).....			\$273,234,381 \$266,597,354	\$272,824,761 \$290,677,828
General Management and Direction (49901).....	\$258,882,292 \$252,245,265	\$255,972,671 \$272,152,609		
Administrative Support for the Family Access to Medical Insurance Security Plan (49932).....	\$14,352,089	\$14,352,090 \$16,025,219		
CHIP Health Services Initiatives (49936).....	\$0	\$2,500,000		
Fund Sources: General.....	\$68,030,790 \$65,101,632	\$68,444,784 \$72,191,823		
Special.....	\$2,585,000 \$2,810,000	\$3,575,000 \$3,829,800		
Dedicated Special Revenue.....	\$9,706,427 \$9,610,728	\$9,520,794 \$10,320,953		
Federal Trust.....	\$192,912,164 \$189,074,994	\$191,284,183 \$204,335,252		

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.

A.1.a. Notwithstanding any other provision of law, by November 1 of each year, the Department of Medical Assistance Services (DMAS) shall prepare and submit a forecast of Medicaid expenditures, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Director, Department of Planning and Budget (DPB) and the Chairmen of the House Appropriations and Senate Finance Committees.

b. The forecast shall be based on current state and federal laws and regulations.

c. The forecast shall reflect only expenditures for medical services provided in Program 45600 and shall exclude *service area 45606*, *service area 45607*, and administrative expenditures.

d. Rebasing and inflation estimates that are required by existing law or regulation for any Medicaid provider shall be included in the forecast.

e. The forecast shall include a projection of the increases or decreases in managed care costs, including the rates that will be reflected in the upcoming July 1 contracts as well as changes in managed care rates for a three-year period including the current year.

f. In preparing for each year's forecast of the managed care portions of the budget, DMAS shall submit to its actuarial contractor a letter of request, with a copy sent to the Director, DPB and the Chairmen of the House Appropriations and Senate Finance Committees. This letter shall document the department's request for a point estimate of managed care rates and changes in rates, based on the application of actuarial principals and methodologies and information available at the time of the forecast. The letter also shall require that the contractor reflect the years being forecasted, and shall specify the population groupings for which estimates are requested. The department shall request that the contractor reply in writing with a copy to all parties copied on the department's letter of request.

2. In addition to the November 1 forecast submission, DMAS shall provide: 1) a separate accounting of forecasted expenditures by caseload/utilization, inflation and policy changes; and 2) an enrollment forecast for the same period of the forecast.

3. In the development and execution of the official forecast, DMAS shall collaborate with staff from the Department of Planning and Budget (DPB), House Appropriations

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<p>Committee and Senate Finance Committee. Further, DMAS shall consult with DPB and money committee staff throughout the year, as necessary, to review any issues that may influence the current or upcoming forecasts. Upon request from such staff, DMAS shall provide the information necessary to evaluate factors that may affect the Medicaid forecast; including, but not limited to, program utilization, enrollment, lump sum payments, and rate changes. At a minimum, DMAS shall provide such staff with program updates within 30 days after the end of each General Assembly session and fiscal year. By October 15 of each year, DMAS shall make a preliminary forecast of Medicaid expenditures available for review to staff from DPB and the House Appropriations and Senate Finance committees. DMAS shall consider feedback generated from this review in the official November 1 forecast.</p> <p>B.1. The Department of Medical Assistance Services (DMAS) shall submit monthly expenditure reports of the Medicaid program by service that shall compare expenditures to the official Medicaid forecast, adjusted to reflect budget actions from each General Assembly Session. The monthly report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees within 20 days after the end of each month.</p> <p>2. The Department of Medical Assistance Services shall prepare a quarterly report summarizing managed care expenditures by program and service category through the most recent quarter with three months of runout. The report shall summarize the data by service date for each quarter in the current fiscal year and the previous two fiscal years and update prior quarter expenditures. The department shall publish the report on the department's website no later than 30 days after the end of each quarter and shall notify the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance and Appropriations Committees.</p> <p>3. The Department of Medical Assistance Services shall track expenditures for the prior fiscal year that ended on June 30, that includes the expenditures associated with changes in services and eligibility made in the Medicaid and FAMIS programs adopted by the General Assembly in the past session(s). Expenditures related to changes in services and eligibility adopted in a General Assembly Session shall be included in the report for five fiscal years beginning from the first year the policy impacted expenditures in the Medicaid and FAMIS programs. The department shall report the expenditures of each funding change separately and show the impact by fiscal year. The report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees by October 1 of each year.</p> <p>4. The Department of Medical Assistance Services shall convene a meeting each quarter with the Secretary of Finance, Secretary of Health and Human Resources, or their designees, and appropriate staff from the Department of Planning and Budget, House Appropriations and Senate Finance and Appropriations Committees, and Joint Legislative Audit and Review Commission to explain any material differences in expenditures compared to the official Medicaid forecast, adjusted to reflect budget actions from each General Assembly Session. The main purpose of each meeting shall be to review and discuss the most recent Medicaid expenditures to determine the program's financial status. If necessary, the department shall provide options to bring expenditures in line with available resources. At each quarterly meeting, the department shall provide an update on any changes to the managed care programs, or contracts with managed care organizations, that includes detailed information and analysis on any such changes that may have an impact on the capitation rates or overall fiscal impact of the programs, including changes that may result in savings. In addition, the department shall report on utilization and other trends in the managed care programs. During each fiscal year, the meetings for each quarter shall be held in July, October, December, and April to review the previous three month period.</p> <p>C. The Department of Medical Assistance Services shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the previous year. The report shall be made available on the department's website by August 15 of each year.</p> <p>D. The Department of Medical Assistance Services shall, within 15 days of receiving a deferral of federal grant funds, or release of a deferral, or a disallowance letter, notify the</p>				

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<p>Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees of such deferral action or disallowance. The notice shall include the amount of the deferral or disallowance and a detailed explanation of the federal rationale for the action. Any federal documentation received by the department shall be attached to the notification.</p>				
<p>E.1. It is the intent of the General Assembly that the Department of Medical Assistance Services provide more data regarding Medicaid and other programs operated by the department on their public website. The department shall create a central website that consolidates data and statistical information to make the information more readily available to the general public. At a minimum the information included on such website shall include monthly enrollment data, expenditures by service, and other relevant data.</p>				
<p>2. No later than June 30, 2018, the department shall make Medicaid and other agency data stored in the agency's data warehouse available through the department's website that includes, at a minimum, interactive tools for the user to select, display, manipulate and export requested data.</p>				
<p>3. <i>The Department of Medical Assistance Services shall post on its website the complete State Plan for Medical Assistance along with all amendments in an easily searchable format to be accessible to the public.</i></p>				
<p>4. <i>Within five days of any submission of a state plan amendment to the Centers for Medicare and Medicaid Services, the Department of Medical Assistance Services shall post such submission on its website. The department shall also post any federal approval documents once the state plan amendment is approved.</i></p>				
<p>5. <i>The department shall publish a document on its website, updated annually, that lists all policy changes, including their fiscal impact, for the Medicaid program for the preceding fiscal year.</i></p>				
<p>F. The Department of Medical Assistance Services shall notify the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees at least 30 days prior to any change in capitated rates for managed care companies. The notification shall include the amount of the rate increase or decrease, and the projected impact on the state budget.</p>				
<p>G.1. Effective January 1, 2018, the Department of Medical Assistance Services shall include in all its contracts with managed care organizations (MCOs) the following:</p>				
<p>a. A provision requiring the MCOs to return one-half of the underwriting gain in excess of three percent of Medicaid premium income up to 10 percent. The MCOs shall return 100 percent of the underwriting gain above 10 percent.</p>				
<p>b. A requirement for detailed financial and utilization reporting. The reported data shall include: (i) income statements that show expenses by service category; (ii) balance sheets; (iii) information about related-party transactions; and (iv) information on service utilization metrics.</p>				
<p>c. Upon the inclusion of behavioral health care in managed care, behavioral health-specific metrics to identify undesirable trends in service utilization.</p>				
<p>d. Upon the inclusion of behavioral health care in managed care, a report on their policies and processes for identifying behavioral health providers who provide inappropriate services and the number of such providers that are disenrolled.</p>				
<p>2. For rate periods effective January 1, 2018 and thereafter, the Department of Medical Assistance Services shall direct its actuary as part of the rate setting process to:</p>				
<p>a. Identify potential inefficiencies in the Medallion program and adjust capitation rates for expected efficiencies. The department is authorized to phase-in this adjustment over time based on the portion of identified inefficiencies that MCOs can reasonably reduce each year.</p>				
<p>b. Monitor medical spending for related-party arrangements and adjust historical medical spending when deemed necessary to ensure that capitation rates do not cover excessively</p>				

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<p>high spending as compared to benchmarks. Related-party arrangements shall mean those in which there is common ownership or control between the entities, and shall not include Medicaid payments otherwise authorized in this Item.</p>				
<p>c. Adjust capitation rates in the Medallion program to account for a portion of expected savings from required initiatives.</p>				
<p>d. Allow negative historical trends in medical spending to be carried forward when setting capitation rates.</p>				
<p>e. Annually rebase administrative expenses per member per month for projected enrollment changes.</p>				
<p>f. Annually incorporate findings on unallowable administrative expenses from audits of MCOs into its calculations of underwriting gain and administrative loss ratios for the purposes of ongoing financial monitoring, including enforcement of the underwriting gain cap.</p>				
<p>g. Adjust calculations of underwriting gain and medical loss ratio by classifying as profit medical spending that is excessively high due to related-party arrangements.</p>				
<p>3. The Department of Medical Assistance Services shall report to the General Assembly on spending and utilization trends within Medicaid managed care, with detailed population and service information and include an analysis and report on the underlying reasons for these trends, the agency's and MCOs' initiatives to address undesirable trends, and the impact of those initiatives. The report shall be submitted each year by September 1.</p>				
<p>4. The Department of Medical Assistance Services shall develop a proposal for cost sharing requirements based on family income for individuals eligible for long-term services and supports through the optional 300 percent of Supplemental Security Income eligibility category and submit the proposal to the Centers for Medicare and Medicaid Services to determine if such a proposal is feasible. No cost sharing requirements shall be implemented unless approved by the General Assembly.</p>				
<p>H. The Department of Medical Assistance Services, to the extent permissible under federal law, shall enter into an agreement with the Department of Behavioral Health and Developmental Services to share Medicaid claims and expenditure data on all Medicaid-reimbursed mental health, intellectual disability and substance abuse services, and any new or expanded mental health, intellectual disability retardation and substance abuse services that are covered by the State Plan for Medical Assistance. The information shall be used to increase the effective and efficient delivery of publicly funded mental health, intellectual disability and substance abuse services.</p>				
<p>I. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall convene a stakeholder workgroup, to meet at least once annually, with representatives of the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Association of Centers for Independent Living, Virginia Association of Community Rehabilitation Programs (VaACCSES), the disAbility Law Center of Virginia, the ARC of Virginia, and other stakeholders including representative family members, as deemed appropriate by the Department of Medical Assistance Services. The workgroup shall: (i) review data from the previous year on the distribution of the SIS levels and tiers by region and by waiver; (ii) review the process, information considered, scoring, and calculations used to assign individuals to their levels and reimbursement tiers; (iii) review the communication which informs individuals, families, providers, case managers and other appropriate parties about the SIS tool, the administration, and the opportunities for review to ensure transparency; and (iv) review other information as deemed necessary by the workgroup. The department shall report on the results and recommendations of the workgroup to the General Assembly by October 1 of each year.</p>				
<p>J. The Department of Medical Assistance Services (DMAS) shall collect and provide to the Office of Children's Services (OCS) all information and data necessary to ensure the continued collection of local matching dollars associated with payments for Medicaid eligible services provided to children through the Children's Services Act as required in Item 292, C.2. of this Act. This information and data shall be collected by DMAS and provided to OCS on a monthly basis.</p>				

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K. The Departments of Medical Assistance Services (DMAS) and Social Services (DSS) shall collaborate with the League of Social Services Executives, and other stakeholders to analyze and report data that demonstrates the accuracy, efficiency, compliance, quality of customer service, and timeliness of determining eligibility for the Medicaid, CHIP and Governor's Access Program (GAP) programs. Based on this collaboration, the departments shall develop meaningful performance metrics on data in agency systems that shall be used to monitor eligibility trends, address potential compliance problem areas and implement best practices. DMAS shall maintain on its website a public dashboard on eligibility performance that includes performance metrics developed through collaborative efforts as well as the performance of local departments of social services and any centralized eligibility-processing unit. Effective August 1, 2018 this dashboard shall be updated for the previous quarter and 30 days following the end of each quarter thereafter.

L. In addition to any regional offices that may be located across the Commonwealth, any statewide, centralized call center facility that operates in conjunction with a brokerage transportation program for persons enrolled in Medicaid or the Family Access to Medical Insurance Security plan shall be located in Norton, Virginia.

M. The Department of Medical Assistance Services shall, to the extent possible, require web-based electronic submission of provider enrollment applications, revalidations and other related documents necessary for participation in the fee-for-service program under the State Plans for Title XIX and XXI of the Social Security Act.

N. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall require Medicaid eligibility workers to search for unreported assets at the time of initial eligibility determination and renewal, using all currently available sources of electronic data, including local real estate property databases and the Department of Motor Vehicles for all Medicaid applicants and recipients whose assets are subject to an asset limit under Medicaid eligibility requirements.

O.1. The Department of Medical Assistance Services shall require eligibility workers to verify income, using currently available Virginia Employment Commission data, for applicants and recipients who report no earned or unearned income. The Department shall, at the earliest date feasible but no later than October 1, 2017, require all Medicaid eligibility workers to apply the same protocols when verifying income for all applicants and recipients, including those who report no earned or unearned income.

2. The Department shall amend the Virginia Medicaid application, upon approval of the federal Centers for Medicare and Medicaid, to require a Medicaid applicant to opt out if such applicant does not want to grant permission to the state to use his federal tax returns for the purposes of renewing eligibility. The Department shall implement the necessary regulatory changes and other necessary measures to be consistent with federal approval of any appropriate state plan changes, and prior to the completion of any regulatory process undertaken in order to effect such change.

P.1. The Department of Medical Assistance Services shall report on the operations and costs of the Medicaid call center (also known as the Cover Virginia Call Center). This report shall include the number of calls received on a monthly basis, the purpose of the call, the number of applications for Medicaid submitted through the call center, and the costs of the contract. The department shall submit the report by August 15 of each year to the Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees.

2. Out of this appropriation, \$3,283,004 the first year and \$3,283,004 the second year from the general fund and \$9,839,000 the first year and \$9,839,000 the second year from nongeneral funds is provided for the enhanced operation of the Cover Virginia Call Center as a centralized eligibility processing unit (CPU) that shall be limited to processing Medicaid applications received from the Federally Facilitated Marketplace, telephonic applications through the call center, or electronically submitted Medicaid-only applications. The department shall report the number of applications processed on a monthly basis and payments made to the contractor to the Director, Department of Planning and Budget and the Chairman of the House Appropriations and Senate Finance Committees. The report shall be submitted no later than 30 days after the end of each

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quarter of the fiscal year.				
Q.1. Out of this appropriation, \$5,835,000 the first year and \$5,835,000 the second year from the general fund and \$52,515,000 the first year and \$52,515,000 the second year from nongeneral funds shall be provided to replace the Medicaid Management Information System.				
2. Within 30 days of awarding a contract or contracts related to the replacement project, the Department of Medical Assistance Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget, with a copy of the contract including costs.				
3. Beginning July 1, 2016, the Department of Medical Assistance Services shall provide annual progress reports that must include a current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.				
R.1. Out of this appropriation, \$1,995,000 \$1,545,000 the first year and \$2,985,000 \$2,535,000 the second year from special funds is appropriated to the Department of Medical Assistance Services (DMAS) for the disbursement of civil money penalties (CMP) levied against and collected from Medicaid nursing facilities for violations of rules identified during survey and certification as required by federal law and regulation. Based on the nature and seriousness of the deficiency, the Agency or the Centers for Medicare and Medicaid Services may impose a civil money penalty, consistent with the severity of the violations, for the number of days a facility is not in substantial compliance with the facility's Medicaid participation agreement. Civil money penalties collected by the Commonwealth must be applied to the protection of the health or property of residents of nursing facilities found to be deficient. Penalties collected are to be used for (1) the payment of costs incurred by the Commonwealth for relocating residents to other facilities; (2) payment of costs incurred by the Commonwealth related to operation of the facility pending correction of the deficiency or closure of the facility; and (3) reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or individuals used by the facility to provide services to residents. These funds are to be administered in accordance with the revised federal regulations and law, 42 CFR 488.400 and the Social Security Act § 1919(h), for Enforcement of Compliance for Long-Term Care Facilities with Deficiencies. Any special fund revenue received for this purpose, but unexpended at the end of the fiscal year, shall remain in the fund for use in accordance with this provision.				
2. Of the amounts appropriated in R.1. of this Item, up to \$175,000 \$225,000 the first year and \$175,000 \$225,000 the second year from special funds may be used for the costs associated with administering CMP funds.				
3. Of the amounts appropriated in R.1. of this Item, up to \$1,320,000 the first year and \$2,310,000 the second year from the special funds may be used for special projects that benefit residents and improve the quality of nursing Facilities.				
4. By October 1 of each year, the department shall provide an annual report of the previous fiscal year that includes the amount of revenue collected and spending activities to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget.				
5. No spending or activity authorized under the provisions of paragraph R. of this Item shall necessitate general fund spending or require future obligations to the Commonwealth.				
6. The department shall maintain CMP special fund balance of at least \$1.0 million to address emergency situations in Virginia's nursing facilities.				
7. <i>The Department of Medical Assistance Services is authorized to administratively request up to \$2,000,000 of additional special fund appropriation for special projects if 1) the appropriated amounts in R.3. are insufficient; and 2) such projects and costs are approved by the Centers for Medicare and Medicaid Services (CMS) for the Civil Money Penalty Reinvestment State Plan. The Department of Planning Budget shall approve such requests provided the required conditions are met.</i>				
S. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the				

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general fund shall be provided to contract with the Virginia Center for Health Innovation for research, development and tracking of innovative approaches to healthcare delivery.

T. The Director, the Department of Medical Assistance Services, shall include language in all managed care contracts, for all department programming, requiring the plan sponsor to report quarterly to the department for all pharmacy claims; the amount paid to the pharmacy provider per claim, including but not limited to cost of drug reimbursement; dispensing fees; copayments; and the amount charged to the plan sponsor for each claim by its pharmacy benefit manager. In the event there is a difference between these amounts, the plan sponsor shall report an itemization of all administrative fees, rebates, or processing charges associated with the claim. All data and information provided by the plan sponsor shall be kept secure; and notwithstanding any other provision of law, the department shall maintain the confidentiality of the proprietary information and not share or disclose the proprietary information contained in the report or data collected with persons outside the department. Only those department employees involved in collecting, securing and analyzing the data for the purpose of preparing the report shall have access to the proprietary data. The department shall annually provide a report using aggregated data only to the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of this initiative and its impact on program expenditures by October 1 of each year. Nothing in the report shall contain confidential or proprietary information.

U. The Department of Medical Assistance Services shall, prior to the end of each fiscal quarter, determine and properly reflect in the accounting system whether pharmacy rebates received in the quarter are related to fee-for-service or managed care expenditures and whether or not the rebates are prior year recoveries or expenditure refunds for the current year. *The state share of AH* pharmacy rebates for the quarter determined to be prior year revenue shall be deposited to the Virginia Health Care Fund before the end of the fiscal quarter. The department shall create and use a separate revenue source code to account for pharmacy rebates in the Virginia Health Care Fund.

V.1. Effective with the development of the 2020-2022 biennium, it is the intent of the General Assembly that there is hereby established an annual Medicaid state spending target for each fiscal year. The Joint Subcommittee for Health and Human Resources Oversight shall establish the annual target by September 15 of each year for the following two fiscal years. The target shall take into account the following: a 10-year rolling average of Medicaid expenditures by eligibility category and utilization of services, a 20-year rolling average of general fund revenue growth, and for policy decisions adopted by General Assembly during the previous Session which impact Medicaid spending.

2. In the event of an economic recession, the Joint Subcommittee may take into consideration enrollment and spending trends experienced during previous recessions in establishing the targets.

3. It is the intent of the General Assembly that the Governor abide by the spending target for Medicaid state spending, as established by the Joint Subcommittee, in developing the introduced budget each year and shall notify the Chairmen of the House Appropriations and Senate Finance Committees in the event the target cannot be met, along with the reason it cannot be met.

W. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall provide data by the first day of each month, to each managed care organization, that includes the renewal dates for each member enrolled in their plan that will occur in the next 60 days. The department shall work with the managed care organizations to develop processes to reduce the number of renewals lapsing each year for Medicaid and Family Access to Insurance Security (FAMIS) enrollees.

X. Out of this appropriation, \$87,500 the first year and \$87,500 the second year from the general fund and \$262,500 the first year and \$262,500 second year from nongeneral funds shall be provided for support of the All Payer Claims Database operated by Virginia Health Information. This appropriation is contingent on federal approval of an Operational Advanced Planning Document.

Y. The Department of Medical Assistance Services shall conduct a fiscal analysis of the provisions of House Bill 1428 / Senate Bill 732 passed in the 2020 Session that creates the

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Virginia Health Benefits Exchange and requires the department to affirm using income tax data from the Department of Taxation if the individual or a dependent meets the income eligibility for its medical assistance programs. The department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by September 15, 2020, on the fiscal impact to the department of that provision.				
Z: Out of this appropriation, \$507,500 the first year and \$373,000 the second year from the general fund and \$776,500 the first year and \$373,000 the second year from nongeneral funds shall be provided to fund the administrative costs for the department's fiscal and employer agent and managed care organizations due to exempting live-in caretakers from the electronic visit verification requirement.				
AA. The Department of Medical Assistance Services and the Department of Social Services shall establish, by no later than July 1, 2021, a single phone number for the Cover Virginia call center and the call center operated by Department of Social Services such that the call is routed to the appropriate call center.				
BB. Out of this appropriation, \$875,000 from the general fund and \$1,625,000 from nongeneral funds the second year is provided for the Department of Medical Assistance Services to amend the State Plan and any waivers under Title XXI to fund \$2,500,000 the second year for three Poison Control centers serving Virginia as part of a Health Services Initiative. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this act.				
CC. Out of this appropriation, \$300,000 from the general fund and \$300,000 from nongeneral funds the first year is provided to the Department of Medical Assistance Services to contract with a consultant with expertise in health care rate setting to thoroughly analyze current Medicaid rates for services likely impacted by an increase in the state minimum wage. The consultant shall take into account the timeline of future minimum wage rate increases consistent with state law and analyze such impact on various Medicaid providers and their ability to serve Medicaid enrollees. The consultant shall develop recommendations that may include benchmark rates or rate ranges that will better inform the General Assembly on potential rate changes in the future. The department shall report the findings and recommendations of the consultant to the Department of Planning and Budget, and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.				
DD. Notwithstanding any other provision of law, the Department of Medical Assistance Services (DMAS) shall have temporary authority to seek any necessary emergency changes to the State Plan for Medical Assistance Services and related waivers to address the COVID-19 pandemic. In addition, DMAS is authorized to make changes to managed care organization (MCO) contracts consistent with the activities implemented under the provisions of this paragraph. Further, the 45-day notification requirement pursuant to paragraph E.1. of Item 313 is temporarily waived. Prior to the implementation of any change authorized under the provisions of this paragraph, DMAS must receive written approval of such change from the Governor. Within 15 days of implementing changes to medical assistance programs or MCO contracts in response to COVID-19, DMAS shall send a list of such actions to the Director, Department of Planning and Budget and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees. The provisions of this paragraph, as well as all actions implemented under its authority, shall be in accordance with the Governor's Declaration of a State of Emergency due to COVID-19 and be in effect for the period specified therein. Moreover, the provisions of this paragraph and all actions implemented under its authority shall expire with the Governor's emergency declaration.				
EE. Notwithstanding any other provision of law, the Department of Medical Assistance Services (DMAS) shall have the authority to adjust the date of any agency payments should doing so allow the agency to maximize federal reimbursement. This language shall only apply to the extent that any impacted payments or reimbursements are allowable and appropriate under state and federal rules.				
FF. Within 10 days of the enactment of this Act, the Department of Medical Assistance Services (DMAS) shall generate an estimate of the annual impact of enhanced federal Medical Assistance Percentages (FMAP), associated with federal H.R. 6021, the Families First Coronavirus Response Act (FFCRA), on all medical assistance programs as appropriated				

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in this Act. The agency shall report these estimates by fiscal year, fiscal quarter, service area and fund detail, to the Department of Planning and Budget (DPB) and the Chairs of the House Appropriations and Senate Finance and Appropriation Committees within the required timeframe. DPB is authorized to unallot an amount of state funds equal to the general fund savings identified in the DMAS report. Upon expiration of the enhanced FMAP, DPB is authorized to re-allot funding for those quarters for which assumed enhanced FMAP is not available.

GG.1. Out of amounts appropriated in the items for this agency, \$34,135 the first year and \$598,763 the second year from the general fund and \$34,135 the first year and \$823,476 the second year from nongeneral funds are provided to align the agency client appeals with federal requirements. Administrative funding (49901) shall be used to create seven new appeals staff positions that will respond to additional appeals and ensure regulatory compliance. The remaining support (appropriated in program 456) shall be used to fund necessary managed care contract changes needed to accommodate workflow adjustments.

2. The Department of Medical Assistance Services shall amend regulations to clarify (i) the burden of proof in client appeals; (ii) the scope of review for de novo hearings in client appeals, and (iii) the timeframes for submission of documents and decision deadlines for de novo client hearings. The department shall have the authority to promulgate emergency regulations to implement these amendments within 280 days or less from the enactment of this Act.

HH. Out of this appropriation, \$1,166,180 the second year from the general fund and \$6,959,211 the second year from nongeneral funds is provided to implement the Virginia Facilitated Enrollment Program. Of these amounts, \$718,480 the second year from the general fund and \$5,746,545 the second year from nongeneral funds support one-time costs, such as required changes to the VaCMS system. The Department of Planning and Budget shall have the authority to transfer a portion of these amounts to the Department of Social Services to address such changes.

II. The Department of Planning and Budget shall, if the public health emergency is extended into the third or fourth quarters of the second year extending the enhanced federal match pursuant to the federal Families First Coronavirus Response Act, calculate the general fund savings in the Children's Health Insurance Program administrative appropriation and unallot such amount. These savings shall revert to the general fund at the end of the fiscal year.

JJ. Out of this appropriation, \$250,000 from the general fund and \$250,000 from nongeneral funds the second year is provided to the Department of Medical Assistance Services (DMAS) to contract for an analysis of payment, authorization, and provider requirements contributing to the outcomes of Medicaid and FAMIS-covered pregnancies and births. This analysis shall be conducted in collaboration with DMAS and contracted Medicaid managed care organizations and based on recommendations for high-value care by the American College of Obstetrics and Gynecology. The analysis shall (i) compare service utilization to maternal and birth outcomes; (ii) identify patterns and outliers in claim payments by provider-type and service-type compared to maternal and birth outcomes; (iii) compare findings to available data on race, ethnicity, geographic location, and preferred language; (iv) compare findings to coverage policies for post-partum women; (v) evaluate the potential increased risk of adverse maternal and birth outcomes arising from COVID-19; and (vi) document the provision of services identified by the American College of Obstetrics and Gynecology that potentially result in unnecessary utilization and spending. Such analysis shall be conducted using claim and encounter data related to Medicaid and FAMIS-covered pregnancies and births. Based on this analysis, the contractor shall conduct a review of policy implications, corresponding payment policies, authorization requirements, provider administrative requirements and spending that may be contributing to more or less favorable outcomes, and identify opportunities for cost savings. DMAS shall engage an external contractor to conduct this analysis not later than 120 days after the effective date of this act. This analysis and research shall be conducted by a Virginia Department of Small Business and Supplier Diversity-certified SWaM business. The department shall report on this analysis to the Task Force on Maternal Health Data and Quality Measures for the purpose of evaluating maternal health data collection to guide policies in the Commonwealth to improve

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maternal care, quality, and outcomes for all birthing people in the Commonwealth.

KK. Out of this appropriation, \$1,319,515 from the general fund and \$3,798,129 from nongeneral funds the second year is provided to support the Emergency Department Care Coordination Program (EDCC). The Department of Medical Assistance Services, in cooperation with the Virginia Department of Health, shall establish a work group comprised of the EDCC contractor, the Virginia Health Information, Medicaid and commercial managed care organizations, health systems with emergency departments and emergency department physicians to optimize the use of the system and any enhancements to the system to facilitate communication and collaboration among physicians, other healthcare providers and other clinical and care management personnel about patients receiving services in hospital emergency departments for the purpose of improving the quality of care. The work group shall determine how to best measure performance of the system, identify utilization trends and outcomes, and make any recommendations for system improvements to the Governor and General Assembly by December 1, 2021.

LL. Effective July 1, 2021, the Department of Medical Assistance Services shall implement an orientation program for Medicaid personal care attendants.

MM. Effective July 1, 2021, the Department of Medical Assistance Services shall implement an orientation program for Doula service providers.

317.10 Omitted.

Total for Department of Medical Assistance Services.			\$17,063,136,781	\$17,820,593,922
			\$17,072,684,492	\$18,580,300,482
General Fund Positions.....	260.02	260.02		263.02
Nongeneral Fund Positions.....	269.98	269.98		272.98
Position Level.....	530.00	530.00		536.00
Fund Sources: General.....	\$5,080,884,916	\$5,660,313,505		
	\$4,545,328,030	\$5,552,084,073		
Special.....	\$2,585,000	\$3,575,000		
	\$2,810,000	\$3,829,800		
Dedicated Special Revenue.....	\$1,336,766,939	\$1,427,416,718		
	\$1,421,551,201	\$1,485,854,349		
Federal Trust.....	\$10,642,899,926	\$10,729,288,699		
	\$11,102,995,261	\$11,538,532,260		

§ 1-101. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)

318. Regulation of Public Facilities and Services (56100)..			\$5,373,153	\$5,373,153
				\$6,966,967
Regulation of Health Care Service Providers (56103).	\$5,373,153	\$5,373,153		\$6,966,967
Fund Sources: General.....	\$4,803,627	\$4,803,627		\$6,046,802
Special.....	\$156,584	\$156,584		
Federal Trust.....	\$412,942	\$412,942		\$763,581

Authority: Title 37.2, Chapter 4, Code of Virginia.

A. The department shall post on its Web site information concerning (i) any application for initial licensure of or renewal of a license, denial of an application for an initial license or renewal of a license, or issuance of provisional licensure of for any residential facility for children located in the locality and (ii) all inspections and investigations of any residential facility for children licensed by the department, including copies of any reports of such inspections or investigations. Information concerning inspections and investigations of residential facilities for children shall be posted on the department's Web site within seven days of the issuance of any report and shall be maintained on the department's website for a

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period of at least six years from the date on which the report of the inspection or investigation was issued.

B. The Department of Behavioral Health and Developmental Services shall have the authority to promulgate emergency regulations to: i) ensure that licensing regulations support high quality community-based mental health services and align with the changes being made to the Medicaid behavioral health regulations for the services funded in this Act that support evidence-based, trauma-informed, prevention-focused and cost-effective services for members across the lifespan; and ii) amend the licensing regulations to align with the American Society of Addiction Medicine Levels of Care Criteria or an equivalent set of criteria into substance use licensing regulations to ensure the provision of outcome-oriented and strengths-based care in the treatment of addiction. The department shall seek input from the Department of Medical Assistance Services and other stakeholders to align with the implementation plan for changes being made to the Medicaid behavioral health regulations. To implement these changes, the Department of Behavioral Health and Developmental Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act

C.1. In order to minimize the risk of exposure to infectious diseases and to protect individuals served by licensed providers as well as provider and department staff, the department, at its discretion, may conduct less than one annual unannounced inspection of each service offered by each licensed provider ~~during the 2020 calendar year.~~ *The provisions of this paragraph shall be in effect for the duration of the Governor's emergency declaration for COVID-19.* The department shall prioritize, based on available time and necessary safety precautions, annual unannounced inspections at licensed services directly affected by the Commonwealth's settlement agreement with the United States Department of Justice.

2. Notwithstanding § 37.2-415, Code of Virginia, and regulations 12VAC35-105-50A.1.b and 12VAC35-46-90.A, the Commissioner of the Department of Behavioral Health and Developmental Services or any authorized agent may extend the period of any conditional license issued by the department ~~beyond twelve months, until December 31, 2020.~~ *for up to six months beyond the duration of the Governor's emergency declaration for COVID-19.*

3. During a state of emergency as declared by the Governor, the Commissioner of the Department of Behavioral Health and Developmental Services may issue licensing status letters to children's residential providers in order to prevent lapse of children's residential licenses due to inability to conduct an onsite inspection, and may extend the renewal period of licensed children's residential services.

D. The State Board of Behavioral Health and Developmental Services shall have the authority to promulgate emergency regulations to amend the children's residential facility licensing regulations to align with the requirements of the federal Family First Prevention Service Act for children's residential service providers to meet the standards as qualified residential treatment programs (QRTPs). The department shall seek input from the Department of Social Services and the Department of Medical Assistance Services to align with the implementation plan for changes being made to funding streams for children's residential services. To implement these changes, the State Board of Behavioral Health and Developmental Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act, however, any regulation changes promulgated pursuant to this authority shall be budget neutral and must not exceed the funding appropriated in the Act for these services.

319. A. It is the intent of the General Assembly that the Department of Behavioral Health and Developmental Services proceed in transforming its system of care into a model that embodies best practices and state-of-the art services. The consumer-driven system of services and supports shall promote self-determination, empowerment, recovery, resilience, health, and the highest possible level of consumer participation in all aspects of community life. The transformed system shall include investments in a suitable array and adequate quantity of community-based services, with an emphasis on consumer choice and the appropriate use of facility resources. State facilities shall be redesigned to ensure high quality care, efficient operation, and capacity necessary for persons most in need of

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<p>such care. Amounts authorized herein, and in related legislation, shall be used to support the transformation of the system of care and to promote the provision of behavioral health and developmental services in the most efficient and appropriate setting. The Department of Behavioral Health and Developmental Services may consider the use of public-private partnerships to deliver behavioral health and intellectual disability services as part of the comprehensive behavioral health and intellectual disability system of care, in facilities that are being planned for renovation or replacement. These partnerships may include contracts with private entities for facility operations, unless the Department of Behavioral Health and Developmental Services can demonstrate that continued state operation of the facility is at least as cost effective and provides at least an equivalent or higher level quality care than operation by a private entity.</p> <p>B. Notwithstanding any law to the contrary, on July 1, of each year, the State Comptroller shall transfer to the general fund any special revenue fund balance accumulated by the Department of Behavioral Health and Developmental Services in excess of \$25,000,000. Any special fund revenue allotted for the implementation of electronic health records shall not be counted in the balance.</p> <p>C.1. Notwithstanding §4-5.10, §4-5.09 of this Act and paragraph C. of § 2.2-1156, Code of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured. Thereafter, the fund will be used to enhance services to individuals with mental illness, intellectual disability and substance abuse problems.</p> <p>2. Expenditures from the Behavioral Health and Developmental Services Trust Fund shall be subject to appropriation through an appropriations bill passed by the General Assembly.</p> <p>3. Any remaining balances in the Behavioral Health and Developmental Services Trust Fund shall be carried forward to the subsequent fiscal year.</p> <p>D. Any funds appropriated in this Act for the purpose of complying with the settlement agreement with the United States Department of Justice pursuant to civil action no: 3:12cv059-JAG that remain unspent at the end of the fiscal year may be carried forward into the subsequent fiscal year in order to continue implementation of the agreement's requirements.</p>				
320.	Administrative and Support Services (4990).....		\$123,238,341	\$110,719,604
			\$122,462,281	\$114,854,911
	General Management and Direction (49901).....	\$21,016,747		\$21,016,747
	Information Technology Services (49902).....	\$43,783,399		\$37,450,870
				\$38,138,105
	Architectural and Engineering Services (49904).....	\$2,731,753		\$2,731,753
	Collection and Locator Services (49905).....	\$3,195,236		\$3,195,236
	Human Resources Services (49914).....	\$615,324		\$615,324
	Planning and Evaluation Services (49916).....	\$3,626		\$3,626
	Program Development and Coordination (49933).....	\$51,892,256		\$45,706,048
		\$51,116,196		\$49,154,120
	Fund Sources: General.....	\$64,746,521		\$65,868,713
		\$63,970,461		\$69,619,931
	Special.....	\$20,996,019		\$15,555,090
				\$15,692,537
	Dedicated Special Revenue.....	\$8,200,000		\$0
	Federal Trust.....	\$29,295,801		\$29,295,801
				\$29,542,443

Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.

A. The Commissioner, Department of Behavioral Health and Developmental Services shall, at the beginning of each fiscal year, establish the current capacity for each facility within the system. When a facility becomes full, the commissioner or his designee shall give notice of

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the fact to all sheriffs.				
B. The Commissioner, Department of Behavioral Health and Developmental Services shall work in conjunction with community services boards to develop and implement a graduated plan for the discharge of eligible facility clients to the greatest extent possible, utilizing savings generated from statewide gains in system efficiencies.				
C. Notwithstanding § 4-5.09 of this act and paragraph C of § 2.2-1156, Code of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured.				
D. The Department of Behavioral Health and Developmental Services shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of acute-care psychiatric beds for children and adolescents.				
E. The Department of Behavioral Health and Developmental Services, in cooperation with the Department of Juvenile Justice, where appropriate, shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of residential beds for the treatment of juveniles with behavioral health treatment needs, including those who are mentally retarded, aggressive, or sex offenders, and those juveniles who need short-term crisis stabilization but not psychiatric hospitalization.				
F. Out of this appropriation, \$730,788 the first year and \$730,788 the second year from the general fund shall be provided for placement and restoration services for juveniles found to be incompetent to stand trial pursuant to Title 16.1, Chapter 11, Article 18, Code of Virginia.				
G. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to pay for legal and medical examinations needed for individuals living in the community and in need of guardianship services.				
H.1. Out of this appropriation, \$554,975 the first year and \$554,975 the second year from the general fund shall be provided for clinical evaluations and court testimony for sexually violent predators who are being considered for release from state correctional facilities and who will be referred to the Clinical Review Committee for psycho-sexual evaluations prior to the state seeking civil commitment				
2. Out of this appropriation, \$2,628,360 the first year and \$2,864,912 the second year from the general fund shall be provided for conditional release services, including treatment, and costs associated with contracting with Global Positioning System service to closely monitor the movements of individuals who are civilly committed to the sexually violent predator program but conditionally released as provided by the Department of Corrections, outlined in the Memorandum of Understanding between the two agencies and pursuant to §37.2-912 of the Code of Virginia.				
I. Out of this appropriation, \$146,871 the first year and \$146,871 the second year from the general fund shall be used to operate a real-time reporting system for public and private acute psychiatric beds in the Commonwealth.				
J. The Department of Behavioral Health and Developmental Services shall submit a report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 1 of each year for the preceding fiscal year that provides information on the operation of Virginia's publicly-funded behavioral health and developmental services system. The report shall include a brief narrative and data on the numbers of individuals receiving state facility services or CSB services, including purchased inpatient psychiatric services, the types and amounts of services received by these individuals, and CSB and state facility service capacities, staffing, revenues, and expenditures. The annual report also shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic				

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outcome and performance measures during the year.				
K. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used for a comprehensive statewide suicide prevention program. The Commissioner of the Department of Behavioral Health and Developmental Services, in collaboration with the Departments of Health, Education, Veterans Services, Aging and Rehabilitative Services, and other partners shall develop and implement a statewide program of public education, evidence-based training, health and behavioral health provider capacity-building, and related suicide prevention activity.				
L.1. Beginning October 1, 2013, the Commissioner of the Department of Behavioral Health and Developmental Services shall provide quarterly reports to the House Appropriations and Senate Finance Committees on progress in implementing the plan to close state training centers and transition residents to the community. The reports shall provide the following information on each state training center: (i) the number of authorized representatives who have made decisions regarding the long-term type of placement for the resident they represent and the type of placement they have chosen; (ii) the number of authorized representatives who have not yet made such decisions; (iii) barriers to discharge; (iv) the general fund and nongeneral fund cost of the services provided to individuals transitioning from training centers; and (v) the use of increased Medicaid reimbursement for congregate residential services to meet exceptional needs of individuals transitioning from state training centers.				
2. At least six months prior to the closure of a state intellectual disabilities training center, the Commissioner of Behavioral Health and Developmental Services shall complete a comprehensive survey of each individual residing in the facility slated for closure to determine the services and supports the individual will need to receive appropriate care in the community. The survey shall also determine the adequacy of the community to provide care and treatment for the individual, including but not limited to, the appropriateness of current provider rates, adequacy of waiver services, and availability of housing. The Commissioner shall report quarterly findings to the Governor and Chairmen of the House Appropriations and Senate Finance Committees.				
3. The department shall convene quarterly meetings with authorized representatives, families, and service providers in Health Planning Regions I, II, III and IV to provide a mechanism to (i) promote routine collaboration between families and authorized representatives, the department, community services boards, and private providers; (ii) ensure the successful transition of training center residents to the community; and (iii) gather input on Medicaid waiver redesign to better serve individuals with intellectual and developmental disability.				
4. In the event that provider capacity cannot meet the needs of individuals transitioning from training centers to the community, the department shall work with community services boards and private providers to explore the feasibility of developing (i) a limited number of small community group homes or intermediate care facilities to meet the needs of residents transitioning to the community, and/or (ii) a regional support center to provide specialty services to individuals with intellectual and developmental disabilities whose medical, dental, rehabilitative or other special needs cannot be met by community providers. The Commissioner shall report on these efforts to the House Appropriations and Senate Finance Committees as part of the quarterly report, pursuant to paragraph L.1.				
M. The Department of Behavioral Health and Developmental Services in collaboration with the Department of Medical Assistance Services shall provide a detailed report for each fiscal year on the budget, expenditures, and number of recipients for each specific intellectual disability (ID) and developmental disability (DD) service provided through the Medicaid program or other programs in the Department of Behavioral Health and Developmental Services. This report shall also include the overall budget and expenditures for the ID, DD and Day Support waivers separately. The Department of Medical Assistance Services shall provide the necessary information to the Department of Behavioral Health and Developmental Services 90 days after the end of each fiscal year. This information shall be published on the Department of Behavioral Health and Developmental Services' website within 120 days after the end of each fiscal year.				
N. Effective July 1, 2015, the Department of Behavioral Health and Developmental Services shall not charge any fee to Community Services Boards or private providers for use of the knowledge center, an on-line training system.				

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<p>O. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund shall be used to provide mental health first aid training and certification to recognize and respond to mental or emotional distress. Funding shall be used to cover the cost of personnel dedicated to this activity, training, manuals, and certification for all those receiving the training.</p>				
<p>P. Out of this appropriation, \$752,170 the first year and \$752,170 the second year from the general fund is provided to establish community support teams responsible for the development and oversight of a continuum of integrated community settings for individuals leaving state hospitals.</p>				
<p>Q. The Department of Behavioral Health and Developmental Services and the Department of Medical Assistance Services shall recognize Certified Employment Support Professional (CESP) and Association of Community Rehabilitation Educators (ACRE) certifications in lieu of competency requirements for supported employment staff in the developmental disability Medicaid waiver programs to allow providers that are Department of Aging and Rehabilitative Services (DARS) vendors that hold a national three-year accreditation from the National Council on Accreditation of Rehabilitation Facilities (CARF) to be deemed qualified to meet employment competency requirements.</p>				
<p>R. The Department of General Services, in cooperation with the Department of Behavioral Health and Developmental Services, shall work with James City County to identify a minimum of 10 acres on the Eastern State Hospital site for the location of a new facility for Colonial Behavioral Health, which may or may not include a joint facility with Olde Towne Medical Center. The subject acres shall be transferred to James City County upon such terms and conditions as may be agreed to by the parties.</p>				
<p>S.1. The Department of Behavioral Health and Developmental Services for each fiscal year shall report the number of waiver slots, by waiver, that becomes available for reallocation during the year. In addition, the department shall report on the allocation of emergency waiver slots and reserve slots, which shall include how many slots were allocated in the year and for which waiver. The information on reserve slots shall indicate for which waiver the reserve slot was used and the waiver from which the individual moved that was granted the slot. Furthermore, the report shall show the allocations by each Community Services Board from new waiver slots, emergency slots and reserve slots for the year. The department shall submit this report for the prior fiscal year, ending June 30, by September 1 of each year.</p>				
<p>2. The department shall report within 30 days after the close of each quarter, the number of new slots for the fiscal year that have been allocated by Community Services and of those how many are accessing services. The report shall be provided on the department's website.</p>				
<p>T.1. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund is provided for compensation to individuals who were involuntarily sterilized pursuant to the Virginia Eugenical Sterilization Act and who were living as of February 1, 2015. Any funds that are appropriated but remain unspent at the end of the fiscal year shall be carried forward into the subsequent fiscal year in order to provide compensation to individuals who qualify for compensation.</p>				
<p>2. A claim may be submitted on behalf of an individual by a person lawfully authorized to act on the individual's behalf. A claim may be submitted by the estate of or personal representative of an individual who died on or after February 1, 2015.</p>				
<p>3. Reimbursement shall be contingent on the individual or their representative providing appropriate documentation and information to certify the claim under guidelines established by the department.</p>				
<p>4. Reimbursement per verified claim shall be \$25,000 and shall be contingent on funding being available, with disbursements being prioritized based on the date at which sufficient documentation is provided.</p>				
<p>5. Should the funding provided in the paragraph be exhausted prior to the end of the fiscal year, the department may use available special fund revenue balances to provide</p>				

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	compensation. The department shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on a quarterly basis on the number of additional individuals who have applied.			
	U. The Department of Behavioral Health and Development Services and the Department of Medical Assistance Services shall not implement the proposed individualized supports budget process for the Medicaid Community Living, Family and Individual Support and Building Independence Waiver programs without the explicit authorization of the General Assembly through legislation or authorizing budget language.			
	V. The Department of Behavioral Health and Developmental Services shall report on the allocation and funding for Programs of Assertive Community Treatment (PACT) in the Commonwealth. The report shall include information on the cost of each team, the cost per individual served and the cost effectiveness of each PACT in diverting individuals from state and local hospitalization and stabilizing individuals in the community. The department shall provide the report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, of each year.			
	W. The Department of Behavioral Health and Developmental Services shall work with the Fairfax-Falls Church Community Services Board, and the provider, to ensure that future openings for the Miller House in Falls Church allow residents of Falls Church, that have been allocated a developmental disability waiver slot, be given first choice in the Miller House, if the group home is appropriate to meet their needs. In addition, the department shall work with the Community Services Board and the City of Falls Church to explore options for establishing a special allocation within the Community Services Board allocation of waiver slots for Falls Church residents who are on the Priority One waiting list and could live in the Miller House when future openings occur in the group home.			
	X. The Department of Behavioral Health and Developmental Services shall lease 25 acres of land at Eastern State Hospital to Hope Family Village Corporation for one dollar for the development of a village of residence and common areas to create a culture of self-care and neighborly support for families and their loved ones impacted by serious mental illness. The department shall work with the Hope Family Village Corporation to identify a 25 acre plot of land that is suitable for the project.			
	Y. The Department of Behavioral Health and Developmental Services shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the previous year. The report shall be made available on the department's website by August 15, of each year.			
	Z.1. A joint subcommittee of the House Appropriations and Senate Finance Committees, in collaboration with the Secretary of Health and Human Resources and the Department of Behavioral Health and Developmental Services, shall continue to monitor and review the status of the closure of Central Virginia Training Center. As part of this review process the joint subcommittee may evaluate options for those individuals in any remaining training centers with the most intensive medical and behavioral needs to determine the appropriate types of facility or residential settings necessary to ensure the care and safety of those residents is appropriately factored into the overall plan to transition to a more community-based system. In addition, the joint subcommittee may review any plans for the redesign of the Intellectual Disability, Developmental Disability and Day Support Waivers.			
	2. To assist the joint subcommittee, the Department of Behavioral Health and Developmental Services shall provide a quarterly accounting of the costs to operate and maintain any remaining training centers at a level of detail as determined by the joint subcommittee. The quarterly reports for the first, second and third quarter shall be due to the joint subcommittee 20 days after the close of the quarter. The fourth quarter report shall be due on August 15 of each year.			
	AA. Notwithstanding the provisions of the Acts of Assembly, Chapter 610, of the 2019 Session or any other provision of law, the Department of General Services is hereby authorized to sell, pursuant to § 2.2-1156, certain real property in Carroll County outside the town of Hillsville on which the former Southwestern Virginia Training Center was situated,			

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subject to the following conditions: (1) the sale price shall be, at a minimum, an amount sufficient to fully cover any debt or other financial obligations currently on the property; (2) the purchaser shall be responsible for all transactional expenses associated with the transfer of the property; and (3) the sale shall be made to a health care company that agrees to use the property for the provision of health care services for a minimum of five years established through a deed restriction.

BB. Included in this item is \$150,000 the first year and \$150,000 the second year from the general fund to support substance abuse treatment utilizing ~~non-narcotic~~ appropriate, long-acting, injectable prescription drug treatment regimens ("treatment") used in conjunction with drug treatment court programs. Such treatment may be utilized in approved drug treatment court programs. In allocating such funding, the department shall consider the rate of fatalities within the locality, whether a drug treatment court program is available and whether such program utilizes medication-assisted treatment. The drug treatment court programs utilizing this funding shall use these resources to support provider fees, counseling and patient monitoring for participants, and medication to participants in which the costs of treatment services would not otherwise be covered. The Department of Behavioral Health and Developmental Services shall submit a report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1 of each year for the preceding fiscal year that provides information on the number of participants, the number of drug courts that utilized the funding and the number of treatments administered. Any adult drug treatment court that accesses this funding shall provide all necessary information to the Department of Behavioral Health and Developmental Services to prepare this report.

CC.1. Out of this appropriation, ~~\$7,500,000~~\$3,750,000 the first year and \$7,500,000 the second year from the general fund is provided for the Department of Behavioral Health and Developmental Services (DBHDS) to pursue alternative inpatient options to state behavioral health hospital care *or to increase capacity in the community for patients on the Extraordinary Barriers List* through the establishment of two-year pilot projects that will reduce census pressures on state hospitals. Proposals shall be evaluated on: (i) the expected impact on state hospital bed use, including the impact on the extraordinary barrier list; (ii) the speed by which the project can become operational; (iii) the start-up and ongoing costs of the project; (iv) the sustainability of the project without the use of ongoing general funds; (v) the alignment between the project target population and the population currently being admitted to state hospitals; and (vi) the applicant's history of success in meeting the needs of the target population. No project shall be allocated more than \$2.5 million each year. Projects may include public-private partnerships, to include contracts with private entities. The department shall give preference to projects that serve individuals who would otherwise be admitted to a state hospital operated by DBHDS, that can be rapidly implemented, and provide the best long-term outcomes for patients. Consideration may be given to regional projects addressing comprehensive psychiatric emergency services, complex medical and neuro-developmental needs of children and adolescents receiving inpatient behavioral health services, and addressing complex medical needs of adults receiving inpatient behavioral health services. Any unexpended balance in this appropriation on June 30, 2021, shall be reappropriated for this purpose in the next fiscal year to fund project costs.

2. The department shall report quarterly on projects awarded with details on each project and its projected impact on the state behavioral health hospital census. The report shall be submitted to the Chairs of House Appropriations and Senate Finance and Appropriations Committees no later than 30 days after each quarter ends.

3. Notwithstanding any other provision of law, the contracts DBHDS enters into pursuant to paragraph AA.1. shall be exempt from competition as otherwise required by the Virginia Public Procurement Act (§§ 2.2-4300 through 2.2-4377, Code of Virginia).

DD. The Department of Behavioral Health and Developmental Services, in collaboration with the Department of General Services, shall establish a workgroup to inventory the department's vacant and surplus properties and buildings and develop a plan for the potential disposition of those properties. The plan shall include various cost options for the demolition of buildings, environmental remediation, options to fund bond defeasance costs, or other costs necessary to prepare the property to be sold or utilized for a different

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purpose. The workgroup shall initially focus on the Central Virginia Training Center in Madison Heights, vacant buildings at the Southwestern Virginia Mental Health Institute in Marion, and the previous Southern Virginia Training Center in Petersburg. The department shall submit the plan by November 15, 2020 to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.				
EE. The Department of Behavioral Health and Developmental Services shall conduct a review of the Commonwealth's Sexually Violent Predator Program to examine programmatic and community options that could reduce the number of individuals that are committed committed to the Virginia Center for Behavioral Health. The department shall report on these options to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020.				
FF. The Department of Behavioral Health and Developmental Services shall develop a plan to convert Crisis Intervention Team Assessment Centers (CITACs) to 24-hour, seven-day operations and moving toward regional CITAC sites. This plan shall include the costs and recommended areas of the Commonwealth for at least three assessment centers in fiscal year 2022. The department shall submit the plan to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020.				
GG. The Department of Behavioral Health and Developmental Services is authorized to collaborate with the Children's Hospital of the King's Daughters (CHKD) to develop a memorandum of understanding (MOU) for dedicating a portion of the future bed capacity of a 60-bed mental health hospital at CHKD for use in providing treatment services to children or adolescents that may otherwise be admitted to the Commonwealth Center for Children and Adolescents (CCCA). The MOU should detail the priority populations that would be best served at CHKD and that assists the Commonwealth in reducing census pressure on CCCA. As part of the MOU the department and CHKD shall develop an estimated financial contribution for the potential benefit of such an arrangement to the Commonwealth. The department shall report on the details of the MOU to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.				
HH. Out of this appropriation, \$940,000 the first year and \$940,000 the second year from the general fund shall be provided to Commonwealth Autism Services to assist in coordination of services for people with developmental disabilities in regards to autism assessments and services in Virginia.				
<i>II. The Department of Behavioral Health and Developmental Services shall continue the Temporary Detention Order Evaluator Workgroup established pursuant to Chapters 918 and 919 of the 2020 Acts of Assembly. The workgroup shall report its implementation plan to the Governor, and Chairs of the House Health, Welfare, and Institutions Committee, the Senate Education and Health Committee, and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by December 1, 2021.</i>				
<i>JJ. The Department of Behavioral Health and Developmental Services shall establish a workgroup to review the current processes and barriers to sharing relevant patient information between community hospitals and Community Services Boards for shared patients subject to an Emergency Custody Order and under evaluation for a Temporary Detention Order. The department shall report its findings and recommendations to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by December 1, 2021.</i>				
<i>KK. The Department of Behavioral Health and Developmental Services shall preserve historic microfiche records at Central State Hospital and work with interested partners to digitize such records to be added to the Central State Hospital Digital Library and Archives Project in order to make such information publicly available to researchers or other interested parties.</i>				
<i>LL. The Department of Behavioral Health and Developmental Services, in collaboration with the Virginia Treatment Center for Children (VTCC), shall examine and develop strategies to better utilize VTCC in assisting with relief for the census pressures on the Commonwealth Center for Children and Adolescents (CCCA). The strategies to be examined shall include, but are not limited to: (i) diversion strategies when CCCA is near capacity; (ii) increasing the</i>				

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number of Temporary Detention Order admissions; and (iii) operating as a step-down facility from CCCA. The department shall report its finding and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees and the the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by November 1, 2021.

MM. The Department of Behavioral Health and Developmental Services, in cooperation with the Department of Medical Assistance Services, the Medicaid managed care organizations, and the Community Services Boards/Behavioral Health Authority, shall report on current efforts to provide early psychosis intervention and coordinated specialty care for children, adolescents and young adults in need of services. The report shall include a summary of current services, funding and programmatic issues to address treatment and care of this population, as well as planned efforts and recommendations to expand and improve care for this population. The report shall be provided to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by November 15, 2021.

NN.1. The Department of Behavioral Health and Developmental Services (DBHDS), in coordination with the Department of Medical Assistance Services (DMAS), shall convene a workgroup with the established DBHDS Provider Issue Resolution Workgroup, VNPP, VaACCSES, VACSB, the Arc of Virginia, Community Services Boards, representatives of waiver recipients, representatives of individuals on the waiting list for a developmental disability (DD) waiver and other appropriate stakeholders to review issues with existing rates and rate methodologies for DD waiver services and make recommendations on needed changes. The department is authorized to use existing resources to contract with a vendor to conduct any additional analysis that may be useful in analyzing specific issues being considered by the workgroup. The workgroup shall specifically evaluate the rates for the Supported Living Residential waiver service to ensure appropriate utilization of that service. Any findings or recommendations shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.

2. The workgroup shall conduct an analysis of current Medicaid Developmental Disability (DD) waiver waitlists and develop plans for reducing the waitlist for individuals to access DD waiver services. The plan, along with projected costs, shall be submitted to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.

321. Central Office Managed Community and Individual Health Services (44400).....			\$50,052,046	\$54,098,468
			\$43,947,196	\$59,363,789
Individual and Developmental Disability Services (44401).....	\$8,955,115	\$5,901,537		
	\$9,005,719	\$6,095,074		
Mental Health Services (44402).....	\$39,246,931	\$46,346,931		
	\$33,091,477	\$52,418,715		
Substance Abuse Services (44403).....	\$1,850,000	\$1,850,000		
		\$850,000		
Fund Sources: General.....	\$47,052,046	\$54,098,468		
	\$40,947,196	\$59,363,789		
Dedicated Special Revenue.....	\$3,000,000	\$0		

Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.

A. Out of this appropriation, \$5,200,000 the first year and \$5,200,000 the second year from the general fund shall be used for Developmental Disability Health Support Networks in regions served, or previously served, by Southside Virginia Training Center, Central Virginia Training Center, Northern Virginia Training Center, and Southwestern Virginia Training Center.

B. Out of this appropriation, ~~\$565,000~~\$705,000 the first year and ~~\$565,000~~\$705,000 the second year from the general fund shall be used to provide community-based services to

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individuals transitioning from state training centers to community settings who are not eligible for Medicaid.				
C.1. Out of this appropriation, \$11,448,000 the first year and \$16,448,000 \$25,222,784 the second year from the general fund shall be used to address census issues at state facilities by providing community-based services for those individuals determined clinically ready for discharge or for the diversion of admissions to state facilities by purchasing acute inpatient or community-based psychiatric services.				
2. Out of this appropriation, \$2,500,000 the first year and \$2,500,000 the second year from the general fund is provided for the development or acquisition of clinically appropriate housing options to provide comprehensive community-based care for individuals in state hospitals who have complex and resource-intensive needs who have been clinically determined able to move from a hospital to a more integrated setting. In addition, \$250,000 the second year from the general fund is provided for a community support team to assist housing providers in addressing the complex needs of residents who have been discharged from state facilities or individuals who are at risk of institutionalization.				
3. The Department of Behavioral Health and Developmental Services shall establish and facilitate a workgroup to review and make recommendations on the allocation and use of discharge assistance funding, including recommendations for creating the services and housing needed for individuals leaving state hospitals. The Department shall submit its recommendation to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2020.				
D. Out of this appropriation, \$4,500,000 the first year and \$4,500,000 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to provide alternative transportation for adults and children under a temporary detention order. The department shall structure the contract to phase in the program over a three-year period such that in year three the contract will result in the provision of services statewide. The department shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on the effectiveness and outcomes of the program funding by October 1 of each year.				
E. Out of this appropriation, \$5,454,388 \$3,342,194 the first year and \$5,454,388 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to contract with the Virginia Mental Health Access Program to develop integrated mental health services for children.				
F. Out of this appropriation, \$1,600,000 the first year and \$1,600,000 \$300,000 the second year from the general fund shall be used to purchase and distribute additional REVIVE! kits and associated doses of naloxone used to treat emergency cases of opioid overdose or suspected opioid overdose.				
G. Out of this appropriation, \$6,300,000 in the first year and \$8,400,000 the second year from the general fund shall be used <i>to address census issues at state facilities by providing community-based services for children and adolescents determined clinically ready for discharge or for the diversion of admissions of children and adolescents to state facilities by purchasing acute inpatient services, step-down services, or community-based services as an alternative to inpatient care.</i> for additional capacity for children's acute inpatient care. The Department of Behavioral Health and Developmental Services shall pursue options for alternative private settings for inpatient care for children who would otherwise be admitted to the Commonwealth Center for Children and Adolescents.				
H. Out of this appropriation, \$3,000,000 the first year from the Behavioral Health and Developmental Services Trust Fund is provided for mobile dentistry, one-time crisis services, and the costs of necessary renovations to Hiram Davis Medical Center.				
I. The Department of Behavioral Health and Developmental Services is authorized to accept unsolicited proposals from private providers to establish a pilot project for the purpose of acquiring clinically appropriate housing options for individuals on the Extraordinary Barriers List or to prevent unnecessary hospitalizations for appropriate individuals to address census issues at state facilities.				
J. Out of this appropriation, \$150,000 the first year and \$150,000 the second year shall be				

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provided for transportation costs from state behavioral health facilities to their homes after being discharged from such facility as a result from an admission under a Temporary Detention Order.

K. The Department of Behavioral Health and Developmental Services shall post its annual federal State Targeted Response Report and State Opioid Response (SOR) Report on its website no later than December 31 of each year. The report will describe the amount of any grants received from the Substance Abuse and Mental Health Services Administration as part of any State Opioid Response grant funding, and shall provide information on how the funds are distributed among programs, the number of individuals served if available, and any available outcome-based data specific to treatment engagement and impact on access.

L. Out of this appropriation, \$89,396 the first year and ~~\$35,818~~ the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to contract with the Jewish Foundation for Group Homes to expand the Transitioning Youth program for individuals with developmental disability who are aging out and exiting the school system in Loudoun County.

M. Out of this appropriation, \$250,000 the first year and ~~\$250,000~~ \$500,000 the second year is provided to make grants to members of the Virginia Association of Recovery Residences for recovery support services. *The association must ensure that members accredited by the Council on Accreditation of Peer Recovery Support Services (CAPRSS) receive a share of these funds.*

N.1. Out of this appropriation, \$3,547,000 the second year from the general fund shall be used to support the diversion and discharge of individuals with a diagnosis of dementia. Priority shall be given to those individuals who would otherwise be served by state facilities.

2. Of the amounts in N.1., \$2,820,000 shall be used to establish contracts to support the diversion and discharge into private settings of individuals with a diagnosis of dementia.

3. Of the amounts in N.1., \$727,000 shall be used for a pilot mobile crisis program targeted for individuals with a diagnosis of dementia.

4. The Secretary of Health and Human Resources shall convene a workgroup including the Department of Behavioral Health and Developmental Services, the Department of Social Services, the Department of Aging and Rehabilitative Services, providers, and other stakeholders, to identify existing services and make recommendations for the development, evaluation, implementation, and scaling-up of evidence-based and evidence-informed services for persons living with dementia in order to improve quality and availability of care and reduce preventable hospitalizations. The workgroup shall also include as part of its analysis, an evaluation of the Northern Virginia Regional Older Adult Facilities Mental Health Support Team (RAFT) and determine the feasibility of replicating the RAFT model elsewhere in the Commonwealth to support persons living with dementia with disruptive behaviors or severe and persistent behavioral health conditions. The workgroup shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance and Appropriations Committees, and the Joint Commission on Health Care by November 1, 2021.

O. Out of this appropriation, \$50,000 from the general fund the first year is provided to the Appalachian Center for Hope for administrative planning and start up funding for its addiction recovery, reentry and residential drug treatment program and to cover transition costs.

P. Out of this appropriation, \$8,774,784 from the general fund the second year is provided from a transfer from Item 322 for Community Services Boards and a Behavioral Health Authority to divert admissions from state hospitals by purchasing acute inpatient or community-based psychiatric services at private facilities. This funding shall continue to be allocated to Community Services Boards and a Behavioral Health Authority for such purpose in an efficient and effective manner so as not to disrupt local service contracts and to allow for expeditious reallocation of unspent funding between Community Services Boards and a Behavioral Health Authority.

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321.10 Omitted.				
Total for Department of Behavioral Health and Developmental Services.....			\$178,663,540	\$170,191,225
			\$171,782,630	\$181,185,667
General Fund Positions.....	475.50	475.50		
		482.50		
Nongeneral Fund Positions.....	31.75	31.75		
Position Level.....	507.25	507.25		
		514.25		
Fund Sources: General.....	\$116,602,194	\$124,770,808		
	\$109,721,284	\$135,030,522		
Special.....	\$21,152,603	\$15,711,674		
		\$15,849,121		
Dedicated Special Revenue.....	\$11,200,000	\$0		
Federal Trust.....	\$29,708,743	\$29,708,743		
		\$30,306,024		

Grants to Localities (790)

322. Financial Assistance for Health Services (44500).....			\$540,317,960	\$565,590,641
			\$513,713,787	\$556,815,857
Community Substance Abuse Services (44501).....	\$122,527,688	\$122,527,688		
Community Mental Health Services (44506).....	\$318,733,256	\$341,381,297		
	\$292,129,083	\$332,606,513		
Community Developmental Disability Services (44507).....	\$99,057,016	\$101,681,656		
Fund Sources: General.....	\$446,517,960	\$475,590,641		
	\$419,913,787	\$466,815,857		
Dedicated Special Revenue.....	\$3,800,000	\$0		
Federal Trust.....	\$90,000,000	\$90,000,000		

Authority: Title 37.2, Chapters 5 and 6; Title 2.2, Chapter 53, Code of Virginia.

A. It is the intent of the General Assembly that community mental health, intellectual disability and substance abuse services are to be improved throughout the state. Funds provided in this Item shall not be used to supplant the funding effort provided by localities for services existing as of June 30, 1996.

B. Further, it is the intent of the General Assembly that funds appropriated for this Item may be used by Community Services Boards to purchase, develop, lease, or otherwise obtain, in accordance with §§ 37.2-504 and 37.2-605, Code of Virginia, real property necessary to the provision of residential services funded by this Item.

C. Out of the appropriation for this Item, funds are provided to Community Services Boards in an amount sufficient to reimburse the Virginia Housing Development Authority for principal and interest payments on residential projects for the mentally disabled financed by the Housing Authority.

D. The Department of Behavioral Health and Developmental Services shall make payments to the Community Services Boards from this Item in twenty-four equal semimonthly installments, except for necessary budget revisions or the operational phase-in of new programs.

E. Failure of a board to participate in Medicaid covered services and to meet all requirements for provider participation shall result in the termination of a like amount of state grant support.

F. Community Services Boards may establish a line of credit loan for up to three months' operating expenses to assure adequate cash flow.

G. Out of this appropriation \$190,000 the first year and \$190,000 the second year from the general fund shall be provided to Virginia Commonwealth University for the continued

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operation and expansion of the Virginia Autism Resource Center.				
H.1. Out of this appropriation, \$22,306,813 the first year and \$23,656,453 the second year from the general fund shall be provided for Virginia's Part C Early Intervention System for infants and toddlers with disabilities.				
2. By November 15 of each year, the department shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the (a) total revenues used to support Part C services, (b) total expenses for all Part C services, (c) total number of infants, toddlers and families served using all Part C revenues, and (d) services provided to those infants, toddlers, and families.				
I. Out of this appropriation \$6,148,128 the first year and \$6,148,128 the second year from the general fund shall be provided for mental health services for children and adolescents with serious emotional disturbances and related disorders, with priority placed on those children who, absent services, are at-risk for custody relinquishment, as determined by the Family and Assessment Planning Team of the locality. The Department of Behavioral Health and Developmental Services shall provide these funds to Community Services Boards through the annual Performance Contract. These funds shall be used exclusively for children and adolescents, not mandated for services under the Comprehensive Services Act for At-Risk Youth, who are identified and assessed through the Family and Assessment Planning Teams and approved by the Community Policy and Management Teams of the localities. The department shall provide these funds to the Community Services Boards based on an individualized plan of care methodology.				
J. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$1,000,000 the first year and \$1,000,000 the second year from the federal Community Mental Health Services Block Grant for two specialized geriatric mental health services programs. One program shall be located in Health Planning Region II and one shall be located in Health Planning Region V. The programs shall serve elderly populations with mental illness who are transitioning from state mental health geriatric units to the community or who are at risk of admission to state mental health geriatric units. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block Grant funds awarded to the Commonwealth.				
K. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$750,000 the first year and \$750,000 the second year from the federal Community Mental Health Services Block Grant for consumer-directed programs offering specialized mental health services that promote wellness, recovery and improved self-management. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block Grant funds awarded to the Commonwealth.				
L. Out of this appropriation, \$2,197,050 the first year and \$2,197,050 the second year from the general fund shall be used for jail diversion and reentry services. Funds shall be distributed to community-based contractors based on need and community preparedness as determined by the commissioner.				
M. Out of this appropriation, \$2,400,000 the first year and \$2,400,000 the second year from the general fund shall be used for treatment and support services for substance use disorders, including individuals with acquired brain injury and co-occurring substance use disorders. Funded services shall focus on recovery models and the use of best practices.				
N. Out of this appropriation, \$2,780,645 the first year and \$2,780,645 the second year from the general fund shall be used to provide outpatient clinician services to children with mental health needs. Each Community Services Board shall receive funding as determined by the commissioner to increase the availability of specialized mental health services for children. The department shall require that each Community Services Board receiving these funds agree to cooperate with Court Service Units in their catchment areas to provide services to mandated and nonmandated children, in their communities, who have been brought before Juvenile and Domestic Relations Courts and for whom treatment services are needed to reduce the risk these children pose to themselves and their communities or who have been referred for services through family assessment and				

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planning teams through the Comprehensive Services Act for At-Risk Youth and Families.

O. Out of this appropriation, \$17,701,997 the first year and \$17,701,997 the second year from the general fund shall be used to provide emergency services, crisis stabilization services, case management, and inpatient and outpatient mental health services for individuals who are in need of emergency mental health services or who meet the criteria for mental health treatment set forth pursuant to §§ 19.2-169.6, 19.2-176, 19.2-177.1, 37.2-808, 37.2-809, 37.2-813, 37.2-815, 37.2-816, 37.2-817 and 53.1-40.2 of the Code of Virginia. Funding provided in this item also shall be used to offset the fiscal impact of (i) establishing and providing mandatory outpatient treatment, pursuant to House Bill 499 and Senate Bill 246, 2008 Session of General Assembly; and (ii) attendance at involuntary commitment hearings by community services board staff who have completed the prescreening report, pursuant to §§ 19.2-169.6, 19.2-176, 19.2-177.1, 37.2-808, 37.2-809, 37.2-813, 37.2-815, 37.2-816, 37.2-817 and 53.1-40.2 of the Code of Virginia.

P. Out of this appropriation, \$10,475,000 the first year and \$10,475,000 the second year from the general fund shall be used to provide community crisis intervention services in each region for individuals with intellectual or developmental disabilities and co-occurring mental health or behavioral disorders.

Q. Out of this appropriation, \$1,900,000 the first year and \$1,900,000 the second year from the general fund shall be used for community-based services in Health Planning Region V. These funds shall be used for services intended to delay or deter placement, or provide discharge assistance for patients in a state mental health facility.

R. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund shall be used for crisis stabilization and related services statewide intended to delay or deter placement in a state mental health facility.

S. Out of this appropriation, \$8,400,000 the first year and \$8,400,000 the second year from the general fund shall be used to provide child psychiatry and children's crisis response services for children with mental health and behavioral disorders. These funds, divided among the health planning regions based on the current availability of the services, shall be used to hire or contract with child psychiatrists who can provide direct clinical services, including crisis response services, as well as training and consultation with other children's health care providers in the health planning region such as general practitioners, pediatricians, nurse practitioners, and community service boards staff, to increase their expertise in the prevention, diagnosis, and treatment of children with mental health disorders. Funds may also be used to create new or enhance existing community-based crisis response services in a health planning region, including mobile crisis teams and crisis stabilization services, with the goal of diverting children from inpatient psychiatric hospitalization to less restrictive services in or near their communities. The Department of Behavioral Health and Developmental Services shall include details on the use of these funds in its annual report on the System Transformation, Excellence and Performance in Virginia (STEP-VA) process.

T.1. Out of this appropriation, \$10,500,000 the first year and \$10,500,000 the second year from the general fund shall be used for up to 32 drop-off centers to provide an alternative to incarceration for people with serious mental illness and individuals with acquired brain injury and co-occurring serious mental health illness. Priority for new funding shall be given to programs that have implemented Crisis Intervention Teams pursuant to § 9.1-102 and § 9.1-187 et seq. of the Code of Virginia and have undergone planning to implement drop-off centers.

2. Out of this appropriation, \$1,800,000 the first year and \$1,800,000 the second year from the general fund is provided for Crisis Intervention assessment centers in six unserved rural communities.

3. Out of this appropriation, \$657,648 the first year and \$657,648 the second year from the general fund is provided *to support CIT initiatives, including basic and advanced CIT training and law enforcement diversion, through one-time awards for advanced concepts in CIT Assessment Site programs. The department shall prioritize programs serving rural communities when determining the distribution of these funds.*~~for CHF training programs in six rural communities.~~

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U. Out of this appropriation, \$2,750,000 the first year and \$2,750,000 the second year from the general fund shall be for crisis services for children with intellectual or developmental disabilities.

V. Out of this appropriation, \$35,500,441 the first year and \$35,500,411 the second year from the general fund shall be used to provide community-based services or acute inpatient services in a private facility to individuals residing in state hospitals who have been determined clinically ready for discharge, and for continued services for those individuals currently being served under a discharge assistance plan. Of this appropriation, \$1,305,000 the first year and \$1,305,000 the second year shall be allocated for individuals currently or previously residing at Western State Hospital.

W. Out of this appropriation, \$620,000 the first year and \$620,000 the second year from the general fund shall be used for telepsychiatry and telemedicine services.

X. Out of this appropriation, \$4,000,000 the first year and \$4,000,000 the second year from the general fund shall be used for community-based mental health outpatient services for youth and young adults.

Y. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to increase mental health inpatient treatment purchased in community hospitals. Priority shall be given to regions that exhaust available resources before the end of the year in order to ensure treatment is provided in the community and do not result in more restrictive placements.

Z.1. Out of this appropriation, ~~\$25,583,710~~ \$20,083,710 the first year and \$34,038,710 the second year from the general fund is provided for programs for permanent supportive housing for individuals with serious mental illness.

2. The Department of Behavioral Health and Developmental Services shall report on the number of individuals who are discharged from state behavioral health hospitals who receive supportive housing services, the number of individuals who are on the hospitals' extraordinary barrier list who could receive supportive housing services, and the number of individuals in the community who receive supportive housing services and whether they are at risk of institutionalization. In addition, the department shall report on the average length of stay in permanent supportive housing for individuals receiving such services and report how the funding is reinvested when individuals discontinue receiving such services. The report shall be provided to the Chairmen of the House Appropriations and Senate Finance Committee by November 1 of each year.

AA. Out of this appropriation, \$400,000 the first year and \$400,000 the second year is provided for rental subsidies and associated costs for individuals served through the Rental Choice VA program.

BB. Out of this appropriation, \$7,897,833 the first year from the general fund and \$3,800,000 the first year from the Behavioral Health and Developmental Services Trust Fund and \$13,062,833 the second year from the general fund shall be used for a program of rental subsidies for individuals with intellectual and developmental disabilities.

~~CC. Out of this appropriation, \$5,000,000 the first year and \$5,000,000 the second year from the general fund is provided to increase access to medication assisted treatment for individuals with substance use disorders who are addicted to opioids. In expending this amount, the department shall ensure that preferred drug classes shall include non-narcotic, non-addictive, injectable prescription drug treatment regimens. The department shall ensure that a portion of the funding is used for non-narcotic, non-addictive, prescription drug treatment regimens for individuals who are: (i) on probation; (ii) in an institution, prison, or jail; or (iii) not able for clinical or other reasons to participate in buprenorphine or methadone based drug treatment regimens.~~

CC. Out of this appropriation, \$5,000,000 the first year and \$5,000,000 the second year from the general fund is provided to increase access to medication assisted treatment for individuals with substance use disorders who are addicted to opioids. In expending this amount, the department shall ensure that a portion of the funding received by the Community Services Board or Behavioral Health Authority is used for appropriate long-acting, injectable prescription drug treatment regimens for individuals who are in need of

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	<i>medication assisted treatment while (i) on probation, (ii) incarcerated, or (iii) upon their release to the community. The department shall ensure that a portion of the funding received by the Community Service Board or Behavioral Health Authority is used for non-narcotic, non-addictive prescription drug treatment regimens for individuals who are not able for clinical or other reasons to participate in buprenorphine or methadone based drug treatment regimens. In expending the funding, Community Services Boards or a Behavioral Health Authority shall also prioritize the use of such funds for individuals who are not covered by insurance.</i>			
	DD. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the general fund is provided for community detoxification and sobriety services for individuals in crisis.			
	EE. Out of this appropriation, \$880,000 the first year and \$880,000 the second year from the general fund is provided for one regional, multi-disciplinary team for older adults. This team shall provide clinical, medical, nursing, and behavioral expertise and psychiatric services to nursing facilities and assisted living facilities.			
	FF. Out of this appropriation, \$1,652,400 the first year and \$1,652,400 the second year from the general fund shall be used to provide permanent supportive housing to pregnant or parenting women with substance use disorders.			
	GG. Out of this appropriation, \$11,025,231 the first year and \$11,025,231 \$2,250,447 the second year from the general fund shall be used to divert admissions from state hospitals by purchasing acute inpatient or community-based psychiatric services at private facilities.			
	HH. Out of this appropriation, \$3,000,000 \$1,600,000 the first year and \$3,700,800 the second year from the general fund is provided for discharge planning at jails for individuals with serious mental illness. Funding shall be used to create staff positions in Community Services Boards and will be implemented at up to five jails with a high percentage of inmates with serious mental illness.			
	II. Out of this appropriation, \$708,663 the first year and \$708,663 the second year from the general fund is provided to establish an Intercept 2 diversion program in up to three rural communities. The funding shall be used for staffing and to provide access to treatment services.			
	JJ. Out of this appropriation, \$1,100,000 the first year and \$1,100,000 the second year from the general fund is provided to establish the Appalachian Telemental Health Initiative, a telemental health pilot program. Any funds that remain unspent at the end of each fiscal year shall be carried forward to the subsequent fiscal year.			
	KK. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to contract with Best Buddies Virginia to expand inclusion services for people with intellectual and developmental disabilities to the Richmond and Virginia Beach areas of the state.			
	LL. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is provided to the Fairfax-Falls Church Community Services Board to fully fund its Program of Assertive Community Treatment (PACT) Team.			
	MM.1. Out of this appropriation, \$62,739,824 \$43,035,651 the first year and \$68,490,045 \$73,222,045 the second year from the general fund is provided for services by Community Services Boards and Behavioral Health Authorities pursuant to the System Transformation, Excellence and Performance in Virginia (STEP-VA) process and Chapters 607 and 683, 2017 Acts of Assembly.			
	2. Of the amounts in MM.1., \$10,795,651 the first year and \$10,795,651 the second year from the general fund is provided for same day access to mental health screening services.			
	3. Of the amounts in MM.1., \$7,440,000 the first year and \$7,440,000 the second year from the general fund is provided for primary care outpatient screening services.			
	4. Of the amounts in MM.1., \$24,424,032 \$15,000,000 the first year and \$21,924,980 the			

ITEM 322.	Item Details(\$)		Appropriations(\$)	
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second year from the general fund is provided for outpatient mental health and substance use services.

5. Out of the amounts in MM.1., \$2,000,000 the first year and \$2,000,000 the second year from the general fund is provided for crisis detoxification services.

6. Out of the amounts in MM.1., \$7,800,000 the first year and \$13,954,924 the second year from the general fund is provided for crisis services for individuals with mental health or substance use disorders.

7. Out of the amounts in MM.1., ~~\$4,263,141 the first year~~ and \$3,840,490 the second year from the general fund is provided for military and veterans services.

8. Out of the amounts in MM.1., ~~\$2,817,000 the first year~~ and \$5,334,000 the second year from the general fund is provided for peer support and family services.

9. Out of the amounts in MM.1., ~~\$3,200,000 the first year~~ and \$3,200,000 the second year from the general fund is provided for the ancillary costs of expanding services at Community Services Boards and Behavioral Health Authorities.

10. *Out of the amounts in MM.1., \$4,732,000 the second year from the general fund is provided for the costs of crisis call center dispatch staff.*

~~11.~~ Notwithstanding the provisions of Chapters 607 and 683, 2017 Acts of Assembly, effective July 1, 2021, the core of services provided by Community Services Boards and Behavioral Health Authorities within cities and counties that they serve shall include, in addition to those set forth in subdivisions B 1, 2, and 3 of § 37.2-500 of the Code of Virginia and subdivisions C 1, 2, and 3 of § 37.2-601 of the Code of Virginia, (i) outpatient mental health and substance abuse services, (ii) peer support and family support services, and (iii) mental health services for members of the armed forces located 50 miles or more from a military treatment facility and veterans located 40 miles or more from a Veterans Health Administration medical facility. In addition, Community Services Boards and Behavioral Health Authorities shall continue to expand the availability of crisis services for individuals with mental health or substance use disorders, as funded in MM.6. of this Item and Items 313 and 320 of this Act. Psychiatric rehabilitation, care coordination, and case management services shall not be required services but may be provided subject to available funding.

~~NN. Notwithstanding the provisions of Chapters 607 and 683, 2017 Acts of Assembly, no Community Services Board or Behavioral Health Authority shall be required to provide any service pursuant to the System Transformation, Excellence and Performance in Virginia (STEP-VA) process, beyond those services funded in Chapter 854, 2019 Acts of Assembly. Any new service requirements shall be subject to appropriation and allotment of funds for that purpose.~~

OO. Out of this appropriation, \$3,000,000 the second year from the general fund shall be provided to establish one mental health awareness response and community understanding services alert system programs and community care teams in each of the Department of Behavioral Health and Developmental Services' regions pursuant to legislation adopted in the 2020 Special Session I of the General Assembly. Each region shall receive \$600,000 for this purpose.

PP. *The Department of Behavioral Health and Developmental Services is authorized to collaborate with the Chesapeake Regional Healthcare to develop a memorandum of understanding (MOU) for dedicating a portion of the future bed capacity of a 20-bed psychiatric unit at the hospital for use in providing treatment services to individuals that may otherwise be admitted to a state behavioral health hospital. The MOU should detail the priority populations that would be best served at Chesapeake Regional Healthcare and that assists the Commonwealth in reducing census pressure on state behavioral health hospitals. As part of the MOU the department and Chesapeake Regional Healthcare shall develop an estimated financial contribution for the potential benefit of such an arrangement to the Commonwealth. The department shall report on the details of the MOU to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.*

ITEM 322.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
322.10 Omitted.				
Total for Grants to Localities.....			\$540,317,960 \$513,713,787	\$565,590,641 \$556,815,857
Fund Sources: General.....	\$446,517,960 \$419,913,787	\$475,590,641 \$466,815,857		
Dedicated Special Revenue.....	\$3,800,000	\$0		
Federal Trust.....	\$90,000,000	\$90,000,000		

Mental Health Treatment Centers (792)

323.	Instruction (19700).....			\$176,397	\$176,397
	Facility-Based Education and Skills Training (19708).....	\$176,397	\$176,397		
	Fund Sources: General.....	\$34,569	\$34,569		
	Special.....	\$5,328	\$5,328		
	Federal Trust.....	\$136,500	\$136,500		
	Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-73 and P.L. 102-119, Federal Code.				
324.	Secure Confinement (35700).....			\$23,558,686	\$23,558,686
	Forensic and Behavioral Rehabilitation Security (35707).....	\$23,558,686	\$23,558,686		
	Fund Sources: General.....	\$23,114,229	\$23,114,229		
	Special.....	\$444,457	\$444,457		
	Authority: Title 37.2, Chapter 9, Code of Virginia.				
325.	Pharmacy Services (42100).....			\$19,792,383 \$21,474,408	\$19,792,383 \$21,474,408
	Inpatient Pharmacy Services (42102).....	\$19,792,383 \$21,474,408	\$19,792,383 \$21,474,408		
	Fund Sources: General.....	\$7,361,293 \$9,043,318	\$7,361,293 \$9,043,318		
	Special.....	\$12,431,090	\$12,431,090		
	Authority: Title 37.2, Chapter 8, Code of Virginia.				
326.	State Health Services (43000).....			\$288,917,250 \$285,852,185	\$286,346,184 \$283,280,002
	Geriatric Care Services (43006).....	\$50,166,890	\$50,166,890		
	Inpatient Medical Services (43007).....	\$18,344,732	\$18,344,732		
	State Mental Health Facility Services (43014).....	\$220,405,628 \$217,340,563	\$217,834,562 \$214,768,380		
	Fund Sources: General.....	\$257,963,011 \$254,897,946	\$260,391,945 \$257,325,763		
	Special.....	\$30,954,239	\$25,954,239		

Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.

A. Out of this appropriation, \$700,000 the first year and \$700,000 the second year from the general fund shall be used to continue operating up to 13 beds at Northern Virginia Mental Health Institute (NVMHI) that had been scheduled for closure in fiscal year 2013. The Commissioner of the Department of Behavioral Health and Developmental Services shall ensure continued operation of at least 123 beds.

B. The Department of Behavioral Health and Developmental Services shall report by November 1 of each year to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance *and Appropriations* Committees on the number of individuals served through discharge assistance plans and the types of services provided.

ITEM 326.	Item Details(\$)		Appropriations(\$)	
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<p>C. Out of this appropriation, \$850,000 the first year and \$850,000 the second year from the general fund shall be used to provide transition services in alternate settings for children and adolescents who can be diverted or discharged from state facilities.</p> <p>D. Out of this appropriation, \$5,000,000 the first year from special funds is provided for the temporary operation of beds at Catawba Hospital until such time as the additional beds are no longer needed.</p> <p><i>E. Out of this appropriation, \$2,142,601 the first year and \$4,282,202 the second year from nongeneral funds is provided for the surveillance and testing costs of residents and staff in order to avoid and manage COVID-19 outbreaks at state facilities. The department shall coordinate with the Virginia Department of Health (VDH) and local health districts as appropriate to coordinate its testing and surveillance activities in order to access federal ELC Enhancing Detection Expansion grant funding provided to VDH through the Centers for Disease Control. The Department of Behavioral Health and Developmental Services shall report quarterly to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance and Appropriations Committees on the expense of these funds, including the number of tests administered.</i></p>				
327.	Facility Administrative and Support Services (49800).....		\$115,182,569 \$115,728,691	\$115,182,569 \$115,558,717
	General Management and Direction (49801).....	\$51,411,557		\$51,411,557
	Information Technology Services (49802).....	\$9,965,641 \$10,511,763	\$9,965,641 \$10,341,789	
	Food and Dietary Services (49807).....	\$14,355,702		\$14,355,702
	Housekeeping Services (49808).....	\$8,777,438		\$8,777,438
	Linen and Laundry Services (49809).....	\$1,701,815		\$1,701,815
	Physical Plant Services (49815).....	\$21,940,717		\$21,940,717
	Power Plant Operation (49817).....	\$4,236,837		\$4,236,837
	Training and Education Services (49825).....	\$2,792,862		\$2,792,862
	Fund Sources: General.....	\$100,025,215 \$100,571,337	\$100,025,215 \$100,401,363	
	Special.....	\$15,093,854		\$15,093,854
	Federal Trust.....	\$63,500		\$63,500
	Authority: § 37.2-304, Code of Virginia.			
<p>A. Out of this appropriation, \$759,000 the first year and \$759,000 the second year from the general fund shall be used to ensure proper billing and maximum reimbursement for prescription drugs purchased by mental health treatment centers through the Medicare Part D drug program.</p> <p>B. Notwithstanding § 37.2-319 of the Code of Virginia, the Commissioner shall prepare a plan to address the capital and programmatic needs of other state mental health facilities and state mental retardation training centers when considering expenditures from the trust fund. No less than 30 days prior to the expenditure of funds, the Commissioner shall present an expenditure plan to the Chairmen of the Senate Finance and House Appropriations Committees for their review and consideration.</p>				
328.	The Commissioner, Department of Behavioral Health and Developmental Services, shall report by August 1 of each year to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated behavioral health facility. The report shall be made available on the agency's public website.			
328.10	Omitted.			
	Total for Mental Health Treatment Centers.....		\$447,627,285 \$446,790,367	\$445,056,219 \$444,048,210
	General Fund Positions.....	4,260.00		4,260.00
	Nongeneral Fund Positions.....	613.00		613.00

ITEM 328.10.	Item Details(\$)		Appropriations(\$)	
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Position Level.....	4,873.00	4,873.00		
Fund Sources: General.....	\$388,498,317	\$390,927,251		
	\$387,661,399	\$389,919,242		
Special.....	\$58,928,968	\$53,928,968		
Federal Trust.....	\$200,000	\$200,000		

Intellectual Disabilities Training Centers (793)

329.	Instruction (19700).....			\$3,654,086	\$3,654,086
				\$3,514,086	\$3,514,086
	Facility-Based Education and Skills Training (19708).....	\$3,654,086	\$3,654,086		
		\$3,514,086	\$3,514,086		
	Fund Sources: General.....	\$3,454,086	\$3,454,086		
		\$3,314,086	\$3,314,086		
	Federal Trust.....	\$200,000	\$200,000		

Authority: Title 37.2, Chapter 3, Code of Virginia.

330.	Pharmacy Services (42100).....			\$2,878,724	\$2,715,600
	Inpatient Pharmacy Services (42102).....	\$2,878,724	\$2,715,600		
	Fund Sources: General.....	\$141,443	\$141,443		
	Special.....	\$2,737,281	\$2,574,157		

Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-119, Federal Code.

331.	State Health Services (43000).....			\$43,551,303	\$34,269,930
	Inpatient Medical Services (43007).....	\$15,095,261	\$14,095,261		
	State Intellectual Disabilities Training Center Services (43010).....	\$28,456,042	\$20,174,669		
	Fund Sources: General.....	\$11,658,771	\$4,658,771		
	Special.....	\$31,892,532	\$29,611,159		

Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.

The Commissioner of Behavioral Health and Developmental Services shall comply with all relevant state and federal laws and Supreme Court decisions that govern the discharge of residents from state intellectual disability training centers and the granting of intellectual disability waiver slots.

332.	Facility Administrative and Support Services (49800).....			\$25,365,604	\$17,815,743
	General Management and Direction (49801).....	\$5,713,781	\$4,713,781		
	Information Technology Services (49802).....	\$1,655,470	\$1,655,470		
	Food and Dietary Services (49807).....	\$5,747,519	\$2,962,028		
	Housekeeping Services (49808).....	\$4,348,054	\$2,539,680		
	Linen and Laundry Services (49809).....	\$1,046,376	\$746,376		
	Physical Plant Services (49815).....	\$3,860,534	\$3,640,286		
	Power Plant Operation (49817).....	\$2,195,227	\$832,104		
	Training and Education Services (49825).....	\$798,643	\$726,018		
	Fund Sources: General.....	\$3,374,686	\$3,374,686		
	Special.....	\$21,990,918	\$14,441,057		

Authority: Title 37.1, Chapters 1 and 2, Code of Virginia; P.L. 74-320, Federal Code.

333. The Commissioner, Department of Behavioral Health and Developmental Services, shall report by August 1 of each year to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated training center. The report shall be made available on the agency's public website.

ITEM 333.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Intellectual Disabilities Training Centers..			\$75,449,717	\$58,455,359
			\$75,309,717	\$58,315,359
General Fund Positions.....	106.00	106.00		
Nongeneral Fund Positions.....	603.00	603.00		
Position Level.....	709.00	709.00		
Fund Sources: General.....	\$18,628,986	\$11,628,986		
	\$18,488,986	\$11,488,986		
Special.....	\$56,620,731	\$46,626,373		
Federal Trust.....	\$200,000	\$200,000		

Virginia Center for Behavioral Rehabilitation (794)

334.	Instruction (19700).....			\$227,847	\$227,847
	Facility-Based Education and Skills Training (19708).....	\$227,847	\$227,847		
	Fund Sources: General.....	\$227,847	\$227,847		
335.	Secure Confinement (35700).....			\$19,995,910	\$24,853,657
				\$19,459,907	\$19,459,907
	Forensic and Behavioral Rehabilitation Security (35707).....	\$19,995,910	\$24,853,657		
		\$19,459,907	\$19,459,907		
	Fund Sources: General.....	\$19,995,910	\$24,853,657		
		\$19,459,907	\$19,459,907		
	Authority: Title 37.2, Chapter 9, Code of Virginia.				
336.	Pharmacy Services (42100).....			\$999,013	\$999,013
	Inpatient Pharmacy Services (42102).....	\$999,013	\$999,013		
	Fund Sources: General.....	\$999,013	\$999,013		
337.	State Health Services (43000).....			\$13,777,650	\$13,777,650
	State Mental Health Facility Services (43014).....	\$13,777,650	\$13,777,650		
	Fund Sources: General.....	\$13,777,650	\$13,777,650		
	Authority: Title 37.2, Chapters 1 and 9, Code of Virginia.				
338.	Facility Administrative and Support Services (49800).....			\$16,782,265	\$16,782,265
	General Management and Direction (49801).....	\$4,125,696	\$4,125,696		
	Information Technology Services (49802).....	\$604,061	\$604,061		
	Food and Dietary Services (49807).....	\$3,079,145	\$3,079,145		
	Housekeeping Services (49808).....	\$428,210	\$428,210		
	Physical Plant Services (49815).....	\$8,446,716	\$8,446,716		
	Training and Education Services (49825).....	\$98,437	\$98,437		
	Fund Sources: General.....	\$16,782,265	\$16,782,265		

Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.

A. In the event that services are not available in Virginia to address the specific needs of an individual committed for treatment at the VCBR or conditionally released, or additional capacity cannot be met at the VCBR, the Commissioner is authorized to seek such services from another state.

B. Out of this appropriation, \$540,000 the first year and \$540,000 the second year from the general fund is provided for the treatment costs of residents diagnosed with hepatitis. The facility shall make efforts to use certified federal 340B providers for the dispensing of any associated pharmaceuticals.

C. Within 15 days of any appropriation transfer to the Virginia Center for Behavioral

ITEM 338.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Rehabilitation from any other sub-agency within the Department of Behavioral Health and Developmental Services, the Department of Planning and Budget shall notify the Chairmen of the House Appropriations and Senate Finance Committees. The notice shall include the amount, fund source and reason for the transfer with an explanation of why the funding being transferred has no impact on the sub-agency from which it is transferred.				
338.10	Omitted.			
	Total for Virginia Center for Behavioral Rehabilitation.....		\$51,782,685	\$56,640,432
			\$51,246,682	\$51,246,682
	General Fund Positions.....	793.50	886.50	
	Position Level.....	793.50	886.50	
	Fund Sources: General.....	\$51,782,685	\$56,640,432	
		\$51,246,682	\$51,246,682	
	Grand Total for Department of Behavioral Health and Developmental Services.....		\$1,293,841,187	\$1,295,933,876
			\$1,258,843,183	\$1,291,611,775
	General Fund Positions.....	5,635.00	5,728.00	
			5,735.00	
	Nongeneral Fund Positions.....	1,247.75	1,247.75	
	Position Level.....	6,882.75	6,975.75	
			6,982.75	
	Fund Sources: General.....	\$1,022,030,142	\$1,059,558,118	
		\$987,032,138	\$1,054,501,289	
	Special.....	\$136,702,302	\$116,267,015	
			\$116,404,462	
	Dedicated Special Revenue.....	\$15,000,000	\$0	
	Federal Trust.....	\$120,108,743	\$120,108,743	
			\$120,706,024	

§ 1-102. DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES (262)

339.	Rehabilitation Assistance Services (45400).....		\$101,912,565	\$101,912,565
			\$100,388,245	\$102,013,245
	Vocational Rehabilitation Services (45404).....	\$83,291,466	\$83,291,466	
	Community Rehabilitation Programs (45406).....	\$18,621,099	\$18,621,099	
		\$17,096,779	\$18,721,779	
	Fund Sources: General.....	\$34,680,700	\$34,680,700	
		\$33,156,380	\$34,781,380	
	Special.....	\$500,709	\$500,709	
	Dedicated Special Revenue.....	\$1,624,937	\$1,624,937	
	Federal Trust.....	\$65,106,219	\$65,106,219	

Authority: Title 51.5, Chapter 14 , Code of Virginia; P.L. 93-112, Federal Code.

A.1. Out of this appropriation, \$9,505,278 the first year and ~~\$9,505,278~~ \$10,274,140 the second year from the general fund shall be used as state matching dollars for the federal Vocational Rehabilitation State Grant provided under the Rehabilitation Act of 1973, as amended, hereafter referred to as the federal vocational rehabilitation grant. The Department for Aging and Rehabilitative Services (DARS) shall not transfer or expend these dollars for any purpose other than to support activities related to vocational rehabilitation.

2. The annual federal vocational rehabilitation grant award that will be received by DARS is estimated at ~~\$62,709,709~~ \$65,385,890 for federal fiscal year 2020; ~~\$62,709,709~~ \$65,385,890 for federal fiscal year 2021; and ~~\$62,709,709~~ \$65,385,890 for federal fiscal year 2022. In addition to the base annual award amount, DARS is expected to request up to ~~\$4,979,946~~ \$5,144,582 of additional federal reallocation dollars in each of these years. Assuming these amounts, the annual 21.3 percent state matching requirement would equate to \$18,320,072 for federal fiscal year 2020; ~~\$18,320,072~~ \$19,088,934 for federal fiscal year 2021; and

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	\$18,320,072	\$19,088,934		for federal fiscal year 2022.
<p>3. Based on the projection of federal award funding in paragraph A.2., DARS shall not request federal vocational rehabilitation grant dollars in excess of \$67,689,655 for federal fiscal year 2020; \$67,689,655 \$70,530,474 for federal fiscal year 2021; and \$67,689,655 \$70,530,474 for federal fiscal year 2022, without prior written concurrence from the Director, Department of Planning and Budget. Any approved increases in grant award requests shall be reported by DARS to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days. Any federal reallocation dollars received by the agency shall not be used for any purpose that creates an on-going fiscal obligation to the Commonwealth.</p>				
<p>4. By October 1 of each year, the department shall submit an annual report that details all vocational rehabilitation program revenues and spending from the prior fiscal year. The report shall also provide spending projections for the current and upcoming fiscal years. This report shall be provided to the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees.</p>				
<p>B. Out of this appropriation, \$1,280,512 the first year and \$1,280,512 the second year from the general fund shall be used to provide vocational rehabilitation services for persons recovering from mental health issues, alcohol and other substance abuse issues pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services.</p>				
<p>C. The Department for Aging and Rehabilitative Services shall use non-federal appropriation in this item to fulfill any necessary match requirement for the federal Supported Employment grant.</p>				
<p>D. Out of this appropriation, \$2,658,198 the first year and \$2,658,198 the second year from the general fund is provided for the Extended Employment Services (EES) program. The funding allocated to employment services organizations shall be allocated consistent with the recommendations of the Employment Service Organizations Steering Committee. The appropriation for EES shall be used for the program and shall not be used for any other purpose.</p>				
<p>E. Out of this appropriation, \$6,294,568 the first year and \$6,294,568 the second year from the general fund is provided for the Long Term Employment Support Services (LTESS) program.</p>				
<p>F. Recovery of administrative costs for the Long Term Employment Support Services program shall be limited to 1.70 percent the first year and 1.70 percent the second year.</p>				
<p>G. In allocating funds for Extended Employment Services, Long Term Employment Support Services (LTESS) and Economic Development, the Department for Aging and Rehabilitative Services shall consider recommendations from the established Employment Service Organizations/LTESS Steering Committee.</p>				
<p>H. Of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be used to contract with Didlake Inc., for the purpose of extended employment services and Long Term Employment Support Services for people with disabilities.</p>				
<p>I. A minimum of \$5,521,858 \$5,096,858 the first year and \$5,521,858 the second year from general fund dollars is allocated to support Centers for Independent Living.</p>				
<p>J. The Department for Aging and Rehabilitative Services shall fulfill the administrative responsibilities pertaining to the Personal Attendant Services program, without interruption or discontinuation of personal attendant services currently provided.</p>				
<p>K. Out of this appropriation, it is estimated that \$2,349,935 the first year and \$2,349,935 the second year from the general fund shall be used for personal assistance services for individuals with disabilities.</p>				
<p>L.1. Out of this appropriation, \$6,976,719 \$5,976,719 the first year and \$6,976,719 \$7,176,719 the second year from the general fund shall be provided for expanding the</p>				

ITEM 339.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
continuum of services used to assist persons with brain injuries in returning to work and community living.				
2. Of this amount, \$1,830,000 the first year and \$1,830,000 the second year from the general fund shall be used to provide a continuum of brain injury services to individuals in unserved or underserved regions of the Commonwealth. Up to \$150,000 each year shall be awarded to successful program applicants. Programs currently receiving more than \$250,000 from the general fund each year are ineligible for additional assistance under this section. To be determined eligible for a grant under this section, program applicants shall submit plans to pursue non-state resources to complement the provision of general fund support.				
3. Of this amount, \$285,000 the first year and \$285,000 the second year shall be provided from the general fund to support direct case management services for brain injured individuals and their families in Southwestern Virginia.				
4. Of this amount, \$150,000 the first year and \$150,000 the second year from the general fund shall be used to support case management services for individuals with brain injuries in unserved or underserved regions of the Commonwealth.				
5. In allocating additional funds for brain injury services, the Department for Aging and Rehabilitative Services shall consider recommendations from the Virginia Brain Injury Council (VBIC).				
6. The Department for Aging and Rehabilitative Services (DARS) shall submit an annual report to the Chairmen of the Senate Finance and House Appropriations Committees documenting the number of individuals served, services provided, and success in attracting non-state resources.				
M.1. For Commonwealth Neurotrauma Initiative Trust Fund grants awarded after July 1, 2004, the commissioner shall require applicants to submit a plan to achieve self-sufficiency by the end of the grant award cycle in order to receive funding consideration.				
2. Notwithstanding any other law to the contrary, the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.				
N. Out of this appropriation, \$446,618 the first year and \$446,618 the second year from the general fund shall be allocated to the Long-Term Rehabilitation Case Management Services Program.				
O. Every county and city, either singly or in combination with another political subdivision, may establish a local disability services board to provide input to state agencies on service needs and priorities of persons with physical and sensory disabilities, to provide information and resource referral to local governments regarding the Americans with Disabilities Act, and to provide such other assistance and advice to local governments as may be requested.				
P. An employment services organization that had a CARF accreditation may continue to receive funding for Long-Term Employment Support Services (LTESS) and Extended Employment Services (EES) for up to six months after their accreditation expires if the organization is actively pursuing CARF reaccreditation.				
340.	Individual Care Services (45500).....		\$36,289,218	\$36,289,218
	Financial Assistance for Local Services to the Elderly (45504).....	\$31,120,287		
		\$30,970,287		
	Rights and Protection for the Elderly (45506).....	\$5,168,931		
	Fund Sources: General.....	\$16,503,403		
		\$16,353,403		
	Special.....	\$90,000		
	Dedicated Special Revenue.....	\$200,000		
	Federal Trust.....	\$19,495,815		

Authority: Title 51.5, Chapter 14, Code of Virginia.

ITEM 340.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
A.	Out of this appropriation, \$456,209 the first year and \$456,209 the second year from the general fund shall be provided to continue a statewide Respite Care Initiative program for the elderly and persons suffering from Alzheimer's Disease.			
B.1.	Out of this appropriation, \$1,726,733 the first year and \$1,726,733 the second year from the general fund shall be provided to support local and regional programs of the Virginia Public Guardian and Conservator Program. This funding is estimated to provide 457 client slots the first year and 457 client slots the second year for unrestricted guardianship services.			
2.	Out of this appropriation, \$125,500 the first year and \$125,500 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness or intellectual disability (ID). This funding is estimated to provide 40 client slots each year for guardianship services for individuals with mental illness or ID.			
3.	Out of this appropriation, \$1,970,600 the first year and \$1,970,600 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with intellectual disabilities (ID) and developmental disabilities (DD). This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 454 client slots the first year and 454 client slots the second year for guardianship services for individuals with ID/DD, as authorized by DBHDS.			
4.	Out of this appropriation, \$686,000 the first year and \$686,000 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness. This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 98 client slots the first year and 98 client slots the second year for guardianship services for individuals with mental illness, as authorized by DBHDS.			
C.1.	Area Agencies on Aging that are authorized to use funding for the Care Coordination for the Elderly Program, shall be authorized to use funding to conduct a program providing mobile, brief intervention and service linking as a form of care coordination. The Department for Aging and Rehabilitative Services, in collaboration with the Area Agencies on Aging, shall analyze the resulting impact in these agencies and determine if this model of service delivery is an appropriate and beneficial use of these funds.			
2.	The Department for Aging and Rehabilitative Services, in collaboration with Area Agencies on Aging (AAAs) that are authorized to use funding for the Care Coordination for Elderly Program, shall examine and analyze existing state and national care coordination models to determine best practice models. The department and designated AAAs shall determine which models of service delivery are appropriate and demonstrate beneficial use of these funds and develop the accompanying service standards. Each AAA receiving care coordination funding shall submit its plan for care coordination with the annual area plan.			
D.	Area Agencies on Aging shall be designated as the lead agency in each respective area for No Wrong Door.			
E.	The Department for Aging and Rehabilitative Services shall (i) recommend strategies to coordinate services and resources among agencies involved in the delivery of services to Virginians with dementia; (ii) monitor the implementation of the Dementia State Plan; (iii) recommend policies, legislation, and funding needed to implement the Plan; (iv) collect and monitor data related to the impact of dementia on Virginians; and (v) determine the services, resources, and policies that may be needed to address services for individuals with dementia.			
F.	Out of this appropriation, \$201,875 the first year and \$201,875 the second year from the general fund shall be provided to support the distribution of comprehensive health and			

ITEM 340.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

aging information to Virginia's senior population, their families and caregivers.

G. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund shall be provided for the Pharmacy Connect Program in Southwest Virginia, administered by Mountain Empire Older Citizens, Inc.

H. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund shall be used to contract with the Jewish Social Services Agency to provide assistance to low-income seniors who have experienced trauma.

I. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund shall be provided to contract with Birmingham Green to provide residential services to low-income, disabled individuals.

J. Out of this appropriation, ~~\$150,000 the first year~~ and \$150,000 the second year shall be provided for an interdisciplinary plan of care and dementia care management for 50 individuals diagnosed with dementia. This service shall be provided through a partnership between the Memory and Aging Care Clinic at the University of Virginia and the Alzheimer's Association. The Department for Aging and Rehabilitative Services shall report the status and provide an update on the results of the dementia case management program to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1 of each year.

341.	Nutritional Services (45700).....			\$22,019,603	\$22,019,603
	Meals Served in Group Settings (45701).....	\$9,521,747	\$9,521,747		
	Distribution of Food (45702).....	\$424,342	\$424,342		
	Delivery of Meals to Home-Bound Individuals (45703).....	\$12,073,514	\$12,073,514		
	Fund Sources: General.....	\$6,278,648	\$6,278,648		
	Federal Trust.....	\$15,740,955	\$15,740,955		

Authority: Title 51.5, Chapter 14, Code of Virginia.

Home delivered meals shall not require cost-sharing until such time as federal law permits cost-sharing with Older Americans Act funding.

342. A. Area Agencies on Aging are encouraged to continue seeking funds from a variety of sources which include cost-sharing in programs where not prohibited by funding sources; private sector voluntary contributions from older persons receiving services; families of individuals receiving services; and churches, service groups and other organizations. Such appropriations shall not be included in the appropriations used to match Older Americans Act funding. Revenue generated as a result of these projects shall be retained by the participating area agencies for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.

B. It is the intent of the General Assembly that all Area Agencies on Aging use any new general fund revenue, with the exception of funding provided for the Long-term Care Ombudsman program, to implement sliding fees for services. However, priority for services should be given to applicants in the greatest need, regardless of ability to pay. Revenue from fees shall be retained by the Area Agencies on Aging for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.

C. It is the intent of the General Assembly that Older Americans Act funds and general fund moneys be targeted to services which can assist the elderly to function independently for as long as possible. Area Agencies on Aging may use general fund moneys for consumer-directed services.

D. At the request of the Commissioner, Department for Aging and Rehabilitative Services, the Director, Department of Planning and Budget may transfer state general fund appropriations for services provided by Area Agencies on Aging between service categories. Each individual Area Agency on Aging may transfer up to the maximum amount of federal funds and matching state general fund amounts allowed by federal law between service categories. Further, each Area Agency on Aging may transfer undesignated state general fund amounts

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among service categories. Under no circumstances shall any funds be transferred from direct services to administration. State general fund appropriations shall be available to the area agencies on aging beginning July 1 of each year of the biennium, in compliance with the department's General Fund Cash Management Policy.				
343. Continuing Income Assistance Services (46100).....			\$54,961,470	\$54,961,470
Social Security Disability Determination (46102)....	\$54,961,470	\$54,961,470		
Fund Sources: General.....	\$1,515,223	\$1,515,223		
Special.....	\$152,258	\$152,258		
Federal Trust.....	\$53,293,989	\$53,293,989		

Authority: Title 51.5, Chapter 14, Code of Virginia; Titles II and XVI, P.L. 74-271, Federal Code.

A. The Department for Aging and Rehabilitative Services, in cooperation with the Department of Social Services and local social services agencies, shall develop an expedited process for transitioning hospitalized persons to rehabilitation facilities when the patient may meet the criteria established by the Social Security Administration (SSA) and Medicaid for disability. As part of this expedited process, the Department for Aging and Rehabilitative Services (DARS) shall make Medicaid disability determinations within seven business days of the receipt of social service referrals, when the referrals include sufficient evidence that appropriately documents SSA's definition of disability. If the referrals do not contain sufficient documentation of disability, DARS shall continue to expedite processing of these priority referrals under Medicaid regulations.

B. The general fund appropriation in this item shall only be used for the cost of Medicaid disability determinations and for no other purpose.

344. Adult Programs and Services (46800).....			\$7,290,421	\$7,290,421 \$7,340,421
Management and Quality Assurance of Aging Services (46811).....	\$3,217,784	\$3,217,784 \$3,267,784		
Central Oversight and Quality Assurance for Adult Protective Services (46812).....	\$1,763,571	\$1,763,571		
State Long-Term Care Ombudsman Services (46813).....	\$1,244,664	\$1,244,664		
No Wrong Door Initiative (46814).....	\$1,064,402	\$1,064,402		
Fund Sources: General.....	\$3,839,564	\$3,839,564 \$3,889,564		
Special.....	\$84,232	\$84,232		
Federal Trust.....	\$3,366,625	\$3,366,625		

Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112, Federal Code.

A. 1. Out of this appropriation, \$240,757 the first year and \$240,757 the second year from the general fund shall be used to administer and oversee public guardianship programs and for no other purpose.

2. Of this amount, \$88,350 the first year and \$88,350 the second year shall be used to support the administrative costs associated with serving individuals pursuant to interagency agreements for the provision of public guardianship services between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services.

B. Out of this appropriation, up to \$5,000 the first year and \$5,000 the second year from the general fund shall be provided to support activities of the Virginia Public Guardianship and Conservator Program Advisory Board, including but not limited to, paying expenses for the members to attend four meetings per year.

C. Out of this appropriation, \$103,588 the first year and \$103,588 the second year from the general fund is provided to support a position dedicated to monitoring and auditing the auxiliary grant (AG) program. The department shall develop an annual report on the AG

ITEM 344.	Item Details(\$)		Appropriations(\$)	
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<p>program. This report shall include an overview of the program as well as a summary of oversight activities and findings. In addition, the report shall include for each month of the previous fiscal year, the number of Auxiliary Grant recipients living in a supportive housing setting as well as the number of individuals receiving an AG supportive housing slot that were discharged from a state behavioral health facility in the prior 12 months. DARS shall provide this report to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees by September 1 of each year.</p> <p>D. Out of this appropriation, \$769,943 the first year and \$769,943 the second year from the general fund is provided for eight full-time and one part-time positions to support the Office of the State Long-term Care Ombudsman.</p> <p>F-E. Out of this appropriation, \$440,000 the first year and \$440,000 the second year from the general fund is provided to cover PeerPlace license costs for local workers as well as the on-going cost of system modifications.</p> <p><i>F. The Department for Aging and Rehabilitative Services (DARS) shall promulgate regulations to reflect that the Department of Medical Assistance Services is no longer the entity responsible for payment of/for completed assessments and authorizations of ALF placement for public pay individuals.</i></p> <p><i>G. Out of this appropriation, \$50,000 the second year from the general fund is provided for demographic services to obtain reliable data for determining needs and service planning for aging services.</i></p>				
345.	Administrative and Support Services (49900).....		\$15,433,838	\$15,433,838
	General Management and Direction (49901).....	\$7,957,351		\$7,957,351
	Information Technology Services (49902).....	\$6,723,660		\$6,723,660
	Planning and Evaluation Services (49916).....	\$752,827		\$752,827
	Fund Sources: General.....	\$560,662		\$560,662
	Special.....	\$12,022,357		\$12,022,357
	Federal Trust.....	\$2,850,819		\$2,850,819
<p>Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112, Federal Code.</p>				
346.	<p>Included in the Federal Trust appropriation are amounts estimated at \$583,541 the first year and \$583,541 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this Act. Amounts recovered in excess of these estimates shall be deposited to the general fund.</p>			
346.10	Omitted.			
	Total for Department for Aging and Rehabilitative Services.....		\$237,907,115 \$236,232,795	\$237,907,115 \$238,057,795
	General Fund Positions.....	82.76		82.76
	Nongeneral Fund Positions.....	882.26		882.26
	Position Level.....	965.02		965.02
	Fund Sources: General.....	\$63,378,200		\$63,378,200
		\$61,703,880		\$63,528,880
	Special.....	\$12,849,556		\$12,849,556
	Dedicated Special Revenue.....	\$1,824,937		\$1,824,937
	Federal Trust.....	\$159,854,422		\$159,854,422
Wilson Workforce and Rehabilitation Center (203)				
347.	Rehabilitation Assistance Services (45400).....		\$12,044,555	\$12,044,555
	Vocational Rehabilitation Services (45404).....	\$6,922,925		\$6,922,925
		\$7,247,352		\$7,247,352

ITEM 347.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Medical Rehabilitative Services (45405).....	\$5,121,630 \$4,797,203	\$5,121,630 \$4,797,203		
Fund Sources: General.....	\$3,046,401	\$3,046,401		
<i>Special</i>	\$8,989,154 \$0	\$8,989,154 \$0		
Federal Trust.....	\$9,000 \$8,998,154	\$9,000 \$8,998,154		
Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 89-313, P.L. 93-112, P.L. 94-482 and P.L. 95-602, Federal Code.				
348. Facility Administrative and Support Services (49800).....			\$11,081,847 \$11,001,847	\$11,001,847
General Management and Direction (49801).....	\$1,517,611	\$1,517,611		
Information Technology Services (49802).....	\$574,118	\$574,118		
Security Services (49803).....	\$632,435	\$632,435		
Residential Services (49804).....	\$1,555,134	\$1,555,134		
Food and Dietary Services (49807).....	\$1,149,430	\$1,149,430		
Physical Plant Services (49815).....	\$5,653,119 \$5,573,119	\$5,573,119		
Fund Sources: General.....	\$2,676,303 \$2,596,303	\$2,596,303		
<i>Special</i>	\$8,226,581 \$0	\$8,226,581 \$0		
Federal Trust.....	\$178,963 \$8,405,544	\$178,963 \$8,405,544		
Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112 and P.L. 95-602, Federal Code.				
Comprehensive services available on-site at Wilson Workforce and Rehabilitation Center shall include, but not be limited to, vocational services, including evaluation, prevocational, academic, and vocational training; independent living services; transition from school to work services; rehabilitative engineering and assistive technology; and medical rehabilitation services, including residential, outpatient, supported living, community reentry, and family support.				
348.10 Omitted.				
Total for Wilson Workforce and Rehabilitation Center.....			\$23,126,402 \$23,046,402	\$23,046,402
General Fund Positions.....	58.80	58.80		
Nongeneral Fund Positions.....	193.20	193.20		
Position Level.....	252.00	252.00		
Fund Sources: General.....	\$5,722,704 \$5,642,704	\$5,642,704		
<i>Special</i>	\$17,215,735 \$0	\$17,215,735 \$0		
Federal Trust.....	\$187,963 \$17,403,698	\$187,963 \$17,403,698		
Grand Total for Department for Aging and Rehabilitative Services.....			\$261,033,517 \$259,279,197	\$260,953,517 \$261,104,197
General Fund Positions.....	141.56	141.56		
Nongeneral Fund Positions.....	1,075.46	1,075.46		
Position Level.....	1,217.02	1,217.02		
Fund Sources: General.....	\$69,100,904 \$67,346,584	\$69,020,904 \$69,171,584		

ITEM 348.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Special.....	\$30,065,291	\$30,065,291		
	\$12,849,556	\$12,849,556		
Dedicated Special Revenue.....	\$1,824,937	\$1,824,937		
Federal Trust.....	\$160,042,385	\$160,042,385		
	\$177,258,120	\$177,258,120		

§ 1-103. DEPARTMENT OF SOCIAL SERVICES (765)

349.	Program Management Services (45100).....			\$56,005,680	\$49,918,659
	Training and Assistance to Local Staff (45101).....	\$5,177,672	\$5,177,672	\$53,942,409	\$51,486,088
	Central Administration and Quality Assurance for Benefit Programs (45102).....	\$18,335,051	\$12,682,884		
			\$16,482,116		
	Central Administration and Quality Assurance for Family Services (45103).....	\$15,639,009	\$15,846,400		
		\$13,575,738	\$13,614,597		
	Central Administration and Quality Assurance for Community Programs (45105).....	\$10,890,414	\$10,845,088		
	Central Administration and Quality Assurance for Child Care Activities (45107).....	\$5,963,534	\$5,366,615		
	Fund Sources: General.....	\$22,988,078	\$21,282,524		
		\$20,924,807	\$21,892,959		
	Special.....	\$100,000	\$100,000		
	Dedicated Special Revenue.....	\$0	\$267,722		
	Federal Trust.....	\$32,917,602	\$28,536,135		
			\$29,225,407		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 2 and 21, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A. The Department of Social Services, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the foster care services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local departments of social services. Training shall be provided on a regional basis at least once per year. Written guidance shall be updated and provided to local Office of Children's Services teams whenever there is a change in allowable expenses under federal or state guidelines. In addition, the Department of Social Services shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B.1. By November 1 of each year, the Department of Planning and Budget, in cooperation with the Department of Social Services, shall prepare and submit a forecast of expenditures for cash assistance provided through the Temporary Assistance for Needy Families (TANF) program, mandatory child day care services under TANF, foster care maintenance and adoption subsidy payments, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Chairmen of the House Appropriations and Senate Finance Committees.

2. The forecast of expenditures shall detail the incremental general fund and federal fund adjustments required by the forecast each year in the biennial budget. The Department of Planning and Budget shall convene a meeting on or before October 15 of each year with the appropriate staff from the Department of Social Services, and the House Appropriations and Senate Finance Committees to review current trends and assumptions used in the forecasts prior to their finalization.

C. The Department of Social Services shall provide administrative support and technical assistance to the Family and Children's Trust Fund (FACT) Board of Trustees established in Sections 63.2-2100 through 63.2-2103, Code of Virginia.

D. Out of this appropriation, \$1,829,111 the first year and \$1,829,111 the second year from

ITEM 349.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>the general fund and \$1,829,111 the first year and \$1,829,111 the second year from nongeneral funds shall be provided to fund the Supplemental Nutrition Assistance Program (SNAP) Electronic Benefit Transfer (EBT) contract cost.</p> <p>E.1. Out of this appropriation, ten positions and the associated funding shall be dedicated to providing on-going financial oversight of foster care services. Each of the ten positions, with two working out of each regional office, shall assess and review all foster care spending to ensure that state and federal standards are met. None of these positions shall be used for quality, information technology, or clerical functions.</p> <p>2. By September 1 of each year, the department shall report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the foster care program's statewide spending, error rates and compliance with state and federal reviews.</p> <p>F. Out of this appropriation, \$187,549 the first year from the Temporary Assistance for Needy Families block grant shall be provided to manage the summer feeding pilot program, beginning June 2020 and ending August 2020.</p> <p>G. The Department of Social Services shall provide an annual report on the activities of the Office of New Americans by December 1 of each year.</p> <p>H. Out of this appropriation, \$3,560,858 the first year from the federal Temporary Assistance for Needy Families (TANF) grant shall be provided to fund a one-time food benefit payment to families with children enrolled in Head Start.</p> <p><i>I. The Department of Social Services shall not implement the Percentage of Income Payment Program (PIPP) until such time as there is adequate fee revenue from the universal service fee, collected by utility providers, available to fund the administrative costs necessary to implement the program, not to exceed \$3.0 million. Maximum allowable administrative costs are in totality and include costs borne by the Department of Housing and Community Development for PIPP administration.</i></p> <p><i>J. Out of this appropriation, \$54,309 the second year from the general fund and \$162,926 the second year from nongeneral funds is provided to implement the Virginia Facilitated Enrollment Program.</i></p>				
350.	Financial Assistance for Self-Sufficiency Programs and Services (45200).....		\$310,443,424	\$148,847,863
			\$287,564,108	\$161,677,856
	Temporary Assistance for Needy Families (TANF) Cash Assistance (45201).....	\$81,777,467 \$74,788,126	\$76,773,813 \$86,367,358	
	Temporary Assistance for Needy Families (TANF) Employment Services (45212).....	\$21,657,833	\$21,657,833	
	Supplemental Nutrition Assistance Program Employment and Training (SNAPET) Services (45213).....	\$1,017,741	\$1,017,741 \$2,205,341	
	Temporary Assistance for Needy Families (TANF) Child Care Subsidies (45214).....	\$59,216,801 \$49,112,179	\$38,707,424	
	At-Risk Child Care Subsidies (45215).....	\$141,235,948 \$134,283,476	\$5,364,671	
	Unemployed Parents Cash Assistance (45216).....	\$5,537,634 \$6,704,753	\$5,326,381 \$7,375,229	
	Fund Sources: General.....	\$96,087,600 \$80,654,719	\$79,487,600 \$82,018,853	
	Federal Trust.....	\$214,355,824 \$206,909,389	\$69,360,263 \$79,659,003	

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 1 through 7, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

ITEM 350.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
A. It is hereby acknowledged that as of June 30, 2019 there existed with the federal government an unexpended balance of \$151,404,869 in federal Temporary Assistance for Needy Families (TANF) block grant funds which are available to the Commonwealth of Virginia to reimburse expenditures incurred in accordance with the adopted State Plan for the TANF program. Based on projected spending levels and appropriations in this act, the Commonwealth's accumulated balance for authorized federal TANF block grant funds is estimated at \$132,072,240 \$148,126,074 on June 30, 2020; \$78,587,022 \$96,974,124 on June 30, 2021; and \$33,342,303 \$35,850,126 on June 30, 2022.				
B. No less than 30 days prior to submitting any amendment to the federal government related to the State Plan for the Temporary Assistance for Needy Families program, the Commissioner of the Department of Social Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees as well as the Director, Department of Planning and Budget written documentation detailing the proposed policy changes. This documentation shall include an estimate of the fiscal impact of the proposed changes and information summarizing public comment that was received on the proposed changes.				
C. Notwithstanding any other provision of state law, the Department of Social Services shall maintain a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) program, 45 C.F.R. § 260.30, for the purpose of providing welfare cash assistance payments to able-bodied two-parent families. The separate state program shall be funded by state funds and operated outside of the TANF program. Able-bodied two-parent families shall not be eligible for TANF cash assistance as defined at 45 C.F.R. § 260.31 (a)(1), but shall receive benefits under the separate state program provided for in this paragraph. Although various conditions and eligibility requirements may be different under the separate state program, the basic benefit payment for which two-parent families are eligible under the separate state program shall not be less than what they would have received under TANF. The Department of Social Services shall establish regulations to govern this separate state program.				
D. As a condition of this appropriation, the Department of Social Services shall disregard the value of one motor vehicle per assistance unit in determining eligibility for cash assistance in the Temporary Assistance for Needy Families (TANF) program and in the separate state program for able-bodied two-parent families.				
E. The Department of Social Services, in collaboration with local departments of social services, shall maintain minimum performance standards for all local departments of social services participating in the Virginia Initiative for Employment, Not Welfare (VIEW) program. The department shall allocate VIEW funds to local departments of social services based on these performance standards and VIEW caseloads. The allocation formula shall be developed and revised in cooperation with the local social services departments and the Department of Planning and Budget.				
F. A participant whose Temporary Assistance for Needy Families (TANF) financial assistance is terminated due to the receipt of 24 months of assistance as specified in § 63.2-612, Code of Virginia, or due to the closure of the TANF case prior to the completion of 24 months of TANF assistance, excluding cases closed with a sanction for noncompliance with the Virginia Initiative for Employment Not Welfare program, shall be eligible to receive employment and training assistance for up to 12 months after termination, if needed, in addition to other transitional services provided pursuant to § 63.2-611, Code of Virginia.				
G. The Department of Social Services, in conjunction with the Department of Correctional Education, shall identify and apply for federal, private and faith-based grants for pre-release parenting programs for non-custodial incarcerated parent offenders committed to the Department of Corrections, including but not limited to the following grant programs: Promoting Responsible Fatherhood and Healthy Marriages, State Child Access and Visitation Block Grant, Serious and Violent Offender Reentry Initiative Collaboration, Special Improvement Projects, § 1115 Social Security Demonstration Grants, and any new grant programs authorized under the federal Temporary Assistance for Needy Families (TANF) block grant program.				
H.1. Out of this appropriation, \$10,703,748 the first year and \$2,500,000 the second year from nongeneral funds is included for Head Start wraparound child care services.				

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>2. Included in this Item is funding to carry out the former responsibilities of the Virginia Council on Child Day Care and Early Childhood Programs. Nongeneral fund appropriations allocated for uses associated with the Head Start program shall not be transferred for any other use until eligible Head Start families have been fully served. Any remaining funds may be used to provide services to enrolled low-income families in accordance with federal and state requirements. Families, who are working or in education and training programs, with income at or below the poverty level, whose children are enrolled in Head Start wraparound programs paid for with the federal block grant funding in this Item shall not be required to pay fees for these wraparound services.</p>				
<p>I. Out of this appropriation, \$2,647,305 the first year and \$2,647,305 the second year from the general fund and \$72,503,762 the first year and from federal funds shall be provided to support state child care programs which will be administered on a sliding scale basis to income eligible families. The sliding fee scale and eligibility criteria are to be set according to the rules and regulations of the State Board of Social Services, except that the income eligibility thresholds for child care assistance shall account for variations in the local cost of living index by metropolitan statistical areas. The Department of Social Services shall make the necessary amendments to the Child Care and Development Funds Plan to accomplish this intent. Funds shall be targeted to families who are most in need of assistance with child care costs. Localities may exceed the standards established by the state by supplementing state funds with local funds.</p>				
<p>J. Out of this appropriation, \$600,000 the first year from nongeneral funds shall be used to provide scholarships to students in early childhood education and related majors who plan to work in the field, or already are working in the field, whether in public schools, child care or other early childhood programs, and who enroll in a state community college or a state supported senior institution of higher education.</p>				
<p>K. Out of this appropriation, \$505,000 the first year from nongeneral funds shall be used to provide training of individuals in the field of early childhood education.</p>				
<p>L. Out of this appropriation, \$300,000 the first year from nongeneral funds shall be used to provide child care assistance for children in homeless and domestic violence shelters.</p>				
<p>M. Out of this appropriation, the Department of Social Services shall use \$4,800,000 the first year and \$4,800,000 the second year from the federal Temporary Assistance to Needy Families (TANF) block grant to provide to each TANF recipient with two or more children in the assistance unit a monthly TANF supplement equal to the amount the Division of Child Support Enforcement collects up to \$200, less the \$100 disregard passed through to such recipient. The TANF child support supplement shall be paid within two months following collection of the child support payment or payments used to determine the amount of such supplement. For purposes of determining eligibility for medical assistance services, the TANF supplement described in this paragraph shall be disregarded. In the event there are sufficient federal TANF funds to provide all other assistance required by the TANF State Plan, the Commissioner may use unobligated federal TANF block grant funds in excess of this appropriation to provide the TANF supplement described in this paragraph.</p>				
<p>N. The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.</p>				
<p>O.1. The Department of Social Services shall increase the Temporary Assistance for Needy Families (TANF) cash benefits and income eligibility threshold by 15 percent effective July 1, 2020 and 10 percent effective July 1, 2021.</p>				
<p>2. The Department of Social Services shall develop a plan to increase the standards of assistance by 10 percent annually until they equal 50 percent of the federal poverty level.</p>				
<p>P. Out of this appropriation, \$5,240,499 the first year from the Temporary Assistance for Needy Families block grant shall be provided for a one-year summer feeding program pilot. This pilot shall provide fifty dollars for each of the months of June, July, and August on a qualifying child's family electronic benefits transaction (EBT) card. The funding shall be used to purchase meals for qualifying low-income children in areas that are currently</p>				

ITEM 350.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

unserved by but summer feeding programs. The pilot shall end on August 31, 2020. The department shall report on program performance and shall include monthly expenditures, number of children served, and localities in which children were served. This report shall be provided to the Governor, Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance committees by November 1, 2020.

Q. The Department of Social Services shall study the resource cliff faced by families receiving public assistance when income increases enough to reduce or terminate the family's eligibility for public assistance. The report shall address how the structure and terms of eligibility affect the ability of participants to move toward self-sufficiency. The report shall be submitted to the Governor and Chairmen of the House Appropriations and Senate Finance committees on or before August 1, 2021.

R. Out of this appropriation, \$16,600,000 the first year from the Temporary Assistance for Needy Families block grant shall be transferred to Direct Aid for Public Education to fund current Virginia Preschool Initiative (VPI) slots.

S. Out of this appropriation, \$16,600,000 the first year from the Child Care Development Fund block grant balance shall be used to support child care funding in Virginia for TANF recipients currently receiving child care and for families receiving child care subsidies, including Head Start wraparound services.

T. Out of this appropriation, ~~\$16,600,000 from the general fund and \$16,600,000~~^{\$33,200,000} from federal ~~Coronavirus Relief Funds~~^{Child Care Development Block Grant (CCDBG)} funding provided to states in response to the COVID-19 pandemic the first year shall be used to contract with local partners to provide support to school divisions, local governments, and other entities, including religious institutions and community centers, for the provision of space to increase local capacity to provide care for school-age children, purchase personal protective equipment (PPE) and cleaning supplies, and provide a stable financial environment for the operation of these programs. School divisions, local governments, and local departments of social services shall cooperate with local partners receiving these funds to maximize the number of school-age children served. In addition, local partners are encouraged to use these funds to support a diverse set of providers with these funds including existing child day centers, family day homes, religious institutions, and other organizations seeking to provide such services. Within this appropriation, *any federal funds for this purpose* ~~the federal Coronavirus Relief funds~~ shall be expended prior to the expenditure of general fund amounts ~~for this purpose~~. *Federal funds appropriated for this purpose may also be used to provide child care provider stabilization funds pursuant to Item 479.10. Federal funds appropriated for this purpose also may be used for broader purposes within the range of child care services than those purposes herein.*

U. Out of this appropriation, \$211,253 the first year from the federal Temporary Assistance for Needy Families (TANF) grant shall fund a one-time payment to TANF UP recipients.

V.1. *The Department of Social Services (DSS) and the Department of Education (DOE) shall ensure that the Temporary Assistance for Needy Families (TANF) Virginia Initiative for Employment and Work (VIEW) mandated child care forecast is funded through a combination of general fund, TANF, and Child Care Development Fund (CCDF) grant dollars. The amount of needed CCDF dollars identified in the Memorandum of Agreement (MOA) between the agencies shall be transferred from DOE to DSS within the first thirty days of the fiscal year. DSS shall notify DOE of the required amount of the next fiscal year transfer upon the enrollment of the budget. This amount shall reflect the need identified in the official forecast as well as changes resulting from actions in the final budget.*

2. *The MOA shall reflect the full cost of the VIEW mandated child care program. From this amount, \$38,707,424 in the second year is appropriated at DSS and the balance shall be transferred from DOE from the CCDF grant to support the VIEW mandated child care program as specified in V.1.*

W. *Out of this appropriation, \$2,120,420 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for the Department of Social Services to implement a program so that TANF-eligible individuals may save funds in an individual development account established for the purposes of home purchase, education, starting a business, transportation, or self-sufficiency. The TANF funds shall be deposited to the*

ITEM 350.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>individual development accounts at a match rate determined by the department.</i>				
<i>X. Out of this appropriation, \$9,647,528 the first year from the federal Child Care and Development Fund is provided to temporarily expand the Child Care Subsidy Program, pursuant to the provisions of House Bill 2206, 2021 Special Session I.</i>				
351.	Financial Assistance for Local Social Services Staff (46000).....		\$529,556,452	\$524,792,881
			\$522,053,226	\$528,611,744
	Local Staff and Operations (46010).....	\$529,556,452	\$524,792,881	
		\$522,053,226	\$528,611,744	
	Fund Sources: General.....	\$147,247,452	\$152,220,678	
		\$131,744,226	\$141,809,399	
	Dedicated Special Revenue.....	\$8,659,655	\$8,659,655	
			\$9,091,933	
	Federal Trust.....	\$373,649,345	\$363,912,548	
		\$381,649,345	\$377,710,412	

Authority: Title 63.2, Chapters 1 through 7 and 9 through 16, Code of Virginia; P.L. 104-193, Titles IV A, XIX, and XXI, Social Security Act, Federal Code, as amended.

A. The amounts in this Item shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.

B. Pursuant to the provisions of §§ 63.2-403, 63.2-406, 63.2-407, 63.2-408, and 63.2-615 Code of Virginia, all moneys deducted from funds otherwise payable out of the state treasury to the counties and cities pursuant to the provisions of § 63.2-408, Code of Virginia, shall be credited to the applicable general fund account.

C. Included in this appropriation are funds to reimburse local social service agencies for eligibility workers who interview applicants to determine qualification for public assistance benefits which include but are not limited to: Temporary Assistance for Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP); and Medicaid.

D. Included in this appropriation are funds to reimburse local social service agencies for social workers who deliver program services which include but are not limited to: child and adult protective services complaint investigations; foster care and adoption services; and adult services.

E. Out of the federal fund appropriation for local social services staff, amounts estimated at ~~\$72,000,000~~ \$80,000,000 the first year and ~~\$72,000,000~~ \$80,000,000 the second year shall be set aside for allowable local costs which exceed available general fund reimbursement and amounts estimated at \$22,000,000 the first year and \$22,000,000 the second year shall be set aside to reimburse local governments for allowable costs incurred in administering public assistance programs.

F. Out of this appropriation, \$562,260 the first year and \$562,260 the second year from the general fund and \$540,211 the first year and \$540,211 the second year from nongeneral funds is provided to cover the cost of the health insurance credit for retired local social services employees.

G. The Department of Social Services shall work with local departments of social services on a pilot project in the western region of the state to evaluate the available data collected by local departments on facilitated care arrangements. The department shall, based on the findings from the pilot project, determine the most appropriate mechanism for collecting and reporting such data on a statewide basis.

H.1. Out of this appropriation, \$4,527,969 the first year and \$4,527,969 the second year from the general fund shall be available for the reinvestment of adoption general fund savings as authorized in Title IV, parts B and E of the federal Social Security Act (P.L. 110-351).

ITEM 351.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
2. Of the amount in paragraph H.1. above, \$1,333,031 the first year and \$1,333,031 the second year from the general fund shall be used to provide Child Protective Services (CPS) assessments and investigations in response to all reports of children born exposed to controlled substances regardless of whether the substance had been prescribed to the mother when she has sought or gained substance abuse counseling or treatment.				
I. Out of this appropriation, \$2,150,048 from the general fund and \$2,175,528 from nongeneral funds each <i>the second</i> year shall be provided for a pay band minimum increase in fiscal year 2021 2022 of 20 percent for the family services positions and a 15 percent increase for benefit program services positions, self sufficiency services positions and administration positions that are currently below the new minimum threshold.				
J. Out of this appropriation, \$3,442,659 from the general fund and \$3,483,457 from nongeneral funds each year shall be provided for a salary adjustment the first year of 1.5 percent for all local department of social services positions to address issues related to salary compression.				
352. Child Support Enforcement Services (46300).....			\$770,838,766	\$770,838,766
			\$772,017,654	
Support Enforcement and Collection Services (46301).....	\$105,932,457	\$105,932,457		
	\$107,111,345			
Public Assistance Child Support Payments (46302)....	\$11,000,000	\$11,000,000		
Non-Public Assistance Child Support Payments (46303).....	\$653,906,309	\$653,906,309		
Fund Sources: General.....	\$15,970,085	\$15,970,085		
Special.....	\$691,663,317	\$691,663,317		
	\$692,842,205			
Federal Trust.....	\$63,205,364	\$63,205,364		

Authority: Title 20, Chapters 2 through 3.1 and 4.1 through 9; Title 63.2, Chapter 19, Code of Virginia; P.L. 104-193, as amended; P.L. 105-200, P.L. 106-113, Federal Code.

A. Any net revenue from child support enforcement collections, after all disbursements are made in accordance with state and federal statutes and regulations, and after the state's share of the cost of administering the program is paid, shall be estimated and deposited into the general fund by June 30 of the fiscal year in which it is collected. Any additional moneys determined to be available upon final determination of a fiscal year's costs of administering the program shall be deposited to the general fund by September 1 of the subsequent fiscal year in which it is collected.

B. In determining eligibility and amounts for cash assistance, pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the department shall continue to disregard up to \$100 per month in child support payments and return to recipients of cash assistance up to \$100 per month in child support payments collected on their behalf.

C. The state share of amounts disbursed to recipients of cash assistance pursuant to paragraph B of this Item shall be considered part of the Commonwealth's required Maintenance of Effort spending for the federal Temporary Assistance for Needy Families program established by the Social Security Act.

D. The department shall expand collections of child support payments through contracts with private vendors. However, the Department of Social Services and the Office of the Attorney General shall not contract with any private collection agency, private attorney, or other private entity for any child support enforcement activity until the State Board of Social Services has made a written determination that the activity shall be performed under a proposed contract at a lower cost than if performed by employees of the Commonwealth.

E. The Division of Child Support Enforcement, in cooperation with the Department of Medical Assistance Services, shall identify cases for which there is a medical support order requiring a noncustodial parent to contribute to the medical cost of caring for a child who is enrolled in the Medicaid or Family Access to Medical Insurance Security (FAMIS) Programs.

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Once identified, the division shall work with the Department of Medical Assistance Services to take appropriate enforcement actions to obtain medical support or repayments for the Medicaid program.				
353. Adult Programs and Services (46800).....			\$40,660,209	\$40,660,209 \$45,577,762
Auxiliary Grants for the Aged, Blind, and Disabled (46801).....	\$21,998,009	\$21,998,009 \$26,398,009		
Adult In-Home and Supportive Services (46802).....	\$6,822,995	\$6,822,995		
Domestic Violence Prevention and Support Activities (46803).....	\$11,839,205	\$11,839,205 \$12,356,758		
Fund Sources: General.....	\$23,455,181	\$23,455,181 \$28,372,734		
Federal Trust.....	\$17,205,028	\$17,205,028		

Authority: Title 63.2, Chapters 1, 16 and 22, Code of Virginia; Title XVI, federal Social Security Act, as amended.

A.1. Effective ~~July 1, 2020~~ *January 1, 2021*, the Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to base approved licensed assisted living facility rates for individual facilities on an occupancy rate of 85 percent of licensed capacity, not to exceed a maximum rate of ~~\$1,409~~ *\$1,420* per month and *effective July 1, 2021, a rate of \$1,562 per month*, which rate is also applied to approved adult foster care homes, unless modified as indicated below. The department may add a 15 percent differential to the maximum amount for licensed assisted living facilities and adult foster care homes in Planning District Eight.

2. Effective January 1, 2013, the monthly personal care allowance for auxiliary grant recipients who reside in licensed assisted living facilities and approved adult foster care homes shall be \$82 per month, unless modified as indicated below.

3. The Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to increase the assisted living facility and adult foster care home rates and/or the personal care allowance cited above on January 1 of each year in which the federal government increases Supplemental Security Income or Social Security rates or at any other time that the department determines that an increase is necessary to ensure that the Commonwealth continues to meet federal requirements for continuing eligibility for federal financial participation in the Medicaid program. Any such increase is subject to the prior concurrence of the Department of Planning and Budget. Within thirty days after its effective date, the Department of Social Services shall report any such increase to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with an explanation of the reasons for the increase.

B. Out of this appropriation, \$4,185,189 the first year and \$4,185,189 in the second year from the federal Social Services Block Grant shall be allocated to provide adult companion services for low-income elderly and disabled adults.

C. The toll-free telephone hotline operated by the Department of Social Services to receive child abuse and neglect complaints shall also be publicized and used by the department to receive complaints of adult abuse and neglect.

D. Out of this appropriation, \$248,750 the first year and \$248,750 the second year from the general fund and \$1,346,792 the first year and \$1,346,792 the second year from federal Temporary Assistance for Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for purchase of crisis and core services for victims of domestic violence, including 24-hour hotlines, emergency shelter, emergency transportation, and other crisis services as a first priority.

E. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund and \$400,000 the first year and \$400,000 the second year from nongeneral funds shall be provided for the purchase of services for victims of domestic violence as stated in § 63.2-1615, Code of Virginia, in accordance with regulations promulgated by

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the Board of Social Services.				
F. Out of this appropriation \$1,100,000 the first year and \$1,100,000 the second year from the general fund and \$2,500,000 the first year and \$2,500,000 the second year from federal Temporary Assistance to Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for services.				
354. Child Welfare Services (46900).....			\$272,522,205	\$268,732,264
			\$267,400,227	\$261,635,376
Foster Care Payments (46901).....	\$62,693,500	\$60,735,138		
	\$59,399,725	\$47,565,642		
Supplemental Child Welfare Activities (46902).....	\$47,356,349	\$43,570,246		
	\$47,181,349	\$43,295,246		
Adoption Subsidy Payments (46903).....	\$145,652,256	\$147,606,780		
	\$147,409,103	\$148,153,060		
Prevention Services (46905).....	\$16,820,100	\$16,820,100		
	\$13,410,050	\$22,621,428		
Fund Sources: General.....	\$120,214,088	\$131,074,062		
	\$106,880,332	\$116,906,146		
Special.....	\$2,434,593	\$2,434,593		
Dedicated Special Revenue.....	\$585,265	\$585,265		
Federal Trust.....	\$149,288,259	\$134,638,344		
	\$157,500,037	\$141,709,372		

Authority: Title 63.2, Chapters 1, 2, 4 and 8 through 15, Code of Virginia; P.L. 100-294, P.L. 101-126, P.L. 101-226, P.L. 105-89, P.L. 110-351, P.L. 111-320, as amended, Federal Code.

A. Expenditures meeting the criteria of Title IV-E of the Social Security Act shall be fully reimbursed except that expenditures otherwise subject to a standard local matching share under applicable state policy, including local staffing, shall continue to require local match. The commissioner shall ensure that local social service boards obtain reimbursement for all children eligible for Title IV-E coverage.

B. The commissioner, in cooperation with the Department of Planning and Budget, shall establish a reasonable, automatic adjustment for inflation each year to be applied to the room and board maximum rates paid to foster parents. However, this provision shall apply only in fiscal years following a fiscal year in which salary increases are provided for state employees.

C. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided for the purchase of services for victims child abuse and neglect prevention activities as stated in § 63.2-1502, Code of Virginia, in accordance with regulations promulgated by the Board of Social Services.

D. Out of this appropriation, \$180,200 the first year and \$180,200 the second year from the general fund and \$99,800 the first year and \$99,800 the second year from nongeneral funds shall be provided to continue respite care for foster parents.

E. Notwithstanding the provisions of §§ 63.2-1300 through 63.2-1303, Code of Virginia, adoption assistance subsidies and supportive services shall not be available for children adopted through parental placements, except parental placements where the legal guardian is a child placing agency at the time of the adoption. This restriction does not apply to existing adoption assistance agreements.

F.1. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund shall be provided to implement pilot programs that increase the number of foster care children adopted.

2. Beginning July 1, 2017, the department shall provide an annual report, not later than 45 days after the end of the state fiscal year, on the use and effectiveness of this funding including, but not limited to, the additional number of special needs children adopted from foster care as a result of this effort and the types of ongoing supportive services provided, to the Governor, Chairmen of House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.

G. Out of this appropriation, ~~\$14,864,476~~ \$11,983,748 the first year and ~~\$14,864,476~~

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	<p>\$11,983,748 the second year from the general fund and \$7,000,000 the first year and \$7,000,000 the second year from nongeneral funds shall be provided for special needs adoptions.</p>			
	<p>H. Out of this appropriation \$57,160,459 \$55,466,726 the first year and \$61,019,627 \$59,602,266 the second year from the general fund and \$61,019,627 \$75,602,450 the first year and \$61,019,627 \$67,608,742 the second year from nongeneral funds shall be provided for Title IV-E adoption subsidies.</p>			
	<p>I. The Commissioner, Department of Social Services, shall ensure that local departments that provide independent living services to persons between 18 and 21 years of age make certain information about and counseling regarding the availability of independent living services is provided to any person who chooses to leave foster care or who chooses to terminate independent living services before his twenty-first birthday. Information shall include the option for restoration of independent living services following termination of independent living services, and the processes whereby independent living services may be restored should he choose to seek restoration of such services in accordance with § 63.2-905.1 of the Code of Virginia.</p>			
	<p>J.1. Notwithstanding the provisions of § 63.2-1302, Code of Virginia, the Department of Social Services shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments of social services. This provision shall not alter the legal responsibilities of the local departments of social services set out in Chapter 13 of Title 63.2, Code of Virginia, nor alter the rights of the adoptive parents to appeal.</p>			
	<p>2. Out of this appropriation, \$342,414 the first year and \$342,414 the second year from the general fund and \$215,900 the first year and \$215,900 the second year from nongeneral funds shall be provided for five positions to execute these negotiations.</p>			
	<p>K.1. The Department of Social Services shall partner with Patrick Henry Family Services to implement a pilot program in the area encompassing Planning District 11 (Amherst, Appomattox, Bedford, Campbell Counties and the City of Lynchburg) for the temporary placements of children for children and families in crisis. The pilot program will allow a parent or legal custodian of a minor, with the assistance of Patrick Henry Family Services, to delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for a temporary placement for a period that is not greater than 90 days. The program will allow for an option of a one-time 90 day extension.</p>			
	<p>2. The department shall ensure that this pilot program meets the following specific programmatic and safety requirements outlined in 22 VAC 40-131 and 22 VAC 40-191:</p>			
	<p>(i) The pilot program organization shall meet the background check requirements described in 22 VAC 40-191.</p>			
	<p>(ii) The pilot program organization shall develop and implement written policies and procedures for governing active and closed cases, admissions, monitoring the administration of medications, prohibiting corporal punishment, ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct toward children, implementing the child's back-up emergency care plan, assigning designated casework staff, management of all records, discharge policies, and the use of seclusion and restraint (22 VAC 40-131-90).</p>			
	<p>(iii) The pilot program organization shall provide pre-service and ongoing training for temporary placement providers and staff (22 VAC 40-131-210 and 22 VAC 40-131-150).</p>			
	<p>L.1. Out of this appropriation, \$2,925,954 the first year and \$2,925,954 the second year from the general fund and \$2,886,611 the first year and \$2,886,611 the second year from nongeneral funds shall be available for the expansion of foster care and adoption assistance as authorized in the federal Foster Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351; P.L. 11-148).</p>			
	<p>2. In order to implement the Fostering Futures program, the Department of Social Services shall set out the requirements for program participation in accordance with 42 U.S.C. 675</p>			

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<p>(8) (B) (iv) and shall provide the format of an agreement to be signed by the local department of social services and the youth. The definition of a child for the purpose of the Fostering Futures program shall be any natural person who has reached the age of 18 years but has not reached the age of 21. The Department of Social Services shall develop guidance setting out the requirements for local implementation including a requirement for six-month reviews of each case and reasons for termination of participation by a youth. The guidance shall also include a definition of a supervised independent living arrangement which does not include group homes or residential facilities. Implementation of this program includes the extension of adoption assistance to age 21 for youth who were adopted at age 16 or older and who meet the program participation requirements set out in guidance by the Department of Social Services.</p> <p>3. The Department of Social Services shall issue guidance for the program's eligibility requirements and shall be available, on a voluntary basis, to an individual upon reaching the age of 18 who:</p> <p>(i) was in the custody of a local department of social services either:</p> <p>(a) prior to reaching 18 years of age, remained in foster care upon turning 18 years of age; or</p> <p>(b) immediately prior to commitment to the Department of Juvenile Justice and is transitioning from such commitment to self-sufficiency.</p> <p>(ii) and who is:</p> <p>(a) completing secondary education or an equivalent credential; or</p> <p>(b) enrolled in an institution that provides post-secondary or vocational education; or</p> <p>(c) employed for at least 80 hours per month; or</p> <p>(d) participating in a program or activity designed to promote employment or remove barriers to employment; or</p> <p>(e) incapable of doing any of the activities described in subdivisions (a) through (d) due to a medical condition, which incapability is supported by regularly updated information in the program participant's case plan.</p> <p>4. Implementation of extended foster care services shall be available for those eligible youth reaching age 18 on or after July 1, 2016.</p> <p>M.1. Out of this appropriation, \$7,517,668 the first year and \$7,517,668 the second year from the general fund and \$2,500,000 the first year and \$2,500,000 the second year from nongeneral funds shall be available for the reinvestment of adoption general fund savings as authorized in title IV, parts B and E of the federal Social Security Act (P.L. 110-351).</p> <p>2. Of the amounts in paragraph M.1. above, \$3,078,595 the first year and \$3,078,595 the second year from the general fund shall be used to develop a case management module for a comprehensive child welfare information system (CCWIS). In the development of the CCWIS, the department shall not create any future obligation that will require the appropriation of general fund in excess of that provided in this Act. Should additional appropriation, in excess of the amounts identified in this paragraph, be needed to complete development of this or any other module for the CCWIS, the department shall notify the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p> <p>3. Beginning September 1, 2018, the department shall also provide semi-annual progress reports that includes current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p> <p>N. Out of this appropriation, \$1,009,563 the first year and \$1,009,563 the second year from nongeneral funds shall be used to fund ten positions that support the child protective services hotline.</p>				

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<p>O. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund and \$50,000 the first year and \$50,000 the second year from nongeneral funds shall be used to fund one position that supports Virginia Fosters.</p>				
<p>P. Out of this appropriation, \$851,000 the first year and \$851,000 the second year from the general fund is provided for training, consultation and technical support, and licensing costs associated with establishing evidence-based programming as identified in the federal Family First Prevention Services Act (FFPSA) Evidence-Based Programs Clearinghouse.</p>				
<p>Q. The Department of Social Services shall develop a plan to provide access statewide to a Kinship Navigator Program which will provide services to kinship caregivers who are having trouble finding assistance for their unique needs and to help these caregivers navigate their locality's service system, as well as federal and state benefits.</p>				
<p>R. Out of this appropriation, \$100,000 the first year and \$200,000 the second year from the general fund shall be provided to support the development and implementation of a statewide driver's licensing program to support foster care youth in obtaining a driver's license. Funding shall be made available, up to the limits of this appropriation, to local departments of social services to reimburse foster care providers for increases to their existing motor vehicle insurance premiums that occur because a foster care youth in their care has been added to their insurance policy. The program may also reimburse foster care providers for additional coverage (i.e. an umbrella policy or the equivalent) that provides liability protection should a foster care youth get into or cause a catastrophic accident. Additionally, funding shall be made available to foster care youth in Virginia's Fostering Futures Program to assist in covering the cost of obtaining motor vehicle insurance. The department shall develop reimbursement policies for foster care providers and foster care youth. The department shall coordinate and administer the driver's licensing program based on best practices from similar programs in other states; to include developing educational or training materials that educate foster parents, private providers, and foster youth about (i) liability issues; insurance laws; and common insurance practices (to include laws about renewal and cancellation; how long an accident can affect premiums; how to establish that a foster youth is no longer living in the residence; and other applicable topics); (ii) Department of Motor Vehicles requirements to obtain a learner's permit and driver's license; (iii) what funding and resources are available to assist in this process; to include, paying school lab fees for "Behind the Wheel" or paying a private driving education company; and (iv) why getting a driver's license on time is important for normalcy and a successful transition to adulthood. The department shall provide information on how many foster care youth were supported by this program and any recommendations to improve the program to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.</p>				
<p>S. The Department of Social Services shall create an emergency approval process for kinship caregivers and develop foster home certification standards for kinship caregivers using as a guide the Model Family Foster Home Licensing Standards developed by the American Bar Association Center on Children and the Law, the Annie E. Casey Foundation, Generations United, and the National Association for Regulatory Administration. The adopted standards should align, as much as reasonably possible, to the Model Family Foster Home Licensing Standards, and should ensure that children in foster care: (i) live in safe and appropriate homes under local department of social services and court oversight; (ii) receive monthly financial assistance and supportive services to help meet their needs; and (iii) can access the permanency options offered by Virginia's Kinship Guardianship Assistance Program.</p>				
<p>T. The Department of Social Services shall offset \$5,000,000 the first year of the general fund cost of implementing the Family First Prevention Services Act with federal Family First Transition Act funding for approved services and activities.</p>				
<p>U. The Commissioner shall establish a five-year plan for the Commonwealth to prevent child abuse and neglect. In developing this plan, the Department shall collaborate with the Department for Behavioral Health & Developmental Services, Department of Health, Department of Education, Family and Children's Trust and other relevant state agencies and stakeholders. This plan shall be focused on primary prevention, be trauma informed, include a public health framework on abuse prevention, promote positive youth development, and be asset and strength based. The plan shall reference and coordinate</p>				

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with any other state plans or programs that deal with issues related to child abuse prevention such as, but not limited to, teen pregnancy prevention, youth substance use, school dropout, domestic violence/family violence, and foster care prevention. The Commissioner shall convene a work group to assist with developing this plan. The workgroup shall include, but not be limited to, the following stakeholders: Families Forward Virginia, VOICES for Virginia's Children, and the Virginia Poverty Law Center. The Commissioner shall report the plan to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Commission on Youth by July 1, 2021.

V. Within 10 days of the enactment of this Act, the Department of Social Services (DSS) shall generate an estimate of the annual impact of enhanced federal Medical Assistance Percentages (FMAP), associated with federal H.R. 6021, the Families First Coronavirus Response Act (FFCRA), on all Title IV-E foster care and adoptions programs as appropriated in this Act. The agency shall report these estimates by fiscal year, fiscal quarter, service area and fund detail, to the Department of Planning and Budget (DPB) and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees within the required timeframe. DPB is authorized to unallot an amount of state funds equal to the general fund savings identified in the DSS report. Upon expiration of the enhanced FMAP, DPB is authorized to re-allot funding for those quarters for which assumed enhanced FMAP is not available.

W. Out of this appropriation, \$322,601 the second year from the general fund and \$2,546,850 the second year from nongeneral funds is provided to implement the Virginia Facilitated Enrollment Program.

355.	Financial Assistance for Supplemental Assistance Services (49100).....			\$83,257,450	\$83,257,450
	General Relief (49101).....	\$500,000	\$500,000		
	Resettlement Assistance (49102).....	\$9,022,000	\$9,022,000		
	Emergency and Energy Assistance (49103).....	\$73,735,450	\$73,735,450		
	Fund Sources: General.....	\$500,000	\$500,000		
	Federal Trust.....	\$82,757,450	\$82,757,450		

Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 104-193, as amended, Federal Code.

356.	Financial Assistance to Community Human Services Organizations (49200).....			\$62,107,967	\$57,957,967
	Community Action Agencies (49201).....	\$21,263,048	\$21,263,048	\$62,357,967	\$70,082,967
	Volunteer Services (49202).....	\$3,866,340	\$3,866,340		
	Other Payments to Human Services Organizations (49203).....	\$36,978,579	\$32,828,579		
		\$37,228,579	\$44,953,579		
	Fund Sources: General.....	\$1,174,500	\$674,500		
		\$1,424,500	\$7,674,500		
	Federal Trust.....	\$60,933,467	\$57,283,467		
			\$62,408,467		

Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A.1. All increased state or federal funds distributed to Community Action Agencies shall be distributed as follows: The funds shall be distributed to all local Community Action Agencies according to the Department of Social Services funding formula (75 percent based on low-income population, 20 percent based on number of jurisdictions served, and five percent based on square mileage served), adjusted to ensure that no agency receives less than 1.5 percent of any increase.

2. Out of this appropriation, \$185,725 the first year and \$185,725 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Virginia Community Action Partnership to provide outreach, education and tax preparation services via the Virginia Earned Income Tax Coalition and other community non-

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profit organizations to citizens who may be eligible for the federal Earned Income Tax Credit. The contract shall require the Virginia Community Action Partnership to report on its efforts to expand the number of Virginians who are able to claim the federal EITC, including the number of individuals identified who could benefit from the credit, the number of individuals counseled on the availability of federal EITC, and the number of individuals assisted with tax preparation to claim the federal EITC. The annual report from the Virginia Community Action Partnership shall also detail actual expenditures for the program including the sub-contractors that were utilized. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by December 1 each year.

3. Out of this appropriation, \$7,750,000 the first year and \$7,750,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with local Community Action Agencies to provide an array of services designed to meet the needs of low-income individuals and families, including the elderly and migrant workers. Services may include, but are not limited to, child care, community and economic development, education, employment, health and nutrition, housing, and transportation.

4. Out of this appropriation, \$1,125,000 the first year and \$1,125,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for competitive grants to Community Action Agencies for a Two-Generation/Whole Family Pilot Project and for evaluation of the pilot project. Applicants selected for the pilot project shall provide a match of no less than 20 percent of the grant, including in-kind services. The Department of Social Services shall report to the General Assembly annually on the progress of the pilot project and shall complete a final report on the project no later than six years after the commencement of the project.

B. The department shall continue to fund from this Item all organizations recognized by the Commonwealth as community action agencies as defined in §2.2-5400 et seq.

C. Out of this appropriation, \$8,617,679 the first year and \$8,617,679 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with programs that follow the evidence-based Healthy Families America home visiting model that promotes positive parenting, improves child health and development, and reduces child abuse and neglect. The Department of Social Services shall use a portion of the funds from this item to contract with the statewide office of Prevent Child Abuse Virginia for providing the coordination, technical support, quality assurance, training and evaluation of the Virginia Healthy Families programs.

E. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds shall be provided for the Child Abuse Prevention Play (the play) administered by Virginia Repertory Theatre. The contract shall include production and live performances of the play that teach child safety awareness to prevent child abuse.

F. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund shall be provided to contract with the Virginia Alzheimer's Association Chapters to provide dementia-specific training to long-term care workers in licensed nursing facilities, assisted living facilities and adult day care centers who deal with Alzheimer's disease and related disorders.

G. Out of this appropriation, \$1,500,000 the first year and ~~\$1,500,000~~\$2,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Northern Virginia Family Services (NVFS) to provide supportive services that address the basic needs of families in crisis, including the provision of food, financial assistance to prevent homelessness, access to health services, and adult workforce development programs. The contract shall require NVFS to provide an intake process that identifies the needs and appropriate services for those in crisis. Outcomes will be measured utilizing surveys provided to those who receive services and NVFS will report quarterly on survey results.

H. Out of this appropriation, \$405,500 the first year and \$405,500 the second year from the general fund and \$1,136,500 the first year and \$1,136,500 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to

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contract with child advocacy centers (CAC) to provide a comprehensive, multidisciplinary team response to allegations of child abuse in a dedicated, child-friendly setting. The contracts shall require CACs to provide forensic interviews, victim support and advocacy services, medical evaluations, and mental health services to victims of child abuse and neglect with the expected outcome of reducing child abuse and neglect. The department shall allocate four percent to Children's Advocacy Centers of Virginia (CACVA), the recognized chapter of the National Children's Alliance for Virginia's Child Advocacy Centers, for the purpose of assisting and supporting the development, continuation, and sustainability of community-coordinated, child-focused services delivered by children's advocacy centers (CACs). Of the remaining 96 percent, (i) 65 percent shall be distributed to a baseline allocation determined by the accreditation status of the CAC: (a) developing and associate centers 100 percent of base; (b) accredited centers 150 percent of base; and (c) accredited centers with satellite facilities 175 percent of base; and (ii) 35 percent shall be allocated according to established criteria to include: (a) 25 percent determined by the rate of child abuse per 1,000; (b) 25 percent determined by child population; and (c) 50 percent determined by the number of counties and independent cities serviced.

I.1. Out of this appropriation, \$1,250,000 the first year and \$1,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Virginia Early Childhood Foundation (VECF) to support the health and school readiness of Virginia's young children prior to school entry. These funds shall be matched with local public and private resources with a goal of leveraging a dollar for each state dollar provided.

2. Of the amounts in paragraph I.1. above, \$1,250,000 the first year and \$1,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be used to provide information and assistance to parents and families and to facilitate partnerships with both public and private providers of early childhood services. VECF will track and report statewide and local progress on a biennial basis. The Foundation shall account for the expenditure of these funds by providing the Governor, Secretary of Health and Human Resources, and the Chairmen of the House Appropriations and Senate Finance Committees with a certified audit and full report on Foundation initiatives and results not later than October 1 of each year for the preceding fiscal year ending June 30.

3. On or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation.

J. Out of this appropriation \$2,000,000 the first year and \$2,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to the Virginia Alliance of Boys and Girls Clubs to expand community-based prevention and mentoring programs.

K.1. Out of this appropriation, \$7,500,000 the first year and \$7,500,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided for competitive grants for community employment and training programs designed to move low-income individuals out of poverty through programs designed to assist TANF recipients in obtaining and retaining competitive employment with the prospect of a career path and wage growth and other supportive services designed to break the cycle of poverty and permanently move individuals out of poverty. Of this amount, \$2,000,000 shall be provided for competitive grants provided through Employment Services Organizations (ESOs).

2.a. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided for a second round of grants for community employment and training programs designed to move low-income individuals out of poverty by obtaining and retaining competitive employment with the prospect of a career path and wage growth. The local match requirement shall be reduced to 10 percent, including in-kind services, for grant recipients located in Virginia counties or cities with high fiscal stress as defined by the Commission on Local Government fiscal stress index.

b. Out of the amounts in 2.a., at least \$300,000 the first year and \$300,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided through a contract with the City of Richmond, Office of Community Wealth for services

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provided through the Center for Workforce Innovation.

3. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the the Temporary Assistance to Needy Families (TANF) block grant shall be provided for a third round of competitive grants for community employment and training programs. Out of this amount, \$450,000 each year shall be provided for competitive grants through Employment Services Organizations. The department may encourage applicants to consider developing programs that align or coordinate with the Medicaid Referral program to be developed pursuant to language in Item 313 of this act.

4. The Department of Social Services shall award grants to qualifying programs through a memorandum of understanding which articulates performance measures and outcomes including the number of individuals participating in services, number of individuals hired into employment, the number of unique employers hiring individuals through organizational programs and activities, the average starting wage of individuals hired, reductions in the rate of poverty, as well as process measures such as how the program targets improvement in poverty over a three to five year period and fits in with long term community goals for reducing poverty. Grants shall require local matching funds of at least a 25 percent, including in-kind services.

5. Community employment and training programs and ESOs shall report on annual program performance and outcome measures contained in the memorandum of understanding with the Department of Social Services. The department shall report on the implementation of the programs and any performance and outcome data collected through the memorandum of understanding by June 1 of each year.

L. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund shall be provided to contract with Youth for Tomorrow (YFT) to provide comprehensive residential, education and counseling services to at-risk youth of the Commonwealth of Virginia who have been sexually exploited, including victims of sex trafficking. The contract shall require YFT to provide individual assessments/individual service planning; individual and group counseling; room and board; coordination of medical and mental health services and referrals; independent living services for youth transitioning out of foster care; active supervision; education; and family reunification services. Youth for Tomorrow shall submit monthly progress reports on activities conducted and progress achieved on outputs, outcomes and other functions/activities during the reporting period. On October 1 of each year, YFT shall provide an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees that details program services, outputs and outcomes.

M. Out of this appropriation, \$75,000 the first year and ~~\$75,000~~ \$150,000 the second year from the federal Temporary Assistance for Needy Families block grant shall be provided to contract with Visions of Truth Community Development Corporation in Portsmouth, Virginia. The funding will support the Students Taking Responsibility in Valuing Education (STRIVE) suspension/dropout prevention program.

N. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the the federal Temporary Assistance for Needy Families block grant shall be provided to contract with Early Impact Virginia to continue its work in support of Virginia's voluntary home visiting programs. These funds may be used to hire three full-time staff, including a director and an evaluator, and to continue Early Impact Virginia's training partnerships. Early Impact Virginia shall have the authority and responsibility to determine, systematically track, and report annually on the key activities and outcomes of Virginia's home visiting programs; conduct systematic and statewide needs assessments for Virginia's home visiting programs at least once every three years; and to support continuous quality improvement, training, and coordination across Virginia's home visiting programs on an ongoing basis. Early Impact Virginia shall report on its findings to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2019 and annually thereafter.

O. Out of this appropriation, \$750,000 the first year and \$750,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Laurel Center in Winchester to provide program services to survivors of domestic abuse and sexual violence in Winchester, Frederick County, Clarke County, and

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Warren County at the Center's residential facility for survivors.				
P. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be provided for the Department of Social Services to contract with Adoption Share, Inc. for the purpose of a pilot program to operate the Family-Match application, which is an online matching tool for state case workers to use in matching foster care children with the best families.				
Q. Out of this appropriation, \$100,000 the first year and \$100,000 \$350,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to FACETS to provide homeless assistance services in Northern Virginia.				
R. Out of this appropriation, \$3,000,000 the first year <i>and \$3,000,000 the second year</i> from the Temporary Assistance for Needy Families block grant shall be provided for one-time funding to contract with the Virginia Federation of Food Banks to provide child nutrition programs.				
S. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year for the Temporary Assistance for Needy Families block grant shall be provided to the Virginia Transit Association to offer competitive grants for public transportation (as defined in Virginia Code §33.2-100) and public transportation demand management service fare passes. The Virginia Transit Association shall report on annual program performance and outcome measures contained in the memorandum of understanding with the Department of Social Services. The department shall report on any performance and outcome data collected through the memorandum of understanding by July 1 of each year. This report shall be provided to the Governor, Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance committees.				
T. Out of this appropriation, \$700,000 the first year and \$700,000 \$1,200,000 the second year from the Temporary Assistance for Needy Families block grant shall be provided to United Community to offer wrap-around services for low-income families. United Community shall report on annual program performance and outcome measures contained in the memorandum of understanding with the Department of Social Services. The department shall report on any performance and outcome data collected through the memorandum of understanding by July 1 of each year. This report shall be provided to the Governor, Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance committees.				
U. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to the Lighthouse Community Center, a nonprofit organization in Planning District 11, to provide housing assistance, or other eligible services, for individuals transitioning out of the criminal justice system and domestic violence situations contingent on contracting for services eligible under the TANF block grant.				
V. Out of this appropriation, \$500,000 the first year from the general fund shall be provided to the Laurel Center for expansion of education, outreach, program services, and new career and education support. <i>Any unexpended balance as of June 30, 2021 shall not revert to the general fund but shall be reappropriated in fiscal year 2022.</i>				
W. Out of this appropriation, \$650,000 the first year from the federal Temporary Assistance for Needy Families (TANF) grant shall be provided to food banks for the emergency food supply package program for fall 2020 and winter 2021. Funding authorized in this paragraph shall only be expended when no other federal funding source is available for this purpose.				
X. Out of this appropriation, \$750,000 the first year and \$750,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Cornerstones to provide wrap-around services that solve urgent or on-going requirements for housing, childcare, food or financial assistance that address the needs of families. The contract shall require Cornerstones to report annually on outcomes.				
Y. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Portsmouth Volunteers for the Homeless to provide wrap-around services for homeless individuals.				

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Z. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Menchville House to provide supportive services for homeless individuals.

AA. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Family Restoration Services of Hampton to provide supportive services to families in need.

BB. Out of this appropriation, \$250,000 the first year from the general fund shall be provided to Children's Harbor to expand child care services on the Eastern Shore.

CC. Out of this appropriation, \$200,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for Good Shepherd Housing and Family Services to assist with food, housing, child care/education, workforce training and mental health services and supports related to the COVID-19 pandemic response.

DD. Out of this appropriation, \$200,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to BritePaths to assist with food, housing, child care and education, workforce training and mental health services and supports related to stabilizing families during the COVID-19 pandemic.

EE. Out of this appropriation, \$200,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to the Koinonia Foundation to assist with food, housing, child care and education, workforce training and mental health services and supports related to stabilizing families during the COVID-19 pandemic.

FF. Out of this appropriation, \$5,000,000 from the general fund the second year shall be provided to Prince William County for the CASA Welcome Center in Prince William County. Funding shall be matched by private and other nonprofit or governmental funding on a cash and/or in-kind basis.

GG. Out of this appropriation, \$2,000,000 from the general fund the second year shall be provided to Northampton County for the development of the Northampton County Community Center.

HH. Out of this appropriation, \$200,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to the the Lorton Community Action Center to assist with food, housing, child care and education, workforce training and mental health services and supports for low-income families during the COVID-19 pandemic.

357. Regulation of Public Facilities and Services (56100).....			\$35,317,447	\$15,956,745
			\$43,491,485	\$16,311,476
Regulation of Adult and Child Welfare Facilities (56101).....	\$32,251,460	\$12,890,758		
	\$40,425,498	\$13,245,489		
Background Investigation Services (56106).....	\$3,065,987	\$3,065,987		
Fund Sources: General.....	\$6,246,227	\$6,588,125		
	\$6,554,217	\$6,942,856		
Special.....	\$3,143,517	\$3,143,517		
Federal Trust.....	\$25,927,703	\$6,225,103		
	\$33,793,751			

Authority: Title 63.2, Chapters 17 and 18, Code of Virginia.

A. The state nongeneral fund amounts collected and paid into the state treasury pursuant to the provisions of § 63.2-1700, Code of Virginia, shall be used for the development and delivery of training for operators and staff of assisted living facilities, adult day care centers, and child welfare agencies.

B. As a condition of this appropriation, the Department of Social Services shall (i) promptly fill all position vacancies that occur in licensing offices so that positions shall

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not remain vacant for longer than 120 days and (ii) hire sufficient child care licensing specialists to ensure that all child care facilities receive, at a minimum, the two visits per year mandated by § 63.2-1706, Code of Virginia, and that facilities with compliance problems receive additional inspection visits as necessary to ensure compliance with state laws and regulations.				
C. As a condition of this appropriation, the Department of Social Services shall utilize a risk assessment instrument for child and adult care enforcement. This instrument shall include criteria for determining when the following sanctions may be used: (i) the imposition of intermediate sanctions, (ii) the denial of licensure renewal or revocation of license of a licensed facility, (iii) injunctive relief against a child care provider, and (iv) additional inspections and intensive oversight of a facility by the Department of Social Services.				
D. Out of this appropriation, the Department of Social Services shall implement training for new assisted living facility owners and managers to focus on health and safety issues, and resident rights as they pertain to adult care residences.				
E. Out of this appropriation, \$8,853,833 and 59 positions the first year from the federal Child Care and Development Fund (CCDF) shall be provided to address the workload associated with licensing, inspecting and monitoring family day homes, pursuant to § 63.2-1704, Code of Virginia. The Department of Social Services shall provide an annual report, not later than October 1 of each year for the preceding state fiscal year ending June 30, on the implementation of this initiative to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.				
F. The Department of Social Services shall work with localities that currently inspect child day care centers and family day homes to minimize duplication and overlap of inspections pursuant to § 63.2-1701.1, Code of Virginia.				
G. No child day center, family day home, or family day system licensed in accordance with Chapter 17, Title 63.2; child day center exempt from licensure pursuant to § 63.2-1716; registered family day home; family day home approved by a family day system; or any child day center or family day home that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall employ; continue to employ; or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who has an offense as defined in § 63.2-1719. All employees and volunteers shall undergo the following background check by July 1, 2017 and every 5 years thereafter, as required by the federal Child Care and Development Block Grant Act of 2014 (CCDBG).				
H. 1. A child day program that operates for children of essential personnel or those who have been identified as needing in-person services, who are in need of child care as a result of the COVID-19 pandemic, shall be exempt from licensure. Programs operating under this emergency licensing exemption must file an exemption with the Department and abide by the requirements set forth in § 63.2-1715(C) and (D), Code of Virginia. The Commissioner shall have the authority to inspect these programs only upon receipt of a complaint, except as otherwise provided by law.				
2. An instructional program operating under § 63.2-1715 (A), Code of Virginia solely for children of essential personnel must file with the Commissioner a statement indicating the intent to operate the program and identifying that the program will operate solely for the children of essential personnel or those who have been identified as needing in-person services. All emergency child care programs shall follow Centers for Disease Control and Prevention and Virginia Department of Health guidance on safety measures to prevent the spread of COVID-19.				
I. When a child day program operates in response to the COVID-19 pandemic, a background check for an individual associated with a child day program operating solely for children of essential personnel or those who have been identified as needing in-person services shall not be required for any individual who has completed a background check under the provisions of § 63.2-1720.1 or § 63.2-1721.1, Code of Virginia within the previous two years and who continues to be eligible. The Department shall establish a process regarding background check portability, and child day program providers seeking portability must follow this process.				

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<p>J. Any public or accredited private school may operate emergency child care for preschool or school aged children of essential personnel or those who have been identified as needing in-person services during a declared state or local emergency due to COVID-19. Such programs shall be exempt from licensure (§ 63.2-1715, Code of Virginia) and shall be subject to safety and supervisory standards, including background checks, established by the local school division or accredited private school offering the program. All emergency child care programs shall follow Centers for Disease Control and Prevention and Virginia Department of Health guidance on safety measures to prevent the spread of COVID-19.</p> <p><i>K.1. The Department of Social Services is authorized to temporarily waive the maximum reimbursable rate requirement in the Child Care Subsidy Regulation (22VAC40-665-80. Determining payment amount) and replace it with a flat rate of ten dollars per hour for in-home child care providers. The provisions of this paragraph, as well as any actions implemented under its authority, shall be in accordance with the Governor's emergency declaration for COVID-19 and be in effect for the period specified therein.</i></p> <p><i>2. If any action implemented in accordance with K.1. of this Item creates a fiscal obligation, the Department shall utilize appropriate nongeneral fund sources to fund the costs incurred. No general fund appropriation shall be used for this purpose.</i></p> <p><i>L. Out of this appropriation, \$2,528,124 the first year and \$786,369 the second year from the general fund and \$11,062,664 the first year and \$68,362 the second year from nongeneral funds shall be appropriated to fund the replacement of the agency licensing system. Any unexpended general fund balance as of June 30, 2021, related to this paragraph shall be reappropriated to continue replacement of the agency licensing system.</i></p>				
358.	Emergency Preparedness (77500).....		\$1,665,020 \$983,275	\$811,320 \$505,203
	Emergency Planning Preparedness Assistance (77503).....	\$1,665,020 \$983,275	\$811,320 \$505,203	
	Fund Sources: General.....	\$797,345 \$115,600	\$421,717 \$115,600	
	Federal Trust.....	\$867,675	\$389,603	

A. By October 1 of each year, the Sheltering Coordinator shall provide a status report on the Commonwealth's emergency shelter capabilities and readiness to the Governor, the Secretary of Health and Human Resources, the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance committees.

B.1. The Department of Social Services, in consultation with institutions of higher education, and with the assistance of the Virginia Department of Emergency Management and the Department of General Services, shall develop a model state shelter plan to include but not limited to the process of mobilization and demobilization of the shelter; relocation of residents when a state shelter is de-activated; warehousing of pre-positioned supplies; potential use of existing resources and vendors already under contract with institutions of higher education; and cost estimates for resources that would be reimbursed by the Commonwealth. The Department shall submit a report on the model plan and its recommendations, including challenges implementing such plan in all state shelters, by October 15, 2020, to the chairs of the House Appropriations and Senate Finance Committees, the Secretary of Health and Human Resources, the Secretary of Education, and the Secretary of Public Safety and Homeland Security, and the Secretary of Finance.

2. Notwithstanding any other provision of law, the Department of Social Services, in consultation with the Virginia Department of Emergency Management, shall determine and document the specifications of all goods and services required in the event of state shelter activation and provide the specifications to the Department of General Services. In so doing, the Department shall work with each institution of higher education at which a state shelter may be located to identify site-specific goods and services needs to operate the shelter. The Department will identify the extent to which an institution of higher education may have existing contracts for goods and services that could be used to support

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state shelter operations. In addition the Department will identify warehousing space that is or may be available at institutions of higher education for the storage of supplies. The Department shall complete the initial specifications and warehousing documentation by November 1, 2020, and revise it as needed providing updates to the Department of General Services annually thereafter by November 1 each year.				
3. All state agencies are directed to provide all information or assistance requested by the Department to complete or revise this documentation to support state shelters. Immediately following activation of one or more state shelters, the Department shall be responsible for submitting procurement orders as needed on behalf of affected institutions of higher education to the Virginia Department of Emergency Management and the Department of General Services for fulfillment in support of state shelter activation.				
359.	Administrative and Support Services (49900).....		\$119,617,496	\$113,236,291
			\$119,763,882	\$116,707,287
	General Management and Direction (49901).....	\$5,172,009	\$5,172,009	
	Information Technology Services (49902).....	\$86,741,448	\$80,360,243	
		\$87,041,448	\$83,160,243	
	Accounting and Budgeting Services (49903).....	\$10,584,962	\$10,584,962	
	Human Resources Services (49914).....	\$5,714,069	\$5,714,069	
	Planning and Evaluation Services (49916).....	\$4,114,012	\$4,114,012	
	Procurement and Distribution Services (49918).....	\$3,900,031	\$3,900,031	
	Public Information Services (49919).....	\$3,004,654	\$3,004,654	
		\$2,851,040	\$3,675,650	
	Financial and Operational Audits (49929).....	\$386,311	\$386,311	
	Fund Sources: General.....	\$45,867,828	\$45,582,828	
		\$45,889,214	\$46,441,519	
	Special.....	\$175,000	\$175,000	
	Dedicated Special Revenue.....	\$0	\$2,000,000	
	Federal Trust.....	\$73,574,668	\$67,478,463	
		\$73,699,668	\$68,090,768	

Authority: Title 63.2, Chapter 1; § 2.2-4000 et seq., Code of Virginia; P.L. 98-502, P.L. 104-156, P.L. 104-193, P.L. 104-327, P.L. 105-33, as amended, P.L. 105-89, Federal Code; Titles IV-A, IV-B, IV-D, IV-E, XIX, XX, XXI of the federal Social Security Act, as amended.

A. The Department of Social Services shall require localities to report all expenditures on designated social services, regardless of reimbursement from state and federal sources. The Department of Social Services is authorized to include eligible costs in its claim for Temporary Assistance for Needy Families Maintenance of Effort requirements.

B. It is the intent of the General Assembly that the Commissioner, Department of Social Services shall work with localities that seek to voluntarily merge and consolidate their respective local departments of social services. No funds appropriated under this act shall be used to require a locality to merge or consolidate local departments of social services.

C.1. Out of this appropriation, ~~\$627,458~~ \$473,844 the first year and ~~\$627,458~~ \$836,149 the second year from the general fund and \$969,542 the first year and ~~\$969,542~~ \$1,331,847 the second year from nongeneral funds shall be provided to support the statewide 2-1-1 Information and Referral System which provides resource and referral information on many of the specialized health and human resource services available in the Commonwealth, including child day care availability and providers in localities throughout the state, and publish consumer-oriented materials for those interested in learning the location of child day care providers.

2. The Department of Social Services shall request that all state and local child-serving agencies within the Commonwealth be included in the Virginia Statewide Information and Referral System as well as any agency or entity that receives state general fund dollars and provides services to families and youth. The Secretary of Health and Human Resources, the Secretary of Education and Workforce, and the Secretary of Public Safety and Homeland Security shall assist in this effort by requesting all affected agencies within their secretariats to submit information to the statewide Information and Referral System and ensure that such information is accurate and updated annually. Agencies shall also notify the Virginia

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Information and Referral System of any changes in services that may occur throughout the year.				
3. The Department of Social Services shall communicate with child-serving agencies within the Commonwealth about the availability of the statewide Information and Referral System. This information shall also be communicated via the Department of Social Services' broadcast system on their agency-wide Intranet so that all local and regional offices can be better informed about the Statewide Information and Referral System. Information on the Statewide Information and Referral System shall also be included within the department's electronic mailings to all local and regional offices at least biannually.				
D.1. Within 30 days of awarding or amending any contract related to the Virginia Case Management System (VaCMS), the Department of Social Services (DSS) shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget with a copy of the contract, including any fiscal implications.				
2. Prior to the award of any contract that will potentially obligate the Commonwealth to future unappropriated spending, the department shall receive prior written concurrence from Director, Department of Planning and Budget. Any approved increases in funding requests shall be reported by DSS to the Chairmen of House Appropriations and Senate Finance Committees within 30 days.				
E. At least 60 days prior to the modification of any public guidance document, handbook, manual, or state plan, the Department of Social Services (DSS) shall provide written notification to the Governor and the Director of the Department of Planning and Budget as to the purpose of such change. This notice shall also assess whether the amendment may require any 1) future state regulatory action; 2) increase in local costs; and/or 3) any state expenditure beyond that which is appropriated in this Act. This notice does not exempt the agency from any requirements set forth within § 4-5.03 of this Act.				
F. The Superintendent of Public Instruction shall convene a work group to develop and establish a plan to transfer the Child Care Development Fund grant from the Virginia Department of Social Services to the Virginia Department of Education no later than July 1, 2021. The work group shall include representatives of (i) the Secretariats of Education and Health and Human Resources; (ii) relevant state agencies, including the Department of Planning and Budget, the Office of the Attorney General, the Department of Education, and the Department of Social Services; (iii) relevant regulatory boards, including the Board of Education; and (iv) the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The goal of this transfer is to house responsibility of child care and education programs under one agency. The plan shall be submitted to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and Director of the Department of Planning and Budget no later than August 15, 2020. Such plan shall confirm the funding amounts and positions that need to be transferred between the impacted agencies, and shall identify any savings or additional costs associated with the transfer of these programs. The review shall also assess any potential administrative impacts on the Department of Social Services and the Department of Education.				
G. Out of this appropriation, \$250,000 the first year from the general fund is provided for the agency to contract with a vendor for assistance in evaluating the agency's needs for a new child welfare system; developing detailed cost estimates and a timeline for implementation. The department shall submit a plan for a new child welfare system to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020.				
H. The Department of Social Services shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the previous year. The report shall be made available on the department's website by August 15 of each year. For the report due August 15, 2020, the department shall provide a summary of all organizational changes				

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implemented since January 1, 2018.				
<p>I. Notwithstanding any other provision of law, the Department of Social Services (DSS) shall have temporary authority to make any changes to relevant State Plans, request waivers from applicable Federal agencies, change eligibility criteria for benefits and services, and payment levels for applicable programs in response to the COVID-19 pandemic and new authorities and funding made available by the federal government to effect those policies necessary to ensure that benefits are available to eligible populations in response to COVID-19. Prior to the implementation of any change, DSS must receive written approval from the Governor. Within 15 days of implementing changes in response to COVID-19, DSS shall send a list of such actions to the Director, Department of Planning and Budget and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees. The provisions of this paragraph, as well as any actions implemented under its authority, shall be in accordance with the Governor's emergency declaration for COVID-19 and be in effect for the period specified therein.</p>				
<p>J. Out of this appropriation, \$178,043 the first year from the federal Temporary Assistance for Needy Families (TANF) grant shall be provided to fund payment structure changes to implement one-time food benefit payments to families with children enrolled in Head Start.</p>				
<p><i>K. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund and \$125,000 the first year and \$125,000 the second year from nongeneral funds shall be appropriated to fund the replacement of the agency licensing system. Any unexpended general fund balance as of June 30, 2021, related to this paragraph shall be reappropriated to continue replacement of the agency licensing system.</i></p>				
<p><i>L. The Department of Social Services shall design, for consideration by the 2022 General Assembly, a program that provides a fixed reimbursement, which shall not exceed \$15 monthly, for broadband service costs for select households currently participating in the Supplemental Nutrition Assistance Program. The reimbursement payments under the program shall be structured as a direct payment to a broadband provider selected by the qualifying program participant household, provided that the selected broadband provider offers a low-cost broadband service for low-income households within its service area in the Commonwealth. The department shall develop program guidelines in coordination with the Commonwealth Broadband Chief Advisor to govern eligibility for participation in the program and disbursement of program funds. The department shall report on the program design and structure, administrative cost estimates, program guidelines, and other relevant information related to implementing the program to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.</i></p>				
<p><i>M. The Department of Social Services as administrator of the federal Community Services Block Grant shall establish an interagency working group to develop recommendations for implementation of local criminal justice diversion programs. Each diversion program should offer standards for providing persons charged with lower-level offenses alternatives to arrest, conviction or incarceration for lower-level offenses. The scope of these programs shall not include behavioral health issues as those priorities are being addressed elsewhere. The working group should include the appropriate offices and agencies of Health and Human Resources, Commerce and Trade, Public Safety and Homeland Security and the Governor's Chief Diversity, Equity and Inclusion Officer. The interagency working group shall work with community action agencies, local governments including local law enforcement, representatives of the judicial system, civil rights organizations as well as other stakeholders to develop locally-based solutions. The recommendations shall provide for two-generation whole family strategies that deal with meeting the needs of the potential offender and his or her entire family by addressing issues related to poverty, including homelessness. The Department of Social Services shall submit its recommendations to the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee no later than September 30, 2021.</i></p>				
<p><i>N. Out of this appropriation, \$100,000 the second year from the general fund is provided for the Department of Social Services to increase interpretation and translation services to help immigrants in Virginia access local resources through 2-1-1, including healthcare, housing, and other social services.</i></p>				

ITEM 360.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
360.	<p>A. In the operation of any program of public assistance, including benefit and service programs in any locality, for which program appropriations are made to the Department of Social Services, it is provided that if a payment or overpayment is made to an individual who is ineligible therefor under federal and/or state statutes and regulations, the amount of such payment or overpayment shall be returned to the Department of Social Services by the locality.</p> <p>B. However, no such repayments may be required of the locality if the department determines that such overpayment or payments to ineligibles resulted from the promulgation of vague or conflicting regulations by the department or from the failure of the department to make timely distribution to the localities of the statutes, rules, regulations, and policy decisions, causing the overpayment or payment to ineligible(s) to be made by the locality or from situations where a locality exercised due diligence, yet received incomplete or incorrect information from the client which caused the overpayment or payment to ineligibles. If a locality fails to effect the return, the Department of Social Services shall withhold an equal amount from the next disbursement made by the department to the locality for the same program.</p> <p>C. The Department of Social Services shall implement the guidance issued by the U.S. Department of Health and Human Services concerning the obligation of recipients of federal financial assistance to comply with Title VI of the Civil Rights Act of 1964 by ensuring that meaningful access to federally-funded programs, activities and services administered by the department is provided to limited English proficient (LEP) persons, 63 Fed. Reg. 47,311-47,323 (August 8, 2003). At a minimum, the department shall (i) identify the need for language assistance by analyzing the following factors: (1) the number or proportion of LEP persons in the eligible service population, (2) the frequency of contact with such persons, (3) the nature and importance of the program, activity or service, and (4) the costs of providing language assistance and resources available; (ii) translate vital documents into the language of each frequently encountered LEP group eligible to be served; (iii) provide accurate and timely oral interpreter services; and (iv) develop an effective implementation plan to address the identified needs of the LEP populations served.</p>				
361.	<p>A. The amount for the Supplemental Nutrition Assistance Program (SNAP) shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.</p> <p>B. Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the Department of Social Services shall, in cooperation with local departments of social services, maintain a waiver of the work requirement for Supplemental Nutrition Assistance Program (SNAP) recipients residing in areas that do not have a sufficient number of jobs to provide employment for such individuals, including those areas designated as labor surplus areas by the U.S. Department of Labor.</p> <p>C. To the extent permitted by federal law, Supplemental Nutrition Assistance Program (SNAP) recipients subject to a work requirement pursuant to § 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, shall be permitted to satisfy such work requirement by providing volunteer services to a public or private, nonprofit agency for the number of hours per month determined by dividing the household's monthly SNAP allotment by the federal minimum wage.</p> <p>D. The Department of Social Services shall, to the extent permitted by federal law, disregard the value of at least one motor vehicle per household in determining eligibility for the Supplemental Nutrition Assistance Program (SNAP).</p> <p>E. The Department of Social Services shall develop a multi-lingual outreach campaign to inform qualified aliens and their children, who are United States citizens, of their eligibility for the federal Supplemental Nutrition Assistance Program (SNAP) and ensure that they have access to benefits under SNAP. To the extent permitted by federal law, the</p>				

ITEM 361.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
department shall administer SNAP in a way that minimizes the procedural burden on qualified aliens and addresses concerns about the impact of SNAP receipt on their immigration sponsors and status.				
361.10	Omitted.			
	Total for Department of Social Services.....		\$2,281,992,116	\$2,075,010,415
			\$2,253,491,892	\$2,106,691,975
	General Fund Positions.....	653.00	661.00	663.00
	Nongeneral Fund Positions.....	1,224.50	1,074.50	1,079.50
	Position Level.....	1,877.50	1,735.50	1,742.50
	Fund Sources: General.....	\$480,548,384	\$477,257,300	
		\$434,112,881	\$468,644,651	
	Special.....	\$697,516,427	\$697,516,427	
		\$698,695,315		
	Dedicated Special Revenue.....	\$9,244,920	\$9,244,920	
			\$11,944,920	
	Federal Trust.....	\$1,094,682,385	\$890,991,768	
		\$1,111,438,776	\$928,585,977	

§ 1-104. VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES (606)

362.	Social Services Research, Planning, and Coordination (45000).....		\$1,692,011	\$1,692,011
	Research, Planning, Outreach, Advocacy, and Systems Improvement (45002).....	\$1,017,656	\$1,017,656	
	Administrative Services (45006).....	\$674,355	\$674,355	
	Fund Sources: General.....	\$237,604	\$237,604	
	Federal Trust.....	\$1,454,407	\$1,454,407	

Authority: Title 51.5, Chapter 7, Code of Virginia.

Up to \$44,474 the first year and up to \$44,474 the second year is available for the Virginia Board for People with Disabilities (VBPD) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between VBPD and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.

363.	Financial Assistance for Individual and Family Services (49000).....		\$601,475	\$401,475
	Financial Assistance to Localities for Individual and Family Services (49001).....	\$601,475	\$401,475	
	Fund Sources: Federal Trust.....	\$601,475	\$401,475	
	Authority: Title 51.5, Chapter 7, Code of Virginia.			
	Total for Virginia Board for People with Disabilities..		\$2,293,486	\$2,093,486
	General Fund Positions.....	1.60	1.60	
	Nongeneral Fund Positions.....	8.40	8.40	
	Position Level.....	10.00	10.00	
	Fund Sources: General.....	\$237,604	\$237,604	
	Federal Trust.....	\$2,055,882	\$1,855,882	

§ 1-105. DEPARTMENT FOR THE BLIND AND VISION IMPAIRED (702)

ITEM 364.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
364.	Statewide Library Services (14200).....			\$1,200,674	\$1,200,674
	Library and Resource Center Services (14202).....	\$1,200,674	\$1,200,674		
	Fund Sources: General.....	\$1,200,674	\$1,200,674		
	Authority: § 51.5-74, Code of Virginia; P.L. 89-522, and P.L. 101-254, Federal Code.				
	Out of this appropriation, \$141,163 the first year and \$141,363 the second year from the general fund shall be used to contract for the provision of radio reading services for the blind and vision impaired.				
365.	State Education Services (19100).....			\$1,548,870	\$1,548,870
	Braille and Instructional Materials (19101).....	\$707,069	\$707,069		
	Educational and Early Childhood Support Services (19102).....	\$841,801	\$841,801		
	Fund Sources: General.....	\$883,811	\$883,811		
	Trust and Agency.....	\$55,000	\$55,000		
	Federal Trust.....	\$610,059	\$610,059		
	Authority: §§ 22.1-214 and 22.1-217, Code of Virginia; P.L. 89-313, P.L. 97-35 and P.L. 102-119, Federal Code.				
366.	Rehabilitation Assistance Services (45400).....			\$15,837,108	\$15,837,108
	Low Vision Services (45401).....	\$386,293	\$386,293	\$13,914,033	\$14,202,971
	Vocational Rehabilitation Services (45404).....	\$9,879,430	\$9,879,430		
		\$8,296,410	\$8,296,410		
	Community Based Independent Living Services (45407).....	\$5,100,811	\$5,100,811		
		\$4,760,756	\$5,049,694		
	Vending Stands, Cafeterias, and Snack Bars (45410).....	\$470,574	\$470,574		
	Fund Sources: General.....	\$4,433,775	\$4,433,775		
		\$2,510,700	\$2,799,638		
	Special.....	\$844,731	\$844,731		
	Trust and Agency.....	\$173,109	\$173,109		
	Federal Trust.....	\$10,385,493	\$10,385,493		

Authority: § 51.5-1 and Title 51.5, Chapter 1, Code of Virginia; P.L. 93-516 and P.L. 93-112, Federal Code.

A. It is the intent of the General Assembly that visually handicapped persons who have completed vocational training as food service managers through programs operated by the Department be considered for food service management position openings within the Commonwealth as they arise.

B. 1. The annual federal vocational rehabilitation grant award that will be received by the Department for the Blind and Vision Impaired (DBVI) is estimated at \$9,370,416 for federal fiscal year 2020; \$9,370,416 for federal fiscal year 2021; and \$9,370,416 for federal fiscal year 2022. In addition to the base annual award amount, DBVI may request up to \$2,000,000 of additional federal allotment dollars in each of these years. Assuming these amounts, the annual 21.3 percent state matching requirement would equate to \$3,077,380 for federal fiscal year 2020; \$3,077,380 for federal fiscal year 2021; and \$3,077,380 for federal fiscal year 2022.

2. Based on the projection of federal award funding in paragraph B.1., DBVI shall not request federal vocational rehabilitation grant dollars in excess of \$11,370,416 for federal fiscal year 2020; \$11,370,416 for federal fiscal year 2021; and \$11,370,416 for federal fiscal year 2022, without prior written concurrence from the Director, Department of Planning and Budget. Any approved increases in grant award requests shall be reported by DARS to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days.

ITEM 367.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
367.	Regional Office Support and Administration (49700).			\$2,802,136	\$2,802,136
	Regional Office and Field Support Services (49701)..	\$2,802,136	\$2,802,136		
	Fund Sources: General.....	\$1,395,586	\$1,395,586		
	Federal Trust.....	\$1,406,550	\$1,406,550		
	Authority: Title 2.2, Chapter 36; Title 51.5, Chapter 13, Code of Virginia; P.L. 93-112 and P.L. 97-35, Federal Code.				
368.	Rehabilitative Industries (81000).....			\$51,368,817	\$52,868,817
	Manufacturing, Retail, and Contract Operations (81003).....	\$51,368,817	\$52,868,817	\$76,368,817	\$62,868,817
	Fund Sources: Enterprise.....	\$51,368,817	\$52,868,817		
		\$76,368,817	\$62,868,817		
	Authority: § 51.5-72, Code of Virginia; P.L. 92-29 and P.L. 93-112, Federal Code.				
	The Industry Production Workers with the Virginia Industries for the Blind shall not be counted in the classified employment levels of the Department for the Blind and Vision Impaired.				
369.	Administrative and Support Services (49900).....			\$4,485,141	\$4,485,141
	General Management and Direction (49901).....	\$3,296,733	\$3,296,733		
	Physical Plant Services (49915).....	\$1,188,408	\$1,188,408		
	Fund Sources: General.....	\$1,356,352	\$1,356,352		
	Special.....	\$1,119,678	\$1,119,678		
	Enterprise.....	\$1,500,000	\$1,500,000		
	Trust and Agency.....	\$50,000	\$50,000		
	Federal Trust.....	\$459,111	\$459,111		
	Authority: Title 63.2, Chapter 4, Code of Virginia; P.L. 89-313, P.L. 93-112, and P.L. 97-35, Federal Code.				
	Up to \$1,556,997 the first year and up to \$1,556,997 the second year is available for the Department for the Blind and Vision Impaired (DBVI) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DBVI and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.				
369.10	Omitted.				
	Total for Department for the Blind and Vision Impaired.....			\$77,242,746	\$78,742,746
				\$100,319,671	\$87,108,609
	General Fund Positions.....	62.60	62.60		
	Nongeneral Fund Positions.....	92.40	92.40		
	Position Level.....	155.00	155.00		
	Fund Sources: General.....	\$9,270,198	\$9,270,198		
		\$7,347,123	\$7,636,061		
	Special.....	\$1,964,409	\$1,964,409		
	Enterprise.....	\$52,868,817	\$54,368,817		
		\$77,868,817	\$64,368,817		
	Trust and Agency.....	\$278,109	\$278,109		
	Federal Trust.....	\$12,861,213	\$12,861,213		

ITEM 370.		Item Details(\$)		Appropriations(\$)	
		First Year	Second Year	First Year	Second Year
		FY2021	FY2022	FY2021	FY2022
370.	Rehabilitation Assistance Services (45400).....			\$1,721,313	\$1,721,313
	Social and Personal Adjustment to Blindness Training (45408).....	\$1,721,313	\$1,721,313		
	Fund Sources: General.....	\$172,500	\$172,500		
	Special.....	\$2,000	\$2,000		
	Enterprise.....	\$50,000	\$50,000		
	Trust and Agency.....	\$20,000	\$20,000		
	Federal Trust.....	\$1,476,813	\$1,476,813		
	Authority: § 51.5-1, Code of Virginia; P.L. 93-112, Federal Code.				
371.	Administrative and Support Services (49900).....			\$1,351,415	\$1,351,415
	General Management and Direction (49901).....	\$600,567	\$600,567		
	Food and Dietary Services (49907).....	\$278,000	\$278,000		
	Physical Plant Services (49915).....	\$472,848	\$472,848		
	Fund Sources: General.....	\$181,608	\$181,608		
	Special.....	\$42,000	\$42,000		
	Federal Trust.....	\$1,127,807	\$1,127,807		
	Authority: § 51.5-73, Code of Virginia; P.L. 93-112, Federal Code.				
	Out of this appropriation, \$172,250 the first year and \$172,250 the second year from the general fund shall be used for training individuals whose cost cannot be covered by federal vocational rehabilitation revenue. It is estimated that this funding will support 21 blind, deafblind, and vision impaired individuals.				
	Total for Virginia Rehabilitation Center for the Blind and Vision Impaired.....			\$3,072,728	\$3,072,728
	Nongeneral Fund Positions.....	26.00	26.00		
	Position Level.....	26.00	26.00		
	Fund Sources: General.....	\$354,108	\$354,108		
	Special.....	\$44,000	\$44,000		
	Enterprise.....	\$50,000	\$50,000		
	Trust and Agency.....	\$20,000	\$20,000		
	Federal Trust.....	\$2,604,620	\$2,604,620		
	Grand Total for Department for the Blind and Vision Impaired.....			\$80,315,474	\$81,815,474
				\$103,392,399	\$90,181,337
	General Fund Positions.....	62.60	62.60		
	Nongeneral Fund Positions.....	118.40	118.40		
	Position Level.....	181.00	181.00		
	Fund Sources: General.....	\$9,624,306	\$9,624,306		
		\$7,701,231	\$7,990,169		
	Special.....	\$2,008,409	\$2,008,409		
	Enterprise.....	\$52,918,817	\$54,418,817		
		\$77,918,817	\$64,418,817		
	Trust and Agency.....	\$298,109	\$298,109		
	Federal Trust.....	\$15,465,833	\$15,465,833		
	TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....			\$22,181,866,939	\$22,738,646,368
				\$22,158,912,664	\$23,689,617,791
	General Fund Positions.....	8,294.65	8,399.65		
			8,466.65		
	Nongeneral Fund Positions.....	6,404.12	6,257.12		
			6,309.12		
	Position Level.....	14,698.77	14,656.77		
			14,775.77		

ITEM 371.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: General.....	\$7,185,672,182	\$7,804,586,478		
	\$6,555,620,290	\$7,692,316,925		
Special.....	\$1,041,223,626	\$1,021,778,339		
	\$1,025,744,383	\$1,005,666,331		
Enterprise.....	\$52,918,817	\$54,418,817		
	\$77,918,817	\$64,418,817		
Trust and Agency.....	\$1,724,096	\$1,724,096		
Dedicated Special Revenue.....	\$1,512,712,990	\$1,588,484,629		
	\$1,597,497,252	\$1,650,343,495		
Federal Trust.....	\$12,387,615,228	\$12,267,654,009		
	\$12,900,407,826	\$13,275,148,127		

ITEM 372.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

OFFICE OF NATURAL RESOURCES

§ 1-106. SECRETARY OF NATURAL RESOURCES (183)

372.	Administrative and Support Services (79900).....			\$748,431	\$748,431
	General Management and Direction (79901).....	\$748,431	\$748,431		
	Fund Sources: General.....	\$640,939	\$640,939		
	Federal Trust.....	\$107,492	\$107,492		

Authority: Title 2.2, Chapter 2, Article 7; and § 2.2-201, Code of Virginia.

A. The Secretary of Natural Resources shall report to the Chairmen of the Senate Committees on Finance and Agriculture, Conservation, and Natural Resources, and the House Committees on Appropriations and Conservation and Natural Resources, by November 4 of each year on implementation of the Chesapeake Bay nutrient reduction strategies. The report shall include and address the progress and costs of point source and nonpoint source pollution strategies. The report shall include, but not be limited to, information on levels of dissolved oxygen, acres of submerged aquatic vegetation, computer modeling, variety and numbers of living resources, and other relevant measures for the General Assembly to evaluate the progress and effectiveness of the tributary strategies. In addition, the Secretary shall include information on the status of all of Virginia's commitments to the Chesapeake Bay Agreements.

B. It is the intent of the General Assembly that a reserve be created within the Virginia Water Quality Improvement Fund to support the purposes delineated within the Virginia Water Quality Improvement Act of 1997 (WQIA 1997) when year-end general fund surpluses are unavailable. Consequently, 15 percent of any amounts appropriated to the Virginia Water Quality Improvement Fund due to annual general fund revenue collections in excess of the official estimates contained in the general appropriation act shall be withheld from appropriation, unless otherwise specified. When annual general fund revenue collections do not exceed the official revenue estimates contained in the general appropriation act, the reserve fund may be used for WQIA 1997 purposes as directed by the General Assembly within the general appropriation act.

C. The Secretary of Natural Resources, with the assistance of the Directors of the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Game and Inland Fisheries, and the Department of Historic Resources, shall provide an annual report to the Chairmen of the House Appropriations and Senate Finance Committees of all projects undertaken pursuant to a settlement or mitigation agreement upon which the Secretary of Natural Resources is an authorized signatory on behalf of the Governor by November 15 each year until all terms of the settlement or mitigation agreement are satisfied. In addition, whenever a settlement or mitigation agreement is finalized, the Secretary shall provide a copy of, and explanation of, the terms of such settlement to the Chairmen of the House Appropriations and Senate Finance Committees within 15 days.

D.1. There is hereby established the Interagency Environmental Justice Working Group, to be comprised of 10 environmental justice coordinators representing each of the Governor's Secretaries. The Secretary of Natural Resources shall designate a chairman and vice chairman from among the membership of the Working Group.

2. The Working Group shall conduct an assessment of the processes and resources required of state agencies to develop agency-specific environmental justice policies. In conducting its assessment, the Working Group shall provide that agency policies at a minimum: (i) ensure environmental justice is meaningfully considered in the administration of agency regulations; (ii) consistently identify environmental justice communities and fenceline communities; (iii) identify how such communities are affected by agencies' regulatory activities; (iv) consider the economic development and infrastructure needs of environmental justice communities and fenceline communities in agency decision-making processes; and (v) contain robust public participation plans for residents of environmental justice communities and fenceline communities potentially affected by agency actions.

ITEM 372.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
3. The Working Group shall provide the findings of its assessment, and associated recommendations, to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.				
Total for Secretary of Natural Resources.....			\$748,431	\$748,431
General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$640,939	\$640,939		
Federal Trust.....	\$107,492	\$107,492		

§ 1-107. DEPARTMENT OF CONSERVATION AND RECREATION (199)

373.	Land and Resource Management (50300).....			\$105,847,453	\$95,741,756
				<i>\$105,677,058</i>	<i>\$115,820,087</i>
	Soil and Water Conservation (50301).....	\$64,707,113	\$69,601,416		
		<i>\$64,537,113</i>	<i>\$79,791,416</i>		
	Dam Inventory, Evaluation and Classification and Flood Plain Management (50314).....	\$18,788,552	\$3,788,552		
		<i>\$18,388,157</i>			
	Natural Heritage Preservation and Management (50317).....	\$4,660,697	\$4,660,697		
			<i>\$5,699,028</i>		
	Financial Assistance to Soil and Water Conservation Districts (50320).....	\$7,691,091	\$7,691,091		
		<i>\$8,091,091</i>	<i>\$16,541,091</i>		
	Technical Assistance to Soil and Water Conservation Districts (50322).....	\$1,200,000	\$1,200,000		
	Agricultural Best Management Practices Cost Share Assistance (50323).....	\$8,800,000	\$8,800,000		
	Fund Sources: General.....	\$84,681,496	\$74,575,799		
		<i>\$84,511,101</i>	<i>\$94,654,130</i>		
	Special.....	\$995,861	\$995,861		
	Dedicated Special Revenue.....	\$12,251,202	\$12,251,202		
	Federal Trust.....	\$7,918,894	\$7,918,894		

Authority: Title 10.1, Chapters 1, 2, 5, 6, 7, and 21.1; Title 62.1, Chapter 3.1, Code of Virginia.

A.1. Out of the amounts appropriated for Financial Assistance to Virginia Soil and Water Conservation Districts, \$12,141,091 the first year and \$12,141,091 the second year from the general fund shall be provided to soil and water conservation districts for administrative and operational support as well as base funding for technical assistance. These funds shall be distributed upon approval by the Virginia Soil and Water Conservation Board to the districts in accordance with the Board's established financial allocation policy. These amounts shall be in addition to any other funding provided to the districts for technical assistance pursuant to subsections B. ~~and C.~~ of this Item for appropriations in excess of \$35,000,000. Of this amount, \$6,209,091 the first year and \$6,209,091 the second year from the general fund shall be distributed to the districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment) based on identified budget projections and in accordance with the Board's financial allocation policy; \$4,550,000 the first year and \$4,550,000 the second year for base technical assistance support; \$312,000 the first year and \$312,000 the second year from the general fund shall be distributed at a rate of \$3,000 per dam for maintenance; \$500,000 the first year and \$500,000 the second year from the general fund for small dam repairs of known or suspected deficiencies; \$400,000 the first year and \$400,000 the second year from the general fund for the purchase and installation of remote monitoring equipment for District-owned high and significant hazard dams; and \$170,000 the first year and \$170,000 the second year to the department to provide district support in accordance with Board policy, including, but not limited to, services related to auditing, bonding, contracts, and training. The amount appropriated for small dam repairs of known or suspected deficiencies and the purchase and installation of remote monitoring equipment is authorized for transfer to the Soil and Water Conservation District Dam

ITEM 373.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Maintenance, Repair, and Rehabilitation Fund.

2. The department shall provide a semi-annual report on or before February 15 and August 15 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on each Virginia soil and water conservation district's budget, revised budget, previous year's balance budget, and expenditure for the following: (i) the federal Conservation Reserve Enhancement Program, (ii) the use of Agricultural Best Management Cost-Share Program funds within the Chesapeake Bay watershed, (iii) the use of Agricultural Best Management Cost-Share Program funds within the Southern Rivers area, and (iv) the amount of Technical Assistance funding. The August 15 report shall reflect cumulative amounts.

3. As part of the semi-annual report, the department shall assess the impact of settlement agreements with the Commonwealth entered into between July 1, 2017, and June 30, 2022, on achieving an effective level of Soil and Water Conservation District technical assistance funding and the implementation of agricultural best management practices pursuant to § 10.1-546.1., Code of Virginia. The department shall include in its report any amounts from the settlements including: 1) estimation of the timeline and amount for each fiscal year to implement agricultural best management practices; and 2) estimation of the timeline and amount for each fiscal year of additional technical assistance provided as a result of the additional funding from the settlements.

B.1. Notwithstanding § 10.1-2129A., Code of Virginia, \$46,315,697 the first year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount in the first year, \$2,250,000 shall be appropriated to the Department for the following specified statewide uses: \$500,000 shall be used for the Commonwealth's match for participation in the Federal Conservation Reserve Enhancement Program (CREP); \$500,000 shall be transferred to the Virginia Association of Soil and Water Conservation Districts to be used for the Virginia Conservation Assistance Program (VCAP); \$750,000 shall be allocated for special nonpoint source reduction projects to include, but not be limited to, poultry litter transport and grants related to the development and certification of Resource Management Plans developed pursuant to § 10.1-104.7; \$250,000 shall be transferred to the Department of Forestry for water quality grants; and \$250,000 to the Department for the development and continued maintenance of the Conservation Application Suite including costs related to servers and necessary software licenses. The Department of Forestry shall submit a report by August 15, 2020, to the Department of Conservation and Recreation specifying uses of funds received. Pursuant to paragraph B of Item 372, \$4,857,829 is designated for deposit to the reserve within the Virginia Water Quality Improvement Fund.

2. Of the remaining amount in the first year, \$39,207,868 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a sub fund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the Department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$27,062,591, shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, \$11,598,254 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed, and an additional \$547,023 in addition to the base funding provided in A.1. shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts.

3. This appropriation meets the mandatory deposit requirements associated with the FY 2019 excess general fund revenue collections and discretionary year-end general fund balances.

C.1. Out of the appropriation in this Item, \$20,860,000 the second year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount in the second year, \$2,250,000 shall be appropriated to the department for the following specified statewide uses: \$500,000 shall be used for the Commonwealth's match for participation in the Federal Conservation Reserve Enhancement Program (CREP); \$500,000 shall be

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transferred to the Virginia Association of Soil and Water Conservation Districts to be used for the Virginia Conservation Assistance Program (VCAP); \$750,000 shall be allocated for special nonpoint source reduction projects to include but not be limited to poultry litter transport and grants related to the development and certification of Resource Management Plans developed pursuant to §10.1-104.7; \$250,000 shall be transferred to the Department of Forestry for water quality grants; and \$250,000 to the Department for the development and continued maintenance of the Conservation Application Suite including costs related to servers and necessary software licenses. The Department of Forestry shall submit a report by August 15, 2021, to the Department of Conservation and Recreation specifying uses of funds received.				
2. Of the remaining amount in the second year, \$18,610,000 is authorized for transfer to the Virginia Natural Resources Commitment Fund; a sub fund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies; as follows: \$13,027,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed; \$5,583,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed.				
D. It is the intent of the General Assembly, that notwithstanding the provisions of § 10.1-2132, Code of Virginia, the department is authorized to make Water Quality Improvement Grants to state agencies.				
E.1 Out of the appropriation in this Item, \$10,000,000 the first year and \$10,000,000 the second year from the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, is hereby appropriated. The funds shall be dispersed by the department pursuant to § 10.1-2128.1, Code of Virginia.				
2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation to the Virginia Natural Resources Commitment Fund shall be the recordation tax fee established in Part 3 of this act.				
3. Out of this amount, a total of thirteen percent, or \$1,300,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,700,000 for Agricultural Best Management Practices Cost-Share Assistance. Of the amount deposited for Cost-Share Assistance, seventy percent shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and thirty percent shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively outside of the Chesapeake Bay watershed.				
F.1. Out of the appropriation in this Item, \$2,583,531 in the first year and \$2,583,531 in the second year from the funds designated in Item 3-1.01.C. of this act are hereby appropriated to the Virginia Water Quality Improvement Fund and designated for deposit to the reserve fund established pursuant to paragraph B of Item 372. It is the intent of the General Assembly that all interest earnings of the Water Quality Improvement Fund shall be spent only upon appropriation by the General Assembly, after the recommendation of the Secretary of Natural Resources, pursuant to § 10.1-2129, Code of Virginia.				
2. Notwithstanding the provisions of §§ 10.1-2128, 10.1-2129 and 10.1-2128.1, Code of Virginia, it is the intent of the General Assembly that the department use interest earnings from the Water Quality Improvement Fund and the Virginia Natural Resources Commitment Fund to support one position to administer grants from the fund.				
G. Out of the appropriation in this Item, \$15,000 the first year and \$15,000 the second year from the general fund is provided to support the Rappahannock River Basin Commission. The funds shall be matched by the participating localities and planning district commissions.				
H. Notwithstanding § 10.1-552, Code of Virginia, Soil and Water Conservation Districts are hereby authorized to recover a portion of the direct costs of services rendered to landowners				

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<p>within the district and to recover a portion of the cost for use of district-owned conservation equipment. Such recoveries shall not exceed the amounts expended by a district on these services and equipment.</p>				
<p>I. Unless specified otherwise in this Item, it is the intent of the General Assembly that balances in Soil and Water Conservation be used first, and then balances from Agricultural Best Management Practices Cost Share Assistance be used for the Commonwealth's statewide match for participation in the federal Conservation Reserve Enhancement Program (CREP).</p>				
<p>J. The Water Quality Agreement Program shall be continued in order to protect the waters of the Commonwealth through voluntary cooperation with lawn care operators across the state. The department shall encourage lawn care operators to voluntarily establish nutrient management plans and annual reporting of fertilizer application. If appropriate, then the program may be transferred to another state agency.</p>				
<p>K. Out of the appropriation in this Item, \$250,000 the first year and \$250,000 the second year from the general fund is provided to the department to make available competitive grants to provide Chesapeake Bay meaningful watershed educational experiences. The department may enter into two-year contracts contingent on funding being available in the second year of the biennium.</p>				
<p>L. Out of the appropriation in this Item, \$200,000 the first year and \$200,000 the second year from the general fund is provided to the department for technical assistance to support Shoreline Erosion Advisory Services as established in § 10.1-702, Code of Virginia.</p>				
<p>M. Out of the appropriation in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to the Natural Heritage Program in support of active preserve management activities across Virginia's 63 Natural Area Preserves as identified by the Board of Conservation and Recreation.</p>				
<p>N. Notwithstanding § 54.1, Chapter 4, the U.S. Department of Agriculture's Natural Resources Conservation Service and Department of Conservation and Recreation Central Office staff may provide engineering services to the Department of Conservation and Recreation and the local Soil and Water Conservation Districts for design and construction of agriculture best management practices.</p>				
<p>O.1. Out of the amounts appropriated for Dam Inventory, Evaluation, and Classification and Flood Plain Management, \$15,732,147 the first year and \$732,147 the second year from the general fund shall be deposited to the Dam Safety, Flood Prevention and Protection Assistance Fund, established pursuant § 10.1-603.17, Code of Virginia.</p>				
<p>2. Out of the amounts deposited to the Dam Safety, Flood Prevention and Protection Assistance Fund, \$15,000,000 the first year from the general fund shall be authorized for the major modification, upgrade, or rehabilitation of dams owned or maintained by the Department of Conservation and Recreation and the Virginia Soil and Water Conservation Districts to bring impounding structures into compliance with the Dam Safety Act requirements promulgated by the Virginia Soil and Water Conservation Board pursuant to § 10.1-605, Code of Virginia.</p>				
<p>3. Unobligated balances in the Dam Safety, Flood Prevention and Protection Assistance Fund may be utilized in an amount not to exceed \$60,000 to perform activities necessary to update the flood protection plan for the Commonwealth and to make the plan accessible online. Once these activities are complete, the department will maintain and update the plan as needed within existing resources.</p>				
<p>P.1. Notwithstanding any other provision of law, this appropriation includes \$30,350,000 30,850,000 the second year from the general fund which shall be deposited to the Virginia Water Quality Improvement Fund established pursuant to the Water Quality Improvement Act of 1997. The Secretary of Natural Resources shall develop and submit a plan for the allocation of these funds no later than November 1, 2020. Of this amount in the second year, \$4,350,000 shall be appropriated to the Department for the following specified statewide uses: \$500,000 shall be used for the Commonwealth's match for participation in the Federal Conservation Reserve Enhancement Program (CREP); \$1,000,000 shall be</p>				

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<p><i>transferred to the Virginia Association of Soil and Water Conservation Districts to be used for the Virginia Conservation Assistance Program (VCAP); \$1,000,000 shall be allocated for special nonpoint source reduction projects to include, but not be limited to, poultry litter transport and grants related to the development and certification of Resource Management Plans developed pursuant to § 10.1-104.7, and grants related to development and implementation in the Chesapeake Bay watershed nutrient management plans developed in accordance with regulations adopted under § 10.1-104.2; \$250,000 to the Department for the Small Farm Outreach Program; \$250,000 shall be transferred to the Department of Forestry for water quality grants; \$500,000 shall be transferred to the Department of Forestry for the Virginia Trees for Clean Water program; \$1,000,000 shall be transferred to the Department of Environmental Quality for the Clean Water Financing and Assistance Program to pilot "pay for documented performance" contracting and construction of nutrient removal technologies; \$100,000 shall be transferred to the Department of Health to conduct analysis on statewide septic hot spots and map communities with failing or failed onsite wastewater treatment; and \$250,000 to the Department for the development and continued maintenance of the Conservation Application Suite including costs related to servers and necessary software licenses. The Department of Forestry shall submit a report by August 15, 2021, to the Department of Conservation and Recreation specifying uses of funds received.</i></p>				
<p><i>2. Of the remaining amount in the second year, \$26,000,000 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a sub fund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the Department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$18,200,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and \$7,800,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed.</i></p>				
<p><i>23. This appropriation meets the mandatory deposit requirements associated with the FY 2020 discretionary year-end general fund balances.</i></p>				
<p><i>Q. Out of the appropriation in this Item, \$39,000,000 the second year from the general fund shall be deposited to the Virginia Natural Resources Commitment Fund, a sub fund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds shall be distributed by the Department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$24,570,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and \$10,530,000 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed, and an additional \$3,900,000 in addition to the base funding provided in A.1. shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts.</i></p>				
<p><i>R. Out of the appropriation in this item, \$400,000 the first year and \$400,000 the second year from the general fund is provided to support lynchbya remediation efforts at Lake Gaston.</i></p>				
374.	Leisure and Recreation Services (50400).....		\$74,050,589	\$73,177,420
			\$74,254,316	\$84,086,747
	Preservation of Open Space Lands (50401).....	\$16,650,193		\$16,650,193
	Design and Construction of Outdoor Recreational Facilities (50403).....	\$894,593		\$894,593
	State Park Management and Operations (50404).....	\$50,006,739		\$49,873,570
		\$50,210,466		\$50,932,897
	Natural Outdoor Recreational and Open Space Resource Research, Planning, and Technical Assistance (50406).....	\$6,499,064		\$5,759,064
				\$15,609,064
	Fund Sources: General.....	\$37,572,732		\$36,699,563
		\$37,776,459		\$47,408,890
	Special.....	\$27,511,003		\$27,511,003
				\$27,711,003
	Dedicated Special Revenue.....	\$3,717,124		\$3,717,124

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Federal Trust.....	\$5,249,730	\$5,249,730		

Authority: Title 10.1, Chapters 1, 2, 3, 4, 4.1, and 17; Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5, and 7, Code of Virginia.

A.1. Included in the amounts for Preservation of Open Space Lands is \$10,000,000 the first year and \$10,000,000 the second year from the general fund to be deposited into the Virginia Land Conservation Fund, § 10.1-1020, Code of Virginia. No less than 50 percent of the appropriations remaining after the transfer to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust fund has been satisfied are to be used for grants for fee simple acquisitions with public access or acquisitions of easements with public access. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.

2. Included in the amounts for Preservation of Open Space Lands is \$1,500,000 the first year and \$1,500,000 the second year from nongeneral funds to be deposited into the Virginia Land Conservation Fund to be distributed by the Virginia Land Conservation Foundation pursuant to the provisions of § 58.1-513, Code of Virginia.

3. The Department of Conservation and Recreation and the Virginia Outdoors Foundation shall review the Hayfields Farm property, consisting of approximately 1,034.7 acres more or less in Highlands County, Virginia, Tax Parcel #68A17 and #68A18A, located at 524 Hayfields Lane in McDowell, and make recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October, 1 2020 on its suitability as a recreational area pursuant to §10.1-200 et. seq., Code of Virginia, for development as a state or regional park. In its review, the agencies shall consider (i) management of the area or park by a combination of public and private entities; (ii) potential user activities at the area or park including but not limited to camping, fishing, hiking, bird watching, equestrian activities, and biking; and (iii) operation of the area or park with only those improvements minimally necessary for activities listed herein and consistent with the preservation and protection of the property's conservation values and natural resources.

B. Included in the amounts for Preservation of Open-Space Lands is \$1,752,750 the first year and \$1,752,750 the second year from the general fund and \$1,900,000 the first year and \$1,900,000 the second year from nongeneral funds for the operating expenses of the Virginia Outdoors Foundation (Title 10.1, Chapter 18, Code of Virginia).

C.1. Out of the amounts appropriated for State Parks Management and Operations, up to \$275,000 the first year and \$275,000 the second year from the general fund shall be paid for the operation and maintenance of Breaks Interstate Park.

2. The Breaks Interstate Park Commission shall submit an annual audit of a fiscal and compliance nature of its accounts and transactions to the Auditor of Public Accounts, the Director, Department of Conservation and Recreation, and the Director, Department of Planning and Budget.

3. The Breaks Interstate Park Commission shall, following the modernization of the Breaks Interstate Park electrical system, enter into negotiations to transfer control of the electrical system serving the park to a local regional electric utility.

4. In addition to the amounts provided in paragraph C.1., the Department is authorized to provide \$1,412,000 the first year from the general fund for the modernization of the Rhododendron Restaurant and lodge unit repairs.

D. Notwithstanding the provisions of § 10.1-202, Code of Virginia, amounts deposited to the State Park Conservation Resources Fund may be used for a program of in-state travel advertising. Such travel advertising shall feature Virginia State Parks and the localities or regions in which the parks are located. To the extent possible the department shall enter into cooperative advertising agreements with the Virginia Tourism Authority and local entities to maximize the effectiveness of expenditures for advertising. The department is further authorized to enter into a cooperative advertising agreement with the Virginia Association of Broadcasters.

E. Upon completion of the construction of the Daniel Boone Wilderness Trail

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<p>Interpretative Center, the Division of State Parks may accept transfer of the facility, 153 acres of land, and \$450,000 for maintenance of the completed facility for operation as a satellite facility to Natural Tunnel State Park. It is the intent of the General Assembly that at such time as the facility, property, and cash are transferred to the Division of State Parks that positions and ongoing funding for the operation of the satellite facility shall be provided.</p>				
<p>F. The department is hereby authorized to enter into an agreement with the non-profit organization that currently owns Natural Bridge to open and operate the facility as a Virginia State Park. Included in the amount for this item is \$376,364 the first year and \$376,364 and five positions from the general fund to increase the operational capacity of Natural Bridge State Park including additional visitor experience, retail, and maintenance functions.</p>				
<p>G. Notwithstanding any other provision of the Code of Virginia, as a condition of the expenditure of all amounts included in this Item, the department shall not initiate or accept by gift, transfer or purchase with nongeneral funds any new lands for use as a State Park or Natural Area Preserve without a specific appropriation for such purpose by the General Assembly. However, the department is authorized to acquire land as expressly set out in Items C-27 and C-27.10 of Chapter 854, 2019 Acts of Assembly, as well as in-holdings or lands contiguous to an existing State Park or Natural Area Preserve as expressly set out in Items C-40 and C-41 of this act and as provided for in Section 4-2.01 a.1. of this act provided further that acquisitions authorized in Items C-40 and C-41 will not cause the department to incur additional operating expenses. It is not the intent of these provisions to prohibit any acquisitions resulting from mitigation settlements or to prohibit any additional operating expenses resulting from such acquisitions.</p>				
<p>H.1. Included in the amounts for State Park Management and Operations is \$590,944 the first year and \$590,944 the second year and six positions from the general fund for the initial start-up and ongoing operational costs for Phase I of Widewater State Park in Stafford County. It is the intent of the General Assembly that, as soon as practicable upon completion of Phase IA, that the Department shall provide public access and proceed to regular revenue generating operations at the Park.</p>				
<p>2. The Department of Conservation and Recreation shall collaborate with Stafford County Public Schools, the Friends of Widewater State Park and other interested stakeholders regarding the Science and Environmental Center at Widewater State Park planned to be constructed as part of Phase III in order to ensure the facility is adequate to meet the needs of the community, curriculum collaboration opportunities with local schools, and other needs; determine whether any design changes would further community environmental education goals; determine the availability of any grant, charitable or co-funding opportunities with Stafford County and/or Virginia higher educational institutions; determine the feasibility and costs of any design changes or the necessity of any Master Plan changes; and produce recommendations, if any, relating to such objectives.</p>				
<p>I. Included in the amount for this Item is \$198,752 the first year and \$198,752 the second year and two positions from the general fund to support the limited operation of Seven Bends State Park.</p>				
<p>J. Included in the amount for this Item is \$150,000 the first year and \$150,000 the second year from the nongeneral fund amounts appropriated in Item 451 A. for recreational access which shall be used to fabricate and install Supplemental Guide Signs for Virginia State Parks.</p>				
<p>K. The department is hereby authorized to enter into an agreement with the United States Forest Service that owns the Longdale Day Use Area to operate the facility as the Green Pastures Unit of Douthat State Park, an extension of Douthat State Park.</p>				
<p>L. The Department of Conservation and Recreation shall review the Brandy Station and Cedar Mountain properties and make recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 1, 2020 on their suitability as a historical and recreational area pursuant to §10.1-200 et. seq., Code of Virginia, or development as a state or regional park. In its review, the Department shall consider (i) management of the area or park by a combination of public and private entities; (ii) potential user activities at the area or park including heritage tourism, primitive camping, fishing, bow hunting, boating, equestrian activities, biking and historical and military education; and (iii) operation of the area or park with only those improvements minimally necessary for activities</p>				

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listed herein and consistent with the preservation and protection of existing historic, cultural, archaeological, and natural resources.

M. Included in the amounts for this item is \$160,800 the first year and \$160,800 the second year and two positions from the general fund to support staffing and operations at Mason Neck State Park.

N. The Director, Department of Conservation and Recreation, shall assess the feasibility of costs of (i) connecting Mason Neck State Park to a public water supply, and (ii) replacing equipment and providing necessary upgrades to the Park's current well water system. The Director shall report the findings and recommendations of the assessment to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than October 15, 2020.

O. Included in the amount for this item, \$740,000 the first year from the general fund is provided to the City of Danville to develop Riverfront Park. This amount shall be matched by a local appropriation of at least \$740,000 prior to any disbursement from this Item.

P. The Department of Conservation and Recreation shall, no later than November 1, 2021, provide to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations an assessment of the feasibility for development of a linear park along the Shenandoah Valley rail corridor from Front Royal to Broadway, Virginia. The assessment shall include the potential timeline for abandonment of existing Norfolk Southern rail sections B51.0 to B84.0 and CW84.0 to CW99.5, anticipated annual user revenues, and all start-up and ongoing costs of operation as a satellite facility of Seven Bends and Shenandoah State Parks. The Departments of Transportation and Rail and Public Transportation shall provide any technical assistance as may be required in developing the cost assessment.

Q. Out of the amounts in this Item, \$4,000,000 the second year from the general fund is provided to support Project Harmony, an environmental justice project to address the repatriation of tombstones from the former Columbian Harmony Cemetery and creation of the Harmony Living Shoreline memorial. These funds shall be used to support all aspects of the project to include but not limited to 1) locating, recovering and cataloging tombstones from the shoreline of the Potomac River at Chotank Creek Natural Area Preserve/Cedar Grove Farm, 2) logistical support and transportation of the tombstones to the New Harmony cemetery in Landover, Maryland to reunite the markers at the location where the human remains are now located, and 3) development, design, engineering and installation of the Harmony Living Shoreline memorial using remaining materials from the former Columbian Harmony Cemetery that cannot be recovered.

S. Included in the amounts for this item is \$1,511,600 the second year from the general fund to connect Mason Neck State Park to a public drinking water supply system.

T. Out of the amounts in this item, \$350,000 the second year from the general fund is provided to assist the Mendota Trail Conservancy in the restoration of abandoned railroad trestles for conversion to use as a walking and cycling trail.

U. Out of the amounts in this item, \$2,000,000 the second year from the general fund is provided to the Northern Virginia Regional Park Authority for the purchase and conservation of River Farm in the City of Alexandria.

V. Out of the amounts in this Item, \$3,500,000 the second year from the general fund is provided to the Chickahominy Tribe to assist in the acquisition and restoration of tribal land.

375.	Administrative and Support Services (59900).....			\$10,683,025	\$10,683,025
	General Management and Direction (59901).....	\$10,683,025	\$10,683,025		
		\$10,983,025			
	Fund Sources: General.....	\$10,468,025	\$10,468,025		
		\$10,768,025			
	Special.....	\$215,000	\$215,000		

Authority: Title 2.2, Chapters 37, 40, 41, 43; and Title 10.1, Chapter 1, Code of Virginia.

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375.10 Omitted.				
Total for Department of Conservation and Recreation.....			\$190,581,067 \$190,914,399	\$179,602,201 \$210,589,859
General Fund Positions.....	435.50	435.50 443.50		
Nongeneral Fund Positions.....	46.50	46.50		
Position Level.....	482.00	482.00 490.00		
Fund Sources: General.....	\$132,722,253 \$133,055,585	\$121,743,387 \$152,531,045		
Special.....	\$28,721,864	\$28,721,864 \$28,921,864		
Dedicated Special Revenue.....	\$15,968,326	\$15,968,326		
Federal Trust.....	\$13,168,624	\$13,168,624		

§ 1-108. DEPARTMENT OF ENVIRONMENTAL QUALITY (440)

376. Land Protection (50900).....			\$29,379,311 \$27,719,477	\$29,379,311
Land Protection Permitting (50925).....	\$4,892,832 \$3,892,832	\$4,892,832 \$4,769,666		
Land Protection Compliance and Enforcement (50926).....	\$21,920,926	\$21,920,926		
Land Protection Outreach (50927).....	\$1,808,041 \$1,148,207	\$1,808,041 \$1,584,707		
Land Protection Planning and Policy (50928).....	\$757,512	\$757,512 \$1,104,012		
Fund Sources: General.....	\$2,778,338 \$1,118,504	\$2,778,338		
Special.....	\$1,658,065	\$1,658,065		
Trust and Agency.....	\$11,504,641	\$11,504,641		
Dedicated Special Revenue.....	\$7,278,037	\$7,278,037		
Federal Trust.....	\$6,160,230	\$6,160,230		

Authority: Title 10.1, Chapters 11.1, 11.2, 12.1, 14, and 25; Title 44, Chapter 3.5, Code of Virginia.

A. It is the intent of the General Assembly that balances in the Virginia Environmental Emergency Response Fund be used to meet match requirements for U.S. Environmental Protection Agency Superfund State Support Contracts.

B. Notwithstanding the provisions of § 10.1-1422.3, Code of Virginia, \$1,807,575 in the first year and \$1,807,575 in the second year from the Waste Tire Trust Fund, and \$250,000 in the first year and \$250,000 in the second year from the Hazardous Waste Management Permit Fund within the Department of Environmental Quality shall be used for the costs associated with the Department's land protection and water programs. Such funds may be used for the purposes set forth in § 10.1-1422.3, Code of Virginia, at the Director's discretion and only as available after funding other land protection and water programs.

C. *The Department of Environmental Quality (DEQ) is directed to study the chemical conversion process referred to as Advanced Recycling, which includes the processes of pyrolysis, gasification, depolymerization and other processes which convert certain plastic waste into hydrocarbon raw materials. The study would include a survey of other states' approaches to regulation of Advanced Recycling, review of the operational history and environmental impacts of the industry, and recommendations for regulation of the industry in Virginia to ensure that the Commonwealth's air, water, land and other natural resources are fully protected. DEQ would include recommendations as to whether the Commonwealth's Solid Waste Management laws and Department regulations pursuant to 9VAC20-81-410 and relevant air and water permitting regulations would provide adequate regulation of the*

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<i>industry, or would require revision. The study would also invite input from a stakeholder advisory group convened by the agency, comprised of representatives of the chemical conversion industry, recycling industry, environmental organizations and community representatives. The Department shall provide a summary of its study and make recommendations on the regulation of the advanced recycling industry within a report submitted to the Chair of the House Agriculture Chesapeake and Natural Resources Committee and the Chair of the Senate Agriculture Conservation and Natural Resources Committee by December 31, 2021.</i>				
377.	Water Protection (51200).....		\$47,728,146	\$52,894,920
			\$44,585,173	\$54,521,149
	Water Protection Permitting (51225).....	\$8,954,437	\$11,054,476	\$11,584,142
	Water Protection Compliance and Enforcement (51226).....	\$8,247,453	\$8,599,703	
		\$7,554,363	\$8,891,303	
	Water Protection Outreach (51227).....	\$2,938,270	\$2,938,270	
		\$2,039,937	\$2,476,437	
	Water Protection Planning and Policy (51228).....	\$8,451,889	\$8,569,623	\$8,435,790
	Water Protection Monitoring and Assessment (51229).....	\$11,525,815	\$14,122,566	
		\$9,974,265	\$15,523,195	
	Water Protection Stormwater Management (51230).....	\$7,610,282	\$7,610,282	
	Fund Sources: General.....	\$25,228,739	\$30,395,513	
		\$22,085,766	\$32,021,742	
	Special.....	\$1,919,279	\$1,919,279	
	Trust and Agency.....	\$25,500	\$25,500	
	Dedicated Special Revenue.....	\$12,084,183	\$12,084,183	
	Federal Trust.....	\$8,470,445	\$8,470,445	

Authority: Title 10.1, Chapter 11.1; and Title 62.1, Chapters 2, 3.1, 3.2, 3.6, 5, 6, 20, 22, 24, and 25, Code of Virginia.

A. Out of this appropriation, \$51,500 the first year and \$51,500 the second year from the general fund is designated for annual membership dues for the Ohio River Valley Water Sanitation Commission.

B.1. The permit fee regulations adopted by the State Water Control Board pursuant to paragraphs B.1. and B.2. of § 62.1-44.15:6, Code of Virginia, shall be set at an amount representing not more than 50 percent of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System permits and Virginia Pollution Abatement permits.

2. The regulations adopted by the State Water Control Board to initially implement the provisions of this Item shall be exempt from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2010. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia.

C. Out of the appropriation for this item, \$151,500 the first year and \$151,500 the second year from the general fund is designated for the annual membership dues for the Interstate Commission on the Potomac River Basin.

D.1. Notwithstanding § 62.1-44.15:56, Code of Virginia, public institutions of higher education, including community colleges, colleges, and universities, shall be subject to project review and compliance for state erosion and sediment control requirements by the local program authority of the locality within which the land disturbing activity is located, unless such institution submits annual specifications to the Department of Environmental Quality, in accordance with § 62.1-44.15:56 A (i), Code of Virginia.

2. The State Water Control Board is authorized to amend the Erosion and Sediment Control Regulations (9 VAC 25-840 et seq.) to conform such regulations with this project

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review requirement and to clarify the process. These amendments shall be exempt from Article 2 (§2.2-4006 et seq.) of the Administrative Process Act.				
E. Beginning October 1, 2015, there shall be a \$3.75 fee imposed on each dry ton of exceptional quality biosolids cake sewage sludge that is land applied pursuant to § 62.1-44.19:3P, Code of Virginia, until such fee is altered, amended or rescinded by the State Water Control Board.				
F.1. The Department shall work in conjunction with the Virginia Economic Development Partnership to facilitate the development of long-term offsetting methods within the Virginia Nutrient Credit Exchange as set out in Item 130 of this act.				
2. The Department shall work with permittees operating under the Chesapeake Bay Watershed Nutrient General Permit and interested stakeholders through a workgroup including local government representatives, the Chesapeake Bay Foundation and the James River Association to review the assumptions used in estimating the effluent nutrient concentrations and trends of wastewater facilities and to identify cost-effective options to achieve wastewater nutrient load levels with reasonable assurance consistent with the needs of the Chesapeake Bay TMDL Phase III Watershed Implementation Plan. The review shall be completed and provided to the Chairs of the House Appropriations Committee, the Senate Finance and Appropriations Committee, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2020. The Department shall continue issuing Water Quality Improvement Fund grants for additional nutrient removal projects in accordance with the appropriations under Items 379 and C-70 of this act and §§ 10.1-1186.01 and 10.1-2117 of the Code of Virginia.				
G. Notwithstanding any other provision of law, any Virginia Stormwater Management Program authority is authorized to charge a voluntary fee of \$30,000 for review of sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres for an expedited stormwater management program plan review. Any individual or firm electing to pay the voluntary fee shall be guaranteed the total government review time shall not exceed 45 days excluding any applicant's time in responding to questions. Any amounts paid to DEQ above the \$9,600 fee shall be used by DEQ to increase the staffing level of the reviewers of these applications.				
H. Out of the amounts in this Item, \$2,730,601 the first year and \$2,730,601 \$2,736,330 the second year from the general fund is included for the purchase of laboratory and field equipment through the Commonwealth's Master Equipment Leasing Program.				
I. The Department shall assess current provisions of the Virginia Erosion and Sediment Control Act, Storm Water Management Act, and the Chesapeake Bay Preservation Act and identify any areas of inconsistency, conflict, and duplication within and among the existing administrative regulations across the three regulatory programs and analyze the impact on locally administered programs for MS4 permit localities under the Virginia Stormwater Management Act. A final report of the assessment, and all associated recommendations for increasing the efficiency and improving the integration of the current regulatory framework, shall be submitted to the Governor and the General Assembly no later than April 1, 2021.				
J. Out of the amounts appropriated for this item, \$231,000 the first year and \$231,000 the second year is provided for regional water resource planning activities.				
K. The Department shall assess alternative reimbursement models and reimbursement amounts for nutrient removal grants provided to projects serving a locality or localities with: (i) high fiscal stress as defined by the Composite Fiscal Stress Index; (ii) median household incomes below the Commonwealth's average; and (iii) the capacity of ratepayers to absorb the additional costs of financing nutrient removal projects. The Department shall provide a report detailing its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 15, 2020.				
L. The Department shall convene a workgroup of affected stakeholders, including representatives from the regulated industry, local governments and members of the public, to produce recommendations for the Governor and General Assembly to improve the long-term sustainability of the Virginia Stormwater Management Fund established by § 62.1-44.15:29				

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<p>and Department oversight of nutrient credit use in the Commonwealth. Such recommendations shall be provided to the Governor and General Assembly by November 1, 2020.</p> <p>2. The provisions of 9VAC25-900, Virginia Administrative Code, shall be considered to have satisfied the conditions of § 62.1-44.15:35, Code of Virginia, for the establishment of an application fee schedule in accordance with § 62.1-44.19:20, Code of Virginia.</p> <p><i>L.1. Out of the amounts appropriated for this item, \$1,100,000 the second year from the general fund is to be deposited in the Virginia Stormwater Management Fund.</i></p> <p><i>2. Notwithstanding § 62.1-44.15:28, as it is currently effective and as it shall become effective, Code of Virginia, the permit fee regulations adopted by the State Water Control Board pursuant to § 62.1-44.15:28, as it is currently effective and as it shall become effective, Code of Virginia, for the Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities and municipal separate storm sewer system permits shall be set at an amount representing no less than 60 percent, not to exceed 62 percent, of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities and municipal separate storm sewer system permits. To the extent practicable, the Board shall solicit input from affected stakeholders when establishing the new fee structure.</i></p> <p><i>3. Notwithstanding § 62.1-44.19:20, Code of Virginia, the application fee schedule adopted by the State Water Control Board pursuant to § 62.1-44.19:20, Code of Virginia, shall be set at an amount representing no less than 60 percent, not to exceed 62 percent, of the direct costs for the administration, compliance and enforcement of the nutrient credit certification program. To the extent practicable, the Board shall solicit input from affected stakeholders when establishing the new fee structure.</i></p> <p><i>M. Out of the amounts appropriated for this item, \$175,000 the second year from the general fund is provided for a research project to field test the effectiveness of using halophytes growing in biochar-amended soil to capture and remove salt from highway and parking lot stormwater runoff.</i></p> <p><i>N. The Director of the Department of Environmental Quality shall convene a working group for the purpose of developing an annual or project-based fee schedule for the review of erosion and sediment control plans related to solar energy project applications. The working group shall include representatives of (i) private sector companies that own or operate solar energy facilities, (ii) local governments that permit solar facilities, and (iii) other stakeholders determined by the Department to be necessary to the development of the fee schedule.</i></p> <p><i>O. The Department of Environmental Quality, in consultation with the Department of Agriculture and Consumer Services and the Department of Forestry, shall establish a workgroup to review the practice of retiring agricultural land for the generation of nutrient credits and determine its impact on agricultural sustainability, farmland retention, farmland preservation, and functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds. If it is determined that there is impact on farmland retention/availability, the report should include recommendations regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland. If the land for nutrient credits is converted to forestland, the workgroup should identify what protections are in the nutrient credit trading regulations to ensure the forestland is managed under a forestry management plan and/or noxious weed or invasive species are controlled. The review shall be completed and provided to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2021. The workgroup shall include representatives of the Virginia Agribusiness Council, Virginia Farm Bureau, the Chesapeake Bay Commission, Virginia Cooperative Extension, the Virginia Department of Transportation, Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, representatives from local Soil and Water Conservation Districts, representatives of local governments, local economic development</i></p>				

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<i>officials, and other stakeholders deemed appropriate by the Department.</i>				
<i>P. The Department of Environmental Quality shall convene a workgroup, in conjunction with the Department of Health and the Department of Agriculture and Consumer Services, to conduct research and complete a single collaborative report that provides findings and recommendations related to: (i) the location, frequency, and severity of harmful algae blooms in Virginia waters; (ii) the factors that lead to the formation and occurrence of harmful algae blooms; and, (iii) plans and strategies for state agencies to lead or support appropriate mitigation efforts. The workgroup shall provide its findings to the Chairs of the House Agriculture, Chesapeake and Natural Resources Committee and Senate Agriculture, Conservation and Natural Resources Committee no later than September 1, 2021.</i>				
378.	Air Protection (51300).....		\$21,472,948 \$20,086,497	\$22,064,948
	Air Protection Permitting (51325).....	\$5,415,049		\$5,877,049
	Air Protection Compliance and Enforcement (51326)			
		\$6,189,758		\$6,189,758
	Air Protection Outreach (51327).....	\$1,262,360	\$1,262,360 \$1,163,076	
	Air Protection Planning and Policy (51328).....	\$4,040,995	\$4,040,995 \$3,579,328	
		\$2,654,544		
	Air Protection Monitoring and Assessment (51329)....	\$4,564,786	\$4,694,786 \$5,255,737	
	Fund Sources: General.....	\$2,530,380 \$1,143,929		\$3,122,380
	Enterprise.....	\$9,766,599		\$9,766,599
	Dedicated Special Revenue.....	\$5,195,992		\$5,195,992
	Federal Trust.....	\$3,979,977		\$3,979,977

Authority: Title 10.1, Chapters 11.1 and 13; and Title 46.2, Chapter 10, Code of Virginia.

A. The Department of Environmental Quality is authorized to use up to \$300,000 the first year and \$300,000 the second year from the Vehicle Emissions Inspection Program Fund to implement the provisions of Chapter 710, Acts of Assembly of 2002, which authorizes the department to operate a program to subsidize repairs of vehicles that fail to meet emissions standards established by the Air Pollution Control Board when the owner of the vehicle is financially unable to have the vehicle repaired.

B.1. All of the permit program emissions fees collected by the State Air Pollution Control Board pursuant to § 10.1-1322, Code of Virginia, shall be assessed and collected on an annual basis notwithstanding the provisions of that section. The State Air Pollution Control Board shall adopt regulations adjusting permit program emissions fees collected pursuant to § 10.1-1322, Code of Virginia, and establish permit application processing fees and permit maintenance fees sufficient to ensure that the revenues collected from fees cover the total direct and indirect costs of the program consistent with the requirements of Title V of the Clean Air Act, except that the initial adjustment to permit program emissions fees shall not be increased by more than 30 percent over current rates. Notwithstanding the provisions of § 10.1-1322, Code of Virginia, the permit application fees collected pursuant to this paragraph shall not be credited towards the amount of annual fees owed pursuant to § 10.1-1322, Code of Virginia. All of the fees adopted pursuant to this section shall be adjusted annually by the Consumer Price Index.

2. The State Air Pollution Control Board shall adopt regulations to prohibit the sale, lease, rent, installation or entry into commerce in Virginia of any products or equipment that use or will use hydrofluorocarbons for the applications and end uses restricted by Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017. Notwithstanding the foregoing, such regulations shall not prohibit the use of hydrofluorocarbons in the manufacturing process by extruded polystyrene boardstock and billet manufacturers located in Virginia to produce products for sale and distribution outside of the Commonwealth, until the Board has solicited input from such manufacturers in order to determine and set by regulation a feasible date by which such manufacturers must be required to comply. In developing regulations, the Board shall solicit input from a workgroup of relevant stakeholders assembled by the Department.

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3. The regulations adopted by the State Air Pollution Control Board to initially implement the provisions of this item shall be exempt from Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2021. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Chapter 40 of Title 2.2, Code of Virginia.				
C. Out of the amounts in this Item, \$84,451 the first year and \$84,451 the second year from the general fund is included for the purchase of laboratory and field equipment through the Commonwealth's Master Equipment Leasing Program.				
379. Environmental Financial Assistance (51500).....			\$61,313,511	\$61,313,511 \$86,313,511
Financial Assistance for Environmental Resources Management (51502).....	\$8,425,868	\$8,425,868 \$33,425,868		
Virginia Water Facilities Revolving Fund Loans and Grants (51503).....	\$23,588,877	\$23,588,877		
Financial Assistance for Coastal Resources Management (51507).....	\$1,924,500	\$1,924,500		
Litter Control and Recycling Grants (51509).....	\$2,039,509	\$2,039,509		
Petroleum Tank Reimbursement (51511).....	\$25,334,757	\$25,334,757		
Fund Sources: General.....	\$2,353,614	\$2,353,614 \$27,353,614		
Trust and Agency.....	\$25,504,646	\$25,504,646		
Dedicated Special Revenue.....	\$26,194,606	\$26,194,606		
Federal Trust.....	\$7,260,645	\$7,260,645		

Authority: Title 10.1, Chapters 11.1, 14, 21.1, and 25 and Title 62.1, Chapters 3.1, 22, 23.2, and 24, Code of Virginia.

A. To the extent available, the authorization included in Chapter 781, 2009 Acts of Assembly, Item 368, paragraph E, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance Virginia Water Quality Improvement Grants, pursuant to Chapter 851, 2007 Acts of Assembly.

B. To the extent available, the authorization included in Chapter 806, 2013 Acts of Assembly, Item C-39.40, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance the Stormwater Local Assistance Fund, the Combined Sewer Overflow Matching Fund, Nutrient Removal Grants, and the Hopewell Regional Wastewater Treatment Authority. The administration of several of the water quality programs, including the Stormwater Local Assistance Fund, transferred to the Department of Environmental Quality per Chapter 756, 2013 Acts of Assembly.

C.1. The State Comptroller is authorized to continue the Stormwater Local Assistance Fund as established in Item 360, Chapter 806, 2013 Acts of Assembly. The fund shall consist of bond proceeds from bonds authorized by the General Assembly and issued pursuant to Item C-39.40 in Chapter 806, 2013 Acts of Assembly, Item C-43 of Chapter 665, 2015 Acts of Assembly, Chapter 759, 2016 Acts of Assembly, Item C-48.10 in Chapter 854, 2019 Acts of Assembly, and Item C-70 of this Act; sums appropriated to it by the General Assembly; and other grants, gifts, and moneys as may be made available to it from any other source, public or private. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

2. The purpose of the Fund is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet: i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements; ii) requirements for local impaired stream TMDLs; iii) water quality requirements of the Chesapeake Bay Watershed Implementation Plan (WIP); and iv) water quality requirements related to the permitting of small municipal stormwater sewer systems. The grants shall be used only for the

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<p>acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration.</p> <p>3. <i>Out of amounts in this item, \$25,000,000 the second year from the general fund is provided for deposit in the Stormwater Local Assistance Fund.</i></p> <p>D. The grants shall be used only for the acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration. Such grants shall be in accordance with eligibility determinations made by the State Water Control Board under the authority of the Department of Environmental Quality.</p> <p>E. The Department of Environmental Quality shall use an amount not to exceed \$3,000,000 from the Water Quality Improvement Fund to conduct the James River chlorophyll study pursuant to the approved Virginia Chesapeake Bay Total Maximum Daily Load, Phase I Watershed Implementation Plan. This amount shall be used solely for contractual support for water quality monitoring and analysis and computer modeling. No portion of this funding may be used for administrative costs of the department.</p> <p>F. Out of such funds available in this item, the Department shall provide funding to the Virginia Geographic Information Network in an amount necessary to implement statewide digital orthography to improve land coverage data necessary to assist localities in planning and implementing stormwater management programs. As part of this authorization, the Department shall also include data to update prior LIDAR surveys of elevations along coastal areas to support activities related to management of recurrent coastal flooding.</p> <p>G. Out of the amounts appropriated for Financial Assistance for Environmental Resources Management, \$3,292,479 the first year and \$3,292,479 the second year from federal funds is provided to implement stormwater management activities.</p> <p>H.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. The Department of Environmental Quality shall, at the request of the Auditor of Public Accounts, offer assistance to the Auditor's office in the review of the submitted reports.</p> <p>2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.</p>				
380.	Administrative and Support Services (59900).....		\$31,015,132	\$31,015,132
	General Management and Direction (59901).....	\$21,147,975		
	Information Technology Services (59902).....	\$9,867,157		
	Fund Sources: General.....	\$16,161,678		
	Special.....	\$6,000,667		
	Enterprise.....	\$3,325,278		
	Trust and Agency.....	\$1,239,744		
	Dedicated Special Revenue.....	\$833,740		
	Federal Trust.....	\$3,454,025		

Authority: Title 10.1, Chapters 11.1, 13 and 14 and Title 62.1, Chapter 3.1, Code of Virginia.

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<p>A. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend funds from the balances in the Virginia Environmental Emergency Response Fund for costs associated with its waste management, air, and water programs.</p> <p>B. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend up to \$600,000 the first year and \$600,000 the second year from the balances in the Virginia Environmental Emergency Response Fund to further develop and implement eGovernment services.</p>				
380.10	Omitted.			
	Total for Department of Environmental Quality.....		\$190,909,048 <i>\$184,719,790</i>	\$196,667,822 <i>\$223,294,051</i>
	General Fund Positions.....	413.50	413.50 <i>416.50</i>	
	Nongeneral Fund Positions.....	564.50	564.50	
	Position Level.....	978.00	978.00 <i>981.00</i>	
	Fund Sources: General.....	\$49,052,749 <i>\$42,863,491</i>	\$54,811,523 <i>\$81,437,752</i>	
	Special.....	\$9,578,011	\$9,578,011	
	Enterprise.....	\$13,091,877	\$13,091,877	
	Trust and Agency.....	\$38,274,531	\$38,274,531	
	Dedicated Special Revenue.....	\$51,586,558	\$51,586,558	
	Federal Trust.....	\$29,325,322	\$29,325,322	
§ 1-109. DEPARTMENT OF GAME AND INLAND FISHERIES (403)				
§ 1-109.1. DEPARTMENT OF WILDLIFE RESOURCES (403)				
381.	Wildlife and Freshwater Fisheries Management (51100).....		\$49,941,337	\$48,830,696
	Wildlife Information and Education (51102).....	\$4,604,193	\$4,604,193	
	Enforcement of Recreational Hunting and Fishing Laws and Regulations (51103).....	\$15,995,890	\$15,995,890	
	Wildlife Management and Habitat Improvement (51106).....	\$29,341,254	\$28,230,613	
	Fund Sources: Dedicated Special Revenue.....	\$37,406,488	\$36,295,847	
	Federal Trust.....	\$12,534,849	\$12,534,849	
<p>Authority: Title 29.1, Chapters 1 through 6, Code of Virginia.</p> <p>A. Out of the amounts appropriated for this Item, \$20,000 the first year and \$20,000 the second year from nongeneral funds is provided for the Smith Mountain Lake Water Quality Monitoring Program.</p> <p>B. Out of the amounts appropriated in this item, \$10,000 the first year and \$10,000 the second year from nongeneral funds is provided for the Back Bay Submerged Aquatic Vegetation Restoration Project.</p>				
382.	Boating Safety and Regulation (62500).....		\$7,677,834	\$7,677,834
	Boat Registration and Titling (62501).....	\$2,580,290	\$2,580,290	
	Boating Safety Information and Education (62502).....	\$362,359	\$362,359	
	Enforcement of Boating Safety Laws and Regulations (62503).....	\$4,735,185	\$4,735,185	
	Fund Sources: Dedicated Special Revenue.....	\$5,558,055	\$5,558,055	
	Federal Trust.....	\$2,119,779	\$2,119,779	
<p>Authority: Title 29.1, Chapters 7 and 8, Code of Virginia.</p> <p><i>Notwithstanding § 29.1-113 of the Code of Virginia, access fees at boat ramps owned or</i></p>				

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<p><i>managed by the Department of Wildlife Resources (DWR) shall not be assessed prior to July 1, 2022, pending a study by DWR on the costs and benefits of such fees and the impact on recreational users in Virginia. As part of this study, the Department shall convene a stakeholder group for the purpose of developing and providing recommendations on access permit fees, various alternatives, and other issues related to the use and maintenance of Department-owned boat ramp facilities. The stakeholder work group shall be composed of representatives of registered boat owners, paddlecraft liveries, outdoor outfitters, environmental education providers, and other non-registered vessel recreational users of such boat ramps, or other affected parties the Department deems necessary. The work group shall consider mechanisms that will decrease the burden on outfitters, customers, education providers, and non-profit organizations; the usage of access fees to maintain or improve existing boat ramps and to add new boat ramps, paddlecraft launches, and public access points on Department-owned property; and alternative funding mechanisms and strategies that can increase access by economically disadvantaged users. DWR shall submit a report on the work group's recommendations to the Governor, the Secretary of Natural Resources, the House Agricultural, Chesapeake and Natural Resources Committee, the Senate Agricultural, Conservation and Natural Resources Committee, the House Appropriations Committee and the Senate Finance and Appropriations Committee by December 1, 2021.</i></p>				
383.	Administrative and Support Services (59900).....		\$10,332,931	\$10,332,931
	General Management and Direction (59901).....	\$6,983,303		
	Information Technology Services (59902).....	\$3,349,628		
	Fund Sources: Dedicated Special Revenue.....	\$8,829,996		
	Federal Trust.....	\$1,502,935		

Authority: Title 29.1, Chapter 1, Code of Virginia.

A. The department shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the department.

B: The department shall not further consolidate its regional offices; field offices; or close any of these offices in presently-served localities or enter into any lease for any new regional office without notification of the Chairman of the House Committee on Agriculture, Chesapeake, and Natural Resources and the Chairman of the Senate Committee on Agriculture, Conservation, and Natural Resources. The department shall not undertake any future reorganization of any division; reporting structures; regional or field offices; or any function it may perform without notifying the Chairmen of the House Committee on Agriculture, Chesapeake, and Natural Resources; the House Committee on Appropriations; the Senate Committee on Agriculture, Conservation, and Natural Resources; and the Senate Committee on Finance.

C: B. Funds previously appropriated to the Lake Anna Advisory Committee for hydrilla control and removal may be used at the discretion of the Lake Anna Advisory Committee upon issues related to maintaining the health, safety, and welfare of Lake Anna.

~~D: C. I.~~ Subject to review and approval by the Secretary of Natural Resources, the Director of the Department of ~~Wildlife Resources~~ **Game and Inland Fisheries** may issue to the Department of Transportation an interim permit to relocate the nest and eggs of any state listed threatened bird species from critical areas of the Hampton Roads Bridge Tunnel Expansion Project's South Island associated with the ingress and egress to the island; the delivery, assembly, and immediate operations of the tunnel boring machine; or other project critical locations as mutually agreed to by the Commissioner of Highways and the Director, which, if not relocated, would effectively require all substantial construction activities to cease.

2. Prior to the issuance of an interim permit as described in section 1, (i) the Director must determine that the Department of Transportation and its design-build contractor have taken all reasonable steps to prevent birds from nesting on the South Island, in accordance with the Colonial Nesting Bird Management Plan dated March 27, 2020, (ii) the Commissioner of Highways must determine that substantial construction activities will have to cease if the nest and eggs are not relocated, and (iii) the Director shall require as a condition of the interim permit that the nest and any eggs will be relocated under the supervision of the Department of

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	<p><i>Wildlife Resources</i>Game and Inland Fisheries to a location acceptable to the Director that is as close as possible to the original nesting location while allowing construction activities to continue.</p>			
	<p>3. Within 30 days of the adoption by the Board of <i>Wildlife Resources</i>Game and Inland Fisheries of any regulation governing the take of migratory birds or threatened and endangered species, the Department of Transportation shall apply for a permit covering such take for the Hampton Roads Bridge-Tunnel expansion project.</p>			
	<p><i>D. Any references to the Department of Game and Inland Fisheries within this Act shall convey to the Department of Wildlife Resources.</i></p>			
	<p><i>E. The Directors of the Departments of Wildlife Resources and Conservation and Recreation shall assess the feasibility of developing the Rapidan Wildlife Management Area into a State Park and provide a copy of its assessment to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than November 1, 2021. This assessment shall include, but not be limited to, the impact on wildlife currently within the management area; any restrictions of deeds, easements, covenants or grant funding used in the initial acquisition of the wildlife management area; capital costs for developing recreational access and overnight accommodations; ongoing operational costs of the proposed facility; and an anticipated timeline for phased access to public recreational facilities within the existing master planning process.</i></p>			
384.	<p>A. Pursuant to §§ 29.1-101, 58.1-638, and 58.1-1410, Code of Virginia, deposits to the Game Protection Fund include an estimated \$16,500,000 the first year and \$16,500,000 the second year from revenue originating from the general fund.</p>			
	<p>B. Pursuant to § 29.1-101.01, Code of Virginia, the Department of Planning and Budget shall transfer such funds as designated by the Board of <i>Wildlife Resources</i>Game and Inland Fisheries from the Game Protection Fund (§ 29.1-101) to the Capital Improvement Fund (§ 29.1-101.01) up to an amount equal to 50 percent or less of the revenue deposited to the Game Protection Fund by § 3-1.01, subparagraph M, of this act.</p>			
	<p>C. Out of the amounts transferred pursuant to § 3-1.01, subparagraph K, of this act, \$881,753 the first year and \$881,753 the second year from the Game Protection Fund shall be used for the enforcement of boating laws, boating safety education, and for improving boating access.</p>			
	<p>Total for Department of Game and Inland Fisheries Total for Department of Wildlife Resources.....</p>		\$67,952,102	\$66,841,461
	Nongeneral Fund Positions.....	496.00	496.00	
	Position Level.....	496.00	496.00	
	Fund Sources: Dedicated Special Revenue.....	\$51,794,539	\$50,683,898	
	Federal Trust.....	\$16,157,563	\$16,157,563	
§ 1-110. DEPARTMENT OF HISTORIC RESOURCES (423)				
385.	Historic and Commemorative Attraction Management (50200).....		\$15,105,760	\$8,117,760
			\$18,785,016	\$8,429,762
	Financial Assistance for Historic Preservation (50204).....	\$8,294,670	\$1,406,670	
		\$12,194,670	\$1,582,579	
	Historic Resource Management (50205).....	\$6,811,090	\$6,711,090	
		\$6,590,346	\$6,847,183	
	Fund Sources: General.....	\$12,089,125	\$5,101,125	
		\$15,768,381	\$5,413,127	
	Special.....	\$888,463	\$888,463	
	Commonwealth Transportation.....	\$115,642	\$115,642	
	Dedicated Special Revenue.....	\$97,799	\$97,799	

ITEM 385.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Federal Trust.....	\$1,914,731	\$1,914,731		

Authority: Title 10.1, Chapters 22 and 23, Code of Virginia.

A. General fund appropriations for historic and commemorative attractions not identified in § 10.1-2211.1 or § 10.1-2211.2, Code of Virginia, shall be matched by local or private sources, either in cash or in-kind, in amounts at least equal to the appropriation and which are deemed to be acceptable to the department.

A. Consistent with the provisions of § 4-13.00 of this act, general fund appropriations for historic and commemorative attractions identified within this item or for the purposes stated in § 10.1-2211.1 or § 10.1-2211.2, Code of Virginia, shall be disbursed as described within this item and shall not be subject to any other restrictions or statutory requirements unless specified within this item. Any other general fund appropriations for historic and commemorative attractions shall be matched by local or private sources, either in cash or in-kind, in amounts at least equal to the appropriation and which are deemed to be acceptable to the department.

B. In emergency situations which shall be defined as those posing a threat to life, safety or property, § 10.1-2213, Code of Virginia, shall not apply.

C. Pursuant to the provisions of § 10.1-2211.1, Code of Virginia, as amended by Chapter 639, 2018 Session of the General Assembly, out of the amounts provided for Financial Preservation shall be paid \$23,100 the first year and \$23,100 the second year from the general fund grants to the Virginia Society of the Sons of the American Revolution (VASSAR) and the Revolutionary War memorial associations caring for cemeteries as set forth in subsection B of § 10.1-2211.1, Code of Virginia. Such sums shall be expended by the associations for the routine maintenance of their respective Revolutionary War cemeteries and graves and for the graves of Revolutionary War soldiers and sailors not otherwise cared for in other cemeteries, and in erecting and caring for markers, memorials, and monuments to the memory of such soldiers, sailors, and persons rendering service to the Patriot cause in the Revolutionary War.

D. Included in this appropriation is \$115,642 the first year and \$115,642 the second year in nongeneral funds from the Highway Maintenance and Operating Fund to support the Department of Historic Resources' required reviews of transportation projects.

E. The Department of Historic Resources is authorized to accept a devise of certain real property under the will of Elizabeth Rust Williams known as Clermont Farm located on Route 7 east of the town of Berryville in Clarke County. If, after due consideration of options, the department determines that the property should be sold or leased to a different public or private entity, and notwithstanding the provisions of § 2.2-1156, Code of Virginia, then the department is further authorized to sell or lease such property, provided such sale or lease is not in conflict with the terms of the will. The proceeds of any such sale or lease shall be deposited to the Historic Resources Fund established under § 10.1-2202.1, Code of Virginia.

F. The Department of Historic Resources shall follow and provide input on federal legislation designed to establish a new national system of recognizing and funding Presidential Libraries for those entities that are not included in the 1955 Presidential Library Act.

G. Included in this appropriation is ~~\$1,250,000~~ \$1,000,000 the first year and ~~\$1,250,000~~ \$1,000,000 the second year from the general fund to be deposited into the Virginia Battlefield Preservation Fund for grants to be made in accordance with § 10.1-2202.4, Code of Virginia. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.

H. The Department of Historic Resources is authorized to require applicants for tax credits for historic rehabilitation projects under § 58.1-339.2, Code of Virginia, to provide an audit by a certified public accountant licensed in Virginia, in accordance with guidelines developed by the department in consultation with the Auditor of Public Accounts. The department is also authorized to contract with tax, financial, and other professionals to assist the department with the oversight of historic rehabilitation projects for which tax credits are anticipated.

I.1. Included in this Item is \$100,000 the first year and \$150,000 the second year from the general fund to support the preservation and care of historical African American graves and

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cemeteries.				
2. Pursuant to § 10.1-2211.2., Code of Virginia, \$34,875 the first year and \$34,875 the second year from the general fund is provided to support the preservation and care of historical African American graves at the East End Cemetery in Henrico County, Virginia and the Evergreen Cemetery in Richmond, Virginia.				
3. Pursuant to § 10.1-2211.2., Code of Virginia, \$960 the first year and \$960 the second year from the general fund is provided to support the preservation and care of historical African American graves at the Daughters of Zion Cemetery in Charlottesville, Virginia.				
4. Pursuant to § 10.1-2211.2, Code of Virginia, \$1,330 the first year and \$1,330 the second year from the general fund is provided to support the preservation and care of historical African American graves at the Mt. Calvary Cemetery in Portsmouth, Virginia.				
5. Pursuant to § 10.1-2211.2, Code of Virginia, \$385 the first year and \$385 the second year from the general fund is provided to support the preservation and care of historical African American graves at the African-American Burial Ground for the Enslaved at Belmont and Mt. Zion Old Baptist Church Cemetery in Loudoun County, Virginia.				
6. Pursuant to § 10.1-2211.2, Code of Virginia, \$385 the first year and \$385 the second year from the general fund is provided to support the preservation and care of historical African American graves at the New River and West Dublin Cemeteries in Pulaski County, Virginia.				
7. Pursuant to § 10.1-2211.2, Code of Virginia, \$2,340 the first year and \$2,340 the second year from the general fund is provided to support the preservation and care of historical African American graves at Oak Lawn Cemetery in Suffolk, Virginia.				
8. Pursuant to § 10.1-2211.2, Code of Virginia, \$3,855 the first year and \$3,855 the second year from the general fund is provided to support the preservation and care of historical African American graves at the following cemeteries in Hampton Virginia: 212 graves at Bassonette's Cemetery, 339 graves at Elmerton Cemetery, 14 graves at Queen Street Cemetery, 29 graves at Pleasant Shade Cemetery, 15 graves at the Tucker Family Cemetery, 125 graves at Union Street Cemetery and 37 graves at Good Samaritan Cemetery.				
9. Pursuant to § 10.1-2211.2, Code of Virginia, \$975 the first year and \$975 the second year from the general fund is provided to support the preservation and care of historical African American graves at Matthews, People's and Smith Street Cemeteries in Martinsville, Virginia.				
10. Pursuant to § 10.1-2211.2, Code of Virginia, \$9,715 the first year and \$9,715 the second year from the general fund is provided to support the preservation and care of historical African American graves at six cemeteries in Alexandria, Virginia.				
11. Pursuant to § 10.1-2211.2, Code of Virginia, \$485 the first year and \$485 the second year from the general fund is provided to support the preservation and care of historical African American graves at Wake Forest and Westview Cemeteries in Montgomery County, Virginia.				
12. Pursuant to § 10.1-2211.2, Code of Virginia, \$455 the first year and \$455 the second year from the general fund is provided to support the preservation and care of historical African American graves at Mountain View Cemetery in Radford, Virginia.				
13. Pursuant to § 10.1-2211.2, Code of Virginia, \$1,330 the first year and \$1,330 the second year from the general fund is provided to support the preservation and care of historical African American graves at Calloway, Lomax, and Mount Salvation Cemeteries in Arlington County, Virginia.				
14. Pursuant to § 10.1-2211.2, Code of Virginia, \$2,000 the first year and \$2,000 the second year from the general fund is provided to support the preservation and care of historical African American graves at Newtown Cemetery in Harrisonburg, Virginia.				
15. Pursuant to § 10.1-2211.2, Code of Virginia, \$260 the first year and \$260 the second year from the general fund is provided to support the preservation and care of historical				

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African American graves at Cuffeytown Cemetery in Chesapeake, Virginia.				
16. Pursuant to § 10.1-2211.2, Code of Virginia, \$180 the first year and \$180 the second year from the general fund is provided to support the preservation and care of historical African American graves at Stanton Family Cemetery in Buckingham County, Virginia.				
J. The Department of Historic Resources is authorized to collect administrative fees for the provision of easement and stewardship services. Revenues generated from the easement fee schedule shall be deposited into the Preservation Easement Fund pursuant to § 10.1-2202.2., Code of Virginia.				
K. Out of the amounts for Financial Assistance for Historic Preservation, \$1,000,000 the first year from the general fund is provided to the City of Richmond to support a historic house museum.				
L. Out of the amounts for Financial Assistance for Historic Preservation, \$2,443,000 the first year from the general fund is provided to the City of Alexandria to support a museum.				
M. Out of the amounts for Financial Assistance for Historic Preservation, \$500,000 the first year from the general fund is provided to the County of Albemarle to support a visitor center at a historic site.				
N. Consistent with the provisions of § 10.1-2214, Code of Virginia, \$159,479 the first year and \$159,479 the second year from the general fund is provided for the Department to establish an underwater archaeology program.				
O. Out of the amounts for Financial Assistance for Historic Preservation, \$100,000 the first year from the general fund is provided to the County of Gloucester to support the historic rehabilitation activities of the T.C. Walker and Woodville/Rosenwald School Foundation in Hayes, Virginia.				
P. Out of the amounts in this item, \$1,000,000 the first year from the general fund is provided to the City of Richmond for the establishment of the Center for African-American History and Culture at Virginia Union University.				
Q. Out of the amounts for Financial Assistance for Historic Preservation, \$50,000 the first year from the general fund is provided to the County of Brunswick for conservation and restoration activities undertaken by the James Solomon Russell/Saint Paul's College Museum and Archives in Lawrenceville, Virginia.				
R. Out of the amounts for Financial Assistance for Historic Preservation, \$70,000 the first year from the general fund is provided to the County of Greenville for support of Citizens United to Preserve Greenville County Training School.				
S. Out of this appropriation, \$1,000,000 the first year from the general fund is provided to the County of Orange, Virginia to support research and education-related programming at James Madison's Montpelier.				
T.1. Out of the amounts for Financial Assistance for Historic Preservation shall be paid from the general fund grants to the following organization for the purposes prescribed in § 10.1-2211, Code of Virginia:				
ORGANIZATION	FY 2021		FY 2022	
United Daughters of the Confederacy	\$83,570		\$83,570	
Notwithstanding the cited Code section, the United Daughters of the Confederacy shall make disbursements to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy for the purposes stated in that section. By November 1, 2020 of each year, the United Daughters of the Confederacy shall submit to the Director, Department of Historic Resources, a report documenting the disbursement of these funds for their specified purpose.				
2. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to				

ITEM 385.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>\$7,500 in the first year each year shall be distributed to the Ladies Memorial Association of Petersburg.</p> <p>3. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to \$90 the first year and \$90 the second year shall be distributed to the Town of Coeburn Municipal Graveyard.</p> <p>U. Out of the amounts for Financial Assistance for Historic Preservation, \$250,000 the first year from the general fund shall be provided to the County of Fairfax as a one-time grant to NOVA Parks for the construction of the Turning Point Suffragist Memorial at Occoquan Regional Park.</p> <p>V. Out of the amounts for Financial Assistance for Historic Preservation, \$250,000 the first year from the general fund shall be provided to the City of Staunton as a one-time grant to the Woodrow Wilson Presidential Library Foundation to support necessary renovations, accessibility improvements, and educational outreach at the Woodrow Wilson Presidential Library.</p> <p>W. Out of this appropriation, \$75,000 the first year from the general fund is designated to the County of Arlington, Virginia to support the Women in Military Service for America Memorial in Arlington, Virginia.</p> <p><i>W. The Department of Historic Resources is authorized to enter into an agreement with one or more Virginia-based Historically Black Colleges and Universities to provide paid internships to enrolled students for data collection and outreach activities to expand Virginia's historical property catalogue to include underrepresented African American and indigenous communities. Included within the amounts in this item, \$100,000 the second year from the general fund is provided for an initial cohort group in fiscal year 2022.</i></p> <p>X. Consistent with the provisions of § 10.1-2214, Code of Virginia, \$159,479 the second year from the general fund is provided to establish an underwater archaeology program.</p> <p>Y. Out of the amounts for Financial Assistance for Historic Preservation, \$255,000 the first year from the general fund shall be provided to the County of Loudoun as a one-time grant to the Loudoun Freedom Center for the African American Museum and History Education program.</p> <p>Z. Out of the amounts in this item, \$570,000 the first year from the general fund is provided to the County of Appomattox for renovation of facilities of the Carver Price Legacy Museum.</p> <p>AA. Out of the amounts in this item, \$500,000 the first year from the general fund is provided to the City of Richmond for support of The JXN Project.</p> <p>BB. Out of the amounts in this item, \$3,000,000 the first year from the general fund is provided to the City of Chesapeake for support of a historic and cultural attraction commemorating the Underground Railroad.</p>				
386.	Administrative and Support Services (59900).....		\$1,025,312 \$1,113,240	\$1,025,312 \$1,113,240
	General Management and Direction (59901).....	\$1,025,312 \$1,113,240	\$1,025,312 \$1,113,240	
	Fund Sources: General.....	\$798,123 \$886,051	\$798,123 \$886,051	
	Special.....	\$46,205	\$46,205	
	Federal Trust.....	\$180,984	\$180,984	

Authority: Title 10.1, Chapters 10.1, 22 and 23, Code of Virginia.

Out of the amounts for Administrative and Support Services, the department shall administer state grants to nonstate agencies pursuant to Item 498 of this act.

ITEM 386.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
386.10 Omitted.				
Total for Department of Historic Resources.....			\$16,131,072	\$9,143,072
			\$19,898,256	\$9,543,002
General Fund Positions.....	29.50	29.50		
		33.00		
Nongeneral Fund Positions.....	19.00	19.00		
Position Level.....	48.50	48.50		
		52.00		
Fund Sources: General.....	\$12,887,248	\$5,899,248		
	\$16,654,432	\$6,299,178		
Special.....	\$934,668	\$934,668		
Commonwealth Transportation.....	\$115,642	\$115,642		
Dedicated Special Revenue.....	\$97,799	\$97,799		
Federal Trust.....	\$2,095,715	\$2,095,715		

§ 1-111. MARINE RESOURCES COMMISSION (402)

387. Marine Life Management (50500).....			\$23,718,387	\$23,413,279
			\$23,471,484	\$23,388,966
Marine Life Information Services (50501).....	\$1,367,413	\$1,367,413		
Marine Life Regulation Enforcement (50503).....	\$9,855,908	\$9,740,800		
	\$9,740,800	\$9,774,182		
Artificial Reef Construction (50506).....	\$69,520	\$69,520		
Chesapeake Bay Fisheries Management (50507).....	\$5,999,937	\$5,975,237		
	\$5,918,142	\$5,917,542		
Oyster Propagation and Habitat Improvement (50508).....	\$6,425,609	\$6,260,309		
	\$6,375,609			
Fund Sources: General.....	\$12,016,819	\$11,827,011		
	\$11,769,916	\$11,802,698		
Special.....	\$7,557,986	\$7,442,686		
Commonwealth Transportation.....	\$313,768	\$313,768		
Dedicated Special Revenue.....	\$581,014	\$581,014		
Federal Trust.....	\$3,248,800	\$3,248,800		

Authority: Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5 and 7; Title 28.2, Chapters 1 through 10; Title 29.1, Chapter 7; Title 32.1, Chapter 6; Title 33.2, Chapter 1; and Title 62.1, Chapters 18 and 20, Code of Virginia.

A. Out of this appropriation, \$54,611 the first year and \$54,611 the second year from the general fund is provided for annual membership dues to the Atlantic States Marine Fisheries Commission.

B. Out of this appropriation, \$148,750 the first year and \$148,750 the second year from the general fund is provided for annual membership dues to the Potomac River Fisheries Commission.

C. Out of the amounts for Marine Life Regulation Enforcement shall be paid into the Marine Patrols Fund, \$169,248 the first year and \$169,248 the second year, pursuant to § 28.2-108, Code of Virginia. For this purpose, cash shall be transferred from the Commonwealth Transportation Fund.

D. Pursuant to § 58.1-2289 D, Code of Virginia, \$144,520 the first year and \$144,520 the second year shall be transferred to Marine Life Regulation Enforcement from the Commonwealth Transportation Fund from unrefunded motor fuel taxes for boats and paid into the Marine Patrols Fund.

E. 1. Out of this appropriation, \$4,000,000 the first year and \$4,000,000 the second year from the general fund is provided to support oyster replenishment and oyster restoration activities. From these amounts \$1,500,000 the first year and \$1,500,000 the second year from the general fund shall be used to provide support for oyster restoration.

ITEM 387.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>2. Any unexpended general fund balances designated by the agency for oyster remediation activities remaining in this Item on June 30, 2021, and June 30, 2022, shall be reappropriated and reallocated to the Marine Resources Commission for expenditure.</p> <p>F. The commission shall deposit proceeds from the sale of oyster shells, oyster seeds, and other subaqueous materials pursuant to § 28.2-550, Code of Virginia, to the Public Oyster Rock Replenishment Fund established by § 28.2-542, Code of Virginia. The proceeds from such sale shall be used for the same purposes specified in § 28.2-542, Code of Virginia.</p> <p>G. Out of the amounts for this item, \$50,000 the first year from the general fund is to be provided by the Commissioner to the Virginia Aquarium and Marine Science Foundation.</p> <p>G. <i>Out of the amounts in this Item, \$14,710 the second year from the general fund is included for the purchase of outboard motors through the Commonwealth's Master Equipment Leasing Program.</i></p>				
388.	Coastal Lands Surveying and Mapping (51000).....		\$3,049,201	\$2,799,101
	Coastal Lands and Bottomlands Management (51001).....		\$2,288,812	
			\$2,720,951	
		\$2,288,812		\$2,038,712
		\$1,960,562		
		\$760,389		\$760,389
		\$760,389		\$760,389
		\$1,928,254		\$1,678,154
		\$1,600,004		\$1,678,154
		\$938,947		\$938,947
		\$182,000		\$182,000
	<p>Authority: Title 28.2, Chapters 12, 13, 14, 15 and 16; Title 62.1, Chapters 16 and 19, Code of Virginia.</p> <p>Out of the amounts in this item, \$250,000 the first year from the general fund shall be deposited to the Marine Habitat and Waterways Improvement Fund pursuant to § 28.2-1204.2, Code of Virginia.</p>			
389.	Tourist Promotion (53600).....		\$220,000	\$220,000
	Virginia Saltwater Sport Fishing Tournament (53601).....			
		\$220,000		\$220,000
		\$220,000		\$220,000
	<p>Authority: Title 28.2, Chapter 2, Code of Virginia</p> <p>Pursuant to the provisions of §28.2-206, Code of Virginia, the Virginia Marine Resources Commission shall conduct the Virginia Saltwater Sport Fishing Tournament in both years of the biennium.</p>			
390.	Administrative and Support Services (59900).....		\$2,818,242	\$2,818,242
	General Management and Direction (59901).....			
		\$2,818,242		\$2,818,242
		\$2,700,393		\$2,700,393
		\$117,849		\$117,849
	<p>Authority: Title 28.2, Chapters 1 and 2, Code of Virginia.</p> <p>A. The Marine Resources Commission shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the commission.</p> <p>B. From the amounts collected pursuant to § 28.2-200 et seq., Code of Virginia, and deposited into the Virginia Marine Products Fund (§ 3.2-2705, Code of Virginia), the Marine Resources Commission may retain \$10,000 the first year and \$10,000 the second year for the administrative cost of issuing gear licenses.</p> <p>C. The Virginia Marine Resources Commission shall report by December 15 of each year</p>			

ITEM 390.	Item Details(\$)		Appropriations(\$)	
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all projects and expenditures funded from the Virginia Saltwater Recreational Fishing Development Fund. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.				
390.10	Omitted.			
	Total for Marine Resources Commission.....		\$29,805,830	\$29,250,622
			\$29,230,677	\$29,226,309
	General Fund Positions.....	138.50	138.50	
	Nongeneral Fund Positions.....	31.00	31.00	
	Position Level.....	169.50	169.50	
	Fund Sources: General.....	\$16,645,466	\$16,205,558	
		\$16,070,313	\$16,181,245	
	Special.....	\$7,895,835	\$7,780,535	
	Commonwealth Transportation.....	\$313,768	\$313,768	
	Dedicated Special Revenue.....	\$1,519,961	\$1,519,961	
	Federal Trust.....	\$3,430,800	\$3,430,800	
	TOTAL FOR OFFICE OF NATURAL RESOURCES.....			
			\$496,127,550	\$482,253,609
			\$493,463,655	\$540,243,113
	General Fund Positions.....	1,022.00	1,022.00	
			1,036.50	
	Nongeneral Fund Positions.....	1,157.00	1,157.00	
	Position Level.....	2,179.00	2,179.00	
			2,193.50	
	Fund Sources: General.....	\$211,948,655	\$199,300,655	
		\$209,284,760	\$257,090,159	
	Special.....	\$47,130,378	\$47,015,078	
			\$47,215,078	
	Commonwealth Transportation.....	\$429,410	\$429,410	
	Enterprise.....	\$13,091,877	\$13,091,877	
	Trust and Agency.....	\$38,274,531	\$38,274,531	
	Dedicated Special Revenue.....	\$120,967,183	\$119,856,542	
	Federal Trust.....	\$64,285,516	\$64,285,516	

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OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY

§ 1-112. SECRETARY OF PUBLIC SAFETY AND HOMELAND SECURITY (187)

391.	Administrative and Support Services (79900).....			\$1,230,902	\$1,230,902
	General Management and Direction (79901).....	\$1,230,902	\$1,230,902		
	Fund Sources: General.....	\$1,230,902	\$1,230,902		

Authority: Title 2.2, Chapter 2, Article 8, and § 2.2-201, Code of Virginia.

A. The Secretary of Public Safety and Homeland Security shall present revised six-year state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15 of each year. The secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast who may be appropriate for alternative sanctions.

B. The secretary shall continue to work with other secretaries to (i) develop services intended to improve the re-entry of offenders from prisons and jails to general society and (ii) enhance the coordination of service delivery to those offenders by all state agencies. The secretary shall provide a status report on actions taken to improve offender transitional and reentry services, as provided in § 2.2-221.1, Code of Virginia, including improvements to the preparation and provision for employment, treatment, and housing opportunities for those being released from incarceration. The report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.

C. Included in the appropriation for this item is \$500,000 the first year and \$500,000 the second year from the general fund for the Commonwealth's nonfederal cost match requirement to accomplish the United States Corps of Engineers Regional Reconnaissance Flood Control Study for both the Hampton Roads and Northern Neck regions as authorized by the U.S. Congress. Any balances not needed to complete these studies may be used to conduct a comparable study in the Northern Virginia region.

D. The Secretary shall report on the requirements of Item 381 H. of Chapter 854, 2019 Acts of Assembly, by November 15, 2020.

E.1. The Secretary of Public Safety and Homeland Security shall continue the expanded work group established in Item 381 of Chapter 854, 2019 Acts of Assembly. The expanded work group shall examine the workload impact, as well as other fiscal and policy impacts, on the Commonwealth's public safety and judicial agencies as a whole. The Executive Secretary of the Supreme Court shall submit the recommendations of the working group to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 15, ~~2020~~2021. All state agencies and local subdivisions shall provide assistance as requested by the working group.

2. The expanded workgroup shall include representatives of the Supreme Court, the State Compensation Board, staff of the House Appropriations and Senate Finance and Appropriations Committees, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Secretary.

3. Prior to the preparation of the November 15, ~~2020~~2021 report, each Commonwealth's Attorney's office in a locality that employs body worn cameras, in conjunction with the law enforcement agency using body worn cameras, shall report to the Compensation Board and the workgroup the following information on a quarterly basis, in a format prescribed by the Board:

a. The number of hours of body worn camera video footage received from their law enforcement agencies. The number of hours should additionally be broken down into

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<p>corresponding categories of felonies, misdemeanors and traffic offenses. Any recorded event that results in charges for two or more of the above categories shall be reported in the most serious category;</p> <p>b. The number of hours spent in the course of redacting videos; and</p> <p>c. Any other data determined relevant and necessary by the workgroup for this analysis.</p> <p>F. The Secretary of Public Safety and Homeland Security shall establish an E-911 Border Response Workgroup. The Workgroup shall assess the deficiencies related to the timely routing of Emergency 911 (E911) calls to the appropriate public-safety answering point (PSAP) across either state or county borders. At a minimum, the workgroup should work with stakeholders to collect information on problems with the current system and processes; review mitigation solutions already implemented by localities and citizen groups; determine best practices; and provide inputs and recommendations to the General Assembly on technology, training, and compensation that would be necessary to address the identified deficiencies. The Secretary shall provide the recommendations of the Workgroup to the Governor and General Assembly no later than April 1, 2021.</p> <p><i>G. The Secretary of Public Safety and Homeland Security shall assess the need for, potential benefits and feasibility of implementing, and staffing and other associated costs of establishing an Office of the Ombudsman within the Department of Corrections. The Secretary shall identify the staffing and associated costs necessary for the Ombudsman to, at a minimum, (i) provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates; (ii) monitor the conditions of confinement; (iii) provide technical assistance to support inmate participation in self-advocacy; (iv) provide technical assistance to local governments in the creation of correctional facility oversight bodies; (v) establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections; (vi) gather stakeholder inputs into the Office of the Ombudsman's activities and priorities; (vii) inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities; (viii) publicly provide facility inspection reports; (ix) conduct investigations of complaints made by inmates, family members, and advocates; and (x) the efficacy of expanding alternative methods of oversight to include the direct oversight of the Department by the Board of Local and Regional Jails or similar entity. In conducting this assessment, the Secretary shall consult with representatives of social justice or civil rights organizations, advocates for inmates or the families of inmates, national experts or similar ombudsmen and correctional oversight offices and programs in other states, and other stakeholders identified by the Secretary. The Secretary shall develop a report of the findings and shall provide such report detailing the findings to the Chairs of the House Public Safety, House Appropriations, Senate Judiciary, and Senate Finance and Appropriations Committees no later than December 1, 2021.</i></p> <p><i>H. The Secretary, in consultation with the Department of Planning and Budget, and the Secretary of Finance, as well as appropriate public safety or other agency staff, shall evaluate existing funding that has been previously authorized for the enforcement of laws related to controlled substance prohibition. The Secretary shall identify, for controlled substances which have recently been decriminalized or legalized, sources of funding that are authorized for enforcement activities, including funding dedicated to patrol, arrests, incarceration, training, or other activities, that may be saved and reallocated towards other programs. The Secretary shall report on the information required in this paragraph to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2021.</i></p>				
392.	Disaster Planning and Operations (72200).....		\$582,897	\$582,897
	Emergency Planning and Homeland Security (72210).....	\$582,897	\$582,897	
	Fund Sources: Federal Trust.....	\$582,897	\$582,897	
	Total for Secretary of Public Safety and Homeland Security.....		\$1,813,799	\$1,813,799
	General Fund Positions.....	6.00	6.00	
	Nongeneral Fund Positions.....	3.00	3.00	

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Position Level.....	9.00	9.00		
Fund Sources: General.....	\$1,230,902	\$1,230,902		
Federal Trust.....	\$582,897	\$582,897		

§ 1-113. COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL (957)

393.	Adjudication Training, Education, and Standards (32600).....			\$2,308,604	\$2,308,604
	Prosecutorial Training (32604).....	\$2,308,604	\$2,308,604		
	Fund Sources: General.....	\$689,756	\$689,756		
	Special.....	\$1,418,848	\$1,418,848		
	Federal Trust.....	\$200,000	\$200,000		
	Authority: Title 2.2, Chapter 26, Article 7, Code of Virginia.				
	Total for Commonwealth's Attorneys' Services Council.....			\$2,308,604	\$2,308,604
	General Fund Positions.....	7.00	7.00		
	Position Level.....	7.00	7.00		
	Fund Sources: General.....	\$689,756	\$689,756		
	Special.....	\$1,418,848	\$1,418,848		
	Federal Trust.....	\$200,000	\$200,000		

§ 1-114. VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY (999)

394.	Crime Detection, Investigation, and Apprehension (30400).....			\$22,192,092	\$24,692,092 \$25,692,092
	Enforcement and Regulation of Alcoholic Beverage Control Laws (30403).....	\$22,192,092	\$24,692,092 \$25,692,092		
	Fund Sources: Enterprise.....	\$21,492,092	\$23,992,092 \$24,992,092		
	Federal Trust.....	\$700,000	\$700,000		

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. No funds appropriated for this program shall be used for enforcement personnel to enforce local ordinances.

B. Revenues of the fund appropriated in this Item and Item 395 of this act are limited to those received pursuant to Title 4, Code of Virginia, excepting taxes collected by the Alcoholic Beverage Control Board.

C. By September 1 of each year, the Alcoholic Beverage Control Board shall report for the prior fiscal year the dollar amount of total wine liter tax collections in Virginia; the portion, expressed in dollars, of such tax collections attributable to the sale of Virginia wine in both ABC stores and in private stores; and, the percentage of total wine liter tax collections attributable to the sale of Virginia wine. Such report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, Director, Department of Planning and Budget and the Virginia Wine Board.

D. Included in this appropriation for this item is \$839,752 each year from the Enterprise Fund to be used to support civilian licensing technicians.

E. Included in the appropriation for this item is \$2,500,000 the second year from the Enterprise Fund to support licensing agents in association with the Authority's licensing reform efforts.

F. Included in the appropriation for this Item \$1,000,000 the second year from the Enterprise Fund to support enforcement activities related to the unlawful direct shipment

ITEM 394.	Item Details(\$)		Appropriations(\$)	
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	<i>into Virginia of alcoholic beverages by unlicensed businesses and fulfillment centers.</i>			
395.	Alcoholic Beverage Merchandising (80100).....		\$815,774,073 \$882,571,574	\$860,145,166 \$942,297,259
	Administrative Services (80101).....	\$72,883,603	\$69,983,603 \$80,662,369	
	Alcoholic Beverage Control Retail Store Operations (80102).....	\$120,233,064	\$127,149,957	
	Alcoholic Beverage Purchasing, Warehousing and Distribution (80103).....	\$622,657,406 \$689,454,907	\$663,011,606 \$734,484,933	
	Fund Sources: Enterprise.....	\$815,774,073 \$882,571,574	\$860,145,166 \$942,297,259	

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. The Secretary of Finance shall chair an advisory committee to review the progress of the Alcoholic Beverage Control Authority in planning, financing, procuring, and implementing the information technology systems necessary to sustain the department's business enterprise. Members of this committee shall include the Secretary of Public Safety and Homeland Security; the Director, Department of Planning and Budget; the Director, Department of Accounts; the Chief Information Officer of the Commonwealth; the Auditor of Public Accounts; and the Staff Directors of the House Appropriations and Senate Finance Committees and/or their designees.

B. Funds appropriated for services related to state lottery operations shall be used solely for lottery ticket purchases and prize payouts.

C. The Alcoholic Beverage Control Board shall open additional stores in locations deemed to have the greatest potential for total increased sales in order to maximize profitability.

D. Notwithstanding § 4.1-120, Code of Virginia, the Alcoholic Beverage Control Board may open certain government stores, as determined by the Board, for the sale of alcoholic beverages on New Year's Day and on Sundays after 10:00 a.m.

E. Consistent with the provisions of Chapters 730 and 38, 2015 Acts of Assembly, members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairmen of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. Out of this appropriation, \$3,000,000 the first year and \$100,000 the second year from nongeneral funds is provided to cover the costs associated with the warehouse and headquarters relocation.

Total for Virginia Alcoholic Beverage Control Authority.....			\$837,966,165 \$904,763,666	\$884,837,258 \$967,989,351
Nongeneral Fund Positions.....	1,454.00	1,555.00 1,566.00		
Position Level.....	1,454.00	1,555.00 1,566.00		
Fund Sources: Enterprise.....	\$837,266,165 \$904,063,666	\$884,137,258 \$967,289,351		
Federal Trust.....	\$700,000	\$700,000		

§ 1-115. DEPARTMENT OF CORRECTIONS (799)

396.	Instruction (19700).....		\$30,248,045	\$30,248,045
	Career and Technical Instructional Services for Youth and Adult Schools (19712).....	\$11,330,990	\$11,330,990	

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Adult Instructional Services (19713).....	\$12,718,140	\$12,718,140		
Instructional Leadership and Support Services (19714).....	\$6,198,915	\$6,198,915		
Fund Sources: General.....	\$29,737,767	\$29,737,767		
Federal Trust.....	\$510,278	\$510,278		
Authority: §§ 53.1-5 and 53.1-10, Code of Virginia.				
397. Supervision of Offenders and Re-entry Services (35100).....			\$103,122,314	\$103,122,314
			\$103,622,314	\$103,622,314
Probation and Parole Services (35106).....	\$94,925,832	\$94,925,832		
	\$95,425,832	\$95,425,832		
Community Residential Programs (35108).....	\$3,163,556	\$3,163,556		
Administrative Services (35109).....	\$5,032,926	\$5,032,926		
Fund Sources: General.....	\$100,133,240	\$100,133,240		
	\$100,633,240	\$100,633,240		
Dedicated Special Revenue.....	\$2,589,074	\$2,589,074		
Federal Trust.....	\$400,000	\$400,000		

Authority: §§ 53.1-67.2 through 53.1-67.6 and §§ 53.1-140 through 53.1-176.3, Code of Virginia.

A. By September 1 of each year, the Department of Corrections shall provide a status report on the Statewide Community-Based Corrections System for State-Responsible Offenders to the Chairmen of the House Courts of Justice; Health, Welfare and Institutions; and Appropriations Committees and the Senate Courts of Justice; Rehabilitation and Social Services; and Finance Committees and to the Department of Planning and Budget. The report shall include a description of the department's progress in implementing evidence-based practices in probation and parole districts, and its plan to continue expanding this initiative into additional districts. The section of the status report on evidence-based practices shall include an evaluation of the effectiveness of these practices in reducing recidivism and how that effectiveness is measured.

B. Included in the appropriation for this Item is \$150,000 the first year and \$150,000 the second year from nongeneral funds to support the implementation of evidence-based practices in probation and parole districts. The source of the funds is the Drug Offender Assessment Fund.

C. Out of the amounts appropriated in this item, \$200,000 the first year and \$200,000 the second year from the general fund is designated for the Department of Corrections to pay the Department of Motor Vehicles for the costs of providing identification cards to inmates through the DMV Connect program.

397.10	<i>Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600).....</i>			\$0	\$1,634,160
	<i>Financial Assistance for Construction of Local and Regional Jails (35603).....</i>	\$0	\$1,634,160		
	<i>Fund Sources: General.....</i>	\$0	\$1,634,160		

Authority: §§ 53.1-80 and 53.1-81, Code of Virginia

The appropriation in this Item shall be used to pay the Commonwealth's share of the costs to construct, renovate, or expand a local correctional facility. After reviewing requests for reimbursement, the Department of Corrections shall reimburse the Commonwealth's share of costs approved by the State Board of Local and Regional Jails for the following facilities, not to exceed the amounts shown:

<i>Virginia Peninsula Regional Jail – Security Enhancements</i>	\$57,731
<i>Virginia Beach Correctional Center – Upgrade Master Control System</i>	\$1,322,858
<i>Montgomery County Jail – Upgrade Dormitory Security</i>	\$253,571

ITEM 397.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
398.	<p>A. The following process shall be applicable in order for any county, city, or regional jail authority (hereinafter referred to as “the locality”) to receive state reimbursement for a portion of the costs of the construction, expansion, or renovation of a jail as provided in §§53.1-80 and 53.1-81, Code of Virginia:</p> <ol style="list-style-type: none"> 1. The locality shall file with the Department of Corrections, by January 1 of the year in which it wishes its request to be considered, the following information in a format specified by the department: <ol style="list-style-type: none"> a. the information and documents required by §53.1-82.1, Code of Virginia; b. Specifications for the proposed construction or renovation; and c. Detailed cost estimates. 2. The Department of Corrections shall review the request and make its comments and recommendations to the <i>State Board of Corrections Local and Regional Jails</i>. 3. The Departments of Corrections and Criminal Justice Services shall review the community-based corrections plan and jail population forecast submitted by the locality and make their comments and recommendation concerning them to the <i>State Board of Corrections Local and Regional Jails</i>. 4. The <i>State Board of Corrections Local and Regional Jails</i> shall review and take action on the request, after reviewing the comments and recommendations of the Departments of Corrections and Criminal Justice Services. It may modify any aspect of the request before approving it. The board shall not approve any request unless the following conditions have been met: <ol style="list-style-type: none"> a. the project is consistent with the projected number of local and state responsible offenders to be housed in such facility; b. the project meets the design criteria set out in the <i>State Board of Corrections Local and Regional Jails' Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities</i>; c. the project is proposed to be built using standards for a minimum security facility, as adopted by the board, unless the use of more expensive construction standards is justified, based on a documented projection of offender populations that would require a higher level of security; d. the project can be completed and operated in a cost-efficient manner; and e. any other criteria established by the board. 5. If the <i>State Board of Corrections Local and Regional Jails</i> approves a request, the Department of Corrections shall notify the Department of Planning and Budget by October 1 of the board's action and submit a summary of the project and a detailed list of the board-approved costs to the department. 6. If the <i>State Board of Corrections Local and Regional Jails</i> approves a request, the Department of Criminal Justice Services shall submit to the Department of Planning and Budget by October 1 a summary of the alternatives to incarceration included in the community-based corrections plan approved for the project, along with a projection of the state funds needed to implement these programs. 7. The Department of Planning and Budget shall submit to the Governor, for consideration for inclusion in the budget bill to be submitted by the Governor to the General Assembly, its recommendations concerning the approval of the request for reimbursement of jail construction or renovation costs and whether state funding is appropriate to support the alternatives to incarceration included in the community-based corrections plan. <p>B. The Department of Corrections shall provide an annual report on the status of jail construction and renovation projects as approved for funding by the General Assembly. The</p>			

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report shall be limited to those projects which increase bed capacity. The report shall include a brief summary description of each project, the total capital cost of the project and the approved state share of the capital cost, the number of beds approved, along with the net number of new beds if existing beds are to be removed, and the closure of any existing facilities, if applicable. The report shall include the six-year population forecast, as well as the double-bunking capacity compared to the rated capacity for each project listed. The report shall also include the general fund impact on community corrections programs as reported by the Department of Criminal Justice Services, and the recommended financing arrangements and estimated general fund requirements for debt service as provided by the State Treasurer. Copies of the report shall be provided by October 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees and to the Director, Department of Planning and Budget.

C.1. No city, county, town or regional jail shall authorize the construction, remodeling, renovation or rehabilitation of any facility to house any inmate in secure custody which results in increased jail capacity without the prior approval of the *State Board of Corrections Local and Regional Jails*.

2. Any facility operated by any local or regional jail in the Commonwealth which houses any inmate in secure custody shall be subject to the operational provisions of §§ 53.1-5 and 53.1-68, Code of Virginia, as well as all rules, regulations, and inspections established by the *State Board of Corrections Local and Regional Jails*.

D. The *State Board of Corrections Local and Regional Jails* shall include within its reporting formats on the capacity of each local and regional jail, a measure of the actual jail capacity, which shall include double-bunking, with exceptions as appropriate, in the judgment of the Board, for isolation, segregation, or medical cells, or similar units which would not normally be double-bunked. Exceptions to this measure of capacity may also be made for jails which were constructed prior to 1980. A report including the double-bunking capacity, as well as the standard *State Board of Corrections Local and Regional Jails* measure of rated capacity, for each jail shall be presented to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees by October 1 of each year.

E. The Commonwealth shall reimburse localities or regional jail authorities up to 25 percent of the cost of constructing, enlarging, or renovating local or regional jails, for projects approved by the Governor on or after July 1, 2017.

399.	Operation of State Residential Community Correctional Facilities (36100).....			\$17,061,143	\$17,061,143
	Community Facility Management (36101).....	\$1,548,529	\$1,548,529		
	Supervision and Management of Probates (36102)..	\$11,213,036	\$11,213,036		
	Rehabilitation and Treatment Services - Community Residential Facilities (36103).....	\$1,456,013	\$1,456,013		
	Medical and Clinical Services - Community Residential Facilities (36104).....	\$852,035	\$852,035		
	Food Services - Community Residential Facilities (36105).....	\$833,442	\$833,442		
	Physical Plant Services - Community Residential Facilities (36106).....	\$1,158,088	\$1,158,088		
	Fund Sources: General.....	\$16,161,143	\$16,161,143		
	Special.....	\$900,000	\$900,000		

Authority: §§ 53.1-67.2 through 53.1-67.8, Code of Virginia.

A. Included within this appropriation is \$700,00 the first year and \$700,000 the second year from nongeneral funds to be used for operating expenses of diversion centers operated by the Department of Corrections. The nongeneral funds are to come from the fees collected from probationers, assigned to the diversion centers, to cover a portion of the cost of housing them, pursuant to § 19.2-316.4 D, Code of Virginia.

B. Included in the appropriation for this Item is \$1,019,010 the first year and \$1,019,010 the second year from the general fund for the establishment of opioid treatment programs

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in the detention and diversion centers. The department shall report annually to the Governor, the Chairmen of the House Appropriations and the Senate Finance Committees, and the Department of Planning and Budget on the status of the program, including recidivism and illegal drug relapse of participants in the program.				
400.	Operation of Secure Correctional Facilities (39800)....		\$827,521,957	\$828,555,397
			\$820,082,023	\$822,053,263
	Supervision and Management of Inmates (39802).....	\$525,472,406 \$517,725,000	\$526,505,846 \$519,202,512	
	Rehabilitation and Treatment Services - Prisons (39803).....	\$46,571,380 \$46,796,380	\$46,571,380 \$47,267,800	
	Prison Management (39805).....	\$71,104,654	\$71,104,654	
	Food Services - Prisons (39807).....	\$40,296,693	\$40,296,693	
	Agribusiness (39811).....	\$12,246,402	\$12,246,402	
	Correctional Enterprises (39812).....	\$51,108,163	\$51,108,163	
	Physical Plant Services - Prisons (39815).....	\$80,722,259 \$80,804,731	\$80,722,259 \$80,827,039	
	Fund Sources: General.....	\$773,313,794 \$765,648,860	\$774,347,234 \$767,620,100	
	Special.....	\$54,208,163 \$54,433,163	\$54,208,163 \$54,433,163	

Authority: §§ 53.1-1, 53.1-5, 53.1-8, and 53.1-10, Code of Virginia.

A. Included in this appropriation is ~~\$1,395,000~~ \$1,620,000 in the first year and ~~\$1,395,000~~ \$1,620,000 the second year from nongeneral funds for the purposes listed below. The source of the funds is commissions generated by prison commissary operations:

1. \$220,000 the first year and \$220,000 the second year for Assisting Families of Inmates, Inc., to provide transportation for family members to visit offenders in prison and other ancillary services to family members;
2. ~~\$1,100,000~~ \$1,325,000 the first year and ~~\$1,100,000~~ \$1,325,000 the second year for distribution to organizations that work to enhance faith-based services to inmates; and
3. \$75,000 the first year and \$75,000 the second year for the "FETCH" program.

B.1. The Department of Corrections is authorized to contract with other governmental entities to house male and female prisoners from those jurisdictions in facilities operated by the department.

2. The State Comptroller shall continue to maintain the Contract Prisoners Special Revenue Fund on the books of the Commonwealth to reflect the activities of contracts between the Commonwealth of Virginia and other governmental entities for the housing of prisoners in facilities operated by the Virginia Department of Corrections.

3. The Department of Corrections shall determine whether it may be possible to contract to house additional federal inmates or inmates from other states in space available within state correctional facilities. The department may, subject to the approval of the Governor, enter into such contracts, to the extent that sufficient bedspace may become available in state facilities for this purpose.

C. The Department of Corrections may enter into agreements with local and regional jails to house state-responsible offenders in such facilities and to effect transfers of convicted state felons between and among such jails. Such agreements shall be governed by the provisions of Item 69 of this act.

D. To the extent that the Department of Corrections privatizes food services, the department shall also seek to maximize agribusiness operations.

E. Notwithstanding the provisions of § 53.1-45, Code of Virginia, the Department of Corrections is authorized to sell on the open market and through the Virginia Farmers' Market Network any dairy, animal, or farm products of which the Commonwealth imports more than it exports.

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F. It is the intention of the General Assembly that § 53.1-47, the Code of Virginia, concerning articles and services produced or manufactured by persons confined in state correctional facilities, shall be construed such that the term "manufactured" articles shall include "remanufactured" articles.

G.1. The Department of Corrections, in coordination with the Virginia Supreme Court, shall continue to operate a behavioral correction program. Offenders eligible for such a program shall be those offenders: (i) who have never been convicted of a violent felony as defined in § 17.1-805 of the Code of Virginia and who have never been convicted of a felony violation of §§ 18.2-248 and 18.2-248.1 of the Code of Virginia; (ii) for whom the sentencing guidelines developed by the Virginia Criminal Sentencing Commission would recommend a sentence of four years or more in facilities operated by the Department of Corrections; and (iii) whom the court determines require treatment for drug or alcohol substance abuse. For any such offender, the court may impose the appropriate sentence with the stipulation that the Department of Corrections place the offender in an intensive therapeutic community-style substance abuse treatment program as soon as possible after receiving the offender. Upon certification by the Department of Corrections that the offender has successfully completed such a program of a duration of 24 months or longer, the court may suspend the remainder of the sentence imposed by the court and order the offender released to supervised probation for a period specified by the court.

2. If an offender assigned to the program voluntarily withdraws from the program, is removed from the program by the Department of Corrections for intractable behavior, fails to participate in program activities, or fails to comply with the terms and conditions of the program, the Department of Corrections shall notify the court, outlining specific reasons for the removal and shall reassign the defendant to another incarceration assignment as appropriate. Under such terms, the offender shall serve out the balance of the sentence imposed by the court, as provided by law.

3. The Department of Corrections shall collect the data and develop the framework and processes that will enable it to conduct an in-depth evaluation of the program three years after it has been in operation. The department shall submit a report periodically on the program to the Chief Justice as he may require and shall submit a report on the implementation of the program and its usage to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by June 30 of each year.

H. Included in the appropriation for this Item is \$250,000 the first year and \$250,000 the second year from nongeneral funds for a culinary arts program in which inmates are trained to operate food service activities serving agency staff and the general public. The source of the funds shall be revenues generated by the program. Any revenues so generated by the program shall not be subject to § 4-2.02 of this act and shall be used by the agency for the costs of operating the program. The State Comptroller shall continue to maintain the Inmate Culinary Arts Training Program Fund on the books of the Commonwealth to reflect the revenue and expenditures of this program.

I. Federal funds received by the Department of Corrections from the federal Residential Substance Abuse Treatment Program shall be exempt from payment of statewide and agency indirect cost recoveries into the general fund.

J. The Department of Corrections shall continue to operate a separate program for inmates under 18 years old who have been tried and convicted as adults and committed to the Department of Corrections. This separation of these offenders from the general prison population is required by the requirements of the federal Prison Rape Elimination Act.

K. Included within the appropriation for this item is \$70,000 the first year and \$70,000 the second year from the general fund for the Sex Offender Residential Treatment Program.

~~L. Out of this appropriation, \$6,831,121 the first year and \$7,864,561 the second year from the general fund is provided to increase minimum salaries for correctional officers, sergeants, captains, lieutenants, and majors.~~

M. Included in this appropriation is \$78,046 the first year from the general fund to provide correctional officers at Lawrenceville Correctional Center a one-time bonus

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<p><i>payment of \$500. The department shall amend its contract with the vendor that operates the Lawrenceville Correctional Center to require that this funding is provided as a bonus for correctional officers and require an accounting of the funding to the department. The department shall report on the use of this funding, including the number of correctional officers provided a bonus and, if applicable, any balances remaining to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by June 30, 2021.</i></p> <p><i>N. Out of this appropriation, \$471,420 the second year from the general fund is provided to fund five positions to implement the recommendations of the Secretary of Public Safety and Homeland Security's workgroup on Access to Sex Offender Treatment.</i></p> <p><i>O. Included in this appropriation is \$250,000 the second year from the general fund for the expansion and subsidization of the family video visitation services in its secure correctional facilities.</i></p>				
401.	Prison Medical and Clinical Services (39700).....		\$232,782,583	\$239,137,689
			\$229,529,761	\$247,060,267
	Comprehensive Healthcare Facility Contract Costs (39701).....	\$87,886,687 \$79,355,775	\$90,194,852 \$82,868,740	
	Offsite Healthcare Costs (39702).....	\$55,343,858 \$28,272,832	\$55,324,021 \$36,294,698	
	Pharmaceutical Costs (39703).....	\$32,897,780 \$41,727,190	\$35,181,711 \$44,525,599	
	Department of Corrections-managed Facility Healthcare Costs (39704).....	\$56,654,258 \$80,173,964	\$58,437,105 \$83,371,230	
	Fund Sources: General.....	\$231,295,406 \$228,042,584	\$237,650,512 \$245,573,090	
	Special.....	\$566,137	\$566,137	
	Federal Trust.....	\$921,040	\$921,040	

Authority: §§ 53.1-1, 53.1-5, 53.1-8, and 53.1-10, Code of Virginia.

A. Out of this appropriation, \$921,040 the first year and \$921,040 the second year from nongeneral funds is included for inmate medical costs. The sources of the nongeneral funds are an award from the State Criminal Alien Assistance Program, administered by the U.S. Department of Justice.

B. The Department of Corrections shall continue to coordinate with the Department of Medical Assistance Services and the Department of Social Services to enroll eligible inmates in Medicaid. To the extent possible, the Department of Corrections shall work to identify potentially eligible inmates on a proactive basis, prior to the time inpatient hospitalization occurs. Procedures shall also include provisions for medical providers to bill the Department of Medical Assistance Services, rather than the Department of Corrections, for eligible inmate inpatient medical expenses. Due to the multiple payor sources associated with inpatient and outpatient health care services, the Department of Corrections and the Department of Medical Assistance Services shall consult with the applicable provider community to ensure that administrative burdens are minimized and payment for health care services is rendered in a prompt manner.

C. Included in the appropriation for this item is funding for the first year and the second year from the general fund for six medical contract monitors. The persons filling these positions shall have the responsibility of closely monitoring the adequacy and quality of inmate medical services in those correctional facilities for which the department has contracted with a private vendor to provide inmate medical services.

D. The Department of Corrections shall assess the costs, benefits, and feasibility of adopting a "subscription model" for the purchase of Hepatitis C antiviral medication and necessary ancillary services (i) for a pre-determined period of time and (ii) at an annual fixed rate to be administered to state-responsible inmates held in state correctional facilities. The assessment shall include an evaluation of the terms and conditions of models adopted for correctional systems operated by other state and local governments, and the feasibility of implementing such models in Virginia. The scope of this assessment shall not preclude the collection of

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<p>appropriate non-proprietary information from pharmaceutical manufacturers, if such information is deemed necessary by the department to complete the assessment. The department shall report the findings of its assessment, and any relevant recommendations, to the Secretary of Public Safety and Homeland Security and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than November 30, 2020.</p> <p>E.† The workgroup convened pursuant to Item 390, Paragraph R of Chapter 854, 2019 Acts of Assembly, shall be continued. The workgroup shall annually report on the progress and outcomes of the university medical pilots authorized in this Item. The report shall be provided to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than October 15 of each year.</p> <p>2: Out of the amounts provided in this item, \$2,353,165 the first year and \$4,661,330 the second year from the general fund is provided for the operation of a pilot program by the University of Virginia Health System for the provision of certain healthcare services to state-responsible inmates held at the Fluvanna Correctional Center for Women.</p> <p>3: Out of the amounts provided in this item, \$838,760 the first year and \$863,923 the second year from the general fund is provided for the operation of a pilot program by the Virginia Commonwealth University Health System for the provision of healthcare services to state-responsible inmates held in the State Farm Correctional Complex.</p>				
402.	Administrative and Support Services (39900).....		\$182,326,925 <i>\$181,826,925</i>	\$189,901,083 <i>\$181,542,810</i>
	General Management and Direction (39901).....	\$29,590,256 <i>\$29,090,256</i>	\$29,590,256	
	Information Technology Services (39902).....	\$77,577,502	\$86,694,953 <i>\$77,759,304</i>	
	Accounting and Budgeting Services (39903).....	\$6,167,913	\$6,167,913	
	Architectural and Engineering Services (39904).....	\$18,491,254	\$17,391,254 <i>\$17,968,630</i>	
	Jail Regulation, Inspections, and Investigations (39905).....	\$777,916	\$834,623	
	Human Resources Services (39914).....	\$10,958,078	\$10,958,078	
	Planning and Evaluation Services (39916).....	\$2,192,152	\$1,692,152	
	Procurement and Distribution Services (39918).....	\$16,665,022	\$16,665,022	
	Training Academy (39929).....	\$10,801,318	\$10,801,318	
	Offender Classification and Time Computation Services (39930).....	\$9,105,514	\$9,105,514	
	Fund Sources: General.....	\$171,991,941 <i>\$171,491,941</i>	\$182,566,099 <i>\$174,207,826</i>	
	Special.....	\$10,184,984	\$7,184,984	
	Dedicated Special Revenue.....	\$150,000	\$150,000	

Authority: §§ 53.1-1 and 53.1-10, Code of Virginia.

A.1. Any plan to modernize and integrate the automated systems of the Department of Corrections shall be based on developing the integrated system in phases, or modules. Furthermore, any such integrated system shall be designed to provide the department the data needed to evaluate its programs, including that data needed to measure recidivism.

2. The appropriation in this Item includes \$600,000 the first year and \$600,000 the second year from the Contract Prisoners Special Revenue Fund to defray a portion of the costs of maintaining and enhancing the offender management system.

B. Included in this appropriation is \$550,000 the first year and \$550,000 the second year from nongeneral funds to be used for installation and operating expenses of the telemedicine program operated by the Department of Corrections. The source of the funds is revenue from inmate fees collected for medical services.

C. Included in this appropriation is \$1,100,000 the first year and \$1,100,000 the second year from nongeneral funds to be used by the Department of Corrections for the operations of its Corrections Construction Unit. The State Comptroller shall continue the

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Corrections Construction Unit Special Operating Fund on the Commonwealth Accounting and Reporting System to reflect the activities of contracts between the Corrections Construction Unit and (i) institutions within the Department of Corrections for work not related to a capital project and (ii) agencies without the Department of Corrections for work performed for those agencies.				
D. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the Director, Department of Corrections, shall receive offenders into the state correctional system from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C. The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and Homeland Security and the Department of Planning and Budget on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.				
E. Notwithstanding any requirement to the contrary, any building, fixture, or structure to be placed, erected or constructed on, or removed or demolished from the property of the Commonwealth of Virginia under the control of the Department of Corrections shall not be subject to review and approval by the Art and Architectural Review Board as contemplated by § 2.2-2402, Code of Virginia. However, if the Department of Corrections seeks to construct a facility that is not a secure correctional facility or a structure located on the property of a secure correctional facility, then the Department of Corrections shall submit that structure to the Art and Architectural Review Board for review and approval by that board. Such other structures could include probation and parole district offices or regional offices.				
F. The Commonwealth of Virginia shall convey 45 acres (more or less) of property, being a portion of Culpeper County Tax Map No. 75, parcel 32, lying in the Cedar Mountain Magisterial District of Culpeper County, Virginia, in consideration of the County's construction of water capacity and service line(s) adequate to serve the needs of the Department of Corrections' Coffeewood Facility and the Department of Juvenile Justice's Culpeper Juvenile Correctional Facility (hereinafter "the facilities"). The cost of the water improvements necessary to serve the facilities, including an eight-inch water service line, and including engineering and land/easement acquisition costs, shall be paid by the Commonwealth, less and except (i) the value of the property for the jail conveyed by the Commonwealth to the County (\$150,382, based on valuation by the Culpeper County Assessor), and (ii) the cost of increasing the size of the water service line from eight inches to twelve inches, in order to accommodate planned county needs.				
G. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Corrections shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.				
H. The Department of Corrections shall serve as the Federal Bonding Coordinator and shall work with the Virginia Community College System and its workforce development programs and services to provide fidelity bonds to those offenders released from jails or state correctional centers who are required to provide fidelity bonds as a condition of employment. The department is authorized to use funds from the Contract Prisoners Special Revenue Fund to pay the costs of this activity.				
I. In the event the Department of Corrections closes a correctional facility for which it has entered into an agreement with any locality to pay a proportionate share of the debt service for the establishment of utilities to serve the facility, the department shall continue to pay its agreed upon share of the debt service, subject to the schedule previously agreed upon.				
J. Included in the appropriation for this Item is \$1,000,000 the first year and \$1,000,000 the second year from the general fund for the costs of security technology and hardware for the inmate telephone system.				
K. From the appropriation in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to present seminars on overcoming obstacles to re-entry and to promote family integration in the correctional centers designated for intensive re-entry programs. The department shall submit a report by October 15 of each year to the chairmen of				

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the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget on the use of this funding.

L. Included in the appropriation for this Item is \$370,125 the first year and \$426,832 the second year from the general fund and four positions to assist the Board of Corrections in carrying out its duties under the authority of § 53.1-69.1, Code of Virginia, to review deaths of inmates in local correctional facilities.

M.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Director, Department of Corrections, shall implement the recommendations relating to the Department of Corrections made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.

2. For the purpose of implementing these recommendations, included in the appropriation for this item are \$37,400 the first year and \$37,400 the second year from the general fund, and \$420,993 the first year and \$112,200 the second year from nongeneral funds and two positions.

N. By September 1 of each year, the Department of Corrections shall remit data to the Director of the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees regarding medical treatment provided to offenders at each facility. The data shall include, as a proportion of average daily population at each facility, the levels of inmates who received care, including: the specific proportions of inmates from each facility who were treated as inpatients, the specific proportion of inmates from each facility who were treated as outpatients, data on prescription drug administration, and the proportion of inmates from each facility who received other discrete services. When negotiating contracts with healthcare vendors, the Department of Corrections shall include the reporting of data required under this paragraph as a requirement within the contract.

O. The Department of Corrections is authorized to purchase from the Town of Craigsville approximately 122 acres, more or less, located adjacent to the Augusta Correctional Center. In consideration for this acreage, the Department will provide wastewater treatment services to the Town at no cost for a period adequate to equal the value of the property conveyed. The value of the property shall be established by averaging the value of one appraisal provided by the Department of Corrections and one by the Town of Craigsville.

P. The Commonwealth of Virginia shall convey 65 acres of property consisting of Clarke County Tax Map No. 27, new parcel A, situated in the Greenway Magisterial District of Clarke County, Virginia, to the Virginia Port Authority (VPA), on behalf of the Virginia Inland Port (VIP). The VPA, on behalf of the VIP, shall collaborate with representatives of Clarke County to promote the use of the land for economic development purposes. The VIP shall enter into a memorandum-of-understanding with Clarke County on the development and execution of mutually advantageous economic development proposals.

Q.1. Included within the appropriation for this item is ~~\$10,807,975~~ \$7,281,666 the first year and ~~\$16,217,315~~ \$7,281,666 the second year from the general fund and \$7,592,004 the first year and \$1,000,000 the second year from the Contract Prisoners Special Revenue Fund for implementation of an electronic health records system in all facilities.

2. *The Department of Corrections shall report on the total costs of implementing electronic health records at all of its facilities based on the selected vendor and the sufficiency of its on-going funding for full implementation at all facilities. The report shall identify all funding currently budgeted for the project, the timeline for implementation, and the inter-operability of the system with the information technology systems used by the Department and its vendors. The Department shall utilize its nongeneral funds appropriated for this purpose prior to using the general fund appropriation. The Department shall provide a report containing the aforementioned information to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees within 60 days of selecting its vendor.*

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R. The Department of Corrections shall evaluate and determine the costs for assuming state management of Lawrenceville Correctional Center at the end of the current contract and report on its findings to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by October 15, 2020. The report shall include an implementation timeline for transitioning from private management to state agency management and propose a structure and cost estimate for the delivery of healthcare services to offenders housed in the facility.				
S. Out of this appropriation, \$370,125 the first year and \$426,832 the second year from the general fund is provided for four full-time jail death investigators for the Board of Corrections.				
T. Out of this appropriation, \$500,000 the first year from the general fund is provided to contract with third parties for an evaluation of the Department of Corrections' medical services delivery model that may include best practices in correctional healthcare, quality management, and other innovative strategies in creating a more efficient system of providing cost effective and quality healthcare. The department shall provide an update with any findings or recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2020.				
U. The Department of Corrections shall evaluate options to increase programs that increase hours of exposure to mental health or behavioral health counseling, spiritual counseling, and or recreation, for persons in restrictive housing and report its findings to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by January 1, 2021.				
V. Included in the appropriation for this Item is \$1,100,000 the first year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of Virginia.				
1. House Bill 2 and Senate Bill 70 -- \$50,000				
2. House Bill 4 and Senate Bill 36 -- \$50,000				
3. House Bill 123 and Senate Bill 838 -- \$50,000				
4. House Bill 253 -- \$50,000				
5. House Bill 298 and Senate Bill 724 -- \$50,000				
6. House Bill 557 -- \$50,000				
7. House Bill 618 -- \$50,000				
8. House Bill 623 -- \$50,000				
9. House Bill 666 -- \$50,000				
10. House Bill 674 and Senate Bill 240 -- \$50,000				
11. House Bill 1004 and Senate Bill 479 -- \$50,000				
12. House Bill 1211 -- \$50,000				
13. House Bill 1414 and Senate Bill 890 -- \$50,000				
14. House Bill 1524 -- \$50,000				
15. House Bill 1553 -- \$50,000				
16. Senate Bill 14 -- \$50,000				
17. Senate Bill 42 -- \$50,000				
18. Senate Bill 64 -- \$50,000				

ITEM 402.	Item Details(\$)		Appropriations(\$)	
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19. Senate Bill 439 --	\$50,000			
20. House Bill 5045 and Senate Bill 5030 --	\$50,000			
21. House Bill 5049 --	\$50,000			
22. House Bill 5098 --	\$50,000			
<p>W.1. Notwithstanding any other provision of law, upon the declaration by the Governor of a state of emergency pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health threat as defined in § 44-146.16 of the Code of Virginia, the Director shall, during the duration of the declared emergency, have the authority to (i) discharge from incarceration or (ii) place into a lower level of supervision, including probation supervision, home electronic incarceration, or other forms of community corrections, any prisoner committed to the Department who has less than one year of his sentence remaining to be served prior to his scheduled release if the Director determines that (a) any such discharge or placement during the declared emergency will assist in maintaining the health, safety, and welfare of any prisoner discharged or placed or the prisoners remaining in state correctional facilities and (b) any such discharge or placement is compatible with the interests of society and public safety.</p> <p>2. The provisions of this section shall not apply to a prisoner convicted of a Class 1 felony or a sexually violent offense as defined in § 37.2-900 of the Code of Virginia.</p> <p>3. The Director shall develop procedures for implementing the provisions of this section which shall include provisions addressing reentry planning in accordance with § 53.1-32.2 of the Code of Virginia. To the extent practicable, the Director shall comply with all provisions of the Virginia Code relating to providing notice of a prisoner's discharge; however, any failure to comply with such notice provisions shall not affect the Director's authority to discharge a prisoner pursuant to this section.</p> <p>4. The provisions of this section shall expire on July 1, 2021.</p> <p>X. Included in the appropriation for this item is \$1,304,753 in the first year <i>and twelve positions</i> and \$4,486,555 in the second year and twelve 86 positions from the general fund for the Department to implement the time computation provisions of House Bill 5148 and Senate Bill 5034 of the 2020 Special Session I.</p> <p><i>Y. Included in the appropriation for this item is \$577,376 the second year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of Virginia.</i></p> <p>1. <i>House Bill 2063 -- \$50,000</i></p> <p>2. <i>House Bill 2113 and Senate Bill 1339 -- \$50,000</i></p> <p>3. <i>House Bill 2132 -- \$50,000</i></p> <p>4. <i>House Bill 2194 and Senate Bill 1113 -- \$50,000</i></p> <p>5. <i>House Bill 2263 -- \$77,376</i></p> <p>6. <i>House Bill 2276 -- \$50,000</i></p> <p>7. <i>House Bill 1890 -- \$50,000</i></p> <p>8. <i>House Bill 2312 and Senate Bill 1406 -- \$50,000</i></p> <p>9. <i>Senate Bill 1461 -- \$50,000</i></p> <p>10. <i>Senate Bill 1310 -- \$50,000</i></p> <p>11. <i>Senate Bill 1395 -- \$50,000</i></p>				
402.10	Omitted.			

ITEM 402.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Department of Corrections.....			\$1,393,062,967	\$1,408,025,671
			\$1,382,370,211	\$1,403,222,002
General Fund Positions.....	12,343.00 12,344.00	12,343.00 12,442.00		
Nongeneral Fund Positions.....	233.50	233.50		
Position Level.....	12,576.50 12,577.50	12,576.50 12,675.50		
Fund Sources: General.....	\$1,322,633,291 \$1,311,715,535	\$1,340,595,995 \$1,335,567,326		
Special.....	\$65,859,284 \$66,084,284	\$62,859,284 \$63,084,284		
Dedicated Special Revenue.....	\$2,739,074	\$2,739,074		
Federal Trust.....	\$1,831,318	\$1,831,318		

§ 1-116. DEPARTMENT OF CRIMINAL JUSTICE SERVICES (140)

403.	Criminal Justice Training and Standards (30300).....			\$6,205,778	\$5,817,209
	Criminal Justice Training Services (30303).....	\$2,942,994	\$2,942,994		
	Standards and Training (30304).....	\$2,412,673	\$1,473,254		
	Criminal Justice Academy Inspections and Audit Services (30307).....	\$850,111	\$1,400,961		
	Fund Sources: General.....	\$5,954,043	\$5,565,474		
	Special.....	\$251,735	\$251,735		

Authority: Title 9.1, Chapter 1, Code of Virginia.

A. The Director of the Department of Criminal Justice Services (the Director) and the Board of Criminal Justice Services (the Board) shall, in conjunction with the relevant stakeholders, review all of the compulsory minimum training standards which are applicable to law-enforcement officers and update them as needed. The Director and the Board shall ensure that the training standards appropriately educate law-enforcement officers in the areas of mental health, community policing, and serving individuals who are disabled. The updated compulsory minimum training standards shall, where appropriate, include consideration of, but not be limited to, the recommendations of the President's Task Force on 21st Century Policing. The Director shall identify current resources available to officers in dealing with situations related to mental health and identify what resources are needed. Any updates to the compulsory minimum training standards shall be completed by June 30, 2022, and shall be reported to the Chairmen of the House Committees on Militia, Police, and Public Safety, Courts of Justice, and Appropriations, and to the Chairmen of the Senate Committees for Courts of Justice and Finance.

B. Included in the amounts appropriated for this item is \$280,000 the first year and \$280,000 the second year from the general fund for the Department to provide annual trainings on active shooter scenarios to school and community personnel.

C. Included in the amounts appropriated for this item is \$427,630 the first year and \$427,630 the second year from the general fund for oversight and management of the school resource officer and school security officer certification and training programs, the provision of basic training courses for school resource officers and school personnel, and development and update Virginia-specific training resources for school resource officers and school security officers.

D.1. Included in the amounts appropriated for this item is \$595,630 the first year and \$595,630 the second year from the general fund for the purpose of expanding training provided to members of threat assessment teams.

2. Included in the amounts appropriated for this item is \$125,000 the first year and \$125,000 the second year from the general fund for the development of a case management tool for use by threat assessment teams, consistent with the provisions of House Bill 1734 of the 2019 Session of the General Assembly.

E. Included in the amounts appropriated for this item is \$871,890 the first year and \$871,890

ITEM 403.	Item Details(\$)		Appropriations(\$)	
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<p>the second year from the general fund to enhance school safety training provided to Virginia school personnel, to include hosting live trainings and conferences, developing online training and curricula, and developing Virginia-specific school safety resources.</p> <p>F. Included in the appropriation for this item is \$124,848 the first year and \$249,695 the second year from the general fund and two positions to support proposed legislation in the 2020 Special Session I of the General Assembly related to the decertification of law-enforcement officers.</p> <p>G. Included in the appropriation for this item is \$56,895 the first year and \$113,790 the second year from the general fund and one position to support proposed legislation in the 2020 Special Session I of the General Assembly related to the expansion of the decertification process of law-enforcement personnel.</p> <p>H. Included in the appropriation for this item is \$50,000 the first year and \$50,000 the second year from the general fund to support proposed legislation in the 2020 Special Session I of the General Assembly related to the development of a statewide officer database for purposes of sharing information between law-enforcement agencies.</p> <p>I. Included in the appropriation for this item is \$1,363,561 the first year and \$727,122 the second year from the general fund and six positions to support proposed legislation in the 2020 Special Session I of the General Assembly to establish statewide mandatory minimum training standards for law-enforcement training academies. The funding in the first year under this paragraph includes \$1.0 million for the Department to contract with a third party to develop curriculum and training standards required by the provisions of House Bill 5109 and Senate Bill 5030 of the 2020 Special Session I.</p> <p>J. Included within the appropriation for this item is \$66,127 in the first year and \$132, 254 in the second year from the general fund and one position to support a data analyst to analyze data from the Community Policing Database.</p> <p><i>K. Notwithstanding the provisions of §§ 2.2-5515, 15.2-1721.1, and 52-11.3, a waiver from the Criminal Justice Services Board is only required for the continued use of rifles of .50 caliber or higher or ammunition of .50 caliber or higher for use in such rifles and not for other types of firearms or ammunition of .50 caliber or higher.</i></p>				
404.	Criminal Justice Research, Planning and Coordination (30500).....		\$929,766	\$990,968
	Criminal Justice Research, Statistics, Evaluation, and Information Services (30504).....	\$929,766	\$990,968	
	Fund Sources: General.....	\$929,766	\$990,968	
<p>Authority: Title 9.1, Chapter 1; Title 19.2, Chapter 23.1, Code of Virginia.</p> <p>A. Included in the amounts appropriated for this item is \$400,000 the first year and \$400,000 the second year from the general fund for the ongoing costs of conducting the School Climate Survey.</p> <p>B. Included in the appropriation for this item is \$145,000 the first year and \$145,000 the second year from the general fund for the sex trafficking response coordination activities of the Department, pursuant to the provisions of House Bill 2576 and Senate Bill 1669 of the 2019 Session of the General Assembly.</p> <p>C. Out of this appropriation, \$149,174 the first year and \$149,174 the second year from the general fund is provided to establish the Virginia sexual assault forensic examiner coordination program, pursuant to House Bill 475 and Senate Bill 373 of the 2020 Session of the General Assembly.</p> <p>D. Included in the appropriation for this item is \$61,203 the first year and \$122,405 the second year and one position from the general fund for the Department to hire a program manager for the Mental Health Awareness Response and Community Understanding Services Alert System.</p>				
405.	Asset Forfeiture and Seizure Fund Management and Financial Assistance Program (30600).....		\$6,226,895	\$6,226,895

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Coordination of Asset Seizure and Forfeiture Activities (30602).....	\$6,226,895	\$6,226,895		
Fund Sources: Special.....	\$6,226,895	\$6,226,895		
Authority: Title 19.2, Chapter 22.1, Code of Virginia.				
406. Financial Assistance for Administration of Justice Services (39000).....			\$154,034,849 \$150,634,849	\$148,587,958
Criminal Justice Assistance Grants (39002).....	\$145,022,430 \$141,622,430	\$139,270,230		
Criminal Justice Grants Fiscal Management Services (39003).....	\$685,074	\$741,969		
Criminal Justice Policy and Program Services (39004).....	\$8,327,345	\$8,575,759		
Fund Sources: General.....	\$60,124,275 \$56,724,275	\$50,677,384		
Special.....	\$6,624	\$6,624		
Trust and Agency.....	\$4,298,130	\$4,298,130		
Dedicated Special Revenue.....	\$13,605,820	\$13,605,820		
Federal Trust.....	\$76,000,000	\$80,000,000		

Authority: Title 9.1, Chapter 1, Code of Virginia.

A.1. This appropriation includes an estimated \$4,800,000 the first year and an estimated \$4,800,000 the second year from federal funds pursuant to the Omnibus Crime Control Act of 1968, as amended. Of these amounts, ten percent is available for administration, and the remainder is available for grants to state agencies and local units of government. The remaining federal funds are to be passed through as grants to localities, with a required 25 percent local match. Also included in this appropriation is \$452,128 the first year and \$452,128 the second year from the general fund for the required matching funds for state agencies.

2. The Department of Criminal Justice Services shall provide a summary report on federal anti-crime and related grants which will require state general funds for matching purposes during FY 2013 and beyond. The report shall include a list of each grant and grantee, the purpose of the grant, and the amount of federal and state funds recommended, organized by topical area and fiscal period. The report shall indicate whether each grant represents a new program or a renewal of an existing grant. Copies of this report shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees and the Director, Department of Planning and Budget by January 1 of each year.

B. The Department of Criminal Justice Services is authorized to make grants and provide technical assistance out of this appropriation to state agencies, local governments, regional, and nonprofit organizations for the establishment and operation of programs for the following purposes and up to the amounts specified:

1.a. Regional training academies for criminal justice training, \$1,001,074 the first year and \$1,001,074 the second year from the general fund and an estimated \$1,649,315 the first year and an estimated \$1,649,315 the second year from nongeneral funds. The Criminal Justice Services Board shall adopt such rules as may reasonably be required for the distribution of funds and for the establishment, operation and service boundaries of state-supported regional criminal justice training academies.

b. The Board of Criminal Justice Services, consistent with § 9.1-102, Code of Virginia, and § 6VAC-20-20-61 of the Administrative Code, shall not approve or provide funding for the establishment of any new criminal justice training academy from July 1, 2020, through June 30, 2022.

c. Notwithstanding subsection B.1.b. of this item, the Board of Criminal Justice Services may approve a new regional criminal justice academy serving the Counties of Clarke, Frederick, and Warren; the City of Winchester; the Towns of Berryville, Front Royal, Middletown, Stephens City and Strasburg; the Northwestern Adult Detention Center; and, the Frederick

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<p>County Emergency Communications Center, to be established and operated consistent with a written agreement, provided to the Board, between the local governing bodies, chief executive officers, and chief law enforcement officers of the aforementioned localities, and the Rappahannock Regional Criminal Justice Academy. The new academy shall be eligible to receive state funding in a manner consistent with the currently existing regional criminal justice training academies. However, no current existing regional criminal justice training academy other than the Rappahannock Regional Criminal Justice Academy will receive less funding as a result of the creation of the new regional academy.</p>				
<p>2. Virginia Crime Victim-Witness Fund, \$5,692,738 the first year and \$5,692,738 the second year from dedicated special revenue, and \$943,700 the first year and \$943,700 the second year from the general fund. The Department of Criminal Justice Services shall provide a report on the current and projected status of federal, state and local funding for victim-witness programs supported by the Fund. Copies of the report shall be provided annually to the Secretary of Public Safety and Homeland Security, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16 of each year.</p>				
<p>3.a. Court Appointed Special Advocate (CASA) programs, \$1,615,000 the first year and \$1,615,000 the second year from the general fund.</p>				
<p>b. In the event that the federal government reduces or removes support for the CASA programs, the Governor is authorized to provide offsetting funding for those impacted programs out of the unappropriated balances in this Act.</p>				
<p>4. Domestic Violence Fund, \$3,000,000 the first year and \$3,000,000 the second year from the dedicated special revenue fund to provide grants to local programs and prosecutors that provide services to victims of domestic violence.</p>				
<p>5. Pre and Post-Incarceration Services (PAPIS), \$3,286,144 \$2,786,144 the first year and \$3,286,144 the second year from general fund to support pre and post incarceration professional services and guidance that increase the opportunity for, and the likelihood of, successful reintegration into the community by adult offenders upon release from prisons and jails.</p>				
<p>6. To the Department of Behavioral Health and Developmental Services for the following activities and programs: (i) a partnership program between a local community services board and the district probation and parole office for a jail diversion program; (ii) forensic discharge planners; (iii) advanced training on veterans' issues to local crisis intervention teams; and (iv) cross systems mapping targeting juvenile justice and behavioral health.</p>				
<p>7. To the Department of Corrections for the following activities and programs: (i) community residential re-entry programs for female offenders; (ii) establishment of a pilot day reporting center; and (iii) establishment of a pilot program whereby non-violent state offenders would be housed in a local or regional jail, rather than a prison or other state correctional facility, with rehabilitative services provided by the jail.</p>				
<p>8. To Drive to Work, \$75,000 the first year and \$75,000 the second year from the general fund and \$75,000 the first year and \$75,000 the second year from such federal funds as may be available to provide assistance to low income and previously incarcerated persons to restore their driving privileges so they can drive to work and keep a job.</p>				
<p>9. For model addiction recovery programs administered in local or regional jails, \$153,600 the first year and \$153,600 the second year from the general fund. The Department of Criminal Justice Services, consistent with the provisions of Chapter 758, 2017 Acts of Assembly, shall award grants not to exceed \$38,400 to four pilot programs selected in consultation with the Department of Behavioral Health and Developmental Services.</p>				
<p>C.1. Out of this appropriation, \$27,690,378 \$26,540,378 the first year and \$27,690,378 the second year from the general fund is authorized to make discretionary grants and to provide technical assistance to cities, counties or combinations thereof to develop, implement, operate and evaluate programs, services and facilities established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§§ 9.1-173 through 9.1-183 Code of Virginia) and the Pretrial Services Act (§§ 19.2-152.2 through 19.2-152.7, Code of Virginia). Out of these amounts, the Director, Department of</p>				

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	Criminal Justice Services, is authorized to expend no more than five percent per year for state administration of these programs.			
	2. The Department of Criminal Justice Services, in conjunction with the Office of the Executive Secretary of the Supreme Court and the Virginia Criminal Sentencing Commission, shall conduct information and training sessions for judges and other judicial officials on the programs, services and facilities available through the Pretrial Services Act and the Comprehensive Community Corrections Act for Local-Responsible Offenders.			
	D.1. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Central Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.			
	2. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Southwest Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.			
	E. In the event the federal government should make available additional funds pursuant to the Violence Against Women Act, the department shall set aside 33 percent of such funds for competitive grants to programs providing services to domestic violence and sexual assault victims.			
	F.1. Out of this appropriation, \$4,700,000 the first year and \$4,700,000 the second year from the general fund and \$1,710,000 the first year and \$1,710,000 the second year from such federal funds as are available shall be deposited to the School Resource Officer Incentive Grants Fund established pursuant to § 9.1-110, Code of Virginia.			
	2.a. The Director, Department of Criminal Justice Services, is authorized to expend \$410,877 the first year and \$410,877 the second year from the School Resource Officer Incentive Grants Fund to operate the Virginia Center for School Safety, pursuant to § 9.1-110, Code of Virginia.			
	b. The Center for School Safety shall provide a grant of \$100,000 in the first year and \$100,000 in the second year to the York County-Poquoson Sheriff's Office for the statewide administration of the Drug Abuse Resistance Education (DARE) program.			
	3. Subject to the development of criteria for the distribution of grants from the fund, including procedures for the application process and the determination of the actual amount of any grant issued by the department, the department shall award grants to either local law-enforcement agencies, where such local law-enforcement agencies and local school boards have established a collaborative agreement for the employment of school resource officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school resource officers, or to local school divisions for the employment of school security officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school security officers in any public school. The application process shall provide for the selection of either school resource officers, school security officers, or both by localities. The department shall give priority to localities requesting school resource officers, school security officers, or both where no such personnel are currently in place. Localities shall match these funds based on the composite index of local ability-to-pay.			
	4. Included in this appropriation is \$202,300 the first year and \$202,300 the second year from the general fund for the implementation of a model critical incident response training program for public school personnel and others providing services to public schools, and the maintenance of a model policy for the establishment of threat assessment teams for each public school, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of public school staff or other students.			
	5. Included in the amounts appropriated for this item is \$132,254 the first year and \$132,254 the second year from the general fund for the purposes of collection and analysis of data			

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related to school resource officers, pursuant to House Bill 271 of the 2020 Session of the General Assembly.

G. Included in the amounts appropriated in this Item is \$2,500,000 the first year and \$2,500,000 the second year from the general fund for grants to local sexual assault crisis centers (SACCs) and domestic violence programs to provide core and comprehensive services to victims of sexual and domestic violence, including ensuring such services are available and accessible to victims of sexual assault and dating violence committed against college students on- and off-campus.

H.1. Out of the amounts appropriated for this Item, \$2,658,420 the first year and \$2,658,420 the second year from nongeneral funds is provided, to be distributed as follows: for the Southern Virginia Internet Crimes Against Children Task Force, \$1,450,000 the first year and \$1,450,000 the second year; and, for the creation of a grant program to law enforcement agencies for the prevention of internet crimes against children, \$1,208,420 the first year and \$1,208,420 the second year.

2. The Southern Virginia and Northern Virginia Internet Crimes Against Children Task Forces shall each provide an annual report, in a format specified by the Department of Criminal Justice Services, on their actual expenditures and performance results. Copies of these reports shall be provided to the Secretary of Public Safety and Homeland Security, the Chairmen of the Senate Finance and House Appropriations Committees, and Director, Department of Planning and Budget prior to the distribution of these funds each year.

3. Subject to compliance with the reports and distribution thereof as required in paragraph 2 above, the Governor shall allocate all additional funding, not to exceed actual collections, for the prevention of Internet Crimes Against Children, pursuant to § 17.1-275.12, Code of Virginia.

I. Out of the amounts appropriated for this item, \$50,000 the first year and \$50,000 the second year from the general fund is provided for training to local law enforcement to aid in their identifying and interacting with individuals suffering from Alzheimer's and/or dementia.

J.1. Included in the appropriation for this item is \$2,500,000 the first year and \$2,500,000 the second year from the general fund to continue the pilot programs authorized in Item 398, Chapter 836, 2017 Acts of Assembly. The number of pilot sites shall not be expanded beyond those participating in the pilot program the first year.

2. The funding provided to each pilot site shall supplement, not supplant, existing local spending on these services. Distribution of grant amounts shall be made quarterly pursuant to the conditions of paragraph J.3. of this item.

3. The Department shall collect on a quarterly basis qualitative and quantitative data of pilot site performance, to include: (i) mental health screenings and assessments provided to inmates, (ii) mental health treatment plans and services provided to inmates, (iii) jail safety incidents involving inmates and jail staff, (iv) the provision of appropriate services after release, (v) the number of inmates re-arrested or re-incarcerated within 90 days after release following a positive identification for mental health disorders in jail or the receipt of mental health treatment within the facility. The Department shall provide a report on its findings to the Chairmen of the House Appropriations and Senate Finance Committees no later than October 15th each year.

4. The department is authorized to expend up to \$125,000 per year out of the amounts allocated in Paragraph J.1. of this item for costs related to the administration of the jail mental health pilot program.

K. Included in the appropriations for this Item is \$300,000 the first year and \$300,000 the second year from the general fund for the Department of Criminal Justice Services to make competitive grants to nonprofit organizations to support services for law enforcement, including post critical incident seminars and peer-supported critical incident stress management programs to promote officer safety and wellness, under guidelines to be established by the Department. The Department shall evaluate the effectiveness of the program and report on its findings to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the

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House Appropriations and Senate Finance Committees by July 1, 2022.

L. Included in the appropriation for this item is \$916,066 in the first year and \$916,066 in the second year from the general fund for the Virginia Beach Correctional Center for the Jail and Re-entry Service Coordination Pathway, which is a joint operation between the Virginia Beach Department of Human Services and the Virginia Beach Sheriff's Office. The program consists of diversion, screening, assessment, treatment, and re-entry services for all incarcerated individuals with an active mental illness or substance use disorder diagnosis.

M. Included in this appropriation for this item, \$2,645,244 the first year and \$193,658 the second year from the general fund and two positions for the Department of Criminal Justice Services to make competitive grants to five localities to support evidence-based gun violence intervention and prevention initiatives. The Department shall evaluate the implementation and effectiveness of the programs in each locality that received the award, and provide a report that details the amount awarded, its findings and recommendations to the Governor, Secretary of Public Safety and Homeland Security, Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and the Senate Finance Committees by November 1, 2021. The funding provided to each locality shall supplement, not supplant, existing local spending on these services.

N. Out of the appropriation in this item, ~~\$1,500,000~~ the first year and \$1,500,000 the second year from the general fund is allocated for the Department of Criminal Justice Services to make competitive grants to localities to combat hate crimes, including but not limited to target hardening activities, contractual security services, critical technology infrastructure, cybersecurity resilience activates, monitoring, inspection and screening systems; security-related training for employed or volunteer security staff; and terrorism awareness training for employees. The funds appropriated in this item shall be distributed to localities that have established a partnership program with institutions or nonprofit organizations that have been targets of or are at risk of being targeted for hate crimes. The Department shall establish grant guidelines to implement these provisions and shall provide a biennial or annual request for funding from localities, based on the guidelines. For each grant requested, the application shall document the need for the grant, goals, and budget expenditure of these funds and any other sources that may be committed by localities, institutions or nonprofit organizations. Funding provided in this item shall not be used to supplant the funding provided by localities to combat hate crimes.

0-1: The Department of Criminal Justice Services shall review the feasibility and costs to the Commonwealth and localities for the implementation of a pilot program; operated in partnership with one or more participating localities identified by the department; to assess the operation of a uniform reporting mechanism for appropriate criminal justice agencies; as identified in § 9-1-101, Code of Virginia; to collect data relating to bail determinations made by judicial officers conducting hearings pursuant to § 19.2-80; § 19.2-120; or § 19.2-124 of the Code of Virginia; in order to facilitate the purpose of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 of the Code of Virginia:

2: As part of its review, the department shall identify the methods, feasibility and costs associated with collecting; at minimum, the following information from localities participating in the pilot program: (i) the hearing date of any hearing conducted pursuant to § 19.2-80; § 19.2-120; or § 19.2-124 of the Code of Virginia and the date any individual is admitted to bail; (ii) information about the individual; including the individual's year of birth, race, ethnicity, gender, primary language, and residential zip code; (iii) the determination of the individual's indigency pursuant to § 19.2-159 of the Code of Virginia; (iv) information related to the individual's charges; including the number of charges; the most serious offense the individual is charged with; the code section for such offense; the general description of such offense; whether such offense is a felony, misdemeanor, civil infraction, or other type of offense; and the specific classification of any felony or misdemeanor offense; (v) if the individual is admitted to bail, information related to the conditions of bail and the bond, including whether the bond was secured or unsecured; all monetary amounts set on the bond, including amounts set on both secured and unsecured bonds; any initial nonmonetary conditions of release imposed; any subsequent modifications; and whether the individual utilized the services of a bail bondsman; (vi) if the individual is not admitted to bail, the reason for the denial; (vii) any outstanding arrest warrants or other bars to release from any other jurisdiction; (viii) any revocation of bail due to a violation of such individual's

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conditions of release; failure to appear for a court hearing; or the commission of a new offense by such individual; (ix) the date the individual is sentenced to an active term of incarceration and the date such individual begins serving such active term; (x) all dates the individual is released or discharged from custody, including release upon satisfaction of the terms of any recognizance, release upon the disposition of any charges; or release upon completion of any active sentence; (xi) the reason for any release or discharge from custody, including whether the individual posted a bond, was released on a recognizance, or was released under terms of supervision; or whether there was a disposition of the charges that resulted in release of the individual. If the reason for release is due to a court order or a disposition of the charges resulting in release, the data collected shall include the specific reason for release, including the nature of the court order or, if there was a conviction, the particular sentence imposed. The data shall also include a list of definitions of any terms used by the locality to indicate reasons for release or discharge; and (xii) the average cost for housing the individual in the local correctional facility, as defined in § 53.1-1, Code of Virginia, for one night. Collected data shall be disaggregated by individual, and for each individual case, an anonymous unique identifier shall be provided.

3. The department shall provide its findings and recommendations to the Chairs of the House Appropriations; House Courts of Justice; Senate Finance and Appropriations; and Senate Judiciary Committees no later than October 15, 2020.

P. Out of this appropriation, \$500,000 the first year from the general fund is provided for the Department of Criminal Justice Services to award grants to localities for training related to enforcement of the removal of firearms based on substantial risk protective orders.

Q. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund shall be provided for the Department of Criminal Justice Services to contract with Ayuda to provide immigrants legal, social, and language services for low-income victims of crime, including victims of domestic violence, sexual assault, human trafficking and child abuse, abandonment, and neglect. The services provided shall include case management, emergency client assistance, and mental health services in the preferred language of clients.

R. Out of this appropriation, \$150,000 the first year from the general fund is provided for community assessments for youth and gang violence prevention initiatives in Hampton, Newport News, Norfolk, Richmond, Roanoke, and Petersburg.

S.1. Included within the appropriation for this item is \$6,402,200 in the first year from the general fund for the Department to make one-time grants to law enforcement agencies located in the Commonwealth employing law enforcement officers with primary law enforcement duties, including but not limited to state agencies, local agencies, and colleges and universities, for the purpose of purchasing, operating, and maintaining body-worn camera systems. Qualified uses for grant funds shall include one-time costs associated with such body-worn camera systems, to include equipment, data storage, and technology costs, and other one-time costs associated with the purchase, operation, and maintenance of body-worn camera systems, as determined to be eligible by the Department.

2. The funding in this paragraph also includes \$56,895 in the first year and \$113,790 in the second year from the general fund for a coordinator position to manage the Body Worn Camera Grant.

3. Any distributions made to a local law enforcement agency under this paragraph shall require a 50 percent match from local fund sources.

4. The Department shall report on the distributions made under the Grant to the Chairs of the House Appropriations and the Senate Finance and Appropriations Committees by September 30, 2021. The report shall include information on distributions made by agency, description and amount of equipment purchased per agency, and any balances remaining from this funding.

T. Included in the appropriation for this item is \$250,000 the second year from the general fund as a one-time appropriation for the Big H.O.M.I.E.S. program.

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407.	Regulation of Professions and Occupations (56000)...			\$3,662,569	\$3,662,569
	Towing Licensing Oversight Services (56035).....	\$302,150	\$302,150		
	Licensure, Certification, and Registration of Professions and Occupations (56046).....	\$1,881,040	\$1,881,040		
	Enforcement of Licensing, Regulating and Certifying Professions and Occupations (56047).....	\$1,479,379	\$1,479,379		
	Fund Sources: Special.....	\$3,662,569	\$3,662,569		
	Authority: Title 9.1, Chapter 1, Article 4, §§ 9.1-141, 9.1-139, 9.1-143, and 9.1-149, Code of Virginia.				
408.	Financial Assistance to Localities - General (72800)...			\$207,858,483 \$199,229,909	\$200,374,655 \$191,746,081
	Financial Assistance to Localities Operating Police Departments (72813).....	\$207,858,483 \$199,229,909	\$200,374,655 \$191,746,081		
	Fund Sources: General.....	\$207,858,483 \$199,229,909	\$200,374,655 \$191,746,081		

Authority: Title 9.1, Chapter 1, Article 8, Code of Virginia.

A. The funds appropriated in this Item shall be distributed to localities with qualifying police departments, as defined in §§ 9.1-165 through 9.1-172, Code of Virginia (HB 599), except that, in accordance with the requirements of § 15.2-1302, Code of Virginia, such funds shall also be distributed to a city without a qualifying police force that was created by the consolidation of a city and a county subsequent to July 1, 2011, pursuant to the provisions of § 15.2-3500 et seq. of the Code of Virginia. Notwithstanding the provisions of §§ 9.1-165 through 9.1-172, Code of Virginia, the total amount to be distributed to localities shall be ~~\$200,374,655~~ \$191,746,081 the first year and ~~\$200,374,655~~ \$191,746,081 the second year. The amount to be distributed to such a city created by consolidation shall equal the sum distributed to the city during the year prior to the effective date of the consolidation, net of any additional funds allocated by the Compensation Board to the sheriff of the consolidated city as a result of such consolidation, as adjusted in proportion to the increase or decrease in the total amount distributed to all localities during the applicable year. Notwithstanding the provisions of § 9.1-165, Code of Virginia, the amount to be distributed to each locality in each year shall be proportionate to the amount distributed to that locality in FY 2018.

B. For purposes of receiving funds in accordance with this program, it is the intention of the General Assembly that the Town of Boone's Mill shall be considered to have had a police department in operation since the 1980-82 biennium and is therefore eligible for financial assistance under Title 9.1, Chapter 1, Article 8, Code of Virginia (House Bill 599).

C.1. It is the intent of the General Assembly that state funding provided to localities operating police departments be used to fund local public safety services. Funds provided in this item shall not be used to supplant the funding provided by localities for public safety services.

2. To ensure that state funding provided to localities operating police departments does not supplant local funding for public safety services, all localities shall annually certify to the Department of Criminal Justice Services the amount of funding provided by the locality to support public safety services and that the funding provided in this item was used to supplement that local funding. This certification shall be provided in such manner and on such date as determined by the department. The department shall provide this information to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days following the submission of the local certifications.

D. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by the locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the superintendent that the data is accurate, the director shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.

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<p>E. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due to a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe the police department within a locality is not registering sex offenders as required in § 9.1-903, Code of Virginia. Upon subsequent notification by the Superintendent that the local law enforcement agency is compliant with the requirements of § 9.1-903, Code of Virginia, the Director shall make reimbursement of withheld funding due to the locality in the same fiscal year in which the local law enforcement agency comes into compliance.</p> <p>F. Included in the appropriation for this item is \$7,483,828 in the first year from the general fund, which shall be distributed by the Department of Criminal Justice Services to local police departments statewide on December 1, 2020. These funds shall be distributed among the localities based on the respective percentage shares of the most recent headcount of sworn law enforcement officers employed by each local police department. These funds shall be used for the purposes of attracting and retaining the most qualified local police department sworn personnel and support the costs associated with criminal justice reform.</p>				
409.	Administrative and Support Services (39900).....		\$3,314,639	\$3,314,639 \$4,018,302
	General Management and Direction (39901).....	\$928,986	\$928,986	
	Information Technology Services (39902).....	\$931,700	\$931,700 \$1,423,788	
	Accounting and Budgeting Services (39903).....	\$1,453,953	\$1,453,953 \$1,665,528	
	Fund Sources: General.....	\$2,963,666	\$2,963,666 \$3,667,329	
	Special.....	\$350,973	\$350,973	
	Authority: Title 9.1, Chapter 1, Code of Virginia.			
409.10	Omitted.			
	Total for Department of Criminal Justice Services...		\$382,232,979 \$370,204,405	\$368,974,893 \$361,049,982
	General Fund Positions.....	74.50	74.50 80.50	
	Nongeneral Fund Positions.....	74.50	74.50 76.50	
	Position Level.....	149.00	149.00 157.00	
	Fund Sources: General.....	\$277,830,233 \$265,801,659	\$260,572,147 \$252,647,236	
	Special.....	\$10,498,796	\$10,498,796	
	Trust and Agency.....	\$4,298,130	\$4,298,130	
	Dedicated Special Revenue.....	\$13,605,820	\$13,605,820	
	Federal Trust.....	\$76,000,000	\$80,000,000	

§ 1-117. DEPARTMENT OF EMERGENCY MANAGEMENT (127)

410.	Emergency Preparedness (77500).....		\$29,279,639	\$26,779,639 \$31,295,285
	Financial Assistance for Emergency Management and Response (77501).....	\$20,370,257	\$20,370,257	
	Emergency Training and Exercises (77502).....	\$3,745,166	\$3,745,166	
	Emergency Planning Preparedness Assistance (77503).....	\$2,976,091	\$476,091 \$2,976,091	
	Emergency Preparedness and Response (77504).....	\$1,022,611	\$1,022,611 \$2,704,485	

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Emergency Management Regional Coordination (77506).....	\$1,165,514	\$1,165,514 \$1,499,286		
Fund Sources: General.....	\$4,318,594	\$1,818,594 \$6,334,240		
Special.....	\$1,710,335	\$1,710,335		
Federal Trust.....	\$23,250,710	\$23,250,710		

Authority: Title 44, Chapters 3.2, 3.3, 3.4, §§ 44-146.13 through 44-146.28:1 and 44-146.31 through 44-146.40, Code of Virginia.

A. Included within this appropriation is the continuation of \$160,810 the first year and \$160,810 the second year from the Fire Programs Fund to support the department's hazardous materials training program.

B. This appropriation includes \$500,000 in the first year and \$500,000 in the second year from the general fund for the Department of Emergency Management to conduct multidisciplinary training, regional training and exercises related to man-made and natural disaster preparedness, including training consistent with the National Incident Management System (NIMS). Training shall involve, but is not to be limited to, local and state law enforcement, fire services, emergency medical services, public health agencies, and affected private and nonprofit entities, including colleges and universities. Training may be conducted with a state, local or federal agency or agencies having the capability or responsibility to coordinate or assist in emergency preparedness. The agency shall submit a report detailing the number and types of training and exercises conducted, the costs associated with such training and exercises, and challenges and barriers to ensuring that state and local agencies are ready and able to respond to emergencies and natural disasters. The report shall be submitted to the Governor, Secretary of Public Safety and Homeland Security, the Chairmen of the House Appropriations and Senate Finance Committees, and the Department of Planning and Budget by November 1 of each year.

C.1. The Virginia Department of Emergency Management is directed to identify, review and maintain a comprehensive list of state owned supplies, equipment, commodities, and other resources that may be required in the event of state shelter activation and coordinate the use of such state assets and resources in support of shelter activation.

2. Notwithstanding any other provision of law, the State Coordinator, in consultation with all affected state agencies, shall review all statewide plans related to state shelters, including but not limited to plans developed by the Department of Social Services, institutions of higher education, and all other state agencies. The State Coordinator is responsible for ensuring all plans support a comprehensive and uniform approach to emergency response, are regularly updated, and are aligned with the Commonwealth of Virginia Emergency Operations Plan.

3. Following receipt of procurement orders from the Department of Social Services, pursuant to Item 358, paragraph B of this act, the Virginia Department of Emergency Management shall be responsible for all logistics functions as outlined in the Commonwealth of Virginia Emergency Operations Plan in support of emergency response and recovery related to state shelter activation, including but not limited to tracking and monitoring; personnel assistance; managing of resources; and delivery of equipment, goods and services to state activated shelters. The Department shall perform these logistics functions in coordination with all other state agencies, local government, federal government, and private sector partners.

D. Out of this appropriation, \$2,500,000 the first year and \$2,500,000 the second year from the general fund shall be transferred to the Emergency Shelter Upgrade Assistance Fund, created pursuant to Senate Bill 350 of the 2020 General Assembly, to aid local governments in proactively preparing for emergency sheltering situations.

E. Out of this appropriation, one-time funding of \$500,000 the second year from the general fund is provided to upgrade communications cache radios and related equipment used by local first responders during disasters. The radios and equipment purchased shall be interoperable with the STARS radio system through a COMLINC patch and meet all requirements as approved by the Secretary of Public Safety and Homeland Security within the Statewide Communications Interoperability Plan (SCIP).

ITEM 410.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>F. Out of this appropriation, one-time funding of \$750,000 the second year from the general fund is provided to upgrade audio-visual equipment in the Emergency Operations Center.</i>				
<i>H. Out of this appropriation, \$96,000 the second year from the general fund to establish the Partners in Preparedness Program.</i>				
411.	Emergency Response and Recovery (77600).....		\$23,097,805	\$23,097,805
			\$33,919,311	\$44,172,106
	Emergency Response and Recovery Services (77601).....	\$2,798,230		\$2,798,230
	Financial Assistance for Emergency Response and Recovery (77602).....	\$20,189,470		\$20,189,470
	Emergency Response Direct Support (77603).....	\$102,604		\$102,604
	Disaster Recovery Services (77604).....	\$7,501		\$7,501
		\$10,829,007		\$21,081,802
	Fund Sources: General.....	\$501,445		\$501,445
		\$11,322,951		\$21,575,746
	Special.....	\$306,340		\$306,340
	Commonwealth Transportation.....	\$1,295,713		\$1,295,713
	Federal Trust.....	\$20,994,307		\$20,994,307

Authority: Title 44, Chapters 3.2 through 3.5, §§ 44-146.17, 44-146.18(c), 44-146.22, 44-146.28(a) Code of Virginia.

A. Subject to authorization by the Governor, the Department of Emergency Management may employ persons to assist in response and recovery operations for emergencies or disasters declared either by the President of the United States or by the Governor of Virginia. Such employees shall be compensated solely with funds authorized by the Governor or the federal government for the emergency, disaster, or other specific event for which their employment was authorized. The Director, Department of Planning and Budget, is authorized to increase the agency's position level based on the number of positions approved by the Governor.

B. The Secretary of Finance, consistent with any Executive Order signed by the Governor, may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse localities and state agencies for costs associated with Emergency Management Assistance Compact (EMAC) mission assignments. Such loans shall be based on the reimbursements anticipated under the Emergency Management Assistance Compact (EMAC) and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months.

C.1. Localities receiving reimbursements from the department for Emergency Management Assistance Compact (EMAC) mission costs shall reimburse the Department of Emergency Management for any overpayments within sixty (60) days of written notification of such overpayment.

2. Overpayment amounts shall be based on the difference between the amount reimbursed to the locality by the Department of Emergency Management and the amount reimbursed to the Department of Emergency Management by the state requesting emergency aid under the Compact.

3. If the locality does not reimburse the Department of Emergency Management the overpaid amount within sixty (60) days of being notified, the Comptroller is authorized to withhold from any funds to be transferred to the locality the amount overpaid to the locality and transfer such withheld funds to the Department of Emergency Management.

D. Consistent with any Executive Order signed by the Governor, the Secretary of Finance or his designee may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse the department for disaster related costs. Such loans shall be based on the federal reimbursements anticipated in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months, if necessary.

ITEM 411.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p><i>E. Out of this appropriation, \$10,821,506 the first year and \$21,074,301 the second year from the general fund is provided for coordinating response and recovery efforts related to the COVID-19 pandemic. Funding shall be used for but is not limited to the pandemic response purposes listed below:</i></p> <p><i>1. \$11,624,471 the second year is provided for the purchase, storage, and distribution of personal protective equipment (PPE) to fulfill requests received through the Virginia Emergency Support Team and the Unified Command;</i></p> <p><i>2. \$569,833 the first year and \$569,833 the second year is provided for continuing operations of the Joint Information Center including coordinating disaster communications in a COVID-19 environment and broadcasting official press conferences;</i></p> <p><i>3. \$8,050,173 the first year and \$6,678,497 the second year is provided for continuing operations of the Virginia Emergency Operations Center (VEOC) including costs related to staff augmentation, various consultant services, and supporting virtual operation of the VEOC; and</i></p> <p><i>4. \$2,201,500 the first year and \$2,201,500 the second year is provided for contracts that support the Health Equity Work Group as it develops COVID-19 response and recovery plans focused on diversity, equity and inclusion.</i></p> <p><i>5. The department, with appropriate documentation, may move the funds listed in subparagraphs 1, 2, 3, and 4 above to any other purpose listed above or for other COVID-19 pandemic response efforts.</i></p> <p><i>6. The department shall maintain sufficient records and documentation to report the specific use of these funds. No later than August 15, 2021, the department shall report the use of these funds in FY 2021 along with an estimate of the proposed use of the funding appropriated in FY 2022 and any additional funds that may be required to respond to the COVID-19 pandemic to the Governor, the Chairperson of the House Appropriations Committee, the Chairperson of the Senate Finance and Appropriations Committee, and the Director of the Department of Planning and Budget.</i></p>				
412.	Virginia Emergency Operations Center (77800).....		\$2,508,629	\$2,508,629 \$3,508,629
	Emergency Communications and Warning Point (77801).....	\$2,508,629		\$2,508,629 \$3,508,629
	Fund Sources: General.....	\$907,882		\$907,882 \$1,907,882
	Special.....	\$775,778		\$775,778
	Federal Trust.....	\$824,969		\$824,969

Authority: Title 44 and § 52-47, Code of Virginia.

A. Included within this appropriation is \$424,874 the first year and \$424,874 the second year from the general fund to support the Integrated Flood Observing and Warning System (IFLOWS) program.

B.1. Out of this appropriation, \$1,000,000 the second year is provided for evaluating, upgrading, and maintaining the Integrated Flood Observation and Warning System (IFLOWS).

2. The State Coordinator of the Department of Emergency Management shall develop a plan that prioritizes a list of repairs, replacements, upgrades, and maintenance needs of IFLOWS systems. The Department shall report detailed costs and expenditures for projects that were prioritized; a phased plan to fund the cost of upgrading, enhancing, and maintaining the remaining systems, if feasible, giving priority to systems that require immediate replacement, repairs, and upgrades; and recommendations for offsetting the costs with federal grants and cost-sharing opportunities with localities that rely on IFLOWS. The report shall be submitted to the Secretary of Finance, the Director of the Department of Planning and Budget, and the Chairs of the House Appropriations and Senate Finance Committees no later than November 1, 2021.

ITEM 412.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
413. Administrative and Support Services (79900).....			\$13,092,545	\$12,630,121
			\$11,586,785	\$12,058,011
General Management and Direction (79901).....	\$4,565,299	\$4,565,299		
		\$4,803,071		
Information Technology Services (79902).....	\$5,612,117	\$5,149,693		
	\$4,106,357	\$4,106,357		
Accounting and Budgeting Services (79903).....	\$1,574,652	\$1,574,652		
		\$1,808,106		
Public Information Services (79919).....	\$324,705	\$324,705		
Telecommunications (79930).....	\$1,015,772	\$1,015,772		
Fund Sources: General.....	\$5,723,580	\$5,261,156		
	\$4,217,820	\$4,451,274		
Special.....	\$419,481	\$419,481		
Commonwealth Transportation.....	\$63,762	\$63,762		
Federal Trust.....	\$6,885,722	\$6,885,722		
		\$7,123,494		

Authority: Title 44, Chapters 3.2, 3.3, 3.4, Code of Virginia.

A.1. By September 1 of each year, the State Coordinator of Emergency Management shall assess emergencies and disasters that have been authorized sum sufficient funding by the Governor and provide to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees written justification to support continuing sum sufficient funding longer than one year for a locally declared emergency (or disaster), three years for a state declared disaster, and five years for a nationally declared disaster. At the same time, the state coordinator shall identify any disasters that can be closed due to fulfillment of the state's obligations.

2. The Department shall report on annual disaster expenditures and contracting. The report shall at minimum i) specify by event and state agency or locality, the amount spent per year from the Disaster Recovery Fund separate from any other state, local, federal or private contributions; ii) identify any Federal Emergency Management Agency (FEMA) reimbursements received during the previous fiscal year, itemizing for which event such reimbursements were made; iii) any contracts executed during a disaster and the expenditures and purposes for which they were executed. The State Coordinator shall provide the report to the Governor; Director, Department of Planning and Budget; and the Chairmen of the House Appropriations and Senate Finance Committees by June 30th of each year.

B.1. Localities and eligible private non-profit organizations that have received cost reimbursement through state and/or federal assistance programs to support homeland security and eligible recovery and mitigation projects and initiatives associated with disaster events, that are subsequently notified that either a portion or all of the funds provided are to be returned, shall reimburse the Virginia Department of Emergency Management for such overpayments, including any interest accrued on such funds, within sixty (60) days of being notified and receiving the request for reimbursement.

2. Overpayment amounts shall be based on the difference between the amount reimbursed or prepaid to the entity involved by the Department of Emergency Management and the final amount approved by the granting agency. Localities and eligible private non-profit organizations shall certify that no interest was earned on overpaid funds if no interest is included in the remittance.

3. If the entity does not reimburse the Virginia Department of Emergency Management within 60 days of being notified, the Comptroller is authorized to withhold the amount of overpayment from any eligible funds to be transferred to the locality or organization and redirect the funds withheld to the Virginia Department of Emergency Management to satisfy the outstanding liability.

4. The Department of Emergency Management shall not provide future prepayments to any locality or eligible private non-profit organization once the Comptroller has been required to withhold funding.

ITEM 413.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>C. Included within this appropriation is \$570,901 the first year and \$570,901 the second year from the general fund that shall only be used for costs associated with transforming the agency's information systems to conform with standards of the Virginia Information Technologies Agency.</p>				
<p>D. Out of this appropriation, \$189,043 the first year and \$189,043 the second year from the general fund is included for the financing costs of purchasing vehicles through the state's master equipment lease purchase program. It is the intent that the department establish a schedule for replacing emergency response vehicles using the master equipment lease purchase program.</p>				
<p>E. Included in this appropriation is \$90,000 in the first year and \$90,000 in the second year from the general fund to support regional satellite communications used by the agency in the event of an emergency.</p>				
<p>F. Included in this appropriation is \$42,000 the first year and \$42,000 the second year from the general fund to replace radios for regional coordinators, hazardous materials officers, disaster response and recovery officers, and other regional staff. The radios shall be interoperable with the State Agencies Radio System (STARS), and shall be acquired through the master equipment lease program.</p>				
<p>G. The Department of Emergency Management shall review disasters over the previous six years for which sum sufficient funding was authorized under Item 55 of this act, and categorize disasters into general types, such as tornadoes, hurricanes of various categories, flooding, etc. For local financial assistance authorized under § 44-146.28 of the Code of Virginia, the report shall also detail the state and local share of spending on those events. The Department shall propose model executive orders to authorize funding from the sum sufficient authority provided in Item 55 of this act for each respective type of disaster event, based on reasonable state share, in consideration of the data collected pursuant to this paragraph, to the Governor; Secretary of Finance; Director, Department of Planning and Budget; and the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2020.</p>				
<p>H. Out of this appropriation, \$1,505,760 the first year and \$1,043,336 the second year from the general fund to support migration of emergency-management-related software and agency-owned servers to a cloud-based environment.</p>				
414.	<p>A. All funds transferred to the Department of Emergency Management pursuant to the Governor's authority under § 44-146.28, Code of Virginia, shall be deposited into a special fund account to be used only for Disaster Recovery.</p>			
	<p>B. Included in the Federal Trust appropriation are amounts estimated at \$34,592 the first year and \$34,592 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this act. Amounts recovered in excess of these estimates shall be deposited to the general fund.</p>			
414.10	Information Systems Management and Direction (71100).....		\$2,755,882	\$2,755,882
	Geographic Information Access Services (71105).....	\$2,755,882	\$2,755,882	
	Fund Sources: Dedicated Special Revenue.....	\$2,755,882	\$2,755,882	

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. All state and nonstate agencies receiving an appropriation in Part 1 shall comply with the guidelines and related procedures issued by Department of Emergency Management for effective management of geographic information systems in the Commonwealth.

2. All state and nonstate agencies identified in paragraph A.1. that have a geographic information system, shall assist the department by providing any requested information on the systems including current and planned expenditures and activities, and acquired resources.

3. The State Corporation Commission, the Virginia Employment Commission, the Department of Game and Inland Fisheries, and other nongeneral fund agencies are

ITEM 414.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

encouraged to use their own fund sources for the acquisition of hardware and development of data for the spatial data library in the Virginia Geographic Information Network.

B. The Department of Emergency Management, through its Geographic Information Network Division (VGIN), or its counterpart, shall acquire on a four-year cycle high-resolution digital orthophotography of the land base of Virginia pursuant to VGIN's Virginia Base Mapping Program (VBMP) and digital road centerline files. VGIN shall administer the maintenance of the VBMP and appropriate addressing and standardized attribution in collaboration with local governments. All digital orthophotography, Digital Terrain Models and ancillary data produced by the VBMP, but not including digital road centerline files, shall be the property of the Commonwealth of Virginia and administered by VGIN. The VGIN, or its counterpart, will be responsible for protecting the data through appropriate license agreements and establishing appropriate terms, conditions, charges and any limitations on use of the data. VGIN will license the data at no charge (other than media / transfer costs) to Virginia governmental entities or their agents. Such data shall not be subject to release by such entities under the Freedom of Information Act or similar laws. VGIN in its discretion may release certain data by posting to the Internet. Distribution of the data for commercial or private use or to users outside the Commonwealth will be the sole responsibility of VGIN or its agent(s) and shall require payment of a license fee to be determined by VGIN. All fees collected as a result will be added to the GIS Fund as established in the Code of Virginia § 44-146.18:7. Collected fees and grants are hereby appropriated for future data updates or to cover the costs of existing digital ortho acquisition or for other purposes authorized in § 44-146.18:7.

C. Funding in this item shall be used to support the efforts of the Virginia Geographic Information Network which provides for the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services. Funding is to be earmarked for major updates of the VBMP and digital road centerline files.

D. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$1,750,000 the first year and \$1,750,000 the second year from Emergency Response Systems Development Technology Services dedicated special revenue shall be used to support the efforts of the Virginia Geographic Information Network, or its counterpart, for providing the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services.

414.20	Emergency Response Systems Development Technology Services (71200).....			\$22,928,217	\$22,928,217 \$23,006,035
	Emergency Communication Systems Development Services (71201).....	\$6,951,609	\$6,951,609 \$7,029,427		
	Financial Assistance to Localities for Enhanced Emergency Communications Services (71202).....	\$10,984,640	\$10,984,640		
	Financial Assistance to Service Providers for Enhanced Emergency Communications Services (71203).....	\$4,991,968	\$4,991,968		
	Fund Sources: Dedicated Special Revenue.....	\$22,928,217	\$22,928,217 \$23,006,035		

Authority: Title 2.2, Chapter 20.1, and Title 56, Chapter 15, Code of Virginia.

A.1.a. Out of the amounts for Emergency Communication Systems Development Services, \$1,000,000 the first year and \$1,000,000 the second year from dedicated special revenue shall be used for development and deployment of improvements to the statewide E-911 network.

b. These funds shall remain unallotted until their expenditure has been approved by the Wireless E-911 Services Board.

2. Out of the amounts for Emergency Communication Systems Development Services, \$4,000,000 the first year and \$4,000,000 the second year from dedicated special revenue shall be used for wireless E-911 service costs as determined by the Wireless E-911

ITEM 414.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

Services Board.

B. The operating expenses, administrative costs, and salaries of the employees of the Public Safety Communications Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

C.1. Pursuant to § 3-2.03 of this act, a line of credit up to \$15,000,000 shall be provided to the 911 Services Board as a temporary cash flow advance. Funds received from the line of credit shall be used only to support implementation of next generation 911 service and shall be distributed in a manner consistent with § 56-484.17 (D), Code of Virginia. The request for the line of credit shall be prepared in the formats as approved by the Secretary of Finance and Secretary of Public Safety and Homeland Security.

2. The Secretary of Finance and Secretary of Public Safety and Homeland Security shall approve draw downs from this line of credit prior to the expenditure of funds.

D. During next generation 911 service planning and deployment, the 911 Services Board may reimburse a provider for its wireless E-911 CMRS costs, in lieu of reimbursing the provider's costs to deliver 911 calls to the ESInet points of interconnection pursuant to § 56-484.17(D), Code of Virginia. The 911 Services Board may establish the process, criteria, and duration for such reimbursement of CMRS costs but shall continue to ensure that necessary 911 service and ESInet objectives are achieved.

414.30 Omitted.

Total for Department of Emergency Management.....			\$93,662,717	\$90,700,293
			\$102,978,463	\$116,795,948
General Fund Positions.....	45.85	45.85		
		55.85		
Nongeneral Fund Positions.....	133.15	133.15		
		136.15		
Position Level.....	179.00	179.00		
		192.00		
Fund Sources: General.....	\$11,451,501	\$8,489,077		
	\$20,767,247	\$34,269,142		
Special.....	\$3,211,934	\$3,211,934		
Commonwealth Transportation.....	\$1,359,475	\$1,359,475		
Dedicated Special Revenue.....	\$25,684,099	\$25,684,099		
		\$25,761,917		
Federal Trust.....	\$51,955,708	\$51,955,708		
		\$52,193,480		

§ 1-118. DEPARTMENT OF FIRE PROGRAMS (960)

415. Fire Training and Technical Support Services (74400).....			\$10,290,674	\$10,290,674
Fire Services Management and Coordination (74401)				
	\$4,159,086	\$4,159,086		
Virginia Fire Services Research (74402).....	\$302,274	\$302,274		
Fire Services Training and Professional Development (74403).....	\$4,114,054	\$4,114,054		
Technical Assistance and Consultation Services (74404).....	\$675,132	\$675,132		
Emergency Operational Response Services (74405)....	\$107,073	\$107,073		
Public Fire and Life Safety Educational Services (74406).....	\$933,055	\$933,055		
Fund Sources: Special.....	\$10,290,674	\$10,290,674		

Authority: Title 9.1, Chapter 2 and § 38.2-401, Code of Virginia.

A. Notwithstanding the provisions of § 38.2-401, Code of Virginia, up to 25 percent of the revenue available from the Fire Programs Fund, after making the distributions set out in §

ITEM 415.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
38.2-401 D, Code of Virginia, may be used by the Department of Fire Programs to pay for the administrative costs of all activities assigned to it by law.				
B. Included in the amounts appropriated for this item is \$123,100 the first year and \$123,100 the second year from the Fire Programs Fund to implement a modular training program for volunteer firefighters in accordance with House Bill 729 of the 2018 Session of the General Assembly.				
416.	Financial Assistance for Fire Services Programs (76400).....		\$33,516,684	\$35,435,644
	Fire Programs Fund Distribution (76401).....	\$30,191,684	\$32,110,644	
	Live Fire Training Structure Grant (76402).....	\$2,500,000	\$2,500,000	
	Categorical Grants (76403).....	\$825,000	\$825,000	
	Fund Sources: Special.....	\$33,266,684	\$35,185,644	
	Federal Trust.....	\$250,000	\$250,000	
	Authority: §§ 38.2-401, Code of Virginia.			
417.	Regulation of Structure Safety (56200).....		\$3,118,483	\$3,118,483
	State Fire Prevention Code Administration (56203)	\$3,118,483 \$3,093,597	\$3,118,483 \$3,093,597	\$3,118,483 \$3,093,597
	Fund Sources: General.....	\$2,558,361 \$2,533,475	\$2,558,361 \$2,533,475	
	Special.....	\$560,122	\$560,122	
	Authority: §§ 9.1-201, 9.1-206, and 27-94 through 27-99, Code of Virginia.			
	The State Fire Marshal may charge no fee for any permits or inspections of any school, whether it be public or private.			
417.10	Omitted.			
	Total for Department of Fire Programs.....		\$46,925,841 \$46,900,955	\$48,844,801 \$48,819,915
	General Fund Positions.....	29.25	29.25	
	Nongeneral Fund Positions.....	49.75	49.75	
	Position Level.....	79.00	79.00	
	Fund Sources: General.....	\$2,558,361 \$2,533,475	\$2,558,361 \$2,533,475	
	Special.....	\$44,117,480	\$46,036,440	
	Federal Trust.....	\$250,000	\$250,000	
§ 1-119. DEPARTMENT OF FORENSIC SCIENCE (778)				
418.	Law Enforcement Scientific Support Services (30900).....		\$55,453,414	\$55,579,834
	Biological Analysis Services (30901).....	\$14,095,626	\$14,040,326	
	Chemical Analysis Services (30902).....	\$14,462,012 \$14,434,012	\$14,462,012	
	Toxicology Services (30903).....	\$8,981,183 \$8,794,496	\$9,101,183 \$9,181,133	
	Physical Evidence Services (30904).....	\$9,688,531	\$9,688,531	
	Training Services (30905).....	\$384,406	\$384,406	
	Administrative Services (30906).....	\$7,841,656 \$7,656,496	\$7,903,376 \$8,008,176	
	Fund Sources: General.....	\$53,039,134 \$52,605,974	\$53,220,854 \$53,325,654	
	Federal Trust.....	\$2,414,280 \$2,447,593	\$2,358,980 \$2,438,930	

ITEM 418.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: §§ 9.1-1100 through 9.1-1113, Code of Virginia.				
A. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Forensic Science shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.				
B.1. The Forensic Science Board shall ensure that all individuals who were convicted due to criminal investigations, for which its case files for the years between 1973 and 1988 were found to contain evidence possibly suitable for DNA testing, are informed that such evidence exists and is available for testing. To effectuate this requirement, the Board shall prepare two form letters, one sent to each person whose evidence was tested, and one sent to each person whose evidence was not tested. Copies of each such letter shall be sent to the Chairman of the Forensic Science Board and to the respective Chairmen of the House and Senate Committees for Courts of Justice. The Department of Corrections shall assist the board in effectuating this requirement by providing the addresses for all such persons to whom letters shall be sent, whether currently incarcerated, on probation, or on parole. In cases where the current address of the person cannot be ascertained, the Department of Corrections shall provide the last known address. The Chairman of the Forensic Science Board shall report on the progress of this notification process at each meeting of the Forensic Science Board.				
2. Upon a request pursuant to the Virginia Freedom of Information Act for a certificate of analysis that has been issued in connection with the Post Conviction DNA Testing Program and that reflects that a convicted person's DNA profile was not indicated on items of evidence tested, the Department of Forensic Science shall make available for inspection and copying such requested record after all personal and identifying information about the victims, their family members, and consensual partners has been redacted, except where disclosure of the information contained therein is expressly prohibited by law or the Commonwealth's Attorney to whom the certificate was issued states that the certificate is critical to an ongoing active investigation and that disclosure jeopardizes the investigation.				
C. Out of the appropriation for this Item, \$403,250 the first year and \$403,250 the second year from the general fund is provided for the ongoing financing costs of scientific equipment in the toxicology, controlled substances, breath alcohol, and DNA sections through the state's master equipment lease purchase program.				
D. Included in the appropriation for this item is \$144,336 each year from the general fund for the estimated costs of materials needed for the additional DNA testing required pursuant to Chapters 543 and 544 of the 2018 Session of the General Assembly.				
E. Notwithstanding § 9.1-1101.1, Code of Virginia, the Department of Forensic Science shall not enter into contracts or agreements for forensic laboratory services that i) require additional general fund resources for laboratory services that can otherwise be procured at lower costs, or ii) impose additional regulatory burdens on the staff of the Department to implement.				
418.10	Omitted.			
	Total for Department of Forensic Science.....		\$55,453,414	\$55,579,834
			\$55,053,567	\$55,764,584
	General Fund Positions.....	328.00	328.00	331.00
	Nongeneral Fund Positions.....	3.00	3.00	4.00
	Position Level.....	331.00	331.00	335.00
	Fund Sources: General.....	\$53,039,134	\$53,220,854	
		\$52,605,974	\$53,325,654	
	Federal Trust.....	\$2,414,280	\$2,358,980	
		\$2,447,593	\$2,438,930	
§ 1-120. DEPARTMENT OF JUVENILE JUSTICE (777)				
419.	Instruction (19700).....		\$15,625,088	\$15,625,088
	Youth Instructional Services (19711).....	\$9,594,686	\$9,594,686	

ITEM 419.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Career and Technical Instructional Services for Youth and Adult Schools (19712).....	\$2,535,022	\$2,535,022		
Instructional Leadership and Support Services (19714).....	\$3,495,380	\$3,495,380		
Fund Sources: General.....	\$13,070,293	\$13,070,293		
Special.....	\$170,536	\$170,536		
Federal Trust.....	\$2,384,259	\$2,384,259		
Authority: § 66-13.1, Code of Virginia.				
420. Operation of Community Residential and Nonresidential Services (35000).....			\$3,320,293	\$3,320,293
Community Residential and Non-residential Custody and Treatment Services (35008).....	\$3,320,293	\$3,320,293		
Fund Sources: General.....	\$3,247,866	\$3,247,866		
Special.....	\$50,000	\$50,000		
Federal Trust.....	\$22,427	\$22,427		
Authority: §§ 16.1-246 through 16.1-258, 16.1-286, 16.1-291 through 16.1-295, 66-13, 66-14, 66-22 and 66-24, Code of Virginia.				
A. Services funded out of this appropriation may include intensive supervision, day treatment, boot camp, and aftercare services, and should be integrated into existing services for juveniles.				
B. Included in the appropriation for this Item is \$2,920,000 in the first year and \$2,920,000 in the second year from the general fund for a Juvenile Community Placement Program, in which the department may contract with local juvenile detention centers to house juveniles committed to the department prior to their release. The funding provided shall support a minimum of 40 juvenile detention center beds. The department shall develop program guidelines that at a minimum will include which juveniles qualify for placement, length of stay, level of security, mental health services, alcohol and substance abuse services, as well as other services that will be provided to the juvenile while in the detention center.				
421. Supervision of Offenders and Re-entry Services (35100).....			\$67,751,946	\$67,751,946
Juvenile Probation and Aftercare Services (35102)..	\$67,751,946	\$67,751,946		
Fund Sources: General.....	\$66,869,997	\$66,869,997		
Special.....	\$145,000	\$145,000		
Federal Trust.....	\$736,949	\$736,949		
Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-294, 16.1-322.1 and 66-14, Code of Virginia.				
A. Notwithstanding the provisions of § 16.1-273 of the Code of Virginia, the Department of Juvenile Justice, including locally-operated court services units, shall not be required to provide drug screening and assessment services in conjunction with investigations ordered by the courts.				
B. Included in the appropriation for this Item is \$1,626,575 in the first year and \$1,626,575 in the second year from the general fund to support mental health and substance abuse evaluation and treatment services for juveniles under state probation or parole. Out of this item, up to \$325,315 each year may be used for the provision of inpatient mental health treatment by private providers for residents committed to the Department and found to be in need of mental health treatment pursuant to § 66-20 of the Code of Virginia. The department shall develop a plan to ensure continuation of mental health and substance abuse treatment services, including contracting with local providers as necessary.				
C. Included in the appropriation for this Item is \$240,000 in the first year and \$240,000 in the second year from the general fund that shall be used for emergency housing upon				

ITEM 421.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
release from department custody. The department shall develop guidelines which at a minimum includes a juvenile selection process for placement and maximum lengths of stay.				
422. Financial Assistance to Local Governments for Juvenile Justice Services (36000).....			\$50,624,855	\$50,624,855
Financial Assistance for Juvenile Confinement in Local Facilities (36001).....	\$36,287,149	\$36,287,149		
Financial Assistance for Probation and Parole - Local Grants (36002).....	\$3,672,974	\$3,672,974		
Financial Assistance for Community based Alternative Treatment Services (36003).....	\$10,664,732	\$10,664,732		
Fund Sources: General.....	\$48,815,176	\$48,815,176		
Federal Trust.....	\$1,809,679	\$1,809,679		

Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-322.1 and 66-14, Code of Virginia.

A. From July 1, 2020 to June 30, 2022, the Board of Juvenile Justice shall not approve or commit additional funds for the state share of the cost of construction, enlargement or renovation of local or regional detention centers, group homes or related facilities. The board may grant exceptions only to address emergency maintenance projects needed to resolve immediate life safety issues. For such emergency projects, approval by both the Board of Juvenile Justice and the Secretary of Public Safety and Homeland Security is required. Any emergency projects must also comply with Board of Juvenile Justice standards.

B. Each emergency resolution adopted by the Board of Juvenile Justice approving reimbursement of the state share of the cost of construction, maintenance, or operation of local or regional detention centers, group homes, or related facilities or programs shall include a statement noting that such approval is subject to the availability of funds and approval by the General Assembly at its next regular session.

C. The Department of Juvenile Justice shall reimburse localities, pursuant to § 66-15, Code of Virginia, at the rate of \$50 per day for housing juveniles who have been committed to the department, for each day after the department has received a valid commitment order and other pertinent information as required by § 16.1-287, Code of Virginia.

D. Notwithstanding the provisions of § 16.1-322.1 of the Code of Virginia, the department shall apportion to localities the amounts appropriated in this Item.

E.1. The appropriation for Financial Assistance for Community Based Alternative Treatment Services includes \$10,379,926 the first year and \$10,379,926 the second year from the general fund for the implementation of the financial assistance provisions of the Juvenile Community Crime Control Act (VJCCCA), §§ 16.1-309.2 through 16.1-309.10, Code of Virginia. Notwithstanding § 16.1-309.6, Code of Virginia, localities participating in this program and contributing through their local match an amount of local funds which is greater than they receive from the Commonwealth under this program are authorized, but not required, to provide a contribution greater than the state general fund contribution. In no case shall their local match be less than their state share.

2. Notwithstanding the provisions of §§ 16.1-309.2 through 16.1-309.10, Code of Virginia, the Board of Juvenile Justice shall establish guidelines for use in determining the types of programs for which VJCCCA funding may be expended. The department shall establish a format to receive biennial or annual requests for funding from localities, based on these guidelines. For each program requested, the plan shall document the need for the program, goals, and measurable objectives, and a budget for the proposed expenditure of these funds and any other resources to be committed by localities.

3.a. Notwithstanding the provisions of § 16.1-309.7 B, Code of Virginia, unobligated VJCCCA funds must be returned to the department by each grantee locality no later than October 1 of the fiscal year following the fiscal year in which they were received, or a similar amount may be withheld from the current fiscal year's periodic payments designated by the department for that locality. The Director, Department of Planning and Budget, may increase the general fund appropriation for this Item up to the amount of unobligated VJCCCA funds returned to the Department of Juvenile Justice.

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<p>b. All such unobligated and reappropriated balances shall be used by the department for the purpose of awarding short-term supplementary grants to localities, for programs and services which have been demonstrated to improve outcomes, including reduced recidivism, of juvenile offenders. Such programs and services must augment and support current VJCCCA-funded programs within each affected locality. The grantee locality shall submit an outcomes report to the department, in accord with a written memorandum of agreement which shall accompany the supplementary grant award. This provision shall apply to funds obligated to and in the possession of the department and its grant recipients. The entity which returns unobligated funds under this provision shall not have a presumptive entitlement to a supplementary grant.</p>				
<p>c. The Department of Juvenile Justice, with the assistance of the Department of Corrections, the Virginia Council on Juvenile Detention, juvenile court service unit directors, juvenile and domestic relations district court judges, and juvenile justice advocacy groups, shall provide a report on the types of programs supported by the Juvenile Community Crime Control Act and whether the youth participating in such programs are statistically less likely to be arrested, adjudicated or convicted, or incarcerated for either misdemeanors or crimes that would otherwise be considered felonies if committed by an adult.</p>				
<p>F. The department shall consolidate the annual reporting requirements in §§ 2.2-222 and 66-13 and in Chapters 755 and 914 of the 1996 Acts of the General Assembly concerning juvenile offender demographics. The consolidated annual report shall address the progress of Virginia Juvenile Community Crime Control Act programs including the requirements in Article 12.1 of Chapter 11 of Title 16.1 (§ 16.1-309.2 et seq.) relating to the number of juveniles served, the average cost for residential and nonresidential services, the number of employees, and descriptions of the contracts entered into by localities. Notwithstanding any other provisions of the Code of Virginia, the consolidated report shall be submitted to the Governor, the General Assembly, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget by the first day of the regular General Assembly session.</p>				
423.	Operation of Secure Correctional Facilities (39800).....		\$73,177,142	\$73,177,142
	Juvenile Corrections Center Management (39801)...	\$2,704,228	\$2,704,228	
	Food Services - Prisons (39807).....	\$2,876,568	\$2,876,568	
	Medical and Clinical Services - Prisons (39810).....	\$8,298,559	\$8,298,559	
	Physical Plant Services - Prisons (39815).....	\$6,467,227	\$6,467,227	
		\$6,609,814	\$7,862,447	
	Offender Classification and Time Computation Services (39830).....	\$1,277,794	\$1,277,794	
	Juvenile Supervision and Management Services (39831).....	\$44,664,825	\$44,664,825	
	Juvenile Rehabilitation and Treatment Services (39832).....	\$6,887,941	\$6,887,941	
	Fund Sources: General.....	\$69,482,483	\$69,482,483	
		\$69,625,070	\$71,312,981	
	Special.....	\$2,101,371	\$2,101,371	
			\$1,666,093	
	Dedicated Special Revenue.....	\$48,000	\$48,000	
	Federal Trust.....	\$1,545,288	\$1,545,288	

Authority: §§ 16.1-278.8, 16.1-285.1, 66-13, 66-16, 66-18, 66-19, 66-22 and 66-25.1, Code of Virginia.

A. The Department of Juvenile Justice shall retain all funds paid for the support of children committed to the department to be used for the security, care, and treatment of said children.

B.1. The Director, Department of Juvenile Justice, (the "Department") shall develop a transformation plan to provide more effective and efficient services for juveniles, using

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<p>data-based decision-making, that improves outcomes and safely reduces the number of juveniles housed in state-operated juvenile correctional centers, consistent with public safety. To accomplish these objectives, the Department will provide, when appropriate, alternative placements and services for juveniles committed to the Department that offer treatment, supervision and programs that meet the levels of risk and need, as identified by the Department's risk and needs assessment instruments, for each juvenile placed in such placements or programs. Prior to implementation, the plan shall be approved by the Secretary of Public Safety and Homeland Security.</p> <p>2. The Department shall reallocate any savings from the reduced cost of operating state juvenile correctional centers to support the goals of the transformation plan including, but not limited to: (a) increasing the number of male and female local placement options, and post-dispositional treatment programs and services; (b) ensuring that appropriate placements and treatment programs are available across all regions of the Commonwealth; and (c) providing appropriate levels of educational, career readiness, rehabilitative, and mental health services for these juveniles in state, regional, or local programs and facilities, including but not limited to, community placement programs, independent living programs, and group homes. The goals of such transformation services shall be to reduce the risks for reoffending for juveniles supervised or committed to the Department and to improve and promote the skills and resiliencies necessary for the juveniles to lead successful lives in their communities.</p> <p>3. No later than November 1 of each year, the Department of Juvenile Justice shall provide a report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security and the Director, Department of Planning and Budget, assessing the impact and results of the transformation plan and its related actions. The report shall include, but is not limited to, assessing juvenile offender recidivism rates, fiscal and operational impact on detention homes; changes (if any) in commitment orders by the courts; and use of the savings redirected as a result of transformation, including the amount expended for contracted programs and treatment services, including the number of juveniles receiving each specific service. The report should also include the average length of stay for juveniles in each placement option.</p> <p>4. The Director, Department of Planning and Budget, is authorized to transfer appropriations between items and programs within the Department of Juvenile Justice to reallocate any savings achieved through transformation to accomplish the goals of transformation.</p> <p>5. If the Department of Juvenile Justice deems it necessary, due to facility population decline, efficient use of resources, and the need to further reduce recidivism, to close a state juvenile correctional center, the Department shall (i) work cooperatively with the affected localities to minimize the effect of the closure on those communities and their residents, and (ii) implement a general closure plan, preferably not less than 12 months from announcement of the closure, to create opportunities to place affected state employees in existing departmental vacancies, assist affected employees with placement in other state agencies, create training opportunities for affected employees to increase their qualifications for additional positions, and safely reduce the population of the facility facing closure, consistent with public safety.</p> <p><i>C.1. Included in the appropriation for this Item is \$225,059 in the first year and \$1,500,000 in the second year from the general fund for security camera upgrades, external lighting, walk-through detection system, perimeter fencing upgrades, and a man-down communication system to enhance security at the Bon Air Juvenile Correctional Center.</i></p> <p><i>2. In procuring any new security systems or components for the existing facility at Bon Air from such funds available in this Item, the Department shall consider ways to reuse the system procured in a future facility. To that end, the Department shall work with the Department of General Services to plan for reuse of a previously acquired security system in any future new facility constructed, to the extent feasible.</i></p>				
424.	Administrative and Support Services (39900).....		\$21,751,216	\$21,751,216
	General Management and Direction (39901).....	\$3,077,866		
	Information Technology Services (39902).....	\$6,408,235		
	Accounting and Budgeting Services (39903).....	\$5,305,652		
	Architectural and Engineering Services (39904).....	\$640,446		
	Food and Dietary Services (39907).....	\$300,267		

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Human Resources Services (39914).....	\$3,844,651	\$3,844,651		
Planning and Evaluation Services (39916).....	\$2,174,099	\$2,174,099		
Fund Sources: General.....	\$20,284,722	\$20,284,722		
Special.....	\$979,574	\$979,574		
Federal Trust.....	\$486,920	\$486,920		

Authority: §§ 66-3 and 66-13, Code of Virginia.

A.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Director, Department of Juvenile Justice, shall implement the recommendations relating to the Department of Juvenile Justice made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.

2. For the purpose of implementing these recommendations, included in the amounts appropriated for this item is \$420,993 the first year and \$112,200 the second year from nongeneral funds and two positions.

Total for Department of Juvenile Justice.....			\$232,250,540	\$232,250,540
			\$232,393,127	\$233,645,760
General Fund Positions.....	2,150.50	2,150.50		
	2,149.50	2,149.50		
Nongeneral Fund Positions.....	22.00	22.00		
Position Level.....	2,172.50	2,172.50		
	2,171.50	2,171.50		
Fund Sources: General.....	\$221,770,537	\$221,770,537		
	\$221,913,124	\$223,601,035		
Special.....	\$3,446,481	\$3,446,481		
		\$3,011,203		
Dedicated Special Revenue.....	\$48,000	\$48,000		
Federal Trust.....	\$6,985,522	\$6,985,522		

§ 1-121. DEPARTMENT OF STATE POLICE (156)

425. Information Technology Systems, Telecommunications and Records Management (30200).....			\$73,262,019	\$68,861,090
			\$74,409,713	\$87,636,387
Information Technology Systems and Planning (30201).....	\$23,811,404	\$20,699,877		
	\$24,959,098	\$38,928,906		
Criminal Justice Information Services (30203).....	\$10,215,226	\$10,106,426		
		\$10,652,694		
Telecommunications and Statewide Agencies Radio System (STARS) (30204).....	\$19,207,356	\$19,207,356		
Firearms Purchase Program (30206).....	\$4,050,827	\$2,870,225		
Sex Offender Registry Program (30207).....	\$3,232,979	\$3,232,979		
Concealed Weapons Program (30208).....	\$321,352	\$321,352		
Dispatch and Telecommunications Support (30209).....	\$12,422,875	\$12,422,875		
Fund Sources: General.....	\$62,838,937	\$58,438,008		
	\$63,986,631	\$77,213,305		
Special.....	\$5,942,231	\$5,942,231		
Dedicated Special Revenue.....	\$3,716,561	\$3,716,561		
Federal Trust.....	\$764,290	\$764,290		

Authority: §§ 18.2-308.2:2, 19.2-387, 19.2-388, 27-55, 52-4, 52-4.4, 52-8.5, 52-12, 52-13, 52-15, 52-16, 52-25 and 52-31 through 52-34, Code of Virginia.

A.1. It is the intent of the General Assembly that wireless 911 calls be delivered directly by the Commercial Mobile Radio Service (CMRS) provider to the local Public Safety Answering Point (PSAP), in order that such calls be answered by the local jurisdiction

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	within which the call originates, thereby minimizing the need for call transfers whenever possible.			
	2. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$3,700,000 the first year and \$3,700,000 the second year from the Wireless E-911 Fund is included in this appropriation for telecommunications to offset dispatch center operations and related costs incurred for answering wireless 911 telephone calls.			
	B. Out of the Motor Carrier Special Fund, \$900,000 the first year and \$900,000 the second year shall be disbursed on a quarterly basis to the Department of State Police.			
	C.1. This appropriation includes \$9,175,535 the first year and \$9,175,535 the second year from the general fund for maintaining the Statewide Agencies Radio System (STARS).			
	2. The Secretary of Public Safety and Homeland Security, in conjunction with the STARS Management Group and the Superintendent of State Police, shall provide a status report on (1) annual operating costs; (2) the status of site enhancements to support the system; (3) the project timelines for implementing the enhancements to the system; and (4) other matters as the secretary may deem appropriate. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.			
	3. Any bond proceeds authorized for the STARS project that remain after the full implementation of the STARS network shall be made available for the STARS equipment needs of the Department of Military Affairs.			
	4. Any general fund appropriation given for STARS operating and maintenance under the service area 30204, is designated for such purposes. If the Department of State Police cannot expend its STARS appropriation within a given fiscal year, there shall remain an appropriation balance at the end of the fiscal year. The Department may request a discretionary re-appropriation in the subsequent year as provided in § 4-1.05 of this act if necessary for the payment of preexisting obligations for the purchase of goods or services.			
	D. The department shall deposit to the general fund an amount estimated at \$100,000 the first year and \$100,000 the second year resulting from fees generated by additional criminal background checks of local job applicants and prospective licensees collected pursuant to § 15.2-1503.1 of the Code of Virginia.			
	E. 1. Notwithstanding the provisions of §§ 19.2-386.14, 38.2-415, 46.2-1167 and 52-4.3, Code of Virginia, the Department of State Police may use revenue from the State Asset Forfeiture Fund, the Insurance Fraud Fund, the Drug Investigation Trust Account – State, and the Safety Fund to modify, enhance or procure automated systems that focus on the Commonwealth's law enforcement activities and information gathering processes.			
	F. The Superintendent of State Police is authorized to and shall establish a policy and reasonable fee to contract for the bulk transmission of public information from the Virginia Sex Offender Registry. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the registry. The State Superintendent of State Police shall charge no fee for the transfer of any information from the Virginia Sex Offender Registry to the Statewide Automated Victim Notification (SAVIN) system.			
	G.1. The Virginia State Police shall, upon request, provide to the Department of Behavioral Health and Developmental Services any information it possesses as a result of carrying out the provisions of §§ 19.2-389, 37.2-819 and 64.2-2014, Code of Virginia, to enable the Department to make anonymous the data held pursuant to those provisions and link it with other relevant data held by the Commonwealth for the purpose of evaluating the impact of carrying out these provisions on the public health and safety, pursuant to a grant from the National Science Foundation to Duke University and a subcontract with the University of Virginia.			
	2. The Department of State Police shall, upon request, provide to the Department of Juvenile Justice any information it possesses as a result of carrying out the provisions of §§ 16.1-337.1, 19.2-389, 19.2-389.1, 37.2-819 and 64.2-2014, Code of Virginia, to enable the Department to link the data held pursuant to those provisions with other relevant data held by the Commonwealth, and then to de-identify it, for the purpose of evaluating the impact of			

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carrying out these provisions on the public health and safety, pursuant to a research grant to Duke University and a subcontract with the University of Virginia.

H. Included in the amounts provided for this Item is \$99,479 the first year and \$99,479 the second year from the general fund for the public safety information exchange program with those states that share a border with Canada or Mexico and are willing to participate in the exchange program pursuant to § 2.2-224.1, Code of Virginia.

I. Included in this appropriation is \$620,371 the first year and \$620,371 the second year from the general fund for the annual debt service for the Department to purchase fixed repeaters for the Statewide Agencies Radio System (STARS) through the Department of Treasury's Master Equipment Leasing Program.

J. Included within this appropriation is \$350,200 the first year and \$350,200 the second year from the general fund to support maintenance costs of the state's Commonwealth Link to Interoperable Communications (COMLINC) system.

K. Included within this appropriation is \$300,000 the first year and \$300,000 the second year and four positions to support the COMLINC system.

L. Included in the amounts provided for in this Item is \$675,000 the first year for training and project management costs to upgrade the STARS system. Of this amount, \$500,000 shall not be allotted until the project management costs are determined to be ineligible costs for a bond-funded capital project.

M. Included within the amounts for this item is \$211,947 the first year and \$211,947 the second year and three positions from the general fund for the Department to address the recommendation of the Crime Commission to provide a reference to the "Hold File" for criminal history records checks.

N. Included within the appropriation for this item is \$110,000 the first year from the general fund for the establishment of a cold case searchable electronic database, consistent with the provisions of House Bill 1024 of the 2020 Session of the General Assembly.

O. Included in the amounts appropriated in this item is \$4,480,829 the first year and \$1,479,302 the second year from the general fund to comply with and implement the provisions of the Community Policing Act pursuant to House Bill 1250 of the 2020 Session of the General Assembly.

P. Included in the appropriation for this Item is \$1,147,694 the first year and \$5,209,045 the second year from the general fund to implement Phase I transformation of select components of the department's information technology in order to comply with §2.2-2011 of the Code of Virginia.

Q. Included in the appropriation for this item is \$12,581,520 the second year from the general fund for the one-time update and replacement of information technology systems required to implement an automatic expungement process pursuant to legislation adopted by the 2021 Session of the General Assembly.

R. Included in the appropriation for this item is \$438,464 the second year from the general fund and four positions for the ongoing costs of operating an automatic expungement process pursuant to legislation adopted by the 2021 Session of the General Assembly.

S. The Superintendent of State Police shall report on the feasibility of establishing a registry for determining eligibility to lawfully possess a firearm for on-site rental use at a sport shooting range, based on existing state and federal laws concerning possession of firearms by persons with a history of mental illness. The report shall consider, at a minimum: (i) the information technology changes needed to collect the necessary information to determine if the renter of a firearm for on-site use is prohibited from possessing a firearm under any applicable state or federal law; (ii) the appropriate form or mechanism for collection of information to determine the mental health and criminal history of customers of sport shooting ranges; (iii) the reasonable timeline by which the registry can be implemented; and (iv) any necessary costs for implementation of a mental health background check registry for on-site firearms rentals. The department shall report

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<i>to the General Assembly on the information required in this paragraph by September 30, 2021.</i>				
<i>T. Out of this appropriation, \$301,194 the second year from the general fund is provided to the Department of State Police for three positions for cold case investigators to support efforts to resolve such cases.</i>				
426.	Law Enforcement and Highway Safety Services (31000).....		\$290,352,939	\$290,094,098 \$297,746,582
	Aviation Operations (31001).....	\$9,591,585		\$9,591,585
	Commercial Vehicle Enforcement (31002).....	\$5,748,407		\$5,748,407
	Counter-Terrorism (31003).....	\$6,309,437		\$6,309,437
	Help Eliminate Auto Theft (HEAT) (31004).....	\$1,963,303		\$1,963,303
	Drug Enforcement (31005).....	\$23,736,523		\$23,736,523
	Crime Investigation and Intelligence Services (31006).....	\$38,258,839		\$38,258,839
	Uniform Patrol Services (Highway Patrol) (31007)....	\$166,830,669		\$166,830,669 \$174,483,153
	Insurance Fraud Program (31009).....	\$6,071,391		\$6,071,391
	Vehicle Safety Inspections (31010).....	\$24,434,235		\$24,175,394
	Sex Offender Registry Program Enforcement (31011).....	\$7,408,550		\$7,408,550
	Fund Sources: General.....	\$231,377,682		\$231,377,682 \$238,555,166
	Special.....	\$31,354,981		\$31,096,140
	Commonwealth Transportation.....	\$9,083,587		\$9,083,587
	Dedicated Special Revenue.....	\$10,165,064		\$10,165,064 \$10,640,064
	Federal Trust.....	\$8,371,625		\$8,371,625

Authority: §§ 27-56, 33.2-1726, 46.2-1157 through 46.2-1187, 52-1, 52-4, 52-4.2, 52-4.3, 52-8, 52-8.1, 52-8.2, 52-8.4 and 56-334, Code of Virginia.

A. Included in this appropriation is \$810,687 the first year and \$810,687 the second year from Commonwealth Transportation Funds for the personal and associated nonpersonal services costs for eight positions. These positions will be dedicated to patrolling the I-95/395/495 Interchange.

B. Included in this appropriation is \$4,831,625 the first year and \$4,831,625 the second year from the Commonwealth Transportation Fund to support enforcement operations at weigh stations statewide.

C. Included in this appropriation is \$1,631,282 the first year and \$1,631,282 the second year from Commonwealth Transportation Funds that shall be used to support the personal and associated nonpersonal services costs for trooper positions. These positions will be assigned to the "Highway Safety Corridors" and work to supplement the Department of State Police's enforcement efforts in those corridors.

D. The Department of State Police shall modify the implementation of the division of drug law enforcement established pursuant to § 52-8.1:1, Code of Virginia, and shall redirect, as may be necessary, resources heretofore provided for that purpose by the General Assembly for the purposes of homeland security, the gathering of intelligence on terrorist activities, the preparation for response to a terrorist attack and any other activity determined by the Governor to be crucial to strengthening the preparedness of the Commonwealth against the threat of natural disasters and emergencies. Nothing in this Item shall be construed to prohibit the Department of State Police from performing drug law enforcement or investigation as otherwise provided for by the Code of Virginia.

E. Included within this appropriation is \$3,098,098 the first year and \$3,098,098 the second year from the Rescue Squad Assistance Fund to support the department's aviation (med-flight) operations.

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
F. Included within this appropriation is \$450,000 the first year and \$450,000 the second year from the general fund, which shall be provided to the County of Chesterfield for use in funding the paramedics assigned to the Department of State Police for aviation (med-flight) operations, and for related med-flight expenses.				
G. In the event that special fund revenues for this Item exceed expenditures, the balance of such revenues may be used for air medical evacuation equipment improvements, information technology upgrades or for motor vehicle replacement.				
H. Included in this appropriation is \$110,000 the first year and \$110,000 the second year from the general fund to maintain increased traffic enforcement on Interstate 81. These funds shall be used to provide overtime payments for extended and additional work shifts so as to maintain the enhanced level of State Police patrols on this and other public highways in the Commonwealth.				
I.1. The department shall coordinate monitoring and verification activities related to registry requirements with other state and local law enforcement agencies that have responsibility for monitoring or supervising individuals who are also required to comply with the requirements of the Sex Offender Registry.				
2. The Secretary of Public Safety and Homeland Security, in conjunction with the Superintendent of State Police, shall report on the implementation of the monitoring of offenders required to comply with the Sex Offender Registry requirements. The report shall include at a minimum: (1) the number of verifications conducted; (2) the number of investigations of violations; (3) the status of coordination with other state and local law enforcement agencies activities to monitor Sex Offender Registry requirements; and (4) an update of the sex offender registration and monitoring section in the department's current "Manpower Augmentation Study." This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees each year by January 1.				
J. Included within this appropriation is \$200,000 the first year and \$200,000 the second year from nongeneral funds to be used by the Department of State Police to record expenditures related to law enforcement activity that is performed for other entities and is billed and recorded as revenue, which may not be received until the following fiscal year. The Department of Accounts shall establish a revenue code and fund detail for this revenue.				
K. Included within this appropriation is \$100,000 the first year and \$100,000 the second year from the general fund for the Department of State Police to enhance its capabilities in recruiting minority troopers. Funding is to support increased marketing and advertising efforts for recruiting minorities.				
L. Included within this appropriation is \$116,988 the first year and \$116,988 the second year from the Department of Aviation's special fund to support the aviation operations of the Department of State Police.				
M.1. Out of the amounts appropriated for this Item, \$1,450,000 the first year and \$1,450,000 the second year from nongeneral funds shall be distributed to the department to expand the operations of the Northern Virginia Internet Crimes Against Children Task Force.				
2. Pursuant to paragraph H.2 of Item 406, the Northern Virginia Internet Crimes Against Children Task Force shall provide a report on the actual expenditures and performance results achieved each year. Copies of this report shall be provided each year to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by October 1.				
N. Out of the appropriation for this Item, \$3,406,365 the first year and \$3,406,365 the second year from the general fund is continued for the ongoing financing costs of purchasing four helicopters through the state's master equipment lease purchase program.				
O. Effective July 1, 2015, the Superintendent of State Police shall provide training to all local law enforcement agencies on the proper method to register and re-register persons required to be registered with the Sex Offender and Crimes Against Minors Registry.				

ITEM 426.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Should the Superintendent have reason to believe that any local law enforcement agency is not registering sex offenders as required by § 9.1-903, Code of Virginia, the Superintendent shall notify the local law enforcement agency, as well as the Executive Secretary of the Compensation Board and the Director of the Department of Criminal Justice Services.</p> <p>P. Included in this appropriation for this item is \$1,129,554 the first year and \$1,129,554 the second year from the general fund to establish the second Special Operations Division, which shall serve the Sixth Division. Positions from the Sixth Division that are transferred into the Special Operations Sixth Division shall be backfilled in the Sixth Division.</p> <p>Q. Included in this appropriation is \$103,470 each year from the general fund for the Department of State Police to hire an aviation mechanic for the Fourth Aviation Division in Abingdon.</p> <p><i>R.1. Included in this appropriation is \$7,177,484 in the second year from the general fund as supplemental funding to the base funding for patrol vehicle replacement due to the increased costs associated with new replacement vehicles. The department shall develop a detailed fleet replacement schedule. The department shall report this vehicle replacement schedule to the Governor, the Chairman of the House Appropriations and Chairwoman of the Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by October, 1, 2021. This report shall include, but not be limited to, the number of vehicles it replaces per year, the estimated useful life of a patrol vehicle (including average mileage), the incremental additional cost per vehicle (including upgrades and costs associated with changing vehicle types), how the replacement schedule is impacted by the trooper vacancy rate, the anticipated graduation rate from the basic trooper school, the average time for equipment installation, and the number of vehicles replaced due to vehicle accident and damage.</i></p> <p><i>2. The Department of Planning and Budget shall unallot the appropriation provided in Paragraph R.1. at the beginning of fiscal year 2022. The Department of State Police shall provide additional information and justification on the increase in funding for vehicle replacements. This information shall include a detailed overview of specific types of vehicles by various automobile manufacturers that are available for the agency's use and the rationale for the agency's preferred manufacturer and type of vehicle over the others. As part of this information, the department shall provide detailed information on the specific equipment needed for the vehicles and whether certain vehicle types or vehicles from different manufacturers alter the type or cost of equipment modifications needed for the vehicles. The department shall also report on alternate resources that may be used to support the expense of vehicle replacements, to include special revenue sources, as well as vacancy savings related to both sworn and non-sworn positions; current and future commitments of such funds shall be identified if they prevent the use of such funds for the purposes of vehicle replacement. No sooner than 30 days after this information is provided to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Department of Planning and Budget is authorized to allot the funding.</i></p>				
427.	Administrative and Support Services (39900).....		\$32,236,817	\$32,349,876
			\$32,246,817	\$33,359,876
	General Management and Direction (39901).....	\$9,523,439	\$9,636,498	\$10,636,498
	Accounting and Budgeting Services (39903).....	\$2,192,284	\$2,192,284	\$2,192,284
	Human Resources Services (39914).....	\$2,346,683	\$2,346,683	\$2,346,683
	Physical Plant Services (39915).....	\$7,490,400	\$7,490,400	\$7,490,400
	Procurement and Distribution Services (39918).....	\$2,939,433	\$2,939,433	\$2,939,433
	Training Academy (39929).....	\$7,037,537	\$7,037,537	\$7,037,537
		\$7,047,537	\$7,047,537	\$7,047,537
	Cafeteria (39931).....	\$707,041	\$707,041	\$707,041
	Fund Sources: General.....	\$31,504,751	\$31,617,810	\$32,617,810
	Special.....	\$706,310	\$706,310	\$706,310
	Dedicated Special Revenue.....	\$25,756	\$25,756	\$25,756
		\$35,756	\$35,756	\$35,756

Authority: §§ 52-1 and 52-4, Code of Virginia.

ITEM 427.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>A. The Superintendent of State Police shall establish written procedures for the timely and accurate electronic reporting of crime data reported to the Department of State Police in accordance with the provisions of § 52-28, Code of Virginia. The procedures shall require the principal officer of the reporting organization to certify that the information provided is, to his knowledge and belief, a true and accurate report. Should the superintendent have reason to believe that any crime data is missing, incomplete or incorrect after audit of the data, the superintendent shall notify the reporting organization, as well as the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services. Upon receiving and verifying resubmitted data that corrects the report, the superintendent shall notify the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services that the missing, incomplete or incorrect data has been satisfactorily submitted.</p>				
<p>B.1. The Department of State Police is authorized to charge other law enforcement agencies a fee for the use of the Virginia State Police Blackstone Training Facility related to training activities. The fee structure and subsequent changes must be reviewed and approved by the Secretary of Public Safety and Homeland Security. The Department shall deposit any moneys received from such fees into the Virginia State Police Blackstone Training Facility Fund.</p>				
<p>2. The State Comptroller shall continue the Virginia State Police Blackstone Training Facility Fund on the books of the Commonwealth. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Department of State Police shall utilize the revenue deposited in the Fund to (1) maintain and repair facilities at the Virginia State Police Blackstone Training Facility, and (2) acquire, maintain, repair or replace equipment at the Virginia State Police Blackstone Training Facility.</p>				
<p>C. Included within the appropriation for this item is \$165,917 in the first year and \$278,976 in the second year and three positions from the general fund for the Department to uphold the requirements of Senate Bill 5030 to share information with an attorney for the Commonwealth. Of these amounts, \$100,960 in the first year and \$65,207 in the second year for operational support for the positions, including information technology expenses, furniture, and shipping expenses.</p>				
<p><i>D. Included in this appropriation is \$1,000,000 the second year from the general fund for the Department to provide training to state and local law enforcement officers in Drug Recognition Expert techniques.</i></p>				
428.	All revenue received from the sale of motor vehicles shall be reported separately from that received from the sale of other property of the department.			
428.10	Omitted.			
	Total for Department of State Police.....		\$395,851,775	\$391,305,064
			\$397,009,469	\$418,742,845
	General Fund Positions.....	2,665.00	2,665.00	2,674.00
	Nongeneral Fund Positions.....	397.00		397.00
	Position Level.....	3,062.00	3,062.00	3,071.00
	Fund Sources: General.....	\$325,721,370	\$321,433,500	
		\$326,869,064	\$348,386,281	
	Special.....	\$38,003,522	\$37,744,681	
	Commonwealth Transportation.....	\$9,083,587	\$9,083,587	
	Dedicated Special Revenue.....	\$13,907,381	\$13,907,381	
		\$13,917,381	\$14,392,381	
	Federal Trust.....	\$9,135,915	\$9,135,915	

ITEM 428.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
§ 1-122. VIRGINIA PAROLE BOARD (766)				
429.	Probation and Parole Determination (35200).....		\$2,350,037	\$2,369,548
			\$1,901,326	\$2,648,168
	Adult Probation and Parole Services (35201).....	\$2,350,037	\$2,369,548	
		\$1,901,326	\$2,648,168	
	Fund Sources: General.....	\$2,300,037	\$2,319,548	
		\$1,851,326	\$2,598,168	
	Federal Trust.....	\$50,000	\$50,000	
	Authority: Title 53.1, Chapter 4, Code of Virginia.			
	Notwithstanding the provisions of § 53.1-40.01, Code of Virginia, the Parole Board shall annually consider for conditional release those inmates who meet the criteria for conditional geriatric release set out in § 53.1-40.01, Code of Virginia, except that upon any such review the Board may schedule the next review as many as three years thereafter. If any such inmate is also eligible for discretionary parole under the provisions of § 53.1-151 et seq., Code of Virginia, the board shall not be required to consider that inmate for conditional geriatric release unless the inmate petitions the board for conditional geriatric release.			
429.10	Omitted.			
	Total for Virginia Parole Board.....		\$2,350,037	\$2,369,548
			\$1,901,326	\$2,648,168
	General Fund Positions.....	12.00	12.00	
			13.00	
	Position Level.....	12.00	12.00	
			13.00	
	Fund Sources: General.....	\$2,300,037	\$2,319,548	
		\$1,851,326	\$2,598,168	
	Federal Trust.....	\$50,000	\$50,000	
	TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.....		\$3,443,878,838	\$3,487,010,305
			\$3,497,697,592	\$3,612,800,958
	General Fund Positions.....	17,661.10	17,661.10	
			17,788.10	
	Nongeneral Fund Positions.....	2,369.90	2,470.90	
			2,487.90	
	Position Level.....	20,031.00	20,132.00	
			20,276.00	
	Fund Sources: General.....	\$2,219,225,122	\$2,212,880,677	
		\$2,205,978,062	\$2,254,848,975	
	Special.....	\$166,556,345	\$165,216,464	
		\$166,781,345	\$165,006,186	
	Commonwealth Transportation.....	\$10,443,062	\$10,443,062	
	Enterprise.....	\$837,266,165	\$884,137,258	
		\$904,063,666	\$967,289,351	
	Trust and Agency.....	\$4,298,130	\$4,298,130	
	Dedicated Special Revenue.....	\$55,984,374	\$55,984,374	
		\$55,994,374	\$56,547,192	
	Federal Trust.....	\$150,105,640	\$154,050,340	
		\$150,138,953	\$154,368,062	

ITEM 430.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

OFFICE OF TRANSPORTATION

§ 1-123. SECRETARY OF TRANSPORTATION (186)

430.	Administrative and Support Services (79900).....			\$953,895	\$953,895
	General Management and Direction (79901).....	\$953,895	\$953,895		
	Fund Sources: Commonwealth Transportation.....	\$953,895	\$953,895		

Authority: Title 2.2, Chapter 2, Article 10, § 2.2-201, and Titles 33, 46, and 58, Code of Virginia.

A. The transportation policy goals enumerated in this act shall be implemented by the Secretary of Transportation, including the secretary acting as Chairman of the Commonwealth Transportation Board.

1. The maintenance of existing transportation assets to ensure the safety of the public shall be the first priority in budgeting, allocation, and spending. The highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

2. It is in the interest of the Commonwealth to have an efficient and cost-effective transportation system that promotes economic development and all modes of transportation, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety. The planning, development, construction, and operations of Virginia's transportation facilities will reflect this goal.

3. To the greatest extent possible, the appropriation of transportation revenues shall reflect planned spending of such revenues by agency and by program.

B. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes.

1. Notwithstanding any provision of law to the contrary, the secretary and all agencies within the transportation secretariat are hereby authorized to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth, whether such actions or funds or both are authorized under P.L. 114-94 of the 114th Congress, or any successor or related federal transportation legislation, or regulation, rule, or guidance issued by the U.S. Department of Transportation or any federal agency. The secretary and agencies within the transportation secretariat shall utilize, to the maximum extent practicable, the flexibility provided in federal law, regulation, rule, or guidance to use federal funds in a manner consistent with the Code of Virginia. However, neither the secretary nor an agency in the transportation secretariat may materially delay a project selected pursuant to § 33.2-214.1, Code of Virginia, under the authority in this paragraph.

2. The secretary shall ensure that the allocation of transportation funds apportioned and for which obligation authority is expected to be available under federal law shall be in accordance with such laws and in support of the transportation policy goals enumerated in section A. of this Item. Furthermore, the secretary is authorized to take all actions necessary to allocate the required match for federal highway funds to ensure their appropriate and timely obligation and expenditure within the fiscal constraints of state transportation revenues and in support of the efforts addressed in B.1. By June 1 of each year, the secretary, as Chairman of the Board, shall report to the Governor and General Assembly on the allocation of such federal transportation funds and the actions taken to provide the required match.

3. The board shall only make allocations providing the required match for federal Regional Surface Transportation Block Grant Program funds to those Metropolitan Planning Organizations in urbanized areas greater than 200,000 that, in consultation with the Office of Intermodal Planning and Investment, have developed regional transportation and land use performance measures pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly and have been approved by the board.

ITEM 430.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
4. Projects funded, in whole or part, from federal funds referred to as congestion mitigation and air quality improvement, shall be selected as directed by the board. Such funds shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by such agency or recipient, then the board shall use such federal funds for any other project eligible under 23 USC 149.				
5. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Block Grant Program for urbanized areas greater than 200,000 shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by the recipient, then the board may rescind the required match for such federal funds.				
6. Notwithstanding paragraph B.2. of this Item, the required matching funds for Transportation Alternatives projects are to be provided by the project sponsor of the federal-aid funding.				
7. Federal transportation funds as well as the required state matching funds may be allocated by the Commonwealth Transportation Board for transit purposes under the same rules and conditions authorized by federal law in a manner consistent with the Code of Virginia. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate state revenues to local and regional public transit operators, for operating and/or capital purposes.				
8. If a regional area (or areas) of the Commonwealth is determined to be not in compliance with Clean Air Act rules regarding conformity and as a result federal and/or state allocations, apportionments or obligations cannot be used to fund or support transportation projects or programs in that area, such funds may be used to finance demand management, conformity, and congestion mitigation projects to the extent allowed by federal law. Any remaining amount of such allocations, apportionments, or obligations shall be set aside to the extent possible under law for use in that regional area.				
9. Appropriations in this act related to federal revenues outlined in this section may be adjusted by the Director, Department of Planning and Budget, upon request from the Secretary of Transportation, as needed to utilize and allocate additional federal funds that may become available.				
10. The secretary shall ensure that any bonds issued pursuant to Article 4, Chapter 15 of Title 33.2 shall be programmed to eligible projects selected and funded through the High Priority Projects Program pursuant to § 33.2-370 or the Construction District Grant Program pursuant to §33.2-371. In any year such bond proceeds are allocated to one or both of the programs, the secretary shall take all necessary action to ensure that each program is provided with the same overall amount of monies though the mix of bond proceeds, state revenues, and federal revenues provided to each program may vary as deemed appropriate by the secretary.				
C. The secretary may ensure that appropriate action is taken to maintain a minimum cash balance and/or cash reserve in the Highway Maintenance and Operating Fund.				
D.1. The Office of Intermodal Planning and Investment shall recommend to the Commonwealth Transportation Board all allocations of funds made available in subsections A. and B. of Item 446. The planning and evaluation may be conducted or managed by the Department of Transportation, Department of Rail and Public Transportation, or another qualified entity selected and/or approved by the Commonwealth Transportation Board.				
2. The office shall be responsible for implementing the statewide prioritization process pursuant to § 33.2-214.1 for the Commonwealth Transportation Board.				
3. The office shall work directly with affected Metropolitan Planning Organizations to develop and implement quantifiable and achievable goals relating to congestion reduction and safety, transit and HOV usage, job/housing ratios, job and housing access to transit and pedestrian facilities, air quality, and/or per-capita capital vehicle miles traveled pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly.				
4. For allocation of funds under Paragraph 1, the office may give a higher priority for planning grants to (i) regional organizations to analyze various land development scenarios				

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	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

for their long range transportation plans, (ii) local governments to revise their comprehensive plans and other applicable local ordinances to designate urban development areas pursuant to Chapter 896 of the 2007 Acts of Assembly and incorporate the principles included in such act, and (iii) local governments, regional organizations, transit agencies and other appropriate entities to develop plans for transit oriented development and the expansion of transit service. Such analyses, plans, and ordinances shall be shared with the regional planning district commission or metropolitan planning organization and the Commonwealth Transportation Board.

E.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities or political subdivision of the Commonwealth to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995, as amended. Any such application, agreement and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.

2. The Commonwealth Transportation Board is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this Act or other Acts of Assembly.

F. Revenues generated pursuant to the provisions of § 58.1-3221.3, Code of Virginia, shall only be used to supplement, not supplant, any local funds provided for transportation programs within the localities authorized to impose the fees under the provisions of § 58.1-3221.3, Code of Virginia.

G. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds which were authorized in a prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.

H. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.

I. In programming funds for the reconstruction and rehabilitation of structurally deficient bridges pursuant to § 33.2-358 C.(i), Code of Virginia, the Commonwealth Transportation Board shall consider both state and locally-owned bridges.

J. All revenues generated under Chapter 896 of the Acts of Assembly of 2007 (HB 3202) and Chapter 766 of the Acts of Assembly of 2013 (HB 2313) that were dedicated to transportation-related funds have been appropriated in conformity with the requirements of those respective chapters.

K. Notwithstanding § 33.2-502, Code of Virginia, the high-occupancy requirement for a HOT lane facility that is constructed as a result of the Public-Private Transportation Act (§ 33.2-1800 et. seq.) with an initial construction cost in excess of \$3 billion and whose operation, maintenance, or financing is not a result of the same comprehensive agreement that resulted in the facility's construction shall be not less than two.

L. ~~The~~ *In recognition of the funds provided in subsection B 6 of Item 447.10, the Department of Rail and Public Transportation* Transit shall establish within the Transit Ridership Incentive Program, established pursuant to House Bill 1414 and Senate Bill 890 of the 2020 General Assembly, a Congestion Mitigation Program that will use at least \$5,000,000 annually for operating cost assistance to reduce congestion in urban areas. The funds from this program will be allocated to transit systems in amounts that collectively achieve maximum congestion mitigation and passenger miles traveled: use \$3,600,000 in the second year from the Transit Ridership Incentive Program for regional connectivity programs focused on congestion reduction and mitigation through provision of long-distance commuter routes. The Secretary shall provide to the Chairs of House Appropriations, Senate Finance and Appropriations, House Transportation and Senate Transportation Committees the methodology used and the distributions of such funds to transit systems by June 30, ~~2021~~ 2022.

ITEM 430.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>M. It is the intent of the General Assembly that the Secretary of Transportation and the Secretary of Natural Resources, in consultation with the Chairs of the House Appropriations, Senate Finance and Appropriations, House Transportation, Senate Transportation, House Agriculture, Chesapeake and Natural Resources, and Senate Agriculture, Conservation and Natural Resources Committees, and counties containing subject outfalls, shall evaluate the scope of drainage outfalls across the Commonwealth originating from Virginia Department of Transportation (VDOT) maintained roads with no assigned maintaining entity, and recommend cost-effective solutions and means by which to fund maintenance of such outfalls. The Secretaries shall provide an interim report detailing their evaluation to the aforementioned committee chairs no later than December 31, 2020 and a final report of their findings, if not included in the December report, by September 30, 2021.</p>				
<p>N. Prior to the execution of any Memorandum of Understanding on behalf of the Commonwealth of Virginia for participation in the construction of any potential improvements to the bridge and related railroad infrastructure located between the Rosslyn (RO) Interlocking near Long Bridge Park in Arlington, Virginia and the L'Enfant (LE) Interlocking near 10th Street SW in Washington, D.C., or prior to the authorization for the issuance of any bonds or the sale of any land by the Virginia Passenger Rail Authority, as may be established by legislation adopted by the 2020 Session of the General Assembly that becomes law, the Secretary of Transportation shall present, for their review, to the MEI Project Approval Commission established pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30, a draft of any Memorandum of Understanding, any proposed bond issuance, or contract related to the sale of land, or the terms of any agreement between or among any political subdivision of the Commonwealth of Virginia, any political subdivision of the United States, federal government agency, the National Passenger Railroad Corporation, a commuter rail service jointly operated by the Northern Virginia Transportation District established pursuant to § 33.2-1904 and the Potomac Rappahannock Transportation District established pursuant to the Transportation District Act (§ 33.2-1900 et seq.), and any Class I private railroad corporation.</p>				
<p>O.1. Notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 pandemic.</p>				
<p>2. Notwithstanding any other provisions of law, the assistance provided for fiscal year 2021 under Item 442 A.1.a and A.1.c may be maintained up to the levels allocated in the Six Year Improvement Program approved by the Commonwealth Transportation Board on June 19, 2019 until a Six-Year Improvement Program is adopted pursuant to paragraph O.1. of this item.</p>				
<p>P. It is the intent of the General Assembly that the Commonwealth Transportation Board shall take steps necessary to address the reduction in revenues available for the Commonwealth Transportation Fund pursuant to § 33.2-1524, Code of Virginia, in a manner to reduce the impacts on currently programmed projects and to allow for a phased implementation of the additional revenues made available by Chapters 1230 and 1275 of the 2020 Acts of Assembly.</p>				
<p>1. The Commonwealth Transportation Board may utilize Revenue Sharing Funds allocated to a project in fiscal year 2020 or previous fiscal years that is not currently needed to support the project based on the project's current schedule to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast. Any project allocations utilized will be replaced in the year or years needed to maintain the project's current schedule, but no later than FY 2024, from funds made available pursuant to § 33.2-357, Code of Virginia.</p>				
<p>2. The Commonwealth Transportation Board may utilize Revenue Sharing Funds provided in FY 2020 or prior fiscal years that were not allocated to a specific revenue sharing project as of June 30, 2020, to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast.</p>				

ITEM 430.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>3. The Commonwealth Transportation Board may utilize amounts allocated to a project through the State of Good Repair, High Priority Projects and District Grant Programs included in the FY2020-2025 Six-Year Improvement Program not needed in the year provided to support the project based on the project's current schedule to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast. Any project allocations utilized shall be replaced in the year or years needed to maintain the project's schedule, provided that any funding shall be replaced no later than fiscal year 2025 from funds available in the Commonwealth Transportation Fund.</p>				
<p>4. That notwithstanding enactment clauses 11 and 13 of Chapters 1230 and 1275 of the 2020 Acts of Assembly, the Commonwealth Transportation Board (i) shall take actions deemed necessary in fiscal years 2021, 2022 and 2023 to ensure appropriate coverage ratios for any outstanding debt backed by the Transportation Trust Fund and (ii) shall distribute available funds, taking into consideration the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast, to the modal programs and the highway maintenance and operating fund in such a manner as to protect core programs, services, and existing projects, and to provide funding for the purposes set forth in §§ 33.2-372 and 33.2-373, Code of Virginia.</p>				
<p>5. The Commonwealth Transportation Board may for fiscal year 2021 reduce the funding available pursuant to subdivisions D 2, D 4 and D 5 of § 33.2-1526.1, Code of Virginia, to increase the funding available for the purposes of subdivision D 1 and D 3 of § 33.2-1526.1, Code of Virginia.</p>				
<p>6. The Secretary shall report to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees on the funding actions planned to be taken under the authority provided by P.1. through 5. of this item, as well as any actions taken pursuant to language included in Item 444.B of this act, within five [5] business days following the presentation of such proposed actions to the Commonwealth Transportation Board. The reporting shall include a listing of the programs and projects impacted, identifying the amount and timing of the use and subsequent replacement of project allocations as required to maintain project schedules. Furthermore, within five [5] business days of a subsequent meeting of the Commonwealth Transportation Board in which official action related to the proposed funding actions is taken, the Secretary shall report to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees the funding actions approved by the Commonwealth Transportation Board, denoting any changes from the previously reported proposed funding actions. Furthermore, in order to ensure the General Assembly has the opportunity to express its disapproval of any proposed funding shifts, no changes to project allocations shall be made at the same meeting at which they are proposed, but shall be delayed until the subsequent meeting of the Commonwealth Transportation Board.</p>				
<p><i>Q. It is the intent of the General Assembly that state funds in the Commonwealth Transportation Fund and federal funds provided on a recurring, non-one-time basis, for surface transportation be distributed and allocated at the discretion of the entities responsible for such funds based on the policy direction and requirements set forth in the Code of Virginia.</i></p>				
<p><i>R. Notwithstanding the provisions of § 33.2-3603, Code of Virginia, the I-81 Advisory Committee shall be required to meet at a minimum of two times a year, with additional meetings called at the discretion of the Chair.</i></p>				
Total for Secretary of Transportation.....			\$953,895	\$953,895
Nongeneral Fund Positions.....		6.00	6.00	
Position Level.....		6.00	6.00	
Fund Sources: Commonwealth Transportation.....		\$953,895	\$953,895	
§ 1-124. VIRGINIA COMMERCIAL SPACE FLIGHT AUTHORITY (509)				
431.	Space Flight Support Services (60800).....		\$25,300,000	\$21,000,000

ITEM 431.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Maintenance and Operation of Space Flight Facilities (60801).....	\$25,300,000	\$21,000,000		
Fund Sources: Commonwealth Transportation.....	\$25,300,000	\$21,000,000		
Authority: Title 2.2, Chapter 22, Code of Virginia.				
A. Notwithstanding any other provision of law, \$2,500,000 the first year shall be transferred from the Transportation Partnership Opportunity Fund to the Commonwealth Space Flight Fund to support construction of a hangar for unmanned vehicle operations.				
B. Notwithstanding any other provision of law, \$5,000,000 the first year shall be transferred from the Transportation Partnership Opportunity Fund to the Commonwealth Space Flight Fund to support the development of an improved launch team maintenance facility complex.				
Total for Virginia Commercial Space Flight Authority.....			\$25,300,000	\$21,000,000
Fund Sources: Commonwealth Transportation.....	\$25,300,000	\$21,000,000		

§ 1-125. DEPARTMENT OF AVIATION (841)

432. Financial Assistance for Airports (65400).....			\$30,551,475	\$33,151,475
Financial Assistance for Airport Maintenance (65401).....	\$1,000,000	\$1,000,000		
Financial Assistance for Airport Development (65404).....	\$28,551,475	\$31,151,475		
Financial Assistance for Aviation Promotion (65405).....	\$1,000,000	\$1,000,000		
Fund Sources: Commonwealth Transportation.....	\$30,551,475	\$33,151,475		

Authority: Title 5.1, Chapters 1, 3, and 5; Title 58.1, Chapter 6, Code of Virginia.

A. It is the intent of the General Assembly that the Department of Aviation match federal funds for Airport Assistance to the maximum extent possible. In furtherance of this maximization, the Commonwealth Transportation Board may request funding from the Commonwealth Airport Fund for surface transportation projects that provide airport access. The Aviation Board shall consider such requests and provide funding as it so approves. However, the legislative intent expressed herein shall not be construed to prohibit the Virginia Aviation Board from allocating funds for promotional activities in the event that federal matching funds are unavailable.

B. The department is authorized to expend up to \$400,000 the first year and \$400,000 the second year from Aviation Special Funds to support a partnership between industry, academia, and Virginia Small Aircraft Transportation System. The project shall target research efforts to promote safety and greater access for rural airports.

C. The department is authorized to pay to the Civil Air Patrol \$100,000 the first year and \$100,000 the second year from Aviation Special Funds. The provisions of § 2.2-1505, Code of Virginia, and § 4-5.05 of this act shall not apply to the Civil Air Patrol.

D. Out of the amounts included in this Item, \$500,000 the first year and \$500,000 the second year shall be paid to the Washington Airports Task Force.

E.1. By November 1 of each year, the Virginia Aviation Board shall report to the Governor and the General Assembly on the use of Commercial Airport Fund revenues allocated the previous fiscal year. The report shall include at a minimum the following: (i) the use of entitlement funds allocated by each air carrier airport, including the amount of funds that are unobligated; (ii) the award and use of discretionary funds allocated for air carrier and reliever airports by every such airport; and (iii) the award and use of discretionary funds allocated for general aviation airports by every such airport. Such report shall also include the status of ongoing projects funded in whole or in part by the Commonwealth Airport Fund pursuant to subdivision A 3 of § 58.1-638.

2. The Board shall have the right to withhold entitlement funds allocated pursuant to

ITEM 432.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>subdivision A 3 a of § 58.1-638 in the event that the entitlement utilization plan is not approved by the Board or the airport uses the funds in a manner that is inconsistent with the approved plan.</p> <p>F. It is the intent of the General Assembly that state moneys allocated pursuant to § 33.2-1526.6 shall not be used for (i) operating costs unless otherwise approved by the Virginia Aviation Board, or (ii) purposes related to supporting the operation of an airline, either directly or indirectly, through grants, credit enhancements, or other related means.</p> <p>G. <i>Notwithstanding the provisions of § 33.2-1526.6.B.1, Code of Virginia, during fiscal year 2021 and fiscal year 2022, the Virginia Aviation Board may increase the funds to any airport identified in subsection B of § 33.2-1526.6 by no more than 20 percent, based on demonstrated need provided by the airport requesting additional funds. The Department of Aviation shall adopt guidelines setting out criteria for eligibility for additional funding.</i></p>				
433.	Air Transportation System Planning, Regulation, Communication and Education (65500).....		\$3,655,727	\$3,655,727 \$3,861,282
	Aviation Licensing and Regulation (65501).....	\$278,000	\$278,000	
	Aviation Communication and Education (65502)....	\$1,360,312	\$1,360,312	
	General Aviation Personnel Development (65503)..	\$26,400	\$26,400	
	Air Transportation Planning and Development (65504).....	\$1,991,015	\$1,991,015 \$2,196,570	
	Fund Sources: Commonwealth Transportation.....	\$3,155,727	\$3,155,727	
	Federal Trust.....	\$500,000	\$500,000 \$705,555	
	Authority: Title 5.1, Chapter 1, Code of Virginia.			
434.	State Aircraft Flight Operations (65600).....		\$2,958,246	\$2,958,246
	State Aircraft Operations and Maintenance (65602)	\$2,958,246	\$2,958,246	
	Fund Sources: General.....	\$30,246	\$30,246	
	Commonwealth Transportation.....	\$2,928,000	\$2,928,000	
	Authority: Title 5.1, Chapter 1, Code of Virginia.			
435.	Administrative and Support Services (69900).....		\$2,821,422	\$2,821,422
	General Management and Direction (69901).....	\$2,821,422	\$2,821,422	
	Fund Sources: Commonwealth Transportation.....	\$2,821,422	\$2,821,422	
	Authority: Title 5.1, Chapter 1, Code of Virginia.			
<p>A. The Director, Department of Aviation, shall prepare general guidelines regarding aircraft acquisition and use that shall include a requirement for state agencies to develop written policies on usage, charge rates and record-keeping. The Director shall examine the aircraft needs of state agencies and determine the most efficient and effective method of organizing and managing the Commonwealth's aircraft operations. The Director shall implement the aircraft management system he determines to be most suitable and revise it periodically as the need arises.</p> <p>B. The Virginia Aviation Board and the Department of Aviation may obligate funds in excess of the current biennium appropriation for aviation financial assistance programs supported by the Commonwealth Transportation Fund provided 1) sufficient cash is available to cover projected costs in each year and 2) sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.</p> <p>C. <i>Notwithstanding the provisions of § 2.2-2320.1.B., Code of Virginia, during fiscal year 2021 and fiscal year 2022, the Fund may also be used by the Governor to provide or assist in the provision of marketing, advertising, or promotional activities in order to incentivize airlines that provide existing air passenger service in Virginia to continue such</i></p>				

ITEM 435.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>service.</i>				
Total for Department of Aviation.....			\$39,986,870	\$42,586,870 \$42,792,425
Nongeneral Fund Positions.....	37.00	37.00		
Position Level.....	37.00	37.00		
Fund Sources: General.....	\$30,246	\$30,246		
Commonwealth Transportation.....	\$39,456,624	\$42,056,624		
Federal Trust.....	\$500,000	\$500,000 \$705,555		

§ 1-126. DEPARTMENT OF MOTOR VEHICLES (154)

436.	Ground Transportation Regulation (60100).....			\$216,673,180	\$216,673,180
	Customer Service Centers Operations (60101).....	\$156,643,065	\$156,643,065		
	Ground Transportation Regulation and Enforcement (60103).....	\$45,505,878	\$45,505,878		
	Motor Carrier Regulation Services (60105).....	\$14,524,237	\$14,524,237		
	Fund Sources: Commonwealth Transportation.....	\$209,226,580	\$209,226,580		
	Trust and Agency.....	\$5,446,600	\$5,446,600		
	Federal Trust.....	\$2,000,000	\$2,000,000		

Authority: Title 46.2, Chapters 1, 2, 3, 6, 8, 10, 12, 15, 16, and 17; §§ 18.2-266 through 18.2-272; Title 58.1, Chapters 21 and 24, Code of Virginia. Title 33, Chapter 4, United States Code.

A. The Commissioner, Department of Motor Vehicles, is authorized to establish, where feasible and cost efficient, contracts with private/public partnerships with commercial operations, to provide for simplification and streamlining of service to citizens through electronic means. Provided, however, that such commercial operations shall not be entitled to compensation as established under § 46.2-205, Code of Virginia, but rather at rates limited to those established by the commissioner.

B. The Department of Motor Vehicles shall work to increase the use of alternative service delivery methods, which may include offering discounts on certain transactions conducted online, as determined by the department. As part of its effort to shift customers to internet usage where applicable, the department shall not charge its customers for the use of credit cards for internet or other types of transactions; however, this restriction shall not apply with respect to any credit or debit card transactions the department conducts on behalf of another agency, provided (i) the other agency is authorized to charge customers for the use of credit or debit cards and (ii) the merchant's fees and other transaction costs imposed by the card issuer are charged to the department.

C. In order to provide citizens of the Commonwealth greater access to the Department of Motor Vehicles, the agency is authorized to enter into an agreement with any local constitutional officer or combination of officers to act as a license agent for the department, with the consent of the chief administrative officer of the constitutional officer's county or city, and to negotiate a separate compensation schedule for such office other than the schedule set out in § 46.2-205, Code of Virginia. Notwithstanding any other provision of law, any compensation due to a constitutional officer serving as a license agent shall be remitted by the department to the officer's county or city on a monthly basis, and not less than 80 percent of the sums so remitted shall be appropriated by such county or city to the office of the constitutional officer to compensate such officer for the additional work involved with processing transactions for the department. Funds appropriated to the constitutional office for such work shall not be used to supplant existing local funding for such office, nor to reduce the local share of the Compensation Board-approved budget for such office below the level established pursuant to general law.

D. The base compensation for DMV Select Agents shall be set at 4.5 percent of gross collections for the first \$500,000 and 5.0 percent of all gross collections in excess of \$500,000 made by the entity during each fiscal year on such state taxes and fees in place as a matter of

ITEM 436.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
law. The commissioner shall supply the agents with all necessary agency forms to provide services to the public, and shall cause to be paid all freight and postage, but shall not be responsible for any extra clerk hire or other business-related expenses or business equipment expenses occasioned by their duties.				
E. Out of the amounts identified in this Item, an amount estimated at \$372,006 the first year and \$372,006 the second year from the Commonwealth Transportation Fund shall be paid to the Washington Metropolitan Area Transit Commission.				
F.1. Notwithstanding any other provision of law, the department shall assess a minimum fee of \$15 for all titles. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
2. Notwithstanding any other provision of law, the department shall assess a \$10 late fee on all registration renewal transactions that occur after the expiration date. The late fee shall not apply to those exceptions granted under § 46.2-221.4, Code of Virginia. In assessing the late renewal fee the department shall provide a ten day grace period for transactions conducted by mail to allow for administrative processing. This grace period shall not apply to registration renewals for vehicles registered under the International Registration Plan. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
3. Notwithstanding any other provision of law, the department shall establish a \$20 minimum fee for original driver's licenses and replacements. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
G. The Department of Motor Vehicles is hereby granted approval to renew or extend existing capital leases due to expire during the current biennium for existing customer service centers.				
H. The Department of Motor Vehicles is hereby appropriated revenues from the additional sales tax on fuel in certain transportation districts to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-2295, Code of Virginia.				
I. The Commissioner of the Department of Motor Vehicles, in consultation with the Commissioner of Highways, shall take such steps as may be necessary to expand access to the E-ZPass program through its customer service channels using such locations and methods as are practicable.				
J. The Department of Motor Vehicles is hereby granted approval to distribute the transactional charges of the Cardinal accounting system to state agencies, when the transactions involve funds passed through the department to the benefiting agency. This paragraph shall not pertain to Direct Aid to Public Education.				
K. The Department of Motor Vehicles is hereby granted approval to distribute a portion of its indirect cost allocation charge to another state agency when the charge is related to revenue collected and transferred by the department to the state agency. Such transfers shall be based on the agency's proportionate share of the department's total transactions in the immediately preceding fiscal year. The Department shall annually submit to the Department of Planning and Budget a summary of the transfer amounts and the transaction volumes used to allocate the internal cost amounts.				
L. Notwithstanding § 46.2-688, Code of Virginia, the Department of Motor Vehicles shall not be required to refund a proration of the total cost of a motor vehicle registration when less than six months remain in the registration period. Any resulting savings shall be retained and used to meet the expenses of the Department.				
M. Notwithstanding § 46.2-342, Code of Virginia, the Department of Motor Vehicles shall not be required to include organ donation brochures with every driver's license renewal notice or application mailed to licensed drivers.				
N. The Commissioner shall only refuse to issue or renew any vehicle registration pursuant to subsection L of § 46.2-819.3:1 of an operator or owner of a vehicle who has no prior resolution, whether that resolution is by settlement or conviction, for offenses under §				

ITEM 436.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
46.2-819.3:1 if, in addition to the conditions set forth in subsection L of § 46.2-819.3:1 for such refusal, the toll operator has offered the individual a settlement of no more than \$2,200.				
O. The Department is authorized to impose a \$10 surcharge on all first issuances of REAL ID compliant credentials that are acceptable for federal purposes.				
P. Notwithstanding any other provision of law, for the duration of a declared state of emergency as defined in § 44-146.16, Code of Virginia, and for up to 90 days after the declaration of a state of emergency has been rescinded or expires, the Commissioner may extend the validity or delay the cancellation of driver's licenses, special identification cards, and vehicle registrations, the time frame during which a driver improvement clinic or payment plan must be completed, the maximum number of days of residency permitted before a new resident must be licensed in Virginia pursuant to § 46.2-308, Code of Virginia, to operate a motor vehicle in the Commonwealth, and the time frame during which a new resident may operate a motor vehicle in the Commonwealth which has been duly registered in another jurisdiction before registering the vehicle in the Commonwealth.				
Q. Notwithstanding any other provision of law, for the duration of a declared Commonwealth-wide state of emergency as defined in § 44-146.16, Code of Virginia, and for up to 90 days after the declaration of a state of emergency has been rescinded or expires, the Commissioner shall ensure that individuals age 65 and older, or with an immunocompromised or other underlying medical conditions, who are not required to register pursuant to Chapter 9 of Title 9.1 and appear in person for each renewal or the requirement to obtain a photograph in accordance with § 46.2-330 F(2), are able to complete any necessary transactions for existing credentials online or through the mail, so long as such individuals are otherwise eligible to complete such transactions and federal law does not require the transactions to be completed in person.				
R. Notwithstanding any other provision of law, for the duration of a declared state of emergency and for up to 90 days after a declaration of a state of emergency has been rescinded or expires, the Commissioner may permit (1) Class B driver training schools and (2) computer-based driver education providers, as defined in § 46.2-1700, to administer the end-of-course driver's education test online subject to the requirements prescribed by the Commissioner. Notwithstanding any other provision of law, for the duration of a declared state of emergency and for up to 90 days after a declaration of a state of emergency has been rescinded or expires, the Commissioner may permit Class B driver training schools with a valid Virginia license to administer their in-class curriculum on an online platform subject to the requirements prescribed by the Commissioner. Notwithstanding the provisions of § 22.1-205, for the duration of a declared state of emergency and for up to 90 days after a declaration of a state of emergency has been rescinded or expires, the Commissioner may permit the parent/student driver education component of the driver's education course to be administered online subject to the requirements prescribed by the Commissioner.				
S. Notwithstanding the provisions of subsection E. of § 18.2-271.1 of the Code of Virginia, if a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, a court may, in its discretion and for good cause shown, issue a restricted permit to operate a motor vehicle for any purpose set forth in subsection E. of § 18.2-271.1. No restricted license issued pursuant to this paragraph shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this paragraph, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this paragraph is guilty of a violation of § 46.2-301.				
<i>T. Notwithstanding § 4-2.03 of this act, the Virginia Department of Motor Vehicles shall be exempt from recovering statewide and agency indirect costs from the federal grants until an indirect cost plan can be evaluated and developed by the agency.</i>				

ITEM 436.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p><i>U. Consistent with the provisions of § 4-13.00 of this act, the definitions found in § 46.2-1600, Code of Virginia, on June 30, 2021, shall remain in full force and effect until June 30, 2022.</i></p>				
437.	Ground Transportation System Safety Services (60500).....		\$7,279,329	\$7,279,329
	Highway Safety Services (60508).....	\$7,279,329	\$7,279,329	
	Fund Sources: Commonwealth Transportation.....	\$5,547,005	\$5,547,005	
	Federal Trust.....	\$1,732,324	\$1,732,324	
	<p>Authority: §§ 46.2-222 through 46.2-224, Code of Virginia; Chapter 4, United States Code.</p>			
438.	Administrative and Support Services (69900).....		\$91,579,974	\$95,579,974
	General Management and Direction (69901).....	\$47,205,139	\$51,205,139	
	Information Technology Services (69902).....	\$39,136,307	\$39,136,307	
	Facilities and Grounds Management Services (69915).....	\$5,238,528	\$5,238,528	
	Fund Sources: Commonwealth Transportation.....	\$89,342,974	\$93,342,974	
	Federal Trust.....	\$2,237,000	\$2,237,000	
	<p>Authority: Title 46.2, Chapters 1 and 2, and § 46.2-214.3; Title 58.1, Chapters 17, 21, and 24, Code of Virginia.</p>			
	<p>The Department of Transportation shall reimburse the Department of Motor Vehicles for the operating costs of the Fuels Tax Evasion Program.</p>			
	Total for Department of Motor Vehicles.....		\$315,532,483	\$319,532,483
	Nongeneral Fund Positions.....	2,222.00	2,162.00 2,222.00	
	Position Level.....	2,222.00	2,162.00 2,222.00	
	Fund Sources: Commonwealth Transportation.....	\$304,116,559	\$308,116,559	
	Trust and Agency.....	\$5,446,600	\$5,446,600	
	Federal Trust.....	\$5,969,324	\$5,969,324	
Department of Motor Vehicles Transfer Payments (530)				
439.	Ground Transportation System Safety Services (60500).....		\$26,255,029	\$26,255,029
	Financial Assistance for Transportation Safety (60507).....	\$26,255,029	\$26,255,029	
	Fund Sources: Federal Trust.....	\$26,255,029	\$26,255,029	
	<p>Authority: §§ 46.2-222 through 46.2-223, Code of Virginia; Chapter 4, United States Code.</p>			
440.	Financial Assistance to Localities - General (72800).....		\$206,684,609	\$210,997,317
	Financial Assistance to Localities - Mobile Home Tax (72803).....	\$5,500,000	\$5,500,000	
	Financial Assistance to Localities for the Disposal of Abandoned Vehicles (72814).....	\$391,500	\$391,500	
	Distribution of Sales Tax on Fuel in Certain Transportation Districts (72815).....	\$200,793,109	\$205,105,817	
	Fund Sources: Commonwealth Transportation.....	\$47,484,609	\$51,797,317	
	Trust and Agency.....	\$5,500,000	\$5,500,000	
	Dedicated Special Revenue.....	\$153,700,000	\$153,700,000	
	<p>Authority: §§ 46.2-416, 58.1-2402, and 58.1-2425, and 46.2-1200 through 46.2-1207,</p>			

ITEM 440.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Code of Virginia.				
<p>A. Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions. The amounts generated from the sales tax on fuel in certain transportation districts in this item are estimated at \$54,900,000 in the Northern Virginia Transportation Commission, \$36,600,000 in the Potomac and Rappahannock Transportation Commission, \$72,300,000 in the Hampton Roads Transportation Accountability Commission, \$47,093,109 in the Central Virginia Transportation Authority and \$60,200,000 to the Interstate 81 Corridor Improvement Fund in the first year and \$55,000,000 in the Northern Virginia Transportation Commission, \$36,600,000 in the Potomac and Rappahannock Transportation Commission, \$72,300,000 in the Hampton Roads Transportation Accountability Commission, \$51,405,817 in the Central Virginia Transportation Authority and \$60,200,000 to the Interstate 81 Corridor Improvement Fund in the second year. These estimates are listed for informational purposes only.</p>				
<p>B. Notwithstanding any other provision of law, the Commissioner may divulge tax information collected pursuant to § 58.1-2291 et seq., Code of Virginia, to the executive director or designee of the Northern Virginia Transportation Commission, the Potomac and Rappahannock Transportation Commission, the Central Virginia Transportation Authority, and the Hampton Roads Transportation Accountability Commission for their confidential use of such tax information as may be necessary to facilitate the collection of the taxes collected in the respective member jurisdictions. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed in § 58.1-3, Code of Virginia, as though that person were a tax official as defined in that section.</p>				
Total for Department of Motor Vehicles Transfer Payments.....			\$232,939,638	\$237,252,346
Fund Sources: Commonwealth Transportation.....	\$47,484,609	\$51,797,317		
Trust and Agency.....	\$5,500,000	\$5,500,000		
Dedicated Special Revenue.....	\$153,700,000	\$153,700,000		
Federal Trust.....	\$26,255,029	\$26,255,029		
Grand Total for Department of Motor Vehicles.....			\$548,472,121	\$556,784,829
Nongeneral Fund Positions.....	2,222.00	2,162.00 2,222.00		
Position Level.....	2,222.00	2,162.00 2,222.00		
Fund Sources: Commonwealth Transportation.....	\$351,601,168	\$359,913,876		
Trust and Agency.....	\$10,946,600	\$10,946,600		
Dedicated Special Revenue.....	\$153,700,000	\$153,700,000		
Federal Trust.....	\$32,224,353	\$32,224,353		
§ 1-127. DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION (505)				
441.	Ground Transportation Planning and Research (60200).....		\$3,347,198	\$3,347,198
	Rail and Public Transportation Planning, Regulation, and Safety (60203).....	\$3,347,198	\$3,347,198	
	Fund Sources: Commonwealth Transportation.....	\$3,347,198	\$3,347,198	
Authority: Titles 33.2 and 58.1, Code of Virginia.				
442.	Financial Assistance for Public Transportation (60900).....		\$699,845,958	\$713,045,958
	Public Transportation Programs (60901).....	\$520,042,153	\$535,042,153	
	Congestion Management Programs (60902).....	\$8,741,503	\$8,741,503	
	Human Service Transportation Programs (60903).....	\$9,862,302	\$9,862,302	
	Distribution of Washington Metropolitan Area Transit Authority Capital Fund Revenues (60905).....	\$161,200,000	\$159,400,000	

ITEM 442.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Special.....	\$1,139,844	\$1,139,844		
Commonwealth Transportation.....	\$537,506,114	\$552,506,114		
Dedicated Special Revenue.....	\$161,200,000	\$159,400,000		

Authority: Titles 33.2 and 58.1, Code of Virginia.

A.1. Except as provided in Item 444, the Commonwealth Transportation Board shall allocate all monies in the Commonwealth Mass Transit Fund, as provided herein and in § 33.2-1526.1, Code of Virginia. The total appropriation for the Commonwealth Mass Transit Fund is estimated to be \$387,900,000 the first year and \$423,800,000 the second year from the Transportation Trust Fund. From these funds, the following estimated allocations shall be made:

a. \$107,400,000 the first year and \$114,560,000 the second year to statewide Operating Assistance as provided in § 33.2-1526.1, Code of Virginia.

b. \$56,264,000 the first year and \$66,305,000 the second year from the Commonwealth Mass Transit Fund to statewide Capital Assistance.

c. \$170,679,000 the first year and \$171,288,000 the second year from the Commonwealth Mass Transit Fund to the Northern Virginia Transportation Commission to support the operating and capital costs of the Washington Metropolitan Area Transit Authority.

d. Notwithstanding the provisions of paragraph A.1.a, A.1.b, and A.1.c of this item, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate funding from the Commonwealth Mass Transit Fund to implement the transit and transportation demand management improvements identified for the I-95 corridor. Such costs shall include only direct transit capital and operating costs as well as transportation demand management activities. Costs associated with additional park and ride lots required to be funded by the Commonwealth under the provisions of the Comprehensive Agreement for the Interstate 95 High Occupancy Toll Lanes project shall be borne by the Department of Transportation as set out in Item 447 of this act.

2. Included in this item is \$1,500,000 the first year and \$1,500,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for "paratransit" capital projects and enhanced transportation services for the elderly and disabled.

3. Included in this item is an amount estimated at \$2,000,000 the first year and \$2,000,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for federally mandated state safety oversight of fixed rail guideway transit agencies located in the Commonwealth.

4. Included in this item is \$50,000,000 the first year as provided in Chapters 854 and 856 of the 2018 Acts of Assembly and \$50,000,000 the second year from the Commonwealth Mass Transit Fund for the state match for the Passenger Rail Investment and Improvement Act (PRIIA) funding.

B. Funds from a stable and reliable source, as required in Public Law 96-184, as amended, are to be provided to Metro from payments authorized and allocated in this program and pursuant to §58.1-2295, Code of Virginia. Notwithstanding any other provision of law, funds allocated to Metro under this program may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro as deemed appropriate by the Department. In appointing the Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary of Transportation or his designee as a principal member on the WMATA board of directors.

C. All Commonwealth Mass Transit Funds appropriated for Financial Assistance for Public Transportation shall be used only for public transportation purposes as defined by the Federal Transit Administration or outlined in § 33.2-1526.1, Code of Virginia.

D. It is the intent of the General Assembly that no transit operating assistance funding, as

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provided in A.1.a. of this item, be used to support any new transit system or route at a level higher than such project would be eligible for under the allocation formula set out in § 33.2-1526.1 C. 1., Code of Virginia, beyond the first two years of its operation.

E. Distribution of Washington Metropolitan Area Transit Authority Capital Fund Revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Washington Metropolitan Area Transit Authority for uses pursuant to Chapter 34 of Title 33.2, Code of Virginia.

F. The Department of Rail and Public Transportation, in cooperation with Fairfax and Prince William counties, shall evaluate enhanced public transportation services from the Franconia-Springfield Metro Station to Fort Belvoir, Lorton, Potomac Mills, and Marine Corps Base Quantico in Prince William County, including the cost and feasibility of extending the Blue Line and other multimodal options such as bus rapid transit along Interstate 95 and U.S. Route 1. The Director of the Department of Rail and Public Transportation shall submit a report of its findings to the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee by December 1, 2021.

G. The Department of Rail and Public Transportation shall evaluate enhanced public transportation services from the City of Roanoke to the town of Clifton Forge for the purpose of enhanced connectivity to existing Amtrak service, including the potential ridership, cost and feasibility of multimodal transportation options along the Interstate 81 and U.S. Route 220 corridors. The Department shall complete its investigation and report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than June 30, 2021.

H.1. The Chairman of the Northern Virginia Transportation Commission shall convene a workgroup which includes the Director of the Department of Rail and Public Transportation, local government representatives, and private sector stakeholders to review the impact of the three percent cap on operating assistance in the approved WMATA budget pursuant to § 33.2-1526.1.J., Code of Virginia. The workgroup shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 10, 2020, on the usefulness of the cap and whether additional items should be excluded.

2. The Department of Rail and Public Transportation shall provide staff support for the workgroup.

I. The Commonwealth Transportation Board shall delay the strategic plan requirements, pursuant to § 33.2-286, Code of Virginia, and Enactment Clauses 8 and 10 of Chapters 854 and 856 of the 2018 Acts of Assembly, for urban transit agencies and the Washington Metropolitan Area Transit Authority due to the ongoing COVID-19 pandemic.

443.	Financial Assistance for Rail Programs (61000).....			\$137,107,434	\$197,112,195
	Rail Industrial Access (61001).....	\$3,000,000	\$3,000,000		
	Rail Preservation Programs (61002).....	\$14,523,370	\$14,523,370		
	Passenger and Freight Rail Financial Assistance Programs (61003).....	\$119,584,064	\$179,588,825		
	Fund Sources: General.....	\$0	\$0		
	Special.....	\$1,000,000	\$1,000,000		
	Commonwealth Transportation.....	\$136,107,434	\$196,112,195		

Authority: Title 33.2, Code of Virginia.

A. Except as provided in Item 444, the Commonwealth Transportation Board shall operate the Shortline Railway Preservation and Development program in accordance with § 33.2-1602, Code of Virginia. As determined by the board, funds apportioned pursuant to § 33.2-1526, Code of Virginia, shall be appropriated to the Shortline Railway Preservation and Development Program. Total funding appropriated to the Shortline Railway Preservation and Development Program from this source shall not exceed \$4,000,000 the first year and \$4,000,000 the second year.

B. The Commonwealth Transportation Board shall operate the Rail Industrial Access Program in accordance with § 33.2-1600, Code of Virginia. The board may allocate funds pursuant to § 33.2-358, Code of Virginia, to the fund for construction of industrial access railroad tracks.

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C. Of the funds appropriated pursuant to Chapters 1019 and 1044 of the 2000 Acts of Assembly for passenger rail capacity improvements in the I-95 passenger rail corridor between Richmond and the District of Columbia, the Director of the Department of Rail and Public Transportation is authorized to utilize any remaining funds along the described corridor for the development of intercity passenger rail enhancements to include rail improvements and passenger station facilities.

D. Notwithstanding the provisions of § 33.2-1526.2 C, the distribution of funds in the Commonwealth Rail Fund shall be:

1. Remaining balances as of June 30, 2020 in the Rail Enhancement Fund pursuant to § 33.2-1601 and the Intercity Rail Operating and Capital Fund pursuant to § 33.2-1603 shall be transferred to the Commonwealth Rail Fund.

2. In order to facilitate the financing activities of the Virginia Passenger Rail Authority, all cash balances as of July 1, 2020 shall be transferred to the Authority from the Commonwealth Rail Fund. This transfer shall not be transacted until after an agreement has been fully executed between the Department and the Authority that requires funds to be transferred from the Authority to the Department for the prompt payment of any expenditures on the projects administered by the Department.

3. During the interim period between July 1, 2020, and the formal establishment of the Virginia Passenger Rail Authority (Authority), the Department shall be responsible for conducting all necessary business functions assigned to the Authority. Formal establishment shall include appointments to the Authority's board of directors, a formal meeting of the board, the hiring of an executive director, and the execution of the agreement required in subparagraph D.2.

E. Because of the overwhelming need for the delivery of services provided by the investment in a balanced transportation system in the Commonwealth, and in an effort to deliver intercity passenger trains utilizing the Commonwealth's investments and to increase passenger train frequencies to Norfolk and Roanoke, notwithstanding the provisions of § 33.2-1601 and § 33.2-1603, Code of Virginia, the Commonwealth Transportation Board may only make further investments in intercity passenger rail capacity to serve new markets in North Carolina, provided the Six-Year Improvement Plan adopted pursuant to § 33.2-214, Code of Virginia includes sufficient funding to complete projects underway to deliver train capacity improvements and provides the funding for service for additional passenger rail frequency to Norfolk and an extension of passenger rail to Roanoke.

F. The Department of Rail and Public ~~Transportation~~ *Transit* shall evaluate the operating and capital costs associated with an extension of the Virginia Railway Express commuter rail service from Manassas to Gainesville. The Director of the Department of Rail and Public Transportation shall submit an evaluation of these costs to the Governor, the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee by June 30, 2021.

G. Out of the amounts in this item for Passenger and Freight Rail Assistance Programs, such funding as may be necessary is allocated to study the feasibility of an east-west Commonwealth Corridor passenger rail service connecting Hampton Roads, Richmond, and the New River Valley consistent with the provisions of Senate Joint Resolution 50 of the 2020 General Assembly.

444.	Administrative and Support Services (69900).....			\$21,949,965	\$21,949,965
	General Management and Direction (69901).....	\$21,949,965	\$21,949,965		
	Fund Sources: Commonwealth Transportation.....	\$21,949,965	\$21,949,965		

Authority: Titles 33.2 and 58.1, Code of Virginia.

A. The Director, Department of Planning and Budget, is authorized to adjust appropriations and allotments for the Department of Rail and Public Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.

B. The Commonwealth Transportation Board may allocate up to 5 percent of the revenues

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available each year in the funds established pursuant to §§ 33.2-1602, 33.2-1526 and revenues allocated to the Department pursuant to 33.2-1526.4 to support costs of project development, project administration and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management programs and grants. Due to the negative impact on transportation revenues from the COVID-19 national crisis, the Commonwealth Transportation Board may allocate an amount at least equal to the Department of Rail and Public Transportation's FY2020 allocation to support costs identified in this item for each year.				
Total for Department of Rail and Public Transportation.....			\$862,250,555	\$935,455,316
Nongeneral Fund Positions.....	72.00	72.00		
Position Level.....	72.00	72.00		
Fund Sources: Special.....	\$2,139,844	\$2,139,844		
Commonwealth Transportation.....	\$698,910,711	\$773,915,472		
Dedicated Special Revenue.....	\$161,200,000	\$159,400,000		

§ 1-128. DEPARTMENT OF TRANSPORTATION (501)

445.	Environmental Monitoring and Evaluation (51400)....			\$41,251,696	\$40,393,808
	Environmental Monitoring and Compliance for Highway Projects (51408).....	\$9,045,617	\$7,202,424	\$40,930,642	\$41,374,407
		\$8,980,886	\$8,428,674		
	Environmental Monitoring Program Management and Direction (51409).....	\$3,440,377	\$3,524,370		
		\$3,433,626	\$3,496,386		
	Municipal Separate Storm Sewer System (MS4) Compliance Activities (51410).....	\$28,765,702	\$29,667,014		
		\$28,516,130	\$29,449,347		
	Fund Sources: Commonwealth Transportation.....	\$41,251,696	\$40,393,808		
		\$40,930,642	\$41,374,407		
446.	Ground Transportation Planning and Research (60200).....			\$79,246,937	\$80,727,359
	Ground Transportation System Planning (60201).....	\$65,131,549	\$66,347,417	\$79,132,074	\$80,635,045
		\$65,016,686	\$74,230,434		
	Ground Transportation System Research (60202).....	\$9,819,773	\$9,985,541		
			\$10,062,534		
	Ground Transportation Program Management and Direction (60204).....	\$4,295,615	\$4,394,401		
			\$4,342,077		
	Fund Sources: Commonwealth Transportation.....	\$79,246,937	\$80,727,359		
		\$79,132,074	\$88,635,045		

Authority: Title 33.2, Code of Virginia.

A. Included in the amount for ground transportation system planning and research is no less than \$6,500,000 the first year and no less than \$6,500,000 the second year from the highway share of the Transportation Trust Fund for the planning and evaluation of options to address transportation needs. Included in the amounts in this item, \$50,000 the first second year from the allocations to the Office of Intermodal Planning and Investment is provided for sponsorship support of the fifth eighth annual Mobility Talks International (MTI) Conference in January, 2021 2022. The Director of the Office of Innovation shall actively identify and engage connected and autonomous vehicle stakeholders in the Commonwealth in order to most effectively maximize the return on investment from participation in the MTI Conference for the operation of unmanned systems throughout Virginia.

B. In addition, the Commonwealth Transportation Board may approve the expenditures of up to \$500,000 the first year and \$500,000 the second year from the highway share of the Transportation Trust Fund for the completion of advance activities, prior to the initiation of an

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<p>individual project's design along existing highway corridors, to determine short-term and long-term improvements to the corridor. Such activities shall consider safety, access management, alternative modes, operations, and infrastructure improvements. Such funds shall be used for, but are not limited to, the completion of activities prior to the initiation of an individual project's design or to benefit identification of needs throughout the state or the prioritization of those needs. For federally eligible activities, the activity or item shall be included in the Commonwealth Transportation Board's annual update of the Six-Year Improvement program so that (i) appropriate federal funds may be allocated and reimbursed for the activities and (ii) all requirements of the federal Statewide Transportation Improvement Program can be achieved.</p> <p>C. Notwithstanding the provisions of Chapter 729 and Chapter 733 of the 2012 Acts of Assembly, the Commonwealth Transportation Board shall not reallocate any funds from projects on roadways controlled by any county that has withdrawn or elects to withdraw from the secondary system of state highways, nor from any roadway controlled by a city or town as part of the state's urban roadway system, based on a determination of nonconformity with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six-Year Improvement Program. In jurisdictions that maintain roadways within their boundaries, the provisions of § 33.2-214, Code of Virginia, shall apply only to highways controlled by the Department of Transportation.</p> <p>D. The prioritization process developed under § 33.2-214.1, Code of Virginia, shall not apply to use of funds provided in this Item from the federal apportionments in the State Planning and Research Program.</p> <p>E. The Department, in conducting any study of the Interstate 664 corridor in south Hampton Roads shall, in consultation with the Department of Rail and Public Transportation and the Virginia Port Authority, review and consider potential future rail needs along the corridor including the long range development plan for the Port and the development of the Craney Island Marine Terminal.</p> <p><i>F. The Department of Transportation, with the assistance of the Virginia Institute for Marine Science, shall provide an annual update on the status of the Coastal Virginia Transportation Infrastructure Inundation Study no later than December 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, Chairs of the House and Senate Transportation Committees, Chair of the Joint Subcommittee on Coastal Flooding and Adaptation, and the Secretaries of Transportation and Natural Resources. The report shall include at a minimum: an up-to-date identification of at-risk rural, suburban and urban infrastructure, and planning and options to mitigate or eliminate the identified risks; and a report on what work remains to be completed and estimated time frame for the completion of its work.</i></p>				
447.	Highway Construction Programs (60300).....		\$3,940,168,510	\$3,526,879,330
	Highway Construction Program Management (60315).....	\$44,411,280 \$44,231,815	\$45,435,461 \$45,054,161	\$3,650,896,554
	State of Good Repair Program (60320).....	\$376,915,335 \$293,716,106	\$330,097,687 \$291,210,325	\$3,778,863,742
	High Priority Projects Program (60321).....	\$324,470,484 \$264,415,852	\$300,259,697 \$254,154,471	
	Construction District Grant Programs (60322).....	\$409,470,484 \$351,320,540	\$392,659,697 \$411,235,925	
	Specialized State and Federal Programs (60323).....	\$2,542,600,927 \$2,246,212,241	\$2,216,126,788 \$2,326,208,860	
	Legacy Construction Formula Programs (60324).....	\$242,300,000 \$451,000,000	\$242,300,000 \$451,000,000	
	Fund Sources: General.....	\$0	\$0	
	Commonwealth Transportation.....	\$3,469,868,510 \$3,125,496,554	\$2,890,004,330 \$3,060,688,742	
	Trust and Agency.....	\$338,800,000	\$475,975,000 \$496,275,000	
	Dedicated Special Revenue.....	\$131,500,000 \$186,600,000	\$160,900,000 \$221,900,000	

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 33.2, Chapter 3; Code of Virginia; Chapters 8, 9, and 12, Acts of Assembly of 1989, Special Session II.				
A. From the appropriation for specialized state and federal programs funds shall be distributed as follows:				
1. An estimated \$115,575,647 the first year and \$117,783,238 the second year in federal state and matching funds shall be allocated for regional Surface Transportation Block Grant Funds and distributed to applicable metropolitan planning organizations pursuant to 23 USC 133;				
2. An estimated \$53,122,502 the first year and \$53,122,502 the second year in federal and state matching funds shall be allocated for the Highway Safety Improvement Program pursuant to 23 USC 148;				
3. An estimated \$83,848,855 the first year and \$82,345,399 the second year in federal and state matching funds shall be allocated for the Congestion Mitigation Air Quality program pursuant to 23 USC 149;				
4. \$99,624,385 \$100,000,000 the first year and \$110,105,167 \$100,000,000 the second year shall be allocated for the Revenue Sharing Program pursuant to § 33.2-357, Code of Virginia;				
5. An estimated \$20,265,939 the first year and \$20,087,475 the second year in federal funds shall be allocated for the Surface Transportation Block Grant Program Set-Aside to 23 USC 133(h).				
6. An estimated \$1,433,969,013 \$1,188,994,340 the first year and \$887,356,470 \$773,603,367 the second year in appropriation represents the estimated project participation costs from localities and regional entities.				
7. \$218,400,000 the second year in this appropriation represents the bond proceeds to be used for the Route 58 Corridor Development Program.				
8. \$15,333,333 \$2,000,000 the first year and \$15,333,333 \$2,000,000 the second year in state funds shall be allocated to the Virginia Transportation Infrastructure Bank pursuant to § 33.2-1500 et seq, Code of Virginia.				
9. \$10,044,671 \$1,000,000 the first year and \$10,044,011 \$1,000,000 the second year in state funds shall be allocated to the Transportation Partnership Opportunity Fund pursuant to § 33.2-1529.1, Code of Virginia.				
B. Notwithstanding § 33.2-358, Code of Virginia, the proceeds from the lease or sale of surplus and residue property purchased under this program in excess of related costs shall be applied to the State of Good Repair Program pursuant to § 33.2-369, Code of Virginia. Proceeds must be used on Federal Title 23 eligible projects.				
C. The Director of the Department of Planning and Budget is authorized to increase the appropriation as needed to utilize amounts available from prior year balances in the dedicated funds and adjust items to the most recent Commonwealth Transportation Board budget.				
D. Funds appropriated for legacy formula construction programs shall be used for the purposes enumerated in subsection C of § 33.2-358, Code of Virginia, or as previously appropriated.				
E. Included in the amounts for specialized state and federal programs is the reappropriation of \$495,800,000 \$280,300,000 the first year and \$559,900,000 \$222,300,000 the second year from bond proceeds or dedicated special revenues for anticipated expenditure of amounts collected in prior years. The amounts will be provided from balances in the Capital Projects Revenue Bond Fund, Federal Transportation Grant Anticipation Revenue Bond Fund, Northern Virginia Transportation District Fund, State Route 28 Highway Improvement District Fund, U.S. Route 58 Corridor Development Fund, <i>Interstate 81 Corridor Improvement Program, Interstate Operations and Enhancement Program, Concession Funds from the Interstate 95 Express Lanes and Interstate 66 Outside-the-Beltway Project Agreements</i> and the Priority Transportation Fund. These amounts were originally appropriated when received or forecasted and are not related to estimated revenues of the current biennium.				

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F. The Director of the Department of Planning and Budget is authorized to increase the appropriation as needed to utilize amounts available from prior year balances in the Concession Payments Account to support project activities.

G. The Commissioner shall promulgate policies, regulations, and guidelines for Transportation Alternative Set-Aside Grants and other locally administered projects that, to the maximum extent permissible under 23 CFR 365.105, authorize full-time employees of a planning district commission established pursuant to the Regional Cooperation Act of 1968, § 15.2-4200. et. seq. Code of Virginia, who have obtained qualified status to serve as the responsible charge under the Locally Administered Projects Qualification Program requirements of the Federal Highway Administration.

H. In the instance where there is a reduction in the prescribed weight of any vehicle or combination of vehicles passing over any bridge, or bridges constituting a part of the interstate, primary, or secondary system of highways, in addition to posting signage in accordance with § 46.2-1104, Code of Virginia, the Department shall make a good faith effort to notify businesses in the surrounding area of the reduction in prescribed weight via electronic, telephone or mail as well as posting in local media in the surrounding localities. The Department shall continue to maintain an updated website, and related social media pages, and shall work with its local partners to develop an electronic communication list to facilitate seamless notification of all businesses using the route for transportation purposes in the surrounding area.

447.10	Transportation Initiatives (62100).....			\$233,400,000	\$55,000,000
	Transportation Initiative (62101).....	\$233,400,000	\$55,000,000		
	Fund Sources: General.....	\$0	\$55,000,000		
	Federal Trust.....	\$233,400,000	\$0		

A. The funds appropriated in this section represent one-time federal funds, one-time general funds and uncommitted state funds in special programs for economic development and access purposes from previous fiscal years, and as such their appropriation is not subject to the intent in subsection Q of Item 430.

B. Included in this item are \$233,400,000 in the first year in public funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act (P.L. 116-260), \$20,000,000 in the first year out of uncommitted balances in the Transportation Partnership Opportunity Fund established pursuant to § 33.2-1528.1., Code of Virginia, \$15,000,000 in the first year in uncommitted balances previously allocated for Financial Assistance for Planning, Access Road, and Special Projects (60704), and \$55,000,000 in the second year from the general fund. These funds shall be used by the Commonwealth Transportation Board support the following initiatives:

1. Up to \$83,500,000 shall be transferred to Item 443 to extend intercity passenger rail service from Roanoke, Virginia to the Blacksburg-Christiansburg, Virginia area and increase the frequency of intercity passenger rail service along the I-81/Route 29 Corridor from Washington, DC;
2. Up to \$83,500,000 shall be transferred to Item 442 to improve commuter rail service on the Virginia Railway Express Manassas Line;
3. Up to \$93,100,000 shall be transferred to Item 447 for improvements to the Interstate 64 Corridor as follows: (i) to provide any amounts necessary to complete the funding plan for the Hampton Roads Express Lanes as identified in the Master Agreement for Development and Tolling of the Hampton Roads Express Lanes Network executed pursuant to Chapter 703 of the 2020 Acts of Assembly, and (ii) any remaining amounts to improve Interstate 64 between exit 205 and exit 234 as determined by the Commonwealth Transportation Board;
4. Up to \$32,400,000 shall be transferred to Item 442 with an amount necessary to ensure the Commonwealth can provide its share of the dedicated regional funding for the Washington Metropolitan Area Transit Authority for fiscal year 2022 to be deposited into the Washington Metropolitan Area Transit Authority Capital Fund (60905) established pursuant to § 33.2-3401, Code of Virginia, and any amounts remaining after that shall be

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<p><i>provided to the Northern Virginia Transportation Commission to reduce the fiscal year 2022 operational obligations of its member jurisdictions, based on the current formula, to Metrorail, Metrobus and MetroAccess services;</i></p>				
<p><i>5. Up to \$10,000,000 shall be transferred to Item 447 for regional trails to support the planning, development and construction of multi-use trails with priority given by the Board to developing new regionals trails, to projects to improve connectivity of existing trail networks, and to geographic diversity in the use of such funds;</i></p>				
<p><i>6. Up to \$10,900,000 shall be transferred to Item 442 and used for purposes set forth in subsection F of § 33.2-1526.1:2, Code of Virginia, to establish pilot programs for fare-free transit with urban and rural transit providers, and an amount not to exceed \$900,000 may be used to study transit equity and modernization in the Commonwealth; and,</i></p>				
<p><i>7. Up to \$10,000,000 shall be transferred to Item 447 for a connected infrastructure redevelopment demonstration program within and adjacent to the Virginia Tech campus in the City of Falls Church.</i></p>				
<p><i>C. The Commonwealth Transportation Board shall provide an interim report to the Governor and the General Assembly on the use of the funds provided by this item no later than November 1, 2021 and a final report to the Governor and the General Assembly no later than June 30, 2022.</i></p>				
<p><i>D. Any funds not allocated by June 1, 2022 for the purposes set forth in this section shall be transferred to Item 448 and used to support additional pavement and bridge maintenance pursuant with the Department of Transportation's asset management practices developed pursuant to § 33.2-352, Code of Virginia.</i></p>				
<p><i>E. As a part of the initiative described in subsection B.1. of this item, the Secretary of Transportation shall provide an assessment of both the total project costs and incremental costs resulting from (i) the extension of intercity passenger rail to Bristol, Virginia; and (ii) modelling conducted to assess any infrastructure or network costs needed to service a rail station in Bedford, Virginia to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than November 15, 2021.</i></p>				
<p><i>F. For amounts available pursuant to subsection B.3. of this item, the Board shall not distribute any funds for the Hampton Roads Express Lanes Network until updated traffic and revenue modeling considering summer weekend traffic volumes is completed and the amount necessary to complete the funding plan, if any, is determined by the Hampton Roads Transportation Accountability Commission in coordination with the Board. In the event that funds are available to improve the Interstate 64 corridor between exit 205 and exit 234, the Board shall coordinate with the Central Virginia Transportation Authority to determine whether there is an opportunity to partner with the Authority on such improvements.</i></p>				
<p><i>G. As a part of the initiative described in subsection B.5., the Office of Intermodal Planning and Investment shall coordinate a policy working group comprised of representatives from the Department of Transportation, the Department of Rail and Public Transportation, the Department of Conservation and Recreation, the Statewide Trails Advisory Committee, staff of the House Appropriations Committee, and staff of the Senate Finance and Appropriations Committee. The working group shall evaluate and recommend a prioritization process for the identification of new multi-use trail opportunities, a master planning process, and a funding needs assessment. The Office of Intermodal Planning shall report on the recommendations of the working group to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than October 15, 2021.</i></p>				
<p><i>H. For the amounts available pursuant to subsection B.7., the Board shall not distribute any funds for the connected infrastructure redevelopment demonstration program unless the entity implementing and managing the demonstration program has entered into an agreement with the Department of Transportation to facilitate information sharing and knowledge exchange.</i></p>				
<p><i>I. In carrying out the intent of this item, the federal funds provided in this item may be exchanged for existing state funds, as needed and at the discretion of the Commonwealth Transportation Board, to meet federal eligibility requirements provided the amount of the funding exchanged does not reduce or increase total funding available for the 2021 Transportation Funding Initiative.</i></p>				

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<p><i>J. If additional one-time, supplemental federal funds in excess of \$55,000,000, with eligibilities similar to the public funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplement Appropriations Act (P.L. 116-260), is provided by the Federal Highway Administration to the Commonwealth prior to June 30, 2021, then the Director of the Department of Planning and Budget shall unallot the \$55,000,000 in general funds in this item. Further it is the intent of the General Assembly that the provisions of subsection A. of this item apply to any such additional, supplemental federal funds described in this subsection.</i></p>				
448.	Highway System Maintenance and Operations (60400).....		\$1,943,719,494	\$1,975,486,943
			\$2,029,488,121	\$2,063,801,321
	Interstate Maintenance (60401).....	\$468,871,915 \$478,454,164	\$487,159,465 \$492,589,159	
	Primary Maintenance (60402).....	\$606,000,140 \$636,797,939	\$609,008,437 \$633,613,750	
	Secondary Maintenance (60403).....	\$583,900,139 \$617,577,417	\$593,156,733 \$619,276,503	
	Transportation Operations Services (60404).....	\$204,227,357 \$215,938,658	\$205,442,365 \$214,796,135	
	Highway Maintenance Operations, Program Management and Direction (60405).....	\$80,719,943	\$80,719,943 \$103,525,774	
	Fund Sources: Commonwealth Transportation.....	\$1,943,719,494 \$2,029,488,121	\$1,975,486,943 \$2,063,801,321	
	<p>A. The department is authorized to enter into agreements with state and local law enforcement officials to facilitate the enforcement of high occupancy vehicle (HOV) restrictions throughout the Commonwealth and metropolitan planning regions.</p>			
	<p>B. Should federal law be changed to permit privatization of rest area operations, the department is hereby authorized to accept or solicit proposals for their development and/or operation.</p>			
	<p>C. The Director, Department of Planning and Budget, is authorized to increase the appropriation in this Item as needed to utilize amounts available from prior year balances in the dedicated funds.</p>			
	<p>D. The Commissioner's annual report pursuant to § 33.2-232, Code of Virginia, shall include an assessment of whether the department has met its secondary road pavement targets, by district and on a statewide basis.</p>			
449.	Statewide Special Structures (61400).....		\$20,000,000	\$20,000,000
			\$0	\$5,000,000
	<i>Statewide Special Structures - Construction (61401).....</i>		\$10,000,000	\$10,000,000
		\$0	\$0	
	Statewide Special Structures - Maintenance (61402).....		\$10,000,000	\$10,000,000
		\$0	\$5,000,000	
	Fund Sources: Commonwealth Transportation.....	\$20,000,000 \$0	\$20,000,000 \$5,000,000	
450.	Commonwealth Toll Facilities (60600).....		\$93,282,258	\$93,642,614
			\$83,665,648	
	Toll Facility Debt Service (60602).....	\$3,187,600 \$2,955,750	\$0	
	Toll Facility Maintenance And Operation (60603)...	\$53,344,658 \$43,959,898	\$56,892,614	
	Toll Facilities Revolving Fund (60604).....	\$36,750,000	\$36,750,000	
	Fund Sources: Commonwealth Transportation.....	\$87,282,258 \$77,164,367	\$87,642,614	
	Trust and Agency.....	\$6,000,000 \$6,501,281	\$6,000,000	

ITEM 450.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Authority: §§ 33.2-1524 and 33.2-1700 through 33.2-1729, Code of Virginia.

A. Included in this Item are funds for the installation and implementation of a statewide Electronic Toll Customer Service/Violation Enforcement System.

B. It is the intent of the General Assembly that the toll revenues, and any bond proceeds or concession payments backed by such toll revenues, derived from the express lanes on Interstate 64 between the interchange of Interstate 64 with Interstate 664 and the interchange of Interstate 64 with Interstate 564 be used to reduce the necessary contribution from the Hampton Roads Transportation Accountability Commission established pursuant Chapter 26 of Title 33.2, Code of Virginia, for a project to expand the capacity of Interstate 64 between the interchange of Interstate 64 with Interstate 664 and the interchange of Interstate 64 with Interstate 564. However, such funds may be used to support other related projects if mutually agreed upon by the Hampton Roads Transportation Accountability Commission and the Commonwealth Transportation Board.

C. The Department shall not charge a fee to customers who have a EZ Pass flex or standard transponder based on the transponder not being used or being infrequently used.

451.	Financial Assistance to Localities for Ground Transportation (60700).....			\$1,167,705,342	\$1,185,349,334
				\$1,128,550,979	\$1,285,004,357
	Financial Assistance for City Road Maintenance (60701).....	\$401,959,093	\$415,141,162		
		\$397,832,085	\$411,077,641		
	Financial Assistance for County Road Maintenance (60702).....	\$70,445,497	\$70,708,334		
		\$70,610,931	\$71,892,921		
	Financial Assistance for Planning, Access Roads, and Special Projects (60704).....	\$15,896,079	\$16,047,313		
			\$15,935,618		
	Distribution of Northern Virginia Transportation Authority Fund Revenues (60706).....	\$304,600,000	\$310,100,000		
		\$299,311,884	\$335,950,325		
	Distribution of Hampton Roads Transportation Fund Revenues (60707).....	\$242,400,000	\$226,600,000		
		\$208,000,000	\$235,500,000		
	Distribution of Central Virginia Transportation Fund.Revenues (60710).....	\$132,404,673	\$146,752,525		
		\$136,900,000	\$214,647,852		
	Fund Sources: Commonwealth Transportation.....	\$488,300,669	\$501,896,809		
		\$484,339,095	\$498,906,180		
	Dedicated Special Revenue.....	\$679,404,673	\$683,452,525		
		\$644,211,884	\$786,098,177		

Authority: Title 33.2, Chapter 1, Code of Virginia.

A. Out of the amounts for Financial Assistance for Planning, Access Road, and Special Projects, \$7,000,000 the first year and \$7,000,000 the second year from the Commonwealth Transportation Fund shall be allocated for purposes set forth in §§ 33.2-1509, 33.2-1600, and 33.2-1510, Code of Virginia. Of this amount, the allocation for Recreational Access Roads shall be \$1,500,000 the first year and \$1,500,000 the second year. It is the intent of the General Assembly that up to \$250,000 of the funds allocated by the Commonwealth Transportation Board for Recreational Access Roads in this Item shall be prioritized for handicapped accessibility improvements at Virginia State Parks, including improvements to handicapped access points and parking facility enhancements as may be requested by the Department of Conservation and Recreation.

B. Distribution of Northern Virginia Transportation Authority Fund Revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Northern Virginia Transportation Authority for uses contained in Chapter 766, 2013 Acts of Assembly. Notwithstanding any other provision of law, moneys deposited into the Hampton Roads Transportation Fund shall be transferred to the Hampton Roads Transportation Accountability Commission for use in accordance with § 33.2-2611, Code of Virginia. Distribution of the

ITEM 451.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Central Virginia Transportation Authority Fund revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Central Virginia Transportation Authority for uses contained in House Bill 1541 as enacted by the 2020 General Assembly</p> <p>C. The prioritization process developed under § 33.2-214.1, Code of Virginia, shall not apply to use of funds provided in this Item from federal apportionments in the Metropolitan Planning Program.</p> <p>D. Consistent with § 33.2-366, Code of Virginia, the Commonwealth Transportation Board, when establishing annual rates of payments to Counties that have elected to withdraw from the secondary highway system, shall adjust such rate annually with i) procedures established for adjusting payments to cities, and ii) lane mileage adjustments. It is the express intent of the General Assembly that under no circumstance shall the addition of lane miles to one jurisdiction result in the direct or indirect reduction in the calculation of payment to any other jurisdiction receiving payment from funds appropriated for Financial Assistance for County Road Maintenance (60702).</p> <p>E. The Department of Transportation shall report on an annual basis to the Commonwealth Transportation Board on the impact of adjusting the payments made as part of Financial Assistance to Localities distributions for inflation consistent with adjustments for highway system maintenance and operations.</p> <p>F. Of the amounts in this item, \$1,000,000 the first year and \$1,000,000 the second year from the Commonwealth Transportation Fund is appropriated for service charges to be paid to localities in which the Virginia Port Authority owns tax-exempt real estate for roadway maintenance activities in the jurisdictions hosting Virginia Port Authority facilities. These payments shall be treated the same as other Commonwealth Transportation Board payments to localities for highway maintenance. These funds shall not be used for other activities nor shall they supplant other local government expenditures for roadway maintenance. These funds shall be distributed to the localities on a pro rata basis in accordance with the formula set out in § 58.1-3403 D, Code of Virginia; however, the proportion of the funds distributed based on cargo traveling through each port facility shall be distributed on a pro rata basis according to twenty-foot equivalent units.</p> <p><i>G. Notwithstanding the provisions of § 33.2-1509, Code of Virginia, and consistent with the provisions of § 4-13.00 of this Act, no locality that has been allocated funds for a bonded project by the Commonwealth Transportation Board pursuant to § 33.2-1509, Code of Virginia, shall be required to repay such funds during the 48-month period beginning on the effective date of this act, provided that all of the other conditions of the Commonwealth Transportation Board's economic development access policy are met.</i></p>				
452.	Non-Toll Supported Transportation Debt Service (61200).....		\$411,956,980	\$443,538,983
			\$407,887,551	\$413,750,227
	Highway Transportation Improvement District Debt Service (61201).....	\$8,644,519		\$8,644,519
	Designated Highway Corridor Debt Service (61202).....	\$70,211,176	\$72,065,997	
		\$68,171,266	\$69,909,350	
	Commonwealth Transportation Capital Projects Bond Act Debt Service (61204).....	\$198,283,669	\$216,471,053	
		\$196,254,150	\$193,718,070	
	Federal Transportation Grant Anticipation Revenue Notes Debt Service (61205).....	\$134,817,616	\$146,357,414	
			\$134,881,288	
	<i>Interstate 81 Corridor Improvement Program Debt Service (61206).....</i>	\$0	\$6,597,000	
	Fund Sources: Commonwealth Transportation.....	\$176,847,135	\$202,775,769	
		\$134,817,616	\$135,140,660	
	Trust and Agency.....	\$228,943,886	\$234,868,489	
		\$267,255,436	\$266,453,841	
	<i>Dedicated Special Revenue.....</i>	\$0	\$6,597,000	
	Federal Trust.....	\$6,165,959	\$5,894,725	
		\$5,814,499	\$5,558,726	

ITEM 452.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Authority: Titles 15.2, 33.2, and 58.1 of the Code of Virginia; Chapters 827 and 914, Acts of Assembly of 1990; Chapters 233 and 662, Acts of Assembly of 1994; Chapter 8, as amended by Chapter 538, Acts of Assembly of 1999; Chapters 1019 and 1044, Acts of Assembly of 2000; Chapter 799, Acts of Assembly of 2002; Chapter 896, Acts of Assembly of 2007; and Chapters 830 and 868, Acts of Assembly of 2011</p>				
<p>A.1. The amount shown for Highway Transportation Improvement District Construction shall be derived from payments made to the Transportation Trust Fund pursuant to the Contract between the State Route 28 Highway Transportation Improvement District and the Commonwealth Transportation Board dated September 1, 1988 as amended by the Amended and Restated District Contract by and among the Commonwealth Transportation Board, the Fairfax County Economic Development Authority and the State Route 28 Highway Transportation Improvement District Commission (the "District Commission") dated August 30, 2002, and May 1, 2012 (the "District Contract").</p>				
<p>2. There is hereby appropriated for payment immediately upon receipt to a third party approved by the Commonwealth Transportation Board, or a bond trustee selected by such third party, a sum sufficient equal to the special tax revenues collected by the Counties of Fairfax and Loudoun within the State Route 28 Highway Transportation Improvement District and paid to the Commonwealth Transportation Board by or on behalf of the District Commission (the "contract payments") pursuant to § 15.2-4600 et seq., Code of Virginia, and the District Contract between the Commonwealth Transportation Board and the District Commission.</p>				
<p>3. The contract payments may be supplemented from the Construction District Grant Program pursuant to § 33.2-371 allocated to the highway construction district in which the project financed is located, or any other lawfully available revenues of the Transportation Trust Fund, as may be necessary to meet debt service obligations. The payment of debt service shall be for the bonds (the Series 2012 Bonds) issued under the "Commonwealth of Virginia Transportation Contract Revenue Bond Act of 1988" (Chapters 653 and 676, Acts of Assembly of 1988 as amended by Chapters 827 and 914 of the Acts of Assembly of 1990). Funds required to pay the total debt service on the Series 2012 Bonds shall be made available in the amounts indicated in paragraph E of this Item.</p>				
<p>B.1. Out of the amounts in this Item, \$40,000,000 the first year and \$40,000,000 the second year from the Transportation Trust Fund shall be paid to the U.S. Route 58 Corridor Development Fund, hereinafter referred to as the "Fund", established pursuant to § 33.2-2300, Code of Virginia. This payment shall be in lieu of the deposit of state recordation taxes to the Fund, as specified in the cited Code section. Said recordation taxes which would otherwise be deposited to the Fund shall be retained by the general fund. Additional appropriations required for the U.S. Route 58 Corridor Development Fund, an amount estimated at \$20,000,000 the first year and \$20,000,000 the second year shall be transferred from the highway share of the Transportation Trust Fund.</p>				
<p>2. Pursuant to the "U.S. Route 58 Commonwealth of Virginia Transportation Revenue Bond Act of 1989" (as amended by Chapter 538 of the 1999 Acts of Assembly and Chapter 296 of the 2013 Acts of Assembly), the amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.</p>				
<p>C.1. The Commonwealth Transportation Board shall maintain the Northern Virginia Transportation District Fund, hereinafter referred to as the "Fund." Pursuant to § 33.2-2400, Code of Virginia, and for so long as the Fund is required to support the issuance of bonds, the Fund shall include at least the following elements:</p>				
<p>a. Amounts provided from state transportation revenues estimated at \$20,000,000 the first year and \$20,000,000 the second year to support the debt service.</p>				
<p>b. Any public right-of-way use fees allocated by the Department of Transportation pursuant to § 56-468.1 of the Code of Virginia and attributable to the counties of Fairfax, Loudoun, and Prince William, the amounts estimated at \$5,387,165 the first year and \$5,387,165 the second year.</p>				
<p>c. Any amounts which may be deposited into the Fund pursuant to a contract between the</p>				

ITEM 452.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Commonwealth Transportation Board and a jurisdiction or jurisdictions participating in the Northern Virginia Transportation District Program, the amounts estimated to be \$816,000 the first year and \$816,000 the second year.</p>				
<p>2. The Fund shall support the issuance of bonds at a total authorized level of \$500,200,000 for the purposes provided in the “Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993,” Chapter 391, Acts of Assembly of 1993 as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly.</p>				
<p>3. Pursuant to the Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993, Chapter 391, Acts of Assembly of 1993, and as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly, amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.</p>				
<p>4. Should the actual distribution of recordation taxes to the localities set forth in § 33.2-2400, Code of Virginia, exceed the amount required for debt service on the bonds issued pursuant to the above act, such excess amount shall be transferred to the Northern Virginia Transportation District Fund in furtherance of the program described in § 33.2-2401, Code of Virginia.</p>				
<p>5. Should the actual distribution of recordation taxes to said localities be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, to the extent required, from funds identified in Enactment No. 1, Section 11, of Chapter 391, Acts of Assembly of 1993.</p>				
<p>D.1. The Commonwealth Transportation Board shall maintain the City of Chesapeake account of the Set-aside Fund, pursuant to § 58.1-816.1, Code of Virginia, which shall include funds provided from state transportation revenues estimated at \$1,000,000 in the first year and \$1,000,000 in the second year, and an amount estimated at \$980,000 the first year and \$980,000 the second year received from the City of Chesapeake pursuant to a contract or other alternative mechanism for the purpose provided in the “Oak Grove Connector, City of Chesapeake Commonwealth of Virginia Transportation Program Revenue Bond Act of 1994,” Chapters 233 and 662, Acts of Assembly of 1994 (hereafter referred to as the “Oak Grove Connector Act”).</p>				
<p>2. The amounts shown in paragraph E of this Item shall be available from the City of Chesapeake account of the Set-aside Fund for debt service for the bonds issued pursuant to the Oak Grove Connector Act.</p>				
<p>3. Should the actual distribution of state transportation revenues and such local revenues from the City of Chesapeake as may be received pursuant to a contract or other alternative mechanism to the City of Chesapeake account of the Set-aside Fund be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, pursuant to Enactment No. 1, Section 11 of the Oak Grove Connector Act.</p>				
<p>E. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on the following Commonwealth Transportation Board bonds shall be transferred to the Treasury Board as follows:</p>				
		FY 2021		FY 2022
	Transportation Contract Revenue Refund Bonds, Series 2012 (Refunding Route 28)	\$8,644,519		\$8,644,519
<p>Commonwealth of Virginia Transportation Revenue Bonds: U.S.</p>				

ITEM 452.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Route 58 Corridor Development Program:				
Series 2014B (Refunding)	\$18,755,500		\$10,636,500	
Series 2016C (Refunding)	\$6,237,750		\$6,240,500	
Northern Virginia Transportation District Program:				
Series 2012A (Refunding)	\$5,653,038		\$5,653,288	
Series 2014A (Refunding)	\$6,548,500		\$1,359,750	
Series 2016B (Refunding)	\$463,500		\$463,500	
Series 2019A (Refunding)	\$3,956,900		\$3,951,150	
Transportation Program Revenue Bonds:				
Series 2016A (Oak Grove Connector, City of Chesapeake)	\$1,984,750		\$1,989,750	
Capital Projects Revenue Bonds:				
Series 2010 A-2	\$35,432,025		\$35,197,073	
Series 2011	\$21,099,750			
Series 2012	\$29,161,800		\$29,162,300	
Series 2014	\$18,224,450		\$18,224,950	
Series 2016	\$16,799,500		\$16,797,000	
Series 2017	\$16,521,938		\$16,522,188	
Series 2017A (Refunding)	\$30,408,400		\$48,948,400	
Series 2018	\$9,197,350		\$9,198,600	
Series 2019	\$15,062,438		\$15,061,688	

F. Out of the amounts provided for in this Item, an estimated \$128,670,764 the first year and \$142,831,412 the second year from federal reimbursements shall be provided for debt service payments on the Federal Transportation Grant Anticipation Revenue Notes.

G. Out of the amounts provided for this Item, an estimated \$196,254,151 the first year and \$200,052,699 the second year from the Priority Transportation Fund shall be provided for debt service payments on the Commonwealth Transportation Capital Projects Revenue Bonds. Any additional amounts needed to offset the debt service payment requirements attributable to the issuance of the Capital Projects Revenue Bonds shall be provided from the Transportation Trust Fund.

H. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the applicable provisions of the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq., Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds, Series XXXX" at one or more times in an aggregate principal amount not to exceed \$180,000,000, after all costs. The net proceeds of the bonds shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of transportation projects set forth in Item 449.10 of Chapter 847 of the Acts of Assembly of 2007, including but not limited to environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses. Such costs may include the payment of interest on the bonds for a period during construction and not exceeding one year after completion of construction of the projects. Notwithstanding the provisions of Item 449.10 of Chapter 847 of the acts of Assembly 2007, any remaining funding may be used for the purposes set forth in subsection G of Item 453 of Chapter 665, 2015 Acts of Assembly.

I. Out of the amounts provided for in this Item, an estimated \$6,597,000 the second year from the Interstate 81 Corridor Fund shall be provided for debt service payments on the Interstate 81 Corridor Improvement Bonds.

453.	Administrative and Support Services (69900).....		\$304,636,935	\$302,927,468
			\$300,397,680	\$299,372,870

ITEM 453.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
General Management and Direction (69901).....	\$156,081,001	\$158,439,093		
	\$159,465,571	\$156,789,044		
Information Technology Services (69902).....	\$110,635,243	\$107,215,519		
	\$108,188,208	\$105,595,362		
Facilities and Grounds Management Services (69915).....	\$20,527,395	\$20,666,741		
	\$20,191,707	\$20,422,768		
Employee Training and Development (69924).....	\$17,393,296	\$16,606,115		
	\$12,552,194	\$16,565,696		
Fund Sources: Commonwealth Transportation.....	\$304,636,935	\$302,927,468		
	\$300,397,680	\$299,372,870		

Authority: Title 33.2, Code of Virginia.

A. Notwithstanding any other provision of law, the highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

B. Administrative and Support Services shall include funding for management, direction, and administration to support the department's activities that cannot be directly attributable to individual programs and/or projects.

C. Out of the amounts for General Management and Direction, allocations shall be provided to the Commonwealth Transportation Board to support its operations, the payment of financial advisory and legal services, and the management of the Commonwealth Transportation Fund.

D. Notwithstanding any other provision of law, the department may assess and collect the costs of providing services to other entities, public and private. The department shall take all actions necessary to ensure that all such costs are reasonable and appropriate, recovered, and understood as a condition to providing such service.

E. Each year, as part of the six-year financial planning process, the commissioner shall implement a long-term business strategy that considers appropriate staffing levels for the department. In addition, the commissioner shall identify services, programs, or projects that will be evaluated for devolution or outsourcing in the upcoming year. In undertaking such evaluations, the commissioner is authorized to use the appropriate resources, both public and private, to competitively procure those identified services, programs, or projects and shall identify total costs for such activities.

F. Notwithstanding § 4-2.03 of this act, the Virginia Department of Transportation shall be exempt from recovering statewide and agency indirect costs from the Federal Highway Administration until an indirect cost plan can be evaluated and developed by the agency and approved by the Federal Highway Administration.

G. The Director, Department of Planning and Budget, is authorized to adjust appropriations and allotments for the Virginia Department of Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.

H. Out of the amounts for General Management and Direction, allocations shall be provided to support the capital lease agreement with Fairfax County for the Northern Virginia District building. An amount estimated at \$7,800,000 the first year and \$7,800,000 the second year from Commonwealth Transportation Funds shall be provided.

I. Notwithstanding any other provisions of law, the Commonwealth Transportation Commissioner may enter into a contract with homeowner associations for grounds-keeping, mowing, and litter removal services.

J. Notwithstanding the provisions § 2.2-2402 of the Code of Virginia, no construction, erection, repair, upgrade, removal or demolition of any building, fixture or structure located or to be located on property of the Commonwealth of Virginia under the control of the Virginia Department of Transportation (VDOT) and within the secured area of a residency, area headquarters or district complex shall be subject to review or approval by the Art and Architectural Review Board as contemplated by that section. However, for changes to any building or fixture located on property owned or controlled by VDOT that

ITEM 453.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

has been designated or is under consideration for designation as a historic property, then VDOT shall submit such changes to the Art and Architectural Review Board for review and approval by the Board.

K. The Virginia Department of Transportation is authorized to convey a 25-foot wide strip of land containing approximately 0.1923 acre located along the southeastern boundary of its original Callaway Area Headquarters parcel, Tax Map Parcel #0580004200, to Earl E. Bowman, Jr. and Elizabeth H. Bowman, husband and wife, in return for the termination of an existing easement in favor of the Bowmans across certain property of the Commonwealth, as shown in those certain deeds and plats recorded at Deed Book 1114, Page 1622 and Deed Book 1114, Page 1630 in the Clerk's Office of the Circuit Court of Franklin County, Virginia, and the conveyance from the Bowmans of a parcel of land containing approximately 0.3582 acres located adjacent to and northwest of VDOT's original parcel, all as shown on a plat to be agreed to between the Parties. The appraised value of the land to be acquired by VDOT shall be equal to or greater than the value of the land to be transferred from VDOT. The exact property to be conveyed as consideration for this transaction is subject to change or adjustment provided that all parties agree, the requirements for value and form are met, and the appropriate approvals are obtained. The conveyances shall be made with the recommendation of the Department of General Services, the approval of the Governor and shall be in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

L. 1. At such time as the Virginia Department of Transportation (VDOT) determines that the VDOT Residency office, on five acres, at 626 Waddell Street, in the City of Lexington is no longer required for VDOT's purposes, it shall offer to transfer the property to the City of Lexington prior to offering the property for transfer or sale to any other public or private agency or entity or individual, on such terms and conditions as provided below.

2. The Virginia Department of Transportation and the City of Lexington shall each obtain a separate appraisal of the property, each performed by an appraiser licensed by the Commonwealth of Virginia as Certified General Real Property Appraisers, who must meet the competency provisions of the Uniform Standards of Professional Appraisal Practice.

3. VDOT shall offer the property to the City of Lexington at a value which shall be determined by averaging the values from the two appraisals obtained in L.2. above. Any other conditions of the transfer shall be based on usual and customary terms for such intergovernmental transfers.

4. If the Virginia Department of Transportation and the City of Lexington cannot agree on the terms of the transfer of the property, VDOT may transfer or sell the property to any other public or private agency or entity or individual on such terms as it determines are in the best interest of the Virginia Department of Transportation, however it will present those terms to the City of Lexington for its consideration prior to finalizing any transfer or sale to any other party.

5. Any proceeds from the sale of the Waddell Street property may be used for the construction, staff relocation and other expenses related to the renovation of the VDOT Annex Building located at 1401 East Broad Street, Richmond, VA and any proceeds not so used shall be deposited in the Transportation Trust Fund.

M. Notwithstanding any other provisions of law, the Virginia Department of Transportation (VDOT) is hereby authorized to market, sell and convey all or a portion of the Fulton property at 503 and 890 Bickerstaff Road and 421 Old Osborne Turnpike in Henrico, Virginia, containing 21.35 acres, more or less, as shown on a plat of survey entitled, "Commonwealth of Virginia Department of Highways and Transportation Fulton Depot" made by J.D. Hensdill, State Certified Engineer or Land Surveyor, dated October 1976. Any proceeds from the sale of the Fulton property may be used for the construction, staff relocation and other expenses related to the renovation of the VDOT Annex Building located at 1401 East Broad Street, Richmond, VA and any proceeds not so used shall be deposited in the Transportation Trust Fund.

N. Notwithstanding any other provisions law, in addition to the marketing, sale and conveyance of any property pursuant to item C- 41.10 of the 2017 Appropriations Act, the

ITEM 453.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>Virginia Department of Transportation (VDOT) is hereby authorized to market, sell and convey all or a portion of the Hampton Roads District Bartlett Area Headquarters in Isle of Wight County, Virginia, containing 10.42 acres, more or less, as shown on a plat of survey entitled, "Newport Magisterial District Isle of Wight Count, Virginia subdivision of property of: Thomas L. Newton, Jr. & Thomas S. Word, Jr. Trustees" made by W. L. Jessee, State Certified Engineer or Land Surveyor, dated January 8, 1981. Any proceeds from the sale of the Bartlett Area Headquarters as well as any proceeds from the sale of any properties pursuant to item C- 41.10 of the 2017 Appropriations Act may be used for the acquisition, construction and other expenses related to the relocation of the Hampton Roads District Office Complex and any proceeds not so used shall be deposited in the Transportation Trust Fund.</p> <p><i>O. Notwithstanding any other provision of law, the Commissioner of Highways is hereby authorized to convey to Norfolk Southern Railway Company by deed without consideration a variable width easement for right of way beneath the existing Interstate 264 overpass in the area of the relocated freight rail facilities, across a parcel approximately 0.5 acres in size, on terms acceptable to the Virginia Department of Transportation, Norfolk Southern Railway Company, and the Federal Highway Administration. The conveyance shall be in a form approved by the Office of the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.</i></p>				
454.	<p>A full accrual system of accounting shall be effected by the Department, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia.</p>			
	Total for Department of Transportation.....		\$8,001,968,152	\$7,668,945,839
			\$7,954,349,249	\$8,124,444,583
	Nongeneral Fund Positions.....	7,735.00	7,735.00	
	Position Level.....	7,735.00	7,735.00	
	Fund Sources: <i>General</i>	\$0	\$55,000,000	
	Commonwealth Transportation.....	\$6,611,153,634	\$6,101,855,100	
		\$6,271,766,149	\$6,280,561,839	
	Trust and Agency.....	\$573,743,886	\$716,843,489	
		\$612,556,717	\$768,728,841	
	Dedicated Special Revenue.....	\$810,904,673	\$844,352,525	
		\$830,811,884	\$1,014,595,177	
	Federal Trust.....	\$6,165,959	\$5,894,725	
		\$239,214,499	\$5,558,726	
§ 1-129. MOTOR VEHICLE DEALER BOARD (506)				
455.	Consumer Affairs Services (55000).....		\$292,528	\$292,528
	Consumer Assistance (55002).....	\$292,528	\$292,528	
	Fund Sources: Special.....	\$292,528	\$292,528	
	Authority: Title 46.2, Chapter 15, Code of Virginia.			
456.	Regulation of Professions and Occupations (56000).....		\$2,945,366	\$2,945,366
	Motor Vehicle Dealer and Salesman Regulation (56023).....	\$1,511,707	\$1,511,707	
	Administrative Services (56048).....	\$1,433,659	\$1,433,659	
	Fund Sources: Special.....	\$2,945,366	\$2,945,366	
	Authority: Title 46.2, Chapter 15, Code of Virginia.			
	Total for Motor Vehicle Dealer Board.....		\$3,237,894	\$3,237,894
	Nongeneral Fund Positions.....	25.00	25.00	
	Position Level.....	25.00	25.00	

ITEM 456.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Special.....	\$3,237,894	\$3,237,894		
§ 1-130. VIRGINIA PORT AUTHORITY (407)				
457. Economic Development Services (53400).....			\$7,442,946	\$7,480,786
National and International Trade Services (53413).....	\$5,942,946	\$5,980,786		
Commerce Advertising (53426).....	\$1,500,000	\$1,500,000		
Fund Sources: Special.....	\$7,442,946	\$7,480,786		
Authority: Title 62.1, Chapter 10, Code of Virginia.				
458. Port Facilities Planning, Maintenance, Acquisition, and Construction (62600).....			\$103,438,924	\$108,938,924
Maintenance and Operations of Ports and Facilities (62601).....	\$33,126,314	\$36,626,314		
Port Facilities Planning (62606).....	\$1,280,247	\$1,280,247		
Debt Service for Port Facilities (62607).....	\$69,032,363	\$71,032,363		
Fund Sources: Special.....	\$54,895,191	\$56,895,191		
Commonwealth Transportation.....	\$43,543,733	\$47,043,733		
Federal Trust.....	\$5,000,000	\$5,000,000		

Authority: Title 62.1, Chapter 10; Title 33.2, Chapter 1, Code of Virginia.

A. 1. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on January 25, 2012 in the amount of \$108,015,000 to refund Commonwealth Port Fund bonds originally issued on July 11, 2002. Debt service on bonds referenced in this paragraph is estimated to be \$9,100,000 the first year and \$9,100,000 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

2. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on September 26, 2012 in the amount of \$50,025,000 to refund a portion of Commonwealth Port Fund bonds originally issued on April 14, 2005. Debt service on bonds referenced in this paragraph is estimated to be \$4,100,000 the first year and \$4,100,000 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund Revenue Bonds on June 23, 2015 in the principal amount of \$58,680,000 to finance improvements to the Port Facilities at NIT, PMT, VIP, and RMT. Debt service on bonds referenced in this paragraph is estimated to be \$3,000,000 the first year and \$3,000,000 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

4. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund Revenue Refunding Bonds on July 26, 2018 in the amount of \$60,345,000 to refund Commonwealth Port Fund bonds originally issued in July 2011. Debt service on bonds referenced in this paragraph is estimated to be \$2,600,000 the first year and \$2,600,000 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

5. In the event revenues of the Commonwealth Port Fund are insufficient to provide for the debt service on the Virginia Port Authority Commonwealth Port Fund Revenue Bonds authorized by paragraphs A1, A2, A3, and A4; or any bonds payable from the revenues of the Commonwealth Port Fund, there is hereby appropriated a sum sufficient first from the legally available moneys in the Transportation Trust Fund and then from the general fund to provide for this debt service. Total debt service on the bonds referenced in paragraphs A1, A2, A3, and A4 is estimated at \$18,800,000 the first year and \$18,800,000 the second year.

6. Notwithstanding § 62.1-140, Code of Virginia, the aggregate principal amount of Commonwealth Port Fund bonds, and including any other long-term commitment that utilizes the Commonwealth Port Fund, shall not exceed \$440,000,000.

ITEM 458.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>B.1. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on November 17, 2016, issued Port Facilities Revenue Refunding bonds in the amounts of \$143,965,000, \$99,230,000 and \$37,335,000 for the purposes of defeasing and refunding special fund debt previously authorized. The debt service on these bonds, estimated to be \$17,600,000 the first year and \$17,600,000 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>2. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue additional bonds, in an amount up to \$105,500,000 for purposes of expanding port terminal capacity (capital outlay project 407-17956). All or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The debt service on these bonds, estimated to be \$8,500,000 the first year and \$8,500,000 the second year, will be paid from special funds.</p>				
<p>3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master equipment lease program), terminal operating equipment at a total estimated cost of \$67,000,000. Total debt service referenced in this paragraph (including any interim financing issued in anticipation of such program), is estimated at \$6,200,000 the first year and \$6,200,000 the second year from special funds, and such lease purchases may be refunded by the Authority.</p>				
<p>4. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master equipment lease program), terminal operating equipment at a total estimated cost of \$63,000,000. Total debt service referenced in this paragraph (including any interim financing issued in anticipation of such program), is estimated at \$5,400,000 the first year and \$7,400,000 the second year from special funds, and such lease purchases may be refunded by the Authority.</p>				
<p>5. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue short-term debt on a revolving basis as interim or anticipation financing in order to cover costs of planning, design, and construction pending the receipt of bond or master equipment lease program proceeds authorized in an amount not to exceed the authorized amount for the projects. In the aggregate, the short-term debt shall not exceed \$200,000,000 at any point in time and all or a portion of such debt may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia. The debt service, including associated fees, on the short-term debt may be paid, as recommended by the authority and approved by the Board, from the bond or master equipment lease proceeds, special funds, or other revenues or proceeds.</p>				
<p>6. Total debt service paid from special funds for all bonds, lease agreements, and short-term debt noted herein shall not exceed \$45,000,000 the first year and \$45,000,000 the second year, excluding the capital lease authorized by Item C-40.10 of Chapter 665, 2015 Acts of Assembly.</p>				
<p>C. In order to remain consistent with the grant of authority as provided in Chapter 10, § 62.1-128 et seq. of the Code of Virginia, the Virginia Port Authority is authorized to maintain independent payroll and nonpayroll disbursement systems and, in connection with such systems, to open and maintain appropriate accounts with a qualified public depository, or depositories. As implementation occurs, these systems and related procedures shall be subject to review and approval by the State Comptroller. The Virginia Port Authority shall continue to provide nonpayroll transaction detail to the State Comptroller through the Commonwealth Accounting and Reporting System (Cardinal).</p>				
<p>D. Out of the amounts in this Item, \$10,000,000 the first year and \$10,000,000 the second year from the Commonwealth Port Fund may be used to make lease payments associated with the Virginia International Gateway capital lease.</p>				
<p>E. The Virginia Port Authority shall include the Commonwealth Railway Mainline Safety Relocation Project Phase 2 - I-664 Pughsville Road to Bowers Hill - Feasibility Study as part of its long-range plan for the development of the Craney Island Marine Terminal and creating road and rail access to such terminal.</p>				

ITEM 459.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
459.	Financial Assistance for Port Activities (62800).....			\$5,108,525	\$5,112,325
	Aid to Localities (62801).....	\$3,500,000	\$3,500,000		
	Payment in Lieu of Taxes (62802).....	\$1,608,525	\$1,612,325		
	Fund Sources: Special.....	\$3,108,525	\$3,112,325		
		\$1,608,525	\$1,612,325		
	Commonwealth Transportation.....	\$2,000,000	\$2,000,000		
	Dedicated Special Revenue.....	\$1,500,000	\$1,500,000		

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Of the amounts authorized in Item 112 A.1., \$2,000,000 the first year and \$2,000,000 the second year from the general fund may be deposited in the Port of Virginia Economic and Infrastructure Development Zone Grant Fund, created pursuant to § 62.1-132.3:2, Code of Virginia. The Executive Director of the Virginia Port Authority shall disburse the funding in the form of grants to qualified companies in accordance with the provisions of § 62.1-132.3:2, Code of Virginia.

B. Of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the Commonwealth Port Fund is appropriated for previously awarded Aid to Local Ports which were unreimbursed in the year of the initial award.

C. Out of amounts in this item, \$1,500,000 the first year and \$1,500,000 the second year from amounts transferred to this item pursuant § 3-1.01 M. of this act, the Authority shall award a grant of funds to a qualified applicant or applicants to support a dredging project or projects that have been approved by the Authority. The source of the grant funds shall be the Virginia Waterway Maintenance Fund created pursuant to § 62.1-132.3:3. Applicants shall be limited to political subdivisions and the governing bodies of Virginia localities. The Authority shall develop guidelines establishing an application process as set out in Chapter 642, 2018 Session of the General Assembly. Projects for which the Authority may award grant funding include (i) feasibility and cost evaluations, pre-project engineering studies, and project permitting and contracting costs for a waterway project conducted by the Commonwealth; (ii) the state portion of a nonfederal sponsor funding requirement for a federal project, which may include the beneficial use of dredged materials that are not covered by federal funding; (iii) the Commonwealth's maintenance of shallow-draft navigable waterway channel maintenance dredging and the construction and management of areas for the placement of dredged material; and (iv) the beneficial use, for environmental restoration and the mitigation of coastal erosion or flooding, of dredged materials from waterway projects conducted by the Commonwealth. Special consideration shall be given to any locality which provides a three-to-one match for any requested funding in the first year.

460.	Administrative and Support Services (69900).....			\$130,836,149	\$133,749,125
	General Management and Direction (69901).....	\$109,636,184	\$112,549,160		
	Security Services (69923).....	\$21,199,965	\$21,199,965		
	Fund Sources: Special.....	\$120,536,149	\$123,449,125		
	Commonwealth Transportation.....	\$1,300,000	\$1,300,000		
	Federal Trust.....	\$9,000,000	\$9,000,000		

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Out of the amounts in this Item, the Executive Director is authorized to expend from special funds amounts not to exceed \$37,500 the first year and \$37,500 the second year, for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.

B. Prior to purchasing airline and hotel accommodations related to overseas travel, the Virginia Port Authority shall provide an itemized list of projected costs for review by the Secretary of Transportation.

C. It is hereby acknowledged that, in accordance with Item C-40.10 of Chapter 665, 2015 Virginia Acts of Assembly, on November 17, 2016, the Port Authority converted its 20 year operating lease to operate a privately owned marine terminal in Portsmouth to a 49 year capital lease terminating December 31, 2065. Included in this Item is an amount estimated at \$91,922,173 the first year and \$96,851,632 the second year from special funds to cover the

ITEM 460.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
costs of this lease.				
Total for Virginia Port Authority.....			\$246,826,544	\$255,281,160
Nongeneral Fund Positions.....	260.00	260.00		
Position Level.....	260.00	260.00		
Fund Sources: Special.....	\$185,982,811	\$190,937,427		
	\$184,482,811	\$189,437,427		
Commonwealth Transportation.....	\$46,843,733	\$50,343,733		
Dedicated Special Revenue.....	\$1,500,000	\$1,500,000		
Federal Trust.....	\$14,000,000	\$14,000,000		
TOTAL FOR OFFICE OF TRANSPORTATION...			\$9,728,996,031	\$9,484,245,803
			\$9,681,377,128	\$9,939,950,102
Nongeneral Fund Positions.....	10,357.00	10,297.00		
		10,357.00		
Position Level.....	10,357.00	10,297.00		
		10,357.00		
Fund Sources: General.....	\$30,246	\$30,246		
		\$55,030,246		
Special.....	\$191,360,549	\$196,315,165		
	\$189,860,549	\$194,815,165		
Commonwealth Transportation.....	\$7,774,219,765	\$7,350,038,700		
	\$7,434,832,280	\$7,528,745,439		
Trust and Agency.....	\$584,690,486	\$727,790,089		
	\$623,503,317	\$779,675,441		
Dedicated Special Revenue.....	\$1,125,804,673	\$1,157,452,525		
	\$1,147,211,884	\$1,329,195,177		
Federal Trust.....	\$52,890,312	\$52,619,078		
	\$285,938,852	\$52,488,634		

ITEM 461.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

OFFICE OF VETERANS AND DEFENSE AFFAIRS

§ 1-131. SECRETARY OF VETERANS AND DEFENSE AFFAIRS (454)

461.	Disaster Planning and Operations (72200).....			\$1,243,718	\$1,243,718
	Emergency Planning (72205).....	\$1,243,718	\$1,243,718		
	Fund Sources: General.....	\$866,825	\$866,825		
	Federal Trust.....	\$376,893	\$376,893		

Authority: Title 2.2, Chapter 3.1, Code of Virginia.

Included in this Item is \$190,000 the first year and \$190,000 the second year from the general fund for the grant match required for an Office of Economic Adjustment (OEA) grant.

Out of this appropriation, up to \$190,000 the second year from the general fund shall be used to support a Military Liaison position under the Secretariat.

462.	Economic Development Services (53400).....			\$3,100,000	\$3,100,000
	Financial Assistance for Economic Development (53410).....	\$3,100,000	\$3,100,000	\$3,700,000	
		\$3,700,000			
	Fund Sources: General.....	\$600,000	\$600,000		
	Trust and Agency.....	\$2,500,000	\$2,500,000		
	Federal Trust.....	\$600,000	\$0		

A.1. Any administrative reappropriations or other administrative appropriation increases pursuant to Item 458 of the Appropriation Act for the 2014-2016 biennium to address the encroachment of incompatible uses in localities in which the United States Navy Master Jet Base, an auxiliary landing field, or United States Air Force Base are located shall continue to be governed by the provisions contained in the 2014-2016 Appropriation Act. The recurring, dedicated special (nongeneral) fund component of the U.S. Navy Master Jet Base and Auxiliary Landing Field encroachment mitigation program is continued through June 30, 2022.

2. In the event that dedicated special revenues generated pursuant to the provisions of the 2014-16 Appropriations Act exceed the amounts needed to fund the requirements set out in that Act, any excess dedicated special fund revenue a total of \$3,000,000 is hereby appropriated as follows:

- a. \$1,700,000 for encroachment mitigation activities in the vicinity of Naval Auxiliary Landing Field Fentress;
- b. \$700,000 for encroachment mitigation activities in the vicinity of Langley Air Force Base; and
- c. \$600,000 for encroachment mitigation activities in the vicinity of Naval Air Station Oceana.

3. The amounts identified in paragraph A.2. of this item shall be used to provide additional assistance to the locality in which the United States Navy Master Jet Base auxiliary landing field is located for the purpose of purchasing property or development rights and otherwise converting such property to an appropriate compatible use and prohibiting new uses or development which is deemed incompatible with air operations arising from such Master Jet Base.

4. In addition to the amounts identified in paragraph A.1. of this item, \$450,000 is hereby appropriated as follows:

- a. \$250,000 for encroachment mitigation activities in the vicinity of Naval Auxiliary Landing Field Fentress; and
- b. \$200,000 for encroachment mitigation activities in the vicinity of ~~Langley Air Force~~

ITEM 462.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

Base Joint Base Langley Eustis.

5. Included in this appropriation is \$2,500,000 the first year and \$2,500,000 the second year from nongeneral funds to be provided through a long-term lease agreement with the City of Virginia Beach as consideration for use of state-owned parcels totaling approximately 12 acres, more or less, and currently leased to the City for use as parking for the Virginia Aquarium and Marine Science Center and overflow Rudee Inlet boat ramp parking. Such funds shall be used for construction of a new secure access control point, including all desirable or required supporting facilities, to the Camp Pendleton State Military Reservation located in the City of Virginia Beach. As additional consideration, the City of Virginia Beach shall also provide for a new signal-controlled entrance to Camp Pendleton State Military Reservation aligned with the new secure access control point. An initial payment of \$2,500,000 shall be made by the City within 30 days of lease execution but no later than June 30, 2021 and an additional payment of \$2,500,000 shall be made by the City within 12 months of lease execution but no later than June 30, 2022. Pursuant to Executive Order 20 (2018), authorizing the transfer of administrative authority of the Department of Military Affairs from the Secretary of Public Safety and Homeland Security to the Secretary of Veterans and Defense Affairs, the Secretary of Veterans and Defense Affairs shall be the authorized entity to enter into the initial and any subsequent lease agreement with the City. The term of the lease shall be not less than 50 years upon such terms and conditions as negotiated between the parties to the lease, which may include additional annual payment pursuant to the lease. The Secretary of Veterans and Defense Affairs shall report to the Chairs of the House Appropriations and the Senate Finance and Appropriations Committees on such projects and real property lease agreements executed from funds appropriated in this item by October 15th of each year until completion of the specified improvement projects.

B. Included in this appropriation is \$600,000 in the first year and \$600,000 in the second year from the general fund to support the recommendations of the Governor's Commission on Military Installations and Defense Activities.

C. The Secretary of Veterans and Defense Affairs may submit project requests that improve, expand, develop, or redevelop a federal or state military installation or its supporting infrastructure, to enhance its military value to the MEI Project Approval Commission established pursuant to § 30-309, Code of Virginia. The Commission shall recommend approval or denial of such packages to the General Assembly. The authority of the Commission to consider and evaluate such projects shall be in addition to the authorities provided to the MEI Project Approval Commission and § 30-310, Code of Virginia.

D. The Secretary of Veterans and Defense Affairs and the Secretary of Finance shall, in cooperation with the City of Chesapeake, execute an addendum to the grant agreement for Encroachment Grant #2017-100 such that the terms of the agreement are to expire on September 30, 2020.

E.1. The Secretary of Veterans and Defense Affairs and the Secretary of Finance, shall convene a workgroup to oversee the development of detailed business plans for the operation of Veterans Care Centers in the Commonwealth. The workgroup shall include the Department of Veterans Services, the Department of Medical Assistance Services, the Department of Planning and Budget, and staff of the House Appropriations and Senate Finance and Appropriations Committees, as well as other agencies deemed appropriate. The purpose of the workgroup shall be to plan for business needs, funding needs, and estimate viable revenue streams in anticipation of opening new Veterans Care Centers in the state.

2. The workgroup shall prepare a business plan for each existing, planned, or proposed Care Center that includes, by fiscal year: appropriate staffing levels, anticipated care populations, costs, and revenue streams. The plans shall be specific to each facility and shall base revenue projections on estimated reimbursement rates from Medicare, Medicaid, and other payers. Each plan shall identify payment schedules for any loan or capital advance, with identified revenue streams, covering the entirety of the loan until projected defeasance.

3. The Secretary shall report to the Chairs of the House Appropriations and Senate

ITEM 462.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Finance and Appropriations Committees on the business plans required in this paragraph by November 15, 2020.				
<i>F. Included in this appropriation is \$600,000 in the first year from nongeneral funds to support the construction of a new secure access control point to the Camp Pendleton State Military Reservation located in the City of Virginia Beach, pursuant to section A.5 of this Item.</i>				
Total for Secretary of Veterans and Defense Affairs...			\$4,343,718 \$4,943,718	\$4,343,718
General Fund Positions.....	4.00 5.00	4.00 5.00		
Nongeneral Fund Positions.....	2.00 1.00	2.00 1.00		
Position Level.....	6.00	6.00		
Fund Sources: General.....	\$1,466,825	\$1,466,825		
Trust and Agency.....	\$2,500,000	\$2,500,000		
Federal Trust.....	\$376,893 \$976,893	\$376,893		

§ 1-132. DEPARTMENT OF VETERANS SERVICES (912)

463.	State Health Services (43000).....			\$80,099,859	\$92,099,859
	Veterans Care Center Operations (43013).....	\$80,099,859	\$92,099,859		
	Fund Sources: General.....	\$50,000	\$50,000		
	Special.....	\$45,544,638	\$45,544,638		
	Federal Trust.....	\$34,505,221	\$46,505,221		

Authority: § Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

A. The Department of Veterans Services is authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for the Medicaid supplemental payments made for state government owned nursing homes. The funds to be transferred must comply with 42 CFR 447.272.

464.	Veterans Benefit Services (46700).....			\$22,777,583 \$21,719,304	\$23,014,296 \$22,598,804
	Case Management Services for Veterans Benefits (46701).....	\$9,517,080 \$8,882,941	\$9,721,080 \$8,882,941		
	Virginia Veteran and Family Support Services (46702).....	\$8,413,102 \$8,072,102	\$8,413,102 \$8,828,602		
	Veterans Education, Transition, and Employment Services (46703).....	\$4,050,901 \$3,967,761	\$4,083,614 \$4,090,761		
	Veterans Services Fund Administration (46704).....	\$796,500	\$796,500		
	Fund Sources: General.....	\$17,653,493 \$16,595,214	\$17,885,206 \$17,469,714		
	Dedicated Special Revenue.....	\$796,500	\$796,500		
	Federal Trust.....	\$4,327,590	\$4,332,590		

Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

A. 1. Out of this appropriation, up to \$100,000 in the first year and up to \$100,000 in the second year from the general fund shall be provided to address the costs associated with support of a grant program to create employment opportunities for veterans by assisting Virginia employers in hiring and retaining veterans. The Department of Veterans Services shall develop program guidelines to ensure that the funding mechanism effectively attracts maximum participation of firms to increase the number of veterans hired.

2. Such funds shall be used to provide grants beginning July 1, 2015, to any business located

ITEM 464.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

in Virginia with 300 or fewer employees which has hired a veteran on or after July 1, 2014, with the following additional requirements: (a) each such veteran shall have been hired within five years of the date of his or her discharge from active military service and (b) each such veteran shall have been continuously employed by the business in a full-time job for at least one year. The grant shall equal \$1,000 per qualifying business for each veteran who has been hired, and who qualifies under the provisions of this item, up to a maximum grant of \$10,000 per business in the fiscal year.

3. Grants shall be issued in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

4. The Department shall report no later than October 1 of each fiscal year after the program is implemented on the demand for the program, and any shortage of funding resulting from requests in excess of the available appropriation.

B. Any general fund appropriation for the Virginia Veteran and Family Support Services service area which remains unexpended at the end of the first year shall be reappropriated and allotted for expenditure for the second year.

C.1. Notwithstanding § 23.1-608, Code of Virginia, the department shall provide the State Council of Higher Education in Virginia the information these schools need to administer the Virginia Military Survivors and Dependent Education Program. The department shall retain the responsibility to certify the eligibility of those who apply for financial aid under this program.

2. No surviving spouse or child may receive the education benefits provided by § 23.1-608, Code of Virginia, and funded by this or similar state appropriations, for more than four years or its equivalent.

D. Included in the amount provided for this item is \$24,000 the first year and \$24,000 the second year from the general fund for the Angel Wings for Veterans program.

E. Out of the amounts for this item, ~~\$106,139 the first year~~ and ~~\$106,139~~ \$118,000 the second year from the general fund is provided to create a new assistant program manager for the Virginia Women Veterans Program.

465.	Historic and Commemorative Attraction Management (50200).....			\$8,904,968	\$5,904,968
				\$5,812,068	\$10,812,068
	Historic Landmarks and Facilities Management (50203).....	\$3,000,000	\$0		
		\$0	\$5,000,000		
	State Veterans Cemetery Management and Operations (50206).....	\$3,572,868	\$3,572,868		
	Virginia War Memorial Management and Operations (50209).....	\$2,332,100	\$2,332,100		
		\$2,239,200	\$2,239,200		
	Fund Sources: General.....	\$6,851,135	\$3,851,135		
		\$3,758,235	\$8,758,235		
	Special.....	\$348,466	\$348,466		
	Federal Trust.....	\$1,705,367	\$1,705,367		

Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

A. The Department of General Services shall continue to provide routine building and grounds maintenance for the Virginia War Memorial as part of services provided under the seat of government rental plan.

~~B. Included in the appropriation for this item, \$3,000,000 the first year from the general fund to Fairfax County for the construction of the Virginia Veteran's Parade Field within the National Museum of the United States Army in Fairfax County.~~

B. Included in the appropriation for this item, \$5,000,000 the second year from the

ITEM 465.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>general fund to Fairfax County for construction of the Warrior Field & Plaza and Memorial Garden, and other projects within the National Museum of the United States Army.</i>				
466.	Administrative and Support Services (49900).....		\$2,645,063	\$2,645,063
	General Management and Direction (49901).....	\$2,645,063	\$2,645,063	
	Fund Sources: General.....	\$2,269,629	\$2,269,629	
	Special.....	\$375,434	\$375,434	
Authority: Title 2.2, Chapters 20, 24, 26, 27, Code of Virginia.				
466.10	Omitted.			
	Total for Department of Veterans Services.....		\$114,427,473 \$110,276,294	\$123,664,186 \$128,155,794
	General Fund Positions.....	236.00	236.00 237.00	
	Nongeneral Fund Positions.....	890.00	1,110.00	
	Position Level.....	1,126.00	1,346.00 1,347.00	
	Fund Sources: General.....	\$26,824,257 \$22,673,078	\$24,055,970 \$28,547,578	
	Special.....	\$46,268,538	\$46,268,538	
	Dedicated Special Revenue.....	\$796,500	\$796,500	
	Federal Trust.....	\$40,538,178	\$52,543,178	
§ 1-133. VETERANS SERVICES FOUNDATION (913)				
467.	Veterans Benefit Services (46700).....		\$796,500	\$796,500
	Veterans Services Fund Administration (46704).....	\$796,500	\$796,500	
	Fund Sources: Dedicated Special Revenue.....	\$796,500	\$796,500	
Authority: §§ 2.2-2715 through 2.2-2718, Code of Virginia				
468.	Administrative and Support Services (49900).....		\$351,575	\$351,575
	General Management and Direction (49901).....	\$351,575	\$351,575	
	Fund Sources: General.....	\$351,575	\$351,575	
Authority: §§ 2.2-2715 through 2.2-2718, Code of Virginia				
	Total for Veterans Services Foundation.....		\$1,148,075	\$1,148,075
	General Fund Positions.....	2.00	2.00	
	Position Level.....	2.00	2.00	
	Fund Sources: General.....	\$351,575	\$351,575	
	Dedicated Special Revenue.....	\$796,500	\$796,500	
§ 1-134. DEPARTMENT OF MILITARY AFFAIRS (123)				
469.	Higher Education Student Financial Assistance (10800).....		\$3,278,382 \$3,028,382	\$3,278,382 \$3,028,382
	Tuition Assistance (10811).....	\$3,278,382 \$3,028,382	\$3,278,382 \$3,028,382	
	Fund Sources: General.....	\$3,278,382 \$3,028,382	\$3,278,382 \$3,028,382	
Authority: Title 44, Chapters 1 and 2; § 23.1-506, Code of Virginia.				
470.	At Risk Youth Residential Program (18700).....		\$5,661,187	\$5,661,187
	Virginia Commonwealth Challenge Program (18701)	\$5,172,187	\$5,172,187	

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Virginia Commonwealth STARBASE Youth Education Program (18702).....	\$489,000	\$489,000		
Fund Sources: General.....	\$1,592,103	\$1,592,103		
Federal Trust.....	\$4,069,084	\$4,069,084		

Authority: Discretionary Inclusion.

A. The Department of Military Affairs is hereby authorized to designate building space at the State Military Reservation as an in-kind match for the receipt of federal funds under the Commonwealth Challenge program, equivalent to a value of \$253,040 each year.

B. Out of this appropriation, up to \$489,000 the first year and up to \$489,000 the second year in nongeneral funds is provided to establish a STARBASE youth education program to improve math and science skills to prepare students for careers in engineering and other science-related fields of study.

471.	Defense Preparedness (72100).....			\$59,473,057	\$59,473,057
	Armories Operations and Maintenance (72101).....	\$12,392,641	\$12,392,641		
	Virginia State Defense Force (72104).....	\$201,217	\$201,217		
	Security Services (72105).....	\$4,880,424	\$4,880,424		
	Fort Pickett and Camp Pendleton Operations (72109).....	\$25,279,130	\$25,279,130		
	Other Facilities Operations and Maintenance (72110).....	\$16,719,645	\$16,719,645		
	Fund Sources: General.....	\$2,814,589	\$2,814,589		
	Special.....	\$1,784,927	\$1,784,927		
	Dedicated Special Revenue.....	\$3,178,859	\$3,178,859		
	Federal Trust.....	\$51,694,682	\$51,694,682		

Authority: Title 44, Chapters 1 and 2, Code of Virginia.

A. The Department is authorized to receive payments from localities resulting from reimbursement agreements with the Virginia Defense Force, an organization of the Virginia National Guard. The Department may disburse up to \$30,000 the first year and \$30,000 the second year from these payments to the Virginia Defense Force. Included in the appropriation for this Item is \$30,000 the first year and \$30,000 the second year from nongeneral funds for this purpose.

B. The Department of Military Affairs may operate, with nongeneral funds, a Morale, Welfare, and Recreation program for the benefit of the Virginia National Guard, Virginia Defense Force, employees of the Department, family members, and other authorized transient users of the Department's facilities, under such policies as approved by the agency.

472.	Disaster Planning and Operations (72200).....			\$0	\$0
	Communications and Warning System (72201).....	a sum sufficient			
	Disaster Assistance (72203).....	a sum sufficient			
	Fund Sources: General.....	a sum sufficient			

Authority: Title 44, Chapters 1 and 2, Code of Virginia.

A. The amount for Disaster Planning and Operations provides for a military contingent fund, out of which to pay the military forces of the Commonwealth when aiding the civil authorities.

B. In the event units of the Virginia National Guard shall be in federal service, the sum allocated herein for their support shall not be used for any different purpose, except with the prior written approval of the Governor, other than to provide for the Virginia State Defense Force or for safeguarding properties used by the Virginia National Guard.

C. Notwithstanding any other provision of law, when called into state active duty, not in the service of the United States, members of the National Guard and members of the Virginia Defense Force shall receive pay and allowances equal to their rank and years of

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service, as determined by the Department of Military Affairs. The Adjutant General may increase state active duty pay on an annual basis by a rate not to exceed the most recent percentage increase in basic pay for members of the Armed Forces.				
473.	Administrative and Support Services (79900).....		\$8,498,868	\$8,498,868 \$8,748,868
	General Management and Direction (79901).....	\$5,562,136	\$5,562,136 \$5,812,136	
	Telecommunications (79930).....	\$2,936,732	\$2,936,732	
	Fund Sources: General.....	\$4,086,374	\$4,086,374 \$4,336,374	
	Dedicated Special Revenue.....	\$1,037,191	\$1,037,191	
	Federal Trust.....	\$3,375,303	\$3,375,303	
Authority: Title 44, Chapters 1 and 2, Code of Virginia.				
A. The Department of Military Affairs shall advise and provide assistance to the Department of Accounts in administering the \$20,000 death benefit provided for certain members of the National Guard and United States military reserves killed in action in any armed conflict as of October 7, 2001, pursuant to § 44-93.1.B., Code of Virginia.				
B. Included in this appropriation is \$240,000 the first year and \$240,000 the second year from the general fund and \$100,000 in the first year and \$100,000 the second year from nongeneral funds for the financing costs of purchasing STARS radio communication equipment through the state's master equipment lease program.				
473.10	Omitted.			
	Total for Department of Military Affairs.....		\$76,911,494 \$76,661,494	\$76,911,494
	General Fund Positions.....	54.47	54.47 55.47	
	Nongeneral Fund Positions.....	307.03	307.03	
	Position Level.....	361.50	361.50 362.50	
	Fund Sources: General.....	\$11,771,448 \$11,521,448	\$11,771,448	
	Special.....	\$1,784,927	\$1,784,927	
	Dedicated Special Revenue.....	\$4,216,050	\$4,216,050	
	Federal Trust.....	\$59,139,069	\$59,139,069	
	TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....		\$196,830,760 \$193,029,581	\$206,067,473 \$210,559,081
	General Fund Positions.....	296.47 297.47	296.47 299.47	
	Nongeneral Fund Positions.....	1,199.03 1,198.03	1,419.03 1,418.03	
	Position Level.....	1,495.50	1,715.50 1,717.50	
	Fund Sources: General.....	\$40,414,105 \$36,012,926	\$37,645,818 \$42,137,426	
	Special.....	\$48,053,465	\$48,053,465	
	Trust and Agency.....	\$2,500,000	\$2,500,000	
	Dedicated Special Revenue.....	\$5,809,050	\$5,809,050	
	Federal Trust.....	\$100,054,140 \$100,654,140	\$112,059,140	

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CENTRAL APPROPRIATIONS

§ 1-135. CENTRAL APPROPRIATIONS (995)

474.	Higher Education Academic, Fiscal, and Facility Planning and Coordination (11100).....			\$10,756,833	\$10,756,833
	Interest Earned on Educational and General Programs Revenue (11106).....	\$10,756,833	\$10,756,833		
	Fund Sources: General.....	\$7,231,017	\$7,231,017		
	Higher Education Operating.....	\$3,525,816	\$3,525,816		

A. The standards upon which the public institutions of higher education are deemed certified to receive the payment of interest earnings from the tuition and fees and other nongeneral fund Educational and General revenues shall be based upon the standards provided in § 4-9.01 of this act, as approved by the General Assembly.

B. The estimated interest earnings and other revenues shall be distributed to those specific public institutions of higher education that have been certified by the State Council of Higher Education for Virginia as having met the standards provided in § 4-9.01 of this act, based on the distribution methodology developed pursuant to Chapter 933, Enactment 2, Acts of Assembly of 2005 and reported to the Chairmen of the House Appropriations Committee and Senate Finance Committee.

C. In accordance with § 2.2-5004 and 5005, Code of Virginia, this Item provides \$4,573,395 the first year and \$4,573,395 the second year from the general fund, and \$3,525,816 from nongeneral funds in the first year and \$3,525,816 from nongeneral funds in the second year for the estimated total payment to individual institutions of higher education of the interest earned on tuition and fees and other nongeneral fund Education and General Revenues deposited to the state treasury. Upon certification by the State Council of Higher Education of Virginia that all available performance benchmarks have been successfully achieved by the individual institutions of higher education, the Director, Department of Planning and Budget, shall transfer the appropriation in this Item for such estimated interest earnings to the general fund appropriation of each institution's Educational and General program.

D. This Item also includes \$2,657,622 in the first year and \$2,657,622 the second year from the general fund for the payment to individual institutions of higher education of a pro rata amount of the rebate paid to the State Commonwealth on credit card purchases not exceeding \$5,000 during the previous fiscal year. The State Comptroller shall determine the amount owed to each certified institution, net of any payments due to the federal government, using a methodology that equates a pro rata share based upon the total transactions of \$5,000 or less made by the institution using the state-approved credit card in comparison to all transactions of \$5,000 or less using said approved credit card. By October 15, or as soon thereafter as deemed appropriate, following the year of certification, the Comptroller shall reimburse each institution its estimated pro rata share.

E. Once actual financial data from the year of certification are available, the State Comptroller and the Director, Department of Planning and Budget, shall compare the actual data with estimates used to determine the distribution of the interest earnings, nongeneral fund Educational and General revenues, and the pro rata amounts to the certified institutions of higher education. In those cases where variances exist, the Governor shall include in his next introduced budget bill recommended appropriations to make whatever adjustments to each institution's distributed amount to ensure that each institution's incentive payments are accurate based on actual financial data.

475.	Revenue Administration Services (73200).....			a sum sufficient
	Designated Refunds for Taxes and Fees (73215).....		a sum sufficient	
	Fund Sources: General.....		a sum sufficient	

Authority: Discretionary Inclusion.

A. There is hereby appropriated from the affected funds in the state treasury, for refunds

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of taxes and fees, and the interest thereon, in accordance with law, a sum sufficient.

B. There is hereby established a special fund in the state treasury to be known as the Refund Suspense Fund, hereinafter referred to as the Fund. The Tax Commissioner is hereby authorized to contract with nongovernmental entities for review of requests for refunds of taxes to enhance, expand and/or modify the administration of the refund review program, and to perform analysis of refund processing techniques. The amount of any refund identified by the nongovernmental entity as potentially erroneous shall be deposited to the Fund pending review of the refund request. Amounts in the Fund may be used to pay refunds subsequently determined to be valid, to pay the contracted nongovernmental entity for its services, to perform oversight of their operations, to upgrade necessary refund processing systems and data interfaces to facilitate the contractor's work, to offset any administrative or other costs related to any contracts authorized under this provision, and to retain experts to perform analysis of refund processing techniques. Any balance in the fund remaining after such payments, or provision therefore, shall be deposited into the appropriate general, nongeneral, or local fund.

C. There is hereby appropriated from the affected funds in the state treasury for, (1) refunds of previously paid taxes imposed by the Commonwealth at 100 percent of face value up to the amount of the coalfield employment enhancement tax credit authorized by § 58.1-439.2, Code of Virginia, (2) refunds of any remaining credit at 90 percent of face value for credits earned in taxable years beginning before January 1, 2002, and 85 percent of face value for credits earned in taxable years beginning on and after January 1, 2002, and (3) payment of the remaining 10 or 15 percent credit to the Coalfields Economic Development Authority, a sum sufficient.

476.	Distribution of Tobacco Settlement (74500) a sum sufficient, estimated at.....			\$69,327,905	\$69,327,905
	Payments to Tobacco Producers and Tobacco Growing Communities (74501).....	\$60,000,000	\$60,000,000		
	Payments for Tobacco Usage Prevention (74502).....	\$9,327,905	\$9,327,905		
	Fund Sources: Trust and Agency.....	\$69,327,905	\$69,327,905		

Authority: Title 3.2, Chapters 31, 42 and 46, and Title 32.1, Chapter 14, Code of Virginia.

A.1. There is hereby appropriated a sum sufficient estimated at \$60,000,000 the first year and \$60,000,000 the second year from nongeneral funds for expenditures of securitized proceeds and earnings up to the amount transferred from the endowment to the Tobacco Indemnification and Community Revitalization Fund in accordance with § 3.2-3104, Code of Virginia. Such expenditures shall be made pursuant to § 3.2-3108, Code of Virginia.

2. From the amount deposited into the Tobacco Indemnification and Community Revitalization Fund pursuant to § 3.2-3106, Code of Virginia, shall be paid 50 percent of the costs associated with the diligent enforcement of the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 56, Paragraph B of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.1, of this act.

B.1. From the amounts deposited in the Virginia Tobacco Settlement Fund, no less than \$1,000,000 the first year and \$1,000,000 the second year shall be allocated for obesity prevention activities.

2. From the amount deposited into the Virginia Tobacco Settlement Fund shall be paid 8.5 percent of the costs associated with the diligent enforcement of the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 56, Paragraph B, of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.2, of this act.

3. Beginning November 1, 2010, and each year thereafter, the Director, Virginia Healthy Youth Foundation, shall report to the Chairmen of the House Appropriations and Senate Finance Committees on funding provided to community-based organizations for obesity prevention activities pursuant to § 32.1-355, Code of Virginia.

C. The amounts deposited by the State Comptroller pursuant to paragraph B.1. of this Item

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shall be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524, Code of Virginia.				
D. The Virginia Foundation for Healthy Youth shall prioritize in its marketing and education efforts information regarding the health effects of vaping by teens and young adults. The foundation shall include such information in marketing materials, advertising, outreach, and social media channels.				
477.	Compensation and Benefit Adjustments (75700).....		\$104,390,067 (\$15,993,004)	\$193,216,843 \$291,978,481
	Adjustments to Employee Compensation (75701)....	\$130,934,435 \$12,847,149	\$151,893,587 \$256,452,553	
	Adjustments to Employee Benefits (75702).....	(\$26,544,368) (\$28,840,153)	\$41,323,256 \$35,525,928	
	Fund Sources: General.....	\$104,390,067 (\$15,993,004)	\$193,216,843 \$291,978,481	

Authority: Discretionary Inclusion.

A. Transfers to or from this Item may be made to decrease or supplement general fund appropriations to state agencies for:

1. Adjustments to base rates of pay;
2. Adjustments to rates of pay for budgeted overtime of salaried employees;
3. Salary changes for positions with salaries listed elsewhere in this act;
4. Salary changes for locally elected constitutional officers and their employees;
5. Employer costs of employee benefit programs when required by salary-based pay adjustments;
6. Salary changes for local employees supported by the Commonwealth, other than those funded through appropriations to the Department of Education; and
7. Adjustments to the cost of employee benefits to include but not be limited to health insurance premiums and retirement and related contribution rates.

B. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes stated in paragraph A of this Item, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish the purposes stated in paragraph A of this Item.

C. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in salaries and benefits as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

D. Any supplemental salary payment to a state employee or class of state employees by a local governing body shall be governed by a written agreement between the agency head of the employee or class of employees receiving the supplement and the chief executive officer of the local governing body. Such agreement shall also be reviewed and approved by the Director of the State Department of Human Resource Management. At a minimum, the agreement shall specify the percent of state salary or fixed amount of the supplement, the resultant total salary of the employee or class of employees, the frequency and method of payment to the agency of the supplement, and whether or not such supplement shall be included in the employee's state benefit calculations. A copy of the agreement shall be made available annually to all employees receiving the supplement. The receipt of a local salary supplement shall not subject employees to any personnel or payroll rules and practices other than those promulgated by the State Department of Human Resource Management.

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<p>E. The Governor is hereby authorized to transfer funds from agency appropriations to the accounts of participating state employees in such amounts as may be necessary to match the contributions of the qualified participating employees, consistent with the requirements of the Code of Virginia governing the deferred compensation cash match program. Such transfers shall be made consistent with the following:</p> <ol style="list-style-type: none"> 1. The maximum cash match provided to eligible employees shall not be less than \$20.00 per pay period, or \$40.00 per month, in each year of the biennium. The Governor may direct the agencies of the Commonwealth to utilize funds contained within their existing appropriations to meet these requirements. 2. The Governor may direct agencies supported in whole or in part with nongeneral funds to utilize existing agency appropriations to meet these requirements. Such nongeneral revenues and balances are hereby appropriated for this purpose, subject to the provisions of § 4-2.01 b of this act. The use of such nongeneral funds shall be consistent with any existing conditions and restrictions otherwise placed upon such nongeneral funds. 3. The procurement of services related to the implementation of this program shall be governed by standards set forth in § 51.1-124.30 C, Code of Virginia, and shall not be subject to the provisions of Chapter 7 (§ 11-35 et seq.), Title 11, Code of Virginia. <p>F. The Secretary of Administration, in conjunction with the Secretary of Finance, may establish a program that allows for the sharing of cost savings from improved productivity, efficiency, and performance with agencies and employees. Such gain sharing programs require a management philosophy of open communication encouraging employee participation; a system which seeks, evaluates and implements employee input on increasing productivity; and a formula for measuring productivity gains and sharing these gains between employees and the agency. The Department of Human Resource Management, in conjunction with the Department of Planning and Budget, shall develop specific gain sharing program guidelines for use by agencies. The Department of Human Resource Management shall provide to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees an annual report no later than October 1 of each year detailing identified savings and their usage.</p> <p>G.1. Out of the appropriation for this Item, an amount estimated at \$20,613,820 \$19,658,419 the second year from the general fund shall be transferred to state agencies and institutions of higher education to support the general fund portion of costs associated with changes in the employer's share of premiums paid for the Commonwealth's health benefit plans.</p> <ol style="list-style-type: none"> 2. Notwithstanding any contrary provision of law, the health benefit plans for state employees resulting from the additional funding in this Item shall allow for a portion of employee medical premiums to be charged to employees. 3. The Department of Human Resource Management shall explore options within the health insurance plan for state employees to promote value-based health choices aimed at creating greater employee satisfaction with lower overall health care costs. It is the General Assembly's intent that any savings associated with this employee health care initiative be retained and used towards funding state employee salary or fringe benefit cost increases. 4. Notwithstanding any other provision of law, it shall be the sole responsibility and authority of the Department of Human Resource Management to establish and enforce employer contribution rates for any health insurance plan established pursuant to §2.2-2818, Code of Virginia. 5. The Department of Human Resource Management is prohibited from establishing a retail maintenance network for maintenance drugs that includes penalties for non-use of the retail maintenance network. 6. The Department of Human Resource Management shall not increase the annual out-of-pocket maximum included in the plans above the limits in effect for the plan year which began on July 1, 2014. 7. The Department of Human Resource Management shall include language in all contracts, signed on or after July 1, 2018, with third party administrators of the state employee health plan requiring the third party administrators to: 1) maintain policies and procedures for 				

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transparency in their pharmacy benefit administration programs; 2) transparently provide information to state employees through an explanation of benefits regarding the cost of drug reimbursement; dispensing fees; copayments; coinsurance; the amount paid to the dispensing pharmacy for the claim; the amount charged to the third party administrator for the claim by the third party administrator's pharmacy benefit manager; and the amount charged by the third party administrator to the Commonwealth; and 3) provide a report to the Department of Human Resource Management of the aggregate difference in amounts between reimbursements made to pharmacies for claims covered by the state employee insurance plan, the amount charged to the third party administrator for the claim by the third party administrator's pharmacy benefit manager, and the amount charged by the third party administrator to the Commonwealth as well as an explanation for any difference.

8. Notwithstanding the provisions of § 38.2-3418.17 and any other provision of law, effective October 1, 2018, the Department of Human Resource Management shall provide coverage under the state employee health insurance program for the treatment of autism spectrum disorder through the age of eighteen.

H.1. Contribution rates paid to the Virginia Retirement System for the retirement benefits of public school teachers, state employees, state police officers, state judges, and state law enforcement officers eligible for the Virginia Law Officers Retirement System shall be based on a valuation of retirement assets and liabilities that are consistent with the provisions of Chapters 701 and 823, Acts of Assembly of 2012.

2. Retirement contribution rates, excluding the five percent employee portion, shall be as set out below and include both the regular contribution rate and for the public school teacher plan the rate calculated by the Virginia Retirement System actuary for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium:

	FY 2021	FY 2022
Public school teachers	16.62%	16.62%
State employees	14.46%	14.46%
State Police Officers' Retirement System	26.33%	26.33%
Virginia Law Officers' Retirement System	21.90%	21.90%
Judicial Retirement System	29.84%	29.84%

3. Payments of all required contributions and insurance premiums to the Virginia Retirement System and its third-party administrators, as applicable, shall be made no later than the tenth day following the close of each month of the fiscal year.

4. Out of the appropriation for this Item, amounts estimated at \$15,893,697 the first year and \$16,578,460 the second year, from the general fund shall be transferred to state agencies and institutions of higher education, to support the general fund portion of costs associated with changes in employer contributions for state employee retirement as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for retirement contributions are appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer retirement contribution rate for public school teachers is appropriated elsewhere in this act under Direct Aid to Public Education.

I. Rates paid to the Virginia Retirement System on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia.

J. The Virginia Retirement System Board of Trustees shall account for the employer retirement contribution payments for the public school teacher plan deferred for the 2010-

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2012 biennium based on limiting employer retirement contributions to the Virginia Retirement System to the actuarial normal cost. In setting the employer retirement contribution rates for the public school teacher plan for subsequent biennia, the board shall calculate a separate, supplemental employer contribution rate that will amortize such deferred payments over a period of ten years using the board's assumed long-term rate of return. The Governor shall include funds to support payment of the approved state portion of such board-approved, supplemental employer contribution rates for the public school teacher plan in the budget submitted to the General Assembly.

K.1. Contribution rates paid to the Virginia Retirement System for other employee benefits to include the public employee group life insurance program, the Virginia Sickness and Disability Program, the state employee retiree health insurance credit, and the public school teacher retiree health insurance credit, shall be based on a valuation of assets and liabilities that assume an investment return of ~~seven~~ 6.75 percent and an amortization period of 30 years. ; ~~except beginning in fiscal year 2021 the state employee retiree health credit amortization period shall be reduced by 5 years.~~

2. Contribution rates paid on behalf of public employees for other programs administered by the Virginia Retirement System shall be:

	FY 2021	FY 2022
State employee retiree health insurance credit	1.25% 1.12%	1.25% 1.12%
Public school teacher retiree health insurance credit	1.21%	1.21%
State employee group life insurance program	1.34%	1.34%
Employer share of the public school teacher group life insurance program	0.54%	0.54%
Virginia Sickness and Disability Program	0.61%	0.61%

3. Funding for the Virginia Sickness and Disability Program is calculated on a rate of 0.56 percent of total payroll.

4. Out of the appropriation for this Item, amounts estimated at ~~\$3,980,010~~ \$98,211 the first year and ~~\$4,153,072~~ \$102,507 the second year, from the general fund shall be transferred to state agencies and institutions of higher education, to support the general fund portion of costs associated with changes in employer contributions for state employee benefits as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for public employee group life insurance contributions is appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer public school teacher group life insurance and retiree health insurance credit rates is appropriated elsewhere in this act under Direct Aid to Public Education.

L.1. The retiree health insurance credit contribution rates for the following groups of state supported local public employees shall be: 0.36 percent for constitutional officers and employees of constitutional officers 0.38 percent for employees of local social services boards, and 0.39 percent for General Registrars and employees of General Registrars.

2. The Director, Department of Planning and Budget, shall withhold and transfer to this Item amounts estimated at \$55,805 the first year and \$55,805 the second year to reflect the general fund portion of the net savings resulting from changes in the retiree health insurance credit contribution rates for state supported local public employees through the Compensation Board, the Department of Social Services, and the Department of Elections pursuant to § 51.1-1403, Code of Virginia.

M.1. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced

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retirement benefits provided for in § 2.2-3204(A), Code of Virginia for employees who are involuntarily separated from employment with the Commonwealth if the Director of the Department of Planning and Budget certifies that such action results from 1. budget reductions enacted in the Appropriation Act, 2. budget reductions executed in response to the withholding of appropriations by the Governor pursuant to §4-1.02 of the Act, 3. reorganization or reform actions taken by state agencies to increase efficiency of operations or improve service delivery provided such actions have been previously approved by the Governor, or 4. downsizing actions taken by state agencies as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue, and if the Director of the Department of Human Resource Management certifies that the action comports with personnel policy. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

2. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia, for employees who are involuntarily separated from employment with the Commonwealth if the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules have certified on or after July 1, 2016, that such action results from 1. budget reductions enacted in the Appropriation Act pertaining to the Legislative Department; 2. reorganization or reform actions taken by agencies in the legislative branch of state government to increase efficiency of operations or improve service delivery provided such actions have been approved by the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules; or 3. downsizing actions taken by agencies in the legislative branch of state government as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue and if the applicable agency certifies that the actions comport with the provisions of and related policies associated with the Workforce Transition Act. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

N. The purpose of this paragraph is to provide a transitional severance benefit, under the conditions specified, to eligible city, county, school division or other political subdivision employees who are involuntarily separated from employment with their employer.

1.a. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the employer, or being placed on leave without pay-layoff or equivalent status, due to budget reductions, employer reorganizations, workforce downsizings, or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary resignations. As used in this paragraph, a "terminated employee" shall mean an employee who is involuntarily separated from employment with his employer.

b. The governing authority of a city, county, school division or other political subdivision electing to cover its employees under the provisions of this paragraph shall adopt a resolution, as prescribed by the Board of Trustees of the Virginia Retirement System, to that effect. An election by a school division shall be evidenced by a resolution approved by the Board of such school division and its local governing authority.

2.a. Any (i) "eligible employee" as defined in § 51.1-132, (ii) "teacher" as defined in § 51.1-124.3, and (iii) any "local officer" as defined in § 51.1-124.3 except for the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, and (a) for whom reemployment with his employer is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this paragraph. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

b. Eligibility shall commence on the date of involuntary separation.

3.a. On his date of involuntary separation, an eligible employee with (i) two years' service

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<p>or less to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.</p> <p>b. Transitional severance benefits shall be computed by the terminating employer's payroll department. Partial years of service shall be rounded up to the next highest year of service.</p> <p>c. Transitional severance benefits shall be paid by the employer in the same manner as normal salary. In accordance with § 60.2-229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.</p> <p>d. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan administered by the employer for its employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1, or such other group life insurance plan as may be administered by the employer. During such twelve months, the terminating employer shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.</p> <p>e. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an individual capacity as an independent contractor or consultant by the employer during the time he is receiving such payments.</p> <p>f. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.</p> <p>4.a. In lieu of the transitional severance benefit provided in subparagraph 3 of this paragraph, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of a defined benefit plan within the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, and including a member eligible for the benefits described in subsection B of § 51.1-138, and (ii) at least fifty years of age, may elect to have the employer purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the employer shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the employer shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subparagraphs 3.a. and 3.d. of this paragraph by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153 and disability retirement under the provisions of § 51.1-156 et seq., shall not be available under this paragraph.</p> <p>b. In lieu of the (i) transitional severance benefit provided in subparagraph 3 of this paragraph and (ii) the retirement program provided in this subsection, any employee who is otherwise eligible may take immediate retirement pursuant to §§ 51.1-155.1 or 51.1-155.2.</p>				

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c. The retirement allowance for any employee electing to retire under this paragraph who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A. 2. of § 51.1-155.

d. The retirement program provided in this subparagraph shall be otherwise governed by policies and procedures developed by the Virginia Retirement System.

e. Costs associated with the provisions of this subparagraph shall be factored into the employer contribution rates paid to the Virginia Retirement System.

f. Notwithstanding the foregoing, the provisions of this paragraph N shall apply to an otherwise eligible employee who is a person who becomes a member on or after July 1, 2010, a person who does not have 60 months of creditable service as of January 1, 2013, or a person who is enrolled in the hybrid retirement program described in § 51.1-169, mutatis mutandis.

O.1. a. In order to address the potential for stranded liability in the Virginia Retirement System, notwithstanding any other contrary provisions of the Appropriation Act or of § 51.1-145, institutions of higher education that have established their own optional retirement plan under § 51.1-126(B) shall pay, effective July 1, 2019, contributions to the employer's retirement allowance account in an amount equal to that portion of the state employer contribution rate designated to pay down the total unfunded accrued liability, for any positions existing as of December 31, 2011 that are subsequently converted from non-Optional Retirement Plan for Higher Education (ORPHE) eligible positions to ORPHE-eligible positions on or after January 1, 2012 and that are filled by an employee who elects to participate in the ORPHE. In meeting this obligation, each institution shall provide to the Virginia Retirement System by April 1 of each year a list of all positions converted from non-ORPHE eligible positions to ORPHE-eligible positions since January 1, 2012, and whether current employees in such positions have elected ORPHE participation.

b. Such contributions shall not be required for any new position established by the institution after January 1, 2012, that may be eligible for participation in the Optional Retirement Plan for Higher Education.

2. Furthermore, the Department of Accounts, the Virginia Retirement System, and the universities of higher education shall work to develop a methodology to identify and report separately personnel services expenditures for university personnel in positions that use to be classified positions but have been transitioned to university staff positions.

P. 1. Notwithstanding the provisions of § 17.1-327, Code of Virginia, any justice, judge, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission who is retired under the Judicial Retirement System and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of \$250 for each day the person actually sits, exclusive of travel time.

2. Out of the general fund appropriation for this Item, \$500,000 in the first year and \$500,000 in the second year is provided to support the costs resulting from the changes in the per diem amounts provided for in paragraph P.1. The Director, Department of Planning and Budget, shall disburse funding from this Item to all affected judicial and independent agencies upon request.

Q.1. Notwithstanding § 9.1-400, Code of Virginia, or any contrary provision of law, "eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401, Code of Virginia, shall also include the natural or adopted child or children of a "deceased person", as defined in § 9.1-400, Code of Virginia, or "disabled person", as defined in § 9.1-400, Code of Virginia, born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability and prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

2. Notwithstanding § 9.1-400.1 D, Code of Virginia, the annual contribution for each

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participating employer shall be based on a premium of \$717.31 per eligible full-time equivalent employee <i>in the first year and \$722.55 per eligible full-time equivalent employee in the second year.</i> .				
3. The Director, Department of Planning and Budget, shall <i>withhold and transfer from</i> to this Item general fund amounts estimated at \$202,639 \$211,347 the first year and \$202,639 \$160,347 the second year <i>to from</i> state agencies and institutions of higher education to support the general fund portion of costs of Line of Duty Act premiums based on the latest enrollment update from the Virginia Retirement System and the premium authorized in this paragraph.				
4. <i>Notwithstanding the provisions of § 9.1-401(C), Code of Virginia, any disabled person, as defined in § 9.1-400(B), Code of Virginia, who was injured in the line-of-duty in February 2016 but whose date of disability for purposes of the Line-of-Duty Act is in March 2019, shall not be subject to subdivision 4 of such subsection. Also, the spouse of such person as of the date of disability shall be considered an "eligible spouse" for purposes of continued health coverage pursuant to § 9.1-401, Code of Virginia, and will not be subject to the provisions of that definition that disqualify a spouse who ceases to be married to a disabled person, as defined in §9.1-400, Code of Virginia, or the spouse of a deceased person who remarries at any time.</i>				
R.1. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, general fund amounts estimated at \$457,852 the first year and \$173,038 \$601,414 the second year from state agencies and institutions of higher education to recognize the general fund portion of savings associated with the latest workers' compensation premiums provided by the Department of Human Resource Management.				
2. <i>In addition to the amount listed in paragraph R.1. above, \$2,000,000 from the general fund in the first year is included to support the retroactive provisions of House Bill 2207 and Senate Bill 1375 of the 2020 General Assembly session. If the final enactment of these bills do not provide for retroactive coverage than the Director of the Department of Planning and Budget shall unallot the \$2,000,000 prior to June 30, 2021.</i>				
S. The following agency heads, at their discretion, may utilize agency funds to implement the provisions of new or existing performance-based pay plans:				
1. The heads of agencies in the Legislative and Judicial Departments;				
2. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;				
3. The Attorney General;				
4. The Director of the Virginia Retirement System;				
5. The Executive Director of the Virginia Lottery;				
6. The Director of the University of Virginia Medical Center;				
7. The Chief Executive Officer of the Virginia College Savings Plan;				
8. The Executive Director of the Virginia Port Authority; and				
9. The Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority.				
T. Out of the amounts included in this item, amounts estimated at \$1,398,067 the first year and \$4,627,062 the second year from the general fund is available for transfer to state agencies and institutions of higher education to effectuate the provisions of House Bill 395 and Senate Bill 7 which increases the minimum wage beginning January 1, 2021.				
U.1. The Governor is hereby authorized to allocate a sum of up to \$118,087,286 the first year and up to \$146,766,525 the second year from this appropriation; to the extent necessary to offset any downward revisions of the general fund revenue estimate prepared for fiscal years 2021 and 2022; after the enactment by the General Assembly of the 2020 Appropriation Act. If within five days of the preliminary close of the fiscal year ending on June 30, 2020; the Comptroller's analysis does not determine that a revenue re-forecast is required pursuant to §				

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<p>2.2-1503.3; Code of Virginia; then such appropriation shall be used only for employee compensation purposes as stated in paragraphs V., W., X., Y., Z., AA. and BB. below:</p>				
<p>2: Furthermore, the \$95,205,619 the first year and \$194,971,850 the second year from the general fund allocated to support the state share of a two percent salary adjustment the first year and an additional two percent salary adjustment the second year for SOQ funded positions authorized in Item 145 of this act shall be unallotted; if the provisions of paragraph U.1. are not met and the actions authorized in paragraphs V., W., X., Y., Z., AA., and BB. of this item are not effectuated:</p>				
<p>V.1: Contingent on the provisions of paragraph U.1. above; \$89,883,598 from the general fund the first year is available to provide all classified employees of the Executive Branch and other full-time employees of the Commonwealth, except elected officials and employees receiving a salary adjustment pursuant to paragraph Z. below; who were employed on April 1, 2020; and remain employed until at least November 24, 2020; a one-time bonus payment equal to three percent of their base pay on December 1, 2020:</p>				
<p>2: Employees in the Executive Department subject to the Virginia Personnel Act shall receive the bonus payment authorized in this paragraph only if they have attained an equivalent rating of at least "Contributor" on their performance evaluation and have no active written notices under the Standards of Conduct within the preceding twelve-month period:</p>				
<p>3: The governing authorities of the state institutions of higher education may provide the bonus for faculty and university staff based on performance and other employment-related factors; as long as the bonuses do not exceed what the average would have been based on the general methodology authorized in this paragraph:</p>				
<p>W: Contingent on the provisions of paragraph U.1; out of amounts appropriated for Employee Compensation in this item; \$20,725,124 from the general fund the first year is provided for a one-time bonus; equal to two percent of their base salary on December 1, 2020 provided that the governing authority of such employees use such funds to support the provision of a bonus for the following listed employees:</p>				
<p>a: Locally-elected constitutional officers;</p>				
<p>b: General Registrars and members of local electoral boards;</p>				
<p>c: Full-time employees of locally-elected constitutional officers and;</p>				
<p>d: Full-time employees of Community Services Boards; Centers for Independent Living; secure detention centers supported by Juvenile Block Grants; juvenile delinquency prevention and local court service units; local social services boards; local pretrial services act and comprehensive community corrections act employees; and local health departments where a memorandum of understanding exists with the Virginia Department of Health:</p>				
<p>X.1. Contingent on the provisions of paragraph U.1. above; \$109,353,218 <i>Out of the appropriation for this Item, \$182,139,271</i> from the general fund the second year is provided to increase the base salary of the following employees by three5.0 percent on June 10, 2021:</p>				
<p>a. Full-time and other classified employees of the Executive Department subject to the Virginia Personnel Act;</p>				
<p>b. Full-time employees of the Executive Department not subject to the Virginia Personnel Act, except officials elected by popular vote;</p>				
<p>c. Any official whose salary is listed in § 4-6.01 of this act, subject to the ranges specified in the agency head salary levels in § 4-6.01 c;</p>				
<p>d. Full-time staff of the Governor's Office, the Lieutenant Governor's Office, the Attorney General's Office, Cabinet Secretaries' Offices, including the Deputy Secretaries, the Virginia Liaison Office, and the Secretary of the Commonwealth's Office;</p>				
<p>e. Heads of agencies in the Legislative Department;</p>				

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f. Full-time employees in the Legislative Department, other than officials elected by popular vote;				
g. Legislative Assistants as provided for in Item 1 of this act;				
h. Judges and Justices in the Judicial Department;				
i. Heads of agencies in the Judicial Department;				
j. Full-time employees in the Judicial Department;				
k. Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission, the Chief Executive Officer of the Virginia College Savings Plan, and the Directors of the Virginia Lottery, and the Virginia Retirement System; and				
l. Full-time employees of the State Corporation Commission, the Virginia College Savings Plan, the Virginia Lottery, Virginia Workers' Compensation Commission, and the Virginia Retirement System.				
2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.				
b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. However, notwithstanding anything herein to the contrary, the governing authorities of those state institutions of higher education with employees not subject to the Virginia Personnel Act may implement salary increases for such employees that may vary based on performance and other employment-related factors. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.				
3. The Department of Human Resource Management shall increase the minimum and maximum salary for each band within the Commonwealth's Classified Compensation Plan by three 5.0 percent on June 10, 2021. No salary increase shall be granted to any employee as a result of this action. The department shall develop policies and procedures to be used in instances when employees fall below the entry level for a job classification due to poor performance. Movement through the revised pay band shall be based on employee performance.				
4. The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of new or existing performance-based pay plans:				
a. The heads of agencies in the Legislative and Judicial Departments;				
b. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;				
c. The Attorney General;				
d. The Director of the Virginia Retirement System;				
e. The Director of the Virginia Lottery;				
f. The Director of the University of Virginia Medical Center;				
g. The Chief Executive Officer of the Virginia College Savings Plan; and				
h. The Executive Director of the Virginia Port Authority.				
5. The base rates of pay, and related employee benefits, for wage employees may be increased by up to three 5.0 percent no earlier than June 10, 2021. The cost of such increases for wage				

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employees shall be borne by existing funds appropriated to each agency.

6. The governing authorities of those state institutions of higher education with employees may provide a salary adjustment based on performance and other employment-related factors, as long as the increases do not exceed the ~~three~~ 5.0 percent increase on average.

~~Y.1. Contingent on the provisions of paragraph U.1. above; the~~ *The* appropriations in this item include funds to increase the base salary of the following employees by ~~three~~ 5.0 percent on July 1, 2021, provided that the governing authority of such employees use such funds to support salary increases for the following listed employees.

- a. Locally-elected constitutional officers;
- b. General Registrars and members of local electoral boards;
- c. Full-time employees of locally-elected constitutional officers and,
- d. Full-time employees of Community Services Boards, Centers for Independent Living, secure detention centers supported by Juvenile Block Grants, juvenile delinquency prevention and local court service units, local social services boards, local pretrial services act and Comprehensive Community Corrections Act employees, and local health departments where a memorandum of understanding exists with the Virginia Department of Health.

2. Out of the appropriation for Supplements to Employee Compensation is included ~~\$28,897,190~~ \$48,251,656 the second year from the general fund to support the costs associated with the salary increase provided in this paragraph.

~~Z. Contingent on the provisions of paragraph U.1. above; \$5,187,764 the first year and \$6,225,317 the second year from the general fund; is available for salary adjustments for sworn officers of the Department of State Police as follows:~~

- ~~a: Sworn employees of the Department of State Police, who have three or more years of continuous state service shall receive \$110 for each full year of service up to thirty years; effective August 10, 2020.~~
- ~~b: Prior to effectuating the salary adjustment authorized in this paragraph, the base salary of all sworn officers of the State Police shall be increased by two percent; effective August 10, 2020.~~
- ~~c: The Department of Human Resource Management shall adjust the minimum and maximum salary for each band within the Commonwealth's Classified Compensation Plan as needed to effectuate the pay action in this paragraph.~~

~~AA. Contingent on the provisions of paragraph U.1. above; included in the appropriation for this item is \$2,290,800 the first year from the general fund to provide a three percent bonus on December 1, 2020 year for adjunct faculty at Virginia two-year and four-year public colleges and higher education institutions:~~

~~BB. Contingent on the provisions of paragraph U.1. above; included~~ *Included* in the appropriation for this item is ~~\$2,290,800~~ \$5,771,428 the second year from the general fund to provide a ~~three~~ 5.0 percent increase in base pay for adjunct faculty at Virginia two-year and four-year public colleges and higher education institutions, effective June 10, 2021.

CC. The Director of the Department of Planning and Budget shall withhold from general fund appropriations of state agencies and institutions of higher education, and transfer to this item, the amount of \$46,111,165 the first year representing the savings that will be realized from providing a premium holiday for members in the state employee health benefits program, including retirees and COBRA beneficiaries included in the state employee funding pool, for the two pay periods in December 2020.

DD. Included in the appropriation for this item is \$1,031,287 from the general fund in the first year, which shall be made available to provide sworn officers of the Department of State Police, who were employed as of November 24, 2020, a one-time bonus payment of \$500 on December 1, 2020.

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EE.	Included in the appropriation for this item is \$44,675 from the general fund in the first year, which shall be made available to provide sworn officers of the Division of Capitol Police, who were employed as of November 24, 2020, a one-time bonus payment of \$500 on December 1, 2020.			
FF.	Included in the appropriation for this item is \$3,728,996 from the general fund in the first year, which shall be made available to provide corrections and law-enforcement staff of the Department of Corrections and the Department of Juvenile Justice, who were employed as of November 24, 2020, a one-time bonus payment of \$500 on December 1, 2020.			
GG.	Included in the appropriation for this item is \$625,985 from the general fund in the first year, which shall be made available to provide sworn officers of state agencies and higher education institutions, not otherwise included in paragraphs CC., DD., and EE., who were employed as of November 24, 2020, a one-time bonus payment of \$500 on December 1, 2020.			
HH.	Included in the appropriation for this item is \$5,518,139 from the general fund in the first year, which shall be made available to provide sworn constitutional officers and their staffs, including sheriffs, sheriffs' deputies, regional jail superintendents and corrections officers, a one-time bonus payment of \$500 on December 1, 2020.			
H:	If within five days of the preliminary close of the fiscal year ending on June 30, 2021, the Comptroller's analysis determines that revenues met or exceeded the forecast and there is sufficient revenue, the Governor is authorized to appropriate \$97,756,001 the second year for the employee compensation actions included in paragraphs JJ., KK., and LL. below:			
JJ.1:	Contingent on the provisions of paragraph H: above, \$79,804,059 from the general fund the second year is available <i>appropriated</i> to provide all classified employees of the Executive Branch and other full-time employees of the Commonwealth, except elected officials, who were employed on April 1, 2021, and remain employed until at least August 24, 2021, a one-time bonus payment equal to \$1,500 on September 1, 2021:			
2:	Employees in the Executive Department subject to the Virginia Personnel Act shall receive the bonus payment authorized in this paragraph only if they have attained an equivalent rating of at least "Contributor" on their performance evaluation and have no active written notices under the Standards of Conduct within the preceding twelve-month period:			
3:	The governing authorities of the state institutions of higher education may provide the bonus for faculty and university staff based on performance and other employment-related factors, as long as the bonuses do not exceed what the average would have been based on the general methodology authorized in this paragraph:			
KK:	Contingent on the provisions of paragraph H: above, \$2,408,099 the second year from the general fund is provided for a \$750 one-time bonus on September 1, 2021 for adjunct faculty at Virginia two-year and four-year public colleges and higher education institutions:			
LL:	Included in the contingent appropriation \$15,543,843 from the general fund the second year is provided for a one-time bonus, equal to 1.5 percent of their base salary on September 1, 2021 provided that the governing authority of such employees use such funds to support the provision of a bonus for the following listed employees:			
1:	Locally-elected constitutional officers;			
2:	General Registrars and members of local electoral boards;			
3:	Full-time employees of locally-elected constitutional officers; and,			
4:	Full-time employees of Community Services Boards; Centers for Independent Living; secure detention centers supported by Juvenile Block Grants; juvenile delinquency prevention and local court service units; local social services boards; local pretrial services act and comprehensive community corrections act employees; and local health departments where a memorandum of understanding exists with the Virginia Department of Health:			
MM:	If there is no downward revision to the general fund revenue estimate included in this act for fiscal year 2022 and such revenue estimate includes sufficient revenue to provide both			

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(i) the bonus payments for state and state-supported employees provided in paragraphs JJ-, KK- and LL- and (ii) a salary increase incentive for funded SOQ instructional and support positions in that fiscal year; the Governor shall include such salary increase incentive in his introduced budget for consideration by the 2021 General Assembly-

NN. In addition to the increase authorized in paragraph X. of this item, \$4,543,944 from the general fund in the second year is provided for an additional 3.0 percent salary increase for the Sworn employees of the Department of State Police effective June 10, 2021.

OO. 1. Subsequent to effectuating the salary adjustment authorized in paragraphs X. and NN. of this item, the base salary of Sworn employees of the Department of State Police, who have three or more years of continuous state service shall receive a salary adjustment of \$100 for each full year of service up to thirty years, to address state employee salary compression, effective June 10, 2021.

2. Out of the general fund appropriation for this Item is included \$3,161,200 from the general fund in the second year to support the cost of the compression adjustment.

PP. The Department of Human of Resource Management is authorized to adjust the minimum and maximum salary ranges as needed to reflect the salary increases approved in this Item.

QQ. The governing authorities of those state institutions of higher education with employees may provide a salary adjustment based on performance and other employment-related factors, as long as the increases do not exceed the five percent increase, on average. In addition, in recognition of differing financial circumstances and factors at this time, the governing authorities shall have the flexibility, for employee groups other than for classified employees, to decide to provide for an overall percentage increase that is less than five percent overall.

RR. Included in the appropriation for this item is \$7,457,992 from the general fund in the second year, which shall be made available to provide corrections and law-enforcement staff of the Department of Corrections and the Department of Juvenile Justice, who were employed as of November 24, 2021, a one-time bonus payment of \$1,000 on December 1, 2021.

478.	Adjustments to Designated State Agency Activities (23800).....			(\$49,415,082)	(\$37,112,885)
				(\$42,830,941)	(\$19,035,699)
	Undistributed Support for Designated State Agency Activities (23801).....	(\$49,415,082)	(\$37,112,885)		
		(\$42,830,941)	(\$19,035,699)		
	Fund Sources: General.....	(\$49,415,082)	(\$37,112,885)		
		(\$42,830,941)	(\$19,035,699)		

Authority: Discretionary Inclusion

A. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes of paying rates billed by other agencies as internal service funds or for other designated state activities, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish these purposes.

B. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in the designated state agency activities as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

C. The Director, Department of Planning and Budget, shall transfer to this Item, general fund amounts estimated at ~~\$53,371,394~~ \$47,450,553 the first year and ~~\$49,155,924~~ \$28,662,545 the second year from state agencies and institutions of higher education to

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support the general fund portion of savings resulting from the estimated usage of technology services provided by the Virginia Information Technologies Agency.				
D. The Director, Department of Planning and Budget, shall transfer from this Item amounts estimated at \$1,934,068 \$191,162 the first year and \$2,754,914 \$191,162 the second year from the general fund for the general fund share of rental costs for space maintained and operated by the Department of General Services.				
E: Out of this appropriation, amounts estimated at \$180,746 the first year and \$180,746 the second year from the general fund shall be provided to state agencies to support the costs of information technology security audits and information security officer services. With such funding, agencies are encouraged to work with the Virginia Information Technologies Agency's information technology shared security center.				
F. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, general fund amounts estimated at \$1,869,798 \$1,529,546 the first year and \$2,119,765 \$1,791,460 the second year from state agencies and institutions of higher education to recognize the general fund portion of savings resulting from changes in agency charges for the Cardinal Financial System operated by the Department of Accounts.				
G. The Director, Department of Planning and Budget, shall transfer from this Item an amount estimated at \$10,053,913 the second year from the general fund for the general fund share of costs for agency charges for the Cardinal Human Capital Management System operated by the Department of Accounts.				
H. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, general fund amounts estimated at \$251,280 the first year and \$225,171 the second year from state agencies and institutions of higher education to recognize the general fund portion of savings resulting from changes in agency charges for the Performance Budgeting system.				
I. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, general fund amounts estimated at \$316,114 the first year and \$330,518 the second year from executive branch agencies to recognize the savings resulting from changes in agency charges for the Personnel Management Information System.				
J. The Director, Department of Planning and Budget, shall transfer from this Item general fund amounts estimated at \$994,019 the first year and \$994,019 the second year for the general fund share of changes in agency charges for general liability insurance premiums billed by the Department of the Treasury.				
K.1. The Director Department of Planning and Budget, shall transfer from this Item general fund amounts estimated at \$670,209 the first year and \$670,209 the second year to support the existing general fund portion of costs for the Human Resource Shared Service Center operated by the Department of Human Resource Management. The center will begin billing all participating agencies for services in fiscal year 2021.				
2. The Director, Department of Planning and Budget, shall transfer from this Item amounts estimated at \$105,615 the first year and \$64,692 the second year from the general fund for the general fund share of changes in costs of the Human Resource Shared Service Center operated by the Department of Human Resource Management.				
L. Out of this appropriation, an amount estimated at \$2,508,847 \$4,755,547 the first year from the general fund shall be used to support state agency approved migration expenses for the migration from the Commonwealth Enterprise Solutions Center as authorized in Item 90 of this act. Any unexpended general fund balances remaining from the appropriation in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and reappropriated for its original purpose.				
479.	Payments for Special or Unanticipated Expenditures (75800).....		\$10,769,500 \$6,769,500	\$8,519,500 \$20,945,052
	Miscellaneous Contingency Reserve Account (75801).....	\$4,300,000 \$1,300,000	\$4,300,000 \$1,300,000	
	Economic Development Assistance (75804).....	\$2,400,000	\$2,150,000	

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Undistributed Support for Designated State Agency Activities (75806).....	\$4,069,500	\$2,069,500		
	\$3,069,500	\$17,495,052		
Fund Sources: General.....	\$10,769,500	\$8,519,500		
	\$6,769,500	\$20,945,052		

Authority: Discretionary Inclusion.

A. The Governor is hereby authorized to allocate sums from this appropriation, in addition to an amount not to exceed \$5,000,000 from the unappropriated balance derived by subtracting the general fund appropriations from the projected general fund revenues in this act, to provide for supplemental funds pursuant to paragraph D hereof. Transfers from this Item shall be made only when (1) sufficient funds are not available within the agency's appropriation and (2) additional funds must be provided prior to the end of the next General Assembly Session.

B.1. The Governor is authorized to allocate from the unappropriated general fund balance in this act such amounts as are necessary to provide for unbudgeted cost increases to state agencies incurred as a result of actions to enhance homeland security, combat terrorism, and to provide for costs associated with the payment of a salary supplement for state classified employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard. Any salary supplement provided to state classified employees ordered to active duty, shall apply only to employees who would otherwise earn less in salary and other cash allowances while on active duty as compared to their base salary as a state classified employee. Guidelines for such payments shall be developed by the Department of Human Resource Management in conjunction with the Departments of Accounts and Planning and Budget.

2. The Governor shall submit a report within thirty days to the Chairmen of House Appropriations and Senate Finance Committees which itemizes any disbursements made from this Item for such costs.

3. The governing authority of the agencies listed in this subparagraph may, at its discretion and from existing appropriations, provide such payments to their employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard, as are necessary to provide comparable pay supplements to its employees.

- a. Agencies in the Legislative and Judicial Departments;
- b. The State Corporation Commission, the Virginia Workers' Compensation Commission, the Virginia Retirement System, the Virginia Lottery, and the Virginia College Savings Plan;
- c. The Office of the Attorney General and the Department of Law; and
- d. State-supported institutions of higher education.

C. The Governor is authorized to expend from the unappropriated general fund balance in this act such amounts as are necessary, up to \$1,500,000, to provide for indemnity payments to growers, producers, and owners for losses sustained as a result of an infectious disease outbreak or natural disaster in livestock and poultry populations in the Commonwealth. These indemnity payments will compensate growers, producers, and owners for a portion of the difference between the appraised value of each animal destroyed or slaughtered or animal product destroyed in order to control or eradicate an animal disease outbreak and the total of any salvage value plus any compensation paid by the federal government.

D. Out of the appropriation for this item is included \$1,000,000 the first year and \$1,000,000 the second year from the general fund to be used by the Governor as he may determine to be needed for the following purposes:

- 1. To address the six conditions listed in § 4-1.03 c 5 of this act.
- 2. To provide for unbudgeted and unavoidable increases in costs to state agencies for

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essential commodities, services, and training which cannot be absorbed within agency appropriations including unbudgeted benefits associated with Workforce Transition Act requirements.				
3. To secure federal funds in the event that additional matching funds are needed for Virginia to participate in the federal Superfund program.				
4. To provide a payment of up to \$100,000 to the Military Order of the Purple Heart, for the continued operation of the National Purple Heart Hall of Honor, provided that at least half of other states have made similar grants.				
5. In addition, if the amounts appropriated in this Item are insufficient to meet the unanticipated events enumerated, the Governor may utilize up to \$1,000,000 the first year and \$1,000,000 the second year from the general fund amounts appropriated for the Commonwealth's Opportunity Fund for the unanticipated purposes set forth in paragraph D.1. through paragraph D.5. of this Item.				
6. In addition, to provide for payment of monetary rewards to persons who have disclosed information of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act.				
7. The Department of Planning and Budget shall submit a quarterly report of any disbursements made from, commitments made against, and requests made for such sums authorized for allocation pursuant to this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees. This report shall identify each of the conditions specified in this paragraph for which the transfer is made.				
E. Included in this appropriation is \$300,000 the first year and \$300,000 the second year from the general fund to pay for private legal services and the general fund share of unbudgeted costs for enforcement of the 1998 Tobacco Master Settlement Agreement. Transfers for private legal services shall be made by the Director, Department of Planning and Budget upon prior written authorization of the Governor or the Attorney General, pursuant to § 2.2-510, Code of Virginia or Item 57, Paragraph D of this act. Transfers for enforcement of the Master Settlement Agreement shall be made by the Director, Department of Planning and Budget at the request of the Attorney General, pursuant to Item 57, Paragraph B of this act.				
F. Notwithstanding the provisions of § 58.1-608.3B.(v), Code of Virginia, any municipality which has issued bonds on or after July 1, 2001, but before July 1, 2006, to pay the cost, or portion thereof, of any public facility pursuant to § 58.1-608.3, Code of Virginia, shall be entitled to all sales tax revenues generated by transactions taking place in such public facility.				
G. Any unexpended balance remaining in this Item on June 30, 2020, shall be carried forward on the books of the Comptroller and shall be available for expenditure in the second year of the current biennium. Any unexpended balance remaining in this Item on June 30, 2021, shall be carried forward on the books of the Comptroller and shall be available for expenditures in the next biennium.				
H.1. Out of this appropriation, \$1,000,000 the first year <i>and \$9,000,000 the second year</i> from the general fund shall be provided to the City of Richmond for the reimbursement of expenses incurred for the <i>planning and</i> development of the Slavery and Freedom Heritage Site in Richmond, including Lumpkin's Pavilion and Slave Trail improvements. Any unexpended general fund balances remaining from the appropriation in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and reappropriated for its original purpose.				
2. The City of Richmond shall provide documentation to the Department of General Services on the progress of this project and actual expenditures incurred for it in a form acceptable to the Secretaries of Finance and Administration.				
3. The Department of General Services shall act as the fiscal agent for these funds. The director shall oversee the expenditure of state appropriations to ensure that payments to the City of Richmond are made consistent with the purposes set out in paragraphs and The Director, Department of Planning and Budget, is authorized to transfer these funds to the Department of General Services to implement this appropriation.				

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4. This appropriation shall be exempt from the disbursement procedures specified in § 4-5.05 of the act.				
<p><i>5. Funding shall be made available to the City of Richmond for the planning and development of the Slave Trail improvements coincident with the effective date of this act. Any remaining funds contained in paragraph H.1. above for the purposes enumerated shall be made available to the City of Richmond upon the receipt of planning and development information by the Department of General Services. The Director of the Department of Planning and Budget shall provide the additional funds at the request of the Department of General Services as the fiscal agent for this project.</i></p>				
<p>I.1. The Director, Department of Planning and Budget, is authorized to transfer any remaining balances originally appropriated in Item 476 I., Chapter 836, 2017 Virginia Acts of Assembly, the first year, to the Department of State Police for unanticipated costs associated with mitigating security threats, information technology (IT) security gaps, and the data stored on IT systems used by the Department. The costs eligible for reimbursement shall be for information technology and telecommunications goods and services that have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.</p>				
<p>2.a. Notwithstanding the provisions of § 2.2-2011, Code of Virginia, the Department of State Police is authorized to procure, develop, operate, and manage the cyber security and management tools required to protect the information technology used by the Department that is defined as out-of-scope from the Virginia Information Technologies Agency pursuant to the Memorandum of Understanding (MOU) between the two agencies dated August 30, 2013. The Department of State Police shall be solely responsible for securing all aspects of information technology defined as out-of-scope in the current MOU.</p>				
<p>b. Costs expended by the Department of State Police for cyber security and management tools shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1. of this Item, after such expenses have been approved by the Chief Information Officer and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.</p>				
<p>3.a. The Superintendent of State Police shall develop and report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance a detailed transition plan addressing the steps required for the Department of State Police to assume responsibility for the development, operation, and management of all of its information technology infrastructure and services. The Department of State Police is authorized to procure consulting services to assist in the development of the detailed transition plan. The Virginia Information Technologies Agency shall assist in the development and drafting of the detailed transition plan.</p>				
<p>b. The report shall, at a minimum, include a detailed transition plan that: (i) identifies and evaluates anticipated transition timelines, tasks, activities, and responsible parties; (ii) identifies any one-time and ongoing costs of transitioning responsibility for information technology services from the Virginia Information Technologies Agency to the Department of State Police, including the estimated costs to obtain existing information technology assets or transition services from Northrop Grumman; (iii) identifies the ongoing costs of staffing, services, and contracts related to enterprise security and management tools, legacy system replacements or upgrades, construction or lease of facilities including data centers, labor costs and workload analyses, and training costs; (iv) identifies any other such factors deemed necessary for discussion as identified by the Superintendent of State Police or Chief Information Officer of the Commonwealth; (v) identifies necessary changes required to transition and modernize current statutes related to basic State Police communication systems consistent with the Criminal Justice Information Services Security Policy Version 5.5, or its successor; and (vi) provides a jointly developed and agreed upon MOU between the Department of State Police and the Virginia Information Technologies Agency that certifies the information.</p>				
<p>c. Costs expended by the Department of State Police for the development of the detailed transition plan shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1 of this item, after such expenses have</p>				

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	been approved by the Chief Information Officer and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.			
	d. The report and accompanying Memorandum shall be provided to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance as required by Item 476 I., Chapter 836, 2017 Virginia Acts of Assembly. The Chief Information Officer of the Commonwealth shall review the report and provide an analysis of the detailed transition plan no later than 30 days after submission of the report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance.			
	4. Any remaining balances as originally appropriated in Item 476 I.5., Chapter 836, 2017 Virginia Acts of Assembly, from the general fund are authorized to be transferred to reimburse the Department of State Police for costs associated with mitigating information technology security threats and gaps required to protect and manage out-of-scope information technology that is not addressed in paragraph 3.b. All such costs shall be eligible for reimbursement if they have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency. The Director, Department of Planning and Budget is authorized to release this funding following certification by the Chief Information Officer that these costs address cyber security threats and gaps, including upgrades to legacy applications to remediate audit findings by the Auditor of Public Accounts or Commonwealth Security and Risk Management.			
	J. Out of this appropriation, \$1,350,000 the first year and \$1,350,000 the second year from the general fund is provided to support the advancement of computer science education and implementation of the Commonwealth's new computer science standards across the public education continuum. These funds are intended to provide high quality professional development to current and future teachers; create, curate, and disseminate high quality computer science curriculum, instructional resources, and assessments; support summer and after-school computer science related programming for students; and facilitate meaningful career exposure and work-based learning opportunities in computer science fields for high school students. Funds shall be disbursed through a competitive grant process and shall prioritize at-risk students and schools. In consultation with the Secretary of Finance and the Secretary of Commerce and Trade, the Secretary of Education shall develop a process to award these funds in accordance with the provisions of this language, with the Governor providing final approval for distribution of the funds.			
	K.1. Out of this appropriation is included \$1,050,000 the first year and \$800,000 the second year from the general fund for the first two phases of the integration and enhancement of Virginia's workforce technology systems. The project will enable single sign-on access for users and the addition of new individual, organization, and community-level data from both current and future agency partners. To the maximum extent allowable under federal law, regulation, and guidance, functionality will be developed to automatically associate wage and licensure outcomes to participant records, enabling performance-driven management and contracting. The project will also support the development of shared customer-facing applications, analytic tools, and interfaces. All elements of this project will be conducted in coordination with the Chief Data Officer and Chief Workforce Development Advisor.			
	2. On or before November 1, 2020, the Chief Data Officer and Chief Workforce Development Advisor, with input from the Virginia Economic Development Partnership, shall submit a report detailing the progress of implementation for Phase I of this project among the four Titles of the Workforce Innovation and Opportunity Act and within the state's one-stop centers. This report shall also include a plan for sustaining Phase I and Phase II of the project, including the appropriate agency owner.			
	L. Out of this appropriation is included up to \$1,069,500 the first year and up to \$1,069,500 the second year from the general fund for the purpose of redistricting, which shall include expenses related to the Virginia Redistricting Commission if approved by voter referendum in the November, 2020 general election. The Department of Planning and Budget is authorized to transfer these amounts to the applicable state agency or agencies to support the purposes of redistricting, including supporting the Commission if approved.			
	M.1: Out of this appropriation, the Director of the Department of Planning and Budget is authorized to transfer an amount up to \$1,000,000 the first year and up to \$1,000,000 the			

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second year to the Department of Emergency Management for evaluating, upgrading, and maintaining the Integrated Flood Observation and Warning System (IFLOWS). These funds may not be transferred until the requirements of Paragraph 2. of this Item have been fulfilled.

2. The State Coordinator of the Department of Emergency Management shall develop a plan that prioritizes a list of repairs, replacements, upgrades, and maintenance needs of IFLOWS systems. The Department is directed to provide a report that consists of, but is not limited to, detailed costs to address each project; a phased plan to fund the cost of upgrading, enhancing, and maintaining the systems; if feasible, giving priority to systems that require immediate replacement, repairs, and upgrades; and recommendations for offsetting the costs with federal grants and cost-sharing opportunities with localities that rely on IFLOWS. The report shall be submitted to the Secretary of Finance, the Director of the Department of Planning and Budget, and the Chairs of the House Appropriations and Senate Finance Committees no later than October 15, 2020.

N. On or before June 30, 2021, the Committee on Joint Rules shall authorize a reversion to the general fund of \$500,000 from the World War I and World War II Commemoration Commission (872) from fiscal year 2020 Commission balances.

O. On or before June 30, 2020, the Director of the Department of Planning and Budget shall authorize the reversion to the general fund of \$38,500,000 in unexpended general fund year end balances from budget program 722 originally appropriated in Item 476.10 of Chapter 1283 of the 2020 Acts of Assembly.

P. Out of this appropriation is included up to \$3,000,000 the first year and up to \$3,000,000 the second year from the general fund for the purpose of funding criminal justice reform *or other* legislation adopted by the General Assembly during 2020 Special Session I and not otherwise funded in this act.

Q. The appropriations in this item include \$1,000,000 from the general fund in the first year to conduct an independent, third-party investigation of the culture, traditions, policies, and practices of the Virginia Military Institute. The investigative team shall report its findings and recommendations to the State Council of Higher Education for Virginia. Investigative notes, draft reports, and other correspondence and information furnished in confidence with respect to this investigation are exempt from disclosure under the Virginia Freedom of Information Act, section 2.2-3700 et seq. of the Code of Virginia.

R.1. Included in this Item is \$2,157,495 the second year from the general fund to support the transition offices established as a result of the 2021 elections for Governor, Lieutenant Governor, and Attorney General. Out of this amount, \$752,217 shall be transferred, based on actual expenses, to the Department of General Services, \$90,000 to the Division of Select Agencies Support Services, and \$1,315,278 to the Virginia Information Technologies Agency for the provision of facilities, equipment, services, and supplies required to support the transition activity.

2. The Commonwealth's financial support for the transition is to be allocated as follows:

- Office of the Governor: \$1,801,502*
- Office of the Lieutenant Governor: \$188,090*
- Office of the Attorney General: \$167,903*

S. Included in this Item is \$511,057 the second year from the general fund to be transferred, based on actual expenditures, to the Department of General Services to support anticipated costs for the inauguration in January 2022

T. Out of this appropriation, \$257,000 the second year from the general fund is provided to support the removal of the Harry F. Byrd statue from Capitol Square. The Director, Department of Planning and Budget is authorized to transfer this amount to the Department of General Services pursuant to the passage of House Bill 2208 of the 2021 General Assembly.

U. Included in the appropriation for this item is \$3,500,000 the second year from the general fund for the initial operating costs of the Virginia Cannabis Control Authority,

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created pursuant to House Bill 2312 and Senate Bill 1406 of the 2021 Special Session I. Disbursement of these funds shall be upon the determination of the Secretary of Finance and with the advice and consent of the Director of the Office of Diversity, Equity, and Inclusion.

V. Out of this appropriation, \$1,000,000 the second year from the general fund is provided for evidence-based marijuana prevention and education programs and public health campaigns, including programs focused on youth and college-aged populations. The Director, Department of Planning and Budget, is authorized to transfer these funds to the applicable state agency or agencies, authorities, or offices, to support these efforts.

479.10 A.1. The Governor is hereby authorized to appropriate sums to state agencies, institutions of higher education, and other permissible entities the federal funding provided pursuant to the Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123), the Families First Coronavirus Response Act (P.L. 116-127), and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136); ~~and any other federal funding provided through subsequent legislation approved by Congress with regard to the Coronavirus public health emergency.~~ For the purposes of this item, such federal funding shall be referred collectively to as "federal relief funds". All such federal relief funds shall be subject to applicable federal rules and regulations governing these funds. Amounts so allocated are hereby appropriated in this item. Any allocations of remaining federal relief funds by the Governor shall be included in the Executive Budget submitted in accordance with § 2.2-1509, Code of Virginia. All allocations of federal relief funds are subject to the provisions and conditions contained in this item.

2. Any new federal funding approved by Congress through subsequent legislation shall be appropriated by the Governor in the Executive Budget, submitted in accordance with § 2.2-1509, Code of Virginia and shall be subject to applicable federal rules and regulations governing these funds.

3. Records Management and Reporting

a. Agencies receiving federal relief funds shall comply with the financial or other data reporting requirements set forth by the State Comptroller or the Director of the Department of Planning and Budget and shall compile and maintain all records necessary to fulfill such reporting requirements and to meet any subsequent audit of the expenditure of such federal funds.

b. Agencies receiving federal relief funds shall comply with all federal reporting requirements for the receipt of any funds and shall compile and maintain all records necessary to fulfill such reporting requirements and to meet any subsequent audit of the expenditure of such federal funds.

c. Agencies receiving federal relief funds shall comply with any requirements established to ensure the transparency of the use or expenditure of such federal funds.

4. The Governor or his designee shall submit a quarterly report to the Chairs of House Appropriations and Senate Finance and Appropriations Committees that itemizes any appropriation action of federal relief funds. The Governor or his designee shall submit the first such report on October 31, 2020 and each quarter thereafter.

5. It is the intent of the General Assembly that the Commonwealth maximize the use of the federal relief funds. The Governor shall take all reasonable actions necessary to apply for federal relief funds. The Governor shall further ensure that funds are appropriated, distributed, and utilized in a manner that is consistent with the provisions of state and federal law.

B. Apportionment

1. Out of the \$3,109,502,836 estimated potential revenues to be received from the federal distributions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), the following table represents allocations made as of July 1, 2020:

Item	Amount Appropriated	Allocated as of 7/1/2020
Allocations to Localities		\$1,289,146,766
		\$644,573,383

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FY20 Agency-based Requests				\$80,480,698
DGS - Consolidated Labs				\$6,052,673
DHCD - Emergency Housing for Homeless				\$8,828,998
				\$5,528,998
DHCD - Mortgage and Rental Assistance				\$50,000,000
				\$10,000,000
DMAS - Long-term care facilities				\$55,640,872
DMAS - PPE for Personal Care Attendants				\$9,256,178
DSBSD - Small business assistance grants				\$70,000,000
DSS - Food security - Expand emergency food supply package				\$650,000
VDACS - Food security - Agriculture surplus & emergency food				\$1,211,953
VDEM - Food security - 1 million MREs				\$2,000,000
VDEM - PPE				\$97,000,000
VDEM - Testing				\$42,338,400
VDEM - Other				\$33,722,001
VDH - Contract tracing/UVA Equipment				\$59,157,614
VDH - Replace deficit authorization				\$3,291,300
Total				\$1,808,777,453
				\$982,145,067

2. The allocations in this item includes an amount estimated at \$1,215,214,399 \$2,127,357,769 the first year from the estimated revenues to be received from the federal distributions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) cited in paragraph B.1. above. The allocation shall be as follows:

Item	Amount
<i>Allocations to Localities</i>	\$644,573,383
SCC - Direct Utility Assistance to Customers	\$100,000,000
DHCD - Emergency Housing for Homeless	\$3,000,000
	\$3,270,000
DOC/DJJ - PPE, medical observation units, overtime	\$7,700,000
	\$6,642,352
Elections - Voter safety for November election - cleaning; personal protective equipment; additional pay for election day workers; drop boxes	\$10,000,000
DMAS - Additional hospital reimbursements for eligible COVID-19 costs	\$60,000,000
DMAS - Long-term care facilities	\$10,343,453
DMAS - PPE for Personal Care Attendants	\$2,470,552
DMAS - Hazard pay for home health workers	\$72,000,000
	\$103,889,779
DMAS - Retainer payments for Medicaid DD Waiver Day Support providers	\$25,000,000
	\$17,467,766
Higher Education - PPE, Virtual Education, Cleaning , Telework, Other COVID Costs	\$120,000,000
	\$116,261,410
State Museums and Higher Education Centers - PPE, Virtual Education, Cleaning , Telework, Other COVID Costs	\$4,500,000
	\$834,013
K-12 - Costs for Re-Opening Schools	\$220,798,208
DSS - Food security - Expand emergency food supply package	\$650,000
VDACS - Food security - Agriculture surplus & emergency food	\$1,211,953
VDEM - Food security - 1 million MREs	\$2,000,000

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DSS - Childcare Provider Stabilization Funds / <i>Increase local capacity to provide care for school-age children</i>			\$60,000,000	\$58,341,000
DSS - <i>Childcare Provider Stabilization Funds / Increase local capacity to provide care for school-age children</i>			\$16,600,000	
DSS - Virginia Federation of Food Banks - \$1.0 million per region			\$7,000,000	
Statewide - PPE Plan			\$42,112,285	
Statewide - Testing and Contact Tracing			\$71,829,059	
Statewide - state agencies telework, PPE/sanitizing, DOLI regulation compliance and other eligible operational cost increases			\$60,000,000	\$10,062,441
VDH - Point of Care Antigen Testing			\$16,010,500	
DSBSD - <i>Small business assistance grants</i>			\$70,000,000	
DSBSD - Small business assistance grants supplement			\$5,000,000	
VDEM - Technical assistance, public education and preparedness for COVID-19 pandemic response			\$37,000,000	\$41,769,113
DHCD - <i>Mortgage and Rental Assistance</i>			\$40,000,000	
DHCD - Mortgage and Rental Assistance supplement			\$12,000,000	
DHCD - broadband accessibility			\$30,000,000	
VEC - Unemployment Assistance			\$210,000,000	
UVA Medical Center – capital, PPE, testing, education			\$10,000,000	\$3,442,283
VCU Hospital – capital, PPE, testing, education			\$10,000,000	\$11,333,374
VDH - Executive Order enforcement			\$1,298,038	
DBHDS - hospital census support			\$2,800,000	\$2,853,215
VDH - Carilion serology study			\$566,309	
VDH - <i>Vaccination Program</i>			\$34,234,679	
DBHDS - <i>Hazard Pay</i>			\$669,312	
VDH - <i>additional testing needs - One Lab</i>			\$9,929,838	
VDH - <i>agreement with Unite Us</i>			\$10,000,000	
VDH - <i>DocuSign subscription</i>			\$192,250	
VDH - <i>COVID-19 communications Strategy</i>			\$23,050,000	
VDH - <i>sample testing costs, staffing, overtime</i>			\$6,632,255	
VDH - <i>Virginia Association of Free and Charitable Clinics (VAFCC)</i>			\$3,000,000	
VDH - <i>community mitigation efforts</i>			\$41,019	
VCCS - <i>training vouchers for unemployed</i>			\$30,000,000	
DSBSD - <i>small business assistance grants - additional funds for Rebuild Virginia</i>			\$30,000,000	
DVS - <i>COVID-19 expenses for PPE, sanitization, medical overtime</i>			\$59,719	
SCHEV - <i>payment to private institutions of higher education</i>			\$22,000,000	
VDH - <i>reimburse salaries for "public health employees"</i>			\$7,948,800	
DBHDS - <i>support for state facilities, central office, and CSBs</i>			\$936,292	
DMAS - <i>Expand definition of long-term care facilities to include Medicaid Developmental Disability Waiver (DDW) residential providers and increase funding</i>			\$12,000,000	
ABC - <i>PPE, sanitization, safe operations</i>			\$1,033,119	
Total			\$1,215,214,399	\$2,127,357,769

3: The appropriation in this item includes an amount estimated at \$120,000,000 the first year

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from federal funds to be distributed to the educational and general program at public institutions of higher education for the Higher Education - PPE, Virtual Education, Cleaning, Telework, Other COVID Costs cited in paragraph B.2. above. An allocation for an individual public institution of higher education shall be based on reimbursement of allowable expenditures and shall be capped at \$24.0 million. Prior to disbursement of amounts allocated in this paragraph, each public institution of higher education shall be given 15 days to submit its reimbursement request. If amounts requested exceed the \$120,000,000, the requests shall be proportionally prorated.

4. The appropriation in this item includes an amount estimated at \$4,500,000 the first year from federal funds to be distributed to other education institutions for costs associated with the COVID-19 pandemic cited in paragraph B.1. above. An allocation for an individual other education institution shall be based on reimbursement of allowable expenditures and shall be capped at \$1.0 million. Prior to disbursement of amounts allocated in this paragraph, each other education institution shall be given 15 days to submit its reimbursement request. If amounts requested exceed the \$4,500,000, the requests shall be proportionally prorated.

5.a. The appropriation allocations in this item includes \$100,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2. above to be used to help provide direct assistance to customers with accounts over 30 days in arrears. In order to be eligible for the funds provided in this paragraph, utilities must be subject to the utility disconnection moratorium established in Item 4-14, clause 7.a. of this act. The State Corporation Commission shall establish an application process in order to distribute funds directly to utilities for the purpose of efficiently providing direct assistance to customers. The Commission shall award funds in a manner that will provide direct assistance to customers with accounts over 60 days in arrears prior to awarding funds to subsidize customer accounts 30 days in arrears. Any federal Coronavirus Relief Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) provided to a phase II utility pursuant to this paragraph shall exclude the forgiveness of jurisdictional customer balances as specified in Item 4-14, clause 7, paragraph j. of this act. The State Corporation Commission shall transfer any dollars necessary to address the arrearages held by customers of utilities outside the jurisdiction of the Commission to the Department of Housing and Community to pass along to these utilities. Notwithstanding § 2.2-4002, Code of Virginia, the provisions contained in this paragraph 5.a. establishing the utility direct assistance program shall not be subject to the Administrative Process Act.

b. Upon receipt of any funds provided in paragraph 5.a., utilities shall create separate COVID-19 Utility Assistance Funds and record direct assistance payments to customers on their books in accordance with applicable accounting standards. Utilities may not direct any funds provided in paragraph 5.a. to new deposits, down payments, fees, late fees, interest charges, or penalties. Utilities may require the customer to attest to the utility or to a third party chosen by the utility that the customer has experienced a financial hardship resulting directly or indirectly from the public health emergency or that they have experienced a hardship to pay during the public health emergency prior to receiving direct assistance from the utility's COVID-19 Utility Assistance Fund. While utilities may require attestation of such hardship, it may be implied that arrearages accrued over 30 days for customer nonpayment of bills, for which federal relief funds shall be used for direct subsidy payments on behalf of customers pursuant to Item 4-14, paragraph d. of this act., were incurred as a financial hardship created by the pandemic. Utilities shall reflect the direct assistance payment on an eligible customer's monthly bill, after the funds are applied to the customer's account. ~~Utility customers may only receive a direct payment subsidy from the utility's COVID-19 Utility Assistance Fund once.~~

c. The Director of the Department of Planning and Budget shall distribute funds to the State Corporation Commission within 30 days of the passage of this act. Prior to any distribution from the amounts appropriated in paragraph 5.a. of this item, the Director of the Department of Planning and Budget shall work with the State Corporation Commission and the Department of Housing and Community Development to verify, which utilities that are eligible to receive funds under this appropriation based on the most recently published guidance from the United States Department of the Treasury. For the purposes of this appropriation, utilities include electric companies subject to regulation of the State Corporation Commission, natural gas suppliers subject to the regulation of the

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Commission, electric and gas municipal utilities, and water suppliers and wastewater service providers, subject to the regulation of Commission or constituting a municipal utility. "Municipal utility" means a utility providing electric, gas, water, or wastewater service that is owned or operated by a city, county, town, authority, or other political subdivision of the Commonwealth.				
6: The appropriation in this item includes \$10,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above to support additional costs anticipated for the November 3, 2020 General Election: The Commissioner of the Department of Elections shall distribute these funds directly to offices of general registrars based on population or need within 30 days of the passage of this act. General registrars may use these funds for printing of additional ballots and envelopes; additional mailing or postage costs; additional voting equipment; installation and security for absentee or mail drop-boxes; temporary elections office staffing; cleaning supplies and protective equipment for staff and poll workers; pre-and post-election cleaning of polling places; additional laptops and mobile equipment; additional automated letter opening equipment; public communication campaigns on voting changes; and other such items that support voter safety during the COVID-19 pandemic.				
7: The appropriation in this item includes \$3,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above to continue to provide emergency housing for homeless populations: This is in addition to the \$8,828,998 that was previously allocated to support this program using the Coronavirus Relief Funds cited in paragraph B.1: of this item.				
8: The appropriation <i>allocations</i> in this item includes \$210,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above to provide additional support for the Virginia's Unemployment Insurance program. The Governor or his designee shall work with the Virginia Employment Commission to determine the best use of these funds. The Secretary of Commerce and Trade shall provide the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee a status report on the deployment of these funds by January 1, 2021.				
9: The appropriation in this item includes \$60,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above to assist with the operations of state government. This includes (i) funds to help state agencies comply with the Center for Disease Control and Prevention's and the Department of Labor and Industry's regulations for workplace safety during the COVID-19 pandemic; (ii) funds to help state agencies with increased costs for teleworking; and (iii) funds to help state agencies in acquiring PPE and sanitizing facilities. The Director of the Department of Planning and Budget shall within 30 days of the passage of this act solicit and fund requests from state agencies across all three branches of government to help cover increased expenses due to teleworking; PPE acquisition; sanitizing state facilities and retrofitting state owned buildings to comply with COVID-19 safety measures.				
10: The appropriation in this item includes \$7,700,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above for the costs for the purchase of personal protective equipment; establishment and operation of medical observation units; overtime costs; and other eligible expenses of the Department of Corrections.				
11: The appropriation in this item includes \$37,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2: above for the provision of technical assistance to local governments; the conduct of a public awareness and education campaign and other preparedness activities by the Department of Emergency Management.				
12: The appropriation <i>allocations</i> in this item includes \$220,798,208 the first year to be distributed to school divisions to assist with costs associated with the COVID-19 emergency, including but not limited to costs associated with implementing social distancing measures, providing distance learning, and providing computer equipment and internet access to students. In expending such funds, school divisions shall comply with federal CARES Act requirements and the most recently published United States Treasury Department guidance for the Coronavirus Relief Fund.				
13: The appropriation <i>allocations</i> in this item includes \$60,000,000 the first year from Coronavirus Relief Funds cited in paragraph B.2: above for the Department of Medical Assistance Services to make payments to Virginia hospitals for COVID-19 related auditable costs that have not been reimbursed through other federal relief programs available for this				

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purpose in calendar year 2020. The Department shall have the authority to implement such payments in the most efficient and expeditious manner prior to the completion of any regulatory process to effect such changes.

14. The ~~appropriation~~ *allocations* in this item includes ~~\$72,000,000~~ *\$103,899,779* the first year from Coronavirus Relief Funds cited in paragraph B.2. above for the Department of Medical Assistance Services for hazard pay for consumer directed and agency directed personal care attendants who provide Medicaid personal care, respite or companion care services in the amount of \$1,500 per personal care attendant. The Department shall have the authority to implement such payments prior to the completion of any regulatory process to effect such changes.

15. The ~~appropriation~~ *allocations* in this item includes ~~\$25,000,000~~ *\$17,467,766* the first year from Coronavirus Relief Funds cited in paragraph B.2. above for the Department of Medical Assistance for monthly retainer payments to Medicaid day support providers covering the period of August through December 2020. The Department shall determine the monthly retainer based on the monthly average retainer payments made by Medicaid for dates of service between April 1 and July 31, 2020 and billed, and paid by October 31, 2020. The Department shall have the authority to implement these payments prior to the completion of any regulatory process to effect such changes.

16. The appropriation in this item includes ~~\$76,600,000~~ *\$74,941,000* the first year from Coronavirus Relief Funds cited in paragraph B.2. above to support stabilization of the child care industry and *increasing local capacity* for the provision of child care during the COVID-19 emergency.

a. Out of this appropriation, ~~\$60,000,000~~ is provided to support stabilization grants for child care providers and local community partnerships. The Department of Social Services, in collaboration with the Department of Education, shall award such grants with the goals of (1) preserving the long-term capacity of Virginia's early childhood and care system while programs are operating at reduced capacity during the COVID-19 emergency; and (2) providing additional child care slots in the short-term.

b. Out of this appropriation ~~\$16,600,000~~ is provided for the Department of Social Services to contract with local partners to provide support to school divisions; local governments; and other entities; including religious institutions and community centers; for the provision of space to increase local capacity to provide care for school-age children; purchase personal protective equipment (PPE) and cleaning supplies; and provide a stable financial environment for the operation of these programs. School divisions; local governments; and local departments of social services shall cooperate with local partners receiving these funds to maximize the number of school-age children served. In addition; local partners are encouraged to use these funds to support a diverse set of providers with these funds including existing child day centers; family day homes; religious institutions; and other organizations seeking to provide such services. These funds shall be used prior to the expenditures of general fund amounts provided for this purpose as set forth in Item 350 of this act.

c. Funds referenced in paragraphs a. and b. above may be redirected among paragraphs a. and b. to respond to greater need for either program or to ensure the use of Coronavirus Relief Funds is maximized prior to the federal deadline to incur Coronavirus Relief Fund expenses.

17. The ~~appropriation~~ *allocations* in this item includes \$7,000,000 the first year from Coronavirus Relief Funds cited in paragraph B.2. above to the Department of Social Services for the Virginia Federation of Food Banks to provide *funding* ~~\$1,000,000~~ to each of the seven regional food banks.

18. Out of this appropriation, ~~\$5,000,000~~ is provided for DSBSB - Small business assistance grants as a supplement to increase the grant size for the Rebuild Virginia program and expand the eligibility criteria so that small businesses as defined in § ~~2.2-~~ ~~1604~~ of the Code of Virginia that have suffered loss as a result of the COVID-19 pandemic may participate in the federal coronavirus relief funds available through the program including recreation and tourism small businesses that are Virginia-based.

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<p>C. The Governor is authorized to appropriate, within this item or any other item of this act, any revenues deposited to the COVID-19 Relief Fund created pursuant to § 2.2-115.1 of the Code of Virginia. <i>The Governor shall appropriate funds from the COVID-19 Relief Fund for these purposes: (i) \$36,000,000 the first year and \$40,000,000 the second year for No Loss Payments as provided in Item 145, and (ii) \$25,000,000 for the Department of Small Business and Supplier Diversity for the purpose of awarding grants to small businesses through the Rebuild Virginia program. Eligible grant recipients shall meet the small business definition of § 2.2-1604 of the Code of Virginia. Any additional appropriations shall be used - The Governor shall appropriate an amount up to \$95,227,730 the first year from the COVID-19 Relief Fund for COVID-19 Local Relief Payments to be distributed to school divisions as provided in Item 145. Any additional appropriations shall be used for the purposes of responding to the impacts of the COVID-19 pandemic which shall include, but not be limited to, i) assistance for public education, ii) relief to small businesses, iii) assistance for housing and homelessness, iv) assistance for long term care facilities, and v) any other purpose designated by the Governor to address the impact of the COVID-19 pandemic. The Governor is authorized to transfer such appropriations and associated revenues to agencies designated to carry out the services required to address the COVID-19 pandemic. The Governor or his designee shall report the use of the COVID-19 Relief Fund to the Chairs of House Appropriations and Senate Finance and Appropriations Committees on a monthly basis: (i) the uses of the COVID-19 Relief fund, (ii) the total amount deposited to the COVID-19 Relief Fund, and (iii) the amount of skill game revenues distributed to each locality pursuant to enactment clause 2 of Chapters 1217 and 1277, 2020 Acts of Assembly.</i></p> <p>D. The Governor is authorized to allocate the remaining amount of the estimated potential revenues to be received from the federal distributions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) cited in paragraph B.1. above. However, the Governor shall, within two days of making any allocation action, make such plan available via electronic means to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.</p> <p>E. Any reports required by paragraphs A., or B., or C. above may be submitted electronically. However, reports in paragraphs A., B., C., or D. above are not eligible for deferral or delay as permitted under Item 4-8.01, a.4.a.) of this act.</p> <p>F. Any unexpended balance remaining in this item on June 30, 2021, or June 30, 2022, shall be carried forward on the books of the Comptroller and shall be available for expenditure in the next biennium.</p> <p>G. If, as of December 1, 2020 2021, the Governor determines that any of the amounts outlined in paragraphs B.1. through B.18. B of this item cannot be spent for the purposes outlined in such the subparagraphs under paragraph B., he shall have the authority to shift unspent allocations to any other purpose outlined in paragraph B. If, as of December 18, 2020, the Governor reports unspent allocations remain, all such amounts shall be transferred to Unemployment Compensation Fund established pursuant to § 60.2-300. However, if Congress extends the expiration date for the use of Coronavirus Relief Funds, then the date by which the Governor shall be allowed to shift allocations is 30 days prior to the new expiration date for the use of the federal funds and any remaining unallocated funds as of 12 days prior to the expiration date shall be allocated to the Unemployment Compensation Fund.</p> <p><i>H.1. If, after December 30, 2021, but prior to the required return of unspent federal Coronavirus Relief Funds, federal guidelines allow for unspent funds to be shifted to other qualifying expenses, the Governor shall have the authority to shift and reclassify such unspent amounts to eligible expenses in order to maximize the Commonwealth's use of the funds. Such unspent funds shall include any funds that are returned to the Commonwealth by subrecipients.</i></p> <p><i>2. If, after December 30, 2021, but prior to the required return of unspent federal Coronavirus Relief Funds to the federal government, the Governor determines that unspent funds remain after any reclassification pursuant to paragraph H.1. above, the Governor shall transfer those unspent funds to the Unemployment Compensation Fund established pursuant to § 60.2-300 pursuant to federal guidelines to reimburse any qualifying expenses.</i></p> <p><i>3. The final disposition of such unspent funds shall be reported to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees within 30 days of the</i></p>				

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completion of the transactions.

1.1. There is hereby created in the state treasury a special nonreverting fund to be known as the Assistance for COVID-19 Trust Fund, referred to in this paragraph as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Any direct federal aid, approved by the U.S. Congress since January 1, 2021, that is provided to assist the Commonwealth with the revenue and economic impacts resulting from COVID-19 shall be deposited to the Fund. Moneys in the Fund shall be used for the purposes of responding to the revenue and economic impacts to the Commonwealth related to the Coronavirus Disease of 2019 (COVID-19) pandemic. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Governor pursuant to appropriations provided in a general appropriation act.

2. No expenditure of funds from the ACT Fund shall be made unless specifically appropriated in a general appropriation act pursuant to Article X, Section 7, Constitution of Virginia.

480.	Financial Assistance For Educational and General Services (11000).....			\$4,000,000	\$4,000,000
	Sponsored Programs (11004).....	\$4,000,000	\$4,000,000		
	Fund Sources: General.....	\$4,000,000	\$4,000,000		

Out of this appropriation, \$4,000,000 the first year from the general fund and \$4,000,000 the second year from the general fund is provided for the Hampton Roads Biomedical Research Consortium.

481.	Educational and General Programs (10000).....			\$31,800,000	\$31,800,000
	Higher Education Instruction (10001).....	\$31,800,000	\$31,800,000		
	Fund Sources: General.....	\$31,800,000	\$31,800,000		

A. Out of this appropriation, \$31,800,000 the first year and \$31,800,000 the second year from the general fund is designated for the Tech Talent Investment Fund. These funds shall be allocated in accordance with provisions established in §23.1-1239 through §23.1-1243, Code of Virginia, and shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership. Funds may be used to support admissions and advising programs designed to convey labor market information to students to guide decisions to enroll in eligible degree programs and academic programs and to fund facility construction, renovation, and enhancement and equipment purchases related to the initiative to increase the number of eligible degrees awarded.

B. Prior to an allocation from the Fund, institutions must enter into a Memorandum of Understanding (MOU) through a negotiation process between the institution and the Commonwealth. The MOU shall contain criteria for eligible degrees, eligible expenses, and degree production goals for a period ending in 2039. In addition, each institution shall (i) submit an enrollment plan detailing the number of eligible degrees produced between July 1, 2013, and June 30, 2018; (ii) develop a detailed plan of how the institution proposes to materially increase the enrollment, retention, and graduation of students pursuing eligible degrees, the resources necessary to accomplish such increase in enrollment, retention, and graduation, and plans to track new enrollment; (iii) provide an accounting of the anticipated number of in-state and out-of-state students enrolling in eligible degree programs; (iv) determine the existing capacity of current eligible degree programs; (v) propose plans to partner with other institutions to provide courses or

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	<p>programs that will lead to the completion of an eligible degree including articulation agreements with the Virginia Community College System to provide guaranteed admission for qualified students with an associate degree for transfer into an eligible degree program; (vi) allocate existing funds held by or appropriated to the institution to meet increased enrollment, retention, and graduation goals in eligible degree programs; and (vii) provide any other information deemed relevant.</p> <p>C. Failure of an institution to meet the goals, metrics, and requirements set forth in its memorandum of understanding shall result in the adjustment of any future allocations from the Fund to the institution to reflect such discrepancy.</p> <p>D. Notwithstanding §23.1-1241 of the Code of Virginia, the Virginia Community College System may apply for a grant in fiscal year 2021.</p> <p><i>E. Notwithstanding §23.1-1242 of the Code of Virginia, for the 2020-22 biennium eligibility for grant payments shall be determined by the requirements stipulated in each institution's MOU. The designated reviewers shall propose any needed technical adjustments for consideration during the 2022 Session.</i></p>			
482.	<p>A. The Oil Overcharge Expendable Trust Fund shall be established on the books of the Comptroller and the interest earned by investment of funds credited to the Oil Overcharge Expendable Trust Fund shall be allocated to such fund periodically. This fund represents the Commonwealth's proportionate share of the recoveries from the Exxon Corporation, Diamond Shamrock Refining and Marketing Company, Stripper Well and the Texaco Corporation litigations, for petroleum pricing violations between 1973 and 1981.</p> <p>B.1. Any expenditure involving oil overcharges by the Exxon Corporation shall be utilized according to regulations and procedures of the five state energy conservation and benefits programs specified in the Warner Amendment (Section 155, P.L. 97-377) to provide restitution to the broad class of parties injured by the alleged overcharges. These programs are:</p> <ul style="list-style-type: none"> a. Low Income Home Energy Assistance Program, 42 U.S.C. § 8621 et seq. b. State Energy Conservation Program, 42 U.S.C. § 6321 et seq. c. Energy Extension Service, 42 U.S.C. § 7001 et seq. d. Institutional Conservation Program, 42 U.S.C. § 6371 et seq. e. Weatherization Assistance Program, 42 U.S.C. § 6861 et seq. <p>2. Any expenditure involving oil overcharges from the approved settlement In Re: The Department of Energy Stripper Well Litigation (MDL No. 378) or the approved settlement in the case of the Diamond Shamrock Refining and Marketing Company (Civil Action No. C2-84-1432) shall be utilized to fund one or more energy-related programs which are designed to benefit, directly or indirectly, consumers of petroleum products. These programs shall be limited to:</p> <ul style="list-style-type: none"> a. Administration and operation of the five energy conservation and benefit programs specified under the Warner Amendment (Section 155, P.L. 97-377), b. Those programs approved by the U.S. Department of Energy's Office of Hearings and Appeals in Subpart V Refund Proceedings, c. Those programs referenced in the Chevron consent order (46 FR 52221), and d. Such other restitutionary programs approved by the District Court or the U.S. Department of Energy's Office of Hearings and Appeals. <p>C. Before appropriations to the Oil Overcharge Expendable Trust Fund can be expended, approval for the use of the funds must be obtained from the United States Department of Energy. Applications to the United States Department of Energy must be made through the Department of Mines, Minerals and Energy.</p> <p>D. The Governor shall submit such statements and reports as are required by court orders,</p>			

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settlements, or the Departments of Energy or Health and Human Services regarding use(s) of these funds and shall also report to the Chairmen of the House Appropriations and Senate Finance Committees on the activities funded by transfers from this Item only in fiscal years in which activities have occurred.				
482.10	Omitted.			
482.20	Miscellaneous Reversion Clearing Account (22600).....		(\$687,159,119)	(\$1,048,408,517)
	Designated Reversions from Agency Appropriations (22601).....		(\$687,159,119)	(\$1,048,408,517)
	Fund Sources: General.....		(\$687,159,119)	(\$1,048,408,517)

Authority: Discretionary Inclusion

A.1: It is the intent of the General Assembly to reduce appropriations to recognize the loss of general fund revenue associated with the COVID-19 pandemic. To accomplish savings estimated at \$687,159,119 from the general fund the first year and \$1,048,408,517 from the general fund the second year, and notwithstanding other provisions set forth in this Act, the Department of Planning and Budget is hereby authorized to reduce general fund appropriations by the amounts listed below in subparagraph 2 and to transfer such amounts to this item from the general fund appropriations of each agency associated with the savings listed in subparagraph 2 below. Further, notwithstanding the provisions of this Act, any language associated with an appropriation listed in subparagraph 2 below shall not be applicable unless, after such reduction, a base amount of funding remains to which such language would be applicable or unless such language previously appeared in Chapter 854, 2019 Acts of Assembly. Any amounts referenced within any other Items of this Act that reflect or include the amounts listed in subparagraph 2 below shall have no effect:

2: Savings and totals by agency associated with the reduction of certain spending items included in Chapter 1289, 2020 Acts of Assembly:

	FY 2021	FY 2022
General District Courts (114)		
Fund additional district court clerk positions	(\$4,307,758)	\$0
Fund additional judgeship for 19th Judicial District	(\$161,718)	\$0
General District Courts (114) Total	(\$4,469,476)	\$0
Indigent Defense Commission (848)		
Provide funding for additional public defenders	(\$2,849,044)	\$0
Indigent Defense Commission (848) Total	(\$2,849,044)	\$0
Virginia State Bar (117)		
Additional funding to hire additional housing attorneys to combat Virginia's housing crisis	(\$1,500,000)	(\$1,500,000)
Virginia State Bar (117) Total	(\$1,500,000)	(\$1,500,000)
Compensation Board (157)		
Additional funding for Statewide Automated Victim Network System (SAVIN)	(\$600,000)	(\$600,000)
Adjust entry-level salary increases for regional jail officers	(\$2,668,059)	(\$2,910,609)
Adjust salary for circuit court clerks	(\$1,820,339)	(\$1,985,824)

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Adjust salary of constitutional office staff based on increases in locality population	(\$260,230)		(\$260,230)	
Establish a minimum of three staff in each Circuit Court Clerk's office	(\$358,578)		(\$391,176)	
Fund 25 percent of the staffing need in Sheriffs' offices	(\$979,399)		(\$1,113,082)	
Fund 25 percent of the staffing need in the Commonwealth's Attorneys offices	(\$1,350,989)		(\$1,433,928)	
Fund position to address agency information technology needs	(\$119,775)		(\$119,775)	
Provide salary adjustment for Commissioners of Revenue	(\$950,656)		(\$1,037,069)	
Provide salary adjustment for Treasurers' offices	(\$821,028)		(\$1,642,054)	
Provide technology funding to Circuit Court Clerks' offices	(\$1,000,000)		(\$1,000,000)	
Compensation Board (157) Total	(\$10,929,053)		(\$12,493,747)	
Department of Elections (132)				
Increase funding for the salaries of state-supported local employees	(\$2,534,575)		(\$2,534,575)	
Department of Elections (132) Total	(\$2,534,575)		(\$2,534,575)	
Department of Agriculture and Consumer Services (301)				
Enhance economic growth and food safety in the Commonwealth	(\$267,201)		(\$256,701)	
Fulfill Virginia's phase III watershed implementation plan	(\$240,021)		(\$185,021)	
Holiday Lake 4-H Center Improvements Project	(\$250,000)		\$0	
Department of Agriculture and Consumer Services (301) Total	(\$757,222)		(\$441,722)	
Department of Forestry (411)				
Establish apprenticeship program	(\$51,888)		(\$51,888)	
Establish hardwood forest habitat program	(\$154,000)		(\$521,842)	
Fulfill Virginia's phase III watershed implementation plan	(\$433,016)		(\$433,016)	
Plan for replacement of the agency's mission critical business system	(\$44,250)		\$0	
Department of Forestry (411) Total	(\$683,154)		(\$1,006,746)	
Economic Development Incentive Payments (312)				
Provide additional funding for the Governor's Motion Picture Opportunity Fund	(\$1,000,000)		(\$1,000,000)	
Support the Virginia Jobs Investment Program		\$0	(\$2,000,000)	
Economic Development Incentive Payments (312) Total	(\$1,000,000)		(\$3,000,000)	
Department of Housing and Community Development (165)				
Affordable Housing Pilot Program	(\$2,000,000)		\$0	

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Establish an Eviction Prevention and Diversion Pilot Program		\$0		(\$3,300,000)
Increase funding for Enterprise Zone Grants	(\$250,000)			(\$250,000)
Increase funding for the Southeast Rural Community Assistance Project	(\$600,000)			(\$600,000)
Increase support for Planning District Commissions	(\$294,000)			(\$294,000)
Industrial Revitalization Fund	(\$500,000)			(\$500,000)
Department of Housing and Community Development (165) Total	(\$3,644,000)			(\$4,944,000)
Department of Labor and Industry (181)				
Provide funding to support compliance positions in the Virginia Occupational Safety and Health program	(\$1,483,850)			(\$1,483,850)
Department of Labor and Industry (181) Total	(\$1,483,850)			(\$1,483,850)
Department of Small Business and Supplier Diversity (350)				
Provide funding to establish a statewide strategic sourcing unit	(\$370,565)			(\$741,130)
Department of Small Business and Supplier Diversity (350) Total	(\$370,565)			(\$741,130)
Virginia Economic Development Partnership (310)				
Expand the Custom Workforce Incentive Program		\$0		(\$4,679,613)
Expand the Virginia Business Ready Sites Program	(\$12,500,000)			\$0
Virginia Economic Development Partnership (310) Total	(\$12,500,000)			(\$4,679,613)
Virginia Tourism Authority (320)				
Increase funding for the Virginia Coalfield Regional Tourism Authority	(\$100,000)			(\$100,000)
Provide funding for Birthplace of Country Music expansion	(\$50,000)			\$0
Virginia Tourism Authority (320) Total	(\$150,000)			(\$100,000)
Department of Education, Central Office Operations (201)				
Address increased workload in the Office of Teacher Education and Licensure	(\$136,514)			(\$136,514)
Develop the Virginia Learner Equitable Access Platform (VA LEAP)		\$0		(\$7,131,000)
Increase support for Virginia Preschool Initiative class observations and professional development	(\$650,000)			(\$650,000)
Support annual Education Equity Summer Institute	(\$135,000)			(\$135,000)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Department of Education, Central Office Operations (201) Total		(\$921,514)		(\$8,052,514)
Direct Aid to Public Education (197)				
Active Learning grants		(\$250,000)		\$0
Alleghany-Covington consolidation		\$0		(\$582,000)
Blue Ridge PBS		(\$150,000)		(\$500,000)
Bonder and Amanda Johnson Community Development Corporation		(\$100,000)		\$0
Brooks Crossing Innovation and Opportunity Center		(\$250,000)		(\$250,000)
Chesterfield Recovery High School		(\$250,000)		(\$250,000)
Cost of Competing Adjustment		(\$9,555,229)		(\$9,968,849)
Enrollment loss		(\$2,540,119)		(\$2,102,530)
Expand access to school meals		(\$2,800,000)		(\$1,200,000)
Increase salaries for funded Standards of Quality instructional and support positions		(\$94,731,247)		(\$192,502,898)
Increase support for at-risk students		(\$26,164,313)		\$0
Increase support for Communities in Schools		(\$760,000)		(\$760,000)
Increase support for Jobs for Virginia Graduates		\$0		(\$1,670,000)
Literacy Lab - VPI Minority Educator Fellowship		(\$300,000)		\$0
Maximize pre-kindergarten access for at-risk three- and four-year-old children		(\$35,027,435)		(\$11,122,649)
Provide no loss funding to localities		(\$1,776,174)		(\$1,973,585)
Recruit and retain early childhood educators		\$0		(\$5,000,000)
Soundscapes - Newport News		(\$90,000)		\$0
Support the Western Virginia Public Education Consortium		(\$50,000)		(\$50,000)
YMCA Power Scholars Academies		(\$450,000)		(\$450,000)
Direct Aid to Public Education (197) Total		(\$175,244,517)		(\$228,382,511)
State Council of Higher Education for Virginia (245)				
Add funding for VIVA		\$0		(\$400,000)
Increase appropriation for internship program		(\$300,000)		(\$1,300,000)
Increase funding for Virginia Military Survivors & Dependent Education Program		(\$750,000)		(\$750,000)
Increase funding for Virginia Tuition Assistance Grant Program (TAG)		(\$4,100,000)		(\$7,900,000)
Provide funding for cost study		(\$150,000)		(\$150,000)
Provide funding for Grow Your Own Teacher program		(\$125,000)		(\$125,000)
Provide funding for Guidance to Postsecondary Success		(\$250,000)		(\$250,000)
Provide funding for the Virginia Earth System Scholars program		(\$220,375)		(\$220,375)
Provide funding for Title IX training		(\$100,000)		(\$100,000)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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State Council of Higher Education for Virginia (245) Total		(\$5,995,375)		(\$11,195,375)
Christopher Newport University (242)				
Increase undergraduate student financial assistance		(\$249,600)		(\$249,600)
Christopher Newport University (242) Total		(\$249,600)		(\$249,600)
The College of William and Mary in Virginia (204)				
CWM - Graduate Aid (Research)		(\$79,400)		(\$119,300)
Increase undergraduate student financial assistance		(\$133,000)		(\$133,000)
The College of William and Mary in Virginia (204) Total		(\$212,400)		(\$252,300)
Richard Bland College (241)				
Increase undergraduate student financial assistance		(\$154,400)		(\$154,300)
RBC - Compliance, Accreditation and Student Success		(\$708,000)		(\$708,000)
Richard Bland College (241) Total		(\$862,400)		(\$862,300)
Virginia Institute of Marine Science (268)				
Fund saltwater fisheries survey		(\$250,000)		(\$250,000)
VIMS - Graduate Aid (Research)		(\$53,400)		(\$80,000)
VIMS - Manage Aquatic Diseases		(\$225,000)		(\$225,000)
Virginia Institute of Marine Science (268) Total		(\$528,400)		(\$555,000)
George Mason University (247)				
Increase undergraduate student financial assistance		(\$6,945,000)		(\$6,944,900)
Provide additional funding to support enrollment growth		\$0		(\$5,000,000)
Provide funding to support graduate financial aid		(\$53,400)		(\$80,000)
George Mason University (247) Total		(\$6,998,400)		(\$12,024,900)
James Madison University (216)				
Increase undergraduate student financial assistance		(\$1,279,400)		(\$1,279,400)
James Madison University (216) Total		(\$1,279,400)		(\$1,279,400)
Longwood University (214)				
Develop a 2 2 degree pathway in Early Childhood Education		(\$137,410)		(\$137,410)
Increase undergraduate student financial assistance		(\$787,400)		(\$787,400)
Longwood University (214) Total		(\$924,810)		(\$924,810)
Norfolk State University (213)				
Ensure continuation of Spartan Pathways		\$0		(\$150,000)
Implement academic advising model		\$0		(\$300,000)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Implement UTeach program		\$0		(\$250,000)
Increase storage and expand information technology services		\$0		(\$2,500,000)
Increase undergraduate student financial assistance	(\$1,632,200)			(\$1,632,200)
Launch Virginia College Affordability Network initiative		\$0		(\$4,872,765)
NSU - Center for African American Policy		\$0		(\$250,000)
Support First-Day Success program		\$0		(\$75,000)
Norfolk State University (213) Total	(\$1,632,200)			(\$10,029,965)
Old Dominion University (221)				
Increase undergraduate student financial assistance	(\$5,337,000)			(\$5,337,000)
Provide additional funding to support enrollment growth		\$0		(\$5,000,000)
Provide funding to support graduate financial aid	(\$165,800)			(\$248,600)
Support Virginia Symphony Orchestra minority fellowships	(\$250,000)			(\$250,000)
Old Dominion University (221) Total	(\$5,752,800)			(\$10,835,600)
Radford University (217)				
Increase undergraduate student financial assistance	(\$2,538,400)			(\$2,538,400)
Provide funding to reduce tuition at Carilion Campus in Roanoke	(\$2,000,000)			(\$4,000,000)
Radford University (217) Total	(\$4,538,400)			(\$6,538,400)
University of Mary Washington (215)				
Fredericksburg Pipeline Initiative	(\$386,500)			(\$568,000)
Increase undergraduate student financial assistance	(\$470,400)			(\$470,300)
University of Mary Washington (215) Total	(\$856,900)			(\$1,038,300)
University of Virginia (207)				
Fund Virginia Humanities Curriculum and Humanities Ambassadors	(\$500,000)			(\$500,000)
Increase undergraduate student financial assistance	(\$320,400)			(\$320,300)
Provide funding to support graduate financial aid	(\$222,800)			(\$334,200)
University of Virginia (207) Total	(\$1,043,200)			(\$1,154,500)
University of Virginia's College at Wise (246)				
Increase undergraduate student financial assistance	(\$402,800)			(\$402,700)
University of Virginia's College at Wise (246) Total	(\$402,800)			(\$402,700)
Virginia Commonwealth University (236)				
Increase undergraduate student financial	(\$4,638,400)			(\$4,638,400)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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assistance				
Provide additional funding to support Massey Cancer Center	(\$7,500,000)			(\$2,500,000)
Provide additional funding to support the Center on Aging	(\$100,000)			(\$100,000)
Provide additional funding to support the Education Policy Institute	(\$300,000)			(\$300,000)
Provide funding to support the Wilder School of Government	(\$250,000)			(\$250,000)
Provide graduate financial aid	(\$140,400)			(\$210,700)
Virginia Commonwealth University (236) Total	(\$12,928,800)			(\$7,999,100)
Virginia Community College System (260)				
Fund collaboration with Portsmouth Public Schools' Minority & Women Business Enterprise Advisory Committee	(\$386,746)			(\$386,746)
Fund hospitality apprenticeship program	(\$250,000)			(\$250,000)
Fund Hub for Innovation, Virtual Reality, and Entrepreneurship	(\$1,000,000)			\$0
Fund VWCC Healthcare Programs from RUC Merger		\$0		(\$385,177)
Implement the Get Skilled; Get a Job; Give Back program	(\$36,000,000)			(\$35,000,000)
Increase undergraduate student financial assistance	(\$2,271,000)			(\$2,271,000)
Provide funding for health science and technology pilot		\$0		(\$350,000)
Provide general operating support	(\$4,000,000)			(\$4,000,000)
Virginia Community College System (260) Total	(\$43,907,746)			(\$42,642,923)
Virginia Military Institute (211)				
Core Leadership course	(\$100,047)			(\$103,048)
Increase undergraduate student financial assistance	(\$26,800)			(\$26,700)
Math Education and Miller Academic Centers	(\$122,500)			(\$126,000)
Virginia Military Institute (211) Total	(\$249,347)			(\$255,748)
Virginia Polytechnic Institute and State University (208)				
Increase undergraduate student financial assistance	(\$1,623,200)			(\$1,623,200)
Provide funding to support graduate financial aid	(\$284,800)			(\$427,200)
Virginia Polytechnic Institute and State University (208) Total	(\$1,908,000)			(\$2,050,400)
Virginia Cooperative Extension and Agricultural Experiment Station (229)				
Provide funding to support the Richmond County Extension Agent	(\$50,000)			(\$50,000)

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Virginia Cooperative Extension and Agricultural Experiment Station (229) Total		(\$50,000)		(\$50,000)
Virginia State University (212)				
Expand Supplemental Instructional program		\$0		(\$320,000)
Implement Summer Bridge program		\$0		(\$442,350)
Implement UTeach program		\$0		(\$250,000)
Increase undergraduate student financial assistance	(\$1,477,000)		(\$1,477,000)	
Launch Virginia College Affordability Network		\$0		(\$4,872,765)
Provide funding for data center modernization		\$0		(\$144,000)
Support Intrusive Advising Early Warning System		\$0		(\$150,000)
Virginia State University (212) Total	(\$1,477,000)		(\$7,656,115)	
Cooperative Extension and Agricultural Research Services (234)				
Increase funding for state match		\$0		(\$1,535,054)
Cooperative Extension and Agricultural Research Services (234) Total		\$0		(\$1,535,054)
Jamestown-Yorktown Foundation (425)				
Commemoration closeout costs	(\$442,870)		(\$8,702)	
Education Programs	(\$491,200)		(\$345,100)	
Marketing and tourism promotion	(\$208,000)		(\$245,000)	
One-time funding for site infrastructure	(\$167,113)		\$0	
Jamestown-Yorktown Foundation (425) Total	(\$1,309,183)		(\$598,802)	
The Library Of Virginia (202)				
Increase aid to local libraries	(\$1,000,000)		(\$1,000,000)	
Provide funding for Virginia's Centennial Commemoration of Women's Suffrage	(\$95,000)		\$0	
Provide funding to expedite release of gubernatorial records		\$0	(\$400,000)	
The Library Of Virginia (202) Total	(\$1,095,000)		(\$1,400,000)	
The Science Museum of Virginia (146)				
Security upgrades:	(\$210,000)		(\$210,000)	
The Science Museum of Virginia (146) Total	(\$210,000)		(\$210,000)	
Virginia Commission for the Arts (148)				
Increase support for grants	(\$1,645,886)		(\$2,645,886)	
Virginia Commission for the Arts (148) Total	(\$1,645,886)		(\$2,645,886)	
Virginia Museum of Fine Arts (238)				
Provide funding for storage lease costs and FF upgrades	(\$400,000)		(\$400,000)	

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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Virginia Museum of Fine Arts (238)		(\$400,000)		(\$400,000)
Total				
Eastern Virginia Medical School (274)				
Provide base operating support		(\$625,000)		(\$625,000)
Eastern Virginia Medical School (274) Total		(\$625,000)		(\$625,000)
New College Institute (938)				
Provide additional support for staffing		(\$95,000)		(\$95,000)
New College Institute (938) Total		(\$95,000)		(\$95,000)
Institute for Advanced Learning and Research (885)				
Add funding for staffing		(\$95,000)		(\$95,000)
Institute for Advanced Learning and Research (885) Total		(\$95,000)		(\$95,000)
Roanoke Higher Education Authority (935)				
Academic student success center:		(\$213,254)		(\$146,356)
Security and safety:		(\$98,817)		(\$47,944)
Roanoke Higher Education Authority (935) Total		(\$312,071)		(\$194,300)
Southern Virginia Higher Education Center (937)				
Personnel & Technical Training		(\$293,972)		(\$95,000)
Equipment				
Southern Virginia Higher Education Center (937) Total		(\$293,972)		(\$95,000)
Southwest Virginia Higher Education Center (948)				
Add funding for staffing		(\$95,000)		(\$95,000)
Provide funding for Rural IF Apprenticeship Program		(\$500,000)		(\$500,000)
Southwest Virginia Higher Education Center (948) Total		(\$595,000)		(\$595,000)
Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC (936)				
Leverage the Center for Nuclear Fentography		(\$250,000)		(\$250,000)
Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC (936) Total		(\$250,000)		(\$250,000)
In-State Undergraduate Tuition Moderation (980)				
Tuition moderation		(\$54,750,000)		(\$25,000,000)
In-State Undergraduate Tuition Moderation (980) Total		(\$54,750,000)		(\$25,000,000)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Department of Accounts Transfer Payments (162)				
Provide funding for a voluntary deposit to the Revenue Reserve Fund		\$0	(\$300,000,000)	
Department of Accounts Transfer Payments (162) Total		\$0	(\$300,000,000)	
Department of the Treasury (152)				
Increase funding for a new position in the Cash Management and Investments Division	(\$100,003)			(\$109,093)
Department of the Treasury (152) Total	(\$100,003)			(\$109,093)
Children's Services Act (200)				
Increase training funds for the Children's Services Act	(\$50,000)			(\$50,000)
Children's Services Act (200) Total	(\$50,000)			(\$50,000)
Department of Health (601)				
Add funding and a position for a wastewater infrastructure manager	(\$131,880)			(\$131,880)
Add funding for a data management system for Virginia's Drinking Water Program	(\$150,000)			(\$250,000)
Add funding for building Office of Health Equity infrastructure and capacity	(\$150,000)			(\$150,000)
Add funding for community health workers = two year pilot		\$0		(\$289,168)
Adds positions for the Shellfish Safety Division	(\$168,270)			(\$168,270)
Establish Behavioral Health Loan Repayment Program	(\$1,600,000)			(\$1,600,000)
Establish Nursing Preceptor Incentive Program	(\$500,000)			(\$500,000)
Establish Sickle Cell Patient Assistance Program	(\$250,000)			(\$250,000)
Establish the Virginia Sexual and Domestic Violence Prevention Fund	(\$750,000)			(\$750,000)
Fund Behavioral Health Loan Repayment Program and Nursing Preceptor Incentive Position	(\$88,914)			(\$88,914)
Increase general fund and nongeneral fund appropriation related to the EPA Drinking Water State Revolving Fund grant	(\$482,400)			(\$482,400)
Increase Hampton Roads Proton Therapy Institute funding	(\$1,500,000)			(\$1,500,000)
Increase support for poison control centers	(\$1,500,000)			\$0
Increase support for Special Olympics Virginia	(\$10,000)			(\$10,000)
Increases in rent for Local Health Department facilities	(\$75,889)			(\$75,889)
Support a position at the Mel Leaman Free Clinic	(\$30,000)			(\$30,000)
Department of Health (601) Total	(\$7,387,353)			(\$6,276,521)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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Department of Medical Assistance Services (602)				
Add Medicaid Adult Dental Benefits	(\$8,743,420)			(\$7,818,096)
Allow FAMIS MOMS to access substance use disorder treatment in an institution for mental disease	(\$307,500)			(\$356,775)
Allow Overtime for Personal Care Attendants	(\$6,399,753)			\$0
Eliminate 40 quarter work requirement for legal permanent residents	(\$879,068)			\$0
Enhance behavioral health services	(\$3,028,038)			\$0
Exempt Live-in Caretakers from EVV Program	(\$507,500)			(\$373,000)
Expand opioid treatment services	(\$421,476)			(\$1,273,633)
Expand Tobacco Cessation Coverage	(\$34,718)			(\$34,718)
Extend FAMIS MOMS' postpartum coverage to 12 months	(\$836,202)			\$0
Fund costs of Medicaid-reimbursable STEP-VA services	(\$486,951)			(\$2,293,826)
Fund home visiting services	\$0			(\$11,750,159)
Fund Managed Care Contract Changes	(\$812,600)			(\$1,014,350)
Implement episodic payment models for certain conditions	(\$75,957)			(\$124,707)
Increase DD Waiver Provider Rates Using Updated Data	(\$10,697,610)			\$0
Increase Developmental Disability (DD) waiver rates	(\$3,639,663)			\$0
Increase Medicaid Nursing Facility Reimbursement	(\$6,794,541)			\$0
Increase Medicaid Rates for Anesthesiologists	(\$253,376)			\$0
Increase mental health provider rates	(\$2,374,698)			\$0
Increase Payment Rate by 9.5% for Nursing Homes with Special Populations	(\$493,097)			(\$506,903)
Increase Rate for Adult Day Health Care	(\$796,755)			(\$833,109)
Increase Rates for Psychiatric Residential Treatment Facilities	(\$7,599,696)			\$0
Increase rates for skilled and private duty nursing services	(\$6,245,286)			\$0
Medicaid MCO Reimbursement for Durable Medical Equipment	(\$345,621)			\$0
Medicaid Works for Individuals with Disabilities	(\$114,419)			(\$228,838)
Modify Capital Reimbursement for Certain Nursing Facilities	(\$119,955)			(\$119,955)
Modify Nursing Facility Operating Rates at Four Facilities	(\$733,303)			(\$754,247)
Provide care coordination prior to release from incarceration	(\$347,803)			(\$465,440)
Supplemental Payments for Children's National Medical Center	(\$354,766)			(\$354,766)
Department of Medical Assistance Services (602) Total	(\$63,443,772)			(\$28,302,522)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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Department of Behavioral Health and Developmental Services (720)				
Adverse Childhood Experiences Initiative	(\$143,260)		(\$143,260)	
Alternative Transportation from State Hospitals	(\$150,000)		(\$150,000)	
Increase funding for statewide discharge assistance plans		\$0		(\$2,500,000)
Jewish Foundation for Group Homes	(\$89,396)			(\$35,818)
Pilot Programs for facility census reduction	(\$3,750,000)			(\$3,750,000)
Provide additional funds for the Virginia Mental Health Access Program	(\$2,112,194)			\$0
Provide funds for administrative costs of STEP-VA	(\$726,807)			(\$1,222,908)
Train workforce in preparation for behavioral health redesign	(\$129,253)			(\$129,253)
Department of Behavioral Health and Developmental Services (720) Total	(\$7,100,910)			(\$7,931,239)
Grants to Localities (790)				
Expand forensic discharge planning programs in jails	(\$1,400,000)			(\$2,100,800)
Increase permanent supportive housing capacity	(\$5,500,000)			\$0
Provide funds for partial implementation of STEP-VA	(\$19,704,173)			\$0
Grants to Localities (790) Total	(\$26,604,173)			(\$2,100,800)
Mental Health Treatment Centers (792)				
Add critical clinical staffing at the Commonwealth Center for Children and Adolescents	(\$765,428)			(\$765,428)
Increase funding for safety and security in state facilities	(\$2,299,637)			(\$3,066,182)
Provide for increased pharmacy costs at state facilities	(\$966,638)			(\$966,638)
Mental Health Treatment Centers (792) Total	(\$4,031,703)			(\$4,798,248)
Virginia Center for Behavioral Rehabilitation (794)				
Support expanded facility and projected census growth	(\$536,003)			(\$5,393,750)
Virginia Center for Behavioral Rehabilitation (794) Total	(\$536,003)			(\$5,393,750)
Department for Aging and Rehabilitative Services (262)				
Align personal attendant services hourly pay with Medicaid rates	(\$99,320)			(\$99,320)
Brain Injury Services	(\$1,000,000)			(\$1,000,000)
Centers for Independent Living	(\$425,000)			(\$425,000)
Dementia Case Management	(\$150,000)			(\$150,000)
Jewish Social Services Agency		\$0		(\$50,000)
Department for Aging and Rehabilitative Services (262) Total	(\$1,674,320)			(\$1,724,320)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
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Rehabilitative Services (262) Total				
Wilson Workforce and Rehabilitation Center (203)				
Funding for Vehicle Purchase	(\$80,000)			\$0
Wilson Workforce and Rehabilitation Center (203) Total	(\$80,000)			\$0
Department of Social Services (765)				
Adjust local staff minimum salary to stabilize workforce	(\$5,592,707)			(\$5,592,707)
Allocate one-time funding for the Laurel Center	(\$500,000)			\$0
Continue Linking Systems of Care program	(\$187,443)			(\$467,116)
Create a driver's license program for foster care youth	(\$100,000)			(\$200,000)
Fund 2-1-1 VIRGINIA contract costs	(\$153,614)			(\$153,614)
Fund adult licensing and child welfare unit licensing	\$0			(\$2,130,394)
Fund an evaluation team for evidence-based practices	(\$801,328)			(\$765,187)
Fund child welfare systems improvements	(\$250,000)			\$0
Fund emergency shelter management software and application	(\$492,800)			(\$154,000)
Fund foster care and adoptions cost of living adjustments	(\$2,262,173)			(\$2,262,173)
Fund local departments of social services prevention services	(\$12,455,329)			(\$8,718,730)
Fund the child welfare forecast	(\$722,339)			(\$722,339)
Fund the replacement of the agency licensing system	(\$2,220,134)			(\$431,638)
Implement emergency approval process for kinship caregivers	(\$75,000)			(\$75,000)
Implement Family First evidence-based services	(\$1,074,500)			(\$1,074,500)
Improve planning and operations of state-run emergency shelters	(\$188,945)			(\$152,117)
Increase TANF cash assistance benefits by five percent	(\$579,950)			\$0
Provide prevention services for children and families	(\$3,410,050)			(\$8,410,050)
Department of Social Services (765) Total	(\$31,066,312)			(\$31,309,565)
Department for the Blind and Vision Impaired (702)				
Increase workforce services for vision impaired individuals	(\$1,583,020)			(\$1,583,020)
Maintain independent living teachers for blind, vision impaired, or DeafBlind individuals	(\$397,842)			(\$397,842)
Department for the Blind and Vision Impaired (702) Total	(\$1,980,862)			(\$1,980,862)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Department of Conservation and Recreation (199)				
Environmental Literacy Program	(\$170,000)			(\$170,000)
Establish a dam safety lead engineer position	(\$170,758)			(\$170,758)
Increase dam safety floodplain management positions	(\$229,637)			(\$229,637)
Pocahontas State Park New Cabin O&M	(\$152,273)			(\$152,273)
Provide a supplemental deposit to the Water Quality Improvement Fund		\$0		(\$25,410,000)
Provide for preventative maintenance needs at state parks	(\$500,000)			(\$500,000)
Riverfront Park Danville	(\$740,000)			\$0
Support state park operations	(\$556,000)			(\$556,000)
Department of Conservation and Recreation (199) Total	(\$2,518,668)			(\$27,188,668)
Department of Environmental Quality (440)				
Air Protection	(\$1,386,451)			(\$1,978,451)
Land Protection	(\$1,659,834)			(\$1,659,834)
Water Protection	(\$3,142,973)			(\$8,309,747)
Department of Environmental Quality (440) Total	(\$6,189,258)			(\$11,948,032)
Department of Historic Resources (423)				
Funding for confederate graves		\$0		(\$83,570)
Provide additional funding and positions for underwater archaeology program	(\$159,479)			(\$159,479)
Provide additional funding for the Battlefield Preservation Fund	(\$250,000)			(\$250,000)
Provide additional funding to support staff salaries	(\$123,360)			(\$123,360)
Provide funding to County of Arlington	(\$75,000)			\$0
Provide funding to increase the Director's salary	(\$15,968)			(\$15,968)
Provide funding to support a cemetery preservationist position	(\$108,337)			(\$108,337)
Department of Historic Resources (423) Total	(\$732,144)			(\$740,714)
Marine Resources Commission (402)				
Provide funding for a coastal resiliency manager position	(\$78,250)			(\$78,150)
Provide funding for a position in the fisheries observer program	(\$81,795)			(\$57,695)
Provide funding for outboard motors	(\$96,436)			\$0
Provide funding for the removal of a derelict barge in Belmont Bay	(\$250,000)			\$0
Provide funding for unmanned aerial vehicles	(\$18,672)			\$0
Virginia Aquarium and Marine Science Foundation	(\$50,000)			\$0
Marine Resources Commission (402) Total	(\$575,153)			(\$135,845)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Department of Corrections (799)				
Adjust salaries for correctional officers	(\$6,831,121)			(\$7,864,561)
Fund pilot programs between the Department of Corrections and university health systems to provide offender medical care	(\$3,646,925)			(\$5,935,253)
Implement an electronic healthcare records system in all state correctional facilities		\$0		(\$8,935,649)
Provide additional operating funds for Lawrenceville Correctional Center	(\$994,331)			(\$994,331)
Provide funding to study offender medical service delivery in state correctional facilities	(\$500,000)			\$0
Department of Corrections (799) Total	(\$11,972,377)			(\$23,729,794)
Department of Criminal Justice Services (140)				
Immigration Legal and Social Services Grant Funding	(\$250,000)			(\$250,000)
Increase funding for pre-release and post-incarceration services	(\$500,000)			\$0
Provide funding to expand pretrial and local probation services	(\$1,150,000)			\$0
Provide security grant aid to localities	(\$1,500,000)			(\$1,500,000)
State Aid to Localities with Police Departments	(\$8,628,574)			(\$8,628,574)
Department of Criminal Justice Services (140) Total	(\$12,028,574)			(\$10,378,574)
Department of Emergency Management (127)				
Provide funding to migrate software and agency-owned servers to the cloud	(\$1,505,760)			(\$1,043,336)
Department of Emergency Management (127) Total	(\$1,505,760)			(\$1,043,336)
Department of Fire Programs (960)				
Provide general fund appropriation to support one position	(\$24,886)			(\$24,886)
Department of Fire Programs (960) Total	(\$24,886)			(\$24,886)
Department of Forensic Science (778)				
Fund information technology analyst positions	(\$185,160)			(\$246,880)
Fund laboratory equipment maintenance contracts	(\$248,000)			(\$368,000)
Department of Forensic Science (778) Total	(\$433,160)			(\$614,880)
Virginia Parole Board (766)				
Provide funding for a part-time release planning coordinator position	(\$42,319)			(\$42,319)
Provide funding for part-time investigators	(\$406,392)			(\$406,392)

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Virginia Parole Board (766) Total		(\$448,711)		(\$448,711)
Department of Veterans Services (912)				
Provide funding for the National Museum of the United States Army		(\$3,000,000)		\$0
Support mental health and benefits positions and fund maintenance and information technology needs		(\$1,045,040)		(\$1,276,753)
Virginia Women Veterans Program		(\$106,139)		(\$106,139)
Department of Veterans Services (912) Total		(\$4,151,179)		(\$1,382,892)
Department of Military Affairs (123)				
Increase funding for state tuition assistance		(\$250,000)		(\$250,000)
Department of Military Affairs (123) Total		(\$250,000)		(\$250,000)
Central Appropriations (995)				
Adjust funding for changes in the cost of rent for enhanced security		(\$1,742,906)		(\$2,518,778)
Adjust funding to agencies for information technology auditors and security officers		(\$180,746)		(\$180,746)
Adjust general fund support to agencies for increased internal service fund rates		(\$161,465)		(\$223,189)
Compensation Actions for State Employees and State-Supported Locals		(\$118,087,286)		(\$146,766,525)
Reduce state employee retiree health insurance credit amortization period		(\$3,881,799)		(\$4,050,565)
Upgrade the Integrated Flood Observation and Warning System (IFLOWS)		(\$1,000,000)		(\$1,000,000)
Central Appropriations (995) Total		(\$125,054,202)		(\$154,739,803)
Virginia Workers' Compensation Commission (191)				
Fund medical expenses for victims of sexual assault		(\$4,708,576)		(\$4,708,576)
Virginia Workers' Compensation Commission (191) Total		(\$4,708,576)		(\$4,708,576)
		(\$687,159,119)		(\$1,048,408,517)
Total for Central Appropriations.....			(\$505,529,896)	(\$767,900,321)
			\$63,830,293	\$409,772,572
Fund Sources: General.....	(\$578,383,617)	(\$840,754,042)		
	(\$9,023,428)	\$336,918,851		
Higher Education Operating.....	\$3,525,816	\$3,525,816		
Trust and Agency.....	\$69,327,905	\$69,327,905		
TOTAL FOR CENTRAL APPROPRIATIONS.....			(\$505,529,896)	(\$767,900,321)
			\$63,830,293	\$409,772,572
Fund Sources: General.....	(\$578,383,617)	(\$840,754,042)		
	(\$9,023,428)	\$336,918,851		
Higher Education Operating.....	\$3,525,816	\$3,525,816		
Trust and Agency.....	\$69,327,905	\$69,327,905		

ITEM 482.20.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
TOTAL FOR EXECUTIVE DEPARTMENT.....			\$65,088,540,817	\$65,711,422,783
			\$65,769,183,994	\$69,454,971,331
General Fund Positions.....	48,925.16	49,040.66		
	48,937.16	49,397.22		
Nongeneral Fund Positions.....	66,616.62	66,997.62		
	66,615.62	67,160.46		
Position Level.....	115,541.78	116,038.28		
	115,552.78	116,557.68		
Fund Sources: General.....	\$22,063,498,617	\$22,719,991,362		
	\$22,086,174,841	\$24,598,282,737		
Special.....	\$1,669,568,037	\$1,628,559,985		
	\$1,652,938,794	\$1,616,062,699		
Higher Education Operating.....	\$9,644,002,145	\$9,777,552,107		
	\$9,675,880,238	\$9,830,927,696		
Commonwealth Transportation.....	\$7,791,545,724	\$7,366,734,659		
	\$7,452,158,239	\$7,545,441,398		
Enterprise.....	\$1,542,965,762	\$1,590,128,241		
	\$1,634,763,263	\$1,683,280,334		
Internal Service.....	\$2,115,253,639	\$2,231,861,108		
	\$2,127,455,883	\$2,293,917,698		
Trust and Agency.....	\$2,338,937,945	\$2,408,398,658		
	\$2,428,022,502	\$2,486,301,516		
Debt Service.....	\$358,087,772	\$358,087,772		
Dedicated Special Revenue.....	\$3,491,360,613	\$3,502,349,726		
	\$3,538,334,356	\$3,776,514,062		
Federal Trust.....	\$14,073,320,563	\$14,127,759,165		
	\$14,815,368,106	\$15,266,155,419		

ITEM 483.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

INDEPENDENT AGENCIES

§ 1-136. STATE CORPORATION COMMISSION (171)

483.	Regulation of Business Practices (55200).....			\$76,361,907	\$76,899,542
				\$76,629,207	\$78,503,342
	Corporation Commission Clerk's Services (55203).....	\$17,827,059	\$17,827,059		
		\$17,889,459	\$18,201,459		
	Regulation of Investment Companies, Products and Services (55210).....	\$9,611,751	\$9,611,751		
		\$9,665,901	\$9,936,651		
	Regulation of Financial Institutions (55215).....	\$15,499,101	\$16,036,736		
		\$15,557,726	\$16,388,486		
	Regulation of Insurance Industry (55216).....	\$33,423,996	\$33,423,996		
		\$33,516,121	\$33,976,746		
	Fund Sources: Special.....	\$76,361,907	\$76,899,542		
		\$76,629,207	\$78,503,342		

Authority: Article IX, Constitution of Virginia; Title 6.2; Title 8.9A, Part 4; Title 12.1, Chapter 4; Title 13.1; Title 56, Chapter 15, Article 5; Title 58.1, Chapter 28; Title 59.1, Chapter 6.1, Code of Virginia; Title 38.2; Title 58.1, Chapter 25; and Title 65.2, Chapter 8, Code of Virginia.

A. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year is designated for replacement of the Clerk's Information System.

B. Out of the amounts for this Item, \$1,200,000 the first year and \$1,200,000 the second year is provided to effectuate the provisions of Chapter 486 of the Acts of Assembly of 2017, which allows the Commission to absorb the credit card and eCheck convenience fees as opposed to passing them on to the filers and also grants the Commission the discretion to not charge a fee for providing copies of certain documents.

484.	Regulation of Public Utilities (56300).....			\$30,238,557	\$30,238,557
				\$30,457,232	\$31,550,607
	Regulation of Utility Companies (56301).....	\$30,238,557	\$30,238,557		
		\$30,457,232	\$31,550,607		
	Fund Sources: Special.....	\$27,581,157	\$27,581,157		
		\$27,796,897	\$28,875,597		
	Dedicated Special Revenue.....	\$607,400	\$607,400		
		\$610,335	\$625,010		
	Federal Trust.....	\$2,050,000	\$2,050,000		

Authority: Title 56, Chapter 10, Code of Virginia.

485.	Distribution of Fees From and To Regulated Entities and Localities (56400).....			\$8,754,461	\$9,176,160
	Distribution of Uninsured Motorist Fee (56401).....	\$8,238,365	\$8,660,064		
	Distribution of Rolling Stock Taxes (56402).....	\$516,096	\$516,096		
	Fund Sources: Trust and Agency.....	\$8,754,461	\$9,176,160		

Authority: § 58.1-2652, Code of Virginia.

486.	Administrative and Support Services (59900).....			\$0	\$0
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Authority: Title 12.1, Code of Virginia; Article IV, Section 14 and Article IX, Constitution of Virginia.

A. Operational costs for this program shall be paid solely from charges to agency programs.

B. Out of the amounts for this Item, shall be paid the annual salary of the chairman, \$186,961 from July 1, 2020 to June 30, 2022, and for the other two Commissioners of the State Corporation Commission, each at \$184,913 from July 1, 2020 to June 30, 2022.

ITEM 486.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>C. Notwithstanding the provisions of § 13.1-775.1, Code of Virginia, the State Corporation Commission shall continue the following annual registration fees for domestic and foreign corporations. The new annual rates shall be \$100 for every foreign and domestic corporation authorized to do business in the Commonwealth whose number of authorized shares is 5,000 shares or less. Any such corporation whose number of authorized shares is more than 5,000 shall pay an annual registration fee of \$100 plus \$30 for each 5,000 shares or fraction thereof in excess of 5,000 up to a maximum of \$1,700. The commission shall deposit these funds into a special fund and transfer three-fourths of the receipts to the general fund semiannually.</p> <p>D. The Acts of Assembly Chapter 734 and Chapter 636 of 2019 shall not become effective until July 1, 2021.</p>				
487.	Plan Management (40800).....		\$8,323,671	\$13,352,671
			\$8,687,696	\$28,436,821
	Federal Health Benefit Exchange Plan Management (40801).....	\$103,671		\$103,671
	State Health Benefit Exchange Plan Management (40802).....	\$8,220,000	\$13,249,000	
		\$8,584,025	\$28,333,150	
	Fund Sources: General.....	\$103,671	\$103,671	
		\$453,671		
	Special.....	\$8,220,000	\$13,249,000	
			\$0	
	Dedicated Special Revenue.....	\$14,025	\$28,333,150	

Authority: §§ 38.2-316.1 and 38.2-326, Code of Virginia; § 42.18041 c, United States Code.

A. There is hereby appropriated to the State Corporation Commission \$103,671 the first year and \$103,671 the second year from the general fund to pay for the plan management functions authorized in Chapter 670 of the Acts of Assembly of 2013.

B.1. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may authorize either a working capital advance or an interest-free treasury loan in an amount not to exceed \$40,000,000 for the State Corporation Commission to fund start-up costs and other costs associated with the implementation of a State Health Benefit Exchange. The Secretary of Finance may extend the repayment plan for any such working capital advance or interest-free treasury loan for a period longer than twelve months.

2. The State Corporation Commission may use a portion of the user fees collected from health insurance carriers participating in the State Health Benefit Exchange to repay the working capital advance or interest-free treasury loan authorized in B.1.

C.1. Notwithstanding § 38.2-3418.18, as enacted during the 2020 Regular Session of the General Assembly, coverage of hearing aids for children shall not become effective until the Health Insurance Reform Commission, established pursuant to Chapter 53 (§ 30-339 et seq.) of Title 30 of the Code of Virginia, has completed an assessment of such coverage in accordance with the requirements of § 30-343 of the Code of Virginia, including a joint assessment by the Bureau of Insurance of the State Corporation Commission and the Joint Legislative Audit and Review Commission of the social and financial impact of the proposed mandate in accordance with § 30-343 of the Code of Virginia and the impact of the proposed mandate on health care providers, access to health care services, and the cost of health care in the Commonwealth and any process changes required to implement the mandated benefit. In addition, the Joint Legislative Audit and Review Commission and the Bureau of Insurance shall jointly examine whether changes could be made to the Essential Health Benefits Benchmark Plan to include hearing aids for minors as an essential health benefit without cost to the Commonwealth.

2. The Health Insurance Reform Commission, the Bureau of Insurance, and the Joint Legislative Audit and Review Commission shall report their findings to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.

ITEM 487.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
3. If the findings determine that no fiscal impact shall be incurred by the Commonwealth, such coverage may commence on July 1, 2021.				
<i>D. Out of this appropriation, \$350,000 the first year from the general fund is provided for development and submission of a state innovation waiver request pursuant to § 1332 of the Affordable Care Act, to establish the Commonwealth Health Reinsurance Program, pursuant to House Bill 2332, 2021 General Assembly, and to implement the bill's provisions for the program.</i>				
Total for State Corporation Commission.....			\$123,678,596	\$129,666,930
			\$124,528,596	\$147,666,930
Nongeneral Fund Positions.....	699.00	715.00		
Position Level.....	699.00	715.00		
Fund Sources: General.....	\$103,671	\$103,671		
	\$453,671			
Special.....	\$112,163,064	\$117,729,699		
	\$112,646,104	\$107,378,939		
Trust and Agency.....	\$8,754,461	\$9,176,160		
Dedicated Special Revenue.....	\$607,400	\$607,400		
	\$624,360	\$28,958,160		
Federal Trust.....	\$2,050,000	\$2,050,000		

§ 1-137. VIRGINIA LOTTERY (172)

488.	State Lottery Operations (81100).....			\$109,713,870	\$106,213,870
				\$133,130,670	\$119,830,670
	Regulation and Law Enforcement (81105).....	\$3,429,368	\$3,429,368		
			\$5,679,368		
	Gaming Operations (81106).....	\$95,313,077	\$91,813,077		
		\$118,729,877	\$105,429,877		
	Administrative Services (81107).....	\$10,971,425	\$10,971,425		
			\$8,721,425		
	Fund Sources: Enterprise.....	\$107,463,870	\$103,963,870		
		\$130,880,670	\$117,580,670		
	Dedicated Special Revenue.....	\$2,250,000	\$2,250,000		

Authority: Title 58.1, Chapter 40 and Chapter 41, Code of Virginia.

A. Out of the amounts for Virginia Lottery Operations shall be paid:

1. Reimbursement for compensation and reasonable expenses of the members of the Virginia Lottery Board in the performance of their duties, as provided in § 2.2-2813, Code of Virginia.

2. The total costs for the operation and administration of the state lottery, pursuant to § 58.1-4022, Code of Virginia.

3. The costs of informing the public of the purposes of the Lottery Proceeds Fund, established pursuant to Article X, Section 7-A, Constitution of Virginia.

B. Expenses related to the regulation and oversight of Casino Gaming shall be paid from the combination of licensing and related fees collected under Title 58.1, Chapter 41, Code of Virginia, and an additional appropriation of up to \$16 million the first year and \$16 million the second year from the Gaming Proceeds Fund shall be provided to cover the costs of regulation and oversight activities related to Casino Gaming in the event casino operators become licensed in Virginia.

C. Expenses related to the regulation and oversight of Sports Betting shall be paid from a combination of ongoing licensing and fees related to the activities described in Title 58.1, Chapter 40, Code of Virginia. \$2,250,000 the first year and \$2,250,000 the second year from nongeneral funds is provided for Sports Betting regulation and oversight activities.

D. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may authorize an interest-free treasury loan for the Virginia Lottery to fund start-up costs associated with the implementation of Casino Gaming and Sports Betting activities as enacted

ITEM 488.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

by the 2020 General Assembly of Virginia. The Secretary of Finance may extend the repayment plan for any such interest-free treasury loan for a period of longer than twelve months.

E.1. The Director of the Virginia Lottery shall convene a working group consisting of relevant agency personnel and representatives from a suitable cross-section of the Lottery-licensed sales agents, to meet at least three times between July 1, 2020 and January 1, 2021 to examine the following: (i) Virginia Lottery sales agent compensation, including standard commissions and any bonuses and incentives which are paid; (ii) how Virginia Lottery sales agent compensation compares to jurisdictions that border Virginia; and (iii) the impacts on sales agent commissions when Lottery purchases are made by means other than cash.

2. The Director is to share conclusions of the working group's analysis with the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee no later than January 1, 2021.

489.	Disbursement of Lottery Prize Payments (81200) a sum sufficient, estimated at.....			\$350,000,000	\$350,000,000
	Payment of Lottery Prizes (81201).....	\$350,000,000	\$350,000,000		
	Fund Sources: Enterprise.....	a sum sufficient			
	Authority: Title 58.1, Chapter 40, Code of Virginia.				
	There is hereby appropriated from affected funds in the state treasury, for payment of prizes awarded by the state lottery and of commissions to lottery sales agents, in accordance with law, a sum sufficient.				
	Total for Virginia Lottery.....			\$459,713,870	\$456,213,870
				\$483,130,670	\$469,830,670
	Nongeneral Fund Positions.....	419.00	419.00		
	Position Level.....	419.00	419.00		
	Fund Sources: Enterprise.....	\$457,463,870	\$453,963,870		
		\$480,880,670	\$467,580,670		
	Dedicated Special Revenue.....	\$2,250,000	\$2,250,000		

§ 1-138. VIRGINIA COLLEGE SAVINGS PLAN (174)

490.	Investment, Trust, and Insurance Services (72500) a sum sufficient, estimated at.....			\$250,000,000	\$250,000,000
	Payments for Tuition and Educational Expense Benefits (72505).....	\$250,000,000	\$250,000,000		
	Fund Sources: Enterprise.....	\$250,000,000	\$250,000,000		

Authority: Title 23.1, Chapter 7, Code of Virginia.

A. Amounts for Payments for Tuition and Educational Expense Benefits represent the payment of benefits to postsecondary educational institutions on behalf of program participants under the Prepaid529 Program, estimated at \$250,000,000 the first year and \$250,000,000 the second year, from nongeneral funds pursuant to, § 23.1-701, Code of Virginia.

B.1. Any moneys collected, distributed or held for the benefit of participants under the Invest529 Program and other higher education savings programs, including any income from such funds, are subject to the provisions of § 23.1-701.B. of the Code of Virginia.

2. Any moneys collected, distributed or held for the benefit of participants under the Prepaid529 Program, or any Plan administrative revenue, including any income from such funds, are subject to § 23.1-701.C. of the Code of Virginia.

C. Amounts for Payments for Tuition and Educational Expense Benefits cover the current obligations of the fund as provided for in Title 23.1, Chapter 7, Code of Virginia.

ITEM 491.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
491.	Administrative and Support Services (79900).....		\$35,933,169	\$37,084,735
	General Management and Direction (79901).....	\$16,764,142		\$17,572,007
	Investment, Trust and Related Services for Prepaid529 Program (79950).....	\$8,476,805		\$8,667,354
	Trust and Related Services for Invest529 Program and other Higher Education Savings Programs (79951).....	\$8,317,303		\$8,470,455
	Investment, Trust and Related Services for Achieving a Better Life Experience (ABLE) Program (79952).....	\$2,374,919		\$2,374,919
	Fund Sources: Enterprise.....	\$35,933,169		\$37,084,735

Authority: Title 23.1, Chapter 7, Code of Virginia.

A. The amounts appropriated to this Item are sufficient to continue funding a comprehensive compensation plan to link pay to performance.

B. Amounts for Investment, Trust and Related Services cover variable or unpredictable costs of the Prepaid529 Program, estimated at \$7,476,805 the first year and \$7,667,354 the second year, from nongeneral funds pursuant to § 23.1-701, Code of Virginia.

C. Amounts for Investment, Trust and Related Services cover variable and unpredictable costs of the Invest529 Program and other higher education savings programs, estimated at \$8,317,303 the first year and \$8,470,455 the second year, from nongeneral funds pursuant to § 23.1-701, Code of Virginia.

D. Included in this appropriation is \$2,000,000 the first year and \$2,000,000 the second year from nongeneral funds to support SOAR Virginia scholarships.

E. The Investment Director position at the Virginia College Savings Plan shall assist the CEO and Board in directing, managing, and administering the Plan's assets. The Investment Director shall serve at the pleasure of the Board and may be removed by a majority vote of the Board.

F. At the earliest available opportunity when system changes are implemented, the Virginia College Savings Plan shall incorporate additional functionality to the user interface system to allow expense submissions to include a notes or memo area. The Plan shall notify the Chairs of the House Appropriations and Senate Finance and Appropriations Committees of the expected date of implementation.

G. That in accordance with the provisions of Item 4-3.02 of this act and pursuant to the passage of House Bill 2174, 2021 General Assembly, the Virginia College Savings Plan shall receive a non-interest-bearing treasury loan in an amount not to exceed \$2 million each year of each biennium to cover the costs of designing and implementing the state-facilitated IRA savings program, until such time as the Program is self-sustaining. Such loan may be renegotiated, as appropriate, and the Plan shall commence repayment with Program fees and revenues once the Program has achieved at least one year of Program cash flow positivity.

Total for Virginia College Savings Plan.....			\$285,933,169	\$287,084,735
Nongeneral Fund Positions.....	125.00	125.00		
Position Level.....	125.00	125.00		
Fund Sources: Enterprise.....	\$285,933,169	\$287,084,735		

§ 1-139. VIRGINIA RETIREMENT SYSTEM (158)

492.	Personnel Management Services (70400).....		\$17,687,826	\$17,720,914
	Administration of Retirement and Insurance Programs (70415).....	\$17,687,826		\$17,720,914
	Fund Sources: General.....	\$80,000		\$80,000
	Trust and Agency.....	\$17,607,826		\$17,640,914

Authority: Title 9.1, Chapter 4; Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

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<p>A. The Board of Trustees of the Virginia Retirement System is hereby authorized to charge a participation fee to each employer served by the Virginia Retirement System for any services provided pursuant to Title 51.1, Code of Virginia. The fee shall be utilized to pay the administrative expenses of all administrative services, including non-retirement programs. Retirement contributions required by the board shall be reduced to pay such fees in a manner prescribed by the Board of Trustees.</p>				
<p>B. State agencies and institutions of higher education shall make payments to the Virginia Retirement System (VRS) for VRS-administered benefits no less often than monthly.</p>				
<p>C. The Virginia Retirement System shall make changes to administrative policies, procedures, and systems as necessary for implementation of the public employee retirement reforms provided in Chapter 701 of the Acts of Assembly of 2012.</p>				
<p>D.1. Out of this appropriation, \$80,000 the first year and \$80,000 the second year from the general fund is provided for expenses associated with the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund.</p>				
<p>2. Gains forfeited prior to July 1, 2016 pursuant to § 51.1-1206, Code of Virginia, and the accumulated earnings thereon shall be used to provide the reimbursement described in § 51.1-1200, Code of Virginia. All future gains forfeited pursuant to § 51.1-1206, Code of Virginia, shall also be used to provide the reimbursement described in § 51.1-1200, Code of Virginia.</p>				
<p>E. The Board of Trustees of the Virginia Retirement System shall provide notification to the Chairmen of the House Appropriations Committee and Senate Finance Committee when a political subdivision becomes more than 60 days in arrears in their contributions to the Virginia Retirement System. Such notification shall occur within 15 days of when the 60 day period has occurred.</p>				
<p>F.1. Pursuant to the administration of Chapter 4 of Title 9.1, Code of Virginia, the following provisions are effective July 1, 2017:</p>				
<p>2. For purposes of this Item, employer contributions for coverage provided to members of the National Guard and Virginia Defense Force on active duty shall be paid by the Department of Military Affairs.</p>				
<p>3. In addition to any other benefit provided by law, an additional death benefit in the amount of \$20,000 for the surviving spouses and dependents of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, are payable pursuant to § 44-93.1.B., Code of Virginia, from the Line of Duty Death and Health Benefits Trust Fund. The Virginia Retirement System, with support from the Department of Military Affairs, shall determine eligibility for this benefit.</p>				
<p>4. Funding for the inclusion of a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard will be paid by the Department of Military Affairs out of its appropriation in Item 471 of this act.</p>				
<p>5. Any locality that has established a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions under § 15.2-1544, Code of Virginia, may fund Line of Duty Act benefits from the assets of the trust, trusts, or equivalent arrangements.</p>				
<p>G. Annually by February 1st, the Virginia Retirement System shall submit to the Secretary of Public Safety and Homeland Security the names of individuals who were determined to be deceased persons, as defined in § 9.1-400 of the Code of Virginia, in the previous calendar year. The name of any individual whose claim has been filed, but not yet approved, may be submitted in a subsequent year by the Virginia Retirement System once the claim is approved. The Secretary of Public Safety and Homeland Security shall be authorized to share the list as necessary for the purposes of the names being inscribed on the Virginia Public Safety Memorial and honored at the Annual Memorial Service. As provided in § 9.1-408 of the Code of the Virginia, the list otherwise shall be deemed</p>				

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<p>confidential, shall be exempt from disclosure under the Virginia Freedom of Information Act, and shall not be released in whole or in part.</p> <p><i>H. The Virginia Retirement System and the Department of Human Resource Management shall report annually on or before January 1 to the Governor and the Virginia General Assembly the detailed aggregate of eligibility determinations for employees in accordance with § 9.1-400. This report shall tabulate claims data, types of injuries and associated costs with provided benefits. In accordance with § 9.1-408, the name of the employer or employee shall not appear in such publications and all documents to determine eligibility shall remain confidential.</i></p>				
493.	Investment, Trust, and Insurance Services (72500).....		\$40,194,708	\$41,610,909
	Investment Management Services (72504).....	\$40,194,708	\$41,610,909	
	Fund Sources: Trust and Agency.....	\$40,194,708	\$41,610,909	
<p>Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.</p> <p>By September 30 of each year, the Board of Trustees of the Virginia Retirement System shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the prior fiscal year's results obtained by the internal investment management program. The report shall include a comparison of investment performance against the board's benchmarks and an estimate of the program's fee savings when compared to similar assets managed externally.</p>				
494.	Administrative and Support Services (79900).....		\$47,809,647	\$46,770,856
	General Management and Direction (79901).....	\$15,913,290	\$15,374,982	
	Information Technology Services (79902).....	\$31,896,357	\$31,395,874	
	Fund Sources: Trust and Agency.....	\$47,809,647	\$46,770,856	
<p>Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.</p> <p>A. Out of the amounts appropriated to this Item, the director is authorized to expend an amount not to exceed \$25,000 the first year and \$25,000 the second year for expenses commonly borne by business enterprises. Such expenses shall be recorded separately by the agency.</p> <p>B. Out of the amounts appropriated to this Item, an amount not to exceed \$300,000 the first year and \$300,000 the second year is designated to provide retirement-related services in support of the Commission on Employee Retirement Security and Pension Reform created pursuant to the passage of Chapter 683, 2016 Acts of Assembly.</p>				
495.	<p>In the event any political subdivision of the Commonwealth of Virginia participating in the programs administered by the Virginia Retirement System fails to remit contributions or other fees and costs of the programs as duly prescribed, the Board of Trustees of the Virginia Retirement System shall inform the State Comptroller and the participating political subdivision of the delinquent amount. The State Comptroller shall forthwith transfer such amounts to the appropriate fund from any non earmarked moneys otherwise distributable to such political subdivision by any department or agency of the state.</p>			
	Total for Virginia Retirement System.....		\$105,692,181	\$106,102,679
	Nongeneral Fund Positions.....	383.00	386.00	
	Position Level.....	383.00	386.00	
	Fund Sources: General.....	\$80,000	\$80,000	
	Trust and Agency.....	\$105,612,181	\$106,022,679	
§ 1-140. VIRGINIA WORKERS' COMPENSATION COMMISSION (191)				
496.	Employment Assistance Services (46200).....		\$42,504,113	\$42,463,113
	Workers Compensation Services (46204).....	\$42,504,113	\$42,463,113	
	Fund Sources: Dedicated Special Revenue.....	\$42,504,113	\$42,463,113	

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	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Authority: Title 65.2, Chapter 2; Title 38.2, Chapter 50, Code of Virginia.				
A. Out of the amounts for Workers' Compensation Services shall be paid the annual salary of the chairman, \$184,488 from July 1, 2020 to June 30, 2022, and for each of the other two Commissioners of the Virginia Workers' Compensation Commission, \$180,697 from July 1, 2020 to June 30, 2022.				
B. In addition, retired Commissioners recalled to active duty will be paid as authorized by § 17.1-327, Code of Virginia.				
C. Out of the amounts included in this Item, \$335,458 the first year and \$294,458 the second year from nongeneral funds and two positions shall be used to create an Ombudsman program to provide neutral educational information and assistance to persons not represented by an attorney with claims pending before the Commission.				
497.	Financial Assistance for Supplemental Assistance Services (49100).....		\$15,336,070	\$15,336,070
			\$10,627,494	\$11,402,494
	Crime Victim Compensation (49104).....	\$15,336,070	\$15,336,070	
		\$10,627,494	\$11,402,494	
	Fund Sources: General.....	\$6,593,576	\$6,593,576	
		\$1,885,000	\$2,660,000	
	Dedicated Special Revenue.....	\$6,730,494	\$6,730,494	
	Federal Trust.....	\$2,012,000	\$2,012,000	
Authority: Title 19.2, Chapters 21.1 and 21.2, Code of Virginia.				
A. Out of this appropriation, up to \$6,593,576 \$1,885,000 the first year and up to \$6,593,576 \$2,660,000 the second year from the general fund shall be transferred to the Criminal Injuries Compensation Fund, established pursuant to § 19.2-368.18, Code of Virginia, for the administration of the Virginia Workers' Compensation Commission Sexual Assault Forensic Exam (SAFE) Payment program.				
<i>B. The Virginia Workers' Compensation Commission Sexual Assault Forensic Exam (SAFE) program shall make all efforts to access federal and state funds to raise the reimbursement rate cap for acute forensic exams performed by a Sexual Assault Nurse Examiner to sixty percent of the actual cost of the exam. The funds provided in paragraph A. shall be used to help meet this reimbursement rate goal, expand existing forensic nursing programs, and develop forensic nursing programs in under-served communities.</i>				
CB. The Virginia Workers' Compensation Commission shall prepare a report on the number of forensic acute, non-acute, and follow-up exams performed by medical providers for victims of sexual assault for which reimbursements are sought, billed and paid for, through the Sexual Assault Forensic Exam (SAFE) Payment program. The report shall detail the number of such exams, the amounts billed by medical providers for each exam, and the reimbursements made to providers for such billed exams through the SAFE Payment program. The report shall be delivered on or before November 1 of each year to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.				
497.10	Omitted.			
	Total for Virginia Workers' Compensation Commission.....		\$57,840,183	\$57,799,183
			\$53,131,607	\$53,865,607
	Nongeneral Fund Positions.....	299.00	299.00	
	Position Level.....	299.00	299.00	
	Fund Sources: General.....	\$6,593,576	\$6,593,576	
		\$1,885,000	\$2,660,000	
	Dedicated Special Revenue.....	\$49,234,607	\$49,193,607	
	Federal Trust.....	\$2,012,000	\$2,012,000	

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TOTAL FOR INDEPENDENT AGENCIES.....			\$1,032,857,999	\$1,036,867,397
			\$1,052,416,223	\$1,064,550,621
Nongeneral Fund Positions.....	1,925.00	1,944.00		
Position Level.....	1,925.00	1,944.00		
Fund Sources: General.....	\$6,777,247	\$6,777,247		
	\$2,418,671	\$2,843,671		
Special.....	\$112,163,064	\$117,729,699		
	\$112,646,104	\$107,378,939		
Enterprise.....	\$743,397,039	\$741,048,605		
	\$766,813,839	\$754,665,405		
Trust and Agency.....	\$114,366,642	\$115,198,839		
Dedicated Special Revenue.....	\$52,092,007	\$52,051,007		
	\$52,108,967	\$80,401,767		
Federal Trust.....	\$4,062,000	\$4,062,000		

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STATE GRANTS TO NONSTATE ENTITIES

§ 1-141. STATE GRANTS TO NONSTATE ENTITIES-NONSTATE AGENCIES (986)

498.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....		\$0	\$0
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Authority: Discretionary Inclusion.

A. Grants provided for in this Item shall be administered by the Department of Historic Resources. As determined by the department, projects of museums and historic sites, as provided for in § 10.1-2211, 10.1-2212, and 10.1-2213 of the Code of Virginia, shall be administered under the provisions of those sections. Others listed in this Item shall be administered under the provisions of § 4-5.05 of this act.

B. Prior to the distribution of any funds, the organization or entity shall make application to the department in a format prescribed by the department. The application shall state whether grant funds provided under this item will be used for purposes of operating support or capital outlay and shall include project and spending plans. Unless otherwise specified in this item, the matching share for grants funded from this Item may be cash or in-kind contributions as requested by the nonstate organization in its application for state grant funds, but must be concurrent with the grant period. The department shall use applicable federal guidelines assessing the value and eligibility of in-kind contributions to be used as matching amounts.

C. The appropriation to those entities in this Item that are marked with an asterisk (*) shall not be subject to the matching requirements of § 4-5.05 of this act.

D. Grants are hereby made to each of the following organizations and entities subject to the conditions set forth in paragraphs A., B., and C. of this Item:

Total for State Grants to Nonstate Entities-Nonstate Agencies.....		\$0	\$0
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TOTAL FOR STATE GRANTS TO NONSTATE ENTITIES.....		\$0	\$0
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TOTAL FOR PART 1: OPERATING EXPENSES.		\$66,802,377,157	\$67,431,671,726
		<i>\$67,494,854,807</i>	<i>\$71,215,793,926</i>

General Fund Positions.....	53,014.37	53,169.87		
	53,053.37	53,625.43		
Nongeneral Fund Positions.....	68,769.12	69,080.12		
	68,768.12	69,242.96		
Position Level.....	121,783.49	122,249.99		
	121,821.49	122,868.39		
Fund Sources: General.....	\$22,709,860,834	\$23,368,756,784		
	\$22,720,454,731	\$25,256,005,011		
Special.....	\$1,795,993,415	\$1,760,551,998		
	\$1,779,847,212	\$1,737,703,952		
Higher Education Operating.....	\$9,644,002,145	\$9,777,552,107		
	\$9,675,880,238	\$9,830,927,696		
Commonwealth Transportation.....	\$7,791,545,724	\$7,366,734,659		
	\$7,452,158,239	\$7,545,441,398		
Enterprise.....	\$2,286,362,801	\$2,331,176,846		
	\$2,401,577,102	\$2,437,945,739		
Internal Service.....	\$2,115,253,639	\$2,231,861,108		
	\$2,127,455,883	\$2,293,917,698		
Trust and Agency.....	\$2,453,428,266	\$2,523,721,176		
	\$2,542,512,823	\$2,601,624,034		
Debt Service.....	\$358,087,772	\$358,087,772		
Dedicated Special Revenue.....	\$3,569,007,659	\$3,579,955,772		
	\$3,615,998,362	\$3,882,470,868		

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Federal Trust.....	\$14,078,834,902	\$14,133,273,504		
	\$14,820,882,445	\$15,271,669,758		

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PART 2: CAPITAL PROJECT EXPENSES

§ 2-0. GENERAL CONDITIONS

A.1. The General Assembly hereby authorizes the capital projects listed in this act. The amounts hereinafter set forth are appropriated to the state agencies named for the indicated capital projects. Amounts so appropriated and amounts reappropriated pursuant to paragraph G. of this section shall be available for expenditure during the current biennium, subject to the conditions controlling the expenditures of capital project funds as provided by law. Reappropriated amounts, unless otherwise stated, are limited to the unexpended appropriation balances at the close of the previous biennium, as shown by the records of the Department of Accounts.

2. The Director, Department of Planning and Budget, may transfer appropriations listed in Part 2 of this act from the second year to the first year in accordance with § 4-1.03 c.5. of this act.

B. The five-digit number following the title of a project is the code identification number assigned for the life of the project.

C. Except as herein otherwise expressly provided, appropriations or reappropriations for structures may be used for the purchase of equipment to be used in the structures for which the funds are provided, subject to guidelines prescribed by the Governor.

D. Notwithstanding any other provisions of law, appropriations for capital projects shall be subject to the following:

1. Appropriations or reappropriations of funds made pursuant to this act for planning of capital projects shall not constitute implied approval of construction funds in a future biennium. Funds, other than the reappropriations referred to above, for the preparation of capital project proposals must come from the affected agency's existing resources.

2. No capital project for which appropriations for planning are contained in this act, nor any project for which appropriations for planning have been previously approved, shall be considered for construction funds until preliminary plans and cost estimates are reviewed by the Department of General Services. The purpose of this review is to avoid unnecessary expenditures for each project, in the interest of assuring the overall cost of the project is reasonable in relation to the purpose intended, regardless of discrete design choices.

E.1. Expenditures from Items in this act identified as "Maintenance Reserve" are to be made only for the maintenance of property, plant, and equipment as defined in § 4-4.01 c. of this act to the extent that funds included in the appropriation to the agency for this purpose in Part 1 of this act are insufficient.

2. Agencies and institutions of higher education can expend up to \$2,000,000 for a single repair or project, and up to \$4,000,000 for a roof replacement project, through the maintenance reserve appropriation. Such expenditures shall be subject to rules and regulations prescribed by the Governor. To the extent an agency or institution of higher education has identified a potential project that exceeds this threshold, the Director, Department of Planning and Budget, can provide exemptions to the threshold as long as the project still meets the definition of a maintenance reserve project as defined by the Department of Planning and Budget.

3. Only facilities supported wholly or in part by the general fund shall utilize general fund maintenance reserve appropriations. Facilities supported entirely by nongeneral funds shall accomplish maintenance through the use of nongeneral funds.

F. Conditions Applicable to Bond Projects

1. The capital projects listed in §§ 2-26 and 2-27 for the indicated agencies and institutions of higher education are hereby authorized and sums from the sources and in the amount indicated are hereby appropriated and reappropriated. The issuance of bonds in a principal amount plus amounts needed to fund issuance costs, reserve funds, and other financing expenses, including capitalized interest for any project listed in §§ 2-26 and 2-27 is hereby authorized.

2. The issuance of bonds for any project listed in § 2-26 is to be separately authorized pursuant to Article X, Section 9 (c), Constitution of Virginia.

3. The issuance of bonds for any project listed in §§ 2-26 or 2-27 shall be authorized pursuant to § 23.1-1106, Code of Virginia.

4. In the event that the cost of any capital project listed in §§ 2-26 and 2-27 shall exceed the amount appropriated therefore, the Director, Department of Planning and Budget, is hereby authorized, upon request of the affected institution, to approve an increase in appropriation authority of not more than ten percent of the amount designated in §§ 2-26 and 2-27 for such project, from any available nongeneral fund revenues, provided that such increase shall not constitute an increase in debt issuance authorization for such capital project. Furthermore, the Director, Department of Planning and Budget, is hereby authorized to approve the expenditure of all interest earnings derived from the investment of bond proceeds in addition to the amount designated in §§ 2-26 and 2-27 for such capital project.

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5. The interest on bonds to be issued for these projects may be subject to inclusion in gross income for federal income tax purposes.

6. Inclusion of a project in this act does not imply a commitment of state funds for temporary construction financing. In the absence of such commitment, the institution may be responsible for securing short-term financing and covering the costs from other sources of funds.

7. In the event that the Treasury Board determines not to finance all or any portion of any project listed in § 2-26 of this act with the issuance of bonds pursuant to Article X, Section 9 (c), Constitution of Virginia, and notwithstanding any provision of law to the contrary, this act shall constitute the approval of the General Assembly to finance all or such portion of such project under the authorization of § 2-27 of this act.

8. The General Assembly further declares and directs that, notwithstanding any other provision of law to the contrary, 50 percent of the proceeds from the sale of surplus real property pursuant to § 2.2-1147 et seq., Code of Virginia, which pertain to the general fund, and which were under the control of an institution of higher education prior to the sale, shall be deposited in a special fund set up on the books of the State Comptroller, which shall be known as the Higher Education Capital Projects Fund. Such sums shall be held in reserve, and may be used, upon appropriation, to pay debt service on bonds for the 21st Century College Program as authorized in Item C-7.10 of Chapter 924 of the Acts of Assembly of 1997.

9. Notwithstanding any other provision of law, a public institution of higher education may participate in the United States Department of Education Historically Black College and University Capital Financing Program (HBCU Program), and use federal grant and contract funds as permitted by the Program.

G. Upon certification by the Director, Department of Planning and Budget, there is hereby reappropriated the appropriations unexpended at the close of the previous biennium for all authorized capital projects which meet any of the following conditions:

1. Construction is in progress.
2. Equipment purchases have been authorized by the Governor but not received.
3. Plans and specifications have been authorized by the Governor but not completed.
4. Obligations were outstanding at the end of the previous biennium.

H. Alternative Financing

1. Any agency or institution of the Commonwealth that would construct, purchase, lease, or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, shall provide a report to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees no less than 30 days prior to entering into such alternative financing agreement. This report shall provide:

- a. a description of the purpose to be achieved by the proposal;
- b. a description of the financing options available, including the alternative financing, which will delineate the revenue streams or client populations pledged or encumbered by the alternative financing;
- c. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the Commonwealth;
- d. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the clients of the agency or institution; and
- e. a recommendation and planned course of action based on this analysis.

I. Conditions Applicable to Alternative Financing

The following authorizations to construct, purchase, lease or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, are continued until revoked:

1. James Madison University

a. Subject to the provisions of this act, the General Assembly authorizes James Madison University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to § 23.1-1106 C.1.d, Code of Virginia.

b. The General Assembly authorizes James Madison University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in

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accordance with the guidelines cited in paragraph 1 of this item. James Madison University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes James Madison University to enter into a written agreement with the public or private entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

d. James Madison University is further authorized to convey fee simple title in and to one or more parcels of land to James Madison University Foundation (JMUF), which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

2. Longwood University

a. Subject to the provisions of this act, the General Assembly authorizes Longwood University to enter into a written agreement or agreements with the Longwood University Real Estate Foundation (LUREF) for the development, design, construction and financing of student housing projects, a convocation center, parking, and operational and recreational facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Longwood is further authorized to enter into a written agreement with the LUREF for the support of such student housing, convocation center, parking, and operational and recreational facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes Longwood University to enter into a written agreement with a public or private entity to plan, design, develop, construct, finance, manage and operate a facility or facilities to provide additional student housing and/or operational-related facilities. Longwood University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for the benefit of LUREF will provide construction and/or permanent financing.

d. Longwood University is further authorized to convey fee simple title in and to one or more parcels of land to LUREF, which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

3. Christopher Newport University

a. Subject to the provisions of this act, the General Assembly authorizes Christopher Newport University to enter into, continue, extend or amend written agreements with the Christopher Newport University Educational Foundation (CNUEF) or the Christopher Newport University Real Estate Foundation (CNUREF) in connection with the refinancing of certain housing and office space projects.

b. Christopher Newport University is further authorized to enter into, continue, extend or amend written agreements with CNUEF or CNUREF to support such facilities including agreements to (i) lease all or a portion of such facilities from CNUEF or CNUREF, (ii) include such facilities in the University's building inventory, (iii) manage the operation and maintenance of the facilities, including collection of any rental fees from University students in connection with the use of such facilities, and (iv) otherwise support the activities at such facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligation under any documents or instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

4. Radford University

a. Subject to the provisions of this act, the General Assembly authorizes Radford University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to § 23.1-1106 C.1.d, Code of Virginia.

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b. The General Assembly authorizes Radford University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. Radford University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes Radford University to enter into a written agreement with the public or private entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

5. University of Mary Washington

a. Subject to the provisions of this act, the General Assembly authorizes the University of Mary Washington to enter into a written agreement or agreements with the University of Mary Washington Foundation (UMWF) to support student housing projects and/or operational-related or other facilities through alternative financing agreements including public-private partnerships and leasehold financing arrangements.

b. The University of Mary Washington is further authorized to enter into written agreements with UMWF to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's students housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) seek to obtain police power over the student housing as provided by law; and (v) otherwise support the students housing facilities consistent with law, provided that the University's obligation under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes the University of Mary Washington to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional student housing and/or operational-related facilities. The facility or facilities may or may not be located on property owned by the Commonwealth. The University of Mary Washington is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for UMWF will provide construction and/or permanent financing.

d. The University of Mary Washington is further authorized to convey fee simple title in and to one or more parcels of land to the University of Mary Washington Foundation (UMWF) which will develop and use the land for the purpose of developing and establishing residential housing for students, faculty, or staff, recreational, athletic, and/or operational related facilities including office, retail and commercial, student services, or other auxiliary activities.

6. Norfolk State University

a. Subject to the provisions of this act, the General Assembly authorizes Norfolk State University to enter into a written agreement or agreements with a Foundation of the University for the development of one or more student housing projects on or adjacent to campus, subject to the conditions outlined in the Public-Private Education Facilities Infrastructure Act of 2002.

b. Norfolk State University is further authorized to enter into written agreements with a Foundation of the University to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's student housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) restrict construction of competing student housing projects; (v) seek to obtain police power over the student housing as provided by law; and (vi) otherwise support the student housing facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

7. Northern Virginia Community College - Alexandria Campus

The General Assembly authorizes Northern Virginia Community College, Alexandria Campus to enter into a written agreement either with its affiliated foundation or a private contractor to construct a facility to provide on-campus housing on College land to be leased to said foundation or private contractor for such purposes. Northern Virginia Community College, Alexandria Campus, is also authorized to enter into a written agreement with said foundation or private contractor for the support of such student housing facilities and management of the operation and maintenance of the same.

Item Details(\$)		Appropriations(\$)	
First Year	Second Year	First Year	Second Year
FY2021	FY2022	FY2021	FY2022

8. Virginia State University

a. Subject to the provisions of this act, the General Assembly authorizes Virginia State University (University) to enter into a written agreement or agreements with the Virginia State University Foundation (VSUF), Virginia State University Real Estate Foundation (VSUREF), and other entities owned or controlled by the university for the development, design, construction, financing, and management of a mixed-use economic development corridor comprising student housing, parking, and dining facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Virginia State University is further authorized to enter into a written agreement with the VSUREF, VSUF, and other entities owned or controlled by the university for the support of such a mixed-use economic development corridor comprising student housing, parking, and dining facilities by including these projects in the university's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other university facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the university shall not be required to take any action that would constitute a breach of the university's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the university or the Commonwealth of Virginia.

9. College of William and Mary

a. Subject to the provisions of this act, the General Assembly authorizes the College of William and Mary, with the approval of the Governor, to explore and evaluate alternative financing scenarios to provide additional parking, student or faculty/staff housing, recreational, athletic and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board guidelines issued pursuant to § 23.1-1106 C.1. (d), Code of Virginia.

b. The General Assembly authorizes the College of William and Mary to enter into written agreements with public or private entities to design, construct, and finance a facility or facilities to provide additional parking, student or faculty/staff housing, recreational, athletic, and/or operational related facilities. The facility or facilities may be on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. The College of William and Mary is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facility.

c. The General Assembly further authorizes the College of William and Mary to enter into written agreements with the public or private entities for the support and operation of such parking, student or faculty/staff housing, recreational, athletic, and /or operational related facilities by including the facilities in the College's facility inventory and managing their operation and maintenance including the assignment of parking authorizations, students, faculty or staff, and operations to the facility in preference to other university facilities, limiting construction of competing projects, and by otherwise supporting the facilities consistent with law, provided that the Collage shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the College or the Commonwealth of Virginia.

d. The College of William and Mary is further authorized to convey fee simple title in and to one or more parcels of land to the William and Mary Real Estate Foundation (WMREF) which will develop and use the land for the purpose of developing and establishing residential housing for students, faculty, or staff, recreational, athletic, and/or operational related facilities including office, retail and commercial, student services, or other auxiliary activities.

10. The following individuals, and members of their immediate family, may not engage in an alternative financing arrangement with any agency or institution of the Commonwealth, where the potential for financial gain, or other factors may cause a conflict of interest:

- a. A member of the agency or institution's governing body;
- b. Any elected or appointed official of the Commonwealth or its agencies and institutions who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement; or
- c. Any elected or appointed official of a participating political subdivision, or authority who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement.

J. 1. Appropriations contained in this act for capital project planning shall be used as specified for each capital project and construction funding for the project shall be considered by the General Assembly after determining that (1) project cost is reasonable; (2) the project remains a highly-ranked capital priority for the Commonwealth; and (3) the project is fully justified from a space and programmatic perspective.

2. Appropriations reappropriated for institutions of higher education, in accordance with § 23.1-1002, Code of Virginia, may be used to fund the detailed planning authorized for projects in this act and shall be reimbursed when the project is funded to move into the construction phase.

K. Any capital project that has received a supplemental appropriation due to cost overruns is expected to be completed within the

	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

revised budget provided. If a project requires an additional supplement, the Governor should also consider reduction in project scope or cancelling the project before requesting additional appropriations. Agencies and institutions with nongeneral funds may bear the costs of additional overruns from nongeneral funds.

L. The Governor shall consider the project life cycle cost that provides the best long-term benefit to the Commonwealth when conducting capital project reviews, design and construction decisions, and project scope changes.

M. No structure, improvement or renovation shall occur on the state property located at the Carillon in Byrd Park in the City of Richmond without the approval of the General Assembly.

N. All agencies of the Commonwealth and institutions of higher education shall provide information and/or use systems and processes in the method and format as directed by the Director, Department of General Services, on behalf of the Six-Year Capital Outlay Plan Advisory Committee, to provide necessary information for state-wide reporting. This requirement shall apply to all projects, including those funded from general and nongeneral fund sources.

O. The Director, Department of Planning and Budget, in consultation with the Six-Year Capital Outlay Plan Advisory Committee, is authorized to transfer bond appropriations and bond proceeds between and among the capital pool projects listed in the table below, in order to address any shortfall in appropriation in one or more of such projects:

Pool Project No.	Pool Project Title	Authorization
17775	Public Education Institutions Capital Account	Enactment Clause 2, § 4, Chapter 1, 2008 Acts of Assembly, Special Session I
17776	State Agency Capital Account	Enactment Clause 2, § 2, Chapter 1, 2008 Acts of Assembly, Special Session I
17861	Supplements for Previously Authorized Higher Education Capital Projects	Item C-85, Chapter 874, 2010 Acts of Assembly; amended by Item C-85, Chapter 890, 2011 Acts of Assembly
17862	Energy Conservation	Item C-86, Chapter 890, 2011 Acts of Assembly
17967	Capital Outlay Project Pool	Item C-38.10, Chapter 3, 2012 Acts of Assembly, Special Session I; amended by: Item C-38.10, Chapter 806, 2013 Acts of Assembly; by Item C-38.10, Chapter 1, 2014 Acts of Assembly, Special Session I; Item C-43, Chapter 2, 2014 Acts of Assembly, Special Session I; Item C-43, Chapter 665, 2015 Acts of Assembly; and Item 48.10, Chapter 836, 2017 Acts of Assembly; and Item C-44.10, Chapter 854, 2019 Acts of Assembly.
18049	Comprehensive Capital Outlay Program	Item C-39.40, Chapter 806, 2013 Acts of Assembly; amended by: Item C-39.40, Chapter 1, 2014 Acts of Assembly, Special Session I; Item C-46.10, Chapter 2, 2014 Acts of Assembly, Special Session I, Item 46.10, Chapter 665, 2015 Acts of Assembly, and Item C-46, Chapter 2, 2018 Acts of Assembly, Special Session I.
18196	Capital Outlay Renovation Pool	Item C-46.15, Chapter 665, 2015 Acts of Assembly; amended by: Item C-46.10, Chapter 854, 2019 Acts of Assembly.
18300	2016 VPBA Capital Construction Pool	§ 1, Chapters 759 and 769, 2016 Acts of Assembly; amended by: Item C-47, Chapter 2, 2018 Acts of Assembly, Special Session I.
18301	2016 VCBA Capital Construction Pool	§ 2, Chapters 759 and 769, 2016 Acts of Assembly; amended by: Item C-48, Chapter 2, 2018 Acts of Assembly, Special Session I.
18371	2018 Capital Construction Pool	Item C-45, Chapter 2, 2018 Acts of Assembly, Special Session I; amended by:

		Item Details(\$)		Appropriations(\$)	
		First Year	Second Year	First Year	Second Year
		FY2021	FY2022	FY2021	FY2022
					Item C-45, Chapter 854, 2019 Acts of Assembly.
18382	Supplemental funding: Capitol Complex Infrastructure and Security				Item C-51.50, Chapter 2, 2018 Acts of Assembly, Special Session I; amended by: Item C-51.50, Chapter 854, 2019 Acts of Assembly.
18408	2019 Capital Construction Pool				Item C-48.10, Chapter 854, 2019 Acts of Assembly.
18493	2020 VPBA Construction Pool				Item C-67 of this act.
18494	2020 VCBA Constructions Pool				Item C-68 of this act.
18145	<i>Supplement Previously Authorized Capital Project Construction Pools</i>				<i>Item C-69 of this act.</i>
18540	<i>2021 Capital Construction Pool</i>				<i>Item C-68.50 of this act.</i>

P. Not more than a total aggregate principal amount of \$250 million in debt obligations shall be issued excluding refunding bonds in any fiscal year for the capital projects listed in Items C-67 and C-68 of this act, provided, however, that if less than a total aggregate principal amount of \$250 million in debt obligations is incurred in any fiscal year for such capital projects, the unused amount may be added to any subsequent fiscal year. Issuance of debt shall proceed so that the projected average annual debt service on all tax-supported debt over the 10-year horizon shall be in accordance with the guidelines established by the Debt Capacity Advisory Committee. The Six-Year Capital Outlay Plan Advisory Committee shall establish procedures to ensure compliance with the annual issuance limits and shall meet at least quarterly to review progress.

EXECUTIVE DEPARTMENT

OFFICE OF ADMINISTRATION

§ 2-1. DEPARTMENT OF GENERAL SERVICES (194)

C-1.	Improvements: Renovate and Repair Fort Monroe (18191).....			\$17,800,000	\$0
	Fund Sources: Bond Proceeds.....	\$17,800,000	\$0		

A. 1. There is hereby appropriated \$17,800,000 the first year for improvements to Fort Monroe from the bond proceeds authorized in Item C-75 of this act. The Department of General Services shall act as fiscal agent for the bond proceeds allocated to this capital project. The Fort Monroe Authority is authorized to use a portion of these proceeds to secure the services of a project manager for overseeing and coordinating the on-site efforts involving the various repairs and renovation activities at Fort Monroe. The project manager shall work in consultation and coordination with the Department of General Services as this project proceeds towards completion.

2. This appropriation is subject to the conditions in § 2-0 F. of this act.

3. Except as provided for in paragraph A.2. of this item, the provisions of §§ 2-0 and 4-4.01 of this act and the provisions of §2.2-1132, Code of Virginia, shall not apply to activity executed under this project.

C-1.10	Improvements: Perform waterproofing repairs for Capitol Visitor's Center (18527).....			\$0	\$4,512,000
	Fund Sources: Bond Proceeds.....	\$0	\$4,512,000		
C-1.20	New Construction: Construct new state office building and parking deck (18528).....			\$0	\$11,320,000
	Fund Sources: General.....	\$0	\$11,320,000		

The funding provided in this item is intended for the costs associated with detailed planning for the project authorized by this item.

C-1.30	New Construction: Construct new Supreme Court building (18537).....			\$0	\$6,220,000
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ITEM C-1.30.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>Fund Sources: General</i>	\$0	\$6,220,000		
<i>The funding provided in this item is intended for the costs associated with detailed planning for the project authorized by this item.</i>				
Total for Department of General Services.....			\$17,800,000	\$0 \$22,052,000
Fund Sources: <i>General</i>	\$0	\$17,540,000		
Bond Proceeds.....	\$17,800,000	\$0		
		\$4,512,000		
TOTAL FOR OFFICE OF ADMINISTRATION.....			\$17,800,000	\$0 \$22,052,000
Fund Sources: <i>General</i>	\$0	\$17,540,000		
Bond Proceeds.....	\$17,800,000	\$0		
		\$4,512,000		

OFFICE OF AGRICULTURE AND FORESTRY

§ 2-2. DEPARTMENT OF FORESTRY (411)

C-2.	Acquisition: Acquire new state forest in Charlotte County (18455).....			\$5,110,191	\$0	\$6,725,000
	Fund Sources: Dedicated Special Revenue.....	\$5,110,191	\$0			
	<i>Federal Trust</i>	\$0	\$5,725,000		\$1,000,000	
	Total for Department of Forestry.....			\$5,110,191	\$0	\$6,725,000
	Fund Sources: Dedicated Special Revenue.....	\$5,110,191	\$0			
	<i>Federal Trust</i>	\$0	\$5,725,000		\$1,000,000	
	TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY.....			\$5,110,191	\$0	\$6,725,000
	Fund Sources: Dedicated Special Revenue.....	\$5,110,191	\$0			
	<i>Federal Trust</i>	\$0	\$5,725,000		\$1,000,000	

OFFICE OF EDUCATION

§ 2-3. CHRISTOPHER NEWPORT UNIVERSITY (242)

C-3.	Improvements: Improvements: Auxiliary Infrastructure Repairs (18463).....			\$2,789,000	\$0	
	Fund Sources: Bond Proceeds.....	\$2,789,000	\$0			
C-4.	New Construction: Integrated Science Center, Phase III (18496).....			\$2,061,000	\$0	
	Fund Sources: Higher Education Operating.....	\$2,061,000	\$0			

A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Christopher Newport University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.

B. Christopher Newport University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.

ITEM C-4.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Christopher Newport University.....			\$4,850,000	\$0
Fund Sources: Higher Education Operating.....	\$2,061,000	\$0		
Bond Proceeds.....	\$2,789,000	\$0		

§ 2-4. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)

C-5.	Improvements: Renovate Dormitories (18218).....		\$11,850,000	\$0
	Fund Sources: Bond Proceeds.....	\$11,850,000	\$0	
C-6.	New Construction: Renovate: Kaplan Arena & Construct: Sports Performance Center (18467).....		\$55,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$55,000,000	\$0	
C-7.	New Construction: Construct: Parking Facilities (18468).....		\$11,300,000	\$0
	Fund Sources: Bond Proceeds.....	\$11,300,000	\$0	
C-8.	Improvements: Repair Sanitary Sewer Lines (18474).....		\$3,750,000	\$0
	Fund Sources: Bond Proceeds.....	\$3,750,000	\$0	
	Total for The College of William and Mary in Virginia.....		\$81,900,000	\$0
	Fund Sources: Bond Proceeds.....	\$81,900,000	\$0	

§ 2-5. GEORGE MASON UNIVERSITY (247)

C-9.	Planning: Construct and renovate Advanced Computational Infrastructure and Hybrid Learning Labs (18470).....		\$1,150,000	\$0
	Fund Sources: Higher Education Operating.....	\$1,150,000	\$0	
	George Mason University shall be reimbursed for the designated nongeneral funds used in this Item for detailed planning when the project is funded to move into the construction phase.			
C-10.	Planning: Renovate Space to Accommodate Virtual Online Campus (18471).....		\$550,000	\$0
	Fund Sources: Higher Education Operating.....	\$550,000	\$0	
	George Mason University shall be reimbursed for the designated nongeneral funds used in this Item for detailed planning when the project is funded to move into the construction phase.			
C-11.	New Construction: Construct Institute for Digital Innovation (IDIA) and Garage (18482).....		\$242,500,000	\$0
	Fund Sources: Special.....	\$82,000,000	\$0	
	Bond Proceeds.....	\$160,500,000	\$0	

A. Subject to the provisions of this act, the Governor and the General Assembly authorize George Mason University (Mason) to enter into a written agreement with a public or private entity to design, construct, finance, operate and maintain up to a 400,000 gross square foot mixed-use facility, currently identified as the Institute for Digital Innovation (IDIA), and the associated parking necessary to support research, innovation, and workforce development for the Commonwealth of Virginia. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board guidelines issued pursuant to § 23.1-1106 C.1. (d), Code of Virginia.

B. The Governor and the General Assembly further authorize George Mason University to

ITEM C-11.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>enter into long-term leases with a private or public entity for all or a portion of the project. Mason shall identify any components of such an agreement that qualifies as a long-term lease, as defined by Generally Accepted Accounting Principles (GAAP), and report such leases to the Department of Accounts, the Department of the Treasury, and the Department of Planning and Budget. Any such agreement is subject to § 4-3.03 b.2. of this act. If any such agreement contemplates the lease of property in the possession or control of Mason, this item shall constitute the approval required by subsection B of § 2.2-1155, Code of Virginia, for the term of such lease to be in excess of 50 years, up to and including the useful life of the improvements to such property, provided that the Governor also approves such a term.</p> <p>C. It is anticipated that the authorization provided in paragraphs A. and B. will generate funding totaling \$82,000,000 toward the construction of the project in this Item.</p> <p>D. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq., of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$84,000,000 plus amounts need to fund issuance costs, reserve funds, original issue discount, interest prior to and during acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this Item is provided. Debt service on bonds issued under the authorization in this Item for funding from the Virginia College Building Authority shall be provided from appropriations to the Treasury Board.</p> <p>E. This Item additionally authorizes the issuance of bonds in a principal amount not to exceed \$76,500,000 plus amounts needed to fund issuance costs, reserve funds, and other financing expenses, including capitalized interest pursuant to Article X, Section 9(d), Constitution of Virginia. The amount indicated is hereby appropriated and reappropriated. The issuance of bonds shall be authorized pursuant to § 23.1-1106, Code of Virginia. In the event that the cost of the capital project shall exceed the amount appropriated therefore, the Director, Department of Planning and Budget, is hereby authorized, upon request, to approve an increase in appropriation authority of not more than ten percent of the amount designated, from any available nongeneral fund revenues, provided that such increase shall not constitute an increase in debt issuance authorization for the capital project. Furthermore, the Director, Department of Planning and Budget, is hereby authorized to approve the expenditure of all interest earnings derived from the investment of bond proceeds in addition to the amount designated. The interest on bonds to be issued for this project may be subject to inclusion in gross income for federal income tax purposes. This authorization does not imply a commitment of state funds for temporary construction financing. In the absence of such commitment, Mason may be responsible for securing short-term financing and covering the costs from other sources of funds.</p>				
C-12.	Improvements: Improve Technology Infrastructure, Phase II (18487).....		\$23,250,000	\$0
	Fund Sources: Bond Proceeds.....	\$23,250,000	\$0	
	The funding from Bond Proceeds provided in this Item reflects \$12,250,000 from state-supported debt and \$11,000,000 from university-supported bonds.			
C-12.10	Planning: Academic VIII-STEM, Science and Technology Campus (18498).....		\$7,500,000	\$0
	Fund Sources: Higher Education Operating.....	\$7,500,000	\$0	
	<p>A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, George Mason University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.</p> <p>B. George Mason University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</p>			
C-12.20	Improvements: Aquatic and Fitness Center Capital Renewal (18529).....		\$0	\$10,000,000
	Fund Sources: Bond Proceeds.....	\$0	\$10,000,000	

ITEM C-12.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for George Mason University.....			\$274,950,000	\$0 <i>\$10,000,000</i>
Fund Sources: Special.....	\$82,000,000	\$0		
Higher Education Operating.....	\$9,200,000	\$0		
Bond Proceeds.....	\$183,750,000	<i>\$0</i> <i>\$10,000,000</i>		

§ 2-6. JAMES MADISON UNIVERSITY (216)

C-13.	Acquisition: Blanket Property Acquisition (17821)			\$3,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0		
C-14.	Improvements: Convocation Center Renovation/Expansion (17826).....			\$20,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$20,000,000	\$0		
C-15.	New Construction: Expand Warren Hall (18354)....			\$49,997,854	\$0
	Fund Sources: Bond Proceeds.....	\$49,997,854	\$0		
C-16.	Improvements: Renovate Eagle Hall (18469).....			\$49,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$49,000,000	\$0		
C-17.	Planning: Renovate and Expand Carrier Library (18485).....			\$7,025,000	\$0
	Fund Sources: Higher Education Operating.....	\$7,025,000	\$0		

A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, James Madison University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.

B. James Madison University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.

C-17.30	Improvements: East Campus Steam Plant, Phase I (18553).....			\$0	\$6,579,237
	Fund Sources: Higher Education Operating.....	\$0	\$1,973,771		
	Bond Proceeds.....	\$0	\$4,605,466		
	Total for James Madison University.....			\$129,022,854	\$0 <i>\$6,579,237</i>
	Fund Sources: Higher Education Operating.....	\$10,025,000	<i>\$0</i> <i>\$1,973,771</i>		
	Bond Proceeds.....	\$118,997,854	<i>\$0</i> <i>\$4,605,466</i>		

§ 2-7. LONGWOOD UNIVERSITY (214)

C-17.50	Improvements: Replace Major HVAC Controls and Equipment -- COVID-19 Response (18538).....			\$0	\$3,773,000
	Fund Sources: Higher Education Operating.....	\$0	\$58,000		
	Bond Proceeds.....	\$0	\$3,715,000		
	Total for Longwood University.....			\$0	\$3,773,000
	Fund Sources: Higher Education Operating.....	\$0	\$58,000		
	Bond Proceeds.....	\$0	\$3,715,000		

ITEM C-17.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
§ 2-8. OLD DOMINION UNIVERSITY (221)				
C-18.	Planning: Construct a New Biology Building (18473).....		\$5,135,736	\$0
	Fund Sources: Higher Education Operating.....	\$5,135,736	\$0	
	A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Old Dominion University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.			
	B. Old Dominion University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.			
C-19.	Improvements: Campus Wide Stormwater Improvements (18476).....		\$5,241,702	\$0
	Fund Sources: Bond Proceeds.....	\$5,241,702	\$0	
	Total for Old Dominion University.....		\$10,377,438	\$0
	Fund Sources: Higher Education Operating.....	\$5,135,736	\$0	
	Bond Proceeds.....	\$5,241,702	\$0	
§ 2-9. RADFORD UNIVERSITY (217)				
C-20.	Improvements: Renovate Norwood and Tyler Residence Halls (18462).....		\$17,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$5,000,000	\$0	
	Bond Proceeds.....	\$12,000,000	\$0	
	Total for Radford University.....		\$17,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$5,000,000	\$0	
	Bond Proceeds.....	\$12,000,000	\$0	
§ 2-10. UNIVERSITY OF MARY WASHINGTON (215)				
C-21.	Improvements: Athletic Field Replacements and Improvements (18466).....		\$0	\$5,512,000
	Fund Sources: Higher Education Operating.....	\$0	\$5,512,000	
	Total for University of Mary Washington.....		\$0	\$5,512,000
	Fund Sources: Higher Education Operating.....	\$0	\$5,512,000	
§ 2-11. VIRGINIA COMMONWEALTH UNIVERSITY (236)				
C-22.	Planning: Construct Interdisciplinary Classroom and Laboratory Building (18472).....		\$250,000	\$0
	Fund Sources: Higher Education Operating.....	\$250,000	\$0	
	A. 1. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Virginia Commonwealth University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2023.			
	2. As part of the planning process for this project, Virginia Commonwealth University will evaluate and submit construction phasing options.			
	B. Virginia Commonwealth University shall be reimbursed for all nongeneral funds used			

ITEM C-22.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
when the project is funded to move into the construction phase.				
C-22.10	Acquisition: Virginia Alcoholic Beverage Control Authority Property (18499).....		\$0	\$0 \$16,000,000
	Fund Sources: <i>General</i>		\$0	\$14,700,000
	<i>Higher Education Operating</i>		\$0	\$1,300,000
A. The provisions of Item C-13.10, Chapter 854, 2019 Acts of Assembly, as it relates to the Virginia Commonwealth University acquisition of the Virginia Alcoholic Beverage Control Authority property are hereby extended for the 2020-22 Biennium.				
<i>B. 1. Out of this appropriation \$14,700,000 the second year from the general fund and \$1,300,000 the second year from nongeneral funds is provided to proceed with the sale of property by the Virginia Alcoholic Beverage Control Authority to Virginia Commonwealth University.</i>				
<i>2. The general fund provided in this item shall be applied to offset any future state share related to the construction of educational space that is a part of the overall project.</i>				
C-22.20	Planning: New Arts and Innovation Building (18500).....		\$5,000,000	\$0
	Fund Sources: Higher Education Operating.....		\$5,000,000	\$0
A.1. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Virginia Commonwealth University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.				
2. As part of the planning process for this project, Virginia Commonwealth University will evaluate and submit construction phasing options.				
B. Virginia Commonwealth University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.				
	Total for Virginia Commonwealth University.....		\$5,250,000	\$0 \$16,000,000
	Fund Sources: <i>General</i>		\$0	\$14,700,000
	Higher Education Operating.....		\$5,250,000	\$0 \$1,300,000
§ 2-12. VIRGINIA COMMUNITY COLLEGE SYSTEM (260)				
C-23.	Improvements: Re-roof and Replace HVAC - Multiple Buildings, Statewide (18483).....		\$16,000,000	\$0
	Fund Sources: Bond Proceeds.....		\$16,000,000	\$0
C-23.5	<i>Planning: Renovate Amherst/Campbell Hall, Central Virginia (18343).....</i>		\$500,000	\$0
	<i>Fund Sources: General</i>		\$500,000	\$0
C-24.	Omitted.			
C-24.10	Improvements: Replace HVAC Franklin Campus, Paul D. Camp (18501).....		\$2,200,000	\$0
	Fund Sources: Bond Proceeds.....		\$2,200,000	\$0
	Total for Virginia Community College System.....		\$18,200,000 \$18,700,000	\$0
	Fund Sources: <i>General</i>		\$500,000	\$0
	Bond Proceeds.....		\$18,200,000	\$0

ITEM C-24.10.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
§ 2-13. VIRGINIA MILITARY INSTITUTE (211)					
C-25.	Improvements: Renovate 408 Parade (18465).....			\$2,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,000,000	\$0		
	Total for Virginia Military Institute.....			\$2,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,000,000	\$0		
§ 2-14. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)					
C-26.	New Construction: Construct new academic facility, Innovation campus, Northern Virginia (18412).....			\$107,000,000	\$0 \$27,136,000
	Fund Sources: Bond Proceeds.....	\$107,000,000	\$0 \$27,136,000		
C-27.	New Construction: Data and Decision Science Building (18427).....			\$10,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$10,000,000	\$0		
C-28.	New Construction: Construct Creativity and Innovation District Living Learning Community (18457).....			\$105,500,000	\$0
	Fund Sources: Higher Education Operating.....	\$15,880,000	\$0		
	Bond Proceeds.....	\$89,620,000	\$0		
C-29.	New Construction: Construct Global Business and Analytics Complex Residence Halls (18458).....			\$84,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$84,000,000	\$0		
C-30.	New Construction: Construct New Upper Quad Residence Hall (18459).....			\$33,000,000	\$0 \$7,000,000
	Fund Sources: Bond Proceeds.....	\$33,000,000	\$0 \$7,000,000		
C-31.	New Construction: Construct Corps Leadership and Military Science Building (18460).....			\$52,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$20,650,000	\$0		
	Bond Proceeds.....	\$31,350,000	\$0		
C-32.	Acquisition: Acquire Falls Church Property (18461).			\$11,080,000	\$0
	Fund Sources: Bond Proceeds.....	\$11,080,000	\$0		
C-33.	Improvements: Address Life, Health, Safety, Accessibility and Code Compliance (18478).....			\$3,100,000	\$0
	Fund Sources: Bond Proceeds.....	\$3,100,000	\$0		
C-33.10	Planning: Replace Randolph Hall (18502).....			\$11,000,000 \$0	\$0 \$11,000,000
	Fund Sources: <i>Higher Education Operating</i>	\$11,000,000 \$0	\$0		
	<i>Bond Proceeds</i>	\$0	\$11,000,000		

A. 1. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Virginia Tech shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2022.

ITEM C-33.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
2. As part of the planning process for this project, Virginia Tech will evaluate and submit construction phasing options.				
B. Virginia Tech shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.				
Total for Virginia Polytechnic Institute and State University.....			\$416,680,000 \$405,680,000	\$0 \$45,136,000
Fund Sources: Higher Education Operating.....	\$47,530,000 \$36,530,000	\$0		
Bond Proceeds.....	\$369,150,000	\$0 \$45,136,000		

C-34. Omitted.

§ 2-15. VIRGINIA STATE UNIVERSITY (212)

C-35. Improvements: Improve and Replace Technology Infrastructure (18475).....			\$11,471,000	\$0
Fund Sources: Bond Proceeds.....	\$11,471,000	\$0		
C-36. Improvements: Improve Infrastructure for Campus Safety, Security, Energy Reduction and System Reliability (18481).....			\$8,299,506	\$0
Fund Sources: Bond Proceeds.....	\$8,299,506	\$0		
C-36.10 <i>Improvements: Improve Heating, Air Conditioning and Ventilation Campuswide for Infectious Aerosol Control (18530)</i>			\$0	\$33,980,000
Fund Sources: Bond Proceeds.....	\$0	\$33,980,000		
Total for Virginia State University.....			\$19,770,506	\$0 \$33,980,000
Fund Sources: Bond Proceeds.....	\$19,770,506	\$0 \$33,980,000		

§ 2-16. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)

C-36.30 <i>Improvements: Construct Crossing Gallery (18316)</i>			\$1,300,000	\$0
Fund Sources: General.....	\$1,300,000	\$0		
<i>The Frontier Culture Museum is authorized to continue planning on capital project 18316: Construct Crossing Gallery with an updated scope including addressing insufficient heating and cooling; insufficient square footage for undersized program elements; and omissions of critical site components.</i>				
Total for Frontier Culture Museum of Virginia.....			\$1,300,000	\$0
Fund Sources: General.....	\$1,300,000	\$0		

§ 2-17. THE SCIENCE MUSEUM OF VIRGINIA (146)

C-36.40 <i>Improvements: Critical Facility and Infrastructure Upgrades and Safety Modifications (18531)</i>			\$0	\$4,957,000
Fund Sources: Bond Proceeds.....	\$0	\$4,957,000		
C-36.45 <i>Improvements: Community Green Space (18555)</i>			\$0	\$7,506,000
Fund Sources: Special.....	\$0	\$7,506,000		

ITEM C-36.45.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for The Science Museum of Virginia.....			\$0	\$12,463,000
Fund Sources: <i>Special</i>	\$0	\$7,506,000		
<i>Bond Proceeds</i>	\$0	\$4,957,000		
§ 2-18. VIRGINIA MUSEUM OF FINE ARTS (238)				
C-36.50 Improvements: Repairs and Structural Issues (18503).....			\$2,750,000	\$0
Fund Sources: Bond Proceeds.....	\$2,750,000	\$0		
Total for Virginia Museum of Fine Arts.....			\$2,750,000	\$0
Fund Sources: Bond Proceeds.....	\$2,750,000	\$0		
TOTAL FOR OFFICE OF EDUCATION.....			\$982,750,798	\$5,512,000
			\$973,550,798	\$133,443,237
Fund Sources: <i>General</i>	\$1,800,000	\$14,700,000		
<i>Special</i>	\$82,000,000	\$0		
		\$7,506,000		
Higher Education Operating.....	\$84,201,736	\$5,512,000		
	\$73,201,736	\$8,843,771		
Bond Proceeds.....	\$816,549,062	\$0		
		\$102,393,466		

OFFICE OF HEALTH AND HUMAN RESOURCES

§ 2-19. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)

C-37.	Make infrastructure repairs to state facilities (18307).		\$13,870,000	\$0
	Fund Sources: Bond Proceeds.....	\$13,870,000	\$0	
C-38.	Improvements: Address patient and staff safety issues at state facilities (18365).....		\$7,600,000	\$0
	Fund Sources: Bond Proceeds.....	\$7,600,000	\$0	
	Total for Department of Behavioral Health and Developmental Services.....		\$21,470,000	\$0
	Fund Sources: Bond Proceeds.....	\$21,470,000	\$0	

§ 2-20. DEPARTMENT FOR THE BLIND AND VISION IMPAIRED (702)

C-39.	Improvements: Improve campus infrastructure (18488).....		\$0	\$1,223,500
	Fund Sources: Bond Proceeds.....	\$0	\$1,223,500	
	Total for Department for the Blind and Vision Impaired.....		\$0	\$1,223,500
	Fund Sources: Bond Proceeds.....	\$0	\$1,223,500	
	TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....		\$21,470,000	\$1,223,500
	Fund Sources: Bond Proceeds.....	\$21,470,000	\$1,223,500	

OFFICE OF NATURAL RESOURCES

§ 2-21. DEPARTMENT OF CONSERVATION AND RECREATION (199)

ITEM C-40.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
C-40. Acquisition: Acquisition of land for State Parks (18236).....			\$309,802	\$0
			\$809,802	\$1,800,000
Fund Sources: <i>General</i>	\$0	\$1,000,000		
<i>Special</i>	\$309,802	\$0		
<i>Dedicated Special Revenue</i>	\$500,000	\$800,000		
<p>A. It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase, be limited to in-holdings or contiguous properties, consistent with the authorization contained in Item 374, and be limited to property within or contiguous to Mayo River, New River Trail, Seven Bends, Lake Anna, First Landing, Natural Tunnel, Sailor's Creek Battlefield, Shenandoah River, Wilderness Road, Westmoreland, <i>High Bridge Trail, Grayson Highlands, Staunton River, Kiptopeke</i>, and Southwest Virginia Museum Historical State Parks. In addition, the department is authorized to accept donations of property to develop a state park within Loudoun County.</p> <p>B. <i>Out of this appropriation, \$1,000,000 the second year from the general fund is designated for the Department of Conservation and Recreation, in partnership with the Living River Trust, to acquire the Newton Neck property for the development of a public park in partnership with the City of Chesapeake.</i></p>				
C-41. Acquisition: Acquisition of land for Natural Area Preserves (18242).....			\$6,547,328	\$0
Fund Sources: <i>Special</i>	\$1,635,218	\$0		
<i>Federal Trust</i>	\$4,912,110	\$0		
<p>It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase be limited, consistent with the authorization contained in Item 374, to property within or contiguous to The Cedars, Bald Knob, Deep Run Ponds, Buffalo Mountain, Antioch Pines, Pinnacle, Mount Joy Ponds, Camp Branch Wetlands, Chesnut Ridge, Cleveland Barrens, Difficult Creek, Pedlar Hills Glades, Poor Mountain, South Quay Sandhills, Grafton Ponds, Cowbane Prairie, Bush Mill Stream, Cypress Bridge, Cape Charles, <i>Dendron Swamp, Magothy Bay, Lyndhurst Ponds</i>, and Crow's Nest Natural Area Preserves. In addition, the department is authorized to accept donations of property within Stafford County contiguous to existing Natural Area Preserves.</p>				
C-42. Improvements: Make Critical Infrastructure Repairs and Residences at Various State Parks (18366).....			\$13,000,000	\$0
Fund Sources: <i>Bond Proceeds</i>	\$13,000,000	\$0		
C-43. Improvements: Improve Belle Isle State Park (18429).....			\$1,500,000	\$0
Fund Sources: <i>Dedicated Special Revenue</i>	\$1,500,000	\$0		
<p>The Department of Conservation and Recreation is authorized to accept and expend gifts, donations or other funds to evaluate options to renovate and furnish the Belle Isle Manor House and dependencies at Belle Isle State Park.</p>				
C-44. Omitted.				
C-45. Omitted.				
C-46. Improvements: Renovation of Existing Revenue Generating Cabins (18490).....			\$16,158,000	\$0
Fund Sources: <i>Bond Proceeds</i>	\$16,158,000	\$0		
C-47. Omitted.				
C-48. Omitted.				

ITEM C-48.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Department of Conservation and Recreation.....			\$37,515,130 \$38,015,130	\$0 \$1,800,000
Fund Sources: <i>General</i>	\$0	\$1,000,000		
Special.....	\$1,945,020	\$0		
Dedicated Special Revenue.....	\$1,500,000 \$2,000,000	\$0 \$800,000		
Federal Trust.....	\$4,912,110	\$0		
Bond Proceeds.....	\$29,158,000	\$0		
§ 2-22. DEPARTMENT OF GAME AND INLAND FISHERIES (403)				
§ 2-22.1. DEPARTMENT OF WILDLIFE RESOURCES (403)				
C-49.	Maintenance Reserve (13316).....		\$1,500,000	\$1,500,000
	Fund Sources: Dedicated Special Revenue.....	\$750,000	\$750,000	
	Federal Trust.....	\$750,000	\$750,000	
C-50.	Improvements: Improve Wildlife Management Areas (18103).....		\$1,000,000	\$1,000,000
	Fund Sources: Dedicated Special Revenue.....	\$250,000	\$250,000	
	Federal Trust.....	\$750,000	\$750,000	
C-51.	Acquisition: Acquire Additional Land (18104).....		\$5,000,000	\$5,000,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000	
	Federal Trust.....	\$4,500,000	\$4,500,000	
C-52.	Improvements: Repair and Upgrade Dams to Comply with the Dam Safety Act (18105).....		\$500,000	\$500,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000	
C-53.	Improvements: Improve Boating Access (18106).....		\$1,250,000	\$1,250,000
	Fund Sources: Dedicated Special Revenue.....	\$250,000	\$250,000	
	Federal Trust.....	\$1,000,000	\$1,000,000	
	Total for Department of Game and Inland Fisheries...		\$9,250,000	\$9,250,000
	Total for Department of Wildlife Resources.....		\$9,250,000	\$9,250,000
	Fund Sources: Dedicated Special Revenue.....	\$2,250,000	\$2,250,000	
	Federal Trust.....	\$7,000,000	\$7,000,000	
§ 2-23. MARINE RESOURCES COMMISSION (402)				
C-54.	Improvements: Oyster Reef Restoration (18479).....		\$10,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$10,000,000	\$0	
	Total for Marine Resources Commission.....		\$10,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$10,000,000	\$0	
	TOTAL FOR OFFICE OF NATURAL RESOURCES.....		\$56,765,130 \$57,265,130	\$9,250,000 \$11,050,000
	Fund Sources: <i>General</i>	\$0	\$1,000,000	
	Special.....	\$1,945,020	\$0	
	Dedicated Special Revenue.....	\$3,750,000 \$4,250,000	\$2,250,000 \$3,050,000	
	Federal Trust.....	\$11,912,110	\$7,000,000	
	Bond Proceeds.....	\$39,158,000	\$0	

ITEM C-54.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY

§ 2-24. DEPARTMENT OF CORRECTIONS (799)

C-55.	Improvements: DOC Capital Infrastructure Fund (18480).....			\$15,000,000	\$15,000,000
	Fund Sources: Bond Proceeds.....	\$15,000,000	\$15,000,000		

The appropriation for this project shall be used for the repair, renovation, or improvement of existing correctional facilities including mechanical and security systems. The Department shall submit a report on the use of this funding including: i) the facilities in which the funds were spent; ii) a description of each project; and iii) the total amount spent for each project. The report shall be submitted to the Department of Planning and Budget and the Chairs of the House Appropriations Committee and the Senate Finance Committee by July 15 of each year.

C-55.10	<i>Improvements: Authorize expansion of Goochland-VCCW wastewater treatment plant (18532).....</i>			\$198,717	\$3,000,000
	<i>Fund Sources: Trust and Agency.....</i>	\$198,717	\$3,000,000		
	Total for Department of Corrections.....			\$15,000,000	\$15,000,000
				\$15,198,717	\$18,000,000
	Fund Sources: <i>Trust and Agency.....</i>	\$198,717	\$3,000,000		
	Bond Proceeds.....	\$15,000,000	\$15,000,000		

§ 2-25. DEPARTMENT OF JUVENILE JUSTICE (777)

C-55.90	<i>Improvements: Remove and replace compromised fire protection water tank (18533).....</i>			\$0	\$500,000
	<i>Fund Sources: General.....</i>	\$0	\$500,000		
	Total for Department of Juvenile Justice.....			\$0	\$500,000
	Fund Sources: <i>General.....</i>	\$0	\$500,000		

§ 2-26. DEPARTMENT OF STATE POLICE (156)

C-56.	Stand-alone Equipment Acquisition: Upgrade Statewide Agencies Radio System (STARS) network (18414).....			\$40,000,000	\$40,000,000
	Fund Sources: Bond Proceeds.....	\$40,000,000	\$40,000,000		

This appropriation is the second and third of a four year allocation to implement an upgrade program for the Statewide Agencies Radio System (STARS) project. It may consist of, but is not limited to, land; mobile telecommunications equipment and towers; software; radio frequency rights and licenses; communications control buildings and facilities; related infrastructure; program management; and other project costs necessary, incidental or convenient to undertake, acquire, develop, construct, upgrade, and equip the integrated statewide shared land-mobile radio communications system for the Commonwealth.

	Total for Department of State Police.....			\$40,000,000	\$40,000,000
	Fund Sources: Bond Proceeds.....	\$40,000,000	\$40,000,000		
	TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY			\$55,000,000	\$55,000,000
				\$55,198,717	\$58,500,000
	Fund Sources: <i>General.....</i>	\$0	\$500,000		
	<i>Trust and Agency.....</i>	\$198,717	\$3,000,000		

ITEM C-56.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	Bond Proceeds.....	\$55,000,000	\$55,000,000		
OFFICE OF TRANSPORTATION					
§ 2-27. DEPARTMENT OF MOTOR VEHICLES (154)					
C-56.50	<i>New Construction: Construct Winchester customer service center (18534).....</i>			\$0	\$3,500,000
	<i>Fund Sources: Commonwealth Transportation.....</i>	\$0	\$3,500,000		
	Total for Department of Motor Vehicles.....			\$0	\$3,500,000
	<i>Fund Sources: Commonwealth Transportation.....</i>	\$0	\$3,500,000		
§ 2-28. DEPARTMENT OF TRANSPORTATION (501)					
C-57.	Maintenance Reserve (15732).....			\$6,000,000	\$6,000,000
	Fund Sources: Commonwealth Transportation.....	\$6,000,000	\$6,000,000		
C-58.	Improvements: Acquire, Design, Construct and Renovate Agency Facilities (18130).....			\$51,671,839	\$54,000,000
	Fund Sources: Commonwealth Transportation.....	\$51,671,839	\$54,000,000		
	Total for Department of Transportation.....			\$57,671,839	\$60,000,000
	Fund Sources: Commonwealth Transportation.....	\$57,671,839	\$60,000,000		
§ 2-29. VIRGINIA PORT AUTHORITY (407)					
C-59.	Improvements: Cargo Handling Facilities (16048)....			\$29,700,000	\$28,250,000
	Fund Sources: Special.....	\$22,500,000	\$22,500,000		
	Federal Trust.....	\$7,200,000	\$5,750,000		
C-60.	Improvements: Expand Empty Yard (16643).....			\$22,500,000	\$22,500,000
	Fund Sources: Special.....	\$22,500,000	\$22,500,000		
C-61.	Stand-alone Equipment Acquisition: Procure Equipment (18125).....			\$43,000,000	\$20,000,000
	Fund Sources: Special.....	\$43,000,000	\$20,000,000		
	Total for Virginia Port Authority.....			\$95,200,000	\$70,750,000
	Fund Sources: Special.....	\$88,000,000	\$65,000,000		
	Federal Trust.....	\$7,200,000	\$5,750,000		
§ 2-30. VIRGINIA COMMERCIAL SPACE FLIGHT AUTHORITY (509)					
C-61.50	New Construction: Accomack Regional Airport Hanger (18504).....			\$2,000,000	\$0
	Fund Sources: Commonwealth Transportation.....	\$1,000,000	\$0		
	Bond Proceeds.....	\$1,000,000	\$0		
	Total for Virginia Commercial Space Flight Authority.....			\$2,000,000	\$0
	Fund Sources: Commonwealth Transportation.....	\$1,000,000	\$0		
	Bond Proceeds.....	\$1,000,000	\$0		
	TOTAL FOR OFFICE OF TRANSPORTATION.....			\$154,871,839	\$130,750,000
	Fund Sources: Special.....	\$88,000,000	\$65,000,000		\$134,250,000

ITEM C-61.50.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Commonwealth Transportation.....	\$58,671,839	\$60,000,000 \$63,500,000		
Federal Trust.....	\$7,200,000	\$5,750,000		
Bond Proceeds.....	\$1,000,000	\$0		

OFFICE OF VETERANS AND DEFENSE AFFAIRS

§ 2-31. DEPARTMENT OF VETERANS SERVICES (912)

C-61.60	Improvements: Veterans Care Centers Pandemic Response Renovations (18507).....			\$1,000,000 \$1,129,000	\$0
	Fund Sources: Bond Proceeds.....	\$1,000,000 \$1,129,000	\$0		

A. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed ~~\$1,000,000~~ \$1,129,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this Item is provided.

B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

C. The appropriation in this Item provides the state match for the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) grant for coronavirus related construction and renovation projects at Sitter & Barfoot Veterans Care Center (Richmond) and Virginia Veterans Care Center (Roanoke) to prepare for and deal with pandemic response.

C-61.70	Improvements: Provide appropriation to support renovation projects at veterans care centers (18539).....			\$0	\$3,794,789
	Fund Sources: Federal Trust.....	\$0	\$2,173,789		
	Bond Proceeds.....	\$0	\$1,621,000		
	Total for Department of Veterans Services.....			\$1,000,000 \$1,129,000	\$0 \$3,794,789
	Fund Sources: Federal Trust.....	\$0	\$2,173,789		
	Bond Proceeds.....	\$1,000,000 \$1,129,000	\$0 \$1,621,000		

§ 2-32. DEPARTMENT OF MILITARY AFFAIRS (123)

C-62.	Improvements: Replace/Install Fire Safety Systems in Readiness Centers (18318).....			\$3,000,000	\$0 \$2,000,000
	Fund Sources: Bond Proceeds.....	\$3,000,000	\$0 \$2,000,000		
C-63.	New Construction: Construct Blackstone Army Air Field (BAAF) Fire Station (18464).....			\$3,350,000	\$0
	Fund Sources: Federal Trust.....	\$3,350,000	\$0		
C-63.10	Improvements: Provide funding for antiterrorism and force protection security enhancements (18535).....			\$0	\$1,000,000
	Fund Sources: Bond Proceeds.....	\$0	\$1,000,000		
C-63.20	New Construction: Construct Army Airfield flight control tower at Fort Pickett (18536).....			\$4,500,000	\$0

ITEM C-63.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: Federal Trust.....	\$4,500,000	\$0		
Total for Department of Military Affairs.....			\$6,350,000	\$0
			\$10,850,000	\$3,000,000
Fund Sources: Federal Trust.....	\$3,350,000	\$0		
	\$7,850,000			
Bond Proceeds.....	\$3,000,000	\$0		
		\$3,000,000		
TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....			\$7,350,000	\$0
			\$11,979,000	\$6,794,789
Fund Sources: Federal Trust.....	\$3,350,000	\$0		
	\$7,850,000	\$2,173,789		
Bond Proceeds.....	\$4,000,000	\$0		
	\$4,129,000	\$4,621,000		

CENTRAL APPROPRIATIONS

§ 2-33. CENTRAL CAPITAL OUTLAY (949)

C-64.	Central Maintenance Reserve (15776).....		\$137,000,000	\$137,000,000	\$137,750,000
	Fund Sources: <i>General</i>	\$0	\$137,750,000		
	Bond Proceeds.....	\$137,000,000	\$137,000,000		\$0

A. 1. A total of \$137,000,000 the first year and ~~\$137,000,000~~ the second year is hereby authorized for issuance by the Virginia Public Building Authority pursuant to § 2.2-2263 Code of Virginia, or the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, for capital costs of maintenance reserve projects.

2. Out of this appropriation, \$137,750,000 the second year from the general fund is designated for capital costs of maintenance reserve projects.

B. The proceeds of such bonds authorized in paragraph A.1. and the general fund authorized in paragraph A.2. are hereby appropriated for the capital costs of the following maintenance reserve projects:

Agency Name/Code	Project Code	FY 2021	FY 2022
Department of Military Affairs (123)	10893	\$983,198	\$983,198
Department of Emergency Management (127)	15989	\$101,115	\$101,115
The Science Museum of Virginia (146)	13634	\$689,602	\$689,602
Department of State Police (156)	10886	\$660,197	\$660,197
Department of General Services (194)	14260	\$18,932,172	\$18,932,172 \$19,432,172
Department of Conservation and Recreation (199)	16646	\$2,703,908	\$2,703,908
The Library of Virginia (202)	17423	\$186,236	\$186,236
Wilson Workforce and Rehabilitation Center (203)	10885	\$548,599	\$548,599
The College of William and Mary (204)	12713	\$3,707,638	\$3,707,638
University of Virginia (207)	12704	\$13,060,405	\$13,060,405
Virginia Polytechnic Institute and State University (208)	12707	\$13,725,568	\$13,725,568

ITEM C-64.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Virginia Military Institute (211)	12732	\$1,733,844		\$1,733,844
Virginia State University (212)	12733	\$3,811,227		\$3,811,227
Norfolk State University (213)	12724	\$4,164,086		\$4,164,086
Longwood University (214)	12722	\$1,899,815		\$1,899,815
University of Mary Washington (215)	12723	\$1,671,520		\$1,671,520
James Madison University (216)	12718	\$5,012,314		\$5,012,314
Radford University (217)	12731	\$2,238,123		\$2,238,123
Virginia School for the Deaf and Blind (218)	14082	\$463,468		\$463,468
Old Dominion University (221)	12710	\$3,670,222		\$3,670,222
Virginia Commonwealth University (236)	12708	\$7,152,137		\$7,152,137
Virginia Museum of Fine Arts (238)	13633	\$837,203		\$837,203
Frontier Culture Museum of Virginia (239)	15045	\$606,690		\$606,690
Richard Bland College (241)	12716	\$521,507		\$521,507
Christopher Newport University (242)	12719	\$1,027,186		\$1,027,186
University of Virginia's College at Wise (246)	12706	\$781,393		\$781,393
George Mason University (247)	12712	\$5,902,972		\$5,902,972
Virginia Community College System (260)	12611	\$13,305,162		\$13,305,162
Virginia Institute of Marine Science (268)	12331	\$811,261		\$811,261
Eastern Virginia Medical School (274)	18190	\$322,485		\$322,485
Department of Agriculture and Consumer Services (301)	12253	\$418,291		\$418,291
Marine Resources Commission (402)	16498	\$102,603		\$102,603
Department of Mines, Minerals, and Energy (409)	13096	\$111,466		\$111,466
Department of Forestry (411)	13986	\$472,444		\$472,444
Gunston Hall (417)	12382	\$175,253		\$175,253
Jamestown-Yorktown Foundation (425)	13605	\$1,687,911		\$1,687,911
Department for the Blind and Vision Impaired (702)	13942	\$387,738		\$387,738
Department of Behavioral Health and Developmental Services (720)	10880	\$6,835,202		\$6,835,202 \$7,085,202
Department of Juvenile Justice (777)	15081	\$1,061,383		\$1,061,383
Department of Forensic Science (778)	16320	\$544,218		\$544,218
Department of Corrections	10887	\$11,875,427		\$11,875,427

ITEM C-64.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
(799)				
Institute for Advanced Learning and Research (885)	18044	\$335,675		\$335,675
Department of Veterans Services (912)	17073	\$101,115		\$101,115
Roanoke Higher Education Center (935)	17916	\$385,136		\$385,136
Southern Virginia Higher Education Center (937)	18131	\$306,956		\$306,956
New College Institute (938)	18132	\$306,956		\$306,956
Virginia Museum of Natural History (942)	14439	\$334,753		\$334,753
Southwest Virginia Higher Education Center (948)	16499	\$326,220		\$326,220
Total		\$137,000,000		\$137,000,000
				\$137,750,000

C. Expenditures for amounts appropriated in this Item are subject to conditions defined in §2-0 E. of this act.

D. 1. In order to reduce building operation costs and repay capital investments, agencies and institutions of higher education may give priority to maintenance reserve projects which result in guaranteed savings to the agency or institution pursuant to § 11-34.3, Code of Virginia.

2. Agencies and institutions of higher education may use maintenance reserve funds to finance the following capital costs: to repair or replace damaged or inoperable equipment, components of plant, and utility systems; to correct deficiencies in property and plant required to conform with building and safety codes or those associated with hazardous condition corrections, including asbestos abatement; to correct deficiencies in fire protection, safety and security, energy conservation and handicapped access; and to address such other physical plant deficiencies as the Director, Department of Planning and Budget may approve. Agencies and institutions of higher education may also use maintenance reserve funds to make other necessary improvements that do not meet the criteria for maintenance reserve funding with the prior approval of the Director, Department of Planning and Budget.

E. 1. The Department of General Services is authorized to use these funds from its maintenance reserve allocation and any balances left from prior maintenance reserve allocations for necessary repairs and improvements in and around Capitol Square for items such as repair and conservation of the historic fence, repair and improvements to the grounds, upkeep and ongoing repairs to the exterior of the Capitol and Bell Tower, needed safety and security upgrades, and conservation and maintenance of monuments and statues. The use of and allocation of these funds shall be as deemed appropriate by the Director, Department of General Services.

2. Notwithstanding the provisions of § 2.2-1130, Code of Virginia, the Department of General Services shall retain custody, control and supervision of the Virginia War Memorial Carillon. Out of the amounts provided for the Department of General Services (Project Code 14260), the Department shall provide for maintenance and repair of the Virginia War Memorial Carillon. In addition, notwithstanding the provisions of § 2.2-1130, Code of Virginia, any fund balances held by the Department of General Services and new revenues generated by the Department of General Services under the provisions of § 2.2-1130, Code of Virginia, shall be paid to the Department of General Services by the Comptroller and shall be retained by the Department of General Services for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon.

F. 1. The Jamestown-Yorktown Foundation may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item for the conservation of art and artifacts.

2. The Virginia Museum of Fine Arts may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item for the conservation of art works owned by the Museum.

ITEM C-64.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

3. The Frontier Culture Museum may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this item for the conservation of art and artifacts.

G. The Department of Corrections may use a portion of its annual maintenance reserve allocation to make modifications to correctional facilities needed to enable the agency to meet the requirements of the federal Prison Rape Elimination Act.

H. The Frontier Culture Museum may use its maintenance reserve allocation to pave the loop roads, paths, and parking lots, repair and replace restroom facilities, improve public entrance accessibility, ~~and~~ improve the grounds at the museum, *and restore, repair or renew exhibits.*

I. The Jamestown-Yorktown Foundation may utilize its annual maintenance reserve allocation to restore, repair or renew exhibits.

J. The Department of Corrections may use up to \$1,500,000 of its annual maintenance reserve allocation to retrofit the correctional facility in Culpeper County that had been used in the past by the Department of Juvenile Justice to house juvenile defenders, but will be used to house adult offenders.

K. Gunston Hall may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item to restore, repair, or renew exhibits. Furthermore, it may use its maintenance reserve allocation to pave the roads, paths, and parking lots, improve entrance accessibility, and improve the grounds at the museum.

L. 1. Out of the amounts provided for the Department of Behavioral Health and Developmental Services (720), Project Code 10880, up to \$570,000 may be used to begin the initial environmental remediation recommended in the initial environmental site assessment at the Central Virginia Training Center site.

2. *Out of the amounts provided for the Department of Behavioral Health and Developmental Services (720), Project Code 10880, up to \$250,000 may be used to extend the water main and modify the water system as part of the transition of the water supply system at the Central Virginia Training Center site to the Amherst County Service Authority.*

M. Out of the amount allocated for the Department of General Services, \$1,000,000 the first year and \$1,000,000 the second year is designated for building and utility repairs at Fort Monroe. After determining those buildings and utilities to be repaired, and the priority in which repairs will be undertaken within the available allocation in this item, the Fort Monroe Authority shall present an annual plan to the Director, Department of Planning and Budget. The Fort Monroe Authority is authorized to use a portion of this funding allocation to secure the services of a project manager for overseeing and coordinating the on-site efforts involving the various repairs at Fort Monroe. The project manager shall work in consultation and coordination with the Department of General Services. The Department of General Services shall act as fiscal agent for the authorized funds.

C-65.	Central Reserve for Capital Equipment Funding (17954).....		\$108,608,337	\$0
				\$6,786,250

Fund Sources: Bond Proceeds.....	\$108,608,337	\$0
		\$6,786,250

A. 1. The capital projects in paragraph B. of this Item are hereby authorized and may be financed in whole or part through bonds of the Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority, pursuant to § 2.2-2260, Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amount shall not exceed ~~\$108,608,337~~ \$115,394,587 plus amounts to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing costs.

ITEM C-65.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>2. From the list of projects included in paragraph B. of this Item, the Director, Department of Planning and Budget, shall provide the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority with the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization.</p> <p>3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.</p> <p>B. There is hereby appropriated \$108,608,337 in the first year <i>and</i> \$6,786,250 in the <i>second year</i> from bond proceeds of the Virginia College Building Authority or the Virginia Public Building Authority to provide funds for equipment for the following projects for which construction was previously provided.</p>				
Agency Name/Project Title				
The Science Museum of Virginia (146)				
Construct Parking Facility/Master Site Plan (18200)				
Department of General Services (194)				
Capitol Complex Infrastructure and Security (18081)				
Seat of Government Swing Space and Repairs (18394)				
Virginia Polytechnic Institute and State University (208)				
Renovate Holden Hall (Engineering) (18267)				
Fralin Biomedical Research Institute				
Virginia Military Institute (211)				
Renovate Preston Library (18203)				
Improve Post Infrastructure Phase I, II, and III (18204)				
Renovate Scott Shipp Hall (18270)				
James Madison University (216)				
Renovate Jackson Hall (18334)				
Virginia Cooperative Extension and Agricultural Experiment Station (229)				
Construct Livestock and Poultry Research Facilities - Phase I (18277)				
Christopher Newport University (242)				
Construct and Renovate Fine Arts and Rehearsal Space (18086)				
George Mason University (247)				
Improve IT Network Infrastructure (18339)				
Construct / Renovate Robinson Hall, New Academic and Research Facility and Harris Theater Site (18207)				
Virginia Community College System (260)				
Renovate Reynolds Academic Building, Loudoun Campus, Northern Virginia (17989)				
Virginia Institute of Marine Science (268)				
Research Vessel (17950)				
Construct Eastern Shore Laboratory Education and Administration Complex (18320)				
Replace Oyster Hatchery (18344)				
Department for the Blind and Vision Impaired (702)				
Renovate the Departmental Headquarters Building (18164)				
Institute for Advanced Learning and Research (885)				
Construct Center for Manufacturing (18402)				
Department of Veterans Services (912)				
Hampton Roads Veterans Care Center (17957)				
Construct Northern Virginia Veterans Care Center (18212)				
Southwest Virginia Higher Education Center (948)				
Construct Building Expansion and Replace Generator (18126)				
C-66.	Planning: Detail Planning for Capital Projects (17968).....		\$1,517,750	\$0 \$14,150,000

ITEM C-66.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Fund Sources: <i>General</i>	\$0	\$14,150,000		
Dedicated Special Revenue.....	\$1,517,750	\$0		

A. Included in the appropriation for this Item is \$1,517,750 the first year from the Central Capital Planning Fund (09650), established under authority of § 2.2-1520, Code of Virginia, and \$14,150,000 the second year from the general fund to be used for pre-planning and detailed planning of authorized projects.

B. The following projects shall be funded for detailed planning from amounts in the Central Capital Planning Fund and such amounts are hereby appropriated.

Agency Code	Agency Name	Project Title
156	Department of State Police	Replace training academy at department headquarters
156	Department of State Police	Replace Division 6 Headquarters
194	Department of General Services	Renovate the Supreme Court Building
211	Virginia Military Institute	Construct Center for Leadership and Ethics Facility, Phase II
213	Norfolk State University	Renovate / Replace Fine Arts Building
215	University of Mary Washington	Construct Fine and Performing Arts Center
234	Cooperative Extension and Agricultural Research Services	Renovate Summerseat for Urban Agriculture Center
417	Gunston Hall	Construction of New Archaeology and Maintenance Facilities
720	Department of Behavioral Health and Developmental Services	Food Service Renovations Statewide
720	Department of Behavioral Health and Developmental Services	Eastern State Hospital Phase 4
799	Department of Corrections	Powhatan Infirmary Replacement
799	Department of Corrections	Deerfield Correctional Center Expansion
942	Virginia Museum of Natural History	Construct satellite facility in Waynesboro, Virginia

C. ~~Out of the amounts in the Central Capital Planning Fund;~~ *The* Department of General Services is authorized to begin pre-planning to develop the state-owned property at 703 E. Main Street in Richmond, Virginia. No later than November 1, 2020, the Department shall submit to the Six-Year Capital Outlay Plan Advisory Committee its pre-planning documents, with capital costs for the development of the site.

D. In accordance with Title 2.2, Chapter 15.1, Code of Virginia, each institution and agency shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. However, no planning documents pursuant to this item for the Construct Fine and Performing Arts Center at the University of Mary Washington, the Renovate / Replace Fine Arts Building at Norfolk State University or the Construct Center for Leadership and Ethics Facility, Phase II at Virginia Military Institute shall be submitted to the Governor or the General

ITEM C-66.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

Assembly prior to July 1, 2022.

E. Each agency and institution of higher education may use nongeneral funds to complete the pre-planning or detailed planning documents for projects authorized in this Item.

F. In accordance with § 2.2-1520, Code of Virginia, the Director, Department of Planning and Budget, shall reimburse the Central Capital Planning Fund for the amounts provided for detailed planning when the project is funded to move into the construction phase.

G. The Director of the Department of Planning and Budget shall transfer \$1,000,000 on July 1, 2020, from Item 402 of this act to supplement planning for the Deerfield Correctional Center Expansion project.

C-66.10 Omitted.

C-67.	2020 VPBA Capital Construction Pool (18493).....		\$319,806,572	\$0
	Fund Sources: Special.....	\$35,000,000		\$0
	Dedicated Special Revenue.....	\$39,434,000		\$0
	Federal Trust.....	\$17,015,317		\$0
	Bond Proceeds.....	\$228,357,255		\$0

A. 1. The capital projects in paragraph C. of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia Public Building Authority pursuant to § 2.2-2260 et seq., Code of Virginia, in a principal amount not to exceed \$228,357,255 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia.

2. From the list of projects included in paragraph B. of this Item, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia Public Building Authority with the specific projects, as well as the amounts for these projects, to be financed by the Authority within the dollar limit established by this authorization.

3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.

4. The appropriations for the capital projects in this Item are subject to the conditions in § 2-0 F. of this act.

B. In addition to the appropriation and bond authorization authorized by this Item, the Director, Department of Planning and Budget, shall transfer unutilized Virginia Public Building Authority (VPBA) bond authorization and appropriation from the projects listed below, in the amounts shown, to this project for funding the projects listed in paragraph C:

Agency No.	Project No.	Initial Authorization	Amount
123	18310	Item C-34.20, Chapter 836, 2017 Acts of Assembly	\$1,144.25
238	17582	Item C-97, Chapter 879, 2008 Acts of Assembly	\$80,776.76
720	17457	Item C-247.30, Chapter 3, 2006 Acts of Assembly, Special Session I	\$453,642.53
949	18049	Item C-39.40 D.5., Chapter 806, 2013 Acts of Assembly	\$5,000,000.00

C. There is hereby appropriated \$228,357,255 the first year from bond proceeds of the Virginia Public Building Authority to provide funds for the construction and other capital costs of the following projects:

Agency	Agency Title	Project Title
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ITEM C-67.	Code		Item Details(\$)		Appropriations(\$)		
			First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022	
	123	Department of Military Affairs			Construct Roanoke Readiness Center and Combined Support Maintenance Shop (18325)		
	146	The Science Museum of Virginia			Construct Regional Science Center in Northern Virginia (18428)		
	199	Department of Conservation and Recreation			State Park Critical Bathhouse/Restroom Replacements and Renovations		
	199	Department of Conservation and Recreation			Westmoreland Road and Bank Stabilization		
	194	Department of General Services			Construct Addition to Current State Records Center Building & Repurpose Workspace in Facility		
	194	Department of General Services			Provide water infrastructure to state facilities in Nottoway County, Virginia		
	238	Virginia Museum of Fine Arts			Expand and Renovate Museum (18430)		
	425	Jamestown-Yorktown Foundation			Jamestown Settlement Pier (18383)		
	702	Department for the Blind and Vision Impaired			Renovate the Library and Resource Center		

D. Funding is included in this item for the Department of General Services to design, renovate, construct, and prepare agreements for facilities to support the potable and fire protection water needs of Piedmont Geriatric Hospital, Virginia Center for Behavioral Rehabilitation (Phases 1 and 2), and Nottoway Correctional Center (the "Identified Facilities"). The Department of General Services will first consider improvements to the current water supply system servicing the Identified Facilities. Improvements to the current water supply system may include facility infrastructure, ownership, and operational changes and improvements. The Department of Behavioral Health and Developmental Services, Department of Corrections, and the Town of Crewe shall participate with, provide support to, and be responsive to the Department of General Services' activities to satisfy the requirements of this item. Should improvements to the current water supply system be (a) cost prohibitive, (b) inadequate to meet the needs of the Identified Facilities, or (c) otherwise undesirable, all as may be determined by the Department of General Services, the Department of General Services may determine other solutions to meet the necessary water needs of the Identified Facilities.

C-68.	2020 VCBA Capital Construction Pool (18494).....				\$701,261,508		\$0
					\$893,261,508		
	Fund Sources: Bond Proceeds.....	\$701,261,508		\$0			
		\$893,261,508					

A. 1. The capital projects in paragraph C. of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, in a principal amount not to exceed \$701,261,508 \$893,261,508 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue.

2. From the list of projects included in paragraph C. of this Item, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia College Building Authority with the specific projects, as well as the amounts for these projects, to be financed by the Authority within the dollar limit established by this authorization.

ITEM C-68.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.

4. The appropriations for the capital projects in this Item are subject to the conditions in § 2-0 F. of this act.

B. In addition to the appropriation and bond authorization authorized by this Item, the Director, Department of Planning and Budget, shall transfer unutilized Virginia College Building Authority (VCBA) bond authorization and appropriation from the projects listed below, in the amounts shown, to this project for funding the projects listed in paragraph C:

Agency No.	Project No.	Initial Authorization	Amount
214	17317	Item C-72, Chapter 3, 2006 Acts of Assembly, Special Session I	\$5,164,799.00
216	18173	Item C-8.30, Chapter 665, 2015 Acts of Assembly	\$436,965.00
951	15867	Item C-7.10, Chapter 912, 1996 Acts of Assembly	\$2,068,306.00
951	17644	Item C-182.10, Chapter 879, 2008 Acts of Assembly	\$624,422.00

C. There is hereby appropriated ~~\$701,261,508~~ \$893,261,508 the first year from bond proceeds of the Virginia College Building Authority to provide funds for the construction and other capital costs of the following projects:

Agency Code	Agency Title	Project Title
204	The College of William and Mary	Replace Swem Library Windows
204	<i>The College of William and Mary</i>	<i>Construct Integrated Science Center, Phase IV (18329)</i>
207	University of Virginia	Renovate Physics Building (18330)
208	<i>Virginia Polytechnic and State University</i>	<i>Construct Undergraduate Laboratory Building (18332)</i>
211	Virginia Military Institute	Improvements to Post Wide Safety and Security Phase 1
211	Virginia Military Institute	Renovate and Expand Engineering and Laboratory Facilities
212	Virginia State University	Demolish/Replace Daniel Gym and Demolish Harris Hall, Phase I (18333)
212	Virginia State University	Construct Admissions Building
212	Virginia State University	Waterproof Campus Buildings
213	Norfolk State University	Science Building Replacement (18385)
213	Norfolk State University	Replace Physical Plant Building
214	Longwood University	Renovate / Expand Environmental Health & Safety and Facilities Annex Building (18384)
217	Radford University	Renovation / Construction Center of Adaptive Innovation and Creativity (CAIC) (18386)
221	Old Dominion University	Construct Health Sciences Building (18335)
241	Richard Bland College	Construct Center for Innovation and Educational Development (18337)

ITEM C-68.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
242	Christopher Newport University	Improvements - Infrastructure Repairs		
246	University of Virginia's College at Wise	Renovate/Convert Wyllie Library (18338)		
247	George Mason University	Expand Central Plant Capacity		
260	Virginia Community College System	Renovate Godwin Building, Annandale Campus, Northern Virginia (18087)		
260	Virginia Community College System	Replace Diggs/Moore/Harrison Complex, Hampton, Thomas Nelson (18341)		
260	Virginia Community College System	Construct Advanced Technical Training Center, Piedmont Virginia (18343)		
260	Virginia Community College System	Replace French Slaughter Building, Germanna (18340)		
948	Southwest Virginia Higher Education Center	Replace Windows		

C-68.50 2021 Capital Construction Pool (18540)..... \$0 \$12,981,771

Fund Sources: General..... \$0 \$1,242,850
 Bond Proceeds..... \$0 \$11,738,921

A. 1. The capital projects in paragraph C of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority pursuant to § 2.2-2263 et seq., Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amounts shall not exceed \$11,738,921 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia.

2. From the list of projects included in paragraph C. of this Item, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization.

3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.

4. The appropriations for the capital projects in this Item are subject to the conditions in § 2.0 F. of this act.

B. In addition to the appropriation and bond authorization authorized by this Item, the Director, Department of Planning and Budget, shall transfer unutilized Virginia College Building Authority (VCBA) and Virginia Public Building Authority (VPBA) bond authorization and appropriation from the projects listed below, in the amounts shown, to this project for funding the projects listed in paragraph C:

Agency No.	Project No.	Issuing Authority	Initial Authorization	Amount
260	17375	VCBA	Item C-174, Chapter 3, 2006 Acts of Assembly, Special Session I	\$4,010.60
260	17116	VCBA	Item C-108.40, Chapter 4, 2004 Acts of Assembly, Special Session I	\$537.12
777	15837	VPBA	Item C-71, Chapter 912, 1996 Acts of Assembly, as amended	\$636,708.37

ITEM C-68.50.	Item Details(\$)			Appropriations(\$)	
	First Year FY2021	Second Year FY2022		First Year FY2021	Second Year FY2022
			<i>in Item C-131, Chapter 935, 1999 Acts of Assembly, and Item C-182, Chapter 814, 2002 Acts of Assembly</i>		
	777	15206	VPBA		\$58,342.65
			<i>Item C-69, Chapter 912, 1996 Acts of Assembly, as amended in Item C-130, Chapter 464, 1998 Acts of Assembly, Item C-181, Chapter 1073, 2000 Acts of Assembly; Item C-123.35, Chapter 1042, 2003 Acts of Assembly, and Item C-166, Chapter 4, 2004 Acts of Assembly, Special Session I</i>		
	799	16426	VPBA		\$82,114.22
			<i>Item C-164, Chapter 1073, 2000 Acts of Assembly, as amended in Item C-122.45, Chapter 1042, 2003 Acts of Assembly, Item C-273, Chapter 547, 2007 Acts of Assembly, and Item C-119, Chapter 879, 2008 Acts of Assembly</i>		
	799	17613	VPBA		\$135,365.64
			<i>Item C-129, Chapter 879, 2008 Acts of Assembly</i>		

C. There is hereby appropriated \$11,738,921 the first year from bond proceeds of the Virginia College Building Authority or the Virginia Public Building Authority and \$1,242,850 the first year from the general fund to provide funds for the construction and other capital costs of the following projects:

Agency Code	Agency Title	Project Title
203	<i>Wilson Workforce and Rehabilitation Center</i>	<i>Emergency Replacement of HVAC System Mary Switzer Building</i>
213	<i>Norfolk State University</i>	<i>Acquire / Renovate Pre-School Academy</i>
238	<i>Virginia Museum of Fine Arts</i>	<i>Replace Life and Safety Components</i>
274	<i>Eastern Virginia Medical School</i>	<i>Replace Two Hofheimer Hall Air Handling Units</i>
274	<i>Eastern Virginia Medical School</i>	<i>Install Lewis Hall Emergency Generator</i>
417	<i>Gunston Hall</i>	<i>Reconstruct East Yard Enslaved Quarter</i>
702	<i>Department for the Blind and Vision Impaired</i>	<i>Replace Roof, Virginia Industries for the Blind, Charlottesville Plant</i>

D. The authorization provided under Chapter 759 / 769, 2016 Acts of Assembly for bond funding from the Virginia College Building Authority for Virginia Commonwealth University Center capital project 18205, Construct Commonwealth Center for Advanced Logistics Systems (CCALS), is rescinded.

E. In addition to the appropriation and bond authorization authorized by this item, the Director, Department of Planning and Budget, shall transfer unutilized Virginia College Building Authority (VCBA) bond authorization and appropriation from the projects listed below, in the amounts shown, to this project for funding the projects listed in paragraph F:

ITEM C-68.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<i>Agency No.</i>	<i>Project No.</i>	<i>Issuing Authority</i>	<i>Initial Authorization</i>	<i>Amount</i>
236	18205	VCBA	§ 2, Chapters 759 and 769, 2016 Acts of Assembly	\$19,000,000

F. 1. Upon certification from the Virginia Economic Development Partnership that an agreement has been reached with the Economic Development Authority and Rolls-Royce Crosspointe LLC, the Department of General Services is hereby authorized \$12,120,000 the first year from bond proceeds of the Virginia Public Building Authority to provide funds for the acquisition of the Commonwealth Center for Advanced Manufacturing (CCAM).

2. Virginia Commonwealth University is hereby authorized \$6,880,000 the first year from bond proceeds of the Virginia College Building Authority to provide funds for the support acquisition and installation of High-Performance Computing tools for the development of the Commonwealth Center for Cloud Computing (C4).

G. The conditions required in order to receive the allocation from paragraph F. 2. of this item are:

1. Virginia Commonwealth University shall convene a workgroup comprised of the University of Virginia, Virginia Tech, Old Dominion University, Virginia State University, Longwood University, and representatives from the Commonwealth Center for Advanced Manufacturing (CCAM) and the Commonwealth Center for Advanced Logistics for the expressed purpose of developing a plan for the Commonwealth Center for Cloud Computing (C4).

2. The plan shall identify areas of research relevant to the C4, guiding principles to ensure continued collaboration between and among the partnering entities, opportunities for potential expansion of other institutions and entities, linkages with the Commonwealth Cyber Initiative, the Cyber Range and the Greater Washington Partnership, operational cost estimates and cost sharing strategies between and among the partnering institutions and entities to include potential for leveraging private sector partnerships.

3. The workgroup shall submit the report by December 1, 2021 to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees and the Governor.

4. After adoption of the report by the General Assembly, the funding provided in paragraph F.2. shall be released to Virginia Commonwealth University to support the creation of the operations of the Commonwealth Center for Cloud Computing (C4).

C-69.	Supplement Previously Authorized Capital Project Construction Pools (18145).....			\$170,700,000	\$0
				\$228,950,000	
	Fund Sources: Bond Proceeds.....	\$170,700,000	\$0		
		\$228,950,000			

A. 1.A. 1. Included in this item is ~~\$170,700,000~~ \$228,950,000 in bond appropriation which may be transferred between and among the capital project pools listed, or any project within a listed pool notwithstanding § 2.2-1519 E, in paragraph O. of § 2-0 of this act in order to address any shortfall in appropriation in one or more of such project pools or project, pursuant to the provisions of § 2-0, paragraph O., of this act and may be financed in whole or in part through bonds of the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority pursuant to § 2.2-2260 et seq., Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amount shall not exceed ~~\$170,700,000~~\$228,950,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia.

ITEM C-69.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
2. From the list of capital project pools included in paragraph O. of § 2-0 of this act, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization upon the transfer of any such appropriation in this Item.				
3. Included in this item is \$25,000,000 in bond appropriation is provided as a supplement to the Capital Complex Infrastructure and Security project authorized and funded in paragraph E.1 Item C-39.40, Chapter 1 of the 2014 Special Session I, Virginia Acts of Assembly, for additional scope and security improvements.				
4. <i>Included in this item is \$28,250,000 in bond appropriation provided as a supplement to the "Virginia Institute of Marine Science, Construct New Research Facility" project previously authorized in Enactment 1, §2 of Chapters 759 and 769, 2016 Acts of Assembly, as "Virginia Institute of Marine Science, Replace Mechanical Systems and Repair Building Envelope of Chesapeake Bay Hall" in order to replace the existing Chesapeake Hall, for which a renovation is no longer a viable alternative, with a comparable sized new facility. Additional funding for the revised scope and cost is contained in this item.</i>				
5. <i>Included in this item is up to \$30,000,000 in bond appropriation provided as a supplement to the "Construct Life Sciences and Engineering Building/Renovate Bull Run Hall, Prince William (18000)" project previously authorized in Item C-39.40, Chapter 806, 2013 Acts of Assembly, as "George Mason University, Construct Life Sciences Building, Prince William (Construct Bull Run Hall IIIB Addition)" in order to provide for an additional floor (33,000 SF) to the project. Additional funding for the revised scope and cost is contained in this item.</i>				
4. 6. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.				
5. 7. The appropriations in this Item are subject to the conditions in § 2-0 F. of this act.				
C-70. Improvements: Local Water Quality and Supply Projects (18050).....			\$125,000,000	\$0
Fund Sources: Bond Proceeds.....	\$125,000,000	\$0		
A. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$125,000,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the costs of the projects described in paragraph C. of this Item.				
B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.				
C. 1. Stormwater Local Assistance Fund. From the appropriation and bond authorization provided in this Item, up to \$50,000,000 of the bond proceeds shall be provided to the Department of Environmental Quality for the Stormwater Local Assistance Fund, established in accordance with the provisions of Item 379 of this Act. In accordance with the purpose of the Fund set out in Item 379, the bond proceeds shall be used to provide grants solely for capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration. Such grants shall be in accordance with eligibility determinations made by the State Water Control Board under the authority of the Department of Environmental Quality.				
2. a. Combined Sewer Overflow Matching Fund. From the appropriation and bond authorization provided in this Item, up to \$25,000,000 of the bond proceeds shall be provided to the Department of Environmental Quality for the Combined Sewer Overflow Matching Fund, established pursuant to § 62.1-242.12, Code of Virginia. These bond proceeds shall be used by the Virginia Resources Authority and the State Water Control Board to make a grant to the City of Alexandria to pay a portion of the capital costs of its combined sewer overflow control project. Disbursements from these proceeds shall be authorized by the State Water Control Board, under the authority of the Department of Environmental Quality, and				

ITEM C-70.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022

administered by the Virginia Resources Authority through the Combined Sewer Overflow Matching Fund.

b. The appropriation in paragraph C.2.a. is the second of three allocations for the Combined Sewer Overflow for the City of Alexandria. It is the intent of the General Assembly to provide the third and final allocation in the 2022-2024 biennium.

3. Nutrient Removal Grants. From the appropriation and bond authorization provided in this Item, up to \$50,000,000 of the bond proceeds shall be provided to the Department of Environmental Quality to reimburse entities as provided in § 10.1-2117 et seq., Code of Virginia, considered as eligible Significant and Non-Significant Dischargers in the Chesapeake Bay watershed for capital costs incurred for the design and installation of nutrient removal technology. Such reimbursements shall be in accordance with eligibility determinations made by the Department of Environmental Quality pursuant to the provisions of this act and Chapter 21.1 of Title 10.1, Code of Virginia, including but not limited to the qualifications of projects for Virginia Water Quality Improvement Grants as set forth in §§ 10.1-2129, 10.1-2130, and 10.1-2131, Code of Virginia, and in written guidelines developed by the Secretary of Natural Resources in accordance with § 10.1-2129, Code of Virginia.

D. The appropriation in this Item is subject to the conditions of § 2-0 F. of this act.

E. Except as provided in paragraph D. of this Item, the provisions of §§ 2-0 and 4-4.01 of this act and the provisions of § 2.2-1132, Code of Virginia, shall not apply to the projects supported by this Item.

C-70.50	<i>Improvements: Enhanced Nutrient Removal Certainty Program (18556)</i>			\$0	\$100,000,000
	<i>Fund Sources: General</i>	\$0	\$50,000,000		
	<i>Bond Proceeds</i>	\$0	\$50,000,000		

A. 1. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$50,000,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the costs of the projects described in paragraph C. of this item.

2. Out of this appropriation \$50,000,000 the second year from the general fund is designated to finance the costs of the projects described in paragraph C. of this item.

B. Debt service on bonds issued under the authorization in this item shall be provided from appropriations to the Treasury Board.

C. From the appropriation and bond authorization provided in this item, up to \$50,000,000 of the bond proceeds and \$50,000,000 from the general fund shall be provided to the Department of Environmental Quality to reimburse entities as provided in Enhanced Nutrient Removal Certainty Program established in House Bill 2129 for capital costs incurred for the design and installation of nutrient removal technology.

C-71.	Improvements: Workforce Development Projects (18418).....			\$13,600,000	\$1,900,000 \$8,500,000
	Fund Sources: Bond Proceeds.....	\$13,600,000	\$1,900,000 \$8,500,000		

A. 1. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed ~~\$15,500,000~~ \$22,100,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this Item is provided.

2. Debt service on bonds issued under the authorization in this Item shall be provided from

ITEM C-71.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
<p>appropriations to the Treasury Board.</p> <p>B. Funds from this Item shall be allocated in accordance with signed Memorandums of Understanding under the provisions established in §23.1-1239 through §23.1-1243, Code of Virginia, and shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership.</p>				
C-72.	<p>Other Authorized Capital Infrastructure and Improvements (18495).....</p>		\$40,000,000	\$0
	<p>Fund Sources: Bond Proceeds.....</p>		\$40,000,000	\$0
<p>A. Pursuant to § 2.2-2260 et seq. of the Code of Virginia, the Virginia Public Building Authority is authorized to issue bonds in an aggregate amount not to exceed \$40,000,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during acquisition, construction, or renovation and for one year after completion thereof, and other financing expenses, in order to finance a capital project <i>or projects</i> at the Portsmouth Marine Terminal of the Virginia Port Authority consisting of the expansion, renovation, and improvement of infrastructure for the offshore wind supply chain; provided, however, that such debt may only be issued if the MEI Project Approval Commission, established pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30, and the Virginia Port Authority each approve a public private partnership with respect to such capital project. The Authority each approve a public private partnership or other contractual agreement with respect to such a capital project or projects. The General Assembly hereby appropriates the proceeds from any such bonds for the foregoing projects. Debt service on any such bonds for such project shall be provided from appropriations to the Treasury Board.</p>				
C-72.10 Omitted.				
<p>C-72.50 <i>The scope of the project for the Virginia Community College System previously authorized in Enactment 1, §2 of Chapters 759 and 769, 2016 Acts of Assembly, as "Renovate Howsmon/Colgan Building, Manassas Campus, Northern Virginia" is hereby amended to include renovation and new construction related to the connector space between Howsmon and Colgan Halls.</i></p>				
<p>C-72.60 <i>1. The title of the project for George Mason University previously authorized in Item C-39.40, Chapter 806, 2013 Acts of Assembly, as "Construct Life Sciences Building, Prince William" and amended in Item C-46, Chapter 2, 2018 Acts of Assembly, Special Session I, as "Construct Bull Run Hall IIIB Addition" is hereby changed to "Construct Life Sciences and Engineering Building/ Renovate Bull Run Hall".</i></p> <p><i>2. George Mason University is authorized to proceed with the design and construction of the Life Sciences and Engineering Building on the Prince William Campus.</i></p>				
<p>C-72.70 <i>The title of the project for the Department of the State Police previously authorized in Item C-45, Chapter 2, 2018 Acts of Assembly, Special Session I, as "Construct Area 13 Barracks" is hereby changed to "Acquire, Renovate or Construct Area 13 Barracks".</i></p>				
C-73.	<p>A. The Department of General Services is authorized to enter into long-term leases as follows:</p> <ol style="list-style-type: none"> 1. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office, the Regional Administrative Office and the Regional Training Offices in Abingdon. 2. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office and the Child Support Enforcement Regional Offices in Roanoke. 3. On behalf of the Department of Motor Vehicles, to address lease space needs for a customer service center to replace or renew the lease for the existing facility in Manassas and 			

ITEM C-73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Henrico County.				
4. On behalf of the Department of Corrections, to address space needs for probation and parole offices in Petersburg, Bristol, Abingdon, Gloucester, Front Royal, and Chesterfield County.				
5. On behalf of the Department of Environmental Quality, to address lease space needs for a regional office to replace or renew the lease for the existing facility in Roanoke.				
6. On behalf of the Department of Environmental Quality, to address lease space needs for the Piedmont Regional Office and Office of Air Quality Monitoring to replace or renew the lease for the existing facility in the greater Richmond area.				
7. On behalf of the Department of Emergency Management, to address lease space needs for a headquarters facility to replace or renew the lease for the existing facility in the greater Richmond area.				
8. On behalf of the Department of Motor Vehicles, to address lease space needs for the Sterling Customer Service Center to relocate and expand the existing facility.				
9. On behalf of the Department of Historic Resources, to address lease space needs for additional archaeological storage space to expand the existing facility in the greater Richmond area.				
10. On behalf of the Department of Motor Vehicles, to address lease space needs for the Charlottesville and Smithfield Customer Service Centers to relocate the existing facilities.				

C-74. A.1. Pursuant to projects authorized and funded in paragraphs B. and E.1. of Item C-39.40 of Chapter 1 of the 2014 Special Session I, Virginia Acts of Assembly, the General Assembly appropriated funds to the Department of General Services (DGS) for Capitol Complex Infrastructure and Security construction projects. Project work includes improvements and safety and security enhancements to be constructed or installed within the right-of-way of North 9th Street (between the area north of where Bank Street intersects North 9th Street and south of where North 9th Street intersects East Broad Street) and within the right-of-way of East Broad Street (between the area from where the western right-of-way line of North 9th Street intersects East Broad Street to where the eastern right-of-way line of Governor Street intersects East Broad Street), which rights-of-way are owned by the City of Richmond (City), and more specifically as determined by the DGS project team and in collaboration with the City with respect to such rights-of-way. Accordingly, the City and DGS shall enter into a deed of easement or other proper instruments, in such form approved by the Offices of the City Attorney and of the Commonwealth Office of the Attorney General, whereby the City, without charge to the Commonwealth, shall grant to DGS, as agent of the Commonwealth, where mutually agreeable across, over, under and above the referenced right-of-way of North 9th Street and East Broad Street, (a) the perpetual and irrevocable right, privilege and easement to construct, install, use, operate, inspect, maintain, repair, replace, rebuild, improve, alter and remove (i) any construction or installation contracted for by DGS either as part of the referenced construction projects or at any time with respect to safety and security enhancements around the perimeter of Capitol Square deemed appropriate by DGS and (ii) all equipment, accessories, utilities and appurtenances necessary to support such construction projects and such incorporation of safety and security enhancements, (b) the perpetual and irrevocable right, privilege and easement to inspect, maintain, repair, replace and rebuild the sidewalks and elements thereof (but not traffic control devices and signage or street lighting located thereupon) of the referenced right-of-way of North 9th Street and East Broad Street and (c) any necessary or appropriate temporary construction easements, upon terms approved by the Mayor of Richmond and the Governor (pursuant to § 2.2-1149, Code of Virginia); approval by Richmond City Council shall not be required.

2. The City, without expending City funds, shall cooperate with DGS (i) to support the referenced construction project work and incorporation of safety and security enhancements at and along North 9th Street and East Broad Street, (ii) to relocate any utilities located in the agreed upon easement area, if necessary, and (iii) to coordinate any closure or other traffic flow controls of North 9th Street and East Broad Street during the

ITEM C-74.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022

performance of the construction projects and the incorporation of any safety and security features that will enhance safety and security around the perimeter of Capitol Square. At no time shall DGS make any permanent changes to the North 9th Street or East Broad Street rights-of-way without the prior approval of the Chief Administrative Officer of the City or the City hinder or delay construction of the referenced construction projects. Notwithstanding the foregoing, DGS may commence the construction project work and safety and security enhancements within the referenced right-of-way of North 9th Street and East Broad Street prior to the execution of a deed of easement or other proper instruments, if deemed necessary by DGS to avoid delay in the implementation of the construction project work or safety and security enhancements.

B. Pursuant to projects authorized and funded in paragraph E.1. of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly have temporarily moved and now operate from the Pocahontas Building bounded by the following streets 9th to the west, 10th to the east, Bank to the north, and Main to the south in the City of Richmond. This temporary move has resulted in the Commonwealth's legislative activities to be concentrated in an area requiring traffic and pedestrian operational safety and security enhancements. As such, and pursuant to the responsibilities of the Department of General Services (DGS) (§ 2.2-1129) and the Division of Capitol Police (DCP) (§ 30-34.2:1), Bank Street from 9th to 12th Street in the City of Richmond shall be controlled by the DGS and the DCP. Vehicular travel limitations and pedestrian management needs on and along Bank Street shall be determined jointly by the DGS and the DCP. These determinations will be based on the recommendations outlined in the Bank Street Safety and Security Assessment prepared by Commonwealth Architects dated February 15, 2017 (the Assessment). Funding for materials and contract services needed to address pedestrian and vehicle management activities are available to DGS from the Chapter referenced in this item.

C-75. A. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed ~~\$206,401,500~~ \$210,491,500 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph C. of this Item.

B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

C. The appropriations for the following authorized projects are contained in the appropriation Items listed:

Agency Name/Project Title	Project Code	Item	VPBA Bonds
Department of Military Affairs (123)			
Replace/Install Fire Safety Systems in Readiness Centers	18318	C-62	\$3,000,000 \$5,000,000
<i>Provide funding for antiterrorism and force protection security enhancements</i>	18535	C-63.10	\$1,000,000
The Science Museum of Virginia (146)			
<i>Critical Facility and Infrastructure Upgrades and Safety Modifications</i>	18531	C-36.40	\$4,957,000
Department of State Polices (156)			
Upgrade Statewide Radio System (STARS) Network	18414	C-56	\$80,000,000
Department of General Services (194)			

ITEM C-75.		Item Details(\$)		Appropriations(\$)	
		First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
	Renovate and Repair Fort Monroe	18191	C-1		\$17,800,000
	<i>Perform waterproofing repairs for Capitol Visitor's Center</i>	18527	C-1.10		\$4,512,000
	Department of Conservation and Recreation (199)				
	Make Critical Infrastructure Repairs and Residences at Various State Parks	18366	C-42		\$13,000,000
	Renovation of Existing Revenue Generating Cabins	18490	C-46		\$16,158,000
	Virginia Museum of Fine Arts (238)				
	Repairs and Structural Issues	18503	C-36.50		\$2,750,000
	Marine Resources Commission (402)				
	Oyster Reef Restoration	18479	C-54		\$10,000,000
	Department for the Blind and Vision Impaired (702)				
	Improve campus infrastructure	18488	C-39		\$1,223,500
	Department of Behavioral Health and Developmental Services (720)				
	Address patient and staff safety issues at state facilities	18365	C-38		\$7,600,000
	Make infrastructure repairs to state facilities	18307	C-37		\$13,870,000
	Virginia Commercial Space Flight Authority (509)				
	Accomack Regional Airport Hangar	18504	C-61.50		\$1,000,000
	Central Capital Outlay (949)				
	Virginia Beach Improve Access	18505	C-72.10		\$10,000,000
	Department of Corrections (799)				
	DOC Capital Infrastructure Fund	18480	C-55		\$30,000,000
	Department of Veterans Services (912)				
	<i>Provide appropriation to support renovation projects at veterans care centers</i>	18539	C-61.70		\$1,621,000
	Total VPBA Bonds				\$206,401,500 \$210,491,500

C-76. A. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$62,312,208 \$104,612,674 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction or for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph C. of this Item.

ITEM C-76.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.				
C. The appropriations for the following authorized projects are contained in the appropriation items listed:				
	Agency Name/Project Title	Project Code	Item	VCBA Bonds
	College of William and Mary (204)			
	Repair Sanitary Sewer Lines	18474	C-8	\$3,750,000
	James Madison University (216)			
	East Campus Steam Plant, Phase I	18553	C-17.10	\$4,605,466
	George Mason University (247)			
	Improve Technology Infrastructure, Phase II	18487	C-12	\$12,250,000
	Old Dominion University (221)			
	Campus Wide Stormwater Improvements	18476	C-19	\$5,241,702
	Virginia Community College System (260)			
	Re-roof and Replace HVAC - Multiple Buildings, Statewide	18483	C-23	\$16,000,000
	Replace HVAC Franklin Campus, Paul D. Camp	18501	C-24.10	\$2,200,000
	Virginia Polytechnic Institute and State University (208)			
	Address Life, Health, Safety, Accessibility and Code Compliance	18478	C-33	\$3,100,000
	Virginia State University (212)			
	Improve and Replace Technology Infrastructure	18475	C-35	\$11,471,000
	Improve Infrastructure for Campus Safety, Security, Energy Reduction and System Reliability	18481	C-36	\$8,299,506
	Improve Heating, Air Conditioning and Ventilation Campuswide for Infectious Aerosol Control	18530	C-36.10	\$33,980,000
	Longwood University (214)			
	Replace Major HVAC Controls and Equipment -- COVID-19 Response	18538	C-17.50	\$3,715,000
	Total VCBA Bonds			\$62,312,208 \$104,612,674

C-76.10 A.1. Notwithstanding Item C-47 F.3. of Chapter 1283, 2020 Acts of Assembly, the Department of General Services (DGS) shall consider the property located in Central Virginia consisting of approximately 427.97 acres along Old Bon Air Road and Rockaway Road in the Midlothian Magisterial District of Chesterfield County, Virginia, having a street address of 1900 Chatsworth Avenue, Bon Air, Virginia, and further designated as Chesterfield County

ITEM C-76.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2021	FY2022	FY2021	FY2022
Tax Parcel No. 752713101100000, as a location option for a Department of Juvenile Justice (DJJ) Juvenile Correctional Center to be located in Central Virginia.				
2. All costs incurred by DGS to perform the review in subsection A.1. of this Item shall be funded by the capital project for the Department of Juvenile Justice previously authorized in Item C-47 F.1. of Chapter 1283 of the 2020 Acts of Assembly, titled "Construct New Juvenile Correctional Center," and originally authorized in Enactment 1, § 1 A. of Chapters 759 and 769 of the 2016 Acts of Assembly.				
Total for Central Capital Outlay.....			\$1,617,494,167	\$138,900,000
			\$1,867,744,167	\$280,168,021
Fund Sources: <i>General</i>	\$0	\$203,142,850		
Special.....	\$35,000,000	\$0		
Dedicated Special Revenue.....	\$40,951,750	\$0		
Federal Trust.....	\$17,015,317	\$0		
Bond Proceeds.....	\$1,524,527,100	\$138,900,000		
	\$1,774,777,100	\$77,025,171		

§ 2-34. 9(C) REVENUE BONDS (950)

- C-77. A.1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(c), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F of this act.
3. The total amount listed in this Item includes ~~\$279,470,000~~ \$313,606,000 in bond proceeds.

Agency Name/ Project Title	Item	Project Code	Section
			9(c) Bonds
College of William and Mary (204)			
Renovate Dormitories	C-5	18218	\$11,850,000
James Madison University (216)			
Renovate Eagle Hall	C-16	18469	\$49,000,000
Radford University (217)			
Renovate Norwood and Tyler Residence Halls	C-20	18462	\$12,000,000
Virginia Polytechnic Institute and State University (208)			
Construct Creativity and Innovation District Living Learning Community	C-28	18457	\$89,620,000
Construct Global Business and Analytics Complex Residence Halls	C-29	18458	\$84,000,000
Construct New Upper Quad Residence Hall	C-30	18459	\$33,000,000 \$40,000,000
Construct new academic facility, Innovation campus, Northern Virginia	C-26	18412	\$27,136,000

ITEM C-77.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Total for Nongeneral Fund Obligation Bonds 9(c)		\$279,470,000		
		\$313,606,000		
Total for 9(C) Revenue Bonds.....			\$0	\$0

§ 2-35. 9(D) REVENUE BONDS (951)

- C-78. 1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(d), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F. of this act.
3. The total amount listed in this Item includes ~~\$388,016,854~~ \$409,016,854 in bond proceeds.

Agency Name/ Project Title	Item	Project Code	Section 9(d) Bonds
Christopher Newport University (242)			
Auxiliary Infrastructure Repairs	C-3	18463	\$2,789,000
College of William and Mary (204)			
Renovate: Kaplan Arena & Construct: Sports Performance Center	C-6	18467	\$55,000,000
Construct: Parking Facilities	C-7	18468	\$11,300,000
George Mason University (247)			
Construct Institute for Digital Innovation (IDIA) and Garage	C-11	18482	\$76,500,000
Improve Technology Infrastructure, Phase II	C-12	18487	\$11,000,000
<i>Aquatic and Fitness Center Capital Renewal</i>	<i>C-12.20</i>	<i>18529</i>	<i>\$10,000,000</i>
James Madison University (216)			
Convocation Center Renovation/Expansion	C-14	17826	\$20,000,000
Expand Warren Hall	C-15	18354	\$49,997,854
Virginia Military Institute (211)			
Renovate 408 Parade	C-25	18465	\$2,000,000
Virginia Polytechnic Institute and State University (208)			
Construct new academic facility, Innovation campus, Northern Virginia	C-26	18412	\$107,000,000
Data and Decision Science Building	C-27	18427	\$10,000,000
Construct Corps	C-31	18460	\$31,350,000

ITEM C-78.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Leadership and Military Science Building				
Acquire Falls Church Property	C-32 18461	\$11,080,000		
Replace Randolph Hall	C-33.10 18502	\$11,000,000		
Total for Nongeneral Fund Obligation Bonds 9(d)		\$388,016,854 \$409,016,854		
Total for 9(D) Revenue Bonds.....			\$0	\$0
TOTAL FOR CENTRAL APPROPRIATIONS.....			\$1,617,494,167 \$1,867,744,167	\$138,900,000 \$280,168,021
Fund Sources: <i>General</i>	\$0	\$203,142,850		
Special.....	\$35,000,000	\$0		
Dedicated Special Revenue.....	\$40,951,750	\$0		
Federal Trust.....	\$17,015,317	\$0		
Bond Proceeds.....	\$1,524,527,100 \$1,774,777,100	\$138,900,000 \$77,025,171		
TOTAL FOR EXECUTIVE DEPARTMENT.....			\$2,918,612,125 \$3,164,989,842	\$340,635,500 \$654,206,547
Fund Sources: <i>General</i>	\$1,800,000	\$236,882,850		
Special.....	\$206,945,020	\$65,000,000 \$72,506,000		
Higher Education Operating.....	\$84,201,736 \$73,201,736	\$5,512,000 \$8,843,771		
Commonwealth Transportation.....	\$58,671,839	\$60,000,000 \$63,500,000		
<i>Trust and Agency</i>	\$198,717	\$3,000,000		
Dedicated Special Revenue.....	\$49,811,941 \$50,311,941	\$2,250,000 \$8,775,000		
Federal Trust.....	\$39,477,427 \$43,977,427	\$12,750,000 \$15,923,789		
Bond Proceeds.....	\$2,479,504,162 \$2,729,883,162	\$195,123,500 \$244,775,137		

INDEPENDENT AGENCIES

§ 2-36. STATE CORPORATION COMMISSION (171)

C-79.	Improvements: Tyler Building Renovation Project (18454).....			\$21,600,000	\$0
	Fund Sources: Special.....	\$21,497,962	\$0		
	Dedicated Special Revenue.....	\$102,038	\$0		
	Total for State Corporation Commission.....			\$21,600,000	\$0
	Fund Sources: Special.....	\$21,497,962	\$0		
	Dedicated Special Revenue.....	\$102,038	\$0		
	TOTAL FOR INDEPENDENT AGENCIES.....			\$21,600,000	\$0
	Fund Sources: Special.....	\$21,497,962	\$0		
	Dedicated Special Revenue.....	\$102,038	\$0		
	TOTAL FOR PART 2: CAPITAL PROJECT EXPENSES.....			\$2,940,212,125 \$3,186,589,842	\$340,635,500 \$654,206,547
	Fund Sources: <i>General</i>	\$1,800,000	\$236,882,850		

ITEM C-79.	Item Details(\$)		Appropriations(\$)	
	First Year FY2021	Second Year FY2022	First Year FY2021	Second Year FY2022
Special.....	\$228,442,982	\$65,000,000 \$72,506,000		
Higher Education Operating.....	\$84,201,736 \$73,201,736	\$5,512,000 \$8,843,771		
Commonwealth Transportation.....	\$58,671,839	\$60,000,000 \$63,500,000		
<i>Trust and Agency</i>	\$198,717	\$3,000,000		
Dedicated Special Revenue.....	\$49,913,979 \$50,413,979	\$2,250,000 \$8,775,000		
Federal Trust.....	\$39,477,427 \$43,977,427	\$12,750,000 \$15,923,789		
Bond Proceeds.....	\$2,479,504,162 \$2,729,883,162	\$195,123,500 \$244,775,137		

PART 3: MISCELLANEOUS
§ 3-1.00 TRANSFERS

§ 3-1.01 INTERFUND TRANSFERS

A.1. In order to reimburse the general fund of the state treasury for expenses herein authorized to be paid therefrom on account of the activities listed below, the State Comptroller shall transfer the sums stated below to the general fund from the nongeneral funds specified, except as noted, on January 1 of each year of the current biennium. Transfers from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of the quarter. The payment for the fourth quarter of each fiscal year shall be made in the month of June.

	FY 2021	FY 2022
1. Alcoholic Beverage Control Enterprise Fund (§ 4.1-116, Code of Virginia)		
a) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from Alcoholic Beverage Control gross profits)	\$65,375,769	\$65,375,769
b) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from gross wine liter tax collections as specified in § 4.1-234, Code of Virginia)	\$9,141,363	\$9,141,363
2. Forest Products Tax Fund (§ 58.1-1609, Code of Virginia)	\$23,613	\$23,613
For collection by Department of Taxation		
3. Peanut Fund (§3.2-1906, Code of Virginia)	\$2,419	\$2,419
4. For collection by Department of Taxation		
a) Aircraft Sales & Use Tax (§ 58.1-1509, Code of Virginia)	\$39,169	\$39,169
b) Soft Drink Excise Tax	\$1,596	\$1,596
c) Virginia Litter Tax	\$9,472	\$9,472
5. Proceeds of the Tax on Motor Vehicle Fuels		
For inspection of gasoline, diesel fuel and motor oils	\$97,586	\$97,586
6. Virginia Retirement System (Trust and Agency)		
For postage by the Department of the Treasury	\$34,500	\$34,500
7. Alcoholic Beverage Control Authority (Enterprise)		
For services by the:		
a) Auditor of Public Accounts	\$75,521	\$75,521
b) Department of Accounts	\$64,607	\$64,607
c) Department of the Treasury	\$47,628	\$47,628

TOTAL **\$74,913,243** **\$74,913,243**

2.a. Transfers of net profits from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of each quarter. The transfer of fourth quarter profits shall be estimated and made in the month of June. In the event actual net profits are less than the estimate transferred in June, the difference shall be deducted from the net profits of the next quarter and the resulting sum transferred to the general fund. Distributions to localities shall be made within fifty (50) days of the close of each quarter. Net profits are estimated at ~~\$139,500,745~~ ~~\$159,500,745~~ the first year and ~~\$132,700,000~~ ~~\$144,900,000~~ the second year.

b. Notwithstanding the provisions of § 4.1-116 B, Code of Virginia, the Alcoholic Beverage Control Authority shall properly record the depreciation of all depreciable assets, including approved projects, property, plant and equipment. The State Comptroller shall be notified of the amount of depreciation costs recorded by the Alcoholic Beverage Control Authority. However, such depreciation costs shall not be the basis for reducing the quarterly transfers needed to meet the estimated profits contained in this act.

B.1. If any transfer to the general fund required by any subsections of §§ 3-1.01 through 3-6.04 is subsequently determined to be in violation of any federal statute or regulation, or Virginia constitutional requirement, the State Comptroller is hereby directed to reverse such transfer and to return such funds to the affected nongeneral fund account.

2. There is hereby appropriated from the applicable funds such amounts as are required to be refunded to the federal government for mutually agreeable resolution of internal service fund over-recoveries as identified by the U. S. Department of Health and Human Services' review of the annual Statewide Indirect Cost Allocation Plans.

C. In order to fund such projects for improvement of the Chesapeake Bay and its tributaries as provided in § 58.1-2289 D, Code of Virginia, there is hereby transferred to the general fund of the state treasury the amounts listed below. From these amounts \$2,583,531 the first year and \$2,583,531 the second year shall be deposited to the Virginia Water Quality Improvement Fund pursuant to § 10.1-2128.1, Code of Virginia, and designated for deposit to the reserve fund, for ongoing improvements of the Chesapeake Bay and its tributaries. The Department of Motor Vehicles shall be responsible for effecting the provisions of this paragraph. The amounts listed below shall be transferred on June 30 of each fiscal year.

154	Department of Motor Vehicles	\$10,000,000	\$10,000,000
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D. The provisions of Chapter 6 of Title 58.1, Code of Virginia notwithstanding, the State Comptroller shall transfer to the general fund from the special fund titled "Collections of Local Sales Taxes" a proportionate share of the costs attributable to increased local sales and use tax compliance efforts, the Property Tax Unit, and State Land Evaluation Advisory Committee (SLEAC) services by the Department of Taxation estimated at \$6,202,002 the first year and ~~\$6,202,002~~ ~~\$6,154,452~~ the second year.

E. The State Comptroller shall transfer to the general fund from the Transportation Trust Fund a proportionate share of the costs attributable to increased sales and use tax compliance efforts and revenue forecasting for the ~~Transportation Trust Fund~~ ~~Commonwealth Transportation Fund~~ by the Department of Taxation estimated at \$2,993,308 the first year and ~~\$2,993,308~~ ~~\$3,015,689~~ the second year.

F.1. On or before June 30 of each year, the State Comptroller shall transfer \$12,287,244 the first year and \$12,287,244 the second year to the general fund the following amounts from the agencies and fund sources listed below, for expenses incurred by central service agencies:

Agency Name	Fund Group	FY 2021	FY 2022
Administration of Health Insurance (149)	0500	\$618,420	\$618,420
Department of Forestry (411)	0200	\$5,303	\$5,303
Department of Forestry (411)	0900	\$312	\$312
Department of Professional and Occupational Regulations (222)	0200	\$5,023	\$5,023
Tobacco Region Revitalization Commission (851)	0900	\$19,411	\$19,411
Southwest Virginia	0200	\$9,535	\$9,535

Higher Education Center (948)			
The Science Museum of Virginia (146)	0200	\$25,000	\$25,000
Virginia Museum of Fine Arts (238)	0200	\$20,764	\$20,764
Virginia Museum of Fine Arts (238)	0500	\$14,344	\$14,344
Virginia Museum of Natural History (942)	0200	\$1,176	\$1,176
Board of Accountancy (226)	0900	\$13,366	\$13,366
Department for Aging and Rehabilitative Services (262)	0200	\$41,215	\$41,215
Department for the Deaf and Hard of Hearing (751)	0200	\$4,533	\$4,533
Department of Behavioral Health and Developmental Services (720)	0200	\$61,085	\$61,085
Department of Health (601)	0900	\$123,687	\$123,687
Virginia Foundation for Healthy Youth (852)	0900	\$16,548	\$16,548
State Corporation Commission (171)	0900	\$9,058	\$9,058
Virginia College Savings Plan (174)	0500	\$351,045	\$351,045
Board of Bar Examiners (233)	0200	\$1,324	\$1,324
Supreme Court (111)	0900	\$370,537	\$370,537
Department of Conservation and Recreation (199)	0200	\$111,878	\$111,878
Department of Conservation and Recreation (199)	0900	\$37,175	\$37,175
Department of Game and Inland Fisheries (403)	0900	\$130,208	\$130,208
Marine Resources Commission (402)	0900	\$2,525	\$2,525
Department of Criminal	0200	\$56,351	\$56,351

Justice Services (140)			
Department of Criminal Justice Services (140)	0900	\$1,153	\$1,153
Department of Fire Programs (960)	0200	\$106,205	\$106,205
Division of Community Corrections (767)	0900	\$17,156	\$17,156
Department of Aviation (841)	0400	\$79,561	\$79,561
Department of Motor Vehicles (154)	0400	\$3,878,102	\$3,878,102
Department of Rail and Public Transportation (505)	0400	\$740,647	\$740,647
Department of Transportation (501)	0400	\$5,128,092	\$5,128,092
Motor Vehicle Dealer Board (506)	0200	\$16,447	\$16,447
Virginia Port Authority (407)	0200	\$172,599	\$172,599
Virginia Port Authority (407)	0400	\$86,102	\$86,102
Department of Military Affairs (123)	0900	\$11,357	\$11,357
		\$12,287,244	\$12,287,244

2. Following the transfers authorized in paragraph F.1. of this section in the each year, the State Comptroller shall transfer \$2,787,795 each year back to the Department of Motor Vehicles to replace the anticipated loss of driving privilege reinstatement fee revenue.

G.1. The State Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1, Code of Virginia, an amount estimated at ~~\$657,959,397~~\$708,231,123 the first year and ~~\$666,104,670~~\$690,903,334 the second year, from the Virginia Lottery Fund. The transfer each year shall be made in two parts: (1) on or before January 1 of each year, the State Comptroller shall transfer the balance of the Virginia Lottery Fund for the first five months of the fiscal year and (2) thereafter, the transfer will be made on a monthly basis, or until the amount estimated at ~~\$616,156,022~~\$708,231,123 the first year and ~~\$622,317,582~~\$690,903,334 the second year has been transferred to the Lottery Proceeds Fund. Prior to June 20 of each year, the Virginia Lottery Executive Director shall estimate the amount of profits in the Virginia Lottery Fund for the month of June and shall notify the State Comptroller so that the estimated profits can be transferred to the Lottery Proceeds Fund prior to June 22.

2. No later than 10 days after receipt of the annual audit report required by § 58.1-4022.1, Code of Virginia, the State Comptroller shall transfer to the Lottery Proceeds Fund the remaining audited balances of the Virginia Lottery Fund for the prior fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the June transfer was based, the State Comptroller shall adjust the next monthly transfer from the Virginia Lottery Fund to account for the difference between the actual revenue and the estimate transferred to the Lottery Proceeds Fund. The State Comptroller shall take all actions necessary to effect the transfers required by this paragraph, notwithstanding the provisions of § 58.1-4022, Code of Virginia. In preparing the Comprehensive Annual Financial Report, the State Comptroller shall report the Lottery Proceeds Fund as specified in § 58.1-4022.1, Code of Virginia.

H.1. The State Treasurer is authorized to charge up to 20 basis points for each nongeneral fund account which he manages and which receives investment income. The assessed fees, which are estimated to generate \$3,000,000 the first year and \$3,000,000 the second year, will be based on a sliding fee structure as determined by the State Treasurer. The amounts shall be paid into the general fund of the state treasury.

2.a. The State Treasurer is authorized to charge institutions of higher education participating in the pooled bond program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected from the public institutions of higher education, which are estimated to generate \$100,000 the first year and \$100,000 the second year, shall be paid into the general fund of the state treasury.

3. The State Treasurer is authorized to charge agencies, institutions and all other entities that utilize alternative financing structures and require Treasury Board approval, including capital lease arrangements, up to 10 basis points of the amount financed in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected shall be paid into the general fund of the state treasury.

4. The State Treasurer is authorized to charge projects financed under Article X, Section 9(c) of the Constitution of Virginia, an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected are estimated to generate \$50,000 the first year and \$50,000 the second year, and shall be paid into the general fund of the state treasury.

I. The State Comptroller shall transfer to the general fund of the state treasury 50 percent of the annual reimbursement received from the Manville Property Damage Settlement Trust for the cost of asbestos abatement at state-owned facilities. The balance of the reimbursement shall be transferred to the state agencies that incurred the expense of the asbestos abatement.

J. The State Comptroller shall transfer to the general fund from the Revenue Stabilization Fund in the state treasury any amounts in excess of the limitation specified in § 2.2-1829, Code of Virginia.

K.1. Not later than 30 days after the close of each quarter during the biennium, the State Comptroller shall transfer, notwithstanding the allotment specified in § 58.1-1410, Code of Virginia, funds collected pursuant to § 58.1-1402, Code of Virginia, from the general fund to the Game Protection Fund. This transfer shall not exceed \$5,500,000 the first year and \$5,500,000 the second year.

2. Notwithstanding the provisions of subparagraph K.1. above, the Governor may, at his discretion, direct the State Comptroller to transfer to the Game Protection Fund, any funds collected pursuant to § 58.1-1402, Code of Virginia, that are in excess of the official revenue forecast for such collections.

L.1. On or before June 30 each year, the State Comptroller shall transfer from the general fund to the Family Access to Medical Insurance Security Plan Trust Fund the amount required by § 32.1-352, Code of Virginia. This transfer shall not exceed \$14,065,627 the first year and \$14,065,627 the second year. The State Comptroller shall transfer 90 percent of the yearly estimated amounts to the Trust Fund on July 15 of each year.

2. Notwithstanding any other provision of law, interest earnings shall not be allocated to the Family Access to Medical Insurance Security Plan Trust Fund (agency code 602, fund detail 0903) in either the first year or the second year of the biennium.

M. Not later than thirty days after the close of each quarter during the biennium, the State Comptroller shall transfer to the Game Protection Fund the general fund revenues collected pursuant to § 58.1-638 E, Code of Virginia. Notwithstanding § 58.1-638 E, this transfer shall not exceed \$11,000,000 the first year and \$11,000,000 the second year. Notwithstanding § 58.1-638 E, on or before June 30 of the first year and June 30 of the second year, the State Comptroller shall transfer to the Virginia Port Authority \$1,500,000 of the general fund revenues collected pursuant to § 58.1-638 E, Code of Virginia, to enhance and improve recreation opportunities for boaters, including but not limited to land acquisition, capital projects, maintenance, and facilities for boating access to the waters of the Commonwealth pursuant to the provisions of Senate Bill 693, 2018 Session of the General Assembly.

N.1. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Indemnification and Community Revitalization Fund to the general fund an amount estimated at \$244,268 the first year and \$244,268 the second year. This amount represents the Tobacco Indemnification and Community Revitalization Commission's 50 percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

2. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Settlement Fund to the general fund an amount estimated at \$48,854 the first year and \$48,854 the second year. This amount represents the Tobacco Settlement Foundation's ten percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

O. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$2,400,000 the first year and \$2,400,000 the second year from the Court Debt Collection Program Fund at the Department of Taxation.

P. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$7,400,000 the first year and \$7,400,000 the second year from the Department of Motor Vehicles' Uninsured Motorists Fund. These amounts shall be from the share that would otherwise have been transferred to the State Corporation Commission.

Q. On or before June 30 each year, the State Comptroller shall transfer an amount estimated at \$5,000,000 the first year and an amount estimated at \$5,000,000 the second year to the general fund from the Intensified Drug Enforcement Jurisdictions Fund at the Department of Criminal Justice Services.

R. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$3,864,585 the first year and \$3,864,585 the second year from operating efficiencies to be implemented by the Alcoholic Beverage Control Authority.

S. On or before June 30 each year, the State Comptroller shall transfer \$466,600 the first year and \$466,600 the second year to the general fund from the Land Preservation Fund (Fund 0216) at the Department of Taxation.

T. Unless prohibited by federal law or regulation or by the Constitution of Virginia and notwithstanding any contrary provision of state law, on June 30 of each fiscal year, the State Comptroller shall transfer to the general fund of the state treasury the cash balance from any nongeneral fund account that has a cash balance of less than \$100. This provision shall not apply to institutions of higher education, bond proceeds, or trust accounts. The State Comptroller shall consult with the Director of the Department of Planning and Budget in implementing this provision and, for just cause, shall have discretion to exclude certain balances from this transfer or to restore certain balances that have been transferred.

U.1. The Brunswick Correctional Center operated by the Department of Corrections shall be sold. The Commonwealth may enter into negotiations with (1) the Virginia Tobacco Indemnification and Community Revitalization Commission, (2) regional local governments, and (3) regional industrial development authorities for the purchase of this property as an economic development site.

2. Notwithstanding the provisions of § 2.2-1156, Code of Virginia or any other provisions of law, the proceeds of the sale of the Brunswick Correctional Center shall be paid into the general fund.

V. On a monthly basis, in the month subsequent to collection, the State Comptroller shall transfer all amounts collected for the fund created pursuant to § 17.1-275.12 of the Code of Virginia, to Items 354, 406, and 426 of this act, for the purposes enumerated in Section 17.1-275.12.

W. On or before June 30 each year, the State Comptroller shall transfer \$12,518,587 the first year and \$12,518,587 the second year to the general fund from the \$2.00 increase in the annual vehicle registration fee from the special emergency medical services fund contained in the Department of Health's Emergency Medical Services Program (40200).

X. The provisions of Chapter 6.2, Title 58.1, Code of Virginia, notwithstanding, on or before June 30 each year the State Comptroller shall transfer to the general fund from the proceeds of the Virginia Communications Sales and Use Tax (fund 0926), the Department of Taxation's indirect costs of administering this tax estimated at \$106,451 the first year and ~~\$106,451~~\$90,780 the second year.

Y. Any amount designated by the State Comptroller from the June 30, 2020, or June 30, 2021, general fund balance for transportation pursuant to § 2.2-1514B., Code of Virginia, is hereby appropriated.

Z. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the State Health Insurance Fund (Fund 06200) the balance from the Administration of Health Benefits Services Fund (Fund 06220) at the Department of Human Resource Management.

AA. The Department of General Services is authorized to dispose of the following property currently owned by the Department of Corrections in the manner it deems to be in the best interests of the Commonwealth: Pulaski Correctional Center and White Post Detention and Diversion Center. Such disposal may include sale or transfer to other agencies or to local government entities. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the proceeds from the sale of all or any part of the properties shall be deposited into the general fund.

BB. The State Comptroller shall transfer all revenues collected each year to the general fund from the Firearms Transaction, Concealed Weapons Permit, and Conservator of the Peace Programs at the Department of State Police.

CC. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the Health Insurance Fund - Local (Fund 05200) at the Administration of Health Insurance the balance from the Administration of Local Benefits Services Fund (Fund 05220) at the Department of Human Resource Management.

DD. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the Line of Duty Death and Health Benefits Trust Fund (Fund 07420) at the Administration of Health Insurance the balance from the Administration of Health Benefits Payment - LODA Fund (Fund 07422) at the Department of Human Resource Management.

EE. On or before June 30, of each fiscal year, the State Comptroller shall transfer \$154,743 from Special Funds of the Department of Behavioral Health and Developmental Services (720) to Special Funds at the Office of the State Inspector General (147).

FF. The Department of General Services, with the cooperation and support of the Department of Agriculture and Consumer Services, is authorized to sell, for such consideration and the Governor may approve, a portion of the Eastern Shore Farmers Market, including the Market Office Building at 18491 Garey Road and the Produce Warehouse at 18513 Garey Road, Melfa, Virginia

23410. The Department of Agriculture and Consumer Services, with the recommendation of the Department of General Services, is authorized to grant any easement necessary to facilitate the sale of this portion of the Eastern Shore Farmer's Market. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the proceeds from the sale shall first be applied toward remediation options under federal tax law of any outstanding tax-exempt bonds on the property. After deduction of the expenses incurred by the Department of Agriculture and Consumer Services, any proceeds that remain shall be deposited to the general fund. Any conveyance shall be approved by the Governor in a manner set forth in §2.2-1150, Code of Virginia.

GG. On or before June 30 of each fiscal year, the State Comptroller shall transfer to the general fund the portion of the balances of the Disaster Recovery Fund (Fund 02460) and Covid-19 Addtl State Funding (Fund 02019) at the Virginia Department of Emergency Management that was received as a federal cost recovery. The amounts transferred represent repayment of the sum sufficient fund originally appropriated for federally-declared emergencies. The Department of Emergency Management shall report to the State Comptroller the amount of the balance to be transferred by June 1 of each year.

HH. Notwithstanding the provisions of subsection A of § 58.1-662, Code of Virginia, and in addition to clause (i) and (ii) of that subsection, monies in the Communications Sales and Use Tax Trust Fund shall not be allocated to the Commonwealth's counties, cities, and towns until after an amount equal to \$2,000,000 the first year is allocated to the general fund. The State Comptroller shall deposit to the general fund \$2,000,000 on or before June 30, the first year and an additional \$2,000,000 on or before June 30, the second year from the revenues received from the Communications Sales and Use Tax.

II. The transfer of excess amounts in the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund to the general fund pursuant to Item 59 of this act is estimated at ~~\$500,000~~\$6,242,868 the first year and \$500,000 the second year.

JJ. On or before June 30, 2021, the State Comptroller shall transfer \$1,000,000 in Speical Funds from the Corrections Special Reserve Fund, pursuant to § 30-19.1:4 of the Code of Viginia, to the capital planning project authorized in Item C-66, Paragraph G of this act.

KK. On or before June 30, 2021, the State Comptroller shall transfer to the general fund an amount estimated at \$275,000 from the Special Fund balances of the Commission on the Virginia Alcohol Safety Action Program.

LL. On or before June 30, 2021, the State Comptroller shall transfer to the general fund, the balance of the Aerospace Manufacturer Workforce Training Grant Fund estimated at \$1,203,000.

MM. As required by §4-1.05 b of Chapter 56, 2020 Special Session I, \$140,197 in various inactive nongeneral fund accounts were reverted by the State Comptroller to the general fund in the first year.

NN.1. On or before June 30, 2021, the State Comptroller shall transfer to the general fund all remaining balances estimated at \$15,856, from Fund 02019, Covid-19 Additional State Funding, in the Department of Emergency Management.

2. On or before June 30, 2021, the State Comptroller shall transfer to the general fund all remaining balances estimated at \$3,291,300, from Fund 02019, Covid-19 Additional State Funding, in the Department of Health.

§ 3-1.02 INTERAGENCY TRANSFERS

The Virginia Department of Transportation shall transfer, from motor fuel tax revenues, \$388,254 the first year and \$388,254 the second year to the Department of General Services for motor fuels testing.

§ 3-1.03 SHORT-TERM ADVANCE TO THE GENERAL FUND FROM NONGENERAL FUNDS

A. To meet the occasional short-term cash needs of the general fund during the course of the year when cumulative year-to-date disbursements exceed temporarily cumulative year-to-date revenue collections, the State Comptroller is authorized to draw cash temporarily from nongeneral fund cash balances deemed to be available, although special dedicated funds related to commodity boards are exempt from this provision. Such cash drawdowns shall be limited to the amounts immediately required by the general fund to meet disbursements made in pursuance of an authorized appropriation. However, the amount of the cash drawdown from any particular nongeneral fund shall be limited to the excess of the cash balance of such fund over the amount otherwise necessary to meet the short-term disbursement requirements of that nongeneral fund. The State Comptroller will ensure that those funds will be replenished in the normal course of business.

B. In the event that nongeneral funds are not sufficient to compensate for the operating cash needs of the general fund, the State Treasurer is authorized to borrow, temporarily, required funds from cash balances within the Transportation Trust Fund, where such trust fund balances, based upon assessments provided by the Commonwealth Transportation Commissioner, are not otherwise needed to meet the short-term disbursement needs of the Transportation Trust Fund, including any debt service and debt coverage needs, over the life of the borrowing. In addition, the State Treasurer shall ensure that such borrowings are consistent with the terms and conditions of all bond documents, if any, that are relevant to the Transportation Trust Fund.

C. The Secretary of Finance, the State Treasurer and the Commonwealth Transportation Commissioner shall jointly agree on the amounts of such interfund borrowings. Such borrowed amounts shall be repaid to the Transportation Trust Fund at the

earliest practical time when they are no longer needed to meet short-term cash needs of the general fund, provided, however, that such borrowed amounts shall be repaid within the biennium in which they are borrowed. Interest shall accrue daily at the rate per annum equal to the then current one-year United States Treasury Obligation Note rate.

D. Any temporary loan shall be evidenced by a loan certificate duly executed by the State Treasurer and the Commonwealth Transportation Commissioner specifying the maturity date of such loan and the annual rate of interest. Prepayment of temporary loans shall be without penalty and with interest calculated to such prepayment date. The State Treasurer is authorized to make, at least monthly, interest payments to the Transportation Trust Fund.

§ 3-2.00 WORKING CAPITAL FUNDS AND LINES OF CREDIT

§ 3-2.01 ADVANCES TO WORKING CAPITAL FUNDS

A. The State Comptroller shall make available to the Virginia Racing Commission, on July 1 of each year, the amount of \$125,000 from the general fund as a temporary cash flow advance, to be repaid by December 30 of each year.

B. The State Comptroller shall provide a Working Capital Advance for up to \$3,000,000 on July 1 of the first year and for up to \$16,000,000 on July 1 of the second year, to the Department of Veterans Services to operate the Puller & Cabacoy Veterans Care Centers, to be repaid from revenue generated by the facilities.

§ 3-2.02 CHARGES AGAINST WORKING CAPITAL FUNDS

The State Comptroller may periodically charge the appropriation of any state agency for the expenses incurred for services received from any program financed and accounted for by working capital funds. Such charge may be made upon receipt of such documentation as in the opinion of the State Comptroller provides satisfactory evidence of a claim, charge or demand against the appropriations made to any agency. The amounts so charged shall be recorded to the credit of the appropriate working capital fund accounts. In the event any portion of the charge so made shall be disputed, the amount in dispute may be restored to the agency appropriation by direction of the Governor.

§ 3-2.03 LINES OF CREDIT

a. The State Comptroller shall provide lines of credit to the following agencies, not to exceed the amounts shown:

Administration of Health Insurance, Health Benefits Services	\$75,000,000
Administration of Health Insurance, Line of Duty Act	\$10,000,000
Department of Accounts, for the Payroll Service Bureau	\$400,000
Department of Accounts, Transfer Payments	\$5,250,000
Alcoholic Beverage Control Authority	\$80,000,000
Department of Corrections, for Virginia Correctional Enterprises	\$1,000,000
Department of Corrections, for Federal Grant Processing	\$1,000,000
Department of Emergency Management, for Hazardous Material Incident Response	\$150,000
Department of Emergency Management, for Federal Grant Processing	\$500,000
Department of Environmental Quality	\$5,000,000
Department of Human Resource Management, for the Workers' Compensation Self Insurance Trust Fund	\$10,000,000
Department of Behavioral Health and Developmental Services	\$30,000,000
Department of Medical Assistance Services, for the Virginia Health Care Fund	\$12,000,000
Department of Motor Vehicles	\$30,600,000
Department of the Treasury, for the Unclaimed Property Trust Fund	\$5,000,000
Department of the Treasury, for the State Insurance Reserve Trust Fund	\$25,000,000
Virginia Lottery	\$56,000,000
Virginia Information Technologies Agency	\$165,000,000
Virginia Tobacco Settlement Foundation	\$3,000,000
Department of Historic Resources	\$600,000
Department of Fire Programs	\$30,000,000
Compensation Board	\$8,000,000

Department of Conservation and Recreation	\$4,000,000
Department of Military Affairs, for State Active Duty	\$5,000,000
Department of Military Affairs, for Federal Cooperative Agreements	\$21,000,000 \$30,000,000
Virginia Parole Board	\$50,000
Commonwealth's Attorneys' Services Council	\$200,000
Department of State Police, for the Internet Crimes Against Children Grant	\$3,700,000
Department of State Police, for Federal Grant Processing	\$1,500,000
<i>Department of Social Services, for timing issues related to the receipt of federal grants and other payments</i>	<i>\$17,000,000</i>

b. The State Comptroller shall execute an agreement with each agency documenting the procedures for the line of credit, including, but not limited to, applicable interest and the method for the drawdown of funds. The provisions of § 4-3.02 b of this act shall not apply to these lines of credit.

c. The State Comptroller, in conjunction with the Departments of General Services and Planning and Budget, shall establish guidelines for agencies and institutions to utilize a line of credit to support fixed and one-time costs associated with implementation of office space consolidation, relocation and/or office space co-location strategies, where such line of credit shall be repaid by the agency or institution based on the cost savings and efficiencies realized by the agency or institution resulting from the consolidation and/or relocation. In such cases the terms of office space consolidation or co-location strategies shall be approved by the Secretary of Administration, in consultation with the Secretary of Finance, as demonstrating cost benefit to the Commonwealth. In no case shall the advances to an agency or institution exceed \$1,000,000 nor the repayment begin more than one year following the implementation or extend beyond a repayment period of seven years.

d. The State Comptroller is hereby authorized to provide lines of credit of up to \$2,500,000 to the Department of Motor Vehicles and up to \$2,500,000 to the Department of State Police to be repaid from revenues provided under the federal government's establishment of Uniform Carrier Registration.

e. The Virginia Lottery is hereby authorized to use its line of credit to meet cash flow needs for operations at any time during the year and to provide cash to the Virginia Lottery Fund to meet the required transfer of estimated lottery profits to the Lottery Proceeds Fund in the month of June, as specified in provisions of § 3-1.01G. of this act. The Virginia Lottery shall repay the line of credit as actual cash flows become available. The Secretary of Finance is authorized to increase the line of credit to the Virginia Lottery if necessary to meet operating needs.

f. The State Comptroller is hereby authorized to provide a line of credit of up to \$5,000,000 to the Department of Military Affairs to cover the actual costs of responding to State Active Duty. The line of credit will be repaid as the Department of Military Affairs is reimbursed from federal or other funds, other than Department of Military Affairs funds.

g. The Department of Human Resource Management shall repay the local health insurance option program's initial start-up costs, funded through the line of credit authorized in Chapter 836, 2017 Acts of Assembly, in fiscal years 2017 and 2018, over a period not to exceed ten years from the health insurance premiums paid by the local health insurance option program's participants.

h. The Department of Conservation and Recreation may utilize the line of credit authorized in paragraph a. to continue the development of the coastal master plan, including use of a consultant to assist in the plan's development. Any funds spent from the line of credit for this purpose shall be repaid from revenues generated by the Commonwealth's participation in the sale of allowances through the Regional Greenhouse Gas Initiative and deposited to the Virginia Community Flood Preparedness Fund pursuant to § 10.1-603.25, Code of Virginia.

§ 3-3.00 GENERAL FUND DEPOSITS

§ 3-3.01 PAYMENT BY THE STATE TREASURER

The state Treasurer shall transfer an amount estimated at \$50,000 on or before June 30, ~~2019~~2021 and an amount estimated at \$50,000 on or before June 30, ~~2020~~2022, to the general fund from excess 9(c) sinking fund balances.

§ 3-4.00 AUXILIARY ENTERPRISES AND SPONSORED PROGRAMS IN INSTITUTIONS OF HIGHER EDUCATION

§ 3-4.01 AUXILIARY ENTERPRISE INVESTMENT YIELDS

A. 1. The educational and general programs in institutions of higher education shall recover the full indirect cost of auxiliary enterprise programs as certified by institutions of higher education to the Comptroller subject to annual audit by the Auditor of

Public Accounts. The State Comptroller shall credit those institutions meeting the requirement with the interest earned by the investment of funds of their auxiliary enterprise programs.

2. The University of Virginia's College at Wise is authorized to suspend the transfer of the recovery of the full indirect cost of auxiliary enterprise programs to the educational and general program for the 2020-2022 biennium.

3. Institutions of higher education shall have the authority to reduce the recovery of the full indirect cost of auxiliary enterprise programs to the educational and general program for the 2020-2022 biennium as a result of the significant financial impact on auxiliary enterprise programs caused by the COVID-19 pandemic.

4. a. Institutions of higher education shall have the authority to use available fund balances from other fund sources, to include educational and general program reserves, to support operations, increased costs or revenue reductions, for auxiliary enterprise programs for the 2020-2022 biennium. However, with the exception of transfer payments, educational and general program reserves may not be used to directly support intercollegiate athletics.

b. Any use of available fund balances pursuant to these temporary provisions shall be subject to approval by the Board of Visitors of the institution, provided that the Board has also reviewed the measures of financial status included in the most recent Auditor of Public Account Higher Education Comparative Report. Prior to any transfer, the institution shall provide the approval resolution to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.

B. No interest shall be credited for that portion of the fund's cash balance that represents any outstanding loans due from the State Treasurer. The provisions of this section shall not apply to the capital projects authorized under Items C-36.21 and C-36.40 of Chapter 924, 1997 Acts of Assembly.

§ 3-5.00 ADJUSTMENTS AND MODIFICATIONS TO TAX COLLECTIONS

§ 3-5.01 RETALIATORY COSTS TO OTHER STATES TAX CREDIT

Notwithstanding any other provision of law, the amount deposited to the Priority Transportation Trust Fund pursuant to § 58.1-2531 shall not be reduced by more than \$266,667 by any refund of the Tax Credit for Retaliatory Costs to Other States available under § 58.1-2510.

§3-5.02 PAYMENT OF AUTO RENTAL TAX TO THE GENERAL FUND

Notwithstanding the provisions of § 58.1-1741, Code of Virginia, or any other provision of law, all revenues resulting from the fee imposed under subdivision A3 of § 58.1-1736, Code of Virginia, shall be deposited into the general fund after the direct costs of administering the fee are recovered by the Department of Taxation.

§ 3-5.03 IMPLEMENTATION OF CHAPTER 3, ACTS OF ASSEMBLY OF 2004, SPECIAL SESSION I

Revenues deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 of the Code of Virginia pursuant to enactments of the 2004 Special Session of the General Assembly shall be transferred to the general fund and used to meet the Commonwealth's responsibilities for the Standards of Quality prescribed pursuant to Article VIII, Section 2, of the Constitution of Virginia. The Comptroller shall take all actions necessary to effect such transfers monthly, no later than 10 days following the deposit to the Fund. The amounts transferred shall be distributed to localities as specified in Direct Aid to Public Education's (197), State Education Assistance Programs (17800) of this Act. The estimated amount of such transfers are ~~\$426,900,000~~\$421,600,000 the first year and ~~\$433,700,000~~\$433,800,000 the second year.

§ 3-5.04 RETAIL SALES & USE TAX EXEMPTION FOR INTERNET SERVICE PROVIDERS

Notwithstanding any other provision of law, for purchases made on or after July 1, 2006, any exemption from the retail sales and use tax applicable to production, distribution, and other equipment used to provide Internet-access services by providers of Internet service, as defined in § 58.1-602, Code of Virginia, shall occur as a refund request to the Tax Commissioner. The Tax Commissioner shall develop procedures for such refunds.

§ 3-5.05 DISPOSITION OF EXCESS FEES COLLECTED BY CLERKS OF THE CIRCUIT COURTS

Notwithstanding §§ 15.2-540, 15.2-639, 15.2-848, 17.1-285, and any other provision of law general or special, effective July 1, 2009, the Commonwealth shall be entitled to two-thirds of the excess fees collected by the clerks of the circuit courts as required to be reported under § 17.1-283.

§ 3-5.06 ACCELERATED SALES TAX

A. Notwithstanding any other provision of law, in addition to the amounts required under the provisions of §§58.1-615 and 58.1-616, any dealer as defined by §58.1-612 or direct payment permit holder pursuant to §58.1-624 with taxable sales and purchases of \$1,000,000 or greater for the 12-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payments are made by electronic fund transfer, as defined in § 58.1-202.1. If

payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. Every dealer or direct payment holder shall be entitled to a credit for the payment under this section on the return for June of the current year due July 20.

B. The Tax Commissioner may develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. For purposes of this section, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. The provisions of this section shall not apply to persons who are required to file only a Form ST-7, Consumer's Use Tax Return.

D. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in subsection A shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest shall accrue as provided in § 58.1-15. The payment required by this section shall become delinquent on the first day following the due date set forth in this section if not paid.

E. Payments made pursuant to this section shall be made in accordance with procedures established by the Tax Commissioner and shall be considered general fund revenue, except with respect to those revenues required to be distributed under the provisions of §§ 58.1-605, 58.1-606, 58.1-638(A), 58.1-638(G)-(H), 58.1-638.2, and 58.1-638.3 of the Code of Virginia.

F. That the State Comptroller shall make no distribution of the taxes collected pursuant to this section in accordance with §§ 58.1-605, 58.1-606, 58.1-638, 58.1-638.1, 58.1-638.2 and 58.1-638.3 of the Code of Virginia until the Tax Commissioner makes a written certification to the Comptroller certifying the sales and use tax revenues generated pursuant to this section. The Tax Commissioner shall certify the sales and use tax revenues generated as soon as practicable after the sales and use tax revenues have been paid into the state treasury in any month for the preceding month.

G. Beginning with the tax payment that would be remitted on or before June 25, 2021, if the payment is made by other than electronic fund transfers, and by June 30, 2021, if payments are made by electronic fund transfer, the provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of \$10,000,000 or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year.

§ 3-5.07 DISCOUNTS AND ALLOWANCES

A. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation allowed under § 58.1-622, Code of Virginia, shall be suspended for any dealer required to remit the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia, by electronic funds transfer pursuant to § 58.1-202.1, Code of Virginia, and the compensation available to all other dealers shall be limited to the following percentages of the first three percent of the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia:

Monthly Taxable Sales	Percentage
\$0 to \$62,500	1.6%
\$62,501 to \$208,000	1.2%
\$208,001 and above	0.8%

B. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation available under §§ 58.1-642, 58.1-656, 58.1-1021.03, and 58.1-1730, Code of Virginia, shall be suspended.

C. Beginning with the return for June 2011, due July 2011, the compensation under § 58.1-1021.03 shall be reinstated.

§ 3-5.08 SALES TAX COMMITMENT TO HIGHWAY MAINTENANCE AND OPERATING FUND

The sales and use tax revenue for distribution to the Highway Maintenance and Operating Fund shall be consistent with Chapter 766, 2013 Acts of Assembly.

§ 3-5.09 INTANGIBLE HOLDING COMPANY ADDBACK

Notwithstanding the provisions of § 58.1-402(B)(8), Code of Virginia, for taxable years beginning on and after January 1, 2004:

(i) The exception in § 58.1-402(B)(8)(a)(1) for income that is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government shall be limited to and apply only to the portion of such income received by the related member that owns the intangible property, which portion is attributed to a state or foreign government in which such related member has sufficient nexus to be itself subject to such taxes; and

(ii) The exception in § 58.1-402(B)(8)(a)(2) for a related member deriving at least one-third of its gross revenues from licensing

to unrelated parties shall be limited and apply to the portion of such income received by the related member that owns the intangible property and derived from licensing agreements for which the rates and terms are comparable to the rates and terms of agreements that such related member has entered into with unrelated entities.

§ 3-5.10 REGIONAL FUELS TAX

Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions. However, no funds shall be collected pursuant to § 58.1-2291 et seq., Code of Virginia, from levying the additional sales tax on aviation fuel as that term is defined in § 58.1-2201, Code of Virginia.

§ 3-5.11 DEDUCTION FOR ABLE ACT CONTRIBUTIONS

A. Effective for taxable years beginning on or after January 1, 2016, an individual shall be allowed a deduction from Virginia adjusted gross income as defined in § 58.1-321, Code of Virginia, for the amount contributed during the taxable year to an ABLE savings trust account entered into with the Virginia College Savings Plan pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, Code of Virginia. The amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per ABLE savings trust account. No deduction shall be allowed pursuant to this section if such contributions are deducted on the contributor's federal income tax return. If the contribution to an ABLE savings trust account exceeds \$2,000 the remainder may be carried forward and subtracted in future taxable years until the ABLE savings trust contribution has been fully deducted; however, in no event shall the amount deducted in any taxable year exceed \$2,000 per ABLE savings trust account.

B. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, Code of Virginia, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified disability expenses, as defined in § 529A of the Internal Revenue Code; or (ii) the beneficiary's death.

C. A contributor to an ABLE savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per ABLE savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount contributed to an ABLE savings trust account, less any amounts previously deducted.

D. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to the computation, carryover, and recapture of the deduction provided under this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq., Code of Virginia).

§ 3-5.12 RETAIL SALES AND USE TAX EXEMPTION FOR RESEARCH FOR FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

A. Notwithstanding any other provision of law or regulation, and beginning July 1, 2016 and ending June 30, 2018, the retail sales and use tax exemption provided for in subdivision 5 of § 58.1-609.3 of the Code of Virginia, applicable to tangible personal property purchased or leased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense, shall apply to such property used in a federally funded research and development center, regardless of whether such property is used by the purchaser, lessee, or another person or entity.

B. Notwithstanding any other provision of law, beginning July 1, 2018, tangible personal property purchased by a federally funded research and development center sponsored by the U.S. Department of Energy shall be exempt from the retail sales and use tax.

C. Nothing in this section shall be construed to relieve any federally funded research and development center of any liability for retail sales and use tax due for the purchase of tangible personal property pursuant to the law in effect at the time of the purchase.

§ 3-5.13 ADMISSIONS TAX

Notwithstanding the provisions of § 58.1-3818.02, Code of Virginia, or any other provision of law, subject to the execution of a memorandum of understanding between an entertainment venue and the County of Stafford, Stafford County is authorized to impose a tax on admissions to an entertainment venue located in the county that (i) is licensed to do business in the county for the first time on or after July 1, 2015, and (ii) requires at last 75 acres of land for its operations, and (iii) such land is purchased or leased by the entertainment venue owner on or after June 1, 2015. The tax shall not exceed 10 percent of the amount of charge for admission to any such venue. The provisions of this section shall expire on July 1, 2019 if no entertainment venue exists in Stafford County upon which the tax authorized is imposed.

§ 3-5.14 SUNSET DATES FOR INCOME TAX CREDITS AND SALES AND USE TAX EXEMPTIONS

A. Notwithstanding any other provision of law the General Assembly shall not advance the sunset date on any existing sales tax exemption or tax credit beyond June 30, 2025. Any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 regular legislative session, but prior to the 2024 regular legislative session, shall have a sunset date of not later than June 30, 2025. However, this requirement shall not apply to tax exemptions administered by the Department of Taxation under § 58.1-609.11, relating to exemptions for nonprofit entities nor shall it apply to exemptions or tax credits with sunset dates after June 30, 2022, enacted or advanced during the 2016 Session of the General Assembly, or to the Motion Picture Production Tax Credit under § 58.1-

439.12:03, Code of Virginia.

B. By November 1, 2020, the Department of Taxation shall report to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences, on the revenue impact of every sales tax exemption and tax credit scheduled to expire on or before June 30, 2025. The report shall include the prior fiscal year's state and local sales tax impact of each expiring sales tax exemption, and the prior fiscal year's general fund revenue impact of each expiring tax credit. The tax credit revenue impact analysis shall be inclusive of credits claimed against any tax imposed under Title 58.1 of the Code of Virginia.

C. The Department shall provide an updated revenue impact report no later than November 1, 2025, and every five years thereafter, for sales tax exemptions and tax credits set to expire within two years following the date of the report. Such reports shall be distributed to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences.

§ 3-5.15 PROVIDER COVERAGE ASSESSMENT

A. The Department of Medical Assistance Services (DMAS) is authorized to levy an assessment upon private acute care hospitals operating in Virginia in accordance with this Item. Private acute care hospitals operating in Virginia shall pay a coverage assessment beginning on or after October 1, 2018. For the purposes of this coverage assessment, the definition of private acute care hospitals shall exclude public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long stay hospitals, long-term acute care hospitals and critical access hospitals.

B.1. The coverage assessment shall be used only to cover the non-federal share of the "full cost of expanded Medicaid coverage" for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including the administrative costs of collecting the coverage assessment and implementing and operating the coverage for newly eligible adults which includes the costs of administering the provisions of the Section 1115 waiver.

2.a. The "full cost of expanded Medicaid coverage" shall include: 1) any and all Medicaid expenditures related to individuals eligible for Medicaid pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including any federal actions or repayments; and, 2) all administrative costs associated with providing coverage, which includes the costs of administering the provisions of the Section 1115 waiver, and collecting the coverage assessment.

b. The "full cost of expanded Medicaid coverage" shall be updated: 1) on November 1 of each year based on the official Medicaid forecast and latest administrative cost estimates developed by DMAS; 2) no more than 30 days after the enactment of this Act to reflect policy changes adopted by the latest session of the General Assembly; and 3) on March 1 of any year in which DMAS estimates that the most recent non-federal share of the "full cost of expanded Medicaid coverage" times 1.08 will be insufficient to pay all expenses in 2.a. for that year.

C.1. The "coverage assessment amount" shall equal the non-federal share of the "full cost of expanded Medicaid coverage" times ~~1.08~~ 1.02.

2. The "coverage assessment percentage" shall be calculated quarterly by dividing (i) the "coverage assessment amount" by (ii) the total "net patient service revenue" for hospitals subject to the assessment. The coverage assessment amount used in the quarterly calculation of the "coverage assessment percentage" shall include a reconciliation of the Health Care Coverage Assessment Fund prescribed in D.1 and subtract all prior quarterly assessments paid for that fiscal year before dividing the remainder by the remaining quarters in the fiscal year.

3. Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report." Hospitals shall certify that the net patient service revenue is hospital revenue and this amount shall be the assessment basis for the following fiscal year.

4. Each hospital's coverage assessment amount shall be calculated by multiplying the quarterly "coverage assessment percentage" times each hospital's net patient service revenue.

D.1. DMAS shall, at a minimum, update the "coverage assessment amount" whenever the "full cost of expanded Medicaid coverage" is updated in section B.2.b or to ensure amounts are sufficient to cover the full cost of expanded Medicaid coverage based on the latest estimate. Hospitals shall be given no less than 15 days' notice prior to the beginning of the quarter with associated calculations supporting the change in its coverage assessment amount. Prior to any change to the coverage assessment amount, DMAS shall perform and incorporate a reconciliation of the Health Care Coverage Assessment Fund through the most recent complete quarter. Any estimated excess or shortfall of revenue shall be deducted from or added to the "coverage assessment amount."

2. DMAS shall be responsible for collecting the coverage assessment amount. Hospitals subject to the coverage assessment shall make quarterly payments due no later than July 1, October 1, January 1 and April 1 of each state fiscal year.

3. Hospitals that fail to make the coverage assessment payments within 30 days of the due date shall incur a five percent penalty that shall be deposited in the Virginia Health Care Fund. Any unpaid coverage assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such.

E. DMAS shall submit a report, due September 1 of each year, to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees, and the Virginia Hospital and Healthcare Association. The report shall include, for the most recently completed fiscal year, the revenue collected from the coverage assessment, expenditures for purposes authorized by this Item, and the year-end coverage assessment balance in the Health Care Coverage Assessment Fund. The report shall also include a complete and itemized listing of all administrative costs included in the coverage assessment.

F. All revenue from the coverage assessment excluding penalties, shall be deposited into the Health Care Coverage Assessment Fund. Proceeds from the coverage assessment, excluding penalties, shall not be used for any other purpose than to cover the non-federal share of the full cost of expanded Medicaid coverage. Notwithstanding any other provision of law, the net state share of any prior year recovery of Medicaid expansion costs that were paid with coverage assessment revenue shall be deposited into the Health Care Coverage Assessment Fund.

G. Any provision of this Item is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary.

H. The Hospital Payment Policy Advisory Council shall meet to consider the implementation and provisions of the Provider Coverage and Payment Rate Assessments in order to consider and make recommendations to ensure the collection and use of such funds are appropriate and consistent with the intent of the General Assembly. Specifically, the Council shall consider the level of detail and format necessary to develop the report pursuant to paragraph E. The Council shall recommend a format and associated level of detail, to be included in the report to the Joint Subcommittee for Health and Human Resources Oversight. The Joint Subcommittee shall approve the final format and associated level of detail of the report to be submitted by the Department of Medical Assistance Services.

§ 3-5.16 PROVIDER PAYMENT RATE ASSESSMENT

A. The Department of Medical Assistance Services (DMAS) is hereby authorized to levy a payment rate assessment upon private acute care hospitals operating in Virginia in accordance with this item. Private acute care hospitals operating in Virginia shall pay a payment rate assessment beginning on or after October 1, 2018 when all necessary state plan amendments are approved by the Centers for Medicare and Medicaid Services (CMS). For purposes of this assessment, the definition of private acute care hospitals shall exclude public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long stay hospitals, long-term acute care hospitals and critical access hospitals.

B. Proceeds from the payment rate assessment shall be used to (i) fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the "upper payment limit gap"; and (ii) fill the "managed care organization hospital payment gap" for care provided to recipients of medical assistance services. Payments made under the provisions i and ii of this paragraph shall be referred to as "private acute care hospital enhanced payments".

C.1. The Department of Medical Assistance Services (DMAS) shall calculate each hospital's "payment rate assessment amount" by multiplying the "payment rate assessment percentage" times "net patient service revenue" as defined below.

2. The "payment rate assessment percentage" for hospitals shall be calculated as (i) the non-federal share of funding the "private acute care hospitals enhanced payments" divided by (ii) the total "net patient service revenue" for hospitals subject to the assessment.

3. Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report." Hospitals shall certify that the net patient service revenue is hospital revenue and this amount shall be the assessment basis for the following fiscal year.

D. DMAS is authorized to update the payment rate assessment amount and payment rate assessment percentage on a quarterly basis to ensure amounts are sufficient to cover the non-federal share of the full cost of the private acute care hospital enhanced payments based on the department's quarterly claims and encounter data. Hospitals shall be given no less than 15 days prior notice of the new assessment amount and be provided with calculations. Prior to any change to the payment rate assessment amount, DMAS shall perform and incorporate a reconciliation of the Health Care Provider Payment Rate Assessment Fund. Any estimated excess or shortfall of revenue since the previous reconciliation shall be deducted from or added to the calculation of the private acute care hospital enhanced payments.

E.1. The "upper payment limit" means the limit on payment for inpatient services for recipients of medical assistance established in accordance with 42 C.F.R. § 447.272 and outpatient services for recipients of medical assistance pursuant to 42 C.F.R. § 447.321 for private hospitals. DMAS shall complete a calculation of the "upper payment limit" for each state fiscal year with a detailed analysis of how it was determined. The "upper payment limit payment gap" means the difference between the amount of the private hospital upper payment limit and the amount otherwise paid pursuant to the state plan for inpatient and outpatient services. The "managed care organization hospital payment gap" means the difference between the amount included in the capitation rates for inpatient and outpatient services based on historical paid claims and the amount that would be included when the projected hospital services furnished by private acute care hospitals operating in Virginia are priced for the contract year equivalent to ~~the upper payment limit~~ *the maximum managed care directed payment amount as allowed by CMS* subject to CMS approval under 42 C.F.R. section 438.6(c). As part of the development of the managed care capitation rates, the DMAS shall calculate a "Medicaid managed care organization (MCO) supplemental hospital capitation payment adjustment". This is a distinct additional amount that shall be added

to Medicaid MCO capitation rates to fund supplemental payments under this section to private acute care hospitals operating in Virginia for services to Medicaid recipients.

2. DMAS shall contractually direct Medicaid MCOs to disburse supplemental hospital capitation payment funds consistent with this section and 42 C.F.R. § 438.6(c), to ensure that all such funds are disbursed to private acute care hospitals operating in Virginia. In addition, DMAS shall contractually prohibit MCOs from making reductions to or supplanting hospital payments otherwise paid by MCOs.

3. DMAS shall make available quarterly a report of the additional capitation payments that are made to each MCO pursuant to this item. Further, DMAS shall consider recommendations of the Medicaid Hospital Payment Policy and Advisory Council in designing and implementing the specific elements of the payment rate assessment and private acute care hospital supplemental payment program authorized by this item.

F.1. DMAS shall be responsible for collecting the payment rate assessment amount. Hospitals subject to the payment rate assessment shall make quarterly payments due no later than August 15, November 15, February 15 and May 15 of each state fiscal year.

2. Hospitals that fail to make the payment rate assessment payments on or before the due date in subsection F.1. shall incur a five percent penalty that shall be deposited in the Virginia Health Care Fund. Any unpaid payment assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such.

G. DMAS shall submit a report due September 1 of each year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees. The report shall include, for the most recently completed fiscal year, the revenue collected from the payment rate assessment, expenditures for purposes authorized by this item, and the year-end assessment balance in the Health Care Provider Payment Rate Assessment Fund.

H. All revenue from the payment rate assessment shall be deposited into the Health Care Provider Payment Rate Assessment Fund, a special non-reverting fund in the state treasury. Proceeds from the payment rate assessment, excluding penalties, shall not be used for any other purpose than to fund (i) an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the private hospital "upper payment limit" and "managed care organization hospital payment gap" for care provided to recipients of medical assistance services, and (ii) the administrative costs of collecting the assessment and of implementing and operating the associated payment rate actions.

I. Any provision of this Section is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary.

§ 3-5.17 TOBACCO TAX STUDY

The Joint Subcommittee to Evaluate Tax Preferences is hereby directed to continue studying options for the modernization of § 58.1-1001(A), Code of Virginia, to reflect advances in science and technology in the area of tobacco harm reduction, and the role innovative non-combustible tobacco products can play in reducing harm, including products that produce vapor or aerosol from heating tobacco or liquid nicotine. In addition, the Joint Subcommittee shall study possible reforms to the taxation of tobacco products that will provide fairness and equity for all local governments and also ensure stable tax revenues for the Commonwealth. The Joint Subcommittee shall complete its study and submit a final report with recommended reforms to the Finance Committees of the Virginia Senate and Virginia House of Delegates. All agencies of the Commonwealth shall provide assistance for this study, upon request.

§3-5.18 HISTORIC PRESERVATION TAX CREDIT

Notwithstanding § 58.1-339.2 or any other provision of law, effective for taxable years beginning on and after January 1, 2017, the amount of the Historic Rehabilitation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million for any taxable year.

§ 3-5.19 LAND PRESERVATION TAX CREDIT CLAIMED

Notwithstanding § 58.1-512 or any other provision of law, effective for the taxable year beginning on and after January 1, 2017, but before January 1, 2023, the amount of the Land Preservation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$20,000.

§ 3-5.20 NEIGHBORHOOD ASSISTANCE ACT TAX CREDIT

Notwithstanding any other provision of law or regulation, in order to be eligible to receive an allocation of credits pursuant to § 58.1-439.20:1, Code of Virginia, at least 50 percent of the persons served by the neighborhood organization, either directly by the neighborhood organization or through the provision of revenues to other organizations or groups serving such persons, shall be low-income persons or eligible students with disabilities and at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities, either directly by the neighborhood organization or through the provision of revenues to other organizations or groups providing such services. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of Social Services to an individual only

upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 58.1-439.20, § 58.1-439.20:1 or this language.

§ 3-5.21 CIGARETTE TAX, TOBACCO PRODUCTS TAX AND TAX ON LIQUID NICOTINE

A. Notwithstanding any other provision of law, the cigarette tax imposed under subsection A of § 58.1-1001 of the Code of Virginia shall be 3.0 cents on each cigarette sold, stored or received on and after July 1, 2020.

B. Notwithstanding any other provision of law, the rates of the tobacco products tax imposed under § 58.1-1021.02 of the Code of Virginia in effect on June 30, 2020 shall be doubled beginning July 1, 2020 for taxable sales or purchases occurring on and after such date.

C. Notwithstanding any other provision of law, the tobacco products tax imposed under § 58.1-1021.02 of the Code of Virginia shall be imposed on liquid nicotine at the rate of \$0.066 per milliliter beginning July 1, 2020 for taxable sales or purchases occurring on and after such date.

D. Notwithstanding any other provision of law, the tobacco products tax imposed under § 58.1-1021.02 of the Code of Virginia shall be imposed on any heated tobacco product at the rate of 2.25 cents per stick beginning January 1, 2021 for taxable sales or purchases occurring on and after such date.

E. The Tax Commissioner shall establish guidelines and rules for (i) transitional procedures in regard to the increase in the cigarette tax, (ii) implementation of the increased tobacco products tax rates, and (iii) implementation of the tobacco products tax on liquid nicotine pursuant to the provisions of this act. The development of such guidelines and rules by the Tax Commissioner shall be exempt from the provisions of the Administrative Process Act (Code of Virginia § 2.2-4000 et seq.)

F. Notwithstanding any other provision of law, beginning January 1, 2021, for the purposes of the Tobacco Products Tax, a Distributor, as defined in § 58.1-1021.01, shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-1021.04:1, if such distributor:

1. Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, from sales of tobacco products in the Commonwealth in the previous or current calendar year, provided that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as defined in subsection D of § 58.1-612 shall be aggregated; or

2. Engages in 200 or more separate tobacco products sales transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year, provided that in determining the total number of a dealer's retail sales transactions, the sales made by all commonly controlled persons as defined in subsection D of § 58.1-612 shall be aggregated.

§ 3-5.22 CORONAVIRUS DISEASE 2019 ADMINISTRATIVE TAX RELIEF

A. Any income tax payments originally due during the period from April 1, 2020 to June 1, 2020 may be submitted to the Department of Taxation without the accrual of interest as would otherwise be required for late payments pursuant to Chapter 3 of Title 58.1, provided that full payment is made on or before June 1, 2020. For purposes of this section, "income tax payment" means any payment required to be made with a return filed pursuant to §§ 58.1-341, 58.1-381, and 58.1-441; any payment required to be made with respect to an election to file an extension of time within which to file such a return; any payment of estimated tax required pursuant to Article 19 and Article 20 of Chapter 3 of Title 58.1; and any payment of consumer use tax made with a return filed pursuant to § 58.1-341.

B. The Department shall waive interest as otherwise required for late payments pursuant to Chapter 6 of Title 58.1 on any sales tax payment originally due March 20, 2020 for which a waiver of penalty was granted by the Department of Taxation, provided that such payment is submitted to the Department of Taxation on or before April 20, 2020.

§ 3-5.23 CORPORATE INCOME TAX INFORMATIONAL REPORTING

A.1. Corporations that are members of a unitary business must file a report, in a manner prescribed by the Tax Commissioner, for the unitary combined group containing the unitary combined net income of such group. The report shall be based on taxable year 2019 computations and include, at a minimum the difference in tax owed as a result of filing a unitary combined report, computed according to the method or methods specified by the Tax Commissioner, compared to the tax owed under the current filing requirements.

2. "Unitary business" means a single economic enterprise made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. A "unitary business" includes that part of the business that meets the definition in this section and is conducted by a taxpayer through the taxpayer's interest in a partnership, whether the interest in that partnership is held directly or indirectly through a series of partnerships or other pass-through entities. A "unitary business" shall not include persons subject to, or that would be subject to if doing business in the Commonwealth, the insurance premiums license tax under Chapter 25

(§ 58.1-2500 et seq.), Code of Virginia, or the bank franchise tax under Chapter 12 (§ 58.1-1200 et seq.)

3. The report must be submitted to the Department of Taxation on or before July 1, 2021, which date shall not be extended.

4. Members of a unitary combined group shall exclude as a member and disregard the income and apportionment factors of any corporation incorporated in a foreign jurisdiction (a "foreign corporation") if the average of its property, payroll and sales factors outside the United States is eighty percent (80%) or more. If a foreign corporation is includible as a member in the unitary combined group, to the extent that such foreign corporation's income is subject to the provisions of a federal income tax treaty, such income is not includible in the unitary combined group net income. Such member shall also not include in the unitary combined report any expenses or apportionment factors attributable to income that is subject to the provisions of a federal income tax treaty. For purposes of this paragraph, "federal income tax treaty" means a comprehensive income tax treaty between the United States and a foreign jurisdiction, other than a foreign jurisdiction which the organization for economic co-operation and development has determined has not committed to the internationally agreed tax standard, or has committed to the international agreed tax standard but has not yet substantially implemented that standard, as identified in the then-current organization for economic co-operation and development progress report.

B. Any corporation required to submit such report to the Department of Taxation that fails to do so on or before July 1, 2021, or that makes a material omission or misstatement in connection with such report shall be subject to a penalty of \$10,000. The Tax Commissioner shall have the authority to waive such penalty upon a determination that the requirement would cause an undue hardship. All requests for waiver shall be transmitted to the Tax Commissioner in writing.

C. The Tax Commissioner shall on or before December 1, 2021, based on the information provided in income tax returns and the data submitted under this section, submit a report to the Chair of the Senate Finance and Appropriations Committee, the Chair of the House Appropriations Committee, and the Chair of the House Finance Committee.

§ 3-6.00 ADJUSTMENTS AND MODIFICATIONS TO FEES

§ 3-6.01 RECORDATION TAX FEE

There is hereby assessed a twenty dollar fee on (i) every deed for which the state recordation tax is collected pursuant to §§ 58.1-801 A and 58.1-803, Code of Virginia; and (ii) every certificate of satisfaction admitted under § 55.1-345, Code of Virginia. The revenue generated from fifty percent of such fee shall be deposited to the general fund. The revenue generated from the other fifty percent of such fee shall be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, as established in § 10.1-2128.1, Code of Virginia. The funds deposited to this subfund shall be disbursed for the agricultural best management practices cost share program, pursuant to § 10.1-2128.1, Code of Virginia.

§ 3-6.02 ANNUAL VEHICLE REGISTRATION FEE (\$4.25 FOR LIFE)

Notwithstanding § 46.2-694 paragraph 13 of the Code of Virginia, the additional fee that shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle shall be \$6.25.

§ 3-6.03 DRIVERS LICENSE REINSTATEMENT FEE

A. Notwithstanding § 46.2-411 of the Code of Virginia, the drivers license reinstatement fee payable to the Trauma Center Fund shall be \$100.

B. Notwithstanding the provisions of § 46.2-395 of the Code of Virginia, no court shall suspend any person's privilege to drive a motor vehicle solely for failure to pay any fines, court costs, forfeitures, restitution, or penalties assessed against such person. The Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege to drive a motor vehicle that was suspended prior to July 1, 2019, solely pursuant to § 46.2-395 of the Code of Virginia and shall waive all fees relating to reinstating such person's driving privileges including those paid to the Trauma Center Fund. Nothing herein shall require the Commissioner to reinstate a person's driving privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is otherwise ineligible for a driver's license.

§ 3-6.04 ASSESSMENT OF ELECTRONIC SUMMONS FEE BY LOCALITIES

Nothing in § 17.1-279.1 of the Code of Virginia shall be construed to authorize any county, city, or town to assess the sum set forth therein upon any summons issued by a law-enforcement agency of the Commonwealth.

§ 3-6.05 PROCEDURES FOR PREPAYMENT OF CIVIL PENALTIES IN AN EXECUTIVE ORDER

Any civil penalty under § 44-146.17(1) shall be prepayable in the amount set by executive order and in accordance with § 16.1-69.40:2 B of the Code of Virginia. Any civil penalty amount set by executive order shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial.

PART 4: GENERAL PROVISIONS
§ 4-0.00 OPERATING POLICIES

§ 4-0.01 OPERATING POLICIES

a. Each appropriating act of the General Assembly shall be subject to the following provisions and conditions, unless specifically exempt elsewhere in this act.

b. All appropriations contained in this act, or in any other appropriating act of the General Assembly, are declared to be maximum appropriations and conditional on receipt of revenue.

c. The Governor, as chief budget officer of the state, shall ensure that the provisions and conditions as set forth in this section are strictly observed.

d. Public higher education institutions are not subject to the provisions of § 2.2-4800, Code of Virginia, or the provisions of the Department of Accounts' Commonwealth Accounting Policies and Procedures manual (CAPP) topic 20505 with regard to students who are veterans of the United States armed services and National Guard and are in receipt of federal educational benefits under the G.I. Bill. Public higher education shall establish internal procedures for the continued enrollment of such students to include resolution of outstanding accounts receivable.

e. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) shall not apply to grants made in support of the 2019 Commemoration to non-profit entities organized under § 501 (c)(3) of the Internal Revenue Code.

f. 1. The State Council of Higher Education for Virginia shall establish a policy for granting undergraduate course credit to entering freshman students who have taken one or more Advanced Placement, Cambridge Advanced (A/AS), College-Level Examination Program (CLEP), or International Baccalaureate examinations by August 1, 2017. The policy shall:

a) Outline the conditions necessary for each public institution of higher education to grant course credit, including the minimum required scores on such examinations;

b) Identify the course credit or other academic requirements of each public institution of higher education that the student satisfies by achieving the minimum required scores on such examinations; and

c) Ensure, to the extent possible, that the grant of course credit is consistent across each public institution of higher education and each such examination.

2. The Council and each public institution of higher education shall make the policy available to the public on its website.

g. 1. Notwithstanding any other provision of law, any public body, including any state, local, regional, or regulatory body, or a governing board as defined in § 54.1-2345 of the Code of Virginia, or any joint meeting of such entities, may meet by electronic communication means without a quorum of the public body or any member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body or common interest community association as defined in § 54.1-2345 of the Code of Virginia and the discharge of its lawful purposes, duties, and responsibilities; (iii) a public body shall make available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of Virginia; and (iv) the governing board shall distribute minutes of a meeting held pursuant to this subdivision to common interest community association members by the same method used to provide notice of the meeting.

2. A public body or governing board convening a meeting in accordance with this subdivision shall:

a) Give notice to the public or common interest community association members using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body or governing board conducting the meeting;

b) Make arrangements for public access or common interest community association members access to such meeting through electronic means including, to the extent practicable, videoconferencing technology. If the means of communication allows, provide the public or common interest community association members with an opportunity to comment; and

3. Public bodies must otherwise comply with the provisions of § 2.2-3708.2 of the Code of Virginia. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes of the public body or governing board.

h. Notwithstanding § 2.2-1510 B., Code of Virginia, the Chairs of the House Appropriations and Senate Finance and Appropriations

Committees, during a state of emergency as declared by the Governor, shall hold at least one, but up to four, public hearings, on the budget bill the Governor submits for the 2021 Regular Session and may hold such hearings through electronic means, if deemed necessary, to ensure the safety of all participants

§ 4-1.00 APPROPRIATIONS

§ 4-1.01 PREREQUISITES FOR PAYMENT

a. The State Comptroller shall not pay any money out of the state treasury except pursuant to appropriations in this act or in any other act of the General Assembly making an appropriation during the current biennium.

b. Moneys shall be spent solely for the purposes for which they were appropriated by the General Assembly, except as specifically provided otherwise by § 4-1.03 Appropriation Transfers, § 4-4.01 Capital Projects, or § 4-5.01 a. Settlement of Claims with Individuals. Should the Governor find that moneys are not being spent in accordance with provisions of the act appropriating them, he shall restrain the State Comptroller from making further disbursements, in whole or in part, from said appropriations. Further, should the Auditor of Public Accounts determine that a state or other agency is not spending moneys in accordance with provisions of the act appropriating them, he shall so advise the Governor or other governing authority, the State Comptroller, the Chairman of the Joint Legislative Audit and Review Commission, and Chairmen of the Senate Finance and House Appropriations Committees.

c. Exclusive of revenues paid into the general fund of the state treasury, all revenues earned or collected by an agency, and contained in an appropriation item to the agency shall be expended first during the fiscal year, prior to the expenditure of any general fund appropriation within that appropriation item, unless prohibited by statute or by the terms and conditions of any gift, grant or donation.

§ 4-1.02 WITHHOLDING OF SPENDING AUTHORITY

a. For purposes of this subsection, withholding of spending authority is defined as any action pursuant to a budget reduction plan approved by the Governor to address a declared shortfall in budgeted revenue that impedes or limits the ability to spend appropriated moneys, regardless of the mechanism used to effect such withholding.

b.1. Changed Expenditure Factors: The Governor is authorized to reduce spending authority, by withholding allotments of appropriations, when expenditure factors, such as enrollments or population in institutions, are smaller than the estimates upon which the appropriation was based. Moneys generated from the withholding action shall not be reallocated for any other purpose, provided the withholding of allotments of appropriations under this provision shall not occur until at least 15 days after the Governor has transmitted a statement of changed factors and intent to withhold moneys to the Chairmen of the House Appropriations and Senate Finance Committees.

2. Moneys shall not be withheld on the basis of reorganization plans or program evaluations until such plans or evaluations have been specifically presented in writing to the General Assembly at its next regularly scheduled session.

c. Increased Nongeneral Fund Revenue:

1. General fund appropriations to any state agency for operating expenses are supplemental to nongeneral fund revenues collected by the agency. To the extent that nongeneral fund revenues collected in a fiscal year exceed the estimate on which the operating budget was based, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an equivalent amount. However, this limitation shall not apply to (a) restricted excess tuition and fees for educational and general programs in the institutions of higher education, as defined in § 4-2.01 c of this act; (b) appropriations to institutions of higher education designated for fellowships, scholarships and loans; (c) gifts or grants which are made to any state agency for the direct costs of a stipulated project; (d) appropriations to institutions for the mentally ill or intellectually disabled payable from the Behavioral Health and Developmental Services Revenue Fund; and (e) general fund appropriations for highway construction and mass transit. Moneys unallotted under this provision shall not be reallocated for any other purpose.

2. To the degree that new or additional grant funds become available to supplement general fund appropriations for a program, following enactment of an appropriation act, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an amount equivalent to that provided from grant funds, unless such action is prohibited by the original provider of the grant funds. The withholding action shall not include general fund appropriations, which are required to match grant funds. Moneys unallotted under this provision shall not be reallocated for any other purpose.

d. Reduced General Fund Resources:

1. The term "general fund resources" as applied in this subsection includes revenues collected and paid into the general fund of the state treasury during the current biennium, transfers to the general fund of the state treasury during the current biennium, and all unexpended balances brought forward from the previous biennium.

2. In the event that general fund resources are estimated by the Governor to be insufficient to pay in full all general fund

appropriations authorized by the General Assembly, the Governor shall, subject to the qualifications herein contained, withhold general fund spending authority, by withholding allotments of appropriations, to prevent any expenditure in excess of the estimated general fund resources available.

3. In making this determination, the Governor shall take into account actual general fund revenue collections for the current fiscal year and the results of a formal written re-estimate of general fund revenues for the current and next biennium, prepared within the previous 90 days, in accordance with the process specified in § 2.2-1503, Code of Virginia. Said re-estimate of general fund revenues shall be communicated to the Chairmen of the Senate Finance, House Appropriations and House Finance Committees, prior to taking action to reduce general fund allotments of appropriations on account of reduced resources.

4.a) In addition to monthly reports on the status of revenue collections relative to the current fiscal year's estimate, the Governor shall provide a written quarterly assessment of the current economic outlook for the remainder of the fiscal year to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

b) Within five business days after the preliminary close of the state accounts at the end of the fiscal year, the State Comptroller shall provide the Governor with the actual total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes for the just-completed fiscal year, with a comparison of such actual totals with the total of such taxes in the official budget estimate for that fiscal year. If that comparison indicates that the total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes, as shown on the preliminary close, was one percent or more below the amount of such taxes in the official budget estimate for the just-completed fiscal year, the Governor shall prepare a written re-estimate of general fund revenues for the current biennium and the next biennium in accordance with § 2.2-1503, Code of Virginia, to be reported to the Chairmen of the Senate Finance, House Finance and House Appropriations Committees, not later than September 1 following the close of the fiscal year.

5.a) The Governor shall take no action to withhold allotments until a written plan detailing specific reduction actions approved by the Governor, identified by program and appropriation item, has been presented to the Chairmen of the House Appropriations and Senate Finance Committees. Subsequent modifications to the approved reduction plan also must be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, prior to withholding allotments of appropriations.

b) In addition to the budget reduction plan approved by the Governor, all budget reduction proposals submitted by state agencies to the Governor or the Governor's staff, including but not limited to the Department of Planning and Budget, the Governor's Cabinet secretaries, or the Chief of Staff, whether submitted electronically or otherwise, shall be made available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees concurrently with that budget reduction plan.

6. In effecting the reduction of expenditures, the Governor shall not withhold allotments of appropriations for:

a) More than 15 percent cumulatively of the annual general fund appropriation contained in this act for operating expenses of any one state or nonstate agency or institution designated in this act by title, and the exact amount withheld, by state or nonstate agency or institution, shall be reported within five calendar days to the Chairmen of the Senate Finance and House Appropriations Committees. State agencies providing funds directly to grantees named in this act shall not apportion a larger cut to the grantee than the proportional cut apportioned to the agency. Without regard to § 4-5.05 b.4. of this act, the remaining appropriation to the grantee which is not subject to the cut, equal to at least 85 percent of the annual appropriation, shall be made by July 31, or in two equal installments, one payable by July 31 and the other payable by December 31, if the remaining appropriation is less than or equal to \$500,000, except in cases where the normal conditions of the grant dictate a different payment schedule.

b) The payment of principal and interest on the bonded debt or other bonded obligations of the Commonwealth, its agencies and its authorities, or for payment of a legally authorized deficit.

c) The payments for care of graves of Confederate and historical African American dead.

d) The employer contributions, and employer-paid member contributions, to the Social Security System, Virginia Retirement System, Judicial Retirement System, State Police Officers Retirement System, Virginia Law Officers Retirement System, Optional Retirement Plan for College and University Faculty, Optional Retirement Plan for Political Appointees, Optional Retirement Plan for Superintendents, the Volunteer Service Award Program, the Virginia Retirement System's group life insurance, sickness and disability, and retiree health care credit programs for state employees, state-supported local employees and teachers. If the Virginia Retirement System Board of Trustees approves a contribution rate for a fiscal year that is lower than the rate on which the appropriation was based, or if the United States government approves a Social Security rate that is lower than that in effect for the current budget, the Governor may withhold excess contributions. However, employer and employee paid rates or contributions for health insurance and matching deferred compensation for state employees, state-supported local employees and teachers may not be increased or decreased beyond the amounts approved by the General Assembly. Payments for the employee benefit programs listed in this paragraph may not be delayed beyond the customary billing cycles that have been established by law or policy by the governing board.

e) The payments in fulfillment of any contract awarded for the design, construction and furnishing of any state building.

f) The salary of any state officer for whom the Constitution of Virginia prohibits a change in salary.

g) The salary of any officer or employee in the Executive Department by more than two percent (irrespective of the fund source for

payment of salaries and wages); however, the percentage of reduction shall be uniformly applied to all employees within the Executive Department.

h) The appropriation supported by the State Bar Fund, as authorized by § 54.1-3913, Code of Virginia, unless the supporting revenues for such appropriation are estimated to be insufficient to pay the appropriation.

7. The Governor is authorized to withhold specific allotments of appropriations by a uniform percentage, a graduated reduction or on an individual basis, or apply a combination of these actions, in effecting the authorized reduction of expenditures, up to the maximum of 15 percent, as prescribed in subdivision 6a of this subsection.

8. Each nongeneral fund appropriation shall be payable in full only to the extent the nongeneral fund revenues from which the appropriation is payable are estimated to be sufficient. The Governor is authorized to reduce allotments of nongeneral fund appropriations by the amount necessary to ensure that expenditures do not exceed the supporting revenues for such appropriations; however, the Governor shall take no action to reduce allotments of appropriations for major nongeneral fund sources on account of reduced revenues until such time as a formal written re-estimate of revenues for the current and next biennium, prepared in accordance with the process specified in § 2.2-1503, Code of Virginia, has been reported to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees. For purposes of this subsection, major nongeneral fund sources are defined as Highway Maintenance and Operating Fund and Transportation Trust Fund.

9. Notwithstanding any contrary provisions of law, the Governor is authorized to transfer to the general fund on June 30 of each year of the biennium, or within 20 days from that date, any available unexpended balances in other funds in the state treasury, subject to the following:

a) The Governor shall declare in writing to the Chairmen of the Senate Finance and House Appropriations Committees that a fiscal emergency exists which warrants the transfer of nongeneral funds to the general fund and reports the exact amount of such transfer within five calendar days of the transfer;

b) No such transfer may be made from retirement or other trust accounts, the State Bar Fund as authorized by § 54.1-3913, Code of Virginia, debt service funds, or federal funds; and

c) The Governor shall include for informative purposes, in the first biennial budget he submits subsequent to the transfer, the amount transferred from each account or fund and recommendations for restoring such amounts.

10. The Director, Department of Planning and Budget, shall make available via electronic means a report of spending authority withheld under the provisions of this subsection to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the action to withhold. Said report shall include the amount withheld by agency and appropriation item.

11. If action to withhold allotments of appropriation under this provision is inadequate to eliminate the imbalance between projected general fund resources and appropriations, the Speaker of the House of Delegates and the President pro tempore of the Senate shall be advised in writing by the Governor, so that they may consider requesting a special session of the General Assembly.

§ 4-1.03 APPROPRIATION TRANSFERS

GENERAL

a. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority from one state or other agency to another, to effect the following:

1) distribution of amounts budgeted in the central appropriation to agencies, or withdrawal of budgeted amounts from agencies in accordance with specific language in the central appropriation establishing reversion clearing accounts;

2) distribution of pass-through grants or other funds held by an agency as fiscal agent;

3) correction of errors within this act, where such errors have been identified in writing by the Chairmen of the House Appropriations and Senate Finance Committees;

4) proper accounting between fund sources 0100 and 0300 in higher education institutions;

5) transfers specifically authorized elsewhere in this act or as specified in the Code of Virginia;

6) to supplement capital projects in order to realize efficiencies or provide for cost overruns unrelated to changes in size or scope; or

7) to administer a program for another agency or to effect budgeted program purposes approved by the General Assembly, pursuant to a signed agreement between the respective agencies.

b. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority within an agency to effect proper accounting between fund sources and to effect program purposes approved by the General Assembly, unless specifically provided otherwise in this act or as specified in the Code of Virginia. However, appropriation authority for local aid programs and aid to individuals, with the exception of student financial aid, shall not be transferred elsewhere without advance notice to the Chairmen of the House Appropriations and Senate Finance Committees. Further, any transfers between capital projects shall be made only to realize efficiencies or provide for cost overruns unrelated to changes in size or scope.

c.1. In addition to authority granted elsewhere in this act, the Director, Department of Planning and Budget, may transfer operating appropriations authority among sub-agencies within the Judicial System, the Department of Corrections, and the Department of Behavioral Health and Developmental Services to effect changes in operating expense requirements which may occur during the biennium.

2. The Director, Department of Planning and Budget, may transfer appropriations from the Department of Behavioral Health and Developmental Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided by its institutions and Community Services Boards.

3. The Director, Department of Planning and Budget, may transfer appropriations from the Office of Comprehensive Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided to eligible children.

4. The Director, Department of Planning and Budget, may transfer an appropriation or portion thereof within a state or other agency, or from one such agency to another, to support changes in agency organization, program or responsibility enacted by the General Assembly to be effective during the current biennium.

5. The Director, Department of Planning and Budget, may transfer appropriations from the second year to the first year, with said transfer to be reported in writing to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the transfer, when the expenditure of such funds is required to:

a) address a threat to life, safety, health or property, or

b) provide for unbudgeted cost increases for statutorily required services or federally mandated services, in order to continue those services at the present level, or

c) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a situation deemed threatening to life, safety, health, or property, or

d) provide for payments to the beneficiaries of certain public safety officers killed in the line of duty, as authorized in Title 2.2, Chapter 4, Code of Virginia and for payments to the beneficiaries of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, as authorized in § 44-93.1 B., Code of Virginia, or

e) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in workload such as enrollment, caseload or like factors, or unanticipated costs, or

f) to address unanticipated business or industrial development opportunities which will benefit the state's economy, provided that any such appropriations be used in a manner consistent with the purposes of the program as originally appropriated.

6. An appropriation transfer shall not occur except through properly executed appropriation transfer documents designed specifically for that purpose, and all transactions effecting appropriation transfers shall be entered in the state's computerized budgeting and accounting systems.

7. The Director, Department of Planning and Budget, may transfer from any other agency, appropriations to supplement any project of the Virginia Public Building Authority authorized by the General Assembly and approved by the Governor. Such capital project shall be transferred to the state agency designated as the managing agency for the Virginia Public Building Authority.

8. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 of Title 15.2 of the Code of Virginia (§ 15.2-4100 et seq.) or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 of Title 15.2, Code of Virginia (§ 15.2-3500 et seq.) subsequent to July 1, 1999, the provisions of § 15.2-1302 shall govern distributions from state agencies to the county in which the town is situated or to the consolidated city, and the Director, Department of Planning and Budget, is authorized to transfer appropriations or portions thereof within a state agency, or from one such agency to another, if necessary to fulfill the requirements of § 15.2-1302.

§ 4-1.04 APPROPRIATION INCREASES

a. UNAPPROPRIATED NONGENERAL FUNDS:

1. Sale of Surplus Materials:

The Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of credit resulting from the sale of surplus materials under the provisions of § 2.2-1125, Code of Virginia.

2. Insurance Recovery:

The Director, Department of Planning and Budget, shall increase the appropriation authority for any state agency by the amount of the proceeds of an insurance policy or from the State Insurance Reserve Trust Fund, for expenditures as far as may be necessary, to pay for the repair or replacement of lost, damaged or destroyed property, plant or equipment.

3. Gifts, Grants and Other Nongeneral Funds:

a) Subject to § 4-1.02 c, Increased Nongeneral Fund Revenue, and the conditions stated in this section, the Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of the proceeds of donations, gifts, grants or other nongeneral funds paid into the state treasury in excess of such appropriations during a fiscal year. Such appropriations shall be increased only when the expenditure of moneys is authorized elsewhere in this act or is required to:

- 1) address a threat to life, safety, health or property or
- 2) provide for unbudgeted increases in costs for services required by statute or services mandated by the federal government, in order to continue those services at the present level or implement compensation adjustments approved by the General Assembly, or
- 3) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a situation deemed threatening to life, safety, health, or property, or
- 4) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in noncredit instruction at institutions of higher education or business and industrial development opportunities which will benefit the state's economy, or
- 5) participate in a federal or sponsored program provided that the provisions of § 4-5.03 shall also apply to increases in appropriations for additional gifts, grants, and other nongeneral fund revenue which require a general fund match as a condition of their acceptance; or
- 6) realize cost savings in excess of the additional funds provided, or
- 7) permit a state agency or institution to use a donation, gift or grant for the purpose intended by the donor, or
- 8) provide for cost overruns on capital projects and for capital projects authorized under § 4-4.01 m of this act, or
- 9) address caseload or workload changes in programs approved by the General Assembly.

b) The above conditions shall not apply to donations and gifts to the endowment funds of institutions of higher education.

c) Each state agency and institution shall ensure that its budget estimates include a reasonable estimate of receipts from donations, gifts or other nongeneral fund revenue. The Department of Planning and Budget shall review such estimates and verify their accuracy, as part of the budget planning and review process.

d) No obligation or expenditure shall be made from such funds until a revised operating budget request is approved by the Director, Department of Planning and Budget. Expenditures from any gift, grant or donation shall be in accordance with the purpose for which it was made; however, expenditures for property, plant or equipment, irrespective of fund source, are subject to the provisions of §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects General, and 4-5.03 b Services and Clients-New Services, of this act.

e) Nothing in this section shall exempt agencies from complying with § 4-2.01 a Solicitation and Acceptance of Donations, Gifts, Grants, and Contracts of this act.

4. Any nongeneral fund cash balance recorded on the books of the Department of Accounts as unexpended on the last day of the fiscal year may be appropriated for use in the succeeding fiscal year with the prior written approval of the Director, Department of Planning and Budget, unless the General Assembly shall have specifically provided otherwise. Revenues deposited to the Virginia Health Care Fund shall be used only as the state share of Medicaid, unless the General Assembly specifically authorizes an alternate use. With regard to the appropriation of other nongeneral fund cash balances, the Director shall make a listing of such transactions available to the public via electronic means no less than ten business days following the approval of the appropriation of any such balance.

5. Reporting:

The Director, Department of Planning and Budget, shall make available via electronic means a report on increases in

unappropriated nongeneral funds in accordance with § 4-8.00, Reporting Requirements, or as modified by specific provisions in this subsection.

b. AGRIBUSINESS EQUIPMENT FOR THE DEPARTMENT OF CORRECTIONS

The Director of the Department of Planning and Budget may increase the Department of Corrections appropriation for the purchase of agribusiness equipment or the repair or construction of agribusiness facilities by an amount equal to fifty percent of any annual amounts in excess of fiscal year 1992 deposits to the general fund from agribusiness operations. It is the intent of the General Assembly that appropriation increases for the purposes specified shall not be used to reduce the general fund appropriations for the Department of Corrections.

§ 4-1.05 REVERSION OF APPROPRIATIONS AND REAPPROPRIATIONS

a. GENERAL FUND OPERATING EXPENSE:

1.a) General fund appropriations which remain unexpended on (i) the last day of the previous biennium or (ii) the last day of the first year of the current biennium, shall be reappropriated and allotted for expenditure where required by the Code of Virginia, where necessary for the payment of preexisting obligations for the purchase of goods or services, or where desirable, in the determination of the Governor, to address any of the six conditions listed in § 4-1.03 c.5 of this act or to provide financial incentives to reduce spending to effect current or future cost savings. With the exception of the unexpended general fund appropriations of agencies in the Legislative Department, the Judicial Department, the Independent Agencies, or institutions of higher education, all other such unexpended general fund appropriations unexpended on the last day of the previous biennium or the last day of the first year of the current biennium shall revert to the general fund.

b) General fund appropriations for agencies in the Legislative Department, the Judicial Department, and the Independent Agencies shall be reappropriated, except as may be specifically provided otherwise by the General Assembly. General fund appropriations shall also be reappropriated for institutions of higher education, subject to § 23.1-1002, Code of Virginia.

c) To improve the stability in institutional planning and predictability for students and families to prepare for the cost of higher education, public higher education institutions are encouraged to employ the financial management strategy of establishing an institutional reserve fund supported by any unexpended education and general appropriations of the institution at the end of the fiscal year. The establishment of such a fund is designed to foster more long-term planning, promote efficient resource utilization and reduce the need for substantial year-to-year increases in tuition, thereby increasing affordability for Virginians. Independent of the provisions of § 23.1-1001, institutions are authorized to carry over education and general unexpended balances to establish and maintain a reserve fund in an amount not to exceed six percent of their general fund appropriation for educational and general programs in the most recently-completed fiscal year. Any use of the reserve fund shall be approved by the Board of Visitors of the affected institution, and the institution shall immediately report the details of the approved plan for use of the reserve fund to the Governor, the Secretary of Education, the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees. Any reserve fund shall be subject to the provisions of § 23.1-1303.B.11.

2. a. The Governor shall report within five calendar days after completing the reappropriation process to the Chairmen of the Senate Finance and House Appropriations Committees on the reappropriated amounts for each state agency in the Executive Department. He shall provide a preliminary report of reappropriation actions on or before November 1 and a final report on or before December 20 to the Chairmen of the House Appropriations and Senate Finance Committees.

b. The Director, Department of Planning and Budget, may transfer reappropriated amounts within an agency to cover nonrecurring costs.

3. Pursuant to subsection E of § 2.2-1125, Code of Virginia, the determination of compliance by an agency or institution with management standards prescribed by the Governor shall be made by the Secretary of Finance and the Secretary having jurisdiction over the agency or institution, acting jointly.

4. The general fund resources available for appropriation in the first enactment of this act include the reversion of certain unexpended balances in operating appropriations as of June 30 of the prior fiscal year, which were otherwise required to be reappropriated by language in the Appropriation Act.

5. Upon request, the Director, Department of Planning and Budget, shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees showing the amount reverted for each agency and the total amount of such reversions.

b. NONGENERAL FUND OPERATING EXPENSE:

Based on analysis by the State Comptroller, when any nongeneral fund has had no increases or decreases in fund balances for a period of 24 months, the State Comptroller shall promptly transfer and pay the balance into the fund balance of the general fund. If it is subsequently determined that an appropriate need warrants repayment of all or a portion of the amount transferred, the Director, Department of Planning and Budget shall include repayment in the next budget bill submitted to the General Assembly. This provision does not apply to funds held in trust by the Commonwealth.

c. CAPITAL PROJECTS:

1. Upon certification by the Director, Department of Planning and Budget, the State Comptroller is hereby authorized to revert to the fund balance of the general fund any portion of the unexpended general fund cash balance and corresponding appropriation or reappropriation for a capital project when the Director determines that such portion is not needed for completion of the project. The State Comptroller may similarly return to the appropriate fund source any part of the unexpended nongeneral fund cash balance and reduce any appropriation or reappropriation which the Director determines is not needed to complete the project.

2. The unexpended general fund cash balance and corresponding appropriation or reappropriation for capital projects shall revert to and become part of the fund balance of the general fund during the current biennium as of the date the Director, Department of Planning and Budget, certifies to the State Comptroller that the project has been completed in accordance with the intent of the appropriation or reappropriation and there are no known unpaid obligations related to the project. The State Comptroller shall return the unexpended nongeneral fund cash balance, if there be any, for such completed project to the source from which said nongeneral funds were obtained. Likewise, he shall revert an equivalent portion of the appropriation or reappropriation of said nongeneral funds.

3. The Director, Department of Planning and Budget, may direct the restoration of any portion of the reverted amount if he shall subsequently verify an unpaid obligation or requirement for completion of the project. In the case of a capital project for which an unexpended cash balance was returned and appropriation or reappropriation was reverted in the prior biennium, he may likewise restore any portion of such amount under the same conditions.

§ 4-1.06 LIMITED ADJUSTMENTS OF APPROPRIATIONS

a. LIMITED CONTINUATION OF APPROPRIATIONS.

Notwithstanding any contrary provision of law, any unexpended balances on the books of the State Comptroller as of the last day of the previous biennium shall be continued in force for such period, not exceeding 10 days from such date, as may be necessary in order to permit payment of any claims, demands or liabilities incurred prior to such date and unpaid at the close of business on such date, and shown by audit in the Department of Accounts to be a just and legal charge, for values received as of the last day of the previous biennium, against such unexpended balances.

b. LIMITATIONS ON CASH DISBURSEMENTS.

Notwithstanding any contrary provision of law, the State Comptroller may begin preparing the accounts of the Commonwealth for each subsequent fiscal year on or about 10 days before the start of such fiscal year. The books will be open only to enter budgetary transactions and transactions that will not require the receipt or disbursement of funds until after June 30. Should an emergency arise, or in years in which July 1 falls on a weekend requiring the processing of transactions on or before June 30, the State Comptroller may, with notification to the Auditor of Public Accounts, authorize the disbursement of funds drawn against appropriations of the subsequent fiscal year, not to exceed the sum of three million dollars (\$3,000,000) from the general fund. This provision does not apply to debt service payments on bonds of the Commonwealth which shall be made in accordance with bond documents, trust indentures, and/or escrow agreements.

§ 4-1.07 ALLOTMENTS

Except when otherwise directed by the Governor within the limits prescribed in §§ 4-1.02 Withholding of Spending Authority, 4-1.03 Appropriation Transfers, and 4-1.04 Appropriation Increases of this act, the Director, Department of Planning and Budget, shall prepare and act upon the allotment of appropriations required by this act, and by § 2.2-1819, Code of Virginia, and the authorizations for rates of pay required by this act. Such allotments and authorizations shall have the same effect as if the personal signature of the Governor were subscribed thereto. This section shall not be construed to prohibit an appeal by the head of any state agency to the Governor for reconsideration of any action taken by the Director, Department of Planning and Budget, under this section.

§ 4-2.00 REVENUES

§ 4-2.01 NONGENERAL FUND REVENUES

a. SOLICITATION AND ACCEPTANCE OF DONATIONS, GIFTS, GRANTS, AND CONTRACTS:

1. a) No state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except under written guidelines issued by the Governor which provide for the solicitation and acceptance of nongeneral funds, except that donations or gifts to the Virginia War Memorial Foundation that are small in size and number and valued at less than \$5,000, such as library items or small display items, may be approved by the Executive Director of the Virginia War Memorial in consultation with the Secretary of Veterans Affairs and Homeland Security. All other gifts and donations to the Virginia War Memorial Foundation must receive written approval from the Secretary of Veterans Affairs and Homeland Security.

b) The limits on solicitation and acceptance of donations, gifts, grants, and contracts stated in paragraph 1.a) above shall not apply to donations, gifts, grants, and contracts associated with support and/or response to the needs and impacts of the COVID-19 pandemic provided that acceptance of such does not create any ongoing commitments against general or nongeneral fund resources of the Commonwealth.

2. The Governor may issue policies in writing for procedures which allow state agencies to solicit and accept nonmonetary donations, gifts, grants, or contracts except that donations, gifts and grants of real property shall be subject to § 4-4.00 of this act and § 2.2-1149, Code of Virginia. This provision shall apply to donations, gifts and grants of real property to endowment funds of institutions of higher education, when such endowment funds are held by the institution in its own name and not by a separately incorporated foundation or corporation.

3. The preceding subdivisions shall not apply to property and equipment acquired and used by a state agency or institution through a lease purchase agreement and subsequently donated to the state agency or institution during or at the expiration of the lease purchase agreement, provided that the lessor is the Virginia College Building Authority.

4. The use of endowment funds for property, plant or equipment for state-owned facilities is subject to §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects-General and 4-5.03 Services and Clients of this act.

5. Notwithstanding any other provision of law, public institutions of higher education may enter into agreements or contracts with nonprofit organizations that provide funding for research or other mission related activities and require use of binding arbitration or application of the laws of another jurisdiction, upon approval of the Office of the Attorney General.

b. HIGHER EDUCATION TUITION AND FEES

1. Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, all nongeneral fund collections by public institutions of higher education, including collections from the sale of dairy and farm products, shall be deposited in the state treasury in accordance with § 2.2-1802, Code of Virginia, and expended by the institutions of higher education in accordance with the appropriations and provisions of this act, provided, however, that this requirement shall not apply to private gifts, endowment funds, or income derived from endowments and gifts.

2. a) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all resident student groups based on, but not limited to, competitive market rates, provided that the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

b) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all nonresident student groups based on, but not limited to, competitive market rates, provided that: i) the tuition and mandatory educational and general fee rates for nonresident undergraduate and graduate students cover at least 100 percent of the average cost of their education, as calculated through base adequacy guidelines adopted, and periodically amended, by the Joint Subcommittee Studying Higher Education Funding Policies, and ii) the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

c) For institutions charging nonresident students less than 100 percent of the cost of education, the State Council of Higher Education for Virginia may authorize a phased approach to meeting this requirement, when in its judgment, it would result in annual tuition and fee increases for nonresident students that would discourage their enrollment.

d) The Boards of Visitors or other governing bodies of institutions of higher education shall not increase the current proportion of nonresident undergraduate students if the institution's nonresident undergraduate enrollment exceeds 25 percent, unless: i) such enrollment is intended to support workforce development needs within the Commonwealth of Virginia as identified in consultation with the Virginia Economic Development Partnership, and ii) the number of in-state undergraduate students does not drop below fall 2018 full-time equivalent census levels as certified by the State Council of Higher Education for Virginia. Norfolk State University, Virginia Military Institute, Virginia State University, and two-year public institutions are exempt from this restriction. Any such increases shall be limited to no more than a one percentage point increase over the prior year.

3. a) In setting the nongeneral fund appropriation for educational and general programs at the institutions of higher education, the General Assembly shall take into consideration the appropriate student share of costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

b) In determining the appropriate state share of educational costs for resident students, the General Assembly shall seek to cover at least 67 percent of educational costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

4. a) Each institution and the State Council of Higher Education for Virginia shall monitor tuition, fees, and other charges, as well as the mix of resident and nonresident students, to ensure that the primary mission of providing educational opportunities to citizens of

Virginia is served, while recognizing the material contributions provided by the presence of nonresident students. The State Council of Higher Education for Virginia shall also develop and enforce uniform guidelines for reporting student enrollments and the domiciliary status of students.

b) The State Council of Higher Education for Virginia shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than August 1 of each year the annual change in total charges for tuition and all required fees approved and allotted by the Board of Visitors. As it deems appropriate, the State Council of Higher Education for Virginia shall provide comparative national, peer, and market data with respect to charges assessed students for tuition and required fees at institutions outside of the Commonwealth.

c) Institutions of higher education are hereby authorized to make the technology service fee authorized in Chapter 1042, 2003 Acts of Assembly, part of ongoing tuition revenue. Such revenues shall continue to be used to supplement technology resources at the institutions of higher education.

d) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 144 and 145 of the 2019 Acts of Assembly, each institution shall work with the State Council of Higher Education for Virginia and the Virginia College Savings Plan to determine appropriate tuition and fee estimates for tuition savings plans.

5. It is the intent of the General Assembly that each institution's combined general and nongeneral fund appropriation within its educational and general program closely approximate the anticipated annual budget each fiscal year.

6. Nonresident graduate students employed by an institution as teaching assistants, research assistants, or graduate assistants and paid at an annual contract rate of \$4,000 or more may be considered resident students for the purposes of charging tuition and fees.

7. The fund source "Higher Education Operating" within educational and general programs for institutions of higher education includes tuition and fee revenues from nonresident students to pay their proportionate share of the amortized cost of the construction of buildings approved by the Commonwealth of Virginia Educational Institutions Bond Act of 1992 and the Commonwealth of Virginia Educational Facilities Bond Act of 2002.

8. a) 1) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly, mandatory fees for purposes other than educational and general programs shall not be increased for Virginia undergraduates beyond three percent annually, excluding requirements for wage, salary, and fringe benefit increases, authorized by the General Assembly. Fee increases required to carry out actions that respond to mandates of federal agencies are also exempt from this provision, provided that a report on the purposes of the amount of the fee increase is submitted to the Chairmen of the House Appropriations and Senate Finance Committees by the institution of higher education at least 30 days prior to the effective date of the fee increase.

2) The University of Mary Washington is hereby authorized to undertake a review of its tuition and fee structure for the purpose of more closely aligning auxiliary fees, including room, board, and the comprehensive fee, with auxiliary expenditure budgets. Adjustments to mandatory fees in auxiliary programs may exceed three percent subject to annual approval by the University's Board of Visitors to the extent required to effect budgetary alignment of revenues and expenditures. This exemption will be limited to the period beginning in fiscal year 2019-20 and extending through the end of fiscal year 2023-24.

b) This restriction shall not apply in the following instances: fee increases directly related to capital projects authorized by the General Assembly; fee increases to support student health services; and other fee increases specifically authorized by the General Assembly.

c) Due to the small mandatory non-educational and general program fees currently assessed students in the Virginia Community College System, increases in any one year of no more than \$15 shall be allowed on a cost-justified case-by-case basis, subject to approval by the State Board for Community Colleges.

9. Any institution of higher education granting new tuition waivers to resident or nonresident students not authorized by the Code of Virginia must absorb the cost of any discretionary waivers.

10. Tuition and fee revenues from nonresident students taking courses through Virginia institutions from the Southern Regional Education Board's Southern Regional Electronic Campus must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the Board of Visitors of the institution.

c. HIGHER EDUCATION PLANNED EXCESS REVENUES:

An institution of higher education, except for those public institutions governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly, may generate and retain tuition and fee revenues in excess of those provided in § 4-2.01 b Higher Education Tuition and Fees, subject to the following:

1. Such revenues are identified by language in the appropriations in this act to any such institution.
2. The use of such moneys is fully documented by the institution to the Governor prior to each fiscal year and prior to allotment.
3. The moneys are supplemental to, and not a part of, ongoing expenditure levels for educational and general programs used as the basis for funding in subsequent biennia.
4. The receipt and expenditure of these moneys shall be recorded as restricted funds on the books of the Department of Accounts and shall not revert to the surplus of the general fund at the end of the biennium.
5. Tuition and fee revenues generated by the institution other than as provided herein shall be subject to the provisions of § 4-1.04 a.3 Gifts, Grants, and Other Nongeneral Funds of this act.

§ 4-2.02 GENERAL FUND REVENUE

a. STATE AGENCY PAYMENTS INTO GENERAL FUND:

1. Except as provided in § 4-2.02 a.2., all moneys, fees, taxes, charges and revenues received at any time by the following agencies from the sources indicated shall be paid immediately into the general fund of the state treasury:

a) Marine Resources Commission, from all sources, except:

- 1) Revenues payable to the Public Oyster Rocks Replenishment Fund established by § 28.2-542, Code of Virginia.
- 2) Revenue payable to the Virginia Marine Products Fund established by § 3.2-2705, Code of Virginia.
- 3) Revenue payable to the Virginia Saltwater Recreational Fishing Development Fund established by § 28.2-302.3, Code of Virginia.
- 4) Revenue payable to the Marine Fishing Improvement Fund established by § 28.2-208, Code of Virginia.
- 5) Revenue payable to the Marine Habitat and Waterways Improvement Fund established by § 28.2-1206, Code of Virginia.
- 6) Revenue payable to the Oyster Leasing Conservation and Replenishment Programs Fund.

b1) Department of Labor and Industry, or any other agency, for the administration of the state labor and employment laws under Title 40.1, Code of Virginia.

2) Department of Labor and Industry, from boiler and pressure vessel inspection certificate fees, pursuant to § 40.1-51.15, Code of Virginia.

c) All state institutions for the mentally ill or intellectually disabled, from fees or per diem paid employees for the performance of services for which such payment is made, except for a fee or per diem allowed by statute to a superintendent or staff member of any such institution when summoned as a witness in any court.

d) Secretary of the Commonwealth, from all sources.

e) The Departments of Corrections and Juvenile Justice, as required by law, including revenues from sales of dairy and other farm products.

f) Auditor of Public Accounts, from charges for audits or examinations when the law requires that such costs be borne by the county, city, town, regional government or political subdivision of such governments audited or examined.

g) Department of Education, from repayment of student scholarships and loans, except for the cost of such collections.

h) Department of the Treasury, from the following source:

Fees collected for handling cash and securities deposited with the State Treasurer pursuant to § 46.2-454, Code of Virginia.

i) Attorney General, from recoveries of attorneys' fees and costs of litigation.

j) Department of Social Services, from net revenues received from child support collections after all disbursements are made in accordance with state and federal statutes and regulations, and the state's share of the cost of administering the programs is paid.

k) Department of General Services, from net revenues received from refunds of overpayments of utilities charges in prior fiscal years, after deduction of the cost of collection and any refunds due to the federal government.

l) Without regard to paragraph e) above, the following revenues shall be excluded from the requirement for deposit to the general fund and shall be deposited as follows: (1) payments to Virginia Correctional Enterprises shall be deposited into the Virginia

Correctional Enterprises Fund; (2) payments to the Departments of Corrections and Juvenile Justice for work performed by inmates, work release prisoners, probationers or wards, which are intended to cover the expenses of these inmates, work release prisoners, probationers, or wards, shall be retained by the respective agencies for their use; and (3) payments to the Departments of Corrections and Juvenile Justice for work performed by inmates in educational programs shall be retained by the agency to increase vocational training activities and to purchase work tools and work clothes for inmates, upon release.

2. The provisions of § 4-2.02 a.1. State Agency Payments into General Fund shall not apply to proceeds from the sale of surplus materials pursuant to § 2.2-1125, Code of Virginia. However, the State Comptroller is authorized to transfer to the general fund of the state treasury, out of the credits under § 4-1.04 a.1 Unappropriated Nongeneral Funds – Sale of Surplus Materials of this act, sums derived from the sale of materials originally purchased with general fund appropriations. The State Comptroller may authorize similar transfers of the proceeds from the sale of property not subject to § 2.2-1124, Code of Virginia, if said property was originally acquired with general fund appropriations, unless the General Assembly provides otherwise.

a. Without regard to § 4-2.02 a.1 above, payments to the Treasurer of Virginia assessed to insurance companies for the safekeeping and handling of securities or surety bonds deposited as insurance collateral shall be deposited into the Insurance Collateral Assessment Fund to defray such safekeeping and handling expenses.

b. DEFINITION OF GENERAL FUND REVENUE FOR PERSONAL PROPERTY RELIEF ACT

Notwithstanding any contrary provision of law, for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia, the term general fund revenues, excluding transfers, is defined as (i) all state taxes, including penalties and interest, required and/or authorized to be collected and paid into the general fund of the state treasury pursuant to Title 58.1, Code of Virginia; (ii) permits, fees, licenses, fines, forfeitures, charges for services, and revenue from the use of money and property required and/or authorized to be paid into the general fund of the treasury; and (iii) amounts required to be deposited to the general fund of the state treasury pursuant to § 4-2.02 a.1., of this act. However, in no case shall (i) lump-sum payments, (ii) one-time payments not generated from the normal operation of state government, or (iii) proceeds from the sale of state property or assets be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia.

c. DATE OF RECEIPT OF REVENUES:

All June general fund collections received under Subtitle I of Title 58.1, Code of Virginia, bearing a postmark date or electronic transactions with a settlement or notification date on or before the first business day in July, when June 30 falls on a Saturday or Sunday, shall be considered as June revenue and recorded under guidelines established annually by the Department of Accounts.

d. RECOVERIES BY THE OFFICE OF THE ATTORNEY GENERAL

1. As a condition of the appropriation for Item 59 of this Act, there is hereby created the Disbursement Review Committee (the "Committee"), the members of which are the Attorney General, who shall serve as chairman; two members of the House of Delegates appointed by the Speaker of the House; two members of the Senate appointed by the Chairman of the Senate Committee on Rules; and two members appointed by the Governor.

2. Whenever forfeitures are available for distribution by the Attorney General through programs overseen by either the U.S. Department of Justice Asset Forfeiture Program or the U.S. Treasury Executive Office for Asset Forfeiture, by virtue of the Attorney General's participation on behalf of the Commonwealth or on behalf of an agency of the Commonwealth, the Attorney General shall seek input from the Committee, to the extent permissible under applicable federal law and guidelines, for the preparation of a proposed Distribution Plan (the "Plan") regarding the distribution and use of money or property, or both. If a federal entity must approve the Plan for such distribution or use, or both, and does not approve the Plan submitted by the Attorney General, the Plan may be revised if deemed appropriate and resubmitted to the federal entity for approval following notification of the Committee. If the federal entity approves the original Plan or a revised Plan, the Attorney General shall inform the Committee, and ensure that such money or property, or both, is distributed or used, or both, in a manner that is consistent with the Plan approved by the federal entity. The distribution of any money or property, or both, shall be done in a manner as prescribed by the State Comptroller and consistent with any federal authorization in order to ensure proper accounting on the books of the Commonwealth.

§ 4-2.03 INDIRECT COSTS

a. INDIRECT COST RECOVERIES FROM GRANTS AND CONTRACTS:

Each state agency, including institutions of higher education, which accepts a grant or contract shall recover full statewide and agency indirect costs unless prohibited by the grantor agency or exempted by provisions of this act.

b. AGENCIES OTHER THAN INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by all agencies other than institutions of higher

education:

1. The Governor shall include in the recommended nongeneral fund appropriation for each agency in this act the amount which the agency includes in its revenue estimate as an indirect cost recovery. The recommended nongeneral fund appropriations shall reflect the indirect costs in the program incurring the costs.
2. If actual agency indirect cost recoveries exceed the nongeneral fund amount appropriated in this act, the Director, Department of Planning and Budget, is authorized to increase the nongeneral fund appropriation to the agency by the amount of such excess indirect cost recovery. Such increase shall be made in the program incurring the costs.
3. Statewide indirect cost recoveries shall be paid into the general fund of the state treasury, unless the agency is specifically exempted from this requirement by language in this act. Any statewide indirect cost recoveries received by the agency in excess of the exempted sum shall be deposited to the general fund of the state treasury.

c. INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by institutions of higher education:

1. Seventy percent shall be retained by the institution as an appropriation of moneys for the conduct and enhancement of research and research-related requirements. Such moneys may be used for payment of principal of and interest on bonds issued by or for the institution pursuant to § 23.1-1106, Code of Virginia, for any appropriate purpose of the institution, including, but not limited to, the conduct and enhancement of research and research-related requirements.
2. Thirty percent of the indirect cost recoveries for the level of sponsored programs authorized in the appropriations in Part 1 of Chapter 1042 of the Acts of Assembly of 2003, shall be included in the educational and general revenues of the institution to meet administrative costs.
3. Institutions of higher education may retain 100 percent of the indirect cost recoveries related to research grant and contract levels in excess of the levels authorized in Chapter 1042 of the Acts of Assembly of 2003. This provision is included as an additional incentive for increasing externally funded research activities.

d. REPORTS

The Director, Department of Planning and Budget, shall make available via electronic means a report to the Chairmen of the Senate Finance and House Appropriations Committees and the public no later than September 1 of each year on the indirect cost recovery moneys administratively appropriated.

e. REGULATIONS:

The State Comptroller is hereby authorized to issue regulations to carry out the provisions of this subsection, including the establishment of criteria to certify that an agency is in compliance with the provisions of this subsection.

§ 4-3.00 DEFICIT AUTHORIZATION AND TREASURY LOANS

§ 4-3.01 DEFICITS

a. GENERAL:

1. Except as provided in this section no state agency shall incur a deficit. No state agency receiving general fund appropriations under the provisions of this act shall obligate or expend moneys in excess of its general fund appropriations, nor shall it obligate or expend moneys in excess of nongeneral fund revenues that are collected and appropriated.
2. The Governor is authorized to approve deficit funding for a state agency under the following conditions:
 - a) an unanticipated federal or judicial mandate has been imposed,
 - b) insufficient moneys are available in the first year of the biennium for start-up of General Assembly-approved action, or
 - c) delay pending action by the General Assembly at its next legislative session will result in the curtailment of services required by statute or those required by federal mandate or will produce a threat to life, safety, health or property.
 - d) Such approval by the Governor shall be in writing under the conditions described in § 4-3.02 a Authorized Deficit Loans of this act and shall be promptly communicated to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval.
3. Deficits shall not be authorized for capital projects.
4. The Department of Transportation may obligate funds in excess of the current biennium appropriation for projects of a capital nature not covered by § 4-4.00 Capital Projects, of this act provided such projects a) are delineated in the Virginia Transportation

Six-Year Improvement Program, as approved by the Commonwealth Transportation Board; and b) have sufficient cash allocated to each such project to cover projected costs in each year of the Program; and provided that c) sufficient revenues are projected to meet all cash obligations for such projects as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.

b. UNAUTHORIZED DEFICITS: If any agency contravenes any of the prohibitions stated above, thereby incurring an unauthorized deficit, the Governor is hereby directed to withhold approval of such excess obligation or expenditure. Further, there shall be no reimbursement of said excess, nor shall there be any liability or obligation upon the state to make any appropriation hereafter to meet such unauthorized deficit. Further, those members of the governing board of any such agency who shall have voted therefor, or its head if there be no governing board, making any such excess obligation or expenditure shall be personally liable for the full amount of such unauthorized deficit and, at the discretion of the Governor, shall be deemed guilty of neglect of official duty and be subject to removal therefor. Further, the State Comptroller is hereby directed to make public any such unauthorized deficit, and the Director, Department of Planning and Budget, is hereby directed to set out such unauthorized deficits in the next biennium budget. In addition, the Governor is directed to bring this provision of this act to the attention of the members of the governing board of each state agency, or its head if there be no governing board, within two weeks of the date that this act becomes effective. The governing board or the agency head shall execute and return to the Governor a signed acknowledgment of such notification.

c. TOTAL AUTHORIZED DEFICITS: The amount which the Governor may authorize, under the provisions of this section during the current biennium, to be expended from loans repayable out of the general fund of the state treasury, for all state agencies, or other agencies combined, in excess of general fund appropriations for the current biennium, shall not exceed one and one-half percent (1 1/2%) of the revenues collected and paid into the general fund of the state treasury as defined in § 4-2.02 b. of this act during the last year of the previous biennium and the first year of the current biennium.

d. The Governor shall report any such authorized and unauthorized deficits to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval. By August 15 of each year, the Governor shall provide a comprehensive report to the Chairmen of the House Appropriations and Senate Finance Committees detailing all such deficits.

§ 4-3.02 TREASURY LOANS

a. AUTHORIZED DEFICIT LOANS: A state agency requesting authorization for deficit spending shall prepare a plan for the Governor's review and approval, specifying appropriate financial, administrative and management actions necessary to eliminate the deficit and to prevent future deficits. If the Governor approves the plan and authorizes a state agency to incur a deficit under the provisions of this section, the amount authorized shall be obtained by the agency by borrowing the authorized amount on such terms and from such sources as may be approved by the Governor. At the close of business on the last day of the current biennium, any unexpended balance of such loan shall be applied toward repayment of the loan, unless such action is contrary to the conditions of the loan approval. The Director, Department of Planning and Budget, shall set forth in the next biennial budget all such loans which require an appropriation for repayment. A copy of the approved plan to eliminate the deficit shall be transmitted to the Chairmen of the House Appropriations and the Senate Finance Committees within five calendar days of approval.

b. ANTICIPATION LOANS: Authorization for anticipation loans are limited to the provisions below.

1.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund revenues, any state agency may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans shall not exceed the amount of the anticipated collections of such revenues and shall be repaid only from such revenues when collected.

b) When the payment of authorized obligations for capital expenses is required prior to the collection of nongeneral fund revenues or proceeds from authorized debt, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans in anticipation of bond proceeds shall not exceed the amount of the anticipated proceeds from debt authorized by the General Assembly and shall be repaid only from such proceeds when collected.

2. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet the projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed twelve months.

3. Before an anticipation loan for a capital project is authorized, the agency shall develop a plan for financing such capital project; approval of the State Treasurer shall be obtained for all plans to incur authorized debt.

4. Anticipation loans for capital projects shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium.

5. To ensure that such loans are repaid as soon as practical and economical, the Department of Planning and Budget shall monitor the construction and expenditure schedules of all approved capital projects that will be paid for with proceeds from authorized debt and have anticipation loans.

6. Unless otherwise prohibited by federal or state law, the State Treasurer shall charge current market interest rates on anticipation loans made for operating purposes and capital projects subject to the following:

a) Anticipation loans for capital projects for which debt service will be paid with general fund appropriations shall be exempt from interest payments on borrowed balances.

b) Interest payments on anticipation loans for nongeneral fund capital projects or nongeneral fund operating expenses shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan or from the proceeds of authorized debt without the approval of the State Treasurer.

c) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

c. ANTICIPATION LOANS FOR PROJECTS NOT INCLUDED IN THIS ACT OR FOR PROJECTS AUTHORIZED UNDER § 4-4.01M: Authorization for anticipation loans for projects not included in this act or for projects authorized under § 4-4.01 m are limited to the provisions below:

1. Such loans are limited to those projects that shall be repaid from revenues derived from nongeneral fund sources.

2.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund revenues, any state agency may borrow from the state treasury the required sum with the prior written approval of the Secretary of Finance or his designee as to the amount, terms, and sources of such funds. Such loans shall not exceed the amount of the anticipated collections of such nongeneral fund revenues and shall be repaid only from such nongeneral fund revenues when collected.

b) When the payment of obligations for capital expenses for projects authorized under § 4-4.01 m is required prior to the collection of nongeneral fund revenues, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds. Such loans shall be repaid only from nongeneral fund revenues associated with the project.

3. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed 12 months.

4. Before an anticipation loan is provided for a capital project authorized under § 4-4.01 m, the agency shall develop a plan for repayment of such loan and approval of the Director of the Department of Planning and Budget shall be obtained for all such plans and reported to the Chairman of the House Appropriations and Senate Finance Committees.

5. Anticipation loans for capital projects authorized under § 4-4.01 m shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium. Such loans shall be repaid only from nongeneral fund revenues associated with the project.

6. The State Treasurer shall charge current market interest rates on anticipation loans made for capital projects authorized under § 4-4.01 m. Interest payments on anticipation loans for nongeneral fund capital projects authorized under § 4-4.01 m shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan without the approval of the Director of the Department of Planning and Budget.

a) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

§ 4-3.03 LONG-TERM LEASES

a. GENERAL:

1. As part of their capital budget submission, all agencies and institutions of the Commonwealth proposing building projects that may qualify as long-term lease agreements, as defined in Generally Accepted Accounting Principles (GAAP), and that may be supported in whole, or in part, from appropriations provided for in this act, shall submit copies of such proposals to the Directors of the Departments of Planning and Budget and General Services, the State Comptroller, and the State Treasurer based on guidelines promulgated by the Secretary of Finance. In addition, the Secretary of Finance may promulgate guidelines for the review and approval of such requests.

2. The proposals shall be submitted in such form as the Secretary of Finance may prescribe. The Comptroller and the Director, Department of General Services shall be responsible for evaluating the proposals to determine if they qualify as long-term lease agreements. The State Treasurer shall be responsible for incorporating existing and authorized long-term lease agreements meeting

the approved parameters into the annual Debt Capacity Advisory Committee reports.

b. APPROVAL OF FINANCINGS:

1. For any project which qualifies as a long-term lease, as defined in the preceding subdivisions a 1 and 2, and which is financed through the issuance of securities, the Treasury Board shall approve the terms and structure of such financing pursuant to § 2.2-2416, Code of Virginia.

2. For any project for which costs will exceed \$5,000,000 and which is financed through a long-term lease transaction, the Treasury Board shall approve the financing terms and structure of such long-term lease in addition to such other reviews and approvals as may be required by law. Prior to consideration by the Treasury Board, the Departments of Accounts shall notify the Treasury Board of any transaction determined to be a long-term lease. Additionally, the Departments of General Services and Planning and Budget shall notify the Treasury Board upon their approval of any transaction which qualifies as a long-term lease under the terms of this section. The State Treasurer shall notify the Chairmen of the House Appropriations and Senate Finance Committees of the action of the Treasury Board as it regards this subdivision within five calendar days of its action.

c. REPORTS: Not later than December 20 of each year, the Secretary of Finance and the Secretary of Administration shall jointly be responsible for providing the Chairmen of the House Appropriations and Senate Finance Committees with recommendations involving proposed long-term lease agreements.

d. This section shall not apply to long-term leases that are funded entirely with nongeneral fund revenues and are entered into by public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly. Furthermore, the Department of General Services is authorized to enter into long-term leases for executive branch agencies provided that the resulting long-term lease is funded entirely with nongeneral funds, is approved based on the requirements of § 4-3.03 b.1 and 2 above, and would not be considered tax supported debt of the Commonwealth.

§ 4-4.00 CAPITAL PROJECTS

§ 4-4.01 GENERAL

a. Definition:

1. Unless defined otherwise, when used in this section, "capital project" or "project" means acquisition of property and new construction and improvements related to state-owned property, plant or equipment (including plans therefor), as the terms "acquisition", "new construction", and "improvements" are defined in the instructions for the preparation of the Executive Budget. "Capital project" or "project" shall also mean any improvements to property leased for use by a state agency, and not owned by the state, when such improvements are financed by public funds, except as hereinafter provided in subdivisions 3 and 4 of this subsection.

2. The provisions of this section are applicable equally to acquisition of property and plant by purchase, gift, or any other means, including the acquisition of property through a lease/purchase contract, regardless of the method of financing or the source of funds. Acquisition of property by lease shall be subject to § 4-3.03 of this act.

3. The provisions of this section shall not apply to property or equipment acquired by lease or improvements to leased property and equipment when the improvements are provided by the lessor pursuant to the terms of the lease and upon expiration of the lease remain the property of the lessor.

4. The provisions of this section shall not apply to property leased by state agencies for the purposes described in §§ 2.2-1151 C and 33.2-1010, Code of Virginia.

b. Notwithstanding any other provisions of law, requests for appropriations for capital projects shall be subject to the following:

1. The agency shall submit a capital project proposal for all requested capital projects. Such proposals shall be submitted to the Director, Department of Planning and Budget, for review and approval in accordance with guidelines prescribed by the director. Projects shall be developed to meet agency functional and space requirements within a cost range comparable to similar public and private sector projects.

2. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly, financings for capital projects shall comply, where applicable, with the Treasury Board Guidelines issued pursuant to § 2.2-2416, Code of Virginia, and any subsequent amendments thereto.

3. As part of any request for appropriations for an armory, the Department of Military Affairs shall obtain a written commitment from the host locality to share in the operating expense of the armory.

c. Each agency head shall provide annually to the Director, Department of Planning and Budget, a report on the use of the maintenance reserve appropriation of the agency in Part 2 of this act. In the use of its maintenance reserve appropriation, an agency shall give first priority to the repair or replacement of roof on buildings under control of the agency. The agency head

shall certify in the agency's annual maintenance reserve report that to the best of his or her knowledge, all necessary roof repairs have been accomplished or are in the process of being accomplished. Such roof repairs and replacements shall be in accord with the technical requirements of the Commonwealth's Construction and Professional Services Manual.

d. The Department of Planning and Budget shall review its approach to capital outlay planning and budgeting from time to time and make available via electronic means a report of any proposed change to the Chairmen of the House Appropriations and Senate Finance Committees and the public prior to its implementation. Such report shall include an analysis of the impact of the suggested change on affected agencies and institutions.

e. Nothing in §§ 2-0 and 4-4.00 of this act shall be deemed to override the provisions of §§ 2.2-1132 and 62.1-132.6, Code of Virginia, amended by Chapter 488, 1997 Acts of Assembly, relating to Virginia Port Authority capital projects and procurement activities.

f. Legislative Approval: It is the intent of the General Assembly that, with the exceptions noted in this paragraph and paragraph m, all capital projects to be undertaken by agencies of the Commonwealth, including institutions of higher education, shall be pursuant to approvals by the General Assembly as provided in the Six-Year Capital Outlay Plan established pursuant to § 2.2-1515, et seq., Code of Virginia. Otherwise, the consideration of capital projects shall be limited to:

1. Supplementing projects which have been bid and determined to have insufficient funding to be placed under contract, and
2. Projects declared by the Governor or the General Assembly to be of an emergency nature, which may avoid an increase in cost or otherwise result in a measurable benefit to the state, and/or which are required for the continued use of existing facilities.
3. This paragraph does not prohibit the initiation of projects authorized by § 4-4.01 m hereof, or projects included under the central appropriations for capital project expenses in this act.

g. Preliminary Requirements: In regard to each capital project for which appropriation or reappropriation is made pursuant to this act, or which is hereafter considered by the Governor for inclusion in the Executive Budget, or which is offered as a gift or is considered for purchase, the Governor is hereby required: (1) to determine the urgency of its need, as compared with the need for other capital projects as herein authorized, or hereafter considered; (2) to determine whether the proposed plans and specifications for each capital project are suitable and adequate, and whether they involve expenditures which are excessive for the purposes intended; (3) to determine whether labor, materials, and other requirements, if any, needed for the acquisition or construction of such project can and will be obtained at reasonable cost; and (4) to determine whether or not the project conforms to a site or master plan approved by the agency head or board of visitors of an institution of higher education for a program approved by the General Assembly.

h. Initiation Generally:

1. No architectural or engineering planning for, or construction of, or purchase of any capital project shall be commenced or revised without the prior written approval of the Governor or his designee.
2. The requirements of § 10.1-1190, Code of Virginia, shall be met prior to the release of funds for a major state project, provided, however, that the Governor or his designee is authorized to release from any appropriation for a major state project made pursuant to this act such sum or sums as may be necessary to pay for the preparation of the environmental impact report required by § 10.1-1188, Code of Virginia.
3. The Governor, at his discretion, or his designee may release from any capital project appropriation or reappropriation made pursuant to this act such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided that the estimated cost of the construction covered by such drawings and specifications does not exceed the appropriation therefor; provided, further, however, that the architectural and engineering fees paid on completion of the preliminary design for any such project may be based on such estimated costs as may be approved by the Governor in writing, where it is shown to the satisfaction of the Governor that higher costs of labor or material, or both, or other unforeseen conditions, have made the appropriation inadequate for the completion of the project for which the appropriation was made, and where in the judgment of the Governor such changed conditions justify the payment of architectural or engineering fees based on costs exceeding the appropriation.
4. Architectural or engineering contracts shall not be awarded in perpetuity for capital projects at any state institution, agency or activity.

i. Capital Projects Financed with Bonds: Capital projects proposed to be financed with (i) 9 (c) general obligation bonds or (ii) 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the agency or institution, shall be reviewed as follows:

1. By August 15 of each year, requests for inclusion in the Executive Budget of capital projects to be financed with 9(c) general obligation bonds shall be submitted to the State Treasurer for evaluation of financial feasibility. Submission shall be in accordance with the instructions prescribed by the State Treasurer. The State Treasurer shall distribute copies of financial feasibility studies to the Director, Department of Planning and Budget, the Secretary for the submitting agency or institution, the Chairmen of the House

Appropriations and Senate Finance Committees, and the Director, State Council of Higher Education for Virginia, if the project is requested by an institution of higher education.

2. By August 15 of each year, institutions shall also prepare and submit copies of financial feasibility studies to the State Council of Higher Education for Virginia for 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the institution. The State Council of Higher Education for Virginia shall identify the impact of all projects requested by the institutions of higher education, and as described in § 4-4.01 j.1. of this act, on the current and projected cost to students in institutions of higher education and the impact of the project on the institution's need for student financial assistance. The State Council of Higher Education for Virginia shall report such information to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.

3. Prior to the issuance of debt for 9(c) general obligation projects, when more than one year has elapsed since the review of financial feasibility specified in § 4-4.01 j 1 above, an updated feasibility study shall be prepared by the agency and reviewed by the State Treasurer prior to requesting the Governor's Opinion of Financial Feasibility required under Article X, Section 9 (c), of the Constitution of Virginia.

j. Transfers to supplement capital projects from nongeneral funds may be made under the conditions set forth in §§ 4-1.03 a, 4-1.04 a.3, and 4-4.01 m of this act.

k.1. Change in Size and Scope: Unless otherwise provided by law, the scope, which is the function or intended use, of any capital project may not be substantively changed, nor its size increased or decreased by more than five percent in size beyond the plans and justification which were the basis for the appropriation or reappropriation in this act or for the Governor's authorization pursuant to § 4-4.01 m of this act. However, this prohibition is not applicable to changes in size and scope required because of circumstances determined by the Governor to be an emergency, or requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. Furthermore, this prohibition shall not apply to minor increases, beyond five percent, in square footage determined by the Director, Department of General Services, to be reasonable and appropriate based on a written justification submitted by the agency stating the reason for the increase, with the provision that such increase will not increase the cost of the project beyond the amount appropriated; nor to decreases in size beyond five percent to offset unbudgeted costs when such costs are determined by the Director, Department of Planning and Budget, to be reasonable based on a written justification submitted by the agency specifying the amount and nature of the unbudgeted costs and the types of actions that will be taken to decrease the size of the project. The written justification shall also include a certification, signed by the agency head, that the resulting project will be consistent with the original programmatic intent of the appropriations.

2. If space planning, energy conservation, and environmental standards guides for any type of construction have been approved by the Governor or the General Assembly, the Governor shall require capital projects to conform to such planning guides.

l. Projects Not Included In This Act:

1. Authorization by Governor:

a) The Governor may authorize initiation of, planning for, construction of or acquisition of a nongeneral fund capital project not specifically included in this act or provided for a program approved by the General Assembly through appropriations, under one or more of the following conditions:

1) The project is required to meet an emergency situation.

2) The project is to be operated as an auxiliary enterprise or sponsored program in an institution of higher education and will be fully funded by revenues of auxiliary enterprises or sponsored programs.

3) The project is to be operated as an educational and general program in an institution of higher education and will be fully funded by nongeneral fund revenues of educational and general programs or from private gifts and indirect cost recoveries.

4) The project consists of plant or property which has become available or has been received as a gift.

5) The project has been recommended for funding by the Tobacco Indemnification and Community Revitalization Commission or the Virginia Tobacco Settlement Foundation.

b) The foregoing conditions are subject to the following criteria:

1) Funds are available within the appropriations made by this act (including those subject to §§ 4-1.03 a, 4-1.04 a.3, and 4-2.03) without adverse effect on other projects or programs, or from unappropriated nongeneral fund revenues or balances.

2) In the Governor's opinion such action may avoid an increase in cost or otherwise result in a measurable benefit to the state.

3) The authorization includes a detailed description of the project, the project need, the total project cost, the estimated operating costs, and the fund sources for the project and its operating costs.

4) The Chairmen of the House Appropriations and Senate Finance Committees shall be notified by the Governor prior to the authorization of any capital project under the provisions of this subsection.

5) Permanent funding for any project initiated under this section shall only be from nongeneral fund sources.

2. Authorization by Director, Department of Planning and Budget:

a) The Director, Department of Planning and Budget, may authorize initiation of a capital project not included in this act, if the General Assembly has enacted legislation to fund the project from bonds of the Virginia Public Building Authority, Virginia College Building Authority, or from reserves created by refunding of bonds issued by those Authorities.

3. Delegated authorization by Boards of Visitors, Public Institutions of Higher Education:

a) In accordance with § 4-5.06 of this act, the board of visitors of any public institution of higher education that: i) has met the eligibility criteria set forth in Chapters 933 and 945 of the 2005 Acts of Assembly for additional operational and administrative autonomy, including having entered into a memorandum of understanding with the Secretary of Administration for delegated authority of nongeneral fund capital outlay projects, and ii) has received a sum sufficient nongeneral fund appropriation for emergency projects as set out in Part 2: Capital Project Expenses of this act, may authorize the initiation of any capital project that is not specifically set forth in this act provided that the project meets at least one of the conditions and criteria identified in § 4-4.01 m 1 of this act.

b) At least 30 days prior to the initiation of a project under this provision, the board of visitors must notify the Governor and Chairmen of the House Appropriations and Senate Finance Committees and must provide a life-cycle budget analysis of the project. Such analysis shall be in a form to be prescribed by the Auditor of Public Accounts.

c) The Commonwealth of Virginia shall have no general fund obligation for the construction, operation, insurance, routine maintenance, or long-term maintenance of any project authorized by the board of visitors of a public institution of higher education in accordance with this provision.

m. Acquisition, maintenance, and operation of buildings and nonbuilding facilities in colleges and universities shall be subject to the following policies:

1. The anticipated program use of the building or nonbuilding facility should determine the funding source for expenditures for acquisition, construction, maintenance, operation, and repairs.

2. For new campuses to be established within the Virginia Community College System, expenditures for land acquisition, site preparation beyond five feet from a building, and the construction of additional outdoor lighting, sidewalks, outdoor athletic and recreational facilities, and parking lots in the Virginia Community College System shall be made only from appropriated federal funds, Trust and Agency funds, including local government allocations or appropriations, or the proceeds of indebtedness authorized by the General Assembly.

3. The general policy of the Commonwealth shall be that parking services are to be operated as an auxiliary enterprise by all colleges and universities. Institutions should develop sufficient reserves for ongoing maintenance and replacement of parking facilities.

4. Except as provided in paragraph 2 above, expenditures for maintenance, replacement, and repair of outdoor lighting, sidewalks, and other infrastructure facilities may be made from any appropriated funds.

5. Expenditures for operations, maintenance, and repair of athletic, recreational, and public service facilities, both indoor and outdoor, should be from nongeneral funds. However, this condition shall not apply to any indoor recreational facility existing on a community college campus as of July 1, 1988.

6.a.1. At institutions of higher education that have met the eligibility criteria for additional operational and administrative authority as set forth in Chapters 933 and 945 of the 2005 Acts of Assembly or Chapters 824 and 829 of the 2008 Acts of Assembly, any repair, renovation, or new construction project costing up to \$3,000,000 shall be exempt from the capital outlay review and approval process. For purposes of this paragraph, projects shall not include any subset of a series of projects, which in combination would exceed the \$3,000,000 maximum.

2. All state agencies and institutions of higher education shall be exempt from the capital review and approval process for repair, renovation, or new construction projects costing up to \$3,000,000.

b. Blanket authorizations funded entirely by nongeneral funds may be used for 1) renovation and infrastructure projects costing up to \$3,000,000 and 2) the planning of nongeneral fund new construction and renovation projects through bidding, with bid award made after receipt of a construction authorization. The Director, Department of Planning and Budget, may provide exemptions to the threshold.

7. It is the policy of the Commonwealth that the institutions of higher education shall treat the maintenance of their facilities as a priority for the allocation of resources. No appropriations shall be transferred from the "Operation and Maintenance of Plant" subprogram except for closely and definitely related purposes, as approved by the Director, Department of Planning and Budget, or

his designee. A report providing the rationale for each approved transfer shall be made to the Chairmen of the House Appropriations and Senate Finance Committees.

n. Legislative Intent and Reporting: Appropriations for capital projects shall be deemed to have been made for purposes which require their expenditure, or being placed under contract for expenditure, during the current biennium. Agencies to which such appropriations are made in this act or any other act are required to report progress as specified by the Governor. If, in the opinion of the Governor, these reports do not indicate satisfactory progress, he is authorized to take such actions as in his judgment may be necessary to meet legislative intent as herein defined. Reporting on the progress of capital projects shall be in accordance with § 4-8.00, Reporting Requirements.

o. No expenditure from a general fund appropriation in this act shall be made to expand or enhance a capital outlay project beyond that anticipated when the project was initially approved by the General Assembly except to comply with requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. General fund appropriations in excess of those necessary to complete the project shall not be reallocated to expand or enhance the project, or be reallocated to a different project. The prohibitions in this subsection shall not apply to transfers from projects for which reappropriations have been authorized.

p. Local or private funds to be used for the acquisition, construction or improvement of capital projects for state agency use as owner or lessee shall be deposited into the state treasury for appropriation prior to their expenditure for such projects.

q. State-owned Registered Historic Landmarks: To guarantee that the historical and/or architectural integrity of any state-owned properties listed on the Virginia Landmarks Register and the knowledge to be gained from archaeological sites will not be adversely affected because of inappropriate changes, the heads of those agencies in charge of such properties are directed to submit all plans for significant alterations, remodeling, redecoration, restoration or repairs that may basically alter the appearance of the structure, landscaping, or demolition to the Department of Historic Resources. Such plans shall be reviewed within thirty days and the comments of that department shall be submitted to the Governor through the Department of General Services for use in making a final determination.

r.1. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the educational or real estate foundation of any institution of higher education where he finds that such property was acquired with local or private funds or by gift or grant to or for the use of the institution, and not with funds appropriated to the institution by the General Assembly. Any approved conveyance shall be exempt from § 2.2-1156, Code of Virginia, and any other statute concerning conveyance, transfer or sale of state property. If the foundation conveys any interest in the property or any improvements thereon, such conveyance shall likewise be exempt from compliance with any statute concerning disposition of state property. Any income or proceeds from the conveyance of any interest in the property shall be deemed to be local or private funds and may be used by the foundation for any foundation purpose.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly.

s.1. Facility Lease Agreements Involving Institutions of Higher Education: In the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of § 2.2-1155, Code of Virginia, the Governor may amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly.

t. Energy-efficiency Projects: Improvements to state-owned properties for the purpose of energy-efficiency shall be treated as follows:

1. Such improvements shall be considered an operating expense, provided that:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the total cost does not exceed \$3,000,000; and

e) if the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, the energy savings from the project offset the total cost of the project, including debt service and interest payments.

2. If (a) the total cost of the improvement exceeds \$7,000,000 or (b) the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, and the energy savings from the project do not fully offset the total cost of the project, including debt services and interest payments, the improvement shall be considered a capital expense regardless of the type of improvement and the following conditions must be met:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the project has been reviewed by the Department of Planning and Budget; and

e) the project has been approved by the Governor.

3. If the total project exceeds \$250,000, the agency director will submit written notification to the Director, Department of Planning and Budget, verifying that the project meets all of the conditions in subparagraph 1 above.

The provisions of §§ 2.0 and 4-4.01 of this act and the provisions of § 2.2-1132, Code of Virginia, shall not apply to energy conservation projects that qualify as capital expenses.

4. As used in this paragraph, "improvement" does not include (a) constructing, enlarging, altering, repairing or demolishing a building or structure, (b) changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities or sanitary provisions, or (c) removing or disturbing any asbestos-containing materials during demolition, alteration, renovation of or additions to building or structures. If the projected scope of an energy-efficiency project includes any of these elements, it shall be subject to the capital outlay process as set out in this section.

5. The Director, Department of Planning and Budget, shall notify the Chairmen of the House Appropriations and Senate Finance Committees upon the initiation of any energy-efficiency projects under the provisions of this paragraph.

u. No expenditures shall be authorized for the purchase of fee simple title to any real property to be used for a correctional facility or for the actual construction of a correctional facility provided for in this act, or by reference hereto, that involves acquisition or new construction of youth or adult correctional facilities on real property which was not owned by the Commonwealth on January 1, 1995, until the governing body of the county, city or town wherein the project is to be located has adopted a resolution supporting the location of such project within the boundaries of the affected jurisdiction. The foregoing does not prohibit expenditures for site studies, real estate options, correctional facility design and related expenditures.

v. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly, any alternative financing agreement entered into between a state agency or institution of higher education and a private entity or affiliated foundation must be reviewed and approved by the Treasury Board.

w. Prior to requesting authorization for new dormitory capital projects, institutions of higher education shall conduct a cost study to determine whether an alternative financing arrangement or public-private transaction would provide a more effective option for the construction of the proposed facility. This study shall be submitted to the Department of Planning and Budget as part of the budget development process and shall be evaluated by the Governor prior to submitting his proposed budget.

x. Construction or improvement projects of the Department of Military Affairs are not exempt from the capital outlay review process when the state procurement process is utilized, except for those projects with both an estimated cost of \$3,000,000 or less and are 100 percent federally reimbursed. The Department of Military Affairs shall submit by July 30 of each year to the Department of Planning and Budget a list of such projects that were funded pursuant to this exemption in the previous fiscal year and any projects that would be eligible for such funding in future fiscal years.

§ 4-4.02 PLANNING AND BUDGETING

a. It shall be the intent of the General Assembly to make biennial appropriations for a capital improvements program sufficient to address the program needs of the Commonwealth. The capital improvements program shall include maintenance and deferred maintenance of the Commonwealth's existing facilities, and of the facility requirements necessary to deliver the programs of state agencies and institutions.

b. In effecting these policies, the Governor shall establish a capital budget plan to address the renewal and replacement of the Commonwealth's physical plant, using such guidelines as recommended by industry or government to maintain the Commonwealth's investment in its property and plant.

§ 4-5.00 SPECIAL CONDITIONS AND RESTRICTIONS ON EXPENDITURES

§ 4-5.01 TRANSACTIONS WITH INDIVIDUALS

a. SETTLEMENT OF CLAIMS: Whenever a dispute, claim or controversy involving the interest of the Commonwealth is settled pursuant to § 2.2-514, Code of Virginia, payment may be made out of any appropriations, designated by the Governor, to the state agency(ies) which is (are) party to the settlement.

b. STUDENT FINANCIAL ASSISTANCE FOR HIGHER EDUCATION:

1. General:

a) The appropriations made in this act to state institutions of higher education within the Items for student financial assistance may be expended for any one, all, or any combination of the following purposes: grants to undergraduate students enrolled at least one-half time in a degree, certificate, industry-based certification and related programs that do not qualify for other sources of student financial assistance or diploma program; grants to full-time graduate students; graduate assistantships: grants to students enrolled full-time in a dual or concurrent undergraduate and graduate program. The institutions may also use these appropriations for the purpose of supporting work study programs. The institution is required to transfer to educational and general appropriations all funds used for work study or to pay graduate assistantships. Institutions may also contribute to federal or private student grant aid programs requiring matching funds by the institution, except for programs requiring work. The State Council of Higher Education for Virginia shall annually review each institution's plan for the expenditures of its general fund appropriation for undergraduate student financial assistance prior to the start of the fall term to determine program compliance. The institution's plan shall include the institution's assumptions and calculations for determining the cost of attendance, student financial need, and student remaining need as well as an award schedule or description of how funds are awarded. For the purposes of the proposed plan, each community college shall be considered independently. No limitations shall be placed on the awarding of nongeneral fund appropriations made in this act to state institutions of higher education within the Items for student financial assistance other than those found previously in this paragraph and as follows: (i) funds derived from in-state student tuition will not subsidize out-of-state students, (ii) students receiving these funds must be making satisfactory academic progress, (iii) awards made to students should be based primarily on financial need, and (iv) institutions should make larger grant and scholarship awards to students taking the number of credit hours necessary to complete a degree in a timely manner.

b) All awards made to undergraduate students from such Items shall be for Virginia students only and such awards shall offset all, or portions of, the costs of tuition and required fees, and, in the case of students qualifying under subdivision b 2 c)1) hereof, the cost of books. All undergraduate financial aid award amounts funded by this appropriation shall be proportionate to the remaining need of individual students, with students with higher levels of remaining need receiving grants before other students. No criteria other than the need of the student shall be used to determine the award amount. Because of the low cost of attendance and recognizing that federal grants provide a much higher portion of cost than at other institutions, a modified approach and minimum award amount for the neediest VGAP student should be implemented for community college and Richard Bland College students based on remaining need and the combination of federal and grant state aid. Student financial need shall be determined by a need-analysis system approved by the Council.

c)1) All need-based awards made to graduate students shall be determined by the use of a need-analysis system approved by the Council.

2) As part of the six-year financial plans required in the provisions of Chapters 933 and 945 of the 2005 Acts of Assembly, each institution of higher education shall report the extent to which tuition and fee revenues are used to support graduate student aid and graduate compensation and how the use of these funds impacts planned increases in student tuition and fees.

d) A student who receives a grant under such Items and who, during a semester, withdraws from the institution which made the award must surrender the unearned portion. The institution shall calculate the unearned portion of the award based on the percentage used for federal Return to Title IV program purposes.

e) An award made under such Items to assist a student in attending an institution's summer session shall be prorated according to the size of comparable awards made in that institution's regular session.

f) The provisions of this act under the heading "Student Financial Assistance for Higher Education" shall not apply to (1) the soil scientist scholarships authorized under § 23.1-615, Code of Virginia and (2) need-based financial aid programs for industry-based certification and related programs that do not qualify for other sources of student financial assistance, which will be subject to guidelines developed by the State Council of Higher Education for Virginia.

g) Unless noted elsewhere in this act, general fund awards shall be named "Commonwealth" grants.

h) Unless otherwise provided by statute, undergraduate awards shall not be made to students seeking a second or additional baccalaureate degree until the financial aid needs of first-degree seeking students are fully met.

2. Grants To Undergraduate Students:

a) Each institution which makes undergraduate grants paid from its appropriation for student financial assistance shall expend such sums as approved for that purpose by the Council.

b) A student receiving an award must be duly admitted and enrolled in a degree, certificate or diploma program at the institution making the award, and shall be making satisfactory academic progress as defined by the institution for the purposes of eligibility under Title IV of the federal Higher Education Act, as amended.

c)1) It is the intent of the General Assembly that students eligible under the Virginia Guaranteed Assistance Program (VGAP) authorized in Title 23.1, Chapter 4.4:2, Code of Virginia, shall receive grants before all other students at the same institution with equivalent remaining need from the appropriations for undergraduate student financial assistance found in Part 1 of this act (service area 1081000 - Scholarships). In each instance, VGAP eligible students shall receive awards greater than other students with equivalent remaining need.

2) The amount of each VGAP grant shall vary according to each student's remaining need and the total of tuition, all required fees and the cost of books at the institution the student will attend upon acceptance for admission. The actual amount of the VGAP award will be determined by the proportionate award schedule adopted by each institution; however, those students with the greatest financial need shall be guaranteed an award at least equal to tuition.

3) It is the intent of the General Assembly that the Virginia Guaranteed Assistance Program serve as an incentive to financially needy students now attending elementary and secondary school in Virginia to raise their expectations and their academic performance and to consider higher education an achievable objective in their futures.

4) Students may not receive a VGAP and a Commonwealth grant in the same semester.

3. Grants To Graduate Students:

a) An individual award may be based on financial need but may, in addition to or instead of, be based on other criteria determined by the institution making the award. The amount of an award shall be determined by the institution making the award; however, the Council shall annually be notified as to the maximum size of a graduate award that is paid from funds in the appropriation.

b) A student receiving a graduate award paid from the appropriation must be duly admitted into a graduate degree program at the institution making the award.

c) Not more than 50 percent of the funds designated by an institution as graduate grants from the appropriation, and approved as such by the Council, shall be awarded to persons not eligible to be classified as Virginia domiciliary resident students except in cases where the persons meet the criteria outlined in § 4-2.01b.6.

4. Matching Funds: Any institution of higher education may, with the approval of the Council, use funds from its appropriation for fellowships and scholarships to provide the institutional contribution to any student financial aid program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

5. Discontinued Loan Program:

a) If any federal student loan program for which the institutional contribution was appropriated by the General Assembly is discontinued, the institutional share of the discontinued loan program shall be repaid to the fund from which the institutional share was derived unless other arrangements for the use of the funds are recommended by the Council and approved by the Department of Planning and Budget. Should the institution be permitted to retain the federal contributions to the program, the funds shall be used according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

b)1) An institution of higher education may discontinue its student loan fund established pursuant to Title 23.1, Chapter 4.01, Code of Virginia. The full amount of cash in such discontinued loan fund shall be paid into the state treasury into a nonrevertible nongeneral fund account. Prior to such payment, the State Comptroller shall verify its accuracy, including the fact that the cash held by the institution in the loan fund will be fully depleted by such payment. The loan fund shall not be reestablished thereafter for that institution.

2) The cash so paid into the state treasury shall be used only for grants to undergraduate and graduate students in the Higher Education Student Financial Assistance program according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

3) Payments on principal and interest of any promissory notes held by the discontinued loan fund shall continue to be received by the institution, which shall deposit such payments in the state treasury to the nonrevertible nongeneral fund account specified in subdivision (1) preceding, to be used for grants as specified in subdivision (2) preceding.

6. Reporting: The Council shall collect student-specific information for undergraduate students as is necessary for the operation of the Student Financial Assistance Program. The Council shall maintain regulations governing the operation of the Student Financial Assistance Program based on the provisions outlined in this section, the Code of Virginia, and State Council policy.

C. PAYMENTS TO CITIZEN MEMBERS OF NONLEGISLATIVE BODIES:

Notwithstanding any other provision of law, executive branch agencies shall not pay compensation to citizen members of boards, commissions, authorities, councils, or other bodies from any fund for the performance of such members' duties in the work of the board, commission, authority, council, or other body.

d. VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Notwithstanding any other provision of law, the Virginia Birth-Related Neurological Injury Compensation Program is authorized to require each admitted claimant's parent or legal guardian to purchase private health insurance (the "primary payer") to provide coverage for the actual medically necessary and reasonable expenses as described in Virginia Code § 38.2-5009(A)(1) that were, or are, incurred as a result of the admitted claimant's birth-related neurological injury and for the admitted claimant's benefit. Provided, however, that the Program shall reimburse, upon receipt of proof of payment, solely the portion of the premiums that is attributable to the admitted claimant's post-admission coverage from the effective date of this provision forward and paid for by the admitted claimant's parent or legal guardian.

§ 4-5.02 THIRD PARTY TRANSACTIONS

a. EMPLOYMENT OF ATTORNEYS:

1.a) All attorneys authorized by this act to be employed by any state agency and all attorneys compensated out of any moneys appropriated in this session of the General Assembly shall be appointed by the Attorney General and be in all respects subject to the provisions of Title 2.2, Chapter 5, Code of Virginia, to the extent not to conflict with Title 12.1, Chapter 4, Code of Virginia; provided, however, that if the Governor certifies the need for independent legal counsel for any Executive Department agency, such agency shall be free to act independently of the Office of the Attorney General in regard to selection, and provided, further, that compensation of such independent legal counsel shall be paid from the moneys appropriated to such Executive Department agency or from the moneys appropriated to the Office of the Attorney General.

b) For purposes of this act, "attorney" shall be defined as an employee or contractor who represents an agency before a court, board or agency of the Commonwealth of Virginia or political subdivision thereof. This term shall not include members of the bar employed by an agency who perform in a capacity that does not require a license to practice law, including but not limited to, instructing, managing, supervising or performing normal or customary duties of that agency.

2. This section does not apply to attorneys employed by state agencies in the Legislative Department, Judicial Department or Independent Agencies.

3. Reporting on employment of attorneys shall be in accordance with § 4-8.00, Reporting Requirements.

4. Notwithstanding § 2.2-510.1 of the Code of Virginia and any other conflicting provision of law, the Virginia Retirement System may enter into agreements to seek i) recovery of investment losses in foreign jurisdictions, and ii) legal advice related to its investments. Any such agreements shall be reported to the Office of the Attorney General as soon as practicable.

b. STUDIES AND CONSULTATIVE SERVICES REQUIRED BY GENERAL ASSEMBLY: No expenditure for payments on third party nongovernmental contracts for studies or consultative services shall be made out of any appropriation to the General Assembly or to any study group created by the General Assembly, nor shall any such expenditure for third party nongovernmental contracts be made by any Executive Department agency in response to a legislative request for a study, without the prior approval of two of the following persons: the Chairman of the House Appropriations Committee; the Chairman of the Senate Finance Committee; the Speaker of the House of Delegates; the President pro tempore of the Senate. All such expenditures shall be made only in accordance with the terms of a written contract approved as to form by the Attorney General.

c. USE OF CONSULTING SERVICES: All state agencies and institutions of higher education shall make a determination of "return on investment" as part of the criteria for awarding contracts for consulting services.

d. DEBT COLLECTION SERVICES:

1. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Virginia Commonwealth University Health System Authority shall have the option to participate in the Office of the Attorney General's debt collection process. Should the Authority choose not to participate, the Authority shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims.

2. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the University of Virginia Medical Center

shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims, provided that the University of Virginia demonstrates to the Secretary of Finance that debt collection by an agent other than the Office of the Attorney General is anticipated to be more cost effective. Nothing in this paragraph is intended to limit the ability of the University of Virginia Medical Center from voluntarily contracting with the Office of the Attorney General's Division of Debt Collection in cases where the Center would benefit from the expertise of legal counsel and collection services offered by the Office of the Attorney General.

3. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation shall be exempt from participating in the debt collection process of the Office of the Attorney General.

§ 4-5.03 SERVICES AND CLIENTS

a. CHANGED COST FACTORS:

1.a) No state agency, or its governing body, shall alter factors (e.g., qualification level for receipt of payment or service) which may increase the number of eligible recipients for its authorized services or payments, or alter factors which may increase the unit cost of benefit payments within its authorized services, unless the General Assembly has made an appropriation for the cost of such change.

b) The limits on altering or changing cost factors stated in paragraph 1.a) above shall not apply to changes associated with implementing and/or altering services in response to COVID-19 when funding is provided from a nongeneral fund source dedicated to addressing the impact of COVID-19 or from any source when specifically approved by the Governor in response to the COVID-19 pandemic.

2. Notwithstanding any other provision of law, the Department of Planning and Budget, with assistance from agencies that operate internal service funds as requested, shall establish policies and procedures for annually reviewing and approving internal service fund overhead surcharge rates and working capital reserves.

3. By September 1 each year, state agencies that operate an internal service fund, pursuant to §§ 2.2-803, 2.2-1101, and 2.2-2013, Code of Virginia, that have an impact on agency expenditures, shall submit a report to the Department of Planning and Budget and the Joint Legislative Audit and Review Commission to include all information as required by the Department of Planning and Budget to conduct a thorough review of overhead surcharge rates, revenues, expenditures, full-time positions, and working capital reserves for each internal service fund. The report shall include any proposed modifications in rates to be charged by internal service funds for review and approval by the Department of Planning and Budget. In its review, the Department of Planning and Budget shall determine whether the requested rate modifications are consistent with budget assumptions. The format by which agencies submit the operating plan for each internal service fund shall be determined by the Department of Planning and Budget with assistance from agencies that operate internal service funds as requested.

4. State agencies that operate internal service funds may not change a billable overhead surcharge rate to another state agency unless the resulting change is provided in the final General Assembly enacted budget.

5. State agencies that operate more than one internal service fund shall comply with the review and approval requirements detailed in this Item for each internal service fund.

6. As determined by the Director, Department of Planning and Budget, state agencies that operate select programs where an agency provides a service to and bills other agencies shall be subject to the annual review of the agency's internal service funds consistent with the provisions of this Item, unless such payment for services is pursuant to a memorandum of understanding authorized by § 4-1.03 a. 7 of this act.

7. The Governor is authorized to change internal service fund overhead surcharge rates, including the creation of new rates, beyond the rates enacted in the budget in the event of an emergency or to implement actions approved by the General Assembly, upon prior notice to the Chairmen of the House Appropriations and Senate Finance Committees. Such prior notice shall be no less than five days prior to enactment of a revised or new rate and shall include the basis of the rate change and the impact on state agencies.

8. Notwithstanding any other provision of law, the Commonwealth's statewide electronic procurement system and program known as eVA shall have all rates and working capital reserves reviewed and approved by the Department of Planning and Budget consistent with the provisions of this Item.

9. State agencies that are partially or fully funded with nongeneral funds and are billed for services provided by another state agency shall pay the nongeneral fund cost for the service from the agency's applicable nongeneral fund revenue source consistent with an appropriation proration of such expenses.

b. NEW SERVICES:

1.a) No state agency shall begin any new service that will call for future additional property, plant or equipment or that will require an increase in subsequent general or nongeneral fund operating expenses without first obtaining the authorization of the General Assembly.

b) The limits on establishing new services stated in paragraph 1.a) above shall not apply to new services established to respond to COVID-19 when funding is provided from a nongeneral fund source dedicated to addressing the impact of COVID-19 or from any source when specifically approved by the Governor in response to the COVID-19 pandemic.

2. Pursuant to the policies and procedures of the State Council of Higher Education regarding approval of academic programs and the concomitant enrollment, no state institution of higher education shall operate any academic program with funds in this act unless approved by the Council and included in the Executive Budget, or approved by the General Assembly. The Council may grant exemptions to this policy in exceptional circumstances.

3. a) The General Assembly is supportive of the increasing commitment by both Virginia Tech and the Carilion Clinic to the success of the programs at the Virginia Tech/Carilion School of Medicine and the Virginia Tech/Carilion Research Institute, and encourages these two institutions to pursue further developments in their partnership. Therefore, notwithstanding § 4-5.03 c. of the Appropriation Act, if through the efforts of these institutions to further strengthen the partnership, Virginia Tech acquires the Virginia Tech Carilion School of Medicine during the current biennium, the General Assembly approves the creation and establishment of the Virginia Tech/Carilion School of Medicine within the institution notwithstanding § 23.1-203 Code of Virginia. No additional funds are required to implement establishment of the Virginia Tech/Carilion School of Medicine within the institution.

b) Virginia Tech Carilion School of Medicine is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the teaching hospital affiliated with the Virginia Tech Carilion School of Medicine. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to Medicaid hospital services in Western Virginia. The funds to be transferred must comply with 42 CFR 433.51.

4. Reporting on all new services shall be in accordance with § 4-8.00, Reporting Requirements.

c. OFF-CAMPUS SITES OF INSTITUTIONS OF HIGHER EDUCATION:

No moneys appropriated by this act shall be used for off-campus sites unless as provided for in this section.

1. A public college or university seeking to create, establish, or operate an off-campus instructional site, funded directly or indirectly from the general fund or with revenue from tuition and mandatory educational and general fees generated from credit course offerings, shall first refer the matter to the State Council of Higher Education for Virginia for its consideration and approval. The State Council of Higher Education for Virginia may provide institutions with conditional approval to operate the site for up to one year, after which time the college or university must receive approval from the Governor and General Assembly, through legislation or appropriation, to continue operating the site.

2. For the colleges of the Virginia Community College System, the State Board for Community Colleges shall be responsible for approving off-campus locations. Sites governed by this requirement are those at any locations not contiguous to the main campus of the institution, including locations outside Virginia.

3. a) The provisions herein shall not apply to credit offerings on the site of a public or private entity if the offerings are supported entirely with private, local, or federal funds or revenue from tuition and mandatory educational and general fees generated entirely by course offerings at the site.

b) Offerings at previously approved off-campus locations shall also not be subject to these provisions.

c) Further, the provisions herein do not govern the establishment and operations of campus sites with a primary function of carrying out grant and contract research where direct and indirect costs from such research are covered through external funding sources. Such locations may offer limited graduate education as appropriate to support the research mission of the site.

d) Nothing herein shall prohibit an institution from offering non-credit continuing education programs at sites away from the main campus of a college or university.

4. The State Council of Higher Education shall establish guidelines to implement this provision.

d. PERFORMANCE MEASUREMENT

1. In accordance with § 2.2-1501, Code of Virginia, the Department of Planning and Budget shall develop a programmatic budget and accounting structure for all new programs and activities to ensure that it provides the appropriate financial and performance measures to determine if programs achieve desired results and outcomes. The Department of Accounts shall provide assistance as requested by the Department of Planning and Budget. The Department of Planning and Budget shall provide this information each year when the Governor submits the budget in accordance with § 2.2-1509, Code of Virginia, to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

2.a) Within thirty days of the enactment of this act, the Director, Department of Planning and Budget, shall make available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees and the public a list of the new

initiatives for which appropriations are provided in this act.

b) Not later than ninety days after the end of the first year of the biennium, the Director, Department of Planning and Budget, shall make available via electronic means a report on the performance of each new initiative contained in the list, to be submitted to the Chairmen of the House Appropriations and Senate Finance Committees and the public. The report shall compare the actual results, including expenditures, of the initiative with the anticipated results and the appropriation for the initiative. This information shall be used to determine whether the initiative should be extended beyond the beginning period. In the preparation of this report, all state agencies shall provide assistance as requested by the Department of Planning and Budget.

§ 4-5.04 GOODS AND SERVICES

a. STUDENT ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION:

1. Public Information Encouraged: Each public institution of higher education is expected and encouraged to provide prospective students with accurate and objective information about its programs and services. The institution may use public funds under the control of the institution's Board of Visitors for the development, preparation and dissemination of factual information about the following subjects: academic programs; special programs for minorities; dates, times and procedures for registration; dates and times of course offerings; admission requirements; financial aid; tuition and fee schedules; and other information normally distributed through the college catalog. This information may be presented in any and all media, such as newspapers, magazines, television or radio where the information may be in the form of news, public service announcements or advertisements. Other forms of acceptable presentation would include brochures, pamphlets, posters, notices, bulletins, official catalogs, flyers available at public places and formal or informal meetings with prospective students.

2. Excessive Promotion Prohibited: Each public institution of higher education is prohibited from using public funds under the control of the institution's Board of Visitors for the development, preparation, dissemination or presentation of any material intended or designed to induce students to attend by exaggerating or extolling the institution's virtues, faculty, students, facilities or programs through the use of hyperbole. Artwork and photographs which exaggerate or extol rather than supplement or complement permissible information are prohibited. Mass mailings are generally prohibited; however, either mass mailings or newspaper inserts, but not both, may be used if other methods of distributing permissible information are not economically feasible in the institution's local service area.

3. Remedial Education: Senior institutions of higher education shall make arrangements with community colleges for the remediation of students accepted for admission by the senior institutions.

4. Compliance: The president or chancellor of each institution of higher education is responsible for the institution's compliance with this subsection.

b. INFORMATION TECHNOLOGY FACILITIES AND SERVICES:

1.a) The Virginia Information Technologies Agency shall procure information technology and telecommunications goods and services of every description for its own benefit or on behalf of other state executive branch agencies and institutions, or authorize other state executive branch agencies or institutions to undertake such procurements on their own. "Executive branch agency" means the same as that term is defined in § 2.2-2006.

b) Except for research projects, research initiatives, or instructional programs at public institutions of higher education, or any non-major information technology project request from the Virginia Community College System, Longwood University, or from an institution of higher education which is a member of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP) as of July 1, 2003, or any procurement of information technology and telecommunications goods and services by public institutions of higher education governed by some combination of Chapters 933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, requests for authorization from state agencies and institutions to procure information technology and telecommunications goods and services on their own behalf shall be made in writing to the Chief Information Officer or his designee. Members of VASCUPP as of July 1, 2003, are hereby recognized as: The College of William and Mary, George Mason University, James Madison University, Old Dominion University, Radford University, Virginia Commonwealth University, Virginia Military Institute, Virginia Polytechnic Institute and State University, and the University of Virginia.

c) The Chief Information Officer or his designee may grant the authorization upon a written determination that the request conforms to the statewide information technology plan and the individual information technology plan of the requesting agency or institution.

d) Any procurement authorized by the Chief Information Officer or his designee for information technology and telecommunications goods and services, including geographic information systems, shall be issued by the requesting state agency or institution in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.

e) Nothing in this subsection shall prevent public institutions of higher education or the Virginia Community College System from using the services of Network Virginia.

f) To ensure that the Commonwealth's research universities maintain a competitive position with access to the national optical research network infrastructure including the National LambdaRail and Internet2, the Network Virginia Contract Administrator is hereby authorized to renegotiate the term of the existing contracts. Additionally, the contract administrator is authorized to competitively negotiate additional agreements in accordance with the Code of Virginia and all applicable regulations, as required, to establish and maintain research network infrastructure.

2. If the billing rates and associated systems for computer, telecommunications and systems development services to state agencies are altered, the Director, Department of Planning and Budget, may transfer appropriations from the general fund between programs affected. These transfers are limited to actions needed to adjust for overfunding or underfunding the program appropriations affected by the altered billing systems.

3. The provisions of this subsection shall not in any way affect the duties and responsibilities of the State Comptroller under the provisions of § 2.2-803, Code of Virginia.

4. It is the intent of the General Assembly that information technology (IT) systems, products, data, and service costs, including geographic information systems (GIS), be contained through the shared use of existing or planned equipment, data, or services which may be available or soon made available for use by state agencies, institutions, authorities, and other public bodies. State agencies, institutions, and authorities shall cooperate with the Virginia Information Technologies Agency in identifying the development and operational requirements for proposed IT and GIS systems, products, data, and services, including the proposed use, functionality, capacity and the total cost of acquisition, operation and maintenance.

5. This section shall not apply to public institutions of higher education governed by some combination of Chapters 933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly or Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, or to the Virginia Alcoholic Beverage Control Authority.

6. Notwithstanding any other provision of law, state agencies that do not receive computer services from the Virginia Information Technologies Agency may develop their own policies and procedures governing the sale of surplus computers and laptops to their employees or officials. Any proceeds from the sale of surplus computers or laptops shall be deposited into the appropriate fund or funds used to purchase the equipment.

c. MOTOR VEHICLES AND AIRCRAFT:

1. No motor vehicles shall be purchased or leased with public funds by the state or any officer or employee on behalf of the state without the prior written approval of the Director, Department of General Services.

2. The institutions of higher education and the Alcoholic Beverage Control Authority shall be exempt from this provision but shall be required to report their entire inventory of purchased and leased vehicles including the cost of such to the Director of the Department of General Services by June 30 of each year. The Director of the Department of General Services shall compare the cost of vehicles acquired by institutions of higher education and the Authority to like vehicles under the state contract. If the comparison demonstrates for a given institution or the Authority that the cost to the Commonwealth is greater for like vehicles than would be the case based on a contract of statewide applicability, the Governor or his designee may suspend the exemption granted to the institution or the Authority pursuant to this subparagraph c.

3. The Director, Department of General Services, is hereby authorized to transfer surplus motor vehicles among the state agencies, and determine the value of such surplus equipment for the purpose of maintaining the financial accounts of the state agencies affected by such transfers.

d. MOTION PICTURE, TELEVISION AND RADIO SERVICES PRODUCTION: Except for public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, no state Executive Department agency or the Virginia Lottery Department shall expend any public funds for the production of motion picture films or of programs for television transmission, or for the operation of television or radio transmission facilities, without the prior written approval of the Governor or as otherwise provided in this act, except for educational television programs produced for elementary-secondary education by authority of the Virginia Information Technologies Agency. The Joint Subcommittee on Rules is authorized to provide the approval of such expenditures for legislative agencies. For judicial agencies and independent agencies, other than the Virginia Lottery Department, prior approval action rests with the supervisory bodies of these entities. With respect to television programs which are so approved and other programs which are otherwise authorized or are not produced for television transmission, state agencies may enter into contracts without competitive sealed bidding, or competitive negotiation, for program production and transmission services which are performed by public telecommunications entities, as defined in § 2.2-2006, Code of Virginia.

e. TRAVEL: Reimbursement for the cost of travel on official business of the state government is authorized to be paid pursuant to law and regulations issued by the State Comptroller to implement such law. Notwithstanding any contrary provisions of law:

1. For the use of personal automobiles in the discharge of official duties outside the continental limits of the United States, the State Comptroller may authorize an allowance not exceeding the actual cost of operation of such automobiles;

2. The first 15,000 miles of use during each fiscal year of personal automobiles in the discharge of official duties within the continental limits of the United States shall be reimbursed at an amount equal to the most recent business standard mileage rate as established by the Internal Revenue Service for employees or self-employed individuals to use in computing their income tax deductible costs for operating passenger vehicles owned or leased by them for business purposes, or in the instance of a state employee, at the lesser of (a) the IRS rate or (b) the lowest combined capital and operational trip pool rate charged by the Department of General Services, Office of Fleet Management Services (OFMS), posted on the OFMS website at time of travel, for the use of a compact state-owned vehicle. If the head of the state agency concerned certifies that a state-owned vehicle was not available, or if, according to regulations issued by the State Comptroller, the use of a personal automobile in lieu of a state-owned automobile is considered to be an advantage to the state, the reimbursement shall be at the rate of the IRS rate. For such use in excess of 15,000 miles in each fiscal year, the reimbursement shall be at a rate of 13.0 cents per mile, unless a state-owned vehicle is not available; then the rate shall be the IRS rate;

3. The State Comptroller may authorize exemptions to restrictions upon use of common carrier accommodations;

4. The State Comptroller may authorize reimbursement by per diem in lieu of actual costs of meals and any other expense category deemed necessary for the efficient and effective operation of state government;

5. State employees traveling on official business of state government shall be reimbursed for their travel costs using the same bank account authorized by the employee in which their net pay is direct deposited; and

6. This section shall not apply to members and employees of public school boards.

f. **SMALL PURCHASE CHARGE CARD, ELECTRONIC DATA INTERCHANGE, DIRECT DEPOSIT, AND PAYLINE OPT OUT:** The State Comptroller is hereby authorized to charge state agencies a fee of \$5 per check or earnings notice when, in his judgment, agencies have failed to comply with the Commonwealth's electronic commerce initiatives to reduce unnecessary administrative costs for the printing and mailing of state checks and earning notices. The fee shall be collected by the Department of Accounts through accounting entries.

g. **PURCHASES OF APPLIANCES AND EQUIPMENT:** State agencies and institutions shall purchase Energy Star rated appliances and equipment in all cases where such appliances and equipment are available.

h. **ELECTRONIC PAYMENTS:** Any recipient of payments from the State Treasury who receives six or more payments per year issued by the State Treasurer shall receive such payments electronically. The State Treasurer shall decide the appropriate method of electronic payment and, through his warrant issuance authority, the State Comptroller shall enforce the provisions of this section. The State Comptroller is authorized to grant administrative relief to this requirement when circumstances justify non-electronic payment.

i. **LOCAL AND NON-STATE SAVINGS AND EFFICIENCIES:** It is the intent of the General Assembly that State agencies shall encourage and assist local governments, school divisions, and other non-state governmental entities in their efforts to achieve cost savings and efficiencies in the provision of mandated functions and services including but not limited to finance, procurement, social services programs, and facilities management.

j. **TELECOMMUNICATION SERVICES AND DEVICES:**

1. The Chief Information Officer and the State Comptroller shall develop statewide requirements for the use of cellular telephones and other telecommunication devices by in-scope Executive Department agencies, addressing the assignment, evaluation of need, safeguarding, monitoring, and usage of these telecommunication devices. The requirements shall include an acceptable use agreement template clearly defining an employee's responsibility when they receive and use a telecommunication device. Statewide requirements shall require some form of identification on a device in case it is lost or stolen and procedures to wipe the device clean of all sensitive information when it is no longer in use.

2. In-scope Executive Department agencies providing employees with telecommunication devices shall develop agency-specific policies, incorporating the guidance provided in § 4-5.04 k. 1. of this act and shall maintain a cost justification for the assignment or a public health, welfare and safety need.

3. The Chief Information Officer shall determine the optimal number of telecommunication vendors and plans necessary to meet the needs of in-scope Executive Department agency personnel. The Chief Information Officer shall regularly procure these services and provide statewide contracts for use by all such agencies. These contracts shall require the vendors to provide detailed usage information in a useable electronic format to enable the in-scope agencies to properly monitor usage to make informed purchasing decisions and minimize costs.

4. The Chief Information Officer shall examine the feasibility of providing tools for in-scope Executive Department agencies to analyze usage and cost data to assist in determining the most cost effective plan combinations for the entity as a whole and individual users.

k. **ALTERNATIVE PROCUREMENT:** If any payment is declared unconstitutional for any reason or if the Attorney General finds in a formal, written, legal opinion that a payment is unconstitutional, in circumstances where a good or service can constitutionally

be the subject of a purchase, the administering agency of such payment is authorized to use the affected appropriation to procure, by means of the Commonwealth's Procurement Act, goods and services, which are similar to those sought by such payment in order to accomplish the original legislative intent.

l. MEDICAL SERVICES: No expenditures from general or nongeneral fund sources may be made out of any appropriation by the General Assembly for providing abortion services, except otherwise as required by federal law or state statute.

m. In an effort to expand cooperative procurement efforts, all public institutions of higher education in the Commonwealth of Virginia may access the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP) contracts regardless of their level of purchasing delegated authority, non-VASCUPP institutions shall amend terms and conditions of VASCUPP contracts to incorporate Virginia Public Procurement Act, and Commonwealth of Virginia Agency Procurement and Surplus Property Manual.

§ 4-5.05 NONSTATE AGENCIES, INTERSTATE COMPACTS AND ORGANIZATIONAL MEMBERSHIPS

a. The accounts of any agency, however titled, which receives funds from this or any other appropriating act, and is not owned or controlled by the Commonwealth of Virginia, shall be subject to audit or shall present an audit acceptable to the Auditor of Public Accounts when so directed by the Governor or the Joint Legislative Audit and Review Commission.

b.1. For purposes of this subsection, the definition of "nonstate agency" is that contained in § 2.2-1505, Code of Virginia.

2. Allotment of appropriations to nonstate agencies shall be subject to the following criteria:

a) Such agency is located in and operates in Virginia.

b) The agency must be open to the public or otherwise engaged in activity of public interest, with expenditures having actually been incurred for its operation.

3. No allotment of appropriations shall be made to a nonstate agency until such agency has certified to the Secretary of Finance that cash or in-kind contributions are on hand and available to match equally all or any part of an appropriation which may be provided by the General Assembly, unless the organization is specifically exempted from this requirement by language in this act. Such matching funds shall not have been previously used to meet the match requirement in any prior appropriation act.

4. Operating appropriations for nonstate agencies equal to or in excess of \$150,000 shall be disbursed to nonstate agencies in twelve or fewer equal monthly installments depending on when the first payment is made within the fiscal year. Operating appropriations for nonstate agencies of less than \$150,000 shall be disbursed in one payment once the nonstate agency has successfully met applicable match and application requirements.

5. The provisions of § 2.2-4343 A 14, Code of Virginia shall apply to any expenditure of state appropriations by a nonstate agency.

c.1. Each interstate compact commission and each organization in which the Commonwealth of Virginia or a state agency thereof holds membership, and the dues for which are provided in this act or any other appropriating act, shall submit its biennial budget request to the state agency under which such commission or organization is listed in this act. The state agency shall include the request of such commission or organization within its own request, but identified separately. Requests by the commission or organization for disbursements from appropriations shall be submitted to the designated state agency.

2. Each state agency shall submit by November 1 each year, a report to the Director, Department of Planning and Budget, listing the name and purpose for organizational memberships held by that agency with annual dues of \$5,000 or more. The institutions of higher education shall be exempt from this reporting requirement.

§ 4-5.06 DELEGATION OF AUTHORITY

a. The designation in this act of an officer or agency head to perform a specified duty shall not be deemed to supersede the authority of the Governor to delegate powers under the provisions of § 2.2-104, Code of Virginia.

b. The nongeneral fund capital outlay decentralization programs initiated pursuant to § 4-5.08b of Chapter 912, 1996 Acts of Assembly as continued in subsequent appropriation acts are hereby made permanent. Decentralization programs for which institutions have executed memoranda of understanding with the Secretary of Administration pursuant to the provisions of § 4-5.08b of Chapter 912, 1996 Acts of Assembly shall no longer be considered pilot projects, and shall remain in effect until revoked.

c. Institutions wishing to participate in a nongeneral fund capital outlay decentralization program for the first time shall submit a letter of interest to the appropriate Cabinet Secretary. Within 90 calendar days of the receipt of the institution's request to participate, the responsible Cabinet Secretary shall determine whether the institution meets the eligibility criteria and, if appropriate, establish a decentralization program at the institution. The Cabinet Secretary shall report to the Governor and Chairmen of the Senate Finance and House Appropriations Committees by December 1 of each year all institutions that have applied for inclusion in a decentralization program and whether the institutions have been granted authority to participate in the

decentralization program.

d. The provisions identified in § 4-5.08 f and § 4-5.08 h of Chapter 1042 of the Acts of Assembly of 2003 pertaining to pilot programs for selected capital outlay projects and memoranda of understanding in institutions of higher education are hereby continued. Notwithstanding these provisions, those projects shall be insured through the state's risk management liability program.

e. If during an independent audit conducted by the Auditor of Public Accounts, the audit discloses that an institution is not performing within the terms of the memoranda of understanding or their addenda, the Auditor shall report this information to the Governor, the responsible Cabinet Secretary, and the Chairmen of the Senate Finance and House Appropriations Committees.

f. Institutions that have executed memoranda of understanding with the Secretary of Administration for nongeneral fund capital outlay decentralization programs are hereby granted a waiver from the provisions of § 2.2-4301, Competitive Negotiation, subdivision 3a, Code of Virginia, regarding the not to exceed amount of \$100,000 for a single project, the not to exceed sum of \$500,000 for all projects performed, and the option to renew for two additional one-year terms.

g. Notwithstanding any contrary provision of law or this act, delegations of authority in this act to the Governor shall apply only to agencies and personnel within the Executive Department, unless specifically stated otherwise.

h. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly.

§ 4-5.07 LEASE, LICENSE OR USE AGREEMENTS

a. Agencies shall not acquire or occupy real property through lease, license or use agreement until the agency certifies to the Director, Department of General Services, that (i) funds are available within the agency's appropriations made by this act for the cost of the lease, license or use agreement and (ii) except for good cause as determined by the Department of General Services, the volume of such space conforms with the space planning procedures for leased facilities developed by the Department of General Services and approved by the Governor. The Department of General Services shall acquire and hold such space for use by state departments, agencies and institutions within the Executive Branch and may utilize brokerage services, portfolio management strategies, strategic planning, transaction management, project and construction management, and lease administration strategies consistent with industry best practices as adopted by the Department from time to time. These provisions may be waived in writing by the Director, Department of General Services. However, these provisions shall not apply to institutions of higher education that have met the conditions prescribed in subsection B of § 23.1-1006, Code of Virginia.

b. Agencies acquiring personal property in accordance with § 2.2-2417, Code of Virginia, shall certify to the State Treasurer that funds are available within the agency's appropriations made by this act for the cost of the lease.

c. The Governor is authorized to enter into a Memorandum of Understanding with the United States Department of Agriculture, United States Forest Service ("USFS"), in a form approved by the Office of the Attorney General, regarding a template for use by any agency of the Commonwealth of Virginia (the "Commonwealth") of USFS land by lease, license, or permit. The template may allocate liability, including indemnification, for the use of USFS land between the USFS and the Commonwealth, *which liability shall be secured by, and at the discretion of, the Division of Risk Management, Department of the Treasury, pursuant to the provisions of Virginia Code §2.2-1837(A)(2), through either 1) the Virginia Risk Management Liability Plan ("the Plan"), or 2) a separate insurance policy procured by the Division of Risk Management, the cost of which shall be charged to the agencies using USFS lands* ~~which liability may be secured by a separate insurance policy procured by the Division of Risk Management, which may charge the cost thereof to the agencies using USFS lands.~~

§ 4-5.08 SEMICONDUCTOR MANUFACTURING PERFORMANCE GRANT PROGRAMS

a. The Comptroller shall not draw any warrants to issue checks for semiconductor manufacturing performance grant programs, pursuant to Title 59.1, Chapter 22.3, Code of Virginia, without a specific legislative appropriation. The appropriation shall be in accordance with the terms and conditions set forth in a memorandum of understanding between a qualified manufacturer and the Commonwealth. These terms and conditions shall supplement the provisions of the Semiconductor Manufacturing Performance Grant Program, the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program, and the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II, as applicable, and shall include but not be limited to the numbers and types of semiconductor wafers that are produced; the level of investment directly related to the building and equipment for manufacturing of wafers or activities ancillary to or supportive of such manufacturer within the eligible locality; and the direct employment related to these programs. To that end, the Secretary of Commerce and Trade shall certify in writing to the Governor and to the Chairmen of the House Appropriations and Senate Finance Committees the extent to which a qualified manufacturer met the terms and conditions. The appropriation shall be made in full or in proportion to a qualified manufacturer's fulfillment of the memorandum of understanding.

b. The Governor shall consult with the House Appropriations and Senate Finance Committees before amending any existing memorandum of understanding. These Committees shall have the opportunity to review any changes prior to their execution by the Commonwealth.

§ 4-5.09 DISPOSITION OF SURPLUS REAL PROPERTY

a. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the departments, divisions, institutions, or agencies of the Commonwealth, or the Governor, shall sell or lease surplus real property only under the following circumstances:

1. Any emergency declared in accordance with §§ 44-146.18:2 or § 44-146.28, Code of Virginia, or
2. Not less than thirty days after the Governor notifies, in writing, the Chairmen of the House Appropriations and Senate Finance Committees regarding the planned conveyance, including a statement of the proceeds to be derived from such conveyance and the individual or entity taking title to such property.
3. Surplus property valued at less than \$5,000,000 that is possessed and controlled by a public institution of higher education, pursuant to §§ 2.2-1149 and 2.2-1153, Code of Virginia.

b. In any circumstance provided for in subsection a of this section, the cognizant board or governing body of the agency or institution holding title or otherwise controlling the state-owned property shall approve, in writing, the proposed conveyance of the property.

c. In accordance with § 15.2-2005, Code of Virginia, the consent of the General Assembly is herein provided for the road known as Standpipe Road, that was relocated and established on a portion of the Virginia Department of Transportation's Culpeper District Office property, identified as Tax Map No. 50-28, to improve the operational efficiency of the local road network in the Town of Culpeper. Further, the Virginia Department of Transportation is hereby authorized to convey to the Town of Culpeper, upon such terms and conditions as the Department deems proper and for such considerations the Department may determine, the property on which "Standpipe Road (Relocated)(Variable Width R/W)" on the plat entitled "plat Showing Property and Various Easements for Standpipe Road Relocated, Tax Map 50-28, Town of Culpeper, Culpeper County, Virginia" prepared by ATCS P.L.C and sealed March 14, 2012, together with easements to the Town of Culpeper for electric utility, slopes and drainage as shown on said plat. The conveyance shall be made with the approval of the Governor and in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

d. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, if tax-exempt bonds were issued by the Commonwealth or its related authorities, boards or institutions to finance the acquisition, construction, improvement or equipping of real property, proceeds from the sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law to maintain the tax-exempt status of such bonds.

§ 4-5.10 SURPLUS PROPERTY TRANSFERS FOR ECONOMIC DEVELOPMENT

a. The Commonwealth shall receive the fair market value of surplus state property which is designated by the Governor for economic development purposes, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, which shall be assessed by more than one independent appraiser certified as a Licensed General Appraiser. Such property shall not be disposed of for less than its fair market value as determined by the assessments.

b. Recognizing the commercial, business and industrial development potential of certain lands declared surplus, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, the Governor shall be authorized to utilize funds available in the Governor's discretion, to meet the requirements of the preceding subsection a. Sale proceeds, together with the money from the Commonwealth's Development Opportunity Fund, shall be deposited as provided in § 2.2-1156 D, Code of Virginia.

c. Within thirty days of closing on the sale of surplus property designated for economic development, the Governor or his designee shall report to the Chairmen of the Senate Finance and House Appropriations Committees. The report shall include information on the number of acres sold, sales price, amount of proceeds deposited to the general fund and Conservation Resources Fund, and the fair market value of the sold property.

d. Except for subaqueous lands that have been filled prior to January 1, 2006, the Governor shall not sell or convey those subaqueous lands identified by metes and bounds in Chapter 884 of the Acts of the Assembly of 2006.

e. Notwithstanding any provision of law to the contrary, the Commonwealth of Virginia shall begin the process to convey, as is and pursuant to § 2.2-1150, approximately 432 acres of land located within County of York, Virginia, known as Tax Parcel 12-00-00-003 (the Property) to the Eastern Virginia Regional Industrial Facility Authority, or any of its members, subsidiaries or affiliates (hereinafter referred to Authority) for an amount not to exceed \$1,350,000. The Commonwealth of Virginia shall provide to the Authority copies of the two most recent state appraisals for 150-200 acres for the parcel, and in no case shall the transaction price per acre exceed the average of the two most recent state appraisals. The Authority shall have the right to waive the appraisal requirement. The Authority shall reimburse the Commonwealth of Virginia, at property closing, for the appraisals and other Commonwealth of Virginia costs to prepare and execute the conveyance documents. The conveyance of the Property should occur no later than December 31, ~~2020~~ 2021, but may occur earlier if requested by the Authority. The Authority and its designees shall have the right to enter the Property and to perform due diligence and design studies and activities prior to the conveyance. The Authority shall have the right to file applications and related documents seeking land, zoning and use

entitlements, and the Commonwealth is authorized to execute such documents as may be required for such purposes, but without incurring obligations on the Commonwealth by such execution.

1. The Authority is authorized to convey the property rights for portions of the Property conveyed by the Commonwealth in paragraph e., to one or more operators of one or more utility scale solar facilities, or to lease the property rights to such an operator or operators, for an amount as agreed by the Authority and such operator(s).

2. Any remaining Property at the site shall be subject to a deed restriction created in the Commonwealth of Virginia and Authority property sale described herein to restrict the use of such property by the Authority to any non-residential use, as determined by the Authority.

§ 4-5.11 SEAT OF GOVERNMENT TRAFFIC AND PEDESTRIAN SAFETY

a. In order to implement and maintain traffic and pedestrian operational safety and security enhancements and secure the seat of government, the Commonwealth Transportation Board shall, not later than January 1, 2020, add to the state primary highway system, pursuant to § 33.2-314, Code of Virginia, those portions of the rights-of-way located in the City of Richmond identified as Bank Street from 9th Street to 14th Street, 10th Street from Main Street to Bank Street, 12th Street from Main Street to Bank Street, and Governor Street from Main Street to Bank Street and, pursuant to the responsibilities of the Department of General Services (DGS) (§ 2.2-1129) and the Division of Capitol Police (DCP) (§ 30-34.2:1), DGS and DCP shall control those rights-of-way and pedestrian and vehicular traffic thereon. The rights-of-way so transferred shall be in addition to the 50 miles per year authorized to be transferred under § 33.2-314(A). The City of Richmond shall transfer fee ownership of the rights-of-way identified in this section to DGS by deed or other instrument, as determined by DGS.

b. All property controlled by the Department of General Services shall require a permit for use by persons, organizations, or groups for events. Such events are eligible for a permit when the use will not interfere with or disrupt a function sponsored by the Commonwealth of Virginia government entity in support of an agency's mission. The Department shall prepare and publish on its website the requirements for the submission, processing, review, and disposition of permit applications for events on property controlled by the Department to ensure the health, safety, and welfare of the public; coordinate multiple uses of the property; preserve the rights of individuals to free expression; and to protect the Commonwealth from financial and property losses.

For the purposes of this subsection, an "event" means the assemblage on property controlled by the Department of ten (10) or more persons for any demonstration, rally, march, performance, picketing, speechmaking, holding of vigils, sit-ins, or other activities that involve the communication or expression of views or ideas having the effect, intent, or propensity to draw a crowd or onlookers. An "event" does not include casual use of the property by visitors or tourists.

All existing regulations for the use of property controlled by the Department shall remain in effect unless amended or rescinded. The Virginia Division of Capitol Police and other law enforcement entities having jurisdiction shall enforce the Department's property use requirements.

§ 4-6.00 POSITIONS AND EMPLOYMENT

§ 4-6.01 EMPLOYEE COMPENSATION

a. The compensation of all kinds and from all sources of each appointee of the Governor and of each officer and employee in the Executive Department who enters the service of the Commonwealth or who is promoted to a vacant position shall be fixed at such rate as shall be approved by the Governor in writing or as is in accordance with rules and regulations established by the Governor. No increase shall be made in such compensation except with the Governor's written approval first obtained or in accordance with the rules and regulations established by the Governor. In all cases where any appointee, officer or employee is employed or promoted to fill a vacancy in a position for which a salary is specified by this act, the Governor may fix the salary of such officer or employee at a lower rate or amount within the respective level than is specified. In those instances where a position is created by an act of the General Assembly but not specified by this act, the Governor may fix the salary of such position in accordance with the provisions of this subsection.

b. Annual salaries of persons appointed to positions by the General Assembly, pursuant to the provisions of §§ 2.2-200 and 2.2-400, Code of Virginia, shall be paid in the amounts shown. However, if an incumbent is reappointed, his or her salary may be as high as his or her prior salary.

	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Chief of Staff	\$183,859	\$183,859 \$193,052	\$183,859
Secretary of Administration	\$176,730	\$176,730	\$176,730

		<i>\$185,567</i>	
Secretary of Agriculture and Forestry	\$180,706	\$180,706 <i>\$189,741</i>	\$180,706
Secretary of Commerce and Trade	\$176,730	\$176,730 <i>\$185,567</i>	\$176,730
Secretary of the Commonwealth	\$180,706	\$180,706 <i>\$189,741</i>	\$180,706
Secretary of Education	\$176,730	\$176,730 <i>\$185,567</i>	\$176,730
Secretary of Finance	\$184,887	\$184,887 <i>\$194,131</i>	\$184,887
Secretary of Health and Human Resources	\$176,730	\$176,730 <i>\$185,567</i>	\$176,730
Secretary of Natural Resources	\$176,730	\$176,730 <i>\$185,567</i>	\$176,730
Secretary of Public Safety	\$182,705	\$182,705 <i>\$191,840</i>	\$182,705
Secretary of Transportation	\$176,730	\$176,730 <i>\$185,567</i>	\$176,730
Secretary of Veterans Affairs and Homeland Security	\$180,706	\$180,706 <i>\$189,741</i>	\$180,706

c.1.a) Annual salaries of persons appointed to positions listed in subdivision c 6 hereof shall be paid in the amounts shown for the current biennium, unless changed in accordance with conditions stated in subdivisions c 2 through c 5 hereof.

b) The starting salary of a new appointee shall not exceed the midpoint of the range, except where the midpoint salary is less than a ten percent increase from an appointee's preappointment compensation. In such cases, an appointee's starting salary may be set at a rate which is ten percent higher than the preappointment compensation, provided that the maximum of the range is not exceeded. However, in instances where an appointee's preappointment compensation exceeded the maximum of the respective salary range, then the salary for that appointee may be set at the maximum salary for the respective salary range except if the new hire was employed in a state classified position, then the Governor may exceed the maximum salary for the position and set the salary for the employee at a salary level not to exceed the employee's salary at their prior state position.

c) Nothing in subdivision c 1 shall be interpreted to supersede the provisions of § 4-6.01 e, f, g, h, i, j, k, l, and m of this act.

d) For new appointees to positions listed in § 4-6.01c.6., the Governor is authorized to provide for fringe benefits in addition to those otherwise provided by law, including post retirement health care and other non-salaried benefits provided to similar positions in the public sector.

2.a)1) The Governor may increase or decrease the annual salary for incumbents of positions listed in subdivision c 6 below at a rate of up to 10 percent in any single fiscal year between the minimum and the maximum of the respective salary range in accordance with an assessment of performance and service to the Commonwealth.

2) The governing boards of the independent agencies may increase or decrease the annual salary for incumbents of positions listed in subdivision c.7. below at a rate of up to 10 percent in any fiscal year between the minimum and maximum of the respective salary range, in accordance with an assessment of performance and service to the Commonwealth.

b)1) The appointing or governing authority may grant performance bonuses of 0-5 percent for positions whose salaries are listed in §§ 1-1 through 1-9, and 4-6.01 b, c, and d of this act, based on an annual assessment of performance, in accordance with policies and procedures established by such appointing or governing authority. Such performance bonuses shall be over and above the salaries listed in this act, and shall not become part of the base rate of pay.

2) The appointing or governing authority shall report performance bonuses which are granted to executive branch employees to the Department of Human Resource Management for retention in its records.

3. From the effective date of the Executive Pay Plan set forth in Chapter 601, Acts of Assembly of 1981, all incumbents holding positions listed in this § 4-6.01 shall be eligible for all fringe benefits provided to full-time classified state employees and, notwithstanding any provision to the contrary, the annual salary paid pursuant to this § 4-6.01 shall be included as creditable compensation for the calculation of such benefits.

4. Notwithstanding § 4-6.01.c.2.b)1) of this Act, the Board of Commissioners of the Virginia Port Authority may supplement the salary of its Executive Director, with the prior approval of the Governor. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Executive Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable ports of other states. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

5.a. With the written approval of the Governor, the Board of Trustees of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Virginia Museum of Natural History, Gunston Hall, and the Library Board may supplement the salary of the Director of each museum, and the Librarian of Virginia from nonstate funds. In approving a supplement, the Governor should be guided by criteria which provide a reasonable limit on the total additional income and the criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable museums and libraries of other states. The respective Boards shall report approved supplements to the Department of Human Resource Management for retention in its records.

b) The Board of Trustees of the Jamestown-Yorktown Foundation may supplement, using nonstate funds, the salary of the Executive Director of the Foundation. In approving the supplement the Board should be guided by criteria which provides a reasonable limit on the total additional income and the criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable Foundations in other states. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

6.a) The following salaries shall be paid for the current biennium in the amounts shown, however, all salary changes shall be subject to subdivisions c 2 through c 5 above.

	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Level I Range	\$169,179- \$241,463	\$169,179- \$241,463 \$177,638 - \$253,536	\$169,179- \$241,463
Midpoint	\$205,321	\$205,321 \$215,587	\$205,321
Chief Information Officer, Virginia Information Technologies Agency	\$198,844	\$198,844 \$208,786	\$198,844
Commissioner, Department of Motor Vehicles	\$173,321	\$173,321 \$181,987	\$173,321
Commissioner, Department of Social Services	\$214,748	\$214,748 \$225,485	\$214,748
Commissioner, Department of Behavioral Health and Developmental Services	\$241,463	\$241,463 \$253,536	\$241,463
Commonwealth Transportation Commissioner	\$218,509	\$218,509 \$229,434	\$218,509
Director, Department of Corrections	\$193,367	\$193,367 \$203,035	\$193,367
Director, Department of Environmental Quality	\$199,815	\$199,815 \$209,806	\$199,815
Director, Department of Medical Assistance Services	\$212,578	\$212,578 \$223,207	\$212,578

Director, Department of Planning and Budget	\$181,441	\$181,441 <i>\$190,513</i>	\$181,441
State Health Commissioner	\$236,390	\$236,390 <i>\$248,210</i>	\$236,390
State Tax Commissioner	\$172,986	\$172,986 <i>\$181,635</i>	\$172,986
Superintendent of Public Instruction	\$241,463	\$241,463 <i>\$253,536</i>	\$241,463
Superintendent of State Police	\$194,054	\$194,054 <i>\$203,757</i>	\$194,054
	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Level II Range	\$117,474 - \$189,111	\$117,474 - \$189,111 <i>\$123,348 - \$198,567</i>	\$117,474 - \$189,111
Midpoint	\$153,293	\$153,293 <i>\$160,958</i>	\$153,293
Commissioner, Department for Aging and Rehabilitative Services	\$163,786	\$163,786 <i>\$171,975</i>	\$163,786
Commissioner, Department of Agriculture and Consumer Services	\$169,538	\$169,538 <i>\$178,015</i>	\$169,538
Commissioner, Department of Veterans Services	\$154,529	\$154,529 <i>\$162,255</i>	\$154,529
Commissioner, Virginia Employment Commission	\$169,863	\$169,863 <i>\$178,356</i>	\$169,863
Executive Director, Department of Game and Inland Fisheries	\$148,385	\$148,385 <i>\$155,804</i>	\$148,385
Commissioner, Marine Resources Commission	\$145,905	\$145,905 <i>\$153,200</i>	\$145,905
Director, Department of Forensic Science	\$176,048	\$176,048 <i>\$184,850</i>	\$176,048
Director, Department of General Services	\$175,678	\$175,678 <i>\$184,462</i>	\$175,678
Director, Department of Human Resource Management	\$170,525	\$170,525 <i>\$179,051</i>	\$170,525
Director, Department of Juvenile Justice	\$165,110	\$165,110 <i>\$173,366</i>	\$165,110

Director, Department of Mines, Minerals and Energy	\$154,204	\$154,204 <i>\$161,914</i>	\$154,204
Director, Department of Rail and Public Transportation	\$160,048	\$160,048 <i>\$168,050</i>	\$160,048
Director, Department of Small Business and Supplier Diversity	\$146,525	\$146,525 <i>\$153,851</i>	\$146,525
Executive Director, Motor Vehicle Dealer Board	\$120,117	\$120,117 <i>\$126,123</i>	\$120,117
Executive Director, Virginia Port Authority	\$148,454	\$148,454 <i>\$155,877</i>	\$148,454
State Comptroller	\$181,303	\$181,303 <i>\$190,368</i>	\$181,303
State Treasurer	\$181,158	\$181,158 <i>\$190,216</i>	\$181,158
Executive Director, Board of Accountancy	\$148,988	\$148,988 <i>\$156,437</i>	\$148,988
Chief Executive Officer, Virginia Alcoholic Beverage Control Authority	\$189,111	\$189,111 <i>\$198,567</i>	\$189,111

**July 1, 2020
to
June 24 9, 2021**

**June 25 10, 2021
to
November 24, 2021
*June 30, 2022***

**November 25, 2021
to
June 30, 2022**

Level III Range	\$119,014 - \$161,360	\$119,014 - \$161,360 <i>\$124,965 - \$169,428</i>	\$119,014 - \$161,360
Midpoint	\$140,187	\$140,187 <i>\$147,196</i>	\$140,187
Adjutant General	\$146,681	\$146,681 <i>\$154,015</i>	\$146,681
Chairman, Virginia Parole Board	\$137,957	\$137,957 <i>\$144,855</i>	\$137,957
Vice Chairman, Virginia Parole Board	\$121,394	\$121,394 <i>\$127,464</i>	\$121,394
Member, Virginia Parole Board	\$119,014	\$119,014 <i>\$124,965</i>	\$119,014
Commissioner, Department of Labor and Industry	\$146,715	\$146,715 <i>\$154,051</i>	\$146,715
Coordinator, Department of Emergency Management	\$156,395	\$156,395 <i>\$164,215</i>	\$156,395
Director, Department of Aviation	\$154,125	\$154,125 <i>\$161,831</i>	\$154,125
Director, Department of	\$159,249	\$159,249	\$159,249

Conservation and Recreation		\$167,211	
Director, Department of Criminal Justice Services	\$131,349	\$131,349 \$137,916	\$131,349
Director, Department of Health Professions	\$142,002	\$142,002 \$149,102	\$142,002
Director, Department of Historic Resources	\$130,000	\$130,000 \$136,500	\$130,000
Director, Department of Housing and Community Development	\$144,246	\$144,246 \$151,458	\$144,246
Director, Department of Professional and Occupational Regulation	\$136,818	\$136,818 \$143,659	\$136,818
Director, The Science Museum of Virginia	\$145,824	\$145,824 \$153,115	\$145,824
Director, Virginia Museum of Fine Arts	\$151,620	\$151,620 \$159,201	\$151,620
Director, Virginia Museum of Natural History	\$124,477	\$124,477 \$130,701	\$124,477
Executive Director, Jamestown-Yorktown Foundation	\$148,019	\$148,019 \$155,420	\$148,019
Executive Secretary, Virginia Racing Commission	\$130,938	\$130,938 \$137,485	\$130,938
Librarian of Virginia	\$161,360	\$161,360 \$169,428	\$161,360
State Forester, Department of Forestry	\$152,232	\$152,232 \$159,844	\$152,232
	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Level IV Range	\$95,120 - \$124,386	\$95,120 - \$124,386 \$99,876 - \$130,605	\$95,120 - \$124,386
Midpoint	\$109,753	\$109,753 \$115,241	\$109,753
Administrator, Commonwealth's Attorneys' Services Council	\$113,215	\$113,215 \$118,876	\$113,215
Commissioner, Virginia Department for the Blind and Vision Impaired	\$124,386	\$124,386 \$130,605	\$124,386
Executive Director, Frontier Culture Museum of Virginia	\$111,125	\$111,125 \$116,681	\$111,125

Commissioner, Department of Elections	\$116,619	\$116,619 \$122,450	\$116,619
Executive Director, Virginia-Israel Advisory Board	\$100,695	\$100,695 \$105,730	\$100,695
Director, Gunston Hall	\$95,120	\$95,120 \$99,876	\$95,120

	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Level V Range	\$24,162 - \$103,566	\$24,162 - \$103,566 \$25,370 - \$108,744	\$24,162 - \$103,566
Midpoint	\$63,864	\$63,864 \$67,057	\$63,864
Director, Virginia Department for the Deaf and Hard-of-Hearing	\$103,566	\$103,566 \$108,744	\$103,566
Executive Director, Department of Fire Programs	\$101,288	\$101,288 \$106,352	\$101,288
Executive Director, Virginia Commission for the Arts	\$101,288	\$101,288 \$106,352	\$101,288
Chairman, Compensation Board	\$24,162	\$24,162 \$25,370	\$24,162

7. Annual salaries of the directors of the independent agencies, as listed in this subdivision, shall be paid in the amounts shown. All salary changes shall be subject to subdivisions c 1, c 2, and c 3 above.

	July 1, 2020 to June 24 9, 2021	June 25 10, 2021 to November 24, 2021 June 30, 2022	November 25, 2021 to June 30, 2022
Independent Range	\$176,683 - \$192,643	\$176,683 - \$192,643 \$185,517 - \$202,275	\$176,683 - \$192,643
Midpoint	\$184,663	\$184,663 \$193,896	\$184,663
Executive Director, Virginia Lottery	\$176,683	\$176,683 \$185,517	\$176,683
Director, Virginia Retirement System	\$190,982	\$190,982 \$200,531	\$190,982
Chief Executive Officer, Virginia College Savings Plan	\$192,643	\$192,643 \$202,275	\$192,643

8. Notwithstanding any provision of this Act, the Board of Trustees of the Virginia Retirement System may supplement the salary of

its Director. The Board should be guided by criteria, which provide a reasonable limit on the total additional income of the Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials in comparable public pension plans. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

9. Notwithstanding any provision of this Act, the Board of the Virginia College Savings Plan may supplement the compensation of its Chief Executive Officer. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Chief Executive Officer. The criteria should include, without limitation, a consideration of compensation paid to similar officials in comparable qualified tuition programs, independent public agencies or other entities with similar responsibilities and size. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

10. Notwithstanding any provision of this act, the Board of the Virginia Alcoholic Beverage Control Authority may supplement the salary of its Chief Executive Officer in accordance with § 4.1-101.02. The Board should be guided by criteria, which provide a reasonable limit on the total additional income of the Chief Executive Officer. The criteria should include, without limitation, a consideration of the salaries paid to similar officials in comparable independent agencies. The Board shall report such criteria and potential supplement level to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its record.

d.1. Annual salaries of the presidents of the senior institutions of higher education, the President of Richard Bland College, the Chancellor of the University of Virginia's College at Wise, the Superintendent of the Virginia Military Institute, the Director of the State Council of Higher Education, the Director of the Southern Virginia Higher Education Center, the Director of the Southwest Virginia Higher Education Center and the Chancellor of Community Colleges, as listed in this paragraph, shall be paid in the amounts shown. The annual salaries of the presidents of the community colleges shall be fixed by the State Board for Community Colleges within a salary structure submitted to the Governor prior to June 1 each year for approval.

2.a) The board of visitors of each institution of higher education or the boards of directors for Southern Virginia Higher Education Center, Southwest Virginia Higher Education Center, and the New College Institute may annually supplement the salary of a president or director from private gifts, endowment funds, foundation funds, or income from endowments and gifts. Supplements paid from other than the cited sources prior to June 30, 1997, may continue to be paid. In approving a supplement, the board of visitors or board of directors should be guided by criteria which provide a reasonable limit on the total additional income of a president or director. The criteria should include a consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The board of visitors or board of directors shall report approved supplements to the Department of Human Resource Management for retention in its records.

b) The State Board for Community Colleges may annually supplement the salary of the Chancellor from any available appropriations of the Virginia Community College System. In approving a supplement, the State Board for Community Colleges should be guided by criteria which provide a reasonable limit on the total additional income of the Chancellor. The criteria should include consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

c) Norfolk State University is authorized to supplement the salary of its president from educational and general funds up to \$17,000.

d) Should a vacancy occur for the Director of the State Council of Higher Education on or after the date of enactment of this act, the salary for the new director shall be established by the State Council of Higher Education based on the salary range for Level I agency heads. Furthermore, the state council may provide a bonus of up to five percent of the annual salary for the new director.

	July 1, 2020 to June 24, 9 2021	June 25 10, 2021 to November 24, 2021 <i>June 30, 2022</i>	November 25, 2021 to June 30, 2022
NEW COLLEGE INSTITUTE			
Executive Director, New College Institute	\$148,332	\$148,332 \$155,749	\$148,332
STATE COUNCIL OF HIGHER EDUCATION			

FOR VIRGINIA

Director, State Council of Higher Education for Virginia	\$204,965	\$204,965 \$215,213	\$204,965
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**SOUTHERN VIRGINIA
HIGHER EDUCATION
CENTER**

Director, Southern Virginia Higher Education Center	\$137,966	\$137,966 \$144,864	\$137,966
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**SOUTHWEST VIRGINIA
HIGHER EDUCATION
CENTER**

Director, Southwest Virginia Higher Education Center	\$137,582	\$137,582 \$144,461	\$137,582
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**VIRGINIA COMMUNITY
COLLEGE SYSTEM**

Chancellor of Community Colleges	\$185,953	\$185,953 \$195,251	\$185,953
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**SENIOR COLLEGE
PRESIDENTS' SALARIES**

Chancellor, University of Virginia's College at Wise	\$130,716	\$130,716 \$137,252	\$130,716
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President, Christopher Newport University	\$146,528	\$146,528 \$153,854	\$146,528
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President, The College of William and Mary in Virginia	\$173,144	\$173,144 \$181,801	\$173,144
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President, George Mason University	\$161,712	\$161,712 \$169,798	\$161,712
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President, James Madison University	\$173,292	\$173,292 \$181,957	\$173,292
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President, Longwood University	\$158,089	\$158,089 \$165,993	\$158,089
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President, Norfolk State University	\$188,510	\$188,510 \$197,936	\$188,510
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President, Old Dominion University	\$178,510	\$178,510 \$187,435	\$178,510
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President, Radford University	\$167,050	\$167,050 \$175,403	\$167,050
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President, Richard Bland College	\$142,606	\$142,606 \$149,763	\$142,606
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President, University of Mary Washington	\$155,568	\$155,568 \$163,346	\$155,568
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President, University of Virginia	\$192,656	\$192,656 \$202,289	\$192,656
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President, Virginia Commonwealth University	\$186,383	\$186,383 \$195,702	\$186,383
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President, Virginia Polytechnic Institute and State University	\$203,718	\$203,718 <i>\$213,904</i>	\$203,718
President, Virginia State University	\$153,607	\$153,607 <i>\$161,287</i>	\$153,607
Superintendent, Virginia Military Institute	\$159,042	\$159,042 <i>\$166,994</i>	\$159,042

e. 1. Salaries for newly employed or promoted employees shall be established consistent with the compensation and classification plans established by the Governor.

2. The State Comptroller is hereby authorized to require payment of wages or salaries to state employees by direct deposit or by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds.

f. The provisions of this section, requiring prior written approval of the Governor relative to compensation, shall apply also to any system of incentive award payments which may be adopted and implemented by the Governor. The cost of implementing any such system shall be paid from any funds appropriated to the affected agencies.

g. No lump sum appropriation for personal service shall be regarded as advisory or suggestive of individual salary rates or of salary schedules to be fixed under law by the Governor payable from the lump sum appropriation.

h. Subject to approval by the Governor of a plan for a statewide employee meritorious service awards program, as provided for in § 2.2-1201, Code of Virginia, the costs for such awards shall be paid from any operating funds appropriated to the affected agencies.

i. The General Assembly hereby affirms and ratifies the Governor's existing authority and the established practice of this body to provide for pay differentials or to supplement base rates of pay for employees in specific job classifications in particular geographic and/or functional areas where, in the Governor's discretion, they are needed for the purpose of maintaining salaries which enable the Commonwealth to maintain a competitive position in the relevant labor market.

j.1. If at any time the Administrator of the Commonwealth's Attorneys' Services Council serves on the faculty of a state-supported institution of higher education, the faculty appointment must be approved by the Council. Such institution shall pay one-half of the salary listed in § 4-6.01 c 6 of this act. Further, such institution may provide compensation in addition to that listed in § 4-6.01 c 6; provided, however, that such additional compensation must be approved by the Council.

2. If the Administrator ceases to be a member of the faculty of a state-supported institution of higher education, the total salary listed in § 4-6.01 c 6 shall be paid from the Council's appropriation.

k.1.a. Except as otherwise provided for in this subdivision, any increases in the salary band assignment of any job role contained in the compensation and classification plans approved by the Governor shall be effective beginning with the first pay period, defined as the pay period from June 25 through July 9, of the fiscal year if: (1) the agency certifies to the Secretary of Finance that funds are available within the agency's appropriation to cover the cost of the increase for the remainder of the current biennium and presents a plan for covering the costs next biennium and the Secretary concurs, or (2) such funds are appropriated by the General Assembly. If at any time the Secretary of Administration shall certify that such change in the salary band assignment for a job role is of an emergency nature and the Secretary of Finance shall certify that funds are available to cover the cost of the increase for the remainder of the biennium within the agency's appropriation, such change in compensation may be effective on a date agreed upon by these two Secretaries. The Secretary of Administration shall provide a monthly report of all such emergency changes in accordance with § 4-8.00, Reporting Requirements.

b. Notwithstanding any other provision of law, state employees will be paid on the first workday of July for the work period June 10 to June 24 in any calendar year in which July 1 falls on a weekend.

2. Salary adjustments for any employee through a promotion, role change, exceptional recruitment and retention incentive options, or in-range adjustment shall occur only if: a) the agency has sufficient funds within its appropriation to cover the cost of the salary adjustment for the remainder of the current biennium or b) such funds are appropriated by the General Assembly.

3. No changes in salary band assignments affecting classified employees of more than one agency shall become effective unless the Secretary of Finance certifies that sufficient funds are available to provide such increase or plan to all affected employees supported from the general fund.

l. Full-time employees of the Commonwealth, including faculty members of state institutions of higher education, who are appointed to a state-level board, council, commission or similar collegial body shall not receive any such compensation for their services as members or chairmen except for reimbursement of reasonable and necessary expenses. The foregoing provision shall likewise apply to the Compensation Board, pursuant to § 15.2-1636.5, Code of Virginia.

m.1. Notwithstanding any other provision of law, the board of visitors or other governing body of any public institution of higher education is authorized to establish age and service eligibility criteria for faculty participating in voluntary early retirement incentive plans for their respective institutions pursuant to § 23.1-1302 B and the cash payment offered under such compensation plans pursuant to § 23.1-1302 D, Code of Virginia. Notwithstanding the limitations in § 23.1-1302 D, the total cost in any fiscal year for any such compensation plan, shall be set forth by the governing body in the compensation plan for approval by the Governor and review for legal sufficiency by the Office of the Attorney General.

2. Notwithstanding any other provision of law, employees holding full-time, academic-year classified positions at public institutions of higher education shall be considered "state employees" as defined in § 51.1-124.3, Code of Virginia, and shall be considered for medical/hospitalization, retirement service credit, and other benefits on the same basis as those individuals appointed to full-time, 12-month classified positions.

n. Notwithstanding the Department of Human Resource Management Policies and Procedures, payment to employees with five or more years of continuous service who either terminate or retire from service shall be paid in one sum for twenty-five percent of their sick leave balance, provided, however, that the total amount paid for sick leave shall not exceed \$5,000 and the remaining seventy-five percent of their sick leave shall lapse. This provision shall not apply to employees who are covered by the Virginia Sickness and Disability Program as defined in § 51.1-1100, Code of Virginia. Such employees shall not be paid for their sick leave balances. However, they will be paid, if eligible as described above, for any disability leave credits they have at separation or retirement or may convert disability credits to service credit under the Virginia Retirement System pursuant to § 51.1-1103 (F), Code of Virginia.

o. It is the intent of the General Assembly that calculation of the faculty salary benchmark goal for the Virginia Community College System shall be done in a manner consistent with that used for four-year institutions, taking into consideration the number of faculty at each of the community colleges. In addition, calculation of the salary target shall reflect an eight percent salary differential in a manner consistent with other public four-year institutions and for faculty at Northern Virginia Community College.

p. Any public institution of higher education that has met the eligibility criteria set out in Chapters 933 and 945 of the 2005 Acts of Assembly may supplement annual salaries for classified employees from private gifts, endowment funds, or income from endowments and gifts, subject to policies approved by the board of visitors. The Commonwealth shall have no general fund obligations for the continuation of such salary supplements.

q. The Governor, or any other appropriate Board or Public Body, is authorized to adjust the salaries of employees specified in this item, and other items in the Act, to reflect the compensation adjustments authorized in this Act.

r. Any public institution of higher education shall not provide general fund monies above \$100,000 for any individual athletic coaching salaries after July 1, 2013. Athletic coaching salaries with general fund monies above this amount shall be phased-down over a five-year period at 20 percent per year until reaching the cap of \$100,000.

§ 4-6.02 EMPLOYEE TRAINING AND STUDY

Subject to uniform rules and regulations established by the Governor, the head of any state agency may authorize, from any funds appropriated to such department, institution or other agency in this act or subsequently made available for the purpose, compensation or expenses or both compensation and expenses for employees pursuing approved training courses or academic studies for the purpose of becoming better equipped for their employment in the state service. The rules and regulations shall include reasonable provision for the return of any employee receiving such benefits for a reasonable period of duty, or for reimbursement to the state for expenditures incurred on behalf of the employee should he not return to state service.

§ 4-6.03 EMPLOYEE BENEFITS

a. Any medical/hospitalization benefit program provided for state employees shall include the following provision: any state employee, as defined in § 2.2-2818, Code of Virginia, shall have the option to accept or reject coverage.

b. Except as provided for sworn personnel of the Department of State Police, no payment of, or reimbursement for, the employer paid contribution to the State Police Officers' Retirement System, or any system offering like benefits, shall be made by the Compensation Board of the Commonwealth at a rate greater than the employer rate established for the general classified workforce of the Commonwealth covered under the Virginia Retirement System. Any cost for benefits exceeding such general rate shall be borne by the employee or, in the case of a political subdivision, by the employer.

c. Each agency may, within the funds appropriated by this act, implement a transit and ridesharing incentive program for its employees. With such programs, agencies may reimburse employees for all or a portion of the costs incurred from using public transit, car pools, or van pools. The Secretary of Transportation shall develop guidelines for the implementation of such programs and any agency program must be developed in accordance with such guidelines. The guidelines shall be in accordance with the federal National Energy Policy Act of 1992 (P.L. 102-486), and no program shall provide an incentive that exceeds the actual costs incurred by the employee.

d. Any hospital that serves as the primary medical facility for state employees may be allowed to participate in the State Employee Health Insurance Program pursuant to § 2.2-2818, Code of Virginia, provided that (1) such hospital is not a participating provider in the network, contracted by the Department of Human Resource Management, that serves state employees and (2) such hospital

enters into a written agreement with the Department of Human Resource Management as to the rates of reimbursement. The department shall accept the lowest rates offered by the hospital from among the rates charged by the hospital to (1) its largest purchaser of care, (2) any state or federal public program, or (3) any special rate developed by the hospital for the state employee health benefits program which is lower than either of the rates above. If the department and the hospital cannot come to an agreement, the department shall reimburse the hospital at the rates contained in its final offer to the hospital until the dispute is resolved. Any dispute shall be resolved through arbitration or through the procedures established by the Administrative Process Act, as the hospital may decide, without impairment of any residual right to judicial review.

e. Any classified employee of the Commonwealth and any person similarly employed in the legislative, judicial and independent agencies who (i) is compensated on a salaried basis and (ii) works at least twenty hours per week shall be considered a full-time employee for the purposes of participation in the Virginia Retirement System's group life insurance and retirement programs. Any part-time magistrate hired prior to July 1, 1999, shall have the option of participating in the programs under this provision.

f.1. Any member of the Virginia Retirement System who is retired under the provisions of § 51.1-155.1, Code of Virginia who: 1) returns to work in a position that is covered by the provisions of § 51.1-155.1, Code of Virginia after a break of not less than four years, 2) receives no other compensation for service to a public employer than that provided for the position covered by § 51.1-155.1, Code of Virginia during such period of reemployment, 3) retires within one year of commencing such period of reemployment, and 4) retires directly from service at the end of such period of reemployment may either:

a) Revert to the previous retirement benefit received under the provisions of § 51.1-155.1, Code of Virginia, including any annual cost of living adjustments granted thereon. This benefit may be adjusted upward to reflect the effect of such additional months of service and compensation received during the period of reemployment, or

b) Retire under the provisions of Title 51.1 in effect at the termination of his or her period of reemployment, including any purchase of service that may be eligible for purchase under the provisions of § 51.1-142.2, Code of Virginia.

2. The Virginia Retirement System shall establish procedures for verification by the employer of eligibility for the benefits provided for in this paragraph.

g. Notwithstanding any other provision of law, no agency head compensated by funds appropriated in this act may be a member of the Virginia Law Officers' Retirement System created under Title 51.1, Chapter 2.1, Code of Virginia. The provisions of this paragraph are effective on July 1, 2002, and shall not apply to the Chief of the Capitol Police.

h. Full-time employees appointed by the Governor who, except for meeting the minimum service requirements, would be eligible for the provisions of § 51.1-155.1, Code of Virginia, may, upon termination of service, use any severance allowance payment to purchase service to meet, but not exceed, the minimum service requirements of § 51.1-155.1, Code of Virginia. Such service purchase shall be at the rate of 15 percent of the employee's final creditable compensation or average final compensation, whichever is greater, and shall be completed within 90 days of separation of service.

i. When calculating the retirement benefits payable under the Virginia Retirement System (VRS), the State Police Officers' Retirement System (SPORS), the Virginia Law-enforcement Officers' Retirement System (VaLORS), or the Judicial Retirement System (JRS) to any employee of the Commonwealth or its political subdivisions who is called to active duty with the armed forces of the United States, including the United States Coast Guard, the Virginia Retirement System shall:

1) utilize the pre-deployment salary, or the actual salary paid by the Commonwealth or the political subdivision, whichever is higher, when calculating average compensation, and

2) include those months after September 1, 2001 during which the employee was serving on active duty with the armed forces of the United States in the calculation of creditable service.

j. The provisions in § 51.1-144, Code of Virginia, that require a member to contribute five percent of his creditable compensation for each pay period for which he receives compensation on a salary reduction basis, shall not apply to any (i) "state employee," as defined in § 51.1-124.3, Code of Virginia, who is an elected official, or (ii) member of the Judicial Retirement System under Chapter 3 of Title 51.1 (§ 51.1-300 et seq.), who is not a "person who becomes a member on or after July 1, 2010," as defined in § 51.1-124.3, Code of Virginia.

k. Notwithstanding the provisions of subsection G of § 51.1-156, any employee of a school division who completed a period of 24 months of leave of absence without pay during October 2013 and who had previously submitted an application for disability retirement to VRS in 2011 may submit an application for disability retirement under the provisions of § 51.1-156. Such application shall be received by the Virginia Retirement System no later than October 1, 2014. This provision shall not be construed to grant relief in any case for which a court of competent jurisdiction has already rendered a decision, as contemplated by Article II, Section 14 of the Constitution of Virginia.

§ 4-6.04 CHARGES

a. FOOD SERVICES: Except as exempted by the prior written approval of the Director, Department of Human Resource

Management, and the provisions of § 2.2-3605, Code of Virginia, state employees shall be charged for meals served in state facilities. Charges for meals will be determined by the agency. Such charges shall be not less than the value of raw food and the cost of direct labor and utilities incidental to preparation and service. Each agency shall maintain records as to the calculation of meal charges and revenues collected. Except where appropriations for operation of the food service are from nongeneral funds, all revenues received from such charges shall be paid directly and promptly into the general fund. The provisions of this paragraph shall not apply to on-duty employees assigned to correctional facilities operated by the Departments of Corrections and Juvenile Justice.

b. HOUSING SERVICES:

1. Each agency will collect a fee from state employees who occupy state-owned or leased housing, subject to guidelines provided by the Director, Department of General Services. Each agency head is responsible for establishing a fee for state-owned or leased housing and for documenting in writing why the rate established was selected. In exceptional circumstances, which shall be documented as being in the best interest of the Commonwealth by the agency requesting an exception, the Director, Department of General Services may waive the requirement for collection of fees.

2. All revenues received from housing fees shall be promptly deposited in the state treasury. For housing for which operating expenses or rent are financed by general fund appropriations, such revenues shall be deposited to the credit of the general fund. For housing for which operating expenses or rent are financed by nongeneral fund appropriations, such revenues shall be deposited to the credit of the nongeneral fund. Agencies which provide housing for which operating expenses or rent are financed from both general fund and nongeneral fund appropriations shall allocate such revenues, when deposited in the state treasury, to the appropriate fund sources in the same proportion as the appropriations. However, without exception, any portion of a housing fee attributable to depreciation for housing which was constructed with general fund appropriations shall be paid into the general fund.

c. PARKING SERVICES:

1. State-owned parking facilities

Agencies with parking space for employees in state-owned facilities shall, when required by the Director, Department of General Services, charge employees for such space on a basis approved by the Governor. All revenues received from such charges shall be paid directly and promptly into a special fund in the state treasury to be used, as determined by the Governor, for payment of costs for the provision of vehicle parking spaces. Interest shall be added to the fund as earned. -

2. Leased parking facilities in metropolitan Richmond area

Agencies occupying private sector leased or rental space in the metropolitan Richmond area, not including institutions of higher education, shall be required to charge a fee to employees for vehicle parking spaces that are assigned to them or are otherwise available either incidental to the lease or rental agreement or pursuant to a separate lease agreement for private parking space. In such cases, the individual employee parking fee shall not be less than that paid by employees parking in Department of General Services parking facilities at the Seat of Government. The Director, Department of General Services may amend or waive the fee requirement for good cause. Revenues derived from employees paying for parking spaces in leased facilities will be retained by the leasing agency to be used to offset the cost of the lease to which it pertains. Any lease for private parking space must be approved by the Director, Department of General Services.

3. The assignment of Lot P1A of the Department of General Services, Capitol Area Site Plan, to include parking spaces 1 through 37, but excluding spaces 34 and 36, which shall be reserved for the Department of General Services, and the surrounding surfaces around those spaces shall be under the control of the Committee on Joint Rules and administered by the Clerk of the House and the Clerk of the Senate. Any employee permanently assigned to any of these spaces shall be subject to the provisions of paragraph 1 of this item.

4. The assignment of 300 parking spaces in the Department of General Services parking facility to be built at the corner of 9th and Broad Streets in the City of Richmond, shall be under the control of the Committee on Joint Rules and administered by the Clerk of the House and the Clerk of the Senate. Such parking spaces shall be subject to the provisions of paragraph 1 of this item.

§ 4-6.05 SELECTION OF APPLICANTS FOR CLASSIFIED POSITIONS

It is the responsibility of state agency heads to ensure that all provisions outlined in Title 2.2, Chapter 29, Code of Virginia (the Virginia Personnel Act), and executive orders that govern the practice of selecting applicants for classified positions are strictly observed. The Governor's Secretaries shall ensure this provision is faithfully enforced.

§ 4-6.06 POSITIONS GOVERNED BY CHAPTERS 933 AND 943 OF THE 2006 ACTS OF ASSEMBLY

Except as provided in subsection A of § 23.1-1020 of the Code of Virginia, § 4-6.00 shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, with regard to their participating covered employees, as that term is defined in those two chapters, except to the extent a specific appropriation or language in this act addresses such an employee.

§ 4-7.00 STATEWIDE PLANS

§ 4-7.01 MANPOWER CONTROL PROGRAM

a.1. The term Position Level is defined as the number of full-time equivalent (FTE) salaried employees assigned to an agency in this act. Except as provided in § 4-7.01 b, the Position Level number stipulated in an agency's appropriation is the upper limit for agency employment which cannot be exceeded during the fiscal year without approval from the Director, Department of Planning and Budget for Executive Department agencies, approval from the Joint Committee on Rules for Legislative Department agencies or approval from the appropriate governing authority for the independent agencies.

2. Any approval granted under this subsection shall be reported in writing to the Chairmen of the House Appropriations Committee and the Senate Finance Committee, the Governor and the Directors of the Department of Planning and Budget and Department of Human Resource Management within ten days of such approval. Approvals for executive department agencies shall be based on threats to life, safety, health, or property, or compliance with judicial orders or federal mandates, to support federal grants or private donations, to administer a program for another agency or to address an immediate increase in workload or responsibility or when to delay approval of increased positions would result in a curtailment of services prior to the next legislative session. Any such position level increases pursuant to this provision may not be approved for more than one year.

b. The Position Levels stipulated for the individual agencies within the Department of Behavioral Health and Developmental Services and the Department of Corrections are for reference only and are subject to changes by the applicable Department, provided that such changes do not result in exceeding the Position Level for that department.

c.1. The Governor shall implement such policies and procedures as are necessary to ensure that the number of employees in the Executive Department, excluding institutions of higher education and the State Council of Higher Education, may be further restricted to the number required for efficient operation of those programs approved by the General Assembly. Such policies and procedures shall include periodic review and analysis of the staffing requirements of all Executive Department agencies by the Department of Planning and Budget with the object of eliminating through attrition positions not necessary for the efficient operation of programs.

2. The institutions of higher education and the State Council of Higher Education are hereby authorized to fill all positions authorized in this act. This provision shall be waived only upon the Governor's official declaration that a fiscal emergency exists requiring a change in the official estimate of general fund revenues available for appropriation.

d.1. Position Levels are for reference only and are not binding on agencies in the legislative department, independent agencies, the Executive Offices other than the offices of the Governor's Secretaries, and the judicial department.

2. Positions assigned to programs supported by internal service funds are for reference only and may fluctuate depending upon workload and funding availability.

3. Positions assigned to sponsored programs, auxiliary enterprises, continuing education, and teaching hospitals in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. Positions assigned to Item Detail 43012, State Health Services Technical Support and Administration, at Virginia Commonwealth University are for reference only and may fluctuate depending upon workload and funding availability.

4. Positions assigned to educational and general programs in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. However, total general fund positions filled by an institution of higher education may not exceed 105 percent of the general fund positions appropriated without prior approval from the Director, Department of Planning and Budget.

5. Positions assigned to Item Details 47001, Job Placement Services; 47002, Unemployment Insurance Services; 47003, Workforce Development Services; and 53402, Economic Information Services, at the Virginia Employment Commission are for reference only and may fluctuate depending upon workload and funding availability. Unless otherwise required by the funding source, after enactment of this act, any new positions hired using this provision shall not be subject to transitional severance benefit provisions of the Workforce Transition Act of 1995, Title 2.2, Chapter 32, Code of Virginia.

e. Prior to implementing any Executive Department hiring freeze, the Governor shall consider the needs of the Commonwealth in regards to the safe and efficient operation of state facilities and performance of essential services to include the exemption of certain positions assigned to agencies and institutions that provide services pertaining to public safety and public health from such hiring freezes.

f.1. Full-time, part-time, wage or contractual state employees assigned to the Governor's Cabinet Secretaries from agencies and institutions under their control for the purpose of carrying out temporary assignments or projects may not be so assigned for a period exceeding 180 days in any calendar year. The permanent transfer of positions from an agency or institution to the Offices of the Secretaries, or the temporary assignment of agency or institutional employees to the Offices of the Secretaries for periods exceeding 180 days in any calendar year regardless of the separate or discrete nature of the projects, is prohibited without the prior approval of the General Assembly.

2. Not more than three positions in total, as described in subsection 1 hereof, may be assigned at any time to the Office of any Cabinet Secretary, unless specifically approved in writing by the Governor. The Governor shall notify the Chairmen of the

House Appropriations and Senate Finance Committees in the case of any such approvals.

g. All state employees, including those in the legislative, judicial, and executive branches and the independent agencies of the Commonwealth, who are not eligible for benefits under a health care plan established and administered by the Department of Human Resource Management (DHRM) pursuant to Va. Code § 2.2-2818, or by an agency administering its own health care plan, may not work more than 29 hours per week on average over a twelve month period. Adjunct faculty at institutions of higher education may not work more than 29 hours per week on average over a twelve month period, including classroom or other instructional time plus additional hours determined by the institution as necessary to perform the adjunct faculty's duties. DHRM shall provide relevant program requirements to agencies and employees, including, but not limited to, information on wage, variable and seasonal employees. All state agencies/employers in all branches of government shall provide information requested by DHRM concerning hours worked by employees as needed to comply with the Affordable Care Act (the "Act") and this provision. State agencies/employers are accountable for compliance with this provision, and are responsible for any costs associated with maintaining compliance with it and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. The provisions of this paragraph shall not apply to employees of state teaching hospitals that have their own health insurance plan; however, the state teaching hospitals are accountable for compliance with, and are responsible for any costs associated with maintaining compliance with the Act and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. Subject to approval of the Governor, DHRM shall modify this provision consistent with any updates or changes to federal law and regulations.

§ 4-8.00 REPORTING REQUIREMENTS

§ 4-8.01 GOVERNOR

a. General:

1. The Governor shall submit the information specified in this section to the Chairmen of the House Appropriations and Senate Finance Committees on a monthly basis, or at such intervals as may be directed by said Chairmen, or as specified elsewhere in this act. The information on agency operating plans and expenditures as well as agency budget requests shall be submitted in such form, and by such method, including electronically, as may be mutually agreed upon. Such information shall be preserved for public inspection in the Department of Planning and Budget.

2. The Governor shall make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above the amount(s) specifically appropriated, their sources, and the amounts for each agency affected.

3. a) It is the intent of the General Assembly that reporting requirements affecting state institutions of higher education be reduced or consolidated where appropriate. State institutions of higher education, working with the Secretary of Education and Workforce, Secretary of Finance, and the Director, Department of Planning and Budget, shall continue to identify specific reporting requirements that the Governor may consider suspending.

b) Reporting generally should be limited to instances where (1) there is a compelling state interest for state agencies to collect, use, and maintain the information collected; (2) substantial risk to the public welfare or safety would result from failing to collect the information; or (3) the information collected is central to an essential state process mandated by the Code of Virginia.

c) Upon the effective date of this act, and until its expiration date, the following reporting requirements are hereby suspended or modified as specified below:

Agency	Report Title of Descriptor	Authority	Action
Department of Accounts	Intercollegiate Athletics Receipts & Disbursements	Code of Virginia § 23.1-102.	Suspend reporting.
Department of Accounts	Prompt Pay Summary Report	Agency Directive	Change reporting from monthly to quarterly.
Department of General Services	Usage of State-Assigned and State-Owned Vehicles Report	Agency Directive -- Executive Order 89 (2005)	Suspend reporting.
Department of General Services	Gas Report/Repair Charge	Agency Directive--Executive Order 89 (2005)	Suspend reporting.
Department of Human Resource Management	Report of Personnel Development Service	Agency Directive	Suspend reporting.
Department of Human Resource	Human Capital Report (Full-	Code of Virginia § 2.2-1201. A.	Change reporting from

Management	Time, Part-Time, Temporary, Contractual employees funded by the Commonwealth)	14.	annually to monthly.
Department of Human Resource Management State Employee Workers' Compensation Program	Work-related injuries and illnesses report -- goals, strategies, and results	Agency Directive -- Executive Order 94 (2005)	Suspend reporting.
Governor's Office	Small, Women-and Minority-owned Businesses (SWaM)	Executive Directive	Change reporting from weekly to monthly.
Secretary of Commerce and Trade	Recruitment of National and Regional Conferences Report	Agency Directive -- Executive Order 14 (2006)	Suspend reporting.

d) The Department of Planning and Budget (DPB) and the State Council of Higher Education for Virginia (SCHEV) shall work jointly to attempt to consolidate various reporting requirements pertaining to the estimates and projections of nongeneral fund revenues in institutions of higher education. The purpose of this effort shall be aimed at developing a common form for use in collecting nongeneral fund data for DPB's six-year nongeneral fund revenue estimate submission and SCHEV's annual survey of nongeneral fund revenue from institutions of higher education.

4.a) Except for the reports required under Item 479.10 of this act, the Governor may delay or defer the submission of any report or study that is required by the Code of Virginia or by this Act of a state entity, including agencies, boards, commissions, and authorities, and that is due prior to June 30, 2021, if in the opinion of the Governor, meeting the reporting deadline is either not possible or is impractical due to impacts of the COVID-19 pandemic on the reporting entity. Reporting entities seeking approval of the Governor to grant such a delay must submit a written request to the Governor no less than 30 days prior to the reporting deadline. Upon receiving approval from the Governor, the reporting entity shall provide the parties designated to receive the report with notice of an approved delay. This notice shall be in lieu of the required report until such time as the required report is submitted. Any report receiving approval for delayed submission shall be submitted as soon as the reporting entity can resume normal business operations and can complete the work necessary to compile the report; however, no report shall be submitted later than 12 months from the original reporting requirement.

b) The Governor may establish guidelines for the submission and approval process described in paragraph a) above.

b. Operating Appropriations Reports:

1. Status of Adjustments to Appropriations. Such information must include increases and decreases of appropriations or allotments, transfers and additional revenues. A report of appropriation transfers from one agency to another made pursuant to § 4-1.03 of this act shall be made available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees, and the public by the tenth day of the month following that in which such transfer occurs, unless otherwise specified in § 4-1.03.

2. Status of each sum sufficient appropriation. The information must include the amount of expenditures for the period just completed and the revised estimates of expenditures for the remaining period of the current biennium, as well as an explanation of differences between the amount of the actual appropriation and actual and/or projected appropriations for each year of the current biennium.

3. Status of Economic Contingency Appropriation. The information must include actions taken related to the appropriation for economic contingency.

4. Status of Withholding Appropriations. The information must include amounts withheld and the agencies affected.

5. Status of reductions occurring in general and nongeneral fund revenues in relation to appropriations.

6. Status of approvals of deficits.

c. Employment Reports:

1. Status of changes in positions and employment of state agencies affected. The information must include the number of positions and the agencies affected.

2. Status of the employment by the Attorney General of special counsel in certain highway proceedings brought pursuant to Chapter 10 of Title 33.2, Code of Virginia, on behalf of the Commissioner of Highways, as authorized by § 2.2-510, Code of Virginia. This report shall include fees for special counsel for the respective county or city for which the expenditure is made and shall be submitted within 60 days of the close of the fiscal year (see § 4-5.02 a.3).

3. Changes in the level of compensation authorized pursuant to § 4-6.01 k, Employee Compensation. Such report shall include a list of the positions changed, the number of employees affected, the source and amount of funds, and the nature of the emergency.

4. Pursuant to requirements of § 2.2-203.1, Code of Virginia, the Secretary of Administration, in cooperation with the Secretary of Technology, shall provide a report describing the Commonwealth's telecommuting policies, which state agencies and localities have adopted telecommuting policies, the number of state employees who telecommute, the frequency with which state employees telecommute by locality, and the efficacy of telecommuting policies in accomplishing the provision of state services and completing state functions. This report shall be provided to the Chairmen of the House Committee on Appropriations, the House Committee on Science and Technology, the Senate Committee on Finance, and the Senate Committee on General Laws and Technology each year by October 1.

d. Capital Appropriations Reports:

1. Status of progress of capital projects on an annual basis (see § 4-4.01 o).
2. Notice of all capital projects authorized under § 4-4.01 m (see § 4-4.01 m. 1. b) 4)).

e. Utilization of State Owned and Leased Real Property:

1. By November 15 of each year, the Department of General Services (DGS) shall consolidate the reporting requirements of § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia into a single report eliminating the individual reports required by § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia. This report shall be submitted to the Governor and the General Assembly and include (i) information on the implementation and effectiveness of the program established pursuant to subsection A of § 2.2-1131.1, (ii) a listing of real property leases that are in effect for the current year, the agency executing the lease, the amount of space leased, the population of each leased facility, and the annual cost of the lease; and, (iii) a report on DGS's findings and recommendations under the provisions of § 2.2-1153, and recommendations for any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized.

2. By October 1 of each year, each agency that controls leased property, where such leased property is not under the DGS lease administration program, shall provide a report on each leased facility or portion thereof to DGS in a manner and form prescribed by DGS. Specific data included in the report shall identify at a minimum, the number of square feet occupied, the number of employees and contractors working in the leased space, if applicable, and the cost of the lease.

f. Services Reports:

Status of any exemptions by the State Council of Higher Education to policy which prohibits use of funds in this act for the operation of any academic program by any state institution of higher education, unless approved by the Council and included in the Governor's recommended budget, or approved by the General Assembly (see § 4-5.05 b 2).

g. Standard State Agency Abbreviations:

The Department of Planning and Budget shall be responsible for maintaining a list of standard abbreviations of the names of state agencies. The Department shall make a listing of agency standard abbreviations available via electronic means on a continuous basis to the Chairmen of the House Appropriations and Senate Finance Committees, the State Comptroller, the Director, Department of Human Resource Management and the Chief Information Officer, Virginia Information Technologies Agency, and the public.

h. Educational and General Program Nongeneral Fund Administrative Appropriations Approved by the Department of Planning and Budget:

The Secretary of Finance and Secretary of Education, in collaboration with the Director, Department of Planning and Budget, shall report in December and June of each year to the Chairmen of the House Appropriations and Senate Finance Committees on adjustments made to higher education operating funds in the Educational and General Programs (10000) items for each public college and university contained in this budget. The report shall include actual or projected adjustments which increase nongeneral funds or actual or projected adjustments that transfer nongeneral funds to other items within the institution. The report shall provide the justification for the increase or transfer and the relative impact on student groups.

§ 4-8.02 STATE AGENCIES

a. As received, all state agencies shall forward copies of each federal audit performed on agency or institution programs or activities to the Auditor of Public Accounts and to the State Comptroller. Upon request, all state agencies shall provide copies of all internal audit reports and access to all working papers prepared by such auditors to the Auditor of Public Accounts and to the State Comptroller.

b. Annually: Within five calendar days after state agencies submit their budget requests, amendment briefs, or requests for amendments to the Department of Planning and Budget, the Director, Department of Planning and Budget shall submit, electronically if available, copies to the Chairmen of the Senate Finance and House Appropriations Committees.

c. By September 1 of each year, state agencies receiving any asset as the result of a law-enforcement seizure and subsequent

forfeiture by either a state or federal court, shall submit a report identifying all such assets received during the prior fiscal year and their estimated net worth, to the Chairmen of the House Appropriations and Senate Finance Committees.

d. Any state agency that is required to return federal grant funding as a result of not fulfilling the specifications of a grant, shall, as soon as practicable but no later than November 1st, report to the Chairmen of the Senate Finance and House Appropriations Committees of such forfeiting of federal grant funding.

§ 4-8.03 LOCAL GOVERNMENTS

a.1. The Auditor of Public Accounts shall establish a workgroup to develop criteria for a preliminary determination that a local government may be in fiscal distress. Such criteria shall be based upon information regularly collected by the Commonwealth or otherwise regularly made public by the local government. This information includes expenditure reports submitted to the Auditor, budget information posted on local government websites, and reports prepared by the Commission on Local Government on revenue fiscal stress. Information provided by the Virginia Retirement System, the Virginia Resources Authority, the Virginia Public Building Authority, and other state and regional authorities concerning late or missed debt service payments shall be shared with the Auditor. Fiscal distress as used in this context shall mean a situation whereby the provision and sustainability of public services is threatened by various administrative and financial shortcomings including but not limited to cash flow issues; inability to pay expenses; revenue shortfalls; deficit spending; structurally imbalanced budgets; billing and revenue collection inadequacies and discrepancies; debt overload; failure to meet obligations to authorities, school divisions, or political subdivisions of the Commonwealth; and/or lack of trained and qualified staff to process administrative and financial transactions. Fiscal distress may be caused by factors internal to the unit of government or external to the unit of government and in various degrees such conditions may or may not be controllable by management, or the local governing body, or its constitutional officers.

2. Based upon the criteria established by the workgroup and using information identified above, the Auditor of Public Accounts shall establish a prioritized early warning system. Under the prioritized early warning system, the Auditor of Public Accounts shall establish a regular process whereby it reviews data on at least an annual basis to make a preliminary determination that a local government is in fiscal distress.

3. For local governments where the Auditor of Public Accounts has made a preliminary determination of fiscal distress based upon the early warning system criteria, the Auditor of Public Accounts shall notify the local governing body of its preliminary determination that it may meet the criteria for fiscal distress. Based upon the request of the local governing body or chief executive officer, the Auditor of Public Accounts may conduct a review and request documents and data from the local government. Such review shall consider factors including, but not limited to, budget processes, debt, borrowing, expenses and payables, revenues and receivables, and other areas including staffing, and the identification of external variables contributing to a locality's financial position, and if so, the scope of the issues involved. Any local governing body that receives requests for information from the Auditor of Public Accounts pursuant to such preliminary determination based on the above described threshold levels shall acknowledge receipt of such a request and shall ensure that a response is provided within the time frames specified by the Auditor of Public Accounts. After such review, if the Auditor of Public Accounts is of the opinion that state assistance, oversight, or targeted intervention is needed, either to further assess, help stabilize, or remediate the situation, the Auditor shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees, and the governing body of the local government in writing outlining specific issues or actions that need to be addressed by state intervention.

4. The notification issued by the Auditor of Public Accounts pursuant to paragraph 3 above shall satisfy the notification requirement necessary to effectuate the provisions of this act in paragraph b.3 below.

b.1. The Director of the Department of Planning and Budget shall identify any amounts remaining unexpended from general fund appropriations in this Act as of June 30 of each year, which constitute state aid to local governments. The Director shall provide a listing of such amounts designated by item number and by program on or before August 15 of each year, to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee.

2. From such unexpended balances identified by the Director of the Department of Planning and Budget, the Governor may reappropriate up to \$750,000 from amounts which would otherwise revert to the balance of the general fund and transfer such amounts as necessary to establish a component of fund balance which may be used for the purpose of providing technical assistance and intervention actions for local governments deemed to be fiscally distressed and in need of intervention to address such distress. Any such reappropriation approved by the Governor, shall be separately identified in the commitments specified on the balance sheet and financial statements of the State Comptroller for the close of each fiscal year, to the extent that such reserve is not used or added to by future appropriation actions.

3. Prior to any expenditure of the reappropriated reserve, the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee must receive a notification from the Auditor of Public Accounts that a specific locality is in need of intervention because of a worsening financial situation. The Auditor of Public Accounts may issue such a notification upon receipt of audited financial statement or other information that indicates the existence of fiscal distress. But, no such notification shall be made until appropriate follow up and correspondence ascertains that, in the opinion of the Auditor of Public Accounts, such fiscal distress indeed exists. Such notification may also be issued by the Auditor of Public Accounts if

written concerns raised about fiscal distress are not adequately addressed by the locality in question.

4. Once the Governor has received a notification from the Auditor of Public Accounts indicating fiscal distress in a specific local government, the Governor shall consult with the Chairmen of the House Appropriations Committee and the Senate Finance Committee about a plan for state intervention prior to any expenditure of funds from the cash reserve. Any plan approved by the Governor for intervention should, at a minimum, specify the purpose of such intervention, the estimated duration of the intervention, and the anticipated resources (dollars and personnel) directed toward such effort. The staffing necessary to carry out the intervention plan may be assembled from either public agencies or private entities or both and, notwithstanding any other provisions of law, the Governor may use an expedited method of procurement to secure such staffing when, in his judgment, the need for intervention is of an emergency nature such that action must be taken in a timely manner to avoid or address unacceptable financial risks to the Commonwealth.

5. The governing body and the elected constitutional officers of a locality subject to an intervention plan approved by the Governor shall assist all state appointed staff conducting the intervention regardless of whether such staff are from public agencies or private entities. Intervention staff shall provide periodic reports in writing to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee outlining the scope of issues discovered and any recommendations made to remediate such issues, and the progress that is made on such recommendations or other remediation efforts. These periodic reports shall specifically address the degree of cooperation the intervention team is receiving from locally elected officials, including constitutional officers, city, county, or town managers and other local personnel in regards to their intervention work.

6. The Department of General Services is hereby encouraged to develop a master contract of qualified private sector turnaround specialists with expertise in local government intervention that the Governor can use to procure intervention services in an expeditious manner when he determines that state intervention is warranted in situations of local fiscal distress.

§ 4-9.00 HIGHER EDUCATION RESTRUCTURING

§ 4-9.01 ASSESSMENT OF INSTITUTIONAL PERFORMANCE

Consistent with § 23.1-206, Code of Virginia, the following education-related and financial and administrative management measures shall be the basis on which the State Council of Higher Education shall annually assess and certify institutional performance. Such certification shall be completed and forwarded in writing to the Governor and the General Assembly no later than October 1 of each even-numbered year. Institutional performance on measures set forth in paragraph D of this section shall be evaluated year-to-date by the Secretaries of Finance and Administration as appropriate, and communicated to the State Council of Higher Education before October 1 of each even-numbered year. Financial benefits provided to each institution in accordance with § 23.1-1002 will be evaluated in light of that institution's performance.

In general, institutions are expected to achieve all performance measures in order to be certified by SCHEV, but it is understood that there can be circumstances beyond an institution's control that may prevent achieving one or more performance measures. The Council shall consider, in consultation with each institution, such factors in its review: (1) institutions meeting all performance measures will be certified by the Council and recommended to receive the financial benefits, (2) institutions that do not meet all performance measures will be evaluated by the Council and the Council may take one or more of the following actions: (a) request the institution provide a remediation plan and recommend that the Governor withhold release of financial benefits until Council review of the remediation plan or (b) recommend that the Governor withhold all or part of financial benefits.

Further, the State Council shall have broad authority to certify institutions as having met the standards on education-related measures. The State Council shall likewise have the authority to exempt institutions from certification on education-related measures that the State Council deems unrelated to an institution's mission or unnecessary given the institution's level of performance.

The State Council may develop, adopt, and publish standards for granting exemptions and ongoing modifications to the certification process.

a. BIENNIAL ASSESSMENTS

1. Institution meets at least 95 percent of its State Council-approved biennial projections for in-state undergraduate headcount enrollment.

2. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state associate and bachelor degree awards.

3. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state STEM-H (Science, Technology, Engineering, Mathematics, and Health professions) associate and bachelor degree awards.

4. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state, upper level - sophomore level for two-year institutions and junior and senior level for four-year institutions - program-placed, full-time equivalent students.

5. Maintain or increase the number of in-state associate and bachelor degrees awarded to students from under-represented

populations.

6. Maintain or increase the number of in-state two-year transfers to four-year institutions.

b. Elementary and Secondary Education

1. The Virginia Department of Education shall share data on teachers, including identifying information, with the State Council of Higher Education for Virginia in order to evaluate the efficacy of approved programs of teacher education, the production and retention of teachers, and the exiting of teachers from the teaching profession.

2. a) The Virginia Department of Education and the State Council of Higher Education for Virginia shall share personally identifiable information from education records in order to evaluate and study student preparation for and enrollment and performance at state institutions of higher education in order to improve educational policy and instruction in the Commonwealth. However, such study shall be conducted in such a manner as to not permit the personal identification of students by persons other than representatives of the Department of Education or the State Council for Higher Education for Virginia, and such shared information shall be destroyed when no longer needed for purposes of the study.

b) Notwithstanding § 2.2-3800 of the Code of Virginia, the Virginia Department of Education, State Council of Higher Education for Virginia, Virginia Community College System, and the Virginia Employment Commission may collect, use, share, and maintain de-identified student data to improve student and program performance including those for career readiness.

3. Institutions of higher education shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the purpose of studying student preparation as it relates to the content and rigor of the Standards of Learning. Furthermore, the superintendent of each school division shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the same purpose. All information provided to the Superintendent or his designee for this purpose shall be used solely for the purpose of evaluating the Standards of Learning and shall not be redisclosed, except as provided under federal law. All information shall be destroyed when no longer needed for the purposes of studying the content and rigor of the Standards of Learning.

c. SIX-YEAR PLAN

Institution prepares six-year financial plan consistent with § 23.1-907.

d. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to all institutions except those governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly.

1. As specified in § 2.2-5004, Code of Virginia, institution takes all appropriate actions to meet the following financial and administrative standards:

a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;

b) No significant audit deficiencies attested to by the Auditor of Public Accounts;

c) Substantial compliance with all financial reporting standards approved by the State Comptroller;

d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and

e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

2. Institution complies with a debt management policy approved by its governing board that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year, and the maximum amount of debt that can be prudently issued within a specified period.

3. The institution will achieve the classified staff turnover rate goal established by the institution; however, a variance of 15 percent from the established goal will be acceptable.

4. The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable.

The institution will make no less than 75 percent of dollar purchases through the Commonwealth's enterprise-wide internet procurement system (eVA) from vendor locations registered in eVA.

5. The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun.

6. The institution will complete major information technology projects (with an individual cost of over \$1,000,000) within the budgets and schedules originally approved by the institution's governing board. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Administration shall review the circumstances causing the cost overrun and/or delay and the manner in which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or delay.

e. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly. They shall be measured by the administrative standards outlined in the Management Agreements and § 4-9.02.d.4. of this act. However, the Governor may supplement or replace those administrative performance measures with the administrative performance measures listed in this paragraph. Effective July 1, 2009, the following administrative and financial measures shall be used for the assessment of institutional performance for institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly and those governed under Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, and Chapters 124 and 125 of the 2019 Acts of Assembly.

1. Financial

- a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- b) No significant audit deficiencies attested to by the Auditor of Public Accounts;
- c) Substantial compliance with all financial reporting standards approved by the State Comptroller;
- d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and
- e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

2. Debt Management

- a) The institution shall maintain a bond rating of AA- or better;
- b) The institution achieves a three-year average rate of return at least equal to the imoney.net money market index fund; and
- c) The institution maintains a debt burden ratio equal to or less than the level approved by the Board of Visitors in its debt management policy.

3. Human Resources

- a) The institution's voluntary turnover rate for classified plus university/college employees will meet the voluntary turnover rate for state classified employees within a variance of 15 percent; and
- b) The institution achieves a rate of internal progression within a range of 40 to 60 percent of the total salaried staff hires for the fiscal year.

4. Procurement

- a) The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) procurement plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable; and
- b) The institution will make no less than 80 percent of purchase transactions through the Commonwealth's enterprise-wide internet procurement system (eVA) with no less than 75 percent of dollars to vendor locations in eVA.

5. Capital Outlay

- a) The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board at the preliminary design state for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly which provides construction funding for the project at the preliminary design

state. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun;

b) The institution shall complete capital projects with the dollar amount of owner requested change orders not more than 2 percent of the guaranteed maximum price (GMP) or construction price; and

c) The institution shall pay competitive rates for leased office space – the average cost per square foot for office space leased by the institution is within 5 percent of the average commercial business district lease rate for similar quality space within reasonable proximity to the institution's campus.

6. Information Technology

a) The institution will complete major information technology projects (with an individual cost of over \$1,000,000) on time and on budget against their managed project baseline. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Technology shall review the circumstances causing the cost overrun and/or delay and the manner in which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or delay; and

b) The institution will maintain compliance with institutional security standards as evaluated in internal and external audits. The institution will have no significant audit deficiencies unresolved beyond one year.

f. REPORTING

The Director, Department of Planning and Budget, with cooperation from the Comptroller and institutions of higher education governed under Management Agreements, shall develop uniform reporting requirements and formats for revenue and expenditure data.

g. EXEMPTION

The requirements of this section shall not be in effect if they conflict with § 23.1-206.D. of Chapters 828 and 869 of the Acts of Assembly of 2011.

§ 4-9.02 LEVEL II AUTHORITY

a. Notwithstanding the provisions of § 5 of Chapter 824 and 829 of the 2008 Acts of Assembly, institutions of higher education that have met the eligibility criteria for additional operational and administrative authority set forth in Chapters 824 and 829 of the 2008 Acts of Assembly shall be allowed to enter into separate negotiations for additional operational authority for a third and separate functional area listed in Chapter 824 and 829 of the 2008 Acts of Assembly, provided they have:

1. successfully completed at least three years of effectiveness and efficiencies operating under such additional authority granted by an original memorandum of understanding;
2. successfully renewed an additional memoranda of understanding for a five year term for each of the original two areas.

The institutions shall meet all criteria and follow policies for negotiating and establishing a memorandum of understanding with the Commonwealth of Virginia as provided in § 2.0 (Information Technology), § 3.0 (Procurement), and § 4.0 (Capital Outlay) of Chapter 824 and 829 of the 2008 Acts of Assembly.

b. As part of the memorandum of understanding, each institution shall be required to adopt at least one new education-related measure for the new area of operational authority. Each education-related measure and its respective target shall be developed in consultation with the Secretary of Finance, Secretary of Education, the appropriate Cabinet Secretary, and the State Council of Higher Education for Virginia. Each education-related measure and its respective target must be approved by the State Council of Higher Education for Virginia. The development and administration of education-related measures described in paragraph b. and in § 23.1-1003 A.3. are suspended through 2020-2022.

c. 1. As part of a five-year pilot program, George Mason University is authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item, and (ii) the institution is not required to have a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as provided in subsection C of § 2.2-1132 in order to be eligible for the additional capital project authority.

2. In addition, the institution shall exercise additional financial and administrative authority over financial operations as follows:

a). BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Policy. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate Board resolution the duties and responsibilities set forth in this Policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

b) FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized by the Board to maintain existing and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with Generally Accepted Accounting Principles, (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources, (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation, and ensure compliance with the requirements of the Appropriation Act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion into the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping system of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, and the Board of Visitors to enable them to provide adequate oversight of the financial operations of the University.

c) FINANCIAL MANAGEMENT POLICIES.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall create and implement any and all financial management policies necessary to establish a financial management system with adequate risk management and internal control processes and procedures for the effective protection and management of all University financial resources. Such policies will not address the underlying accounting principles and policies employed by the Commonwealth and the University, but rather will focus on the internal operations of the University's financial management. These policies shall include, but need not be limited to, the development of a tailored set of finance and accounting practices that seek to support the University's specific business and administrative operating environment in order to improve the efficiency and effectiveness of its business and administrative functions. In general, the system of independent financial management policies shall be guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The University shall continue to follow the Commonwealth's accounting policies until such time as specific alternate policies can be developed, approved and implemented. Such alternate policies shall include applicable accountability measures and shall be submitted to the State Comptroller for review and comment before they are implemented by the University.

d) FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

The Board of Visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle- and lower-income undergraduate Virginians. Except as provided otherwise in the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the Appropriation Act related to non-general funds. In addition, unless prohibited by the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be entitled to retain non-general fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates, rather than reverting such savings back to the Commonwealth. This financial resource policy assists the University by providing the framework for retaining and managing non-general funds, for the receipt of general funds, and for the use and stewardship of all these funds.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to provide oversight of the University's cash management system which is the framework for the retention of non-general funds. The Internal Audit Department of the University shall periodically audit the University's cash management system in accordance with

appropriate risk assessment models and make reports to the Audit and Compliance Committee of the Board of Visitors. Additional oversight shall continue to be provided through the annual audit and assessment of internal controls performed by the Auditor of Public Accounts. For the receipt of general and non-general funds, the University shall conform to the Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia as it currently exists and from time to time may be amended.

e) ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President, through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all Accounts Receivable Management and Collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of the Code of Virginia, such that the University shall take all appropriate and cost effective actions to aggressively collect accounts receivable in a timely manner.

These shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's Debt Set-Off Collection Programs, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such Programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act.

f) DISBURSEMENT MANAGEMENT.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

These disbursement policies shall authorize the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The policies also shall continue to include the ability to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, provided that the University shall submit the credit card and cost recovery aspects of its financial and operations policies to the State Comptroller for review and comment prior to implementing those aspects of those policies. The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University's disbursement policies shall be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. The University shall continue to follow the Commonwealth's disbursement policies until such time as specific alternative policies can be developed, approved and implemented. Such alternate policies shall be submitted to the State Comptroller for review and comment prior to their implementation by the University.

3. The Auditor of Public Accounts or his legally authorized representatives shall audit annually the accounts of each institution and shall distribute copies of each annual audit to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall examine annually the accounts and books of each such institution, but the institution shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each such institution shall be subject to periodic external review by the Joint Legislative and Audit Review Commission and such other reviews and audits as shall be required by law.

d. Subject to review of its Shared Services Center by the Department of General Services, and approval to proceed with decentralized procurement of authority by the Department of General Services, the Virginia Community College System (VCCS) is authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each

of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item. The State Board for Community Colleges may request any subsequent delegation of procurement authority after consultation with and positive recommendation by the Department of General Services.

e. Notwithstanding the small purchase thresholds set forth in the Rules Governing Procurement for institutions of higher education that have operational authority in the area of procurement, the small purchases thresholds shall be the same thresholds set forth in the Virginia Public Procurement Act (§ 2.2- 4300 et seq). Where small purchase thresholds in the Rules Governing Procurement for such institutions exceed those in 2.2-4300 et seq, the Rules Governing Procurement shall be the authorized procurement threshold.

§ 4-9.03 LEVEL III AUTHORITY

a. The Management Agreements negotiated by the institutions contained in Chapters 675 and 685 of the 2009 Acts of Assembly shall continue in effect unless the Governor, the General Assembly, or the institutions determine that the Management Agreements need to be renegotiated or revised.

b. Notwithstanding the small purchase thresholds set forth in the Rules Governing Procurement the small purchases thresholds for Level III institutions shall be the small purchase thresholds set forth in the Virginia Public Procurement Act (§ 2.2-4300 et seq). Where small purchase thresholds under Rules Governing Procurement for Level III institutions exceed those in 2.2-4300 et seq, the Rules Governing Procurement shall be the authorized procurement threshold.

c. Pursuant to § 23.1-1005, Code of Virginia, the Governor recommends approval for George Mason University to operate as a Level III institution under the management agreement as approved by its board of visitors on October 1, 2020.

§ 4-9.04 IMPLEMENT JLARC RECOMMENDATIONS

a. The Boards of Visitors at each Virginia public four-year higher education institution, to the extent practicable, shall:

1. require their institutions to clearly list the amount of the athletic fee on their website's tuition and fees information page. The page should include a link to the State Council of Higher Education for Virginia's tuition and fee information. The boards should consider requiring institutions to list the major components of all mandatory fees, including the portion attributable to athletics, on a separate page attached to student invoices;

2. assess the feasibility and impact of raising additional revenue through campus recreation and fitness enterprises to reduce reliance on mandatory student fees. The assessments should address the feasibility and impact of raising additional revenue through charging for specialized programs and services, expanding membership, and/or charging all users of recreation facilities;

3. direct staff to perform a comprehensive review of the institution's organizational structure, including an analysis of spans of control and a review of staff activities and workload, and identify opportunities to streamline the organizational structure. Boards should further direct staff to implement the recommendations of the review to streamline their organizational structures where possible;

4. require periodic reports on average and median spans of control and the number of supervisors with six or fewer direct reports;

5. direct staff to revise human resource policies to eliminate unnecessary supervisory positions by developing standards that establish and promote broader spans of control. The new policies and standards should (i) set an overall target span of control for the institution, (ii) set a minimum number of direct reports per supervisor, with guidelines for exceptions, (iii) define the circumstances that necessitate the use of a supervisory position, (iv) prohibit the establishment of supervisory positions for the purpose of recruiting or retaining employees, and (v) establish a periodic review of departments where spans of control are unusually narrow; and,

6. direct institution staff to set and enforce policies to maximize standardization of purchases of commonly procured goods, including use of institution-wide contracts;

7. consider directing institution staff to provide an annual report on all institutional purchases, including small purchases, that are exceptions to the institutional policies for standardizing purchases;

8. participate in national faculty teaching load assessments by discipline and faculty type.

b. The State Council on Higher Education for Virginia, to the extent practicable, shall:

1. convene a working group of institution financial officers, with input from the Department of Accounts, the Department of Planning and Budget, and the Auditor of Public Accounts, to create a standard way of calculating and publishing mandatory non-E&G fees, including for intercollegiate athletics;

2. update the state's Chart of Accounts for higher education in order to improve comparability and transparency of mandatory non-E&G fees, with input from the Department of Accounts, the Department of Planning and Budget, the Auditor of Public Accounts, and institutional staff. This process should be coordinated with the standardization of tuition and fee reporting;

3. convene a working group of institutional staff to develop instructional and research space guidelines that adequately measure current use of space and plans for future use of space at Virginia's public higher education institutions;
 4. coordinate a committee of institutional representatives, such as the previously authorized Learning Technology Advisory Committee. In addition to the objectives set out in the Appropriation Act for the Learning Technology Advisory Committee, the committee should identify instructional technology initiatives and best practices for directly or indirectly lowering institutions' instructional expenditures per student while maintaining or enhancing student learning;
 5. include factors such as discipline, faculty rank, cost of living, and regional comparisons in developing faculty salary goals;
 6. identify instructional technology best practices that directly or indirectly lower student cost while maintaining or enhancing learning.
- c. Notwithstanding the provisions of § 23.1-1304, the State Council of Higher Education for Virginia shall annually train boards of visitors members on the types of information members should request from institutions to inform decision making, such as performance measures, benchmarking data, the impact of financial decisions on student costs, and past and projected cost trends. Boards of Visitors members serving on finance and facilities subcommittees should, at a minimum, participate in the training within their first year of membership on the subcommittee. SCHEV should obtain assistance in developing or delivering the training from relevant agencies such as the Department of General Services and past or present finance officers at Virginia's public four-year institutions, as appropriate.
- d. The Department of Planning and Budget shall revise the formula used to make allocation recommendations for the state's maintenance reserve funding to account for higher maintenance needs resulting from poor facility condition, aging of facilities, and differences in facility use.
- e. The Six-Year Capital Outlay Plan Advisory Committee, the Department of Planning and Budget, and others as appropriate shall use the results of the prioritization process established by the State Council of Higher Education for Virginia in determining which capital projects should receive funding.
- f. Beginning with fiscal year 2016, the Auditor of Public Accounts shall include in its audit plan for each public institution of higher education a review of progress in implementing the JLARC recommendations contained in paragraph § 4-9.04 a.

§ 4-11.00 STATEMENT OF FINANCIAL CONDITION

Each agency head handling any state funds shall, at least once each year, upon request of the Auditor of Public Accounts, make a detailed statement, under oath, of the financial condition of his office as of the date of such call, to the Auditor of Public Accounts, and upon such forms as shall be prescribed by the Auditor of Public Accounts.

§ 4-12.00 SEVERABILITY

If any part, section, subsection, paragraph, sentence, clause, phrase, or item of this act or the application thereof to any person or circumstance is for any reason declared unconstitutional, such decisions shall not affect the validity of the remaining portions of this act which shall remain in force as if such act had been passed with the unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, item or such application thereof eliminated; and the General Assembly hereby declares that it would have passed this act if such unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, or item had not been included herein, or if such application had not been made.

§ 4-13.00 CONFLICT WITH OTHER LAWS

Notwithstanding any other provision of law, and until June 30, 2022, the provisions of this act shall prevail over any conflicting provision of any other law, without regard to whether such other law is enacted before or after this act; however, a conflicting provision of another law enacted after this act shall prevail over a conflicting provision of this act if the General Assembly has clearly evidenced its intent that the conflicting provision of such other law shall prevail, which intent shall be evident only if such other law (i) identifies the specific provision(s) of this act over which the conflicting provision of such other law is intended to prevail and (ii) specifically states that the terms of this section are not applicable with respect to the conflict between the provision(s) of this act and the provision of such other law.

§ 4-14.00 EFFECTIVE DATE

This act is effective on its passage as provided in § 1-214, Code of Virginia.

ADDITIONAL ENACTMENTS

3. That the authority and responsibilities of the Secretary of Technology included in the Code of Virginia shall be executed by the Secretary of Administration and the Secretary of Commerce and Trade pursuant to Item 66 and Item 111 of this act. Any authority or responsibilities of the Secretary of Technology not referenced in Item 66 and Item 111 of this act shall be executed by either the Secretary of Administration or the Secretary of Commerce and Trade as determined by the

Governor.

4. That any authority or responsibilities of the Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology not referenced in Item 135 of this Act shall be executed by the Virginia Innovation Partnership Authority and the non-profit entity established in legislation to be considered by the 2020 General Assembly.

5. That § 16.1-69.48:2 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-69.48:2. Fees for services of district court judges and clerks and magistrates in civil cases.

Fees in civil cases for services performed by the judges or clerks of general district courts or magistrates in the event any such services are performed by magistrates in civil cases shall be as provided in this section, and, unless otherwise provided, shall be included in the taxed costs and shall not be refundable, except in case of error or as herein provided.

For all court and magistrate services in each distress, detinue, interrogatory summons, unlawful detainer, civil warrant, notice of motion, garnishment, attachment issued, or other civil proceeding, the fee shall be \$36. No such fee shall be collected (i) in any tax case instituted by any county, city or town or (ii) in any case instituted by a school board for collection of overdue book rental fees. Of the fees collected under this section, \$10 of each such fee collected shall be apportioned to the Courts Technology Fund established under § 17.1-132.

The judge or clerk shall collect the foregoing fee at the time of issuing process. Any magistrate or other issuing officer shall collect the foregoing fee at the time of issuing process, and shall remit the entire fee promptly to the court to which such process is returnable, or to its clerk. When no service of process is had on a defendant named in any civil process other than a notice of motion for judgment, such process may be reissued once by the court or clerk at the court's direction by changing the return day of such process, for which service by the court or clerk there shall be no charge; however, reissuance of such process shall be within three months after the original return day.

The clerk of any district court may charge a fee for making a copy of any paper of record to go out of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the discretion of the clerk but shall not exceed \$1 for the first two pages and \$.50 for each page thereafter.

The fees prescribed in this section shall be the only fees charged in civil cases for services performed by such judges and clerks, and when the services referred to herein are performed by magistrates such fees shall be the only fees charged by such magistrates for the prescribed services.

6. a. In anticipation of the collection of taxes and revenues of the Commonwealth, for fiscal years 2021 and 2022, the Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (a)(2) of the Constitution of Virginia, as the case may be, at one time or from time to time, tax and revenue anticipation notes ("9(a)(2) Notes") of the Commonwealth, including 9(a)(2) Notes issued as commercial paper. The proceeds of such 9(a)(2) Notes, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, together with any other available funds, to help manage the cash flow impact of actual or potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic, and including the payment of operating expenses incurred or to be incurred in anticipation of the collection of taxes and revenues by the Commonwealth.

b. In addition, in anticipation of the collection of taxes and revenues of the Commonwealth, and its counties, cities and towns, for fiscal years 2021 and 2022, the Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (d) of the Constitution of Virginia, as the case may be, at one time or from time to time, tax and revenue anticipation notes of the Commonwealth ("9(d) Notes" and together with the 9(a)(2) Notes authorized in the foregoing paragraph, "Notes"), including 9(d) Notes issued as commercial paper. The proceeds of such 9(d) Notes, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, together with any other available funds, to help manage the cash flow impact of actual or potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic, and including the payment of operating expenses incurred or to be incurred in anticipation of the collection of taxes and revenues by the Commonwealth and its counties, cities and towns, and to purchase or acquire similar notes issued by, or otherwise to assist, cities, counties and towns of the Commonwealth for such purpose. The Governor is authorized to select the counties, cities and towns to participate in the undertakings authorized hereunder and direct the distribution of 9(d) Note proceeds to the particular counties, cities and town, and shall, after consultation with all interested parties, develop a guidance document governing eligibility and priority criteria.

c. The Treasury Board is authorized to issue Notes hereunder in an aggregate principal amount not exceeding \$500,000,000 for the benefit of the Commonwealth and in an aggregate principal amount not exceeding \$250,000,000 for the benefit of counties, cities and towns, plus in either case amounts needed to fund issuance costs, reserve funds, capitalized interest, and other financing expenses.

d. 9(a)(2) Notes shall mature at such time or times within twelve months from their date or dates, and 9(d) Notes shall mature

at such time or times not exceeding two years from their date or dates.

e. The full faith and credit of the Commonwealth shall be pledged to any 9(a)(2) Notes issued under the provisions of this Item. 9(d) Notes issued under the provisions of this item shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to appropriation by the General Assembly, from amounts appropriated from time to time by the General Assembly and from amounts paid by counties, cities and towns that issue bonds, notes or obligations with respect to this Item. There is hereby appropriated a sum sufficient to the Treasury Board for the purpose of paying the debt service on the Notes.

f. The Virginia Resources Authority is authorized to purchase and acquire through proceeds of 9(d) Notes bonds, notes or obligations of counties, cities and towns of the Commonwealth issued for the purposes authorized hereunder and establish the interest rates and repayment terms of such bonds, notes or obligations in accordance with a memorandum of agreement with the Treasury Board and the Authority shall recover its reasonable costs and expenses for doing so from the proceeds of such Notes and for its role in the administration and management of such proceeds.

g. Each county, city, and town is hereby authorized to issue bonds, notes or obligations for the purposes set forth in paragraph (b) above. The authority of any county, city, and town to contract and to issue bonds, notes or obligations pursuant to such authorization is in addition to any existing authority to contract and issue bonds, notes or obligations, anything in the laws of the Commonwealth, including any local charter, to the contrary notwithstanding. The provisions of Virginia Code § 15.2-2659 and § 62.1-216.1 shall apply, mutatis mutandis, with respect to any bond, note or obligation issued by a county, city or town hereunder.

h. The proceeds, including any premium, of the Notes shall be deposited in a special account in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer from time to time for paying all or any part of the expenses or undertakings as set forth in paragraphs (a) and (b) above. The Notes shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor, and shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on Notes shall be payable in lawful money of the United States of America. Notes may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the Notes. Notes issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the Notes. The Treasury Board shall fix the authorized denomination or denominations of the Notes and the place or places of payment of certificated Notes, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. The Treasury Board may sell Notes in such manner, by competitive bidding, negotiated sale, or private placement with private lenders or governmental agencies, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. In the discretion of the Treasury Board, Notes may be issued at one time or from time to time. Certificated Notes shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the Notes bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any Notes ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any Note may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such Note, although at the date of such Note, such persons may not have been such officers.

i. The Treasury Board is authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the Notes and other funds or reserves desirable or required by any purchaser. Pending the application of the proceeds of the Notes to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of Notes, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of Notes, such interest shall become a part of the principal of the Notes and shall be used in the same manner as required for principal of the Notes.

7.a. Notwithstanding any other provision of law, upon the declaration by the Governor of a state of emergency pursuant to § 44-146.17, Code of Virginia, in response to a communicable disease of public health threat as defined in § 44-146.16, Code of Virginia, electric companies subject to regulation of the State Corporation Commission ("Commission"), natural gas suppliers subject to the regulation of the Commission, electric and gas municipal utilities, and water suppliers and wastewater service providers, subject to the regulation of Commission or constituting a municipal utility ("utilities") are prohibited from disconnecting service to residential customers for non-payment of bills or fees until the Governor determines that the economic and public health conditions have improved such that the prohibition does not need to be in place, or until at least 60 days after such declared state of emergency ends, whichever is sooner. "Municipal utility" means

a utility providing electric, gas, or water or wastewater service that is owned or operated by a city, county, town, authority, or other political subdivision of the Commonwealth. The utilities shall notify all customers who are at least 30 days in arrears of this utility disconnection moratorium, which may be by bill insert or bill notice.

b. No more than 60 days after the enactment of this act, the utilities shall notify all customers who are at least 30 days in arrears of the COVID-19 Relief Repayment Plan (Repayment Plan), which may be by bill insert or bill notice, such notice shall include eligibility, billing information, applicable financial assistance resources, and contact information where customers may file an initial complaint on Repayment Plan related disputes. All utilities within 60 days after the enactment of this act must offer customers a Repayment Plan for past due accounts while the universal prohibition on service disconnections is in effect that includes, at minimum, the following provisions:

1. The Repayment Plan shall not require any new deposits, down payments, fees, late fees, interest charges, or penalties, nor shall such plan accrue any fees, interest, or penalties, including prepayment penalties;

2. The Repayment Plan shall amortize the repayment of a customer's utility debt over a minimum period of 6 months and up to 24 months for each utility. The utility will work with the customer to establish a Repayment Plan that meets the requirements of this clause 7.b. and that the customer determines is sustainable and affordable for them. A customer may satisfy the Repayment Plan in part or in full at any time; and

3. The utilities shall not apply eligibility criteria, such as installment plan history. However, the utilities may require the customer to attest to the utility or to a third party chosen by the utility that the customer has experienced a financial hardship resulting directly or indirectly from the public health emergency or that they have experienced a hardship to pay during the public health emergency.

4. If a utility reports to a consumer reporting agency or debt collector regarding a consumer who is on a Repayment Plan, the utility shall report the account as "current" in accordance with the Public Law 116-136: Coronavirus Aid, Relief, and Economic Security Act. If the provisions of Public Law 116-136: Coronavirus Aid, Relief, and Economic Security Act expire prior to the end of the universal moratorium established in clause 7.a., the utility may only resume reporting any default on the Repayment Plan at the end of the universal moratorium established in clause 7.a.

5. However, no utility that has received an order exempting it from the provisions of this clause 7.a. shall disconnect from service a customer who is making timely payments under the Repayment Plan at the time of the order and until such time as a customer ceases to make timely payments under the Repayment Plan. A utility that has received an order exempting it from the provisions of this clause 7.a. shall attempt to establish a Repayment Plan with its customers prior to any disconnection of service.

c. Nothing herein shall limit or prevent the utilities or the residential customers from applying or seeking debt relief or mitigation from any available resource, from entering into another payment plan offered by the utility, or from renegotiating the terms of the Repayment Plan.

d. In accordance with the provisions of Item 479.10, paragraph B.5. of this act, utilities shall use any funding allocated from the federal Coronavirus Relief Funds of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) to provide direct subsidy payments on behalf of customers whose accounts are over 30 days in arrears, provided such use meets eligibility requirements pursuant to United States Department of the Treasury guidance. In applying these funds to customer accounts, utilities shall prioritize providing financial assistance to customers who are over 60 days in arrears prior to using the funds to assist customers with accounts 31 to 60 days in arrears. To the extent possible, utilities shall use available funding to cover one-hundred percent of the customer's arrearage.

In addition to the funds provided in Item 479.10, paragraph B.2. of this act, where applicable, utilities must accept financial assistance from other utility assistance programs funded with federal Coronavirus Relief Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) for customers who are at least 30 days in arrears. To the extent possible, utilities must direct customers in writing to these resources when establishing a Repayment Plan.

e. Notwithstanding anything to the contrary in this clause 7 or any other provision of law, if a utility subject to regulation of the Commission has accounts receivable arrearages for Virginia customers that exceed 2% of an investor-owned electric utility's, or 1% of any other utility's, annual Virginia jurisdictional operating revenues, then the utility may obtain relief from the moratorium established in clause 7.a. by filing an informational letter notice with the clerk of the Commission, stating such facts to demonstrate the exceedance and contemporaneously tendering associated workpapers to the staff of the Commission. The Commission staff shall verify the information as filed by the utility and shall file a verification letter with the Clerk of the Commission. The Commission, upon receipt of a favorable verification letter, shall issue a final order within five days. Upon issuance of an order, a utility shall thereafter be exempt from the moratorium provisions of this clause 7.a.

f. Notwithstanding anything to the contrary in this clause 7 or any other provision of law, if a utility subject to this clause 7 but not subject to regulation of the Commission has accounts receivable arrearages that exceed 1% of the utility's annual operating revenues, then the utility may obtain relief from the moratorium established in clause 7.a. if (i) the utility provides a written analysis stating such facts to demonstrate the exceedance to staff of the governing body, (ii) the utility contemporaneously

makes available for public inspection associated workpapers verifying such facts to staff of the governing body, and (iii) the governing body verifies the exceedance, provides public notice, takes public comment on, and votes to approve that the exceedance is accurate in an open public meeting. In the event of an affirmative vote of the utility's governing body, the utility shall thereafter be exempt from the moratorium provisions of this clause 7.a.

g. The Commission shall allow for the timely recovery of bad debt obligations, reasonable late payment fees suspended, and prudently incurred implementation costs resulting from a Repayment Plan for electric, gas, water, or wastewater utilities, including through a rate adjustment clause or through base rates, however, the Commission shall exclude from recovery all costs associated with any jurisdictional customer balances forgiven by a Phase II utility pursuant to paragraph j. below. The Commission may apply any applicable earnings test in the Commission rules governing utility rate applications and annual informational filings when assessing the recovery of such costs. The Commission shall also require the utilities subject to regulation by the Commission to submit information on the status of customer accounts, including (a) the number and value of outstanding aged account balances, categorized by customer type; (b) the number and value of associated collections from customers, categorized by customer type; (c) the number and value of associated additions to aged accounts receivable balances, categorized by customer type; (d) the number and value of aged accounts receivable balances, net of collections and additions; (e) the number, total value, and average debt of accounts that are participating in the Repayment Plan, or another repayment plan as set forth by the utility; (f) the number of accounts removed from the Repayment Plan, or another repayment plan as set forth by the utility, categorized by reason; (g) the amount of and average debt still remaining for customer accounts removed from the Repayment Plan or another repayment plan as set forth by the utility; (h) the carrying costs of the debt for accounts participating in a repayment plan and any associated administrative costs incurred; (i) the number, total value, and average debt of customer accounts receiving direct assistance by the funds provided in Item 479.10, paragraph B.2. of this act, categorized by days in arrears and customer account type; (j) the cumulative level of customer arrearages by locality; and (k) any cost recorded as regular asset authorized by that certain order of the Commission in Case Number PUR-2020-00074. The Commission shall provide the Chairs of the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Secretary of Commerce and Trade an aggregated anonymized report by utility containing such compiled information by December 31, 2020, within 90 days of the expiration of the universal prohibition established in clause 7.a., and annually, on or before December 31st, thereafter for the following two years. The report due on December 31, 2020 shall cover the period from March 16, 2020 through December 15, 2020. The report due within 90 days of the end of the universal prohibition established in clause 7.a. shall cover the period from December 16, 2020 to the end of the universal prohibition established in clause 7.a. Annual reports shall cover the period from the end of the universal prohibition established in clause 7.a. to December 16th of the year the report is due.

h. Utilities not subject to regulation by the Commission shall submit information on the status of customer accounts to the Commission on Local Government managed by the Department of Housing and Community Development, including (a) the number and value of accounts that are at least 30 days in arrears; (b) the number and value of accounts that are at least 60 days in arrears; (c) the number, total value, and average debt of accounts that are participating in the Repayment Plan, or another repayment plan as set forth by the utility; (d) the number of accounts removed from the Repayment Plan, or another repayment plan as set forth by the utility, categorized by reason; (e) the amount of and average debt still remaining for accounts removed from the Repayment Plan or another repayment plan as set forth by the utility; (f) the carrying costs of the debt for accounts participating in a repayment plan and any associated administrative costs incurred; (g) the number, total value, and average debt of accounts offset by the funds provided in Item 479.10, paragraph B.2. of this act and local programs using Coronavirus Relief Funds, categorized by days in arrears, customer account type, and Coronavirus Relief Fund type; and, (h) the cumulative level of customer arrearages by locality. The Commission on Local Government shall provide the Chairs of the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Secretary of Commerce and Trade an aggregated anonymized report by utility containing such compiled information by December 31, 2020, within 90 days of the expiration of the universal prohibition established in clause 7.a., and annually, on or before December 31st, thereafter for the following two years. The report due on December 31, 2020 shall cover the period from March 16, 2020 through December 15, 2020. The report due within 90 days of the end of the universal prohibition established in clause 7.a. shall cover the period from December 16, 2020 to the end of the universal prohibition established in clause 7.a. Annual reports shall cover the period from the end of the universal prohibition established in clause 7.a. to December 16th of the year the report is due.

i. The reports required in paragraphs g. and h. of this clause 7 are not eligible for deferral or delay as permitted under Item 4-8.01, a.4.a. of this act.

j. Within 60 days after the enactment of this act, a Phase II Utility shall forgive all such utility's jurisdictional customer balances more than 30 days in arrears as of September 30, 2020.

1. In the utility's 2021 triennial review, any forgiven amounts shall be excluded from the utility's cost of service for purposes of determining any test period earnings and determining any future rates of the utility. In determining any customer bill credits, in the utility's 2021 triennial review, the Commission shall first offset any forgiven amounts against the total earnings for the 2017 through 2020 test periods that are determined to be above the utility's authorized earnings

band. Such offset shall be made prior to any offset to customer bill credits by customer credit reinvestment offsets.

2. Each Phase II Utility shall, no later than December 31, 2020, submit a report to the Governor, the Chairs of the House Committees on Labor and Commerce and Appropriations, and the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Chair of the Commission on Electric Utility Regulation, detailing all actions by it pursuant to this act to forgive customer balances.

k. In addition to the relief provided pursuant to clause 7.j., within 60 days after the enactment of this act, a Phase II Utility shall forgive all such utility's jurisdictional customer balances more than 30 days in arrears as of December 31, 2020.

1. In the utility's 2021 triennial review, the provisions of clause 7.k. shall be excluded from the utility's cost of service for purposes of determining any test period earnings and determining any future rates of the utility. In determining any customer bill credits, in the utility's 2021 triennial review, the Commission shall first offset any amounts pursuant to clause 7.k. against the total earnings for the 2017 through 2020 test periods that are determined to be above the utility's authorized earnings band. Such offset shall be made prior to any offset to customer bill credits by customer credit reinvestment offsets.

2. Each Phase II Utility shall, no later than November 1, 2021, submit a report to the Governor, the Chairs of the House Committees on Labor and Commerce and Appropriations, and the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Chair of the Commission on Electric Utility Regulation, detailing all actions by it pursuant to this act to forgive customer balances.

8.a. Notwithstanding any other provision of law, upon the declaration by the Governor of a state of emergency pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health threat as defined in § 44-146.16 of the Code of Virginia, no landlord shall terminate a residential tenancy, or take any action to obtain possession of a dwelling unit, for non-payment of rent through December 31, 2020, unless such eligible tenant refuses to apply for *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ assistance and refuses to cooperate with the landlord in applying for rental assistance through the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~. Such landlords and tenants must also comply with the following:

1. For an owner who owns more than four rental dwelling units or more than a 10 percent interest in more than four rental dwelling units, whether individually or through a business entity, in the Commonwealth, if rent is unpaid when due, the landlord shall serve upon the tenant, pursuant to § 55.1-1202, a written notice informing the tenant of the total amount due and owed. The written notice shall also inform the tenant that if the tenant provides to the landlord a signed statement certifying that the tenant has experienced additional expenses or a loss of income due to the declared state of emergency, the tenant may, but is not required to, enter into a payment plan under which the tenant shall be required to pay the total amount due and owed in equal monthly installments over a period of the lesser of six months or the time remaining under the rental agreement. The total amount due and owed under a payment plan shall not include any late fees, and no late fees shall be assessed during any time period in which a tenant is making timely payments under a payment plan. If the tenant fails to pay in full, enter into a written payment plan with the landlord, or pay any installment required by the plan, the landlord may not terminate the tenancy nor take any action to obtain possession of the dwelling unit until the provisions of subsection 8.b. are effectuated on January 1, 2021. However, during the time the provisions of this subsection 8.a. are in effect, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251 in the event that the tenant refuses to apply for *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ assistance and refuses to cooperate with the landlord in applying for rental assistance through the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~, as described in subsection 8.a.2. below. Nothing in this subsection shall preclude a tenant from availing himself of any other rights or remedies available to him under the law, nor shall the tenant's eligibility to participate or participation in any rent relief program offered by a nonprofit organization or under the provisions of any federal, state, or local law, regulation, or action prohibit the tenant from taking advantage of the provisions of this subsection.

2. If rent is unpaid when due, or if a payment under the terms of a payment plan is unpaid when due, the landlord shall serve upon the tenant, pursuant to § 55.1-1202, a written notice informing the tenant of the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ and information on how to reach 2-1-1 Virginia to determine any additional federal, state, and local rent relief programs. The written notice shall also inform the tenant that the owner, landlord, or owner's licensed agent will apply for rental assistance with the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ on behalf of the tenant, or the landlord will cooperate with the tenant's application for rental assistance with the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~, or with another federal, state, or local rent relief program, by providing required documentation for such application, including the W-9 IRS form and any supporting affidavit. If the tenant refuses to apply for *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ assistance and refuses to cooperate with the landlord in applying for rental assistance through the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~, the landlord may may proceed to obtain possession of the premises as provided in § 55.1-1251 for non-payment of rent, during such time the provisions of 8.a. are in effect. Before January 1, 2021, a landlord may not

terminate a tenancy nor take action to obtain possession of a dwelling unit based solely on failure to receive written approval from the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ or any other federal, state, or local rent relief program. After the provisions of subsection 8.b. are effectuated on January 1, 2021, the landlord may terminate the tenancy or take action to obtain possession of the dwelling unit based on failure to receive written approval from the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ or any other federal, state, or local rent relief program, but only in compliance with the applicable provisions of subsection 8.b.3. For any application by the owner, landlord, owner's licensed agent, or the tenant to the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ or any other federal, state, or local rent relief program, the administrator of the *Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program)* ~~Virginia Rent and Mortgage Relief Program~~ or the administrator of any other federal, state, or local rent relief program shall work diligently to process such application within fourteen days of submission of such application.

b. Beginning January 1, 2021, notwithstanding any other provision of law, upon the declaration by the Governor of a state of emergency pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health threat as defined in § 44-146.16 of the Code of Virginia, no landlord shall terminate a residential tenancy, or take any action to obtain possession of a dwelling unit, for non-payment of rent due to lost income or additional expenses resulting from the declared state of emergency until such time the declared state of emergency ends, except as follows:

1. For an owner who owns four or fewer rental dwelling units in the Commonwealth, if rent is unpaid when due and the tenant fails to pay rent within fourteen days after written notice is served on him, pursuant to § 55.1-1202, notifying the tenant of his nonpayment and of the landlord's intention to obtain possession of the premises if the rent is not paid within the fourteen-day period, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251, provided that the landlord also complies with subsection 3. below.

2. For an owner who owns more than four rental dwelling units or more than a 10 percent interest in more than four rental dwelling units, whether individually or through a business entity, in the Commonwealth, if rent is unpaid when due, the landlord shall serve upon the tenant, pursuant to § 55.1-1202, a written notice informing the tenant of the total amount due and owed. The written notice shall also inform the tenant that if the tenant provides to the landlord a signed statement certifying that the tenant has experienced additional expenses or a loss of income due to the declared state of emergency, the tenant may, but is not required to, enter into a payment plan under which the tenant shall be required to pay the total amount due and owed in equal monthly installments over a period of the lesser of six months or the time remaining under the rental agreement. The total amount due and owed under a payment plan shall not include any late fees, and no late fees shall be assessed during any time period in which a tenant is making timely payments under a payment plan. The written notice shall also inform the tenant that if the tenant fails to either pay the total amount due and owed or enter into the payment plan offered, or an alternative payment arrangement acceptable to the landlord, within fourteen days of receiving the written notice from the landlord, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251. If the tenant fails to pay in full or enter into a written payment plan with the landlord within fourteen days of when the notice is served on him, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251, provided that the landlord also complies with subsection 3. below. If the tenant enters into a payment plan and, after the plan becomes effective, fails to pay any installment required by the plan within fourteen days of its due date, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251, provided that he has sent the tenant a new notice, pursuant to § 55.1-1202, advising the tenant of the landlord's intention to obtain possession of the premises unless the tenant pays the total amount due and owed as stated on the notice within fourteen days of receipt and provided that the landlord complies with subsection 3. below. The option of entering into a payment plan or alternative payment arrangement pursuant to this subdivision may only be utilized once during the time period of the rental agreement. Nothing in this subsection shall preclude a tenant from availing himself of any other rights or remedies available to him under the law, nor shall the tenant's eligibility to participate or participation in any rent relief program offered by a nonprofit organization or under the provisions of any federal, state, or local law, regulation, or action prohibit the tenant from taking advantage of the provisions of this subsection.

3. If rent is unpaid when due, or if a payment under the terms of a payment plan is unpaid when due, the landlord shall serve upon the tenant, pursuant to § 55.1-1202, a written notice informing the tenant of the *Virginia Rent and Mortgage Relief Program* and information on how to reach ~~2-1-1~~ *Virginia* to determine any additional federal, state, and local rent relief programs. The written notice shall also inform the tenant that the owner, landlord, or owner's licensed agent will apply for rental assistance with the *Virginia Rent and Mortgage Relief Program* on behalf of the tenant, or the landlord will cooperate with the tenant's application for rental assistance with the *Virginia Rent and Mortgage Relief Program*, or with another federal, state, or local rent relief program, by providing required documentation for such application, including the W-9 IRS form and any supporting affidavit. Unless the tenant has communicated to the landlord that they are applying for rental assistance funds, the landlord shall apply for rental assistance on behalf of the tenant to the *Virginia Rent and Mortgage Relief program*, or another federal, state, or local rental assistance program no later than fourteen days from the time the written notice is served. If the tenant refuses to apply for rental assistance and refuses to cooperate with the landlord in applying for rental assistance through the *Virginia Rent and Mortgage Relief Program*, or with another federal, state, or local rent relief program, the landlord may take action to obtain possession of a dwelling unit for non-payment of rent as provided in § 55.1-1251. If the landlord or the tenant does not receive written approval

from the Virginia Rent and Mortgage Relief Program or any other federal, state, or local rent relief program within forty-five days of when the application for assistance is made by the tenant or the landlord, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251. For any subsequent application by the owner, landlord, owner's licensed agent, or the tenant to the Virginia Rent and Mortgage Relief Program or any other federal, state, or local rent relief program, the administrator of the Virginia Rent and Mortgage Relief Program or the administrator of any other federal, state, or local rent relief program shall work diligently to process such application within fourteen days of submission of such application. If the landlord or tenant does not receive written approval from the Virginia Rent and Mortgage Relief program or any other federal, state, or local rent relief program within fourteen days of submission of the subsequent application, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251. If the tenant does not qualify for the Virginia Rent and Mortgage Relief Program or any other federal, or state rent relief program, or there are no longer funds available from these sources, then the provisions of this subsection, 8.b.3. do not apply:

3. If rent is unpaid when due, or if a payment under the terms of a payment plan is unpaid when due, the landlord shall, pursuant to § 55.1-1202, Code of Virginia, serve a written notice on the tenant that informs the tenant of the Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program) and provides the website address and statewide telephone number for that program. The written notice shall also provide information on how to reach 2-1-1 Virginia to determine whether there are any other available federal, state and local rent relief programs. The written notice shall also inform the tenant that the owner, landlord, or owner's licensed agent shall apply for rental assistance on the tenant's behalf within 14 days of serving the notice on the tenant, unless the tenant pays in full, enters into a payment plan or informs the landlord that they have already applied for rental assistance. The landlord shall apply for rental assistance on behalf of the tenant no later than 14 days after serving the written notice on the tenant, unless they receive the full amount owed by the tenant or confirmation from the tenant that the tenant has applied for rental assistance before the 14th day, or they have entered into a payment plan with the tenant. If the tenant has applied for rental assistance, the landlord shall cooperate with the tenant's application, by providing all information and documentation required to complete the application, including but not limited to the W-9 IRS form and any supporting affidavits. In an initial application, if the landlord or the tenant does not receive written approval from the Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program) or any other federal, state, or local rent relief program within forty-five days of when the application for assistance is made by the tenant or the landlord, the landlord may proceed to obtain possession of the premise as provided in § 55.1-1251. For any subsequent application, if the landlord or tenant does not receive written approval from the Virginia Rent Relief Program (formerly Virginia Rent and Mortgage Relief Program) or any other federal, state, or local rent relief program within fourteen days of submission of the subsequent application, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251. If a tenant who has not paid in full or entered into a payment plan with the landlord within 14 days after the written notice is served refuses to apply for rental assistance and also refuses to cooperate with the landlord in providing information and documentation required to complete the application made by the landlord, or if such tenant is determined ineligible for rental assistance, or there are no longer funds available through any federal, state or local rental assistance program, the landlord may take action to obtain possession of the tenant's dwelling unit as provided in § 55.1-1251, Code of Virginia.

c. If a landlord reports to a consumer reporting agency or debt collector regarding a tenant who is participating in the repayment plan or receiving assistance from a federal, state, or local rent relief program, the landlord shall report the account as "current" in accordance with the Public Law 116-136: Coronavirus Aid, Relief, and Economic Security Act.

d. If a tenant is complying with a written payment plan with the landlord or has resolved any non-payment of rent, the landlord cannot take any action to obtain possession of a dwelling unit for non-payment of rent.

e. Nothing in this section relieves either the landlord or the tenant from their obligations to maintain the dwelling as those obligations are set forth in Article 2 and Article 3 of Chapter 12 of Title 55.1.

f. Nothing in this section shall void any judgment for possession validly obtained by a landlord prior to the effective date of this section; however, the court shall not issue a writ of execution thereunder, following the effective date, unless it complies with the provisions of this Section 8:

f. Nothing in this section shall void any judgment for possession validly obtained by a landlord prior to November 18, 2020; however, a landlord shall not initiate, maintain, or advance any legal process to obtain possession of a dwelling unit for non-payment of the rent unless the landlord complies with the provisions of this Section 8.

9. That §§ 8.01-3, 24.2-306, 24.2-309.2, 30-263, 30-264, and 30-265 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 62 consisting of sections numbered 30-391 through 30-400 as follows:

§ 8.01-3. Supreme Court may prescribe rules; effective date and availability; indexed, and annotated; effect of subsequent enactments of General Assembly.

A. The Supreme Court, subject to §§ 17.1-503 and 16.1-69.32, may, from time to time, prescribe the forms of writs and make general regulations for the practice in all courts of the Commonwealth; and may prepare a system of rules of practice and a system of pleading and the forms of process and may prepare rules of evidence to be used in all such courts. This section shall be liberally construed so as to eliminate unnecessary delays and expenses.

B. The Supreme Court, subject to § 30-399, shall enact rules and procedures as may be necessary for implementing the requirements of Article II, Section 6-A of the Constitution of Virginia, empowering the Supreme Court to establish congressional or state legislative districts as provided for in that section.

C. New rules and amendments to rules shall not become effective until 60 days from adoption by the Supreme Court, and shall be made available to all courts, members of the bar, and the public.

D. The Virginia Code Commission shall publish and cause to be properly indexed and annotated the rules adopted by the Supreme Court, and all amendments thereof by the Court, and all changes made therein pursuant to subsection E.

E. The General Assembly may, from time to time, by the enactment of a general law, modify or annul any rules adopted or amended pursuant to this section. In the case of any variance between a rule and an enactment of the General Assembly such variance shall be construed so as to give effect to such enactment.

F. Any amendment or addition to the rules of evidence shall be adopted by the Supreme Court on or before November 15 of any year and shall become effective on July 1 of the following year unless the General Assembly modifies or annuls any such amendment or addition by enactment of a general law. Notwithstanding the foregoing, the Supreme Court, at any time, may amend the rules to conform with any enactment of the General Assembly and correct unmistakable printer's errors, misspellings, unmistakable errors to statutory cross-references, and other unmistakable errors in the rules of evidence.

G. When any rule contained in the rules of evidence is derived from one or more sections of the Code of Virginia, the Supreme Court shall include a citation to such section or sections in the title of the rule.

§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.

No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15, 2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of local election districts other than at-large districts. Any ordinance required to comply with the requirements of § 24.2-307 shall be adopted on or before February 1, 2019.

If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.

This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in the conduct of elections prior to May 15, 2021.

§ 30-263. Joint Reapportionment Committee; membership; terms; quorum; compensation and expenses.

A. The Joint Reapportionment Committee (the Joint Committee) is established in the legislative branch of state government. The Joint Committee shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. Members shall serve terms coincident with their terms of office.

B. The Joint Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members of the

Joint Committee shall constitute a quorum. The meetings of the Joint Committee shall be held at the call of the chairman or whenever the majority of the members so request.

C. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment.

D. Members shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of the Clerk of the House of Delegates and the Office of Clerk of the Senate for their respective members.

§ 30-264. Staff to Joint Reapportionment Committee.

The Division of Legislative Services shall serve as staff to the Joint Reapportionment Committee.

§ 30-265. Reapportionment of congressional and state legislative districts; United States Census population counts.

For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year 2020 and every 10 years thereafter, the Virginia Redistricting Commission established pursuant to Chapter 62 of Title 30 shall use the population data provided by the United States Bureau of the Census, as adjusted by the Division of Legislative Services pursuant to § 24.2-314. The census data used for this apportionment purpose shall not include any population figure which is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states.

CHAPTER 62.

VIRGINIA REDISTRICTING COMMISSION.

§ 30-391. Virginia Redistricting Commission.

A. The Virginia Redistricting Commission is established in the legislative branch of state government. It shall be convened in the year 2020 and every 10 years thereafter for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly.

B. As used in this chapter:

"Census data" means the population data received from the United States Bureau of the Census pursuant to P.L. 94-171.

"Commission" means the Virginia Redistricting Commission established pursuant to this chapter.

"Committee" means the Redistricting Commission Selection Committee established pursuant to § 30-393.

"Partisan public office" means (i) an elective or appointive office in the executive or legislative branch or in an independent establishment of the federal government; (ii) an elective office in the executive or legislative branch of the government of the Commonwealth, or an office that is filled by appointment and is exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.); or (iii) an office of a county, city, or other political subdivision of the Commonwealth that is filled by an election process involving nomination and election of candidates on a partisan basis.

"Political party office" means an elective office in the national or state organization of a political party, as defined in § 24.2-101.

§ 30-392. Membership; terms; vacancies; chairman; quorum; compensation and expenses.

A. The Virginia Redistricting Commission shall consist of 16 commissioners that include eight legislative commissioners and eight citizen commissioners as follows: two commissioners shall be members of the Senate of Virginia, representing the political party having the highest number of members in the Senate and appointed by the President pro tempore of the Senate; two commissioners shall be members of the Senate, representing the political party having the next highest number of members in the Senate and appointed by the leader of that political party; two commissioners shall be members of the House of Delegates, representing the political party having the highest number of members in the House of Delegates and appointed by the Speaker of the House of Delegates; two commissioners shall be members of the House of Delegates, representing the political party having the next highest number of members in the House of Delegates and appointed by the leader of that political party; and eight citizen commissioners who shall be selected by the Redistricting Commission Selection Committee pursuant to § 30-394. No appointing authority shall appoint himself to serve as a legislative commissioner or a citizen commissioner.

B. Legislative commissioners selected to serve as commissioners of the Commission shall be appointed by the respective authorities no later than December 1 of the year ending in zero and shall continue to serve until their successors are appointed. In making its appointments, the appointing authorities shall endeavor to have their appointees reflect the racial, ethnic, geographic, and gender diversity of the Commonwealth. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.

Vacancies shall be filled in the same manner as the original appointment, such that the proper partisan balance of the Commission is maintained.

C. Citizen commissioners selected to serve as commissioners of the Virginia Redistricting Commission shall be selected by the Redistricting Commission Selection Committee as provided in § 30-394. In making its selections, the Committee shall ensure the citizen commissioners are, as a whole, representative of the racial, ethnic, geographic, and gender diversity of the Commonwealth. Citizen commissioners shall be appointed no later than January 15 of the year ending in one and shall continue to serve until their successors are appointed. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled by the Commission selecting a replacement from the list submitted pursuant to subsection E of § 30-394 from which the commissioner being replaced was selected and shall require an affirmative vote of a majority of the commissioners, including at least one commissioner representing or affiliated with each political party.

D. Legislative commissioners shall receive such compensation as provided in § 30-19.12, and citizen commissioners shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. All such compensation and expense payments shall come from existing appropriations to the Commission.

E. By February 1 of the year ending in one, the Commission shall hold a public meeting at which it shall select a chairman from its membership. The chairman shall be a citizen commissioner and shall be responsible for coordinating the work of the Commission. A majority of the commissioners appointed, which majority shall include a majority of the legislative commissioners and a majority of the citizen commissioners, shall constitute a quorum.

F. All meetings and records of the Commission shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-394. All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information.

G. Commissioners, staff of the Commission, and any other advisor or consultant to the Commission shall not communicate with any person outside the Commission about matters related to reapportionment or redistricting outside of a public meeting or hearing. Written public comments submitted to the Commission, staff of the Commission, or any other advisor or consultant to the Commission shall not be a violation of this subsection.

H. In the event the Commission hires a lawyer or law firm, the Commission as an entity shall be considered the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

I. Notwithstanding paragraph G. above or any other provision of law, the Chairs of the Virginia Redistricting Commission shall keep the Senate President Pro Tempore, the Senate Minority Leader, the Speaker of the House of Delegates, the House Minority Leader, and the Governor informed about the timing of availability of United States Bureau of the Census data as it relates to the tabulation of the population for reapportionment purposes pursuant to P.L. 94-171, and options for redistricting and its impact on elections for the House of Delegates.

§ 30-393. Redistricting Commission Selection Committee; chairman; quorum; compensation and expenses.

A. There shall be a Redistricting Commission Selection Committee established for the purpose of selecting the citizen commissioners of the Virginia Redistricting Commission. This committee shall consist of five retired judges of the circuit courts of Virginia.

B. By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia a list of at least 10 retired judges of the circuit courts of Virginia who are willing to serve on the Committee, and no retired judge who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall be included in such list. In compiling this list, the Chief Justice shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. These members shall each select a judge from the list and shall promptly, but not later than November 20, communicate their selection to the Chief Justice, who shall immediately notify the four judges selected. In making their selections, the members shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. Within three days of being notified of their selection, the four judges shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee, who shall serve as the chairman of the Committee.

A majority of the Committee members, which majority shall include the chairman, shall constitute a quorum.

The judges of the Committee shall serve until their successors are appointed. If a judge cannot, for any reason, complete his term, the remaining judges shall select a replacement from the list prescribed herein.

C. Members of the Committee shall receive compensation for their services and shall be allowed all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. The compensation and expenses of members and all other necessary expenses of the Committee shall be provided from existing appropriations to the Commission.

D. All meetings and records of the Committee shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-394.

E. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.

F. Notwithstanding paragraph C. above, or any other provision of law, the daily compensation and reimbursement for reasonable and necessary expenses for legislative and non-legislative members of the Virginia Redistricting Commission for attendance at an official meeting shall be set at the same amounts provided for legislative members in paragraphs B.4.d. and B.5. of Item 1 of the this act.

§ 30-394. Citizen commissioners; application process; qualifications; selection.

A. Within three days following the selection of the fifth member of the Committee, the Committee shall adopt an application and process by which residents of the Commonwealth may apply to serve on the Commission as citizen commissioners. The Division of Legislative Services shall assist the Committee in the development of the application and process.

The application for service on the Commission shall require applicants to provide personal contact information and information regarding the applicant's race, ethnicity, gender, age, date of birth, education, and household income. The application shall require an applicant to disclose, for the period of three years immediately preceding the application period, the applicant's (i) voter registration status; (ii) preferred political party affiliation, if any, and any political party primary elections in which he has voted; (iii) history of any partisan public offices or political party offices held or sought; (iv) employment history, including any current or prior employment with the Congress of the United States or one of its members, the General Assembly or one of its members, any political party, or any campaign for a partisan public office, including a volunteer position; and (v) relevant leadership experience or involvements with professional, social, political, volunteer, and community organizations and causes.

The application shall require an applicant to disclose information regarding the partisan activities and employment history of the applicant's parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law, or any person with whom the applicant is a cohabitating member of a household, for the period of three years immediately preceding the application period.

The Committee may require applicants to submit three letters of recommendation from individuals or organizations.

The application process shall provide for both paper and electronic or online applications. The Committee shall cause to be advertised throughout the Commonwealth information about the Commission and how interested persons may apply.

B. To be eligible for service on the Commission, a person shall have been a resident of the Commonwealth and a registered voter in the Commonwealth for three years immediately preceding the application period. He shall have voted in at least two of the previous three general elections. No person shall be eligible for service on the Commission who:

1. Holds, has held, or has sought partisan public office or political party office;
2. Is employed by or has been employed by a member of the Congress of the United States or of the General Assembly or is employed directly by or has been employed directly by the United States Congress or by the General Assembly;
3. Is employed by or has been employed by any federal, state, or local campaign;
4. Is employed by or has been employed by any political party or is a member of a political party central committee;
5. Is a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or a lobbyist's principal as defined in § 2.2-419 or has been such a lobbyist or lobbyist's principal in the previous five years; or
6. Is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of a person described in subdivisions 1 through 5, or is a cohabitating member of a household with such a person.

C. The application period shall begin no later than December 1 of the year ending in zero and shall end four weeks after the beginning date. During this period, interested persons shall submit a completed application and any required documentation to the Division of Legislative Services. All applications shall be reviewed by the Division of Legislative Services to ensure an applicant's eligibility for service pursuant to subsection B, and any applicant who is ineligible for service shall be removed from the applicant pool.

The Division of Legislative Services shall make available the application for persons to use when submitting a paper application and shall provide electronic access for electronic submission of applications.

D. Within two days of the close of the application period, the Division of Legislative Services shall provide to the Speaker of the House

of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia the applications and documentation submitted by those applicants who are eligible for service on the Commission pursuant to subsection B and submitted complete applications, including any required documentation.

E. By January 1 of the year ending in one, those persons receiving the applications pursuant to subsection D shall each submit to the Committee a list of at least 16 citizen candidates for service on the Commission. In selecting citizen candidates, they shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth.

They shall notify the Division of Legislative Services of the citizen candidates submitted to the Committee for consideration, and the Division of Legislative Services shall promptly provide to the Committee the applications and documentation for each citizen candidate being considered. Only the applications and documentation for each citizen candidate shall be maintained as public records.

F. Within two weeks of receipt of the lists of citizen candidates and related materials pursuant to subsection E, but no later than January 15, the Committee shall select, by a majority vote in a public meeting, two citizen members from each list submitted. In making its selections, the Committee shall ensure the citizen commissioners are, as a whole, representative of the racial, ethnic, geographic, and gender diversity of the Commonwealth. The Committee shall promptly notify those eight citizens of their selection to serve as a citizen commissioner of the Commission.

No member of the Committee shall communicate with a member of the General Assembly or the United States Congress, or any person acting on behalf of a member of the General Assembly or the United States Congress, about any matter related to the selection of citizen commissioners after receipt of the lists submitted pursuant to subsection E.

G. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.

§ 30-395. Staff to Virginia Redistricting Commission; census liaison.

A. The Division of Legislative Services shall provide staff support to the Commission. Staff shall perform those duties assigned to it by the Commission. The Director of the Division of Legislative Services, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to P.L. 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division of Legislative Services shall maintain the current election district and precinct boundaries of each county and city as a part of the Commission's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division of Legislative Services.

C. The provisions of Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2, including the statistical reports referred to in that article, shall be controlling in any legal determination of a district boundary.

§ 30-396. Public participation in redistricting process.

A. All meetings and hearings held by the Commission shall be adequately advertised and planned to ensure the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple languages as practicable and appropriate.

B. Prior to proposing any plan for districts for the United States House of Representatives, the Senate, or the House of Delegates and prior to voting to submit such plans to the General Assembly, the Commission shall hold at least three public hearings in order to receive and consider comments from the public. Public hearings may be held virtually and any public hearings that are held in person shall be conducted in different parts of the Commonwealth.

C. The Commission shall establish and maintain a website or other equivalent electronic platform. The website shall be available to the general public and shall be used to disseminate information about the Commission's activities. The website shall be capable of receiving comments and proposals by citizens of the Commonwealth. Prior to voting on any proposed plan, the Commission shall publish the proposed plans on the website.

D. All data used by the Commission in the drawing of districts shall be available to the public on its website. Such data, including census data, precinct maps, election results, and shapefiles, shall be posted within three days of receipt by the Commission.

§ 30-397. Proposal and submission of plans for districts.

A. The Commission shall submit to the General Assembly plans for districts for the Senate and the House of Delegates of the General Assembly no later than 45 days following the receipt of census data.

To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive affirmative votes of at least six of the eight legislative commissioners, including at least three of the four legislative commissioners who are members of the Senate, and at least six of the eight citizen commissioners.

To be submitted as a proposed plan for districts for members of the House of Delegates, a plan shall receive affirmative votes of at least six of the eight legislative commissioners, including at least three of the four legislative commissioners who are members of the House of Delegates, and at least six of the eight citizen commissioners.

B. The Commission shall submit to the General Assembly plans for districts for the United States House of Representatives no later than 60 days following the receipt of census data or by the first day of July of that year, whichever occurs first.

To be submitted as a proposed plan for districts for members of the United States House of Representatives, a plan shall receive affirmative votes of at least six of the eight legislative commissioners and at least six of the eight citizen commissioners.

C. If the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B, the Commission shall have 14 days following its initial failure to submit a plan to the General Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this date, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.

D. All plans submitted pursuant to this section shall comply with the criteria and standards set forth in § 24.2-304.04.

§ 30-398. Consideration of plans by the General Assembly; timeline.

A. All plans for districts for the Senate and the House of Delegates shall be embodied in and voted on as a single bill.

B. All bills embodying plans for districts for the United States House of Representatives, the Senate, or the House of Delegates shall be voted on by the General Assembly in accordance with the provisions of Article IV, Section 11 of the Constitution of Virginia, except no amendments shall be permitted. All bills embodying a plan that are approved by both houses shall become law without the signature of the Governor and, pursuant to Article II, Section 6 of the Constitution of Virginia, shall take effect immediately.

C. Within 15 days of receipt of any plan for districts, the General Assembly shall take a vote on a bill embodying such plan. If the General Assembly fails to adopt the bill by this deadline, the Commission shall submit a new plan for districts within 14 days of the General Assembly's failure to adopt the bill. Within seven days of receipt of such plan, the General Assembly shall take a vote on the bill embodying the plan, and if the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.

D. If the Commission submits a plan for districts pursuant to subsection C of § 30-397, the General Assembly shall take a vote on such plan within seven days of its receipt. If the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.

§ 30-399. Establishment of districts by the Supreme Court of Virginia.

A. In the event the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B of § 30-397, or the General Assembly fails to adopt a plan for districts by the deadline set forth in subsection C or D of § 30-398, the Supreme Court of Virginia (the Court) shall be responsible for establishing the districts.

B. The Court shall, not later than March 1 of a year ending in one, enact rules and procedures as may be necessary for implementing the requirements of Article II, Section 6-A of the Constitution of Virginia, empowering the Court to establish congressional or state legislative districts as provided for in that section. In enacting such rules and procedures, the Court shall follow the provisions of this section.

C. Public participation in the Court's redistricting deliberations shall be permitted. Such public participation may be through briefings, written submissions, hearings in open court, or any other means as may be prescribed by the Court.

D. The Division of Legislative Services shall make available staff support and technical assistance to the Court to perform those duties as may be requested or assigned to it by the Court.

E. Any plan for congressional or state legislative districts established by the Court shall adhere to the standards and criteria for districts set forth in Article II, Section 6 of the Constitution of Virginia and § 24.2-304.04.

F. The Court shall appoint two special masters to assist the Court in the establishment of districts. The two special masters shall work together to develop any plan to be submitted to the Court for its consideration.

Within one week of the Commission's failure to submit plans or the General Assembly's failure to adopt plans, the leaders in the House of Delegates having the highest and next highest number of members in the House of Delegates and the leaders in the Senate of Virginia having the highest and next highest number of members in the Senate of Virginia shall each submit to the Court a list of three

or more nominees, along with a brief biography and resume for each nominee, including the nominee's particular expertise or experience relevant to redistricting. The Court shall then select, by a majority vote, one special master from the lists submitted by the legislative leaders of the political party having the highest number of members in their respective chambers and one special master from the lists submitted by the legislative leaders of the political party having the next highest number of members in their respective chambers. The persons appointed to serve as special masters shall have the requisite qualifications and experience to serve as a special master and shall have no conflicts of interest. In making its appointments, the Court shall consider any relevant redistricting experience in the Commonwealth and any practical or academic experience in the field of redistricting. The Court shall be reimbursed by the Commonwealth for all costs, including fees and expenses, related to the appointment or work of the special master from funds appropriated for this purpose.

G. Any justice who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall recuse himself from any decision made pursuant to this section, and no senior justice designated pursuant to § 17.1-302 shall be assigned to the case or matter to serve in his place.

§ 30-400. Remedial redistricting plans.

If any congressional or state legislative district established pursuant to this chapter or the provisions of Article II, Sections 6 and 6-A of the Constitution of Virginia is declared unlawful or unconstitutional, in whole or in part, by order of any state or federal court, the Commission shall be convened to determine and propose a redistricting plan to remedy the unlawful or unconstitutional district.

10. That an emergency exists and the provisions of Enactment 9 of this act shall become effective on November 15, 2020, contingent upon the passage of an amendment to the Constitution of Virginia on the Tuesday after the first Monday in November 2020, establishing the Virginia Redistricting Commission by amending Section 6 of Article II and adding in Article II a new section numbered 6-A. If such amendment is not approved by the voters, the provisions of this act shall not become effective.

11. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2019~~ 2020, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;
2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;
3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;
4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";
5. For taxable years beginning on and after January 1, 2019, ~~the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code; and~~
6. ~~The provisions of § 103 of Division Q of the federal Further Consolidated Appropriations Act, 2020, P.L. 116-94 (2019), related to the reduction in the medical expense deduction floor For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;~~

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. The provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a

scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the

business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.*

§ 58.1-322.03. Virginia taxable income; deductions.

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be

allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.

9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such

premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

§ 58.1-402. Virginia taxable income.

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, E, and G, and H.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, E, and G, and H.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. [Repealed.]

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:

(1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

(3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the

corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

(1) The related member has substantial business operations relating to interest-generating activities, in which the related member pays expenses for at least five full-time employees who maintain, manage, defend or are otherwise responsible for operations or administration relating to the interest-generating activities; and

(2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property; and

(3) The transaction giving rise to the expenses and costs between the corporation and the related member has a valid business purpose other than the avoidance or reduction of taxation and payments between the parties are made at arm's length rates and terms; and

(4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code (Global Intangible Low-Taxed Income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting

stock.

11. [Repealed.]

12, 13. [Expired.]

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19, 20. [Repealed.]

21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

28. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.*

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

G. For taxable years beginning on and after January 1, 2018, there shall be deducted to the extent included in and not otherwise subtracted from federal taxable income 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there shall be deducted to the extent not

otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

12. § 1. That the General Assembly finds that Esther Thorne (Ms. Thorne) spent more than six years in prison within the Virginia Department of Corrections for crimes she did not commit. On June 1, 2020, the Virginia Court of Appeals found that Ms. Thorne had proven her actual innocence, vacated her convictions, and issued a writ of actual innocence based on non-biological evidence, and her record was subsequently expunged.

§ 2. That there is hereby appropriated from the general fund of the state treasury the sum of \$321,587 for the relief of Esther Thorne, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Ms. Thorne may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.

The compensation, subject to the execution of the release described herein, shall be paid as a single lump sum of \$321,587 to be paid to Ms. Thorne by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release.

§ 3. That Ms. Thorne shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2025.

§ 4. That any amount already paid to Ms. Thorne as a transition assistance grant pursuant to subsection C of § 8.01-195.11 of the Code of Virginia, shall be deducted from any award received pursuant to § 1 of this act.

§ 5. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.

13. That § 34-28.3 of the Code of Virginia is amended and reenacted as follows:

§ 34-28.3. Emergency relief payments exempt.

A. For the purposes of this section, "emergency relief payment" means a 2020 recovery rebate for individuals and qualifying children provided pursuant to § 2201 of the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136) or any future federal payments or rebates provided directly to individuals for economic relief or stimulus due to the COVID-19 pandemic; not to exceed \$1,200 per individual per payment or rebate; and not to exceed \$500 for each qualifying child paid to the individual per payment or rebate.

B. All emergency relief payments paid to individuals shall be automatically exempt from the creditor process. Any financial institution, as defined by § 6.2-100, receiving such payments directly from the federal government shall exempt such payments from the creditor process if (i) the payment is marked by the federal government as an "emergency relief payment" or includes some other unique identifier that is reasonably sufficient to allow the financial institution to identify the funds as an emergency relief payment or (ii) the federal government or account holder receiving the emergency relief payment gives notice to the financial institution of such payment. In exempting emergency relief payments on deposit from the creditor process, a financial institution shall look back two months preceding the date of receipt of service of the creditor process. The financial institution shall perform a one-time account review separately for each account in the name of an account holder who is subject to the creditor process without consideration for any other attributes of the account or the creditor process, including (a) the presence of other funds, from whatever source, that may be commingled in the account with funds from an emergency relief payment; (b) the existence of a co-owner on the account; and (c) the balance in the account, provided the balance is above zero dollars on the date of account review. After conducting the account review, a financial institution shall exempt from the creditor process the lesser of the sum of all posted emergency relief payments to an account between the close of business on the beginning date of the lookback period and the open of business on the ending date of the lookback period or the balance in an account when the account review is performed.

If the creditor process involves a court return date, such as a garnishment, and requires a continued hold on the account, including any deposits made up to the return date, then if an emergency relief payment is deposited into an account after the completion of the account review but before the creditor process or garnishment return date and the account holder notifies the financial institution that the deposit of an emergency relief payment has been made, the financial institution must review the account. If the financial institution verifies that the deposited funds are exempt under this section, then such deposited funds shall be treated as exempt from the creditor process or garnishment. This second account review shall begin within two business days of receiving the notice from the account holder and shall cover the period from the start of business on the date of the completion of the previous account review to the end of business on the date of the notification from the account holder. For any creditor process that requires a continued hold, such as a garnishment where the account hold must continue until the garnishment return date, the account holder may access exempt funds by withdrawal as permitted by the financial institution.

In its answer to the creditor process, the financial institution shall state the amount of account funds that are being held pursuant to the creditor process and the amount of account funds that were treated as exempt under this section.

A financial institution that makes a good faith effort to comply with the requirements set forth herein shall not be subject to liability or regulatory action under any state law, regulation, court or other order, or regulatory interpretation for actions

concerning any emergency relief payments.

Emergency relief payments shall be exempt from the creditor process even if deposited into an account with a financial institution or other organization accepting deposits and thereby commingled with other funds.

For the purposes of this section, no such exemption shall extend to child support, spousal support, or criminal restitution orders.

C. If a financial institution does not set aside an emergency relief payment as exempt from the creditor process, then the accountholder receiving such payment must claim the exemption within the time limits prescribed by subsection B of § 34-17 and in the manner prescribed under § 8.01-512.4.

~~11: 14.~~ That the provisions of the first, second, third, fourth, sixth, seventh, and eighth, and twelfth enactments of this act shall expire at midnight on June 30, 2022.

~~12: 15.~~ That the provisions of the fifth, ninth, and tenth, eleventh, and thirteenth enactments of this act shall have no expiration date.

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CHAPTER 553

An Act to amend and reenact §§ 58.1-433.1, 58.1-439.2, and 58.1-2626.1 of the Code of Virginia, relating to sunset of coal tax credits.

[H 1899]

Approved April 15, 2021

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-433.1, 58.1-439.2, and 58.1-2626.1 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-433.1. Virginia Coal Employment and Production Incentive Tax Credit.**

A. For taxable years beginning on and after January 1, 2001, *but before January 1, 2022*, every electricity generator in the Commonwealth shall be allowed a ~~three-dollar-per-ton~~ \$3-per-ton credit against the tax imposed by § 58.1-400 or § 58.1-400.2 for each ton of coal purchased and consumed by such electricity generator, provided such coal was mined in Virginia as certified by such seller. Notwithstanding any other provision of law, no electricity generator shall be allowed more than a ~~three-dollar-per-ton~~ \$3-per-ton coal tax credit and shall be subject to all limitations set forth in § 58.1-400.2. In no event shall the credit allowed hereunder exceed the total amount of tax liability of such taxpayer. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next 10 succeeding taxable years or until the full credit is utilized, whichever is sooner. For the purposes of the credit provided by this section, "electricity generator" means any person who produces electricity for self-consumption or for sale.

B. For each such ton of coal described in subsection A that is purchased on or after January 1, 2006, *but before January 1, 2022*, from any person with an economic interest in coal as defined under § 58.1-439.2, the \$3-per-ton credit allowed under subsection A may be allocated between such electricity generator and such person with an economic interest in coal. The allocation of the \$3-per-ton credit may be provided in the contract between such parties for the sale of such coal. Such allocation may be amended by the execution of a written instrument by the parties prior to December 31 of the year of purchase of such coal. Such contracts and written instruments shall be subject to audit by the Department of Taxation to ensure the proper application of credits.

In no case shall the credit allocated for each such ton of coal among such electricity generators and such persons with an economic interest in coal exceed \$3 per ton.

All credits earned on or after January 1, 2006, ~~which~~ *but before January 1, 2022*, that are allocated to persons with an economic interest in coal as provided under this subsection may be used as tax credits by such persons against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth. If the credits earned on or after January 1, 2006, *but before January 1, 2022*, exceed the state tax liability for the applicable taxable year of such person with an economic interest in coal, the excess shall be redeemable by the Tax Commissioner as set forth in subsection D of § 58.1-439.2, provided that the ability of persons with an economic interest in coal to redeem with the Tax Commissioner credits received pursuant to an allocation under this section shall expire for credits earned under this section on or after July 1, 2016.

§ 58.1-439.2. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, but before January 1, 2017, and on and after January 1, 2018, but before January 1, ~~2023~~ *2022*, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For metallurgical coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton
36" and under	\$2.00
Above 36"	\$1.00

The seam thickness shall be based on the weighted average isopach mapping of actual metallurgical coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach mapping is based.

2. For metallurgical coal mined by surface mining methods, a credit in the amount of 40 cents (\$.40) per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, but before January 1, ~~2023~~ *2022*, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent (\$.01) per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 90 percent of the face value within 90 days after filing the return; however, for credit earned in tax years beginning on and after January 1, 2002, *but before January 1, 2022*, such excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 85 percent of the face value within 90 days after filing the return. The remaining 10 or 15 percent of the value of the credit being redeemed, as applicable for such tax year, shall be deposited by the Commissioner in a regional economic development fund administered by the Virginia Coalfield Economic Development Authority to be used for regional economic diversification in accordance with guidelines developed by the Virginia Coalfield Economic Development Authority and the Virginia Economic Development Partnership.

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433.1 or 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999.

F. The amount of credit allowed pursuant to subsection A shall be the amount of credit earned multiplied by the person's employment factor. The person's employment factor shall be the percentage obtained by dividing the total number of coal mining jobs of the person filing the return, including the jobs of the contract operators of such person, as reflected in the annual tonnage reports filed with the Department of Mines, Minerals and Energy for the year in which the credit was earned by the total number of coal mining jobs of such persons or operators as reflected in the annual tonnage reports for the year immediately prior to the year in which the credit was earned. In no case shall the credit claimed exceed that amount set forth in subsection A.

G. The tax credit allowed under this section shall be claimed in the third taxable year following the taxable year in which the credit was earned and allowed.

H. As used in this section, "metallurgical coal" means bituminous coal used for the manufacture of iron and steel with calorific value of 14,000 BTUs or greater on a moisture and ash free basis.

§ 58.1-2626.1. The Virginia Coal Employment and Production Incentive Tax Credit.

A. For the tax years beginning on and after January 1, 1988, *but before January 1, 2022*, every corporation in the Commonwealth doing the business of furnishing water, heat, light, or power to the Commonwealth or its citizens, whether by means of electricity, gas, or steam shall be allowed a credit against the tax imposed by § 58.1-2626 in the following amount: ~~one dollar~~ \$1 per ton for each ton of coal purchased and consumed by such corporation in excess of the number of tons of Virginia coal purchased by such corporation in 1985, provided such coal was mined in Virginia as certified by the producer of such coal. This credit shall be prorated equally against the corporation's estimated payments made in September and December and the final payment.

B. For tax years beginning on and after January 1, 1989, *but before January 1, 2022*, every corporation in the Commonwealth doing the business of furnishing water, heat, light, or power to the Commonwealth or its citizens, whether by means of electricity, gas, or steam shall be allowed additional credit against the tax imposed by § 58.1-2626 in the following amount: ~~one dollar~~ \$1 per ton for each ton of coal purchased and consumed by such corporation, provided such coal was mined in Virginia as certified by such seller. The credit shall be prorated equally against the corporation's estimated payments made in September and December and the final payment.

C. ~~[Expired.]~~

2. That if tax credits were earned under the provisions of § 58.1-433.1 of the Code of Virginia prior to January 1, 2022, such credits may continue to be claimed on a return for taxable years on and after January 1, 2022, but only pursuant to the applicable carryover period specified in § 58.1-433.1 of the Code of Virginia. A taxpayer claiming credits pursuant to the provisions of this enactment shall not claim more than \$1 million in credits for a single taxable year. No taxpayer shall amend a return for a taxable year prior to January 1, 2022, to claim more in credits earned under the provisions of § 58.1-433.1 of the Code of Virginia than such taxpayer stated on such return before amending it.

3. That the Department of Mines, Minerals and Energy, in coordination with the Virginia Coalfield Economic Development Authority, the Virginia Economic Development Partnership Authority, the Virginia Employment Commission, the Southwest Virginia Workforce Development Board, and the Council on Environmental Justice, shall convene a stakeholder process, which shall include public meetings and public comment opportunities, and provide an interim report to the General Assembly no later than September 1, 2021, and a final report on December 1, 2021, on recommendations for how the Commonwealth can provide economic transition support to the coalfield region, with a particular focus on workforce redevelopment, economic diversification, reclamation of coal-impacted lands and brownfields, community revitalization, infrastructure improvements, and clean energy development.

CHAPTER 554

An Act to amend and reenact §§ 58.1-433.1, 58.1-439.2, and 58.1-2626.1 of the Code of Virginia, relating to sunset of coal tax credits.

Approved April 15, 2021

[S 1252]

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-433.1, 58.1-439.2, and 58.1-2626.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-433.1. Virginia Coal Employment and Production Incentive Tax Credit.

A. For taxable years beginning on and after January 1, 2001, *but before January 1, 2022*, every electricity generator in the Commonwealth shall be allowed a ~~three-dollar-per-ton~~ *\$3-per-ton* credit against the tax imposed by § 58.1-400 or § 58.1-400.2 for each ton of coal purchased and consumed by such electricity generator, provided such coal was mined in Virginia as certified by such seller. Notwithstanding any other provision of law, no electricity generator shall be allowed more than a ~~three-dollar-per-ton~~ *\$3-per-ton* coal tax credit and shall be subject to all limitations set forth in § 58.1-400.2. In no event shall the credit allowed hereunder exceed the total amount of tax liability of such taxpayer. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next 10 succeeding taxable years or until the full credit is utilized, whichever is sooner. For the purposes of the credit provided by this section, "electricity generator" means any person who produces electricity for self-consumption or for sale.

B. For each such ton of coal described in subsection A that is purchased on or after January 1, 2006, *but before January 1, 2022*, from any person with an economic interest in coal as defined under § 58.1-439.2, the \$3-per-ton credit allowed under subsection A may be allocated between such electricity generator and such person with an economic interest in coal. The allocation of the \$3-per-ton credit may be provided in the contract between such parties for the sale of such coal. Such allocation may be amended by the execution of a written instrument by the parties prior to December 31 of the year of purchase of such coal. Such contracts and written instruments shall be subject to audit by the Department of Taxation to ensure the proper application of credits.

In no case shall the credit allocated for each such ton of coal among such electricity generators and such persons with an economic interest in coal exceed \$3 per ton.

All credits earned on or after January 1, 2006, ~~which~~ *but before January 1, 2022*, that are allocated to persons with an economic interest in coal as provided under this subsection may be used as tax credits by such persons against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth. If the credits earned on or after January 1, 2006, *but before January 1, 2022*, exceed the state tax liability for the applicable taxable year of such person with an economic interest in coal, the excess shall be redeemable by the Tax Commissioner as set forth in subsection D of § 58.1-439.2, provided that the ability of persons with an economic interest in coal to redeem with the Tax Commissioner credits received pursuant to an allocation under this section shall expire for credits earned under this section on or after July 1, 2016.

§ 58.1-439.2. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, *but before January 1, 2017*, and on and after January 1, 2018, *but before January 1, 2023* *2022*, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For metallurgical coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton
36" and under	\$2.00
Above 36"	\$1.00

The seam thickness shall be based on the weighted average isopach mapping of actual metallurgical coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach mapping is based.

2. For metallurgical coal mined by surface mining methods, a credit in the amount of 40 cents (\$0.40) per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, *but before January 1, 2023* *2022*, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent (\$0.01) per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 90 percent of the face value within 90 days after filing the return; however, for credit earned in tax years beginning on and after January 1, 2002, *but before January 1, 2022*, such excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 85 percent of the face value within 90 days after filing the return. The remaining 10 or 15 percent of the value of the credit being redeemed, as applicable for such tax year, shall be deposited by the Commissioner in a regional economic development fund administered by the Virginia Coalfield Economic Development Authority to be used for regional economic diversification in accordance with guidelines

developed by the Virginia Coalfield Economic Development Authority and the Virginia Economic Development Partnership.

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433.1 or 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999.

F. The amount of credit allowed pursuant to subsection A shall be the amount of credit earned multiplied by the person's employment factor. The person's employment factor shall be the percentage obtained by dividing the total number of coal mining jobs of the person filing the return, including the jobs of the contract operators of such person, as reflected in the annual tonnage reports filed with the Department of Mines, Minerals and Energy for the year in which the credit was earned by the total number of coal mining jobs of such persons or operators as reflected in the annual tonnage reports for the year immediately prior to the year in which the credit was earned. In no case shall the credit claimed exceed that amount set forth in subsection A.

G. The tax credit allowed under this section shall be claimed in the third taxable year following the taxable year in which the credit was earned and allowed.

H. As used in this section, "metallurgical coal" means bituminous coal used for the manufacture of iron and steel with calorific value of 14,000 BTUs or greater on a moisture and ash free basis.

§ 58.1-2626.1. The Virginia Coal Employment and Production Incentive Tax Credit.

A. For the tax years beginning on and after January 1, 1988, *but before January 1, 2022*, every corporation in the Commonwealth doing the business of furnishing water, heat, light, or power to the Commonwealth or its citizens, whether by means of electricity, gas, or steam shall be allowed a credit against the tax imposed by § 58.1-2626 in the following amount: ~~one dollar~~ \$1 per ton for each ton of coal purchased and consumed by such corporation in excess of the number of tons of Virginia coal purchased by such corporation in 1985, provided such coal was mined in Virginia as certified by the producer of such coal. This credit shall be prorated equally against the corporation's estimated payments made in September and December and the final payment.

B. For tax years beginning on and after January 1, 1989, *but before January 1, 2022*, every corporation in the Commonwealth doing the business of furnishing water, heat, light, or power to the Commonwealth or its citizens, whether by means of electricity, gas, or steam shall be allowed additional credit against the tax imposed by § 58.1-2626 in the following amount: ~~one dollar~~ \$1 per ton for each ton of coal purchased and consumed by such corporation, provided such coal was mined in Virginia as certified by such seller. The credit shall be prorated equally against the corporation's estimated payments made in September and December and the final payment.

C. ~~[Expired.]~~

2. That if tax credits were earned under the provisions of § 58.1-433.1 of the Code of Virginia prior to January 1, 2022, such credits may continue to be claimed on a return for taxable years on and after January 1, 2022, but only pursuant to the applicable carryover period specified in § 58.1-433.1 of the Code of Virginia. A taxpayer claiming credits pursuant to the provisions of this enactment shall not claim more than \$1 million in credits for a single taxable year. No taxpayer shall amend a return for a taxable year prior to January 1, 2022, to claim more in credits earned under the provisions of § 58.1-433.1 of the Code of Virginia than such taxpayer stated on such return before amending it.

3. That the Department of Mines, Minerals and Energy, in coordination with the Virginia Coalfield Economic Development Authority, the Virginia Economic Development Partnership Authority, the Virginia Employment Commission, the Southwest Virginia Workforce Development Board, and the Council on Environmental Justice, shall convene a stakeholder process, which shall include public meetings and public comment opportunities, and provide an interim report to the General Assembly no later than September 1, 2021, and a final report on December 1, 2021, on recommendations for how the Commonwealth can provide economic transition support to the coalfield region, with a particular focus on workforce redevelopment, economic diversification, reclamation of coal-impacted lands and brownfields, community revitalization, infrastructure improvements, and clean energy development.

CHAPTER 555

An Act to amend and reenact §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.1:8, relating to purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties.

[H 1992]

Approved April 15, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become

effective, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.1:8 as follows:

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.
1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, ~~or~~ 18.2-308.1:7, *or 18.2-308.1:8* or the substantially similar law of any other state or of the United States.
2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.
3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.
4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.
5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.
6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.
7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.
8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.
9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application.
10. An alien other than an alien lawfully admitted for permanent residence in the United States.
11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.
12. An individual who is a fugitive from justice.
13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.
14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.
15. An individual who has been convicted of stalking.
16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.
17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.
18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.
19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.
20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or

former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery of a family or household member; penalty.

A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the offense of assault and battery of a family or household member or (ii) an offense substantially similar to clause (i) under the laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

B. For the purposes of this section, "family or household member" means (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; or (iii) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time.

C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for three years following the date of the conviction at which point the person convicted of such offense shall no longer be prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A. Such person shall have his firearms rights restored, unless such person receives another disqualifying conviction, is subject to a protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by law from purchasing, possessing, or transporting a firearm.

§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain persons.

Any person who sells, barter, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-308.1:4, § 18.2-308.1:6 or 18.2-308.2, subsection B of § 18.2-308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony.

Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:8 is guilty of a Class 1 misdemeanor.

However, this prohibition shall not be applicable when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of § 18.2-308.1:1, or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain persons; penalties.

~~A.~~ Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-308.1:4, § 18.2-308.1:6 or 18.2-308.2, subsection B of § 18.2-308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony.

Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:7 or 18.2-308.1:8 is guilty of a Class 1 misdemeanor.

However, this prohibition shall not be applicable when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of § 18.2-308.1:1 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport, possess, or receive firearms pursuant to the laws of the United States.

~~B.~~ Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:7 is guilty of a Class 4 misdemeanor.

§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that if committed by an adult would be a felony if committed by an adult or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or

transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's third business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's third business day" shall not include December 25.

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of

State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law.

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

F. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any

law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

I. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of \$5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of

any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;

h. A person who holds a valid Virginia permit to carry a concealed handgun;

i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or

j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense *or a misdemeanor offense listed in § 18.2-308.1:8* or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that *if committed by an adult* would be a felony *if committed by an adult or a misdemeanor listed in § 18.2-308.1:8*; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security number and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the

United States Department of Defense that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's third business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's third business day" does not include December 25.

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law.

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section, shall be guilty of a Class 2 misdemeanor.

F. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided by the Department of State Police pursuant to this section.

H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade, or transfer of firearms.

J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of \$5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs, or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate, or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the

handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;

h. A person who holds a valid Virginia permit to carry a concealed handgun;

i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or

j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

§ 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for employees of a gun dealer to transfer firearms; exemptions; penalties.

A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the dealer shall submit the employee's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the request.

C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn and notarized affidavit to the Department of State Police on a form provided by the Department, stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the ATF. The affidavit may also contain the names of any employees that have been subjected to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number, state the name of each person requesting the exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

D. The Department of State Police, upon receipt of an individual's record or notification that no record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed prior to July 1, 2000.

E. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the dealer shall not be disseminated except as provided in this section.

F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his option, decides to pay such cost.

G. Upon receipt of the request for a criminal history record information check, the State Police shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller for a potentially disqualifying crime.

H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at any event required to be registered as a gun show.

I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2, shall be guilty of a Class 2 misdemeanor.

J. Any person willfully and intentionally making a materially false statement on the personal descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this section shall be guilty of a Class 1 misdemeanor.

K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee of a firearm lawfully transferred pursuant to this section.

L. The provisions of this section requiring a seller's background check shall not apply to a licensed dealer.

M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in subdivision C 1 shall be guilty of a Class 5 felony.

N. For purposes of this section:

"Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Place of business" means any place or premises where a dealer may lawfully transfer firearms.

"Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background check in accordance with the provisions of § 18.2-308.2:2.

"Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer ownership or permanent possession of a firearm at the place of business of a dealer.

§ 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees of a gun dealer to transfer firearms; exemptions; penalties.

A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the dealer shall submit the employee's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the request.

C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn and notarized affidavit to the Department of State Police on a form provided by the Department, stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the ATF. The affidavit may also contain the names of any employees that have been subjected to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number, state the name of each person requesting the exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

D. The Department of State Police, upon receipt of an individual's record or notification that no record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed prior to July 1, 2000.

E. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the dealer shall not be disseminated except as provided in this section.

F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his option, decides to pay such cost.

G. Upon receipt of the request for a criminal history record information check, the State Police shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller for a potentially disqualifying crime.

H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at any event required to be registered as a gun show.

I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2, shall be guilty of a Class 2 misdemeanor.

J. Any person willfully and intentionally making a materially false statement on the personal descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this section shall be guilty of a Class 1 misdemeanor.

K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee of a firearm lawfully transferred pursuant to this section.

L. The provisions of this section requiring a seller's background check shall not apply to a licensed dealer.

M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in subdivision C 1 shall be guilty of a Class 5 felony.

N. For purposes of this section:

"Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Place of business" means any place or premises where a dealer may lawfully transfer firearms.

"Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background check in accordance with the provisions of § 18.2-308.2:2.

"Transfer" means any act performed with intent to sell, rent, barter, or trade or otherwise transfer ownership or permanent possession of a firearm at the place of business of a dealer.

§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in violation of law.

Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed, transported or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7, or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 556

An Act to amend and reenact § 23.1-701 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 27.1, consisting of sections numbered 2.2-2744 through 2.2-2757, relating to state-facilitated IRA savings program; establishment.

[H 2174]

Approved April 15, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-701 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 27.1, consisting of sections numbered 2.2-2744 through 2.2-2757, as follows:

CHAPTER 27.1.

STATE-FACILITATED IRA SAVINGS PROGRAM.

§ 2.2-2744. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the governing board of the Virginia College Savings Plan.

"Committee" means the Program Advisory Committee established pursuant to § 2.2-2746.

"Eligible employee" means any individual who is (i) 18 years of age or older, (ii) currently employed at least 30 hours a week, and (iii) receiving wages.

"Eligible employer" means a nongovernmental business, industry, trade, profession, or other enterprise in the Commonwealth, whether conducted on a for-profit or nonprofit basis, that employed 25 or more eligible employees, as reported to the Virginia Employment Commission pursuant to 16VAC5-32-20, or any successor regulation, for the quarter

ending December 31 and the preceding three quarters of the preceding calendar year and has been operating for at least two years prior to Program implementation. "Eligible employer" does not include an employer that sponsors, maintains, or contributes to an automatic enrollment payroll deduction IRA or a qualified retirement plan in compliance with federal law for its employees, including plans qualified under § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code. An employer shall become an eligible employer at any time if it meets the eligibility requirements under this chapter.

"Fee" means any investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees, and other costs necessary to run the Program.

"Individual retirement account" or "IRA" means a Roth or traditional individual retirement account or annuity under § 408 or 408A of the Internal Revenue Code.

"Participating employee" means any eligible employee who is enrolled in the Program.

"Participating employer" means an employer that facilitates a payroll deposit retirement savings agreement pursuant to this chapter for its eligible employees.

"Participating individual" means any individual who enrolls in the Program independent of an employment relationship with an eligible employer; maintains an account in the Program, and is not a participating employee.

"Payroll deposit retirement savings agreement" means an arrangement by which an employer allows employees to remit payroll deduction contributions to the Program.

"Plan" means the Virginia College Savings Plan.

"Program" means the state-facilitated IRA savings program established in this chapter and administered by the Plan.

"Program Trust" means the Program trust fund established by § 2.2-2752.

"Wages" means any compensation, as such term is defined in § 219(f)(1) of the Internal Revenue Code, that is paid to an eligible employee by his employer during the calendar year.

§ 2.2-2745. Program authorized.

To promote greater voluntary retirement savings for private-sector workers in a convenient and portable manner, the Plan is authorized, in accordance with this chapter, to establish a state-facilitated IRA savings program for private-sector workers. The Program shall be sponsored and administered by the Plan. In addition to the provisions of this chapter, the Program shall be subject to the provisions of Chapter 7 (§ 23.1-700 et seq.) of Title 23.1.

§ 2.2-2746. Program Advisory Committee; membership; qualifications; duties.

A. In order to assist the Board in fulfilling its duties under § 23.1-704 and this chapter and to assist the Plan's chief executive officer in directing, managing, and administering the Program, the Board shall appoint the Program Advisory Committee to provide sophisticated, objective, and prudent administrative and investment advice and direction, as requested by the Board. The Committee may develop Program recommendations for the Board and perform such other duties as the Board may delegate to the Committee.

B. The Board shall develop requirements, procedures, and guidelines regarding Committee membership.

C. Members of the Committee shall demonstrate extensive experience in one or more of the following areas: retirement plan design, retirement plan investments, domestic or international equity or fixed-income securities, cash management, alternative investments, institutional real estate investments, or managed futures.

D. Members of the Committee shall serve at the pleasure of the Board and may be removed by a majority vote of the Board.

E. Members of the Committee shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

F. The recommendations of the Committee shall not be binding upon the Board.

G. The disclosure requirements of subsection B of § 2.2-3114 shall apply to each member of the Committee who is not also a Board member.

H. The Board may appoint such other advisory committees as it deems necessary and shall set the qualifications for members of any such advisory committee by resolution.

§ 2.2-2747. Powers and duties of the Board.

The Board shall:

1. Administer the Program authorized by this chapter;
2. Invest moneys in the Program in any instruments, obligations, securities, or property deemed appropriate by the Board;

3. Develop requirements, procedures, and guidelines for the Program, including:

- a. Eligibility requirements for employers and employees, in accordance with this chapter;
- b. Procedures for enrollment and disenrollment of participating employees;
- c. Selecting whether to offer Roth IRAs, traditional IRAs, or both, and if both, which type of IRA shall be the default IRA;
- d. Default contribution rates;
- e. Default annual escalation rates;
- f. Selecting one or more investment funds in which Program participants may elect to invest their savings and a default investment fund for participants who do not make an affirmative investment election;
- g. Minimum and maximum contribution levels in accordance with applicable limits established by the Internal Revenue Code;

h. A fee structure;

- i. Procedures for noncompliance with this chapter, including development of enforcement mechanisms and penalties not to exceed \$200 per eligible employee annually;*
- j. Education and outreach campaigns to eligible employers and eligible employees; and*
- k. Procedures for enrollment and disenrollment of participating individuals;*
- 4. Enter into all contractual agreements, including contracts for legal, financial, program management, and consulting services necessary to develop and administer the Program;*
- 5. Procure insurance as determined appropriate by the Board (i) against any loss in connection with the Program's property, assets, or activities and (ii) indemnifying Board and Committee members from personal loss, accountability, or liability arising from any action or inaction as a Board or Committee member;*
- 6. Adopt regulations and procedures and perform any act or function consistent with the purposes of this chapter;*
- 7. Explore and, as appropriate, establish incentives to encourage participation in the Program by eligible employers and eligible employees, including a grant program to incentivize compliance with the Program and to defray the costs of small businesses;*
- 8. Assess the feasibility of multistate or regional agreements to administer the Program through shared administrative and operational resources and enter into those agreements if deemed beneficial to the Program;*
- 9. Establish procedures for receiving and providing data relevant to Program administration. This shall include information collected from other state agencies, including the Department of Labor and Industry, the Department of Taxation, and the Virginia Employment Commission, as appropriate;*
- 10. Accept any funds appropriated to the Program and any gifts, donations, grants, bequests, and other funds received on its behalf, including any funds made available for use in facilitating education and outreach initiatives for the Program; and*
- 11. Design and operate the Program in a manner that will cause it not to be an employee benefit plan within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974.*

§ 2.2-2748. Cooperation of other agencies.

All agencies of the Commonwealth shall cooperate as requested by the Plan in the performance of its duties under this chapter, including, unless otherwise prohibited, the sharing of relevant data as the parties shall mutually agree.

§ 2.2-2749. Board actions not a debt of the Commonwealth.

No act or undertaking of the Board is a debt or pledge of the full faith and credit of the Commonwealth or any political subdivision of the Commonwealth, and all such acts and undertakings are payable solely from the Program. The Commonwealth shall have no obligation for payment of benefits arising from this chapter.

§ 2.2-2750. Standard of care; investment and administration of the Program.

The provisions of § 23.1-706 relating to the standard of care and the investment and administration of the Plan shall apply, mutatis mutandis, to the Program authorized under this chapter.

§ 2.2-2751. Program enrollment; participating employer liability and status under the Program.

A. 1. Any employer that is not an eligible employer may facilitate the participation of its eligible employees in the Program. However, such employer shall take all steps necessary to ensure that such facilitation does not constitute an employee benefit plan regulated under Title I of the Employee Retirement Income Security Act (ERISA).

2. Any eligible employee whose employer does not facilitate his participation in the Program pursuant to subdivision 1 or any self-employed individual may participate in the Program under terms and conditions prescribed by the Board.

3. No eligible employee or self-employed individual shall be permitted to participate in the Program unless such individual has Virginia taxable income, as defined in Article 2 (§ 58.1-320 et seq.) of Chapter 3 of Title 58.1.

B. The Program shall be established and enrollment of eligible employers shall begin on July 1, 2023, or as soon thereafter as practicable. The Board shall establish an implementation timeline under which eligible employers shall enroll their eligible employees in the Program.

C. The Board shall develop a Program rollout timeline, including deadlines for the enrollment of eligible employers. The Board may alter the rollout timeline in its discretion, though in all instances any alterations of established rollout dates shall include reasonable notice to affected eligible employers.

D. Participation in the Program shall be mandatory for eligible employers. Eligible employers shall enroll in the Program in accordance with the timeline established by the Plan. Eligible employers shall facilitate a payroll deposit retirement savings agreement pursuant to this chapter for their eligible employees.

E. Each eligible employee of an eligible employer shall be enrolled in the Program unless the employee elects not to participate in the Program in a manner prescribed by the Board.

F. A participating employee may also terminate his participation in the Program at any time in a manner prescribed by the Board.

G. Participating employers shall not have any liability for a participating employee's decision to participate in or opt out of the Program or for the investment decisions of participating employees whose assets are deposited in the Program.

H. Participating employers shall not be a fiduciary, or considered to be a fiduciary, over the Program. The Program is a state-administered program, not an employer-sponsored program. If the Program is subsequently found to be preempted by any federal law or regulation, participating employers shall not be liable as Program sponsors. A participating employer shall not bear responsibility for the administration, investment, or investment performance of the Program. A participating employer shall not be liable with regard to investment returns, Program design, and benefits paid to Program participants.

I. A participating employer shall not have civil liability, and no cause of action shall arise against a participating employer, for acting pursuant to this chapter.

J. The Board shall develop and provide to participating employees and participating individuals Program summaries and other information concerning participation in the Program, including information on Program investments and fees, and the consequences of contributing to an IRA, and a statement that the Program is not an employer-sponsored retirement plan, as required by applicable law and as otherwise determined by the Board.

K. Participating employers shall retain the option at all times to set up any type of employer retirement plan, including plans qualified under § 401(a), 403(a), 403(b), 408(k), or 408(p), of the Internal Revenue Code, in which event such employer shall no longer be considered an eligible employer and shall cease facilitating contributions to the Program in accordance with such procedures as shall be established by the Board.

L. No employer shall be permitted to contribute to the Program or to endorse or otherwise promote the Program.

M. The Program shall be exempt from the provisions of subsection C of § 40.1-29.

§ 2.2-2752. Program Trust Fund.

A. There is hereby established a permanent and perpetual fund to be known as the Program Trust Fund (the Fund). The moneys in the Fund shall be (i) deemed separate and independent trust funds, (ii) segregated and accounted for separately from all other funds of the Commonwealth, and (iii) administered solely in the interests of the individuals who are participants in the Program established pursuant to this chapter.

B. The assets of IRAs established for Program participants shall be allocated to the Fund and combined for investment purposes. Fund assets shall be managed and administered for the exclusive purpose of providing benefits to Program participants and defraying reasonable expenses of administering, maintaining, and managing investments of the IRAs and the Program Trust. No property rights in Fund assets shall exist in favor of the Commonwealth or any participating employer.

C. The Board shall establish within the Fund one or more investment funds, each pursuing an investment strategy and policy established by the Board in accordance with § 2.2-2747.

D. Notwithstanding any provision to the contrary, the Fund shall be exempt from the securities registration requirements provided in Chapter 5 (§ 13.1-501 et seq.) of Title 13.1.

§ 2.2-2753. Audit and annual reports.

The Program shall be subject to the reporting requirements set forth in § 23.1-709. The Program shall be subject to the applicable provisions of the Virginia College Savings Plan Oversight Act (§ 30-330 et seq.).

§ 2.2-2754. Virginia Freedom of Information Act.

The provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) applicable to the Plan shall also apply to the Program.

§ 2.2-2755. Coverage limitations.

Nothing in this chapter or any payroll deposit retirement savings agreement entered into pursuant to this chapter shall be construed as a promise or guarantee that the expenses associated with a participating employee's or participating individual's retirement will be covered in full by contributions to or earnings on any account, nor that the contributions to or earnings on any account will be sufficient to fund any particular level of benefit upon retirement. In no event shall the Commonwealth, the Program, the Board, any Board member, or any participating employer be liable for any losses incurred by Program Trust investments or otherwise by any employee or other person as a result of participating in the Program.

§ 2.2-2756. Duty and liability of the Commonwealth.

A. The Commonwealth shall have no duty or liability to any party for the payment of any retirement savings benefits accrued by any individual under the Program. Any financial liability for the payment of retirement savings benefits in excess of funds available under the Program shall be borne solely by the entities with whom the Board contracts to provide insurance to protect the value of the Program, if applicable.

B. No Commonwealth board, commission, political subdivision, or agency, or any officer, employee, or member thereof, is liable for any loss or deficiency resulting from particular investments selected under this chapter, except for any liability that arises out of a breach of fiduciary duty.

§ 2.2-2757. Liberal construction of chapter.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other general, special, or local law, the provisions of this chapter shall control. This chapter constitutes full and complete authority, without regard to the provisions of any other law, for performing the acts authorized in this chapter and shall be liberally construed to effect the purposes of this chapter.

§ 23.1-701. Plan established; moneys; governing board.

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, and assist families and individuals to save for qualified disability expenses, the Virginia College Savings Plan is established as a body politic and corporate and an independent agency of the Commonwealth.

B. Moneys of the Plan that are contributions to savings trust accounts made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or

the United States. The savings program moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or other means authorized by officers or employees of the Plan.

C. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts, bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any other available public or private sources of funds shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

E. The Plan shall be administered by an 11-member board that consists of (i) the director of the Council or his designee, the Chancellor of the Virginia Community College System or his designee, the State Treasurer or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with voting privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in finance, accounting, law, investment management, higher education, or disability advocacy. *In addition, at least one of the nonlegislative citizen members shall have expertise in the management and administration of private defined contribution retirement plans.*

F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

G. Ex officio members of the board shall serve terms coincident with their terms of office.

H. Members of the board shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

I. The board shall elect from its membership a chairman and a vice-chairman annually.

J. A majority of the members of the board shall constitute a quorum.

2. That in accordance with the provisions of Item 4-3.02 of the appropriation act, the Virginia College Savings Plan (the Plan) shall receive a non-interest-bearing treasury loan in an amount not to exceed \$2 million each year of each biennium to cover the costs of designing and implementing the state-facilitated IRA savings program (the Program), until such time as the Program is self-sustaining. Such loan may be renegotiated, as appropriate, and the Plan shall commence repayment with Program fees and revenues once the Program has achieved at least one year of Program cash flow positivity.

3. That the governing board of the Virginia College Savings Plan (the Board) shall convene a group of stakeholders to identify and make recommendations as to other amendments to the Code of Virginia necessary and prudent to effectuate the provisions of this act. The Board shall (i) recommend any technical amendments necessary to clarify the scope of the state-facilitated IRA savings program (the Program) and ensure compliance with law, (ii) examine the experience of other states that have enacted similar legislation, (iii) assess potential incentives to encourage participation in the Program and defray the costs of participation for small businesses, and (iv) assess the costs and benefits, to employers and to the Commonwealth, of reducing the threshold number of employees of an eligible employer under the provisions of this act. The Board shall submit its findings to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than October 31, 2021.

CERTIFICATION OF THE ACTS OF ASSEMBLY

2021 SPECIAL SESSION I

I, Suzette P. Denslow, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2021 Special Session I of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Wednesday, February 10, 2021, and adjourned sine die on Monday, March 1, 2021, and the Reconvened Session, pursuant to Section 6 of Article IV of the Constitution of Virginia, convened on Wednesday, April 7, 2021, and adjourned sine die on Wednesday, April 7, 2021.

Suzette P. Denslow
Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth

Note: Except as otherwise provided therein, all Acts of the 2021 Special Session I of the General Assembly, including the Reconvened Session, became effective at the first moment of July 1, 2021.

The Acts contained in Chapters 516-519 became chapters of the Acts of Assembly on March 31, 2021, pursuant to Section 1 of Article XII of the Constitution of Virginia and §§ 30-13, 30-14, and 30-19 of the Code of Virginia. These chapters, agreed to by the General Assembly as either a House Joint Resolution or Senate Joint Resolution, are not subject to presentation, review, and action by the Governor pursuant to Section 6 of Article V of the Constitution of Virginia.

The Acts contained in Chapters 520-552 became law without the signature of the Governor on April 7, 2021, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Acts contained in Chapters 553-556 were signed by the Governor on April 15, 2021, all having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

**RESOLUTIONS OF THE GENERAL ASSEMBLY
2021 SPECIAL SESSION I**

HOUSE JOINT RESOLUTION NO. 522

Continuing the Joint Committee of the House Committee on Health, Welfare and Institutions; the House Committee on Public Safety; the Senate Committee on the Judiciary; and the Senate Committee on Rehabilitation and Social Services Studying Staffing Levels, Employment Conditions, and Compensation at the Virginia Department of Corrections. Report.

Agreed to by the House of Delegates, January 29, 2021

Agreed to by the Senate, February 16, 2021

WHEREAS, House Joint Resolution No. 29 (2020) established the Joint Committee of the House Committee on Health, Welfare and Institutions; the House Committee on Public Safety; the Senate Committee on the Judiciary; and the Senate Committee on Rehabilitation and Social Services Studying Staffing Levels, Employment Conditions, and Compensation at the Virginia Department of Corrections; and

WHEREAS, the joint committee established by House Joint Resolution No. 29 (2020) was scheduled to complete its meetings by November 30, 2020, but was unable to meet during the 2020 interim due to complications related to COVID-19 and the 2020 Special Session; and

WHEREAS, it is the mission of the Virginia Department of Corrections (the Department) to enhance public safety by providing effective programs and reentry services for the supervision of sentenced offenders in a humane, cost-effective manner, consistent with sound correctional principles and constitutional standards; and

WHEREAS, the cornerstone of the Department is its employees, who embrace a common purpose and a commitment to the highest professional standards and excellence in public service; and

WHEREAS, in order to fulfill its mission and serve as a model correctional agency, it must maintain adequate staffing levels and a responsible commitment to its employees to be a satisfying, rewarding, and safe place to work and grow professionally; and

WHEREAS, continuation of the joint committee's study will help to ensure that the Department has the strategies and resources necessary to ensure that these objectives are met; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Committee of the House Committee on Health, Welfare and Institutions; the House Committee on Public Safety; the Senate Committee on the Judiciary; and the Senate Committee on Rehabilitation and Social Services Studying Staffing Levels, Employment Conditions, and Compensation at the Virginia Department of Corrections be continued. The joint committee shall elect a chairman and vice-chairman from among its membership.

In conducting its study, the joint committee shall study staffing levels, rates of staff turnover, employment conditions, employee health and safety, and employee compensation at the Department.

Administrative staff support shall continue to be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint committee shall continue to be provided by the Division of Legislative Services. Technical assistance shall continue to be provided by the Department. All agencies of the Commonwealth shall provide assistance to the joint committee for this study, upon request.

The joint committee shall be limited to four meetings for the 2021 interim, and the direct costs of this study shall not exceed \$14,200 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint committee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint committee shall be adopted if a majority of the House members or a majority of the Senate members of the joint committee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint committee.

The joint committee shall complete its meetings by November 30, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2022 Regular Session of the General Assembly. The executive summary shall state whether the joint committee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2021 interim.

HOUSE JOINT RESOLUTION NO. 525

Authorizing, and directing the submission to the Joint Committee of Congress on the Library, that the vacant spot of the Commonwealth in the National Statuary Hall Collection at the United States Capitol be filled with a statue to commemorate Barbara Rose Johns.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, pursuant to 2 U.S.C. § 2131, each state is permitted to provide and furnish to the United States Capitol two statues, in marble or bronze, of deceased persons who have been prominent citizens of the state for placement in the National Statuary Hall Collection; and

WHEREAS, currently, Virginia is represented in the National Statuary Hall Collection by George Washington and one vacant position; and

WHEREAS, pursuant to 2 U.S.C. § 2132, a state may request that the Joint Committee of Congress on the Library approve the replacement of any statue the state has provided for display in the National Statuary Hall Collection at the United States Capitol; and

WHEREAS, pursuant to Chapters 1098 and 1099 of the Acts of Assembly of 2020, the Commission for Historical Statues in the United States Capitol was established to recommend to the General Assembly a replacement statue and to provide for the selection of a sculptor and the submission of the Commonwealth's request to the Joint Committee of Congress on the Library for approval to replace the Robert E. Lee statue in the National Statuary Hall Collection at the United States Capitol; and

WHEREAS, on July 24, 2020, the Commission for Historical Statues in the United States Capitol unanimously approved a motion to recommend that the Robert E. Lee statue be removed from the Statuary Hall Collection at the United States Capitol; and

WHEREAS, on July 31, 2020, the Honorable Governor Ralph S. Northam sent an official letter to the Architect of the Capitol requesting approval to immediately remove the Robert E. Lee statue from the National Statuary Hall Collection at the United States Capitol, and on December 21, 2020, the statue was removed; and

WHEREAS, on December 16, 2020, the Commission for Historical Statues in the United States Capitol recommended that a statue of Barbara Rose Johns should represent the Commonwealth of Virginia in the National Statuary Hall Collection at the United States Capitol; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Committee of Congress on the Library be requested to fill the Commonwealth's vacant spot in the National Statuary Hall Collection at the United States Capitol with a statue to commemorate Barbara Rose Johns. The authorization of the Commonwealth, subject to written approval by the Governor, is in accordance with the recommendation by the Commission for Historical Statues in the United States Capitol.

The subject of the replacement, Barbara Rose Johns of Prince Edward County, was a civil rights hero and organizer of the strike that ignited public school desegregation in the Commonwealth and the United States.

The Commonwealth will select a sculptor, coordinate design of the statue with the Architect of the Capitol, and submit the statue commemorating Barbara Rose Johns for acceptance into and placement in the National Statuary Hall Collection at the United States Capitol as soon as possible.

HOUSE JOINT RESOLUTION NO. 526

Establishing a joint subcommittee to study comprehensive campaign finance reform. Report.

Agreed to by the House of Delegates, January 29, 2021

Agreed to by the Senate, February 16, 2021

WHEREAS, total candidate expenditures in 20 House Districts and 10 Senate Districts neared or exceeded \$1 million in 2019, with five such races nearing or exceeding \$4 million; and

WHEREAS, the total spending by candidates in the 2017 race for Governor climbed past the \$65 million mark; and

WHEREAS, spiraling campaign costs force officeholders and candidates to focus time and efforts on fundraising rather than governing; and

WHEREAS, pressures exerted by expensive campaigns make larger contributions and their donors more important; and

WHEREAS, these pressures test the integrity of the candidates who ask for money and the donors who respond; and

WHEREAS, the Commonwealth has relied on disclosure by candidates and political committees to keep the process free from corruption; and

WHEREAS, the Commonwealth has declined to impose limits on campaign contributions or to audit or examine campaign disclosure reports for compliance; and

WHEREAS, during the 2020 election voters in four states demonstrated the public's appetite for campaign finance reform by approving referenda implementing campaign finance policies that control the flow of money into politics, including imposing or lowering political contribution limits, publicly financing campaigns, and requiring more detailed financial disclosure for donors and committees they contribute to; and

WHEREAS, more than 20 years ago, in *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000), the Supreme Court of the United States upheld Missouri's law limiting contributions to statewide candidates to \$1,075, clearing the way for states and localities to enact reasonable contribution limits so long as such limits do not prevent a candidate from amassing sufficient funds for effective advocacy; and

WHEREAS, the increasing costs of political campaigns and anticipated campaign finance experiments in other states all combine to justify a study of the campaign finance laws in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study comprehensive campaign finance reform. The joint subcommittee shall have a total membership of 14 members that shall consist of 10 legislative members and four nonlegislative citizen members. Members shall be appointed as follows: six members of the House of Delegates, one of whom shall be the chair of the House Committee on Privileges and Elections and five of whom shall be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; four members of the Senate, one of whom shall be the chair of the Senate Committee on Privileges and Elections and three of whom shall be appointed by the Senate Committee on Rules; two nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; one nonlegislative citizen member to be appointed by the Senate Committee on Rules; and one nonlegislative citizen member to be appointed by the Governor. Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall examine the costs of campaigning in the Commonwealth, the effectiveness of the Commonwealth's present disclosure laws and their enforcement, the constitutional options available to regulate campaign finances, and the desirability of specific revisions in the Commonwealth's laws, including the implementation of contribution limits, all with the aim of promoting the integrity of, and public confidence in, the Commonwealth's campaign finance system.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Elections. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2021 interim, and the direct costs of this study shall not exceed \$22,400 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by October 1, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than November 1, 2021. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and the report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2021 interim.

HOUSE JOINT RESOLUTION NO. 527

Requesting the Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, to study the sale and use of invasive plant species. Report.

Agreed to by the House of Delegates, February 18, 2021

Agreed to by the Senate, February 16, 2021

WHEREAS, an invasive plant species is a plant that originates outside a region and causes damage to the environment, the economy, and human health after its introduction to a new region; and

WHEREAS, landscaping with invasive plants causes economic and environmental damage and impinges on the rights of neighbors on whose properties the plants encroach; and

WHEREAS, Virginia residents, state agencies, and local governments spend substantial amounts of money each year on the removal of invasive plants, many of which are still being offered for sale in the retail, landscape, greenhouse, and nursery industry, which exacerbates the problem; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, be requested to study the sale and use of invasive plant species. The study shall focus on sales in the retail, landscape, greenhouse, and nursery industries and consider measures to reduce or eliminate the sale and use of invasive plant species in the Commonwealth and promote the sale and use of native plants.

In conducting its study, the Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, may convene a work group that includes the Department of Forestry, the Virginia Department of Transportation, the Department of Wildlife Resources, the Virginia Native Plant Society, Blue Ridge PRISM, the Audubon Society of Northern Virginia, the Virginia Nursery and Landscape Association, the Virginia Agribusiness Council, the Virginia Farm Bureau Federation, the Virginia Chapter of the American Society of Landscape Architects, an individual from the School of Plant and Environmental Sciences at the Virginia Polytechnic Institute and State University who has expertise in invasive species, local government associations, and such other stakeholders as the Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, deem appropriate.

The Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, shall direct the work group to examine measures to reduce, mitigate, and eliminate the continued sale and use of invasive species as identified in the list of Virginia invasive plant species maintained by the Department of Conservation and Recreation. The work group shall evaluate measures including (i) labeling plants as invasive plant species at the point of sale; (ii) taxing the sale of invasive plant species and applying revenues to the removal of invasive plant species or the restoration of sites for native habitat; (iii) adding invasive plant species currently being offered for sale to the list of plants declared to be noxious weeds by the Board of Agriculture and Consumer Services through regulations adopted pursuant to Chapter 8 (§ 3.2-800 et seq.) of Title 3.2 of the Code of Virginia (the Noxious Weed List); (iv) supporting education and outreach, including state partnerships with nonprofit organizations dedicated to the preservation of Virginia's natural heritage, regarding the reduction of the use of invasive plant species and the promotion of the use of noninvasive or native plant species as substitutes; and (v) introducing measures to increase the use of native plants on properties and projects owned by localities or the Commonwealth.

The Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, shall direct the work group to make recommendations regarding (a) statutory changes and (b) changes to regulations or guidance documents adopted by relevant agencies, including changes related to the placement of plant species on the Noxious Weed List.

All agencies of the Commonwealth shall provide assistance to the Department of Conservation and Recreation and the Virginia Department of Agriculture and Consumer Services for this study, upon request.

The Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, shall complete its meetings by November 30, 2021, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2022 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 537

Recognizing that racism is a public health crisis in Virginia.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, as the site where the first enslaved African people arrived in what is now the United States, the epicenter of the American slave trade, and the former capital of the Confederacy, Virginia has a long and embedded history of racism, particularly against African Americans; and

WHEREAS, the American Public Health Association defines "racism" as a social system with multiple complex dimensions, including internalized or interpersonal individual racism and institutional or structural systemic racism, which unfairly disadvantages some individuals and communities, unfairly advantages other individuals and communities, and saps the strength of the whole society through the waste of human resources; and

WHEREAS, systemic racism has manifested as a determinant to public health through persistent racial disparities in criminal justice, housing, education, health care, employment, worker protections, climate, outdoor access, food access, and technology; and

WHEREAS, more than 100 studies have linked racism to negative health outcomes, including research supporting that the cumulative experience of racism throughout one's life can induce chronic stress and chronic health conditions that may lead to otherwise preventable deaths; and

WHEREAS, many communities of color suffer from increased exposure to environmental hazards, poor air quality, lack of access to safe and affordable opportunities for outdoor recreation, lack of mental health services, and lack of educational and career prospects; and

WHEREAS, specifically, African American women are up to four times more likely to die of pregnancy-related complications than white women, African American men are more than twice as likely to be killed by police as white men, and the average life expectancy of African Americans is four years lower than the rest of the United States population; and

WHEREAS, racial health disparities have been on display during the COVID-19 pandemic, with African Americans more likely to be hospitalized by the virus and more than twice as likely to die from the virus as Caucasians; and

WHEREAS, the impact of systemic racism clearly rises to the definition of "crisis" proposed by epidemiologist Sandro Galea: "The problem must affect large numbers of people, it must threaten health over the long-term, and it must require the adoption of large-scale solutions"; and

WHEREAS, many local, regional, state, and national entities have recognized racism as a public health crisis; and

WHEREAS, Virginia is home to many ethnically and racially diverse communities that are subject to individual or systemic racism; and

WHEREAS, it is critical to engage with citizens, community partners, and stakeholders in the education, employment, housing, health care, and criminal justice fields to raise awareness of these issues and develop practical solutions; and

WHEREAS, there are numerous steps that Virginia can take to address systemic racism and its impact on public health, including:

1. Expand the charge of the Virginia Department of Health's Office of Health Equity to address racism as a public health crisis to ensure that statewide policy efforts are analyzed through an intersectional race equity lens and offer funding recommendations;

2. Retain the Commission to Examine Racial Inequity in Virginia Law as a permanent commission;

3. Require training for elected officials, staff members, and state employees on how to recognize and combat implicit biases;

4. Establish a glossary of terms and definitions concerning racism and health equity; and

5. Promote community engagement, actively engage all citizens on issues of racism, and provide tools to engage actively and authentically with communities of color; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby recognize that racism is a public health crisis in Virginia; and, be it

RESOLVED FURTHER, That relevant state entities, including the Virginia Department of Health and its Office of Health Equity, be encouraged to consider steps to address systemic racism and its impact on public health; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates transmit copies of this resolution to the Commissioner of the Virginia Department of Health, the Office of Health Equity, and the Commission to Examine Racial Inequity in Virginia Law so that they may be apprised of the sense of the General Assembly in this matter.

HOUSE JOINT RESOLUTION NO. 538

Recognizing that access to clean, potable, and affordable water is a necessary human right.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, water is a public good that is held by the Commonwealth as a public trust, not as a commodity, but many Virginians have been and continue to be locked out of equitable water sources due to affordability challenges; and

WHEREAS, United Nations standards suggest that total expenditures on water and sanitation services, together with any needed alternative source of clean water, should not exceed three to five percent of household income; and

WHEREAS, the lack of access to drinking water and water-related illnesses disproportionately impact low-income communities and communities of color, and all efforts must be made to ensure public access to and affordability of water for private use by all residents of the Commonwealth; and

WHEREAS, the realities of the COVID-19 pandemic have exacerbated and amplified the critical importance of water as a quality of life issue; in some cases, access to safe water may be the difference between sickness and health or life and death; and

WHEREAS, in addition, climate change has resulted in challenges to accessibility and affordability of water, with freshwater and groundwater increasingly threatened by storm surges, sea level rise, and drought; and

WHEREAS, the Commonwealth has a responsibility to promote and protect all human rights, which are universal, indivisible, interdependent, and interrelated, and must be treated in a fair and equal manner, on the same footing and with the same emphasis; and

WHEREAS, equitable access to safe drinking water and sanitation is an integral component of the realization of all human rights; the Commonwealth must protect its water resources and ensure the ability of its residents to access and afford water for growing food, cooking, bathing, and drinking; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly recognize that:

1. Access to clean, potable water in amounts that will ensure an acceptable standard of living is a necessary human right;
2. The use of water for personal and domestic uses, such as drinking, sanitation, and food preparation, should be prioritized over the use of water by commercial or industrial entities;
3. Effective strategies should be used by state agencies to limit contamination of water by residents, but most importantly to ensure the reduction of pollution by commercial or industrial entities, and mitigate the impact of climate change on the Commonwealth's freshwater resources;
4. Direct or indirect costs to connect, deliver, and provide water should not be a hindrance to the access of water, and the costs of access to water should not compromise the ability to pay for other essential items, such as food, housing, and health care, so that no one is deprived of water because of inability to pay;
5. Access to water for schools currently without adequate safe drinking water should be addressed as a matter of urgency;
6. Relevant state agencies are strongly encouraged to consider that water is a human right when revising, adopting, or establishing policies and regulations, especially when those policies are pertinent to personal and domestic uses;
7. A statewide water affordability program would ensure that every household can afford to pay its water, wastewater, and stormwater bills based on the household's income through percentage of income payment plans with arrears management;
8. Water service disconnections for nonpayment are contrary to promoting public welfare and public health, and the Commonwealth must protect vulnerable populations, including seniors, youths, and medically compromised individuals, from water service disconnections; and
9. The act of unauthorized reconnections of water services that were disconnected for an inability to pay should be decriminalized; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to Virginia Interfaith Power & Light and Food & Water Watch, requesting that the organizations further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia that further consideration of this matter is warranted.

HOUSE JOINT RESOLUTION NO. 542

Requesting the Department of Rail and Public Transportation to study transit equity and modernization in the Commonwealth. Report.

Agreed to by the House of Delegates, February 25, 2021

Agreed to by the Senate, February 27, 2021

WHEREAS, public transit is vital for the equitable growth of the Commonwealth's economy, transportation infrastructure, and sustainability efforts; and

WHEREAS, people across the Commonwealth rely on public transit to reach employment opportunities, socialize with friends and family, connect with their communities, and meaningfully participate in our society; and

WHEREAS, many transportation systems in the Commonwealth lack the necessary infrastructure to provide essential public transit needs; and

WHEREAS, in order to make public transit in the Commonwealth a world-class transportation system, we must analyze equity issues as we focus on improvements, increased efficiency, and modernization; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Rail and Public Transportation be requested to study transit equity and modernization in the Commonwealth.

In conducting its study, the Department of Rail and Public Transportation shall complete a needs assessment focusing on the equitable delivery of transportation services and modernization of transit in the Commonwealth. The Department of Rail and Public Transportation, with the cooperation of all transit agencies that receive funding pursuant to subdivision D 1 of § 33.2-1526.1 of the Code of Virginia, shall study of transit accessibility, adequacy of transit infrastructure, transit electrification, implementation of emerging technology, transit safety, and transit system engagement. The Department of Rail and Public Transportation shall place particular emphasis on transit services and engagement opportunities for underserved and underrepresented communities.

All agencies of the Commonwealth shall provide assistance to the Department of Rail and Public Transportation for this study, upon request.

The Director of the Department of Rail and Public Transportation shall submit to the Governor and the General Assembly an interim report containing an executive summary of its activity and work no later than December 1, 2021, and a final report

containing an executive summary of its activities and recommendations no later than August 1, 2022. Such reports shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 562

Designating August 31, in 2021 and in each succeeding year, as International Overdose Awareness Day in Virginia and directing that flags be lowered to half-staff on August 31.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, addiction is a medical disease related to substance use disorder, and many individuals suffering from addiction may accidentally or intentionally consume an excessive dose of dangerous substances, sometimes resulting in death; and

WHEREAS, according to the Centers for Disease Control and Prevention, more than 770,000 Americans died from drug overdoses between 1999 and 2019, and the total number of deaths per year has more than quadrupled in that time; and

WHEREAS, according to the Department of Health, fatal drug overdose was the leading cause of unnatural death in the Commonwealth from 2013 through the first quarter of 2020, with opioid use playing a significant role in the high rate of overdose deaths; and

WHEREAS, Virginia accounts for hundreds of overdose deaths each year, with thousands more individuals affected by addiction either personally or through family members or friends; and

WHEREAS, International Overdose Awareness Day sends a clear message to people currently suffering from addiction that they have not been forgotten and acknowledges the grief felt by families and friends remembering individuals who have died or suffered permanent injury as a result of addiction and drug overdose; and

WHEREAS, International Overdose Awareness Day raises awareness about the prevalence of addiction and provides an opportunity to encourage further discussion, to implement new policies and remove barriers to treatment and overdose prevention, and to address the evolving need for support and resources relating to substance use disorder; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate August 31, in 2021 and in each succeeding year, as International Overdose Awareness Day in Virginia; and, be it

RESOLVED FURTHER, That the United States and Virginia flags be flown at half-staff on August 31 in memory of those who have lost their lives to addiction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Department of Health so that members of the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 563

Directing the Division of Legislative Services, in conjunction with the Department of Taxation, to establish a work group to assess the feasibility of transitioning to a unitary combined reporting system for corporate income tax purposes.

Agreed to by the House of Delegates, January 29, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, almost all corporations conduct business beyond the confines of a single state; and

WHEREAS, it is common for corporations to be engaged in multiple businesses and to utilize different entities, subsidiaries, and affiliates in the conduct of their operations; and

WHEREAS, of the 44 states and the District of Columbia that levy a corporate income tax, 29 have adopted unitary combined reporting to treat multistate members and operations of unitary business enterprises as if they were a single company in the determination of the amount of corporate tax liability under the state's corporate income tax; and

WHEREAS, 13 of these 29 states have changed to unitary combined reporting in the last 15 years; and

WHEREAS, Virginia is one of the 20 states that treat each corporation as a separate taxpayer in the determination of corporate tax liability; and

WHEREAS, under separate filing, Virginia generally requires corporations to use a three-factor formula of property, payroll, and double-weighted sales in Virginia to apportion the corporate tax liability with nexus in Virginia; and

WHEREAS, other special apportionment provisions have been adopted by the General Assembly for various entities, including motor carriers, financial corporations, construction corporations, railway companies, manufacturing companies, retail companies, and taxpayers with enterprise data center operations; and

WHEREAS, changing to unitary combined filing will affect corporations differently; and

WHEREAS, adopting unitary combined reporting will require changes to compliance oversight and administration by the Department of Taxation; and

WHEREAS, combining losses of affiliated taxpayers may offset taxable profits of an entity with Virginia nexus resulting in reduced Virginia corporate tax revenue or, in contrast, combining the contribution of business activities in other states with affiliates in Virginia may increase Virginia corporate tax revenue; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Division of Legislative Services, in conjunction with the Department of Taxation, be directed to establish a work group to assess the feasibility of transitioning to a unitary combined reporting system for corporate income tax purposes. The work group of stakeholders shall assess the administrative feasibility, the impact on major classifications of corporations operating in Virginia, the impact on corporate expansion within and into Virginia, and the projected impact on Virginia's tax revenue as a result of adopting corporate income tax unitary combined reporting. The Secretary of Finance, the Secretary of Commerce and Trade, and the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations shall be represented on the work group and shall participate in selecting its members.

The work group shall identify and make recommendations as to any legislation necessary should Virginia transition to unitary combined reporting, including the repeal of obsolete provisions and amendments to existing provisions of the Code of Virginia. The work group also shall identify the different legal authorities and requirements that would apply to corporations under a unitary combined reporting system and identify and solicit input from corporations that may be affected by such a transition. The work group shall also identify, to the extent possible, the fiscal impact to Virginia of transitioning to a unitary combined corporate reporting system.

The work group shall submit a summary of its findings, recommendations, and a draft of any recommended legislation to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations no later than November 1, 2021.

HOUSE JOINT RESOLUTION NO. 567

Directing the Joint Legislative Audit and Review Commission to study increasing the progressivity of Virginia's individual income tax system. Report.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 16, 2021

WHEREAS, the individual income tax should be based on the fundamental principles of fairness and progressivity; and
WHEREAS, the Virginia individual income tax made up 69 percent of the general fund revenues for fiscal years 2020 through 2022, and changes to it can have major budgetary impacts; and

WHEREAS, Virginia does not collect any tax from taxpayers whose Virginia adjusted gross income is less than \$11,950 for an individual and \$23,900 for joint filers, and these zero tax bracket amounts have not changed since 2012; and

WHEREAS, after subtracting personal exemptions, deductions, and credits, the taxable income that remains above the zero tax bracket threshold is taxed at rates of two percent of the amount that is \$3,000 or less; three percent of the amount in excess of \$3,000 but no more than \$5,000; five percent of the amount in excess of \$5,000 but no more than \$17,000; and 5.75 percent of any taxable income over \$17,000, and these dollar thresholds and rates have not changed since 1990; and

WHEREAS, Virginia provides personal exemptions to reduce the taxable income for state income tax purposes, including those for dependent children and for seniors and blind taxpayers, while other states have moved away from income tax exemptions to avoid choosing who among a wide variety of taxpayers deserves such a tax break; and

WHEREAS, the standard deduction primarily results in alleviating tax liabilities of low-income and moderate-income individuals who do not have the necessary income to make expenditures on items that could be deducted; and

WHEREAS, as the federal standard deduction has grown to be much greater than Virginia's, a number of middle-income taxpayers must pay more in Virginia taxes to achieve the lowest combined federal and state tax total bill because Virginia is one of 13 jurisdictions that does not allow taxpayers to claim the standard deduction on their state returns if they itemize deductions on their federal returns; and

WHEREAS, a tax credit is a dollar-for-dollar subtraction from the taxes owed by a taxpayer, notwithstanding the income tax bracket in which the taxpayer falls, while a deduction reduces the amount of income on which taxes are calculated, which results in a higher dollar benefit the higher the tax rate; and

WHEREAS, many businesses, such as pass-through entities, S corporations, limited liability companies, partnerships, and sole proprietorships, are subject to the Virginia individual income tax, rather than the Virginia corporate tax, and almost all of the more than 25 individual income tax credits available to taxpayers focus on economic incentives, rather than progressivity; and

WHEREAS, only three tax credits for research and development, agricultural best management practices, and motion picture production are refundable tax credits; however, for most businesses, the value of a nonrefundable tax credit is not lost because almost all business tax credits may be carried over to future tax years; and

WHEREAS, Virginia's earned income tax credit is a principal element of progressivity and it is not refundable, which results in the lowest-income families not receiving the same dollar benefit as other qualifying taxpayers; and

WHEREAS, graduated rates assume that the higher the income, the more taxpayers can pay in taxes without undercutting basic living expenses; however, in Virginia, determination of the dollar amounts to which graduated rates apply is complicated by the fact that Virginia has the second-highest cost of living spread in the nation and basic living expenses differ greatly in different areas of the Commonwealth; and

WHEREAS, basic living expenses and the consumer price index are largely driven by the housing index, and the lower the income, the less flexibility there is to reduce housing costs; and

WHEREAS, for all income levels, since the 1940s, the cost of housing has increased more than any other category of household spending and nationally now approaches twice the amount spent on either food or transportation; nevertheless, since tax year 2018, federal tax deductions are severely reduced for local real estate taxes which, in Virginia, are the major source for funding local government services; and

WHEREAS, 16 other states and the federal government adjust tax bracket dollar amounts, zero tax thresholds, the standard deduction, and personal exemptions annually for inflation to counter their income tax structure from becoming incrementally more regressive; and

WHEREAS, numerous legislative proposals are made annually to change Virginia's income tax structure and modify its application; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study increasing the progressivity of Virginia's individual income tax system. In conducting its study, the Joint Legislative Audit and Review Commission (JLARC) shall evaluate the fiscal impact of amendments to tax brackets, tax rates, credits, deductions, and exemptions, as well as any other factors it deems relevant to making Virginia's individual income tax system more progressive and fair in response to economic dynamics. JLARC shall recommend whether the General Assembly should amend the Code of Virginia or administrative regulations of the Department of Taxation and shall make any other appropriate recommendations.

Technical assistance shall be provided to JLARC by the Department of Taxation. JLARC shall consult with staff of the House Committee on Finance, the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, and any other stakeholders deemed appropriate. All agencies of the Commonwealth shall provide assistance to JLARC for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2022, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2023 Regular Session of the General Assembly. The executive summary shall state whether JLARC intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 578

Requesting the Department of Behavioral Health and Developmental Services to study the feasibility of developing a secure, de-identified, renewable, and relational database of criminal justice, behavioral health, and other human services records to facilitate the development of more effective interventions. Report.

Agreed to by the House of Delegates, January 27, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, the analysis of linked and de-identified information contained in criminal justice, behavioral health, and other human services records can facilitate a better understanding of service trajectories and long-term outcomes of various interventions; and

WHEREAS, understanding these outcomes can help guide policy making, resulting in more effective and efficient interventions for individuals involved in the criminal justice, behavioral health, and human services systems; and

WHEREAS, development of a coordinated state strategy concerning the collection and analysis of information in such linked and de-identified information contained in criminal justice, behavioral health, and other human services records may facilitate such collection and analysis, the development of interventions, and the formulation of policies; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Behavioral Health and Developmental Services be requested to study the feasibility of developing a secure, de-identified, renewable, and relational database of criminal justice, behavioral health, and other human services records to facilitate the development of more effective interventions.

In conducting its study, the Department of Behavioral Health and Developmental Services shall convene a work group composed of representatives of the Office of the Attorney General, Office of the Executive Secretary of the Supreme Court, the Departments of Health and Social Services, the Virginia State Police, the Virginia State Compensation Board, the Institute for Law, Psychiatry and Public Policy at the University of Virginia, and such other stakeholders as the Department of Behavioral Health and Developmental Services shall deem appropriate to determine the feasibility of establishing a secure, de-identified, renewable, and relational database that combines information from records created and maintained by

criminal justice, behavioral health, and other human services agencies in the Commonwealth, which may be utilized by stakeholders to evaluate the effectiveness of existing interventions and facilitate the development of new interventions to improve outcomes.

All agencies of the Commonwealth shall provide assistance to the Department of Behavioral Health and Developmental Services for this study, upon request.

The Department of Behavioral Health and Developmental Services shall complete its meetings by November 30, 2021, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2022 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 579

Confirming an appointment by the Speaker of the House of Delegates to the Virginia Commonwealth University Health System Authority Board of Directors.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointment made by the Speaker of the House of Delegates:

Appointment to the **Virginia Commonwealth University Health System Authority Board of Directors** pursuant to § 23.1-2402 of the Code of Virginia:

Donald Gehring of **Richmond**, Virginia 23226, Member, for a term of three years beginning July 1, 2020, and ending June 30, 2023.

HOUSE JOINT RESOLUTION NO. 583

Designating June 19 through the third Monday in July, in 2021 and in each succeeding year, as Liberty Amendments Month in Virginia.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, the Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments to the Constitution of the United States, ratified between 1865 and 1920, provide voting rights and other rights that allow each citizen to participate in the governance of their state and the United States; and

WHEREAS, these four amendments provide equal protections to all citizens of the United States, regardless of race, color, sex, and the country from or method by which they or their ancestors came to the United States; and

WHEREAS, Section 1 of the Thirteenth Amendment to the Constitution of the United States reads: "Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction" and was ratified on December 6, 1865; and

WHEREAS, Section 1 of the Fourteenth Amendment to the Constitution of the United States reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws" and was ratified on July 9, 1868; and

WHEREAS, Section 1 of the Fifteenth Amendment to the Constitution of the United States reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude" and was ratified on February 3, 1870; and

WHEREAS, the Nineteenth Amendment to the Constitution of the United States reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation" and was ratified on August 18, 1920; and

WHEREAS, the United States is strengthened and enriched by the diverse cultures that have contributed and continue to contribute to the American melting pot, and these four amendments allow citizens the freedom to recognize their ancestral heritage while integrating those traditions into American culture; and

WHEREAS, the equal rights and freedoms granted by these four amendments should be recognized and celebrated; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate June 19 through the third Monday in July, in 2021 and in each succeeding year, as Liberty Amendments Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 596

Designating September, in 2021 and in each succeeding year, as Brain Aneurysm Awareness Month in Virginia.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, it is estimated that one in every 50 people in the United States has an unruptured brain aneurysm, which can lead to double vision, vision loss, loss of sensation, weakness, loss of balance, lack of coordination, and speech problems; and

WHEREAS, a brain aneurysm is often discovered when it ruptures and causes a subarachnoid hemorrhage, which can result in brain damage, hydrocephalus, stroke, and death; and

WHEREAS, each year, approximately 30,000 people in the United States suffer from ruptured brain aneurysms, many of which are fatal; and

WHEREAS, between 3,000 and 4,500 people in the United States with ruptured brain aneurysms die before reaching the hospital and survivors are often faced with life-changing disabilities; and

WHEREAS, proper screening and early diagnosis play a significant role in the treatment and survivability of brain aneurysms, and it is critical to support efforts to better understand, prevent, and treat brain aneurysms; and

WHEREAS, established in 1994, the Brain Aneurysm Foundation raises awareness of the signs, symptoms, and risk factors of brain aneurysms, provides education and support to patients and their families, and advocates for research and programs to improve patient outcomes and save lives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate September, in 2021 and in each succeeding year, as Brain Aneurysm Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Brain Aneurysm Foundation so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 604

Confirming the appointment of Hal E. Greer as Director of the Joint Legislative Audit and Review Commission.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointment made by the Joint Legislative Audit and Review Commission pursuant to § 30-57 of the Code of Virginia:

Hal E. Greer of Richmond, Virginia 23225, Director of the Joint Legislative Audit and Review Commission, effective February 1, 2021, to serve for a term of six years beginning February 1, 2021, and ending January 31, 2027.

HOUSE JOINT RESOLUTION NO. 605

Designating March 14, in 2021 and in each succeeding year, as Victims of COVID-19 Remembrance Day in Virginia.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, on March 14, 2020, James City County reported the first death from SARS-CoV-2 in the Commonwealth; and

WHEREAS, as of early January 2021, more than 361,000 Americans have died as a result of the COVID-19 pandemic, including more than 5,200 deaths in the Commonwealth; and

WHEREAS, in November and December 2020, the United States experienced periods where hundreds of thousands of new cases were reported each day, exceeding peak infection rates earlier in the COVID-19 pandemic and further exacerbating the death toll; and

WHEREAS, the actual death toll of the COVID-19 pandemic, both in the United States and around the world, could be far higher than reported due to lack of testing and discrepancies in the attribution of cause of death, especially in the earlier stages of the pandemic; and

WHEREAS, the COVID-19 pandemic has placed a significant strain on hospitals, clinics, and other health care providers, reducing the availability of beds for inpatient treatment of not only COVID-19 cases, but also other conditions not related to the pandemic; and

WHEREAS, due to enhanced safety precautions in hospitals and social distancing guidelines, millions of Americans have been unable to say goodbye to hospitalized loved ones or properly mourn lost family and friends as a result of the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic has had significant impacts on people of all ages and backgrounds, but has disproportionately affected minority communities in the United States, with African Americans, Latino Americans, Native Americans, and Asian Americans all experiencing higher rates of infection, hospitalization, and death; and

WHEREAS, in some cases, deaths by suicide have also been attributed to the COVID-19 pandemic, with individuals suffering from the effects of severe stress and isolation; and

WHEREAS, the COVID-19 pandemic represents a historic tragedy that has affected and will continue to affect generations of Americans and has been defined for many by loneliness, helplessness, and loss of community and social bonds, making a shared day of remembrance and mourning essential for the healing and recovery of the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate March 14, in 2021 and in each succeeding year, as Victims of COVID-19 Remembrance Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to family members of victims of COVID-19, on behalf of all individuals who have lost loved ones during the pandemic, so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 606

Designating November, in 2021 and in each succeeding year, as Equal Citizens Month in Virginia.

Agreed to by the House of Delegates, January 27, 2021

Agreed to by the Senate, February 23, 2021

WHEREAS, it took the participation and leadership of women from many backgrounds to win the right to vote in the United States through ratification of the Nineteenth Amendment on August 18, 1920; and

WHEREAS, on March 31, 1776, Abigail Adams wrote to her husband in Philadelphia "...in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more generous and favorable to them than your ancestors"; and

WHEREAS, in 1851, Sojourner Truth's speech "Ain't I A Woman?" sounded the cry that women, black or white, should have rights just like men; and

WHEREAS, on July 19, 1848, the first women's rights convention held in Seneca Falls launched a 72-year battle in the United States to gain the right to vote for women; and

WHEREAS, in February 1886, the Senate Select Committee on Woman Suffrage favorably reported the Susan B. Anthony Amendment to the full Senate but it suffered a lopsided defeat when finally voted on nearly a year later; and

WHEREAS, nearly three decades later, although 100 women had to be hospitalized with injuries as spectators assaulted the participants, the first national woman suffrage parade held in Washington, D.C., demonstrated the strength of women's organizations in every state supporting women's suffrage and, on March 19, 1914, resulted in a second vote to pass the Susan B. Anthony Amendment that fell only 11 votes short; and

WHEREAS, the founder of the National Woman's Party, Alice Paul, and 32 other "Silent Sentinels," who had been peacefully holding banners and placards for 10 months in front of the White House to embarrass President Woodrow Wilson into giving more than lip service to women having the right to vote, were arrested on October 20, 1917; and

WHEREAS, those arrested included a Norfolk suffragist, Pauline Adams, who served her 60-day prison sentence in the District of Columbia's Occoquan workhouse where the women were subjected to horrendous conditions and deprivation; and

WHEREAS, in October 1918, the Senate again failed to pass the Susan B. Anthony Amendment by two votes and, in February 1919, by one vote; finally, on June 4, 1919, after 41 years, the Senate approved the Nineteenth Amendment; and

WHEREAS, in September and October 1920, Maggie Walker and Ora Stokes led a drive to help more than 2,000 African American women register to vote in Virginia, but it was not until four decades after passage of the Susan B. Anthony Amendment that the Voting Rights Act of 1965 provided enforcement mechanisms to protect the right to vote of African American women and men; and

WHEREAS, the first two women were elected to the General Assembly in 1924 but by 1933 none of the six who had served remained, and it was not until 1954 that women were again elected during the struggle to keep Virginia's public schools open under Massive Resistance; and

WHEREAS, Virginia's General Assembly did not ratify the 19th Amendment until 1952 following the changed roles women assumed during World War II and, today, women serving in elected office throughout the Commonwealth represent the ever-expanding role of women embracing the potential of equal citizenship rights; and

WHEREAS, in 1920 Alice Paul said, "It is incredible to me that any woman should consider the fight for full equality won. It has just begun."; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate November, in 2021 and in each succeeding year, as Equal Citizens Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 629

Confirming the appointment by the Chief Justice of the Supreme Court of Virginia of the Chairman of the Virginia Criminal Sentencing Commission.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 22, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointment made by Chief Justice Donald W. Lemons of the Supreme Court of Virginia pursuant to § 17.1-802 of the Code of Virginia:

The Honorable Edward L. Hogshire, Judge (retired), Sixteenth Judicial Circuit, of **Charlottesville**, Virginia, Chairman of the Virginia Criminal Sentencing Commission, effective January 1, 2021, for a term of four years ending December 31, 2024, to succeed himself.

HOUSE JOINT RESOLUTION NO. 639

Commending Linda Y. Kelleher.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Linda Y. Kelleher, a respected business executive who offered her expertise as an advocate for affordable housing and senior care in Arlington County, retired in 2020 after a distinguished 46-year career; and

WHEREAS, a graduate of the Pennsylvania State University, Linda Kelleher began her career as a nationally syndicated consumer news columnist and subsequently served as director of consumer affairs for a public relations firm in Washington, D.C., and for the National Association of Home Builders; and

WHEREAS, Linda Kelleher joined the National Investor Relations Institute in 1983 and built the professional development program that produced half of the association's \$5 million budget; she became an executive vice president of the company after serving as interim chief executive officer for one year; and

WHEREAS, in 2010, Linda Kelleher became the director of community and resident services for the Arlington Partnership for Affordable Housing and supported the organization in its mission to increase the number of affordable apartments in the Washington, D.C., area through grant writing, fundraising, outreach programs, and other efforts; and

WHEREAS, from October 2015 to July 2020, Linda Kelleher served as executive director of the Arlington Retirement Housing Corporation, implementing and managing the organization's strategic plan and ensuring that senior members of the Arlington community had options for affordable independent living and assisted living; and

WHEREAS, Linda Kelleher is certified by the American Society of Association Executives and was a 2004 graduate of Leadership Arlington; she has mentored and inspired students as a master's degree program instructor at Georgetown University, where she taught a required course on ethics; and

WHEREAS, as a resident of Arlington for 35 years, Linda Kelleher has volunteered her leadership to numerous boards, committees, and other community-focused initiatives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Linda Y. Kelleher on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Linda Y. Kelleher as an expression of the General Assembly's admiration for her professional achievements and contributions to the Arlington community.

HOUSE JOINT RESOLUTION NO. 640

Commending Nancy Van Doren.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, after many years of service to the students, faculty, and staff members of Arlington Public Schools, Nancy Van Doren retired as a member of the Arlington School Board on December 31, 2020; and

WHEREAS, a graduate of Georgetown University's School of Foreign Service who holds a master's degree in management from Rensselaer Polytechnic Institute, Nancy Van Doren pursued a private-sector career in general management and communications with Connecticut National Bank, The Travelers Companies, *The Hartford Courant*, and *Newsday*; and

WHEREAS, Nancy Van Doren has lived in Arlington's Ashton Heights neighborhood for 17 years; her four children all attended Arlington Public Schools, and she played an active role in their education as president of the parent teacher association for Thomas Jefferson Middle School and a member of the Arlington County Council of PTAs; and

WHEREAS, prior to joining the Arlington School Board, Nancy Van Doren offered her expertise to Arlington Public Schools as a member of numerous advisory committees and task forces, including those on special education, transportation and student safety, family and community engagement, and career guidance; and

WHEREAS, Nancy Van Doren founded support groups for children with reading challenges and attention deficit hyperactivity disorder, and, as an accomplished world traveler who is fluent in Spanish, played a vital role in cofounding the Arlington Latino Network; and

WHEREAS, Nancy Van Doren was appointed and twice elected to the Arlington School Board beginning in September 2014; she provided her wealth of leadership experience to the organization as vice chair in 2015-2016 and chair in 2016-2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Nancy Van Doren on the occasion of her retirement from the Arlington School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy Van Doren as an expression of the General Assembly's admiration for her achievements in service to Arlington Public Schools.

HOUSE JOINT RESOLUTION NO. 641

Commending Charlene Bickford.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Charlene Bickford retired from the Arlington County Electoral Board on December 31, 2020; and

WHEREAS, Charlene Bickford served with distinction on the Arlington County Electoral Board for 23 years, including service as board chair; and

WHEREAS, Charlene Bickford served as chair of the Arlington County Democratic Committee for two terms from 1985 to 1987 and 1996 to 2000; and

WHEREAS, over the last four decades, Charlene Bickford has undertaken a wide variety of volunteer jobs for the Arlington County Democratic Committee; and

WHEREAS, Charlene Bickford was an initial member of the Roosevelt Society (now the Roosevelt-Obama Society) and later served as chair, helping the society to develop and provide a steady source of funding for the Arlington County Democratic Committee; and

WHEREAS, Charlene Bickford volunteered for many local Democratic campaigns, including one in 1974, when Democrat Joe Fisher upset long-serving Republican Joel Broyhill to become Arlington's delegate to the United States House of Representatives; and

WHEREAS, Charlene Bickford served for decades on the kitchen committee, which provided refreshments at Arlington County Democratic Committee functions; and

WHEREAS, in her professional life, Charlene Bickford is a historian who has served for many years as research project director at George Washington University; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Charlene Bickford on the occasion of her retirement from the Arlington County Electoral Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charlene Bickford as an expression of the General Assembly's admiration for her distinguished service to the Arlington County community.

HOUSE JOINT RESOLUTION NO. 642

Celebrating the life of Ann Bisson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Ann Bisson, a longtime member of the Arlington community and a former deputy commissioner of the revenue from 2004 to 2016 who diligently served local residents and businesses by helping to foster a customer-focused culture at the department, died on January 7, 2020; and

WHEREAS, a native of St. Paul, Minnesota, Ann Bisson relocated to Arlington County in 1992; she subsequently earned an associate's degree from Northern Virginia Community College and a bachelor's degree from George Mason University and was inducted into the Golden Key International Honor Society and the Beta Alpha Honor Organization; and

WHEREAS, over the course of her 30-year professional career prior to joining the Arlington County Commissioner of Revenue's office, Ann Bisson gained a wealth of expertise in health care, business sales, marketing, insurance, and estate planning and was awarded the Chartered Life Underwriter professional designation; and

WHEREAS, in 2004, Ann Bisson was appointed deputy commissioner for the business tax division by Ingrid Morroy, Arlington County Commissioner of Revenue, and she served the community in that role until retiring in 2017; and

WHEREAS, during her tenure with the Commissioner of the Revenue's office, Ann Bisson facilitated the Commissioner's proactive approach to serving Arlington County's residents and businesses; and

WHEREAS, Ann Bisson assisted the Commissioner's initiative to leverage technology that enhanced the speed, accuracy, and delivery of programs and services to the public and establish a convenient online system for business tax and license filings; and

WHEREAS, Ann Bisson received the 2015 Friend of Small Business award from the Arlington Chamber of Commerce for her resolute commitment to resolving issues that created delays for the approval of business operating licenses and permits; and

WHEREAS, Ann Bisson, a Leadership Center for Excellence graduate, served the community as an active volunteer, who offered her insights and expertise to the Organized Women Voters of Arlington, the Arlington County Civic Federation, and the Arlington Committee of 100; and

WHEREAS, Ann Bisson will be fondly remembered and greatly missed by numerous family members and many friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ann Bisson, a hardworking public servant and civic volunteer in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ann Bisson as an expression of the General Assembly's respect for her memory and admiration for her contributions to the community.

HOUSE JOINT RESOLUTION NO. 643

Celebrating the life of Nancy Todd Renfro.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Nancy Todd Renfro, who made many contributions to the Arlington community and touched countless lives as a teacher and school administrator, died on September 27, 2020; and

WHEREAS, Nancy Renfro graduated from the Edmund A. Walsh School of Foreign Service at Georgetown University and subsequently earned a master's degree from The George Washington University; and

WHEREAS, Nancy Renfro pursued a long and fulfilling career as an educator and administrator in public schools in Charles County, Maryland, and gave many students the tools they needed to become lifelong learners and achieve success in and out of the classroom; and

WHEREAS, during Nancy Renfro's tenure as principal of Milton M. Somers Middle School, the school earned national accolades with an Excellence in Education award for performance during the 1984-1985 academic year; and

WHEREAS, for 23 years, Nancy Renfro served as president of the Organized Women Voters of Arlington, a nonpartisan organization that empowers women in the community by distributing information about important civic issues; and

WHEREAS, Nancy Renfro will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nancy Todd Renfro, a respected educator and active member of the Arlington community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nancy Todd Renfro as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 644

Celebrating the life of Earl Mark Ferguson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Earl Mark Ferguson, a respected business executive who was an active and beloved member of the Richmond community, died on June 3, 2020; and

WHEREAS, born and raised in Syracuse, New York, Earl Ferguson graduated from the University of Wisconsin before earning a master's degree from the Darden School of Business at the University of Virginia; and

WHEREAS, Earl Ferguson was the founder and chief executive officer of Artcraft Management, Inc., a property development and management company that oversaw an impressive portfolio of more than 10,000 multi-family and senior housing developments as far south as Orlando, Florida, and as far north as Arlington; and

WHEREAS, dedicated to advancing his industry, Earl Ferguson served as chair of the Richmond Apartment Management Association and as a board member of the Virginia Apartment and Management Association; and

WHEREAS, Earl Ferguson had an outsized impact on the Jewish community in Richmond, serving as president of the Weinstein JCC and of Congregation Beth Ahabah, as a member of the board of trustees of the Union for Reform Judaism, and as treasurer of the Virginia Holocaust Museum; and

WHEREAS, Earl Ferguson supported the health and well-being of others through various activities and deeds; he founded the Union for Reform Judaism's 6-Points Sports Academy, a sports camp for Jewish youth, and served on the boards of the Boys & Girls Clubs of Central Virginia, the Richmond Symphony, and The Doorways, known formerly as the Hospital Hospitality House of Richmond; and

WHEREAS, in recognition of his myriad contributions to the community over many years, Earl Ferguson was recently the recipient of the Virginia Center for Inclusive Communities' Humanitarian Award; and

WHEREAS, Earl Ferguson will be fondly remembered and dearly missed by his loving wife of 42 years, Linda; his son, Jesse; his sister, Tina; and numerous other families members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Earl Mark Ferguson, an accomplished business executive and community leader whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Earl Mark Ferguson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 645

Celebrating the life of Bob Colyer, Sr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Bob Colyer, Sr., a respected entrepreneur who made many contributions to the Wise community, died on January 9, 2021; and

WHEREAS, a lifelong resident of Wise, Bob Colyer served his country as a member of the United States Army and graduated from what is now the University of Virginia's College at Wise (UVA Wise); and

WHEREAS, throughout his life, Bob Colyer owned and operated several businesses, including Colgard Mine Products and Colgard Outdoor Sports; and

WHEREAS, Bob Colyer was an avid supporter of the athletics programs at his alma mater, particularly the football team; he became known as the "morale coach" and touched the lives of countless students through his mentorship; and

WHEREAS, Bob Colyer and his wife, Margie, established the Colyer Family Scholarship at UVA Wise, and he offered his leadership and expertise to a wide range of college boards and committees; and

WHEREAS, in recognition of his legacy of service, Bob Colyer received the 2005 Volunteer of the Year Award from UVA Wise; and

WHEREAS, Bob Colyer will be fondly remembered and greatly missed by his wife, Margie; his sons, Bobby and Rod, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bob Colyer, Sr., a business owner and active member of the Wise community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bob Colyer, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 646

Celebrating the life of Dolson Barnett Anderson, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Dolson Barnett Anderson, Jr., of Richmond, a longtime postal worker and a hardworking volunteer leader at Westwood Baptist Church, died on April 22, 2020; and

WHEREAS, a native of Delaware, Dolson Anderson grew up in Baltimore and was a talented musician in high school, playing electric guitar and trombone and serving as the drum major in the marching band; and

WHEREAS, Dolson Anderson continued his education at Morgan State University, then served his country as a member of the United States Navy; and

WHEREAS, Dolson Anderson relocated to Richmond and pursued a 30-year career with the United States Postal Service and worked part time in the circulation department at the *Richmond Free Press*; and

WHEREAS, Dolson Anderson was best known in the community for his long legacy of service to the congregation of Westwood Baptist Church in Richmond's West End; over the course of three decades, he provided generous assistance with everyday maintenance at the church, and he was ordained as a deacon in 2013; and

WHEREAS, most notably, Dolson Anderson helped Westwood Baptist Church stay engaged with members of the community and share the church's message with a wider audience by recording services and working with other congregants to post them online; and

WHEREAS, Dolson Anderson served as a past president of the Westlake Hills Civic Association, was a founding member of Jahnke Road Community Development Organization, served as secretary to the Astoria Beneficial Club, and was a graduate of Leadership Metro Richmond with the Class of 2006; and

WHEREAS, Dolson Anderson will be fondly remembered and greatly missed by his beloved wife of nearly 30 years, Lynda; his daughters, Dawn, Isis, and Jana, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Dolson Barnett Anderson, Jr., a respected member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dolson Barnett Anderson, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 647

Celebrating the life of Herbert Allen Dabney III.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Herbert Allen Dabney III, a celebrated musician and beloved member of the Henrico County and Richmond communities, died on April 9, 2020; and

WHEREAS, Herbert Allen "Debo" Dabney III was a native of Manakin, graduating from Maggie L. Walker High School in Richmond in 1969 and later majoring in music at Norfolk State University; and

WHEREAS, from a young age, Debo Dabney showed both an aptitude for and an interest in the piano, practicing relentlessly as he developed an eclectic repertoire that was inspired by his love for jazz, gospel, classical, rhythm and blues, swing, and other styles; and

WHEREAS, in the 1970s, Debo Dabney performed in the funk soul group Poison, appearing on the popular television program *Soul Train* and producing multiple albums with the group, such as "On Our Way to Number 1"; and

WHEREAS, over a career spanning more than a half-century, Debo Dabney played with innumerable musicians, including as part of the Afro-jazz group Oneness of Juju and several distinguished Richmond-based jazz ensembles; and

WHEREAS, Debo Dabney was a fixture in the local music scene and a mainstay at some of Richmond's most cherished events, such as the 2nd Street Festival, the St. Elizabeth Jazz & Food Festival, and the Virginia Museum of Fine Arts' Dominion Energy Jazz Café events; and

WHEREAS, a steadfast supporter of the arts and other musicians, Debo Dabney served as music director for the Richmond Jazz Society, fostering engaging performances and educational programs to ensure the longevity of Richmond's jazz scene; and

WHEREAS, guided throughout his life by his deep and abiding faith, Debo Dabney performed before Richmond-area congregations for many years, including 20 years as the music coordinator for Trinity Baptist Church and three years with Sixth Baptist Church; and

WHEREAS, Debo Dabney will be dearly remembered and greatly missed by his wife, Celestine; his daughter, Sandra; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Herbert Allen Dabney III, a renowned virtuoso who touched countless lives throughout Richmond and Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Herbert Allen Dabney III as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 648

Celebrating the life of Edward Andrews.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Edward Andrews of Richmond, a respected educator and an active member of the community, died on May 13, 2020; and

WHEREAS, Edward Andrews grew up in Binghamton, New York, and graduated from nearby Ithaca College in 1969; and

WHEREAS, Edward Andrews and his wife, Marsha, raised their family in New York while working as educators and pursuing master's degrees; in 1977, the couple relocated to Richmond and became valued members of several local communities; and

WHEREAS, Edward Andrews and his family lived in the Stratford Hills, Fan, and Carillon neighborhoods, and he worked as a special education teacher with Richmond Public Schools and later as a real estate professional in the area; and

WHEREAS, Edward Andrews was a member of Leadership Metro Richmond and offered his expertise to the Richmond Commission of Architectural Review; he was well known by his colleagues for his integrity, sense of humor, and quiet generosity; and

WHEREAS, predeceased by his son, Jason, Edward Andrews is fondly remembered and greatly missed by his wife, Marsha; his daughters, Jessica, Marci, and Katie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Edward Andrews, a highly admired member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Andrews as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 649

Celebrating the life of Alexander Hoke Slaughter.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Alexander Hoke Slaughter, an esteemed attorney and an active and beloved member of the Richmond community, died on October 5, 2020; and

WHEREAS, born in Charlottesville, Alexander Slaughter graduated from Woodberry Forest School and earned degrees from Yale University and the University of Virginia School of Law; and

WHEREAS, Alexander Slaughter had a distinguished legal career as a partner with McGuireWoods in Richmond, supporting the firm's insurance coverage practice and other services; and

WHEREAS, an engaged citizen who was dedicated to fostering the health and well-being of those in need, Alexander Slaughter served various organizations, including the St. James's Children's Center, the Anna Julia Cooper Episcopal School, and the Peter Paul Development Center, and was president of the board of directors of Daily Planet Health Services; and

WHEREAS, Alexander Slaughter received many honors and accolades over the years in recognition of his meritorious service, including the Richmond Bar Association's Hill-Tucker Public Service Award; and

WHEREAS, guided throughout his life by his deep and abiding faith, Alexander Slaughter enjoyed worship and fellowship with his community at St. James's Episcopal Church in Richmond for many years, where he served in several leadership positions in support of the parish and diocese; and

WHEREAS, Alexander Slaughter will be fondly remembered and dearly missed by his loving wife of 50 years, Mary; his son, David, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alexander Hoke Slaughter, a respected attorney whose unwavering kindness and generosity touched countless lives in the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alexander Hoke Slaughter as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 650

Celebrating the life of the Honorable Thomas Overton Jones.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Honorable Thomas Overton Jones, an esteemed attorney and former district court judge for the 13th Judicial District of Virginia, died on January 2, 2021; and

WHEREAS, born in Washington, D.C., and raised in Arlington, Thomas Jones graduated from the University of Virginia, where he had the honor of living on the lawn of the Rotunda, and earned his Juris Doctor degree from the University of Richmond in 1967; and

WHEREAS, Thomas Jones practiced law in downtown Richmond for several years, ultimately forming a partnership with his colleague Jim Thorsen; and

WHEREAS, in recognition of his upstanding character and meticulous understanding of the law, Thomas Jones was appointed a district court judge for the 13th Judicial District of Virginia, serving the Commonwealth honorably for more than 30 years; and

WHEREAS, an active and engaged member of the Richmond arts community, Thomas Jones was an ardent supporter of several local cultural organizations, including the Valentine, Firehouse Theatre, SPARC, the Richmond Ballet, and the Visual Arts Center of Richmond; and

WHEREAS, Thomas Jones was an accomplished organist and worked tirelessly for the Cathedral of the Sacred Heart Foundation to bring a new organ to the church; recently, he received an official commendation from the organization for his meritorious efforts on its behalf; and

WHEREAS, guided throughout his life by his deep and abiding faith, Thomas Jones enjoyed worship and fellowship with his community at the Cathedral of the Sacred Heart in Richmond, where he served in various positions over the years; and

WHEREAS, Thomas Jones will be fondly remembered and dearly missed by his loving wife, Rejena; his son, Jonathan; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Thomas Overton Jones, a respected attorney and former district court judge for the 13th Judicial District of Virginia, whose unwavering kindness and generosity touched countless lives in the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Thomas Overton Jones as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 651

Celebrating the life of Katherine Bridgforth Hooker.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Katherine Bridgforth Hooker, an esteemed teacher, golf champion, and beloved member of the Martinsville community, died on January 2, 2021; and

WHEREAS, affectionately known by family and friends as "Kitty Sue," Katherine Hooker was born and raised in Kenbridge; after graduating from Kenbridge High School, she earned a degree from the former State Teachers College, now Longwood University; and

WHEREAS, after graduation, Katherine Hooker embarked upon a career as an educator in Martinsville, greatly contributing to the success of innumerable children both in and out of the classroom; and

WHEREAS, Katherine Hooker was a passionate and accomplished golfer who won several local tournament championships, including the Forest Park Championship in 1963 and the Chatmoss Country Club Championship in 1961 and 1971, and was named the Henry County Women's Golf Champion in 1964; and

WHEREAS, guided throughout her life by her deep and abiding faith, Katherine Hooker enjoyed worship and fellowship with her community at First United Methodist Church in Martinsville, serving in the Wesley Guild; and

WHEREAS, known for her exceptional taste and good fashion sense, Katherine Hooker often employed her skills arranging flowers for the sanctuary at First United Methodist Church; and

WHEREAS, preceded in death by her loving husband, Clyde, Katherine Hooker will be fondly remembered and dearly missed by her daughter, Katherine, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Katherine Bridgforth Hooker, a cherished member of the Martinsville community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Katherine Bridgforth Hooker as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 652

Celebrating the life of Charles Lincoln Garner.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Charles Lincoln Garner, an honorable veteran, dedicated postal worker, and beloved member of the Richmond community, died on June 7, 2020; and

WHEREAS, born and raised in Belton, Texas, Charles "Charlie" Lincoln Garner served his country with courage and valor as a member of the United States Army during World War II and the Korean War; and

WHEREAS, upon completing his military service, Charlie Garner earned a bachelor's degree in physical education from the former Virginia State College, now Virginia State University, where he excelled in football and track; and

WHEREAS, Charlie Garner tirelessly served his community as a member of the United States Postal Service for 27 years, retiring in 1984; in support of his colleagues and profession, he was a committed member of the National Association of Letter Carriers for many years; and

WHEREAS, an active and engaged member of his community, Charlie Garner offered his time and talents to several local organizations, including the Randolph Planning Study Board, the Byrd Park Civic League, and the Astoria Beneficial Club, which he served in various capacities for more than a half-century; and

WHEREAS, guided throughout his life by his deep and abiding faith, Charlie Garner enjoyed worship and fellowship with his community at Riverview Baptist Church in Richmond, where he was a devoted member for many years; and

WHEREAS, in recognition of his meritorious support of its ministries, musical ensembles, and other initiatives, the Riverview Baptist Church in Richmond honored Charlie Garner with its Man of the Year Award in 2005 and elected him a Father of the Church in 2018; and

WHEREAS, preceded in death by his loving wife, Marie, Charlie Garner will be fondly remembered and dearly missed by his daughter, Charmaine, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Lincoln Garner, an honorable veteran and cherished member of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Lincoln Garner as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 653

Celebrating the life of Alfred Jerome Denney.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Alfred Jerome Denney of Arlington, a retired civil servant and an enthusiastic tour guide who helped visitors explore and better appreciate the nation's capital, died on May 22, 2020; and

WHEREAS, a native of Bladensburg, Maryland, Alfred Jerome "Jerry" Denney attended Eastern High School in Washington, D.C., then served his country as a member of the United States Army, deploying to post-war Japan with an engineering unit; and

WHEREAS, after his honorable discharge, Jerry Denney earned a bachelor's degree from Georgetown University and subsequently began a distinguished career with the federal government; and

WHEREAS, over the course of 25 years, Jerry Denney worked at the Central Intelligence Agency, the Bureau of Outdoor Recreation, and the Federal Energy Regulatory Commission; and

WHEREAS, upon his well-earned retirement, Jerry Denney pursued his passion for the nation's heritage as a tour guide in Washington, D.C., sharing his lifetime of knowledge about the city's history, monuments, and points of interest with thousands of visitors; and

WHEREAS, in later life, Jerry Denney offered his time and expertise to the Travelers Aid program at Ronald Reagan Washington National Airport; and

WHEREAS, Jerry Denney further strengthened the community as a member of the Arlington Partnership for Affordable Housing, and he enjoyed fellowship and worship as a longtime member of Saint George's Episcopal Church, where he was a frequent volunteer in the food pantry and other ministries; and

WHEREAS, predeceased by his wife of more than 60 years, Lucy, Jerry Denney will be fondly remembered and greatly missed by his children, Charlie and Jane, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alfred Jerome Denney; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alfred Jerome Denney as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 654

Celebrating the life of Arthur Warrington Gosling.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Arthur Warrington Gosling, a longtime educator and school administrator who touched the lives of countless young people in Arlington County, died on September 10, 2020; and

WHEREAS, a native of Akron, Ohio, Arthur "Art" Warrington Gosling attended Buchtel High School and subsequently earned a bachelor's degree from Ohio Wesleyan University, a master's degree from Kent State University, a certificate of advanced educational administration from Harvard University, and a doctorate from Indiana University; and

WHEREAS, Art Gosling began his career in education as a teacher in his hometown of Akron, then worked as principal of Highland Park High School in Illinois, assistant superintendent of South Orange-Maplewood School District in New Jersey, and superintendent of Fairfax County Public Schools; and

WHEREAS, Art Gosling became superintendent of Arlington Public Schools in 1985 and helped the school system become a model for other public schools in the Washington, D.C., metropolitan area during his 12-year tenure; and

WHEREAS, after his well-earned retirement from Arlington Public Schools in 1997, Art Gosling continued to serve the community as president of Encore Learning, a nonprofit adult education center; and

WHEREAS, throughout his career, Art Gosling was a champion for women in the field of education and a trusted mentor to many other school principals and administrators who was well known for his steadfast leadership and unfailing commitment to lifelong learning; and

WHEREAS, Art Gosling will be fondly remembered and greatly missed by his wife of 60 years, Carolyn; his children, Thomas, Leslie, and Laura, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Arthur Warrington Gosling, a respected school administrator in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthur Warrington Gosling as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 655

Commending the staff at Parham Doctors' Hospital.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the staff at Parham Doctors' Hospital, a campus of Henrico Doctors' Hospital that is part of the HCA Virginia Health System, have demonstrated extraordinary medical expertise and compassion while navigating the COVID-19 pandemic; and

WHEREAS, the staff at Parham Doctors' Hospital, including physicians, nurses, hospital administrators, and other support positions, work tirelessly every day to ensure the best health outcomes for their patients; and

WHEREAS, beyond providing exemplary medical care, the staff at Parham Doctors' Hospital have displayed remarkable compassion in helping family members connect with their loved ones while restrictions imposed by the COVID-19 pandemic have limited patient visitation; and

WHEREAS, as a result of the steadfast dedication of the staff at Parham Doctors' Hospital, the institution was recently named one of the nation's Top 250 Hospitals by Truven Health Analytics; and

WHEREAS, through their unwavering commitment to providing the highest level of care to their patients, the staff at Parham Doctors' Hospital have earned the hospital numerous institution-wide distinctions, placing it in the top five percent of the more than 4,500 hospitals nationwide; and

WHEREAS, the staff at Parham Doctors' Hospital continue to rise to the challenges presented by the COVID-19 pandemic, inspiring the community and reminding all of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the staff of Parham Doctors' Hospital for the extraordinary service they have provided to their patients and their families both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chase Christianson, chief executive officer of Parham Doctors' Hospital, as an expression of the General Assembly's profound admiration for the meritorious efforts of the hospital's staff.

HOUSE JOINT RESOLUTION NO. 656

Commending Murray Jay Farr:

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, on September 4, 2020, Murray Jay Farr retired as chief of the Arlington County Police Department after three decades of service to the community; and

WHEREAS, prior to joining the Arlington County Police Department, Jay Farr served his country as a member of the United States Marine Corps and was assigned to Marine Helicopter Squadron 1, which is responsible for transportation of the president and other government officials; and

WHEREAS, Jay Farr began his law-enforcement career with the City of Falls Church Police Department, served with the United States Department of Interior and the United States Naval Criminal Investigative Service, and subsequently transferred to the Arlington County Police Department in 1990; and

WHEREAS, throughout his career, Jay Farr held numerous positions within the Arlington County Police Department, including deputy chief of police for systems management, operations, and criminal investigations, and he was selected as chief of police in 2015; and

WHEREAS, during his tenure as chief, Jay Farr ably addressed challenges related to population growth, recruitment, and budgeting to help the Arlington County Police Department fulfill its mission to serve and protect the community and become one of the most respected departments in the region; and

WHEREAS, under Jay Farr's leadership, the Arlington County Police Department maintained a focus on community policing and developed strong relationships with local residents and businesses; he oversaw the creation of the Arlington Restaurant Initiative to increase safety at local nightlife and entertainment venues; and

WHEREAS, Jay Farr has offered his leadership and expertise as acting deputy county manager for Arlington County and as chair of the police chief committee of the Metropolitan Washington Council of Governments; and

WHEREAS, Jay Farr holds bachelor's and master's degrees from George Mason University and has participated in numerous other advanced educational programs; he has inspired countless students as an adjunct professor at his alma mater, specializing in criminal justice and emergency management courses; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Murray Jay Farr on the occasion of his retirement as chief of the Arlington County Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Murray Jay Farr as an expression of the General Assembly's admiration for his years of outstanding service to the residents of Arlington County.

HOUSE JOINT RESOLUTION NO. 657

Commending James B. Cole.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, for more than two decades, James B. Cole has ably served residents of Arlington and Northern Virginia as president and chief executive officer of Virginia Hospital Center, helping the facility to earn national accolades for its commitment to patient care and clinical excellence; and

WHEREAS, James Cole holds degrees from the University of Virginia, the University of Washington, and Georgia State University and has spent more than 30 years of his professional career with Virginia Hospital Center; and

WHEREAS, as president and chief executive officer, James Cole has helped Virginia Hospital Center grow from a small, community health clinic to an award-winning medical center recognized nationwide for its outstanding organizational performance and high marks in patient satisfaction; and

WHEREAS, James Cole's steady, visionary leadership has resulted in the Virginia Hospital Center becoming the only hospital in the region to join the Mayo Clinic Care Network, and the hospital has launched a \$250 million expansion to better serve the community; and

WHEREAS, James Cole has received numerous awards and accolades for his personal and professional achievements; during his tenure as president and chief executive officer, Virginia Hospital Center has been ranked by Truven Health Analytics as one of the top 100 hospitals in the country for three consecutive years and one of the top 50 cardiovascular hospitals for two consecutive years; and

WHEREAS, highly respected in the medical field, James Cole is a current member and former chair of the Virginia Hospital and Healthcare Association Board, was founding chair of the Northern Virginia Hospital Alliance Board, and has previously served on the boards of CrossLink, CrisisLink, and the Arlington Free Clinic; and

WHEREAS, in 2020, James Cole postponed his planned retirement to provide stability for Virginia Hospital Center during the unprecedented challenges of the COVID-19 pandemic; the hospital has been a regional leader in its response to

the pandemic by facilitating safe testing sites and participating in several initiatives to develop a treatment for the virus; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James B. Cole for his outstanding service as president and chief executive officer of Virginia Hospital Center; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James B. Cole as an expression of the General Assembly's admiration for his contributions to the health care profession and dedication to the members of the Arlington community.

HOUSE JOINT RESOLUTION NO. 658

Commending Cintia Johnson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Cintia Johnson, a champion for young people in the Arlington community, retired as the assistant superintendent of administrative services for Arlington Public Schools on December 31, 2020; and

WHEREAS, Cintia Johnson spent the majority of her 40-year career in education with Arlington Public Schools, having joined the school system in 1986; and

WHEREAS, Cintia Johnson promoted equity by implementing programs to decrease suspensions of minority students, as well as alternatives to suspension that helped students make better choices and achieve success in and out of the classroom; and

WHEREAS, Cintia Johnson strengthened the Aspiring Leaders program for school administrators, established a Latino Aspiring Leaders program, and supported many other initiatives to enhance the quality of programs and services offered by Arlington Public Schools; and

WHEREAS, throughout her career, Cintia Johnson was a trusted mentor and friend to her fellow employees of Arlington Public Schools, and she worked diligently to ensure that her colleagues were recognized and celebrated for their accomplishments in service to the school system and the community; and

WHEREAS, Cintia Johnson fostered positive, supportive environments in local schools by encouraging faculty and staff members to ensure that every student could identify at least one trusted adult at their school; and

WHEREAS, Cintia Johnson was selected as interim superintendent of Arlington Public Schools during the 2019-2020 academic year and guided the school system through the unprecedented challenges of the COVID-19 pandemic; and

WHEREAS, Cintia Johnson served the students of Arlington Public Schools with compassion, kindness, and integrity and has received numerous awards and accolades for helping the school system maintain its reputation for excellence; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Cintia Johnson on the occasion of her retirement from Arlington Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cintia Johnson as an expression of the General Assembly's admiration for her decades of service to students in Arlington.

HOUSE JOINT RESOLUTION NO. 659

Commending Randall R. Silber.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Randall R. Silber, deputy county manager of the County of Henrico, who enjoyed a successful and distinguished 43-year career in local government, retired on June 19, 2020; and

WHEREAS, after earning a bachelor's degree in geography from the University of Maryland and a master's degree in geography from the University of Northern Colorado, Randall "Randy" R. Silber began his career in Dickinson, North Dakota, as an associate planner with the Roosevelt-Custer Regional Planning Council; and

WHEREAS, following a seven-year tenure as principal planner of the City of Hopewell, Randy Silber joined the Henrico County Planning Department in August 1985, where he progressively assumed greater responsibility; he was appointed the agency's assistant director in February 1996, served as acting director for seven months in 1997 and 1998, and named director in May 2004; and

WHEREAS, since January 2008, Randy Silber has served as deputy county manager for community development and overseen the responsibilities of the Departments of Building Construction and Inspections, Community Revitalization, and Planning, as well as the Permit Center, while providing administrative overview for the Economic Development Authority; and

WHEREAS, during his nearly 35 years with the County of Henrico, Randy Silber has directed numerous county land use-related projects, played an instrumental role in the county's growth management efforts, and facilitated major economic development initiatives; and

WHEREAS, while serving as deputy county manager for community development, Randy Silber has helped shepherd significant projects in every area of Henrico, including development of Short Pump, Libbie Mill Midtown, Rocketts Landing, and White Oak Technology Park and redevelopment of Innsbrook Corporate Center and Eastgate, Regency Square, and Virginia Center Commons; and

WHEREAS, Randy Silber's efforts throughout the county have included the revitalization of the Laburnum Avenue and Williamsburg Road corridors; the establishment of the Highland Springs Historic District; the acquisition of Fort Southard, Wilton Farm, and Malvern Hill; and planning for new county capital facilities, such as schools, libraries, fire and police stations, and athletic fields and complexes; and

WHEREAS, Randy Silber has made an impact on planning decisions throughout the Commonwealth as a member of the Virginia Commonwealth University Real Estate Circle of Excellence, the Virginia Association of Counties' Environment and Agriculture Steering Committee, and the National Association of Counties' Environmental, Energy and Land Use Steering Committee; he was an alternate member of the regional PlanRVA Commission; and

WHEREAS, dedicated to the advancement of his profession, Randy Silber holds memberships in the American Planning Association, the Urban Land Institute, and the International Economic Development Council; he is a graduate of Leadership Metro Richmond; and

WHEREAS, Randy Silber is highly respected by his colleagues and the Henrico community for his experience, knowledge, professionalism, integrity, dedication, technical expertise, and vision and has unfailingly demonstrated patience, warmth, sincerity, and grace while representing the County of Henrico; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Randall R. Silber, deputy county manager of the County of Henrico, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Randall R. Silber as an expression of the General Assembly's profound admiration for his service and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 660

Commending Danny TK Avula, M.D.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health, has provided an invaluable service to the Commonwealth by advising its leaders and supporting its citizens throughout the COVID-19 pandemic; and

WHEREAS, from a young age, Danny Avula knew he wanted to become a physician and care for others; after earning a bachelor's degree from the University of Virginia and completing a medical degree and pediatric residency at Virginia Commonwealth University, this commitment blossomed into a desire to address the social determinants of disease more fully as a public health practitioner; and

WHEREAS, after finishing a master's degree in public health and a preventive medicine residency at Johns Hopkins University, Danny Avula became deputy director of the Richmond City Health District in 2009, rising to the position of director seven years later; and

WHEREAS, during Danny Avula's tenure with the Richmond City Health District, the city has made great strides toward promoting health and mitigating disease; one major accomplishment was the creation of eight health resource centers in public housing communities throughout the city, a network that has proved vital to the department's response to the COVID-19 pandemic in 2020; and

WHEREAS, after two years as an interim director of the Henrico County Health District, Danny Avula was asked to formally assume leadership of the department in 2018 while maintaining his position with the Richmond City Health District; this unprecedented arrangement has led to greater coordination between the two localities, bolstering the region's ability to address public health challenges both before and during the COVID-19 pandemic; and

WHEREAS, as the top public health official in Richmond and Henrico County, many have looked to Danny Avula for guidance throughout the COVID-19 pandemic; with an approach that emphasizes data analysis and transparency, he has become a trusted and indispensable source of information for both local leaders and area residents; and

WHEREAS, under Danny Avula's leadership, more than 350 employees with the Richmond City and Henrico County Health Districts have addressed the COVID-19 pandemic by implementing large-scale testing events, staffing a call center that fields more than 500 calls per day, carrying out contact tracing operations and other investigations, providing support to long-term care facilities facing outbreaks, and analyzing data to furnish quality information to leaders and the public; and

WHEREAS, with a keen understanding of the socioeconomic factors that impact health outcomes, Danny Avula has been an unwavering advocate for vulnerable populations throughout the pandemic, working closely with local and state leaders to protect frontline workers, low-income families, and the elderly; and

WHEREAS, along with leading Richmond and Henrico County's public health efforts, Danny Avula continues to serve as an affiliate faculty member at the Virginia Commonwealth University School of Medicine, preparing future generations of physicians to be more socially conscious and grounded in the communities they serve; and

WHEREAS, Danny Avula's service to the Commonwealth extends beyond his role with the Virginia Department of Health, as he has served on the State Board of Social Services since 2013, chairing the board from 2017 to 2019; and

WHEREAS, in recognition of his extraordinary work on behalf of Richmond and Henrico County during the COVID-19 pandemic, Danny Avula was named the 2020 Richmonder of the Year by *Style Weekly*; he was a *Richmond Times-Dispatch* Person of the Year honoree in 2019 and a recent recipient of the Virginia Center for Inclusive Communities' Humanitarian Award; and

WHEREAS, in January 2021, Governor Ralph S. Northam appointed Danny Avula to oversee the Commonwealth's COVID-19 vaccine rollout, ensuring the able administration of this urgent public health initiative; and

WHEREAS, Danny Avula is a visionary and inspirational leader who has risen masterfully to the challenges of this historic public health crisis; his selfless and indefatigable efforts in support of his community are a reminder to all of what makes the Commonwealth a wonderful place to live; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health, for tirelessly endeavoring to protect citizens of the Commonwealth throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Danny TK Avula, M.D., as an expression of the General Assembly's profound admiration and respect for his heroic service.

HOUSE JOINT RESOLUTION NO. 661

Commending the Henrico County Registrar's Office.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Henrico County Registrar's Office ably responded to the challenges of the COVID-19 pandemic by ensuring smooth and efficient processes for early in-person voting and absentee voting during the 2020 United States presidential election; and

WHEREAS, led by Mark J. Coakley, general registrar, and Anne Marie Middlesworth, deputy registrar, the Henrico County Registrar's Office worked diligently to address safety concerns and prepare for record voter turnout; and

WHEREAS, in an effort to reduce crowds and wait times on election day, the Henrico County Registrar's Office and other registrars' offices throughout the Commonwealth offered early in-person voting, which nearly 68,000 people participated in early in-person voting in Henrico County from September 18 to October 31; and

WHEREAS, the Henrico County Registrar's Office sent out 47,000 absentee ballots earlier in the fall, more than three times the number of absentee ballots in the past three presidential elections, and implemented preprocessing to efficiently handle the record-breaking number of ballots; and

WHEREAS, while nearly 50 percent of registered voters participated in some form of early voting, the Henrico County Registrar's Office prepared to serve significant numbers of voters at polling places throughout the county on election day; and

WHEREAS, at all in-person voting sites, including local precincts and early voting stations at the Henrico County Registrar's Office, personnel demonstrated a commitment to the safety of poll workers and voters by checking for masks, placing physical distance markers, and sanitizing voting booths between uses; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Henrico County Registrar's Office for its outstanding performance of its duties during the 2020 United States presidential election; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Henrico County Registrar's Office as an expression of the General Assembly's admiration for its achievements in service to the residents of Henrico County.

HOUSE JOINT RESOLUTION NO. 662

Celebrating the life of Joseph Maurice Tarantino.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joseph Maurice Tarantino, an honorable veteran who served his country during three wars and who was actively involved in several veterans service organizations, died on December 30, 2020; and

WHEREAS, Joseph Tarantino joined the United States Army during World War II, proudly served his country during three wars as both an enlisted man and as an officer in the Military Police Corps, and received a Bronze Star for his service; and

WHEREAS, after completing his military service, Joseph Tarantino later worked as chief of security at Philip Morris USA and owned a small business; and

WHEREAS, a leader both while in the military and throughout his retirement, Joseph Tarantino was active in several veterans service organizations, including the Military Order of the World Wars and the Military Officers Association of America; and

WHEREAS, a generous supporter of the Virginia War Memorial, Joseph Tarantino was proud of his service to the country and was always ready and willing to share his stories with middle and high school students and teachers from across the Commonwealth, both in person and through video conference; and

WHEREAS, a member of the "Greatest Generation," Joseph Tarantino was profiled in the *Richmond Times-Dispatch* on Veterans Day in 2018 and was presented a special gift basket by CBS 6 Richmond on Memorial Day in 2020; and

WHEREAS, Joseph Tarantino was interred with military honors at the Virginia Veterans Cemetery in Amelia on January 7, 2021, where he will rest among his fellow veterans; and

WHEREAS, Joseph Tarantino will be dearly remembered and lovingly missed by his wife, Debra; his children, Ellen, James, Chris, and Mathew, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Maurice Tarantino, a beloved veteran who touched countless lives through his service to the country and to others; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Maurice Tarantino as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 663

Commending Richard G. Johnstone, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Richard G. Johnstone, Jr., president and chief executive officer of the Virginia, Maryland & Delaware Association of Electric Cooperatives, who has supported the staff and community-owners of electric cooperatives in the region for the past 35 years, will retire in April 2021; and

WHEREAS, a Phi Beta Kappa graduate of the University of Richmond with degrees in journalism and speech communications, Richard Johnstone began his career as editor of the Virginia State Bar's monthly magazine; and

WHEREAS, Richard Johnstone joined the Virginia, Maryland & Delaware Association of Electric Cooperatives (VMDAEC) in 1985 as manager of its communications and public relations department and as editor of its magazine, *Rural Living*, which changed its title to *Cooperative Living* in 2000; subsequently, he was the association's executive vice president for 17 years before being named its president and chief executive officer; and

WHEREAS, as the leader of VMDAEC, Richard Johnstone oversees the association's core objectives, including communicating with over 1.4 million consumers through *Cooperative Living* magazine; advocating on behalf of member electric cooperatives on both state and federal levels; and training cooperative staff, board members, and line crew workers; and

WHEREAS, in addition to his role as president and chief executive officer of VMDAEC, Richard Johnstone concurrently serves as executive editor of *Cooperative Living*, one of the most widely circulated publications in the Commonwealth and a key component to the association's education and advocacy efforts; and

WHEREAS, Richard Johnstone's commitment to his industry has led him to serve various organizations and boards; he is a current board member and past president of the Virginia Cooperative Council, a former board member and president of the Virginia Society of Association Executives, and a member and past president of both the Rural Electric Statewide Managers Association and the National Electric Cooperatives Statewide Editors Association; and

WHEREAS, serving on the executive committee and the board of the Better Business Bureau of Central Virginia, Richard Johnstone has helped foster a thriving and responsible business environment in the Commonwealth; and

WHEREAS, in recognition of his meritorious efforts on behalf of electric cooperatives and trade associations in the Commonwealth, Richard Johnstone was recipient of the Virginia Society of Association Executives' CEO Award of Excellence in 2016; and

WHEREAS, Richard Johnstone will enjoy spending his retirement with his wife, Blair, and his two grown children, Katy and Ethan, with frequent visits to the family cabin in Highland County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard G. Johnstone, Jr., president and chief executive officer of the Virginia, Maryland & Delaware Association of Electric Cooperatives, for supporting the staff and consumer-owners of electric cooperatives throughout the region for the past 35 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard G. Johnstone, Jr., as an expression of the General Assembly's heartfelt admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 664

Commending the Honorable James S. Yoffy.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Honorable James S. Yoffy, Chief Judge of the Henrico Circuit Court of the 14th Judicial Circuit of Virginia, who has ably served the residents of the County of Henrico and the Commonwealth for more than 40 years as an attorney, an assistant attorney for the Commonwealth, and a judge, will retire in 2021; and

WHEREAS, Judge Yoffy holds degrees from The College of William & Mary in Virginia and the T.C. Williams School of Law at the University of Richmond and has served his country as a member of the United States Army Reserve at Fort Dix; and

WHEREAS, Judge Yoffy served as an assistant attorney for the Commonwealth in the City of Richmond for four years and practiced criminal law for over 30 years throughout the Commonwealth; he served six years on the Virginia Criminal Sentencing Commission; and

WHEREAS, in 2005, Judge Yoffy was appointed as a judge of the Henrico General District Court of the 14th Judicial District and six years later was appointed as a judge of the Henrico Circuit Court of the 14th Judicial Circuit, presiding over both courts with great fairness, wisdom, and integrity; and

WHEREAS, Judge Yoffy has served the Commonwealth with the utmost dedication and, upon his retirement, plans to continue serving the Commonwealth as a recall judge; and

WHEREAS, after his well-earned retirement, Judge Yoffy plans to spend more time with his dear wife, Katy; his daughter, Jennifer; and his grandchildren, Jonah, Lila, and Sabine; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable James S. Yoffy, Chief Judge of the Henrico Circuit Court of the 14th Judicial Circuit of Virginia, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable James S. Yoffy as an expression of the General Assembly's gratitude for his years of service to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 665

Commending Bobbie Jean Meriwether.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Bobbie Jean Meriwether, an honorable veteran and longtime Department of the Army civilian, will retire on July 31, 2021, after nearly 41 years of service to the United States of America; and

WHEREAS, Bobbie Jean Meriwether enlisted in the United States Army as an active duty soldier in 1977, served as a mobilization day soldier and technician with the Army National Guard from 1983 to 1985, and then returned to active duty as an active guard reserve soldier in 1985; and

WHEREAS, as an active duty and mobilization day soldier, Bobbie Jean Meriwether held positions of increasing responsibility at various postings, including Camp Red Cloud, South Korea; Fort Lewis, Washington; Fort Ord, California; Los Alamitos, California; Aberdeen Proving Ground, Maryland; Heidelberg, Germany; and the National Guard Bureau's Army National Guard Directorate in Arlington; and

WHEREAS, at the conclusion of her active duty, Bobbie Jean Meriwether continued to serve her country as a Department of the Army civilian at the headquarters of the Army National Guard in Arlington for nearly 21 years; and

WHEREAS, in civilian service, Bobbie Jean Meriwether supported the Army National Guard by overseeing its capabilities integration, program funding, mobilization strategies, and the readiness requirements for soldiers and units across the United States and its territories; and

WHEREAS, with more than 40 years of service in the United States Army and the National Guard Bureau, Bobbie Jean Meriwether has embodied a commitment to the country and its citizens that is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bobbie Jean Meriwether, an esteemed veteran and Department of the Army civilian, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bobbie Jean Meriwether as an expression of the General Assembly's profound admiration for her service to the country and the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 666

Commending the City of Fredericksburg.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the City of Fredericksburg was awarded five Local Champion Awards by the Virginia Municipal League in 2020 for its efforts to ensure the health and safety of its citizens during the COVID-19 pandemic; and

WHEREAS, the Virginia Municipal League, a nonpartisan, nonprofit association of local governments throughout the Commonwealth, recognized Fredericksburg in five of the seven Local Champion Award categories, including public safety, economic and business stability, continuity of operations, education and youth initiatives, and risk management; and

WHEREAS, the Local Champion Award for public safety recognized the Fredericksburg Fire Department for quickly adapting its operation strategies and procedures to mitigate the risk of COVID-19 while continuing to provide exceptional emergency services to the community; and

WHEREAS, Fredericksburg's Economic Development and Tourism office received the Local Champion Award for economic and business stability in light of their responsiveness to the needs of the city's business community during the COVID-19 pandemic, including the implementation of two small business grant programs and an information campaign; and

WHEREAS, the Local Champion Award for continuity of operations celebrated the Fredericksburg Information Technology Department, the City Attorney, and the Clerk of Council for enabling the Fredericksburg City Council and various boards to conduct meetings electronically as early as March 20, 2020, limiting the need for in-person meetings; and

WHEREAS, Jenny Casarotti, superintendent of Fredericksburg Parks, Recreation and Events, was distinguished with the Local Champion Award for education and youth initiatives for spearheading the "Camp at Home" summer program, which provided countless families a fun and creative way to engage children while sheltering in place; and

WHEREAS, the Local Champion Award for risk management heralded the accomplishments of the Fredericksburg executive leadership team and staff of the Safety and Risk Management Department and Public Facilities Department in implementing preventive measures and procedures that safeguarded city employees from the risks of COVID-19; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the City of Fredericksburg for winning five Virginia Municipal League Local Champion Awards in honor of the city and its employees' efforts to combat the historic COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary Katherine Greenlaw, mayor at-large of the City of Fredericksburg, as an expression of the General Assembly's high esteem and admiration for the city's accomplishments.

HOUSE JOINT RESOLUTION NO. 667

Commending the Fredericksburg Dog Mart.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Fredericksburg Dog Mart, an annual gathering heralded as the oldest dog event in America, has charmed families and dog-lovers for more than three centuries; and

WHEREAS, the origins of the Fredericksburg Dog Mart date to 1698, when colonial settlers in the area that would become Fredericksburg met with local Native Americans to exchange English hunting dogs for furs and produce, an event that would occur annually until the start of the Revolutionary War; and

WHEREAS, in 1927, the Fredericksburg Chamber of Commerce revived the Fredericksburg Dog Mart, celebrating the region's rich history while providing local hunters with an incomparable opportunity to buy and sell hunting dogs before the start of hunting season; and

WHEREAS, after a brief hiatus during World War II, in 1948, the Fredericksburg Dog Mart was brought under the auspices of the Fredericksburg-Rappahannock Chapter of the Izaak Walton League of America, which has managed the event ever since; and

WHEREAS, over the years, the Fredericksburg Dog Mart has been featured in several leading national publications and broadcasts, including *Time* magazine, *National Geographic* magazine, and *Pathé* newsreel; and

WHEREAS, long held at the Matthew Fontaine Maury School stadium in Fredericksburg, since the 1970s the Fredericksburg Dog Mart has been hosted at the headquarters of the Fredericksburg-Rappahannock Chapter of the Izaak Walton League of America in Spotsylvania County; and

WHEREAS, in recent years, the focus of the Fredericksburg Dog Mart has shifted from the buying and selling of hunting dogs to providing family-friendly entertainment that celebrates man's best friend, including rescue dog and police K-9 unit demonstrations, a dog judging contest, and more; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fredericksburg Dog Mart for the distinction of being regarded as the oldest dog event in the United States of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darrell Shultz, manager of the Fredericksburg Dog Mart, as an expression of the General Assembly's heartfelt admiration for the event's cherished place in the history and culture of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 668

Celebrating the life of Franklin Delano Robertson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Franklin Delano Robertson, a respected attorney and leader in the mining industry who made countless contributions to the Grundy community, died on January 17, 2021; and

WHEREAS, born in West Virginia, Franklin "Red" Delano Robertson was raised in Kentucky and developed a passion for education at a young age; in his adolescence, he hitchhiked across the border to Virginia each day to take classes at Grundy High School; and

WHEREAS, Red Robertson subsequently graduated from Virginia Polytechnic Institute and State University (Virginia Tech), where he served as captain commander of the Corps of Cadets and was an original member of the Ut Prosim Society; and

WHEREAS, in 1956, Red Robertson began a career in the mining industry with one of the last independent coal mine operators in Southwest Virginia; he became a partner at the engineering company Thompson and Litton in 1960 and held professional engineering licenses in three states; and

WHEREAS, in 1967, Red Robertson received a law degree from the University of Virginia and became one of the preeminent coal lawyers in the United States, establishing the firm Robertson, Cecil, King & Pruitt; and

WHEREAS, from 1972 to 1985, Red Robertson owned Knox Creek Coal Corporation and subsequently founded Robertson Enterprises; he established partnerships with other companies in the Commonwealth, West Virginia, and Illinois, becoming known as one of the most innovative and effective coal operators in the country; and

WHEREAS, Red Robertson was dedicated to supporting young people in and out the classroom, coordinating local students' enrollment in SAT study courses, writing hundreds of recommendation letters for high school seniors, and founding the Grundy Wrestling Club to give young athletes opportunities to hone their skills; and

WHEREAS, Red Robertson also supported local educators by establishing the Buchanan County Apple Award for outstanding teachers, and he remained a proud and active alumnus of Virginia Tech throughout his life; and

WHEREAS, an exemplar of humility and kindness, Red Robertson made anonymous donations to hundreds of charitable organizations and fundraisers, asking to be named only as "a friend"; and

WHEREAS, a man of deep and abiding faith, Red Robertson enjoyed fellowship and worship with the community as a member of Grundy Baptist Church; and

WHEREAS, Red Robertson's greatest joy in life was his beloved family, and he will be fondly remembered and greatly missed by his wife, Bobbie; his children, Shane, Tass, Brant, and Spring, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Franklin Delano Robertson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Franklin Delano Robertson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 669

Celebrating the life of Isabel Gallimore Shelor.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Isabel Gallimore Shelor, the matriarch of the Shelor Motor Mile auto dealership family and a beloved wife, mother, grandmother, great-grandmother, and friend, died on May 30, 2020; and

WHEREAS, born on April 7, 1924, Isabel Shelor was the youngest of the 10 children of Cordell Lee Gallimore and Stella Gallimore; and

WHEREAS, Isabel Gallimore married "Lew" Shelor, a returning G.I. from World War II, and they built a life that took them from Floyd to Roanoke to Richmond and then to Severna Park, Maryland; and

WHEREAS, in 1974, Isabel and Lew Shelor decided to risk all they had on a small business in Christiansburg, establishing Shelor Motor Mile, which is now one of the largest and most respected dealerships in the Commonwealth; and

WHEREAS, Isabel Shelor's devotion to building Shelor Motor Mile as a future for her family gave her son, Larry Shelor, the opportunity to be elected by his peers to lead dealers of the Commonwealth as the chairman of the Virginia Automobile Dealers Association; and

WHEREAS, preceded in death by her loving husband, Lew, Isabel Shelor will be fondly remembered and dearly missed by her children, Larry, Jane, and David, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Isabel Gallimore Shelor, a respected member of the Christiansburg community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Isabel Gallimore Shelor as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 670

Celebrating the life of Robert Preston Midgett II.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Robert Preston Midgett II, an esteemed business leader and active and beloved member of the Virginia Beach community, died on January 18, 2021; and

WHEREAS, Preston Midgett attended Ferrum College and Appalachian State University and graduated with a bachelor's degree in business administration from Old Dominion University; and

WHEREAS, since the age of 11, Preston Midgett had worked with his dad and uncles at the family business, Jungle Golf, a well-known miniature golf course on the Virginia Beach Oceanfront strip cherished by tourists and locals alike; and

WHEREAS, Preston Midgett learned every aspect of Jungle Golf over the years and ultimately took the helm of the business, building on its legacy as one of the most iconic destinations in Virginia Beach; and

WHEREAS, affectionately referred to by many as the "mayor of Atlantic Avenue," Preston Midgett was a tireless advocate for businesses and residents of the Virginia Beach Oceanfront; and

WHEREAS, Preston Midgett served his community as either president or chairman of several local and professional organizations, including the City of Virginia Beach's Resort Advisory Commission, the Old Coast Guard Station, the Resort Retailers Association, and the Resort Leadership Council; and

WHEREAS, Preston Midgett gave generously of his time and talents as a founding member of both the former Robin Hoods of Virginia Beach, now the Noblemen, and Surfing Access for Everyone (S.A.F.E.); and

WHEREAS, Preston Midgett served as chairman of both the City of Virginia Beach's Transportation, Parking, and Pedestrian Committee and Virginia Beach Vision's resort development task force, fostering the municipality's ability to grow and develop for the benefit of future generations; and

WHEREAS, Preston Midgett's myriad contributions to his community were celebrated in 2002 when he had the prestigious honor of serving as a Triton at the Neptune Festival of Virginia Beach; and

WHEREAS, an avid adventurer and accomplished waterman, Preston Midgett recently completed the "Great Loop" sailing cruise through the eastern portion of the United States and enjoyed fishing, surfing, and skiing all over the world; and

WHEREAS, Preston Midgett received an outpouring of support from local businesses on the Virginia Beach Oceanfront during his battle with COVID-19, a stirring testament to the tremendous impact he had on his community; and

WHEREAS, Preston Midgett will be fondly remembered and dearly missed by his loving wife, Kim; his children, Trey and Tara; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert Preston Midgett II, a pillar of the Virginia Beach Oceanfront whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Preston Midgett II as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 671

Commending Humberto Cardounel, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Humberto Cardounel, Jr., the sixteenth chief of police of the Henrico County Police Division and a beloved member of the Henrico County community, retired on August 28, 2020; and

WHEREAS, affectionately known by family, friends, and colleagues as "Hum," Humberto Cardounel graduated from Douglas S. Freeman High School in Henrico County and later earned a bachelor's degree in political science from the University of Richmond and a master's degree in public administration from Virginia Commonwealth University; and

WHEREAS, in 1988, at the age of 21, Humberto Cardounel joined the Henrico County Police Division as a patrol officer and a special weapons and tactics team medic, embarking upon a distinguished law-enforcement career that would span the next 32 years; and

WHEREAS, Humberto Cardounel has contributed to nearly every aspect of the Henrico County Police Division's operations as he has risen through the ranks over the years, including service as an investigator, sergeant, command sergeant, lieutenant, captain, and major; and

WHEREAS, accomplishments from Humberto Cardounel's career with the Henrico County Police Division include serving as deputy chief for the patrol bureau; leading the criminal investigations section; initiating the homeland security section; and supporting the training academy, internal affairs unit, media relations unit, organized crime section, and personnel unit; and

WHEREAS, prior to his promotion to chief of police in 2016, Humberto Cardounel demonstrated exceptional poise, demeanor, and leadership while serving as deputy chief of the investigative bureau and as a member of the chief of police's executive staff; and

WHEREAS, Humberto Cardounel is a graduate of the 221st Session of the Federal Bureau of Investigation's National Academy; Police Executive Research Forum's Senior Management Institute for Police; Jepson School of Leadership Studies' Police Executive Leadership School; Virginia Association of Chiefs of Police and Foundation's (VACP) Institute for Leadership in Changing Times; Weldon Cooper Center for Public Service's Leading, Educating, and Developing Program; and Leadership Metro Richmond; and

WHEREAS, Humberto Cardounel has served as a gubernatorial appointee on the Virginia State Child Fatality Review Team and the Charitable Gaming Board, and he is currently a member of the VACP Executive Board and an assessor and team leader for the Commission on Accreditation for Law Enforcement Agencies; and

WHEREAS, as chief of the Henrico County Police Division, Humberto Cardounel upheld the agency's mission to protect and serve more than 331,000 residents across an area spanning 244 square miles while managing 864 sworn and unsworn personnel and a budget of \$81 million; and

WHEREAS, Humberto Cardounel has demonstrated what it means to serve with heart during his long and distinguished career and will leave a lasting mark on Henrico County and the Henrico County Police Division; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Humberto Cardounel, Jr., the sixteenth chief of police of the Henrico County Police Division, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Humberto Cardounel, Jr., as an expression of the General Assembly's heartfelt admiration for his dedication to Henrico County and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 672

Commending Darrell W. Warren, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Darrell W. Warren, Jr., sheriff of Gloucester County, was unanimously elected as president of the Virginia Sheriffs' Association in September 2020; and

WHEREAS, a native of Williamsburg, Darrell Warren joined the Gloucester County Sheriff's Office as a patrol deputy in 1991; as he rose through the ranks, he served as commander of the Special Operations Unit, supervisor of the Criminal Investigations Division, and division commander overseeing patrol deputies, investigations, school resource officers, communications, and auxiliary personnel; and

WHEREAS, Darrell Warren served the Gloucester County Sheriff's Office as its public information officer, and after his promotion to chief deputy in 2010, he guided the department through the process to achieve accreditation from the Virginia Law Enforcement Professional Standards Commission the following year; and

WHEREAS, Darrell Warren was first elected as sheriff of Gloucester County in 2012; during his tenure, he has ably led more than 100 sworn deputies and civilian employees across multiple divisions and has provided exceptional service to more than 38,000 residents in a 288-square-mile area; and

WHEREAS, Darrell Warren has ensured that his deputies have the tools and training to fulfill their mission to serve and protect the residents of Gloucester County, while working diligently to build trust and a strong sense of community with members of the public; and

WHEREAS, under Darrell Warren's leadership, the Gloucester County Sheriff's Office achieved reaccreditation and has cultivated good communication and coordination with regional and state entities; and

WHEREAS, outside of his law-enforcement career, Darrell Warren serves the community as a volunteer with the Boys and Girls Club of Gloucester and the Abingdon Ruritan Club; and

WHEREAS, as president of the Virginia Sheriffs' Association, Darrell Warren will serve and represent the 8,600 sheriffs, deputies, and civilian employees within the organization for a one-year term; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Darrell W. Warren, Jr., on his election as president of the Virginia Sheriffs' Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darrell W. Warren, Jr., as an expression of the General Assembly's admiration for his service to the Gloucester County community and fellow law-enforcement officers throughout the Commonwealth.

HOUSE JOINT RESOLUTION NO. 673

Commending John Hutchison Anderson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, John Hutchison Anderson, an esteemed law-enforcement officer who dedicated himself to protecting and serving the citizens of Fauquier County over a 33-year career, retired as a first sergeant of the Fauquier County Sheriff's Office in 2020; and

WHEREAS, John Anderson began his career in law enforcement in 1988 as a dispatcher under Fauquier County Sheriff Ashby Olinger; during his tenure with the department, he steadily moved through the ranks of deputy first class, master deputy sheriff, and sergeant before ultimately achieving the rank of first sergeant; and

WHEREAS, throughout his illustrious career, John Anderson responded to significant changes in law enforcement and remained steadfastly committed to applying best practice and procedure in all aspects of the profession; and

WHEREAS, John Anderson ably held various responsibilities and served in numerous capacities in the Fauquier County Sheriff's Office over the years, including jail operations, inmate transportation, civil process and court security, patrol, and property and evidence storage and maintenance; and

WHEREAS, an active and engaged member of his community, John Anderson gave generously of his time and talents working extra hours for special details, such as high school sporting events and other local gatherings; and

WHEREAS, John Anderson treated everyone he encountered as a law-enforcement professional with honor and integrity, earning respect and esteem from peers, subordinates, inmates, and the citizens he served; and

WHEREAS, beyond his extraordinary service as a member of the Fauquier County Sheriff's Office, John Anderson has supported the citizens of Fauquier County as a life member of the Remington Volunteer Fire and Rescue Department and in other volunteer capacities; and

WHEREAS, in recognition of his 33 years of meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored John Anderson in an official proclamation on December 10, 2020; and

WHEREAS, through his tireless efforts to ensure the safety and well-being of the Fauquier County community, John Anderson has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John Hutchison Anderson, first sergeant of the Fauquier County Sheriff's Office, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Hutchison Anderson as an expression of the General Assembly's heartfelt appreciation for his service to the Commonwealth and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 674

Commending Gregory Garfield Harris.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Gregory Garfield Harris, an esteemed law-enforcement officer who has dedicated the past 23 years to protecting and serving the citizens of Fauquier County, retired as a lieutenant of the Fauquier County Sheriff's Office in 2020; and

WHEREAS, Gregory Harris joined the Fauquier County Sheriff's Office in 1997 as a deputy in jail operations under Sheriff Joseph Higgs, Jr.; he later served as shift sergeant for 13 years before being promoted to administrative first sergeant of the jail division in 2015 and lieutenant the following year; and

WHEREAS, throughout his illustrious career, Gregory Harris has responded to significant changes in law enforcement and remained steadfastly committed to applying best practice and procedure in all aspects of the profession; and

WHEREAS, Gregory Harris has given generously of his time and talents as a mentor and trainer to many new deputies, earning high praise and esteem from both his subordinates and his peers; and

WHEREAS, an integral member of the Fauquier County Adult Detention Center for many years, Gregory Harris established excellent rapport with the inmate population through his fair, nonjudgmental approach and demonstrated a remarkable ability to diffuse tense situations without the use of force; and

WHEREAS, in recognition of his 23 years of meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored Gregory Harris in an official proclamation on January 14, 2021; and

WHEREAS, through his tireless efforts to ensure the safety and well-being of the Fauquier County community, Gregory Harris has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gregory Garfield Harris, lieutenant of the Fauquier County Sheriff's Office, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gregory Garfield Harris as an expression of the General Assembly's heartfelt appreciation for his service to the Commonwealth and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 675

Commending the Virginia Academy of Science, Engineering and Medicine.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Virginia Academy of Science, Engineering and Medicine has served agencies throughout the Commonwealth for more than five years as an independent resource for expertise in science, engineering, and medicine; through annual meetings and studies on scientific topics; and in an advisory role to policymakers with state and local government; and

WHEREAS, the Virginia Academy of Science, Engineering and Medicine (the Virginia Academy) was formed in 2013 by members of the National Academies of Sciences, Engineering, and Medicine and other key individuals in the Commonwealth, including United States Senator Mark R. Warner, to serve as an independent resource of scientific expertise and a model for new state academies across the nation; and

WHEREAS, the membership of the Virginia Academy is composed of some of the nation's most accomplished and innovative leaders in the fields of science, engineering, and medicine who either live or work in the Commonwealth; and

WHEREAS, the members of the Virginia Academy provide nonpartisan guidance to decision-makers on the most difficult, challenging issues of the day; and

WHEREAS, the Virginia Academy offers a collective rigor and objectivity that no single institution can achieve on its own and fosters new collaborations between businesses and institutions of higher education with the primary goal to grow the Commonwealth's competitiveness for new business investments and federal funding; and

WHEREAS, the Virginia Academy provides analytical, technical, and scientific support to inform policy decisions critical to the future of the Commonwealth and is a source of independent, impartial expertise on scientific and technological policy challenges facing Virginia; and

WHEREAS, the Virginia Academy works in conjunction with other state agencies and commissions, including the Joint Commission on Technology and Science, the State Council of Higher Education for Virginia, and the Center for Innovative Technology to develop policy decisions that are based on scientific principles; and

WHEREAS, the Virginia Academy has advocated for investments by the Commonwealth in job growth, research, and solutions to challenges in science, engineering, medicine, and technology and has continued to support emerging leaders in science, engineering, and medicine in their election to corresponding national academies; and

WHEREAS, the Virginia Academy holds well-attended annual summits on issues of concern to every Virginian, including the future of transportation, preparedness for emerging diseases, and coastal resilience, and has produced a highly regarded report for the General Assembly with a roadmap for expanding the Commonwealth's aerospace industry; and

WHEREAS, on December 10, 2020, the Virginia Academy announced the induction of 10 new members, representing additional key leaders in the scientific, engineering, and medical communities across the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Academy of Science, Engineering and Medicine for its efforts to engage more of the key members of the scientific, engineering, and medical communities in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Academy of Science, Engineering and Medicine as an expression of the General Assembly's admiration for the organization's work to support the economic future of the Commonwealth through greater understanding of science and technology.

HOUSE JOINT RESOLUTION NO. 676

Commending the T.C. Williams School of Law at the University of Richmond.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the T.C. Williams School of Law at the University of Richmond, one of the Commonwealth's many distinguished institutions of higher education, celebrated its 150th anniversary in 2020; and

WHEREAS, the T.C. Williams School of Law at the University of Richmond was founded in 1870 with an inaugural class of 30 students; originally located at Columbia Hall on the corner of Grace Street and Lombardy Street, the school relocated to the university's main campus in 1954 and now serves a student body of more than 400 future attorneys; and

WHEREAS, along with instilling in its students a meticulous understanding of the law, the T.C. Williams School of Law at the University of Richmond aims to cultivate attorneys who think critically, act ethically, advocate zealously, and serve compassionately, producing some of the Commonwealth's most accomplished legal minds; and

WHEREAS, the T.C. Williams School of Law at the University of Richmond has long been committed to supporting the community and encourages its students to offer pro bono legal services through the Carrico Center for Pro Bono & Public Service and various other legal clinics and initiatives, resulting annually in thousands of hours of free legal aid for those in need; and

WHEREAS, the faculty at the T.C. Williams School of Law at the University of Richmond, including 56 full-time professors and a team of adjunct professors, are dedicated both to fostering their students' development and contributing to the broader intellectual legal discourse, with many regularly publishing in the nation's top law journals; and

WHEREAS, alumni of the T.C. Williams School of Law at the University of Richmond have had an outsized impact on the legal community in the Commonwealth; currently, more of the school's alumni serve on the bench in the Commonwealth than alumni from any other law school, and many are particularly active in the Virginia State Bar; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the T.C. Williams School of Law at the University of Richmond on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wendy Collins Perdue, dean of the T.C. Williams School of Law at the University of Richmond, as an expression of the General Assembly's high esteem and admiration for the school's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 677

Commending the New River Valley Public Health Task Force.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the New River Valley Public Health Task Force, a collaborative consortium of government, health, education, business, law-enforcement, and community entities in the New River Valley, was established on March 11, 2020, to provide timely and effective guidance to the region's residents during the COVID-19 pandemic; and

WHEREAS, the New River Valley (NRV) Public Health Task Force was convened by Dr. Noelle Bissell, director of the New River Health District of the Virginia Department of Health, and Anthony Wilson, chief of the Blacksburg Police Department; and

WHEREAS, to enhance the New River Valley's response to the COVID-19 pandemic, the NRV Public Health Task Force incorporates the efforts of the region's localities; hospitals; universities; public school systems; law-enforcement, first responder, and community services agencies; the New River Valley Regional Commission; and the New River Health District of the Virginia Department of Health; and

WHEREAS, the NRV Public Health Task Force swiftly initiated drive-through testing, assessment, and referral sites, as well as onsite operations for area nursing homes, jails, and other facilities, administering more than 36,000 tests in its first six months of operation; and

WHEREAS, the NRV Public Health Task Force was instrumental in securing personal protective equipment for frontline health care workers and public safety personnel in the region, distributing more than 369,000 branded cloth masks to date; and

WHEREAS, by creating its NRV Business Continuity Team and "Working Safe Resource Guidebook," the NRV Public Health Task Force has supported the many small businesses and industries that are the lifeblood of the New River Valley; and

WHEREAS, the NRV Public Health Task Force held six virtual town halls, produced a series of podcasts, and operates a call center to address residents' questions and concerns regarding the COVID-19 pandemic and to encourage them to take the necessary precautions to stem this disease; and

WHEREAS, through its "Be committed. Be well." public health campaign, the NRV Public Health Task Force has connected with residents by way of videos, podcasts, social media, various signage, and advertising along local public

transit systems, ensuring that all residents of the New River Valley are informed of what they can do to keep themselves and their loved ones safe during this historic crisis; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the New River Valley Public Health Task Force for its efforts to unify the New River Valley's response to the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the New River Valley Public Health Task Force as an expression of the General Assembly's high esteem and admiration for the organization's achievements.

HOUSE JOINT RESOLUTION NO. 678

Celebrating the life of Elizabeth Ann Kerr Ledgerton.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Elizabeth Ann Kerr Ledgerton, longtime treasurer of the County of Fauquier who was a beloved member of the Manassas community, died on December 19, 2020; and

WHEREAS, early in her career, Elizabeth "Beth" Ann Kerr Ledgerton was an office manager for the United Mine Workers of Virginia in Washington, D.C., supporting advocacy and lobbying efforts on behalf of miners and other workers in the Commonwealth; and

WHEREAS, Beth Ledgerton worked in the Office of the Treasurer of the County of Fauquier for 22 years, including 17 years as treasurer over five successive terms, over which time she built a reputation as a visionary leader committed to excellence; and

WHEREAS, during Beth Ledgerton's tenure, the Office of the Treasurer of the County of Fauquier bolstered its online presence and established an electronic payment system, greatly enhancing its ability to provide citizens with secure, around-the-clock service; and

WHEREAS, by implementing a delinquent fees and fines collection process, establishing semiannual billing for real estate taxes, and coordinating with other county treasurers in the region, Beth Ledgerton helped to ensure that Fauquier County was properly funded to administer its programs and services; and

WHEREAS, dedicated to the advancement of her profession and good governance in the Commonwealth, Beth Ledgerton served as secretary and vice president of the Treasurers' Association of Virginia and as a member of the Virginia Association of Local Elected Constitutional Officers; and

WHEREAS, Beth Ledgerton gave generously of her time and talents in support of humanitarian initiatives through the Rotary Club of Warrenton, notably serving as the first female president in the organization's history; she was an active member of the Piedmont Republican Women's Club; and

WHEREAS, in recognition of her meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored Beth Ledgerton on the occasion of her retirement by issuing an official proclamation on March 14, 2013; and

WHEREAS, Beth Ledgerton selflessly raised her younger siblings, Randy, Wendy, Dina, and Dayna, as her own after her parents unexpectedly died at a young age, ensuring the family would stay together; and

WHEREAS, guided throughout her life by her deep and abiding faith, Beth Ledgerton enjoyed worship and fellowship with her community at Victory Gospel Church in Manassas for many years; and

WHEREAS, preceded in death by her brother Albert, Beth Ledgerton will be fondly remembered and dearly missed by her siblings, Kevin, Randy, Wendy, Dina, and Dayna, and their families; her stepchildren, Sara and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth Ann Kerr Ledgerton, an esteemed treasurer of the County of Fauquier who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elizabeth Ann Kerr Ledgerton as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 679

Celebrating the life of Perry Anthony Hodge.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Perry Anthony Hodge, a hardworking law-enforcement officer in Pulaski County and a dedicated husband, father, and grandfather, died on January 14, 2021; and

WHEREAS, for 15 years, Perry Hodge served the community as a deputy with the Pulaski County Sheriff's Office, rising to the rank of sergeant; and

WHEREAS, Perry Hodge was responsible for the oversight of all Pulaski County school resource officers; and

WHEREAS, as trusted civil servant and valued partner of Pulaski County Public Schools, Perry Hodge was a valued mentor and strong advocate for thousands of students in the county; and

WHEREAS, Perry Hodge was known as a dependable ally for teachers, an incredible resource for administrators, and a genuine friend to all who knew him; and

WHEREAS, admired for his professionalism and ability to make young people feel protected, cared for, and respected, Perry Hodge could often be found waving to students when they arrived each morning, giving high fives in the hallway, and helping his assigned schools in any way they needed; and

WHEREAS, Perry Hodge was preceded in death by his father, Jackie Bowman Hodge; his brother-in-law, Shane Simmons; and his grandparents; and

WHEREAS, Perry Hodge will be fondly remembered and greatly missed by his wife, Lisa Hodge; his daughters and son-in-law, Melissa Quesenberry and Katie and Justin Noonkester; his grandchildren, Briggs, Cameron, Branson, Maddy, Mason, and Harper; his mother, Francis Harless Hodge; his sisters and brother-in-law, Tina and Gene Duncan and Jacqueline Simmons; his nephew, Jeremy Chadwick; his uncle, Wayne "Pickle" Harless; his aunt, Lois Blevins; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Perry Anthony Hodge, a respected law-enforcement officer and beloved member of the Pulaski County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Perry Anthony Hodge's wife, Lisa; mother, Francis Harless Hodge; and daughters, Melissa Quesenberry and Katie Noonkester as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 680

Celebrating the life of the Honorable Joan Hardie Munford.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Honorable Joan Hardie Munford, an esteemed health care administrator and distinguished former member of the Virginia House of Delegates, died on November 11, 2020; and

WHEREAS, Joan Munford attended Blacksburg High School, where she met her loving husband, Thomas William Munford, and then Radford University, where she majored in education; and

WHEREAS, along with her brother, Joan Munford founded a nursing home development corporation in the 1970s; she became a licensed nursing home administrator, working with Heritage Hall in Blacksburg and rising to the position of vice president of operations; and

WHEREAS, Joan Munford's work in health care and with the elderly led her to get involved with policymaking, and in 1981, she was elected to represent the 13th District in the Virginia House of Delegates; and

WHEREAS, Joan Munford would continue to serve in the Virginia House of Delegates for 12 years, at a time when she was one of only eight women in the legislative body; and

WHEREAS, Joan Munford served on the Committee on Corporations, Insurance and Banking; the Committee on Labor and Commerce; and the Committee on Education, with which she played a vital role by crafting the legislation that introduced family life education into the Commonwealth's school curriculum; and

WHEREAS, Joan Munford became a major proponent for workers' rights and was known in the Committee on Labor and Commerce for working across the aisle on contentious issues, securing the passage of workplace safety regulations and revisions to child labor laws, namely policies on the working conditions for migrant children; and

WHEREAS, Joan Munford's legislative legacy includes strengthening nurse practitioners' responsibilities, leading studies on health insurance premiums, securing millions of dollars to fund capital projects and academic programs at Virginia Polytechnic Institute and State University, and advancing early childhood and preschool education; and

WHEREAS, in her personal life, Joan Munford was known as a woman of faith and a lover of music; she was especially fond of playing piano and was often asked to play during receptions at the Governor's Mansion and at events for the legislature; and

WHEREAS, despite suffering from dementia in recent years, Joan Munford continued to play for her family and friends at Commonwealth Senior Living at Christiansburg until the final days of her life; and

WHEREAS, guided throughout her life by her deep and abiding faith, Joan Munford enjoyed worship and fellowship with her communities at Blacksburg Baptist Church and Blacksburg Presbyterian Church; and

WHEREAS, preceded in death by her parents, her loving husband, Thomas, and her brother, Thomas D. Hardie, Joan Munford will be fondly remembered and dearly missed by her daughter and son-in-law Mary and David Harder; her

grandsons, James Harder and Benjamin Harder and his wife, Jacquelyn Harder; great-grandchildren, Cole and Airlie Harder; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Joan Hardie Munford, a cherished former member of the Virginia House of Delegates whose unwavering dedication to the Commonwealth touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to her daughter and son-in-law, Mary and David Harder; her grandsons, James Harder and Benjamin Harder and his wife, Jacquelyn Harder; and great-grandchildren, Cole and Airlie Harder, as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 681

Commending Samuel Allen.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Samuel Allen, an esteemed baseball player and Norfolk native who made history as a member of the famed Negro American League in the 1950s, has inspired his community for more than 60 years; and

WHEREAS, Samuel "Sam" Allen fell in love with the game of baseball at a young age while watching semiprofessional teams in the Norfolk area with his grandfather; and

WHEREAS, playing from sunup to sundown throughout his childhood, Sam Allen would go on to become a standout athlete in football and baseball at Booker T. Washington High School in Norfolk; and

WHEREAS, with a towering home run, Sam Allen helped an ad hoc team in Jacksonville, Florida, beat the heralded Kansas City Monarchs during an exhibition game in 1957, launching his professional baseball career; and

WHEREAS, Sam Allen played for the Kansas City Monarchs, Raleigh Tigers, and Memphis Red Sox from 1957 to 1959, traveling far and wide to play teams throughout the country; and

WHEREAS, as a left fielder for the Kansas City Monarchs in 1957, Sam Allen led the National American League in runs scored and helped his team win a championship title; and

WHEREAS, Sam Allen's professional baseball career ended when he was drafted into the United States Army in 1960; he served his country with courage and valor as a member of the 82nd Airborne Division and continued to play baseball recreationally for many years thereafter; and

WHEREAS, Sam Allen's noteworthy contributions to the history of baseball have been recognized by his induction to the African American Sports Hall of Fame, the Hampton Roads African American Sports Hall of Fame, and the Tidewater Baseball Shrine at Harbor Park in Norfolk; and

WHEREAS, Sam Allen has been honored as a distinguished guest at numerous baseball commemorations in recent years, including official events at the Library of Congress and the White House; and

WHEREAS, Sam Allen has long been active with various programs and conventions dedicated to memorializing the Negro leagues, ensuring that this important chapter in the history of baseball will be remembered for years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Samuel Allen, a Norfolk native who played in the historic Negro American League, for his inspirational accomplishments both on and off the diamond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Samuel Allen as an expression of the General Assembly's high esteem and admiration for his achievements and many contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 682

Commending Bobby Hill.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Bobby Hill, recruitment coordinator for the Virginia Beach Rescue Squad Foundation, who has supported the City of Virginia Beach's emergency medical services and rescue operations for more than a half-century, retired in 2020; and

WHEREAS, Bobby Hill began volunteering with the City of Virginia Beach's Department of Emergency Medical Services in 1968 as a member of the Davis Corner Volunteer Rescue Squad, later transferring to the Virginia Beach Volunteer Rescue Squad in 1972; and

WHEREAS, in 2004 the City of Virginia Beach's Department of Emergency Medical Services initiated a long-term strategic collaboration with the Virginia Beach Rescue Squad Foundation to develop and implement a comprehensive recruitment plan; and

WHEREAS, Bobby Hill invested his time and energy into this collaboration from the beginning and was hired as the Virginia Beach Rescue Squad Foundation's recruitment coordinator in 2009; and

WHEREAS, for the past 11 years, Bobby Hill was highly involved in every aspect of the Virginia Beach Rescue Squad Foundation's recruitment efforts, including marketing strategies, radio broadcasts, social media campaigns, the foundation's website, and countless job fairs and outreach events; and

WHEREAS, as a result of Bobby Hill's tireless dedication, the Virginia Beach Rescue Squad Foundation has recruited hundreds of well-qualified individuals to volunteer their time to assist the City of Virginia Beach's fire and rescue operations; and

WHEREAS, in recognition of his extraordinary contributions to the Virginia Beach Rescue Squad Foundation, Bobby Hill was honored with the organization's Virginia Gilpin Distinguished Service Award; and

WHEREAS, Bobby Hill has supported fire and emergency medical services units throughout the Commonwealth through his involvement with the Virginia Fire-EMS Recruitment Retention Network and the Virginia Association of Volunteer Rescue Squads; and

WHEREAS, in addition to his volunteer service, Bobby Hill has served the City of Virginia Beach in various professional roles and retired as chief magistrate of Virginia Beach in 2009; and

WHEREAS, over the past half-century, Bobby Hill has remained steadfastly committed and unwaveringly loyal to both the Virginia Beach volunteer emergency medical services system and volunteer fire and rescue squads throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bobby Hill, an esteemed recruitment coordinator for the Virginia Beach Rescue Squad Foundation, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bobby Hill as an expression of the General Assembly's profound admiration for his innumerable contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 683

Commending the Loudoun County Office of Elections and Voter Registration.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Loudoun County Office of Elections and Voter Registration ably responded to the challenges of the COVID-19 pandemic by ensuring smooth and efficient processes for early in-person voting and absentee voting during the 2020 United States presidential election; and

WHEREAS, led by Judy Brown, general registrar, the staff of the Loudoun County Office of Elections and Voter Registration worked diligently to address safety concerns, prepare for record voter turnout, and conduct a free and fair election; and

WHEREAS, in an effort to reduce crowds and wait times on election day, the Loudoun County Office of Elections and Voter Registration and other registrars' offices throughout the Commonwealth offered early in-person voting; and

WHEREAS, the Loudoun County Office of Elections and Voter Registration sent out absentee ballots earlier in the fall and implemented preprocessing to efficiently handle the record-breaking number of ballots; and

WHEREAS, the Loudoun County Office of Elections and Voter Registration effectively prepared to serve significant numbers of voters at polling places throughout the county on election day; and

WHEREAS, at all in-person voting sites, including local precincts and early voting stations at the Loudoun County Office of Elections and Voter Registration, personnel demonstrated a commitment to the safety of poll workers and voters by checking for masks, placing physical distance markers, and sanitizing voting booths between uses; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County Office of Elections and Voter Registration for the outstanding performance of its duties during the 2020 United States presidential election; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Office of Elections and Voter Registration as an expression of the General Assembly's admiration for its achievements in service to the residents of Loudoun County.

HOUSE JOINT RESOLUTION NO. 684

Commending Ethel L. Grandy.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Ethel L. Grandy, a longtime civic and public health activist in Chesapeake and Hampton Roads, has helped the youth of her community lead positive, fulfilling lives for many years; and

WHEREAS, a prominent and civically engaged member of her community, Ethel Grandy is affectionately known throughout Chesapeake and Hampton Roads as "Mother Grandy"; and

WHEREAS, Ethel Grandy led voter registration drives from a young age and worked with the Oak Grove Civic League beginning in her twenties, ultimately serving the organization as president; and

WHEREAS, a former employee of Chesapeake Public Schools, Ethel Grandy was one of the first African American women to be appointed to serve as an election judge in the City of Chesapeake; and

WHEREAS, guided throughout her life by her deep and abiding faith, Ethel Grandy has served her church in various capacities over the years and was formerly president of a Sunday school union consisting of eight churches in Great Bridge, Greenbrier, and Crestwood; and

WHEREAS, the first woman to serve as president of the Sunday school union, Ethel Grandy promoted the leadership theme of "youth in action" during her tenure and spearheaded two successful antidrug rallies for children in the community; and

WHEREAS, Ethel Grandy built on the momentum of these rallies and founded the organization Families United Against Drugs in 1991, partnering with the City of Chesapeake to educate youth and combat drug abuse; and

WHEREAS, Families United Against Drugs sponsors popular annual rallies and regular workshops and programs that teach young people to avoid drugs and make positive life choices; and

WHEREAS, in addition to regularly speaking before groups at church and youth events, Ethel Grandy often meets with inmates at the Chesapeake Correctional Center and detainees at the local juvenile detention center to offer them spiritual guidance and support; and

WHEREAS, in recognition of her extraordinary service, Ethel Grandy has received numerous awards and accolades from local and national organizations, including the United States Federal Bureau of Investigation Director's Community Leadership Award in 2007 and an honorary doctor of humane letters degree from Old Dominion University in 2008; and

WHEREAS, through her steadfast commitment to the health and well-being of young people, Ethel Grandy has helped make the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ethel L. Grandy, a cherished community leader whose tireless efforts to support young people in Chesapeake and Hampton Roads have made a difference in countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ethel L. Grandy as an expression of the General Assembly's high esteem and admiration for her inspirational contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 685

Celebrating the life of Larry Jerome Bland.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Larry Jerome Bland, an esteemed music director and beloved member of the Richmond community, died on November 13, 2020; and

WHEREAS, raised in Richmond, Larry Bland was a graduate of Maggie L. Walker High School and later earned a degree in vocal music education from Virginia State University (VSU), where he founded the VSU Gospel Chorale; and

WHEREAS, harmonizing his deep and abiding faith with his passionate love for music, Larry Bland served as the longtime creative director of The Volunteer Choir at Second Baptist Church in Richmond; and

WHEREAS, Larry Bland led The Volunteer Choir, which was formed in 1968, for 44 years over two separate tenures, producing three albums and several singles that will always be cherished by fans; and

WHEREAS, Larry Bland brought a new style of gospel choir performance to The Volunteer Choir, where members wore tuxedos and evening gowns and moved in a precision choreographed style as they sang; he included drums, keyboards, and brass as an early adopter of using such instruments to enliven performances; and

WHEREAS, as a testament to The Volunteer Choir's prominence in the community, the group welcomed Queen Elizabeth II during Her Majesty's visit to Richmond in 2007, appeared with the Richmond Symphony, and performed at various summer festivals and events year after year; and

WHEREAS, Larry Bland stepped away from The Volunteer Choir briefly while pursuing work in Washington, D.C., but the group's magnetism kept him commuting to Richmond regularly for several years, and he soon returned permanently, leading the group until its final performance on December 30, 2018, at a commemoration of its 50th anniversary; and

WHEREAS, Larry Bland's gift for the performing arts extended to the theater, and he was involved in multiple stage productions at the Haymarket Theatre in Mechanicsville in the 1970s and 1980s, including a 1976 production of *Purlie* that earned him a Phoebe Award from Richmond theater critic Roy Proctor; and

WHEREAS, Larry Bland worked tirelessly for various organizations throughout his career, including an entertainment law office in Washington, D.C., the Discovery Channel, the *Richmond Free Press*, and the Richmond Department of Justice Services; and

WHEREAS, Larry Bland will be fondly remembered and dearly missed by his aunt Barbara; his nephews, Prince, Keith, and Pierre; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Larry Jerome Bland, revered music director of Richmond's The Volunteer Choir, whose kindness, visionary leadership, and positivity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Larry Jerome Bland as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 686

Celebrating the life of Charles Lindsay McDowell, M.D.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Charles Lindsay McDowell, M.D., an esteemed orthopedic hand surgeon and beloved member of the Richmond community, died on October 29, 2020; and

WHEREAS, a graduate of Wake Forest College, Charles McDowell attended Jefferson Medical College at Thomas Jefferson University, where he was awarded the DePalma Orthopedic Surgery Prize; and

WHEREAS, Charles McDowell subsequently completed an internship and residency in orthopedics at Thomas Jefferson University Hospital in Philadelphia and later was awarded a Kane Fellowship in Hand Surgery to study under Dr. Robert E. Carroll at the former Columbia-Presbyterian Medical Center in New York City; and

WHEREAS, after completing his education and training, Charles McDowell settled in Richmond in 1965, entering private practice as an orthopedic, hand, and upper extremity surgeon; and

WHEREAS, Charles McDowell was noted for establishing and serving hand surgery departments at several leading hospital programs in the Greater Richmond area, including the VCU Medical Center, the Children's Hospital of Richmond at Virginia Commonwealth University, and the Hunter Holmes McGuire Veterans Administration Medical Center; and

WHEREAS, Charles McDowell was a pioneering medical researcher, fostering greater understanding of complex surgical treatments for children with birth defects and injuries, as well as the biology of tendon and cartilage repair; and

WHEREAS, Charles McDowell was known to place great emphasis on the relationship between a doctor and their patient and encouraged his fellow surgeons and physicians to do the same, establishing a strong rapport with his patients and earning their enduring trust over the years; and

WHEREAS, Charles McDowell was an intrepid scholar and adventurer, passionately delving into various academic disciplines while traveling the world as both a sailor and an aviator throughout his life; and

WHEREAS, Charles McDowell will be fondly remembered and dearly missed by his loving wife of 63 years, Carter; his sons, Roy, Alan, and Lindsay, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Lindsay McDowell, M.D., an accomplished surgeon whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Lindsay McDowell, M.D., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 687

Celebrating the life of Sheila Kavanagh Mandt.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Sheila Kavanagh Mandt, an esteemed nonprofit executive and an active and beloved member of the Richmond community, died on January 25, 2021; and

WHEREAS, born in New York City and raised in Michigan, Sheila Mandt attended the University of Detroit Mercy from 1986 to 1989; and

WHEREAS, Sheila Mandt settled in Richmond in 1995 and soon became a forceful member of the local nonprofit community, particularly with regard to victim's rights groups; and

WHEREAS, Sheila Mandt's illustrious career as a nonprofit executive included six years as director of leadership giving at the United Way of Greater Richmond and Petersburg and stints as director of development for the Greater Richmond Area Command of the Salvation Army and as chief executive officer of the Joe Torre Safe at Home Foundation; and

WHEREAS, for nearly 20 years, Sheila Mandt contributed greatly to the success of many area nonprofits as president of SKM Management, a fundraising consulting firm specializing in prospect research, annual funds, and capital campaigns; and

WHEREAS, in the 2000s, Sheila Mandt spearheaded a collaborative project between several abused women's shelters in the Commonwealth that resulted in a handmade quilt, measuring roughly 150 feet by 10 feet, that commemorated victims of domestic abuse; and

WHEREAS, displayed at prominent locations throughout the Commonwealth, such as the Capitol Building and the Office of the Attorney General, the quilt organized by Sheila Mandt brought greater awareness to the problem of domestic abuse while conveying a message about the strength and courage of victims; and

WHEREAS, Sheila Mandt will be fondly remembered and dearly missed by her loving husband, Chris; her brothers, Neil and Michael; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Sheila Kavanagh Mandt, an accomplished nonprofit executive in Richmond whose kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sheila Kavanagh Mandt as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 688

Celebrating the life of Mozelle Willis Minor:

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Mozelle Willis Minor, a beloved and longtime member of the Richmond community, died on November 12, 2020; and

WHEREAS, in her earlier years, Mozelle Minor worked as a parachuter at the historic Moton Field, home of the Tuskegee Airmen, in Tuskegee, Alabama, and later as a chef at the former Tuskegee Institute, now Tuskegee University; and

WHEREAS, Mozelle Minor then settled in Richmond, where she worked at Philip Morris and later at a restaurant on Main Street, establishing a large community of family, friends, and neighbors; and

WHEREAS, Mozelle Minor served her community as a member of the Order of the Eastern Star and inspired audiences as a member of both the Cook Memorial Choir and Deacon Frank Epps' gospel choir; and

WHEREAS, guided throughout her life by her deep and abiding faith, Mozelle Minor enjoyed worship and fellowship with her community at Second Baptist Church in Richmond for 70 years; and

WHEREAS, preceded in death by her loving husband, Percy, Sr., and her children, Percy, Jr., and Cecil, Mozelle Minor will be fondly remembered and dearly missed by her sister, Frances, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mozelle Willis Minor, a cherished member of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mozelle Willis Minor as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 689

Celebrating the life of Jamile J. Hill.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Jamile J. Hill, a beloved member of the Chesapeake community who inspired many through her boundless joy and determination to succeed, died on October 19, 2020; and

WHEREAS, Jamile Hill overcame physical and mental health challenges throughout her life to become a shining example of what one can achieve through hard work and belief in oneself; and

WHEREAS, Jamile Hill attended Chesapeake Public Schools and Rivermont School while growing up and ultimately earned an associate's degree in social sciences from Tidewater Community College, posting a 3.7 grade point average and graduating magna cum laude; and

WHEREAS, an engaged citizen who was committed to making a difference, Jamile Hill was active with the Chesapeake Democratic Committee and proudly campaigned on behalf of President Barack Obama; and

WHEREAS, Jamile Hill was a child care provider at the YMCA of South Hampton Roads, working hard to ensure that the children in her ward were safe and entertained every time they visited; and

WHEREAS, Jamile Hill mentored six children with special needs, using her own triumphs as motivation for them to trust in their abilities and strive to achieve their dreams; and

WHEREAS, an accomplished athlete with Special Olympics Virginia, Jamile Hill won several medals over the years in basketball, track and field, roller skating, and ice speed skating, while bravely participating in the organization's Polar Plunge event 10 years in a row; and

WHEREAS, in response to Jamile Hill's untimely passing, legislation was introduced to expand the criteria for the Virginia Missing Person with Autism Alert Program, helping to make the Commonwealth safer for all; and

WHEREAS, Jamile Hill will be fondly remembered and dearly missed by her parents, Shawn, Dennis, Sr., Melvin, Jr., Clarence, and Towanda; her siblings, Imani, Nia, Kamerie, and Tylene; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jamile J. Hill, a cherished member of the Chesapeake community whose unwavering optimism and kindness touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jamile J. Hill as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 690

Celebrating the life of William Archer Royall, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, William Archer Royall, Jr., an innovative entrepreneur, generous philanthropist, and keen patron of the arts who dedicated his life to servant leadership, died on June 25, 2020; and

WHEREAS, born in Tazewell, William "Bill" Archer Royall, Jr., grew up in Alexandria and began to cultivate his passion for community engagement at a young age; in addition to operating a paper route, he sold personalized greeting cards, decorative crafts, and homegrown tomato plants all before the age of 12; and

WHEREAS, a proud alumnus of Virginia Commonwealth University, Bill Royall initially worked in the political arena, serving as executive director of then-President Gerald R. Ford's Virginia election campaign in 1976 and leading John N. Dalton's successful bid for Governor of Virginia in 1977; and

WHEREAS, after serving as a special assistant to Governor Dalton for 16 months, Bill Royall became president of the North American Marketing Corporation, then established Royall & Company in Richmond to provide direct mail services for nonprofit and political organizations; and

WHEREAS, five years after its founding in 1983, Royall & Company refocused its mission on higher education enrollment and conducted a direct-mail student recruitment campaign for Hampden-Sydney College; under Bill Royall's exceptional leadership, the company became a national leader in research-based recruitment marketing for colleges and universities; and

WHEREAS, Bill Royall emphasized that what was best for the student was often best for the institution and strove to position Royall & Company as an extension of a client's admissions office; his work to reach students in underrepresented populations and first-generation students helped break down barriers and led to significant increases in diversity on many college campuses; and

WHEREAS, guided by a personal philosophy of graciousness—graciousness in success or failure and to colleagues and partners alike—Bill Royall oversaw the growth of a company culture defined by creativity, collegiality, and determined advocacy for its clients; and

WHEREAS, Bill Royall took great joy in sharing in his employees' personal and professional triumphs, and he inspired others to strive toward achieving their fullest potential; Royall & Company currently operates as EAB after it was purchased by The Advisory Board Company in 2015 and has grown to serve more than 1,700 colleges and universities around the country with more than 1,000 employees across multiple offices; and

WHEREAS, Bill Royall and his wife, Pam, were devoted volunteer leaders who served as humble benefactors or provided counsel and expertise to numerous charitable organizations in an effort to strengthen communities and elevate the quality of life throughout the Richmond region; and

WHEREAS, Bill Royall supported young people through the Boys and Girls Clubs of Metro Richmond and provided generous funding for organizations such as Camp Pasquaney, Camp Little Hawk, and Elk Hill Farm to help disadvantaged youths attend summer camps; and

WHEREAS, Bill Royall was a longtime member of the Board of Trustees of the Virginia Museum of Fine Arts, serving as president from 2014 to 2016, and donated more than 100 pieces to the museum's collection over the course of a decade; he notably supported the acquisition of Kehinde Wiley's statue Rumors of War, which was installed on the museum's campus in 2019; and

WHEREAS, Bill Royall led a fundraising campaign to support the creation of the Institute for Contemporary Art at Virginia Commonwealth University and he offered his private gallery in downtown Richmond, which featured original, contemporary work by local and international artists, for use by teachers and arts-focused nonprofit organizations as an event space; and

WHEREAS, in one of his final acts of service and compassion, Bill Royall participated in a study of amyotrophic lateral sclerosis (ALS) conducted by the National Institutes of Health in the hopes that resultant research could improve the lives of future ALS patients; and

WHEREAS, Bill Royall is fondly remembered and greatly missed by his wife, Pam; his children, William, Rider, Timothy, Aubyn, and Nicholas, and their families; his mother, Theda; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Archer Royall, Jr., a pillar of the Richmond community who inspired generations of leaders in a wide range of professional, charitable, and cultural pursuits; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Archer Royall, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 691

Celebrating the life of the Reverend Dr. James Alfred Carey.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend Dr. James Alfred Carey, a respected educator and spiritual leader in Southampton County, died on January 24, 2021; and

WHEREAS, James Alfred Carey grew up in Greenville County and graduated from Edward W. Wyatt High School; he continued his education with a bachelor's degree from Saint Paul's College and a master's degree from Virginia Commonwealth University; and

WHEREAS, James Alfred Carey worked in Southampton Public Schools until he was drafted by the United States Army; he served with distinction until his honorable discharge in 1969, then briefly returned to teaching; and

WHEREAS, James Alfred Carey subsequently joined the Virginia Department of Corrections and served as a vocational learning coordinator after the establishment of the Rehabilitative School Authority, which later was reorganized within the Department of Correctional Education; and

WHEREAS, as an assistant principal and principal for the Department of Correctional Education, James Alfred Carey worked diligently to reduce recidivism by helping inmates throughout Southampton County gain valuable job skills and training; and

WHEREAS, James Alfred Carey's final assignment for the Department of Correctional Education was at the Southampton Intensive Treatment Center, and after the facility's closure, he worked as a teacher for Weldon City Schools in North Carolina and as an instructor for a Jackson Feild Homes location in Jarratt; and

WHEREAS, James Alfred Carey served the community as a member of the Emporia City Council, representing the residents of District 1 for 10 years, and he supported his wife, Carolyn, during her successful campaign for election as mayor of Emporia in 2020; and

WHEREAS, after earning a doctorate of systematic theology, James Alfred Carey answered the call to ministry at Pleasant Grove Baptist Church in Drewryville and served as pastor of Mount Ararat Baptist Church and Saint Matthew Baptist Church, both in North Carolina; and

WHEREAS, in 1980, James Alfred Carey became pastor of Shiloh Baptist Church Emporia, where he had begun to cultivate his deep faith in his youth, and he provided exceptional spiritual leadership to the congregation for more than 40 years; and

WHEREAS, among many awards and accolades, James Alfred Carey was twice selected as the Rehabilitative School Authority's Administrator of the Year, and he received the Outstanding Community Service Award from the Emporia City Council in 1998; and

WHEREAS, predeceased by his daughter, Madalyn, James Alfred Carey will be fondly remembered and greatly missed by his wife of 54 years, Carolyn; his sons, James and Marcus, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Dr. James Alfred Carey, a respected educator and spiritual leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. James Alfred Carey as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 692

Commending Josh Sweat.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Josh Sweat, a native of Chesapeake who currently plays defensive end for the Philadelphia Eagles in the National Football League, has inspired legions of fans throughout his career; and

WHEREAS, Josh Sweat was a member of the Oscar F. Smith High School football team in Chesapeake that won the Virginia High School League AAA Division 6 state championship in 2011 and that was runner-up in 2013; and

WHEREAS, Josh Sweat tallied 94 tackles and 22 sacks during his junior year at Oscar F. Smith High School and was both a top prospect in the Commonwealth and one of the highest-rated defensive ends in the nation in the Class of 2015, despite suffering a season-ending injury two games into his senior year; and

WHEREAS, Josh Sweat played three seasons with the Florida State Seminoles from 2015 to 2017, leading the team in sacks in his final year and making the watch list for the Football Writers Association of America's Bronko Nagurski Trophy for best defensive player in the National Collegiate Athletic Association; and

WHEREAS, selected 130th overall by the Philadelphia Eagles in the 2018 National Football League Draft, Josh Sweat has been a dominating presence on the gridiron over his three seasons with the team; and

WHEREAS, Josh Sweat continues to grow as a player and notched 38 tackles, six sacks, and three forced fumbles during the 2020 season, including a pivotal play during the match-up with the New Orleans Saints on December 13, 2020, that helped secure victory for the Philadelphia Eagles; and

WHEREAS, Josh Sweat has demonstrated what one can achieve through hard work, grit, and determination, motivating young athletes in Chesapeake and the Commonwealth to strive for their goals and achieve their dreams; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Josh Sweat, a Chesapeake native and standout player in the National Football League, for serving as an inspirational role model to countless young fans; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Josh Sweat as an expression of the General Assembly's admiration for his achievements and best wishes for his continued success.

HOUSE JOINT RESOLUTION NO. 693

Commending Marty L. Miller.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Marty L. Miller, Norfolk State University athletics director and the longest-tenured athletics director in the history of the Mid-Eastern Athletic Conference, retired in 2020; and

WHEREAS, Marty Miller is a 1964 graduate of John M. Langston High School in Danville, where he played basketball and was a standout on the baseball diamond, compiling a .684 batting average his senior year and a career average of .513; and

WHEREAS, Marty Miller was awarded a scholarship to attend Norfolk State University (NSU), where he was an All-Central Intercollegiate Athletic Association (CIAA) player in 1967 and 1968, the same year he led the nation in doubles, and was the college's first National Collegiate Athletic Association (NCAA) College Division All-American in baseball; and

WHEREAS, Marty Miller joined the United States Army after college and while on active duty was signed by the Minnesota Twins; after leaving the Army, he returned to Norfolk State University and became the school's head baseball coach in 1973; and

WHEREAS, Marty Miller became the winningest baseball coach in CIAA history; over 32 years, he compiled a record of 718-543-3, won 17 conference championships, and was named CIAA Coach of the Year 15 times; and

WHEREAS, beyond athletics, Marty Miller has served his alma mater in various other capacities for more than 40 years, including working in the areas of financial aid, career services, and student affairs; and

WHEREAS, Marty Miller, who became the athletics director at NSU in 2005, has greatly supported his student-athletes throughout his career, ensuring each achieves their dreams both on the field and in the classroom; and

WHEREAS, Marty Miller has fostered the Hampton Roads sports community as past president of the Norfolk Sports Club and as a member of the executive committee for the Virginia Sports Hall of Fame & Museum in Virginia Beach; and

WHEREAS, to honor Marty Miller's longstanding commitment to NSU and his exemplary contributions to the community, the school dedicated its Marty L. Miller Baseball Field in his honor in 1997; and

WHEREAS, a recent inductee into the Virginia Interscholastic Association Heritage Association Hall of Fame, Marty Miller is a member of the NSU, CIAA, Hampton Roads Sports, Virginia Sports, and Hampton Roads African American Sports halls of fame; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marty L. Miller, esteemed athletics director at Norfolk State University, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marty L. Miller as an expression of the General Assembly's profound admiration for his distinguished career and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 694

Commending Adrienne Warren.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Adrienne Warren, an accomplished Broadway actor and native of Hampton Roads, was nominated for the Tony Award for Best Performance by an Actress in a Leading Role in a Musical in 2020; and

WHEREAS, since she was a child, Adrienne Warren has been on the stage, singing in the choir at her father's church and performing in productions of the Hurrah Players, a family-friendly theater company in Norfolk; and

WHEREAS, Adrienne Warren is a 2005 graduate of the Governor's School for the Arts in Norfolk, where the community of young artists contributed greatly to her development as an actor; and

WHEREAS, Adrienne Warren made her Broadway debut in 2012 in the musical *Bring It On* and four years later was nominated for a Tony Award for Best Performance by an Actress in a Featured Role in a Musical for her performance in *Shuffle Along, Or the Making of the Musical Sensation of 1921 and All That Followed*; and

WHEREAS, Adrienne Warren originated the role of Tina Turner in the critically acclaimed *Tina: The Tina Turner Musical*, which premiered at the Aldwych Theatre in the West End of London in 2018; and

WHEREAS, Adrienne Warren received an Olivier Award nomination for Best Actress in a Musical for her performance in *Tina: The Tina Turner Musical* and recently reprised the role on Broadway at the Lunt-Fontanne Theatre, earning her second Tony Award nomination in 2020; and

WHEREAS, Adrienne Warren has lent her talents to numerous television productions in recent years, including CBS's *Blue Bloods* and Netflix's *Orange Is the New Black* in 2013, ABC's *Black Box* in 2014, USA Network's *Royal Pains* in 2016, and ABC's *Quantico* in 2017; and

WHEREAS, Adrienne Warren is a founder of the Broadway Advocacy Coalition and currently serves on its Board of Directors, using her platform to advocate for criminal justice and immigration reform and education equity; and

WHEREAS, during visits to her home in Hampton Roads, Adrienne Warren regularly meets young actors with the Hurrah Players and the Governor's School for the Arts to share her experience and empower them to pursue their dreams; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Adrienne Warren, a celebrated actor from Hampton Roads, for earning a 2020 Tony Award nomination and impressing audiences on the finest stages in the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Adrienne Warren as an expression of the General Assembly's high esteem and admiration for her tremendous achievements and best wishes for her continued success.

HOUSE JOINT RESOLUTION NO. 695

Commending Annie Laura Downing.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Annie Laura Downing, a highly admired member of the Richmond community, celebrated her 100th birthday on January 31, 2021; and

WHEREAS, Annie Laura Downing was born in Fairmount near Richmond and was the oldest child of Mary Sharp and John Richards Gentry; and

WHEREAS, Annie Laura Downing attended Glen Lea Elementary School with her siblings, Elizabeth and John, and was a member of Maple Grove Methodist Episcopal Church South in her youth; and

WHEREAS, in 1938, Annie Laura Downing graduated from Highland Springs High School and enrolled in Smithdeal-Massey Business School; she subsequently worked for Henrico County as a switchboard operator and was later promoted to Secretary to the County Manager; and

WHEREAS, in 1941, Annie Laura Downing married Robert "Pete" Roop, and they had three sons, Robert, Richard, and Ronald, and one daughter, Martha Ann; and

WHEREAS, in 1950, Annie Laura Downing and her family moved to Highland Springs, joining Highland Springs United Methodist Church; her compassion and deep faith led her to join the United Methodist Women to help the less fortunate; and

WHEREAS, in 1966, following the loss of her beloved husband, Pete, Annie Laura Downing supported her children by working at Woody Funeral Home on Laburnum Avenue; and

WHEREAS, in 1969, while vacationing with a friend, Annie Laura Downing was introduced to Charlie Downing of Indiana, and after a long-distance courtship, the couple married in 1973 and spent the next 13 years in Indiana; and

WHEREAS, after Charlie retired, Annie Laura Downing returned to Virginia and settled in Mechanicsville, where she joined Shady Grove United Methodist Church; and

WHEREAS, Annie Laura Downing has been active with the Highland Springs Garden Club and the Rural Point Homemakers Club, and she is a devoted member of the Shady Grove United Methodist Women, having served as vice president and spiritual life coordinator; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Annie Laura Downing on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Annie Laura Downing as an expression of the General Assembly's admiration for her achievements in service to her community and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 696

Commending Dr. Ronald A. Crutcher.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Dr. Ronald A. Crutcher, a distinguished leader in higher education administration, has served as president of the University of Richmond for more than five years; and

WHEREAS, a graduate of Miami University in Ohio, Ronald Crutcher holds master's and doctoral degrees from Yale University and is an accomplished cellist who formerly played with the Cincinnati Symphony Orchestra; and

WHEREAS, Ronald Crutcher previously served as the director of the Butler School of Music at the University of Texas at Austin and dean of the Cleveland Institute of Music; he led the administration of Wheaton College as president for 10 years before joining the University of Richmond in 2015; and

WHEREAS, as the first African American president of the University of Richmond, Ronald Crutcher emphasized the institution's commitment to fighting racism and sexism wherever it was present, championed free expression and civil debate, and promoted diversity and inclusivity by hiring more women and people of color; and

WHEREAS, Ronald Crutcher worked to increase engagement with University of Richmond alumni, leading to record levels of philanthropy during his tenure, developed an office to support students applying for national grants and fellowships, and created a strategic communications division to raise the institution's reputation and profile throughout the Commonwealth and the United States; and

WHEREAS, under Ronald Crutcher's leadership, the University of Richmond was ranked among the best liberal arts colleges in the nation by *U.S. News and World Report*; and

WHEREAS, Ronald Crutcher is chair of the Board of Directors of the American Council on Education, served on the board of the American Association of Colleges and Universities and is a founding co-chair of Liberal Education and America's Promise; he led the University of Richmond to become a charter member of the American Talent Initiative, an organization that advocates for socioeconomic diversity in higher education; and

WHEREAS, during the COVID-19 pandemic, Ronald Crutcher helped support the institution and set an example for higher education administrators nationally by taking a pay cut to help offset the unanticipated and significant expenses associated with responding to the pandemic; and

WHEREAS, outside of his work with the University of Richmond, Ronald Crutcher offers his leadership and expertise to the board of the Richmond Symphony and has performed throughout the United States and Europe as a member of the Klemperer Trio; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Ronald A. Crutcher for his years of outstanding service as president of the University of Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Ronald A. Crutcher as an expression of the General Assembly's admiration for his work to advance the field of higher education and contributions to the Richmond community and the Commonwealth of Virginia.

HOUSE JOINT RESOLUTION NO. 697

Commending Barry R. Lawrence.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Barry R. Lawrence retired from the Henrico County Manager's Office on September 1, 2020, after a successful and distinguished 28-year career; and

WHEREAS, Barry Lawrence grew up in the City of Norfolk, graduated from Maury High School, and earned bachelor's and master's degrees from the University of Virginia; and

WHEREAS, while pursuing his master's degree, Barry Lawrence served as an administrative analyst for the City of Suffolk and as a youth service coordinator and juvenile programs coordinator in the City of Portsmouth; he served as a research assistant for the Virginia Institute of Government at the University of Virginia in the fall of 1981; and

WHEREAS, after graduation, Barry Lawrence was appointed as the town manager of the Town of Purcellville, where he served for one year and two months; and

WHEREAS, in October 1983, Barry Lawrence was appointed as legislative liaison for the Prince William County, and in July 1985, he was promoted to assistant to the county executive for legislative affairs and served for one year and six months; and

WHEREAS, in December 1986, Barry Lawrence was appointed as the assistant director for the Virginia Association of Counties, where he served for one year and two months until being appointed acting executive director in January 1988; and

WHEREAS, after serving as executive director for the Virginia Association of Counties from April 1988 until June 1990, Barry Lawrence taught as an adjunct professor of political science at Randolph-Macon College, beginning in January 1991; and

WHEREAS, in July 1991, Barry Lawrence was appointed county administrator of Powhatan County, where he served for one year and four months, until he was hired to serve as Henrico County's assistant to the county manager for board affairs in 1992; and

WHEREAS, in 1998, Barry Lawrence was appointed as clerk of the Henrico County Board of Supervisors; during his long tenure as clerk, the board considered over 7,895 agenda items, and he only missed six board meetings; and

WHEREAS, Barry Lawrence's extraordinary job performance, carried out with humility and a passion for knowledge, made him a role model for municipal clerks throughout the Commonwealth; and

WHEREAS, Barry Lawrence's expertise in English grammar, coupled with his outstanding writing and organizational skills, allowed the Henrico County Board of Supervisors to conduct the county's business in the most informative and efficient way possible; and

WHEREAS, through his pleasant personality, kind demeanor, and superb communication skills, Barry Lawrence built an exceptional rapport with Henrico County's elected and appointed officials, agency heads, employees, and residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Barry R. Lawrence on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Barry R. Lawrence as an expression of the General Assembly's admiration for his service to the Henrico County community.

HOUSE JOINT RESOLUTION NO. 698

Commending O. R. Singleton, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, O. R. Singleton, Jr., a respected veteran of the Korean War and a talented engineer, has served and supported the Richmond community for more than 60 years; and

WHEREAS, O. R. "Duke" Singleton, Jr., grew up in Washington, D.C., where he attended Saint Albans School, then matriculated at the University of Virginia and joined the United States Marine Corps Reserve while studying engineering; and

WHEREAS, Duke Singleton's reserve unit was activated during the Korean War, and he deployed to the Korean Peninsula as a member of D Company, 2nd Battalion, 7th Marine Regiment, 1st Marine Division; and

WHEREAS, Duke Singleton earned a Purple Heart and a Presidential Unit Citation for his actions during the Battle of Chosin Reservoir, a short but brutal campaign fought in severe winter weather and subzero temperatures; and

WHEREAS, after his honorable military service, Duke Singleton returned to the Commonwealth to graduate from the University of Virginia and then pursued a career with Reynolds Metals Company in Richmond; and

WHEREAS, Duke Singleton worked primarily in the research laboratory of Reynolds Metals Company and received several awards and patents for his work on the extrusion of aluminum alloy and brazing technology; and

WHEREAS, Duke Singleton retired from Reynolds Metals Company after 30 years and then established his own firm and gained a contract with NASA Langley Research Center; and

WHEREAS, shortly after arriving in Richmond, Duke Singleton met and married his beloved wife, the late Marianna Foster Cabell; the couple proudly raised two sons, Cabell and Alec, and one daughter, Mary, who predeceased him; and

WHEREAS, Duke Singleton has enjoyed fellowship and worship with the congregations of Saint Stephen's Episcopal Church and St. James's Episcopal Church, and he has taken an active role in the Stonewall Court Neighborhood Association; and

WHEREAS, a resident of Stonewall Court for 62 years, Duke Singleton has watched numerous families come and go in the neighborhood, becoming known to generations of fellow residents as a wise elder who can fix anything and is always ready with a joke or sage insight; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend O. R. Singleton, Jr., for his legacy of service to the United States, the Commonwealth, and his fellow Richmond residents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to O. R. Singleton, Jr., as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 699

Commending Joseph P. Rapisarda, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joseph P. Rapisarda, Jr., a respected legal professional and civic servant, retired as county attorney of Henrico County on June 19, 2020, after 43 years of service; and

WHEREAS, Joseph "Joe" P. Rapisarda, Jr., grew up in Henrico County and graduated from Douglas S. Freeman High School as salutatorian; he subsequently earned a bachelor's degree from the University of Virginia, where he was a DuPont scholar and a member of Phi Beta Kappa; and

WHEREAS, a graduate of the University of Virginia School of Law, Joe Rapisarda began his career with the law firm May, Miller & Parsons; and

WHEREAS, during his 38-year tenure as county attorney, Joe Rapisarda served as president of the Henrico County Bar Association and Local Government Attorneys of Virginia, chair of the Virginia State Bar's Third District Committee and Standing Committee, a member of the Virginia State Bar Professionalism Course Faculty, and a member of the Boyd-Graves Conference, which works to improve the quality of Virginia's civil justice system; and

WHEREAS, Joe Rapisarda joined the Henrico County government team in 1977 and became county attorney in 1982; and

WHEREAS, over the course of his career, Joe Rapisarda worked with four subsequent county manager administrations and became a trusted source of institutional knowledge for local officials; and

WHEREAS, Joe Rapisarda's guidance on major initiatives, including the meals tax, general obligation bond referenda, community development authorities, the short-term rental ordinance, redistricting, and public-private partnerships were invaluable to Henrico County; and

WHEREAS, Joe Rapisarda's steady, judicious leadership helped guide Henrico County through periods of significant growth, and his legal expertise allowed the county to successfully adapt to external changes; and

WHEREAS, aside from his many professional contributions to Henrico County, Joe Rapisarda is an enthusiastic tennis player at Raintree Swim and Racquet Club, a loyal University of Virginia football and basketball fan, an avid reader, and a music lover; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joseph P. Rapisarda, Jr., on the occasion of his retirement as county attorney of Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph P. Rapisarda, Jr., as an expression of the General Assembly's admiration for his service to the residents of Henrico County.

HOUSE JOINT RESOLUTION NO. 700

Commending Tim Foster.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Tim Foster, a registered Professional Engineer and dedicated civic servant, retired as deputy county manager for community operations of Henrico County on March 27, 2020, after more than three decades of service; and

WHEREAS, a native of Southwest Virginia, Tim Foster earned a bachelor's degree from Virginia Polytechnic Institute and State University and began his career as a traffic engineer in Charlotte, North Carolina; he subsequently worked in Mecklenburg County, then relocated to Henrico County in 1989 as an assistant traffic engineer; and

WHEREAS, Tim Foster was promoted to traffic engineer in August 1995, assistant director of public works in September 2006, and director of public works in March 2009; and

WHEREAS, in 2012, Tim Foster was promoted to deputy county manager, and in that capacity, he oversaw Henrico County Public Works, Henrico County Recreation and Parks, and the Henrico County office of Virginia Cooperative Extension, and managed county-owned real estate; and

WHEREAS, Tim Foster helped provide opportunities for safe outdoor activities and recreation to members of the community and worked to develop, maintain, and enhance critical transportation and drainage infrastructure in Henrico County; and

WHEREAS, major local and regional projects Tim Foster has helped shepherd while working in the County Manager's Office include the Cobbs Creek Reservoir, the Montezuma Village Sanitary District, Bus Rapid Transit, the 2014 CSX Train Derailment and Oil Spill, the Virginia Capital Trail, Visit Henrico, the 2015 UCI Road World Championships, the Dominion Energy Charity Classic (PGA Tour Champions event), the Indoor Sports and Convocation Center, Belmont Golf Course, and Short Pump, Glover, and Tuckahoe Creek Parks, among many others; and

WHEREAS, Tim Foster has held every office within the Virginia Section of the Institute of Transportation Engineers, including president, and received the section's Distinguished Service Award; he is a member of the American Public Works Association, Henricus Foundation Board of Trustees, and National Association of Counties Public Lands Steering Committee; and

WHEREAS, Tim Foster is highly respected by his fellow employees and the Henrico community for his experience, knowledge, professionalism, integrity, dedication, and technical expertise and has unfailingly demonstrated patience, warmth, sincerity, and grace while representing Henrico County; and

WHEREAS, Tim Foster's insights and expertise were vital to the efficient and effective administration of local government, and he became a trusted source of institutional knowledge for Henrico County officials over the course of his 31-year career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tim Foster on the occasion of his retirement as deputy county manager for community operations of Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tim Foster as an expression of the General Assembly's admiration for his service to the residents of Henrico County.

HOUSE JOINT RESOLUTION NO. 701

Celebrating the life of Helen Dukas.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Helen Dukas, businesswoman and beloved mother, grandmother, great-grandmother, and friend, died on June 9, 2020; and

WHEREAS, a native of New York City, Helen Dukas grew up around the floral business, as her parents and uncles owned and operated a florist shop; and

WHEREAS, in 1955, Helen Dukas married the love of her life, William, and, following a brief period of residence in Kansas City, Kansas, settled in McLean; and

WHEREAS, shortly after settling into their new home, Helen and William, together with Helen's parents, George and Mary Raptis, opened Karin's Florist at Seven Corners Center in 1956; years later, Karin's Florist would relocate to Vienna, where it has operated ever since, enjoying fame as one of the premier floral businesses in the United States; and

WHEREAS, while Helen Dukas was proud of her business and professional accomplishments, she was most proud of her family, whom she loved dearly; and

WHEREAS, predeceased by her beloved husband, William, Helen Dukas will be fondly remembered and dearly missed by her children, Karin, George, and Maris; 12 grandchildren and five great-grandchildren; and many other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Helen Dukas, businesswoman and beloved member of the McLean community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Helen Dukas as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 702

Celebrating the life of George B. Vaughan.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, George B. Vaughan, a distinguished leader in community college administration and a longtime president of Piedmont Virginia Community College, died on January 7, 2021; and

WHEREAS, George Vaughan grew up in Grayson County and graduated from Fries High School; he continued his education at Emory & Henry College, Radford University, and Florida State University, developing a passion for lifelong learning; and

WHEREAS, George Vaughan served as the founding president of Mountain Empire Community College in Big Stone Gap before leading Piedmont Virginia Community College as president of the institution from 1977 to 1988; and

WHEREAS, George Vaughan served on the board of the American Association of Community Colleges and earned national accolades as one of the most effective community college presidents in the United States; his visionary curricula influenced many leadership programs in his profession; and

WHEREAS, George Vaughan authored or edited numerous books and wrote more than 100 articles on community college systems and was the editor of the *Community College Review* professional journal for more than a decade; his insights helped community college educators and administrators across the nation realize their fullest potential; and

WHEREAS, after his tenure as president of Piedmont Virginia Community College, George Vaughan worked as a professor at George Mason University, the University of Florida, and North Carolina State University, then relocated to Charlottesville after his well-earned retirement; and

WHEREAS, in 2015, the Virginia Community College System honored George Vaughan's legacy of excellence with the creation of the George B. Vaughan Leadership Award, which recognizes outstanding adjunct community college faculty members in the Commonwealth; and

WHEREAS, George Vaughan will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George B. Vaughan, a distinguished president of Piedmont Virginia Community College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George B. Vaughan as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 703

Celebrating the life of William Walker Byers, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, William Walker Byers, Jr., a veteran and member of the Charlottesville community, died on September 6, 2020, at the age of 74; and

WHEREAS, William "Bill" Walker Byers, Jr., was born in Charlottesville in 1946, graduated from Jackson P. Burley High School in 1964, and earned an associate's degree in auto mechanics from Virginia State University in 1966 and a bachelor's degree in health education and recreation from Norfolk State College in 1975; he was a member of the Gamma Alpha Lambda chapter of the Alpha Phi Alpha Fraternity, Inc.; and

WHEREAS, Bill Byers served in the United States Army from 1966 through 1972, including tours of duty in Vietnam, and was honorably discharged as a specialist (fourth class); he later co-founded the Veterans Committee of Central Virginia and was a strong advocate for local veterans, helping to organize an annual commemoration of the history and experiences of African Americans in the military; and

WHEREAS, Bill Byers helped to teach countless members of the Charlottesville community to swim, having taught aquatics and water safety in the Charlottesville City Schools from 1976 until 2006; he held the position of pool manager and swim instructor for the Charlottesville Department of Parks and Recreation from 1974 until 2014; and

WHEREAS, Bill Byers served the community in many other ways and delighted local children through his seasonal appearances dressed as Santa Claus; and

WHEREAS, Bill Byers served on the Board of Directors of the American Red Cross in Charlottesville, where he was an instructor for lifeguarding, CPR, first aid, risk management, and water safety; and

WHEREAS, Bill Byers was featured in the documentary *A Legacy Unbroken: The Story of Black Charlottesville*, in which he spoke about his early days as a caretaker at Washington Park; and

WHEREAS, on September 3, 1983, Bill Byers married Mary Wyatt Byers, and they had two children, Anita Elizabeth Byers and William "Billy" Walker Byers III, all of whom continue to treasure his memory; and

WHEREAS, Bill Byers was passionate about classic cars, especially Corvettes, and delighted in owning four of them; and

WHEREAS, Bill Byers will be fondly remembered by his family members and friends and by the many people whose lives were touched through his commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Walker Byers, Jr., a veteran and member of the Charlottesville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Walker Byers, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 704

Celebrating the life of Ida Johnson Lewis.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Ida Johnson Lewis, Charlottesville's first African American deputy sheriff and a tireless community advocate, died on April 16, 2020, at the age of 91; and

WHEREAS, Ida Lewis graduated from Jefferson High School and was active in its Alumni Association and in the effort to save the historic school by transforming it into a vibrant community center; and

WHEREAS, after first working in her family's funeral home business and as a hairdresser, Ida Lewis pursued a career in law enforcement, first as a crossing guard, then as a traffic control officer with the Charlottesville Police Department; and

WHEREAS, in 1980, Ida Lewis became Charlottesville's first African American sheriff's deputy and served in that capacity until her retirement in 1993; and

WHEREAS, Ida Lewis was active in the community as a member of the board of the Albemarle-Charlottesville Regional Jail, where she was an advocate for inmates; she served on a police advisory panel, as a poll worker, and as one of Charlottesville's first Downtown Ambassadors, providing a welcoming smile to all she met; and

WHEREAS, Ida Lewis and her husband of 48 years, the late Willie Lewis, raised two daughters, Cheryl Lewis Sheffey and Margo Lewis Walker, who survive her, along with three grandchildren, a great-grandson, and two siblings; and

WHEREAS, Ida Lewis will be fondly remembered by her family and the many people whose lives were touched by her commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ida Johnson Lewis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ida Johnson Lewis as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 705

Celebrating the life of the Reverend James William Wright, Sr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend James William Wright, Sr., of Charlottesville died on January 17, 2020, at the age of 83, surrounded by his family; and

WHEREAS, Reverend Wright grew up in Louisa and was a graduate of A.G. Richardson High School; he was ordained as a deacon and served in that capacity until he received his call to the ministry in 1966; and

WHEREAS, Reverend Wright preached the Gospel and served as a pastor for 49 years; and

WHEREAS, Reverend Wright moved to Charlottesville and served as supervisor of the Department of Housekeeping at the University of Virginia Medical Center for 28 years until his retirement in 2015; and

WHEREAS, Reverend Wright is survived by his loving wife of 38 years, Carolyn A. Wright; two sons, James W. Wright, Jr., and Elder Shawn W. Wright; two daughters, Minister Wendy Carter and Tameka Durrett; six grandchildren; four great-grandchildren; and a host of other relatives and friends; and

WHEREAS, Reverend Wright will be fondly remembered by his family members and friends and by the many people whose lives were touched through his spiritual leadership; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend James William Wright, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend James William Wright, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 706

Celebrating the life of John F. Merchant.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 18, 2021

WHEREAS, John F. Merchant, the first African American graduate of the University of Virginia School of Law, died on March 5, 2020, at the age of 87; and

WHEREAS, John Merchant received a bachelor's degree from Virginia Union University, then enrolled at the University of Virginia School of Law and earned his Juris Doctor degree in 1958; he served his country as a member of the United States Navy; and

WHEREAS, John Merchant developed a passion for the game of golf, seeing it as a valuable means of networking, many opportunities for which had been denied to African Americans in the age of segregation; and

WHEREAS, John Merchant went on to become the first African American member of the United States Golf Association Executive Committee, serving from 1992 until 1998, and was inducted into the National Black Golf Hall of Fame in 2010; and

WHEREAS, John Merchant practiced both civil and criminal law in Connecticut for nearly 50 years and represented a young Tiger Woods during his transition from amateur status to becoming a professional golfer; and

WHEREAS, John Merchant advocated for more access to the game of golf for African American children, and he played a vital role in bringing together golf equipment manufacturers and others to create the nonprofit First Tee program, which has introduced the game and its character-building aspects to more than 15 million young people; and

WHEREAS, John Merchant established the Walter N. Ridley Scholarship Fund at the University of Virginia, named for the University's first African American graduate, to support and inspire new generations of students; and

WHEREAS, John Merchant is survived by his daughter, Susan Merchant, a University of Virginia School of Law graduate; his sister, Barbara; and six nieces and nephews; and

WHEREAS, John Merchant will be fondly remembered by his family members and friends and by the many people whose lives were touched through his commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John F. Merchant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John F. Merchant as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 707

Celebrating the life of Joseph William Teague, Sr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joseph William Teague, Sr., of Charlottesville died on May 15, 2020, at the age of 83; and

WHEREAS, Joseph Teague proudly served his country as a cryptographer with the United States Army in Korea; and

WHEREAS, Joseph Teague and his wife, Mary Jayne, moved to Charlottesville in 1964 to manage the Preddy Funeral Home, which led to him founding Teague Funeral Service; and

WHEREAS, Joseph Teague served in many professional leadership roles, including president of the Virginia Funeral Directors Association, Virginia Board of Funeral Directors and Embalmers, and the National Funeral Directors Association Board of Governors, representing Virginia, West Virginia, Maryland, New Jersey and the District of Columbia; and

WHEREAS, Joseph Teague served as chair or president of many local organizations, including the Charlottesville-Albemarle Rescue Squad, Charlottesville Regional Chamber of Commerce, Jaycees, United Way of Greater Charlottesville, Kiwanis Club, American Heart Association, and National Multiple Sclerosis Society; and

WHEREAS, Joseph Teague enjoyed fellowship and worship with the community as a member of First Baptist Church, where he was a deacon emeritus; and

WHEREAS, Joseph Teague is survived by his wife of 60 years, Mary Jayne; his children, Joseph William Teague, Jr., and Cynthia Teague Pistulka, and their families; his sisters, Peggy Bolling, Nancy Washburn, and Bobbi Teague; and numerous other family members and friends; and

WHEREAS, Joseph Teague will be fondly remembered by his family members and friends and by the many people whose lives were touched by his commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph William Teague, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph William Teague, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 708

Celebrating the life of Lovell Louis Coleman, Sr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, beloved master fiddler and carpenter Lovell Louis Coleman, Sr., died on January 10, 2021, at the age of 97 in Charlottesville; and

WHEREAS, Lovell Coleman was born in Charlottesville in 1923 and began his music career at the age of 14 after being recruited to play the fiddle for a band whose lead musician had been born before the Civil War; and

WHEREAS, many Virginia musicians had the honor of playing music with Lovell Coleman over the years, most notably the Virginia Vagabonds, the Hintonaires, and Jodie and Friends, as well as his fellow musicians in the Lovell Coleman Band; and

WHEREAS, Lovell Coleman continued playing music up until the time of his death, visiting nursing homes to play several times a week until restrictions related to the COVID-19 pandemic prevented him from doing so; and

WHEREAS, Lovell Coleman served in the United States Army Air Corps during World War II, serving as a gunner with the 491st Bombardment Group in England and on Okinawa Island, achieving the rank of staff sergeant; and

WHEREAS, Lovell Coleman was a master carpenter and builder who constructed many local churches and homes and continued to maintain them well into his 80s; and

WHEREAS, a documentary of Lovell Coleman's life, "The Ruination of Lovell Coleman," directed by Ross McDermott, was awarded Best Short Documentary Film at the 2017 Virginia Film Festival, and the program "Charlottesville Inside-Out" on Virginia Public Media continues to air an episode featuring his life and music; and

WHEREAS, predeceased by three of his children, Lovell Coleman, Jr., Tommy Coleman, and Max Coleman, Lovell Coleman will be fondly remembered and greatly missed by his devoted wife of 40 years, Edith; his children, Nancy Miller, Mike Coleman, Sharon Duffy, Suzanne McDonald, Steve Coleman, and Kenny Coleman, and their families; his stepchildren, Scott Fielding, Glenn Fielding, Vincent Fielding, Sheila Fletcher, Dan Fielding, and Jerry Fielding, and their families; and his brother, Pete Coleman; and

WHEREAS, Lovell Coleman will be fondly remembered by his family members and friends and by the many people whose lives he touched through his music; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lovell Louis Coleman, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lovell Louis Coleman, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 709

Celebrating the life of Stuart Wallace Connock.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Stuart Wallace Connock, former Virginia Secretary of Administration and Finance, died on December 6, 2020, at the age of 95; and

WHEREAS, Stuart Connock was born in Charlottesville in 1925 and served his country in the Pacific theater of World War II; after his honorable discharge, he returned to the Commonwealth to earn a bachelor of science degree in economics from the University of Virginia's McIntire School of Commerce, which he attended through the GI Bill; and

WHEREAS, after graduation, Stuart Connock began his career in Virginia state government in the Department of Taxation and as a journal clerk in the Virginia House of Delegates; he subsequently worked for the Virginia Municipal League before returning to state government and rising to the position of tax commissioner; and

WHEREAS, Stuart Connock was appointed to serve as Assistant Secretary for Financial Policy, then appointed by Governor Charles S. Robb and Governor Gerald L. Baliles as Secretary of Administration and Finance until his retirement in 1990; he received many honors for excellence in public administration; and

WHEREAS, Stuart Connock then returned to his alma mater, the University of Virginia, to serve as executive assistant to the president for state governmental relations until 2012; and

WHEREAS, Stuart Connock's love of history and his interest in the founding of the Commonwealth and the nation drew him to the Jamestown-Yorktown Foundation, where he served for almost 40 years and held many leadership positions, including as co-chairman of the 400th Anniversary Celebration held in 2007; and

WHEREAS, predeceased by his wife, Gwendolyn, a grandson, and his brothers and sisters, Stuart Connock is survived by his partner of 20 years, Suzanne O. Flippo, and his three children, Stuart, Jr., Chant, and Theresa Wagner, and their families; and

WHEREAS, Stuart Connock will be fondly remembered by his family members and friends and by the many people whose lives he touched through his commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Stuart Wallace Connock; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stuart Wallace Connock as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 710

Celebrating the life of Virginia Leonard Plotnick.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Virginia Leonard Plotnick died on September 27, 2020, at the age of 79; and

WHEREAS, Virginia Plotnick, known to her friends as "Gimmer Barry" or "Gimmer," was active in the local Democratic Party in the Charlottesville area and met her husband of 50 years, Rey Barry Plotnick, while flying down a zipline during an Albemarle County Democratic Committee event for Eugene McCarthy in 1968; and

WHEREAS, Gimmer Plotnick was an ardent advocate for women's rights and for education; and

WHEREAS, Gimmer Plotnick was on the founding staff of the Molly Michie Preschool and later was cofounder, development director, and teacher at the New School in Charlottesville; and

WHEREAS, Gimmer Plotnick founded the gift shop at the Virginia Discovery Museum while working as assistant to the director of the museum; and

WHEREAS, Gimmer Plotnick served as a paralegal and Realtor; and

WHEREAS, Gimmer Plotnick was gifted in needlework, sewing elaborate costumes for her children and granddaughter, and was a gifted gardener, cook, and sailor; and

WHEREAS, Gimmer Plotnick is survived by her husband, Rey Barry Plotnick, their daughters Brooke Plotnick and Apple Plotnick Jannotta and their families; and

WHEREAS, Gimmer Plotnick will be fondly remembered by her family members and friends and by the many people whose lives she touched through her commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Virginia Leonard Plotnick; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Virginia Leonard Plotnick as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 711

Celebrating the life of Oakley W. Hogg III.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Oakley W. Hogg III, an esteemed realtor and beloved member of the Hanover County community, died on January 24, 2021; and

WHEREAS, Oakley W. "Tripp" Hogg III was a proud alumnus of East Carolina University, from which he graduated in 1991 and where he was a member of Sigma Epsilon and served as class president; and

WHEREAS, Tripp Hogg was a well-known and respected realtor in the Hanover County area, facilitating the sale of thousands of homes in the region with the Tripp Hogg Realty Team of ERA Woody Hogg and Associates; and

WHEREAS, Tripp Hogg was an avid outdoorsman who enjoyed fishing, hunting, golfing, and being on the water; and

WHEREAS, Tripp Hogg will be fondly remembered and dearly missed by his loving wife, Kathie; his children, Oakleigh, Delaney, and Elle; his stepchildren, Mary Beth, Mandy, and Josh; his mother, Susan; his father and stepmother, Oakley, Jr., and Pam; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Oakley W. Hogg III, a cherished member of the Hanover County community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Oakley W. Hogg III as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 712

Commending the Virginia State Police.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, on January 6, 2021, members of the Virginia State Police from throughout the Commonwealth mobilized and responded to the attack on the United States Capitol Building; and

WHEREAS, prior to the ceremonial counting of Electoral College votes by a joint session of the United States Congress, the Virginia State Police coordinated with other law-enforcement agencies to monitor intelligence reports and address potential threats; and

WHEREAS, on the day of the count, the Virginia State Police prepared 71 troopers from the Division 7 Fairfax office to respond to any immediate incidents in Fairfax County or Northern Virginia, while the Division 2 Culpeper office placed a quick-reaction platoon of an additional 60 troopers on call in the event of an emergency; and

WHEREAS, at approximately 2:20 p.m., the Metropolitan Police Department of the District of Columbia, acting on behalf of the United States Capitol Police, requested assistance, and the Virginia State Police relocated the troopers from the Fairfax office to Arlington County to await further instructions; and

WHEREAS, law-enforcement officers at the Capitol estimated that there were 75,000 attendees for the "Stop the Steal" gathering around the building, and as the count continued, members of the rally turned violent and broke through barricades, with hundreds of insurrectionists ultimately breaching doors and windows to enter the building and storm congressional offices and chambers; and

WHEREAS, after the Virginia State Police received a formal request for 200 troopers, the platoon from Fairfax deployed to the Capitol grounds, and an additional 100 troopers from the Richmond and Chesapeake divisions were activated and responded promptly with no forewarning; and

WHEREAS, the troopers from Fairfax were led through underground passageways to the lower west terrace, where rioters, many of whom were armed, were attempting to breach the doors to the Capitol Building; and

WHEREAS, members of the Virginia State Police, the United States Capitol Police, and the Metropolitan Police Department courageously engaged the rioters, clearing the first level of the inauguration stage in the face of extreme violence and aggression; and

WHEREAS, members of the Virginia State Police and the other law-enforcement agencies maintained the initiative and pushed the rioters down to the second level of the inauguration stage and away from the Capitol; and

WHEREAS, after the engagement, the Virginia State Police established a defensive perimeter at the west entrance to the Capitol Building; no Virginia state troopers were injured while retaking the building; and

WHEREAS, executive and command staff of the Virginia State Police established an incident command center at the Area 45 Arlington office, and troopers from the Counties of Appomattox, Chesapeake, Culpeper, and Fairfax and the Cities of Richmond and Salem helped provide 24-hour security until January 8, 2021, when complete control of the Capitol grounds was restored; and

WHEREAS, the Virginia State Police ably served the nation and responded to an extraordinary situation with the utmost distinction, demonstrating courage, composure, fortitude, and a strong commitment to safeguarding the founding ideals and institutions of the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia State Police for its performance above and beyond its duties during the attack on the United States Capitol Building on January 6, 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia State Police as an expression of the General Assembly's admiration for its professionalism during this unprecedented incident.

HOUSE JOINT RESOLUTION NO. 713

Commending the Virginia National Guard.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, in January 2021, members of the Virginia National Guard from throughout the Commonwealth mobilized and responded to the attack on the United States Capitol Building; and

WHEREAS, during the ceremonial counting of Electoral College votes by a joint session of the United States Congress on January 6, 2021, law-enforcement officers at the Capitol estimated that 75,000 attendees of the "Stop the Steal" gathering surrounded the building; and

WHEREAS, as the count continued, participants turned violent and broke through barricades, with hundreds of insurrectionists ultimately breaching doors and windows to enter the Capitol Building and storm congressional offices and chambers; in response to a request for assistance from Mayor Muriel E. Bowser, Governor Ralph S. Northam authorized the Virginia National Guard to deploy to Washington, D.C.; and

WHEREAS, on January 7, the Virginia National Guard quickly mustered personnel, many of whom unexpectedly had to leave their families and full-time jobs, and departed for Washington, D.C., to provide security at the United States Capitol; approximately 2,000 Virginia National Guard personnel had deployed to the area by the following weekend; and

WHEREAS, Virginia National Guard personnel integrated with the local law-enforcement security plan to protect property and safeguard local residents and government officials, remaining on duty through the presidential inauguration on January 20; and

WHEREAS, in addition to the deployment to Washington, D.C., the Virginia National Guard has played a critical role in the Commonwealth's response to the COVID-19 pandemic during 2020 and 2021 by distributing personal protective equipment to frontline workers and assisting the Virginia Department of Health with the planning, logistics, and administration of COVID-19 vaccinations; and

WHEREAS, the Virginia National Guard ably served the Commonwealth and the nation and responded to an extraordinary situation with the utmost distinction, demonstrating courage, composure, fortitude, and a strong commitment to safeguarding the founding ideals and institutions of the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia National Guard for its performance above and beyond its duties during and after the attack on the United States Capitol Building on January 6, 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia National Guard as an expression of the General Assembly's admiration for its professionalism during this unprecedented incident.

HOUSE JOINT RESOLUTION NO. 714

Commending John R. Broderick.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, John R. Broderick, who has provided exemplary service to Old Dominion University for nearly 30 years, including 13 years as president of the institution, will retire in 2021; and

WHEREAS, John Broderick earned a bachelor's degree in journalism from Northeastern University and a master's degree in counseling from St. Bonaventure University; he then worked as a newspaper reporter in Massachusetts and Connecticut and as a tourism director for Martha's Vineyard before joining St. Bonaventure University and the University of Pittsburgh; and

WHEREAS, John Broderick joined Old Dominion University in 1993 as director of public information and served with distinction in that and other roles, including chief of staff to the president and vice president of institutional advancement; and

WHEREAS, in 2008, John Broderick was appointed president of Old Dominion University; over his 13-year tenure, he became the longest-serving president in the university's history; and

WHEREAS, under John Broderick's leadership, Old Dominion University has received more than \$1 billion in new public and private resources, including its largest donation, worth \$37 million, from Richard F. and Carolyn Barry for the establishment of the Barry Art Museum in 2018; and

WHEREAS, John Broderick has been a visionary for diversity and inclusion and has reshaped the campus at Old Dominion University; with students of color comprising nearly 50 percent of enrollment, the institution has been ranked by The Education Trust as among the top 15 schools in the country for African American student success; and

WHEREAS, the Broderick Dining Commons at Old Dominion University was named for John Broderick and first lady Kate Broderick at the request of student leaders to recognize the Brodericks' commitment to inclusion and student success; and

WHEREAS, John Broderick has demonstrated an unflinching commitment to student success, establishing the \$20 million Student Success Center and Learning Commons, achieving the highest graduation rate in Old Dominion University's history, and producing the second-highest percentage of science, technology, engineering, mathematics, and health (STEM-H) graduates among the Commonwealth's doctoral institutions; and

WHEREAS, under John Broderick's direction, Old Dominion University has become a national leader on the issue of social mobility, with the creation of the annual Social Mobility Symposium and the university's Center for Social Mobility; and

WHEREAS, Old Dominion University strengthened its research profile during John Broderick's tenure, establishing a premier reputation in such fields as resilience, sea level rise, cybersecurity, and bioelectrics and creating institutes and centers such as the Institute for Coastal Adaptation and Resilience, the Center for Global Health, the Institute for Innovation and Entrepreneurship, and the Virginia Institute for Spaceflight and Autonomy; and

WHEREAS, John Broderick has transformed the campus, spearheading the construction or renovation of more than two dozen buildings for education, chemistry, engineering, art and music, and entrepreneurship, among other disciplines, as well as expanding and relocating the School of Nursing to Virginia Beach; and

WHEREAS, John Broderick has wisely steered Old Dominion University during the challenges of the COVID-19 pandemic, alternating between virtual and hybrid learning approaches to help protect the health of faculty, staff, and students while maintaining a robust educational program and increasing enrollment in both the summer and fall semesters of 2020; and

WHEREAS, John Broderick oversaw the return of football to Old Dominion University in 2009 after a 69-year absence, increasing school spirit and strengthening on-campus life; he served as chairman of the Conference USA Board of Directors while emphasizing that academics takes priority over athletics; and

WHEREAS, John Broderick's superlative leadership has been recognized with numerous honors, including the President's Award from the National Association of Student Personnel Administrators, Community Leaders' Award from the Urban League of Hampton Roads, 2020 Distinguished 400 Award from the 400 Years of African American History Commission, Humanitarian Award from the Virginia Center for Inclusive Communities, and First Citizen of Hampton Roads Award from the Hampton Roads Chamber of Commerce; and

WHEREAS, John Broderick has distinguished himself beyond Old Dominion University with his leadership as past chairman of the Council of Presidents of the Southeastern Universities Research Association and the Virginia Council of Presidents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John R. Broderick on the occasion of his retirement in 2021 as president of Old Dominion University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John R. Broderick as an expression of the General Assembly's admiration for his outstanding leadership of Old Dominion University and his exemplary service and unwavering commitment to its students and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 715

Commending Valerie Braxton-Williams.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Valerie Braxton-Williams, a longtime public servant who recently served as the Confidential Assistant for Policy and Legislation to the Virginia Employment Commission, retired in 2021; and

WHEREAS, Valerie Braxton-Williams was born in Richmond as the fourth of six children and was reared in a close-knit Christian family that instilled in her a strong work ethic and the importance of caring for and helping others; and

WHEREAS, Valerie Braxton-Williams was educated in Richmond Public Schools, graduated with a bachelor's degree from Virginia Union University, and completed graduate studies for a certification in exceptional education from Virginia State University; and

WHEREAS, after graduating from Virginia Union University, Valerie Braxton-Williams became an educator in Richmond Public Schools and over the course of her career taught fifth grade, remedial reading, students with learning disabilities, and the gifted and talented program; and

WHEREAS, from 1999 to 2014, Valerie Braxton-Williams continued her public service as legislative assistant to former Senator Henry L. Marsh III and concurrently served as a consultant and advisor to attorneys and staff in his law firm, Hill, Tucker and Marsh; and

WHEREAS, as a legislative assistant, Valerie Braxton-Williams aided in the development of notable legislative initiatives to address criminal justice reform, disparity in health care, public safety, and public and higher education; and

WHEREAS, Valerie Braxton-Williams championed community improvement activities, such as implementing a program to provide computers and computer training to students in underserved communities; further, she enthusiastically provided numerous opportunities for undergraduate and graduate students to learn, experience, and understand the legislative process; and

WHEREAS, Valerie Braxton-Williams is dedicated to civic engagement and gave her time, talent, and resources to the Richmond Crusade for Voters and the Richmond branch of the NAACP; she is a member of Alpha Kappa Alpha Sorority and a citizen member of a subcommittee to the Dr. Martin Luther King, Jr. Memorial Commission; and

WHEREAS, a member of Mount Olive Baptist Church in Glen Allen, Valerie Braxton-Williams is vice chair of the Civic Ministry and volunteers with the Food Service Ministry for congregant and community events; and

WHEREAS, Valerie Braxton-Williams was appointed as the Confidential Assistant for Policy and Legislation to the Virginia Employment Commission by Governor Terence R. McAuliffe and was reappointed by Governor Ralph S. Northam; and

WHEREAS, in this role, Valerie Braxton-Williams ensured compliance with state and federal laws, collaborated with colleagues to secure funding for United States Department of Labor initiatives, represented the agency on various task forces, served as the primary liaison for legislative offices, and spearheaded activities for employee engagement; and

WHEREAS, in response to the unprecedented number of COVID-19-related constituent inquires, Valerie Braxton-Williams worked tirelessly, amassing long hours even on Saturdays and holidays, to assist local, state, and federal legislative offices in addressing the concerns of the citizens of the Commonwealth; and

WHEREAS, on January 1, 2021, having faithfully and diligently executed her responsibilities as public servant for 46 years, Valerie Braxton-Williams ended her service to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Valerie Braxton-Williams, a respected public servant who most recently served as Confidential Assistant for Policy and Legislation to the Virginia Employment Commission, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Valerie Braxton-Williams as an expression of the General Assembly's high esteem and admiration for her extraordinary contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 716

Celebrating the life of Thomas Henry Francis.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Thomas Henry Francis, an inspirational community leader in Chesterfield, died on January 11, 2021; and
WHEREAS, Thomas Francis was born in New York City and raised by his grandparents in Midlothian; he attended Carver High School, where he was a saxophone player in the school band and a member of the baseball team; and

WHEREAS, Thomas Francis served his country as a specialized mechanic in the United States Air Force from 1964 to 1968; he was trained to service multiple aircraft, including nuclear-equipped fighters and special forces fighters, bombers, and interceptors under the former Tactical Air Command; and

WHEREAS, Thomas Francis was an active member of the civil rights movement in the 1960s and worked toward the passage of the Equal Rights Amendment; he took pride in fulfilling his civic duty to vote throughout his life and encouraged others to do the same; and

WHEREAS, a first generation college graduate, Thomas Francis earned a bachelor's degree from Virginia Union University, then began his career with Brown & Williamson Tobacco Company in Petersburg; and

WHEREAS, Thomas Francis later became a manager and supervisor of Coors Brewery and served as the company's African American community public relations liaison; in 1999, he began managing a fleet of drivers for Swift Transportation until his well-earned retirement; and

WHEREAS, possessed of an entrepreneurial spirit, Thomas Francis opened two small businesses, a catering company and a promotional printing company; and

WHEREAS, Thomas Francis volunteered his leadership as chair of the Chesterfield County Democratic Committee and treasurer of the Democratic Black Caucus of Virginia; more recently, he worked as a strategist and campaign chair for a mayoral candidate in New York City; and

WHEREAS, Thomas Francis enjoyed fellowship and worship with the community as a member of Hood Temple African Methodist Episcopal Zion Church, where he sang with the church's renowned men's chorus and served on the finance committee and the usher board; and

WHEREAS, predeceased by one child, Francis, Thomas Francis will be fondly remembered and greatly missed by his devoted wife of 53 years, Edna; his sons, Todd and Tyrone, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Henry Francis, a highly admired member of the Chesterfield County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Henry Francis as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 717

Commending the Center for Excellence in Education.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, for more than 37 years, the Center for Excellence in Education, located in Tysons and led by Joann DiGennaro, has provided unique opportunities to outstanding high school and college students and teachers to further explore leadership in the fields of science, technology, engineering, and mathematics; and

WHEREAS, founded in 1983 by the late Admiral H.G. Rickover and Joann DiGennaro, the Center for Excellence in Education, formerly known as the Admiral H.G. Rickover Foundation, nurtures careers of excellence and leadership in science, technology, engineering, and math for academically talented high school and college students, challenging and assisting them on a long-term basis to become creators, inventors, scientists, and leaders of the twenty-first century; and

WHEREAS, the Center for Excellence in Education sponsors the Research Science Institute, a summer science and engineering program for high school students offered at the Massachusetts Institute of Technology that combines on-campus coursework in scientific theory with off-campus work in science and technology research fields; and

WHEREAS, the Center for Excellence in Education sponsors the USA Biolympiad, a national competition for students to attend a residential training program where participants learn advanced biological concepts and exacting lab skills and are eligible for selection to compete in the International Biology Olympiad; and

WHEREAS, the Center for Excellence in Education sponsors the Teacher Enrichment Program, a collaboration with community colleges, universities, corporations, governors, state agencies, and other representatives that provides middle and high school teachers the opportunity to connect with leading experts to explore cutting-edge research and make meaningful professional links with others in their professional fields; and

WHEREAS, the Center for Excellence in Education offers all of its programs at no cost to participants, thereby promoting access to underserved and less advantaged students and teachers; and

WHEREAS, many students throughout the Commonwealth have directly benefited from access to the education, training, and opportunities provided by the Center for Excellence in Education; and

WHEREAS, a significant number of teachers in the Commonwealth have benefited from the additional training and support offered by the Center for Excellence in Education, improving the quality of education for all students in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Center for Excellence in Education for its years of service to students and teachers in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joann DiGennaro, president of the Center for Excellence in Education, as an expression of the General Assembly's admiration for the center's important work in furthering science, technology, engineering, and mathematics education.

HOUSE JOINT RESOLUTION NO. 718

Commending the Asian Pacific American Bar Association of the Greater Washington, D.C., Area, Inc.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 18, 2021

WHEREAS, the Asian Pacific American Bar Association of the Greater Washington, D.C., Area, Inc., (APABA-DC) is the oldest and largest association of Asian American and Pacific Islander attorneys, judges, law professors, and other members of the legal profession in the Washington, D.C., area; and

WHEREAS, since its founding in 1981 by pioneering attorneys, including Virginia residents, the membership of APABA-DC has grown into a network of thousands of lawyers, law professors, judges, law students, and other interested individuals; and

WHEREAS, APABA-DC encourages and promotes the professional growth and advancement of its members by providing substantive professional development and educational programs, mentoring and networking opportunities, and opportunities to develop leadership and public speaking skills; and

WHEREAS, APABA-DC cultivates an understanding of issues facing the Asian American and Pacific Islander (AAPI) community at large by being a voice for the AAPI legal community in the Washington, D.C., area and by serving as a resource for federal, state, and local agencies; elected officials and their staff; and public service organizations involved with the legal profession, civil rights, and diversity in the courts; and

WHEREAS, APABA-DC promotes the involvement of its members in the community by providing opportunities for service and leadership and by encouraging cooperation with and between other state and local bar organizations and community groups; and

WHEREAS, APABA-DC has worked to address anti-Asian discrimination locally and nationally, initiated calls to address racial injustice, and made support resources available to its members; and

WHEREAS, APABA-DC has urged lawyers to remain focused on diversity, equity, and inclusion as it faces significant challenges stemming from the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Asian Pacific American Bar Association of the Greater Washington, D.C., Area, Inc., for its 40 years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Asian Pacific American Bar Association of the Greater Washington, D.C., Area, Inc., as an expression of the General Assembly's admiration for the organization's commitment to Asian Pacific Americans in the legal community.

HOUSE JOINT RESOLUTION NO. 719

Commending Joe Szakos.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joe Szakos, longtime community organizer and advocate and founding executive director of Virginia Organizing, retired in 2020; and

WHEREAS, Joe Szakos earned a master's degree from the University of Chicago's School of Social Service Administration in 1979, preparing him to be an effective agent of change for communities in need; and

WHEREAS, Joe Szakos was the founding coordinator of Kentuckians For The Commonwealth, helping countless working-class families improve their lives through land reform and environmental justice initiatives and other programs; and

WHEREAS, from 1994 to 2017, Joe Szakos was the founding executive director of Virginia Organizing, leading the influential grassroots organization in its efforts to combat injustice and empower communities in the Commonwealth; and

WHEREAS, along with his wife, Kristin Layng Szakos, Joe Szakos coauthored *We Make Change: Community Organizers Talk About What They Do—and Why*, published by Vanderbilt University Press in 2007, to inform and inspire future generations of community organizers; and

WHEREAS, in the final years of his career, Joe Szakos served Virginia Organizing as its Lynchburg chapter organizer, extending his exceptional expertise as a community organizer to new corners of the Commonwealth; and

WHEREAS, through his tireless dedication to the prosperity and well-being of others, Joe Szakos has served as an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joe Szakos, founding executive director of Virginia Organizing, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joe Szakos as an expression of the General Assembly's admiration for his service to the citizens of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 720

Commending Lieutenant Junior Grade Madeline Swegle, USN.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, in 2020, Lieutenant Junior Grade Madeline Swegle, USN, of Burke completed the United States Navy's Tactical Air (Strike) aviator training syllabus, becoming the Navy's first African American female tactical jet pilot; and

WHEREAS, Madeline Swegle graduated from Lake Braddock Secondary School, where she excelled as a track and field athlete, winning a Virginia High School League state championship for a 4x800-meter relay race in 2012; and

WHEREAS, Madeline Swegle matriculated at the United States Naval Academy and continued to compete in track and field events at the collegiate level; and

WHEREAS, Madeline Swegle subsequently reported to Training Squadron 21 at Naval Air Station Kingsville in Texas; her rigorous 12-month training syllabus included more than 160 hours of flight time and instruction in advanced maneuvers, such as carrier landings and air-to-air dogfighting; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lieutenant Junior Grade Madeline Swegle, USN, on becoming the United States Navy's first African American female tactical jet pilot; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant Junior Grade Madeline Swegle, USN, as an expression of the General Assembly's admiration for her trailblazing achievements in service to the United States.

HOUSE JOINT RESOLUTION NO. 721

Commending the Fairfax County Park Authority.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, for more than 70 years, the Fairfax County Park Authority has worked to preserve the natural resources and cultural heritage of the Commonwealth and promote healthy lifestyle choices by offering a wide range of recreational experiences; and

WHEREAS, established by the Fairfax County Board of Supervisors on December 6, 1950, the Fairfax County Park Authority has grown from one 14-acre park in Great Falls to more than 427 parks, 325 miles of trails, recreational centers, nature centers, historic properties, golf courses, and athletics fields across 23,500 acres of land throughout the county; and

WHEREAS, the Fairfax County Park Authority offers many distinctive resources and amenities, including an indoor water park, an ice skating rink, five working carousels, and a horticulture center; the park system features historic properties available for rent, as well as a working grist mill at a restored 18th-century home and a restored 1930s-era working farm; and

WHEREAS, accredited by the Commission for Accreditation of Park and Recreation Agencies, the Fairfax County Park Authority has received countless state and national accolades in recognition of its outstanding facilities and programming, park management, communications and marketing, environmental stewardship, and overall excellence, including multiple Gold Medal Awards from the American Academy for Park and Recreation Administration and the National Recreation and Park Association; and

WHEREAS, the Fairfax County Park Authority is led by a 12-member citizen board appointed by the Fairfax County Board of Supervisors, and the Fairfax County Park Foundation works to supplement county funding by obtaining grants and building community partnerships to support land preservation projects, special events, and services for low-income children and people with disabilities; and

WHEREAS, the Fairfax County Park Authority will commemorate its 70th anniversary year with a virtual photo album featuring contributions from local residents, an interactive timeline of park histories, and numerous other activities, contests, and events; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fairfax County Park Authority on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fairfax County Park Authority as an expression of the General Assembly's admiration for the Authority's stewardship of the environment and service to the residents of and visitors to Fairfax County.

HOUSE JOINT RESOLUTION NO. 722

Celebrating the life of Ae Ja Kang.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Ae Ja Kang, a successful business owner and highly admired community leader in Fairfax County, died on September 12, 2020; and

WHEREAS, Ae Ja Kang was born on Jeju Island in 1937, when what is now the Republic of Korea was under colonial occupation by Japan, and she later witnessed the invasion of her country by communist forces from the Democratic People's Republic of Korea in 1950; and

WHEREAS, during the communist occupation of Seoul, Ae Ja Kang endured severe hardships and dropped out of school to care for her younger sisters; while later living in a refugee camp, she supported her family by selling food and other items given to her by American soldiers; and

WHEREAS, Ae Ja Kang used the entrepreneurial skills she cultivated in her youth to open a small business that bought and sold clothes and other necessities and subsequently opened a record store; and

WHEREAS, seeking better opportunities for their growing family, Ae Ja Kang and her husband, Seung Hee Kang, immigrated to the United States in 1978; they originally lived in Maryland, then relocated to Virginia and opened a grocery store in Centreville; and

WHEREAS, over the years, Ae Ja Kang supported new generations of Korean immigrants to the Washington, D.C., metropolitan area, helping them to find employment, build connections, and become successful members of their communities; and

WHEREAS, a devout Catholic, Ae Ja Kang enjoyed fellowship and worship with the congregation of Saint Paul Chung Catholic Church in Chantilly; and

WHEREAS, Ae Ja Kang was a generous philanthropist, contributing as a member of the Commandant's Circle of the Marine Corps Heritage Foundation, which supports the Marine Corps Museum in Quantico; and

WHEREAS, Ae Ja Kang passed her entrepreneurial spirit on to her children; her daughter, Hyosun, runs a popular food blog using traditional Korean recipes and her youngest son, Ki Ho, started an aerospace company in Reston after retiring from the United States Air Force; and

WHEREAS, Ae Ja Kang will be fondly remembered and greatly missed by her four children and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ae Ja Kang; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ae Ja Kang as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 723

Celebrating the life of Arthur William Walker.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Arthur William Walker died on January 21, 2021, at the age of 62; and

WHEREAS, Arthur Walker, known to family and friends as "Bun," was born in Charlottesville in 1958 and subsequently graduated from Charlottesville High School; and

WHEREAS, Arthur Walker was a much-loved fixture in Charlottesville's food scene, working alongside his brother at Mel's Café, where he met and made lifelong friends; and

WHEREAS, Arthur Walker leaves to cherish his memory two loving and devoted daughters, Kebrina Bolling and her husband, Shaun Gilchrist and Glenda "Sada" Bolling and grandson, Elijah Bolling; the apple of his eye, Vizena Howard, and her three daughters, Juanika, Zeneida, and Teletha Howard, and her five grandchildren, Zyahna, Tamarius, Zaneyah,

Zeniah, and Trenton; siblings, Melvin Walker, Glenda Walker, Joyce "Honey Ann" Walker, Mike "Brick" Walker, and Theresa Rawlings; and a host of friends, all of whom continue to treasure his memory; and

WHEREAS, Arthur Walker will be fondly remembered by his family and the many people whose lives were touched by his life of service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Arthur William Walker; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthur William Walker as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 724

Celebrating the life of Tony E. Colden, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Tony E. Colden, Jr., an esteemed dancer, dance instructor, and choreographer and a beloved member of the Portsmouth and Richmond communities, died on January 13, 2021; and

WHEREAS, born and raised in Portsmouth, Tony Colden began dancing at the age of five with the former Gail Harts Dance Company, now the Gail Harts Performing Arts Group, where he cultivated a love for dance that would motivate him the rest of his life; and

WHEREAS, a graduate of Churchland High School in Portsmouth, a magnet school for the visual and performing arts, Tony Colden went on to earn a bachelor's degree in fine arts for dance and choreography at Virginia Commonwealth University, where he contributed to various on-campus and off-campus performances and led multiple Greek-letter organizations as an instructor and choreographer; and

WHEREAS, Tony Colden worked with Starr Foster Dance and the Studio 4 Dance Agency on productions in Richmond while teaching dance and choreography with Henrico County Public Schools for more than seven years; and

WHEREAS, with an eye toward the future of dance and supporting the youth in his community, Tony Colden was a cherished coach and dance instructor at both Virginia Union University and the Chesterfield Dance Center in Midlothian, where he taught the elite youth dance team DELIRIUM; and

WHEREAS, guided throughout his life by his deep and abiding faith, Tony Colden grew spiritually at the Third Baptist Church in Portsmouth, where he performed in the youth choir and served in many other capacities, and later was a devoted member of The Life Church in Richmond; and

WHEREAS, Tony Colden will be fondly remembered and dearly missed by his parents, Karen and Tony; his brother, Dallas; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Tony E. Colden, Jr., an accomplished dancer and choreographer and treasured member of the Portsmouth and Richmond communities, whose passionate dedication to his craft inspired countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Tony E. Colden, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 725

Celebrating the life of Connie Weldon Edwards.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Connie Weldon Edwards, an esteemed educator and beloved member of the Richmond community, died on January 6, 2021; and

WHEREAS, a graduate of the historic Armstead T. Johnson High School in Westmoreland County, Connie Edwards earned a bachelor's degree in elementary education from Virginia State University in 1957; and

WHEREAS, Connie Edwards began her noteworthy 35-year career in education as a teacher with Richmond Public Schools, serving Navy Hill Elementary School and Fairmount Elementary School; and

WHEREAS, following the desegregation of the Commonwealth's schools, Connie Edwards worked as a curriculum specialist at J.L. Francis Elementary School in Richmond and earned a master's degree in administration and supervision from the University of Virginia; and

WHEREAS, Connie Edwards was later appointed principal of Patrick Henry Elementary School in 1987, where she contributed greatly to the success of children both in and out of the classroom until her retirement four years later; and

WHEREAS, Connie Edwards gave generously of her time to the community, serving as a charter member of both the Commonwealth's chapter of the Links, Inc., and the Richmond chapter of Chums, Inc., and as an active member of the alumni associations at Virginia State University and the University of Virginia; and

WHEREAS, Connie Edwards will be dearly remembered and fondly missed by her loving husband of 64 years, Thomas; her daughter, Lisa, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Connie Weldon Edwards, respected educator in Richmond whose unwavering kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Connie Weldon Edwards as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 726

Celebrating the life of the Reverend Bobby Eugene Holmes.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend Bobby Eugene Holmes, esteemed spiritual mentor and beloved member of the Richmond community, died on January 6, 2021; and

WHEREAS, a graduate of Armstrong High School in Richmond, Bobby Holmes served his country with courage and valor as a member of the 18th Airborne Corps of the United States Army, attaining the rank of sergeant while serving 13 months in Korea and six months at Fort Bragg, North Carolina; and

WHEREAS, Bobby Holmes worked tirelessly as an employee with DuPont for 34 years, serving in various capacities essential to the company's operations, including as a machine operator and manager, and as spokesperson on several safety committees; and

WHEREAS, guided throughout his life by his deep and abiding faith, Bobby Holmes enjoyed worship and fellowship with several congregations over the years, including Greater Mt. Moriah Baptist Church in Richmond, where he was ordained into the deacons ministry; and

WHEREAS, Bobby Holmes's aspirations to provide spiritual counsel to others continued to grow, and he was licensed to preach at Greater Mt. Moriah Baptist Church in 1993 and ordained four years later; and

WHEREAS, Bobby Holmes extended his spiritual wisdom and guidance to the community of First Bethel Baptist Church in Richmond, where he served as the outreach minister, and Fairfield Baptist Church in Richmond, where he was installed as pastor; and

WHEREAS, preceded in death by his son, George, Bobby Holmes will be fondly remembered and dearly missed by his loving wife of 53 years, Carolyn; his children, Delcencia and Yolanda, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Bobby Eugene Holmes, a spiritual leader of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Bobby Eugene Holmes as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 727

Celebrating the life of Algenon L. Brown.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Algenon L. Brown, a retired school administrator and community leader in Richmond, died on January 8, 2021; and

WHEREAS, Algenon Brown served his country as a member of the United States Navy then pursued a career in education; he retired as a middle school principal with Richmond Public Schools and had offered his leadership and expertise to the Richmond School Board; and

WHEREAS, Algenon Brown supported the Richmond community as a member of the Astoria Beneficial Club and the Theban Beneficial Club; and

WHEREAS, Algenon Brown had served for 25 years as a commissioner for Richmond International Airport; and

WHEREAS, Algenon Brown enjoyed fellowship and worship with the community as a member of Fourth Baptist Church, where he was a longtime deacon; and

WHEREAS, predeceased by his wife, Helen, Algenon Brown will be fondly remembered and greatly missed by his children, Kelly and Kevin, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Algenon L. Brown; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Algenon L. Brown as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 728

Celebrating the life of Ena Ampy Logan.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Ena Ampy Logan, esteemed educator and advertising executive and beloved member of the Richmond community, died on January 25, 2021; and

WHEREAS, growing up in Richmond, Ena Logan pursued theatre, modeling, piano, and dance and graduated from J.R. Tucker High School in 2009; and

WHEREAS, an active and proud alumna of Howard University, Ena Logan earned a bachelor's degree in psychology and contributed to the community as a student ambassador, chapel assistant, and member of BisonCORP, the Ladies of D.I.V.A., Inc., U.S. Dream Academy, and Alpha Nu Omega, Inc.; and

WHEREAS, alongside her husband, John, Ena Logan was owner and president of the advertising agency Four Deep Multimedia, LLC, helping many corporations, government agencies, and institutions of higher education reach their audiences; and

WHEREAS, Ena Logan founded The Rare Academy in Richmond, a performing arts program that, through an emphasis on spiritual and emotional development, has contributed to the success and well-being of many young girls in the community; and

WHEREAS, Ena Logan earned a full scholarship to get a master's degree in school counseling from Virginia Commonwealth University and later served as a school counselor at J.A. Chalkley Elementary School in Chesterfield, helping an untold number of students navigate the challenges of growing up; and

WHEREAS, guided throughout her life by her deep and abiding faith, Ena Logan enjoyed worship and fellowship with her community at The Life Church RVA in Richmond; and

WHEREAS, preceded in death by her father, Bernard, Ena Logan will be fondly remembered and dearly missed by her loving husband, John; her daughter, Ena; her mother, Priscilla; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ena Ampy Logan, a cherished member of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ena Ampy Logan as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 729

Celebrating the life of Willie Makently Andrews.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Willie Makently Andrews, an esteemed community advocate and deacon and beloved member of the Richmond community, died on January 6, 2021; and

WHEREAS, raised in Lunenburg County, Willie Andrews moved to Richmond in 1955 and worked for 28 years at the Westvaco Printing Company, where he retired as a supervisor in 1994; and

WHEREAS, Willie Andrews was a well-known and respected community leader in the Church Hill neighborhood of Richmond and earned several notable distinctions and awards over the years for his advocacy and service, including a 7th District honorary street sign bearing his name; and

WHEREAS, Willie Andrews further supported his community through appointments to the Richmond Commission of Architectural Review and the board of directors of the Interfaith Housing Corporation; and

WHEREAS, guided throughout his life by his deep and abiding faith, Willie Andrews was baptized at New Grove Baptist Church in Kenbridge and was later a longtime member of Sharon Baptist Church and Rising Mount Zion Baptist Church, both in Richmond; and

WHEREAS, a member and chairman of the deacon ministry at Rising Mount Zion Baptist Church and active in other leadership capacities, Willie Andrews was formally recognized on myriad occasions for his service to the community; and

WHEREAS, Willie Andrews will be fondly remembered and dearly missed by his loving wife of 65 years, Ruth; his children, Earl and Deborah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Willie Makently Andrews, a cherished member of the Richmond community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Willie Makently Andrews as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 730

Celebrating the life of the Honorable Edna Elizabeth Keys-Chavis.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Honorable Edna Elizabeth Keys-Chavis, an esteemed public servant and beloved member of the Chester community who made history as both the first African American and the first woman to serve as clerk of the Richmond City Council, died on July 24, 2020; and

WHEREAS, Edna Keys-Chavis grew up in Richmond and graduated from Armstrong High School before studying at Virginia State University, Central Michigan University, and Morgan State University; and

WHEREAS, Edna Keys-Chavis became the clerk of the Richmond City Council in 1990, where she embodied the utmost professionalism and integrity while managing the city's official recordkeeping for 17 years; and

WHEREAS, Edna Keys-Chavis's tenure as clerk of the Richmond City Council was characterized by her citizens-oriented approach, making Richmond City Hall more welcoming and accessible to residents; and

WHEREAS, in recognition of her myriad contributions to the community, Edna Keys-Chavis was honored with an Outstanding Women Award from YWCA Richmond in 2005; and

WHEREAS, Edna Keys-Chavis will be fondly remembered and dearly missed by her daughter, Mickia, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Edna Elizabeth Keys-Chavis, former clerk of the Richmond City Council and a cherished member of the Chester community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Edna Elizabeth Keys-Chavis as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 731

Celebrating the life of Rudolph E. Ford, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Rudolph E. Ford, Jr., a highly admired teacher, school administrator, and musician, died on April 13, 2020; and

WHEREAS, Rudolph Ford earned a bachelor's degree from Virginia Commonwealth University and received master's and doctoral degrees from the University of Virginia; and

WHEREAS, Rudolph Ford joined Henrico County Public Schools in 2011, serving as an elementary physical education teacher and principal of Jacob L. Adams Elementary School; and

WHEREAS, Rudolph Ford treated each student as an individual and built strong bonds based on trust, compassion, and mutual respect with generations of young people; and

WHEREAS, Rudolph Ford was a prolific author of novels and scholarly articles, and for more than 50 years he worked as a freelance musician and was well known for his talent as a saxophone player; and

WHEREAS, Rudolph Ford will be fondly remembered and greatly missed by his sons, Rudolph III, Christopher, and Hunter, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Rudolph E. Ford, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Rudolph E. Ford, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 732

Celebrating the life of Larry Jerome Bland.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Larry Jerome Bland, an esteemed music director and beloved member of the Richmond community, died on November 13, 2020; and

WHEREAS, raised in Richmond, Larry Bland was a graduate of Maggie L. Walker High School and later earned a degree in vocal music education from Virginia State University (VSU), where he founded the VSU Gospel Chorale; and

WHEREAS, harmonizing his deep and abiding faith with his passionate love for music, Larry Bland served as the longtime creative director of The Volunteer Choir at Second Baptist Church in Richmond; and

WHEREAS, Larry Bland led The Volunteer Choir, which was formed in 1968, for 44 years over two separate tenures, producing three albums and several singles that will always be cherished by fans; and

WHEREAS, Larry Bland brought a new style of gospel choir performance to The Volunteer Choir, where members wore tuxedos and evening gowns and moved in a precision choreographed style as they sang; he included drums, keyboards, and brass as an early adopter of using such instruments to enliven performances; and

WHEREAS, as a testament to The Volunteer Choir's prominence in the community, the group welcomed Queen Elizabeth II during Her Majesty's visit to Richmond in 2007, appeared with the Richmond Symphony, and performed at various summer festivals and events year after year; and

WHEREAS, Larry Bland stepped away from The Volunteer Choir briefly while pursuing work in Washington, D.C., but the group's magnetism kept him commuting to Richmond regularly for several years, and he soon returned permanently, leading the group until its final performance on December 30, 2018, at a commemoration of its 50th anniversary; and

WHEREAS, Larry Bland's gift for the performing arts extended to the theater, and he was involved in multiple stage productions at the Haymarket Theatre in Mechanicsville in the 1970s and 1980s, including a 1976 production of *Purlie* that earned him a Phoebe Award from Richmond theater critic Roy Proctor; and

WHEREAS, Larry Bland worked tirelessly for various organizations throughout his career, including an entertainment law office in Washington, D.C., the Discovery Channel, the *Richmond Free Press*, and the Richmond Department of Justice Services; and

WHEREAS, Larry Bland will be fondly remembered and dearly missed by his aunt Barbara; his nephews, Prince, Keith, and Pierre; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Larry Jerome Bland, revered music director of Richmond's The Volunteer Choir, whose kindness, visionary leadership, and positivity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Larry Jerome Bland as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 733

Celebrating the life of the Reverend Dr. Willie Woodson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend Dr. Willie Woodson, a spiritual leader and community activist who touched countless lives throughout the Richmond region, died on December 4, 2020; and

WHEREAS, a native of Richmond, Willie Woodson graduated from Armstrong High School and served his country as a member of the United States Air Force; he returned to Richmond in 1971 to care for his siblings after their mother's death and worked at the nearby Defense General Supply Center; and

WHEREAS, Willie Woodson continued his education with a bachelor's degree and a master of divinity degree from Virginia Union University, as well as a master's degree from what is now Union Presbyterian Seminary and a doctorate from Union Theological Seminary; and

WHEREAS, Willie Woodson answered the call to ministry at First United Presbyterian Church and led the congregation for 27 years, increasing community engagement, establishing a summer camp, and building additional support for church youth groups; and

WHEREAS, Willie Woodson subsequently became the pastor of Trinity Ghanaian Presbyterian Church; he was an active leader in the Presbytery of the James, including as moderator of the organization's Black Caucus; and

WHEREAS, Willie Woodson was a prolific author and a passionate educator who served as an adjunct instructor for a University of Lynchburg satellite program in Petersburg; he volunteered to mentor students at Henderson Middle School and offered his expertise to the Richmond Public Schools strategic planning group; and

WHEREAS, for more than a decade, Willie Woodson celebrated the legacy of the Reverend Dr. Martin Luther King, Jr., and the civil rights movement as the executive director of the annual Living the Dream program; and

WHEREAS, Willie Woodson further strengthened the Richmond community as executive director of the nonprofit organization Citizens Against Crime and as a member of the Richmond Commission of Architectural Review, Boaz & Ruth, the Richmond Crusade for Voters, and the local NAACP; and

WHEREAS, Willie Woodson will be fondly remembered and greatly missed by his daughter, Beverly, and her family; his sisters, Jane and Felicia, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Dr. Willie Woodson, a faith and community leader in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. Willie Woodson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 734

Celebrating the life of Thelonius Leander Wood.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Thelonius Leander Wood, a highly admired member of the Richmond community, died on November 13, 2020; and

WHEREAS, Thelonius Leander "Lonnie" Wood attended Richmond Public Schools and Smithdeal-Massey Business College; and

WHEREAS, Lonnie Wood possessed a wide range of professional knowledge and skills, having worked in computer manufacturing, office supply management, and warehouse furniture management; he was well-known by family and friends for his ability to assemble or fix anything easily; and

WHEREAS, for 12 years, Lonnie Wood worked for First Transit, which contracts with Richmond's GRTC Transit System to provide specialized transportation services; and

WHEREAS, Lonnie Wood's passion for music led him to establish Wood Entertainment and Sound, which provided entertainment equipment and DJs for local events; and

WHEREAS, Lonnie Wood was a founding member of the Old School Midlothian Village Reunion, a member of the Richmond branch of the NAACP, and a former member of the Richmond Crusade for Voters; and

WHEREAS, Lonnie Wood will be fondly remembered and greatly missed by his wife of 33 years, Sylvia, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thelonius Leander Wood; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thelonius Leander Wood as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 735

Celebrating the life of William Henry Womack, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, William Henry Womack, Jr., an honorable veteran, longtime employee of the Defense Supply Center in Richmond, and beloved member of the Charles City County community, died on December 2, 2020; and

WHEREAS, affectionately known by family and friends as "Wimpy," William Womack graduated from Petersburg High School in 1975, where he was a standout athlete in football, wrestling, and baseball and earned top honors from the Virginia High School League; and

WHEREAS, William Womack served his country with honor and distinction as a member of the United States Air Force and later earned an associate's degree from Saint Leo University; and

WHEREAS, after completing his military service and education, William Womack worked tirelessly in support of the country at the Defense Supply Center in Richmond for 34 years, retiring in 2009; and

WHEREAS, an active and engaged member of his community, William Womack volunteered with the organization No Greater Love and served as assistant chief of the Charles City Volunteer Fire Department; and

WHEREAS, William Womack served his community on the Charles City Parks and Recreation advisory board and the Charles City County fire committee and was a devoted member of the Wayside Gun Club, the Charles City branch of the NAACP, and American Legion Post #61; and

WHEREAS, William Womack fostered the success of young people as assistant football coach for the teams at both Petersburg High School and Charles City County High School; and

WHEREAS, guided throughout his life by his deep and abiding faith, William Womack was baptized at Triumph Baptist Church in Darlington Heights and later enjoyed worship and fellowship with his community at Saint John Baptist Church in Charles City County for many years; and

WHEREAS, William Womack will be fondly remembered and dearly missed by his loving wife of 40 years, Gerri; his sons, Brandon and Brian, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Henry Womack, Jr., a cherished member of the Charles City County community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Henry Womack, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 736

Celebrating the life of Josephine Johnson Bigger.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Josephine Johnson Bigger, an active and beloved member of the Richmond community, died on January 15, 2021; and

WHEREAS, Josephine Bigger was raised in Henrico County and Washington, D.C., and earned her general education diploma from Richmond Public Schools; and

WHEREAS, guided throughout her life by her deep and abiding faith, Josephine Bigger enjoyed worship and fellowship with several congregations over the years; and

WHEREAS, after settling in the Antioch neighborhood of Henrico County, Josephine Bigger worked at Antioch Baptist Church, leading the junior choir and teaching Bible study; and

WHEREAS, Josephine Bigger later joined St. James Baptist Church in Henrico County, where she was a devoted member for more than 75 years and held various leadership positions, including serving in the senior choir and hospitality committee and as the superintendent of Sunday school; and

WHEREAS, Josephine Bigger had the notable distinction of working for the Honorable Oliver Hill and the Honorable Henry L. Marsh III in the 1950s, facilitating the efforts of these accomplished civil rights activists and leaders during a pivotal time in the Commonwealth's history; and

WHEREAS, Josephine Bigger worked tirelessly throughout her life, including time in retail at historic and cherished establishments such as Thalhimers, L'Pell's, and Montaldo's and service with Richmond Public Schools leading up to her retirement; and

WHEREAS, preceded in death by her loving husband, Thomas, Josephine Bigger will be fondly remembered and dearly missed by her devoted daughter, Margaret Ann, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Josephine Johnson Bigger, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Josephine Johnson Bigger as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 737

Celebrating the life of Thomas Henry Francis.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Thomas Henry Francis, an inspirational community leader in Chesterfield, died on January 11, 2021; and

WHEREAS, Thomas Francis was born in New York City and raised by his grandparents in Midlothian; he attended Carver High School, where he was a saxophone player in the school band and a member of the baseball team; and

WHEREAS, Thomas Francis served his country as a specialized mechanic in the United States Air Force from 1964 to 1968; he was trained to service multiple aircraft, including nuclear-equipped fighters and special forces fighters, bombers, and interceptors under the former Tactical Air Command; and

WHEREAS, Thomas Francis was an active member of the civil rights movement in the 1960s and worked toward the passage of the Equal Rights Amendment; he took pride in fulfilling his civic duty to vote throughout his life and encouraged others to do the same; and

WHEREAS, a first generation college graduate, Thomas Francis earned a bachelor's degree from Virginia Union University, then began his career with Brown & Williamson Tobacco Company in Petersburg; and

WHEREAS, Thomas Francis later became a manager and supervisor of Coors Brewery and served as the company's African American community public relations liaison; in 1999, he began managing a fleet of drivers for Swift Transportation until his well-earned retirement; and

WHEREAS, possessed of an entrepreneurial spirit, Thomas Francis opened two small businesses, a catering company and a promotional printing company; and

WHEREAS, Thomas Francis volunteered his leadership as chair of the Chesterfield County Democratic Committee and treasurer of the Democratic Black Caucus of Virginia; more recently, he worked as a strategist and campaign chair for a mayoral candidate in New York City; and

WHEREAS, Thomas Francis enjoyed fellowship and worship with the community as a member of Hood Temple African Methodist Episcopal Zion Church, where he sang with the church's renowned men's chorus and served on the finance committee and the usher board; and

WHEREAS, predeceased by one child, Francis, Thomas Francis will be fondly remembered and greatly missed by his devoted wife of 53 years, Edna; his sons, Todd and Tyrone, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Henry Francis, a highly admired member of the Chesterfield County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Henry Francis as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 738

Celebrating the life of Javier J. Smith.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Javier J. Smith, the former sheriff of Charles City County, died on October 17, 2020; and

WHEREAS, Javier Smith served the Charles City County community as a sheriff's deputy for 11 years before his election as sheriff; he led the Charles City County Sheriff's Office with dedication and distinction from 2008 to 2016; and

WHEREAS, during his tenure as sheriff, Javier Smith worked with the New Kent County Sheriff's Office and several federal agencies to successfully apprehend a dangerous fugitive who had fled from Charles City County and kidnapped a woman in Philadelphia; and

WHEREAS, Javier Smith has more recently served as a deputy in the court services department of the Chesterfield County Sheriff's Office; and

WHEREAS, a man of deep faith, Javier Smith was active in his church congregation and generously volunteered his time and leadership to support many community organizations; and

WHEREAS, Javier Smith will be fondly remembered and greatly missed by his wife of 27 years, Holly; his children, Shane and Lyric; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Javier J. Smith, respected law-enforcement officer in Charles City County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Javier J. Smith as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 739

Celebrating the life of Carolyn Louise Johnson.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Carolyn Louise Johnson, a beloved Richmond Public Schools educator for a half-century and vital member of the Richmond community, died on December 31, 2020; and

WHEREAS, a Richmond native, Carolyn Johnson was educated in Richmond Public Schools and graduated from Armstrong High School and Virginia State College, receiving a bachelor's degree in education; and

WHEREAS, after graduation, Carolyn Johnson began teaching at Carver Elementary School before transferring to J.B. Fisher Elementary School, where she would teach until her retirement; over her career, she demonstrated a true love of teaching, ensuring that students could continue learning beyond the classroom; and

WHEREAS, Carolyn Johnson was a descendant of the original 13 families of Holy Rosary Catholic Church in Richmond, which was built on land given by her grandmother Charity Booker; Carolyn Johnson would take an active role in her new church, serving as the coordinator of First Penance and First Eucharist for more than 50 years and in numerous leadership and secretarial roles; and

WHEREAS, Carolyn Johnson's commitment to her community extended to numerous other organizations; as a student at Virginia State University, she joined the Alpha Epsilon chapter of the Alpha Kappa Alpha sorority and then the Upsilon chapter in Richmond, becoming a Golden Member with more than 50 years of dedicated service; and

WHEREAS, as chairperson of the Debutante and Awards Committee, Carolyn Johnson made an indelible impression on the young women who participated in numerous debutante balls; and

WHEREAS, predeceased by her brother Charles, Carolyn Johnson will be fondly remembered and greatly missed by her siblings, Shirley, Yvonne, Lincoln, Jr., and Deborah, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carolyn Louise Johnson, a dedicated teacher and beloved member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carolyn Louise Johnson as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 740

Celebrating the life of Andrew D. Washington.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Andrew D. Washington, esteemed executive director of District Council 20 of the American Federation of State, County and Municipal Employees, died on December 27, 2020; and

WHEREAS, born and raised in Washington, D.C., Andrew Washington graduated with a bachelor's degree in business administration from Johnson C. Smith University before embarking upon a career with the government of the District of Columbia in 1992; and

WHEREAS, Andrew Washington quickly earned the respect of his colleagues and was promoted to shop steward of Local 1959 of the American Federation of State, County and Municipal Employees (AFSCME); he was then promoted to chief shop steward three years later; and

WHEREAS, in 1999, Andrew Washington became the youngest president in the history of AFSCME Local 1959 and continued his meteoric rise when he was elected the youngest vice president in the history of AFSCME District Council 20 shortly thereafter; and

WHEREAS, over 15 years serving union members as AFSCME's president of Local 1959 and vice president of District Council 20, Andrew Washington honed his leadership skills and developed a reputation for his direct, results-oriented approach; and

WHEREAS, with the overwhelming support of his fellow AFSCME Council presidents and their delegates, Andrew Washington was chosen to serve as executive director of AFSCME District Council 20, the largest public sector union in the District of Columbia; and

WHEREAS, as executive director of District Council 20, Andrew Washington served nearly 10,000 union members in Washington, D.C., and Northern Virginia whose work supports various federal and district agencies and the private sector; and

WHEREAS, Andrew Washington effectively advanced labor interests in the nation's capital as District Council 20's representative on the D.C. Labor-Management Partnership Council and as first vice president of the Metropolitan Washington Council AFL-CIO; and

WHEREAS, a recent graduate of Harvard University's Trade Union Program, Andrew Washington was elected in 2017 to serve as chief negotiator for several national labor unions, successfully negotiating a favorable compensation agreement for nearly 20,000 workers; and

WHEREAS, Andrew Washington will be fondly remembered and dearly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Andrew D. Washington, a treasured labor leader of Washington, D.C., whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Andrew D. Washington as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 741

Celebrating the life of Mary Louise Tuell.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Mary Louise Tuell, a vibrant member of the Prince William County community, died on January 4, 2021; and

WHEREAS, Mary Tuell grew up in Cumberland County and pursued a career as a certified welder, traveling to cities throughout the United States to work on United States Navy ships; and

WHEREAS, after settling in Triangle, Mary Tuell worked as the head food service chef at the Washington-Reid School and later served as a health care provider; and

WHEREAS, Mary Tuell was a dedicated member of the Dumfries-Potomac Lions Club and American Legion Post 28 as well as a generous community volunteer with more than 20 years of service to the American Cancer Society and as an election official; and

WHEREAS, guided by her deep faith, Mary Tuell enjoyed fellowship and worship with the Triangle community at Mount Zion Baptist Church, where she was a Sunday school and vacation Bible school teacher and founded a missionary auxiliary, a nurses' ministry, and the Zionettes choir; and

WHEREAS, predeceased by her husband of 49 years, Fred, and three children, Claude, Douglas, and Rhonda, Mary Tuell will be fondly remembered and greatly missed by her children, William, Lester, Deloris, and Debby, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Louise Tuell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Louise Tuell as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 742

Celebrating the life of Jean Smith Brown.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Jean Smith Brown, noted preservation advocate, civic leader, and beloved member of the Lincoln community, died on January 15, 2021; and

WHEREAS, Jean Brown enjoyed a distinguished career on Capitol Hill in Washington, D.C., working as a secretary for several congressmen and committees; and

WHEREAS, aiming to preserve the rural character of Loudoun County as it rapidly grew, Jean Brown helped to establish the Goose Creek Historic and Cultural Conservation District, placing 11,000 acres on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, as the owner of a bed and breakfast with ambitions to support and advocate on behalf of small businesses in her area, Jean Brown aided in the founding of the Bed & Breakfast Guild of Loudoun County; and

WHEREAS, as president of the Leesburg Garden Club, as well as through multiple terms on the Garden Club of Virginia's Conservation Committee, Jean Brown contributed greatly to the beauty and grandeur of the Commonwealth; and

WHEREAS, a farmer with a deep appreciation for the agrarian traditions of the Commonwealth, Jean Brown served as a gubernatorial appointee to the Virginia Agricultural Council; and

WHEREAS, Jean Brown was heavily involved with the League of Women Voters, working tirelessly to register young voters; she was known by colleagues to carry voter registration forms with her at all times, ever ready to enroll a prospective voter; and

WHEREAS, ardently committed to protecting the environment, Jean Brown served on the board of the Virginia League of Conservation Voters and was once named Preservationist of the Year by the Loudoun Preservation Society; and

WHEREAS, guided by her steadfast and abiding faith, Jean Brown enjoyed singing in church choirs throughout her life; she was a founding member of the Choral Arts Society of Washington and most recently sang in the choir at St. James' Episcopal Church in Leesburg; and

WHEREAS, preceded in death by her loving husband, William, Jean Brown will be fondly remembered and dearly missed by her daughter, Sara, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jean Smith Brown, a treasured community leader in Loudoun County whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jean Smith Brown as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 743

Celebrating the life of Paul Wendell Dick.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Paul Wendell Dick, a beloved and accomplished athlete, educator, and coach known for his dedication to the students of Winchester and Frederick County, died on December 4, 2020; and

WHEREAS, Wendell Dick attended James Wood High School beginning in fifth grade when it opened in 1950 and graduated in 1958 having won the Winchester Star Leadership Scholarship, the American Legion Award, and James Wood's "Outstanding Male Athlete" title; and

WHEREAS, Wendell Dick attended Potomac State Junior College in Keyser, West Virginia, on a basketball scholarship before transferring to West Virginia University, where he earned bachelor's and master's degrees; and

WHEREAS, after graduating, Wendell Dick joined the United States Army National Guard in Winchester, earning the title "Outstanding Trainee"; and

WHEREAS, Wendell Dick worked for Frederick County Public Schools for 28 years as a teacher, guidance counselor, football coach, athletic director, assistant principal and principal of Frederick County Junior High School, and as an assistant track coach and a coordinating administrator at James Wood High School; and

WHEREAS, Wendell Dick worked for Senator Russ Potts as director of constituent services from 1991 to 1996; his efforts were recognized with the David Eisenhower Award by the Quad State Legislative Group in 1997; and

WHEREAS, Wendell Dick was a cross country and track official for 50 years and provided color commentary for many years on 92.5 WINC-FM Sports with Joe Pasquali; and

WHEREAS, Wendell Dick was inducted into the James Wood Athletic Hall of Fame, which was later named for him, and the Potomac State College Athletic Hall of Fame; and

WHEREAS, Wendell Dick took an active role in his community in numerous other ways, such as with the American Diabetes Association, Henry and William Evans Home for Children, Frederick County Retired Teachers Association, James Wood High School Athletic Association, Shenandoah Apple Blossom Festival Sports Breakfast, and many others; and

WHEREAS, Wendell Dick and his family were devoted members of the Crossroads Community Church in Winchester; and

WHEREAS, Wendell Dick will be fondly remembered and greatly missed by his wife of 53 years, Anita; his children, Paula and Wes, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Paul Wendell Dick, who had such an impact on his community that he was known as "Mr. James Wood" and was honored with "Wendell Dick Day" at James Wood High School in 2010; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Paul Wendell Dick as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 744

Commending The Chatham Garden Club.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, for 100 years, The Chatham Garden Club has worked to enhance the quality of life in Chatham and throughout Pittsylvania County by supporting beautification efforts and promoting the importance of green spaces and horticulture; and

WHEREAS, The Chatham Garden Club was established at a Daughters of the American Revolution meeting in 1921; the organization has grown from its 20 charter members to comprise 46 members in 2020, and has benefited from the leadership of 52 presidents in its history; and

WHEREAS, in 1922, The Chatham Garden Club released its first yearbook, titled "How We Can Beautify Chatham," and has continued to offer valuable insights on community beautification every year since; and

WHEREAS, that same year, The Chatham Garden Club joined the Garden Club of Virginia, becoming the first club admitted after the original eight founding clubs; the club has since participated in the statewide Historic Garden Week in Virginia 91 times; and

WHEREAS, in 1954, The Chatham Garden Club organized the Chatham Council of Garden Clubs to coordinate with local clubs and better serve the town; notably, the clubs maintain the landscaping at Chatham Town Hall and the Pruden Street parking lot; and

WHEREAS, The Chatham Garden Club restored the original Pittsylvania County Clerk's Office building in Callands and presented the site to the Pittsylvania County Board of Supervisors as part of the club's 50th anniversary celebration in 1971; and

WHEREAS, The Chatham Garden Club commemorated the start of its centennial year on September 2, 2020, with the planting of a redbud tree, and will continue to host celebrations and special events until June 2, 2021; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Chatham Garden Club on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Chatham Garden Club as an expression of the General Assembly's admiration for its legacy of service to the community.

HOUSE JOINT RESOLUTION NO. 745

Commending Joann Grant Luck.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joann Grant Luck retired as an emergency dispatcher for Pittsylvania County on January 1, 2021, after more than three decades of outstanding service to the community; and

WHEREAS, a native of Pittsylvania County, Joann Luck attended Gretna High School and joined the Pittsylvania County Sheriff's Office in 1986; and

WHEREAS, shortly after joining the department, Joann Luck was assigned to the dispatch center, then located in a small room in the Pittsylvania County jail; she served with distinction over the next 34 years and ultimately became the 911 operations supervisor; and

WHEREAS, during her long tenure in public safety, Joann Luck experienced and adapted to significant changes in emergency dispatching procedures, growth in the community, and advancements in technology; and

WHEREAS, Joann Luck distinguished herself through her professionalism, compassion, and quick thinking under pressure, often serving as a calming influence for individuals dealing with injuries, trauma, or high-stress situations; and

WHEREAS, Joann Luck was a trusted mentor and friend to numerous colleagues, and she touched countless lives throughout Pittsylvania County over the years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joann Grant Luck on the occasion of her retirement as an emergency dispatcher; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joann Grant Luck as an expression of the General Assembly's admiration for her achievements in service to the members of the Pittsylvania County community.

HOUSE JOINT RESOLUTION NO. 746

Commending William S. Feasenmyer, Jr.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, William S. Feasenmyer, Jr., who has served the Commonwealth with dedication and distinction for many years, was named the 2020-2021 commander of the American Legion Department of Virginia; and

WHEREAS, the son of a career United States Army officer, William "Bill" S. Feasenmyer, Jr., joined the United States Army shortly after graduating from Colonial Heights High School, serving as an infantryman, mortarman, and parachute rigger in the 82nd Airborne Division during the Vietnam Era; and

WHEREAS, returning to Colonial Heights after his military service, Bill Feasenmyer attended Richard Bland College and Virginia State University, graduating cum laude with a bachelor's degree in economics; and

WHEREAS, for the next three decades, Bill Feasenmyer worked as an insurance adjuster for Allstate Insurance and then as a substitute teacher in the Colonial Heights School District for several years; and

WHEREAS, Bill Feasenmyer then served as a deputy sheriff for Colonial Heights until his election as the Colonial Heights commissioner of the revenue, a position he has served in since 2014; and

WHEREAS, Bill Feasenmyer currently serves as a member of the Commonwealth's Charitable Gaming Board and is active in many Colonial Heights community service organizations, including the Optimist Club, the Colonial Heights Chamber of Commerce, the Colonial Heights Quarterback Club, Boy Scouts of America, and several veterans service organizations; and

WHEREAS, since shortly after his release from active duty, the focus of Bill Feasenmyer's community service has been the American Legion; he has served Colonial Heights Post 284 previously as commander, vice commander, children and youth co-chairman, scholarship chairman, oratorical chairman, and athletic officer and is currently serving as finance officer, building rental chairman, and a member of the executive committee; and

WHEREAS, in recognition of his extraordinary service, Bill Feasenmyer received the Legionnaire of the Year Award from Post 284, the 11th District, and Eastern Region of the American Legion in 2009; and

WHEREAS, Bill Feasenmyer has worked tirelessly for the American Legion, serving as 11th District commander, Department of Virginia vice commander, and Department of Virginia treasurer for three years; and

WHEREAS, Bill Feasenmyer has repeatedly demonstrated unparalleled dedication and leadership ability during his 43 years of membership in the American Legion and Colonial Heights Post 284; and

WHEREAS, Bill Feasenmyer has served the American Legion Department of Virginia as Americanism chairman for two years, as chairman of the Law-and-Order Committee and Youth Cadet Law Enforcement (YCLE) program director for five years, and as a member of the Finance Committee; and

WHEREAS, Bill Feasenmyer has served as an instructor for the American Legion Department of Virginia Leadership College for many years and is a member of the parent organization's National YCLE Committee and its National Law and Order & Homeland Security Committee; and

WHEREAS, in 2020, Bill Feasenmyer was elected commander of the American Legion Department of Virginia and as such represents 17 Districts and over 200 Posts, with close to 40,000 members throughout the Commonwealth; and

WHEREAS, a man of great integrity and honor, Bill Feasenmyer has always answered the call to serve, providing strong leadership to help America's military men and women and their families and modeling the ideals of an involved citizenry through his unswerving service to his community, state, and nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William S. Feasenmyer, Jr., for being named the 2020-2021 commander of the American Legion Department of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William S. Feasenmyer, Jr., as an expression of the General Assembly's profound admiration for his meritorious contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 747

Commending Pleasant View, Inc.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, for 50 years, Pleasant View, Inc., in Rockingham County has helped individuals with disabilities achieve their goals for personal, professional, and spiritual development; and

WHEREAS, established by the Virginia Mennonite Conference on February 8, 1971, Pleasant View, Inc., strives to ensure that all individuals have opportunities to engage with and enrich their communities; and

WHEREAS, Pleasant View, Inc., provides residential services, day support programs, and spiritual outreach to dozens of individuals with disabilities in Harrisonburg, Rockingham County, and the surrounding region; and

WHEREAS, accredited by the Commission on Accreditation of Rehabilitation Facilities International, Pleasant View, Inc., offers job skills development and employment planning and support programs; and

WHEREAS, Pleasant View, Inc., supports spiritual growth through its in-house pastor, facilitates Faith and Light Community meetings, and helps clients participate in a church community of their choosing; and

WHEREAS, Pleasant View, Inc., has helped numerous people with disabilities pursue opportunities to volunteer with other local nonprofit organizations, and it serves as an agency sponsor of the Harrisonburg Kiwanis Aktion Club, which was chartered in 2016; and

WHEREAS, over the course of its long history, Pleasant View, Inc., has treated its clients with dignity, care, and respect and significantly enhanced community life throughout the region; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pleasant View, Inc., on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pleasant View, Inc., as an expression of the General Assembly's admiration for its work to promote independence and a sense of community engagement for individuals with disabilities.

HOUSE JOINT RESOLUTION NO. 748

Commending Saint Joseph Catholic School.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Saint Joseph Catholic School in Petersburg, the oldest continuously operating school in the Catholic Diocese of Richmond, celebrated its 145th anniversary on January 17, 2021; and

WHEREAS, founded by the Daughters of Charity in 1876 as part of Saint Joseph Catholic Church in Petersburg, Saint Joseph Catholic School has long contributed to the intellectual and spiritual development of young people in the community; and

WHEREAS, Saint Joseph Catholic School teaches junior kindergarten through 8th grade, serving a diverse student body of 130 pupils from throughout the Commonwealth; and

WHEREAS, the mission of Saint Joseph Catholic School is to form students who are able scholars, active citizens, and devoted disciples through a rigorous curriculum that emphasizes individual learning, community service, and Christian values; and

WHEREAS, in recent years, new leadership and support from alumni, local businesses, and other donors have enabled Saint Joseph Catholic School to increase enrollment and renovate the school's historic campus; and

WHEREAS, as part of its 145th anniversary celebration, Saint Joseph Catholic School is initiating its "Promise for the Future" capital campaign, ensuring that the school and its community will continue to thrive for generations to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Saint Joseph Catholic School, an esteemed institution within the Catholic Diocese of Richmond, on the occasion of its 145th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sarah Owens, principal of Saint Joseph Catholic School, as an expression of the General Assembly's heartfelt admiration for the school's contributions to the rich history and culture of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 749

Commending Newport News Public Library.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Newport News Public Library received an Innovations Initiative Honorable Mention from the Urban Libraries Council in 2020; and

WHEREAS, the Urban Libraries Council (ULC) annually recognizes member library systems across the United States and Canada for implementing cutting-edge programs, strategies, tools, techniques, and ideas; and

WHEREAS, the ULC honored Newport News Public Library in the category of digital citizenship for establishing a mobile Wi-Fi program that brought connectivity to areas of Newport News with limited Internet access; and

WHEREAS, with its library branches closed due to the COVID-19 pandemic, the Newport News Public Library's mobile Wi-Fi program provided a vital resource to the community at a time when the need for Internet access is greater than ever; and

WHEREAS, after identifying areas in the city with little to no access to the Internet, staff with the Newport News Public Library drove Wi-Fi hotspots to designated, preannounced locations, enabling up to 30 simultaneous users to use the Internet for hours at a time; and

WHEREAS, with improved access to the Internet, many residents of Newport News were better able to fulfill essential life tasks, like finishing school assignments, checking email, and applying for jobs or benefits; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Newport News Public Library for its Innovations Initiative Honorable Mention from the Urban Libraries Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Newport News Public Library as an expression of the General Assembly's admiration for the library's contributions to Newport News and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 750

Commending The Virginian-Pilot.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, *The Virginian-Pilot*, a newspaper that has served Hampton Roads and beyond for more than 155 years, won 10 awards in the Society for Features Journalism Excellence-in-Features contest in 2020; and

WHEREAS, *The Virginian-Pilot* won first place in Best Section, Best Special Section, and Best Niche Product; second place in the Finest in Features Sweepstakes award, Food Criticism, and Best Niche Product; third place in Narrative Storytelling; and honorable mentions in Integrated Storytelling, Diversity in Digital Features, and Best Special Section; and

WHEREAS, *The Virginian-Pilot's* 10 awards in various competitive categories were the second-most out of all publications that participated; and

WHEREAS, the awards celebrate the hard work and multimedia storytelling abilities of the staff of *The Virginian-Pilot*, who explored the cuisine of Hampton Roads, the legacy of sharecropping, and an African American woman's search into her Japanese grandfather's past; and

WHEREAS, *The Virginian-Pilot* has placed in the contest for three years in a row, and its magazine *Distinction* was named top in its division for the third year in a row and for the fifth time in seven years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend *The Virginian-Pilot* for its journalistic achievements, both in its daily work and for its award-winning accomplishments; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of *The Virginian-Pilot* as an expression of the General Assembly's admiration for the newspaper's commitment to excellence.

HOUSE JOINT RESOLUTION NO. 751

Commending the Williamsburg Health Foundation.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Williamsburg Health Foundation, a leading public health organization in the Greater Williamsburg area, announced a \$1 million grant in 2020 to provide eviction relief to residents in the region during the COVID-19 pandemic; and

WHEREAS, recognizing the vital connection between health and housing, the Williamsburg Health Foundation will provide funding to the City of Williamsburg and the Counties of James City and York to help ensure that their citizens remain safe and well during this historic public health crisis; and

WHEREAS, the Williamsburg Health Foundation will distribute its funding proportionately to the three localities to be used for emergency rental payments for qualifying low-income to moderate-income households; and

WHEREAS, the Williamsburg Health Foundation's eviction relief initiative will lead many residents to reach out to the human services department in their locality, which in turn will help them connect with various other beneficial programs and services; and

WHEREAS, the generosity of the Williamsburg Health Foundation is an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Williamsburg Health Foundation for providing \$1 million in eviction relief support to the citizens of the City of Williamsburg and the Counties of James City and York; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carol L. Sale, president and chief executive officer of the Williamsburg Health Foundation, as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 752

Commending Patty Ortiz.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Patty Ortiz, a longtime United States Postal Service worker in Loudoun County, retired on April 30, 2020, after nearly four decades of service; and

WHEREAS, Patty Ortiz began her career with the United States Postal Service in Augusta, Georgia, working in the processing and distribution unit; over the ensuing years, she served in post offices throughout the country, including a stint in Puerto Rico, as she moved because of her husband's military career; and

WHEREAS, for the last 20 years, Patty Ortiz has served as postmaster or officer in charge for various post offices in Loudoun County, providing leadership and guidance at the Waterford, Hamilton, and Purcellville post offices; and

WHEREAS, most recently, Patty Ortiz returned to the Waterford Post Office as postmaster, responsible for overseeing operations and finances and ensuring high-quality service for the public; and

WHEREAS, throughout her career, Patty Ortiz has been guided by a desire to always do her best, a goal she has achieved through her many years of dedicated service to the United States Postal Service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Patty Ortiz on the occasion of her retirement from the United States Postal Service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patty Ortiz as an expression of the General Assembly's admiration for her decades of service to the community.

HOUSE JOINT RESOLUTION NO. 753

Commending Katie Gaylord.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Katie Gaylord, a school counselor at Waller Mill Elementary School in Williamsburg, created a fundraising campaign in 2020 that sold "Virginia is for Kindness" t-shirts to benefit the Virginia Peninsula Foodbank; and

WHEREAS, teaming up with the company Custom Ink, Katie Gaylord and her colleagues have raised thousands of dollars for the Virginia Peninsula Foodbank with the sale of their "Virginia is for Kindness" apparel; and

WHEREAS, inspired by the classic tagline "Virginia is for Lovers," Katie Gaylord's "Virginia is for Kindness" campaign gives citizens of the Commonwealth a fun and meaningful way to celebrate their community and support a worthy cause; and

WHEREAS, the Virginia Peninsula Foodbank has been strained by the COVID-19 pandemic and the "Virginia is for Kindness" fundraising campaign has provided vital support at a time of urgent need; and

WHEREAS, the back of the "Virginia is for Kindness" shirts reads, "Faith over Fear," a stirring message that speaks to the resiliency of the Commonwealth and its citizens during this historic public health crisis; and

WHEREAS, Katie Gaylord's tireless and creative efforts to support the Virginia Peninsula Foodbank are an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Katie Gaylord, visionary behind the "Virginia is for Kindness" fundraising campaign, for her extraordinary support of the Virginia Peninsula Foodbank; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Katie Gaylord as an expression of the General Assembly's admiration for her accomplishments and her service to her community.

HOUSE JOINT RESOLUTION NO. 754

Commending Sergeant Steven Pebler.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, in December 2020, Steven Pebler retired as a sergeant with the Leesburg Police Department after 29 years of distinguished service as a law-enforcement officer; and

WHEREAS, after serving four years in the United States Air Force, Steven Pebler began his career in law enforcement as a police officer in Sherwood, Arkansas, serving for seven years before joining the Leesburg Police Department in 1991; and

WHEREAS, during his 29-year tenure with the Leesburg Police Department, Steven Pebler has served as a patrol supervisor, negotiations team leader, school resource officer supervisor, traffic management unit supervisor, unmanned aircraft system (UAS) team member, crash reconstruction team member, and Loudoun County critical incident stress management team member; and

WHEREAS, Steven Pebler was awarded the Leesburg Police Department Commander's Award for successfully negotiating the surrender of an armed person who was threatening suicide, and the Leesburg Police Department has received many letters of thanks from the public, town employees, and other law-enforcement agencies praising Steven Pebler's work; and

WHEREAS, Steven Pebler has served the Town of Leesburg with valor and made Leesburg a better place to live; and

WHEREAS, following his retirement, Steven Pebler looks forward to volunteering with his church, flying his fleet of drones, and spending more time with his wife, children, and grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sergeant Steven Pebler on the occasion of his retirement from the Leesburg Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sergeant Steven Pebler as an expression of the General Assembly's admiration for his many years of service to the Town of Leesburg as a member of the Leesburg Police Department.

HOUSE JOINT RESOLUTION NO. 755

Commending Williamsburg Faith in Action and the Arc of Greater Williamsburg.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Williamsburg Faith in Action and the Arc of Greater Williamsburg, two leading service organizations in the Greater Williamsburg area, have developed a winning partnership to assist citizens of the Commonwealth during the COVID-19 pandemic; and

WHEREAS, Williamsburg Faith in Action serves the elderly community in James City County, Williamsburg, and the Bronx District of York County by helping many individuals age safely in their homes; and

WHEREAS, to respond to the issue of food insecurity during the COVID-19 pandemic, Williamsburg Faith in Action has partnered with the Arc of Greater Williamsburg, an organization that serves individuals with disabilities who have aged out of special education services; and

WHEREAS, from April 1 to December 14, 2020, volunteers with Williamsburg Faith in Action conducted 434 food pantry deliveries, representing more than a 600 percent increase from the previous year; and

WHEREAS, Williamsburg Faith in Action's larger impact in the community is the result of its partnership with the Arc of Greater Williamsburg and the extension of its services to individuals under the age of 60; and

WHEREAS, through their tireless dedication to serving vulnerable individuals in the community, Williamsburg Faith in Action and the Arc of Greater Williamsburg have been an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Williamsburg Faith in Action and the Arc of Greater Williamsburg for their successful partnership and their unified response to the challenges of the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Williamsburg Faith in Action and the Arc of Greater Williamsburg as an expression of the General Assembly's admiration for their achievements.

HOUSE JOINT RESOLUTION NO. 756

Commending Tammy Williams Guido.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Tammy Williams Guido has turned a recent tragedy into motivation to make the Commonwealth's roadways safer for all; and

WHEREAS, Tammy Guido was thrust into her role as an advocate for safe driving following the death of her son, Connor, in an automobile accident near Tabb High School in Yorktown in October 2019; and

WHEREAS, to honor her son, Tammy Guido has raised money for a memorial scholarship; organized a commemorative indoor soccer tournament; and consulted with legislators, school officials, and law-enforcement agencies to develop policies that will reduce the number of car accidents involving teenagers; and

WHEREAS, as a result of Tammy Guido's advocacy, legislation was introduced to mandate that the Virginia Department of Education develop health education curriculum for 10th graders that covers the dangers of distracted driving and speeding and that schools require students to present proof of a valid driver's license before obtaining a school parking pass; and

WHEREAS, Tammy Guido's efforts have led to the development of a website, ifyouseesomethingsaysomething.org, that will allow teenagers to anonymously report incidences of reckless behavior to authorities; and

WHEREAS, Tammy Guido was instrumental to the installation of lights by York County and signage by the Virginia Department of Transportation along the stretch of Yorktown Road where her son's crash occurred; and

WHEREAS, through the various initiatives she has spearheaded over the past year, Tammy Guido has helped make the Commonwealth safer for all of its citizens; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tammy Williams Guido for her extraordinary efforts to improve highway and road safety in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tammy Williams Guido as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 757

Celebrating the life of George S. Genakos.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, George S. Genakos, a former member of the Williamsburg City Council who was dedicated to improving his community, died on December 1, 2020; and

WHEREAS, born in Lowell, Massachusetts, George Genakos served his country as an officer in the United States Air Force and later became an independent contractor for the Department of Defense; in 1975, George Genakos and his family moved to Williamsburg; and

WHEREAS, desiring to better serve his community, George Genakos ran for and was elected to the Williamsburg City Council in 1986, 1992, and 1996, winning the most votes of any candidate in each election and becoming the city's first elected Greek American; he would go on to serve 12 years in total; and

WHEREAS, known for his generous friendship, sound advice, and honesty, George Genakos' service extended beyond politics, as he co-founded the Williamsburg Salvation Army, YMCA, Youth Leadership Council, and Senior Advisory Group; served as president of the Jabbo Kenner Boxing Club and the American Hellenic Educational Progressive Association; and served as a member of the Disabled American Veterans, Veterans of Foreign Wars, Kiwanis Club, Rotary Club, National Exchange Club, Masonic Order, Drug Drop Out Advisory Council, and the Youth Task Force; and

WHEREAS, George Genakos will be fondly remembered and greatly missed by his wife, Jean; his children, Mary, Anthony, and Stephen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George S. Genakos, a former member of the Williamsburg City Council dedicated to improving his community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George S. Genakos as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 758

Commending the authors of Stir Crazy in Williamsburg.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the authors of *Stir Crazy in Williamsburg*, a virtual cookbook of easy, family-friendly recipes, have helped raise funds for the Avalon Center in Williamsburg during the COVID-19 pandemic; and

WHEREAS, the *Stir Crazy in Williamsburg* project was initiated to support the Avalon Center, which provides resources and support to women who are victims of domestic violence; and

WHEREAS, at a time when typical fundraising events are not possible due to gathering restrictions imposed by the COVID-19 pandemic, the *Stir Crazy in Williamsburg* initiative has provided a vital lifeline for the organization; and

WHEREAS, the *Stir Crazy in Williamsburg* project was spearheaded by Joann Kansier and a group of friends, who solicited recipes from more than 500 individuals in the process of developing the cookbook; and

WHEREAS, recognizing that many people are still limiting their visits to the grocery store during the COVID-19 pandemic, the authors of *Stir Crazy in Williamsburg* gravitated toward featuring recipes that either required few ingredients or that use common pantry items; and

WHEREAS, the *Stir Crazy in Williamsburg* virtual cookbook is distributed via email, with readers receiving weekly installments after donating a minimum of \$25 to the Avalon Center; and

WHEREAS, through its innovative approach to helping others, the authors of *Stir Crazy in Williamsburg* have been an inspiration to all Virginians and are a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the authors of *Stir Crazy in Williamsburg* for their tremendous support of the Avalon Center in Williamsburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the authors of *Stir Crazy in Williamsburg* as an expression of the General Assembly's admiration for their service.

HOUSE JOINT RESOLUTION NO. 759

Commending John Unger.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, John Unger, an esteemed public servant who was the longest serving member in the history of the Hamilton Town Council, stepped down from his role on the council in 2020; and

WHEREAS, a native of Trucksville, Pennsylvania, John Unger earned a bachelor's degree from the Massachusetts Institute of Technology and a doctoral degree in geophysics from Dartmouth College before embarking upon his career with the United States Geological Survey in 1969; and

WHEREAS, after stints in Menlo Park, California, and Hawaii, John Unger and his family settled in Hamilton, enabling him to commute daily to the United States Geological Survey headquarters in Reston; and

WHEREAS, John Unger initially served on the Hamilton Town Council as an appointee to fill a vacancy created in 1983, but would soon be elected to the Hamilton Town Council a year later; and

WHEREAS, John Unger's nine consecutive terms on the Hamilton Town Council, spanning 36 years and including several terms as vice mayor, are a testament to his constituents' faith in his leadership and vision for the community; and

WHEREAS, over approximately 1,880 town council meetings and through thousands of votes, John Unger has had an outsized impact on the growth and development of Hamilton over the last half-century; and

WHEREAS, as the longstanding chairman of the Hamilton Town Council's finance committee, John Unger was a forceful advocate for maintaining the town's fiscal health throughout his tenure; and

WHEREAS, John Unger's notable accomplishments on the Hamilton Town Council include the creation of Hamilton Community Park and the expansion of the town's sewer system to several out-of-town properties; and

WHEREAS, John Unger's service is an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John Unger, longtime member of the Hamilton Town Council, on the occasion of his retirement from public service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Unger as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 760

Commending Dennis Linaburg.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Dennis Linaburg, chief of the Frederick County Fire and Rescue Department, who has long served his community with honor and distinction, retired in 2020; and

WHEREAS, Dennis Linaburg began volunteering with the Frederick County Fire and Rescue Department in 1990, the year after the department formed, and was one of the first six salaried firefighters to be hired by the agency; and

WHEREAS, formerly serving as fire marshal and battalion chief, Dennis Linaburg has served as chief of the Frederick County Fire and Rescue Department since 2011; and

WHEREAS, through his tireless dedication and enthusiasm for the mission of the Frederick County Fire and Rescue Department, Dennis Linaburg helped strengthen recruitment and member retention in recent years despite the economic downturn that followed the Great Recession of 2008; and

WHEREAS, during his tenure as chief, Dennis Linaburg oversaw the development of the Frederick County Fire and Rescue Department, incorporating advanced scheduling techniques, implementing cutting-edge equipment and technology, and improving relationships among career and volunteer staff; and

WHEREAS, after his retirement as chief, Dennis Linaburg plans to continue serving the Frederick County Fire and Rescue Department as a member of the Greenwood Fire and Rescue Company; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dennis Linaburg, chief of the Frederick County Fire and Rescue Department, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dennis Linaburg as an expression of the General Assembly's admiration for his contributions to the community.

HOUSE JOINT RESOLUTION NO. 761

Commending Sergeant Brian Rosenberry.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Sergeant Brian Rosenberry, a dedicated law-enforcement officer, retired from the Clarke County Sheriff's Office in May 2020 after 37 years of service in law enforcement; and

WHEREAS, Brian Rosenberry began his career with the Berryville Police Department in 1983; and

WHEREAS, two years later, Brian Rosenberry joined the Clarke County Sheriff's Office as a patrol deputy; and

WHEREAS, Brian Rosenberry was later promoted to a supervisory role in the Court Services/Civil Division of the Clarke County Sheriff's Office, where he oversaw security for the local courts, the service of civil papers, and the management of the property room; and

WHEREAS, Brian Rosenberry's management of the property room was instrumental in helping the Clarke County Sheriff's Office achieve and maintain accreditation; and

WHEREAS, Brian Rosenberry is known among his colleagues for his calm demeanor, strong work ethic, and willingness to mentor younger deputy sheriffs; and

WHEREAS, Brian Rosenberry has served Clarke County with honor throughout his career with the Clarke County Sheriff's Office; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sergeant Brian Rosenberry on the occasion of his retirement from the Clarke County Sheriff's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sergeant Brian Rosenberry as an expression of the General Assembly's admiration for his years of service as a member of the Clarke County Sheriff's Office.

HOUSE JOINT RESOLUTION NO. 762

Commending Clifton Presbyterian Church.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Clifton Presbyterian Church, which has long offered sage spiritual leadership, generous outreach, and opportunities for uplifting worship to the residents of Clifton, celebrated its 150th anniversary in 2020; and

WHEREAS, in 1870, H.C. Newman sent a petition signed by 24 persons to the Presbytery of the Potomac requesting that a church be organized in Clifton; and

WHEREAS, the Clifton Presbyterian Church was officially established on May 8, 1870, as nine petitioners were presented certificates of membership; and

WHEREAS, since its beginning, Clifton Presbyterian Church has grown to offer a wide variety of unique ministries and outreach programs designed to support the members of the community and enhance the quality of life of all Clifton residents; and

WHEREAS, to honor its sesquicentennial anniversary, Clifton Presbyterian Church held monthly celebrations under the theme of "Fifteen Decades of Service and Gratitude," exploring different aspects of the church's history at each event; and

WHEREAS, members of Clifton Presbyterian Church have become leaders in their professions and the community, empowered and inspired by the lessons of grace and generosity learned at their home church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Clifton Presbyterian Church on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Clifton Presbyterian Church as an expression of the General Assembly's admiration for the church's legacy of contributions to the Clifton community.

HOUSE JOINT RESOLUTION NO. 763

Commending the Korean Central Presbyterian Church.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 18, 2021

WHEREAS, during the COVID-19 pandemic, the Korean Central Presbyterian Church in Centreville raised funds to support other local churches and community members in need; and

WHEREAS, in April and May 2020, the Korean Central Presbyterian Church created the KCPC Cares fund and allocated \$200,000 to relieve hardships brought on by the pandemic; the church received many generous donations from members to further support the initiative; and

WHEREAS, the Korean Central Presbyterian Church supplied groceries and other household necessities to 130 families or senior members of the community, allowing them to stay safely in their homes during the pandemic; and

WHEREAS, the Korean Central Presbyterian Church offered financial support to struggling businesses and people who had become unemployed as a result of the pandemic; the KCPC Cares fund covered rent payments for other local churches that were not financially self-sufficient; and

WHEREAS, the Korean Central Presbyterian Church's response to the extraordinary circumstances of the COVID-19 pandemic helped raise the quality of life of many local residents and strengthened community bonds; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Korean Central Presbyterian Church for creating the KCPC Cares fund to support members of the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Korean Central Presbyterian Church as an expression of the General Assembly's admiration for its outstanding service to people in need.

HOUSE JOINT RESOLUTION NO. 764

Commending the Northern Virginia Therapeutic Riding Program.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Northern Virginia Therapeutic Riding Program (NVTRP) celebrated its 40th anniversary in 2020; and

WHEREAS, the NVTRP was established in 1980 to provide equine-assisted activities such as therapeutic riding and hippotherapy for individuals with disabilities, at-risk youth, and returning veterans; and

WHEREAS, the NVTRP began operating as a strictly volunteer organization, using horses loaned by volunteers and offering services at South Run Park in Clifton, as part of the Fairfax 4-H Therapeutic Riding Program; and

WHEREAS, over the last 40 years, NVTRP has grown and expanded, becoming an independent nonprofit organization in 1998 and purchasing Little Full Cry Farm, later renamed O'Shaughnessy Farm, in 2016 to provide a home for the more than 15 horses owned by the organization; and

WHEREAS, with the onset of the COVID-19 pandemic, the NVTRP was forced to find new ways to continue its mission, restructuring in-person sessions and finding new ways to utilize technology to maintain connections with current

clients and community members; livestreams of "Teddy Time" with NVTRP pony Teddy and "Good Night Farm," an opportunity for clients to watch from their cars as the horses are fed and settled at the end of the day, have been particularly popular; and

WHEREAS, the NVTRP will continue to offer equine-assisted activities such as therapeutic riding and hippotherapy for individuals with disabilities, at-risk youth, and returning veterans as it continues to grow and expand; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northern Virginia Therapeutic Riding Program on its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jeff Wilklow, Chairman of the Board of Directors, and Kelsey Gallagher, Executive Director of the Northern Virginia Therapeutic Riding Program, on behalf of the Northern Virginia Therapeutic Riding Program, as an expression of the General Assembly's high esteem and admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 765

Commending Rebecca Suerdieck and Julia Oxrieder.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Rebecca Suerdieck, using materials bequeathed by the late Julia Oxrieder, created a unique archive of local history through the Archive Williamsburg project; and

WHEREAS, Archive Williamsburg, which is available free to the public online, consists of more than 1,200 scanned pages of typed *Virginia Gazette* articles dated between 1893 to 1925, as well as handwritten index cards; and

WHEREAS, Julia Oxrieder, a historian born in 1925, was particularly interested in the period of Williamsburg history preceding her birth, before John D. Rockefeller, Jr., initiated the restoration of the city; and

WHEREAS, upon her death in 2013, Julia Oxrieder left many of her books and historical resources to The College of William & Mary, but left her prized collection of *Virginia Gazette* articles from the turn of the century to her friend and fellow historian Rebecca Suerdieck; and

WHEREAS, throughout her career, Rebecca Suerdieck has assisted Colonial Williamsburg, the Jamestown Settlement, the National Park Service, and many other local libraries and organizations with history and genealogy inquiries; she worked for the *Virginia Gazette* in the 1990s; and

WHEREAS, Rebecca Suerdieck's extensive Archive Williamsburg database is searchable by key words and easy to navigate, ensuring that current and future generations have access to this one-of-a-kind window into Williamsburg's past; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rebecca Suerdieck and Julia Oxrieder for their work to digitize newspaper articles through the Archive Williamsburg project; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rebecca Suerdieck as an expression of the General Assembly's admiration for her and Julia Oxrieder's efforts to preserve the history and heritage of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 766

Celebrating the life of Lucille Minchin Zaleski.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Lucille Minchin Zaleski, the longest-serving educator in Norfolk Public Schools, died on January 10, 2021; and

WHEREAS, Lucille "Lucy" Minchin Zaleski grew up in Buffalo, New York, and joined Norfolk Public Schools in 1968 after she graduated from The College of William & Mary; and

WHEREAS, Lucy Zaleski began her career as a sixth-grade teacher at Sherwood Forest Elementary School and, after more than 50 years of service, she became the longest-tenured employee of Norfolk Public Schools; and

WHEREAS, Lucy Zaleski has most recently worked as a transitional specialist at Madison Alternative School, where she helped students overcome behavioral problems and learning challenges; and

WHEREAS, Lucy Zaleski treated every student in her care as an individual and often put in extra hours to provide private tutoring and encourage parental involvement in education, earning the trust and respect of generations of young people and their families; and

WHEREAS, Lucy Zaleski led by example, taking an active leadership role in all of her professional pursuits, and she was a dedicated mentor and friend to many of her fellow educators in Norfolk Public Schools; and

WHEREAS, Lucy Zaleski's commitment to excellence and genuine care for students was unparalleled and, among many accolades over the course of her distinguished career, she was selected as the Virginia Teacher of the Year for Region II in 1993; and

WHEREAS, predeceased by one son, Paul, Lucy Zaleski will be fondly remembered and greatly missed by her husband, Allan; her children, Stephanie, Chris, and Tiffany, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lucille Minchin Zaleski, a devoted educator who touched countless lives in the Norfolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lucille Minchin Zaleski as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 767

Celebrating the life of Flournoy A. Keatts.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Flournoy A. Keatts, esteemed former member of the Pittsylvania County Board of Supervisors and a beloved member of the Pittsylvania County community, died on April 28, 2020; and

WHEREAS, affectionately known by family and friends as "F.A. Keatts," Flournoy Keatts was a graduate of Brosville High School in Pittsylvania County and worked early in his career at Dan River Mills; and

WHEREAS, F.A. Keatts would ultimately go into business for himself, operating a successful dairy farm for 33 years with grace and aplomb; and

WHEREAS, F.A. Keatts's professional farming experience was an asset during his 32-year tenure as the Tunstall District representative on the Pittsylvania County Board of Supervisors, where he was a staunch advocate for vital public water, sewer, and soil conservation initiatives; and

WHEREAS, preceded in death by his loving wife, Nina, F.A. Keatts will be fondly remembered and dearly missed by his children, Pam, Sherry, and Barry, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Flournoy A. Keatts, a distinguished public servant and farmer of the Pittsylvania County community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Flournoy A. Keatts as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 768

Celebrating the life of Avicia Beatrice Hooper Thorpe.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Avicia Beatrice Hooper Thorpe, an esteemed educator and beloved member of the Danville community who at the time of her passing was the oldest living citizen of the Commonwealth, died on December 24, 2020; and

WHEREAS, Avicia Thorpe was born in Schoolfield in 1908, more than four decades before the mill village would be annexed by the City of Danville; and

WHEREAS, despite being barred from the all-white school in her neighborhood, Avicia Thorpe persisted in getting an education, walking every day to a one-room schoolhouse that was located several miles away from her home; and

WHEREAS, ultimately completing her secondary education at Holbrook Presbyterian School in Danville, where she was valedictorian, Avicia Thorpe then graduated as salutatorian from Bluefield State College with a degree in social sciences; and

WHEREAS, Avicia Thorpe began her distinguished career in education at Westmoreland High School in Danville, teaching English there from 1933 to 1936; she then joined the faculty at the newly established John M. Langston High School in Danville in 1936, where she worked until her retirement in 1966; and

WHEREAS, teaching in a Black school during the Jim Crow era, Avicia Thorpe triumphed against adversity to ensure that her students would succeed both in and out of the classroom; and

WHEREAS, Avicia Thorpe founded a journalism program at John M. Langston High School and the school's newspaper, *The Langstonian*, which earned honors from the Columbia Scholastic Press Association; and

WHEREAS, Avicia Thorpe acquired a life membership in the NAACP during the civil rights movement of the 1960s, which provided funds to pay legal costs and attorney fees for activists involved in local demonstrations; she remained active in the organization and at the time of her passing was one of its oldest and longest-serving members; and

WHEREAS, Avicia Thorpe has received numerous awards and accolades in her lifetime, including a Teacher of the Year award from John M. Langston High School and the 1982 NAACP Citizen of the Year award; she became the first diamond member of Alpha Phi Omega with 75 years of service; and

WHEREAS, guided throughout her life by her deep and abiding faith, Avicia Thorpe enjoyed worship and fellowship with the community at Trinity Baptist Church in Danville, where she helped lead the congregation alongside her husband, the Reverend C.M. Thorpe, for many years; and

WHEREAS, preceded in death by her loving husband, C.M., Avicia Thorpe will be fondly remembered and dearly missed by her great-niece, Adele, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Avicia Beatrice Hooper Thorpe, an accomplished educator and supercentenarian of Danville whose unwavering kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Avicia Beatrice Hooper Thorpe as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 769

Celebrating the life of Joe Louis Hairston.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Joe Louis Hairston, a longtime officer with the Henry County Sheriff's Department who bravely devoted himself to protecting and serving his community, died on August 2, 2020; and

WHEREAS, a native of Henry County, Joe Hairston admirably served the Henry County Sheriff's Department for 39 years before his retirement in 2009, establishing a reputation as a hardworking, fair, and compassionate officer; and

WHEREAS, beginning his career as a deputy and serving nine years as an investigator, Joe Hairston spent the last 24 years of his career as first lieutenant, working with several local, state, and federal agencies to ensure the safety and well-being of others; and

WHEREAS, dedicated to preparing the next generations of police officers, Joe Hairston worked with the Commonwealth's police training academies in the Piedmont, New River, and Central Virginia regions; and

WHEREAS, an active and engaged member of his community, Joe Hairston gave generously of his time to the Carver Ruritan Club, the Salvation Army, and the Axton Fire Department; and

WHEREAS, guided throughout his life by his deep and abiding faith, Joe Hairston enjoyed worship and fellowship with his community at the Shiloh Way of the Cross Church in Martinsville for many years; and

WHEREAS, a passionate and driven leader of men, Joe Hairston served both his local church and its international organization in various leadership positions, including as treasurer of the national deacon board of the Way of the Cross Church of Christ International; and

WHEREAS, Joe Hairston will be dearly remembered and fondly missed by his loving wife, Barbara; his daughter, Valerie, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joe Louis Hairston, a distinguished member of the Henry County Sheriff's Department who inspired others through his wisdom, courage, and kindness; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joe Louis Hairston as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 770

Celebrating the life of Robert George Wingfield.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Robert George Wingfield, a husband, father, grandfather, mentor, friend, teacher, and longtime leader in the Roanoke emergency medical services community, died on December 25, 2020; and

WHEREAS, Robert "Bob" George Wingfield was born in Newark, New Jersey, and graduated from Virginia Polytechnic Institute and State University, where he was a proud Hokie and member of the Virginia Tech Corp of Cadets; and

WHEREAS, after graduating, Bob Wingfield enlisted with the United States Army, serving his country with courage and valor during the Vietnam War; and

WHEREAS, following his military service, Bob Wingfield served as a manager at Hop-In and U-Haul and founded Communications Plus, where he had an outlet for his passion for fixing radios and electronics; and

WHEREAS, Bob Wingfield began his extensive volunteer career as an emergency medical technician with the Williamson Road Life Saving Crew, now Roanoke Emergency Medical Services, later transferring to the Cave Spring Volunteer Rescue Squad; and

WHEREAS, over 35 years running emergency medical services calls with the Cave Spring Volunteer Rescue Squad, Bob Wingfield served in various leadership positions, including first lieutenant, building sergeant, and treasurer, and was awarded life membership in 1985; and

WHEREAS, a search and rescue instructor for the Virginia Department of Emergency Management for 27 years, Bob Wingfield was active in various search and rescue councils in the Roanoke area; in addition, he was a member of the Civil Air Patrol and was honored with the Virginia Search and Rescue Council's Lisa Hannon Award in 2005; and

WHEREAS, since its inception in 2017, Bob Wingfield tirelessly served the Heart Alert Community Training Center in Roanoke as vice president, instructor trainer, and training center faculty member; and

WHEREAS, Bob Wingfield was highly involved in the Virginia Association of Volunteer Rescue Squads (VAVRS), serving previously as the organization's historian and as District 6 vice president for four years; and

WHEREAS, Bob Wingfield supported volunteer management and other activities at VAVRS through his work on several committees and took great joy in supporting the organization's Hall of Fame Committee and its Julian Stanley Wise Foundation; and

WHEREAS, Bob Wingfield bolstered search and rescue education in the Commonwealth through his work as an instructor with the VAVRS Rescue College and the Virginia State Emergency Medical Services Museum in Roanoke; and

WHEREAS, in September 2012, Bob Wingfield was elected a Life Member by the membership of VAVRS, one of the organization's most prestigious honors and a reflection of his extraordinary life of service; and

WHEREAS, Bob Wingfield will be fondly remembered and dearly missed by his loving wife of 44 years, Patsy; his daughter, Sarah, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert George Wingfield, a respected leader and mentor in the emergency medical services community of Roanoke; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert George Wingfield as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 771

Celebrating the life of Mary Elene Williams Farlow.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Mary Elene Williams Farlow, an esteemed restaurateur and beloved member of the Danville community, died on May 4, 2020; and

WHEREAS, second generation owner and operator of Mary's Diner in Danville, Elene Farlow reliably served delicious meals to the community for many years and was a cherished fixture in the lives of an untold number of area residents; and

WHEREAS, committed to supporting the professional advancement of others, Elene Farlow was a charter member of the Danville-Pittsylvania chapter of the American Business Women's Association, where she held various leadership positions; and

WHEREAS, an active and engaged steward of her community, Elene Farlow gave amply of her time through service on the boards of God's Pit Crew, Inc., the Danville Chamber of Commerce, the Danville-Pittsylvania Cancer Association, and the former Virginia Restaurant Association; and

WHEREAS, guided throughout her life by her deep and abiding faith, Elene Farlow enjoyed worship and fellowship with her community at Mount Hermon Baptist Church in Danville, where she was a member of the New Generation Choir; and

WHEREAS, preceded in death by her loving husband, James, Elene Farlow will be fondly remembered and dearly missed by her children, James and Starlette, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Elene Williams Farlow, a treasured Danville restaurateur whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Elene Williams Farlow as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 772

Celebrating the life of Michael Wayne Woods.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Michael Wayne Woods, a distinguished lobbyist, honorable veteran, and beloved member of the Commonwealth's political community, died on November 18, 2020; and

WHEREAS, Michael "Mike" Wayne Woods enlisted with the United States Army and served his country with courage and valor as a member of the 82nd Airborne Division; and

WHEREAS, Mike Woods was civically engaged throughout his career and supported many local, state, and federal political campaigns, including President George W. Bush's successful bid for the White House in 2000; and

WHEREAS, from 1999 to 2005, Mike Woods served many political roles, including deputy political director of the Republican Party of Virginia; political director for Morgan Griffith, majority leader in the Virginia House of Delegates; and field director for the "Foundation 2002" bond referendum campaign; and

WHEREAS, admired for his extraordinary political acumen, Mike Woods moved into the lobbying world, working with then-named Shuford, Rubin and Gibney and finally joining the law firm formerly known as Mays and Valentine, now Troutman Pepper Strategies, in 2004, building a reputation as one of the most well-known and well-liked members of the Virginia lobbying community; and

WHEREAS, Mike Woods's passion for all things political was rivaled only by his love of baseball, especially his cherished Cincinnati Reds; and

WHEREAS, Mike Woods will be fondly remembered for his quick wit, legendary storytelling, and unyielding loyalty and deeply missed by his family and friends, especially his beloved daughter, Caitlin; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Michael Wayne Woods, an esteemed lobbyist, honorable veteran, and self-described political hack whose limitless passion for the Commonwealth had an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael Wayne Woods as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 773

Celebrating the life of Grover Harold Plaster.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Grover Harold Plaster, former sheriff of Pittsylvania County, died on July 23, 2020; and

WHEREAS, a native of Pittsylvania County, Harold Plaster served the Commonwealth for 40 years, for many years as a law-enforcement officer and for the following 16 years as the sheriff of Pittsylvania County; and

WHEREAS, remembered by friends, colleagues, and others as a quiet man with a big heart, Harold Plaster was known for his work ethic, kindness, and willingness to help a friend or a stranger in need; and

WHEREAS, many residents of Pittsylvania County recall Harold Plaster as a man who always had a smile and a kind word and was always willing to listen to what others had to say; and

WHEREAS, Harold Plaster enjoyed fellowship and worship with the community as a member of Brosville United Methodist Church, where he took great pleasure in giving back to his community; and

WHEREAS, an avid outdoorsman, Harold Plaster enjoyed hunting, fishing, camping, and spending time in nature with family and friends; and

WHEREAS, Harold Plaster's greatest joy in life was his family, including his beloved wife, daughter, grandson, sisters, brothers, and many nieces and nephews; and

WHEREAS, predeceased by his parents, Dessa and Clarence Plaster, and his brother Herbert Plaster, Harold Plaster will be fondly remembered and dearly missed by his wife, Mary Quesinberry Plaster; daughter, Cara Orange, and her husband Rick; grandson, Colin Orange; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Grover Harold Plaster, former sheriff of Pittsylvania County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Grover Harold Plaster as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 774

Commending the Danville Life Saving and First Aid Crew, Inc.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Danville Life Saving and First Aid Crew, Inc., an emergency medical services organization that has long served residents of the City of Danville, celebrated its 75th anniversary in 2020; and

WHEREAS, the Danville Life Saving and First Aid Crew, Inc., commonly known as the Danville Life Saving Crew, held its first official meeting on September 18, 1945, and within a year had received its charter, chosen its first captain, and responded to its first emergency call; and

WHEREAS, the Danville Life Saving Crew has transformed considerably over the past 75 years, acquiring its first transport vehicle in 1953, building its headquarters at Clayton T. Lester Crew Hall in 1966, developing a 9-1-1 system in the 1980s, and opening its training center and Northside Station in the 2000s; and

WHEREAS, in 2019, the Danville Life Saving Crew was staffed by more than 100 volunteers, including 20 advanced-certified emergency medical technicians, the highest certification that indicates one has more than 800 hours of training and in-depth knowledge of medical, trauma, pediatric, and psychiatric emergencies; and

WHEREAS, the Danville Life Saving Crew was recently designated the first responder for every 9-1-1 emergency medical services (EMS) call in the City of Danville and answered more than 15,000 calls in 2020; and

WHEREAS, along with standard EMS operations, the Danville Life Saving Crew provides specialized services including a dive and swift water rescue team, an extrication team, drone operators, and an in-home community paramedicine program, enhancing its ability to serve the residents of Danville and Pittsylvania County; and

WHEREAS, the accomplishments of the Danville Life Saving Crew have been made possible through the dedication of its members, from the 12 charter members in 1945 to the many hundreds of volunteers who have given so generously of their time, talent, expertise, and energy since; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Danville Life Saving and First Aid Crew, Inc., on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Price, president of the Danville Life Saving and First Aid Crew, Inc., as an expression of the General Assembly's high esteem and admiration for the organization's inspirational service to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 775

Commending Daniel Banister.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Daniel Banister, owner of Banister Nissan in Chesapeake and Norfolk, is the Commonwealth's nominee for the *Time* magazine Dealer of the Year award in 2021; and

WHEREAS, Daniel "Dan" Banister was a standout high school athlete whose talents earned him a scholarship to the University of North Carolina in Charlotte and the opportunity to play National Collegiate Athletic Association Division I basketball; and

WHEREAS, Dan Banister, whose career in the auto industry has spanned more than 20 years, got his start at Independence Nissan in Charlotte, where he learned everything he could about the dealership business; and

WHEREAS, with strong people skills, Dan Banister enjoyed sales success and quickly came to the notice of Nissan, which tapped him to turn around a failing dealership in Rock Hill, South Carolina; and

WHEREAS, building on his success, Dan Banister joined Victory Nissan in Chesapeake, where he quickly became well-known among residents through his "Dan the Man" commercials on television and radio; and

WHEREAS, in 2010, Dan Banister achieved his dream of owning his own dealership when he and a partner purchased Victory Nissan in Chesapeake; becoming one of only 15 African American owners of Nissan dealerships nationwide, he renamed the dealership Banister Nissan and added another dealership in Norfolk to his roster shortly thereafter; and

WHEREAS, an active and dedicated member of his community, Dan Banister has supported a wide array of causes for many years, becoming a well-recognized and respected advocate for numerous charitable events; and

WHEREAS, Dan Banister recently supported the Hampton Roads St. Jude Dream Home Giveaway, a major fundraising effort for St. Jude Children's Research Hospital, by donating a car to the event; and

WHEREAS, Dan Banister serves on the board of directors for several local organizations, including The Elder's House, which provides a safe and nurturing environment for at-risk youth, and The Chesapeake Forum, which brings dynamic and diverse speakers to the area to educate and inspire the community; and

WHEREAS, Dan Banister's leadership and support extends to the Chesapeake Regional Health Foundation, which he helps raise funds for new medical equipment, and the Chesapeake Public Library Foundation, which he assists by supporting various library programs; and

WHEREAS, a dedicated member of his industry, Dan Banister has served his customers and his community with a generous spirit and has been an example to other dealers throughout the Commonwealth; and

WHEREAS, Dan Banister has fostered his industry as an active member of the Virginia Automobile Dealers Association, which he served as a member of its board of directors, and as president of the Hampton Roads Automobile Dealers Association; and

WHEREAS, Dan Banister was appointed by Governor Terence R. McAuliffe to the Virginia Motor Vehicle Dealer Board, where he serves with his fellow dealers to oversee the industry in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Daniel Banister, owner of Banister Nissan in Chesapeake and Norfolk, on his selection as the 2021 *Time* magazine Dealer of the Year award nominee for the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel Banister as an expression of the General Assembly's admiration for his achievements and best wishes.

HOUSE JOINT RESOLUTION NO. 776

Commending T. David Luther.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, T. David Luther was honored by the International Broadcasters Idea Bank for his lifetime of public service and contributions to the radio broadcasting industry; and

WHEREAS, David Luther began his career in radio as a DJ in Danville at the age of 13 and subsequently worked as an announcer, advertising representative, and station manager; he ultimately became the president and chief executive officer of Piedmont Broadcasting; and

WHEREAS, after his retirement from Piedmont Broadcasting in 1998, David Luther joined the International Broadcasters Idea Bank as executive director and continues to serve as emeritus director; and

WHEREAS, David Luther offered his leadership and expertise to many other state and national professional organizations, including the Virginia Association of Broadcasters and the National Association of Broadcasters, promoting the importance of radio as a means of education and entertainment and a tool for building strong community bonds; and

WHEREAS, David Luther served the Danville community as a member of the Danville City Council between 2000 and 2012, including time as vice mayor; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend T. David Luther for his more than 60 years of achievements in radio broadcasting; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to T. David Luther as an expression of the General Assembly's admiration for his professional achievements.

HOUSE JOINT RESOLUTION NO. 777

Commending Fred O. Shanks III.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Fred O. Shanks III, an esteemed businessman who sat for 12 years on the Danville City Council, has given generously of his time in service to his community; and

WHEREAS, a graduate of Virginia Polytechnic Institute and State University with a bachelor's degree in civil engineering, Fred Shanks owned his own business as a licensed professional engineer and land surveyor for 33 years, serving numerous small businesses in the Greater Danville area; and

WHEREAS, Fred Shanks began his service to the City of Danville in 1996 as a member of the city's Planning Commission, serving for 12 years; and

WHEREAS, with dedication and distinction, Fred Shanks served on the Danville City Council from July 1, 2008, to June 30, 2020, contributing greatly to the city's growth and development during his tenure; and

WHEREAS, from 2008 to 2020, Fred Shanks served in various leadership capacities on the board of the Danville-Pittsylvania Regional Industrial Facility Authority, and from 2019 to 2020, he served as a member of the Staunton River Regional Industrial Facility Authority; and

WHEREAS, Fred Shanks has served on the boards of the Danville Utility Commission, the West Piedmont Planning District Commission, and the Metropolitan Planning Organization, bringing seasoned experience to bear on important planning decisions affecting the region; and

WHEREAS, as a member of the Danville City Council, Fred Shanks has exemplified integrity and dedication to his community and by fostering a strong working relationship with Pittsylvania County has helped make both localities wonderful places to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Fred O. Shanks III, distinguished public servant and 12-year member of the Danville City Council, for his service to the City of Danville and Pittsylvania County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fred O. Shanks III as an expression of the General Assembly's profound admiration for his notable contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 778

Commending the Reverend Doug Barber.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend Doug Barber, beloved senior pastor at Westover Baptist Church in Danville, retired in December 2020; and

WHEREAS, raised in Danville, Doug Barber graduated from George Washington High School in 1962 and Danville Community College in 1964 before earning a bachelor's degree in business management from Georgia State University; and

WHEREAS, working briefly in Atlanta and Greensboro, South Carolina, Doug Barber would heed the call to enter the ministry at the age of 24 and subsequently earn a master's degree in divinity from the former Temple Baptist Theological Seminary; and

WHEREAS, Doug Barber served as pastor in Gainesville, Georgia, in the 1980s before ultimately returning to Danville in 1991, just prior to the merger of Southall Baptist Church and Lynn Haven Baptist Church that created Westover Baptist Church, where he has preached ever since; and

WHEREAS, throughout his career, Doug Barber has presented more than 10,000 sermons and officiated at more than 1,000 funerals and 300 weddings, providing the community with uplifting spiritual leadership; and

WHEREAS, as pastor of Westover Baptist Church, Doug Barber also helps administer Westover Christian Academy, contributing greatly to the intellectual, emotional, and spiritual development of thousands of young people over the years; and

WHEREAS, Doug Barber's decades of faithful service are an inspiration to all Virginians and a reminder of why the Commonwealth is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Doug Barber, senior pastor at Westover Baptist Church in Danville, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Doug Barber as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 779

Commending Hardy Petroleum.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Hardy Petroleum, a fuel and petroleum products company serving the Greater Danville area, including Altavista and Martinsville, celebrates its 100th anniversary in 2021; and

WHEREAS, Hardy Petroleum was founded in 1921 by Henry Hardy, operating out of a small building on Westover Drive in Danville and delivering Texaco products to local residents and businesses; and

WHEREAS, Henry Hardy operated Hardy Petroleum until his death in 1976, at which point his nephew, Bill Hardy, purchased the business, operating it until 2011; and

WHEREAS, since 2013, Hardy Petroleum has been owned and operated by Billy Hardy, son of Bill Hardy, who has worked for the company for the past 38 years; and

WHEREAS, despite being smaller than many other fuel and petroleum product companies, Hardy Petroleum has thrived over the past century through its unwavering commitment to quality and service; and

WHEREAS, Hardy Petroleum has maintained its distinguished reputation for service throughout the COVID-19 pandemic by implementing recommended public health protocols, helping to ensure the safety and well-being of its customers; and

WHEREAS, the success of Hardy Petroleum is the result of the hard work and dedication of its employees and the loyalty of its longtime customers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hardy Petroleum, a fuel and petroleum products company serving the Greater Danville area, on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Billy Hardy, owner of Hardy Petroleum, as an expression of the General Assembly's admiration for the company's history and achievements.

HOUSE JOINT RESOLUTION NO. 780

Commending Dr. Lewis R. Brown.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Dr. Lewis R. Brown, an esteemed consultant in the fields of environmental toxicology and industrial hygiene, has generously supported the communities of Prince William County and Fauquier County through various food assistance and education programs over many years; and

WHEREAS, beginning in 1998, Lewis Brown has operated a food assistance program aimed at supporting elderly and impoverished individuals living in Prince William and Fauquier Counties; since the beginning of the COVID-19 pandemic, he has redoubled his efforts, providing a crucial lifeline to members of his community; and

WHEREAS, over the past decade, Lewis Brown and his associate, Dr. Shamira A. Brown, have worked tirelessly to scientifically analyze the water, soil, and air in and around Prince William County and Fauquier County, identifying contaminants that may be harmful to living organisms, particularly humans; and

WHEREAS, the ecological and environmental assessments produced by Lewis Brown and Shamira Brown have provided an invaluable resource to residents and policy makers seeking to understand the health risks posed by harmful chemicals and contaminants; and

WHEREAS, to help address environmental concerns stemming from the COVID-19 pandemic and foster greater understanding in the community, Lewis Brown and Shamira Brown are developing a fate and transport model to examine how particulates are dispersed when individuals sneeze or cough, while studying how contaminated HVAC systems may play a role in the spread of the disease; and

WHEREAS, Lewis Brown regularly presents at local grade schools to educate students and teachers about how to identify and properly dispose of harmful pesticides and chemicals found in the household; and

WHEREAS, Lewis Brown has provided computers to families in need on numerous occasions and is offering virtual tutoring in a wide range of subjects during the COVID-19 pandemic, helping to ensure every child receives a quality education; and

WHEREAS, Lewis Brown has served as a grant writer and researcher for the benefit of various special programs and individuals, including day and night child care centers and elderly adults in need of financial assistance; and

WHEREAS, committed to the preservation of history and culture, Lewis Brown has generously supported the Afro-American Historical Association of Fauquier County and recently assisted a local African American film festival held in February 2013 to celebrate Black History Month; and

WHEREAS, Lewis Brown has worked compassionately and indefatigably for the benefit of the most vulnerable members of society, helping to make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Lewis R. Brown, a respected environmental toxicology expert, for his many years of service on behalf of the communities of Prince William County and Fauquier County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Lewis R. Brown as an expression of the General Assembly's profound admiration for his dedication to the health and well-being of citizens of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 781

Commending Dr. Shamira A. Brown.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Dr. Shamira A. Brown, an esteemed consultant in the fields of environmental toxicology and industrial hygiene, has generously supported the communities of Prince William County and Fauquier County through various food assistance and education programs over many years; and

WHEREAS, beginning in 1998, Shamira Brown has operated a food assistance program aimed at supporting elderly and impoverished individuals living in Prince William and Fauquier Counties; since the beginning of the COVID-19 pandemic, she has redoubled her efforts, providing a crucial lifeline to members of her community; and

WHEREAS, over the past decade, Shamira Brown and her associate, Dr. Lewis R. Brown, have worked tirelessly to scientifically analyze the water, soil, and air in and around Prince William County and Fauquier County, identifying contaminants that may be harmful to living organisms, particularly humans; and

WHEREAS, the ecological and environmental assessments produced by Shamira Brown and Lewis Brown have provided an invaluable resource to residents and policy makers seeking to understand the health risks posed by harmful chemicals and contaminants; and

WHEREAS, to help address environmental concerns stemming from the COVID-19 pandemic and foster greater understanding in the community, Shamira Brown and Lewis Brown are developing a fate and transport model to examine how particulates are dispersed when individuals sneeze or cough, while studying how contaminated HVAC systems may play a role in the spread of the disease; and

WHEREAS, Shamira Brown regularly presents at local grade schools to educate students and teachers about how to identify and properly dispose of harmful pesticides and chemicals found in the household; and

WHEREAS, Shamira Brown has provided computers to families in need on numerous occasions and is offering virtual tutoring in a wide range of subjects during the COVID-19 pandemic, helping to ensure every child receives a quality education; and

WHEREAS, committed to the preservation of history and culture, Shamira Brown has generously supported the Afro-American Historical Association of Fauquier County and recently assisted a local African American film festival held in February 2013 to celebrate Black History Month; and

WHEREAS, Shamira Brown has worked compassionately and indefatigably for the benefit of the most vulnerable members of society, helping to make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Shamira A. Brown, a respected environmental toxicology expert, for her many years of service on behalf of the communities of Prince William County and Fauquier County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Shamira A. Brown as an expression of the General Assembly's profound admiration for her dedication to the health and well-being of citizens of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 782

Celebrating the life of Frederick Cameron.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Frederick Cameron, who served the residents of Fairfax County with valor and distinction as a sergeant with the Fairfax County Sheriff's Office, died in the line of duty on January 12, 2021; and

WHEREAS, affectionately known by family, friends, and colleagues as "Butch," Frederick Cameron was a 16-year veteran of the Fairfax County Sheriff's Office, supporting the department's mission to safeguard the county's adult detention center and courthouse; and

WHEREAS, beginning in 2016, Frederick Cameron worked in the agency's facilities services section and was charged with maintaining the cleanliness of the Fairfax County Adult Detention Center, a challenging task that he approached with a strong and resolute sense of duty; and

WHEREAS, since the onset of the COVID-19 pandemic, Frederick Cameron had helped lead the team responsible for sanitizing and sterilizing the high-use and infected areas of the Fairfax County Adult Detention Center, helping to ensure the safety and well-being of his fellow officers and inmates; and

WHEREAS, as a result of his professionalism, attentiveness, and work ethic, Frederick Cameron received two special assignments during his career with the Fairfax County Sheriff's Office; and

WHEREAS, on special assignment with the Fairfax County Department of Code Compliance for three years, Frederick Cameron helped enforce the county's zoning and building code laws while ensuring the safety of inspectors and facilitating communication with residents; and

WHEREAS, due to his expertise in program management, Frederick Cameron was on assignment as the lead facilitator for the Fairfax County Sheriff's Office's security upgrade and capital renewal project since 2016; and

WHEREAS, in recognition of his heroic efforts to rescue motorists trapped in a fiery wreck along Interstate 66 in 2010, Frederick Cameron was honored by the Fairfax County Chamber of Commerce; and

WHEREAS, Frederick Cameron served admirably as a board member for the Virginia Division of Law Enforcement United (LEU), honoring the sacrifice of law-enforcement officers who had died in the line of duty and offering support to their families; and

WHEREAS, along with bolstering initiatives like the Officer Down Memorial Page, Concerns of Police Survivors, and Spirit of Blue, Frederick Cameron regularly provided security and traffic control during the LEU's annual Road to Hope Memorial Bicycle Ride from Chesapeake to Washington, D.C.; and

WHEREAS, Frederick Cameron will be fondly remembered and dearly missed by his wife, Michelle; his children, Chuckie and Adrianna; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Frederick Cameron, a sergeant with the Fairfax County Sheriff's Office who bravely dedicated himself to protecting and serving the citizens of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Frederick Cameron as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 783

Commending Zion Baptist Church.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, Zion Baptist Church, which has long offered sage spiritual leadership, generous outreach, and opportunities for uplifting worship to the residents of Newport News, celebrates its 125th anniversary in 2021; and

WHEREAS, in 1896, 13 recent inhabitants of Newport News gathered under a cherry tree in the current location of Zion Baptist Church with the intention of building a religious community; a year later, the church's first building was erected and the congregation called its first pastor, the Reverend Moses Tynes; and

WHEREAS, despite some early setbacks, Zion Baptist Church would continue to grow over the years to offer a wide variety of unique ministries and outreach programs designed to support the members of the community and enhance the quality of life of all Newport News residents; and

WHEREAS, Zion Baptist Church has been led by the Reverend Dr. Tremayne M. Johnson since 2009, who, with the help of a major architectural renovation and the installation of a new sound and media system in 2017, has guided the church into an exciting new era; and

WHEREAS, members of Zion Baptist Church have become leaders in their professions and the community, empowered and inspired by the lessons of grace and generosity learned at their home church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Zion Baptist Church for providing edifying spiritual services and outreach ministries that have been meeting the needs of the residents of Newport News for the past 125 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Zion Baptist Church as an expression of the General Assembly's admiration for the church's legacy of contributions to the Newport News community.

HOUSE JOINT RESOLUTION NO. 784

Commending the Reverend Dr. Oretha P. Cross.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Reverend Dr. Oretha P. Cross has served the Newport News community for five years as pastor of Saint Paul African Methodist Episcopal Church, providing outstanding spiritual guidance and community leadership; and

WHEREAS, Dr. Cross holds degrees from Delta State University, the Samuel DeWitt Proctor School of Theology, and Nova University and has developed a lifetime of expertise in strategic planning, transformational leadership, customer service, and project management; and

WHEREAS, Dr. Cross previously worked in the private sector as an executive at Allstate Corporation, Apple, and Panasonic Corporation, from which she retired after 21 years of service to dedicate herself fully to ministry; and

WHEREAS, in 2016, Dr. Cross became the first woman appointed as pastor of Saint Paul African Methodist Episcopal Church in the congregation's long history; and

WHEREAS, Dr. Cross holds numerous leadership positions in the Virginia Conference of the Second Episcopal District, with which she participated in a life-changing mission trip to Africa to dedicate a medical center for women and children; and

WHEREAS, a devoted and compassionate teacher, Dr. Cross has helped countless individuals grow stronger in their faith, hosting workshops, seminars, and retreats throughout the United States and around the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Dr. Oretha P. Cross on the occasion of her fifth anniversary as pastor of Saint Paul African Methodist Episcopal Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Oretha P. Cross as an expression of the General Assembly's admiration for her service to the residents of Newport News.

HOUSE JOINT RESOLUTION NO. 785

Commending the Community Free Clinic of Newport News.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Community Free Clinic of Newport News celebrated its 10th year of providing primary medical and dental care for uninsured Hampton Roads residents in 2020; and

WHEREAS, Golden H. Bethune-Hill founded the clinic on November 23, 2010, after she and her husband, Charlie W. Hill, recognized a need in the community where they were raised; and

WHEREAS, the clinic's mission includes providing primary medical and dental care for uninsured residents, providing a medical home for residents to coordinate care, promoting wellness and disease prevention by offering well clinics and health care education, promoting medical literacy and self-care, providing health care screenings and specialty clinics, and establishing support groups; and

WHEREAS, in response to the COVID-19 pandemic, the Community Free Clinic of Newport News has offered free testing while still providing its services in a safe manner to a community that has been particularly vulnerable to the disease; and

WHEREAS, the Community Free Clinic of Newport News has helped to make Hampton Roads a stronger and healthier community through the selfless efforts of its staff; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Community Free Clinic of Newport News for its 10 years of ensuring that residents receive the health care they need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Community Free Clinic of Newport News as an expression of the General Assembly's appreciation for its work.

HOUSE JOINT RESOLUTION NO. 786

Commending the C. Waldo Scott Center for H.O.P.E.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the C. Waldo Scott Center for H.O.P.E. in Newport News marked its 30th anniversary in 2020; and

WHEREAS, the C. Waldo Scott Center for H.O.P.E., which stands for "Helping Our People Emerge," was founded in 1990 in the Southeast Community of the City of Newport News in large part thanks to two community activists, the late Effie Ashe and the late Theodore BaCote, with the hope of emulating the Door Center in New York City; and

WHEREAS, while the Scott Center was primarily a teen center when it opened, it now provides comprehensive services to educate and foster the growth and development of youth and families in the area, offering educational services, family support services, health care services, and other community-based services and programs; and

WHEREAS, the Scott Center, named for surgeon and civil rights pioneer C. Waldo Scott, sits on property owned by Newport News Public Schools, and the center pays rent of \$1 per year; most funding is provided by the city's community support grants, along with other grants and donations; and

WHEREAS, the Scott Center offers two educational scholarships, afterschool and out of school programs, adult and parenting workshops, case management services, and more; and

WHEREAS, the work of all those involved with the Scott Center is a testament to their dedication to improving the lives of others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the C. Waldo Scott Center for H.O.P.E. for its more than 30 years of service to the Southeast Community of the City of Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the C. Waldo Scott Center for H.O.P.E. as an expression of the General Assembly's admiration for its many years of service to the Newport News community.

HOUSE JOINT RESOLUTION NO. 787

Commending the Newsome House Museum and Cultural Center.

Agreed to by the House of Delegates, February 4, 2021

Agreed to by the Senate, February 11, 2021

WHEREAS, the Newsome House Museum and Cultural Center, the restored 1899 Newport News home of J. Thomas and Mary Winfield Newsome that today operates as a museum, celebrates 30 years of exploring Black history and culture in 2021; and

WHEREAS, after the birth of their daughter, Maurice, the Newsomes moved into the saltbox house on Oak Avenue in 1906 and began to remodel it as a striking Queen Anne-style structure; and

WHEREAS, J. Thomas Newsome worked tirelessly to improve his community, primarily as an attorney who was one of the first Black lawyers to successfully argue before the Supreme Court of Virginia; he would become a popular speaker and motivator who was active in the creation of the Collis P. Huntington High School, the first high school in Newport News for Black students, and the Warwick County Colored Voters League; and

WHEREAS, when J. Thomas Newsome died in 1942, thousands attended his funeral and the courts of Newport News adjourned for the day; Mary Winfield Newsome would live to nearly 100 years of age, passing away in 1975; their daughter, Maurice, would live in the home until her death in 1977; and

WHEREAS, the house was inherited by the Newsomes' only grandchild, Mary Carolyn Derbigny Ross, who sold it to The Newsome House Foundation, Inc., a group of private citizens led by Cornelius and Carrie R. Brown who were interested in preserving the home as a memorial to the Newsomes; and

WHEREAS, the house fell into disrepair while funding was sought for the project; by the late 1980s, more than \$600,000 in federal, state, city, and private money was raised to restore the house, and in April 1990, the structure was recognized as a landmark on the National Register of Historic Places; and

WHEREAS, the refurbished Newsome House was dedicated on February 17, 1991, as a museum and cultural center; and

WHEREAS, for 30 years, the museum has offered historical exhibits, special programs, and educational resources to the residents of Newport News and beyond, teaching them about an important piece of Hampton Roads and Black history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Newsome House Museum and Cultural Center on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Crystal Sessoms, director of the Newsome House Museum and Cultural Center, as an expression of the General Assembly's appreciation for the museum's efforts to educate the public on a vital part of the Commonwealth's history.

HOUSE JOINT RESOLUTION NO. 5001

Limiting legislation to be considered by the 2021 Special Session I of the General Assembly and establishing a schedule for the conduct of business coming before such Special Session.

Agreed to by the House of Delegates, February 10, 2021

Agreed to by the Senate, February 10, 2021

RESOLVED by the House of Delegates, the Senate concurring, That during the 2021 Special Session I of the General Assembly, summoned by proclamation of the Governor on February 4, 2021, to begin February 10, 2021, except with the unanimous consent of the house in which the legislation is offered, no bill, joint resolution, or resolution shall be offered or considered in either house during the Special Session other than (i) bills or joint resolutions continued from the 2021 Regular Session pursuant to Section 7 of Article IV of the Constitution of Virginia and House Joint Resolution No. 575 providing for legislative continuity; (ii) the Budget Bill; (iii) single-house commending or memorial resolutions; (iv) bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business of the General Assembly, either of its houses, or any of its committees; (v) joint resolutions or resolutions relating to appointments subject to the confirmation of the General Assembly or either house; (vi) bills, joint resolutions, or resolutions relating to the election of judges and other officials subject to the election of the General Assembly; or (vii) bills or joint resolutions requested in writing by the Governor; and, be it

RESOLVED FURTHER, That notwithstanding any other provision of this resolution and in accordance with the practices of each house, a request to be removed as a co-patron shall be received no later than 3:00 p.m., Friday, February 19, 2021; and, be it

RESOLVED FURTHER, That for purposes of the procedural deadlines established herein for the 2021 Regular Session of the General Assembly:

"Budget Bill" means the general appropriation bill introduced in each house continued from the 2021 Regular Session that authorizes the biennial expenditure of public revenues for the period from July 1, 2020, through June 30, 2022.

"Debt bill" means any bill that authorizes the issuance of debt.

"Legislative day" means the period of time that begins with the call to order by the presiding officer and ends when declared adjourned by the presiding officer. Unless another time is specified, any deadline established in this resolution shall expire at the end of the legislative day.

"Revenue bill" means any bill, except the Budget Bill and debt bills, that increases or decreases the total revenues available for appropriation.

"Unanimous consent" means the affirmation of all the members present in the house of origin. Any legislation intended to be offered for introduction with unanimous consent or with the written request of the Governor shall not require the consent of the house in order for the member to request the Division of Legislative Services to draft such legislation. The Division of Legislative Services shall return such legislation after the original introduction deadline; and, be it

RESOLVED FINALLY, That the 2021 Special Session I of the General Assembly shall be governed by the following procedural rules, which establish time limits for elections and all legislation continued from the 2021 Regular Session except:

(i) Bills, joint resolutions, or resolutions affecting the rules of procedure or the schedule of business of the General Assembly, either of its houses, or any of its committees, except for the time limitations established in Rule 13 for bills and joint resolutions;

(ii) House and Senate resolutions, except for the limitations established in Rules 9, 11, and 13;

(iii) Bills, joint resolutions, or resolutions introduced with unanimous consent including resolutions introduced with unanimous consent to exceed the time limitations established in Rules 9 and 11 but not the time limitations established in Rule 13;

(iv) Joint resolutions or resolutions relating to appointments subject to the confirmation of the General Assembly or either house, except for the time limitations established in Rule 13;

(v) Bills, joint resolutions, or resolutions relating to the election of judges and other officials subject to the election of the General Assembly, except for the time limitations established in Rule 13; or

(vi) Bills and joint resolutions requested in writing by the Governor.

Rule 1. Except for the Budget Bill, beginning Wednesday, February 10, 2021, the House of Delegates shall consider only Senate bills, Senate joint resolutions, House bills with Senate amendments, and House joint resolutions with Senate amendments; the Senate shall consider only House bills, House joint resolutions, Senate bills with House amendments, and Senate joint resolutions with House amendments; and each house may consider conference reports and other privileged matters relating thereto to the end that the work of each house may be disposed of by the other.

Rule 2. The committees responsible for the consideration of the Budget Bill in the houses of introduction shall complete their work on such bill no later than Wednesday, February 10, 2021, and any amendments proposed by such committees shall be made available to their respective houses on such day.

Rule 3. The houses of introduction shall complete their consideration of the Budget Bill, except for conference reports and other privileged matters relating thereto, no later than Saturday, February 13, 2021.

Rule 4. The committees responsible for consideration of revenue bills of the other house shall complete their consideration of such bills no later than Wednesday, February 17, 2021.

Rule 5. No later than Wednesday, February 17, 2021, each house shall complete consideration of the Budget Bill of the other house, except for conference reports and other privileged matters relating thereto.

Rule 6. No later than Wednesday, February 17, 2021, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Thursday, February 18, 2021, such election shall become the subject in each house of a special and continuing joint order, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election or either house votes to suspend or discharge the order. The Rules of each house, as far as applicable, shall be the rules governing any such election.

Rule 7. No later than Friday, February 19, 2021, each house shall complete consideration of revenue bills of the other house, except for conference reports and other privileged matters relating thereto, and the appointing authority shall appoint the conferees to the Budget Bill and such revenue bills. Any conference committee on any revenue bills shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable.

Rule 8. Neither house shall receive from any committee any bill or joint resolution acted on by any committee later than midnight, Monday, February 22, 2021.

Rule 9. Requests for the drafting, redrafting, or correction of any single-house commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Tuesday, February 23, 2021.

Rule 10. Any conference committee on the Budget Bill shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable. Neither house shall receive, consider, or vote on any Budget Bill that is in conference unless it has been agreed to in writing or signed electronically by a majority of conferees from each house. Neither house shall consider such conference report earlier than 48 hours after receipt, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. No engrossment of the Budget Bill shall be required in either house, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate, and (iii) any item that represents legislation that failed in either house during the regular or a special session.

Rule 11. No single-house commending or memorial resolution shall be offered in either house after 5:00 p.m., Thursday, February 25, 2021.

Rule 12. Except for joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, beginning Friday, February 26, 2021, the House shall consider only Senate joint resolutions and House joint resolutions with Senate amendments; the Senate shall consider only House joint resolutions and Senate joint resolutions

with House amendments; and each house may consider conference reports or joint resolutions and other privileged matters relating thereto, to the end that the work of each house may be disposed of by the other.

Rule 13. Beginning Sunday, February 28, 2021, neither House shall consider any (i) conference reports, (ii) bills or joint resolutions, (iii) single-house commending or memorial resolutions, (iv) joint resolutions or resolutions relating to appointments subject to the confirmation of the General Assembly or either house, or (v) bills, joint resolutions, or resolutions relating to the election of judges and other officials subject to the election of the General Assembly.

Rule 14. This session of the General Assembly shall adjourn sine die no later than Monday March 1, 2021.

Rule 15. Pursuant to Section 6 of Article IV of the Constitution of Virginia, the General Assembly shall reconvene Wednesday, April 7, 2021, for the purpose of considering bills that may have been returned by the Governor with recommendations for their amendment and bills and items of appropriation bills, including the general appropriation act, that may have been returned by the Governor with his objections.

Rule 16. That members of the General Assembly and credentialed legislative staff attending floor sessions, committees, subcommittees, and any other meetings of the General Assembly in person or meeting in a legislative office in person shall be required to wear a facemask or face shield, and at the discretion of the Speaker of the House of Delegates for Delegates and House credentialed staff and the discretion of the chair of the Senate Committee on Rules for Senators and Senate credentialed staff, have their temperature taken daily when initially entering legislative space.

Rule 17. The conduct of the business of any subcommittee of any House committee, any joint subcommittee of House and Senate committees, and any interim study commission created pursuant to a House measure shall be governed by the Rules of the House of Delegates; the conduct of the business of any subcommittee of any Senate committee, any joint subcommittee of Senate and House committees, and any interim study commission created pursuant to a Senate measure shall be governed by the Rules of the Senate. If a House measure and a Senate measure create the same study, the conduct of business of the study shall be governed by the rules of the house of the chairman of the study, or in the case of co-chairmen, the rules of the house as agreed upon by the co-chairmen.

HOUSE JOINT RESOLUTION NO. 5002

Celebrating the life of Michel Margosis.

Agreed to by the House of Delegates, February 22, 2021

Agreed to by the Senate, February 25, 2021

WHEREAS, Michel Margosis, a highly admired member of the Springfield community who worked diligently to educate new generations about the horrors of the Holocaust, died on March 27, 2020; and

WHEREAS, born in Belgium, Michel Margosis was the child of two Russian-born Jews who had been deported to Siberia, then escaped to Brussels; and

WHEREAS, after the Nazi invasion of Belgium in 1940, Michel Margosis and his family fled to the south of France, where they were initially held in a detention camp; and

WHEREAS, after another daring escape, Michel Margosis and his family traveled to Marseilles seeking passage on a ship to the United States, then overland through the Pyrenees mountain range into Spain; and

WHEREAS, the family was separated in Spain and, as the youngest child, Michel Margosis was sent to an orphanage until 1943, when he was then sent unaccompanied on a ship to the United States at age 14; and

WHEREAS, after becoming a United States citizen, Michel Margosis decided to utilize his multilingual fluency and joined the United States Army in 1952, serving as a medical corpsman; upon his honorable discharge, he earned a master's degree in chemistry and worked with the United States Food and Drug Administration, specializing in antibiotics until his retirement in 1990; and

WHEREAS, Michel Margosis became a valued and respected member of the Northern Virginia community, including his long and valuable service on the Fairfax County Human Rights Commission and volunteer work with WETA and other local Public Broadcasting Service stations, as well as the Parkinson's Foundation; and

WHEREAS, Michel Margosis was especially active with the United States Holocaust Memorial Museum, using his firsthand experiences to provide unique insights and ensure that especially young people understood the tragic gravity of the Holocaust; and

WHEREAS, predeceased by his wife, Barbara, Michel Margosis will be fondly remembered and greatly missed by his children, Aaron and Leah, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Michel Margosis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michel Margosis as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 5003

Election of Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, and a member of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, February 23, 2021

Agreed to by the Senate, February 23, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed at 3:00 p.m.

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the First Judicial Circuit, term commencing March 16, 2021.

One judge for the Seventh Judicial Circuit, term commencing April 1, 2021.

One judge for the Ninth Judicial Circuit, term commencing July 1, 2021.

One judge for the Thirteenth Judicial Circuit, term commencing April 1, 2021.

One judge for the Fourteenth Judicial Circuit, term commencing March 16, 2021.

One judge for the Eighteenth Judicial Circuit, term commencing April 1, 2021.

One judge for the Nineteenth Judicial Circuit, term commencing July 1, 2021.

One judge for the Twenty-second Judicial Circuit, term commencing April 1, 2021.

One judge for the Thirty-first Judicial Circuit, term commencing May 1, 2021.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the First Judicial District, term commencing March 16, 2021.

One judge for the First Judicial District, term commencing April 1, 2021.

One judge for the Fourth Judicial District, term commencing April 1, 2021.

One judge for the Fifth Judicial District, term commencing April 1, 2021.

One judge for the Seventh Judicial District, term commencing April 1, 2021.

One judge for the Ninth Judicial District, term commencing November 1, 2021.

One judge for the Twelfth Judicial District, term commencing April 1, 2021.

One judge for the Thirteenth Judicial District, term commencing June 1, 2021.

One judge for the Fifteenth Judicial District, term commencing April 16, 2021.

One judge for the Nineteenth Judicial District, term commencing May 1, 2021.

One judge for the Twentieth Judicial District, term commencing July 1, 2021.

One judge for the Thirty-first Judicial District, term commencing May 1, 2021.

To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:

One judge for the Seventh Judicial District, term commencing April 16, 2021.

One judge for the Seventh Judicial District, term commencing August 1, 2021.

One judge for the Ninth Judicial District, term commencing April 1, 2021.

One judge for the Ninth Judicial District, term commencing July 1, 2021.

One judge for the Fourteenth Judicial District, term commencing May 1, 2021.

One judge for the Fifteenth Judicial District, term commencing July 1, 2021.

One judge for the Nineteenth Judicial District, term commencing April 1, 2021.

One judge for the Nineteenth Judicial District, term commencing April 1, 2021.

One judge for the Twenty-second Judicial District, term commencing July 1, 2021.

One judge for the Twenty-second Judicial District, term commencing April 1, 2021.

One judge for the Twenty-third Judicial District, term commencing April 1, 2021.

One judge for the Twenty-fifth Judicial District, term commencing June 1, 2021.

To the election of a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

HOUSE RESOLUTION NO. 501

Salaries, session expense payments, and contingent and incidental expenses.

Agreed to by the House of Delegates, February 10, 2021

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2021 Special Session I of the General Assembly. Necessary payments to cover daily and compensatory session expense payments paid to

legislative assistants and salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or her designee.

HOUSE RESOLUTION NO. 502

Celebrating the life of Donald L. Potter.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Donald L. Potter, a respected veteran and active community leader in Big Stone Gap, died on September 19, 2020; and

WHEREAS, a lifelong resident of Big Stone Gap, Donald "Jerry" L. Potter joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, Jerry Potter again answered the call to service during the Korean War and returned to the Commonwealth after his honorable discharge; and

WHEREAS, Jerry Potter established Potter Insurance Agency in 1960 and served the Big Stone Gap community for more than 40 years, until his well-earned retirement in 1992; and

WHEREAS, Jerry Potter helped safeguard his fellow residents as a founding member of the Big Stone Gap Rescue Squad; and

WHEREAS, Jerry Potter enjoyed fellowship and worship with the community as a member of First Christian Church, where he served as an elder and a trustee; and

WHEREAS, Jerry Potter was an avid fisherman, and he relished every opportunity to spend time with his beloved family and friends at Boone Lake; and

WHEREAS, predeceased by his wife, Margaret, and one son, Steve, Jerry Potter will be fondly remembered and greatly missed by his sons, Preston, Joseph, Patrick, and Troy, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Donald L. Potter; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Donald L. Potter as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 503

Celebrating the life of Ella Jane Cantrell Mullins.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Ella Jane Cantrell Mullins, a successful entrepreneur and vibrant member of the Wise County community, died on January 19, 2021; and

WHEREAS, a native of Pound and a lifelong resident of Wise County, Ella Jane Mullins brought joy to countless friends and neighbors through her ever-present smile, quick wit, and unfailing kindness; and

WHEREAS, Ella Jane Mullins was best known for her delicious home-cooked meals and caring hospitality; she was the co-owner of the Windjammer restaurant in her hometown, worked as a cook at a local jail, and operated a concession stand at the annual VA-KY District Fair; and

WHEREAS, a loving and supportive wife and mother, Ella Jane Mullins touched countless lives across the region through her grace and generosity; and

WHEREAS, predeceased by her husband of 65 years, Shelcy, Ella Jane Mullins will be fondly remembered and greatly missed by her children, Gretta, Carol, Kathy, Shelcy, Jr., and Nancy, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ella Jane Cantrell Mullins; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ella Jane Cantrell Mullins as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 504

Celebrating the life of David Alan Fawbush.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, David Alan Fawbush, a successful entrepreneur and community leader in Big Stone Gap, died on January 13, 2021; and

WHEREAS, David Fawbush was born to the late James and Anne Fawbush and was devoted to his family throughout his life; and

WHEREAS, David Fawbush served the Big Stone Gap community for many years as the owner and operator of Valley Utility Buildings, Inc.; and

WHEREAS, David Fawbush was an avid outdoorsman who relished every opportunity to spend time in the mountains; and

WHEREAS, David Fawbush will be fondly remembered and greatly missed by his wife of 32 years, Beth; his son, Daniel; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of David Alan Fawbush; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David Alan Fawbush as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 505

Celebrating the life of Jack R. Flanary, Sr.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Jack R. Flanary, Sr., a respected member of the Norton community, died on September 7, 2020; and

WHEREAS, a native of Dorchester, Jack Flanary served his country as a member of the United States Army; and

WHEREAS, Jack Flanary made his career with Old Dominion Power and retired as a field superintendent after 34 years with the company; and

WHEREAS, Jack Flanary served the community as a member and past master of Suthers Masonic Lodge 259 of Norton for more than 56 years; and

WHEREAS, predeceased by his wife, Lois, Jack Flanary will be fondly remembered and greatly missed by his children, Jack, Jr., and Darcie, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jack R. Flanary, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jack R. Flanary, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 506

Commending Petra Barrientos.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Petra Barrientos, a longtime resident of Great Falls, has admirably served her community for several years as a hospice care volunteer, comforting many individuals and families in their time of need; and

WHEREAS, Petra Barrientos was born in southern Germany, moving to the United States and earning an undergraduate degree from Virginia Commonwealth University and a master's degree in business administration from George Washington University; and

WHEREAS, after years in Germany working for a boutique consulting firm and her family's business, Petra Barrientos moved with her family in 1996 back to the Commonwealth, where she raised her three sons; and

WHEREAS, after her sons went off to college, Petra Barrientos felt a calling to help others, particularly the elderly, by providing hospice care; for several years, she has worked daily as a hospice volunteer, generously giving over 2,000 hours of her time and assisting more than 40 patients and their families; and

WHEREAS, working primarily with the VITAS Healthcare organization, Petra Barrientos gives amply of her time to individuals outside of the formal hospice environment who lack adequate support to look after themselves; and

WHEREAS, the countless letters and calls of gratitude Petra Barrientos has received from family members and friends of her patients are a testament to the profoundly positive impact she has had on others' lives; now, therefore, be it

RESOLVED by the House of Delegates, That Petra Barrientos, a devoted hospice care volunteer in Great Falls, hereby be commended for her inspirational efforts to care for others; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Petra Barrientos as an expression of the House of Delegates' heartfelt admiration for her servant's heart and steadfast dedication to helping those in need.

HOUSE RESOLUTION NO. 507

Commending the 1970 Chilhowie High School football team.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, the 1970 Chilhowie High School football team celebrated the 50th anniversary of their Virginia High School League Group A state championship victory in 2020; and

WHEREAS, led by Ron Bales, an innovative and daring young coach, the Chilhowie High School football team began the 1970 season with ambitions to redeem themselves after their disappointing 2-8 finish in 1969; and

WHEREAS, after tough losses to Marion High School and Patrick Henry High School of Glade Spring early in the year, the 1970 Chilhowie High School football team finished the latter half of the season undefeated and captured a Hogoheegee District title and a Region C title; and

WHEREAS, with a gutsy trick play that would prove the defining moment of a storied season, the 1970 Chilhowie High School football team edged out J.J. Kelly High School of Wise in the VHSL Group A state semifinal, earning a bid to the state championship; and

WHEREAS, the 1970 Chilhowie High School football team capped off its memorable season with a 7-6 win over Fluvanna High School in the first-ever Virginia High School League Group A state championship, bringing the title home to an enthusiastic crowd of fans and well-wishers in Smyth County; and

WHEREAS, the 1970 Chilhowie High School football team's accomplishment was the result of the diehard determination of the student-athletes, the bold leadership of their coaches, and the unwavering support of the entire Chilhowie High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the 1970 Chilhowie High School football team hereby be commended on the occasion of the 50th anniversary of their Virginia High School League Group A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of the 1970 Chilhowie High School football team as an expression of the House of Delegates' admiration for the team's historic achievement.

HOUSE RESOLUTION NO. 508

Commending Lieutenant Colonel Eric Patterson, ANG.

Agreed to by the House of Delegates, February 23, 2021

WHEREAS, Lieutenant Colonel Eric Patterson, ANG, distinguished commander and conductor of the Air National Guard Band of the Southwest, will retire in 2021; and

WHEREAS, Eric Patterson has led the Air National Guard Band of the Southwest in two iterations since 1998, first as the 562nd Air National Guard Band of California and later as the 531st Air National Guard Band of Texas; and

WHEREAS, composed of 40 service members, the Air National Guard Band of the Southwest is one of the United States military's elite performance ensembles and has been featured at a plethora of official events and ceremonies to boost morale and bring honor to America's armed forces; and

WHEREAS, for several years under Eric Patterson's leadership, the Air National Guard Band of the Southwest accounted for nearly half of the performances conducted by Air National Guard bands in the United States; and

WHEREAS, Eric Patterson has shared his talents as a guest conductor and clinician with the Air National Guard Bands of Tennessee and Pennsylvania, the Air National Guard Honor Band at the Midwest Clinic International Band and Orchestra Conference in Chicago, several active duty United States Air Force and United States Army bands, and numerous high school and college ensembles; and

WHEREAS, Eric Patterson was deployed in 2011 to serve as officer-in-charge of Blue Hawk, a pop rock ensemble composed of members of the 531st Air National Guard Band, while the group performed throughout Qatar, Iraq, Kuwait, and Kyrgyzstan; he was then deployed again in 2017 with the full band in support of Hurricane Harvey relief efforts; and

WHEREAS, Eric Patterson's recruitment endeavors with the Air National Guard Band of the Southwest brought the group to over 100 percent strength during his tenure, contributing greatly to its success and longevity; and

WHEREAS, from 2017 to 2020, Eric Patterson served on the Chief of the National Guard Bureau's National Guard Innovation Team, utilizing his civilian expertise in higher education and management to advise on critical issues; and

WHEREAS, Eric Patterson has conducted military concert bands in hundreds of live and televised performances and supervised ensembles and soloists in thousands more, inspiring patriotism in millions of spectators over the course of his career; now, therefore, be it

RESOLVED by the House of Delegates, That Lieutenant Colonel Eric Patterson, ANG, commander and conductor of the Air National Guard Band of the Southwest, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant Colonel Eric Patterson, ANG, as an expression of the House of Delegates' high esteem and admiration for his accomplished career and best wishes for a long and fulfilling retirement.

HOUSE RESOLUTION NO. 509

Commending supermarket employees.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, supermarket employees, who represent nearly six million individuals in the United States, support the nation's \$800 billion food industry by providing all Americans with a safe, healthy, and affordable food supply; and

WHEREAS, supermarket employees seek to enhance the health and well-being of each customer by addressing unique needs and tastes while ensuring a safe and sanitary food retail environment; and

WHEREAS, supermarket employees contribute and volunteer countless hours in their communities, giving generously of their time and talents to various organizations and causes; and

WHEREAS, supermarket employees have faced unprecedented challenges in keeping grocery shelves stocked as they provide essential services during the COVID-19 pandemic; and

WHEREAS, supermarket employees have met and exceeded the challenges of this pandemic, demonstrating courage, compassion, dedication, and leadership in a bold redefinition of customer service and community outreach; and

WHEREAS, the demand for supermarket employees is greater than ever because of growing consumer demands and the industry's reputation for excellence; and

WHEREAS, FMI - The Food Industry Association, which serves as the voice of the food retail industry, is marking its 44th anniversary by asking all citizens to join it in honoring the heroic efforts of the nation's supermarket employees; and

WHEREAS, FMI - The Food Industry Association has designated February 22 as National Supermarket Employee Day to celebrate and show appreciation for the accomplishments of supermarket employees and their efforts to propel the retail food industry; now, therefore, be it

RESOLVED by the House of Delegates, That supermarket employees hereby be commended for their indefatigable efforts in providing the Commonwealth and the nation with a safe, healthy, and affordable food supply; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to FMI - The Food Industry Association as an expression of the House of Delegates' admiration for supermarket employees and their innumerable contributions to communities across the United States.

HOUSE RESOLUTION NO. 510

Commending EnJewel.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, EnJewel, a nonprofit organization in Virginia Beach, works to eradicate human trafficking locally and globally by collaborating with local programs and resources to engage the community, educating the possible targets of human trafficking and interested advocates, and empowering victims, individuals, and businesses; and

WHEREAS, EnJewel (Equality and Justice for Every Woman Every Land) raises awareness of the horrors of human trafficking, an international issue that includes both sex exploitation and forced labor and servitude; and

WHEREAS, EnJewel emphasizes that while human trafficking affects people of many ages, backgrounds, and demographics, most of its victims are women and children; traffickers generally target vulnerable populations such as native peoples, migrant workers, refugees, the homeless, or people with disabilities; and

WHEREAS, EnJewel promotes enhanced community education to raise awareness of indicators for people vulnerable to trafficking and increase knowledge about prevention strategies or access to resources for survivors; and

WHEREAS, during the COVID-19 pandemic, EnJewel has gone above and beyond to continue to fulfill its critical mission; and

WHEREAS, in February and March 2020, EnJewel launched a campaign to acquire kitchen appliances and furniture for the Butterfly House, a transitional home for women rescued from sex trafficking; the organization assembled bundles of necessities for women rescued from traffickers, as well as backpacks of school supplies for children; and

WHEREAS, in July 2020, EnJewel hosted a virtual five-kilometer race, with participants from all over the world donating thousands of dollars to support the Butterfly House and Regeneration International, an organization building a similar facility in the Philippines; and

WHEREAS, on January 15, 2021, EnJewel's Junior Board commemorated Human Trafficking Prevention Month by launching a virtual concert series to promote and support other organizations working to end human trafficking; now, therefore, be it

RESOLVED by the House of Delegates, That EnJewel hereby be commended for its work to educate, engage with, and empower individuals to make a difference in the fight against human trafficking; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Naomi Estaris, founder of EnJewel, as an expression of the House of Delegates' admiration for the importance of its mission to end human trafficking in the Commonwealth, the United States, and around the world.

HOUSE RESOLUTION NO. 511

Commending Valley Health.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Valley Health, an association of hospitals serving residents of the Shenandoah region in both the Commonwealth and West Virginia, has provided an invaluable service to the community by facilitating the distribution of COVID-19 vaccines; and

WHEREAS, in partnership with the Lord Fairfax Health District of the Virginia Department of Health, which represents the City of Winchester and the Counties of Frederick, Clarke, Shenandoah, Page, and Warren, Valley Health began administering vaccinations to eligible individuals in January 2021; and

WHEREAS, to protect the most vulnerable members of the community, Valley Health has prioritized vaccinations for residents ages 75 and older; police, fire, and emergency personnel; corrections facility and homeless shelter workers; and child-care and grade school teachers and staff; and

WHEREAS, to promote the health and well-being of the region and to help stem the spread of the disease, Valley Health is administering its COVID-19 vaccines free of charge and without the requirement of health insurance; and

WHEREAS, Valley Health and its partners aim to deliver 1,200 to 1,500 doses of the COVID-19 vaccine daily over the coming months; to ensure their clinics are operated safely and efficiently while accommodating this large influx of patients, individuals will be required to register in advance and to follow additional public health protocols while on site; and

WHEREAS, Valley Health administered its first COVID-19 vaccines at a clinic established in the James R. Wilkins, Jr. Athletics and Events Center at Shenandoah University and will open other points of distribution at the Warren County Health and Human Services Complex in Front Royal, Shenandoah Memorial Hospital in Woodstock, and Page Memorial Hospital in Luray, enabling residents throughout the region to have convenient access to the vaccine; and

WHEREAS, Valley Health is an integral member in the Commonwealth's fight against COVID-19, and the tireless efforts of its frontline workers and staff are an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Valley Health, a distinguished association of hospitals in the Commonwealth and West Virginia, hereby be commended for helping to bring an end to the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of Valley Health as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 512

Commending Shenandoah University.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, Shenandoah University, a venerable institution of higher education in Winchester, has provided an invaluable service to the community by serving as a distribution site for the COVID-19 vaccine; and

WHEREAS, in partnership with Valley Health and the Lord Fairfax Health District of the Virginia Department of Health, Shenandoah University has converted its James R. Wilkins, Jr. Athletics & Events Center, a 77,000-square-foot indoor athletic facility that is the largest space within 70 miles of Winchester, into a mass-vaccination clinic for residents in the surrounding area; and

WHEREAS, Shenandoah University opened its vaccination clinic on January 12, 2021, and has already enabled thousands of citizens of the Commonwealth to protect themselves and their loved ones from COVID-19; and

WHEREAS, Shenandoah University will make its facilities available 12 hours per day, allowing approximately 1,200 to 1,500 individuals to be vaccinated daily; and

WHEREAS, several members of Shenandoah University's faculty and staff have contributed to the COVID-19 vaccine rollout, underscoring the institution's deep-rooted commitments to the community; and

WHEREAS, by coming to the aid of the Commonwealth during this historic public health crisis, Shenandoah University demonstrates a collective spirit and sense of purpose that is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Shenandoah University hereby be commended for its efforts to eliminate COVID-19 in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of Shenandoah University as an expression of the House of Delegates' admiration for the school's service to the Commonwealth.

HOUSE RESOLUTION NO. 513

Celebrating the lives of John William Forbes III, M.D. and Ann Holt Forbes.

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, John William Forbes III, M.D., and Ann Holt Forbes, members of the Stuarts Draft community who worked side by side as health care professionals for 55 years, died only four days apart in 2020; and

WHEREAS, John William "Bill" Forbes III, M.D., died on October 29, 2020, and Ann Forbes died on November 2, 2020; and

WHEREAS, Bill and Ann Forbes enjoyed more than six decades of marriage and established Stuarts Draft Family Practice, where they worked together as doctor and nurse for more than 50 years; and

WHEREAS, Bill and Ann Forbes cared for thousands of patients over the years, earning reputations as knowledgeable, compassionate caregivers who were committed to the health and wellness of the community; and

WHEREAS, Bill Forbes had served as the first operational medical director of the Stuarts Draft Rescue Squad when it was established in 1969; and

WHEREAS, Bill and Ann Forbes will be fondly remembered and greatly missed by numerous family members, friends, and former patients; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John William Forbes III, M.D., and Ann Holt Forbes, trusted health care providers in Stuarts Draft; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John William Forbes III, M.D., and Ann Holt Forbes as an expression of the House of Delegates' respect for their memory.

HOUSE RESOLUTION NO. 514

Celebrating the life of Gerald Albert Billingsley.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Gerald Albert Billingsley, honorable veteran, esteemed educator, and longtime mayor of Remington, died on January 24, 2021; and

WHEREAS, born in Washington, D.C., Gerald "Jerry" Albert Billingsley grew up in Falls Church and was valedictorian of his class at George C. Marshall High School; and

WHEREAS, Jerry Billingsley graduated from Wesleyan University, where he studied ancient Asian history and religion and the Japanese language, and then served the country with valor and distinction as a member of the United States Army; and

WHEREAS, a civics and history teacher at Joyce Kilmer Middle School for more than 40 years, Jerry Billingsley fostered the well-being and success of countless young people; and

WHEREAS, Jerry Billingsley was first elected mayor of Remington in 1988 and would thereafter serve the residents of his community with great care and devotion for the rest of his life; and

WHEREAS, Jerry Billingsley was an accomplished Aikido instructor who had taught for the Virginia Ki Society of Merrifield for more than 30 years, helping an untold number of aikidoka cultivate a sound body and mind; and

WHEREAS, preceded in death by his loving wife, Katie, Jerry Billingsley will be fondly remembered and dearly missed by his children, Matthew, Blythe, and Sarah, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gerald Albert Billingsley, cherished mayor of Remington, whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gerald Albert Billingsley as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 515

Celebrating the life of Adeline Mae Stathis Tetreault.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Adeline Mae Stathis Tetreault, honorable veteran, hardworking civil servant, and a beloved member of the Petersburg community, died on September 29, 2020; and

WHEREAS, Adeline "Addie" Mae Stathis Tetreault served her country with valor and distinction as a member of the Women's Army Corps of the United States Army, receiving an assignment to the Office of the Judge Advocate General at Fort Lee; and

WHEREAS, following her tour in the military, Addie Tetreault continued to work tirelessly for her country as a civil servant with the academic records and student accounting department of the United States Army's Quartermaster School at Fort Lee, ultimately retiring as chief of the residents branch after 38 years of admirable service; and

WHEREAS, Addie Tetreault contributed greatly to her community through various endeavors and good deeds, including service as president of the Ladies Auxiliary of the Knights of Columbus Council #694 of Petersburg; and

WHEREAS, Addie Tetreault's joie de vivre emanated from her various world travels, the frequent parties she hosted for family, friends, and neighbors, and the satisfaction she took in imparting her culinary wisdom to her grandchildren; and

WHEREAS, guided throughout her life by her deep and abiding faith, Addie Tetreault enjoyed worship and fellowship with her community at St. Joseph Catholic Church in Petersburg, where she often served as a Eucharistic minister and greeter; and

WHEREAS, preceded in death by her loving husband of 68 years, Robert, Addie Tetreault will be fondly remembered and dearly missed by her children, Henri and Timothy, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Adeline Mae Stathis Tetreault, an esteemed veteran and civil servant whose unwavering kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Adeline Mae Stathis Tetreault as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 516

Celebrating the life of Darlene Anderson Cain.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Darlene Anderson Cain, a successful entrepreneur who made a lifetime of contributions to the Emporia community, died on February 1, 2021; and

WHEREAS, Darlene Cain attended Greensville County Public Schools and later continued her education through the University of Arizona Global Campus online program, studying business administration; and

WHEREAS, Darlene Cain worked for many years in the food service and retail industries, then worked in the local Commonwealth's Attorney's office and for the City of Emporia, gaining a wide range of valuable experience and making many long-lasting friendships; and

WHEREAS, Darlene Cain and her husband, Lorenzo, cofounded A Touch of Elegance, an event planning and catering business that served numerous clients locally and throughout the Commonwealth; and

WHEREAS, Darlene Cain touched countless lives through her kindness and generosity, and during the COVID-19 pandemic, she graciously volunteered to deliver food to families in need and bring care packages to breast cancer survivors in the community; and

WHEREAS, Darlene Cain began to cultivate her deep faith at a young age at Rocky Mount Baptist Church, and she remained a devoted member of the congregation throughout her life, serving as secretary of the missionary and hospitality ministries and assistant finance secretary; and

WHEREAS, Darlene Cain will be fondly remembered and greatly missed by her husband of 37 years, Lorenzo; her daughter, Takisha, and her family; and many beloved members of her extended family and cherished friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Darlene Anderson Cain, a vibrant member of the Emporia community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Darlene Anderson Cain as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 517

Celebrating the life of John Hayes, D.V.M.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, John Hayes, D.V.M., esteemed veterinarian, devoted mentor, and beloved member of the Greene County community, died on May 18, 2020; and

WHEREAS, affectionately known throughout his career as "Dr. John," John Hayes grew up in southern Maryland and graduated from the University of Georgia College of Veterinary Medicine in 1963, where he was president of the student chapter of the American Veterinary Medical Association; and

WHEREAS, upon graduating, John Hayes served his country with honor and distinction as a member of the United States Air Force Veterinary Corps for two years; and

WHEREAS, John Hayes ran his first clinic, Squire Veterinary Clinic in Upper Marlboro, Maryland, from 1966 to the mid-1980s, growing the business into the largest solo veterinary practice in the state and earning recognition from *Washingtonian* magazine in 1985 as the best veterinary practice for affordability and quality; and

WHEREAS, John Hayes subsequently settled in Greene County and, recognizing a need for veterinary services in the region, opened the Ruckersville Veterinary Clinic in 1988, which he managed until his retirement in 2006; and

WHEREAS, both throughout his career and in retirement, John Hayes selflessly provided pro bono services all hours of the day to rescue groups, animal welfare organizations, shelters, and others in need; and

WHEREAS, to further his pro bono work, John Hayes partnered with the Madison Humane Society in 2007 and later became the organization's director, moving its operations to Greene County and renaming it the Madison-Greene Humane Society (MGHS); and

WHEREAS, over his 13 years with MGHS, John Hayes established the region's first cat shelter, offered discounted medical care to innumerable shelter animals and pets of low-income individuals, and provided more than 1,200 surgeries per year; and

WHEREAS, dedicated to advancing his profession for the benefit of the animals he loved, John Hayes served with various veterinary associations on the local, state, and federal level, including terms as president of the Maryland Veterinary Association and the Maryland Board of Veterinary Medical Examiners; and

WHEREAS, John Hayes fostered several future generations of veterinarians as a mentor to the many veterinary students who passed through his practice, as a founder of the Maryland Veterinary Foundation, and as a supporter of the Virginia-Maryland Regional College of Veterinary Medicine at Virginia Polytechnic Institute and State University; and

WHEREAS, John Hayes was the recipient of myriad awards and accolades over the years in recognition of his remarkable career and service to others, including the Virginia Veterinary Medical Association's Virginia Distinguished Veterinarian of the Year award in 2009 and the American Red Cross's Animal Rescue Hero award in 2017; and

WHEREAS, John Hayes's forceful advocacy helped improve animal safety laws in Maryland while his efforts as a founding member of the Greene County Chamber of Commerce and as a former president of the Greene County Lions Club contributed immensely to the well-being of his community; and

WHEREAS, John Hayes will be fondly remembered and dearly missed by his loving wife of 30 years, Barbara; his children, Marcee, Heather, Shawn, and Brett, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Hayes, D.V.M., an accomplished and respected veterinarian whose unwavering kindness, generosity, and compassion had a profound and lasting impact on the Greene County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Hayes, D.V.M., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 518

Commending John Sandy.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, John Sandy, assistant county administrator for the Loudoun County Board of Supervisors, has admirably served the community during the COVID-19 pandemic; and

WHEREAS, as assistant county administrator, John Sandy oversees Loudoun County's Departments of Fire and Rescue, Community Corrections, and Animal Services as well as its Office of Emergency Management; and

WHEREAS, John Sandy serves as the Loudoun County Board of Supervisors' liaison to various offices and officials in the county, including the Sheriff's Office, the Clerk of the Circuit Court, the Commonwealth's Attorney, and the Loudoun Circuit Court and Loudoun General and Juvenile and Domestic Relations District Courts; and

WHEREAS, from the outset of the COVID-19 pandemic, John Sandy has served as communication liaison for the Loudoun County Board of Supervisors, coordinating the governing body's response to concerned citizens trying to navigate new public health protocols and procedures; and

WHEREAS, through news reports and regular, direct communication, John Sandy kept county districts and their constituents abreast of the latest developments in Loudoun County's strategy to address the COVID-19 pandemic; and

WHEREAS, through his meticulous attention to detail and tireless work ethic, John Sandy greatly facilitated the Loudoun County Board of Supervisors' efforts to assuage residents' fears relating to COVID-19 and to assemble a unified approach across the region during this unprecedented public health crisis; now, therefore, be it

RESOLVED by the House of Delegates, That John Sandy, assistant county administrator for the Loudoun County Board of Supervisors, hereby be commended for the vital support he has provided to citizens of Loudoun County during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Sandy as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 519

Commending Buddy Rizer.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Buddy Rizer, executive director of the Loudoun County Department of Economic Development, has admirably served the community by supporting local small businesses and workers throughout the COVID-19 pandemic; and

WHEREAS, in his position, Buddy Rizer fosters relationships between Loudoun County and its businesses and has promoted growth and development in the region by attracting more than \$20 billion in new investments and by facilitating the creation of thousands of new jobs; and

WHEREAS, Buddy Rizer's notable accomplishments in recent years include the development of "Data Center Alley" in Ashburn, and he has been consistently recognized by various local publications for his outsized role in boosting the region's economy; and

WHEREAS, as the leader of Loudoun County's economic development endeavors, Buddy Rizer has provided vital services in recent months that have enabled an untold number of small businesses and workers to weather the financial impact of COVID-19; and

WHEREAS, Buddy Rizer and the Loudoun County Department of Economic Development have helped numerous businesses access capital and emergency funding to stay solvent during these tumultuous times; and

WHEREAS, through the "Take Loudoun Home" initiative, Buddy Rizer and the Loudoun County Department of Economic Development inspired residents and visitors of Loudoun County to frequent their favorite local businesses and establishments; and

WHEREAS, Buddy Rizer and the Loudoun County Department of Economic Development spearheaded the "Loudoun is Ready" pledge to encourage local businesses to commit to following best health and safety practices for the benefit of their customers and the community; and

WHEREAS, Buddy Rizer and the Loudoun County Department of Economic Development have created resources for individuals seeking employment, including those who lost their job as a result of the COVID-19 pandemic, helping to ensure the financial security and well-being of many; now, therefore, be it

RESOLVED by the House of Delegates, That Buddy Rizer, executive director of the Loudoun County Department of Economic Development, hereby be commended for his tireless efforts to support local businesses and individuals throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Buddy Rizer as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 520

Commending Thomas Grant, Jr.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Thomas Grant, Jr., coordinator of the Loudoun County Veterans Services Program, has excelled in his efforts to support local veterans and their families during the COVID-19 pandemic; and

WHEREAS, under the leadership of Thomas "Tom" Grant, Jr., the Loudoun County Veterans Services Program has strengthened its capacity to provide outreach, information, and referrals to veterans seeking help with federal benefits, employment training, mental health, and other issues; and

WHEREAS, throughout the pandemic, Tom Grant has worked diligently to maintain good communication with local veterans and continue to raise awareness of these helpful resources and services; and

WHEREAS, Tom Grant has cultivated partnerships with other local organizations to ensure that needs of veterans and their families are met in a timely and effective manner; and

WHEREAS, Tom Grant has honored the service and sacrifices of the nation's veterans by giving them the support they need to continue to serve their communities in civilian life; now, therefore, be it

RESOLVED by the House of Delegates, That Thomas Grant, Jr., be commended for his outstanding work in support of local veterans and their families during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas Grant, Jr., as an expression of the House of Delegates' admiration for his achievements on behalf of the residents of Loudoun County.

HOUSE RESOLUTION NO. 521

Commending the Radford High School girls' cross country team.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, the Radford High School girls' cross country team won the Virginia High School League Class 2 state championship at Green Hill Park in Salem on November 16, 2019; and

WHEREAS, with three runners earning top 10 finishes, the Radford High School Bobcats tallied 50 points on the day for a decisive victory in the team event; and

WHEREAS, Emma Hastings-Crummey, Abby Barnes, and Anneliese Stewart led the way with sixth, seventh, and eighth place finishes, respectively, while Angie Lin and Ellie Buskill rounded out the Radford Bobcats' strong showing with 11th and 29th place finishes, respectively; and

WHEREAS, the championship win gave the Radford girls' cross country team their fifth state title in seven years following the squad's string of dominance from 2013 to 2016; and

WHEREAS, after battling back from several injuries in 2018, the success of the Radford Bobcats is a testament to the hard work and determination of the student-athletes, the leadership and encouragement of their coaches and teachers, and the unwavering support of the entire Radford High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Radford High School girls' cross country team hereby be commended for winning the 2019 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Carrow, coach of the Radford High School girls' cross country team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 522

Commending the Radford High School girls' volleyball team.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, the Radford High School girls' volleyball team won the Virginia High School League Class 2 state championship at the Salem Civic Center on November 23, 2019; and

WHEREAS, the Radford High School Bobcats defeated the Poquoson High School Islanders by a score of 3-2 to bring home the program's second straight state championship title; and

WHEREAS, after falling down two sets to zero in the beginning of the match, the Radford Bobcats rallied to win three straight sets and seal the victory; and

WHEREAS, the Radford Bobcats were led by standout performances from Trinity Adams, Kara Armentrout, Charli Dietz, and Sadie Hurst and posted a final season record of 19-8; and

WHEREAS, the championship run included a redemptive win in the state semifinal against the Floyd County High School Buffaloes, who had outmatched the Radford Bobcats twice during the regular season; and

WHEREAS, the accomplishments of the Radford Bobcats are the result of the hard work and determination of the student-athletes, the guidance and encouragement of their coaches and teachers, and the unwavering support of the entire Radford High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Radford High School girls' volleyball team hereby be commended for winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Adams, coach of the Radford High School girls' volleyball team, as an expression of the House of Delegates' admiration for the team's extraordinary achievement and best wishes for the future.

HOUSE RESOLUTION NO. 523

Commending the Radford High School golf team.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, the Radford High School golf team won the Virginia High School League Class 2 state championship at the Pete Dye River Course of Virginia Tech in Radford on October 14, 2019; and

WHEREAS, the Radford High School Bobcats posted a team score of 325 to win the day, overcoming a runner-up finish in the Virginia High School Region 2C tournament and bringing home the first state championship title in the program's history; and

WHEREAS, the Radford Bobcats were carried by strong performances from Trevor Price, Jon Woods, and Jack Davis, who finished with stroke counts of 75, 80, and 82, respectively; the team saw quality outings from Nick Brown, Gracie Blackwell, and Graham Minarik; and

WHEREAS, the accomplishments of the Radford Bobcats is the result of the hard work and determination of the student-athletes, the guidance and encouragement of their coaches and teachers, and the unwavering support of the entire Radford High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Radford High School golf team hereby be commended for winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cody Roberts, head coach of the Radford High School golf team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 524

Commending the Radford High School boys' swim and dive team.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, the Radford High School boys' swim and dive team won the Virginia High School League Class 2 state championship at SwimRVA in Richmond on February 20, 2020; and

WHEREAS, with a score of 277, the Radford High School Bobcats edged out the Virginia High School Bearcats by one point to win the team competition, bringing home the program's first state championship title; and

WHEREAS, the Radford Bobcats took the lead on the last event of the day, the 400-yard freestyle relay, claiming victory in dramatic and memorable fashion; and

WHEREAS, the Radford Bobcats were well represented at the state meet with 10 of its members qualifying for competition and received a major lift from Nate Cosmato's first-place finish in the one-meter dive event; and

WHEREAS, the accomplishments of the Radford Bobcats are the result of the hard work and determination of the student-athletes, the guidance and encouragement of their coaches and teachers, and the unwavering support of the entire Radford High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Radford High School boys' swim and dive team hereby be commended for winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Heather Rowland, head coach of the Radford High School boys' swim and dive team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 525

Commending Joshua Ryan Wells.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Joshua Ryan Wells, a Mechanicsville native and graduate of Hanover High School and James Madison University, helped the Tampa Bay Buccaneers of the National Football League win Super Bowl LV on February 7, 2021; and

WHEREAS, Joshua "Josh" Ryan Wells was a standout quarterback at Hanover High School, where he notched 28 touchdowns, threw for more than 4,000 yards, and led his team to a 2007 Virginia High School League Central Region title; and

WHEREAS, a walk-on at James Madison University, Josh Wells transitioned to tight end and defensive tackle before settling as an offensive tackle, where he would remain the rest of his college career, earning all-Colonial Athletic Association second-team honors in 2013; and

WHEREAS, Josh Wells joined the National Football League in 2014, playing his first five seasons with the Jacksonville Jaguars and his last two with the Tampa Bay Buccaneers; and

WHEREAS, Josh Wells was a vital member of the Tampa Bay Buccaneers' offensive line and special teams throughout its championship run in the 2020–2021 season; and

WHEREAS, Josh Wells' success is the result of his hard work and dedication, the guidance of his family and coaches, and the unwavering support of the entire Hanover community; now, therefore, be it

RESOLVED by the House of Delegates, That Joshua Ryan Wells, an elite offensive tackle in the National Football League, hereby be commended for winning Super Bowl LV with the Tampa Bay Buccaneers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joshua Ryan Wells as an expression of the House of Delegates' admiration for his achievements and best wishes for his continued success.

HOUSE RESOLUTION NO. 526

Celebrating the life of Ellen Rosetta Noel.

Agreed to by the House of Delegates, February 17, 2021

WHEREAS, Ellen Rosetta Noel, an esteemed educator and civil rights activist and a beloved member of the Fredericksburg community, died on February 8, 2021; and

WHEREAS, Rosetta Noel graduated from the historic Walker-Grant High School in Fredericksburg in 1956, where she was salutatorian; a class officer her sophomore, junior, and senior years; and active in the concert and marching bands, the drama club, and the Junior Red Cross; and

WHEREAS, Rosetta Noel earned a bachelor's degree from Virginia Union University and later a master's degree from the University of Virginia; during her early college years, she was notably an original participant in demonstrations that led to the desegregation of restaurants in Fredericksburg; and

WHEREAS, Rosetta Noel carried her commitment to racial equality and the civil rights movement into her career, serving as one of the first African American teachers in the recently desegregated Fredericksburg City Public Schools; and

WHEREAS, over more than 30 years as an educator, Rosetta Noel contributed greatly to the success and well-being of her students, both in and out of the classroom, and was presented with myriad awards for her accomplishments; and

WHEREAS, after retiring from teaching, Rosetta Noel became highly involved with Fredericksburg Regional Head Start, serving as the program's first parent involvement coordinator and single-handedly establishing the parent resource center, which was subsequently named the Ellen R. Noel Resource Center in her honor; and

WHEREAS, Rosetta Noel's steadfast dedication to helping others extended to her work with the Mayfield Civic Association, which she served as president, vice president, and treasurer over the years; and

WHEREAS, Rosetta Noel was a devoted member of Shiloh Baptist Church (Old Site) in Fredericksburg, where she enjoyed worship and fellowship with her community and served in various leadership roles, including Vacation Bible School director for 40 years, director of religious education for 35 years, and chairperson of the Deaconess Ministry; and

WHEREAS, Rosetta Noel will be fondly remembered and dearly missed by her niece and surrogate daughter, A'Dan, and her family, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ellen Rosetta Noel, a cherished member of the Fredericksburg community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ellen Rosetta Noel as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 527

Commending Thomas Kim.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Thomas Kim, an esteemed resident of McLean and a student at Landon School in Bethesda, Maryland, has achieved national recognition for exemplary volunteer service by receiving a 2021 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Thomas "TJ" Kim earned this award by giving generously of his time and energy to "Operation SOS," or "Supplies Over the Skies," a series of flight missions to transport critical personal protective equipment (PPE) to undersupplied hospitals in remote areas; and

WHEREAS, TJ Kim has demonstrated remarkable dedication to his cause, coordinating the acquisition and packing of supplies, logging an untold number of flight hours, and landing both atop a mountain and on one of the shortest runways in the Commonwealth to fulfill his mission; and

WHEREAS, since the beginning of the COVID-19 pandemic, TJ Kim has piloted more than 20 flights in the Commonwealth, Maryland, Pennsylvania, and West Virginia, delivering more than 70,000 PPE items and ventilator supplies to rural hospitals in need; and

WHEREAS, TJ Kim has brought greater awareness to his project by recording public service podcasts for the Federal Aviation Administration and the Virginia Hospital and Healthcare Association; and

WHEREAS, the success of the Commonwealth, the strength of its communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like TJ Kim who use their considerable talents and resources to serve others; now, therefore, be it

RESOLVED by the House of Delegates, That Thomas Kim, a resident of McLean and student at Landon School, hereby be commended for receiving a Prudential Spirit of Community Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas Kim as an expression of the House of Delegates' admiration for his outstanding record of volunteer service, peer leadership, and community spirit and best wishes for his continued success and happiness.

HOUSE RESOLUTION NO. 528

Commending Colonel Dean E. Gould.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Colonel Dean E. Gould, who has served as the commander of the Virginia Wing of the Civil Air Patrol since February 4, 2017, will retire on April 10, 2021; and

WHEREAS, Dean Gould's operations focus ensured that the Virginia Wing of the Civil Air Patrol (Virginia Wing) was well-trained and equipped and enabled the unit to execute more than 70 search and rescue, disaster relief, and homeland security missions, resulting in 27 successful finds supporting the Commonwealth; and

WHEREAS, as a direct result of Dean Gould's leadership and the partnerships he fostered, the Virginia Wing supported COVID-19 disaster relief efforts on state and local levels, with volunteers collectively contributing more than 470 days of work and handling more than 430,000 pounds of bulk food, medical supplies, and community support goods over a nine-month period; and

WHEREAS, the Virginia Wing Cadet Program earned the Cadet Program Mission Award each year of Dean Gould's command, and the Virginia Wing had 16 units earn the Quality Cadet Unit Award in 2020, the most units to earn the award in the history of the Virginia Wing; and

WHEREAS, under Dean Gould's command, the Virginia Wing produced 20 Spaatz Awards, the highest cadet achievement award attainable, earned by less than one percent of the nation's cadets; and

WHEREAS, Dean Gould is an active pilot who loves to fly with cadets, training at least six new mission pilots so far and providing check-rides for another six each year; and

WHEREAS, under Dean Gould's command, Virginia Wing Aerospace Education earned the Mid-Atlantic Aerospace Education Mission Award; his leadership in aerospace education led to Virginia Wing's partnership with Dynamic Aviation to co-host science, technology, engineering, and math (STEM) events in the rural western area of the Commonwealth; and

WHEREAS, a joint venture of Virginia Wing Aerospace Education and Suffolk County Public Schools to supply aerospace education STEM kits to middle school students during the COVID-19 pandemic has facilitated a creative approach for STEM training; now, therefore, be it

RESOLVED by the House of Delegates, That Colonel Dean E. Gould hereby be commended for his commitment to the Commonwealth and the nation during his tour as the commander of the Virginia Wing of the Civil Air Patrol; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Dean E. Gould as an expression of the House of Delegates' admiration for his dedication and assistance to the Commonwealth.

HOUSE RESOLUTION NO. 529

Commending the Reforestation of Timberlands program.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, well-managed forests benefit Virginia's economy, communities, and wildlife and contribute to good air, water, and soil quality; and

WHEREAS, sixty-two percent of the Commonwealth, totaling 16 million acres, is forested, and the Virginia Department of Forestry protects and develops healthy, sustainable forest resources for Virginians; and

WHEREAS, the Commonwealth's forests provide an overall economic output of more than \$21 billion annually, and more than 108,000 Virginians are employed in forestry, forest products, and related industries; and

WHEREAS, the sustainability of these resources, as well as the forest industry itself, begins with reforestation efforts; and

WHEREAS, the 1967 forest survey indicated that pine forests were being harvested at a greater rate than growth, and in 1970, the forest industry, landowners, and state leaders came together to formulate a strategy to address these concerns; and

WHEREAS, as a result of these efforts, the Reforestation of Timberlands Act, widely known simply as "RT," was adopted in 1970 and reenacted in 1971; and

WHEREAS, the Reforestation of Timberlands program is administered by the Virginia Department of Forestry and supported by contributions from the forest industry and matching general funds that provide cost-sharing to private forest landowners for planting and improving pine forests; and

WHEREAS, the forest industry, through the Forest Products Tax, has supported the Reforestation of Timberlands program's success by contributing more than \$56 million since July 1, 1971; and

WHEREAS, more than two million acres of land have been reforested or improved, and more than 52,000 landowners have participated in the Reforestation of Timberlands program, resulting in pine growth that has exceeded harvest in each forest survey since 1977; and

WHEREAS, the Reforestation of Timberlands Act is a success story that established a vision and template for managing Virginia's hardwood forests and has served as a model for similar cost-share programs across the nation; and

WHEREAS, the longevity of the Reforestation of Timberlands program is a testament to the program's achievements in sustainability, and the 50th anniversary of the program should be celebrated throughout the Commonwealth because of the natural, economic, and health benefits for all Virginians resulting from stable, sustainable, well-managed forests; now, therefore, be it

RESOLVED by the House of Delegates, That the Reforestation of Timberlands program hereby be commended for its essential role in managing the Commonwealth's third-largest industry while protecting air and water quality for all Virginians on the occasion of the 50th anniversary of the program's creation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rob Farrell, state forester and director of the Virginia Department of Forestry, as an expression of the House of Delegates' profound admiration for the meritorious efforts of the agency's staff and the importance of the Reforestation of Timberlands program.

HOUSE RESOLUTION NO. 530

Commending the Virginia Women's Institute for Leadership at Mary Baldwin University.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, the Virginia Women's Institute for Leadership at Mary Baldwin University, the nation's only all-female corps of cadets, has supported and empowered women leaders for 25 years; and

WHEREAS, opened in 1995 with an inaugural class of 42 cadets under founding director Brenda Bryant, the Virginia Women's Institute for Leadership integrates academic studies, physical fitness, leadership development, ethics, and military training to graduate well-rounded citizens and military leaders; and

WHEREAS, the Virginia Corps of Cadets comprises cadets from Mary Baldwin University, Virginia Military Institute, and Virginia Polytechnic Institute and State University, with the Virginia Women's Institute for Leadership representing 30 percent of female cadets; and

WHEREAS, the Virginia Women's Institute for Leadership works with Virginia Military Institute to provide a coeducational Reserve Officers' Training Corps program, and upon graduation, cadets have the opportunity to earn a commission in any branch of the United States Armed Forces; and

WHEREAS, cadets of the Virginia Women's Institute for Leadership have marched in inaugural parades for five Virginia governors, and the school's color guard has presented the colors at numerous important national events; and

WHEREAS, the Virginia Women's Institute for Leadership band performed at the grand opening of the Smithsonian National Air and Space Museum's Steven F. Udvar-Hazy Center in Chantilly and regularly marches in the Washington, D.C., and New York City St. Patrick's Day parades and other regional events; and

WHEREAS, in its rich history, the Virginia Women's Institute for Leadership has benefited from the wisdom and guidance of two commandants, Brigadier General N. Michael Bissell and Brigadier General Terry Djuric; and

WHEREAS, the cadets and graduates of the Virginia Women's Institute for Leadership have earned countless awards and accolades, including a Bronze Star; graduates have served on the Presidential Honor Guard, in the security detail of the United States Secretary of State, and in other prominent postings; and

WHEREAS, in 2021, Kathleen Mahoney became the first Virginia Women's Institute for Leadership graduate to reach grade O-6, attaining the rank of captain in the United States Navy; and

WHEREAS, one graduate of the Virginia Women's Institute for Leadership has made the ultimate sacrifice while serving her country; Lieutenant Sarah Small, an Air Force public affairs officer, was killed in the line of duty in 2005; and

WHEREAS, the Virginia Women's Institute for Leadership will host a 25th anniversary parade on April 8, 2021; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Women's Institute for Leadership at Mary Baldwin University hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Women's Institute for Leadership at Mary Baldwin University as an expression of the House of Delegates' admiration for the institute's legacy of excellence and service to the Commonwealth and the United States.

HOUSE RESOLUTION NO. 531

Celebrating the life of Gary Douglas Creed.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, Gary Douglas Creed, an esteemed public servant and beloved member of the Shawsville community, died on January 28, 2021; and

WHEREAS, Gary Creed preached the importance of hard work all his life and demonstrated a commitment to his principles by working tirelessly at Shelor Motor Mile in Christiansburg for many years; and

WHEREAS, Gary Creed was an active and engaged member of his community who served on the Montgomery County Board of Supervisors for 15 years and supported family, friends, and neighbors in various ways; and

WHEREAS, as a youth basketball coach, Gary Creed contributed greatly to the success of many young athletes both on and off the court, encouraging them to embrace opportunities and achieve their dreams; and

WHEREAS, guided throughout his life by his deep and abiding faith, Gary Creed performed in his church's choir and enjoyed fellowship with his community; and

WHEREAS, Gary Creed will be fondly remembered and dearly missed by his loving wife, Linda; his children, Tim and Niki, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gary Douglas Creed, a cherished member of the Shawsville community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gary Douglas Creed as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 532

Celebrating the life of William E. Quarles, Jr.

Agreed to by the House of Delegates, February 22, 2021

WHEREAS, for Sandy Hook and the environs of Goochland County, such an individual was William E. Quarles, Jr., who passed away suddenly on February 3, 2021; and

WHEREAS, William Quarles was twice elected to the Goochland County Board of Supervisors and three times was chosen by his colleagues to serve as chair, in 2008, 2010, and 2011; and

WHEREAS, William Quarles had previously served for six years on the Goochland County Planning Commission, including two years as chair; and

WHEREAS, William Quarles returned to public office in 2019 when he was elected to the Goochland County School Board, representing the county's District 2, long the seat of his home and community; and

WHEREAS, William, as he was referred to by all who knew him, was born on June 8, 1952, in Louisa County in a neighborhood that encompasses the portion of Goochland County in which he resided for his entire life; and

WHEREAS, William Quarles graduated from Goochland High School in 1970 and in 1974 earned a bachelor of science degree in chemistry and biology from Virginia Union University; and

WHEREAS, William Quarles began his professional career as a teacher in the public schools of the City of Richmond and Louisa County; and

WHEREAS, William and Ruth (née Bowles) Quarles were married in November of 1980 and became parents of two children, William Edward Quarles III, whose wife is Tameka Norris Quarles, and Christopher Jorel Quarles, as well as grandparents to Kara, Trinity, and Aiden Quarles; and

WHEREAS, shortly after his marriage, William Quarles began work for Dominion Virginia Power at the North Anna Nuclear Power Station, where he rose to become supervisor of nuclear chemistry and, later, a senior nuclear instructor of chemistry, and retired from the firm in 2011; and

WHEREAS, William Quarles was a longtime and integral member of the Goochland Democratic Committee, serving many years as co-chair; and

WHEREAS, William Quarles began his public service when he was appointed to the Goochland County Planning Commission, on which he served for six years, including two years as chair; and

WHEREAS, William Quarles devoted his energies to the Emergency Medical Advisory Board Workforce, the Capital Region Workforce Partnership Consortium, the James River Outdoors Recreation and Trails panel for Goochland and Powhatan Counties, as chair of the Telecommunications Committee for the Virginia Association of Counties, as chair of the Goochland Minority Committee (now called the Advisory Committee for Equity in Education), the Goochland Day Foundation, and the Goochland Pet Lovers; and

WHEREAS, in his devotion to public schooling, William Quarles cofounded the Goochland Education Foundation and served the foundation as vice president from 2008 to 2019 and as president from 2019 to 2020; and

WHEREAS, William Quarles enjoyed memberships in the local branch of the NAACP, the freemasons, and the Goochland-Powhatan Master Gardeners program; and

WHEREAS, William Quarles was the Democratic nominee for the Virginia House of Delegates from the 65th District in 2013; and

WHEREAS, in closing the many civic and public meetings he chaired, William Quarles would summon his fellow citizens to "SMILE" or "S, to Seek to understand before being understood; M, to Make the other person feel important; I, to remember It's not about me; L, to listen twice as much as one speaks; and E, Enthusiastically and quickly to admit when you are wrong"; and

WHEREAS, in recognition of the many civic endeavors and accomplishments of William Quarles, the Goochland County ordered that the flag of Goochland be lowered to half-staff at all county buildings in tribute to the memory of a leader of the community; and

WHEREAS, on the passing of William Quarles, Karen Horn, the chair of the Goochland County School Board, remarked, "Mr. Quarles has served the people of Goochland in many ways over many years. This service most often included raising up the lives of children and supporting quality education for all. He used a gentle voice in this work, and he was always a gentleman"; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William E. Quarles, Jr., and offer condolences to his family, friends, and the citizens of Goochland County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ruth Bowles Quarles in appreciation and with admiration for the life, labors, and civic services of her late husband, William E. Quarles, Jr.

HOUSE RESOLUTION NO. 533

Commending Michael Cassidy.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Michael Cassidy, president and chief executive officer of The Commonwealth Institute for Fiscal Analysis, retired from the organization in February 2021; and

WHEREAS, a graduate of Georgetown University with a master's degree in public policy from The College of William & Mary, Michael Cassidy previously worked as an analyst at both the United States Office of Management and Budget and the Virginia Department of Planning and Budget; and

WHEREAS, Michael Cassidy founded The Commonwealth Institute for Fiscal Analysis (TCI) in 2006 to provide reliable information on and analysis of the effects of public policies on low-income and moderate-income families and to foster a more prosperous and equitable Commonwealth for all; and

WHEREAS, under Michael Cassidy's leadership, TCI has emerged as a leading voice for alleviating poverty in the Commonwealth, advocating for the expansion of Medicaid, raising the minimum wage, improving tax credits and unemployment insurance programs for low-income and moderate-income families, increasing investments in public education, reforming criminal justice policies, and advancing immigrant rights; and

WHEREAS, Michael Cassidy served on the Council on Virginia's Future, an advisory council serving the Governor of Virginia and the General Assembly, and as a board member of the Sacred Heart Center, a nonprofit organization operating as a social hub for the Latino community in Richmond; and

WHEREAS, after retiring from TCI, Michael Cassidy will join the Annie E. Casey Foundation as its director of policy reform and advocacy, guiding the organization's efforts to encourage federal, state, and local policy decisions that will improve the lives of disadvantaged children and their families; now, therefore, be it

RESOLVED by the House of Delegates, That Michael Cassidy hereby be commended on his retirement as president and chief executive officer of The Commonwealth Institute for Fiscal Analysis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Cassidy as an expression of the House of Delegates' admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

HOUSE RESOLUTION NO. 534

Celebrating the life of Herman Augustus Arrington.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Herman Augustus Arrington, an honorable veteran and beloved member of the Norfolk community, died on January 31, 2021; and

WHEREAS, born and raised in Nash County, North Carolina, Herman Arrington served his country with courage and valor as a member of the United States Army during World War II; and

WHEREAS, returning to Nash County after concluding his military service, Herman Arrington worked tirelessly as a farmer alongside his father before marrying his wife, Florence, and relocating to Norfolk; and

WHEREAS, Herman Arrington gave Standard Iron and Steel Company, Inc., more than 40 years of dedicated service as a truck driver before retiring to care for his ailing wife; and

WHEREAS, in his later years, Herman Arrington contributed to the water technology company Xylem, Inc., as a helper until retiring again in 2014, when he moved to live with his daughter, Sonja, in Virginia Beach; and

WHEREAS, Herman Arrington was an avid fisherman and could often be found casting lines on the piers of Virginia Beach and Norfolk; and

WHEREAS, guided throughout his life by his deep and abiding faith, Herman Arrington enjoyed worship and fellowship with his community at Bethel Baptist Church in Norfolk, where he was a devoted member for many years; and

WHEREAS, preceded in death by his loving wife, Florence, Herman Arrington will be fondly remembered and dearly missed by his daughter, Sonja, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Herman Augustus Arrington, a cherished member of the Norfolk community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Herman Augustus Arrington as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 535

Celebrating the life of James Michael Wilson.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, James Michael Wilson, an esteemed builder and beloved member of the Mathews and Gloucester communities, died on February 13, 2021; and

WHEREAS, born in Richlands, James Michael "Mike" Wilson lived most of his life in the Tidewater region, building homes and other developments for the benefit of his community, the Commonwealth, and areas beyond; and

WHEREAS, Mike Wilson gave amply of his time and talents to support Habitat for Humanity, and the hundreds of homes he built over his lifetime, both professionally and as a volunteer, will endure as a testament to his strong work ethic and dedication to helping others; and

WHEREAS, an avid horseman and outdoorsman and active member of the Shenandale Gun Club in Swoope, Mike Wilson won a rodeo state championship in 1987 and regularly participated in shooting tournaments across the country, developing a close network of friends along the way; and

WHEREAS, Mike Wilson was an adoring father and grandfather who loved sharing his knowledge of woodworking, hunting, and other skills with his family; and

WHEREAS, guided throughout his life by his faith, Mike Wilson enjoyed worship and fellowship with the community at Christ's Community Fellowship in Wichita Falls, Texas, after meeting its pastor, James Sterling, at services in Mathews; and

WHEREAS, Mike Wilson will be fondly remembered and dearly missed by his loving wife, Cheryl; his children, Carrie, Courtney, Catelyn, and Cassie, and their families; his stepchildren, Andy and Jake, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James Michael Wilson, a treasured member of the Mathews and Gloucester communities whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Michael Wilson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 536

Celebrating the life of Douglas Lee Isaac.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Douglas Lee Isaac of Willis, a respected financial professional, entrepreneur, and a passionate advocate for people with intellectual and developmental disabilities, died on January 15, 2021; and

WHEREAS, a native of Wise, Douglas "Doug" Lee Isaac graduated from John I. Burton High School in Norton, earned a bachelor's degree from George Mason University, and subsequently obtained a certified public accountant designation; and

WHEREAS, Doug Isaac served his country as a helicopter crew chief in the United States Army during the Vietnam War, completing more than 25 missions in combat and receiving a Presidential Unit Citation with two oak leaf clusters; and

WHEREAS, after his honorable military service, Doug Isaac pursued a private pilot's license and enjoyed countless recreational flights over the Commonwealth in his single-engine plane; and

WHEREAS, for many years, Doug Isaac lived in Northern Virginia while working as a chief financial officer for government contractors in the Washington, D.C., metropolitan area; and

WHEREAS, after his well-earned retirement, Doug Isaac moved to Hillsville, where he and his wife, Charlotte, owned and operated a local deli that became a center of community life with free, weekly performances by local musicians delighting countless residents and visitors on Saturday afternoons; and

WHEREAS, Doug Isaac worked diligently to support people with special needs and intellectual and developmental disabilities by helping to establish group homes in Southwest Virginia and advocating on their behalf before elected officials; and

WHEREAS, Doug Isaac enjoyed fellowship and worship with the community as a member of Buffalo Mountain Presbyterian Church in Willis; and

WHEREAS, Doug Isaac will be fondly remembered and greatly missed by his wife of 31 years, Charlotte; his children, Douglas and Mary, and their families; his stepson, Stephen, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Douglas Lee Isaac; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Douglas Lee Isaac as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 537

Celebrating the life of Thomas F. Cleary, M.D.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Thomas F. Cleary, M.D., a trusted family physician who became an active community leader in Alexandria, died on January 14, 2021; and

WHEREAS, a native of Peoria, Illinois, Thomas "Tom" F. Cleary, M.D., began his education in a one-room schoolhouse and graduated from Spaulding High School; a passionate learner, he matriculated at Saint Louis University at the age of 15; and

WHEREAS, Tom Cleary transferred to the University of Notre Dame, from which he graduated in 1948, and he subsequently earned a medical degree from the Georgetown University School of Medicine in 1953; and

WHEREAS, Tom Cleary served his country for two years as a member of the United States Air Force and was stationed as a captain in the 1100th USAF Hospital at what is now Joint Base Anacostia-Bolling in Washington, D.C.; he continued to serve with the Air Force Reserve until 1974; and

WHEREAS, after completing his active duty military service, Tom Cleary practiced family medicine for 35 years, first in Illinois, then in Maryland; over the course of his long and fulfilling career, he treated generations of the same families and was well known for his kindness, exceptional memory, and wide range of knowledge; and

WHEREAS, Tom Cleary settled in the Commonwealth and became a member of the board of directors of the Archbishop Fulton J. Sheen Foundation and the Mount Vernon Civic Association, and he supported young people through his involvement with the Boy Scouts of America; and

WHEREAS, Tom Cleary volunteered his leadership to many educational and historic preservation projects in the region and was a longtime member of the Life Guard Society of George Washington's Mount Vernon; and

WHEREAS, Tom Cleary's greatest joy in life was his beloved family, and he will be fondly remembered and greatly missed by his wife of 53 years, Ruth; his children, Kathleen, Kevin, Maureen, Sheila, and Sean, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas F. Cleary, M.D., a retired physician and respected member of the Alexandria community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas F. Cleary, M.D., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 538

Commending Matthew D. Hagan.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Matthew D. Hagan, an accomplished racer from Christiansburg, became a three-time National Hot Rod Association Funny Car world champion in 2020; and

WHEREAS, Matthew "Matt" D. Hagan races in the National Hot Rod Association (NHRA) with a Dodge Charger SRT Hellcat Funny Car under the Mopar, Pennzoil, and Sandvik banners and with Don Schumacher Racing; and

WHEREAS, along with winning the NHRA Funny Car world championship in 2011, 2014, and 2020, Matt Hagan has earned 35 event titles and made 65 final round appearances since beginning his career in 2008; and

WHEREAS, Matt Hagan was the first NHRA Funny Car driver to reach a speed of 335 miles per hour and currently holds a career best speed of 338.85 miles per hour; and

WHEREAS, in recognition of his remarkable career, Matt Hagan was named "Funny Car Driver of the Decade" by *AutoWeek* magazine in the 2010s; and

WHEREAS, in addition to his pursuits on the race track, Matt Hagan owns and operates TruHarvest Farms in Christiansburg, a cattle and hemp farm that is the largest producer of hemp in Southwest Virginia; and

WHEREAS, TruHarvest Farms produces an extensive line of cannabidiol products, providing countless individuals with an alternative to traditional medicine and supplements for promoting health and wellness; now, therefore, be it

RESOLVED by the House of Delegates, That Matthew D. Hagan, three-time National Hot Rod Association Funny Car world champion and esteemed farmer, hereby be commended for his success both on the race track and in the hemp industry; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matthew D. Hagan as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 539

Commending the Southside Virginia Emergency Crew.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Southside Virginia Emergency Crew commemorates 75 years of brave and admirable service to the communities of the Tri-Cities area in 2021; and

WHEREAS, the Southside Virginia Emergency Crew originated when W. Roy Smith, president of the Petersburg Junior Chamber of Commerce, formed a committee to visit the Roanoke Life Saving Crew and its captain, Julian Stanley Wise, after reading an article in *Reader's Digest* in February 1945; and

WHEREAS, based on the committee's report, the local chapter of the Jaycees committed to sponsoring an organization like the Roanoke Live Saving Crew to serve Petersburg and the surrounding communities; and

WHEREAS, in May 1945, the mayors of Petersburg, Colonial Heights, and Ettrick, along with first aid and cardiopulmonary resuscitation instructors, presidents of local civic organizations, and medical personnel, held an organizational meeting to form the Southside Virginia Emergency Crew; the Board of Trustees was then elected on June 9, 1945; and

WHEREAS, the newly formed Southside Virginia Emergency Crew obtained the use of an unused fire station on Bank Street in Petersburg and acquired a first aid vehicle, numerous supplies, and an adult and child iron lung; and

WHEREAS, after initial training and with support from generous donations by individuals, community organizations, businesses, and industries, the Southside Virginia Emergency Crew began providing emergency medical services (EMS) to Petersburg, Colonial Heights, Ettrick, Dinwiddie County, Prince George County, and Chesterfield County; and

WHEREAS, the Southside Virginia Emergency Crew established a sub-station in Hopewell in 1947 and one year later the City of Hopewell formed the Hopewell Emergency Crew; and

WHEREAS, having outgrown its first headquarters, the Southside Virginia Emergency Crew moved to a larger space on Wythe Street in Petersburg and, in 1968, moved again to its current location on Graham Road in Petersburg, adjacent to Interstate 85; and

WHEREAS, as times changed and members found they did not have adequate volunteer man hours to answer daytime EMS calls, the Board of Trustees of the Southside Virginia Emergency Crew elected in July 1989 to employ daytime staffing to answer the calls; and

WHEREAS, many of the communities initially served by the Southside Virginia Emergency Crew have developed their own emergency crews over the years, with 21 current agencies benefiting from the organization's foresight and leadership; and

WHEREAS, the Southside Virginia Emergency Crew serves as the primary EMS agency for the 32,000 residents and 23 square miles of Petersburg, answering more than 8,000 EMS service calls each year while growing through the recruitment of professionally trained providers and the implementation of the latest in health care technology; now, therefore, be it

RESOLVED by the House of Delegates, That the Southside Virginia Emergency Crew hereby be commended on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the membership of the Southside Virginia Emergency Crew as an expression of the House of Delegates' admiration for organization's continued contributions to the citizens, businesses, and community of Petersburg.

HOUSE RESOLUTION NO. 540

Commending Orofino.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, in the spring and summer of 2020, the Italian restaurant Orofino in Fredericksburg took appropriate precautions to stay open during the COVID-19 pandemic and serve the community despite potential hazards; and

WHEREAS, Orofino has retained its employees during the COVID-19 pandemic, providing stability during an extraordinary economic downturn; and

WHEREAS, during the ongoing crisis, Orofino has provided meals to numerous members of the Fredericksburg community; and

WHEREAS, Danilo and Alona Orofino, owners of Orofino, have exemplified sound leadership, compassion, and care for the restaurant's workers and the community during the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Orofino hereby be commended for its service to Fredericksburg residents during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Orofino as an expression of the House of Delegates' admiration for its commitment to its employees and the community.

HOUSE RESOLUTION NO. 541

Commending Emmitt and Vera Fletcher.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Emmitt and Vera Fletcher have served and supported communities throughout the Commonwealth through their humanitarian works and advocacy; and

WHEREAS, Emmitt "Joe" and Vera Fletcher both obtained bachelor's degrees in social work from Norfolk State University, where they met in 1972; and

WHEREAS, Vera Fletcher led the initiative to rename Mills E. Godwin Middle School in Dale City to George Hampton Middle School, with more than 450 people from all backgrounds speaking in support of renaming the school; and

WHEREAS, Joe Fletcher has worked diligently to advocate for the restoration of voting rights for felons, believing strongly in the importance of rehabilitating formerly incarcerated people and supporting their reintegration into society; and

WHEREAS, among the couple's many achievements, Joe and Vera Fletcher have been champions for voting rights and have personally helped to register nearly 2,000 people to vote; and

WHEREAS, in January 2020, the Fletchers received a Human Rights Award from the Prince William Human Rights Commission; now, therefore, be it

RESOLVED by the House of Delegates, That Emmitt and Vera Fletcher hereby be commended for their legacy of service and advocacy for people in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Emmitt and Vera Fletcher as an expression of the House of Delegates' admiration for their achievements in service to the residents of the Commonwealth.

HOUSE RESOLUTION NO. 542

Celebrating the life of the Honorable Clyde H. Perdue, Jr.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Honorable Clyde H. Perdue, Jr., a retired judge of the Franklin County Circuit Court, died on February 13, 2021; and

WHEREAS, Clyde Perdue earned bachelor's and master's degrees from Virginia Polytechnic Institute and State University and subsequently graduated from the Campbell University School of Law in 1984; and

WHEREAS, Clyde Perdue followed in his father's footsteps as an attorney and served the Rocky Mount community with the firm Raine and Perdue, PLC, for 30 years; and

WHEREAS, over the course of his long career, Clyde Perdue helped generations of local residents write wills and deeds or conduct title searches, and he inspired two of his own children to pursue careers in the legal profession; and

WHEREAS, Clyde Perdue was appointed as a judge of the Franklin County Circuit Court of the 22nd Judicial Circuit of Virginia on January 1, 2015, and presided over the court with great fairness and wisdom for more than five years until his retirement on January 8, 2021; and

WHEREAS, known for his even temperament, humility, and commitment to justice, Clyde Perdue treated everyone who came before the court with equal respect and served Franklin County and the Commonwealth with the utmost dedication, integrity, and distinction; and

WHEREAS, Clyde Perdue will be fondly remembered and greatly missed by his wife of 38 years, Vickie; his children, Holland, Peyton, Madeline, and Delaney, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Clyde H. Perdue, Jr., a respected attorney, judge, and member of the Rocky Mount community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Clyde H. Perdue, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 543

Commending Pamela Brandon Croom.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Pamela Brandon Croom of Hampton was elected as the first African American president of the Virginia Congress of Parents and Teachers Associations, a nonprofit advocacy association that supports students throughout the Commonwealth; and

WHEREAS, the Virginia Congress of Parents and Teachers Associations (Virginia PTA) was chartered in 1921 and has become one of the largest such organizations in the country, serving hundreds of thousands of members in more than 1,200 local organizations; and

WHEREAS, Pamela Croom, a business and workforce development manager for the City of Portsmouth, joined the parent teacher association at her daughter's school more than 30 years ago and has provided her valuable expertise to organizations at the local, regional, and state levels; and

WHEREAS, as president of Virginia PTA, Pamela Croom will work with teachers, administrators, students, family members, businesses, community leaders, and government officials to ensure that young people have the tools to achieve success in and out of the classroom; and

WHEREAS, Pamela Croom has promoted the vital role that parents play in their children's education and strives to keep families engaged in the learning process; and

WHEREAS, Pamela Croom plans to increase equity and diversity among the membership of Virginia PTA, as well as create new opportunities for leadership and professional development; and

WHEREAS, Pamela Croom will be formally installed as president at the Virginia PTA's annual meeting on March 20, 2021, which will commemorate the organization's 100th anniversary; now, therefore, be it

RESOLVED by the House of Delegates, That Pamela Brandon Croom hereby be commended on becoming the first African American president of the Virginia Congress of Parents and Teachers Associations; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pamela Brandon Croom as an expression of the House of Delegates' admiration for her historic achievement.

HOUSE RESOLUTION NO. 544

Commending John E. Smith.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, John E. Smith, a successful entrepreneur who established franchise McDonald's restaurants throughout Hampton Roads and has made countless contributions to the community through leadership development and youth programs, retired after more than two decades of service; and

WHEREAS, a native of Arkansas, John Smith pursued a career in marketing at the IBM Corporation, but was driven to take a more active role in building a business legacy defined by the opportunities it created, particularly for fellow African Americans; and

WHEREAS, John Smith applied to become a McDonald's franchise owner in 1996 and subsequently purchased a restaurant in the Denbigh area of Newport News; he worked diligently to learn every aspect of restaurant operations and ultimately expanded his company, J. Smith Enterprises, to 15 franchise locations by 2003; and

WHEREAS, as president and chief executive officer of J. Smith Enterprises, John Smith developed a company culture that treated staff members as potential fellow entrepreneurs, implemented a profit-sharing compensation model for managers, and offered a tuition reimbursement program to encourage staff members to continue seeking education; and

WHEREAS, John Smith offered his employees valuable instruction on financial literacy, profit analysis, hospitality, employee relations, community engagement, and operational efficiency in an effort to develop the region's next generation of business leaders; several former employees have gone on to hold high-ranking positions in the food service industry or achieve great success in other career fields; and

WHEREAS, a devoted servant-leader, John Smith volunteers his time and expertise to many community organizations, and his restaurants have held regular fundraisers for local schools and charitable organizations; his company has directly supported young people through the Summer Training and Enrichment Program and helped reduce recidivism through a work-release program for incarcerated individuals; and

WHEREAS, among many awards and accolades for his creativity, ingenuity, and tenacity in building market share, John Smith is most proud of his Ronald Award, which is presented to McDonald's franchisees that demonstrate a strong commitment to community service while maintaining operational excellence, and the Hurricane Isabel Hero award he received from the City of Hampton for his quick response to donate ice and water to people in need in the aftermath of Hurricane Isabel in 2003; and

WHEREAS, over the course of his long and distinguished career, John Smith employed thousands of people in Hampton Roads, served meals to millions of customers, and touched countless lives through his advocacy and mentorship, a legacy of service that his daughter, Jennifer Smith-Brown, will carry forward as president and chief executive officer of the company after his well-earned retirement; now, therefore, be it

RESOLVED by the House of Delegates, That John E. Smith hereby be commended on the occasion of his retirement as president and chief executive officer of J. Smith Enterprises; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John E. Smith as an expression of the House of Delegates' admiration for his personal and professional achievements.

HOUSE RESOLUTION NO. 545

Commending Franklin Sherman Elementary School.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Franklin Sherman Elementary School in McLean, the recipient of two Eco-Schools USA Green Flag Awards, maintained its commitment to good stewardship of the environment during the COVID-19 pandemic; and

WHEREAS, the Eco-Schools USA program is administered by the National Wildlife Federation and recognizes schools that combine research-based curricula with effective, environmentally sound management of school grounds to create a unique learning experience; Franklin Sherman Elementary School won the award in 2012 and 2017; and

WHEREAS, students in every grade level at Franklin Sherman Elementary School participate in the program, and faculty and staff members receive regular training on how to best implement green strategies and educate students on environmental issues; and

WHEREAS, Franklin Sherman Elementary School has promoted waste reduction and energy management, built and maintained habitats for wildlife, and produced vegetables for the community from raised garden beds; the school donates unused food from the cafeteria to a food bank; and

WHEREAS, during the COVID-19 pandemic, Franklin Sherman Elementary School worked with a student at Northern Virginia Community College to ensure that the school's eight raised garden beds were well-tended in the summer, with local families and school staff members harvesting produce in the fall; and

WHEREAS, members of Franklin Sherman Elementary School's parent-teacher association coordinated a local Cub Scout troop and eight local families to clean and mulch the school's garden beds to prepare for new crops in spring 2021, which the school plans to donate to the food bank Share of McLean; now, therefore, be it

RESOLVED by the House of Delegates, That Franklin Sherman Elementary School, a two-time winner of the Eco-Schools USA Green Flag Award, hereby be commended for its ongoing work to protect and preserve the Commonwealth's valuable natural resources; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Franklin Sherman Elementary School as an expression of the House of Delegates' admiration for the school's commitment to community service and good stewardship of the environment.

HOUSE RESOLUTION NO. 546

Commending the Virginia Wing of the Civil Air Patrol.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Virginia Wing of the Civil Air Patrol has played a vital role for the Commonwealth during the COVID-19 pandemic, while continuing to fulfill its standard duties; and

WHEREAS, the Civil Air Patrol (CAP) is the longtime auxiliary of the United States Air Force and a valued member of its Total Force, with 60,000 members operating a fleet of 560 single-engine aircraft and 1,994 small unmanned aircraft system (sUAS); and

WHEREAS, CAP performs about 90 percent of continental inland United States search and rescue missions as tasked by the Air Force Rescue Coordination Center and is credited with saving an average of 82 lives annually; and

WHEREAS, the Virginia Wing of CAP has 2,000 members and 23 units throughout the Commonwealth and operates 23 vehicles, 12 single-engine aircraft, and 30 sUAS to provide support for search and rescue, disaster relief, homeland security, and drug interdiction operations; and

WHEREAS, the Virginia Wing plays a leading role in the Commonwealth in science, technology, engineering, mathematics, aerospace, and cybersecurity education; and

WHEREAS, the Virginia Wing's members serve as mentors to more than 1,000 young people in the Commonwealth participating in the CAP Cadet Program; and

WHEREAS, in 2020, the Virginia Wing supported the Virginia Department of Emergency Management and the Virginia National Guard in providing logistics and transportation of COVID-19 test kits and samples to the Eastern Shore; members of the Virginia Wing contributed 199 days of service supporting the fight against the pandemic both in the field and in incidence command posts and emergency operations centers; and

WHEREAS, the Virginia Wing has supported food warehouses and facilitated food distribution in the Counties of Prince William and Culpeper; personnel from nine different units processed and moved 635,000 pounds of food to be used by individuals and families in those areas; and

WHEREAS, the Virginia Wing supported the Commonwealth before and after Hurricane Isaias in summer 2020 by providing pre-storm and post-storm assessment of shoreline areas in the Tangier, Bayside, and Eastern Shore regions for the Virginia Department of Emergency Management and pre-storm and post-storm photo assessment of major shipping lanes, maritime aids to navigation (buoys), and Norfolk harbor for the United States Coast Guard, as well as post-storm photo assessment of the intercoastal waterways between North Carolina and Norfolk harbor; and

WHEREAS, the Virginia Wing provided post-storm photo and damage assessment of major tornado damage in multiple counties; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Wing of the Civil Air Patrol hereby be commended for its commitment to serving and safeguarding the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Wing of the Civil Air Patrol as an expression of the House of Delegates' admiration for the hard work and dedication of its members.

HOUSE RESOLUTION NO. 547

Commending HealthWorks for Northern Virginia.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, HealthWorks for Northern Virginia, a federally qualified health center serving the Counties of Loudoun and Fairfax, responded quickly and comprehensively to the needs of the community at the onset of the COVID-19 pandemic; and

WHEREAS, HealthWorks implemented its COVID-19 testing program within two weeks of the pandemic's arrival in Northern Virginia and since that time has provided free testing to both HealthWorks's patients and members of the community who do not have a primary care provider; and

WHEREAS, HealthWorks rapidly established a robust telehealth program to ensure its patients would have access to comprehensive health care services while public health mandates limited the availability of in-person appointments; and

WHEREAS, HealthWorks designed and installed comprehensive safety features at its clinics to accommodate critical in-person appointments, including newborn physicals, pediatric vaccinations, sick child visits, dental care procedures, and other services; and

WHEREAS, since March 2020, HealthWorks has enrolled 5,105 new patients who otherwise might not have access to medical, dental, or mental health care; and

WHEREAS, throughout the COVID-19 pandemic, HealthWorks's nurses, doctors, nurse practitioners, physician assistants, and other staff have provided safe, welcoming, compassionate, accessible, and culturally and linguistically competent health care services to nearly 21,000 Northern Virginians, including the provision of more than 4,000 COVID-19 tests; now, therefore, be it

RESOLVED by the House of Delegates, That HealthWorks for Northern Virginia hereby be commended for its efforts to promote the health and well-being of the community throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of HealthWorks for Northern Virginia as an expression of the House of Delegates' admiration for its achievements in service to citizens of the Commonwealth.

HOUSE RESOLUTION NO. 548

Commending Keith E. Barker.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Keith E. Barker, who diligently served at the pleasure of the Galax City Council and the citizens of Galax as city manager for nearly 29 years, retired in 2021; and

WHEREAS, Keith E. Barker moved to Galax with his family at an early age and graduated from Galax High School in 1982; he subsequently graduated from Virginia Polytechnic Institute and State University with a bachelor's degree in architecture in 1987, then began working at Echols-Sparger, an architecture firm in Marion, where he commuted daily for a number of years; and

WHEREAS, Keith E. Barker began his career with the City of Galax in 1992 as a licensed building official, spearheading a team focused on housing projects in blighted areas of the city and making significant improvements to enhance the quality of life for many residents; and

WHEREAS, in 2005, Keith E. Barker became the assistant city manager and continued to participate in and lead many great projects and initiatives, including the downtown revitalization and storm water and utility system improvements, and began serving on various boards focused on local and regional economic development opportunities; and

WHEREAS, Keith E. Barker was appointed as city manager in 2009 and inspired others through his visionary leadership style, team approach to problem solving, and commitment to building a strong future for all Galax residents; he remained focused on maintaining economic growth both locally and regionally, improving facilities and infrastructure within the city, and securing and managing grant funding for various projects; and

WHEREAS, among Keith E. Barker's proudest accomplishments are the rehabilitation of housing developments, the Bottom Area Project, additions and renovations to Galax Elementary School, and the partnership between God's Storehouse Soup Kitchen and the City of Galax to renovate the Old Town Market building into a community center; and

WHEREAS, several notable projects began under Keith E. Barker's diligent leadership, including the future development of the historic T.G. Vaughan Building, the housing development on the Kipling Lane property, and commercial development of the Galax East Site, all of which hold great potential for economic development and housing opportunities to help the City of Galax prosper in the future; and

WHEREAS, in Keith E. Barker's own words: "I don't think any project or opportunity in Galax can be attributed to a single person or manager, but is always the result of a great team of individuals interested in serving our community"; and

WHEREAS, respected for his expertise, Keith E. Barker held leadership positions on numerous committees, including the Blue Ridge Crossroads Economic Development Authority, Wired Road Authority, Virginia Industrial Development Alliance, and Ninth District Development Financing, along with many local management boards; now, therefore, be it

RESOLVED by the House of Delegates, That Keith E. Barker hereby be commended for his service to the residents of the City of Galax on the occasion of his retirement as Galax city manager; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Keith E. Barker as an expression of the House of Delegates' admiration for his leadership and dedication to service and best wishes for his well-earned retirement.

HOUSE RESOLUTION NO. 549

Commending James E. Swindler II.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, James E. Swindler II, a dedicated school administrator and a trusted mentor for young people, retires as principal of Rappahannock County High School in 2021; and

WHEREAS, a former valedictorian of Rappahannock County High School, James "Jimmy" E. Swindler II has worked for Rappahannock County Public Schools for nearly 20 years; and

WHEREAS, Jimmy Swindler has held numerous roles at Rappahannock County Elementary School and Rappahannock County High School, including history teacher, history department chair, facilities director, a member and president of parent-teacher organizations, and National Honor Society sponsor; and

WHEREAS, Jimmy Swindler served as an athletics director for many years and has coached student-athletes at junior varsity and varsity levels; he further served as a representative to the Virginia Interscholastic Athletic Administrators Association and was a member of several committees for the Virginia High School League; and

WHEREAS, Jimmy Swindler has treated the young people under his care as individuals and has worked to build a culture of fairness and mutual respect among students, faculty, and staff; and

WHEREAS, thanks in part to Jimmy Swindler's leadership, Rappahannock County High School opened on a hybrid schedule for the 2020-2021 academic year to safely provide students with valuable in-person interaction and instruction during the COVID-19 pandemic; and

WHEREAS, Jimmy Swindler has offered his expertise to the Rappahannock County Education Association and the Headwaters Foundation, a nonprofit support organization for local students; and

WHEREAS, after his well-earned retirement, Jimmy Swindler plans to spend more time with his beloved family and seek new opportunities to serve and strengthen the Rappahannock County community through volunteer work with the PATH Foundation, the Northern Piedmont Community Foundation, and other nonprofit organizations; now, therefore, be it

RESOLVED by the House of Delegates, That James E. Swindler II hereby be commended on the occasion of his retirement as principal of Rappahannock County High School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James E. Swindler II as an expression of the House of Delegates' admiration for his dedication to helping young people succeed in and out of the classroom.

HOUSE RESOLUTION NO. 550

Celebrating the life of Marvin Pierce Rucker.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Marvin Pierce Rucker, a respected trial attorney who made many contributions to the Richmond community as a volunteer, died on February 13, 2021; and

WHEREAS, Pierce Rucker grew up in Richmond, where he attended St. Christopher's School; he subsequently earned a bachelor's degree from the University of Virginia and remained a loyal alumnus and an avid fan of the university's football and basketball teams throughout his life; and

WHEREAS, after graduating from the Washington and Lee University School of Law, Pierce Rucker worked as a clerk for a United States District Court judge, then began a 41-year career as a trial attorney with the firm Sands Anderson, P.C., in Richmond; and

WHEREAS, Pierce Rucker distinguished himself as a tenacious litigator and became the chair of Sands Anderson's health care group, as well as a member of the firm's board of directors and firm president; and

WHEREAS, Pierce Rucker held a number of leadership positions in the Virginia Association of Defense Attorneys, including president, and received the organization's Award for Excellence in Civil Litigation; and

WHEREAS, Pierce Rucker was a member of the Virginia Law Foundation, the Commonwealth Club, and the Society of Colonial Wars, and he volunteered his time with CARITAS, Westminster Canterbury, Needle's Eye Ministries, and the St. James's Children's Center; and

WHEREAS, a devoted Christian, Pierce Rucker enjoyed fellowship and worship with the community as a member of St. James's Episcopal Church, where he served on the vestry; he represented the congregation as a delegate to the Convention of the Episcopal Diocese of Virginia; and

WHEREAS, Pierce Rucker is survived by his beloved wife of 40 years, Leslie, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Marvin Pierce Rucker; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Marvin Pierce Rucker as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 551

Celebrating the life of Walter Edward Williams, Ph.D.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Walter Edward Williams, Ph.D., an honorable veteran, esteemed economist and professor at George Mason University, and prolific author and political commentator, died on December 2, 2020; and

WHEREAS, born and raised in Philadelphia, Pennsylvania, Walter Williams showed an enterprising spirit from a young age, working various jobs and acquiring stock investments before graduating high school; and

WHEREAS, Walter Williams served his country with courage and valor as a member of the United States Army, posting at Fort Stewart, Georgia, and in Korea; during his service, he was an outspoken critic of racial discrimination in the United States Armed Forces, bringing greater attention to this systemic problem; and

WHEREAS, after the military, Walter Williams earned a bachelor's degree in economics at what is now California State University, Los Angeles, and subsequently earned master's and doctoral degrees from the University of California, Los Angeles; and

WHEREAS, after seven years at Temple University, Walter Williams taught for four decades at George Mason University, serving as chairman of the school's economics department and fostering the success of several future generations of economists; and

WHEREAS, Walter Williams contributed extensively to the national discourse as the author of more than 150 scholarly publications and 10 books and as a syndicated weekly columnist carried by approximately 205 newspapers and websites around the country; and

WHEREAS, Walter Williams further disseminated his views as a regular commentator on various radio and television programs and by frequently giving expert testimony before Congressional committees on issues such as labor policy, taxation, and spending; and

WHEREAS, involved with many think tanks and advisory boards, including the Cato Institute, Landmark Legal Foundation, Institute of Economic Affairs, and The Heritage Foundation, Walter Williams was widely recognized as an influential proponent for conservative economic theories and policies; and

WHEREAS, as testament to his impact on the intellectual and political life of the country, Walter Williams was the recipient of various fellowships and awards throughout his career, including a 2017 Bradley Prize from The Lynde and Harry Bradley Foundation; and

WHEREAS, preceded in death by his loving wife, Conchetta, Walter Williams will be fondly remembered and dearly missed by his daughter, Devon, and her family, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Walter Edward Williams, Ph.D., an accomplished economist and public intellectual whose ideas and advocacy were an inspiration to many; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Walter Edward Williams, Ph.D., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 552

Celebrating the life of the Reverend Dr. James Alfred Carey.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Reverend Dr. James Alfred Carey, a respected educator and spiritual leader in Southampton County, died on January 24, 2021; and

WHEREAS, James Alfred Carey grew up in Greenville County and graduated from Edward W. Wyatt High School; he continued his education with a bachelor's degree from Saint Paul's College and a master's degree from Virginia Commonwealth University; and

WHEREAS, James Alfred Carey worked in Southampton Public Schools until he was drafted by the United States Army; he served with distinction until his honorable discharge in 1969, then briefly returned to teaching; and

WHEREAS, James Alfred Carey subsequently joined the Virginia Department of Corrections and served as a vocational learning coordinator after the establishment of the Rehabilitative School Authority, which later was reorganized within the Department of Correctional Education; and

WHEREAS, as an assistant principal and principal for the Department of Correctional Education, James Alfred Carey worked diligently to reduce recidivism by helping inmates throughout Southampton County gain valuable job skills and training; and

WHEREAS, James Alfred Carey's final assignment for the Department of Correctional Education was at the Southampton Intensive Treatment Center, and after the facility's closure, he worked as a teacher for Weldon City Schools in North Carolina and as an instructor for a Jackson Feild Homes location in Jarratt; and

WHEREAS, James Alfred Carey served the community as a member of the Emporia City Council, representing the residents of District 1 for 10 years, and he supported his wife, Carolyn, during her successful campaign for election as mayor of Emporia in 2020; and

WHEREAS, after earning a doctorate of systematic theology, James Alfred Carey answered the call to ministry at Pleasant Grove Baptist Church in Drewryville and served as pastor of Mount Ararat Baptist Church and Saint Matthew Baptist Church, both in North Carolina; and

WHEREAS, in 1980, James Alfred Carey became pastor of Shiloh Baptist Church Emporia, where he had begun to cultivate his deep faith in his youth, and he provided exceptional spiritual leadership to the congregation for more than 40 years; and

WHEREAS, among many awards and accolades, James Alfred Carey was twice selected as the Rehabilitative School Authority's Administrator of the Year, and he received the Outstanding Community Service Award from the Emporia City Council in 1998; and

WHEREAS, predeceased by his daughter, Madalyn, James Alfred Carey will be fondly remembered and greatly missed by his wife of 54 years, Carolyn; his sons, James and Marcus, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Dr. James Alfred Carey; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. James Alfred Carey as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 553

Commending Xavier R. Richardson.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Xavier R. Richardson, a native of Fredericksburg and senior vice president and chief development officer for Mary Washington Healthcare, has admirably served as president of both the Mary Washington Hospital Foundation and the Stafford Hospital Foundation; and

WHEREAS, Xavier Richardson previously served as an assistant director of the United States General Accounting Office in Washington, D.C., for nine years, and worked on Wall Street for five years and at McKinsey and Company in New York City before that; and

WHEREAS, Xavier Richardson is well-known in the community for his work mentoring young adults and is the founder and executive director of The Partnership for Academic Excellence, which has assisted over 5,650 minority students in their quest for a college education over the past three decades; and

WHEREAS, Xavier Richardson is a member of numerous local, state, and national boards, including the boards of Fredericksburg Academy, ArtsLIVE!, Sigma Pi Phi fraternity, Kappa Alpha Psi fraternity, the Lloyd F. Moss Free Clinic, the local Boys and Girls Club, the Children's Home Society of Virginia Foundation, the University of Mary Washington Foundation, and Delta Sigma Theta sorority's foundation; and

WHEREAS, Xavier Richardson was appointed by both Governor Timothy M. Kaine and Governor Robert F. McDonnell as a member of the Board of Visitors of the University of Mary Washington; later, Governor Terence R. McAuliffe named him to his higher education transition team, the Board of Visitors of Virginia State University, and the Virginia Economic Development Partnership; and

WHEREAS, Xavier Richardson has received numerous honors, including the first James Farmer Distinguished Lecturer Award by the University of Mary Washington; he was awarded The Virginia Hospital and Healthcare System's Meritorious Service Award for outstanding contributions to the community and health care industry and, in 2008, was the recipient of the Fredericksburg Regional Chamber of Commerce's highest honor, the Prince B. Woodard Leadership Award; and

WHEREAS, in 2010, the City of Fredericksburg named Xavier Richardson "Fredericksburg's Hometown Hero" in conjunction with the Fox 5 News's Hometown Hero program; in 2012, he was chosen as a recipient of the Strong Men and Strong Women in Virginia History Award sponsored by Dominion Energy and the Virginia Public Library; he is a Rotary International Paul Harris Fellow and a Boy Scouts of America Good Scout Award recipient; and

WHEREAS, Xavier Richardson, a graduate of James Monroe High School in Fredericksburg, is a graduate of Princeton University, where he received his bachelor's degree magna cum laude, and the Harvard Business School, from which he earned his master's degree in business administration; he is the recipient of an honorary doctorate of humane letters from Saint Paul's College; now, therefore, be it

RESOLVED by the House of Delegates, That Xavier R. Richardson, a native of Fredericksburg, senior vice president and chief development officer for Mary Washington Healthcare, and gubernatorial appointee to the Board of Visitors of the University of Mary Washington and the Virginia Economic Development Partnership, hereby be commended for his service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Xavier R. Richardson as an expression of the House of Delegates' respect for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 554

Commending Ada Singletary.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Ada Singletary, a beloved centenarian and the oldest living resident of the Gum Springs community in Fairfax County, celebrates her 101st birthday on March 22, 2021; and

WHEREAS, Ada Singletary was born and raised along Old Mount Vernon Road in Gum Springs, which is the longest standing African American community in Fairfax County, with origins dating back more than 188 years; and

WHEREAS, Ada Singletary attended Gum Springs School as a child and was an avid dancer and photographer in her teenage years; she often attended dances at neighboring Fort Belvoir and met her husband at a dance contest there during World War II; and

WHEREAS, growing up at a time when people predominantly traveled by horse and buggy and Northern Virginia was still largely rural, Ada Singletary has witnessed extraordinary societal change in her lifetime; and

WHEREAS, Ada Singletary contributed greatly to the success and well-being of countless children, both in and out of the classroom, during a 17-year career with Fairfax County Public Schools; and

WHEREAS, as a testament to her roots in the community, Ada Singletary continues to live in the same home that belonged to her mother and on land that was owned by her grandfather approximately a century ago; and

WHEREAS, an active and engaged member of her community, Ada Singletary has regularly volunteered with the Mount Vernon Ladies' Association over the years, supporting the organization's mission to preserve and maintain the Mount Vernon estate of President George Washington; and

WHEREAS, the New Gum Springs Civic Association recently honored Ada Singletary by naming her grand marshal of the 2018 Gum Springs Community Day and Parade, part of its celebration of the 185th anniversary of Gum Springs; and

WHEREAS, a longtime and faithful member of the Bethlehem Baptist Church of Gum Springs, Ada Singletary was baptized at the age of 12 and has been guided by her deep and abiding faith ever since; and

WHEREAS, as an exemplar of the country's Greatest Generation and one of the oldest living citizens of the Commonwealth, Ada Singletary is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Ada Singletary, a treasured member of the Gum Springs community, hereby be commended on the occasion of her 101st birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ada Singletary as an expression of the House of Delegates' congratulations and best wishes.

HOUSE RESOLUTION NO. 555

Commending James Schwartz.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, James Schwartz, deputy county manager of public safety and technology in Arlington County, who has admirably served the Commonwealth for many years, retired in 2021; and

WHEREAS, James Schwartz is a graduate of the University of Maryland with a bachelor's degree in fire administration and a graduate of the Executive Leaders Program at the Center for Homeland Defense and Security at the Naval Postgraduate School; and

WHEREAS, James Schwartz joined the Arlington County Fire Department in 1984 and served in various leadership roles, including director of emergency management at the Arlington County Manager's Office, before serving as the department's chief from 2004 to 2015; and

WHEREAS, the Arlington County Fire Department was the lead agency in the response to the attack on the Pentagon on September 11, 2001, and James Schwartz bravely led its unified command effort on that tragic day; and

WHEREAS, James Schwartz has served in the Arlington County Manager's Office since 2015, where, among many accomplishments, he collaborated effectively with regional colleagues to enhance the Homeland Security Executive Committee of the Metropolitan Washington Council of Governments; and

WHEREAS, James Schwartz improved public health and safety in the community as a member of Arlington County's COVID-19 response team and by spearheading the integration of emergency call functions between Arlington County and Alexandria; and

WHEREAS, as a member of the Board of Directors of the Northern Virginia Emergency Response System, James Schwartz coordinated between local governments, the Commonwealth, and the private sector to improve the region's emergency preparedness; and

WHEREAS, James Schwartz's commitment to national security included membership on the United States Department of Homeland Security's Science and Technology Advisory Committee, the advisory council for the Joint Counterterrorism Assessment Team at the National Counterterrorism Center, and the International Association of Fire Chiefs' Terrorism and Homeland Security Committee, which he chaired from 2008 until August 2014; and

WHEREAS, James Schwartz has supported future generations of first responders and public officials as a member of the faculty of the Leadership in Crises program at Harvard University's Kennedy School of Government; and

WHEREAS, over 37 years of dedicated service, James Schwartz has worked tirelessly to ensure the safety and security of the Commonwealth and its citizens; now, therefore, be it

RESOLVED by the House of Delegates, That James Schwartz, deputy county manager of public safety and technology in Arlington County, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Schwartz as an expression of the House of Delegates' admiration for his contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE RESOLUTION NO. 556

Commending Carmen Necheles.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Carmen Necheles, a retired educator, beloved mother, grandmother, and great-grandmother and a vibrant member of the Arlington community, celebrates her 100th birthday in 2021; and

WHEREAS, born on March 28, 1921, in Humacoa, Puerto Rico, Carmen Necheles, née Casta-eda, grew up in a rural area that had only recently received electric power for the first time; throughout her life, she was a firsthand witness to many other great technological advancements and significant historical events; and

WHEREAS, Carmen Necheles married Thomas Necheles while he was stationed with the United States Army in San Juan, and the couple subsequently moved to Chicago while he was attending medical school; and

WHEREAS, Carmen Necheles and her family settled in Boston, and in the late 1960s, she earned a master's degree in education from Simmons College and taught English as a second language for Boston Public Schools; and

WHEREAS, in the 1970s, Carmen Necheles played an integral role in the establishment of a bilingual education program in Boston Public Schools, having traveled throughout the city to advocate for the program and worked diligently to recruit and train teachers; and

WHEREAS, Carmen Necheles was dedicated to ensuring that every child received the best possible education, serving as district superintendent of the bilingual program and acting assistant superintendent of the school system; she ultimately returned to classroom instruction, her true passion, as an elementary school teacher, then retired in 1994 after a long and rewarding career; and

WHEREAS, after the death of her first husband, Carmen Necheles married Albert Belton in the late 1980s, and the couple forged a loving combined family that now consists of eight children, 16 grandchildren, and two great-grandchildren; and

WHEREAS, accomplished world travelers, Carmen Necheles and Albert Benton experienced destinations around the globe and relished numerous opportunities to learn about and enjoy new cuisine, cultures, and communities; and

WHEREAS, in 2013, Carmen Necheles relocated to Arlington to live with her youngest daughter, Anna, and her husband, Kevin Appel; she has been an active member of the community through Our Lady Queen of Peace Catholic Church and is committed to lifelong learning as a participant in continuing education classes; and

WHEREAS, from Puerto Rico, to Chicago, to Boston, to Arlington, Carmen Necheles has always brought joy to others through her kindness, generosity, and zest for life; she is especially well known for her delicious home cooking and her ability to make every meal feel like a special occasion; now, therefore, be it

RESOLVED by the House of Delegates, That Carmen Necheles hereby be commended on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carmen Necheles as an expression of the House of Delegates' admiration for her personal and professional achievements and best wishes.

HOUSE RESOLUTION NO. 557

Commending Inova Loudoun Hospital and Inova Ashburn Healthplex.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Inova Loudoun Hospital and Inova Ashburn Healthplex, facilities affiliated with the Inova Health System in Northern Virginia, have admirably served the health care needs of the Loudoun County community during the COVID-19 pandemic; and

WHEREAS, the more than 1,900 team members at Inova Loudoun Hospital and Inova Ashburn Healthplex, including physicians, nurses, hospital administrators, and other support positions, work tirelessly every day to ensure the best health outcomes for their patients; and

WHEREAS, in the interest of public health and safety at the onset of the COVID-19 pandemic, Inova Loudoun Hospital and Inova Ashburn Healthplex implemented extra safety precautions in its emergency rooms, including screening patients outdoors upon arrival and reconfiguring its Lansdowne emergency room to separate respiratory patients; and

WHEREAS, beyond providing exemplary medical care, the frontline health care workers at Inova Loudoun Hospital and Inova Ashburn Healthplex have displayed remarkable compassion by helping patients' family members connect with their loved ones despite patient visitation restrictions imposed by the COVID-19 pandemic; and

WHEREAS, since March 2020, Inova Loudoun Hospital has treated more than 1,000 patients hospitalized with COVID-19, while Inova Ashburn Healthplex has been integral to Inova Health System's testing of more than 210,000 Virginians for the disease; and

WHEREAS, Inova Loudoun Hospital has partnered with the Loudoun County Health Department to administer COVID-19 vaccinations to Inova staff, Loudoun County first responders, and other members of the community, and Inova Health System has already administered more than 140,000 doses of vaccine since the middle of December; and

WHEREAS, Inova Health System's dedication to the health and well-being of the community long preceded the COVID-19 pandemic, as the organization provided more than \$388 million in community investment, including \$108 million in at-cost charity care to uninsured and underinsured patients, in 2019 alone; and

WHEREAS, the staff and frontline health care workers at Inova Loudoun Hospital and Inova Ashburn Healthplex continue to rise to the challenges presented by the COVID-19 pandemic, inspiring the community and reminding all of why the Commonwealth is wonderful place to live; now, therefore, be it

RESOLVED by the House of Delegates, That Inova Loudoun Hospital and Inova Ashburn Healthplex hereby be commended for the excellent care and service they have provided to patients and patients' families both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of Inova Loudoun Hospital and Inova Ashburn Healthplex as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 558

Commending the West Potomac High School girls' basketball team.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the West Potomac High School girls' basketball team of Fairfax won its first regional title in program history at the Virginia High School League Region 6C championship on February 12, 2021; and

WHEREAS, after an outstanding performance in the regular season, the West Potomac High School Wolverines advanced with an 11-1 record to the regional championship, where they defeated a talented team from West Springfield High School by a score of 60-44; and

WHEREAS, while the West Springfield High School Spartans took an early lead, the West Potomac Wolverines persevered to even the score in the second period and take a nine-point lead by halftime; and

WHEREAS, the West Potomac Wolverines weathered a strong counterattack in the second half, thanks in large part to senior point guard Danae Mackey, who finished the game with 18 points, five assists, and two rebounds; and

WHEREAS, the West Potomac Wolverines benefited from the exceptional leadership and guidance of all their coaches and support staff, and head coach Brian Colligan was selected as the Region Coach of the Year; and

WHEREAS, each member of the West Potomac High School girls' basketball team—Sophia Cicero, Caroline Eby, Caitlin Forti, Julia Hopper, Danae Mackey, Ava Mamienski, Katherine Mazzoccoli, Katie Jo Moery, Mary Prater, Ambria Redfean, and Samantha Uhrin—played a role in the team's impressive campaign; now, therefore, be it

RESOLVED by the House of Delegates, That the West Potomac High School girls' basketball team hereby be commended on winning the Virginia High School League Region 6C championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian Colligan, head coach of the West Potomac High School girls' basketball team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 559

Commending Tom Turner.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Tom Turner retired as district manager of the John Marshall Soil and Water Conservation District after more than two decades of service to the Commonwealth; and

WHEREAS, Tom Turner previously worked for the Loudoun Soil and Water Conservation District and joined the John Marshall Soil and Water Conservation District team in October 2001; and

WHEREAS, Tom Turner was promoted to conservation manager of the John Marshall Soil and Water Conservation District in July 2007 and to district manager in May 2017; and

WHEREAS, Tom Turner worked for years to increase public access to the Rappahannock River for Fauquier County residents, and he helped establish the From the Rappahannock, For the Rappahannock event, which was held annually between 2015 and 2019; and

WHEREAS, Tom Turner created the Riparian Tree-Age Program, which resulted in the planting of 75 acres of riparian buffer with native trees and shrubs on local farms over eight years; and

WHEREAS, during his tenure, Tom Turner built strong relationships with several major landowners in the region, including George Thompson, Marriott Ranch, Kilkenny Farm, and Springfield Farm, the four of which alone accounted for 46.9 miles of protected streambank and 472 acres of riparian buffer; and

WHEREAS, since 2007, Tom Turner has overseen the protection of more than 311 miles of streambank, the creation of more than 2,200 total acres of riparian buffer, and more than \$8.6 million cost-share allocated through the Virginia Agricultural Cost-Share Program; now, therefore, be it

RESOLVED by the House of Delegates, That Tom Turner hereby be commended on the occasion of his retirement as district manager of the John Marshall Soil and Water Conservation District; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Turner as an expression of the House of Delegates' admiration for his work to preserve the Commonwealth's valuable natural resources.

HOUSE RESOLUTION NO. 560

Celebrating the life of Roger Allan Saunders, Jr.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Roger Allan Saunders, Jr., a business owner who made many contributions to the Hampton community, died on February 18, 2021; and

WHEREAS, Roger Saunders grew up in Hampton and was a multisport athlete who served as captain of the track and field and cross country teams at Kecoughtan High School; he continued his education at Hampton Institute, now known as Hampton University, where he studied physical education and continued to run track; and

WHEREAS, Roger Saunders worked for United Parcel Service to support himself during college, and after graduation, he worked with his father at Poquoson Motors Company, where he earned a reputation for fairness and commitment to good customer service; and

WHEREAS, Roger Saunders later became the business and finance manager for Pomoco Auto Group, which owned Poquoson Motors, and enjoyed a distinguished 45-year career with the company until 2018, when he opened Saunders Motor Company in Hampton; and

WHEREAS, through Saunders Motor Company, Roger Saunders and his brothers Ralph and Kyle, fulfilled their late father's dream of entrepreneurship and focused on creating opportunities for other African American members of the community; and

WHEREAS, Roger Saunders earned many awards and accolades for his salesmanship and other professional achievements, and in 2015, he received an Annual Award from the Hampton Division of Fire & Rescue for his heroic, lifesaving efforts to help pull a woman from a burning vehicle; and

WHEREAS, Roger Saunders brought joy to friends through his passion for classic cars, and he was a loving and dedicated father, who was proud to support his daughter, Morgan, after she followed in his footsteps as a track and field athlete; and

WHEREAS, a man of quiet but devoted faith, Roger Saunders attended Antioch Baptist Church in his youth and joined First Baptist Church of Hampton as an adult; and

WHEREAS, Roger Saunders will be fondly remembered and greatly missed by his wife, Sonya; his daughter, Morgan; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Roger Allan Saunders, Jr., a successful automobile dealer and respected member of the Hampton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roger Allan Saunders, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 561

Nominating persons to be elected to circuit court judgeships.

Agreed to by the House of Delegates, February 23, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Robert G. MacDonald, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing March 16, 2021.

The Honorable Tyneka L. D. Flythe, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Holly B. Smith, of Gloucester, as a judge of the Ninth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Jacqueline S. McClenney, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Rondelle D. Herman, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing March 16, 2021.

Kathleen M. Uston, Esquire, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing April 1, 2021.

Tania L. Saylor Peterson, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Timothy W. Allen, of Franklin County, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Petula C. A. Metzler, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing May 1, 2021.

HOUSE RESOLUTION NO. 562

Nominating persons to be elected to general district court judgeships.

Agreed to by the House of Delegates, February 23, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Linda L. Bryant, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing March 16, 2021.

Tanya L. Lomax, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing April 1, 2021.

Tameeka M. Williams, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2021.

Helivi L. Holland, Esquire, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing April 1, 2021.

Charisse M. Mullen, Esquire, of Hampton, as a judge of the Seventh Judicial District for a term of six years commencing April 1, 2021.

Joshua P. DeFord, Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing November 1, 2021.

The Honorable Pamela Y. O'Berry, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing April 1, 2021.

Devika E. Davis, Esquire, of Henrico, as a judge of the Thirteenth Judicial District for a term of six years commencing June 1, 2021.

Jane M. Reynolds, Esquire, of Prince William, as a judge of the Fifteenth Judicial District for a term of six years commencing April 16, 2021.

Gary H. Moliken, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing May 1, 2021.

Jessica H. Foster, Esquire, of Fauquier, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2021.

Ché C. Rogers, Esquire, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing May 1, 2021.

HOUSE RESOLUTION NO. 563

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the House of Delegates, February 23, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Shawn W. Overbey, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing April 16, 2021.

Kimberly A. Kurkjian, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing August 1, 2021.

Brian J. Smalls, Esquire, of Williamsburg, as a judge of the Ninth Judicial District for a term of six years commencing April 1, 2021.

Mara M. Matthews, Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing July 1, 2021.

Stacy E. Lee, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing May 1, 2021.

The Honorable Andrea M. Stewart, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

Melissa S. Cardoce, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

Melinda L. VanLowe, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

Robert Bryan Haskins, Esquire, of Danville, as a judge of the Twenty-second Judicial District for a term of six years commencing July 1, 2021.

Theresa Deanna P. Stone, Esquire, of Franklin County, as a judge of the Twenty-second Judicial District for a term of six years commencing April 1, 2021.

Heather P. Ferguson, Esquire, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing April 1, 2021.

Robert C. Hagan, Jr., Esquire, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing June 1, 2021.

HOUSE RESOLUTION NO. 564

Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, February 23, 2021

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Kenneth R. Melvin, of Portsmouth, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.

HOUSE RESOLUTION NO. 565

Celebrating the life of Anne Cunningham Woodfin.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Anne Cunningham Woodfin, an esteemed business leader and educator and beloved member of the Richmond community, died on February 11, 2021; and

WHEREAS, a graduate of Hermitage High School in Henrico County, Anne Woodfin earned bachelor's degrees in mathematics and psychology from the Westhampton College of the University of Richmond in 1961; and

WHEREAS, Anne Woodfin cultivated the intellectual development of countless young people as a high school mathematics teacher, first at the Wildflecken Army Base outside of Wurzburg, Germany, where her husband, John, was stationed, and later in Henrico and Roanoke Counties and Staunton; and

WHEREAS, in 1977, Anne and John Woodfin founded Woodfin Oil, and as chairwoman of the board, she helped grow the small home heating oil company into Woodfin Heating, Inc., one of the Commonwealth's largest privately held companies for plumbing, electrical, heating, ventilation, air conditioning, energy, and other assorted services; and

WHEREAS, an active and engaged member of the community, Anne Woodfin served on various boards, including the Riverside School Board of Associates, The Steward School Board of Trustees, Mary Baldwin College Parent Council, and the Westhampton College Alumnae Association board; and

WHEREAS, appointed to the Virginia Military Institute Board of Visitors in 1994 by Governor George Allen, Anne Woodfin notably cast the deciding vote when the board decided to admit women to the school two years later; and

WHEREAS, Anne Woodfin was a member of many organizations dedicated to fostering cultural endeavors in the Commonwealth, including the Virginia Museum Council, the Virginia Historical Society, the Historic Richmond Foundation, Maymont Foundation, Windsor Farms Garden Club, Westhampton Citizens Association, and the Richmond Symphony League; and

WHEREAS, guided throughout her life by her faith, Anne Woodfin enjoyed worship and fellowship with her community at First Presbyterian Church in Richmond, where she was a longtime member; and

WHEREAS, preceded in death by her loving husband of 49 years, John, Anne Woodfin will be dearly remembered and fondly missed by her children, Suzanne and John, Jr., and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne Cunningham Woodfin, an accomplished businesswoman whose unwavering kindness, generosity, and dedication to her community touched countless lives in Richmond and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne Cunningham Woodfin as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 566

Commending Midtown Market.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Midtown Market, a family-owned, independent supermarket, has been a cherished fixture of the Danville community for 100 years; and

WHEREAS, founded in 1921 by J. M. Church, Midtown Market was initially known as Church Grocery and continues to serve Danville residents from its original wood-framed building on Chambers Street; and

WHEREAS, Midtown Market has been owned and operated by the Grant family since 1952, when B. C. Grant, Jr., purchased the business, and the store adopted its current name in 1966; and

WHEREAS, the current owner of Midtown Market, Jan Grant Harris, has worked diligently with other members of the family, including her mother, Irene Grant, and brother, Gary Grant, to uphold her late father's legacy of providing the community with the highest-quality products while maintaining a commitment to outstanding customer service; and

WHEREAS, Midtown Market has been supported by countless full-time and part-time employees over the years, and generations of local families have relied upon the establishment for staple items, as well as fresh, local produce and homemade specialties; and

WHEREAS, Midtown Market is best known for its signature chicken salad, producing up to hundreds of pounds daily for more than 50 years; a beloved local tradition, the dish has earned the store national acclaim, including when it was recognized by the magazine *Cooking with Paula Deen* in 2015; now, therefore, be it

RESOLVED by the House of Delegates, That Midtown Market hereby be commended on the occasion of its 100th anniversary of service to Danville residents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Midtown Market as an expression of the House of Delegates' admiration for its legacy of contributions to the community.

HOUSE RESOLUTION NO. 567

Commending Diana Stultz.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Diana Stultz retired as zoning administrator of Rockingham County on October 30, 2020, after nearly four decades of service; and

WHEREAS, before joining Rockingham County administration, Diana Stultz worked as a real estate professional and an accountant; she was hired as a secretary for the planning and zoning department in 1981 and promoted to zoning administrator in 1985; and

WHEREAS, during her distinguished 39-year career, Diana Stultz worked on more than 100 zoning and subdivision ordinances, representing every part of Rockingham County, and became a trusted source of institutional knowledge; and

WHEREAS, Diana Stultz demonstrated an unparalleled dedication to serving the residents of Rockingham County and supporting her fellow county employees, maintaining patience and professionalism in all her interactions; and

WHEREAS, in her well-earned retirement, Diana Stultz plans to spend more time with her beloved family and seek new opportunities to serve the community as a volunteer; now, therefore, be it

RESOLVED by the House of Delegates, That Diana Stultz hereby be commended on the occasion of her retirement as zoning administrator of Rockingham County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Diana Stultz as an expression of the House of Delegates' admiration for her service to the Rockingham County community.

HOUSE RESOLUTION NO. 568

Commending Loudoun County Public Schools educators and support staff.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, during the COVID-19 pandemic, Loudoun County Public Schools educators and support staff have successfully facilitated distance learning through online instruction and hybrid in-person instruction with safety measures and social distancing for more than 80,000 students; and

WHEREAS, Loudoun County Public Schools (LCPS) elementary school educators have provided instruction in all content areas, as well as special courses covering art, music, and physical education; secondary school teachers have continued to provide all available courses, virtual extracurricular activities, and in-person extracurricular activities with appropriate precautions; and

WHEREAS, LCPS educators at all levels provided students with opportunities to enrich social-emotional learning and receive mental health and wellness support; and

WHEREAS, LCPS distributed mobile hotspots to help students without reliable Internet access participate in virtual learning, and after the school division adopted a hybrid learning model, its dedicated teachers and staff members facilitated valuable in-person interaction and instruction on a safe, limited basis; and

WHEREAS, in addition to maintaining day-to-day operations in unprecedented circumstances, LCPS administrators have provided faculty and staff members with opportunities for professional development and training on the unique challenges of virtual learning; and

WHEREAS, LCPS substitute teachers assisted with operations by distributing laptops and meals to students, engaging in training opportunities, supervising care rooms for students exhibiting COVID-19 symptoms, and answering calls for service in the Technology Support Center; and

WHEREAS, teacher assistants and other educators have facilitated distance learning in a variety of ways, including leading breakout rooms, supporting whole group instruction, and conducting other important work to support students and teachers in distance learning; and

WHEREAS, LCPS Human Resources and Talent Development staff have held 54 in-person new hire sessions, serving 937 employees and 151 student teachers, and conducted 22 virtual onboarding sessions for 378 newly hired substitutes; and

WHEREAS, LCPS Health Services, Transportation, Safety and Security, Management and Coordination and Environmental Health Services staff developed and established a Health Mitigation Monitor program to observe and educate staff and students on health mitigation strategies that minimize the risk of transmission of the COVID-19 virus within the school community; and

WHEREAS, LCPS educators and support staff have established clear communication with parents, families, and the community to provide useful updates throughout the pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Loudoun County Public Schools educators and support staff hereby be commended for their outstanding work to provide virtual and hybrid learning during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loudoun County Public Schools educators and support staff as an expression of the House of Delegates' admiration for their achievements in service to young people in Loudoun County.

HOUSE RESOLUTION NO. 569

Commending the 100 Black Men of the Virginia Peninsula, Inc.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the 100 Black Men of the Virginia Peninsula, Inc., a community organization incorporated in 1990 to enhance the quality of life in the community through various educational and economic programs, has helped address issues stemming from the high rates of colorectal cancer and prostate cancer suffered by African Americans; and

WHEREAS, recognizing that colorectal cancer, which contributes to more than 50,000 deaths per year in the United States, disproportionately affects African Americans, the 100 Black Men of the Virginia Peninsula has developed programs to educate the community and encourage individuals to receive regular health screenings; and

WHEREAS, the regular screenings advocated by the 100 Black Men of the Virginia Peninsula are essential to a patient's timely diagnosis and successful health outcome, as the vast majority of deaths caused by colorectal cancer could have been prevented through the early detection and removal of cancerous polyps in the colon and rectum; and

WHEREAS, the 100 Black Men of America, Inc., the parent organization of the 100 Black Men of the Virginia Peninsula, recommends yearly rectal exams for high-risk individuals beginning at the age of 35, addressing the problem that African American men are more likely to be diagnosed with colorectal cancer when the disease is in an advanced stage and more difficult to treat and that African Americans are diagnosed with colorectal cancer at a younger age than other demographics; and

WHEREAS, each fall, the 100 Black Men of the Virginia Peninsula partners with the Peninsula Institute for Community Health to offer its annual men's health screening clinic; and

WHEREAS, by providing a free and comprehensive medical evaluation every year to male members of the general public, the 100 Black Men of the Virginia Peninsula serves a demographic that is less likely to seek prompt medical care, greatly improving health outcomes in the community; and

WHEREAS, with early detection recognized as one of the most effective strategies for mitigating the effects of colorectal cancer, educational programs and patient navigation systems emphasizing screening, like those offered by the 100 Black Men of the Virginia Peninsula, are a powerful tool in the fight against this disease; and

WHEREAS, according to the Memorial Sloan Kettering Cancer Center, African American men are 50 percent more likely to develop prostate cancer compared to other population groups and twice as likely to die from the disease; in response to this disparity, the 100 Black Men of the Virginia Peninsula advocates for regular prostate cancer screenings as part of its public health campaigns; and

WHEREAS, through its annual screening clinic and other activities to raise awareness of these health issues, the 100 Black Men of the Virginia Peninsula is driving efforts to reduce the incidence of colorectal cancer and prostate cancer in the African American community; now, therefore, be it

RESOLVED by the House of Delegates, That the 100 Black Men of the Virginia Peninsula, Inc., hereby be commended for the organization's meritorious efforts to improve public health and address the high rate of colorectal and prostate cancer impacting the African American community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the president of the 100 Black Men of the Virginia Peninsula, Inc., as an expression of the House of Delegates' high regard for the organization and its efforts to support the health and well-being of residents of the Commonwealth.

HOUSE RESOLUTION NO. 570

Commending Eselyn Maheia.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Eselyn Maheia, a passionate and dedicated educator, has given countless students in the Commonwealth the tools to become lifelong learners; and

WHEREAS, driven to help the people who needed it most, Eselyn Maheia pursued specialized degrees to support vulnerable young people and students with developmental disabilities; and

WHEREAS, Eselyn Maheia began her career in the juvenile justice system and implemented principles from behavioral science research to help young people develop social skills and become contributing members of society after release; and

WHEREAS, Eselyn Maheia subsequently joined Richmond Public Schools as a special education teacher, helping students with emotional, physical, developmental, and learning challenges build confidence to succeed in and out of the classroom; and

WHEREAS, for more than a decade, Eselyn Maheia has worked as an autism support teacher at Fred Lynn Middle School in Woodbridge; and

WHEREAS, over the course of her distinguished career, Eselyn Maheia has touched the lives of countless young people and served as a trusted friend and mentor to many of her colleagues; now, therefore, be it

RESOLVED by the House of Delegates, That Eselyn Maheia hereby be commended for her years of service as an educator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eselyn Maheia as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 571

Commending the Reverend Dr. Alfred Jones, Jr.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Reverend Dr. Alfred Jones, Jr., pastor of Mount Zion Baptist Church in Triangle, has graciously provided spiritual guidance to members of his community for many years; and

WHEREAS, born into a family with a strong religious background, Alfred Jones pursued a leadership role in the church from a young age; toward this end, he attended the Washington Bible College, Washington Baptist Theological Seminary, and the Virginia Union University School of Theology; and

WHEREAS, Alfred Jones has enjoyed an illustrious career as a pastor, serving at Ephesus Baptist Church of West Point, Third Mount Zion Baptist Church of Woodford, and Mount Zion Baptist Church of Triangle over a career spanning more than a half-century; and

WHEREAS, during Alfred Jones's tenure with Mount Zion Baptist Church, the congregation has grown significantly and five of the church's fundamental ministries have seen marked development; and

WHEREAS, Alfred Jones has been highly involved with numerous faith organizations, including the Baptist General Convention of Virginia, the National Baptist Convention, USA, Inc., the Progressive National Baptist Convention, the Lott Carey Foreign Mission Convention, and the Hampton University Ministers' Conference; and

WHEREAS, Alfred Jones's efforts as a spiritual mentor have included roles as co-president of the Eastern Prince William Ministerial Association, as a chaplain of Sentara hospital in Woodbridge and the Prince William County Police Department, and as second vice moderator of the Northern Virginia Baptist Association; and

WHEREAS, in recognition of his accomplishments as a pastor and civic leader, Alfred Jones was awarded an honorary doctor of divinity degree from the Triangle Bible Institute; and

WHEREAS, through sagacious leadership and an unwavering dedication to his community, Alfred Jones has helped edify and uplift countless citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Dr. Alfred Jones, Jr., hereby be commended for his legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Alfred Jones, Jr., as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 572*Commending Grace Church.*

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, since 1998, Grace Church in Dumfries has served members of the Prince William County community by providing spiritual leadership, generous outreach programs, and opportunities for joyful worship; and

WHEREAS, starting with a congregation of 12 members that gathered in a local high school, Grace Church has since cultivated a membership of more than 6,000 and established its own church facility for its services; and

WHEREAS, Grace Church is known for its compelling Bible studies ministry, vibrant worship services, life-building children and youth departments, and ardent emphasis on personal integrity and community service; and

WHEREAS, members of Grace Church are guided by their beliefs in reaching those who are lost, empowering those who are hurting, assimilating those who are lonely, and leading their generation for Christ; and

WHEREAS, Grace Church has grown over the years to offer more than 50 unique ministries and outreach programs designed to support the members of the community and enhance the quality of life of all Dumfries residents; and

WHEREAS, members of Grace Church have become leaders in their professions and the community, empowered and inspired by the lessons of grace and generosity learned at their home church; now, therefore, be it

RESOLVED by the House of Delegates, That Grace Church hereby be commended for its many years of spiritual leadership and service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Derek Grier, founding pastor of Grace Church, as an expression of the House of Delegates' admiration for the church's legacy of contributions to the Dumfries community.

HOUSE RESOLUTION NO. 573*Commending Aquia Episcopal Church.*

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Aquia Episcopal Church, the oldest active church in Stafford County, has served members of the community through spiritual leadership, generous outreach programs, and opportunities for joyful worship for more than 350 years; and

WHEREAS, initially established in 1667 shortly after the creation of Stafford County, the current Aquia Episcopal Church building was constructed of brick and aquia stone between 1751 and 1757; and

WHEREAS, noted as the childhood church of founding father George Mason, Aquia Episcopal Church survived the Revolutionary War, the War of 1812, and the Civil War to stand today as one of the finest examples of a colonial church interior in the Commonwealth; and

WHEREAS, Aquia Episcopal Church has an active congregation that has grown over the years to offer many unique ministries and outreach programs with an intent to enhance the quality of life of all Stafford County residents; and

WHEREAS, members of Aquia Episcopal Church have become leaders in their professions and the community, empowered by the lessons of grace and generosity learned at their church; and

WHEREAS, as both a welcoming home for spiritual worship and a shining example of colonial history and culture, Aquia Episcopal Church continues to greatly inspire and enlighten countless Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Aquia Episcopal Church hereby be commended for more than 350 years of spiritual leadership and service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of Aquia Episcopal Church as an expression of the House of Delegates' admiration for the church's legacy of contributions to the Stafford County community.

HOUSE RESOLUTION NO. 574*Commending the Fredericksburg Area Alumnae Chapter of Delta Sigma Theta Sorority, Inc.*

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, for 40 years, the Fredericksburg Area Alumnae Chapter of Delta Sigma Theta Sorority, Inc., has played an active role in the Fredericksburg community; and

WHEREAS, Delta Sigma Theta Sorority was established in 1913 by college-educated African American women seeking opportunities to strengthen and support their communities; the Fredericksburg Area Alumnae Chapter of the sorority was founded in 1980; and

WHEREAS, the Fredericksburg Area Alumnae Chapter has a large variety of programs designed to help individuals in the community, including programs on economic development, support for schools, civic awareness and involvement, social outreach, and physical and mental health; and

WHEREAS, the Fredericksburg Area Alumnae Chapter has helped many young people achieve a good education by awarding the Carrie Hill Tatum Memorial Scholarship to college-bound high school seniors; and

WHEREAS, the Fredericksburg Area Alumnae Chapter has empowered countless women to pursue leadership roles and make a difference in the lives of others; now, therefore, be it

RESOLVED by the House of Delegates, That the Fredericksburg Area Alumnae Chapter of Delta Sigma Theta Sorority, Inc., hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fredericksburg Area Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the House of Delegates' admiration for its legacy of contributions to the community.

HOUSE RESOLUTION NO. 575

Commending Elana Cohen.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Elana Cohen, a dedicated educator with Prince William County Public Schools, has served and inspired young people throughout the Commonwealth for many years; and

WHEREAS, Elana Cohen began her career in education as a vocational teacher with Montgomery County Public Schools and later transitioned to support students with autism; and

WHEREAS, while pursuing a master's degree from the Johns Hopkins School of Education, Elana Cohen interned at the prestigious Kennedy Krieger Institute Lifeskills and Education for Students with Autism and other Pervasive Behavioral Challenges Program; and

WHEREAS, Elana Cohen currently works as a special education teacher at Forest Park High School in Prince William County, where she is trusted by her students and admired by her colleagues; and

WHEREAS, throughout her distinguished career, Elana Cohen has touched countless young lives by working with students in preschool through 12th grade, and she has taught courses for adults at a local community college; now, therefore, be it

RESOLVED by the House of Delegates, That Elana Cohen hereby be commended for her service as a teacher and an advocate for students with autism; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elana Cohen as an expression of the House of Delegates' admiration for her commitment to excellence and service to young people.

HOUSE RESOLUTION NO. 576

Commending Bishop Lyle Dukes and Pastor Deborah Dukes.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Bishop Lyle Dukes and Pastor Deborah Dukes, highly admired faith leaders in Woodbridge, have served the community for more than 25 years as the founders and pastors of Harvest Life Church; and

WHEREAS, Deborah Dukes is the daughter of Bishop Carver Poindexter and Pastor Lorene Poindexter who lead the Love of Christ Church in Alexandria and holds a bachelor's degree in Christian education; and

WHEREAS, Lyle Dukes is a graduate of the University of Virginia, who earned a master of divinity degree and conducted studies in business administration; he has served his country as an officer in the United States Army; and

WHEREAS, both prolific writers, Lyle Dukes has authored and published more than 20 books and Deborah Dukes has written, produced, and directed four stage plays: "Church Wives," "The #1 Player," "The Sinner's Choir," and "The Wishing Well"; and

WHEREAS, in addition to founding Harvest Life Church in 1995, Lyle Dukes is the presiding bishop of Churches United, a global ministry that includes approximately 500 churches in the United States and abroad, while Deborah Dukes serves as executive director of the organization; and

WHEREAS, Lyle and Deborah Dukes inspired their daughter, Brittany, to become a minister, and she and her husband, Brandon, serve alongside her parents in their many benevolent endeavors; now, therefore, be it

RESOLVED by the House of Delegates, That Bishop Lyle Dukes and Pastor Deborah Dukes hereby be commended for their legacy of contributions to the Woodbridge community and people around the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bishop Lyle Dukes and Pastor Deborah Dukes as an expression of the House of Delegates' admiration for their service and spiritual leadership.

HOUSE RESOLUTION NO. 577

Commending Bishop Dr. Leonard B. Lacey.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Bishop Dr. Leonard B. Lacey, senior pastor of United Faith Christian Ministry in Stafford County, has graciously provided spiritual guidance to members of his community for many years; and

WHEREAS, a native of Alabama, Leonard Lacey settled in the Commonwealth in 1971 and enjoyed an illustrious 33-year career with the Virginia State Police; and

WHEREAS, Leonard Lacey enrolled at the Fredericksburg Bible Institute in 1988 and ultimately received a degree in religious studies; and

WHEREAS, Leonard Lacey's other educational pursuits included a bachelor's degree from the University of Mary Washington, a post-baccalaureate certificate in criminal justice administration from Virginia Commonwealth University, and a master's degree in preaching from Richmond Virginia Seminary; and

WHEREAS, Leonard Lacey has given generously of his time, talents, and resources to helping others, and to further these ambitions, he became the founding pastor of United Faith Christian Ministry in 2001; and

WHEREAS, Leonard Lacey's spiritual mentorship includes roles as a chaplain with the United States Department of Justice, the United States Drug Enforcement Administration, and the Stafford County Sheriff's Office; and

WHEREAS, an accomplished author who has published several books and newspaper articles, Leonard Lacey produces a weekly radio announcement entitled "Link2Life"; and

WHEREAS, through sagacious leadership and an unwavering dedication to his community, Leonard Lacey has helped edify and uplift countless citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That Bishop Dr. Leonard B. Lacey hereby be commended for his legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bishop Dr. Leonard B. Lacey as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 578

Commending the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, for more than 36 years, the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., has played an active role in the Prince William County community; and

WHEREAS, Delta Sigma Theta Sorority was established in 1913 by college-educated African American women seeking opportunities to strengthen and support their communities; the Prince William County Alumnae Chapter of the sorority was founded in 1984; and

WHEREAS, the Prince William County Alumnae Chapter has a large variety of programs designed to help individuals in the community, including programs on economic development, support for schools, civic awareness and involvement, social outreach, and physical and mental health; and

WHEREAS, the Prince William County Alumnae Chapter has received numerous accolades from the South Atlantic Regional Conference of Delta Sigma Theta Sorority for its excellence in information and communication and educational development and awareness, as well as the success of its Arts and Letters Program and work to promote science, technology, engineering, and mathematics (STEM) education; now, therefore, be it

RESOLVED by the House of Delegates, That the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., hereby be commended for its more than 36 years of service to residents of Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the House of Delegates' admiration for its legacy of contributions to the community.

HOUSE RESOLUTION NO. 579

Commending the Loudoun County Public Schools Education Technology Team and Department of Digital Innovation.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, during the COVID-19 pandemic, the Loudoun County Public Schools Education Technology Team and Department of Digital Innovation have worked diligently to support students and faculty members conducting virtual classes; and

WHEREAS, in spring 2020, the Loudoun County Public Schools (LCPS) Education Technology Team successfully implemented the Schoology virtual learning environment system by developing training courses for teachers and coordinating with curriculum teams and external partners to build specialized lesson plans; and

WHEREAS, the LCPS Education Technology Team supported the distribution of devices to students and has handled countless requests for assistance and repair services through a team of 120 digital experts at 11 sites; and

WHEREAS, to ensure that students had the tools they needed to succeed in at-home virtual learning, the LCPS Department of Digital Innovation distributed more than 80,000 Google Chromebook laptops to all students in pre-kindergarten to 12th grade; and

WHEREAS, the LCPS Department of Digital Innovation originally provided the laptops to students in third grade and up who did not already have access to a home computer; the program was later expanded to give all students a safe, secure platform for virtual learning; and

WHEREAS, throughout 2020 and into 2021, the LCPS Education Technology Team and Department of Digital Innovation continued to provide technical support and assistance for students and professional development and guidance for teachers to help virtual learning continue with minimal interruptions; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Public Schools Education Technology Team and Department of Digital Innovation hereby be commended for their work to implement virtual learning during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Public Schools Education Technology Team and Department of Digital Innovation as an expression of the House of Delegates' admiration for their achievements in service to students in Loudoun County.

HOUSE RESOLUTION NO. 580

Commending David Dugan.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, David Dugan, a member of the Williamsburg community with decades of experience in the medical supply industry, postponed his retirement to help support the response to the COVID-19 pandemic; and

WHEREAS, a proud native of Plymouth, Pennsylvania, David Dugan has worked for pharmaceutical companies for more than 50 years, specializing in the manufacture of ampules and vials; and

WHEREAS, David Dugan handled accounts for several of the largest drug manufacturers in the world and retired from West Pharmaceutical Services in the early 2000s; he was subsequently recruited by Ompi of America as a consultant, then accepted a full-time position; and

WHEREAS, at the outset of the COVID-19 pandemic, David Dugan postponed his planned second retirement to coordinate the manufacture and delivery of testing vials to pharmaceutical companies conducting vaccine research; and

WHEREAS, David Dugan offered his expertise to federal government task forces related to COVID-19 and has routinely worked more than 60 hours per week during the pandemic; and

WHEREAS, throughout his career and especially during the COVID-19 pandemic, David Dugan has touched countless lives through his professionalism, integrity, and dedication to service; now, therefore, be it

RESOLVED by the House of Delegates, That David Dugan hereby be commended for his outstanding contributions to the response to the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Dugan as an expression of the House of Delegates' admiration for his professional achievements.

HOUSE RESOLUTION NO. 581

Commending Honey Jam Productions.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Honey Jam Productions, a nonprofit organization founded by L. D'Shawn Wright and Jenny Joyner, strives to build consensus and understanding between different communities on important societal issues; and

WHEREAS, L. D'Shawn Wright and Jenny Joyner are both small business owners who have served the community in a number of ways; D'Shawn Wright owns two gyms, two salon and barber shops, and a motivational speaking company, while Jenny Joyner owns plumbing and underground utilities businesses; and

WHEREAS, as members of the York-Poquoson Sheriff's Office Citizen Advisory Committee, D'Shawn Wright and Jenny Joyner have helped strengthen ties between law-enforcement officers and members of the public, and they have supported similar initiatives in Portsmouth, Yorktown, and Gloucester County; and

WHEREAS, D'Shawn Wright and Jenny Joyner established Honey Jam Productions in 2020 to promote open-minded solutions for controversial issues facing communities throughout the Commonwealth and the nation, including race relations, police reform, and civil rights and equality; and

WHEREAS, Honey Jam Productions hosts Hard Talk Town Halls to discuss relevant events and build bridges between people of different ethnicities, backgrounds, professions, and political parties; and

WHEREAS, Honey Jam Productions has raised more than \$10,000 to support the Boys and Girls Clubs of the Virginia Peninsula, the Virginia Peninsula Foodbank, 4 Paws Animal Rescue, and other worthy causes; and

WHEREAS, Honey Jam Productions has increased understanding of complex issues through better communication, fostered trust and mutual respect between community groups, and provided generous outreach to people in need; now, therefore, be it

RESOLVED by the House of Delegates, That Honey Jam Productions hereby be commended for its work to build stronger communities by fostering dialogue on important issues; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to L. D'Shawn Wright and Jenny Joyner, founders of Honey Jam Productions, as an expression of the House of Delegates' admiration for the organization's vital mission.

HOUSE RESOLUTION NO. 582

Commending McCabe's Printing Group.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, McCabe's Printing Group, a commercial printing and copy center in the Merrifield area of Fairfax County, has provided high-quality services and community outreach to local residents for more than 40 years; and

WHEREAS, established in 1980, McCabe's Printing Group has developed deep roots in the community as a trusted partner helping businesses meet their marketing and communication needs; and

WHEREAS, Tina Cross, owner of McCabe's Printing Group, has led the business to support countless local charitable organizations by offering discounted printing services and hosting toy and clothing drives and fundraisers for worthy causes; and

WHEREAS, during the COVID-19 pandemic, McCabe's Printing Group promoted safety and social distancing by offering free and discounted signage for restaurants and retailers to advertise curbside pick-up options; and

WHEREAS, McCabe's Printing Group further supported the response to the pandemic by distributing masks and hand sanitizer to customers and other members of the community; and

WHEREAS, McCabe's Printing Group commemorated its 40th anniversary of community service in August 2020; now, therefore, be it

RESOLVED by the House of Delegates, That McCabe's Printing Group hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tina Cross, owner of McCabe's Printing Group, as an expression of the House of Delegates' admiration for the business's achievements in service to generations of Fairfax County residents.

HOUSE RESOLUTION NO. 583

Commending Connor Shepherd.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Connor Shepherd of Hampton turned a school assignment into an opportunity to support a local animal shelter and strengthen the community; and

WHEREAS, tasked with writing a persuasive letter, 10-year-old Connor Shepherd decided to make a difference in the community by writing to local pet stores and asking them to donate toys to the Peninsula Regional Animal Shelter; and

WHEREAS, Connor Shepherd hoped to collect a few toys to provide comfort items for animals waiting to be adopted; and

WHEREAS, the PetSmart store on Jefferson Avenue in Newport News responded to Connor Shepherd's finely crafted letter and exceeded his expectations by donating an array of toys, leashes, collars, beds, food, and treats; and

WHEREAS, the Peninsula Regional Animal Shelter, which serves York County and the Cities of Hampton, Newport News, and Poquoson, used Connor Shepherd's donations to build 30 adoption care bags to send home with people who had recently adopted pets from the shelter; and

WHEREAS, Connor Shepherd has inspired others through his leadership and commitment to brighten the days of both people and animals in his community; now, therefore, be it

RESOLVED by the House of Delegates, That Connor Shepherd hereby be commended for his work to support the Peninsula Regional Animal Shelter; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Connor Shepherd as an expression of the House of Delegates' admiration for his achievements in service to the Hampton community.

HOUSE RESOLUTION NO. 584

Commending Ebenezer Baptist Church.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Ebenezer Baptist Church in Woodbridge, which has long offered sage spiritual leadership, generous outreach, and opportunities for uplifting worship to the residents of Prince William County, celebrates its 138th anniversary in 2021; and

WHEREAS, Ebenezer Baptist Church was founded by a freed slave, Lewis Henry Bailey, who walked from Texas to the Commonwealth to rejoin his family after emancipation; and

WHEREAS, in 1881, seven years after the incorporation of the Town of Occoquan, land was purchased for the erection of the church's first edifice, and Ebenezer Baptist Church became the first African American church established in that part of Northern Virginia; and

WHEREAS, working with devout men and women who toiled diligently to establish a church home for themselves and their descendants, the Reverend Lewis Henry Bailey led Ebenezer Baptist Church in laying the cornerstone for its building in May 1883; and

WHEREAS, since 1883, the congregation of Ebenezer Baptist Church has paused on the first Sunday in May of each year to commemorate the laying of the cornerstone and to express thanksgiving and gratitude unto God for His many blessings; and

WHEREAS, on the first Sunday in May 1914 at the Occoquan River, Ebenezer Baptist Church held the largest baptismal ceremony in the history of the church, welcoming into its fold 40 converts to the Christian faith; and

WHEREAS, from its humble beginnings, Ebenezer Baptist Church has continued to grow, prosper, and expand, becoming a vital and active congregation that serves and ministers to the spiritual and physical needs of congregants and the community through its vast outreach programs; and

WHEREAS, Ebenezer Baptist Church is a warm and inviting church family whose mantra is "We are a family of friends and a friend to the family"; its many ministries are biblically based and designed to meet the spiritual needs of every member, promote unity and faithfulness to the Christian walk, support the renewal and reunion of families, provide and encourage Bible study for all ages, and offer special events and activities for children and various programs for adults that facilitate a well-rounded approach to bringing families closer to one another and to God; and

WHEREAS, through several ministries, Ebenezer Baptist Church provides diverse opportunities and wholesome experiences for members and the community to become engaged in personal growth and service to others; and

WHEREAS, Ebenezer Baptist Church's role and ministry in the community has grown over many years, and on June 23, 1990, God called and the people affirmed the Reverend Charles A. Lundy as pastor to lead the church through the difficult and arduous task of constructing a larger sanctuary to accommodate the fast-growing church family; and

WHEREAS, together with the abiding faith and dedication of its members and its outstanding ministries, and working cooperatively with other churches to address pressing community needs, the expansion of Ebenezer Baptist Church enabled it to enter its second century of service to the Woodbridge community and the Commonwealth on a sure and solid foundation, looking toward the many great milestones that lie ahead; now, therefore, be it

RESOLVED by the House of Delegates, That Ebenezer Baptist Church hereby be commended on the occasion of its 138th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Charles A. Lundy, pastor of Ebenezer Baptist Church, as an expression of the House of Delegates' appreciation and recognition of the church's outstanding contributions to Woodbridge and the Commonwealth.

HOUSE RESOLUTION NO. 585

Commending the Hammond Agency.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, the Hammond Agency of Fairfax County commemorated 40 years of serving the community's insurance and investment needs in 2020; and

WHEREAS, established on June 1, 1980, by founder and president Karen Hammond, the Hammond Agency has since helped hundreds of businesses and individuals in Northern Virginia make smart and informed decisions with regard to their insurance options and investment planning; and

WHEREAS, an independent, free-standing agency, the Hammond Agency has supported both employers and employees of the Commonwealth by providing client-centered, unbiased consultations on myriad financial services and products; and

WHEREAS, the Hammond Agency has played a valuable role throughout the COVID-19 pandemic by guiding clients as they navigate the tumultuous effects of the public health crisis on businesses, insurance plans, and investment strategies; and

WHEREAS, the Hammond Agency has generously donated hundreds of masks to both clients and local health care facilities to promote health and safety during the COVID-19 pandemic; and

WHEREAS, the Hammond Agency's founder and president, Karen Hammond, has championed the business community of Merrifield in Fairfax County as past president and current board director of the Greater Merrifield Business Association and through involvement with various task forces and other endeavors; and

WHEREAS, by fostering the success and prosperity of businesses and individuals for nearly a half-century, the Hammond Agency has been a part of what makes the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the Hammond Agency, an insurance and financial services agency in Fairfax County, hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Hammond, founder and president of the Hammond Agency, as an expression of the House of Delegates' admiration for the company's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 586

Commending Ronan Bates.

Agreed to by the House of Delegates, February 25, 2021

WHEREAS, Ronan Bates, a sophomore at Justice High School in Fairfax County, completed his Eagle Scout service project in November 2020 and will achieve the prestigious rank of Eagle Scout, the highest rank in Scouts BSA, in March 2021; and

WHEREAS, Ronan Bates joined a limited number of Scouts who have met the standards of excellence necessary to achieve the rank of Eagle Scout by earning a minimum of 21 merit badges, demonstrating Scout spirit and leadership in his troop, and planning and coordinating a service project; and

WHEREAS, for his Eagle Scout service project, Ronan Bates adapted a project he completed in fifth grade for his International Baccalaureate Primary Years Programme and built an outdoor classroom for Belvedere Elementary School; and

WHEREAS, Ronan Bates's outdoor classroom will provide students with an environment more conducive to learning about ecology and environmental issues, as well as provide an in-person instruction space that allows for social distancing during the COVID-19 pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Ronan Bates hereby be commended on attaining the rank of Eagle Scout in Scouts BSA; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ronan Bates as an expression of the House of Delegates' admiration for his accomplishments and best wishes for the future.

HOUSE RESOLUTION NO. 587

Commending the staff of the Loudoun County Public Schools COVID-19 vaccine point of distribution.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the staff of the Loudoun County Public Schools COVID-19 vaccine point of distribution have admirably served the Commonwealth during the unprecedented public health crisis by safely and effectively administering the COVID-19 vaccine to Loudoun County Public Schools staff; and

WHEREAS, Loudoun County Public Schools (LCPS) has collaborated with the Loudoun County Health Department and the Loudoun County Office of Emergency Management to establish and operate its COVID-19 vaccine point of distribution (POD), constructing the temporary clinic at Brambleton Middle School in Ashburn in only three days; and

WHEREAS, the staff of the LCPS COVID-19 vaccine POD began administering vaccinations on January 15, 2021, and within three weeks had administered the first dose of the vaccine to nearly 10,500 LCPS employees; and

WHEREAS, the LCPS COVID-19 vaccine POD is staffed by 80 members of LCPS Student Health Services, including more than 40 registered nurses, and has delivered nearly 1,000 inoculations per day when operating at full capacity; and

WHEREAS, in addition to administering vaccinations and implementing COVID-19 mitigation strategies, the staff of the LCPS COVID-19 vaccine POD have provided onsite mental health and wellness support and language interpretation services as necessary; and

WHEREAS, LCPS Student Health Services, led by supervisor Jeannie Kloman and specialist Kelly Thomas, coordinated with the Loudoun County Health Department to direct and assist nurses at the LCPS COVID-19 vaccine POD; and

WHEREAS, members of LCPS leadership, including Clark Bowers, director of the Office of Student Services; Brian Stocks, director of Support Services; Justin Donovan, director of Digital Experience; and Scott Davies, director of the Transportation Division, have played an outsized role in ensuring the safe and smooth operation of the LCPS COVID-19 vaccine POD; and

WHEREAS, along with supporting efforts at the LCPS COVID-19 vaccine POD, LCPS Student Health Services staff continue to foster the health and well-being of the district's students, while LCPS Student Assistance Services staff have developed virtual programs to provide students with substance abuse prevention and intervention strategies, an initiative

that is particularly valuable at a time when COVID-19 has exacerbated the problem of substance abuse in the community; now, therefore, be it

RESOLVED by the House of Delegates, That the staff of the Loudoun County Public Schools COVID-19 vaccine point of distribution hereby be commended for demonstrating an inspirational commitment to the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of the Loudoun County Public Schools COVID-19 vaccine point of distribution as an expression of the House of Delegates' admiration for their noteworthy contributions to the Commonwealth.

HOUSE RESOLUTION NO. 588

Celebrating the life of Richard Pitts, Sr.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Richard Pitts, Sr., an accomplished athlete, esteemed coach and educator, and beloved member of the Hampton Roads community, died on January 9, 2021; and

WHEREAS, affectionately known by friends and family as "Pop," Richard Pitts was a standout athlete at Booker T. Washington High School in Norfolk, leading the boys' basketball team to consecutive Virginia Interscholastic Association state finals; and

WHEREAS, Richard Pitts achieved great success at what is now Norfolk State University, where he notched 1,883 points and 1,235 rebounds over his career, good for seventh and second on the school's all-time leaderboard; and

WHEREAS, along with various league honors, Richard Pitts helped carry the Norfolk State University basketball team to the National Association of Intercollegiate Athletics national tournament semifinals in 1966; and

WHEREAS, after a tenure at Peninsula Catholic High School in Newport News from 1970 to 1975, Richard Pitts served variously as an athletic director, teacher, and coach of the boys' basketball team at Menchville High School in Newport News for nearly 30 years; and

WHEREAS, Richard Pitts was notably the first African American athletic director at a Newport News high school since the school system had been integrated in 1971 and was highly regarded by all for his steadfast commitment to his student-athletes and coaches; and

WHEREAS, Richard Pitts lived by his belief in the importance of integrity and hard work, and his legacy endures through the accomplishments of the myriad student-athletes and coaches he mentored over his career; and

WHEREAS, in recognition of his achievements as an athlete, coach, and athletic director, Richard Pitts was inducted into the Central Intercollegiate Athletic Association Hall of Fame, the Norfolk State University Hall of Fame, and the Hampton Roads African American Sports Hall of Fame; in 2014, the Richard "Pop" Pitts Track Classic at Todd Stadium in Newport News was held in his honor; and

WHEREAS, guided throughout his life by his faith, Richard Pitts enjoyed worship and fellowship with his community at Ivy Baptist Church in Newport News, where he was a devoted member for more than 40 years and former chairman of the trustee board; and

WHEREAS, Richard Pitts will be fondly remembered and dearly missed by his loving wife of more than 50 years, Viola; his children, Rosalyn and Richard, Jr., and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Richard Pitts, Sr., a legend of the Hampton Roads athletic community whose unwavering kindness, generosity, and dedication left an impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Pitts, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 589

Celebrating the life of John B. Davis.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, John B. Davis, esteemed and longtime clerk of the Augusta County Circuit Court and beloved member of the Fishersville community, died on January 28, 2021; and

WHEREAS, a graduate of Wilson Memorial High School in Fishersville with a bachelor's and master's degree from James Madison University, John Davis served Augusta County Public Schools for 11 years as a teacher, guidance counselor, and administrator, contributing greatly to the success of his students both in and out of the classroom; and

WHEREAS, elected the clerk of the Augusta County Circuit Court in 1983, John Davis ably served his community for 31 years by overseeing a host of legal services and procedures, including the filing and processing of wills; the

administration of civil, divorce, and criminal cases; the maintenance of historic records; and the issuing of marriage licenses and gun permits; and

WHEREAS, starting as clerk at a time when the Augusta County Circuit Court operated entirely on paper, John Davis was instrumental in the courthouse's transition to a fully digital operation over the past three decades; and

WHEREAS, John Davis's tenure as clerk of the Augusta County Circuit Court was characterized by his extraordinary ability to connect with people from all walks of life and his commitment to supporting colleagues in Augusta County and beyond; and

WHEREAS, John Davis embraced his role as a public servant and delighted in opportunities to help citizens of Augusta County better understand the legal system, exuding a passion for his work that was inspirational to many; and

WHEREAS, John Davis was a member of the Augusta County Historical Society for more than three decades and served the organization in various leadership roles; his work both with the Augusta County Circuit Court and the Augusta County Historical Society led to the careful preservation of irreplaceable courthouse records from past centuries and the mentorship of many aspiring genealogists; and

WHEREAS, John Davis served on the Augusta Health Board of Directors and on several of the organization's committees for more than 23 years, a period marked by significant growth, an expansion of services, and award-winning care; and

WHEREAS, John Davis will be fondly remembered and dearly missed by his loving wife, Patrice; his two sons, Andrew and Joseph, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John B. Davis, distinguished clerk of the Augusta County Circuit Court, whose unwavering kindness, generosity, and dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John B. Davis as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 590

Commending Clare and Don's Beach Shack and Lazy Mike's Delicatessen.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen, cherished eating establishments in Falls Church, have admirably served their community throughout the COVID-19 pandemic; and

WHEREAS, Clare and Don's Beach Shack has served the Northern Virginia community for more than 16 years, while its partner restaurant, Lazy Mike's Delicatessen, has been a staple of the Falls Church restaurant scene for more than 25 years; and

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen recently donated to SafeHaven, The Bailey's Shelter and New Hope Housing, and Food Justice DMV, which delivers food directly to immigrant families facing food insecurity; and

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen provided over 1,500 meals to frontline health care workers, including the drive-through COVID-19 testing team at the Virginia Hospital Center in Arlington; and

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen delivered lunch to frontline workers every day for several weeks and built partnerships with other local restaurants to expand their service; and

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen donated meals to respiratory therapists and other staff at Inova Fairfax Hospital and intensive care unit nurses at a hospital in Florida; and

WHEREAS, Clare and Don's Beach Shack and Lazy Mike's Delicatessen have partnered with two local churches to feed residents at a homeless shelter and have continued their regular donations to area food banks; and

WHEREAS, the staff of Clare and Don's Beach Shack and Lazy Mike's Delicatessen have made extra efforts while serving customers during the COVID-19 pandemic, including hand-delivering food to elderly and immunocompromised patrons when necessary; and

WHEREAS, by offering customers the option to buy meals for frontline workers, Clare and Don's Beach Shack and Lazy Mike's Delicatessen have rallied the community's support for our hospitals during this unprecedented public health crisis; now, therefore, be it

RESOLVED by the House of Delegates, That Clare and Don's Beach Shack and Lazy Mike's Delicatessen hereby be commended for generously serving the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the owners of Clare and Don's Beach Shack and Lazy Mike's Delicatessen as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 591

Commending The Original Pancake House.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, for 30 years, The Original Pancake House in Falls Church has provided award-winning meals to local residents and visitors and conducted generous community outreach to support individuals and families in need; and

WHEREAS, a family business founded in Portland, Oregon, in 1953, The Original Pancake House has grown to include more than 100 franchise locations across the country, including the Falls Church restaurant; and

WHEREAS, established in 1991, The Original Pancake House in Falls Church was initially located on Broad Street and later relocated to Lee Highway; it is the only such franchise in Virginia and one of only three in the Washington, D.C., metropolitan area; and

WHEREAS, The Original Pancake House has held fundraisers to benefit numerous nonprofit organizations and important causes, including the National Multiple Sclerosis Society; for many years, the business has collected winter coats and other articles of clothing to donate to less fortunate members of the community; and

WHEREAS, during the COVID-19 pandemic, The Original Pancake House took appropriate precautions to continue serving customers and employing dozens of people; the restaurant has raised money to support local first responders and provide free meals to families in need; now, therefore, be it

RESOLVED by the House of Delegates, That The Original Pancake House hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Original Pancake House as an expression of the House of Delegates' admiration for the restaurant's legacy of contributions to the Falls Church community.

HOUSE RESOLUTION NO. 592

Commending Communications Electronics.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, for 40 years, Communications Electronics has provided communications solutions and expertise to clients throughout the Mid-Atlantic region; and

WHEREAS, established in Maryland in 1976, Communications Electronics offers a diverse range of wired and wireless communications products and expertise in system engineering, design, installation, and maintenance of communications technology; and

WHEREAS, Terry Zaccarino and Glenn Cassell subsequently founded Communications Electronics of Virginia in Merrifield in 1985; the Virginia company was sold to Communications Electronics and Glenn Cassell's son, Roger Cassell in 2018; and

WHEREAS, Communications Electronics now employs 140 people and serves customers in Virginia, Maryland, Pennsylvania, and Washington, D.C.; and

WHEREAS, Communications Electronics's customers have included AT&T, Verizon, the United States House of Representatives, the United States Social Security Administration, and many other important clients; and

WHEREAS, Communications Electronics has worked with Motorola for more than 35 years, becoming one of the top 15 Motorola Solutions channel partners in the nation and earning accolades for its high achievements in sales and customer service; and

WHEREAS, the highly trained engineers at Communications Electronics have more than 100 years of combined experience in the cellular and mobile radio wireless industry, and its capable, professional installation staff is well-prepared for the unique challenges and requirements of in-building installation projects; and

WHEREAS, Terry Zaccarino, former owner of Communications Electronics of Virginia and current vice president of Communications Electronics, has helped the company become a model of good corporate citizenship as an active volunteer in the community, and current president Roger Cassell has continued this tradition of service through his dynamic leadership; and

WHEREAS, Terry Zaccarino is a longtime member of the Greater Merrifield Business Association, serving on its revitalization committee, and has supported the Merrifield Fall Festival by providing two-way radios; he has offered his leadership to the Inova Fairfax Medical Campus Quality Board and the Inova Alexandria Hospital Quality Board; now, therefore, be it

RESOLVED by the House of Delegates, That Communications Electronics hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Terry Zaccarino, vice president of Communications Electronics, as an expression of the House of Delegates' admiration for

his contributions to the Merrifield community and Communications Electronics's decades of service to clients throughout the Mid-Atlantic region.

HOUSE RESOLUTION NO. 593

Commending First Baptist Church of Merrifield.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, in October 2020, First Baptist Church of Merrifield commemorated 150 years of providing spiritual leadership, generous community outreach, and opportunities for joyful worship in the Baptist tradition to residents of Fairfax County; and

WHEREAS, in the first quarter-century of its existence, the congregation of First Baptist Church of Merrifield was led by itinerant preachers and met in various informal locations, including tents, lodges, and members' homes; and

WHEREAS, the congregation of First Baptist Church of Merrifield constructed its first church building in the 1890s, appointed its first pastor in 1898, and continued to grow into the 20th century as it added members and expanded and improved upon the existing church facilities; and

WHEREAS, during the 32-year tenure of Pastor Charles Parker, First Baptist Church of Merrifield added a youth department; established a college scholarship fund; added deacons, deaconesses, and trustees to the boards; and completed a new church building; and

WHEREAS, beginning in 1983, Pastor Lenwood Graham, Sr., led First Baptist Church of Merrifield through another period of expansion as the church increased its membership, became more active in foreign and domestic missionary work, and established the Merrifield Child Development Center; and

WHEREAS, today, First Baptist Church of Merrifield is led by the Reverend Dr. Paul A. Sheppard, offering worship services every Sunday and Bible study classes and other ministries during the week; throughout the COVID-19 pandemic, the church has utilized a virtual platform to safely connect with its congregation; and

WHEREAS, recent outreach activities carried out by members of First Baptist Church of Merrifield included community festivals in 2018 and 2019, food and gift card giveaways, and seminars on anxiety and grief; and

WHEREAS, members of First Baptist Church of Merrifield have become leaders in their professions and in the community, empowered and inspired by the lessons of grace and generosity learned at their home church; now, therefore, be it

RESOLVED by the House of Delegates, That First Baptist Church of Merrifield hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to First Baptist Church of Merrifield as an expression of the House of Delegates' admiration for the church's legacy of contributions to the Fairfax County community.

HOUSE RESOLUTION NO. 594

Commending the American Federation of Labor and Congress of Industrial Organizations.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the rights of workers in the Commonwealth, the United States, and throughout the world are vital to a healthy society and the welfare of all people; and

WHEREAS, unions play an essential role in the protection and safety of the working class, the promotion of racial and social equity, and bargaining for better contracts between employers and workers; and

WHEREAS, Operation Dixie was a campaign to unionize industry workers in 12 states in the Southeast United States, including Virginia, that was organized by the Congress of Industrial Organizations (CIO) in the years after World War II from 1946 to 1953; and

WHEREAS, Operation Dixie was undertaken as part of a dual effort to consolidate wage gains won by trade unions in the Northern United States while supporting workers in the Southeast United States who had long struggled with economic inequality, segregation, and low wages; and

WHEREAS, Operation Dixie sought to raise wages in the South and transform the politics of the region by electing pro-labor candidates for public offices; the campaign focused on uniting workers of all races and genders to ensure solidarity among the workers; and

WHEREAS, Operation Dixie urged white workers to reject groups such as the Ku Klux Klan and build alliances with Black workers; because of their work, CIO strikers and organizers were the targets of violent crimes, such as beatings, lynchings, kidnappings, and shootings; and

WHEREAS, Operation Dixie set the stage for future unionization campaigns in the Commonwealth and throughout the region; and

WHEREAS, the CIO merged with the American Federation of Labor (AFL) in 1955 to form the AFL-CIO, and the organization has continued to advocate for protections and equal pay among workers of different races and genders in the Commonwealth and beyond; now, therefore, be it

RESOLVED by the House of Delegates, That the American Federation of Labor and Congress of Industrial Organizations hereby be commended for Operation Dixie and its organizing efforts in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the American Federation of Labor and Congress of Industrial Organizations as an expression of the House of Delegates' admiration for the organization's ongoing efforts to improve the welfare of workers throughout the Commonwealth and the United States.

HOUSE RESOLUTION NO. 595

Commending the Mayfield Civic Association.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Mayfield Civic Association was created in 1968 by parents of the Mayfield community in Fredericksburg to help students attend Hugh Mercer Elementary School when transportation options were limited due to segregation and a lack of busing options; and

WHEREAS, under the leadership of Trudy Smith, the Mayfield Civic Association has continuously served members of the community throughout the COVID-19 pandemic; and

WHEREAS, the Mayfield Civic Association has delivered meals and fresh vegetables to support the health and well-being of students and seniors in Mayfield; and

WHEREAS, the Mayfield Civic Association has assisted elderly members of the community as they navigate the process for acquiring the COVID-19 vaccine; and

WHEREAS, the Mayfield Civic Association partnered with Fredericksburg City Public Schools, as well as Jarrett Bailey, Michael Smith, and Gary Boxley, to provide Wi-Fi and Internet hot spots to facilitate virtual learning for students in the community; and

WHEREAS, the Mayfield Civic Association received a \$100,000 grant from the Sunshine Foundation to build a state-of-the-art playground, complete with surveillance cameras; and

WHEREAS, the current building of the Mayfield Civic Association, erected by the Silver Company, serves as a community center for gatherings, meetings, and family events and celebrates its 20th anniversary in 2021; now, therefore, be it

RESOLVED by the House of Delegates, That the Mayfield Civic Association hereby be commended for its ongoing service to the residents of Fredericksburg, both before and during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mayfield Civic Association as an expression of the House of Delegates' admiration for the association's commitment to its residents and the community.

HOUSE RESOLUTION NO. 596

Commending S.E.R.V.E.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, S.E.R.V.E., a nonprofit community support organization, has provided assistance to families and individuals in Stafford County since 1979; and

WHEREAS, S.E.R.V.E. (Stafford Emergency Relief through Volunteer Efforts) has provided food for more than 90 families during the COVID-19 pandemic, supporting several families of great need and numerous seniors; and

WHEREAS, S.E.R.V.E. implemented curbside service to ensure that the delivery of food was conducted safely; and

WHEREAS, S.E.R.V.E. provides financial assistance to community members to cover the cost of utilities and medical expenses; and

WHEREAS, S.E.R.V.E. has continued its operations throughout the duration of the COVID-19 pandemic, even after the loss of the organization's executive director Michael Elliott in August 2020; now, therefore, be it

RESOLVED by the House of Delegates, That S.E.R.V.E. hereby be commended for its 42 years of service to Stafford County residents and its efforts to support community members during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to S.E.R.V.E. as an expression of the House of Delegates' admiration for the organization's commitment to enhancing the quality of life in Stafford County.

HOUSE RESOLUTION NO. 597

Commending the Italian Station.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, throughout the COVID-19 pandemic, the Italian Station, a cherished restaurant in Fredericksburg, continued to serve its community despite the potential hazards; and

WHEREAS, the Italian Station has retained its employees during the COVID-19 pandemic, providing stability during an extraordinary economic downturn; and

WHEREAS, in the face of the ongoing crisis, the Italian Station has provided food to numerous members of the Fredericksburg community; and

WHEREAS, Anita Crossfield, owner of the Italian Station, and the restaurant's management have exemplified sound leadership, compassion, and care for both the restaurant's workers and the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Italian Station hereby be commended for its service to the residents of Fredericksburg during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Italian Station as an expression of the House of Delegates' admiration for its commitment to its employees and the community.

HOUSE RESOLUTION NO. 598

Commending Fredericksburg City Public Schools.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, throughout the COVID-19 pandemic, Fredericksburg City Public Schools has continued to operate its nutrition program, serving a total of more than 400,000 meals at multiple locations in the area; and

WHEREAS, the Fredericksburg City Public Schools nutrition program started with two food trucks and expanded to accommodate the needs of Fredericksburg's residents; and

WHEREAS, as of January 2021, Fredericksburg City Public Schools had seven mobile feeding sites to provide breakfast and lunch to students; and

WHEREAS, during the pandemic, Fredericksburg City Public Schools has operated a mobile book delivery service that rotates between 30 locations; and

WHEREAS, Fredericksburg City Public Schools partnered with Harvard University and organizations like Project Equity and JustFlix to provide engaging learning experiences and social and emotional learning through journaling and social media projects that have helped students develop better self-awareness, social awareness, relationship skills, and responsible decision-making through virtual learning; and

WHEREAS, the teachers, bus drivers, and other staff members of Fredericksburg City Public Schools have gone above and beyond to meet the unique challenges facing schools during the COVID-19 pandemic and continue to support local students; now, therefore, be it

RESOLVED by the House of Delegates, That Fredericksburg City Public Schools hereby be commended for its service to Fredericksburg residents during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fredericksburg City Public Schools as an expression of the House of Delegates' admiration for the school division's commitment to its students, their families, and the people of Fredericksburg.

HOUSE RESOLUTION NO. 599

Commending Stafford County Public Schools.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, during the COVID-19 pandemic, Stafford County Public Schools has provided students aged 18 and younger with a two-day supply of breakfast and lunch meals every Monday, Wednesday, and Friday, a total of 12 meals per week; and

WHEREAS, Stafford County Public Schools successfully prepared, transported, and served 18,120 meals to students and families in its first week of providing meals; and

WHEREAS, Stafford County Public Schools has provided free meals to children and their families throughout the community, regardless of race, color, national origin, sex, age, or disability; and

WHEREAS, Stafford County Public Schools coordinated food drop-off locations for people in need throughout Stafford County; and

WHEREAS, Stafford County Public Schools used Coronavirus Aid, Relief, and Economic Security Act funding to make technology upgrades in classrooms to better support virtual learning and teaching while accommodating students with little or no Internet access at home; and

WHEREAS, the teachers, bus drivers, and other staff of Stafford County Public Schools have worked diligently to meet the unique challenges facing schools as a result of the COVID-19 pandemic and continue to support local students; now, therefore, be it

RESOLVED by the House of Delegates, That Stafford County Public Schools hereby be commended for its service to Stafford County residents during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stafford County Public Schools as an expression of the House of Delegates' admiration for the school division's commitment to its students, their families, and the people of Stafford County.

HOUSE RESOLUTION NO. 600

Commending Emmanuel African Methodist Episcopal Church.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Emmanuel African Methodist Episcopal Church in Fredericksburg was founded in October 1996 by the Reverend Herman L. Gladney and his wife, Sabrina; and

WHEREAS, the first worship service at Emmanuel African Methodist Episcopal (AME) Mission was held with 12 founding members at Brooke Point High School in Stafford County on February 16, 1997; and

WHEREAS, in April 1997, during the 47th Session of the Washington Annual Conference of the AME Church, Emmanuel AME Mission was officially admitted and added to the roll of the Capitol District with 20 members; and

WHEREAS, the Washington Annual Conference of the AME Church accepted the name Emanuel AME Mission for the new congregation, and the presiding bishop appointed the Reverend Gladney as the church's pastor; and

WHEREAS, in May 1997, Emmanuel AME Church moved from mission status to full status as a church and, following the status change, added new ministries, including a church school, weekly Bible study, and youth ministry; and

WHEREAS, to accommodate the growing congregation, New Life Community Church in Stafford County opened its doors to Emmanuel AME Church without charge to help the young church meet its space requirements and ministry needs; and

WHEREAS, this tremendous act of love and kindness forever bound New Life Community Church to Emmanuel AME Church through a sense of kinship and solidarity; and

WHEREAS, in October 1999, Emmanuel AME Church purchased 12 acres of land and a 10,000-square-foot building in Stafford County and subsequently hired an architect to begin plans for renovating the building to serve as the church's permanent worship facility; and

WHEREAS, on August 15, 2002, the building was destroyed by fire before the renovation construction began, yet the congregation showed its faith in God by staying united and standing strong in the face of this tragedy; and

WHEREAS, after much prayer, in January 2007, Emmanuel AME Church secured their new church building; the congregation held its first service in the building on Mother's Day in May and held a dedication ceremony on June 16, 2007; and

WHEREAS, the mission of Emmanuel AME Church is to minister to the spiritual, intellectual, physical, emotional, and environmental needs of all people by spreading the gospel through word and deed; and

WHEREAS, the vision of Emmanuel AME Church is to impact people in a positive way by providing a holistic ministry that develops disciples of Jesus Christ and empowers them in all areas of their lives; and

WHEREAS, Emmanuel AME Church will forever remain committed to God and dedicated to its motto, "Building People for Christ"; now, therefore, be it

RESOLVED by the House of Delegates, That Emmanuel African Methodist Episcopal Church hereby be commended for its service to the congregation and the community over its 24 years in operation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Emmanuel African Methodist Episcopal Church as an expression of the House of Delegates' admiration for its dedication to its congregation.

HOUSE RESOLUTION NO. 601

Commending the James Farmer Multicultural Center.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the James Farmer Multicultural Center at the University of Mary Washington celebrated its 30th anniversary in 2020; and

WHEREAS, originally designated the Multicultural Center when it was created in 1990, the facility was later renamed the James Farmer Multicultural Center in 1998; and

WHEREAS, in an effort to keep the legacy and history of Dr. James Farmer alive, the director, Dr. Marion Sanford; associate director, JoAnna Raucci; and assistant director, Chris Williams have worked tirelessly to develop and enhance the center over the years; and

WHEREAS, the work of the staff of the James Farmer Multicultural Center has been highlighted on radio, in newspaper interviews, and through other mediums, promoting community awareness of the organization's endeavors; and

WHEREAS, the James Farmer Multicultural Center has worked to establish a historical marker at the old bus station located at the intersection of Princess Anne and Wolf Streets in Fredericksburg to commemorate one of the first stops used by the Freedom Riders during the civil rights demonstrations lasting from May to December 1961; and

WHEREAS, the James Farmer Multicultural Center works with students of the University of Mary Washington to build a welcoming, supportive, and vibrant environment for underrepresented students to enhance and defend their social, intellectual, and leadership pursuits; and

WHEREAS, the James Farmer Multicultural Center administers outreach campaigns that educate students of the University of Mary Washington about different cultures and that cultivate cultural learning; now, therefore, be it

RESOLVED by the House of Delegates, That the James Farmer Multicultural Center hereby be commended for its work to promote equity, justice, and liberation for all peoples on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the James Farmer Multicultural Center as an expression of the House of Delegates' admiration for the center's commitment to bringing attention to the work of civil rights advocates and its continued mission to educate and promote multiculturalism, diversity, and social justice.

HOUSE RESOLUTION NO. 602

Celebrating the life of the Reverend Dr. Kenneth E. Dennis, Sr.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Reverend Dr. Kenneth E. Dennis, Sr., a religious leader who made many contributions to the Richmond community, died on February 18, 2021; and

WHEREAS, a native of Miami, Florida, Kenneth Dennis began to cultivate his deep faith at a young age as a member of Greater Israel Primitive Baptist Church and later joined Star of Bethlehem Baptist Church; and

WHEREAS, Kenneth Dennis graduated from Miami Beach Senior High School, then served his country honorably as a member of the United States Air Force; he continued his education by earning a bachelor's degree from Virginia Union University, a master of divinity degree from Samuel DeWitt Proctor School of Theology, and an honorary doctorate from the Richmond Virginia Seminary; and

WHEREAS, after answering the call to ministry in the late 1970s, Kenneth Dennis was ordained in 1980 and served as a youth minister at Thirty-First Street Baptist Church in Richmond; and

WHEREAS, in 1988, Kenneth Dennis became pastor of Greater Mount Moriah Baptist Church, serving and inspiring members of the Richmond community in that capacity for more than three decades; and

WHEREAS, Kenneth Dennis held leadership positions in the Tuckahoe Baptist Association and the Henrico Minister's Conference; he served as the International Association of Ministers' Wives and Ministers' Widows lecturer for the Baptist General Convention of Virginia; and

WHEREAS, Kenneth Dennis mentored aspiring ministers as a teacher at the Richmond Virginia Seminary and the Samuel DeWitt Proctor School of Theology and engaged with individuals throughout Richmond and the Commonwealth as an author and the co-host of religious television programming; and

WHEREAS, Kenneth Dennis served the community as president of the Richmond Branch of the NAACP, a chaplain for the Richmond Police Department, and a grief counselor for the City of Richmond; and

WHEREAS, Kenneth Dennis will be fondly remembered and greatly missed by his wife, Loretta; his sons, KJ and Kendall, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Dr. Kenneth E. Dennis, Sr., a dedicated faith and community leader in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. Kenneth E. Dennis, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 603

Celebrating the life of William Arthur Mercer.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, William Arthur Mercer, a trailblazing veteran and a community leader in Fredericksburg, died on December 21, 2020; and

WHEREAS, William Mercer was born on April 8, 1918, to the late Charlie and Eliza Fisher Mercer of Caroline County; he was a devoted Christian from a young age and became a member of Ebenezer Baptist Church in Supply; and

WHEREAS, on February 8, 1937, William Mercer married Margaret Dorothy Childs, and the couple relocated to Fredericksburg, where they became longtime members of Shiloh Baptist Church New Site; to their union, five children were born, including their first born, William Mercer, Jr., who died in infancy; and

WHEREAS, William Mercer attended school in Caroline County and despite only completing sixth grade, he possessed great wisdom; he later joined the United States Army and served during World War II, becoming one of the first African Americans to serve as a military police officer; and

WHEREAS, William Mercer worked at the FMC Corporation Sylvania Plant in Fredericksburg, then retired from Fruit Growers Corporation in Alexandria, where he had been a forklift operator; and

WHEREAS, William Mercer was employed as a landscaper for many of the homes on upper Caroline Street; he took great pride in his own yard and received multiple compliments on its appearance and its beautiful flowers, especially his dahlias; and

WHEREAS, William Mercer enjoyed cooking and was known for his homemade biscuits; his favorite season was summer because he loved the sunshine, high temperatures, longer daylight, and sitting on his porch watching his television; though he was never an athlete, he loved and studied the game of baseball as an avid fan of the New York Yankees; and

WHEREAS, William Mercer worked hard to instill a sense of right and wrong in his children, and he was very proud that they followed his path of hard work and accomplishment, and he was proud to set a good example for not only his own children and grandchildren, but for all of their friends and the children in his neighborhood; and

WHEREAS, William Mercer loved the Mayfield neighborhood and made many contributions to his fellow residents, such as cutting grass and transporting his neighbors to voting polls, the grocery store, and church, never expecting or accepting anything in return; and

WHEREAS, William Mercer had been a member of the Mayfield Civic Association since its inception and attended the monthly meetings until he could no longer do so; in later life, he would wait patiently on the porch for his cousin Sonny Holmes to come over and relay all that had taken place within the monthly Mayfield Civic Association meetings; and

WHEREAS, William Mercer had been a proud member of the Prince Hall Masons Lodge No. 61 since 1953 and enjoyed serving the community with his fellow Masons; he loved current events and relished every opportunity to sit on the porch in his favorite chair and have engaging conversations with those who would come to visit; and

WHEREAS, throughout his life, William Mercer was affectionately known as "Dick," "Dickie," "Daddy," "Granddaddy," "Mr. Mercer," "Uncle Dick," "Wilmaffa (William Arthur)," and the infamous "Coffee"; and

WHEREAS, William Mercer was preceded in death by his wife of 63 years, Margaret Mercer; his son, O'Neal Mercer, Sr.; his grandson, O'Neal Mercer, Jr.; his siblings, Herbert Mercer and Kate B. Gray; and his daughter-in-law, Edmonia Mercer; and

WHEREAS, William Mercer will be fondly remembered and greatly missed by his son, Robert "Bobby" Mercer; two daughters, Jerine McConnell and Beverly Lawson; eight grandchildren, Leslie "Fred," Celestine "Legs," Traci "Lil Rat," Angela "Big Red," Joseph "Gate Mouth," Sekou "Kou," Yolanda "Snake Eye," and Kamilah "Flim Flam"; 11 great-grandchildren, Diaunte, Bernard, Briana, Danyail, Dejaun, Nicodemus, Ny'kelle, Jahla, Lamar, Salana, and T'Yanna; 10 great-great grandchildren; a loving and devoted daughter-in-law, Mary "Big Eye"; two nieces, Sheila Gray Paige and Brenda Bernetta Robinson; four nephews, Winston Gray, John Foster, Sherman Paige, and Taft Coghill, Sr.; a special friend, Diane Washington; loving in-law, Cordelia Price; dedicated friends, Lindburgh Bundy, Emmaline Gray, and Joseph Marshall; and a host of great nieces, nephews, cousins, and other relatives; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Arthur Mercer, a veteran of World War II who was one of the first African Americans to serve as a military police officer and a longtime member of the Mayfield Civic Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Arthur Mercer as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 604

Celebrating the life of Maybelle Rutland Campbell.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Maybelle Rutland Campbell, an honorable veteran whose service during World War II helped break down color and gender barriers in the United States Armed Forces, died on February 9, 2021; and

WHEREAS, born in Forsyth, Georgia, Maybelle Campbell served her country with valor and distinction from February 1945 to December 1946 as a private first class in the 6888th Central Postal Directory Battalion of the Women's Auxiliary Corps of the United States Army, which was notably the only unit of African American women to serve overseas during World War II; and

WHEREAS, as part of the 6888th Central Postal Directory Battalion, often referred to as the Six Triple Eight, Maybelle Campbell and her fellow service members remarkably cleared a years-long backlog of letters and packages intended for military units in the European theatre in only a matter of months, boosting troop morale by connecting soldiers with loved ones back home; and

WHEREAS, the accomplishments of the Six Triple Eight have received greater recognition in recent years; along with parades and celebrations, a monument was erected in 2018 in the Buffalo Soldier Commemorative Area at Fort Leavenworth, Kansas, to commemorate the Six Triple Eight and the historic and invaluable contributions that Maybelle Campbell and others made to the Allied victory in World War II; and

WHEREAS, Maybelle Campbell will be fondly remembered and dearly missed by her children, Natalie and Melody, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Maybelle Rutland Campbell, a distinguished veteran of World War II whose service is an inspiration to all Americans; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Maybelle Rutland Campbell as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 605

Celebrating the life of Aajah Saroya Nycole Rosemond.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Aajah Saroya Nycole Rosemond, a beloved 16-year-old member of the Richmond community, died on October 18, 2020; and

WHEREAS, Aajah Rosemond was born on April 26, 2004, in Roanoke and grew up in Richmond, where she graduated from Thomas C. Boushall Middle School; and

WHEREAS, at the time of her passing, Aajah Rosemond was a junior at George Wythe High School and had aspirations to travel the world after completing her education; and

WHEREAS, Aajah Rosemond inspired others through her kindness and compassion and could brighten a room effortlessly though her joyful smile; and

WHEREAS, as the second-oldest child in her family, Aajah Rosemond doted on her younger siblings and strove to be a good role model; and

WHEREAS, Aajah Rosemond will be fondly remembered and greatly missed by her mother, Khrystal Bethea; her father, Rafael Rosemond; her siblings, Aaliyah, Aamiyah, Aanyah, A'lona, Quran, and Qaleb; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Aajah Saroya Nycole Rosemond, a vibrant member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Aajah Saroya Nycole Rosemond as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 606

Celebrating the life of Ernest George Minns.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Ernest George Minns, a civil rights activist, civic leader, and beloved member of the Virginia Beach community, died on July 26, 2019; and

WHEREAS, born and raised in the Seatack community of Virginia Beach, George Minns's commitment to justice was fostered at a young age by his family of civil rights activists, including a grandfather who was a founding member of the former Princess Anne County branch of the NAACP, later known as the Virginia Beach branch of the NAACP; and

WHEREAS, a graduate of Floyd E. Kellam High School in Virginia Beach, George Minns would go on to become an influential advocate for human rights and racial justice in Virginia Beach and a devoted leader of the city's Seatack community; and

WHEREAS, from 1987 to 1997, George Minns was president of the Virginia Beach branch of the NAACP; his advocacy over the years led to many achievements and was instrumental to the establishment of the Virginia Beach Minority Business Council, the Virginia Beach Human Rights Commission, and citizen advisory committees in each Virginia Beach police precinct; and

WHEREAS, in his later years, George Minns was president of the Seatack Community Civic League, providing valued insights and leadership to ensure that residents would have equal opportunity to prosper and thrive; and

WHEREAS, George Minns fought indefatigably to preserve the residential character and history of Seatack, one of the oldest African American communities in the country, consistently mounting resistance to commercialization of the area over the years; and

WHEREAS, George Minns was a tireless advocate for the African American community before the Virginia Beach City Council, pressing the local government to improve sewers in predominantly African American neighborhoods, to consider minority businesses in the city's contract procurement process, and to form a human rights commission following the 1989 Greekfest riots, among other endeavors; and

WHEREAS, George Minns's efforts before the Virginia Beach City Council led to the appointment of the first African American judge in the city and the employment of the first African American lawyer in the Office of the City Attorney; and

WHEREAS, guided throughout his life by his deep and abiding faith, George Minns was an active member of the Mt. Zion African Methodist Episcopal Church in Virginia Beach, where he enjoyed worship and fellowship with his community for many years; and

WHEREAS, George Minns will be fondly remembered and dearly missed by his children, Mary and George II, and their families; his former wife, Kim; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ernest George Minns, an accomplished civil rights activist and civic leader of the Seatack community in Virginia Beach, whose unwavering dedication to the pursuit of justice and equality touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ernest George Minns as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 607

Celebrating the lives of victims of the Khojaly massacre.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, in 1992, approximately 613 civilians were killed in the Nagorno-Karabakh territory of Azerbaijan during the First Nagorno-Karabakh War; and

WHEREAS, on February 26, 1992, Armenian armed forces, accompanied by Russian military troops, besieged the town of Khojaly as part of a campaign of aggression, intimidation, and ethnic cleansing in the Nagorno-Karabakh territory that had been ongoing since 1988; and

WHEREAS, when residents of Khojaly attempted to flee the area, they were fired upon by Armenian and Russian troops who subsequently occupied the town, with Human Rights Watch calling the massacre the largest such atrocity of the conflict; and

WHEREAS, among the civilians killed in the attack on Khojaly, it is estimated that more than 100 victims were women, at least 63 were children, and at least 70 were elderly members of the community; numerous children lost one or both parents in the massacre and several families were wiped out entirely; and

WHEREAS, in addition to the deaths resulting from the attack, hundreds of civilians were severely wounded or disabled, more than 1,200 people were taken hostage, and more than 100 people were never located in the aftermath; and

WHEREAS, the tragic deaths in the Khojaly massacre serve as a sobering reminder of the terrible damage that can be inflicted in wartime and the enduring need for greater understanding, communication, and tolerance among people all over the world; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the victims of the Khojaly massacre; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of the Azeri-American community as an expression of the House of Delegates' respect for the memory of the victims of the Khojaly massacre.

HOUSE RESOLUTION NO. 608

Celebrating the lives of Melvin Gaddis Green, Jr., M.D., and Helen Selena Green.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Melvin Gaddis Green, Jr., M.D., and Helen Selena Green, respected members of the Hampton community, died on December 23, 2020, and February 1, 2021, respectively; and

WHEREAS, a native of Greenville, South Carolina, Melvin Green graduated from what is now Rockford University, earned a medical degree from the University of Minnesota, and completed his internship and residency at Eastern Virginia Medical School in Norfolk; and

WHEREAS, Helen Green grew up in Hampton, where she attended Pembroke High School, and subsequently earned a degree in nursing from the University of the District of Columbia; and

WHEREAS, Melvin and Helen Green enjoyed 32 years of marriage and both served the community as trusted medical professionals for many years; and

WHEREAS, Melvin Green worked as a physician in private practice with his longtime friend William Franklin for 30 years, then joined the Sentara Medical Group, from which he retired in 2018, and Helen Green worked as a registered nurse until 2013; and

WHEREAS, in 2016, Helen Green received a bilateral lung transplant and inspired others through her courage, determination, and unyielding faith; she and Melvin were accomplished world travelers who enjoyed special trips even after her surgery; and

WHEREAS, Helen Green was a devout member of First Baptist Church and volunteered with the Girl Friends, Inc., for more than 25 years; and

WHEREAS, outside of his career, Melvin Green was an avid golfer who cultivated many strong friendships during regular Thursday tee times over the years; and

WHEREAS, Melvin and Helen Green will be fondly remembered and greatly missed by their children, Jennifer, Kimberly, Anika, and Schaan, and their families, including grandchildren, Amaya, Kendall, Kennedy, Gabriel, and Kayden, as well as numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Melvin Gaddis Green, Jr., M.D., and Helen Selena Green; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Melvin Gaddis Green, Jr., M.D., and Helen Selena Green as an expression of the House of Delegates' respect for their memory.

HOUSE RESOLUTION NO. 609

Celebrating the life of Claire Anne O'Dwyer Randall.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Claire Anne O'Dwyer Randall, a highly admired community leader in Arlington, died on July 1, 2020; and

WHEREAS, a native of Washington, D.C., Claire Randall graduated from Immaculata Preparatory School and earned a bachelor's degree from Mount Aloysius College; and

WHEREAS, Claire Randall worked as secretary to the principal of Little Run Elementary School for 20 years and was a compassionate advocate for students; and

WHEREAS, as an active member of Social Action Linking Together, Claire Randall was known as an "Advocate's Advocate" and led other volunteers to advance the organization's mission of supporting and empowering vulnerable individuals; and

WHEREAS, Claire Randall was outspoken about the vital need to expand access to health care, particularly in underserved and rural areas of the Commonwealth; and

WHEREAS, Claire Randall enjoyed fellowship and worship with the community as a member of Our Lady Queen of Peace Catholic Church in Arlington; and

WHEREAS, predeceased by her son, James, Claire Randall will be fondly remembered and greatly missed by her daughter, Kate, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Claire Anne O'Dwyer Randall; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Claire Anne O'Dwyer Randall as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 610

Celebrating the life of Adele Maire Gagliardi.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Adele Maire Gagliardi, an esteemed attorney and civil servant and a beloved member of the Arlington and East Lansing, Michigan, communities, died on February 3, 2021; and

WHEREAS, born in Ontario, Canada, and raised in Drummond Island, Michigan, Adele Gagliardi earned a bachelor's degree from Michigan State University and her Juris Doctor degree from Wayne State University; she would later be selected for and complete the Senior Managers in Government Program at Harvard University's John F. Kennedy School of Government; and

WHEREAS, Adele Gagliardi began her illustrious career with the federal government as a Presidential Management Fellow, the flagship leadership development program of the United States Office of Personnel Management; and

WHEREAS, Adele Gagliardi supported the efforts of the Employment and Training Administration (ETA) of the United States Department of Labor in various roles, including as division chief for policy, legislation, and regulation in the Office of Policy Development and Research and as regional director for the Office of State Systems in ETA Region 5, overseeing federal, employment-related grants to Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Minnesota, Nebraska, Ohio, and Wisconsin; and

WHEREAS, Adele Gagliardi attained the highest possible federal civil service designation early in her career when she was appointed to the Senior Executive Service by President Barack H. Obama, serving as an administrator of the Office of Policy Development and Research within the ETA of the United States Department of Labor; and

WHEREAS, residing briefly in Ottawa, Ontario, Canada, Adele Gagliardi participated in a Department of Labor executive exchange program between the governments of the United States of America and Canada, acquiring valuable experience that enhanced her ability to serve the country and its citizens; and

WHEREAS, Adele Gagliardi was recognized by President Barack H. Obama for her exemplary leadership of the team that drafted rules and regulations to implement the Workplace Innovation and Opportunity Act of 2014; and

WHEREAS, Adele Gagliardi will be fondly remembered and dearly missed by her loving husband, Antonio; her mother and stepfather, Theila and Phil; her father and stepmother, Patrick and Debra; her sisters, Lisa Jo, Laura, and Michelle; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Adele Maire Gagliardi, a distinguished civil servant whose unwavering kindness, generosity, and dedication to the country touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Adele Maire Gagliardi as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 611

Commending the Hopewell High School boys' basketball team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Hopewell High School boys' basketball team won the Virginia High School League Class 3 state championship on February 20, 2021, at Abingdon High School; and

WHEREAS, the Hopewell High School Blue Devils defeated the Abingdon High School Falcons by a score of 58-55 to finish the season 8-0 and bring home the program's first state championship title since 1972; and

WHEREAS, the Hopewell Blue Devils and Abingdon Falcons were neck and neck for most of the contest, with the Blue Devils reclaiming the lead in the fourth quarter and holding on for the win; and

WHEREAS, on its championship run, the Hopewell Blue Devils defeated the Petersburg High School Crimson Wave in the Virginia High School League Region 3A championship by a score of 72-62; and

WHEREAS, the success of the Hopewell Blue Devils is the result of the tireless dedication of the student-athletes, the encouragement and guidance of their coaches and teachers, and the unwavering support of the entire Hopewell High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Hopewell High School boys' basketball team hereby be commended for winning the Virginia High School League Class 3 state championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elvin Edmonds, head coach of the Hopewell High School boys' basketball team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 612

Commending the Union High School boys' basketball team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Union High School boys' basketball team claimed the Virginia High School League Class 2 state title in 2021, becoming the first basketball team from Wise County to win a state championship since 1974; and

WHEREAS, the Union High School Bears defeated a talented team from East Rockingham High School by a score of 62-47; sophomore Sean Cusano helped the Bears open the game with a quick 15-2 lead by hitting his first four shots, all three-pointers; and

WHEREAS, the Union Bears' versatile offense and well-prepared defense prevented the East Rockingham Eagles from launching an effective counterattack for the remainder of the game; and

WHEREAS, Sean Cusano ultimately led the Union Bears with 24 points and 12 rebounds, followed by Bradley Bunch with 16 points, 11 rebounds, and five assists and Alex Rasnick with 15 points and four assists; and

WHEREAS, the Union High School Bears finished the season with an impressive 16-3 record and defeated several powerhouse teams along the way, including the six-time state champion Radford High School Bobcats; and

WHEREAS, the victorious season is a tribute to the hard work and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Union High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Union High School boys' basketball team hereby be commended on winning the Virginia High School League Class 2 state championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Zack Moore, head coach of the Union High School boys' basketball team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 613

Commending the Johnson-Williams Middle School eighth grade boys' basketball team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Johnson-Williams Middle School eighth grade boys' basketball team of Berryville won the Northern Valley Junior League championship in 2021; and

WHEREAS, the Johnson-Williams Middle School Cougars defeated the Skyline Middle School Hawks of Front Royal to bring home the school's first Northern Valley Junior League championship; and

WHEREAS, along with Johnson-Williams Middle School and Skyline Middle School, the Northern Valley Junior League consists of Daniel Morgan Middle School of Winchester and Warren County Middle School; and

WHEREAS, the success of the Johnson-Williams Cougars is the result of the tireless dedication of the student-athletes, the encouraging guidance of their coaches and teachers, and the unwavering support of the entire Johnson-Williams Middle School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Johnson-Williams Middle School eighth grade boys' basketball team hereby be commended for winning the Northern Valley Junior League championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Johnson-Williams Middle School eighth grade boys' basketball team as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 614

Commending Colonel Mark Carroll Thackston, VANG.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Colonel Mark Carroll Thackston, VANG, has served and safeguarded the Commonwealth for 24 years as a member of the Virginia Army National Guard; and

WHEREAS, Mark Thackston received a bachelor's degree from Virginia Military Institute in 1992 and was sworn into the Virginia Army National Guard in 1997 after graduating from the Washington and Lee University School of Law; and

WHEREAS, Mark Thackston was a longtime member of the Virginia Army National Guard Judge Advocate General's Corps, serving as trial counsel, staff judge advocate, chief of criminal law, and command judge advocate; and

WHEREAS, Mark Thackston was subsequently appointed to the J-8 Division of the Virginia National Guard Joint Staff as a resource management officer; and

WHEREAS, Mark Thackston has helped prepare numerous fellow service members for active duty deployments, and he recently served in support of the Commonwealth's response to the COVID-19 pandemic; and

WHEREAS, Mark Thackston has earned many awards and decorations throughout his military career, including the Army Achievement Medal and two Army Commendation Medals, and he was promoted to the rank of colonel in the Virginia Army National Guard on February 20, 2021; and

WHEREAS, the true embodiment of the ideals of the citizen-soldier, Mark Thackston worked as an attorney in private practice for several years and currently serves as senior vice president for commercial lending of First Bank and Trust Company; now, therefore, be it

RESOLVED by the House of Delegates, That Colonel Mark Carroll Thackston, VANG, hereby be commended for his decades of service to the Commonwealth as a member of the Virginia Army National Guard; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Mark Carroll Thackston, VANG, as an expression of the House of Delegates' admiration for his many contributions to the Commonwealth in military and civilian life.

HOUSE RESOLUTION NO. 615

Commending Just Neighbors.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Just Neighbors, a nonprofit organization dedicated to serving the immigrant community of the Greater Washington, D.C., metropolitan area, commemorates its 25th anniversary in 2021; and

WHEREAS, Just Neighbors operates with a mission to provide exemplary legal services to low-income immigrants, asylees, and refugees in the Commonwealth, Maryland, and Washington, D.C., and to foster community through education, advocacy, and volunteerism; and

WHEREAS, Just Neighbors was founded in 1996 by pastors and attorneys with the United Methodist Church who were seeking a way to show compassion and hospitality toward local immigrants and to help them navigate the legal challenges they face when settling in the United States; and

WHEREAS, two years after opening its main office in Falls Church, Just Neighbors expanded to Herndon to serve the growing immigrant community in the Counties of Fairfax, Loudoun, and Prince William; and

WHEREAS, after relocating for some years to Arlington County and then back to Falls Church, the main office of Just Neighbors has been in Annandale since 2017; and

WHEREAS, Just Neighbors has built a collaborative network of nonprofit organizations, volunteers, local faith-based groups, and pro bono lawyers to fulfill its mission; and

WHEREAS, by providing immigrants of all nationalities, faiths, and backgrounds with reliable legal information and services, Just Neighbors has helped countless individuals and families thrive in their newfound communities; now, therefore, be it

RESOLVED by the House of Delegates, That Just Neighbors, a nonprofit organization serving immigrants in the Greater Washington, D.C., metropolitan area, hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Erin McKenney, executive director of Just Neighbors, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 616

Commending the Honaker High School girls' basketball team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Honaker High School girls' basketball team are the 2021 Virginia High School League Class 1 state champions; and

WHEREAS, the Honaker High School Tigers secured a decisive victory by defeating Riverheads High School by a score of 81-56; and

WHEREAS, three Honaker High School seniors, Halle Hilton, Kyla Boyd, and LeeAnna McNulty, scored 65 of the team's 81 points in the state final; and

WHEREAS, Halle Hilton led the state championship game with 25 points, followed by Kyla Boyd with 21 points and LeeAnna McNulty with 19 points, and all three players finished their high school careers with more than 1,000 total points; and

WHEREAS, Head Coach Misty Davis Miller led the Honaker Tigers to a perfect season (14-0) and state championship title; and

WHEREAS, the victorious season is a tribute to the hard work and determination of all the student-athletes, the leadership of the coaches and staff, and the passionate support of the entire Honaker High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Honaker High School girls' basketball team hereby be commended on winning the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Misty Davis Miller, head coach of the Honaker High School girls' basketball team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 617

Commending the Town of Drakes Branch.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Town of Drakes Branch has worked diligently to repair and replace town infrastructure since Tropical Storm Michael in October 2018; and

WHEREAS, in August 2019, the Drakes Branch Town Council voted to construct a new municipal building after the current building sustained heavy damage during the storm; and

WHEREAS, the Town of Drakes Branch received a grant from the United States Department of Agriculture to assist with funding for equipment for the new building, which will serve as a headquarters for Drakes Branch Fire and Rescue; and

WHEREAS, upon completion, the building will be shared by town government and the fire department and be used for meetings, voting, and town events, and will serve as a true community center for local residents; now, therefore, be it

RESOLVED by the House of Delegates, That the Town of Drakes Branch hereby be commended for its work to build a new municipal building to better serve the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Drakes Branch Town Council as an expression of the House of Delegates' admiration for the resilience of the Town of Drakes Branch.

HOUSE RESOLUTION NO. 618

Commending Grant Holloway.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Grant Holloway, a talented track and field athlete and a Chesapeake native, won a gold medal at the 2019 International Association of Athletics Federations World Athletics Championships; and

WHEREAS, Grant Holloway began his athletic career at Grassfield High School in Chesapeake, then attended the University of Florida, where he was a valued member of both the indoor and outdoor track and field teams; and

WHEREAS, while at the University of Florida, Grant Holloway earned six national titles in hurdling and broke a 40-year-old National Collegiate Athletic Association record with a time of 12.98 in the 110-meter hurdles event; and

WHEREAS, competing in only his fourth event as a professional, Grant Holloway won his first world championship title with a time of 13.10 in the 110-meter hurdles event at the World Athletics Championships in Doha, Qatar; and

WHEREAS, in recognition of his unprecedented success during the 2019 indoor and outdoor track and field seasons, Grant Holloway received The Bowerman, the highest honor presented to American collegiate track and field athletes; and

WHEREAS, winning a gold medal at the 2019 International Association of Athletics Federations World Athletics Championships, Grant Holloway ably represented the Commonwealth and the United States through his determination and hard work; and

WHEREAS, at the indoor track and field World Championships in Madrid, Spain, Grant Holloway set the world record for the indoor 60-meter hurdles by running the race in 7.29 seconds; now, therefore, be it

RESOLVED by the House of Delegates, That Grant Holloway hereby be commended on setting the world record for the indoor 60-meter hurdles at the 2021 indoor track and field World Championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Grant Holloway as an expression of the House of Delegates' admiration for his athletic achievements and best wishes for the future.

HOUSE RESOLUTION NO. 619

Commending the Grundy High School wrestling team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Grundy High School wrestling team of Buchanan County claimed its sixth consecutive state title with a win in the Virginia High School League Class 1 state championship on February 20, 2021; and

WHEREAS, the Grundy High School Golden Wave finished with an overall score of 249, outpacing the runners-up from Riverheads High School by 49 points, to earn the 24th state title in team history; and

WHEREAS, along with the team title, the Grundy Golden Wave secured six individual championships from Kaleb Horn in the 113-pound weight class, Carson Griffey in the 132-pound class, Chris Stiltner in the 138-pound class, Jacob Stiltner in the 145-pound class, Ian Scammell in the 152-pound class, and Peyton McComas in the 220-pound class; and

WHEREAS, senior Peyton McComas finished his second consecutive undefeated season with three dominant state championship matches that lasted only 36 seconds, 49 seconds, and 54 seconds each; and

WHEREAS, three members of the Grundy Golden Wave—Michael Taylor, Ethan Roberts, and Hunter Scarberry—contributed to the victory with second-place finishes in their weight class; and

WHEREAS, the Grundy Golden Wave finished the season with a perfect record in dual matches for the first time since 1992; and

WHEREAS, the victorious season is a tribute to the hard work and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Grundy High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Grundy High School wrestling team hereby be commended on the occasion of its victory in the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Travis Fiser, head coach of the Grundy High School wrestling team, as an expression of the House of Delegates' admiration for the team's many achievements.

HOUSE RESOLUTION NO. 620

Celebrating the life of Morgan D. Rodgers.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Morgan D. Rodgers, a vibrant young member of the Warrenton community and a beloved daughter, sister, friend, and teammate, died on July 11, 2019; and

WHEREAS, Morgan Rodgers grew up in Warrenton, where she attended the Highland School and became well known as a talented, multisport athlete at Kettle Run High School; in addition to playing soccer and basketball, she rode in equestrian events and was a standout lacrosse player; and

WHEREAS, Morgan Rodgers was recognized at the state and national levels for her achievements in lacrosse; she was selected for the 2013 and 2014 Under Armour All-America lacrosse teams and was a two-time Brine National High School All-American; and

WHEREAS, in the fall of 2014, Morgan Rodgers matriculated at Duke University, where she continued to play lacrosse and studied psychology; and

WHEREAS, Morgan Rodgers was passionate about arts and music, and she was a loyal and trusted friend who sought to bring joy into the lives of others; and

WHEREAS, after her passing, Morgan Rodgers's family established the nonprofit Morgan's Message to raise awareness of mental health issues among student-athletes, advocate for more resources for diagnosis and treatment, and create a safe, welcoming environment for young people in need; and

WHEREAS, Morgan Rodgers is fondly remembered and greatly missed by her parents, Kurt and Dona; her siblings, Aberle and Austin; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Morgan D. Rodgers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Morgan D. Rodgers as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 621

Celebrating the life of Larry Craig Tucker.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Larry Craig Tucker, an honorable veteran, esteemed automobile dealer and public servant, and beloved member of the Petersburg community, died on January 31, 2021; and

WHEREAS, graduating with the Petersburg High School Class of 1963, Larry Tucker took advanced courses at the former Northwood Institute, Virginia Commonwealth University, and Richard Bland College and worked alongside his father at Master Chevrolet-Cadillac in Petersburg from 1963 to 1965; and

WHEREAS, Larry Tucker served his country with honor and valor from 1965 to 1967 as a member of the United States Army, posting at Fort Jackson, South Carolina, at Camp Casey, South Korea, with the 7th Infantry Division, and at Fort Lee; and

WHEREAS, after completing his military service, Larry Tucker returned to Master Chevrolet-Cadillac from 1969 to 1973 and later joined Petersburg Ford, Inc., as a service manager, rising to the position of vice president in 1981 and taking ownership of the dealership eight years later; and

WHEREAS, Larry Tucker served the automobile needs of his community for several years as president and chief executive officer of Petersburg Ford, Inc.; he later formed a partnership with his son and held positions as chairman and chief executive officer from 2000 to 2006, when the business was sold; and

WHEREAS, an accomplished automobile salesman who was recognized by *Time* magazine's Quality Dealer Award for the Southeastern United States, Larry Tucker advanced his industry through his involvement with both the Virginia Automobile Dealers Association, which he served as president, and the Southern Virginia Ford Dealers Advertising Fund, which he served as board chairman; and

WHEREAS, Larry Tucker guided the growth and development of Petersburg in various leadership capacities, including six years as a city councilmember, a term as the city's vice mayor, and several years on the Board of Directors of First Federal Savings Bank, now Virginia Commonwealth Bank; and

WHEREAS, Larry Tucker's dedicated efforts included service with the Petersburg Industrial Development Authority; the Hospital Authority of the City of Petersburg, and the Petersburg Planning Commission; and

WHEREAS, Larry Tucker devoted himself to helping others for nearly 40 years through the Rotary Club of Petersburg, serving a term as the organization's president and earning recognition as a Paul Harris Fellow; and

WHEREAS, Larry Tucker's noteworthy contributions to the community included terms as president of the Historic Petersburg Foundation, the Country Club of Petersburg, the Southside Virginia Emergency Crew, and the Willcox Watershed Conservancy; and

WHEREAS, guided throughout his life by his faith, Larry Tucker enjoyed worship and fellowship with his communities at High Street Methodist Church, later known as United Methodist Church, and at Christ and Grace Episcopal Church, both of Petersburg; and

WHEREAS, Larry Tucker will be fondly remembered and dearly missed by his loving wife, Elizabeth; his children, David and Kathryn, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Larry Craig Tucker, a cherished member of the Petersburg community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Larry Craig Tucker as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 622

Celebrating the life of Officer Howard Charles Liebengood.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Officer Howard Charles Liebengood of Vienna, a distinguished longtime member of the United States Capitol Police, died on January 9, 2021; and

WHEREAS, a native of Kansas, Howard "Howie" Charles Liebengood joined the United States Capitol Police in 2005 and fulfilled his duties for more than 15 years; and

WHEREAS, throughout his career with the United States Capitol Police, Howie Liebengood served and safeguarded the members of the legislative branch of the United States government, protected United States Capitol grounds, and engaged with visitors and members of the public in a courteous and professional manner; and

WHEREAS, Howie Liebengood was on duty on January 6, 2021, when a mob of insurrectionists stormed the United States Capitol Building in an attempt to disrupt the counting of the Electoral College votes for the 2020 United States Presidential Election; and

WHEREAS, thanks to the unflinching dedication and courageous actions of Howie Liebengood and his fellow law-enforcement officers, United States Capitol grounds were cleared and secured that night, allowing the United States Congress to continue its work; and

WHEREAS, Howie Liebengood's tragic loss is a reminder of the sacrifices made by law-enforcement officers throughout the Commonwealth and the nation, who willingly face dangerous situations to serve and protect their communities; and

WHEREAS, Howie Liebengood will be fondly remembered and greatly missed by his wife, Serena, and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Officer Howard Charles Liebengood, a respected member of the United States Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Officer Howard Charles Liebengood as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 623

Celebrating the life of Patricia Ann Lozinski.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Patricia Ann Lozinski, a beloved wife, mother, grandmother, and friend, died on January 3, 2020; and

WHEREAS, a native of Brooklyn, New York, Patricia "Pat" Ann Lozinski grew up in Brooklyn and later Williston Park, New York; and

WHEREAS, a graduate of Mineola High School, Pat Lozinski worked as a secretary at Narda Microwave Corporation while taking classes at Hofstra University with the goal of earning a degree in education; and

WHEREAS, after marrying the love of her life, David, Pat Lozinski relocated with her husband to Bowie, Maryland, and later Fairfax County, Virginia, where she dedicated her time and energies to raising her family; and

WHEREAS, as her children grew, Pat Lozinski resumed her pursuit of a college degree, ultimately earning a bachelor of arts in education from the University of Maryland, College Park; and

WHEREAS, throughout her full and active life, Pat Lozinski's greatest joy was her family; and

WHEREAS, Pat Lozinski will be fondly remembered by her beloved husband, David Martin Lozinski; her sons, David Lozinski and Steven Lozinski, and Steven's wife, Amanda; three grandchildren, Christian, Briella, and Josephine Lozinski; and many other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Patricia Ann Lozinski, a beloved wife, mother, grandmother, and friend; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Patricia Ann Lozinski as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 624

Celebrating the life of Jaehee Pak.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Jaehee Pak, a beloved wife, mother, friend, and teacher and dedicated servant of Christ who brought joy to all who knew her, died on April 15, 2020; and

WHEREAS, a resident of Centreville, Jaehee Pak pursued a career in education, fostering a love of learning in the hearts and minds of first grade students at Waples Mill Elementary School in Oakton; and

WHEREAS, Jaehee Pak further served her community as an active and dedicated member of Open Door Presbyterian Church in Herndon; and

WHEREAS, among her many accomplishments, Jaehee Pak was most proud of her beloved family, particularly her children, Peyton and Allie, whom she loved with all her heart; and

WHEREAS, Jaehee Pak will be fondly remembered and greatly missed by her husband, Jason; her children, Peyton and Allie; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jaehee Pak, a beloved wife, mother, friend, and teacher; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jaehee Pak as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 625

Celebrating the life of Charles Triplett Hardesty III.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Charles Triplett Hardesty III, an accomplished businessman and employee with the Virginia Department of Motor Vehicles, honorable veteran, and a beloved member of the Berryville community, died on December 8, 2020; and

WHEREAS, a member of the Berryville High School Class of 1947, Charles Triplett "Trip" Hardesty III attended Bridgewater College before serving his country with valor and distinction as a lieutenant in the United States Army during the Korean War; and

WHEREAS, Trip Hardesty went into business in 1956 as owner and operator of Trip's Auto and Camper Sales in Berryville, working tirelessly to serve the automobile needs of the community for many years; and

WHEREAS, Trip Hardesty began a career as a license agent for the Virginia Department of Motor Vehicles (DMV) in 1959 and would ultimately become one of the most long-standing agents in the Commonwealth; and

WHEREAS, operating out of a DMV Select office, Trip Hardesty regularly processed more than 40,000 transactions per year, providing an invaluable service to local residents; and

WHEREAS, active and engaged in his community, Trip Hardesty gave generously of his time and talents as a member of the Clarke County Lions Club, the Winchester Shrine Club, and the Triluminar Lodge No. 117 of the Ancient Free and Accepted Masons in Middleway, West Virginia; and

WHEREAS, guided throughout his life by his deep and abiding faith, Trip Hardesty enjoyed worship and fellowship with his community at Duncan Memorial United Methodist Church in Berryville, where he served on the administrative board, was vice president of the men's group, and sang in the choir; and

WHEREAS, Trip Hardesty will be fondly remembered and dearly missed by his loving wife, Shirley; his children, Charles IV, Wayne, and Robin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Triplett Hardesty III, a cherished and integral member of the Berryville community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Triplett Hardesty III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 626

Celebrating the life of John Duncan Marsh.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, John Duncan Marsh, an honorable veteran and esteemed public servant who led the Town of Purcellville for many years as mayor and councilmember, died on February 1, 2021; and

WHEREAS, John Marsh was raised in Brooklyn, New York, and attended the Kent School in Connecticut before his family resettled in Purcellville in 1950; and

WHEREAS, John Marsh continued his educational pursuits at Washington and Lee University, where he graduated in 1957 after a leave of absence to serve his country with courage and valor as a member of the United States Air Force during the Korean War; and

WHEREAS, John Marsh began his career in the personnel and human resources departments of Marriott International, Navy Federal Credit Union, and Computer Sciences Corporation, and he later worked as a financial consultant for Wheat First Securities for many years; and

WHEREAS, John Marsh served on the Purcellville Town Council from 1986 to 1994 and then as the town's mayor from 1994 to 2002, overseeing a period of meaningful economic growth that had a transformative effect on the region; and

WHEREAS, beyond his public service, John Marsh had an outsized impact on the community through his involvement with the Purcellville Business and Professional Association and Virginia Regional Transit, an organization that helped connect western Loudoun County with the Greater Washington, D.C., metropolitan area; and

WHEREAS, dedicated to protecting the historical and cultural resources of the Commonwealth for the enjoyment of future generations, John Marsh volunteered with the Loudoun Historical Society and served as director of the Purcellville Preservation Association; and

WHEREAS, John Marsh's commitments to the community included service as president of the Leesburg Chapter of Rotary International, which named him a Paul Harris Fellow in recognition of his generous efforts to help others and advance the organization's mission; and

WHEREAS, preceded in death by his loving wife, Nancy, John Marsh will be fondly remembered and dearly missed by his devoted children, Lea, Sue, David, Chris, and Michael, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Duncan Marsh, a treasured public servant of Purcellville whose warm and generous nature touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Duncan Marsh as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 627

Celebrating the life of Ruth Franklin Loughborough.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Ruth Franklin Loughborough, an esteemed businesswoman and merchant and a beloved member of the Boyce and Berryville communities, died on January 30, 2021; and

WHEREAS, affectionately known by customers and friends as "Miss Ruth," Ruth Loughborough served the agricultural community of Clarke County for more than 60 years as both an employee and owner of Berryville Farm Supply; and

WHEREAS, Ruth Loughborough grew up on a farm in Clarke County and began working at Berryville Farm Supply on June 7, 1957, when she was 18 years of age; and

WHEREAS, through steadfast dedication and hard work, Ruth Loughborough ultimately became president of Berryville Farm Supply Corporation, guiding the company until she sold the business and retired in 2020; and

WHEREAS, an enterprising and adaptive business owner, Ruth Loughborough diversified Berryville Farm Supply's offerings over the years to meet the home and garden needs of the wider Clarke County community; and

WHEREAS, known for her ready smile and reliable advice, Ruth Loughborough was an endearing fixture in Berryville and her legacy will be cherished by area residents and farmers for years to come; and

WHEREAS, through her support of the annual Clarke County Fair and local 4-H and Future Farmers of America (FFA) programs, Ruth Loughborough encouraged the aspirations of innumerable children and contributed meaningfully to their success and well-being; and

WHEREAS, guided throughout her life by her faith, Ruth Loughborough enjoyed worship and fellowship with her community at Marvin Chapel United Methodist Church in Berryville, where she was a lifelong member; and

WHEREAS, preceded in death by her loving husband, Richard, Ruth Loughborough will be fondly remembered and dearly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ruth Franklin Loughborough, a pillar of the Berryville business community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ruth Franklin Loughborough as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 628

Commemorating the life and legacy of Giles Beecher Jackson.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Giles Beecher Jackson, a respected attorney and prominent member of the Jackson Ward community in Richmond, was born enslaved on September 10, 1853, in Goochland County as one of 13 children to James and Hulda Jackson; and

WHEREAS, as a teenager, Giles B. Jackson became the body servant of his enslaver, a Confederate colonel, then worked on the Brook Hill Estate in Richmond after the Civil War, which is where he learned to read and write; and

WHEREAS, Giles B. Jackson married Sarah Ellen Wallace in 1874; the couple raised 14 children of their own and moved to the western edge of Jackson Ward in Richmond in 1877; and

WHEREAS, Giles B. Jackson became the first Black attorney certified to practice law before the Virginia Supreme Court of Appeals in 1887; he maintained several law offices in the early 1900s before settling at 513 North Second Street in Jackson Ward; and

WHEREAS, Giles B. Jackson authored the articles of incorporation for the Savings Bank of the Grand Fountain of the United Order of True Reformers, which was the nation's first chartered Black-owned and operated bank, led by William Washington Browne; and

WHEREAS, Giles B. Jackson was appointed as vice president of the National Negro Business League by Booker T. Washington in 1900 and served in that capacity for three years; and

WHEREAS, Giles B. Jackson was commissioned as an honorary colonel and commanded an all-Black cavalry unit, the Third Civic Division, as part of President Theodore Roosevelt's inaugural parade in 1905; and

WHEREAS, Giles B. Jackson formed the Negro Development and Exposition Company of the United States of America in 1902; he curated the Negro Building at the Jamestown Ter-centennial Exposition in 1907, which was designed to celebrate the progress of Black Americans in the 300 years since the arrival of the first enslaved Africans in 1619; and he published *The Industrial History of the Negro Race of the United States*, which was an anthological account of the contributions of Black Americans; and

WHEREAS, during World War I, Giles B. Jackson was appointed as chief of the Negro Division of the United States Employment Service in Washington, D.C., and served in that role until 1919; and

WHEREAS, Giles B. Jackson died on August 13, 1924, at his home at 818 North 4th Street in Jackson Ward, which was demolished as a result of the Richmond-Petersburg Turnpike in the late 1950s, and was laid to rest in Evergreen Cemetery; and

WHEREAS, April 17, 2021, marks the 150th anniversary of the creation of Jackson Ward, which was established in 1871 as a gerrymandered political district during Reconstruction; it became the first officially registered historic Black urban neighborhood in the country and was commonly nicknamed "Little Africa," "Harlem of the South," and "Black Wall Street"; and

WHEREAS, the origins of the name Jackson Ward have been a longstanding source of debate since 1902, and while some evidence suggests the district was named for Confederate General Thomas "Stonewall" Jackson, other sources indicate President Andrew Jackson, James Jackson of Jackson's Beer Garden, or Giles B. Jackson, who is most deserving of the honor as a prominent resident and community leader; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Giles Beecher Jackson hereby be commemorated on the occasion of the 150th anniversary of the creation of the Jackson Ward district in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the JXN Project as an expression of the House of Delegates' respect for the memory of Giles Beecher Jackson and

admiration for the importance of properly contextualizing Jackson Ward's origin story and working to ensure that the debate over the origins of the name do not continue for another 150 years.

HOUSE RESOLUTION NO. 629

Commending the Battlefield High School boys' swim and dive team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Battlefield High School boys' swim and dive team finished in third place at the Virginia High School League Region 6B championship in February 2021; and

WHEREAS, the Battlefield High School Bobcats finished with 321 points at the regional meet, held at Prince William County Aquatics Center; and

WHEREAS, Battlefield High School's Ryan Strotheide set a school record with his second-place finish in the 100-yard backstroke event with a time of 52.78; and

WHEREAS, after their performance at regionals, eight Battlefield High School swimmers qualified for the state championship meet: Lleyton Arnold, Preston Borden, Alex Canfield, Theo Drescher, Emmett Hannam, Ean Helmlinger, Cooper Mercer, and Ryan Strotheide; and

WHEREAS, 2021 marked the first time both a male and female diver from Battlefield High School scored points at the state championship meet, with Brendan Boxall finishing in 11th place for the boys' team; and

WHEREAS, the victory is a tribute to the skill and hard work of all the student-athletes, the dedication of coaches and staff, and the unwavering support of the entire Battlefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Battlefield High School boys' swim and dive team hereby be commended on placing third at the Virginia High School League Region 6B championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jay Thorpe, head coach of the Battlefield High School boys' swim and dive team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 630

Commending the Battlefield High School girls' swim and dive team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Battlefield High School girls' swim and dive team won the Virginia High School League Region 6B championship in February 2021; and

WHEREAS, the Battlefield High School Bobcats finished the regional meet with 466 points, soundly defeating the runners-up from Patriot High School by 129 points; and

WHEREAS, sophomore Camille Spink led the Battlefield Bobcats by setting Battlefield High School and Prince William County Public Schools records in the 50-yard freestyle event with a time of 22.55 and in the 100-yard freestyle with a time of 49.39; and

WHEREAS, Camille Spink, along with Jamie Cornwell, Emma Hannam, and Sophie Heilen, was a member of the record-setting 200-yard medley relay team that won with a time of 1:44.60; and

WHEREAS, in addition, the Battlefield Bobcats won the 200-yard freestyle relay and the 400-yard freestyle relay; and

WHEREAS, after their performance at regionals, 10 Battlefield High School swimmers qualified for the state championship meet: Jamie Cornwell, Katherine Diatchenko, Ashleigh Farmerie, Sarah Golsen, Emma Hannam, Sophia Heilen, Chase Miller, Tess Peny, Lexi Sawwa, and Camille Spink; and

WHEREAS, 2021 marked the first time both a male and female diver from Battlefield High School scored points at the state championship meet, with Juliana Robertson finishing in 13th place for the girls' team; and

WHEREAS, the victory is a tribute to the skill and hard work of all the student-athletes, the dedication of coaches and staff, and the unwavering support of the entire Battlefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Battlefield High School girls' swim and dive team hereby be commended on winning the Virginia High School League Region 6B championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jay Thorpe, head coach of the Battlefield High School girls' swim and dive team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 631

Commending the Battlefield High School girls' indoor track and field team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Battlefield High School girls' indoor track and field team of Haymarket won the Virginia High School League Region 6B championship on February 17, 2021, at Freedom High School in Woodbridge; and

WHEREAS, carried by several strong finishes, the Battlefield High School Bobcats posted 125 points for a commanding victory in the team competition, surpassing the runner-up by 39 points; and

WHEREAS, several runners for the Battlefield Bobcats achieved personal bests over the day, while three runners placed in the top five for the 500-meter dash and two others placed in the top five for the 1600-meter run; and

WHEREAS, the Battlefield Bobcats saw first place finishes from Sailor Eastman, who won the 1000-meter run with a time of 3:07.58, and Brittany Fort, who won the shot put event with a toss measuring 35 feet, six inches; and

WHEREAS, the Battlefield Bobcats benefited from standout performances by Madyson Kannon, who placed second in the 55-meter dash; Maya Mosley, who placed second in the 300-meter dash; Ella Wild, who placed second in the 500-meter dash; and Farah McDaniel, who placed second in the 1600-meter run; and

WHEREAS, the Battlefield Bobcats' relay teams had impressive results, as well, with second place finishes in the 800-meter and 1600-meter events and a third place finish in the 3200-meter event; and

WHEREAS, the individuals and relay teams placing in the top three of their events will compete again at the Virginia High School League Class 6 state championship on March 1, 2021, at the Virginia Beach Sports Center; and

WHEREAS, the success of the Battlefield Bobcats is the result of the tireless dedication of the student-athletes, the encouragement and guidance of their coaches and teachers, and the unwavering support of the entire Battlefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Battlefield High School girls' indoor track and field team hereby be commended for winning the Virginia High School League Region 6B championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jarrette Marley, coach of the Battlefield High School girls' indoor track and field team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 632

Commending the Battlefield High School boys' indoor track and field team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Battlefield High School boys' indoor track and field team of Haymarket was runner-up at the Virginia High School League Region 6B championship on February 17, 2021, at Freedom High School in Woodbridge; and

WHEREAS, the Battlefield High School Bobcats posted an impressive 84 points over the day, good for a second-place finish in the team competition; and

WHEREAS, the Battlefield Bobcats were led by Brian DiBassinga, who won the triple jump contest with a jump of 44 feet, seven and one-half inches, and who placed second in the pole vault event and third in the long jump event; and

WHEREAS, the Battlefield Bobcats benefited from standout performances by Austin Gallant, who placed second in the shot put event; Austin Rice, who placed second in the 500-meter dash and third in the 300-meter dash; and Winston Broiles, who placed third in the 55-meter hurdles event; and

WHEREAS, the Battlefield Bobcats' relay teams had a strong showing, with a second-place finish in the 1600-meter event; and

WHEREAS, the individuals and relay teams placing in the top three of their events will compete again at the Virginia High School League Class 6 state championship on March 1, 2021, at the Virginia Beach Sports Center; and

WHEREAS, the success of the Battlefield Bobcats is the result of the tireless dedication of the student-athletes, the encouragement and guidance of their coaches and teachers, and the unwavering support of the entire Battlefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Battlefield High School boys' indoor track and field team hereby be commended for an outstanding performance at the Virginia High School League Region 6B championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jarrette Marley, coach of the Battlefield High School boys' indoor track and field team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 633

Commending the Centreville High School boys' basketball team.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Centreville High School boys' basketball team of Clifton won the Virginia High School League Class 6 state championship on February 20, 2021, at their home court in Clifton; and

WHEREAS, the Centreville High School Wildcats defeated the Potomac High School Panthers of Dumfries by a score of 63-49 to bring home a state championship title and finish the season 14-2; and

WHEREAS, in a game that was tied early in the fourth quarter, the Centreville Wildcats accomplished victory through stellar coverage on defense that forced the other team to make difficult shots and dominant athleticism on offense that led to several points in the paint; and

WHEREAS, the Centreville Wildcats were led by strong performances from Chris Kuzemka, who made nine of 11 attempts from the free throw line and had 21 points, and Avery Ford, who notched 17 points, including seven in the second quarter; and

WHEREAS, the Centreville Wildcats' state championship title in 2021 helps to redeem the 2020 season, in which the team was slated to compete in the Virginia High School League Class 6 state championship but was unable to do so due to the COVID-19 pandemic; and

WHEREAS, the success of the Centreville Wildcats is the result of the tireless dedication of the student-athletes, the encouragement and guidance of their coaches and teachers, and the unwavering support of the entire Centreville High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Centreville High School boys' basketball team hereby be commended for winning the Virginia High School League Class 6 state championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kevin Harris, coach of the Centreville High School boys' basketball team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for the future.

HOUSE RESOLUTION NO. 634

Commending long-term caregivers.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, long-term caregivers have admirably served the Commonwealth by providing quality and compassionate care on the front lines of the COVID-19 pandemic; and

WHEREAS, long-term caregivers are heroes who have faced great challenges managing the COVID-19 pandemic as they are typically working in congregate living facilities with older patient populations who are more vulnerable to the disease; and

WHEREAS, with more deaths from the virus in nursing homes and assisted living residences than anywhere else in the Commonwealth, congregate living facilities have been the most dangerous place to contract COVID-19; and

WHEREAS, long-term caregivers have worked with Governor Ralph S. Northam's Virginia COVID-19 Long-Term Care Task Force to ensure that all facilities have adequate staffing and resources in place to provide proper care; and

WHEREAS, long-term caregivers, in collaboration with the local health districts of the Virginia Department of Health, acquired personal protective equipment and trained colleagues to fit test N95 respirators to limit the spread of infection at facilities; and

WHEREAS, long-term caregivers have often gone unseen by the general public for their remarkable actions and sacrifices during the COVID-19 pandemic, but they nonetheless have worked long hours, driven across the Commonwealth to volunteer for shifts, and exposed themselves directly to the deadly virus to fulfill essential job responsibilities; and

WHEREAS, facing incredible anguish and sorrow, long-term caregivers have shown great resilience in the face of tragedy to ensure the health and well-being of others; and

WHEREAS, demonstrating a tireless commitment to the health and well-being of their residents, long-term caregivers are an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That long-term caregivers hereby be commended for heroically serving citizens of the Commonwealth during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to representatives of long-term caregivers as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 635

Commending Merrifield Garden Center.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Merrifield Garden Center, a family owned and operated, full-service garden center, nursery, and landscaping company in Northern Virginia, commemorates 50 years of service to the community in April 2021; and

WHEREAS, established in 1971 by founders Bob and Billie Jean Warhurst and Buddy and Doris Williams, Merrifield Garden Center has grown from a small roadside store in Merrifield with less than an acre of plants into one of the largest nursery and landscaping companies in the region, staffing hundreds of employees across locations in Merrifield, Fair Oaks, and Gainesville; and

WHEREAS, Merrifield Garden Center is dedicated to providing quality products and services to its customers, with the store's buyers regularly scouring the country to produce an exceptional selection of plants, gardening supplies, and home decor items; and

WHEREAS, Merrifield Garden Center staff are devoted to sharing their knowledge of plants and gardening with inquiring customers, both in person and through the company's classes, blog, and social media postings; and

WHEREAS, a pillar of the Merrifield community for many years, Merrifield Garden Center actively supports local schools, family businesses, independent artisans, and development initiatives in the area through various endeavors and good deeds, such as hosting a putt-putt golf day for kids and landscaping and design support for the Greater Merrifield Business Association's fall festival; and

WHEREAS, as an extension of its advocacy efforts, Kevin Warhurst, vice president of Merrifield Garden Center, has participated in several Merrifield development task forces and is currently serving as the 2021 president of the Greater Merrifield Business Association; and

WHEREAS, by helping to beautify homes and gardens in Northern Virginia for the past half-century, Merrifield Garden Center has been a part of what makes the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Merrifield Garden Center hereby be commended for its numerous achievements in service to the community on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of Merrifield Garden Center as an expression of the House of Delegates' admiration for the company's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 636

Commending Billy Thompson.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Billy Thompson, past president of the Greater Merrifield Business Association, has served the Merrifield community of Fairfax County with steadfast passion and dedication for many years; and

WHEREAS, as a member of the Greater Merrifield Business Association since 1995, Billy Thompson has been instrumental to the organization's efforts to support the growth and development of Merrifield, serving most recently as president of the organization for seven years; and

WHEREAS, along with serving on the Tysons Land Use Task Force, Billy Thompson has been an effective advocate for numerous endeavors in the Merrifield area, including the Inova Health System and the Fairview Park mixed-use development; and

WHEREAS, an inspiration and mentor to many Merrifield-area business owners, Billy Thompson has served on the Virginia Small Business Advisory Board and chaired the Tysons Regional Chamber of Commerce; and

WHEREAS, an active and engaged member of the community, Billy Thompson was president of the Rotary Club of Vienna, a mentor in the BeFriend-A-Child Program, a youth baseball and softball coach, and co-chair of an annual children's Christmas party at a Fairfax County homeless shelter; and

WHEREAS, Billy Thompson has received various accolades and awards over the years for his service to the community, a fitting tribute to one who has worked tirelessly in many ways for the benefit of Merrifield; now, therefore, be it

RESOLVED by the House of Delegates, That Billy Thompson hereby be commended for his legacy of service to the Merrifield community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Billy Thompson as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 637

Commending Matthew Savage.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Matthew Savage has advanced youth civic engagement in the Commonwealth as chair of the Virginia Young Democrats Teen Caucus; and

WHEREAS, during Matthew Savage's tenure, the Virginia Young Democrats Teen Caucus tripled its high school chapters, becoming by that measure the largest constituency caucus of the Virginia Young Democrats; and

WHEREAS, Matthew Savage helped lead a lobbying campaign in the General Assembly to garner support for legislation that would allow students an excused absence from school to participate in a civic event; and

WHEREAS, Matthew Savage and the Virginia Young Democrats Teen Caucus collaborated with the Teenage Republican Federation of Virginia to further their legislative objectives, providing an example of bipartisan collaboration that has been an inspiration to many; and

WHEREAS, Matthew Savage's admirable efforts to make it easier for students to be involved in the political process were prominently featured in national media outlets, including the *Washington Post*; and

WHEREAS, in addition to his service with the Virginia Young Democrats Teen Caucus, Matthew Savage represented the Commonwealth on the national committee of the High School Democrats of America; and

WHEREAS, Matthew Savage has selflessly decided to conclude his term as chair of the Virginia Young Democrats Teen Caucus before finishing high school, facilitating a smooth transition in leadership that will foster the continued success of the caucus for years to come; and

WHEREAS, as the youngest member of both the Central Committee of the Virginia Democratic Party and the 8th Congressional District Democratic Committee, Matthew Savage's future in politics appears bright and full of promise; now, therefore, be it

RESOLVED by the House of Delegates, That Matthew Savage hereby be commended for serving as chair of the Virginia Young Democrats Teen Caucus and for promoting youth civic activities in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matthew Savage as an expression of the House of Delegates' admiration for his contributions to the Commonwealth and best wishes for the future.

HOUSE RESOLUTION NO. 638

Celebrating the life of Freddie Eugene Wood III.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Freddie Eugene Wood III, a captain with the Chesapeake Sheriff's Office and a beloved member of the Chesapeake community, died on February 16, 2021; and

WHEREAS, Freddie Wood retired in 2017 as a captain of the Chesapeake Sheriff's Office after dedicating 29 years to the safety and well-being of the residents of Chesapeake; and

WHEREAS, over his illustrious tenure with the Chesapeake Sheriff's Office, Freddie Wood served in various sections of the agency and left a legacy in the training department that will endure for years to come; and

WHEREAS, as the lead defensive tactics instructor of the Chesapeake Sheriff's Office, Freddie Wood helped the agency become a leader in law-enforcement training standards, implementing high-quality training equipment in defensive tactics lessons and incorporating health and fitness programming into the agency's curriculum; and

WHEREAS, Freddie Wood will be fondly remembered and dearly missed by his loving and devoted wife of 32 years, Lisa; his daughter, Brittany, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Freddie Eugene Wood III, a cherished former captain of the Chesapeake Sheriff's Office, whose unwavering kindness, generosity, and dedication to protecting and serving the community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Freddie Eugene Wood III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 639

Celebrating the life of Anna Mae Washington.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, Anna Mae Washington, an educator and youth leader in the Richmond community, died on February 22, 2021; and

WHEREAS, Anna Washington inspired students to become lifelong learners as a teacher with Henrico County Public Schools, from which she retired after a long and fulfilling career; and

WHEREAS, Anna Washington offered her time to improve the lives of others as a volunteer for many civic and service organizations; and

WHEREAS, Anna Washington enjoyed fellowship and worship with the community as a faithful member of St. Philip's Episcopal Church, where she spent more than 50 years mentoring young people as a Girl Scout troop leader; and

WHEREAS, during her long affiliation with the Girl Scouts, Anna Washington took local girls on camping trips, marched in parades, attended local events, and performed countless hours of volunteer service, helping girls develop courage and self-confidence; and

WHEREAS, many of Anna Washington's former Scouts went on to become doctors, attorneys, educators, and leaders in other professions and their communities; and

WHEREAS, Anna Washington will be fondly remembered and greatly missed by her sister, Robinette; her beloved nieces and nephews; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anna Mae Washington, a vibrant member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anna Mae Washington as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 640

Commending educators and school support staff in Virginia.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, during the COVID-19 pandemic, educators and school support staff in Virginia have successfully facilitated distance learning through online instruction and hybrid in-person instruction with safety measures and social distancing for more than 1,250,000 students; and

WHEREAS, Virginia elementary school educators have provided instruction in all content areas, as well as special courses covering art, music, and physical education, while secondary school teachers have continued to provide available courses and extracurricular activities; and

WHEREAS, Virginia educators at all levels have provided students with opportunities to enrich social-emotional learning and receive mental health and wellness support; and

WHEREAS, in addition to maintaining day-to-day operations in unprecedented circumstances, Virginia school administrators have provided faculty and staff members with opportunities for professional development and training on the unique challenges of virtual learning; and

WHEREAS, Virginia substitute teachers have assisted with operations by distributing laptops and meals to students, engaging in training opportunities, and answering calls for service; and

WHEREAS, teacher assistants and other educators have facilitated learning in a variety of ways, including leading breakout rooms, supporting whole group instruction, and conducting other important work to support students and teachers in distance learning; and

WHEREAS, Virginia educators and support staff have established clear communication with parents, families, and the community to provide useful updates throughout the pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That educators and school support staff in Virginia hereby be commended for their outstanding work to continue to provide learning opportunities during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Secretary of Education Atif Qarni to share with public school superintendents throughout Virginia as an expression of the House of Delegates' admiration for the achievements of teachers and staff members in service to young people in the Commonwealth.

HOUSE RESOLUTION NO. 641

Commending the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia.

Agreed to by the House of Delegates, February 27, 2021

WHEREAS, the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia worked together to build bipartisan consensus on historic legislation giving young people in the Commonwealth more opportunities to make their voices heard in local and state government; and

WHEREAS, the Virginia Young Democrats Teen Caucus, founded in 1932, is the official teen wing of the Democratic Party of Virginia and is chaired by Matthew Savage; and

WHEREAS, the Teenage Republican Federation of Virginia, founded in 2020, works to help young people become more involved with the Republican Party of Virginia and is chaired by Brady Hillis; and

WHEREAS, in 2019, Fairfax County Public Schools began offering students one excused absence for the purpose of attending a protest or political rally, and the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia subsequently worked together to develop legislation expanding this opportunity to all students in the Commonwealth; and

WHEREAS, the legislation, which was introduced in both the House of Delegates and the Senate of Virginia and grants middle school and high school students in the Commonwealth one excused absence per academic year to attend a protest or political event of their choice, passed both chambers with bipartisan support; and

WHEREAS, the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia demonstrated that civic engagement is critical for young people across the political spectrum and overcame differences to achieve a common goal with civility and mutual respect, setting a good example for both citizens and local and state officials throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia hereby be commended for their efforts to advocate for bipartisan legislation promoting civic engagement among young people in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Virginia Young Democrats Teen Caucus and the Teenage Republican Federation of Virginia as an expression of the House of Delegates' admiration for their leadership and commitment to service.

SENATE JOINT RESOLUTION NO. 276

Designating September, in 2021 and in each succeeding year, as Brain Aneurysm Awareness Month in Virginia.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, it is estimated that one in every 50 people in the United States has an unruptured brain aneurysm, which can lead to double vision, vision loss, loss of sensation, weakness, loss of balance, lack of coordination, and speech problems; and

WHEREAS, a brain aneurysm is often discovered when it ruptures and causes a subarachnoid hemorrhage, which can result in brain damage, hydrocephalus, stroke, and death; and

WHEREAS, each year, approximately 30,000 people in the United States suffer from ruptured brain aneurysms, many of which are fatal; and

WHEREAS, between 3,000 and 4,500 people in the United States with ruptured brain aneurysms die before reaching the hospital and survivors are often faced with life-changing disabilities; and

WHEREAS, proper screening and early diagnosis play a significant role in the treatment and survivability of brain aneurysms, and it is critical to support efforts to better understand, prevent, and treat brain aneurysms; and

WHEREAS, established in 1994, the Brain Aneurysm Foundation raises awareness of the signs, symptoms, and risk factors of brain aneurysms, provides education and support to patients and their families, and advocates for research and programs to improve patient outcomes and save lives; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate September, in 2021 and in each succeeding year, as Brain Aneurysm Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Brain Aneurysm Foundation so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 285

Continuing the Joint Subcommittee to Study Barrier Crimes and Criminal History Records Checks. Report.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, Senate Joint Resolution No. 35 (2020) established the Joint Subcommittee to Study Barrier Crimes and Criminal History Records Checks to develop recommendations related to (i) whether statutory provisions related to criminal history records checks, barrier crimes, and barrier crime exceptions should be reorganized and consolidated into a central location in the Code of Virginia; (ii) whether certain crimes should be removed from the list of barrier crimes; (iii) whether barrier crime exceptions and waiver processes should be broadened; (iv) whether the required amount of time that must lapse after conviction of certain barrier crimes should be shortened; and (v) other changes that could be made to criminal history records check and barrier crimes requirements that would improve the organization, effectiveness, and fairness of such provisions; and

WHEREAS, the Joint Subcommittee to Study Barrier Crimes and Criminal History Records Checks met in 2020 and has undertaken extensive work in (i) reviewing the laws of the Commonwealth governing barrier crimes and criminal history records checks and (ii) discussing a work plan for the joint subcommittee to carry out its work; and

WHEREAS, due to scheduling conflicts as a result of the COVID-19 pandemic and the 2020 Special Session, the Joint Subcommittee to Study Barrier Crimes and Criminal History Records Checks was unable to hold a sufficient number of meetings to address all of the issues posed in Senate Joint Resolution 35 (2020), and it has become evident that additional work is required to meet the objectives of Senate Joint Resolution 35 (2020); now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee to Study Barrier Crimes and Criminal History Records Checks be continued. The joint subcommittee shall have a total membership of 11 members that shall consist of two members of the Senate appointed by the Senate Committee on Rules; four members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen-at-large appointed by the Senate Committee on Rules; one nonlegislative citizen-at-large appointed by the Speaker of the House of Delegates; and the Commissioners of the Departments of Behavioral Health and Developmental Services, Health, and Social Services, or their designees to serve ex officio with nonvoting privileges. Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. The current members appointed by the Senate Committee on Rules shall continue to serve until replaced. The current members appointed by the Speaker of the House of Delegates shall be subject to reappointment. Vacancies shall be filled by the original appointing authority. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall continue the work it has begun with regard to developing recommendations related to (i) the laws of the Commonwealth relating to barrier crimes and criminal history records checks; (ii) addressing issues related to the underlying structural organization of provisions relating to barrier crimes in the Code of Virginia; (iii) determining whether barrier crime exceptions and waiver processes should be broadened; (iv) determining whether the required amount of time that must lapse after conviction of certain barrier crimes should be shortened; (v) recommending statutory or regulatory changes needed to improve the Commonwealth's requirements related to barrier crimes and criminal history records checks; and (vi) addressing other issues recommended by the joint subcommittee to study, such as collateral consequences and private background check companies.

Administrative staff support shall continue to be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall continue to be provided by the Division of Legislative Services. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2021 interim, and the direct costs of this study shall not exceed \$13,680 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (a) vote against the recommendation and (b) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2022 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2021 interim.

SENATE JOINT RESOLUTION NO. 286

Designating the third week in March, in 2021 and in each succeeding year, as Emergency Management Professionals Week in Virginia.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, the Commonwealth of Virginia has established a state program of emergency management and requires localities to have emergency management programs to address the array of threats and hazards to which the people of the Commonwealth are vulnerable; and

WHEREAS, emergency management protects communities by coordinating and integrating all activities necessary to build, sustain, and improve the capability to mitigate against, prepare for, respond to, and recover from threatened or actual natural disasters and acts of terrorism and other man-made disasters; and

WHEREAS, emergency management professionals play an under-recognized yet indispensable role in providing the leadership, management, and operational skills necessary to enable their communities, organizations, and agencies to develop emergency plans and procedures, ensure personnel are adequately trained and exercise plans, provide emergency warnings, notifications, and alerts, and acquire resources to protect lives and property and enhance resiliency to emergency events; and

WHEREAS, emergency management professionals direct or support emergency operations, maintain dedicated emergency operations centers in 24/7 readiness, and actively serve operationally throughout the cycle of emergency events; and

WHEREAS, emergency management professionals communicate and coordinate with a broad network of partners at the federal, state, regional, and local levels of government, in the private sector, and at nongovernmental organizations and with the general public; and

WHEREAS, emergency management professionals possess extensive knowledge of the hazards and risks that threaten the Commonwealth and its communities, the specific programs and strategies available to address them, applicable federal, state, and local laws and compliance guidelines, and the roles of critical partners essential to effective preparedness, response, and disaster recovery; and

WHEREAS, emergency management professionals assist allied professionals in the medical community and in emergency response, business, nonprofit, and faith organizations to achieve preparedness, response, and recovery capabilities; and

WHEREAS, a well-prepared and resilient community is the ultimate goal of emergency management; and

WHEREAS, emergency management professionals serve as the critical link between government and those they serve; public outreach and public education undergird the effectiveness of all emergency management efforts; and

WHEREAS, the Commonwealth of Virginia is proud to honor the service and commitment of its emergency management professionals and recognize their contributions to the lives, health, and safety of all who live, visit, and do business in the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate the third week in March, in 2021 and in each succeeding year, as Emergency Management Professionals Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Emergency Management Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this week on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 288

Authorizing, and directing the submission to the Joint Committee of Congress on the Library, that the vacant spot of the Commonwealth in the National Statuary Hall Collection at the United States Capitol be filled with a statue to commemorate Barbara Rose Johns.

Agreed to by the Senate, February 3, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, pursuant to 2 U.S.C. § 2131, each state is permitted to provide and furnish to the United States Capitol two statues, in marble or bronze, of deceased persons who have been prominent citizens of the state for placement in the National Statuary Hall Collection; and

WHEREAS, currently, Virginia is represented in the National Statuary Hall Collection by George Washington and one vacant position; and

WHEREAS, pursuant to 2 U.S.C. § 2132, a state may request that the Joint Committee of Congress on the Library approve the replacement of any statue the state has provided for display in the National Statuary Hall Collection at the United States Capitol; and

WHEREAS, pursuant to Chapters 1098 and 1099 of the Acts of Assembly of 2020, the Commission for Historical Statues in the United States Capitol was established to recommend to the General Assembly a replacement statue and to provide for the selection of a sculptor and the submission of the Commonwealth's request to the Joint Committee of Congress on the Library for approval to replace the Robert E. Lee statue in the National Statuary Hall Collection at the United States Capitol; and

WHEREAS, on July 24, 2020, the Commission for Historical Statues in the United States Capitol unanimously approved a motion to recommend that the Robert E. Lee statue be removed from the Statuary Hall Collection at the United States Capitol; and

WHEREAS, on July 31, 2020, the Honorable Governor Ralph S. Northam sent an official letter to the Architect of the Capitol requesting approval to immediately remove the Robert E. Lee statue from the National Statuary Hall Collection at the United States Capitol, and on December 21, 2020, the statue was removed; and

WHEREAS, on December 16, 2020, the Commission for Historical Statues in the United States Capitol recommended that a statue of Barbara Rose Johns should represent the Commonwealth of Virginia in the National Statuary Hall Collection at the United States Capitol; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Committee of Congress on the Library be requested to fill the Commonwealth's vacant spot in the National Statuary Hall Collection at the United States Capitol with a statue to commemorate Barbara Rose Johns. The authorization of the Commonwealth, subject to written approval by the Governor, is in accordance with the recommendation by the Commission for Historical Statues in the United States Capitol.

The subject of the replacement, Barbara Rose Johns of Prince Edward County, was a civil rights hero and organizer of the strike that ignited public school desegregation in the Commonwealth and the United States.

The Commonwealth will select a sculptor, coordinate design of the statue with the Architect of the Capitol, and submit the statue commemorating Barbara Rose Johns for acceptance into and placement in the National Statuary Hall Collection at the United States Capitol as soon as possible.

SENATE JOINT RESOLUTION NO. 292

Designating August, in 2021 and in each succeeding year, as Women's Suffrage Month in Virginia.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, an organized movement to enfranchise women began in July 1848 at a convention in Seneca Falls, New York; and

WHEREAS, brave and courageous women, referred to as suffragists, sacrificed their personal lives, their financial resources, and time with their families over the course of more than 70 years to gain equal rights for women, especially the right to vote; and

WHEREAS, women and men of all races and creeds supported the movement for women to gain the constitutional right to have an equal voice in making the laws that govern them; and

WHEREAS, the women's suffrage movement led to the passage of the Nineteenth Amendment to the Constitution of the United States in 1919, with ratification by the last state necessary on August 18, 1920; and

WHEREAS, 2020 marked the 100th anniversary of women gaining the right to vote in the United States and offered an opportunity to appreciate the impact these historic accomplishments have had on citizen engagement in the electoral process and on civic life at local, state, and national levels; and

WHEREAS, in 2021, women constitute a majority of voters in the nation, are running for office in higher numbers, and are more active in the election process than ever before in history; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate August, in 2021 and in each succeeding year, as Women's Suffrage Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 293

Requesting the Joint Commission on Health Care to study available data regarding assisted living and auxiliary grants and develop a blueprint for implementing recommendations that will allow the Commonwealth to provide a more realistic system of addressing housing and care needs. Report.

Agreed to by the Senate, February 3, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, funding for auxiliary grants, which are income supplements for individuals who receive Supplemental Security Income and certain other aged, blind, or disabled individuals who reside in a licensed assisted living facility or an approved adult foster care home, is currently so low that the number of auxiliary grant beds available in such facilities has declined steadily in the last decade, leaving individuals homeless; and

WHEREAS, the current requirement that localities pay 20 percent of auxiliary grants is possibly outdated, as many localities have few, if any, tools to deal with auxiliary grant beds being built, leaving many individuals homeless who might otherwise have had beds available through auxiliary grants; and

WHEREAS, Medicaid can be used to pay some of the costs of assisted living other than room and board, waivers are successfully being utilized in other states, and third-party payer contributions could alleviate stress on the state budget; and

WHEREAS, the Commonwealth has some of the most rigorous standards for nursing home eligibility in the nation, which means that Virginians in assisted living facilities would be eligible for nursing home care through Medicaid in most other states; and

WHEREAS, despite several reviews and legislative studies by the Joint Legislative Audit and Review Commission in the last decade and a half, many of the recommendations of such studies have not been pursued, and the Joint Commission on Health Care is well-versed in addressing the needs of older Virginians and Virginians with special needs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Commission on Health Care be requested to study available data regarding assisted living and auxiliary grants and develop a blueprint for implementing recommendations that will allow the Commonwealth to provide a more realistic system of addressing housing and care needs.

In conducting its study, the Joint Commission on Health Care shall review available data regarding assisted living and auxiliary grants and develop a blueprint for implementing recommendations that will allow the Commonwealth to provide a more realistic system of addressing housing and care needs for those Virginians in need of home and community-based services and supports and assisted living and nursing home care. Such review and blueprint shall be made available to the Governor for use in his preparation of budget in the fall of 2021.

All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request.

The Joint Commission on Health Care shall complete its meetings by November 30, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2022 Regular Session of the General Assembly. The executive summary shall state whether the Joint Commission on Health Care intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 294

Directing the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality. Report.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, under Article VIII, Section 1 of the Constitution of Virginia, ultimate responsibility for public education rests with the General Assembly, which is specifically charged with the duties of establishing a public school system and striving to ensure its quality; and

WHEREAS, the Standards of Quality, prescribed by the Board of Education and revised only by the General Assembly, establish minimum educational goals and requirements; and

WHEREAS, the cost of such Standards of Quality and how that cost is shared between the state and the localities is determined by the General Assembly; and

WHEREAS, the Standards of Quality funding formula has undergone several changes in the past decade and may no longer reflect the actual costs schools face in educating Virginia's children; and

WHEREAS, many school divisions in the Commonwealth exceed the minimum educational goals and requirements of the Standards of Quality; and

WHEREAS, the General Assembly must take into account the actual cost of education in the Commonwealth in order to ensure a high-quality education program and a fair balance of costs between the state and the localities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) estimate the cost of implementing the Standards of Quality based on the actual expense of education prevailing in the Commonwealth, (ii) determine if the Standards of Quality accurately reflect actual standards of practice within each school division, (iii) analyze changes in the Standards of Quality funding formula since 2009 and the impact of such changes on its accuracy in reflecting such costs, (iv) recommend changes to the Standards of Quality funding formula to ensure that state support is neither inadequate nor excessive, and (v) consider any other funding issues and make any other recommendations it deems relevant.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Education. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by November 30, 2022, and for the second year by November 30, 2023, and the Director shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 308

Directing the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees. Report.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, the COVID-19 pandemic has proven to be one of the most disruptive forces ever exerted on Virginia's public schools. State guidance has given local school divisions wide latitude in deciding to what extent school programs should be delivered virtually, as opposed to in person, under revised protocols to protect health and safety; and

WHEREAS, strong and inclusive public education systems are essential to the short-term and long-term recovery of society, and there is an opportunity to leapfrog toward powered-up schools; and

WHEREAS, public education systems in the United States were not built to deal with extended shutdowns like those imposed as a result of the COVID-19 pandemic. Teachers, administrators, and parents have worked hard to keep learning alive, but these efforts are not likely to provide the quality of education that is delivered in the classroom; and

WHEREAS, the COVID-19 pandemic has exposed the many inadequacies and inequities in public education systems, such as lack of access to the broadband and computers needed for online education, lack of supportive environments needed to focus on learning, and the misalignment between resources and needs; and

WHEREAS, the extended period of restrictions on face-to-face instruction in the Commonwealth has exacerbated previously existing differences in student learning experiences, levels of support, and access to resources. NWEA, a nonprofit organization that develops and offers student assessments, estimates that students could return to school in the fall, either in person or virtually, (i) with roughly 70 percent of the learning gains in reading relative to a typical school year and (ii) with less than 50 percent of the learning gains in mathematics relative to a typical school year and, at some grade levels, nearly a full year behind in mathematics relative to what educators would observe in normal conditions; and

WHEREAS, researchers predict that the top one-third of students will make gains in reading during the extended period of restrictions on face-to-face instruction, possibly because they are likely to continue reading with their families while such restrictions are in place, thus widening the achievement gap; and

WHEREAS, one national survey shows that one-third of teacher respondents report that the pandemic has made them more likely to exit the profession or opt for early retirement, results that are concerning. Of such subset of teacher respondents, 45 percent are over the age of 50, 44 percent have over 20 years of experience as educators, and 42 percent live in the American South; and

WHEREAS, government funding for public education often fluctuates in response to external shocks, as governments prioritize other investments. The slowdown of economic growth associated with the spread of COVID-19 may affect the availability of public funding for education, as tax revenues decline and emergency funds are funneled into supporting increased health care expenditures for those in poverty; and

WHEREAS, in response to the COVID-19 pandemic, many students have opted for home school and private school alternatives during the 2020–2021 school year, a trend that has had an adverse impact on the calculation of the number of students in average daily membership for the purpose of public education funding; and

WHEREAS, as public educators have an unwavering commitment to ensuring that Virginia's public education system is one that provides equitable educational opportunities to all students and to meeting the needs of all Virginia learners, especially those disproportionately impacted by restrictions on face-to-face instruction or learning loss; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study the impact of COVID-19 on Virginia's public schools, students, and school employees.

In conducting its study, the Joint Legislative Audit and Review Commission shall:

1. Examine and determine reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations;

2. Determine the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of local school boards to fully staff their needs, employment levels, and local budgets;

3. Determine the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels;
4. Determine the impact of implementing COVID-19 health and safety measures in public schools;
5. Evaluate public schools' level of emergency preparedness to face another pandemic or statewide crisis and make recommendations to help guide planning for such events; and
6. Examine programs that can address learning loss and identify barriers to implementing those programs, including resource gaps.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Education and each local school board. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2022, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2023 Regular Session of the General Assembly. The executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 323

Designating June 19 through the third Monday in July, in 2021, and in each succeeding year, as Liberty Amendments Month in Virginia.

Agreed to by the Senate, February 3, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, the Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments to the Constitution of the United States, ratified between 1865 and 1920, provide voting rights and other rights that allow each citizen to participate in the governance of their state and the United States; and

WHEREAS, these four amendments provide equal protections to all citizens of the United States, regardless of race, color, sex, and the country from or method by which they or their ancestors came to the United States; and

WHEREAS, Section 1 of the Thirteenth Amendment to the Constitution of the United States reads: "Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction" and was ratified on December 6, 1865; and

WHEREAS, Section 1 of the Fourteenth Amendment to the Constitution of the United States reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws" and was ratified on July 9, 1868; and

WHEREAS, Section 1 of the Fifteenth Amendment to the Constitution of the United States reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude" and was ratified on February 3, 1870; and

WHEREAS, the Nineteenth Amendment to the Constitution of the United States reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation" and was ratified on August 18, 1920; and

WHEREAS, the United States is strengthened and enriched by the diverse cultures that have contributed and continue to contribute to the American melting pot, and these four amendments allow citizens the freedom to recognize their ancestral heritage while integrating those traditions into American culture; and

WHEREAS, the equal rights and freedoms granted by these four amendments should be recognized and celebrated; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate June 19 through the third Monday in July, in 2021 and in each succeeding year, as Liberty Amendments Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 395

Commemorating the 150th anniversary of the enactment of the Civil Rights Act of 1871.

Agreed to by the Senate, February 4, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, the Civil Rights Act of 1871, the third and final act of the Enforcement Acts passed by the United States Congress to guarantee the rights encoded in the Reconstruction Amendments, was signed into law 150 years ago by President Ulysses S. Grant on April 20, 1871; and

WHEREAS, the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution, together comprising the Reconstruction Amendments, were passed in the wake of the American Civil War to build a new foundation for the nation that was inclusive of rights for formerly enslaved persons and their descendants; these amendments formally encoded the abolition of slavery, granted citizenship to any person born or naturalized in the United States, guaranteed equal protection under the law to all citizens, and forbade the denial of citizens' right to vote "on account of race, color, or previous condition of servitude"; and

WHEREAS, despite the inclusion of these rights in the nation's founding document, institutions and individuals across the nation acted in defiance of the United States Constitution to continue to deprive African American citizens of the rights afforded to them under law; and

WHEREAS, among the threats to the peace, safety, suffrage, and freedom of African American citizens was the terrorization of Black communities by the Ku Klux Klan, which had risen to prominence in the American South; the Civil Rights Act of 1871, introduced as "An Act to Enforce the Provisions of the Fourteenth Amendment of the Constitution and for Other Purposes," gave the president means, including the power to use military force and suspend the writ of habeas corpus, to intervene in efforts "to deny to any citizen of the United States the due and equal protection of the laws" where states failed to do so; and

WHEREAS, the federal government's use of these specific powers to intervene to protect the rights guaranteed by the Reconstruction Amendments led to the disbandment of the Ku Klux Klan and other white supremacist organizations for decades to follow; and

WHEREAS, in spite of these actions, Virginia was one among many states that continued on a shameful trajectory following the Reconstruction Era that allowed for the persecution of Black citizens through systematic segregation and disenfranchisement, denial of education and civil rights, and failure to protect the lives of citizens from the horrific act of lynching; and

WHEREAS, the rights guaranteed by the Reconstruction Amendments have had to be continually fought for and won, and the Civil Rights Act of 1871 represents one of many efforts during the Reconstruction Era to guarantee that the United States Constitution is upheld and the rights provided for within it are extended to all citizens; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 150th anniversary of the enactment of the Civil Rights Act of 1871 hereby be commemorated; and be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Superintendent of Public Instruction, the Chairman and Executive Director of the State Council of Higher Education for Virginia, the Chancellor of the Virginia Community College System, the Executive Director of the Virginia State Conference NAACP, and the Executive Director of the American Civil Liberties Union of Virginia, requesting that they further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

SENATE JOINT RESOLUTION NO. 5001

Commending the East Coast Surfing Championship.

Agreed to by the Senate, February 11, 2021

Agreed to by the House of Delegates, February 15, 2021

WHEREAS, the annual East Coast Surfing Championship, organized by the Virginia Beach Jaycees, became the longest-running surfing championship in the world in 2021; and

WHEREAS, the Virginia Beach Jaycees, first formed in 1948, provides development opportunities that empower young people to create positive change in their community and has a long history in the establishment of several community projects; and

WHEREAS, one such event, the East Coast Surfing Championship, created in 1963, invites surfers from throughout the United States and around the world to compete for the title of "The Champion of the Atlantic Coast"; and

WHEREAS, the East Coast Surfing Championship has become an internationally recognized event, with up to 23 countries being represented by professional riders, and it has awarded close to \$1 million in prizes to contestants since 2009; and

WHEREAS, during the East Coast Surfing Championship's 50th anniversary celebration in August 2012, the event welcomed close to 200,000 participants and visitors to the City of Virginia Beach over the course of seven days; and

WHEREAS, according to the City of Virginia Beach's resort event analysis, the 2018 East Coast Surfing Championship generated \$25.8 million in economic activity, the most of any festival or marathon that year; and

WHEREAS, the growth of the East Coast Surfing Championship created a need for a more robust operational support system, and Resort Management, LLC, took the lead in expanding the event's marketing platform and building national partnerships, such as with the event's title sponsor, Coastal Edge Surf Shop; and

WHEREAS, the success of the East Coast Surfing Championship has attracted a diverse and talented group of young professionals to volunteer for the event, with one such volunteer, Tony Pellino, selected by the Virginia Beach Jaycees as the event chair in 2020; and

WHEREAS, Tony Pellino and George Alcaraz worked tirelessly to adapt to the challenges of holding the East Coast Surfing Championship during the COVID-19 pandemic and created a comprehensive plan to ensure that the event was able to move forward safely, which included limitations on attendance, major safety measures, and online services to livestream the event to 230,000 viewers around the world; and

WHEREAS, thanks to the dedication and ingenuity of its organizers, the East Coast Surfing Championship has endured hurricanes, tornadoes, earthquakes, global economic downturns, and a global pandemic to become the longest-running surfing contest in the nation and, as of 2021, the world; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the East Coast Surfing Championship on becoming the longest-running surfing championship in the world; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Beach Jaycees as an expression of the General Assembly's admiration for the East Coast Surfing Championship's nearly 60 years of contributions to the Virginia Beach community.

SENATE RESOLUTION NO. 501

2021 Special Session I operating resolution.

Agreed to by the Senate, February 10, 2021

RESOLVED by the Senate of Virginia, That the Comptroller be directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate, to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Rules Committee during the 2021 Special Session I. Necessary payments to cover salaries of temporary employees, per diem for legislative assistants who establish a temporary residence, and certain employees designated by the Clerk and reported to the Chair of the Senate Committee on Rules, as well as other contingent and incidental expenses, will be certified by the Clerk of the Senate or her designee; and, be it

RESOLVED FURTHER, That members of the Senate shall receive session per diem and mileage reimbursement for any day they attend a scheduled floor session at which an attendance roll call is taken. Session per diem shall not be allowed for members of the Senate during a recess of the Special Session. However, members may receive compensation while the General Assembly is in recess, as provided in § 30-19.12 of the Code of Virginia and in the 2020-2022 Appropriation Act, as follows: (i) members of any standing committee authorized by the Senate and the Committee on Rules; (ii) members of any committee of conference; and (iii) members of any legislative committee, commission, or council established by the General Assembly.

SENATE RESOLUTION NO. 502

Commending Danny TK Avula, M.D.

Agreed to by the Senate, February 11, 2021

WHEREAS, Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health, has provided an invaluable service to the Commonwealth by advising its leaders and supporting its citizens throughout the COVID-19 pandemic; and

WHEREAS, from a young age, Danny Avula knew he wanted to become a physician and care for others; after earning a bachelor's degree from the University of Virginia and completing a medical degree and pediatric residency at Virginia Commonwealth University, this commitment blossomed into a desire to address the social determinants of disease more fully as a public health practitioner; and

WHEREAS, after finishing a master's degree in public health and a preventive medicine residency at Johns Hopkins University, Danny Avula became deputy director of the Richmond City Health District in 2009, rising to the position of director seven years later; and

WHEREAS, during Danny Avula's tenure with the Richmond City Health District, the city has made great strides toward promoting health and mitigating disease; one major accomplishment was the creation of eight health resource centers in public housing communities throughout the city, a network that has proved vital to the department's response to the COVID-19 pandemic in 2020; and

WHEREAS, after two years as an interim director of the Henrico County Health District, Danny Avula was asked to formally assume leadership of the department in 2018 while also maintaining his position with the Richmond City Health District; this unprecedented arrangement has led to greater coordination between the two localities, bolstering the region's ability to address public health challenges both before and during the COVID-19 pandemic; and

WHEREAS, as the top public health official in Richmond and Henrico County, many have looked to Danny Avula for guidance throughout the COVID-19 pandemic; with an approach that emphasizes data analysis and transparency, he has become a trusted and indispensable source of information for both local leaders and area residents; and

WHEREAS, under Danny Avula's leadership, more than 350 employees with the Richmond City and Henrico County Health Districts have addressed the COVID-19 pandemic by implementing large-scale testing events, staffing a call center that fields more than 500 calls per day, carrying out contact tracing operations and other investigations, providing support to long-term care facilities facing outbreaks, and analyzing data to furnish quality information to leaders and the public; and

WHEREAS, with a keen understanding of the socioeconomic factors that impact health outcomes, Danny Avula has been an unwavering advocate for vulnerable populations throughout the pandemic, working closely with local and state leaders to protect frontline workers, low-income families, and the elderly; and

WHEREAS, along with leading Richmond and Henrico County's public health efforts, Danny Avula continues to serve as an affiliate faculty member at the Virginia Commonwealth University School of Medicine, preparing future generations of physicians to be more socially conscious and grounded in the communities they serve; and

WHEREAS, Danny Avula's service to the Commonwealth extends beyond his role with the Virginia Department of Health, as he has served on the State Board of Social Services since 2013, chairing the board from 2017 to 2019; and

WHEREAS, in recognition of his extraordinary work on behalf of Richmond and Henrico County during the COVID-19 pandemic, Danny Avula was named the 2020 Richmonder of the Year by *Style Weekly*; he was also a *Richmond Times-Dispatch* Person of the Year honoree in 2019 and a recent recipient of the Virginia Center for Inclusive Communities' Humanitarian Award; and

WHEREAS, in January 2021, Governor Ralph Northam appointed Danny Avula to oversee the Commonwealth's COVID-19 vaccine rollout, ensuring the able administration of this urgent public health initiative; and

WHEREAS, Danny Avula is a visionary and inspirational leader who has risen masterfully to the challenges of this historic public health crisis; his selfless and indefatigable efforts in support of his community are a reminder to all of what makes the Commonwealth a wonderful place to live; now, therefore, be it

RESOLVED by the Senate of Virginia, That Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health hereby be commended for tirelessly endeavoring to protect citizens of the Commonwealth throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Danny TK Avula, M.D., as an expression of the Senate of Virginia's profound admiration and respect for his heroic service.

SENATE RESOLUTION NO. 503

Celebrating the life of Franklin Delano Robertson.

Agreed to by the Senate, February 11, 2021

WHEREAS, Franklin Delano Robertson, a respected attorney and leader in the mining industry who made countless contributions to the Grundy community, died on January 17, 2021; and

WHEREAS, born in West Virginia, Franklin "Red" Robertson was raised in Kentucky and developed a passion for education at a young age; in his adolescence, he hitchhiked across the border to Virginia each day to take classes at Grundy High School; and

WHEREAS, Red Robertson subsequently graduated from Virginia Polytechnic Institute and State University (Virginia Tech), where he served as captain commander of the Corps of Cadets and was an original member of the Ut Prosim Society; and

WHEREAS, in 1956, Red Robertson began a career in the mining industry with one of the last independent coal mine operators in Southwest Virginia; he became a partner at the engineering company Thompson and Litton in 1960 and held professional engineering licenses in three states; and

WHEREAS, in 1967, Red Robertson received a law degree from the University of Virginia and became one of the preeminent coal lawyers in the United States, establishing the firm Robertson, Cecil, King & Pruitt; and

WHEREAS, from 1972 to 1985, Red Robertson owned Knox Creek Coal Corporation and subsequently founded Robertson Enterprises; he established partnerships with other companies in the Commonwealth, West Virginia, and Illinois, becoming known as one of the most innovative and effective coal operators in the country; and

WHEREAS, Red Robertson was dedicated to supporting young people in and out of the classroom, coordinating local students' enrollment in SAT study courses, writing hundreds of recommendation letters for high school seniors, and founding the Grundy Wrestling Club to give young athletes opportunities to hone their skills; and

WHEREAS, Red Robertson also supported local educators by establishing the Buchanan County Apple Award for outstanding teachers, and he remained a proud and active alumnus of Virginia Tech throughout his life; and

WHEREAS, an exemplar of humility and kindness, Red Robertson made anonymous donations to hundreds of charitable organizations and fundraisers, asking to be named only as "a friend"; and

WHEREAS, a man of deep and abiding faith, Red Robertson enjoyed fellowship and worship with the community as a member of Grundy Baptist Church; and

WHEREAS, Red Robertson's greatest joy in life was his beloved family, and he will be fondly remembered and greatly missed by his wife, Bobbie; his children, Shane, Tass, Brant, and Spring, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Franklin Delano Robertson; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Franklin Delano Robertson as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 504

Celebrating the life of Peter Michael Dolan, Jr.

Agreed to by the Senate, February 11, 2021

WHEREAS, Peter Michael Dolan, Jr., an accomplished attorney and beloved member of the Prince William County community, died on January 5, 2021; and

WHEREAS, Peter "Pete" Dolan graduated from Williston Northampton School in 1986 and Hamilton College in 1990 and worked briefly as a zoning administrator and land use planner early in his career; and

WHEREAS, Pete Dolan later earned his Juris Doctor degree from the University of Illinois at Chicago John Marshall Law School in 1996, serving as lead articles editor for the school's law review and graduating cum laude; and

WHEREAS, Pete Dolan began his distinguished law career in Colorado and for the last 19 years had worked with Walsh, Colucci, Lubeley and Walsh, P.C., in Prince William County, where he was most recently a managing shareholder and leader of his firm's land use and zoning practice group; Pete Dolan contributed greatly to the growth and development of Prince William County in recent years; and

WHEREAS, Pete Dolan's extensive service in the community included roles as chairman of the Board of Directors for the Prince William County Chamber of Commerce and as member of the Board of Directors for the Sentara Northern Virginia Medical Center, the Board of Directors of the Boys & Girls Club Prince William County, and the Prince William Design and Construction Standards Manual (DCSM)/Zoning Ordinance Advisory Committee; and

WHEREAS, Pete Dolan also gave generously of his time and talents as a guest lecturer at George Mason University, as a moderator at several industry events, and as a volunteer with myriad service and charitable organizations; and

WHEREAS, Pete Dolan will be fondly remembered and dearly missed by his loving wife of 26 years, Karen; his children, Katherine and Erin; his parents, Peter, Sr., and Carole; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Peter Michael Dolan, Jr., an esteemed attorney from Manassas whose unwavering loyalty, integrity, and compassion for others was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Peter Michael Dolan, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 505

Commending Pamela Woody.

Agreed to by the Senate, February 11, 2021

WHEREAS, Pamela Woody, division support technician for the School of Humanities and Social Sciences at J. Sargeant Reynolds Community College, retired in 2021; and

WHEREAS, Pamela "Pam" Woody began working at J. Sargeant Reynolds Community College in 1976 and, after a brief hiatus, continued her career as a full-time employee of the institution from October 1, 1987, until her retirement; and

WHEREAS, Pam Woody cultivated an exceptional learning environment for the students of J. Sargeant Reynolds Community College by diligently monitoring adjunct faculty credentials and tirelessly coordinating hundreds of class sections across three campuses year after year; and

WHEREAS, Pam Woody effectively collaborated with colleagues throughout J. Sargeant Reynolds Community College to ensure that the school's scheduling and classroom assignments were dispatched without issue; and

WHEREAS, Pam Woody contributed to the success of her colleagues by orienting new faculty members of J. Sargeant Reynolds Community College to the school's policies and procedures and by assisting existing faculty members with their contracts and applications for promotions or raises; and

WHEREAS, Pam Woody generously assisted after hours and on weekends to fulfill J. Sargeant Reynolds Community College's obligations during peak times and was always willing to proactively address any issues the school encountered; and

WHEREAS, as a testament to the value she brings to J. Sargeant Reynolds Community College, Pam Woody was distinguished with an Acknowledgment of Extraordinary Contribution 17 times since 2000; and

WHEREAS, by providing selfless and unwavering support to the faculty, staff, and deans of J. Sargeant Reynolds Community College over the past three decades, Pam Woodydy has helped countless students achieve their academic goals and thrive; now, therefore, be it

RESOLVED by the Senate of Virginia, That Pamela Woodydy, division support technician for the School of Humanities and Social Sciences at J. Sargeant Reynolds Community College, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Pamela Woodydy as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

SENATE RESOLUTION NO. 506

Commending the Virginia State Police and the Virginia National Guard.

Agreed to by the Senate, February 18, 2021

WHEREAS, beginning on January 6, 2021, members of the Virginia State Police and the Virginia National Guard from throughout the Commonwealth mobilized and responded to the attack and insurrection at the United States Capitol Building; and

WHEREAS, prior to the counting of Electoral College votes by a joint session of United States Congress, the Virginia State Police coordinated with other law-enforcement agencies to monitor intelligence reports and address potential threats; and

WHEREAS, on the day of the count, the Virginia State Police prepared 71 troopers from the Division 7 Fairfax office to respond to any immediate incidents in Fairfax County or Northern Virginia, while the Division 2 Culpeper office placed a quick-reaction platoon of an additional 60 troopers on call in the event of an emergency; and

WHEREAS, at approximately 2:20 p.m., the Metropolitan Police Department of the District of Columbia, acting on behalf of the United States Capitol Police, requested assistance, and the Virginia State Police relocated the troopers from the Fairfax office to Arlington County to await further instructions; and

WHEREAS, law-enforcement officers at the United States Capitol estimated that there were 75,000 attendees for the "Stop the Steal" rally around the building, and as the count continued, members of the rally turned into a violent insurrection and broke through barricades, with hundreds of individuals ultimately breaching doors and windows to enter the building and storm congressional offices and chambers; and

WHEREAS, after the Virginia State Police received a formal request for 200 troopers, the platoon from the Fairfax division immediately deployed to the United States Capitol grounds, followed by the platoon from the Culpeper division; an additional 100 troopers from the Richmond and Chesapeake divisions were activated and responded promptly with no forewarning; and

WHEREAS, the troopers from Fairfax, equipped with civil disturbance gear, were led through underground passageways to the lower west terrace, where insurrectionists, many of whom were armed, were attempting to breach the doors to the United States Capitol Building; and

WHEREAS, members of the Virginia State Police, the United States Capitol Police, and the Metropolitan Police Department courageously engaged the insurrectionists, clearing the first level of the inauguration stage in the face of extreme violence and aggression; and

WHEREAS, members of the Virginia State Police and the other law-enforcement agencies maintained the initiative and pushed the insurrectionists down to the second level of the inauguration stage and away from the United States Capitol; and

WHEREAS, the members of the Virginia State Police were met with extreme aggression and violence, which necessitated the deployment of various types of crowd control munitions to gain control of the chaotic situation; and

WHEREAS, the members of the Virginia State Police continued to engage the insurrectionists with other law enforcement agencies by pushing them into the street and removing them from the overall grounds of the United States Capitol; and

WHEREAS, the Virginia State Police observed numerous insurrectionists carrying loaded firearm magazines, knives, axes, fire extinguishers, sledge hammers, and pick axes, and similar items were later found on the floors inside and outside of the United States Capitol and its grounds; and

WHEREAS, Senior Trooper Kenneth Terry prevented a serious injury to a Washington, D.C. Metropolitan Police Officer whose uniform caught fire as a result of a flammable canister being thrown at the officer by deploying a COLD FIRE extinguisher to put out the fire; and

WHEREAS, Senior Trooper Medic Christopher Grzelak was one of the first medics who rendered aid to United States Capitol Police Officer and fellow Virginian Brian Sicknick who collapsed and later died due to injuries he sustained during the insurrection; and

WHEREAS, after the engagement, the Virginia State Police established a defensive perimeter at the west entrance to the United States Capitol Building; no Virginia state troopers were injured while retaking the building; and

WHEREAS, executive and command staff of the Virginia State Police established an incident command center at the Area 45 Arlington office, and troopers from the Fairfax, Culpeper, Richmond, Chesapeake, Appomattox, and Salem divisions helped provide 24-hour security until January 8, 2021, when complete control of the Capitol grounds was restored; and

WHEREAS, in response to a request for assistance from Mayor Muriel Bowser, Governor Ralph Northam also authorized the Virginia National Guard to deploy to Washington, D.C.; and

WHEREAS, on January 7, the Virginia National Guard quickly mustered personnel, many of whom unexpectedly had to leave their families and full-time jobs, and departed for Washington, D.C., to provide security at the United States Capitol; approximately 2,000 Virginia National Guard personnel had deployed to the area by the following weekend; and

WHEREAS, Virginia National Guard personnel integrated with the local law-enforcement security plan to protect property and safeguard local residents and government officials, remaining on duty through the presidential inauguration on January 20; and

WHEREAS, in addition to the deployment to Washington, D.C., the Virginia National Guard has also played a critical role in the Commonwealth's response to the COVID-19 pandemic during 2020 and 2021 by distributing personal protective equipment to frontline workers and assisting the Virginia Department of Health with the planning, logistics, and administration of COVID-19 tests and vaccinations; and

WHEREAS, the Virginia State Police and the Virginia National Guard ably served the Commonwealth and the nation and responded to an extraordinary situation with the utmost distinction, demonstrating courage, composure, fortitude, and a strong commitment to safeguarding the founding ideals and institutions of the United States; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia State Police and the Virginia National Guard hereby be commended for their performance above and beyond their duties during and after the insurrection on January 6, 2021, to defend the seat of government of the United States of America and restore order at the United States Capitol Building; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the Virginia State Police and the Virginia National Guard as an expression of the Senate of Virginia's admiration for their professionalism during this unprecedented incident.

SENATE RESOLUTION NO. 507

Commending Danny TK Avula, M.D.

Agreed to by the Senate, February 18, 2021

WHEREAS, Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health, has provided an invaluable service to the Commonwealth by advising its leaders and supporting its citizens throughout the COVID-19 pandemic; and

WHEREAS, from a young age, Danny Avula knew he wanted to become a physician and care for others; after earning a bachelor's degree from the University of Virginia and completing a medical degree and pediatric residency at Virginia Commonwealth University, this commitment blossomed into a desire to address the social determinants of disease more fully as a public health practitioner; and

WHEREAS, after finishing a master's degree in public health and a preventive medicine residency at Johns Hopkins University, Danny Avula became deputy director of the Richmond City Health District in 2009, rising to the position of director seven years later; and

WHEREAS, during Danny Avula's tenure with the Richmond City Health District, the city has made great strides toward promoting health and mitigating disease; one major accomplishment was the creation of eight health resource centers in public housing communities throughout the city, a network that has proved vital to the department's response to the COVID-19 pandemic in 2020; and

WHEREAS, after two years as an interim director of the Henrico County Health District, Danny Avula was asked to formally assume leadership of the department in 2018 while also maintaining his position with the Richmond City Health District; this unprecedented arrangement has led to greater coordination between the two localities, bolstering the region's ability to address public health challenges both before and during the COVID-19 pandemic; and

WHEREAS, as the top public health official in Richmond and Henrico County, many have looked to Danny Avula for guidance throughout the COVID-19 pandemic; with an approach that emphasizes data analysis and transparency, he has become a trusted and indispensable source of information for both local leaders and area residents; and

WHEREAS, under Danny Avula's leadership, more than 350 employees with the Richmond City and Henrico County Health Districts have addressed the COVID-19 pandemic by implementing large-scale testing events, staffing a call center that fields more than 500 calls per day, carrying out contact tracing operations and other investigations, providing support to long-term care facilities facing outbreaks, and analyzing data to furnish quality information to leaders and the public; and

WHEREAS, with a keen understanding of the socioeconomic factors that impact health outcomes, Danny Avula has been an unwavering advocate for vulnerable populations throughout the pandemic, working closely with local and state leaders to protect frontline workers, low-income families, and the elderly; and

WHEREAS, along with leading Richmond and Henrico County's public health efforts, Danny Avula continues to serve as an affiliate faculty member at the Virginia Commonwealth University School of Medicine, preparing future generations of physicians to be more socially conscious and grounded in the communities they serve; and

WHEREAS, Danny Avula's service to the Commonwealth extends beyond his role with the Virginia Department of Health, as he has served on the State Board of Social Services since 2013, chairing the board from 2017 to 2019; and

WHEREAS, in recognition of his extraordinary work on behalf of Richmond and Henrico County during the COVID-19 pandemic, Danny Avula was named the 2020 Richmonder of the Year by *Style Weekly*; he was also a *Richmond Times-Dispatch* Person of the Year honoree in 2019 and a recent recipient of the Virginia Center for Inclusive Communities' Humanitarian Award; and

WHEREAS, in January 2021, Governor Ralph Northam appointed Danny Avula to oversee the Commonwealth's COVID-19 vaccine rollout, ensuring the able administration of this urgent public health initiative; and

WHEREAS, Danny Avula is a visionary and inspirational leader who has risen masterfully to the challenges of this historic public health crisis; his selfless and indefatigable efforts in support of his community are a reminder to all of what makes the Commonwealth a wonderful place to live; now, therefore, be it

RESOLVED by the Senate of Virginia, That Danny TK Avula, M.D., director of the Richmond City and Henrico County Health Districts under the Virginia Department of Health hereby be commended for tirelessly endeavoring to protect citizens of the Commonwealth throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Danny TK Avula, M.D., as an expression of the Senate of Virginia's profound admiration and respect for his heroic service.

SENATE RESOLUTION NO. 508

Celebrating the life of Edward Paul Crapol.

Agreed to by the Senate, February 18, 2021

WHEREAS, Edward Paul Crapol, an inspirational educator at The College of William and Mary and a prolific scholar who made many contributions to the understanding of American history, died on January 28, 2021; and

WHEREAS, the child of German immigrants, Edward "Ed" Crapol was a first-generation college student who worked multiple jobs to support himself while attending the State University of New York at Buffalo; and

WHEREAS, Ed Crapol continued his education at the University of Wisconsin-Madison, where he earned master's and doctoral degrees; during that time, he studied under William Appleman Williams and was inspired to focus his academic career on American diplomatic history; and

WHEREAS, Ed Crapol joined the faculty of The College of William and Mary as a member of the history department in 1967 and taught many highly regarded courses at the undergraduate and graduate levels; and

WHEREAS, Ed Crapol chaired the history department for several years and was selected as a chancellor in 1994; he also offered his leadership to multiple committees at The College of William and Mary, as well as to the Virginia Council of Human Relations to advocate for civil rights and racial equity; and

WHEREAS, Ed Crapol contributed to many scholarly publications, edited a collection of essays that resulted in a book on women in American foreign policy, and authored several books of his own, including *John Tyler; the Accidental President*, which is considered his finest work; and

WHEREAS, in recognition of his achievements, Ed Crapol received the Thomas A. Graves, Jr. Award for Sustained Excellence in Teaching, the Thomas Jefferson Award, and the Alumni Society's Faculty Service Award from The College of William and Mary; and

WHEREAS, Ed Crapol inspired many young men and women to follow in his footsteps as historians and educators, and his legacy lives on through the many lives he touched over the course of his distinguished career; and

WHEREAS, predeceased by one son, Andrew, Ed Crapol will be fondly remembered and greatly missed by his wife of more than 47 years, Jeanne; his children, Heidi, Jennifer, and Paul, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Edward Paul Crapol; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward Paul Crapol as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 509

Commending Walt Whitman Middle School.

Agreed to by the Senate, February 18, 2021

WHEREAS, in 2021, Walt Whitman Middle School celebrates 60 years of educating and nurturing young people in Mount Vernon; and

WHEREAS, as one of Fairfax County's first 11 intermediate schools named for famous authors and poets, Walt Whitman Intermediate School opened on September 5, 1961, to provide students with a specialized program of study geared to the specific needs of their age group; it had 45 classrooms and a capacity of about 1,000 students; and

WHEREAS, in the 1970s, the intermediate school traded buildings with Mount Vernon High School, moving to the Old Mount Vernon High School site on Route 1 in 1973 and staying until 1985; and

WHEREAS, at the start of the 1985 school year, population changes in Fairfax County necessitated the closure of 20 schools; the Stephen Foster Intermediate School building, opened in the Alexandria area in 1965, was renamed Walt Whitman Intermediate School and then Walt Whitman Middle School in the 1990s; and

WHEREAS, in 2018, recognizing the needs of its students, their families, and the community, Walt Whitman Middle School became the first community school in Fairfax County, adopting a model used elsewhere with the help of United Community Ministries and the United Way of the National Capital Area; and

WHEREAS, as a community school, students and their families receive the resources they need to overcome hunger, homelessness, and other hardships that impede the academic success of the students, and residents can receive health care and social services they might not otherwise have access to; and

WHEREAS, through a sense of collective responsibility and collaboration with peers, parents, and community members, Walt Whitman Middle School fulfills its mission to create a positive, respectful culture that sets high expectations, achievable goals, and a pathway to success for all students; and

WHEREAS, alumni of Walt Whitman Middle School have gone on to reach great heights in many professions, including television and radio personality Tony Perkins, journalist Katie Rice, professional football player Callie Brownson, and Olympic medalist Ashley Wagner; and

WHEREAS, other notable alumni of Walt Whitman Middle School include Rachel Sutton, a doctoral candidate at Wichita State University studying applications of psychology in engineering and design; Alexandria Sutton, M.D., a resident physician at Wake Forest Baptist Medical Center; Darryl Williams, the first African American superintendent of the United States Military Academy at West Point; and E. J. Coleman, who was the first African American class president at West Point; and

WHEREAS, Walt Whitman Middle School's dedicated teachers inspire students to discover and pursue opportunities as they become innovative and productive global citizens; and

WHEREAS, in addition, the staff and administration of Walt Whitman Middle School share the beliefs that all students have the ability to learn and that diversity is a strength in creating a resilient, open-minded community of learners; now, therefore, be it

RESOLVED by the Senate of Virginia, That Walt Whitman Middle School hereby be commended on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Walt Whitman Middle School as an expression of the Senate of Virginia's admiration for the school's many achievements in service to local youths and the Fairfax County community.

SENATE RESOLUTION NO. 510

Commending Montclair Elementary School.

Agreed to by the Senate, February 18, 2021

WHEREAS, Montclair Elementary School in Dumfries celebrates 30 years of serving the Prince William County community in 2021; and

WHEREAS, Montclair Elementary School, which opened in September 1991, embraces the teaching philosophy of "multiple intelligences"; and

WHEREAS, classes at Montclair Elementary School incorporate multiple learning styles, expanding the ways in which students can explore any given topic; and

WHEREAS, Montclair Elementary School recently completed a major renovation to update classroom spaces, the gym, and the cafeteria; the school also installed interactive electronic boards and purchased numerous laptop carts to ensure that every classroom has access to laptops or tablets to facilitate digital learning opportunities; and

WHEREAS, Montclair Elementary School redesigned its Positive Behavioral Interventions and Supports program to focus on restorative practices, goal setting, and social-emotional learning for all students; and

WHEREAS, Montclair Elementary School has received the Prince William County Public Schools School of Excellence award multiple times, including for the 2018–2019 and 2019–2020 academic years; and

WHEREAS, Montclair Elementary School offers a variety of extracurricular programs, including chorus, chess club, robotics club, Girls on the Run, Battle of the Books, and a Math Challenge 24 club; and

WHEREAS, in response to the COVID-19 pandemic, Montclair Elementary School has offered virtual and in-person learning as the community grapples with the unprecedented health crisis and has provided free breakfasts and lunches to the Montclair Cardinal community, as well as free grocery kits containing a five-day supply of a variety of whole grains, protein, fruits, vegetables, and milk; and

WHEREAS, Montclair Elementary School has succeeded in its mission to be a collaborative and inclusive learning community that meets the needs of its diverse learners thanks to the hard work of its faculty, administrators, and staff; now, therefore, be it

RESOLVED by the Senate of Virginia, That Montclair Elementary School hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Montclair Elementary School to express the General Assembly's gratitude for its students' accomplishments and its staff's support of the Prince William County community.

SENATE RESOLUTION NO. 511

Commending Swans Creek Elementary School.

Agreed to by the Senate, February 18, 2021

WHEREAS, Swans Creek Elementary School celebrates 20 years of serving the Prince William County community in 2021; and

WHEREAS, Swans Creek Elementary School, which opened in Southbridge in September 2001, seeks excellence through the Baldrige in Education continuous improvement processes, including goal setting, charting and self-monitoring of student progress, and an emphasis on quality indicators for students; and

WHEREAS, Swans Creek Elementary School has earned the prestigious Prince William County Public Schools School of Excellence Award 11 times since its opening; and

WHEREAS, Swans Creek Elementary School uses the Positive Behavior Intervention Support and Responsive Classroom model, a nationally recognized approach to foster a strong sense of community and create a safe environment in which students learn and grow, and sets high expectations for teacher and student behavior; and

WHEREAS, Swans Creek Elementary School supports its teachers through job-embedded professional development, with an emphasis on balanced literacy, incorporating technology within the classroom, and social and cultural competence; and

WHEREAS, Swans Creek Elementary School utilizes best instructional practices for English language learners and special education students to ensure that all young people achieve their fullest potential; and

WHEREAS, Swans Creek Elementary School staff support the diverse needs of its student population through small group instruction, consistent parent communication and feedback, and remediation and enrichment opportunities; and

WHEREAS, Swans Creek Elementary School offers a variety of extracurricular activities, including a robotics club, chorus, art club, running club, LEGO Club, student council, student patrols, Battle of the Books program, Game 24, and opportunities to learn coding and computer science through its status as a Computer Science-Ready School; and

WHEREAS, in response to the COVID-19 pandemic, Swans Creek Elementary School has offered virtual and in-person learning as the community grapples with the unprecedented health crisis and has provided free breakfasts and lunches to the Swans Creek Swan community, as well as free grocery kits containing a five-day supply of a variety of whole grains, protein, fruits, vegetables, and milk; and

WHEREAS, Swans Creek Elementary School has succeeded in its mission to help its students to rise up, take flight, and achieve; thanks to the hard work of its faculty, administrators, and staff; now, therefore, be it

RESOLVED by the Senate of Virginia, That Swans Creek Elementary School hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Swans Creek Elementary School as an expression of the Senate of Virginia's gratitude for its students' accomplishments and its staff's support of the Prince William County community.

SENATE RESOLUTION NO. 512

Commending Featherstone Elementary School.

Agreed to by the Senate, February 18, 2021

WHEREAS, Featherstone Elementary School, which has served the Prince William County community since 1961, celebrates its 60th anniversary in 2021; and

WHEREAS, when Featherstone Elementary School opened its doors in December 1961, it served students in grades one through seven; soon thereafter, students would organize a student council, safety patrol, and choir, while the parent-teacher association taught ballet classes and held an annual carnival and parade through the neighborhoods, which featured teachers' cars decorated for the event; and

WHEREAS, Featherstone Elementary School achieved the School of Excellence award in the fall of 2019 for meeting all benchmarks in the Prince William County Public Schools award program; the school previously received the award in 2012; and

WHEREAS, Featherstone Elementary School underwent a major renovation in 2015, adding two new wings that house preschool and kindergarten classes, an expanded library, and a beautiful gymnasium; the school also maintains a one-to-one ratio of devices per student to ensure that each child has access to technology that enhances the learning process; and

WHEREAS, Featherstone Elementary School provides many before and after school opportunities for students, including writing, art, music, gardening, robotics, and athletics clubs; and

WHEREAS, Featherstone Elementary School supports a diverse student community with an exceptional English language learner program and many bilingual staff members; and

WHEREAS, in 2019, Featherstone Elementary School received a grant from the Virginia Tech Cooperative Extension Prince William County Unit to support its school garden; and

WHEREAS, Featherstone Elementary School has partnered with local organizations to provide unique opportunities for students, such as volunteering in food and clothing drives or opportunities for mentorship and leadership development; and

WHEREAS, Featherstone Elementary School has embraced the Ron Clark Academy House System, a dynamic and exciting approach for students to develop positive character traits; and

WHEREAS, in response to the COVID-19 pandemic, Featherstone Elementary School has offered virtual and in-person learning as the community grapples with the unprecedented health crisis, and it has provided free breakfasts and lunches to the Featherstone Falcon community, as well as free grocery kits containing a five-day supply of a variety of whole grains, protein, fruits, vegetables, and milk; and

WHEREAS, Featherstone Elementary School has succeeded in its mission to be a community school where hearts, hands, and minds can shape the future thanks to the hard work of its faculty, administrators, and staff; now, therefore, be it

RESOLVED by the Senate of Virginia, That Featherstone Elementary School hereby be commended on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Featherstone Elementary School to express the Senate of Virginia's gratitude for its students' accomplishments and its staff's support of the Prince William County community.

SENATE RESOLUTION NO. 513

Celebrating the life of Charles R. Hooff III.

Agreed to by the Senate, February 18, 2021

WHEREAS, Charles R. Hooff III, a respected real estate professional, farmer, and community leader in Alexandria, died on February 2, 2021; and

WHEREAS, born in Philadelphia, Charles Hooff relocated to Alexandria with his family and attended Episcopal High School, of which he remained a loyal and supportive alumnus throughout his life; and

WHEREAS, Charles Hooff continued his education at The George Washington University School of Business, and after graduating in 1965, he was recruited by Air America, the passenger and cargo airline established by the Central Intelligence Agency, with which he supported covert operations in Southeast Asia during the Vietnam War; and

WHEREAS, Charles Hooff subsequently lived in North Carolina for several years before he returned to Alexandria to pursue a career in residential and commercial real estate services with Charles R. Hooff, Inc., Realtors, a family-owned business that has served Northern Virginia residents since 1929; and

WHEREAS, Charles Hooff became a licensed Realtor in 1961 and helped develop several high-profile projects throughout Alexandria, including the Torpedo Factory, which played a central role in the revitalization of the Alexandria Waterfront; and

WHEREAS, as the owner of Belmont Bay Farms, Charles Hooff also prided himself as a good steward of the land who relished opportunities to care for and enjoy the region's natural resources; and

WHEREAS, well known for his generosity, sincere kindness, and wide breadth of knowledge on a variety of subjects, Charles Hooff offered his leadership and expertise to the Jamestowne Society, the Life Guard Society of George Washington's Mount Vernon, the Society of Colonial Wars, and the Fraternal Order of Eagles, among many other organizations; and

WHEREAS, Charles Hooff enjoyed fellowship and worship with the community as an active member of Saint Paul's Episcopal Church; and

WHEREAS, Charles Hooff will be fondly remembered and greatly missed by his wife, Gudrun; his children, Maremi, Churchill, Janney, and Carlie, and their families; and by numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Charles R. Hooff III, a visionary businessman and dedicated community leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charles R. Hooff III as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 514

Commending the Science Museum of Virginia.

Agreed to by the Senate, February 18, 2021

WHEREAS, in 2020 and 2021, the Science Museum of Virginia, the Commonwealth's premier public institution of scientific knowledge, hosted floor sessions and committee meetings of the Senate of Virginia during the COVID-19 pandemic; and

WHEREAS, the Science Museum of Virginia was established in 1970 and opened to the public in 1977 inside the former Broad Street Station building, which had previously served the Richmond community as a railroad terminus for nearly 60 years; and

WHEREAS, since its opening, the Science Museum of Virginia has developed innovative, educational programming; acquired impressive artifacts; hosted innumerable permanent and temporary exhibits; and carefully preserved the historic building's unique architecture; and

WHEREAS, the Science Museum of Virginia has placed technology and experiential learning at the forefront, offering live demonstrations in laboratories, a hands-on makerspace, and an IMAX dome theater and planetarium; and

WHEREAS, the Science Museum of Virginia supports science, technology, engineering, and mathematics education and gives young people the opportunity to learn about a wide range of scientific disciplines; and

WHEREAS, at the outset of the COVID-19 pandemic, the Senate of Virginia requested the use of a conference hall at the Science Museum of Virginia to ensure social distancing and adequate safety procedures during floor sessions from April 2020 through February 2021; and

WHEREAS, the Science Museum of Virginia has hosted the members and staff of the Senate of Virginia through the 2020 Reconvened Session, the 2020 Special Session I, the 2021 Regular Session, and the 2021 Special Session I of the General Assembly; and

WHEREAS, the Science Museum of Virginia has provided outstanding resources and support to the members and staff of the Senate of Virginia throughout this period, all while keeping the museum open and accessible to the public; and

WHEREAS, Dr. Jeremy Hoffman, Chief Scientist, gave tours of the facility and offered many educational insights into the programs, exhibits, and operations of the Science Museum of Virginia; and

WHEREAS, the staff of the Science Museum of Virginia has always been willing to help with a smile and a professional manner and has gone over and above to accommodate the members and staff of the Senate of Virginia, changing their work schedules to adapt to committee and floor session meetings, with special thanks to Matthew Forrest, Doug Miller, and Calvin Allen for their assistance to Senate staff in coordinating the day to day operations; and

WHEREAS, the Science Museum of Virginia has contributed to good governance in the Commonwealth by helping the Senate of Virginia conduct the business of the people safely, transparently, and effectively; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Science Museum of Virginia be commended for its work to support the Senate of Virginia in addressing the unprecedented challenges of holding General Assembly sessions during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Science Museum of Virginia as an expression of the Senate of Virginia's gratitude and admiration for the museum's legacy achievements in service to all Virginians.

SENATE RESOLUTION NO. 515

Commending Pocahontas County.

Agreed to by the Senate, February 18, 2021

WHEREAS, Pocahontas County, West Virginia, incorporated in 1821 in what was then Virginia, celebrates its bicentennial in 2021; and

WHEREAS, Jacob Marlin and Stephen Sewell of Frederick, Maryland, arrived in what is now Pocahontas County in 1749 and are widely considered to be the first European settlers in the region; and

WHEREAS, Pocahontas County was created by the Virginia General Assembly on December 21, 1821; the new county was named in honor of the Governor of Virginia at the time, Thomas Mann Randolph, Jr., who was a matrilineal descendant of Pocahontas; and

WHEREAS, Pocahontas County was formed from parts of what are now Pendleton County and Randolph County in West Virginia and Bath County in Virginia; and

WHEREAS, after West Virginia achieved statehood in July 1863, Pocahontas County and Bath County maintained strong ties based on propinquity, shared history, and kinship that endure to this day; and

WHEREAS, the Battle of Droop Mountain, one of the largest battles of the Civil War fought in West Virginia and the last major engagement of the war in the state was fought in Pocahontas County in November 1863; and

WHEREAS, the construction of railroad lines in Pocahontas County in the 1890s spurred significant economic development and population growth, leading to the establishment of Marlinton, named for Jacob Marlin, as the current county seat; and

WHEREAS, Pocahontas County is now home to many cultural, recreational, and educational attractions, including Snowshoe Mountain Resort, a popular skiing and vacation destination, and Green Bank Observatory, situated in the National Radio Quiet Zone, where broadcast transmissions are heavily restricted to facilitate scientific research; now, therefore, be it

RESOLVED by the Senate of Virginia, That Pocahontas County in West Virginia be commended on the occasion of the 200th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Pocahontas County as an expression of the Senate of Virginia's admiration for the county's long and storied history.

SENATE RESOLUTION NO. 516

Commending Greek Orthodox churches in Virginia.

Agreed to by the Senate, February 18, 2021

WHEREAS, throughout the Commonwealth, Greek Orthodox churches work to preserve Greek history and culture, while providing generous community outreach and support; and

WHEREAS, the Greek Orthodox Church, a body of self-governing parishes within Eastern Orthodox Christianity, comprises millions of followers throughout the world, including the members of hundreds of Greek Orthodox congregations in the United States; and

WHEREAS, on March 25, 2021, Greek Orthodox church congregations in the Commonwealth and around the world will commemorate the 200th anniversary of the declaration of the Greek War of Independence and the end of centuries of occupation by the Ottoman Empire; and

WHEREAS, the Greek Orthodox Church played a critical role in the early stages of the Greek revolution, which began on March 25, 1821, when Bishop Germanos of Patras raised the flag of independence over the monastery of Agia Lavra in the Peloponnese; and

WHEREAS, inspired by the support of the clergy, the Greeks experienced early successes on the battlefield, and many intellectuals and academics in Europe and the United States began to promote the cause of Greek independence; and

WHEREAS, after the Battle of Navarino, where the allied naval forces of Britain, France, and Russia destroyed an Ottoman-Egyptian fleet, the Ottoman Empire accepted the autonomy of the Greek state in the Treaty of Adrianople (also called the Treaty of Edirne), which was signed in 1829, and the London Protocol of 1830 formally established an independent Greece; and

WHEREAS, Greece has maintained close ties with the United States for generations since, and many Greek immigrants have enriched cultural and spiritual life throughout the Commonwealth through the establishment of Greek Orthodox churches in their communities; now, therefore, be it

RESOLVED by the Senate of Virginia, That Greek Orthodox churches and affiliated organizations in Virginia be commended for their numerous contributions to communities throughout the Commonwealth on the occasion of the 200th anniversary of the beginning of the Greek War of Independence; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Saints Constantine and Helen Greek Orthodox Cathedral in Richmond, on behalf of all Greek Orthodox churches in the Commonwealth, as an expression of the Senate of Virginia's admiration for the significance of Greek history and culture and for these churches' service to generations of Virginians.

SENATE RESOLUTION NO. 517

Commending the Virginia Women's Institute for Leadership at Mary Baldwin University.

Agreed to by the Senate, February 18, 2021

WHEREAS, the Virginia Women's Institute for Leadership at Mary Baldwin University, the nation's only all-female corps of cadets, has supported and empowered women leaders for 25 years; and

WHEREAS, opened in 1995 with an inaugural class of 42 cadets under founding director Brenda Bryant, the Virginia Women's Institute for Leadership integrates academic studies, physical fitness, leadership development, ethics, and military training to graduate well-rounded citizens and military leaders; and

WHEREAS, the Virginia Corps of Cadets comprises cadets from Mary Baldwin University, Virginia Military Institute, and Virginia Polytechnic Institute and State University, with the Virginia Women's Institute for Leadership representing 30 percent of female cadets; and

WHEREAS, the Virginia Women's Institute for Leadership works with Virginia Military Institute to provide a coeducational Reserve Officers' Training Corps program, and upon graduation, cadets have the opportunity to earn a commission in any branch of the United States Armed Forces; and

WHEREAS, cadets of the Virginia Women's Institute for Leadership have marched in inaugural parades for five Virginia governors, and the school's color guard has presented the colors at numerous important national events; and

WHEREAS, the Virginia Women's Institute for Leadership band performed at the grand opening of the Smithsonian National Air and Space Museum's Steven F. Udvar-Hazy Center in Chantilly, and regularly marches in the Washington, D.C. and New York City St. Patrick's Day parades, and other regional events; and

WHEREAS, in its rich history, the Virginia Women's Institute for Leadership has benefited from the wisdom and guidance of two commandants, Brigadier General N. Michael Bissell and Brigadier General Terry Djuric; and

WHEREAS, the cadets and graduates of the Virginia Women's Institute for Leadership have earned countless awards and accolades, including a Bronze Star; graduates have served on the Presidential Honor Guard, in the security detail of the U.S. Secretary of State, and in other prominent postings; and

WHEREAS, in 2021, Kathleen Mahoney became the first Virginia Women's Institute for Leadership graduate to reach grade O-6, attaining the rank of captain in the United States Navy; and

WHEREAS, one graduate of the Virginia Women's Institute for Leadership has made the ultimate sacrifice while serving her country; Lieutenant Sarah Small, an Air Force public affairs officer, was killed in the line of duty in 2005; and

WHEREAS, the Virginia Women's Institute for Leadership will host a 25th anniversary parade on April 8, 2021; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Women's Institute for Leadership at Mary Baldwin University hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Women's Institute for Leadership at Mary Baldwin University as an expression of the Senate of Virginia's admiration for the institute's legacy of excellence and service to the Commonwealth and the United States.

SENATE RESOLUTION NO. 518

Commending Colonel Dean E. Gould.

Agreed to by the Senate, February 18, 2021

WHEREAS, Colonel Dean E. Gould, who has served as the commander of the Virginia Wing of the Civil Air Patrol since February 4, 2017, will retire on April 10, 2021; and

WHEREAS, Dean Gould's operations focus ensured that the Virginia Wing of the Civil Air Patrol (Virginia Wing) was well-trained and equipped and enabled the unit to execute more than 70 search and rescue, disaster relief, and homeland security missions, resulting in 27 successful finds supporting the Commonwealth; and

WHEREAS, as a direct result of Dean Gould's leadership and the partnerships he fostered, the Virginia Wing supported COVID-19 disaster relief efforts on state and local levels, with volunteers collectively contributing more than 470 days of work and handling more than 430,000 pounds of bulk food, medical supplies, and community support goods over a nine-month period; and

WHEREAS, the Virginia Wing Cadet Program earned the Cadet Program Mission Award each year of Dean Gould's command, and the Virginia Wing had 16 units earn the Quality Cadet Unit Award in 2020, the most units to earn the award in the history of the Virginia Wing; and

WHEREAS, under Dean Gould's command, the Virginia Wing produced 20 Spaatz Awards, the highest cadet achievement award attainable, earned by less than one percent of the nation's cadets; and

WHEREAS, Dean Gould is an active pilot who loves to fly with cadets, training at least six new mission pilots so far and providing check-rides for another six each year; and

WHEREAS, under Dean Gould's command, Virginia Wing Aerospace Education earned the Mid-Atlantic Aerospace Education Mission Award; his leadership in aerospace education led to Virginia Wing's partnership with Dynamic Aviation to co-host science, technology, engineering, and math (STEM) events in the rural western area of the Commonwealth; and

WHEREAS, a joint venture of Virginia Wing Aerospace Education and Suffolk County Public Schools to supply aerospace education STEM kits to middle school students during the COVID-19 pandemic has facilitated a creative approach for STEM training; now, therefore, be it

RESOLVED by the Senate of Virginia, That Colonel Dean E. Gould hereby be commended for his commitment to the Commonwealth and the nation during his tour as the commander of the Virginia Wing of the Civil Air Patrol; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colonel Dean E. Gould as an expression of the Senate of Virginia's admiration for his dedication and assistance to the Commonwealth.

SENATE RESOLUTION NO. 519

Commending the Virginia Wing of the Civil Air Patrol.

Agreed to by the Senate, February 18, 2021

WHEREAS, the Virginia Wing of the Civil Air Patrol has played a vital role for the Commonwealth during the COVID-19 pandemic, while continuing to fulfill its standard duties; and

WHEREAS, the Civil Air Patrol (CAP) is the longtime auxiliary of the United States Air Force and a valued member of its Total Force, with 60,000 members operating a fleet of 560 single-engine aircraft and 1,994 small unmanned aircraft system (sUAS); and

WHEREAS, CAP performs about 90 percent of continental inland United States search and rescue missions as tasked by the Air Force Rescue Coordination Center and is credited with saving an average of 82 lives annually; and

WHEREAS, the Virginia Wing of CAP has 2,000 members and 23 units throughout the Commonwealth and operates 23 vehicles, 12 single-engine aircraft, and 30 sUAS to provide support for search and rescue, disaster relief, homeland security, and drug interdiction operations; and

WHEREAS, the Virginia Wing plays a leading role in the Commonwealth in science, technology, engineering, mathematics, aerospace, and cybersecurity education; and

WHEREAS, the Virginia Wing's members serve as mentors to more than 1,000 young people in the Commonwealth participating in the CAP Cadet Program; and

WHEREAS, in 2020, the Virginia Wing supported the Virginia Department of Emergency Management and the Virginia National Guard in providing logistics and transportation of COVID-19 test kits and samples to the Eastern Shore; members of the Virginia Wing contributed 199 days of service supporting the fight against the pandemic both in the field and in incidence command posts and emergency operations centers; and

WHEREAS, the Virginia Wing has supported food warehouses and facilitated food distribution in the Counties of Prince William and Culpeper; personnel from nine different units processed and moved 635,000 pounds of food to be used by individuals and families in those areas; and

WHEREAS, the Virginia Wing supported the Commonwealth before and after Hurricane Isaias in summer 2020 by providing pre-storm and post-storm assessment of shoreline areas in the Tangier, Bayside, and Eastern Shore regions for the Virginia Department of Emergency Management and pre-storm and post-storm photo assessment of major shipping lanes, maritime aids to navigation (buoys), and Norfolk harbor for the United States Coast Guard, as well as post-storm photo assessment of the intercoastal waterways between North Carolina and Norfolk harbor; and

WHEREAS, the Virginia Wing also provided post-storm photo and damage assessment of major tornado damage in multiple counties; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Wing of the Civil Air Patrol hereby be commended for its commitment to serving and safeguarding the Commonwealth; and be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Wing of the Civil Air Patrol as an expression of the Senate of Virginia's admiration for the hard work and dedication of its members.

SENATE RESOLUTION NO. 520

Celebrating the life of Richard Blane Byrd.

Agreed to by the Senate, February 25, 2021

WHEREAS, Richard Blane Byrd, an honorable veteran and hardworking hospitality industry professional who admirably served the citizens of Bath County for 24 years as a member of the Bath County Board of Supervisors, died on January 16, 2021; and

WHEREAS, a native of Bath County, Richard Byrd left high school at the age of 17 to valorously serve his country as a member of the 82nd Airborne Division of the United States Army; and

WHEREAS, Richard Byrd ably represented the Valley Springs District over six terms on the Bath County Board of Supervisors, serving from 1992 to 2011 and from 2015 to 2019 and leaving office as chairman of the board; and

WHEREAS, in addition to his duties as a supervisor of Bath County, Richard Byrd served eight years on the former Bath County Social Services Board and was the county's director of emergency services for 12 years; and

WHEREAS, Richard Byrd's other notable contributions to Bath County included longstanding involvement with the Hot Springs Fire and Rescue Squad and the Mountain Crest retirement community and nearly four decades supporting the region's hospitality industry; and

WHEREAS, Richard Byrd will be fondly remembered and dearly missed by his loving wife, Pat; his daughter, Amy, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Richard Blane Byrd, longtime member of the Bath County Board of Supervisors whose unwavering dedication to his community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard Blane Byrd as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 521

Celebrating the life of Jamie Beletz.

Agreed to by the Senate, February 25, 2021

WHEREAS, Jamie Beletz, an honorable veteran, dedicated activist, and beloved member of the Prince William County community, died on December 9, 2020; and

WHEREAS, Jamie Beletz proudly served his country with courage and valor aboard the United States Navy destroyer USS *Turner Joy* during the Vietnam War; and

WHEREAS, despite sustaining a significant injury during his military service, Jamie Beletz was undeterred in his educational pursuits, earning a bachelor's degree from Western Washington University, where he was president of the student government; and

WHEREAS, as an employee with the United States Department of Defense, Jamie Beletz worked tirelessly in support of the agency's contract management and oversight, including a two-year posting in Afghanistan; and

WHEREAS, a talented political consultant who was driven to make a difference in his community, Jamie Beletz spearheaded numerous campaigns over the years for candidates and causes he supported; and

WHEREAS, Jamie Beletz organized the "Unity March Against Hate" event in 2020 to voice the community's repudiation of hate speech and violence; initially, envisioned as a three-day march from Manassas to Charlottesville, the demonstration evolved into a car caravan to safeguard against the threat of COVID-19; and

WHEREAS, as leader of the Coles District Democratic Committee in Prince William County, Jamie Beletz advanced efforts to improve voter registration and absentee voter participation while doubling the committee's membership; and

WHEREAS, Jamie Beletz fostered the success of innumerable young people as a member of the alumni board of his alma mater, Western Washington University; and

WHEREAS, guided throughout his life by his deep and abiding faith, Jamie Beletz enjoyed worship and fellowship with his community at Congregation Ner Shalom in Dale City, where he was recently appointed to the executive board; and

WHEREAS, Jamie Beletz will be fondly remembered and dearly missed by his loving wife, Melody; his daughter, Sarah; his stepchildren, Jeni, Eric, Colin, Era, and Robin; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jamie Beletz, a cherished member of the Prince William County community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jamie Beletz as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 522

Celebrating the life of Thomas F. Cleary, M.D.

Agreed to by the Senate, February 25, 2021

WHEREAS, Thomas F. Cleary, M.D., a trusted family physician who became an active community leader in Alexandria, died on January 14, 2021; and

WHEREAS, a native of Peoria, Illinois, Thomas "Tom" Cleary began his education in a one-room schoolhouse and graduated from Spaulding High School; a passionate learner, he matriculated at Saint Louis University at the age of 15; and

WHEREAS, Tom Cleary transferred to the University of Notre Dame, from which he graduated in 1948, and he subsequently earned a medical degree from the Georgetown University School of Medicine in 1953; and

WHEREAS, Tom Cleary served his country for two years as a member of the United States Air Force and was stationed as a captain in the 1100th USAF Hospital at what is now Joint Base Anacostia-Bolling in Washington, D.C.; he continued to serve with the Air Force Reserve until 1974; and

WHEREAS, after completing his active duty military service, Tom Cleary practiced family medicine for 35 years, first in Illinois, then in Maryland; over the course of his long and fulfilling career, he treated generations of the same families and was well known for his kindness, exceptional memory, and wide range of knowledge; and

WHEREAS, Tom Cleary settled in the Commonwealth and became a member of the board of directors of the Archbishop Fulton J. Sheen Foundation and the Mount Vernon Civic Association, and he supported young people through his involvement with the Boy Scouts of America; and

WHEREAS, Tom Cleary volunteered his leadership to many educational and historic preservation projects in the region and was a longtime member of the Life Guard Society of George Washington's Mount Vernon; and

WHEREAS, Tom Cleary's greatest joy in life was his beloved family, and he will be fondly remembered and greatly missed by his wife of 53 years, Ruth; his children, Kathleen, Kevin, Maureen, Sheila, and Sean, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas F. Cleary, M.D., a retired physician and respected member of the Alexandria community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas F. Cleary, M.D., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 523

Celebrating the life of Carlton Farquhar Andrus.

Agreed to by the Senate, February 25, 2021

WHEREAS, Carlton Farquhar Andrus, a distinguished civil servant who served the nation as a legislative assistant in the United States Congress and as a deputy budget officer of the U.S. Government Accountability Office, died on February 7, 2021; and

WHEREAS, Carlton Andrus was born into a family that could trace its origins in North America to the Massachusetts Bay Colony, and as the first member to be born in New York City, he was affectionately known by many as "Knickerbocker" or "Nick"; and

WHEREAS, Nick Andrus graduated from Phillips Academy in Andover, Massachusetts, and Brown University before embarking on an illustrious career in politics and civil service; and

WHEREAS, after serving on the staff of U.S. Senator Everett M. Dirksen and as treasurer of the D.C. Young Republicans, Nick Andrus contributed to the 1968 election campaign and 1969 inauguration of President Richard M. Nixon; and

WHEREAS, Nick Andrus subsequently filled a variety of legislative affairs positions at the former U.S. Department of Health, Education, and Welfare for seven years before beginning a nearly four-year stint as a legislative assistant to U.S. Senators Harry F. Byrd and Robert C. Byrd; and

WHEREAS, from 1981 until his retirement in 2006, Nick Andrus served in the U.S. Government Accountability Office, where he attained the position of deputy budget officer and helped ensure the efficient and effective operation of the federal government; and

WHEREAS, an accomplished singer, Nick Andrus sang in three church choirs and was a member of the Harmony Heritage Singers, the Mount Vernon chapter of the Barbershop Harmony Society, serving as the organization's president; and

WHEREAS, a dedicated and engaged member of his community, Nick Andrus was highly involved in his local Meals on Wheels program and the Alexandria chapter of the National Active and Retired Federal Employees Association, which he served as president; and

WHEREAS, preceded in death by his daughter, Kathleen, Nick Andrus will be fondly remembered and dearly missed by his loving wife, Katherine; his children, Elizabeth, Mary, Robin, and Margaret, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Carlton Farquhar Andrus, an esteemed federal civil servant whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carlton Farquhar Andrus as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 524

Celebrating the life of the Honorable Clyde H. Perdue, Jr.

Agreed to by the Senate, February 25, 2021

WHEREAS, the Honorable Clyde H. Perdue, Jr., a retired judge of the Franklin County Circuit Court, died on February 13, 2021; and

WHEREAS, Clyde Perdue earned bachelor's and master's degrees from Virginia Polytechnic Institute and State University and subsequently graduated from the Campbell University School of Law in 1984; and

WHEREAS, Clyde Perdue followed in his father's footsteps as an attorney and served the Rocky Mount community with the firm Raine and Perdue, PLC, for 30 years; and

WHEREAS, over the course of his long career, Clyde Perdue helped generations of local residents write wills and deeds or conduct title searches, and he inspired two of his own children to pursue careers in the legal profession; and

WHEREAS, Clyde Perdue was appointed as a judge of the Franklin County Circuit Court of the 22nd Judicial Circuit of Virginia on January 1, 2015, and presided over the court with great fairness and wisdom for more than five years until his retirement on January 8, 2021; and

WHEREAS, known for his even temperament, humility, and commitment to justice, Clyde Perdue treated everyone who came before the court with equal respect and served Franklin County and the Commonwealth with the utmost dedication, integrity, and distinction; and

WHEREAS, Clyde Perdue will be fondly remembered and greatly missed by his wife of 38 years, Vickie; his children, Holland, Peyton, Madeline, and Delaney, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Clyde H. Perdue, Jr., a respected attorney, judge, and member of the Rocky Mount community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Clyde H. Perdue, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 525

Commending Valley Health.

Agreed to by the Senate, February 25, 2021

WHEREAS, Valley Health, an association of hospitals serving residents of the Shenandoah region in both the Commonwealth and West Virginia, has provided an invaluable service to the community by facilitating the distribution of COVID-19 vaccines; and

WHEREAS, in partnership with the Lord Fairfax Health District of the Virginia Department of Health, which represents the City of Winchester and the Counties of Frederick, Clarke, Shenandoah, Page, and Warren, Valley Health began administering vaccinations to eligible individuals in January 2021; and

WHEREAS, to protect the most vulnerable members of the community, Valley Health has prioritized vaccinations for residents ages 75 and older; police, fire, and emergency personnel; corrections facility and homeless shelter workers; and child-care and grade school teachers and staff; and

WHEREAS, to promote the health and well-being of the region and to help stem the spread of the disease, Valley Health is administering its COVID-19 vaccines free of charge and without the requirement of health insurance; and

WHEREAS, Valley Health and its partners aim to deliver 1,200 to 1,500 doses of the COVID-19 vaccine daily over the coming months; to ensure their clinics are operated safely and efficiently while accommodating this large influx of patients, individuals will be required to register in advance and to follow additional public health protocols while on site; and

WHEREAS, Valley Health administered its first COVID-19 vaccines at a clinic established in the James R. Wilkins, Jr. Athletics & Events Center at Shenandoah University and will open other points of distribution at the Warren County Health and Human Services Complex in Front Royal, Shenandoah Memorial Hospital in Woodstock, and Page Memorial Hospital in Luray, enabling residents throughout the region to have convenient access to the vaccine; and

WHEREAS, Valley Health is an integral member in the Commonwealth's fight against COVID-19, and the tireless efforts of its frontline workers and staff are an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Valley Health, a distinguished association of hospitals in the Commonwealth and West Virginia, hereby be commended for helping to bring an end to the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of Valley Health as an expression of the Senate of Virginia's admiration for the organization's contributions to the Commonwealth.

SENATE RESOLUTION NO. 526

Commending Shenandoah University.

Agreed to by the Senate, February 25, 2021

WHEREAS, Shenandoah University, a venerable institution of higher education in Winchester, has provided an invaluable service to the community by serving as a distribution site for the COVID-19 vaccine; and

WHEREAS, in partnership with Valley Health and the Lord Fairfax Health District of the Virginia Department of Health, Shenandoah University has converted its James R. Wilkins, Jr. Athletics & Events Center, a 77,000-square-foot indoor athletic facility that is the largest space within 70 miles of Winchester, into a mass-vaccination clinic for residents in the surrounding area; and

WHEREAS, Shenandoah University opened its vaccination clinic on January 12, 2021, and has already enabled thousands of citizens of the Commonwealth to protect themselves and their loved ones from COVID-19; and

WHEREAS, Shenandoah University will make its facilities available 12 hours per day, allowing approximately 1,200 to 1,500 individuals to be vaccinated daily; and

WHEREAS, several members of Shenandoah University's faculty and staff have also contributed to the COVID-19 vaccine rollout, underscoring the institution's deep-rooted commitments to the community; and

WHEREAS, by coming to the aid of the Commonwealth during this historic public health crisis, Shenandoah University demonstrates a collective spirit and sense of purpose that is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Shenandoah University hereby be commended for its efforts to eliminate COVID-19 in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of Shenandoah University as an expression of the Senate of Virginia's admiration for the school's service to the Commonwealth.

SENATE RESOLUTION NO. 527

Commending Freddie's Beach Bar.

Agreed to by the Senate, February 25, 2021

WHEREAS, for 20 years, Freddie's Beach Bar has provided a diverse and welcoming safe space for everyone in the LGBT+ community and others as Northern Virginia's only gay bar; and

WHEREAS, Freddie's Beach Bar has served customers of many backgrounds and is famous in the community for its karaoke and bingo nights, award-winning brunch, and drag shows, as well as frequent Pentagon Happy Hours for LGBT+ members of the military; and

WHEREAS, in 2017, Freddie's Beach Bar received the Human Rights Award from the Arlington Human Rights Commission for its work to maintain a safe space for gay military members long before the repeal of the "Don't Ask, Don't Tell" policy; and

WHEREAS, regulars call Freddie's Beach Bar "the most magical place on earth" because of its reputation as a fun, warm, and joyful safe haven for the LGBT+ community any time of the year; and

WHEREAS, since 2001, and even during the COVID-19 pandemic, Freddie's Beach Bar has kept the restaurant open for an annual holiday meal and toy drive every December; and

WHEREAS, in the early stages of the pandemic, Amazon purchased 10,000 meals from Freddie's Beach Bar to help feed health care workers, first responders, and some of the area's most vulnerable residents; and

WHEREAS, Freddie's Beach Bar supported other local restaurants by enlisting their help to fulfill the Amazon order and instituted other community-oriented projects to invigorate neighboring businesses during the pandemic; and

WHEREAS, Freddie's Beach Bar has strengthened and enriched its local community and become a fine example of the diversity and inclusivity of Northern Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That Freddie's Beach Bar hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Freddie's Beach Bar for its achievements in creating a safe and welcoming place for members of the LGBT+ community while providing outstanding service to countless other residents and visitors in Northern Virginia.

SENATE RESOLUTION NO. 528

Celebrating the life of Roger Allan Saunders, Jr.

Agreed to by the Senate, February 25, 2021

WHEREAS, Roger Allan Saunders, Jr., a business owner who made many contributions to the Hampton community, died on February 18, 2021; and

WHEREAS, Roger Saunders grew up in Hampton and was a multisport athlete who served as captain of the track and field and cross country teams at Kecoughtan High School; he continued his education at Hampton Institute, now known as Hampton University, where he studied physical education and continued to run track; and

WHEREAS, Roger Saunders worked for United Parcel Service to support himself during college, and after graduation, he worked with his father at Poquoson Motors Company, where he earned a reputation for fairness and commitment to good customer service; and

WHEREAS, Roger Saunders later became the business and finance manager for Pomoco Auto Group, which owned Poquoson Motors, and enjoyed a distinguished 45-year career with the company until 2018, when he opened Saunders Motor Company in Hampton; and

WHEREAS, through Saunders Motor Company, Roger Saunders and his brothers Ralph and Kyle, fulfilled their late father's dream of entrepreneurship and focused on creating opportunities for other African American members of the community; and

WHEREAS, Roger Saunders earned many awards and accolades for his salesmanship and other professional achievements, and in 2015, he received an Annual Award from the Hampton Division of Fire & Rescue for his heroic, lifesaving efforts to help pull a woman from a burning vehicle; and

WHEREAS, Roger Saunders brought joy to friends through his passion for classic cars, and he was a loving and dedicated father, who was proud to support his daughter, Morgan, after she followed in his footsteps as a track and field athlete; and

WHEREAS, a man of quiet but devoted faith, Roger Saunders attended Antioch Baptist Church in his youth and joined First Baptist Church of Hampton as an adult; and

WHEREAS, Roger Saunders will be fondly remembered and greatly missed by his wife, Sonya; his daughter, Morgan; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Roger Allan Saunders, Jr., a successful automobile dealer and respected member of the Hampton community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roger Allan Saunders, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 529

Commending John E. Smith.

Agreed to by the Senate, February 25, 2021

WHEREAS, John E. Smith, a successful entrepreneur who established franchise McDonald's restaurants throughout Hampton Roads and has made countless contributions to the community through leadership development and youth programs, retired after more than two decades of service; and

WHEREAS, a native of Arkansas, John Smith pursued a career in marketing at the IBM Corporation, but was driven to take a more active role in building a business legacy defined by the opportunities it created, particularly for fellow African Americans; and

WHEREAS, John Smith applied to become a McDonald's franchise owner in 1996 and subsequently purchased a restaurant in the Denbigh area of Newport News; he worked diligently to learn every aspect of restaurant operations and ultimately expanded his company, J. Smith Enterprises, to 15 franchise locations by 2003; and

WHEREAS, as president and chief executive officer of J. Smith Enterprises, John Smith developed a company culture that treated staff members as potential fellow entrepreneurs, implemented a profit-sharing compensation model for managers, and offered a tuition reimbursement program to encourage staff members to continue seeking education; and

WHEREAS, John Smith offered his employees valuable instruction on financial literacy, profit analysis, hospitality, employee relations, community engagement, and operational efficiency in an effort to develop the region's next generation of business leaders; several former employees have gone on to hold high-ranking positions in the food service industry or achieve great success in other career fields; and

WHEREAS, a devoted servant-leader, John Smith volunteers his time and expertise to many community organizations, and his restaurants have held regular fundraisers for local schools and charitable organizations; his company has directly supported young people through the Summer Training and Enrichment Program and helped reduce recidivism through a work-release program for incarcerated individuals; and

WHEREAS, among many awards and accolades for his creativity, ingenuity, and tenacity in building market share, John Smith is most proud of his Ronald Award, which is presented to McDonald's franchisees that demonstrate a strong commitment to community service while maintaining operational excellence, and the Hurricane Isabel Hero award he received from the City of Hampton for his quick response to donate ice and water to people in need in the aftermath of Hurricane Isabel in 2003; and

WHEREAS, over the course of his long and distinguished career, John Smith employed thousands of people in Hampton Roads, served meals to millions of customers, and touched countless lives through his advocacy and mentorship, a legacy of service that his daughter, Jennifer Smith-Brown, will carry forward as president and chief executive officer of the company after his well-earned retirement; now, therefore, be it

RESOLVED by the Senate of Virginia, That John E. Smith hereby be commended on the occasion of his retirement as president and chief executive officer of J. Smith Enterprises; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John E. Smith as an expression of the Senate of Virginia's admiration for his personal and professional achievements.

SENATE RESOLUTION NO. 530

Celebrating the life of Claire Elizabeth Grainger.

Agreed to by the Senate, February 25, 2021

WHEREAS, Claire Elizabeth Grainger, a beloved member of her community, died on February 3, 2021; and

WHEREAS, Claire Grainger was a compassionate woman who enjoyed caring for animals and had cultivated a longtime interest in music and the arts; and

WHEREAS, Claire Grainger inspired others through her hopefulness and perseverance; and

WHEREAS, like many other Virginians, Claire Grainger struggled with substance use disorder and addiction, and there is a critical need for more resources to help individuals and families address these issues and continue to build strong, supportive communities; and

WHEREAS, Claire Grainger will be fondly remembered and greatly missed by her parents, Valerie Baker and David Grainger; her sister and brother-in-law, Emma and Zach Zdrojewski; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Claire Elizabeth Grainger; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Claire Elizabeth Grainger as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 531

Commending Ayana Ahuja and Saanvi Paladugu.

Agreed to by the Senate, February 25, 2021

WHEREAS, Ayana Ahuja and Saanvi Paladugu, students at The Madeira School in McLean, have raised tens of thousands of dollars to support cancer research and raise awareness of the mission of the Leukemia and Lymphoma Society; and

WHEREAS, having both experienced the death of a family member due to cancer, Ayana Ahuja and Saanvi Paladugu were compelled to support cancer prevention in their community; and

WHEREAS, Ayana Ahuja and Saanvi Paladugu established Team Tyler, a fundraiser named for Tyler Thomas, an inspirational cancer survivor who was diagnosed with acute lymphocytic leukemia when he was two years old; and

WHEREAS, along with the other members of Team Tyler—Ava Dunphy, Riya Ganguly, Ava Greathouse, Catherine Ndumbalo, Eliza Reed, and Kyleigh Woodrick—Ayana Ahuja and Saanvi Paladugu have raised at least \$100,000 to support patients with blood-related cancers; and

WHEREAS, Ayana Ahuja and Saanvi Paladugu are examples of youth leadership, and they have inspired other members of their community to learn more about supporting cancer research and prevention; now, therefore, be it

RESOLVED by the Senate of Virginia, That Ayana Ahuja and Saanvi Paladugu hereby be commended for their successful fundraising efforts on behalf of people with blood-related cancers; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ayana Ahuja and Saanvi Paladugu as an expression of the Senate of Virginia's admiration for their accomplishments and philanthropic spirit.

SENATE RESOLUTION NO. 532

Nominating persons to be elected to circuit court judgeships.

Agreed to by the Senate, February 23, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Robert G. MacDonald, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing March 16, 2021.

The Honorable Tyneka L. D. Flythe, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Holly B. Smith, of Gloucester, as a judge of the Ninth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Jacqueline S. McClenney, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Rondelle D. Herman, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing March 16, 2021.

Kathleen M. Uston, Esquire, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing April 1, 2021.

Tania L. Saylor Peterson, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2021.

The Honorable Timothy W. Allen, of Franklin County, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing April 1, 2021.

The Honorable Petula C. A. Metzler, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing May 1, 2021.

SENATE RESOLUTION NO. 533

Nominating persons to be elected to general district court judgeships.

Agreed to by the Senate, February 23, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Linda L. Bryant, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing March 16, 2021.

Tanya L. Lomax, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing April 1, 2021.

Tameeka M. Williams, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2021.

Helivi L. Holland, Esquire, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing April 1, 2021.

Charisse M. Mullen, Esquire, of Hampton, as a judge of the Seventh Judicial District for a term of six years commencing April 1, 2021.

Joshua P. DeFord, Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing November 1, 2021.

Devika E. Davis, Esquire, of Henrico, as a judge of the Thirteenth Judicial District for a term of six years commencing June 1, 2021.

Jane M. Reynolds, Esquire, of Prince William, as a judge of the Fifteenth Judicial District for a term of six years commencing April 16, 2021.

Gary H. Moliken, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing May 1, 2021.

Jessica H. Foster, Esquire, of Fauquier, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2021.

Ché C. Rogers, Esquire, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing May 1, 2021.

SENATE RESOLUTION NO. 534

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the Senate, February 23, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Shawn W. Overbey, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing April 16, 2021.

Kimberly A. Kurkjian, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing August 1, 2021.

Brian J. Smalls, Esquire, of Williamsburg, as a judge of the Ninth Judicial District for a term of six years commencing April 1, 2021.

Mara M. Matthews, Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing July 1, 2021.

Stacy E. Lee, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing May 1, 2021.

The Honorable Andrea M. Stewart, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2021.

Melissa S. Cardoce, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

Melinda L. VanLowe, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2021.

Robert Bryan Haskins, Esquire, of Danville, as a judge of the Twenty-second Judicial District for a term of six years commencing July 1, 2021.

Theresa Deanna P. Stone, Esquire, of Franklin County, as a judge of the Twenty-second Judicial District for a term of six years commencing April 1, 2021.

Heather P. Ferguson, Esquire, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing April 1, 2021.

Robert C. Hagan, Jr., Esquire, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing June 1, 2021.

SENATE RESOLUTION NO. 535

Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.

Agreed to by the Senate, February 23, 2021

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Kenneth R. Melvin, of Portsmouth, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2021.

SENATE RESOLUTION NO. 536

Celebrating the life of Joseph Howard Tate.

Agreed to by the Senate, February 25, 2021

WHEREAS, Joseph Howard Tate, a hardworking miner, esteemed public servant, and beloved member of the Dickenson County community, died on February 2, 2021; and

WHEREAS, born and raised in Clinchco, Joseph "Joe" Tate graduated from Clinchco High School in 1955 and was a regular presence at the school's annual homecoming for many years thereafter; and

WHEREAS, Joe Tate worked tirelessly to support the energy needs of the Commonwealth with the Clinchfield Coal Company, retiring in 1992 after more than 36 years of dedicated service; and

WHEREAS, Joe Tate fostered the growth and development of Dickenson County in various elected and appointed positions, including service on the Dickenson County Board of Supervisors; and

WHEREAS, Joe Tate served two terms as clerk of the Circuit Court of Dickenson County, administering the county's judicial and fiscal matters with grace and aplomb; and

WHEREAS, Joe Tate contributed greatly to his community as a more than 50-year member of Clintwood Lodge No. 66 of the Ancient Free and Accepted Masons and through his longstanding involvement with District 17 of the United Mine Workers of America; and

WHEREAS, guided throughout his life by his deep and abiding faith, Joe Tate enjoyed worship and fellowship with his community at Peuther Chapel Freewill Baptist Church in Clintwood, where he was a devoted member for many years; and

WHEREAS, Joe Tate will be fondly remembered and dearly missed by his loving wife of 62 years, Mary; his son, Barry, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Joseph Howard Tate, a distinguished public servant whose unwavering kindness and generosity touched countless lives in Dickenson County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joseph Howard Tate as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 537

Celebrating the life of Alvin Dwayne Harkleroad.

Agreed to by the Senate, February 25, 2021

WHEREAS, Alvin Dwayne Harkleroad, a respected educator and school administrator who made many contributions to the Highland County community, died on January 14, 2021; and

WHEREAS, Dwayne Harkleroad grew up in Johnson City, Tennessee, where he attended Science Hill High School; a standout athlete and an exceptional student, he served as junior and senior class president, was a member of the all-state football team and an officer in the Reserve Officers' Training Corps program, and received the 1955 Outstanding Senior award; and

WHEREAS, Dwayne Harkleroad earned associate's and bachelor's degrees at The George Washington University and helped lead the football team to a victory in the 1957 Sun Bowl; he was also a member of Sigma Chi Fraternity and the Phi Delta Kappa honor society; and

WHEREAS, after graduation, Dwayne Harkleroad enlisted in the United States Air Force and served his country on active duty and subsequently as a member of the reserves until 1966; he went on to receive a master's degree from the University of Maryland, where he also conducted doctoral studies; and

WHEREAS, certified in multiple areas of education, Dwayne Harkleroad worked as a principal for Fairfax County Public Schools and received several awards for his achievements in service to students and the community; and

WHEREAS, Dwayne Harkleroad relocated to Highland County in 1987 and continued to work in education as a principal and as superintendent of Highland County Public Schools and Bath County Public Schools; and

WHEREAS, after his well-earned retirement in 1999, Dwayne Harkleroad enjoyed spending time with his family at his home in Highland County and at his ranch in Utah; and

WHEREAS, Dwayne Harkleroad volunteered his time and leadership as a member of the Stonewall Ruritan Club and as the longtime president of the Bath-Highland Radio Committee; he played a vital role in the establishment of the WVLS studio at Highland High School and the WCHG studio at Bath County High School; and

WHEREAS, guided by his deep Christian faith throughout his life, Dwayne Harkleroad enjoyed fellowship and worship with the congregations of Highland Baptist Church in Highland County and Valley Christian Fellowship in Utah; he was also an ordained elder in the Presbyterian Church and had served as treasurer of Clifton Presbyterian Church in Fairfax County; and

WHEREAS, Dwayne Harkleroad will be fondly remembered and greatly missed by his wife of 60 years, Jo-Ann; his children, Franny and Leon, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Alvin Dwayne Harkleroad; and, be it
RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Alvin Dwayne Harkleroad as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 538

Commending Loudoun County Public Schools custodians and maintenance technicians.

Agreed to by the Senate, February 25, 2021

WHEREAS, Loudoun County Public Schools custodians and maintenance technicians have worked diligently to ensure the safety of students, teachers, staff, and community members in public school facilities during the COVID-19 pandemic; and

WHEREAS, Loudoun County Public Schools (LCPS) custodians have followed a comprehensive plan of enhanced cleaning procedures in all 103 LCPS facilities, more than 12.8 million square feet of instructional space; and

WHEREAS, LCPS custodians have cleaned and disinfected high-touch surfaces in common areas of schools three times per day and once after the building is closed for the day, as well as cleaned and disinfected all classrooms each evening; and

WHEREAS, LCPS maintenance technicians have conducted rigorous inspections and testing on every heating, ventilation, and air conditioning system throughout the school division and installed upgraded air filtration equipment to reduce the spread of airborne virus particles; and

WHEREAS, LCPS maintenance technicians installed High Efficiency Particulate Air filters in rooms constructed without an existing fresh air flow and carried out an engineering study to determine which systems could accommodate the highly effective Minimum Efficiency Reporting Value 13 filters; and

WHEREAS, the LCPS Environmental Health and Safety Team provided expert guidance on personal protective equipment and developed training on potential hazards related to virus mitigation strategies, allowing custodians and maintenance technicians to carry out their tasks safely and efficiently; now, therefore, be it

RESOLVED by the Senate of Virginia, That Loudoun County Public Schools custodians and maintenance technicians hereby be commended for their outstanding work during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Loudoun County Public Schools custodians and maintenance technicians as an expression of the Senate of Virginia's admiration for their dedication to the safety of students and teachers.

SENATE RESOLUTION NO. 539

Commending Olga L. Garrett.

Agreed to by the Senate, February 25, 2021

WHEREAS, Olga L. Garrett, a lifelong member of the Portsmouth community, celebrated her 100th birthday in 2021; and
WHEREAS, born on February 10, 1921, Olga Garrett lived through countless significant events in the 20th century, from the Great Depression and World War II to the civil rights movement and the dawn of the Internet era; and

WHEREAS, Olga Garrett attended Portsmouth Public Schools and graduated from I.C. Norcom High School; and

WHEREAS, Olga Garrett has lived in the Cavalier Manor neighborhood for 60 years and organized the first Greenwood Garden Club in the community; and

WHEREAS, Olga Garrett has also been a member of the Brighton Light No. 118 Order of the Eastern Star for more than six decades and has generously volunteered her time to serve and support people in need at Bon Secours Maryview Medical Center for 45 years; and

WHEREAS, Olga Garrett enjoys fellowship and worship with the Portsmouth community as a member of Fourth Baptist Church, where she is a dedicated Sunday school teacher and longtime deaconess; and

WHEREAS, Olga Garrett is the matriarch of a large and loving family, including her children, Clayton, Carlton, Alton, Ernest, Eartha, Cavan, and the late Earlena, who died in 2016, as well as 12 grandchildren and 10 great-grandchildren, and she relishes every opportunity to share her lifetime of wise insights and sage guidance; now, therefore, be it

RESOLVED by the Senate of Virginia, That Olga L. Garrett hereby be commended on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Olga L. Garrett as an expression of the Senate of Virginia's admiration for her personal achievements and contributions to the Portsmouth community.

SENATE RESOLUTION NO. 540

Celebrating the life of Flossie Rebecca Branchcomb.

Agreed to by the Senate, February 25, 2021

WHEREAS, Flossie Rebecca Branchcomb, a trailblazing member of the Norfolk community and a beloved mother and grandmother, died on January 30, 2021; and

WHEREAS, a lifelong resident of Norfolk, Flossie Branchcomb was one of 16 children born to Benjamin and Susie Fuller; and

WHEREAS, Flossie Branchcomb broke racial and gender barriers as the first African American woman to become a welder foreman in Norfolk Naval Shipyard Shop 26; and

WHEREAS, Flossie Branchcomb retired from Norfolk Naval Shipyard after three decades of distinguished service; and

WHEREAS, a woman of deep faith, Flossie Branchcomb was a trustee of New Testament Baptist Church early in her life and later enjoyed fellowship and worship with the congregation of St. Thomas African Methodist Episcopal Zion Church; and

WHEREAS, predeceased by two sons, George and Benjamin, Flossie Branchcomb will be fondly remembered and greatly missed by her children, Alvah, Annazette, Alfred, and Harold, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Flossie Rebecca Branchcomb; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Flossie Rebecca Branchcomb as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 541

Celebrating the life of the Reverend Michael Duvall Green, Sr.

Agreed to by the Senate, February 25, 2021

WHEREAS, the Reverend Michael Duvall Green, Sr., a devoted spiritual leader and a talented musician who touched countless lives in Hampton Roads through his engaging ministries, joyful worship services, and wise insights, died on January 31, 2021; and

WHEREAS, a native of Hampton, Michael Green graduated from Bethel High School and continued his education at Thomas Nelson Community College and the Deeper Life School of Theology; and

WHEREAS, Michael Green began to cultivate his deep faith at a young age as a member of St. Johns Church of God in Christ and cultivated his passions for community outreach and music as a choir singer and a member of several ministries; and

WHEREAS, in his youth, Michael Green traveled the world with his brother Phillip to document worship services, funerals, music performances, and other church events for the International Church of God in Christ, Inc., and he was a staff member for COGIC Videos, which was founded by his father; and

WHEREAS, Michael Green held several jobs outside the church until 1993, when at the age of 23 he focused his career on the ministry; he was subsequently ordained as an elder in the Church of God in Christ in 1996; and

WHEREAS, Michael Green shared his faith with others through music and established a group of talented singers and musicians called Judah; he wrote several songs, including "Let It Rain," "Count On Me," and "Every One of My Needs the Lord Provides," that elevated worship services and brought joy to congregants; and

WHEREAS, in 2001, Michael Green founded Word and Power Ministries to empower people through the word of God, and after serving as pastor of New St. Mark Church of God in Christ in Portsmouth, he established Rock Center Church in Chesapeake; and

WHEREAS, Michael Green and his wife, Candace, created the Marry Me ministry to help couples develop stronger marriages, and they used social media to expand the popular and successful ministry to couples of many backgrounds and faiths throughout the Commonwealth and the United States; and

WHEREAS, Michael Green was the founder and president of Michael Green Ministries Worldwide and the president of Church and Community in Action in Portsmouth; he also created a Preachers Clinic for pastors looking to better hone their ministerial techniques; and

WHEREAS, Michael Green held multiple leadership positions in the Church of God in Christ at the state, regional, national, and international levels and was twice selected to serve as a speaker in the International Holy Convocation of the Church of God in Christ; and

WHEREAS, Michael Green will be fondly remembered and greatly missed by his wife of 21 years, Candace; his son, Michael, Jr., and his family; and numerous other family members, friends, and congregants; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Reverend Michael Duvall Green, Sr., a faith and community leader in Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Michael Duvall Green, Sr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 542

Commending John Hutchison Anderson.

Agreed to by the Senate, February 25, 2021

WHEREAS, John Hutchison Anderson, an esteemed law-enforcement officer who dedicated himself to protecting and serving the citizens of Fauquier County over a 33-year career, retired as a first sergeant of the Fauquier County Sheriff's Office in 2020; and

WHEREAS, John Anderson began his career in law-enforcement in 1988 as a dispatcher under Fauquier County Sheriff Ashby Olinger; during his tenure with the department he steadily moved through the ranks of deputy first class, master deputy sheriff, and sergeant before ultimately achieving the rank of first sergeant; and

WHEREAS, throughout his illustrious career, John Anderson responded to significant changes in law-enforcement and remained steadfastly committed to applying best practice and procedure in all aspects of the profession; and

WHEREAS, John Anderson ably held various responsibilities and served in numerous capacities in the Fauquier County Sheriff's Office over the years, including jail operations, inmate transportation, civil process and court security, patrol, and property and evidence storage and maintenance; and

WHEREAS, an active and engaged member of his community, John Anderson gave generously of his time and talents working extra hours for special details, such as high school sporting events and other local gatherings; and

WHEREAS, John Anderson treated everyone he encountered as a law-enforcement professional with honor and integrity, earning respect and esteem from peers, subordinates, inmates, and the citizens he served; and

WHEREAS, beyond his extraordinary service as a member of the Fauquier County Sheriff's Office, John Anderson has also supported the citizens of Fauquier County as a life member of the Remington Volunteer Fire and Rescue Department and in other volunteer capacities; and

WHEREAS, in recognition of his 33 years of meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored John Anderson in an official proclamation on December 10, 2020; and

WHEREAS, through his tireless efforts to ensure the safety and well-being of the Fauquier County community, John Anderson has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate of Virginia, That John Hutchison Anderson, first sergeant of the Fauquier County Sheriff's Office, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John Hutchison Anderson as an expression of the Senate of Virginia's heartfelt appreciation for his service to the Commonwealth and best wishes for the future.

SENATE RESOLUTION NO. 543

Commending Gregory Garfield Harris.

Agreed to by the Senate, February 25, 2021

WHEREAS, Gregory Garfield Harris, an esteemed law-enforcement officer who has dedicated the past 23 years to protecting and serving the citizens of Fauquier County, retired as a lieutenant of the Fauquier County Sheriff's Office in 2020; and

WHEREAS, Gregory Harris joined the Fauquier County Sheriff's Office in 1997 as a deputy in jail operations under Sheriff Joseph Higgs, Jr.; he later served as shift sergeant for 13 years before being promoted to administrative first sergeant of the jail division in 2015 and lieutenant the following year; and

WHEREAS, throughout his illustrious career, Gregory Harris has responded to significant changes in law-enforcement and remained steadfastly committed to applying best practice and procedure in all aspects of the profession; and

WHEREAS, Gregory Harris has given generously of his time and talents as a mentor and trainer to many new deputies, earning high praise and esteem from both his subordinates and his peers; and

WHEREAS, an integral member of the Fauquier County Adult Detention Center for many years, Gregory Harris established excellent rapport with the inmate population through his fair, nonjudgmental approach and demonstrated a remarkable ability to diffuse tense situations without the use of force; and

WHEREAS, in recognition of his 23 years of meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored Gregory Harris in an official proclamation on January 14, 2021; and

WHEREAS, through his tireless efforts to ensure the safety and well-being of the Fauquier County community, Gregory Harris has helped make the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate of Virginia, That Gregory Garfield Harris, lieutenant of the Fauquier County Sheriff's Office, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Gregory Garfield Harris as an expression of the Senate of Virginia's heartfelt appreciation for his service to the Commonwealth and best wishes for the future.

SENATE RESOLUTION NO. 544

Celebrating the life of Elizabeth Ann Kerr Ledgerton.

Agreed to by the Senate, February 25, 2021

WHEREAS, Elizabeth Ann Kerr Ledgerton, longtime treasurer of the County of Fauquier who was a beloved member of the Manassas community, died on December 19, 2020; and

WHEREAS, early in her career, Elizabeth "Beth" Ledgerton was an office manager for the United Mine Workers of Virginia in Washington, D.C., supporting advocacy and lobbying efforts on behalf of miners and other workers in the Commonwealth; and

WHEREAS, Beth Ledgerton worked in the Office of the Treasurer of the County of Fauquier for 22 years, including 17 years as treasurer over five successive terms, over which time she built a reputation as a visionary leader committed to excellence; and

WHEREAS, during Beth Ledgerton's tenure, the Office of the Treasurer of the County of Fauquier bolstered its online presence and established an electronic payment system, greatly enhancing its ability to provide citizens with secure, around-the-clock service; and

WHEREAS, by implementing a delinquent fees and fines collection process, establishing semiannual billing for real estate taxes, and coordinating with other county treasurers in the region, Beth Ledgerton helped to ensure that Fauquier County was properly funded to administer its programs and services; and

WHEREAS, dedicated to the advancement of her profession and good governance in the Commonwealth, Beth Ledgerton served as secretary and vice president of the Treasurers' Association of Virginia and as a member of the Virginia Association of Local Elected Constitutional Officers; and

WHEREAS, Beth Ledgerton gave generously of her time and talents in support of humanitarian initiatives through the Rotary Club of Warrenton, notably serving as the first female president in the organization's history; she was also an active member of the Piedmont Republican Women's Club; and

WHEREAS, in recognition of her meritorious service to the citizens of Fauquier County, the Fauquier County Board of Supervisors honored Beth Ledgerton on the occasion of her retirement by issuing an official proclamation on March 14, 2013; and

WHEREAS, Beth Ledgerton selflessly raised her younger siblings, Randy, Wendy, Dina, and Dayna, as her own after her parents unexpectedly died at a young age, ensuring the family would stay together; and

WHEREAS, guided throughout her life by her deep and abiding faith, Beth Ledgerton enjoyed worship and fellowship with her community at Victory Gospel Church in Manassas for many years; and

WHEREAS, preceded in death by her brother Albert, Beth Ledgerton will be fondly remembered and dearly missed by her siblings, Kevin, Randy, Wendy, Dina, and Dayna, and their families; her stepchildren, Sara and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Elizabeth Ann Kerr Ledgerton, an esteemed treasurer of the County of Fauquier who had a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elizabeth Ann Kerr Ledgerton as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 545

Celebrating the life of Maybelle Rutland Campbell.

Agreed to by the Senate, February 27, 2021

WHEREAS, Maybelle Rutland Campbell, an honorable veteran whose service during World War II helped break down color and gender barriers in the United States Armed Forces, died on February 9, 2021; and

WHEREAS, born in Forsyth, Georgia, Maybelle Campbell served her country with valor and distinction from February 1945 to December 1946 as a private first class in the 6888th Central Postal Directory Battalion of the Women's Auxiliary Corps of the United States Army, which was notably the only unit of African American women to serve overseas during World War II; and

WHEREAS, as part of the 6888th Central Postal Directory Battalion, often referred to as the Six Triple Eight, Maybelle Campbell and her fellow service members remarkably cleared a years-long backlog of letters and packages intended for military units in the European theatre in only a matter of months, boosting troop morale by connecting soldiers with loved ones back home; and

WHEREAS, the accomplishments of the Six Triple Eight have received greater recognition in recent years; along with parades and celebrations, a monument was erected in 2018 in the Buffalo Soldier Commemorative Area at Fort Leavenworth, Kansas, to commemorate the Six Triple Eight and the historic and invaluable contributions that Maybelle Campbell and others made to the Allied victory in World War II; and

WHEREAS, Maybelle Campbell will be fondly remembered and dearly missed by her children, Natalie and Melody, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Maybelle Rutland Campbell, a distinguished veteran of World War II whose service is an inspiration to all Americans; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Maybelle Rutland Campbell as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 546

Commending Kim Jackson-Dinnall.

Agreed to by the Senate, February 27, 2021

WHEREAS, Kim Jackson-Dinnall, assistant principal at Granby High School in Norfolk, has admirably served the community through her tutoring nonprofit TEACH!, both before and during the COVID-19 pandemic; and

WHEREAS, in 2014, Kim Jackson-Dinnall established her tutoring nonprofit TEACH!, which stands for "Tidewater Educational Action for Change Here!," to ensure that every child in her community has the opportunity to thrive; and

WHEREAS, normally operating TEACH! out of either her home or a building in the Wellington Oaks section of Norfolk, Kim Jackson-Dinnall and other volunteer educators have utilized the food court at Military Circle Mall in Norfolk since January 2021 to provide socially distanced instruction to numerous students from Norfolk, Virginia Beach, and Chesapeake; and

WHEREAS, Kim Jackson-Dinnall and her team of volunteer educators assist students by helping them with their schoolwork, by providing meals and transportation, and by offering invaluable guidance; and

WHEREAS, with the support of donations from the community, Kim Jackson-Dinnall has also been able to set up multiple mobile hotspots to facilitate students' access to virtual classrooms and other learning programs; and

WHEREAS, Kim Jackson-Dinnall's TEACH! program is available for free to students in grades one through 12, helping to address inequities that may otherwise diminish educational opportunities for students; and

WHEREAS, Kim Jackson-Dinnall's training as an educator includes a bachelor's degree in English from the University of Massachusetts Boston; a master's degree in education from Salem State University, where she graduated magna cum laude; and a master's degree in education leadership from the Regent University School of Education; and

WHEREAS, through steadfast dedication and an unwavering commitment to the young people of the Commonwealth, Kim Jackson-Dinnall has served as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Kim Jackson-Dinnall, assistant principal at Granby High School, hereby be commended for supporting the community through her nonprofit TEACH!; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kim Jackson-Dinnall as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth.

SENATE RESOLUTION NO. 547

Commending the Princess Anne High School girls' basketball team.

Agreed to by the Senate, February 27, 2021

WHEREAS, the Princess Anne High School girls' basketball team of Virginia Beach won the Virginia High School League Class 5 state championship on February 20, 2021, at Patrick Henry High School in Roanoke; and

WHEREAS, the Princess Anne High School Cavaliers beat the Patrick Henry High School Patriots by a score of 56-41 to finish the season undefeated at 10-0; and

WHEREAS, the Princess Anne Cavaliers' victory marked the program's eighth consecutive championship title and the 12th championship title in program history; and

WHEREAS, the Princess Anne Cavaliers were led by senior Aziaha James, the 2020 All-Tidewater Girls Basketball Player of the Year, who tallied 32 points as she put the final touches on a stellar high school basketball career; and

WHEREAS, initially stifled by the Patrick Henry Patriots' zone defense, the Princess Anne Cavaliers took the lead early in the second quarter and never looked back; and

WHEREAS, the Princess Anne Cavaliers benefited from strong performances by each of its players, including Zakiya Stephenson, who finished the game with 13 points; and

WHEREAS, the success of the Princess Anne Cavaliers is the result of tireless dedication of the student-athletes, the encouraging guidance of their coaches, and the unwavering support of the entire Princess Anne High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Princess Anne High School girls' basketball team hereby be commended for winning the Virginia High School League Class 5 state championship in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Princess Anne High School girls' basketball team as an expression of the Senate of Virginia's admiration for the team's achievement and best wishes for the future.

SENATE RESOLUTION NO. 548

Commending David Hirn, Kate Williamson, and Courtni Pannell.

Agreed to by the Senate, February 27, 2021

WHEREAS, David Hirn, Kate Williamson, and Courtni Pannell, dedicated law-enforcement officers with the Hopewell Police Department, worked together to save the life of an infant in early 2021; and

WHEREAS, David Hirn, a United States Army veteran and sergeant in the Criminal Investigation Division; Kate Williamson, a detective in the Criminal Investigation Unit; and Courtni Pannell, a graduate of Radford University and a patrol officer with the Field Services Division, have 16 years of combined experience in law-enforcement; and

WHEREAS, on the morning of January 11, 2021, David Hirn, Kate Williamson, and Courtni Pannell responded to a report of a woman entering the Appomattox River while holding an infant near Riverside Avenue in Hopewell; and

WHEREAS, without regard for their own safety, David Hirn, Kate Williamson, and Courtni Pannell bravely entered the water to rescue both individuals; and

WHEREAS, while the woman was ultimately pulled to safety by the crew of a Hopewell Fire Department rescue boat, David Hirn located the unresponsive infant in the water and attempted resuscitation once back on shore; and

WHEREAS, David Hirn's efforts were successful and the infant later made a full recovery at Virginia Commonwealth University Medical Center; and

WHEREAS, David Hirn, Kate Williamson, and Courtni Pannell have served the Hopewell community with integrity, professionalism, and distinction; now, therefore, be it

RESOLVED by the Senate of Virginia, That David Hirn, Kate Williamson, and Courtni Pannell hereby be commended for their heroic, lifesaving actions in January 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to David Hirn, Kate Williamson, and Courtni Pannell as an expression of the Senate of Virginia's admiration for their courage and commitment to public service.

SENATE RESOLUTION NO. 549

Celebrating the life of Michael J. Weber, Ph.D.

Agreed to by the Senate, February 27, 2021

WHEREAS, Michael J. Weber, Ph.D., director emeritus of the University of Virginia Cancer Center and an esteemed professor of microbiology, immunology, and cancer biology at the University of Virginia School of Medicine, died on February 11, 2021; and

WHEREAS, Michael Weber was raised in New York City and was a graduate of the Bronx High School of Science, Haverford College, and the University of California, San Diego; and

WHEREAS, Michael Weber's research focused on understanding cancer cell signaling as a target for cancer therapy; alongside colleagues Tom Sturgill and Tony Rossomando, he discovered mitogen-activated protein kinase, a cellular protein that is a key regulator of cell growth and an important drug target in many cancer therapies; and

WHEREAS, Michael Weber joined the faculty of University of Virginia in 1983, where he was a longtime advocate for integrating the efforts of basic and translational research, clinical trials, and compassionate care to create the best health outcomes for patients; and

WHEREAS, Michael Weber served as director of the University of Virginia Cancer Center from 2000 to 2013, elevating the institution's international reputation while spearheading the creation of the Emily Couric Clinical Cancer Center; and

WHEREAS, in retirement, Michael Weber continued to run an active lab with support from the V Foundation for Cancer Research and his recent work with Kallelsh Jayappa contributed to the discovery of a novel drug combination therapy for patients with chronic lymphocytic leukemia and mantle cell lymphoma; and

WHEREAS, in honor of his life and achievements, the University of Virginia Cancer Center has established the Michael J. Weber Symposium, an annual scientific symposium that will bring world-renowned scientists and clinicians together to advance cancer research; and

WHEREAS, Michael Weber will be fondly remembered and dearly missed by his loving wife of 53 years, Alison; his children, Aaron and Joel, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Michael J. Weber, Ph.D., a cherished member of the University of Virginia community whose accomplishments in the field of cancer research have helped countless individuals lead longer, healthier lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael J. Weber, Ph.D., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 550

Celebrating the life of John Richard Neese.

Agreed to by the Senate, February 27, 2021

WHEREAS, John Richard Neese, a longtime member of the Shenandoah County Board of Supervisors who made many contributions to the New Market community, died on November 28, 2020; and

WHEREAS, a native of New Market, Richard "Dick" Neese graduated from Stonewall Jackson High School and Triplett Tech; and

WHEREAS, Dick Neese served his country as a member of the United States Army and the Army National Guard; he worked in the food production industry for many years, then went into semi-retirement and held part-time jobs at the New Market Exxon and the Narrow Passage Press printing company; and

WHEREAS, desirous to be of further service to the community, Dick Neese followed in his father's footsteps as a local public servant and was elected to the Shenandoah County Board of Supervisors in 2002; and

WHEREAS, Dick Neese ably represented the residents of District 1 for the next 18 years and had been serving as chair of the Shenandoah County Board of Supervisors at the time of his passing; and

WHEREAS, Dick Neese volunteered his time with the Forestville-Quicksburg Ruritan Club and enjoyed fellowship and worship with the community at St. Martin Lutheran Church, where he had served on the church council; and

WHEREAS, Dick Neese will be fondly remembered and greatly missed by his sons, Michael and Daniel, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of John Richard Neese, a respected public servant in Shenandoah County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Richard Neese as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 551

Celebrating the life of Roy Kenneth Harris.

Agreed to by the Senate, February 27, 2021

WHEREAS, Roy Kenneth Harris, a talented singer and multi-instrumentalist and a highly admired community leader in Shenandoah County, died on January 27, 2021; and

WHEREAS, Roy Harris grew up in Mount Jackson, where he attended Triplett High School and became a lifelong member of Walkers Chapel Church of the Brethren; and

WHEREAS, Roy Harris served his country as a member of the United States Army during the Korean War; he briefly worked as a fruit and vegetable inspector for the U.S. Department of Agriculture, then began a 22-year career as an engineer and product development manager with Aileen, Inc., in 1961; and

WHEREAS, Roy Harris's true passion was music, and he established and performed with several country and rock and roll acts over the years; and

WHEREAS, Roy Harris began playing guitar and saxophone at the age of 14 and later formed a band, the Kountry Kats, which toured with Patsy Cline; he accompanied several other notable country artists, including Margo Smith and Jimmy Dean; and

WHEREAS, Roy Harris was a founding member of the bands Four Score and the Top Tones, which performed at local events in Shenandoah County, and the Glory Road Singers, which provided entertainment at senior centers, nursing homes, and church functions; and

WHEREAS, from 1976 to 1981, Roy Harris also owned a music store that provided high-quality instruments, sheet music, and accessories to members of the Woodstock community and coordinated music lessons for local young people; and

WHEREAS, Roy Harris was a life member and past president of the Mount Jackson Lions Club, a life member of the Mount Jackson Moose Lodge, a member of the local American Legion, and a founding leader of the Mount Jackson Cub Scouts; and

WHEREAS, for more than 60 years, Roy Harris was a dedicated member of the Shenandoah County Republican Committee; he served as finance chair of the Mount Jackson precinct and represented the community at local and state conventions; and

WHEREAS, predeceased by his daughter, Donna, Roy Harris will be fondly remembered and greatly missed by his wife of 63 years, Nancy; his son, Marty, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Roy Kenneth Harris, an admired musician who made many contributions to the Shenandoah County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roy Kenneth Harris as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 552

Commending Kirk Dolson.

Agreed to by the Senate, February 27, 2021

WHEREAS, Kirk Dolson, former principal of Park View High School in Sterling who has admirably served the students, staff, and community of Loudoun County Public Schools for many years, was named the inaugural supervisor of high school education for Loudoun County Public Schools in February 2021; and

WHEREAS, Kirk Dolson's training as an educator and administrator includes a bachelor's degree in English and a master's degree in curriculum and instruction, both from Virginia Polytechnic Institute and State University; and

WHEREAS, Kirk Dolson taught for five years before obtaining an administration certificate from George Mason University and assuming a post as a middle school administrator at Eagle Ridge Middle School in Ashburn; and

WHEREAS, Kirk Dolson was also the assistance and remediation programs coordinator for Loudoun County Public Schools (LCPS) for five years and an assistant principal at Potomac Falls High School for four years before becoming the principal of Park View High School in 2014; and

WHEREAS, over his tenure at Park View High School, Kirk Dolson was a nurturing and supportive school leader who promoted equity among the student body and communicated effectively with students, teachers, and staff; and

WHEREAS, Kirk Dolson personally mentored many of his students at Park View High School and went beyond the call of duty to ensure that every child under his care had the opportunity to grow and thrive; and

WHEREAS, Kirk Dolson spearheaded an alternative education program at Park View High School designed to help students graduate who might otherwise drop out, such as young mothers, English-language learners, and those who struggle with Standards of Learning assessments or in traditional classroom settings; and

WHEREAS, during the COVID-19 pandemic, Kirk Dolson stepped up alongside other members of the Park View High School faculty to support the school's distribution of meals to students in need, helping to mitigate the risk of food insecurity in the community; and

WHEREAS, Kirk Dolson has shared his knowledge and experiences through various platforms, including the podcast "Learning That Changes Lives," which details Park View High School's commitment to personalized learning; and

WHEREAS, in recognition of his accomplishments and expertise as a school administrator, Kirk Dolson was named the LCPS Principal of the Year in 2020; now, therefore, be it

RESOLVED by the Senate of Virginia, That Kirk Dolson, former principal of Park View High School, hereby be commended for his many years of service and for being named the inaugural supervisor of high school education for Loudoun County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kirk Dolson as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 553

Commending School Nutrition Services, Planning Services, and the Transportation Division of Loudoun County Public Schools.

Agreed to by the Senate, February 27, 2021

WHEREAS, School Nutrition Services, Planning Services, and the Transportation Division of Loudoun County Public Schools have admirably served the community by distributing meals to students during the COVID-19 pandemic; and

WHEREAS, at the outset of the COVID-19 pandemic, School Nutrition Services, Planning Services, and the Transportation Division of Loudoun County Public Schools (LCPS) resolved to ensure that no student would face food insecurity at home as a result of the school system's transition to distance learning; and

WHEREAS, between March 2020 and January 2021, School Nutrition Services of LCPS prepared approximately 5 million breakfasts and lunches, as well as hundreds of thousands of dinners and snacks, to feed students and children across the district; and

WHEREAS, in partnership with the U.S. Department of Agriculture's Summer Food Service Program, LCPS School Nutrition Services was able to provide free breakfasts and lunches to children at numerous locations throughout the county from July 2020 to the end of the year; and

WHEREAS, during the COVID-19 pandemic, LCPS School Nutrition Services has offered daily walk-up services at nearly all of the public schools in Loudoun County, while the LCPS Transportation Division has delivered meals along routes spanning hundreds of miles, ensuring that all students in the district have easy access to healthy and nourishing food; and

WHEREAS, LCPS Planning Services produced an interactive map of the community to locate optimal meal delivery sites, enabling LCPS food distribution plans to be carried out effectively and efficiently; and

WHEREAS, the accomplishments of School Nutrition Services, Planning Services, and the Transportation Division of LCPS are the result of hard work and a steadfast dedication to the health and well-being of Loudoun County's children; now, therefore, be it

RESOLVED by the Senate of Virginia, That School Nutrition Services, Planning Services, and the Transportation Division of Loudoun County Public Schools hereby be commended for supporting the distribution of meals to children of Loudoun County during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to representatives of School Nutrition Services, Planning Services, and the Transportation Division of Loudoun County Public Schools as an expression of the Senate of Virginia's admiration for their inspirational contributions to the Commonwealth.

SENATE RESOLUTION NO. 555

Celebrating the life of Henry Lewis Livas, Jr.

Agreed to by the Senate, February 27, 2021

WHEREAS, Henry Lewis Livas, Jr., an honorable veteran, esteemed engineer, accomplished tennis player, and beloved member of the Virginia Beach community, died on February 20, 2021; and

WHEREAS, Henry Livas attended George P. Phenix School in Hampton from his elementary school years through graduation in 1956; he was a standout athlete on the school's tennis team, winning Virginia Interscholastic Association state championship titles in both the singles and doubles tournaments in 1955 and 1956; and

WHEREAS, Henry Livas earned a bachelor's degree in civil engineering from Bucknell University, where he played four years of varsity tennis and one year of freshman basketball and was a member of the Phi Lambda Theta fraternity, one of the earliest interracial fraternities at an American institution of higher education; and

WHEREAS, Henry Livas served his country with honor and valor as a second lieutenant in the field artillery branch of the United States Army, later achieving the rank of captain while serving in the United States Army Reserve; and

WHEREAS, Henry Livas retired from the National Aeronautics and Space Administration Langley Research Center in Hampton in 1998 after dedicating 35 years in the facility systems engineering division; and

WHEREAS, Henry Livas also worked at Fort Norfolk and with the Naval Facilities Engineering Systems Command, designing a prominent building located in Bermuda and having the notable distinction of being a level one contracting officer; and

WHEREAS, an active and engaged member of the community, Henry Livas served eight years on the Virginia Beach Planning Commission and received several honors, awards, and appointments in recognition of his contributions to the Commonwealth over the years; and

WHEREAS, along with his success at George P. Phenix School and Bucknell University, Henry Livas was an American Tennis Association national champion in both the doubles and junior mixed doubles events; in 2009, his achievements were honored with an induction into the Hampton Roads African American Sports Hall of Fame; and

WHEREAS, Henry Livas will be fondly remembered and dearly missed by his children, Cosette, Nicole, Leonard, and Nicholas, and their families; his former wives, Becky and Brenda; his former companion, Linda; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Henry Lewis Livas, Jr., a cherished member of the Virginia Beach community whose unwavering kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Henry Lewis Livas, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 556

Celebrating the life of Frederick William Holland, Jr.

Agreed to by the Senate, February 27, 2021

WHEREAS, Frederick William Holland, Jr., a hardworking farmer and highly admired member of the New Church and Accomack County communities, died on January 26, 2021; and

WHEREAS, born in Salisbury, Maryland, Frederick "Fred" Holland attended Broadwater Academy and studied agriculture in Delaware before joining the family farming business, W.T. Holland & Sons; and

WHEREAS, Fred Holland subsequently became a part owner of W.T. Holland & Sons, and was an active leader in the agricultural community as vice chair of the Eastern Shore Soil and Water Conservation District for 17 years; and

WHEREAS, Fred Holland was a former member of the board of directors of Hartley Hall Nursing Home and Rehabilitation Center and a longtime member and trustee of the Benevolent and Protective Order of Elks No. 1624, both in Pocomoke City, Maryland; and

WHEREAS, Fred Holland enjoyed fellowship and worship with the community as a member of Salem United Methodist Church, serving as a trustee for many years; and

WHEREAS, Fred Holland was an avid outdoorsman who enjoyed hunting, fishing, and many other outdoor activities, and he relished every opportunity to spend time with his beloved family; and

WHEREAS, Fred Holland will be fondly remembered and greatly missed by his wife of 34 years, Lori; his daughters, Olivia, Miranda, and Claire; his parents, Freddie and Charlotte; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Frederick William Holland, Jr., a respected farmer in Accomack County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frederick William Holland, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 557

Celebrating the life of Sheila Kavanagh Mandt.

Agreed to by the Senate, February 27, 2021

WHEREAS, Sheila Kavanagh Mandt, an esteemed nonprofit executive and an active and beloved member of the Richmond community, died on January 25, 2021; and

WHEREAS, born in New York City and raised in Michigan, Sheila Mandt attended the University of Detroit Mercy from 1986 to 1989; and

WHEREAS, Sheila Mandt settled in Richmond in 1995 and soon became a forceful member of the local nonprofit community, particularly with regard to victim's rights groups; and

WHEREAS, Sheila Mandt's illustrious career as a nonprofit executive included six years as director of leadership giving at the United Way of Greater Richmond and Petersburg and stints as director of development for the Greater Richmond Area Command of the Salvation Army and as chief executive officer of the Joe Torre Safe at Home Foundation; and

WHEREAS, for nearly 20 years, Sheila Mandt contributed greatly to the success of many area nonprofits as president of SKM Management, a fundraising consulting firm specializing in prospect research, annual funds, and capital campaigns; and

WHEREAS, in the 2000s, Sheila Mandt spearheaded a collaborative project between several abused women's shelters in the Commonwealth that resulted in a handmade quilt, measuring roughly 150 feet by 10 feet, that commemorated victims of domestic abuse; and

WHEREAS, displayed at prominent locations throughout the Commonwealth, such as the Capitol Building and the Office of the Attorney General, the quilt organized by Sheila Mandt brought greater awareness to the problem of domestic abuse while also conveying a message about the strength and courage of victims; and

WHEREAS, Sheila Mandt will be fondly remembered and dearly missed by her loving husband, Chris; her brothers, Neil and Michael; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Sheila Kavanagh Mandt, an accomplished nonprofit executive in Richmond whose kindness, generosity, and dedication to her community touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sheila Kavanagh Mandt as an expression of the Senate of Virginia's respect for her memory.

SUMMARY OF 2021 SPECIAL SESSION I LEGISLATION

TOTAL INTRODUCED LEGISLATION	1033
House Bills	378
Senate Bills	265
House Joint Resolutions	174
Senate Joint Resolutions	17
House Resolutions	141
Senate Resolutions	58
TOTAL LEGISLATION PASSED AND/OR AGREED TO	934
House Bills	334
Senate Bills	218
House Joint Resolutions	172
Senate Joint Resolutions	13
House Resolutions	141
Senate Resolutions	56
TOTAL BILLS ENACTED INTO LAW	552
House Bills	334
Senate Bills	218
House Joint Resolutions	2
Senate Joint Resolutions	2
TOTAL CHAPTERS	556
BILLS VETOED BY GOVERNOR	0
House Bills	0
Senate Bills	0

HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

HOUSE			HOUSE			HOUSE			HOUSE		
HB	Chapter	Page	HB	Chapter	Page	HB	Chapter	Page	HB	Chapter	Page
1737	1	1	1847	351	888	1923	356	909	2010	389	1147
1747	157	380	1848	12	28	1925	141	370	2012	184	428
1749	119	341	1849	2	2	1926	142	371	2013	106	288
1750	330	814	1850	133	357	1928	406	1222	2014	410	1226
1751	120	341	1851	45	91	1930	440	1279	2017	457	1332
1760	317	773	1852	346	877	1931	33	63	2018	207	506
1763	39	83	1853	342	826	1935	117 E	319	2019	508	1571
1764	122	342	1854	261	638	1936	534	1709	2020	474	1386
1774	347	881	1855	532	1661	1940	104	284	2024	144	372
1775	124	344	1858	134	357	1942	441	1279	2025	484	1443
1776	394	1188	1862	395	1188	1943	14	33	2027	443	1283
1778	125	344	1864	506	1567	1944	15	34	2029	285	701
1783	126	345	1865	167	401	1950	164	400	2030	458	1335
1789	127	351	1866	177	410	1953	200	475	2031	537	1717
1790	19	37	1867	178	411	1957	202	497	2032	509	1580
1796	128	351	1868	136	359	1958	407	1223	2034	361	913
1798	20	39	1873	3	3	1960	358	911	2035	209	514
1800	552	2334	1874	179	412	1961	319	774	2036	290	710
1801	175	409	1876	438	1277	1962	535	1711	2038	538	1718
1804	348	884	1877	180	413	1963	203	497	2039	210	516
1805	299	720	1878	30	52	1964	143	371	2040	539	1720
1806	176	409	1879	281	659	1965	263	640	2042	89	253
1807	158	388	1881	402	1219	1967	16	35	2046	267	646
1808	64	125	1882	13	32	1968	204	498	2047	540	1722
1810	159	388	1884	162	392	1969	408	1223	2053	411	1229
1811	469	1373	1885	22	40	1971	17	36	2054	412	1229
1812	7	8	1887	137	361	1973	182	418	2055	541	1728
1813	260	637	1888	471	1374	1976	264	641	2058	291	711
1814	8	17	1889	492	1544	1979	493	1544	2059	413	1230
1816	9	18	1890	533	1704	1980	442	1282	2060	414	1230
1817	396	1188	1891	4	3	1981	409	1224	2061	211	519
1818	436	1275	1892	138	362	1982	360	912	2062	485	1445
1819	399	1193	1893	353	899	1983	265	642	2063	445	1290
1820	160	389	1894	181	414	1985	507	1569	2064	78 E	235
1821	29	51	1895	388	1145	1986	76	149	2065	212	520
1823	165	401	1896	101	282	1987	301	723	2068	185	431
1824	10	26	1898	355	908	1988	205	499	2069	145	372
1827	21	40	1899	553	3148	1989	472	1384	2070	213	520
1828	129	352	1900	403	1220	1990	183	428	2071	51	105
1829	161	391	1901	139	363	1991	284	699	2072	415	1230
1830	11	28	1902	262	638	1992	555	3151	2075	416	1231
1831	470	1374	1903	318	773	1993	168	405	2078	110 E	292
1832	349	884	1904	23	40	1994	266	644	2079	214	521
1833	400	1194	1905	25	48	1995	303	737	2081	459	1336
1834	41	87	1907	140	364	1998	26	48	2085	27	49
1836	401	1194	1909	439	1278	1999	536 E	1717	2086	510	1581
1837	43	90	1911	194	466	2001	473	1384	2091	79	238
1838	166	401	1912	283	698	2002	206	503	2092	475	1387
1841	130	353	1913	5 E	5	2004	483	1435	2095	417	1231
1842	131	353	1916	47	92	2006	49	98	2098	68	130
1843	491	1542	1918	74	147	2007	304	739	2099	486	1447
1845	82 E	245	1919	405	1221	2008	66	127	2101	146	374
1846	132	355	1921	163	398	2009	18	37	2105	446	1293

Note: E signifies emergency status

HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

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HB	Chapter	Page	HB	Chapter	Page	HB	Chapter	Page
2110	111	307	2191	305	746	2310	85 E	250
2111	215	523	2192	222	538	2311	59	120
2113	542	1730	2194	83	249	2312	551	2051
2116	216 E	524	2197	223	541	2314	109	292
2117	70	131	2198	225	541	2316	173	408
2118	418	1235	2201	57	117	2317	193	464
2119	28	50	2202	151	376	2318	433	1272
2120	447	1295	2203	332	816	2320	322	777
2121	487	1452	2204	397	1191	2321	453	1318
2123	107	288	2206	171 E	407	2322	306	748
2124	476	1398	2207	547	1763	2323	174	409
2125	217	524	2208	197	472	2326	479	1427
2128	31	55	2212	226	542	2327	549	1766
2129	363	915	2213	423	1250	2330	308	757
2130	169	406	2216	189	456	2332	480	1428
2131	186	433	2217	424	1251	5001	434	1272
2132	460	1338	2218	227	543	HJR	Chapter	Page
2133	543	1751	2219	229	554	555	516	1602
2134	448	1297	2220	230	557	582	517	1603
2135	292	712	2222	231	557			
2137	449	1299	2223	152	377			
2138	544	1752	2227	425	1251			
2139	195	467	2229	426	1251			
2140	218	525	2230	232	558			
2147	196	468	2233	190	457			
2148	419	1236	2234	334	817			
2150	187	436	2236	191	462			
2154	219	526	2238	172	408			
2159	420	1236	2249	427	1253			
2161	477	1398	2250	113	311			
2162	220 E	530	2252	365	932			
2163	421	1237	2257	428	1263			
2165	116	318	2258	461	1338			
2166	221	531	2261	153	378			
2167	545	1760	2262	462	1339			
2168	546	1762	2263	344	826			
2169	188	441	2266	390	1149			
2170	147	374	2269	429	1269			
2171	148	375	2273	367	933			
2172	149	375	2282	268	647			
2174	556	3163	2284	154	379			
2175	91	261	2287	321	776			
2176	450	1300	2290	192	464			
2177	93	270	2293	430	1269			
2178	95 E	274	2294	431	1270			
2179	37 E	81	2295	548	1765			
2180	320	776	2298	432	1271			
2181	53	107	2299	451	1301			
2182	170	407	2300	233	561			
2185	55 E	115	2302	198	472			
2186	422	1249	2304	369	939			
2187	150	376	2307	35	67			
2190	488	1501	2308	234	564			

Note: E signifies emergency status

SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

SENATE			SENATE			SENATE			SENATE		
SB	Chapter	Page	SB	Chapter	Page	SB	Chapter	Page	SB	Chapter	Page
1097	235	565	1190	294	714	1274	498	1557	1365	314	768
1098	46	92	1193	331	815	1275	437	1276	1366	300	721
1102	236	565	1194	32	63	1276	102	283	1374	504	1566
1108	199	473	1196	24	44	1277	379	962	1375	526	1649
1110	324	782	1197	495	1554	1279	247	591	1379	114	312
1111	6	8	1199	274	655	1280	97	279	1381	527	1651
1112	48	95	1201	50	101	1281	482	1434	1385	505	1566
1113	84	249	1204	77	192	1282	98	279	1387	108	290
1119	335	818	1205	243 E	581	1284	327	787	1389	323	780
1120	155	379	1206	466	1364	1287	499	1558	1391	112	309
1121	237	566	1207	58	119	1288	452	1310	1392	36	74
1122	463	1339	1208	295	714	1289	72	136	1393	90	257
1126	435	1274	1209	511	1592	1290	99	279	1395	528	1651
1127	520	1604	1210	275	655	1291	100	281	1396	382	967
1128	371	942	1212	354	903	1295	328	806	1397	287	705
1130	156	380	1213	376	958	1296	455	1329	1398	383	972
1132	293	712	1214	377	961	1297	208	510	1399	384	982
1134	38 E	82	1215	404	1221	1298	500	1559	1400	366	932
1135	464	1354	1216	123	343	1299	282	678	1402	280	658
1136	269	648	1219	512	1593	1300	392	1182	1403	56 E	116
1138	465	1360	1220	244	584	1302	248	592	1404	385	984
1141	325	783	1221	521	1611	1303	456	1331	1405	398	1192
1142	87	251	1223	326	784	1304	249	597	1406	550	1768
1143	270	649	1225	496	1555	1307	250	599	1408	315	772
1144	372	943	1227	245	584	1309	380	962	1410	478	1413
1145	96 E	276	1229	276	655	1310	513	1593	1411	121	342
1146	118 E	330	1234	296	714	1311	501	1563	1412	339	824
1147	238	567	1239	246	589	1313	71	134	1413	370	940
1148	239	568	1241	88	251	1314	502	1564	1414	256	635
1150	309	761	1242	86	250	1315	523	1618	1415	529	1656
1152	135	358	1245	522	1611	1316	251	605	1417	340	824
1154	65	126	1247	42	89	1319	503	1565	1418	386	985
1155	94	272	1248	311	765	1320	201	486	1420	362	914
1156	271	649	1251	54	111	1321	252	615	1421	257	635
1157	103	283	1252	554	3149	1322	514	1598	1423	368	936
1158	373	943	1253	378	961	1325	253	616	1426	393	1183
1160	374	947	1254	352	894	1326	61	122	1428	288	706
1161	44	91	1255	297	715	1327	92	266	1429	69	130
1162	40	85	1256	467	1366	1328	254	617	1431	316	772
1163	272	651	1257	454	1326	1329	338	823	1436	530 E	1659
1164	375	955	1258	497	1556	1331	255	634	1438	62	123
1165	345	851	1259	350	886	1333	228	549	1439	105	286
1168	310	762	1260	60	121	1334	357	910	1442	341	825
1169	75	148	1261	489	1501	1335	381	962	1444	343	826
1175	81	244	1262	336	818	1336	279	658	1447	63	124
1178	240	569	1265	277	656	1338	302	730	1453	387	988
1181	286	701	1266	337	821	1339	524	1624	1456	115	313
1182	273	653	1267	80	241	1343	298	715	1457	531 E	1660
1183	494	1546	1269	67	128	1350	52	106	1458	258	636
1184	241	569	1270	278	657	1351	515	1602	1461	289	710
1187	481	1433	1271	490	1540	1354	364	923	1464	73	139
1188	333	817	1272	312	766	1356	525	1644	1465	329	813
1189	242	572	1273	313	767	1357	444	1287	1468	468	1372

Note: E signifies emergency status

SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

SENATE			SENATE		
SB	Chapter	Page			
1469	307	753			
1470	359	912			
1471	391	1165			
1472	224	541			
1473	259	637			
1475	34 E	65			
SJR	Chapter	Page			
270	518	1603			
272	519	1604			

Note: E signifies emergency status

**THE SENATE
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
33	Boysko, Jennifer B. (D)	Counties of Fairfax (part) and Loudoun (part)
38	Chafin, A. Benton, Jr. (R)†	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, Bill (R)	City of Virginia Beach (part)
12	Dunnavant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
38	Hackworth, T. Travis (R)‡	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
10	Hashmi, Ghazala F. (D)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
7	Kiggans, Jen A. (R)	Cities of Norfolk (part) and Virginia Beach (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)

**THE SENATE
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greenville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)
37	Marsden, David W. (D)	County of Fairfax (part)
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
16	Morrissey, Joseph D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
40	Pillion, Todd E. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)

**THE SENATE
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester

†Died January 1, 2021

‡Elected March 23, 2021 to fill vacancy of A. Benton Chafin, Jr. (R). Sworn in April 2, 2021.

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
68	Adams, Dawn M. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
63	Aird, Lashrecse D. (D)	Counties of Chesterfield (part) and Dinwiddie; City of Petersburg
85	Askew, Alex Q. (D)	City of Virginia Beach (part)
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
20	Avoli, G. John (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
51	Ayala, Hala S. (D)	County of Prince William (part)
74	Bagby, Lamont (D)	County of Henrico (part)
96	Batten, Amanda E. (R)	Counties of James City (part) and York (part)
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)	City of Richmond (part)
64	Brewer, Emily M. (R)	Counties of Isle of Wight, Prince George (part), and Surry; City of Suffolk (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
24	Campbell, Ronnie R. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
69	Carr, Betsy B. (D)	City of Richmond (part)
50	Carter, Lee J. (D)	County of Prince William (part); City of Manassas
28	Cole, Joshua G. (D)	County of Stafford (part); City of Fredericksburg (part)
88	Cole, Mark L. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
21	Convirs-Fowler, Kelly K. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
66	Cox, M. Kirkland (R)	County of Chesterfield (part); City of Colonial Heights

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
62	Coyner, Carrie E. (R)	Counties of Chesterfield (part) and Prince George (part); City of Hopewell (part)
84	Davis, Glenn R., Jr. (R)	City of Virginia Beach (part)
67	Delaney, Karrie K. (D)	Counties of Fairfax (part) and Loudoun (part)
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
10	Gooditis, Gwendolyn W. (D)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
83	Guy, Nancy D. (D)	Cities of Norfolk (part) and Virginia Beach (part)
31	Guzman, Elizabeth R. (D)	Counties of Fauquier (part) and Prince William (part)
77	Hayes, C.E., Jr. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
40	Helmer, Daniel I. (D)	Counties of Fairfax (part) and Prince William (part)
79	Heretick, Stephen E. (D)	Cities of Chesapeake (part), Norfolk (part), and Portsmouth (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
47	Hope, Patrick A. (D)	County of Arlington (part)
57	Hudson, Sally L. (D)	County of Albemarle (part); City of Charlottesville
12	Hurst, Chris L. (D)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford
76	Jenkins, Clinton L. (D)	Cities of Chesapeake (part) and Suffolk (part)
89	Jones, Jerrauld C. (D)	City of Norfolk (part)
35	Keam, Mark L. (D)	County of Fairfax (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
45	Levine, Mark H. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
56	McGuire, John J., III (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
8	McNamara, Joseph P. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
70	McQuinn, Delores L. (D)	Counties of Charles City, Chesterfield (part), and Henrico (part); City of Richmond (part)
82	Miyares, Jason S. (R)	City of Virginia Beach (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
91	Mugler, Martha M. (D)	County of York (part); Cities of Hampton (part) and Poquoson
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
2	Mundon King, Candi (D)	Counties of Prince William (part) and Stafford (part)
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
9	Poindexter, Charles D. (R)	Counties of Franklin (part), Henry (part), and Patrick
95	Price, Marcia S. (D)	City of Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
32	Reid, David A. (D)	County of Loudoun (part)

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
13	Roem, Danica A. (D)	County of Prince William (part); City of Manassas Park
25	Runion, Chris (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
7	Rush, L. Nick (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
86	Samirah, Ibraheem S. (D)	Counties of Fairfax (part) and Loudoun (part)
80	Scott, Don L., Jr. (D)	City of Portsmouth (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
94	Simonds, Shelly A. (D)	City of Newport News (part)
87	Subramanyam, Suhas (D)	Counties of Loudoun (part) and Prince William (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
52	Torian, Luke E. (D)	County of Prince William (part)
42	Tran, Kathy KL (D)	County of Fairfax (part)
75	Tyler, Roslyn C. (D)	Counties of Brunswick, Greensville, Lunenburg (part), Southampton, and Sussex; Cities of Emporia and Franklin
72	VanValkenburg, Schuyler T. (D)	County of Henrico (part)
23	Walker, Wendell S. (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
4	Wampler, William C., III (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
29	Wiley, William D. (R)	Counties of Frederick (part) and Warren (part); City of Winchester
73	Willett, Rodney T. (D)	County of Henrico (part)
90	Williams Graves, Angelia (D)	Cities of Norfolk (part) and Virginia Beach (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION I**

District Number	Name	County and/or City Represented
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
97	Wyatt, Scott A. (R)	Counties of Hanover (part), King William (part), and New Kent

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION I**

COUNTIES	SENATORS	DELEGATES
Accomack.....	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Albemarle.....	R. Creigh Deeds (D)..... Bryce E. Reeves (R)	Robert B. Bell (R) C. Matthew Fariss (R) Sally L. Hudson (D) Chris Runion (R)
Alleghany.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Amelia.....	Amanda F. Chase (R)	Thomas C. Wright, Jr. (R)
Amherst.....	Mark J. Peake (R).....	Ronnie R. Campbell (R) Wendell S. Walker (R)
Appomattox.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Arlington.....	Adam P. Ebbin (D)	Patrick A. Hope (D)
	Barbara A. Favola (D) Janet D. Howell (D)	Mark H. Levine (D) Alfonso H. Lopez (D) Richard C. Sullivan, Jr. (D)
Augusta.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R) Ronnie R. Campbell (R) Chris Runion (R)
Bath.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Bedford.....	Stephen D. Newman (R)	Terry L. Austin (R)
	David R. Suetterlein (R)	Kathy J. Byron (R) Wendell S. Walker (R)
Bland.....	A. Benton Chafin, Jr. (R)†..... T. Travis Hackworth (R)‡	James W. Morefield (R)
Botetourt.....	Stephen D. Newman (R)	Terry L. Austin (R) Christopher T. Head (R)
Brunswick.....	L. Louise Lucas (D)	Roslyn C. Tyler (D)
	Frank M. Ruff, Jr. (R)	
Buchanan.....	A. Benton Chafin, Jr. (R)†..... T. Travis Hackworth (R)‡	James W. Morefield (R)
Buckingham.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Campbell.....	Stephen D. Newman (R)	Kathy J. Byron (R) James E. Edmunds II (R) C. Matthew Fariss (R)
	Frank M. Ruff, Jr. (R)	
Caroline.....	Ryan T. McDougle (R)	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R) Margaret B. Ransone (R)
Carroll.....	William M. Stanley, Jr. (R)..... David R. Suetterlein (R)	Jeffrey L. Campbell (R)
Charles City.....	Jennifer L. McClellan (D)	Delores L. McQuinn (D)
Charlotte.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds II (R)
Chesterfield.....	Amanda F. Chase (R)	Dawn M. Adams (D) Lashrecse D. Aird (D) M. Kirkland Cox (R) Carrie E. Coyner (R) Delores L. McQuinn (D) Roxann L. Robinson (R) R. Lee Ware (R)
	Ghazala F. Hashmi (D) Joseph D. Morrissey (D)	
Clarke.....	Jill Holtzman Vogel (R).....	Gwendolyn W. Gooditis (D) David A. LaRock (R)
Craig.....	Stephen D. Newman (R)	Joseph P. McNamara (R)
Culpeper.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
	Bryce E. Reeves (R) Jill Holtzman Vogel (R)	Michael J. Webert (R)
Cumberland.....	Mark J. Peake (R).....	Thomas C. Wright, Jr. (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION I**

COUNTIES	SENATORS	DELEGATES
Dickenson.....	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡	William C. Wampler III (R)
Dinwiddie.....	Joseph D. Morrissey (D) Frank M. Ruff, Jr. (R)	Lashreese D. Aird (D)
Essex	Ryan T. McDougale (R)	M. Keith Hodges (R)
Fairfax	George L. Barker (D) Jennifer B. Boysko (D) Adam P. Ebbin (D) Barbara A. Favola (D) Janet D. Howell (D) David W. Marsden (D) J. Chapman Petersen (D) Richard L. Saslaw (D) Scott A. Surovell (D)	David L. Bulova (D) Karrie K. Delaney (D) Eileen Filler-Corn (D) Daniel I. Helmer (D) Mark L. Keam (D) Kaye Kory (D) Paul E. Krizek (D) Mark H. Levine (D) Alfonso H. Lopez (D) Kathleen J. Murphy (D) Kenneth R. Plum (D) Ibraheem S. Samirah (D) Mark D. Sickles (D) Marcus B. Simon (D) Richard C. Sullivan, Jr. (D) Kathy KL Tran (D) Vivian E. Watts (D)
Fauquier.....	Jill Holtzman Vogel (R)	Mark L. Cole (R) Elizabeth R. Guzman (D) Michael J. Webert (R)
Floyd	David R. Suetterlein (R)	L. Nick Rush (R)
Fluvanna.....	Mark J. Peake (R)	Robert B. Bell (R) R. Lee Ware (R)
Franklin	William M. Stanley, Jr. (R) David R. Suetterlein (R)	Kathy J. Byron (R) Charles D. Poindexter (R)
Frederick	Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D) David A. LaRock (R) William D. Wiley (R)
Giles	John S. Edwards (D)	Chris L. Hurst (D)
Gloucester	Thomas K. Norment, Jr. (R)	M. Keith Hodges (R)
Goochland	Mark J. Peake (R)	John J. McGuire III (R) R. Lee Ware (R)
Grayson	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Greene	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
Greensville	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Halifax.....	Frank M. Ruff, Jr. (R) William M. Stanley, Jr. (R)	James E. Edmunds II (R)
Hanover.....	Siobhan S. Dunnavant (R) Jennifer L. McClellan (D) Ryan T. McDougale (R)	Hyland F. Fowler, Jr. (R) Scott A. Wyatt (R)
Henrico.....	Siobhan S. Dunnavant (R) Jennifer L. McClellan (D)	Dawn M. Adams (D) Lamont Bagby (D) John J. McGuire III (R) Delores L. McQuinn (D) Schuyler T. VanValkenburg (D) Rodney T. Willett (D)
Henry.....	William M. Stanley, Jr. (R)	Leslie R. Adams (R) Daniel W. Marshall III (R) Charles D. Poindexter (R)
Highland.....	R. Creigh Deeds (D)	G. John Avoli (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION I**

COUNTIES	SENATORS	DELEGATES
Isle of Wight.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D) Thomas K. Norment, Jr. (R)	Emily M. Brewer (R)
James City.....	T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Amanda E. Batten (R) Michael P. Mullin (D)
King and Queen	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
King George.....	Ryan T. McDougle (R)..... Richard H. Stuart (R)	Margaret B. Ransone (R)
King William.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R) Scott A. Wyatt (R)
Lancaster	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Lee.....	Todd E. Pillion (R)	Terry G. Kilgore (R)
Loudoun	John J. Bell (D)	Karrie K. Delaney (D)
	Jennifer B. Boysko (D) Barbara A. Favola (D) Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D) David A. LaRock (R) Kathleen J. Murphy (D) David A. Reid (D) Ibraheem S. Samirah (D) Sahas Subramanyam (D)
Louisa.....	Mark J. Peake (R)..... Bryce E. Reeves (R)	John J. McGuire III (R)
Lunenburg	Frank M. Ruff, Jr. (R).....	Roslyn C. Tyler (D) Thomas C. Wright, Jr. (R)
Madison.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
Mathews	Lynwood W. Lewis, Jr. (D)	M. Keith Hodges (R)
Mecklenburg	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Middlesex.....	Ryan T. McDougle (R).....	M. Keith Hodges (R)
Montgomery.....	A. Benton Chafin, Jr. (R)†..... John S. Edwards (D) T. Travis Hackworth (R)‡ David R. Suetterlein (R)	Chris L. Hurst (D) Joseph P. McNamara (R) L. Nick Rush (R)
Nelson	R. Creigh Deeds (D).....	G. John Avoli (R) C. Matthew Fariss (R)
New Kent	Thomas K. Norment, Jr. (R).....	Scott A. Wyatt (R)
Northampton	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Northumberland	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Nottoway	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Orange	Bryce E. Reeves (R).....	Nicholas J. Freitas (R)
Page.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Patrick	William M. Stanley, Jr. (R).....	Charles D. Poindexter (R)
Pittsylvania.....	Frank M. Ruff, Jr. (R)..... William M. Stanley, Jr. (R)	Leslie R. Adams (R) Daniel W. Marshall III (R)
Powhatan.....	Ghazala F. Hashmi (D).....	R. Lee Ware (R)
Prince Edward	Mark J. Peake (R).....	James E. Edmunds II (R)
Prince George.....	Joseph D. Morrissey (D)..... Frank M. Ruff, Jr. (R)	Emily M. Brewer (R) Carrie E. Coyner (R)
Prince William.....	George L. Barker (D)..... John J. Bell (D) Jeremy S. McPike (D) Richard H. Stuart (R) Scott A. Surovell (D)	Hala S. Ayala (D) Lee J. Carter (D) Elizabeth R. Guzman (D) Daniel I. Helmer (D) Candi Mundon King (D) Danica A. Roem (D) Sahas Subramanyam (D) Luke E. Torian (D)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION I**

COUNTIES	SENATORS	DELEGATES
Pulaski.....	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡	Chris L. Hurst (D) L. Nick Rush (R)
Rappahannock.....	Mark D. Obenshain (R)	Michael J. Webert (R)
Richmond.....	Ryan T. McDougle (R)	Margaret B. Ransone (R)
Roanoke	John S. Edwards (D) Stephen D. Newman (R) David R. Suetterlein (R)	Christopher T. Head (R) Joseph P. McNamara (R)
Rockbridge.....	R. Creigh Deeds (D)	Ronnie R. Campbell (R)
Rockingham.....	Emmett W. Hanger, Jr. (R) Mark D. Obenshain (R)	Robert B. Bell (R) C. Todd Gilbert (R) Chris Runion (R) Tony O. Wilt (R)
Russell.....	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡	James W. Morefield (R) William C. Wampler III (R)
Scott	Todd E. Pillion (R)	Terry G. Kilgore (R)
Shenandoah.....	Mark D. Obenshain (R)	C. Todd Gilbert (R)
Smyth.....	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡ Todd E. Pillion (R)	Jeffrey L. Campbell (R) Israel D. O'Quinn (R)
Southampton.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D)	Roslyn C. Tyler (D)
Spotsylvania.....	Ryan T. McDougle (R) Bryce E. Reeves (R) Richard H. Stuart (R)	Mark L. Cole (R) Hyland F. Fowler, Jr. (R) John J. McGuire III (R) Robert D. Orrock, Sr. (R)
Stafford.....	Richard H. Stuart (R) Scott A. Surovell (D) Jill Holtzman Vogel (R)	Joshua G. Cole (D) Mark L. Cole (R) Candi Mundon King (D)
Surry.....	L. Louise Lucas (D) Thomas K. Norment, Jr. (R)	Emily M. Brewer (R)
Sussex	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Tazewell	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡	James W. Morefield (R)
Warren.....	Mark D. Obenshain (R)	C. Todd Gilbert (R) Michael J. Webert (R) William D. Wiley (R)
Washington.....	Todd E. Pillion (R)	Israel D. O'Quinn (R) William C. Wampler, III (R)
Westmoreland.....	Ryan T. McDougle (R) Richard H. Stuart (R)	Margaret B. Ransone (R)
Wise	A. Benton Chafin, Jr. (R)† T. Travis Hackworth (R)‡ Todd E. Pillion (R)	Terry G. Kilgore (R) William C. Wampler III (R)
Wythe.....	Todd E. Pillion (R) David R. Suetterlein (R)	Jeffrey L. Campbell (R)
York.....	Mamie E. Locke (D) T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Amanda E. Batten (R) Martha M. Mugler (D) Michael P. Mullin (D)

†Died January 1, 2021

‡Elected March 23, 2021 to fill vacancy of A. Benton Chafin, Jr. (R). Sworn in April 2, 2021.

**SENATORS AND DELEGATES BY CITIES
2021 SPECIAL SESSION I**

CITIES	SENATORS	DELEGATES
Alexandria	George L. Barker (D)	Charniele L. Herring (D)
	Adam P. Ebbin (D)	Mark H. Levine (D)
	Richard L. Saslaw (D)	
Bristol	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Buena Vista	R. Creigh Deeds (D)	Ronnie R. Campbell (R)
Charlottesville	R. Creigh Deeds (D)	Sally L. Hudson (D)
Chesapeake	John A. Cosgrove, Jr. (R)	Kelly K. Convors-Fowler (D)
	L. Louise Lucas (D)	C.E. Hayes, Jr. (D)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
		Clinton L. Jenkins (D)
		Barry D. Knight (R)
		James A. Leftwich, Jr. (R)
Colonial Heights	Amanda F. Chase (R)	M. Kirkland Cox (R)
Covington	R. Creigh Deeds (D)	Terry L. Austin (R)
Danville	Frank M. Ruff, Jr. (R)	Daniel W. Marshall III (R)
	William M. Stanley, Jr. (R)	
Emporia	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fairfax	J. Chapman Petersen (D)	David L. Bulova (D)
Falls Church	Richard L. Saslaw (D)	Marcus D. Simon (D)
Franklin	John A. Cosgrove, Jr. (R)	Roslyn C. Tyler (D)
	L. Louise Lucas (D)	
Fredericksburg	Bryce E. Reeves (R)	Joshua G. Cole (D)
		Mark L. Cole (R)
Galax	William M. Stanley, Jr. (R)	Israel D. O'Quinn (R)
Hampton	Mamie E. Locke (D)	Martha M. Mugler (D)
	T. Montgomery Mason (D)	Jeion A. Ward (D)
	Thomas K. Norment, Jr. (R)	
Harrisonburg	Mark D. Obenshain (R)	Tony O. Wilt (R)
Hopewell	Joseph D. Morrissey (D)	Carrie E. Coyner (R)
Lexington	R. Creigh Deeds (D)	Ronnie R. Campbell (R)
Lynchburg	Stephen D. Newman (R)	Kathy J. Byron (R)
	Mark J. Peake (R)	Wendell S. Walker (R)
Manassas	Jeremy S. McPike (D)	Lee J. Carter (D)
Manassas Park	Jeremy S. McPike (D)	Danica A. Roem (D)
Martinsville	William M. Stanley, Jr. (R)	Leslie R. Adams (R)
Newport News	Mamie E. Locke (D)	Michael P. Mullin (D)
	T. Montgomery Mason (D)	Marcia S. Price (D)
		Shelly A. Simonds (D)
Norfolk	Jen A. Kiggans (R)	Robert S. Bloxom, Jr. (R)
	Lynwood W. Lewis, Jr. (D)	Nancy D. Guy (D)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
		Jerrauld C. Jones (D)
		Angelia Williams Graves (D)
Norton	A. Benton Chafin, Jr. (R)†	Terry G. Kilgore (R)
	T. Travis Hackworth (R)‡	
Petersburg	Joseph D. Morrissey (D)	Lashreese D. Aird (D)
Poquoson	Thomas K. Norment, Jr. (R)	Martha M. Mugler (D)
Portsmouth	John A. Cosgrove, Jr. (R)	Stephen E. Heretick (D)
	Mamie E. Locke (D)	Don L. Scott, Jr. (D)
	L. Louise Lucas (D)	
Radford	A. Benton Chafin, Jr. (R)†	Chris L. Hurst (D)
	T. Travis Hackworth (R)‡	
Richmond	Ghazala F. Hashmi (D)	Dawn M. Adams (D)
	Jennifer L. McClellan (D)	Jeffrey M. Bourne (D)
	Joseph D. Morrissey (D)	Betsy B. Carr (D)

**SENATORS AND DELEGATES BY CITIES
2021 SPECIAL SESSION I**

CITIES	SENATORS	DELEGATES
Roanoke.....	John S. Edwards (D).....	Delores L. McQuinn (D) Christopher T. Head (R) Sam Rasoul (D)
Salem.....	David R. Suetterlein (R).....	Joseph P. McNamara (R)
Staunton	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Suffolk.....	John A. Cosgrove, Jr. (R)	Emily M. Brewer (R)
	L. Louise Lucas (D)	Clinton L. Jenkins (D)
	T. Montgomery Mason (D)	
	Thomas K. Norment, Jr. (R)	
Virginia Beach.....	John A. Cosgrove, Jr. (R)	Alex Q. Askew (D)
	Bill DeSteph (R)	Robert S. Bloxom, Jr. (R)
	Jen A. Kiggans (R)	Kelly K. Convirs-Fowler (D)
	Lynwood W. Lewis, Jr. (D)	Glenn R. Davis, Jr. (R)
		Nancy D. Guy (D)
		C. E. Hayes, Jr. (D)
		Barry D. Knight (R)
		Jason S. Miyares (R)
		Angelia Williams Graves (D)
Waynesboro.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Williamsburg.....	T. Montgomery Mason (D)	Michael P. Mullin (D)
Winchester.....	Jill Holtzman Vogel (R).....	William D. Wiley (R)

†Died January 1, 2021

‡Elected March 23, 2021 to fill vacancy of A. Benton Chafin, Jr. (R). Sworn in April 2, 2021.

COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2010 (December 21, 2010)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack	449	33,164	Pittsylvania	969	63,506
Albemarle	721	98,970	Powhatan	260	28,046
Alleghany	445	16,250	Prince Edward	350	23,368
Amelia	355	12,690	Prince George	265	35,725
Amherst	474	32,353	Prince William	336	402,002
Appomattox	334	14,973	Pulaski	320	34,872
Arlington	26	207,627	Rappahannock	266	7,371
Augusta	967	73,750	Richmond	191	9,254
Bath	529	4,731	Roanoke	251	92,376
Bedford	753	68,676	Rockbridge	598	22,307
Bland	358	6,824	Rockingham	849	76,314
Botetourt	541	33,148	Russell	474	28,897
Brunswick	566	17,434	Scott	536	23,177
Buchanan	503	24,098	Shenandoah	509	41,993
Buckingham	580	17,146	Smyth	451	32,208
Campbell	504	54,842	Southampton	599	18,570
Caroline	528	28,545	Spotsylvania	401	122,397
Carroll	475	30,042	Stafford	269	128,961
Charles City	183	7,256	Surry	279	7,058
Charlotte	475	12,586	Sussex	490	12,087
Chesterfield	423	316,236	Tazewell	519	45,078
Clarke	176	14,034	Warren	213	37,575
Craig	330	5,190	Washington	561	54,876
Culpeper	379	46,689	Westmoreland	229	17,454
Cumberland	297	10,052	Wise	403	41,452
Dickenson	331	15,903	Wythe	462	29,235
Dinwiddie	504	28,001	York	105	65,464
Essex	257	11,151			
Fairfax	391	1,081,726	CITIES		
Fauquier	647	65,203	Alexandria	15	139,966
Floyd	380	15,279	Bedford*	7	6,222
Fluvanna	286	25,691	Bristol	13	17,835
Franklin	690	56,159	Buena Vista	7	6,650
Frederick	414	78,305	Charlottesville	10	43,475
Giles	356	17,286	Chesapeake	341	222,209
Gloucester	218	36,858	Colonial Heights	8	17,411
Goochland	282	21,717	Covington	5	5,161
Grayson	442	15,533	Danville	43	43,055
Greene	156	18,403	Emporia	7	5,927
Greensville	295	12,243	Fairfax	6	22,565
Halifax	818	36,241	Falls Church	2	12,332
Hanover	469	99,863	Franklin	8	8,582
Henrico	234	306,935	Fredericksburg	10	24,281
Henry	382	54,151	Galax	8	7,042
Highland	415	2,321	Hampton	51	137,436
Isle of Wight	316	35,270	Harrisonburg	17	48,914
James City	142	67,009	Hopewell	10	22,591
King and Queen	315	6,945	Lexington	2	7,042
King George	180	23,584	Lynchburg	49	75,568
King William	274	15,935	Manassas	10	37,821
Lancaster	133	11,391	Manassas Park	3	14,273
Lee	436	25,587	Martinsville	11	13,821
Loudoun	516	312,311	Newport News	69	180,719
Louisa	496	33,153	Norfolk	54	242,803
Lunenburg	432	12,914	Norton	7	3,958
Madison	321	13,308	Petersburg	23	32,420
Mathews	86	8,978	Poquoson	15	12,150
Mecklenburg	625	32,727	Portsmouth	34	95,535
Middlesex	130	10,959	Radford	10	16,408
Montgomery	387	94,392	Richmond	60	204,214
Nelson	471	15,020	Roanoke	43	97,032
New Kent	210	18,429	Salem	14	24,802
Northampton	212	12,389	Staunton	20	23,746
Northumberland	191	12,330	Suffolk	400	84,585
Nottoway	314	15,853	Virginia Beach	249	437,994
Orange	341	33,481	Waynesboro	15	21,006
Page	311	24,042	Williamsburg	9	14,068
Patrick	483	18,490	Winchester	9	26,203

Population of Virginia, 2010 Census, 8,001,024.

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

COUNTIES AND CITIES--RANKED BY POPULATION

United States Census of 2010 (December 21, 2010)

Population	County	Population	County	Population	County
2,321	Highland	17,286	Giles	36,241	Halifax
4,731	Bath	17,434	Brunswick	36,858	Gloucester
5,190	Craig	17,454	Westmoreland	37,575	Warren
6,824	Bland	18,403	Greene	41,452	Wise
6,945	King and Queen	18,429	New Kent	41,993	Shenandoah
7,058	Surry	18,490	Patrick	45,078	Tazewell
7,256	Charles City	18,570	Southampton	46,689	Culpeper
7,373	Rappahannock	21,717	Goochland	54,151	Henry
8,978	Mathews	22,307	Rockbridge	54,842	Campbell
9,254	Richmond	23,177	Scott	54,876	Washington
10,052	Cumberland	23,368	Prince Edward	56,159	Franklin
10,959	Middlesex	23,584	King George	63,506	Pittsylvania
11,151	Essex	24,042	Page	65,203	Fauquier
11,391	Lancaster	24,098	Buchanan	65,464	York
12,087	Sussex	25,587	Lee	67,009	James City
12,243	Greensville	25,691	Fluvanna	68,676	Bedford
12,330	Northumberland	28,001	Dinwiddie	73,750	Augusta
12,389	Northampton	28,046	Powhatan	76,314	Rockingham
12,586	Charlotte	28,545	Caroline	78,305	Frederick
12,690	Amelia	28,897	Russell	92,376	Roanoke
12,914	Lunenburg	29,235	Wythe	94,392	Montgomery
13,308	Madison	30,042	Carroll	98,970	Albemarle
14,034	Clarke	32,208	Smyth	99,863	Hanover
14,973	Appomattox	32,353	Amherst	122,397	Spotsylvania
15,020	Nelson	32,727	Mecklenburg	128,961	Stafford
15,279	Floyd	33,148	Botetourt	207,627	Arlington
15,533	Grayson	33,153	Louisa	306,935	Henrico
15,853	Nottoway	33,164	Accomack	312,311	Loudoun
15,903	Dickenson	33,481	Orange	316,236	Chesterfield
15,935	King William	34,872	Pulaski	402,002	Prince William
16,250	Alleghany	35,270	Isle of Wight	1,081,726	Fairfax
17,146	Buckingham	35,725	Prince George		

Population	Cities	Population	Cities	Population	Cities
3,958	Norton	16,408	Radford	43,475	Charlottesville
5,927	Emporia	17,411	Colonial Heights	48,914	Harrisonburg
5,961	Covington	17,835	Bristol	75,568	Lynchburg
6,222	Bedford*	21,006	Waynesboro	84,585	Suffolk
6,650	Buena Vista	22,565	Fairfax	95,535	Portsmouth
7,042	Galax	22,591	Hopewell	97,032	Roanoke
7,042	Lexington	23,746	Staunton	137,436	Hampton
8,582	Franklin	24,286	Fredericksburg	139,966	Alexandria
12,150	Poquoson	24,802	Salem	180,719	Newport News
12,332	Falls Church	26,203	Winchester	204,214	Richmond
13,821	Martinsville	32,420	Petersburg	222,209	Chesapeake
14,068	Williamsburg	37,821	Manassas	242,803	Norfolk
14,273	Manassas Park	43,055	Danville	437,994	Virginia Beach

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

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public health threat, provisions shall not become effective unless Centers for Disease Control and Prevention (CDC) approves a grant to the Commonwealth, etc. Patron—Aird	HB	1989	472 1384
COMMUNICATIONS ELECTRONICS			
Communications Electronics ; commemorating its 40th anniversary. (Patron—Simon)	HR	592	3311
COMMUNITY FREE CLINIC OF NEWPORT NEWS			
Community Free Clinic of Newport News ; commending. (Patron—Price)	HJR	785	3261
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Occupational therapists ; licensure, authorizes Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. (Patron—Hashmi) . . .	SB	1189	242 572
COMPUTER SERVICES AND USES			
Broadband capacity to unserved areas ; expands existing pilot program, municipal broadband authorities. Patron—Ayala Patron—Edwards	HB SB	1923 1334	356 909 357 910
Broadband services ; authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of services for educational purposes. (Patron—Boysko)	SB	1225	496 1555
Data centers ; sales and use tax exemption, clarifies "distressed locality," report. Patron—Morefield Patron—McPike	HB SB	2273 1423	367 933 368 936
Online portal for tax practitioners ; Department of Taxation shall analyze prospect of establishing, report. (Patron—Coyner)	HB	2060	414 1230
Phase I or Phase II electric utilities ; provision of broadband capacity, State Corporation Commission shall condition any approval of a petition on the requirement that construction shall commence within 18 months of such approval. Patron—Tyler Patron—Boysko	HB SB	2304 1413	369 939 370 940
CONNOCK, STUART WALLACE			
Connock, Stuart Wallace ; recording sorrow upon death. (Patron—Hudson)	HJR	709	3221
CONSERVATION			
Advanced recycling, etc. ; definitions. (Patron—Hanger)	SB	1164	375 955
Chesapeake Bay Phase III Watershed Improvement Plan ; wastewater treatment, Enhanced Nutrient Removal Certainty Program established. Patron—Lopez Patron—Hanger	HB SB	2129 1354	363 915 364 923
Conservation and Recreation, Department of ; removes the authority from the Department to sell or demise certain lands over which it has control, etc., report. (Patron—Subramanyam)	HB	1833	400 1194
Conservation easements ; an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act, etc., be liberally construed in favor of achieving the purposes for which it was created. (Patron—Webert)	HB	1760	317 773
Conservation easements ; construction. (Patron—Petersen)	SB	1199	274 655
Conserve Virginia program ; established. (Patron—Mason)	SB	1290	99 279
Dams ; Virginia Soil and Water Conservation Board to enter into a negotiated settlement with the owners of certain impounding structures. (Patron—Bell)	SB	1280	97 279
Expanded polystyrene food service containers ; definition, prohibits dispensing by a food vendor of prepared foods to a customer, civil penalty. (Patron—Carr)	HB	1902	262 638
Greenhouse gas emissions inventory ; regulations, proprietary information. (Patron—Morrissey)	SB	1282	98 279
Historic resources ; land acquisition activities of the Department of Historic Resources and the Board of Historic Resources, etc. (Patron—Aird)	HB	1928	406 1222
Natural Resources, Secretary of ; name changed to the Secretary of Natural and Historic Resources. (Patron—Plum)	HB	1836	401 1194
Objects of antiquity ; unlawful to remove from battlefield, land owned by a battlefield preservation organization, penalty. (Patron—Runion)	HB	2311	59 120
Permit fee schedules ; Department of Environmental Quality shall convene a work group to revise schedule for nonhazardous solid waste management facilities. Patron—Petersen	SB	1210	275 655

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Rappahannock River ; designating a 79-mile portion located in Caroline, King George, Westmoreland, Essex, and Richmond Counties as a component of the Virginia Scenic Rivers System. (Patron—Cole, J.G.)	HB	1819	399	1193
Small renewable energy projects ; includes in the definition certain energy storage facilities and projects that include storage facility components. (Patron—Willett)	HB	2148	419	1236
South River ; designates a 6.5-mile segment in the City of Waynesboro as a component of the Virginia Scenic Rivers System. (Patron—Avoli)	HB	1958	407	1223
State Air Pollution Control Board ; implementation of a low-emissions and zero-emissions vehicle standards, energy jurisdictional retail sales, California ZEV program, etc. (Patron—Bagby)	HB	1965	263	640
Virginia Electric Vehicle Grant Fund and Program ; created, report. (Patron—Keam)	HB	2118	418	1235
Virginia Soil and Water Conservation Board ; clarifies membership.				
Patron—Plum	HB	1837	43	90
Patron—Hanger	SB	1161	44	91
Wildlife corridors ; various agencies to consider and incorporate, where applicable, government planning, State Forester shall develop and implement forest conservation and management strategies to improve wildlife habitat and corridors, Department of Wildlife Resources shall publish plans and any updates on its website.				
Patron—Marsden	SB	1274	498	1557

CONSTITUTIONAL AMENDMENTS

Constitutional amendment ; fundamental right to marry, removes same-sex marriage prohibition (first reference).				
Patron—Sickles	HJR	582	517	1603
Patron—Ebbin	SJR	270	518	1603
Constitutional amendment ; qualifications of voters, fundamental right to vote, persons not entitled to vote (first reference).				
Patron—Herring	HJR	555	516	1602
Patron—Locke	SJR	272	519	1604

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Consumer Data Protection Act ; definitions, personal data rights of consumer, investigative authority, civil penalty, report.				
Patron—Hayes	HB	2307	35	67
Patron—Marsden	SB	1392	36	74
Local green banks ; authorizes a locality, by ordinance, to establish a bank to promote the investment in clean energy technologies in its locality, etc., consumer protection standards for investments. (Patron—Kory)	HB	1919	405	1221

CONTINUING EDUCATION

Public adjusters ; continuing education requirements, repeals provision relating to continuing education, approval of credits, etc. (Patron—Kilgore)	HB	1942	441	1279
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Patron—Petersen	SB	1209	511	1592

CONTRACTS

Subcontractor's employees ; liability of general contractor for wages.				
Patron—Petersen	SB	1209	511	1592
Virginia Public Procurement Act ; preference for energy-efficient and water-efficient goods. (Patron—Helmer)	HB	1811	469	1373

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Agricultural best management practices ; creates an enhanced individual and corporate income tax credit beginning in taxable year 2021 but before January 1, 2025, for the implementation of certain practices by the taxpayer that are required as part of a certified resource management plan.				
Patron—Wilt	HB	1763	39	83
Patron—Hanger	SB	1162	40	85
Agricultural equipment ; establishes a refundable individual and corporate income tax credit. (Patron—Hanger)	SB	1163	272	651
State Corporation Commission ; business entities filings, amends various provisions of Virginia Stock Corporation Act. (Patron—Keam)	HB	2121	487	1452

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- Behavioral health;** assessments in local correctional facilities, report.
Patron—Coyner HB 1874 179 412
- Bribery in correctional facilities;** penalty. (Patron—Lewis) SB 1461 289 710

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- Staffing levels, employment conditions, and compensation at the Virginia Department of Corrections, joint committee of various House and Senate Committees Studying;** continued, appropriations. (Patron—Tyler) HJR 522 3169
- Suspension or modification of sentence;** before person is transferred to the Department of Corrections, or within 60 days of such transfer. (Patron—Kilgore) . . . HB 1806 176 409

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- Active military or a military spouse;** definition of "military status," discrimination in public accommodations, employment, and housing. (Patron—Bell) SB 1410 478 1413
- Active military or a military spouse;** definition of "military status," prohibits discrimination in public accommodations, employment, and housing. (Patron—Tran) . . . HB 2161 477 1398
- Administration of blighted and derelict properties;** modifies definition of "qualifying locality." (Patron—Carr) HB 1969 408 1223
- Albemarle and Prince William Counties;** counties that have adopted the county executive form of government may carry over unspent funds from year to year for multiyear capital projects and outstanding grants. (Patron—Reeves) SB 1120 155 379
- Alcoholic beverage control;** adds the chief administrative officer of a locality to the list of persons who may be sent notice of certain license applications by Board of Directors of the Virginia Alcoholic Beverage Control Authority. (Patron—Lopez) . . . HB 2131 186 433
- Alcoholic beverage control;** designated outdoor refreshment area license, fees for state and local licenses.
Patron—Ayala HB 2266 390 1149
Patron—Dunnivant SB 1471 391 1165
- Broadband services;** authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of services for educational purposes. (Patron—Boysko) SB 1225 496 1555
- Brunswick County school board;** removes school board from the list of approved member salaries for appointed school boards.
Patron—Tyler HB 1798 20 39
Patron—Ruff SB 1175 81 244
- Buckingham County;** fees for disposal of solid waste. (Patron—Peake) SB 1447 63 124
- Child care;** expands to include all cities the authority related to the regulation of services. (Patron—Williams Graves) HB 2326 479 1427
- Comprehensive plan;** provision for transit-oriented development. (Patron—Samirah) . . . HB 2054 412 1229
- Continuity of government;** extends to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide. (Patron—Barker) . . . SB 1208 295 714
- Economic development authorities;** size of board in Powhatan County, reduces quorum requirement. (Patron—Ware) HB 2287 321 776
- Facial recognition technology;** definition, purchase or deployment of technology authorized by statute, authorization of use by local law-enforcement agencies and public institutions of higher education. (Patron—Aird) HB 2031 537 1717
- GO Virginia Grants;** matching funds, extends sunset provision. (Patron—Wampler) . . . HB 2101 146 374
- Hampton Roads area refuse collection authority;** changes various requirements of the Southeastern Public Service Authority when budgeting or incurring debt, etc.
Patron—Cosgrove SB 1141 325 783
- Highway construction;** increases the value of highway maintenance and construction projects eligible to be performed by state or local employees. (Patron—Krizek) HB 1813 260 637
- Historic sites;** urban county executive form of government (Fairfax County), provisions in its preservation ordinance, etc. (Patron—Surovell) SB 1457 531 1660
- Illegal gambling;** skill games, definitions, enforcement by localities and Attorney General, civil penalty. (Patron—Reeves) SB 1465 329 813
- Illegal gambling;** skill games, operation of gambling devices at unregulated locations, enforcement by localities and Attorney General, civil penalty. (Patron—Scott) HB 2168 546 1762
- Library aid;** former regional library systems that receive state aid notwithstanding a loss of regional library status due to a city reversion, shall receive such aid regardless.
Patron—Edmunds HB 2323 174 409

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Local cigarette taxes; any locality is authorized to levy taxes upon sale of cigarettes, regional cigarette tax boards, definitions, report. (Patron—Hanger)	SB	1326	61	122
Local elections for governing bodies; elections for school boards, qualification of voters. (Patron—Convirs-Fowler)	HB	2198	225	541
Local gas severance tax; extends sunset date. (Patron—Morefield)	HB	2293	430	1269
Local government; authority to reduce the speed limit in a business district or residence district. (Patron—Carr)	HB	1903	318	773
Local green banks; authorizes a locality, by ordinance, to establish a bank to promote the investment in clean energy technologies in its locality, etc., consumer protection standards for investments. (Patron—Kory)	HB	1919	405	1221
Local stormwater assistance; flood mitigation and protection measures. Patron—Ebbin	SB	1309	380	962
Mathews County; board of supervisors may appoint one employee of the locality onto the board of directors for the Economic Development Authority of the County. Patron—Hodges	HB	2186	422	1249
Municipal elections; shifting elections to November. (Patron—Spruill)	SB	1157	103	283
Public access authorities; granted certain liability protections. (Patron—Hodges)	HB	2217	424	1251
Removal of clutter from property; definition, land zoned for or in active farming operation, civil penalty. (Patron—Ward)	HB	1778	125	344
Solar and energy storage projects; siting agreements throughout the Commonwealth. Patron—Jones	HB	2201	57	117
Patron—Barker	SB	1207	58	119
Solar projects; State Water Control Board to administer a Virginia Erosion and Sediment Control Program (VESCP) on behalf of any locality that notifies the Department of Environmental Quality that it has chosen not to administer a VESCP, Virginia Erosion and Sediment Control Fund created. (Patron—Marsden)	SB	1258	497	1556
State and local buildings, certain; definitions, building standards, high performance building certification program, sufficient ZEV charging and fueling infrastructure, etc. (Patron—Helmer)	HB	2001	473	1384
Test driving vehicles; residence districts, civil penalty. (Patron—Roem)	HB	2318	433	1272
Tourism Development Authority; changes name of Authority to the Heart of Appalachia Tourism Authority. (Patron—Pillion)	SB	1399	384	982
Tourism improvement districts; authorizes any locality to create. (Patron—Bell)	SB	1298	500	1559
Trees; replacement and conservation during development, projects located in a Chesapeake Bay Preservation Area to address recurrent flooding, report, effective clause. Patron—Guy	HB	2042	89	253
Patron—Marsden	SB	1393	90	257
Underground utility facilities; a locality operating under urban county executive form of government (Fairfax County) may request an electric utility, telecommunications provider, etc., to enter into an agreement with locality to place underground electric distribution, facilities, etc. (Patron—Surovell)	SB	1385	505	1566
U.S. Route 29; authorizes the board of any locality that has adopted the county manager plan of government (Arlington County) to name any section located within the boundaries of the locality. (Patron—Sullivan)	HB	1854	261	638
Workers' compensation; adds salaried or volunteer emergency medical services personnel to the list of persons to whom, after five years of service, the occupational disease presumption for death caused by hypertension or heart disease applies, personnel operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions. Patron—Heretick	HB	1818	436	1275
Patron—Marsden	SB	1275	437	1276
Zoning appeals, board of; any elected official of an incorporated town may serve on board of county in which member also resides. (Patron—Roem)	HB	1898	355	908

COURT-APPOINTED SPECIAL ADVOCATE (CASA) PROGRAMS

Court-appointed special advocates; information sharing when advocate is participating in family partnership meetings. (Patron—Delaney)	HB	1866	177	410
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COURT OF APPEALS OF VIRGINIA

Court of Appeals; expands jurisdiction, increases from 11 to 17 number of judges on Court, report. (Patron—Edwards)	SB	1261	489	1501
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"Abused or neglected child"; definition. (Patron—Lucas) SB 1168 310 762

Child support; availability of medical assistance through Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage.
Patron—Samirah HB 2002 206 503

Child support payments; juvenile in custody of or committed to the Department of Juvenile Justice. (Patron—Hope) HB 1912 283 698

Court of Appeals; expands jurisdiction, increases from 11 to 17 number of judges on Court, report. (Patron—Edwards) SB 1261 489 1501

Foster care; termination of residual parental rights, relatives and fictive kin.
Patron—Gooditis HB 1962 535 1711

General district courts; increases to \$50,000 the maximum civil jurisdictional limit of courts, appeal bond. (Patron—Stanley) SB 1108 199 473

Judges; election in circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission.
Patron—Sullivan HJR 5003 3265

Judges; nominations for election to general district court.
Patron—Sullivan HR 562 3297
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Judges; nominations for election to juvenile and domestic relations district court.
Patron—Sullivan HR 563 3297
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Jurisdiction over criminal cases; certification by general district court of felony or ancillary misdemeanor charges, jurisdiction to such charges shall vest in circuit court.
Patron—Adams, L.R. HB 2150 187 436

Juvenile intake and petition; appeal to a magistrate on a finding of no probable cause.
Patron—Jenkins HB 1878 30 52

Juvenile offenders; youth justice diversion programs. (Patron—Mullin) HB 2017 457 1332

Juvenile records; confidentiality of records relevant to treatment, services, etc., exceptions. (Patron—Barker) SB 1206 466 1364

Juveniles; competency evaluation, appointed evaluator or director of community services board, etc., shall acknowledge receipt of court order to clerk of court.
Patron—Deeds) SB 1248 311 765

Juveniles; eligibility for commitment to the Department of Juvenile Justice, eligibility for predispositional confinement in a secure facility. (Patron—Marsden) SB 1456 115 313

Juveniles; release and review hearing for serious offender, terms of plea agreement or commitment order. (Patron—Jones) HB 1991 284 699

Protective orders; violations of preliminary child protective order, violation involves an act that endangers the child's life, health, or normal development, changes punishment, etc. (Patron—Campbell, J.L.) HB 2012 184 428

Protective orders; violations of preliminary child protective order, violation involves an act that endangers the child's life or health or result in bodily injury to the child, changes punishment, etc. (Patron—Stanley) SB 1415 529 1656

Special immigrant juvenile status; permits the juvenile and domestic relations district court to retain jurisdiction in certain cases, etc. (Patron—Surovell) SB 1181 286 701

Standby guardianship; triggering event, definitions, court approval of guardian.
Patron—Deeds SB 1184 241 569

State-Funded Kinship Guardianship Assistance program; created, clarifies definition of "foster care services." (Patron—Mason) SB 1328 254 617

COURTS OF RECORD

Criminal records; sealing of records, Sealing Fee Fund created, expungement when DNA taken for a conviction, penalties, effective dates for various provisions, report.
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Patron—Surovell SB 1339 524 1624

Judges; election in circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission.
Patron—Sullivan HJR 5003 3265

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- Jurisdiction over criminal cases;** certification by general district court of felony or ancillary misdemeanor charges, jurisdiction to such charges shall vest in circuit court.
Patron—Adams, L.R. HB 2150 187 436
- State Corporation Commission;** adds the Commission to the list of agencies that are exempt from paying fees for remote access to local land records. (Patron—Kilgore) HB 1775 124 344

COVID-19

- Concealed handgun permits;** demonstration of competence, eligibility to apply for permit due to restrictions of COVID-19. (Patron—Runion) HB 2310 85 250
- COVID-19;** Department of Medical Assistance Services shall deem testing, treatment, and vaccination to be emergency services. (Patron—Lopez) HB 2124 476 1398
- COVID-19;** Joint Legislative Audit and Review Commission to study the impact on Virginia's public schools, students, and school employees, meetings shall be completed by November 30, 2022. (Patron—Lucas) SJR 308 3341
- Workers' compensation;** establishes a presumption that COVID-19 causing the death or disability of certain health care providers is an occupational disease.
Patron—Hurst HB 1985 507 1569
- Workers' compensation;** establishes a presumption that COVID-19 causing the death or disability of firefighters, law-enforcement officers, correctional officers, or regional jail officer is an occupational disease.
Patron—Jones HB 2207 547 1763
Patron—Saslaw SB 1375 526 1649

COVINGTON, CITY OF

- Covington, City of;** amending charter, consolidation of school divisions of the City of Covington and Alleghany County, salaries.
Patron—Austin HB 2091 79 238
Patron—Deeds SB 1267 80 241

CRAPOL, EDWARD PAUL

- Crapol, Edward Paul;** recording sorrow upon death. (Patron—Mason) SR 508 3349

CREDIT CARDS, CREDIT SERVICES, AND CREDIT UNIONS

- State Corporation Commission;** supervisory merger or transfer of assets of financially unstable credit unions, repeals provision relating to consolidation or merger.
Patron—Bagby HB 1964 143 371

CREED, GARY DOUGLAS

- Creed, Gary Douglas;** recording sorrow upon death. (Patron—McNamara) HR 531 3280

CREWE, TOWN OF

- Crewe, Town of;** amending charter, various changes to the charter including staggering town council elections, etc.
Patron—Wright HB 1764 122 342
Patron—Ruff SB 1216 123 343

CRIMES AND OFFENSES GENERALLY

- Barrier Crimes and Criminal History Records Checks, Joint Subcommittee Studying;** continued, appropriation. (Patron—Edwards) SJR 285 3336
- Behavioral health docket;** standards for transfer of supervision between local community-based probation agencies. (Patron—Bell) HB 2236 191 462
- Bribery in correctional facilities;** penalty. (Patron—Lewis) SB 1461 289 710
- Charitable gaming;** definitions, regulations, conduct of instant bingo, network bingo, pull tabs, and seal cards, report, certain nonprofit organizations generating more than \$40,000 in annual gross receipts until July 1, 2022, shall not be exempt from payment of application fees or audit fees. (Patron—Reeves) SB 1127 520 1604
- Charitable gaming;** increase in certain maximum allowable prize amounts.
Patron—Keam HB 1843 491 1542
- Charitable Gaming Board;** prohibits the Board from promulgating regulations that prohibit the use of multiple video monitors or touchscreens on an electronic pull tab device, use of devices shall be limited to one player at a time.
Patron—Willett HB 1943 14 33
Patron—McPike SB 1287 499 1558

CRIMES AND OFFENSES GENERALLY - Continued

Communicating threats of death or bodily injury to a person with intent to intimidate, etc.; threats in writing, including electronically transmitted communications, penalties.

Patron—Leftwich	HB 2194	83	249
Patron—Spruill	SB 1113	84	249

Death penalty; abolition of current penalty, sentences changed to life imprisonment, repeals provisions referring to trial of capital cases, etc.

Patron—Mullin	HB 2263	344	826
Patron—Surovell	SB 1165	345	851

Firearm or explosive material; carrying within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc., penalty.

Patron—Levine	HB 2295	548	1765
Patron—Ebbin	SB 1381	527	1651

Firearms; purchase, possession, etc., following conviction for assault and battery of a family or household member, definition, penalties. (Patron—Murphy)

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Firearms, certain; sale and transfer, criminal history record information check delay increased to five days. (Patron—Lopez)

HB 2128	31	55
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Homicides and assaults and bodily woundings; certain matters not to constitute defenses. (Patron—Roem)

HB 2132	460	1338
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Ignition interlock systems; restricted permits to operate a motor vehicle.

Patron—Stuart	SB 1336	279	658
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Illegal gambling; skill games, definitions, enforcement by localities and Attorney General, civil penalty. (Patron—Reeves)

SB 1465	329	813
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Illegal gambling; skill games, operation of gambling devices at unregulated locations, enforcement by localities and Attorney General, civil penalty. (Patron—Scott)

HB 2168	546	1762
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Larceny; repeals punishment for conviction of second or subsequent misdemeanor.

Patron—Plum	HB 2290	192	464
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Marijuana; legalization of simple possession, etc., expungement of criminal records, implementation of plan to ensure teachers have sufficient information, etc., about harm of marijuana use, etc., collegiate recovery programs, reports, penalties, effective dates for certain provisions.

Patron—Herring	HB 2312	551	2051
Patron—Ebbin	SB 1406	550	1768

Overdoses; prohibits arrest and prosecution when experiencing or reporting.

Patron—Bulova)	HB 1821	29	51
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Pharmaceutical processors; permits processors to produce and distribute cannabis products, authorization for dispensing botanical cannabis to a minor.

Patron—Hayes	HB 2218	227	543
Patron—Lucas	SB 1333	228	549

Prostitution; reorganizes the statute penalizing into two distinct sections.

Patron—Mundon King	HB 2169	188	441
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Restricted licenses; authorizes DMV to issue restricted credentials to individuals with driver's license suspensions resulting from drug-related offenses. (Patron—Edwards)

SB 1213	376	958
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Restricted permit; prepayment of fines and costs. (Patron—Morrissey)

SB 1262	336	818
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Robbery; definition of "serious bodily injury," preliminary hearing in juvenile court, various penalties for severity of offense. (Patron—Watts)

HB 1936	534	1709
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Sexually transmitted infections; infected sexual battery, penalty, repeals the crime of donating or selling blood, body fluids, etc., by persons infected with human immunodeficiency virus (HIV), etc. (Patron—Locke)

SB 1138	465	1360
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Victims of sex trafficking; definitions, affirmative defense to prosecution for certain offenses. (Patron—Brewer)

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CRIMINAL HISTORY INFORMATION

Barrier Crimes and Criminal History Records Checks, Joint Subcommittee Studying; continued, appropriation. (Patron—Edwards)

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Behavioral Health and Developmental Services, Department of; background checks, persons providing contractual services. (Patron—Willett)

HB 2092	475	1387
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Child care providers; background checks portability, check shall not be required if individual completed a background check within previous five years, pilot program, report.

Patron—McGuire	HB 2086	510	1581
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Higher educational institutions, public; admissions applications that contain questions about criminal history, exception for certain law schools. (Patron—Aird) . .	HB 1930	440	1279
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Criminal Justice Services Board and Committee on Training; membership, law-enforcement training. (Patron—Marsden)	SB 1256	467	1366
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Admission to bail; rebuttable presumptions against bail, judicial officer shall consider all relevant information when making a determination, repeals provision relating to presumption of no bail for illegal aliens charged with certain crimes. (Patron—Deeds) SB	1266	337	821
Behavioral Health and Developmental Services, Department of; background checks, persons providing contractual services. (Patron—Willett)	HB 2092	475	1387
Child care providers; background checks portability, check shall not be required if individual completed a background check within previous five years, pilot program, report. Patron—McGuire	HB 2086	510	1581
Patron—McClellan	SB 1316	251	605
Commercial sex trafficking; clarifies definition of "victim of sex trafficking," issuance of writ of vacatur for victims, contents and form of petition for vacatur, etc. (Patron—Delaney)	HB 2133	543	1751
Criminal proceedings; consideration of mental condition and intellectual and developmental disabilities, evidence of defendant's mental condition admissible, magistrate or court may issue an emergency custody order, etc., reports. Patron—Bourne	HB 2047	540	1722
Patron—McClellan	SB 1315	523	1618
Criminal records; sealing of records, Sealing Fee Fund created, expungement when DNA taken for a conviction, penalties, effective dates for various provisions, report. Patron—Herring	HB 2113	542	1730
Patron—Surovell	SB 1339	524	1624
Death penalty; abolition of current penalty, sentences changed to life imprisonment, repeals provisions referring to trial of capital cases, etc. Patron—Mullin	HB 2263	344	826
Patron—Surovell	SB 1165	345	851
Fines and costs; accrual of interest, deferral or installment payment agreements. (Patron—Hudson)	HB 1895	388	1145
Firearms; purchase, possession, etc., following conviction for assault and battery of a family or household member, definition, penalties. (Patron—Murphy)	HB 1992	555	3151
Habitual offenders; requires that the Commissioner of DMV reinstate a person's privilege to drive a motor vehicle that was suspended or revoked solely on the basis that such person was determined to be or adjudicated a habitual offender, repeals remaining provisions of the Habitual Offender Act. (Patron—Stanley)	SB 1122	463	1339
Marijuana; legalization of simple possession, etc., expungement of criminal records, implementation of plan to ensure teachers have sufficient information, etc., about harm of marijuana use, etc., collegiate recovery programs, reports, penalties, effective dates for certain provisions. Patron—Herring	HB 2312	551	2051
Patron—Ebbin	SB 1406	550	1768
Orders of restitution; docketed on behalf of victim, assignment of judgment, enforcement. Patron—Bell	HB 2233	190	457
Patron—Stanley	SB 1426	393	1183
Personal appearance by two-way electronic video and audio communication; entry of plea or nolle prosequi or dismissal, revocation proceedings. (Patron—Edwards) . .	SB 1242	86	250
Pretrial data collection; Virginia Criminal Sentencing Commission to collect and disseminate on an annual basis, report. Patron—Herring	HB 2110	111	307
Patron—Lucas	SB 1391	112	309
Probation, revocation, and suspension of sentence; limitations on sentence, exceptions, participation in court-ordered programs, technical violation. Patron—Scott	HB 2038	538	1718

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CRIMINAL PROCEDURE - Continued

Prostitution; reorganizes the statute penalizing into two distinct sections.
 Patron—Mundon King HB 2169 188 441

Public defender office; establishes an office for the County of Chesterfield.
 Patron—Morrissey SB 1442 341 825

Search warrants; date and time of issuance, law-enforcement officer to be recognizable and identifiable, exceptions. (Patron—Stuart) SB 1475 34 65

Substantial Risk Order Registry; Department of State Police shall keep and maintain a computerized Registry, etc., accessibility of Registry. (Patron—Simonds) HB 2258 461 1338

Suspension or modification of sentence; before person is transferred to the Department of Corrections, or within 60 days of such transfer. (Patron—Kilgore) ... HB 1806 176 409

Unrestorably incompetent defendant; competency report. (Patron—Mason) SB 1431 316 772

Unrestorably incompetent defendant; disposition, capital murder charge, inpatient custody to the Commissioner of the Department of Behavioral Health and Developmental Services. (Patron—Mason) SB 1272 312 766

Victims of crime; compensation, reporting requirement. (Patron—Delaney) HB 1867 178 411

Virginia Freedom of Information Act; law-enforcement criminal incident information, request for criminal investigative files. (Patron—Hurst) HB 2004 483 1435

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Croom, Pamela Brandon; commending. (Patron—Mugler) HR 543 3286

CROSS, ORETHA P.

Cross, Oretha P.; recording sorrow upon death. (Patron—Price) HJR 784 3260

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Crutcher, Ronald A.; commending. (Patron—VanValkenburg) HJR 696 3214

DABNEY, HERBERT ALLEN, III

Dabney, Herbert Allen, III; recording sorrow upon death. (Patron—Carr) HJR 647 3185

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 Patron—Gooditis HB 1750 330 814
 Patron—Obenshain SB 1193 331 815

DAMS

Dams; Virginia Soil and Water Conservation Board to enter into a negotiated settlement with the owners of certain impounding structures. (Patron—Bell) SB 1280 97 279

DANVILLE LIFE SAVING AND FIRST AID CREW, INC.

Danville Life Saving and First Aid Crew, Inc.; commemorating its 75th anniversary.
 Patron—Marshall HJR 774 3255

DAVIS, JOHN B.

Davis, John B.; recording sorrow upon death. (Patron—Runion) HR 589 3309

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Andrews, Edward; recording sorrow upon death. (Patron—Carr) HJR 648 3186

Andrews, Willie Makently; recording sorrow upon death. (Patron—McQuinn) HJR 729 3232

Andrus, Carlton Farquhar; recording sorrow upon death. (Patron—Surovell) SR 523 3358

Arrington, Herman Augustus; recording sorrow upon death.
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Beletz, Jamie; recording sorrow upon death. (Patron—McPike) SR 521 3357

Bigger, Josephine Johnson; recording sorrow upon death. (Patron—McQuinn) HJR 736 3236

Billingsley, Gerald Albert; recording sorrow upon death. (Patron—Cole, M.L.) HR 514 3271

Bisson, Ann; recording sorrow upon death. (Patron—Hope) HJR 642 3182

Bland, Larry Jerome; recording sorrow upon death.
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Branchcomb, Flossie Rebecca; recording sorrow upon death. (Patron—Lucas) SR 540 3366

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Brown, Jean Smith; recording sorrow upon death. (Patron—LaRock)	HJR	742	3239
Byers, William Walker, Jr.; recording sorrow upon death. (Patron—Hudson)	HJR	703	3218
Byrd, Richard Blane; recording sorrow upon death. (Patron—Deeds)	SR	520	3356
Cain, Darlene Anderson; recording sorrow upon death. (Patron—Tyler)	HR	516	3272
Cameron, Frederick; recording sorrow upon death. (Patron—Tran)	HJR	782	3259
Campbell, Maybelle Rutland; recording sorrow upon death. Patron—Murphy	HR	604	3318
Patron—Kiggans	SR	545	3368
Carey, James Alfred; recording sorrow upon death. Patron—Tyler	HJR	691	3211
Patron—Tyler	HR	552	3291
Cleary, Thomas F.; recording sorrow upon death. Patron—Krizek	HR	537	3283
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Colden, Tony E., Jr.; recording sorrow upon death. (Patron—Bourne)	HJR	724	3230
Coleman, Lovell Louis, Sr.; recording sorrow upon death. (Patron—Hudson)	HJR	708	3220
Colyer, Bob, Sr.; recording sorrow upon death. (Patron—Kilgore)	HJR	645	3184
Connock, Stuart Wallace; recording sorrow upon death. (Patron—Hudson)	HJR	709	3221
Crapol, Edward Paul; recording sorrow upon death. (Patron—Mason)	SR	508	3349
Creed, Gary Douglas; recording sorrow upon death. (Patron—McNamara)	HR	531	3280
Cross, Oretha P.; recording sorrow upon death. (Patron—Price)	HJR	784	3260
Dabney, Herbert Allen, III; recording sorrow upon death. (Patron—Carr)	HJR	647	3185
Davis, John B.; recording sorrow upon death. (Patron—Runion)	HR	589	3309
Denney, Alfred Jerome; recording sorrow upon death. (Patron—Hope)	HJR	653	3188
Dennis, Kenneth E., Sr.; recording sorrow upon death. (Patron—McQuinn)	HR	602	3316
Dick, Paul Wendell; recording sorrow upon death. (Patron—LaRock)	HJR	743	3239
Dolan, Peter Michael, Jr.; recording sorrow upon death. (Patron—McPike)	SR	504	3346
Dukas, Helen; recording sorrow upon death. (Patron—Keam)	HJR	701	3217
Edwards, Connie Weldon; recording sorrow upon death. (Patron—McQuinn)	HJR	725	3230
Farlow, Mary Elene Williams; recording sorrow upon death. (Patron—Marshall)	HJR	771	3253
Fawbush, David Alan; recording sorrow upon death. (Patron—Kilgore)	HR	504	3266
Ferguson, Earl Mark; recording sorrow upon death. (Patron—VanValkenburg)	HJR	644	3183
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Ford, Rudolph E., Jr.; recording sorrow upon death. (Patron—McQuinn)	HJR	731	3233
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Gagliardi, Adele Maire; recording sorrow upon death. (Patron—Tran)	HR	610	3321
Garner, Charles Lincoln; recording sorrow upon death. (Patron—Carr)	HJR	652	3188
Genakos, George S.; recording sorrow upon death. (Patron—Mullin)	HJR	757	3246
Gosling, Arthur Warrington; recording sorrow upon death. (Patron—Hope)	HJR	654	3189
Grainger, Claire Elizabeth; recording sorrow upon death. (Patron—Bell)	SR	530	3361
Green, Melvin Gaddis, Jr., and Helen Selena Green; recording sorrow upon death. Patron—Price	HR	608	3320
Green, Michael Duvall, Sr.; recording sorrow upon death. (Patron—Lucas)	SR	541	3366
Hairston, Joe Louis; recording sorrow upon death. (Patron—Marshall)	HJR	769	3252
Hardesty, Charles Triplett, III; recording sorrow upon death. (Patron—LaRock)	HR	625	3327
Harkleroad, Alvis Dwayne; recording sorrow upon death. (Patron—Deeds)	SR	537	3364
Harris, Roy Kenneth; recording sorrow upon death. (Patron—Obenshain)	SR	551	3371
Hayes, John; recording sorrow upon death. (Patron—Bell)	HR	517	3272
Hill, Jamile J.; recording sorrow upon death. (Patron—Hayes)	HJR	689	3209
Hodge, Perry Anthony; recording sorrow upon death. (Patron—Hurst)	HJR	679	3203
Hogg, Oakley W., III; recording sorrow upon death. (Patron—Wyatt)	HJR	711	3222
Holland, Frederick William, Jr.; recording sorrow upon death. (Patron—Lewis)	SR	556	3374
Holmes, Bobby Eugene; recording sorrow upon death. (Patron—McQuinn)	HJR	726	3231

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Hooker, Katherine Bridgforth; recording sorrow upon death. (Patron—Carr)	HJR	651	3187
Isaac, Douglas Lee; recording sorrow upon death. (Patron—Campbell, J.L.)	HR	536	3282
Johnson, Carolyn Louise; recording sorrow upon death. (Patron—McQuinn)	HJR	739	3237
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Kang, Ae Ja; recording sorrow upon death. (Patron—Keam)	HJR	722	3229
Keatts, Flournoy A.; recording sorrow upon death. (Patron—Marshall)	HJR	767	3251
Keys-Chavis, Edna Elizabeth; recording sorrow upon death. (Patron—McQuinn)	HJR	730	3233
Khojaly massacre; celebrating the lives of the victims. (Patron—Wiley)	HR	607	3319
Ledgerton, Elizabeth Ann Kerr; recording sorrow upon death.			
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Patron—Vogel	SR	544	3368
Lewis, Ida Johnson; recording sorrow upon death. (Patron—Hudson)	HJR	704	3218
Liebengood, Howard Charles; recording sorrow upon death. (Patron—Murphy)	HR	622	3326
Livas, Henry Lewis, Jr.; recording sorrow upon death. (Patron—Locke)	SR	555	3373
Logan, Ena Ampy; recording sorrow upon death. (Patron—McQuinn)	HJR	728	3232
Loughborough, Ruth Franklin; recording sorrow upon death. (Patron—LaRock)	HR	627	3328
Lozinski, Patricia Ann; recording sorrow upon death. (Patron—Helmer)	HR	623	3327
Mandt, Sheila Kavanagh; recording sorrow upon death.			
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Margosis, Michel; recording sorrow upon death. (Patron—Watts)	HJR	5002	3264
Marsh, John Duncan; recording sorrow upon death. (Patron—LaRock)	HR	626	3328
McDowell, Charles Lindsay; recording sorrow upon death. (Patron—Carr)	HJR	686	3208
Mercer, William Arthur; recording sorrow upon death. (Patron—Cole, J.G.)	HR	603	3317
Merchant, John F.; recording sorrow upon death. (Patron—Hudson)	HJR	706	3219
Midgett, Robert Preston, II; recording sorrow upon death. (Patron—Knight)	HJR	670	3198
Minns, Ernest George; recording sorrow upon death. (Patron—Convirs-Fowler)	HR	606	3318
Minor, Mozelle Willis; recording sorrow upon death. (Patron—Carr)	HJR	688	3209
Mullins, Ella Jane Cantrell; recording sorrow upon death. (Patron—Kilgore)	HR	503	3266
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Noel, Ellen Rosetta; recording sorrow upon death. (Patron—Cole, J.G.)	HR	526	3277
Pak, Jaehee; recording sorrow upon death. (Patron—Helmer)	HR	624	3327
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Pitts, Richard, Sr.; recording sorrow upon death. (Patron—Price)	HR	588	3309
Plaster, Grover Harold; recording sorrow upon death. (Patron—Marshall)	HJR	773	3254
Plotnick, Virginia Leonard; recording sorrow upon death. (Patron—Hudson)	HJR	710	3221
Potter, Donald L.; recording sorrow upon death. (Patron—Kilgore)	HR	502	3266
Quarles, William E., Jr.; recording sorrow upon death. (Patron—Ware)	HR	532	3280
Randall, Claire Anne O'Dwyer; recording sorrow upon death. (Patron—Tran)	HR	609	3320
Renfro, Nancy Todd; recording sorrow upon death. (Patron—Hope)	HJR	643	3183
Robertson, Franklin Delano; recording sorrow upon death.			
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Rodgers, Morgan D.; recording sorrow upon death. (Patron—Webert)	HR	620	3325
Rosemond, Aajah Saroya Nycole; recording sorrow upon death. (Patron—Carr)	HR	605	3318
Royall, William Archer, Jr.; recording sorrow upon death. (Patron—Carr)	HJR	690	3210
Rucker, Marvin Pierce; recording sorrow upon death. (Patron—Carr)	HR	550	3290
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Shelor, Isabel Gallimore; recording sorrow upon death. (Patron—Rush)	HJR	669	3197
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Tetreault, Adeline Mae Stathis ; recording sorrow upon death. (Patron—Murphy)	HR	515		3271
Thorpe, Avicia Beatrice Hooper ; recording sorrow upon death. (Patron—Marshall)	HJR	768		3251
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Williams, Walter Edward ; recording sorrow upon death. (Patron—Freitas)	HR	551		3290
Wilson, James Michael ; recording sorrow upon death. (Patron—Hodges)	HR	535		3282
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Womack, William Henry, Jr. ; recording sorrow upon death. (Patron—McQuinn)	HJR	735		3235
Wood, Freddie Eugene, III ; recording sorrow upon death. (Patron—Leftwich)	HR	638		3334
Wood, Thelonius Leander ; recording sorrow upon death. (Patron—McQuinn)	HJR	734		3235
Woodfin, Anne Cunningham ; recording sorrow upon death. (Patron—Marshall)	HR	565		3298
Woods, Michael Wayne ; recording sorrow upon death. (Patron—Marshall)	HJR	772		3254
Woodson, Willie ; recording sorrow upon death. (Patron—McQuinn)	HJR	733		3234
Wright, James William, Sr. ; recording sorrow upon death. (Patron—Hudson)	HJR	705		3219
Zaleski, Lucille Minchin ; recording sorrow upon death. (Patron—Jones)	HJR	766		3250

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Deeds of trust ; amendment to loan document, statement of interest rate of a refinanced mortgage. (Patron—Heretick)	HB	1882	13	32
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Criminal proceedings ; consideration of mental condition and intellectual and developmental disabilities, evidence of defendant's mental condition admissible, magistrate or court may issue an emergency custody order, etc., reports. Patron—Bourne	HB	2047	540	1722
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DELTA SIGMA THETA SORORITY, INC.

Delta Sigma Theta Sorority, Inc., Fredericksburg Area Alumnae Chapter ; commemorating its 40th anniversary. (Patron—Mundon King)	HR	574		3302
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DENNEY, ALFRED JEROME

Denney, Alfred Jerome ; recording sorrow upon death. (Patron—Hope)	HJR	653		3188
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DENNIS, KENNETH E., SR.

Dennis, Kenneth E., Sr. ; recording sorrow upon death. (Patron—McQuinn)	HR	602		3316
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DICK, PAUL WENDELL

Dick, Paul Wendell ; recording sorrow upon death. (Patron—LaRock)	HJR	743		3239
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DISASTER

Annual safety and disaster awareness training ; Department of Human Resource Management, et al., to develop an online training module addressing safety and disaster awareness. (Patron—Ayala)	HB	1891	4	3
Continuity of government ; extends to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide. (Patron—Barker)	SB	1208	295	714
Employee classification ; provision of personal protective equipment in response to a disaster. (Patron—Batten)	HB	2134	448	1297

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Active military or a military spouse; definition of "military status," prohibits discrimination in public accommodations, employment, and housing. (Patron—Tran)	HB 2161	477	1398
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Patron—Bourne	HB 2046	267	646
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Dolan, Peter Michael, Jr.; recording sorrow upon death. (Patron—McPike)	SR 504		3346
DOLSON, KIRK			
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Child support obligations; party's incarceration not deemed voluntary unemployment or underemployment, provisions shall only apply to petitions for child support commenced on or after July 1, 2021, etc., effective clause. (Patron—Scott)	HB 2055	541	1728
Constitutional amendment; fundamental right to marry, removes same-sex marriage prohibition (first reference).			
Patron—Sickles	HJR 582	517	1603
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Drakes Branch, Town of ; commending. (Patron—Edmunds)	HR 617		3324
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Student driver education program ; parent/student component exemption. Patron—Keam	HB 2119	28	50
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Restricted licenses ; authorizes DMV to issue restricted credentials to individuals with driver's license suspensions resulting from drug-related offenses. (Patron—Edwards)	SB 1213	376	958
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Dugan, David ; commending. (Patron—Batten)	HR 580		3305
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Dukas, Helen ; recording sorrow upon death. (Patron—Keam)	HJR 701		3217
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Dukes, Lyle, and Deborah Dukes ; commending. (Patron—Mundon King)	HR 576		3303
DUKES, LYLE			
Dukes, Lyle, and Deborah Dukes ; commending. (Patron—Mundon King)	HR 576		3303
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Conservation easements ; an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act, etc., be liberally construed in favor of achieving the purposes for which it was created. (Patron—Webert)	HB 1760	317	773
EAST COAST SURFING CHAMPIONSHIP			
East Coast Surfing Championship ; commending. (Patron—DeSteph)	SJR 5001		3343
EBENEZER BAPTIST CHURCH			
Ebenezer Baptist Church ; commemorating its 138th anniversary. Patron—Mundon King	HR 584		3307
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Economic development authorities ; size of board in Powhatan County, reduces quorum requirement. (Patron—Ware)	HB 2287	321	776
Mathews County ; board of supervisors may appoint one employee of the locality onto the board of directors for the Economic Development Authority of the County. Patron—Hodges	HB 2186	422	1249
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Broadband services ; authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of services for educational purposes. (Patron—Boysko)	SB 1225	496	1555

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Brunswick County school board; removes school board from the list of approved member salaries for appointed school boards.

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Computer science standards, courses, and pathways in public schools; Department of Education shall perform a comprehensive review, report. (Patron—Simonds)

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Covington, City of; amending charter, consolidation of school divisions of the City of Covington and Alleghany County, salaries.

Patron—Austin	HB 2091	79	238
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Early childhood education; quality rating and improvement system participation, School Readiness Committee reinstated. (Patron—Bulova)

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Economic education and financial literacy required in middle and high school grades; employment arrangements. (Patron—Cole, J.G.)

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Education, Board of; geographic representation of members. (Patron—Austin)

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Health Standards of Learning; advanced directive education for high school students.

Patron—Kiggans	SB 1190	294	714
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Kindergarten through grade 3; reading intervention services for certain students.

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Licensed private schools for students with disabilities; accreditation. (Patron—Kory)

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Local elections for governing bodies; elections for school boards, qualification of voters. (Patron—Convirs-Fowler)

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Local school divisions; each school board required to offer in-person instruction to enrolled students, exceptions permitted, sunset date. (Patron—Dunnavant)

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Loudoun County school board; staggered terms of its members. (Patron—Reid)

HB 1838	166	401
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Marijuana; legalization of simple possession, etc., expungement of criminal records, implementation of plan to ensure teachers have sufficient information, etc., about harm of marijuana use, etc., collegiate recovery programs, reports, penalties, effective dates for certain provisions.

Patron—Herring	HB 2312	551	2051
Patron—Ebbin	SB 1406	550	1768

Public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers, Department of Education, in conjunction with the Department of Health, shall develop and implement policies, provisions shall become effective on January 1, 2022.

Patron—McQuinn	HB 2019	508	1571
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Public schools; lock-down drills, annual requirement. (Patron—Murphy)

HB 1998	26	48
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Public schools; seizure management and action plans, biennial training, effective date.

Patron—DeSteph	SB 1322	514	1598
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Public schools; severe weather conditions and other emergency situations, unscheduled remote learning days, school provides instruction and student services, etc.

Patron—McNamara	HB 1790	19	37
Patron—Suetterlein	SB 1132	293	712

Public schools, child day programs, and certain other programs; carbon monoxide detectors required. (Patron—Askew)

HB 1823	165	401
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School board building or property, certain; establishment of gun-free zone permitted. (Patron—Subramanyam)

HB 1909	439	1278
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School board policies; abusive work environments, definitions. (Patron—Torian)

HB 2176	450	1300
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School boards; each board to adopt a policy that prohibits a lawsuit against a student or the student's parent because student cannot pay for a meal at school, etc.

Patron—Roem	HB 2013	106	288
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School boards, certain; participation in the Afterschool Meal Program.

Patron—Roem	HB 2135	292	712
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Special education; Board of Education to amend a certain regulation to remove the word "component" following the word "evaluation," thereby ensuring compliance with the relevant federal regulation. (Patron—Mugler)

HB 2314	109	292
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Special education; Department of and the Board of Education to develop new policies and procedures, individualized education program (IEP), duty of Department to

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provide training and guidance documents to local school divisions on development of IEPs, report, participants in training module.			
Patron—Carr	HB 2299	451	1301
Patron—Dunnavant	SB 1288	452	1310
Standards of Learning; reading and mathematics assessments for students in grades three through eight shall be through-year growth assessments, individual student growth.			
Patron—Coyner	HB 2027	443	1283
Patron—Dunnavant	SB 1357	444	1287
Standards of Quality; each school board shall provide at least three specialized student support positions per 1,000 students. (Patron—McClellan)	SB 1257	454	1326
Standards of Quality; Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement, meetings shall be completed for the first year by November 30, 2022. (Patron—Lewis)	SJR 294		3340
Student driver education program; parent/student component exemption.			
Patron—Keam	HB 2119	28	50
Student driver safety; driver education program shall include the dangers of distracted driving and speeding, high school student parking passes, valid driver's license required.			
Patron—Mugler	HB 1918	74	147
Patron—Norment	SB 1169	75	148
Students; guidelines established by the Department of Education on excused student absences, local school boards may require that student provide advanced notice of intended absence, etc., civic engagement.			
Patron—Rasoul	HB 1940	104	284
Patron—McClellan	SB 1439	105	286
Students with disabilities; Department of Education and Board of Education to update its special education and related services, etc. (Patron—Mundon King)	HB 2316	173	408
Teachers; temporary extension of the license of any individual licensed by the Board of Education whose license expires on June 30, 2021. (Patron—Ward)	HB 1776	394	1188
Teachers and other licensed school board employees; cultural competency training.			
Patron—Jenkins	HB 1904	23	40
Patron—Locke	SB 1196	24	44
Traumatic brain injury; Board of Education to amend regulatory definition.			
Patron—Wilt	HB 2182	170	407
Virginia Science, Technology, Engineering, and Mathematics (STEM) Education Advisory Board; established, report. (Patron—Simonds)	HB 2058	291	711
EDWARDS, CONNIE WELDON			
Edwards, Connie Weldon; recording sorrow upon death. (Patron—McQuinn)	HJR 725		3230
ELECTIONS			
Absentee voting; accessibility for voters with a visual impairment or print disability.			
Patron—Reeves	SB 1331	255	634
Absentee voting; availability on Sundays in office of general registrar or voter satellite office. (Patron—Bagby)	HB 1968	204	498
Absentee voting; establishment of drop-off locations preprocessing of returned absentee ballots before election day, accessibility for voters with visual impairment or print disability, report. (Patron—Deeds)	SB 1245	522	1611
Absentee voting; procedural and process reforms, availability and accessibility reforms, processing returned absentee ballots before election day, penalty.			
Patron—VanValkenburg	HB 1888	471	1374
Absentee voting; third-party absentee ballot assembly and distribution. (Patron—Bell)	SB 1239	246	589
Absentee voting; witness signature not required during declared state of emergency related to a communicable disease of public health threat. (Patron—Favola)	SB 1097	235	565
Assistance for certain voters; curbside voting. (Patron—Price)	HB 1921	163	398
Campaign finance; special report for large pre-legislative session contributions, contributions in aggregate. (Patron—Saslaw)	SB 1444	343	826
Comprehensive campaign finance reform; joint subcommittee to study.			
Patron—Bulova	HJR 526		3170

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Constitutional amendment; qualifications of voters, fundamental right to vote, persons not entitled to vote (first reference).

Patron—Herring	HJR	555	516	1602
Patron—Locke	SJR	272	519	1604

Discrimination; prohibited in voting and elections administration, required process for enacting certain covered practices, civil causes of action, penalties, repeals provision relating to minority language accessibility, etc.

Patron—Price	HB	1890	533	1704
Patron—McClellan	SB	1395	528	1651

Elections; preservation of order at the polls, powers of officers of election.

Patron—Spruill	SB	1111	6	8
General registrar; qualifications, residency. (Patron—Morrissey)	SB	1281	482	1434

Identification privilege cards; authorizes DMV to issue, fee, confidentiality, penalties.

Patron—Guzman	HB	2138	544	1752
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Local elections for governing bodies; elections for school boards, qualification of voters. (Patron—Convirs-Fowler)

Patron—Convirs-Fowler	HB	2198	225	541
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Nomination of candidates for elected offices; restrictions on nomination method selected by political party. (Patron—Helmer)

Patron—Helmer	HB	2020	474	1386
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Polling places; prohibited activities, unlawful possession of a firearm, penalty.

Patron—Levine	HB	2081	459	1336
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Primary election; changes date of election held in June from second Tuesday in June to third Tuesday in June, also changes candidate filing deadlines to reflect change of date. (Patron—Kiggans)

Patron—Kiggans	SB	1148	239	568
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Voter registration; failure of online voter registration system, deadline extension.

Patron—VanValkenburg	HB	1810	159	388
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Voter registration; preregistration of persons 16 years of age or older, effective date.

Patron—Lopez	HB	2125	217	524
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ELECTRIC COMPANIES

Electric utilities; advanced renewable energy buyers. (Patron—Sullivan)

Patron—Sullivan	HB	1907	140	364
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Electric utilities; nonjurisdictional customers, third party power purchase agreements.

Patron—Hurst	HB	2034	361	913
Patron—Edwards	SB	1420	362	914

Electric utilities; procurement of certain equipment from Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

Patron—DeSteph	SB	1295	328	806
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Phase I or Phase II electric utilities; provision of broadband capacity, State Corporation Commission shall condition any approval of a petition on the requirement that construction shall commence within 18 months of such approval.

Patron—Tyler	HB	2304	369	939
Patron—Boysko	SB	1413	370	940

ELECTRONIC PROCESSES

Parole and conditional release; notice by electronic means and certification.

Patron—Norment	SB	1397	287	705
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Property owners' associations, boards of directors, unit owners' associations, etc.; meetings to be held entirely or partially by electronic means, provided guidelines have been adopted.

Patron—Bulova	HB	1816	9	18
Patron—Dunnavant	SB	1183	494	1546

Virginia Employment Commission; communications with parties, use of electronic means, report. (Patron—Tran)

Patron—Tran	HB	2036	290	710
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Virginia Freedom of Information Act; meetings held through electronic communication means during a state of emergency. (Patron—McPike)

Patron—McPike	SB	1271	490	1540
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Virginia Freedom of Information Act; public body authorized to conduct electronic meetings. (Patron—Levine)

Patron—Levine	HB	1931	33	63
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ELEMENTARY SCHOOLS

Public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers, Department of

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ELEMENTARY SCHOOLS - Continued

Education, in conjunction with the Department of Health, shall develop and implement policies, provisions shall become effective on January 1, 2022.

Patron—McQuinn HB 2019 508 1571

EMANCIPATION HIGHWAY

Jefferson Davis Highway; any section of U.S. Route 1 to be renamed "Emancipation Highway." (Patron—Cole, J.G.)

HB 2075 416 1231

EMERGENCY LEGISLATION

Alcoholic beverage control; delays the effective date of the 2020 alcoholic beverage control license and fee reform. (Patron—VanValkenburg)

HB 1845 82 245

Career fatigue and wellness in certain health care providers; programs to address, civil immunity.

Patron—Hope HB 1913 5 5

Patron—Barker SB 1205 243 581

Child Care Subsidy Program; temporarily expanding Program to provide financial assistance for child care to families in need during public health emergency.

Patron—Filler-Corn HB 2206 171 407

Commonwealth of Virginia Higher Educational Institutions Bond Act of 2021; created.

Patron—Torian HB 2178 95 274

Patron—Howell SB 1145 96 276

Concealed handgun permits; demonstration of competence, eligibility to apply for permit due to restrictions of COVID-19. (Patron—Runion)

HB 2310 85 250

Electronic notarial certificate; clerk's office to record a paper copy of an electronic document, provided that such copy otherwise meets the requirements for recordation and is certified to be a true and correct copy. (Patron—Simon)

HB 2064 78 235

Eligible Health Care Provider Reserve Directory; established, information concerning fourth-year medical students, etc. (Patron—Hanger)

SB 1436 530 1659

Funeral service licensees and funeral service establishment employees; priority for personal protective equipment and immunization, declaration of emergency.

Patron—Mugler HB 2116 216 524

Historic sites; urban county executive form of government (Fairfax County), provisions in its preservation ordinance, etc. (Patron—Surovell)

SB 1457 531 1660

Income tax, state; conformity of the Commonwealth's taxation system with the Internal Revenue Code, taxable income, subtractions.

Patron—Watts HB 1935 117 319

Patron—Howell SB 1146 118 330

Industrial hemp; definitions, updates laws to address the new hemp producer license issued by the U.S. Department of Agriculture. (Patron—Marshall)

HB 2078 110 292

Medical care facilities; facility shall establish protocols, definitions, designated support persons for persons with disabilities. (Patron—Tran)

HB 2162 220 530

Refunding bonds; alters the principal and interest requirements, maturity date, and allowable discount for bonds previously issued, sunset clause.

Patron—Torian HB 2179 37 81

Patron—Howell SB 1134 38 82

Retail Sales and Use Tax; exemption for personal protective equipment.

Patron—Byron HB 2185 55 115

Patron—Pillion SB 1403 56 116

Search warrants; date and time of issuance, law-enforcement officer to be recognizable and identifiable, exceptions. (Patron—Stuart)

SB 1475 34 65

Tax Commissioner; authorized to waiver accrual of interest in the event that the Governor declares state of emergency. (Patron—Murphy)

HB 1999 536 1717

EMERGENCY MANAGEMENT PROFESSIONALS WEEK

Emergency Management Professionals Week; designating as third week in March 2021 and each succeeding year thereafter. (Patron—McPike)

SJR 286 3337

EMERGENCY SERVICES AND VEHICLES

Workers' compensation; adds salaried or volunteer emergency medical services personnel to the list of persons to whom, after five years of service, the occupational disease presumption for death caused by hypertension or heart disease applies,

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personnel operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions.

Patron—Heretick	HB 1818	436	1275
Patron—Marsden	SB 1275	437	1276

EMINENT DOMAIN

Eminent domain; notice of intent to file certificate. (Patron—Cosgrove)	SB 1270	278	657
Transportation purposes; inspection of property to ascertain suitability of the property for highway and other transportation purposes. (Patron—Bell)	SB 1260	60	121

EMISSIONS STANDARDS

State Air Pollution Control Board; implementation of a low-emissions and zero-emissions vehicle standards, energy jurisdictional retail sales, California ZEV program, etc. (Patron—Bagby)	HB 1965	263	640
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EMMANUEL AFRICAN METHODIST EPISCOPAL CHURCH

Emmanuel African Methodist Episcopal Church; commending. (Patron—Cole, J.G.)	HR 600		3315
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ENERGY CONSERVATION AND RESOURCES

Energy storage systems; definitions, tax exemption, revenue share for systems.			
Patron—Heretick	HB 2006	49	98
Patron—Petersen	SB 1201	50	101
Small renewable energy projects; includes in the definition certain energy storage facilities and projects that include storage facility components. (Patron—Willett) . . .	HB 2148	419	1236
Solar and energy storage projects; siting agreements throughout the Commonwealth.			
Patron—Jones	HB 2201	57	117
Patron—Barker	SB 1207	58	119
Solar energy projects and energy storage systems; revenue share for projects and systems. (Patron—Heretick)	HB 2269	429	1269
Uniform Statewide Building Code; Board of Housing and Community Development shall consider amendments to Code to address changes in the IECC relating to energy efficiency and conservation. (Patron—Kory)	HB 2227	425	1251

ENERGY PLAN

Mines, Minerals and Energy, Department of; renamed the Department of Energy, report. (Patron—Sullivan)	HB 1855	532	1661
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ENJEWEL

EnJewel; commending. (Patron—Convirs-Fowler)	HR 510		3269
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ENTERPRISE ZONES

Enterprise zone job creation grants; for purposes of wage requirements, the minimum wage shall be the higher of the state minimum wage or the federal minimum wage, delayed effective date. (Patron—Heretick)	HB 1881	402	1219
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EROSION AND SEDIMENT CONTROL

Solar projects; State Water Control Board to administer a Virginia Erosion and Sediment Control Program (VESCP) on behalf of any locality that notifies the Department of Environmental Quality that it has chosen not to administer a VESCP, Virginia Erosion and Sediment Control Fund created. (Patron—Marsden)	SB 1258	497	1556
Water quality standards; modification of permits and certifications, applicants shall submit a detailed erosion and sediment control plan, etc. (Patron—McClellan)	SB 1311	501	1563

ESSEX COUNTY

Rappahannock River; designating a 79-mile portion located in Caroline, King George, Westmoreland, Essex, and Richmond Counties as a component of the Virginia Scenic Rivers System. (Patron—Cole, J.G.)	HB 1819	399	1193
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ETHNIC GROUPS

Criminal justice legislation; racial and ethnic impact statements. (Patron—Aird)	HB 1990	183	428
Enslaved Ancestors College Access Scholarship and Memorial Program; established, report. (Patron—Reid)	HB 1980	442	1282

EXCISE TAX

Peanuts; extends sunset date of excise tax on all peanuts grown in Virginia.			
Patron—Brewer	HB 1751	120	341
Patron—Lucas	SB 1411	121	342

EXPLOSIVES

Firearm or explosive material; carrying within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc., penalty.

Patron—Levine	HB 2295	548	1765
Patron—Ebbin	SB 1381	527	1651

FAIR HOUSING LAW

Virginia Fair Housing Law; reasonable accommodations, disability-related requests for parking. (Patron—Carr)

HB 1971	17	36
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FAIRFAX COUNTY

Fairfax County Park Authority; commending. (Patron—Filler-Corn)

HJR 721	3228
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Historic sites; urban county executive form of government (Fairfax County), provisions in its preservation ordinance, etc. (Patron—Surovell)

SB 1457	531	1660
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Underground utility facilities; a locality operating under urban county executive form of government (Fairfax County) may request an electric utility, telecommunications provider, etc., to enter into an agreement with locality to place underground electric distribution, facilities, etc. (Patron—Surovell)

SB 1385	505	1566
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FARLOW, MARY ELENE WILLIAMS

Farlow, Mary Elene Williams; recording sorrow upon death. (Patron—Marshall)

HJR 771	3253
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FARMERS, FARM PRODUCE, AND EQUIPMENT

Farmers market food and beverage products; sales considered essential during state of emergency. (Patron—Wyatt)

HB 2302	198	472
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FARR, MURRAY JAY

Farr, Murray Jay; commending. (Patron—Hope)

HJR 656	3190
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FAWBUSH, DAVID ALAN

Fawbush, David Alan; recording sorrow upon death. (Patron—Kilgore)

HR 504	3266
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FEASENMYER, WILLIAM S., JR.

Feasenmyer, William S., Jr.; commending. (Patron—Cox)

HJR 746	3241
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FEATHERSTONE ELEMENTARY SCHOOL

Featherstone Elementary School; commemorating its 60th anniversary.

Patron—Surovell	SR 512	3351
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FERGUSON, EARL MARK

Ferguson, Earl Mark; recording sorrow upon death. (Patron—VanValkenburg)

HJR 644	3183
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FINANCIAL INSTITUTIONS AND SERVICES

State Corporation Commission; supervisory merger or transfer of assets of financially unstable credit unions, repeals provision relating to consolidation or merger.

Patron—Bagby	HB 1964	143	371
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FINES AND COSTS

Fines and costs; accrual of interest, deferral or installment payment agreements.

Patron—Hudson	HB 1895	388	1145
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FIREARMS

Firearm or explosive material; carrying within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc., penalty.

Patron—Levine	HB 2295	548	1765
Patron—Ebbin	SB 1381	527	1651

Firearms; purchase, possession, etc., following conviction for assault and battery of a family or household member, definition, penalties. (Patron—Murphy)

HB 1992	555	3151
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Firearms, certain; sale and transfer, criminal history record information check delay increased to five days. (Patron—Lopez)

HB 2128	31	55
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Polling places; prohibited activities, unlawful possession of a firearm, penalty.

Patron—Levine	HB 2081	459	1336
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FIREFIGHTERS AND FIRE MARSHALS

Workers' compensation; establishes a presumption that COVID-19 causing the death or disability of firefighters, law-enforcement officers, correctional officers, or regional jail officer is an occupational disease.

Patron—Jones	HB 2207	547	1763
Patron—Saslaw	SB 1375	526	1649

FIRST BAPTIST CHURCH OF MERRIFIELD

First Baptist Church of Merrifield; commemorating its 150th anniversary.

Patron—Simon	HR 593	3312
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FISHING LAWS AND LICENSES

Trout fishing in stocked waters; equalizes for residents and nonresidents requirements to fish in designated waters. (Patron—Pillion) SB 1402 280 658

FLANARY, JACK R., SR.

Flanary, Jack R., Sr.; recording sorrow upon death. (Patron—Kilgore) HR 505 3267

FLETCHER, EMMITT

Fletcher, Emmitt and Vera; commending. (Patron—Mundon King) HR 541 3285

FLETCHER, VERA

Fletcher, Emmitt and Vera; commending. (Patron—Mundon King) HR 541 3285

FLOODS AND FLOOD CONTROL

Local stormwater assistance; flood mitigation and protection measures. Patron—Ebbin SB 1309 380 962

Recurrent Flooding Resiliency, Commonwealth Center for; Center shall evaluate development of Flood Resiliency Clearinghouse Program for coordinating flood mitigation solutions, report. (Patron—Hodges) HB 2187 150 376

FOOD AND BEVERAGE PRODUCTS, AND CONTAINERS

Combined transient occupancy and food and beverage tax; for purposes of taxes that are currently authorized for Rappahannock and Madison Counties, the rate limit for such tax shall be the same as if the two taxes were imposed separately. Patron—Hanger SB 1438 62 123

Expanded polystyrene food service containers; definition, prohibits dispensing by a food vendor of prepared foods to a customer, civil penalty. (Patron—Carr) HB 1902 262 638

FORBES, ANN HOLT

Forbes, John William, III, and Ann Holt Forbes; recording sorrow upon death. Patron—Avoli HR 513 3271

FORBES, JOHN WILLIAM, III

Forbes, John William, III, and Ann Holt Forbes; recording sorrow upon death. Patron—Avoli HR 513 3271

FORD, RUDOLPH E., JR.

Ford, Rudolph E., Jr.; recording sorrow upon death. (Patron—McQuinn) HJR 731 3233

FOSTER CARE

Foster care; termination of residual parental rights, relatives and fictive kin. Patron—Gooditis HB 1962 535 1711

State-Funded Kinship Guardianship Assistance program; created, clarifies definition of "foster care services." (Patron—Mason) SB 1328 254 617

FOSTER, TIM

Foster, Tim; commending. (Patron—VanValkenburg) HJR 700 3216

FRANCHISE TAX AND FRANCHISES

Research and development expenses; tax credit available against the bank franchise tax for taxable years beginning on and after January 1, 2021. Patron—Mugler HB 1916 47 92
Patron—Locke SB 1112 48 95

FRANCIS, THOMAS HENRY

Francis, Thomas Henry; recording sorrow upon death. Patron—Bagby HJR 716 3226
Patron—McQuinn HJR 737 3236

FRANKLIN SHERMAN ELEMENTARY SCHOOL

Franklin Sherman Elementary School; commending. (Patron—Murphy) HR 545 3287

FREDDIE'S BEACH BAR

Freddie's Beach Bar; commemorating its 20th anniversary. (Patron—Ebbin) SR 527 3360

FREDERICKSBURG, CITY OF

Fredericksburg, City of; commending. (Patron—Cole, M.L.) HJR 666 3196
Fredericksburg City Public Schools; commending. (Patron—Cole, J.G.) HR 598 3314

FREDERICKSBURG DOG MART

Fredericksburg Dog Mart; commending. (Patron—Cole, M.L.) HJR 667 3196

FREEDOM OF INFORMATION

Virginia Freedom of Information Act; law-enforcement criminal incident information, request for criminal investigative files. (Patron—Hurst) HB 2004 483 1435

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Virginia Freedom of Information Act ; meetings held through electronic communication means during a state of emergency. (Patron—McPike)	SB 1271	490	1540
Virginia Freedom of Information Act ; proprietary records and trade secrets, carbon sequestration agreements. (Patron—Vogel)	SB 1343	298	715
Virginia Freedom of Information Act ; public body authorized to conduct electronic meetings. (Patron—Levine)	HB 1931	33	63
Virginia Freedom of Information Act ; record exclusion for personal contact information provided to a public body. (Patron—Gooditis)	HB 2025	484	1443
FUNERAL HOME DIRECTORS AND SERVICES			
Funeral service licensees and funeral service establishment employees ; priority for personal protective equipment and immunization, declaration of emergency. Patron—Mugler	HB 2116	216	524
GAGLIARDI, ADELE MAIRE			
Gagliardi, Adele Maire ; recording sorrow upon death. (Patron—Tran)	HR 610		3321
GAMBLING, LOTTERIES, ETC.			
Casino gaming ; requirements for issuance of operator's license, human trafficking training. (Patron—Simonds)	HB 1944	15	34
Casino gaming ; technical amendments to the gaming law related to its interaction with sports betting law, the capital investment required of an applicant for a license, etc. Patron—Krizek	HB 1812	7	8
Illegal gambling ; skill games, definitions, enforcement by localities and Attorney General, civil penalty. (Patron—Reeves)	SB 1465	329	813
Illegal gambling ; skill games, operation of gambling devices at unregulated locations, enforcement by localities and Attorney General, civil penalty. (Patron—Scott)	HB 2168	546	1762
Sports betting ; definitions, an international athletic event organized by the International Olympic Committee shall not be considered to be youth sports, issuance of permits to operate sports-betting platforms. Patron—Sickles	HB 1847	351	888
Patron—McPike	SB 1254	352	894
GARNER, CHARLES LINCOLN			
Garner, Charles Lincoln ; recording sorrow upon death. (Patron—Carr)	HJR 652		3188
GARRETT, OLGA L.			
Garrett, Olga L. ; commending. (Patron—Lucas)	SR 539		3365
GAS AND OIL MINING			
Local gas severance tax ; extends sunset date. (Patron—Morefield)	HB 2293	430	1269
GAYLORD, KATIE			
Gaylord, Katie ; commending. (Patron—Mullin)	HJR 753		3244
GENAKOS, GEORGE S.			
Genakos, George S. ; recording sorrow upon death. (Patron—Mullin)	HJR 757		3246
GENERAL ASSEMBLY			
Auditor of Public Accounts ; audits of certain political subdivisions. Patron—McNamara	HB 1789	127	351
Behavioral Health Commission ; established, report. (Patron—Deeds)	SB 1273	313	767
Criminal justice legislation ; racial and ethnic impact statements. (Patron—Aird)	HB 1990	183	428
General Assembly ; limiting legislation to be considered for 2021 Special Session I and establishing a schedule for the conduct of business coming before such Special Session. (Patron—Herring)	HJR 5001		3262
Health Care, Joint Commission on ; repeals sunset provision. (Patron—Barker)	SB 1408	315	772
Health Insurance Reform Commission ; mandated health insurance benefit or provider legislation to be referred to Commission. (Patron—Saslaw)	SB 1473	259	637
Marriage ; persons who may celebrate rites, authorizes current members of the General Assembly, Governor, Lieutenant Governor, and Attorney General. Patron—Cosgrove	SB 1142	87	251
GENERAL DISTRICT COURT			
Judges ; election in circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. Patron—Sullivan	HJR 5003		3265

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GENERAL SERVICES, DEPARTMENT OF

Harry F. Byrd, Sr., statue; Department of General Services to remove statue of former Virginia Governor and U.S. Senator from Capitol Square. (Patron—Jones) HB 2208 197 472

GEORGE MASON UNIVERSITY

George Mason University; management agreement with the Commonwealth.
Patron—Bulova HB 1986 76 149
Patron—Barker SB 1204 77 192

GLASGOW, TOWN OF

Glasgow, Town of; new charter (previous charter repealed). (Patron—Campbell, R.R.) HB 1783 126 345

GOSLING, ARTHUR WARRINGTON

Gosling, Arthur Warrington; recording sorrow upon death. (Patron—Hope) HJR 654 3189

GOULD, DEAN E.

Gould, Dean E.; commending.
Patron—Freitas HR 528 3278
Patron—Reeves SR 518 3355

GOVERNOR

Labor, Secretary of; position created in Governor's Cabinet, removes position of Chief Workforce Development Advisor. (Patron—Simonds) HB 2321 453 1318

Marriage; persons who may celebrate rites, authorizes current members of the General Assembly, Governor, Lieutenant Governor, and Attorney General.
Patron—Cosgrove SB 1142 87 251

Southwestern Virginia Mental Health Institute; the Commonwealth, with approval of the Governor, to lease a portion of property to Smyth County for a term of three years, responsibility of County, corrects tax map references.
Patron—O'Quinn HB 2098 68 130
Patron—Pillion SB 1429 69 130

Tax Commissioner; authorized to waiver accrual of interest in the event that the Governor declares state of emergency. (Patron—Murphy) HB 1999 536 1717

GRACE CHURCH

Grace Church; commending. (Patron—Mundon King) HR 572 3302

GRAINGER, CLAIRE ELIZABETH

Grainger, Claire Elizabeth; recording sorrow upon death. (Patron—Bell) SR 530 3361

GRANDY, ETHEL L.

Grandy, Ethel L.; commending. (Patron—Hayes) HJR 684 3206

GRANT, THOMAS, JR.

Grant, Thomas, Jr.; commending. (Patron—Subramanyam) HR 520 3274

GREEK ORTHODOX CHURCHES

Greek Orthodox churches and affiliated organizations; commending for numerous contributions on occasion of 200th anniversary of beginning of Greek War of Independence. (Patron—Dunnavant) SR 516 3354

GREEK WAR OF INDEPENDENCE

Greek Orthodox churches and affiliated organizations; commending for numerous contributions on occasion of 200th anniversary of beginning of Greek War of Independence. (Patron—Dunnavant) SR 516 3354

GREEN, HELEN SELENA

Green, Melvin Gaddis, Jr., and Helen Selena Green; recording sorrow upon death.
Patron—Price HR 608 3320

GREEN, MELVIN GADDIS, JR.

Green, Melvin Gaddis, Jr., and Helen Selena Green; recording sorrow upon death.
Patron—Price HR 608 3320

GREEN, MICHAEL DUVALL, SR.

Green, Michael Duvall, Sr.; recording sorrow upon death. (Patron—Lucas) SR 541 3366

GROUNDWATER

Virginia Water Protection Permit; withdrawal of surface water or ground water, plans for water auditing and leak detection and repair. (Patron—Mason) SB 1291 100 281

GRUNDY HIGH SCHOOL

Grundy High School wrestling team; commending. (Patron—Morefield) HR 619 3324

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Guido, Tammy Williams ; commending. (Patron—Mullin)	HJR 756		3246
GUNS			
School board building or property, certain ; establishment of gun-free zone permitted. (Patron—Subramanyam)	HB 1909	439	1278
HAGAN, MATTHEW D.			
Hagan, Matthew D. ; commending. (Patron—Rush)	HR 538		3283
HAIRSTON, JOE LOUIS			
Hairston, Joe Louis ; recording sorrow upon death. (Patron—Marshall)	HJR 769		3252
HAMMOND AGENCY			
Hammond Agency ; commemorating its 40th anniversary. (Patron—Simon)	HR 585		3307
HAMPTON ROADS AREA			
Hampton Roads area refuse collection authority ; changes various requirements of the Southeastern Public Service Authority when budgeting or incurring debt, etc. (Patron—Cosgrove)	SB 1141	325	783
Hampton Roads Sanitation District ; changes to the enabling act related to the addition of Northampton and Accomack Counties. (Patron—Bloxom)	HB 2257	428	1263
Transportation District Commission of Hampton Roads ; change in membership. (Patron—Spruill)	SB 1126	435	1274
HANDGUNS			
Concealed handgun permits ; demonstration of competence, eligibility to apply for permit due to restrictions of COVID-19. (Patron—Runion)	HB 2310	85	250
HARDESTY, CHARLES TRIPLETT, III			
Hardesty, Charles Triplett, III ; recording sorrow upon death. (Patron—LaRock)	HR 625		3327
HARDY PETROLEUM			
Hardy Petroleum ; commemorating its 100th anniversary. (Patron—Marshall)	HJR 779		3257
HARKLEROAD, ALVIS DWAYNE			
Harkleroad, Alvis Dwayne ; recording sorrow upon death. (Patron—Deeds)	SR 537		3364
HARRIS, GREGORY GARFIELD			
Harris, Gregory Garfield ; commending.			
Patron—Webert	HJR 674		3200
Patron—Vogel	SR 543		3367
HARRIS, ROY KENNETH			
Harris, Roy Kenneth ; recording sorrow upon death. (Patron—Obenshain)	SR 551		3371
HAYES, JOHN			
Hayes, John ; recording sorrow upon death. (Patron—Bell)	HR 517		3272
HEALTH			
Birth certificates ; every request for an amendment of a certificate shall be reviewed to determine whether the request can be made administratively, etc. (Patron—Locke)	SB 1121	237	566
Child Care Subsidy Program ; temporarily expanding Program to provide financial assistance for child care to families in need during public health emergency. (Patron—Filler-Corn)	HB 2206	171	407
COVID-19 ; Department of Medical Assistance Services shall deem testing, treatment, and vaccination to be emergency services. (Patron—Lopez)	HB 2124	476	1398
Eligible Health Care Provider Reserve Directory ; established, information concerning fourth-year medical students, etc. (Patron—Hanger)	SB 1436	530	1659
Fetal and Infant Mortality Review Team ; Office of the Chief Medical Examiner of Department of Health shall convene a work group to develop a plan for the establishment of Team, report. (Patron—Ayala)	HB 1950	164	400
Funding local health departments ; cooperative local health budget, report. (Patron—Bagby)	HB 1963	203	497
Funeral service licensees and funeral service establishment employees ; priority for personal protective equipment and immunization, declaration of emergency. (Patron—Mugler)	HB 2116	216	524
Home care organizations ; Board of Health to include in regulations governing organizations a provision for supervision of home care attendants providing personal care services by a licensed nurse through use of interactive audio or video technology. (Patron—Head)	HB 1831	470	1374

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HEALTH - Continued			
Hormonal contraceptives; state plan for medical assistance and Family Access to Medical Insurance Security (FAMIS) plan for payment of a 12-month supply. Patron—Boysko)	SB 1227	245	584
Hospitals; emergency treatment for substance use-related emergencies, Department of Health Professions, et al., to develop recommendations for best practices for treatment and discharging of patients in emergency departments, etc. Patron—Delaney	HB 2300	233	561
Hospitals, nursing homes, and certified nursing facilities; regulations, policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient while receiving inpatient services. (Patron—Adams, L.R.)	HB 2154	219	526
Hospitals, nursing homes, etc.; determination by facilities for visits by clergy, priest, etc., during a declared public health emergency. (Patron—Kiggans)	SB 1356	525	1644
Loudoun and Prince William Counties and the Cities of Manassas and Manassas Park; local governing body may enter into a contract with the State Board of Health for the local administration of local health services. (Patron—Favola)	SB 1221	521	1611
Maternal Health Data and Quality Measures, Task Force on; established, report. Patron—Herring	HB 2111	215	523
Medical care facilities; facility shall establish protocols, definitions, designated support persons for persons with disabilities. (Patron—Tran)	HB 2162	220	530
Nurse Loan Repayment Program; expands eligibility for Program to include certified nurse aides. (Patron—Kiggans)	SB 1147	238	567
Onsite Sewage Indemnification Fund; authorizes the State Board of Health to use Fund to provide grants and loans to property owners with income at or below 200 percent of the federal poverty guidelines to repair failing onsite sewage systems or install onsite sewage systems on properties that lack adequate sewage disposal, report. (Patron—Hashmi)	SB 1396	382	967
Personal care aides; Department of Medical Assistance Services shall establish an orientation program for all aides who provide self-directed services through the Medicaid program. (Patron—Locke)	SB 1102	236	565
Prescription drugs; price transparency, definitions. (Patron—Sickles)	HB 2007	304	739
Produce Rx Program; Department of Social Services, et al., to develop a plan for a three-year pilot Program, report. (Patron—McQuinn)	HB 2065	212	520
Public health emergency; emergency medical services agencies, real-time access to information regarding confirmed and suspected cases of communicable disease of public health threat, provisions shall not become effective unless Centers for Disease Control and Prevention (CDC) approves a grant to the Commonwealth, etc. Patron—Aird	HB 1989	472	1384
Rare Disease Council and Rare Disease Council Fund; created, report. Patron—Murphy)	HB 1995	303	737
School-based health services; Board of Medical Assistance Services to amend the state plan for medical assistance services to provide for payment, no health care provider who provides services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed. Patron—Dunnavant	SB 1307	250	599
Sexually transmitted infections; infected sexual battery, penalty, repeals the crime of donating or selling blood, body fluids, etc., by persons infected with human immunodeficiency virus (HIV), etc. (Patron—Locke)	SB 1138	465	1360
Telemedicine service; coverage of telehealth services by an insurer, etc., services delivered through real-time audio-only telephone. Patron—Adams, D.M. Patron—Barker	HB 1987	301	723
	SB 1338	302	730
Traumatic brain injury; Board of Education to amend regulatory definition. Patron—Wilt	HB 2182	170	407
Virginia Health Workforce Development Authority; mission of Authority, membership. (Patron—Willett)	HB 1976	264	641
Virginia Immunization Information System; any health care provider in the Commonwealth that administers immunizations to participate in System. Patron—Willett	HB 2061	211	519

HEALTH INSURANCE

Commonwealth Health Reinsurance Program ; established, special fund established, federal waiver application, report. (Patron–Sickles)	HB 2332	480	1428
Health insurance ; authorization of drug prescribed for the treatment of a mental disorder, prior authorization for drug by carrier. Patron–Heretick	HB 2008	66	127
Patron–McPike	SB 1269	67	128
Health insurance ; carrier business practices, every carrier shall include in provider contracts a provision that prohibits a provider from discriminating against any enrollee. (Patron–Surovell)	SB 1289	72	136
Health insurance ; essential benefits, removes the prohibition on the provisions of coverage for abortions. Patron–Hudson	HB 1896	101	282
Patron–McClellan	SB 1276	102	283
Health insurance ; requiring health insurers and other carriers to establish reasonable protocols and procedures for reimbursing a health professional for services provided while such professional's credentialing application is pending. (Patron–Head)	HB 1829	161	391
Health Insurance Reform Commission ; mandated health insurance benefit or provider legislation to be referred to Commission. (Patron–Saslaw)	SB 1473	259	637
Health maintenance organizations ; updates provisions of the Code of Virginia related to insolvency procedures for health maintenance organizations (HMOs). Patron–Kilgore	HB 1807	158	388

HEALTHWORKS FOR NORTHERN VIRGINIA

HealthWorks for Northern Virginia ; commending. (Patron–Subramanyam)	HR 547		3288
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HEMP PRODUCTS

Industrial hemp ; definitions, updates laws to address the new hemp producer license issued by the U.S. Department of Agriculture. (Patron–Marshall)	HB 2078	110	292
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HENRICO COUNTY

Henrico County Registrar's Office ; commending. (Patron–VanValkenburg)	HJR 661		3193
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HIGH SCHOOLS

Economic education and financial literacy required in middle and high school grades ; employment arrangements. (Patron–Cole, J.G.)	HB 1905	25	48
Health Standards of Learning ; advanced directive education for high school students. Patron–Kiggans	SB 1190	294	714
Student driver safety ; driver education program shall include the dangers of distracted driving and speeding, high school student parking passes, valid driver's license required. Patron–Mugler	HB 1918	74	147
Patron–Norment	SB 1169	75	148

HIGHER EDUCATION

Commonwealth of Virginia Higher Educational Institutions Bond Act of 2021 ; created. Patron–Torian	HB 2178	95	274
Patron–Howell	SB 1145	96	276
Facial recognition technology ; definition, purchase or deployment of technology authorized by statute, authorization of use by local law-enforcement agencies and public institutions of higher education. (Patron–Aird)	HB 2031	537	1717
Higher educational institutions, public ; admissions applications that contain questions about criminal history, exception for certain law schools. (Patron–Aird)	HB 1930	440	1279
Higher educational institutions, public ; governing boards, meetings, input, and disclosures. (Patron–Keam)	HB 2120	447	1295

HIGHWAYS AND OTHER SURFACE TRANSPORTATION SYSTEMS

Access roads to economic development sites ; criteria for use of funds. (Patron–McPike)	SB 1253	378	961
Bob White Covered Bridge ; Department of Transportation to work with the governing body of Patrick County and community groups interested in constructing a replica of Bridge. (Patron–Poindexter)	HB 2024	144	372
Central Virginia Transportation Authority ; adds the Executive Director of the Virginia Port Authority, or his designee, as a nonvoting ex officio member. Patron–McQuinn	HB 1926	142	371

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HIGHWAYS AND OTHER SURFACE TRANSPORTATION SYSTEMS - Continued

Highway construction; increases the value of highway maintenance and construction projects eligible to be performed by state or local employees. (Patron—Krizek) HB 1813 260 637

Jefferson Davis Highway; any section of U.S. Route 1 to be renamed "Emancipation Highway." (Patron—Cole, J.G.) HB 2075 416 1231

Litter; increases fine for dumping or disposing of trash or other unsightly matter on public or private property. (Patron—Edmunds) HB 1801 175 409

New River Valley Passenger Rail Station Authority; creation of authority in Planning District 4 (New River Valley RC), powers of authority.
 Patron—Hurst HB 1893 353 899
 Patron—Edwards SB 1212 354 903

Transportation District Commission of Hampton Roads; change in membership.
 Patron—Spruill) SB 1126 435 1274

Transportation funding; statewide prioritization process, resiliency of project design.
 Patron—Convirs-Fowler HB 2071 51 105
 Patron—Lewis SB 1350 52 106

Transportation purposes; inspection of property to ascertain suitability of the property for highway and other transportation purposes. (Patron—Bell) SB 1260 60 121

Virginia Highway Corporation Act; alteration of certificate of authority, powers and duties of State Corporation Commission, agreements between toll operator and Department.
 Patron—Subramanyam HB 1832 349 884
 Patron—Bell SB 1259 350 886

Wildlife corridors; various agencies to consider and incorporate, where applicable, government planning, State Forester shall develop and implement forest conservation and management strategies to improve wildlife habitat and corridors, Department of Wildlife Resources shall publish plans and any updates on its website.
 Patron—Marsden SB 1274 498 1557

HILL, BOBBY

Hill, Bobby; commending. (Patron—Convirs-Fowler) HJR 682 3205

HILL, JAMILE J.

Hill, Jamile J.; recording sorrow upon death. (Patron—Hayes) HJR 689 3209

HIRN, DAVID

Hirn, David, Kate Williamson, and Courtni Pannell; commending.
 Patron—Morrissey SR 548 3370

HISTORIC AREAS, LANDMARKS, AND MONUMENTS

Harry F. Byrd, Sr., statue; Department of General Services to remove statue of former Virginia Governor and U.S. Senator from Capitol Square. (Patron—Jones) HB 2208 197 472

Historic resources; land acquisition activities of the Department of Historic Resources and the Board of Historic Resources, etc. (Patron—Aird) HB 1928 406 1222

Historic sites; urban county executive form of government (Fairfax County), provisions in its preservation ordinance, etc. (Patron—Surovell) SB 1457 531 1660

Johns, Barbara Rose; Joint Committee of Congress on the Library requested to fill the Commonwealth's vacant spot in the National Statuary Hall Collection at the United States Capitol with a statue to commemorate. (Patron—Lucas) SJR 288 3338

Objects of antiquity; unlawful to remove from battlefield, land owned by a battlefield preservation organization, penalty. (Patron—Runion) HB 2311 59 120

HODGE, PERRY ANTHONY

Hodge, Perry Anthony; recording sorrow upon death. (Patron—Hurst) HJR 679 3203

HOGG, OAKLEY W., III

Hogg, Oakley W., III; recording sorrow upon death. (Patron—Wyatt) HJR 711 3222

HOLIDAYS, SPECIAL DAYS, ETC.

Brain Aneurysm Awareness Month; designating as September 2021 and each succeeding year thereafter. (Patron—Favola) SJR 276 3336

Emergency Management Professionals Week; designating as third week in March 2021 and each succeeding year thereafter. (Patron—McPike) SJR 286 3337

Liberty Amendments Month; designating as June 19 through third Monday in July 2021 and each succeeding year thereafter. (Patron—Locke) SJR 323 3342

Women's Suffrage Month; designating as August 2020 and each succeeding year thereafter. (Patron—Vogel) SJR 292 3339

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HOLLAND, FREDERICK WILLIAM, JR.			
Holland, Frederick William, Jr.; recording sorrow upon death. (Patron—Lewis)	SR	556	3374
HOLLOWAY, GRANT			
Holloway, Grant; commending. (Patron—Hayes)	HR	618	3324
HOLMES, BOBBY EUGENE			
Holmes, Bobby Eugene; recording sorrow upon death. (Patron—McQuinn)	HJR	726	3231
HOMESTEAD AND OTHER EXEMPTIONS			
Garnishment of wages; protected portion of disposable earnings. (Patron—Krzek) . . .	HB	1814	8 17
HOMICIDE			
Homicides and assaults and bodily woundings; certain matters not to constitute defenses. (Patron—Roem)	HB	2132	460 1338
HONAKER HIGH SCHOOL			
Honaker High School girls' basketball team; commending. (Patron—Wampler)	HR	616	3323
HONEY JAM PRODUCTIONS			
Honey Jam Productions; commending. (Patron—Batten)	HR	581	3305
HOOFF, CHARLES R., III			
Hooff, Charles R., III; recording sorrow upon death. (Patron—Surovell)	SR	513	3352
HOOKER, KATHERINE BRIDGFORTH			
Hooker, Katherine Bridgforth; recording sorrow upon death. (Patron—Carr)	HJR	651	3187
HOPEWELL HIGH SCHOOL			
Hopewell High School boys' basketball team; commending. (Patron—Coyner)	HR	611	3321
HOSPITALS AND HOSPITALIZATION			
Hospitals; emergency treatment for substance use-related emergencies, Department of Health Professions, et al., to develop recommendations for best practices for treatment and discharging of patients in emergency departments, etc. Patron—Delaney	HB	2300	233 561
Hospitals, nursing homes, and certified nursing facilities; regulations, policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient while receiving inpatient services. (Patron—Adams, L.R.)	HB	2154	219 526
Hospitals, nursing homes, etc.; determination by facilities for visits by clergy, priest, etc., during a declared public health emergency. (Patron—Kiggans)	SB	1356	525 1644
HOTELS, RESTAURANTS, SUMMER CAMPS, AND CAMPGROUNDS			
Food delivery platforms; agreements with restaurants required, penalty. Patron—Willett	HB	2062	485 1445
Retail sales and transient occupancy taxes; definitions, taxes on transient room rentals shall be computed on the basis of the total charges or the total price paid for the use or possession of the room, etc. (Patron—Norment)	SB	1398	383 972
HOUSING			
Active military or a military spouse; definition of "military status," discrimination in public accommodations, employment, and housing. (Patron—Bell)	SB	1410	478 1413
Active military or a military spouse; definition of "military status," prohibits discrimination in public accommodations, employment, and housing. (Patron—Tran)	HB	2161	477 1398
Affordable and market-rate housing; Department of Housing and Community Development to convene an advisory group to evaluate construction of internal, etc., dwelling units. (Patron—Samirah)	HB	2053	411 1229
Homeowners and tenants of manufactured home parks; housing protections, foreclosures, enforcement of lien, cases of a deed of trust conveying owner-occupied residential real estate, etc. Patron—Torian	HB	2175	91 261
Patron—McClellan	SB	1327	92 266
Uniform Statewide Building Code; Board of Housing and Community Development shall consider amendments to Code to address changes in the IECC relating to energy efficiency and conservation. (Patron—Kory)	HB	2227	425 1251
Virginia Fair Housing Law; reasonable accommodations, disability-related requests for parking. (Patron—Carr)	HB	1971	17 36
Virginia Fair Housing Law; unlawful discriminatory housing practices. Patron—Bourne	HB	2046	267 646

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HOUSING - Continued

Virginia Good Neighbor Next Door Program; Virginia Housing Development Authority shall report recommendations for creating Program.
 Patron—Convirs-Fowler HB 2072 415 1230

Virginia housing opportunity; tax credit established, taxable years beginning on and after January 1, 2021, etc., total amount of credits shall not exceed \$15 million per calendar year. (Patron—Locke) SB 1197 495 1554

Virginia Residential Landlord and Tenant Act; sample termination notice, landlord's acceptance of rent with reservation, tenant's right of redemption, landlord with four or fewer rental dwelling units, etc. (Patron—Price) HB 2014 410 1226

HUMAN IMMUNODEFICIENCY VIRUS (HIV)

Sexually transmitted infections; infected sexual battery, penalty, repeals the crime of donating or selling blood, body fluids, etc., by persons infected with human immunodeficiency virus (HIV), etc. (Patron—Locke) SB 1138 465 1360

HUMAN RIGHTS

Virginia Human Rights Act; adds discrimination on the basis of disability as an unlawful employment practice, reasonable accommodations for persons with disabilities. (Patron—Sickles) HB 1848 12 28

Virginia Human Rights Act; employees providing domestic service, application of laws applicable to employee safety and payment of wages. (Patron—McClellan) . . . SB 1310 513 1593

Virginia Human Rights Act; expands definition of employer to include person employing one or more domestic workers, nondiscrimination in employment.
 Patron—Price HB 1864 506 1567

HUMAN TRAFFICKING

Casino gaming; requirements for issuance of operator's license, human trafficking training. (Patron—Simonds) HB 1944 15 34

Commercial driver's licenses; disqualifies for life from holding a license persons convicted of a felony involving an act or practice of severe forms of trafficking, etc.
 Patron—Delaney HB 1868 136 359

Commercial sex trafficking; clarifies definition of "victim of sex trafficking," issuance of writ of vacatur for victims, contents and form of petition for vacatur, etc.
 Patron—Delaney HB 2133 543 1751

IGNITION INTERLOCK DEVICES

Ignition interlock systems; restricted permits to operate a motor vehicle.
 Patron—Stuart SB 1336 279 658

IMMUNIZATIONS

Funeral service licensees and funeral service establishment employees; priority for personal protective equipment and immunization, declaration of emergency.
 Patron—Mugler HB 2116 216 524

Virginia Immunization Information System; any health care provider in the Commonwealth that administers immunizations to participate in System.
 Patron—Willett HB 2061 211 519

INCOME TAX

Agricultural best management practices; creates an enhanced individual and corporate income tax credit beginning in taxable year 2021 but before January 1, 2025, for the implementation of certain practices by the taxpayer that are required as part of a certified resource management plan.
 Patron—Wilt HB 1763 39 83
 Patron—Hanger SB 1162 40 85

Agricultural equipment; establishes a refundable individual and corporate income tax credit. (Patron—Hanger) SB 1163 272 651

Income tax, state; conformity of the Commonwealth's taxation system with the Internal Revenue Code, taxable income, subtractions.
 Patron—Watts HB 1935 117 319
 Patron—Howell SB 1146 118 330

Income tax, state; Department of Taxation to include space on the appropriate forms for voluntary inclusion of personal and contact information, facilitated enrollment program. (Patron—Sickles) HB 1884 162 392

Income tax, state; Joint Legislative Audit and Review Commission to study increasing the progressivity of Virginia's system, meetings shall be completed by November 30, 2022. (Patron—Watts) HJR 567 3176

INFANTS

Fetal and Infant Mortality Review Team; Office of the Chief Medical Examiner of Department of Health shall convene a work group to develop a plan for the establishment of Team, report. (Patron—Ayala) HB 1950 164 400

INMATES

Inmates; Board of Local and Regional Jails to review services provided during pregnancy, etc., report. (Patron—Favola) SB 1300 392 1182

INOVA ASHBURN HEALTHPLEX

Inova Loudoun Hospital and Inova Ashburn Healthplex; commending. Patron—Subramanyam HR 557 3294

INOVA LOUDOUN HOSPITAL

Inova Loudoun Hospital and Inova Ashburn Healthplex; commending. Patron—Subramanyam HR 557 3294

INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS

Commonwealth of Virginia Higher Educational Institutions Bond Act of 2021; created. Patron—Torian HB 2178 95 274
Patron—Howell SB 1145 96 276

Eligible Health Care Provider Reserve Directory; established, information concerning fourth-year medical students, etc. (Patron—Hanger) SB 1436 530 1659

Enslaved Ancestors College Access Scholarship and Memorial Program; established, report. (Patron—Reid) HB 1980 442 1282

Facial recognition technology; definition, purchase or deployment of technology authorized by statute, authorization of use by local law-enforcement agencies and public institutions of higher education. (Patron—Aird) HB 2031 537 1717

George Mason University; management agreement with the Commonwealth. Patron—Bulova HB 1986 76 149
Patron—Barker SB 1204 77 192

Get Skilled, Get a Job, Give Back (G3) Fund and Program; created and established, report. Patron—Filler-Corn HB 2204 397 1191
Patron—Saslaw SB 1405 398 1192

Higher educational institutions, public; admissions applications that contain questions about criminal history, exception for certain law schools. (Patron—Aird) HB 1930 440 1279

Higher educational institutions, public; governing boards, meetings, input, and disclosures. (Patron—Keam) HB 2120 447 1295

Marijuana; legalization of simple possession, etc., expungement of criminal records, implementation of plan to ensure teachers have sufficient information, etc., about harm of marijuana use, etc., collegiate recovery programs, reports, penalties, effective dates for certain provisions. Patron—Herring HB 2312 551 2051
Patron—Ebbin SB 1406 550 1768

SNAP benefits program; eligibility for benefits, postsecondary education. Patron—Helmer HB 1820 160 389

State-Facilitated IRA Savings Program; established, membership, report. Patron—Torian HB 2174 556 3163

Students; eligibility for in-state tuition and state financial assistance program. Patron—Lopez HB 2123 107 288
Patron—Boysko SB 1387 108 290

INSURANCE

Commonwealth Health Reinsurance Program; established, special fund established, federal waiver application, report. (Patron—Sickles) HB 2332 480 1428

Health insurance; authorization of drug prescribed for the treatment of a mental disorder, prior authorization for drug by carrier. Patron—Heretick HB 2008 66 127
Patron—McPike SB 1269 67 128

Health insurance; carrier business practices, every carrier shall include in provider contracts a provision that prohibits a provider from discriminating against any enrollee. (Patron—Surovell) SB 1289 72 136

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Health insurance; essential benefits, removes the prohibition on the provisions of coverage for abortions. Patron—Hudson	HB 1896	101	282
Patron—McClellan	SB 1276	102	283
Health insurance; requiring health insurers and other carriers to establish reasonable protocols and procedures for reimbursing a health professional for services provided while such professional's credentialing application is pending. (Patron—Head)	HB 1829	161	391
Health maintenance organizations; updates provisions of the Code of Virginia related to insolvency procedures for health maintenance organizations (HMOs). Patron—Kilgore	HB 1807	158	388
Income tax, state; Department of Taxation to include space on the appropriate forms for voluntary inclusion of personal and contact information, facilitated enrollment program. (Patron—Sickles)	HB 1884	162	392
Paid family and medical leave; State Corporation Commission's Bureau of Insurance to review and make recommendations, report. (Patron—Favola)	SB 1219	512	1593
Personal injury claim; disclosure of insurance policy limits. (Patron—Stuart)	SB 1241	88	251
Pharmacies; freedom of choice by covered individual. (Patron—Hodges)	HB 2219	229	554
Prescription drugs; price transparency, definitions. (Patron—Sickles)	HB 2007	304	739
Property and casualty insurance policy forms and endorsements; approval of form by State Corporation Commission. (Patron—Ayala)	HB 1892	138	362
Public adjusters; continuing education requirements, repeals provision relating to continuing education, approval of credits, etc. (Patron—Kilgore)	HB 1942	441	1279
State Corporation Commission; issuance or renewal of insurance licenses or registrations during an emergency. (Patron—Mason)	SB 1255	297	715
Telemedicine service; coverage of telehealth services by an insurer, etc., services delivered through real-time audio-only telephone. Patron—Adams, D.M.	HB 1987	301	723
Patron—Barker	SB 1338	302	730
ISAAC, DOUGLAS LEE Isaac, Douglas Lee; recording sorrow upon death. (Patron—Campbell, J.L.)	HR 536		3282
ITALIAN STATION Italian Station; commending. (Patron—Cole, J.G.)	HR 597		3314
JACKSON, GILES BEECHER Jackson, Giles Beecher; commemorating his life and legacy on the occasion of the 150th anniversary of creation of Jackson Ward district in Richmond. Patron—Bourne	HR 628		3329
JACKSON-DINNALL, KIM Jackson-Dinnall, Kim; commending. (Patron—Kiggans)	SR 546		3369
JAMES FARMER MULTICULTURAL CENTER James Farmer Multicultural Center; commemorating its 30th anniversary. Patron—Cole, J.G.	HR 601		3315
JEFFERSON DAVIS HIGHWAY Jefferson Davis Highway; any section of U.S. Route 1 to be renamed "Emancipation Highway." (Patron—Cole, J.G.)	HB 2075	416	1231
JOHNS, BARBARA ROSE Johns, Barbara Rose; Joint Committee of Congress on the Library requested to fill the Commonwealth's vacant spot in the National Statuary Hall Collection at the United States Capitol with a statue to commemorate. (Patron—Lucas)	SJR 288		3338
JOHNSON, CAROLYN LOUISE Johnson, Carolyn Louise; recording sorrow upon death. (Patron—McQuinn)	HJR 739		3237
JOHNSON, CINTIA Johnson, Cintia; commending. (Patron—Hope)	HJR 658		3191
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Income tax, state; Joint Legislative Audit and Review Commission to study increasing the progressivity of Virginia's system, meetings shall be completed by November 30, 2022. (Patron—Watts) HJR 567 3176

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JUVENILES

Child support payments; juvenile in custody of or committed to the Department of Juvenile Justice. (Patron—Hope)

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License plates, special; removes fee for issuance to a member of the Virginia National Guard. (Patron—Wyatt) HB 2261 153 378

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License plates, special; issuance for supporters of Ducks Unlimited, fees. Patron—Stuart	SB 1229	276	655
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- Naloxone or other opioid antagonist**; certain employees of Department of Juvenile Justice authorized to administer. (Patron—Kory) HB 1894 181 414
- Restricted licenses**; authorizes DMV to issue restricted credentials to individuals with driver's license suspensions resulting from drug-related offenses. (Patron—Edwards) SB 1213 376 958

NASSAWADOX, TOWN OF

- Nassawadox, Town of**; amending charter, updates charter to reflect the town's shift of municipal elections from May to November. (Patron—Bloxom) HB 1749 119 341

NATURAL GAS

- Motor vehicle weight limits**; vehicles powered primarily by electric battery power or fueled primarily by natural gas, increased weight for power unit. (Patron—Reid) . . . HB 1850 133 357
- Natural gas pipelines**; Department of Environmental Quality to conduct inspections of the land-disturbing activities related to construction of any transmission pipeline, where substantial adverse impacts or likely adverse impacts are found on a repeated, etc., basis, the Department may issue a stop work instruction. (Patron—Deeds) SB 1265 277 656

NATURAL RESOURCES, SECRETARY OF

- Carbon Sequestration Task Force**; Secretary of Natural Resources, jointly with the Secretary of Agriculture and Consumer Services, to convene a task force to study carbon sequestration, report. (Patron—Lewis) SB 1374 504 1566
- Gold**; Secretary of Natural Resources, et al., shall establish a work group to study mining and processing. (Patron—Guzman) HB 2213 423 1250
- Natural Resources, Secretary of**; name changed to the Secretary of Natural and Historic Resources. (Patron—Plum) HB 1836 401 1194

NECHELES, CARMEN

- Necheles, Carmen**; commending. (Patron—Hope) HR 556 3293

NEESE, JOHN RICHARD

- Neese, John Richard**; recording sorrow upon death. (Patron—Obenshain) SR 550 3371

NEW RIVER VALLEY PUBLIC HEALTH TASK FORCE

- New River Valley Public Health Task Force**; commending. (Patron—Hurst) HJR 677 3202

NEWPORT NEWS PUBLIC LIBRARY

- Newport News Public Library**; commending. (Patron—Mullin) HJR 749 3243

NEWSOME HOUSE MUSEUM AND CULTURAL CENTER

- Newsome House Museum and Cultural Center**; commemorating its 30th anniversary. (Patron—Price) HJR 787 3261

NOEL, ELLEN ROSETTA

- Noel, Ellen Rosetta**; recording sorrow upon death. (Patron—Cole, J.G.) HR 526 3277

NONPROFIT ORGANIZATIONS

- Charitable gaming**; definitions, regulations, conduct of instant bingo, network bingo, pull tabs, and seal cards, report, certain nonprofit organizations generating more than \$40,000 in annual gross receipts until July 1, 2022, shall not be exempt from payment of application fees or audit fees. (Patron—Reeves) SB 1127 520 1604

NORFOLK, CITY OF

- Norfolk, City of**; amending charter, general updates. (Patron—Spruill) SB 1128 371 942
- Shipping and Logistics Headquarters Grant Program**; established, report. Patron—Torian HB 5001 434 1272

NORTHAMPTON COUNTY

- Hampton Roads Sanitation District**; changes to the enabling act related to the addition of Northampton and Accomack Counties. (Patron—Bloxom) HB 2257 428 1263

NORTHERN VIRGINIA

- Northern Virginia Therapeutic Riding Program**; commemorating its 40th anniversary. (Patron—Helmer) HJR 764 3249

NOTARIES AND OUT-OF-STATE COMMISSIONERS

- Electronic notarial certificate**; clerk's office to record a paper copy of an electronic document, provided that such copy otherwise meets the requirements for recordation and is certified to be a true and correct copy. (Patron—Simon) HB 2064 78 235

NURSES

- Clinical nurse specialist;** licensure of nurse practitioners as specialists by the Boards of Medicine and Nursing and a practitioner licensed as a specialist shall practice pursuant to a practice agreement between the specialist and a licensed physician, etc., prescriptive authority, repeals provision relating to registered nurse's licensure by endorsement. (Patron—Adams, D.M.) HB 1747 157 380
- Home care organizations;** Board of Health to include in regulations governing organizations a provision for supervision of home care attendants providing personal care services by a licensed nurse through use of interactive audio or video technology. (Patron—Head) HB 1831 470 1374
- Nurse Loan Repayment Program;** expands eligibility for Program to include certified nurse aides. (Patron—Kiggans) SB 1147 238 567
- Nurse practitioners;** reduces the number of years of full-time clinical experience a practitioner must have to be eligible to practice without a written or electronic practice agreement, sunset provision. (Patron—Adams, D.M.) HB 1737 1 1

NURSING HOMES

- Hospitals, nursing homes, and certified nursing facilities;** regulations, policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient while receiving inpatient services. (Patron—Adams, L.R.) HB 2154 219 526
- Hospitals, nursing homes, etc.;** determination by facilities for visits by clergy, priest, etc., during a declared public health emergency. (Patron—Kiggans) SB 1356 525 1644

OCCUPATIONAL THERAPY

- Occupational therapists;** licensure, authorizes Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. (Patron—Hashmi) . . . SB 1189 242 572

100 BLACK MEN OF THE VIRGINIA PENINSULA, INC.

- 100 Black Men of the Virginia Peninsula, Inc.;** commending. (Patron—Price) HR 569 3300

OPIOIDS

- Naloxone or other opioid antagonist;** certain employees of Department of Juvenile Justice authorized to administer. (Patron—Kory) HB 1894 181 414
- Opioid Abatement Authority;** established, membership, Opioid Abatement Fund created, investment of assets of Fund, report.
Patron—Herring HB 2322 306 748
Patron—Barker SB 1469 307 753

ORDINANCES

- Continuity of government;** extends to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide. (Patron—Barker) . SB 1208 295 714
- Historic sites;** urban county executive form of government (Fairfax County), provisions in its preservation ordinance, etc. (Patron—Surovell) SB 1457 531 1660
- Local green banks;** authorizes a locality, by ordinance, to establish a bank to promote the investment in clean energy technologies in its locality, etc., consumer protection standards for investments. (Patron—Kory) HB 1919 405 1221

OROFINO

- Orofino;** commending. (Patron—Cole, J.G.) HR 540 3285

ORTIZ, PATTY

- Ortiz, Patty;** commending. (Patron—LaRock) HJR 752 3244

OXRIEDER, JULIA

- Suerdieck, Rebecca and Julia Oxrieder;** commending. (Patron—Mullin) HJR 765 3250

PAK, JAEHEE

- Pak, Jaehee;** recording sorrow upon death. (Patron—Helmer) HR 624 3327

PALADUGU, SAANVI

- Ahuja, Ayana, and Saanvi Paladugu;** commending. (Patron—Bell) SR 531 3362

PANNELL, COURTNI

- Hirn, David, Kate Williamson, and Courtni Pannell;** commending.
Patron—Morrissey SR 548 3370

PARHAM DOCTORS' HOSPITAL

- Parham Doctors' Hospital;** commending. (Patron—VanValkenburg) HJR 655 3189

PAROLE AND PROBATION

- Parole;** notice and certification, monthly reports, conditional release, discretionary early consideration, Virginia Parole Board's monthly statements shall include actions taken on parole of prisoners, etc. (Patron—Scott) HB 2167 545 1760
- Parole and conditional release;** notice by electronic means and certification.
Patron—Norment SB 1397 287 705

PARTNERSHIPS

- State Corporation Commission;** business entities filings, amends various provisions of Virginia Stock Corporation Act. (Patron—Keam) HB 2121 487 1452

PATRICK COUNTY

- Bob White Covered Bridge;** Department of Transportation to work with the governing body of Patrick County and community groups interested in constructing a replica of Bridge. (Patron—Poindexter) HB 2024 144 372

PEANUTS

- Peanuts;** extends sunset date of excise tax on all peanuts grown in Virginia.
Patron—Brewer HB 1751 120 341
Patron—Lucas SB 1411 121 342

PEBLER, STEVEN

- Pebler, Steven;** commending. (Patron—LaRock) HJR 754 3245

PENSIONS, BENEFITS, AND RETIREMENT

- Virginia Retirement System;** amendments to reflect recent changes to federal law.
Patron—Mundon King HB 2181 53 107
Patron—Newman SB 1251 54 111

PERDUE, CLYDE H., JR.

- Perdue, Clyde H., Jr.;** recording sorrow upon death.
Patron—Poindexter HR 542 3285
Patron—Stanley SR 524 3358

PERSONAL PROPERTY AND PERSONAL PROPERTY TAX

- Personal property tax;** exemption for motor vehicle of a 100 percent disabled veteran, "motor vehicle" means only a passenger car or a pickup or panel truck that is registered for personal use. (Patron—Reeves) SB 1130 156 380
- Tangible personal property taxes;** classification of certain motor vehicles, trailers, and semitrailers. (Patron—Walker) HB 1774 347 881

PERSONS WITH DISABILITIES

- Absentee voting;** accessibility for voters with a visual impairment or print disability.
Patron—Reeves SB 1331 255 634
- Aging services;** Department for Aging and Rehabilitative Services shall use available resources to provide services to older persons with the greatest economic and social needs, definitions.
Patron—Adams, D.M. HB 1805 299 720
Patron—Barker SB 1366 300 721
- Alternative application for employment for persons with a disability;** Department of Human Resource Management shall develop an application process.
Patron—Guzman HB 2140 218 525
- Licensed private schools for students with disabilities;** accreditation. (Patron—Kory) HB 2238 172 408
- Medical care facilities;** facility shall establish protocols, definitions, designated support persons for persons with disabilities. (Patron—Tran) HB 2162 220 530
- Personal property tax;** exemption for motor vehicle of a 100 percent disabled veteran, "motor vehicle" means only a passenger car or a pickup or panel truck that is registered for personal use. (Patron—Reeves) SB 1130 156 380
- Students with disabilities;** Department of Education and Board of Education to update its special education and related services, etc. (Patron—Mundon King) HB 2316 173 408
- Virginia Fair Housing Law;** reasonable accommodations, disability-related requests for parking. (Patron—Carr) HB 1971 17 36
- Virginia Human Rights Act;** adds discrimination on the basis of disability as an unlawful employment practice, reasonable accommodations for persons with disabilities. (Patron—Sickles) HB 1848 12 28

PESTS AND PESTICIDES

Neonicotinoid pesticides; Department of Agriculture and Consumer Services shall study Beekeeper Pollinator Protection Plan, etc., communication between beekeepers and applicators. (Patron—Krizek) HB 2030 458 1335

PETS, PET DEALERS, AND SUPPLIES

Pet shops, dealers, and dog breeders; employees convicted of animal abuse, penalty. Patron—Stanley SB 1412 339 824

PHARMACIES

Pharmacies; freedom of choice by covered individual. (Patron—Hodges) HB 2219 229 554

PHARMACISTS

Pharmacists; initiation of treatment with and dispensing and administering of drugs and devices, report. (Patron—Rasoul) HB 2079 214 521

PHYSICAL THERAPISTS

Physical therapy; extends time allowed for a therapist to evaluate and treat patients. Patron—Hashmi SB 1187 481 1433

PHYSICIANS AND SURGEONS

Clinical nurse specialist; licensure of nurse practitioners as specialists by the Boards of Medicine and Nursing and a practitioner licensed as a specialist shall practice pursuant to a practice agreement between the specialist and a licensed physician, etc., prescriptive authority, repeals provision relating to registered nurse's licensure by endorsement. (Patron—Adams, D.M.) HB 1747 157 380

Licensed certified midwives; clarifies definition, licensure, practice shall be in consultation with a licensed physician with a practice agreement, required disclosures, etc., report. Patron—Gooditis HB 1953 200 475
Patron—Lucas SB 1320 201 486

Physician assistant; eliminates requirement that an assistant enter into a practice agreement with one or more patient care team physicians, etc. (Patron—Rasoul) HB 2039 210 516

PITTS, RICHARD, SR.

Pitts, Richard, Sr.; recording sorrow upon death. (Patron—Price) HR 588 3309

PLASTER, GROVER HAROLD

Plaster, Grover Harold; recording sorrow upon death. (Patron—Marshall) HJR 773 3254

PLEASANT VIEW, INC.

Pleasant View, Inc.; commemorating its 50th anniversary. (Patron—Wilt) HJR 747 3242

PLOTNICK, VIRGINIA LEONARD

Plotnick, Virginia Leonard; recording sorrow upon death. (Patron—Hudson) HJR 710 3221

POCAHONTAS COUNTY

Pocahontas County; commemorating its 200th anniversary. (Patron—Deeds) SR 515 3353

POLICE

Facial recognition technology; definition, purchase or deployment of technology authorized by statute, authorization of use by local law-enforcement agencies and public institutions of higher education. (Patron—Aird) HB 2031 537 1717

Law-enforcement agencies; creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local agencies with costs of purchasing, etc., body-worn camera systems, sunset provision. (Patron—Reeves) SB 1119 335 818

Motor Vehicles, Department of; limits the release of privileged information to certain criminal justice agencies, electronic filings or submissions, special communication needs indication on application for registration of a motor vehicle, report. Patron—Tran HB 2163 421 1237

POLICE, STATE

Substantial Risk Order Registry; Department of State Police shall keep and maintain a computerized Registry, etc., accessibility of Registry. (Patron—Simonds) HB 2258 461 1338

Virginia Missing Child with Autism Alert Program; renamed the Virginia Missing Person with Autism Alert Program. (Patron—Hayes) HB 2216 189 456

Virginia State Police and Virginia National Guard; commending. (Patron—Surovell) SR 506 3347

POLLING PLACES

Elections; preservation of order at the polls, powers of officers of election. Patron—Spruill SB 1111 6 8

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Polling places; prohibited activities, unlawful possession of a firearm, penalty. Patron—Levine	HB 2081	459	1336
POTTER, DONALD L.			
Potter, Donald L.; recording sorrow upon death. (Patron—Kilgore)	HR 502		3266
POWHATAN COUNTY			
Economic development authorities; size of board in Powhatan County, reduces quorum requirement. (Patron—Ware)	HB 2287	321	776
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Inmates; Board of Local and Regional Jails to review services provided during pregnancy, etc., report. (Patron—Favola)	SB 1300	392	1182
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Health insurance; authorization of drug prescribed for the treatment of a mental disorder, prior authorization for drug by carrier. Patron—Heretick	HB 2008	66	127
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Prescription drugs; price transparency, definitions. (Patron—Sickles)	HB 2007	304	739
Public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers, Department of Education, in conjunction with the Department of Health, shall develop and implement policies, provisions shall become effective on January 1, 2022. Patron—McQuinn	HB 2019	508	1571
PRIMARIES			
Primary election; changes date of election held in June from second Tuesday in June to third Tuesday in June, also changes candidate filing deadlines to reflect change of date. (Patron—Kiggans)	SB 1148	239	568
PRINCE WILLIAM COUNTY			
Albemarle and Prince William Counties; counties that have adopted the county executive form of government may carry over unspent funds from year to year for multiyear capital projects and outstanding grants. (Patron—Reeves)	SB 1120	155	379
Loudoun and Prince William Counties and the Cities of Manassas and Manassas Park; local governing body may enter into a contract with the State Board of Health for the local administration of local health services. (Patron—Favola)	SB 1221	521	1611
PRINCESS ANNE HIGH SCHOOL			
Princess Anne High School girls' basketball team; commending. (Patron—Kiggans) SR 547 3369			
PRISONERS			
Parole; notice and certification, monthly reports, conditional release, discretionary early consideration, Virginia Parole Board's monthly statements shall include actions taken on parole of prisoners, etc. (Patron—Scott)	HB 2167	545	1760
PRISONS AND OTHER METHODS OF CORRECTION			
Behavioral health; assessments in local correctional facilities, report. Patron—Coyner	HB 1874	179	412
Earned sentence credits; rate at which sentence rates may be earned, prerequisites. Patron—Campbell, J.L.	HB 2010	389	1147
Parole; notice and certification, monthly reports, conditional release, discretionary early consideration, Virginia Parole Board's monthly statements shall include actions taken on parole of prisoners, etc. (Patron—Scott)	HB 2167	545	1760
Parole and conditional release; notice by electronic means and certification. Patron—Norment	SB 1397	287	705
PROFESSIONS AND OCCUPATIONS			
Cannabis oil; definitions, processing and dispensing by pharmaceutical processors, certification for use of oil for treatment, report, completion date for implementation of provisions. (Patron—Adams, D.M.)	HB 1988	205	499
Career fatigue and wellness in certain health care providers; programs to address, civil immunity. Patron—Hope	HB 1913	5	5
Patron—Barker	SB 1205	243	581
Certified nurse midwives; midwives, who have practiced at least 1,000 hours, shall be eligible to practice without a practice agreement, etc. (Patron—Adams, D.M.)	HB 1817	396	1188

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Clinical nurse specialist; licensure of nurse practitioners as specialists by the Boards of Medicine and Nursing and a practitioner licensed as a specialist shall practice pursuant to a practice agreement between the specialist and a licensed physician, etc., prescriptive authority, repeals provision relating to registered nurse's licensure by endorsement. (Patron—Adams, D.M.)	HB 1747	157	380
Drug Control Act; adds certain chemicals to Schedule I of Act. (Patron—Newman)	SB 1464	73	139
Elevator mechanic or accessibility mechanic, certain; exemption from certification. Patron—Jones	HB 2202	151	376
Genetic counseling; repeals conscience clause. (Patron—Ebbin)	SB 1178	240	569
Lawyers; client accounts, repeals the provision prohibiting the Supreme Court of Virginia from adopting a disciplinary rule requiring that lawyers deposit client funds in an interest-bearing account. (Patron—Sullivan)	HB 1853	342	826
Licensed certified midwives; clarifies definition, licensure, practice shall be in consultation with a licensed physician with a practice agreement, required disclosures, etc., report. Patron—Gooditis Patron—Lucas	HB 1953 SB 1320	200 201	475 486
Naloxone or other opioid antagonist; certain employees of Department of Juvenile Justice authorized to administer. (Patron—Kory)	HB 1894	181	414
Nurse practitioners; reduces the number of years of full-time clinical experience a practitioner must have to be eligible to practice without a written or electronic practice agreement, sunset provision. (Patron—Adams, D.M.)	HB 1737	1	1
Occupational therapists; licensure, authorizes Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. (Patron—Hashmi)	SB 1189	242	572
Pharmaceutical processors; permits processors to produce and distribute cannabis products, authorization for dispensing botanical cannabis to a minor. Patron—Hayes Patron—Lucas	HB 2218 SB 1333	227 228	543 549
Pharmacists; initiation of treatment with and dispensing and administering of drugs and devices, report. (Patron—Rasoul)	HB 2079	214	521
Physical therapy; extends time allowed for a therapist to evaluate and treat patients. Patron—Hashmi	SB 1187	481	1433
Physician assistant; eliminates requirement that an assistant enter into a practice agreement with one or more patient care team physicians, etc. (Patron—Rasoul)	HB 2039	210	516
Prescription drugs; price transparency, definitions. (Patron—Sickles)	HB 2007	304	739
Public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers, Department of Education, in conjunction with the Department of Health, shall develop and implement policies, provisions shall become effective on January 1, 2022. Patron—McQuinn	HB 2019	508	1571
Surgical technologist; certification, use of title. (Patron—Hayes)	HB 2220	230	557
Virginia Residential Landlord and Tenant Act; responsibilities of real estate brokers, foreclosure of single-family residential dwelling units. (Patron—Simon)	HB 2229	426	1251
Virginia State Bar examination; foreign applicants, evidence required. Patron—Petersen	SB 1234	296	714

PROPERTY AND CONVEYANCES

Chamberlin Hotel at Fort Monroe; reverts certain property to the Commonwealth. Patron—Mugler	HB 2009	18	37
Deeds of trust; amendment to loan document, statement of interest rate of a refinanced mortgage. (Patron—Heretick)	HB 1882	13	32
Homeowners and tenants of manufactured home parks; housing protections, foreclosures, enforcement of lien, cases of a deed of trust conveying owner-occupied residential real estate, etc. Patron—Torian Patron—McClellan	HB 2175 SB 1327	91 92	261 266
Judgments; limitations on enforcement, certain judgments dated on or after July 1, 2021, judgment liens, settlement agents, effective date. (Patron—Coyner)	HB 2099	486	1447
Property owners' associations and unit owners' associations; rulemaking authority concerning smoking. (Patron—Keam)	HB 1842	131	353

PROPERTY AND CONVEYANCES - Continued

Property owners' associations, boards of directors, unit owners' associations, etc.; meetings to be held entirely or partially by electronic means, provided guidelines have been adopted.			
Patron—Bulova	HB 1816	9	18
Patron—Dunnavant	SB 1183	494	1546
Real estate settlement agents; SCC may share information collected from an agent or agency regarding any errors, etc., with any party to the real estate transaction in connection with the actions arising out of a settlement. (Patron—Spruill)			
	SB 1110	324	782
Real property; required disclosures for buyer to exercise due diligence, flood risk report, effective date.			
Patron—Convirs-Fowler	HB 2320	322	777
Patron—Lewis	SB 1389	323	780
Southwestern Virginia Mental Health Institute; the Commonwealth, with approval of the Governor, to lease a portion of property to Smyth County for a term of three years, responsibility of County, corrects tax map references.			
Patron—O'Quinn	HB 2098	68	130
Patron—Pillion	SB 1429	69	130
Tazewell County; authorizes a quitclaim and release of interest and conveyance of an easement by Board of Wildlife Resources.			
Patron—Wampler	HB 2252	365	932
Patron—Pillion	SB 1400	366	932
Virginia Residential Landlord and Tenant Act; access to dwelling unit during certain declared states of emergency, nonemergency repairs, employees and agents sent by landlord for maintenance or inspection are to wear all appropriate personal protective equipment as required by state law. (Patron—Carr)			
	HB 1981	409	1224
Virginia Residential Landlord and Tenant Act; landlord charges for security deposits, tenants that opt out of landlord's damage insurance program, clerk of SCC shall provide a downloadable form for the filing of a resident agent appointment, etc. Patron—McQuinn			
	HB 2249	427	1253
Virginia Residential Landlord and Tenant Act; responsibilities of real estate brokers, foreclosure of single-family residential dwelling units. (Patron—Simon) ...			
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Virginia Residential Landlord and Tenant Act; sample termination notice, landlord's acceptance of rent with reservation, tenant's right of redemption, landlord with four or fewer rental dwelling units, etc. (Patron—Price)			
	HB 2014	410	1226
Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe, repeals provision relating to tenant's remedies for landlord's unlawful ouster.			
Patron—Hudson	HB 1900	403	1220
Patron—Ebbin	SB 1215	404	1221
Virginia Residential Property Disclosure Act; required disclosures for buyer to beware, mold assessment obtained by purchaser. (Patron—Askew)			
	HB 1824	10	26
PROPERTY, GROUNDS, AND BUILDINGS, STATE-OWNED			
Firearm or explosive material; carrying within Capitol Square and the surrounding area, into building owned or leased by the Commonwealth, etc., penalty.			
Patron—Levine	HB 2295	548	1765
Patron—Ebbin	SB 1381	527	1651
State and local buildings, certain; definitions, building standards, high performance building certification program, sufficient ZEV charging and fueling infrastructure, etc. (Patron—Helmer)			
	HB 2001	473	1384
State parks; Department of Conservation and Recreation to develop recommendations for funding, report. (Patron—Orrock)			
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PROPERTY OWNERS			
Onsite Sewage Indemnification Fund; authorizes the State Board of Health to use Fund to provide grants and loans to property owners with income at or below 200 percent of the federal poverty guidelines to repair failing onsite sewage systems or install onsite sewage systems on properties that lack adequate sewage disposal, report. (Patron—Hashmi)			
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Property owners' associations and unit owners' associations; rulemaking authority concerning smoking. (Patron—Keam)			
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PROPERTY OWNERS - Continued

Property owners' associations, boards of directors, unit owners' associations, etc.; meetings to be held entirely or partially by electronic means, provided guidelines have been adopted.

Patron—Bulova	HB 1816	9	18
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PROSTITUTION

Prostitution; reorganizes the statute penalizing into two distinct sections.

Patron—Mundon King	HB 2169	188	441
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PROTECTIVE ORDERS

Protective orders; violations of preliminary child protective order, violation involves an act that endangers the child's life, health, or normal development, changes punishment, etc. (Patron—Campbell, J.L.)

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Protective orders; violations of preliminary child protective order, violation involves an act that endangers the child's life or health or result in bodily injury to the child, changes punishment, etc. (Patron—Stanley)

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PUBLIC SCHOOLS

Computer science standards, courses, and pathways in public schools; Department of Education shall perform a comprehensive review, report. (Patron—Simonds)

HB 1885	22	40
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COVID-19; Joint Legislative Audit and Review Commission to study the impact on Virginia's public schools, students, and school employees, meetings shall be completed by November 30, 2022. (Patron—Lucas)

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Public schools; lock-down drills, annual requirement. (Patron—Murphy)

HB 1998	26	48
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Public schools; seizure management and action plans, biennial training, effective date.

Patron—DeSteph	SB 1322	514	1598
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Public schools; severe weather conditions and other emergency situations, unscheduled remote learning days, school provides instruction and student services, etc.

Patron—McNamara	HB 1790	19	37
Patron—Suetterlein	SB 1132	293	712

Public schools, child day programs, and certain other programs; carbon monoxide detectors required. (Patron—Askew)

HB 1823	165	401
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PUBLIC SERVICE COMPANIES

Broadband capacity to unserved areas; expands existing pilot program, municipal broadband authorities.

Patron—Ayala	HB 1923	356	909
Patron—Edwards	SB 1334	357	910

Commonwealth Clean Energy Policy; established, repeals provisions relating to energy objectives and Commonwealth Energy Policy. (Patron—Favola)

SB 1284	327	787
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Crisis Call Center Fund; created, collection of 988 charges, liability for emergency calls to the National Suicide Prevention Lifeline. (Patron—McPike)

SB 1302	248	592
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Electric generating facility closures; public disclosure, facilities that have a nameplate generating capacity of 90 megawatts or less, etc., integrated resource plans.

Patron—Subramanyam	HB 1834	41	87
Patron—Deeds	SB 1247	42	89

Electric utilities; advanced renewable energy buyers. (Patron—Sullivan)

HB 1907	140	364
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Electric utilities; nonjurisdictional customers, third party power purchase agreements.

Patron—Hurst	HB 2034	361	913
Patron—Edwards	SB 1420	362	914

Electric utilities; procurement of certain equipment from Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

Patron—DeSteph	SB 1295	328	806
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Percentage of Income Payment Program and Fund; Department of Housing and Community Development and the Department of Social Services shall adopt rules or establish guidelines for the adoption, etc., of Program and Fund, report.

Patron—Kory	HB 2330	308	757
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Phase I or Phase II electric utilities; provision of broadband capacity, State Corporation Commission shall condition any approval of a petition on the requirement that construction shall commence within 18 months of such approval.

Patron—Tyler	HB 2304	369	939
Patron—Boysko	SB 1413	370	940

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Underground utility facilities; a locality operating under urban county executive form of government (Fairfax County) may request an electric utility, telecommunications provider, etc., to enter into an agreement with locality to place underground electric distribution, facilities, etc. (Patron—Surovell)	SB	1385	505	1566
Virginia Highway Corporation Act; alteration of certificate of authority, powers and duties of State Corporation Commission, agreements between toll operator and Department.				
Patron—Subramanyam	HB	1832	349	884
Patron—Bell	SB	1259	350	886
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Quarles, William E., Jr.; recording sorrow upon death. (Patron—Ware)	HR	532		3280
RADFORD HIGH SCHOOL				
Radford High School boys' swim and dive team; commending. (Patron—Hurst)	HR	524		3276
Radford High School girls' cross country team; commending. (Patron—Hurst)	HR	521		3275
Radford High School girls' volleyball team; commending. (Patron—Hurst)	HR	522		3275
Radford High School golf team; commending. (Patron—Hurst)	HR	523		3275
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- South River**; designates a 6.5-mile segment in the City of Waynesboro as a component of the Virginia Scenic Rivers System. (Patron—Avoli) HB 1958 407 1223

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- S.E.R.V.E.**; commending. (Patron—Cole, J.G.) HR 596 3313

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- Unemployment compensation;** continuation of benefits, repayment of overpayments, sunset provision. (Patron—Hudson) HB 2040 539 1720
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- Union High School boys' basketball team;** commending. (Patron—Kilgore) HR 612 3322

UNITED STATES GOVERNMENT

- Johns, Barbara Rose;** Joint Committee of Congress on the Library requested to fill the Commonwealth's vacant spot in the National Statuary Hall Collection at the United States Capitol with a statue to commemorate. (Patron—Lucas) SJR 288 3338

UTILITY SERVICES

- Electric utilities;** advanced renewable energy buyers. (Patron—Sullivan) HB 1907 140 364

VALLEY HEALTH

- Valley Health;** commending.
Patron—Wiley HR 511 3270
Patron—Vogel SR 525 3359

VAN DOREN, NANCY

- Van Doren, Nancy;** commending. (Patron—Hope) HJR 640 3181

VAUGHAN, GEORGE B.

- Vaughan, George B.;** recording sorrow upon death. (Patron—Bell) HJR 702 3217

VETERANS

- Personal property tax;** exemption for motor vehicle of a 100 percent disabled veteran, "motor vehicle" means only a passenger car or a pickup or panel truck that is registered for personal use. (Patron—Reeves) SB 1130 156 380
- Veterans Services, Department of;** initiatives to reduce unemployment among veterans, comprehensive transition program. (Patron—Bell) SB 1279 247 591

VICTIMS OF CRIME

- Victims of crime;** compensation, reporting requirement. (Patron—Delaney) HB 1867 178 411
- Victims of crime;** definitions, certifications for victims of qualifying criminal activity, disclosure of exculpatory information to a defendant in a criminal case.
Patron—Surovell SB 1468 468 1372
- Victims of sex trafficking;** definitions, affirmative defense to prosecution for certain offenses. (Patron—Brewer) HB 2234 334 817

VIDEO AND AUDIO COMMUNICATIONS

- Home care organizations;** Board of Health to include in regulations governing organizations a provision for supervision of home care attendants providing personal care services by a licensed nurse through use of interactive audio or video technology. (Patron—Head) HB 1831 470 1374
- Personal appearance by two-way electronic video and audio communication;** entry of plea or nolle prosequi or dismissal, revocation proceedings. (Patron—Edwards) SB 1242 86 250
- Telemedicine service;** coverage of telehealth services by an insurer, etc., services delivered through real-time audio-only telephone.
Patron—Adams, D.M. HB 1987 301 723
Patron—Barker SB 1338 302 730

VIRGINIA ACADEMY OF SCIENCE, ENGINEERING AND MEDICINE

- Virginia Academy of Science, Engineering and Medicine;** commending.
Patron—Hayes HJR 675 3201

VIRGINIA ENERGY PLAN

- Commonwealth Clean Energy Policy;** established, repeals provisions relating to energy objectives and Commonwealth Energy Policy. (Patron—Favola) SB 1284 327 787
- Electric Vehicle Rebate Program and Fund;** established and created, definitions, report, sunset date. (Patron—Reid) HB 1979 493 1544
- Mines and Mining and Virginia Energy Plan;** revision of Titles 45.1 and 67, sunset dates, reports, effective date. (Patron—Edwards) SB 1453 387 988

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Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program; established, report. (Patron—Kilgore)	HB 1925	141	370
Virginia Energy Plan; amends Plan to include an analysis of electric vehicle charging infrastructure. (Patron—Boysko)	SB 1223	326	784
VIRGINIA HOUSE OF DELEGATES			
House of Delegates; salaries, session expense payments, and contingent and incidental expenses. (Patron—Torian)	HR 501		3265
Staffing levels, employment conditions, and compensation at the Virginia Department of Corrections, joint committee of various House and Senate Committees Studying; continued, appropriations. (Patron—Tyler)	HJR 522		3169
VIRGINIA NATIONAL GUARD			
License plates, special; removes fee for issuance to a member of the Virginia National Guard. (Patron—Wyatt)	HB 2261	153	378
License plates, special; removes the fee for the issuance of a license plate for retired members of the Virginia National Guard. (Patron—Walker)	HB 1796	128	351
Virginia National Guard; commending. Patron—Filler-Corn	HJR 713		3223
Virginia State Police and Virginia National Guard; commending. (Patron—Surovell)	SR 506		3347
VIRGINIA PUBLIC PROCUREMENT ACT			
Virginia Public Procurement Act; preference for energy-efficient and water-efficient goods. (Patron—Helmer)	HB 1811	469	1373
VIRGINIA RESIDENTIAL LANDLORD AND TENANT ACT			
Virginia Residential Landlord and Tenant Act; access to dwelling unit during certain declared states of emergency, nonemergency repairs, employees and agents sent by landlord for maintenance or inspection are to wear all appropriate personal protective equipment as required by state law. (Patron—Carr)	HB 1981	409	1224
Virginia Residential Landlord and Tenant Act; landlord charges for security deposits, tenants that opt out of landlord's damage insurance program, clerk of SCC shall provide a downloadable form for the filing of a resident agent appointment, etc. Patron—McQuinn	HB 2249	427	1253
Virginia Residential Landlord and Tenant Act; landlord remedies, noncompliance with rental agreement, payment plan, extends sunset provision. (Patron—Price)	HB 1889	492	1544
Virginia Residential Landlord and Tenant Act; responsibilities of real estate brokers, foreclosure of single-family residential dwelling units. (Patron—Simon) . . .	HB 2229	426	1251
Virginia Residential Landlord and Tenant Act; sample termination notice, landlord's acceptance of rent with reservation, tenant's right of redemption, landlord with four or fewer rental dwelling units, etc. (Patron—Price)	HB 2014	410	1226
Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe, repeals provision relating to tenant's remedies for landlord's unlawful ouster. Patron—Hudson	HB 1900	403	1220
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VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT			
Virginia Residential Property Disclosure Act; required disclosures for buyer to beware, mold assessment obtained by purchaser. (Patron—Askew)	HB 1824	10	26
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Virginia State Police; commending. (Patron—Filler-Corn)	HJR 712		3222
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VOTERS AND VOTING**Absentee voting;** accessibility for voters with a visual impairment or print disability.

Patron—Reeves SB 1331 255 634

Absentee voting; availability on Sundays in office of general registrar or voter satellite office. (Patron—Bagby)

HB 1968 204 498

Absentee voting; establishment of drop-off locations preprocessing of returned absentee ballots before election day, accessibility for voters with visual impairment or print disability, report. (Patron—Deeds)

SB 1245 522 1611

Absentee voting; procedural and process reforms, availability and accessibility reforms, processing returned absentee ballots before election day, penalty.

Patron—VanValkenburg HB 1888 471 1374

Assistance for certain voters; curbside voting. (Patron—Price) HB 1921 163 398**Constitutional amendment;** qualifications of voters, fundamental right to vote, persons not entitled to vote (first reference).

Patron—Herring HJR 555 516 1602

Patron—Locke SJR 272 519 1604

Discrimination; prohibited in voting and elections administration, required process for enacting certain covered practices, civil causes of action, penalties, repeals provision relating to minority language accessibility, etc.

Patron—Price HB 1890 533 1704

Patron—McClellan SB 1395 528 1651

Local elections for governing bodies; elections for school boards, qualification of voters. (Patron—Convirs-Fowler)

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WAGES**Enterprise zone job creation grants;** for purposes of wage requirements, the minimum wage shall be the higher of the state minimum wage or the federal minimum wage, delayed effective date. (Patron—Heretick)

HB 1881 402 1219

Garnishment of wages; protected portion of disposable earnings. (Patron—Krizek)

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Virginia Human Rights Act; employees providing domestic service, application of laws applicable to employee safety and payment of wages. (Patron—McClellan)

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Virginia Initiative for Education and Work (VIEW); participants, modifies Full Employment Program (FEP), wages earned by FEP employee during period for which his employer receives a subsidy. (Patron—Tran)

HB 2035 209 514

Virginia Jobs Investment Program and Fund; minimum wage requirements.

Patron—Bagby HB 1967 16 35

Virginia Overtime Wage Act; overtime compensation for employees, definitions, penalties. (Patron—Mullin)

HB 2063 445 1290

WALKER, ARTHUR WILLIAM**Walker, Arthur William;** recording sorrow upon death. (Patron—Hudson) HJR 723 3229**WALT WHITMAN MIDDLE SCHOOL****Walt Whitman Middle School;** commemorating its 60th anniversary.

Patron—Surovell SR 509 3349

WARREN, ADRIENNE**Warren, Adrienne;** commending. (Patron—Hayes) HJR 694 3213**WARREN, DARRELL W., JR.****Warren, Darrell W., Jr.;** commending. (Patron—Hodges) HJR 672 3199**WASHINGTON, ANDREW D.****Washington, Andrew D.;** recording sorrow upon death. (Patron—Krizek) HJR 740 3238**WASHINGTON, ANNA MAE****Washington, Anna Mae;** recording sorrow upon death. (Patron—Bourne) HR 639 3334**WASHINGTON, D.C. METROPOLITAN AREA****Metropolitan Washington Airports Authority;** repeals effective date for creation of Authority. (Patron—Edwards)

SB 1214 377 961

WASTE DISPOSAL**Hampton Roads area refuse collection authority;** changes various requirements of the Southeastern Public Service Authority when budgeting or incurring debt, etc.

Patron—Cosgrove SB 1141 325 783

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WASTE MANAGEMENT			
Permit fee schedules; Department of Environmental Quality shall convene a work group to revise schedule for nonhazardous solid waste management facilities. Patron—Petersen	SB 1210	275	655
WATERS OF THE STATE, PORTS, AND HARBORS			
Chesapeake Bay Phase III Watershed Improvement Plan; wastewater treatment, Enhanced Nutrient Removal Certainty Program established. Patron—Lopez	HB 2129	363	915
Patron—Hanger	SB 1354	364	923
Natural gas pipelines; Department of Environmental Quality to conduct inspections of the land-disturbing activities related to construction of any transmission pipeline, where substantial adverse impacts or likely adverse impacts are found on a repeated, etc., basis, the Department may issue a stop work instruction. (Patron—Deeds)	SB 1265	277	656
Natural Resources, Secretary of; name changed to the Secretary of Natural and Historic Resources. (Patron—Plum)	HB 1836	401	1194
Nutrient credits; use by facility with certain stormwater discharge permit. Patron—Bulova	HB 1982	360	912
Onsite Sewage Indemnification Fund; authorizes the State Board of Health to use Fund to provide grants and loans to property owners with income at or below 200 percent of the federal poverty guidelines to repair failing onsite sewage systems or install onsite sewage systems on properties that lack adequate sewage disposal, report. (Patron—Hashmi)	SB 1396	382	967
Permit fee schedules; Department of Environmental Quality shall convene a work group to revise schedule for nonhazardous solid waste management facilities. Patron—Petersen	SB 1210	275	655
Port of Virginia tax credits; extends the sunset date. (Patron—Spruill)	SB 1158	373	943
Rappahannock River; designating a 79-mile portion located in Caroline, King George, Westmoreland, Essex, and Richmond Counties as a component of the Virginia Scenic Rivers System. (Patron—Cole, J.G.)	HB 1819	399	1193
Solar projects; State Water Control Board to administer a Virginia Erosion and Sediment Control Program (VESCP) on behalf of any locality that notifies the Department of Environmental Quality that it has chosen not to administer a VESCP, Virginia Erosion and Sediment Control Fund created. (Patron—Marsden)	SB 1258	497	1556
South River; designates a 6.5-mile segment in the City of Waynesboro as a component of the Virginia Scenic Rivers System. (Patron—Avoli)	HB 1958	407	1223
Stormwater Local Assistance Fund; grants awarded for projects related to Chesapeake Bay total maximum daily load (TMDL) requirements. (Patron—Lewis) .	SB 1404	385	984
Virginia Water Protection Permit; withdrawal of surface water or ground water, plans for water auditing and leak detection and repair. (Patron—Mason)	SB 1291	100	281
Water quality standards; modification of permits and certifications, applicants shall submit a detailed erosion and sediment control plan, etc. (Patron—McClellan)	SB 1311	501	1563
Wetland and stream mitigation banks; proximity of impacted site. (Patron—Bulova)	HB 1983	265	642
WAYNESBORO, CITY OF			
South River; designates a 6.5-mile segment in the City of Waynesboro as a component of the Virginia Scenic Rivers System. (Patron—Avoli)	HB 1958	407	1223
WEAPONS			
Muzzleloading rifle and shotgun; clarifies definitions. (Patron—Fariss)	HB 2298	432	1271
School board building or property, certain; establishment of gun-free zone permitted. (Patron—Subramanyam)	HB 1909	439	1278
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Public schools; severe weather conditions and other emergency situations, unscheduled remote learning days, school provides instruction and student services, etc. Patron—McNamara	HB 1790	19	37
Patron—Suetterlein	SB 1132	293	712
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Child care providers; background checks portability, check shall not be required if individual completed a background check within previous five years, pilot program, report. Patron—McGuire	HB 2086	510	1581
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Child Care Subsidy Program; temporarily expanding Program to provide financial assistance for child care to families in need during public health emergency. Patron—Filler-Corn	HB 2206	171	407
Child support; availability of medical assistance through Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage. Patron—Samirah	HB 2002	206	503
Child support obligations; party's incarceration not deemed voluntary unemployment or underemployment, provisions shall only apply to petitions for child support commenced on or after July 1, 2021, etc., effective clause. (Patron—Scott)	HB 2055	541	1728
Confirmatory adoption; expands the stepparent adoption provisions, person with a legitimate interest. (Patron—Boysko)	SB 1321	252	615
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Patron—Obenshain	SB 1297	208	510
Foster care; termination of residual parental rights, relatives and fictive kin. Patron—Gooditis	HB 1962	535	1711
Hospitals, nursing homes, etc.; determination by facilities for visits by clergy, priest, etc., during a declared public health emergency. (Patron—Kiggans)	SB 1356	525	1644
Public schools, child day programs, and certain other programs; carbon monoxide detectors required. (Patron—Askew)	HB 1823	165	401
SNAP benefits program; eligibility for benefits, postsecondary education. Patron—Helmer	HB 1820	160	389
Social services, local departments of; investigations and family assessments, disclosure of child's location. (Patron—Leftwich)	HB 2191	305	746
State-Funded Kinship Guardianship Assistance program; created, clarifies definition of "foster care services." (Patron—Mason)	SB 1328	254	617
Support orders; contents of orders, change in employment status, unemployment benefits. (Patron—Leftwich)	HB 2192	222	538
Virginia Initiative for Education and Work (VIEW); participants, modifies Full Employment Program (FEP), wages earned by FEP employee during period for which his employer receives a subsidy. (Patron—Tran)	HB 2035	209	514
WELLS, JOSHUA RYAN			
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Rappahannock River; designating a 79-mile portion located in Caroline, King George, Westmoreland, Essex, and Richmond Counties as a component of the Virginia Scenic Rivers System. (Patron—Cole, J.G.)	HB 1819	399	1193
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Wetland and stream mitigation banks; proximity of impacted site. (Patron—Bulova)	HB 1983	265	642
Wetlands; extension of certain permits through 2021. (Patron—Cosgrove)	SB 1143	270	649
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Balloons; release of nonbiodegradable balloons outdoors prohibited, civil penalty. Patron—Guy	HB 2159	420	1236
Muzzleloading rifle and shotgun; clarifies definitions. (Patron—Fariss)	HB 2298	432	1271
Trout fishing in stocked waters; equalizes for residents and nonresidents requirements to fish in designated waters. (Patron—Pillion)	SB 1402	280	658
Wildlife corridors; various agencies to consider and incorporate, where applicable, government planning, State Forester shall develop and implement forest conservation and management strategies to improve wildlife habitat and corridors, Department of Wildlife Resources shall publish plans and any updates on its website. Patron—Marsden	SB 1274	498	1557

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Williamsburg Faith in Action and the Arc of Greater Williamsburg ; commending. Patron—Mullin	HJR	755	3245
WILLIAMSBURG HEALTH FOUNDATION			
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WILLS, TRUSTS, AND FIDUCIARIES			
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Womack, William Henry, Jr. ; recording sorrow upon death. (Patron—McQuinn)	HJR	735	3235
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WOMEN'S SUFFRAGE MONTH			
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Wood, Freddie Eugene, III ; recording sorrow upon death. (Patron—Leftwich)	HR	638	3334
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Woodson, Willie ; recording sorrow upon death. (Patron—McQuinn)	HJR	733	3234
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Workers' compensation ; adds salaried or volunteer emergency medical services personnel to the list of persons to whom, after five years of service, the occupational disease presumption for death caused by hypertension or heart disease applies, personnel operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions. Patron—Heretick	HB	1818	436 1275
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Workers' compensation; claims not barred. (Patron—Lewis)	SB 1351	515	1602
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Workers' compensation; establishes a presumption that COVID-19 causing the death or disability of firefighters, law-enforcement officers, correctional officers, or regional jail officer is an occupational disease. Patron—Jones	HB 2207	547	1763
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**ACTS
OF THE
GENERAL ASSEMBLY**



2021 SPECIAL SESSION II

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2021 SPECIAL SESSION II

which met at the State Capitol, Richmond

Convened Monday, August 2, 2021

Ended Wednesday, January 12, 2022

CHAPTER 1

COMMONWEALTH OF VIRGINIA
RICHMOND
2021

Compiled by the Clerk's Office

The House of Delegates

**Suzette P. Denslow
Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth**

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Indexing and Enrolling Director**

**Sarah A. Armistead
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ACTS OF THE GENERAL ASSEMBLY

2021 SPECIAL SESSION II

CHAPTER 1

An Act to amend and reenact § 3-5.23 and the fourteenth and fifteenth enactments of Chapter 1289 of the Acts of Assembly of 2020, as amended by Chapter 56 of the Acts of Assembly of 2020, Special Session I, and Chapter 552 of the Acts of Assembly of 2021, Special Session I, which appropriated funds the two years ending, respectively, on June 30, 2021, and June 30, 2022, and to amend Chapter 1289 of the Acts of Assembly of 2020, as amended by Chapter 56 of the Acts of Assembly of 2020, Special Session I, and Chapter 552 of the Acts of Assembly of 2021, Special Session I, by adding an item numbered 479.20 and by adding enactments numbered 14 through 27, relating to emergent issues; pandemic response and appropriation of federal American Rescue Plan Act of 2021 funds.

[H 7001]

Approved August 10, 2021

Be it enacted by the General Assembly of Virginia:

1. That Chapter 1289 of the Acts of Assembly of 2020, as amended by Chapter 56 of the Acts of Assembly of 2020, Special Session I, and Chapter 552 of the Acts of Assembly of 2021, Special Session I, is amended and reenacted by amending § 3-5.23 and the fourteenth and fifteenth enactments, and that Chapter 1289 of the Acts of Assembly of 2020, as amended by Chapter 56 of the Acts of Assembly of 2020, Special Session I, and Chapter 552 of the Acts of Assembly of 2021, Special Session I, is amended by adding an item numbered 479.20 and by adding enactments numbered 14 through 27 as follows:

479.20	First Year - FY2021	Second Year - FY2022
<i>Disaster Planning and Operations (72200)</i>	\$0	\$9,092,453,771
<i>Pandemic Response (72211)</i>	\$0	\$9,092,453,771
<i>Fund Sources:</i>		
<i>Federal Trust</i>	\$0	\$9,092,453,771

A. Out of the revenues received from the federal distributions of the American Rescue Plan Act of 2021 (ARPA), the following table represents non-discretionary amounts appropriated prior to the enactment of this act.

<i>ARPA Funding Source</i>	<i>Agency / Purpose</i>	<i>Amount</i>
<i>State and Local Recovery Fund - Local (Non-Entitlement) - (US Treasury)</i>	<i>Department of Accounts Transfer Payments (162) / ARPA local allocations - Non-Entitlement Localities - Part 1</i>	<i>\$316,876,775</i>
<i>WIC Cash Value Vouchers Increase (USDA)</i>	<i>Department of Health (601) / Increase WIC Cash-value voucher benefit for fruit and vegetables</i>	<i>\$8,910,669</i>
<i>Unemployment Insurance Extension Implementation Grants (US DOL)</i>	<i>Virginia Employment Commission (182) / Unemployment Insurance Benefits</i>	<i>\$2,058,424,317</i>
<i>Aid to State Veterans Homes - Per Diem Program (US VA)</i>	<i>Department of Veterans Services (912) / Aid to State Veterans Homes per diem Program</i>	<i>\$4,285,124</i>

B.1. The appropriation for this Item includes an amount estimated at \$3,179,200,801 in the second year from the revenues to be received from distributions of the federal State and Local Recovery Fund (SLRF) pursuant to the American Rescue Plan Act of 2021 (ARPA).

2. The following appropriations shall be transferred from this Item for the following purposes:

a. Unemployment Assistance

1) \$73,600,000 to the Virginia Employment Commission (182) for information technology modernization, call center improvements, security, and claims adjudication. Information technology improvements shall include a customer relationship management system and other such communication tools to better serve Unemployment Insurance clients.

2) \$862,000,000 to the Virginia Employment Commission (182) for deposit to the Unemployment Trust Fund.

3) Notwithstanding any other provision of law, the Virginia Employment Commission shall compute tax rates for Calendar Year 2022 by excluding pandemic related claim activity. Any such rate for any employer for Calendar Year 2022, may be less than, but shall not exceed the established rate for that employer for Calendar Year 2021. For purposes of this calculation, pandemic related claim activity is defined as all regular Unemployment Insurance claims activity from April 1, 2020, through June 30, 2021. The pool charge for Calendar Year 2022 shall be computed using this same methodology and set at an amount not to exceed the rate in effect for Calendar Year 2021.

b. Broadband

1) \$500,000 to the Department of General Services (194) for legal and real estate transaction support for agencies that own property to support broadband expansion.

2) \$479,000,000 to the Department of Housing and Community Development (165) to support broadband access managed and awarded through the Virginia Telecommunications Initiative grant making process; however, the agency may adjust the criteria to reflect the provisions established by the U.S. Department of the Treasury's rules and regulations regarding the Coronavirus State and Local Fiscal Recovery Funds established under the American Rescue Plan Act.

3) \$8,000,000 to the Department of Housing and Community Development (165) for the Line Extension Customer Assistance Program to support the extension of existing broadband networks to low to moderate income residents.

4) For grants awarded from the amounts appropriated in paragraphs B.2.b.2), C.1., and Item 114, Paragraph L. of Chapter 552, 2021 Acts of Assembly, Special Session I for the construction of broadband infrastructure through the Virginia Telecommunications Initiative, the Department of Housing and Community Development shall deliver an annual performance report to the Governor, Secretary of Commerce and Trade, and Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee on or before November 1st of each year, starting in Calendar Year 2022. To the extent possible, the annual performance report shall contain information by grant recipient and year on the following metrics: (1) Number of passings; (2) Grant dollars expended by fund source (State and Local Recovery Fund, Capital Project Fund, general fund state grants and match); (3) Contract performance period, and on-time progress towards project delivery; (4) Maximum advertised project speeds available; and, (5) Achievement of key project milestones. The annual performance report shall include an evaluation of any projects under risk of completion or underperformance. The Department of Housing and Community Development shall develop a public facing dashboard to be updated quarterly that contains key performance information by grant recipient and year, and includes the key performance indicators outlined above. Information in this public facing tool shall contain data beginning with grants awarded in the Fiscal Year 2022 Virginia Telecommunications Initiative grant cycle.

c. Rebuild VA

1) \$250,000,000 to the Department of Small Business and Supplier Diversity (350) for the Rebuild VA program. In awarding these funds, priority shall be given to qualifying applications received by the Department on or before June 30, 2021, for which a grant has not been awarded. The Department shall solicit new applications to allocate any balance that remains from this appropriation. In allocating funds to support grants for applications solicited by the agency after June 30, 2021: (1) the Department shall prioritize funding for businesses in the hospitality and tourism industry, that includes, but is not limited to hotel and lodging establishments, restaurants, and entertainment and public amusement venues; and, (2) in awarding these funds to restaurants, funds shall be reserved for restaurants that have not received federal assistance through the Small Business Administration's Restaurant Revitalization Fund or loan forgiveness from the Small Business Administration's Paycheck Protection Program.

d. Other small business

1) \$22,500,000 to the Department of Housing and Community Development (165) to support the Virginia Removal or Rehabilitation of Derelict Structures Fund program. Notwithstanding § 36-155, Code of Virginia, for the purposes of this funding, the maximum grant amount shall be \$5,000,000 for projects in economically distressed areas, and any grant award in excess of \$1,000,000 for projects in economically distressed areas shall be conditioned upon a 100 percent match of local and/or private funds by the local government. The funds shall be managed and awarded through the Industrial Revitalization Fund process; however, the department may adjust the criteria to reflect the provisions established by the U.S. Department of the Treasury's rules and regulations regarding the Coronavirus State and Local Fiscal Recovery Funds established under the American Rescue Plan Act. Pursuant to these provisions, DHCD shall increase project cap amounts and consider updates to program guidelines that make more projects viable, especially in communities disproportionately impacted by the pandemic. Where the proposed project's end user is a private business, DHCD shall include evaluation criteria that incentivizes significant private investment.

2) \$4,000,000 to the Department of Housing and Community Development to support the Virginia Main Street Program in providing assistance to businesses recovering from the COVID-19 pandemic.

e. Utility Assistance

1) a) \$120,000,000 for utility assistance, to help provide direct assistance to residential utility customers with accounts over 60 days in arrears including the cost to administer the program.

b) The State Corporation Commission shall establish an application process to distribute funds directly to utilities for the purpose of efficiently providing direct assistance to customers. Funds shall be awarded proportionally based on total arrearages of residential utility customer accounts over 60 days in arrears as of August 31, 2021. The Director, Department of Planning and Budget shall distribute funds to the State Corporation Commission within 30 days of the passage of this act. The Director, Department of Planning and Budget in consultation with the State Corporation Commission and the

Department of Housing and Community Development shall transfer amounts from this allocation to address the arrearages held by residential customers of utilities outside the jurisdiction of the Commission to the Department of Housing and Community Development for distribution to these utilities. Notwithstanding § 2.2-4002, Code of Virginia, the provisions contained in this paragraph establishing the utility direct assistance program shall not be subject to the Administrative Process Act.

c) Upon receipt of any funds provided in this paragraph, utilities shall maintain separate ARPA COVID-19 Utility Assistance Funds and record direct assistance payments to residential customers on their books in accordance with applicable accounting standards. Utilities may not direct any funds provided in this paragraph to new deposits, down payments, fees, late fees, interest charges, or penalties. Utilities may require the customer to attest to the utility or to a third party chosen by the utility that the customer has experienced a financial hardship resulting directly or indirectly from the COVID-19 pandemic or that they have experienced a hardship to pay during the COVID-19 pandemic prior to receiving direct assistance from the utility's ARPA COVID-19 Utility Assistance Fund. While utilities may require attestation of such hardship, it is implied that arrearages accrued over 60 days for customer nonpayment of bills from March 12, 2020, to the effective date of this act, for which federal relief funds shall be used for direct subsidy payments on behalf of customers were incurred as a financial hardship created by the COVID-19 pandemic. Utilities shall reflect the direct assistance payment on an eligible customer's monthly bill, after the funds are applied to the customer's account. Should the application of any assistance render a customer due a balance necessitating a cash refund payable to the customer, such assistance shall be proportionally reduced as to achieve a zero balance.

d) For the purposes of this appropriation, utilities include electric companies subject to regulation of the State Corporation Commission, natural gas suppliers subject to the regulation of the Commission, electric and gas municipal utilities, and water suppliers and wastewater service providers, subject to the regulation of Commission or constituting a municipal utility. "Municipal utility" means a utility providing electric, gas, water, or wastewater service that is owned or operated by a city, county, town, authority, or other political subdivision of the Commonwealth. Notwithstanding the provisions of this paragraph, a utility does not include any Phase II utility subject to the regulation of the State Corporation Commission.

e) The Department of Housing and Community Development shall survey municipal utilities to determine the amount of unspent utility assistance funds previously provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), as well as the level of outstanding customer arrearages as of August 31, 2021, from March 12, 2020. The information collected shall include the number and value of accounts that are at least 60 days in arrears disaggregated by residential, business, and industrial users. Utilities not subject to the regulation of the State Corporation Commission shall submit the required information to the Department in a timely manner. The Department shall submit a report on its findings to the Governor and the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee by November 1, 2021.

f) The State Corporation Commission shall survey jurisdictional utilities to determine the amount of unspent utility assistance funds previously provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), as well as the level of outstanding customer arrearages as of August 31, 2021, from March 12, 2020. The information collected shall include the number and value of accounts that are at least 60 days in arrears disaggregated by residential, business, and industrial users. Utilities subject to the regulation of the State Corporation Commission shall submit the required information to the Commission in a timely manner. The Commission shall submit a report on its findings to the Governor and the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee by November 1, 2021.

g) If it is determined that the funds provided in this paragraph are insufficient to satisfy the aggregate outstanding jurisdictional and municipal utility customer arrearages following the passage of this act, additional funding may be considered during the 2022 General Assembly Session.

f. Tourism

1) \$50,000,000 to the Virginia Tourism Authority (320) to support local domestic marketing organizations, as well as the Authority's marketing and incentive programs.

2) \$1,000,000 to the Virginia Tourism Authority (320) to collaborate and partner with the City of Virginia Beach to develop historical and cultural content with the Virginia African American Cultural Center (VAACC).

3) \$6,000,000 to the Fort Monroe Authority (360) for construction of a permanent monument to commemorate the 400-year anniversary of the First Landing of Africans at Point Comfort in Fort Monroe.

4) \$250,000 to the Department of Historic Resources (423) to be provided to the City of Harrisonburg to partner with the Dallard-Newman House to complete development of a Museum of African- American History and Culture in Harrisonburg.

g. Education

1) \$500,000 to Direct Aid to Public Education (197) to support An Achievable Dream program in Henrico County.

2) \$500,000 to Direct Aid to Public Education (197) to support Fredericksburg City Schools to expand its career and technical education programs.

3) \$200,000 to Direct Aid to Public Education (197) to provide after school and summer education programs to Sussex and Greensville Counties' students through the Sussex County Youth and Adult Recreation Association (\$100,000) and the Washington Park Association (\$100,000).

4) \$800,000 to Direct Aid to Public Education (197) to provide a one-time grant to Portsmouth Public Schools to support students with workforce readiness education and industry based skills, including internships and externships, apprenticeships, and assistance in enrollment in post-secondary education.

h. Education - Ventilation

1) \$250,000,000 to Direct Aid to Public Education (197) for qualifying ventilation improvement projects in local public schools. Funds shall be allocated to local school divisions based on fiscal year 2022 projected March 31 average daily membership with a minimum allocation of \$200,000 per division. Funds shall be paid to school divisions on a reimbursement basis. Localities shall provide a match for these funds from any available fund sources equal to 100 percent of the grant amount. A school division may elect to accept a grant amount less than its formula allocation. Before receiving any funds, local school divisions must provide a description for each of the projects to be completed with these funds, including estimated costs and date of completion, and certify to the Department of Education no later than November 15, 2021, that these funds will be used to improve ventilation systems in public facilities in accordance with guidelines issued by the U.S. Department of the Treasury for the American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds. Following certification from a school division that it will not participate in the grant program or elects to accept an amount less than its formula allocation, the Department of Education is authorized to reallocate any program balances based on actual demand. No later than December 15, 2021, the Department of Education shall compile the school division certifications and submit a report to the Chairs of the Senate Finance and Appropriations and House Appropriations Committees, the Secretary of Education, the Secretary of Finance, and the Director, Department of Planning and Budget.

2) \$2,000,000 to the Jamestown-Yorktown Foundation (425) to upgrade its ventilation systems in its facilities.

3) \$5,000,000 to the Virginia Museum of Fine Arts (238) to replace outdated air handling units on the main museum campus.

i. Higher Education

1) \$100,000,000 to the State Council of Higher Education for Virginia (245) for need-based financial aid for in-state undergraduate students from low- and moderate-income households at public institutions of higher education. No less than 30 days prior to distributing the funds to the public institutions, the Council shall report on the allocation methodology used to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Finance, the Secretary of Education, and the Director, Department of Planning and Budget.

2) \$11,000,000 to the State Council of Higher Education for Virginia (245) for need-based financial aid for in-state undergraduate students from low- and moderate-income households at institutions of higher education eligible for the Virginia Tuition Assistance Grant Program in accordance with § 23.1-628 through § 23.1-635, Code of Virginia. No institution shall receive more than ten percent of the total funding provided herein. No less than 30 days prior to distributing the funds to the private institutions, the Council shall report on the allocation methodology used to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Finance, the Secretary of Education, and the Director, Department of Planning and Budget.

3) \$40,000,000 to the Virginia Community College System (260) for capital projects at Northern Virginia Community College (NVCC). Of this allocation, \$15,000,000 is designated for construction of a new building that would allow NVCC to expand its trades programs in carpentry, electrical, computer integration in trades, advanced automotive, and backup power systems. \$25,000,000 is designated for construction of a building that would allow NVCC to expand its nursing, phlebotomy, occupational therapy assistant, and physical therapist assistant programs.

4) \$10,000,000 to the Online Virginia Network Authority (244).

j. Food Access

1) \$14,600,000 to the Department of Agriculture and Consumer Services (301) for food assistance, including the expansion of food access and healthcare partnerships, development of a shelf-stable food purchase program, and the purchase of food from local farmers through the Virginia Farm to Virginia Families Food Box Program.

k. CSOs and Wastewater

1) \$5,750,000 to the Department of Health (601) to provide improvement funds for well and septic systems for homeowners at or below 200 percent of the federal poverty guidelines.

2) \$75,000,000 to the Department of Environmental Quality (440) for septic, straight pipe, and sewer collection system repair, replacement, and upgrades.

3) \$125,000,000 to the Department of Environmental Quality (440) for grants to the cities of Alexandria, Lynchburg, and Richmond to pay a portion of the costs of combined sewer overflow control projects. The City of Alexandria is to receive \$50,000,000; the City of Lynchburg is to receive \$25,000,000; and the City of Richmond is to receive \$50,000,000. In order to receive these funds, the locality must certify that it is providing a 100 percent match to the funds it will receive pursuant to this paragraph.

4) \$100,000,000 to the Department of Environmental Quality (440) to reimburse eligible entities as provided for in the Enhanced Nutrient Removal Certainty (ENRC) Program established in § 62.1-44.19:14, Code of Virginia, for capital costs incurred for the design and installation of nutrient removal technology, and to reimburse the Town of Pound and the City of Petersburg for capital costs incurred for infrastructure improvements that are eligible for reimbursement under the Virginia Water Facilities Revolving Fund established in §§ 62.1-225, Code of Virginia. Such reimbursements shall be in accordance with eligibility determinations made by the Department of Environmental Quality.

l. Drinking Water

1) \$50,000,000 to the Department of Health (601) to support equal access to drinking water at small and disadvantaged community waterworks. These funds shall be limited in their use to qualifying municipal and private drinking water projects and shall not be used for improvements to the department's internal systems, staffing, or processes.

m. Parks

1) \$25,000,000 to the Department of Conservation and Recreation (199) for outdoor recreation area maintenance and construction needs.

2) \$1,000,000 to the Department of Conservation and Recreation (199) to be provided to Fairfax County for trail system connections at Lake Royal Park.

n. Mental Health

1) \$45,000,000 to the Department of Behavioral Health and Developmental Services (720) for bonuses provided to direct care staff at state behavioral health facilities and intellectual disability training centers.

2) \$10,000,000 to the Department of Behavioral Health and Developmental Services (720) for the continued expansion of community-based crisis services, which may include mobile crisis services and crisis receiving facilities.

3) \$1,200,000 to the Department of Behavioral Health and Developmental Services (720) for the purchase of personal protective equipment at state facilities.

4) \$50,000,000 to the Department of Behavioral Health and Developmental Services (720) for the renovation or replacement of ventilation and water or sewer systems at state facilities.

5) \$5,000,000 to the Department of Behavioral Health and Developmental Services (720) for permanent supportive housing in Northern Virginia to assist with the bed crisis at state facilities.

6) \$1,650,000 to the Department of Behavioral Health and Developmental Services (720) to expand a pilot program to serve approximately 60 additional individuals with a primary diagnosis of dementia who are ready for discharge from state geriatric behavioral health hospitals to the community and who are in need of nursing facility level care. Funding for the pilot program shall be dependent upon an agreement between the department and the Community Services Board in the jurisdiction the pilot program is located. The Department shall report to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on the design and implementation of the pilot program by December 1, 2021, with a report on the program's outcomes, including data on hospital readmissions and program sustainability by June 30, 2022.

7) \$1,000,000 to the Department of Criminal Justice Services (140) to provide resources for crisis intervention team training to law-enforcement officers and dispatchers, and one position to provide technical assistance in support of the mental health awareness response and community understanding services (Marcus) alert system.

o. Substance Use Disorder

1) \$5,000,000 to the Department of Health (601) for substance misuse and suicide prevention efforts.

2) \$10,000,000 to the Department of Behavioral Health and Developmental Services (720) to make grants to members of the Virginia Association of Recovery Residences for recovery support services.

3) \$5,000,000 to the Department of Behavioral Health and Developmental Services (720) to expand community-based substance use disorder treatment services.

p. Public Health Initiatives

1) \$2,500,000 to the Virginia State Bar (117) for legal aid funding for legal representation in eviction cases.

2) \$2,285,000 to the Department of General Services (194) for Consolidated Labs to include courier / dropbox enhancements, customer support upgrades, and Laboratory Information Management System (LIMS) infrastructure, development, and improvement.

3) \$3,750,000 to the Department of Housing and Community Development (165) for a dedicated lead rehabilitation program to address childhood lead poisoning in residential properties.

4) \$8,000,000 to the Department of Health (601) to address broadband connectivity and network infrastructure issues at local health departments. The department shall communicate a detailed plan and implementation schedule to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget by September 30, 2021. Additionally, the department shall report quarterly to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on progress made, with the first progress report to be delivered not later than December 31, 2021.

5) \$10,000,000 to the Department of Health (601) for the procurement and deployment of an electronic health records system. The department shall communicate a detailed plan and implementation schedule to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget by September 30, 2021. Additionally, the department shall report quarterly to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on progress made, with the first progress report to be delivered not later than December 31, 2021.

6) \$30,000,000 to the Department of Health (601) to target core building upgrades at local health departments to mitigate the impact of infrastructure that hinders the agency's ability to reach and serve at-risk communities. The department shall communicate a detailed plan and implementation schedule to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and

Budget by September 30, 2021. Additionally, the department shall report quarterly to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on progress made, with the first progress report to be delivered not later than December 31, 2021.

7) \$10,000,000 to the Department of Health (601) for the modernization of administrative systems and software in order to create response capacity during future emergencies. The department shall communicate a detailed plan and implementation schedule to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget by September 30, 2021. Additionally, the department shall report quarterly to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on progress made, with the first progress report to be delivered not later than December 31, 2021.

8) \$1,000,000 to the Department of Health (601) for the creation of a Public Oral Health Taskforce aimed at strengthening public oral health and improving patient outcomes and experiences.

9) \$10,000,000 to the Department of Health (601) for a records management system that will digitize and automate records processes. The department shall communicate a detailed plan and implementation schedule to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget by September 30, 2021. Additionally, the department shall report quarterly to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director of the Department of Planning and Budget on progress made, with the first progress report to be delivered not later than December 31, 2021.

10) \$20,000,000 to the Department of Health (601) to provide targeted community outreach in difficult to reach communities harmed by COVID-19.

11) \$10,000,000 to the Department of Medical Assistance Services (602) to address operational backlogs by hiring contractors to assist with eligibility re-evaluations and member appeals. Funding also will be used to perform COVID-19 related outreach and engagement activities.

12) \$31,148,676 to the Department of Medical Assistance Services (602) to make payments to Medicaid-eligible nursing homes and specialized care providers equivalent to a \$5 per diem rate for service dates between July 1, 2021, and June 30, 2022. The department shall have the authority to work with necessary vendors and contractors to determine payment eligibility, amounts, and the process by which payments will be made. Final payments will be made by September 30, 2022. The department shall have the authority to implement such payments prior to the completion of any regulatory process to effect such changes. The Governor is authorized to adjust this SLRF appropriation to ensure that sufficient funding is available to make necessary payments.

13) \$528,300 to the Department for Aging and Rehabilitative Services (262) to fund HVAC/air quality systems and physical plant improvements in assisted living facilities that serve a disproportionate share of auxiliary grant residents.

14) \$1,000,000 to the Department of Social Services (765) for the Virginia Trauma-Informed Community Network (TICN) to provide a community awareness campaign, education, professional development, mini grants, and other initiatives to support existing networks.

15) \$600,000 to the Department for the Blind and Vision Impaired (702) to construct an outdoor multi-purpose pavilion to allow activities to be conducted outdoors in a safer environment relative to COVID-19 transmission.

16) \$11,500,000 to the Department for the Blind and Vision Impaired (702) to renovate the Virginia Industries for the Blind facility in Charlottesville to ensure that an essential link in the pandemic supply chain is available.

17) \$450,000 to the Department for the Blind and Vision Impaired (702) to upgrade the ventilation systems in six agency offices.

18) \$1,393,085 to the Department of Emergency Management (127) for Virginia Emergency Support Team (VEST) COVID-19 recovery activities and four support staff.

19) \$10,270,354 to the Department of Veterans Services (912) to address revenue shortfalls resulting from reduced census at Sitter & Barfoot Veterans Care Center and Virginia Veterans Care Center caused by COVID-19, and to provide support for temporary additional staff at state veterans cemeteries.

20) a) \$50,000,000 to the Department of Military Affairs (123) for projects at Readiness Centers (armories) to replace HVAC systems and to convert or expand existing multi-purpose spaces or to add space that may be used as emergency medical suites and to provide the necessary support equipment. Priority for use of these funds shall be given to completing HVAC projects.

b) No less than 60 days prior to initiating a project, the department shall submit preliminary plans and specifications along with cost estimates for review and approval by the Six-Year Capital Outlay Plan Advisory Committee.

21) \$529,000 to the Department of Military Affairs (123) for Infrared Body Temperature Scanning equipment and personal protective equipment.

q. Language Translation Capacity

1) \$500,000 to the Office of the Governor (121), Office of Equity, Diversity, and Inclusion, for language access translation planning consulting services. Consulting services will include the development of a plan to determine which state agencies have the highest need for translation services, determination of the types of services needed, and the determination of the costs to implement such services in support of determining amounts to consider for inclusion in the budget for the 2022-2024 biennium. The Chief Diversity Officer shall provide a report on the results of the translation

planning efforts to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2021.

r. Addressing Community Violence

1) \$2,500,000 to the Office of the Attorney General (141) for gun violence reduction projects in partnership with select localities.

2) \$12,199,930 to the Department of Criminal Justice Services (140) to support services to victims of crime including, but not limited to, services for victims of sexual assault and domestic violence, victims of elder abuse and child abuse, and victims of crime. The Department shall use these funds to support sexual assault and domestic violence applicants of the Victims Services Grant Program for Fiscal Year 2022 such that the amounts reduced from the competitive grant applications for this grant period, due to lack of funding, are fully restored.

3) \$1,000,000 to the Department of Criminal Justice Services (140) to support the Virginia Sexual and Domestic Violence Victim Fund.

4) \$800,000 to the Department of Criminal Justice Services (140) to provide a one-time grant to the City of Hampton to support an employment program for court-involved youths and adults facing barriers to employment, expand services for those participating in or at risk of participating in gun violence, and provide counseling or mental health services for those exposed to violence.

5) \$505,375 to the Department of Forensic Science (778) for the purchase of equipment to analyze firearms evidence.

6) \$2,500,000 to the Department of Criminal Justice Services (140) to provide competitive one-time grants to groups providing community-based gun violence reduction or youth and gang violence intervention programming through initiatives including, but not limited to, those substantially similar to programs such as the Gang Reduction and Youth Development of Los Angeles and Operation Ceasefire of Boston models. In awarding such grants, the Department shall prioritize initiatives in localities experiencing higher than average levels of gun violence and those assessed pursuant to Item 406, Paragraph R of Chapter 1289 of the 2020 Session of the General Assembly.

s. Public Safety

1) \$375,000 to the Division of Capitol Police (961) to address staffing and security concerns at the seat of government. The funding shall be allocated subject to the approval of a spending plan by the Committee on Joint Rules that is consistent with federal requirements of the American Rescue Plan Act.

2) \$33,179,883 to the Compensation Board (157) for a one-time hazard pay bonus of \$3,000 for state-supported sworn officers of Sheriff's Departments and Regional Jails. Furthermore, the Governor shall convene a work group to address the compensation structure for correctional officers at the Department of Corrections, deputy sheriffs within Sheriff's Departments, and regional jail officers. The workgroup shall include staff from the Department of Human Resource Management, the State Compensation Board, the Department of Corrections and the Joint Legislative Audit and Review Commission will deliver recommendations to the Governor and General Assembly by October 15, 2021.

3) \$31,494,724 to the Department of Corrections (799) for COVID-19 testing in correctional facilities, including point prevalence testing at correctional facilities, antigen testing for non-vaccinated staff and visitors, equipment and supplies for COVID tests, and for wastewater surveillance testing. Also included in this amount is funding to support COVID-19 vaccination teams, to purchase equipment for the emergency disinfection team, to purchase personal protective equipment (PPE) for correctional facilities, and to support the expansion of telehealthcare.

4) \$23,550,248 to the Department of Corrections (799) to support a one-time hazard pay bonus of \$3,000 for corrections and law enforcement staff.

5) \$1,618,086 to the Department of Corrections (799) to support rate increases for medical contractors and five staff positions to support COVID-19 project management activities.

6) \$45,000 to the Department of Corrections (799) to reimburse the contractor that operates the Lawrenceville Correctional Center for the cost of personal protective equipment (PPE).

7) \$410,000 to the Department of Juvenile Justice (777) to provide quarantine spaces, tents to enable outdoor visitation, testing supplies, personal protective equipment, and ventilation modifications for facilities. Also included in this amount is funding for mobile smartphones, for medical tracking software, and for vaccination clinics for residents and staff.

8) \$638,140 to the Department of Juvenile Justice (777) to provide hazard pay for probation and security staff and a sign-on bonus for cafeteria and janitorial workers.

9) \$1,380,000 to the Department of State Police (156) to purchase live scan fingerprinting machines for the agency's area offices.

10) a) \$20,000,000 to the Department of State Police (156) to provide one-time bonuses to sworn, law enforcement personnel. The department is authorized to pay bonuses to its sworn, law enforcement officers of: \$5,000 to all sworn, law enforcement officers, compression bonuses within a range equivalent to two and eight percent of salary as appropriate to qualifying officers, sign-on/recruitment bonuses to newly hired troopers of \$5,000, and retention bonuses as needed. In addition, these funds may be used to reimburse up to \$2,000 of relocation expenses for each newly hired trooper and any law enforcement personnel who is being relocated by the department.

b) The department shall report its plan for allocating these funds to the permitted uses stated above in the compensation plan required in paragraph 5.k.5)b) of this item. In addition, no later than September 1, 2022, the department shall report the actual bonuses and expenses paid in fiscal year 2022.

t. Elections

1) \$1,500,000 to the Department of Elections (132) for voter education efforts to inform voters about new elections laws and to combat misinformation about Virginia elections.

2) \$3,000,000 to the Department of Elections (132) to support local efforts to expand early voting to include the adoption of Sunday voting.

3.a. Prior to initiating any program, service, or spending from the appropriations listed in paragraph 2. above, the responsible agency must ensure that its intended action qualifies for the use of the funds under the ARPA criteria to support health expenditures, to address negative economic impacts caused by the public health emergency, to provide premium pay for essential workers, or to invest in water, sewer, and broadband infrastructure as described in the Interim Final Rule or the guidance issued by the U.S. Department of Treasury. Agencies shall not rely on the provisions for replacing lost public sector revenue as a qualifying criteria without receiving prior written approval from the Governor.

b. Agencies must ensure compliance with all use, documentation, and reporting requirements established in state and federal guidelines and laws.

4. The Governor is authorized to appropriate additional amounts not listed above if they must be executed before the 2022 regular session of the General Assembly in order to respond to a public health emergency or to prevent the emergence of a new health emergency. The Governor shall provide written notice to the chairpersons of the House Appropriations Committee and the Senate Finance and Appropriations Committee no less than five business days prior to appropriating such amounts.

5. In addition to the amounts appropriated in the second year in the preceding subparagraphs of B.2. above, \$353,871,958 is authorized to be included in the Governor's introduced budget for the 2022-2024 biennium from SLRF amounts received from the federal government. The following agencies shall provide a plan for the proposed use of the SLRF amounts listed to the Governor and the Chairs of the House Appropriation and Senate Finance and Appropriations Committees via budget requests submitted to the Department of Planning and Budget on or before October 1, 2021.

a. Unemployment Assistance

1) \$17,600,000 to the Virginia Employment Commission (182) for information technology modernization, call center improvements, security, and claims adjudication. Information technology improvements shall include a customer relationship management system and other such communication tools to better serve Unemployment Insurance clients.

b. Broadband

1) \$1,500,000 to the Department of General Services (194) for legal and real estate transaction support for agencies that own property to support broadband expansion.

2) \$8,000,000 to the Department of Housing and Community Development (165) for a Line Extension Customer Assistance Program to support the extension of existing broadband networks to low-to-moderate income residents.

c. Other small business

1) \$22,500,000 to the Department of Housing and Community Development (165) to support the Virginia Removal or Rehabilitation of Derelict Structures Fund program. Notwithstanding § 36-155, Code of Virginia, for the purposes of this funding, the maximum grant amount shall be \$5,000,000 for projects in economically distressed areas, and any grant award in excess of \$1,000,000 for projects in economically distressed areas shall be conditioned upon a 100 percent match of local and/or private funds by the local government. The funds shall be managed and awarded through the Industrial Revitalization Fund process; however, the department may adjust the criteria to reflect the provisions established by the U.S. Department of the Treasury's rules and regulations regarding the Coronavirus State and Local Fiscal Recovery Funds established under the American Rescue Plan Act. Pursuant to these provisions, DHCD shall increase project cap amounts and consider updates to program guidelines that make more projects viable, especially in communities disproportionately impacted by the pandemic. Where the proposed project's end user is a private business, DHCD shall include evaluation criteria that incentivizes significant private investment.

2) \$4,000,000 to the Department of Housing and Community Development (165) to support the Virginia Main Street program in providing assistance to businesses recovering from the COVID-19 pandemic.

d. Food Access

1) \$11,000,000 to the Department of Agriculture and Consumer Services (301) for food assistance, including continuation of the Virginia Agriculture Food Assistance Program established in § 3.2-4783, Code of Virginia, and to expand the capacity of Virginia's network of food providers to accept, store, and distribute food products.

e. CSOs and Wastewater

1) \$5,750,000 to the Department of Health (601) to provide improvement funds for well and septic systems for homeowners at or below 200 percent of the federal poverty guidelines.

f. Drinking Water

1) \$50,000,000 to the Department of Health (601) to support equal access to drinking water at small and disadvantaged community waterworks. These funds shall be limited in their use to qualifying municipal and private drinking water projects and shall not be used for improvements to the department's internal systems, staffing, or processes.

g. Mental Health

1) \$76,900,000 to the Department of Behavioral Health and Developmental Services (720) for salary adjustments for direct care staff at state behavioral health facilities and intellectual disability training centers.

2) \$20,000,000 to the Department of Behavioral Health and Developmental Services (720) for the continued expansion of community-based crisis services.

3) \$1,200,000 to the Department of Behavioral Health and Developmental Services (720) for the purchase of personal protective equipment at state facilities.

4) \$1,650,000 to the Department of Behavioral Health and Developmental Services (720) to continue an expanded pilot program in FY 2023 to serve approximately 60 additional individuals with a primary diagnosis of dementia who are ready for discharge from state geriatric behavioral health hospitals to the community and who are in need of nursing facility level care. Funding for the pilot program shall be dependent upon an agreement between the department and the Community Services Board in the jurisdiction the pilot program is located.

5) \$3,000,000 to the Department of Criminal Justice Services (140) to provide resources for crisis intervention team training to law-enforcement officers and dispatchers, and one position to provide technical assistance in support of the mental health awareness response and community understanding services (Marcus) alert system.

h. Substance Use Disorder

1) \$5,000,000 to the Department of Health (601) for substance misuse and suicide prevention efforts.

2) \$5,000,000 to the Department of Behavioral Health and Developmental Services (720) to expand community-based substance use disorder treatment services.

i. Public Health Initiatives

1) \$4,756,000 to the Department of General Services (194) for Consolidated Labs to include customer support upgrades and Laboratory Information Management System (LIMS) infrastructure, development, and improvement.

2) \$3,750,000 to the Department of Housing and Community Development (165) for a dedicated lead rehabilitation program to address childhood lead poisoning in residential properties.

3) \$20,000,000 to the Department of Health (601) for the procurement and deployment of an electronic health records system.

4) \$40,000,000 to the Department of Health (601) for the modernization of administrative systems and software in order to create response capacity during future emergencies.

5) \$20,000,000 to the Department of Health (601) for a records management system that will digitize and automate records processes.

6) \$5,000,000 to the Department of Medical Assistance Services (602) to address operational backlogs by hiring contractors to assist with eligibility re-evaluations and member appeals. Funding also will be used to perform COVID-19 related outreach and engagement activities.

7) \$3,479,700 to the Department for Aging and Rehabilitative Services (262) to fund HVAC/air quality systems and physical plant improvements in assisted living facilities that serve a disproportionate share of auxiliary grant residents.

j. Addressing Community Violence

1) \$75,000 to the Department of Forensic Science (778) for the purchase of equipment used to analyze firearms evidence.

k. Public Safety

1) \$1,596,258 to the Department of Corrections (799) for five staff positions to support COVID-19 project management activities.

2) \$135,000 to the Department of Corrections (799) to reimburse the contractor that operates the Lawrenceville Correctional Center for the cost of personal protective equipment (PPE).

3) \$600,000 to the Department of Juvenile Justice (777) to fund mobile smartphones for agency staff.

4) \$1,380,000 to the Department of State Police (156) to support live scan fingerprinting machines for the agency's area offices.

5) a) \$20,000,000 to the Department of State Police (156) to implement a new compensation plan for sworn, law enforcement positions that addresses recruitment of new officers, retention of the existing law enforcement workforce, and pay compression among the various levels of the sworn, law enforcement positions in the department based upon the findings presented in the study required by paragraph b) below.

b) The department shall convene a workgroup that shall include staff from the Department of Human Resource Management and the Joint Legislative Audit and Review Commission for the purpose of conducting a comprehensive study to document the current issues that create barriers to the department's ability to recruit and retain qualified and diverse law enforcement personnel. The study should address issues of pay compression among the various levels of the existing law enforcement workforce, competition with other employers for individuals with the same preferred qualifications and skill sets, and any other circumstances such as the cost of relocation that create barriers to maintaining a diverse, high quality law enforcement workforce. In addition, the report shall include a detailed plan for implementing a compensation program that responds to the issues and problems outlined in the report and the related annual costs to implement the plan beginning in fiscal year 2023, and the ongoing cost for the next five fiscal years. This plan shall be submitted to the Governor, the Chair of the House Appropriations Committee, the Chair of the Senate Finance and Appropriations Committee, the Director of the Department of Human Resource Management, and the Director of the Department of Planning and Budget, no later than October 15, 2021, so that the required funding may be included in the 2022-2024 budget to be adopted by the General Assembly at its 2022 Session.

C. 1. Out of the appropriation for this Item, amounts estimated at \$221,739,237 the second year from the estimated revenues to be received from the federal distributions of Capital Project Fund amounts from the American Rescue Plan Act of 2021 (ARPA) shall be transferred to Department of Housing and Community Development for the implementation of

broadband improvement projects in the Commonwealth. The funds shall be managed and awarded through the Virginia Telecommunications Initiative grant making process; however, the agency may adjust the criteria to reflect the provisions established by the U.S. Department of the Treasury's rules and regulations established under the American Rescue Plan Act.

2. For grants awarded from the amounts appropriated in paragraphs C.1., B.2.b.2., and Item 114, Paragraph L. of Chapter 552, 2021 Acts of Assembly, Special Session I for the construction of broadband infrastructure through the Virginia Telecommunications Initiative, the Department of Housing and Community Development shall deliver an annual performance report to the Governor, Secretary of Commerce and Trade, and Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee on or before November 1st of each year, starting in Calendar Year 2022. To the extent possible, the annual performance report shall contain information by grant recipient and year on the following metrics: (1) Number of passings; (2) Grant dollars expended by fund source (State and Local Recovery Fund, Capital Project Fund, general fund state grants and match); (3) Contract performance period, and on-time progress towards project delivery; (4) Maximum advertised project speeds available; and, (5) Achievement of key project milestones. The annual performance report shall include an evaluation of any projects under risk of incompleteness or underperformance. The Department of Housing and Community Development shall develop a public facing dashboard to be updated quarterly that contains key performance information by grant recipient and year, and includes the key performance indicators outlined above. Information in this public facing tool shall contain data beginning with grants awarded in the Fiscal Year 2022 Virginia Telecommunications Initiative grant cycle.

D.1. The appropriation in this item includes an amount estimated at \$5,691,513,733 in the second year from the estimated revenues to be received pursuant to the American Rescue Plan Act of 2021 (ARPA) from grants other than the State and Local Recovery Fund (SLRF) and Capital Project Fund. The following appropriations shall be transferred from this item to the following:

<i>ARPA Fund Source / Grant</i>	<i>State Agency</i>	<i>FY 2022 Appropriation</i>
<i>State and Local Recovery Fund - Local (Non-Entitlement) - (US Treasury)</i>	<i>Department of Accounts Transfer Payments (162)</i>	<i>\$316,876,775</i>
<i>Emergency Rental Assistance (US Treasury)</i>	<i>Department of Housing and Community Development (165)</i>	<i>\$465,508,855</i>
<i>Elementary & Secondary School Emergency Relief (ESSER) - (US DOE)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$211,098,889</i>
<i>Elementary & Secondary School Emergency Relief (ESSER) - (US DOE)</i>	<i>Direct Aid to Public Education (197)</i>	<i>\$1,899,890,002</i>
<i>Elementary & Secondary School Emergency Relief Homeless Children and Youth (ESSER) - (US DOE)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$13,818,290</i>
<i>Emergency Assistance to Non-Public Schools (US DOE)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$46,344,360</i>
<i>Higher Education Emergency Relief Fund (HEERF) - Public & Non-Profit Institutions (US DOE)</i>	<i>Maintain Affordable Access (984)</i>	<i>\$667,275,718</i>
<i>IDEA - Grants to States (US DOE)</i>	<i>Direct Aid to Public Education (197)</i>	<i>\$67,450,511</i>
<i>IDEA - Preschool (US DOE)</i>	<i>Direct Aid to Public Education (197)</i>	<i>\$4,931,537</i>
<i>IDEA - Infants and Toddlers (US DOE)</i>	<i>Department of Behavioral Health and Developmental Services (720)</i>	<i>\$5,216,946</i>
<i>Child Care & Development Block Grant (ACF)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$305,492,999</i>
<i>Child Care Stabilization Grants (ACF)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$488,605,381</i>
<i>Child Care Entitlement to States (ACF)</i>	<i>Department of Education, Central Office Operations (201)</i>	<i>\$13,091,800</i>
<i>Low-income Home Energy Assistance Program (ACF)</i>	<i>Department of Social Services (765)</i>	<i>\$90,218,680</i>
<i>Low-Income Household Water Assistance Program</i>	<i>Department of Social Services (765)</i>	<i>\$9,870,267</i>
<i>Pandemic Emergency Assistance (ACF)</i>	<i>Department of Social Services (765)</i>	<i>\$15,744,856</i>

<i>Community-based Child Abuse Prevention (ACF)</i>	<i>Department of Social Services (765)</i>	<i>\$6,231,546</i>
<i>Family Violence Prevention and Services (ACF)</i>	<i>Department of Social Services (765)</i>	<i>\$3,004,484</i>
<i>Child Abuse State Grants (ACF)</i>	<i>Department of Social Services (765)</i>	<i>\$2,502,243</i>
<i>Supportive Services (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$11,109,729</i>
<i>Home Delivered Meals (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$7,245,476</i>
<i>Congregate Meals (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$10,868,214</i>
<i>Preventive Services (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$1,062,670</i>
<i>Family Caregivers (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$3,463,008</i>
<i>Title XX Adult Services (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$2,021,926</i>
<i>Title VII Long-term Care Ombudsman (ACL)</i>	<i>Department for Aging and Rehabilitative Services (262)</i>	<i>\$241,516</i>
<i>Epidemiology and Lab Capacity for School Testing (CDC)</i>	<i>Department of Health (601)</i>	<i>\$244,000,000</i>
<i>COVID-19 Vaccine Preparedness Adjustment (CDC)</i>	<i>Department of Health (601)</i>	<i>\$11,000,000</i>
<i>Expand Genomic Sequencing (CDC)</i>	<i>Department of Health (601)</i>	<i>\$1,680,000</i>
<i>Crisis Response Cooperative Agreement (CDC)</i>	<i>Department of General Services (194)</i>	<i>\$654,800</i>
<i>Crisis Response Cooperative Agreement (CDC)</i>	<i>Department of Health (601)</i>	<i>\$30,500,000</i>
<i>Disease Intervention Workforce (CDC)</i>	<i>Department of Health (601)</i>	<i>\$18,078,048</i>
<i>Maternal, Infant and Early Childhood Home Visiting Grant Program (HRSA)</i>	<i>Department of Health (601)</i>	<i>\$449,000</i>
<i>Small Rural Hospital Improvement Program (SHIP) (HRSA)</i>	<i>Department of Health (601)</i>	<i>\$5,167,520</i>
<i>Mental Health Block Grant (SAMHSA)</i>	<i>Department of Behavioral Health and Developmental Services (720)</i>	<i>\$35,786,432</i>
<i>Substance Abuse Block Grant (SAMHSA)</i>	<i>Department of Behavioral Health and Developmental Services (720)</i>	<i>\$33,982,454</i>
<i>Community-based overdose prevention programs, syringe services programs, and other harm reduction services (HHS)</i>	<i>Department of Behavioral Health and Developmental Services (720)</i>	<i>\$750,000</i>
<i>Funding For Community-Based Local Behavioral Health Needs (HHS)</i>	<i>Department of Behavioral Health and Developmental Services (720)</i>	<i>\$1,250,000</i>
<i>SNAP 3-Year State Administrative Expense Grants (USDA)</i>	<i>Department of Social Services (765)</i>	<i>\$19,217,240</i>
<i>Pandemic EBT Administrative Grant</i>	<i>Department of Social Services (765)</i>	<i>\$10,000,000</i>
<i>HOME Investment Partnerships Program - Non-entitlement (HUD)</i>	<i>Department of Housing and Community Development (165)</i>	<i>\$39,724,473</i>
<i>Unemployment Insurance Extension Implementation Grants (US DOL)</i>	<i>Virginia Employment Commission (182)</i>	<i>\$556,712,639</i>

<i>FTA Nonurbanized Area Formula - (US DOT)</i>	<i>Department of Rail and Public Transportation (505)</i>	<i>\$1,495,144</i>
<i>Enhanced Mobility of Seniors & Persons with Disabilities - State (US DOT)</i>	<i>Department of Rail and Public Transportation (505)</i>	<i>\$890,896</i>
<i>FTA Intercity Bus Formula</i>	<i>Department of Rail and Public Transportation (505)</i>	<i>\$2,307,909</i>
<i>Emergency Management Performance Grants (FEMA)</i>	<i>Department of Emergency Management (127)</i>	<i>\$2,297,623</i>
<i>Institute of Museum and Library Services (IMLS)</i>	<i>The Library Of Virginia (202)</i>	<i>\$3,872,000</i>
<i>National Endowment for the Arts - State Arts Agencies</i>	<i>Virginia Commission for the Arts (148)</i>	<i>\$871,100</i>
<i>Aid to State Veterans Homes - Construction (US VA)</i>	<i>Department of Veterans Services (912)</i>	<i>\$1,439,777</i>
<i>Environmental Justice Cooperative Agreement Program (EPA)</i>	<i>Department of Environmental Quality (440)</i>	<i>\$200,000</i>

2. a. Out of the appropriation for the Elementary and Secondary School Emergency Relief (ESSER) Fund, State Educational Agency (SEA) reservation, appropriated to the Department of Education, Central Office Operations (201), \$3,500,000 the second year shall be transferred to Direct Aid to Public Education (197) to support the state and local shares of special education private day school costs for any student with a disability who received special education and related services in a private day school setting during the 2020-2021 school year and who opts for an extension to attend school during the 2021-2022 school year pursuant to Item 146.d. of Chapter 552, 2021 Acts of Assembly, Special Session I. Payments to school divisions to support special education private day school costs for such students shall deduct any amounts due to the school division pursuant to Item 146.d of Chapter 552 and the local match for those funds based on the composite index of local ability-to-pay. All students who are provided the temporary extension of special education eligibility pursuant to Item 146.d of Chapter 552 shall be provided a free appropriate public education consistent with the federal Individuals with Disabilities Education Act for the duration of the 2021-2022 school year; notwithstanding such students' age or school setting. School divisions are encouraged to use federal ESSER Funds to meet the local share of costs for such students.

b. Out of the appropriation for the Elementary and Secondary School Emergency Relief (ESSER) Fund, State Educational Agency (SEA) reservation, appropriated to the Department of Education, Central Office Operations (201), \$11,500,000 the second year shall be transferred to Direct Aid to Public Education (197) to support recruitment efforts through incentive payments to individuals hired to fill instructional positions between August 15, 2021, and November 15, 2021. Local school divisions wishing to participate in this program shall report to the Department of Education the number of instructional position vacancies on August 15, 2021, no later than August 31, 2021. Based on this information, the Department shall communicate to each school division its available allocation from these funds, and school divisions shall communicate the availability of these funds in their recruitment. Such payments shall be based on \$2,500 per individual; however, for individuals hired in hard-to-fill positions or hard-to-staff schools, as defined by the Department of Education, the incentive payment shall be based on \$5,000 per individual. The Department of Education and the school divisions are authorized to prorate these amounts if the demand exceeds the initial allocation. School divisions shall (i) provide half of the incentive payment to the individual no earlier than January 1, 2022, and (ii) provide the balance of the full amount of the incentive payment to the individual no earlier than May 1, 2022, provided that the individual receives a satisfactory performance evaluation and provides a written commitment to return to the same school in the 2022-2023 school year. Individuals who are employed by a local school division in Virginia as of July 1, 2021, who accept an otherwise qualifying position in another local school division are not eligible for this incentive. Individuals employed by a local school division as of July 1, 2021, who transfer from a non-hard-to-staff school to a hard-to-staff school, as defined by the Department of Education, within the same division are eligible for the \$5,000 incentive payment. School divisions shall report to the Department of Education, in a format specified by the Department, all instructional hires in the 2021-2022 school year who qualify for this incentive payment, no later than November 30, 2021. No later than the first day of the 2022 General Assembly Session, the Department of Education shall report on the number of hires reported by each school division participating in this program and the anticipated amount of funding to be provided to each school division for payment to those individuals.

3. The Director of the Department of Planning and Budget is authorized to adjust the amounts appropriated in paragraph D.1. above to reflect the actual revenues received by the Commonwealth for each grant.

4.a. Agencies are authorized to initiate spending in the second year from these appropriations in order to provide one-time services for purposes authorized and permitted under federal law and in accordance with the guidance issued by the U.S. Department of Treasury and other applicable federal agencies, or to execute requirements of federal law that must

be initiated. No such spending shall be initiated for programs or services that create an ongoing commitment of state resources after the conclusion of the federal grant unless such services are required by federal law.

b. Prior to initiating any program, service, or spending from these appropriations, the responsible agency must provide written notification of its intended action to the Governor, the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee, and the Director of the Department of Planning and Budget. Such notice shall be provided no less than ten business days before an agency initiates services or incurs any costs associated with the grant. For purposes of this section, initiating a program includes any public announcement or proposal presented to constituent groups.

c. If an agency wishes to spend any amounts from these grants for purposes that create an ongoing commitment that must be maintained by state resources after the conclusion of the federal grant, it must receive prior approval and authorization of the General Assembly. Agencies must submit such proposals to the Department of Planning and Budget for consideration by the Governor and the General Assembly for the 2022-2024 biennial budget.

d. Agencies must ensure compliance with all use, documentation, and reporting requirements established in state and federal guidelines and laws.

e. The Governor is authorized to appropriate any additional grants not listed above if they must be executed before the 2022 regular session of the General Assembly. The Governor shall provide written notice to the chairpersons of the House Appropriations Committee and the Senate Finance and Appropriations Committee no less than five business days prior to appropriating such grants.

E.1. Effective July 1, 2021, through June 30, 2022, the Department of Medical Assistance Services (DMAS) shall temporarily increase the rates by 12.5 percent for all home and community based services eligible under guidance from the Centers for Medicaid and Medicare Services, except that for agency and consumer directed personal care, respite, and companion services in the home and community based services waivers and Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, this temporary rate increase is effective until December 31, 2021. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.

2. The Department of Medical Assistance Services (DMAS) shall seek federal authority through the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to issue one-time COVID-19 support directed payments in the amount of \$1,000 to Agency Directed personal care providers and Consumer Directed Attendants who provided personal care, attendant care, respite care, or companion care services to members who receive services via the EPSDT, Developmental Disability Waivers or the Commonwealth Coordinated Care Plus Waiver program during the first quarter of state fiscal year 2022. DMAS shall have the authority to work with necessary vendors and contractors to determine payment eligibility and the process by which payments will be made. The department shall have the authority to implement necessary changes prior to the completion of any regulatory process undertaken in order to effect such change. Effective October 1, 2021, DMAS shall begin implementing these processes and make payments as soon as administratively feasible.

3. The Department of Medical Assistance Services (DMAS) shall develop strategies, for consideration by the 2022 General Assembly, to re-invest general fund dollars freed-up by the enhanced federal match on home and community based services (HCBS). These strategies should enhance the Commonwealth's HCBS by creating capacity to meet the growing demand for HCBS and support structural changes needed to strengthen the HCBS systems. In addition, DMAS shall work with the Department of Behavioral Health and Developmental Services and the Centers for Medicaid and Medicare Services to identify any opportunities to use HCBS reinvestment dollars to divert individuals who are at risk of institutionalization in state facilities. DMAS shall prioritize those strategies that do not require significant on-going obligations or rely on rate increases. By October 1, 2021, DMAS shall report these strategies, including six year cost projections, to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget.

F. Notwithstanding any requirement in state law or regulation, the Superintendent of Public Instruction, with the support of the Commissioner of Social Services, shall have the authority to alter staff-to-child ratios and group sizes for licensed child day centers and child day centers that participate in the Child Care Subsidy Program by increasing the number of children per staff by (1) one child for groups of children from birth to the age of eligibility to attend public school, and (2) two children for groups of children from the age of eligibility to attend public school through 12 years. Child day centers that take advantage of this flexibility must notify families in writing of the temporary increase in ratios and group size. This authority and any resultant waiver of state law or regulation shall expire June 30, 2022. The Superintendent of Public Instruction shall ensure that any action taken under this provision is permissible under federal requirements.

G. Temporary nurse aides practicing in long term care facilities under the federal Public Health Emergency 1135 Waiver may be deemed eligible by the Board of Nursing while this waiver is in effect to take the National Nurse Aide Assessment Program examination upon submission of a completed application, the employer's written verification of competency and employment as a temporary nurse aide, and provided no other grounds exist under Virginia law to deny the application.

H. The Department of Behavioral Health and Developmental Services shall interpret Standard 12VAC35-105-530 E. to include "lack of adequate staff" as one of the conditions which can jeopardize the health, safety or welfare of individuals and/or employees to permit implementation of the emergency evacuation plan in accordance with Paragraphs A. (as

applicable), B. & G. DBHDS shall, if necessary, increase the licensed capacity for a minimum of six months for any location within 24 hours of receiving notice either verbally or via electronic communication to ensure that compliance is maintained with Department of Medical Assistance Regulation 12VAC30-122. Variances shall be granted for standards 12VAC35-105-340 and/or 360 as requested. This requirement shall end on June 30, 2022.

1.1. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician.

2. Notwithstanding the provisions of paragraph 1.1. of this item, a nurse practitioner who was registered with the Board of Nursing as a clinical nurse specialist immediately prior to July 1, 2021, may practice without a practice agreement with a licensed physician if such nurse practitioner practices without prescriptive authority. This provision shall expire after June 30, 2022.

J. Any amounts appropriated in this item that remain unspent at the end of any fiscal year shall be reappropriated in the next fiscal year to be spent for the same purposes as stated in this act.

§ 3-5.23 CORPORATE INCOME TAX INFORMATIONAL REPORTING

A.1. Corporations that are members of a unitary business must file a report, in a manner prescribed by the Tax Commissioner, for the unitary combined group containing the unitary combined net income of such group. The report shall be based on taxable year 2019 computations and include, at a minimum the difference in tax owed as a result of filing a unitary combined report, computed according to the method or methods specified by the Tax Commissioner, compared to the tax owed under the current filing requirements.

2. "Unitary business" means a single economic enterprise made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. A "unitary business" includes that part of the business that meets the definition in this section and is conducted by a taxpayer through the taxpayer's interest in a partnership, whether the interest in that partnership is held directly or indirectly through a series of partnerships or other pass-through entities. A "unitary business" shall not include persons subject to, or that would be subject to if doing business in the Commonwealth, the insurance premiums license tax under Chapter 25 (§ 58.1-2500 et seq.), Code of Virginia, or the bank franchise tax under Chapter 12 (§ 58.1-1200 et seq.)

3. The report must be submitted to the Department of Taxation on or before July 1, 2021, which date shall not be extended.

4. Members of a unitary combined group shall exclude as a member and disregard the income and apportionment factors of any corporation incorporated in a foreign jurisdiction (a "foreign corporation") if the average of its property, payroll and sales factors outside the United States is eighty percent (80%) or more. If a foreign corporation is includible as a member in the unitary combined group, to the extent that such foreign corporation's income is subject to the provisions of a federal income tax treaty, such income is not includible in the unitary combined group net income. Such member shall also not include in the unitary combined report any expenses or apportionment factors attributable to income that is subject to the provisions of a federal income tax treaty. For purposes of this paragraph, "federal income tax treaty" means a comprehensive income tax treaty between the United States and a foreign jurisdiction, other than a foreign jurisdiction which the organization for economic co-operation and development has determined has not committed to the internationally agreed tax standard, or has committed to the international agreed tax standard but has not yet substantially implemented that standard, as identified in the then-current organization for economic co-operation and development progress report.

B. Any corporation required to submit such report to the Department of Taxation that fails to do so on or before July 1, 2021, or that makes a material omission or misstatement in connection with such a report shall be subject to a penalty of \$10,000. The Tax Commissioner shall have the authority to waive such penalty upon a determination that the requirement would cause an undue hardship. All requests for a waiver shall be transmitted to the Tax Commissioner in writing.

€. The Tax Commissioner shall on or before December 1, 2021, based on the information provided in income tax returns and the data submitted under this section, submit a report to the Chair of the Senate Finance and Appropriations Committee, the Chair of the House Appropriations Committee, and the Chair of the House Finance Committee.

14. That the provisions of Item 479.10, paragraphs 1.1. and 1.2. of Chapter 552, 2021 Acts of Assembly, Special Session I, are no longer effective upon signage of this act.

15. That the provisions of § 18.2-422 of the Code of Virginia shall not apply to a person wearing a mask to prevent the spread of COVID-19.

16.a. That upon enactment of this act and through June 30, 2022, no landlord shall terminate a residential tenancy, or take any action to obtain possession of a dwelling unit, for nonpayment of rent, if the eligible tenant has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic, except as follows:

1. If rent is unpaid when due, or if a payment under the terms of a payment plan is unpaid when due, the landlord shall, pursuant to § 55.1-1202, Code of Virginia, serve a written notice on the tenant that informs the tenant of the Virginia Rent Relief Program and provides the website address and statewide telephone number for that program. The written

notice shall also provide information on how to reach 2-1-1 Virginia to determine whether there are any other available federal, state and local rent relief programs.

2. The written notice shall also inform the tenant that the owner, landlord, or owner's licensed agent shall apply for rental assistance on the tenant's behalf within 14 days of serving the notice on the tenant, unless the tenant pays in full, enters into a payment plan or informs the landlord that they have already applied for rental assistance. The landlord shall apply for rental assistance on behalf of the tenant no later than 14 days after serving the written notice on the tenant, unless they receive the full amount owed by the tenant or confirmation from the tenant that the tenant has applied for rental assistance before the 14th day, or they have entered into a payment plan with the tenant. If the tenant has applied for rental assistance, the landlord shall cooperate with the tenant's application, by providing all information and documentation required to complete the application, including but not limited to the W-9 form and any supporting affidavits. In an initial application, if the landlord or the tenant does not receive written approval from the Virginia Rent Relief Program or any other federal, state, or local rent relief program within forty-five days of when a completed application for assistance is made by the tenant or the landlord, the landlord may proceed to obtain possession of the premise as provided in § 55.1-1251. For any subsequent application, if the landlord or tenant does not receive written approval from the Virginia Rent Relief Program or any other federal, state, or local rent relief program within fourteen days of submission of the subsequent completed application, the landlord may proceed to obtain possession of the premises as provided in § 55.1-1251. If a tenant who has not paid in full or entered into a payment plan with the landlord within 14 days after the written notice is served refuses to apply for rental assistance and also refuses to cooperate with the landlord in providing information and documentation required to complete the application made by the landlord, or if such tenant is determined ineligible for rental assistance, or there are no longer funds available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and from the American Rescue Plan Act of 2021 (ARPA) (P.L. 117-2) for rental assistance through the Virginia Rent Relief program, the landlord may take action to obtain possession of the tenant's dwelling unit as provided in § 55.1-1251, Code of Virginia.

b. If a landlord reports to a consumer reporting agency or debt collector regarding a tenant who is participating in the repayment plan or receiving assistance from a federal, state, or local rent relief program, the landlord shall report the account as "current" in accordance with the Public Law 116-136: Coronavirus Aid, Relief, and Economic Security Act.

c. If a tenant is complying with a written payment plan with the landlord or has resolved any non-payment of rent, the landlord cannot take any action to obtain possession of a dwelling unit for non-payment of rent.

d. Nothing in this section relieves either the landlord or the tenant from their obligations to maintain the dwelling as those obligations are set forth in Article 2 and Article 3 of Chapter 12 of Title 55.1.

e. Nothing in this section shall void any judgment for possession validly obtained by a landlord prior to the effective date of this act; however, a landlord shall not initiate, maintain, or advance any legal process to obtain possession of a dwelling unit for non-payment of the rent unless the landlord complies with the provisions of this section.

f. Notwithstanding any other language to the contrary, should the Governor declare a state of emergency pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health threat as defined in § 44-146.16 of the Code of Virginia, and if that declaration specifically provides that the eighth enactment of Chapter 552 of the Acts of Assembly Special Session I shall supersede the language set forth in enactment sixteen of this act then this sixteenth enactment shall not be effective so long as such a declared state of emergency remains in effect.

17.a. That notwithstanding any other provision of law, any permanent or interim legislative study or advisory commission, committee, or subcommittee, other than a standing committee of the General Assembly to which bills and resolutions are referred during a legislative session pursuant to Article IV, Section 11 of the Constitution of Virginia, or any executive advisory board or council may conduct a meeting by electronic communications means without a quorum of the public body physically assembled at one location if the meeting is being held solely to receive presentations, updates, public comment, or conduct other forms of information gathering. If a quorum is not physically assembled, the commission, committee, subcommittee, board, or council shall not take any votes or make any formal recommendations at such meeting.

b. Any entity meeting in accordance with this enactment shall comply with all other requirements for conducting a meeting by electronic means set forth in subsection C of § 2.2-3708.2 of the Code of Virginia.

c. Should the Governor declare a state of emergency pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health threat as defined in § 44-146.16 of the Code of Virginia, the provisions of Item 4-0.01.g. of Chapter 552 of the 2021 Special Session I shall govern the conduct of meetings.

18.a. That no institution or an agent thereof; athletic association; athletic conference; or other organization with authority over intercollegiate athletics shall:

1. Provide a prospective or current student-athlete with compensation for the use of his or her name, image, or likeness;

2. Prohibit or prevent a student-athlete from earning compensation for the use of his or her name, image, or likeness, except as set forth in this subsection;

3. Prohibit or prevent a student-athlete from obtaining professional representation by an athlete agent licensed pursuant to Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1 of the Code of Virginia, or legal representation by an attorney licensed to practice law in the Commonwealth, for issues related to name, image, or likeness;

4. Declare ineligible for competition or reduce, cancel or not renew an athletic scholarship because a student-athlete earns compensation for the use of his or her name, image, or likeness; or

5. Prevent an institution from participating in intercollegiate athletics because a student-athlete earns compensation for the use of his or her name, image or likeness, or obtains representation for related issues.
- b. An institution may prohibit a student-athlete from earning compensation for the use of his or her name, image or likeness while the individual is engaged in academic, official team, or department activities, including competition, practice, travel, academic services, community service, and promotional activities.
- c. An institution may prohibit a student-athlete from using his or her name, image or likeness to earn compensation if the proposed use conflicts with an existing agreement between the institution and a third party.
- d. A student-athlete shall be prohibited from earning compensation for the use of his or her name, image or likeness in connection with any of the following:
1. Casinos or gambling, including sports betting;
 2. Alcohol products;
 3. Adult entertainment;
 4. Cannabis, cannabinoids, cannabidiol, or other derivatives;
 5. Dangerous or controlled substances;
 6. Performance enhancing drugs or substances (e.g., steroids, human growth hormone);
 7. Drug paraphernalia;
 8. Tobacco and electronic smoking products and devices; and
 9. Weapons, including firearms and ammunition.
- e. Any agreement entered into by a student athlete that provides compensation for the use of a student-athlete's name, image, or likeness shall be disclosed prior to execution of the agreement by such student-athlete in a manner designated by the institution the student-athlete is attending. If a student-athlete discloses a potential agreement that conflicts with an existing institutional agreement, the institution shall disclose the relevant terms of the conflicting agreement to the student-athlete.
- f. A student-athlete shall not earn compensation for the use of his or her name, image, or likeness in exchange for attendance at an institution or pay-for-performance.
- g. A student-athlete shall not use an institution's facilities or uniforms, or the institution's intellectual property, including logos, indicia, registered and unregistered trademarks, or products protected by copyright, unless otherwise permitted by the institution.
- h. For the purposes of this subsection:
- "Institution" means a private institution of higher education, associate-degree-granting public institution of higher education, or baccalaureate public institution of higher education.
- "Pay-for-performance" means payments and compensation provided to student-athletes that is contingent on the student athlete's achieving certain performance goals or objectives.
- "Student-athlete" means an individual enrolled at an institution who participates in intercollegiate athletics.
19. That § 38.2-3461, § 38.2-3462, § 38.2-3463, § 38.2-3464 shall not apply to a nonprofit group model health maintenance organization. "Nonprofit group model health maintenance organization" means a health maintenance organization authorized by Title 38.2, Chapter 43 that:
- (i) Is exempt from taxation under § 501(c)(3) of the Internal Revenue Code;
 - (ii) Contracts with one multispecialty group of physicians who are employed by and shareholders of the multispecialty group; and
 - (iii) Provides and arranges for the provision of physician services to patients at medical facilities operated by the health maintenance organization.
20. That for the purposes of the Virginia Overtime Wage Act § 40.1-29.2 the terms "Wages" and "Pay" shall also mean overtime compensatory time in lieu of wages for overtime pay by public agencies as provided by the Fair Labor Standards Act, 29 U.S.C. §207(o), and the term "Employee" shall not include an individual described in 29 U.S.C. §203(e)(4). In addition to the provisions of subsection D of § 40.1-29.2 of the Code of Virginia, an employer may assert an exemption to the overtime requirements for employees who meet any of the exemptions set forth in 29 U.S.C. §213 (a). Employees covered under 29 U.S.C. §213(b)(10)(A) shall be exempt from the overtime requirements set out in Code of Virginia § 40.1-29.2.
21. That notwithstanding Item C-72, Chapter 552, 2021 Acts of Assembly, Special Session I, up to \$25,000,000 of the \$40,000,000 in Virginia Public Building Authority debt authorized in Item C-72, Chapter 552, 2021 Acts of Assembly, Special Session 1, may be used by the Virginia Port Authority to fund capital projects for infrastructure improvements necessary to improve the Portsmouth Marine Terminal to handle loading in and out of large, heavy offshore wind components and serve as an offshore wind hub; however, such debt may only be issued if the Secretary of Finance, the Secretary of Transportation, and the Virginia Port Authority Board of Commissioners each approve the capital project or projects.
22. That a Phase II Utility shall be prohibited from disconnecting service for non-payment of bills or fees, from the effective date of this act until March 1, 2022, for any jurisdictional residential customer who has previously demonstrated they received federal, state, nonprofit entity, or utility payment assistance at any time between January 1, 2019 and July 31, 2021, or as having a qualified medical account designation with the utility as of July 31, 2021, or as certified by the Virginia Department of Social Services, which shall work with the utility to provide

such certification, as being a recipient of Supplemental Nutrition Assistance Program (SNAP); Women, Infants, and Children Program (WIC); or Temporary Assistance for Needy Families (TANF) benefits at any time between January 1, 2019 and July 31, 2021.

23. Within 30 days of the effective date of this act, the Department of Motor Vehicles shall submit a report to the Governor and the General Assembly providing a detailed operating plan for serving walk-in customers at existing Customer Service Centers in addition to the current appointment reservation system. Within 30 days of submission of the operating plan, the Commissioner of the Department of Motor Vehicles shall ensure that all Customer Service Centers are open for in-person walk-in services in accordance with the operating plan.

24. That this act is effective on its passage as provided in § 1-214 of the Code of Virginia.

~~14.~~ *25. That the provisions of the first, second, third, fourth, sixth, seventh, eighth, and twelfth, fourteenth, fifteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, and twenty-fourth enactments of this act shall expire at midnight on June 30, 2022.*

26. That the provisions of the sixteenth enactment of this act shall expire at midnight on June 30, 2022 unless: 1) there are no funds available for the Virginia Rent Relief program from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and from the American Rescue Plan Act of 2021 (ARPA) (P.L. 117-2), or 2) the provisions of paragraph f. of the sixteenth enactment of this act becomes effective.

~~15.~~ *27. That the provisions of the fifth, ninth, tenth, eleventh, and thirteenth enactments of this act shall have no expiration date.*

CERTIFICATION OF THE ACTS OF ASSEMBLY

2021 SPECIAL SESSION II

I, Suzette P. Denslow, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2021 Special Session II of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Monday, August 2, 2021, remaining in Session until 11:59 a.m., Wednesday, January 12, 2022, ended pursuant to the limitations of House Resolution 746 and Senate Resolution 718.

SUZETTE P. DENSLow
Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth

Note: Except as otherwise provided therein, all Acts of the 2021 Special Session II of the General Assembly, became effective at the first moment of May 1, 2022.

**RESOLUTIONS OF THE GENERAL ASSEMBLY
2021 SPECIAL SESSION II**

HOUSE JOINT RESOLUTION NO. 7001

Confirming various appointments by the Joint Committee on Rules and the Speaker of the House of Delegates.

Agreed to by the House of Delegates, August 10, 2021

Agreed to by the Senate, August 10, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointments made by the Joint Committee on Rules:

1. Appointment to the **Virginia State Council for Interstate Adult Offender Supervision** pursuant to § 53.1-176.3 of the Code of Virginia:

Amigo R. Wade of **Chesterfield County**, Virginia 23838, Member, for a term of four years beginning July 1, 2021, and ending June 30, 2025.

2. Appointment to the **Virginia Council for the Interstate Compact for Juveniles** pursuant to § 16.1-323.1 of the Code of Virginia:

The Honorable George Barker of **Clifton**, Virginia 20124, Member, for a term coincident with the term for which he has been elected to the Senate of Virginia.

3. Appointment to the **Board of Trustees of the Virginia Retirement System** pursuant to § 51.1-124.20 of the Code of Virginia:

The Honorable John Bennett of **Richmond**, Virginia 23225, Member, for a term of five years beginning on March 1, 2021, and ending February 28, 2026.

4. Appointment to the **Commonwealth Health Research Board** pursuant to § 32.1-162.23 of the Code of Virginia:

Cynda A. Johnson, MD, MBA, of **Roanoke**, Virginia 24011, Member, for a term of five years beginning April 1, 2021, and ending March 31, 2026.

Ethlyn McQueen-Gibson, DNP, MSN, RN-BC, of **Yorktown**, Virginia 23693, Member, to serve an unexpired term ending June 30, 2022; and, be it

RESOLVED FURTHER, That the General Assembly confirm the following appointment made by the Speaker of the House of Delegates:

An appointment to the **Virginia Conflict of Interest and Ethics Advisory Council** pursuant to § 30-355 of the Code of Virginia:

The Honorable Bruce D. White of **Oak Hill**, Virginia 20171, Member, for a term of four years beginning July 1, 2021, and ending June 30, 2025.

HOUSE JOINT RESOLUTION NO. 7002

Confirming the appointment of Amigo R. Wade as Director of the Division of Legislative Services.

Agreed to by the House of Delegates, August 3, 2021

Agreed to by the Senate, August 10, 2021

WHEREAS, Amigo R. Wade of Chesterfield, Virginia 23838, was appointed Director of the Division of Legislative Services, in conformance with § 30-28.12 of the Code of Virginia, by the Committees on Rules of the House of Delegates and the Senate on May 3, 2021, subject to confirmation by the General Assembly; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly, each house thereof voting separately, confirm the appointment of Amigo R. Wade to be the Director of the Division of Legislative Services and serve at the pleasure of the Committees on Rules of the House of Delegates and the Senate.

HOUSE JOINT RESOLUTION NO. 7004

Election of Court of Appeals of Virginia judges, Circuit Court judges, General District Court judges, a Juvenile and Domestic Relations District Court judge, and members of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, August 10, 2021

Agreed to by the Senate, August 10, 2021

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed today To the election of Court of Appeals of Virginia judges for terms of eight years commencing as follows:

One judge, term commencing November 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

One judge, term commencing September 1, 2021.

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the Fourth Judicial Circuit, term commencing September 1, 2021.

One judge for the Twelfth Judicial Circuit, term commencing September 1, 2021.

One judge for the Thirteenth Judicial Circuit, term commencing October 1, 2021.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the Twelfth Judicial District, term commencing October 1, 2021.

One judge for the Twenty-eighth Judicial District, term commencing September 16, 2021.

To the election of a Juvenile and Domestic Relations District Court judge for the Twelfth Judicial District, for a term of six years commencing October 1, 2021.

To the election of members of the Judicial Inquiry and Review Commission for terms as follows:

One member for a term ending June 30, 2025.

One member for an unexpired term ending June 30, 2024.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

HOUSE RESOLUTION NO. 701

Commending Richard W. Harris.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, Richard W. Harris has served the Kenbridge community for more than five decades as a firefighter and as longtime chief of the Kenbridge Fire Department; and

WHEREAS, Richard "Dickie" W. Harris joined the Kenbridge Fire Department in September 1964 and was selected as chief after only five years of service; he led the department from 1969 to 1999 and again from 2001 to 2021; and

WHEREAS, during his tenure as chief, Dickie Harris worked to ensure that the firefighters under his command received the finest equipment and training to better serve and safeguard the members of the Kenbridge community; and

WHEREAS, Dickie Harris helped establish a new town fire code and oversaw the construction of a fire station and the acquisition of 15 fire trucks, several sets of turnout gear, and new communications systems; and

WHEREAS, Dickie Harris was a member of the Virginia Fire Service Council for more than 40 years, and he volunteered his wisdom and expertise to many regional and state firefighting organizations, including as a four-term president of the Virginia State Firefighters Association, a two-time chair of the Virginia Fire Services Board, and secretary of the Southside Virginia Volunteer Firefighters Association; and

WHEREAS, over the course of his long career, Dickie Harris served generations of Kenbridge residents and inspired countless young firefighters and other public safety officials through his dedication to duty and commitment to excellence; now, therefore, be it

RESOLVED by the House of Delegates, That Richard W. Harris hereby be commended on the occasion of his retirement as chief of the Kenbridge Fire Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard W. Harris as an expression of the House of Delegates' admiration for his legacy of service to the Kenbridge community.

HOUSE RESOLUTION NO. 702

Commending the Green Run Homes Association.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, for 50 years, the Green Run Homes Association has served the residents of Green Run while striving to foster fellowship and a strong sense of community throughout Virginia Beach; and

WHEREAS, the Green Run Homes Association was incorporated in 1970 to support and maintain the Green Run community; Green Run was the first planned unit development built in South Hampton Roads and now covers nearly six square miles in the center of Virginia Beach; and

WHEREAS, Green Run contains 36 neighborhoods representing a diverse community of 15,000 residents in single-family homes, townhouses, condominiums, and apartments; the Green Run Homes Association offers numerous amenities to its members and supports local events and organizations, such as youth athletics; and

WHEREAS, the Green Run Homes Association has partnered with Green Run Elementary School, Green Run High School, community leadership groups, and local government agencies to create new opportunities for its resident-members and enhance the quality of life throughout Virginia Beach; and

WHEREAS, the Green Run Homes Association has benefited from the leadership of dozens of elected board members over the course of its history and has fulfilled its mission to strengthen the community through the hard work of its permanent staff members and the generosity of countless volunteers; now, therefore, be it

RESOLVED by the House of Delegates, That the Green Run Homes Association hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Green Run Homes Association for its many contributions to the Virginia Beach community.

HOUSE RESOLUTION NO. 703

Celebrating the life of the Honorable Glenn R. Croshaw.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, the Honorable Glenn R. Croshaw, who served the Commonwealth for many years as an attorney, a member of the Virginia House of Delegates, and a judge of the 2nd Judicial Circuit of Virginia, died on May 15, 2021; and

WHEREAS, born in Petersburg, Glenn Croshaw had deep family roots in the Commonwealth as the direct descendent of a Jamestown settler; he grew up in Colonial Heights, graduating from Colonial Heights High School, and continued his education at East Carolina University and the University of Virginia School of Law; and

WHEREAS, Glenn Croshaw began his career as a law practitioner and was a founding partner at the firm Croshaw, Beale, Hauser & Lewis, P.C.; and

WHEREAS, desirous to be of further service to his community and the Commonwealth, Glenn Croshaw ran for and was elected to the Virginia House of Delegates and ably represented the residents of Virginia Beach and Chesapeake in the 81st District from 1986 to 1999; and

WHEREAS, during his tenure as a state lawmaker, Glenn Croshaw introduced and supported numerous pieces of important legislation to benefit all Virginians and was a staunch advocate for the interests and well-being of his constituents; and

WHEREAS, Glenn Croshaw earned the admiration of his colleagues as a true statesman who worked across party lines to build bipartisan understanding, consensus, and respect; he offered his insights to several prominent standing committees and was especially proud of his contributions to the former Virginia Commission of Game and Inland Fisheries, of which he served as chair from 1985 to 1986; and

WHEREAS, Glenn Croshaw subsequently worked as an attorney and partner at Wilcox & Savage, P.C., and as a senior affiliated consultant for Kemper Consulting until 2011, when he was appointed as a judge of the Virginia Beach Circuit Court of the 2nd Judicial Circuit of Virginia; and

WHEREAS, Glenn Croshaw presided over the court with great fairness and wisdom for many years and served as a judge until the time of his passing; he served the Commonwealth with great integrity and dedication in all his endeavors; and

WHEREAS, Glenn Croshaw volunteered his time and wise leadership with a host of community and professional organizations, including the Princess Anne Ruritan Club, and he was a generous supporter of Old Dominion University; and

WHEREAS, Glenn Croshaw will be fondly remembered and greatly missed by his wife, Kendra, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Glenn R. Croshaw, a respected public servant in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Glenn R. Croshaw as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 704

Celebrating the life of the Honorable Gwendalyn F. Cody.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, the Honorable Gwendalyn F. Cody, a patriotic veteran of World War II, former member of the Virginia House of Delegates, and longtime real estate professional in Northern Virginia, died on May 2, 2021; and

WHEREAS, born in Richmond, Gwendalyn "Gwen" F. Cody grew up in Baltimore, Maryland, where she graduated from Sparrows Point High School; she attended Towson University for one year, then began working as a trade analyst at Hercules Powder Company in Delaware; and

WHEREAS, several of Gwen Cody's family members enlisted in the United States Armed Forces after the attack on Pearl Harbor, and she was inspired to make her own contributions to the war effort by joining the Women's Army Corps in 1943; and

WHEREAS, Gwen Cody's first assignment involved traveling throughout New Hampshire selling war bonds; she later volunteered for cryptology training and deployed to northern France in 1944 as a member of the 3341st Signal Corps Battalion; and

WHEREAS, Gwen Cody worked in command staff headquarters, maintaining code machines and switching out cogs each day to create new ciphers, and was entrusted with vital, top secret messages; and

WHEREAS, after the announcement of victory in Europe, Gwen Cody and several other members of her unit joined revelers on the streets of Paris, where she met her future husband, Robert; the couple married in Austria the following year and ultimately returned to the Commonwealth to settle in Annandale; and

WHEREAS, desirous to be of service to her community, Gwen Cody ran unsuccessfully for a seat on the Fairfax County Board of Supervisors in 1979, but won a seat in the Virginia House of Delegates in 1981; and

WHEREAS, Gwen Cody represented the residents of the 49th District and subsequently represented the residents of the 38th District after redistricting; during her two terms in office, she introduced and supported many pieces of legislation to benefit all Virginians and offered her insights and expertise to several standing committees; and

WHEREAS, Gwen Cody was one of the few Republicans representing a Northern Virginia district at the time, and for many years afterward, she served as an advisor and mentor to other Republican officials throughout the region and the Commonwealth; and

WHEREAS, outside of her career in state government, Gwen Cody was a licensed real estate agent who worked at several Northern Virginia firms over the course of 30 years and continued to do so into her 80s; and

WHEREAS, predeceased by her husband, Robert, Gwen Cody will be fondly remembered and greatly missed by her children, Robert, Jr., and Cathleen, and their families, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Gwendalyn F. Cody, a former public servant and real estate professional in Annandale; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Gwendalyn F. Cody as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 705

Celebrating the life of William Alfred Tucker.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, William Alfred Tucker, an honorable veteran, esteemed longshoreman, driven activist, and beloved member of the Hampton Roads community, died on April 17, 2021; and

WHEREAS, affectionately known by friends and family as "Pete" or "Peter Rabbit," William Tucker served his country with honor and valor for 25 years, serving first in the United States Navy from 1943 to 1946 during World War II and later in the United States Air Force from 1952 to 1974, including tours of duty during the Korean and Vietnam Wars; and

WHEREAS, William Tucker was notably one of the first African Americans to train as a seaman at a time when the United States Navy was still segregated and would later earn several awards and citations for his demonstrated expertise as a loadmaster throughout his career with the United States Air Force; and

WHEREAS, building off his experience as a loadmaster, William Tucker enjoyed a second career as a longshoreman with International Longshoremen's Association Local #846 in Newport News, serving as the chapter's president from 1988 to 1992 before ultimately retiring in 1994; and

WHEREAS, dedicated to supporting his community by helping others, William Tucker worked tirelessly on behalf of local civic and veterans organizations in his retirement, including the Hampton chapter of the Veterans of Foreign Wars of the United States, which he helped found; and

WHEREAS, as a member of Murray-Rhea Peninsula Chapter Six of the Disabled American Veterans, William Tucker co-established the first "Veterans Stand Down" event in Hampton, gathering resources and support for homeless and at-risk veterans in his community; and

WHEREAS, a dedicated activist who was deeply involved in local politics, William Tucker served on the executive board of the Hampton Roads Democratic Party and had the distinguished honor of reciting the Pledge of Allegiance during one of President Barack Obama's campaign stops in Hampton; and

WHEREAS, in recognition of his leadership and experience, William Tucker received three gubernatorial board appointments over his lifetime, including an appointment to the Board of Professional and Occupational Regulation in both 2002 and 2006; and

WHEREAS, guided throughout his life by his faith, William Tucker was baptized at Sycamore Hill Missionary Baptist Church in Greenville, North Carolina, and later enjoyed worship and fellowship with his community at Ivy Baptist Church in Newport News; and

WHEREAS, preceded in death by his son, Derwin, William Tucker will be fondly remembered and dearly missed by his loving wife of more than 70 years, Helen; his children, Shelton, Demetria, Cynthia, and Marcia, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Alfred Tucker, a distinguished member of the Hampton Roads community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Alfred Tucker as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 706

Commending St. George's Episcopal Church.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, for 300 years, St. George's Episcopal Church has provided spiritual leadership and generous community outreach to the residents of the City of Fredericksburg and Spotsylvania County; and

WHEREAS, St. George's Episcopal Church, originally known as St. George's Parish, was established as a parish of the Episcopal Diocese of Virginia by the General Assembly of Virginia in November 1720; and

WHEREAS, St. George's Parish was officially formed on May 1, 1721, and encompassed the entirety of the newly formed Spotsylvania County, which then included the modern Counties of Culpeper, Greene, Madison, Orange, and Rappahannock and parts of the modern Counties of Page, Rockingham, and Warren, making it the first European religious organization with a parish area beyond the Blue Ridge Mountains; and

WHEREAS, by 1725, the first St. George's Parish church locations, Rappahannock Church, Mattapony Church, and Germanna Church, were in use in Spotsylvania County; after the establishment of the Town of Fredericksburg in 1728, St. George's Parish began construction on its first building at the current site of St. George's Episcopal Church on the northeast corner of Princess Anne Street and George Street in 1732; and

WHEREAS, Augustine and Mary Ball Washington attended St. George's Episcopal Church beginning in the 1730s, and in 1743, the Reverend James Marye, Sr., began his instruction of George Washington and his siblings; Charles Washington and Fielding Lewis (brother and brother-in-law of George Washington) were members of the vestry at the church; and

WHEREAS, while visiting his mother, Mary Ball Washington, in the late 1780s, an adult George Washington attended St. George's Episcopal Church, attracting an overflow congregation, and Mary Ball Washington's funeral took place at the church in 1789; the bonds between St. George's Episcopal Church and the Washington family are exemplified by a stained glass window in the current church building depicting the family's coat of arms; and

WHEREAS, Colonel John Dandridge (George Washington's father-in-law) and William Paul (John Paul Jones' brother) are buried in the St. George's Episcopal Church cemetery; and

WHEREAS, Brigadier General Hugh Mercer and Brigadier General George Weedon, both heroes of the American Revolution, were members of St. George's Episcopal Church, and James Monroe and his family were members of the congregation during their residence in Fredericksburg from 1786 to 1789; and

WHEREAS, following the dissolution of the ties with the Church of England due to the American Revolution, St. George's Episcopal Church joined the new Protestant Episcopal Church of the United States in 1789; and

WHEREAS, in 1815, a second brick building was constructed on the present site of St. George's Episcopal Church, and in 1849, the third and current brick building was constructed; and

WHEREAS, on November 28, 1824, during his visit to Fredericksburg, Marie-Joseph Paul Yves Roch Gilbert du Motier, Marquis de La Fayette, attended a church service in his honor at St. George's Episcopal Church, at which the Reverend Edward C. McGuire noted, "May [God] especially regard with favour, and crown with blessings, the illustrious advocate and defender of man's equal rights, at whose feet this happy and grateful land delights to lay its tribute of profoundest gratitude and love"; and

WHEREAS, in 1851, the City of Fredericksburg installed its city clock in the St. George's Episcopal Church steeple and connected it to the church bell; the church building still forms a major element of Fredericksburg's iconic skyline; and

WHEREAS, during the Civil War, St. George's Episcopal Church served as a hospital for wounded troops in 1862 and 1864; and

WHEREAS, St. George's Episcopal Church has sought to serve the wider community throughout its history; from 1765 to 1770, the church operated the Bray School to educate enslaved children, a highly controversial activity in its time, and later organized the Male Charity School in 1795 and the Female Charity School in 1802; and

WHEREAS, the St. George's Benevolent Society of Fredericksburg was incorporated in 1874 to benefit the poor and to assist widows and orphans; in 1897, the women of the congregation helped spearhead a fundraising campaign for Mary Washington Hospital, Fredericksburg's first hospital; and

WHEREAS, in 1968, St. George's Episcopal Church hosted a community mourning service following the assassination of the Reverend Dr. Martin Luther King, Jr., and in 2013, the church hosted a special Episcopal Diocese of Virginia service of remembrance, celebration, and witness commemorating the Emancipation Proclamation's 150th anniversary and to atone for the participation of the diocese in the institutions of chattel slavery and Jim Crow, demonstrating its dedication to the holy mission of social justice and equity; and

WHEREAS, from 1985 to 2007, St. George's Episcopal Church actively formed organizations that continue to serve homeless people in the region, including Loisann's Hope House, Thurman Brisben Center, and Micah Ecumenical Ministries; in 2011, St. George's Episcopal Church established a sister church relationship with Notre Dame Church and School in Port-au-Prince, Haiti, and began an ongoing ministry relationship with the church and its students; in 2011, St. George's Episcopal Church opened The Table, an open market food pantry for anyone in need; and

WHEREAS, St. George's Episcopal Church's vestry declared worship open to people of all races and classes in 1878 but continued a system of segregation until 1955, when church services and parish membership were desegregated; in 1997, the church adopted a statement of welcome that, today, reads, "You are welcome at St. George's Church regardless of race, nationality, sexual orientation, gender expression, or tradition"; and

WHEREAS, the leadership of St. George's Episcopal Church has acknowledged that, through the establishment of Spotsylvania County and the parish, the Virginia colonial government violated the sovereignty of the indigenous people, including the Patowomeck, the Monacan, the Manahoac, the Pamunkey, the Mattaponi, and the Rappahannock tribes, who flourished there for thousands of years; and

WHEREAS, St. George's Episcopal Church has acknowledged that the 300-year history of its parish is intertwined with the history of colonialism and slavery in the United States and that enslaved Africans were brought against their will to the parish and held in multigenerational bondage by its parishioners and its ordained clergy; and

WHEREAS, St. George's Episcopal Church celebrates the resilience and contributions of these enslaved individuals and remembers and pays respect to their descendants; the church is committed to continue working with all of its neighbors toward justice, healing, equity, liberation, and building a strong sense of community; and

WHEREAS, St. George's Episcopal Church was listed in the Virginia Landmarks Register on June 21, 2018, and in the National Register of Historic Places on March 19, 2019; and

WHEREAS, St. George's Episcopal Church celebrated the 300th anniversary of the foundation of St. George's Parish on May 1, 2021; now, therefore, be it

RESOLVED by the House of Delegates, That St. George's Episcopal Church hereby be commended on the occasion of its 300th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to St. George's Episcopal Church as an expression of the House of Delegates' admiration for the historical significance of the parish and its legacy of contributions to the community.

HOUSE RESOLUTION NO. 707

Commending Stafford County Branch NAACP Youth Council Unit 7822.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, Stafford County Branch NAACP Youth Council Unit 7822, a unit of the NAACP Youth & College Division, has assisted members of the community and engaged in projects to achieve its important mission throughout the COVID-19 pandemic; and

WHEREAS, the NAACP Youth & College Division works to inform youths of the problems affecting African Americans and other racial and ethnic minorities; to advance the economic, education, social and political status of African Americans and other racial and ethnic minorities and facilitate their harmonious cooperation with other people; to stimulate an appreciation of the African Diaspora and the contributions of other people of color to civilization; and to develop intelligent, effective youth leaders; and

WHEREAS, among its many achievements, Stafford County Branch NAACP Youth Council Unit 7822 collected and donated two minivans full of toys to the United States Marine Corps' Toys For Tots program; and

WHEREAS, Stafford County Branch NAACP Youth Council Unit 7822 arranged a presentation to educate the public about the dangers of human trafficking; and

WHEREAS, Stafford County Branch NAACP Youth Council Unit 7822 organized a food distribution program and distributed more than 300 boxes of food to local residents; and

WHEREAS, Stafford County Branch NAACP Youth Council Unit 7822 partnered with the Central Rappahannock Regional Library system to present the National African American Read-In program in honor of Black History Month; and

WHEREAS, Stafford County Branch NAACP Youth Council Unit 7822 has created opportunities for young people to learn about the importance of civic engagement; now, therefore, be it

RESOLVED by the House of Delegates, That Stafford County Branch NAACP Youth Council Unit 7822 hereby be commended for its service to the people of Stafford County and commitment to the mission of the Youth & College Division of the NAACP; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stafford County Branch NAACP Youth Council Unit 7822 as an expression of the House of Delegates' admiration for its hard work and dedication to furthering the prosperity of all people in the Commonwealth.

HOUSE RESOLUTION NO. 708

Commending Bishop Mary E. Adams.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, Bishop Mary E. Adams, senior pastor of Mt. Zion Cathedral in the City of Fredericksburg, has carried out important work for her congregation and her community; and

WHEREAS, Mary Adams holds several degrees in Christian counseling and education and has cultivated a diverse ministerial background, giving her great flexibility to achieve success within a broad range of assignments; and

WHEREAS, Mary Adams is committed to preaching and defending the gospel of Jesus Christ through teaching, encouraging, and mentoring others to help them maximize their potential; and

WHEREAS, in 2007, Mary Adams was consecrated as the first woman bishop in the City of Fredericksburg; and

WHEREAS, in addition to her service as senior pastor of Mt. Zion Cathedral, Mary Adams holds the role of Overseer of Women at the Holy Communion of Churches; and

WHEREAS, Mary Adams is the author of 10 books, including *Beneath the Surface*, *Pursuing the Upward Call*, *The Best Days are Ahead*, *For Such a Time as This*, *Sounds of Destiny*, *On the Way There*, *For the Applause of Heaven*, *Living on Purpose*, *Beneath the Surface II*, and *Pressing Forward: Expecting Greater Against all Odds*; and

WHEREAS, Mary Adams has touched the lives of countless people in need throughout the Fredericksburg region; now, therefore, be it

RESOLVED by the House of Delegates, That Bishop Mary E. Adams hereby be commended for her service to the people of the City of Fredericksburg and her role as a spiritual center in the lives of so many people; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bishop Mary E. Adams as an expression of the House of Delegates' admiration for her service as a faith and community leader.

HOUSE RESOLUTION NO. 709

Commending the Hampton-Newport News Community Services Board.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, for 50 years, the Hampton-Newport News Community Services Board has provided a comprehensive array of community-based services to residents of the Virginia Peninsula who are affected by mental illness, developmental disabilities, and substance use disorders; and

WHEREAS, the Hampton-Newport News Community Services Board was created in 1971 by an act of the General Assembly of Virginia and by resolution of the city councils of Hampton and Newport News; and

WHEREAS, operating on a local level and being accountable to local government, the Hampton-Newport News Community Services Board is uniquely qualified to provide rapid, flexible, and accessible services to the individuals and families it serves; and

WHEREAS, a member of Health Planning Region 5 and recognized by the Department of Behavioral Health and Developmental Services, the Hampton-Newport News Community Services Board has provided essential services to individuals in need of both acute and long-term services; and

WHEREAS, the programs of the Hampton-Newport News Community Services Board have directly contributed to the enhancement of the quality of life on the Virginia Peninsula; and

WHEREAS, by working in partnership with individuals, family members, advocates, and other local service agencies, the Hampton-Newport News Community Services Board has provided assistance to those citizens least able to care for themselves and enabled them to become vital, contributing members of society; and

WHEREAS, over the past 50 years, many dedicated citizen volunteers have represented the Cities of Hampton and Newport News as members of the Board of Directors of the Hampton-Newport News Community Services Board, ensuring that the organization remains deeply engaged with these communities and continues to provide high-quality services; and

WHEREAS, the Hampton-Newport News Community Services Board was the first community services board in the Commonwealth to pursue and achieve the benchmark of national accreditation through the Commission on Accreditation of Rehabilitation Facilities; and

WHEREAS, the Hampton-Newport News Community Services Board has consistently demonstrated its commitment to excellence by establishing a dynamic, innovative, and visionary service delivery system in partnership with individuals and their families; and

WHEREAS, the leadership and staff members of the Hampton-Newport News Community Services Board have built an exemplary record of providing high-quality services to the citizens of the Virginia Peninsula and have created model programs that have gained both statewide and national recognition; now, therefore, be it

RESOLVED by the House of Delegates, That the Hampton-Newport News Community Services Board hereby be commended on the occasion of its 50th anniversary of service to the Virginia Peninsula; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Natale Christian, executive director of the Hampton-Newport News Community Services Board, as an expression of the House of Delegates' appreciation for the organization's dedication to the betterment of the Commonwealth.

HOUSE RESOLUTION NO. 710

Celebrating the life of Thomas S. Hardy.

Agreed to by the House of Delegates, August 2, 2021

WHEREAS, Thomas S. Hardy, an active community leader in Surry County, died on July 23, 2021; and

WHEREAS, Thomas Hardy grew up in Surry County and graduated from the Isle of Wight Training School and the Norfolk Naval Shipyard Apprentice School; and

WHEREAS, after serving his country as a member of the United States Armed Forces during the Korean War, Thomas Hardy returned to the Commonwealth and pursued a long career with the Norfolk Naval Shipyard, retiring in 1985 after 35 years of service; and

WHEREAS, Thomas Hardy was a champion for civil rights in Surry County as a member of the Surry Assembly, and he worked to enhance the quality of life for all of his fellow residents with service on the Surry County Planning Commission, the Crater District Planning Commission, and the Surry County Electoral Board; and

WHEREAS, Thomas Hardy offered his leadership to many other local bodies related to transportation safety, health care, and infrastructure; and

WHEREAS, Thomas Hardy was a longtime member of the Surry County Democratic Committee, the Distinguished Men's Club of Surry County, and the local branch of the NAACP; and

WHEREAS, Thomas Hardy enjoyed fellowship and worship with the community as a longtime member of First Gravel Hill Baptist Church in Smithfield; and

WHEREAS, Thomas Hardy will be fondly remembered and greatly missed by his loving wife of 65 years, Gladys; his daughters, Debra, Faye, and Tonya, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas S. Hardy, a respected member of the Surry County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas S. Hardy as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 711

Celebrating the life of Kenneth Ray Holmes, Sr.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Kenneth Ray Holmes, Sr., a dedicated member of the Surry County Board of Supervisors who worked diligently to support communities throughout his district and the county, died on March 23, 2021; and

WHEREAS, a native of Surry County, Kenneth Holmes graduated from L.P. Jackson High School and pursued higher education at Virginia State University and Virginia Polytechnic Institute and State University, earning several advanced degrees; and

WHEREAS, Kenneth Holmes was a founding member of the Nu Delta Lambda Chapter of Alpha Phi Alpha Fraternity, Inc., and had served as director of alumni affairs at Virginia State University; among many other community-oriented endeavors, he offered his leadership to the Surry County African-American Heritage Society as president and supported the Flunkbusters program for at-risk students; and

WHEREAS, desirous to be of further service to the community, Kenneth Holmes ran for and was elected to the Surry County Board of Supervisors and represented the Carsley District from 2015 until early 2021, when he resigned due to an illness; and

WHEREAS, Kenneth Holmes relished every opportunity to spend time with his beloved family members and friends, and he was a trusted mentor to countless other members of the community who benefited from his wisdom and guidance; and

WHEREAS, Kenneth Holmes will be fondly remembered and greatly missed by his children, Keinya, Khristi, and Kenneth, Jr., and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kenneth Ray Holmes, Sr., a respected public servant and community leader in Surry County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kenneth Ray Holmes, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 712

Celebrating the life of Ashley Gwaltney Smith.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Ashley Gwaltney Smith, a Virginia native and a beloved wife, mother, daughter, and friend, died on March 16, 2021; and

WHEREAS, Ashley Smith was born in Suffolk and grew up in Windsor on her family's farm; she graduated from Nansemond-Suffolk Academy and earned a bachelor's degree from Virginia Polytechnic Institute and State University; and

WHEREAS, Ashley Smith worked for the Central Intelligence Agency for two years, then relocated to South Carolina, where she received a master's degree from the University of South Carolina and began a 13-year career with Lockheed Martin; and

WHEREAS, Ashley Smith developed many strong friendships at Lockheed Martin and was respected for her insights and work ethic; she was serving as the head of the contracts team at the company's Greenville, South Carolina, office at the time of her passing; and

WHEREAS, throughout her life, Ashley Smith was guided by her deep and abiding faith, and she strove to be a role model for others through her kindness, positivity, and grace; and

WHEREAS, Ashley Smith will be fondly remembered and greatly missed by her husband, Charles; her children, Charles, Jr., and Katherine; her parents, William and Rebecca Gwaltney; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ashley Gwaltney Smith; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ashley Gwaltney Smith as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 713

Celebrating the life of Stephen Wayne Price.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Stephen Wayne Price, an honorable veteran, esteemed law-enforcement officer, and beloved member of the Chilhowie community, died on April 15, 2021; and

WHEREAS, born in Smyth County, Stephen Price served his country with honor and distinction as a member of the United States Army, achieving the rank of chief warrant officer while serving as an Apache helicopter pilot; and

WHEREAS, upon concluding his military service, Stephen Price embarked upon an illustrious career in law enforcement, serving the United States Federal Air Marshal Service as well as the police departments of Savannah-Chatham County, Georgia; Richmond Hill, Georgia; and Wytheville over the years; and

WHEREAS, with great integrity and purpose, Stephen Price devoted 13 years to serving and protecting the residents of Chilhowie as chief of police of the Chilhowie Police Department; and

WHEREAS, Stephen Price was a proud and devoted family man who never failed to put the needs of others above his own; and

WHEREAS, in a show of appreciation for Stephen Price's service to the country, full military honors were rendered by the Francis Marion Veterans of Foreign Wars Post 4667 during his graveside service at Mount Rose Cemetery in Glade Spring; and

WHEREAS, Stephen Price will be fondly remembered and dearly missed by his loving wife of 33 years, Tina; his children, Lyndsey and Austin, and their families; his father, Gene; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Stephen Wayne Price, a distinguished veteran and dedicated law-enforcement officer whose unwavering commitment to the safety and well-being of others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stephen Wayne Price as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 715

Celebrating the life of Anne Seaton.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Anne Seaton, a vibrant member of the Waynesboro community who touched many lives through her generosity and grace, died on April 23, 2021; and

WHEREAS, in her early years, Anne Seaton traveled with her family for missionary work, living in Missouri and Jamaica before she graduated from Broadneck High School in Maryland; and

WHEREAS, Anne Seaton was a talented artist and excelled in athletics in high school, earning a volleyball scholarship to Towson University, from which she graduated summa cum laude in 1993; and

WHEREAS, Anne Seaton and her husband, Scott, settled in Waynesboro in 1999 to raise their young family and she quickly became an integral part of the community; and

WHEREAS, in addition to supporting the Grace Christian School and Wilson High School, which her children attended, Anne Seaton served as director of development for the Waynesboro Symphony Orchestra, working tirelessly to organize important community engagement and fundraising events; and

WHEREAS, Anne Seaton served as vice chair of the Augusta County Republican Committee and as president of the Republican Women of Greater Augusta; she offered her wise counsel to many candidates for elected office, including her husband, Scott, who won a seat on the Augusta County Board of Supervisors in 2020; and

WHEREAS, called by her compassion for others, Anne Seaton traveled to New Orleans after Hurricane Katrina to help residents recover from the long-lasting effects of the hurricane; and

WHEREAS, guided by her faith, Anne Seaton enjoyed fellowship and worship with the community as a member of Tabernacle Presbyterian Church, and she inspired others through her unflinching optimism and zest for life; and

WHEREAS, Anne Seaton will be fondly remembered and greatly missed by her husband of 29 years, Scott; her children, Joscelyn, Phillip, Samuel, and Daniel, and their families; her parents, Thomas and Lois Mehnert; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne Seaton, a passionate community leader in Waynesboro; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne Seaton as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 716

Commending doctors of optometry in Virginia.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, doctors of optometry in Virginia make vital contributions to their communities as frontline health care providers who evaluate, diagnose, and treat the eye and promote vision health; and

WHEREAS, doctors of optometry deliver an essential component of a patient's overall primary health and provide more than two-thirds of primary eye health care; and

WHEREAS, doctors of optometry are highly trained specialists who receive a four-year doctoral degree with more than 10,000 hours of education and training; and

WHEREAS, the scope of optometric practice has evolved for the past 40 years commensurate with the increased levels of training and education for doctors of optometry, including the use of diagnostic, therapeutic agents, and in-office procedures; and

WHEREAS, doctors of optometry are equipped to diagnose and treat more than 270 systemic diseases; and

WHEREAS, Virginia's doctors of optometry were designated as essential health care providers at the beginning of the COVID-19 pandemic and treated countless eye urgencies and emergencies through in-office treatment procedures and prescription medicine management over the course of the pandemic; and

WHEREAS, doctors of optometry throughout Virginia have worked diligently to educate members of the public on the importance of regular preventative primary eye care services to preserve the gift of sight for a lifetime; now, therefore, be it

RESOLVED by the House of Delegates, That doctors of optometry in Virginia hereby be commended for playing a critical role in health, wellness, and systemic disease diagnosis for Virginians and for their diligence in treating eye urgencies and emergencies in a safe and effective manner during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Optometric Association on behalf of all doctors of optometry in Virginia as an expression of the House of Delegates' admiration for their achievements in service to the residents of the Commonwealth.

HOUSE RESOLUTION NO. 717

Commending the Virginia Women Veterans Program.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, for nearly three years, the Virginia Women Veterans Program has advocated for and supported women in the Commonwealth who have served as members of the United States Armed Forces; and

WHEREAS, the Virginia Women Veterans Program traces its roots to a group of local initiatives that began around 2011, and it was officially established as a program of the Department of Veterans Services with Beverly VanTull as its first full-time manager in 2018; and

WHEREAS, Beverly VanTull was uniquely qualified to lead the Virginia Women Veterans Program; she served the nation in uniform for more than 18 years as a member of the United States Army Medical Services Corps and worked as a professional consultant for veterans' services organizations; and

WHEREAS, the Virginia Women Veterans Program recognizes that women veterans face many challenges and obstacles, both during and after their military service, that do not affect their male counterparts; and

WHEREAS, more than 100,000 women veterans currently reside in the Commonwealth, which has a higher per capita percentage of women veterans than any other state; and

WHEREAS, the Virginia Women Veterans Program strives to ensure that the needs and concerns of women veterans are understood and addressed and has built strong partnerships with nonprofit and community organizations to provide unique opportunities for its clients; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Women Veterans Program hereby be commended on the occasion of its third anniversary of service to women veterans in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beverly VanTull, manager of the Virginia Women Veterans Program, as an expression of the House of Delegates' admiration for the program's achievements on behalf of the women who have served and sacrificed in defense of the Commonwealth and the nation.

HOUSE RESOLUTION NO. 718

Commending Marty L. Miller.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Marty L. Miller, the esteemed former baseball coach and athletics director of Norfolk State University, was inducted into the American Baseball Coaches Association Hall of Fame as a member of the Class of 2022; and

WHEREAS, Marty Miller was a standout member of the baseball team at John M. Langston High School in Danville and was awarded a scholarship to attend Norfolk State University (NSU); and

WHEREAS, during his college career, Marty Miller was an All-Central Intercollegiate Athletic Association (CIAA) player in 1967 and 1968, the same year he led the nation in doubles, and was the college's first National Collegiate Athletic Association (NCAA) College Division All-American in baseball; and

WHEREAS, Marty Miller served his country as a second lieutenant in the United States Army and was signed by the Minnesota Twins of Major League Baseball, but ultimately returned to Norfolk State University and served as the institution's head baseball coach from 1973 to 2005; and

WHEREAS, over the course of 32 years as head coach of the NSU Spartans, Marty Miller compiled an impressive record of 718-543-3; he became the winningest baseball coach in CIAA history, led the team to 17 conference championships and 12 postseason appearances, and was named CIAA Coach of the Year 15 times; and

WHEREAS, 22 of Marty Miller's former players went on to sign professional baseball contracts, and he inspired members of his teams to achieve success in the classroom and in their communities, as well as on the baseball field; and

WHEREAS, Marty Miller continued to support student-athletes at NSU as athletics director from 2005 to 2020 and was a leader in the Hampton Roads sports community as past president of the Norfolk Sports Club and as a member of the executive committee for the Virginia Sports Hall of Fame & Museum in Virginia Beach; and

WHEREAS, Marty Miller has been inducted into the Virginia Interscholastic Association Heritage Association Hall of Fame, as well as the NSU, CIAA, Hampton Roads Sports, Virginia Sports, and Hampton Roads African American Sports halls of fame; and

WHEREAS, as a 2022 inductee into the American Baseball Coaches Association Hall of Fame, Marty Miller joins an elite group of more than 300 distinguished baseball coaches, and he will be recognized at the organization's annual convention on January 1, 2022; now, therefore, be it

RESOLVED by the House of Delegates, That Marty L. Miller hereby be commended on his induction into the American Baseball Coaches Association Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marty L. Miller as an expression of the House of Delegates' admiration for his athletic achievements and legacy of contributions to young people in Norfolk.

HOUSE RESOLUTION NO. 719

Commending Hackworth.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Hackworth, an esteemed printing, graphics, and technology company based in Chesapeake, celebrates its 30th anniversary in 2021; and

WHEREAS, Hackworth began as a blueprint firm in 1991 and has since grown into a comprehensive printing, graphics, marketing, and wide-format technology solutions organization with locations in Chesapeake, Richmond, Suffolk, and Williamsburg and affiliates in Chantilly, Fairfax, and Manassas Park; and

WHEREAS, Hackworth has greatly contributed to the prosperity of businesses and organizations throughout the Commonwealth by providing products and services that enhance their daily operations and facilitate their growth; and

WHEREAS, Hackworth has built a stellar reputation through its longstanding client and vendor relationships and its demonstrated commitment to quality, professionalism, and customer service; and

WHEREAS, Hackworth, today, offers a diverse array of exceptional products and services, including graphic design, printing, signage, scanning, vehicle graphics, brand marketing, and equipment sales and repair; and

WHEREAS, despite the challenges posed by the COVID-19 pandemic, Hackworth deftly refocused its operations and product line and leveraged public support programs to make 2020 the highest revenue-grossing year in the company's history; and

WHEREAS, Hackworth's achievements have been recognized by the Hampton Roads Chamber through its City of Chesapeake Small Business of the Year awards in 1998 and 2017 and its 2020 COVID-19 Business Resiliency Recognition, as well as by *Wide-Format & Signage* magazine, which listed the company on its "USA Top 100 Shop" list from 2014 to 2018; and

WHEREAS, Hackworth's success is the result of the tireless efforts of its dedicated staff and the exceptional leadership of its chief executive officer, Dorothy Hackworth; president, Charles G. Hackworth; and vice president, Charles G. Hackworth II; and

WHEREAS, with the expansion of its Suffolk office, the introduction of new printing technologies, the development of the company's marketing division, and the possibility of future acquisitions, Hackworth promises to continue to thrive for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, That Hackworth, an industry-leading graphics, printing, and technology company, hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hackworth as an expression of the House of Delegates' admiration for the company's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 720

Salaries; contingent and incidental expenses; and session expense payments during the 2021 Special Session II.

Agreed to by the House of Delegates, August 2, 2021

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2021 Special Session II of the General Assembly. Necessary payments to cover salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or his designee; and, be it

RESOLVED FINALLY, That members of the House of Delegates shall receive a session expense payment for any day they attend a scheduled floor session at which an attendance roll call is taken. Session expense payments shall not be allowed for legislative assistants. Session expense payments shall not be allowed for members of the House of Delegates during a recess of the special session. However, members may receive compensation while the House of Delegates is in recess, as provided in § 30-19.12 of the Code of Virginia and in the 2020-2022 Appropriation Act, as follows: (i) members of any standing committee; (ii) members of any committee of conference; or (iii) members of any legislative committee, commission, or council established by the General Assembly.

HOUSE RESOLUTION NO. 721

Celebrating the life of Clyde Nathaniel Washington, Jr.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Clyde Nathaniel Washington, Jr., an inspirational educator and coach who dedicated himself to his community as a member of the Dumfries Town Council and through various civic activities, died on March 20, 2021; and

WHEREAS, Clyde Washington was a standout athlete at the former Walker-Grant High School in Fredericksburg, where he lettered in football, basketball, and track and set various records; and

WHEREAS, Clyde Washington became the first member of his family to graduate from college when he earned a bachelor's degree in vocational education from Norfolk State College, now Norfolk State University; later, he earned a master's degree in education from Virginia State College, now Virginia State University; and

WHEREAS, Clyde Washington began his noteworthy career in education at the former John F. Kennedy High School in Suffolk, cultivating his passion for mentoring youth as both an educator and coach; and

WHEREAS, upon relocating to Dumfries in 1971, Clyde Washington assumed teaching and coaching positions at Gar-Field Senior High School in Woodbridge, where over the next 25 years he would contribute greatly to the success of countless young people; and

WHEREAS, Clyde Washington's commitment to education manifested in his involvement with the Prince William County Education Association, the Virginia Education Association (VEA), and the National Education Association and in his roles as a district representative on the VEA Board of Directors and as a district president; and

WHEREAS, Clyde Washington gave generously of his time and talents to several local civic organizations, including Triangle Masonic Lodge #293 and the Woodbridge Kiwanis Club; and

WHEREAS, Clyde Washington was elected to the Dumfries Town Council in 1980 and held his seat for the next 28 years, including eight years as vice mayor, making him the longest tenured councilmember in Dumfries history; and

WHEREAS, upon his retirement as an educator in 1996, Clyde Washington received a certificate of outstanding achievement from Neabsco District Supervisor John Jenkins; later, in 2019, he and his wife, Gwen, were honored with the inaugural Mayor of Dumfries Living Legend Award; and

WHEREAS, guided throughout his life by his faith, Clyde Washington enjoyed worship and fellowship with his community at Little Union Baptist Church in Dumfries for many years, earning the distinction of deacon emeritus; and

WHEREAS, Clyde Washington will be fondly remembered and dearly missed by his loving wife of 55 years, Gwendolyn; his children, Troy and Shannon, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Clyde Nathaniel Washington, Jr., an esteemed educator, coach, and public servant whose generosity and dedication touched many lives both in Dumfries and throughout the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Clyde Nathaniel Washington, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 722

Celebrating the life of James L. Hicks.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, James L. Hicks, an honorable veteran, accomplished musician, and beloved member of the Northern Virginia community, died on April 8, 2021; and

WHEREAS, James Hicks graduated from Central High School in Phenix City, Alabama, in 1973, where he was a member of both the Reserve Officers' Training Corps and the school marching band; and

WHEREAS, after graduation, James Hicks enlisted in the United States Army and attended the United States Army School of Music; he would ultimately teach himself to play the fife and performed with the prestigious Old Guard Fife and Drum Corps for the majority of his 33-year military career; and

WHEREAS, as a member of the Old Guard Fife and Drum Corps, a unique ensemble within the United States Army that pays homage to the musical stylings of the Continental Army, James Hicks performed before millions of people at hundreds of major events over the years, including presidential inaugurations, parades, and national sporting events; and

WHEREAS, James Hicks' involvement with the Old Guard Fife and Drum Corps led to several prominent moments in the spotlight, including appearances in *Ebony* magazine and the film *Gardens of Stone*; he was notably the first or only African American in several ensembles he played with, helping to break down the color barrier for the benefit of countless future musicians; and

WHEREAS, James Hicks shared his musical gifts with the community as a performer and instructor with fife and drum corps in the Washington, D.C., metropolitan area, including the Patowmack Ancients Fife and Drum Corps of Arlington and the Monumental City Ancient Fife and Drum Corps of Baltimore, Maryland; and

WHEREAS, in his retirement, James Hicks gave generously of his time to myriad civic organizations, including the Dale City Civic Association and the Woodbridge Rotary Club, both of which he served as president; and

WHEREAS, guided throughout his life by his faith, James Hicks enjoyed worship and fellowship with his community at Beulah Baptist Church in Alexandria, where he was ordained as a deacon in 1987; and

WHEREAS, preceded in death by his son, Christopher, James Hicks will be fondly remembered and dearly missed by his loving wife of 42 years, Surlatha; his children, Kevin, Michael, and Stephanie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James L. Hicks, an esteemed veteran whose dedication to his country and his community was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James L. Hicks as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 723

Commending Sentara Princess Anne Hospital.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Sentara Princess Anne Hospital in Virginia Beach first opened its doors to serve patients on August 4, 2011, and celebrates its 10th anniversary in 2021; and

WHEREAS, hours after opening, the first babies at Sentara Princess Anne Hospital were born, twins that are now the age of 10; the hospital has delivered more than 23,700 babies since it opened; and

WHEREAS, Sentara Princess Anne Hospital has admitted more than 112,000 patients and performed more than 61,000 surgeries, while its neonatal intensive care unit has celebrated more than 3,000 graduates and its emergency department has treated more than 630,000 patients; and

WHEREAS, Sentara Princess Anne Hospital was the crowning centerpiece of the Sentara Princess campus, which initially opened as an outpatient campus and freestanding emergency department; and

WHEREAS, Sentara Princess Anne Hospital added 24 beds in 2018 and a new operating room in 2020 to meet the community's need for its services; and

WHEREAS, the Sentara Princess Anne campus is the only site in the Commonwealth offering the Ornish Lifestyle Medicine program, which has been clinically shown to reverse heart disease; and

WHEREAS, Sentara Princess Anne Hospital was a pilot site for Enhanced Recovery After Surgery, an award-winning protocol to eliminate the administration of opioid medications for certain elective surgery patients, which promises to reduce opportunities for addiction; and

WHEREAS, Sentara Princess Anne Hospital achieved Magnet designation from the American Nurses Credentialing Center in 2016 and Lantern designation from the Emergency Nurses Association in 2021 for the quality and clinical leadership of its nursing teams; and

WHEREAS, the Sentara Princess Anne campus has become a health care destination for patients and families in southern Virginia Beach and northeastern North Carolina; now, therefore, be it

RESOLVED by the House of Delegates, That Sentara Princess Anne Hospital hereby be commended on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sentara Princess Anne Hospital as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 724

Celebrating the life of Albert Earl Brooks.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Albert Earl Brooks of Woodbridge, a tireless advocate for civil rights who created opportunities for and enhanced the lives of his fellow African Americans, died on March 25, 2021; and

WHEREAS, born in North Carolina, Albert Brooks grew up in New York and went on to cross paths with many prominent members of the civil rights movement, including Malcolm X; he worked at New Bethel Baptist Church in Detroit, Michigan, under the Reverend C.L. Franklin, father of Aretha Franklin; and

WHEREAS, Albert Brooks pursued leadership roles with the NAACP in New York, served his country honorably as a member of the United States Army, and received a bachelor's degree from the State University of New York at Buffalo; and

WHEREAS, while living in Buffalo, Albert Brooks mentored young people as a counselor and led programs to help African American men who had been denied work in construction trades achieve full employment as the executive director of the Buffalo Affirmative Action Plan at the A. Philip Randolph Institute; and

WHEREAS, Albert Brooks subsequently relocated to the Commonwealth and worked for the United States Department of Transportation, the Virginia Department of Transportation, and the United States Department of Labor as an equal opportunity specialist and civil rights officer; and

WHEREAS, a longtime resident of the Neabsco area of Prince William County, Albert Brooks generously volunteered his time with several local organizations and cofounded the African American Democratic Club in Woodbridge to empower members of the community to take a more active role in the democratic process; and

WHEREAS, through his hard work and passionate advocacy, Albert Brooks had a transformative impact on local government and civic life in the communities he served; he received many awards and accolades for his work, including the Derrick Wood Foundation Unsung Hero Medal, the Prince William County Democratic Committee Chairman's Award, the Prince William County Human Rights Award, and the Dale City Civic Association Citizen of the Year Award; and

WHEREAS, Albert Brooks' legacy lives on through the generations of young African American leaders he inspired in Prince William County and in communities throughout the Commonwealth and the nation; and

WHEREAS, Albert Brooks will be fondly remembered and greatly missed by his wife, Barbara; his children, Alise, Albert, Jr., and Anton, and their families; and numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Albert Earl Brooks, a champion for civil rights and equality and a respected member of the Woodbridge community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Albert Earl Brooks as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 725

Commending the C. D. Hylton Senior High School boys' soccer team.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, the C. D. Hylton Senior High School boys' soccer team of Woodbridge won the Virginia High School League Class 6 state championship at its home field on June 23, 2021; and

WHEREAS, the Hylton High School Bulldogs defeated the Yorktown High School Patriots of Arlington by a score of 3-2 to secure the program's first state title since 1999; and

WHEREAS, the Hylton Bulldogs' first goal came less than five minutes into the match when senior forward Cesar Gudiel drove home a crossing pass from junior Daniel Reyes-Mejia; and

WHEREAS, the Hylton Bulldogs extended their lead shortly after halftime with a goal from senior defender Blaise Leiss II and later took a commanding three-goal advantage following a goal by senior midfielder Andres Rodriguez; and

WHEREAS, after considerable roster turnover in recent years and two losses at the beginning of the season, the Hylton Bulldogs bounced back to go unbeaten in their final 12 contests, yielding only 10 goals over that stretch and ultimately posting an impressive 11-1-2 record; and

WHEREAS, the accomplishments of the Hylton Bulldogs are the result of the hard work and dedication of the team's student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Hylton High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the C. D. Hylton Senior High School boys' soccer team hereby be commended for winning the 2021 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brandon Walker, head coach of the C. D. Hylton Senior High School boys' soccer team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

HOUSE RESOLUTION NO. 726

Commending Caroline Huber.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Caroline Huber, a recent graduate of the Madeira School in Fairfax County, earned the prestigious Gold Award, the highest honor bestowed by Girl Scouts of the USA, in 2021; and

WHEREAS, Caroline Huber of Girl Scouts of the USA Troop 1458 received the Gold Award upon completing her Gold Award service project, in which she created a multimedia educational aid entitled "PresentationRelocation"; and

WHEREAS, Caroline Huber's online educational platform, "PresentationRelocation," enables users to safely view and post content free of charge and aims to support disadvantaged young learners by improving access to quality educational materials; and

WHEREAS, in the process of developing "PresentationRelocation," Caroline Huber produced several fun and engaging presentations on science and math concepts and later presented the website to Garfield Elementary School in Springfield for the benefit of its students and teachers; and

WHEREAS, only three percent of scouts in Girl Scouts of the USA achieve the Gold Award, making Caroline Huber's accomplishment a true testament to her hard work, leadership, and dedication to her community; now, therefore, be it

RESOLVED by the House of Delegates, That Caroline Huber hereby be commended for achieving the Girl Scouts of the USA Gold Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Caroline Huber as an expression of the House of Delegates' admiration for her achievements.

HOUSE RESOLUTION NO. 727

Commending Network NOVA.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Network NOVA, a grassroots civic engagement organization, strives to educate and empower voters to better engage with candidates and elected officials; and

WHEREAS, founded by Stair Calhoun and Katherine White, Network NOVA has amplified the voices of its members in local and state government for nearly five years; and

WHEREAS, Network NOVA has developed strong partnerships throughout Northern Virginia to create a diverse coalition of community organizations in pursuit of the common goals of equality, justice, and human rights; and

WHEREAS, Network NOVA provides information on critical issues and policies and hosts a wide range of volunteer activities and events, including its annual Women's Summit for Political Action; now, therefore, be it

RESOLVED by the House of Delegates, That Network NOVA hereby be commended for its work to increase civic engagement in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Network NOVA as an expression of the House of Delegates' admiration for its advocacy on behalf of its members.

HOUSE RESOLUTION NO. 728

Celebrating the life of the Honorable John William Warner III.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, the Honorable John William Warner III, a respected elder statesman of the Virginia Congressional delegation who represented the Commonwealth in the United States Senate for three decades, died on May 25, 2021; and

WHEREAS, John Warner grew up in Washington, D.C., and joined many of the other young men and women of his generation in service to the nation during World War II, enlisting in the United States Navy in 1945 after graduating from Woodrow Wilson High School; and

WHEREAS, John Warner earned a bachelor's degree from Washington and Lee University, then enrolled at the University of Virginia School of Law; he postponed his education for a second time to serve his country in the Korean War with the United States Marine Corps as a ground aircraft maintenance officer with the 1st Marine Aircraft Wing; and

WHEREAS, after his service in the Korean War, John Warner continued serving in the Marine Corps Reserve, eventually reaching the rank of captain; and

WHEREAS, John Warner returned to the University of Virginia to complete his law degree; he worked as an assistant United States Attorney for the District of Columbia in the trial and appellate divisions, then joined the law firm Hogan & Hartson in 1960; and

WHEREAS, John Warner left Hogan & Hartson to become Undersecretary of the United States Navy in 1969; he was appointed Secretary of the United States Navy in 1972 and in that post made significant contributions to the de-escalation of tensions between the United States and the Soviet Union during the Nixon and Ford administrations; and

WHEREAS, John Warner won his first of five terms in the United States Senate in 1978; a member of the Republican Party, he often diverged from strict party lines to support gun safety laws, women's health rights, and legislation addressing discrimination based on sexual orientation; and

WHEREAS, during his 30-year tenure in the United States Senate, John Warner offered his expertise to various committees, including the Senate Committee on Environment and Public Works, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Select Committee on Intelligence; he earned praise from Republicans and Democrats alike for his strength of character and his work to foster bipartisan understanding and respect and build consensus on important issues; and

WHEREAS, John Warner served as chair of the Senate Committee on Rules and Administration and chair of the Senate Armed Services Committee, where he increased national security and bolstered the Virginia economy through his support for military installations and shipbuilding firms in the Commonwealth; and

WHEREAS, after his retirement from the United States Senate in 2008, John Warner became a highly admired community leader in Alexandria; he played a vital role in the repair and modernization of the Woodrow Wilson Bridge by fostering good communication between officials in Washington, D.C., Virginia, and Maryland; and

WHEREAS, John Warner was a true Virginia gentleman who inspired trust through his honesty and wise insights and served the United States and the Commonwealth with the utmost humility, integrity, and dedication; and

WHEREAS, John Warner will be fondly remembered and greatly missed by his wife, Jeanne; his children, Virginia, Mary, and John IV, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable John William Warner III, a distinguished public servant who represented generations of Virginians in the United States Senate; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable John William Warner III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 729

Commending Pamela L. Michell.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Pamela L. Michell, esteemed executive director of New Hope Housing in Alexandria who has worked tirelessly to end homelessness in Northern Virginia throughout her career, retires on October 1, 2021; and

WHEREAS, on November 5, 1990, Pamela "Pam" L. Michell began serving as the executive director of New Hope Housing, an organization that provides a comprehensive and innovative array of services to homeless families and single adults and is the oldest and largest provider of shelter beds in Northern Virginia; and

WHEREAS, Pam Michell employed a philosophy of hope, hospitality, dignity, and respect over her three decades with New Hope Housing, serving thousands of vulnerable members of the community by providing them with housing solutions and the opportunity to succeed; and

WHEREAS, New Hope Housing grew under Pam Michell's tenure from a program of three shelters accommodating approximately 100 people a day to a continuum of services, including three year-round shelters, three hypothermia shelters, seven permanent supportive housing programs, and a host of other support services, reaching approximately 450 people a day; and

WHEREAS, as a testament to Pam Michell's stellar leadership, New Hope Housing has received numerous awards and distinctions in recent years, including the 2015 Housing First Award from the Virginia Coalition to End Homelessness, selection as one of five finalists in *The Washington Post* 2009 Excellence in Nonprofit Management Award program, and recognition as Best Housing Organization in 2004 at the Virginia Governor's Housing Conference; and

WHEREAS, Pam Michell's personal accolades include being named a 2005 Washingtonian of the Year by *Washingtonian* magazine, the 2013 Nonprofit Leader of the Year by Leadership Fairfax, and a 2019 "Lady Fairfax" by Fairfax County Board of Supervisors chair Sharon Bulova; she received the Center for Nonprofit Advancement's Gelman Rosenberg Freedman EXCEL Award for excellence in nonprofit leadership in 2009; and

WHEREAS, Pam Michell has worked every day with passion and enthusiasm to greatly bolster New Hope Housing's efforts to implement innovative housing solutions and eliminate homelessness in Northern Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That Pamela L. Michell, longtime executive director of New Hope Housing, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pamela L. Michell as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 730

Commending Tom Harvey.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Tom Harvey, former owner of Hollin Hall Automotive on Fort Hunt Road in Alexandria, retired in May 2021 upon selling his business; and

WHEREAS, Tom Harvey learned the gasoline and automotive repair business from his parents, Leon and Ruth Ann, who had purchased Hollin Hall Automotive in 1961 shortly after it was established; and

WHEREAS, Tom Harvey began working as a station attendant at Hollin Hall Automotive at the age of 13 and started helping his mother manage the business in 1970, working beside her until she retired in 2013 at the age of 90; and

WHEREAS, with an unparalleled commitment to customer service, Tom Harvey maintained three station attendants to pump gas and wash windshields until 2009, long after other stations had resorted to self-service operations; and

WHEREAS, as a testament to Tom Harvey's business acumen, Hollin Hall Automotive was often recognized for being the Gulf Oil station in the Mid-Atlantic region with the highest volume of gas and accessories sold; and

WHEREAS, under Tom Harvey's leadership, Hollin Hall Automotive was a major supporter of local community groups and endeavors, including Little League baseball teams, Boy Scouts of America troops, parent teacher associations, schools and preschools, the Fort Hunt Youth Athletic Association, and the Wounded Warrior Project; and

WHEREAS, Tom Harvey's generosity was demonstrated during the Bosnian refugee crisis, when Hollin Hall Automotive employed two Bosnian refugees while helping their families locate furniture, clothing, and other necessities; and

WHEREAS, by enabling Hollin Hall Automotive to deliver millions of gallons of gas, employ hundreds of individuals, and serve several generations of customers over the past 60 years, Tom Harvey has helped make Alexandria a wonderful place to live, work, and play; and

WHEREAS, Tom Harvey and his wife, Judy, plan to enjoy their well-deserved retirement by settling along the scenic Nanticoke River in Maryland; now, therefore, be it

RESOLVED by the House of Delegates, That Tom Harvey, former owner of Hollin Hall Automotive, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Harvey as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 731

Celebrating the life of David Armstead King, Jr.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, David Armstead King, Jr., a respected financial professional who made many contributions to community life in Norfolk, died on March 22, 2021; and

WHEREAS, David King grew up in Norfolk, where he graduated from Booker T. Washington High School, and continued his education at Virginia State University and Rutgers University; he served his country honorably as an active-duty officer in the United States Army in Vietnam, then as a reservist; and

WHEREAS, David King began his long career in banking in a management trainee program with Virginia National Bankshares Corp.; he rose through the ranks to become an assistant branch manager, minority affairs officer, commercial loan officer, assistant vice president, vice president, senior vice president, executive officer, and venture capitalist; and

WHEREAS, David King ultimately became president of Sovran Funding Corporation, which later merged into Bank of America; throughout his career, he earned the admiration of his clients and colleagues for his integrity, incomparable work ethic, and commitment to excellence; and

WHEREAS, after his well-earned retirement from banking, David King worked as a freelance financial consultant for Sentara Healthcare and other corporations until 1999, when he acquired the sanitation business MobileVac Services Company, which he managed until 2008; and

WHEREAS, David King generously volunteered his time and leadership with Omega Psi Phi Fraternity, Inc., the United Way, the United Negro College Fund, Norfolk Academy, and the Norfolk Azalea Festival; he was a champion for economic growth in the region and the Commonwealth as director of the Virginia Beach Development Authority, the Virginia Chamber of Commerce, and the Virginia Small Business Financing Authority; and

WHEREAS, David King will be fondly remembered and greatly missed by his beloved wife of more than 50 years, Brenda; his daughters, Erika and Errin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of David Armstead King, Jr., a former banking executive and community leader in Norfolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David Armstead King, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 732

Commending the Osher Lifelong Learning Institute at George Mason University.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, the Osher Lifelong Learning Institute at George Mason University, which offers first-rate educational programming for retirees in Northern Virginia, celebrates its 30th anniversary in 2021; and

WHEREAS, the Osher Lifelong Learning Institute at George Mason University (OLLI-Mason) in Fairfax County has become one of the premier lifelong learning institutes in the United States; and

WHEREAS, the Learning in Retirement Institute was founded in 1991 as the brainchild of the Fairfax Commission on Aging and visionary Kathryn Brooks, who wanted to establish educational and social opportunities for a growing base of active seniors in Northern Virginia, an age group expected to continue to grow well into the 21st century; and

WHEREAS, the Learning in Retirement Institute soon became affiliated with George Mason University as part of the university's strategic vision to extend its learning mission into the community, including seniors interested in maintaining an active intellectual life; and

WHEREAS, the Learning in Retirement Institute thereafter received a generous endowment from the Bernard Osher Foundation, a nonprofit that has dedicated millions of dollars to enhancing the quality of life in the United States through education and the arts; and

WHEREAS, OLLI-Mason's mission is "to offer to its members learning opportunities in a stimulating environment in which adults can share their talents, experiences and skills, explore new interests, discover and develop latent abilities, engage in intellectual and cultural pursuits, and socialize with others of similar interests"; and

WHEREAS, by all measures, OLLI-Mason has fulfilled its goals; what started two decades ago as a member-run school with 100 members operating and teaching out of one room in George Mason University's Commerce II building has burgeoned, today, into a robust, first-rate educational and social institute with 1,100 members; and

WHEREAS, OLLI-Mason annually offers retirees in Northern Virginia more than 600 courses, special events, and excursions over four academic terms and across three campuses in Fairfax, Reston, and Loudoun County; from arts to zoology, religion to science, there is a topic to satisfy anyone without the pressures of homework, exams, or grades; and

WHEREAS, the population of people age 50 and older in Northern Virginia is booming and its members are living longer and healthier lives; policymakers at all levels are working vigorously to develop programs and services to help them continue to participate more fully in their communities; and

WHEREAS, an unprecedented number of these older Americans are shuttered at home today, avoiding the serious health risks associated with the historic COVID-19 pandemic gripping this country since March 2020; and

WHEREAS, in response, OLLI-Mason converted to online programming, offering an intellectual and social lifeline to those who have been isolated for months as they safely ride out the pandemic; and

WHEREAS, the foresight of George Mason University and the County and City of Fairfax in developing OLLI-Mason has helped address the critical need to offer programs that enhance the quality of life for retirees in Northern Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That the Osher Lifelong Learning Institute at George Mason University hereby be commended on the occasion of its 30th anniversary for its resounding success in serving the educational and social needs of retirees in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Osher Lifelong Learning Institute at George Mason University as an expression of the House of Delegates' admiration for the program's years of success and best wishes for the future.

HOUSE RESOLUTION NO. 733

Commending the Nepali American Community Center.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, the Nepali American Community Center in Manassas works to promote Nepali identity, culture, languages, and traditions and support Nepali Americans throughout Northern Virginia; and

WHEREAS, established in 2019, the Nepali American Community Center enhances community life in the Washington, D.C., metropolitan area through social, educational, and philanthropic programs; and

WHEREAS, the Nepali American Community Center has coordinated with other such centers to share ideas and build multicultural respect and understanding between Northern Virginia residents of many backgrounds; and

WHEREAS, during the COVID-19 pandemic, the Nepali American Community Center established the Emergency Helpdesk, a hotline for people in need of assistance with medical, socioeconomic, psychological, or emotional challenges; and

WHEREAS, volunteers with the Nepali American Community Center helped to distribute critical supplies to people in need, and the center worked with Fairfax County and Loudoun County officials to coordinate an equitable distribution of COVID-19 vaccines; now, therefore, be it

RESOLVED by the House of Delegates, That the Nepali American Community Center hereby be commended for its work to promote diversity and build social and cultural harmony in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Nepali American Community Center as an expression of the House of Delegates' admiration for the organization's important achievements.

HOUSE RESOLUTION NO. 734

Commending Colonel Carl C. Johnson, USA, Ret.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Colonel Carl C. Johnson, USA, Ret., a resident of Ashburn, served the United States with distinction as a member of the Tuskegee Airmen at the end of World War II and as an aviator during the Korean War and the Vietnam War; and

WHEREAS, Carl Johnson grew up in Bellaire, Ohio, and attended The Ohio State University until he was drafted into the United States Army in 1945; he was assigned to aviation training at Tuskegee Army Airfield in Alabama and was the last cadet to graduate from training programs at the airfield; and

WHEREAS, Carl Johnson served at Enid Army Airfield in Oklahoma, then reported to Lockbourne Army Air Base in Columbus, Ohio, where he joined the 617th Bomber Squadron of the 477th Bombardment Group Composite; and

WHEREAS, Carl Johnson subsequently joined the Ohio National Guard and later flew as an Army aviator in combat during the Korean War and the Vietnam War, where he commanded an aviation battalion of seven companies and earned the Distinguished Flying Cross for his heroism; he earned 10 Air Medals over the course of his career; and

WHEREAS, after more than 30 years, Carl Johnson retired from the United States Army, then worked for the United States Department of Defense and the Federal Aviation Administration; and

WHEREAS, even after the integration of the United States Armed Forces in 1948, Carl Johnson and his fellow African American service members endured discrimination and overcame numerous challenges to continue serving their country with honor and dignity; and

WHEREAS, in 2007, Carl Johnson was one of 300 former Tuskegee Airmen who were collectively awarded the Congressional Gold Medal for their bravery, dedication to duty, and outstanding service to the nation; now, therefore, be it

RESOLVED by the House of Delegates, That Colonel Carl C. Johnson, USA, Ret., hereby be commended for his distinguished service as a member of the United States Army; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Carl C. Johnson, USA, Ret., as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 735

Commending Mary Virginia Sheppard Lockett.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Mary Virginia Sheppard Lockett of Arlington County, a beloved mother and grandmother and highly admired community leader, celebrated her 104th birthday in 2021; and

WHEREAS, born on February 7, 1917, Mary Lockett grew up in Falls Church and attended Bailey's Crossroads Elementary School and Francis Junior High School in Washington, D.C.; and

WHEREAS, after marrying her late husband, Edward, Mary Lockett relocated to the Nauck (now Green Valley) neighborhood in Arlington County in 1939; over the course of her professional career, she was a domestic worker for many years, worked part-time at Arlington Hall, briefly worked at the Pentagon during the 1940s, and assembled circuit boards for the government contractor Melpar; and

WHEREAS, in 1954, Mary and Edward Lockett decided to build their own home and worked with family members, friends, and local brick layers and builders to proudly shepherd the project to completion the following year; and

WHEREAS, Mary Lockett is the oldest member of the American Legion Auxiliary Dorie Miller Unit 194 of Arlington; she was previously a member of the Nauck Civic Association and was active with a local senior association and a sewing club; and

WHEREAS, a woman of deep and abiding faith, Mary Lockett has been a member of Mount Pleasant Baptist Church for more than 80 years, having joined the congregation in the 1940s when her late brother, Milton, was the pastor; and

WHEREAS, Mary Lockett volunteered her time and leadership to the congregation as an usher for more than 50 years, president of the Friendship Club for 13 years, and a member of several other clubs and ministries; in 2017, she was elected as Senior of the Year and named as a deacon emeritus, and on her birthday in 2021, she was honored by the church for her longevity in the community and decades of service; and

WHEREAS, Mary Lockett was a firsthand witness to many significant historical events, including the passage of the Nineteenth Amendment to the Constitution of the United States, the Great Depression, World War II, the moon landing, the Civil Rights Movement, and the dawn of the Internet era; she experienced both the 1918 influenza pandemic and the COVID-19 pandemic; and

WHEREAS, the proud matriarch of a large family, Mary Lockett imparted her wisdom, grace, integrity, and strong character to her children, grandchildren, and great-grandchildren, and she has mentored and inspired countless people throughout Northern Virginia in her role as a trusted community leader; now, therefore, be it

RESOLVED by the House of Delegates, That Mary Virginia Sheppard Lockett hereby be commended on the occasion of her 104th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary Virginia Sheppard Lockett as an expression of the House of Delegates' admiration for her contributions to the community and best wishes.

HOUSE RESOLUTION NO. 736

Commending Lara Larson.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Lara Larson, esteemed member of the Fairfax-Falls Church Community Services Board, retired in 2021; and

WHEREAS, Lara Larson dedicated more than 30 years to serving the citizens of Fairfax County and was a devoted member of the Fairfax-Falls Church Community Services Board; and

WHEREAS, Lara Larson's contributions to the Fairfax-Falls Church Community Services Board helped countless individuals with mental illness, substance abuse disorders, or developmental disabilities receive the support they needed to live healthy, fulfilling lives; and

WHEREAS, Lara Larson enhanced the efforts of the Fairfax-Falls Church Community Services Board both agency-wide and through her involvement with the community services board's communications team, helping to foster greater awareness and understanding of the agency among residents; and

WHEREAS, with an unflagging commitment to the success and well-being of vulnerable members of her community, Lara Larson has helped make Fairfax County and the Cities of Fairfax and Falls Church healthier and more supportive places for all; now, therefore, be it

RESOLVED by the House of Delegates, That Lara Larson, respected member of the Fairfax-Falls Church Community Services Board, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lara Larson as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 737

Commending Pathway Homes.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Pathway Homes, a nonprofit housing and support organization in Fairfax County, established a community garden to help support individuals recovering from mental health challenges; and

WHEREAS, established in 1980, Pathway Homes provides non-time-limited housing and other support services to adults throughout Northern Virginia with serious mental illnesses or co-occurring disabilities; and

WHEREAS, Pathway Homes helps residents build coping and management skills by fostering good health and wellness, and in July 2021, the organization began construction of its first community garden to promote good nutrition and provide an opportunity for shared outdoor activity for its residents; and

WHEREAS, the Pathway Homes community garden, located in Herndon, will comprise six garden beds, and residents will have access to fresh produce from the garden once the project is complete; now, therefore, be it

RESOLVED by the House of Delegates, That Pathway Homes hereby be commended for establishing a community garden to better serve and support its clients in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pathway Homes as an expression of the House of Delegates' admiration for the organization's work to provide safe, stable housing to community members in need.

HOUSE RESOLUTION NO. 738

Commending the McShin Foundation.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, the McShin Foundation, a recovery community organization providing individuals in the Richmond area with peer-based recovery support services, has been an invaluable resource to many for the past several years; and

WHEREAS, recognizing a service gap in their community, John Shinholser and Carol McDaid founded the McShin Foundation in 2004 to help individuals seeking treatment for substance abuse disorders have greater access to the care and resources they need; and

WHEREAS, based on the model of a recovery community organization (RCO), the McShin Foundation originally operated out of two offices in the basement of Hatcher Memorial Baptist Church in Richmond; and

WHEREAS, the McShin Foundation has grown over the years and, today, oversees 10 recovery residences, various recovery programs, and a 15,000-square-foot recovery community center that is open 365 days per year; and

WHEREAS, the McShin Foundation's 10 recovery residences, which offer a total of more than 100 beds, have been certified by both the Virginia Association of Recovery Residences and the National Alliance for Recovery Residences; and

WHEREAS, the McShin Foundation prioritizes care for three particular groups: those who are reentering society after time spent in prison or an institution, those who are resistant to traditional treatment services and have a history of relapse, and those seeking continued care after completing a treatment center program; and

WHEREAS, as one of the Commonwealth's leading RCOs specializing in peer-to-peer recovery support services, the McShin Foundation exemplifies an emerging trend in the field of addiction treatment, in which community support plays a vital role in an individual's path to recovery; and

WHEREAS, the success of the McShin Foundation is the result of the inspired vision of its founders, the steadfast dedication of its members, and the heartfelt support of the wider Richmond community; now, therefore, be it

RESOLVED by the House of Delegates, That the McShin Foundation, a recovery community organization based in Richmond, hereby be commended for helping countless individuals lead healthy and fulfilling lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Shinholser and Carol McDaid, founders of the McShin Foundation, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 739

Commending Emgage.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Emgage, a national nonprofit organization, has helped Muslim Americans throughout the Commonwealth and the United States learn how civic awareness, engagement, and advocacy can strengthen their communities; and

WHEREAS, Emgage operates chapters in seven states, including an office in Virginia, and strives to build communities of knowledgeable and motivated citizens through educational events like town halls and issue forums, leadership development programs, and youth mentorship; and

WHEREAS, Emgage helps Muslim Americans engage with elected officials by raising their awareness on key policy issues and giving them the tools to bring about change through proactive civic participation; and

WHEREAS, during the 2020 United States presidential election, Emgage launched a nonpartisan Get Out The Vote campaign that ultimately helped mobilize a historic turnout of more than one million Muslim American voters; and

WHEREAS, Emgage has helped Muslim Americans ensure that their experiences and contributions are recognized and that their communities are well represented at local, state, and national levels; now, therefore, be it

RESOLVED by the House of Delegates, That Emgage hereby be commended for its work to educate, engage, and empower Muslim Americans in the Commonwealth and throughout the country; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Emgage as an expression of the House of Delegates' admiration for the organization's achievements.

HOUSE RESOLUTION NO. 740

Commending Christine LaChance.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, for 30 years, Christine LaChance ably served and supported the Lake Barcroft Association in Fairfax County as assistant lake manager and Lake Manager; and

WHEREAS, the Lake Barcroft community shares its name with a privately owned lake known for its excellent fishing and opportunities for outdoor recreation; Christine "Chris" LaChance began her career with the Lake Barcroft Association as assistant lake manager in 1980 and served in that capacity until 1989, when she became Lake Manager; and

WHEREAS, in the course of her duties, Chris LaChance has diligently updated and maintained the resident database, managed the annual billing cycling and collections, distributed beach tags and boat registration decals, and helped organize Lake Barcroft Association events; and

WHEREAS, Chris LaChance has developed many strong relationships with local residents and has inspired her colleagues through her outstanding leadership and tireless efforts to strengthen the Lake Barcroft Association; and

WHEREAS, during her tenure as Lake Manager, Chris LaChance upheld the special spirit of the Lake Barcroft community through her compassion, dedication, and hard work; now, therefore, be it

RESOLVED by the House of Delegates, That Christine LaChance hereby be commended on the occasion of her retirement from the Lake Barcroft Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christine LaChance as an expression of the House of Delegates' admiration for her many contributions to the Lake Barcroft Association and the surrounding community.

HOUSE RESOLUTION NO. 741

Commending Sleepy Hollow Preschool.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Sleepy Hollow Preschool in Annandale worked with John Calvin Presbyterian Church to ensure that local children had safe options for online and in-person learning during the COVID-19 pandemic; and

WHEREAS, established in 1949, Sleepy Hollow Preschool has provided generations of children with opportunities to learn through play; the school has operated continuously for more than 70 years and is currently located in rented space at John Calvin Presbyterian Church; and

WHEREAS, as a cooperative preschool, Sleepy Hollow Preschool provides opportunities for parents or family members to work alongside teachers; the school emphasizes learning through recreational activities over a traditional academic curriculum; and

WHEREAS, during the COVID-19 pandemic, Sleepy Hollow Preschool adapted to the unique challenges of lockdown restrictions and social distancing requirements by sending parents ideas for at-home learning activities, hosting online classes with small groups, and conducting phone or video calls to ensure each student received personal interaction on a regular basis; and

WHEREAS, Sleepy Hollow Preschool and John Calvin Presbyterian Church established a COVID-19 Task Force to monitor risk levels and coordinate with the Fairfax County Health Department on effective safety precautions for a return to in-person learning; and

WHEREAS, in September 2020, Sleepy Hollow Preschool opened an all-outdoor program with enhanced cleaning procedures, smaller class sizes, increased health monitoring protocols, and mask requirements for all teachers and students; and

WHEREAS, Sleepy Hollow Preschool's impressive outdoor classroom at John Calvin Presbyterian Church comprises a playground, nature trails, swings, sandboxes, bikes, scooters, and a wooden train, along with other toys and engaging activities; now, therefore, be it

RESOLVED by the House of Delegates, That Sleepy Hollow Preschool hereby be commended for its work to provide safe opportunities for learning to local children during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sleepy Hollow Preschool as an expression of the House of Delegates' admiration for the school's commitment to serving young members of the Annandale community.

HOUSE RESOLUTION NO. 742

Commending John Calvin Presbyterian Church.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, John Calvin Presbyterian Church in Annandale worked with Sleepy Hollow Preschool to ensure that local children had safe options for online and in-person learning during the COVID-19 pandemic; and

WHEREAS, established in 1949, Sleepy Hollow Preschool has provided generations of children with opportunities to learn through play; the school has operated continuously for more than 70 years and is currently located in rented space at John Calvin Presbyterian Church; and

WHEREAS, during the early stages of the COVID-19 pandemic, Sleepy Hollow Preschool suspended in-person classes at John Calvin Presbyterian Church, but adapted to the unique challenges of lockdown restrictions and social distancing requirements by sending parents ideas for at-home learning activities, hosting online classes with small groups, and conducting phone or video calls to ensure each student received personal interaction on a regular basis; and

WHEREAS, John Calvin Presbyterian Church and Sleepy Hollow Preschool established a COVID-19 Task Force to monitor risk levels and coordinate with the Fairfax County Health Department on effective safety precautions for a return to in-person learning; and

WHEREAS, in September 2020, Sleepy Hollow Preschool opened an all-outdoor program with enhanced cleaning procedures, smaller class sizes, increased health monitoring protocols, and mask requirements for all teachers and students; and

WHEREAS, Sleepy Hollow Preschool's impressive outdoor classroom at John Calvin Presbyterian Church comprises a playground, nature trails, swings, sandboxes, bikes, scooters, and a wooden train, along with other toys and engaging activities; now, therefore, be it

RESOLVED by the House of Delegates, That John Calvin Presbyterian Church hereby be commended for its work to provide safe opportunities for learning to local children during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Calvin Presbyterian Church as an expression of the House of Delegates' admiration for the school's commitment to serving young members of the Annandale community.

HOUSE RESOLUTION NO. 743

Commending Art for the Journey.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Art for the Journey, an arts education nonprofit based in Midlothian, has greatly served the community through various art education and art therapy programs over the past several years; and

WHEREAS, the seed for Art for the Journey was an art class at the Virginia Correctional Center for Women in Goochland that founder and president Mark Hierholzer organized in 2013; inspired by the success of this program, he established Art for the Journey as a nonprofit on June 19, 2014; and

WHEREAS, early programs developed by Art for the Journey included a children's weekly painting program at The Carmel School in Ruther Glen and a program for individuals with mental health challenges developed in partnership with Henrico County and led by artist and doctor Steve Sawyer; and

WHEREAS, in 2015, Art for the Journey members opened a program at St. Mary's Woods Retirement Community in Richmond based on the Scripps Opening Minds through Art (OMA) program curriculum, helping individuals with dementia channel their inner creative spirits; and

WHEREAS, two years later, Art for the Journey partnered with Anna Julia Cooper Episcopal School in Richmond to provide art instruction to underserved youth, while becoming the first OMA training center outside of Ohio; and

WHEREAS, Art for the Journey partnered with Hunter Holmes McGuire Veterans Affairs Medical Center in 2018 to serve veterans affected by combat-related disabilities through various programs; and

WHEREAS, the staff of Art for the Journey are guided by the organization's values of well-being, dignity, growth, evolution, generosity, and community, cultivating positive experiences that help rejuvenate and restore program participants' bodies and minds; and

WHEREAS, the accomplishments of Art for the Journey have been made possible by the passion and dedication of its hundreds of volunteers and through the steadfast support of various local universities, organizations, and institutional partners; now, therefore, be it

RESOLVED by the House of Delegates, That Art for the Journey hereby be commended for creatively employing art education to connect with and uplift countless individuals and communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Hierholzer, founder and president of Art for the Journey, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 744

Commending Ellie Ashford.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, for many years, Ellie Ashford, an award-winning writer and editor, has enriched the lives of Annandale residents through her work to maintain the Annandale Blog, a dedicated source of timely community news; and

WHEREAS, established in 2009, the Annandale Blog provides information about everything from development and revitalization projects to new business openings as well as a calendar of local events; under Ellie Ashford's leadership, the blog has expanded its coverage area to include Seven Corners, Bailey's Crossroads, and other parts of the Mason District; and

WHEREAS, Ellie Ashford previously worked for the National School Boards Association in Alexandria; her articles have appeared in a wide range of publications and on varied websites, and she has worked as a freelance writer and editor for several nonprofit organizations and private companies; and

WHEREAS, Ellie Ashford is well known for her integrity, dedication, and incomparable work ethic, as well as her ability to write clearly and accurately about complex issues and her skill as a comprehensive editor; and

WHEREAS, Ellie Ashford earned the 2012 Citation of Merit from the Fairfax County Federation of Citizens Associations for her volunteer leadership and contributions to community life in Fairfax County; now, therefore, be it

RESOLVED by the House of Delegates, That Ellie Ashford hereby be commended for her years of service to the Annandale community through her work with the Annandale Blog; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ellie Ashford as an expression of the House of Delegates' admiration for her commitment to providing high-quality local journalism.

HOUSE RESOLUTION NO. 745

Commending Karen G. Schaufeld.

Agreed to by the House of Delegates, August 3, 2021

WHEREAS, Karen G. Schaufeld, esteemed philanthropist, author, entrepreneur, and lawyer, will receive the Community Foundation for Northern Virginia's Community Leadership Award on October 8, 2021; and

WHEREAS, the Community Foundation for Northern Virginia, a philanthropic organization based in Oakton, is honoring Karen Schaufeld with its Community Leadership Award for her outstanding community service and dedication to improving the quality of life for all Northern Virginians; and

WHEREAS, Karen Schaufeld is founder and president of 100WomenStrong, an organization that enriches the lives of Loudoun County residents by supporting local nonprofits and programs and is co-founder of All Ages Read Together, a free preschool program in Herndon for low-income families; and

WHEREAS, Karen Schaufeld has given generously of her time to various regional councils and boards and currently serves on the boards of All Ages Read Together and the Middleburg Film Festival and is a member of the National Council on White House History; and

WHEREAS, by creating PoweredbyFacts.com and spearheading the organization VaOurWay, Karen Schaufeld has proven an accomplished advocate for the growth of renewable energy and the advancement of other policy initiatives in the Commonwealth; and

WHEREAS, as chief executive officer of SWaN Hill Top, Karen Schaufeld has worked to revitalize the historic Hill Top House Hotel in Harpers Ferry, West Virginia; she is chief executive officer and co-founder of Altor Locks, an industry-leading bike lock company, and previously co-founded NEW Customer Service Companies, Inc., now part of NEW Asurion, Inc.; and

WHEREAS, Karen Schaufeld has illuminated the imaginations of countless children as author of the books *The Lollipop Tree* (2014), *Larry and Bob* (2016), *How to Eat a Peach* (2019), and *Vultures, A Love Story* (2021); and

WHEREAS, through her myriad ventures, Karen Schaufeld has demonstrated a deep commitment to her community and has helped make Northern Virginia a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Karen G. Schaufeld, an accomplished philanthropist, author, entrepreneur, and lawyer, hereby be commended for receiving the 2021 Community Leadership Award from the Community Foundation of Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen G. Schaufeld as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 746

Limiting legislation to be considered by the 2021 Special Session II of the General Assembly and establishing a schedule for the conduct of business coming before such Special Session.

Agreed to by the House of Delegates, August 2, 2021

RESOLVED by the House of Delegates, That during the 2021 Special Session II of the General Assembly, summoned by proclamation of the Governor on June 23, 2021, to begin August 2, 2021, except with the unanimous consent of the House, no bill, joint resolution, or resolution shall be offered or considered during the Special Session other than (i) a Budget Bill; (ii) House commending or memorial resolutions; (iii) bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business; (iv) bills, joint resolutions, or resolutions relating to the election of judges and other officials subject to the election of the General Assembly; (v) joint resolutions or resolutions relating to appointments made by legislative branch public bodies or appointing authorities subject to the confirmation of the General Assembly or the House; or (vi) bills or joint resolutions requested in writing by the Governor; and, be it

RESOLVED FURTHER, That after the Special Session is convened for the first time, the House may recess from time-to-time until reconvened with at least 48 hours' notice by the call of the Speaker of the House of Delegates; and, be it

RESOLVED FURTHER, That for purposes of this resolution:

"Budget Bill" means a general appropriation bill introduced in each house that authorizes or commits the expenditure of public revenues during the Commonwealth's fiscal year ending June 30, 2022; and, be it

RESOLVED FINALLY, That the 2021 Special Session II of the General Assembly shall be governed by the following procedural rules:

Rule 1. No single-house commending or memorial resolution shall be offered in either house after 5:00 p.m., Wednesday, August 4, 2021, except with unanimous consent of the house in which the resolution is offered.

Rule 2. No engrossment of the Budget Bill shall be required, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency

appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate during Special Session II, and (iii) any item that represents legislation that failed in either house during Special Session II.

HOUSE RESOLUTION NO. 747

Commending Liam B. Reaser:

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Liam B. Reaser, a rising senior at Thomas Jefferson High School for Science and Technology in Alexandria, achieved the prestigious rank of Eagle Scout, the highest rank conferred by the Boy Scouts of America, in 2021; and

WHEREAS, Liam Reaser of Boy Scouts of America Troop 956 achieved the Eagle Scout rank upon completing his service project, which involved creating a computer science curriculum for a local middle school, implementing a pilot program for approximately 30 students, and training others to teach the curriculum; and

WHEREAS, in addition to his accomplishments with the Boy Scouts of America, Liam Reaser serves as vice president of Thomas Jefferson High School's National Honor Society chapter and is chief logistics officer of the school's congressional debate team; and

WHEREAS, Liam Reaser represented Thomas Jefferson High School at the American Legion's annual civic education program, Boys State, where he was subsequently chosen to attend the organization's distinguished national program, Boys Nation; and

WHEREAS, a Mensa Honor Society inductee with a passion for both political and computer science, Liam Reaser has demonstrated great promise and will undoubtedly work tirelessly for the benefit of his community for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, That Liam B. Reaser hereby be commended for achieving the rank of Eagle Scout with the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Liam B. Reaser as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 748

Commending the Virginia Department of Veterans Services Military Medics and Corpsmen Program.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, in 2021, the Virginia Department of Veterans Services Military Medics and Corpsmen Program received the State Transformation in Action Recognition award from the Southern Legislative Conference of the Council of State Governments; and

WHEREAS, each year, the State Transformation in Action Recognition (STAR) award recognizes two government agencies that have enhanced the quality of life in their state through creative, impactful, transferable, and effective solutions; both winners in 2021 were from the Commonwealth, the Virginia Department of Veterans Services Military Medics and Corpsmen Program (MMAC) and a program of the Virginia Department of Corrections; and

WHEREAS, a panel of experienced policy professionals selected MMAC as a model of innovation and effectiveness in state government in the Southern region for its success in helping medically trained military veterans transition to civilian careers in the health care field; and

WHEREAS, MMAC was established as a pilot program in 2016 and became a permanent program in 2018 with the passage of legislation that allows military medics or corpsmen to practice certain medical acts under the supervision of a physician, a medical director, or other licensed designees; and

WHEREAS, in 2021, MMAC expanded to offer assistance to military spouses seeking to begin or continue a career in health care in the Commonwealth; and

WHEREAS, since its inception, MMAC has helped more than 300 veterans achieve careers in health care; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Department of Veterans Services Military Medics and Corpsmen Program hereby be commended on receiving the prestigious State Transformation in Action Recognition award in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Department of Veterans Services Military Medics and Corpsmen Program as an expression of the House of Delegates' admiration for the program's achievements in service to the nation's veterans living and working in the Commonwealth.

HOUSE RESOLUTION NO. 750

Celebrating the life of Dalton Eli Fox.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Dalton Eli Fox, beloved son and brother and cherished member of the Virginia Beach community, died on May 25, 2021; and

WHEREAS, affectionately known by family and friends as "D," Dalton Fox was a recent graduate of Trantwood Elementary School in Virginia Beach, where he served admirably on the school's safety patrol; and

WHEREAS, from a young age, Dalton Fox showed a fascination for animals and regularly amazed his parents with the breadth of his knowledge of various species; and

WHEREAS, Dalton Fox was an accomplished athlete, whose feats included hitting a walk-off, two-run single to win his baseball league's championship, posting his personal best swimming time after undergoing a leg amputation, and scoring a hat trick in his sled hockey league, where he was dubbed "Dalton the Destroyer"; and

WHEREAS, Dalton Fox was known for the good humor and positive attitude he maintained throughout his life, never missing an opportunity to make light of the challenges set before him; and

WHEREAS, Dalton Fox will be fondly remembered and dearly missed by his loving parents, William and Jennifer; his sister, Rachel; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dalton Eli Fox, a treasured member of the Virginia Beach community whose courage and determination in the face of adversity will forever be an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dalton Eli Fox as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 751

Commending Melinda Conner.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Melinda Conner, esteemed county administrator of Mathews County and longtime public servant of localities in the Commonwealth, retired on July 31, 2021; and

WHEREAS, prior to her career in public service, Melinda "Mindy" Conner attended Virginia Polytechnic Institute and State University, earning a bachelor's degree in family and child development in 1988 and a master's degree in urban affairs and planning two years later; and

WHEREAS, Mindy Conner began her remarkable career in public service in the Town of Montross in 1992, served the Town of Clarksville from 1994 to 2012, and dedicated the last years of her career as county administrator of Mathews; and

WHEREAS, Mindy Connor's accomplishments as Mathews County administrator included integrating new technologies into the county's offices, updating the historic county courthouse, and bolstering the county's financial standing; and

WHEREAS, in recognition of her able leadership, Mindy Connor became a credentialed manager through the International City/County Management Association, one of the world's leading trade associations for professional city and county managers, in 2010; and

WHEREAS, committed to excellence in her profession, Mindy Connor completed Senior Executive Institute leadership training at the University of Virginia's Weldon Cooper Center for Public Service; and

WHEREAS, as chair of the executive board of the Virginia Risk Sharing Association, Mindy Conner has helped numerous localities in the Commonwealth mitigate risk in a financially responsible manner; and

WHEREAS, Mindy Connor was recognized by the Virginia Local Government Management Association for outstanding service from 2012 to 2014 as a result of her tireless efforts on behalf of the citizens she served; and

WHEREAS, in retirement, Mindy Connor looks forward to the opportunity to spend more time with her husband, Steve; her children, Zachary, Kyle, and Mandy; and many other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, That Melinda Conner, county administrator of Mathews County, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Melinda Conner as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 752

Commending the FreeTHEM Walk.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, the FreeTHEM Walk, a charitable event organized by affiliates of Ramp Global Missions in Lynchburg, raised awareness of the dangers of human trafficking and support for victims; and

WHEREAS, the FreeTHEM Walk was established by Project Mona's House in Lynchburg and the FreeTHEM Center in Buffalo, New York, both programs of Ramp Global Missions, which strives to help people of all backgrounds who are hurt, exploited, undereducated, or impoverished; and

WHEREAS, in summer 2021, the FreeTHEM Walk completed a 902-mile walk from Lynchburg to Buffalo along routes used by the Underground Railroad, with stops at Appomattox Courthouse, the White House of the Confederacy, Aquia Landing in Stafford County, and the Old Jail in Warrenton; and

WHEREAS, the FreeTHEM Walk educated participants and people along the route about the crime of human trafficking and how to identify and assist victims; and

WHEREAS, the FreeTHEM Walk, which began on May 3 and ended on Juneteenth, was planned by Kelly Diane Galloway and Jaleesa Robinson, with critical assistance from numerous other organizers, volunteers, and supporters; now, therefore, be it

RESOLVED by the House of Delegates, That the FreeTHEM Walk hereby be commended for its success in raising awareness of and generating support for the victims of human trafficking; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ramp Global Missions as an expression of the House of Delegates' admiration for the significant achievements of the participants of the FreeTHEM Walk.

HOUSE RESOLUTION NO. 753

Commending Lindsay Trout.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Lindsay Trout, an outstanding teacher and school administrator with Fairfax County Public Schools since 1995, has ably served as principal of Terraset Elementary School for 10 years; and

WHEREAS, Lindsay Trout received a bachelor's degree in psychology with a minor in special education and Spanish from James Madison University in 1995 and received a master's degree in educational leadership from George Mason University in 2008; and

WHEREAS, Lindsay Trout has served as a special education teacher for more than 15 years and has supported students with mild to severe disabilities at both the elementary and secondary school levels; and

WHEREAS, Lindsay Trout instituted multiple peer-to-peer mentoring programs for students that resulted in increased student attendance in school and enhanced student behavioral successes; and

WHEREAS, Lindsay Trout has previously taken on the leadership roles of assistant student activities director and assistant principal at South Lakes High School; and

WHEREAS, since 2012, Lindsay Trout has served as principal of Terraset Elementary School, and during her tenure, she has bolstered academic programming for all students, increased family engagement, and enhanced the participation of fathers in their child's education; and

WHEREAS, Lindsay Trout was elected by her fellow local elementary school principals to represent and advocate for them as president of the Fairfax Association of Elementary School Principals during the 2019-2020 school year; and

WHEREAS, Lindsay Trout has earned many awards and accolades, including the 2000 Disney American Teacher of the Year Nominee, 2001 Outstanding Teacher Award and 2004 Outstanding Teacher-Leader Award from the Arc of Northern Virginia, 2011 Citizen of the Year award from the Omicron Kappa Kappa Chapter of Omega Psi Phi Fraternity, Inc., 2013 Nancy Sprague Leadership Award from Fairfax County Public Schools, 2014 Fairfax County Federation of Teachers' Top Rated Principal award, and 2021 Outstanding Principal Award from Fairfax County Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, That Lindsay Trout, principal of Terraset Elementary School, hereby be commended for her decades of service as an educator and school administrator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lindsay Trout as an expression of the House of Delegates' appreciation for her work to support the needs of children, families, communities, and other school leaders within the Commonwealth.

HOUSE RESOLUTION NO. 754

Celebrating the life of Graham Page Wilson.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Graham Page Wilson, an esteemed public servant and beloved member of the Poquoson community, died on March 10, 2021; and

WHEREAS, the son of Amelia "Micki" G. Wilson and the late Billy Page Wilson, Graham Wilson was born and raised in the City of Poquoson, where he attended and graduated from Poquoson City Public Schools; and

WHEREAS, after graduating from Radford University, where he was a founding member of Kappa Delta Rho fraternity, Graham Wilson began his career at Newport News Shipbuilding; and

WHEREAS, in 1993, Graham Wilson embarked upon his career in public service when he took an opportunity to serve as chief deputy commissioner of the City of Hampton under Commissioner of the Revenue Ross A. Mugler; and

WHEREAS, Graham Wilson ultimately returned to his hometown of Poquoson and dutifully served the locality in the capacity of commissioner of the revenue for 18 years, later becoming its assistant city manager in 2017; and

WHEREAS, Graham Wilson gave generously of his time and talents in service to others, in large part through his involvement with the Kiwanis Club of Poquoson, which he served as president in 2014; in recognition of his contributions, the club honored him with its George F. Hixson Fellowship in 2017; and

WHEREAS, Graham Wilson was a devoted father and husband and a mentor to many, whose unwavering optimism and enthusiasm was an inspiration to all who knew him; and

WHEREAS, guided throughout his life by his faith, Graham Wilson began his spiritual path at Trinity United Methodist Church in Poquoson and later enjoyed worship and fellowship with his community at Coastal Community Church in Yorktown for many years; and

WHEREAS, Graham Wilson will be fondly remembered and dearly missed by his loving wife of 31 years, Beth Ann; his children, Kasey and Graham, Jr.; his mother, Amelia; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Graham Page Wilson, a dedicated public servant whose kindness and compassion touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Graham Page Wilson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 755

Commending GainesvilleRx Pharmacy.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, GainesvilleRx Pharmacy, a family-owned-and-operated retail pharmacy located in Gainesville, has greatly served its community by administering more than 12,000 COVID-19 vaccinations during the pandemic; and

WHEREAS, GainesvilleRx Pharmacy is owned and operated by Pal Kahlon and Sonya Bhuller, who hold a doctor of pharmacy degree and a bachelor's degree in nursing, respectively; and

WHEREAS, GainesvilleRx Pharmacy's mission is to ensure that each patient and health care provider receives prompt, quality, friendly, highly professional, and individualized service; and

WHEREAS, GainesvilleRx Pharmacy began receiving COVID-19 vaccines in January 2021 and sprang into action to expeditiously vaccinate residents of Prince William County; and

WHEREAS, GainesvilleRx Pharmacy offered free walk-up vaccinations to eligible residents multiple times a week and advertised its services through social media and local information channels and at various community locations such as temples and churches; and

WHEREAS, GainesvilleRx Pharmacy staff converted their location into a COVID-19 vaccine clinic and carried out their operations with the utmost professionalism and efficiency; and

WHEREAS, GainesvilleRx Pharmacy staff administered close to 12,000 Moderna and Pfizer vaccines between January 20, 2021, and July 30, 2021, and observed the 21-to-28-day intervals required to properly administer the two doses of the vaccines; and

WHEREAS, GainesvilleRx Pharmacy staff provided offsite vaccinations to people at local businesses, car dealerships, and restaurants as well as to homebound individuals who were not able to come to the pharmacy due to medical conditions; and

WHEREAS, GainesvilleRx Pharmacy was an essential aspect of the vaccination effort in western Prince William County and helped vaccinate residents from neighboring counties of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That GainesvilleRx Pharmacy hereby be commended for its service to the local community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the leadership of GainesvilleRx Pharmacy as an expression of the House of Delegates' admiration for its staff's efforts.

HOUSE RESOLUTION NO. 756

Commending Reese E. Lepre.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Reese E. Lepre, an outstanding student and generous community volunteer, was selected as co-salutatorian of the Class of 2021 at Manassas Park High School; and

WHEREAS, Reese Lepre excelled in academics at Manassas Park High School, graduating with highest honors and a weighted GPA of 4.608; and

WHEREAS, outside of the classroom, Reese Lepre participated in numerous co-curricular activities, including DECA and Future Business Leaders of America; she served as the secretary of the International Thespian Society for two years and volunteered as a performer and apprentice for Pied Piper Theatre; and

WHEREAS, among her many leadership roles, Reese Lepre volunteered with Special Olympics Virginia through Manassas Park City Schools and mentored young people as a leadership intern with two Manassas Park Elementary School summer programs; and

WHEREAS, Reese Lepre served as a family physician apprentice at Bull Run Family Medicine from 2018 to 2020 and worked as an auxiliary teen volunteer with Novant Health; and

WHEREAS, Reese Lepre plans to attend the University of Virginia and study medicine with a goal to become a pediatric surgeon and assist children with serious health conditions; now, therefore, be it

RESOLVED by the House of Delegates, That Reese E. Lepre hereby be commended on her selection as co-salutatorian of the Class of 2021 at Manassas Park High School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Reese E. Lepre as an expression of the House of Delegates' admiration for her accomplishments and best wishes for the future.

HOUSE RESOLUTION NO. 757

Commending Nathan K. Lam.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Nathan K. Lam, an outstanding student and generous community volunteer, was selected as co-salutatorian of the Class of 2021 at Manassas Park High School; and

WHEREAS, Nathan Lam excelled in academics at Manassas Park High School, graduating with highest honors and a weighted GPA of 4.608; and

WHEREAS, outside of the classroom, Nathan Lam participated in numerous co-curricular activities, including DECA and Future Business Leaders of America, of which he served as treasurer and president; and

WHEREAS, among his many leadership roles, Nathan Lam has served as a peer mentor at Manassas Park High School, volunteered with Special Olympics Virginia with Manassas Park City Schools, and instructed elementary school students through the Leadership Intern Program at Camp Invention; and

WHEREAS, Nathan Lam gained experience in general dentistry and orthodontics as an intern at My Woodbridge Dental and Manassas Orthodontics and worked as an auxiliary teen volunteer with Novant Health; and

WHEREAS, Nathan Lam plans to attend the University of Pittsburgh under an eight-year guaranteed admissions program for dentistry with the goal of becoming a doctor of dental medicine focused on supporting underserved communities; now, therefore, be it

RESOLVED by the House of Delegates, That Nathan K. Lam hereby be commended on his selection as co-salutatorian of the Class of 2021 at Manassas Park High School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nathan K. Lam as an expression of the House of Delegates' admiration for his accomplishments and best wishes for the future.

HOUSE RESOLUTION NO. 758

Celebrating the life of Master Officer Woodrow W. Dowdy III.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Master Officer Woodrow W. Dowdy III, a distinguished law-enforcement officer who served the Commonwealth as a longtime member of the Division of Capitol Police, died on March 9, 2021; and

WHEREAS, Woodrow W. "Buddy" Dowdy III grew up in the Richmond area and attended Hermitage High School, where he was a standout member of the wrestling team; he subsequently graduated from J. Sargeant Reynolds Community College and the University of Richmond; and

WHEREAS, Buddy Dowdy joined the Division of Capitol Police in July 1987 and earned many accolades and commendations for his meritorious service over the course of his 33-year career; he was promoted to master officer in 2017 and mentored younger members of the agency as a field training officer; and

WHEREAS, often stationed at the Post 1 guardhouse overlooking the main entry point to Capitol Square at Ninth Street and Grace Street, Buddy Dowdy was a highly recognizable member of the Division of Capitol Police and exhibited courtesy and professionalism in his frequent interactions with state officials, staff members, and visitors; and

WHEREAS, Buddy Dowdy proudly served as a member of the Division of Capitol Police Honor Guard, and in 2018, he represented the division at numerous celebratory appearances commemorating its 400th anniversary as the oldest continuously operating law-enforcement agency in the United States; and

WHEREAS, Buddy Dowdy was passionate about classic cars and enjoyed a wide range of outdoor activities, from gardening to kayaking on the James River; he was a published author who had recounted many stories from his childhood in his book *The Neighborhood*; and

WHEREAS, Buddy Dowdy will be fondly remembered and greatly missed by his wife, Cheryl; his son, Wilson; his father, Woody Dowdy, Jr.; and numerous other family members, friends, fellow law-enforcement officers, and generations of people who had the opportunity to enjoy a conversation or exchange a friendly greeting with him outside Post 1; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Master Officer Woodrow W. Dowdy III, a respected member of the Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Master Officer Woodrow W. Dowdy III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 759

Commending Mahsa Riar.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Mahsa Riar, an inspirational young member of the Loudoun County community, received a 2020 Community Leadership Award from the Loudoun County Chamber of Commerce for her work to design prosthetic limbs and assistive devices for children; and

WHEREAS, Mahsa Riar, who was an eighth-grade student at Belmont Ridge Middle School when she won the award, developed an interest in 3-D printing in elementary school and began creating jewelry and gifts for friends; and

WHEREAS, after reading about a girl who had lost her leg in an accident and could not afford a prosthesis, Mahsa Riar studied ways to create low-cost prosthetic devices with her 3-D printer; and

WHEREAS, Mahsa Riar won an investor pitch competition through the Loudoun County Chamber of Commerce Young Entrepreneurs Academy and established her own company, Limitless Limb, in 2019; and

WHEREAS, in addition to designing and printing prosthetic limbs and assistive devices that have changed the lives of children throughout Northern Virginia, Mahsa Riar served the community during the COVID-19 pandemic by using her printer to create touchless doorknob openers and other devices; and

WHEREAS, the Community Leadership Awards recognize businesses and individuals that have demonstrated an outstanding commitment to serving the residents of Loudoun County; Mahsa Riar, who won in the Young Professionals category, was the youngest ever nominee for the award; now, therefore, be it

RESOLVED by the House of Delegates, That Mahsa Riar hereby be commended for receiving a 2020 Community Leadership Award from the Loudoun County Chamber of Commerce; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mahsa Riar as an expression of the House of Delegates' admiration for her compassionate work to support young people in the community.

HOUSE RESOLUTION NO. 760

Celebrating the life of Curtis Walton.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Curtis Walton, an esteemed attorney who greatly served his country throughout his career in public service with the United States government, died on April 8, 2020; and

WHEREAS, Curtis Walton demonstrated tremendous leadership potential from a young age, volunteering for organizations like the Making a Difference Foundation, Toys for Tots, and the Salvation Army, serving on the Portsmouth Youth Advisory Commission, and helping the community whenever he could; and

WHEREAS, Curtis Walton graduated summa cum laude from Old Dominion University with a bachelor's degree in political science and a minor in economics; major highlights of his university career included roles with the student body government and internships at the General Assembly with former Senator Ken Stolle and former Senator Harry Blevins; and

WHEREAS, after briefly working in Iraq and throughout the United States, Curtis Walton attended Liberty University, earning his juris doctor in 2012; shortly thereafter, he was admitted to the United States District Court Eastern District of Virginia and the Virginia State Bar; and

WHEREAS, Curtis Walton served his country meritoriously with various agencies, including the United States Department of Homeland Security, the United States Department of Veterans Affairs, and the United States Department of State; and

WHEREAS, as a refugee officer, Curtis Walton helped individuals seeking asylum in the United States determine their eligibility for immigration benefits; and

WHEREAS, at the headquarters of the United States Department of Homeland Security, Curtis Walton developed, executed, and facilitated new training programs for immigration officers across the United States; and

WHEREAS, in honor of his servant heart and his commitment to his community, Curtis Walton's family established the CW Student Empowerment Fund to help young students on their path to brighter futures; and

WHEREAS, guided through his life by his faith, Curtis Walton enjoyed worship and fellowship with his community at Pinecrest Baptist Church in Portsmouth, where he obtained an Awana citation award and with whom he attended several mission trips; and

WHEREAS, preceded in death by his father, David, Curtis Walton will be fondly remembered and dearly missed by his mother, Bonnie; his sister, Cheryl; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Curtis Walton, a respected public servant whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Curtis Walton as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 761

Celebrating the life of the Honorable James Arthur Cales, Jr.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, the Honorable James Arthur Cales, Jr., a retired judge of the Portsmouth General District Court and the Portsmouth Circuit Court, died on April 23, 2021; and

WHEREAS, James "Jac" Arthur Cales, Jr., was born in Richmond and later lived in Chesapeake, where he graduated from Great Bridge High School; he subsequently earned a bachelor's degree and a law degree from the University of Richmond; and

WHEREAS, Jac Cales relocated to Portsmouth in 1968 and served as an assistant Commonwealth's attorney until 1971, when he was elected as Commonwealth's attorney; and

WHEREAS, in 1983, Jac Cales was selected as a judge of the Portsmouth General District Court of the 3rd Judicial District of Virginia and served in that capacity for 14 years until he was selected as a judge of the Portsmouth Circuit Court of the 3rd Judicial Circuit of Virginia; and

WHEREAS, during his 29-year tenure on the bench, Jac Cales presided with great fairness and wisdom and was well-known for his compassion and genuine concern for the well-being of victims, witnesses, and jurors; and

WHEREAS, after his well-earned retirement, Jac Cales continued to serve as a substitute judge in the region and offered his expertise to judicial settlement conferences; throughout his career, he was a trusted mentor and friend to many local attorneys and fellow judges; and

WHEREAS, Jac Cales served the Commonwealth and the Portsmouth community with the utmost integrity, dedication, and distinction; and

WHEREAS, Jac Cales will be fondly remembered and greatly missed by his wife of 51 years, Sharon; his children, Melissa and James III, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable James Arthur Cales, Jr., a retired judge in Portsmouth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable James Arthur Cales, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 762

Commending Deloris Overton Short.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Deloris Overton Short, esteemed general registrar and director of elections of the City of Portsmouth, retired in 2021; and

WHEREAS, Deloris Overton Short acquired a sense of civic duty from her parents, John and Lucy Overton, and was among the first 18-year-olds to register to vote when the 26th Amendment to the United States Constitution was ratified in 1971; and

WHEREAS, a graduate of I.C. Norcom High School in Portsmouth and Norfolk State University, Deloris Overton Short was active in politics in her youth, supporting various voter registration efforts, and later worked for several years in the banking industry and with IBM; and

WHEREAS, on July 6, 1993, Deloris Overton Short became the general registrar and director of elections of the City of Portsmouth, making history as the first African American general registrar in the south Hampton Roads Region; and

WHEREAS, during her tenure as general registrar and director of elections, Deloris Overton Short enhanced the voter registration process by both bolstering security and improving accessibility, guaranteeing the integrity of Portsmouth's elections and the right of its citizens to vote; and

WHEREAS, Deloris Overton Short oversaw several technology upgrades to voting machines that heightened Portsmouth's ability to carry out its elections both securely and expediently, while relocating the registrar's office to a more convenient and visible location for the benefit of the community; and

WHEREAS, since taking the helm of the Portsmouth general registrar's office, Deloris Overton Short has seen voter registration increase by more than 50 percent, despite the locality's declining population; and

WHEREAS, in addition to her service with the City of Portsmouth, Deloris Overton Short has supported her community through leadership roles with various local civic organizations and as a member of the Portsmouth branch of the NAACP and the Portsmouth chapter of Links, Inc.; and

WHEREAS, Deloris Overton Short has received numerous accolades as a testament to her illustrious career, including the 1996 President's Award from the NAACP, the 1997 Liberty Bell Award from the Portsmouth Bar Association, and the 2006 Meritorious Service Award from the I.C. Norcom High School Alumni Association; now, therefore, be it

RESOLVED by the House of Delegates, That Deloris Overton Short, general registrar and director of elections of the City of Portsmouth, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deloris Overton Short as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 763

Commending The Greenhouse.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, The Greenhouse, a beloved nursery and garden center in Glen Allen that has greatly served the Greater Richmond area in that location for more than 50 years, will close in 2021; and

WHEREAS, The Greenhouse was started by Gilbert and Margaret Miles, who ran a small operation at the greenhouses in Richmond's Hollywood Cemetery until its popularity led them to open a business on Mountain Road in Glen Allen in 1969; and

WHEREAS, The Greenhouse added a second location, The Greenhouse II, on Patterson Avenue in Richmond in 1981, allowing the business to grow and better serve the community; and

WHEREAS, Gilbert and Margaret Miles' son George and his wife, Cathy, took ownership of The Greenhouse in 2001 and have been thoughtful and enterprising stewards of the business for the past two decades; and

WHEREAS, The Greenhouse's impressive collection of annuals, perennials, landscaping plants, décor, and more for every season has inspired countless gardeners over the years; and

WHEREAS, The Greenhouse has earned its reputation for exceptional customer care, gladly providing helpful planting advice and offering mulching and rental services to help customers bring glory to their gardens; and

WHEREAS, from one growing season to the next, the owners of The Greenhouse have graciously offered support to other nurseries and garden center owners around Richmond, a testament to the convivial spirit of small business owners in the Commonwealth; and

WHEREAS, The Greenhouse will maintain its second property, The Greenhouse II, on Patterson Avenue, ensuring green thumbs in the Greater Richmond area will continue to have access to everything they need to achieve their horticultural dreams; now, therefore, be it

RESOLVED by the House of Delegates, That The Greenhouse, a treasured institution in Glen Allen, hereby be commended on the occasion of its closing; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George and Cathy Miles, owners of The Greenhouse, as an expression of the House of Delegates' admiration for the business' contributions to the Commonwealth.

HOUSE RESOLUTION NO. 764

Celebrating the life of Dominic Jared Winum.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Dominic Jared Winum, who served the community of Stanley with honor and distinction as an officer with the Stanley Police Department, died in the line of duty on February 26, 2021; and

WHEREAS, Dominic "Nick" Jared Winum spent the first 10 years of his illustrious career in law enforcement as a proud member of the Virginia State Police, helping to ensure a safe and secure Commonwealth; and

WHEREAS, Nick Winum joined the Stanley Police Department in 2016, working tirelessly every day to protect and serve the residents and visitors of Stanley; and

WHEREAS, an untold number of law-enforcement officers, public officials, and other individuals demonstrated their gratitude for Nick Winum and his faithful service through public announcements and at a memorial arranged outside the Stanley Police Department headquarters to honor his memory; and

WHEREAS, in addition to his career in law enforcement, Nick Winum was a successful tomato farmer along the Commonwealth's Eastern Shore in his earlier years and later owned a renowned ammunition business; and

WHEREAS, guided throughout his life by his faith, Nick Winum enjoyed worship and fellowship with his community at Bethlehem Independent Christian Church in Stanley and inspired others through his example and mentorship; and

WHEREAS, Nick Winum will be fondly remembered and dearly missed by his loving wife of 26 years, Kara; his children, Jedediah, Aubrey, Jackson, and Nicki, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dominic Jared Winum, an officer with the Stanley Police Department whose kindness, compassion, and service to others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dominic Jared Winum as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 765

Celebrating the life of Peter J. Fields.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Peter J. Fields, a talented musician and dedicated public servant who represented the residents of the George Washington District on the Stafford County Board of Supervisors, died on June 9, 2021; and

WHEREAS, a classically trained musician, Peter "Pete" J. Fields was an engaging solo guitarist who possessed a keen mastery of jazz and South American and Portuguese music, as well as many other styles; and

WHEREAS, desirous to be of service to his community, Pete Fields ran for and was elected to the Stafford County Board of Supervisors in 1999 and was the first Democrat to win a local election in Stafford County in nearly a decade; and

WHEREAS, Pete Fields served two terms on the Stafford County Board of Supervisors, then joined the Stafford County Planning Commission; and

WHEREAS, Pete Fields earned the admiration of his colleagues for his even-temper and wide breadth of knowledge, and he worked to build bipartisan respect and consensus in Stafford County local government; and

WHEREAS, after leaving local government in 2012, Pete Fields relocated to Falls Church and continued to pursue a musical career in the Washington, D.C., metropolitan area; and

WHEREAS, Pete Fields will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Peter J. Fields; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Peter J. Fields as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 766

Celebrating the life of Raymond James Foder.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Raymond James Foder, honorable veteran and a beloved member of the Pitman and Glassboro communities in New Jersey, died on June 25, 2021; and

WHEREAS, raised in Audubon, New Jersey, Raymond "Ray" James Foder served his country with honor and distinction in the United States Army during the Vietnam War; and

WHEREAS, after his military service, Ray Foder began a career in the banking industry at the People's Bank in Westmont, New Jersey, where he met his wife, Dottie; they later settled for many years in Pitman, New Jersey; and

WHEREAS, Ray Foder notably helped connect Henry Rowan with the leadership at Glassboro State College, an introduction that would ultimately lead to substantial support and the renaming of the college to Rowan University; and

WHEREAS, Ray Foder was an active and engaged member of his community, serving as president and in various other positions with the Glassboro Rotary Club while providing clothes, food, housing, cars, educational grants, toys, summer camps, and job training opportunities to those in need; and

WHEREAS, for his service with the Glassboro Rotary Club, Ray Foder received the organization's prestigious Paul Harris Fellow medallion; and

WHEREAS, known for his good humor and warmth, Ray Foder made friends easily and was always there for anyone who could use a helping hand; and

WHEREAS, Ray Foder will be fondly remembered and dearly missed by his loving wife of more than 30 years, Dottie; his daughter, Joy, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Raymond James Foder, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Raymond James Foder as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 767

Celebrating the life of Michael Brian Painter.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Michael Brian Painter, a master firefighter with the Virginia Beach Fire Department who served the community for more than three decades, died on June 24, 2021; and

WHEREAS, over the course of his 33-year career as a firefighter, Michael "Mike" Brian Painter worked tirelessly to safeguard the lives and property of the Virginia Beach residents and served as an assistant fire marshal in his last years; and

WHEREAS, Mike Painter brought joy to his family members, friends, and colleagues with his magnetic personality, sense of humor, and infectious laugh; and

WHEREAS, Mike Painter touched countless lives in the Virginia Beach community through his incomparable generosity and commitment to service; and

WHEREAS, Mike Painter will be fondly remembered and greatly missed by his wife, Sheryl; children, Kevin, Steven, Crystal, and Brandon, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Michael Brian Painter, a dedicated public safety officer and highly admired member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael Brian Painter as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 768

Commending Manna Bistro and Bakery.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Manna Bistro and Bakery, a family-owned-and-operated dining establishment in Centreville, was named by Yelp as one of the Top 100 Places to Eat in 2021; and

WHEREAS, the crowd-sourced business review site Yelp conducted its eighth-annual Top 100 Places to Eat competition by first seeking nominations from its members and then evaluating restaurants based on their Yelp ratings, number of reviews, and volume of nominations; and

WHEREAS, Manna Bistro and Bakery serves an exquisite selection of meat and vegan Ethiopian dishes that have impressed residents of Centreville since 2002, when the restaurant started as Mena Bakery and Carry Out; and

WHEREAS, the chefs at Manna Bistro and Bakery use imported Ethiopian spices and fresh, natural ingredients from the restaurant's farm to create an authentic and memorable dining experience; and

WHEREAS, the staff at Manna Bistro and Bakery places a premium on customer service and strive every day to make everyone in their establishment feel at home; and

WHEREAS, Manna Bistro and Bakery's recent accolade is a testament to the community's appreciation for its efforts to make Centreville a wonderful place to live, work, and dine; now, therefore, be it

RESOLVED by the House of Delegates, That Manna Bistro and Bakery hereby be commended for being named to Yelp's 2021 Top 100 Places to Eat; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Manna Bistro and Bakery as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 769

Commending the Honorable Carlos Hopkins.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Honorable Carlos Hopkins, the current Virginia Secretary of Veterans and Defense Affairs and a colonel in the Virginia Army National Guard, will deploy to the Middle East in support of Operation Spartan Shield in 2021; and

WHEREAS, a member of Governor Ralph Northam's administration since 2018, Carlos Hopkins coordinates state and federal resources to support the veteran and active-duty military community in Virginia, and his diligent advocacy has helped make the Commonwealth one of the best states for veterans in the nation; and

WHEREAS, during his tenure as Secretary of Veterans and Defense Affairs, Carlos Hopkins has overseen the Virginia Values Veterans Program, which has helped more than 35,000 service members transition to civilian careers; and

WHEREAS, Carlos Hopkins helped expand services for the significant population of women veterans in the Commonwealth and increased mental health support services to reduce suicide among active and returning service members; and

WHEREAS, after mobilization training in Virginia, Maryland, and Texas, Carlos Hopkins will deploy to the Central Command Area of Operations with the 29th Infantry Division as part of Task Force Spartan; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable Carlos Hopkins hereby be commended for his support for veterans and service to the Commonwealth and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Carlos Hopkins as an expression of the House of Delegates' admiration for his achievements and best wishes for a safe and successful deployment.

HOUSE RESOLUTION NO. 770

Commending Ciao Osteria.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Ciao Osteria, a cherished dining establishment in Centreville specializing in wood-fired pizzas and home-style Italian cuisine, has greatly served its community throughout the COVID-19 pandemic; and

WHEREAS, Ciao Osteria was opened in 2014 by Sal Speziale, his wife Gina, his son Ryan Haas, and his godson Antonio Di Nicola, who is the restaurant's head chef; it was named by *Northern Virginia Magazine* as one of the area's "50 Best Restaurants" from 2014 to 2019; and

WHEREAS, prior to Ciao Osteria, Gina Speziale was a labor and delivery nurse at Inova Fair Oaks Hospital in Chantilly; when she checked on her former colleagues and friends at the outset of the COVID-19 pandemic, she learned many were too busy to go to the hospital's food court to get food; and

WHEREAS, recognizing their community's need, Gina Speziale and her husband, Sal, a graduate of the United States Air Force Academy and veteran of the National Guard, responded by delivering 30 meals from Ciao Osteria to the Inova Fair Oaks Hospital emergency room; and

WHEREAS, inspired by the effect their gesture had on frontline health care workers, Ciao Osteria continued to provide meals during the pandemic; as expenses mounted, a giving campaign was established through GoFundMe, and it raised more than \$165,000 from people around the world after local news station ABC7 shared their story; and

WHEREAS, Ciao Osteria expanded beyond Inova Fair Oaks Hospital and began delivering nearly 250 meals a day to various agencies and institutions, including Inova Fairfax Hospital, Fire Stations 17 and 38 of the Fairfax County Fire and Rescue Department, hospitals in Manassas, the Fairfax County Sheriff's Office, and the Virginia State Police; and

WHEREAS, after the initial GoFundMe money ran out, Sal Speziale's classmates at the Air Force Academy began donating to the cause and more meals were delivered; and

WHEREAS, Ciao Osteria's donated meals have included veal and chicken marsala, salad, cannolis, ice cream, tiramisu, and more; these elaborate presentations have brightened the days of countless individuals working tirelessly on the frontlines of the pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Ciao Osteria hereby be commended for generously serving its community throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sal Speziale, co-owner of Ciao Osteria, as an expression of the House of Delegates' admiration for the restaurant's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 771

Commending the Springfield Civic Association.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, for nearly 70 years, the Springfield Civic Association has promoted public and private development in the region, advocated for the well-being of residents, and worked to build a strong sense of community in Springfield; and

WHEREAS, Springfield was still a primarily rural area when Vernon Lynch and Sons began selling residential properties in the Springvale area in 1947; shortly afterward, Edward R. Carr began to envision Springfield as a satellite city to address the lack of housing in Washington, D.C., and began planning for not only homes, but roads, water and sewage infrastructure, and shopping centers; and

WHEREAS, in 1951, Edward Carr sold 593 acres of land to the Crestwood Construction Corporation, which broke ground on 13 model homes in 1951, making the "Crestwood's Springfield" subdivision the first planned community in Fairfax County; and

WHEREAS, the nonprofit Springfield Civic Association was formed around 1953 to support the growing community and encourage residents to take an active role in local affairs; and

WHEREAS, the Springfield Civic Association now represents residents in the central part of Springfield, including the Crestwood community, which encompasses more than 2,400 homes and 800 apartments; now, therefore, be it

RESOLVED by the House of Delegates, That the Springfield Civic Association be commended on the occasion of the 70th anniversary of the groundbreaking for the Crestwood subdivision; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Springfield Civic Association as an expression of the House of Delegates' admiration for the Springfield community's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 772

Commending Virginia Task Force 2.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in July 2021, members of Virginia Task Force 2 deployed to the site of a catastrophic building collapse in Florida to assist with search and rescue efforts; and

WHEREAS, Virginia Task Force 2, based in Virginia Beach, is a unit of the National Urban Search and Rescue System, established by the Federal Emergency Management Agency to quickly organize emergency services personnel into specialized disaster response teams in times of crisis; and

WHEREAS, Virginia Task Force 2 is composed of firefighters, technical rescue technicians, emergency medical services personnel, canine handlers, engineers, and physicians from various city and county departments throughout Hampton Roads; and

WHEREAS, on July 1, 2021, approximately 80 members of Virginia Task Force 2 traveled to Surfside, Florida, where a 12-story residential building had collapsed in the early morning of June 24, and additional members of the team deployed to Florida shortly afterward; and

WHEREAS, members of Virginia Task Force 2 divided into two teams and worked around the clock in 12-hour shifts in search and rescue and search and recovery operations, enduring high temperatures and difficult and dangerous working conditions, including high winds and rain from hurricane Elsa; and

WHEREAS, the disaster proved to be one of the deadliest structural collapses in the history of the nation, with at least 95 people killed; members of Virginia Task Force 2 recovered at least 25 victims and assisted with recovery operations of several others; and

WHEREAS, while a small team remained in Florida to work with a specialized unit, the majority of the unit returned to the Commonwealth on July 13; and

WHEREAS, the members of Virginia Task Force 2 demonstrated bravery, dedication, and an unwavering commitment to serving the public during the deployment; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Task Force 2 hereby be commended for its response to the building collapse in Surfside, Florida, in July 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Task Force 2 as an expression of the House of Delegates' admiration for the service and sacrifices of all of its members.

HOUSE RESOLUTION NO. 773

Commending Kimberly Nurse.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Kimberly Nurse, a special educator and Advancement Via Individual Determination coordinator at Kempsville High School, was selected as the 2022 Virginia Beach City Public Schools Citywide Teacher of the Year; and

WHEREAS, Kimberly Nurse was selected from a pool of 87 outstanding teachers for her efforts to establish a learning environment where all students feel safe, respected, and understood; and

WHEREAS, Kimberly Nurse is a devoted advocate for her students and strives to help them achieve success both in and out of the classroom by fostering social and emotional development as well as a passion for lifelong learning; and

WHEREAS, Kimberly Nurse has provided teacher trainings on Advancement Via Individual Determination strategies and has served as a student council advisor, administrative intern, member of the principal's advisory committee, Partners in Education program liaison, and founding advisor to the Kempsville High School Black Student Union; and

WHEREAS, in 2019, Kimberly Nurse planned, coordinated, and managed Kempsville High School's African American Male Summit, which provided an opportunity for hundreds of middle and high school students to meet with community leaders and mentors; and

WHEREAS, Kimberly Nurse holds bachelor's and master's degrees from Norfolk State University and previously worked at Seatack Elementary School and Landstown High School before joining the faculty of Kempsville High School in 2018; and

WHEREAS, Kimberly Nurse will receive the Citywide Teacher of the Year award at the Virginia Beach Education Foundation's annual Teacher of the Year Dinner on November 2, 2021; now, therefore, be it

RESOLVED by the House of Delegates, That Kimberly Nurse hereby be commended on her selection as the 2022 Virginia Beach City Public Schools Citywide Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kimberly Nurse as an expression of the House of Delegates' admiration for her achievements in service to young people in Virginia Beach.

HOUSE RESOLUTION NO. 774

Commending Joann Albergo Mancuso.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Joann Albergo Mancuso, who received the 2021 Weinstock Award from the Brain Injury Association of Virginia for her years of service to individuals living with the effects of brain injuries, is retiring as brain injury services manager for Eggleston in Hampton Roads; and

WHEREAS, Joann Mancuso holds a master's degree in vocational rehabilitation counseling and is a certified brain injury specialist; she has more than 25 years of experience in the field of brain injury treatment and previously founded the Hampton Roads Brain Injury Support Group; and

WHEREAS, Joann Mancuso currently serves as program director of Eggleston's Beacon House, a program to help people with acquired brain injuries rebuild the skills and self-esteem they need to return to work or other activities and stay engaged with their communities; and

WHEREAS, Joann Mancuso received the prestigious award at the Brain Injury Association of Virginia's annual Legacy Dinner on June 24, 2021; now, therefore, be it

RESOLVED by the House of Delegates, That Joann Albergo Mancuso hereby be commended for her work with the brain injury community on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joann Albergo Mancuso as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 775

Commending Michael Paul Williams.

Agreed to by the House of Delegates, August 4, 2021

WHEREAS, Michael Paul Williams, esteemed columnist of the *Richmond Times-Dispatch*, won the Pulitzer Prize for commentary in 2021; and

WHEREAS, Michael Williams was selected by the Pulitzer Prize board based at Columbia University to receive journalism's most prestigious award for opinion pieces he wrote during the summer of 2020 on the subject of Richmond's Confederate statues; and

WHEREAS, Michael Williams joins 16 other Pulitzer Prize honorees in 2021 and is the third writer for the *Richmond Times-Dispatch* to receive the award; and

WHEREAS, a longtime member of the Greater Richmond community, Michael Williams graduated from Hermitage High School in Henrico County before earning a bachelor's degree in English from Virginia Union University and a master's degree in journalism from Northwestern University; and

WHEREAS, Michael Williams has devoted nearly 40 years of his accomplished career in journalism to the *Richmond Times-Dispatch*, authoring more than 2,700 opinion columns while contributing to the evolution of the paper over the past half-century; and

WHEREAS, by offering fresh insights that bring greater understanding to challenging topics of the day, Michael Williams has provided an invaluable service to the Richmond community; now, therefore, be it

RESOLVED by the House of Delegates, That Michael Paul Williams, respected columnist of the *Richmond Times-Dispatch*, hereby be commended for winning the 2021 Pulitzer Prize for commentary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Paul Williams as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 776

Commending Cathy Lewis.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Cathy Lewis served the Hampton Roads community as a radio journalist for 25 years as the host of HearSay with Cathy Lewis on WHRV-FM, a National Public Radio station; and

WHEREAS, Cathy Lewis established HearSay with Cathy Lewis, a public affairs radio call-in program, in 1996 and quickly developed a loyal following for her integrity and commitment to civility; and

WHEREAS, many local, state, and national leaders appeared on HearSay with Cathy Lewis, including eight Virginia governors, seven United States senators, 14 members of the United States House of Representatives, and countless other elected officials; and

WHEREAS, Cathy Lewis covered numerous significant events live on her show, including the attacks on September 11, 2001, the shooting at Virginia Polytechnic Institute and State University in 2007, and the Virginia Beach municipal building shooting in 2019, and worked diligently to provide only the most accurate information; and

WHEREAS, during Hurricane Isabel in 2003, Cathy Lewis used her live broadcast to help local officials coordinate with the Federal Emergency Management Agency, and during the COVID-19 pandemic, she served as a trusted source of information and worked to increase vaccination rates and support frontline health care workers; and

WHEREAS, from 2001 to 2019, Cathy Lewis served as president and chief executive officer of the CIVIC Leadership Institute, which gives executives in Hampton Roads the tools to become more engaged with the community and enhance the quality of life in the region; now, therefore, be it

RESOLVED by the House of Delegates, That Cathy Lewis hereby be commended for her outstanding service to the Commonwealth as a journalist and community leader on the occasion of the final episode of her radio program, HearSay with Cathy Lewis, in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cathy Lewis as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 777

Commending the Mason and Partners Vaccination Clinic at the Manassas Park Community Center.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Mason and Partners Vaccination Clinic at the Manassas Park Community Center launched on January 19, 2021, and played a critical role in slowing the spread of COVID-19 by providing vaccinations to local residents; and

WHEREAS, the Mason and Partners Vaccination Clinic has served many vulnerable populations in Manassas Park and western Prince William County and had vaccinated more than 35,000 members of the community as of June 1, 2021; and

WHEREAS, Mason and Partners Clinics are interprofessional medical clinics operated by the George Mason University College of Health and Human Services to serve the uninsured and refugee communities within Prince William and Fairfax Counties in Northern Virginia; and

WHEREAS, the Mason and Partners Vaccination Clinic at the Manassas Park Community Center was created as a partnership between the George Mason University College of Health and Human Services, the Manassas Park City Government, the Virginia Department of Health, and the Prince William Health District; and

WHEREAS, the Mason and Partners Vaccination Clinic was staffed by 20 to 30 people per day and more than 200 individuals overall; the clinic was staffed primarily by volunteer faculty, staff, students, and alumni of the George Mason University College of Health and Human Services; and

WHEREAS, many current George Mason University students contributed class time and volunteer hours to staffing the clinic, and multiple departments of the City of Manassas Park contributed logistical support to ensure the safety and efficiency of clinic operations; and

WHEREAS, the Manassas Park Community Center converted its facility into an extensive vaccination operation with capacity to vaccinate hundreds to thousands of residents per day and helped address unique challenges, such as facilitating language services for non-English speakers; and

WHEREAS, the Mason and Partners Vaccination Clinic was funded by the College of Health and Human Services School of Nursing, Health Resources and Services Administration Grants, the Potomac Health Foundation, and the Northern Virginia Health Foundation; now, therefore, be it

RESOLVED by the House of Delegates, That the Mason and Partners Vaccination Clinic at the Manassas Park Community Center hereby be commended for its lifesaving services to the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the leadership of the George Mason University College of Health and Human Services and the City of Manassas Park as an expression of the House of Delegates' admiration for the vital mission of the Mason and Partners Vaccination Clinic at the Manassas Park Community Center.

HOUSE RESOLUTION NO. 778

Commending the Hampton Roads Chess Association.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Hampton Roads Chess Association, a charitable nonprofit organization with a mission to bring the benefits of chess to people of all ages and abilities in the region, has greatly served the Hampton Roads community through various programs and services; and

WHEREAS, the Hampton Roads Chess Association (HRCA) is composed of two main clubs, the Hampton Roads Scholastic Chess Club, which was founded in 2014 and caters to players from pre-kindergarten through 12th grade, and the Hampton Roads Chess Club, which supports activities for all ages; and

WHEREAS, the communities served by the HRCA include youth and adult competitive chess players, schools, at-risk youth, people with disabilities, the elderly, veterans, and scouts; and

WHEREAS, in support of the well-being of elderly members of the community during the COVID-19 pandemic, the HRCA established its "Zoom Chess Pals for Seniors" program, which matched senior citizens with high school student-volunteers for virtual chess matches; and

WHEREAS, the HRCA deftly responded to the COVID-19 pandemic by shifting its entire operation, including tournaments, lessons, and its Seven Cities Championship, online; and

WHEREAS, in recognition of its accomplishments promoting chess in the Hampton Roads Region, the HRCA was named the Chess Club of the Year by the United States Chess Federation in 2017; and

WHEREAS, through the dedication of its staff and the tireless efforts of its volunteers, the HRCA has helped make the Hampton Roads Region a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the Hampton Roads Chess Association hereby be commended for its service to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Hampton Roads Chess Association as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 779

Commending The Norfolk City Union of The King's Daughters.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, The Norfolk City Union of The King's Daughters, the founding organization of the Children's Hospital of The King's Daughters in Norfolk, celebrates its 125th anniversary in 2021; and

WHEREAS, The Norfolk City Union of The King's Daughters was formed by a group of caring women in 1896 with a mission to address the plight of indigent families and children in Norfolk and in only one year raised sufficient funds to start a visiting nurse service; and

WHEREAS, in the first year, the nurse hired by The King's Daughters made 1,771 visits on foot to patients; a donated bike increased nursing visits the second and subsequent years and in 1919 the first car was donated and annual visits from nurses through the years increased to over 41,000 visits; and

WHEREAS, as its operations grew, The King's Daughters established a baby clinic on Duke Street in Norfolk in 1913 that offered free or low-cost medical care to children in the area for nearly a half-century; and

WHEREAS, on April 23, 1961, The King's Daughters opened the Children's Hospital of The King's Daughters (CHKD), realizing its longstanding vision for a full-service hospital dedicated exclusively to the care of children in the community where no patient would be turned away for lack of funds; and

WHEREAS, the CHKD, the only freestanding children's hospital in the Commonwealth today, provides exceptional care to thousands of children every year and has become a lifesaving resource for families in the Hampton Roads and Northeast North Carolina regions; and

WHEREAS, since The King's Daughters transferred the operation of the hospital to the Children's Health System of CHKD in 1984, members of The King's Daughters have continued to serve on the boards of the hospital and the CHKD Foundation while volunteering more than 49,000 hours annually in support of the health system; and

WHEREAS, The King's Daughters have remained devoted to expanding and enhancing services at CHKD through fundraising and volunteerism, raising millions to ensure the hospital remains on the cutting-edge of pediatric care; and

WHEREAS, The King's Daughters have spearheaded numerous endeavors to redouble their commitment to the well-being of children in the community and to improve services at CHKD, including an endowment to support victims of child abuse, a donor milk bank, and a mental health hospital, which will open in 2022; and

WHEREAS, as a result of the COVID-19 pandemic, The King's Daughters and its 1896 Society are celebrating their 125th anniversary through a series of virtual and hybrid events while planning to resume cherished events such as the CHKD RunWalk for the Kids, Breakfast with Santa, and Moonlight and Mistletoe in the near future; and

WHEREAS, The King's Daughters' accomplishments are the result of the pioneering spirit of its founders, the stellar leadership of its board of directors, and the tireless dedication of thousands of volunteers; now, therefore, be it

RESOLVED by the House of Delegates, That The Norfolk City Union of The King's Daughters, founding organization of the Children's Hospital of The King's Daughters, hereby be commended on the occasion of its 125th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Norfolk City Union of The King's Daughters as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 780

Commending the Virginia Beach School Board.

Agreed to by the House of Delegates, August 9, 2021

WHEREAS, in 2020, the Virginia Beach School Board adopted an equity policy to help promote diversity and inclusion in Virginia Beach City Public Schools; and

WHEREAS, the equity policy was developed by LaQuiche R. Parrott, then the director of the Office of Opportunity and Achievement, and Aaron Spence, superintendent of Virginia Beach City Public Schools, and finalized by members of the school system's equity council; and

WHEREAS, the equity policy mandates training for Virginia Beach School Board members and faculty and staff of Virginia Beach City Public Schools on implicit bias, cultural awareness, and culturally responsive teaching; and

WHEREAS, the Virginia Beach School Board's equity policy includes a culturally responsive curriculum for students that acknowledges historical and societal factors contributing to inequality; and

WHEREAS, the Virginia Beach School Board's equity policy takes steps to mitigate the root causes of racism and discrimination and build understanding, compassion, fairness, and respect, ensuring that each student has the equal opportunity to receive a good education; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Beach School Board hereby be commended for adopting an equity policy in support of diversity and inclusion in and out of the classroom; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Beach School Board as an expression of the House of Delegates' admiration for its efforts to build a safe and welcoming atmosphere for all students.

HOUSE RESOLUTION NO. 781

Commending the Lebanon High School baseball team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, the Lebanon High School baseball team won the Virginia High School League Class 2 state championship; and

WHEREAS, the Lebanon High School Pioneers finished the season with a perfect 19-0 record when they defeated the Poquoson High School Islanders by a score of 10-1; and

WHEREAS, while the Poquoson Islanders took an early 1-0 lead in the top of the first inning, the Lebanon Pioneers quickly responded with a run of their own to tie, then broke the game wide open in the bottom of the fifth with nine runs; and

WHEREAS, Lebanon High School pitcher Matthew Buchanan, who had not allowed a run in nearly 45 innings, pitched a four-hitter and struck out 14 Poquoson Islanders; and

WHEREAS, the Lebanon Pioneers' head coach, Charles "Doc" Adams, who has helped the program grow into one of the most respected in the Commonwealth, earned the first state title of his career, having made 11 previous appearances in state tournament finals as a player, assistant coach, and head coach; and

WHEREAS, the victorious season is a testament to the skill and dedication of the student-athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire Lebanon High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Lebanon High School baseball team hereby be commended for winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Adams, head coach of the Lebanon High School baseball team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 782

Commending George Sachs.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, George Sachs, who admirably served as executive director of the McLean Community Center from 2010 to 2021, retired on May 7, 2021; and

WHEREAS, George Sachs began his career in the recreation, parks, and leisure services industry in 1974, when he became a recreation specialist with the Fairfax County Department of Recreation; later, he joined the Fairfax County Park Authority and opened its first RECenter, now known as the Audrey Moore RECenter; and

WHEREAS, George Sachs worked for George Mason University in the 1980s, spearheading the opening of its Field House sports complex and managing its other recreation and sports facilities; concurrently, he served as an adjunct professor in the university's Department of Parks, Recreation, and Leisure Studies, contributing greatly to the success of future professionals in his field; and

WHEREAS, after a brief tenure as deputy director of the McLean Community Center (MCC) in the early 1990s, George Sachs relocated to South Carolina, where he developed a chain of five health and fitness centers over several years; and

WHEREAS, an opportunity to serve as manager of the MCC's Old Firehouse Teen Center brought George Sachs back to the Commonwealth in 2009; a year later, the MCC governing board appointed him to serve as the community center's executive director, a position in which he would faithfully serve for the next 11 years; and

WHEREAS, as executive director of MCC, George Sachs oversaw a wide-range of community programs for children and adults, including classes, lectures, study tours, camps, art exhibits, theatre performances, and specialty shows, as well as major community events such as McLean Day at Lewinsville Park and the 4th of July fireworks at Churchill Road Elementary School; and

WHEREAS, one of George Sachs' most significant accomplishments during his tenure as executive director of MCC was leading the renovation and expansion of the center's facility on Ingleside Avenue, from securing an architectural firm to plan the center's renovation and design to creating new programs and services to best utilize the newly expanded facility; and

WHEREAS, George Sachs' accomplishments in his career were the result of his steadfast commitment to the communities he served, as he worked tirelessly over many years to make McLean and Fairfax County wonderful places to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That George Sachs, executive director of the McLean Community Center, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George Sachs as an expression of the House of Delegates' appreciation for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 783

Commending Debbie Painter.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Debbie Painter has served the Buchanan community for more than two decades as owner and operator of the North Star Restaurant, a beloved local eatery; and

WHEREAS, Debbie Painter began working at the North Star Restaurant in 1977 and has served generations of customers during her long career with the establishment; and

WHEREAS, as owner and operator for 24 years, Debbie Painter helped the North Star Restaurant maintain its commitment to serving high quality meals and remain a local landmark and community meeting place for residents of the Town of Buchanan and Botetourt County; and

WHEREAS, upon her retirement, Debbie Painter sold the North Star Restaurant to Ashley Clark, an employee for more than 20 years whose mother worked at the restaurant, ensuring that the restaurant maintains its local charm; now, therefore, be it

RESOLVED by the House of Delegates, That Debbie Painter hereby be commended on the occasion of her retirement as owner and operator of the North Star Restaurant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Debbie Painter as an expression of the House of Delegates' admiration for her contributions to the Buchanan community.

HOUSE RESOLUTION NO. 784

Commending Pocahontas State Park.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, for 75 years, Pocahontas State Park has provided opportunities for outdoor recreation to the residents of Central Virginia and visitors from around the Commonwealth and the world; and

WHEREAS, Pocahontas State Park traces its origins to the 1930s, when the Civilian Conservation Corps built the Swift Creek Recreational Demonstration Area in Chesterfield County; and

WHEREAS, the National Park Service subsequently donated the area to the Commonwealth, and the renamed Pocahontas State Park officially opened on June 6, 1946; and

WHEREAS, Pocahontas State Park welcomed 500 people to its grand opening celebration in 1946, and it remains the largest state park in the Commonwealth, accommodating almost one million visitors each year; and

WHEREAS, Pocahontas State Park maintains a network of scenic hiking trails, internationally acclaimed mountain biking trails, three lakes for fishing, an aquatic recreation center, an award-winning interpretative program, and numerous options for camping and special events; and

WHEREAS, Pocahontas State Park is home to the Civilian Conservation Corps Museum, which preserves the history of the agency in the Commonwealth through photographs and other artifacts; and

WHEREAS, Pocahontas State Park will commemorate its 75 years of service to the Commonwealth with special events throughout 2021; now, therefore, be it

RESOLVED by the House of Delegates, That Pocahontas State Park hereby be commended on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Department of Conservation and Recreation as an expression of the House of Delegates' appreciation for the important roles Pocahontas State Park plays in tourism and conservation in Central Virginia.

HOUSE RESOLUTION NO. 785

Celebrating the life of Jane Susan Glasser Frank.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Jane Susan Glasser Frank, an accomplished interior designer and community leader and a beloved member of the Newport News community, died on July 22, 2021; and

WHEREAS, Jane Susan Frank earned a degree from the Rhode Island School of Design and led a successful career with Virginia Commonwealth Realty in Newport News for over 32 years; and

WHEREAS, Jane Susan Frank's leadership in her community included service as president of Rodef Sholom Temple in Newport News, the United Jewish Community Center of the Virginia Peninsula, and the Virginia Peninsula Foodbank and as a member of the Board of Visitors at Christopher Newport University and of many other boards and committees; and

WHEREAS, a devoted family woman who was committed to helping others in any way she could, Jane Susan Frank will long be cherished by everyone she knew for her warmth, kindness, compassion, and zest for life; and

WHEREAS, guided through life by her faith, Jane Susan Frank enjoyed worship and fellowship with her community at Rodef Sholom Temple in Newport News for many years; and

WHEREAS, Jane Susan Frank will be fondly remembered and dearly missed by her loving husband of 47 years, Joe; her children, Shelly Ann, Melissa, and Jason, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jane Susan Glasser Frank, a treasured member of the Newport News community whose generosity and kindness touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jane Susan Glasser Frank as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 786

Commemorating the life and legacy of Agrippa Hull.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Agrippa Hull, a free Black man, voluntarily enlisted in the Continental Army as a private on May 1, 1777, in Stockbridge, Massachusetts, to fight for the independence of the Thirteen Colonies in the American Revolution; and

WHEREAS, Agrippa Hull became an orderly for Major General John Paterson and was present at the surrender of British forces under General John Burgoyne at the Battle of Saratoga; and

WHEREAS, Agrippa Hull fought bravely in many major battles of the Revolutionary War, including the Battle of Saratoga, the campaign of Valley Forge, the Battle of Monmouth Court House, and the siege of Charleston; and

WHEREAS, Agrippa Hull volunteered to serve outside of his Massachusetts regiment to assist General Thaddeus Kosciuszko of Poland, the mastermind behind the American victory at Saratoga and a skilled engineer who designed and constructed fortifications at West Point to halt the movement of British ships down the Hudson River; and

WHEREAS, Agrippa Hull's wit and intelligence inspired everyone with whom he interacted; he became close friends with General Thaddeus Kosciuszko, influencing his views on the abolition of slavery, and in his will, General Thaddeus Kosciuszko asked that all of his war earnings be used for the purpose of freeing and educating slaves owned by Thomas Jefferson; and

WHEREAS, Agrippa Hull would often work with medical staff caring for sick and wounded soldiers, and he learned to remove bullets, perform amputations, and mend broken bones, among other common battlefield injuries; and

WHEREAS, Agrippa Hull served in the military for six years and two months and was discharged by George Washington at West Point; he treasured the discharge papers that had been personally signed by George Washington for his entire life and suggested he would rather forego his military pension than lose such a piece of history; and

WHEREAS, in July 1783, Agrippa Hull returned to Stockbridge, Massachusetts, and became an aide to the Honorable Theodore Sedgwick, an attorney, United States senator, and member of the Massachusetts State Supreme Court; and

WHEREAS, a man of great dignity, pride, and character, Agrippa Hull became a land owner and respected citizen of Stockbridge; he was well known as a patriot, philosopher, civic-minded farmer, and pillar of his community; and

WHEREAS, Agrippa Hull died on May 21, 1848, in Stockbridge; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Agrippa Hull hereby be commemorated on the occasion of the 173rd anniversary of his death; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to surviving descendants of Agrippa Hull as an expression of the House of Delegates' admiration for his contributions to early American history.

HOUSE RESOLUTION NO. 787

Celebrating the life of Vernon Ray Hancock.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Vernon Ray Hancock, an honorable veteran, esteemed mathematics professor at Emory & Henry College, and beloved member of the Washington County community, died on June 19, 2021; and

WHEREAS, in 1943, while still attending Baltimore Polytechnic Institute, Ray Hancock enlisted with the United States Army, which directed him to complete his high school studies and to take engineering classes at Virginia Polytechnic Institute (VPI), known today as Virginia Polytechnic Institute and State University; and

WHEREAS, Ray Hancock served as a clerk typist in France following World War II and was honorably discharged from the United States Army in 1946 after achieving the rank of technician fourth grade; and

WHEREAS, upon completing his bachelor's degree in electrical engineering at VPI, Ray Hancock set his sights on a career as a college mathematics professor, earning a graduate degree from Johns Hopkins University before returning to VPI to serve as an instructor; and

WHEREAS, Ray Hancock subsequently earned a doctoral degree in mathematics from Tulane University and, after a brief return to VPI, ultimately accepted a position as the chair of the mathematics department at Emory & Henry College, where he served until his retirement in 1991 and remained active for many years thereafter as a professor emeritus; and

WHEREAS, Ray Hancock was a vibrant and engaged member of his community who dedicated himself to serving others by volunteering through the Boy Scouts of America, the Alpha Phi Omega service fraternity, the Emory United Methodist Church, and the Washington County Republican Party; and

WHEREAS, guided by his faith, Ray Hancock enjoyed worship and fellowship throughout his life with congregations of the United Methodist Church in Baltimore, Blacksburg, New Orleans, and Emory; and

WHEREAS, preceded in death by his loving wife of more than 50 years, Ruth, Ray Hancock will be fondly remembered and dearly missed by his children, Dale and Clark, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Vernon Ray Hancock, a cherished member of the Emory community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Vernon Ray Hancock as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 788

Celebrating the life of S. Stephen Bittle.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, S. Stephen Bittle, a dedicated law-enforcement officer and longtime sheriff of the City of Falls Church, died on December 17, 2020; and

WHEREAS, S. Stephen "Steve" Bittle embarked upon his career in law enforcement when he joined the Falls Church Police Department on August 15, 1966; and

WHEREAS, Steve Bittle worked tirelessly every day to ensure the safety and well-being of the residents of Falls Church, ultimately achieving the rank of sergeant; and

WHEREAS, Steve Bittle left the Falls Church Police Department in 1992 when he was appointed by the Arlington Circuit Court to serve as interim sheriff of Falls Church, an office specifically established by the Constitution of Virginia; and

WHEREAS, as a testament to the community's admiration for his leadership, Steve Bittle was officially elected sheriff of Falls Church in 1993 and was subsequently reelected to serve six additional terms in the post; and

WHEREAS, while head of the Falls Church Sheriff's Office, Steve Bittle oversaw court security and prisoner transportation on behalf of the locality while working in conjunction with the Falls Church Police Department to enforce laws and protect and serve the community; and

WHEREAS, throughout his 28 years as sheriff of Falls Church, Steve Bittle advanced a community-oriented policing strategy that fostered a high standard for professionalism within the department and mutual respect between his deputies and the public; and

WHEREAS, Steve Bittle retired from the Falls Church Sheriff's Office on August 15, 2020, after 54 years of combined service, making him the longest-serving city employee in the history of Falls Church; and

WHEREAS, in recognition of his half-century of service to Falls Church and the Commonwealth, Steve Bittle was honored with a commending resolution, House Joint Resolution No. 985, during the 2017 Session of the General Assembly; and

WHEREAS, preceded in death by his son, Stephen, Steve Bittle will be fondly remembered and dearly missed by his loving wife of 28 years, Kathleen; his children, Susan, Julianna, Oscar, and Rebecca, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of S. Stephen Bittle, a law-enforcement officer and sheriff of the City of Falls Church whose integrity and commitment to duty made a profound and lasting impact on his community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of S. Stephen Bittle as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 789

Celebrating the life of Stephen Jones III.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Stephen Jones III, a beloved son and brother and a cherished member of the Norfolk community, died on March 21, 2021; and

WHEREAS, affectionately known by family and friends as "Big Steve," Stephen Jones graduated from Granby High School, where he met many lifelong friends, including Alton, Laquan, Blue, Benjamin, Shaquan, Kyle, Boojoie, Jules, Dre, Tommy, and Cope, all of whom loved him as a brother; and

WHEREAS, from a young age, Stephen Jones was fascinated by sports and regularly amazed his parents with his breadth of knowledge on various topics; he was an accomplished athlete, whose feats included making many game-winning tackles and blocks and winning a college football championship; and

WHEREAS, even though his battle with cancer had begun taking a physical toll on his body, Stephen Jones never let that hinder his spirit, and after undergoing a leg amputation, he turned his love for sneakers into a profitable business, Filthy Soles LLC, which he continued to own and operate until his passing; and

WHEREAS, Stephen Jones inspired others through the good humor, creative thinking, courage, determination, and positive attitude he maintained throughout his life; he never missed an opportunity to make light of the challenges set before him, and he was a trusted confidant to all of his friends; and

WHEREAS, Stephen Jones will be fondly remembered and dearly missed by his loving parents, Glen and Sheila; his sisters, Kimberly and Sheila, Jr.; his nieces and nephews, Aaliyah, Delilah, Deriyah, Jalil, and Mason; his aunts, Gloria, Sharon, Samantha, Andrea, and Debra; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Stephen Jones III, an inspirational member of the Norfolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stephen Jones III as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 790

Celebrating the life of Arthurette Leona Holmes-Martin.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Arthurette Leona Holmes-Martin, an esteemed public servant, community advocate, and artist and a beloved member of the Woodbridge community, died on July 3, 2021; and

WHEREAS, born in Charleston, South Carolina, Arthurette Holmes-Martin lived briefly in Panama after graduating high school before attending James Madison University, where she earned a bachelor's degree in public administration in 1985; and

WHEREAS, a lifelong learner, Arthurette Holmes-Martin earned a master's degree in acquisition management from the Florida Institute of Technology in 1995 and began pursuing a doctoral degree in communication and media studies later in her life; and

WHEREAS, Arthurette Holmes-Martin began her career in public service in 1986, dedicating more than two decades to serving various agencies of the United States Government, including the Central Intelligence Agency, the Federal Deposit Insurance Corporation, and the Department of Health and Human Services' Office of Small and Disadvantaged Business Utilization; and

WHEREAS, following her retirement in 2009, Arthurette Holmes-Martin founded the organization Resolutions Addressing Systematic Racism in an effort to change systems that establish and cultivate structural racism; and

WHEREAS, an accomplished singer who performed under the stage name, "Mama Retta," Arthurette Holmes-Martin founded Words and Melodies, LLC, as an outlet for her creativity and to promote other singers, storytellers, and artists in her community; and

WHEREAS, Arthurette Holmes-Martin's dedication to the arts included service as president of the National Capital Area Black Storytellers Association and through support of various other local arts organizations and programs; and

WHEREAS, Arthurette Holmes-Martin will be fondly remembered and dearly missed by her loving children, William, Justin, and Makeda; her former husband, Clyde; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Arthurette Leona Holmes-Martin, a respected public servant, community advocate, and artist whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthurette Leona Holmes-Martin as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 791

Celebrating the life of Candace Sabrina Fields-Rogers.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Candace Sabrina Fields-Rogers, esteemed educator and beloved member of the Alexandria community, died on June 18, 2021; and

WHEREAS, born and raised in Miami, Florida, Candace Fields-Rogers briefly attended Morris Brown College before earning a bachelor's degree from Florida Agricultural and Mechanical University; she would later earn master's degrees from Austin Peay State University and George Mason University; and

WHEREAS, throughout her accomplished career as an educator, Candace Fields-Rogers was a middle school science instructor, high school teacher leader and curriculum writer, and assistant principal at Freedom High School in Woodbridge, contributing greatly to the success of many young people; and

WHEREAS, Candace Fields-Rogers was a 28-year member of the Alpha Kappa Alpha Sorority and lived by the organization's creed of "service to all mankind"; and

WHEREAS, guided throughout her life by her faith, Candace Fields-Rogers enjoyed worship and fellowship with her community at First Baptist Church of Glenarden in Kettering, Maryland, for many years; and

WHEREAS, preceded in death by her infant son, Miles, Candace Fields-Rogers will be fondly remembered and dearly missed by her loving husband, Travis; her adoring children, Branford and Taylor, and their families; her mother, Shirley; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Candace Sabrina Fields-Rogers, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Candace Sabrina Fields-Rogers as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 792

Commending Eboni Harrington.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Eboni Harrington, a seventh grade mathematics teacher at Lucy Addison Middle School in Roanoke, was named the Roanoke City Public Schools Teacher of the Year at the Roanoke Country Club on May 26, 2021; and

WHEREAS, Eboni Harrington was selected as Teacher of the Year by a committee of Roanoke City Public Schools (RCPS) employees, retirees, and the 2020 RCPS Teacher of the Year honoree, who recognized her extraordinary commitment to the success and well-being of her students, school, and school district; and

WHEREAS, with her award, Eboni Harrington made history as the first African American female and only the second African American to be named RCPS Teacher of the Year; and

WHEREAS, a former student in RCPS, Eboni Harrington began her education career at a charter school in North Carolina before joining the staff of Lucy Addison Middle School four years ago; and

WHEREAS, Eboni Harrington has demonstrated exemplary resilience, confidence, and perseverance in the face of the COVID-19 pandemic and other challenges, embodying RCPS's vision for public education in the 21st century; and

WHEREAS, to enhance her students' virtual learning experience during the COVID-19 pandemic, Eboni Harrington recorded a song and video entitled "Work and Progress" that received national media attention and garnered thousands of views on YouTube; and

WHEREAS, Eboni Harrington's efforts as an educator extend to her work as a mathematics tutor with Taylor Tutoring Services in Hollins and as the owner of So Math About It, a tutoring company for grades three through eight; and

WHEREAS, in addition to her recent accolade from RCPS, Eboni Harrington was recently recognized by the Roanoke NAACP Youth Council with its 2020 Impactors of Excellence Award and by *The Roanoker* in its list of "40 Under 40"; and

WHEREAS, Eboni Harrington's dedication to the future of her community extends beyond the walls of Lucy Addison Middle School, as she played a prominent role in the Urban Arts Project's development of the "End Racism Now" mural project on Campbell Avenue in Roanoke and serves as a board member of The Humble Hustle Company, an organization devoted to empowering Black youth; and

WHEREAS, Eboni Harrington has contributed greatly to the accomplishments of her students, both in and out of the classroom, by motivating them through mentorship, community engagement, and other educational activities; now, therefore, be it

RESOLVED by the House of Delegates, That Eboni Harrington, a mathematics teacher at Lucy Addison Middle School, hereby be commended on the occasion of being named the 2021 Roanoke City Public Schools Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eboni Harrington as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 793

Commending Robert F. Rosenbaum.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Robert F. Rosenbaum has been a pillar of the McLean community for more than 50 years, offering his leadership and expertise to numerous community organizations; and

WHEREAS, Robert "Bob" F. Rosenbaum is a longtime volunteer with the Rotary Club of McLean and has been an active participant in nearly all of the club's activities, including blood drives, food distribution, and selecting student winners for college scholarships; and

WHEREAS, Bob Rosenbaum honors the service and sacrifices of the nation's veterans as a member of American Legion Post 270 in McLean; and

WHEREAS, known in the community as "Mr. Piano Man," Bob Rosenbaum is a talented musician who volunteers his time to play music at senior care homes and plays patriotic songs at local events on Veterans Day and Memorial Day; and

WHEREAS, among many awards and accolades, Bob Rosenbaum was honored by Wreaths Across America for his work to support veterans and active-duty service members in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That Robert F. Rosenbaum hereby be commended for his legacy of service to the residents of McLean; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert F. Rosenbaum as an expression of the House of Delegates' admiration for his contributions to the community.

HOUSE RESOLUTION NO. 794

Commending the FRIENDS Association for Children.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, for 150 years, the FRIENDS Association for Children has helped young people in Richmond reach their fullest potential and become active members of their communities; and

WHEREAS, established in 1871, the FRIENDS Association for Children was originally an orphanage in Richmond's historic Jackson Ward and was founded by Lucy Goode Brooks, a former slave who taught herself to read and write; and

WHEREAS, over the years, the FRIENDS Association for Children refocused its mission and now operates two licensed, multiservice child development centers in Gilpin Court and Church Hill; and

WHEREAS, serving children between the ages of six weeks and 17 years, the FRIENDS Association for Children strives to build a safe, nurturing, and intellectually stimulating environment for children to learn and grow; and

WHEREAS, the FRIENDS Association for Children helps children achieve a better understanding of their community, while developing strong foundations for the social and academic skills they need to succeed in later schooling; and

WHEREAS, in addition to its child development and youth development programs, the FRIENDS Association for Children offers a family development program to support families by providing critical services to families as a unit; and

WHEREAS, the FRIENDS Association for Children has fulfilled its mission through the hard work of its dedicated staff members and the generosity and support of volunteers and community partners; now, therefore, be it

RESOLVED by the House of Delegates, That the FRIENDS Association for Children hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the FRIENDS Association for Children as an expression of the House of Delegates' admiration for the organization's legacy of service to young people in Richmond.

HOUSE RESOLUTION NO. 795

Commending the Salem High School football team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, the Salem High School football team earned the program's 10th state title with a victory in the Virginia High School League Class 4 state championship; and

WHEREAS, the Salem High School Spartans defeated the Lake Taylor High School Titans by a score of 28-20 in the state final, capping off an undefeated 10-0 season; and

WHEREAS, in the first half, the Salem Spartans' tough defense stymied the Lake Taylor Titans and forced field goals in two short-field situations; and

WHEREAS, although the Salem Spartans were trailing at halftime, the team maintained its discipline and regained focus in the second half, scoring four touchdowns to build an insurmountable lead; and

WHEREAS, the victorious season is a testament to the skill and determination of the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Salem High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Salem High School football team hereby be commended for winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Don Holter, head coach of the Salem High School football team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 796

Commending the Eastern Montgomery High School girls' soccer team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, the Eastern Montgomery High School girls' soccer team claimed the first state title in any sport in the school's history with a victory in the Virginia High School League Class 1 state championship; and

WHEREAS, the Eastern Montgomery High School Mustangs defeated a talented team from West Point High School by a score of 5-1; and

WHEREAS, although West Point High School scored first, sophomore Maddie Bruce answered with three goals in the first half to give the Eastern Montgomery Mustangs an insurmountable lead by halftime; and

WHEREAS, senior Elli Underwood and junior Laken Smith added two more goals for Eastern Montgomery High School in the second half; and

WHEREAS, the state championship win capped off a perfect 14-0 season for the Eastern Montgomery Mustangs, who outscored their opponents 118-1; and

WHEREAS, the victorious season is a testament to the skill and determination of the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Eastern Montgomery High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Eastern Montgomery High School girls' soccer team hereby be commended on its historic victory in the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Whitney Shaver, head coach of the Eastern Montgomery High School girls' soccer team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 797

Commending Carrie Holman.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Carrie Holman was selected as the United States Coach of the Year by Top of the Circle after leading the James Madison High School field hockey team to a historic Virginia High School League Class 6 state championship victory in 2021; and

WHEREAS, Carrie Holman coached the James Madison High School Warhawks through a flawless season, in which they outscored opponents 45-0 and finished with a 15-0 record; and

WHEREAS, due to scheduling changes related to the COVID-19 pandemic, Carrie Holman was unable to attend the state final in person as she was too close to the due date for her son, Rian, but watched via live stream as the Madison Warhawks defeated Kellam High School to capture the program's first state title; and

WHEREAS, Carrie Holman's inspirational leadership helped the Madison Warhawks overcome adversity and rise to every challenge throughout the season; now, therefore, be it

RESOLVED by the House of Delegates, That Carrie Holman be commended on her selection as United States Coach of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carrie Holman as an expression of the House of Delegates' admiration for her achievements.

HOUSE RESOLUTION NO. 798

Commending the Langley High School girls' lacrosse team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Langley High School girls' lacrosse team won the Virginia High School League Class 6 state championship at Colonial Forge High School in Stafford on June 26, 2021; and

WHEREAS, the Langley High School Saxons defeated the Colonial Forge High School Eagles by a score of 17-6 to capture the program's second consecutive state championship and to complete a perfect 16-0 season; and

WHEREAS, from the start of the match, the Langley Saxons scored two quick goals, mounted a 9-4 lead by halftime, and never trailed their opponent; the team was led by standout performances from Julia Daly, who had seven goals, and Erika Chung, who had a goal and four assists; and

WHEREAS, the Langley Saxons' experienced roster impressively outscored opponents 129-40 in their seven playoff matches and notably won every match this season by a difference of at least six goals; and

WHEREAS, the Langley Saxons have competed in the state tournament in each of the last four seasons and their recent finish extends a 27-match winning streak that dates back to the 2019 season; and

WHEREAS, several Langley Saxons were selected for all-region honors in the 2021 season, including Erika Chung, who was named 6D North Region Player of the Year, Julia Daly, Faith Ann Finch, Anne O'Hara, and Sarah Waits, while head coach Bucky Morris was named the 6D North Region Coach of the Year; and

WHEREAS, the Langley Saxons were carried this season by exceptional play from Hayley Blankingship, Keelin Byrne, Elizabeth DeMoors, Sophia Horowitz, Sophie Kee, Kathleen Mahony, Kelsey Melton, Alexandra Romero, Caroline Senich, Katherine Senich, Sarah Senich, Sophia Smith, Anna Talbot, Ilana Watson, Marlee Watson, Victoria Woods, and Eliza Young; and

WHEREAS, the accomplishments of the Langley Saxons are the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Langley High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Langley High School girls' lacrosse team hereby be commended for winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bucky Morris, coach of the Langley High School girls' lacrosse team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 799

Commending the FRIENDS Association for Children.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, for 150 years, the FRIENDS Association for Children has helped young people in Richmond reach their fullest potential and become active members of their communities; and

WHEREAS, established in 1871, the FRIENDS Association for Children was originally an orphanage in Richmond's historic Jackson Ward and was founded by Lucy Goode Brooks, a former slave who taught herself to read and write; and

WHEREAS, over the years, the FRIENDS Association for Children refocused its mission and now operates two licensed, multiservice child development centers in Gilpin Court and Church Hill; and

WHEREAS, serving children between the ages of six weeks and 17 years, the FRIENDS Association for Children strives to build a safe, nurturing, and intellectually stimulating environment for children to learn and grow; and

WHEREAS, the FRIENDS Association for Children helps children achieve a better understanding of their community, while developing strong foundations for the social and academic skills they need to succeed in later schooling; and

WHEREAS, in addition to its child development and youth development programs, the FRIENDS Association for Children offers a family development program to support families by providing critical services to families as a unit; and

WHEREAS, the FRIENDS Association for Children has fulfilled its mission through the hard work of its dedicated staff members and the generosity and support of volunteers and community partners; now, therefore, be it

RESOLVED by the House of Delegates, That the FRIENDS Association for Children hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the FRIENDS Association for Children as an expression of the House of Delegates' admiration for the organization's legacy of service to young people in Richmond.

HOUSE RESOLUTION NO. 800

Commending Cameron Thomas.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Cameron Thomas, a Chesapeake native and standout basketball player at Louisiana State University, was selected by the Brooklyn Nets during the first round of the National Basketball Association Draft on July 29, 2021, at Barclays Center in New York; and

WHEREAS, with his selection in the 2021 National Basketball Association (NBA) Draft, Cameron Thomas joins an elite group of players from Hampton Roads to be selected in the first round, including J.R. Reid, Alonzo Mourning, Joe Smith, and Allen Iverson; and

WHEREAS, in high school, Cameron Thomas played one year at Oscar Smith High School in Chesapeake and at the storied Oak Hill Academy in Mouth of Wilson; and

WHEREAS, as a freshman at Louisiana State University, Cameron Thomas was the fourth leading scorer in the nation, averaging 23 points per game in the 2021 season; and

WHEREAS, Cameron Thomas' dominant year at Louisiana State University earned him numerous honors, including first-team All-Southeastern Conference (SEC), All-SEC Freshman, *USA Today* SEC Newcomer of the Year, and more; and

WHEREAS, with an arsenal of moves on offense and extraordinary accuracy from all areas of the court, Cameron Thomas is poised for a great career in the NBA; now, therefore, be it

RESOLVED by the House of Delegates, That Cameron Thomas of Chesapeake hereby be commended on the occasion of being selected by the Brooklyn Nets in the first round of the National Basketball Association's 2021 Draft; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cameron Thomas as an expression of the House of Delegates' admiration for his achievement.

HOUSE RESOLUTION NO. 801

Commending Nancy M. Welch, MD.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Nancy M. Welch, MD, esteemed director of the Chesapeake Health Department, has greatly served citizens by enhancing the implementation of public health policy in the Commonwealth over the past half-century; and

WHEREAS, Nancy Welch holds a Bachelor's Degree from Lynchburg College, a Doctor of Medicine Degree from Duke University, a Master's Degree in business administration from Old Dominion University, and a Master's Degree in health administration from University of Colorado, where she completed her residency in pediatrics; and

WHEREAS, Nancy Welch is board certified in both pediatrics and public health/preventive medicine and has served as a public health director in the Commonwealth since 1976, utilizing data analysis to motivate individuals and communities to pursue healthier lives; and

WHEREAS, Nancy Welch currently serves as the director of the Chesapeake Health Department, a health district under the Virginia Department of Health, where she oversees local efforts to implement public health policy on behalf of the Commonwealth; and

WHEREAS, Nancy Welch has served on various boards and committees over the years to develop programs that enhance health outcomes and quality of life for members of her community; and

WHEREAS, in 2015, Nancy Welch spearheaded the organization Healthy Chesapeake, a consortium of local departments and organizations that have bound together with the goal of serving the community's most vulnerable populations and making Chesapeake the healthiest city in the Commonwealth; and

WHEREAS, Nancy Welch has long been a vital member of the Emergency Operations Center in Chesapeake and has played a leading role in her community's response to various natural and man-made disasters and the COVID-19 pandemic; and

WHEREAS, as a testament to her unwavering efforts to serve others, Nancy Welch has received numerous awards and distinctions, including the Lynchburg College Distinguished Alumni Award, the 2012 Hampton Roads YWCA Women of Distinction Award for Medicine, and the 2013 Hampton Roads Chamber of Commerce Marian P. Whitehurst Women in Leadership Award; she was conferred an honorary doctorate degree from Lynchburg College in 2014; and

WHEREAS, in addition to her service to the community as a doctor and public health director, Nancy Welch is a retired colonel in the United States Army Reserve who honorably served her country for many years; now, therefore, be it

RESOLVED by the House of Delegates, That Nancy M. Welch, MD, director of the Chesapeake Health Department and an influential public health advocate in the Commonwealth, hereby be commended for her decades of meritorious service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy M. Welch, MD, as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 802

Commending Linda N. Daniels.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Linda N. Daniels, an esteemed educator and active and engaged member of the Chesapeake community, was honored with a lifetime membership to the Women's Division Hampton Roads Chamber of Commerce Chesapeake in 2021; and

WHEREAS, with a Bachelor's Degree in elementary education from James Madison University and a Master's Degree in early childhood education from Old Dominion University, Linda Daniels contributed greatly to the success and well-being of countless young people over her 36-year career as an elementary school educator; and

WHEREAS, Linda Daniels devoted the majority of her career to Great Bridge Primary School in Chesapeake, where she began her career in 1961 and was a first grade teacher from 1976 to 2002; and

WHEREAS, Linda Daniels has long served her community through her involvement with various local civic organizations, including the Great Bridge Woman's Club, Chesapeake Friends of the Arts, and the Great Bridge Battlefield and Waterways History Foundation; and

WHEREAS, Linda Daniels has notably held various leadership positions with the Women's Division Hampton Roads Chamber of Commerce Chesapeake (WDRCCC), where her greatest accomplishments include arranging the first room at the Women and Children's Shelter of the Union Mission Ministries in Norfolk and establishing the shelter's successful "Read a Book Leave a Book" program, which helped establish the institution's first library; and

WHEREAS, guided throughout her life by her faith, Linda Daniels has enjoyed worship and fellowship with her community at Great Bridge Presbyterian Church in Chesapeake since 1965, serving the congregation in various leadership roles, including deacon and elder, and guiding the operations of the church's preschool program as both its first director and later as its board chair; and

WHEREAS, in addition to her recent honor from WDRCCC, Linda Daniels has received numerous awards for her service, including the Great Bridge Primary School Teacher of the Year Award in 1985, the Great Bridge Primary School Parent Teacher Association Life Membership Award in 1985, and the WDRCCC's Woman of the Year Award in 2010; and

WHEREAS, Linda Daniels' list of accolades is a testament to her unwavering commitment to her community and her contributions to making Chesapeake a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That Linda N. Daniels hereby be commended for earning a lifetime membership to the Women's Division Hampton Roads Chamber of Commerce Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Linda N. Daniels as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 803

Commending the Virginia Wesleyan University softball team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Virginia Wesleyan University softball team won the National Collegiate Athletic Association Division III championship at Moyer Park in Salem on June 1, 2021; and

WHEREAS, the Virginia Wesleyan University Marlins defeated the Texan Lutheran University Bulldogs by a score of 9-1 to bring home the program's third title in the last four seasons and finish the season with an impressive 46-6-1 record; and

WHEREAS, the Virginia Wesleyan Marlins jumped to a two-run lead in the first inning and never trailed, posting an additional three runs in both the third and fourth innings, and a final run in the fifth inning; and

WHEREAS, the exceptional play of the Virginia Wesleyan Marlins was recognized with several players making the 2021 National Collegiate Athletic Association (NCAA) Division III Championship all-tournament team, including Katelyn Biando; Ariana Rolle; Julia Sinnett; Jessica Goldyn, who was named most outstanding player; and Hanna Hull, who was named most outstanding pitcher; and

WHEREAS, the Virginia Wesleyan Marlins saw three players earn places in the NCAA record books this season, including Hanna Hull, who holds the all-time record for most wins as a pitcher with 132; Jessica Goldyn, who holds the single-season record for stolen bases with 73; and Madison Glaubke, who holds the all-time record for most games played with 221; and

WHEREAS, as a testament to its recent streak of dominance, the Virginia Wesleyan softball program has not had back-to-back losses since the 2019 NCAA regional tournament in Virginia Beach; and

WHEREAS, the success of the Virginia Wesleyan Marlins is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of the entire Virginia Wesleyan University community; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Wesleyan University softball team hereby be commended for winning the 2021 National Collegiate Athletic Association Division III championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brandon Elliott, coach of the Virginia Wesleyan University softball team, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 804

Celebrating the life of Robert Henry Powell.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Robert Henry Powell, an entrepreneur and highly admired community leader, died on June 27, 2021; and

WHEREAS, Robert Powell enjoyed a long and fulfilling career with Overnite Transportation and recorded more than 40 million miles of driving throughout the United States over the course of 37 years; and

WHEREAS, after his retirement from Overnite Transportation, Robert Powell began a second career as a restaurateur, opening a hot dog stand and Rosa Mae's Place, named for his mother, in Louisa; and

WHEREAS, Robert Powell brought joy to others through his kindness, generosity, and sense of humor; and

WHEREAS, a man of deep and abiding faith, Robert Powell joined Rocky Mount Baptist Church in Greenville County at a young age and was an active member of several church communities in the Richmond area in later life; and

WHEREAS, Robert Powell will be fondly remembered and greatly missed by his children, Robert, Sherry, Darrell, Tracy, Demeka, and Ashley, and their families; his mother, Rosa; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Henry Powell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Henry Powell as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 805

Celebrating the life of William Sherrod Harris, Jr.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, William Sherrod Harris, Jr., who made many contributions to the Emporia community as a public servant and a longtime emergency medical professional, died on December 1, 2020; and

WHEREAS, William "Billy" Sherrod Harris, Jr., graduated from Greenville County High School, then attended East Carolina University before transferring to Campbell University, from which he earned a bachelor's degree in 1965; and

WHEREAS, Billy Harris began serving his fellow residents of Emporia as deputy treasurer in 1967, then was elected as treasurer in 1969 and held the office until the time of his passing; and

WHEREAS, Billy Harris was a founding member of the Greenville Volunteer Rescue Squad, where he served and safeguarded members of the community for 57 years, including 35 years as president; he was a trusted mentor, leader, and friend to generations of emergency medical professionals and was named as a life member of the squad in 1978; and

WHEREAS, Billy Harris volunteered his time and wise leadership as president of the Rotary Club of Emporia and the Emporia Jaycees; and

WHEREAS, among many awards and accolades in recognition of his professionalism and community engagement, Billy Harris received the Eugene H. Bloom Lifetime Achievement Award from the Emporia-Greenville Chamber of Commerce and the 2013 Hometown Heroes Award from the Allen & Allen law firm; and

WHEREAS, Billy Harris enjoyed fellowship and worship with the community as a life member of Monumental United Methodist Church, where he served as a Sunday school teacher, lay speaker, and chair of the administrative board; and

WHEREAS, Billy Harris will be fondly remembered and greatly missed by his loving wife of 55 years, Martha; his daughter, Sherron, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Sherrod Harris, Jr., a devoted public servant in Emporia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Sherrod Harris, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 806

Celebrating the life of Aidan Davon Henderson.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Aidan Davon Henderson, a vibrant young member of the Halifax County community, died at the age of 16 on August 24, 2020; and

WHEREAS, born in Halifax County, Aidan Henderson was a student at Halifax County High School, where he was a member of the Junior Reserve Officers' Training Corps, the Robotics Club, and the undefeated junior varsity football team; and

WHEREAS, Aidan Henderson enjoyed dancing with the Essence of Movement Studio, playing video games, attending car shows, playing golf, fishing, and spending time with cousins and friends; and

WHEREAS, for six years, Aidan Henderson was a faithful member of the mentoring organization Misunderstood, where he made many friends and inspired the community as a positive role model and active citizen; and

WHEREAS, Aidan Henderson was affectionately known as "Lettuce" by his aunts, the "Circle of Sisters," and he had a strong and unique bond with his mother, Debbie, his brother, Aaron, and his grandmother and godfathers; and

WHEREAS, Aidan Henderson will be fondly remembered for his compassion and his larger than life smile and greatly missed by his family, church members at Banister Hill C.M.E., teachers, classmates, friends, cousins, coaches, and fellow members of Misunderstood; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Aidan Davon Henderson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Aidan Davon Henderson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 807

Celebrating the life of Lawrence Jeffrey Phipps, Sr.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Lawrence Jeffrey Phipps, Sr., a dedicated firefighter in Hanover County, died on July 18, 2021; and
 WHEREAS, Lawrence Jeffrey "Jeff" Phipps, Sr., joined the Hanover County Department of Fire and EMS as a volunteer member with the Mechanicsville Volunteer Fire Department in 1985; he started his career in Virginia's fire service with the Richmond International Airport as a firefighter in 1994, then joined Hanover County Fire-EMS in 1996; and
 WHEREAS, Jeff Phipps rose through the ranks of fire inspector, fire investigator, firefighter, and lieutenant to become an operations battalion chief of the department; and
 WHEREAS, Jeff Phipps was a respected leader in the department and touched the lives of countless Hanover County residents through his courageous and diligent contributions to the community as a public safety officer; and
 WHEREAS, Jeff Phipps will be fondly remembered and greatly missed by his wife of 26 years, Carolyn; his sons, Lawrence and Charles; and numerous other family members and friends; now, therefore, be it
 RESOLVED, That the House of Delegates hereby note with great sadness the loss of Lawrence Jeffrey Phipps, Sr., who served and safeguarded the residents of Hanover County for many years as a firefighter; and, be it
 RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lawrence Jeffrey Phipps, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 808

Celebrating the life of the Honorable Barbara Stafford.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Honorable Barbara Stafford, a former member of the Virginia House of Delegates and the former Mayor of Pearisburg, who touched countless lives in Southwest Virginia through her compassion, generosity, and dedication to service, died on June 16, 2021; and
 WHEREAS, Barbara Stafford was born on May 7, 1953, to the late Howard Morris and Francis Morris (Ratcliffe); and
 WHEREAS, Barbara Stafford was a lifelong resident of Giles County, where she came from humble beginnings that taught her to push through any limitations; and
 WHEREAS, Barbara Stafford cultivated an understanding of local government from a young age as the daughter of a longtime member and chair of the Giles County Board of Supervisors; and
 WHEREAS, Barbara Stafford attended Smithdeal-Massey Business College, then returned home to Southwest Virginia, where she met her husband, Jeff, who had served the community as a member of the Virginia House of Delegates for two decades; and
 WHEREAS, after her husband's untimely passing, Barbara Stafford ran a successful special election campaign to fill his seat and ably represented the residents of what was then the 5th House District for the remainder of the term, while raising her three children; and
 WHEREAS, after completing her service as a state legislator, Barbara Stafford joined the Pearisburg Town Council; and
 WHEREAS, Barbara Stafford was subsequently elected Mayor of Pearisburg; and
 WHEREAS, Barbara Stafford served as Executive Director of the Giles County Chamber of Commerce and was an active Girl Scout troop leader and a Sunday school teacher; and
 WHEREAS, in 2011, Barbara Stafford joined the staff of the Honorable H. Morgan Griffith as Constituent Services Representative for Virginia's 9th Congressional District; and
 WHEREAS, during her time with Congressman Griffith's staff, Barbara Stafford relished every opportunity to meet with fellow Southwest Virginia residents and help constituents stay engaged with the federal government while interacting with federal agencies; and
 WHEREAS, Barbara Stafford served the Commonwealth and the Pearisburg community with the utmost of dedication and integrity while inspiring others through her strength of character and perseverance; and
 WHEREAS, in 2021, the Giles County Republican Committee honored Barbara Stafford with its prestigious Lifetime Achievement Award; and
 WHEREAS, Barbara Stafford will be fondly remembered and greatly missed by her children, Christopher Mann, Elizabeth Stafford, and Mary Stafford Zirkle; her granddaughters, Mallory Stafford Mann and Frances Pendleton Zirkle; her sisters, Rhonda Reynolds, Linda Candelieri, and Heather Frazier; her soul friend, Betsy Davis Beamer; and numerous other family members, friends, and colleagues; now, therefore, be it
 RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Barbara Stafford, a highly admired public servant of and loyal friend to Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Barbara Stafford as an expression of the House of Delegates' respect for her memory and appreciation for her commitment to the Commonwealth.

HOUSE RESOLUTION NO. 809

Commending Terry Daniels Smusz.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, on June 30, 2021, Terry Daniels Smusz retired as chief executive officer of New River Community Action after more than 32 years of service, having led the organization for almost two-thirds of its 56-year history; and

WHEREAS, in the 1990s, under the leadership of Terry Smusz, New River Community Action worked with local day care centers to provide free child care, expanded the Children's Health Improvement Partnership (CHIP), started the Homeless Intervention Program, and opened the Floyd Family Resource Center; and

WHEREAS, in the 2000s, Terry Smusz directed New River Community Action to establish the VIRGINIA CARES program to assist newly released ex-offenders and their families in making a successful transition from prison to their community, the Volunteer Income Tax Assistance program to provide free basic income tax return preparation, and the To Our House thermal shelter for homeless adults, which has connected those individuals with resources to help them achieve employment, housing, and personal economic sustainability; and

WHEREAS, Terry Smusz developed a partnership with Total Action for Progress to provide the Swift Start program that helps working parents secure jobs with higher wages by providing skill development in health care, advanced manufacturing, and information technology fields, along with access to affordable, quality childcare and expanded Head Start programs; and

WHEREAS, more recently, Terry Smusz helped New River Community Action become one of six Virginia community action agencies participating in the Virginia Two-Generation Whole Family Pilot Project that seeks to use comprehensive case management and coordinated, focused agency service delivery to address the needs of an entire family, rather than individual members of the family; and

WHEREAS, during Terry Smusz's tenure, New River Community Action started the 24/7 Homeless Hotline, served as the local administrator for the Virginia Rent and Mortgage Relief Program, which is designed to support and ensure housing stability across the Commonwealth during the COVID-19 pandemic, and maintained other critical programs and services through remote assistance during the COVID-19 pandemic; and

WHEREAS, Terry Smusz received the special Community Services Block Grant (CSBG) network leadership award, the Ann Kagie CSBG Award, which was presented by the National Association for State Community Services Programs Board to recognize her outstanding and significant contributions to the CSBG program, her dedication and commitment to the constituencies served by the network, and her leadership and advocacy for the network; and

WHEREAS, Terry Smusz was the co-recipient of the 2021 Mark Grigsby Selfless Leadership Award presented by the Virginia Community Action Partnership; and

WHEREAS, working in partnership with the New River Community Action board of directors and supported by the hard work of countless volunteers, staff members, and partner organizations, Terry Smusz has helped New River Community Action fulfill its mission to provide "a hand up, not a hand out" and help diverse communities in the Counties of Floyd, Giles, Montgomery, and Pulaski and the City of Radford identify and alleviate the causes of poverty; now, therefore, be it

RESOLVED by the House of Delegates, That Terry Daniels Smusz hereby be commended on the occasion of her well-deserved retirement as chief executive officer of New River Community Action; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Terry Daniels Smusz as an expression of the House of Delegates' admiration for her years of dedicated service to the residents of the New River Valley.

HOUSE RESOLUTION NO. 810

Celebrating the life of Linwood Dixon Ross.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Linwood Dixon Ross, esteemed scoutmaster and deacon and beloved member of the Richmond community, died on May 9, 2021; and

WHEREAS, raised during the Great Depression, Linwood Ross overcame many challenges to graduate from Armstrong High School in Richmond and to build a successful 50-year career at the Port of Richmond, where he rose from laborer to supervisor; and

WHEREAS, over his remarkable 70-year tenure as scoutmaster with Boy Scouts of America (BSA) Troop 478 in Richmond, Linwood Ross helped countless young men build character and prepare to be responsible and productive members of their community; and

WHEREAS, in addition to leading BSA Troop 478, Linwood Ross held posts in the organization's Frederick Douglass District before its dissolution in 1968 and served on the staff of four National Scout jamborees; and

WHEREAS, Linwood Ross' outsized contribution to the community included membership in the Maymont Civic League and his area's chapter of the NAACP; and

WHEREAS, Linwood Ross, one of the longest serving scoutmasters in the history of both the BSA and the Girl Scouts of the USA, was inducted into the BSA National Hall of Leadership and won several prestigious service awards for his extraordinary commitment to the organization; and

WHEREAS, Linwood Ross motivated his scouts to achieve their best by setting high expectations, providing encouragement at every opportunity, and working tirelessly to teach them the skills and principles of scouting; and

WHEREAS, guided throughout his life by his faith, Linwood Ross was a lifelong member of Ebenezer Baptist Church in Richmond, where he held the meetings of BSA Troop 478 and served as deacon for many years; and

WHEREAS, preceded in death by his loving wife, Marie, and two sons, Linwood and Michael, Linwood Ross will be fondly remembered and dearly missed by his grandchildren, Shirelle, Linwood, Jr., and Kaylin, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Linwood Dixon Ross, a treasured scoutmaster, deacon, and member of the Richmond community whose dedication to service touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Linwood Dixon Ross as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 811

Celebrating the life of Dorothy Ann Pauley.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Dorothy Ann Pauley, an esteemed community leader and arts advocate and beloved member of the Richmond community, died on May 15, 2021; and

WHEREAS, born in Winnipeg, Canada, Dorothy Ann Pauley moved with her family to Richmond in 1954 and built a close-knit community of colleagues, friends, and neighbors; and

WHEREAS, Dorothy Ann Pauley earned bachelor's degrees in English and art history from Virginia Commonwealth University and directed her passion for the arts into service on the boards of various local organizations, including the Virginia Museum of Fine Arts, the Richmond Symphony, the Virginia Opera, and the Carpenter Performing Arts Center; and

WHEREAS, Dorothy Ann Pauley was an accomplished artist in her own right who sang with the Richmond Symphony Chorus and the Chorus of Alumni and Friends of the University of Richmond, which she served as president; and

WHEREAS, an active and engaged member of the community, Dorothy Ann Pauley dedicated her time as president of the Jenkins Foundation and as a member of the boards of J. Sargeant Reynolds Community College and the New Virginia Review; and

WHEREAS, guided throughout her life by her faith, Dorothy Ann Pauley enjoyed worship and fellowship with her community at First Presbyterian Church in Richmond for many years; and

WHEREAS, preceded in death by her loving husband of 71 years, Stan, and her daughter, Lorna, Dorothy Ann Pauley will be fondly remembered and dearly missed by her daughter, Katharine, and her family, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dorothy Ann Pauley, a vibrant community leader in Richmond whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dorothy Ann Pauley as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 812

Celebrating the life of the Honorable Robert Tata.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Honorable Robert Tata, a dedicated educator, youth athletics coach, and public servant who represented the residents of Kempsville and parts of Virginia Beach in the Virginia House of Delegates, died on June 11, 2021; and

WHEREAS, a native of Detroit, Michigan, Robert "Bob" Tata earned bachelor's and master's degrees from the University of Virginia, where he played football and baseball, then honorably served his country as a member of the United States Army from 1954 to 1956; and

WHEREAS, for many years, Bob Tata served the Norfolk community as an educator, counselor, and athletics coach at several high schools in the area; he was an assistant coach at the University of Virginia before becoming the head coach of the Norview High School football team, which achieved more than 100 wins and several district championship titles; and

WHEREAS, Bob Tata was selected as the Tidewater Coach of the Decade for his outstanding record between 1970 and 1980; and

WHEREAS, desirous to be of further service to the Commonwealth, Bob Tata ran for and was elected to the Virginia House of Delegates in 1984, where he represented the residents of the 85th District for 14 terms and became the chamber's senior ranking Republican member; and

WHEREAS, during his tenure as a state lawmaker, Bob Tata introduced and supported numerous important pieces of legislation to benefit all Virginians and played a prominent role in efforts to repeal the Commonwealth's estate tax in 2007; and

WHEREAS, Bob Tata offered his leadership and expertise to several standing committees and rose to become chair of the Committee on Education; he served on the Committee on Transportation and the Committee on Appropriations, where he chaired the Elementary and Secondary Education subcommittee; and

WHEREAS, in addition, Bob Tata served on the P-16 Education Council and the Civics Education Committee, and he was the House of Delegates' representative to the Virginia High School League; and

WHEREAS, predeceased by his wife, Jeraldine, Bob Tata will be fondly remembered and greatly missed by his children, Robert, Jr., Anthony, and Kendall, and their families, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Robert Tata, a true Virginia statesman and a respected member of the community in Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Robert Tata as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 813

Commending CrossOver Healthcare Ministry.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, CrossOver Healthcare Ministry, which has offered care and treatment to uninsured and medically underserved patients in Richmond and Henrico County for many years, celebrates the 30th anniversary of the opening of its Richmond clinic in 2021; and

WHEREAS, established in 1983 by Dr. Cullen B. Rivers and the Reverend Buddy Childress, CrossOver Healthcare Ministry helped support community members in need by providing a wide range of services, including medical care, legal counsel, and financial advice in its early years; and

WHEREAS, CrossOver Healthcare Ministry subsequently refocused its mission to emphasize the importance of health care, adding dental care services in 1987 and a vision care program in 1990; and

WHEREAS, CrossOver Healthcare Ministry worked in various locations until 1991, when it opened its Richmond clinic on Cowardin Avenue; in 2005, the organization opened a second clinic in Henrico County, and the two clinics now serve more than 6,600 patients per year; and

WHEREAS, CrossOver Healthcare Ministry's vision clinic and pharmacy serve clients from six other safety net clinics in the region, and it is the only safety net clinic in the region to offer pediatric care; and

WHEREAS, during the COVID-19 pandemic, CrossOver Healthcare Ministry provided thousands of COVID-19 tests to patients and other low-income community members through its operation of a community testing site; the organization contacted high-risk patients to provide information, answer questions, and catch early cases, likely preventing many infections; and

WHEREAS, CrossOver Healthcare Ministry has fulfilled its mission to provide quality health care, promote wellness, and connect resources and talent with people in need through the tireless efforts of numerous volunteers and staff members, as well as the generous support of several community partners; now, therefore, be it

RESOLVED by the House of Delegates, That CrossOver Healthcare Ministry hereby be commended for its many years of service to the community and the 30th anniversary of its Richmond clinic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to CrossOver Healthcare Ministry as an expression of the House of Delegates' admiration for the organization's mission and best wishes for its continued success.

HOUSE RESOLUTION NO. 814

Commending Anne Lynam Goddard.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Anne Lynam Goddard, president and chief executive officer of ChildFund International, a Richmond-based global nonprofit organization, plans to retire in May 2022; and

WHEREAS, Anne Goddard has led ChildFund International for the past 15 years, overseeing the organization's charity programs in 24 countries throughout Africa, Asia, and the Americas; and

WHEREAS, initiatives of ChildFund International during Anne Goddard's tenure have included early childhood education, workforce training, and disaster relief, bringing vital services and aid to families and communities in need; and

WHEREAS, Anne Goddard is the eighth president of ChildFund International, which was formed as the Christian Children's Fund 83 years ago and is, today, one of the largest nonprofits in the Commonwealth; and

WHEREAS, prior to joining ChildFund International, Anne Goddard served in leadership roles with the Atlanta-based nonprofit CARE advocating for women's rights and as a Peace Corps volunteer in Kenya; and

WHEREAS, through her confident and able leadership, Anne Goddard has helped ChildFund International fulfill its mission, benefiting countless children and families around the world; now, therefore, be it

RESOLVED by the House of Delegates, That Anne Lynam Goddard, president and chief executive officer of ChildFund International, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Anne Lynam Goddard as an expression of the House of Delegates' admiration for her accomplishments and best wishes for the future.

HOUSE RESOLUTION NO. 815

Celebrating the life of Mary Fannie Burton Woodruff.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Mary Fannie Burton Woodruff, esteemed proprietor and beloved member of the Monroe community, died on May 11, 2021; and

WHEREAS, in 1952, Mary Woodruff and her husband, James, opened Woodruff's Store in Monroe, proudly serving the community's fuel and other needs for more than 30 years; and

WHEREAS, after Mary Woodruff's daughter, Angela, reincarnated the store as Woodruff's Pies in 1998, Mary Woodruff remained a fixture in the store, greeting guests with stories and hymns well past her 100th birthday; and

WHEREAS, Mary Woodruff was an active and engaged member of her community who extended her gift for singing to several nursing facilities in the Monroe area to the delight of residents; and

WHEREAS, guided throughout her life by her faith, Mary Woodruff enjoyed worship and fellowship with her community at Chestnut Grove Baptist Church in Monroe, where she served as a pianist for more than 60 years and as a deaconess; and

WHEREAS, preceded in death by her loving husband, James, and her son, Walter, Mary Woodruff will be fondly remembered and dearly missed by her children, James, Jr., Darnette, Darnelle, and Angela, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Mary Fannie Burton Woodruff, a treasured member of the Monroe community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Fannie Burton Woodruff as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 816

Commending Elisha Harris.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Elisha Harris, a longtime educator and athletics coach in Hampton Roads, retired from coaching in 2021 after more than four decades of contributions to young people; and

WHEREAS, a native of Virginia Beach, Elisha Harris was given the nickname "Cadillac" after his youth football coach's favorite car that had been in several collisions but never stopped running; and

WHEREAS, Cadillac Harris graduated from Norfolk State University where he led the football team to three consecutive Central Intercollegiate Athletic Association championships; he considered playing professional football but ultimately settled in Hampton Roads to work with young people as a high school coach; and

WHEREAS, Cadillac Harris was the first African American high school head football coach in Virginia Beach; and

WHEREAS, Cadillac Harris coached football and track and field at schools throughout Hampton Roads and Northern North Carolina, including Kempsville High School, Green Run High School, Elizabeth City State University, Maury High School, and most recently, Indian River High School in Chesapeake; and

WHEREAS, Cadillac Harris led his teams to numerous championship titles and several of his former athletes went on to play professional football, including three who appeared in Super Bowls; and

WHEREAS, Cadillac Harris strove to help his student-athletes achieve success in academics and gave them the tools to become good citizens and leaders in their communities; and

WHEREAS, Cadillac Harris is a generous supporter of many charitable organizations and community events, and he has mentored young people as a motivational speaker and youth counselor; he cofounded the Cadillac Harris Braves Open, which has raised more than \$100,000 for students in Chesapeake Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, That Elisha Harris hereby be commended on the occasion of his retirement from coaching youth athletics; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elisha Harris as an expression of the House of Delegates' admiration for his achievements in service to young people in Hampton Roads.

HOUSE RESOLUTION NO. 817

Commending Fairfax County's Medically Fragile Task Force.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Fairfax County's Medically Fragile Task Force, a partnership between the Fairfax County Health Department and the Fairfax County Fire and Rescue Department, has served the Fairfax community by facilitating access to the COVID-19 vaccine for homebound individuals; and

WHEREAS, the Medically Fragile Task Force formed in November 2020 when members of the Fairfax County Health Department's incident management team met with the Fairfax County Fire and Rescue Department leadership to develop solutions for administering the COVID-19 vaccine to individuals who could not easily leave their homes due to underlying medical conditions; and

WHEREAS, in late 2020, the Medically Fragile Task Force prepared for its mission by developing processes, assembling supply kits, and establishing operation parameters to ensure it could mobilize quickly when the COVID-19 vaccine became available; and

WHEREAS, in coordination with Fairfax County Health Department staff, the Medically Fragile Task Force's efforts are carried out by small groups of paramedics and nurses who meet with residents in their homes to safely and effectively administer the COVID-19 vaccine; and

WHEREAS, in the first six months of 2021, the Medically Fragile Task Force has vaccinated approximately 600 homebound residents in the Fairfax Health District, and it continues to visit approximately six to 10 homes per day in an effort to achieve the highest possible level of immunity in the community; and

WHEREAS, through steadfast dedication to the well-being of the residents they serve, the Medically Fragile Task Force has helped make the Fairfax Health District a safer and healthier place for all; now, therefore, be it

RESOLVED by the House of Delegates, That Fairfax County's Medically Fragile Task Force hereby be commended for meritoriously serving the community by vaccinating homebound individuals during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fairfax County's Medically Fragile Task Force as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 818

Celebrating the life of Clarence A. Lee, Sr.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Clarence A. Lee, Sr., a decorated veteran and business owner in Chesterfield County, died on July 22, 2021; and

WHEREAS, raised in Chesterfield County, Clarence Lee, graduated from Hickory Hill High School before joining the United States Army, where he served with distinction, rising to the rank of master sergeant and earning a Bronze Star Medal; and

WHEREAS, following his service to his country, Clarence Lee returned to Chesterfield County and earned a certification in the electrical trade at Virginia State College, now Virginia State University; and

WHEREAS, after earning his master electrician credential, Clarence Lee founded Midlothian Electric Company in 1965; and

WHEREAS, a lifelong member of First Baptist Church of Midlothian, Clarence Lee became an ordained deacon, serving in various capacities as needed with local churches including Friendship Baptist Church and Brown Grove Baptist Church; and

WHEREAS; preceded in death by his wife of 56 years, Gloria, and his daughter Jacqueline, Clarence Lee will be fondly remembered and greatly missed by his children, Laurantt, Clarence, Jr., Quenton, and Renea, and their families, and many other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Clarence A. Lee, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Clarence A. Lee, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 819

Celebrating the life of Mark Alexander McQuinn.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Mark Alexander McQuinn, an active member of the Richmond community, died on May 1, 2021; and
 WHEREAS, Mark Alexander "Buster" McQuinn grew up in Richmond and attended Richmond Public Schools; and
 WHEREAS, a talented athlete, Buster McQuinn was offered a basketball scholarship to Virginia Commonwealth University and once placed ninth out of more than 100 participants in a slam dunk contest sponsored by professional basketball player Hakeem Abdul Olajuwon; and

WHEREAS, Buster McQuinn worked as a barber and enjoyed using his artistic abilities to ensure his clients left with the perfect haircut; and

WHEREAS, Buster McQuinn was well known for his magnetic smile and joyful personality; he was an engaging conversationalist and relished every opportunity to meet new people and learn about and debate a wide range of subjects; and

WHEREAS, Buster McQuinn was a skilled community handyman and cared for many elderly members of his community by helping with chores around their homes; and

WHEREAS, Buster McQuinn enjoyed fellowship and worship with the community as a longtime member of New Bridge Baptist Church, where he sang in the men's choir; and

WHEREAS, Buster McQuinn will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Mark Alexander McQuinn; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mark Alexander McQuinn as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 820

Commending Barbara Ann Evans Gates.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Barbara Ann Evans Gates, a highly admired member of the Richmond community, celebrated her 80th birthday in 2021; and

WHEREAS, born on July 21, 1941, Barbara "Bobbie" Ann Evans Gates grew up in Richmond and graduated from Armstrong High School; and

WHEREAS, Bobbie Gates continued her education at Virginia Union University, where she met her husband, the late Bennie C. Gates, Jr.; the couple was married in 1965 and were blessed with four children and three grandchildren; and

WHEREAS, throughout her life, Bobbie Gates has been guided by her deep faith, and she has inspired others through her grace and generosity; now, therefore, be it

RESOLVED by the House of Delegates, That Barbara Ann Evans Gates hereby be commended on the occasion of her 80th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Barbara Ann Evans Gates as an expression of the House of Delegates' admiration for her contributions to her community and best wishes.

HOUSE RESOLUTION NO. 821

Commending the Huguenot Republican Woman's Club.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, for 60 years, the Huguenot Republican Woman's Club has helped women in Chesterfield County become more active and engaged in local, state, and federal government policies and political campaigns; and

WHEREAS, the 1960s marked the beginning of a new era of growth for the Republican Party in Chesterfield County, and the first Chesterfield affiliate of the Virginia Federation of Republican Women (VFRW), the Huguenot Republican Woman's Club, formed in 1961 with Marjorie Dietsch as its first president; and

WHEREAS, over the years, the Huguenot Republican Woman's Club has actively supported the campaigns of numerous Republican candidates for elected office and has upheld the tenets of the Republican Creed; and

WHEREAS, in the 1980s, 1990s, and 2000s, various members of the Huguenot Republican Woman's Club received awards and accolades for many creative endeavors, such as designing the VFRW ornament, a WOMEN FOR REAGAN bumper sticker, and the VFRW Scrapbook; and

WHEREAS, in that same period, members of the Huguenot Republican Woman's Club were appointed to various leadership positions, including one as the VFRW state convention treasurer; members served on the Virginia Commission for the Aging and on First Lady Susan Allen's advisory council; and

WHEREAS, several members of the Huguenot Republican Woman's Club have been elected to various Republican Party positions, including district chair and delegate to the Republican National Convention; and

WHEREAS, Ellen Nau and Fay Williamson of the Huguenot Republican Woman's Club have served as VFRW State President and several other members have served on the Republican Party of Virginia State Central Committee; and

WHEREAS, as 2021 marks the 100th anniversary of the passing of the Nineteenth Amendment to the Constitution of the United States, the Huguenot Republican Woman's Club held a special celebration of the women's suffrage movement as part of its Diamond Jubilee celebration; now, therefore, be it

RESOLVED by the House of Delegates, That the Huguenot Republican Woman's Club hereby be commended on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Huguenot Republican Woman's Club as an expression of the House of Delegates' admiration for the club's many accomplishments and service to women in the community.

HOUSE RESOLUTION NO. 822

Commending Mt. Oni Baptist Church.

Agreed to by the House of Delegates, August 9, 2021

WHEREAS, for more than 150 years, Mt. Oni Baptist Church in Ruther Glen has provided spiritual leadership, generous outreach, and opportunities for joyful worship to members of the community; and

WHEREAS, Mt. Oni Baptist Church was formed in 1870 by former members of Reedy Baptist Church seeking a more conveniently located place to worship; the church's first pastor, the Reverend Albert Owens shepherded the congregation in its early years until his death; and

WHEREAS, the Reverend Elmore Taylor served as the second pastor of Mt. Oni Baptist Church and was succeeded by his son, the Reverend Hamilton Taylor, who led the congregation for 37 years and oversaw the completion of two subsequent church buildings; and

WHEREAS, the fourth pastor, the Reverend Harry J. Ellis pastored Mt. Oni Baptist Church for 13 years, leading the congregation through the Great Depression and the beginning of World War II; and

WHEREAS, in 1945, the Reverend W.D. Adkins became pastor and over the course of his two decades of service led a remodeling project and worked with congregants and community members to excavate a basement for the church; and

WHEREAS, the Reverend E. Walter Anderson joined Mt. Oni Baptist Church as the sixth pastor in 1966; he placed a special emphasis on supporting young people in the community through a Christian education program, a scholarship fund, and a tutoring program coordinated with Caroline County Public Schools; and

WHEREAS, the Reverend Anderson oversaw the creation of the male chorus at Mt. Oni Baptist Church and reached out to the wider community as moderator of the Mattaponi Baptist Association of Virginia; during his tenure as pastor, Margaret Jones became the first female preacher in the church's history, and the church has benefited from the contributions of many other women leaders since; and

WHEREAS, the Reverend Marion Tapscott served as interim pastor of Mt. Oni Baptist Church from 2005 to 2007; the following year, the Reverend Harry Reginald Carter became pastor and established a successful Children's Church program and a transportation ministry and purchased land for construction of a new church building; and

WHEREAS, the Reverend Vaughn M. Cunningham served as interim pastor of Mt. Oni Baptist Church until 2015, when the Reverend Marvin Gilliam, Jr., was installed as pastor; the Reverend Gilliam established a website and social media accounts for the church and purchased a new sound system and video equipment to help the church reach a wider audience; and

WHEREAS, as the eighth pastor of Mt. Oni Baptist Church, the Reverend Gilliam led the congregation to raise money and donate provisions for people affected by the water crisis in Flint, Michigan, and victims of tornadoes in the Commonwealth; he built strong relationships with local government officials to offer insights on police reform and developed a supportive partnership with Bowling Green Elementary School; and

WHEREAS, the current pastor of Mt. Oni Baptist Church, the Reverend Jasper Chamberlain, Jr., joined the church in June 2020 and has helped the congregation navigate the challenges of hosting worship services during the COVID-19 pandemic by hosting drive-in services and broadcasting services on the radio; and

WHEREAS, notably, Mt. Oni Baptist Church has only had nine full-time pastors and six chairs of its deacon's ministry in its entire 150-year history, a mark of the church's stability, longevity, and importance in local community life; now, therefore, be it

RESOLVED by the House of Delegates, That Mt. Oni Baptist Church hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mt. Oni Baptist Church as an expression of the House of Delegates' admiration for the church's long history and its congregation's many contributions to the Caroline County community.

HOUSE RESOLUTION NO. 823

Commending Colonel Jaime A. Areizaga Soto.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, it was announced that Colonel Jaime A. Areizaga Soto would be promoted to Brigadier General and appointed as Special Assistant to the General Counsel of the National Guard Bureau, becoming the first Latino general officer of the Judge Advocate General's Corps of any of the uniformed services; and

WHEREAS, Jaime A. Areizaga Soto, in his civilian capacity, began serving as Virginia's Deputy Secretary of Veterans and Defense Affairs in 2014 and, when not on military leave, has advised Governors Terence R. McAuliffe and Ralph S. Northam in ensuring Virginia remains the most "military-friendly" state; and

WHEREAS, Jaime A. Areizaga Soto was commissioned in 1991 as a second lieutenant through the Army's Reserve Officer Training Corps (ROTC); and

WHEREAS, Jaime A. Areizaga Soto has had an exemplary career spanning over 24 years and previously served as Commander, National Guard Bureau (NGB), Legal Support Office, District of Columbia National Guard (DCNG), Temple Army Readiness Center (TARC), Arlington, Virginia; Commander, 352nd Judge Advocate Headquarters (TDS) Team, DCNG, Washington, D.C.; Staff Judge Advocate, Joint Forces Headquarters, District of Columbia, Washington, D.C.; Senior Defense Counsel, Legal Assistance Counsel, and Judge Advocate, Joint Forces Headquarters, District of Columbia, Washington, D.C.; and Judge Advocate, Headquarters Detachment, District Area Regional Command, Washington, D.C.; and

WHEREAS, Jaime A. Areizaga Soto's military awards include the Meritorious Service Medal (2), Army Commendation Medal (2), Air Force Commendation Medal, Army Achievement Medal, and the Army Reserve Components Achievement Medal (7); and

WHEREAS, Jaime A. Areizaga Soto holds a Bachelor of Science in Foreign Service, International Politics: Law & Organization from Georgetown University; a Master of Science in Security and Defense from the Inter-American Defense College; a Master of Science from the National Academy of Political and Strategic Studies of Chile; a Master of Arts in Latin American Studies from Stanford University; and a Juris Doctor from Stanford University; now, therefore, be it

RESOLVED by the House of Delegates, That Colonel Jaime A. Areizaga Soto hereby be commended on his promotion to Brigadier General and appointment as Special Assistant to the General Counsel of the National Guard Bureau; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Jaime A. Areizaga Soto as an expression of the House of Delegates' admiration for his achievements in service to the United States.

HOUSE RESOLUTION NO. 824

Commending Patricia Harper-Tunley.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Patricia Harper-Tunley is a trailblazing leader for women entrepreneurs who has made many contributions to the Kenbridge community; and

WHEREAS, Patricia Harper-Tunley learned the value of hard work and responsibility at a young age on her family's tobacco farm in Lunenburg County; and

WHEREAS, Patricia Harper-Tunley established and ran her own commercial and residential garage door installation business, breaking down barriers in a male-dominated industry, and won several major government contracts; and

WHEREAS, over the course of her career, Patricia Harper-Tunley developed a wide scope of knowledge in administration, construction management, project management, team building, customer relations, product development, business development, strategic planning, and compliance management; and

WHEREAS, Patricia Harper-Tunley offered her expertise to numerous Fortune 500 companies and government agencies as a consultant; and

WHEREAS, Patricia Harper-Tunley is a driven community activist who strives to enhance the quality of life throughout the Commonwealth, and she has received many awards and accolades for her work, including recognition from the International Women's Leadership Association and the Prince William Chamber of Commerce; now, therefore, be it

RESOLVED by the House of Delegates, That Patricia Harper-Tunley of Kenbridge hereby be commended for her many personal and professional achievements; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patricia Harper-Tunley as an expression of the House of Delegates' admiration for her business acumen and leadership skills.

HOUSE RESOLUTION NO. 825

Commending the James Madison High School baseball team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, the James Madison High School baseball team earned its first state title since 2015 with a victory in the Virginia High School League Class 6 state championship; and

WHEREAS, the James Madison High School Warhawks defeated the previously unbeaten Colgan High School Sharks by a score of 2-1; and

WHEREAS, the James Madison Warhawks were dominant throughout the season, outscoring opponents by 185-43; and

WHEREAS, five members of the James Madison Warhawks have committed to Division I schools, including Miguel Echazarreta, Ramsey Collins, Colin Tuft, Bryce Eldridge, and James Triantos; and

WHEREAS, James Triantos, who recorded 11 home runs and was struck out only twice in his senior season was rated as one of the top prospects in the country and signed by the Chicago Cubs in the Major League Baseball Amateur Draft; and

WHEREAS, the victorious season is a tribute to the skill and determination of all the student-athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire James Madison High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the James Madison High School baseball team hereby be commended on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the James Madison High School baseball team as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 826

Commending the Jefferson School Foundation.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Jefferson School Foundation, a nonprofit organization that manages the Jefferson School City Center, strives to preserve the legacy of the original Jefferson School; and

WHEREAS, in 1894, land at the corner of Fourth and Commerce Streets was transferred to the City of Charlottesville for the construction of the Jefferson Graded/Elementary School; and

WHEREAS, the Jefferson Graded/Elementary School opened in 1895 and served as the elementary school for African Americans in Charlottesville until 1959; and

WHEREAS, in 1924, parents and community leaders petitioned the City of Charlottesville to provide a high school for African American students; and

WHEREAS, Jefferson High opened in 1926, joining the Jefferson Graded/Elementary School as the cornerstone for African American citizens in Charlottesville and surrounding Albemarle County and providing a venue and focal point for their emergence as a dynamic and vital part of the community's social history during the 20th century; and

WHEREAS, the Jefferson School is listed on the National Register of Historic Places and the Virginia Landmarks Register; now, therefore, be it

RESOLVED by the House of Delegates, That the Jefferson School Foundation hereby be commended on the occasion of the 125th anniversary of the opening of the Jefferson Graded/Elementary School in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Jefferson School Foundation as an expression of the House of Delegates' admiration for the organization's work to preserve the history of the Jefferson School and the Charlottesville community.

HOUSE RESOLUTION NO. 827

Commending George E. Morrison, III.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, George E. Morrison, III, has served as the director of planning for Brunswick County since 2016; and

WHEREAS, a native of Pulaski County, George Morrison holds a bachelor's degree in history from Emory & Henry College and a master's degree in urban and regional planning from the Virginia Polytechnic Institute and State University and is a graduate of the Senior Executive Institute of the University of Virginia's Weldon Cooper Center for Public Service; and

WHEREAS, George Morrison began his career in local government in the early 1990s in King George County, where he served as a planning technician supporting the Commonwealth's Chesapeake Bay preservation program; since that time, he has held a number of positions in local governments in the Commonwealth; and

WHEREAS, in addition to his local government service, George Morrison owns and operates Morrison Consulting, providing clients with guidance related to grant applications and administration and understanding and interpreting local planning and zoning regulation requirements; and

WHEREAS, George Morrison is an active and engaged member of his community, lending his knowledge and expertise to numerous organizations, including the Old Brunswick Circuit Foundation, the Greensville Ruritan Club, the Greensville-Emporia Relay for Life, the NAACP, and the Emporia-Greensville Democratic Committee, Fourth Congressional District Democratic Committee, and Virginia Democratic Party's State Central Committee; and

WHEREAS, George Morrison is a member of the Main Street United Methodist Church in Emporia, where he serves as a member of the board of trustees and on numerous councils and committees; and

WHEREAS, a lover of history, George Morrison has dedicated himself to maintaining his family's rich oral and written history and traditions, participating in the Scottish Clan Society of North America and spending his spare time researching his African roots; now, therefore, be it

RESOLVED by the House of Delegates, That George E. Morrison, III, director of planning for Brunswick County, hereby be commended; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George E. Morrison, III, in recognition of his service to the Commonwealth.

HOUSE RESOLUTION NO. 828

Celebrating the life of Alice Rebecca Williams Jones.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Alice Rebecca Williams Jones, former member of the Waverly Town Council and the Sussex County Board of Supervisors, died on July 3, 2021; and

WHEREAS, Alice Jones graduated from the Sussex County Training School in Waverly in 1953, and subsequently became a licensed practical nurse following graduation from the Petersburg General Hospital School of Practical Nursing in 1971; and

WHEREAS, Alice Jones served the Counties of Sussex and Surry for many years as an employee of the Crater Health District, where she was the first black licensed practical nurse employed by the health district; and

WHEREAS, Alice Jones served her community as a member of the Waverly Town Council, the Sussex County Board of Supervisors, and the Sussex County Social Services Board; and

WHEREAS, Alice Jones was an active and engaged member of the Naomi Chapter #123 Order of the Eastern Star, holding the distinction of past matron; and

WHEREAS, Alice Jones was a lifelong member of First Baptist Church, Waverly, where she served as the first female deacon in the church's history; and

WHEREAS, preceded in death by her beloved husband, Thomas, Alice Jones will be fondly remembered and greatly missed by her children, Thomas, Michael, and Karl, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Alice Rebecca Williams Jones; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alice Rebecca Williams Jones as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 829

Commending Brian O. Hemphill.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Brian O. Hemphill served the Southwest Virginia community for five years as president of Radford University, helping the institution maintain traditions of excellence in academics and community leadership; and

WHEREAS, before joining Radford University in 2016, Brian Hemphill served as president of West Virginia State University for four years, during which time he oversaw a 20 percent growth in enrollment and significant increases in the university's endowment and philanthropic giving; and

WHEREAS, as president of Radford University, Brian Hemphill presided over an increase in overall enrollment, with a peak of nearly 12,000 students in 2019, and helped raise the Radford University Foundation's endowments and investments by more than 42 percent; and

WHEREAS, Brian Hemphill secured two of the largest donations in school history, an \$8 million gift to name the Davis College of Business and Economics and a \$5 million gift to name the Artis College of Science and Technology, that directly contributed to increased scholarship support for students; and

WHEREAS, Brian Hemphill succeeded in gaining approval for several major capital projects at Radford University, including renovations to residence halls and academic facilities and a university hotel and conference center, among many other projects; and

WHEREAS, in June 2021, Radford University rededicated the College of Humanities and Behavioral Science Building as Hemphill Hall in honor of Brian Hemphill's legacy of contributions to the university; and

WHEREAS, after completing his tenure at Radford University, Brian Hemphill joined Old Dominion University as the institution's first African American president; now, therefore, be it

RESOLVED by the House of Delegates, That Brian O. Hemphill be commended for his outstanding service as president of Radford University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian O. Hemphill as an expression of the House of Delegates' admiration for his work to advance the field of higher education in the Commonwealth.

HOUSE RESOLUTION NO. 830

Commending John Dooley.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in 2021, John Dooley retired as chief executive officer of the Virginia Tech Foundation after more than 40 years of outstanding service to Virginia Polytechnic Institute and State University; and

WHEREAS, John Dooley spent his entire professional career in higher education, initially working as a public information officer and a fundraiser for his alma mater, Alderson Broaddus University in West Virginia; and

WHEREAS, John Dooley had been active with the 4-H organization since his youth and joined Virginia Polytechnic Institute and State University (Virginia Tech) as director of the institution's new Northern Virginia 4-H Center in 1982; and

WHEREAS, as director of the Northern Virginia 4-H Center, John Dooley launched innovative programs, such as Camp Fantastic to support children who have been diagnosed with cancer, and he subsequently became the executive director of the Virginia 4-H Foundation; and

WHEREAS, John Dooley served as an associate provost for outreach and vice president of outreach and international affairs at Virginia Tech before becoming the chief executive officer of the Virginia Tech Foundation; and

WHEREAS, during John Dooley's tenure as chief executive officer of the Virginia Tech Foundation, the endowment more than doubled and the foundation's total assets, including property, increased by approximately \$1 billion; he oversaw a significant growth in the total real estate managed by the foundation, now nearly two million square feet; and

WHEREAS, John Dooley promoted economic development throughout the region and developed many lasting friendships and partnerships around the world while working on behalf of Virginia Tech; his achievements have benefited students, faculty, staff members, and the wider community alike; and

WHEREAS, John Dooley helped Virginia Tech fulfill its mission as a land-grant university and embodies Virginia Tech's traditions of and commitment to exceptional community service; now, therefore, be it

RESOLVED by the House of Delegates, That John Dooley hereby be commended on the occasion of his retirement as chief executive officer of the Virginia Tech Foundation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Dooley as an expression of the House of Delegates' admiration for his personal and professional achievements.

HOUSE RESOLUTION NO. 831

Commending Diane Akers.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Diane Akers retired as president of the Blacksburg Partnership on June 30, 2021, after nearly 20 years of outstanding leadership and dedicated advocacy for the residents and businesses of Blacksburg and the surrounding region; and

WHEREAS, Diane Akers helped launch the Blacksburg Partnership as its first director in 2002 and has helped the organization grow into a driving force in local quality of life initiatives and economic development projects; and

WHEREAS, the Blacksburg Partnership was established by the Town of Blacksburg, Virginia Polytechnic Institute and State University (Virginia Tech), and members of the local community; under Diane Akers' leadership, the Blacksburg Partnership grew from 22 member organizations to more than 70; and

WHEREAS, Diane Akers built the Blacksburg Partnership into a forum for communication between local government, Virginia Tech, local retailers, corporations, and nonprofit organizations; among many achievements, she developed the Step

Into Blacksburg marketing program, enhanced cultural life and highlighted regional artists through the Gobble de Art event, and led the NRV Passenger Rail Initiative to bring rail service back to the New River Valley; and

WHEREAS, Diane Akers earned the admiration of her colleagues and members of the Blacksburg Partnership for her exceptional communications and organizational skills and her ability to build consensus between people of competing viewpoints; and

WHEREAS, Diane Akers left the Blacksburg Partnership with a solid foundation for success in the future, and after her well-earned retirement, she plans to seek new opportunities to serve the community through work with nonprofit organizations; now, therefore, be it

RESOLVED by the House of Delegates, That Diane Akers hereby be commended on the occasion of her retirement as president of the Blacksburg Partnership; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Diane Akers as an expression of the House of Delegates' admiration for her professional achievements on behalf of the residents and businesses of Blacksburg and her outstanding contributions to the Commonwealth.

HOUSE RESOLUTION NO. 832

Commending Mission BBQ.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, Mission BBQ, which offers a wide selection of authentic regional barbecue fare while working to honor and support veterans in the Commonwealth and throughout the nation, opened a new location in Christiansburg in 2021; and

WHEREAS, combining their patriotism, commitment to community service, and passion for good food, Bill Kraus and Steve Newton established Mission BBQ in Glen Burnie, Maryland, on September 11, 2011; and

WHEREAS, using only the highest quality ingredients cooked fresh that day, Mission BBQ quickly developed a loyal following and opened its second location the following year; it has since expanded to dozens of locations in the United States, including several locations in Virginia; and

WHEREAS, true to its name, Mission BBQ works toward a greater purpose by supporting the men and women who serve the nation in uniform, hiring veterans, offering free food to veterans on remembrance days, and hosting fundraisers to support veterans, public safety officers, and their families; and

WHEREAS, Mission BBQ locations are decorated with memorabilia donated by local veterans, law-enforcement officers, and other first responders, making each dining room a unique reflection of its community; now, therefore, be it

RESOLVED by House of Delegates, That Mission BBQ hereby be commended for its success as both a restaurant and a community partner on the occasion of the grand opening of its Christiansburg location; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Christiansburg Mission BBQ as an expression of the House of Delegates' admiration for Mission BBQ's work to honor the service and sacrifice of veterans and public safety officers.

HOUSE RESOLUTION NO. 833

Commending Joseph W. Meredith.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, in October 2020, Joseph W. Meredith, former president and chief executive officer of the Virginia Tech Corporate Research Center, was honored with the title president emeritus for his legacy of contributions to the organization; and

WHEREAS, Joseph Meredith served as president and chief executive officer of the Virginia Tech Corporate Research Center from 1993 to February 2020; and

WHEREAS, Joseph Meredith helped the campus grow from one building to an internationally recognized research park with 36 buildings supporting over 200 research, technology, and support companies with over 3,300 employees and extended the campus with development of the Tech Center Research Park in Newport News; and

WHEREAS, during his tenure as the head of the Virginia Tech Corporate Research Center, Joseph Meredith cultivated a community culture that encouraged collaborations and new ideas and valued opportunities for employees to build work-life balance; and

WHEREAS, Joseph Meredith's stewardship of the Virginia Tech Corporate Research Center helped advance Virginia Polytechnic Institute and State University's research, educational, and technology transfer mission; and

WHEREAS, Joseph Meredith served the Virginia Tech Corporate Research Center and the entire Virginia Polytechnic Institute and State University community with great dedication and distinction; now, therefore, be it

RESOLVED by the House of Delegates, That Joseph W. Meredith hereby be commended for his decades of outstanding leadership of the Virginia Tech Corporate Research Center and the honor of being named president emeritus; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph W. Meredith as an expression of the House of Delegates' admiration for his professional achievements and contributions to the Commonwealth.

HOUSE RESOLUTION NO. 834

Commending the Clarke County High School girls' soccer team.

Agreed to by the House of Delegates, August 5, 2021

WHEREAS, the Clarke County High School girls' soccer team capped off an undefeated season with a victory in the Virginia High School League Class 2 state championship in 2021; and

WHEREAS, the Clarke County High School Eagles defeated the Radford High School Bobcats by a score of 4-0 in the state title game; and

WHEREAS, junior Maya Marasco struck first for the Clarke County Eagles with a goal around the 11-minute mark, and senior Alison Sipe followed up with a goal of her own to give the team a 2-0 lead at halftime; and

WHEREAS, sophomore Ella O'Donnell added two more goals in the second half to lock up the win and give the Clarke County Eagles their third state title in program history; and

WHEREAS, the victory is a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Clarke County High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Clarke County High School girls' soccer team hereby be commended on winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jon Cousins, head coach of the Clarke County High School girls' soccer team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 835

Commending the Reverend Dr. Willard Maxwell, Jr.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, the Reverend Dr. Willard Maxwell, Jr., esteemed spiritual advisor, community liaison, and educator, celebrates his 10th anniversary as senior pastor of New Beech Grove Baptist Church in Newport News in 2021; and

WHEREAS, Willard Maxwell began serving as a spiritual advisor in 2000 when he took a position as chaplain at the former Emory Crawford Long Hospital; after faithfully serving in various roles at churches and educational institutions in Georgia, he joined New Beech Grove Baptist Church in 2011 as its senior pastor; and

WHEREAS, throughout his tenure at New Beech Grove Baptist Church, Willard Maxwell has helped the church expand its congregation by more than 60 percent, increase its funding substantially to support the development of a new seven-acre campus, and enhance its ability to serve the community through various programs and missions; and

WHEREAS, despite the challenges imposed upon churches throughout the COVID-19 pandemic, Willard Maxwell's sterling leadership enabled New Beech Grove Baptist Church to continue serving its congregation while thriving financially; and

WHEREAS, in addition to leading New Beech Grove Baptist Church, Willard Maxwell has held prominent positions at several local faith organizations, including board president of the Peninsula Pastoral Counseling Center and vice moderator of the Tidewater Peninsula Baptist Association; and

WHEREAS, Willard Maxwell's dedication to serving others has extended to the wider Newport News community, as he has given generously of his time since 2016 as a city planning commissioner, volunteer police chaplain, and member of the Newport News Police Foundation; and

WHEREAS, Willard Maxwell has demonstrated a deep commitment to the growth and well-being of young people both earlier in his career as an educator in Georgia and currently as an adjunct professor at the William R. Harvey Leadership Institute of Hampton University; and

WHEREAS, Willard Maxwell has continually sought to hone his ability to serve, earning degrees from Georgia Southern University and the Morehouse School of Religion at the Interdenominational Theological Center and most recently a doctor of education degree in educational leadership and administration from Argosy University in 2016; and

WHEREAS, in every aspect of his life, Willard Maxwell exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Newport News community; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Dr. Willard Maxwell, Jr., hereby be commended on his 10th anniversary as senior pastor of New Beech Grove Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Willard Maxwell, Jr., as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 836

Commending the Warwick Little League majors all-star team.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, the Warwick Little League majors all-star team won the Little League state championship on July 27, 2021 in Vienna; and

WHEREAS, the Warwick Little League majors all-star team's win brings home the first Little League state title for a team from the Virginia Peninsula since 1954 and the first title for Warwick in the 10- to 12-year-old age group; and

WHEREAS, the Warwick Little League majors all-star team started tournament play by going 4-0 and outscoring opponents 61-9 in the district tournament, then went 6-0 in the state tournament; and

WHEREAS, the Warwick Little League majors all-star team was carried through the state tournament by 12 home runs from its hitters and dominant performances from eight different pitchers; and

WHEREAS, the accomplishments of the Warwick Little League majors all-star team are the result of the hard work and dedication of the young athletes, the leadership and guidance of their coaches, and the unwavering support of the entire Warwick community; now, therefore, be it

RESOLVED by the House of Delegates, That the Warwick Little League majors all-star team hereby be commended for winning the 2021 Little League state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Warwick Little League majors all-star team as an expression of the House of Delegates' admiration for their achievement.

HOUSE RESOLUTION NO. 837

Celebrating the life of Officer Gunther Paul Hashida.

Agreed to by the House of Delegates, August 9, 2021

WHEREAS, Officer Gunther Paul Hashida, a dedicated member of the Metropolitan Police Department of the District of Columbia, died on July 29, 2021; and

WHEREAS, Gunther Hashida was driven to serve and protect members of the public and joined the Metropolitan Police Department of the District of Columbia in 2003; and

WHEREAS, Gunther Hashida served as a member of the Emergency Response Team of the department's Special Operations Division and demonstrated valor above and beyond the call of duty in responding to the attempted insurrection at the United States Capitol Building on January 6, 2021; and

WHEREAS, more than protecting the Capitol Building and members of the United States Congress, Gunther Hashida selflessly defended the democratic ideals and founding institutions of the United States; and

WHEREAS, Gunther Hashida earned several awards and decorations throughout his distinguished career, including the Officer of the Year award in 2011, a Lifesaving Medal in 2015, and an Achievement Medal and a Medal of Valor in 2017; and

WHEREAS, Gunther Hashida was a loving husband and father and will be fondly remembered and greatly missed by his wife of 17 years, Romelia; his children, Victoria, Gunther, Jr., and Josh; and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Officer Gunther Paul Hashida, a courageous law-enforcement officer; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Officer Gunther Paul Hashida as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 838

Commending St. Peter's Episcopal Church.

Agreed to by the House of Delegates, August 9, 2021

WHEREAS, on September 12, 2021, St. Peter's Episcopal Church will celebrate 150 years of providing spiritual leadership, generous community outreach, and opportunities for joyful worship to the Purcellville community; and

WHEREAS, St. Peter's Episcopal Church traces its deepest roots to 1871, when the church that would become St. Paul's Episcopal Church of Hamilton was established; and

WHEREAS, over the course of the following 41 years, two additional Episcopal churches were added to Madison Parish, Mount Calvary Episcopal Church in Round Hill in 1892 and the original St. Peter's Episcopal Church, located on Main Street in Purcellville, in 1912; and

WHEREAS, in the early 1960s, the three existing Episcopal churches in Madison Parish recognized the benefits of consolidation and selected Purcellville as the most central location for the new church and a new St. Peter's church was constructed at its present location on Glendale Street to accommodate the merged congregations; and

WHEREAS, in the late 1980s, the nave, chapel, and sanctuary were added to St. Peter's to accommodate the growing congregation; and

WHEREAS, in recent years, St. Peter's has continued to grow and expand, serving approximately 200 congregants and working with other community groups to provide necessary services; now, therefore, be it

RESOLVED by the House of Delegates, That St. Peter's Episcopal Church of Purcellville hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Father Tom Simmons, Rector of St. Peter's Episcopal Church, as an expression of the House of Delegates' admiration for the church's legacy of service to the Purcellville community.

HOUSE RESOLUTION NO. 839

Commending the Virginia Technical Academy.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, for three years, the Virginia Technical Academy has worked to build a skilled and educated workforce in Hampton Roads; and

WHEREAS, recognizing a need for more skilled labor in the region, David Gillespie began offering repair classes in his appliance store, then established the Virginia Technical Academy in August 2018; and

WHEREAS, the Virginia Technical Academy provides students with the hands-on training they need to enter the workforce quickly and succeed in their chosen fields, and the institution has achieved a 90 percent job placement rate among its students; and

WHEREAS, during the COVID-19 pandemic, David Gillespie personally offered funding to 20 students to help them continue their educations in spite of economic hardship; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Technical Academy hereby be commended for its work to provide members of the Hampton Roads community with access to training for high-quality, well-paying jobs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Gillespie, founder of the Virginia Technical Academy, as an expression of the House of Delegates' admiration for the institution's achievements on behalf of its students and work to address the need for skilled labor in the region.

HOUSE RESOLUTION NO. 840

Celebrating the life of Valerie Best.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, Valerie Best, author, publisher, and business owner and beloved member of the Hampton Roads community, died on February 25, 2021; and

WHEREAS, Valerie Best grew up in Boston, Massachusetts, where she was one of the first Black students to attend a previously all-White school in a city that was described as "ground zero for anti-bussing rage" following a 1974 court order requiring bussing of students to desegregate schools in the city; and

WHEREAS, after graduating from high school in 1973, Valerie Best relocated to Virginia to attend the Hampton Institute, now Hampton University, where she was a member of the cheerleading team and where she met the love of her life and future husband, Tyrome; and

WHEREAS, in 1977, Valerie Best graduated from Hampton Institute with a degree in early childhood education and, following a short stint teaching in local schools, became a flight attendant, a position that allowed her and Tyrome to travel the world; and

WHEREAS, upon becoming a mother in 1987, Valerie Best left the corporate world to work with her husband to grow their networking business; and

WHEREAS, over the next 33 years, as the co-founder of Wealth Builders Worldwide and the author and publisher of five books, Valerie Best was recognized as a speaker, leader, and trainer; and

WHEREAS, a lover of people and believer in the goodness of others despite the bigotry, prejudice, and racism she faced in life, Valerie Best believed in the importance of engaging with her community and actively participating in politics, government, and social causes, and she worked hard to build communities of likeminded people dedicated to improving the lives of others; and

WHEREAS, Valerie Best will be fondly remembered and greatly missed by her husband of 42 years, Tyrome; her sons, Alexander and Gabriel; and countless other family members, friends, and others throughout Newport News; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Valerie Best; and, be it
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Valerie Best as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 841

Commending Rappahannock Cellars.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, for 20 years, Rappahannock Cellars, a family-owned winery in Rappahannock County, has created elegant wines enjoyed by people throughout the Commonwealth and the world; and

WHEREAS, recognizing the potential of Virginia wines, John and Marialisa Delmare relocated their family winery from California to the Blue Ridge Mountains and planted their first vineyard in 1998; and

WHEREAS, the Rappahannock Cellars winery became operational in 2000 and has since produced 21 vintages of wine and grown to a sustained production of more than 15,000 cases of wine each year; and

WHEREAS, Rappahannock Cellars has earned awards and accolades from numerous international competitions and received the Virginia Governor's Cup Gold Medal in 2006; and

WHEREAS, Rappahannock Cellars has been an influential leader in the Virginia wine industry; it was the first Virginia winery to offer a monthly wine club, which now serves more than 2,000 households across the country, and it was the first Virginia winery to operate a distillery for production of 100 percent grape spirits; and

WHEREAS, Rappahannock Cellars has had a significant economic impact on the Blue Ridge Mountains, invigorating tourism to the region and providing jobs for hundreds of local residents over the years; and

WHEREAS, Rappahannock Cellars is a true family-owned-and-operated business; John and Marialisa Delmare, along with their 12 children, have been actively involved with every aspect of the winery, from planting to daily operations; now, therefore, be it

RESOLVED by the House of Delegates, That Rappahannock Cellars hereby be commended on the occasion of the 20th anniversary of the opening of its winery; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Delmare family as an expression of the House of Delegates' admiration for the myriad contributions Rappahannock Cellars has made to the Virginia wine industry.

HOUSE RESOLUTION NO. 842

Celebrating the life of Chadwick R. Cooper.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, Chadwick R. Cooper, a beloved member of the Henrico County community, died on August 2, 2021; and

WHEREAS, Chadwick "Chad" R. Cooper inspired others through his good deeds and left behind a legacy of kindness and generosity to those in need; and

WHEREAS, Chad Cooper will be fondly remembered and greatly missed by his parents, Roscoe, Jr., and Christa; his siblings, Alexis, Asa, Morgan, Roscoe III, and Shawn; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Chadwick R. Cooper of Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Chadwick R. Cooper as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 843

Nominating persons to be elected to the Court of Appeals.

Agreed to by the House of Delegates, August 10, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the Court of Appeals as follows:

Dominique A. Callins, Esquire, of Warren, as a judge of the Court of Appeals of Virginia for a term of eight years commencing November 1, 2021.

Doris E. Henderson Causey, Esquire, of Henrico, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Vernida R. Chaney, Esquire, of Alexandria, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Frank K. Friedman, Esquire, of Roanoke City, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

The Honorable Junius P. Fulton, III, of Norfolk, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Lisa M. Lorish, Esquire, of Charlottesville, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

The Honorable Daniel E. Ortiz, of Fairfax County, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Stuart A. Raphael, Esquire, of Arlington, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

HOUSE RESOLUTION NO. 844

Nominating persons to be elected to circuit court judgeships.

Agreed to by the House of Delegates, August 10, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Tasha D. Scott, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing September 1, 2021.

The Honorable Jayne A. Pemberton, of Chesterfield, as a judge of the Twelfth Judicial Circuit for a term of eight years commencing September 1, 2021.

The Honorable Claire G. Cardwell, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing October 1, 2021.

HOUSE RESOLUTION NO. 845

Nominating persons to be elected to general district court judgeships.

Agreed to by the House of Delegates, August 10, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Curtis M. Hairston, Jr., Esquire, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing October 1, 2021.

R. Lucas Hobbs, Esquire, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing September 16, 2021.

HOUSE RESOLUTION NO. 846

Nominating a person to be elected to a juvenile and domestic relations district court judgeship.

Agreed to by the House of Delegates, August 10, 2021

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the respective juvenile and domestic relations district court judgeship as follows:

Travis R. Williams, Esquire, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing October 1, 2021.

HOUSE RESOLUTION NO. 847

Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, August 10, 2021

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

Cozy E. Bailey, Sr., of Prince William, as a member of the Judicial Inquiry and Review Commission for a term ending June 30, 2025.

Kyung N. Dickerson, Esquire, of Fairfax County, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2024.

HOUSE RESOLUTION NO. 848

Commending Marion Frieswyk.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, Marion Frieswyk, a highly admired member of the Springfield community, celebrates her 100th birthday in 2021; and

WHEREAS, born on September 17, 1921, Marion Frieswyk was a firsthand witness to countless significant events in the 20th century, from the Great Depression and World War II to the dawn of the Internet era; and

WHEREAS, during World War II, Marion Frieswyk served the nation as a member of the Office of Strategic Services, the precursor to the Central Intelligence Agency; and

WHEREAS, Marion Frieswyk relishes every opportunity to share her lifetime of wise insights and sage guidance with family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, That Marion Frieswyk hereby be commended on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marion Frieswyk as an expression of the House of Delegates' admiration for her contributions to her community.

HOUSE RESOLUTION NO. 849

Commending Walter Hammersley.

Agreed to by the House of Delegates, August 10, 2021

WHEREAS, Walter Hammersley, a highly admired member of the Springfield community, celebrates his 100th birthday in 2021; and

WHEREAS, born on October 8, 1921, Walter Hammersley was a firsthand witness to countless significant events in the 20th century, from the Great Depression and World War II to the dawn of the Internet era; and

WHEREAS, during World War II, Walter Hammersley served the nation as a member of the United States Navy; and

WHEREAS, after returning home to the Commonwealth, Walter Hammersley became one of the original homeowners in the Crestwood community of Springfield; and

WHEREAS, Walter Hammersley relishes every opportunity to share his lifetime of wise insights and sage guidance with family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, That Walter Hammersley hereby be commended on the occasion of his 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Walter Hammersley as an expression of the House of Delegates' admiration for his contributions to his community.

SENATE RESOLUTION NO. 701

2021 Special Session II operating resolution.

Agreed to by the Senate, August 2, 2021

RESOLVED by the Senate of Virginia, That the Comptroller be directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate, to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Rules Committee during the 2021 Special Session II. Necessary payments to cover contingent and incidental expenses will be certified by the Clerk of the Senate or her designee; and, be it

RESOLVED FURTHER, That members of the Senate shall receive session per diem and mileage reimbursement for any day they attend a scheduled floor session at which an attendance roll call is taken. Session per diem shall not be allowed for legislative assistants. Session per diem shall not be allowed for members of the Senate during a recess of the Special Session. However, members may receive compensation while the General Assembly is in recess, as provided in § 30-19.12 of the Code of Virginia and in the 2020-2022 Appropriation Act, as follows: (i) members of any standing committee authorized by the Senate and the Committee on Rules; (ii) members of any committee of conference; and (iii) members of any legislative committee, commission, or council established by the General Assembly.

SENATE RESOLUTION NO. 702

Commending the Oscar F. Smith High School football team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Oscar F. Smith High School football team of Chesapeake won the Virginia High School League Class 6 state championship at its home field on May 1, 2021; and

WHEREAS, playing before a limited capacity crowd as well as fans cheering from beyond the stadium's fences, the Oscar Smith High School Tigers defeated the South County High School Stallions of Lorton by a score of 62-21; and

WHEREAS, capping the season with a perfect 9-0 record and bringing home the program's first state championship since 2011, the Oscar Smith Tigers' decisive victory was a redemptive finish after the team was narrowly defeated by the South County Stallions in the 2019 state final; and

WHEREAS, despite giving up a touchdown during the South County Stallions' first possession of the game, the Oscar Smith Tigers quickly rallied and put up 28 points in the first eight minutes of competition; and

WHEREAS, the Oscar Smith Tigers were carried by an outstanding defense, which tallied five interceptions, and a standout performance by quarterback Ethan Vasko, who rushed for three touchdowns and passed for two; and

WHEREAS, the accomplishments of the Oscar Smith Tigers are the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Oscar Smith High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Oscar F. Smith High School football team hereby be commended for winning the 2021 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Chris Scott, head coach of the Oscar F. Smith High School football team, as an expression of the Senate of Virginia's admiration for the team's achievements and best wishes for the future.

SENATE RESOLUTION NO. 703

Celebrating the life of Master Officer Woodrow W. Dowdy III.

Agreed to by the Senate, August 5, 2021

WHEREAS, Master Officer Woodrow W. Dowdy III, a distinguished law-enforcement officer who served the Commonwealth as a longtime member of the Division of Capitol Police, died on March 9, 2021; and

WHEREAS, Woodrow "Buddy" Dowdy grew up in the Richmond area and attended Hermitage High School, where he was a standout member of the wrestling team; he subsequently graduated from J. Sargeant Reynolds Community College and the University of Richmond; and

WHEREAS, Buddy Dowdy joined the Division of Capitol Police in July 1987 and earned many accolades and commendations for his meritorious service over the course of his 33-year career; he was promoted to master officer in 2017 and mentored younger members of the agency as a field training officer; and

WHEREAS, often stationed at the Post 1 guardhouse overlooking the main entry point to Capitol Square at Ninth Street and Grace Street, Buddy Dowdy was a highly recognizable member of the Division of Capitol Police and exhibited courtesy and professionalism in his frequent interactions with state officials, staff members, and visitors; and

WHEREAS, Buddy Dowdy proudly served as a member of the Division of Capitol Police Honor Guard, and in 2018, he represented the division at numerous celebratory appearances commemorating its 400th anniversary as the oldest continuously operating law-enforcement agency in the United States; and

WHEREAS, Buddy Dowdy was passionate about classic cars and enjoyed a wide range of outdoor activities, from gardening to kayaking on the James River; he was also a published author who had recounted many stories from his childhood in his book *The Neighborhood*; and

WHEREAS, Buddy Dowdy will be fondly remembered and greatly missed by his wife, Cheryl; his son, Wilson; his father, Woody Dowdy, Jr., and numerous other family members, friends, fellow law-enforcement officers, and generations of people who had the opportunity to enjoy a conversation or exchange a friendly greeting with him outside Post 1; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Master Officer Woodrow W. Dowdy III, a respected member of the Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Master Officer Woodrow W. Dowdy III as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 704

Celebrating the life of Thomas Francis Farrell II.

Agreed to by the Senate, August 5, 2021

WHEREAS, Thomas Francis Farrell II, the former chief executive officer of Dominion Energy who had a transformative impact on the Commonwealth through his support for economic growth, education, cultural institutions, and the arts, died on April 2, 2021; and

WHEREAS, Thomas "Tom" Farrell was born to a military family in Okinawa, Japan, and spent much of his early life traveling throughout the United States; he ultimately graduated from Bishop Ireton High School in Alexandria, then earned a bachelor's degree and a law degree from the University of Virginia; and

WHEREAS, after completing his education, Tom Farrell pursued a 15-year career as a litigator with firms in Alexandria and Richmond; in 1995, he accepted a leave of absence from the firm McGuireWoods to temporarily work on a project at Dominion Energy, but ultimately stayed with the energy company for the next 25 years; and

WHEREAS, Tom Farrell served as Dominion Energy's general counsel, then became chief executive officer in 2006; he retired in 2021 as chair of the executive board, having guided the company through periods of significant growth and transformation, as well as changes and challenges in the utilities industry; and

WHEREAS, with his proactive leadership, business acumen, keen insights, and commitment to employee safety, Tom Farrell earned a reputation for excellence and was a trusted mentor and friend to countless individuals throughout the Commonwealth; and

WHEREAS, Tom Farrell also directed Dominion Energy to become an industry leader in renewable sources of energy, investing in electricity production from offshore wind farms and launching initiatives to reduce the company's emission of carbon dioxide and greenhouse gases in electricity generation to zero by 2045; and

WHEREAS, during Tom Farrell's tenure as the head of Dominion Energy, the company donated more than \$400 million to philanthropic causes and placed a high emphasis on community and volunteer service; he also focused on supporting the nation's veterans, with one in five new hires at Dominion Energy now having served in the United States Armed Forces; and

WHEREAS, Tom Farrell also chaired the Edison Electric Institute, a national organization representing investor-owned electric groups, and was a longtime member and former chair of both the Institute for Nuclear Power Operations and the Altria Group; outside of his professional career, he supported art and cultural institutions as chair of the Richmond Performing Arts Alliance, board chair of the Colonial Williamsburg Foundation, and a member of the Virginia Museum of Fine Arts Board of Trustees; and

WHEREAS, Tom Farrell worked diligently to restore and enhance two performing arts venues in Richmond, the Altria Theater and Dominion Energy Center, and played a critical role in Richmond's selection as host of the 2015 UCI Road World Championship cycling race; and

WHEREAS, Tom Farrell also offered his leadership and expertise to the Virginia Business Council, the Virginia Business Higher Education Council, the State Council of Higher Education for Virginia, and the GO Virginia board; and

WHEREAS, Tom Farrell remained a proud alumnus of the University of Virginia throughout his life; he participated in strategic planning and searches for university presidents, served on the Board of Visitors, and was elected as the 41st rector of the institution; and

WHEREAS, Tom Farrell was an avid golfer who relished every opportunity to enjoy the sport, particularly at his annual family golf tournament, the Lang Cup; he also helped bring the PGA Tour Champions series back to Richmond through the annual Dominion Energy Charity Classic, which has raised millions of dollars to support military families; and

WHEREAS, Tom Farrell will be fondly remembered and greatly missed by his beloved wife, Anne; his sons, Peter and Stuart, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas Francis Farrell II, a former executive of Dominion Energy who touched countless lives through his philanthropic and civic leadership; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Francis Farrell II as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 705

Celebrating the life of Marie Antoinette Elbling.

Agreed to by the Senate, August 5, 2021

WHEREAS, Marie Antoinette Elbling, a longtime restaurateur and dedicated community leader in Richmond, died on July 11, 2021; and

WHEREAS, born in France, Marie Elbling was an engaging conversationalist from a young age and relished every opportunity to meet new people and learn about their different perspectives and experiences; and

WHEREAS, Marie Elbling married her husband, Paul, in 1966, and they subsequently relocated to Washington, D.C., where she worked as a hostess in area restaurants and cultivated many lifelong friendships; and

WHEREAS, in 1971, Marie and Paul Elbling opened the fine dining establishment La Petite France in Richmond, with Marie running the house and Paul running the kitchen; over the next 36 years, the restaurant earned local and national accolades for its authentic French cuisine and serene, comforting atmosphere; and

WHEREAS, after their retirement in 2007, Marie and Paul Elbling continued to offer delicious meals to family and friends at their home and maintained a strong commitment to community service; and

WHEREAS, Marie and Paul Elbling hosted dinners and catered fundraisers to support the Richmond Symphony and created an annual dinner that raised money for the Little Sisters of the Poor for more than 40 years; and

WHEREAS, Marie and Paul Elbling also helped establish the RVA French Food Festival, a cherished cultural event that also raised thousands of dollars to support the Little Sisters of the Poor; and

WHEREAS, Marie Elbling enjoyed fellowship and worship with the congregation of St. Mary's Catholic Church and was an active leader in the parish throughout her life; and

WHEREAS, Marie Elbling will be fondly remembered and greatly missed by her husband of 55 years, Paul, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Marie Antoinette Elbling, a vibrant member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marie Antoinette Elbling as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 706

Commending Eric Byers.

Agreed to by the Senate, August 5, 2021

WHEREAS, Eric Byers was selected as the Henrico County Public Schools Teacher of the Year in 2021; and

WHEREAS, a passionate and highly trained educator, Eric Byers has taught earth and space sciences, oceanography, and advanced placement environmental science at Highland Springs High School; and

WHEREAS, Eric Byers has also mentored and inspired young people as coach of the Highland Springs High School boys' tennis team and the Envirothon team; and

WHEREAS, as one of 4,000 teachers eligible for the award, Eric Byers distinguished himself through his unique teaching methods and commitment to student success in and out of the classroom; he was selected as the Varina District finalist prior to winning the division award; and

WHEREAS, Eric Byers proudly received the Teacher of the Year award at a surprise event on May 4, 2021; now, therefore, be it

RESOLVED by the Senate of Virginia, That Eric Byers hereby be commended on his selection as Henrico County Public Schools Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Eric Byers as an expression of the Senate of Virginia's admiration for his achievements in service to young people in Henrico County.

SENATE RESOLUTION NO. 707

Celebrating the life of Jereial Byron Fletcher.

Agreed to by the Senate, August 5, 2021

WHEREAS, Jereial Byron Fletcher of Bluefield, a longtime educator who inspired generations of students at Southwest Virginia Community College and was respected for his scholarship on the history and heritage of Appalachia, died on March 7, 2021; and

WHEREAS, born in Nickelsville, Jereial Fletcher grew up in Scott County, where his family roots run deep and where he began to cultivate his lifelong appreciation for history and the great outdoors; and

WHEREAS, Jereial Fletcher graduated from Berea College in Kentucky and began his teaching career at Virginia Polytechnic Institute and State University (Virginia Tech) while pursuing a master's degree from the institution; at that time, he also mentored high school students as a counselor with Upward Bound; and

WHEREAS, Jereial Fletcher completed additional postgraduate coursework at the University of Tennessee at Knoxville and Virginia Tech and served as an assistant professor of English at Bluefield College for four years before joining the faculty of Southwest Virginia Community College in 1984; and

WHEREAS, during his 37-year career at Southwest Virginia Community College, Jereial Fletcher served as an associate professor of English, the chair of the Humanities and Social Science Department, and the dean of mathematics, science, and health technologies; and

WHEREAS, Jereial Fletcher was a voracious reader who possessed a comprehensive understanding of British and American literature and could read Old and Middle English, French, Spanish, and Hebrew, but he was best known as an advocate and champion for Appalachian studies; and

WHEREAS, Jereial Fletcher was a fount of knowledge on the history, culture, linguistics, folklore, and geography of East Tennessee, Southwest Virginia, and especially Scott County; he was a founding member of the committee that created the Appalachian Heritage Writers Symposium and a trusted mentor to countless fellow scholars nationwide; and

WHEREAS, Jereial Fletcher will be fondly remembered and greatly missed by his wife of 43 years, Ramona; his daughter, Rachel; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jereial Byron Fletcher, a respected educator who touched countless lives over the course of his distinguished career; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jereial Byron Fletcher as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 708

Commending Kim Drew Wright.

Agreed to by the Senate, August 5, 2021

WHEREAS, Kim Drew Wright is an author, poet, wife, mother, and passionate community leader in Chesterfield and throughout the Commonwealth; and

WHEREAS, Kim Drew Wright was born in Hampton on April 23, 1971, to Walter and Billie Drew, who describe her as the perfect daughter and say that she made every day better for everyone around her; and

WHEREAS, Kim Drew Wright grew up in North Carolina and graduated from Northwest Guilford High School in 1989, then attended the University of North Carolina at Chapel Hill, where she earned a bachelor's degree in journalism; and

WHEREAS, Kim Drew Wright is the owner of Quick Lit Wit, LLC, and the author of *The Strangeness of Men*, a critically acclaimed collection of short stories, flash fiction, and prose poetry, for which she was awarded the Independent Publisher Book Awards 2016 Silver Medal and was selected as a 2015 USA Best Book Awards finalist; and

WHEREAS, after the 2016 United States presidential election, Kim Drew Wright organized a gathering of likeminded friends and formed Liberal Women of Chesterfield County & Beyond, now known as LWCC; and

WHEREAS, under Kim Drew Wright's leadership, LWCC galvanized thousands of women throughout Chesterfield County, the Commonwealth, and the nation to actively engage in politics as volunteers, advocates, and candidates for elected office; and

WHEREAS, Kim Drew Wright lent LWCC's support to those fighting for equal rights for women for decades and supported the passage of the Equal Rights Amendment in 2020, making Virginia the 38th and final state needed to ratify the Twenty-eighth Amendment to the Constitution of the United States; and

WHEREAS, Kim Drew Wright's vision of LWCC as a network of neighborhood groups that supports communities by collaborating with organizations such as Homeward, Sylvia's Sisters, and Chesterfield County Public Schools has benefited both the organizations and their clients; and

WHEREAS, Kim Drew Wright received the 2019 Newsmaker of the Year award from Virginia Professional Communicators due to her tireless work as the leader of LWCC and for sharing her vision, story, and impact with local, national, and international media; and

WHEREAS, due to personal experience, Kim Drew Wright has become an outspoken advocate for recognition, research, and treatment of Pediatric Acute-onset Neuropsychiatric Syndrome, which is a rare but devastating condition for a child and their family; and

WHEREAS, Kim Drew Wright fell in love with and married her college sweetheart, Wen Wright, her supporter-in-chief, vice president of fun, and loving partner through all life has thrown at them, and she is a loving and devoted mother, cheerleader, and protector to her children, Ian, Kaelin, and Elliott, who mean the world to her; and

WHEREAS, even as she stepped back from LWCC to pour her energy and passion into her own battle with breast cancer, Kim Drew Wright remains a guiding light and inspiration for so many women and men in Chesterfield County and the Commonwealth; now, therefore, be it

RESOLVED by the Senate of Virginia, That Kim Drew Wright hereby be commended for her work to inspire tens of thousands of citizens to get actively engaged in civics in Chesterfield County, the Commonwealth, and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kim Drew Wright as an expression of the Senate of Virginia's admiration for her service to her community.

SENATE RESOLUTION NO. 709

Celebrating the life of Christopher Jon Adams.

Agreed to by the Senate, August 5, 2021

WHEREAS, Christopher Jon Adams, esteemed mortician, accomplished businessman, and beloved member of the Herndon community, died on July 14, 2021; and

WHEREAS, a member of the Herndon High School Class of 1983, Christopher "Chris" Adams earned a bachelor's degree from Virginia Polytechnic Institute and State University in 1987 and graduated with honors from the Cincinnati College of Mortuary Science in 1990; and

WHEREAS, Chris Adams began his notable career as a mortician with Everly Funeral Homes in Northern Virginia, becoming manager of its Falls Church facility in 1996; and

WHEREAS, the following year, Chris Adams joined Green Funeral Home in Herndon, taking ownership of the business shortly after the passing of its former owner, J. Berkley Green, and renaming it the Adams-Green Funeral Home and Crematory in 2000; and

WHEREAS, throughout his career, Chris Adams demonstrated exceptional compassion and care by assisting bereaved families of Herndon and Northern Virginia in their time of need; and

WHEREAS, Chris Adams was an active and engaged member of his community who gave amply of his time as a youth sports coach and as a dedicated member of the Rotary Club of Herndon, while also supporting several charities such as the Foundation Fighting Blindness and the Selamta Family Project; and

WHEREAS, Chris Adams was a devoted family man and a passionate soccer and hockey dad who happily traveled throughout the country to cheer on his children during their various sporting events; and

WHEREAS, an avid sportsman in his own right, Chris Adams participated in a league at Herndon Centennial Golf Course for several years and had recently taken up boating on the Potomac River and Chesapeake Bay; and

WHEREAS, guided throughout his life by his faith, Chris Adams enjoyed worship and fellowship with his community at McLean Bible Church while completing several years of Bible Study Fellowship International's Bible study program and participating in a mission trip to Ethiopia; and

WHEREAS, Chris Adams will be fondly remembered and dearly missed by his loving wife of 26 years, Kathryn; his children, Jack, Daley, and Susanna; his parents, Dale and Jo; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Christopher Jon Adams, a respected mortician in Herndon whose unwavering kindness and generosity left an impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Christopher Jon Adams as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 710

Commending the James Madison University softball team.

Agreed to by the Senate, August 5, 2021

WHEREAS, in 2021, the James Madison University softball team became the first unseeded team in Women's College World Series history to win its first two games and reach the national semifinals; and

WHEREAS, earlier in the season, the James Madison University (JMU) Dukes captured their sixth Colonial Athletic Association (CAA) championship title, the fourth in the last five seasons; the team outscored league opponents 32-0 in 17 innings and won the clinching game 17-0, with senior Kate Gordon named Most Outstanding Player for hitting six home runs in three games; and

WHEREAS, the JMU Dukes subsequently won the Knoxville NCAA Regional to advance to the Super Regional round for the third time in a span of five tournaments, becoming the only non-Power 5 university among 13 teams to advance and winning the only regional tournament to feature three nationally ranked teams; and

WHEREAS, the JMU Dukes then defeated No. 8 Missouri in a best-of-three series to win the Columbia NCAA Super Regional for the first time in program history and become the first CAA team and the first institution outside the Power 5 conferences to reach the Women's College World Series since 2014; and

WHEREAS, in the Women's College World Series, the JMU Dukes defeated No. 1 Oklahoma by a score of 4-3 in a stunning upset and followed up with a 2-1 victory over No. 5 Oklahoma State; and

WHEREAS, the JMU softball team finished the season 41-4 to achieve the second-best record in the country among nearly 300 NCAA Division I programs and the best winning percentage in JMU softball history; and

WHEREAS, after their postseason campaign, the JMU Dukes were ranked fourth in both the final 2021 *USA Today*/National Fastpitch Coaches Association (NFCA) Division I Top 25 Coaches Poll and the ESPN.com/USA Softball Top 25; and

WHEREAS, JMU seniors Kate Gordon and Odicci Alexander were named to the Women's College World Series All-Tournament Team and were each honored as All-America selections; in addition, seven JMU Dukes were honored as NFCA All-Region selections; and

WHEREAS, in 2021, JMU also became the first institution in the Commonwealth to have both its baseball and softball teams advance to the College World Series in the same year; and

WHEREAS, the JMU Dukes have inspired countless students, alumni, and fans by their achievements, and they have been outstanding ambassadors for the university at the national level, delighting fans of other universities through their poise, confidence, toughness, determination, and passion for the game; and

WHEREAS, throughout the Women's College World Series, pitcher Odicci Alexander embodied a selfless and grounded approach to team success, exhibiting heart, determination, and maturity, combined with unmatched skill to capture the attention of fans, opponents, and members of the media across the nation; she finished her college career with a 2.18 ERA, an 81-18 record on the mound, and a .337 batting average; she was selected as Softball Pitcher of the Year by Wilson Sporting Goods and nominated as Female Athlete of the Year at the ESPN ESPY Awards; and

WHEREAS, the JMU softball program has forever left its mark on university history and the Harrisonburg community, and head coach Loren LaPorte, associate head coach Jennifer Herzig, and assistant coach Libby Morris have guided the student-athletes to be model citizens and volunteer their time and leadership in their home communities; and

WHEREAS, the JMU softball program has promoted a culture of diversity where gender and race are not obstacles to equality and the achievement of individual and shared goals; now, therefore, be it

RESOLVED by the Senate of Virginia, That the James Madison University softball team hereby be commended on becoming the first unseeded team to win its first two games and reach the semifinals of the Women's College World Series; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Loren LaPorte, head coach of the James Madison University softball team, as an expression of the Senate of Virginia's admiration for the team's historic accomplishments.

SENATE RESOLUTION NO. 711

Commending Village Hardware.

Agreed to by the Senate, August 5, 2021

WHEREAS, Village Hardware, owned by Larry Gray for 42 years from 1979 to 2021, has served the Mount Vernon community by offering a well-stocked, service-oriented resource for construction companies and local residents; and

WHEREAS, a native of New York, Larry Gray learned the construction trade from his father, and after relocating to the Commonwealth in 1979, he established Village Hardware in the Hollin Hall Shopping Center with two partners; and

WHEREAS, with its wide selection and commitment to personalized customer service, Village Hardware offered an alternative to big box stores and became the community's go-to destination for homeowners and professional builders as well as a beloved local landmark; and

WHEREAS, respected for his sincerity, vast expertise, and hands-on leadership, Larry Gray became the sole owner of the business in 1984; he often went above and beyond to not only help Village Hardware customers find the proper tools and equipment, but also find effective solutions for their projects, once even fabricating a unique screw to suit a customer's repair needs; and

WHEREAS, Larry Gray met his wife, Janet, at Village Hardware, and their children later worked in the family business as well; over the years, many other local youths worked their first job at Village Hardware, learning valuable life lessons and benefiting from the Gray family's character and work ethic; and

WHEREAS, Larry Gray and Village Hardware further gave back to the community by sponsoring Fort Hunt Youth Athletic Association teams and supporting local schools, churches, and neighborhood events and initiatives; and

WHEREAS, in planning his retirement, Larry Gray selected Aubuchon Hardware, a fourth-generation, family-owned hardware chain to uphold Village Hardware's legacy of passionate customer service and devotion to the community; incoming general manager Troy Richard is committed to maintaining the store's successful practices while implementing new services such as a rewards program and strengthening the store's computer system and online presence; now, therefore, be it

RESOLVED by the Senate of Virginia, That Village Hardware hereby be commended for its decades of exceptional service to generations of Mount Vernon residents; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Troy Richard, general manager of Village Hardware, and Larry and Janet Gray as an expression of the Senate of Virginia's admiration for the business's many contributions to the community.

SENATE RESOLUTION NO. 712

Commending Ourisman Automotive Group.

Agreed to by the Senate, August 5, 2021

WHEREAS, for 100 years, Ourisman Automotive Group has provided exceptional customer service to residents of Northern Virginia while striving to enhance community life throughout the region; and

WHEREAS, at the age of 18, Ben Ourisman established Ourisman Automotive Group in 1921 when he opened Ourisman Chevrolet at the intersection of 6th Street and H Street in Washington, D.C.; and

WHEREAS, while Ourisman Automotive Group closed briefly during World War II, the dealership promptly reopened after the war and became one of the most successful car dealerships in the United States by the late 1940s; and

WHEREAS, Ourisman Automotive Group opened its second location in Anacostia, Mandell Chevrolet, named for Ben Ourisman's son, Mandell, who continued to steward the business after his father's death; and

WHEREAS, Mandell Ourisman's sons and stepsons continued to expand the family business, with Ourisman Automotive Group subsequently opening many new locations throughout Fairfax County, including several along Richmond Highway; and

WHEREAS, guided by longtime executive and current chief financial officer and partner, Michael Bennett, Ourisman Automotive Group has supported other local businesses and advocated for the revitalization of the Richmond Highway corridor; and

WHEREAS, Michael Bennett has also acted as an ambassador for Ourisman Automotive Group while serving the community as a member of Good Shepherd Housing and Family Services, the Mount Vernon Lee Education Partnership, the Mount Vernon Lee Chamber of Commerce, and youth athletics organizations; and

WHEREAS, over the course of its long history, Ourisman Automotive Group has created thousands of jobs throughout the region and helped generations of families and local residents find the perfect automobile; now, therefore, be it

RESOLVED by the Senate of Virginia, That Ourisman Automotive Group hereby be commended on the occasion of its 100th anniversary of operation; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ourisman Automotive Group as an expression of the Senate of Virginia's admiration for the business's contributions to the community.

SENATE RESOLUTION NO. 713

Commending the Reverend Keary Kincannon.

Agreed to by the Senate, August 5, 2021

WHEREAS, in June 2021, the Reverend Keary Kincannon retired as pastor of Rising Hope United Methodist Mission Church after 26 years of service to members of the Mount Vernon community; and

WHEREAS, Keary Kincannon grew up in Alexandria and graduated from the former Fort Hunt High School; in young adulthood, he converted to Methodism and answered the call to the ministry, earning a doctoral degree from Wesley Theological Seminary; and

WHEREAS, with a background as a community organizer, Keary Kincannon was motivated to serve people in the greatest need, such as low income families or the homeless; he worked with the Alexandria District of the United Methodist Church to establish a mission church focusing on ministry to the "least, lost, lonely, and left out"; and

WHEREAS, Keary Kincannon initially held services from the trunk of his car, traveling to low-income housing complexes, shelters, camps, and local businesses to find and build his congregation; Rising Hope United Methodist Mission Church moved between several borrowed spaces until 2005, when Edwin and Helen Lynch donated funds to purchase a permanent location; and

WHEREAS, Keary Kincannon helped Rising Hope United Methodist Mission Church grow into a diverse and welcoming fellowship where all members are loved, accepted, and given opportunities to serve the community; and

WHEREAS, under Keary Kincannon's leadership, Rising Hope United Methodist Mission Church has offered Sunday worship services, short weekday services and lunches, a food pantry that supports more than 300 families, a clothes closet, and a winter hypothermia shelter, as well as spiritual counseling and other services; and

WHEREAS, Keary Kincannon cultivated strong community partnerships with other churches, local civic and service organizations, businesses, and private donors to help support Rising Hope United Methodist Mission Church; the church fulfills its mission with the help and hard work of 10 full-time staff members and more than 30 volunteers each week; and

WHEREAS, during the COVID-19 pandemic, Keary Kincannon and Rising Hope United Methodist Mission Church stayed connected to its congregation by providing food pantry items and hot meals at outdoor tents to allow for social distancing, holding online worship services, and facilitating trips to vaccination centers; and

WHEREAS, Keary Kincannon preached his final sermon as pastor of Rising Hope United Methodist Mission Church on June 27, 2021; he will continue to serve the community as an advocate for affordable housing along the Route 1 corridor; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Keary Kincannon hereby be commended on the occasion of his retirement as pastor of Rising Hope United Methodist Mission Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Keary Kincannon as an expression of the Senate of Virginia's admiration for his legacy of contributions to the Mount Vernon community.

SENATE RESOLUTION NO. 714

Commending Michael Fanone.

Agreed to by the Senate, August 5, 2021

WHEREAS, Michael Fanone, a courageous and dedicated law-enforcement officer and a resident of Mount Vernon, sustained serious injuries in the line of duty while defending the United States Capitol Building from thousands of insurrectionists on January 6, 2021; and

WHEREAS, Michael Fanone grew up in Northern Virginia and graduated from Ballou High School in Washington, D.C.; he was inspired to become a police officer after the terrorist attacks on September 11, 2001, and subsequently joined the Metropolitan Police Department of the District of Columbia; and

WHEREAS, Michael Fanone typically works as a plainclothes officer with the crime suppression team, but self-deployed to the United States Capitol Building with his partner, Jimmy Albright, in response to a call for backup when participants of a rally to protest the ceremonial counting of Electoral College votes turned violent and breached the United States Capitol Building to storm congressional offices and chambers; and

WHEREAS, Michael Fanone entered the United States Capitol Building through the southern side and moved to reinforce the west entrance; he pulled another officer to safety and helped secure the doors, witnessing a scene of medieval brutality as one of approximately 30 law-enforcement officers who stood shoulder-to-shoulder and engaged in hand-to-hand combat with a surging mob of thousands; and

WHEREAS, in the course of the struggle, Michael Fanone was dragged into the crowd, where he was stripped of his badge, radio, equipment, and ammunition and beaten, struck with hard metal objects, sprayed with mace, and electrocuted repeatedly with his Taser; several members of the mob threatened to kill him with his own firearm; and

WHEREAS, Michael Fanone feared for his own life and the idea of his four daughters losing their father and began shouting that he had children, which caused the crowd to release him and his fellow officers; and

WHEREAS, after Michael Fanone's partner pulled him back to safety, he was taken to a local hospital where he was treated for a concussion, traumatic brain injury, and a mild heart attack suffered when he was hit with Tasers; in the days following the attack, he began to experience anxiety and post-traumatic stress disorder; and

WHEREAS, Michael Fanone has been left with psychological and emotional trauma from the event, and his children continue to deal with the impact of nearly losing their father in the defense of the United States Capitol; and

WHEREAS, Michael Fanone has worked to ensure his fellow law-enforcement officers receive the recognition they deserve for their selflessness and heroism in defense of the United States Capitol Building and the members of the United States Congress; now, therefore, be it

RESOLVED by the Senate of Virginia, That Michael Fanone hereby be commended for his service to the nation above and beyond the call of duty during the insurrection on January 6, 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael Fanone as an expression of the Senate of Virginia's admiration for his bravery and commitment to defending the democratic ideals of the Commonwealth and the United States.

SENATE RESOLUTION NO. 715

Commending the Honorable Janice Justina Wellington.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Honorable Janice Justina Wellington, a trailblazer for African American women in the legal profession, retired as a judge of the Prince William Juvenile and Domestic Relations District Court in July 2020; and

WHEREAS, Janice Wellington grew up in New York City and is a first-generation American, her father having immigrated to the United States from Honduras and her mother from the West Indies; she was inspired at a young age to fight injustice and strive to make a positive difference in the lives of others; and

WHEREAS, after receiving a law degree from the George Washington University School of Law, Janice Wellington began her career with the U.S. Department of Transportation then became one of the first practicing African American women attorneys in the region when she agreed to help a friend represent a child in juvenile court; she subsequently practiced law with a firm in Prince William County for more than a decade; and

WHEREAS, Janice Wellington was appointed as a judge of the 31st Judicial District of Virginia in 1990; she was the first African American woman appointed as a judge of a juvenile and domestic relations district court in Northern Virginia and went on to become the longest serving juvenile and domestic relations district court judge in the Commonwealth; and

WHEREAS, over the course of her 30 years on the bench, Janice Wellington presided over the court with great fairness and wisdom, demonstrating a passion for legal scholarship and compassion for people and families coming before the court; and

WHEREAS, Janice Wellington helped create the children's waiting room at the Prince William Juvenile and Domestic Relations District Court to help put children at ease during stressful situations and worked with Court Appointed Special Advocates to ensure that children had proper representation; and

WHEREAS, Janice Wellington was active in local bar associations and professional organizations, inspired countless students at the high school, college, and law school levels, and was a nationally recognized judicial educator who served as a teacher, mentor, and friend to many fellow judges around the Commonwealth and the country; and

WHEREAS, Janice Wellington served the Commonwealth with the utmost dedication, integrity, and distinction; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Honorable Janice Justina Wellington hereby be commended on the occasion of her retirement as a judge of the Prince William Juvenile and Domestic Relations District Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Janice Justina Wellington as an expression of the Senate of Virginia's admiration for her achievements in service to the residents of Prince William County.

SENATE RESOLUTION NO. 716

Commending the South County High School girls' soccer team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the South County High School girls' soccer team of Lorton capped off an undefeated season with a victory in the Virginia High School League Class 6 state championship on June 23, 2021; and

WHEREAS, the South County High School Stallions defeated the Patriot High School Pioneers by a score of 2-1 to finish the season with a perfect 17-0 record and secure the program's first state title; and

WHEREAS, forward Jaidyn Curry scored first for the South County Stallions with a strike in the third minute, but the Patriot Pioneers equalized less than 15 minutes later; and

WHEREAS, despite a persistent attack, the South County Stallions were unable to breach the Patriot Pioneers' defense, until with less than eight minutes to play and the game still level at 1-1, South County defender Danielle Shahin arced a ball into the top right corner of the goal; and

WHEREAS, Danielle Shahin had previously been selected as the player of the year for both the Patriot District and Occoquan Region; and

WHEREAS, the victorious season was a testament to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire South County High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the South County High School girls' soccer team hereby be commended on winning the Virginia High School League Class 6 state championship after an undefeated season; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nina Pannoni, head coach of the South County High School girls' soccer team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 717

Commending Bob Corso.

Agreed to by the Senate, August 5, 2021

WHEREAS, Bob Corso, esteemed anchor at WHSV-TV in Harrisonburg, whose nightly broadcasts were a staple of Shenandoah Valley community life for many years, retired on March 26, 2021; and

WHEREAS, a native of Alexandria with a business degree from The College of William and Mary, Bob Corso began his career as a menswear sales representative before broadcasting courses at Arizona State University helped him discover his true calling; and

WHEREAS, Bob Corso embarked upon his illustrious career in broadcast journalism as a producer at KAET, the Public Broadcasting Service affiliate in Phoenix, and later joined WHSV-TV in 1988, where he would be a mainstay for the remainder of his career; and

WHEREAS, Bob Corso supported WHSV-TV in various capacities over the years, serving at different times as a reporter, producer, assignment desk editor, news anchor, weather anchor, and sportscaster; and

WHEREAS, for the past two decades, Bob Corso was lead anchor for WHSV-TV's 6:00 p.m. newscast, becoming a regular and cherished fixture on television sets across the Shenandoah Valley; and

WHEREAS, since 2006, Bob Corso produced and hosted WHSV-TV's popular "One-on-One" interview segments, holding more than 3,000 discussions with politicians, experts, newsmakers, and others to bring the myriad stories of the Shenandoah Valley community to the attention of countless viewers; and

WHEREAS, Bob Corso's annual segments at the Rockingham County Fair, in which he playfully explored the different events and vendors the fair had to offer, endeared him to viewers by bringing a touch of levity to the regular news broadcasts; and

WHEREAS, Bob Corso's legacy at WHSV-TV also includes the mentorship and support he generously provided to numerous colleagues to encourage and guide them in their own careers; and

WHEREAS, through a tireless dedication to his craft and a steadfast commitment to ensuring his audience was both entertained and well-informed, Bob Corso helped to make Harrisonburg and the surrounding areas a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bob Corso, beloved anchor of WHSV-TV in Harrisonburg, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bob Corso as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 718

Limiting legislation to be considered by the 2021 Special Session II of the General Assembly and establishing a schedule for the conduct of business coming before such Special Session.

Agreed to by the Senate, August 3, 2021

RESOLVED by the Senate, That during the 2021 Special Session II of the General Assembly, summoned by proclamation of the Governor on June 23, 2021, to begin August 2, 2021, except with the unanimous consent of the Senate, no bill, joint resolution, or resolution shall be offered or considered during the Special Session other than (i) a Budget Bill; (ii) Senate commending or memorial resolutions; (iii) bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business; (iv) bills, joint resolutions, or resolutions relating to the election of judges and other officials subject to the election of the General Assembly; (v) joint resolutions or resolutions relating to appointments made by legislative branch public bodies or appointing authorities subject to the confirmation of the General Assembly or the Senate; or (vi) bills or joint resolutions requested in writing by the Governor; and, be it

RESOLVED FURTHER, That after the Special Session is convened for the first time, the Senate may recess from time-to-time until reconvened with at least 48 hours' notice by the call of the Chair of the Senate Committee on Rules; and, be it

RESOLVED FURTHER, That for purposes of this resolution:

"Budget Bill" means a general appropriation bill introduced in each house that authorizes or commits the expenditure of public revenues during the Commonwealth's fiscal year ending June 30, 2022; and, be it

RESOLVED FINALLY, That the 2021 Special Session II of the General Assembly shall be governed by the following procedural rules:

Rule 1. No Senate commending or memorial resolution shall be offered after 5:00 p.m., Wednesday, August 4, 2021, except with unanimous consent of the Senate.

Rule 2. No engrossment of the Budget Bill shall be required, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate during Special Session II, and (iii) any item that represents legislation that failed in either house during Special Session II.

SENATE RESOLUTION NO. 719

Celebrating the life of Albert Earl Brooks.

Agreed to by the Senate, August 5, 2021

WHEREAS, Albert Earl Brooks of Woodbridge, a tireless advocate for civil rights who created opportunities for and enhanced the lives of his fellow African Americans, died on March 25, 2021; and

WHEREAS, born in North Carolina, Albert Brooks grew up in New York and went on to cross paths with many prominent members of the civil rights movement, including Malcolm X; he also worked at New Bethel Baptist Church in Detroit, Michigan, under the Reverend C.L. Franklin, father of Aretha Franklin; and

WHEREAS, Albert Brooks pursued leadership roles with the NAACP in New York, served his country honorably as a member of the United States Army, and received a bachelor's degree from the State University of New York at Buffalo; and

WHEREAS, while living in Buffalo, Albert Brooks mentored young people as a counselor and led programs to help African American men who had been denied work in construction trades achieve full employment as the executive director of the Buffalo Affirmative Action Plan at the A. Philip Randolph Institute; and

WHEREAS, Albert Brooks subsequently relocated to the Commonwealth and worked for the U.S. Department of Transportation, the Virginia Department of Transportation, and the U.S. Department of Labor as an equal opportunity specialist and civil rights officer; and

WHEREAS, a longtime resident of the Neabsco area of Prince William County, Albert Brooks generously volunteered his time with several local organizations and cofounded the African American Democratic Club in Woodbridge to empower members of the community to take a more active role in the democratic process; and

WHEREAS, through his hard work and passionate advocacy, Albert Brooks had a transformative impact on local government and civic life in the communities he served; he received many awards and accolades for his work, including the Derrick Wood Foundation Unsung Hero Medal, the Prince William County Democratic Committee Chairman's Award, the Prince William County Human Rights Award, and the Dale City Civic Association Citizen of the Year Award; and

WHEREAS, Albert Brooks's legacy lives on through the generations of young African American leaders he inspired in Prince William County and in communities throughout the Commonwealth and the nation; and

WHEREAS, Albert Brooks will be fondly remembered and greatly missed by his wife, Barbara; his children, Alise, Albert, Jr., and Anton, and their families; and numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Albert Earl Brooks, a champion for civil rights and equality and a respected member of the Woodbridge community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Albert Earl Brooks as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 720

Commending the Virginia Wesleyan University softball team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Virginia Wesleyan University softball team won the National Collegiate Athletic Association Division III championship at Moyer Park in Salem on June 1, 2021; and

WHEREAS, the Virginia Wesleyan University Marlins defeated the Texas Lutheran University Bulldogs by a score of 9-1 to bring home the program's third title in the last four seasons and finish the season with an impressive 46-6-1 record; and

WHEREAS, the Virginia Wesleyan Marlins jumped to a two-run lead in the first inning and never trailed, posting an additional three runs in both the third and fourth innings, and a final run in the fifth inning; and

WHEREAS, the exceptional play of the Virginia Wesleyan Marlins was recognized with several players making the 2021 National Collegiate Athletic Association (NCAA) Division III Championship all-tournament team, including Katelyn Biando; Ariana Rolle; Julia Sinnett; Jessica Goldyn, who was also named most outstanding player; and Hanna Hull, who was also named most outstanding pitcher; and

WHEREAS, the Virginia Wesleyan Marlins saw three players earn places in the NCAA record books this season, including Hanna Hull, who holds the all-time record for most wins as a pitcher with 132; Jessica Goldyn, who holds the single-season record for stolen bases with 73; and Madison Glaubke, who holds the all-time record for most games played with 221; and

WHEREAS, as a testament to its recent streak of dominance, the Virginia Wesleyan softball program has not had back-to-back losses since the 2019 NCAA regional tournament in Virginia Beach; and

WHEREAS, the success of the Virginia Wesleyan Marlins is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of the entire Virginia Wesleyan University community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Wesleyan University softball team hereby be commended for winning the 2021 National Collegiate Athletic Association Division III championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Brandon Elliott, coach of the Virginia Wesleyan University softball team, as an expression of the Senate of Virginia's admiration for the team's achievement.

SENATE RESOLUTION NO. 721

Commending Robert Engle.

Agreed to by the Senate, August 5, 2021

WHEREAS, Robert Engle, emergency coordinator for the Virginia Beach Department of Public Health, has greatly served his community by spearheading Virginia Beach's vaccine distribution during the COVID-19 pandemic; and

WHEREAS, as emergency coordinator for the Virginia Beach Department of Public Health (VBDPH), Robert "Bob" Engle has been responsible for guiding residents and staff through immunization phases and ensuring the department reaches as many individuals as possible; and

WHEREAS, under Bob Engle's leadership, the VBDPH administered hundreds of thousands of COVID-19 vaccinations, greatly improving the community's ability to limit the spread of the disease; and

WHEREAS, Bob Engle has regularly issued news releases and spoken with local media to foster greater awareness of developments in the COVID-19 vaccination process; and

WHEREAS, through steadfast dedication and an unwavering commitment to his community, Bob Engle has helped make Virginia Beach a healthier and safer place for all; now, therefore, be it

RESOLVED by the Senate of Virginia, That Robert Engle, emergency coordinator for the Virginia Beach Department of Public Health, hereby be commended for his meritorious efforts throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert Engle as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 722

Commending Tiffiney S. Thompson, DNP, ANP-C.

Agreed to by the Senate, August 5, 2021

WHEREAS, Tiffiney S. Thompson, DNP, ANP-C, owner and president of Restoration Behavioral Health Services, has worked diligently throughout the COVID-19 pandemic to serve and support members of the Virginia Beach community affected by mental illness; and

WHEREAS, Tiffiney Thompson established Restoration Behavioral Health Services in 2018 to help address issues that patients have experienced at other psychiatric practices by formulating individualized treatment plans; and

WHEREAS, Tiffiney Thompson strives to create a neutral, safe space for patients and family members to ensure that their concerns are understood and their unique needs are met; Restoration Behavioral Health Services conducts psychiatric evaluations and offers medication management services, individual and group therapy sessions, and healthy meal planning by its registered dietitian; and

WHEREAS, Tiffiney Thompson and Restoration Behavioral Health Services hosted a Mental Health Fair and Town Hall Meeting in 2018 and 2019 to raise awareness of mental health, challenge stigmas against seeking treatment, and cultivate strong community partnerships to better serve patients; and

WHEREAS, recognizing that the circumstances of the COVID-19 pandemic could exacerbate feelings of isolation and anxiety for many patients, Tiffiney Thompson is continuing to provide safe, effective, and timely treatment to meet their needs; now, therefore, be it

RESOLVED by the Senate of Virginia, That Tiffiney S. Thompson, DNP, ANP-C, hereby be commended for her commitment to serving and providing care for members of the Virginia Beach community with mental illness during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tiffiney S. Thompson, DNP, ANP-C, as an expression of the Senate of Virginia's admiration for her commitment to the health and wellness of the residents of Virginia Beach.

SENATE RESOLUTION NO. 723

Commending Patrick Gallagher.

Agreed to by the Senate, August 5, 2021

WHEREAS, Patrick Gallagher, a dedicated law-enforcement officer, served and protected the members of the Virginia Beach community for more than 30 years as a member of the Virginia Beach Police Department; and

WHEREAS, a native of Virginia Beach, Patrick Gallagher holds bachelor's and master's degrees from Old Dominion University; and

WHEREAS, Patrick Gallagher began his law-enforcement career in 1983 as a member of the United States Army Military Police Corps; and

WHEREAS, Patrick Gallagher joined the Virginia Beach Police Department as a patrol officer in 1990 and subsequently worked in the special operations, investigations, accreditation, and internal affairs departments, rising through the ranks to ultimately become deputy chief; and

WHEREAS, in recognition of his wide range of expertise and leadership skills, Patrick Gallagher was selected from a pool of more than 70 candidates as chief of the New Bern Police Department in North Carolina in 2021; now, therefore, be it

RESOLVED by the Senate of Virginia, That Patrick Gallagher hereby be commended for his three decades of service to the residents of Virginia Beach as a sworn officer of the Virginia Beach Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Patrick Gallagher as an expression of the Senate of Virginia's admiration for his accomplishments and contributions to the Virginia Beach community.

SENATE RESOLUTION NO. 724

Commending Shirley Johnson.

Agreed to by the Senate, August 5, 2021

WHEREAS, Shirley Johnson, esteemed member of the Public Utilities Department of the City of Virginia Beach, was presented the Outstanding Employee of Virginia Beach Award by the Virginia Beach Rotary Club on April 12, 2021; and

WHEREAS, the Virginia Beach Rotary Club has awarded its Outstanding Employee of Virginia Beach Award since 1980 to honor the vital services city employees provide to the community on a daily basis; and

WHEREAS, Shirley Johnson was presented the Virginia Beach Rotary Club's Outstanding Employee of Virginia Beach Award by Virginia Beach Mayor Bobby Dyer during a virtual recognition ceremony; and

WHEREAS, a 35-year employee with the Public Utilities Department of the City of Virginia Beach, Shirley Johnson currently serves as the utility billing systems supervisor, helping to ensure residents' utility payments are processed promptly and efficiently; and

WHEREAS, Shirley Johnson's recent accolade is a testament to her tireless work ethic, exemplary customer service, and dedication to supporting her colleagues and her community; and

WHEREAS, despite challenges imposed by the COVID-19 pandemic, Shirley Johnson gracefully led the Virginia Beach Public Utilities Department's billing and customer service operations and enabled the office to meet the needs of residents during this difficult time; and

WHEREAS, with great integrity and an unwavering commitment to the citizens she serves, Shirley Johnson has helped make Virginia Beach a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate of Virginia, That Shirley Johnson, utility billing systems supervisor of the Public Utilities Department of the City of Virginia Beach, hereby be commended for receiving the Virginia Beach Rotary Club's 2021 Outstanding Employee of Virginia Beach Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Shirley Johnson as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth.

SENATE RESOLUTION NO. 725

Commending Nina Janopaul.

Agreed to by the Senate, August 5, 2021

WHEREAS, in June 2021, Nina Janopaul retired as president and chief executive officer of the Arlington Partnership for Affordable Housing, one of the top nonprofit affordable housing developers in the nation; and

WHEREAS, a graduate of Harvard University, Nina Janopaul was a principal at Capital Strategies Consulting, Inc., and provided comprehensive consulting services to a wide range of clients prior to joining the Arlington Partnership for Affordable Housing (APAH); and

WHEREAS, Nina Janopaul was selected as president and chief executive officer of APAH in 2007 and has helped the organization grow from only three staff members managing around 500 housing units to a staff of nearly 40 people managing 1,800 housing units with an additional 1,000 units in active development; and

WHEREAS, Nina Janopaul has helped APAH fulfill its mission to build stability throughout Northern Virginia by developing and maintaining high-quality, affordable places to live, as well as creating opportunities and advocating for the people it serves; and

WHEREAS, during her tenure as president and chief executive officer, Nina Janopaul has helped APAH overcome financial challenges, including the Great Recession in 2008 and the impact of the COVID-19 pandemic, and maintained a strong commitment to the use of best practices and innovative housing strategies; and

WHEREAS, under Nina Janopaul's leadership APAH has been a leader in energy conservation and green building practices, with one of its apartment buildings becoming the first multifamily, mixed-income property to receive a Silver LEED certification from the U.S. Green Building Council; and

WHEREAS, Nina Janopaul built strong partnerships with faith and nonprofit organizations and civic institutions to create opportunities for residents and promoted diversity, inclusion, and equity in resident communities through engaging programs; and

WHEREAS, Nina Janopaul has also offered her insights and leadership expertise to the National Advisory Board for the ULI Terwilliger Center for Housing, the Northern Virginia Advisory Committee of the Virginia Housing Development Authority, the Housing Association of Nonprofit Developers, the Leadership Council and Board of Directors of the Northern Virginia Affordable Housing Alliance, and Virginia Diocesan Homes; and

WHEREAS, among many awards and accolades for her work to provide safe, affordable housing to people in need, Nina Janopaul received the 2013 Innovations in Leadership Award from the Virginia Housing Coalition, and APAH has been ranked as one of the top 50 affordable housing developers in the United States; and

WHEREAS, Nina Janopaul has been a trusted mentor to numerous colleagues throughout her career and nurtured many young leaders, ensuring that APAH is well-poised to continue serving the community after her well-earned retirement; now, therefore, be it

RESOLVED by the Senate of Virginia, That Nina Janopaul hereby be commended on the occasion of her retirement as president and chief executive officer of the Arlington Partnership for Affordable Housing; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nina Janopaul as an expression of the Senate of Virginia's admiration for her professional achievements and legacy of leadership in the field of affordable housing.

SENATE RESOLUTION NO. 726

Celebrating the life of the Honorable Glenn R. Croshaw.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Honorable Glenn R. Croshaw, who served the Commonwealth for many years as an attorney, a member of the House of Delegates, and a judge of the 2nd Judicial Circuit of Virginia, died on May 15, 2021; and

WHEREAS, born in Petersburg, Glenn Croshaw had deep family roots in the Commonwealth as the direct descendent of a Jamestown settler; he grew up in Colonial Heights, graduating from Colonial Heights High School, and continued his education at East Carolina University and the University of Virginia School of Law; and

WHEREAS, Glenn Croshaw began his career as a law practitioner and was a founding partner at the firm Croshaw, Beale, Hauser & Lewis, P.C.; and

WHEREAS, desirous to be of further service to his community and the Commonwealth, Glenn Croshaw ran for and was elected to the House of Delegates and ably represented the residents of Virginia Beach and Chesapeake in the 81st District from 1986 to 1999; and

WHEREAS, during his tenure as a state lawmaker, Glenn Croshaw introduced and supported numerous pieces of important legislation to benefit all Virginians and was a staunch advocate for the interests and well-being of his constituents; and

WHEREAS, Glenn Croshaw earned the admiration of his colleagues as a true statesman who worked across party lines to build bipartisan understanding, consensus, and respect; he offered his insights to several prominent standing committees and was especially proud of his contributions to the former Virginia Commission of Game and Inland Fisheries, of which he served as chair from 1985 to 1986; and

WHEREAS, Glenn Croshaw subsequently worked as an attorney and partner at Wilcox & Savage, P.C., and as a senior affiliated consultant for Kemper Consulting until 2011, when he was appointed as a judge of the Virginia Beach Circuit Court of the 2nd Judicial Circuit of Virginia; and

WHEREAS, Glenn Croshaw presided over the court with great fairness and wisdom for many years and served as a judge until the time of his passing; he served the Commonwealth with great integrity and dedication in all his endeavors; and

WHEREAS, Glenn Croshaw volunteered his time and wise leadership with a host of community and professional organizations, including the Princess Anne Ruritan Club, and he was a generous supporter of Old Dominion University; and

WHEREAS, Glenn Croshaw will be fondly remembered and greatly missed by his wife, Kendra, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Glenn R. Croshaw, a respected public servant in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Glenn R. Croshaw as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 727

Celebrating the life of Dominic Jared Winum.

Agreed to by the Senate, August 5, 2021

WHEREAS, Dominic Jared Winum, who served the community of Stanley with honor and distinction as an officer with the Stanley Police Department, died in the line of duty on February 26, 2021; and

WHEREAS, Dominic "Nick" Winum spent the first 10 years of his illustrious career in law-enforcement as a proud member of the Virginia State Police, helping to ensure a safe and secure Commonwealth; and

WHEREAS, Nick Winum joined the Stanley Police Department in 2016, working tirelessly every day to protect and serve the residents and visitors of Stanley; and

WHEREAS, an untold number of law-enforcement officers, public officials, and other individuals demonstrated their gratitude for Nick Winum and his faithful service through public announcements and at a memorial arranged outside the Stanley Police Department headquarters to honor his memory; and

WHEREAS, in addition to his career in law-enforcement, Nick Winum was a successful tomato farmer along the Commonwealth's Eastern Shore in his earlier years and later owned a renowned ammunition business; and

WHEREAS, guided throughout his life by his faith, Nick Winum enjoyed worship and fellowship with his community at Bethlehem Independent Christian Church in Stanley and inspired others through his example and mentorship; and

WHEREAS, Nick Winum will be fondly remembered and dearly missed by his loving wife of 26 years, Kara; his children, Jedediah, Aubrey, Jackson, and Nicki, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Dominic Jared Winum, an officer with the Stanley Police Department whose kindness, compassion, and service to others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dominic Jared Winum as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 728

Celebrating the life of the Honorable Gwendalyn F. Cody.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Honorable Gwendalyn F. Cody, a patriotic veteran of World War II, former member of the House of Delegates, and longtime real estate professional in Northern Virginia, died on May 2, 2021; and

WHEREAS, born in Richmond, Gwendalyn "Gwen" Cody grew up in Baltimore, Maryland, where she graduated from Sparrows Point High School; she attended Towson University for one year, then began working as a trade analyst at Hercules Powder Company in Delaware; and

WHEREAS, several of Gwen Cody's family members enlisted in the United States Armed Forces after the attack on Pearl Harbor, and she was inspired to make her own contributions to the war effort by joining the Women's Army Corps in 1943; and

WHEREAS, Gwen Cody's first assignment involved traveling throughout New Hampshire selling war bonds; she later volunteered for cryptology training and deployed to northern France in 1944 as a member of the 3341st Signal Corps Battalion; and

WHEREAS, Gwen Cody worked in command staff headquarters, maintaining code machines and switching out cogs each day to create new ciphers, and was entrusted with vital, top secret messages; and

WHEREAS, after the announcement of victory in Europe, Gwen Cody and several other members of her unit joined revelers on the streets of Paris, where she met her future husband, Robert; the couple married in Austria the following year and ultimately returned to the Commonwealth to settle in Annandale; and

WHEREAS, desirous to be of service to her community, Gwen Cody ran unsuccessfully for a seat on the Fairfax County Board of Supervisors in 1979, but won a seat in the House of Delegates in 1981; and

WHEREAS, Gwen Cody represented the residents of the 49th District and subsequently represented the residents of the 38th District after redistricting; during her two terms in office, she introduced and supported many pieces of legislation to benefit all Virginians and offered her insights and expertise to several standing committees; and

WHEREAS, Gwen Cody was one of the few Republicans representing a Northern Virginia district at the time, and for many years afterward, she served as an advisor and mentor to other Republican officials throughout the region and the Commonwealth; and

WHEREAS, outside of her career in state government, Gwen Cody was a licensed real estate agent who worked at several Northern Virginia firms over the course of 30 years and continued to do so into her 80s; and

WHEREAS, predeceased by her husband, Robert, Gwen Cody will be fondly remembered and greatly missed by her children, Robert, Jr. and Cathleen, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Gwendalyn F. Cody, a former public servant and real estate professional in Annandale; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Gwendalyn F. Cody as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 729

Commending the Hampton-Newport News Community Services Board.

Agreed to by the Senate, August 5, 2021

WHEREAS, for 50 years, the Hampton-Newport News Community Services Board has provided a comprehensive array of community-based services to residents of the Virginia Peninsula who are affected by mental illness, developmental disabilities, and substance use disorders; and

WHEREAS, the Hampton-Newport News Community Services Board was created in 1971 by an act of the General Assembly of Virginia and by resolution of the city councils of Hampton and Newport News; and

WHEREAS, operating on a local level and being accountable to local government, the Hampton-Newport News Community Services Board is uniquely qualified to provide rapid, flexible, and accessible services to the individuals and families it serves; and

WHEREAS, a member of Health Planning Region 5 and recognized by the Department of Behavioral Health and Developmental Services, the Hampton-Newport News Community Services Board has provided essential services to individuals in need of both acute and long-term services; and

WHEREAS, the programs of the Hampton-Newport News Community Services Board have directly contributed to the enhancement of the quality of life on the Virginia Peninsula; and

WHEREAS, by working in partnership with individuals, family members, advocates, and other local service agencies, the Hampton-Newport News Community Services Board has provided assistance to those citizens least able to care for themselves and enabled them to become vital, contributing members of society; and

WHEREAS, over the past 50 years, many dedicated citizen volunteers have represented the cities of Hampton and Newport News as members of the Board of Directors of the Hampton-Newport News Community Services Board, ensuring that the organization remains deeply engaged with these communities and continues to provide high-quality services; and

WHEREAS, the Hampton-Newport News Community Services Board was the first community services board in the Commonwealth to pursue and achieve the benchmark of national accreditation through the Commission on Accreditation of Rehabilitation Facilities; and

WHEREAS, the Hampton-Newport News Community Services Board has consistently demonstrated its commitment to excellence by establishing a dynamic, innovative, and visionary service delivery system in partnership with individuals and their families; and

WHEREAS, the leadership and staff members of the Hampton-Newport News Community Services Board have built an exemplary record of providing high-quality services to the citizens of the Virginia Peninsula and have created model programs that have gained both statewide and national recognition; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Hampton-Newport News Community Services Board hereby be commended on the occasion of its 50th anniversary of service to the Virginia Peninsula; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Natale Christian, executive director of the Hampton-Newport News Community Services Board, as an expression of the Senate of Virginia's appreciation for the organization's dedication to the betterment of the Commonwealth.

SENATE RESOLUTION NO. 730

Commending Signe Friedrichs.

Agreed to by the Senate, August 5, 2021

WHEREAS, Signe Friedrichs, member of the Herndon Town Council, was named the Rotary Club of Herndon's 2020-2021 Rotarian of the Year at the organization's meeting on June 30, 2021; and

WHEREAS, a member of the Rotary Club of Herndon for the past decade, Signe Friedrichs redoubled her commitments to the organization during the COVID-19 pandemic as the chair of the Satellite Club of Herndon Rotary; and

WHEREAS, through food drives, book drives, environmental clean-ups, and other programs, Signe Friedrichs helped the Rotary Club of Herndon serve children and families in need during the pandemic; and

WHEREAS, Signe Friedrichs is a Paul Harris Fellow with Rotary International and also serves on the Rotary Club of Herndon's Board of Directors; and

WHEREAS, a third-term member of the Herndon Town Council and former executive director of ArtsHerndon, formerly the Council for the Arts of Herndon, Signe Friedrichs has demonstrated a deep and ongoing commitment to her community; and

WHEREAS, with the Herndon Town Council, Signe Friedrichs serves on the grant oversight committee and as an alternate on the interview committee and is the town's representative to the Northern Virginia Transportation Authority's Planning Coordination & Advisory Committee and the Fairfax County Economic Development Advisory Commission; and

WHEREAS, by living up to Rotary International's creed of "Service Above Self," Signe Friedrichs embodies the best of what makes the Commonwealth a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the Senate of Virginia, That Signe Friedrichs hereby be commended for being named the Rotary Club of Herndon's 2020-2021 Rotarian of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Signe Friedrichs as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth.

SENATE RESOLUTION NO. 731

Commending William Sudow.

Agreed to by the Senate, August 5, 2021

WHEREAS, William Sudow, a founder and partner with Washington, D.C.-based private equity and commercial real estate law firm Sudow Kohlhagen, LLP, was named chairperson of the Metropolitan Washington Airports Authority on July 21, 2021; and

WHEREAS, William Sudow was the previous vice chairperson of the Metropolitan Washington Airports Authority (MWAA) and will serve as chairperson until the end of the year following the departure of immediate past chairperson, Earl Adams, Jr.; and

WHEREAS, as an attorney, William Sudow has more than 35 years of experience representing regional, national, and international clients in complex financial transactions and major investments and agreements; and

WHEREAS, in addition to his role at Sudow Kohlhagen, LLP, William Sudow serves as the chief compliance officer for Madison Marquette, an integrated real estate investment and operating company focused on infill retail and mixed-use real estate in major markets of the United States; and

WHEREAS, William Sudow was also formerly head of the Washington, D.C.-based real estate practice of Sidley Austin, LLP, and early in his career served as special assistant and counsel to U.S. House Majority Whip John Brademas; and

WHEREAS, William Sudow is a trustee and member of the executive committee of the Federal City Council and is a member and past president of the McLean Revitalization Corporation; and

WHEREAS, with decades of experience at the upper echelons of business and government, William Sudow is well positioned to be an able and effective leader of the MWAA; now, therefore, be it

RESOLVED by the Senate of Virginia, That William Sudow hereby be commended on the occasion of being named the chairperson of the Metropolitan Washington Airports Authority; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William Sudow as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 732

Celebrating the life of Thomas S. Hardy.

Agreed to by the Senate, August 5, 2021

WHEREAS, Thomas S. Hardy, an active community leader in Surry County, died on July 23, 2021; and

WHEREAS, Thomas Hardy grew up in Surry County and graduated from the Isle of Wight Training School and the Norfolk Naval Shipyard Apprentice School; and

WHEREAS, after serving his country as a member of the United States Armed Forces during the Korean War, Thomas Hardy returned to the Commonwealth and pursued a long career with Norfolk Naval Shipyard, retiring in 1985 after 35 years of service; and

WHEREAS, Thomas Hardy was a champion for civil rights in Surry County as a member of the Surry Assembly, and he worked to enhance the quality of life for all of his fellow residents with service on the Surry County Planning Commission, the Crater District Planning Commission, and the Surry County Electoral Board; and

WHEREAS, Thomas Hardy offered his leadership to many other local bodies related to transportation safety, health care, and infrastructure; and

WHEREAS, Thomas Hardy was also a longtime member of the Surry County Democratic Committee, the Distinguished Men's Club of Surry County, and the local branch of the NAACP; and

WHEREAS, Thomas Hardy enjoyed fellowship and worship with the community as a longtime member of First Gravel Hill Baptist Church in Smithfield; and

WHEREAS, Thomas Hardy will be fondly remembered and greatly missed by his loving wife of 65 years, Gladys; his daughters, Debra, Faye, and Tonya, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas S. Hardy, a respected member of the Surry County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas S. Hardy as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 733

Celebrating the life of the Honorable John William Warner III.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Honorable John William Warner III, a respected elder statesman of the Virginia Congressional delegation who represented the Commonwealth in the United States Senate for three decades, died on May 25, 2021; and

WHEREAS, John Warner grew up in Washington, D.C., and joined many of the other young men and women of his generation in service to the nation during World War II, enlisting in the United States Navy in 1945 after graduating from Woodrow Wilson High School; and

WHEREAS, John Warner earned a bachelor's degree from Washington and Lee University, then enrolled at the University of Virginia School of Law; he postponed his education for a second time to serve his country in the Korean War with the United States Marine Corps as a ground aircraft maintenance officer with the 1st Marine Aircraft Wing; and

WHEREAS, after his service in the Korean War, John Warner continued serving in the Marine Corps Reserve, eventually reaching the rank of captain; and

WHEREAS, John Warner returned to the University of Virginia to complete his law degree; he worked as an assistant U.S. Attorney for the District of Columbia in the trial and appellate divisions, then joined the law firm Hogan & Hartson in 1960; and

WHEREAS, John Warner left Hogan & Hartson to become Undersecretary of the United States Navy in 1969; he was appointed Secretary of the United States Navy in 1972 and in that post made significant contributions to the de-escalation of tensions between the United States and the Soviet Union during the Nixon and Ford administrations; and

WHEREAS, John Warner won his first of five terms in the United States Senate in 1978; a member of the Republican Party, he often diverged from strict party lines to build bipartisan coalitions advancing the best interests of Virginia and the United States; and

WHEREAS, during his 30-year tenure in the United States Senate, John Warner offered his expertise to various committees, including the Senate Committee on Environment and Public Works, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Select Committee on Intelligence; he earned praise from Republicans and Democrats alike for his strength of character and his work to foster bipartisan understanding and respect and build consensus on important issues; and

WHEREAS, John Warner also served as chair of the Senate Committee on Rules and Administration and chair of the Senate Armed Services Committee, where he increased national security and bolstered the Virginia economy through his support for military installations and shipbuilding firms in the Commonwealth; and

WHEREAS, after his retirement from the United States Senate in 2008, John Warner became a highly admired community leader in Alexandria; he played a vital role in the repair and modernization of the Woodrow Wilson Bridge by fostering good communication between officials in Washington, D.C., Virginia, and Maryland; and

WHEREAS, John Warner was a true Virginia gentleman who inspired trust through his honesty and wise insights and served the United States and the Commonwealth with the utmost humility, integrity, and dedication; and

WHEREAS, John Warner will be fondly remembered and greatly missed by his wife, Jeanne; his children, Virginia, Mary, and John IV, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable John William Warner III, a distinguished public servant who represented generations of Virginians in the United States Senate; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable John William Warner III as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 734

Commending Michael Paul Williams.

Agreed to by the Senate, August 4, 2021

WHEREAS, Michael Paul Williams, esteemed columnist of the *Richmond Times-Dispatch*, won the Pulitzer Prize for commentary in 2021; and

WHEREAS, Michael Williams was selected by the Pulitzer Prize board based at Columbia University to receive journalism's most prestigious award for opinion pieces he wrote during the summer of 2020 on the subject of Richmond's Confederate statues; and

WHEREAS, Michael Williams joins 16 other Pulitzer Prize honorees in 2021 and is the third writer for the *Richmond Times-Dispatch* to receive the award; and

WHEREAS, a longtime member of the Greater Richmond community, Michael Williams graduated from Hermitage High School in Henrico County before earning a bachelor's degree in English from Virginia Union University and a master's degree in journalism from Northwestern University; and

WHEREAS, Michael Williams has devoted nearly 40 years of his accomplished career in journalism to the *Richmond Times-Dispatch*, authoring more than 2,700 opinion columns while contributing to the evolution of the paper over the past half-century; and

WHEREAS, by offering fresh insights that bring greater understanding to challenging topics of the day, Michael Williams has provided an invaluable service to the Richmond community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Michael Paul Williams, respected columnist of the *Richmond Times-Dispatch*, hereby be commended for winning the 2021 Pulitzer Prize for commentary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael Paul Williams as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 735

Celebrating the lives of Sharnez and Neziah Hill.

Agreed to by the Senate, August 5, 2021

WHEREAS, Sharnez and Neziah Hill, both beloved members of the Richmond community, died on April 27, 2021; and WHEREAS, Sharnez Hill, affectionately known to family and friends as "Shy-Shy," was a proud and loving mother to her three-month-old daughter, Neziah; and

WHEREAS, Sharnez and Neziah Hill inspired others through their joyful spirits and unbreakable bond; and

WHEREAS, Sharnez and Neziah Hill will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Sharnez and Neziah Hill; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sharnez and Neziah Hill as an expression of the Senate of Virginia's respect for their memory.

SENATE RESOLUTION NO. 736

Celebrating the life of Luther Archer, Sr.

Agreed to by the Senate, August 5, 2021

WHEREAS, Luther Archer, Sr., esteemed pastor of Shepherd's Heart Christian Fellowship Ministry in Richmond and a beloved member of the Petersburg community, died on June 18, 2021; and

WHEREAS, a lifelong learner, Luther Archer amassed several degrees and educational certificates over the years, including a master's degree in Christian counseling and psychology from Carolina University of Theology and a master's degree in theology from Oral Roberts University, where he was also pursuing a doctorate of theology; and

WHEREAS, Luther Archer invested himself into international ministries and mission work in countries such as Ghana, Nigeria, Kenya, Romania, and India, sharing his spiritual wisdom with hundreds of individuals around the globe; and

WHEREAS, affectionately known by many as "Pastor Luther," Luther Archer led various congregations throughout his lifetime, including at the House of Prayer, now Hope Point Church, in Chesterfield and at the Refuge Temple Assembly of Yahweh in Richmond; and

WHEREAS, Luther Archer and his wife, Carolyn, founded Shepherd's Heart Christian Fellowship Ministry in 2007; as senior pastor, he provided the congregation with insightful spiritual guidance while developing various outreach initiatives for the benefit of the community; and

WHEREAS, Luther Archer will be fondly remembered and dearly missed by his loving wife of nearly 33 years, Carolyn; his children, Luther, Jr., Rodney, D'Angelo, Rudolph, Zuriel, and Sherita, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Luther Archer, Sr., cherished pastor of Shepherd's Heart Christian Fellowship Ministry, whose boundless faith and magnanimous heart encouraged countless individuals along their spiritual journeys; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Luther Archer, Sr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 737

Celebrating the life of Adele C. Johnson.

Agreed to by the Senate, August 5, 2021

WHEREAS, Adele C. Johnson, esteemed executive director of the Black History Museum and Cultural Center of Virginia and a beloved member of the Richmond community, died on April 25, 2021; and

WHEREAS, affectionately known by friends and family as "AJ," Adele Johnson was born in Sea Bright, New Jersey, and moved to Richmond upon enrolling at Virginia Commonwealth University, where she earned a degree in urban planning; and

WHEREAS, Adele Johnson's illustrious career in the nonprofit sector began at the Virginia Minority Supplier Development Council, now the Carolinas-Virginia Minority Supplier Development Council, which she served as president for 13 years; and

WHEREAS, in 2004, Adele Johnson became the community relations director for Capital One, amassing valuable experience while overseeing the company's grants to various nonprofit organizations and charities; and

WHEREAS, Adele Johnson subsequently assumed the position of director of the Richmond Public Schools Education Foundation in 2009, leading the organization's fundraising efforts while managing administrative duties and the development of myriad programs that benefited innumerable teachers and students of all ages; and

WHEREAS, Adele Johnson led a consulting firm, The Inclusive Edge, to help nonprofits better fulfill their missions and in 2017 joined the Black History Museum and Cultural Center of Virginia as its interim executive director, officially becoming the institution's executive director shortly thereafter; and

WHEREAS, Adele Johnson's tenure at the Black History Museum and Cultural Center of Virginia was defined by her compelling vision for the future of the institution, her passionate energy for collaboration and engagement with the local museum community, and her deep commitment to championing the untold stories of Black lives and communities in the Commonwealth; and

WHEREAS, Adele Johnson will be fondly remembered and dearly missed by her loving husband of over 25 years, Bill; her children, Eric and Lisa, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Adele C. Johnson, executive director of the Black History Museum and Cultural Center of Virginia, whose exemplary kindness, generosity, and grace inspired countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Adele C. Johnson as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 738

Commending Dr. Ronald A. Crutcher.

Agreed to by the Senate, August 5, 2021

WHEREAS, Dr. Ronald A. Crutcher, a distinguished leader in higher education administration, has served as president of the University of Richmond for more than five years; and

WHEREAS, a graduate of Miami University in Ohio, Ronald Crutcher holds master's and doctoral degrees from Yale University and is an accomplished cellist who formerly played with the Cincinnati Symphony Orchestra; and

WHEREAS, Ronald Crutcher previously served as the director of the Butler School of Music at the University of Texas at Austin and dean of the Cleveland Institute of Music; he led the administration of Wheaton College as president for 10 years before joining the University of Richmond in 2015; and

WHEREAS, as the first African American president of the University of Richmond, Ronald Crutcher emphasized the institution's commitment to fighting racism and sexism wherever it was present, championed free expression and civil debate, and promoted diversity and inclusivity by hiring more women and people of color; and

WHEREAS, Ronald Crutcher worked to increase engagement with University of Richmond alumni, leading to record levels of philanthropy during his tenure, developed an office to support students applying for national grants and fellowships, and created a strategic communications division to raise the institution's reputation and profile throughout the Commonwealth and the United States; and

WHEREAS, under Ronald Crutcher's leadership, the University of Richmond was ranked among the best liberal arts colleges in the nation by *U.S. News and World Report*; and

WHEREAS, Ronald Crutcher is chair of the Board of Directors of the American Council on Education, served on the board of the American Association of Colleges and Universities and is a founding co-chair of Liberal Education and America's Promise; he also led the University of Richmond to become a charter member of the American Talent Initiative, an organization that advocates for socioeconomic diversity in higher education; and

WHEREAS, during the COVID-19 pandemic, Ronald Crutcher helped support the institution and set an example for higher education administrators nationally by taking a pay cut to help offset the unanticipated and significant expenses associated with responding to the pandemic; and

WHEREAS, outside of his work with the University of Richmond, Ronald Crutcher offers his leadership and expertise to the board of the Richmond Symphony and has performed throughout the United States and Europe as a member of the Klemperer Trio; now, therefore, be it

RESOLVED by the Senate of Virginia, That Dr. Ronald A. Crutcher hereby be commended for his years of outstanding service as president of the University of Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dr. Ronald A. Crutcher as an expression of the Senate of Virginia's admiration for his work to advance the field of higher education and contributions to the Richmond community and the Commonwealth of Virginia.

SENATE RESOLUTION NO. 739

Celebrating the life of Milton V. Peterson.

Agreed to by the Senate, August 5, 2021

WHEREAS, Milton V. Peterson, a visionary real estate developer who led several transformative projects throughout Northern Virginia and the Washington, D.C. Metropolitan Area, including National Harbor, and a generous philanthropist who strengthened and supported communities around the world, died on May 26, 2021; and

WHEREAS, Milton "Milt" Peterson grew up in Massachusetts and received a bachelor's degree from Middlebury College in Vermont, where he was a member of the Reserve Officers' Training Corps; and

WHEREAS, after serving the nation as a lieutenant with the United States Army Corps of Engineers at Fort Belvoir, Virginia, Milt Peterson and his wife, Carolyn, settled in Fairfax County to raise their family; and

WHEREAS, Milt Peterson initially worked with a regional home builder, the Yeonas Company, and sold more than \$1 million worth of properties in one of his first years; and

WHEREAS, in 1965, Milt Peterson began to pursue his dream of creating comprehensive, planned communities; his commitment to integrity, passion for unique designs and beautiful landscaping, and uncompromising pursuit of excellence helped the Peterson Companies become one of the largest and most trusted privately held real estate development firms in the Washington, D.C., Metropolitan Area; and

WHEREAS, Milt Peterson developed many well-known, award-winning mixed-use retail and residential properties in Northern Virginia and Maryland, including Burke Centre, Franklin Farm, Centre Ridge, Virginia Gateway, and the Tysons-McLean Office Park; and

WHEREAS, Milt Peterson's work on Fair Lakes led to the construction of the first interchange of the Fairfax County Parkway and Route 66 and played a vital role in the growth of the Fairfax County community, and he led the successful revitalization of downtown Silver Spring, Maryland, and the development of Rio in Gaithersburg, Maryland; and

WHEREAS, in one of the crowning achievements of his career, Milt Peterson overcame complex challenges that had deterred other developers to create National Harbor, a 350-acre entertainment destination with architecture inspired by Paris, Rome, and Barcelona that features a convention center, casino, hotels, restaurants, and shops and attracts more than 28 million visitors to the region annually; and

WHEREAS, in 2020, the Peterson Companies estimated that Milt Peterson had played a role in the creation of more than 26,000 residential properties and 34 million square feet of commercial space over the course of his career; and

WHEREAS, Milt Peterson placed a high emphasis on responsible land use and conservation and was a pioneer in wetlands mitigation, stream restoration, and the use of solar power and energy efficiency in his developments; and

WHEREAS, Milt Peterson's entrepreneurial spirit led him to pursue a wide range of other business ventures, including a shrimp farm in Belize and ventures in biotechnology and health sciences; he was also a prolific volunteer, offering his leadership and expertise to many business, financial, community, and educational organizations, as well as the Board of Trustees at his alma mater, Middlebury College; and

WHEREAS, Milt Peterson served on the Virginia Governor's Economic Advisory Board for 16 years under four different governors and was a longtime member and former chair of the Fairfax Economic Development Authority; and

WHEREAS, Milt Peterson enhanced the quality of life in and around Northern Virginia through his commitment to philanthropy; he and his wife founded the Peterson Family Foundation, which has invested more than \$100 million in schools, health systems, social services organizations, and churches since 1997; and

WHEREAS, Milt Peterson took a special interest in supporting the Inova Health System; he played a pivotal role in the purchase of property for the Inova Schar Cancer Institute, was a major donor to the Inova Center for Personalized Health, and hosted an annual charitable event for Inova Life with Cancer for two decades; and

WHEREAS, a man of deep faith, Milt Peterson led a fundraising drive for the Virginia Conference of the United Methodist Church that resulted in more than \$20 million in donations to support the construction of new churches throughout the Commonwealth; and

WHEREAS, Milt Peterson will be fondly remembered and greatly missed by his high school sweetheart and wife of 64 years, Carolyn; his children, Lauren, Rick, Jon, and Steven, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Milton V. Peterson, an accomplished and highly admired leader in real estate development and a pillar of the community in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Milton V. Peterson as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 740

Celebrating the life of Lucia Whalen Bremer.

Agreed to by the Senate, August 5, 2021

WHEREAS, Lucia Whalen Bremer, a beloved young member of the Henrico County community, died on March 26, 2021; and

WHEREAS, an eighth-grade student at Quioccasin Middle School, Lucia Bremer excelled in academics and was a member of the honor roll; and

WHEREAS, Lucia Bremer was also a valued member of the Quioccasin Middle School girls' soccer team, and she played travel soccer as a central midfielder with the Richmond Strikers; and

WHEREAS, a skilled farmer, Lucia Bremer played a vital role in operations on her family's farm, Liberty Tree Farm; and

WHEREAS, Lucia Bremer was a loyal friend who brought joy to others through her kindness, generosity, infectious laughter, and zest for life; and

WHEREAS, Lucia Bremer will be fondly remembered and greatly missed by her parents, Jonathan and Meredith; her brothers, William and Owen; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Lucia Whalen Bremer, a vibrant member of the Henrico County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lucia Whalen Bremer as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 741

Commending KOVAR.

Agreed to by the Senate, August 5, 2021

WHEREAS, KOVAR, a charitable program of the Virginia Knights of Columbus, has served the citizens of the Commonwealth with intellectual disabilities for the past 50 years; and

WHEREAS, KOVAR has provided more than \$15 million in grants to other nonprofit organizations and government agencies; and

WHEREAS, KOVAR's grants have supported transportation, health care, home furnishings, athletic and education programs, job training, and employment assistance; and

WHEREAS, KOVAR has also provided more than \$5 million in interest-free loans to group home operators to provide safe, stable housing; and

WHEREAS, KOVAR has been certified by America's Best Charities for its high level of public accountability, program effectiveness, and expense control; now, therefore, be it

RESOLVED by the Senate of Virginia, That KOVAR hereby be commended on the occasion of its 50th anniversary in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to KOVAR as an expression of the Senate of Virginia's admiration for the organization's achievements in service to Virginians in need.

SENATE RESOLUTION NO. 742

Commending Bowen McCauley Dance Company.

Agreed to by the Senate, August 5, 2021

WHEREAS, after decades of service to the Northern Virginia community, Bowen McCauley Dance Company, a world-class contemporary dance company located in Arlington, will close at the completion of its 25th season in 2021; and

WHEREAS, established by Lucy Bowen McCauley in 1996, Bowen McCauley Dance Company held its debut performance at Dance Place in Washington, D.C., and has since performed at venues and festivals throughout the region, in New York City, and in Germany, Mexico, and China; and

WHEREAS, Bowen McCauley Dance Company's repertoire includes more than 100 original dance works, many of which have been performed with live musical accompaniment, and the company has held annual spring performances at the esteemed John F. Kennedy Center for the Performing Arts; and

WHEREAS, over the course of its long history, Bowen McCauley Dance Company has supported more than 100 professional dancers and worked with dozens of guest artists and local, national, and international musicians and groups; and

WHEREAS, Bowen McCauley Dance Company has offered a wide range of educational outreach programs, including dance workshops, residencies, and school performances at more than 20 schools in the Commonwealth, as well as schools in Washington, D.C., and Maryland; and

WHEREAS, Bowen McCauley Dance Company's flagship student residency program at Kenmore Middle School has provided more than 175 students with opportunities to hone their skills and perform at events throughout the region; and

WHEREAS, Bowen McCauley Dance Company joined the Mark Morris Dance Group (MMDG) of New York City to bring the Dance for PD research-backed program for people with Parkinson's disease to the Washington, D.C., Metropolitan Area; the company was the only MMDG-licensed affiliate organization to provide these free weekly classes in the Mid-Atlantic region and grew the free weekly program to nine area locations prior to the onset of the COVID-19 pandemic; and

WHEREAS, Bowen McCauley Dance Company's Dance for PD classes provided healthy activity and emotional connections to people with this devastating disease and their care partners for 13 years, reaching close to 2,500 people; Lucy Bowen McCauley is committed to continuing to lead this program and has secured several art partners after closing the dance company; and

WHEREAS, Bowen McCauley Dance Company received the 2021 Spirit of Community Award from the Arlington Community Foundation for its extraordinary service to Arlington residents; Lucy Bowen McCauley has received many other awards and accolades, including the Woman of Vision Award, the prestigious Pola Nirenska Award for Outstanding Achievement in Dance, a Lifetime Outstanding Achievement in Dance Education from Dance Metro DC, and the Arlington Community Hero Award; and

WHEREAS, Bowen McCauley Dance Company kicked off its final season with a virtual event in March 2021 and will offer performances throughout the summer, concluding with an in-person grand finale at the Kennedy Center Eisenhower Theater on September 14 featuring several new dance arrangements; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bowen McCauley Dance Company hereby be commended for its 25 years of service to professional dancers, students, and patrons of the performing arts in the Washington, D.C., Metropolitan Area; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bowen McCauley Dance Company as an expression of the Senate of Virginia's admiration for the organization's contributions to the performing arts and cultural life in Northern Virginia.

SENATE RESOLUTION NO. 743

Celebrating the life of Marlene West Randall.

Agreed to by the Senate, August 5, 2021

WHEREAS, Marlene West Randall, a distinguished educator and civic leader in the City of Portsmouth, died on April 1, 2021; and

WHEREAS, Marlene Randall was raised in South Norfolk and graduated from Booker T. Washington High School at the age of 15 before earning a bachelor's degree in elementary education from Virginia State University, a master's degree in early childhood education from Columbia University, certificates in administration and supervision from the University of Virginia and Old Dominion University, and a doctoral degree in education administration from Nova University; and

WHEREAS, motivated by a love of learning and education, Marlene Randall served as an educator and administrator with the Portsmouth Public School System, retiring with distinction after 38 years of service; and

WHEREAS, Marlene Randall was elected to the Portsmouth City Council in 2002, becoming the second African American woman to serve on the Council; she served as a member of the Council for 12 years, including one term as vice mayor; and

WHEREAS, Marlene Randall offered her leadership and expertise to many boards, commissions, and community organizations, including as a gubernatorial appointee to the Criminal Justice Services Board, and received numerous awards and accolades for her good work and community leadership; and

WHEREAS, preceded in death by her husband of 62 years, Vernon; Marlene Randall will be fondly remembered and greatly missed by her children, Ricardo, Veronica, and Michelle, and their families; as well as numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Marlene West Randall, a distinguished educator and civic leader who touched countless lives through service to her community and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marlene West Randall as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 744*Commending Rudolph O. Hunt, Sr.*

Agreed to by the Senate, August 5, 2021

WHEREAS, Rudolph O. Hunt, Sr., a respected resident of Portsmouth, celebrated his 100th birthday in 2021; and
 WHEREAS, Rudolph Hunt was born on April 21, 1921, in North Carolina and moved to the Commonwealth when his family purchased a farm in Suffolk; he learned the value of hard work and responsibility at a young age, growing up during the Great Depression; and

WHEREAS, Rudolph Hunt joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army from 1943 to 1946, serving with the 350th Field Artillery Battalion; and

WHEREAS, after his honorable discharge, Rudolph Hunt returned to the Commonwealth and settled in Portsmouth to raise a family; he and his late wife, Erma, were blessed with four children, seven grandchildren, and seven great-grandchildren; and

WHEREAS, Rudolph Hunt pursued a career at Norfolk Naval Shipyard as a rigger helper and was ultimately promoted to rigger journeyman after 38 years of service, during which time he trained numerous other employees, some of whom achieved management positions; and

WHEREAS, a man of deep faith, Rudolph Hunt enjoyed fellowship and worship with the Portsmouth community as a longtime member of Third Baptist Church, where he served on the male usher ministry; now, therefore, be it

RESOLVED by the Senate of Virginia, That Rudolph O. Hunt, Sr., hereby be commended for his contributions to the Portsmouth community and the Commonwealth on the occasion of his 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rudolph O. Hunt, Sr., as an expression of the Senate of Virginia's admiration for his personal and professional achievements.

SENATE RESOLUTION NO. 745*Commending the Reverend Dr. Joe B. Fleming.*

Agreed to by the Senate, August 5, 2021

WHEREAS, the Reverend Dr. Joe B. Fleming, a pastor emeritus of Third Baptist Church in Portsmouth, offered wise spiritual counsel and community leadership to congregations throughout the Commonwealth for more than 50 years; and

WHEREAS, Joe Fleming attended Bishop College in Texas and led efforts with several fellow members of Alpha Phi Alpha Fraternity and other students to desegregate public facilities in Marshall, Texas; and

WHEREAS, Joe Fleming continued his education at the Samuel DeWitt Proctor School of Theology of Virginia Union University, United Theological Seminary in Ohio, and the Boston University School of Theology; and

WHEREAS, in 1963, Joe Fleming began a long and fulfilling career as a pastor at Antioch Baptist Church in Mathews County; he subsequently served as senior pastor of Quioccasin Baptist Church in Richmond, then retired as pastor emeritus of Third Baptist Church after 35 years of service to the Portsmouth community; and

WHEREAS, Joe Fleming is a past president of the Tidewater Metro Baptist Ministers' Conference of Virginia, now the Metro Ministers' Conference; he has also offered his leadership to the Portsmouth Branch of the NAACP, the Salvation Army of Portsmouth, the Urban League of Hampton Roads, the Center for Community Development, Inc., the Portsmouth Redevelopment and Housing Authority, and the Virginia Port Authority, among other civic and community organizations; and

WHEREAS, Joe Fleming earned numerous awards and accolades over the course of his career, including a 2011 Humanitarian Award from the Virginia Center for Inclusive Communities and the Pastor of the Year Award from the Metro Ministers' Conference; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Dr. Joe B. Fleming hereby be commended for his legacy of service to religious communities throughout the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Dr. Joe B. Fleming as an expression of the Senate of Virginia's admiration for his wise spiritual leadership.

SENATE RESOLUTION NO. 746*Celebrating the life of Jane Susan Glasser Frank.*

Agreed to by the Senate, August 5, 2021

WHEREAS, Jane Susan Glasser Frank, an accomplished interior designer and community leader and a beloved member of the Newport News community, died on July 22, 2021; and

WHEREAS, Jane Susan Frank earned a degree from the Rhode Island School of Design and led a successful career with Virginia Commonwealth Realty in Newport News for over 32 years; and

WHEREAS, Jane Susan Frank's leadership in her community included service as president of Rodef Sholom Temple in Newport News, the United Jewish Community Center of the Virginia Peninsula, and the Virginia Peninsula Foodbank and as a member of the Board of Visitors at Christopher Newport University and of many other boards and committees; and

WHEREAS, a devoted family woman who was committed to helping others in any way she could, Jane Susan Frank will long be cherished by everyone she knew for her warmth, kindness, compassion, and zest for life; and

WHEREAS, guided through life by her faith, Jane Susan Frank enjoyed worship and fellowship with her community at Rodef Sholom Temple in Newport News for many years; and

WHEREAS, Jane Susan Frank will be fondly remembered and dearly missed by her loving husband of 47 years, Joe; her children, Shelly Ann, Melissa, and Jason, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jane Susan Glasser Frank, a treasured member of the Newport News community whose generosity and kindness touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jane Susan Glasser Frank as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 747

Commending the Dar Al Noor Islamic Community Center.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Dar Al Noor Islamic Community Center, part of the Muslim Association of Virginia, helped support residents of Manassas, Manassas Park, and Prince William County during the COVID-19 pandemic by distributing food and hosting vaccination clinics; and

WHEREAS, the Dar Al Noor Islamic Community Center strives to increase civic engagement among local residents while supporting the religious, social, and educational advancement of the Muslim community; and

WHEREAS, since the beginning of the COVID-19 pandemic, Dar Al Noor Islamic Community Center has distributed more than 35,000 hot meals to community members, and it has regularly provided groceries and other necessities to approximately 300 families every other week; and

WHEREAS, the Dar Al Noor Islamic Community Center worked with local health officials to host vaccination clinics in April and May 2021; and

WHEREAS, the Dar Al Noor Islamic Community Center also supported initiatives by the Muslim Association of Virginia to host seminars and town halls on COVID-19 vaccines to answer questions and alleviate concerns about vaccinations; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Dar Al Noor Islamic Community Center hereby be commended for its service to the community during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Dar Al Noor Islamic Community Center as an expression of the Senate of Virginia's admiration for the center's contributions to local residents in need.

SENATE RESOLUTION NO. 748

Commending Michael T. Olinger.

Agreed to by the Senate, August 5, 2021

WHEREAS, Michael T. Olinger has worked diligently to enhance the quality of life of all Culpeper residents as both a local business owner and a public servant for many years; and

WHEREAS, a lifelong resident of Culpeper, Michael "Mike" Olinger graduated from Culpeper County High School and received an associate's degree in business management from Germanna Community College; and

WHEREAS, Mike Olinger has served the Culpeper community as the longtime manager of Fisher Auto Parts on Main Street in Culpeper; and

WHEREAS, Mike Olinger was elected to the Culpeper Town Council in 2000 and has represented town residents for more than 20 years, including a term as vice mayor and two terms as mayor; and

WHEREAS, Mike Olinger successfully helped guide Culpeper through periods of significant growth and change and helped the community weather the effects of the COVID-19 pandemic; and

WHEREAS, after his well-earned retirement as mayor, Mike Olinger plans to spend more time with his beloved family and seek new opportunities to serve and support the Culpeper community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Mike Olinger hereby be commended for years of contributions to the Culpeper community as a public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mike Olinger as an expression of the Senate of Virginia's admiration for his personal and professional achievements.

SENATE RESOLUTION NO. 749

Celebrating the life of Goodman Burnett Duke.

Agreed to by the Senate, August 5, 2021

WHEREAS, Goodman Burnett Duke, an honorable veteran, accomplished business executive, and influential member of the Louisa County community, died on March 5, 2021; and

WHEREAS, affectionately known by family and friends as "Budgie," Goodman Duke served his country with honor and valor as a member of the United States Army during the Korean War; and

WHEREAS, Goodman Duke assumed leadership of Duke Oil Company from his father, John A. Duke, Jr., in the 1950s, and guided the business through several mergers until it was ultimately purchased by Massey Wood & West in 1985; and

WHEREAS, after the sale of Duke Oil Company, Goodman Duke remained a valued member of Massey Wood & West, helping the company satisfy the heating and petroleum needs of citizens of the Commonwealth for many years; and

WHEREAS, Goodman Duke's aptitude for business also extended to Synergistics, Inc., a holding company for Gentry Drilling Corp.; Mid-Virginia Broadcasting Corp., Louisa's first radio station; and Refyl, Inc., a propane cylinder exchange and refurbishing company based in Orlando; and

WHEREAS, a lifelong resident of Louisa County, Goodman Duke fostered community through various endeavors, including cofounding Louisa's first independent community bank and serving on the Board of Directors of the former Louisa Country Club; and

WHEREAS, Goodman Duke's life was defined by his commitment to serving others, leading him to be a charter member of Louisa County's first rescue squad, which he served as both first lieutenant and captain; to serve the Mineral Volunteer Fire Department, including a term as chief; and to lead the Louisa Library Foundation and the James River Water Authority as president and chairman, respectively; and

WHEREAS, Goodman Duke's dedication to the well-being of his community was exemplified by his membership on the Mineral Town Council and his service as Mineral Town Clerk, as well as by his leadership of the Mineral Industrial Development Corporation and his nearly two decades of service on the Louisa County Industrial Development Authority; and

WHEREAS, a humble servant who never sought attention for his achievements, Goodman Duke nevertheless received a multitude of recognitions throughout his life, including the Jaycees Distinguished Service Award in 1959 and the inaugural Louisa Chamber of Commerce Business Person of the Year award; and

WHEREAS, Goodman Duke will be fondly remembered and dearly missed by his loving wife of 65 years, Becky; his children, Goodman, Jr., David, and Andrew, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Goodman Burnett Duke, a distinguished member of the Louisa County community whose kindness and generosity made an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Goodman Burnett Duke as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 750

Commending Hugh Brown.

Agreed to by the Senate, August 5, 2021

WHEREAS, Hugh Brown, cofounder, board chairman, and head football coach of Saint Michael the Archangel Catholic High School in Fredericksburg, was inducted into the Sports Faith Hall of Fame on May 22, 2021; and

WHEREAS, created by Sports Faith International in 2008, the Sports Faith Hall of Fame celebrates the efforts and achievements of noteworthy athletes, coaches, and teams who have demonstrated a commitment to their community and their faith; and

WHEREAS, in his first three seasons as coach of the Saint Michael the Archangel Catholic High School football team, Hugh Brown notched an impressive 23-4 record while leading his teams to championships in both the Eastern Christian Conference and the Virginia Independent Schools Athletic Association; and

WHEREAS, through his steadfast devotion to his students, Hugh Brown has helped many young people achieve success both in and out of the classroom, including numerous student-athletes who secured college scholarships while under his tutelage; and

WHEREAS, as board chairman at Saint Michael the Archangel, Hugh Brown has led the school through myriad challenges and recently supported its multi-million dollar capital campaign, "Hope for the Future," which will support the development of the school's campus and facilities; and

WHEREAS, beyond his accomplishments with Saint Michael the Archangel, Hugh Brown was also a linebacker with the University of Maryland from 1987 to 1991 and ran a successful printing and mailing company from the early 1990s to 2017; he is currently the executive vice president of American Life League; and

WHEREAS, through his resolute faith and unswerving vision, Hugh Brown has made an impression on countless young people, encouraging them to embrace their spirituality and to pursue meaningful dreams and endeavors; now, therefore, be it

RESOLVED by the Senate of Virginia, That Hugh Brown, cofounder, board chairman, and head football coach of Saint Michael the Archangel Catholic High School, hereby be commended for his induction into the Sports Faith Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Hugh Brown as an expression of the Senate of Virginia's admiration for his achievements.

SENATE RESOLUTION NO. 752

Commending the Auburn High School girls' volleyball team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Auburn High School girls' volleyball team capped off an undefeated season with its second consecutive Virginia High School League Class 1 state championship; and

WHEREAS, the Auburn High School Eagles defeated the Riverheads High School Gladiators in a rematch of the previous state final and extended their current winning streak to 43 matches; and

WHEREAS, the Auburn Eagles won by scores of 25-15, 25-8, and 27-25 to finish the season with a perfect 18-0 record; and

WHEREAS, junior Allyson Martin led the Auburn Eagles with 19 kills, 11 aces, and eight digs; sophomore Avery Zuckerwar came up with a strong defensive performance and 14 digs, while sophomore Madeline Lavergne added nine kills and 11 digs; and

WHEREAS, the victorious season is a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Auburn High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Auburn High School girls' volleyball team hereby be commended on winning the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Sherry Millirons, head coach of the Auburn High School girls' volleyball team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 753

Commending the Salem High School football team.

Agreed to by the Senate, August 5, 2021

WHEREAS, in 2021, the Salem High School football team earned the program's 10th state title with a victory in the Virginia High School League Class 4 state championship; and

WHEREAS, the Salem High School Spartans defeated the Lake Taylor High School Titans by a score of 28-20 in the state final, capping off an undefeated 10-0 season; and

WHEREAS, in the first half, the Salem Spartans' tough defense stymied the Lake Taylor Titans and forced field goals in two short-field situations; and

WHEREAS, although the Salem Spartans were trailing at halftime, the team maintained its discipline in the second half, scoring four touchdowns to build an insurmountable lead; and

WHEREAS, the victorious season is a testament to the skill and determination of the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Salem High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Salem High School football team hereby be commended for winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Don Holter, head coach of the Salem High School football team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 754

Commending the Glenvar High School girls' indoor track and field team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Glenvar High School girls' indoor track and field team won the Virginia High School League Class 2 state championship in 2021; and

WHEREAS, the Glenvar High School Highlanders scored a total of 65 points at the state meet, outpacing runners-up from Poquoson High School by seven points after the team—Delaney Eller, Carrie Horrell, Carly Wilkes, and Sydney Loder—won the 1,600-meter relay race with a time of 4:31:03; and

WHEREAS, Carly Wilkes also won the 1,600-meter and 1,000-meter races, while Sydney Loder won the 55-meter hurdles event and placed second in the 300-meter race and third in the high jump; and

WHEREAS, Delaney Eller and Carrie Horrell added 11 more points to the overall total with third-place and fourth-place finishes in the 500-meter race; and

WHEREAS, the victory is a tribute to the skill and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Glenvar High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Glenvar High School girls' indoor track and field team hereby be commended on winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bekka Loder, head coach of the Glenvar High School girls' indoor track and field team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 755

Commending the Salem High School forensics team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Salem High School forensics team claimed its 15th consecutive state title with a win in the Virginia High School League Class 4 state championship in 2021; and

WHEREAS, the Salem High School Spartans defeated a talented team from Grafton High School by a score of 32-15 to secure the team title; and

WHEREAS, Salem High School's Sophia Gibson, Emily Snow, Taylor Berenbaum, and the duos of Annika Bryant and Riley Evans and Nash Lakin and Graham Roudebush also won individual titles in their respective events; and

WHEREAS, as a result of the COVID-19 pandemic, the Salem High School Spartans overcame numerous challenges to maintain its winning tradition, including practicing in masks while socially distanced and competing virtually through prerecorded videos or live video calls; and

WHEREAS, the Salem High School Spartans are now tied for the most consecutive Virginia High School League state title victories in forensics and only two behind the all-time record in any VHSL activity; and

WHEREAS, the victory is a tribute to the skill and hard work of the team members, the leadership and guidance of coaches and advisors, and the enthusiastic support of the entire Salem High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Salem High School forensics team hereby be commended on winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mark Ingerson, head coach of the Salem High School forensics team, as an expression of the Senate of Virginia's admiration for the team's outstanding achievements.

SENATE RESOLUTION NO. 756

Celebrating the life of James L. Hicks.

Agreed to by the Senate, August 5, 2021

WHEREAS, James L. Hicks, an honorable veteran, accomplished musician, and beloved member of the Northern Virginia community, died on April 8, 2021; and

WHEREAS, James Hicks graduated from Central High School in Phenix City, Alabama, in 1973, where he was a member of both the Reserve Officers' Training Corps and the school marching band; and

WHEREAS, after graduation, James Hicks enlisted in the U.S. Army and attended the U.S. Army School of Music; he would ultimately teach himself to play the fife and performed with the prestigious Old Guard Fife and Drum Corps for the majority of his 33-year military career; and

WHEREAS, as a member of the Old Guard Fife and Drum Corps, a unique ensemble within the U.S. Army that pays homage to the musical stylings of the Continental Army, James Hicks performed before millions of people at hundreds of major events over the years, including presidential inaugurations, parades, and national sporting events; and

WHEREAS, James Hicks's involvement with the Old Guard Fife and Drum Corps led to several prominent moments in the spotlight, including appearances in *Ebony* magazine and the film *Gardens of Stone*; he was also notably the first or only African American in several ensembles he played with, helping to break down the color barrier for the benefit of countless future musicians; and

WHEREAS, James Hicks also shared his musical gifts with the community as a performer and instructor with fife and drum corps in the Washington, D.C., metropolitan area, including the Patowmack Ancients Fife and Drum Corps of Arlington and the Monumental City Ancient Fife and Drum Corps of Baltimore, Maryland; and

WHEREAS, in his retirement, James Hicks gave generously of his time to myriad civic organizations, including the Dale City Civic Association and the Woodbridge Rotary Club, both of which he served as president; and

WHEREAS, guided throughout his life by his faith, James Hicks enjoyed worship and fellowship with his community at Beulah Baptist Church in Alexandria, where he was ordained as a deacon in 1987; and

WHEREAS, preceded in death by his son, Christopher, James Hicks will be fondly remembered and dearly missed by his loving wife of 42 years, Surlatha; his children, Kevin, Michael, and Stephanie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James L. Hicks, an esteemed veteran whose dedication to his country and his community was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James L. Hicks as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 757

Commending Jerome L. Davis.

Agreed to by the Senate, August 5, 2021

WHEREAS, Metropolitan Washington Airports Authority Executive Vice President and Chief Revenue Officer Jerome L. Davis has announced his plan to retire in September 2021 after a seven-year tenure guiding the revenue team with responsibilities for growth at Washington Dulles International Airport and Ronald Reagan Washington National Airport, bringing regional and statewide benefit to the Commonwealth's economic development; and

WHEREAS, as the Airports Authority's highest-ranking executive under the president and chief executive officer, Jerome Davis has overseen the Office of Revenue, which includes marketing and consumer strategy, concessions, airline business development, real estate, commercial parking, communications, and government affairs; and

WHEREAS, Jerome Davis's retirement caps off a corporate career that has spanned more than four decades as a key executive in major corporations throughout multiple industries in the United States; and

WHEREAS, prior to joining the Airports Authority, Jerome Davis held key executive positions in corporations including Procter & Gamble, Maytag, Waste Management, Electronic Data Systems, and Frito-Lay, and he also recently retired from the boards of two public companies, Apogee Enterprises, Inc., and GameStop Corporation; and

WHEREAS, Jerome Davis's oversight at the Airports Authority has increased airline accessibility, benefiting Virginia's tourism and hospitality industries; and

WHEREAS, under Jerome Davis's leadership of the Airports Authority's Office of Revenue, overall passenger traffic at Dulles International and Reagan National airports increased by more than nine percent, thereby lowering cost per enplanement at both airports, which served to attract even more airline activity to the benefit of Virginia's aviation system and the Commonwealth; and

WHEREAS, Jerome Davis's efforts led to airline growth at Dulles International Airport through the addition of 30 new international routes and 15 new airlines; and

WHEREAS, Jerome Davis's efforts to increase non-airline revenue boosted it to an unprecedented 57 percent of the Airports Authority's total revenue, a \$90 million increase since 2015; and

WHEREAS, Jerome Davis also led a 2015 rebranding of the corporation, including the creation of a new Airports Authority logo to more closely tie the organization to the air travel industry and the National Capital Region; and

WHEREAS, Jerome Davis also led an expansion and upgrade of the two airports' concessions programs, recruiting many popular global and local brands to provide a greater "sense of place" for the Commonwealth and the Washington, D.C., Metropolitan Area; and

WHEREAS, Jerome Davis's accomplishments also include completely redeveloping more than 180 concessions locations, including shops and restaurants in Reagan National Airport's newly constructed concourse, launching new valet parking services, and executing agreements for new passenger lounges, including the American Express Centurion Lounge coming to Reagan National Airport in 2022; and

WHEREAS, members of the Airports Authority Board of Directors and its president and chief executive officer, John E. Potter, praised Jerome Davis's service and contributions during his "phenomenal run" as executive vice president and chief revenue officer at the Airports Authority's July 2021 board of directors meeting; and

WHEREAS, leadership of the Airports Authority has stated that Jerome Davis has truly made an extraordinary difference for the Airports Authority, its business partners, and airport customers and that they will miss his valuable collaboration, his broad business expertise, his wise counsel, and the sense of energy and focus he brought to the Airports Authority as an organization, as well as his great leadership qualities and dedication to the success and personal well-being of his staff and colleagues; and

WHEREAS, those who have been following the Airports Authority during the past seven years, including members of the General Assembly of Virginia and key state economic development leaders, are certainly familiar with the accomplishments of Jerome Davis and his revenue team during his tenure at the Airports Authority and the overwhelmingly positive impact he has had in so many areas; now, therefore, be it

RESOLVED by the Senate of Virginia, That Jerome L. Davis hereby be commended on the occasion of his well-deserved retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jerome L. Davis as an expression of the Senate of Virginia's admiration for his accomplishments during his tenure at the Metropolitan Washington Airports Authority and throughout his career.

SENATE RESOLUTION NO. 758

Celebrating the life of Officer Gunther Paul Hashida.

Agreed to by the Senate, August 5, 2021

WHEREAS, Officer Gunther Paul Hashida, a dedicated member of the Metropolitan Police Department of the District of Columbia, died on July 29, 2021; and

WHEREAS, Gunther Hashida was driven to serve and protect members of the public and joined the Metropolitan Police Department of the District of Columbia in 2003; and

WHEREAS, Gunther Hashida served as a member of the Emergency Response Team of the department's Special Operations Division and demonstrated valor above and beyond the call of duty in responding to the attempted insurrection at the United States Capitol Building on January 6, 2021; and

WHEREAS, more than protecting the Capitol Building and members of the United States Congress, Gunther Hashida selflessly defended the democratic ideals and founding institutions of the United States; and

WHEREAS, Gunther Hashida earned several awards and decorations throughout his distinguished career, including the Officer of the Year award in 2011, a Lifesaving Medal in 2015, and an Achievement Medal and a Medal of Valor in 2017; and

WHEREAS, Gunther Hashida was a loving husband and father and will be fondly remembered and greatly missed by his wife of 17 years, Romelia; his children, Victoria, Gunther, Jr., and Josh; and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Officer Gunther Paul Hashida, a courageous law-enforcement officer; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Officer Gunther Paul Hashida as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 759

Commending Carly Wilkes.

Agreed to by the Senate, August 5, 2021

WHEREAS, Carly Wilkes of Glenvar High School, who won the Virginia High School League Class 2 state meet, was selected as the Gatorade 2020-2021 Virginia Girls Cross Country Player of the Year; and

WHEREAS, Carly Wilkes won the cross country state championship with a time of 18:13.5, outpacing the second-place finisher by more than a minute; and

WHEREAS, Carly Wilkes also won the Pole Green Spring Championships and the Gravely Hill Fall Fest; and

WHEREAS, in addition, Carly Wilkes was a member of Glenvar High School's state championship-winning indoor track and field team in 2021; and

WHEREAS, with a weighted 4.17 GPA, Carly Wilkes also excels in the classroom and volunteers her time and leadership with several co-curricular activities; now, therefore, be it

RESOLVED by the Senate of Virginia, That Carly Wilkes hereby be commended on being selected as the Gatorade 2020-2021 Virginia Girls Cross Country Player of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Carly Wilkes as an expression of the Senate of Virginia's admiration for her accomplishments and best wishes for the future.

SENATE RESOLUTION NO. 760

Commending the Glenvar High School girls' swim team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Glenvar High School girls' swim team won the Virginia High School League Class 2 state championship in 2021; and

WHEREAS, in the state final, the Glenvar High School Highlanders earned 287 points overall, defeating the runners-up from Strasburg High School by 78 points; and

WHEREAS, senior Reese Dunkenberger led the Glenvar Highlanders with two individual titles in the 100-meter freestyle and the 100-meter backstroke events and two relay titles, and Claire Griffith added an individual title win in the 50-meter freestyle event; and

WHEREAS, Reese Dunkenberger, Claire Griffith, and Adrianna Hall won the 200-meter medley relay race with Isabelle Pope and the 200-meter freestyle relay race with Delaney Eller; and

WHEREAS, the Glenvar Highlanders swept the relays when Delaney Eller, Natalie McMahon, McKenna Shearer, and Carly Wilkes won the 400-meter freestyle race; and

WHEREAS, the victory is a tribute to the skill and determination of the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Glenvar High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Glenvar High School girls' swim team hereby be commended on winning the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Glenvar High School girls' swim team as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 761

Commending the Floyd County High School golf team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Floyd County High School golf team won the Virginia High School League Class 2 state championship in 2021; and

WHEREAS, the Floyd County High School Buffaloes finished the season with an impressive 47-1 record and secured the program's sixth overall state title with a team score of 331, 10 strokes ahead of the runners-up from Graham High School; and

WHEREAS, Mitchell Thompson and McKenzie Weddle led the Floyd County Buffaloes with scores of 82, while Ryne Bond was only a stroke behind with 83; and

WHEREAS, Floyd County's Tanyan Sutphin, Grant Gallimore, and Hunter Gallimore finished with 84, 85, and 89, respectively, rounding out the strong performance; and

WHEREAS, the victorious season is a tribute to the skill and dedication of all the student-athletes, the leadership of coaches and staff, and the passionate support of the entire Floyd County High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Floyd County High School golf team hereby be commended on winning the Virginia High School League Class 2 state title; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dirk Davis, head coach of the Floyd County High School golf team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 762

Commending the Auburn High School baseball team.

Agreed to by the Senate, August 5, 2021

WHEREAS, the Auburn High School baseball team secured its second consecutive state title in 2021, winning the Virginia High School League Class 1 state championship; and

WHEREAS, in the state final, the Auburn High School Eagles defeated a talented team from Essex High School by a score of 5-2; and

WHEREAS, the Auburn Eagles took an early three-run lead in the first inning and never looked back, adding two more runs in the second and fourth innings; and

WHEREAS, the Auburn Eagles finished the season with an impressive 14-3 record; and

WHEREAS, the victorious season is a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Auburn High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Auburn High School baseball team be commended on winning the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Eric Altizer, head coach of the Auburn High School baseball team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 763

Celebrating the life of Thelma Bland Watson, PhD.

Agreed to by the Senate, August 5, 2021

WHEREAS, Thelma Bland Watson, PhD, esteemed executive director of Senior Connections, The Capital Area Agency on Aging in Richmond and a leading advocate for the elderly in the Commonwealth, died on June 25, 2021; and

WHEREAS, Thelma Watson's educational pursuits included a bachelor's degree in sociology from Virginia State University with a concentration in social work and a graduate degree in gerontology and doctoral degree in public policy and administration from Virginia Commonwealth University; and

WHEREAS, since 2002, Thelma Watson served as the executive director of Senior Connections, The Capital Area Agency on Aging, a nonprofit organization with a mission to enhance the quality of life of seniors and families in the Greater Richmond area; and

WHEREAS, Senior Connections thrived under Thelma Watson's leadership and today serves approximately 25,000 elderly citizens, primarily through a variety of educational programs, counseling, and health care services; and

WHEREAS, prior to her work with Senior Connections, Thelma Watson was the Commissioner of Aging in the Virginia Department for the Aging, now part of the Virginia Department for Aging and Rehabilitative Services, under three governors, helping to ensure the effective implementation of public policy for the benefit of elderly citizens of the Commonwealth; and

WHEREAS, from 1997 to 2002, Thelma Watson served as the executive director of field services for the National Committee to Preserve Social Security and Medicare in Washington, D.C., advocating tirelessly for federal policies that would support the care and well-being of the elderly; and

WHEREAS, Thelma Watson also previously served as assistant executive director of the Crater District Area Agency on Aging in Petersburg as well as in various capacities with the Crater Planning District Commission; and

WHEREAS, Thelma Watson demonstrated an extraordinary commitment to her community through her service on various boards and committees, including those of the Alzheimer's Association of Greater Richmond, the Virginia Health Quality Center, project:HOMES, and Covenant Woods retirement community; and

WHEREAS, in recognition of her longstanding support of the community, Thelma Watson received numerous honors and accolades in her lifetime, including the 2015 Humanitarian Award from the Virginia Center for Inclusive Communities and 2019 Person of the Year honors from the *Richmond Times-Dispatch*; and

WHEREAS, guided throughout her life by her faith, Thelma Watson enjoyed worship and fellowship with her community at Union Branch Baptist Church in Chesterfield and supported its ministries in several capacities over the years; and

WHEREAS, Thelma Watson will be fondly remembered and dearly missed by her loving husband, Walter; her children, Chrystal, Damali, and Daniel, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thelma Bland Watson, PhD, executive director of Senior Connections, The Capital Area Agency on Aging, whose tireless efforts and dedication to serving others helped countless seniors lead healthier, happier, and more meaningful lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thelma Bland Watson, PhD, as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 764

Commending Terry Daniels Smusz.

Agreed to by the Senate, August 5, 2021

WHEREAS, on June 30, 2021, Terry Daniels Smusz retired as chief executive officer of New River Community Action after more than 32 years of service, having led the organization for almost two-thirds of its 56-year history; and

WHEREAS, in the 1990s, under the leadership of Terry Smusz, New River Community Action worked with local day care centers to provide free child care, expanded the Children's Health Improvement Partnership (CHIP), started the Homeless Intervention Program, and opened the Floyd Family Resource Center; and

WHEREAS, in the 2000s, Terry Smusz directed New River Community Action to establish the VIRGINIA CARES program to assist newly released ex-offenders and their families in making a successful transition from prison to their community, the Volunteer Income Tax Assistance program to provide free basic income tax return preparation, and the To

Our House thermal shelter for homeless adults, which also has connected those individuals with resources to help them achieve employment, housing, and personal economic sustainability; and

WHEREAS, Terry Smusz also developed a partnership with Total Action for Progress to provide the Swift Start program that helps working parents secure jobs with higher wages by providing skill development in health care, advanced manufacturing, and information technology fields, along with access to affordable, quality childcare and expanded Head Start programs; and

WHEREAS, more recently, Terry Smusz helped New River Community Action become one of six Virginia community action agencies participating in the Virginia Two-Generation Whole Family Pilot Project that seeks to use comprehensive case management and coordinated, focused agency service delivery to address the needs of an entire family, rather than individual members of the family; and

WHEREAS, during Terry Smusz's tenure, New River Community Action started the 24/7 Homeless Hotline, served as the local administrator for the Virginia Rent and Mortgage Relief Program, which is designed to support and ensure housing stability across the Commonwealth during the COVID-19 pandemic, and maintained other critical programs and services through remote assistance during the COVID-19 pandemic; and

WHEREAS, Terry Smusz received the special Community Services Block Grant (CSBG) network leadership award, the Ann Kagie CSBG Award, which was presented by the National Association for State Community Services Programs Board to recognize her outstanding and significant contributions to the CSBG program, her dedication and commitment to the constituencies served by the network, and her leadership and advocacy for the network; and

WHEREAS, Terry Smusz was also the co-recipient of the 2021 Mark Grigsby Selfless Leadership Award presented by the Virginia Community Action Partnership; and

WHEREAS, working in partnership with the New River Community Action board of directors and supported by the hard work of countless volunteers, staff members, and partner organizations, Terry Smusz has helped New River Community Action fulfill its mission to provide "a hand up, not a hand out" and help diverse communities in Floyd, Giles, Montgomery, and Pulaski Counties and the City of Radford identify and alleviate the causes of poverty; now, therefore, be it

RESOLVED by the Senate of Virginia, That Terry Daniels Smusz hereby be commended on the occasion of her well-deserved retirement as chief executive officer of New River Community Action; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Terry Daniels Smusz as an expression of the Senate of Virginia's admiration for her years of dedicated service to the residents of the New River Valley.

SENATE RESOLUTION NO. 765

Celebrating the life of Alfreda E. Knight.

Agreed to by the Senate, August 5, 2021

WHEREAS, Alfreda E. Knight, a treasured member of the Norfolk community, died on August 2, 2021; and

WHEREAS, Alfreda Knight grew up in Norfolk and graduated from Booker T. Washington High School before earning a bachelor's degree in early childhood education and a master's degree in elementary education from Norfolk State University; and

WHEREAS, Alfreda Knight was employed by the Norfolk Department of Human Services for 38 years, serving 20 years as an eligibility supervisor, before becoming a substitute teacher for Virginia Beach Public Schools; and

WHEREAS, from an early age, Alfreda Knight found Christ and followed the lead of her father, Dr. Frank P. Wise, pastor of Mount Lebanon Baptist Church in Norfolk, working with her husband, Dr. Elbert T. Knight, at Mount Carmel Baptist Church in Portsmouth for 40 years; and

WHEREAS, at Mount Carmel Baptist Church, Alfreda Knight served as assistant to the pastor and founded numerous programs and ministries within the church; and

WHEREAS, Alfreda Knight was a longtime member of the Tidewater Baptist Women Missionary and Education Convention, Interdenominational Ministers' Wives and Ministers' Widows Alliance of Tidewater, Iota Omega Chapter of Alpha Kappa Alpha Sorority, Inc., NAACP, and Fairfield Garden Club; and

WHEREAS, Alfreda Knight will be fondly remembered and greatly missed by her husband, Dr. Elbert T. Knight; her children, Elbert, Jr., and Monique, and their families; and many other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Alfreda E. Knight; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Alfreda E. Knight as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 766

Commending Richard W. Harris.

Agreed to by the Senate, August 9, 2021

WHEREAS, Richard W. Harris has served the Kenbridge community for more than five decades as a firefighter and as longtime chief of the Kenbridge Fire Department; and

WHEREAS, Richard "Dickie" Harris joined the Kenbridge Fire Department in September 1964 and was selected as chief after only five years of service; he led the department from 1969 to 1999 and again from 2001 to 2021; and

WHEREAS, during his tenure as chief, Dickie Harris worked to ensure that the firefighters under his command received the finest equipment and training to better serve and safeguard the members of the Kenbridge community; and

WHEREAS, Dickie Harris helped establish a new town fire code and oversaw the construction of a fire station and the acquisition of 15 fire trucks, several sets of turnout gear, and new communications systems; and

WHEREAS, Dickie Harris was a member of the Virginia Fire Service Council for more than 40 years, and he volunteered his wisdom and expertise to many regional and state firefighting organizations, including as president of the Virginia State Firefighters Association, two-time chair of the Virginia Fire Services Board, and secretary of the Southside Virginia Volunteer Firefighters Association; and

WHEREAS, over the course of his long career, Dickie Harris served generations of Kenbridge residents and inspired countless young firefighters and other public safety officials through his dedication to duty and commitment to excellence; now, therefore, be it

RESOLVED by the Senate of Virginia, That Richard W. Harris hereby be commended on the occasion of his retirement as chief of the Kenbridge Fire Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Richard W. Harris as an expression of the Senate of Virginia's admiration for his legacy of service to the Kenbridge community.

SENATE RESOLUTION NO. 767

Celebrating the life of Mary Fannie Burton Woodruff.

Agreed to by the Senate, August 10, 2021

WHEREAS, Mary Fannie Burton Woodruff, esteemed proprietor and beloved member of the Monroe community, died on May 11, 2021; and

WHEREAS, in 1952, Mary Woodruff and her husband, James, opened Woodruff's Store in Monroe, proudly serving the community's fuel and other needs for more than 30 years; and

WHEREAS, after Mary Woodruff's daughter Angela reincarnated the store as Woodruff's Pies in 1998, Mary Woodruff remained a fixture in the store, greeting guests with stories and hymns well past her 100th birthday; and

WHEREAS, Mary Woodruff was an active and engaged member of her community who extended her gift for singing to several nursing facilities in the Monroe area to the delight of residents; and

WHEREAS, guided throughout her life by her faith, Mary Woodruff enjoyed worship and fellowship with her community at Chestnut Grove Baptist Church in Monroe, where she served as a pianist for more than 60 years and as a deaconess; and

WHEREAS, preceded in death by her loving husband, James, and her son, Walter, Mary Woodruff will be fondly remembered and dearly missed by her children, James, Jr., Darnette, Darnelle, and Angela, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Mary Fannie Burton Woodruff, a treasured member of the Monroe community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary Fannie Burton Woodruff as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 768

Nominating persons to be elected to the Court of Appeals.

Agreed to by the Senate, August 10, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the Court of Appeals as follows:

Dominique A. Callins, Esquire, of Warren, as a judge of the Court of Appeals of Virginia for a term of eight years commencing November 1, 2021.

Doris E. Henderson Causey, Esquire, of Henrico, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Vernida R. Chaney, Esquire, of Alexandria, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Frank K. Friedman, Esquire, of Roanoke City, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

The Honorable Junius P. Fulton, III, of Norfolk, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Lisa M. Lorish, Esquire, of Charlottesville, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

The Honorable Daniel E. Ortiz, of Fairfax County, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

Stuart A. Raphael, Esquire, of Arlington, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2021.

SENATE RESOLUTION NO. 769

Nominating persons to be elected to circuit court judgeships.

Agreed to by the Senate, August 10, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Tasha D. Scott, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing September 1, 2021.

The Honorable Jayne A. Pemberton, of Chesterfield, as a judge of the Twelfth Judicial Circuit for a term of eight years commencing September 1, 2021.

The Honorable Claire G. Cardwell, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing October 1, 2021.

SENATE RESOLUTION NO. 770

Nominating persons to be elected to general district court judgeships.

Agreed to by the Senate, August 10, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Curtis M. Hairston, Jr., Esquire, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing October 1, 2021.

R. Lucas Hobbs, Esquire, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing September 16, 2021.

SENATE RESOLUTION NO. 771

Nominating a person to be elected to a juvenile and domestic relations district court judgeship.

Agreed to by the Senate, August 10, 2021

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the respective juvenile and domestic relations district court judgeship as follows:

Travis R. Williams, Esquire, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing October 1, 2021.

SENATE RESOLUTION NO. 772

Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.

Agreed to by the Senate, August 10, 2021

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

Cozy E. Bailey, Sr., of Prince William, as a member of the Judicial Inquiry and Review Commission for a term ending June 30, 2025.

Kyung N. Dickerson, Esquire, of Fairfax County, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2024.

SUMMARY OF 2021 SPECIAL SESSION II LEGISLATION

TOTAL INTRODUCED LEGISLATION	228
House Bills	1
Senate Bills	2
House Joint Resolutions	4
Senate Joint Resolutions	0
House Resolutions	149
Senate Resolutions	72
TOTAL LEGISLATION PASSED AND/OR AGREED TO	222
House Bills	1
Senate Bills	0
House Joint Resolutions	3
Senate Joint Resolutions	0
House Resolutions	147
Senate Resolutions	71
TOTAL BILLS ENACTED INTO LAW	1
House Bills	1
Senate Bills	0
House Joint Resolutions	0
Senate Joint Resolutions	0
TOTAL CHAPTERS	1
BILLS VETOED BY GOVERNOR	0
House Bills	0
Senate Bills	0

HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

			HOUSE		HOUSE	
HB	Chapter	Page				
7001	1	1				

Note: E signifies emergency status

**THE SENATE
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
33	Boysko, Jennifer B. (D)	Counties of Fairfax (part) and Loudoun (part)
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, Bill (R)	City of Virginia Beach (part)
12	Dunnivant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
38	Hackworth, T. Travis (R)	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
10	Hashmi, Ghazala F. (D)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
7	Kiggans, Jen A. (R)	Cities of Norfolk (part) and Virginia Beach (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greensville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)
37	Marsden, David W. (D)	County of Fairfax (part)

**THE SENATE
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
16	Morrissey, Joseph D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
40	Pillion, Todd E. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville

THE SENATE
2021 SPECIAL SESSION II

District Number	Name	County and/or City Represented
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
68	Adams, Dawn M. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
63	Aird, Lashrecse D. (D)	Counties of Chesterfield (part) and Dinwiddie; City of Petersburg
85	Askew, Alex Q. (D)	City of Virginia Beach (part)
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
20	Avoli, G. John (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
51	Ayala, Hala S. (D)	County of Prince William (part)
74	Bagby, Lamont (D)	County of Henrico (part)
96	Batten, Amanda E. (R)	Counties of James City (part) and York (part)
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)	City of Richmond (part)
64	Brewer, Emily M. (R)	Counties of Isle of Wight, Prince George (part), and Surry; City of Suffolk (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
24	Campbell, Ronnie R. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
69	Carr, Betsy B. (D)	City of Richmond (part)
50	Carter, Lee J. (D)	County of Prince William (part); City of Manassas
28	Cole, Joshua G. (D)	County of Stafford (part); City of Fredericksburg (part)
88	Cole, Mark L. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
21	Convirs-Fowler, Kelly K. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
66	Cox, M. Kirkland (R)	County of Chesterfield (part); City of Colonial Heights

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
62	Coyner, Carrie E. (R)	Counties of Chesterfield (part) and Prince George (part); City of Hopewell (part)
84	Davis, Glenn R., Jr. (R)	City of Virginia Beach (part)
67	Delaney, Karrie K. (D)	Counties of Fairfax (part) and Loudoun (part)
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
10	Gooditis, Gwendolyn W. (D)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
83	Guy, Nancy D. (D)	Cities of Norfolk (part) and Virginia Beach (part)
31	Guzman, Elizabeth R. (D)	Counties of Fauquier (part) and Prince William (part)
77	Hayes, C.E., Jr. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
40	Helmer, Daniel I. (D)	Counties of Fairfax (part) and Prince William (part)
79	Heretick, Stephen E. (D)	Cities of Chesapeake (part), Norfolk (part), and Portsmouth (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
47	Hope, Patrick A. (D)	County of Arlington (part)
57	Hudson, Sally L. (D)	County of Albemarle (part); City of Charlottesville
12	Hurst, Chris L. (D)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford
76	Jenkins, Clinton L. (D)	Cities of Chesapeake (part) and Suffolk (part)
89	Jones, Jerrauld C. (D)	City of Norfolk (part)
35	Keam, Mark L. (D)	County of Fairfax (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
45	Levine, Mark H. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
56	McGuire, John J., III (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
8	McNamara, Joseph P. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
70	McQuinn, Delores L. (D)	Counties of Charles City, Chesterfield (part), and Henrico (part); City of Richmond (part)
82	Miyares, Jason S. (R)	City of Virginia Beach (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
91	Mugler, Martha M. (D)	County of York (part); Cities of Hampton (part) and Poquoson
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
2	Mundon King, Candi (D)	Counties of Prince William (part) and Stafford (part)
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
9	Poindexter, Charles D. (R)	Counties of Franklin (part), Henry (part), and Patrick
95	Price, Marcia S. (D)	City of Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
32	Reid, David A. (D)	County of Loudoun (part)

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
13	Roem, Danica A. (D)	County of Prince William (part); City of Manassas Park
25	Runion, Chris (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
7	Rush, L. Nick (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
86	Samirah, Ibraheem S. (D)	Counties of Fairfax (part) and Loudoun (part)
80	Scott, Don L., Jr. (D)	City of Portsmouth (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
94	Simonds, Shelly A. (D)	City of Newport News (part)
87	Subramanyam, Suhas (D)	Counties of Loudoun (part) and Prince William (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
52	Torian, Luke E. (D)	County of Prince William (part)
42	Tran, Kathy KL (D)	County of Fairfax (part)
75	Tyler, Roslyn C. (D)	Counties of Brunswick, Greensville, Lunenburg (part), Southampton, and Sussex; Cities of Emporia and Franklin
72	VanValkenburg, Schuyler T. (D)	County of Henrico (part)
23	Walker, Wendell S. (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
4	Wampler, William C., III (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
29	Wiley, William D. (R)	Counties of Frederick (part) and Warren (part); City of Winchester
73	Willett, Rodney T. (D)	County of Henrico (part)
90	Williams Graves, Angelia (D)	Cities of Norfolk (part) and Virginia Beach (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg

**THE HOUSE OF DELEGATES
2021 SPECIAL SESSION II**

District Number	Name	County and/or City Represented
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
97	Wyatt, Scott A. (R)	Counties of Hanover (part), King William (part), and New Kent

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION II**

COUNTIES	SENATORS	DELEGATES
Accomack.....	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Albemarle.....	R. Creigh Deeds (D)..... Bryce E. Reeves (R)	Robert B. Bell (R) C. Matthew Fariss (R) Sally L. Hudson (D) Chris Runion (R)
Alleghany.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Amelia.....	Amanda F. Chase (R)	Thomas C. Wright, Jr. (R)
Amherst.....	Mark J. Peake (R).....	Ronnie R. Campbell (R) Wendell S. Walker (R)
Appomattox.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Arlington.....	Adam P. Ebbin (D)	Patrick A. Hope (D)
	Barbara A. Favola (D) Janet D. Howell (D)	Mark H. Levine (D) Alfonso H. Lopez (D) Richard C. Sullivan, Jr. (D)
Augusta.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R) Ronnie R. Campbell (R) Chris Runion (R)
Bath.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Bedford.....	Stephen D. Newman (R)	Terry L. Austin (R) Kathy J. Byron (R) Wendell S. Walker (R)
	David R. Suetterlein (R)	
Bland.....	T. Travis Hackworth (R).....	James W. Morefield (R)
Botetourt.....	Stephen D. Newman (R)	Terry L. Austin (R) Christopher T. Head (R)
Brunswick.....	L. Louise Lucas (D)	Roslyn C. Tyler (D)
	Frank M. Ruff, Jr. (R)	
Buchanan.....	T. Travis Hackworth (R).....	James W. Morefield (R)
Buckingham.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Campbell.....	Stephen D. Newman (R)	Kathy J. Byron (R) James E. Edmunds II (R) C. Matthew Fariss (R)
	Frank M. Ruff, Jr. (R)	
Caroline.....	Ryan T. McDougale (R).....	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R) Margaret B. Ransone (R)
Carroll.....	William M. Stanley, Jr. (R).....	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
Charles City.....	Jennifer L. McClellan (D).....	Delores L. McQuinn (D)
Charlotte.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds II (R)
Chesterfield.....	Amanda F. Chase (R)	Dawn M. Adams (D) Lashrecse D. Aird (D) M. Kirkland Cox (R) Carrie E. Coyner (R) Delores L. McQuinn (D) Roxann L. Robinson (R) R. Lee Ware (R)
	Ghazala F. Hashmi (D) Joseph D. Morrissey (D)	
Clarke.....	Jill Holtzman Vogel (R).....	Gwendolyn W. Gooditis (D) David A. LaRock (R)
Craig.....	Stephen D. Newman (R)	Joseph P. McNamara (R)
Culpeper.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R) Michael J. Webert (R)
	Bryce E. Reeves (R) Jill Holtzman Vogel (R)	
Cumberland.....	Mark J. Peake (R).....	Thomas C. Wright, Jr. (R)
Dickenson.....	T. Travis Hackworth (R).....	William C. Wampler III (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION II**

COUNTIES	SENATORS	DELEGATES
Dinwiddie.....	Joseph D. Morrissey (D) Frank M. Ruff, Jr. (R)	Lashreese D. Aird (D)
Essex	Ryan T. McDougale (R)	M. Keith Hodges (R)
Fairfax	George L. Barker (D) Jennifer B. Boysko (D) Adam P. Ebbin (D) Barbara A. Favola (D) Janet D. Howell (D) David W. Marsden (D) J. Chapman Petersen (D) Richard L. Saslaw (D) Scott A. Surovell (D)	David L. Bulova (D) Karrie K. Delaney (D) Eileen Filler-Corn (D) Daniel I. Helmer (D) Mark L. Keam (D) Kaye Kory (D) Paul E. Krizek (D) Mark H. Levine (D) Alfonso H. Lopez (D) Kathleen J. Murphy (D) Kenneth R. Plum (D) Ibraheem S. Samirah (D) Mark D. Sickles (D) Marcus B. Simon (D) Richard C. Sullivan, Jr. (D) Kathy KL Tran (D) Vivian E. Watts (D)
Fauquier.....	Jill Holtzman Vogel (R)	Mark L. Cole (R) Elizabeth R. Guzman (D) Michael J. Webert (R)
Floyd	David R. Suetterlein (R)	L. Nick Rush (R)
Fluvanna	Mark J. Peake (R)	Robert B. Bell (R) R. Lee Ware (R)
Franklin	William M. Stanley, Jr. (R) David R. Suetterlein (R)	Kathy J. Byron (R) Charles D. Poindexter (R)
Frederick	Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D) David A. LaRock (R) William D. Wiley (R)
Giles	John S. Edwards (D)	Chris L. Hurst (D)
Gloucester	Thomas K. Norment, Jr. (R)	M. Keith Hodges (R)
Goochland	Mark J. Peake (R)	John J. McGuire III (R) R. Lee Ware (R)
Grayson	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Greene	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
Greensville	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Halifax.....	Frank M. Ruff, Jr. (R) William M. Stanley, Jr. (R)	James E. Edmunds II (R)
Hanover.....	Siobhan S. Dunnavant (R) Jennifer L. McClellan (D) Ryan T. McDougale (R)	Hyland F. Fowler, Jr. (R) Scott A. Wyatt (R)
Henrico.....	Siobhan S. Dunnavant (R) Jennifer L. McClellan (D)	Dawn M. Adams (D) Lamont Bagby (D) John J. McGuire III (R) Delores L. McQuinn (D) Schuyler T. VanValkenburg (D) Rodney T. Willett (D)
Henry.....	William M. Stanley, Jr. (R)	Leslie R. Adams (R) Daniel W. Marshall III (R) Charles D. Poindexter (R)
Highland.....	R. Creigh Deeds (D)	G. John Avoli (R)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION II**

COUNTIES	SENATORS	DELEGATES
Isle of Wight.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D) Thomas K. Norment, Jr. (R)	Emily M. Brewer (R)
James City	T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Amanda E. Batten (R) Michael P. Mullin (D)
King and Queen.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
King George	Ryan T. McDougale (R) Richard H. Stuart (R)	Margaret B. Ransone (R)
King William.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R) Scott A. Wyatt (R)
Lancaster	Ryan T. McDougale (R).....	Margaret B. Ransone (R)
Lee.....	Todd E. Pillion (R)	Terry G. Kilgore (R)
Loudoun	John J. Bell (D)..... Jennifer B. Boysko (D) Barbara A. Favola (D) Jill Holtzman Vogel (R)	Karrie K. Delaney (D) Gwendolyn W. Gooditis (D) David A. LaRock (R) Kathleen J. Murphy (D) David A. Reid (D) Ibraheem S. Samirah (D) Suhas Subramanyam (D)
Louisa.....	Mark J. Peake (R)..... Bryce E. Reeves (R)	John J. McGuire III (R)
Lunenburg	Frank M. Ruff, Jr. (R).....	Roslyn C. Tyler (D) Thomas C. Wright, Jr. (R)
Madison.....	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
Mathews	Lynwood W. Lewis, Jr. (D)	M. Keith Hodges (R)
Mecklenburg	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Middlesex.....	Ryan T. McDougale (R)	M. Keith Hodges (R)
Montgomery.....	John S. Edwards (D)..... T. Travis Hackworth (R) David R. Suetterlein (R)	Chris L. Hurst (D) Joseph P. McNamara (R) L. Nick Rush (R)
Nelson	R. Creigh Deeds (D).....	G. John Avoli (R) C. Matthew Fariss (R)
New Kent	Thomas K. Norment, Jr. (R).....	Scott A. Wyatt (R)
Northampton	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Northumberland	Ryan T. McDougale (R)	Margaret B. Ransone (R)
Nottoway.....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Orange	Bryce E. Reeves (R).....	Nicholas J. Freitas (R)
Page.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Patrick	William M. Stanley, Jr. (R).....	Charles D. Poindexter (R)
Pittsylvania.....	Frank M. Ruff, Jr. (R)..... William M. Stanley, Jr. (R)	Leslie R. Adams (R) Daniel W. Marshall III (R)
Powhatan.....	Ghazala F. Hashmi (D).....	R. Lee Ware (R)
Prince Edward.....	Mark J. Peake (R).....	James E. Edmunds II (R)
Prince George.....	Joseph D. Morrissey (D)	Emily M. Brewer (R)
	Frank M. Ruff, Jr. (R)	Carrie E. Coyner (R)
Prince William.....	George L. Barker (D)	Hala S. Ayala (D)
	John J. Bell (D) Jeremy S. McPike (D) Richard H. Stuart (R) Scott A. Surovell (D)	Lee J. Carter (D) Elizabeth R. Guzman (D) Daniel I. Helmer (D) Candi Mundon King (D) Danica A. Roem (D) Suhas Subramanyam (D) Luke E. Torian (D)

**SENATORS AND DELEGATES BY COUNTIES
2021 SPECIAL SESSION II**

COUNTIES	SENATORS	DELEGATES
Pulaski.....	T. Travis Hackworth (R)	Chris L. Hurst (D) L. Nick Rush (R)
Rappahannock.....	Mark D. Obenshain (R).....	Michael J. Webert (R)
Richmond.....	Ryan T. McDougale (R).....	Margaret B. Ransone (R)
Roanoke	John S. Edwards (D)	Christopher T. Head (R)
	Stephen D. Newman (R)	Joseph P. McNamara (R)
	David R. Suetterlein (R)	
Rockbridge.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Rockingham	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
	Mark D. Obenshain (R)	C. Todd Gilbert (R)
		Chris Runion (R)
		Tony O. Wilt (R)
Russell.....	T. Travis Hackworth (R)	James W. Morefield (R) William C. Wampler III (R)
Scott	Todd E. Pillion (R)	Terry G. Kilgore (R)
Shenandoah	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Smyth	T. Travis Hackworth (R)	Jeffrey L. Campbell (R)
	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Southampton	John A. Cosgrove, Jr. (R)	Roslyn C. Tyler (D)
	L. Louise Lucas (D)	
Spotsylvania.....	Ryan T. McDougale (R).....	Mark L. Cole (R)
	Bryce E. Reeves (R)	Hyland F. Fowler, Jr. (R)
	Richard H. Stuart (R)	John J. McGuire III (R)
		Robert D. Orrock, Sr. (R)
Stafford.....	Richard H. Stuart (R)	Joshua G. Cole (D)
	Scott A. Surovell (D)	Mark L. Cole (R)
	Jill Holtzman Vogel (R)	Candi Mundon King (D)
Surry.....	L. Louise Lucas (D)	Emily M. Brewer (R)
	Thomas K. Norment, Jr. (R)	
Sussex	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Tazewell	T. Travis Hackworth (R)	James W. Morefield (R)
Warren.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
		Michael J. Webert (R)
		William D. Wiley (R)
Washington.....	Todd E. Pillion (R)	Israel D. O'Quinn (R) William C. Wampler III (R)
Westmoreland.....	Ryan T. McDougale (R).....	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
Wise	T. Travis Hackworth (R)	Terry G. Kilgore (R)
	Todd E. Pillion (R)	William C. Wampler III (R)
Wythe	Todd E. Pillion (R)	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
York.....	Mamie E. Locke (D)	Amanda E. Batten (R)
	T. Montgomery Mason (D)	Martha M. Mugler (D)
	Thomas K. Norment, Jr. (R)	Michael P. Mullin (D)

**SENATORS AND DELEGATES BY CITIES
2021 SPECIAL SESSION II**

CITIES	SENATORS	DELEGATES
Alexandria	George L. Barker (D)	Charniele L. Herring (D)
	Adam P. Ebbin (D)	Mark H. Levine (D)
	Richard L. Saslaw (D)	
Bristol	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Buena Vista	R. Creigh Deeds (D)	Ronnie R. Campbell (R)
Charlottesville	R. Creigh Deeds (D)	Sally L. Hudson (D)
Chesapeake	John A. Cosgrove, Jr. (R)	Kelly K. Convors-Fowler (D)
	L. Louise Lucas (D)	C.E. Hayes, Jr. (D)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
		Clinton L. Jenkins (D)
		Barry D. Knight (R)
		James A. Leftwich, Jr. (R)
Colonial Heights	Amanda F. Chase (R)	M. Kirkland Cox (R)
Covington	R. Creigh Deeds (D)	Terry L. Austin (R)
Danville	Frank M. Ruff, Jr. (R)	Daniel W. Marshall III (R)
	William M. Stanley, Jr. (R)	
Emporia	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fairfax	J. Chapman Petersen (D)	David L. Bulova (D)
Falls Church	Richard L. Saslaw (D)	Marcus D. Simon (D)
Franklin	John A. Cosgrove, Jr. (R)	Roslyn C. Tyler (D)
	L. Louise Lucas (D)	
Fredericksburg	Bryce E. Reeves (R)	Joshua G. Cole (D)
		Mark L. Cole (R)
Galax	William M. Stanley, Jr. (R)	Israel D. O'Quinn (R)
Hampton	Mamie E. Locke (D)	Martha M. Mugler (D)
	T. Montgomery Mason (D)	Jeion A. Ward (D)
	Thomas K. Norment, Jr. (R)	
Harrisonburg	Mark D. Obenshain (R)	Tony O. Wilt (R)
Hopewell	Joseph D. Morrissey (D)	Carrie E. Coyner (R)
Lexington	R. Creigh Deeds (D)	Ronnie R. Campbell (R)
Lynchburg	Stephen D. Newman (R)	Kathy J. Byron (R)
	Mark J. Peake (R)	Wendell S. Walker (R)
Manassas	Jeremy S. McPike (D)	Lee J. Carter (D)
Manassas Park	Jeremy S. McPike (D)	Danica A. Roem (D)
Martinsville	William M. Stanley, Jr. (R)	Leslie R. Adams (R)
Newport News	Mamie E. Locke (D)	Michael P. Mullin (D)
	T. Montgomery Mason (D)	Marcia S. Price (D)
		Shelly A. Simonds (D)
Norfolk	Jen A. Kiggans (R)	Robert S. Bloxom, Jr. (R)
	Lynwood W. Lewis, Jr. (D)	Nancy D. Guy (D)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
		Jerrauld C. Jones (D)
		Angelia Williams Graves (D)
Norton	T. Travis Hackworth (R)	Terry G. Kilgore (R)
Petersburg	Joseph D. Morrissey (D)	Lashreese D. Aird (D)
Poquoson	Thomas K. Norment, Jr. (R)	Martha M. Mugler (D)
Portsmouth	John A. Cosgrove, Jr. (R)	Stephen E. Heretick (D)
	Mamie E. Locke (D)	Don L. Scott, Jr. (D)
	L. Louise Lucas (D)	
Radford	T. Travis Hackworth (R)	Chris L. Hurst (D)
Richmond	Ghazala F. Hashmi (D)	Dawn M. Adams (D)
	Jennifer L. McClellan (D)	Jeffrey M. Bourne (D)
	Joseph D. Morrissey (D)	Betsy B. Carr (D)
		Delores L. McQuinn (D)
Roanoke	John S. Edwards (D)	Christopher T. Head (R)
		Sam Rasoul (D)
Salem	David R. Suetterlein (R)	Joseph P. McNamara (R)
Staunton	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)

SENATORS AND DELEGATES BY CITIES
2021 SPECIAL SESSION II

CITIES	SENATORS	DELEGATES
Suffolk.....	John A. Cosgrove, Jr. (R) L. Louise Lucas (D) T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	Emily M. Brewer (R) Clinton L. Jenkins (D)
Virginia Beach.....	John A. Cosgrove, Jr. (R) Bill DeSteph (R) Jen A. Kiggans (R) Lynwood W. Lewis, Jr. (D)	Alex Q. Askew (D) Robert S. Bloxom, Jr. (R) Kelly K. Convors-Fowler (D) Glenn R. Davis, Jr. (R) Nancy D. Guy (D) C. E. Hayes, Jr. (D) Barry D. Knight (R) Jason S. Miyares (R) Angelia Williams Graves (D)
Waynesboro.....	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Williamsburg.....	T. Montgomery Mason (D)	Michael P. Mullin (D)
Winchester.....	Jill Holtzman Vogel (R).....	William D. Wiley (R)

COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2000 (As of July 1, 2000)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack	449	33,164	Pittsylvania	969	63,506
Albemarle	721	98,970	Powhatan	260	28,046
Alleghany	445	16,250	Prince Edward	350	23,368
Amelia	355	12,690	Prince George	265	35,725
Amherst	474	32,353	Prince William	336	402,002
Appomattox	334	14,973	Pulaski	320	34,872
Arlington	26	207,627	Rappahannock	266	7,371
Augusta	967	73,750	Richmond	191	9,254
Bath	529	4,731	Roanoke	251	92,376
Bedford	753	68,676	Rockbridge	598	22,307
Bland	358	6,824	Rockingham	849	76,314
Botetourt	541	33,148	Russell	474	28,897
Brunswick	566	17,434	Scott	536	23,177
Buchanan	503	24,098	Shenandoah	509	41,993
Buckingham	580	17,146	Smyth	451	32,208
Campbell	504	54,842	Southampton	599	18,570
Caroline	528	28,545	Spotsylvania	401	122,397
Carroll	475	30,042	Stafford	269	128,961
Charles City	183	7,256	Surry	279	7,058
Charlotte	475	12,586	Sussex	490	12,087
Chesterfield	423	316,236	Tazewell	519	45,078
Clarke	176	14,034	Warren	213	37,575
Craig	330	5,190	Washington	561	54,876
Culpeper	379	46,689	Westmoreland	229	17,454
Cumberland	297	10,052	Wise	403	41,452
Dickenson	331	15,903	Wythe	462	29,235
Dinwiddie	504	28,001	York	105	65,464
Essex	257	11,151			
Fairfax	391	1,081,726	CITIES		
Fauquier	647	65,203	Alexandria	15	139,966
Floyd	380	15,279	Bedford*	7	6,222
Fluvanna	286	25,691	Bristol	13	17,835
Franklin	690	56,159	Buena Vista	7	6,650
Frederick	414	78,305	Charlottesville	10	43,475
Giles	356	17,286	Chesapeake	341	222,209
Gloucester	218	36,858	Colonial Heights	8	17,411
Goochland	282	21,717	Covington	5	5,161
Grayson	442	15,533	Danville	43	43,055
Greene	156	18,403	Emporia	7	5,927
Greensville	295	12,243	Fairfax	6	22,565
Halifax	818	36,241	Falls Church	2	12,332
Hanover	469	99,863	Franklin	8	8,582
Henrico	234	306,935	Fredericksburg	10	24,281
Henry	382	54,151	Galax	8	7,042
Highland	415	2,321	Hampton	51	137,436
Isle of Wight	316	35,270	Harrisonburg	17	48,914
James City	142	67,009	Hopewell	10	22,591
King and Queen	315	6,945	Lexington	2	7,042
King George	180	23,584	Lynchburg	49	75,568
King William	274	15,935	Manassas	10	37,821
Lancaster	133	11,391	Manassas Park	3	14,273
Lee	436	25,587	Martinsville	11	13,821
Loudoun	516	312,311	Newport News	69	180,719
Louisa	496	33,153	Norfolk	54	242,803
Lunenburg	432	12,914	Norton	7	3,958
Madison	321	13,308	Petersburg	23	32,420
Mathews	86	8,978	Poquoson	15	12,150
Mecklenburg	625	32,727	Portsmouth	34	95,535
Middlesex	130	10,959	Radford	10	16,408
Montgomery	387	94,392	Richmond	60	204,214
Nelson	471	15,020	Roanoke	43	97,032
New Kent	210	18,429	Salem	14	24,802
Northampton	212	12,389	Staunton	20	23,746
Northumberland	191	12,330	Suffolk	400	84,585
Nottoway	314	15,853	Virginia Beach	249	437,994
Orange	341	33,481	Waynesboro	15	21,006
Page	311	24,042	Williamsburg	9	14,068
Patrick	483	18,490	Winchester	9	26,203

Population of Virginia, 2010 Census, 8,001,024.

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

COUNTIES AND CITIES--RANKED BY POPULATION

United States Census of 2000 (As of July 1, 2000)

Population	County	Population	County	Population	County
2,321	Highland	17,286	Giles	36,241	Halifax
4,731	Bath	17,434	Brunswick	36,858	Gloucester
5,190	Craig	17,454	Westmoreland	37,575	Warren
6,824	Bland	18,403	Greene	41,452	Wise
6,945	King and Queen	18,429	New Kent	41,993	Shenandoah
7,058	Surry	18,490	Patrick	45,078	Tazewell
7,256	Charles City	18,570	Southampton	46,689	Culpeper
7,373	Rappahannock	21,717	Goochland	54,151	Henry
8,978	Mathews	22,307	Rockbridge	54,842	Campbell
9,254	Richmond	23,177	Scott	54,876	Washington
10,052	Cumberland	23,368	Prince Edward	56,159	Franklin
10,959	Middlesex	23,584	King George	63,506	Pittsylvania
11,151	Essex	24,042	Page	65,203	Fauquier
11,391	Lancaster	24,098	Buchanan	65,464	York
12,087	Sussex	25,587	Lee	67,009	James City
12,243	Greensville	25,691	Fluvanna	68,676	Bedford
12,330	Northumberland	28,001	Dinwiddie	73,750	Augusta
12,389	Northampton	28,046	Powhatan	76,314	Rockingham
12,586	Charlotte	28,545	Caroline	78,305	Frederick
12,690	Amelia	28,897	Russell	92,376	Roanoke
12,914	Lunenburg	29,235	Wythe	94,392	Montgomery
13,308	Madison	30,042	Carroll	98,970	Albemarle
14,034	Clarke	32,208	Smyth	99,863	Hanover
14,973	Appomattox	32,353	Amherst	122,397	Spotsylvania
15,020	Nelson	32,727	Mecklenburg	128,961	Stafford
15,279	Floyd	33,148	Botetourt	207,627	Arlington
15,533	Grayson	33,153	Louisa	306,935	Henrico
15,853	Nottoway	33,164	Accomack	312,311	Loudoun
15,903	Dickenson	33,481	Orange	316,236	Chesterfield
15,935	King William	34,872	Pulaski	402,002	Prince William
16,250	Alleghany	35,270	Isle of Wight	1,081,726	Fairfax
17,146	Buckingham	35,725	Prince George		

Population	Cities	Population	Cities	Population	Cities
3,958	Norton	16,408	Radford	43,475	Charlottesville
5,927	Emporia	17,411	Colonial Heights	48,914	Harrisonburg
5,961	Covington	17,835	Bristol	75,568	Lynchburg
6,222	Bedford*	21,006	Waynesboro	84,585	Suffolk
6,650	Buena Vista	22,565	Fairfax	95,535	Portsmouth
7,042	Galax	22,591	Hopewell	97,032	Roanoke
7,042	Lexington	23,746	Staunton	137,436	Hampton
8,582	Franklin	24,286	Fredericksburg	139,966	Alexandria
12,150	Poquoson	24,802	Salem	180,719	Newport News
12,332	Falls Church	26,203	Winchester	204,214	Richmond
13,821	Martinsville	32,420	Petersburg	222,209	Chesapeake
14,068	Williamsburg	37,821	Manassas	242,803	Norfolk
14,273	Manassas Park	43,055	Danville	437,994	Virginia Beach

*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

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